

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No.1617/2023

Date of presentation of appeal.....07.08.2023
Dates of Hearing.....09.10.2024
Date of Decision.....09.10.2024

Mst. Rani Naz W/O Emmanuial Javed Leprosy Centre, DHQ
Hospital, Mardan.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Health, Civil Secretariat, Peshawar.
2. **Director General Health**, Civil Secretariat, Peshawar.
3. **Director Medical Complex Mardan**.....(*Respondents*)

Present:

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

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER NO.1005-10 DHO DATED 11.01.2023 WHICH IS PASSED AGAINST THE LAW AND WITHOUT LAWFUL AUTHORITY AS WELL AS AGAINST THE NATURAL LAW.

JUDGMENT



KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case in brief, as per averments of appeal, is that she was serving as Dai (BPS-04); that vide order dated 07.05.2014 she was removed from service which order was challenged before the Tribunal in Service Appeal No.1241/2014; that vide judgment, dated 05.03.2018, passed in the mentioned service appeal, the appellant was

reinstated into service and the respondents were directed to conduct de-novo inquiry within three months of receipt of that judgment; that accordingly, she was reinstated and inquiry was conducted; that vide impugned order dated 11.01.2023, the respondents treated the period w.e.f 08.08.2015 to 18.07.2019 was treated as leave without pay and the period from 08.05.2014 to 07.08.2015 was treated as leave with pay with immediate effect; that feeling aggrieved, she preferred departmental appeal but the same was not responded, hence, the instant service appeal.

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. It appears that the appellant, who served as a Dai (BPS-04), faced removal from service through an order dated May 7, 2014. She successfully challenged this decision in Service Appeal No. 1241/2014, leading to her reinstatement following a judgment on March 5, 2018, which mandated a de-novo inquiry to be completed

within three months. Upon her reinstatement, the inquiry was conducted; however, by the impugned order dated January 11, 2023, the respondents classified her absence from August 8, 2015, to July 18, 2019, as leave without pay, while the period from May 8, 2014, to August 7, 2015, was designated as leave with pay. Aggrieved of the above and the lack of response to her departmental appeal, the appellant filed the current service appeal.

06. The earlier order of her dismissal was challenged before this Tribunal and this Tribunal had ordered for de-novo inquiry. In respect of the issue of back benefits, the said issue was left subject to the outcome of de-novo inquiry. The impugned order was the outcome of the de-novo inquiry, wherein, service period has been calculated and the gap has been made good. Furthermore, the inquiry has held the appellant not entitled for back benefits which the appellant claims.

07. In view of the above, we do not deem it appropriate to interfere in the impugned order. Therefore, the appeal in hand stands dismissed with costs. Consign.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 9th day of October, 2024.*


KALIM ARSHAD KHAN
Chairman


FAREEHA PAUL
Member (Executive)

29.04.2024 Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Muhammad Atif, Assistant for the respondents present.

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Written reply on behalf of respondents have already been submitted through office on 25.09.2023, therefore, the case is adjourned. File to come up for arguments on 14.06.2024 before D.B. P.P given to the parties.




(Rashida Bano)
Member (J)

14.06.2024 1. Learned counsel for the appellant present. Mr. Arshad Azam, Assistant Advocate General for the respondents present.

2. Learned counsel for the appellant submitted an application for impleadment of Director Mardan Medical Complex as necessary party in the panel of respondents. Learned DDA raised no objection upon acceptance on impleadment application. Office is directed to make necessary entries in the memo of appeal with red ink. Notice be issued to newly impleaded respondent for reply through TCS, the expenses of which be deposited by the appellant within seven days. Adjourned. To come up for written reply as well as arguments on 13.09.2024 before the D.B. P.P given to parties.

SCANNED
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(Fareeha Paul)
Member (E)



(Rashida Bano)
Member (J)