

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
AT CAMP COURT SWAT.**

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

*Service Appeal No.5783/2020*

Date of presentation of appeal.....24.02.2020  
Dates of Hearing.....08.02.2023  
Date of Decision.....08.02.2023

**Ali Rahman** S/o Muhammad Perwaish R/o Nawakalay, Mingora, Tehsil Babuzai, District Swat. (Mechanic/foreman in the office of Director Agriculture (North) Research Institute at Takhtaband, Mingora, Swat).

.....*Appellant*)

Versus

1. **Govt:** of Khyber Pakhtunkhwa through Secretary Livestock & Cooperative at Peshawar.
2. **Director General** (Research) Khyber Pakhtunkhwa at Peshawar.
3. **Director General** Agriculture (Extension) Khyber Pakhtunkhwa at Peshawar near Agriculture University Peshawar.
4. **Director Agriculture** (North) Research Institute at Takhtaband, Mingora, Swat.

.....*(Respondents)*

Present:

Mr. Zahir Khan,  
Advocate.....For appellant.

Mr. 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 ORDER DATED 29.10.2019 PASSED BY THE RESPONDENT NO.2, WHEREBY THE APPLICATION FOR PROMOTION FILED BY THE APPELLANT HAS BEEN DISMISSED AND FOR NOT TAKING AN ACTION ON THE DEPARTMENT APPEAL FILED BY THE APPELLANT ON 25.11.2019 BEFORE THE RESPONDENT NO.1.**



## **JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Facts of the case as narrated in the memo and grounds of appeal are that the appellant was appointed as Fitter on 14.03.1985 in the office of Deputy Director Malakand Division Agriculture/Extension; that a post of foreman (BPS-11) had fallen vacant due to the retirement of one Akhtar Munir, Mechanic foreman; that the appellant being senior most, the petitioner was transferred and posted from the office of respondent No.3 to the office respondent No.4 and adjusted on the said post and till then, the appellant was working as Foreman (BPS-11); that the appellant was working as Foreman (BPS-11) but his salary was not fixed on the said post; that the appellant filed an application for promotion on 31.01.2018 to respondent No.2 which was dismissed on 29.10.2019 and then filed departmental appeal to respondent No.1 on 25.11.2019 which was not responded within the stipulated period of ninety days, hence the instant service appeal on 24.02.2020.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.


3. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.


4. The Learned counsel for the appellant 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).



5. Through the instant appeal, the appellant wants promotion from the post of fitter (BPS-05) to the post of foreman/Mechanic (BPS-11). He rests his claim by alleging that vide notification No. SOE(AD)VI-106/2010/Swat dated 30.01.2012 the appellant was transferred and posted from the office of the Executive District Officer, Swat to the Directorate General Agriculture (Research) Khyber Pakhtunkhwa against the vacant post of Mechanic where he had been working for years and gained sufficient experience that is why he was justified to claim promotion. The respondent department had regretted the claim of the appellant by contending that the post of the Mechanic required three years Diploma of Associate Engineering (Mechanical). Furthermore, there were no service structure/rules in the department for promotion from the post of Fitter to the post of Foremen/Mechanic. It was further contended that the appellant was <sup>an</sup> illiterate person and was not possessing the prescribed qualification, therefore, his claim could not be honored being unjustified and not covered by the rules. When confronted with the situation, the learned counsel for the appellant could not controvert the situation. This being so, there is no force in this appeal and it is thus dismissed with cost. Consign.

6. *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

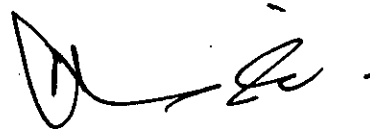
**ORDER**

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

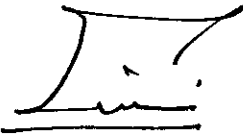
1. Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Asst: AG alongwith Mr. Muhammad Shahid, Senior Research Officer for respondents present.

2. Vide our detailed judgement of today placed on file, this being so, there is no force in this appeal and it is thus dismissed with cost. 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

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OFFICE ORDER

In terms of Rule-20 of Khyber Pakhtunkhwa Civil Servant Revised Leave Rules 1981, as amended vide Govt. of Khyber Pakhtunkhwa Finance Department (Regulation Wing) Notification No. SO, F.105-92 2005 Vol-V, dated 13/01/2012, sanction is hereby accorded to the encashment of leave total to 365 days pay in lieu of Leave Preparatory to Retirement w.e.from 15/05/2020 to 14/05/2021 (AN) in favor of Mr. Ali Rahman, Forman, office of the Director, Agriculture Research Institute, Mingora Swat.

In term of section 13 of the Khyber Pakhtunkhwa Civil Servant Act 1973, the official stand down from service w.e.from 14/05/2021 (AN).

Sd/-  
DIRECTOR GENERAL  
Agricultural Research

2. 8671-33 Estt/DGAR

dated Peshawar the 02/06/2021

Copies to:

1. The Director, Agriculture Research Institute, Mingora Swat w/r to his letter No. 361/ Estt/DGAR/ARI, Mingora Swat dated 24/03/2021.
2. The District Accounts Officer, Swat.
3. The Official concerned.

For information and necessary action.

*M. Kaleem*  
*7/6/21*

*[Signature]*  
DIRECTOR GENERAL  
Agricultural Research