

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**AURANGZEB KHATTAK ... MEMBER (Judicial)**

*Service Appeal No.270/2023*

Date of presentation of appeal .....13.01.2023  
Dates of Hearing.....23.07.2024  
Date of Decision.....23.07.2024

**Syed Adnan Ali Shah S/O Syed Liaqat Ali Shah Ex-Chowkidar, Girls High School, Jaganath, Tehsil Razar, District Swabi.....(Appellant)**

Versus

1. **Director Education, Khyber Pakhtunkhwa Peshawar.**
2. **Assistant Director (Admin), Directorate of Elementary & Secondary Education, Peshawar.**
3. **District Education Officer (Female), Swabi.....(Respondents)**

Present:

Mr. Daris Khan, Advocate.....For appellant.

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

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER/LETTER DATED 01.12.2022 PASSED BY RESPONDENT NO.2, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED AND UPHELD THE ORDER DATED 17.10.2022 PASSED BY RESPONDENT NO.3, WHEREIN THE APPELLANT HAS BEEN REMOVED FROM SERVICE.**  
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*Service Appeal No.680/2023*

Date of presentation of appeal .....13.03.2023  
Dates of Hearing.....23.07.2024  
Date of Decision.....23.07.2024



**Sajid Iqbal S/O Said Khan, Ex-Naib Qasid Government Girls High School, Jagaanath, Razar, District Swabi.....(Appellant)**

Versus

1. **Director Education, Khyber Pakhtunkhwa Peshawar.**
2. **Assistant Director (Admin), Directorate of Elementary & Secondary Education, Peshawar.**
3. **District Education Officer (Female), Swabi.....(Respondents)**

Present:

Mr. Daris Khan, Advocate.....For appellant.

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

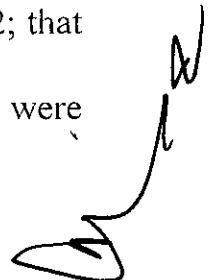
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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER ENDST NO. 2815-G DATED 17.10.2022, WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED UPON APPELLANT.**

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**CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment this appeal and the connected service appeal No. 680/2023 titled "Sajid Iqbal versus Director Education, Khyber Pakhtunkhwa and others" are decided as both are regarding the same subject matter and can conveniently be decided together.

2. Brief facts gathered from the memo and grounds of appeals are that the appellant Syed Adnan Ali Shah was appointed as Chowkidar on 16.10.2021 and appellant, Sajid Iqbal was appointed as Naib Qasid on 18.07.2016; that on 06.09.2022, the respondents were issued a show cause notices to the appellants which were replied on 10.09.2022; that on 26.09.2022, questionnaire was issued to the appellants which were



answered by them; that the respondent department issued impugned order dated 17.10.2022, whereby major punishment of removal from service was imposed on the appellants; that the appellant (Sajid Iqbal) filed departmental appeal against the impugned order on 25.10.2022 which was not responded within the stipulated statutory period of ninety days; that the appellant (Syed Adnan Ali Shah) filed departmental appeal against the impugned order on 25.10.2022, which was rejected on 01.12.2022, hence, the instant service appeals.

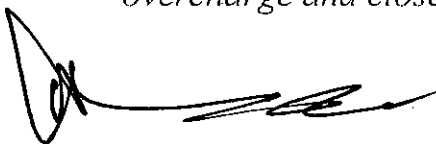
3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

5. The appellants while serving in the respondent department served with a show cause notice dated 06.09.2022, containing certain allegation which is reproduced as under:

*"1:- That Mst: Haseena D/O Noor Rehman has been appointed vide this office Endst No.2185-94 dated 31-08-2022 as Lab Attendant under Gen Quota.*

*2:- That when she attended the school for taking over charge, you did not allow her for taking overcharge and closed the school*



3:-That you gave her threats not to come to school and also locked the school till the withdrawal of her appointment order.

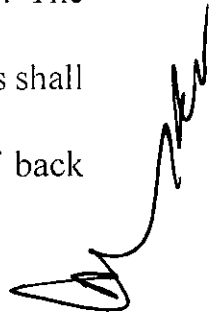
4:-That you have also arose the local community for protest..

5:- That you have given the land on market price, but the Govt.: gave you job on humanitarian grounds.

6:- That you have also stopped the school staff not to attend for duty."

That the appellants have submitted reply to the show cause notice denied all the allegation leveled against them; that the appellant was awarded major penalty of "Removal from Service" vide office order dated 17.10.2022 without taking into consideration the reply of the show cause in which the appellants denied all the allegations leveled against them. Neither charge sheet and statement of allegation were issued nor any regular enquiry was conducted against the appellants. The Procedure laid down in Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 should have been followed before imposing the penalty but the same has not been followed and penalty of removal from service was awarded to the appellants. As such the impugned order is not sustainable in the eyes of law

6. Therefore, while accepting this appeal, we set aside both the impugned orders and remit the matter back to the authorities to conduct proper de-novo enquiry strictly under the relevant rules within a period of sixty (60) days after receipt of copy of this judgment/order. The appellants are reinstated for the purpose of enquiry. The appellants shall also be associated with the enquiry proceedings. The issue of back



benefits shall be subject to the outcome of de-novo inquiry. Date of receipt of copy of the judgment shall be acknowledged in writing to the Registrar of this Tribunal. Costs shall follow the events. Consign.

**7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23<sup>rd</sup> day of July, 2024.***



**KALIM ARSHAD KHAN**  
Chairman



**AURANGZEB KHATTAK**  
Member (Judicial)

*\*Adnan Shah, PA\**


**ORDER**


23<sup>rd</sup> July, 2024

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

2. Vide our detailed judgement of today placed on file, while accepting this appeal, we set aside both the impugned orders and remit the matter back to the authorities to conduct proper de-novo enquiry strictly under the relevant rules within a period of sixty (60) days after receipt of copy of this judgment/order. The appellants are reinstated for the purpose of enquiry. The appellants shall also be associated with the enquiry proceedings. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Date of receipt of copy of the judgment shall be acknowledged in writing to the Registrar of this Tribunal. 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 23<sup>rd</sup> day of July, 2024.

  
(Aurangzeb Khattak)  
Member(Judicial)

  
(Kalim Arshad Khan)  
Chairman