

Service Appeal No14549/2020 titled "Abdullah Jan versus The Secretary Home & Tribal Affairs Department Peshawar, Central Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and others", and Service Appeal No.15289 2020 titled "Jan Alam versus The Secretary Home & Tribal Affairs Department Peshawar, Central Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and others" decided on 11.09.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR

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

Service Appeal No.14546/2020

Date of presentation of Appeal.....20.11.2020
Date of Hearing.....11.09.2024
Date of Decision.....11.09.2024

Abdullah Jan, Ex-Naib Subedar Regimental No.2515 Bajaur Levies,
Khar Sub-Division District Bajaur, Khyber Pakhtunkhwa
.....(**Appellant**)

Versus

1. **The Secretary Home & Tribal Affairs Department Peshawar**,
Central Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. **The Inspector General of Police**, Khyber Pakhtunkhwa, Peshawar.
3. **The District Police Officer Bajaur** at Civil Officers Colony Khar
District Bajaur Khyber Pakhtunkhwa.
4. **The Deputy Commissioner Bajaur** at Civil Officers Colony Khar
District Bajaur Khyber Pakhtunkhwa.....(**Respondents**)

Service Appeal No.15289/2020

Date of presentation of Appeal.....30.11.2020
Date of Hearing.....11.09.2024
Date of Decision.....11.09.2024

Jan Alam, Ex-Naib Subedar Regimental No.2636 Bajaur Levies,
Khar Sub-Division District Bajaur, Khyber Pakhtunkhwa
.....(**Appellant**)

Versus

1. **The Secretary Home & Tribal Affairs Department Peshawar**,
Central Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. **The Inspector General of Police**, Khyber Pakhtunkhwa, Peshawar.
3. **The District Police Officer Bajaur** at Civil Officers Colony Khar
District Bajaur Khyber Pakhtunkhwa.
4. **The Deputy Commissioner Bajaur** at Civil Officers Colony Khar
District Bajaur Khyber Pakhtunkhwa.....(**Respondents**)

Present:

Mr. Zia Ud Din Khan, Advocate.....For the appellants
Mr. Muhammad Jan, District Attorney.....For respondents



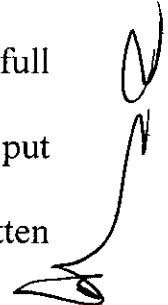
APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 06.10.2020 WHEREBY THE DEPARTMENTAL APPEALS OF THE APPELLANTS REGARDING THEIR DEPARTMENTAL PROMOTION HAVE BEEN DISMISSED.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment, the above two appeals, are jointly taken up, as both are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

02. Brief facts of the cases as per averments of the appeals are that by virtue of introduction of certain amendments, notified on 04.10.2016, in the relevant rules and policy of alleged favoritism, resulted into infringement of their right to promotions and their premature retirement due to reduction into the age limit of three categories of services i.e. Subedar Major, Subedar and Naib Subedar by keeping at bay the rest of respondents at bay bringing the matter into the notice of the Federal Service Tribunal. Feeling aggrieved, they filed departmental appeals but the same were not responded, hence, the instant service appeals.

03. On receipt of the appeals and their admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeals by filing written



replies raising therein numerous legal and factual objections.

The defense setup was a total denial of the claim of the appellants.

04. We have heard learned counsel for the appellants and learned Deputy District Attorney for respondents.

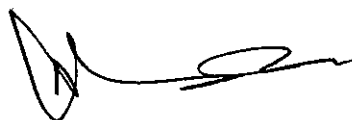
05. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

06. From the arguments, only two points for determining of these appeals have emerged by the Tribunal, which are as under:

1. According to the contention of the appellants, vide impugned order dated 09.07.2016 of the Political Agent Bajaur, Seven (07) Subedars were retired w.e.f 20.10.2016, whereas, the appellant had retired w.e.f 30.05.2017, therefore, posts were available but the appellants were not promoted.

2. The appellants contended that they were prematurely retired as they had allegedly three months left from their retirement.

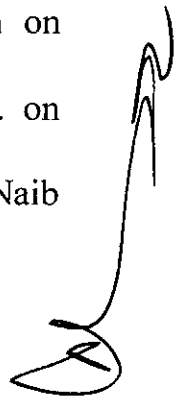
06. As to the first point, mooted before us, the District Attorney produced copy of judgment in Writ Petition



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No.4039-P/2016 dated 23.05.2017. The District Attorney also produced copy of order sheet dated 01.11.2016 passed in Writ Petition No.4039-P/2016 and operation of schedule No. III & IV of the minutes dated 21.07.2016 to the extent of petitioner be kept suspended. He explained that the Subedars, seven in number, could not have been retired on 20.10.2016 because of suspension order in the above referred writ petition, therefore, their posts were not vacant as alleged by the appellants. This situation could not have been controverted by the appellants. This contention of the appellants cannot be, therefore, considered being not well-founded.

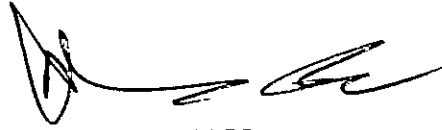
07. The other point agitated before us is that there were left three months before the appellants could retire but they were prematurely retired. In this respect, we observed that there is no denial of the fact that tenure service of Naib Subedar is Seven (07) years. The appellants were admittedly promoted to the post of Naib Subedars on different dates i.e. Mr. Abdullah Jan on 30.12.2009 and Mr. Jan Alam on 31.05.2010, and they had retired w.e.f 30.05.2017 i.e. on completion of seven (07) years service tenure as Naib Subedars, as per Rule-17 of the relevant rules.



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08. In view of the above, instant service appeals are dismissed with costs. Copy of this judgment be placed on file of connected appeal. Consign.

09. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 10th day of September, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah