

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 16435/2020

BEFORE: MRS. ROZINA REHMAN ... MEMBER(J)  
MISS FAREEHA PAUL ... MEMBER(E)

Rukhsana Hayat D/O Hayatullah Khan, Ex-PTC, GGPS, Textile Mills, Serai Naurang, Lakki Marwat R/O Nar Raza Khan Adam Zai, Lakki Marwat. .... (Appellant)

Versus

1. District Education Officer (F), Elementary & Secondary Education Lakki Marwat.
2. Director, Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Secretary, Government of Khyber Pakhtunkhwa, Elementary & Secondary Education, Peshawar.
4. District Accounts Officer, Lakki Marwat.
5. Controller of Examination, Board of Intermediate & Secondary Education, Bannu. .... (Respondents)

Arbab Saiful Kamal,  
Advocate

For appellant

Mr. Kabirullah Khattak,  
Addl. Advocate General

For respondents

Date of Institution.....18.12.2020  
Date of Hearing.....24.11.2022  
Date of Decision..... 24.11.2022

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal




Act, 1974 against the order dated 27.07.2012 of respondent No. 1 whereby services of the appellant were terminated and against the order dated 06.11.2019 of respondent No. 2 whereby departmental appeal of the appellant was rejected and against order dated 24.12.2019 of respondent No. 1 whereby appellant was dismissed from service with immediate effect with the prayer that all the orders might be set aside and the appellant be reinstated in service with all consequential benefits with further payer to pay monthly salaries withheld since 25.11.2012 onwards.

2. Facts of the case, as per memorandum of appeal, are that numerous posts of PTC alongwith other disciplines were advertised on 11.05.2010 by respondent No. 1. The appellant, alongwith others, having the requisite qualification applied for the same in prescribed manner through printed form on 21.05.2010 wherein details of the academic qualifications and marks obtained were given. After going through the prescribed procedure of selection, appellant, alongwith others, was appointed as PTC on the recommendations of Departmental Selection Committee vide order dated 25.02.2011 on regular basis and she assumed the charge on 26.02.2011. On 15.06.2012 certificates of appellant, alongwith other female teachers, were termed as fake by the respondents on the ground that the same were verified as fake from the concerned Board. On 27.07.2012, services of the appellant, alongwith other teachers, were terminated on the ground of bogus/fake and tampered documents. On 17.10.2012, the appellant submitted representation

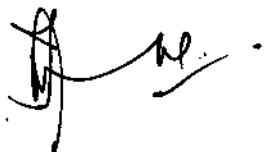


before respondent No. 2, against the order of termination, for reinstatement in service with all back benefits which was accepted on 27.12.2012 by the department with all back benefits but monthly salaries were withheld. On 21.03.2014, appellant preferred an appeal before the Service Tribunal for release of salaries which came up for hearing on 28.02.2018. The appeal, alongwith other appeals, was accepted with the directions to the department to treat those as departmental appeals and remitted the same to the departmental appellate authority for decision through speaking order after examining the relevant record within a period of sixty days positively. The departmental appellate authority was further directed to communicate the said order to the appellants and if any party was aggrieved from the order, the said party reserved the right to file fresh appeal, subject to all just/legal objections (Appeal No. 129/2014 titled Mehnaz Bibi Vs. DEO and others). The respondents failed to implement the order dated 28.02.2018 in letter and spirit, and hence an Execution Petition No. 236/2018 was filed before the Service Tribunal on 18.07.2018 for release of monthly salaries. On 21.01.2019 respondent No. 1 issued office order for the release of pay of the appellant from the date of appointment i.e. 25.02.2011, but in fact no penny was paid to her. On 12.02.2019 respondent No. 1 issued another order modifying the earlier order of 21.01.2019 for release of pay of the appellant w.e.f. 01.08.2019, instead of date of appointment which was 25.02.2011. On 28.03.2019, respondent No. 4 (District Accounts Officer, Lakki Marwat) wrote a letter to respondent No.1, with a copy to Sub Divisional Education



Officer (Female) Serai Naurang to provide documents of the appellant to proceed further in the matter despite the fact that order dated 21.01.2019 for release of pay from the date of appointment (25.02.2011) was already endorsed to the District Accounts Officer, Lakki Marwat.

3. On 28.09.2019 respondent No. 1 served a show cause notice upon the appellant, leaving aside other female teachers, in pursuance of an inquiry conducted by the Provincial Inspection Team in the matter of appointment orders which were declared as illegal. The Provincial Inspection Team had conducted the inquiry against respondent No. 1 for appointments made over and above the sanctioned strength of the posts. The appellant replied to the show cause notice on 07.10.2019 with cogent reasons and denied the allegations. On 09.10.2019, appellant submitted an application to the Service Tribunal to restrain the respondents from passing any adverse action against the appellant in the matter, on which Tribunal was pleased to restrain the respondents from passing any order against her vide order sheet dated 24.10.2019. On 06.11.2019 respondent No. 2 passed an order in pursuance of judgment of Service Tribunal dated 28.02.2018, and rejected the departmental appeal of the appellant by maintaining the termination from service order dated 27.07.2012. On 24.12.2019 respondent No. 1 once again terminated the services of appellant with immediate effect despite the fact that a stay order was passed by the Service Tribunal with the direction to the respondents not to take any adverse action against her. On 21.01.2020 the



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appellant submitted an appeal before respondent No. 2 for her reinstatement in service which was not responded. On 19.11.2020 the Service Tribunal passed its order wherein execution petition of the appellant was decided as per its contents. Feeling aggrieved from the response of respondent department, the appellant submitted the present service appeal on 18.12.2020.

