

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT  
CAMP COURT SWAT

Service Appeal No. 1504/2022

BEFORE: MR. SALAH UD DIN ... MEMBER (Judicial)  
MRS. RASHIDA BANO ... MEMBER (Judicial)

Mr. Hazrat Said S/O Khurshid Room Cheel Shagai, Saidu Sharif, Tehsil Babozai, District Malakand.

... (Appellant)

VERSUS

1. The Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male), Swat.

...(Respondents)

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Mr. Ahmad Hussain  
Advocate

... For appellant

Mr. Inayat Ullah  
Assistant Advocate General

... For respondents

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Date of Institution.....12.10.2022  
Date of Hearing.....02.01.2024  
Date of Decision.....02.01.2024

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 instant appeal, respondent No.2 may kindly be directed to promote the appellant from CT BPS-15 to SST BPS-16 (Maths, Physics) from the date of issuance of notification dated 22.02.2022.”**

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant is working as CT BPS-15 in GHS Saidu Sharif Swat. Respondent No. 2 vide notification dated 29.10.2021 promoted several teachers from



various cadres but cadre of the appellant was ignored. Feeling aggrieved, appellant filed departmental appeal on 22.06.2022, which was not responded to, 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 the appellant has not been treated in accordance with law and rules and respondents violated Article 4 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973. He further argued that appellant is well qualified and fulfills the required qualification as well as criteria for promotion to SST-II (Maths, Physics). He further argued that few other teachers who have same academic qualification as that of the applicant have already been promoted to SST BPS-16 but appellant was ignored which is discrimination.

5. Conversely, learned Assistant Advocate General for the respondent contended that the appellant has been treated in accordance with law and rules. He further contended that appellant was not considered for promotion as SST (Maths/Physics) on the ground that the term additional qualification was not mentioned in the course certificate issued by the concerned university by the appellant rather the term professional certificate was mentioned therein. He further argued that appellant is not entitled for promotion on the ground that the respondent department has considered the promotion cases of teachers to the post of SST Maths/Physics in the DPC meeting held on certificates which were not verified/clarified by the authorities concerned. He further contended that promotion of the appellant has denied on the ground that only one teacher



namely Mohammad Ghaffar has been promoted by respondent department to the post of SST vide order dated 22.02.2022 after removing the observation regarding verification/clarification of additional subjects by the concerned authorities in according with law, rules and policy.

6. Perusal of record reveals that appellant was serving the department on the post of CT (BPS-15) upon which he was promoted on 29/07/2016. Appellant has alleged that after completion of five year of service and having required qualification being eligible for promotion to the post of SST (maths/physics) till 29/10/2021, he was waiting for the same. When respondent No.2 issued notification of promotion of various cadres by ignoring teacher including appellant of math/physics. Appellant filed a departmental appeal on 9/11/2021 which was not responded, therefore, he preferred service bearing No.936/21 which was withdrawn with permission to file fresh one. Respondent again promoted few more teachers except appellant vide notification dated 22/2/2022. Appellant filed departmental appeal on 22/6/2022 but the same was not responded by the respondent. Perusal of the minutes of the meeting of DPC dated 01/09/2021 reveals that appellant alongwith three others namely Muhammad Ghafar, Haider Ali and Rehmat Ali were deferred on the sole ground that they were having additional subject which requires further clarification from the DEO that whether additional subject can be considered as degree for the purpose of promotion or not.

7. It is pertinent to mention here that Mr. Muhammad Ghafar who was deferred in the meeting was promoted vide notification dated 22.02.2022 without conducting fresh DPC while appellant was not promoted. Respondent contended that it was decided in a high level meeting dated 26/10/2022 headed by Secretary Elementary & Security Education Department that column 3 of Secondary School Teacher Service Rule provided that at least



2<sup>nd</sup> class Bachelor Degree from a recognized University “means that additional subjects cannot be considered as Degree and in the rules there is no mention of additional subjects etc.” Wherein it was agreed to consider degree which is entered in the service book of the teacher first for promotion said decision was withdrawn in a subsequent meeting held on 08/12/2022 by mentioning that earlier decision taken in this regard in the meeting held on 26/10//2022 is subject to the amendments in the service rules, which will take time, therefore, the Directorate may proceed as per past practice till the necessary amendment in the rules which is reproduced for ready reference:

*“It was clearly noted by all participants of the meeting that Column-03 of Secondary School Teacher Service Rules provides that “At least second class Bachelor Degree from a recognize University on need basis from the follow two subjects”.*

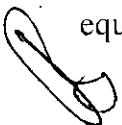
*A. Chemistry, Botany or Zoology*

*B. Physics, Maths “A” or “B” or Statistics*

*C. Humanities and other equivalent groups at degree with English as Compulsory subject.*

*II. And Bachelor of Education or Master of Education (Industrial Arts or Business Education) or MA Education or equivalent qualification from recognized University.*

So, it means that at the time meeting of DPC on 01/09/2021 there was no clog upon teacher who had additional subjects and they were eligible for promotion as per above mentioned rule because decisions for not considering additional subject for promotion was taken in a meeting held on 02/10/2022 after 11 months and 25 days of DPC meeting which was held on 01/09/2021 and 8 months of issuing a notification dated 22/2/2022. So this reason had no weight in it and promotion of the appellant was deferred without any legal reason. Appellant was treated discriminately as Mr. Ghaffar with the same remarks was promoted and appellant along with the other was ignored. Law is equal for all therefore on the principle of consistency appellant will have to be



promoted on the same date alongwith Mr. Ghaffar. It is also pertinent to mention here that appellant has now been promoted vide notification dated 15/03/2023 but with immediate effect, however he was eligible for such promotion on 22/02/2022 as he was wrongly deferred at that time.

8. For what has been discussed above, the appeal in hand is accepted as prayed for. Costs shall follow the event. Consign.

9. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 2<sup>nd</sup> day of January, 2024.*



**(SALAH UD DIN)**  
Member (J)  
Camp Court, Swat





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

05.12.2023

1. Learned counsel for the appellant present. Mr. Habib Anwar, Additional Advocate General alongwith Mr. Hussain Ali, Litigation Officer for the respondents present.
2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 02.01.2024 before D.B at camp court Swat. P.P given to the parties.

SCANNED  
KPST  
Peshawar

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

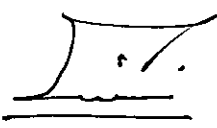
  
(Rashida Bano)  
Member (J)  
Camp Court Swat


\*kamranullah\*

**ORDER**

02.01.2024

1. Learned counsel for the appellant present. Mr. Inayat Ullah Khan learned Assistant Advocate General alongwith Mr. Hussain Ali, ADEO for the respondents present.
2. Vide our detailed judgement of today placed on file, the appeal in hand is accepted as prayed for. Costs shall follow the event. Consign.
3. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 2<sup>nd</sup> day of January, 2024.*

  
(SALAH UD DIN)  
Member (J)  
Camp Court, Swat

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

\*Kaleemullah