

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 773/2014

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

Jamshed Bibi D/o Ghulam Nabi, PST, GGPS, Hameed Abad, Lakki
Marwat. (Appellant)

VERSUS

1. District Education Officer (Female) Elementary & Secondary Education,
Lakki Marwat.
2. Director of Education, Directorate of Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar
3. Secretary, Government of Khyber Pakhtunkhwa, E&SE Department,
Peshawar
4. District Education Officer, Lakki Marwat

.... (Respondents)

Mr. Arbab Saiful Kamal
Advocate

... For appellant

Mr. Muhammad Jan
District Attorney

... For respondents

Date of Institution.....29.05.2014
Date of Hearing.....01.12.2023
Date of Decision.....01.12.2023

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:


**“It is therefore most humbly prayed that on acceptance
of appeal, order dated 27.07.2012 of R.No1 be set aside and
appellant be reinstated into service with effect from
25.02.2011 with all service benefits, with such other relief
as may be deemed proper and just in circumstances of the
case.”**



2. Brief facts of the instant case are that appellant, allegedly qualified as Master in Islamiyat, applied for the post of Primary School Teacher and was appointed vide order dated 25.02.2011. While serving in the said capacity, she was not paid salary of her services. Therefore, she filed Civil Suit before the Court of Civil Judge, Lakki Marwat and vide order dated 21.06.2012, of the said learned Judge the respondents were directed to make payment to the appellant. Therefore, the department filed appeal before the District Judge, Lakki Marwat. In the meanwhile, she was terminated from service vide order dated 27.0.2.2012. Feeling aggrieved, she filed departmental appeal but the same was not responded. That on 02.11.2012, the appeal filed before the District Judge was also returned to the appellant to approach the proper forum. Other colleagues of the appellant were terminated who were also reinstated by this Tribunal, hence, the appellant also filed 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 for the respondents 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. He further contended that appellant was appointed after due process of selection and assumed the charge of the post and started performing duty. He further contented that the respondents were bound to serve the appellant with show cause notice which was not served; that the certificates submitted at the time of appointment as PST were genuine and could be verified from the quarter concerned. Lastly, he concluded that the appellant was neither served with



any notice nor inquiry was conducted, therefore, the termination order dated 27.07.2012 was based on malafide and was liable to be set aside.

5. Conversely, learned Deputy District Attorney argued that the appellant had appeared before the Committee through fake/bogus documents, so her appointment was illegal; that the appointment of the appellant was totally illegal and had not come in the right of appellant. Further contended that the verification agency was well known to each incumbents of Board and University and the documents had been verified by the BISE, hence, further verifications were not needed. Lastly, he concluded that the verification of the BISE was the final authority for the verification of documents, hence, the respondents had rightly terminated the appellant from service.

6. Perusal of record reveal that appellant had applied for the post of PST in response of advertisement dated 11.05.2010 published in Daily Aaj having qualification of PTC and M.A Islamiyat. Appellant was appointed after qualifying test and interview vide order dated 25.02.2011. Appellant started performing her duties after assuming or charge on 26.02.2011. Appellant regularly performed her duties but salary to her was not paid, upon appellant filed suit where in appeal District Judge directed her to approach proper form vide order dated 02.11.2012. Appellant was terminated from service vide impugned order dated 27.07.2012 on the allegation of her Matric/SSC as bogus/fake and tempered.

7. Perusal of appellant appointment order dated 25/02/2011 reveals appellant was placed at Serial No.9 of the Union Council merit list and in terms and conditions it is mentioned in condition No.7 that appointing authority will check and verify the certificates/degrees of the appointees/candidates from concern Boards/Universities before drawl of their pay. Respondent's in compliance of condition 1 to 7 sent educational



certificates and degrees for verification to concern Educational Institution i.e. BISE vide letter No.5045 dated 14.06.2012 and SSC/Metric certificate of the appellant was found fake/bogus and tempered one due to tempering in marks in SSC Certificate which is evident from letter dated 15.06.2012 of Secretary BISE Bannu, in accordance BISE record marks obtained by the appellant was 366 which she by tempering it shown as 666. As a result appellant was terminated from service vide impugned order dated 27.07.2012. It is admitted fact that appellant had passed her matric and she was issued Secondary School Certificate by BISE Bannu under Roll No.50265 in the year 1995, issue in her case is her total obtain marks was 366 out of 850 which she by tempering it shown as 666 out of 850. In preparation of merit list marks obtained in metric by the candidate played pivotal role for calculation of marks and preparation of merit.

8. Perusal of merit list reveals that appellant's with matric marks i.e. 666/850 her percentage was 23.506 due to which her overall/total percentage in the merit was 61.14 and she stood at serial No.09 of the joint Union Council merit list and at Serial No.1 of the Lakki Marwat union council merit list, if her total obtained marks in SSC was 366 out of 850 then definitely her percentage in SSC will be 12.918 something and total/overall percentage of the appellant will be $12.91+9.09+4.89+18.67=45.56$. So her position will dropped from top to bottom (Formula for calculating percentage of different degrees/certificate of candidates i.e appellant with all other appointees/candidates who applied for PST and CT in response of advertisement in daily "Aaj" dated 11.05.20 is 30% for SCC, 20% for F.A/FSc, 10% for B.A/BSc, 5% for MA/MSc 30% for PST and 5% for experience, $30+20+10+30+5+5=100$, the method of finding out percentage of a marks is total marks obtain multiply by 30 divided by total marks i.e.



666*30/850=23.50. If this formula applied upon her actual obtain marks 366*30/850 equal to 12.91 she is out of merit because there was only one seat reserved for Union council, Lakki Marwat-1. Mst Hamida Bibi is next candidate in UC Lakki Marwat, who gained total 60.96%, last candidate of UC Laki Marwat-1 in merit list is Mst. Khalida Begum mentioned at Serial No.77 of UC merit list and she obtain 53.02%. Now appellant percentage and total actual obtain marks 45.90 due to which she will be drop to the bottom of the UC merit list as last candidates and she in no case will qualify for selection to the post. Respondent No.7 rightly terminate appellant from service as she has not qualify/fulfilled the criteria.

9. For what has been discussed, we are unison to dismiss the appeal in hand being devoid of merits. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 1st day of December, 2023.*


(MUHAMMAD AKBAR KAHAN)
Member (E)



(RASHIDA BANO)
Member (J)

ORDER

01.12.2023 1 Learned counsel for the appellant present. Mr. Mohammad Jan learned District Attorney alongwith Mohammdd Nazir, ADEO for the respondents present.

2. Vide our detailed judgment of today placed on file, we are unison to dismiss the appeal in hand being devoid of merits. Costs shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 1st day of December, 2023.*


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)