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Service Appeal No.7779/2021 titled "Muhammad Bashir versus the Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar and others" and Service Appeal No.7871/2021 titled "Abdur Rashid, versus the Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar and others" decided on 02.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member (Executive) Khyber Pakhtunkhwa Service Tribunal, Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.7779/2021

Date of presentation of Appeal.....09.12.2021
Date of Hearing.....02.10.2024
Date of Decision.....02.10.2024

Muhammad Bashir, Deputy Director, Directorate of Higher Education, Rano Ghari, Chamkani Mor, Peshawar
.....(**Appellant**)

Versus

1. **The Chief Secretary**, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
2. **The Secretary**, Higher Education Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.
3. **The Chief Minister**, Khyber Pakhtunkhwa through Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar.
4. **The Secretary Finance**, Government of Khyber Pakhtunkhwa, Peshawar.
5. **The Director**, Directorate of Higher Education, Khyber Pakhtunkhwa, Chamkani Mor, Peshawar.....(**Respondents**)

Present:

Akhunzada Ahmad Saeed, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION/ORDER DATED 29.06.2021 WHEREBY MINOR PENALTY OF WITHHOLDING OF TWO INCREMENTS FOR ONE YEAR WAS IMPOSED UPON THE APPELLANT AND AGAINST THE NOTIFICATION/ORDER DATED 25.10.2021 WHEREBY THE REVIEW PETITION OF THE APPELLANT WAS REGRETTEED.



Service Appeal No.7871/2021

Date of presentation of Appeal.....09.12.2021
Date of Hearing.....02.10.2024
Date of Decision.....02.10.2024

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Service Appeal No.7779/2021 titled "Muhammad Bashir versus the Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar and others" and Service Appeal No.7871/2021 titled "Abdur Rashid, versus the Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar and others" decided on 02.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member (Executive) Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Abdur Rashid, Deputy Director (Sports), Higher Education, Khyber Pakhtunkhwa, Peshawar.....(Appellant)

Versus

1. **The Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.**
2. **Accountant General, Khyber Pakhtunkhwa, Peshawar.**
3. **Secretary Higher Education, Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.**
4. **Additional Secretary (Dev) Higher Education Department, Khyber Pakhtunkhwa, Peshawar.**
5. **Director Higher Education, Khyber Pakhtunkhwa, Peshawar.**
6. **Deputy Director (IT) HEMIS Cell, Higher Education Department, Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Present:

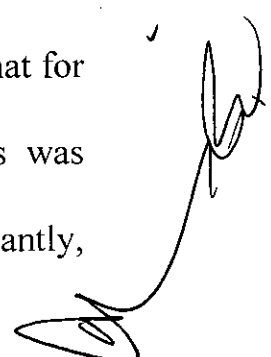
Mr, Sagheer Iqbal Gulbela, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE NOTIFICATION DATED 29.06.2021 WHEREBY MINOR PENALTY OF WITHHOLDING OF TWO INCREMENTS FOR ONE YEAR WAS IMPOSED UPON THE APPELLANT AND AGAINST THE NOTIFICATION DATED 25.10.2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REGRETTEED.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment, the above two appeals, are jointly taken up, as both are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

02. Brief facts of the cases as reflected from the record, are that the appellants were serving in the Higher Education; that for appointment of some vacant posts, appointment process was initiated, wherein a candidate filed complaint; that resultantly,



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after issuance of show cause notices and charge sheets, vide impugned orders dated 29.06.2021, both the appellants were awarded minor penalties of withholding of two annual increments for one year; that feeling aggrieved, they filed departmental appeals but the same were rejected on 25.10.2021, hence, the instant service appeals.

03. On receipt of the appeals and their admission to full hearing, the respondents were summoned. Respondents put appearance and filed written replies. The defense setup was a total denial of the claim of the appellants.

04. We have heard learned counsel for the appellants and learned Deputy District Attorney for respondents.

05. 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).

06. The case presents a scenario where the appellants, who were serving as Deputy Directors in the Higher Education Department allegedly put engaged in the recruitment process of 29 Teaching Assistants. A complaint was lodged by one of the candidates, which lead the process into departmental proceedings. Show cause notices were issued to the appellants. Preliminary inquiry was also conducted in the matter. Resultantly, they were



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held guilty and were awarded minor penalties of withholding of increment for one year.

07. In the process of inquiry, the appellants were not granted any opportunity of personal hearing or cross-examination. The inquiry does not show involvement of the appellants of these appeals in any manner. Besides, none of the appellants were found connected with the episode in any manner, therefore, penalizing them would be injustice. Charge sheets were also not served upon the appellant. Under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973, the appellants were rightful to be treated fairly and fair treatment was that of given them chance of hearing. The whole disciplinary process has initiated in a one-sided manner.

08. In view of the above, the appeals in hand are accepted and the impugned orders dated 29.06.2021 stand set aside. Costs shall follow the event. Copy of this judgment be placed on file of connected appeal. Consign.

09. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 2nd day of October, 2024.*


KALIM ARSHAD KHAN
Chairman


FAREEHA PAUL
Member (Executive)

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ORDER

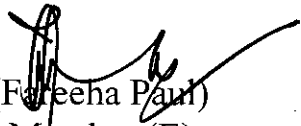
2nd Oct. 2024


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

2. Vide our consolidated judgment of today placed on file, the appeal in hand is accepted and the impugned order dated 29.06.2021 stands set aside. Costs shall follow the event. Copy of the judgment be placed on file of connected appeal. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 2nd day of October, 2024.*

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(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah