

**BEFORE THE KHYBAR PAKHTUNKHWA SERVICE**  
**TRIBUNAL /CAMP COURT AT GULKADA SWAT**

Rejoinder No. \_\_\_\_\_ of 2023

In

Service appeal No. 1889 of 2022

Member P. K. Swat  
Service Tribunal

Entry No. 4971

Dated 26/4/2023

Muhammad Afzal.

**VERSUS**

Govt. of KPK and others.

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**APPELLANT**

Muhammad Afzal

Through Counsel

**MUHAMMAD JAVAID KHAN**

Advocate, Supreme Court of Pakistan

Office: Near Allah-u-Akbar Masjid, College

Colony Saidu Sharif Swat.

Cell No. 0343-9607492

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**BEFORE THE KHYBAR PAKHTUNKHWA SERVICE  
TRIBUNAL /CAMP COURT AT GULKADA SWAT**

Rejoinder No. \_\_\_\_\_ of 2023

In

Service appeal No. 1889 of 2022

Muhammad Afzal.                      **VERSUS**                      Govt. of KPK and others.

Rejoinder on behalf of the appellant in response with  
comments filed by respondents.

**Respectfully Sheweth:**

**Preliminary objections:**

a. That Para. 1 to 11 of preliminary objections mentioned in the comments are incorrect, hence denied.

**On facts:**

1. That Para No. 1, 2,3,4,8,9,10,11,12,13, of the comments needs no further reply at it has admitted the correspondent Paras of the service appeal.
2. That Para No. 5 of the comments is incorrect, last Departmental Promotion Committee meeting for promotion of Senior Clerk to Assistants was held on 12/10/2015 and in the year 2018.ACRs and other relevant documents of appellant and others were sought by respondent No.2 for process. This fact has already been admitted by the respondents in their comments in Para No.3, by putting an evasive and evade answer. Similarly admission on the part of respondents of Para No. 4 of the Service appeal, further strengthens the stance of appellant.

3. *That Para No.6 of the comments is also incorrect to the extent of not placing the case of the appellant before the departmental promotion committee meeting for promotion of senior clerk to assistants held on 28/11/2019, for the reasons that convening the DPC meeting was not the authority of appellant, rather it was the duty of respondents in which they badly failed, hence for this negligence of the respondents the appellant may not be penalized, in this regard wisdom may be drawn from the judgment of this Honourable Tribunal delivered on 8/12/2021 in service appeal No. 1443 of 2019 titled: Usman Ghani VS Govt. of K.P.K and others. It is further submitted that 8 number of posts of Assistants were available in District Education Officer Male Swat, office and sub-ordinate offices in the year 2018-2019. (Copies of judgment dated 08/12/2021 in service No. 1443 and DPC meeting and detail of sanction posts are attached as annexure A&B).*
4. *That Para No. 7 of the comments is also incorrect for the reason that other colleagues of the appellant, who were promoted to the post of Senior clerk vide order dated 17/6/2008(Copy available at Page No.12 of Civil Appeal), were promoted in the impugned DPC held on 27/11/2019 and despite the availability of vacant posts of assistants the appellant was not granted Notional promotion, the said para also revealed that junior colleagues of the appellant were promoted during the impugned DPC meeting held on 10/12/2019.*
5. *That Para No. 14 & 15 are also incorrect.*

**GROUNDS:**

i. That ground No. i to viii are also incorrect, as detailed given above.

16. That Para No. 16 of the comments is also incorrect because the present service appeal has been filed against the impugned notification dated 25/10/2020 of the departmental appellate authority well within time.

