

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

SCANNED
Peshawar

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (Judicial)

Service Appeal No.7870/2021/2021

Date of presentation of appeal08.12.2021
Dates of Hearing.....15.03.2023
Date of Decision.....12.04.2023

**Memoona Asma, Primary School Teacher (PST) Government Girls
Primary School, Siab Kohat.**

.....(*Appellant*)

Versus

1. **Govt: of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
2. **Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
3. **District Education Officer (Female) Kohat.**
4. **District Accounts Officer, Kohat.**

.....(*Respondents*)

Present:


Miss. Asia Kamal,
Advocate.....For appellant.

Mr. Asif Masood Ali Shah,
Deputy District Attorney.....For respondents.

.....
**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ORDER DATED 05.08.2021 WHEREBY THE APPELLANT
WAS AWARDED THE MAJOR PENALTY OF REMOVAL
FROM SERVICE AND AGAINST WHICH THE APPELLANT
FILED DEPARTMENTAL APPEAL DATED 09.08.2021, WHICH
IS NOT YET RESPONDED DESPITE THE LAPSE OF NINETY
DAYS OF STATUTORY PERIOD.**
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Service Appeal No.4816/2021

Date of presentation of appeal01.04.2021



Dates of Hearing.....15.03.2023
Date of Decision.....12.04.2023

**Memoona Asma, Primary School Teacher (PST) Government Girls
Primary School, Siab Kohat.**
.....(*Appellant*)

Versus

1. **Govt: of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
 2. **Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
 3. **District Education Officer (Female) Kohat.**
 4. **District Accounts Officer, Kohat.**
-(*Respondents*)

Present:

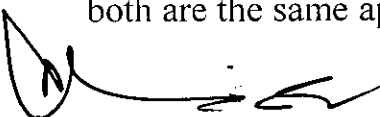
Miss. Asia Kamal,
Advocate.....For appellant.

Mr. Asif Masood Ali Shah,
Deputy District Attorney.....For respondents.

.....
**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
NOT RELEASING THE SALARY OF THE APPELLANT W.E.F
OCTOBER 2018 TILL DATE AND ONWARDS, THE
APPELLANT IS STILL PERFORMING HER DUTIES, AND
AGAINST WHICH THE DEPARTMENTAL APPEAL DATED
16.12.2020, WHICH IS NOT YET RESPONDED DESPITE THE
LAPSE OF NINETY DAYS.**

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this appeal and the connected service appeal No. 4816/2021 titled "Memoona -vs- Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa and others" both are decided as both are the same appellant and can conveniently be decided together.



2. According to the facts gathered from the record in service appeal No. 7821/2021, the appellant was appointed in the respondent-department as PST (BS-12) vide order dated 03.05.2017 and started performing her duties at GGPS Siab Kohat; that one Mst. Asma Bibi filed a writ petition No. 1572-P/2020 before the Hon'ble Peshawar High Court wherein appointment order of the appellant was challenged which was dismissed for non-prosecution/default; that the respondent-department were not releasing the salary of the respondents; that the appellant filed service appeal No. 4816/2021 before this Tribunal for releasing of her monthly salary and during pendency of that appeal, the respondents issued the impugned order dated 05.08.2021, whereby the appellant was awarded the major penalty of removal from service; that the appellant feeling aggrieved of the said order filed departmental appeal on 09.08.2021 which was not responded within the statutory period of ninety days, and hence filed the instant service appeal.

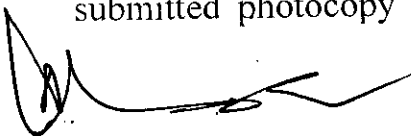
3. In service appeal 4816/2021, the appellant is aggrieved of not releasing the salary w.e.f October 2008 till date by the respondent department despite the facts that she was regularly performing her duties. That the appellant filed departmental appeal on 16.12.2020 which was not responded within the statutory period of ninety days, the appellant then filed the instant service appeal

4. On receipt of the appeals and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing

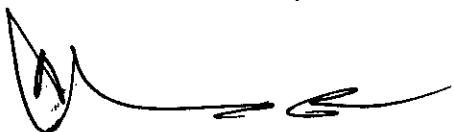


written replies raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellants.

5. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.
6. The appellant had applied for appointment as PST in U/C Bilitang Kohat in 2017, against one of the 12 advertised posts in the said U/C. In the tentative merit list prepared by NTS, she obtained 85.51 score and stood at S.No. 20 in the said list. During the scrutiny of documents and interview, she produced a copy of MSc degree shown to have been obtained from Allama Iqbal Open University and requested the committee to award her the marks of the said degree in the merit list. The committee included the marks of her MSc degree. Her total score raised to 94.95 and she occupied S.No. 11 in the final merit list, thereby entitling her to be appointed against one of the vacant post. Accordingly, she was appointed as PST at GGPS Seyab U/C Bilitang District Kohat on 03.05.2017 on the recommendation of the Departmental Selection Committee. In the appointment order term and condition No. 15 was regarding the fact that in case any candidate with fake documents(s)/ low score had been appointed erroneously, her/their appointment order would be withdrawn since the day of issuance in the best interest of the entitled/right position holder candidate(s). The impugned order dated 05.08.2021 shows that the appellant was awarded marks of M.Sc Pakistan Study degree showing the result declaration to have been made on 06.09.2016 whereas a complainant submitted photocopy of M.Sc Pakistan Study of the appellant showing the



date as 17.03.2021, i.e. after the closing date of the advertisement. That both the degrees were sent for verification vide registered mail and both were verified but when those were sought to re-verified by sending those through special messenger i.e. the SDEO(F) Kohat, the degree submitted by the appellant bearing the date as 06.09.2016, was disowned by the Allama Iqbal Open University on which enquiry committee was constituted, which recommended penalty of removal of the appellant from service and consequently, the appellant was so removed. The appellant has said nothing about the ground of her removal from service i.e. filing of copy of a degree bearing date 06.09.2016 to be the date of declaration nor did she deny the verification and re-verification of the degree bearing two different dates of declaration of result. The one was disowned by the Allama Iqbal Open University as that was bearing the date prior to the closing of receipt of application forms for appointment while the other bearing 17.03.2017 which was owned and verified but 17.03.2017 was a date after the closing date of advertisement. This shows that the appellant got her total marks in the selection process enhanced to 94.5 and secured a better position whereas result of M.Sc Pakistan Study was declared on 17.03.2017 and by the time the last date of submission of applications for appointment the appellant was not M.Sc Pakistan Study because the result had not yet been declared, so awarding of marks of M.Sc to her was found to be erroneous and consequently the impugned order was passed, after proper enquiry and the allegations against the appellant were proved especially that in case the marks given to her on the basis of M.Sc degree are excluded because of the above



facts, her secured marks in the selection process would come to 85.1 thereby lowering her merit position, disentitling her from the appointment

7. As to the connected appeal it is found that when the disciplinary proceedings were initiated, the salaries of the appellant were directed to be withheld and when she could not justify the date of declaration of result of her M.Sc Pakistan Study to be 06.09.2016, therefore, the department was rightful for taking action.

8. Therefore, both these appeals have no merits and are accordingly dismissed. Costs shall follow the event. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12th day of April, 2023.*



KALIM ARSHAD KHAN
Chairman



SALAH UD DIN
Member (Judicial)