

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.398/2024

Nazia Qazi PST (BPS-12), GGPS QAMARGAI, Tehsil, Razzar District
SWABI **Appellant**

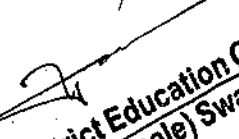
VERSUS

1. District Education Officer (Female) SWABI
2. District Accounts Officer SWABI

..... **Respondents**

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District Education Officer
(Female) Swabi

Deponent
Dr. Shamim Akhtar
DISTRICT EDUCATION OFFICER
(FEMALE) SWABI

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.398/2024

Nazia Qazi PST (BPS-12), GGPS QAMARGAI, Tehsil, Razzar District
SWABI **Appellant**

VERSUS

1. District Education Officer (Female) SWABI.
2. District Accounts Officer SWABI

..... **Respondents**

PARA WISE COMMENTS ON BEHALF OF THE RESPONDENTS No. 1

Respectfully Sheweth,

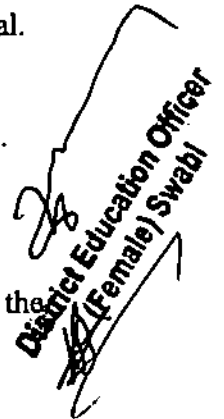
PRELIMINARY OBJECTIONS.

Khyber Pakhtunkhwa
Service Tribunal

Duty No. 16374

Dated 07-10-24

1. That the service appeal is badly barred by time, hence not maintainable.
2. That the service appeal is wrong, baseless and not maintainable, it shows no strong cause to be taken for adjudication, therefore, the same service appeal is liable to be rejected/ dismissed.
3. That the service appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory cost in favor of respondents.
4. That the appellant has not come to the Court/Tribunal with clean hands.
5. That the appellant has concealed the material facts from this Honorable Tribunal.
6. That the appeal is bad for misjoinder and non-joinder of the necessary party.
7. That the appellant has filed the instant appeal just to pressurize the respondents.
8. That the appellant has no cause of action to file the instant appeal.
9. That the appeal is not maintainable in the eye of law.
10. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
11. That the appellant has no locus standi to file appeal against the respondent.


District Education Officer
(Female) Swabi

Facts:

1. That the appointment letter of 07/02/2006 fails to conclusively prove that the necessary codal and legal formalities were completed, and upon thorough review of the recruitment process, discrepancies and non-compliance with applicable rules and regulations were identified, prompting an enquiry. The said appointment order was issued by district education office female KOHISTAN and DEO(F) KOHISTAN is not added as respondent party to this appeal, the respondent no 1 Deo(f) has no concern with this.
(Copy of appointment order issued by DEO (F) KOHISTAN 07.12.2006 is attached as Annexure -A)
2. That the appellant's transfer to District SWABI on 20/11/2011 and subsequent removal on 22/10/2015 requires careful scrutiny. As PST is tied to specific union

councils, inter-district transfers are irregular. The removal was justified by discrepancies in the appointment process, ensuring accountability in public service appointments. The inter district transfer is issued by Director education and removal order dated 22/10/2015 has been issued by DEO(F) KOHISTAN which is not added as necessary respondent therefore appeal is not maintainable and respondent no 1 has no concern with that order.

(Copies of inter district transfer attached as Annexure-B and removal order 22/10/2015 by DEO (F) KOHISTAN is annexed as-c)

3. That the assertion that the removal order dated 22/10/15 was rescinded and a new enquiry directed is inaccurate. The honorable service tribunal's ruling in Service Appeal No. 372/2016 on 27/08/19 did not completely vindicate the appellant. Rather, the decision to order a DE NOVO enquiry suggests that the original removal had some validity, but procedural irregularities necessitate re-evaluation. Moreover, the instruction for a DE NOVO enquiry does not inherently imply that the appellant's removal was unwarranted or unjustified. The honorable service tribunal directed DEO (F) KOHISTAN to conduct a DE NOVO enquiry which isn't added as respondent.

(Judgment 27/08/2019 is annexed as-D)

4. That the assertion that the appellant was reinstated to the PST position at GGPS Goshali, District KOHISTAN, subsequent to the tribunal's August 27, 2019 judgment, is inaccurate. As District KOHISTAN was not added a respondent in this appeal, their actions and decisions regarding reinstatement lack verifiable authenticity.
5. That the claim that the DE NOVO enquiry supports the teacher's reinstatement and back benefits is misconception. As the competent authority, District KOHISTAN's DEO Female was necessary party and will be in better position to respond to the query. As the judgment of Supreme Court of Pakistan has held that when there is no work no pay. Reliance is on 2003 SCMR 228.

