

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No.748/2017

Date of presentation of Appeal.....14.07.2017
Date of Hearing.....03.07.2024
Date of Decision.....03.07.2024

Miss. Shagufta D/O Sikandar Shah Resident of Mohallah Syeddan Khwesgi Payan District Nowshera.....(**Appellant**)

Versus

1. **The Secretary Health Department** Khyber Pakhtunkhwa, Peshawar.
2. **The Director General Health Services**, Khyber Pakhtunkhwa, Peshawar.
3. **The District Health Officer**, Nowshera.....(**Respondents**)

Present:

Mr. Hilal Zubair, AdvocateFor the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney...For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 21.02.2017 WHEREBY THE APPOINTMENT ORDER OF THE APPELLANT HAS BEEN WITHDRAWN WITH IMMEDIATE EFFECT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case, as per averments of the appeal, are that the appellant was appointed as Dai in the Health Department on 08.01.2015 on contract basis;

that vide order dated 21.09.2016, she was appointed against the same post on regular basis; that after serving for five months, her appointment order was withdrawn vide impugned order dated 21.02.2017; that feeling aggrieved, she filed departmental appeal but the same was not responded, hence, the instant service appeal.

02. 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 defense setup was a total denial of the claim of the appellant.

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

04. Learned counsel for the appellant submitted that the impugned seniority list dated 21.02.2017 was against law, facts and norms of justice. He submitted that the appointment order of the appellant had been withdrawn by the respondents without giving any notice which was against the law and facts. Further submitted that the appellant had been condemned unheard as no chance of personal hearing had been afforded to the appellant. Lastly, he submitted that although there was no need of any qualification for the post of Dai, but despite that, her appointment order had been withdrawn. Therefore, he requested for acceptance of the instant service appeal.

05. As against that learned Deputy District Attorney submitted that withdrawal of appointment order was correct and as per law. He submitted that the appellant had cheated the respondents and had

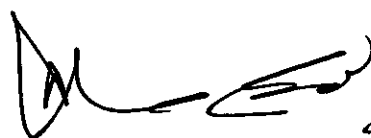
obtained the appointment order through fake and bogus certificate.

Lastly, he submitted that the appellant had committed a heinous crime by submitting fake documents, therefore, learned DDA requested for dismissal of the instant service appeal.

06. From the record it is evident that appellant Miss. Shagufta was initially appointed as Dai on contract basis who was appointed on regular basis vide appointment order dated 21.09.2016. After serving for five months, the District Health Officer, Nowshera, vide order dated 21.02.2017 withdrawn the appellant's appointment order for the reason that she had submitted fake/bogus Dai Certificate.

07. Before declaring any document, verification of the same is must. While in the instant case, there is nothing available on record to show that the appellant's documents have been sent to any forum. A letter of the DHO Nowshera addressed to the DG Health Services Khyber Pakhtunkhwa has been annexed with the reply, wherein, verification has been enquired by the DHO Nowshera, however, in that very letter, there is no mention of the name of appellant.

08. Besides, there is nothing on record to show that the appellant has been intimated regarding the issue of documents' verification. The whole process shows that before withdrawal of the appointment order, no inquiry has been conducted in the matter. Furthermore, the appellant has not been associated with the process for her defense, rather the appointment order has been withdrawn by the authority in a hasty manner.



09. In view of the above circumstance, facts and discussion made herein above the instant service appeal is accepted. Appellant is reinstated into service and case is remitted back to the Department for inquiry within 60 days of the receipt of this judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the inquiry. Costs shall follow the event. Consign.

10. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3rd day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)