

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4800/2021

BEFORE: MR. AURANGZEB KHATTAK ... MEMBER (J)
MRS. RASHIDA BANO ... MEMBER (J)

Mr. Amjad Ali S/o Abdul Quresh, SCT GHSS, Narshak, Tehsil & District Mardan.

.... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary (E&S), Civil Secretariat, Peshawar.
2. The Director Education, Near Government Higher Secondary School, G.T Road, Peshawar.
3. The Departmental Promotion Committee through its Chairman E&S, Peshawar.

.... (Respondents)

Mr. Amjad Ali
Advocate

... For appellant

Mr. Naseer ud Din Shah,
Assistant Advocate General

... For respondents

Date of Institution.....06.04.2021
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“It is therefore, humbly prayed that order of department non-consideration for promotion of appellant dated 08.12.2020 for promotion to SST (G) from SCT and thereafter continuous non-consideration may please be set-aside and appellant may please be considered for promotion w.e.f. 08.12.2020 with all back benefits,



when his bench mats/ juniors were promoted or currently considered for promotion as SST (G).”

2. Brief facts of the case are that the appellant is currently serving as a Senior Computer Teacher (SCT) in the respondent department, and as per the seniority list for 2020, the appellant is ranked at Serial No. 99. Despite this, juniors to the appellant were promoted to Senior School Teacher (SST) (General) through an order dated 08.12.2020, while the appellant was unjustly deprived of promotion. The appellant holds an MA, M.Ed, and B.Com degrees from a recognized university, yet he was informed by the respondent that his B.Com qualification rendered him ineligible for promotion, a claim that contradicts established rules. The B.Com qualification is recognized as equivalent to a BA/BSc by the Services and General Administration Department (S&GAD) and the Finance Department.

In a previous judgment dated 23.04.2005, this Tribunal granted the appellant BPS-14 based on the equivalence of his B.Com qualification. Notably, Yousaf Ali, who was promoted to SST (General) at Serial No. 1 via the same order, is junior to the appellant. The appellant has also completed Business English, a major subject, and both Business English and Business Communication are recognized as English subjects in the B.Com program. After receiving the promotion order favoring his junior colleagues, the appellant filed a departmental appeal on 18.12.2020, which went unanswered, leading to the present service appeal.

3. 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.

4. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

5. 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).

6. The perusal of record reveals that the appellant is serving in the respondent/department as SCT, and his promotion to the post of SST (G) was denied on the ground "not having English as compulsory subject during bachelor degree" because appellant had done B.Com in which English was not taught as compulsory subject. He also challenged vires of the rules dated 24.07.2014, vide which condition of English as compulsory subject during Bachelor Degree was imposed upon, for promotion to the post of SST (G). The relevant rule is reproduced here;

"1. At least Second Class Bachelor Degree's from a recognized University on need basis form the following groups with two subject

(a) (Chemistry, Botany or Zoology), Or

(b) (Physics, Maths "A" or "B" or Statistics) Or

(c) (Humanities and other equivalent groups at degree level with English as compulsory subject; and

(d) Bachelor of Education or Master of Education (industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.

So, as per amended rules of 2014 English as compulsory subject in humanities group is condition pre requisite for promotion.

7. It is admitted fact on record that appellant and many others like appellant were appointed in respondent/department having qualification of B.Com instead of simple B.A having English as compulsory subject. Appellant is serving the department for last more than 25 years and is deprive from further prospect of promotion, which is injustice with all of such like employees who give their valuable time to the department. We think that like other employees, he also be given opportunity of expectation of further promotion, if further expectation of promotion was not given to him, it will create unrest and disappointment, which is not good for student to whom now appellant is teaching.

8. Therefore, we remit the matter to the authority for placing before Standing Service Rules Committee to look into the matter either to consider him within the existing criteria by making some way or to give cushion period to all those employees of appellant category who passed B.Com degree to improve their qualification by appearing in B.A exam to pass the English compulsory at Bachelor level for meeting the condition laid down in the rules. The whole process shall be completed within 90 days from the receipt of copy of this judgment. The appeal is disposed of accordingly. Costs shall follow the event. Consign.

9. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 24th day of September, 2024.*


(AURANGZEB KHATTAK)
Member (J) 24⁰⁹
2024.


(RASHIDA BANO)
Member (J)


ORDER

24.09.2024

1. Learned counsel for the appellant present. Mr. Naseer ud Din Shah, learned Assistant Advocate alongwith Muhammad Rizwan Assistant Director, for respondents present.

2. Vide our detailed judgment of today placed on file, we remit the matter to the authority for placing before Standing Service Rules Committee to look into the matter either to consider him within the existing criteria by making some way or to give cushion period to all those employees of appellant category who passed B.Com degree to improve their qualification by appearing in B.A exam to pass the English compulsory at Bachelor level for meeting the condition laid down in the rules. The whole process shall be completed within 90 days from the receipt of copy of this judgment. The appeal is disposed of accordingly. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 24th day of September, 2024.*


(AURANGZEB KHATTAK)
Member (J)


(RASHIDA BANO)
Member (J)

*M.KHAN