

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

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

***Service Appeal No.2004/2022***

Date of presentation of Appeal.....27.12.2022  
Date of Hearing.....16.10.2024  
Date of Decision.....16.10.2024

**Maqbool Ur Rehman S/O Yaqoob Khan R/O Dheri Timber Pura,  
P.O Budhni, Peshawar.....(Appellant)**

Versus

1. **Chief Secretary, Khyber Pakhtunkhwa, Peshawar.**
2. **Director, Research, Agriculture University, Peshawar.**
3. **Senior Director, Agriculture Research Institute, Tarnab,  
Peshawar.....(Respondents)**

Present:

Barrister Muhammad Hassaan Adil, Advocate.....For the appellant  
Mr. Muhammad Jan, District Attorney.....For respondents

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**SERVICE APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974 WHEREBY THE APPELLANT HAS NOT  
BEEN PROMOTED FROM BPS-09 TO BPS-11 ON  
REGULAR BASIS.**

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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 Field Assistant (BPS-06) in on 22.03.1986; that he was promoted to BPS-09 and was at Serial No.60 of the seniority list dated 08.02.2017; that seniority list dated 19.09.2019 was issued wherein, name of the appellant was missing against which, 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. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant, learned District Attorney for 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. It appears that the appellant was appointed as a Field Assistant (BPS-06) on March 22, 1986, and subsequently promoted to BPS-09, achieving a position at Serial No. 60 on the seniority list dated February 8, 2017. However, he encountered a significant issue when the seniority list dated September 19, 2019, was released, which notably omitted his name. In response, the appellant filed a departmental appeal to address this oversight; unfortunately, this appeal went unacknowledged. Consequently, the appellant has resorted to the current service appeal, seeking resolution for the apparent disregard of his seniority status and the lack of response to his previous appeal.



6. There is no denial of the fact that appellant is working as Assistant in the respondent department. Similarly, there is no denial of the fact that name of the appellant figured in the earlier seniority

list of Field Assistants circulated vide letter dated 08.02.2017 as that stood on 31.12.2016 but in the tentative list as that stood 30.06.2019 circulated vide letter dated 19.09.2019 name of the appellant was removed from the list for which, he moved applications. The contention of the respondents is in Paras-3 & 4 of the reply which are as under:

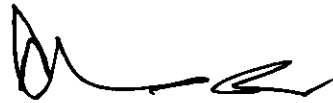
*"It is submitted for the convenience of this Hon'ble Tribunal that the Government Vide Notification dated 30.06.2011 formulated a 3-tier service structure wherein, the curriculum of Field Assistant was revised and duration on the course was enhance from two years to three years (diploma course). Therefore, to cover the required duration of extra one year, the said condensed course was devised/arranged for only those Field Assistants who already have successfully completed two years training course or had 2-years diploma of Field Assistant from Agriculture Training Institute."*

7. According to the above contention, the appellant, being untrained Field Assistant, was not eligible for further promotion and he was excluded from the seniority list maintained for Field Assistants. When confronted, the learned District Attorney as to why the name of appellant was excluded and why he was not considered for promotion. We also directed the District Attorney to produce any law, in this respect, the District Attorney could not say anything as to why the appellant's name was excluded from the seniority list and why he was not promoted. The appellant's counsel produced copy of Notification dated 20.08.2015 vide which the service rules of the

department were notified. Research Inspector (BPS-11) is figured at Serial No.2 and Field Assistant (BPS-09) is at Serial No.3. Under the rules, the Research Inspector is a promotion post to be filled on the basis of seniority-cum-fitness from the Field Assistants having five years service as such. There is nothing else required by these rules for promotion from the post of Field Assistant to Research Inspector. The appellant being admittedly the employee of the respondent department working as Field Assistant in BPS-09, has every right to be in the seniority list at the relevant place and exclusion of his name from the seniority list, thus, appears to us to be a wrong, committed with the appellant. Similarly, his being a Field Assistant, if he has five years service at his credit, also becomes eligible for further career progression under the rules.

8. Therefore, we direct that name of the appellant be included in the seniority list of Field Assistants with further direction to consider the appellant for further promotion, if he is otherwise fit and eligible. Costs shall follow the event. Consign.

9. *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)



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Service Appeal No.2004 of 2022

Maqbool Ur Rehman


versus


Government of Khyber Pakhtunkhwa

S.No. of Order & Date of proceeding	<b>Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary</b>
Order-16 14 <sup>th</sup> October, 2024.	<p>Present:</p> <ol style="list-style-type: none"><li>1. Barrister Muhammad Hassan Adil, Advocate on behalf of appellant.</li><li>2. Mr. Muhammad Jan, District Attorney for the respondents.</li></ol> <p>Vide our detailed judgment of today, placed on file we direct that name of the appellant be included in the seniority list of Field Assistants with further direction to consider the appellant for further promotion, if he is otherwise fit and eligible. Costs shall follow the event. Consign.</p> <p><i>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.</i></p> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p><small>*Mutazem Shah*</small></p>

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

1. Appellant in person present. Mr. Muhamad Jan, District Attorney alongwith Mr. Hafiz Ullah, Research Officer for the respondents present.
2. Former seeks adjournment on the ground that his learned counsel is not available today. Adjourned but on payment of cost of Rs. 2000/- to be paid by the appellant. To come up for arguments on 16.10.2024 before D.B. P.P given to the parties.

  
(Rashida Bano)  
Member (J)

  
(Kalim Arshad Khan)  
Chairman

\*Adnan Shah, P.A\*

**MEMO OF COSTS**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No.2004/2022**

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Maqbool Ur Rehman S/O Yaqoob Khan R/O Dheri Timber Pura, P.O Budhni,  
Peshawar.....(Appellant)

Versus

1. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Director, Research, Agriculture University, Peshawar.
3. Senior Director, Agriculture Research Institute, Tarnab,  
Peshawar.....(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 WHEREBY THE APPELLANT HAS NOT BEEN PROMOTED  
FROM BPS-09 TO BPS-11 ON REGULAR BASIS.

**PRESENT**

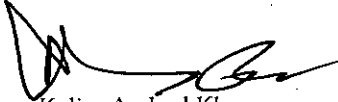
1. Mr. Muhammad Hassan Adil, Advocate, for the Appellant
2. Mr. Muhammad Jan, District Attorney for respondents.

Appellants	Amount	Respondent	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. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs.100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
<b>Total</b>	<b>Rs. 100/-</b>	<b>Total</b>	<b>Rs. Nil</b>

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 16<sup>th</sup> day of October 2024.

  
Rashida Bano  
Member (Judicial)

  
Kalim Arshad Khan  
Chairman