

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**  
**AURANGZEB KHATTAK** ... **MEMBER (Judicial)**

**Service Appeal No. 7124/2021**

Date of presentation of Appeal.....19.07.2021  
Date of Hearing.....23.07.2024  
Date of Decision.....23.07.2024

**Miss. Hafsa Nishan Abbasi, SST (Bio/Chem) (BPS-16), GGHS, Bakote, Abbottabad. ....Appellant**

**Versus**

1. The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Female), District Abbottabad.  
.....(Respondents)

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Present:

Mr. Noor Muhammad Khattak, Advocate.....For appellant  
Mr. Muhammad Jan, District Attorney .....For respondents  
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**JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** According to the facts gathered from the record are that the appellant, was appointed as a Qaria (BPS-12) in Education Department on 31-12-2012, promoted to Senior Qaria (BPS-15) on 18-05-2018, and later on applied for promotion to SST (Bio/Chem) (BPS-16). After inquiries and recommendations for promotion, an impugned order dated 03-02-2021 was issued whereby promotion order of the appellant dated 18-05-2018 was withdrawn. However, vide order dated 09-02-2021, the appellant was promoted from the post of Qaria (BPS-12) to the post of SST (Bio/Chem) BPS-16. Feeling aggrieved from the impugned order dated 03-02-2021, the



appellant filed departmental appeal on 15-03-2021, which was not responded, hence, the appellant filed the instant service appeal for redressal of her grievance.

2. On receipt of the appeal and its admission to regular hearing, the respondents were summoned. Respondents put appearance through their respective representative and contested the appeal by way of filing para-wise reply, raising therein numerous legal as well as factual objections.

3. Learned counsel for the appellant contended that the appellant, being eligible for promotion to the post of SST (Bio/Chem) (BPS-16) due to a vacancy and her qualifications, submitted an application which led to a series of inquiries where she was recommended for promotion. He next contended that the impugned order dated 03-02-2021, withdrawing the promotion of the appellant from Senior Qaria position, was passed without providing proper notice and chance for personal hearing, hence, violated the service laws and rules. He further contended that the subsequent promotion order dated 09.02.2021 to the post of SST (Bio/Chem) from the Qaria position was made in violation of service laws and rules. He further contended that actions of the respondents were arbitrary, malafide, depriving her of financial benefits already accrued, hence, violated the K.P civil servant Act, 1973 and the K.P (A.P.T) Rules, 1989. In the last he argued that the appeal in hand might be accepted as prayed for.

4. On the other hand, learned District Attorney for the respondents contended that the initial promotion order dated 18.05.2018 of the



appellant, whereby she was promoted from the post of Qaira (BPS-12) to the post of Senior Qaria (BPS-15) was made in error and subsequent inquiries revealed the error, therefore, vide order dated 03.02.2021 the promotion order dated 18.05.2018 was rightly withdrawn. He next contended that vide order dated 09.02.2021, the appellant had already been promoted to the post of SST (Bio/Chem) (BPS-16), therefore, no financial loss has been accrued to the appellant. He further contended that the promotion process was made as per rules and law, and the appellant's treatment was in line with the regulations, therefore, the appeal in hand might be dismissed with costs.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. Perusal of the record would show that the appellant had initially joined the Education Department as a Qaria (BPS-12) through an appointment order dated 31-12-2012. On 18-05-2018, the appellant was promoted to the post of Senior Qaria (BPS-15). The record further shows that the appellant submitted application for her further promotion to the post of SST as a post under the promotion quota of Senior Qaria to SST had fallen vacant for a considerable time. The District Education Officer (Female) Abbottabad, while seeking guidance on the matter, sent a letter dated 09-04-2020 to Director Elementary & Secondary Education, Khyber Pakhtunkhwa. On 03-02-2021, the impugned order was issued vide which the promotion order, dated 18-05-2018 of the appellant, from the post of Qaria (BPS-12) to the post of Senior Qaria (BPS-15), was withdrawn. The order dated



03.02.2021 strictly addressed the withdrawal of the promotion from Qaria to Senior Qaria. There was no mention or directive regarding the recovery of excess salaries received by the appellant during the period of the promotion. In the absence of any specific clause about salary recovery in the impugned order prima facie indicates no intention or directive for recouping the salaries paid above the BPS-12 grade. Subsequently, the appellant was promoted to the post of SST (Bio/Chem) (BPS-16) on 09-02-2021, but from the original post of Qaria (BPS-12), not from Senior Qaria (BPS-15). Since the appeal's premise is based on preventing a recovery action which is not directed or implied by the impugned order, the appeal appears to be based on an unfounded apprehension rather than concrete administrative actions or directives.

7. In view of the aforementioned findings and the clear absence of any explicit recovery order in the impugned order dated 03.02.2021, the appeal in hand is disposed of. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23 day of July, 2024.*



**KALIM ARSHAD KHAN**  
Chairman




**AURANGZEB KHATTAK**  
Member (Judicial)

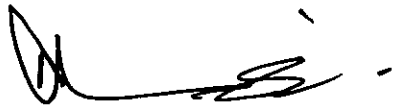
Service Appeal No. 7124/2021 titled Miss. Hafsa Nishan Abbasi Versus The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar and others.

**ORDER**

23<sup>rd</sup> July, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan District Attorney alongwith Mr. Zahid Gul, ADEO for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, the appeal in hand is disposed of. Costs shall follow the event. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23 day of July, 2024.*

  
(Aurangzeb Khattak)  
Member (Judicial)

  
(Kalim Arshad Khan)  
Chairman

\*Naeem Amin\*