


Note

4th October, 2024 The case is accelerated being target, hence be fixed on 07/10/2024 at principal seat Peshawar. Parties have been informed telephonically.

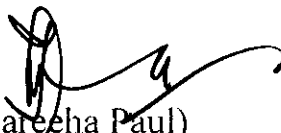

(Habib Ur Rehman Orakzai)
Registrar


S.A #.1629/2020

ORDER

7th Oct. 2024

1. Learned counsel for the appellant (via video link from Abbottabad) present. Mr. Muhammad Jan, District Attorney for respondents present. Heard.
2. Vide our consolidated order of today, the instant appeal is accepted with direction to the respondents to consider the case of promotion of the appellant as per guidelines contained in the Promotion Policy of 2012. Costs shall follow the event. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 7th day of October, 2024.*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

done as per criteria laid down in 2012 Policy but somehow, the District Education Officer did not comply with such directions which resulted into miscarriage of justice.

7. In view of above, the instant appeals are accepted with direction to the respondents to consider the cases of promotion of the appellants as per guidelines contained in the Promotion Policy of 2012. Parties are left to bear their own costs. File be consigned to the record room."

06. The facts and circumstances of the instant appeal are like those which have been decided by this Tribunal vide the above judgment. This appeal, being on the same footing, whereby the appellant is seeking the same relief, therefore, this appeal is also decided accordingly in view of the judgment of the Supreme Court of Pakistan reported as 2009 SCMR 1, wherein, the Supreme Court of Pakistan held that, where a Tribunal or Supreme Court decide a point of law regarding terms and conditions of a civil servant, all similarly placed civil servants are to be extended the same relief without dragging them to the courts, irrespective of the fact whether they had litigated or not. Costs shall follow the event. Consign.

07. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 7th day of October, 2024.*



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)

submitted that the notification dated 30.11.2018 is not applicable in the case of appellants as at the time of their appointment, no such terms & conditions were incorporated in the appointment order of the appellants, hence, notification mentioned above has no legal value in the case of appellants and they are eligible for promotion in view of notification dated 13.11.2012.

5. As against that learned A.A.G submitted that as per notification dated 30.11.2018, the requisite qualification for promotion is Bachelor Degree, whereas, appellants do not fulfill the requisite qualification.

6. From the record, it is evident that the respondents had issued a notification dated 13.11.2012, wherein, method of recruitment/promotion has been laid down for Primary School Teachers (P.S.T BPS-12) Senior Primary School Teachers (S.P.S.T BPS-14) and Primary School Head Teachers (P.S.H.T B.P.S-15). Criteria for promotion from P.S.T to S.P.S.T is on the basis of seniority-cum-fitness with at least five years service with Intermediate or equivalent qualification. Similarly, promotion from S.P.S.T to P.S.H.T is based on seniority-cum-fitness with at least ten years service with Intermediate or equivalent. Appellants were appointed as P.S.T who were holding almost 20-25 years of service with Intermediate qualification obtained during the year 2014-16. Record reveals that the appellants approached the Hon'ble Peshawar High Court in Writ Petition for their promotion on the strength of Promotion Policy 2012 and the High Court converted their petition into departmental appeals with directions to the respondents to consider their grievances and decide the same in accordance with law. The respondents accordingly processed their request but in the meanwhile, certain amendments were made in the promotion policy re-emerging as Promotion Policy 2018, wherein qualification for promotion was enhanced from Intermediate to Bachelor Degree, therefore, their requests were turned down as by now they were not eligible for promotion according to new policy. The appellants were qualified for promotion under the Policy of the year 2012 after obtaining the required qualification in 2014-16 but they were not promoted and their due right of promotion was violated. It is also evident from the Minutes of Meeting dated 16.05.2018 whereby respondent No.2 was conscious of the fact that promotions need to be



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. At the very outset, the learned counsel for appellants and learned District Attorney referred to the copy of the judgment of this Tribunal dated 17.03.2021, found placed in this appeal, passed in Service Appeals No.2231, 2234 to 2237 all of 2019, wherein the point involved in this appeal was decided by this Tribunal in the following manner:

"2. The relevant facts leading to filing of instant appeals are that appellants were appointed as P.T.C/P.S.T having prescribed qualification. There were duly qualified and eligible for promotion however, promotion was denied only on the strength of amendments brought about through notification dated 30.01.2018 wherein the requisite educational qualification was enhanced from Intermediate to B.A. Some of the appellants also filed Writ Petition before the august Peshawar High Court Abbottabad Bench which was treated as departmental representation and was sent too the respondents for decision which was rejected, hence, the present service appeal.

3. We have heard Muhammad Liaqat Advocate for appellant and Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Liaqat Advocate counsel appearing on behalf of appellants, inter-alia, contended that the order dated 18.12.2019 is against law and facts which is void ab-initio and without legal authority. He argued that the impugned order is against the policy as a meeting was held on 08.05.2018 wherein issue of promotion was discussed at Serial No.10 and all the D.E.Os were directed that the promotion cases of the P.S.Ts to S.P.S.Ts/P.S.H.T must be entertained according to the previous policy of promotion while new rules are to be applied for new induction/recruitment. Learned counsel further

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case in brief, as per averments of appeal, is that he was appointed as Primary School Teacher on 08.11.1989; that he claims to have passed Higher Secondary School Certificate (HSSC) examination in the year 2015; that the appellant claims promotion from PST (BPS-12) to SPST (BPS-14) and PSHT (BPS-15) which was denied to him because of a Notification NO.SO(PE)SSRC/Meeting/2012/Teaching Cadre dated 13.11.2012, whereby according to respondents, the appellant did not fulfill the requisite criteria for promotion; that the said notification is annexed with the reply according to which the requisite qualification for promotion was Bachelor Degree whereas the appellant was having HSSC qualification; he filed departmental appeal but the same was not responded, hence, the instant service 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 (via video link from Abbottabad) and learned District Attorney for the respondents.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No.1629/2020

Date of presentation of appeal.....20.01.2020
Dates of Hearing.....07.10.2024
Date of Decision.....07.10.2024

Mujeeb Ur Rehman son of Muhammad Sabir Khan, PST GPS
Goreeni Tehsil Havelian, district Abbottabad.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. **Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Male)** Abbottabad.
4. **Sub Divisional Education Officer (M)** Lower Tanawal, Abbottabad.....(*Respondents*)

Present:

Mr. Muhammad Liaqat, Advocate(via Video Link).....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO.13052/ADEO(LIT) DATED 18.12.2019 ISSUED BY RESPONDENT NO.3 VIDE WHICH DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS DISMISSED WHICH IS TOTALLY AGAINST THE LAW, POLICY, WITHOUT JURISDICTION, ARBITRARILY, VOID AB-INITIO AND HAVING NO LEGAL EFFECT UPON THE VESTED THE RIGHTS OF THE APPELLANT.

