

due to non-submission of the final seniority list alongwith working paper, the process of promotion was delayed which deprived the appellant from his due right of promotion.

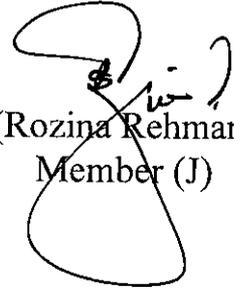
7. In the absence of any solid reason and convincing response by the respondents, the claim of the appellant is bonafide and just and he is held entitled for proforma promotion to the post of District Accounts Officer (BS-18) w.e.f 09.08.2021 i.e. the date his juniors were promoted. With the observations herein-above, the appeal in hand is hereby accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

03.03.2023



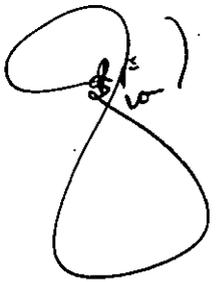
(Kalim Arshad Khan)
Chairman



(Rozina Rehman)
Member (J)

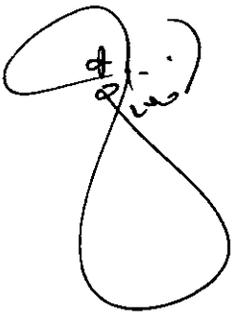
the working papers were resubmitted on 27.08.2020 excluding the name of the appellant being retired on 01.08.2020 on his own request. He, therefore, requested for dismissal of the instant service appeal.

6. From the record it is evident that appellant was a member of service cadre of Treasury and Accounts Khyber Pakhtunkhwa. Admittedly, his name was bearing at Serial No.5 of the seniority list of Assistant Treasury Officers as stood on 31.12.2019 and was due for promotion as District Accounts Officer (BS-18) on regular basis. The presence of nine vacant posts of DAOs was not denied by the respondents in their comments as well as in the arguments. Working paper for promotion of Assistant Treasury Officers to the post of Deputy Director/DAO (BS-18) clearly shows the name of appellant at Serial No.5 which was submitted on 30.01.2020. Admittedly, working paper was returned with the observation that final seniority had not been added to the working paper and this process took time with the result that working papers were resubmitted on 27.08.2020 excluding the name of the appellant being retired on 01.08.2020 and on the recommendation of Provincial Selection Board, the competent authority approved promotion of twelve officers of the Directorate of Treasury and Accounts Khyber Pakhtunkhwa from the post of Assistant Treasury Officers (BS-17) to the post of District Accounts Officer/Treasury Officers (BS-18) on regular basis vide notification dated 09.08.2021. It is on record that no steps were taken by the respondents to initiate the case of the appellant for regular promotion, therefore, he could not be penalized for the delay caused due to any administrative or other reasons. He was fit for promotion which is evident from the working papers and comments of the respondents and



of District Accounts Officer (BS-18) but no meeting of PSB was convened till the date of his retirement, as such, he got retired from service on 01.08.2020 in his own pay & scale (BS-17) which means that the appellant was not treated in accordance with law and his rights secured and guaranteed under the law and constitution were badly violated as there was no fault on the part of the appellant. Learned counsel submitted that it was the responsibility of the concerned authorities to hold the meeting of PSB at an early date which was not done and that the appellant could not be penalized for the fault of others. He contended that the Provincial Selection Board while depriving the appellant from his due right of promotion, had not given any reason or justification for ignoring the appellant as it was quite unjust and against the natural justice to punish the appellant for the fault of others. Lastly, he submitted that the appellant was entitled to promotion from the date when the vacancy was available. Reliance was placed on 2013 SCMR-544 and 2016 SCMR-871.

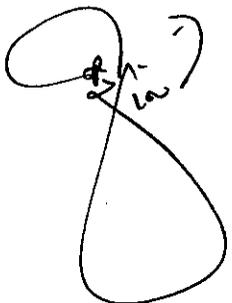
5. Conversely, learned AAG submitted that appellant was a member of the cadre. That working papers for promotion of Assistant Treasury Officers to the post of District Accounts Officers including the name of appellant was forwarded to the Establishment Department on 30.01.2020 for placement before PSB for consideration. However, the Establishment Department returned the working papers with the observation that final seniority list of Assistant Treasury Officers as stood on 31.12.2019 be added to the working paper. The seniority list remained under process owing to closure of various offices and sections due to epidemic of Corona throughout the country and after finalization,



2. Brief facts of the case are that appellant was a member of service cadre of Treasuries and Accounts, Khyber Pakhtunkhwa and his promotion to the post of District Accounts Officer was due on the basis of seniority-cum-fitness, however, no meeting of the Provincial Selection Board was held till the date of his retirement on 01.08.2020. Resultantly, he retired from service as District Accounts Officer, Kohistan in his own pay & scale BS-17. The meeting of Provincial Selection Board was held after his retirement and twelve Assistant Treasury Officers (BS-17) were promoted to the post of District Accounts Officer/Treasury Officers (BS-18) who were posted at various stations. That there were eight vacant posts of District Accounts Officer/Treasury Officers (BS-18) before his retirement which were to be filled in from amongst the Assistant Treasury Officers (BS-17) including the appellant but the impugned notification of promotion was silent about his promotion despite the fact that he was senior to those mentioned at Serial No.6 to 12 of the notification dated 09.08.2021. Being aggrieved from the notification of promotion, he filed departmental appeal which was not responded to, hence, the present service appeal.

3. We have heard Masood Khan Advocate learned counsel for appellant and Muhammad Adeel Butt, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Masood Khan Advocate, learned counsel for appellant submitted that appellant was a member of service cadre of Treasuries and Accounts Khyber Pakhtunkhwa and his promotion was due for the post



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.672/2022

Date of Institution ... 10.05.2022
Date of Decision ... 03.03.2023

Shabir Azam, Ex. District Accounts Officer, Kohistan Upper, Resident
of House No.614, Feroz ud Din Street, Main Bazar, Tehsil and District
Abbottabad. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and three others.

... (Respondents)

Masood Khan,
Advocate ... For appellant.

Muhammad Adeel Butt,
Additional Advocate General ... For respondents.

Mr. Kalim Arshad Khan ... Chairman
Mrs. Rozina Rehman ... Member (J)

JUDGMENT

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction
of this Tribunal through above titled appeal with the prayer as copied
below:

**“On acceptance of this service appeal the respondents may
very graciously be directed for issuance of order for
proforma promotion of appellant as District Accounts
Officer BPS-18 from its due date with all back benefits”.**

