

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT COMP COURT ABBOTTABD

Service Appeal No. 1517/2019

BEFORE: **MR. KALIM ARSHAD KHAN** ... **CHAIRMAN**
MRS. RASHIDA BANO ... **MEMBER(J)**

Mr. Inayat ur Rehman S/O Haji Siral Shah R/O Tial Jalkot, Tehsil Dassu District Kohistan Upper, Ex-CT Teacher at Government Middle School Sommer Nala District Kohistan Upper.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar.
2. Director, Elementary & Secondary Education, Peshawar.
3. Deputy Director, Establishment (Male), Elementary & Secondary Education, Peshawar.
4. District Education Officer, District Kohistan.
5. Sub Divisional Education Officer, District Kohistan.
6. Controller of Examination, Hazara Division, Dhodial, Mansehra.
7. District Account Officer, Kohistan.

... (Respondents)

Mr. Syed Asif Shah
Advocate ... For appellant.

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

Date of Institution	...	13.11.2019
Date of Hearing	...	21.06.2023
Date of Decision	...	21.06.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): Brief facts of the case are that appellant got Bachelor of Arts (B.A) degree coupled with certificates of PST and CT and applied for the post of CT through NTS. That after fulfillment of formalities in shape of test/interview, he was appointed as

CT vide order dated 31.03.2017 and after taking over charge, the appellant started his duty. In the meanwhile, the process of regularization of services of the appellant alongwith other employees was started and prior to regularization, the documents of the appellant were duly verified from the concerned departments i.e. Schools, College and University which were found correct and genuine, therefore, he was regularized vide Notification dated 17.03.2018. It was on 24.06.2019 when the Controller of Examination Hazara University (respondent No.6) declared the B.A DMC of the appellant as fake. In response, the appellant made efforts and resultantly, his B.A DMC was declared as genuine but the respondent No.4 in the light of the letter dated 24.06.2019, issued show cause notice to the appellant on 31.07.2019 which was replied by the appellant but despite his reply, the appellant was removed from service alongwith recovery of the pay received w.e.f 31.07.2019 vide impugned order dated 03.08.2019. Feeling aggrieved, he filed departmental appeal which was rejected, hence, the present service appeal.

2. 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 Deputy District Attorney and perused the case file with connected documents in detail.

3. Learned counsel for the appellant argued inter-alia that impugned order was against law, facts and norms of natural justice, hence not tenable. He contended that the appellant had duly appointed by the respondents and after verification of the educational testimonials, he was regularized; that neither any request was made to the respondent No.6 nor any report had been sought but the respondent No.6 himself issued letter dated 24.06.2019 which showed the volume of malafide. Further submitted



that the respondents had bypassed the relevant laws and procedure on the subject and had issued the impugned order; that the order of recovery was illegal as the salary had issued to the appellant for the work done/duties assigned by the respondents, therefore, had no legal sanctity in the eyes of law. Lastly, he submitted that the impugned order had been passed in violation of relevant law, rules and regulation, therefore, he requested for acceptance of the instant service appeal.

4. Conversely, learned Law Officer argued that the appellant had been treated in accordance with law and after legal procedure in shape of opportunity of defense, the impugned order had been passed; that his documents were declared by the Controller of Examinations, Hazara University and the appellant was removed in the light of the letter of the controller, which was in accordance with law and rules. Further submitted that initially, he was appointed on the basis of declaring his documents genuine, by the respondent No.6, but later on was removed on the letter dated 24.06.2019 received from respondent No.6, wherein, his documents had declared as fake and bogus. Lastly, he submitted that no fundamental rights of the appellant were infringed but on the basis of declaring his B.A DMC as fake and bogus, he was rightly removed from service.

5. Perusal of record reveals that the appellant had applied for the post of CT through NTS who after fulfillment of all codal and required formalities i.e scrutinizing of his all credentials, test and interview appointed as CT vide order dated 31.03.2017. It is also important to mention here that after verification of all the educational documents from concerned school, college and university, the appellant's services were regularized vide notification dated 17.03.2018 especially DMC of the appellant was verified by the controller of examination Hazara University


vide letter bearing No. 18/CE/HU/2018/024 dated 29.01.2018. When DMC and academic qualification of the appellant was verified by the concerned University and his services were regularized by the respondents, then how the Controller of Hazara University prompted to send again letter and verification to the respondents by declaring the DMC of the appellant fake and bogus, once it was earlier verified and settled, Appellant is a qualified person and he served department for more than two years, he draws his salaries then removal of his service upon letter of verification by university of its own as that was not asked for by the respondents or any other concerned authority, make all the matter doubtful. If at all any proceedings were intended by the respondents to be initiated against the appellant on the basis of the second verification sent by the University of its own, then a proper enquiry ought to have been conducted, which might also include as to how, who and why the second verification was done, at least what was the need of that and could the University do that of its own, also associating the appellant but as against that the respondents just acted on the letter of the University and against all canons of law, justice, equity and fair play, threw the appellant out from service. They did not provide any opportunity to the appellant to defend himself, and treated the appellant in haste. The appellant have received salaries for a long period which further strengthen his case. The respondents handled the case carelessly, therefore, the impugned action are not sustainable.


7. In view of the situation, the impugned order stands set aside and the appellant is reinstated in service with all back benefits with further direction to the department to conduct proper inquiry. They shall investigate the issue through a proper inquiry reaching to a logical conclusion to find out the real facts and also the culprits who maneuvered



to make it possible and thereafter, the fate of the appellant be decided in the light of the said inquiry. The respondents shall conclude the proceedings within 90 days after receipt of this judgment. Costs shall follow the events. Consign.

8. *Pronounced in open court at Abbottabad and given under our hands and seal of the Tribunal on this 22nd day of June, 2023.*


(RASHIDA BANO)
Member (J)
Camp Court, Abbottabad


(KALIM ARSHAD KHAN)
Chairman
Camp Court, Abbottabad