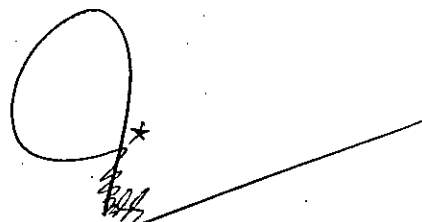


01.02.2021

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Haroon, ADEO for respondents present.

Representative of the respondents produced copy of notification dated 19.01.2022 which is placed on file. A copy of the same is handed over to the learned counsel for the petitioner. Learned counsel for the petitioner submitted application for withdrawal of the instant execution petition wherein he stated that he does not want to further pursue his case, therefore, the instant execution petition is hereby withdrawn being executed. File be consigned to the record room.

Announced:
01.02.2022



(Mian Muhammad)
Member (E)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
(MERGED AREAS)TKHYBER PAKHTUNKHWA, PESHAWAR

NOTIFICATION

1. **WHEREAS**, Mr. Munsif Khan, is serving as Senior Arabic Teacher (BS-16 at Hassan Khel Sub-Division.
2. **AND WHEREAS**, the appellant was not considered for promotion to the post of SST (G) (BS-16) in the DPC meeting held on 02-10-2017 due to the reason that there were 09 posts of SST (G) and the promotion share of Senior Arabic Teacher to SST (G) on the basis of 4 % quota was only 0.36.
3. **AND WHEREAS**, feeling aggrieved, the appellant filed service appeal No.156/2018 titled Mr. Munsif Khan VS Secretary Elementary & Secondary Education & another with the prayer that the respondents may kindly be directed to consider the appellant for promotion to the post of SST (G) from due date with all back benefits.
4. **AND WHEREAS**, the Honorable Service Tribunal Khyber Pakhtunkhwa gave judgment dated 23-06-2021 directing the Department to decide the appeal of the appellant.

Now therefore, in compliance with the Judgment dated 23.06.2021 of the Honourable Service Tribunal Khyber Pakhtunkhwa, after going through whole case, in a capacity of an appellate authority, the departmental appeal of the appellant is hereby regretted on the grounds that the appellant was not entitled for promotion to the post of SST (G) due to less share quota i.e 0.36 @ 4 %.

DIRECTOR,
(E&SE) Department Khyber
Pakhtunkhwa, Peshawar.

Endst: No: 208-12 / Dated Peshawar the 19/01/2022

Copy forwarded for information & n/action to the: -

- 1 Registrar Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar.
- 2 Addl: Advocate General Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar .
- 3 District Education Officer (M) Peshawar.
- 4 Mr. Munsif Khan, Senior Arabic Teacher (BS-16 at Hassan Khel Sub-Division
- 5 PA to Director local office.



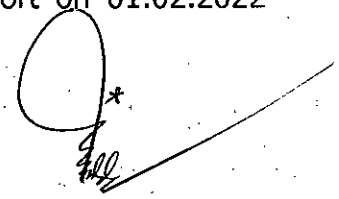
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Deputy Director
Merged Areas

E.P. No. 175/2021
Munsif Khan vs Govt

09.12.2021

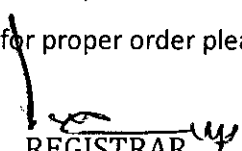


Junior of learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and sought time to contact the respondents for submission of implementation report on the next date. Granted. To come up for implementation report on 01.02.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER (E)

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 175 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.09.2021	<p>The execution petition of Mr. Munsif Khan submitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench at Peshawar on <u>22/10/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	22.10.2021	<p>Learned counsel for the petitioner present.</p> <p>Notices be issued to the respondents for submission of implementation report on the next date of hearing. To come up for implementation report before the S.B on 09.12.2021.</p> <p style="text-align: right;"> (SALAH-UD-DIN) MEMBER (J)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

EXECUTION PETITION NO. _____/2021

MUNSIF KHAN

V/S

EDUCATION DEPTT:

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of implementation	.....	1 - 2
2	Affidavit	.....	3
3	Judgement dt: 23-06-2021	A	4-8
4	Wakalat Nama	.....	9

Dated: 06-09-2021

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK

ADVOCATE

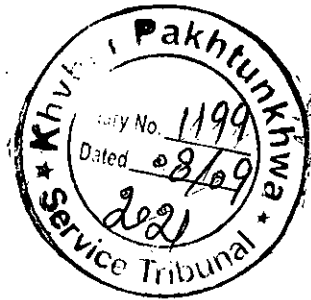
FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 175 /2021

In
Appeal No.156/2018



Munsif Khan S/O Zaman Khan, Senior Arabic Teacher,
R/O Sher Kera, Peshawar

.....**PETITIONER**

VERSUS

- 1- The Secretary (E&SE) Department, KPK, Peshawar
- 2- The Director E&SE Department, KPK, Peshawar
- 3- The District Education Officer (Male), Peshawar.

