

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No. 1698/2019

Date of presentation of Appeal.....05.12.2019
Date of Hearing.....07.05.2024
Date of Decision.....07.05.2024

Shakir Ullah Shah S/o Saif-ur-Rehman, R/o Saif-ur-Rehman
Koroona, Kanda Ghar, Takht Bhai, Mardan.Appellants

Versus

1. District Education Officer (M), District Education Office, Mardan.
 2. Director Education, Directorate of Education Elementary & Secondary Education Office near Government High School No. 1, Peshawar City.
 3. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
-(**Respondents**)

Present:

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

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APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, AGAINST THE ORAL REFUSAL OF THE RESPONDENTS OF NOT REINSTATING THE APPELLANT IN SERVICE W.E.F. 1997 TILL 09.10.2018 ALONGWITH SENIORITY AND NOW STATUTORY PERIOD OF 90 DAYS OF ISSUING THE NOTICES HAVE BEEN EXPIRED.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: According to the appeal, the appellant was appointed as Primary School Teacher on 14.01.1996 and was posted in Government Primary School, Par Hoti No. 1 Mardan. He was removed from service vide order dated 23.07.1997 and after passing of Sacked Employees Act, 2012, he filed application for reinstatement and a list was prepared, wherein, he was placed at serial No. 14 in the

PST quota but he was not reinstated in service, therefore, he filed Writ Petition No. 2440/2016 in Peshawar High Court, Peshawar, which was accepted vide judgment dated 12.04.2018. Vide order dated 09.10.2018, he was reinstated in service and was posted in Government Primary School No. 2, Takht Bhai. He was not reinstated in service with effect from 2012 and was also not paid salary with effect from 1997 till 09.10.2018, therefore, he filed departmental appeal on 22.08.2019, which was not responded, hence the appellant filed instant service appeal on 05.12.2019 for redressal of his grievance on the grounds that he was appointed as Primary School Teacher on 14.01.1996 and was removed from service on 23.07.1997 and was reinstated in service on 09.10.2018 in pursuance of the judgment of Peshawar High Court, Peshawar, however he was entitled to be reinstated in service with effect from 1997 with all back benefits

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance through their respective representative and contested the appeal by way of filing written reply, raising therein numerous legal as well as factual objections. The defence setup by the respondents was a total denial of the claim of the appellant

3. We have heard the arguments of learned counsel for the appellants as well as learned Deputy District Attorney for the respondents and have perused the record.

4. 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).

5. A perusal of the record would show that vide order dated 14.01.1996, the appellant was appointed as PTC un-trained Teacher (BPS-07), however, vide order dated 06.01.1997, the appointment order of the appellant was withdrawn on the ground of irregular appointment. Government of Khyber Pakhtunkhwa in the year 2012, promulgated Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, and in the light of the said Act, the appellant filed an application for reinstatement but he was not reinstated. The appellant and some other sacked employees, filed Writ Petitions before the Peshawar High Court, Peshawar, which were accepted vide judgment dated 12.04.2018 and in pursuance of the said judgment, a joint appointment order dated 09.10.2018 of the appellant as well as 37 other teachers was issued on the terms and conditions enumerated in the said appointment order. Terms and condition No. 6 of the said appointment order dated 09.10.2018 is relevant to the instant case, which is reproduced as under.

"6. Their appointment has been made in pursuance of Khyber Pakhtunkhwa, Sacked Employees (appointment) Act 2012 hence under section 5 of the said act, he shall not be entitled to claim any kind of seniority, promotion and other back benefits."

6. Touching any of the terms and conditions of the appointment order would be beyond the scope of jurisdiction of this Tribunal especially when the appointment order was made in pursuance of the judgment of Peshawar High Court, Peshawar. This Tribunal thus does not have jurisdiction and original appeal as well as copies of documents be

Service Appeal No 1698/2019 titled "Shakir Ullah Khan versus District Education Officer (M), District Education Office, Mardan and others", decided on 07.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

returned to the appellant/his counsel against proper receipt while order sheets, copies of appeal and documents be retained and it be consigned.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 07th day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Naeem Amin

17th April, 2024 1. Learned counsel for the appellant present. Mr. Umair Azam,
Additional Advocate General for the respondents present.

2. Learned counsel for the appellant seeks adjournment on the ground
that he has not made preparation for arguments. Adjourned. To come
up for arguments on 07.05.2024 before the D.B. Parcha Peshi given to
the parties.

SCANNED
KP ST
Peshawar



(Muhammad Akbar Khan)
Member (Executive)



(Kalim Arshad Khan)
Chairman

Naem Amin

ORDER

07th May, 2024

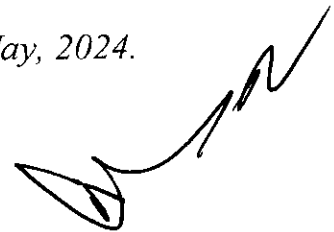
1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah,
Deputy District Attorney for the respondents present. Arguments heard
and record perused.

2. Vide our judgment of today placed on file, this Tribunal does not
have jurisdiction and original appeal as well as copies of documents be
returned to the appellant/his counsel against proper receipt while order
sheets, copies of appeal and documents be retained and it be consigned.

3. *Pronounced in open Court at Peshawar and given under our hands
and the seal of the Tribunal on this 07th day of May, 2024.*



(Muhammad Akbar Khan),
Member (Executive)



(Kalim Arshad Khan)
Chairman

Naem Amin