

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

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

*Service Appeal No.7506/2021*

Date of presentation of appeal .....27.07.2021  
Dates of Hearing.....30.07.2024  
Date of Decision.....30.07.2024

**Mr. Farhat Ullah** Ex-SST S/O Sher Muhammad R/O Akhtar Abad,  
Akbar Pura, P/O Khas Tehsil & District Nowshera.....(*Appellant*)

Versus

1. **The Secretary (E&SE)** to Government of Khyber Pakhtunkhwa Peshawar
2. **Director (E&SE)** Department Khyber Pakhtunkhwa Peshawar.  
.....(*Respondents*)

Present:

Syed Noman Ali Bukhari, 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 ORDER DATED 08.03.2021, WHEREBY THE  
APPOINTMENT ORDER OF THE APPELLANT WAS  
WITHDRAWN AND AGAINST NOT DECIDING THE  
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN  
STATUTORY PERIOD OF 90 DAYS.**  
.....

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts gathered from the memo and grounds of appeals are that the appellant was appointed as SST on April 28, 2017, after a thorough recruitment process and started performing his duties without any complaints. Following the enactment of

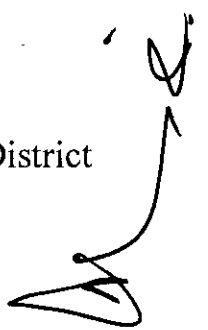


the KP Employees of the E&SE Department (Appointment and Regularization of Services) Act, 2017, the appellant's service was regularized by operation of law. However, his salary was halted over a dispute regarding the submission of his original MA English degree, leading to an inquiry in which he had no involvement. The appellant subsequently filed a writ petition in the Peshawar High Court, which resulted in the verification of his degree through the Higher Education Commission (HEC) and release of his salary. Despite this, a newly posted District Education Officer initiated another degree verification process, leading to HEC disowning its previous verification, although this response was never shared with the appellant. In a controversial move, the Director of E&SE unlawfully withdrew the appellant's appointment order without notice on March 2, 2021. The appellant filed a departmental appeal against this action, but it went unaddressed within the mandated response time. The Peshawar High Court later dismissed the appellant's writ petition, advising him to seek an appropriate forum for resolution of his grievances, hence, the instant service appeals.

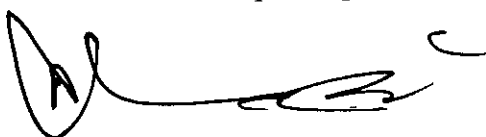
2. On receipt of the appeal and its admission to full hearing, the respondents were summoned but they failed to submit reply. Resultantly, they were placed ex-parte.

3. We have heard learned counsel for the appellant, learned District Attorney for respondents.

4. In the matter concerning the appellant, who was appointed as Secondary School Teacher (SST) on April 28, 2017, and subsequently faced



adverse actions leading to the withdrawal of his appointment order dated 02.03.2021, the following considerations must be duly addressed in the pursuit of justice. The appellant has presented a compelling case highlighting significant procedural irregularities and violations of fundamental rights. It is evident that the appellant was regularly appointed and had served with diligence, as he provided evidence of positive performance without previously recorded complaints. The emergence of the KP Employees of the E&SE Department (Appointment and Regularization of Services) Act, 2017, and the regularization of the appellant's service underlined the legitimacy of his appointment. It is troubling to note that the cessation of the appellant's salary was initiated based on the non-submission of his original degree, which the appellant later complied with as per the directives of the Peshawar High Court. This compliance led to the verification of the degree by the Higher Education Commission (HEC), which further attested to its authenticity through their letter dated December 24, 2019. Subsequent actions taken against the appellant by the new District Education Officer raised serious concerns regarding validity of those actions, particularly, in light of the fact that the appellant was not provided with the findings of the inquiry and was not afforded an opportunity to defend himself. These violations are a clear contravention of Article 10-A of the Constitution of the Islamic Republic of Pakistan 1973, which guarantees the right to a fair trial. The principle of "Audi Alteram Partem" mandates that no person should be condemned unheard. The absence of a show cause notice prior to adverse action is not just a procedural flaw; it constitutes a violation of the appellant's rights and hinders the principles of natural justice. Numerous judgments



were cited, including those from superior courts, reaffirm this fundamental right and illustrate that due process must be a non-negotiable standard in administrative inquiries. It is also noted that the findings were solely based on conjectures with no substantial evidence to substantiate the adverse actions taken against the appellant. There is no documented misconduct on behalf of the appellant that would warrant such measures. However, we deem it appropriate that a de-novo enquiry should be held in this matter to properly verify the documents by summoning and examining the concerned and providing opportunity of cross examination to the appellant.

5. In view of the above, the appeal is accepted, the impugned order dated 08.03.2021 is set aside and the appellant is reinstated in service for the purpose of de-novo enquiry. The matter is remitted back to the department for a de-novo inquiry to be completed within ninety days after the date of receipt of this judgment. The department shall conduct a fair and transparent inquiry in accordance with law and rules and that the appellant is provided with an opportunity to present his case. Costs shall follow the event. Consign.

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



**KALIM ARSHAD KHAN**  
Chairman



**RASHIDA BANO**  
Member (Judicial)