

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 619/2023

BEFORE: MISS FAREEHA PAUL ... MEMBER (E)

Zaid Rehman S/O Abdul Jamil R/O Bagan, Post office Bagan, Tehsil Lower District Kurram. (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Peshawar.
3. Accountant General Khyber Pakhtunkhwa, Peshawar.
4. Director of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
5. Deputy Director, Planning Cell, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
6. District Education Officer Kurram.
7. District Accounts Officer, Kurram. (Respondents)

Mr. Javed Ahmad Kakar,
Advocate


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For appellant

Date of Institution.....	17.03.2023
Date of Hearing.....	23.06.2023
Date of Decision.....	23.06.2023

JUDGEMENT

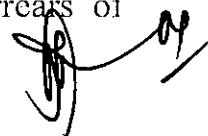
FAREEHA PAUL, MEMBER (E): Instant appeal has been filed under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for giving retrospective effect to the appointment order dated 22.02.2022 in order to include period since the initial appointment of other candidates i.e 16.11.2020 till the appointment order dated 22.02.2022, with all back benefits, in terms of arrears, promotions, seniority and salaries of the said period in the light of judgment and order dated 15.02.2022 and 23.02.2022 rendered by the Hon'ble Peshawar High Court.



2. Preliminary arguments heard and the case file alongwith connected documents perused in detail.

3. From the arguments and record presented before this bench, it was found that the appellant was appointed on 22.02.2022 in consequence of an order dated 15.02.2022 of the Hon'ble Peshawar High Court in Writ Petition No. 3487-P/2020. On the next date of hearing, on 23.02.2022, before the Hon'ble PHC, the counsel for the petitioner, at the very outset, produced the order of appointment dated 22.02.2022 and as he was satisfied that his grievance had been addressed, the petition was disposed of. Record reveals that the appellant filed an application dated 09.06.2022 before the District Education Officer, Parachinar, District Kurram for amending the order dated 22.02.2022 with the request to make the order effective from 16.11.2020 when other candidates, who applied with him, were appointed. When no action was taken on that application, he filed the Service Appeal before this Tribunal on 17.03.2023, followed by an application dated 20.06.2023 for grant of permission to file/submit application for condonation of delay. The grounds taken in the application for condonation of delay are not convincing, therefore, are not considered, except the one that is about back benefits and arrears on the ground that being a financial matter there is no question of limitation involved.

4. In the matter under reference, unexplained time lapses have been noted between the issuance of appointment order on 22.02.2022 to filing of departmental appeal on 09.06.2022 and then service appeal on 17.03.2023. Even if it is considered that back benefits and arrears of



salary are involved, the law of limitation cannot be ignored. The appellant could not sleep over his right to challenge the impugned order at the appropriate time, as was required under the law and rules. Reliance is placed on 2023 SCMR 291 titled "Chief Engineer, Gujranwala Electric Power Company (GEPCO), Gujranwala Vs. Khalid Mehmood and others", according to which such a plea would be acceptable in cases where the appellant has vigilantly pursued the case, whereas in this matter there is no such effort made by the appellant. Besides in the service appeal and application for condonation of delay in hand, the appellant failed to explain the reasons of delay in filing the service appeal after he filed the departmental appeal, which was also delayed by almost two months and its statutory waiting period of 90 days completed on the 7th of September, 2022.

5. The upshot of the above discussion is that the appeal is barred by time and is accordingly dismissed in limine. Costs shall follow the event. Consign.

6 *Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal this 23rd day of June, 2023.*


(Fareeha Paul)
Member(E)