*It is therefore, humbly prayed that on acceptance of this rejoinder, the comments may be rejected and the service appeal may be allowed as prayed for.*

**APPELLANT**

*Muhammad Afzal*

*Through Counsel*

  
**MUHAMMAD JAVAID KHAN**

*Advocate, Supreme Court of Pakistan*

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**BEFORE THE KHYBAR PAKHTUNKHWA SERVICE**  
**TRIBUNAL /CAMP COURT AT GULKADA SWAT**

Rejoinder No. \_\_\_\_\_ of 2023

In


Service appeal No. 1889 of 2022

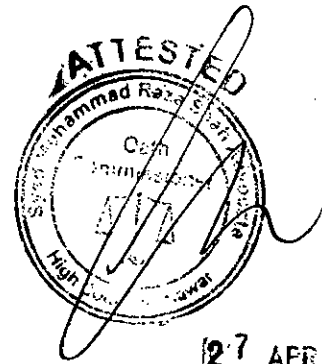
Muhammad Afzal.                      **VERSUS**                      Govt. of KPK and others.

**AFFIDAVIT**

I, Mr. Muhammad Afzal S/o Amir Salam Khan Resident of Bunr Mingora District Swat, do hereby stated on oath that all contents of this rejoinder are true and correct to the best my knowledge and belief.

DEPONENT

  
Muhammad Afzal



27 APR 2023

(10) *W/S*  
*P.K.P.*

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION K.P.PESHAWAR.**

**NOTIFICATION.**

Consequent upon the approval of the Departmental Promotion Committee (DPC) in its meeting held on 12.10.2015, the following Senior Clerks B-14 working in and under the Elementary & Secondary Education Department Khyber Pakistunkhwa FATA/DCTE/PITE are hereby promoted/adjusted as Assistant B-16 on regular basis in the interest of public service with immediate effect.

S.#	Name	Present Address	Posted as Assistant at	Remarks
1	SHABIR AHMAD	GHSS Mayar Mardan	DEO (M) Dir (Upper)	Against V/post
2	Fazli Mukhtaj	GHSS Sherpao	RITE (F) Charsadda	Against V/post
3	Ghulam Muhammad	GHSS Sheikhan Peshawar	GGHSS Kalanga Khyber Agency	Against V/post
4	Khalid Tanveer	GGHSS Paniala D.I.Khan	DEO (M) DIKhan	Against V/post
5	Riaz Ahmad	DEO (M) Swat	DEO (M) Dir Upper	Against V/post
6	Dil Jan	GHSS Dara Pezu Lakki	DEO (F) Lakki	Against V/post
7	Bahadar Zaib	SDEO (M) Timergara Dir (L)	DEO (M) Dir Lower	Against V/post
8	Muhammad Mehfooz	GGHSS Khanpur Haripur	DEO (F) Haripur	Against V/post
9	Fayyaz Khan	GHSS Sahbaz Azmat Khel Bannu	DEO (F) Bannu	Against V/post
10	Siyar Ahmad	DEO(M) Swabi	DEO (M) Swabi	Against V/post
11	Mohammad Mahroof	GHSS Sirikoat Haripur	DEO (M) Haripur	Against V/post
12	Muhammad Zaman	GGHSS Havalian Abbottabad	DEO (F) Battagram	Against V/post
13	JEHAN AKBAR	GHSS Mardan	DEO (F) Buner	Against V/post
14	UMAR ZEB	GHSS Dadazai Buner	DEO (F) Buner	Against V/post
15	S.Naseem Hussain	GGHSS Muradpur Mansehra	DEO (M) Torghar	Against V/post
16	Perveez Anjum	DTC/GHSS No.1 Peshawar City	Directorate E&SE K.P Peshawar	Against V/post
17	LAL SAID	SDEO (M) Mardan	SDEO (M) Buner	Against V/post
18	Muhammad Dar Ali Shah	DEO (F) Bannu	DEO (M) Bannu	Against V/post
19	Mohammad Arif	DEO (M) Haripur	DEO (M) Haripur	Against V/post
20	Zahid Abdullah	GCGHSS Abbottabad	DEO (M) Torghar	Against V/post
21	Muhammad Khalid	GHSS Kajri Raiki Abbottabad	Assistant, DEO (M) Battagram	Against V/post
22	Abdur Rehman	DEO (M) Abbottabad	DEO (F) Battagram	Against V/post
23	MUHAMMAD ZAHOOR	GSAHSS No. 1 Mardan	SDEO (F) Dir Upper	Against V/post
24	Muhammad Asif	DEO (F) Mansehra	DEO (F) Battagram	Against V/post