(Copy of judgment 2003 SCMR 228 Annexed as-E)

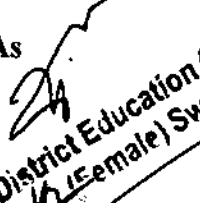
6. That the reinstatement order issued by the DEO Female KOHISTAN on September 10, 2020, does not inherently confer entitlement to back benefits, as the appellant did not perform duties during the intervening period, rendering them ineligible for back pay according to established rules. The principle of 'no work, no pay' has been consistently upheld by apex courts in similar cases, suggesting that back benefits should not be granted automatically, particularly given the appellant's lack of duty performance. Furthermore, the DE NOVO enquiry's recommendations were conditional, and the DEO Female KOHISTAN's stance on back benefits is pivotal, as the rules do not explicitly support the appellant's entitlement.

Furthermore the reinstatement order dated 10/09/2020 has been issued by DEO(F) KOHISTAN and DEO(F) KOHISTAN is not added as respondent as DEO(F) SWABI has nothing to do with the reinstatement order.

(Copy of reinstatement order issued DEO (F) KOHISTAN is attached As Annexure-F)


Grounds.

- A. That this Para as drafted is not admitted and denied because no departmental appeal has been submitted by the appellant. More ever the appellant is not entitle for back benefits and any other relief therefore the instant is liable to be dismissed.


District Education Officer:
(Female) Swabi

- 2/2
- B. That this Para is not admitted and denied. As the appellant appointment had some discrepancies and an inquiry was conducted the reinstatement was, on technical grounds; therefore, she is not entitled for back benefits. Furthermore, there is nothing about the back benefit in the judgment of this honorable court.
 - C. That this Para is not admitted and denied because detail has already been incorporated in the above Paras and similarly the appellant is not entitled for back benefit.
 - D. That this Para is not admitted and denied because the said Judgment is not in rem, therefore, the appellant cannot gain any benefit on the basis of that judgment.
 - E. That this Para is not admitted and denied. The appellant is not entitle to any benefits as per detail already incorporated in the above Paras. Hence appeal of the appellant is liable to be dismissed.
 - F. That the respondents seek permission to raise/argue other points/grounds on the day of hearing the case.

In view of the above stated submissions, it is earnestly requested that the appeal in hand may very graciously be dismissed with special compensatory cost in favor of the respondents.


District Education Officer
(Female) Swabi Dr. Shamim Akhtar
District Education Officer
(Female) SWABI
Respondent No.1

Affidavit

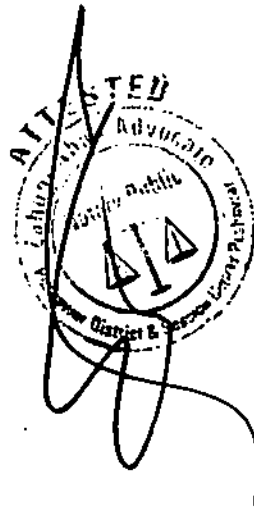
I, Dr. SHAMIM AKHTAR DEO(F) SWABI do hereby solemnly affirm and declare on oath that the contents of the better comments submitted by respondent are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

There is no ex parte proceedings initiated against us and no order was passed against the defence.

Dr. Shamim Akhtar
~~District Education Officer~~
~~(Female), Swabi~~

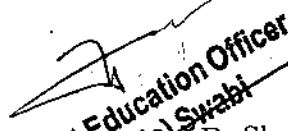
Dr. Shamim Akhtar
DISTRICT EDUCATION OFFICER
(FEMALE) SWABI

Respondent - 1.



Authority letter

It is certified that Mr. Sayyed Basit Muneer Litigation officer DEO (F) Swabi is here by authorized to attend all courts of Pakistan especially K.P Service tribunal Peshawar and he is authorized to submit any kind of record in service appeal 398/2024 titled Nazia Qazi Pst Vs Govt on behalf of undersigned/ Education department.


District Education Officer
(Female) Swabi

Dr. Shamim Akhtar
District Education Officer
(Female) Swabi.

