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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNEL, PESHAWAR

REJOINDER IN SERVICE APPEAL NO.918/2022

Saima Naz d/o Muhammad Irfan Secondary School Teacher Govt Girls Community Model School Faqirabad Tajal, Mansehra.

APPELLANT

VERSUS

1. Govt of Khyber Pakhtunkhwa Through Chief Secretary, Peshawar
2. Secretary Govt of Khyber Pakhtunkhwa, Elementary and Secondary Education Department Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Female) Mansehra.
5. Farzana Shafi SS BIOLOGY BS-17, GGHSS Ghari Phulgram Abbottabad & 41 others

Ex Parte

RESPONDENTS

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Appellant

Mrs. Saima Naz, SST GGCMS Faqir Abad Tajal Mansehra

Dated: 29/4/2024

Muhammad Riaz Swati
Advocate. Mansehra
Contact # 03335060225

Not date

30/5/24 Al/Abad

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

SERVICE APPEAL NO.918/2022

SAIMA NAZ D/O MUHAMMAD IRFAN SECONDARY SCHOOL TEACHER (SST)
GOVERNMENT GIRL COMMUNITY MODAL SCHOOL FAQIR ABAD TAJAL
MANSEHRA,

(APPELLANT)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar
and others

RESPONDENTS

**RE-JOINDER ON BEHALF OF APPELLANT IN RESPONSE TO THE
COMMENTS SUBMITTED BY THE RESPONDENTS**

*Khyber Pakhtunkhwa
Service Tribunal*

Diary No. 12522

Dated 3/5/24

Respectfully Sheweth.

PRELIMINARY OBJECTION

All the preliminary objections raised by the respondents are incorrect and baseless and not accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal. The impugned notification dated 14-11-2017 was never communicated to the appellant even at the time when she was awarded personal upgradation on 04-09-2019, furthermore the department, concealed the seniority list of SST (female) who were junior to the appellant and were promoted to the post of SS. The claim of the appellant was within a period of limitation from the date of her knowledge, as the impugned notification came to the knowledge of appellant in the first week of February, 2022 through her husband just one week prior to filing of departmental appeal on 09-02-2022. Moreover Khyber Pakhtunkhwa Civil Servant promotion policy, 2009, provision V is regarding reasons of deferment of promotion and their solution, Hence V (C) regarding inadvertently deferment is reproduced blow:

"If an officer is otherwise eligible for promotion but has not been inadvertently omitted from consideration in the original reference due to clerical error are plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed."

ON FACTS:

1. Admitted correct by the respondents, hence need no comments.
2. Admitted correct by the respondents, hence need no comments.
3. Incorrect and not replied accordingly. That, the respondents concealed the fundamental facts of the case by producing a fresh final seniority list of SST female as stood on 31/05/2023, showing the name of appellant against Seniority No.961.

The name of appellant stood at Seniority No.1023-A of seniority list on the basis of which E&SE Department promoted 355 female SSTs BPS-16 to the post of SS BPS-17 in various subjects vide Impugned notification dated 14/11/2017. Private respondent No.05 to 46 junior batch mates of the appellant were promoted as SS in Biology in

violation of law, rules and policy. It is further added that appellant was awarded personal upgradation from BS-16 to BS-17 on 04-09-2019 on the basis of said Seniority number.

4. Admitted correct by the respondents, hence need no comments.
5. Admitted correct by the respondents, hence need no comments.
6. Incorrect and not replied accordingly, that appellant having seniority number 1066 was superseded and 42 junior SSTs were promoted through impugned notification dated 14-11-2017, the respondent were continuously concealing the seniority list of SST (female) on the bases of which 355 female SSTs were promoted to the post of SS in the year 2016. The fresh seniority list of SST as stood on 31-05-2023 have no concerned with previous impugned promotion.
7. Admitted correct by the respondents, hence need no comments.
8. Incorrect hence denied, the claim of the appellant was within a period of limitation from the date of her knowledge, as the impugned notification came to the knowledge of appellant in the first week of February, 2022 through her husband just one week prior to filing of departmental appeal on 09-02-2022. Moreover, Khyber Pakhtunkhwa Civil Servant promotion policy, 2009, provision V is regarding reasons of deferment of promotion and their solution, Hence V (C) regarding inadvertently deferment is reproduced blow:

"If an officer is otherwise eligible for promotion but has not been inadvertently omitted from consideration in the original reference due to clerical error are plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed."

9. Incorrect and not replied accordingly. As replied in Para 8 above.
10. Incorrect and not replied accordingly, the respondent failed to produce the copy of seniority list of SST (Female) on the bases of which 355 SSTs were promoted on 14-07-2020 including 42 junior batch mates.
11. Incorrect and not replied accordingly, hence denied, that is not question of fitness for promotion but violation of rules and promotion policy 2009, of the Government of Khyber Pakhtunkhwa, hence The Honorable Services Tribunal is the only competent forum to decide the issue.

GROUND:

(1 to 4):

All the grounds of main service appeal are correct and in accordance with Law and prevailing rules and that of the respondents are incorrect and baseless hence denied, ***The name of appellant stood at Seniority No.1023-A of seniority list on the basis of which E&SE Department promoted 355 female SSTs BPS-16 to the post of SS BPS-17 in various subjects vide Impugned notification dated 14/11/2017. Private respondent No.05 to 46 junior batch mates of the appellant were promoted as SS in Biology in violation of law, rules and policy.***

PRAYER

It is humbly prayed that appellant was superseded without any fault or merit and is the result of misreading and non-reading of the record and inadvertently omitted from consideration due to clerical error are plain negligence on the part of authority. Hence, appellant is fully

justified/entitled for the anti-dated promotion, when her junior Batchmate were promoted. Hence, that on acceptance of instant appeal: -

- I) The appellant may please be promoted against the post of Subject Specialist in Biology (BPS-17) with all back benefits from the date of impugned notification dated 14/04/2017 whereby her junior batchmate SSTs/Resp: No.05 to 46 were promoted.
- II) On anti-dated promotion to the higher scale i.e. SS, retain the inter-se-seniority of the appellant as it was in the lower post(SST).

Any other relief which may deemed appropriate and has not been specifically prayed for, may also be granted.


MRS. SAIMA NAZ, SST.

Appellant

Through 
Muhammad Riaz Swati
Advocate Mansehra

Dated: 29/04 /2024

Verification

It is verified that, the contents of the foregoing re-joinder are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this honorable Tribunal.


MRS. SAIMA NAZ, SST.

Appellant

Dated: 29/04 /2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNEL, PESHAWAR**REJOINER IN SERVICE APPEAL NO.918/2022**

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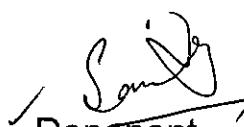
RESPONDENTS**AFFIDAVIT**

I, Saima Naz d/o Muhammad Irfan Secondary School Teacher Govt Girls Community Model School Faqirabad Tajal, Mansehra do hereby solemnly affirm and declare on oath that, contents of the accompanying re-joinder of appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

It is also verified on oath on this day 29 of 04, 2024 That, contents of above affidavit are true and correct to the best of my knowledge, information and belief.

Dated: 29/04/2024**IDENTIFIED BY:**


Muhammad Riaz Swati
Advocate, Mansehra


Deponent

ATTESTED
Muhammad Adil
OATH Commissioner
Advocate Mansehra
29/04