

Service Appeal No.2094/2023 titled "Muhammad Shoaib Khan Vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and other". Service Appeal No.1048/2023 titled "Rab Nawaz Khan vs The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar & other" Service Appeal No.2095/2023 titled "Riaz Muhammad Vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and other" Service Appeal No.2096/2023 titled "Manzoor Ahmad vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and other" & Service Appeal No.2097/2023 titled "Muhammad Rizwan Vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and other" declared on 23.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

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

***Service Appeal No.2094/2023***

Date of presentation of Appeal.....28.09.2023  
Date of Hearing.....23.05.2024  
Date of Decision.....23.05.2024

**Muhammad Shoaib, SST-IT (BPS-16) GHS Sufaid Dheri, Peshawar**  
.....(**Appellant**)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. **The Director,** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.  
.....(**Respondents**)

***Service Appeal No.1048/2023***

Date of presentation of Appeal.....20.04.2023  
Date of Hearing.....23.05.2024  
Date of Decision.....23.05.2024

**Rab Nawaz Khan, SST-IT (BPS-16) GHS Bashir Abad, Peshawar**  
.....(**Appellant**)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. **The Director,** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.  
.....(**Respondents**)

***Service Appeal No.2095/2023***

Date of presentation of Appeal.....28.09.2023  
Date of Hearing.....23.05.2024  
Date of Decision.....23.05.2024

**Riaz Muhammad, SST-IT (BPS-16) GHS Aman Ghar Nowshera**.....(**Appellant**)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. **The Director,** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.  
.....(**Respondents**)

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**Service Appeal No.2096/2023**

Date of presentation of Appeal.....28.09.2023  
Date of Hearing.....23.05.2024  
Date of Decision.....23.05.2024

**Manzoor Ahmad, SST-IT (BPS-16) GHS Drad Puran Shangla**  
.....(**Appellant**)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. **The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**  
.....(**Respondents**)

**Service Appeal No.2097/2023**

Date of presentation of Appeal.....28.09.2023  
Date of Hearing.....23.05.2024  
Date of Decision.....23.05.2024

**Muhammad Rizwan, SST-IT (BPS-16) GHS Biland Khel, Orakzai**  
.....(**Appellant**)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. **The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**  
.....(**Respondents**)

Present:

Mr. Muhammad Amin Ayub, Advocate.....For the appellants  
Mr. Umair Azam, Additional Advocate General .....For respondents

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**APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 IMPUGNED NOTIFICATIONS DATED 01.12.2022 AND 17.03.2023 WHEREBY THE APPELLANTS HAVE BEEN PROMOTED TO THE POST OF SST-IT (BPS-16) ON REGULAR BASIS BUT WITH IMMEDIATE EFFECT INSTEAD OF THE DATE OF OCCURRENCE OF THE SUBJECT VACANCY I.E. 24.09.2020 AGAINST WHICH THE DEPARTMENTAL THEY FILED DEPARTMENTAL APPEALS BUT THE SAME WERE NOT RESPONDED WITHIN THE STATUTORY PERIOD OF 90 DAYS.**

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### **CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment, all the five appeals are jointly taken up as all are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

2. The appellants' cases are that they were serving in the Education Department as Certified Teachers-IT; that vide orders dated 01.012.2022 and 17.03.2023 they were promoted to the posts of Secondary School Teacher-IT but with immediate effect and not from the date of occurrence of vacancies i.e. 24.09.2023.

3. Feeling aggrieved, they filed departmental appeals, which were not responded, hence, the instant service appeals.

4. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance and contested the appeals by filing written replies raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellants.

5. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.

6. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Additional Advocate General controverted the same by supporting the impugned order(s).

