

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD.

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
 MISS FAREEHA PAUL ... MEMBER(E)

Service Appeal No. 251/2023

Muhammad Azmat S/O Muhammad Ashraf, Associate Professor English,
 Government Postgraduate College Haripur, resident of village Gehr Khan,
 Tehsil and District Haripur.(Appellant)

Versus

1. Secretary, Higher Education Department, Civil Secretariat,
 Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
 (Respondents)

Allah Yar Khan Tareen,
 Advocate

... For appellant

Mr. Asif Masood Ali Shah,
 Deputy District Attorney

... For respondents

Date of Institution.....31.01.2023
 Date of Hearing.....24.09.2024
 Date of Decision..... 24.09.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the adverse remarks recorded by respondent No. 2 in the Performance Evaluation Report of the appellant for the years 2020 & 2021. It has been prayed that on acceptance of the appeal, the impugned adverse remarks might be expunged alongwith any other remedy which the Tribunal deemed appropriate.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed in the Higher Education Department Khyber Pakhtunkhwa as Assistant Professor of English (BPS- 18) on 24.03.2011 and was promoted in due course of time to the post of Associate Professor of English (BPS- 19) on 13.02.2018. He was communicated adverse remarks pertaining to his Performance Evaluation Reports for the years 2020 and 2021 vide letter dated 20.09.2022. Feeling aggrieved, he preferred departmental appeal before respondent No. 1 which was not decided within the statutory period of ninety days; hence the instant service appeal.

3. Respondents were put on notice who submitted written reply/comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the Reporting Officer rated the appellant as very good whereas the Countersigning Officer gave him adverse remarks in the Performance Evaluation Reports for the years 2020 and 2021. He argued that the adverse remarks were recorded by an incumbent who was holding the additional charge of the post of Director being officer of BPS- 19 while the Reporting Officer was in BPS- 20. He argued that the adverse remarks were communicated to the appellant after lapse of more than 01 year and 08 months which was against the instructions of the government. He requested that the appeal might be accepted.



5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was performing his duties upto utter dissatisfaction of his high ups as he had violated the conduct rules by defaming the department through social media and on a complaint in that regard, an explanation was also called from him. Moreover, an inquiry was also conducted against him wherein inquiry officer recommended that the appellant might be warned to reform his attitude and avoid misuse of social media for negative propaganda and defamation of the department but he did not mend his ways. He requested that the appeal might be dismissed.

6. Through the instant service appeal, the appellant had impugned the adverse remarks recorded by respondent No. 2 in his Performance Evaluation Reports for the years 2020 and 2021 with the prayer to expunge them from the record. During the course of arguments a letter dated 27.03.2023 of the Government of Khyber Pakhtunkhwa Higher Education, Archives & Libraries Department addressed to the Director, Higher Education Khyber Pakhtunkhwa, Peshawar was produced which stated that competent authority had expunged the adverse remarks. Learned counsel for the appellant insisted before us for revising the grading also but the same had not been asked for in the service appeal before us, nor was it mentioned in his departmental appeal dated 3rd October 2022 preferred by him before the Secretary Higher Education Department. This Tribunal, therefore, could not grant such relief to him that had not been asked for in his appeals. However, it was noted that in the light of letter dated 27.07.2023, the competent authority had already expunged the adverse remarks and by



referring to instruction 6.4 of PERs 2006 it was stated that grading was not revised. In our opinion, the overall "Average" PER was in no way an adverse PER.

7. In view of the above discussion, instant service appeal has become infructuous. The appellant is however, at liberty to file fresh appeal in case he is not satisfied with the grading not being revised by the competent authority. The appeal is disposed of in the above terms. Cost shall follow the event. Consign.

8. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 24th day of September,*

2024.



(FAREEHA PAUL)
Member (E)
(Camp Court, A/Abad)




(KALIM ARSHAD KHAN)
Chairman
(Camp Court, A/Abad)


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24.09 2024 01. Allah Yar Khan, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, instant service appeal has become infructuous. The appellant is however, at liberty to file fresh appeal in case he is not satisfied with the grading not being revised by the competent authority. The appeal is disposed of in the above terms. Cost shall follow the event. Consign.

03. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 24th day of September, 2024.*


(FAREEHA PAUL)
Member (E)
Camp Court, A/Abad


(KALIM ARSHAD KHAN)
Chairman
Camp Court, A/Abad

Fazle Subhan PS