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OFFICE OF THE DISTRICT OFFICER SCHOOLS AND LITERACY
KOSHISTAN

NOTIFICATION

Consequent upon the recommendation of departmental selection commuted of School and Literacy Department Kohistan the competent authority is pleased to appoint the following fresh (female) candidates as PTC Untrained Trained Matric pass in BPS-5 Rs 2415-115-58 plus usual allowances as due and admissible under the rules on contract basis in the schools noted against their names according to the merit Policy issued by the Schools and Literacy Department NWFP in the interest public service with immediate effect.

S	Name/Father's name	Residence	School where appointed	Remarks
1	Nazia Qazi D/c Faiz ul Haq	Kornila	GGPS Kai	Agst the V postl
2	Nazia Akbar D/o Muhammad Akbar	Jahura	GGPS Bar Bak	Do
3	Fozia D/o Badi Uz Zaman	Gushali	GGPS Bar Bak	do

CONDITIONS

1. No TA/DA is allowed to anyone.
2. Charge report should be submitted to all concerned.
3. Their appointment are purely on temporary basis and liable to termination at any time that with out assigning any reason/notice.
4. Their certificates is not verified, should be verified by the DDO (F) i.e Mr. Akbar Rehman I/C Dy DO (F) Kohistan handing over charge to them.
5. They will be governed by such rules & regulation enforced and as prescribed by the Government time to time for the category of the Government servants to which they belong.
6. In case any of the above candidates failed assume the charge with in fifteen days their appointments will automatically stand canceled.
7. They should produced the certificate from DEO Female Kohistan.
8. They should not be take over charge to their age 35 years and above 35 years.

Executive District Officer
School & Literacy Kohistan

Endst No 8836-47, Dated Kohistan the 7/12/2006
Copy of the above is forwarded to the

1. PS to Secretary School and Literacy Department NWFP Peshawar.
2. PA to Director School and Literacy Department NWFP Peshawar.
3. District nazim Kohistan.
4. District Coordination Office Kohistan.
5. District Accountant Officer Kohistan.
6. Deputy District Officer female S&E Kohistan.
7. Candidates concerned.

Executive District Officer
School & Literacy Kohistan

District Education Officer
Female

Razi Bahader Kotay Swabi

Inter district transfer

DIRECTORATE OF ELEMENTARY & SECY EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR

OFFICE ORDER

Consequent upon the ban relaxation by the competent authority, Ms. Nazim Qari PST GGPS Bar Komila District Kohistan is hereby transferred/adjusted against vacant post of PST at GGPS Razi Bahader Kotay District Swabi her own pay & BPS in the interest of public service with immediate effect.

Charge report should be sent to all concerned.

NO P.A. DA etc are allowed.

The EDOs (E&SE) concerned are directed to check her original service documents before making payment of salary. Her Seniority will be determined under the rules.

DIRECTOR
ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA

P.No. 167/Posting/transfer/Y-11 Peshawar, the 20/11/2011

- 1. Copy of the above is to the:-
- 2. The Executive District Officers (E&SE) Kohistan & Swabi.
- 3. The District Accounts Officers Kohistan & Swabi.
- 4. Principal GCHSS/GGHS concerned.
- 5. SST concerned.
- 6. PA to Director E&SE, Khyber Pakhtunkhwa, Peshawar.

District Education Officer

for Deputy Director (E&SE)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

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DIRECTORATE OF ELEMENTARY AND SECY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

OFFICE ORDER

Consequent upon the ban relaxation by the competent authority, Mst Nazia Qazi PST GGPS Bar Komila District Kohistan is hereby transferred/adjusted against the vacant post of PST at GGPS Razi Bahadar Kotay District Swabi in her own pay & BPS in the interest of public service with immediate effect.

- i. Charge should be sent to all concerned.
- ii. No TA/DA etc are allowed.
- iii. The EDOs (E&SE) concerned are directed to check her original service documents before making payment of salary. Her seniority will be determined under the rules.

DIRECTOR
ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA

Endst No. 4980-85/F.No. 167/posting/transfer/V-II, dated Peshawar the 20.09.2011

Copy of the above to the

1. The Executive District Officers (E&SE) Kohistan & Swabi.
2. The District Account Officers Kohistan & Swabi.
3. Principals GGHSS/GGHS concerned.
4. SS concerned.
5. PA to director E&SE Khyber Pakhtunkhwa, Peshawar.
6. M/File.

