

Restoration Application No.1076/2024 of, and order in Service Appeal No.5785/2020 titled
“Hidayat Ullah Khan Vs. Government of Khyber Pakhtunkhwa”

ORDER


30th Sep. 2024


1. Mr. Saifullah Muhib Kakakhel, Advocate, counsel for the applicant present. Mr. Muhammad Jan, District Attorney present.
2. Arguments on the restoration application as well as main service appeal were heard.
3. Restoration application filed by the appellant accepted and the main appeal stands restored on its original number.
4. Brief facts, as per averments of the main appeal, are that appellant is serving as Clinical Technician (Pathology) BPS-12 at Bannu Medical College who was allegedly ignored from promotion to the post of Clinical Technologist (BPS-17) despite the fact that under threefold criterion for promotion, 20% of the posts were reserved for BPS-12, BPS-14 and BPS-16 Technicians who had acquired degree; that there were two vacant posts of Clinical Technologist (BPS-17) falling to 20% reserved for pathology cadre and the appellant stood at Serial No.2 of the seniority list; that he was not considered, therefore, filed departmental appeal on 28.01.2020 which was not responded, hence, the instant service appeal.
5. Arguments heard. Record perused.
6. The respondents, despite service, failed to submit reply in order to contest the appeal.
7. The appellant, serving as a Clinical Technician (Pathology) in BPS-12 at Bannu Medical College, contended that he was unfairly

overlooked for promotion to the position of Clinical Technologist (BPS-17). According to the appellant, the promotion criteria stipulated that 20% of the posts were reserved for Technicians in BPS-12, BPS-14, and BPS-16 who possessed the requisite degree. Despite two vacant posts of Clinical Technologist available within the reserved quota for the pathology cadre, the appellant, positioned at Serial No. 2 on the seniority list, was not considered for promotion. Following the lack of response to his departmental appeal submitted on January 28, 2020, the appellant has pursued this service appeal, seeking redress for the apparent disregard of his eligibility and seniority in the promotion process.

8. Stance of the appellant that he was eligible but not granted promotion despite availability of vacant posts, carries weight as he was wrongly deprived of promotion. Besides, there was no reason for leaving the appellant from promotion, therefore, the appeal in hand stands accepted with the direction to respondents to consider the appellant for promotion from the date the post of Clinical Technologist (BPS-17) laid vacant. Costs shall follow the event. Consign.

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


(Rashida Bano)
Member (J)


(Kalim Arshad Khan)
Chairman