

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR**  
**AT CAMP COURT, ABBOTTABAD**

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

*Service Appeal No. 3990/2021*

Date of presentation of Appeal.....24.03.2021

Date of Hearing.....27.05.2024

Date of Decision.....27.05.2024

**Muhammad Ilyas** son of Jehandad Khan resident of Banda Peeran Marghazar, Tehsil and District Mansehra.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary, Elementary & Secondary Education, Peshawar
2. **Director**, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **Deputy Director (Establishment)**, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar Secretariat.
4. **District Education Officer** (Male) Mansehra.
5. **District Accounts Officer**, Mansehra.
6. **Ghulam Jilani** Chairman PTC Village Jalgali, Tehsil and District Mansehra.....(*Respondents*)

Present:

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

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER BEARING ENDST. NO.44/F.NO.446/SST(M) COMPLAINT MANSEHRA DATED PESHAWAR THE 22.09.2020 DELIVERED TO THE APPELLANT ON 08.10.2020 WHEREBY AMOUNT OF RS.7,17,950/- WAS ORDERED TO BE RECOVERED FROM THE APPELLANT ON ACCOUNT OF MISAPPROPRIATION IN PTC FUND AND APPELLANT WAS ALSO COMPULSORY RETIRED FROM SERVICE BY RESPONDENTS NO.2 AND 3.**

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Facts of the case of the appellant, gathered from memorandum and grounds of appeal are that appellant was serving in the Education Department in BPS-17; that vide

impugned order dated 22.09.2020, on the charges of misappropriation in the PTC fund, he was compulsorily retired from service and also recovery of Rs.7,17,950/- was also imposed upon him Feeling aggrieved he filed departmental appeal on 16.10.2020, which was not responded, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who 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.

3. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.

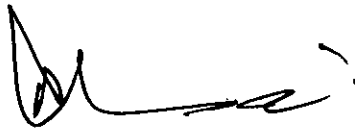
4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

5. Perusal of record reveals that the appellant was Secretary of the Parents Teachers Council, who along with other members of the PTC, was responsible for the withdrawal of funds and spending the same on the infrastructure of the school. In the said process, a complaint was made by the Chairman of the Council, which resulted into initiation of inquiry. Show cause notice was issued to the appellant and inquiry was conducted, wherein, the inquiry committee held the appellant guilty of misappropriation as well as using substandard material in construction.

6. The impugned order dated 22.09.2020 shows that the appellant was compulsorily retired from service with recovery of embezzled amount. Allegations have been mentioned in the impugned order, but there is nothing annexed with the reply of respondents, to show that charge sheet/statement of allegations have been issued or 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.

7. 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.

8. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 27<sup>th</sup> day of May, 2023.*



**KALIM ARSHAD KHAN**  
Chairman



**MUHAMMAD AKBAR KHAN**  
Member (Executive)

*\*Mutazem Shah\**

S.A No.3990/2021

ORDER

27<sup>th</sup> May. 2024

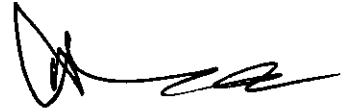
1. Learned counsel for the appellant and Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file 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 the judgment. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 27<sup>th</sup> day of May, 2024.*



(Muhammad Akbar Khan)  
Member (E)  
Camp Court, Abbottabad



(Kalim Arshad Khan)  
Chairman  
Camp Court, Abbottabad

Due to cancellation of lower case  
is adjourn to 26/4/2024.

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26<sup>th</sup> Apr. 2024 1. Appellant in person present. Mr. Asif Masood Ali Shah,  
Deputy District Attorney for the respondents present.

2. Bench is incomplete. Therefore, case is adjourned. To come up  
for arguments on 27.05.2024 before D.B at Camp Court, Abbottabad.

P.P given to the parties.

\*Mutazem Shah \*

(Muhammad Akbar Khan)  
Member (E)  
Camp Court, A/Abad