

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR  
AT CAMP COURT SWAT

Service Appeal No. 16201/2020

BEFORE: MR. SALAH UD DIN ... MEMBER (Judicial)  
MRS. RASHIDA BANO ... MEMBER (Judicial)

Parveen Begum, Primary School Head Teacher at GGPS Afsaar Abad,  
Saidu Shareef Swat. .... (Appellant)

VERSUS

1. District Education Officer (Male) Swat.
2. Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
3. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
4. Jamila PSHT at GGPS Beha Matta Swat.
5. Parveen Akhtar PSHT at GGPS Jound Kabal Swat.
6. Akhtar Bibi PSHT at GGPS Warna Gortai Manglowar Swat.
7. Nasreen Begum PSHT at GGPS Shin Pattai Swat.
8. Dilshad Begum PSHT at GGPS Koza Bandai Kabal Swat.
9. Rashida Begum PSHT at GGPS Bara Samai Kabal Swat.
10. Hussan Bano SST (Assistant Sub Division Education Officer Female Circle Babozai Saidu Sharif Swat)
11. Tasnim Akhtar SST (Assistant Sub Division Education Officer Female Circle Barikot Swat)
12. Rawsia SST at GGHS Mingora No.1. .... (Respondents)

Mr. Umar Khitab  
Advocate

... For appellant

Mr. Ijaz Ahmad  
Advocate

... For private respondents

Mr. Inayat Ullah Khan  
Assistant Advocate General

... For respondents

Date of Institution.....14.12.2020  
Date of Hearing.....04.10.2023  
Date of Decision.....04.10.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below.

**“On acceptance of instant appeal the seniority list of PSTs and SSTs issued by respondent No.1 be declared null and void, ineffective upon the right of appellant and respondents No. 4 to 12 are junior than appellant. The appellant be granted her due seniority /promotion from dated 24.08.2016 alongwith all back benefits which has been given to respondent No. 10, 11 and 12 and promoted to SST (BPS-16) from 24.08.2016.”**

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Primary School Teacher in education department vide order dated 25.06.1990. During service appellant improved her qualification and promoted to the post of PSHT (BPS-15) vide order dated 11.02.2013. On 30.08.2020 respondent issued seniority list of PSHTs in which appellant was shown junior from private respondent No. 5 to 10 but appellant is senior to them on the basis of basis of initial appointment.
3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Assistant Advocate General and perused the case file with connected documents in detail.
4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and appellant may be considered from the date of her initial appointment. He further argued that juniors to appellant were promoted to higher scales which is discrimination and violation of the fundamental rights and settled principle and policy.
5. Conversely, learned Assistant Advocate General assisted by learned counsel for private respondent contended that the appellant has passed PTC training after her appointment and she was placed at S. No. 350 of seniority

list. He further contended that private respondents are senior than appellant because they passed PTC training earlier than the appellant and placed at S. No. 295, 297, 299, 300, 301, 302, 268 and 294 respectively in the seniority list.

6. Perusal of record reveals that appellant challenged seniority list of PSHTs and SST issued by respondent No.1 vide which respondent No. 4 to 12 juniors were shown senior from the appellant. Main contention of the appellant is that her seniority be fixed from the date of her initial appointment order dated i.e 25.06.1990. Admitted position on record is that initially appellant was appointed as un-train PTC teacher who later on, acquired prescribe qualification i.e PTC training on 27.10.1992. Seniority of civil servant is determined in accordance with Rule 17 of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules 1989 which read as;

(a) "In the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection"


(b) "in the case of civil servants appointed otherwise, with reference to the dates of their continuous regular appointment in the post; provided that civil servant selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post "


7. As per Rule 17 that the seniority of civil servant shall be determined in the case of person appointed by initial recruitment in accordance with the order of merits assigned by the Commission or departmental Selection

Committee and if no such examination is conducted then the seniority shall be determined with reference to the dates of their continuous regular appointments which means that rule 17 lays down that the seniority of a civil servants shall be reckoned from the date of continuous regular appointment. Since the appointment of appellant as untrained PTC was purely on temporary basis as such the seniority of the appellant shall be reckoned in accordance with Rule 17 (b) of Khyber Pakhtunkhwa (Appointment Promotion and Transfer) Rules, 1989 i.e from the date of his regular appointment, which is evident from her initial appointment order dated 25.06.1990 on temporary basis/fixed pay. The date of acquiring prescribe qualification i.e passing PTC training 27.10.1992. Since the appellant have acquired prescribed qualification much after her initial appointment, how she could be considered for promotion due to lack of prescribed qualification and how could she be placed in the seniority list without passing professional qualification.

8. As a sequel to the above discussion, we are of the view that appeal in hand is devoid of merits, which is hereby dismissed. Costs shall follow the event. Consign.

9. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 4<sup>th</sup> day of October, 2023.*

  
(SALAH UD DIN)  
Member (J)  
Camp Court, Swat

  
(RASHIDA BANO)  
Member (J)  
Camp Court, Swat

**ORDER**

4<sup>th</sup> Oct, 2023

1. Learned counsel for the appellant present. Mr. Inayat Ullah Khan learned Assistant Advocate General alongwith Sultan Nabi, ADEO for the respondents present.

2. Vide our detailed judgement of today placed on file, the appeal in hand is devoid of merits, which is hereby dismissed. Costs shall follow the event. Consign.

3. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 4<sup>th</sup> day of October, 2023.*



(SALAH UD DIN)  
Member (J)  
Camp Court, Swat



(RASHIDA BANO)  
Member (J)  
Camp Court, Swat