

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 859/2018

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Kamran Khan S/O Sher Afzal Khan, CT, GHS Salwan, Peshawar.
.... (Appellant)

VERSUS

1. District Education Officer (Male), Peshawar.
2. Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
3. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
4. Accountant General Khyber Pakhtunkhwa, Peshawar.
5. Pay Fixation Party, through its Accounts Officers, Peshawar.
.... (Respondents)

Abdullah Qazi
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....07.06.2018
Date of Hearing.....03.11.2023
Date of Decision.....03.11.2023

JUDGMENT

RASHIDA BANO, MEMBER (J):The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of instant appeal, the impugned calculation/fixation of the monthly pay of the appellant by pay fixation party may please be set aside and respondents may kindly be directed not to make deduction from the monthly pay of the appellant.”



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant is initially been inducted in service as PST on 24.10.1999. The appellant was promoted to the post of CT on the basis of 75% promotion quota vide order 29.03.2011. Appellant was further allowed BPS-14 on the basis of passing BA examination vide order dated 05.07.2011. Upon application for pay fixation, the pay fixation party has recommended for cancellation of two increments from the salary of the appellant. Feeling aggrieved, he filed departmental appeal which was not responded, hence the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules and respondent violated Article 4 & 25 of the constitution of Islamic Republic of Pakistan. He further argued that impugned calculation/fixation of the monthly pay of the appellant and the entries in this regard in the service book of the appellant are illegal unlawful, unjustified and unreasonable, hence liable to set aside.


5. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that appellant was promoted to the post of CT (BPS-09) on the basis of BA with CT and not to BPS-14. The department allowed BPS-14 instead of BPS-09 which is




against the recruitment rules dated 18.01.2011, so pay of the appellant was fixed in BPS-09.

6. Appellant in the instant appeal impugned calculation /fixation of his monthly pay by pay fixation party but perusal of record reveals that no such formal order in consequence of calculation/fixation of monthly pay of the appellant was issued for deduction from his monthly pay which means that there is no final order in field which could affect the terms and conditions of services of appellant. Moreover, in accordance with section 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, any civil servant by mean approach this Tribunal if such order effects terms and conditions of his service so in the instant appeal before this Tribunal if respondent passed any order for deduction from the salaries of the appellant then he may avail his legal remedies, therefore, at present, this appeal is not maintainable, hence, dismissed. Consign.


7. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 3rd day of November, 2023.*


(MUHAMMAD AKBAR KAHAN)
Member (J)



(RASHIDA BANO)
Member (J)

ORDER3rd Nov, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Arshad Ali, ADEO for the respondents present.
2. Vide our detailed judgement of today placed on file, the appeal in hand is dismissed being devoid of merits. Costs shall follow the event. Consign.
3. *Pronounced in open court atSwat and given under our hands and seal of the Tribunal on this 3rd day of November, 2023.*



(Muhammad Akbar Khan)
Member (J)



(Rashida Bano)
Member (J)