

Service Appeal No.933/2022 titled “Zafar Ali Shah Vs. Government of Khyber  
Pakhtunkhwa”

ORDER

5<sup>th</sup>Sept.2024

**Mrs. Rashida Bano, Member (Judicial)**: Learned counsel for the appellant present. Mr. Umair Azam, Additional Advocate General for the respondents present and heard.

2. Appellant’s case in brief is that he was appointed as Clinical Technician Radiology (BPS-12) vide appointment order dated 17.01.2020; that he was serving in the said capacity and after completion of one year probation period, his services were regularized; that vide impugned order dated 03.03.2022, he was terminated from service on the ground of submitting fake & bogus documents; that feeling aggrieved, he filed departmental appeal on 15.03.2022, but the same was not responded, hence, the instant service appeal.

3. On admission of the instant service appeal, respondents were summoned. They were given numerous chances for submitting reply/comments, however, they failed to submit the same. Therefore, their right for defense was struck off vide order sheet dated 04.07.2023.

4. Arguments heard. Record perused.

5. Perusal of record reveals that in the daily “Mashriq” the post of Clinical Technician Radiology was advertised for which, Matriculation with at least 2<sup>nd</sup> division alongwith two years Diploma in Medical Faculty was required as eligibility criteria. Accordingly, after selection process, the appellant was appointed

against the said post vide order dated 17.01.2020. However, after serving for two years and one month, his appointment was terminated with immediate effect, vide order dated 03.03.2022.

6. In the impugned order, there is nothing which could show that he was a third divisioner, yet Grade-C has been mentioned but that certificate has been declared by the respondents as fake & bogus.

7. Besides, the appellant has not given any chance to defend himself and it is settled law that when a major penalty is to be imposed on a civil servant, a regular inquiry is to be held to determine the factual basis of the allegations which are required to be proved in accordance with the law. The appellant had to be proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 which explicitly ordains a regular inquiry before taking any action which can in the relevant context only be dispensed with under Section-5(1) (a) of the Rules ibid in the event of sufficient documentary evidence being available against the civil servant or for reason to be recorded in writing showing satisfaction of the competent authority as to absence of need for holding an inquiry. In the instant case, most of the allegations required explicit proof and no reason for dispensing with the requirement of an inquiry appear to have been recorded. Reliance is placed on Chief Election Commissioner of Pakistan and others Vs. Miss Nasreen Parvez reported in 2009 S.C.M.R 329 and Abdul Ghaffar Vs.



Superintendent of Police, South Zone, Karachi reported in 2011  
P.L.C (C.S) 387.

8. Keeping in view the above situation, the impugned order dated 03.03.2022 is set-aside, appellant is reinstated into service and the matter is remitted back to the respondents for the purpose of proper inquiry, which is to be conducted within 60 days of the receipt of this order. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Costs shall follow the event.  
Consign.

9. *Pronounced in open Court at Swat and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of September, 2024.*



(Rashida Bano)  
Member (J)  
Camp Court, Swat



(Kalim Arshad Khan)  
Chairman  
Camp Court, Swat

\*Mutazem Shah\*