

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

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

Service Appeal No.5198/2021

Date of presentation of appeal.....07.05.2021
Dates of Hearing.....23.02.2023
Date of Decision.....23.02.2023

Amanat Khan son of Mirdad Khan, Sr. CT Government High School No.3, Abbottabad, resident of House No.TC-1640, Mohallah Khalil Zai, Nawansher, Tehsil & District Abbottabad.

.....*Appellant*

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar
2. **Director Elementary & Secondary Education**, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)**, Elementary & Secondary Education, Abbottabad.

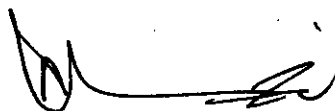
.....(*Respondents*)

Present:

Ch. Abdul Rauf Chohan,
Advocate.....For the appellant.

Muhammad Adeel Butt,
Additional Advocate GeneralFor respondents

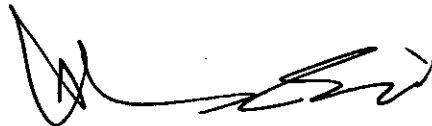
**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE PROMOTION ORDER FROM SCT TO
SST (BPS-16) ISSUED BY RESPONDENT NO.2 IN**



WHICH THE APPELLANT WAS IGNORED FROM PROMOTION OF SCT TO SST POST, THE SAID ORDERS ARE TOTALLY AGAINST THE LAW, WITHOUT JURISDICTION, MALAFIDY AND ISSUED ON BASELESS FACTS AGAINST WHICH APPELLANT FILED A DEPARTMENTAL APPEAL BEFORE RESPONDENT NO.1 ON 07.01.2021 WHICH WAS NOT HONORED HENCE, THE APPELLANT IS FILING THE INSTANT SERVICE APPEAL BEFORE THIS HON'BLE TRIBUNAL WITHIN THE SPECIFIC PERIOD OF 120 DAYS.

JUDGMENT

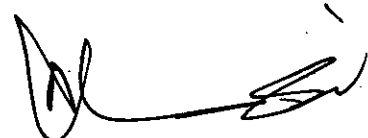
KALIM ARSHAD KHAN CHAIRMAN: We have an appeal before us brought by Amanat Khan who alleges that he was appointed as Certified Teacher (CT) in BPS-09 on 07.10.1989, vide Order Endst No.60/SV(M), at Government Middle School Basian, District Abbottabad, where he assumed the charge on 08.10.1989; that he was promoted to BPS-14 on 01.06.1991; that on 26.01.2008 the Finance Department Government of Khyber Pakhtunkhwa issued an upgradation order in which the appellant was promoted from BPS-14 to BPS-15 with effect from 01.10.2007; that on 11.07.2012, respondent No.1 issued a Notification of promotion of 1/3 of all cadres including the CT to next higher scale BPS-15 to BPS-16 on the basis of prescribed qualification/seniority-cum-fitness; that on 28.02.2013, the appellant was promoted from CT (BPS-15) to SCT (BPS-16) vide order No.1502/09 issued by respondent No.3 in the light of above said notification dated 11.07.2012 and the appellant was adjusted at Government High School No.3, Abbottabad; that on 20.12.2013, respondent No.1 issued a notification according to which 75% teachers (CT/SCT, DM/SDM, AT/SAT, TT/STT, Qari/Sr. Qari) were to be promoted to SST post and in the said 75% promotion quota, 40% quota was also fixed for promotion of CT to SST post; that on 07.07.2020, in the light of above said notification dated 20.12.2013,



respondent No.2 issued a promotion order from SCT to SST post in which the most junior teachers from the appellant were promoted ignoring the appellant; that aggrieved of the order, the appellant filed an appeal on 06.03.2020 before respondent No.1; that on 08.12.2020 once again promotion orders from SCT to SST posts in the light of Notification dated 20.12.2013 were made but the name of the appellant was again deferred although he had filed all the requisite documents; that the appellant filed departmental appeal on 07.01.2021 which was not honoured and he filed this appeal.

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. It was mainly contended in the reply that the appellant had not challenged the Notification No.8553-58 dated 07.02.2020; that the appeal was barred by time; that as per Notification SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre dated 24.07.2014, the appellant was not eligible for promotion against the post of SST(G) due to non-fulfillment of requisite criteria i.e. Humanities and other equivalent groups at degree level with English as compulsory subject whereas the appellant did his bachelor degree with subjects Maths A, Maths B, Statistics, Pakistan Studies and Islamiyat; similarly the appellant had not challenged the above Notification of 24.07.2014.

3. We have heard learned counsel for the appellant and learned Assistant District Attorney for the respondents.



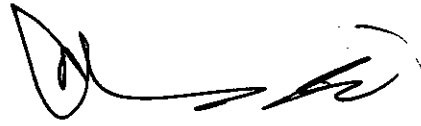
4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant District Attorney controverted the same by supporting the impugned order.

5. Having heard both the sides and after going through the file it appears to us that in the heading of the appeal, the appellant has not challenged any promotion order. What he wants is to get promotion with effect from the date, on which the most junior teachers from him, were promoted. He alleges that on 07.02.2020 some juniors to him were promoted and he was ignored; that he submitted an appeal on 06.03.2020 but he did not take any further step to challenge the order dated 07.02.2020, so much so in this appeal too that has not been assailed. He further alleges that on 08.12.2020 some other persons were granted promotion and the appellant was deferred and he filed departmental appeal on 07.01.2021 and then this appeal but in this appeal, as aforesaid, in the heading of the appeal, the appellant has not assailed the order dated 08.12.2020 nor the promotion Notification made on 11.12.2020 vide Endst: No.7379-88/EB-I/Promotion/SSTs/2020. The Notification of 11.12.2020 was made in pursuance of the Notification of 08.12.2020. The working paper annexed with reply as Annexure A, shows that the name of the appellant is figured at serial No.10 but he was not found eligible because of incompatible combination of subjects studied by the appellant in BSc, which combination was not mentioned in the relevant rules allowing further promotion. The appellant ought to have approached the authorities for amending the relevant

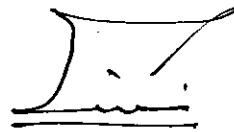


rules so that he could get a promotion ladder and until such ladder is provided in the relevant rules, the appellant could hardly become eligible with the subjects he had studied in BSc. This being simple question, the appellant could not get promotion and so is the result of this appeal. We direct that costs of this appeal shall follow the result. Consign.

6. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 23rd day of February, 2023.*



KALIM ARSHAD KHAN
Chairman
Camp Court Abbottabad



SALAH UD DIN
Member (Judicial)
Camp Court Abbottabad