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**ATTESTED**  
*Attested*

*[Signature]*  
Asstt. Distt. Officer (P&D)  
Elementary & Secondary Edu  
Swat.

*[Signature]*

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	Vaqif Khan	DEO (M) Dir Lower	DEO (M) Dir Lower	Against V/post
60	Bakht Amin	GHSS Charbagh Swat	DEO (M) Shangla	Against V/post
61	Shujah Gul Khan	GHSS Nawanshehr Abbottabad	DEO (F) Torghar	Against V/post
62	Nizakat Ali Shah	DTE	DE&SE K.P. Peshawar	Already occupied
63	Habibullah	GHSS Garri Sherdad Peshawar	Directorate of Edu (FATA) Peshawar	Against V/post
64	Muhammad Zaman	GHSS No.1 Mingawara Swat	DEO (F) Shangla	Against V/post
65	MEHBOOB SHAH	GHSS hathian Mardan	RITE (F) Rehanpur Dir L	Against V/post
66	Chan Bakhs	GHSS Sector No.2 Kala Batt Haripur	SDEO (M) Haripur	Against V/post
67	Muhammad Tariq	DE&SE	DE&SE K.P. Peshawar	Already occupied
68	Abdul Ghani	GGHSS Sakar Dera Kohat	GCHSS Kohat	Against V/post
69	Jandool Khan	DEO (M) Kohat	DEO (M) Kohat	Against V/post
70	Ubaidur Rehman	SDEO (M) Buner	SDEO (F) Bunir	Against V/post
71	FAQIR HUSAIN	GHSS No. 4 Mardan	DEO (F) Bunir	Against V/post
72	Saeed Shah	GSMSSHSS Kohi Barmal Mardan	DEO (M) Dir Upper	Against V/post
73	Murad Ali	SDEO (F) Karak	SDEO (F) Karak	Against V/post
74	S.Qasim Shah	GGHSS Matla Palang Zai Charsadda	DEO (M) Hangu	Against V/post
75	Abdul Rafee	GHSS No. 3 D.I.Khan	SDEO (M) Kulachi	Against V/post
76	Muhammad Bashir	SDEO (M) Abbottabad	DEO (M) Kohistan	Against V/post
77	Sarmast Khan	GHSS No. 4 Peshawar city	DEO (M) Kohat	Against V/post
78	Barkat Ali	DEO (M) Swat	RITE (F) Barikot at Thana	Against V/post
79	S.Abdul Qayum Shah	GSBAKHSS Saray Norang Lakki	SDEO (M) Lakki	Against V/post
80	Zafrullah Khan	SDEO (F) Tangi Charsadda	SDEO (M) Lachi Kohat	Against V/post
81	Lal Shahid Khan	DEO (F) Karak	DEO (F) Karak	Against V/post
82	Abdus Salam	DEO (M) MKD	DEO (M) MKD	Against V/post
83	Muhammad Toqeer Khan	GGCHSS Abbottabad	DEO (M) Battagram	Against V/post
84	Muhammad Raziq	SDEO (M) Nowshera	SDEO (M) Nowshera	Against V/post
85	Abdul Wakil	GHSS Z/Talash Dir (L)	SDEO (M) Samarbagh	Against V/post
86	Mahboob Ahmad	GHSS Kotigram	SDEO (M) Timargara	Against V/post
87	Azizur Rahman	SDEO (M) Dir (L)	DEO (M) Dir Lower	Against V/post
88	Ghulam Saqlan Shah	DEO (M) D.I.Khan	DEO (F) DIKhan	
89	Aslam Khan	DEO (F) Peshawar	DEO (F) Peshawar	Already occupied
90	Tariq Saleem	GHSS Dosehra Charsadda	DEO (F) Hangu	Against V/post
91	Shafi Ullah	GGHSS Taru Nowshera	DEO (M) Nowshera	Against V/post
92	Abdullah Jan	DEO (F) Nowshera	RITE (F) Kohat	Against V/post
93	Nooraz Khan	DEO (M) Bannu	SDEO (M) Bannu	Against V/post
94	Riaz Ahmad	DEO (F) Dir L	DEO (F) Dir Lower	Against V/post

