KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.513/2022

Date of presentation of Appeal.....12.04.2022
Date of Hearing.....05.11.2024
Date of Decision.....05.11.2024

Mst. Shagufta Anjum, Headmistress (BPS-17) GGHS City Railway Station, Peshawar.....***(Appellant)***

Versus

1. **The Government of Khyber Pakhtunkhwa** through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. **Secretary to Government of Khyber Pakhtunkhwa** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.....***(Respondents)***

Present:
Syed Noman Ali Bukhari, Advocate.....For the appellant
Mr. Naseer Ud Din Shah, Assistant Advocate General.....For respondents

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE SENIORITY LIST DATED 11.04.2019 (RECEIVED BY THE APPELLANT THROUGH OWN EFFORTS ON 01.12.2021) WHEREIN THE APPELLANT HAS NOT BEEN ASSIGNED THE CORRECT SENIORITY AS PER MERIT OF THE PSC IN ACCORDANCE WITH KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989 AND AGAINST THE PROMOTION ORDER DATED 27.11.2019 WHEREBY THE JUNIORS TO APPELLANT WERE ALSO PROMOTED BUT THE APPELLANT IGNORED AND AGAINST THE DEPARTMENTAL APPEAL NOT DECIDED WITHIN STATUTORY PERIOD OF 90 DAYS.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case, as per averments of the appeal, are that appellant was appointed as Headmistress (BPS-17) through Khyber Pakhtunkhwa Public Service Commission vide Notification dated 10.03.2011; that some Subject Specialists were also recruited who had applied against the same advertisement as the appellant did; that merit list was issued by the Public Service Commission wherein the appellant was figured at Serial No.84; that on 11.04.2019, joint seniority list was issued by the department wherein appellant was placed junior to her alleged juniors in the merit list of the Commission; that on the said seniority list, the department made promotions of her alleged juniors, on 27.11.2019; that feeling aggrieved of placing her junior, she filed departmental appeal on 16.12.2021 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 and learned Assistant Advocate General 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 Assistant Advocate General controverted the same by supporting the impugned order(s).

5. The appellant was appointed as Headmistress (BPS-17) through the Khyber Pakhtunkhwa Public Service Commission on 10.03.2011, alongside other Subject Specialists who had applied under the same advertisement. A joint seniority list was issued by the Public Service Commission, which placed the appellant at Serial No. 84. However, a subsequent joint seniority list, issued on 11.04.2019, placed the appellant, junior to individuals, who were ranked lower than her, in the merit list. Based on this revised seniority list, the department promoted the appellant's alleged juniors on 27.11.2019. Aggrieved by her placement below these juniors, the appellant filed a departmental appeal on 16.12.2021, but as no response was received, she proceeded to file the present service appeal seeking redress.

6. Contention of the appellant is that she was not placed at the position of seniority assigned by the Commission whereas the department ought to have placed her as per her merit list of the Khyber Pakhtunkhwa Public Service Commission, in accordance with Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. The said Rule explains that seniority shall be maintained as per the merit order assigned by the selection authority/commission.

7. In view of the above situation, impugned seniority list stands set aside and the matter is remitted to the respondents to decide the

case in accordance with relevant law/rules, within 60 days of receipt of this judgment. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 5th day of November, 2024.*

KALIM ARSHAD KHAN
Chairman

RASHIDA BANO
Member (Judicial)

Mutazem Shah

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.513 of 2022

Mst. Shagufta Anjum 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-19 5th November, 2024.	**Kalim Arshad Khan, Chairman** Present: 1. Syed Noman Ali Bukhari, Advocate, on behalf of appellant. 2. Mr. Naseer Ud Din Shah, Assistant Advocate General, on behalf of respondents. Vide our detailed judgment of today, impugned seniority list stands set aside and the matter is remitted to the respondents to decide the case in accordance with relevant law/rules, within 60 days of receipt of this judgment. Costs shall follow the event. Consign. 2. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 5th day of November, 2024* (Rashida Bano) Member (J) (Kalim Arshad Khan) Chairman *Mutazem Shah*

MEMO OF COSTS
KHYBER PAKHTUNKHKWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.513/2022

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2. **Secretary to Government of Khyber Pakhtunkhwa** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

.....*(Respondents)*

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.

PRESENT

1. Syed Noman Ali Bukhari, Advocate, for the Appellant
2. Mr. Naseer Ud Din Shah, Assistant Advocate General, 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
Total	**Rs. 100/-**	**Total**	**Rs. Nil**

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 05th day of November, 2024.

Rashida Bano
Member (Judicial)

Kalim Arshad Khan
Chairman