

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT
CAMP COURT SWAT

Service Appeal No. 597/2019

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

Shamim Ara D/O Khaista Rahman, R/O Targhau Painsa Khel, Tehsil
Barang, District Bajaur. (*Appellant*)

VERSUS

1. Director Education newly merged Tribal Districts, FATA Secretariat,
Warsak Road, Peshawar.
2. District Education Officer, District Bajaur.
3. Departmental Promotion Committee, through its Convener, Directorate of
Education, FATA Secretariat, Warsak Road, Peshawar.

.... (*Respondents*)

Mr. Akhunzada Ahmad Saeed
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....08.09.2019
Date of Hearing.....06.12.2023
Date of Decision.....06.12.2023

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 this appeal, the impugned non-
consideration of the appellant case for her promotion form
DM (F) BPS-15 TO Sr. DM (F) BPS-16 in its meeting held**



on 10.05.2015 whereby the name of the appellant was dropped for promotion to Sr. DM (F) BPS-16 and the impugned order of the respondent No. 1 dated nil whereby he did not decide the departmental appeal of the appellant may please be set aside and the consequently the appellant may be promoted from DM (F) BPS-15 to Sr. DM (F) BPS-16 with all back benefits.”

2. Through this single judgment we intend to dispose of instant service appeal as well as connected service appeal No. 598/2019 titled “Faiza Gul Vs. Education Department” as in both the appeals common question of law and facts are involved.

3. Brief facts of the case, as given in the memorandum of appeal, are that appellant was appointed as untrained Drawing Master on 30.08.2003 and was performing her duty up to the entire satisfaction of his superiors. During service appellant acquired diploma of Drawing Master, degree of B.A, certificate of B.Ed and degree of Master in Islamiat. The appellant was promoted from BPS-09 to BPS-15 on 25.11.2013. Seniority list was issued in the month of April 2018 in which appellant alongwith two others were placed at the top in the seniority list. Departmental promotion committee meeting was held on 10.05.2018 but she was ignored. Feeling aggrieved he filed departmental appeal on 11.05.2018, which was not responded to, hence the instant service appeal.

4. Respondents were put on notice who submitted written reply/comments on the appeal. We have heard learned counsel for the appellant as well learned District Attorney and perused the case file with connected documents.

5. Learned counsel for the appellant argued that the appellant has not been



treated in accordance with law and rules. He further argued that non consideration of the appellant's case for promotion to BPS-16 is prima facie illegal, unlawful and thus ineffective upon the rights of the appellant. He further argued that appellant was eligible for promotion to Sr. DM (F) BPS-16 but she was deprived from her due right of promotion.

6. Conversely, learned District Attorney on behalf of respondents contended that appellant has been treated in accordance with law and rules. He further contended that the appellant was upgraded due to up-gradation of all the existing posts from BPS-9 to BPS-15 not on the basis of diploma/certificate. He further argued that appellant was not considered for promotion by the DPC on the basis of Skill Development Council Diploma which was not acceptable as the Skill Development Council is not authorized to issue Diploma/Certificate.

7. Perusal of record reveals that appellant was appointed as untrained Drawing Master vide order dated 30.08.2003 who was later on improved her qualification and obtain training certificate. Therefore, she was entered as trained teacher on 24.07.2009 and she was upgraded from BPS-09 to BPS-15. That appellant promotion case was processed for the post of Senior DM BPS-16 and consider by the DPC held on 10.05.2018 but she was not promoted on the ground that appellant obtain her diploma from skill development council, which is not authorized to issue diploma in Drawing Master. Diploma in Drawing Master now after amendment in Rules of 2014 is condition requisite for promotion to BPS-16 even for appointment as DM teacher in BPS-15 which admittedly appellant had not possessed at that time of DPC held on 10.05.2018. Learned counsel for the appellant stated at the bar that now appellant acquired such qualification of diploma in Drawing Master from the recognized institute on 30.12.2019, which means that she now possessed the

required qualification but the same was not possessed by the appellant at that time. So in our humble view, appellant was rightly not considered for the promotion of Senior Drawing Master BPS-16 as she lacks required/prescribed qualification.

8. For what has been discussed above, the appeal in hand is dismissed being devoid of merits. Cost shall follow the event. Consign.

9. *Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 6th day of December 2023.*



(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court, Swat




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


ORDER

06.12.2023 1 Learned counsel for the appellant present. Mr. Mohammad Jan learned District Attorney alongwith Muhammad Latif, ADEO for the respondents present.

2. Vide our detailed judgement of today placed on file in service appeal No. 597/2019 titled "Shamim Ara Vs. Education Department" the appeal in hand is dismissed being devoid of merits. Cost shall follow the event. Consign.

3. *Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 6th day of December 2023.*


(Muhammad Akbar Khan)
Member (E)
Camp Court, Swat


(Rashida Bano)
Member (J)
Camp Court, Swat