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Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 4850

Dated 13/4/2022

REGISTERED  
No. C.P.3388/2019 - SCJ  
SUPREME COURT OF PAKISTAN

Islamabad, dated 20-03-2023

From The Registrar,  
Supreme Court of Pakistan,  
Islamabad.

To The Registrar,  
K.P.K. Service Tribunal,  
Peshawar.

Subject: CIVIL PETITION NO. 3388 OF 2019

Muhammad Ilyas

Versus

Director Elementary & Secondary Education Department, Khyber  
Pakhtunkhwa, Peshawar & others

On appeal from the Judgment/Order of the K.P.K. Service Tribunal,  
Peshawar dated 23/07/2019 in S.A.355/2015.

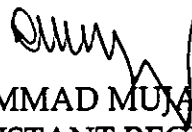
Dear Sir,

I am directed to enclose herewith a certified copy of the Order of this  
Court dated 01/09/2022 dismissing the above cited case in the terms stated therein for  
information and further necessary action.

Please acknowledge receipt of this letter along with its enclosure  
immediately.

Encl: Order:

Yours faithfully,



(MUHAMMAD MUJAHID MEHMOOD)  
ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE UMAR ATA BANDIAL, CJ  
MRS. JUSTICE AYESHA A. MALIK

**C.P.3388/2019**

(Against the judgment dated 23.07.2019 passed  
by KPK Service Tribunal Peshawar in Service  
Appeal No.355/2015)

Muhammad Ilyas

...Petitioner(s)

**Versus**

Director Elementary & Secondary Education  
Department, Khyber Pakhtunkhwa, Peshawar  
& others

...Respondent(s)

For the Petitioner(s) : Raja Muhammad Rizwan Ibrahim Satti,  
ASC  
Syed Rifaqat Hussain Shah, AOR

For the Respondent(s) : NR

Date of Hearing : 01.09.2022

**ORDER**

**UMAR ATA BANDIAL, CJ:** The petitioner's promotion order dated 24.07.2003 to the post of SST (General) was recalled on 27.08.2003. He did not challenge the said order before the departmental authorities or the learned Tribunal. However, he approached the learned High Court against such action. His Writ Petition was dismissed by judgment dated 11.01.2005. He never disputed the said judgment before this Court and accordingly the same attained finality. Two of his similarly placed colleagues, however, assailed their orders before the learned High Court and then the Supreme Court but during the pendency of their petitions they were promoted to the post of SST. Therefore, their civil

**ATTESTED**



**Court Associate**  
**Supreme Court of Pakistan**  
Islamabad

petitions were dismissed on 09.01.2007 for having become *infructuous*. The learned counsel submits that as his colleagues were promoted, his case should also be considered for ante-dated promotion w.e.f. 24.07.2003. However, the petitioner never chose to raise that plea for 07 years until 2014. The hierarchy below including the impugned judgment of the learned Tribunal dated 23.07.2019 holds that the claim of the petitioner is belated and suffers from waiver. Insofar as the merits are concerned, the petitioner's demand for *ante-dated* promotion w.e.f. 2003 would have been justified if he had already worked on an acting or other temporary charge on the post of SST (General) when he was promoted in 2003. But that is not so. Accordingly, his claim for back benefits since 2003 is not made out. His promotion in 2014 to the rank of SST (General) takes into account his service in the General cadre after 2003 and before 2014. In the circumstances, we do not find any ground to disagree with the finding recorded by the learned Tribunal.

2. As a result, this petition is dismissed and leave to appeal is refused.

Soal - A-65  
Soal - J

**Certified to be True Copy**



**Court Associate  
Supreme Court of Pakistan  
Islamabad**

