

Service Appeal No.4747/2021 titled "Fazal Rabbi Vs. The Government of Khyber Pakhtunkhwa, and others"

ORDER

3rd Oct. 2024

Kalim Arshad Khan, Chairman: Through this single order this appeal and the following connected appeals are being decided as all are of similar nature. Appeal Nos:4748/2021 and Service Appeal No.4749/2021.

2. Learned counsel for the appellants present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

3. Brief facts of the cases, as per grounds and memo of appeals, are that appellants were serving in the respondent department as Class-IV; that they were allegedly eligible for promotion to the post of Junior Clerk (BPS-11); that vide order 30.07.2020, various categories of employees were given promotions to the post of Junior Clerk, while the appellants were not granted; that feeling aggrieved, they filed departmental appeals on 15.12.2020 but the same remained un-responded, hence, the instant service appeals.

4. Arguments heard. Record perused.

5. At the very outset, reference was made to Para-06 of the reply of the respondents, which is reproduced as under:

"6. As and when the framing of service rules are finalized, the promotion will be granted on the basis of seniority cum fitness to appellant on his due turn."



6. Learned counsel for the appellant stated that the appellants would be satisfied if a direction is also given that while preparing rules by the Standing Service Rules Committee and seniority list, regard may also be had to the provisions of Section-11 (b) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 which is reproduced as under:

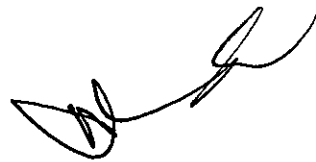
"[11B. Absorption or appointment of Federal employees.—(1) Notwithstanding anything contained in this Act, all those employees of the Federal Government, who are holding various posts in Federal Government entities on regular basis, before the commencement of the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010) and the said entities being devolved to Province in pursuance of aforesaid amendment, shall be deemed to be the civil servants of the Province for all intents and purposes under this Act."

7. Disposed of accordingly. Copy of this order be placed on files of connected appeals. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 3rd day of October, 2024.*



(Rashida Bano)
Member (J)



(Kalim Arshad Khan)
Chairman

1st Oct. 2024

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

2. Learned counsel for the appellant put appearance at the early hourse, however, after that he did not turn up. This case pertains to the year 2021 and has been marked as red in the cause list, therefore, the same is adjourned to day after tomorrow i.e. 03.10.2024 for hearing before D.B. P.P given to the parties.



(Rashida Bano)
Member (J)

*Mutazem Shah *



(Kalim Arshad Khan)
Chairman