


Service Appeal No. 259/2022 titled "Atta Ullah Khan Vs. The Director General Health Services and one others" and 132 connected appeals

ORDER

22<sup>nd</sup> Apr. 2024 **Kalim Arshad Khan, Chairman:** Through this single order this

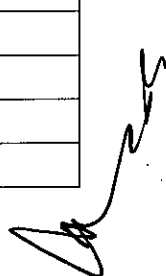
appeal and all the following connected 132 appeals are being decided together as all are of similar nature. Detail of the connected Appeals, is as under:

S.No.	Service Appeal Nos.	Title
1.	237/2022	Abdullah Noor Khan
2.	238/2022	Kaleemullah
3.	239/2022	Muhammad Ismail
4.	240/2022	Muhammad Sadiq
5.	241/2022	Inayatullah
6.	242/2022	Roqia Sultan
7.	243/2022	Shehzada Bibi
8.	244/2022	Saleema Bibi
9.	245/2022	Javeria Waheed
10.	246/2022	Azma Tahir
11.	247/2022	Shakila Bibi
12.	248/2022	Zaibun Nisa
13.	249/2022	Ansa Yasir
14.	250/2022	Madai
15.	251/2022	Noor Zeba
16.	253/2022	Rabia
17.	254/2022	Ayesha Zahoor
18.	255/2022	Uzma Zia
19.	256/2022	Bobrasia Bibi
20.	257/2022	Roof Afzada
21.	258/2022	Asif Ur Rehman
22.	259/2022	Farhana
23.	260/2022	Fareedullah
24.	261/2022	Ajmar Ali Khan
25.	262/2022	Dil Nawaz Khan
26.	263/2022	Sajidullah
27.	264/2022	Shakirullah
28.	265/2022	Ilyaz Ud Din
29.	266/2022	Rifatullah
30.	267/2022	Aftabullah
31.	268/2022	Wasiqullah
32.	269/2022	Pir Abdul Aziz
33.	270/2022	Asmanullah
34.	271/2022	Fasihud Din
35.	272/2022	Wajid Modin
36.	273/2022	Rasool Gul
37.	278/2022	Madia



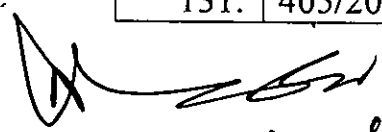
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38.	279/2022	Seema Dil
39.	280/2022	Marya Bibi
40.	281/2022	Ayesha
41.	282/2022	Nisa Noor
42.	283/2022	Razia Bibi
43.	284/2022	Hassina
44.	285/2022	Sakina Sami
45.	286/2022	Maryam
46.	287/2022	Shehnaza
47.	288/2022	Nazish Farooq
48.	289/2022	Gull Khubana
49.	290/2022	Tahir Naz
50.	291/2022	Bushra
51.	292/2022	Samrina Bibi
52.	293/2022	Rafata Bibi
53.	294/2022	Bibi Rahmana
54.	295/2022	Rabia
55.	296/2022	Nabila
56.	297/2022	Bibi Amna
57.	298/2022	Gulalai
58.	299/2022	Zalikha Bibi
59.	300/2022	Khowza Bibi
60.	301/2022	Jehana
61.	302/2022	Ayesha
62.	303/2022	Rawasia
63.	304/2022	Sardara
64.	305/2022	Nadia Bibi
65.	315/2022	Asif Nawaz
66.	316/2022	Abidullah
67.	317/2022	Joharullah
68.	318/2022	Safia Bibi
69.	319/2022	Muhammad Khan
70.	320/2022	Hamayun Khan
71.	321/2022	Akhtar Salam
72.	322/2022	Paiow Khana
73.	323/2022	Gul Ghita
74.	324/2022	Farida Bibi
75.	325/2022	Halifa Bibi
76.	326/2022	Jahanara
77.	327/2022	Nasima Bibi
78.	328/2022	Banoo
79.	329/2022	Baghza Mina
80.	330/2022	Saima
81.	331/2022	Sangin Marmara
82.	332/2022	Sabita Gula
83.	333/2022	Mahila
84.	334/2022	Abida

  
22/4/24

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85.	335/2022	Rogheen
86.	336/2022	Khalima Bibi
87.	337/2022	Maraqeen
88.	338/2022	Miranshta
89.	339/2022	Zibu Nisa
90.	343/2022	Shakila Bibi
91.	344/2022	Shakila Bibi
92.	345/2022	Irana
93.	346/2022	Mehrun Nisa
94.	347/2022	Somira Sadiq
95.	348/2022	Raghina
96.	349/2022	Faryal Rashid
97.	350/2022	Rafia Bibi
98.	351/2022	Nadia Khan
99.	352/2022	Perwanda Bibi
100.	359/2022	Laweda
101.	360/2022	Khadya
102.	361/2022	Mehtaba
103.	362/2022	Fatma
104.	363/2022	Rakhati Bibi
105.	364/2022	Bibi Gula
106.	365/2022	Salma
107.	366/2022	Khana Mira
108.	367/2022	Razmeena
109.	368/2022	Gul Faraza
110.	369/2022	Rahmeena
111.	370/2022	Walidara
112.	371/2022	Fatma Bibi
113.	372/2022	Zibu Nisa
114.	373/2022	Salma Bibi
115.	374/2022	Nasreen Bibi
116.	375/2022	Basnia Bibi
117.	376/2022	Madina Bibi
118.	392/2022	Ayat Gula
119.	393/2022	Safna Bibi
120.	394/2022	Laiba Khan
121.	395/2022	Zeeba
122.	396/2022	Nargassee
123.	397/2022	Safina Bano
124.	398/2022	Sabia Bibi
125.	399/2022	Din Bibi
126.	400/2022	Nazara Bibi
127.	401/2022	Nahida
128.	402/2022	Noor Shahida
129.	403/2022	Siraj Ud Din
130.	404/2022	Anam Rehman
131.	405/2022	Abdullah Noora

  
22/11/24

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132.	406/2022	Rashidullah
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2. Learned counsel for the appellants present. Mr. Muhammad Jan, District Attorney for the respondents present.

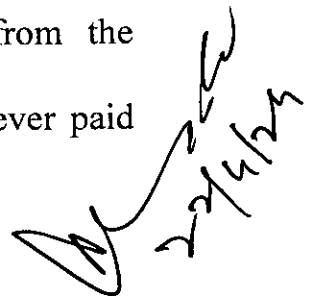
3. Prayer of all the appellants in these cases is the same, that on acceptance of these appeals, the respondents might be directed to release monthly salaries of the appellants w.e.f respective dates of their appointment till date, with all consequential benefits.

4. Appellants' cases in brief are that they were appointed on different dates (given in the respective appeals) in the Health Department. According to the appeals the appellants were performing duties but their salaries were stopped from different dates (mentioned in their respective appeals). They filed departmental appeals on different dates but those were not responded, hence, these service appeals.

5. The department was provided a number of opportunities to file replies but it did not. Therefore, it was placed ex-parte.

6. Today, the learned counsel for the appellants made a simple request that as the appellate authority had not decided the departmental representations of any of the appellants, therefore, all the matters might be sent to the Appellate Authority to decide the departmental representations of the appellants.

7. It appears that the appellants are aggrieved from the stoppage of salaries, which, according to them, were never paid since their appointment.

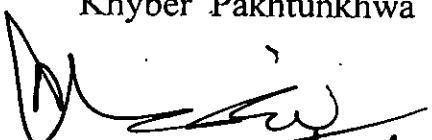
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8. Admittedly, there is no original or appellate order passed by any authority, from which the appellants could be said to be aggrieved of. Even if we consider their contention that they were never paid salaries since their appointments and the alleged non-payment/non-release of salaries since the appointment of the appellants was the original order, then the fact that the appellants filed departmental appeals in 2021 i.e. much after the time provided in Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 could not be controverted by the appellants.

9. The request of the learned counsel for the appellants for sending the matters to the Appellate Authority cannot be considered in view of the judgment of the Supreme Court of Pakistan reported as 2023 SCMR 1087 titled "Dr. Sayyid A.S. Pirzada Vs. The Chief Secretary, Services and Administration Department and others" wherein, the Supreme Court of Pakistan was pleased to found as under:

*"7. We, therefore, hold that once the appeal, application of review or representation, as the case maybe, of a civil servant is not decided by the departmental authority within a period of 90 days and he has elected to approach the Tribunal through preferring an appeal after lapse of that period, then his appeal has to be decided on merits and the Tribunal cannot dispose of that appeal by issuing direction to the departmental authority to decide the appeal, application for review or representation of the appellant, because the said remedy already stands exhausted by virtue of the lapse time."*

10. All the departmental appeals have been filed after lapse of statutory period of thirty days as required by the Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, (some were

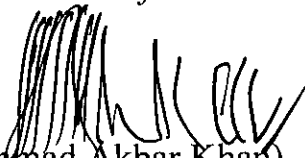
  
22/9/24

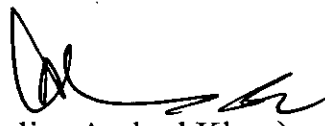
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filed even after couple of years) after their appointments with no condonation of delay, rendering all these not maintainable. When the departmental appeal has been filed beyond the period prescribed in Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, then appeal before this Tribunal becomes not maintainable. Reliance is placed on 1995 SCMR 1505 titled "Anwarul Haq v. Federation of Pakistan", PLD 1990 SC 951 titled "Chairman, PIAC v. Nasim Malik" and 2004 SCMR 1426 titled "State Bank of Pakistan v. Khyber Zaman & others".

11. Therefore, all the appeals are dismissed. Costs shall follow the event. Consign. Copy of this order be placed on files of all connected service appeals. Consign.

12. *Pronounced in open Court at Peshawar and given under my hand and seal of the Tribunal on this 22<sup>nd</sup> day of April, 2024.*

  
(Muhammad Akbar Khan)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*