

act on the part of the respondents because valuable rights of the civil servants are being dealt with in a very casual manner.

6. Therefore, we direct the official respondents to adopt the procedure under the law and rules for issuance, proper circulation and finalizing the seniority lists each year. The first list be issued in this month as required by the law and rules. Any person feeling aggrieved of any such list prepared has every right to challenge it in accordance with law and rules. Disposed of in the above manner. Copy of this judgment be sent to the Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department, Peshawar. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 22nd day of January, 2024.*



KALIM ARSHAD KHAN
Chairman

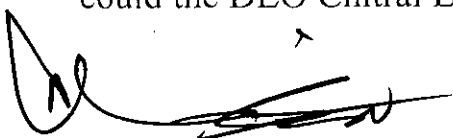


SALAH-UD-DIN
Member (Judicial)

Mutazem Shah

4. We have heard learned counsel for the appellant and learned District Attorney for official respondents.

5. The appellant has annexed a list as "Annexure-D" with his appeal showing the same to be seniority list, but it is neither signed by anyone nor is it clarifying as to what cadre it pertained to. Similarly, date of issuance of the seniority list is also not given in the list nor is it mentioned thereon whether it was a provisional/tentative or final seniority list. When it was circulated? Whether objections were invited? Whether it was gazetted? None of the above questions could be answered from the list annexed and relied upon by the appellant, therefore, the list cannot be said to be a seniority list within the meaning of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the relevant rules. It appears that the respondents have got copy of the list annexed by the appellant with the appeal and the said copy was then annexed with their reply. The District Education Officer (Male) Chitral Lower is present in the Tribunal and when asked about, he did not know anything about the list or method of its preparation, issuance of tentative/provisional seniority list and seeking objections thereon to finalize it in accordance with law and rules. Therefore, we cannot hold that list annexed by the appellant or by the respondents was a proper seniority list. Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 tell us as to how the seniority is determined and how it is to be circulated and gazetted each year. In the present case we got no assistance from the respondents' side nor could the DEO Chitral Lower himself was clear. This is highly irresponsible



the appellant was placed at Serial No.1, which meant that he was at the top of the people appointed along him.

2. In the memorandum of appeal, he contended that on 22.07.2014, the department had promoted the junior colleagues of the appellant as Senior Qaris by violating the merit order and seniority of the cadre; that the appellant was promoted to the post of Senior Qari vide order dated 18.11.2014. He claimed that in the impugned seniority list, the appellant was placed junior to the private respondents, ignoring the merit position of the appellant; that he filed departmental appeal; that on 05.09.2023, a meeting of the Departmental Promotion Committee was scheduled for promotion of Senior Qari alongwith other cadres, wherein, the respondents recommended private respondent No.4 for the post of SST (General). That the appellant moved representation for correction of the impugned seniority list and to be considered for promotion to the post of SST (General), hence, this appeal.

3. The respondents were put on notice. Private respondents were placed ex-parte, while official respondents admitted that the appellant was at Serial No.1 in the appointment order but the seniority was not reckoned from serial number of the appointment order rather was prepared as per a prevalent rule (date of taking over charge). It was contended that the Department had promoted the Qaris from BPS-12 to BPS-15 vide office order dated 22.07.2014 but the appellant had not filed any appeal against the promotion in the parent department nor filed petition in the judicial forum during the last 14 years and relied on the seniority list.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH-UD-DIN ... MEMBER (Judicial)

Service Appeal No.1875/2023

Date of presentation of Appeal.....18.09.2023
Date of Hearing.....22.01.024
Date of Decision.....22.01.2024

Mr. Muhammad Ibrahim, Senior Qari (BPS-15), GHSS Drosh,
District Chitral Lower.(Appellant)

Versus

1. **The Director, Elementary & Secondary Education**, Khyber Pakhtunkhwa, Peshawar.
2. **The District Education Officer**, District Chitral Lower.
3. **Sultan Ahmad Shah**, Senior Qari, GHS Ayun, District Chitral Lower.
4. **Abdul Saboor Khan**, Senior Qari, GHS Birga Nisar, District Chitral Lower.....(Respondents)

Present:

Mr. Noor Muhammad Khattak, AdvocateFor the appellant

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

.....

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED SENIORITY LIST PREPARED FOR THE CADRE OF SENIOR QARIS WHEREBY PRIVATE RESPONDENTS NO.3 & 4 BEING JUNIOR TO THE APPELLANT HAS BEEN PLACED/ENLISTED IN THE IMPUGNED SENIORITY LIST AS SENIOR TO THE APPELLANT IN VIOLATION OF LAW & RULES AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Appellant has challenged the seniority list of the cadre of Senior Qaris on the grounds that he and the private respondents were appointed on the same date and in the appointment order,

