

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Amended APPEAL No. *1559/23* /202

In A.No: 1559/23

SYED SALMAN HASHMI VS

EDU: DEPTT:

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Dated: 29-5-24

THROUGH:

**APPELLANT
SYED SALMAN HASHMI**

Waleed Adnan
**WALEED ADNAN
&
UMAR FAROOQ
ADVOCATES**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Amended **APPEAL NO.** _____ /2024

In A.No: 1559/23

Khyber Pakhtunkhwa
Service Tribunal

No. 13083

Dated 30/5/24

Mr. Syed Salman Hashmi, SST Bio/Chem (BPS-16),
Government High School No.2, Bannu.

APPELLANT

VERSUS

- 1- The Secretary Elementary & Secondary Education, Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Elementary & Secondary Education, Peshawar.
- 3- The DEO (Male) Bannu.

RESPONDENTS

AMENDED APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 16-02-2023 AND REGULARIZATION ORDER DATED 22-06-2023 WHEREBY ONE ANNUAL INCREMENT HAS BEEN STOPPED AND THE INTERVENING PERIOD HAS BEEN CONSIDERED AS LEAVE WITHOUT PAY.

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 16-02-2023 and the regularization order dated 22-06-2023 may very kindly be modified/ rectified to the extent that one annual increment may please be released/restored as well as the intervening period may be treated as period spent on duty with all back benefits. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

R/SHEWETH:

- 1. That the appellant initially filed Service Appeal no.1559/2023 for modification/rectification of the impugned appellate order dated 16-02-2023 to the extent that one year annual increment may be released/restored and the intervening period may be treated as period spent on duty with all back benefits.
- 2. That the regularization order dated 22-06-2023 of the appellant wherein the minor penalty imposed upon the appellant has been kept intact, was not challenged in the instant service appeal,

however the same is required to be challenged, hence this amended appeal.

3. That the facts and annexures in the main appeal are part and parcel of this amended appeal.
4. That the appellant feeling aggrieved and having no other efficacious remedy preferred present service appeal on the following grounds amongst others.

GROUND:

- A- That the impugned orders dated 02-11-2022 and 16-02-2023 are against the law, facts, norms of natural justice and materials on the record hence not tenable and impugned order dated 16-02-2023 is liable to be modified/ rectified.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That no show cause or statement of allegation was served upon the appellant which is utter violation of E&D Rules 2011.
- D- That it is pertinent to mention here that no regular inquiry has been conducted into the matter hence the impugned appellate order is void, therefore liable to be vitiated.
- E- That the respondents acted in arbitrary and malafide manner while issuing the impugned order followed by the impugned appellate order.
- F- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated:

Jhl.
APPELLANT
SYED SALMAN HASHMI
THROUGH:
Wf
WALEED ADNAN
&
UMAR FAROOQ
ADVOCATES

AFFIDAVIT

I, Mr. Syed Salman Hashmi, SST Bio/Chem (BPS-16), Government High School No.2, Bannu, do hereby solemnly affirm that the contents of this accompanying Amended appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



Jhl.
DEPONENT

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"A"

DL: 22/4/24

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

C. M. No _____ /2024

In

Service Appeal No 1559/2023

SYED SALMAN HASHMI

VS

EDUCATION DEPTT:

APPLICATION FOR PERMISSION TO FILE AMENDED APPEAL

Respectfully Submitted:-

1. That the above titled Service Appeal is pending adjudication before this honorable Tribunal and is fixed for 23.04.2024.
2. That in the titled appeal, the regularization order of the appellant wherein the minor penalty imposed upon the appellant has been kept intact, has not been challenged however the same is required to be challenged in the appeal.
3. That the valuable rights of the applicant are at stake and the law as well as the dictums of Superior Courts also favors the amendment of cases for the interest of justice.
4. That if the applicant is not allowed to amend his appeal, the very purpose of his appeal would be lost resulting in multiplicity of litigation.

It is therefore prayed, that on acceptance of this application, the applicant may kindly be allowed to file amended appeal.

Dated:-22-04-2024

Applicant/Appellant

Through

**WALEED ADMAN
Advocate**

AFFIDAVIT

I, Syed Salman Hashmi (the Appellant), do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

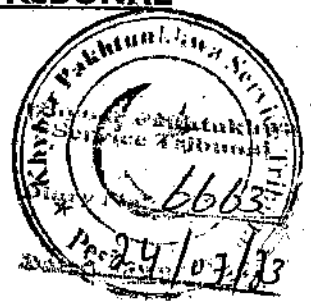
DEPONENT

RECORDED

"B" -4- 1-

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1559 /2023



Mr. Syed Salman Hashmi, SST Bio/Chem (BPS-16),
Government High School No.2, Bannu.

..... APPELLANT

VERSUS

- 1- The Secretary Elementary & Secondary Education, Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Elementary & Secondary Education, Peshawar.
- 3- The DEO (Male) Bannu.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 16-02-2023 WHEREBY ONE ANNUAL INCREMENT HAS BEEN STOPPED AND THE INTERVENING PERIOD HAS BEEN CONSIDERED AS LEAVE WITHOUT PAY.

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 16-02-2023 may very kindly be modified/rectified to the extent that one annual increment may please be released/ restored and the intervening period may be treated as period spent on duty with all back benefits. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

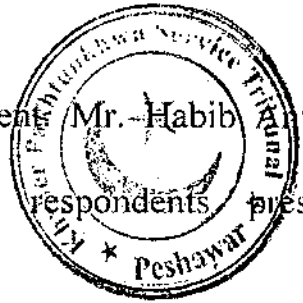
Brief facts giving rise to the present appeal are as under:

R/SHEWETH:

- 1. That the appellant was initially appointed as SST Bio/Chem (BPS-16) on contract basis vide order dated 14-09-2018 where after his contract was extended vide order dated 05-11-2019. Copies of the appointment order and extension order are attached as annexure.....A.
- 2. That the appellant has been serving the department with devotion and sincerity since his initial appointment.

30/5/23

21st Dec, 2023



1. Learned counsel for the appellant present Mr. Habib War, Additional Advocate General for the respondents present. Preliminary arguments heard.

2. Points raised need consideration. The appeal is admitted for regular hearing subject to all just and legal objections by the other side. Appellant is directed to deposit security fee within ten days.

Reply/comments on behalf of respondents have already been submitted through office on 02.11.2023. To come up arguments on 23.04.2024 before D.B. P.P given to the parties.

SCANNED
KFS
Peshawar

(Muhammad Akbar Khan)
Member (E)

Kamranullah

23.04.2024 1. Learned counsel for the appellant present. Muhammad Jan, District Attorney alongwith Imran, Assistant for the respondents present.

2. Learned counsel for the appellant submitted an application for permission to file amended appeal. Notice of the application be given to the respondents. To come up for arguments on 05.06.2024 before D.B. P.P given to parties.

ATTESTED

Khyber Pakhtunkhwa
Kamranullah

(Fareeha Paul)
Member (E)

(Rashida Bano)
Member (J)

30/5/24

Date of Presentation of Application	30/5/23
Number of W...	2 p
Copying Fee	10/-
Urgent	5/-
Total	15/-
Name of Copy Fee	
Date of Completion of Copy	30/5/24
Date of Delivery of Copy	30/5/24