

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

**BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN  
M. AKBAR KHAN ... MEMBER (Executive)**

*Service Appeal No.3867/2021*

Date of presentation of appeal .....01.03.2021  
Dates of Hearing.....30.05.2023  
Date of Decision.....30.05.2023

**Abdul Siddique, Binder 1<sup>st</sup> (BPS-06), Government Printing &  
Stationery Department at Shami Road, Peshawar.  
.....(Appellant)**

Versus

- 1. Government of Khyber Pakhtunkhwa through Secretary Industries, at Civil Secretariat Peshawar.**
- 2. Controller at Government Printing & Stationery Department at Shami Road, Peshawar.**
- 3. Abdul Qudus, Ruling Machine Man (BPS-07), Government Printing & Stationery Department at Shami Road, Peshawar.  
.....(Respondents)**

Present:



Mr. Taimur Haider Khan, Advocate.....For appellant.

Mr. Muhammad Jan, District Attorney.....For official respondents.

Nemo for private respondent No.3.....Ex-parte.

.....  
**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED AND UNJUSTIFIABLE THAT IS OUT OF TURN PROMOTION GIVEN TO THE RESPONDENT NO.3 THAT IS PROMOTED FROM BINDER 1<sup>ST</sup> (BPS-06) TO RULING MACHINE MAN (BPS-07) BY SURPASSING THE APPELLANT DESPITE THE FACT THAT AS PER THE RESPONDENTS DEPARTMENT SENIORITY LIST BEING STOOD ON 1.12.2018 THE APPELLANT HOLD SERIAL NO.4 WHILE THE RESPONDENT NO.3 HOLD SERIAL NO.6 BUT UNFORTUNATELY, SINCE SEPTEMBER/OCTOBER, 2020 BY PROMOTING THE RESPONDENT NO.3 IS DRAWING SALARY OF RULING MACHINE MAN (BPS-07) VIA PROMOTION.**

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**Service Appeal No.3868/2021**

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Dates of Hearing.....30.05.2023  
Date of Decision.....30.05.2023

**Abdul Siddique, Binder 1<sup>st</sup> (BPS-06), Government Printing & Stationery Department at Shami Road, Peshawar.**

.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Industries, at Civil Secretariat Peshawar.
  2. **Controller at Government Printing & Stationery Department at Shami Road, Peshawar.**
  3. **Abdul Qudus, Ruling Machine Man (BPS-07), Government Printing & Stationery Department at Shami Road, Peshawar.**
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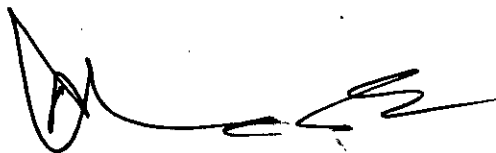


## **CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment this appeal and the connected service appeal No. 3868/2021 titled "Abdul Waheed versus Government of Khyber Pakhtunkhwa through Secretary Industries, at Civil Secretariat Peshawar and others" are decided as both are regarding the same subject matter and can conveniently be decided together.

2. According to the facts gathered from the available record that the appellants were appointed in the respondent/department in the year 1982 on regular basis; that the appellants were holding the post of Binder 1<sup>st</sup> (BPS-06); that the respondent/department had promoted private respondent No.3; that according to the seniority list the appellants were at serial No. 4 and 5 while private respondent No. 3 was at serial No. 6; that in the seniority list the employees at serial No.1 to 3 had already retired from service but unfortunately by adopting favoritism and biased approach, respondent No.2 had promoted respondent No.3; that feeling aggrieved, the appellants filed departmental appeals, which were not responded within the statutory period of ninety days and, hence, filed the instant service appeals.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned. Official respondents No.1 and 2 put appearance and contested the appeals by filing their respective written replies raising therein numerous legal and factual objections while the private respondents No. 3 was placed ex-parte. The defense setup was a total denial of the claim of the appellants.



4. We have heard learned counsel for the appellants and learned Deputy District Attorney for the official respondents.
5. Admittedly the appellants are senior to private respondent No.3 who was promoted vide the impugned order dated 24.07.2020. The minutes of meeting of Departmental Promotion Committee held on 24.07.2020 have been perused, which show that none of the appellants were even considered. There is nothing in the minutes as to why the two seniors were totally ignored and a junior was promoted. Although the appellants of both the appeals, have been promoted subsequently, but with immediate effect. As the department has not given any reason for ignoring the appellants, who were admittedly seniors to private respondent No.3, therefore, we are constrained to allow this appeal, set aside the impugned order and remit the matter back to the department to consider the case of the appellants and private respondent strictly in accordance with law having regard to the seniority cum fitness, within sixty days from the date of receipt of the judgment. The date of receipt of judgment shall be communicated to the Tribunal through its Registrar. Costs shall follow the event. Consign.
6. ***Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30<sup>th</sup> day of May, 2023.***



**KALIM ARSHAD KHAN**

Chairman



**MUHAMMAD AKBAR KHAN**

Member (Executive)