

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BEFORE: **AURANGZEB KHATTAK** ... MEMBER (Judicial)
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No. 14049/2020

Date of presentation of Appeal.....22.10.2020
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Umar Ayaz S/o Shaista Khan, R/o Village Havid Khas, GPS, Sra Darga.Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director, Elementary & Secondary Education, G.T.Road, Peshawar.
3. District Education Officer (Male), District Bannu.
4. Sub-Divisional Education Officer, Primary Education, District Bannu.
5. Members of the Inquiry Committee, through its Chairman, District Bannu.
6. District Education Officer (DEO), District Lakki Marwat.
7. District Accounts Officer, Bannu.
.....(Respondents)

Present:

Mr. Amanullah Marwat, Advocate,For appellant
Mr. Naseer-ud-Din Shah, Assistant Advocate GeneralFor respondents

JUDGMENT

AURANGZEB KHATTAK, MEMBER (JUDICIAL): The facts of the case, as alleged by the appellant in his memorandum of appeal, are that he was appointed as a male PTC teacher on October 29, 2009, in light of a judgment of the Supreme Court of Pakistan and a subsequent ruling by the Peshawar High Court, Circuit Bench, D.I.Khan. He assumed the charge of his post at Government Primary School, Haqdad, Sra Dargah, District Bannu; however, his salaries were withheld. He

filed applications to the respondents for addressing his salary issue, which were denied, leading him to file departmental appeal, which was not responded. He thereafter, filed Service Appeal No. 1167/2012 on October 24, 2012, before this Tribunal, which was disposed of with the direction to the departmental appellate authority to dispose of the departmental appeal of the appellant within a period of four months vide judgment dated November 14, 2017. The departmental appeal was not disposed of within the timeframe specified by this Tribunal, he filed Execution Petition No. 291/2018 before this Tribunal. However, during the pendency of the execution petition, the respondent-department rejected his departmental appeal vide order dated February 18, 2020. Feeling aggrieved, he approached this Tribunal by filing the instant appeal for redressal of his grievance.

2. The respondents were summoned, who contested the appeal by way of filing their respective written reply/comments.

3. The learned counsel for the appellant contended that the inquiry findings and the resultant order dated February 18, 2020, are fundamentally flawed and contravene established law. He next contended that the appointment order of the appellant complied with all legal procedures, including passing the merit examination. He further contended that the failure to release the salary of the appellant is not only unjust but also constitutes a violation of his fundamental rights. He further contended that inquiry conducted against the appellant was procedurally improper, highlighting that the appellant was neither invited to participate nor informed, which violates principles of fair process. He next argued that the name of the appellant was included on a legitimate


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merit list, reinforcing the validity of his appointment. He also argued that the appellant was singled out and labeled as having a fake appointment while others on the merit list were confirmed, suggests bias and unfair treatment from the respondents. In the last, he argued that the impugned orders set aside and the appellant may be reinstated in service with all back benefits.

4. On the other hand, the learned Assistant Advocate General for the respondents contended that this Tribunal lacks jurisdiction due to the absence of an original or appellate order relating to the appellant, who was not formally recognized as an employee of the department. He next contended that evidence on the case file indicates that the appellant was not an actual employee and that documents submitted by him, including appointment order, attendance registers, are fake and bogus. He further contended that a proper inquiry was conducted in the matter and that the findings of the inquiry report indicate that the appointment letter and attendance record annexed by the appellant alongwith his appeal, were forged. Lastly, he argued that the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record.

6. Perusal of the case file and available record shows that the appellant submitted an alleged appointment order dated October 29, 2009, which he claims was issued in compliance with the Supreme Court of Pakistan judgment dated May 28, 2002, as well as a judgment of Peshawar High Court, Circuit Bench D.I.Khan dated April 28, 2004.

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However, the appellant did not provide the judgment of the Supreme Court of Pakistan, which would substantiate that the appointment was founded upon this legal precedent. Additionally, while a copy of the Peshawar High Court judgment was annexed, it does not reference the appellant or include any applicable records pertinent to his appointment. Furthermore, the appellant failed to provide documentation related to the recommendations from the Departmental Recruitment Committee, which would indicate that the appointment was made in accordance with the necessary legal and procedural requirements. The lack of these critical documents has cast doubt on the authenticity of the appointment order presented by the appellant. Prior to filing the execution petition, the appellant had initiated Service Appeal No. 1167/2012 on October 24, 2012, seeking the release of his salary. On November 14, 2017, this Tribunal issued a judgment directing the departmental appellate authority to dispose of the departmental appeal within four months. The failure of the respondents to comply with this order necessitated the subsequent filing of Execution Petition No. 291/2018. Importantly, during the execution petition's pendency, departmental inquiry was conducted, which thoroughly examined the documents related to the appellant's appointment. This inquiry revealed significant irregularities; specifically, it was determined that the appointment order's dispatch numbers, along with the signatures of the competent authority and the Deputy District Education Officer (Dy.DEO), were fake and bogus. The inquiry committee further established that the appellant did not appear on either the merit list of Union Council or the district merit list for PTC posts and that the Departmental Recruitment Committee had not

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validated his candidacy. Following a careful review of the evidence, we find that the inquiry committee's conclusions were substantiated by the evidence presented. The inquiry underscored the discrepancies related to the authenticity of the appointment order and the factual basis of the appellant's claims regarding employment and salary entitlements. Ultimately, the findings indicated that the signatures on the appointment order were forged and recommended the initiation of criminal proceedings against the appellant under Sections 419 and 420 of the Pakistan Penal Code. Given the absence of authentic and credible documentation to support the appellant's claims of legitimate employment and the unanimous finding of the inquiry committee regarding the fraudulent nature of the appointment order, we are unable to accept the appeal.

7. Consequently, the appeal in hand is dismissed being devoid of merit. Parties are left to bear their own costs. File be consigned to the record room.

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



AURANGZEB KHATTAK
Member (Judicial)


24/09
2024.


RASHIDA BANO
Member (Judicial)

ORDER
24th Sept, 2024

1. Appellant alongwith his counsel present. Mr. Rafi Ullah, Litigation Officer alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, the appeal in hand is dismissed being devoid of merit. Parties are left to bear their own costs. File be consigned to the record room.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 24th day of September, 2024.*


(Rashida Bano)
Member (Judicial)


(Aurangzeb Khattak) 24/09
Member (Judicial)