

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

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

**Service Appeal No. 4533/2021**

Date of presentation of Appeal.....25.02.2021  
Date of Hearing.....26.09.2024  
Date of Decision.....26.09.2024

**Muhammad Nadeem Rafique**, Assistant Sub-Inspector, Office of the Director General Excise, Taxation & Narcotics Control, Department, KP, Peshawar. ....*Appellant*

Versus

1. Director General Excise, Taxation & Narcotics Control Department, Khyber Pakhtunkhwa, Peshawar.  
2. Secretary, Government of Khyber Pakhtunkhwa, Excise and Taxation Department, Peshawar.  
3. Private respondents No. 03 Muhammad Tahir to Private respondents No. 20 Zohaib Jamal. ....(*Respondents*)

Present:

Mr. Arbab Saif-ul-Kamal, Advocate.....For appellant  
Ms. Perkha Aziz, Advocate .....For respondents No. 1 & 2.  
Mr. Muhammad Arif Firdos, Advocate .....For private 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 an Assistant Sub-Inspector (ASI) (BPS-11) on March 13, 2012 and assumed the charge on the said date. The appellant is contesting the seniority position assigned to him in various seniority lists issued over the years. The initial placement of the appellant in the Seniority List issued on October 26, 2017, placed him at Serial No. 104, correctly below Waheed Akbar at Serial No. 103. Subsequent lists saw fluctuations in these

*26/09/2024*

rankings, leading to the appellant's objections and appeals. On April 4, 2018, the appellant was listed at Serial No. 80 and Waheed Akbar at Serial No. 79 in the Final Seniority List. In the Tentative Seniority List issued on July 17, 2019, the appellant's ranking dropped to Serial No. 87, while Waheed Akbar was positioned at Serial No. 67. The appellant contested this ranking through a representation on August 9, 2019, which was followed by a Final Seniority List issued on December 21, 2019. Feeling aggrieved, the appellant filed a departmental appeal on October 28, 2020, which was not responded, hence he filed the instant appeal for redressal of his grievance.

2. The learned counsel for the appellant contended that the appellant was not served any notice regarding changes to his seniority position, nor was he given reasons for these alterations, as required by law. He next contended that the individuals who were ranked as senior to the appellant in the latest seniority list assumed their duties significantly later than the appellant. He further contended that the appellant seniority position was moved down inexplicably relative to Waheed Akbar between the 2018 and 2019 seniority lists, suggesting arbitrary and baseless placements. He next argued that the implications set forth in the contested seniority lists contradict established rules and legal mandates, necessitating judicial intervention to rectify the appellant's placement directly below Waheed Akbar at an appropriate place. He further argued that the seniority list is not only contrary to statutory rules but also unfairly prejudices the appellant's career progression. In the last, he argued that the appeal in hand may be accepted as prayed for.

*M. J. P.*  
*26/09/2024.*

3. On the other hand, the learned counsel for official respondents assisted by learned counsel for private respondents contended that the impugned seniority dated 31.12.2019 circulated on 10.06.2020 was issued in accordance with the order of merit, as stated under Rule 17(1)(a) of the Khyber Pakhtunkhwa Civil Servant (APT) Rules 1989. He next contended that any objections to the seniority list dated December 31, 2019, were duly considered, including the appellant's, however, the appellant's appeal lacked merit and was resolved accordingly. He further contended that the seniority list for the year 2018 was mistakenly utilized arrival reports instead of merit-based place, prompting necessary corrections to align with APT Rules 1989. He next argued that the seniority lists were revised appropriately in 2019 to reflect merit-based placement. He further argued that the adjustments were sanctioned following appeals from aggrieved individuals whose interests were impeded by the 2018 list. He also argued that the appellant's relatively lower merit placement, substantiated by exam results, justifies his position in accordance with the applied rules and regulations. In the last, he argued that the appeal in hand may be dismissed with cost.

