

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 4996/2021

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER(E)

Mst. Mohsina, T.T Government Girls High School, Malik Abad Gadoon,
District Swabi.(Appellant)

Versus

1. D.E.O (Female) Elementary & Secondary Education, Swabi.
2. Deputy Director (Female) Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat, Peshawar.(Respondents)

Mr. Muhammad Ashraf Khan,
Advocate

... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney

... For respondents

Date of Institution.....	06.04.2021
Date of Hearing.....	16.04.2024
Date of Decision.....	16.04.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that the appellant might be granted promotion to BPS- 16 w.e.f. 02.03.2013 with all consequential benefits, alongwith any other relief which the Tribunal deemed appropriate.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed on 11.12.2004 in BPS- 07, on contract basis by respondent No. 1, as T.T. She was an Aalima having qualified 07 years Dars-i-

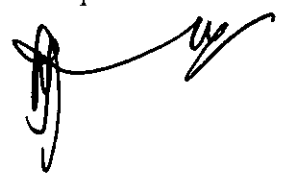


Nizami Course, Hafizah-i-Quran and also F.A. On 27.12.2007, appellant's appointment was regularized and she was granted BPS- 14; thereafter in 2012, she was granted BPS- 15. Vide order dated 21.02.2013 and endorsement dated 02.03.2013, T.Ts were given BPS- 16. Name of the appellant was included at S.No. 18, but she was not given BPS- 16. Consequent upon the promotion order issued by respondent No. 3, the Director (E&SE) Khyber Pakhtunkhwa, vide Endst. dated 23.02.2017, adjusted the appellant against the post of STT. The appellant was illegally deprived of promotion to BPS- 16 and kept in BPS- 15 for 4 years. Feeling aggrieved, she preferred departmental appeal to respondent No. 3 to which the appellant received no reply; hence the instant service appeal.

3. Respondents were put on notice who submitted their joint parawise comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was denied her fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan and she was discriminated. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that at the time of appointment, the appellant was having the qualification of SSC in 3rd Division with Shahadatul Alamia. She passed her FA examination in 2012 and therefore, she was not eligible for promotion due to lack of prescribed qualification required for



initial recruitment as well as promotion. The learned DDA argued that the appellant produced an equivalence certificate of IBCC, Islamabad dated 11.08.2015, on 19.07.2016 and entry was made in her service book accordingly after which she was promoted to the post of Senior T.T BPS- 16 vide notification dated 23.02.2017. He further argued that when the appellant was promoted on 23.02.2017, she took over charge of the post without any agitation. At a later stage, she filed departmental appeal on 09.12.2020, which was badly time barred. He requested that the appeal might be dismissed.


6. Through this service appeal, the appellant has prayed for promotion to the post of Senior Theology Teacher (BS- 16) with effect from 02.03.2013. Arguments and record presented before us transpire that she was appointed as Theology Teacher, which was initially a BS- 7 post in 2004, on contract basis and regularized in 2007. At the time of her appointment, she was holding Secondary School Certificate in third division with Shahadatul Alamia. Later on, when the post of Theology Teacher was upgraded to BS- 15, the qualification was also enhanced to SSC in second class from a recognized board with Shahadatul Alamia. In a meeting of Departmental Promotion Committee held on 20.02.2013, she was not considered for promotion because she did not possess the required qualification, which was second class SSC. Later on, she brought a SSC second class Inter Board Committee of Chairman (IBCC) equivalence certificate dated 11.08.2015 into the notice of her department in 2016 and necessary entry was made in her service book on 19.07.2016. Based on that qualification, her promotion case was processed and she was promoted to the post of Senior T.T vide notification dated 23.02.2017.



7. From the above discussion, it is clear that the appellant was not eligible for promotion in 2013 because she did not qualify for the same as she had the Secondary School Certificate in third division. It was in 2016 that she brought her IBCC Certificate in second class before her competent authority, who without wasting any time, placed the matter before the Departmental Promotion Committee and she got promoted in 2017.

8. In view of the foregoing, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 16th day of April, 2024.*


(FARZEHA PAUL)
Member (I)


(RASHIDA BANO)
Member(J)


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16th Apr. 2024 01. Mr. Muhammad Ashraf Khan, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 16th day of April, 2024.*


(FARIEHA PAUL)
Member (E)


(RASHIDA BANO)
Member(J)

Fazal Subhan PS