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REGISTERED
No. C.P.634/2021 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 16-09 2023

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Subject: **CIVIL PETITION NO. 634 OF 2021**

Mst. Kausar Hayat
Versus
District Education Officer (F) Charsadda and others

**On appeal from the Judgment/Order of the Khyber Pakhtunkhwa
Service Tribunal, Peshawar dated 05/01/2021 in A.-10410/2020.**

Dear Sir,

I am directed to enclose herewith a certified copy of the Order/Judgment of this Court dated 06/09/2023 disposing of the above cited case in the terms stated therein for information and further necessary action.

I am also to invite your attention to the directions of this Court contained in the enclosed Order for information and necessary action.

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

Encl: Order/Judgment:

Yours faithfully,


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

90/23

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE IJAZ UL AHSAN
MR. JUSTICE JAMAL KHAN MANDOKHAIL
MR. JUSTICE SHAHID WAHEED

Civil Petition No.634/2021

Against judgment dated 5.1.2021 of the K.P.K. Service Tribunal,
Peshawar passed in Appeal No.10410/2020

Mst. Kausar Hayat

Petitioner(s)

Versus

District Education Officer (F) Charsadda
and others

Respondent(s)

For the Petitioner(s) : Mr. Muhammad Munir Paracha, ASC
For the Respondent(s) : Mr. Sultan Mazhar Sher Khan, Addl.AG, KP
Date of Hearing : 06.09.2023

ORDER

IJAZ UL AHSAN, J.- Leave to appeal is sought against a judgment of the Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 05.01.2021. Through the impugned judgment, a Service Appeal filed by the petitioner was dismissed. The learned counsel for the petitioner submits that the petitioner had proceeded abroad for her medical treatment and was, therefore, not able to attend to her duties. He further maintains that no specific order was passed for *denovo* inquiry and there were procedural lapses in the mode of action adopted by the department. Besides she was never duly served.

2. The learned counsel for the respondents, on other hand, has pointed out that admittedly the petitioner had absented herself from her job for periods in excess of ten years during which she had not performed any service. In such circumstances, there was

WITNESSED

Court Associate
Supreme Court of Pakistan
Islamabad

no need for a regular inquiry as her absence was a matter of record. He further maintains that despite the fact that various notices were sent for her service, she had not appeared which led to publication of the notices in newspapers. Finally she appeared before the inquiry committee but thereafter again absented herself for four years.

3. We have heard the learned counsel for the parties and gone through the record. We find that the Tribunal has correctly interpreted the law on the subject. However, considering the fact that the petitioner is a lady and was suffering from prolonged illness; the treatment for which was statedly not available in Pakistan, we are inclined to take a compassionate view of the matter, also considering the fact that she had served for more than nineteen years in the department. Therefore, removal her from service and depriving her of her service benefits does not appear to be fair, equitable and just. We are, therefore, inclined to convert her penalty from removal from service to compulsory retirement. She shall be entitled to her retirement benefits accrued till the time she had actually served the department i.e. 26th September, 2000. The petition is accordingly disposed of in the aforementioned terms.

[Handwritten signatures]

Certified to be True Copy

[Signature]
Court Associate
Supreme Court of Pakistan
Islamabad

SEAL OF THE SUPREME COURT OF PAKISTAN
ISLAMABAD, THE
06.09.2023
Serfraz/
Not approved for reporting
[Handwritten signature] 06/09/23