


S.A 1534/2022

29th Jan, 2024 01. Syed Numan Ali Bukhari, Advocate for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Sajid Ali, ADIO for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 29th day of January,*

2024.


(FARZIDA PAUL)
Member (E)


(SALAH-UD-DIN)
Member (J)


Fazal Subhan PS

that she was married at the time she applied for appointment and got appointed, which was again a violation of rules.

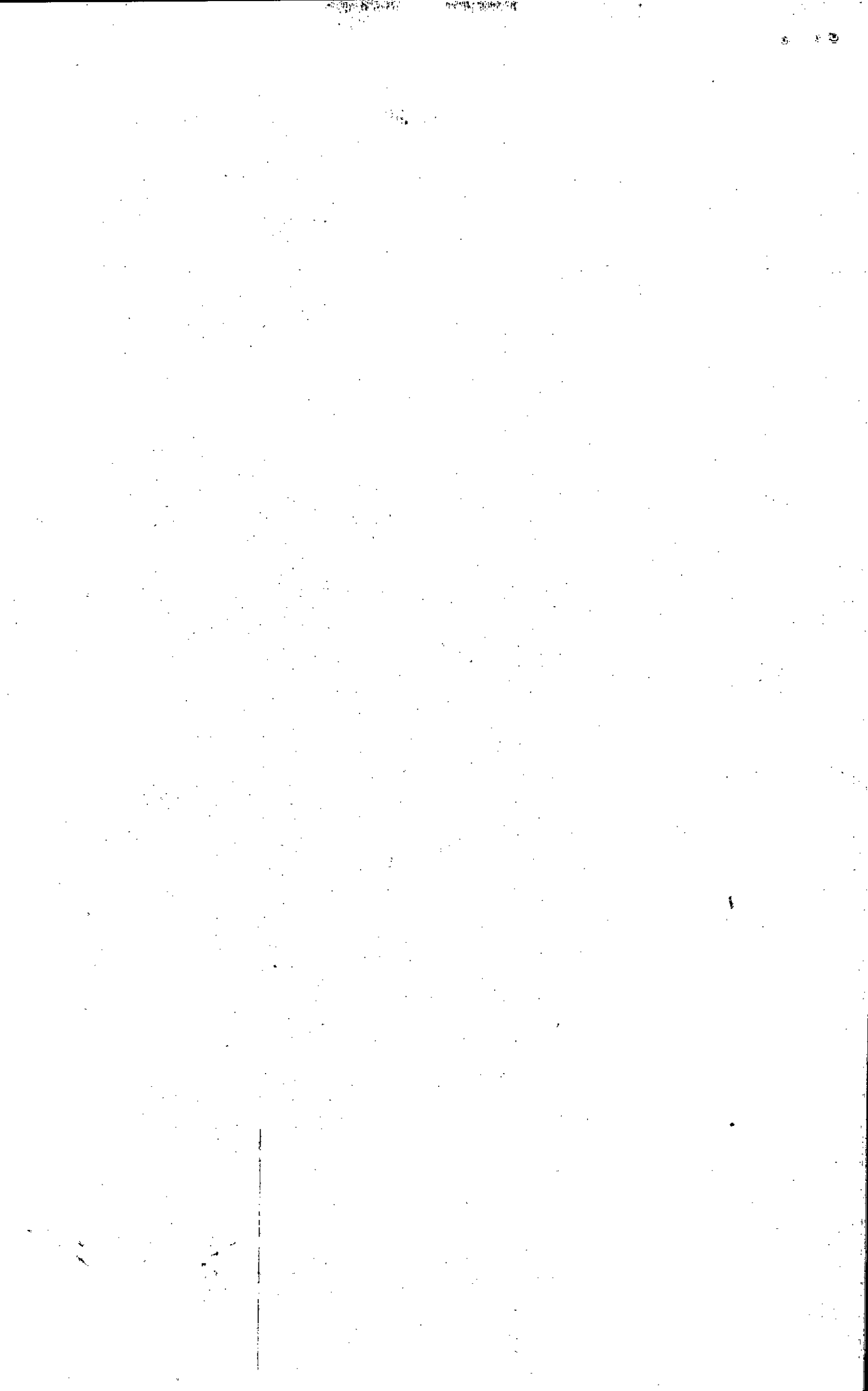
08. In view of the above discussion, we can safely say that appointment of the appellant was a clear violation of rules and when the matter was unearthed, her appointment order was rightly cancelled by the competent authority. The service appeal in hand is, therefore, dismissed being groundless. Cost shall follow the event. Consign.

09. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 29th day of January, 2024.*


(FARLEHA PAUL)
Member (I)

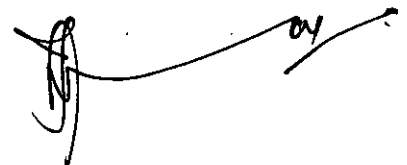

(SALAH-UD-DIN)
Member (J)

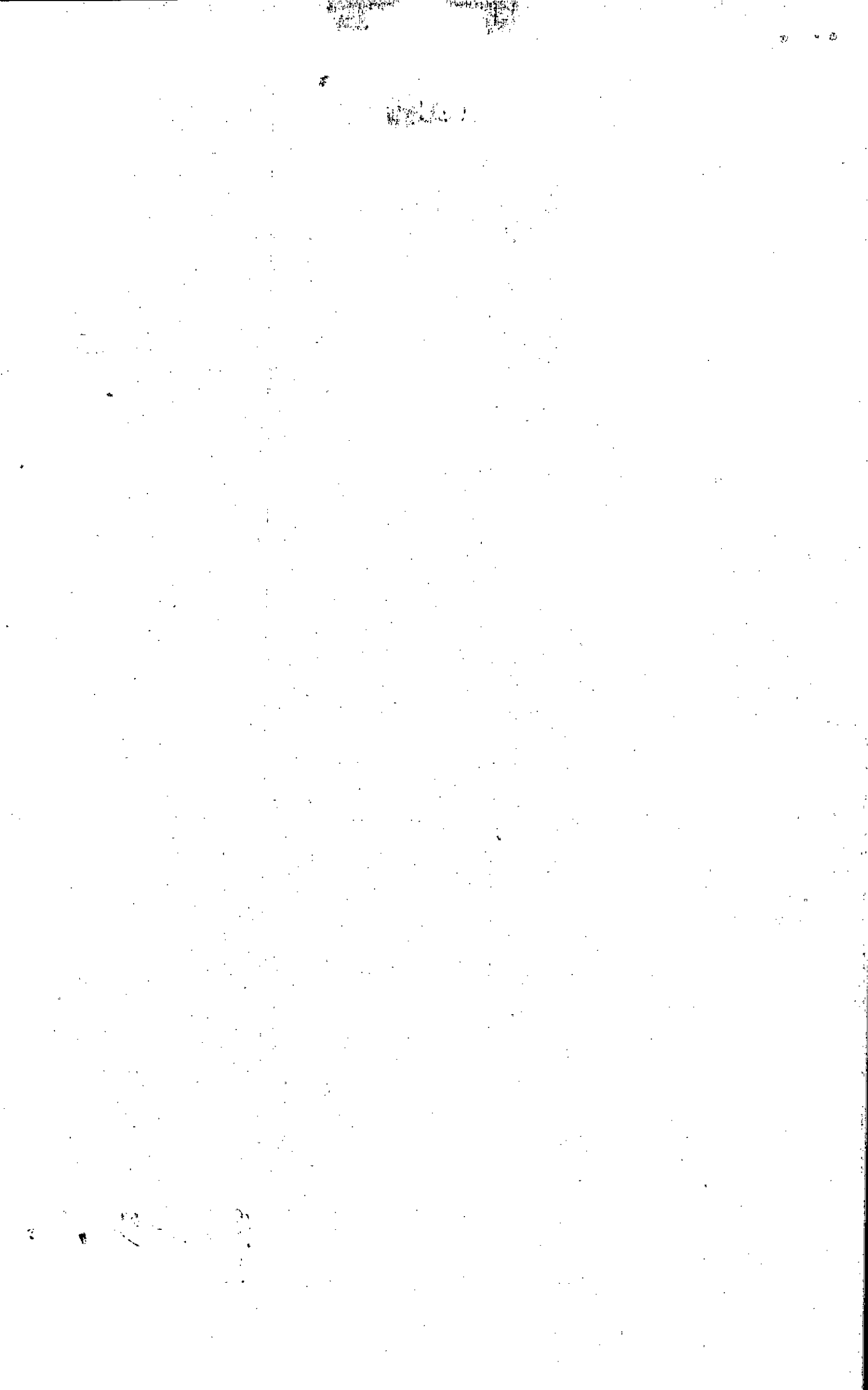
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06. The appellant was appointed as Primary School Teacher on 07.04.2022, after her father's retirement on medical grounds on quota reserved for children of such employees. She joined her service and started performing her duties but it came to the knowledge of the respondent department that brother of the appellant, Mr. Umar Khayam, got appointed as Junior Clerk in the same department and on the same quota vide an order of the District Education Officer (Female) Nowshera dated 19.03.2022. Moreover, another point was highlighted by the departmental representative present before us that the appellant was married before joining the government service and that the rules prevent appointment of married daughters on the quota on which she was appointed. This fact was seconded by the learned counsel for the appellant, as well as her husband who was present in the court room during hearing, who stated that they have been married for 13-14 years. In view of the given facts, her appointment letter was withdrawn.

