

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP COURT, ABBOTTABAD.**

Service Appeal No.1430/2018

BEFORE: MRS. ROZINA REHMAN ... MEMBER(J)  
 MISS FAREEHA PAUL ... MEMBER(E)

Muhammad Younas son of Mir Hussain, Ex-E.D.O Agriculture/DD  
 Agriculture Abbottabad. .... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Finance  
 Khyber Pakhtunkhwa, Peshawar.
2. Secretary Agriculture, Livestock & Cooperation Department, Khyber  
 Pakhtunkhwa, Peshawar.
3. Director General Agriculture (Extension) Peshawar.
4. District Director Agriculture Mandian Abbottabad.
5. District Accounts Officer, Abbottabad. ....(Respondents)

Mr. Rizwanullah,  
 Advocate

... For appellant

Mr. Muhammad Jan,  
 District Attorney

... For respondents

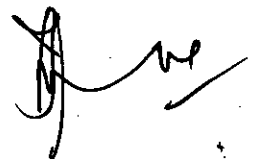
Date of Institution.....27.11.1918

Date of Hearing.....26.01.2023

Date of Decision..... 26.01.2023

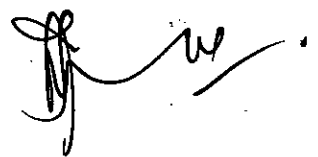
**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has  
 been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal  
 Act, 1974 for declaration to the effect that the appellant was promoted from  
 the post of Agriculture Officer BPS-17 to the post of Agriculture Officer



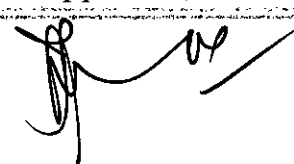
(Supervisory) BPS-17 with special pay of Rs. 150/- P.M vide promotion order No.SOE(AD)V-8/2003/KC, dated 18.06.2004 and he was entitled for grant of one advance/premature increment on promotion in-to same scale but respondent department did not allow one advance/premature increment to him. It has been prayed that on acceptance of the appeal, the impugned order of Finance Department Khyber Pakhtunkhwa No. FD(SOSR-1)2-123/2018 dated 18.10.2018 might be set aside and the respondents be directed to allow one advance/premature increment on account of promotion in same scale i.e from Agriculture Officer BPS-17 to Agriculture Officer (Supervisory) BPS-17 w.e.f. 01.07.2005 to 02.04.2013 and pension case of the appellant be revised after taking into account the said increment and any other relief which this Tribunal deems appropriate under the circumstance might also be allowed to him.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was promoted from the post of Agriculture Officer BPS-17 to the post of Agriculture Officer (Supervisory) BPS-17 with special Pay of Rs. 150/- P.M on 18.06.2004. As per amendment dated 29.04.1984 made in the Civil Servants Pay Revision Rules, 1978, if a civil servant was promoted to a post in the same scale in his own line with the only difference that the higher post carried a special pay, he should be allowed one advance increment in that scale with effect from the date of his promotion. The appellant approached the concerned office for grant of increment/premature increment on account of promotion in the same scale. At the time of promotion, the appellant was at the ceiling of his pay scale. In that regard,



procedure for grant of increment/premature increment at the ceiling stage was mentioned in Finance Department's notification dated 09.07.2005, but despite clear notification, the pay of the appellant was not fixed after taking into account the subject increment. Another officer, namely Ishtiaq Ahmad, Agriculture Officer Kohat was promoted from Agriculture Officer BPS-17 to the post of Agriculture Officer (Supervisory) BPS-17 with special pay of Rs. 150/- P.M on 16.02.2005, just like the appellant, and he filed service appeal before the Service Tribunal for grant of one advance/premature increment on promotion in the same scale which was decided on 23.01.2017 and directions were given to the respondents to allow advance increment to him. The respondent department allowed one advance/premature increment to him vide notification dated 05.03.2018. As per final seniority list of BPS-17 of Supervisory Officers, the appellant was at Serial No. 6 while Ishtiaq Ahmad was at Serial No. 14. The appellant filed departmental appeal to the respondent department for grant of one advance/premature increment on the analogy of Ishtiaq Ahmad who was similarly placed employee in the light of various judgments of August Supreme Court of Pakistan wherein it was held that once a point of law was decided by the Apex Court or Service Tribunal in a particular case, that must be made applicable to all the employees who were similarly paced. Departmental appeal of the appellant was regretted by respondent No. 1 on 18.10.2018 which was communicated to the appellant on 29.10.2018. Feeling aggrieved, the instant service appeal was filed.

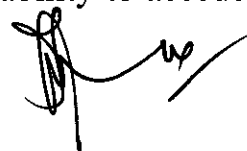
3. Respondents were put on notice. They submitted written reply/comments. We have heard the learned counsel for the appellant, the



learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the details of the case and contended that the appellant was entitled for grant of one advance/premature increment as per notification dated 18.10.2018 of the Finance Department and judgment dated 23.01.2017 of the Service Tribunal. He further contended that the parent department of the appellant fully supported the case of increment of the appellant. According to him, the appellant was entitled for grant of advance increments from the date of his promotion to the Supervisory post of BPS-17 in terms of notification dated 29.04.1984. He requested that the appeal might be accepted as prayed for.

