

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**Service Appeal No. 388/2023**

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

**Nighat Seema (Ex-Arabic Teacher) D/O Raz Muhammad R/o Noor Bahar  
Colony No. 1 Tehsil & District Charsadda.**

... (Appellant)

**VERSUS**

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

... (Respondents)

Muhammad Irshad Mohmand  
Advocate

... For appellant

Mr. Muhammad Jan  
District Attorney

... For respondents

Date of Institution.....23.02.2023  
Date of Hearing.....26.06.2024  
Date of Decision.....26.06.2024

**JUDGMENT**

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

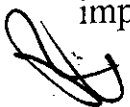


**“On acceptance of this appeal, both the impugned orders dated 16.06.2022 and 22.12.2017 passed by the DEO (F) Charsadda whereby the service of the appellant has been dispensed may kindly be set aside and the appellant be reinstated to her service with all back benefits”.**

2. Through this single judgment we intend to dispose of instant service appeal as well as connected service appeals as in all these appeals common question of law and facts are involved which are given as under.

1. Service Appeal No.389/2023
2. Service Appeal No.561/2023
3. Service Appeal No.420/2023

3. Brief facts of the case are that appellant was appointed as Arabic Teacher BPS-9 vide order dated 01.09.2009 and then she was posted at GGMS Gidri Khairabad District Battagram. In the year 2012 she was transferred from District Battagram to Charsadda vide order dated 16.11.2012. She was posted as Arabic Teacher at GGHS Dadu Kalay District Charsadda vide order dated 04.12.2012; thereafter service documents, service record and educational record of the appellants were duly verified vide letters dated 09.01.2013 and 18.01.2013 from the quarter concerned. All of a sudden, respondents issued impugned order dated 22.11.2017, whereby service of the appellant was dispensed. Feeling aggrieved, he filed departmental appeal followed by service appeal which was allowed vide order dated 11.11.2021 by setting aside the impugned order and case was remanded back to the respondent department for regular inquiry within 90 days. Thereafter, appellant filed execution petition for implementation of the judgment. In compliance respondents No.3 again



issued impugned order dated 16.06.2022, whereby the initial order 22.11.2017 was kept maintained by dispensing the services of the appellant. Appellant filed departmental appeal, which was not responded, hence the present service appeal.

4. Briefly stated the facts as alleged by the appellant in Service Appeal bearing No. 561/2023 that she was appointed as trained PTC vide order dated 07.05.2003 issued by Agency Education Officer Khyber Agency; that the appellant was posted in Government Girls Primary school Akakhel Bara Khyber Agency and was later on transferred to Government Girls Primary School Pemall Sharif Battagram; that the appellant was then transferred to District Charsadda and served in various schools, that the Educational documents as well as appointment order of the appellant were verified by the concerned officer during her transfer from one school to another; that while serving in Government Girls Primary School Pegham Koroona District Charsadda, impugned order dated 22.11.2017 was issued, whereby the service of the appellant was dispensed. Feeling aggrieved, she filed departmental appeal followed by service appeal which was allowed vide order dated 11.11.2021 by setting aside the impugned order and case was remanded back to the respondent department for regular inquiry within 90 days. Thereafter, appellant filed execution petition for implementation of the judgment. In compliance respondents No.3 again issued impugned order dated 16.06.2022, whereby the initial order 22.11.2017 was kept maintained by dispensing the services of the appellant. Appellant filed departmental appeal, which was not responded, hence the present service appeal.



5. Brief facts of the case as alleged by the appellant in Service Appeal bearing No. 389/2023 are that appellant was appointed as Certified Teacher BPS-09 vide order dated 28.01.2011 and then she was posted at GGHS Banian District Battagram. She was transferred from District Battagram to District Charsadda vide order dated 01.03.2012 and was posted at GGHS Shabqadar Fort District Charsadda; thereafter service documents, service record and educational record of the appellants were duly verified vide letters dated 12.04.2013, 24.04.2013 and 22.03.2013 from the quarter concerned. All of a sudden, respondents issued impugned order dated 19.07.2019, whereby service of the appellant was dispensed. Feeling aggrieved, he filed departmental appeal followed by service appeal which was allowed vide order dated 11.11.2021 by setting aside the impugned order and case was remanded back to the respondent department for regular inquiry within 90 days. Thereafter, appellant filed execution petition for implementation of the judgment. In compliance respondents No.3 again issued impugned order dated 16.06.2022, whereby the initial order 19.07.2019 was kept maintained by dispensing the services of the appellant. Appellant filed departmental appeal, which was not responded, hence the present service appeal.

