
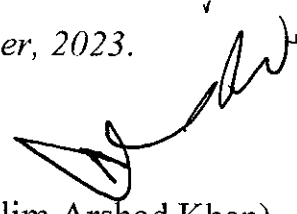


expression "Promotion" which is not defined either in the Civil Servants Act or the Rules framed thereunder, and is restricted to the post (office) and not with the person occupying it. The upgradation cannot be made to benefit a particular individual in term of promoting him to a higher post and further providing him with the avenues of lateral appointment or transfer or posting. In order to justify the upgradation, the Government is required to establish that the department needs re-structuring, reform or to meet the exigency of service in the public interest. In the absence of these pre-conditions, upgradation is not permissible."

3. This being so, while relying on the judgment of larger Bench of the Supreme Court of Pakistan, the issue before this Tribunal being squarely and admittedly pertaining to upgradation, therefore, it is outside its jurisdiction. These appeals are returned to the appellants for want of jurisdiction by the Tribunal. The original memos and grounds of appeals alongwith copies of the accompaniments be returned to the appellants against proper receipt, whereas, the original order sheets, copies of the memos of appeals and the accompaniments alongwith the original Wakalat Nama be placed on this file and be consigned.

4. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 4th day of October, 2023.*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

Service Appeal No.12168/2020 titled “Dawa Khan Vs. Government of Khyber Pakhtunkhwa through Secretary Public Health Engineering, Civil Secretariat Peshawar and others”

ORDER

4th Oct. 2023

Kalim Arshad Khan, Chairman: Learned counsel for the appellants and Mr. Asif Masood Ali Shah learned Deputy District Attorney alongwith Mr. Fida Hussain, ASO for the respondents present.

2. Through the instant appeal and in connected Service Appeals No.11539/2020, 11540/2020, 11541/2020, 11542/2020, 11543/2020, 11544/2020, 11545/2020 and 11546/2020, the appellants have prayed that the respondents might be directed to upgrade the scale of the appellants to BPS-06. The appellants have also relied on the order of the Peshawar High Court in Writ Petition No.3121-P of 2017 dated 17.10.2018, whereby, the petitioners of the writ petition were said to be civil servants and that their case fell in the terms and conditions of civil servants, thereby dismissing the writ petition and leaving the petitioners at liberty to approach the proper forum. The learned Deputy District Attorney, on the other side, controverted the situation saying that the matter of upgradation was outside the jurisdiction of the Tribunal. Learned DDA has rightly said so because in the judgments reported as 2016-SCMR page 859 titled “**Regional Commissioner of Income Tax Company Zone, Income Tax Officer, Peshawar Vs. Syed Manawar Ali and others**” and 2017 SCMR page 890 “**FEDERAL PUBLIC SERVICE COMMISSION through Secretary— Versus ANWAR UL HAQ (PRIVATE SECRETARY) ISLAMABAD and others**”. The Supreme Court was pleased to hold that:

“We have heard the learned Counsel for the parties and have perused the record. The expression “upgradation” is distinct from the

