

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT, ABBOTTABAD

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

Service Appeal No.1335/2022

Date of presentation of Appeal.....22.08.2022
Date of Hearing.....24.04.2024
Date of Decision.....24.04.2024

Mst. Irum Bibi daughter of Sher Bahadur, resident of Pattan,
District Kohistan Lower.....(*Appellant*)

Versus

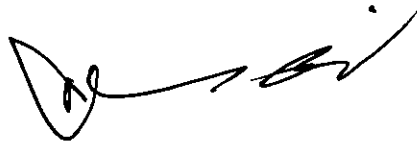
1. **Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education, Peshawar.
2. **Director,** Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (Female)** Kohistan.....(*Respondents*)

Present:

Mr. Muhammad Riaz, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney.....For respondents

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER BEARING ENDST. NO.97-106 DATED 22.01.2022 ISSUED BY THE RESPONDENT NO.3, WHEREBY, THE RESPONDENT NO.3 IMPOSED MAJOR PENALTY OF REMOVAL FROM SERVICE UPON THE APPELLANT AS WELL AS AGAINST THE IMPUGNED ORDER DATED 30.06.2022 ISSUED BY THE RESPONDENT NO.2 WHEREBY, THE RESPONDENT NO.2 DISMISSED THE DEPARTMENTAL APPEAL OF THE APPELLANT, ARE ILLEGAL, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, PERVERSE, ARBITRARY, FANCIFUL, AGAINST THE RELEVANT LAW, RULES AND REGULATIONS, BASED ON MALAFIDE AND CONSEQUENTLY OF NO LEGAL EFFECT UPON THE RIGHTS OF THE APPELLANT.



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Appellant's case in brief as per the averments of the Appeal is that she was serving in the Education Department as Primary School Teacher since 2005. Vide the impugned order dated 22.01.2022, she was removed from service.

2. Feeling aggrieved of the impugned removal order, she filed departmental appeal which was rejected on 30.06.2022. Therefore, she filed the instant service appeal.

3. 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.

4. We have heard learned counsel for the appellant and learned Deputy District Attorney for respondents.

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

6. Perusal of record reveals that the appellant was removed from service vide impugned order dated 22.01.2022 of the District Education Officer (Female) Kohistan Lower. The said



order shows that the appellant was posted at the Government Girls Primary School Amba Serto Kayal at the time of her removal and the Education Monitoring Authority has also reported the appellant absent in the said School at Amba Serto. Besides, the Inquiry Officer (Assistant Sub Divisional Education Officer Female Kohistan) has also reported absent in the GPS Amba Serto Kayal.

7. During the course of arguments, learned counsel for the appellant drew the attention of the bench towards the transfer order of the appellant (annexed with the appeal through application for submission of additional documents) that the appellant had been transferred from the said School i.e. GGPS Amba Serto to GGPS Kamar Banda vide order dated 30.03.2022 (almost three months before passing of the impugned order). When asked from the other side about the above fact, the representative of the respondents, present in the court, disowned the said transfer order, but mere oral disownership would not be sufficient in the absence of the Competent Authority written stance and/or without any enquiry regarding that.

8. Keeping in view the situation, instant service appeal is accepted. The impugned order is set aside with the direction to the respondents to conduct enquiry into the matter and then pass appropriate but speaking order. Appellant is reinstated for the purpose of inquiry in order to ascertain whether the transfer order dated 30.03.2022 was fake or otherwise. The issue of back



benefits shall be subject to the outcome of inquiry, which to be conducted within 60 days of the receipt of this judgment.

Consign.

9. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 24th day of April, 2024.*



KALIM ARSHAD KHAN
Chairman
Camp Court Abbottabad



MUHAMMAD AKBAR KHAN
Member (Executive)
Camp Court Abbottabad

Mutazem Shah


S.A #.1335/2022

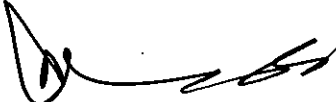
ORDER

24th Apr. 2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Rahim Dad ADEO for the respondents present.

2. Vide our detailed judgment of today placed on file, instant service appeal is accepted. The impugned order is set aside with the direction to the respondents to conduct enquiry into the matter and then pass appropriate but speaking order. Appellant is reinstated for the purpose of inquiry in order to ascertain whether the transfer order dated 30.03.2022 was fake or otherwise. The issue of back benefits shall be subject to the outcome of inquiry, which to be conducted within 60 days of the receipt of the judgment. Consign.

3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 24th day of April, 2024.*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman
Camp Court, Abbottabad