

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP COURT, ABBOTTABAD**

**Service Appeal No. 3242/2021**

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

Safia Bibi D/O Syed Nabi Shah caste Syed R/O Jatka Tehsil Judba District  
 Torghar.....(*Appellant*)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Education,  
 Peshawar.
2. Director Elementary & Secondary Education, Peshawar.
3. District Education Officer (Female) District Torghar.  
 .....(*Respondents*)

Mr. Amanullah Khan Salik,  
 Advocate ... For appellant

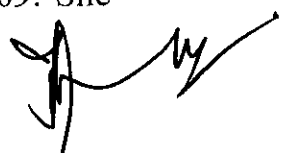
Mr. Asif Masood Ali Shah,  
 Deputy District Attorney ... For respondents

Date of Institution.....	09.02.2021
Date of Hearing.....	23.07.2024
Date of Decision.....	23.07.2024

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 18.09.2012, whereby the appellant was removed from service. It has been prayed that on acceptance of the appeal, the impugned order dated 18.09.2012 might be set aside and the appellant be reinstated with all back benefits.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as PST on 16.11.2009. She was removed from service on 18.09.2012 on account of absence since 18.11.2009. She



filed Writ Petition No. 752-A/2012 before the Hon'ble Peshawar High Court Abbottabad Bench and vide judgment dated 17.01.2013, the Writ Petition was converted into departmental appeal and referred to respondent No. 1 for redressal of her grievance with the direction to probe into the matter and then pass appropriate order and if the grievance of the appellant was not redressed, then she be informed accordingly within a month. The appellant waited for the inquiry proceedings but when nothing was concluded within the prescribed period, she again approached the Hon'ble Peshawar High Court Abbottabad Bench for execution of its judgment. Vide order sheet dated 05.04.2013, the matter was referred to Human Rights Cell, Peshawar High Court, Peshawar. After that, in the light of judgment of Peshawar High Court, an order dated 18.01.2021 was passed by the respondent department vide which, the appeal of the appellant was regretted; hence the instant service appeal.

3. Respondents were put on notice who submitted written reply. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was removed from service without affording opportunity of hearing to her. Neither her statement was record nor she was furnished any documents about the adverse action taken against her. He further argued that the respondents had not taken into consideration the express and explicit provisions of equity and justice and had acted in total



disregard of the guidelines laid down by the superior courts. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that in pursuance to the directions of the Hon'ble Peshawar High Court Abbottabad Bench dated 17.01.2013, an Inquiry Committee was constituted in order to probe into the allegations against the appellant. The Inquiry Committee intimated the appellant through registered letter dated 08.03.2013 to appear before the Committee on 12.03.2013 but she appeared on 14.03.2013 and a questionnaire was served upon her which was duly replied by her. The Inquiry Committee submitted its report wherein it was recommended that the notification dated 18.09.2012 of removal from service of the appellant was based on facts and valid, hence respondent No. 1 regretted the representation of the appellant vide notification dated 18.01.2021. He requested that the appeal might be dismissed.


6. Through the instant service appeal, the appellant has impugned the order of her removal from service dated 18.09.2012. She filed a Writ Petition before the Honourable Peshawar High Court Abbottabad Bench which was disposed of vide judgment dated 17.01.2013 by sending the petition to the respondents to treat it as representation for redressal of her grievance. Respondents were directed to probe into the matter and then pass an appropriate order and if the grievance of the petitioner was not redressed then she be informed accordingly within a month. An inquiry was initiated vide an order dated 25.02.2013. The Inquiry Committee




through a letter dated 08.03.2013, informed the appellant regarding the inquiry asking her to appear before the Inquiry Committee. The appellant appeared before the Inquiry Committee where a questionnaire was handed over to her to which she responded. Report of the Inquiry Committee dated 08.04.2013 annexed with the reply at annexure-C showed that statement of the Head Teacher, Chowkidar and local inhabitants were recorded by the Committee but record was silent whether any opportunity of cross examination was provided to the appellant or not. We are of the view that before imposing a major penalty, an opportunity of fair trial would have been provided to her.

7. In view of the above discussion, the appeal in hand is allowed and the appellant is reinstated into service for the purpose of denovo inquiry with the directions to the respondents to associate her fully in the inquiry proceedings to present her case and provide her every opportunity of cross examination in order to fulfill the requirements of fair trial. The question of back benefits is subject to the outcome of denovo enquiry. Cost shall follow the event. Consign.

8. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal this 23<sup>rd</sup> day of July, 2024.*

  
(FAREEHA PAUL)  
Member (E)  
(Camp Court, Abbottabad)


  
(RASHIDA BANO)  
Member (J)  
(Camp Court, Abbottabad)


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23<sup>rd</sup> July, 2024 01. Mr. Amanullah Khan Salik, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, the appeal in hand is allowed and the appellant is reinstated into service for the purpose of denovo inquiry with the directions to the respondents to associate her fully in the inquiry proceedings to present her case and provide her every opportunity of cross examination in order to fulfill the requirements of fair trial. The question of back benefits is subject to the outcome of denovo enquiry. Cost shall follow the event. Consign.

03. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal this 23<sup>rd</sup> day of July, 2024.*

  
(FAREEHA PAUL)  
Member (E)  
(Camp Court, Abbottabad)

  
(RASHIDA BANO)  
Member (J)  
(Camp Court, Abbottabad)

\*Fazle Subhan PS\*