

4. (b) *no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining-*

(i) *the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade”*

4. In view of the above, we return the appeal to the appellant for its presentation before the proper forum, if she so desires. The original memo and grounds of appeal alongwith copies of documents annexed therewith be returned to the appellant, whereas, the original order sheets, copies of the memo of appeal and the accompaniments be placed on this file and it be consigned.

5. *Pronounced in open Court at Abbottabad and given under our hands and seal of the Tribunal on this 27th day of February, 2024.*



(Salah Ud Din)
Member (J)

Camp Court, Abbottabad



(Kalim Arshad Khan)
Chairman

Camp Court, Abbottabad

*Mutazem Shah

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Service Appeal No.988/2023 titled “Dr. Javeria Haroon Vs. Government of Khyber
Pakhtunkhwa”

ORDER

27th Feb. 2024

Kalim Arshad Khan, Chairman: Appellant in person present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. This appeal is against the impugned promotion Notification No.SO(C-III)HE/1-16/PSB/2022 Dated 30.12.2022. In reply, the respondents contended that promotion case of the appellant was placed before the PSB meeting held on 18.11.2022, wherein, the appellant was superseded due to her weak service record as her efficiency index was below the required threshold. In support whereof, they have annexed the minutes of the meeting of PSB held on 18.11.2022. The remarks of PSB are reproduced as under:

“Her date of birth is 12.11.1985. She joined government service on 13.04.2009 in BS-17. She was promoted to BS-18 on 14.07.2017. She has completed prescribed length of service. She has undergone mandatory training for promotion. No enquiry is pending against her. Her PER dossier is incomplete as her PERs for the year 2017 & 2021 are not available. Her qualified score is 39 and the Board awarded her 15 out of 30 marks. She could not cross required threshold for promotion. According to Para-III (a) (iii) of Promotion Police 2009, in case of failure to attain the requisite threshold, he/she shall be superseded and the next officer of the panel shall be considered for promotion.”

3. Considering the above stance, this appears to be a case of fitness for promotion which is outside the scope of jurisdiction of this Tribunal in view of Section-4(b)(i) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. The said Section is reproduced as below:

