

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.1370/2023**

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

Mrs. Naveelah Asim, Director Library & Research Officer (BPS-19), Provincial  
Assembly, Khyber Pakhtunkhwa, Peshawar  
... (Appellant)

**VERSUS**

1. The Chief Secretary to Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary, Provincial Assembly. Khyber Pakhtunkhwa, Peshawar.
3. The Speaker, Provincial Pakhtunkhwa, Peshawar. Assembly,  
... (Respondents)

Mr. Bilal Ahmad Kakazai  
Advocate ... For appellant

Mr. Ali Azeem Afridi,  
Advocate ... For respondent No.2

Mr. Muhammad Jan  
District Attorney ... For official respondents

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Date of Institution..... 19.06.2023  
Date of Hearing.....15.12.2023  
Date of Decision.....15.12.2023

**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 the instant service appeal the respondents  
may please be directed to include the cadre of the appellant in the  
column of method of recruitment for the post of Director Library &  
Research BPS-19.”**


2. Brief facts of the case are that appellant was appointed as Research Officer  
(BPS-17) in the Provincial Assembly Secretariat vide order dated 16.01.1992 and  
since then she is performing her duties honestly and efficiently and to the entire  
satisfaction of her superiors. She was promoted to the post of Senior Research



Officer (BPS-18) vide order dated 10.12.2005. She was further promoted to the post of Director Library and Research Officer BPS-19 vide order 07.05.2021. In the Khyber Pakhtunkhwa Provincial Assembly Secretariat (Recruitment) Rules, 1974 certain amendments were made vide notification dated 25.09.2007 wherein the method of recruitment/promotion to the post of Director (Librarian & Research) is, prescribed as by promotion on the basis of seniority from among the librarian with 7 year service as such or 12 years' service as Librarian in BPS-17. That astonishingly without the knowledge of existing employees the name/cadre of Research Officer was omitted for promotion purposes for the post of Director (Librarian & Research) and nowhere the channel of promotion for the research officer is provided /mentioned. Feeling aggrieved from the inaction of the respondents by not including appellant's cadre in the service rules/structure preferred departmental appeal, which was not responded, hence, the present service appeal.

3. Respondents were put on notice who submitted relied upon written reply submitted in Service Appeal No. 7436/2021, however, both the parties submitted their written arguments alongwith relevant service rules. We gone through the written arguments and perused the case file with connected documents in detail.

4. Appellant submitted written arguments wherein she contended that appellant has not been treated in accordance with law and rules as respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973. She further contended that the acts and omission on the part of the respondents by not including the appellant's cadre in the service rules/structure for the promotion are illegal, unlawful, void and against the norms of justice. She also contended that the post of Director Library & Research BPS-19 reflects that the same is meant for the cadre of Librarians

 and reflects the same methodology but under malafide intention the rules were

amended and the cadre of Research Officer were blocked and deprived of their legitimate right of promotion in their own channel of promotion.

5. The learned District Attorney assisted by learned counsel for respondent No. 2 argued that appellant is stopped to challenge instant service rules as she has the already challenged the same in writ petition which was withdrawn by her. They further argued that in accordance with Rules 4 Recruitment Rules of 1974 cadre of research post is inherently isolated and its nature is distinct from other heirarchical structure having a ladder of promotion and creation of heirarchical structure of every isolated post is not mandated as per the discretion granted to the Speaker/ the authority under Rule 4. They further contended that every isolated post does not necessitate the establishment of a promotion ladder. They argued that this court has got no jurisdiction to entertain the appeal wherein varies of the rules is challenged.

6. Appellant in the instant Service Appeal challenged vires of notification dated 25.09.2007 i.e. North West Frontier Province now Khyber Pakhtunkhwa Provincial Assembly Secretariat Recruitment order 2007. Appellant seeks inclusion of the Research cadre in the promotion hierarchy for the post of Director library and Research BPS-19 by mentioning/adding Research cadre in the method of recruitment i.e. in column No. 3.Khyber Pakhtunkhwa Provincial Assembly Secretariat (Recruitment, Rules, 1974 is relevant for resolving the controversy Rules 4 of the said Rules deals with composition of the secretariat it says the secretariat shall consist of such permanent and temporary posts as are respectively specified in Schedule I and Schedule II and such other temporary posts as the speaker may, from time to time, by order, sanction.



2. The Speaker may from time to time amend schedule 1, so as to increase or reduce the number of posts specified therein or to add there to any new category of post or posts.

7. Research cadre is isolated cadre created under this Rule 4 having no hierarchal structure for promotion. It is the sole discretion and power of authority to create post as per need of the Assembly but creation of a hierarchical structure for every isolated post is not mandated as per the discretion granted to the authority under Rule 4. It only allows flexibility in the creation or adjustment of seats based on the Assembly's need and requirement because not every isolated post necessitates the Establishment of a promotion ladder. The very nature of isolated posts implies that they may not always be at par with the post having predefined hierarchal structure for promotion. It's the authority who can only decide the requirement and need of the Provincial Assembly Secretariat being incharge of all the affairs of the Provincial Assembly Secretariat.

8. In our view very nature of isolated post, including those in Research cadre, does not necessitate the creation of hierarchical structure for promotion, otherwise scope of interference in Rules by Tribunal in very narrow.


9. Therefore in our humble view this plea of appellant is not in accordance with prevailing main policy i.e. Khyber Pakhtunkhwa Provincial Assembly Secretariat Recruitment Rules 1974. However, Speaker the authority may look into the rights of the appellant on the ground that she has unblemished 28 year service at her credit, being authority he can adjust appellant by upgrading or even creating new post as provided under Rule 4 without disturbing rights of promotion of librarian cadre.




10. So far as question of application of rules 23 of Khyber Pakhtunkhwa Service rule 1974 is concerned, in our humble view same is not attracted to the facts and circumstances of the case because appellant case is not decided finally by the court or Tribunal of a competent jurisdiction as she withdraw writ petition after her promotion.

11. As a sequel to above discussion, we find no merits in this appeal hence, dismissed. Costs shall follow the events. Consign.


12. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 15<sup>th</sup> day of December, 2023.*

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

**ORDER**  
15.12.2023

1. Representative of learned counsel for the appellant present who submitted written arguments/case law. Mr. Muhammad Jan, District Attorney alongwith Mohsin Younas, Assistant Law Officer for the official respondents present. Mr. Ali Azeem Afridi, Advocate on behalf of respondent No.2 present.
2. Vide our detailed judgement of today placed on file, we find not merits in this appeal, hence, dismissed. Costs shall follow the events. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 15<sup>th</sup> day of December, 2023.*

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

\*Kaleemullah