

26 Feb, 2024

1. Learned counsel for the appellant and Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the case. Adjourned. To come up for arguments on 28.05.2024 before D.B at Camp Court, Abbottabad.

P.P given to the parties.

SCANNED
K.P.S.T
Peshawar

(Salah Ud Din)
Member (J)
Camp Court, A/Abad

(Kalim Arshad Khan)
Chairman
Camp Court, A/Abad

Mutazem Shah

Due to public Holiday the case is
adjourned to 24/7/2024.
Reader

ORDER

24.07.2024

Learned counsel for the appellant present. Mr. Syed Asif Masood Ali Shah, learned Deputy District Attorney alongwith Mr. Sohail Ahmad Zeb, Assistant and Ms. Lala Rukh, D.M, for respondents present.

2. For what has been discussed above, we find no merit in the service appeal in hand, hence dismissed. Costs shall follow the event.

Consign.

3. *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 24th day of July, 2024.*

(FAREEHA PAUL)
Member (E)
Camp Court, Abbottabad


(RASHIDA BANO)
Member (J)
Camp Court, Abbottabad


notification dated 08.12.2021 on record from notification dated 08.12.2021, it is established that date of regular appointment of the three promotees is 01.07.1997 as PHST while appellant was promoted as PHST on 26.02.2014, which means that she is junior to all the three promotees of above mentioned notification dated 08.12.2021.

10. Learned council for the appellant referred to condition No. 4 of her promotion order dated 26.02.2014 which is “their inter se seniority on lower post will remain intact.” This is of no help to the appellant as she failed to establish on record that in lower post PST all the three promotees were junior to her and upon promotion as PHST appellant will regain his seniority position being batch mates of these three promotees of order dated 08.12.2021.

11. For what has been discussed above, we find no merit in the service appeal in hand, hence dismissed. Costs shall follow the event. Consign.

12. *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 24th day of July, 2024.*


(FAREEHA PAUL)
Member (E)
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(RASHIDA BANO)
Member (J)
Camp Court, Abbottabad

6. Perusal of record reveals that appellant through instant appeal seeks antedation of her promotion order dated 26.02.2020 to the date, when her juniors were promoted and challenged promotion order of other teachers PST to SST (BPS-16) dated 8.12.2021

7. Appellant filed instant service appeal under section 4 of Khyber Pakhtunkhwa service Tribunal ACT 1994 which reads as:

“Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him, prefer an appeal of the appeal having jurisdiction in the matter”

8. Appellant had not filed departmental appeal against order dated 26.02.2014 to her appellate authority within thirty days of its passing for antedating it, moreover, she had not mentioned any specific order with number or date nor any junior official who was promoted before appellate as PST, beside she actualized her promotion immediately after order dated 20.02.2014, so now she is estopped by her conduct to seek antedation for her promotion.

9. Appellant also challenged promotion notification dated 08.12.2021 vide which three PHST were promoted to post of SST(G) (BPS-16) on the ground that she being senior to them was entitled for promotion. She had not annexed any seniority list or any other document from which factum of seniority of the appellant can be determined as compare to all the three promotees of

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no.3, and not promoted petitioner due to senior teacher, petitioner is entitle for promotion against the post of PST (BPS-15) with effect from when junior teacher where promoted and also promote against the post of set (BPS-16) from the date when junior teacher were promoted as set with all back benefits, any other relief which this honourable tribunal deem fit and appropriate given to the petitioner.”

2. Brief facts of the case are that appellant was appointed as Primary School Teacher vide order dated 03.08.1986. She passed her Primary Teaching Certificate (PTC) in the year 1992 and B.A in 2013. She was promoted to the post of PSHT (BPS-15) vide notification dated 26.02.2014. On 08.12.2021 respondents promoted juniors to the appellant to the post of SST, but she was ignored. Feeling aggrieved she filed departmental appeal on 10.02.2022, which was not responded, hence the instant 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 appellant and learned Deputy 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 Deputy District Attorney controverted the same by supporting the impugned order(s).



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT CAMP COURT ABBOTTABAD

Service Appeal No.887/2022

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

Gul Faraz Ayub D/O Mohammad Ayub R/O Lora Tehsil Havelian District
Abbottabad.

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education ,Peshawar.
2. Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (F), Abbottabd.
4. SDEO (F), Circle Lora Tehsil Havelian District Abbottabad.

.... (Respondents)

Muhammad Liaqat
Advocate

... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney

... For respondents

Date of Institution.....07.06.2022
Date of Hearing.....24.07.2024
Date of Decision.....24.07.2024

JUDGMENT

RASHIDA BANO, MEMBER (J):The instant appeal instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of this appeal impugned order no 697 dated 26.02 2014 and order no.11034-43 dated 08.12.2021 passed by respondent