

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No.1173/2023

Date of presentation of appeal02.12.2019
Dates of Hearing.....12.07.2024
Date of Decision.....12.07.2024

Wahid Ali, PST Government Primary School Ikram Pur, Tehsil Katlang
District Mardan.....(*Appellant*)

Versus

1. **The District** Education Officer, Mardan.
2. **The Director** Education, Khyber Pakhtunkhwa Peshawar
3. **The Secretary** Education, Khyber Pakhtunkhwa, Peshawar.
4. **The Government** of Khyber Pakhtunkhwa through the Chief Secretary,
Khyber Pakhtunkhwa Peshawar.....(*Respondents*)

Present:

Mr. Mir Zaman Safi, Advocate.....For appellant.

Mr. Muhammad Jan, District Attorney.....For respondents.

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST
THE impugned ORDER NO. 5948/G DATED 28.05.2019 TO THE
EXTENT THAT THE APPELLANT HAS BEEN GRANTED
PROMOTION FROM BPS-12 TO BPS-14 AND THEREAFTER
BPS-15 IN COMPLIANCE OF THE ORDER DATED 16.01.2019
PASSED BY THIS HONORABLE TRIBUNAL IN APPEAL NO.
1420/2018 BUT THE APPELLANT HAS NOT BEEN GIVEN BACK
BENEFITS WHICH IS ILLEGAL AGAINST THE LAW.**
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JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts gathered from the
memo and grounds of appeals are that the appellant is service as PST in the
respondent department; that the appellant was filed service appeal

No.1420/2018 before this Tribunal for promotion from BPS-12 to 14 and subsequently from BPS-14 to 15 as similarly placed persons were already given the same; that appeal of the appellant was decided vide judgment dated 16.01.2019; that in compliance of the judgment of this Tribunal dated 16.01.2019, the appellant was granted promotion from BPS-12 to 14 and BPS-14 to 15 vide order dated 28.05.2019 but without back benefits; that the appellant being feeling aggrieved, filed departmental appeal on 31.07.2019, which was not responded, hence, the instant service appeals.

2. 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 defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

4. Prior to institution of this appeal, the appellant had filed an appeal No. 1420/2018 which was decided on 16.01.2019 in the following terms:

"Copy of a letter sent to SDEO (Male) Katlang vide Memo. No. 7983 dated 18.10.2018, as annexed with the memorandum of appeal, suggests that previously the case of appellant for promotion was not considered because there were two FIRs under different Section of PPC against him and as a consequence thereof he was suspended form service. It is further noted therein that as the appellant stood reinstated on 06.06.2018, his case will be included for promotion in the next DPS.

3. In view of the contents of the letter it is clear that the case of appellant will be considered in the next DPC, therefore, the respondents are expected to abide by the afore-noted decision. In the event that the case of appellant is not placed for consideration of promotion in the next DPC, he shall be legally entitled to seek remedy both departmentally as well through service appeal in accordance with law.

4. The appeal in hand is disposed of in the above terms. File be consigned to the record room."

5. Prayer in this appeal is the same which was made in the earlier appeal. The earlier appeal has been decided vide above order, therefore, second appeal is barred under the provisions Rule-23 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974. This appeal being hit by above rules is dismissed. Costs shall follow the event. Consign.

6. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12th day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)


Adnan Shah, PA


Due to public Holiday the case
is adjourned to 12/7/2024.
Reader
Raj

ORDER

12th July, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Sajid Khan, ADEO for respondents present.
2. Vide our detailed judgement of today placed on file, this appeal is dismissed. Costs shall follow the event. Costs shall follow the event. Consign.
3. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 12th day of July, 2024.


(Rashida Bano)
Member(Judicial


(Kalim Arshad Khan)
Chairman

Adnan Shah, P.A