

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD.

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS FAREEHA PAUL ... MEMBER(E)

Service Appeal No. 16418/2020

Mst. Naheed Anwar daughter of Anwar Baig Abbasi, Senior Qaria,
Government Girls Higher Secondary School, Lora, District Abbottabad.
.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar.
 2. Director of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
 3. District Education Officer (Female) Elementary & Secondary Education, Abbottabad.
 4. Mst. Attia Nishan SST (General) Government Girls High School Bakote, Tehsil and District Abbottabad.
 5. Mst. Nasreen Bibi SST (General) Government Girls Higher Secondary School Hajia Gali, Tehsil Havelian, District Abbottabad.
 6. Mst. Uzma Rasheed SST (General) Government Girls Middle School Bhuruj, District Abbottabad.
- (Respondents)

Mr. Hamayun Khan,
Advocate

... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney

... For official respondents

Date of Institution.....24.12.2020

Date of Hearing.....24.09.2024

Date of Decision..... 24.09.2024

Service Appeal No. 16419/2020

Mst. Shazia Jalil daughter of Abdul Jalil, Senior Qaria, Government Girls
Higher Secondary School, Dhamtour, Tehsil and District Abbottabad. .
.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.



2. Director of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Elementary & Secondary Education, Abbottabad.
4. Mst. Attia Nishan SST (General) Government Girls High School Bakote, Tehsil and District Abbottabad.
5. Mst. Nasreen Bibi SST (General) Government Girls Higher Secondary School Hajia Gali, Tehsil Havelian, District Abbottabad.
6. Mst. Uzma Rasheed SST (General) Government Girls Middle School Bhuruj, District Abbottabad.

..... (Respondents)

Mr. Hamayun Khan,
Advocate

... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney

... For official respondents

Date of Institution.....24.12.2020
Date of Hearing.....24.09.2024
Date of Decision..... 24.09.2024

Service Appeal No. 16420/2020

Mst. Naheed Anwar daughter of Anwar Baig Abbasi, Senior Qaria,
Government Girls Higher Secondary School, Lora District Abbottabad.

.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
2. Director of Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Elementary & Secondary Education, Abbottabad.

..... (Respondents)

Mr. Hamayun Khan,
Advocate

... For appellant



Mr. Asif Masood Ali Shah,
Deputy District Attorney

...

For official respondents

Date of Institution.....24.12.2020
Date of Hearing.....24.09.2024
Date of Decision..... 24.09.2024

CONSOLIDATED JUDGEMENT

FAREEHA PAUL, MEMBER (E): Through this single judgment, we intend to dispose of the instant service appeal as well as the connected service appeal No. 16419/2020, titled “Mst. Shazia Jalil Versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Peshawar and others” and Service Appeal No. 16420/2020 titled “Naheed Anwar Versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar and others”, as in all the appeals common questions of law and facts are involved.

02. The service appeals have been instituted by the appellants under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the notification dated 11.05.2014, 22.12.2017 and 02.03.2020, whereby the private respondents No. 4, 5 & 6 were promoted. It has been prayed that on acceptance of the appeals, the appellants might be promoted with effect from the date when junior to them were promoted to SST post, with all back benefits.

03. Brief facts, as given in the memorandum of appeal, are that the appellant, Naheed Anwar, was appointed as Qaria in BPS- 7 at GGHS



Bakote, District Abbottabad on 17.01.1998. She was promoted to BPS- 09 on 01.07.2005 on the basis of passing Intermediate examination in the light of notification dated 13.08.2005 issued by the Government of Khyber Pakhtunkhwa Finance Department, Peshawar. She passed her B.A Examination from AIOU, Islamabad in the year 2004 and got professional degree of B.Ed from that university in the year 2013. In the light of notification dated 11.07.2012, issued by respondent No. 1, the appellant was upgraded to BPS- 12 w.e.f 01.07.2012. It was mentioned in the said notification that 1/3rd Qarias of the total posts should be promoted to BPS- 15 on the basis of seniority-cum-fitness and prescribed qualification. On 20.12.2013, respondent No. 1 issued a notification according to which 75% teachers (CT/SCT,DM/SDM, AT/SAT, TT/SST/Qaria/S.Qaria) were to be promoted as SST. In the light of that notification, private respondents No. 4, 5 and 6, junior to the appellant, were promoted while she was ignored. Feeling aggrieved, she preferred departmental appeal which was not decided, hence the instant service appeal.

04. Respondents were put on notice. Official respondents submitted written replies/ comments on the appeals. We have heard the learned counsel for the appellant and learned Deputy District Attorney for the official respondents and perused the case file with connected documents in detail.


05. Through the instant service appeals promotion orders of private respondents No. 4, 5 and 6 issued on 11.5.2014, 22.12.2017 and 02.03.2020 had been impugned before us against which departmental appeals had been preferred by the appellants on 11.09.2020. Arguments and record presented before us transpired that all the three private respondents had been promoted




as per rules and based on seniority-cum-fitness. As stated by the departmental representative, the appellants would be promoted at their own turn in the light of rules in vogue. As the departmental appeals against the impugned orders/notifications had not been preferred within the prescribed time and were badly time barred, therefore, service appeals were not maintainable before the Tribunal. The august Supreme Court of Pakistan has clearly held that an appeal that was time barred before the proper/competent appellate authority must also be considered incompetent when it was brought before the Tribunal. Reliance is placed on the ruling set forth in 2007-SCMR-513, 2006-SCMR- 453 and 2012-SCMR-195 which reinforce the principle that merit of a time barred appeal may not be considered. Reference is also made to the judgment cited in 1997-SCMR-92 wherein it has been stated that where an appeal is to be dismissed solely based on its limitation, a detailed discussion of its merits is not necessary.

06. In view of the above discussion, all the three appeals are dismissed being not maintainable. Cost shall follow the event. Consign. Copy of this judgment be placed on files of the connected appeals.

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


(FAREEHA PAUL)
Member(E)
Camp Court Abbottabad


(KALIM ARSHAD KHAN)
Chairman
Camp Court, Abbottabad


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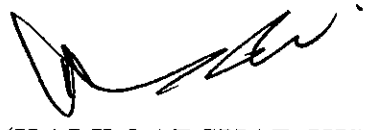
24.09 2024

01. Mr. Hamayun Khan, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the official respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal in hand is dismissed being not maintainable. Cost shall follow the event. Consign.

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


(FAREEHA PAUL)
Member (E)
Camp Court, A/Abad


(KALIM ARSHAD KHAN)
Chairman
Camp Court, A/Abad

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