



13.06.2024 1. Learned counsel for the appellant present. Mr. Arshad Azam, Assistant Advocate General alongwith Muhammad Rizwan, Assistant Director for the respondents present.

2. Record mentioned vide previous order sheet not submitted.

Repetitive of respondents is once again directed to submit the same on the next date positively. Adjourned. To come up for record and arguments on 25.06.2024 before D.B. P.P given to parties.


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)


Kaleemullah


ORDER

25.06.20241 Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, learned Deputy District Attorney alongwith Mr. Muhammad Rizwan, Assistant Director, for respondents present.

2. For what has been discussed above, we are unison to dismiss the instant service appeal being devoid of merits. 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 25th day of June, 2024.*


(MUHAMMAD AKBAR KHAN)
Member (E)



(RASHIDA BANO)
Member (J)

*M.Khan

No.218 by securing total marks 57 and viva marks 40, while private respondent No.3 is at Serial No.197, respondent No.4 at Serial No.217, Respondent No.5 at S.No.109, respondent No.6 at S.No.125, respondent No.7 at S.No.217 and respondent No.8 at S.No.95 of the merit list. So, stance taken by the appellant for correction of seniority list is not supported by the record i.e. merit list issued by Public Service Commission, therefore, does not in the field.

9. For what has been discussed above, we are unison to dismiss the instant service appeal being devoid of merits. 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 25th day of June, 2024.


(MUHAMMAD AKBAR KHAN)
Member (E)


(RASHIDA BANO)
Member (J)

at serial No.31 of the appointment notification dated 09.12.2009 in accordance with her merit position assigned by the Public Service Commission but when seniority list issued on 31.11.2019 of her cadre she was wrongly placed at serial No.291 rectification of which she seeks from this Tribunal through instant appeal.

7. Respondents contended that order dated 09.12.2009 is adjustment/posting order of the Subject Specialist of various subjects and not inter se seniority allotted by the Public Service Commission on the basis of merit order assigned to them. Perusal of notification dated 09.12.2022 reveals that it is appointment/posting order of the Subjects Specialist of various subjects wherein appellant name was mentioned at serial No.31 of the same, but nowhere it is mentioned that Subject Specialist were appointed in order of merit or on the basis of merit assigned to them by Public Service Commission in accordance with Section 8 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 which read as under;

“seniority of the civil servant in cadre will be determine on the basis of merit to them by the Public Service Commission.”

In the instant case respondent were directed to produce merit order/list issued by the Public Service Commission for the purpose of determination inter se seniority of selectees of 2009 batch of Subject Specialist, which they produced along with covering letter dated 04.03.2019.

8. Perusal of merit list of Female Subject Specialist (BPS-17) selectee in consequence of advertisement No.1/2009 for the purpose of determining inter se seniority of them, reveals that appellant was assigned merit order

remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.”

2. Brief facts of the case are that the appellant was appointed as Subject Specialist (BPS-17) Pakistan Studies upon the recommendation of Khyber Pakhtunkhwa Public Service Commission vide notification dated 09.12.2009 and was placed at Serial No. 31. On 31.01.2019 respondents issued seniority list wherein private respondents were made senior to the appellant. Feeling aggrieved from the impugned seniority list, he filed departmental appeal, which was not responded to, 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 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).
6. Perusal of record reveals that appellant was appointed as Subject Specialist (S.S) (BPS-17) in Pak Study consequent upon recommendations of Khyber Pakhtunkhwa Public Service Commission vide notification dated 09.12.2009. It is the contention of the appellant that she was placed



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2230/2019

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

**Mst. Gul Rukh D/o Muhammad Raziq, S.S Pak Study (BPS-17), GGHS
Palonow, Tehsil Dergai, District Malakand.**

... (Appellant)

VERSUS

1. The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director, (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
3. Ms. Neelam D/o Abdul Latif, S.S (BPS-17), Faisal Colony, Dalazak Road,
Peshawar and 50 other private respondents.

... (Respondents)

Mr. Noor Muhammad Khattak
Advocate

... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney

... For respondents

Date of Institution.....05.12.2019

Date of Hearing.....25.06.2024

Date of Decision.....25.06.2024

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 service appeal the impugned seniority list dated 31.01.2019 communicated to the appellant on 19.08.2019 may very kindly be modified/rectified to the extent that appellant be placed on right position of seniority list and be made senior to the private respondents. Any other

