

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**  
**AT CAMP COURT SWAT**

**Service Appeal No. 572/2018**

**BEFORE:** RASHIDA BANO --- MEMBER (J)  
MUHAMMAD AKBAR KHAN--- MEMBER(E)

Ihsanullah S/o Muhammad Failqoos Khan, Presently residing at Room No. 10, Dir Maidana Palace, Gulberg 1, Peshawar Cant.... **(Appellant)**

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Elementary Elementary & Secondary Education Department Civil Secretariat Peshawar.
3. Director Elementary & Secondary Education Government of Khyber Pakhtunkhwa Peshawar.
4. Deputy Director (Establishment) Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
5. EDO Elementary & Secondary Education Distt: Chitral  
.....**(Respondents)**

**Present:**

GHUFRANULLAH SHAH,  
Advocate, --- For Appellant.

MUHAMMAD JAN,  
District Attorney --- For respondents

Date of Institution ... 26.03.2018  
Date of hearing ... 06.06.2024  
Date of Decision ... 06.06.2024

**JUDGMENT.**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

*“On acceptance of the instant service appeal, the impugned*

*Notification bearing No. SO (PE) 4-5/SSRC/Meeting/2003/Teaching Cadre, Peshawar dated 24.07.2014 issued by respondent No. 2 to the extent of addition of consideration of Bachelor (BSC) Degree with two subjects as Chemistry, Botany and Zoology for promotion to SST (BPS-16) under 40% quota specified for Senior/Certified Teacher (SCT/CT) by excluding the appellant having bachelor degree (B.Sc) of subject combination as Zoology, Botany and Geography; be declare against the scheme of promotion on the basis of seniority cum fitness and all such acts and omissions of respondents with effect to exclude the appellant from the process of promotion to SST (BPS-16) under 40% quota for the reason of such subject combination in B.Sc Degree (although having qualification of B.Ed, M.Ed and M.A alongwith 14 years relevant experience) may also be declare as void ab initio, illegal, unlawful, without lawful authority and justification; hence appellant be promoted in accordance with his seniority. Any such relief which this honourable Tribunal deems proper and just be granted to the appellant against the respondents keeping in view the circumstances of the case.”*

02. Brief facts of the instant case, as per memorandum of service appeal, are that the appellant was appointed as Certified Teacher (BPS-09) vide Notification dated 20.03.2004 and presently working as Senior Certified Teacher (BPS-15); that other colleagues of the appellants belonging to other cadres have been promoted to the post of SST (BPS-16) while the appellant

was ignored; that the appellant has no prospects of promotion as per the impugned service rules dated 24.07.2014. That as per impugned Notification dated 24.07.2014 there were 40% quota reserved for SCT cadre in the promotion of SST BPS-16 with at least 5 years of service as Senior Certified Teacher and Certified Teacher and having qualification of Second Class Bachelor degree with two subjects as Chemistry, Botany or Zoology, Physics, Mathematics or Statistic, Humanities and other equivalent groups from a recognized university or M.A in Education or Bachelor degree in Education from a recognized university; that the appellant has fulfilled the criteria and has the requisite qualification to be promoted to the post of SST (BPS-16). Feeling aggrieved from the impugned Notification dated 24.07.2014, the appellants filed Writ Petition No. 373-P/2015 before the Hon'ble Peshawar High Court, Peshawar which was dismissed being not maintainable. Thereafter, he preferred the instant service appeal on 26.03.2018.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned District Attorney and have gone through the record with their valuable assistance.

04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney, controverted the same by supporting the impugned notification(s).

05. Scrutiny of record reveals that the appellant joined the respondent department as Certified Teacher (BPS-09) on 20.03.2004 and the appellant was promoted to Senior Certified Teacher BPS-16 in the same cadre. The appellant has impugned the service rules dated 24.07.2014 whereby a criteria

for appointment against SST (BPS-16) has been prescribed and consequently 20% quota has been specified for Primary School Head Teacher and 40% quota for Senior Certified Teacher and Certified Teacher having Second Class Bachelor degree with combination of two subjects out of three i.e. Chemistry, Botany, Zoology. We observe that the stance of the appellant that the subject of Geography be included/considered for the purpose of his elevation to SST (BS-16) does not carry any legal and logical weight given the fact that rules/criteria for appointment/promotion are not made keeping in view the particular academic qualification of a civil servant (Teacher) rather the purpose of rules is to cater for existing requirements and demands in the larger public interest and, in the case in hand, in the interest of learners/students keeping in view the requirements of curriculum and modules being taught to the students in the Government owned schools. Since the appellant does not fulfill the basic requirement as enshrined in the prevalent Service Rules, therefore, he is not eligible to be considered for promotion against the post of SST.

06. In view of the forgoing discussion, we dismiss the instant service appeal being devoid of legal merits. Costs shall follow the event. Consign.

07. *Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 06<sup>th</sup> day of June, 2024.*



(RASHIDA BANO)  
MEMBER (J)  
CAMP COURT SWAT





(MUHAMMAD AKBAR KHAN)  
MEMBER (E)  
CAMP COURT SWAT

ORDER

06.06.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments on restoration application as well as on main appeal heard.
2. The appeal in hand was dismissed in default on 05.06.2024 however, learned counsel for the appellant submitted restoration application on 06.06.2024 by mentioning therein that date given to him and noted in his diary is 06.06.2024 and not 05.06.2024 that is why he today come from Peshawar for arguing the appeal in hand today. Reason advanced by the learned counsel is plausible, therefore, the appeal is restored to its original number.
3. Vide our detailed judgment of today placed on file, we dismiss the instant service appeal being devoid of legal merits. Costs shall follow the event. Consign.
4. *Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 06<sup>th</sup> day of June, 2024.*

  
(Rashida Bano)  
Member (J)  
Camp Court Swat

  
(Muhammad Akbar Khan)  
Member (E)  
Camp Court Swat