

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 40/2018

Date of Institution ... 21.06.2017

Date of Decision... 08.05.2023

Mst. Rukhsana Wasil PST G.G.P.S Parmoli Tehsil Razar District Swabi.

... (Appellant)

**VERSUS**

Director of Elementary and Secondary Education Khyber Pakhtunkhwa  
Peshawar and 02 others.

... (Respondents)

MR. RAWIL KHAN,  
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,  
Deputy District Attorney


--- For respondents.

MR. SALAH-UD-DIN  
MR. MUHAMMAD AKBAR KHAN

--- MEMBER (JUDICIAL)  
--- MEMBER (EXECUTIVE)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Through this single judgment we intend to dispose of instant service appeal as well as connected Service Appeal bearing No. 41/2018 titled "Dilman Naz Versus Director of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and 02 others" as common questions of law and facts are involved in both the appeals.

 2. Precise averments as raised by the appellants in their appeals are that they were serving as PSTs in Education Department since 20.10.2004; that vide Notification bearing Endorsement No. 1535-G dated 12.07.2014, certain PSTs (BPS-12) were promoted to the post of SPSTs (BPS-14) but the appellants were ignored despite the fact that they were eligible

for promotion as SPSTs (BPS-14); that the appellants submitted departmental appeals requesting therein for promotion to the post of SPSTs (BPS-14); that later on vide Notification bearing Endorsement No. 248-9 dated 31.01.2015, the appellants were promoted to the post of SPSTs (BPS-14) and their adjustment order was issued on 05.08.2015, however the appellants received the same after 15 days; that after getting information of promotion to the post of SPSTs (BPS-14), the appellants approached the respondents to hand over them the charge of post of SPSTs (BPS-14), however they were being told that as they had not assumed the charge of their post in time, therefore, the order of their promotion had lapsed; that another promotion order to the post of SPSTs (BPS-14) was issued on 04.08.2016 but the appellants were once again ignored, constraining them to file Writ Petitions before the august Peshawar High Court, Peshawar, which were dismissed in *limine* vide order dated 06.04.2017 being hit by bar contained in Clause 1 and 2 of Article 212 of the Constitution of Islamic Republic of Pakistan; that the appellants then approached this Tribunal through filing of instant appeals for redressal of their grievance.

3. On admission of both the appeals for regular hearing, notices were issued to the respondents, who contested the appeals by way of filing of reply/comments, wherein they refuted the assertion raised by the appellants in their appeals.

4. Learned counsel for the appellants has addressed his arguments supporting the grounds agitated by the appellants in

their service appeals. On the other hand, learned Deputy District Attorney for the respondents has controverted the arguments of learned counsel for the appellants and has supported the comments submitted by the respondents.

5. Arguments of learned counsel for the parties heard and record perused.

6. A perusal of the record would show that initially the meeting of Departmental Promotion Committee was held in the office of District Education Officer (Female) Swabi on 11.02.2013 for promotion of PSTs (BPS-12) to the post of SPSTs (BPS-14) as well as SPSTs (BPS-14) to PSHTs (BPS-15). The promotion of the appellants was deferred on the ground that they had not provided their documents. The promotion of the appellants was deferred by the Departmental Promotion Committee, therefore, the names of the appellants were not included in the promotion Notification bearing Endorsement No. 1535-G dated 12.07.2014. According to the available record, the appellant Rukhsana Wasil did not challenge the impugned promotion Notification dated 12.07.2014, through filing of departmental appeal, while the appellant Dilman Naz filed departmental appeal, which was not responded. Vide letter bearing No. 2243-9 dated 06.11.2014 issued from the office of District Education Officer (Female) Swabi, the appellants as well as other PSTs (BPS-12), who were deferred in the meeting of DPC held on 11.02.2013, were intimated to remove the deficiencies/provide the documents as the DPC for promotion/


up-gradation to the post of SPSTs (BPS-14) and PSHTs (BPS-15) was scheduled to be held in the next week. The meeting of Departmental Promotion Committee was then held on 17.11.2014 and in consequence of the same Notification bearing Endorsement No. 248-9 dated 31.01.2015 was issued whereby, the appellants were also promoted to the post of SPSTs (BPS-14). Upon their promotion, adjustment order dated 05.08.2015 was issued, whereby the appellant Rukhsana Wasil was adjusted at GGPS Meher Ali, while the appellant Dilman Naz was adjusted at GGPS Fazal Abad Permoli. Available on record is an application dated submitted by the appellant Rukhsana Wasil before the District Education Officer (Female) Swabi requesting therein for review of adjustment order bearing Endorsement No. 2136-42 dated 05.08.2015 and posting of appellant in the same school i.e GGPS Parmoli No. 1. All this would show that the appellants were well aware of their promotion as well as adjustment order dated 05.08.2015. Nothing is available on the record, which could show that the appellants after their promotion to the post of SPSTs (BPS-14) vide Notification dated 31.01.2015, had actualized their promotion in the concerned schools in which they were adjusted vide Notification dated 05.08.2015. No documentary proof is available on the record, which could show that the appellants had made any complaint to the departmental Authority that they have been restrained from taking charge on the post of SPSTs (BPS-14). All this would led to the conclusion that the appellants


in a way had waived of their promotion. In view of Rule-7 (5) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the appellants were thus not entitled to be considered for promotion for the next four years, therefore, they were rightly not considered for promotion by the Departmental Promotion Committee in its meeting, in consequence of which promotion Notification bearing Endorsement No. 2714-G dated 28.07.2016 was issued. Furthermore, the appellants had challenged the order bearing Endorsement No. 2797-2804 dated 04.08.2016, which is actually an order of adjustment of Primary School Teachers (Female) and not an order of promotion of the PSTs to the post of SPSTs (BPS-14). The appellants had not even filed any departmental appeal against the promotion order bearing Endorsement No. 2714-G dated 28.07.2016.

7. In view of the above discussion, the appeal in hand as well as Service Appeal bearing No. 41/2018 titled “Dilman Naz Versus Director of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and 02 others”, are dismissed. Parties are left to bear their own costs. Files be consigned to the record room.

ANNOUNCED

08.05.2023

  
(MUHAMMAD AKBAR KHAN)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)