



ORDER

- 19.02.2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.
2. Vide our detailed judgment of today separately placed on file, we find no legal ground to interfere in the appellate order dated 02.10.2020 and as such the appeal stands dismissed. Costs shall follow the event. Consign.
3. *Pronounced in open court at camp court D.I.Khan and given under our hands and seal of the Tribunal on this 19<sup>th</sup> day of February, 2024.*

  
(Rashida Bano)  
Member (J)  
Camp Court D.I.Khan

  
(Muhammad Akbar Khan)  
Member (E)  
Camp Court D.I.Khan

\*Kamranullah\*

06. It is admitted that the appellant stopped attending and performing her duties at the school where she was posted citing security reasons after abduction of her brother. She claims to have submitted application for transfer to D.I.Khan and leave for two months and stopped attending school without getting the leave sanctioned by the DEO (F) Tank, the competent authority. The school was shown closed and the teacher (appellant) absent by the Independent Monitoring Unit (IMU) staff in the monthly visit report. On the second inspection visit the school was reported as non-functional by the IMU inspecting staff. The competent authority initiated disciplinary proceedings against the appellant and imposed major penalty of removal from service on her. However, the appellate authority set aside the order of major penalty on the ground of procedural deficiencies in the disciplinary proceedings. The appellate authority reinstated the appellant into service and treated the intervening period as leave without pay so as to regularize the period in which the appellant remained out of service. We observe that the appellant has already been given departmental relief and there no reason available for further relief. Therefore, we find no legal ground to interfere in the appellate order dated 02.10.2020 and as such the appeal stands dismissed. Costs shall follow the event. Consign.

07. *Pronounced in open court at camp court D.I.Khan and given under our hands and seal of the Tribunal on this 19<sup>th</sup> day of February, 2024.*



(Rashida Bano)  
Member (J)  
Camp Court D.I.Khan



(Muhammad Akbar Khan)  
Member (E)  
Camp Court D.I.Khan

service. Feeling aggrieved, she filed departmental appeal which was accepted and the appellant was reinstated in service, however, the intervening period was treated as leave without pay vide impugned Notification dated 02.10.2020. Feeling aggrieved, from the impugned Notification dated 02.10.2020, she filed departmental appeal on 09.08.2021 which was not responded within the statutory period, hence preferred the instant service appeal on 11.01.2022.

03. Notices were issued to the respondents to submit their reply/comment, however, the responded did not submit reply/comments within the specified time as a result of which their right for submission of reply/comments was struck off vide order sheet dated 18<sup>th</sup> Jan, 2023.

04. Learned counsel for the appellant contended that the impugned Notification No.6973-76 dated 02.10.2020 issued by respondent No. 3 is illegal, against services law and rules, without jurisdiction; that the services law and rules were not complied, hence the appellant is entitled to receive all the back benefits from the department being innocent; that the appellant has been deprived form salaries of eleven months which is against the norms of natural justice, service rules and departmental policy, hence the appellant is entitled to receive all the back benefits i.e. salaries.

05. On the other hand, learned District Attorney argued that the impugned Notification dated 02.10.2020 was issued after recommendation of the inquiry report. Moreover, the appellant is not a committed person to her job and remained absent from duty without prior leave/permission of the competent authority. He is, therefore, not entitled for salary for the period in which she has not performed duty.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**AT CAMP COURT D.I.KHAN**

**Service Appeal No. 115/2022**

**BEFORE:** RASHIDA BANO --- MEMBER (J)  
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Mst. Sadaf Faizullah wife of Abdullah C/o New Mart Bakers Multan Road,  
Dera Ismail Khan, Presently as PST at GGPS Kot Zangbar Tehsil &  
District Tank..... (*Appellant*)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Elementary &  
Secondary Education Department, Khyber Pakhtunkhwa, Peshawar & 03  
others..... (*Respondents*)

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**Present:-**

SHAUKAT ULLAH BATTANI QADRI,  
Advocate --- For Appellant

MUHAMMAD JAN,  
District Attorney --- For respondents.

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Date of Institution.....11.01.2022  
Date of Hearing..... 19.02.2024  
Date of Decision.....19.02.2024

**JUDGMENT.**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** The instant service  
appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa  
Service Tribunal, Act 1974 with the prayer copied as under;

*“On acceptance of the instant appeal the appellant may kindly  
be granted all back benefits/salaries in the interest of justice.”*

02. Brief facts of the case are that appellant was serving as Primary  
School Teacher at District Tank. That her brother was kidnapped by unknown  
culprits as is evident from FIR#76 dated 25.04.2019 U/s 365 PPC was  
registered at Police Station Gomal Tank, therefore, she requested for her  
transfer form District Tank to District D.I.Khan. That vide order dated  
29.11.2019, the appellant was awarded major penalty of removal from