

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 6583/2021

Before: MR. KALIM ARSHID KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (Judicial)

Shoukat Hussain, Sub-Engineer, Irrigation Department,
Peshawar.....(Appellant)

VERSUS

1. The Secretary, Government of Khyber Pakhtunkhwa, Irrigation Department, Peshawar.
2. The Chief Engineer (South) Irrigation Department, Peshawar.
3. The Superintendent Engineer Peshawar, Irrigation Circle, Peshawar.
4. Mr. Muhammad Ashraf, SDO (OPS), Rodkahi Irrigation Division, D.I.Khan.
5. Mr. Syed Mehr Ali Shah, Sub Engineer, Flood Irrigation Division, D.I.Khan.
6. Mr. Imtiaz Ahmad, Sub Engineer, Swabi Irrigation Division, Swabi.
7. Mr. Abdur Rehman, Sub Engineer, Kohat Irrigation Division, Kohat.
8. Mr. Naveed Ahmad, Sub Engineer, Hydrology Irrigation Division, Peshawar.
9. Mr. Azhar Qayum, Sub Engineer, CRBC Irrigation Division, D.I.Khan.
10. Mr. Fida Mohammad, Sub Engineer, Swat Irrigation Division, Swat.
11. Mr. Haroon Ur Rasheed, Sub Engineer, Swat Irrigation Division, Swat.
12. Mr. Malik Abdul Waheed, Sub Engineer, Paharpur Irrigation Division D.I.Khan.
13. Mr. Iftikhar Ahmad, Sub Engineer, Peshawar Canals Division Peshawar. ... (Respondents)



Taimur Ali Khan Advocate	---	For appellant
Naseer Uddin Shah Assistant Advocate General	---	For respondents

Date of Institution..... 01.03.2021
 Date of Decision..... 03.10.2024
 Date of Hearing.....03.10.2024

JUDGMENT

RASHIDA BANO, MEMBER (J):- The instant service appeal has been instituted under section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 with prayer copied as below;

“That on acceptance of the appeal, the order dated 04.02.2021 may kindly be set aside and the respondents may kindly be directed to place the appellant at his proper place on at serial No. 47 above the private respondents by rectifying /correcting the impugned seniority list issued on 20.06.2020 stood on 31.12.2019. Any other remedy which this Hon’ble Tribunal deems fit and appropriate that may also be awarded in favour of appellant.”

2. Brief facts of the case are that appellant was appointed as Tracer in the year 1990. He was promoted to the post of Draftsman in the year 1995, performing his duties with dedication and no complaints. In the year 2003, the respondent department amended its rules, allowing for 15% promotions to Sub-Engineer based on seniority-cum-fitness for employees with at least 10 years of service, a Diploma of Associate Engineering, and successful completion of a departmental exam. A combined seniority list was issued on 30.06.2004 wherein the appellant was placed at Serial No. 8, while private respondents No.



4 to 13 were listed below him. In the year 2004, private respondents No. 4 to 13 were promoted to the post of Sub Engineer, but the appellant's promotion was deferred due to not passing the departmental B-Grade exam. After passing the exam, the appellant was promoted in the year 2006. On 26.06.2020, a final seniority list of Sub Engineers effective as of 31.12.2019 placed the appellant at Serial No. 61, while the private respondents were ranked between Serial Nos. 47 and 60. The appellant acknowledged the list on 31.07.2020 and, feeling aggrieved, filed a departmental appeal on 25.08.2020, which was rejected on 04.02.2021, hence the present service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and submitted reply.

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

5. 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 orders.

6. Through instant appeal appellant seeks his placement at serial No. 47 of the seniority list of sub-Engineer issued on 26.06.2020 on the ground that he was senior to the private respondents in lower grade i.e joint seniority of the year 2004 of Canal Inspector, Work Taker, Drawing Establishment and Mechanical, having Diploma of Associate Engineering, he was at Serial No. 8 of the same while private respondents were below him.

7. Perusal of seniority list of 2004 reveals that appellant name was placed at serial No. 8, while private respondent No. 6 was placed at serial No.5 and

all other private respondents No. 7 to 13 were placed junior to the appellant but as per rules criteria for recruitments is 15% by promotion to the post of Sub-Engineer is given as below;

"Fifteen per cent by promotion, on the basis of seniority-cum-fitness, form amongst members of service holding posts of Canal Inspector, Work Taker, Drawing Establishment and Mechanical, having Diploma of Associate Engineering from a Recognized Institute of Pakistan/Board of Technical Education with at least ten years service, passed the prescribed Departmental Examination"

It is seniority cum fitness having 10 years of service diploma of Associate Engineering from recognized university; besides passing of the prescribed departmental examination which is called B-grade examination. Perusal of seniority list for years 2004 reveals that private respondents No. 6 to 13 had passed the same and appellant had not passed it.

8. Appellant was not eligible for promotion as he had not passed the requisite departmental B-grade exam. Therefore, he was not considered for promotion alongwith his colleagues in the year 2005. Appellant contended that he was not considered due to not passing of the departmental B-Grade Exam alongiwth his colleagues in the year 2005 which means that he was not superseded, therefore, his case falls within the ambit/definition of deferment and after passing exam, he would be placed alongwith his colleagues and junior who were promoted in the year 2005, when appellant was deferred.

9. In our humble view, appellant case is of eligibility as he was not eligible on 29.03.2005 because he had not passed the requisite departmental B-Grade exam, which was one of the pre-requisite for promotion to the post of Sub-

Engineer. Therefore, his case does not fall within the purview of deferment as alleged by him.

10. For what has been discussed above, the appeal in hand is dismissed being devoid of merits. Costs shall follow the event.

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



(KALIM ARSHID KHAN)
CHAIRMAN



(RASHIDA BANO)
MEMBER (Judicial)