

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT CAMP COURT SWAT**

Service Appeal No.743/2017

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

**Bibi Shehnaz, PST, GPS Bakarabad Tehsil and District Chitral.**

.... (*Appellant*)

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director, Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (F), Chitral.

.... (*Respondents*)

Hamza Amir Gulab  
Advocate

... For appellant

Muhammad Jan,  
District Attorney

... For respondents

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Date of Institution.....23.06.2017  
Date of Hearing.....05.06.2024  
Date of Decision.....05.06.2024

**JUDGMENT**

**RASHIDA BANO, MEMBER (J):** The instant appeal instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“On acceptance of this appeal, the order passed by respondent No.2 in Departmental appeal substituting the major penalty by minor penalty may graciously be modified and the appellant be restored in their service and position as stood on 24.08.2016”.**

2. Through this single judgment we intend to disposed of instant service appeal as well as connected service appeals (1) Service Appeal No. 744/2017

titled “Bibi Saeeda Naz Vs. Education Department” (2) Service Appeal No.

745/2017 titled "Naseem Akhtar Vs. Education Department" (3) Service Appeal No. 746/2017 titled "Bait Jamal Vs. Education Department" (4) Service Appeal No. 747/2017 titled "Shahida Akhtar Vs. Education Department" as in all these appeals common questions of law and facts are involved.

3. Brief facts of the case that appellants were serving as Primary School Teacher in the schools situated in their respective Union Council. They were promoted to the posts of Primary School Head Teachers under up-gradation policy 2012 vide order dated 26.12.2012 and retained in their schools where they were working till 22.11.2014. Later on, they were adjusted in different schools vide order bearing No. 8308-88 dated 22.11.2014 but they refused to take over charge at their new stations. Departmental proceedings were initiated against the appellants which resulted into dismissal of their service vide order dated 24.08.2016. Feeling aggrieved, they filed departmental appeal which partially allowed by converting major penalty of removal from service into minor penalty of reversion from the post PSHT (BPS-15) to SPST (BPS-14) vide order dated 06.03.2017, hence the instant service appeal.

4. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

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



6. 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).

7. Perusal of record reveals that appellants were serving as primary School Teacher BPS-14 when they were promoted on 26.12.2012 as Primary School Head Teacher BPS-15 and retained in schools where they were performing their duties as SPST but vide order dated 22.11.2014 they were adjusted /transferred to schools which are situated out of their union council. They did not joined their duties at their new place of duties/posting due to which they were proceeded against departmentally on the ground of absence from duty of their place of posting and finally they are after adopting the procedure in accordance with Section 9 of the (Efficiency & Discipline) Rules, 1973, removed from service with immediate effect vide order dated 24.08.2016. Appellant filed departmental appeals, wherein they had taken plea that appellants were performing their duties and were never remained absent upon which appellate authority order inquiry into the matter and appointed DEO (F) Chitral as Inquiry Officer vide order dated 18.11.2016 who after probe submitted his detailed report on 12.01.2017. Appellate authority vide impugned order dated 06.03.2017 reinstated the appellants into service by converting major penalty of removal from service into reversion from PSHT BPS-15 to SPST BPS-14 w.e.f date of their promotion with further order of recovery of benefit of promotion from the appellant.


7. Appellant in essence challenged the impugned order on the ground that reduction to lower scale is infact major penalty which was mentioned as minor in the impugned order. In our humble view, it is just a clerical mistake because it is mentioned in clear words that the appellants are reverted to


BPS-14 from BPS-15. So it just a clerical mistake which has not bearing upon the merit of the case.

8. Perusal of record reveals that all the appellant in their written reply to the inquiry officer mentioned that DEO informed them about their promotion and adjustment out of their union council and in that case eventually they will forgive their promotion to avoid the dislocation from their union council. When they themselves categorically stated that they will not accept promotion rather forgive it in case of their posting outside their union counsel then in our humble view, order passed by the appellate authority is in accordance with their wishes and is proper in the peculiar circumstances of the case in hand. Therefore, this tribunal need no interference in the matter.

9. For what has been discussed above, the instant appeal as well as connected service appeals are dismissed having no force in it. Costs shall follow the event.

10. *Pronounced in camp court at Swat and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of June, 2024.*

  
(MUHAMMAD AKBAR KHAN)  
Member (M)  
Camp Court, Swat

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

**ORDER**

05.06.2024 1. Learned counsel for the appellant present. Mr. Muhammad

Jan learned District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, the instant appeal is dismissed having no force in it. Costs shall follow the event.

3. *Pronounced in camp court at Swat and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of June, 2024.*

  
(MUHAMMAD AKBAR KHAN)

Member (M)  
Camp Court, Swat

  
(RASHIDA BANO)

Member (J)  
Camp Court, Swat