

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No.1615/2023

Date of presentation of Appeal.....07.08.2023
Date of Hearing.....16.04.2024
Date of Decision.....16.04.2024

Miss: Sumaira, SST (General) (BPS-16), Government Girls High School, Thano, Swabi(*Appellant*)

Versus

1. **The Government** of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar.
2. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. **The District Education Officer (Female)**, District Swabi.

.....(*Respondents*)

Present:

Mr: Noor Muhammad Khattak, Advocate.....For the appellant
Mr. Umair Azam, Additional Advocate GeneralFor respondents

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 10.04.2023 WHEREBY THE APPOINTMENT ORDER DATED 25.11.2008 HAS BEEN DISOWNED AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case, as enumerated in the memo and grounds of appeal are that appellant was appointed as SST (General) on contract basis vide order dated 25.11.2008; that later on, her services were regularized vide order dated



15.01.2020; that an inquiry was initiated against her and subsequently, her salary was stopped without any reason; that feeling aggrieved, she filed departmental appeal, followed by Service Appeal No. 314/2020 during the pendency of which, the impugned Notification dated 10.04.2023, withdrawing the appointment order, was issued.

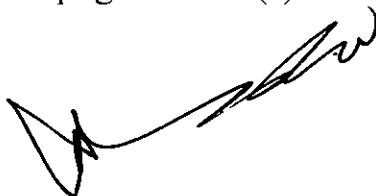
2. Feeling aggrieved of the impugned Notification dated 10.04.2023, she filed departmental appeal, which was not responded, hence, the instant service appeal.

3. Feeling aggrieved of the impugned order dated 12.06.2023, the appellant filed departmental appeal, which was not responded, therefore, the appellant filed the instant service appeal.

4. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

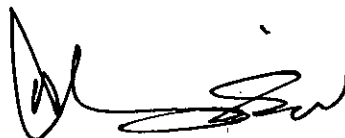
5. We have heard learned counsel for the appellant and learned Additional Advocate General for respondents.

6. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General controverted the same by supporting the impugned order(s).



7. From the record, it is evident that the appellant was serving the Education Department since 2008 as contract employee and allegedly, her services were regularized on 25.01.2010 through Khyber Pakhtunkhwa Regularization Act, 2009. After a deep slumber of more than 14 years, the respondent department initiated inquiry proceedings, which resulted into withdrawal of the appointment order of the appellant, declaring that to be fake and bogus. Admittedly, neither statement of any witness has been recorded nor the appellant has been cross-examined. Just an inquiry report has been submitted by the Inquiry Officer and on the basis of the said report, the appointment order of the appellant was withdrawn. Besides, there is no mention of any official/officer as who had issued the alleged bogus appointment order or who had activated her salary and submitted source form in the Accounts Office allowed her to continue her services, admitted performing of duties. Furthermore, there is also no mention of any facilitator through whom the appellant had got appointment, if at all, her appointment was found to be bogus. Upon query by the bench in this regard, no assistance was provided by the respondents' side.

8. In view of the above circumstance, facts and discussion made herein above the instant service appeal is accepted and impugned order is set aside. Appellant is reinstated into service and case is remitted back to the Department for de-novo inquiry regarding all the above points within 60 days of the receipt of this judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the



inquiry proceedings. The issue of back benefits shall be subject to the outcome of the inquiry. Costs shall follow the event Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 16th day of April, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah

ORDER

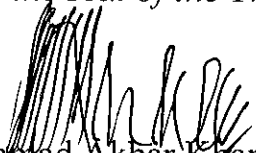
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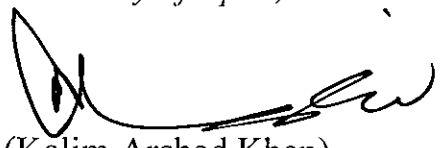
1. Learned counsel for the appellant present. Mr. Umair Azam, Additional Advocate General alongwith Mr. Muhammad Rizwan, Assistant Director for the respondents present.

2. Vide our detailed judgment of today placed on file the instant service appeal is accepted and impugned order is set aside.

Appellant is reinstated into service and case is remitted back to the Department for de-novo inquiry regarding all the above points within 60 days of the receipt of judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the inquiry. Costs shall follow the event Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 16th day of April, 2024.*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman