

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 241/2023

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Miss Rooma Khan, Ex-PST (BPS-12), GGPS Garang, District Battagram.

... (*Appellant*)

VERSUS

1. The Secretary Elementary & Secondary Education, Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director Elementary & Secondary Education, Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (F), District Battagram.

... (*Respondents*)

Mr. Noor Muhammad Khattak  
Advocate

... For appellant

Mr. Muhammad Jan  
District Attorney

... For respondents

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Date of Institution.....27.01.2023  
Date of Hearing.....19.12.2023  
Date of Decision.....20.12.2023

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:

**“That on acceptance of the instant service appeal the impugned notification dated 10.11.2022 and 04.01.2023 may very kindly be set aside and the appellant may please be re-instated with all back benefits. Any other remedy which this august tribunal deems fit that may also be awarded in favor of the appellant.”**

2. Facts of the instant case are that mother of the appellant was the employee of the Education Department, who was retired from service on medical grounds vide order dated 07.03.2014. In pursuance of her mother's

retirement she filed application for appointment, therefore, she was appointed as Primary School Teacher (BPS-12) vide order dated 26.10.2022. That after medical examination, she submitted her arrival report and took over charge of her post on 27.10.2022. That all of a sudden, when she was performing her duty, her appointment order was withdrawn by the respondent department. That feeling aggrieved, the appellant filed departmental appeal, which was rejected vide order dated 04.01.2023, hence, the instant 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 impugned order dated 10.11.2023 and appellate order dated 04.01.2023 are against the law, facts, norms of natural justice, hence not tenable and liable to be set aside. He further argued that appellant has not been treated in accordance with law and rules and respondents violated Article 4 & 25 of the Constitution of Islamic Republic of Pakistan 1973. He further argued that neither charge sheet and statement of allegation was served upon the appellant nor show cause notice was issued. He submitted that not opportunity of personal hearing was afforded to the appellant and she was condemned unheard.


5. Conversely, learned District Attorney contended that the appellant has been treated in accordance with law and rules. He further contended that ASDEO circle reported to the DEO that appellant was married and the non-marriage certified provided by her was fake and bogus. The DEO (F) conducted enquiry against the appellant and nominated Mst. Sajida Begum as enquiry officer who conducted inquiry and submitted detail report. He further



contended that after fulfillment of all codal formalities, appointment order of the appellant was withdrawn as per appointment terms and condition.

6. Perusal of record reveals that appellant was appointed as PST BPS-12 on 26/10/2022 under Rule 10 (4) of the (Appointment, Promotion and Transfer) Rules 1989 because her mother was retired on medical grounds vide order dated 07/03/2014 with effect from 26/02/2014. Appellant assumed charge of her post on 22/10/2022 and started performing her duties at GGPS Garang District Battagram. All of a sudden, appointment order of the appellant was withdrawn without any prior information and notice to the appellant vide impugned notification dated 10/11/2022. Appellant approached her department by filing appeal but same was regretted vide order dated 04/01/2023. Perusal of the impugned order dated 10/11/2022 reveals that appellant provided non marriage certificate issued by Nadra and Secretary concerned Union Council upon which she being unmarried daughter was appointed in the quota of invalidated retired employees son/daughter under Rule 10(4) of APT Rules 1989.

7. SDEO (F) Battagram reported after appointment of appellant that she is married before her appointment and that she produced fake and bogus non-marriage certificate upon which ASDEO circle Battagram was appointed as inquiry officer who after probe submitted detailed report along with documentary proof that appellant got married on 03/10/2022 and before issue of her appointment order dated 26/10/2022 she gave birth to a baby. Appointment order of the appellant was withdrawn due to non-verification of non-marriage certificate by the DEO Female Battagram. Learned counsel for the appellant contended that marriage is not hurdle for appointment against retired deceased son/daughter quota and did not deny from the fact of marriage of the appellant.



8. It is also pertinent to mention that appellant was aware of the guidelines/clarification regarding employment of dependent of incapacitated or invalidated permanently or retired on medical board dated 21/02/2020 issued by the government of Khyber Pakhtunkhwa Establishment Department in accordance with which married female daughter was held not eligible for appointment against quota, That is why she submitted non marriage certificate to the respondents. Appellant's this contention is not correct as Government of Khyber Pakhtunkhwa has issued guidelines/clarification regarding employment of dependent of incapacitated or invalidated permanently or retired on medical board on 21/02/2020 which speaks other wise and reproduced here for ready reference;

*"I am directed to refer to the subject noted above and to state that under Rule 10(4) of APT Rules, 1989, the facility of employment to one of the children of deceased/invalidated Government Servant is given in view of their dependence on their parents. This facility is equally available to male and female children. However in case the female has contracted a marriage, she loses this right. Hence a married daughter is not eligible for this facility."*

When appellant was fully aware and she concealed this material fact of her marriage then she does not deserve any leniency.


9. For what has been discussed above, 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 20<sup>th</sup> day of December, 2023.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

- 19.12.2023 1. Learned counsel for the appellant present. Mr. Asif Ali Shah learned Deputy District Attorney for the respondents present.
2. Arguments heard. To come up for order on 20.12.2023 before D.B. P.P given to the parties.

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

\*KaleemUllah\*

**ORDER**  
20.12.2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney 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 20<sup>th</sup> day of December, 2023.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

\*Kaleemullah