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REGISTERED

No. C.As. 374-376/2023 - SCJ

SUPREME COURT OF PAKISTAN.

Islamabad, dated 01-06, 2023.

From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

The Registrar,
K.P.K., Service Tribunal,
Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6226

Dated 27/6/2023

Subject: CIVIL APPEAL NOS. 374 to 376 OF 2023.

OUT OF

CIVIL PETITION NOS. 470, 165-P & 166-P OF 2021.

1. Hamid Younas. (App. in C.A.374/2023).
2. Government of Khyber Pakhtunkhwa, through Chief Secretary,
Peshawar and others. (App. in C.As.375-376/2023).

Versus

1. Government of Khyber Pakhtunkhwa, through Chief Secretary,
Peshawar and others. (Res. in C.A.374/2023).
2. Tariq Mehmood. (Res. in C.A.375/2023).
3. Muhammad Ayaz. (Res. in C.A.376/2023).

On appeal from the Judgment/Order of the KPK., Service Tribunal, Peshawar dated 13.01.2021, in Appeal Nos673/2017, 474/2017 & 473/2017.

Dear Sir,

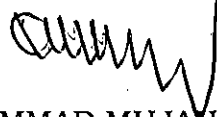
I am directed to forward herewith a certified copy of the Order/Judgment of this Court dated 23.05.2023, converting into appeal the above cited civil petitions and allowing the same, in the terms stated therein, for information and necessary action.

I am also to invite your attention to the directions of the Court contained in the enclosed Order for immediate compliance.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order:

Yours faithfully



(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

63/23

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Syed Hasan Azhar Rizvi

Civil Petitions No.470 and 165-166-P of 2021

[Against the judgment dated 13.01.2021, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeals No.474, 473 and 673/2017]

Hamid Younas. (in CP No.470)
Government of Khyber Pakhtunkhwa (in CPs No.165-166-P)
through Chief Secretary, Peshawar and
others.

...Petitioner (s)

Versus

Government of Khyber Pakhtunkhwa (in CP No.470)
through Chief Secretary, Peshawar and
others.

Tariq Mehmood. (in CP No.165-P)
Muhammad Ayaz. (in CP No.166-P)
...Respondent(s)

For the Petitioner(s) : Mr. Muhammad Shoaib
(in CP No.470) Shaheen, ASC

For the Petitioner(s) : Mr. Zahid Yousaf Qureshi, AOR
(in CPs No.165-166-P) and Sardar Bahadur, Deputy
For Respondent(s) Secretary (Finance)
(in CP No.470) Farhad Durrani, Accounts
Officer, A.G. Office (KP)


For the Respondent(s) : Mr. Zulfiqar Ahmed Bhutta,
(in CPs No.165-166-P) ASC
Mr. Tariq Mehmood, ASC

Date of Hearing : 23.05.2023

ORDER

Syed Mansoor Ali Shah, J:- Brief facts of these cases are that M/s Muhammad Ayaz (Respondent in C.P.166-P/2021), Tariq Mehmood (Respondent in C.P.165-P/2021) and Hamid Younas (Petitioner in C.P.470/2021) were holding the posts of District Accounts Officer, Assistant Treasury Officer and Sub Accountant, respectively, at the District Accounts Office,

WITNESSED


Court Associate
Supreme Court of Pakistan,
Islamabad

whereas major penalty of dismissal from service was maintained in the case of Hamid Younas.

4. We have heard the learned counsel for the parties and have gone through the record. We are of the view that once the major penalty of dismissal was set aside by the Tribunal due to defective inquiry proceedings, a *denovo* inquiry should have been ordered, that too by including the concerned staff of District Education Office, Battagram. Therefore, conversion of penalty from major to minor in case of Muhammad Ayaz and Tariq Mehmood and maintaining the major penalty in case of Hamid Younas is not sustainable in law.

5. In the circumstances, we set aside the impugned judgment and direct the department to hold a *denovo* inquiry against the three officers before us, as well as, the concerned officers of District Education Office, Battagram, which should be concluded within three months. In this background, the departmental order of dismissal passed against the officer dated 18.1.2017 is also set aside and all the three officers are reinstated in service. Further, the arrears of pay of the said officers shall be withheld till the conclusion of *denovo* inquiry proceedings and they shall also furnish the surety bond for the alleged amount of misappropriation to the satisfaction of the department within a fortnight from the date of their reinstatement before the start of the *denovo* inquiry.

6. All these petitions are converted into appeals and allowed in the above terms.

S. A. M. T.
S. A. M. T.

Certified to be True Copy

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Court Associate
Supreme Court of Pakistan
Islamabad

Bench-IV
Islamabad
23.05.2023

NOT APPROVED FOR REPORTING

Rabbani & Sadaqat

27/05/23

