

ORDER

1<sup>st</sup> Oct. 2024

**Kalim Arshad Khan, Chairman:** Learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

2. Appellant's case in brief, as per averments of the appeal, is that he was appointed as an Arabic Teacher (BPS-15) on 13.11.1999, with the private respondent No. 3 joining shortly thereafter on 16.11.1999. Both were initially hired on temporary basis and later regularized as of their appointment dates. Following a Departmental Promotion Committee (DPC) meeting, both were promoted to Senior Arabic Teacher effective 20.02.2013, with the appellant listed as senior in the notification dated 27.02.2017. This seniority was further confirmed by a publicly displayed seniority list. However, the situation changed when the private respondent No. 3 allegedly received an illegal promotion to the post of SST (G) based on a revised seniority list that was not circulated for objections, contradicting the previous seniority list that placed the appellant as senior. The promotion order was issued on 07.12.2020 prompting the appellant to file a departmental appeal on 29.12.2020, which remained unanswered, hence, the instant appeal.


3. Arguments heard. Record perused.


4. Admittedly, the appellant was senior in the promotion order dated 27.02.2017 annexed by the respondents themselves. He was allegedly relegated in the seniority of 2020, which according to the respondents, was a result of the minutes of the appellate committee

regarding the appeals of in service teachers (M&F) of merged districts of the Khyber Pakhtunkhwa meeting held on 30.12.2020. The appellant is at serial No.1 and the committee had decided that the concerned DEO shall examine the seniority in accordance with merit and submit the same within a week. The certificate of DEO dated 21.08.2020 is available on file which shows that merit was determined just on the basis of qualification marks while interview marks were not shown.

5. Therefore, while deciding this appeal, we direct that proper merit list shall be procured would have prepared by the selection committee at the time of appointment on the basis of which the seniority shall be decided in accordance with the provisions of Section-8 of the Government of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. Costs shall follow the event. Consign.

6. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 1<sup>st</sup> day of October, 2024.*

  
(Rashida Bano)  
Member (J)

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*