

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No.7359/2021

Date of presentation of appeal.....20.05.2021
Dates of Hearing.....02.10.2024
Date of Decision.....02.10.2024

Sartaj son of Rozi Muhammad, SPST (BPS-14) GPS Rokhan Abad,
Khishgi Bala, Nowshera.....(**Appellant**)

Versus

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary,
Civil Secretariat, Peshawar.
2. **Secretary** Elementary & Secondary Education Government of
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. **Director** Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar.....(**Respondents**)

Present:

Barrister Kamran Qaisar, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 THAT THE APPELLANT IS SERVING THE
EDUCATION DEPARTMENT SINCE 1989 AND
THUS HE IS ENTITLED FOR PROMOTION TO
THE HIGHER POST, BUT THE RESPONDENTS
ILLEGALLY ALLOWED PROMOTION TO THE
JUNIOR OF APPELLANT AND DENIED THE
PROMOTION TO THE APPELLANT WITHOUT
ANY LAWFUL EXCUSE.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Appellant's case in
brief, as per averments of appeal, is that he is working as SPST
(BPS-14); that as per Notification dated 24.07.2014, the appellant
was allegedly eligible for promotion but he was not promoted and

his alleged juniors were promotion; that feeling aggrieved, he filed departmental representation 19.04.2021 but the same was not responded, hence, the instant appeal.

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 District Attorney 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 District Attorney controverted the same by supporting the impugned order(s).

05. In the present case, the appellant, serving as SPST (BPS-14), asserts that he was eligible for promotion as per Notification dated July 24, 2014, yet he was not promoted while his juniors received advancement. Despite filing a departmental representation on April 19, 2021, to address this grievance, he received no response, prompting him to pursue this appeal. The lack of promotion, despite his eligibility, raises concerns about the adherence to promotion criteria and processes within the department, and failure to respond to his representation suggests a potential oversight or disregard for established protocols. The


appellant seeks redress for what he perceives as an inequitable treatment in the promotion process.

06. Record shows that appellant has not challenged the promotion order, rather claims for his consideration in the promotion order. Besides, there is no original or appellate order, therefore, this appeal is not maintainable in view of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. The same is reproduced as under:

"4. Appeal to Tribunals.--- Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him [or within six months of the establishment of the appropriate Tribunal, whichever is later,] prefer an appeal of the Tribunal having jurisdiction in the matter."

07. In view of the above, instant service appeal is dismissed with costs. Consign.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 2nd day of October, 2024.*



KALIM ARSHAD KHAN
Chairman




FAREEHA PAUL
Member (Executive)


S.A #.7359/2021

ORDER

2nd Oct. 2024

1. Barrister Kamran Qaisar, Advocate learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for respondents present. Heard.
2. Vide our detailed judgment of today placed on file, instant service appeal is dismissed with costs. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 2nd day of October, 2024.*


(Farzeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

26th July, 2024 1.

Learned counsel for the appellant present. Mr. Muhammad Jan, District for respondents present.

2. Junior to counsel for the appellant seeks adjournment on the ground that learned senior counsel is not available today. On the previous date last chance was given to the appellant to argue the case on the next date but today again an adjournment was sought on behalf of the appellant. Adjourned but on payment of cost of Rs. 2000/- to be paid by the appellant. To come up for arguments on 24.09.2024 before D.B. P.P given to the parties.

SCANNED
KFST
PESHAWAR


(Aurangzeb Khattak)
Member (J)


(Kalim Arshad Khan)
Chairman


Adnan Shah, P.A.

24th Sept, 2024

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not made preparation for arguments. He also stated that the cost of Rs. 2000/- as imposed upon the appellant vide previous order dated 26th July, 2024, will also be deposited on the next date. Adjourned by way of last chance. To come up for payment of cost of Rs. 2000/- on behalf of the appellant and arguments on 02/10/2024 before the D.B. Parcha Peshi given to the parties.

SCANNED
KFST
Peshawar


(Rashida Bano)
Member (Judicial)


(Aurangzeb Khattak)
Member (Judicial)

Naeem Amin