

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**RASHIDA BANO ... MEMBER (Judicial)**

***Service Appeal No.563/2022***

Date of presentation of Appeal.....15.04.2022  
Date of Hearing.....14.10.2024  
Date of Decision.....14.10.2024

**Mr. Khan Zaman** Ex Office Assistant, office of the Agriculture Services Academy, University Road, Peshawar.....(***Appellant***)

Versus

1. **The Secretary to Government of Khyber Pakhtunkhwa** Agriculture, Livestock & Cooperative Department, Peshawar.
2. **The Director General** Agriculture Extension, University Road, Peshawar.
3. **The Principal**, Agriculture Services Academy, University Road, Peshawar.
4. **The Secretary Finance Department**, Khyber Pakhtunkhwa, Peshawar.
5. **The Accountant General** Khyber Pakhtunkhwa, Peshawar.
6. **Muhammad Qasim** Superintendent, O/O District Director Agriculture (Ext), Abbottabad.
7. **Noor Alam Khan** O/O DDA Agriculture Extension, Tank.
8. **Rizwan Ullah**, O/O DDA merged Areas, D.I.Khan.
9. **Amir Nawaz**, Ex-Superintendent O/O DG (Ext) Peshawar  
.....(***Respondents***)

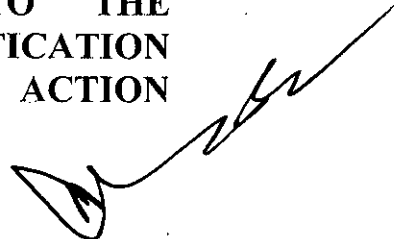
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Present:

Mr. Faheem Ullah Akhunzada, Advocate .....For the appellant  
Mr. Muhammad Jan, District Attorney.....For official respondents  
Private respondents have been placed ex-parte on 17.05.2023

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT GRANTING PRO FORMA PROMOTION TO THE APPELLANT TO THE POST OF SUPERINTENDENT BPS-17 WITH EFFECT FROM THE DATE WHEN THE APPELLANT BECAME ELIGIBLE FOR THE SAID PROMOTION WHILE PROMOTING JUNIORS TO THE APPELLANT VIDE IMPUGNED NOTIFICATION DATED 02.12.2021 AND AGAINST NO ACTION**



**TAKEN ON THE DEPARTMENTAL APPEAL OF  
THE APPELLANT WITHIN THE STATUTORY  
PERIOD OF NINETY DAYS.**

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**JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** Appellant's case as reflected from the record, in brief is that he was appointed as Junior Clerk (BPS-05) vide order dated 19.03.1981 and was later on promoted as Urdu Typist on 04.12.1982; that he was further adjusted as Senior Clerk on 22.07.1985; that vide order dated 29.10.2013, he was promoted to the post of Assistant (BPS-16); that vide letter dated 22.01.2021 the respondent No.2 requisitioned documents from respondent No.3 in respect of Office Assistant (BPS-16) and Senior Scale Stenographer (BPS-16) for promotion to the post of Superintendent (BPS-17); that in pursuance to the said letter, the respondent No.3 vide letter dated 27.01.2021 furnished the required documents i.e. ACRs, alongwith year wise synopsis, and certificate to the effect that official concerned was not involved in any disciplinary, judicial or anti-corruption cases; that the appellant was at the verge of retirement, he made an appeal to the Secretary Agriculture for earlier constitution of promotion committee and finalization of promotion case of the appellant but in vain; that in response to his appeal, vide letter dated 17.06.2021 appellant was intimated that only six (06) posts were vacant for promotion which had to be filled with the ratio as four (04) from amongst the Office Assistants while two from Senior Scale Stenographers, while the appellant being at Serial No.5

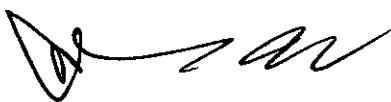
of the Office Assistants, are not eligible for promotion; that he submitted another appeal but no heed was paid to that application and vide impugned order dated 02.12.2021 his alleged juniors were promoted while the appellant was not; that feeling aggrieved, he filed departmental appeal but the same was not responded, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Official respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. While the private respondents were placed ex-parte. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned District Attorney for official respondents.

4. 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).

5. The appellant's case highlights a lengthy and complex employment history within the department, beginning with his appointment as a Junior Clerk (BPS-05) on March 19, 1981, followed by promotions to Urdu Typist and Senior Clerk, and ultimately to Assistant (BPS-16) on October 29, 2013. As he approached retirement, the appellant sought to expedite the promotion process to the post of Superintendent (BPS-17), especially after respondent No.



2 requisitioned documents from respondent No. 3 regarding potential promotions for Office Assistants and Senior Scale Stenographers. Despite the submission of required documents and assurances of his qualifications, the appellant was informed on June 17, 2021, that due to a limited number of vacancies, he was ineligible for promotion, ranking fifth among the Office Assistants. His subsequent appeal for an earlier promotion committee meeting was ignored, culminating in the impugned order dated December 2, 2021, which promoted his juniors while leaving him without advancement. The lack of response to his departmental appeal prompted him to file the current service appeal.

6. As per record produced before the Court, there were eight (08) posts of Superintendent (BPS-17) available when the appellant was in service while two were created/fell vacant after retirement, out six (06) available at that time, the appellant could not be considered as stated by the department in Para-09 of the reply, which is reproduced as under:

*"correct to the extent that the Respondent No.2 submitted the working paper to the office of Respondent No.1 vide letter dated 24.09.2021 for promotion of Assistant BPS-16 and Senior Scale Stenographer (BPS-16) against eight (08) vacant posts of Superintendent (BPS-17). Five posts were vacated due to the retirement, two were newly created and one was resultantly vacated due to promotion of Muhammad Aslam Superintendent (BPS-17) to the post of Assistant Account Officer BPS-17. The Departmental Promotion Committee meeting held on 01.10.2021 recommended Six (06) Assistants and two (02) Stenographers to the posts of Superintendents (BPS-17) on regular/acting charge basis respectively and Notified on 02.12.2021. It is pertinent to mention here that the appellant was retired on Superannuation with effect from 11.08.2021, while the promotion Notification issued on 02.12.2021 after the retirement of the appellant."*

*Service Appeal No.563/2022 titled "Khan Zaman versus the Secretary to Government of Khyber Pakhtunkhwa Agriculture, Livestock & Cooperative Department, Peshawar and others", decided on 14.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

7. Seeing no merits in this appeal, the same stands dismissed with costs. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 14<sup>th</sup> day of October, 2024.*



**KALIM ARSHAD KHAN**

Chairman



**RASHIDA BANO**

Member (Judicial)

\*Mutazem Shah\*2

11<sup>th</sup> Sept, 2024

Appellant in person present. Mr. Asad-ud-Din Asif Ja,  
Superintendent alongwith Mr. Asif Masood Ali Shah, Deputy  
District Attorney for the respondents present.

Appellant seeks adjournment on the ground that his counsel is  
busy in Peshawar High Court, Peshawar. Adjourned. To come up  
for arguments on 14/10/2024 before the D.B. Parcha Peshi given to  
the parties.

(Fareeh Paul)  
Member (Executive)

(Aurangzeb Khattak)  
Member (Judicial)

\*Naeem Amin\*

S.A #.563/2022

**ORDER**

14<sup>th</sup> Oct. 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan,  
District Attorney for official respondents present. Private  
respondents have already been placed ex-parte, vide order sheet  
dated 17.05.2023.
2. Vide our detailed judgment of today, placed on file, the same  
stands dismissed with costs. Consign.
3. *Pronounced in open Court at Peshawar and given under our  
hands and the seal of the Tribunal on this 14<sup>th</sup> day of October,  
2024.*

(Rashida Bano)  
Member (J)

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*