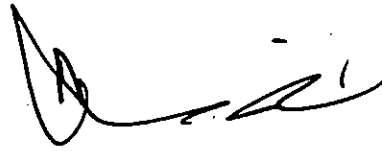


**ORDER**

8<sup>th</sup> Feb, 2023

1. Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Asst: AG for official respondents present.
2. Vide our detailed judgement of today placed on file, we therefore, allow these appeals and direct that all the three appellants shall be considered for promotion if they are otherwise eligible and fit. In case they are promoted their promotion be given effect from the date their juniors were promoted alongwith consequential benefits. We direct that the successful party shall get the costs of appeal bore by them. Consign.
3. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 8<sup>th</sup> day of February, 2023.*



**(Kalim Arshad Khan)**  
Chairman  
Camp Court Swat



**(Salah Ud Din)**  
Member(Judicial)  
Camp Court Swat

Service Appeal No.4682/2020 titled "Syed Akhtar Shah,-vs-The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 4683/2020 titled "Ismail-vs-The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 4684/2020 titled "Liaq Sohrab-vs-The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others", decided on 08.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah- Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat.

**[KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR CAMP COURT SWAT.]**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**  
**SALAH UD DIN ...MEMBER (Judicial)**

*Service Appeal No.4682/2020*

Date of presentation of appeal.....20.05.2020  
Dates of Hearing.....08.02.2023  
Date of Decision.....08.02.2023

**Mr. Syed Akhtar Shah, (BPS-15), GPS (Male) matta, District Swat.**  
.....(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.**
2. **The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.**
3. **The district Education Officer (Male), District Swat, Peshawar.**
4. **Mr. Akhtar Iqbal, SST (BPS-16), GPS Jrandi Dherai, District Swat.**
5. **Mr. Mian Sher Ali, SST (BPS-16), GPS Qazi Abad, District Swat.**
6. **Mr. Riaz Ahmad, SST (BPS-16), GPS Samir Bunn, district Swat.**  
.....(*Respondents*)

Present:

Umer Farooq,  
Advocate.....For appellant.

Muhammad Riaz Khan Paindakhel,  
Assistant Advocate General .....For respondents.

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**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 07.02.2020 WHEREBY THE PRIVATE RESPONDENTS BEING JUNIOR TO THE APPELLANT HAVE BEEN PROMOTED TO THE POST OF SST (G) (BPS-16) AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

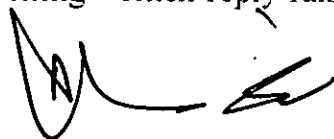
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**CONSOLIDATE JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment this service appeal and the connected service appeal No. 4683/2020 titled "Ismail-vs-The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 4684/2020 titled "Liaq Sohrab-vs- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others", as all the three are against the same impugned order.

2. According to the facts narrated in the memorandum and grounds of the appeals, the appellants were appointed as PTC (BPS-07 now BPS-12) vide order dated 05.03.1990; that during service the appellants were promoted to the post Primary School Head Teacher (BPS-15) vide order dated 26.07.2013; that as per seniority list issued by the respondent No.3 on January, 2019 the appellants stood at serial No. 268,266 and 270 respectively; that being senior most of the respondent-department the appellant was quite full for his promotion to the post of SST (BPS-16) but the respondents issued the promotion notification dated 07.02.2020 whereby junior colleagues of the appellant was promoted to the post of SST(G) (BPS-16), whereby juniors colleagues of the appellant was promoted to the post of SST (G) (BPS-16) while the appellants were ignored without assigning any reason and clear justification; that feeling aggrieved form the impugned notification dated 07.02.2020 the appellants preferred departmental appeals which were not responded within the statutory period of ninety days, hence, these appeals.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. The official respondents were put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections

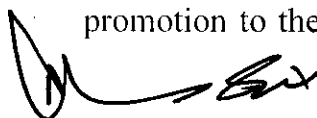


while the private respondents were placed ex-party. The defence setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellants and learned Assistant Advocate General for the official respondents.

5. The Learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant Advocate General controverted the same by supporting the impugned order(s).

6. The claim of the appellants is squarely is that they were senior to the private respondents and were ignored from promotion made vide impugned notification No. dated. 07.02.2020. They prayed that they should be promoted from the date, the private respondents were promoted restoring their seniority. The official respondents in their comments have come up with a quite strange, novel and alien stance that both the appellants and private respondents though appointed on 05.03.1990 but vide two different appointment orders. It was contended that the appointment order of the private respondents was bearing No. 60-120/A-58/PTC and the appellants Syed Akhtar Shah and Laiq Suhrab were appointed vide order No. 121-190/A-58/PTC. Similarly the appellant Ismail was alleged by the respondents to be figuring at serial No. 29 of appointment order No. 60-120/A-58/PTC while the private respondents No. 4 to 6 were at serial No. 4,8 and 9 of the appointment order and was thus senior to the appellants. The respondents admitted in their comments that the appellants Liaq Suhrab was at serial No. 266, appellant Syed Akhtar Shah at serial No. 268 and appellant Ismial at serial No. 270 while the private respondents Akhtar Iqbal is at serial No. 274, Mian Sher Ali is at serial No. 285 and Riaz Ahmad is at serial No. 294 of the seniority list, therefore, denying promotion to the appellants despite being senior on the list was not at all justified.



*Service Appeal No.4682/2020 titled "Syed Akhtar Shah,-vs-The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 4683/2020 titled "Ismail-vs-The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 4684/2020 titled "Liaq Sohrab-vs-The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others", decided on 08.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah- Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat.*

We therefore, allow these appeals and direct that all the three appellants shall be considered for promotion if they are otherwise eligible and fit. In case they are promoted their promotion be given effect from the date their juniors were promoted alongwith consequential benefits. We direct that the successful party shall get the costs of appeal bore by them. Consign.

7. *Pronounced in open Court at Swat and given under our hands and the seal of the Tribunal on this 08<sup>th</sup> day of February, 2023.*



**KALIM ARSHAD KHAN**  
Chairman  
Camp court Swat



**SALAH UD DIN**  
Member (Judicial)  
Camp court Swat