

Civil Servants Act, 1973, but that would be relevant if the appellant was on probation, but in this case, the appellant was not on probation.

7. Besides, neither charge sheet/statement of allegations have been issued nor the appellant has been cross-examined which shows that the appellant has not been given proper opportunity of defense which is the requirement of law.

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 proper inquiry into the matter strictly in accordance with the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and then pass appropriate but speaking order. Appellant is reinstated for the purpose of inquiry. 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. 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 2nd day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

post of P.H.C Technician (BPS-12). While serving in the said capacity, vide impugned order dated 18.05.2021, she was terminated from service.

2. Feeling aggrieved of the impugned order dated 18.05.2021, the appellant filed departmental appeal on 08.06.2021, which was not responded, 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 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 District Attorney controverted the same by supporting the impugned order(s).

6. Perusal of impugned order dated 18.05.2021 shows that the appellant was **terminated** from service on the basis of different allegations i.e. absence from duty, denial of performance of duty as well as non-submission of replies to the official correspondence. Allegations have been mentioned in the impugned order, but there is nothing annexed with the reply of respondents, to show the mentioned correspondence nor is the word **terminated** mentioned anywhere in the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, rather it is mentioned in Section-11 of the Khyber Pakhtunkhwa

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.7587/2021

Date of presentation of Appeal.....11.10.2021
Date of Hearing.....02.05. 2024
Date of Decision.....02.05. 2024

Mst. Seema Gul, P.H.C Technician MCH (LHV) BPS-12 at THQ Hospital Sadda, R/O Sadda Bazar, Tehsil Sadda and District Kurram
.....(*Appellant*)

Versus

1. **District Health Officer (DHO)**, District Kurram.
2. **Secretary Health**, Government of Khyber Pakhtunkhwa, Khyber Road, Peshawar.
3. **DG Health** Government of Khyber Pakhtunkhwa, Warsad Road, Peshawar.....(*Respondents*)

Present:

Mr. Muhammad Nasir Ghilzai, Advocate.....For the appellant
Mr. Muhammad Jan, District AttorneyFor respondents

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER NO.2054-60/DHO/LK/CK/ADMIN/TER DATED 18.05.2021 PASSED BY DISTRICT HEALTH OFFICER (DHO) DISTRICT KURRAM, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE WITHOUT ANY JUSTIFIED, LEGAL AND REASONABLE GROUNDS. IN THIS RESPECT HAS FILED DEPARTMENTAL APPEAL ON DATED 14.06.2021 VIDE DIARY NO.20483 WITH THE DG HEALTH, BUT NOT RESPONSE THE INSTITUTION OF INSTANT APPEAL.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Appellant's case in brief, as per the averments of the Appeal, is that she was appointed Lady Health Visitor (BPS-09) vide order dated 10.05.2000 and was promoted to the

