


KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Petition U/S 12(2) of the Code of Civil Procedure, 1908 In Service Appeal No.7208/2021


Sami Ullah & 69 other petitioners versus Government of Khyber Pakhtunkhwa

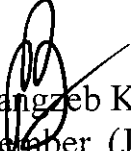
S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
Order-06 21 st October, 2024.	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Adnan Aman, Advocate, for the petitioners.2. Mr. Muhammad Jan, District Attorney for official respondents.3. Mr. Fazal Shah Mohmand, Advocate on behalf of private respondent namely Muhammad Arif (Appellant of Appeal No.7208/2021). <p><u>Kalim Arshad Khan, Chairman:</u> This petition has been filed by the petitioners for setting aside the judgment dated 02.05.2024 passed in Service Appeal No.7208/2021 titled “Muhammad Arif versus Government of Khyber Pakhtunkhwa” on the ground that the petitioners were not arrayed as party in the main appeal. Further contention is that the respondent (Appellant of the main appeal) has misled the Tribunal through Appeal No.7208/2021. Therefore, they have preferred the instant petition.</p> <ol style="list-style-type: none">2. Arguments heard. Record perused.3. Although, there is no order of the Tribunal dated 02.05.2024 yet the officers of the Elementary & Secondary Education Department stated at the bar that the department is going to pass a speaking order in the light of judgment passed by the Tribunal. Para-04 of the said judgment is as under: 

20th Sept, 2024

Learned counsel for the petitioners present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents and private respondent No. 4 alongwith his counsel Mr. Fazal Shah Mohmand, Advocate present.

Learned Deputy District Attorney for official respondents and private respondent No. 4 are seeking further time for submission of reply/comments. Granted. To come up for reply/comments as well as arguments on 10/10/2024 before the D.B. Parcha Peshi given to the parties.


(Fareeha Paul)
Member (Executive)



(Aurangzeb Khattak)
Member (Judicial)


Naeem Amin

10th Oct, 2024

Learned counsel for the petitioners present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents and learned counsel for private respondent No. 4 are present.

Learned Deputy District Attorney and learned counsel for private respondent No. 4 are again seeking further time for submission of reply/comments. Granted. To come up for reply/comments as well as arguments on 21/10/2024 before the D.B. Parcha Peshi given to the parties.


(Rashida Bano)
Member (Judicial)




(Aurangzeb Khattak)
Member (Judicial)

Naeem Amin

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	<p><i>“In our humble view, no fraud or misrepresentation had been committed by the respondent at the time of obtaining impugned order dated 27.07.2023. They simply requested for incorporation of the date of promotion to BPS-17 from BPS-16 in the seniority list which have nothing to do with determination of seniority and has to be dealt with Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. Mere mentioning of date of promotion in the seniority list in no case, means that respondent will be senior to petitioner until and unless place senior at due place and position. As mentioning date of promotion in the seniority list have no concern with actual seniority, therefore, in our humble view petitioner rights are not affected from impugned order dated 27.07.2023. Moreover, all the three essential ingredient for filing application under section 12(2) CPC are missing in the instant case. Therefore, application in hand is no merit in it.”</i></p> <p>4. In the light of the above para of the judgment, in Application No.638/2023, the department is going to pass an order.</p> <p>5. When confronted with the situation, learned counsel for the petitioners, was satisfied.</p> <p>6. Disposed of accordingly. Costs shall follow the event. Consign.</p> <p>7. <i>Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 21st day of October, 2024.</i></p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (Muhammad Akbar Khan) Member (E) </div> <div style="text-align: center;">  (Kalim Arshad Khan) Chairman </div> </div> <p><small>*Mutazem Shah*</small></p>