

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.1507/2023**

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER (M)

Muhammad Ismail S/o Ajab Khan R/o Sugarcane Farm Research Institute  
Charsadda Road, Mardan.

.... (Appellant)

**VERSUS**

1. Secretary Agriculture Civil Secretariat, Peshawar, KPK.
  2. Director General Research Agriculture University, Peshawar.
  3. Admin Officer, DG Office Research Agriculture University, Peshawar.
  4. Director Sugar Crops Research Institute Charsadda Road, Mardan.
- .... (Respondents)

Mr. Alam Zeb  
Advocate

... For appellant

Mr. Asif Masaood Ali Shah  
Deputy District Attorney

... For Respondents

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Date of Institution.....30.10.2023  
Date of Hearing.....25.04.2024  
Date of Decision.....25.04.2024

**JUDGMENT**

**RASHIDA BANO, MEMBER (J):** The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“That the impugned order dated 31.10.2022 may kindly be set aside and the appellant may kindly be reinstated in the said seniority list with all back and benefits. Any other remedy which is deemed appropriate and not specifically asked for may also be granted to the appellants.”**



2. Precise facts leading to the instant appeal are that the appellant was appointed as Chowkidar on 13.01.2007 and was promoted to the post of Naib Qasid on 01.10.2010 in the Agriculture Department at Sugarcane Farm Charsadda Road Mardan. On 31.10.2022 respondents issued promotion order of class-iv employees by including Technical Staff Batch into the promotion structure of Clerical Staff Batch. Feeling aggrieved, appellant filed departmental appeal on 05.12.2022, which was not responded, hence the present service appeal.

3. Respondents were put on notice, who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules. He further argued that as per service rules every staff batch has its own separate promotion structure and promotions shall be granted accordingly without disturbing other staff batches but respondents vide impugned order acted in violation of prevailing law and rules. He further argued that respondents had illegally include technical staff batch in the promotion structure of clerical staff despite the fact both have batches have separate channel of promotion.

5. Conversely, learned Deputy District Attorney contended that appellant has been treated in accordance with law and rules. He further that respondents appointed Arts Matriculate as Lab Attendants (Class IV) prior to the Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Department's Notification dated 20.08.2015. Now as proper service rules are framed for the Laboratory Technical Posts vide aforementioned notification,



wherein the minimum qualification for the post of Laboratory Attendant is mentioned as Matric with Science, which was hurdle for promotion to higher grade for those Lab Attendants, having matric Arts. Therefore, to provide prospect of promotion, the arts Matriculate Lab Attendants were merged to General Seniority.

6. Perusal of record reveals that appellant basically challenged promotion notification dated 31.10.2022 vide which Class-IV employees Technical Staff batch were promoted by including it into Clerical Staff batch to the post of Junior clerk BPS-11.

7. According to the rules both batches have separate promotional structures and post of Junior Clerk will have to be filled 33% by promotion from amongst the Daftaries and other Class-IV of equivalent posts who have at least second division Secondary School Certificate or its equivalent qualification from recognized board with two years of service as such;

*“a) Thirty Three percent by promotion, on the basis of seniority cum fitness, from amongst the Daftaries and Class-IV employees who have at least Second Division, Secondary School Certificate or its equivalent qualification from a recognized Board with two years’ service as such; and*

*b) Sixty Seven percent by initial recruitment.”*

As per department rules Laboratory Attendant have channel of promotion to the post of Laboratory Assistant BPS-6, then to Senior Laboratory Assistant BPS-09, Laboratory Technician BPS-10 and Laboratory Supervisor BPS-11 which are mentioned below in details;

S.No	Nomenclature of the post	Minimum Qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1	Laboratory Supervisor (BPS-11)			By promotion, on the basis of seniority-cum-fitness, from amongst Laboratory Technician

				with five years of service as such.
2	Laboratory Technician (BPS-10)	--		By promotion, on the basis of seniority-cum-fitness from amongst Senior Laboratory Assistants with five years of service as such.
3	Senior Laboratory Assistant (BPS-9)	--		By promotion, on the basis of seniority-cum-fitness from amongst Laboratory Assistant with five years' service as such
4	Laboratory Assistant (BPS-6)	(i) At least Second Class Secondary School Certificate in Science or equivalent qualification from a recognized Board, and  (ii) having one year Certificate in Laboratory Techniques from a recognized Institute or Center.		a) Twenty-five percent by promotion, on the basis of seniority cum fitness, from amongst the laboratory Attendants having Secondary School Certificate in Science from a recognized Board with five years of service as such. b) seventy five percent by initial recruitment and
5	Laboratory Attendant (BPS-1)	At least Second Class Secondary School Certificate in Science or equivalent qualification from a recognized Board.	18-40 years	By initial recruitment

8. Respondents in their reply mentioned that although channel of promotion is given in the rules for laboratory attendant and field workers but as condition of having matric in science, due to which laboratory attendants, field workers having matric in Arts were included in clerical staff category because they are also Class-IV employees. This contention of the respondents have no logic in it, because when specific channel of promotion is provided in the rules for the post of Lab Attendant and Field Workers then to include them in another batch/cadre is against the rules. The channel is as under;

S.No	Nomenclature of the post	Minimum Qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
17	Plant Observer (BPS-5)	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board.	18-30 years	By promotion, on the basis of seniority-cum-fitness, from amongst the field workers having Secondary School Certificate from a


			recognized Board with 10 years' service as such; Provided that if no suitable persons are available for promotion then by initial recruitment.
1	Budder (BPS-05)	At least Middle Passed, having experience in budding.	By promotion, on the basis of seniority-cum-fitness, from amongst the Malies, Field Word and data collector having experience in budding, grafting, fruit plan nursery raising and pruning of orchads.

Rules were framed and issued vide notification dated 20.08.2015, while promotees of order dated 20.10.2022 were initially appointed on 01.12.1999, 3.1.2004, 13.4.2004 and 17.4.2024.

9. Respondent/department is under obligation to provide cushion period to those employees who had done their matric with Arts to improve their qualification, or obtain some sort of diploma etc. By not doing so they discriminate them which is also injustice with them, therefore, now they be also adjusted against their own cadre post.

10. For what has been discussed above, we are unison to accept the appeal as prayed for. Costs shall follow the event. Consign.

11. *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 (M)

  
(RASHIDA BANO)  
Member (J)

05.01.2024 1. Learned counsel for the appellant present. Mr. Habib Anwar, Additional Advocate General alongwith Mr. Muhammad Arif, SRO for the respondents present and submitted copies of seniority list, working paper and minutes of DPC meeting held on 20.10.2022 which is placed on file. Preliminary arguments heard.

Security fee  
not deposited  
Maharri

2. Points raised need consideration. The appeal is admitted for regular hearing subject to all just and legal objections by the other side. Appellant is directed to deposit security fees within 10 days. Reply/comments on behalf of respondents have already been submitted through office on 19.10.2023. To come up for arguments on 25.04.2024 before D.B. P.P given to the parties.

SCANNED  
KAST  
Peshawar

(Muhammad Akbar Khan)  
Member (E)

\*kamranullah\*

**ORDER**

25.04.2024 1 Learned counsel for the appellant present. Mr. Masaood Ali

Shah learned Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, we are unison to accept the appeal as prayed for. Costs shall follow the event. 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.*

(FAREHA PAUL)  
Member (M)


(RASHIDA BANO)  
Member (J)

SA 1507/23

29<sup>th</sup> Nov.2023

01. Counsel for the appellant present. Mr. Habib Anwar, Addl. AG alongwith Muhammad Arif, SRO for the respondents present.

02. Reply/comments on behalf of the respondents not submitted. Learned AAG requested for further time. Granted. To come up reply/comments as well as preliminary hearing on <sup>25</sup>~~08~~.01.2023 before the S.B. Departmental representative is further directed to bring on record the seniority list which was considered in the meeting of DPC held on 20.10.2022 alongwith Working Paper and minutes of that DPC meeting. Parcha Peshi given to the parties.

  
(Fareeha Paul)  
Member(E)

*\*Fazle Subhan, P.S\**

SCANNED  
KPT  
Peshawar