

**ORDER**

12.06.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Mr. Ali Gohar Durani, Legal Advisor for the respondents present.
2. Vide our detailed judgment of today placed on file, we are unison to dismiss the appeal in hand being devoid of merit. 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 12<sup>th</sup> day of June, 2024.*

  
(FAREEHA PAUL)  
Member (E)


  
(RASHIDA BANO)  
Member (J)

appellant is not mentioned in the seniority of Junior Instructors Electrical issued on 31.12.2015. However, later on his name was mentioned in the seniority list of Junior Instructor Degree Holders in the final seniority list as stood on 31.12.2016 and same position remained intact till year 2018. As per Rules, Junior Instructors Electrical and Trade Instructors are post of two different cadres i.e. Technical and Vocational, therefore, inclusion of the name of the appellant in the seniority list of Junior Instructor of Technical cadre, because he was working there is a mistake which was rectified by the department and included name of the appellant in his proper cadre's seniority list.

9. So, name of the appellant was erroneously brought on the seniority list of Junior Instructor which does not confer any right to the appellant that too in the situation when department rectified his mistake.

10. For what has been discussed above, we are unison to dismiss the appeal in hand being devoid of merit. 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 12<sup>th</sup> day of June, 2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

name was placed at Serial No.41 instead of Serial No.1. The appellant filed representation against the said joint seniority list on 30.04.2019. The respondents vide notification dated 24.05.2019 notified joint final seniority list of Junior Instructors Degree Holders and Diploma Holders wherein the appellant name was placed at Serial No.42 instead of Serial No.1. The appellant filed departmental appeal on 27.05.2019 but was not responded despite the lapse of more than ninety days.

7. It is admitted fact on record that appellant was appointed as Trade Instructor BPS-11 vide order dated 10.03.2011 and post of the appellant was upgraded to BPS-14 on the basis of up-gradation notification dated 15.09.2014 vide order dated 06.01.2015. Appellant requested for change of his cadre from Vocational side to Polytechnic side vide application dated 23.07.2011 as he was working as Instructor Electrical (BPS-11) in Government Technical and Vocational Center TakhtBhai, said application was sent but no order was issued by the authority upon it as no provision in rules exist. Appellant is well aware of it as he vide application dated 25.04.2013 requested Director General Technical KPK to issue order to upgrade his post of Trade Instructor from (BPS-11) to BPS-14 on the basis of which post was upgraded on 06.01.2015. Appellant again submitted his request vide application dated 20.03.2015 for giving effect of up-gradation of his post order date 06.01.2015 which means appellant is well in knowledge that his cadre was not changed.

8. Now, come towards seniority list issued by the respondent in the year 2014 annexed by the appellant, although appellant mentioned in his appeal that his name was mentioned at the top of seniority list of year 2014 to 2018 but name of the

respondents. He further argued that omissions and commissions of the respondents are illegal and void ab-initio. He further argued that respondents used to issue separate seniority list of Degree Holders and Diploma Holders from the year 2014 to 2018, wherein appellant was placed at the top of the seniority list and as such was to be promoted in the quota reserved for the degree holders. He further argued that respondents have deprived the appellant of his due seniority by issuing joint seniority list of the Degree Holders and Diploma Holders. He requested for acceptance of the instant service appeal.

5. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that the post of the appellant is Trade Instructor(BPS-15) of the vocational stream cannot be placed in the seniority list of Junior Instructors BPS-15 of the Polytechnic Stream. The name of the appellant has been inadvertently included in the seniority list of other cadre/stream. This omission was corrected. Thus the appellant has no legal right to claim his seniority position in the seniority list of Junior Instructor BPS-15 of the polytechnic stream. He requested for dismissal of the instant service appeal.

6. Perusal of record reveals that appellant has acquired his B.Tech (Hons) degree on 12.02.2012 and consequent to advertisement No.1/2008 was appointed as Trade Instructor (BPS-11) on 10.03.2011. The post of Trade Instructor was initially upgraded from 2014 and then from the date of appointment of the appellant and the appellant is presently serving as Junior Instructor (BPS-15) at Government College of Technology Tangi, Charsadda. The appellant stood at the top of seniority list of Junior Instructors Degree Holders notified in the year 2014 to 2018 as is evident from the same. Vide letter dated 23.04.2019 joint Tentative Seniority list of Junior Instructors Degree Holders and Diploma Holders was issued wherein the appellant



**Dated 24.05.2019 may kindly be set aside and respondents may kindly be directed to issue separate Final Seniority List of Instructors (Male) Diploma Holders and Degree Holders (BPS-15) (Technical Subjects) instead of clubbing the Seniority of Diploma Holders and Degree holders placing the appellant at the top of the Seniority list with effect from 24.05.2019 with all back benefits.”**

2. Brief facts of the case are that the appellant is B. Tech (Hons) degree holder was appointed as Trade Instructor (BPS-11) on 10.03.2011. The post of Trade Instructor was upgraded in the year 2014 and from the date of appointment till date appellant is serving as Junior Instructor BPS-15. The respondents used to notify separate seniority list of junior instructor holding diploma and those junior instructors holding degree. As per duly notified seniority lists from the year 2014 to 2018 of the junior instructors degree holders, appellant stands at the top. Respondents vide letter dated 23.04.2019 issued joint tentative seniority list of Junior Instructor Degree holders and Diploma Holders wherein name of the appellant was placed at serial No. 41 instead of 1 against which he filed representation. Thereafter, respondents issued final seniority list vide notification dated 25.04.2019 wherein he was placed at serial No. 42. Feeling aggrieved he filed departmental appeal on 27.05.2019, which was not responded to, hence the present service appeal.

3. Respondents were put on notice who submitted written reply on the appeal. We have heard learned counsel for the appellants and learned District Attorney Advocate General for the respondents.

4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and mandatory provision of law have been violated by the



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.1133/2019

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

**Muhammad Zeeshan, Junior Instructor (BPS-15), Government College of  
Technology Tangi District Charsadda.**

.... (*Appellant*)

**VERSUS**

1. Managing Director, Khyber Pakhtunkhwa Technical and Vocational Training Authority (Khyber Pakhtunkhwa TEVTA), Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Industries and Commerce and Technical Education Department, Peshawar.

.... (*Respondents*)

Mr. Fazal Shah Mohmand  
Advocate ... Forappellant

Mr. Muhammad Jan  
District Attorney ... Forrespondents

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Date of Institution.....11.09.2019  
Date of Hearing.....12.06.2024  
Date of Decision.....12.06.2024

**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:

**“That on acceptance of this appealthe impugned Joint Final Seniority List of Instructors (Male) Diploma Holders/Degree Holders (BPS-15) (Technical Subjects) issued vide Notification**

