

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 11966/2020

BEFORE: MR. AURANGZEB KHATTAK... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Farzana Naz, daughter of Rab Nawaz, Qaria Teacher (BPS- 12), presently posted at GGHSS No. 2, Dera Ismail Khan.

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) District Dera Ismail Khan.
4. Sayada Thamina Perviz PST GGPS Cheh Paiwala D.I.Khan.
5. Sadia Sadaf PST GGPS Chah Sayed Munawar D.I.Khan.

.... (Respondents)

Mr. Mubashir Nazir,
Advocate

... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney

... For official respondents

Date of Institution..... 29.11.2021
Date of Hearing.....04.10.2024
Date of Decision..... 04.10.2024

JUDGMENT

FAREEHA PAUL, MEMBER (E): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer that on acceptance of the appeal, respondents No. 1 to 3 might be directed to promote the appellant from Qaria (BPS- 12) to the post of SST (Bio-Chemistry) according to the seniority list of 2020 read with



notification dated 24.07.2014, alongwith any other remedy which the Tribunal deemed appropriate.

02. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Qaria (BPS-12) and was posted at GGHSS No. 2 Dera Ismail Khan. She had Bachelor Degree with combination of Bio-Chemistry and was entitled for promotion to the post of SST (Bio-Chemistry). On 09.03.2020, various teachers, including private respondents No. 4 & 5, were promoted as SST (BPS- 16) but no Qaria was promoted to the said post. The appellant was at S. No. 28 in the Seniority list of Qaria Teachers issued in October, 2019 by District Education Officer, D.I.Khan and at S. No. 09 in the seniority list dated 03.09.2020. According to the notification passed in the year 2018, eight teachers on the post of SST Bio-Chemistry were appointed on open merit while one seat was laying vacant in promotion quota. The notification dated 24.07.2014 provided the criteria for the promotion of Qaria to the post of SST (Bio-Chemistry) according to which the appellant was qualified for promotion to the post of SST (Bio-Chemistry). Vide notification dated 19.03.2020, private respondents No. 4 & 5 were promoted to the post of SST while the appellant, despite being senior to them, was not promoted. She submitted an application to respondent No. 3 on 23.06.2020 for consideration of her case for promotion but no order was passed; hence the instant service appeal.

03. Respondents were put on notice. Official respondents submitted written reply/comments. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the official respondents and perused the case file with connected documents in detail.



04. This appeal has been preferred by the appellant to promote her to the post of SST (Bio-Chemistry) according to the seniority lists issued in 2019 and 2020 read with the service rules issued vide notification dated 24.07.2014. From the record presented before us, it transpired that no seniority lists of 2019 and 2020 were attached with the appeal nor they were produced before us by the appellant during the course of arguments. The only documents attached in the name of those seniority lists were two incomplete and unsigned first tentative seniority lists dated 03.09.2020 at annexure-B and of 2019 at annexure-C of the service appeal. It was further noted that no order had been impugned before the Tribunal against which any remedy was sought. Learned counsel for the appellant referred to applications dated 27.11.2019 and 23.06.2020, which were simple applications requesting the District Education Officer (Female) D.I.Khan for promotion. They could not be considered as departmental appeal, under the appeal rules, for redressal of any grievance. In such a case reference is made to Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 which is reproduced as follows:-

“4. Appeal to Tribunals :

Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him , prefer an appeal to the Tribunal having jurisdiction in the matter.

Provided that--

(a) where an appeal, review or a representation to a departmental authority as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973, or any rules





against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application or representation was preferred;”

During the course of arguments it was brought into our notice that consequent upon the recommendation of the Departmental Promotion Committee, the appellant had already been given acting charge of the post of SST (Bio-Chemistry) in BS- 17 vide notification dated 22.02.2023, as she was short of the required length of service, and that she had already taken over charge of SST (Bio-Chemistry) at GGHS Rangpur. Learned counsel for the appellant confirmed the notification of 22.02.2023 and taking over the charge by the appellant at her new position. The appellant had prayed for promotion to the post of SST (Bio-Chemistry) and through the notification dated 22.02.2023, she has been given acting charge of the post of SST, which showed that she would be regularly promoted in the near future, as and when she fulfilled the condition of the required length of service.

05. In view of the above discussion, the appeal has become infructuous and is, therefore, dismissed. Cost shall follow the event. Consign.

06. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 04th day of October, 2024.*


(FAREEHA PAUL)
Member (E)


(AURANGZEB KHATTAK)
Member (J) 04/10
2024

MEMO OF COSTS.
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 11966/2020

Farzana Naz, daughter of Rab Nawaz, Qaria Teacher (BPS- 12), presently posted at GGHSS No. 2, Dera Ismail Khan.

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar and 04 others.

.... (Respondents)

PRESENT.

Mr. Mubashir Nazir,
Advocate

.... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney


... For official respondents

Date of Institution..... 29.11.2021
Date of Hearing.....04.10.2024
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Appellant	Amount	respondents	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal.	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Services of processes	Rs. Nil	3. Services of processes	Rs. Nil
4. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
5. Security fee	Rs. 100/-	5. Security Fee	Rs. Nil
6. Profess fee	Rs. Nil	6. Process fee	Rs. Nil
7. Costs	Rs. Nil	7. Costs	Rs. Nil
Total	Rs. 100/-	Total	Rs. Nil

Note:- Counsel Fee is not allowed as the required certificate has not been furnished

Given under our hands and the seal of this Court, this 04th day of October, 2024.


(FAREEHA PAUL)
Member (E)




(AURANGZEB KHATTAK)
Member(J)

Fazle Subhan, P.S

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. **11966** of **2020**

Farzana Naz Versus Government of Khyber Pakhtunkhwa
through Secretary Education,
Peshawar and 4 others.

S.No. of Order & Date of proceedings	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
Order-26 04 th October, 2024	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Mubashir Nazir, Advocate for the appellant present.2. Mr. Asif Masood Ali Shah, Deputy District Attorney for the official respondents present. <p>01. Vide our detailed judgment consisting of 04 pages, the appeal has become infructuous and is, therefore, dismissed. Cost shall follow the event. Consign.</p> <p>02. <i>Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 04th day of October, 2024.</i></p> <p> (FAREEHA PAUL) Member (E)</p> <p> (AURANGZEB KHATTAK) Member (J) <i>04/10/2024</i></p> <p>*Fazle Subhan, P.S*</p>