

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

**Service Appeal No. 2034/2020**

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

Mst. Amber Nawaz D/O Mohammad Nawaz (Special Attorney) R/O P.O  
Darra Bazar, Feroz Mela, Darra Adam Khel, Tehsil & District Kohat.

.... (Appellant)

**VERSUS**

1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director Education Newly Merged Tribal Districts (NMTD), Warsak Road, Peshawar.
3. Education Officer, Tribal Sub Division TSD, Darra, Kohat.
4. A.A.E.O, (Female) Tribal Sub Division TSD, Darra Kohat.
5. Head Mistress GGHS M.Hussain Mela/Noor Ali Killi, Darra, Kohat.
6. Mst. Zainat Begum D/O Aman Ullah Khan, Posted at Wali Mohammad Janan School, Tehsil & District Karak.

....  
(Respondents)

Mr. Sikandar Rashid  
Advocate

... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

.... For respondents

Date of Institution.....13.03.2020  
Date of Hearing.....25.04.2024  
Date of Decision.....25.04.2024

**JUDGEMENT**

**RASHIDA BANO, MEMBER (J):**The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the following prayer:

**“That on acceptance of this appeal, the impugned  
Notification of promotion of respondent No.5 being junior**



**to appellant may kindly be set aside and the appellant may kindly be promoted to BPS-15 from the date when the other candidates were promoted with all consequential benefits.”**

2. Brief facts of the case are that the appellant was appointed as PST BPS-7 on contract basis for a period of three years on 31.08.2005. The post of the appellant was upgraded to BPS-12 vide notification dated 30.08.2012. The respondents circulated final seniority list of PSTs (F) of FR Kohat wherein appellant was placed at serial No. 101 but when the working paper for promotion of PST BPS-12 to 14 & 15 was prepared, the name of appellant was not included in the working paper and resultantly junior to the appellant were promoted and appellant was ignored vide notification dated 17.10.2019 and 18.10.2019. Feeling aggrieved, appellant filed departmental appeal which was not responded, hence the instant service appeal.

3. Respondents were put on notice who submitted their 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 the appellant argued that appellant has not been treated in accordance with law and rules as respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan; that act of the respondents are unlawful, illegal and against the well settled principle of justice; that appellant was discriminated as junior to the appellant were promoted and he was ignored; that malafide of respondents could be shown from the fact that candidates placed at serial No.100 and 102 were promoted to BPS-14 on 17.10.2019 and 18.10.2019 to BPS-15.

5. Conversely, learned Deputy District Attorney contended that the



appellant has been treated in accordance with law and rules. He further contended that appellant did not possess the qualification of BA at the time of issuance of final seniority and at the time of DPC, therefore, she was not entitled for promotion. He further contended that no departmental appeal has been filed by her against the impugned notification, hence same got finality against her under the law. He further contended that her name was not mentioned at serial No. 101 in the final seniority list, rather it was over written by the appellant malafiedly, which is liable to be rejected.

6. Perusal of record reveals that appellant was appointed as PST BPS-7 on contract basis for a period of three years on 31.08.2005. The post of the appellant was upgraded to BPS-12 vide notification dated 30.08.2012. The respondents circulated final seniority list of PSTs (F) of FR Kohat wherein appellant was placed at serial No. 101 but when the working paper for promotion of PST BPS-12 to 14 & 15 was prepared, the name of appellant was not included in the working paper and resultantly junior to the appellant were promoted and appellant was ignored. Respondents in their reply contended that appellant was refused promotion as she did not possess the qualification of BA at the time of issuance of final seniority list and also at the time of DPC. Respondents were asked to produce service book of the appellant who accordingly produce it today. Perusal of which reveals that factum of passing and acquiring qualification of BA of the appellant from Allama Iqbal University Islamabad under Rule No. AV 463158 by obtaining marks 779 out of 1200 result of which was declared on 20.02.2016. This entry in her service book was made on 30.06.2017 which means that she had submitted her BA degree to the Department on 30.06.2017 that is why this entry in her service book was entered.


7. Final seniority list was issued on 31.12.2018 wherein qualification of the appellant was mentioned as FA despite the fact that entry of BA was made in her service book on 30.06.2017. Respondent department was duty bound to update



particulars of the appellant in the seniority list issued after her entry of B.A degree in her service book but they did not enter it in the seniority list for the reason best known to them. Appellant was ignored and not considered for promotion due to failure /omission on the part of respondent due to which junior to her Mst. Zeenat Begum was promoted instead of appellant. She met the criteria for promotion to the post SPST BPS-14. Therefore, respondent are directed to consider appellant for promotion from the date when her junior were promoted.

8. For what has been discussed above, the appeal in hand is accepted as prayed for. Costs shall follow the events. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 25<sup>th</sup> day of April, 2024.*

  
(Fareeha Paul)  
Member (E)


  
(Rashida Bano)  
Member (J)

26.03.2024 1. Appellant alongwith his counsel present. Mr. Muhammad Jan learned District Attorney alongwith Muhammad Rizwan, Assistant Director for the respondents present.

2. Representative of respondent is directed to provide service book of the appellant on the next date. Adjourned. To come up for record and arguments on 25.04.2024 before D.B. P.P given to parties.

SCANNED  
K.P.S.T  
Peshawar

Kaleemullah


  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

**ORDER**

25.04.2024

1. Learned counsel for the appellant present. Mr. Masood Ali Shah learned District Attorney for the respondents present.
2. Vide our detailed judgment of today placed on file, the appeal in hand is accepted as prayed for. Costs shall follow the events. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 25<sup>th</sup> day of April, 2024.*

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)