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25	Shoukat Ali	GHSS No. 1 Mansehra	DEO (M) Mansehra	Already occupied
26	Muhammad Parvez	GHSS Richbhen Abbottabad	DEO (M) Torghar	Against V/post
27	Aman Ullah	GGHSS Bilot Sherif D.I.Khan	RITE (M) DIKhan	Against V/post
28	GUL FARAZ	GHSS Baghdada Mardan	DEO (M) Buner	Against V/post
29	Nihar Muhammad	GGHSS Sherpao Charsadda	SDEO (F) Wari Dir Upper	Against V/post
30	Qazi Sirajul Haq	GGHSS Utmanzai Charsadda	SDEO (M) Kohat	Against V/post
31	Mughal Baz	DEO (F) D.I.Khan	DEO (F) DIKhan	Against V/post
32	Zahid Ullah	SDEO (M) Lahore Swabi	SDEO (M) Lahor Swabi	Already occupied
33	Imtiaz Ahmad	DEO (M) Swabi	DEO (M) Dir Upper	Against V/post
34	Aurang Zeb	GHSS Baffa Mansehra	DEO (F) Kohistan	Against V/post
35	Mohammad Ayub	GGHSS Pania Haripur	DEO (F) Haripur	Against V/post
36	Mr. Sartaj Khan	GHSS No.1 Peshawar City	DEO (F) Kohat	Against V/post
37	Abdul Hadi	SDEO (M) Chatral	SDEO (F) Chitral	Against V/post
38	Muhammad Nawaz	GCMHS Abbottabad	DEO (M) Battagram	Against V/post
39	Sardar Hayat	DEO (F) Chitral	DEO (F) Chitral	Against V/post
40	Fazale Rehman	GGHSS Lady Griffith Peshawar	Directorate of Edu (FATA) Peshawar	Against V/post
41	Siyar Muhammad	GHSS No. 01 Charsadda	DEO (F) Dir Upper.	Against V/post
42	Muhammad Younis	GHSS Urmur Peshawar	Directorate of Edu (FATA) Peshawar	Against V/post
43	Shahi Mulk	DEO (M) Swat	DEO (M) Shangla	Against V/post
44	Muhammad Israr	GHSS Main Brangola Dir (L)	SDEO (F) Samarbagh Dir Lower	Against V/post
45	Muhammad Bashir	SDEO (F) D.I.Khan	SDEO (M) Kulachi	Against V/post
46	Mashal Khan	DEO (M) Lakki	DEO (M) Lakki	Against V/post
47	Khurshid Ahmad	GHSS Tangi Charsadda	DEO (F) Kohat	Against V/post
48	Ibadur Rahman	DEO (F) Dir (L)	DEO (F) Dir Lower	Against V/post
49	Manzoor Hussain	GGHSS Thakhti Khurd Mansehra	SDEO (M) Battagram	Against V/post
50	Muhammad Raffique	DCTE Abbottabad	Services placed at the disposal of Director C&TE K.P. Abbottabad.	
51	SHER AZAM	SDEO (F) Batkhela MKD	DEO (F) Malakand	Against V/post
52	Sandal Khan	DEO (M) Peshawar	SDEO (M) Peshawar	Already occupied
53	Abdul Salam	GHSS No. 2 D.I.Khan	DEO (F) DIKhan	Against V/post
54	Sherzali Khan	DEO (F) Bannu	DEO (F) Bannu	Against V/post
55	Noor Faraz Khan	SDEO (F) Tangi Charsadda	DEO (F) Kohat	Against V/post
56	Gul Zeb Khan	GHSS Hejia Gali Abbottabad	SDEO (F) Battagram	Against V/post
57	BASHIR AHMED	GGHS Koper Malakand	SDEO (M) Batkhela Malakand	Against V/post
58	HAZRAT ALI	DEO (F) Mardan	DEO (M) Bunir.	Against V/post

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95	Muhammad Aqil	GGCMS Timergara Dir L	DEO (F) Dir Lower	Against V/post
96	Rahim Dil Khan	DEO (F) Bannu	RITE (M) Bannu	Against V/post
97	SUHAIL SAQIB	SDEO (M) Dargai MKD	DEO (F) Malakand	Against V/post
98	Shamshad Muhammad	GHSS Jolazai Nowshera	SDEO (F) Kohat	Against V/post
99	RAJ MUHAMMAD	GHS Lund Khwar Mardan	DEO (F) Hangu	Against V/post
100	SHAKEEL Muhammad	DEO (M) Mardan	DEO (M) Mardan	Already occupied

Note:

1. Charge report should be submitted to all concerned.
2. They all shall remain on probation for one year extendable for further next year.

(Muhammad Rafiq Khattak)  
DIRECTOR  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar.

Endst: No. 2055-2200/A-23/MS/Promotion/Asstt/2015. Dated Peshawar the 12/10/2015.

Copy of the above is forwarded to the:-

1. PS to Minister for Elementary & Secondary Education Department Khyber Pakhtunkhwa.
2. PS to Secretary Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department.
3. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
4. Director of Education (FATA) Peshawar.
5. Director Provincial Institute of Teachers Education Khyber Pakhtunkhwa Peshawar.
6. Accountant General Khyber Pakhtunkhwa Peshawar.
7. District Education Officer concerned.
8. District Accounts Officers concerned.
9. Agency Accounts Officers concerned.
10. Agency Education Officers concerned.
11. SDEOs concerned.
12. Principals concerned.
13. Officials concerned.
14. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
15. PA to Additional Directors (Estt:) & (Dev) Local Office.
16. Master File.

Asstt. Director (Admn)  
Directorate of Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

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**ATTESTED**


Asstt. Distt: Officer (P&D)  
Elementary & Secondary Edu:  
Swat.

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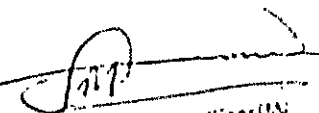
Detail of Sanction Post For the Year 2018-19  
Office of the District Education Officer, Male Swat  
DDO Code: Sw 6349

S.No	Name of Sanction Post	No of Post
1	District Education Officer B-19	1 ✓
2	Dy. District Education Officer B-18	1 ✓
3	Superintendent B-17	2 ✓
4	Budget & Accounts Officer B-17	1 ✓
6	Asstt. Distt. Education Officer B-16	4 ✓
7	Assistant Programmer B-16	1 ✓
8	Assistant B-16	4 ✓
9	Stenographer B-14	1 ✓
10	Senior Clerk B-14	5 ✓
11	Computer Operator B-16	3 ✓
12	Junior Clerk B-11	5 ✓
13	Driver B-06	2 ✓
14	Caftari B-06	1 ✓
15	Behishti B-03	1 ✓
16	Chowkidar B-03	2 ✓
17	Naib Qasid B-03	5 ✓
18	Sweeper B-03	1 ✓
G-Total: -		40

  
Qaisar Ali  
Assistant Director (T)  
Finance & Planning Swat

  
DISTRICT EDUCATION OFFICER,  
MALE SWAT


40 posts verified  
24/1/19

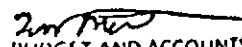
CLS  
  
District Education Officer  
District Swat.

