

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.596/2018**

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

**Mr. IhsanUllah S/o SaeedUllah R/o NekiKhel, Tehsil Topi, District Swabi.**

**... (Appellant)**

**VERSUS**

1. Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Swabi.

**... (Respondents)**

Mr. Asad Zeb Khan  
Advocate

... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For respondents

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Date of Institution.....19.04.2018  
Date of Hearing.....31.05.2024  
Date of Decision.....31.05.2024

**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:

**“On acceptance of this service appeal, the respondents may kindly be directed to promote the appellant alongwith all other consequential relief including arrears and seniority, etc.”**



2. Brief facts of the case are that appellant joined the Education Department as PST in the year 1982. He was promoted to the post of CT vide order dated 15.01.1998. Seniority list for appointment as SETs was prepared wherein the name of appellant was shown at serial No.3. Respondents vide order dated 23.05.1995 issued appointment/promotion of trained teachers by ignoring the name of the appellant and juniors to him were promoted. Later on, he was promoted to the post SET in the year 2003 instead of 1991. Respondents issued seniority list for the year 2017-18 on 01.01.2018. Feeling aggrieved, appellant filed department appeal, which was dismissed vide impugned order dated 19.03.2018, hence the present service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents 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 Deputy District Attorney for the respondents.

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

6. Perusal of record reveals that appellant through instant appeal wants to ante-date his appointment order as SET in year 2003 to year 1995 when his colleagues were promoted as SET. Record reveals that appellant joined education department way back in the year 1982 when the appellant was appointed as PST and promoted to the post of CT on 15.01.1998. Appellant

was awarded professional degree of M.A Education by the University of Sindh in the session of 1990-91. List for appointment as SETs was prepared wherein, the appellant was shown at serial No.3, who was eligible for promotion to the post of SET's.

7. Respondent No.2 issued appointment/promotion orders of certain trained graduates as SETs vide order dated 23.05.1995, by dropping the name of the appellant and the colleagues of the appellant shown in finalized list of promotion were promoted. The department on the basis of notification 1992 and 1999, declared the M.A Education as non-professional degree, against which certain candidates challenged the plea of the government before the august Peshawar High Court, Peshawar and the Hon'ble High Court was pleased to allow the said writ petition by declaring M.A Education as equivalent to M.Ed and that the said degree is professional degree.


8. Appellant was not promoted to the post of SET as he possessed degree of M.A Education which was declared non-professional degree. Appellant alongwith other also approached worthy Peshawar High Court, Peshawar by filling writ petition bearing No.76 of 1999 which was decided vide order dated 15.09.1999 by holding M.A Education equivalent to M.Ed and petitioners who hold degree of M.A Education was held entitled to apply, contest/compete in the ensuing test and interview for the post of Senior English Teacher (SET). After declaring M.A Education equivalent to M.Ed by High Court respondent was required to consider appellant for appointment to post of SET because he was eligible for his appointment to the post of SET in 1995 due to his M.A Education was declare non-professional degree. Therefore, respondents did not



consider appellant till 24.07.2003. As per verdict of worthy Peshawar High Court, Peshawar ensuing test/examination and consideration by DSC was held in February 2000 notification of which was issued on 03.02.2000, respondent will have to appoint appellant from 03.02.2000 alongwith Tajamul Shah and Muhammad Islam; by not doing so, they discriminate appellant which is unjustified.

9. For what has been discussed above, we are unison to hold that appellant was entitled to be appointed as SET alongwith above mentioned two SETs on 03.02.2000. Therefore, respondents are directed to anti-dated his appointment to 03.02.2000 instead of 01.09.2003. Cost shall follow the events.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31<sup>th</sup> day of May, 2024.*


  
(Farceha Paul)  
Member (E)

  
(RashidaBano)  
Member (J)

**ORDER**

31.05.2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, learned Deputy District Attorney for the respondents present.
2. Vide our detailed judgment of today placed on file, we are unison to hold that appellant was entitled to be appointed as SET alongwith above mentioned two SETs on 03.02.2000. Therefore, respondents are directed to anti-dated his appointment to 03.02.2000 instead of 01.09.2003. Cost shall follow the events. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31<sup>th</sup> day of May, 2024.*



(Fareeha Paul)  
Member (E)



(Rashida Bano)  
Member (J)