

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
AT CAMP COURT SWAT.

Service Appeal No. 936/2022

Date of institution ..... 03.06.2022

Hazrat Said S/O Khurshid Room Cheel Shagai, Saidu Sharif, Tehsi Babozai  
District Swat.

VERSUS

Secretary Education Khyber Pakhtunkhwa at Peshawar and 02 others.

ORDER

10.11.2022

Learned counsel for the appellant present and stated at the bar that the appellant has already filed another Service Appeal bearing No. 1504/2022, therefore, he does not wants to press the instant service appeal. In this respect, learned counsel for the appellant submitted an application, which is placed on file.

In view of the above, the appeal in hand stands dismissed being not pressed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

10.11.2022



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT SWAT

Before the Service tribunal chairman Khyber peshawar  
Peshawar.

Service Appeal No 936/2022

Hazrat Said v.s Secretary Education

Service Appeal

Application for withdrawal of  
the above titled appeal.

Respectfully sheweth.

- (i) That the above titled appeal is pending before the Honorable tribunal which is fixed for today.
- (ii) That the impugned order vide which the SST (II) (Maths, phy) were not considered for promotion were challenged by the petitioner in the present appeal.
- (iii) That petitioner falls in the mentioned category was considered for promotion but the promotion was not considered in the promotion order, which was challenged by the petitioner through departmental appeal.

(iv) That the departmental appeal of the petitioner was not considered and feeling aggrieved from that order the petitioner challenged that before this honorable tribunal vide appeal No 1504/2022

(v) That since the appeal No 1504/2022 is pending before this honorable tribunal which is fixed for 6-12-2022.  
(copy attached)

(vi) That the petitioner doesn't want to press the present appeal for the reasons mentioned above

It is therefore, humbly prayed that the appeal may please be disposed of as per reason given in the application.

petitioner through

Counsel  
Amjad Hussain

Advocate  
Atte

Dated 10-11-2022

Before the Service tribunal chairman Khyber peshawar.

Service appeal No 936/2022

Hazrat Saif v.s Secretary Education

Service Appeal

Application for withdrawal of  
the above titled appeal.

Respectfully sheweth.

- (i) That the above titled appeal is pending before the Honorable tribunal which is fixed for today.
- (ii) That the impugned order vide which the Sst (II) (Maths, phy) were not considered for promotion were challenged by the petitioner in the present appeal.
- (iii) That letter on the mention of category was considered for promotion but the petition was not considered in the promotion order, which was challenged by the petitioner through departmental appeal.

- (iv) That the departmental appeal of the petitioner was not considered and feeling aggrieved from that order the petitioner challenged that before this honorable tribunal vide appeal No 1504/2022
- (v) That since the appeal No 1504/2022 is pending before this honorable tribunal with to fixed for 6-12-2022.  
(copy attached)
- (vi) That the petitioner doesn't want to press the present appeal for the reasons mentioned above

It is therefore, humbly prayed that the appeal may please be disposed of as per reason given in the application.

petitioner through  
counsel  
Shamad Hussain

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**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN**  
**KHWA, PESHAWAR.**

Service Appeal No 1504..... of 2022.

Hazrat Said S/o Khurshid Room Cheel Shagai, Saidu Sharif, Tehsil Babozai,  
District swat. ....Appellant

**Versus**

- 1) Secretary Education Khyber Pakhtun Khwa at Peshawar
- 2) Director E&S Education Khyber Pakhtun Khwa " Chairman Departmental Promotion Committee, at Peshawar.
- 3) District Education Officer "Male District Swat.

.....Respondents

**Appeal under Section 4 of Service Tribunal Act read with any other relevant provisions, against no action taken on the departmental appeal Date; 22/06/2022 within the statutory period of 90 days.**

**PRAYER:**

**On acceptance of this appeal the respondent No 2 may kindly be directed to promote the appellant from C T BPS 15 TO SST (Maths, phy) from the date of issuance of notification Dated 22/02/2022.**

**Respectfully Sheweth:**

The appellant submits as under;

- 1) That the appellant is currently serving the Education Department as CT (BPS 15) in GHS Saidu Sharif Swat. He was promoted to CT on 29/07/2016. (Copy Promotion letter Dated 29/07/2016 is annexure A).
- 2) That the appellant has completed five years service as CT and being eligible/ fit, he has been waiting for promotion to SST (Mat physics) for long.
- 3) That on 29/10 2021 the respondent No 2 vide notification Dated 29/10/2021 promoted several teachers from various

cadres i.e. CT, SCT, AT, SAT etc to SST BPS16. **(Copy of notification Dated 29/10/2021 is annexure B).**

- 4) That only those teachers who were fit /eligible for promotion to SST II (Maths physics) were neglected and excluded from the notification Dated 29/10/2021.
- 5) That all the teachers belonging to the said category including the appellant were deeply disappointed by this act of the respondent No 2.
- 6) That the appellant raised the issue before the respondent No 2 and requested his promotion to SST (Maths phy) BPS 16 from the date of issuance of notification Date 29/10/2021 but the respondent No 2 did not give any satisfactory answer.
- 7) That the appellant then preferred/filed a departmental appeal dated: 9/11 /2021 before the respondent No 2 and once again requested him for his promotion to the said post. **(Copy of Appeal dated; 9/11/2021 is annexure C).**
- 8) That the departmental appeal Dated 9/11/2021 but the respondent No 2 badly failed to take any action on it within the statutory period of 90 days. Being aggrieved from the action and inaction of the respondent No 2 the appellant preferred a service appeal No 936/22 Dated: 22-06-2022 appeal which is still pending adjudication before this honorable court and has been fixed for 10-11-2022. **(Copy of appeal is annexure D).**
- 9) That in meanwhile the petitioner came to know that the respondent no 2 promoted few more teachers except the appellant and three others to SST(Maths, Phy) BPS 16 vide notification Dated; 22/02/2022 **( copy of notification dated 22/02/2022 is annexure E).**
- 10) That despite having the required qualification and experience and being eligible for promotion, the appellant was once more discriminated, by not considering him for promotion to SST(Maths, Phy)
- 11) That hence the appellant having no other adequate remedy filed a departmental appeal dated; 22/06/2022 but the respondent No 2 once again did not take any action on it within the statutory period of 90 days. **( copy of departmental appeal dated;22/06/2022 is annexure F).**
- 12) That being morally and legally aggrieved from the action and inaction of the respondent No 2 the appellant has no other

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remedy but to prefer the instant appeal under Section 4 of Service Tribunal Act read with any other relevant provisions, before this honorable court inter alia the following grounds.

**GROUND:**

- i) That the appellant is serving as CT BPS 15 since 29/07/2016. He has completed his five year required service and is eligible/fit for promotion to SST II (Maths, Phys).
- ii) That the appellant also has the required academic qualification. He has a BSc degree from virtual University, additional physics from virtual university and a degree of B.Ed from University of Malakand (**Copies of the academic documents are annexure G, H, and I while copies of relevant notifications J and K).**
- iii) That few other teacher who have same academic qualification as that of the applicant have already been promoted to SST BPS16. (**Copies of relevant notifications are annexure L and M).**
- iv) **That** the impugned action of respondent No 1 is against the law, facts, material available on record. Hence liable to be rectified.
- v) **That** the article 4 of the constitution of Islamic Republic of Pakistan 1973, has clearly unequivocally stated that every individual is to be dealt in accordance with law, but the respondents not only violated this principle but also violated article 25 of the Constitution of Islamic Republic of Pakistan which guarantees equality.
- vi) **That** the appellant is well qualified and full fulfills the required qualification as well as criteria for promotion to SST II (Maths physics)
- vii) **That** the appellant has not been treated in accordance with law and rules on the subject noted above and such the respondent violated Article 4 and 25 of constitution of Pakistan 1973



(4)

- viii) **That** the impugned action of the respondents is nothing else, but a clear violation of Khyber Pakhtunkhwa Efficiency and Discipline Rules 1973, (Amended in 2011) and other relevant.
- ix) **That** the impugned action of respondents is whimsical, capricious and founded on surmises and conjectures.
- x) **That** other grounds not specifically raised will be argued with the prior permission of this Honorable Court at the time of arguments.

**Prayers;**

On acceptance of this appeal the respondent No 2 may kindly be directed to promote the appellant from C T BPS 15 TO SST (Maths, phy) from the date of issuance of notification Dated 22/02/2022.

Any other relief not specifically prayed for but this august court deem proper may also be granted.

**Appellant**  
Through

  
**Ahmad Hussain**  
**Advocate High court.**