Ph: 9214461

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REGISTERED No. C.P. 273-P TO 274-P/2023 - SCJ SUPREME COURT OF PAKISTAN

Islamabad, dated <u>M-1222</u>2023

From	The Registrar,
(7)	Supreme Court of Pakistan,
	Islamabad.
~	
То	The Registrar,
	Khyber Pakhtunkhwa Service Tribunal,
ر	Peshawar.
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Khyber Pakhtukhy Service Tribunal rtukhwa Diary No. 10062 Dated 22-12-2023

Subject:

: CIVIL PETITION 273-P TO 274-P/2023

Secretary Climate Change, Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar and others

> (in C.P.273-P/2023) (in C.P.274-P/2023)

Versus

Asghar Khan

Umar Khan

(in C.P.273-P/2023)

(in C.P.274-P/2023)

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On appeal from the Order/Judgment of the Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 06/02/2023 in Appeal-15579/2020 and Appeal-15877/2020

Dear Sir,

I am directed to enclose herewith a certified copy of the Order/Judgment of this Court dated 15/11/2023 dismissing the above cited cases in the terms stated therein for information and further necessary action.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order/Judgment:

Yours faithfully, NOUM (MUHAMMAD MUJAHID MEHMOOD) ASSISTANT REGISTRAR (IMP) FOR REGISTRAR

@CFMS Page 1 of 1.

IN THE SUPREME COURT OF PAKISTAN

.124/23

(Appellate Jurisdiction)

Present:

Supreme Court of Islamaunc

ourt Associat

Mr. Justice Ijaz ul Ahsan Mr. Justice Jamal Khan Mandokhail Mr. Justice Muhammad Ali Mazhar

Civil Petitions No.273-P and 274-P of 2023

Against the judgment dated 06.02.2023 passed by K.P.K. Service Tribunal, Peshawar in Appeals No.15579 and 15877/2020

Secretary Climate Change, Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar and others

... Petitioners **Versus** (in CP 273-P/23) Asghar Khan (in CP 274-P/23) Umar Khan ...Respondents Khan Mr. Sultan Mazhar Sher/Addl. AG KPK a/w Ayaz Ali Shah, DFO Lower Kohistan For the Petitioners: M. Anware Khan SDRO ి సినియాల్ చేస్తున్న చిత్రంలో N.R. For the Respondents: 15.11.2023 Date of Hearing:

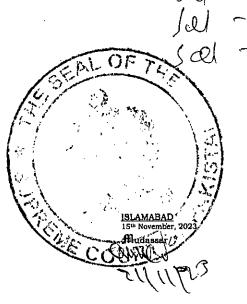
<u>order</u>

<u>Ijaz ul Ahsan, J.</u> Leave to appeal is sought against the judgment dated 06.02.2023, passed by Khyber Pakhtunkhwa Service Tribunal, Peshawar (**'the Service Tribunal'**) in Appeals No.15579 and 15877/2020. Through the impugned judgment, service appeals filed by the respondents were allowed.

2. Learned Additional Advocate General Khyber Pakhtunkhwa submits that although the respondents have been promoted and granted the requisite grade, they are claiming promotion from the date when their juniors were promoted. He maintains that according to the policy document in this regard, promotion can only be granted with immediate effect. We are afraid that the said principle would not be applicable in the facts and circumstances of the present case. It appears that show cause notices were issued to the respondents and subsequently they were punished by way of compulsory retirement. The respondents challenged such retirement before the Service CPs 273-P/23 etc

Tribunal, which was set aside and the matter was sent back for *de novo* inquiry. In the *de novo* inquiry, the respondents were visited with the penalty of stoppage of two annual increments and leave on half pay. The said order was again challenged by the respondents before the Service Tribunal, which was again set aside. Consequently, the record of the respondents was cleared and they were, therefore, entitled under the law to be promoted as if no proceedings had been pending against them when their promotion was deferred. The Service Tribunal was, therefore, correct in coming to the conclusion that the respondents were entitled to be promoted from the date when their colleagues/juniors were promoted.

3. On hearing learned Additional Advocate General and going through the record, we find no jurisdictional error in the impugned judgment of the Tribunal that may furnish basis for granting leave to appeal in the matter. Even otherwise, no substantial question of law of public importance under Article 212(3) of the Constitution of Islamic Republic of Pakistan, 1973, has been raised in these petitions. Consequently, these petition are dismissed and leave to appeal is declined. $\{Q\}$



Certified to be This Cony

Supreme Court of Pakistan. Isjamabad.

"Not approved for reporting"