

Service Appeal No.152/2023 titled "Gul Rukh versus Secretary to Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Peshawar and others", decided on 06.11.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar

8. In view of above, we see no merits in this appeal and dismiss it with costs. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 6th day of November, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah

Education Department has also dragged a structure of rules/qualification for promotion to the post of Senior Arabic Teacher. The appellant has relied upon the rules issued vide Notification dated 13.11.2012 wherein, the department has pointed out the criteria for promotion to Senior Arabic Teacher as under:

"By promotion, on the basis of seniority-cum-fitness, from amongst Arabic Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Arabic Teacher."

6. The above rules have been annexed by the appellant in the appeal. While on the other hand, plea of the respondents is that the said rules have been amended vide Notification dated 30.01.2018 wherein, the qualification criteria for promotion to the post of Senior Arabic Teacher has been enhanced as:

"At least Second Class Master Degree in Arabic OR at least Second Class Bachelor Degree from a recognized University with Shahadatul Alamia Fil Uloomul Arabia Wal Islamia, from a recognized Tanzimuatul Wafaqul Madaris"

7. Admittedly, the teacher namely Nabeela Anum, junior to appellant was promoted to the post of Senior Arabic Teacher, which promotion was objected by the appellant, but she (Nabeela Anum) had the qualification of Master Degree while appellant has no such degree, either Master or Bachelor, therefore, was not promoted.

the appellant was left at her own position of Arabic Teacher in BPS-15; that feeling aggrieved, she filed departmental appeal 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. Record reflects that she was appointed on 09.05.2013 and was performing her duties in the said capacity. In order to learn about her seniority position, she made written request on 24.08.2022 for provision of seniority list. In response, seniority list was provided by the respondents, wherein, Arabic Teachers appointed later than her appointment, were granted promotions to the post of Senior Arabic Teacher (BPS-16) and the appellant was not. The case in hand shows that appellant was discriminated, however, for promotion or appointment to a post, the departments frame rules for the purpose, hence the



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.152/2022

Date of presentation of Appeal.....17.01.2023
Date of Hearing.....06.11.2024
Date of Decision.....06.11.2024

Gul Rukh, Arabic Teacher, Government Girls Middle School,
Saminabad, Mardan.

.....(***Appellant***)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary (E&SE) Department, Peshawar.
2. **Director (E&SE)** Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Female)** Mardan.

.....(***Respondents***)

Present:

Mr. Muhammad Ayub Khan Shinwari, Advocate.....For the appellant
Mr. Naseer Ud Din Shah, Assistant Advocate General.....For respondents

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

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case, as per averments of the appeal, are that appellant was appointed as Arabic Teacher (BPS-15) vide order dated 09.05.2013 in the respondent department; that she, in order to know about her seniority position, requested for provision of seniority list; that seniority list was provided to her, wherein, she came to know that her alleged juniors were granted promotion to the posts of Senior Arabic Teacher (BPS-16) and



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.152/2022

Gul Rukh

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-13 6 th November, 2024.	<p><u>Kalim Arshad Khan, Chairman</u></p> <p>Present:</p> <ol style="list-style-type: none">1. Mr. Ayub Khan Shinwari, Advocate, on behalf of appellant.2. Mr. Naseer Ud Din Shah, Assistant Advocate General, on behalf of respondents.3. Vide our detailed judgment of today, placed on file, we see no merits in this appeal and dismiss it with costs. Consign.4. <i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 6th day of November, 2024</i> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p><small>*Mutazem Shah*</small></p>

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.152/2023

Date of presentation of Appeal 17.012023
Date of hearing 06.11.2024
Date of Decision 06.11.2024

Gul Rukh, Arabic Teacher GGMS Saminabad.

.....(Appellant)

Versus

1. The Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director E&SE Department, Khyber Pakhtunkhwa, Peshawar.....Respondents)

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


PRESENT

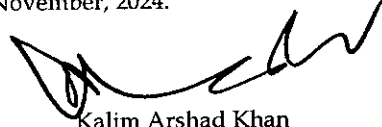
1. Mr. Muhammad Ayub Khan Shinwari, Advocate, for the Appellant
2. Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents

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 6th day of November, 2024.


Rashida Bano
Member (Judicial)


Kalim Arshad Khan
Chairman