6. Brief facts as alleged by appellant in service appeal No. 420/2023 are that appellant was appointed as Drawing Master vide order dated 14.03.2006 and was posted at Government Girls Middle School Thakot and was later on transferred to Charsadda vide order dated 27.10.2011, that the salary of the appellant, was astonishingly stopped in the month of January 2017, therefore, she filed Writ Petition in the august Peshawar High Court,



Peshawar, seeking release of the salary: thus vide order dated 14.09.2017, august Peshawar High Court, Peshawar directed the Director Anti-Corruption Khyber Pakhtunkhwa for probe into the matter and to submit This report in the court that the Director Anti-Corruption Instead of submitting his report in the Worthy High Court straightaway registered FIR against the appellant as well as others, which has been challenged through filing of Writ Petition before august Peshawar High Court, Peshawar, wherein interim relief has been granted and the matter is still sub-judice, that the District Education Officer (Female) District Charsadda did not conduct any departmental inquiry and straightaway issued the impugned office order dated 22.11.2017, whereby the service of the appellant was dispensed with that the impugned order dated 22.11.2017 was challenged through filing of departmental appeal, followed by service appeal which was allowed vide order dated 11.11.2021 by setting aside the impugned order and case was remanded back to the respondent department for regular inquiry within 90 days. Thereafter, appellant filed execution petition for implementation of the judgment. In compliance respondents No.3 again issued impugned order dated 16.06.2022, whereby the initial order 22.11.2017 was kept maintained by dispensing the services of the appellant. Appellant filed departmental appeal, which was not responded, hence the present service appeal.

7. 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.


8. We have heard learned counsel for the appellants and learned District



Attorney for the respondents.

9. 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 notification(s).

10. Perusal of record reveals that it is a second round of litigation. Brief facts as alleged by the appellant in the instant service appeal are that certain posts of Drawing Masters were advertised through newspaper in the year 2006, that as the appellant was eligible and qualified for the said post, therefore, she applied for the same and was properly appointed vide appointment order dated 14.03.2006 issued upon recommendations of the Departmental Selection Committee after fulfilling of all legal and codal formalities, that the appellant was initially posted at Government Girls Middle School Thakot and was later on transferred to District Charsadda vide order dated 27. 10 2011, that the salary of the appellant was astonishingly stopped in the month of January 2017, therefore, she filed Writ Petition in the august Peshawar High Court, Peshawar, seeking release of her salary: that vide order dated 14.09.2017, august Peshawar High Court, Peshawar directed the Director Anti-Corruption Khyber Pakhtunkhwa for probe into the matter and to submit his report in the court, that the Director Anti-Corruption instead of submitting his report in the Worthy High Court, straightaway registered FIR against the appellant as well as others, which has been challenged through filing of Writ Petition before august Peshawar High Court, Peshawar, wherein interim relief has been granted and the matter is still sub-judice; that the District Education Officer (Female)

 District Charsadda did not conduct any departmental inquiry and

straightaway issued the impugned office order dated 22.11.2017, whereby the service of the appellant was dispensed with, that the impugned order dated 22.11.2017 was challenged through filing of departmental appeal, however the same was not responded within the statutory period, hence the instant service appeal.

11. Perusal of record reveals that main contention of the appellant in first round of litigation was that she was condemned unheard with providing of opportunity of defense, hearing, in accordance with E&D Rules, 2011 by conducting regular inquiry which was established on record. Therefore, this Tribunal vide order referred above directed respondents to conduct de-novo regular inquiry within period of ninety days with direction to associate appellants with inquiry by providing fair opportunity of defending themselves.


12. Respondents although conduct de-novo inquiry order of which was issued on 16.03.2022 during pendency of execution/implementation petition filed by appellants, which order was received to inquiry committee on 29.03.2022, inquiry committee went to DEO Charsadda office on 31.03.2022, wherein DEO Charsadda handed over record to them. Inquiry committee through DEO Charsadda sent letter/summon on their home addresses which was dispatched on 11.04.2022 for appearance before inquiry committee on 12.04.2022. When inquiry committee visited office DEO Charsadda on 12.04.2022, appellants were not present, so they were proceeded ex-parte and committee decided the matter on sided without providing the opportunity of defending themselves as per direction of this


 Tribunal.

13. Although inquiry committee mentioned in their report that DEO Charsadda stated that appellants were called in office on 11.04.2022, who refused to receive summon to appear before inquiry committee but same is not logical as appellants submitted implementation petition for conducting de-novo inquiry, then why they are reluctant to appear before inquiry committee to defend themselves. So, direction given by Tribunal of providing fair opportunity to appellants to defend themselves by conducting regular inquiry was not complied with, therefore, inquiry and order passed as a result of it is not in accordance with rules and direction of this Tribunal is not sustained.

14. For what has been discussed above, we are unison to reinstated appellants for the purpose of de-novo inquiry with direction to associate appellants with inquiry by providing fair chance of self-defense and conduct regular inquiry as per earlier judgment of this Tribunal within 60 days from receipt of this order. Appellants are also directed to get attested copy of this decision and approached respondents as soon as possible but not later than one month after receipt of copy of this order. Costs shall follow the event. Consign.

15. *Pronounced in camp court at Peshawar and given under our hands and seal of the Tribunal on this 26<sup>th</sup> day of June, 2024.*

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)



**ORDER**

26.06.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, we are unison to reinstated the appellant for the purpose of de-novo inquiry with direction to associate appellant with inquiry by providing fair chance of self-defense and conduct regular inquiry as per earlier judgment of this Tribunal within 60 days from receipt of this order. Appellant is also directed to get attested copy of the decision and approach respondents as soon as possible but not later than one month after receipt of copy of this order. Costs shall follow the event. Consign.

3. *Pronounced in camp court at Peshawar and given under our hands and seal of the Tribunal on this 26<sup>th</sup> day of June, 2024.*



(MUHAMMAD AKBAR KHAN)  
Member (E)



(RASHIDA BANO)  
Member (J)

\*Kaleemullah