

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No.214/2022

Date of presentation of Appeal.....22.02.2022
Date of Hearing.....22.09.2023
Date of Decision.....22.09.2023

SCANNED
KPST
Peshawar

Shaista Wali S/O Jamali Shah R/O Hsasan Band, Tehsil Lachi, District Kohat, Ex-PTC Teacher, BPS-07, Posted at Government Primary School Maoob Banda, Mandoori-2, District Kohat.....Appellant

Versus

1. **District Education Officer Male, Primary, District Kohat.**
2. **Director Primary Education, Khyber Pakhtunkhwa, Peshawar.**
3. **Government of Khyber Pakhtunkhwa Peshawar through Secretary Education, Civil Secretariat Peshawar.....(Respondents)**

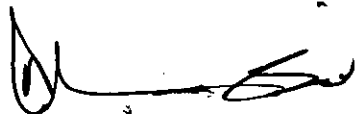
Present:

Mr. Gohar Ali Khweshgi, Advocate.....For the appellant
Mr. Muhammad Jan, District AttorneyFor respondents

.....
APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER OF DISMISSAL DATED 22.12.2000 AND DISMISSAL OF DEPARTMENTAL APPEAL DATED 09.02.2002 ALONGWITH ALL BACK BENEFITS OF SERVICE OR ANY OTHER RELIEF WHICH DEEMS FIT IN THE INTEREST OF JUSTICE, PLEASE.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case as narrated in the memo and grounds of appeal are that appellant was appointed



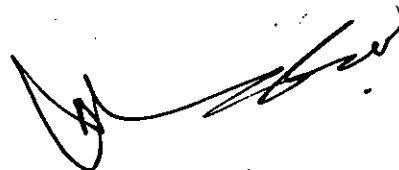
as PTC teacher vide appointment order dated 19.12.1994. While serving, an FIR was lodged against him that he had submitted fake & bogus certificate of PTC obtained on 25.01.1993 from Jamshoro University (Sindh). Resultantly, he was proceeded against and was dismissed from service vide order dated 22.12.1994. After requesting before different forums, the appellants filed departmental appeal on 21.12.2021 to the District Education Officer which was rejected, hence, the present service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellants.

03. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

04. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

05. From the record, it is evident that appellants were appointed as PTC vide order dated 19.12.1994. After scrutinizing the documents, the same were sent to the Jamshoro University for verification, which were found fake & bogus. As a result, the appellants were penalized and dismissed from service vide order dated 22.12.2000. Against the dismissal order, he preferred proper departmental on 21.12.2021 i.e. after a period of more than



twenty years. While Section-4 of the Service Tribunal Act, 1974 gives the period for filing departmental appeal as thirty days. The same is reproduced below:

4. Appeal to Tribunals.--- Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him [or within six months of the establishment of the appropriate Tribunal, whichever is later,] prefer an appeal of the Tribunal having jurisdiction in the matter.

Although, the appellant approached different forums for redressal of his grievance but the authority was requested after a lapse of twenty years. Therefore, the departmental appeal of the appellant is badly barred by time.

06. It is well-entrenched legal proposition that when an appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled Anwarul Haq v. Federation of Pakistan reported in 1995 SCMR 1505, Chairman, PIAC v. Nasim Malik reported in PLD 1990 SC 951 and State Bank of Pakistan v. Khyber Zaman & others reported in 2004 SCMR

1426.



07. Having considered the matter from all angles in the light of material available on file, we do not find any merit in the instant service appeal which is hereby dismissed. Consign.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 22nd day of September, 2023.*


KALIM ARSHAD KHAN
Chairman


MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah,