

existence and channel of promotion provided in earlier rules. The Boilerman post was stopped by abolishing the post of Senior Boilerman in the new rules of 1993, hence, the appeal in hand is dismissed. Costs shall follow the event. Consign.

08. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 1<sup>st</sup> day of July, 2024.*



**(RASHIDA BANO)**  
Member (J)



**(KALIM ARSHAD KHAN)**  
Chairman

06. Appellant in this appeal seeks promotion from the post of Boilerman (BPS-07) to Senior Boilerman (BPS-16) with all back benefits from the alleged due date of promotion. Appellant for his promotion to the post of Senior Boilerman placed reliance upon Service Rules of 1993 notified vide Notification NO.SO(FT:II)/AD/I-465/88/Vol-JV dated 26.01.1993 and referred to Clause-I of the Annexure, wherein, in column No.1, post of the Senior Boilerman is mentioned while in column No.5, method of recruitment for the same was given as "by promotion amongst of the holders of post of Boilerman with at least five years service as such". Representative of the respondents pointed out that last page annexed with the rules by the appellant as annexure is part and parcel of the earlier rules, which was signed by authority on 02.01.1986 and he produced complete rules notified on 26.01.1993, wherein, post of the Boilerman (BPS-16) was not mentioned. He also produced copy of rules notified earlier before notification of Rules of 1993, wherein, post of Senior Boilerman was required to be filled by promotion amongst holders of post of Boilerman with at least five years' service as such. Record further reveals that appellant was appointed as Boilerman (BPS-05) on 23.02.1995, so rules which were in the field at the time of his appointment and at the time of completion of five years' service were the rules of 1993 and not the one which were in existence in the year 1986 in accordance with which post of Senior Boilerman is there and was required to be filled by promotion.

07. When post of Senior Boilerman does not exist in the appendix of the Rules of 1993 in such a situation, appellant is not entitled to be

considered for promotion to the post of Senior Boilerman, as post is not in

**“On acceptance of this appeal, the impugned order passed by the respondent No.7 on the departmental appeal/representation vide No.1121/Dir/Est: Khyber Pakhtunkhwa dated Peshawar 15.11.2019 may please be set aside and appellant may please be promoted from the post of BoilermanBPS-7 to post of Senior BoilermanBPS-16 along with all back benefits from the due date of promotion.”**

02. Brief facts of the case as per averments of appeal are that appellant was serving as Boilerman in the respondent Department; that he was sent in surplus pool in the year 1999 and was re-adjusted on the same post on 13.08.2001; that the appellant filed application for promotion but in vain; that his post was upgraded from BPS-5 to BPS-7 and again requested for his promotion; that he filed writ petition before the Peshawar High Court which was dismissed; that on 11.11.2019, he filed departmental appeal to the respondent No.7 which was rejected, hence, the instant service appeal.

03. 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.

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

05. 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).



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2242/2019

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN  
MRS. RASHIDA BANO ... MEMBER (J)

Tamiz Ud Din Son Meftah Ud Din Resident of Village DaraLoundKhwar Tehsil TakhtBhai District Mardan. Presently serving as Boilerman in Parachinar Sericulture Officer Parachinar District Kurram.

.... (*Appellant*)

VERSUS

1. Director, Non-Timbers Forest Productions Shami Road, Peshawar.
2. Chief Secretary Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Secretary Environmental Protection Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. Secretary Fisheries, Forestry & Environmental Department: Khyber Pakhtunkhwa, Peshawar.
5. Chief Conservator Forestry-I Khyber Pakhtunkhwa, Peshawar.
6. Deputy Director Non-Timbers Forest Productions, Khyber Pakhtunkhwa, Shami Road, Peshawar.
7. Assistant Director Non-Timbers Forest Productions Sericulture, Khyber Pakhtunkhwa, Conservator Office, Shami Road, Peshawar.
8. Budget & Accounts Officer, Non-Timbers Forests Productions Shami Road, Peshawar ... (*Respondents*)

Mr. Taimur Ali Khan  
Advocate

... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For respondents

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Date of Institution.....24.03.2022  
Date of Hearing.....01.07.2024  
Date of Decision.....01.07.2024

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:

