

Service Appeal No.7119/2021 titled "Mst. Yasmin Begum versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others" and Service Appeal No.7941/2021 titled "Mehr Un Nisa versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others" decided on 03.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member (Judicial) Khyber Pakhtunkhwa Service Tribunal, Peshawar

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR**

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

***Service Appeal No.7119/2021***

Date of presentation of Appeal.....24.06.2021  
Date of Hearing.....03.10.2024  
Date of Decision.....03.10.2024

**Mst. Yasmin Begum** CT (BPS-15) daughter of Khair Muhammad presently posted at GGMS Rehman Shah Kaley resident of Sama Badhber, Hassan Khel Sub Division, Peshawar.....(**Appellant**)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Elementary and Secondary Education, Peshawar.
2. **District Education Officer (M)** Peshawar.
3. **Directorate** of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. **District Education Officer (F)** Bannu.
5. **Mst. Samina Yaseen** (SCT PPS-16) daughter of Ghulam Muhammad presently posted at GGMS Javed Iqbal Kaley, HassanKhel, Peshawar.  
.....(**Respondents**)

**APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER 17.03.2021 WHEREBY PROMOTION ORDER OF THE APPELLANT DATED 07.12.2020 WAS WITHDRAWN.**

***Service Appeal No.7941/2021***

Date of presentation of Appeal.....27.12.2021  
Date of Hearing.....03.10.2024  
Date of Decision.....03.10.2024

**Mst. Mehr Un Nisa** wife of Muqaddar Khan resident of House No.2 Defence Society District Mardan.....(**Appellant**)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Elementary and Secondary Education, Peshawar.
2. **District Education Officer (FR)** Peshawar.
3. **Director**, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. **District Education Officer** Sub Division Hassan Khel.

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5. **Mst. Samina Yaseen (SCT PPS-16)** daughter of Ghulam Muhammad presently posted at GGMS Javed Iqbal Kaley, HassanKhel, Peshawar.  
.....(**Respondents**)

**APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 17.03.2021, WHEREBY THE PROMOTION ORDER DATED 07.12.2020 OF THE APPELLANT AS SCT BPS-16 HAS BEEN WITHDRAWN AGAINST WHICH THE APPELLANT FILED A DEPARTMENTAL APPEAL ON 31.03.2021 WHICH HAS NOT BEEN DECIDED WITHIN THE STATUTORY PERIOD OF 90 DAYS.**

Present:

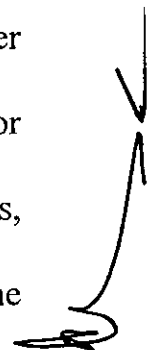
Miss. Roeeda Khan, Advocate.....For the appellants  
Mr. Muhammad Jan District Attorney.....For official respondents  
Mr. Taimur Ali Khan, Advocate.....For private respondent

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**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 available record, are that the appellants were appointed as Certified Teachers (BPS-09) in the Education Department vide order dated 21.03.2013; that they were performing their duties and vide order dated 07.12.2020, they were promoted to the post of Senior Certified Teachers (BPS-16); that after passing of three months, the promotion order 07.12.2020 was withdrawn by the



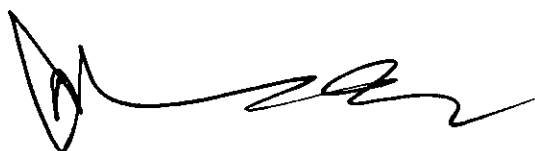
respondents with immediate effect; that feeling aggrieved, they filed departmental appeals but the same remained un-responded, hence, the instant service appeals.

03. On receipt of the appeals and their admission to full hearing, the respondents were summoned. Official respondents put appearance and filed written replies while right of private respondent was struck off due to non-submission of written replies/comments. The defense setup was a total denial of the claim of the appellants.

04. We have heard learned counsel for the appellants and learned District Attorney for official while learned counsel for the private 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, assisted by the learned counsel for the private respondent, controverted the same by supporting the impugned order(s).

06. The record reflects that the appellants were appointed as Certified Teachers (BPS-09) in the Education Department on March 21, 2013, and successfully performed their duties until their promotion to Senior Certified Teachers (BPS-16) on December 7, 2020. However, just three months later, this promotion was withdrawn by the respondents without prior notice. The appellants subsequently filed departmental appeals



seeking redress for this withdrawal, yet their appeals went unanswered. This lack of response has compelled them to file the instant service appeals, challenging the legality of the promotion's retraction and seeking restoration of their elevated status.

**07.** Record shows that before withdrawal of the promotion orders of the appellants, no show cause notice or any letter was issued to them.

**08.** Besides, the withdrawal of promotion constitutes a punitive action and, as such, necessitates adherence to the principles of natural justice. Prior to withdrawal, the concerned officials should have been afforded a fair and reasonable opportunity to:

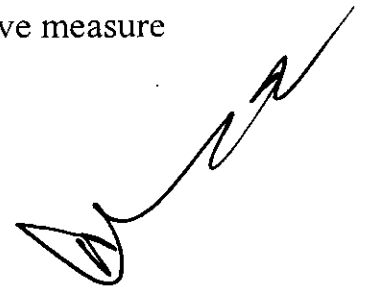
1. Be informed of the grounds for withdrawal.
2. Respond to the allegations.
3. Be heard through a fair and impartial inquiry.
4. Receive written notice of the intention to withdraw

promotion.

**09.** This ensures that the officials' rights are protected, and the decision is not made in accordance with established rules and procedures."

**10.** Alternatively, withdrawal of promotion is a punitive measure that requires:

1. Prior notice to the affected officials.
2. Disclosure of reasons for withdrawal.
3. Opportunity for representation and defense.



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4. Fair and impartial inquiry.

11. Failure to provide these safeguards may render the withdrawal decision vulnerable to challenge on grounds of procedural unfairness."

Or:

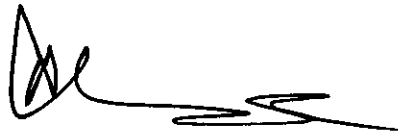
"Before withdrawing promotion, officials must be given:

1. Adequate notice.
2. Clear reasons for withdrawal.
3. Opportunity to respond and be heard.
4. Fair inquiry.

12. This ensures that the action is reasonable, proportionate, and in accordance with established disciplinary procedures.

13. In view of the above, these appeals are allowed and the impugned order dated 17.03.2021 is set aside to the extent of withdrawal of promotions of the appellants. Costs shall follow the event. Copy of this judgment be placed on file of connected appeal. Consign.

14. *Pronounced in open Court at Abbottabad 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)

25<sup>th</sup> Sept, 2024


None present on behalf of the appellant. Mr. Muhammad Jan,


District Attorney for official respondents present.

*Counsel inform  
By Telephone for  
the Date - 27-09-24*

File be put up for appearance of appellant/counsel on  
03/10/2024 before the D.B.

*RECEIVED  
10/10/2024*

  
(Rashida Bano)  
Member (Judicial)

  
(Aurangzeb Khattak)  
Member (Judicial)


\*Naeem Amin\*


S.A #.7119/2021

**ORDER**

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

1. Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for official respondents present. Private respondent present through counsel. Heard.
2. Vide our consolidated judgment of today placed on file, this appeal is allowed and the impugned order dated 17.03.2021 is set aside to the extent of withdrawal of promotion of the appellant. 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 3<sup>rd</sup> day of October, 2024.*

  
(Rashida Bano)  
Member (J)

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*