KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.97/2024 titled "Hamid Bacha versus Government of Khyber Pakhtunkhwa" alongwith five other appeals

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-07 23rd October, 2024.	Present: 1. Mr. Inayat Ullah Khan, Advocate, for the appellants. 2. Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents. (Despite publication in newspaper, private respondents are absent, therefore, they are placed ex-parte.) **Kalim Arshad Khan, Chairman:** Through this single order this appeal and the following connected appeals are being decided as all are of similar nature. Appeal Nos:07/2024, 08/2024, 09/2024, 10/2024, and 96/2024. 2. Appellants cases in brief, as reflected from the record, are that they were serving as Information Technology (IT) Teachers; that a tentative seniority list was issued on 31.12.2021, wherein they were placed junior to their alleged juniors; that they filed objections against the said tentative seniority list, however, the respondents issued finalized the same without considering the objections of the appellants; that feeling aggrieved, they filed departmental representations, however, the same were not responded, hence, the instant service appeals. 3. Arguments heard. Record perused.

4. The appellants, serving as Information Technology (IT) Teachers, contend that a tentative seniority list issued on December 31, 2021, improperly ranked them junior to their alleged juniors. They filed objections to this list, which were disregarded when the respondents finalized it. Despite submitting departmental representations to address their grievances, the appellants received no response, prompting them to pursue the current service appeals.

5. Services of the appellants were regularized by the Act of Assembly named as Khyber Pakhtunkhwa Regularization of Services Act, 2017. Section-4 (2) of the Act ibid alongwith poviso are relevant, which are reproduced:

> ***"4. Determination of Seniority:***
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> *(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all employees belonging to the same cadre, who are in service on regular basis on the commencement of this Act, & shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective cadre, irrespective of their actual date of appointment.*
>
> *(2) The seniority inter-se of the employees, whose services were regularized under this Act within the same cadre, shall be determined on the basis of their continuous service in cadre.*
>
> *Provided that if the date of continuous service in the case of two or more employees is the same, the employees older in age shall rank senior to the younger one."*

6. When confronted with the situation, learned Assistant Advocate General did not controvert the contention and claim of the appellants

in view of the above provision of law, therefore, the appeals in hand are allowed and the seniority list dated 31.12.2021 is set aside with the direction to official respondents to draw it strictly in accordance with the provisions of Section 4(2) of the above Act. Costs shall follow the event. Copy of this order be placed on files of all connected appeals. Consign.

7. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 23rd day of October, 2024.*

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

Mutazem Shah