

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
AT CAMP COURT, ABBOTTABAD.

Service Appeal No. 1655/2022

BEFORE: MISS FAREEHA PAUL ... MEMBER (E)

Mst. Saadia Rasheed daughter of Abdur Rasheed, resident of House No. 129/2, Noor Chowk, Gulshan Iqbal Road Sethi Masjid Jhangi Cantt, Tehsil and District Abbottabad. (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) District Abbottabad.
4. Principal, Government Girls Higher Secondary School Jhangi, Abbottabad.
..... (Respondents)

Mr. Muhammad Arshad Khan Tanoli,
Advocate

...

For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney

...

For respondents

Date of Institution.....	22.11.2022
Date of Hearing.....	25.07.2024
Date of Decision.....	25.07.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): Instant appeal has been filed under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order dated 05.08.2019 vide which the appellant was removed from service, with the prayer that the impugned order be set aside and respondents be directed to reinstate her into service with all back benefits.

2. Brief facts of the case were that the appellant got appointed as CT vide appointment order dated 03.03.2016. Thereafter, she was appointed as SST Bio Chemistry on contract basis vide order dated 09.05.2017 and her contract was converted into regular service on 26.03.2018. She applied for study leave, without pay, for Ph.D in China vide applications dated 08.08.2018 and



18.08.2018 but the respondent department did not honour her request. She proceeded to China for her Ph.D studies. Respondent department while taking an ex-parte decision, removed her from service vide impugned order dated 05.08.2019. After getting repatriated from China to Pakistan on 09.01.2020, she filed a departmental appeal on 23.07.2022 which was not decided by respondent No. 1; hence the instant service appeal.

3. Preliminary arguments heard and record perused.

4. From the arguments and record presented before the Bench, it appears that the appellant was first appointed as C.T (BPS- 16) vide an order dated 03.03.2016, after which she was again appointed as SST Bio-Chemistry on 09.05.2017 on contract basis. Her services were regularized vide an order dated 26.03.2018. On 08.08.2018 she requested for study leave and ex-Pakistan leave without pay, for higher studies. Record presented by the appellant was silent whether her request was accepted by the competent authority or not. When learned counsel for the appellant was confronted with the question whether the study leave was sanctioned and any NOC was issued to her, he frankly admitted that neither any leave was sanctioned nor she was issued any NOC by the Provincial Government to proceed abroad. Reply submitted by the District Education Officer (Female) Abbottabad in response to pre-admission notice mentioned that the study leave was applied w.e.f. 28.08.2018 to 30.08.2021 (03 years) and the case was duly processed by the department and in pursuance of Notification of Finance Department dated 05.10.2015, respondent No. 3 returned the case of study leave of the appellant to respondent No. 4 vide letter dated 15.08.2018 with the remarks that the appellant had less than 05 years of service and she could not avail study leave. The appellant without getting



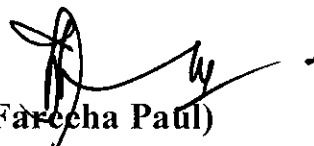
proper leave and NOC proceeded abroad to pursue her study and was marked absent by the respondent department for which she was proceeded against and the impugned order of removal from service was issued on 05.08.2019.

5. From the record, it was extremely clear that the appellant did not qualify for the study leave for which a minimum service of five years was required under the rules. It was also evident that she did not even get the NOC for applying for the course in China which was a violation of the rules as she was required to get NOC by the Provincial Government at the time of applying for the course she was intending to attend. When learned counsel for the appellant was confronted with the question whether the appellant had declared herself a government servant in her passport, he stated that she travelled as an ordinary citizen.

6. In view of the above discussion, there is no doubt that the appellant did not qualify for study leave under the rules and she proceeded abroad without the permission of competent authority, which was a clear violation of the rules. Moreover, she did not declare herself a government servant in her passport and travelled as an ordinary citizen of Pakistan, which tantamounts to concealment of fact^s also.

7. In view of the foregoing, the appeal in hand is dismissed in limine, being devoid of merit. Consign.

8. *Pronounced in open Court at Camp Court, Abbottabad and given under my hand and the seal of the Tribunal this 25th day of July, 2024.*


(Fareeha Patil)
Member(E)


Camp Court, Abbottabad.

SA 1655/2022

25th July, 2024 01. Mr. Muhammad Arshad Khan Tanoli, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide my detailed judgment consisting of 03 pages, the appeal in hand is dismissed in limine, being devoid of merit. Consign.

03. *Pronounced in open court at camp court, Abbottabad and given under my hand and seal of the Tribunal this 25th day of July, 2024.*


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

Fazle Subhan PS