

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 514/2023

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

Mrs. Jamsheda Begum Retired Lady Health Worker (BPS- 5) W/O
Habib Ullah Khan R/O Village Ganderi Khattak, District Karak.
..... (*Appellant*)

Versus

1. The Director General Health Services, Khyber Pakhtunkhwa,
Peshawar.
2. The District Health Officer, District Karak.
3. The District Accounts Officer, District Karak. .
.....(*Respondents*)

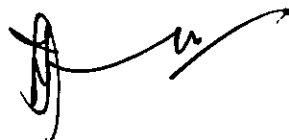
Mr. Afrasiab Khan Wazir, ... For appellant
Advocate

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

Date of Institution..... 07.03.2023
Date of Hearing..... 05.03.2024
Date of Decision..... 05.03.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): Through this single judgment,
we intend to dispose of instant service appeal as well as connected
service appeal No. 515/2023, titled “Mrs. Maryam Bibi Versus the
Director General Health Services, Khyber Pakhtunkhwa, Peshawar and
others”, as in both the appeals, common questions of law and facts are
involved.



2. The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the inaction/action of the respondents by not granting/allowing pension to the appellant since retirement from service i.e 24.10.2018 and against no action taken on the departmental appeal of the appellant within the stipulated period. It has been prayed that on acceptance of the appeal, the respondents might be directed to allow/grant pension to the appellant since retirement from service i.e 24.10.2018 with all back benefits, alongwith any other remedy which the Tribunal deemed appropriate.

3. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as Leady Health Worker on contract basis vide order dated 12.03.1996. Her services were regularized vide order dated 24.09.2014, with effect from 1st July 2012. On completion of her service, she retired on superannuation vide order dated 24.10.2018 but the respondents stopped her pension without providing any reason to her. She moved the Hon'ble Peshawar High Court, Bannu Bench in Writ Petition No. 1192-B/2019 for release of her pension, which was later on withdrawn due to lack of jurisdiction. Feeling aggrieved from the impugned illegal action of the respondents of stoppage of pension, she preferred departmental appeal to the appellate authority for release of her pension but till filing of the instant service appeal, no response had been given.

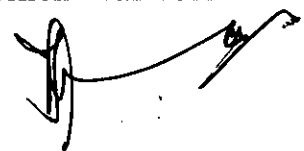
4. Respondents were put on notice who submitted their joint written reply/comments on the appeal. We heard the learned counsel for the



appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

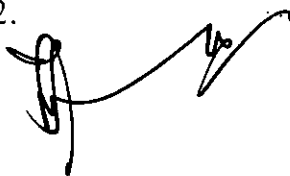
5. Learned counsel for the appellant, after presenting the case in detail, argued that action of the respondents of stoppage of pension of the appellant with effect from superannuation dated 25.10.2018 without any reason was against the law, rules and norms of natural justice. He argued that the appellant was not treated in accordance with law. He further argued that it had been a consistent view of the Apex Court that the pension was not a bounty but a right to be given to the civil servant who had given the prime of his/her youth while serving the government. He argued that stoppage of pension by the respondents was against Section 5 of the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization & Standardization) Act, 2014 read with Section 19 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. He requested that the appeal might be accepted as prayed for.

6. The learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was initially appointed as Lady Health Worker on 12.03.1996 on contract basis. Later on, her services were regularized w.e.f. 01.07.2012. She retired from service on superannuation on 24.10.2018. He said that after regularization of her service, she completed 06 years, 03 months and 23 days length of service till her superannuation, which was less



than 10 years. He argued that the required length of service for pension benefit was 10 years, thus she was not entitled to pensionary benefits. He requested that the appeal might be dismissed.


7. The service appeal has been preferred by the appellant for grant of pensionary benefits. She was appointed as Lady Health Worker, on contract, in the year 1996. Her services were regularized vide an order dated 24.09.2014, with effect from 01.07.2012. She retired from service on attaining the age of superannuation, on 24.10.2018, rendering six years, three months and twenty three days service, as is clear from the retirement order dated 24.10.2018, attached with her service appeal. As far as pensionary benefits for the service rendered by the appellant are concerned, pension rules of the government are clear that a minimum of ten years of regular service makes a civil servant eligible for the same. Under the rules, a civil servant has to complete ten years regular qualifying service for entitling him or her for pension and related benefits. In the case of LHWs, the Khyber Pakhtunkhwa Regulation of Lady Health Workers Programme and Employees (Regularization and Standardization) Act 2014 in its section 1(3) read with section 4(i) is extremely clear when it states that on commencement of this Act, all the Programme employees, who were appointed in the Programme on contract or fixed monthly stipend basis before 1st July 2012, and holding the said post till the commencement of this Act, shall stand regularized with effect from 1st July 2012.



8. In the light of above discussion, we can safely say that as explicitly mentioned in the Act, the appellant's services were regularized w.e.f. 01.07.2012 and she retired in 2018, without completing the required 10 years service under the Pension Rules, therefore, she does not qualify for payment of pensionary benefits.

9. In view of the foregoing, the appeal in hand, alongwith the connected appeal, is dismissed, being groundless. Cost shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 05th day of March, 2024.*


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)


Fazle Subhan, P.S


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05th Mar. 2024 01. Mr. Afrasiab Khan Wazir, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney 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 05th day of March, 2024.*


(FARIHA PAUL)
Member (E)


(RASHIDA BANO)
Member(J)

Fazal Subhan PS