

1.05.2021

Counsel for the appellant present. Preliminary arguments heard.

The appellant approached to Hon'ble Peshawar High Court Peshawar through Writ Petition No. 2206/2019 which was decided vide order dated 24.02.2021, copy whereof is available on this file. The facts noted in the said judgment at Paragraph-2 being relevant for the purpose of this appeal are copied below:-

"The brief facts of the case as disclosed in the writ petition are that pursuant to advertisement bearing No. 5 of 2009 dated 13th June, 2009, issued by respondent No. 4, the petitioner, being disabled, applied against the post of Female Assistant District Officer (BPS-16), allocated against 2% quota of disable candidates, appearing at serial No. 8 of the advertisement. She appeared in test and interview, qualified the same and accordingly vide Notification dated 28.02.2012, she was appointed against the said post. On 01.03.2012, she assumed the charge of the post and was performing her duties when all of sudden respondent No. 2, vide Notification dated 28.02.2019, disowned her appointment Notification dated 28.02.2012 and directed the respondent No. 5 to recover salaries and other allied benefits drawn by her. Thereafter, she approached the Khyber Pakhtunkhwa Public Service Commission for providing her complete file/selection record and in the meanwhile the respondents No. 5 and 6 vide letter dated 20.03.2019, directed her to attend the office alongwith details of monitory benefits received from the department to work out total recovery and its back deposit into government treasury. Hence, the petitioner filed the instant petition."

In particular factual position of the grievance of appellant, there is need to record pro and contra evidence for determination of some questions for just and fair decision of this appeal. Therefore, following issues are framed to afford

Stipulated period passed reply not submitted.

29.07.2021

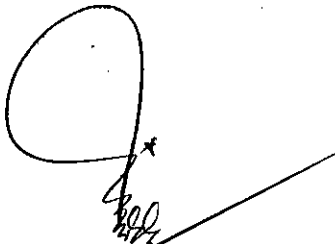
Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.


Chairman

02.10.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Despite extension of the time, the respondents has failed to submit the reply/comments. They are afforded with the last opportunity for written reply/comments within 10 days in office failing which their right for submission of written reply/comments shall be deemed as struck off. To come up for written reply as well as arguments on 02.12.2021 before the D.B.


(Mian Muhammad)
Member(E)


Chairman

02.12.2021

None for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Hamid Saleem, Law Officer for respondents No. 3 and 4 present.

Written reply/comments on behalf of respondents No. 3 and 4 have already been submitted which is placed on file. Leaned AAG seeks time to contact the respondents No. 1,2, 5 and 6 for submission of written reply/comments. Adjourned. To come up for written reply/comments of the remaining respondents on 07.02.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER (E)

07.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 07.04.2022 before S.B for the same.



Reader

07.04.2022

Appellant alongwith her counsel present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Hamid Saleem, Law Officer for respondents No. 3 and 4 present.

Written reply /comment on behalf of respondents No. 3 and 4 have already been submitted. None present on behalf of respondents No. 1,2,5 and 6 nor their written reply/comments submitted. Last opportunity granted. Notice be also issued to them for written reply/comments. Adjourned. To come up for written reply/comments on behalf of 1,2,5 and 6 on 11.05.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

11.05.2022

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Mehtab Gul Law Officer and Haseen Ullah Assistant for respondents present.

Despite last opportunity granted for submission of comments on behalf of respondents No.1, 2, 5 & 6, another request for adjournment was sought which is acceded to on payment of cost of Rs. Rs.3000/- to be paid on behalf of respondents. Learned AAG is directed to make sure the submission of comments much before the next date. To come up for reply/comments on 30.05.2022 before S.B.



(Rozina Rehman)
Member (J)

30th May, 2022

Appellant alongwith her counsel present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Written reply/comments on behalf of the respondents No.1,2,5 and 6 not submitted despite numerous opportunities including payment of cost of Rs. 3000. Today no one is present on behalf of the respondents. Therefore, their right for submission of written reply is struck off. To come up for arguments on 01.08.2022 before D.B.



(Kalim Arshad Khan)
Chairman

1-8-2022

Proper DB not available the case is adjourned to come up for the same as before on 1-11-2022



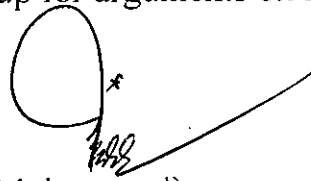
Reader

01.11.2022

Mr. Umer Farooq, Advocate, junior of learned counsel for the appellant present. Mr. Hamid Saleem, Law Officer alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Bannu Bench. Adjourned.

To come up for arguments on 21.12.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

21.12.2022

Appellant in person present. Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Former made a request for adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 13.01.2023 before D.B.



(Fareeha Paul)
Member (E)





(Rozina Rehman)
Member (J)

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. 3989 /2021

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	22/03/2021	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 24.02.2021 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;">  REGISTRAR </p>
2	26/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on 31/05/21</p> <p style="text-align: right;">  CHAIRMAN </p>

the parties with opportunity of production of pro and contra evidence under due course:-

- (1) Whether the appellant has got cause of action to prefer this appeal?
- (2) Whether the appellant is estopped by her own conduct to prefer this appeal?
- (3) Whether the post on which the appellant was appointed was advertised by Khyber Pakhtunkhwa Public Service Commission (KPPSC) in pursuance to departmental requisition?
- (4) Whether the appellant was duly enlisted as candidate in pursuance to advertisement and was genuinely recommended by the Commission for her appointment?
- (5) Whether the order for appointment of appellant was issued by respondent No. 2 in pursuance to recommendation of KPPSC?
- (6) Whether the order about cancellation of appellant's appointment is proper and result of due process?
- (7) Relief.

The appeal is admitted to regular hearing subject to all legal objections available to the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 04.10.2021.

Appellant Deposited
Security & Process Fee


Chairman

1.05.2021

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