

Service Appeal No.9144/2020 titled "Naveed Khan versus Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
Service Appeal No.9145/2020 titled "Dalil Khan Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
Service Appeal No.9146/2020 titled "Zain Ullah Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
Service Appeal No.9147/2020 titled "Asif Khan Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
Service Appeal No.9148/2020 titled "Riaz Muhammad Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others" and
Service Appeal No.9149/2020 titled Amir Muhammad Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
decided on 13.06.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
MUHAMMAD AKBAR KHAN ... **MEMBER(Executive)**

Service Appeal No.9144/2020

Date of presentation of Appeal.....06.07.2020
Date of Hearing.....13.06.2024
Date of Decision.....13.06.2024

Naveed Khan son of Pervaiz Khan R/o Dagbesood (Nowshera)
Presently working and posted as Secondary School Teacher (SST) at
Government High School Pushtoon Garhi (Nowshera)....(**Appellant**)

Versus

1. **Secretary** to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
2. **Director** Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)** Nowshera.....(**Respondents**)

Service Appeal No.9145/2020

Date of presentation of Appeal.....06.07.2020
Date of Hearing.....13.06.2024
Date of Decision.....13.06.2024

Dalil Khan son of Mutawal Khan R/o Akora Khattak (Nowshera)
Presently working and posted Secondary School Teacher (SST) at
Government High School Jehangira (Nowshera)....(**Appellant**)

Versus

1. **Secretary** to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
2. **Director** Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)** Nowshera.....(**Respondents**)

Service Appeal No.9146/2020

Date of presentation of Appeal.....06.07.2020
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Zain Ullah Khan son of Zardullah Khan R/o Dagbesood (Nowshera) Presently working and posted Secondary School Teacher (SST) at Government Higher Secondary School Dak Ismail Khan (Nowshera).....(**Appellant**)

Versus

1. **Secretary** to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
2. **Director** Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)** Nowshera.....(**Respondents**)

Service Appeal No.9147/2020

Date of presentation of Appeal.....06.07.2020
Date of Hearing.....13.06.2024
Date of Decision.....13.06.2024

Asif Khan son of Rahmani Gul R/o Aman Kot (Pabbi) Presently working and posted Secondary School Teacher (SST) at Government High School Banda Sheikh Ismail (Nowshera).....(**Appellant**)

Versus

1. **Secretary** to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
2. **Director** Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)** Nowshera.....(**Respondents**)

Service Appeal No.9148/2020

Date of presentation of Appeal.....06.07.2020
Date of Hearing.....13.06.2024
Date of Decision.....13.06.2024

Riaz Muhammad son of Faqir Muhammad R/o Akbarpura (Nowshera) Presently working and posted Secondary School Teacher (SST) at Government Higher Secondary School Pirpai (Nowshera).....(**Appellant**)

Versus

1. **Secretary** to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Civil Secretariat, Peshawar.

Service Appeal No.9144/2020 titled "Naveed Khan versus Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
Service Appeal No.9145/2020 titled "Dalil Khan Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
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Service Appeal No.9149/2020 titled Amir Muhammad Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others" decided on 13.06.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akhar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

2. **Director** Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)** Nowshera.....(**Respondents**)

Service Appeal No.9149/2020

Date of presentation of Appeal.....06.07.2020
Date of Hearing.....13.06.2024
Date of Decision.....13.06.2024

Amir Muhammad son of Adil Muhammad R/o Aza Khel Payan, Nowshera Presently working and posted Secondary School Teacher (SST) at Government Higher Secondary School Cantt No.2 (Nowshera).....(**Appellant**)

Versus

1. **Secretary** to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
2. **Director** Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)** Nowshera.....(**Respondents**)

Present:

Mr. Taimur Ali Khan, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

**SERVICE APPEALS UNDER SECTION 4 OF
THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974.**

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment, all the above appeals, are jointly taken up as all are for grant of back dated promotions and almost with the same contentions, therefore, can be conveniently decided together.



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Service Appeal No.9145/2020 titled "Dalil Khan Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
Service Appeal No.9146/2020 titled "Zain Ullah Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
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decided on 13.06.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

2. The appellant's cases in brief, as per appeals, are that they were serving in the Education Department; that for the post of Secondary School Teacher (BPS-16) vide Notification dated 24.07.2014, the Finance Department had reserved 75% quota promotion quota while 25% for initial recruitments; that the appellants' claim that 62 posts of Senior Science Teachers (BPS-16) were filled by initial recruitment, wherein, they were allegedly rightful for promotion against the said post under 75% quota; that they filed Writ Petition No.1495-P/2017 before the Hon'ble Peshawar High Court, Peshawar, vide which they were directed to approach proper forum; that in the year 2019, promotions to the post of SSTs were made; that the appellants were also promoted, however, with immediate effect and not from 2016, therefore, they approached this Tribunal through the present service appeals.

3. On receipt of the appeals and its admission to full hearing, the respondents were summoned, who put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

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Service Appeal No.9145/2020 titled "Datil Khan Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
Service Appeal No.9146/2020 titled "Zain Ullah Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Civil Secretariat Peshawar and others"
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5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned District Attorney controverted the same by supporting the impugned order(s).

6. Perusal of record shows that there is no order, either original or appellate, challenged before the Tribunal. Secondly, the learned counsel for the appellants, referred to the minutes of the meeting of Departmental Promotion Committee held on 10.07.2017 and tried to make out a case by referring to the break-up of the vacant posts. The said breakup (concerned to the case of the appellants) is reproduced as below:

SST (Phy-Maths)

Promotion of Senior CT/CT to SST (Phy-Maths) BPS-16

<i>Total No. of vacant post of SSTs (Phy-Maths)</i>	<i>06</i>
<i>25% share of initial recruitment</i>	<i>02</i>
<i>75% share for promotion</i>	<i>04</i>
<i>40% share of promotion of Senior CT/CT</i>	<i>02</i>
<i>Posts available for promotion</i>	<i>02</i>
<i>Promoted through this order</i>	<i>02</i>

7. The break up shows that total vacancies of SSTs (BPS-16) at the time of making promotion were four, out of which according to the prevalent rules, one post had to go to the initial 25% recruitment quota while three posts had fallen in the 75% promotion share.

Further bifurcation of the promotion quota shows that 40% were to

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Peshawar.*

be filled out of 75%, 40% were to be filled from Senior CT posts and two seats come in their such quota while one post came under the 20% PST quota. The learned counsel for the appellants submitted that four posts were to be filled by promotion and as such, the appellants should have been promoted. As against that, the minutes show that Item No.1 is regarding consideration of promotion of Senior CT and two posts were falling in their quota which were filed by Mr. Dalil Khan and Mr. Naveed Khan while against the third post, Item No.2 shows Mr. Ahmad Khan was promoted, leaving no vacant post for promotion against any quota:

8. When the learned counsel for the appellants confronted with this, he could not controvert it, therefore, these appeals are dismissed with costs. Copy of this judgment be placed in files of connected cases. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 13th Day of June, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)