

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

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

*Service Appeal No.1398/2022*

Date of presentation of appeal.....26.09.2022  
Dates of Hearing.....09.10.2024  
Date of Decision.....09.10.2024

**Mst. Afshan Samin, Arabic Teacher (BPS-15) Government Girls  
Middle School Talam Khan Killi, Peshawar.....(Appellant)**

Versus

1. **The Secretary** Elementary & Secondary Education, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **The District Education Officer (Female)** Peshawar.  
.....(**Respondents**)


Present:

Mr. Noor Muhammad Khattak, 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 ORDER DATED 04.04.2022  
WHEREBY THE APPELLANT HAS BEEN REMOVED  
FROM SERVICE AND AGAINST THE APPELLATE  
ORDER DATED 13.09.2022 WHEREBY THE  
DEPARTMENTAL APPEAL OF THE APPELLANT HAS  
BEEN REJECTED ON NO GOOD GROUNDS.**

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**JUDGMENT**



**KALIM ARSHAD KHAN, CHAIRMAN:** Appellant's case in brief, as per averments of appeal, is that she was appointed as Arabic Teacher (BPS-15) and was serving at GGMS Taleem Khan Kelly Peshawar vide order dated 21.10.2011; that while performing in the

said capacity, vide order dated 24.2.2015, she was transferred from GGMS Taleem Khan Kelly Peshawar to GGMS Bar Bar Opazai, Peshawar; that vide order dated 04.04.2022, she was removed from service alongwith recovery of Rs.30,23,550; that feeling aggrieved, she filed departmental appeal on 23.04.2022 but the same was regretted vide order dated 13.09.2022, 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. Record shows that that the appellant was appointed as an Arabic Teacher (BPS-15) at GGMS Taleem Khan Kelly Peshawar on October 21, 2011. Following a transfer to GGMS Bar Bar Opazai, Peshawar, on February 24, 2015, she continued her service until being removed from her position through an order dated April 4, 2022, which also included a financial recovery of Rs. 30,23,550.

Aggrieved by this decision, the appellant filed a departmental appeal

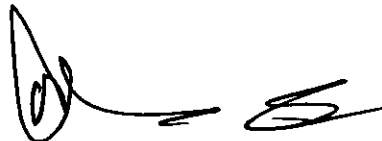


on April 23, 2022; however, this appeal was regretted in an order dated September 13, 2022. Consequently, the appellant has sought recourse through the present service appeal.

06. In the departmental appeal, the appellant had taken the stance that the school, to which the appellant was transferred, was closed due to the issue with the land owner. The said issue was brought by the appellant before the appellate authority that she could not serve there in a disturbed environment and might be adjusted somewhere else. Instead of considering her request, her departmental appeal was straight away regretted.

07. In view of the above situation, impugned order dated 04.04.2022 is set aside and the matter is remitted back to the department to conduct proper inquiry, keeping in view and enquiring the issue of the dispute between the Government and the land owner of the school concerned. Appellant is reinstated into service for the purpose of inquiry. The issue of back benefits shall be subject to the outcome of inquiry, which is to be conducted within 60 days of the receipt of this judgment. 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 9<sup>th</sup> day of October, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**FAREEHA PAUL**  
Member (Executive)

15<sup>th</sup> July, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District attorney for respondents present.

2. Former seeks adjournment on the ground that he has not prepared the case. Adjourned by way of last chance. To come up for arguments on 09.10.2024 before D.B. P.P given to the parties.

SCANNED  
KPGT  
Peshawar

(Fareeha Pual)  
Member (E)

(Kalim Arshad Khan)  
Chairman

\*Adnan Shah, P.A.\*

S.A #.1398/2022

**ORDER**

9<sup>th</sup> Oct. 2024

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

2. Vide our detailed order of today, impugned order dated 04.04.2022 is set aside and the matter is remitted back to the department to conduct proper inquiry, keeping in view and enquiring the issue of the dispute between the Government and the land owner of the school concerned. Appellant is reinstated into service for the purpose of inquiry. The issue of back benefits shall be subject to the outcome of inquiry, which is to be conducted within 60 days of the receipt of the judgment. 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 9<sup>th</sup> day of October, 2024.*

(Fareeha Pual)  
Member (E)

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*