

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
RASHIDA BANO ...MEMBER (Judicial)

Service Appeal No.10524/2020

Date of presentation of appeal.....06.07.2020
Dates of Hearing.....09.09.2024
Date of Decision.....09.09.2024

Miss. Amina Begum, Head Mistress, GGHS Mian Gulzara, Mardan.....(Appellant)

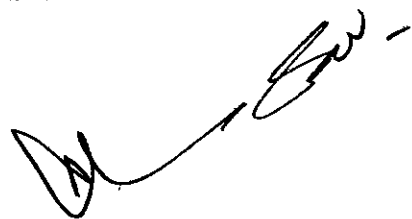
Versus

1. **The Secretary** Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. **The Director** Elementary & Secondary Education Department Government of Khyber Pakhtunkhwa Peshawar.
3. **The District Education Officer** Mardan and 342 other private respondents.....(**Respondents**)

Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For official respondents
(Private respondents No.4 to 345 are placed ex-parte)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED SENIORITY LIST DATED 31.01.2019 COMMUNICATED TO THE APPELLANT ON 18.02.2020 WHEREBY NAME OF THE APPELLANT HAS BEEN LISTED BELOW OF HER JUNIORS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.



JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case in brief as per the memo and grounds of appeal are that she was serving as Headmistress (BPS-17) in GGHS Mian Gulzara, Mardan; that according to the seniority list dated 30.06.2015, she was placed at Serial No.485, below the name of Mst. Mehmooda Shaheen (Private respondent No.18) at Serial No.483; that on 31.12.2017, a tentative seniority list was circulated wherein the name of appellant was allegedly erroneously entered at Serial No.449, whereas the name of Mst. Mehmooda Shaheen was enlisted at Serial No.100, so much so, that junior to appellant was recorded senior to her, whose appointment made after the appointment of appellant, who too was recorded junior to the appellant in the already circulated list of seniority for the year 2015; that for the purpose of correction of anomaly, she moved departmental appeal but the same was not responded; that the impugned seniority list dated 31.01.2019 was communicated to the appellant on 18.02.2020 reflecting the name of appellant erroneously at Serial No.415; that feeling aggrieved of the impugned seniority list, she filed departmental appeal but the same was not responded, hence, the instant service appeal.

2. 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. Today, nobody was present on behalf of private respondents No.4 to 345, therefore,

they are placed ex-parte. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned District Attorney for official respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney, for official respondents, controverted the same by supporting the impugned order.

5. The appellant has challenged final seniority list of Female Officers of BPS-17 of the Elementary & Secondary Education Department as stood on 31.01.2019. She claims that in the seniority list of 2017, she was placed above the private respondent but in the impugned seniority list of 2019, she was relegated in the seniority and private respondents were placed above the appellant. The learned District Attorney relied upon the written reply of Paras No.3 to 5 of the reply are relevant, which are reproduced as under:

"3. That Para-3 is incorrect and denied on the grounds that the appellant being a departmentally promoted against the Head Mistress in B-17 has correctly been placed at the seniority list No.415 in the final seniority list as stood on 31.01.2019 Notified by the respondent No.1 in view of the service record of the appellant, hence, the claim of the appellant regarding correction of the impugned seniority list is

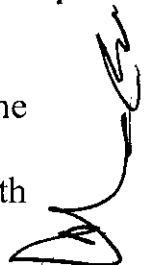


illegal & liable to be rejected in favor of the respondent department.

5. *That Para-3 is incorrect and denied on the grounds that the appellant being a departmentally promoted against the Head Mistress in B-17 has correctly been placed at the seniority list No.415 in the final seniority list as stood on 31.01.2019 Notified by the respondent No.1 in view of the service record of the appellant, hence, the claim of the appellant regarding correction of the impugned seniority list is illegal & liable to be rejected in favor of the respondent department"*


6. The above paragraphs do not lead us to arrive at a conclusion as to how the appellant was relegated in the seniority. The learned District Attorney referred to the different dates of appointment and promotion of the officers in the seniority list but he could not convince the Tribunal as to why these different dates were mentioned as nothing has been explained in the reply nor produced in the documentary shape. The learned District Attorney was also confronted with the situation as to how and under which law and rules, the seniority list was prepared. He was unable to refer to any law, so that the different dates of appointment and promotion mentioned in the seniority list in quite a hazard manner, could be justified.

7. For the above reasons, we would like to direct the respondents to draw the seniority list strictly in accordance with



the terms of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1974 read with Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 9th day of September, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah