

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 916/2021

Date of Institution ... 14.01.2021

Date of Decision... 03.05.2023

Abdur Rauf Niazi Ex-Senior Instructor/Lecturer Government College of Technology Bannu S/o Shah Jahan Niazi. R/o Village and Post Office Ghoriwala Tehsil & District Bannu.

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Commerce, Industry and Technical Education Khyber Pakhtunkhwa and 02 others.

... (Respondents)

MR. ISRAR-UL-HAQ

Advocate

--- For appellant.

MR. ASAD ALI KHAN

Assistant Advocate General

--- For respondents No. 1 & 3.

MR. ALI GOHAR DURRANI

Legal Advisor

--- For respondent No. 2.

MR. KALIM ARSHAD KHAN

MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precisely stating the facts as alleged

by the appellant in his appeal are that he was serving as Senior Instructor/Lecturer (BPS-17) in Government College of Technology Bannu and stood retired from service with effect from 12.03.2019 on attaining the age of superannuation; that the appellant was eligible for promotion to the post of Principal/Vice Principal (BPS-18) and seven posts were also lying vacant on 15.09.2018 but he was deprived from such promotion; that the appellant submitted several applications to the



respondents requesting therein for his promotion but in vain, hence the instant service appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General on behalf of respondents No. 1 & 3 as well as Legal Advisor on behalf of respondent No. 2 have controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.



4. We have heard the arguments of learned counsel for the parties and have perused the record.

5. A perusal of the record would show that the appellant is seeking promotion to the post of Principal/Vice Principal (BPS-18) on notional basis. According to the relevant service rules notified vide Notification dated 22nd April 2015, three months Management Training Course was one of the prerequisite for promotion to the post of Principal (BPS-18). Available on the record is letter dated 27.02.2019 addressed by the Deputy Director (Establishment) to the appellant, wherein it is mentioned that the appellant was nominated for participation in the mandatory Management Training Course, however he had refused for participation in the same and thus his case could not be processed for the desire promotion

to the post of Principal (BPS-18). The available record would show that regarding the same relief sought by the appellant through instant appeal, he had also submitted Writ Petition before the august Peshawar High Court, Peshawar, which was disposed of vide order dated 17.10.2018 by converting the same into departmental representation and sending of the same to the Chairman Board of Technical Education and Vocational Authority Khyber Pakhtunkhwa for its adjudication within a period of one month. The appellant then filed COC No. 03-B/2019 before the august Peshawar High Court, Peshawar, which was dismissed vide order dated 12.02.2020, which is reproduced as below:-

“The respondent through Addl:A.G had filed his reply wherein it has been clearly mentioned that the representation of the petitioner was not acceded to, as petitioner was lacking three months management course, as such he was found unfit for further promotion, therefore, judgment of this court has been complied with by the respondents, as such this contempt of court petition is dismissed accordingly.(Emphasis provided)

6. In view of the above discussion, the appeal in hand is dismissed being devoid of any merit. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

03.05.2023


(KALIM ARSHAD KHAN)
CHAIRMAN


(SALAH-UD-DIN)
MEMBER (JUDICIAL)