

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

BEFORE: **AURANGZEB KHATTAK** ... MEMBER (Judicial)  
**RASHIDA BANO** ... MEMBER (Judicial)

**Service Appeal No. 314/2024**

Date of presentation of Appeal.....26.02.2024  
Date of Hearing.....27.09.2024  
Date of Decision.....27.09.2024

**Shakil Akbar** S/o Badee-ul-Zaman, R/o Shishikuh Drosh Tehsil and District Chitral, Village Secretary, Local Government UC Town Chitral. ....**Appellant**

Versus

1. Director General Local Government of Khyber Pakhtunkhwa, Peshawar.
2. Assistant Director Local Government and Rural Development Department Lower Chitral.....(**Respondents**)

Present:

Mr. Muti-ur-Rehman, Advocate.....For appellant  
Mr. Muhammad Jan, District Attorney.....For respondents

**JUDGMENT**

**AURANGZEB KHATTAK, MEMBER (JUDICIAL):** The facts of the case, as alleged by the appellant in his memorandum of appeal, are that he was appointed as Village Secretary in the Local Government Department on 29/09/2015. At the time of his appointment, a seniority list was prepared by the respondents which ranked him at serial No: 15. According to this list, he, along with other employees of similar qualifications, were eligible for promotion to BPS-11 based on seniority as established by departmental rules. However, on 25/11/2022, the respondents issued a revised seniority list, relegating the appellant to serial No. 30. Feeling aggrieved, the

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appellant filed departmental appeal dated 28/11/2022 against this revised seniority list, which was regrettably dismissed by the Assistant Director of Local Government, respondent No: 2, vide order dated 02-02-2024. The appellant has now approached this Tribunal through filing of instant service appeal for redressal of his grievance.

2. The respondents were summoned, who contested the appeal by way of filing their respective written reply/comments.

3. The learned counsel for the appellant contended that the promotion criteria was rigidly established by the original seniority list, which placed the appellant at a legitimate serial No. 15 based on qualifications and time served. He next contended that Rule-17 (4) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, was violated by the respondents. He further contended that the modification of the seniority list on 25/11/2022 was arbitrary and unlawful, contradicting both the established rules. He also contended that the revised seniority list was presented as favoring less qualified individuals over the appellant, constituting discrimination and a violation of the appellant's constitutional rights. He next argued that the epicenter of the grievance lay in the respondents' failure to adhere to due process, as the appellant's revised placement directly contradicted the years of service and the regulations which governed promotions. He further argued that respondents' decision was based on conjecture rather than substantiated facts, rendering the impugned order illogical and unjust. In the last, he argued that the appeal in hand may be accepted by setting-aside revised seniority list issued by the respondents on 25/11/2022.

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4. On the other hand, the learned District Attorney for the respondents contended that the recruitment for the post of Village Secretary in 2015 was conducted under a structured framework relying on a determination of seniority based on age as guided by Section Officer (Establishment) LG&RDD. He next contended that the modification of the seniority list was necessitated by a circular notification issued on 24/10/2022, which directed all Assistant Directors in Khyber Pakhtunkhwa to formulate the seniority list based on merit rather than previous arbitrary standards. He further contended that the revised seniority was issued in consistence with the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, & Transfer) Rules, 1989, confirming the appellant's position at serial No. 30 based on the merit evaluation during the recruitment process. He next argued that the department's action in revising the seniority list was executed in compliance with lawful directives, and thus any claim of unfair treatment was unfounded and without merit. In the last, he argued that the appeal in hand may be dismissed with cost being meritless.

5. We have heard the arguments of learned counsel for the appellant as well as learned District Attorney for the respondents and have perused the record.

