

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

Service Appeal No. 573/2017

Date of Institution ... 02.06.2017

Date of Decision... 29.05.2023

Imdad Ullah S/O Zakria Badshah CT, GHSS Shaidu District Nowshera.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar and 02 others.

... (Respondents)

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MR. MUHAMMAD IMRAN,  
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,  
Deputy District Attorney

--- For respondents.

MR. SALAH-UD-DIN  
MS. FAREEHA PAUL

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

**JUDGMENT:**

**SALAH-UD-DIN, MEMBER:-** The appellant has preferred  
the instant service appeal with the prayer copied as below:-

*“On acceptance of this appeal the respondents may kindly be directed to promote the appellant to the post of SST whereas his colleagues/juniors were promoted to the post of SST (Senior Science Teacher) vide order dated 01.11.2014 and denial the same to the appellant on the ground of study leave/higher education PhD is thus to be declared illegal, unlawful and without lawful authority, furthermore promoting the appellant to the post of CT teacher is against the*



*rules and policy, and may please be promoted to the post of SST from 01.11.2014 as his colleagues/juniors were promoted with all arrears and back benefits or any other remedy deemed proper may also be allowed."*

2. Precise averments raised by the appellant in his appeal are that he was appointed as PST (BPS-07) on 05.12.1992; that during the course of his service, the appellant applied for higher education and was nominated for PHD study; that the appellant was on study leave and in the meanwhile respondents promoted PSTs to the post of SST vide Notification dated 01.11.2014 but the appellant was not promoted for the reason that he was on study leave; that the appellant was having Master as well as PHD degrees and was eligible for promotion but was not promoted to the post of SST (BPS-16); that subsequently promotions were made to the post of SSTs vide Notifications dated 09.05.2016 and 20.08.2016, whereby juniors to the appellant were promoted but he was wrongly and illegally ignored; that instead of promoting the appellant to the post of SST (BPS-16), he was promoted from the post of SPST (BPS-14) to the post of CT (BPS-15) vide Notification dated 25.08.2016, which is against law and rules; that the departmental appeal of the appellant was rejected vide order dated 02.05.2017, hence the instant service appeal.

3. 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 assertions raised by the appellant in his appeal.

4. 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 Deputy District Attorney for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

5. We have heard the arguments of learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and have perused the record.



6. A perusal of the record would show that vide Notification No. SO(PE)3-6/DP/E&SE/05 dated 01.04.2009, the appellant was nominated for PHD study in the field of Education in International Islamic University Islamabad with effect from April 2009 to April 2011, the appellant then remained on study leave till 31.01.2015. During the period of his study leave, promotions to the post of SST (BPS-16) were made, however the appellant was on study leave, therefore, in view of para-IV (a), of the promotion policy he was to be considered for promotion on his return from study leave. The appellant after his return from study leave, submitted an appeal before Director Elementary & Secondary Education Khyber Pakhtunkhwa on 02 November 2015, whereby a request was made that he may be promoted to the post of CT/PSHT (BPS-15). The

aforementioned appeal of the appellant was accepted and vide Notification bearing Endorsement No. 5800-12/DEO(M)NSR/EA-S/Prom;PSHT-SPST to CTs dated 25.08.2016, he was promoted from the post of SPST to the post of CT. The appellant had himself submitted an appeal to the Director Elementary & Secondary Education Khyber Pakhtunkhwa for his promotion to the post of CT (BPS-15), therefore, he cannot now turn around and allege that his promotion to the post of CT was against law and rules. The appellant is admittedly serving as CT (BPS-15) since 26.08.2016 and his name has been included in the seniority list of CTs and will be promoted to the post of SST (BPS-16) on his turn, if found eligible.

7. Consequently, the appeal in hand being without any merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
29.05.2023

  
(FAREEHA PAUL)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)