

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.1801/2023 titled "Mst. Guddo Naheed versus Government of Khyber Pakhtunkhwa"

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
Order-13 30 th October, 2024.	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Muhammad Arshad Khan Tanoli, Advocate, for the appellants.2. Mr. Umair Azam, Additional Advocate General for the respondents. <p><u>Kalim Arshad Khan, Chairman:</u> Appellant case in brief, as reflected from the record, is that she joined the Education Department in the year 1995 against the post of Drawing Master; that that her services were terminated on 20.06.1997; that after announcement of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, she was reinstated into service on 11.05.2017 but her previous service benefits was denied by the respondents; that feeling aggrieved, she filed departmental appeal but the same was not responded, hence, the instant service appeal.</p> <ol style="list-style-type: none">3. Arguments heard. Record perused.4. This Tribunal in a number of cases has decided the same issue. The Tribunal vide its consolidated judgment passed in Service Appeal No.572/2019 titled "Muhammad Haroon VS. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & others" decided on 18th March, 2021, while dealing with almost similar case, has found as under: <i>"6. From the record it is evident that appellants and others who were appointed back in 1994-95 were terminated in 1996-97. Sacked</i>

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Employees (Appointment) Act, 2012 was specifically promulgated to extend relief to such sacked employees. Appellants were not considered for the reason best known to the respondents. The respondents, however, considered other similar cases just after promulgation of the Act ibid which was discriminatory on the part of respondents. It was upon the intervention of the Hon'ble Peshawar High Court that appellants were reinstated at a belated stage in 2017 but with immediate effect. The main concern of the appellants is that such employees would reach the age of superannuation before earning qualifying service for pensionary benefits. We have observed that appellants had possessed all the qualifications as prescribed in the Act like others. It is also on record that co-employees tried their level best for back benefits and their cases were dismissed by this Tribunal as their earlier stance was to get all service benefits. Feeling aggrieved from the judgment of this Tribunal CPLAs were filed in the Apex Court and relief of back benefits to co-employees was refused by the Apex Court too. However, Apex Court allowed counting of their service for the protected period for payment of pensionary benefits. The present appellants have a strong case as they had every right to be reinstated just after promulgation of the Act as they were having requisite qualification as prescribed in the Act. Their claim was accepted by the august High Court and reinstatement was ordered.

7. The present appellants have also prayed for all service back benefits with a request for counting of their service for the protected period in the light of judgment of the Apex Court which was passed in the case of co-employees. So, from the record, it is crystal clear that after promulgation of an Act in the year 2012, appointment order of the appellants were issued in the year 2017 and that too, on the directions of the august High Court. No doubt, similar appeals of the sacked employees were dismissed regarding the back benefits but the Apex Court allowed the co-employees counting of their service for the protected period for payment of pensionary benefits only. Case of the present appellants is at par with those sacked employees who were granted this benefit by the Apex Court, therefore, these appeals are accepted to the extent that the appellants are allowed counting of their services from the date of promulgation of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 only for payment of pensionary benefits. No order as to costs. File be consigned to the record room."

5. The learned Additional Advocate General raised the issue of limitation in this case. As the prayer of the appellant in the present service appeal is also the same as was in the above-mentioned service appeals, which had been granted to those appellants vide the above mentioned judgment while the august Supreme Court of Pakistan has granted the


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relief to the extent of entitlement of counting of their previous services from the date of promulgation of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 only for payment of pensionary benefits.

6. Therefore, the appellant of the instant service appeal shall also be extended the same relief because of the present appellant is at par with those sacked employees who were granted this benefit by the Apex Court, therefore, this appeal is accepted to the extent that the appellant is allowed counting of their service from the date of promulgation of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 only for payment of pensionary benefits. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Abbottabad under our hands and seal of the Tribunal on this 30th day of October, 2024.*


(Rashida Bano)
Member (J)

Mutazem Shah


(Kalim Arshad Khan)
Chairman



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Service Appeal No.1801 of 2023

Mst. Guddo Naheed

versus

Government of Khyber Pakhtunkhwa

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
<p><u>Order-12</u> 30th October, 2024.</p>	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Muhammad Arshad Khan, Advocate, Advocate, on behalf of appellant.2. Mr. Umair Azam, Additional Advocate General for the respondents <p>1. Reply has already been submitted by the respondents. The appeal in hand is admitted to regular hearing subject to all just and legal objections. Security fees be deposited within two days. The appeal is fixed for hearing for today before D.B at Camp Court, Abbottabad on the request of learned counsel for the appellant, to which learned AAG showed no objection. Parties are directed to appear before the D.B. P.P given to the parties.</p> <p style="text-align: right;">(Kalim Arshad Khan) Chairman Camp Court, Abbottabad</p> <p>*Mutazem Shah*</p>

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1801/2023

Date of presentation of Appeal 16.08.2023
Date of hearing 30.10.2024
Date of Decision 30.10.2024

Guddo Naheed, Drawing Master, GGHS Shamdhera, District Mansehra
.....**Appellant**

Versus

1. **Government of Khyber Pakhtunkhwa through Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar.**
2. **Director E&SE Department, Khyber Pakhtunkhwa, Peshawar.**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974

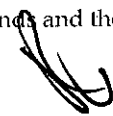
PRESENT

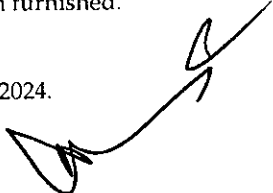
1. Mr. Muhammad Arshad Khan Tanoli, Advocate, for the Appellant
2. Mr. Umair Azam, Additional Advocate General, for respondents

Appellants	Amount	Respondent	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs. Nil-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
Total	Rs. Nil	Total	Rs. Nil

Note: Counsel Fee is not allowed as the required certificate has not been furnished.

Given under our hands and the seal of this Court, this 30th day of October 2024.


Rashida Bano
Member (Judicial)


Kalim Arshad Khan
Chairman