

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 610/2018

BEFORE: RASHIDA BANO --- MEMBER (J)
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Dr. Muhammad Irshad S/o Abdul Sadiq Homeo Medical Officer, DHQ Hospital Battagram.(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Services, Khyber Pakhtunkhwa Peshawar.
3. District Health Officer, Battagram.
4. Medical Superintendent DHQ, Battagram.....(Respondents)

Present:-

HAMAYUN KHAN,
Advocate

--- For Appellant

ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

Date of Institution.....07.05.2018
Date of Hearing..... 23.01.2024
Date of Decision..... 23.01.2024

JUDGMENT.

MUHAMMAD AKBAR KHAN, MEMBER(E):- The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

“That on acceptance of the instant appeal, the respondent may kindly be directed to pay the unpaid salary of appellant w.e.f July 2010 to June 2014 & the respondents may kindly be directed to make a proper seniority list and place the appellant at his proper place in the ladder of seniority.”

02. Brief facts of the case are that the appellant was appointed as Homeo Doctor on contract basis in DHQ Hospital Battagram vide order dated 17.05.2007; that his services with effect from the date of initial appointment were regularized after promulgation of Khyber Pakhtunkhwa Tibb and Homeopathic Employees (Regularization of Services) Act, 2014 vide notification dated 27.05.2014; that after appointment the appellant regularly performed his duties, but the respondent department has not paid the salary to the appellant from July, 2010 till June 2014; that the pay fixation of other employees was resolved with effect from their initial appointment but the pay of the appellant was fixed with immediate effect i.e. 27.05.2014. Feeling aggrieved, the appellant filed departmental appeal on 22.01.2018 which was not decided within the statutory period, hence preferred the instant service appeal on 07.05.2018.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned District Attorney and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Deputy District Attorney controverted the arguments of learned counsel for the appellant and supported the comments submitted by the respondents.

05. During scrutiny of record it came to surface that similarly placed employee had filed Service Appeal bearing No. 1023/2017 titled "Dr. Dawood Iqbal Versus Government of Khyber Pakhtunkhwa through Secretary Health

Department, Khyber Pakhtunkhwa, Peshawar and others”, which was remitted to the respondent department by this Tribunal vide judgment dated 27.11.2023. Para- 6 & 7 of the said judgment is reproduced below:-

Scrutiny of record shows that the appellant alongwith 23 others were appointed as Homeo Doctor BS-16 in the respondent Department vide order dated 17.05.2007 on contract basis for period of three years. The project stood completed on 30.06.2010. It is also admitted fact that regular posts of Homeo Doctors were created with effect from 01.07.2010. However, the appellant was neither adjusted against the sanctioned post nor his contract service was dispensed with after completion of the project as per available record. The Provincial Assembly passed Tibb and Homeopathic Employees (Regularization of Services) Act 2014 and consequently the appellant's services were regularized vide notification dated 27.05.2014 w.e.f 17.05.2007 which is the initial date of appointment of the appellant. Pay record of the Accountant General Office Khyber Pakhtunkhwa reveals that the entry of the appellant into Government service is shown as 26.05.2007 but the benefit of seven years service is not being given to him. Counsel for the appellant placed on record another similarly placed employee of the respondent Department namely Mr. Abdur Rehman, Tabeeb who has been allowed the benefit of service with effect from his initial appointment. Both the employees stand regularized under the same law and same regularization order and serving in the same hospital. Moreover this Tribunal has remitted similarly placed Service Appeal 269/2016 titled “Syed Nizam Ali Shah versus Government” to the respondent Department for deciding departmental appeal of the appellant vide judgment dated 10.10.2018.

In view of foregoing discussion the instant appeal is remitted back to the respondent to decide the departmental appeal of the appellant through a speaking order in accordance with the law treating him at par with his other similarly placed employees within a period of 90 days after receipt of copy of this judgment. Costs shall follow the event. Consign.

06. In view of the above judgment rendered by this Tribunal dated 27.11.2023 in Service Appeal bearing No. 1023/2017 titled “Dr. Dawood

Iqbal Versus Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar and others.” The instant appeal is remitted back to the respondent to decide the departmental appeal of the appellant through a speaking order in accordance with the law treating him at with other similarly placed employees within a period of 90 days after receipt of copy of this judgment. Costs shall follow the event. Consign.

07. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 23rd day of January, 2024.*



(Rashida Bano)
Member (J)
Camp Court Abbottabad



(Muhammad Akbar Khan)
Member (E)
Camp Court Abbottabad

ORDER

23.01.2024 01. Learned counsel for the appellant present. Mr. Asif Masood Ali

Shah, Deputy District Attorney for the respondents present.

Arguments heard and record perused.

02. Vide our detailed judgment of today separately placed on file, consisting of (04) pages, The instant appeal is remitted back to the respondent to decide the departmental appeal of the appellant through a speaking order in accordance with the law treating him at with other similarly placed employees within a period of 90 days after receipt of copy of this judgment. Costs shall follow the event. Consign.

03. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 23rd day of January, 2024.*



(Rashida Bano)
Member (J)
Camp Court Abbottabad



(Muhammad Akbar Khan)
Member (E)
Camp Court Abbottabad