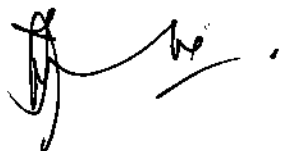
4. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

5. Learned counsel for the appellant presented the detail of the case and apprised the bench that similarly placed colleagues of the appellant were being paid monthly salaries by the department on regular basis but the same had been refused to the appellant for which she approached the Service Tribunal which was pleased to direct the authority to pay the salaries from the date of her appointment. He invited the attention to the judgments of Superior Courts wherein it had been clearly directed that similarly and equally placed persons be treated similarly and equally to avoid discrimination. On the inquiry conducted by the Provincial Inspection Team the learned counsel clarified that the said inquiry was conducted against respondent No. 1 who made appointments over and above the sanctioned strength of the posts and it was not against the appellant. He further



informed that a case in N.A.B was also pending disposal against respondent No. 1 in the same matter. He requested for acceptance of the appeal as prayed for.

6. Learned Additional Advocate General contended that the appellant applied with bogus S.S.C certificate which was sent for verification from the concerned Board and the same was declared as fake and bogus. He further contended that departmental appeal of the appellant was decided by the competent authority/departmental appellate committee after the facts which were brought to its notice that the appellant's PTC certificate was also bogus. On the matter of inquiry by the Provincial Inspection Team, the learned AAG stated that inquiry was conducted in respect of documents of almost all the concerned appointees alongwith the appellant and in the same report the P.I.T had recommended show cause notice to be served upon the appellant, alongwith other beneficiaries, for fraudulent appointment. He further argued that the appellant obtained the restraining order from the Service Tribunal by referring the execution petition which was also based on malafide and misrepresentation of the appellant referring therein that the Tribunal had passed the judgment in favour of the appellant. According to him the appellant was aware of the decision of the departmental appellate committee and as per order dated 28.02.2018 of Service Tribunal she was directed to file fresh appeal before the Service Tribunal against the said speaking order of departmental appellate authority but she failed to do so



and therefore, she was alleging wrong facts to cover limitation of her instant time barred appeal. He requested that the appeal of the appellant was time barred and therefore liable to be dismissed. The Additional A.G further contended that the appellant was never reinstated or adjusted on any post after her termination from service on 27.02.2012 nor she had performed any duty in any school. He requested for dismissal of the service appeal.

7. After hearing the arguments and going through the record presented before us, it transpires that the appellant applied for the post of PTC through a printed application form to the EDO Elementary & Secondary Education, District Lakki Marwat. She had clearly mentioned her educational qualification marks in that form according to which she secured 626 marks in Matric and 557 marks in F.A/F.Sc. Her PTC marks have been shown as 563. Two certificates, SSC and Intermediate examinations, have also been attached showing the same marks as mentioned in her application form. After getting appointed, the appellant joined the service by submitting her arrival report and started her attendance in the school where she was posted. One of the conditions of her appointment was that the Executive District Officer (EDO) Elementary & Secondary Education, Lakki Marwat would check and verify the certificates/degrees of the appointed candidates from concerned Board/Universities before the drawl of their pay. Accordingly their educational testimonials were forwarded to the respective institutions for necessary verification. A point noted in the record as well as in the



arguments was that the Secondary School Certificate of the appellant forwarded by the E.D.O, E&SE to the concerned board shows her marks as 780. Similarly a Detailed Marks Certificate of Higher Secondary School Examination indicates her marks obtained as 777. Both these certificates have been declared bogus by the Board of Intermediate and Secondary Education, Bannu. On a question raised by the bench for the learned AAG and departmental representative of Elementary & Secondary Education Department to produce the application form alongwith enclosures, including the educational testimonials, submitted by the appellant, both of them were silent. No such document is attached with the reply also. It is, therefore, hard to understand that from where the two certificates that were forwarded to the BISE Bannu came, as the same were denied by the appellant and it was supported by the application form that she submitted to the respondent department, a copy of which is attached with her appeal also.

8. On the point of reinstatement of the appellant vide order dated 27.12.2012 whereby she was reinstated on the grounds that she possesses the minimum qualification so required for appointment as PST, the respondent department failed to provide the relevant record to ascertain whether she came in the ambit of being appointed on merit or not.

8. In view of the above discussion, the instant service appeal is allowed as prayed for. Parties are left to bear their own costs. Consign.





10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 24<sup>th</sup> day of November, 2022.*



**(FAREEHA PAUL)**  
Member (E)



**(ROZINA REHMAN)**  
Member (J)


**Service Appeal No. 16435/2020**

24.11.2022 Arbab Saiful Kamal, Advocate for appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgement containing 09 pages, the instant service appeal is allowed as prayed for. Parties are left to bear their own costs. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 24<sup>th</sup> day of November, 2022.*

  
(FAREEHA PAUL)  
Member(E)

  
(ROZINA REHMAN)  
Member (J)