

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT, ABBOTTABAD

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

Service Appeal No.227/2022

Date of presentation of Appeal.....24.02.2022
Date of Hearing.....25.09.2024
Date of Decision.....25.09.2024

Mst. Gul Nargas Ex-Primary School Teacher, Government Girls
Primary School Rafiq Shah Abad, Tehsil Dassu, District Kohistan
Upper.....(*Appellant*)

Versus

1. **The Director** Elementary & Secondary Education, Peshawar.
2. **The District Education Officer (Female)** District Kohistan Upper.
.....(*Respondents*)

Present:

Mr. Abdul Saboor Khan, AdvocateFor the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney.....For respondents

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**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDERS NO.1528-35
DATED 10.06.2021 PASSED BY THE RESPONDENTNO.2
WHEREBY MAJOR PENALTY OF REMOVAL FROM
SERVICE UPON THE APPELLANT WAS IMPOSED.**

JUDGMENT



KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case in brief,
as per memo and grounds of appeal, is that she was appointed as
Primary School Teacher in the year 2016; that while serving in the
said capacity, she was removed from service vide impugned order
dated 10.06.2021 by the respondent No.2 on the ground of absence
for two days; that feeling aggrieved, she filed departmental appeal on

30.07.2021 but the same was not responded, 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. It appears appellant was appointed as a Primary School Teacher in 2016 and faced removal from service through the impugned order dated June 10, 2021 for absence from duty. The appellant's subsequent departmental appeal, filed on July 30, 2021, remains unanswered.


6. Record further shows that the appellant was removed from service on the basis of absence from duty. The ASDEO had visited the school concerned, and she allegedly found the appellant absent. The document that the respondents produced in the form of a Duty Certificate, signed by the ASDEO show that the cause of her removal was that duty certificate, wherein she had been marked as absent for two days and that is also not clear as on which days she was absent.

7. The above situation shows that disciplinary action was initiated against the appellant, however, no inquiry was conducted and Show Cause Notice was also not issued to the appellant as such learned Deputy District Attorney remained unable to substantiate his plea that the impugned orders were issued after observing legal requirements. Besides, the appellant has denied her absence. However, in this back drop the punishment of removal from service is harsh one for punishing a civil servant on the ground of absence for two days and that too is ambiguous.

8. In view of the above, impugned order dated 10.06.2021 is set aside and the appellant is reinstated into service, treating the period out of service to be leave of the kind due. Costs shall follow the event. Consign.

9. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 25th day of September, 2024.*


KALIM ARSHAD KHAN
Chairman


FAREEHA PAUL
Member (Executive)