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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1563/2023

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

Mst. Amina Bibi D/O Muhammad Yousif, Ex-Lady Health Worker R/O Dheri Baghbanan, Mohallah Zargarani, District Peshawar.(Appellant)

Versus

1. The Secretary Health Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. The District Health Officer, Peshawar.
4. The Accountant General Khyber Pakhtunkhwa, Peshawar.
5. The District Accounts Officer, Peshawar.
6. The District Coordination LHWs Program, Peshawar.
7. The Provincial Coordinator LHWs Program, Khyber Pakhtunkhwa, Peshawar.(Respondents)

Mr. Saifullah Daudzai,
Advocate

... For appellant

Mr. Muhammad Jan,
District Attorney

... For respondents

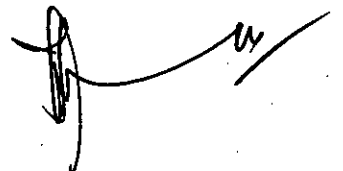
Date of Institution..... 26.07.2023

Date of Hearing..... 17.04.2024

Date of Decision..... 17.04.2024

CONSOLIDATED JUDGEMENT

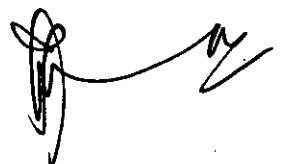
FAREEHA PAUL, MEMBER (E): Through this single judgment, we intend to dispose of instant service appeal as well as connected service appeal No. 1742/2023, titled "Mst. Siyara Bagum Versus the Secretary Health Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar and others" and Service Appeal No. 1969/2023 titled "Mst. Ghazala Yasmin Versus the Secretary Health Government of Khyber Pakhtunkhwa, Civil Secretariat



Peshawar and others” as in all 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 with the prayer that on acceptance of the appeal, the respondents might be directed to count the contractual/temporary period of service of the appellant towards her retirement/pensionary 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 appointed as Lady Health Worker (LHW) on contract basis on 16.10.2001. Vide an order dated 19.09.2014, under the Khyber Pakhtunkhwa Regularization of Lady Health Workers Program and Employees (Regularization and Standardization) Act, 2014, the appellant, alongwith other LHWs, got regularized w.e.f. 01.07.2012. She served the department from 16.10.2001 till her retirement on 21.05.2021 by rendering more than two decades (20 years) of service. Her previous service rendered on contract/temporary basis was not counted towards her pay fixation/pensionary benefits, which caused a huge financial loss and kept her deprived from her right of proper fixation and grant of pension. The same issue was raised before the Hon'ble Peshawar High Court in Writ Petition Nos. 3394-P/2016 and 2246-P/2016 which were decided on 22.06.2017. The Service Tribunal also vide judgment dated 13.07.2021 in Service Appeal No. 11471/2020 directed the respondents to grant pensionary benefits to the appellant of that appeal. The present appellant also filed departmental appeal for her retirement/pensionary



benefits on 20.04.2023 which was not decided till filing of instant service appeal.

4. Respondents were put on notice. On 11.12.2023, learned counsel for the appellant stated before the court that names of respondents No. 1, 4, 5, 6 and 7 might be deleted from the panel of respondents being unnecessary parties and therefore, their names were deleted from the panel of respondents. Respondents No. 2 & 3 submitted their joint written reply/comments on the appeal. We heard the learned counsel for the appellant as well as the learned 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 not counting the previous service rendered by the appellant as contract employee towards her pay fixation and pensionary benefits was against the law, rules, norms of justice and material on record. He argued that the appellant was entitled to her claim under Rule 2.3 of the West Pakistan Civil Services Pension Rules, 1963. According to him, even under 370 and 371 CSR, she was entitled to her claim and her previous service could have been counted towards her pension and retirement benefits. He argued that the same view was also upheld by the august Supreme Court of Pakistan in a judgment reported as 2016 PLD(S.C) 534. He requested that the appeal might be accepted as prayed for.

6. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that initially the appellant was appointed on contract basis and in the light of judgment of the august Supreme Court of




Pakistan, her services were regularized w.e.f. 1st July, 2012 and she served as a regular government employee till her retirement on attaining the age of superannuation on 21.05. 2021. It meant that she served for less than 09 years and was not entitled for any pensionary benefits because pension benefit would accrue after ten years from the date of regularization. He requested that the appeal might be dismissed.


7. Through the instant appeal, the appellant has prayed for grant of retirement/pensionary benefits for her services that she rendered as Lady Health Worker. Record presented before us shows that the appellant was appointed as LHW in 2001 on contract basis. The programme was regularized through the Khyber Pakhtunkhwa Regularization of Lady Health Workers Programme and Employees (Regularization and Standardization) Act, 2014 with effect from 01.07.2012. This means that she rendered around nine years of regular service, whereas qualifying service for pensionary benefits is ten years. Here it would not be out of place to mention the judgment in case of Chairman Pakistan Railways Government of Pakistan Islamabad and others Versus Shah Jehan (PLD 2016 SC 534) where the honourable Supreme Court of Pakistan has clearly held that without completing ten years qualifying service, the services rendered by a government servant or civil servant on contract/fixed pay could not be counted for pensionary benefits. If an employee has not completed ten years service after regularization, his or her previous service that he/she had rendered on contract/fixed pay could not be added to the qualifying service for pensionary benefits.



8. In view of the above discussion, the service appeal in hand as well as the connected service appeals, are dismissed. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 17th day of April, 2024.*


(FAREEHHA PAUL)
Member (E)


(RASHIDA BANO)
Member(J)

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