Deputy Distress (Estb)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

District Education Officer
(Female) Swabi



Removal order
22/10/15 (9)

OFFICE OF THE DISTRICT EDUCATION OFFICER, (F) KOHISTAN.

Ph. & Fax No: 0998-107225

OFFICE ORDER.

In compliance with the Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar letter No.3081 F.No.20 (F) enquiry dated 16/03/2015, Reminder No. 220w/F No.20(F) enquiry dated 20/04/2015/ No. 3530/F No.20 (F) enquiry, dated 22/05/2015, and No. 3696/F No.20(F) enquiry Dated 24/08/2015, and in light of recommendation of enquiry officer, the following PST teachers are hereby removed from service with immediate effect.

S/NO	Name	School
1	Nuzhat PST	GGPS Kas banda
2	Nazia Qazi PST	GGPS Bar komila
3	Alia Ghafoor	GGPS Kas banda
4	Ruqia PST	GGPS Kas banda
5	Sara PST	GGPS Kundal
6	Khushnisa PST	GGPS Dubair
7	Mussarat bibi PST	GGPS Badar shaha

District Education Officer
(Female) Kohistan

E/No. /E/Tab: 7105-10 /DEO (F) KH dated 22-10-2015.

Copy of the above is forwarded to:

- The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- The District Education Officer (F) District Swabi for necessary action at her end as the above teachers are now posted in District Swabi.
- The District Accounts Officer, Swabi.
- The District Accounts Officer, Kohistan.
- The Sub Divisional Education Officer (F) Kohistan.
- Office record.

District Education Officer
(Female) Kohistan

District Education Officer
(Female) Swabi

OFFICE OF THE DISTRICT EDUCATION OFFICER, (F) KOHISTAN

Ph & Fax No. 0998407225

OFFICE ORDER

In compliance with the director elementary and Secondary Education Khyber Pakhtunkhwa Peshawar Letter No. 3081/F enquiry dated 16/03/2015, Reminder No. 2200/F No. 20 (F) enquiry dated 20.04.2015 No. 3530/F No 20 (F) enquiry dated 22.05.2015 and No. 3696/(F) enquiry dated 24.08.2015 and in light of recommendation of enquiry officer]the following PST teacher are hereby removed from service with immediate effect.

S NO	Name	School
1	Nazhat PST	GGPS Kas Banda
2	Nazia Qazi PST	GGPS Bar Banda
3	Ali Ghafoor	GGPS Kas Banda
4	Ruqia PST	GGPS Kas Banda
5	Sara PST	GGPS Kundal
6	Khushnuma PST	GGPS Dubair
7	Musarat Bibi PST	GGPS Badar Shaha

Sd/-

District Education Officer

(Female) Kohistan

E No. Estb No. 7105-10 DEO Female (F) the dated 22.10.2015

Copy of the above is forward to:

1. The Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Education Officer (F) District Swabi for necessary action at her end as the above teachers are now posted in District Swabi.
3. The District Accountants Officer Swabi.
4. The District Accountants Officer Kohistan.
5. Office record.

Sd/-

District Education Officer

(Female) Kohistan

District Education Officer
(Female) Swabi

Service Tribunal Judgment 27/08/2019 (11)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 372/2016

Date of Institution ... 06.04.2016

Date of Decision ... 27.08.2019



Mst. Nazia Qazi daughter of Muhammad Akbar resident of Village Yaqubi Tehsil Lahore District Swabi, Ex-PST Teacher GPS Kazi Bahadar Kotay Yaqubi Swabi. (Appellant)

VEREDS

The Director (E&SE), Khyber Pakhtunkhwa, Peshawar and five others. (Respondents)

Present:

- | | | |
|--|-----|---|
| MR. YAQOOB KHAN,
Advocate | --- | For appellant. |
| MR. KABIRULLAH KHATTAK,
Additional Advocate General | --- | For respondents. |
| MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL | --- | MEMBER (Secretary)
MEMBER (Judicial) |

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused

ATTESTED
Secretary
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ARGUMENTS

02. Learned counsel for the appellant argued that after observance of all codal formalities, she was appointed as PST in District Kohistan vide order dated 07.12.2008. As she possessed the domicile of District Swabi, therefore, through order dated 20.09.2011, she was posted in District Swabi and started performing duty. After putting in nine years service, she was removed from service vide order dated 22.10.2015 issued by respondent no.3. Feeling aggrieved, she filed departmental appeal on 20.12.2015, which remained unadvised, hence, it is proper to...

District Commissioner Officer
Female Section

12

(12)

appeal. Impugned order was not served on the appellant and subsequently, obtained through personal efforts. It was issued without fulfillment of requirement laid down in the relevant rules thus was arbitrary, illegal and unlawful. The appellant was denied the opportunity of defense. Reliance was placed judgment of this Tribunal dated 22.03.2019 passed in service appeal no. 716/2019, whereby a case of similar nature was referred to the respondents to conduct de-novo enquiry.

03. Learned Adjt. Advocate General that she was illegally appointed and when the matter came to the notice of respondents the then DEO, Kohistan was directed to conduct enquiry. Enquiry report confirmed that her appointment was not in the prescribed manner laid down in the rules thus the same was illegal. On the basis of the said enquiry major penalty of removal from service was imposed on the appellant and other teachers. All codal formalities were observed before passing the impugned order.

CONCLUSION

04. The stance of the appellant about her regular appointment vide order dated 07.12.2008 and subsequent transfer to District Swabi through order dated 20.09.2011 was vehemently opposed by the respondents. They leveled allegations of serious irregularities in the appointment process which was confirmed on the basis of enquiry conducted by the then DEO, Kohistan. Enquiry report revealed that her appointment was illegal and made in utter disregard to the laid down criteria. As a sequel to enquiry report major penalty of removal from service was awarded to the appellant vide order dated 22.10.2015 issued by respondent no.2.

ATTESTED

[Signature]
EXAMINED
Khyber Pakhtunkhwa
Services Tribunal
Peshawar

[Signature]
District Education Officer
Female
Swabi

(13)

(B)

05. We will not dispute that the respondents had every right to probe into the irregularities that surfaced during the appointment of the appellant. However, they made a serious mistake by conducting fact finding enquiry that has no legal sanctity and any penalty awarded on the basis of such enquiry is not sustainable in the eyes of law. In order to award punishment to a civil servant he was required to be proceeded under E&D Rules 2011. Needless to point out that in the enquiry in question, the appellant was not associated with the proceedings that were conducted. The only safer course left with the respondents is to conduct enquiry in accordance with the spirit of E&D Rules 2011 and thereafter to take any action deemed appropriate. The principle of consistency also demands that the case of the appellant be dealt with as per judgment of this Tribunal dated 22.01.2019 and 22.07.2019, as similar question of fact and law are involved.

06. As a sequel to the above, the instant appeal is accepted. Judgment dated 22.10.2019 is set aside. The respondents are directed to conduct de-novo enquiry strictly in accordance with law and rules. Parties are left to bear their own costs. File be consigned to the record room.

(MUHAMMAD HAMID MUGHAL)
MEMBER

(AHMAD HASSAN)
MEMBER

ANNOUNCED
27.08.2019

Certified to be true copy
K. F. Khan
Secretary (General)
District Tribunal
Faisalabad

Date of Presentation of Appeal 24-09-19
Number of Writs 1000
Copying Fee 2000
Fees 4000
Total 24000
Stamp of District Tribunal
Date of Issuance of Order 24-09-19
Date of Filing of Appeal 24-09-19

District Tribunal Officer
Faisalabad

2003 S C M R 228

[Supreme Court of Pakistan]

Present: Syed Deedar Hussain Shah and Tanvir Ahmed Khan, JJ

Syed NIAZ HUSSAIN SHAH BUKHARI, TECHNICIAN (PROCESS)—Petitioner

versus

OIL AND GAS DEVELOPMENT CORPORATION LIMITED through Chairman, OGDC Head Office, Islamabad—Respondent

Civil Petition For. Leave to Appeal No-51 of 2002, decided on 11th September, 2002.

(On appeal from judgment dated 2-11-2001 passed by the Federal service Tribunal, Islamabad, in Appeal No. 1076(R)CE of 2000)

(a) Civil service-

---Pay, entitlement to---When there is no work, there is in no pay.

(b) Civil service-

--- Salary, refund of---Civil servant after obtaining stay order against his transfer was allowed to continue his duties at original place, where he was paid salary for about three years. ---Authority deducted from salary of civil servant the amount paid to him as salary for the period when he remained absent from duty---Service Tribunal dismissed appeal of civil servant-- Validity---Civil servant had not performed his duties either at original place or at transferred place, thus, was not entitled to salary---Period for which refund of salary was effected from civil servant was the period for which, he had not worked---When there was no work, there was no pay---Recovery had rightly been effected from civil servant---Impugned judgment was not open to exception as there was no jurisdictional error or misconstruction of facts and law---No substantial question of law of public importance as envisaged under Art. 212(3) of the Constitution was made out---Supreme Court dismissed petition for leave to appeal in circumstances---Constitution of Pakistan (1973), Art. 212(3).

Sadiq Muhammad Warraich, Advocate Supreme Court and Ejaz Muhammad Khan, Advocate-on-Record (absent) for Petitioner.

Sardar Muhammad Aslam, Dy. A.G. and M.S. Khattak, Advocateai-Record for Respondent.

Date of hearing: 11th September, 2002.

JUDGMENT

SYED DEEDAR HUSSAIN SHAH, J.—Petitioner seeks leave to appeal against that judgment of the Federal Service Tribunal, Islamabad (hereinafter referred to as the Tribunal) passed in Appeal No. 1076(R)CE of 2000 dated 2-11-2001, whereby appeal filed by the petitioner was dismissed.

District Education Officer
Gawabi

10/5/2024 10:08 AM

*Annexure
CF
(14)*

(15)
2. Briefly stated that facts of the case are that on 4-7-1994, the petitioner was transferred from Missa Kiswal to Peer Koh. He felt that transfer order so issued was mala fide and he was punished being the Union Official of the respondent/Corporation, therefore, he approached the NIRC for restraining the order under Regulation 32 of NIRC Procedure and Functions and Regulations, 1974 and a stay order against his transfer to Peer Koh was granted and he was allowed to continue and perform his duties at Missa Kiswal and also paid his salary that after about 3 years the respondent started deductions from the salary of the petitioner i.e. the amount which had been paid to him as salary, during the period he worked at Missa Kiswal on the strength of the stay order of NIRC.

3. Feeling aggrieved, the petitioner approached the Tribunal by way of appeal, which was dismissed. Hence, this petition.

4. We have heard Ch. Sadiq Mohammad Warriach, learned counsel for the petitioner, who, inter alia, contended that that petitioner's absence from duty from 2-7-1994 to 8-8-1994 and 5-10-1994 to 10-9-1996 was wrongly treated as Extra Ordinary Leave (EOL) and the Office Memorandum dated 13-2-1999 issued by the respondent/Head Office may be cancelled; that the Tribunal had not exercised its jurisdiction fairly and the recovery/deduction of the amount already drawn by the petitioner from the respondent is unwarranted.

5. Sardar Muhammad Aslam, learned Dy.A.G. vehemently controverted the contention of the learned counsel for the petitioner and pointed out that no doubt NIRC issued an injunction to the petitioner but the same was re-called by the Tribunal on 18-8-1996. He has also referred to the appeal of the petitioner which is at page 57 of the paper book, in which he has stated as under:

"I had reported for duty at Pirkoh Gas Field. Therefore, regularizing the period of stay, ordered by the Court as E.O.L is injustice with me."

On his application office submitted summary to the Chief Personnel Officer of the respondent/Corporation, which reads as under:

"(70) Reference para-180/N, it is submitted that as per message No.MK.1331 dated 26-11-1999 (PR244/Cor.) O.M.(F), Missa Kiswal, Mr. Niaz Hussain Shah was relieved from Missa Kiswal Oil Field, for Pirkoh Gas Field. He neither reported at Pirkoh nor at Missa Kiswal Oil Field, after getting stay order from NIRC. O.K(F), Missa Kiswal Oil Field, did not confirm whether he performed any official duty during his stay (off & on) at Missa Kiswal. Mr. Niaz Hussain neither claimed any field benefit like messing/D.A. and Rota facilities nor paid by the Location Incharge due to his non-performance of any duty.

"(71) In view of above, if approved by Manager (Personnel), his request may be regretted in the light of earlier decision as per para. 141-A, please."

The perusal of the above document shows that the petitioner did not perform his usual duties and was not entitled to salary as claimed by him.

