

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

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

*Service Appeal No.628/2022*

Date of presentation of Appeal.....07.04.2022  
Date of Hearing.....06.11.2024  
Date of Decision.....06.11.2024

**Naqeeb Ullah**, SPST Takht-E-Nusrati GPS Takht-E-Nusrati No.1,  
District Karak.....(**Appellant**)

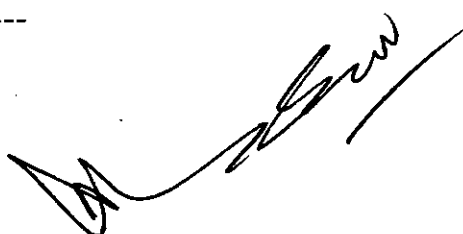
Versus

1. **The Secretary** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **The District Education Officer (Male)** Karak.
4. **The Accountant General**, Khyber Pakhtunkhwa, Peshawar.  
.....(**Respondents**)

Present:

Syed Noman Ali Bukhari, Advocate.....For the appellant  
Mr. Naseer Ud Din Shah, Assistant Advocate General.....For respondents

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE RECOVERY ENTRY DATED NIL OF RS.30500/- WHEREBY THE APPELLANT WAS DEPRIVED OF HIS ANNUAL INCREMENT FOR THE YEAR 2014 AND THE PAYMENT OF SALARY OF THREE MONTHS I.E. OF THE MONTH OF JUNE, JULY AND AUGUST TO THE APPELLANT, FOR WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL DATED 10.12.2021 WHICH HAS NOT BEEN RESPONDED WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

-----  


## **JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** Brief facts of the case, as per averments of the appeal, are that appellant was appointed as PST on contract adhoc/basis on contract vide order dated 31.05.2014; that his services were regularized under the Khyber Pakhtunkhwa employees of the elementary & Secondary Education Department (Appointment & Regularization of Services) Act, 2017 vide Notification dated 15.03.2018; that the Pay Fixation Party made entry for recovery of Rs.30500/- on the allegations that appellant was illegally granted increment for the year 2014, however, no recovery was made; that feeling aggrieved, he filed departmental appeal but the same was not responded, hence, the instant service appeal.

2. 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.

3. We have heard learned counsel for the appellant and learned Additional Advocate General for respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General controverted the same by supporting the impugned order(s).

5. In this case, the appellant was appointed as a Primary School Teacher (PST) on an adhoc/contract basis on 31.05.2014.

Subsequently, his services were regularized under the Khyber Pakhtunkhwa Employees of the Elementary & Secondary Education Department (Appointment & Regularization of Services) Act, 2017, via a notification dated 15.03.2018. However, during the pay fixation process, an entry was made by the Pay Fixation Party indicating a recovery of Rs. 30,500/- on the grounds that the appellant had allegedly been granted an increment for the year 2014 without due authorization. Despite this entry, no actual recovery was made from the appellant's pay. In response to this issue, the appellant filed a departmental appeal, but as no action was taken on the appeal, he proceeded to file the present service appeal. The crux of the matter involves the appellant's challenge to the entry for recovery, and the lack of a response to her departmental appeal.

6. This Tribunal vide its consolidated judgment dated 06.11.2023, passed in Service Appeal No.603/2022 titled "Mushtaq Ahmad & others versus Education Department" has decided the similar nature issue in the following manner:

*"7. Perusal of record reveals that appellants were appointed as Primary School Teachers vide appointment order dated 31.05.2014 and it is admitted fact that appellants submitted their arrival report on the same day i.e 31.05.2014. They were regularized from the date of their appointment, vide notification dated 15.03.2018. According to the terms and conditions as mentioned in the appointment order, they could draw their pay with effect from 01.09.2014, however in view of section 17 of Civil Servants Act, 1973 and FR17. The appellants are entitled for the payment of their salaries with effect from 31.05.2014, the date on which they submitted their arrival report. The appellants are thus entitled to receive salary for the months of June, July and August 2014. Moreover, while counting their service from 31.05.2014, the six months service period as required for grant of annual increment stood*



*completed and the appellants are thus legally entitled for annual increment of 2014. So far as the question of limitation is concerned, suffice it is state that being a financial matter, the appellant is having a continual cause of action, therefore, limitation will not have any adverse implication on the claim of the appellant.*


*8. For what has been discussed above, the instant appeal as well as connected service appeals are allowed as prayed for and the appellants are held entitled to all back benefits. Costs shall follow the event. Consign."*

7. Being similar in nature, instant service appeal is also decided in terms of the above judgment. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 6<sup>th</sup> day of November, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**RASHIDA BANO**  
Member (Judicial)

*\*Mutazem Shah\**



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Service Appeal No.628 of 2022

Naqeeb Ullah

versus

Government of Khyber Pakhtunkhwa

S.No. of Order & Date of proceeding	<b>Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary</b>
Order-15 6 <sup>th</sup> November, 2024.	<p><b><u>Kalim Arshad Khan, Chairman</u></b></p> <p>Present:</p> <ol style="list-style-type: none"><li>1. Syed Noman Ali Bukhari, Advocate, on behalf of appellant.</li><li>2. Mr. Naseer Ud Din Shah, Assistant Advocate General on behalf of respondents.</li></ol> <p>Vide our detailed judgment of today, placed on file, the instant appeal is allowed as prayed for and the appellant is held entitled to all back benefits. Costs shall follow the event.</p> <p>2. <i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 6<sup>th</sup> day of November, 2024</i></p> <div style="display: flex; justify-content: space-around; align-items: center;"><div style="text-align: center;"> (Rashida Bano) Member (J)</div><div style="text-align: center;"> (Kalim Arshad Khan) Chairman</div></div> <p><small>*Muazzem Shah*</small></p>

**MEMO OF COSTS**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No.628/2022**

Date of presentation of Appeal      07.04.2022  
Date of hearing                              06.11.2024  
Date of Decision                              06.11.2024

**Naqeeb Ullah**, SPST Takht-E-Nusrati GPS Takht-E-Nusrati No.1, District Karak.....(**Appellant**)

Versus

1. **The Secretary** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.  
.....(**Respondents**)

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


**PRESENT**


1. Syed Noman Ali Bukhari, Advocate, for the Appellant
2. Mr. Naseer Ud Din Shah, Assistant Advocate General, for respondents

<b>Appellants</b>	<b>Amount</b>	<b>Respondent</b>	<b>Amount</b>
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. 100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
<b>Total</b>	<b>Rs. 100/-</b>	<b>Total</b>	<b>Rs. Nil</b>

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 6<sup>th</sup> day of November, 2024.

  
Rashida Bano  
Member (Judicial)

  
Kalim Arshad Khan  
Chairman