.....**RESPONDENTS**

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT DATED
23.06.2021 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 156/2018 before this august Service Tribunal for his promotion to the post of SST (G) from due that with all back benefits.
- 2- That the appeal of the petitioner was heard and the appellate authority is directed as follows "***in light of the above discussion, it is directed that the appellate authority shall decide the appeal of the appellate within a period of one month of the receipt of copy this judgment, falling which the appellate would be at liberty to seek his remedy as available to him under the law. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to record room..*** Copy of the judgment dated 23-06-2021 is attached as annexure**A.**
- 3- That after obtaining copy of the judgment dated 23-06-2021 the petitioner submitted the judgment mention above for its implantation to the Department concerned but the respondent Department are not willing to obey the judgment dated 23-06-2021 in letter and spirit.

- 4- That the petitioner has no any other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 23-06-2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER


MUNSIF KHAN

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

MUNSIF KHN VS EDUCATION DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



[Handwritten Signature]
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

[Handwritten Signature]
CERTIFICATION

BEFORE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 156 /2018

Munsif Khan S/O Zaman Khan
Sher Kera, Peshawar



.....APPELLANT

VERSUS

1. Secretary (E&SE) KPK, Peshawar
2. Director Education (FATA), KPK, Peshawar
3. Agency Education Officer(Male), FR Peshawar

.....RESPONDENTS

41
15-1-2018

.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE
KPK SERVICE TRIBUNALS ACT,1974 FOR
DIRECTING THE RESPONDENTS TO CONSIDER
THE APPELLANT, BEING ELIGIBLE AND SENIOR
MOSTAND ON THE BASIS OF 4% QUOTA, FOR
PROMOTION AGAINST THE POST OF SST(G)AND
AGAINST NOT TAKING ANY ACTION ON THE
DEPARTMENTAL APPEAL OF THE WITHIN
STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS SERVICE
APPEAL, THE RESPONDENTS MAY KINDLY BE
DIRECTED TO CONSIDER THE APPELLANT FOR
PROMOTION TO THE POST OF SST(G) FROM DUE
DATE WITH ALL BACK AND CONSEQUENTIAL
BENEFITS.ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT AND
APPROPRIATE MAY ALSO BE AWARDED IN
FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH,

FACTS:

1. That appellant has been in service with respondents department since 13.11.1999 as Arabic Teacher (AT). The appellant was promoted as Senior Arabic Teacher vide endorsement No. 8233-60

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 156/2018

Date of Institution ... 15.01.2018
Date of Decision ... 23.06.2021



Mr. Munsif Khan S/o Zaman Khan Sher Kera, Peshawar.

... (Appellant)

VERSUS

Secretary Elementary & Secondary Education Khyber Pakhtunkhwa and two others.
... (Respondents)

MR. NOOR MUHAMMAD KHATTAK
Advocate

... For Appellant

MR. ASIF MASOOD ALI SHAH
Deputy District Attorney

... For Respondents

MR. SALAH-U-DIN
MR. ATIQ UR REHMAN WAZIR

... MEMBER (JUDICIAL)
... MEMBER (EXECUTIVE)

JUDGMENT

Mr. ATIQ UR REHMAN WAZIR MEMBER (E): - Brief facts of the case are that the appellant was initially appointed as Arabic Teacher (AT) on 13-11-1999 and was promoted to the post of Senior Arabic Teacher on 08-08-2016. The departmental selection committee in its meeting held on 02-10-2017 made certain promotions, but ignored the appellant. Feeling aggrieved, the appellant filed departmental appeal 04-10-2017, which was not responded to, hence the instant service appeal with prayers that respondents may be directed to promote the appellant to the post of Secondary School Teacher (General) from due date with all back benefits.

