

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1186/2019

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

Dil Jan S/O GUL JAN R/O Village KIRRI Bakhtiar, Tehsil Daraban Kalan, District D.I.Khan. Presently posted as BPS-4 AT GHS Daraban Kalan, Tehsil Daraban District D.I.Khan.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director, Elementary & Secondary Education Department, Peshawar.
3. District Education Officer D.I.Khan.
4. District Account Officer, D.I.Khan.
5. Abdul Hafeeq, Junior Clerk at GHS Hafizabad, D.I.Khan.
6. Haji Gul Nawaz, Junior Clerk at GHS Mithapur, D.I.Khan.
7. Khizar Hayat, Junior Clerk, GHSS Daraban Kalan, D.I.Khan.
8. Sami Ullah, Junior Clerk at GHS Bahadari, D.I.Khan.
9. Muhammad Bilal, Junior Clerk at GHS Ghandi Ashiq, D.I.Khan.

... (Respondents)

Mr. Amir Babar
Advocate

... For Appellant

Muhammad Jan
District Attorney

... For Respondents

Date of Institution.....25.09.2019
Date of Hearing.....30.07.2024
Date of Decision.....30.07.2024

CONSOLIDATED JUDGMENT



RASHIDA BANO, MEMBER (J): The instant service appeals have been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of this appeal, the impugned notification dated 24.04.2019 issued by respondent No. 3 may please be declared as null and void ab initio, hence, liable to be set aside and the respondent may kindly be directed to promote the appellant according to 33% quota reserved for promotion of Class IV to Junior Clerk.”

2. Through this single judgment we intend to dispose of instant service appeal as well as connected **Service Appeal No. 1190/2019** titled **“Zia Ur Rehman Vs. Education Department”** as in both the appeals common question of law and facts are involved.
3. Brief facts of the case are that the appellants were appointed as Class-IV in the respondent department and presently posted at GHS Daraban Kalan, D.I.Khan. Since their appointment they are performing their duties upto the entire satisfaction of his superiors. According to rules of Education Department dated 07.11.2018, there is a 33% quota reserved for promotion of Class-IV employees to the post Junior Clerk. Despite meeting the criteria for promotion from Class-IV employee to Junior Clerk, the respondents issued an impugned notification dated 24/04/2019 promoted juniors to the appellants and appellant were ignored. Feeling aggrieved of the impugned notification, the appellants submitted departmental appeals, which were not responded, hence the instant service appeals.
4. On receipt of the appeals and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeals by filing written reply raising therein numerous legal and factual



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

5. We have heard learned counsels for the appellants and learned District Attorney for the respondents.

6. The learned counsels for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals, while the learned District Attorney controverted the same by supporting the impugned order(s).

7. Perusal of record reveals that appellants in both the appeals challenged promotion order bearing No.10457-65 dated 24.04.2019, whereby juniors to the appellants, respondent No.4 to 8 were promoted to post of junior clerks (BPS-11) by ignoring appellants in 33% quota reserved for promotion of Class-IV employees of the respondents/department in accordance with serial No.9 of i.e. nomenclature 8 appendix to notification dated 28.01.2023. Post of the Junior Clerk (BPS-11) was required to be filled 33% by promotion, on the basis of seniority cum fitness from amongst the Daftaries, G/Operators, Qasids and Naib Qasids including other equivalent post in attached department/officers/institutions with at least two years of service as such and having qualification mentioned in column No.3. Qualification in column No.3 of it is (i) For Junior Clerk/Assistant Storekeepers having at least second division in Secondary School Certificate or equivalent qualification from a recognized board and a typing speed of twenty five words per minute.

8. Admittedly, appellants were seniors from private respondents No.4 to 5 but as per respondents contention both the appellants failed typing test as Dil Jan, the appellant in Service Appeal No. 1186/2019, had a typing speed of 6.6, while Zia ur Rehman, the appellant in Service Appeal No. 1190/2019,




had a typing speed of 4.4, whereas private respondents passed it. As their typing speed were more than 25 words per minute in accordance with the table given below.

S.No	Name	F/Name	Designation	School	Typing Speed	Qualification
1.	Haji Gul Nawaz	Iman Bakhsh	Chowkidar	GPS Faqir Abad	26.6	MA
2.	M. Bilal	Abdur Rehman	Cook	GHSS No.2	25.2.	BA
3.	Sami Ullah	Saad Ullah	Naib Qasid	GHS Panyal	25.0	BA
4.	Khizar Hayat	Umer Daraz	Naib Qasid	GHSS Daraban Kalan	26.6	MA
5.	Adul Hafiz	Mureed	Naib Qasid	GMS Chah Lal Wala	28.8	FA

9. It will not be out of place to mention here that respondents were bound to give time to the appellants for improving their typing skills and speed but they without providing any cushion period, promote juniors to the appellants, which is not a fair treatment. Therefore, in the circumstance, we remit the matter to the respondents to give reasonable time to the appellants to improve their typing skills and speed and consider them for promotion. Respondents are directed to issue proper notice to the appellants within specified reasonable time to improve their typing skills and speed after receipt of judgment of this Tribunal within 30 days. Cost shall follow the events. Consign.


10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 30th day of July, 2024.*


(AURANGZEB KHATTAK)
MEMBER (J) 30.07
2024-


(RASHIDA BANO)
MEMBER (J)

ORDER


- 30.07.2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Tauheed Iqbal, Assistant Director, for the respondents present.
2. Vide our detailed judgment of today placed on file, we remit the matter to the respondents to give reasonable time to the appellants to improve their typing skills and speed and consider them for promotion. Respondents are directed to issue proper notice to the appellants within specified reasonable time to improve their typing skills and speed after receipt of judgment of this Tribunal within 30 days. Cost shall follow the events. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 30th day of July, 2024.*


(AURANGZEB KHATTAK)

Member (J)

30th July

2024


(RASHIDA BANO)

Member (J)

*M.Khan