

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 200/2017

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Saba Gul D/O MianTahir Shah GPS Risalpur District Nowshera.

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (F), Nowshera.
4. District Education Officer (F), Swabi.

.... (Respondents)

Mr. Farhan Tariq
Advocate

... For appellant

Mr. Muhammad Jan
District Attorney

... For respondents

Date of Institution.....23.02.2017

Date of Hearing.....12.10.2023

Date of Decision.....12.10.2023

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 this appeal, the appellant may pleased be consider for promotion to the post of SPST BPS-14 w.e.f 02.03.2013 i.e the date when juniors to the appellant were promoted as SPST with all back benefits.”

2. Brief facts of the case, as given in the memorandum of appeal, are that initially appellant was appointed as Primary School Teacher at

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Government Girls Primary School No. 2 Jehangera (Swabi) vide order dated 20.10.2004. Later on she was transfer to District Nowshera vide order dated 02.06.2007. Juniors to appellant were promoted vide notification dated 02.03.2013 and appellant was ignored. Thereafter another promotion notification dated 23.05.2015 was issued and appellant was again ignored. Feeling aggrieved appellant filed departmental appeal which was not responded, hence the instant service appeal.

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 District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules. He further argued that the appellant was senior most and was also in the promotion zone but quite illegally ignored from his due right of promotion and juniors to appellant were promoted which is unlawful and violative upon the rights of the appellant.

5. Learned District Attorney contended that the appellant was treated in accordance with law and rules. He further contended that appellant was not in promotion zone nor any junior to appellant was promoted. He further contended that appellant was at serial No. 427 of the seniority list and last promotee was at serial No. 335.

6. Perusal of record reveals that appellant was appointed as PST on 20.10.2004 at District Swabi at Government Girls Primary School No. 1 Jehangera. Appellant on his own request transferred to District Nowshera



vide notification dated 02.06.2007. In accordance with Section 8(2) of Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 which read as:

"A person so transferred shall be placed as the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-a-viz other members borne on the same cadre."

So appellant will have to be placed at the bottom of sonority list of PSTs at District Nowshera, as stood on 09.06.2007. Seniority of the appellant will be reckoned from 09.06.2007 and all those PSTs who were either appointed or transfer from any other district after 09.06.2007 will be junior to the appellant. Appellant filed instant appeal for her promotion to the post of SPST (BPS-14) with effect from the date when juniors to her were promoted i.e 02.03.2013. Respondents contended on the other hand that appellant was not senior to promotees Mst. Baswar Begum and Mst. Nabeela Begum. She alleged that there were 326 posts of the SPSTs which had to be filled from amongst the PSTs Respondents by ignoring appellant promoted only 247 teachers out of total 326 posts by leaving 79 posts vacant. Perusal of promotion notification dated 02.03.2013 reveals that infact 326 posts will have to be filled out of which only 247 posts were filled and 247 teachers were promoted. Perusal of promotion notification further reveals that Mst. Baswar Begum mentioned at Sr. No 246 was appointed on 02.07.2007 and Mst. Nabeela Begum mentioned at Sr. No. 247 was appointed on 02.09.2007 who were juniors to the appellant because appellant joined service and take charge in district Nowshera on 09.06.2007. So appellant date of arrival into Nowshera District is 09.06.2007 while both the promotees Mst. Baswar Begum and Mst.



Nabeela Begum had appointed later then appellant i.e 02.07.2007 and 02.09.2007 which means that appellant is senior and was entitled for promotion to the post of SPST (BPS-14) on 02.03.2013 but she was ignored which is injustice with her.

7. As a sequel to above discussion, we accept instant appeal and direct the respondent to fix appellant seniority from 09.06.2007 and promote the appellant to the post of SPST (BPS-14) w.e.f 02.03.2013 when juniors to her were promoted. Costs shall follow the event. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 12th day of October, 2023.*



(MUHAMMAD AKBAR KHAN)
Member (E)





(RASHIDA BANO)
Member (J)

ORDER

12th Oct, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Mrs. Sajida, ADO (Litigation) for the respondents present.
2. Vide our detailed judgement of today placed on file, we accept instant appeal and direct the respondent to fix appellant seniority from 09.06.2007 and promote the appellant to the post of SPST (BPS-14) w.e.f 02.03.2013 when juniors to her were promoted. Costs shall follow the event. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 12th day of October, 2023.*


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)