ATTESTED

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

6

02. Written reply/comments were submitted by respondents.
03. Arguments heard and record perused.
04. Learned counsel for the appellant contended that as per criteria envisaged in relevant service rules dated 24-07-2014, 4% quota is reserved for promotion from the post of senior Arabic teacher to that of Secondary School Teacher (General); that 14 posts of SST(G) were available for promotion, upon which the respondents have made promotions of nine teachers and left the remaining five posts vacant; that as per 4% allocation, one among fourteen posts was required to be allocated to the share of Senior Arabic Teacher but the respondents ignored the appellant in spite of the fact that the appellant having the requisite qualifications and seniority and was eligible in every respect for promotion to the next grade; that ignoring the appellant despite having vacancies and not taking action on the departmental appeal of the appellant is against law and rule and norms of justice; that cases of promotion cannot be dealt with in an arbitrary manner but in accordance with law. Reference was made on PLD 2013 SC 195. Learned counsel for the appellant added that the appellant has legal vested right to be considered for promotion from the date of availability of post in his quota. Reliance was made on 1997 SCMR 515; that inaction of the respondents not to consider the appellant for promotion is against the spirit of Section 9 of Civil Servant Act, 1973 and service rights duly protected under the Civil Servant laws. The learned counsel prayed that the respondents may be directed to consider the appellant for promotion to the post of SST (G) from due date with all back benefits.
05. Learned Deputy District Attorney appeared on behalf of respondents have contended that 20 posts of SST(G) were available which were further

ATTESTED


ATTESTED

BY JINER
 M. J. Khan Pakhtukhwa
 Service Tribunal
 Peshawar

divided amongst CT, PST and DM as per their share; that drawing master, Arabic teachers and theology teachers holding 4% quota each and Qari holding 3% quota were taken together and one post was allocated, upon which the senior most DM was promoted; that five posts as mentioned by the appellant are not lying vacant, but were allocated to science subjects and the appellant having no right to be promoted against the posts of science subjects; that departmental appeal of the appellant was not considered, as he has no right to be promoted against science subjects according to policy in vogue. Learned Deputy District Attorney prayed that the instant appeal being devoid of merit may be dismissed.

06. We have heard learned counsel for the parties and have perused the record. According to contention of the appellant, out of total sanctioned posts allocated for promotion to the post of SST (G), five posts were allocated by the departmental selection committee to science subjects without approval of any competent forum; that as per service rules issued vide notification dated 24-07-2014 by Elementary & Secondary Education Department, allocated percentage of posts for promotion from the posts of Drawing Master, Senior Arabic Teach and Theology Teacher is 4% each and 3% for the post of Qari, but the respondents have clubbed all such percentage, making it 15% together with allocation of only one post to all cadres, against which one Drawing Master was promoted, which is in violation of their own rules notified to this effect. The appellant had agitated his grievance before the appellate authority by way of filing departmental appeal, which was not decided, therefore, keeping in view the facts and circumstances of the matter in hand, it would be appropriate that the departmental appeal may be decided by the appellate authority in accordance with law/rules.

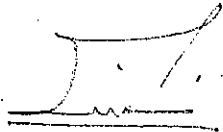
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EXAMINER
 Khyber Pakhtukhwa
 Service Tribunal
 Peshawar

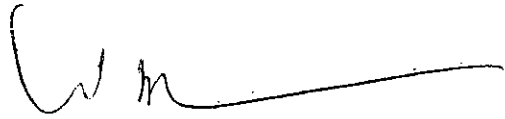
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07. In light of the above discussion, it is directed that the appellate authority shall decide the appeal of the appellant within a period of one month of the receipt of copy of this judgment, failing which the appellant would be at liberty to seek his remedy as available to him under the law. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
23.06.2021



(SALAH-U-DIN)
MEMBER (JUDICIAL)



(ATIQU UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 12-07-2021

Number of Words 2000

Copying Fee 22.00

Urgent 4.00

Total 26.00

Name of Clerk _____

Date of Completion of Copy 12-07-2021

Date of Delivery of Copy 12-07-2021

ATTESTED

9

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____ OF 2021

Munsif Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Munsif Khan

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK, Advocate, HIGH COURT, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021



CLIENT

ACCEPTED

NOOR MUHAMMAD KHATTAK


KAMRAN KHAN


SAID KHAN


UMAR FAROOQ MOHMAND


HAIDER KHAN
ADVOCATE

OFFICE:

Flat No.4, 2ND Floor,
Juma Khan plaza near
FATA secretariat, warsak road
Peshawar City.
Mobile No.0345-9383141

Before the KP Service Tribunal, Peshawar

Munsif Khan vs Edu. Deptt.

Execution proceeding

Application for conveying the titled
execution proceeding

Response:

- i) That the titled execution petition was pending adjudicating before this Honble Tribunal and was fixed for today $1^{\frac{2}{2022}}$.
- ii) That the respondent have today produced an order dated $19^{\frac{1}{22}}$ whereby the implementation report has been submitted.
- iii) That in pursuance of the production of the mentioned order dated $19^{\frac{1}{22}}$ there is no need to pursue the execution proceeding any more.

It is therefore the order dated $19^{\frac{1}{2022}}$ by committed to the applicant today and the pending execution petition be conveyed accordingly.

Applicant
Thgnr
Kamran Khan $1^{\frac{2}{2022}}$

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

EXECUTION PETITION NO. 175 /2021

MUNSIF KHAN **V/S** **EDUCATION DEPTT:**

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of implementation	.....	1 - 2
2	Affidavit	.....	3
3	Judgement dt: 23-06-2021	A	4-8
4	Wakalat Nama	.....	9

Dated: 06-09-2021

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2021
In
Appeal No.156/2018

Munsif Khan S/O Zaman Khan, Senior Arabic Teacher,
R/O Sher Kera, Peshawar

.....PETITIONER

VERSUS

- 1- The Secretary (E&SE) Department, KPK, Peshawar
- 2- The Director E&SE Department, KPK, Peshawar
- 3- The District Education Officer (Male), Peshawar.

..... RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT DATED
23.06.2021 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 156/2018 before this august Service Tribunal for his promotion to the post of SST (G) from due that with all back benefits.
- 2- That the appeal of the petitioner was heard and the appellate authority is directed as follows" ***in light of the above discussion, it is directed that the appellate authority shall decide the appeal of the appellate within a period of onr month of the receipt of copy this judgment, falling which the appellate would be at liberty to seek his remedy as available to him under the law. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to record room..*** Copy of the judgment dated 23-06-2021 is attached as annexure**A.**
- 3- That after obtaining copy of the judgment dated 23-06-2021 the petitioner submitted the judgment mention above for its implantation to the Department concerned but the respondent Department are not willing to obey the judgment dated 23-06-2021 in letter and spirit.

4- That the petitioner has no any other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 23-06-2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER

MUNSIF KHAN

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

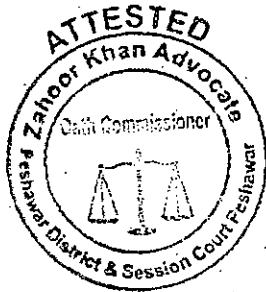
MUNSIF KHN

VS

EDUCATION DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



[Handwritten Signature]
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

[Handwritten Signature]
CERTIFICATION

BEFORE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.



Service Appeal No. 156 /2018

Munsif Khan S/O Zaman Khan
Sher Kera, Peshawar

.....APPELLANT

VERSUS

1. Secretary (E&SE) KPK, Peshawar
2. Director Education (FATA), KPK, Peshawar
3. Agency Education Officer(Male), FR Peshawar

.....RESPONDENTS

61
15-1-2018

SERVICE APPEAL UNDER SECTION 4 OF THE
KPK SERVICE TRIBUNALS ACT,1974 FOR
DIRECTING THE RESPONDENTS TO CONSIDER
THE APPELLANT, BEING ELIGIBLE AND SENIOR
MOSTAND ON THE BASIS OF 4% QUOTA, FOR
PROMOTION AGAINST THE POST OF SST(G)AND
AGAINST NOT TAKING ANY ACTION ON THE
DEPARTMENTAL APPEAL OF THE WITHIN
STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS SERVICE
APPEAL, THE RESPONDENTS MAY KINDLY BE
DIRECTED TO CONSIDER THE APPELLANT FOR
PROMOTION TO THE POST OF SST(G) FROM DUE
DATE WITH ALL BACK AND CONSEQUENTIAL
BENEFITS. ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT AND
APPROPRIATE MAY ALSO BE AWARDED IN
FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH,

FACTS:

1. That appellant has been in service with respondents department since 13.11.1999 as Arabic Teacher (AT). The appellant was promoted as Senior Arabic Teacher vide endorsement No. 8233-60

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 156/2018

Date of Institution ... 15.01.2018
Date of Decision ... 23.06.2021



Mr. Munsif Khan S/o Zaman Khan Sher Kera, Peshawar.

(Appellant)

VERSUS

Secretary Elementary & Secondary Education Khyber Pakhtunkhwa and two others. ... (Respondents)

MR. NOOR MUHAMMAD KHATTAK
Advocate

For Appellant

MR. ASIF MASOOD ALI SHAH
Deputy District Attorney

For Respondents

MR. SALAH-U-DIN
MR. ATIQ UR REHMAN WAZIR

...
...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

Mr. ATIQ UR REHMAN WAZIR MEMBER (E): - Brief facts of the case

are that the appellant was initially appointed as Arabic Teacher (AT) on 13-11-1999 and was promoted to the post of Senior Arabic Teacher on 08-08-2016. The departmental selection committee in its meeting held on 02-10-2017 made certain promotions, but ignored the appellant. Feeling aggrieved, the appellant filed departmental appeal 04-10-2017, which was not responded to, hence the instant service appeal with prayers that respondents may be directed to promote the appellant to the post of Secondary School Teacher (General) from due date with all back benefits.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.

04. Learned counsel for the appellant contended that as per criteria envisaged in relevant service rules dated 24-07-2014, 4% quota is reserved for promotion from the post of senior Arabic teacher to that of Secondary School Teacher (General); that 14 posts of SST(G) were available for promotion, upon which the respondents have made promotions of nine teachers and left the remaining five posts vacant; that as per 4% allocation, one among fourteen posts was required to be allocated to the share of Senior Arabic Teacher but the respondents ignored the appellant inspite of the fact that the appellant having the requisite qualifications and seniority and was eligible in every respect for promotion to the next grade; that ignoring the appellant despite having vacancies and not taking action on the departmental appeal of the appellant is against law and rule and norms of justice; that cases of promotion cannot be dealt with in an arbitrary manner but in accordance with law. Reference was made on PLD 2013 SC 195. Learned counsel for the appellant added that the appellant has legal vested right to be considered for promotion from the date of availability of post in his quota. Reliance was made on 1997 SCMR 515; that inaction of the respondents not to consider the appellant for promotion is against the spirit of Section 9 of Civil Servant Act, 1973 and service rights duly protected under the Civil Servant laws. The learned counsel prayed that the respondents may be directed to consider the appellant for promotion to the post of SST (G) from due date with all back benefits.

05. Learned Deputy District Attorney appeared on behalf of respondents have contended that 20 posts of SST(G) were available which were further

ATTESTED

CHIEF CLERK
Tribunal
Peshawar

ATTESTED

divided amongst CT, PST and DM as per their share; that drawing master, Arabic teachers and theology teachers holding 4% quota each and Qari holding 3% quota were taken together and one post was allocated, upon which the senior most DM was promoted; that five posts as mentioned by the appellant are not lying vacant, but were allocated to science subjects and the appellant having no right to be promoted against the posts of science subjects; that departmental appeal of the appellant was not considered, as he has no right to be promoted against science subjects according to policy in vogue. Learned Deputy District Attorney prayed that the instant appeal being devoid of merit may be dismissed.

06. We have heard learned counsel for the parties and have perused the record. According to contention of the appellant, out of total sanctioned posts allocated for promotion to the post of SST (G), five posts were allocated by the departmental selection committee to science subjects without approval of any competent forum; that as per service rules issued vide notification dated 24-07-2014 by Elementary & Secondary Education Department, allocated percentage of posts for promotion from the posts of Drawing Master, Senior Arabic Teach and Theology Teacher is 4% each and 3% for the post of Qari, but the respondents have clubbed all such percentage, making it 15% together with allocation of only one post to all cadres, against which one Drawing Master was promoted, which is in violation of their own rules notified to this effect. The appellant had agitated his grievance before the appellate authority by way of filing departmental appeal, which was not decided, therefore, keeping in view the facts and circumstances of the matter in hand, it would be appropriate that the departmental appeal may be decided by the appellate authority in accordance with law/rules.

ATTESTED

EXAMINER
Khyber Pakhtukhwa
Service Tribunal
Peshawar

ATTESTED

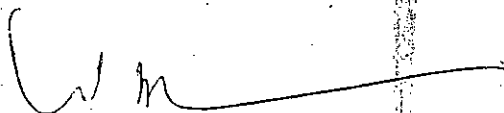
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07. In light of the above discussion, it is directed that the appellate authority shall decide the appeal of the appellant within a period of one month of the receipt of copy of this judgment, failing which the appellant would be at liberty to seek his remedy as available to him under the law. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
23.06.2021



(SALAH-U-DIN)
MEMBER (JUDICIAL)



(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 12-07-2021

Number of Words 2000

Copying 22.00

Urgent 4.00

Total 26.00

Name of Officer _____

Date of Completion of Copy 12-07-2021

Date of Delivery of Copy 12-07-2021

ATTESTED