4. We have heard the arguments of learned counsel for the parties and have perused the record.

5. The record shows that the appellant was appointed as an Assistant Sub-Inspector (ASI) on March 13, 2012. In 2017, the respondent department issued the final seniority list of Assistant Sub-Inspectors of the Excise & Taxation and Narcotics Control Department of Khyber Pakhtunkhwa, updated as of September 30, 2017, in which the name of the

appellant was placed at serial No. 104, following Mr. Waheed Akbar, whose name was placed at serial No. 103. In 2018, a further seniority list of Assistant Sub-Inspectors of the Excise & Taxation and Narcotics Control Department of Khyber Pakhtunkhwa was issued, wherein the appellant was assigned serial No. 80, while Waheed Akbar was assigned serial No. 79. However, in 2019, a tentative seniority list of Assistant Sub-Inspectors of the Excise & Taxation and Narcotics Control Department of Khyber Pakhtunkhwa was circulated, which placed the appellant at serial No. 87, while Waheed Akbar was ranked at serial No. 67. The appellant is now seeking his seniority one number below the name of Waheed Akbar, who assigned serial No. 67. To address the issue in question, Rule-17 (1)(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, is particularly relevant and is reproduced 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;*

6. The aforementioned rule clearly indicates that the determination of seniority for appointments processed through initial recruitment, particularly in the context of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. According to Rule-17 (1)(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, when appointments are made, the placement of individuals within a seniority list must reflect the merit order established by


a competent authority, either the Commission or a Departmental Selection Committee. This ensures that appointments are not based on arbitrary decisions, but rather on a fair assessment of candidates' qualifications and competencies. The intention behind this provision is to promote transparency and equity in the recruitment process. In this case, the appellant, was placed at serial No. 87 on the seniority list of Assistant Sub-Inspectors of Excise & Taxation and Narcotics Control for the year 2019, it appears that the list was compiled following the appropriate procedures as outlined in Rule-17 (1) (a) of the aforementioned civil servants' rules. This rule emphasizes that seniority should reflect the order of merit established during the selection process. The appellant's challenge regarding the legality of the revised seniority list hinges on the claim that his placement at serial No. 87 was incorrect or unjust. However, for such a challenge to be valid, the appellant would need to provide substantial evidence or reasoning to support his assertion that the seniority list was not aligned with the rules. Therefore, the crux of the issue lies in the appellant's failure to provide sufficient justification to demonstrate that the seniority list of 2019 did not comply with Rule-17 (1) (a) or that it was not reflective of the merit order as determined during the recruitment process. Without compelling evidence to substantiate these claims, the challenge to the seniority list remains unconvincing. The legal framework aims to protect the integrity of the selection and promotion process, highlighting the importance of adhering to merit-based criteria. Thus, keeping in view the compliance of the relevant rules by the official respondents No. 1 & 2, it


*26/09/2024*

can easily be held that the seniority list was lawfully and correctly formulated.

8. 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.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 26<sup>th</sup> day of September, 2024.*

  
**AURANGZEB KHATTAK**  
Member (Judicial)

  
**RASHIDA BANO**  
Member (Judicial)

\*Naeem Amin\*

9<sup>th</sup> Feb. 2024

1. Junior to counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Miss. Parkha Aziz, Legal Advisor for the respondents present.

2. Former made a request for adjournment as senior counsel was not available today. Adjourned. To come up for arguments on 22.05.2024 before D.B. P.P given to the parties.



(Fareeha Paul)  
Member (E)



(Kalim Arshad Khan)  
Chairman

*Motaz on Shah\**

22<sup>nd</sup> May, 2024

1. Junior to counsel for the appellant present. Mr. Umair Azam, Additional Advocate General alongwith Miss. Parkha Aziz, Legal Advisor for the respondents present.

2. Former requested for adjournment on the ground that learned senior counsel is not available today. Adjourned but as a last chance. To come up for arguments on 26.07.2024 before D.B. P.P given to the parties.



(Muhammad Akbar Khan)  
Member(E)



(Kalim Arshad Khan)  
Chairman

*\*Adnan Shah, P.A\**

26<sup>th</sup> July, 2024 1. Junior to counsel for the appellant present. Mr. Muhammad Jan, District for respondents present.

2. Junior to counsel for the appellant seeks adjournment on the ground that learned senior counsel is not available today. Adjourned by way of last chance. To come up for arguments on 26.09.2024 before D.B. P.P given to the parties.

RECORDED  
IN SYSTEM  
Peshawar

(Aurangzeb Khattak)  
Member (J)

(Kalim Arshad Khan)  
Chairman

\*Adnan Shah, P.A.\*

**ORDER**

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

1. Learned counsel for the appellant present. Ms. Perkha Aziz, Advocate on behalf of official respondents No. 1 & 2 and Mr. Muhammad Arif Firdos, Advocate on behalf of private respondents are 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 26<sup>th</sup> day of September, 2024.*

(Rashida Bano)  
Member (Judicial)

(Aurangzeb Khattak)  
Member (Judicial)