

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
AT CAMP COURT ABBOTTABAD

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

Service Appeal No. 58/2019

Date of presentation of Appeal.....14.01.2019
 Date of Hearing.....29.05.2024
 Date of Decision.....29.05.2024

Muhammad Hafeez son of Akram, Ex-PST Teacher, Resident of Khan Khurd
 Cum Bakot Tehsil and District, Abbottabad..... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) Abbottabad.....(Respondents)

HAMAYUN KHAN,
 Advocate

For appellant.

ASIF MASOOD ALI SHAH,
 Deputy District Attorney

For respondents

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 instant appeal impugned order dated 27.09.2018 passed by respondent No. 3 may kindly be declared null and void, and appellant be reinstated in service with all back benefits. Any other relief which this honourable Tribunal deem fit and proper in the interest of justice."

02. Brief facts of the case are that the appellant was earlier compulsorily retired from service 24.05.2016, against which the appellant filed Service Appeal No. 1025/2016 before this Tribunal, which was accepted vide judgment dated 23.11.2017 but the same was not implemented, hence the appellant filed execution petition No. 05/2018 and on the directions of this Tribunal, the appellant was re-instated into service; that on the allegations of inefficiency/inability, he was compulsorily retired from service vide impugned order dated 27.09.2018. Feeling aggrieved from the impugned order dated 27.09.2018 the appellant filed departmental appeal on 01.10.2018 which was not responded, hence preferred the instant service appeal on 14.01.2019.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned Deputy District Attorney for the respondents and have gone through the record with their valuable assistance.

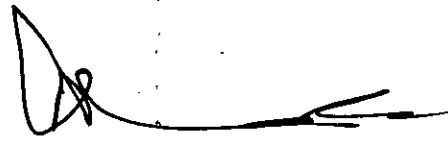
04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney, controverted the same by supporting the impugned order(s).

05. Perusal of record reveals that appellant was serving in the Education Department since 1984. In the year 2016, he was compulsorily retired from service, however, he filed Service Appeal No.1025/2016 in this Tribunal and vide judgment dated 23.11.2017 he was ordered to be reinstated. Consequently, he was reinstated into service vide order dated 16.03.2018. On 27.09.2018, he was again compulsorily retired from service on the ground of inefficiency/inability and the respondents have taken the plea that the appellant


had no command even to read Urdu Newspaper. The appellant himself submitted statement dated 19.04.2018 wherein he categorically admitted that he submitted wrong reply to the charge sheet/statement of allegation before the inquiry officer and also accepted his retirement order. The inquiry proceedings conducted against him show that despite inefficiency he had been on the role of Education department for 31 years. It was found during the inquiry that the appellant after remain under tension and suffer from depression besides his inability to teach the new curriculum and English medium. After observing all the codal formalities the appellant was rightly imposed the major penalty of compulsory retirement which commensurate with the length of service he served the respondents department. To meet the end of justice we also interacted with the appellant in the chamber to assess his capabilities viz-a-viz the charge of inefficiency and did not found any wrong or short fall in the findings of inquiry and the order of the competent authority dated 27.09.2018.

06. In view of the above the appeal in hand stands dismissed. Costs shall follow the event. Consign.

07. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 27th day of May, 2024.*



(KALIM ARSHAD KHAN)
Chairman
Camp Court Abbottabad




(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Abbottabad

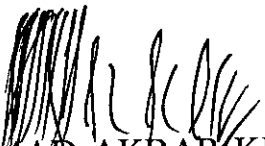
ORDER

27th 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 detailed judgment of today, separately placed on file, the appeal in hand stands dismissed. Costs shall follow the event. Consign.

3. *Pronounced in open court at camp court Abbottabad and given under our hands and seal of the Tribunal on this 27th day of May, 2024.*


(KALIM ARSHAD KHAN)
Chairman
Camp Court Abbottabad


(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Abbottabad