

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No. 487/2016

BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN  
MISS FAREEHA PAUL ... MEMBER(E)

Gul Hassan S/O Khan Bahadar R/O village Baggan, Post office Baggan  
Tehsil & District Kuram. ....(Appellant)

Versus

1. Additional Agency Education Officer Lower Kurram Agency.
2. Agency Education Officer Lower Kurram Agency.
3. Assistant Education Officer Lower Kurram Agency.
4. Director of Education FATA Khyber Pakhtunkhwa, Peshawar.
5. Agency Accounts Officer Parachinar. ....(Respondents)

Mr. Umar Farooq,  
Advocate

... For appellant

Mr. Asif Masood Ali Shah,  
Deputy District Attorney.

... For respondents

Date of Institution.....	25.04.2016
Date of Hearing.....	06.06.2024
Date of Decision.....	06.06.2024

CONSOLIDATED JUDGEMENT

FAREEHA PAUL, MEMBER (E): Through this single judgment, we intend to dispose of instant service appeal as well as connected service appeal No. 488/2016 titled “ Zia Alam Versus Additional Agency Education Officer Lower Kurram Agency and others”, as in both the appeals, common questions of law and facts are involved.

02. The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 11.12.2015 of respondent No. 1, whereby the appellant was



terminated from service. It has been prayed that on acceptance of the appeal, the impugned order dated 11.12.2015 might be set aside and the appellant might be allowed to serve as a PET in his previous position.

03. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as PET (Male), Government Middle School, Jilamai Kurram Agency, vide order dated 15.01.2013. He took over charge and was posted on 16.01.2013 as PET Male GMS Jilamai Kurram Agency against the vacant post. On 11.12.2015, respondent department terminated his service on the allegation that his diploma of JDPE was found fake & bogus. Feeling aggrieved, he filed departmental appeal on 24.12.2015 which was not responded; hence the instant service appeal.

04. Respondents were put on notice. Respondents No. 1 & 4 submitted written reply/comments on the appeal. Respondents No. 2, 3 and 5 relied on the same vide order dated 25.05.2017. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

05. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned order dated 11.12.2015 was against the law and facts and was liable to be set aside. No show cause notice was served upon him nor opportunity of personal hearing was afforded to him. He was dismissed from service without conducting regular inquiry, which was mandatory under the law and that the impugned order was not



a speaking order. He requested that the appeal might be accepted as prayed for.

06. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that as per condition No. 4 of the appointment order, no payment would be made to the appellant until and unless his academic and professional certificates were got verified from the authorities concerned. On verification, his Junior Diploma in Physical Education was found fake and bogus, therefore, his services were terminated by the competent authority. He further argued that the respondent department, in order to investigate the anomalies committed during recruitment process in Kurram Agency, held inquiries and the responsible officer was issued a charge sheet and proposed for disciplinary action under the E&D Rules. He argued that no departmental appeal was made to the competent authority against the impugned order and hence the appeal in hand was not maintainable before the Tribunal. He requested that the appeal might be dismissed.


07. The instant appeal has been preferred before us on the order of termination of services dated 11.12.2015 of the appellants on the ground that their Junior Diploma in Physical Education (JDPE) was found fake and bogus. The appellants, in their appeals, have annexed a letter of Assistant Controller of Examinations, Sarhad University of Science and Technology, Peshawar dated 21.01.2013 addressed to the Additional Agency Education Officer, Kurram Agency, according to which both the appellants successfully passed their programme from that University.



The learned Deputy District Attorney, on the other hand, produced a letter of the Deputy Controller of Examinations, Degree Sections of the same University dated 21.07.2014, according to which documents of the appellants forwarded to the university for verification were found forged.

08. In the light of the above controversial facts presented before us, it is difficult to arrive at any conclusion. The matter is, therefore, referred back to the respondent department to hold an inquiry into the matter in order to determine whether the diploma held by the two appellants was fake/forged or otherwise and then decide the fate of their appointment within ninety days of the receipt of copy of this judgment. Cost shall follow the event. Consign.

09. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 06<sup>th</sup> day of June, 2024.*

  
(FARIHA PAUL)  
Member (E)


  
(KALIM ARSHAD KHAN)  
Chairman

SA 487/2016

06<sup>th</sup> June, 2024 01. Mr. Umar Farooq, Advocate for the appellant present.  
Mr. Asif Masood Ali Shah, Deputy District Attorney for the  
respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, the  
matter is referred back to the respondent department to hold an  
inquiry into the matter in order to determine whether the  
diploma held by the appellant was fake/forged or otherwise  
and then decide the fate of his appointment within ninety days  
of the receipt of copy of this judgment. Cost shall follow the  
event. Consign.

03. *Pronounced in open court in Peshawar and given under  
our hands and seal of the Tribunal on this 06<sup>th</sup> day of June,  
2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(KALIM ARSHAD KHAN)  
Chairman

\*Fazal Subhan PS\*