SCA  
Peshawar

*Service Appeal No.2094/2023 titled "Muhammad Shoaib Khan Vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and other", Service Appeal No.1048/2023 titled "Rab Nawaz Khan vs The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar & other" Service Appeal No.2095/2023 titled "Riaz Muhammad Vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and other" Service Appeal No.2096/2023 titled "Manzoor Ahmad vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and other" & Service Appeal No.2097/2023 titled "Muhammad Rizwan Vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and other" declared on 23.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

7. The promotion cases of the appellants namely Muhammad Shoaib, Rabnawaz and Muhammad Riaz were considered in the Departmental Promotion Committee meeting held on 11.06.2021 and they were not found fit as their names were rejected by the DPC on the grounds that both the above named appellants were not possessing Certified Teacher/Associate Degree of Education. Similarly, names of the appellants Manzoor Ahmad and Muhammad Rizwan were also allegedly rejected, however, they have not annexed the said rejection minutes nor any document is found placed on the files of the said appellants, in this regard. However, they were also in possession of the same qualification and the department had promoted them on 13.09.2023. The departmental rules for promotion to the post of SST-IT (BPS-16) on regular basis provides the following eligibility criteria:

<b>Nomenclature of the post</b>	<b>Minimum Qualification, Experience prescribed</b>	<b>Minimum Qualification, Experience</b>	<b>Reason/Justification</b>
Secondary School Teacher Information Technology (SST-IT) (BPS-16)	i. At least Master's Degree in computer science or information Technology or Bachelor's Degree in Computer Science (BCS/BSCS Honours 4 years) or Bachelor Degree with a subject of Computer Science or equivalent Qualification from a recognized University; and	i. At least second Division Master's Degree in Computer Science or information Technology or Bachelor's Degree in Computer Science (BCS/BSCS Honours 4 years) or Bachelor Degree with subject of Computer	a) Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Certified Teachers with five years service as such and having the qualification prescribed for the post of Secondary School

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	<p>ii. Bachelor Degree in Education (B.Ed) or equivalent qualification from a recognized University</p> <p>iii. Note:- A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment</p>	<p>Science or equivalent Qualification from a recognized University; and</p> <p>ii. Nine months in service mandatory professional training at Directorate of Professional Development (DPD) or Regional Professional Development Centers (RPDC)</p>	<p>Teacher-IT.</p> <p>b) Fifty percent by initial recruitment.</p> <p>Provided that if no suitable candidate is available for promotion, then by initial recruitment.</p>
<p>Certified Teacher-Information Technology (CT-IT) (BPS-12)</p>	<p>i. At least 2<sup>nd</sup> Division Intermediate School Certificate or equivalent qualification from recognized institution or Board with one year Diploma in information Technology Computer Science from any recognized institution; and</p> <p>ii. Certified Teacher Certificate (CT) or Associate Degree in Education (ADE) from any recognized institution/University.</p> <p>iii. A candidate did not have the</p>	<p>i. At least 2<sup>nd</sup> Division Intermediate School Certificate or equivalent qualification from recognized institution or Board with one year Diploma in information Technology Computer Science from any recognized institution; and</p> <p>ii. Nine months in service mandatory professional training at Directorate of Professional Development (DPD) or</p>	<p>By initial recruitment</p>

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	qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment	Regional Professional Development Centers (RPDC)	
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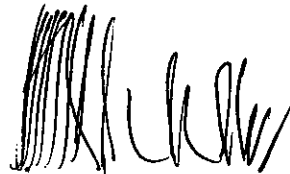
8. When the rules did not allow their promotion in the absence of qualifications and their subsequent promotions even if made, could not be antedated, if made, rightly or wrongly by the department, nor could of its own entitle them to antedation of promotion, because the appellants lack the eligibility criteria for promotion.

9. In view of the above, there is no justification of antedation of promotion of the appellants in the relevant rules, therefore, instant service appeals are dismissed. Costs shall follow the event. Copy of this judgment be placed in the file of the connected service appeal. Consign.

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



**KALIM ARSHAD KHAN**  
Chairman



**MUHAMMAD AKBAR KHAN**  
Member (Executive)

*\*Mutazem Shah\**

**SCANNED**  
Peshawar