

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.154/2022**

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

**Muhammad Rashid, Ex-Lab Supervisor, Government College, Lakki Marwat.**  
**... (Appellant)**

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Higher Education Department, Peshawar.
2. Director, Higher Education Department, Peshawar.
3. Government of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar
4. Principal, Government Post Graduate College, Lakki Marwat.

**... Respondents)**

Tajdar Faisal Khan Marwat  
Advocate

... For Appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For Respondents

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Date of Institution.....02.02.2022  
Date of Hearing.....11.07.2024  
Date of Decision.....11.07.2024

**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:

**“On acceptance of this appeal, the respondent may kindly be directed to give proforma promotion to the appellant since the date when the post of Lab Superintendent became vacant.”**



2. Brief facts of the case are that the appellant was working as Lab Supervisor (BPS-14) and was posted at Government Post Graduate College, Lakki Marwat. The appellant was placed at serial No. 14 of the seniority list of the Lab Supervisors. That respondents vide notification dated 14.04.2021, amended the service rules for the Lab Staff posted in different colleges throughout the province. As per amended service rules, a person who remained lab Supervisor for three years become eligible for promotion to the post of Lab Superintendent. Appellant filed departmental appeal, which was transmitted to the respondent No.2 for consideration. In the meanwhile, the appellant was retired from service upon the age of superannuation on 24.04.2021. Departmental appeal of the appellant was dismissed vide impugned order dated 13.01.2022, 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 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 District Attorney controverted the same by supporting the impugned order(s).

6. Perusal of record reveals that appellant was working as Lab Supervisor (BPS-14) and was posted at Government Post Graduate



College, Lakki Marwat. The appellant was at serial No.14 of the seniority list of Lab Supervisors, prepared by the respondents. Respondents/Government vide notification dated 14.04.2021, amended the existing rules for the Lab Staff posted in the colleges throughout the province. As per said amended rules, a person who remained lab supervisor for three years becomes eligible for promotion to the post of Lab Superintendent. After changing the promotion criteria, the present appellant moved an appeal to respondent No.1 for his promotion in light of amended rules, because number of post of Lab Superintendents were available. But due to the lengthy procedure for convening departmental promotion committee, the appellant case was not considered at the time when the appellant was in service. In the meanwhile, the appellant attained the age of superannuation and retired on 24.04.2021 and in this respect, separate order was issued.

7. Appellant through instant appeal seeks proforma promotion to the post of Lab Superintendent (BPS-16). Appellant became eligible for the promotion upon strength of the rules issued vide notification dated 14.04.2021 in accordance which a civil servant who remained Lab Supervisor BPS-14 for three years was held eligible for promotion to BPS-16 Lab Superintendent and at that appellant had at his credit more than three year length of service and appellant retired on 24.04.2021 means on 10th day of issuance of notification of amendment in rules dated 14.04.2021. At the time of retirement of appellant, no working paper was prepared and no meeting of DPC was scheduled to be held, which was later on held on 14.09.2021.

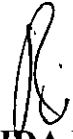


8. In our humble view, appellant is not entitled for proforma promotion as is claimed by him, because he retired immediately after his eligibility and no delay or inaction on the part of respondent was there due to which appellant got retired and his legitimate expectation of promotion was not completed/fulfilled.

9. For what has been discussed above, we are unison to dismissed appeal in hand. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 11<sup>th</sup> day of July, 2024.*

  
(KALIM ARSHAD KHAN)  
CHAIRMAN

  
(RASHIDA BANO)  
Member (J)

**ORDER**

11.07.2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney alongwith Muhammad Sohrab Khan, Law Officer for official respondents present.
2. Vide our detailed judgement of today placed on file, we are unison to dismissed appeal in hand. Costs shall follow the event. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 11<sup>th</sup> day of July, 2024.*



(KALIM ARSHAD KHAN)  
CHAIRMAN



(RASHIDA BANO)  
Member (J)