6. Sardar Muhammad Aslam, learned Dy.A.G. further pointed out that recovery was already been effected from the petitioner and that Office Memorandum referred to hereinabove was entirely in accordance with the O.G.D.C. Service Regulations, 1974. It was also pointed out by him that the petitioner in due course of service has already been promoted, to his Managerial post.,

District Officer
Personnel Officer
M. Aslam

10/5/2024 10:08 AM

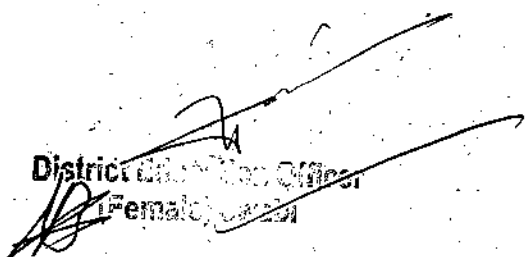
7. We have considered the arguments of the learned counsel for the parties and have carefully examined the record, which shows that the period for which recovery of refund of the salary was effected from the petitioner was the period for which he did not work. By now, it is settled law that when there is no work there is no pay. The petitioner did not perform his duties as mentioned hereinabove and recovery was rightly effected from him; thereafter, he was promoted to the post of Manager. The impugned judgment is entirely based on proper appreciation of the material available with the Tribunal. We further find that there is no jurisdictional error or misconstruction of facts and law. The impugned judgment is not open to exception.

8. Moreover, a substantial question of law of public importance, as envisaged under Article 212(3) of the Constitution, is not made out.

9. For the facts, circumstances and reasons stated hereinabove, we are of the considered opinion that this petition is without merit and substance, which is hereby dismissed and leave to appeal declined.

S.A.K./N-100/S

Petition dismissed.


District Collector's Office
Femate, Jammu



Annexure (F)
OFFICE OF THE DISTRICT EDUCATION OFFICER (F) KHYBER PAKHTUNKHWA

REINSTATEMENT

Consequent upon the judgment dated 27-08-2019, passed by the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar rendered in service appeal No.372/2016, in case filed Mst. Nazia Qazi Ex. ST. Dated 14/7/2019, the appellant is hereby reinstated into Government service against P.O. No. 151(B-12) at GGPS Goshali District Kohistan subject to the conditions mentioned below.

- No TA/DA is allowed
- Charge report should be submitted to all concerned.

District Education Officer
D. (Female) Kohistan

Order No. 7799-16 /DEO (F) KH/III Dated Dusso the 16/7/2019

- Copy of the above is forwarded to -
1. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
 2. The Advt. Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar
 3. The Section Officer (Lit. II) E&SE Department Peshawar
 4. Deputy Commissioner Kohistan
 5. The Deputy District Education Officer (F)
 6. The District Account Officer Kohistan.
 7. The Sub-Divisional Education Officer (F) Kohistan.
 8. Office file

District Education Officer
D. (Female) Kohistan

District Education Officer
D. (Female) Swabi

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OFFICE OF THE DISTRICT EDUCATION OFFICER (F) KOHISTAN

REINSTATEMENT

Consequent upon the judgment dated 27.08.2019 passed by the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar rendered in Service appeal No. 372/2016 in case titled Mst Nazia Qazi Ex-ST District Kohistan the appellant is hereby reinstated into government Service against the post of PST. (BPS-12) at GGPS Goshali District Kohistan subject to the outcome finding.

NOTE

No TA/DA is allowed.

Charge report should be submitted to all concerned.

District Education Officer
(Female) Kohistan

Endst No. 7109-16/DEO (F) KH/Dated the 16/07/2020

Copy of the above is forwarded to the

1. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. The Addl Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. The Section Officer (Lit-II) Department Peshawar.
4. Deputy Commissioner Kohistan.
5. The Deputy District Education Officer (F).
6. The District Account Officer (F) Kohistan.
7. The Sub-Divisional Education Officer (F) Kohistan.
8. Office File.

