BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.943/2019

Nuzat Afshan . **VS** Education Deptt:, etc

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RESPONDENT NO.4

Through:

(UZMA SYED)
ADVOCATE, PESHAWAR.

&

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

04-04-2024

peshr

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.943/2019

Nuzhat Afshan Arabic Teacher,
GMS Zarif Kor, Distt: Mohmand

.....**APPELLANT**

VERSUS

1. Director E&Se Deptt: Khyber Pakhtunkhwa, Peshawar and 2 others.
2. Nazia Saeed SST (General), GGMS, Baz Muhammad Kore District Mohmand (Respondent no.4).

.....**Respondents**

PARA-WISE COMMENTS ON BEHALF OF PRIVATE RESPONDENT NO: 4

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTION:

1. That the appellant has got no cause of action to file the instant appeal,
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by her own conduct to bring the instant appeal.
5. The appeal is not maintainable in its present form.
6. The appeal of the appellant is not competent.
7. The appellant has no cause of action, so appeal is not maintainable.
8. The appellant has no locus standi.
9. That the appeal is time barred.
10. That the promotion order of the appellant as SAT was already withdrawn by the deptt which was never challenged by the appellant, so claimed of the appellant for promotion to the post of SST in presence of Senior Arabic teacher is not maintainable.

FACTS:

1. Denied for want of knowledge.

(9)

2. Incorrect. Hence denied. The Notification dated 7/4/2014 through which the appellant promoted to SAT was withdrawn by the respondent department vide notification dated: 16/9/2014. **(Copy of the notification is already attached with the reply of the official respondents)**.

3. Correct. The respondent No.4 was duly promoted by the respondent No.1 vide Notification 29/3/2019 and since then is performing her duty as SST (BPS-16).

4. Correct. That although the appellant was on top of the list but she hold the post of Arabic Teacher (AT) while on the other hand the respondent No.4 hold the post of Senior Arabic Teacher (SAT) and as per rules promotion to SST is fron SAT if SAT is not available than from the AT. So, the respondent No.4 was being the most eligible candidate for promotion to SST (BPS-16) and thus duly promoted under the rules.

5. Incorrect. Hence denied. The respondent No. 4 was among the most senior in Senior Arabic Teacher SAT (BPS-16) as evident from the seniority list on serial No.8. So, respondent No. 4 was the most eligible Candidate for promotion to SST and thus was duly promoted, Similarly, it is also pertinent to mentioned over here that in the recent departmental promotion committee meeting the appellant name is under consideration for promotion to Senior Arabic Teacher.

6. The appellant does not accrue any right for, promotion to SST as currently she hold AT post and her name is under consideration for promotion to SAT.

7. Incorrect. Hence denied. The notification of 29-03-2019 is in accordance with law as followed all the required codal formalities. Therefore, the promotion of respondent No. 4 vide the notification dated 29-03-2019 is in accordance with law.

GROUNDS:

A. Incorrect. Hence denied. The promotion of respondent No. 4 is in accordance with law.

B. Incorrect. Hence denied. The detailed answer is elucidated in above para.

C. Incorrect. Hence denied. As elucidated in para 4,5 and 6.

D. Incorrect. Hence denied. The appellant name is under consideration for promotion to SAT before the Departmental promotion committee And if found eligible will be promoted to SAT and not to SST.

E. Incorrect. Hence denied. See answer in the above para.

F. Incorrect hence denied. The notification dated: 29-03-2019 of the respondents is in accordance with law. The answering department followed all the required codal formalities and while doing so the answering respondents did not violate any provision of law.

G. Denied for want of knowledge.

It is, therefore, most humbly prayed that the appeal of the appellant being devoid of merit may kindly be dismissed with costs throughout.

RESPONDENT NO.4

Through:

(UZMA SYED)
ADVOCATE, PESHAWAR.

&

(SYED NOMAN ALI BUKHARI)
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AFFIDAVIT:

I, Nazia Saeed SST (General), GGMS, Baz Muhammad Kore District Mohmand (Respondent no.4) affirmed and declared that the contents of reply are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able Tribunal.

DEPONENT