

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 3936/2020

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

Mr. Arshad Khan S/o Toor Muhammad, Naib Qasid, Governor House,  
Peshawar, R/o Fatu Abdur Rahima, District Peshawar.

.... (Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Secretary Establishment, Civil Secretariat, Peshawar.
2. Secretary to Governor, Khyber Pakhtunkhwa, Governor House, Peshawar.
3. Special Secretary Establishment, Civil Secretariat, Peshawar.
4. Section Officer to Military Secretary to Governor, Peshawar.
5. Secretary Administration, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

... (Respondents)

Mr. Hazrat Said Khan  
Advocate

...

For appellant

Mr. Muhammad Jan  
District Attorney

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For respondents

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Date of Institution.....19.03.2020

Date of Hearing.....18.07.2024

Date of Decision.....18.07.2024

**CONSOLIDATED 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 service appeal, the respondents may please be directed to include the name of the appellant in the seniority list from the date of his appointment and be promoted on his turn according to the seniority list.”**

2. Through this single judgment, we intend to disposed of the instant service appeal as well as connected service appeals which are mentioned below, as in all these appeals common questions of law and facts are involved:

1. Service Appeal No. 3935/2020
2. Service Appeal No. 3937/2020
3. Service Appeal No. 3938/2020
4. Service Appeal No. 3939/2020
5. Service Appeal No. 3940/2020

3. Brief facts of the case are that appellants are working in the Governor House, Khyber Pakhtunkhwa Peshawar since their appointment. During service, seniority list of matriculate Class-IV employees was issued vide notification dated 24.07.2015 in which names of the appellant were missing. They file writ petition before the Hon'ble Peshawar High Court, Peshawar bearing No. 789-P/2016 for inclusion their names in the seniority list but was dismissed on the ground of jurisdiction. That in the year 2018-19 impugned seniority lists were issued in which again names of the appellants were missing. Feeling aggrieved, he filed departmental appeal, which was not responded to, hence the present service appeal.

4. 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.

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

6. 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).

7. Perusal of record reveals that appellants are working in the Governor House, Peshawar who were appointed in accordance with proviso to Rule 10 of (Appointment, Promotion & Transfer) Rules, 1989. Appellants contended that they are civil servants and their names ought to have been included in the seniority list of the Class-IV employees of the respondent/department. Admittedly there is no separate Service Rules for the employees of the Governor House as is stated by the respondents in their reply. Under Section-5 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 the Governor is the overall head of the provincial government and all appointments had to be made by the Governor himself or anyone else authorized on his behalf. When Governor is head actual authority and all appointments of civil servants is made by him or on his name by his delegates and that persons are treated civil servant, then equality demands that any one appointed by his military secretary to whom too he delegated powers of appointment be also treated as civil servant. Details of Class-IV employees of Chief Minister House Secretariat promoted as Daftari (BPS-04) on the recommendation of DPC vide order dated 21.05.2018.



S.No	Name	Designation	Department
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28	Rizwan Ahmad	NaibQasid	Chief Minister Secretariat
39	Syed AyazHussain Shah	NaibQasid	-do-
42	Fazle Amin	NaibQasid	-do-
54	Riaz Khan	NaibQasid	-do-
71	Sajid Khan	NaibQasid	-do-
72	Naseemullah	NaibQasid	-do-
78	BakhtBilland	NaibQasid	-do-
81	Arshad Khan	Chowkidar	-do-
87	Roohullah	NaibQasid	-do-
123	Murad Khan	NaibQasid	-do-
184	TanveerGhulam	Sweeper	-do-
208	SherTaj	Chowkidar	-do-
230	Saifullah	Farash	-do-
231	Tariq Jan	Mali	-do-
232	Najeeb	Chowkidar	-do-
236	Syed Zafar Ali Jafri	NaibQasid	-do-
246	Yousaf Ali Shah	NaibQasid	-do-
247	Gohar Ali	NaibQasid	-do-

8. Appellants alleged that many employees of Chief Minister House Secretariat are also included in the list and were promoted as Daftari BPS-04 on regular basis vide order dated 21.05.2018. So, from it, it is clearly established that employees working in the Houses were not only included in the seniority list by respondent rather they were promoted too. Appellants being a civil servants also entitled for some treatment like employees of all others Houses, must be given equal and fair chance of career progress, if their name were not included in any seniority list, they will be deprived from legitimate expectation of promotion and will remain as Class-IV for their entire service period which is injustice.

9. Respondents were directed several time to produce rules and on previous date Mr. Muhammad Shakeel, Deputy Secretary Administration was present on the previous date i.e. on 09.07.2024, who sought time to assist the Tribunal in light of Judgment in Service Appeal No.149/2015 titled "Ayub Khan Vs Chief Secretary" on 27.09.2023. He was directed to produce four

copies of Rules of 1970 but today he did not bother to attend this Tribunal what to say about assistance of Tribunal. This attitude of the Deputy Secretary is not of a good civil servant and needs strict action by the authorities. When respondent are not interested to defend and safeguard their interest by providing proper assistance to this Tribunal. Then in such a situation the only way left with us is to accept the appeal on the ground that appellants should not be discriminated and be treated equally with employees of other Governor Houses.

10. For what has been discussed above, we accept the instant service appeal as well as connected service appeals with direction to respondents to determine seniority of the appellants like employees of other Houses and include their names in seniority list of Class-IV employees. Costs shall follow the event. Consign.

11. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 18<sup>th</sup> day of July, 2024.*

  
(KALIM ARSHAD KHAN)  
Chairman

  
(RASHIDA BANO)  
Member (J)

**ORDER**

18.07.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Aimal Khan, Section Officer to Military Secretary and Azmat Shah, Section Officer to Principal Secretary to the Governor Khyber Pakhtunkhwa for the respondents present.
2. Vide our detailed judgment of today placed on file, we accept the instant service appeal as well as connected service appeals with direction to respondents to determine seniority of the appellants like employees of other Houses and include their names in seniority list of Class-IV employees. 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 18<sup>th</sup> day of July, 2024.*



**(KALIM ARSHAD KHAN)**  
Chairman



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