

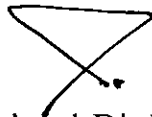
23.06.2023

Clerk of learned counsel for the appellant present. Mr. Arshad Ali, ADEO alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for the appellant requested for adjournment on the ground that learned counsel for the appellant is indisposed today. Adjourned. To come up for arguments on 20.07.2023 before the D.B. Parcha Peshi given to the parties.

Naeem Amin


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

20-07-23

Due to public holiday on
account of 1st Muharram ul Haram.
To come for the same on 21-08-2023?


Reader.

Service Appeal No. 994/2016

**Titled "Sana Ullah-vs-The Secretary Education, (E&SE), Khyber
Pakhtunkhwa, Peshawar and others"**

ORDER

21st Aug, 2023

KALIM ARSHAD KHAN, CHAIRMAN: Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Arshad Ali, ADEO and Mr. Behramand Khan, Assistant Director for the respondents present.

02. Brief facts of the case are that the appellant was appointed on 27.01.2014 as Class-IV (Chowkidar); that the appellant assumed the charge of his post and started performing duties regularly and also received his salaries till August 2014; that pay of the appellant was stopped due to unknown reasons and without any hearing of the appellant, therefore, he submitted an application to the District Education Officer but no action was taken on the application; that the appellant filed departmental appeal dated 04.06.2016 for release of salaries from September, 2014 till date, which was not responded, hence, the instant service appeal.

3. It is not disputed that the appellant is on the roles of the respondent-department. The learned District Attorney has contended that the enquiry was conducted, wherein the very appointment order of the appellant alongwith others was found to have been issued by an incompetent person, therefore, that had no legal worth but at the same time he admitted that the appellant had been getting salary after his appointment and that the appointment order of the appellant had neither been withdrawn nor cancelled or for that matter no departmental proceedings, after submission of enquiry report, were conducted against the appellant. In such a situation, when the appellant is still employee of the respondent-department and is

performing duties, therefore, he is entitled to monthly salary as till date there is no adverse order in the shape of removal from duty etc. passed against the appellant. We, therefore, disposed of this appeal directing the respondents to release salaries of the appellant. This order shall, however, not debar the competent authority from taking any legal action in accordance with law and rules regarding the appointment order of the appellant. Disposed off in the above terms. Consign.

4. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 21st day of August, 2023.*



(Salah Ud Din)
Member(Judicial)



(Kalim Arshad Khan)
Chairman

Adnan Shah