

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

Service Appeal No. 757/2019

Date of Institution ... 20.06.2019

Date of Decision... 26.09.2023

Akhtar Zaib Khan S/O Ghulam Muhammad Khan, R/O Shahkhail Ghari,  
presently residing at Mohallah Ziyarat Baba Nogazi, Tehsil & District  
Mansehra. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Agricultural,  
Livestock and Cooperation Department Khyber Pakhtunkhwa Peshawar and  
06 others. ... (Respondents)

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MR. DILDAR AHMED KHAN LUGHMANI,  
Advocate

--- For appellant.

MR. ASAD ALI KHAN,  
Assistant Advocate General

--- For respondents.

MR. KALIM ARSHAD KHAN  
MR. SALAH-UD-DIN

--- CHAIRMAN  
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts giving rise to filing of the instant appeal are that the appellant was inducted as Agricultural Assistant (BPS-16) on adhoc basis in Agricultural Department. Later on, the post of the appellant was upgraded from BPS-16 to BPS-17 and he was promoted from the post of Agricultural Officer (BPS-17) to the post of Agricultural Officer (Supervisory) (BPS-17) with special pay of Rs. 150/- per month vide Notification dated 31.10.2001. The appellant was thereafter promoted from BPS-17 to BPS-18 and then BPS-19. On attaining the age of superannuation, the appellant was retired from service vide Notification dated 12.04.2008 with effect from 29.02.2008. During the course of his service, the appellant was not granted Advance/pre-mature increment, therefore, he filed representation/departmental

appeal on 21.03.2019, which was not responded, hence the instant appeal.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative. Respondents No. 1 to 5 & 7 contested the appeal by way of filing written replies, while respondent No. 6 has failed to submit his written reply, therefore, his right for submission of reply/comments was struck off.

3. 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 Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

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

5. One Ishtiaq Ahmad, who was similarly placed employee had filed Service Appeal bearing No. 1633/2020 titled "Ishtiaq Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar and others", which was allowed by this Tribunal vide judgment dated 23.01.2017. Para-9 of the said judgment is reproduced as below:-

*"The admitted position before us which requires determination is that the appellant was promoted on 16.02.2005 and as per the rules then in vogue he was*

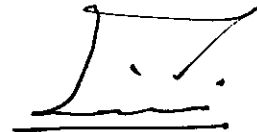
*not entitled to increase in pay in the shape of one advance increment which became available to all civil servants w.e.f. 01.07.2005 on the strength of notification dated 09.07.2005. The respondents were thus obliged to have re-fixed the pay of the appellant by considering him entitled to the benefits attached to his promotion w.e.f. 01.07.2005. We therefore hold that the case of the appellant for the purpose of fixation of pay and attached benefits including pensionary benefits shall be considered w.e.f. 01.07.2005. We therefore hold that the case of the appellant for the purpose of fixation of pay and attached benefits including pensionary benefits shall be considered w.e.f. 01.07.2005 and as if the appellant was promoted as Agriculture Officer (Supervisory) BPS-17 on the said date for the purpose of pay and pensionary benefits. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room."*

6. In view of the above, the appeal in hand is allowed in terms of the judgment dated 23.01.2017 passed in Service Appeal bearing No. 1633/2020 titled "Ishtiaq Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar and others". Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
26.09.2023



(KALIM ARSHAD KHAN)  
CHAIRMAN  
CAMP COURT ABBOTTABAD




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


ORDER  
26.09.2023

Learned counsel for the appellant present. Mr. Saim Saeed, Agriculture Assistant and Mr. Naseeb Khan, Section Officer alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed in terms of the judgment dated 23.01.2017 passed in Service Appeal bearing No. 1633/2020 titled "Ishtiaq Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar and others". Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
26.09.2023

  
(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

  
(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Abbottabad