

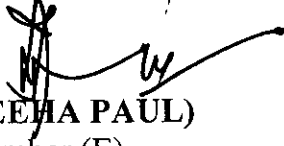
**ORDER**


14.02.2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, we are unison to dismiss the appeal 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 14<sup>th</sup> day of February, 2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1772/2023

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

Mst. Farakh Naz D/O Umar Rauf Khan R/O Surati Kalla Tehsil Takht-e-Nasrati District, Karak.

... (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 Karak.

... (Respondents)

Syed Roman Shah  
Advocate

... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For respondents

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Date of Institution.....04.09.2023  
Date of Hearing.....14.02.2024  
Date of Decision.....14.02.2024

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 as copied below:

**“That on acceptance of the instant service appeal the impugned orders dated 12.05.2023 and 29.08.2023 may graciously be set aside by declaring it illegal, unlawful, without authority based on malafide, void ab-initio and thus not sustainable in the eyes of law and appellant is entitled for reinstatement in service 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 the appellant was appointed as PST BPS-12 vide order dated 18.01.2023, as mother of the appellant was the employee of the Education Department, who retired from service on medical grounds on 27.04.2022. That all of a sudden, when she was performing her duty, her appointment order was withdrawn vide order dated 12.05.2023 with effect from the date of its issuance. That feeling aggrieved, the appellant filed departmental appeal, which was rejected vide order dated 29.08.2023, 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 Deputy District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the impugned order dated 12.05.2023 and appellate order dated 29.08.2023 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 to her. He submitted that no 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 respondent department withdrew the appointment order of the appellant after confirmation of her marriage as she was living with her husband and in light



of the Government of Khyber Pakhtunkhwa Establishment Department's guidance issued vide letter dated 21.02.2020 and 28.04.2023, after contracting marriage, daughter becomes liability of her husband and she is not entitled for such appointments under Rules 10(4) of the (Appointment, Promotion and Transfer) Rules, 1989.

6. Perusal of record reveals that appellant was appointed as PST BPS-12 on 18/01/2023 under Rule 10 (4) of the (Appointment, Promotion and Transfer) Rules, 1989 because her mother was an employee in the respondent department who retired on medical grounds. Appellant assumed charge of her post and started performing her duties at GGPS Tatar Khel No.2. All of a sudden, her appointment order was withdrawn without any prior information and notice to the appellant vide impugned notification dated 12/05/2023. Appellant approached her department by filling appeal but same was regretted vide order dated 29/08/2023. Perusal of the impugned order dated 12/05/2023 reveals that appellant claimed that she had not got married to anyone and is still living with her parents 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. After appointment it came into the notice of the appointing authority that the appellant was married and was not living with her parents at the time of scrutiny of her documents and she concealed the factum of her marriage from the respondents, thus she remained successful to get appointment order upon the deceased/invalidated quota by keeping the appointing authority in dark. Appointment order of the appellant was withdrawn by the authority vide order dated 12.05.2023 on the ground of concealment of her marriage. The factum of marriage was not denied by the learned counsel for the appellant



rather he contended that marriage is not hurdle for appointment against retired/deceased son/daughter quota and he did not deny from the fact of marriage of the appellant. Appellant's counsel's contention is not correct as Government of Khyber Pakhtunkhwa has issued guidelines/clarification regarding employment of dependents of incapacitated/invalidated permanently/retired on medical board on 21/02/2020 which speaks otherwise and is reproduced 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."*

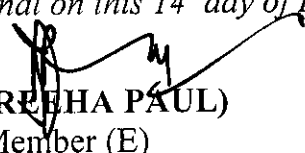
As per notification issued by the Establishment Department Khyber Pakhtunkhwa No. SO (Policy) E&AD/1-3/2023 APT Rules dated 24.04.2023 the daughter after contracting marriage becomes liability of her husband and hence not entitled for such appointments under rule 10(4) of the APT Rules, 1989. She applied with her CNIC having her father's name in it to just conceal the factum of her marriage and not with her husband's name.


8. It is also pertinent to mention that appellant was aware of the guidelines/clarification dated 21.02.2020 regarding employment of dependent of incapacitated/invalidated permanently/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 that quota that's why she shown herself as un-

married. 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 14<sup>th</sup> day of February, 2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

\*Kaleemullah