

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR**  
**AT CAMP COURT, ABBOTTABAD**

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**  
**FAREEHA PAUL** ... **MEMBER(Executive)**

***Service Appeal No.2958/2021***

Date of presentation of Appeal.....18.02.2021  
Date of Hearing.....25.09.2024  
Date of Decision.....25.09.2024

**Rashid Ayub** son of Muhammad Ayub R/O Baryan Gali Tehsil Ghazi District Haripur, Ex-P.H.c Tech (MP) Malaria Basic Health Unit Gali Amazai.....(***Appellant***)

Versus

1. **District Health Officer** Haripur.
2. **Director General health Services** Khyber Pakhtunkhwa, Peshawar.
3. **Secretary Health**, Health Department, Khyber Pakhtunkhwa, Peshawar.
4. **District Account Officer**, Haripur.
5. **Medical Superintendent** District Headquarter Hospital, Haripur.
6. **Executive District Officer Health**, Haripur.....(***Respondents***)

Present:

Mr. Qaisar Zaman, Advocate.....For the appellant  
Mr. Asif Masood Ali Shah, Deputy District Attorney....For respondents

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**SERVICE APPEAL UNDER SECTION 4 OF  
THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
IMPUGNED ORDER NO.13878/AE-VI DATED  
29<sup>TH</sup> DECEMBER, 2020 COMMUNICATED  
TO THE APPELLANT ON 20.01.2021.**

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**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Facts of the case of the appellant, gathered from memorandum and grounds of appeal are that the appellant was appointed as Junior PHC Technician (BPS-09) vide order dated 06.07.2012; that while serving in the said capacity, a case

was lodged vide FIR No.01 dated 31.08.2020 U/S 419/420/468/741 PPC read with 5(2) PC Act; that in the said case, the appellant surrendered himself before the court and on 10.12.2020, his BBA was accepted; that his diploma was sent to the Medical Faculty by the Anti-Corruption Establishment vide letter dated 09.10.2017 which was verified and found as genuine; that again his diploma was questioned whereby his diploma was found bogus; that on the basis of the said verification report, he was served with a show cause notice and resultantly, vide impugned order dated 19.12.2019, he was dismissed from service; that feeling aggrieved, he filed departmental appeal but the same was rejected on 29.12.2020, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who 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.

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

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

5. The appellant's case revolves around his appointment as a Junior PHC Technician (BPS-09) on 06.07.2012 and subsequent legal challenges concerning the validity of his diploma. The appellant faced serious allegations under FIR No.01 dated 31.08.2020, specifically for offenses related to forgery and fraud, and he surrendered to the court, wherein his bail application was accepted on 10.12.2020.

6. Crucially, the appellant's diploma was initially verified as genuine by the Medical Faculty, following an inquiry by the Anti-Corruption Establishment in a letter dated 09.10.2017. However, subsequent questioning of this verification led to the diploma being labeled as bogus, prompting the issuance of a show cause notice against him. This culminated in the appellant's dismissal from service via the impugned order dated 19.12.2019. Despite the appellant's efforts to contest his dismissal through a departmental appeal, which was rejected on 29.12.2020, he has sought redress through the current service appeal.

7. Upon the verification report, the authority has straight away dismissed the appellant from service, and treated the appellant as he was not a Government Servant who was serving in a Government Institution. Before his dismissal from service, the department has skipped the process of proper inquiry, which is mandatory under the Khyber Pakhtunkhwa Government Servants (Efficiency and

Discipline) Rules, 2011. There is proper procedure for conducted inquiry which has been provided in Rule-11 of the Rules *ibid*, which is as under:

**11. Procedure to be followed by inquiry officer or inquiry committee.**—(1) *On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.*

(2) *If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.*

(3) *The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.*

*[(4) Statements of witnesses shall be recorded in the presence of accused and departmental representative.]*

(5) *Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.*

(6) *If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.*

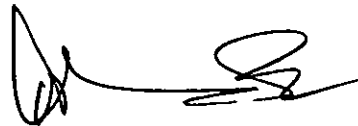
*[(7) The inquiry officer or the inquiry committee, as the case may be, shall complete the inquiry within sixty days or within such an extended period, which the competent authority may allow on the request of the inquiry officer or inquiry committee, as the case may be, for reasons to be recorded and shall submit his or its report to the competent authority within seven days of the date of completion of*

*inquiry. The inquiry report must contain clear findings as to whether the charge or charges have been proved or not proved and specific recommendations regarding exoneration or imposition of minor or major penalty or penalties upon the accused."*

8. The above-mentioned mandates are the procedure of inquiry, however, the inquiry has not been conducted at all, what to talk about the procedure.

9. In view of the above situation, instant service appeal is accepted. The impugned order dated 29.12.2020 stands set aside and the appellant is reinstated into service for the purpose of conducting proper inquiry, which is to directed to be conducted in accordance with law and rules within 90 days of the receipt of this judgment. The issue of back benefits shall be subject to the outcome of inquiry. Costs shall follow the event. Consign.

*10.s Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 25<sup>th</sup> day of September, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**FAREEHA PAUL**  
Member (Executive)