6. The perusal of the case file reveals that the appellant was appointed as Village Secretary in the Local Government Department on September 29, 2015. In the year 2021, the respondent department issued a tentative seniority list categorizing Village/Neighborhood Council Secretaries by age, in which the appellant was placed at serial No. 15. On November 28, 2022, the appellant submitted an application to the Assistant Director Local

Government, District Lower Chitral, requesting his promotion from BPS-09 to BPS-11. Following this, he escalated his concerns through Civil Suit 241/1 of 2023, which had been returned to him on July 19, 2023, with the direction to approach the proper forum. The application of the appellant regarding his promotion was ultimately rejected on February 2, 2024. The Director General of Local Government of Khyber Pakhtunkhwa, Peshawar (Respondent No. 1), issued a circular dated October 24, 2022, wherein it has been stated that the seniority lists should be issued in compliance with Rule-17 (1) (a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. In compliance with the circular dated October 24, 2022, Assistant Director Local Government and Rural Development Department Lower Chitral (Respondent No. 2), issued revised seniority list based on merit on November 25, 2022. This revised seniority list reflected the appellant's position as demoted to serial No. 30 from serial No. 15. To address the issue in question, Rule-17 (1) (a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, is important, which is reproduced as below:

**“Seniority** :- (1) *the seniority inter se of civil servants 55 (appointed to a service, cadre or post) shall be determined:-*

*(a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission 56 [or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection;*

7. The aforementioned rule clearly indicate that, for appointments made through initial recruitment, the determination of seniority should follow the merit order laid down by the Commission or, as applicable, a Departmental

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Selection Committee. This provision created a safeguard ensuring that individuals ranked not arbitrarily but according to their merit during the selection process. In the instant appeal, the appellant was placed at serial No. 30 in the revised seniority list, which was issued in accordance with Rule-17 (1) (a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. The placement of the appellant at serial No. 30 of the seniority list, seemed align with Rule-17 (1) (a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. In light of these considerations, the appellant had not sufficiently substantiated his claim regarding the illegality of the revised seniority list.

8. As regard the contention of the learned counsel for the appellant that the respondents violated the Rule 17 (4) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. The said rule, is reproduced below:-

*“ 17 (4) inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.*


*Provided that if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servant older in age, shall be treated senior.”*


9. The perusal of the referred rule indicates that the inter-se seniority of civil servants promoted within the same cadre from different lower posts, while retaining the same pay scale, is predicated on their respective dates of regular appointment or promotion to those lower posts. In scenarios where multiple civil servants share the same appointment date to their lower

posts, seniority is further determined by age, with the elder civil servant recognized as senior. However, it is important to note that this rule is not applicable to the instant appeal. It pertains specifically to civil servants promoted within the same cadre from various lower posts with identical pay scales, where seniority would be established based on age. In this appeal, the appellant was a direct recruitee, based on merit order, hence Rule 17 (4) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 does not apply to this appeal. The seniority list of 2021, placing the appellant at serial No. 15, is deemed erroneous and illegal since it was not formulated in line with Rule 17 (1)(a) of the referenced rules, which underpins this appeal.

10. Consequently, the appeal in hand being devoid of merit is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

11. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 27<sup>th</sup> day of September, 2024.*

  
AURANGZEB KHATTAK  
Member (Judicial)

  
RASHIDA BANO  
Member (Judicial)

28<sup>th</sup> Jun, 2024

1. Learned counsel for the appellant present. Mr. Umair Azam, Additional Advocate General for the respondents present.

2. Written reply/comments on behalf of the respondents have already been submitted through office which is found placed on file. Let this appeal is admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security fee within 10 days. To come up for arguments on 27.09.2024 before D.B. P.P given to the parties.

**SCANNED**  
**KPST**  
**Peshawar**

\*Adnan Shah, P.A\*

(Kalim Arshad Khan)  
Chairman

**ORDER**

27<sup>th</sup> Sept, 2024

1. Learned counsel for the appellant present Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

2. Vide our judgment of today placed on file, the appeal in hand being devoid of merit is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 27<sup>th</sup> day of September, 2024.*

(Rashida Bano)  
Member (Judicial)

(Aurangzeb Khattak)  
Member (Judicial)