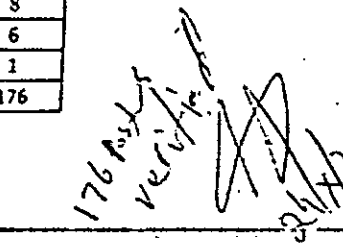
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**PROFORMA FOR THE RECONCILIATION OF POSTS OF SDEO'S (MALE) ADMN IN DISTRICT SWAT**  
**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWAT FOR THE YEAR 2019-20**

S.No	Name of Post	SDEO(M) Babozai SW-6195	SDEO(M) Barikot SW-6397	SDEO(M) Kabal SW-6403	SDEO(M) Matta SW-6407	SDEO(M) Charbagh SW-6401	SDEO(M) Kh,Khela SW-6405	SDEO(M) Bahrain SW-6399	Total
1	SDEO	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	7
2	Supdt	1 ✓	0	0	0	0	0	0	1
3	Assistant	1 ✓	0	1 ✓	1 ✓	0	1 ✓	0	4
4	ASDEO	22 ✓	8 ✓	19 ✓	28 ✓	8 ✓	16 ✓	19 ✓	120
5	C/Operator	0	2 ✓	2 ✓	2 ✓	2 ✓	2 ✓	2 ✓	12
6	Senior Clerk	2 ✓	0	0	0	0	0	0	2
7	Junior Clerk	2 ✓	0	0	0	0	0	0	2
8	Acctt/ Asstt	0	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	6
9	Driver	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	7
10	N/Qasid	2 ✓	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	8
11	Chowkidar	0	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	1 ✓	6
12	Sweepar	2 ✓	0	0	0	0	0	0	1
Grand Total		33	15	27	36	15	24	26	176

  
**Assistant Director (M)**  
Finance & Accounts  
District SWAT

  
**BUDGET AND ACCOUNTS OFFICER**  
(MALE) SWAT

*176 posts verified*  
  
**District Education Officer (M)**  
District SWAT

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BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR



Service Appeal No. 1443 /2019

Date No. 1537

Dated 01-11-2019

Usman Ghani Son of Fazal Ghani Charbagh, tehsil Charbagh District Swat, Retired from District Education Department (Male) as assistant (BPS-16).....Appellant

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary Education at Peshawar.
- 2) Director Education, Khyber Pakhtunkhwa at Peshawar.
- 3) District Education Officer (Male) District Swat

.....Respondents

APPEAL UNDER SECTION 4 OF THE GOVT. OF  
KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL  
ACT, 1974 AGAINST THE ILLEGAL, UNLAWFUL  
ACTION WHEREIN THE OFFICIAL RESPONDENTS  
HAVE illegally promoted junior colleague of  
Petitioner to the post of Superintendent (Bps-  
17) dated 31.5.2019,

Filed to-day  
 01/11/19

PRAYER IN APPEAL

ATTESTED  
 [Signature]  
 Director Education  
 District Swat

[Signature]  
 ATTESTED TO BE  
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06

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR  
AT CAMP COURT, SWAT  
Service Appeal No 143 2019

Date of Institution: 01.11.2019  
Date of Decision: 08.12.2021

Usman Ghani son of Fazal Ghani Charbagh Tensil Charbagh  
District Swat Retired from District Education Department (Male  
Swat as Assistant (B-15)  
(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary  
Education at Peshawar and two others  
(Respondents)

Syed Abdul Haq  
Advocate For appellant

Muhammad Rasheed  
Deputy District Attorney For respondents

Rozina Rehman Member (J)  
Atiq ur Rehman Wazir Member (E)

