

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
RASHIDA BANO ...MEMBER (Judicial)

Service Appeal No.7802/2021

Date of presentation of appeal.....30.11.2021
Dates of Hearing.....30.09.2024
Date of Decision.....30.09.2024

**Hassan Taj, Ex-District Director (BPS-19), District Director
Agriculture (Extension) Nowshera Khyber Pakhtunkhwa.**
.....(**Appellant**)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat, Peshawar.
2. **The Secretary Agriculture, Livestock, Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.**
3. **The Director General Agriculture Department, Extension Wing, Khyber Pakhtunkhwa, Peshawar.**
4. **The Secretary Finance, Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Present:

Miss. Uzma Syed, Advocate.....For the appellant
Mr. Naseer Ud Din Shah, Assistant Advocate Genera.....For respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 FOR DIRECTING THE RESPONDENT
DEPARTMENT TO CONSIDER THE
APPELLANT FOR PROFORMA/NOTIONAL
PROMOTION FROM BPS-19 TO BPS-20 AND
AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE
APPELLANT TILL DATE.**

JUDGMENT

✽

KALIM ARSHAD KHAN CHAIRMAN: Appellant's case in brief, as per averment of appeal, is that appellant was serving in the Agriculture Department and was retired as District Director

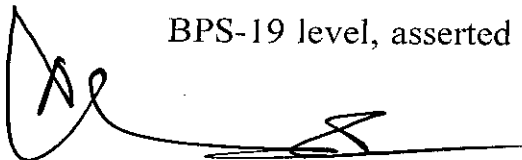
(BPS-19); that vacancy of BPS-20 was lying vacant due to retirement of one Fazal Mabood on 24.04.2020 and the appellant was at Serial No.1 of the seniority list of officers in BPS-19, as stood on 01.01.2020 and notified on 01.11.2020; that an officer at Serial No.4 of the seniority was given promotion to BPS-20 while the appellant was given additional charge in BPS-20 on 11.02.2021; that he filed departmental representation for promotion to BPS-20 on 25.02.2021 but the same was regretted on 12.04.2021 while the appellant had already retired on 31.03.2021, hence, the instant service appeal for notional promotion.

02. 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.

03. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.


04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant Advocate General controverted the same by supporting the impugned order(s).

05. In the present case, the appellant, who had served as District Director in the Agriculture Department and had retired at the BPS-19 level, asserted that he was denied promotion to BPS-20



despite being the senior-most officer on the seniority list as of January 1, 2020. Following the retirement of an officer on April 24, 2020, a vacancy arose in BPS-20. The appellant contends that while an officer ranked fourth in seniority was promoted to this position, he was only granted an additional charge of BPS-20 on February 11, 2021. The appellant submitted a representation for promotion on February 25, 2021; however, that was regrettably declined on April 12, 2021, after his retirement on March 31, 2021. Consequently, the appellant approached this Tribunal for notional promotion to BPS-20 w.e.f 24.04.2020 by relying on the judgments of this Tribunal passed in Appeal Nos. 12.54/2016, 797/2018 and Appeal No.3083/2021 as well as judgment of the august Supreme Court of Pakistan dated 08.06.2021 passed in Civil Appeal No.40/2021 arguing that the denial of his rightful promotion was a violation of judgments of this Tribunal as well as the august Supreme Court of Pakistan.

06. Claim of the appellant that he ought to have been promoted on 24.04.2020, however, there was no vacant post and on which judgments the appellant has relied, the situation of those cases were different. The retirement order of Fazal Mabood was conditional because of the amendment in the Civil Servants Act, 1973 of the Provincial Government's retirement age limit vide order dated 12.04.2021; and the retirement of Fazal Mabood has also taken place after retirement of the appellant.



07. In view of the above, the request of appellant cannot be considered and the appeal in hand stands dismissed with costs.

Consign.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30th day of September, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah

20th Sept, 2024

Learned counsel for the appellant present. Mr. Asad-ud-Din
Asif Ja, Superintendent alongwith Mr. Asif Masood Ali Shah,
Deputy District Attorney for the respondents present.

Learned counsel for the appellant seeks adjournment on the
ground that he has not made preparation for arguments. Adjourned.
To come up for arguments on 30/09/2024 before the D.B. Parcha
Peshi given to the parties.

(Fareeha Paul)
Member (Executive)

(Aurangzeb Khattak)
Member (Judicial)

S.A.# 7802/2021

ORDER

30th Sep. 2024

1. Miss. Uzma Syed, Advocate, learned counsel for the appellant present. Mr. Naseer ud Din Shah, Assistant Advocate General for the respondents present. Heard.
2. Vide our detailed judgment of today placed on file, the request of appellant cannot be considered and the appeal in hand stands dismissed with costs. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30th day of September, 2024.*

(Rashida Bano)
Member (J)

(Kalim Arshad Khan)
Chairman

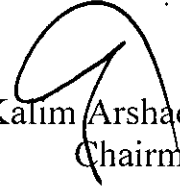
16th May, 2024

1. Learned counsel for the appellant present. Mr. Asad-ud-Din Asif Jah, Superintendent alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Being not prepared, learned counsel for the appellant seeks further time for preparation of brief. Granted. To come up for arguments on 30.07.2024 before the D.B. Parcha Peshi given to the parties.



(Rashida Bano)
Member (Judicial)



(Kalim Arshad Khan)
Chairman

Naceem Amin

30.07.2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Last chance is given. To come up for arguments on 20.09.2024 before D.B. P.P given to parties.



(Rashida Bano)
Member (E)



(Kalim Arshad Khan)
Chairman

Kaleemullah

SCANNED
KUST
Peshawar

SCANNED
KUST
Peshawar