

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 2081/2019

BEFORE: MR. AURANGZEB KHATTAK ... MEMBER (J)
MRS. RASHIDA BANO ... MEMBER (J)

Muhammad Saeed Ahmad Qureshi S/O Fazal-Ur-Rehman presently working as Junior Clerk/Political Moharir Tribal Sub-Division Dera Ismail Khan.

... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Senior Member Board of Revenue & Estate Department Khyber Pakhtunkhwa, Peshawar.
3. The Commissioner Dera Ismail Khan.
4. The Deputy Commissioner, Dera Ismail Khan.
5. The Deputy Commissioner, South Waziristan.
6. The Assistant Commissioner, South Waziristan.
7. Atta Ullah Mehsud Junior Clerk
8. Amjad Naeem, Naib Tehsildar (OPS)
9. Khalilullah, HVC
10. Ijaz Khan, Naib Tehsildar (OPS)
11. Tufail Muhammad, Junior Clerk
12. Sheikh Allah Nawaz, Junior Clerk

.... (Respondents)

Abdullah Baloch
Advocate

For appellant

Muhammad Yousaf
Advocate

....

For private respondents

Mr. Asif Masood Ali Shah,
Deputy District Attorney

For official respondents

Date of Institution.....23.12.2019

Date of Hearing10.07.2024

Date of Decision10.07.2024



JUDGMENT

RASHIDA BANO, MEMBER (J): The service appeal in hand has been instituted under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the following prayer:-

“That on acceptance of instant appeal, the impugned seniority list and office order dated 22.07.2019 may kindly be set aside and the impugned seniority list issued by respondent No.3 may please be rectified/corrected according to actual seniority position of the Political Moharrirs/Junior Clerks.”

2. Brief facts of the case, are that the appellant was appointed as Junior Clerk on 22.10.1996 in the office of Respondent No. 3. Since then, the appellant has been serving diligently and satisfactorily; that before the administrative devolution, two sub-offices were operating under the Commissioners to manage the settled areas and the FR/FATA regions of the province; that he was transferred to the FATA Wing as a Junior Clerk on 27/06/1998 and he served in the FATA Wing from 27/06/1998 until the devolution, receiving salary from the FATA. During the devolution, the appellant's name was mistakenly included in the Surplus Pool employees list. However, the Assistant Political Agent of F.R. Dera Ismail Khan requested on 27/10/2007 that the appellant and other employees be removed from this list since they were receiving regular salaries; that on the request, the DCO of Dera Ismail Khan removed the appellant's name from the Surplus Pool list on 21/11/2007; that after re-establishment of the Commissioner's office in Dera Ismail Khan, appellant applied for a promotion to Assistant. The Board of Revenue, KPK, through a letter dated 14/05/2011, directed the DCO of Dera

Ismail Khan to provide a service record of the appellant; that DCO Dera Ismail Khan submitted the detailed service record of appellant on 10/06/2011; that on the service record, the Board of Revenue issued an office order on 04/07/2011, confirming that the appellant was drawing a salary from the APA (F.R) D.I. Khan office and could not be re-adjusted elsewhere; that on 22/07/2019 respondents issued a seniority list placing the appellant at serial No. 31, wherein junior to the appellant were placed senior. Feeling aggrieved, appellant filed departmental appeal which was not responded to, hence the present 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 private respondents and learned Deputy District Attorney for the official 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 challenged in the instant appeal joint seniority list of Political Muharrirs/Junior Clerks of Divisional level issued on 22.07.2019 as stood on 30.06.2019 on the ground that he was appointed by the Commissioner D.I.Khan vide order dated 22.10.1996 and being head of both wings settle area and FATA. Respondent No.3 posted appellant in FATA wing vide order dated 27.06.1998 and he was working there but due to devolution plan, his name was included in surplus pool employees in the year 2001, which was withdrawn upon letter of Assistant

Political Agent on the ground that appellant was receiving salary from his office i.e. FR D.I.Khan vide order 27.10.2007. The appellant seeks to have his seniority as Junior Clerk/Political Muharrir recognized from the date of his initial appointment and posting on 2.06.1998, at the FATA side. However, the respondent produced an order promoting the appellant to the post of Senior Clerk (BPS-14) in the office of the Deputy Commissioner D.I. Khan. This order indicates that the appellant accepted his promotion on the settled side, thereby relinquishing his claim for relief in this appeal. According to the official respondent, the appellant has actualized his promotion. Therefore, he is not present today and lost his interest in the instant appeal. So, appeal in hand is hereby disposed of in light of promotion order bearing No.147/DC/B.C dated 30.10.2023. Parties are left to bear their own costs. Consign.

7. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 10th day of July, 2024.*



(AURANGZEB KHATTAK)
Member (J)


(RASHIDA BANO)
Member (J)

ORDER

10.07.2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, learned Deputy District alongwith Abdur Rasheed, Superintendent for the respondents present.
2. Vide our detailed judgment of today placed on file, we are unison to dispose of the appeal in hand in light of promotion order bearing No.147/DC/B.C dated 30.10.2023. Costs shall follow the event. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 10th day of July, 2024.*


(AURANGZEB KHATTAK)
Member (J)


(RASHIDA BANO)
Member (J)