JUDGMENT

Rozina Rehman, Member(J) Brief facts of the case are that  
appellant was appointed as Junior Clerk. He was promoted to the post  
of Senior Clerk and then to the post of Assistant and was placed at  
Serial No 64 of the tentative seniority list. In the meanwhile being  
eligible for the post of Superintendent the competent authority sought  
Annual Confidential Reports of the appellant up to the year 2017 with  
direction to submit the same for the year 2015. As per requirement  
ACRs were submitted. Appellant was retired after attaining the age of  
superannuation and the DPC was delayed. That meeting of the  
Departmental Promotion Committee was held after the retirement of  
appellant and resultantly his junior colleagues were promoted to the

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post of Superintendent. Feeling aggrieved, he filed departmental appeal which was not responded to, hence, the present service appeal.

2. We have heard Syed Abdul Haq Advocate learned counsel for appellant and Muhammad Rasheed learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Syed Abdul Haq Advocate, learned counsel for appellant submitted that the act of the respondents by not considering the appellant for promotion is illegal, against law, rules and policy; that the respondents deferred the meeting of Departmental Promotion Committee which was to be formatted before the retirement of appellant which act of the respondents was not justified and that the appellant was entitled to promotion as he had submitted all the required documents and he was in the lead in seniority list. It was further argued that the authority was duly bound to consider the appellant for promotion under the rules but they intentionally delayed the DPC, though there was no fault on part of appellant and lastly, he submitted that junior colleagues of the appellant were promoted after the retirement of the appellant which act of the respondents was not justified as appellant was fit for promotion on a particular date, therefore, is entitled for promotion from due date as per his entitlement.

4. Conversely, learned DDA submitted that the appellant got retired from Government service against the post of Assistant (B-16) after attaining the age of superannuation in the respondent Department, whereas, the date of DPC and impugned notification is much later from the date of his retirement, therefore, he was not promoted to the

  
TESTED  


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post of Superintendent (B-17) by the competent authority and that the act of the respondent Department is within legal parameter and in the interest of justice

5. From the record it is evident that appellant Usman Ghani was appointed as Junior Clerk on 19.10.1981. He was promoted to the post of Senior Clerk on 30.03.2011 and to the post of Assistant (BS-16) It is also not disputed that he was placed at Serial No 64 of the tentative seniority list of Assistants (B-16). He was eligible for the post of Superintendent and the promotion case of Assistants (B-16) to the post of Superintendent (B-17) was under process, therefore, a request was made to the concerned Directors to submit the ACRs/Non Involvement Certificates (fresh) of the officials through special messenger. Name of the appellant finds mention in the said list at Serial No. 59. Accordingly, the required documents were provided as nothing was brought in this regard by the respondents against the appellant. The next meeting of DPC was held on 31.05.2019, whereas, the appellant got retired from Government service on superannuation w e f 03.03.2019. We find that it has not been disputed before this Bench that much before the retirement of the appellant, a working paper was prepared by the Department with regard to his promotion but the matter was delayed without any justifiable reason and in the meanwhile, appellant attained the age of superannuation. He cannot be made to suffer on account of departmental lapse. A notification was produced by the appellant during arguments dated 10<sup>th</sup> March 2021, wherein, notional promotion was granted to civil servants due to their retirement but case of the appellant was not considered for notional promotion.

JL

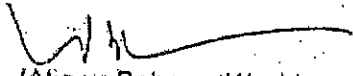
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Service Commission  
Peshawar

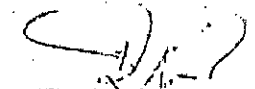
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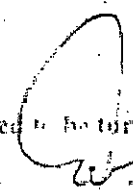
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6. Keeping in view the above discussion, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
08 12 2021

  
(Aliq ur Rehman Wazir)  
Member (E)  
Camp Court, Swat

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat

Certified to be true copy  
  
1  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Filing of this appeal 29-12-21  
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