

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR**  
**AT CAMP COURT ABBOTTABAD**

Service Appeal No. 7267/2021

Date of Institution... 26.07.2021

Date of Decision... 27.07.2023

Shoukat Hussain S/O Munsif Khan, Junior Clerk Government Girls High School  
Sheikhul-Bandi, Tehsil & District, Abbottabad.

... (Appellant)

**VERSUS**

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

... (Respondents)

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CHOUHDERY ABDUR RAUF CHOCHAN,  
Advocate

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For appellant.

MR. ASAD ALI KHAN,  
Assistant Advocate General

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For respondents.

MR. SALAH-UD-DIN  
MS. RASHIDA BANO

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MEMBER (JUDICIAL)

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MEMBER (JUDICIAL)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Precise facts as per memorandum of the appeal are that appellant was appointed as Junior Clerk in the office of Commissioner Hazara Division Abbottabad on 18.05.1992. In wake of devolution policy, Commissionerate system was abolished by the Provincial Government on 07.09.2002 due to which, the appellant alongwith some others became surplus and were placed in surplus pool by placing their services at the disposal of District Coordination Officer Haripur for further adjustment. Vide order dated 20.09.2002, the appellant was adjusted in Education and Literacy



Department Haripur and was later on adjusted in GHS Noorpur District Haripur Vide order dated 26.09.2002. Vide Notification dated 02.04.2007, the appellant was transferred and adjusted in GGHS Sialkot Abbottabad as Junior Clerk. The appellant was granted seniority with effect from 26.09.2002 instead of 18.05.1992 i.e initial date of appointment as Junior Clerk, which resulted in promotion of Junior Clerks, who were juniors to the appellant, while he was deprived of promotion by not considering his service with effect from 18.05.1992 to 25.09.2002. The appellant preferred departmental appeal, however of no avail, hence the instant service appeal.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative and contested the appeal by way of filing written reply raising therein numerous legal and factual objections.

3. Learned counsel for the appellant argued that appellant was appointed as Junior Clerk on regular basis vide order dated 18.05.1992, therefore, his seniority was to be considered from the said date, however his seniority has wrongly and illegally been considered by the competent Authority with effect from 26.09.2002; that the appellant was entitled to be promoted as Senior Clerk, however he was illegally ignored and juniors to him were promoted vide Notification bearing Endorsement No. 931290-931370/A-23/MS/Promotion JC to SC/2020 dated 15.10.2021; that the rights of the appellant as guaranteed under Article 25 of the

Constitution of Islamic Republic of Pakistan were violated. Reliance was placed on 2004 PLC (C.S.) 1223 and 2011 SCMR 389.

4. On the other hand, learned Assistant Advocate General for the respondents argued that appellant was though appointed as Junior Clerk on 18.05.1992, however he became surplus in wake of devolution policy and was later on adjusted in Education Department vide order dated 26.09.2002, therefore, the said date is to be considered for the purpose of seniority in light of surplus pool policy of the provincial government; that name of the appellant has been correctly placed in the seniority list and his right of seniority has not been violated; that tentative as well as final seniority lists of Junior Clerks were circulated from time to time, however the appellant did not filed any objection on the same; that the appeal of the appellant is baseless, therefore, the same may be dismissed with cost.

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

6. A perusal of the record would show that the appellant was initially appointed as Junior Clerk in the office of Commissioner Hazara Division Abbottabad on 18.05.1992. He was, however rendered surplus in wake of devolution policy and his services were placed at the Disposal of District Coordination Officer Haripur vide order dated 07.09.2002. The appellant was later on adjusted as Junior Clerk in Education and Literacy Department Haripur vide

order dated 20.09.2002 and was posted in GHS Noorpur vide order dated 26.09.2002. The appellant was then transferred and adjusted against the post of Junior Clerk in GGHS Sialkot Abbottabad vide order dated 02.04.2007.

7. The core issue in question is regarding seniority of the appellant, which as per his contention is required to be considered from the date of his initial appointment i.e 18.05.1992. The said stance of the appellant is misconceived for the reason that he was rendered surplus in wake of devolution policy and was later on adjusted as Junior Clerk in Education Department. Para-6 (b) of Surplus Pool Policy of the Provincial Government relates to issue in question and is reproduced as below:-



“6. FIXATION OF SENIORITY

*The inter-se seniority of the surplus employees after their adjustment in various Departments will be determined according to the following principles:-*

(a) .....

(b) *In case, however he is adjusted in his respective cadre but in a department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre. (Emphases Provided)*

(c) .....

(d) .....”

8. According to clause (b) of para-6 as reproduced above, the appellant could not claim his seniority with effect from 18.05.1992 i.e the date of his initial appointment as Junior Clerk. The judgments relied upon by learned counsel for the appellant are

distinguished as the same did not relate to the controversy in question in the instant appeal.

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

ANNOUNCED  
27.07.2023



(RASHIDA BANO)  
MEMBER (JUDICIAL)  
CAMP COURT ABBOTTABAD



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT ABBOTTABAD