


ORDER

31.05.2024

1. Learned counsel for the appellant present. Mr. Asif Masaood Ali Shah learned Deputy District Attorney for the respondents present.
2. Vide our detailed judgment of today placed on file, we are unison to dismiss the appeal in hand. Costs shall follow the event. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31th day of May, 2024.*



(Fareeha Paul)
Member (E)



(Rashida Bano)
Member (J)

*M.Khan

30.06.1987 with effect from 8.10.1985 vide order dated 21.09.1987. Before regular appointment/promotion as SET appellant was working as fixed pay employee to whom benefit of fixation of pay cannot be granted.


8. Moreover, respondent categorically mentioned that appellant had not filed departmental appeal and appellant was retired on 31.03.2003 and he kept mum till 13.12.2018 which is beyond prescribed period of limitation as provided by Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 which read as;

“Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him, prefer an appeal of the appeal having jurisdiction in the matter.

Moreover, if no departmental appeal was filed then appeal in hand is not competent.

9. For what has been discussed above, we are unison to dismiss the appeal in hand. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31th day of May, 2024.*


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

1985 by the respondents is against the law, facts, and norms of natural justice. He submitted that act and action of the respondents is discriminatory, therefore, not tenable and liable to be aside.

5. Conversely, learned Deputy District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that that there is no such entry available that the appellant was appointed as Assistant Workshop Instructor and such entry regarding appointment of the appellant as Workshop Instructor dated 15.07.1978. He further contended that no appeal & application has been filed by the appellant to the respondents for his pay fixation w.e.f 20.07.1978 instead of 1985 by the appellant till date and he retired from service after attaining the age of superannuation on 31.03.2003 and he has correctly been granted pay fixation from 1985 under the rules.

6. Perusal of record reveals that appellant was appointed initially as Assistant workshop Instructor AWI/Junior English Teacher (JET) vide order dated 25.05.1968 in the respondents department on fixed pay. Appellant alleged that he was appointed/adjusted as workshop instructor on 15.07.1978 and thereafter he was promoted/appointed as SET on 8.10.1985.

7. It is admitted fact that appellant was appointed on fixed pay on 25.05.1968. Although appellant relied upon entry in his service dated 01.07.1983 wherein "it is mentioned that AWI/JET GHS Battagram" from this entry it can be ascertained that infact appellant was appointed regularly as AWI/JET. Appellant was duty bound to being on record his appointment order as AWI/JET. Appellant was appointed as regular employee in BS-15 as SET

vide entry of service book dated 8.10.1984. Revision of pay was effected on

“On acceptance of this service appeal, the appellant may kindly be allow/granted pay fixation w.e.f. 20.07.1978 i.e. from the date on which the appellant was appointed/adjusted as Workshop Instructor/SET with all monetary benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.”

2. Brief facts of the case, as given in the memorandum of appeal, are that appellant was initially appointed in the respondent department as Assistant Workshop Instructor (AWI)/Junior English Teacher (JET) vide order dated 25.05.1968. Later on he was adjusted/appointed as Workshop Instructor (W.I) on 15.07.1978 and his post was re-designated as SET vide order dated 16.10.1985. During the service, he acquired the Degree of B.Ed, Certificate in Industrial Art and Master Degree in Pashto. That after acquiring professional degree of B.Ed, he requested for grant of pay fixation w.e.f 20.07.1978 but respondents granted pay fixation w.e.f 1985 instead of 20.07.1978. Feeling aggrieved, he preferred departmental appeal, which was not responded, hence the instant service appeal.

3. Respondents were put on notice, who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for appellant argued that appellant has not been treated in accordance with law and rules. He further argued that not allowing/granting of pay fixation to the appellant w.e.f 20.07.1978 instead of

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.413/2019

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Mr. Kifayat Ullah, Retired SET (G), R/o Battagram, Tehsil Shab Qadar,
District Charsadda.

..... (Appellant)

VERSUS

1. Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

Mr. Noor Muhammad Khattak
Advocate ... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney ... For respondents

Date of Institution.....02.04.2019
Date of Hearing.....31.05.2024
Date of Decision.....31.05.2024

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

