

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR

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

Service Appeal No.1431/2023

Date of presentation of Appeal.....19.06.2023
Date of Hearing.....30.07.2024
Date of Decision.....30.07.2024

Basin Ara (PST) D/O Khyal Tawan, Government Girls Primary School Karak No.02, District Karak.....(Appellant)

Versus

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat Peshawar.
2. **Secretary to Government of Khyber Pakhtunkhwa**, Elementary & Secondary Education, Civil Secretariat, Peshawar.
3. **Director**, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. **District Education Officer (DEO) (Female)** District Karak, Khyber Pakhtunkhwa.
5. **District Account Officer (DAO)**, District Karak, Khyber Pakhtunkhwa.....(**Respondents**)

Service Appeal No.1431/2023

Date of presentation of Appeal.....19.06.2023
Date of Hearing.....30.07.2024
Date of Decision.....30.07.2024

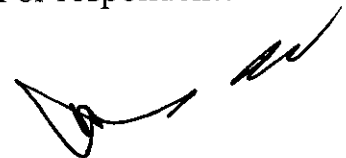
Samina Ara (PST) D/O Khyal Tawan, Government Girls Primary School No.01, Latamber, District Karak.....(Appellant)

Versus

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat Peshawar.
2. **Secretary to Government of Khyber Pakhtunkhwa**, Elementary & Secondary Education, Civil Secretariat, Peshawar.
3. **Director**, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. **District Education Officer (DEO) (Female)** District Karak, Khyber Pakhtunkhwa.
5. **District Account Officer (DAO)**, District Karak, Khyber Pakhtunkhwa.....(**Respondents**)

Present:

Mian Muhammad Imran, Advocate.....For the appellants
Mr. Muhammad Jan, District Attorney.....For respondents

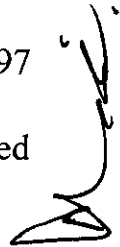


APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 19.05.2023 WHEREBY THE APPEALS OF THE APPELLANTS REGARDING GRANTING OF BACK BENEFITS HAVE BEEN REGRETTED BY THE RESPONDENT NO.3 AND TO SET ASIDE THE SAME AND ANY OTHER ORDER WHICH IS DETRIMENTAL TO THE APPELLANT AND TO GRANT BACK BENEFITS TO THE APPELLANT FROM THE DATE OF HER DISMISSAL DATED 12.08.2011 KEEPING IN VIEW THE PROBITY THAT THE APPELLANT HAS BEEN REINSTATED BY THE RESPONDENTS INTO SERVICE VIDE ORDER DATED 04.11.2020 BY ACCEPTING THEIR DEPARTMENTAL APPEALS.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment, the above two appeals, are jointly taken up, as both are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

02. Brief facts of the cases as reflected from the record, are that the appellants were appointed as Primary School Teachers vide appointment orders dated 31.12.2020; that they were performing their duties in the Education Department; that on 12.08.2011, they were dismissed from service on the ground of submission of fake documents; that feeling aggrieved they filed departmental appeals filed Service Appeals No.996 & 997 of 2012 and this Tribunal vide consolidated judgment dated

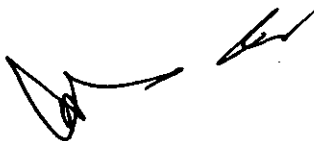


25.05.2016, set aside the impugned orders of dismissal and the matters were remitted to the respondents for deciding the departmental appeals of the appellant and passing speaking orders; that the appellants approached the authorities for their redressal of their grievances, respondent No.3 accepted the departmental appeals of the appellants on 04.11.2020; that lastly, the appellants were reinstated into service and were directed to perform their duties at the directed schools; their grievance was that they were reinstated into service with immediate effect i.e. from 13.11.2020, therefore, they filed departmental appeals for granting of back benefits, but the same were rejected vide order dated 19.05.2023, hence, the instant service appeals.

03. On receipt of the appeals and their admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeals by filing written replies raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellants.

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

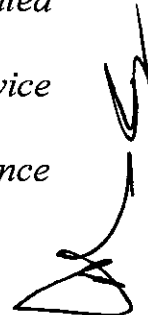
05. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).



06. From the record, it is evident that the appellants were serving as PTC, however, they were dismissed from service, against which they filed departmental appeal followed by service appeals before this Tribunal and the Tribunal remitted the matters to the authority for deciding their departmental appeals with a speaking orders. Accordingly, the respondents reinstated the appellants into service, however, there was no mention in the order regarding back benefits. For the purpose of getting back benefits from the date of their dismissal, they have approached this Tribunal through the instant service appeals.

07. The respondents have tried to justify the order in reply to Para-09 in the following manner:

"9. That Para No.9 is incorrect and not admitted, the respondent department clarified the position of the intervening period of the appellant which was converted into leave without pay vide Endst: No.4988-90 dated 22.11.2022 as in the mentioned period, the appellant has not been performed her duty, and not entitled for such benefits nor any kind back benefits have been granted to the appellant by the Honourable Service Tribunal judgment dated 25.05.2016. Hence her appeal was correctly regretted."



Service Appeal No.1431/2023 titled "Basin Ara Vs. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others" and Service Appeal No.1432/2023 titled "Samina Ara Vs. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others" decided on 30.07.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs.Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

08. When we see the judgment dated 25.05.2016, we could not find anything regarding withholding of back benefits or anything else. Rather the judgment was passed to direct the respondents to decide the matter by passing a speaking order, but instead, they had reinstated the appellants and no order regarding back benefits, was passed, which was required by the authority to have passed. Therefore, while disposing of these appeals, we direct the authority to pass order regarding the issue of back benefits. Costs shall follow the event. Copy of this judgment be placed on file of the connected appeal. Consign.

09. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30th day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah