

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
FAREEHA PAUL ... **MEMBER(Executive)**

Service Appeal No.2340/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Sardar Zaheer S/O Nazcer Ahmad, CCT Radiology BBSH Abbottabad
.....**Appellant**

Versus

1. **Government of Khyber Pakhtunkhwa** through its Chief Secretary, Peshawar.
2. **Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.**
3. **Director General Health Department, Khyber Pakhtunkhwa, Peshawar.**
4. **Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.**
5. **Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Service Appeal No.2341/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

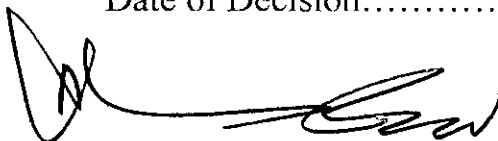
Javaid Sultan son of Muhammad Din, presently working as Chief Technologist, King Abdullah Teaching Hospital, Manshra.
.....**Appellant**

Versus

1. **Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.**
2. **Director General Health Department, Khyber Pakhtunkhwa, Peshawar.**
3. **Government of Khyber Pakhtunkhwa** through Chief Secretary, Peshawar.
4. **Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar**
5. **Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Service Appeal No.2470/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024



Qadeer Nawaz son of Gharib Nawaz presently working as Chief Clinical Technician, Benazir Bhutto Shaheed Hospital, Abbottabad.
.....*Appellant*

Versus

1. **Secretary Health Department**, Khyber Pakhtunkhwa, Peshawar.
2. **Director General Health Department**, Khyber Pakhtunkhwa, Peshawar.
3. **Government of Khyber Pakhtunkhwa** through Chief Secretary, Peshawar.
4. **Secretary Finance**, Government of Khyber Pakhtunkhwa, Peshawar
5. **Secretary Establishment**, Government of Khyber Pakhtunkhwa, Peshawar.....(*Respondents*)

Service Appeal No.2471/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Ghulam Akhtar, son of Karam Bakhsh JCT Radiology Department DHQ Hospital Haripur.....*Appellant*

Versus

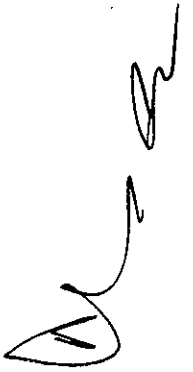
1. **Government of Khyber Pakhtunkhwa** through its Chief Secretary, Peshawar.
2. **Secretary Health Department**, Khyber Pakhtunkhwa, Peshawar.
3. **Director General Health Department**, Khyber Pakhtunkhwa, Peshawar.
4. **Secretary Establishment**, Government of Khyber Pakhtunkhwa, Peshawar.
5. **Secretary Finance**, Government of Khyber Pakhtunkhwa, Peshawar.....(*Respondents*)

Service Appeal No.2472/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Rabnawaz son of Abdul Jabbar CCT Radiology BBSH Abbottabad.....*Appellant*

Versus

1. **Government of Khyber Pakhtunkhwa** through its Chief Secretary, Peshawar.
 2. **Secretary Health Department**, Khyber Pakhtunkhwa, Peshawar.
 3. **Director General Health Department**, Khyber Pakhtunkhwa, Peshawar.
 4. **Secretary Establishment**, Government of Khyber Pakhtunkhwa, Peshawar.
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5. **Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Service Appeal No.2484/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Fazal Raheem son of Sadar ud Din presently working as Chief Clinical Technician, Benazir Bhutto Shaheed Hospital, Abbottabad.....***Appellant***

Versus

1. **Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.**
2. **Director General Health Department, Khyber Pakhtunkhwa, Peshawar.**
3. **Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.**
4. **Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar**
5. **Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Service Appeal No.2485/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Zulfiqar son of Fazal Elahi presently working as Chief Clinical Technician, Ayub Teaching Hospital, Abbottabad.....***Appellant***

Versus

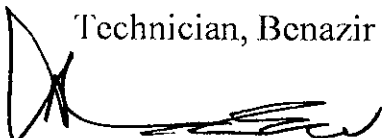
1. **Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.**
2. **Director General Health Department, Khyber Pakhtunkhwa, Peshawar.**
3. **Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.**
4. **Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar**
5. **Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Service Appeal No.2486/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Shamraiz Gul son of Muhammad Younis, working as Chief Clinical Technician, Benazir Bhutto Shaheed Hospital, Abbottabad....***Appellant***

Versus



1. **Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.**
2. **Director General Health Department, Khyber Pakhtunkhwa, Peshawar.**
3. **Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.**
4. **Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar**
5. **Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Service Appeal No.2487/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Muhammad Tahir son of Ali Mardan SRCT Radiology, BBSII Abbottabad.....**Appellant**

Versus

1. **Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.**
2. **Director General Health Department, Khyber Pakhtunkhwa, Peshawar.**
3. **Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.**
4. **Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar**
5. **Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Service Appeal No.2488/2023

Date of presentation of Appeal.....24.11.2023
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Sajid Baig, son of Sarwar Din presently working as Clinical Technician, BBSII, Abbottabad.....**Appellant**

Versus

1. **Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.**
2. **Director General Health Department, Khyber Pakhtunkhwa, Peshawar.**
3. **Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.**
4. **Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar**
5. **Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Present:

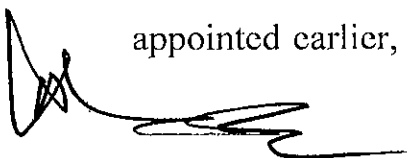
Mr. Junaid Anwar Khan, Advocate.....For the appellants
Mr. Asif Masood Ali Shah, Deputy District AttorneyFor respondents

**APPEALS UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974**

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment, all the above 10 appeals, are jointly taken up as all are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

2. The appellants' cases in brief are that they are serving in the Health Department in different districts of Hazara Division. The issue revolves around the employment status and pay scale of Radiographers and X-Ray Technicians in Khyber Pakhtunkhwa. Initially, these posts were classified in BPS-06 under Service Rules 1978. Despite upgrades in various health department cadres in 1983, the Radiology Department was overlooked. In 1988, the Government of Pakistan revised the national pay scale, elevating the positions of X-Ray Technicians and Radiographers to BPS-09, with some eligible for selection grade (BPS-11). However, discrepancies arose as some X-Ray Technicians were appointed in BPS-09 while Radiographers remained in BPS-06, despite having similar qualifications and job roles. Subsequent government notifications aimed to address seniority issues, merging the positions into Junior Clinical Technicians in BPS-09, but this led to Radiographers, appointed earlier, being ranked lower than later appointees.



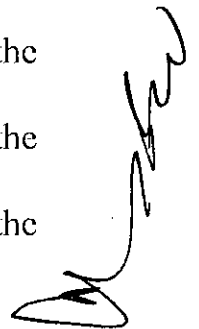
Numerous appeals and court interventions, including a 2012 directive for seniority rectification, have yet to yield a resolution. The ongoing litigation and administrative inquiries reflect persistent grievances regarding pay, seniority, and equitable treatment of Radiographers and X-Ray Technicians in the health department. The issue in hand was initially impugned before the departmental authorities but the representations were dismissed and then the appellants approached the Hon'ble Peshawar High Court, Abbottabad, Bench and the Hon'ble Peshawar High Court transmitted those to this Tribunal, hence, the instant appeals.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who 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.

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

5. The learned counsel 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).

6. Through the instant service appeals the appellants seek benefit of Notification dated 07.11.1988. There are letters of

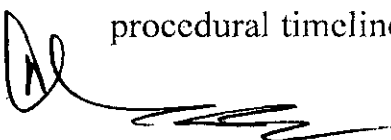


the Finance Department dated 07.04.2022 and the regret letter of the Secretary Health Department.

7. The above letters of the Finance Department as well as the Health Department, have categorically stated that the policy issued vide Notification dated 07.11.1988 was not adopted by the Provincial Government of Khyber Pakhtunkhwa. Therefore, the appellants could not get benefit of the same. Besides, the letters were issued and admittedly, the seniority lists were circulated from time to time but none of the seniority list was admittedly challenged by the appellants, rather there is a joint representation of the appellants, found placed on file, moved on 24.09.2020. The departmental representation is hopelessly barred by time. There is no application for condonation of delay moved by the appellants before the departmental authorities. Besides, the joint representation is not maintainable under Rule-3(2) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986. The same is reproduced as under:

"(2) Where the order of the competent authority affects more than one civil servant, every affected civil servant shall prefer the appeal separately."

8. For the reasons mentioned above, the appeals are dismissed with costs, due to the lack of adherence to procedural timelines and the failure to establish a legal basis



for entitlement to the benefits claimed under the non-adopted notification. Copy of this judgment be placed in the files of the connected service appeals. Consign.

9. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 24th day of September, 2024.*



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)

Mutazem Shah

23rd Sep. 2024

1. This case was fixed for 29.10.2024, however, on the written request of the appellant for early hearing, the same was fixed for today. Learned counsel for the appellant and Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
2. Arguments heard. To come up for order tomorrow i.e. 24.09.2024 before D.B at Camp Court, Abbottabad. P.P given to the parties.



(Farecha Paul)
Member (E)

Camp Court, Abbottabad

Mutazem Shah



(Kalim Arshad Khan)
Chairman

Camp Court, Abbottabad

S.A #.2340/2023

ORDER

24th Sep. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.
2. Vide our consolidated judgment of today placed on file, instant service appeal is dismissed with costs. Consign.
3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 24th day of September, 2024.*



(Farecha Paul)
Member (E)

Camp Court, Abbottabad

Mutazem Shah



(Kalim Arshad Khan)
Chairman

Camp Court, Abbottabad