

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR
AT CAMP COURT, ABBOTTABAD

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

Service Appeal No.1473/2019

Date of presentation of Appeal.....04.11.2019
Date of Hearing.....28.02.2024
Date of Decision.....28.02.2024

Mst. Gul Bibi, Ex-Primary School Teacher at Government Girls
Primary School, Baja Loohi, Tehsil Dassu, District Kohistan
Upper.....***Appellant***

Versus

1. **Director** Elementary and Secondary Education Peshawar.
2. **District Education Officer (Female)** Kohistan at Dassu.
.....(***Respondents***)

Service Appeal No.1484/2019

Date of presentation of Appeal.....04.11.2019
Date of Hearing.....28.02.2024
Date of Decision.....28.02.2024

Mst. Farzana Wali, Ex-Primary School Teacher at Government Girls
Primary School, Jhakh lohi, Tehsil Dassu, District Kohistan
Upper.....***Appellant***

Versus

1. **Director** Elementary and Secondary Education Peshawar.
2. **District Education Officer (Female)** Kohistan at Dassu.
.....(***Respondents***)

Present:

Mr. Abdul Saboor Khan, Advocate.....For the appellants
Mr. Asad Ali Khan, Assistant Advocate General.....For respondents

**APPEALS UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDERS NO.1198-1210
DATED 20.04.2019 AND 6802 DATED 08.10.2019 PASSED
BY RESPONDENTS WHEREBY MAJOR PENALTY OF
REMOVAL FROM SERVICE OF APPELLANT ON THE
GROUND OF ALLEGED UNSPECIFIED ABSENCE FROM
DUTY WAS IMPOSED AND UPHELD.**



CONSOLIDATED JUDGMENT

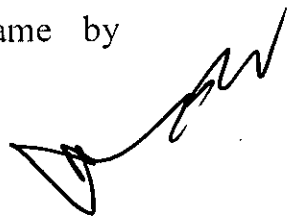
KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment, both the appeals, titled above, are going to be decided as both are similar in nature and almost with the same contentions, therefore, both can conveniently be decided together.

2. Brief facts of the cases, as per memorandum of appeals, are that the appellants were appointed as PSTs vide orders dated 01.12.2006 and 02.12.2006; that all of a sudden, the respondent No. 2 imposed penalty of removal from service and refund of salary received on the ground of alleged absence from duty vide order dated 20.04.2019; that feeling aggrieved, they filed departmental appeals on 15.05.2019 which were rejected vide order dated 08.10.2019. Hence, these appeals.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance and contested the appeals by filing written replies raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellants.

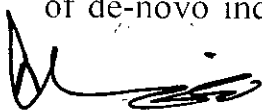
4. We have heard learned counsel for the appellants and learned Assistant Advocate General for the respondents.

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Assistant Advocate General controverted the same by supporting the impugned order(s).



6. Record available before us indicates that the appellants was removed from service on account of their willful and unauthorized absence from duty. It further indicates that Independent Monitoring Unit (IMU) inspection team visited the schools where the appellants were posted, and the appellants were found absent from duty since long, but no report of IMU inspection was available with the comments of the respondents. The show cause notices issued to the appellants regarding their absence would show that the same were issued to the appellants on their school addresses, and an absent official cannot be served on his/her office address/duty station, therefore, the same were required to be served upon them on their home addresses. The proceedings initiated by the respondents show that the appellants have not been properly associated with the proceedings and no opportunity of defense has been granted to them. Besides, there is no mention of the period of absence in the show cause notice nor the same has been specified in the impugned order of removal from service. We have observed that the proceedings conducted by the respondents is not in accordance with law/rules.

7. In view of the above discussion the appeals in hand are allowed and the cases are remitted back to the department for de-novo inquiry with the direction that the appellants should be associated in the inquiry. A detailed, self-contained inquiry, fulfilling all codal formalities should be completed within sixty days of the receipt of this judgment. The appellants are reinstated in the service for the purpose of de-novo inquiry. The issue of back benefits shall be subject to the



Service Appeal No.1473/2019 titled "Mst. Gul Bibi -vs- Director Elementary & Secondary Education Peshawar and others" and Service Appeal No.1484/2019 titled "Mst. Farzana Wali -vs- Director Elementary & Secondary Education Peshawar and others", declared on 28.02.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar, at Camp Court, Abbottabad.

final outcome of the de-novo inquiry. Costs shall follow the event.

Copy of this judgment be placed in the file of connected Service Appeal No.1484/2019. Consign.

8. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 28th day of February, 2024.*



KALIM ARSHAD KHAN
Chairman



SALAH UD DIN
Member (Judicial)

Mutazem Shah