07. From the arguments and record presented before us, it is now abundantly clear that on the quota reserved for children of an employee who got retired from government service on medical grounds, only one child was to be appointed and in the present case, son of that employee already got appointed but somehow that fact was concealed by the appellant, as well as staff of the office of DEO (Female) Nowshera, and the appellant also got appointed on the same quota, which was a violation of the rules. Secondly, married daughter of the retired employee was not eligible for appointment under the said quota but in the case under discussion, it appears that the appellant concealed the fact

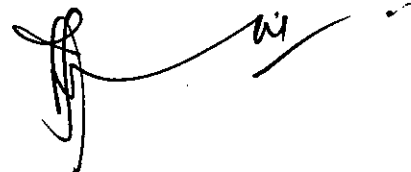




learned Assistant Advocate General for the respondents and perused the case file with connected documents in detail.

04. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant simply filed application for appointment under invalidated quota under Rule 10(4) of the APT Rules 1989, and was recommended for appointment as PST through an order of the DEO (F) Nowshera, which was later on withdrawn. He further argued that neither charge sheet, statement of allegation and show cause notice were served upon the appellant nor any inquiry was conducted. He stated that the appellant had not been treated according to law and rules and had been deprived of the monthly salaries despite performance of duty. He requested that the appeal might be accepted as prayed for.


05. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that the appellant's father, namely Riaz ul Haq, got retired from education department on medical ground and one of her brothers, namely Mr. Umar Khayam, had already availed the invalidated quota by being appointed as Junior Clerk on 29.03.2022 in the office of DEO (Female) Nowshera. The learned AAG contended that appellant concealed the fact from DEO (Female) Nowshera and fraudulently obtained appointment under invalidated quota which was already availed by her brother. According to him, when the reality was revealed her appointment order was withdrawn/cancelled vide order dated 12.05.2022. He requested that the appeal might be dismissed.





appointment under invalidated quota under Rule 10(4) of the Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989. Departmental Selection Committee meeting was held on 19.02.2022 and the appellant was recommended and appointed as PST on regular basis vide order dated 07.04.2022. She submitted joining report and started performing her duties but her pay was not released. On her query, she was told that the order was issued in compliance of the court's judgment and was not effective. As the appellant never claimed appointment under court's judgment, therefore she filed civil suit for proper order under Rule 10(4). The respondent department, during pendency of the suit, issued substituted order, in back date, on the plea that it was a typographical mistake and the words "in compliance of the court judgment" were deleted in that order. The same substituted order was produced in the court, after which the appellant filed an application for withdrawal of the civil suit being infructuous and the same was withdrawn vide order dated 28.04.2022. Thereafter a clearance certificate was issued in respect of the appellant and her salaries were released. Later on, a request was made by the DEO (F) Nowshera to the Senior District Accounts Officer, Nowshera for returning of the salary of the appellant from bank to Government exchequer vide letter dated 13.06.2022. Thereafter, her appointment order was withdrawn vide order dated 12.05.2022. The appellant filed departmental appeal which was not responded within statutory period of 90 days; hence this service appeal.

03. Respondents were put on notice, who submitted replies/comments on the appeal. We heard the learned counsel for the appellant as well as the



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1534/2022

BEFORE: MR. SALAH UD DIN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER(E)

Miss Sumbal Riaz. Ex-PST GPS WAPDA Colony, Nowshera.....(*Appellant*)

Versus

1. The Director Education, Elementary & Secondary Education Peshawar.
2. The District Education Officer (Female) Nowshera(*Respondents*)

Syed Numan Ali Bukhari,
Advocate

... For appellant

Mr. Asad Ali Khan
Assistant Advocate General

... For respondents

Date of Institution..... 05.10.2022

Date of Hearing..... 29.01.2024

Date of Decision..... 29.01.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E):The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 12.05.2022, whereby the appointment order of the appellant was withdrawn and against not deciding the departmental appeal of the appellant within statutory period of 90 days. It has been prayed that on acceptance of the appeal, the order dated 12.05.2022 might be set aside and the appellant might be reinstated into service with all back and consequential benefits, alongwith any other remedy which the Tribunal deemed appropriate.

02. Brief facts of the case, as given in the memorandum of appeal, are that the father of the appellant was working as PST and boarded out on medical ground vide order dated 29.10.2021. The appellant filed application for

