

A. No. 6703/2021

S. Meher Ali Shah vs Govt

ORDER

29.09.2021


Appellant alongwith his counsel Mr. Ahmad Ali, Advocate present.

Mr. Faiz-ul-Haq, Superintendent and Mr. Muslim Din, SDO alongwith Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard and record perused.

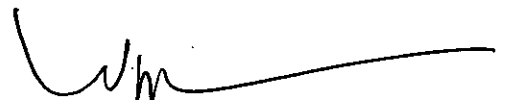
Vide our detailed judgment of today, placed on file of service appeal bearing No. 6704/2021 "titled Ashraf Khan Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and four others", the instant appeal is accepted. Provisions of the impugned notification dated 10-07-2020 pertaining to amendments determining seniority from the date of acquiring prescribed qualification is declared null and void with direction to the respondents to draw the seniority list from the dates of regular appointment of the incumbents to the post of Sub-Engineer. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

29.09.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT, D.I. KHAN



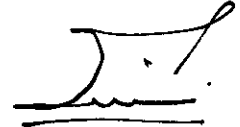
(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT, D.I. KHAN

07.09.2021

Appellant alongwith his counsel Mr. Khalid Mehmood, Advocate, present. Mr. Hamad Saleem, Superintendent and Mr. Khair-ul-Wahab, Superintendent alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present and sought time for submission of reply. Adjourned. To come up for reply as well as arguments before the D.B on 23.09.2021. Meanwhile, status-quo be maintained till the date fixed.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

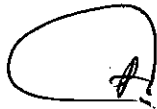
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23.09.2021

Learned counsel for appellant present.

Muhammad Adeel Butt learned Additional Advocate General alongwith Fazal Khaliq ADEO for respondents present.

Reply on behalf of respondents submitted. Learned counsel for appellant stated that instant case pertain to the territorial jurisdiction of Camp Court, D.I.Khan, therefore, the same may be fixed at Camp Court D.I.Khan. Request is accorded. To come up for arguments on 28.09.2021 before D.B. at Camp Court D.I.Khan. In the meanwhile, status-quo be maintained till the date fixed.



(Rozina Rehman)
Member (J)



Chairman

28.09.2021

Appellant alongwith his counsel Mr. Ahmed Ali, Advocate, present. Mr. Faiz-ul-Haq, Superintendent and Mr. Muslim Din, SDO alongwith Mr. Usman Ghani, District Attorney for the respondents present.

Arguments heard. To come up for order before the D.B on 29.09.2021 at Camp Court D.I.Khan.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT D.I.KHAN



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

23.08.2021

Mr. Khalid Mehmood, Advocate, for the appellant present and submitted fresh Wakalatnama, which is placed on file. Preliminary arguments heard.

Learned counsel for the appellant contends that according to Government of Khyber Pakhtunkhwa Notification No. SO(E)/IRRI/23-05/2010-11 dated 25th June 2012, the criteria for promotion to the post of Sub-Divisional Officer from amongst the holder of the post of Sub-Engineer was on the basis of seniority-cum-fitness, however vide impugned Notification No. SO(E)/IRRI/23-5/73/Vol-VI dated 10th July 2020 an amendment was introduced by giving significant effect to the date of acquiring of concerned degree, which amendment would adversely affect the seniority as well as prospects of promotion of the appellant, therefore, the same is having no binding effect upon the rights of the appellant with regard to his seniority and promotion. He next contended that the amendments introduced vide the impugned notification are violative of section-8 as well as section (9) (2) (b) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the same could not be given retrospective effect.

Points raised need consideration, therefore, the appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days, where-after notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 07.09.2021 before the D.B.

The appeal is accompanied by an application for suspension of operation of the impugned notification till the disposal of the instant appeal. Notice of the application be issued to the respondents and meanwhile, status-quo be maintained till the date fixed subject to notice.

Appellant Deposited
Security & Process Fee

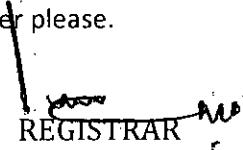


(SALAH-UD-DIN)
MEMBER (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 6703 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/07/2021	<p>The appeal of Syed Mehr Ali Shah, resubmitted today by post through Mr. Ahmad Ali Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench Peshawar. Notices be issued to appellant/counsel for preliminary hearing to be put up there on- <u>23/08/2021</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		