

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**AT CAMP COURT ABBOTTABAD**

Service Appeal No. 9269/2020

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

Farhat Jabeen D/O Kala Khan, R/O Jhangi Syedan, Tehsil & District Abbottabad.  
... (Appellant)

**VERSUS**

1. Secretary Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) District Kohistan.  
... (Respondents)

Mr. Arshad Khan Tanoli  
Advocate ... For Appellant

Mr. Asad Ali Khan  
Assistant Advocate General ... For Respondents

Date of Institution.....16.07.2020  
Date of Hearing.....21.06.2023  
Date of Decision.....21.06.2023

**JUDGMENT**

**RASHIDA BANO, MEMBER (J):** The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“On acceptance of the instant service appeal the impugned removal from service order dated 21.03.2011 may be set aside and respondents No. 3 may be directed to reinstate the appellant in service with all back benefits.”**

2. Brief facts giving rise to the instant appeal are that appellant was appointed as Primary School Teacher (PST) vide order dated 27.09.1996.

That the appellant was performing her duties with dedication and devotion.



In the year 2011, the appellant was transferred to GGPS Kalash. That the appellant visited the area and found that no school was available, therefore, the appellant filed representation and started shuttling in the offices of respondent No.3 for adjustment but of no avail. As a last resort, the appellant filed complaint before the Hon'ble Provincial Ombudsman. During the course of investigation, respondent No.3 issued termination order dated 21.03.2011 of the appellant. On the basis of that termination order, Ombudsman did not entertain the complaint of the appellant. Feeling aggrieved the appellant filed departmental appeal on 10.07.2019, which was not responded to, hence, the present service appeal.

3. 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 Assistant Advocate General and perused the case file with connected documents in detail.



4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules hence, liable to be set aside. He contended that no show cause notice, explanation to the appellant prior to the issuance of the impugned removal order was issued to the appellant, he, therefore, requested for the acceptance of the instant service appeal.

5. Conversely, learned Assistant Advocate General argued that the appellant was treated in accordance with law and rules. He argued that she was served with an explanation and statement of allegations, and after fulfillment of all codal formalities the competent authority passed the order of removal from service, he, therefore, requested for dismissal of the instant service appeal.

6. The appellant impugned the order of her removal from service dated 21.03.2011 by contending that she was unaware of the same because when

she visited Kalash for assuming charge of her duties as a consequence of her transfer to the GGPS Kalash, she found that there was no government school. She informed her high ups about this fact through written application with request to post her to some other place but in vain. As per her contention she came to know about her termination order during pendency of petition/complaint filed by her before the Provincial Ombudsman, wherein respondent No. 3 submitted termination order 21.03.2011. Appellant feeling aggrieved from the order of her termination from service filed departmental appeal on 01.07.2019 which was not decided till the institution of appeal in hand.

7. Admittedly the appeal in hand is filed on 16.07.2020 in this Tribunal after considerable delay of one year and fifteen days, while it was to be filed within 120 days from the date of filing of departmental representation in a situation when departmental representation was not decided by the competent authority within statutory period of ninety days. Therefore, appeal of the appellant is barred by one year and sixteen days.

8. Although appellant tried to explained that she has informed her high ups about non-existence of GGPS Kalash but she has not annexed any such application  alongwith her appeal however, the respondents in parawise/reply to condonation of delay application annexed her application dated 03.06.2011 wherein she has categorically mentioned that she was informed orally about her termination from service by respondent office which meant that she has the knowledge of her termination from service order dated 21.03.2011 on 03.06.2011 but she kept mum and did not file appeal before this Tribunal after expiry of 90 days of filing of the said application. This also leads to the conclusion that she was well aware of her termination from service order issued in June 2011. Furthermore, as per her 


own contention she has received pay till November 2010 and afterwards her pay was stopped but she kept mum till 01.07.2019 and has not approached competent forum for redressal of her grievance. So this deep slumber on her part is also meaningful, which negates her contention about having no knowledge of impugned order of termination from service. Appellant has filed application for condonation of delay but fails to justify and explain plausibly that how she kept mum for a considerable period of one year and fifteen days as alleged by her and a long period of nine years, 3 months and 25 days as is evident from her application dated 03.06.2011. So far as medical prescription attached with the appeal is concerned, nature of the illness was not such due to which she was bed ridden, hence, application for condonation of delay is dismissed.

9. As sequel to above discussion, the appeal in hand is dismissed. Costs shall follow the event. Consign.

10. *Pronounced in open court at Abbottabad and given under our hands and seal of the Tribunal on this 21<sup>st</sup> day of June, 2023.*



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



**(KALIM ARSHAD KHAN)**  
Chairman  
Camp Court, Abbottabad