

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**  
**RASHIDA BANO ...MEMBER (Judicial)**

*Service Appeal No.7754/2021*

Date of presentation of appeal.....10.11.2021  
Dates of Hearing.....03.10.2024  
Date of Decision.....03.10.2024

**Naqeeb Ahmad Jan** son of Fazal Aziz resident of Village Tehsil Kabal, District Swat, Ex-Subject Specialist (Urdu) Government Higher Secondary School, Baidara, District Swat.....(**Appellant**)

Versus

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat, Peshawar.
2. **Secretary** Elementary & Secondary Education Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. **Chief Minister Khyber Pakhtunkhwa** through its Principal Secretary, Chief Minister House, Sahibzada Abdul Qayyum Road, Peshawar.
4. **Principal** Government Higher Secondary School, Baidara District Swat.
5. **Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.....(**Respondents**)

Present:

Mr. Sajeed Khan Afridi, Advocate.....For the appellant  
Mr. Muhammad Jan, District Attorney.....For respondents

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**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 11.10.2021 WHEREBY REPRESENTATION/APPEAL OF THE APPELLANT WAS DISMISSED BY THE RESPONDENTS AGAINST THE NOTIFICATION DATED 04.03.2021.**

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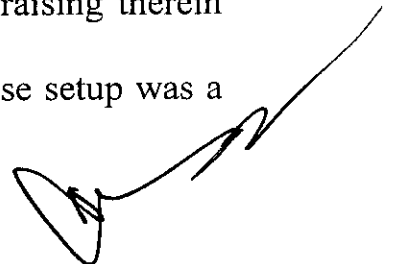
**JUDGMENT**



**KALIM ARSHAD KHAN CHAIRMAN:** Appellant's case in brief, as per averments of appeal, is that he was initially appointed

as a Subject Specialist (Male) in BPS-17 on July 17, 2008. He subsequently applied for study leave on half pay to pursue a Ph.D. at the University of Peshawar, which was granted from August 1, 2012, to July 31, 2015. After completing his Ph.D, he resumed his duties at Government Higher Secondary School Baidara, Swat. In March 2018, the appellant applied for three years Leave Without Pay, which was endorsed by the school Principal. However, upon his return, the Principal refused to accept his arrival report, stating that his position had been filled by another individual on January 25, 2019. The appellant faced an inquiry process initiated by the respondents, resulting in a charge sheet and allegations against him. The Inquiry Committee recommended a recovery of Rs. 10,61,222/- and suggested a major penalty for violation of the rules. Consequently, on March 4, 2021, the respondents imposed the penalty of removal from service, along with the recovery amount. The appellant's subsequent representation to the Chief Minister of Khyber Pakhtunkhwa was rejected on October 11, 2021. Aggrieved by these decisions, the appellant has filed the present service appeal contesting the legality of the actions taken against him.

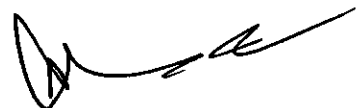
02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.



03. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

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

05. The appellant asserts that he was appointed as a Subject Specialist (Male) in BPS-17 on July 17, 2008, and was granted study leave from August 1, 2012, to July 31, 2015, to pursue a Ph.D. Upon completing his degree, he resumed his duties at Government Higher Secondary School Baidara, Swat. In March 2018, he applied for three years of Leave Without Pay, which was endorsed by the school Principal. However, upon his return, the principal refused to accept his arrival report, claiming that his position had been filled on January 25, 2019. Following this, an inquiry was initiated against the appellant, resulting in a charge sheet and recommendations for a recovery of Rs. 10,61,222/-, alongside a major penalty for alleged rule violations. On March 4, 2021, the respondents imposed the penalty of removal from service, which was upheld despite the appellant's appeal to the Chief Minister of Khyber Pakhtunkhwa being rejected on October 11, 2021. The appellant, feeling aggrieved by these actions, has filed the present service appeal, challenging the legality and fairness of the decisions made against him.



06. In the case in hand, although, inquiry has been conducted, however, no opportunity of defense has been granted to the appellant nor opportunity of cross-examination was afforded to the appellant.

07. In view of the above, the impugned order dated 24.03.2021 stands set aside and the matter is remitted back to the respondents with direction to reinstate the appellant into service for de-novo inquiry duly associating the appellant in the proceeding by giving him opportunity of defense and cross-examination. Costs shall follow the event. Consign.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3<sup>rd</sup> day of October, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**RASHIDA BANO**  
Member (Judicial)

S.A #.7754/2021


**ORDER**

3<sup>rd</sup> Oct. 2024

1. Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present. Heard.
2. Vide our detailed judgment of today placed on file, the impugned order dated 24.03.2021 stands set aside and the matter is remitted back to the respondents with direction to reinstate the appellant into service for de-novo inquiry duly associating the appellant in the proceeding by giving him opportunity of defense and cross-examination. Costs shall follow the event. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3<sup>rd</sup> day of October, 2024.*



(Rashida Bano)  
Member (J)



(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*