District Education Officer
(Female) Kohistan

~~District Education Officer
(Female) Swabi~~

OFFICE OF THE DISTRICT EDUCATION OFFICER

(FEMALE) KOHISTAN

OFFICE ORDER

WHEREAS Mst. Nazia Qazi PST was appointed as PST teacher at GGPS Kai Seo on 07-10-2000 and was transferred to District Swabi by the Director E&SE vide 4980-85 on 20-08-2011 and the inter district transfer order withdrawn on 22-10-2015 bearing Endstt No 3807-15

WHEREAS Mst. Nazia Qazi PST was proceeded under the Khyber Pakhtunkhwa Government (servant (Efficiency & Discipline) rule 2011 on account of fact finding inquiry report submitted to the DEO (F) Kohistan on 24-08-2015 and the DEO (Female) Kohistan issued her removal from service office order on 22-10-2015 bearing Endstt No 7105-10 and the teacher was on the jurisdiction of DEO (F) Swabi

WHEREAS The teacher filed the writ petition in the honorable service tribunal on 03-04-2016 and the honorable court set-aside the office order of removal from service bearing Endstt No 7105-10 Dated 22-10-2020 with the direction of de-novo enquiry.

WHEREAS The DEO (F) Kohistan issued re-instatement office order of the teacher for the purpose of de-novo enquiry on 16-07-2020 bearing Endstt 7109-16 and the couplet of the order appointed for the said enquiry

WHEREAS The enquiry officers conducted the enquiry of the said teacher and submitted the report with the clear and recommendations for permanent re-employment and the back benefits w.e.f. 04-08-2016 up to the current month and 12 months of intervention period

THEREFORE In the light of the court decision and the recommendation of de-novo enquiry report the teacher re-instated permanently with the recommended back benefits in Para no 1 of the office order and retained the office order no 7109-16

TERMS/ CONDITIONS:

1. No TA/DA is allowed
2. Charge report should be submitted to concerned
3. The seniority of the intervention period will be annexed with the previous service of this post

(Reliana Yasmeen)
District Education Officer
(Female) Kohistan

Sl. No. Estt/ Secd 7307-14 DEO (F) Dated 10.1.9 2020

Copy of the above is forwarded to

1. The Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. The Deputy Commissioner District Kohistan
3. The District Monitoring Officer Kohistan
4. The Registrar service tribunal Khyber Pakhtunkhwa Peshawar
5. The Add. Advocate service tribunal Khyber Pakhtunkhwa Peshawar
6. The Sub-Divisional Education Officer (F) Dasse
7. The Teacher concerned
8. PA to DEO (F) Local Office

District Education Officer
(Female) Swabi

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OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) KOHISTAN

OFFICE ORDER

WHEREAS Mst Nazia Qazi PST was appointed as PST teacher at GGPS Kai Seo on 07.12.2006 and was transferred to District Swabi by the Director E&SE vide 4980-85 on 20.09.2011 and the inter District transfer order withdrawn on 22.10.2015 bearing Endst No. 3887-24.

Whereas Mst Nazia Qazi PST was proceeded under the Khyber Pakhtunkhwa Government servant (Efficiency & Discipline) rule 2011 on account of fact finding inquiry report submitted to the DEO (F) Kohistan on 24.08.2015 and the DEO (Female) Kohistan her removal from service office order on 22.10.2015 bearing Endst No. 7105-10 while the teacher was on the jurisdiction of DEO (F) Swabi.

WHEREAS the teacher the writ petition in the honorable service Tribunal on 06.04.2016 and the Honorable Court set aside and the office order of removal from service bearing Endst No. 2105-10 dated 22.10.2022 with the direction of denovo enquiry.

WHEREAS the DEO (F) Kohistan issued re-instatement office order of the teacher for the offices appointed for the said inquiry.

WHEREAS the enquiry officers conducted the enquiry of the said teacher and report with the report with the clear recommendations of permanently and the back benefits w.e.f 04.9.2019 up to the current month and 16 months of intervention period.

WHEREAS in the Light of court decision and the recommendation of denovo inquiry report the teacher reinstated permanently with the recommendation back benefits in para No of this office order and reinstated the office order No 7109-16.

TERMS AND CONDITIONS

1. No TA/DA was allowed.
2. Charge report should be submitted to concerned.
3. The seniority of the intervention period will be annexed with the pervious service of the post.

(Rehana Yasmeen)
District Education Officer
(Female) Kohistan

Endst No Estt Sec 7307-14, DEO (F) 10/09/2020

Copy forwarded to

1. The Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. The Deputy Commissioner District Kohistan.
3. The District Monitoring Officer Kohistan.
4. The Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
5. The Add Advocate Service Tribunal Khyber Pakhtunkhwa Peshawar.
6. The Sub-Divisional Education Officer (F) Dasso.
7. The teacher concerned.
8. PA to DEO (F) Local office.

District Education Officer

District Education Officer
(Female) Swabi