

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**MUHAMMAD AKBAR KHAN ... MEMBER (Executive)**

*Service Appeal No.4970/2021*

**Khalil Ur Rehman** Son of Saeed Ahmad Qureshi Caste Qureshi Gauge Reader (BPS-07) Chashma Right Bank Canal Irrigation Dera Ismail Khan, R/O Ziyarat Sheikh Yousaf Dera Ismail Khan.

.....(Appellant)

**VERSUS**

1. **Government of Khyber Pakhtunkhwa** through Secretary Irrigation Department, Khyber Pakhtunkhwa, Peshawar.
2. **Chief Engineer Irrigation Department South Region, Warsak Road, Kababyan Peshawar.**
3. **Superintending Engineer Irrigation Department, Dera Ismail Khan.**
4. **XEN CRBC Irrigation Division, Dera Ismail Khan.**

.....(Respondents)

Present:

Mr. Muhammad Abdullah Baloach.  
Advocate.....For appellant.

Mr. Asif Masood Ali Shah,  
Deputy District Attorney.....For respondents.

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Date of Institution.....27.04.2021  
Dates of Hearing.....13.02.2023  
Date of Decision.....01.03.2023

**SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER NO. 1965/5-E DATED 09.11.2020, WHEREBY APPELLANT WAS PROMOTED AS GUAGE READER (BPS-5) "NOT FROM THE DATE OF HIS ENTITLEMENT BUT WITH IMMEDIATE EFFECT" AND FINALLY AGAINST THE INDECISION OF DEPARTMENTAL APPEAL OF THE APPELLANT.**

## JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN:- Through this appeal, the appellant has challenged his own promotion order No. 1965-5-E dated 09.11.2020 which was with immediate effect whereas the appellant claiming that it ought to have been from the date of his entitlement. According to the memo and grounds of appeal, the appellant was appointed as Beldar (BPS-01) in the CRBC Irrigation Department vide office order No. 3171 dated 28.08.1996. Later on the post was up-graded to BPS-04; that according to the notification, policy and rules issued by the Government of Khyber Pakhtunkhwa Irrigation and Power department method for the recruitment and promotion for various posts in irrigation department for the post of work Munshi/Guage Reader (BPS-5) were 50% by initial and 50% by promotion on the basis of seniority cum fitness from amongst the mate, regulation Beldar and Beldar having SSC qualification and 10 years service in the circle; that the appellant submitted application alongwith requisite certificates for the promotion according to the policy which was duly forwarded vide letter number No. 2937/S.E dated 12.11.2005; that the colleague of appellant namely Tahir Abbas was also appointed with the appellant as Beldar vide office order No. 3171 dated 28.08.1996 and he was promoted as Guage Reader (BPS-5) vide office order No. 6794-95 dated 22.11.2010 but the appellant was deprived from the promotion; that the promotion case of the appellant was pending since long even then the respondents published an advertisement for the recruitment for the post of Work Munshi/Gauge Reader vide advertisement dated 05.08.2017. Feeling aggrieved the

appellant filed writ petition No. 1162-D/2017 before Hon'ble Peshawar High court, Dera Ismail Khan Bench; that during pendency of writ petition, the respondents had submitted copy of office order No. 1965-E/SE dated 09.11.2020, whereby the appellant was promoted to the post of Guage Reader (BPS-5) and consequently, as the matter of effectiveness of the promotion, being terms and condition of service, the writ petition was withdrawn; that the appellant, thereafter preferred departmental appeal on 20.1.2021 which was not responded within the statutory period of ninety days, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions as raised by the appellant in his appeal.

3. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

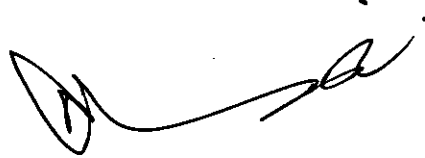


4. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Deputy District Attorney controverted the same by supporting the impugned order.

5. The appellant claims that the promotion order dated 09.11.2020 should be given effect from the date of entitlement of the appellant for the said post. The appellant has not given the said date in the appeal nor has annexed any seniority list with memo and grounds of appeal. As against that the stance of the respondents is that the appellant was appointed on contract basis during 1996 and was regularized during 2012

under the Government policy, therefore, the contractual period of service could not be considered in the seniority by the department for promotion. It is further contended that the appellant had been given his due right as per rules and was promoted as Gauge Reader in the light of the seniority list of the department on his own turn on 09.11.2020. Although the rejoinder has been filed but in the rejoinder too the appellant has considered nothing regarding his seniority or turn on which he was promoted rather he again reiterated he was entitled to be promoted from the date of his entitlement. This being so we find no merits in this appeal, it is, therefore, dismissed. Costs to follow the event. Consign.

06. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 1<sup>st</sup> day of March, 2023.*



**KALIM ARSHAD KHAN**  
Chairman




**MUHAMMAD AKBAR KHAN**  
Member (Executive)

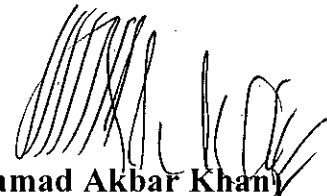
**ORDER**

1<sup>st</sup> Mar, 2023

1. Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
2. Vide our detailed judgement of today placed on file, we find no merits in this appeal, it is, therefore, dismissed. Cost shall follow the event. Consign.
3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 1<sup>st</sup> day of March, 2023.*



**(Kalim Arshad Khan)**  
Chairman



**(Muhammad Akbar Khan)**  
Member(Executive)