

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.11154/2020

BEFORE: MR. AURANGZEB KHATTAK ... MEMBER (J)
MRS. RASHIDA BANO ... MEMBER (J)

Muhammad Arif Khan S/o Inayat Ullah, resident of Gulshan Hameed Colony, D.I.Khan, presently serving as Drawing Master, Government Middle School, Chah Roshan, District D.I.Khan.

.... (Appellants)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary E&SE, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
4. The Deputy Director (Establishment) of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
5. The District Education Officer, Education Department, D.I.Khan.
6. Mr. Kashif Ali, Drawing Master, Government Middle School No.2, D.I.Khan, now posted as Secondary School Teacher (SST, Bio/Chemistry), care of District Education Officer, D.I.Khan.

.... (Respondents)

Mr. Adnan Zeb
Advocate

... For appellant

Mr. Naseer ud Din Shah,
Assistant Advocate General

... For respondents

Date of Institution.....25.09.2020
Date of Hearing.....26.09.2024
Date of Decision.....26.09.2024

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



“On acceptance of this appeal, and by cancelling the promotion of respondent No.6 vide notification bearing endst. No.8439-44 dated 07.02.2020, and by setting aside letter No.7455 dated 30.06.2020 and also by restoring the seniority of appellant, the appellant may please be promoted to the post of Secondary School Teacher (SST Bio Chem) w.e.f. 07.02.2020 with all back benefits, with such other relief which this honorable Tribunal, in the given circumstances, may deems fit in the interest of justice may also be granted to the appellant.”

2. Brief facts of the case are that the appellant was appointed as Drawing Master in District Tank on 09.04.1999, and transferred from District Tank to District D.I.Khan vide order dated 04.05.2006 of Deputy Director E&SE Department. The respondent No.6 was appointed as Drawing Master on 14.05.2014 through NTS and as such, he was most junior than appellant as his name was present in the seniority list of Drawing Master since 01.06.2006. The respondent No.6 was promoted to the post of SST (Bio-Chemistry) vide notification dated 07.02.2020 by ignoring the seniority of the appellant. The appellant filed departmental appeal but in vein, 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 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.

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



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 order(s).

6. The perusal of record reveals that the appellant was appointed as Drawing Master in District Tank on 09.04.1999, and transferred from District Tank to District, D.I.Khan vide order dated 04.05.2006 of Deputy Director E&SE Department and took charge on 01.06.2006. The respondent No.6 was appointed as Drawing Master on 14.05.2014. Respondents in the working paper wrongly shown respondent No. 6 senior to the appellant, who was recommended by the DPC for promotion to the post of SST BPS-16 and he was promoted vide order dated 07.02.2020 by ignoring appellant.

7. Appellant challenged promotion order of respondent No.6 by filing departmental appeal as result of which PUC was prepared and seniority of the appellant was admitted/corrected by holding him entitled for promotion in preference to respondent No.6 but promotion of the appellant was delayed till next DPC. Appellant approached this Tribunal for his promotion to SST (Bio/Chem) upon which now appellant is promoted vide order dated 30.10.2021 with immediate effect. So, first and main part of grievance is redressed.

8. It is also established fact on record that the respondent No.6 Kashif Ali was junior to the appellant and the appellant was wrongly superseded due to



preparing and submitting of wrong seniority list by the then DEO for the reason best known to him, that is why the promotion order of respondent No.6 was withdrawn by the authority vide order dated 18.12.2020. As appellant being senior was entitled to be considered for promotion and respondent No.6 was wrongly promoted due to fault of the then DEO, therefore, in our humble view appellant Muhammad Arif is entitled for promotion with all back benefits effect from 07.02.2020 the date when respondent No.6 was erroneously promoted and not with immediate effect.

9. For what has been discussed above, the appeal in hand is accepted as prayed for. Cost shall follow the event. Consign.

10. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 26th day of September, 2024.



(AURANGZEB KHATTAK)
Member (J)



(RASHIDA BANO)
Member (J)

*M.KHAN

ORDER

- 26.09.2024
1. Learned counsel for the appellant present. Mr. Naseer ud Din Shah, learned Assistant Advocate General for respondents present.
 2. Vide our detailed judgment of today placed on file, the appeal in hand is accepted as prayed for. Cost shall follow the event. Consign.
 3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 26th day of September, 2024.*


(AURANGZEB KHATTAK)
Member (J)


(RASHIDA BANO)
Member (J)

*M.KHAN