

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

**Service Appeal No. 636/2018**

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

Muhammad Asif, Ex-Assistant Professor, Government College Technical  
Peshawar. ....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Director General, Technical Education and Manpower Training Khyber Pakhtunkhwa, Peshawar.
3. Government of Khyber Pakhtunkhwa through Secretary Establishment, Civil Secretariat, Peshawar.
4. Government of Khyber Pakhtunkhwa through Secretary Industries, Commerce & Technical Education Department, Peshawar.
5. Chairman Khyber Pakhtunkhwa Technical Education & Vocational Training Authority, Peshawar.
6. Board of Directors Khyber Pakhtunkhwa TEVTA, Peshawar through its Secretary. ....(Respondents)

Mr. Zartaj Anwar,  
Advocate

... For appellant

Mr. Asif Masood Ali Shah,  
Deputy District Attorney

... For respondents

Date of Institution..... 20.04.2018  
Date of Hearing..... 17.05.2024  
Date of Decision..... 17.05.2024

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 whereby the appellant was not promoted to the post of Associate Professor BPS- 19 and against which the departmental appeal dated 19.12.2017 was not responded. It has been prayed that on acceptance of the appeal, the appellant might be considered for proforma promotion with effect from the



date when the post of Associate Professor became vacant and to grant him all arrears and benefits, alongwith any other remedy which the Tribunal deemed appropriate.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as Lecturer BPS- 17 on the basis of Diploma in the relevant field and served the department for more than two decades and retired from service on 19.09.2016. He was promoted to the post of Assistant Professor (BPS-18) vide order dated 26.03.2013 in Engineering cadre, but not from the seniority list of Diploma holders. He was promoted in Engineering Cadre from the list of degree holders. In the seniority of Lecturers (Electrical) BPS- 17 of diploma holders as on 31.12.2011, name of the appellant was placed at serial no. 3. He, during service, improved his qualification by acquiring B.Tech (Hons) Degree in the year 2009. The respondents prepared list for promotion to the post of Assistant Professor, on the basis of degree, upon which the appellant submitted application to the competent authority that his name was included in the list of promotion for the post of Assistant Professor BPS- 18 in Engineering cadre on the basis of degree holders but he was senior most in the panel/seniority list of diploma holders, so he requested that his name might be included in the seniority list of diploma holders. After promotion to the post of Assistant Professor (BPS- 18) vide order dated 26.03.2013 in Engineering Cadre, he was placed in the seniority list of Assistant Professor Degree holders, which affected his seniority position as his name was placed at serial no. 40 of the list which would affect his service career and he would be deprived of his legal right of promotion to the



post of Associate Professor (BPS- 19). He submitted departmental appeal on 19.12.2017 which was not responded; hence the instant service appeal.

3. Respondents were put on notice who submitted their joint *parawise* reply 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.

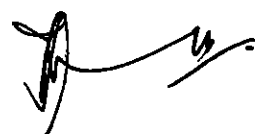
4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was not treated in accordance with law and rules on the subject. His rights, secured and guaranteed under the law, were badly violated. According to the rules for promotion to the post of Associate Professor (BPS- 19), eighty percent positions were to be filled by promotion on the basis of seniority-cum-fitness from amongst the Assistant Professors, Technical Cadre (BPS- 18) alongwith eligibility criteria. The post of Associate Professor was lying vacant since March 2013 and if the appellant had been promoted well in time and also his name was placed in the seniority list of diploma holders, then he would have been promoted to the post of Associate Professor BPS- 19 prior to his retirement. He further argued that the appellant was senior most Assistant Professor in diploma holder's list and was also fit and eligible for promotion but junior to him having the degree in the field were placed senior to him. 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 the appellant was appointed as Trade Instructor BPS- 11 on 14.11.1978 having 03 years post matric Diploma



of Associate Engineering. He was allowed BPS- 14 on 04.11.1980. Later on he was allowed selection grade in BPS- 16 and then promoted to BPS- 17 on 07.10.1989. After passing the B-Tech Honors Degree course, the appellant forwarded a request, through proper channel, that his name might be included in the seniority list of Technical Degree holder cadre. His request was honored by the department and accordingly his name was included in the engineering cadre. He was promoted to the post of Assistant Professor BPS- 18 on the basis of technical cadre without any objection. He further argued that at the time of retirement from service on 19.09.2016, the service length of the appellant in BPS- 18 was 03 years and 06 months while under the rules, 07 years service was required for promotion to BPS- 19. He further argued that only degree holder could be promoted to BPS- 19, if otherwise eligible, while for diploma holder there was no line of promotion to BPS- 19. He requested that the appeal might be dismissed.

6. Through the instant service appeal, the appellant has prayed for proforma promotion to the post of Associate Professor (BS- 19) from the date when that post became vacant. Arguments and record presented before us show that the appellant was promoted and appointed as Lecturer in BS- 17 in the year 1989. At that time he was holding Diploma of Associate Engineering. Later on, he improved his qualification and acquired B.Tech (Hons) Degree in the year 2009 and requested to place his name in the seniority list of degree holder engineers. His request was honoured and his name was duly placed in the seniority list of degree holder engineers from where he was promoted as Assistant Professor, Technical Cadre (BPS- 18) in the year 2013, and placed at



serial no. 40 of the seniority list of Assistant Professors (Degree holders) BS-18. Another request of the appellant to place him again in the seniority list of diploma holders, as it was beneficial for him, was not considered by the respondent department because he had already availed the benefit of promotion while being included in the seniority list of degree holders.

7. Service rules presented before us by the appellant in his service appeal give the method of recruitment for Associate Professor/Principal (Technical Cadre) BS- 19 as follows:-

*“(a) Eighty percent by promotion, on the basis of seniority cum fitness, from amongst the Assistant Professors (Technical Cadre) (BPS- 18) having seven years service experience as such with 6 month Technical Teaching Training Course from a recognized Institute with-*

*(i) Bachelor’s Degree in Engineering from a recognized University or;*

*(ii) Four years B-Tech (Hons) from a recognized University; or*

*(iii) Equivalent qualification in the relevant Technology from a recognized University and*

*(b) twenty percent by initial recruitment.*

8. The abovementioned rules are clear when they state that such officer is to be promoted to the post of Associate Professor who has seven years service experience as Assistant Professor. In case of the appellant, he was promoted to the post of Assistant Professor, Technical cadre on 26.03.2013 and he retired from service on attaining the age of superannuation on 19.09.2016, thus making the total length of service as Assistant Professor less than seven years



and hence he was not qualified for promotion to the post of Associate Professor.

9. In view of the above discussion, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 17<sup>th</sup> day of May, 2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member(J)


*\*FazleSubhan P.S\**

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17<sup>th</sup> May, 2024 01. Mr. Zartaj Anwar, 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 06 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 17<sup>th</sup> day of May,  
2024.*

  
(FAREEHA PAUL)  
Member (F)

  
(RASHIDA BANO)  
Member(J)

\*Fazal Subhan PS\*