

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

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

*Service Appeal No.2005/2022*

Date of presentation of Appeal.....27.12.2022  
Date of Hearing.....29.07.2024  
Date of Decision.....29.07.2024

**Mr. Muhammad Uzair Ali**, Management Cadre Officer (BPS-19),  
Posted as District Education Officer (Male) District Khyber  
.....(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. **The Secretary** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **The Secretary Establishment Department**, Khyber Pakhtunkhwa Peshawar.
4. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
5. **The Secretary** Khyber Pakhtunkhwa Public Service Commission.
6. **Mr. Jafar Mansoor Abbasi** (DEO BS-19) presently at the disposal of the Directorate of E&SE Khyber Pakhtunkhwa, Peshawar.
7. **Mst. Samina Altaf**, DEO (F) (BPS-19), presently posted as Chairperson Board of Intermediate & Secondary Education, Khat.....(*Respondents*)

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Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellant  
Mr. Asif Masood Ali Shah, Deputy District Attorney ..For official respondents No.1 to 5  
Mr. Zahid Waqar Khan, Advocate.....For private respondent No.6  
Mr. Khalid Rehman, Advocate.....For Private respondent No.7

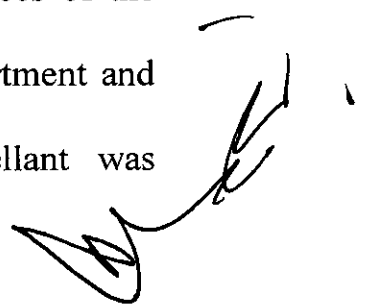
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**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE FINAL SENIORITY LIST DATED 12.10.2021 ISSUED ON 31.03.2022 WHEREBY THE JUNIOR COLLEAGUES OF THE APPELLANT HAVE BEEN PLACED/SHOWN SENIOR TO THE**



**APPELLANT AND AGAINST THE INACTION OF THE RESPONDENT BY NOT DECIDING THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

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**JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** Appellant's case as per memo and grounds of appeal is that he was initially appointed as Lecturer Political Science (BPS-17); that the respondent department advertised 26 posts of EDOs on 04.06.2009 through Khyber Pakhtunkhwa Public Service Commission; that the appellant applied and was appointed accordingly; that later on , he was appointed as Associate Professor Political Science (BPS-19) in the Higher Education Department through lien; that the appellant vide Notification dated 30.10.2011, was relieved from the post of EDO and he took charge of the post of Associate Professor (BPS-19); that the respondent department (Elementary & Secondary Education) changed the nomenclature of the post from EDO, E&SE to DEO, E&SE vide Notification dated 28.12.2012; that the reseedent department recalled the services of the appellant from the Higher Education Department through requisition in 2013, in pursuance to the requisition of respondent Department, the Higher Education through letter dated 11.09.2023 placed the services of the appellant at the disposal of the respondent Department and vide Notification dated 30.09.2013, the appellant was



allowed to rejoin the Elementary & Secondary Education Department as District Education Officer (Male) BPS-19 in the Management Cadre; that the Khyber Pakhtunkhwa Public Service Commission sent the inter-se merit of the EDOs/DEOs to the E&SE Department in 2013 for the purpose of inter-se seniority vide letter dated 02.12.2013, wherein, the appellant's name stood at Serial No.16; that some of the officers, senior to him in the seniority list, had retired while two of them were promoted to BPS-20, therefore, the appellant ought to have been placed at Serial No.2, however, he was placed at Serial No.8 in the tentative seniority list; that he filed appeal for correction in the said tentative list; that vide impugned seniority list dated 12.10.2021, appellant was placed at serial No.5; that feeling aggrieved, he filed departmental appeal for placing him at Serial No.2, but the same was not responded, hence, the instant service appeal.

02. 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.

03. We have heard learned counsel for the appellant, learned Deputy District Attorney for official respondents and learned counsel for private respondents.



04. 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 assisted by learned counsel for private respondents, controverted the same by supporting the impugned order(s).

05. While controverting the arguments of the learned counsel for the appellant, the learned Deputy District Attorney and learned counsel for the private respondents referred to letter No.833 dated 11.03.2022 on the subject of Revised and Updated (Final) Seniority list of Additional Directors/District Education Officer BPS-19 Male (Management Cadre) as stood on 12.10.2021 E&SE Department, and contended that although, a list was revised and updated which was given the name of final seniority list, but that was not actually the final, rather that was sent to the competent authority for its approval and further process. So that was not yet final list.

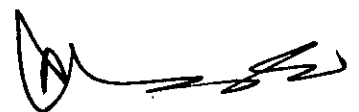
06. The facts above stated by the Deputy District Attorney as well as learned counsel for the private respondents have also been ratified by Mr. Rizwanullah, Assistant Director, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.

07. In such a situation, when both, official and private respondents are categorically and unequivocally saying that there was no final seniority list, we would like to direct the

official respondents to finalize the seniority list within 60 days of receipt of this judgment and issue notified final seniority list; duly circulate and ensure communication of the same to all concerned, within shortest possible time. Learned counsel for the appellant submitted that meeting of the Provincial Selection Board was scheduled for today, wherein, promotion of Management Cadre Officers from BPS-19 to BPS-20 in the Elementary & Secondary Education Department, was at Serial No.2 of the Agenda and that the promotion was being considered on the basis of disputed tentative seniority list. He expressed apprehension that if the seniority list was tentative or not yet finalized, any promotion on the basis of such list was not justified. The contention of the learned counsel appears to be valid, therefore, we direct that in case the PSB has considered and taken decision on Item No.2 of the Agenda, it shall not declare the result of its meeting until the issue of seniority is finalized because the tentative seniority list does not confer any right or basis for cause of action.

08. We are fortified by the judgment of the Supreme Court of Pakistan reported as 1998 PLC CS 871 titled "Khalid Rashid Shahbaz Vs. Federation of Pakistan", relevant portion of the judgment is reproduced as under:

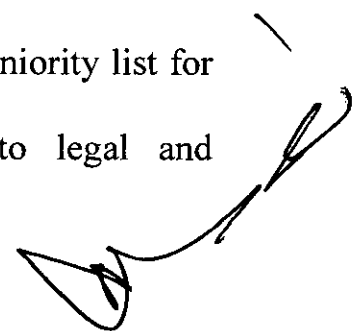
*"It is well-settled that tentative seniority list is issued only for ascertaining the position and*



*considering objections, if any, raised by the persons being affected so that a final list, which has element of reliability, be prepared and circulated. Tentative seniority list, except inviting attention for seeking correction, does not create any legitimate basis for conferring right or basis for cause of action."*

09. Therefore, promotions cannot be made solely on the basis of a tentative seniority list. A tentative seniority list is issued to invite objections and corrections, and it does not confer any substantive rights or finalize an individual's seniority. It is a preliminary step towards preparing a final seniority list. Because a tentative seniority list is subject to changes and corrections based on objections and feedback, and it does not reflect the final and accurate seniority position of individuals. Besides, promotions require a finalized seniority list to ensure fairness, transparency, and accuracy, therefore, relying solely on a tentative seniority list for promotions may lead to injustices and disputes.

10. In view of the above, it is once again mentioned that promotions should only be made based on a finalized seniority list, which has been thoroughly reviewed, corrected, and confirmed. Using a tentative seniority list for promotions is premature and may lead to legal and



administrative issues. The finalized seniority list provides a reliable and accurate basis for making promotion decisions.

11. Disposed of accordingly. Costs shall follow the event.

Consign.

12. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 29<sup>th</sup> day of July, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**RASHIDA BANO**  
Member (Judicial)

\*Mutazem Shah\*