

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
M.AKBAR KHAN ...MEMBER (Executive)

Service Appeal No.1348/2022

Date of presentation of appeal.....15.09.2022
Dates of Hearing.....17.04.2024
Date of Decision.....17.04.2024

Mehboob Alahi S/O Aminullah (Chowkidar) GPS Badalai, District Dir Upper.....(Appellant)

Versus

1. **Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.**
2. **Director, Elementary and Secondary Education District Khyber.**
3. **District Education Officer (Male), District Dir Upper.**
4. **Badshah Munir S/O Azam Khan (BPS-11) Junior Clerk, Government High School, Kaskai, District Dir Upper.**
5. **Sherin Badshah S/O Badshah Mahmood (BPS-11), Junior Clerk, Government High School, Miana Doag, District Dir Upper.**
6. **Muhammad Sharif S/O Ali Jan (BPS-11), Junior Clerk, Government High School, Matar, District Dir Upper.....(Respondents)**

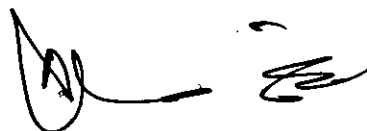
Present:

Malik Shahbaz Khan, Advocate.....For appellant.
Mr. Muhammad Jan, District Attorney.....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE NOTIFICATION DATED 23.05.2022, WHEREBY RESPONDENTS NO. 4-6 BEING A JUNIORS MOST WERE PROMOTED AS JUNIOR CLERK (BPS-11) WHILE THE APPELLANT BEING SENIOR MOST WAS IGNORED.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts gathered from the memo and grounds of appeal are that the appellant was appointed dated 16.11.1987 as Naib Qasid; that at the time of promotion, the appellant was placed at serial No.



55 (and on serial No.4 of the eligible candidates) of the seniority list while respondents No. 4 to 6 were much juniors in the seniority list; that respondent No.3 issued the notification dated 23.05.2022, whereby, respondents No. 4 to 6 being a juniors were promoted while the appellant being a senior most was ignored; that the appellant filed departmental appeal against the said promotion order on 26.05.2022, which was not responded within the statutory period of ninety days, hence, the instant service appeal on 15.09.2022.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

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

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

5. According to the reply of the respondents, the appellant was not eligible for promotion to the post of Junior Clerk (BPS-11) because he had 3rd division in Secondary School Certificate examination. The appellant contended that the rules were amended vide notification dated 02.08.2017 and according to the new amendments the 2nd condition was removed and only the employees with Secondary School Certificate qualification could be promoted. It was then the department was directed to produce copy of the notification, which was accordingly produced by them. The appellant has thus made out his case for the desired relief. Therefore, on allowing this appeal we direct that the appellant be




considered for promotion to the post of Junior Clerk against the quota reserved for promotion subject to his otherwise entitlement etc. Costs shall follow the events. Consign.

6. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 17th day of April, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Adnan Shah, PA

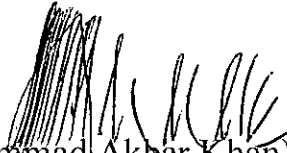
ORDER

17th April, 2024

1. Appellant alongwith his counsel present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Vide our detailed judgement of today placed on file, on allowing this appeal we direct that the appellant be considered for promotion to the post of Junior Clerk against the quota reserved for promotion subject to his otherwise entitlement etc. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 17th day of April, 2024.*


(Muhammad Akbar Khan)
Member(Executive)

Adnan Shah, P.A


(Kalim Arshad Khan)
Chairman