

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR**  
**AT CAMP COURT D.I.KHAN**

Service Appeal No. 6615/2021

Date of Institution ... 21.06.2021

Date of Decision... 17.07.2023

Kalsoom Jehan Laboratory Assistant Government Girls Degree College  
Darazinda D.I.Khan.

... (Appellant)

**VERSUS**

Secretary Higher Education Department Khyber Pakhtunkhwa Peshawar and 05  
others. ... (Respondents)

MR. MUHAMMAD ANWAR AWAN,  
Advocate

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For appellant.

MR. FARHAJ SIKANDAR,  
District Attorney

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For respondents.

MR. KALIM ARSHAD KHAN  
MR. SALAH-UD-DIN

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CHAIRMAN  
MEMBER (JUDICIAL)

**JUDGMENT:**

**SALAH-UD-DIN, MEMBER:-** Precise averments as raised

by the appellant in her appeal are that she was appointed as  
Laboratory Assistant in Government Girls Degree College  
Darazinda vide order dated 07.09.2009 and started performing of  
her duty. The salary of the appellant was stopped in the  
month of January 2021, where-upon she approached the  
department and came to know that she has been removed from  
service vide order dated 23.12.2020 on the allegations of absence  
from duty since 2009. The appellant challenged her penalty of  
removal from service through filing of departmental  
appeal, which was regretted vide order dated 25.05.2021 on the  
sole ground that the same was time barred. The appellant then



approached this Tribunal through filing of instant appeal for redressal of her grievance.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned. Respondents No. 1 to 4 and 6 contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

3. Learned counsel for the appellant argued that neither any show-cause notice nor any charge sheet or statement of allegations were issued to the appellant and she was awarded the impugned major penalty of removal from service without conducting any regular inquiry. He next argued that whole of the proceedings were conducted at the back of the appellant and she was not provided any opportunity of personal hearing as well as self defence. He further argued that the impugned order dated 23.12.2020 does not show any specific period of absence of the appellant from duty. He further contended that the procedure prescribed in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was not complied with before passing the impugned removal order of the appellant, therefore, the impugned orders are bereft of any legal sanctity and are liable to be set-aside.

4. On the other hand, learned District Attorney for the respondents contended that at the time of visit of the Assistant Commissioner, JSD Darazinda to Government Girls Degree College Darazinada, she was found absent from

duty, therefore, the Assistant Commissioner submitted his report to Deputy Commissioner D.I.Khan, which resulted in taking of disciplinary action against the appellant. He next argued that a proper inquiry was conducted in the matter by appointing inquiry officer, who recommended that as the appellant had remained willfully absent from duty for a considerable long period, therefore, strict action may be taken against her. He also argued that the procedure as provided in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was complied by the competent Authority as the appellant was issued show-cause notice and absence notice was also published in two leading newspapers but even then the appellant did not report for her duty. He further argued that the removal order of the appellant was passed after observing all legal and codal formalities. He also contended that the appellant filed the instant appeal against the respondents only for pressurizing them. He further argued that the departmental appeal of the appellant was regretted vide order dated 25.05.2021 being time barred, hence the appeal in hand is not maintainable before this Tribunal and is liable to be dismissed on this score alone.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that the appellant was appointed as Laboratory Assistant vide order dated 07.09.2009 and was posted in Government Girls Degree College Darazinda. She assumed the charge of her post and started

performing her duty. According to the contention of the appellant, she was regularly performing her duty and had admittedly received her salary regularly till December 2020. According to the appellant, her salary was stopped from the month of January 2021 and on contacting the high-ups, she was told that she has been removed from service vide order dated 23.12.2020. The available record does not show that any absence notice as required under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was sent to the appellant through registered post at her home address. Similarly, the respondents have failed to show that publication of show-cause notice was made in two leading newspapers. The procedure as prescribed in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has not been complied with by the respondents. Furthermore, no specific period during which the appellant remained absent from duty has been mentioned in the removal order of the appellant dated 23.12.2020, therefore, the removal order of the appellant is not sustainable in the eye of law and is liable to be set-aside.

7. In view of the above discussion, the impugned orders are set-aside and the appellant is reinstated in service with the directions to the competent Authority to conduct de-novo inquiry in the matter strictly in accordance with the relevant law/rules within a period of 60 days of receipt of copy of this judgment. Needless to mention that the appellant shall be associated with the inquiry proceedings and fair opportunity be provided to her to

defend herself. The issue of back benefits shall be subject to outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

17.07.2023



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT D.I.KHAN



(KALIM ARSHAD KHAN)  
MEMBER (JUDICIAL)  
CAMP COURT D.I.KHAN