

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**  
**AT CAMP COURT, ABBOTTABAD**

BEFORE: **KALIM ARSHAD KHAN** ...CHAIRMAN  
**FAREEHA PAUL** ... MEMBER (E)

*Service Appeal No.7867/2021*

Date of presentation of appeal.....14.12.2021  
Date of Hearing.....23.10.2023  
Date of Decision.....23.10.2023

**Farzana Bibi W/O Abdul Waheed, R/O Muhallah Meelad Nagar P/O Khanpur Tehsil Khanpur, District Haripur.....Appellant**

Versus

1. **Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
2. **Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar**
3. **District Education Officer (Female), Haripur**

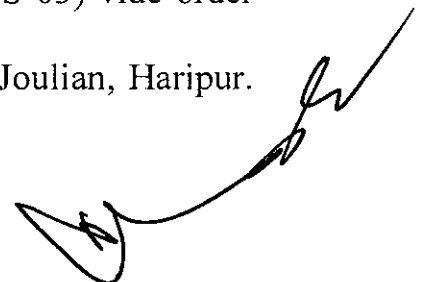
Present:

Syed Waqas Naqvi, Advocate.....For the appellant  
Asif Masood Ali Shah learned Deputy District Attorney ..For Respondents

-----  
***APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER/NOTIFICATION NO.3917 DATED 13.07.2021 PASSED BY RESPONDENT NO.3 DISTRICT EDUCATION OFFICER (FEMALE) HARIPUR WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED ON THE APPELLANT.***  
---

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** The facts gathered from the memorandum and grounds of appeal are that the appellant was appointed as Lab Attendant (BPS-03) vide order dated 20.02.2010 and was working in GGHS Joulia, Haripur.

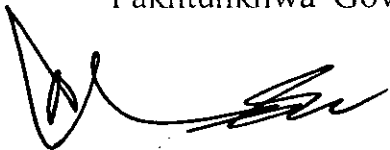


During service, she fell ill, allegedly suffered from cardiac pains and sciatica pains due to which, she was advised for bed rest by the physician; that in the month of October, 2020, she applied for medical leave and for formation of Medical Board; that she also moved an application to the Principal of the school concerned and the DEO; that the appellant attended the Medical Board in District Haripur, which was later on referred to Abbottabad, where the doctors asked the appellant to produce a letter from the District Education Officer (respondent No.3) but the same was refused by the said respondent, due to which, proceedings before the Medical Board could not be completed and the salary of the appellant was stopped from November, 2020; that vide order dated 13.07.2021, she was removed from service.

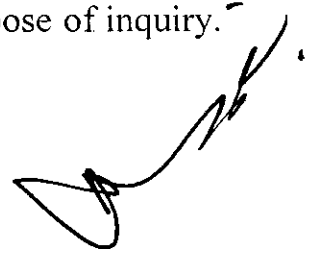
2. Feeling aggrieved, she filed departmental appeal, which was not responded, hence, she filed the instant service appeal

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

4. It appears that the authority is still not clear as to whether it had proceeded under the provisions of Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline)



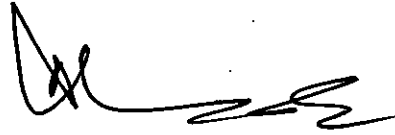
Rules, 2011 for willful absence of the appellant or it is proceeding under any other charge for any misconduct of the appellant. It also appears that the authority imposing the penalty upon the appellant is not knowing anything about the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The course of action taken against the appellant seems to have been taken by not properly following the provisions of Rule-9 as well as other rules of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, therefore, the punishment, which is not found in accordance with any of the provisions of the rules, cannot be sustained but at the same time, the appellant can also not be straight away absolved, therefore, we deem it appropriate to allow this appeal, set aside the impugned order remitting the matter back to the competent authority to proceed, either strictly under the provisions of Rule-9, if it intends to proceed under the said rule against the charge of willful absence, and if it intends to proceed under any other of the provisions for any misconduct of the appellant, it may proceed but strictly under the rules. While doing so, we will direct the appellant to ensure her appearance before the District Education Officer (Female) Haripur on 06.11.2023 at 9:00 AM for joining further proceedings, as is then directed by the DEO (Female), Haripur. The appellant is reinstated in service for the purpose of inquiry.



The issue of back benefits shall be subject to the outcome of inquiry which is to be held within 60 days after 06.11.2023.

Consign.

5. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 23<sup>rd</sup> day of October, 2023.*



**KALIM ARSHAD KHAN**  
Chairman



**FAREEHA PAUL**  
Member (Executive)

*\*Muzam Shah\**

**ORDER**

23<sup>rd</sup> Oct. 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney present. Respondent No.3 in person present.

2. Vide our detailed judgment of today placed on file, we deem it appropriate to allow this appeal, set aside the impugned order remitting the matter back to the competent authority to proceed, either strictly under the provisions of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, if it intends to proceed under the said rule against the charge of willful absence, and if it intends to proceed under any other of the provisions for any misconduct of the appellant, it may proceed but strictly under the rules. While doing so, we will direct the appellant to ensure her appearance before the District Education Officer (Female) Haripur on 06.11.2023 at 9:00 AM for joining further proceedings, as is then directed by the DEO (Female), Haripur. The appellant is reinstated in service for the purpose of inquiry. The issue of back benefits shall be subject to the outcome of inquiry which is to be held within 60 days after 06.11.2023. Consign.

3. *Pronounced in open Court at Camp Court, Abbottabad and given under our hands and the seal of the Tribunal on this 23<sup>rd</sup> day of October, 2023.*



(Fareeha Paul)  
Member (E)

Camp Court, Abbottabad



(Kalim Arshad Khan)  
Chairman

Camp Court, Abbottabad

S.A #. 7867/2021

19<sup>th</sup> June, 2023

1. Nobody is present on behalf of the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Notice be issued to appellant and his counsel for 23.10.2023 for arguments before D.B at Camp Court, Abbottabad.

P.P given to the respondents.



(Rashida Bano)  
Member (J)



(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah \*