

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

**Service Appeal No. 4988/2021**

**BEFORE:** RASHIDA BANO --- MEMBER (J)  
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Hafiz Ameer Muhammad Khan SDWO, Forestry, Environment & Wildlife Department, Civil Secretariat Peshawar.....(*Appellant*)

**VERSUS**

Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat Peshawar and others.....(*Respondents*)

**Present:-**

ZARAJ ANWAR,  
Advocate --- For Appellant

MUHAMMAD JAN,  
District Attorney --- For respondents.

Date of Institution.....15.04.2021  
Date of Hearing..... 10.10.2023  
Date of Decision..... 10.10.2023

**JUDGMENT.**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

*“That on acceptance of this appeal, the seniority list of the SDWO’s BPS-17, may please be corrected and the appellant may be placed at proper place of the seniority list according to merit assigned by the Khyber Pakhtunkhwa Public Service Commission by bringing his name at par with his batch mates, being ignored and discriminated by the respondent department*

*in violation of law & rules against the secured fundamental rights of the appellant, the appellant may also be allowed all back/consequential benefits or any remedy just and proper may also be allowed in favor of the appellant.”*

2. Brief facts of the case are that the appellant was initially appointed as Divisional Wildlife Officer (BPS-17). That the respondent department advertised the post of Sub Divisional Wild Life Officers, through open advertisement, the appellant having all the required eligibility applied for the post of Sub Divisional Wildlife Officer through proper channel and was selected/recommended for the post of SDWO by the Khyber Pakhtunkhwa Public Service Commission. The name of the appellant was at serial No. 1 as per merit list issued by the Khyber Pakhtunkhwa Public Service Commission. The appellant was sent for the mandatory training at the Pakistan Forest Institute and has completed his training successfully, he was appointed as SDWO (BS-17) vide Notification dated 14.06.2018; that it was clearly mentioned in the appointment order of the appellant that the inter-se seniority should be determined in the light of merit order drawn by the Khyber Pakhtunkhwa Public Service Commission; that the respondent department issued final seniority list of SDWO on 31.11.2020 in which the appellant was wrongly placed at serial No. 23, wherein the private respondents were shown senior to the appellant. Feeling aggrieved, the appellant filed departmental appeal on 22.12.2020 which was not responded, hence preferred the instant service appeal on 15.04.2021.

3. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their

representative. Respondents No. 1 to 3 contested the appeal by way of filing written reply, while private respondents No. 4 to 15 have failed to submit their written reply on the date fixed, therefore, they were proceeded ex-parte.

4. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. One Muhammad Usman & Muhammad Waqas Khan who were similarly placed employee had filed Service Appeal bearing No. 143/2019 & 7608/2021 Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others”, which were allowed by this Tribunal vide judgment dated 03.05.2023. Para-8 of the said judgment is reproduced as below:-

*“There is no denying the fact that seniority of civil servants on initial recruitment is determined and fixed by the Competent Authority in accordance with the merit order assigned by the Selection Authority as mandated by Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Similarly there is no denial of the fact that the appellants have been appointed on the recommendation of the Khyber Pakhtunkhwa Public Service Commission and the Khyber*

*Pakhtunkhwa Public Service Commission has also sent an inter-se merit order of all the recomdendees. Such merit order was to remain intact which has been disturbed by the official respondents as is evident from the impugned seniority list but without justification. The official respondents in their reply contend that the appellants had to undergo some mandatory training where-after they were appointed. This does not mean that their seniority would be taken away or that the passage of sometime between recommendation and appointment would disturb the inter-se seniority of the appellants, which they had initially gained on finalization of selection process by the Khyber Pakhtunkhwa Public Service Commission. The appointment and seniority are entirely two different things, therefore, if some time has passed between recommendation of the Khyber Pakhtunkhwa Public Service Commission and appointment of the appellants, that would not adversely affect their seniority in accordance with the provisions of Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989. The respondents have not quoted any rule which could disentitle the appellants from their seniority in accordance with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989. Even during the course of arguments when the Law Officer was asked to quote any rule, he could not refer to any such rule except the service rules of the department, wherein the qualification etc is given for certain posts. This being so we hold that the appellants were entitled to retain their inter-se seniority in accordance with the merit order assigned by the Khyber Pakhtunkhwa Public Service Commission and, therefore, while allowing these appeals we direct that the appellants be*




*assigned their correct seniority in accordance with the merit order assigned by the Khyber Pakhtunkhwa Public Service Commission. Costs shall follow the event. Consign."*

7. In view of the above, the appeal in hand is allowed in terms of the judgment dated 03.05.2023 passed in Service Appeal bearing No. 143/2019 titled "Muhammad Usman Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others" and Service Appeal bearing No. 7608/2021 titled "Muhammad Waqas Khan Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others." Parties are left to bear their own costs. File be consigned to the record room.

8. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 10<sup>th</sup> day of October, 2023.*

  
(Rashida Bano)  
Member (J)

  
(Muhammad Akbar Khan)  
Member (E)

ORDER

10.10.2023

01. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for official respondents present. None present on behalf of private respondents, despite issuance of proper notice hence they are proceeded ex-party. Arguments heard and record perused.

02. Vide our detailed judgment of today separately placed on file, consisting of (05) pages, the appeal in hand is allowed in terms of the judgment dated 03.05.2023 passed in Service Appeal bearing No. 143/2019 titled "Muhammad Usman Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others" and Service Appeal bearing No. 7608/2021 titled "Muhammad Waqas Khan Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others." Parties are left to bear their own costs. File be consigned to the record room.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 10<sup>th</sup> day of October, 2023.*



(Rashida Bano)  
Member (J)



(Muhammad Akbar Khan)  
Member (E)