

04.03.2024 1. Junior to counsel for the appellant present. Mr. Habib Anwar, Additional Advocate General alongwith Mr. Kashif Munir, ADO for the respondents present.

2. Reply/comments on behalf of respondents submitted through office which are placed on file. Copy of the same handed over to junior of learned counsel for the appellant. To come up for arguments on 02.07.2024 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

Kamranullah

S.A No.2502/2023

ORDER

11th June. 2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, we allow this appeal and remit the matter to the respondents for its decision in accordance with law and rules and pass an appropriate, speaking order, within 60 days of the receipt of the judgment. The appellant is reinstated for the purpose of enquiry. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11th day of June, 2024.*

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

Muazeem Shah

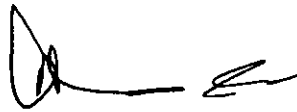
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order dated 14.11.2023. There is nothing on the record, which could show that any inquiry had been conducted in the case of appellant. A show cause notice has been issued to the appellant, which was replied by him.

6. When asked for record regarding any other proceedings, except issuance of show cause notice, the learned Deputy District Attorney could not answer in this regard as no representative was present on behalf of the respondents nor record was sufficient in order to reach proper conclusion.

7. In view of the above, we allow this appeal and remit the matter to the respondents for its decision in accordance with law and rules and pass an appropriate, speaking order, within 60 days of the receipt of this judgment. The appellant is reinstated for the purpose of enquiry. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11th day of June, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah

order dated 24.08.2023, he was dismissed from service; that feeling aggrieved, he filed departmental appeal on 28.08.2023, which was converted into that of removal from service vide impugned appellate order dated 14.11.2023, 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 while serving as Primary School Teacher, was issued show cause notice on the basis of charges, which are as under:

1. *You have submitted fake degree of M.Ed as verified by the University of Peshawar vide No.7355/M/Secrecy dated 13.06.2023.*
2. *You have concealed material fact from the high ps.*
3. *You were inefficient.*
4. *You were guilty of misconduct.*



On the basis of the above mentioned charges, he was dismissed from service vide impugned order dated 24.08.2023. However, the appellant filed departmental appeal to the appellate authority, who converted the penalty of dismissal from service into that of removal from service vide

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR

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

Service Appeal No. 2502/2023

Date of presentation of Appeal.....01.12.2023
Date of Hearing.....11.06.2024
Date of Decision.....11.06.2024

Muhammad Ibrahim Khan, S/o Gul Sharif, Ex PST (BPS-12),
R/o Bhatni, Gulli Kachkai Kally, Tehsil and District Qabaili Area
Mulhiqa Lakki Marwat.....(*Appellant*)

Versus

1. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. **The Sub Divisional Officer (M)** Bhattni Lakki Marwat.
3. **The District Education Officer (M)** Lakki Marwat
.....(*Respondents*)

Present:

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

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 24.08.2023 WHEREBY APPELLANT HAS BEEN IMPOSED MAJOR PENALTY OF DISMISSAL FROM SERVICE AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL BUT DISMISSAL FROM SERVICE WAS CONVERTED INTO REMOVAL FROM SERVICE VIDE IMPUGNED APPELLATE NOTIFICATION DATED 14.11.2023.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case are that appellant was appointed as Primary School Teacher vide appointment order dated 05.08.2022; that after assumption of charge, he was performing his duties; that on 17.06.2023 he was issued show cause notice on the charges of submission of fake degree; that vide