

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

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

*Service Appeal No.515/2019*

Date of presentation of appeal .....17.04.2019  
Dates of Hearing.....13.06.2024  
Date of Decision.....13.06.2024

**Habib Khan, Ex Certified Teacher (BPS-14) S/O Afreen Khan R/O Sair Charbagh District Swat.....(Appellant)**

Versus

1. **District Education Officer (Male) Swat.**
2. **Director Elementary and Secondary Education, Govt: of Khyber Pakhtunkhwa Peshawar.**
3. **Secretary, Elementary and Secondary Education, Government of Khyber Pakhtunkhwa Peshawar.....(Respondents)**

Present:

Mr. Mir Zaman Safi, Advocate.....For appellant.

Mr. Muhammad Jan, District Attorney.....For respondents.

.....  
**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER 10.08.2011 PASSED BY RESPONDENT NO.1 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT DATED 17.12.2018 HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.**  
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**JUDGMENT**

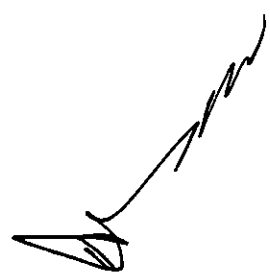
**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts gathered from the memo and grounds of appeals are that the appellants was appointed as Senior



Vernacular Teacher (BPS-09) on 30.09.1989; that nomenclature of the post of the appellant was later on changed as Certified Teacher and also upgraded to BPS-14; that due to domestic issues, the appellant was requested for leave which was accordingly granted two years leave with effect from 01.04.2008 to 31.03.2010; that the appellant was belongs to Charbagh District Swat which was the hub of the terrorists those days, and the government servants were particularly at their target; that during those days so many government servants were killed by the terrorists and others including the appellant were threatened that if they perform duties with the government, they will be targeted; that in the circumstances, the appellant was forced to leave the area and shifted at safe place; that in the meanwhile, the appellant alongwith two others teachers while posted to Government High School Shawar Swat, was removed from service vide impugned notification dated 10.08.2011 from the date of absence; that against the impugned order, the appellant preferred departmental appeal on 17.12.2018 which was not responded within statutory period of ninety days, hence, the instant service appeals.


2. 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 defence setup was a total denial of the claim of the appellant.

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



4. The appellant was removed from service on 10.08.2011 and he filed departmental appeal on 17.12.2018 and this appeal filed on 17.04.2019, as such not only the departmental appeal but instant appeal before this Tribunal both are barred by time. No plausible explanation is given in the application for condonation of delay on this account, therefore, this appeal is dismissed being barred by time. Costs shall follow the event. Consign.

5. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 13<sup>th</sup> day of June, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**MUHAMMAD AKBAR KHAN**  
Member (Executive)

*\*Adnan Shah, PA\**


**ORDER**

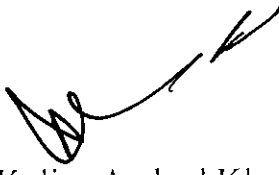
13<sup>th</sup> June, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Vide our detailed judgement of today placed on file, this appeal is dismissed being barred by time. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of June, 2024.*

  
(Muhammad Akbar Khan)  
Member(Executive)

  
(Kalim Arshad Khan)  
Chairman

\*Adnan Shah, P.A\*

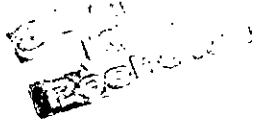
08.02.2024


Tour to Camp Court Swat has been cancelled, therefore to come up for the same as before on 09.05.2024.


  
Reader

09.05.2024 01. Appellant present in person Mr. Muhammad Jan, District Attorney alongwith Hazrat Hussain, Inspector (Legal) for the respondents present.

02. Appellant stated that learned counsel for the appellant is not in attendance due to general strike of the lawyers. Adjourned. To come up for arguments on 05.06.2024 before the D.B at camp court, Swat. PP given to the parties.



  
(Farzcha Paul)  
Member(E)  
Camp Court, Swat.

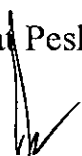
  
(Rashida Bano)  
Member(E)  
Camp Court Swat


\*Fazle Subhan, P.S\*

06<sup>th</sup> June, 2024

1. Appellant in person present. Mr. Umair Azam, Additional Advocate <sup>General</sup> alongwith Mr. Hussain Ali, for the respondents present.

2. Appellant requested for adjournment on the ground that his counsel is not available today. Last opportunity is granted subject to payment of costs of Rs. 5000/-. The case pertains to the year 2019, therefore, let it be fixed for arguments on 13.06.2024 before D.B at the Principal seat Peshawar. P.P given to the parties.

  
(Muhammad Akbar Khan)  
Member (E)

  
(Rashida Bano)  
Member (J)  
Camp Court Swat

**SCANNED**  
**KEBT**  
**Peshawar**