



**ORDER**

02<sup>nd</sup> July, 2024

1. Appellant in person present. Mr. Muhammad Jan, District Attorney for official respondents present. Private respondent No. 5 along with his counsel Mr. Younas Jan, Advocate also present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, the appeal filed by the appellant is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.
3. *Pronounced in open Court at Camp Court, Swat and given under our hands and the seal of the Tribunal on this 02<sup>nd</sup> day of July, 2024.*


  
(Muhammad Akbar Khan)  
Member (Executive)  
Camp Court, Swat

  
(Aurangzeb Khattak)  
Member (Judicial)  
Camp Court, Swat

03.06.2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.

2. Written reply on behalf of official respondents received through office which is placed on file. A copy whereof is handed over to learned counsel for the appellant. Adjourned. To come up for rejoinder, if any, and arguments on 02.07.2024 before D.B at Camp Court, Swat. Parcha Peshi given to the parties.

**SCANNED  
KFST  
Peshawar**


  
(Rashida Bano)  
Member (J)  
Camp Court, Swat

**ORDER**  
02<sup>nd</sup> July, 2024

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(Muhammad Akbar Khan)  
Member (Executive)  
Camp Court, Swat

(Aurangzeb Khattak)  
Member (Judicial)  
Camp Court, Swat

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR, AT CAMP COURT SWAT.**

BEFORE: **AURANGZEB KHATTAK** ... MEMBER (Judicial)  
**MUHAMMAD AKBAR KHAN** ... MEMBER (Executive)

*Service Appeal No. 1797/2023*

Date of presentation of Appeal.....07.09.2023  
Date of Hearing.....02.07.2024  
Date of Decision.....02.07.2024

**Shaukat Ali** Son of Matlab Khan B-37 College Colony Saidu Sharif,  
Swat. .... *Appellant*

Versus

1. The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Establishment Khyber Pakhtunkhwa.
3. The Secretary Elementary & Secondary Education Government of Khyber Pakhtunkhwa, Peshawar.
4. The Director Elementary & Secondary Education Government of Khyber Pakhtunkhwa, Peshawar.
5. Akhtar Hussain, Subject Specialist GHSS No. 2 Mingora Swat.  
..... *(Respondents)*

Present:

Mr. Suaukat Ali, Appellant ..... *Pro-se*  
Mr. Muhammad Jan, District Attorney ..... For official respondents  
Mr. Younis Jan, Advocate ..... For private respondent.  
.....

**JUDGMENT**

**AURANGZEB KHATTAK, MEMBER (JUDICIAL):** The appellant Shaukat Ali, has impugned through the instant appeal, the seniority lists of BPS-18 as stood on 31.12.2021 and 30.12.2022 to the extent of Subject Specialists, incorrect and not in accordance with the Service Rules, 2004. Feeling aggrieved, the appellant filed Writ Petition No. 169-M/2023 before Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat, which was converted into departmental appeal with the

direction to respondent No. 1 to decide the same in accordance with law or place it before competent authority for decision in accordance with law. It was further held, after decision or passing of three months, petitioner would be at liberty to approach respective Service Tribunal for redressal of his grievance, if need arises, vide judgment dated 07.06.2023. However, the departmental appeal of the appellant was not decided, therefore, he has now approached this Tribunal through filing of instant appeal for redressal of his grievance.

2. The respondents were summoned, who contested the appeal by way of filing their respective replies/comments.

3. Arguments heard and case file perused.

4. The appellant contended that the respondents No. 1 to 4 have incorrectly interpreted the Service Rules of 2004, especially concerning the criteria for promotion and the method of determining seniority. He next contended that the seniority lists of BPS-18 as stood on 31.12.2021 to 30-12-2022 are not accurately reflecting the proper seniority positions according to the prescribed rules and criteria of Service Rules, 2004. He further contended that promotions have not been conducted on the basis of seniority cum fitness and that there has been an improper implementation of the quota of 80% promotion by seniority cum fitness and 20% by initial recruitment rule. In the last he requested, that the name of the appellant may be included at his due place in the seniority list by removing those whose posts have not mentioned in Services Rules of 09<sup>th</sup> April, 2004.

5. Conversely, learned District Attorney for official respondents No. 1 to 4 assisted by learned counsel for private respondent No. 5, argued that

the process of preparing the seniority lists and promotions have been conducted strictly in conformance with the Service Rules of 2004. He next argued that the criteria for promotion to BPS-18, which requires 80% of the placements to be based on seniority cum fitness and 20% by initial recruitment, was duly followed. He further argued that the seniority lists of BPS-18 up to 30.12.2022 are accurately reflecting the merit and seniority as determined by the Khyber Pakhtunkhwa Public Service Commission (KPPSC). He also argued that all procedures were carried out appropriately, and no irregularities occurred. In the last, he requested that the appeal in hand may be dismissed with costs.


6. The perusal of the record reveals that as per the Service Rules 2004, the promotion to BPS-18 in the Teaching Cadre is primarily based on seniority cum fitness (80%) and a smaller percentage (20%) through initial recruitment. The qualifications for positions such as Principal, Vice Principal, and Senior Subject Specialist include a Master's Degree with M.Ed/M.A Education and nine years of relevant experience. The record further reveals that the respondents adhered to the Service Rules of 2004 in preparing the seniority lists and making promotions. The criteria of seniority cum fitness and initial recruitment has appropriately applied. Furthermore, the seniority lists up to 30-12-2022 were found to be in accordance with the prescribed laws and rules. It appropriately reflects the merit order assigned by the KP Public Service Commission. Moreover, the claim of the appellant regarding misinterpretation and misapplication of the rules have been found unsubstantiated. No evidence suggests that the appellant's position in the seniority list was incorrectly assessed or that there was any procedural impropriety in the promotions.


*Service Appeal No.1797-2023 titled "Shaukat Ali versus The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar and others", decided on 02.07.2024 by Division Bench comprising of Mr. Aurangzeb Khattak, Member Judicial and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar, at Camp Court, Swat.*

After careful consideration of the arguments and evidence presented, the Tribunal concludes that the appeal lacks merit. The seniority list and the promotion process conducted by the respondents are in compliance with the prescribed Service Rules of 2004.

7. In view of the above, the appeal filed by the appellant is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

8. *Pronounced in open Court at Camp Court, Swat and given under our hands and the seal of the Tribunal on this 02 day of July, 2024.*

  
**AURANGZEB KHATTAK**  
Member (Judicial)  
Camp Court, Swat

  
**MUHAMMAD AKBAR KHAN**  
Member (Executive)  
Camp Court, Swat

*\*Naeem Amin\**