


ORDER

15.07.2024 1 Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, learned Deputy District Attorney alongwith Imran Akbar, Assistant for respondents present.

2. Vide our detailed judgment of today placed on file, we are unison to dismiss the instant appeal being not maintainable. 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 15th day of July, 2024.*


(MUHAMMAD AKBAR KHAN)
Member (E)



(RASHIDA BANO)
Member (J)


appeal nor in the departmental appeal any specific order is challenged vide which junior to appellant was promoted. So, both departmental as well as instant appeal are vague, ambiguous and lacks the prerequisite of original or appellate order which will have to be set aside or at least promotion be granted to the appellant from that particular date, when juniors to him was promoted.

8. Respondents also in their comments stated that promotion order was issued of juniors to appellant from which appellant is aggrieved. Now appellant is at serial No.1 of the seniority list who will be promoted, if he was found otherwise eligible.

9. For what has been discussed above, we are unison to dismiss the instant appeal being not maintainable. 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 15th day of July, 2024.*


(MUHAMMAD AKBAR KHAN)
Member (E)


(RASHIDA BANO)
Member (J)

qualified the Division Accounts Examination Para-1 in 2012 in pursuance of which he was posted as Divisional Accounts Officer (Emergency Cadre) vide Accountant General Khyber Pakhtunkhwa Office Order dated 20.08.2013. On 15.02.2021, the services of the appellant were placed at disposal of Gilgit Baltistan Council Secretariat, Islamabad and he is now performing duties in Gilgit Baltistan. During the course of employment in Gilgit Baltistan, the appellant came to know about the process of promotions from the post of Senior Clerk to Assistants for which appellant himself is also eligible in his parent department. As per information and knowledge of the appellant, the respondents/parent department was reluctant to consider the appellant for promotion; hence he submitted his departmental appeal for the purpose of promotion. Department/respondents failed to consider the appeal of the appellant in statutory period of 90 days.

7. Appellant through instant appeal seeks his promotion to the post of Assistant from the post of Senior Clerk/Accounts Clerk for which he was eligible. Appellant filed instant appeal under section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 which read 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.”

Thus, for filing appeal before this Tribunal original or appellate order existence is condition prerequisite. Appellant filed an application in shape of request for report in promotion zone from Senior Clerk to Assistant only. Neither in the

considered with such other relief as may deem fit in the circumstances of the case may also be granted.”

2. Brief facts of the case are that appellant was appointed as Junior Clerk vide order dated 05.05.1985. He was promoted to the post of Senior Clerk in the year 2009. Appellant qualified the Divisional Accounts Examination in 2012 in pursuance of which he was posted as Divisional Accounts Officer (Emergency Cadre) vide Accountant General Khyber Pakhtunkhwa Office Order dated 20.08.2013. On 15.02.2021, service of the appellant was placed at the disposal of Gilgit Baltistan Council Secretariat, Islamabad. During course of employment in Gilgit Baltistan, respondents/parent department promoted juniors to the appellant to the post of Assistant and he was ignored. Feeling aggrieved, he filed departmental appeal 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 appellants and learned 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).
6. Perusal of record reveals that appellant was initially appointed as Junior Clerk vide order dated 05.05.1985 and was promoted, with the passage of time from Junior Clerk to Senior Clerk vide order dated 26.08.2009. Appellant



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7602/2021

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MR MUHAMMAD AKBAR KHAN... MEMBER (E)

**Mr. Fazli Ahmad, Senior Clerk/Divisional Accounts Officer,
Communication & Works Department.**

.... (Appellant)

VERSUS

1. Secretary to Government of Khyber Pakhtunkhwa Communication & Works Department, Civil Secretariat, Peshawar.
2. The Chief Engineer, (Centre), Communication & Works Department, Peshawar.
3. Administrative Officer, Office of the Chief Engineer, (Centre), Communication & Works Department, Khyber Pakhtunkhwa, Peshawar.

....(Respondents)

Bilal Ahmad Kakazai
Advocate

... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney

... For respondents

Date of Institution.....17.09.2021
Date of Hearing.....15.07.2024
Date of Decision.....15.07.2024

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 the instant appeal the impugned action of the respondents be declared as illegal and unlawful and appellant be considered for promotion to the post of Assistant from the date when juniors were

