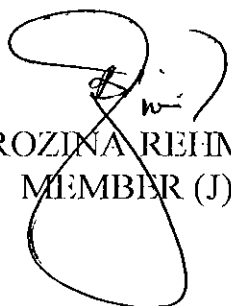



terms and conditions of service that invoke jurisdiction and interference of the Tribunal. Since the appellant had not actualized his appointment as the order stands withdrawn the same day before his medical examination and joining the service, therefore, he cannot be considered and treated as a civil servant. The citation of case laws indicated in Para-4 above pertain to civil servants whose appointment orders were cancelled, terminated or withdrawn after their joining duty and rendering services for certain amount of time. In the circumstances when the appellant has not assumed the status of a civil servant, we find it useless to further go into the details of the case in terms of legal and procedural requirements for recruitment including advertisement, test/interview recommendation of Departmental Selection Committee being the reasons advanced by the respondents for immediate withdrawal of the offer of appointment letter to the appellant.

07. Foregoing in view the appeal in hand is dismissed. Consign.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 6<sup>th</sup> day of April, 2023.*


  
(ROZINA REHMAN)  
MEMBER (J)

  
(MUHAMMAD AKBAR KHAN)  
MEMBER (E)

\*Kamran ullah\*

Cause Notice was issued to the appellant and that no chance of personal hearing was provided to the appellant. He submitted that no regular inquiry was conducted in the matter which is mandatory obligation on the part of competent authority. In the last, learned counsel for the appellant prayed that the impugned removal from service order is unlawful, illegal void ab-initio and not sustainable in the eye of law. To strengthen his arguments, he relied on 1996 SCMR 1350, 2002 CLC 1741 & 2005 PLC (C.S) 1056.

05. Learned Deputy District Attorney argued that the appellant was appointed as Driver (BS-06) in the respondent department vide order dated 05.06.2020 without completing codal formalities i.e. Advertisement and without formation of Department Selection Committee. He next argued that before preparation of Medical Certificate on 06.06.2020 and submission of arrival report on 08.06.2020, the appointment order of the appellant had been withdrawn on 05.06.2020.

 Learned District Attorney submitted that no termination order of the appellant was issued by the respondent department. He further submitted that the appointment order of the appellant was withdrawn and there is no need of charge sheet or statement of allegations, hence the impugned order is legal and lawful.

06. It is evident from the facts available on record that the offer of appointment of the appellant as Driver (BS-06) was issued and withdrawn on the same day and date i.e. 05.06.2020 by the respondent No. 2 who was the appointing authority. The question of the law before the Tribunal is status of the appellant as a civil servant with standard

*may kindly be reinstated into service with all back benefits. Any other relief not specifically asked for may graciously be extended in favor of the appellant, in the circumstances of the case."*

02. Brief facts of the case are that the appellant got inducted into service in the respondent department vide order dated 05.06.2020. The petitioner got Medical Fitness Certificate from the Medical Superintendent of Police Services Hospital Peshawar on 06.06.2020 and submitted his arrival report on 08.06.2020. Thereafter, the appointment order of the appellant was withdrawn on 05.06.2020. Feeling aggrieved the appellant filed departmental appeal on 15.06.2020 which was not responded within the statutory period hence the instant service appeal on 31.08.2020.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned Deputy District Attorney and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the appellant was appointed on 05.06.2020 and submitted his arrival report after completion of all codal formalities on 08.06.2020; that the appellant was terminated from service on the same date i.e. 05.06.2020 which itself proves the malafide as well as illegality on the part of respondents. Learned counsel for the appellant contended that proper charge sheet/statement of allegations was not issued to the appellant. No Show

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

**Service Appeal No. 11018/2020**

**BEFORE:** ROZINA REHMAN --- MEMBER(J)  
MUHAMMAD AKBAR KHAN--- MEMBER(E)

Sher Wali Khan Ex-Driver (BPS-06), Directorate of Agriculture  
Extension Merged Areas.....(*Appellant*)

**VERSUS**

1. Director General Agriculture Extension Khyber Pakhtunkhwa Merged Area Peshawar.
2. Director General Extension Merged Area Peshawar.  
.....(*Respondents*)

**Present:**

JAVED IQBAL GULBELA  
Advocate

--- For Appellant

ASIF MASOOD ALI SHAH,  
Deputy District Attorney,

--- For respondents

Date of Institution.....31.08.2020  
Date of Hearing.....06.04.2023  
Date of Decision.....06.04.2023

**JUDGMENT**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

*“That on acceptance of this service appeal, the impugned termination order No. 4094-98/DA Merged Area Peshawar, dated 05/06/2020 of the office of Director General (Extension) Merged Area Peshawar may kindly be set aside and by doing so the appellant*