

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1476/2023

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

Mst: Gule Lala, Ex-PST (BPS-12), GGPS Chanda Khurram, District Karak.
... (Appellant)

VERSUS

1. The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
 2. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
 3. District Education Officer (Female), District Karak.
- ... (Respondents)

Mr. Noor Muhammad Khattak
Advocate ... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney ... For respondents

Date of Institution.....17.07.2023
Date of Hearing.....06.03.2024
Date of Decision.....06.03.2024

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:

“On acceptance of this appeal, the impugned order dated
12.08.2011 and appellate order date 25.07.2012 may very



kindly be set aside and the appellant may please be reinstated in to 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. Brief facts of the case, as given in the memorandum of appeal, are that appellant was appointed as Primary School Teacher vide order dated 31.12.2010 and was posted at GGPS Chanda Khurram. That after assuming the charge at GGPS Chanda Khuram, the appellant started performing her duty and just after eight months, the DEO (F), Karak without giving any show cause notice or explanation dismissed the appellant alongwith others vide order dated 12.08.2011. They filed departmental appeal which was rejected on 25.07.2012. Other colleagues of the appellant filed service appeal before this Tribunal which was allowed vide order dated 25.05.2016 and in the light of judgment, respondent withdrew dismissal order of the appellant of that service appeal vide order dated 12.11.2020. Appellant filed application before respondent No.1 with the request to extend the benefits of judgment of this Tribunal. Appellant filed writ petition before Worthy Peshawar High Court, Bannu Bench which was disposed of with direction to approach proper forum, hence the instant service 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 appellant argued that the impugned order dated 12.08.2011 and appellate order dated 25.07.2012 are illegal, unlawful and



against the law and facts hence liable to be set aside. He further argued that appellant has not been treated in accordance with law and respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan. He further argued that respondent neither issued show cause notice nor provided opportunity of hearing. Respondents without verifying the documents from the concerned board/university terminated her from service on the basis of fake/bogus documents. He argued that the appellant along with Mst. Basin Ara, Mst. Samin Ara and Mst. Hasina Najib filed joint departmental appeal which was rejected vide order dated 24/07/2012 which order of the appellate authority was set aside by this tribunal vide order dated 25/05/2016 with direction to verify educational documents of the appellant and then decide the matter but respondent had not got verified documents of the appellant. Later on, Mst. Samina Ara and Mst. Basin Ara were reinstated in service in light of the judgment of this Tribunal, therefore, appellant is also entitled for the grant of same relief. He therefore, requested that instant appeal might be accepted.

5. Conversely learned Deputy District Attorney contended that appellant has been treated in accordance with law and rules. He further argued that appellant alongwith others was appointed as PST subject to the condition that that the documents of the appointee must be verified from the concerned authorities by the competent authority. If anyone was found producing bogus certificate her appointment order would stand withdrawn, hence the appointment order of the appellant was withdrawn and she was dismissed from service on the basis of bogus documents.



6. It is pertinent to mention here that present appellant, alongwith with three others namely Mst. Samina Ara, Mst Basin Ara, Mst. Haseena Wajid filed departmental appeal against the order of dismissal from service on the basis of producing fake & forged documents dated 12.08.2011 which was sent by the Assistant Director Establishment Elementary & Secondary Education Khyber Pakhtunkhwa through letter dated 03.04.2012 to be sent to DCO which was accordingly sent to the DCO who rejected it vide order dated 25.07.2012. Said order of DCO was challenged by three other applicants of joint departmental appeal in this Tribunal in Service Appeal bearing No. 995, 996 and 997/2012 which was set aside by this Tribunal vide order dated 25.05.2016 wherein appellate authority was directed to specify the documents which are forged/fake beside issuing of formal charge sheet and statement of allegation where from extent of forgery could be determined. Respondent upon receipt of order of this Tribunal, reinstated all the three co-appellants of the department by ignoring the appellant. Appellate authority was duty bound to get verified educational documents of the appellant and if the same were found forged then he had to pass another speaking order of the rejection of the appeal but appellate authority remained silent to the extent of the appellant when her colleagues were reinstated into service vide order dated 12.11.2020. The appellant also filed another application for her reinstatement.

7. Order dated 25.07.2012 was passed upon joint departmental appeal of the appellant and other three Mst. Basin Ara, Mst. Samina Ara and Mst. Haseena Wajid. The factum of joint departmental appeal and one appellate order was confirmed by the representative of the respondent upon query of this




Tribunal which was set aside by this Tribunal, then silence of the respondent to the extent of appellant is against the rule and principle of natural justice which is discrimination with the appellant.

8. Learned Deputy District Attorney argued that appeal in hand is barred by time but in our opinion when order dated 25.07.2012 upon joint departmental appeal was set aside by this Tribunal with direction to pass speaking order and as a result of said speaking order two respondents Mst. Samin Ara and Mst. Basin Ara were reinstated into service vide order dated 12.11.2020 then in such a situation limitation will not run against that order and hurdle in the way of appellant to approach authority and this Tribunal as appellant was ignored by the appellate authority. Therefore, it is held that appeal of the appellant is not barred by time.

8. For what has been discussed above, we are unison to set aside impugned orders and remand the matter back to the authority to get verify educational documents of the appellant and then pass order in accordance with the verification report within 30 days after receipt of this order. Costs shall follow the event. Consign.


9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 6th day of March, 2024.*



(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

04.03.2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, learned Deputy District Attorney for respondents present.
2. Respondents are directed to produce entire record of proceedings, inquiry/action taken by the Administrative Department in pursuance of which order dated 17.11.2020 was issued and two of the appellants namely Bassin Ara and Samina Ara were reinstated into service, conducted upon the directions of this Tribunal vide order dated 25.05.2016. File to come up for arguments on 06.03.2024 before D.B. P.P given to the parties.


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

Mutazem Shah


ORDER

06.03.2024...1. Learned counsel for the appellant present. Mr. Asif Masood

Ali Shah, Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, we are unison to set aside impugned orders and remand the matter back to the authority to get verify educational documents of the appellant and then pass order in accordance with the verification report within 30 days after receipt of this order. 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 6th day of March, 2024.*


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

*Kaleemullah