

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The facts gathered from the memorandum and grounds of appeal are that the was appointed as PTC/PST vide order dated 01.10.1981. He passed the HSSC in 2015 and PTC in 1981; that on 28.11.2022, appellant submitted departmental representation on 10.01.2022 alongwith judgment of this Tribunal passed in Service Appeal No.2231/2019 dated 17.03.2021, for promotion as PSHT as per policy dated 13.11.2012; that his departmental appeal was rejected on 02.02.2022. Therefore, he filed the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeals by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

5. This Tribunal in through consolidated judgment passed in Service Appeal No.2231/2019 titled "Muhammad Iqbal &



others VS. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar & others" decided on 17th March, 2021, while dealing with almost similar cases, has found as under:

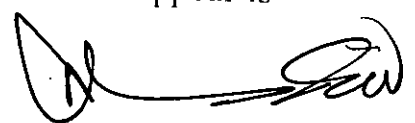
"From the record, it is evident that the respondents had issued a notification dated 13.11.2012, wherein, method of recruitment/promotion has been laid down for Primary School Teachers (P.S.T BPS-12) Senior Primary School Teachers (S.P.S.T BPS-14) and Primary School Head Teachers (P.S.H.T B.P.S-15). Criteria for promotion from P.S.T to S.P.S.T is on the basis of seniority-cum-fitness with at least five years service with Intermediate or equivalent qualification. Similarly, promotion from S.P.S.T to P.S.H.T is based on seniority-cum-fitness with at least ten years service with Intermediate or equivalent. Appellants were appointed as P.S.T who were holding almost 20-25 years of service with Intermediate qualification obtained during the year 2014-16. Record reveals that the appellants approached the Hon'ble Peshawar High Court in Writ Petition for their promotion on the strength of Promotion Policy 2012 and the High Court converted their petition into departmental appeals with directions to the respondents to consider their grievances and decide the same in



accordance with law. The respondents accordingly processed their request but in the meanwhile, certain amendments were made in the promotion policy re-emerging as Promotion Policy 2018, wherein qualification for promotion was enhanced from Intermediate to Bachelor Degree, therefore, their requests were turned down as by now they were not eligible for promotion according to new policy. The appellants were qualified for promotion under the Policy of the year 2012 after obtaining the required qualification in 2014-16 but they were not promoted and their due right of promotion was violated. It is also evident from the Minutes of Meeting dated 16.05.2018 whereby respondent No.2 was conscious of the fact that promotions need to be done as per criteria laid down in 2012 Policy but somehow, the District Education Officer did not comply with such directions which resulted into miscarriage of justice.

In view of above, the instant appeals are accepted with direction to the respondents to consider the cases of promotion of the appellants as per guidelines contained in the Promotion Policy of 2012. Parties are left to bear their own costs. File be consigned to the record room."

6. In view of the scenario of the case, the appellant also seems eligible to be promoted as per guidelines contained in the Promotion Policy of 2012. Therefore, instant service appeal is



Service Appeal No.176/2022 titled "Muhammad Rawail -vs- Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar & others", decided on 23.10.2023 by Division Bench comprising Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar, at Camp Court, Abbottabad.

accepted with direction to the respondents to treat the appellant alike. Consign.

7. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 23rd day of October, 2023.*



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)

Attaazem Shah