



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 334 of 2024

Shamsud Din Versus Secretary, E&SE Department, Khyber Pakhtunkhwa Peshawar and one other.

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-07 22 nd October, 2024	<p>Present:</p> <ol style="list-style-type: none">1. Ali Gohar Durrani, Advocate for the appellant present.2. Mr. Muhammad Jan, District Attorney for the respondents present. <p>01. Vide our detailed judgment consisting of 05 pages, it is extremely clear that the appellant does not fulfil the criteria as laid down in the service rules and hence does not qualify for promotion. The appeal is, therefore, dismissed being devoid of merit. 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 22nd day of October, 2024.</i></p> <p> (FARNEHA PAUL) Member (E)</p> <p> (AURANGZEB KHATTAK) Member (J)</p>

Fazle Subhan, P.S

MEMO OF COSTS.
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 334/2024

Mr. Shams Ud Din, presently serving as Qari Teacher, Government Middle School Osspas, District South Waziristan, Khyber Pakhtunkhwa.

.... (Appellant)

VERSUS

1. Secretary, Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

....(Respondents)

Mr. Ali Gohar Durrani,
Advocate

... For appellants

Mr. Muhammad Jan
District Attorney

... For respondents.

Date of Institution..... 22.02.2024

Date of Hearing.....22.10.2024

Date of Decision.....22.10.2024

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 22nd day of October, 2024.



(FAREEHA PAUL)
Member (E)


(AURANGZEB KHATTAK)
Member(J) 22/10/2024

above qualification was required not only for the initial recruitment but for promotion also. Learned counsel for the appellant frankly admitted before us that the educational qualification of the appellant was very much in line with the service rules but he had not done the mandatory professional training of 09 months. Learned District Attorney was confronted with the query whether the training was required for in-service employees for their promotion also, he confirmed that in view of the notification dated 24.07.2024, read with notification dated 07.03.2024, nine months in-service training was mandatory for promotion also.

07. In the light of above discussion, it is extremely clear that the appellant does not fulfil the criteria as laid down in the service rules and hence does not qualify for promotion. The appeal is, therefore, dismissed being devoid of merit. Cost shall follow the event. Consign.

08. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 22nd day of October, 2024.*


(FAREEHA PAUL)
Member (E)


(AURANGZEB KHATTAK)
Member (J)

22/10
2024.

to less qualification. He referred to the service rules notified on 24.07.2014 and 07.03.2018 and stated that the appellant had not yet completed his professional training which was mandatory for promotion to the post of Secondary School Teacher (BPS- 16). He requested that the appeal might be dismissed.

06. Through the instant service appeal, the appellant has prayed for setting aside the rejection order date 25.01.2024 vide which his application for promotion was rejected on the ground that he was not fit for promotion to SST (General) due to less qualification in accordance with rules and policy in the light of notification dated 09.01.2019, which was infact a letter of Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department. Perusal of the letter dated 09.01.2019 indicated that it was some advice given by the Elementary & Secondary Education Department to the Director E&SE Khyber Pakhtunkhwa, Peshawar. During the course of arguments service rules, as amended vide notification dated 24.07.2014 and 7.03.2018, were referred according to which for promotion to the post of SST, following qualification was required against 3% quota reserved for Senior Qaris/Qaris:-

“At least Second Class Bachelor’s Degree from a recognized University from the following groups with two subjects on need basis.

- (a) Chemistry, Botany or Zoology or
 - (b) Physics, Maths or Statistics, or
 - (c) Humanities and other equivalent groups at degree level with English as subject;
- and

- (i) Nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).”

The rules in column 5, serial (e) in the proviso, clearly mentioned that the



Directorate of Elementary and Secondary Education stating therein that the appellant had requested promotion to the post of SST (G), who fulfilled the criteria of service length as well as qualification and the case was submitted to the Directorate of Elementary and Secondary Education for further necessary action. Working paper of the appellant was forwarded to the Departmental Promotion Committee as he was the only person qualified amongst the Sr. Qaris/Qaris (Male) for promotion to the post of SST (General) according to that document but his case was not put up. Feeling aggrieved, he filed departmental appeal on 01.12.2023 which was regretted by the respondent department on 25.01.2024; hence the instant service appeal.

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

04. Learned counsel for the appellant, after presenting the case in detail, argued that certain posts of SST (General) were lying vacant in promotion quota of Senior Qaris and Qaris. The appellant was qualified and eligible for promotion and his case was placed before the DPC but he was not considered. He referred to various judgments of the august Supreme Court of Pakistan and stated that promotion was one of the fundamental rights of the appellant which could not be denied to him. He requested that the appeal might be accepted as prayed for.

05. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that he was not considered for promotion due



02. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Qari Teacher at Government Middle School Osspass through order dated 06.10.2017. He attained the qualification of Associate Degree (2 years) Education in 2020 which was equivalent to Bachelor Degree involving 14 years education and then Master of Arts (M.A) in Economics in 2023. According to the notification dated 24.07.2014, there was 3% quota for promotion for Senior Qaris and Qaris to Secondary School Teacher (BPS- 16) on the basis of seniority-cum-fitness with at least five years of service as such and having qualification mentioned in column No. 3 of the said notification issued by the respondent department. Another notification dated 07.03.2018 was issued by the respondent department according to which in column No. 3 (ii), a nine months in service mandatory professional training at Regional Institute for Teacher Education or Provincial Institute for Teacher Education was substituted in place of Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University. Since 2019, there had been no promotions from the Sr. Qari/Qari category to the post of SST. The appellant then filed a request to the Director Elementary and Secondary Education on 20.1.2022 for considering his promotion. On 27.10.2022, Directorate of Elementary and Secondary Education issued a letter to the District Education Officer (Male) South Waziristan at Tank in respect of departmental promotion of the appellant to the post of SST. Subsequently, the District Education Officer (Male) South Waziristan at Tank, in response to the letter dated 27.10.2022, issued a letter dated 26.11.2022 and 06.07.2023 to the



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 334/2024

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

Mr. Shams Ud Din, presently serving as Qari Teacher, Government Middle School Osspass, District South Waziristan, Khyber Pakhtunkhwa.

.... (Appellant)

· VERSUS

1. Secretary, Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

....(Respondents)

Mr. Ali Gohar Durrani,
Advocate

... For appellants

Mr. Muhammad Jan
District Attorney

... For respondents.

Date of Institution..... 22.02.2024

Date of Hearing.....22.10.2024

Date of Decision..... 22.10.2024

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, order dated 25.01.2024 might be set aside and the respondents might be directed to consider the case of the appellant for promotion, alongwith any other remedy which the Tribunal deemed appropriate.

