

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.1543/2022

Date of presentation of Appeal.....14.10.2022
Date of Hearing.....05.07.2024
Date of Decision.....05.07.2024

Ahmad Shah, S/O Shad Meer R/O Koki Khel Abdaal Khel, Alii Masjid Jamrod, District Khyber(Appellant)

Versus

1. **Government of Khyber Pakhtunkhwa** through its Chief Secretary, Civil Secretariat, Peshawar.
2. **Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
3. **District Education Officer (Male) Khyber.**
4. **Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Present:

Mr. Khursheed Khan, Advocate.....For 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 ORDER DATED 02.04.2022 PASSED BY RESPONDENT NO.3

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case as per memo and grounds of appeal are that the respondent department advertised the posts of CT (IT) (BPS-07); that the appellant also applied and accordingly, vide order dated 24.09.2021, he was appointed against the said post; that after

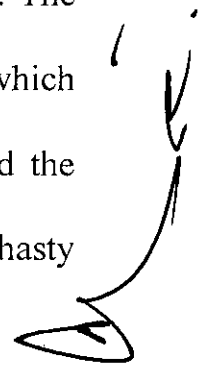
assuming the charge, he was performing his duties; that vide impugned order dated 02.04.2022, his appointment order was cancelled with immediate effect; that feeling aggrieved, he filed departmental appeal, but the same was not responded, hence, the instant service appeal.

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. 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 assisted by learned counsel for private respondents, controverted the same by supporting the impugned order(s).

05. Perusal of record reveals that appellant was appointed against the post of Certified Teacher (IT) on 24.09.2021. On the basis of the said appointment order, he started performing his duties. All of a sudden, vide impugned order dated 02.04.2022 his appointment order was cancelled with immediate effect. The impugned order shows that there are codal formalities, which have not been fulfilled by the respondents in this case and the appellant's appointment order has been cancelled in a hasty



manner. No inquiry has been conducted in the matter in order to ascertain the facts nor the appellant was provided any opportunity of hearing or defence.

06. Keeping in view the entire record, we are left with no option but to accept this appeal and set aside the impugned order, reinstating the appellant for the purpose of proper inquiry to be conducted within 60 days of the receipt of this judgment. Needless to mention that the appellant shall be duly associated with the inquiry proceedings, providing him opportunity of cross examination and then proceeding and concluding the same in accordance with law and rules. The issue of back benefits shall be subject to the outcome of inquiry. Costs shall follow the event. Consign.

07. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 5th day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)