5. Learned District Attorney admitted that the appellant, alongwith other Agriculture Officers in BS-17, was promoted in 2004 to the post of Supervisory Officer (BS-17) with Special Pay of R. 150/- per month. He further admitted that one Mr. Ishtiaq Ahmad was promoted in 2005 with Special Pay of Rs. 150/- per month and in pursuance of judgment of Khyber Pakhtunkhwa Service Tribunal dated 23.01.2017, Finance Department sanctioned one advance increment vide its notification dated 05.03.2018 with Special Pay of Rs. 150/- per month for the purpose of pay and pensionary benefits with effect from 01.07.2005. As far as the appellant was concerned, the learned District Attorney contended that his appeal was forwarded to Finance Department seeking its concurrence for the grant of one premature increment for the purpose of pay and pensionary benefits w.e.f. 01.07.2005 but the Finance Department showed its inability to accede



to the request on the ground that the facility of Personal Pay was not available prior to introduction of Pay Revision 2005. He further argued that the appellant had retired from government service on attaining the age of superannuation on 02.04.2013 and that he had already been treated according to the law and policy of the government and hence his appeal was liable to be dismissed.

6. From the record and arguments presented before us, it transpires that the appellant was promoted from the post of Agriculture Officer (BS-17) to the post of Agriculture Officer (Supervisory) BS-17, with special pay, in the year 2004. The N.W.F.P Civil Services Pay Revision Rules 1978, amended vide notification dated 29.04.1984 clearly mention in Rule 10(2)(iii) that if a civil servant is promoted to a post in the same scale in his own line with the only difference that the higher post carries a special pay, he shall be allowed one advance increment in that pay scale with effect from the date of his promotion. The appellant at the time of his promotion was at the maximum of his scale also. He had to be treated in the light of relevant notifications of the government, which was not done. A similarly placed employee of the same department, Ishtiaq Ahmad, who was junior to the appellant, after being promoted, requested for the benefit of advance increment, which was denied to him and he filed a service appeal before this Tribunal which was allowed on 23.01.2017 with the directions to the respondents to consider the case of appellant for the purpose of fixation of pay and attached benefits including pensionary benefits w.e.f 01.07.2005 on the strength of




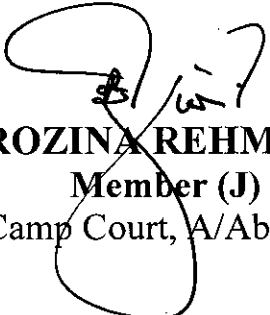
notification dated 09.07.2005.. The august Supreme Court of Pakistan upheld the judgment of this Tribunal vide its judgment dated 13.11.2017.

7. In the light of the above mentioned case, and keeping in view the plea of the appellant, attention is invited to 1996-SCMR-1185 according to which, "where a Tribunal or court decides a point of law relating to terms and conditions of service of civil servants which governs not only those who litigated but also those who have not resorted to any legal proceedings, then irrespective of this they too become entitled to the same benefit." In this regard Article 25 of the Constitution of Islamic Republic of Pakistan also needs mention where it states that all citizens are equal before law.

8. In the light of above discussion, we are confident that the appellant is entitled to the same relief that has been extended to the other similarly placed employees of the provincial government. Hence, the present appeal is allowed as prayed for. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court at camp court, Abbottabad and given under our hands and seal of the Tribunal this 26<sup>th</sup> day of January, 2023.*

  
(FAREEHA PAUL)  
Member (E)  
(Camp Court, A/Abad)


  
(ROZINA REHMAN)  
Member (J)  
(Camp Court, A/Abad)

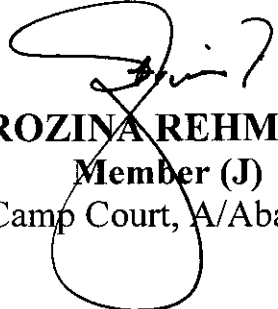
SA 1430/2018

26<sup>th</sup> Jan. 2023 Mr. Rizwanullah, Advocate for appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 06 pages, we are confident that the appellant is entitled to the same relief that has been extended to the other similarly placed employees of the provincial government. Hence, the present appeal is allowed as prayed for. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court at camp court, Abbottabad and given under our hands and seal of the Tribunal this 26<sup>th</sup> day of January, 2023.*

  
(FAREEHA PAUL)  
Member (E)  
(Camp Court, A/Abad)

  
(ROZINA REHMAN)  
Member (J)  
(Camp Court, A/Abad)

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| ایڈوکیٹ: Rizwanullah                   |       | پشاور بار ایسوسی ایشن، خیبر پختونخواہ   |  |   |
| بار کونسل ایسوسی ایشن نمبر: bc-09-0050 |       |   |  |   |
| رابطہ نمبر: 03005965843                |       |   |  |   |

بعدالت جناب: Before the Honorable Chairman, KPLK Service Tribunal, Peshawar

|  |        |   |
|--|--------|---|
| Appellant: <u>Muhammad Younas</u><br>بنام<br>Secretary Finance<br>SPT etc. | مخانب: | Service Appeal: دعویٰ<br>No. 1436/2018<br>علت نمبر: 1436/2018<br>مورخہ:<br>جرم:<br>تھانہ: |
| <b>بامث تحریر آگہ</b>  |        |   |

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام Pesh/AD کے لیے Rizwanullah کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری سیکٹرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا جائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت ٹیکہ لگایا گیا تاکہ سند رہے

المقام: 14-10-2022  
Attested & accepted by  
Advocate Rizwanullah  
@19mail.com  
Kohat

مقام: Peshawar & Abbottabad

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