

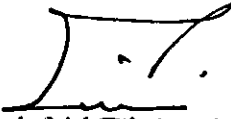
ORDER

12th Feb. 2024

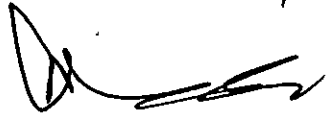
1. Learned counsel for the appellant present. Mr. Muhammad Jan, District for the respondents present.

2. Vide our detailed judgment of today, placed on file, in the absence of any rebuttal in the shape of reply, we pass ex-parte order, directing the respondents to release salaries of the appellant forthwith. Consign.

3. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 12nd day of February, 2024.*


(Salah Ud Din)
Member (J)

Mutazem Shah


(Kalim Arshad Khan)
Chairman



dated 10.01.2023 and the said order was withdrawn on 20.01.2023 by the Director Education Khyber Pakhtunkhwa, Peshawar. This shows that there was a post of Computer Operator available in the office of DEO (Female) Battagram. Even otherwise, we do not think that the DEO (Female) Battagram has any power to change the cadre or to pay the appellant against another post, especially, when he was posted by the Director Education in her office against the post of Computer Operator. Therefore, in the absence of any rebuttal in the shape of reply, we pass ex-parte order, directing the respondents to release salaries of the appellant forthwith. Consign.

5. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12th day of February, 2024.*



KALIM ARSHAD KHAN
Chairman



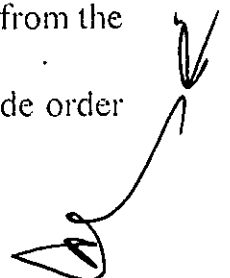
SALAH UD DIN
Member (Judicial)

against the order dated 10.01.2023, which was accepted and the order was withdrawn vide order dated 20.01.2023; that he resumed duty in the office of District Education Officer (Female) Battagram but his salaries were not released since January, 2023. Feeling aggrieved, he filed departmental appeal for release of his salaries, which was not responded, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were issued notices but they failed to appear and submit reply. Therefore, respondents are placed ex-parte in this case as no reply was submitted.

3. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

4. The learned District Attorney present on behalf of the respondents has not controverted the fact that the order dated 10.01.2023, whereby, the appellant was transferred from the office of District Education Officer (Female) Battagram to the office of District Education Officer (Male) Battagram, was withdrawn vide order dated 20.01.2023, retaining the appellant as Computer Operator in the office of DEO (Female) Battagram. When asked about why his salaries were withheld? The learned District Attorney, after consulting the official respondents, submitted that there was no post of Computer Operator vacant in the office of DEO (Female) Battagram and the salaries of the appellant were managed to be paid against another post by the DEO (Female) Battagram. This contention is not acceptable because the appellant was transferred from the post of Computer Operator, office of the DEO (Female) Battagram vide order



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
SALAH UD DIN ...MEMBER (Judicial)

Service Appeal No.1860/2023

Date of presentation of appeal.....12.09.2023
Dates of Hearing.....12.02.2024
Date of Decision.....12.02.2024

Muhammad Asad Khan Computer Operator (BPS-16), DEO (F) Office
Battagram.....(*Appellant*)

Versus

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

Present:

Akhunzada Ahmad Saeed, Advocate.....For appellant
Mr. Muhammad Jan, District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGND ACITON OF THE RESPONDENTS BY NOT RELEASING THE SALARIES OF THE APPELANT FROM THE MONTH OF JANUARY 2023 TILL DATE AND AGAINST THE IMPUGNED ACTION, BY NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was serving as Computer Operator in the office of District Education Officer (Female) Battagram. That vide order dated 10.01.2023, he was transferred to the office of District Education Officer (Male) Battagram during ban period. That the appellant filed departmental appeal

