

changed. This stance of the DEO is very strange and not at all acceptable as having no backing of any law and rules. It is however, admitted at the bar that the seniority list annexed by the appellant with the appeal contains name of the appellant at Serial No.207 while that of private respondent namely Sana Ullah, (who was promoted to the next higher grade), at Serial No.213. therefore, promoting a junior civil servant and ignoring a senior without any reason or justification, cannot be maintained. There is, however, contention of the official respondents that the seniority list, annexed with the appeal, was disputed and was not correct as that was to be corrected in accordance with law and rules. Upon this, the Tribunal asked the DEO, whether the promotions were made on such disputed list to which he replied in affirmative.

7. In such a situation, we do not have any other way left except to accept this appeal and set aside the order impugned order (s) before us, directing the respondents to first correct the seniority lists and then make promotions on the basis of corrected and finalized seniority list in accordance with law and rules. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23rd day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

NOC from the District Education Officer, Peshawar; that as the appellant had applied for the second time and re-appointed in the year 2017, pay protection Notification dated 13.04.2019 was issued by counting previous service; that seniority was counted from 2014 and the appellant was placed at Serial No.207 while private respondent No.4 was placed at Serial No.213; that on 19.10.2020, Departmental Promotion Committee was held and vide impugned promotion order dated 11.01.2021, wherein private respondent No.4 was promoted and the appellant was not.

2. Feeling aggrieved, he filed departmental appeal but the same was not responded, hence, the instant service appeal.

3. 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 defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellant and learned Additional Advocate General for respondents.

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General, controverted the same by supporting the impugned order(s).

6. Today, we had summoned the District Education Officer (Male) Peshawar, who has verified the seniority list annexed with the appeal but his stance was that the civil servants under him were being transferred from one place to another, that was why, their seniority was being

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.5186/2021

Date of presentation of Appeal.....28.04.2021
Date of Hearing.....23.05.2024
Date of Decision.....23.05.2024

Muhammad Ilyas, CT Teacher (BPS-15) Government Shaheed Haris Nawaz High School, Zaryab Colony, Peshawar....(*Appellant*)

Versus

1. **Secretary** Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. **Director** Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)** District Peshawar.
4. **Sanaullah**, SST Maths/Physics CT at GHS Sherkera Peshawar.
.....(*Respondents*)

Present:

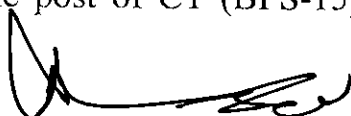
Mr. Sagheer Iqbal Gulbela, AdvocateFor the appellant
Mr. Umair Azam, Additional Advocate General.....For respondents

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST IMPUGNED PROMOTION ORDER NO.1073-78/FILE NO.1/PROMOTION SST (BPS-16) DATED 11.01.2023, WHEREBY JUNIOR FROM THE APPELLANT HAS BEEN PROMOTED TO THE POST OF SST (BPS-16) BY VIOLATING THE SENIORITY OF THE APPELLANT AND DEPARTMENTAL APPEAL AGAINST THE SAME WENT FUTILE

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case in brief is that he was appointed as Certified Teacher (BPS-15) in May 2024 and was posted at GGHS Sufaid Sang Peshawar; that the appellant again applied for the post of CT (BPS-15) through proper channel by getting



S.A No.5186/2021


ORDER


23rd May, 2024

1. Learned counsel for the appellant and Mr. Umair Azam, Additional Advocate General present. District Education Officer (Male) Peshawar in person present.

2. Vide our detailed judgment of today placed on file, we do not have any other way left except to accept this appeal and set aside the order impugned order (s) before us, directing the respondents to first correct the seniority lists and then make promotions on the basis of corrected and finalized seniority list in accordance with law and rules. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal on this 23rd day of May, 2024.*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman