

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN** ...CHAIRMAN  
**MUHAMMAD AKBAR KHAN** ...MEMBER (Executive)

*Service Appeal No.7588/2021*

Date of presentation of appeal.....07.10.2021  
Dates of Hearing.....18.09.2024  
Date of Decision.....18.09.2024

**Asad Ullah Khan**, PMS (BPS-18) Deputy Secretary Agriculture  
Department, Civil Secretariat, Peshawar.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa**, through Chief Secretary, Civil Secretariat, Peshawar.
2. **Secretary Establishment Department**, Civil Secretariat, Peshawar.
3. **Chief Secretary** Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. **Chief Minister** Khyber Pakhtunkhwa/Competent Authority, Chief Minister Secretariat, Peshawar.....(*Respondents*)

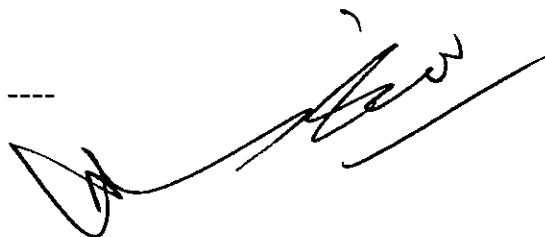
Present:

Mr. Amjad Ali, Advocate.....For the appellant  
Mr. Muhammad Jan, District Attorney.....For respondents

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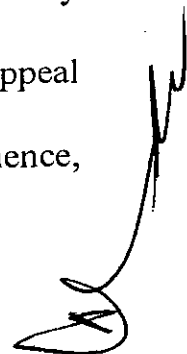
**APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE FINAL  
APPELLATE ORDER DATED 30.09.2021  
PASSED BY RESPONDENTS UPON  
DEPARTMENTAL APPEAL DATED 25.07.2016,  
BY NOT TREATING APPELLANT LIKE  
OTHER SIMILARLY PLACED OFFICERS  
AND JUDGMENT.**

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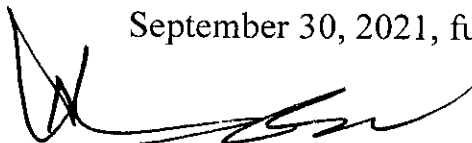


## **JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** Appellant's case in brief, as per the memo and grounds of appeal, is that the appellant was appointed as Naib Tehsildar on July 13, 1998, and subsequently promoted to PMS Officer (BS-17) on March 3, 2009, he was listed at serial number 204 in the 2010 seniority list. He had also been promoted to Tehsildar on September 6, 2008. The Provincial Management Service Rules, 2007 were notified on May 11, 2007. On July 25, 2012, the respondents extended the benefits of the Tribunal's judgment from March 13, 2009, and a Supreme Court ruling from July 25, 2012, to certain PMS Officers, including Naimat Ullah, Syed Ismail Ali Shah, Mian Asfandiyar, and Rasool Khan, re-designating them as PCS (EG) effective from May 26, 2007. The appellant, who was allegedly similarly placed as these officers and belonged to the same Tehsildar Cadre, was excluded from this re-designation, which the appellant argues constitutes discrimination prohibited under Article 27 of the Constitution. In light of this, the appellant submitted a departmental appeal on July 25, 2016, requesting the same benefits. However, the appeal was rejected by notification on September 30, 2021, 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. 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 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, controverted the same by supporting the impugned order.
5. After reviewing the facts presented in the appellant's case, it is clear that the appellant is aggrieved of the alleged differential treatment compared to other PMS Officers who were similarly situated. The appellant was appointed as Naib Tehsildar on July 13, 1998, and subsequently promoted to the post of Tehsildar, demonstrating a consistent progression within the Tehsildar Cadre. However, despite these qualifications, the appellant was allegedly excluded from the re-designation as PCS (EG), which was granted to other officers following the judgments of the Tribunal and the Supreme Court. The appellant's appeal for equal treatment was subsequently denied through the notification dated September 30, 2021, further entrenched his disparity.



6. The appellant has been promoted to the PMS (BPS-17) on regular basis on 3<sup>rd</sup> March, 2009. He claims that he should be given similar treatment as given to the officers, who were appellants in Service Appeal Nos:575/2009, 612/2008 and 613/2008. Further claims to be having similar case but we find that the case of the appellant is quite distinguishable as he was for the first time promoted in March, 2009 as PMS Officer. The claim of the appellant is not supported by the PMS Rules notified on 11.05.2007. Rule-8 of the said rules is quite relevant which is as under:

*"8. Repeal.---The North West Frontier Province Provincial Service (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of existing incumbents of both the cadres. Separate seniority list of both the cadres shall be maintained under the existing rules and they shall be promoted at the ratio of 50: 50:*

*5[Provided that for the purpose of promotion of both the Secretariat Group and the Executive Group of the said service in different pay scales, -*

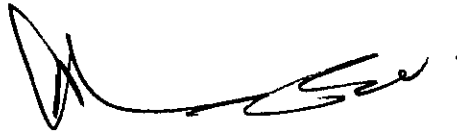
*(i) the incumbents shall continue to be governed by the said service rules till the retirement of the last such incumbent; and*

*Service Appeal No.7588/2021 titled "Asad Ullah Khan Vs. Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar and others", decided on 18.09.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

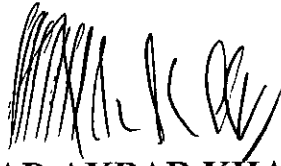
*(ii) the last incumbent of either Group shall rank senior to the first incumbent of the Provincial Management Service.]”*

7. The above Rule does not permit the grant of the desired relief to the appellant, therefore, the appeal in hand is dismissed with costs. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 18<sup>th</sup> day of September, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**MUHAMMAD AKBAR KHAN**  
Member (Executive)

*\*Muta-azem Shah\**