

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 12th day of June, 2024.*


(FAREEHA PAUL)
Member (E)



(RASHIDA BANO)
Member (J)

Electrical of Technical Stream/Cadre for the year 2016 to 2018 which was rectified by the department and name of the appellant was brought on to his own cadre seniority list.

8. No right accrued to the appellant due to erroneous mentioning of his name in the seniority list of wrong cadre. Now after placing the appellant to his own cadre, he was promoted to the post of Senior Instructor (BPS-17) alongwith others vide order dated 10.12.2021. So, wrong mentioning of name of the appellant in seniority list of other cadre had not confer any right to appellant for seeking promotion in that cadre.

9. For what has been discussed above, we are unison to dismiss the 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 12th day of June, 2024.*

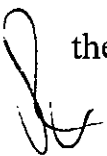

(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

claim his promotion as 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 and since the he performed his duties honestly. 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. That forty nine lectures (BPS-17) (Technical Subject) Degree Holders and Diploma Holders were promoted as Assistant Professors (Technical Subject)(BPS-18) vide notification dated 25.01.2018 while 11 Lecturers (Technical Subject) Diploma Holders were promoted as Assistant Professor (Technical Subject) Diploma Holders (BPS-18) vide notification dated 10.01.2018 and nine Junior Instructors (Diploma Holders) were also promoted as Lecturers (BPS-17).

7. Vide notification dated 25.01.2018 by ignoring the appellant despite being at the top of seniority list of Junior Instructors. Appellant was appointed as Trade Instructor vide order dated 10.03.2011 but posted against the post of Junior Instructor who although submitted application for change of his cadre to Junior Instructor Polytechnic stream from Trade Instructor of Vocational stream on 23.07.2011 as at that time he was working as such, but same was not accepted because there was no provision in the rules as such for change of cadre. Name of the appellant was wrongly mentioned in the seniority list of Junior Instructor



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. Respondents issued final seniority list of Junior Instructors Degree Holders vide notification dated 08.03.2018 in which appellant was at the top. Respondents promoted different cadre employees including the cadre of appellant but he was ignored. Feeling aggrieved, he filed departmental appeal, 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 respondents. He further argued that omissions and commissions of the respondents are illegal and void ab-initio. He further argued that appellant is fit, eligible besides being senior for promotion as Lecturer (BPS-17) but he was not promoted which is injustice. 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 not legal right to

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1081/2019

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

... For appellant

Mr. Muhammad Jan
 District Attorney

... For respondents

Date of Institution.....22.08.2019
 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 appeal the respondents may kindly be directed to promote the appellant as Lecturer (BPS-17) (Technical Subjects) Degree Holder with effect from 25.01.2018 with all back benefits.”