

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 705/2024

Hassan Basri

versus

Director & Others

REJOINDER

Respectfully Sheweth,

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17021

Dated 23-10-24

PRELIMINARY OBJECTION

All the 04 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action / locus standi, not aggrieved, seniority list was notified with covering letter, all seniority lists were objected, appeal of appellant was accepted to correct former seniority list, 12(2) CPC of private respondents was dismissed by the hon'ble Tribunal, no material fact was concealed and as and when covering letter is / was issued with seniority list then it means that seniority list was circulated amongst the concerned employees.

ON FACTS

1. Admitted correct to the date of appointment and subsequent promotions. In the judgment dated 27-07-2023 the claim of the appellant was admitted correct to anti-date her promotion from 19-05-2009 to 13-11-2007. Only such date was corrected but the seniority list remained as it was and appellant was show at S. No. 48 instead of placing her at proper position, i.e. at S. No. 22 over and above the name of private respondents.

As and when such order was passed by the hon'ble Tribunal to correct the date of promotion as 13-11-2007 instead of 19-05-2009 by then the department was legally bound to issue fresh seniority list by showing appellant senior to the private respondents but such task was not done by the official respondents to give benefit of promotion to the private respondents.

31-10-24

It seemed that official as well as private respondents were not satisfied with aforesaid order of the hon'ble Tribunal, so the filed petition under 12(2) CPC for review of the aforesaid order which was however finally dismissed vide order dated 07-11-2023.

2. Not correct. The appeal of the appellant was decided by the hon'ble Tribunal to correct the promotion date into 13-11-2007 but no heed was paid and again the official respondents issued subsequent seniority list wherein appellant was placed again at the former position instead of proper position i.e. senior to private respondents.
3. Not correct. The para of the appeal is correct. In order dated 27-07-2023, only promotion of appellant was shown as 13-11-2007, while the seniority list was made intact and was not changed. Similarly in the seniority list dated 02-03-2021 the same position was given to appellant viz-a-viz to private respondents and no fresh seniority list was ever circulated by placing appellant senior to the private respondents.
4. Not correct. In the impugned seniority list dated 02-03-2021, appellant was placed at S. No. 48 instead of at S. No. 22 by not figuring her name over and above than the private respondents, meaning thereby that no fruit of the order of the hon'ble Tribunal dated 27-07-2023 was given to the appellant.
5. Not correct. The para of the appeal is correct. In covering letter dated 03-01-2024, appellant was shown promoted to the next higher grade as 13-11-2007, while the former seniority was not changed and put intact by showing appellant at S. No. 48 over and above the private respondents instead of at S. No. 22.

GROUND S:

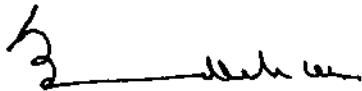
- a. Not correct. The covering letter by showing appellant promotion with effect from 13-11-2007 was illegal as official respondents were legally bound to issue final seniority list by giving proper position to appellant as well as to private respondents. To give further promotion to private respondents by the official respondents, fresh seniority was required to place everyone at proper position.

- b. Not correct. The official respondents issued only covering letter on 03-01-2024 and seniority list dated 02-03-2021 was never modified to place parties on proper position.
- c. Not correct. The ground of the appeal is correct to give way of promotion to juniors / private respondents and to let seniors like appellant.
- d. Not correct. The ground of the appeal is correct. Official respondents are bent upon at every cost to promote private respondents, being juniors, and to let appellant etc. being senior.
- e. Not correct. And as stated earlier covering letter nowhere fulfill the object of the seniors by issuing Notification on 13-11-2007 without issuing proper seniority list.
- f. Not correct. The ground of the appeal is correct. Word "intact" was thrashed out forever.
- g. Not correct. How it could be possible to place a promoted incumbent of the year 2007 to place junior being senior over the juniors i.e. private respondents. Seniority list dated 02-03-2021 was put intact which is against the law and rules.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.


Appellant

Through


Saadullah Khan Marwat
Advocate,

Dated: 22-10 -2024

AFFIDAVIT

I, Hassan Basri (appellant), do hereby solemnly affirm and declare that contents of Objection Petition are true and correct to the best of my knowledge and belief.




DEPONENT