

Service Appeal No.2453/2023 titled "Abdul Qayyum Versus The Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and others" decided on 23.10.2024 Division Bench comprising Mr. Kalim Arshad Khan, Chairman and Mr. Muhammad Akbar Khan Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

BEFORE: KALIM ARSHAD KHAN ... MEMBER (J)
MUHAMMAD AKBAR KHAN ... MEMBER (E)

Service Appeal No. 2453/2023

Date of presentation of Appeal.....06.11.2023

Date of Hearing.....23.10.2024

Date of Decision.....23.10.2024

Abdul Qayyum, PTC (BPS-07) GPS Khadam Killi,
Jarud.....(Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar.
 2. The Director Education, Elementary & Secondary Education. Khyber Pakhtunkhwa, Peshawar.
 3. The District Education Officer, District Khyber.
 4. The District Account Officer, District Khyber at Jamrud.
-(Respondents)

Present:

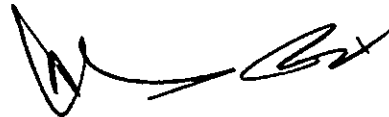
MUHAMMAD AMIN AYUB,
Advocate

--- For appellant.

NASEER-UD-DIN SHAH,
Assistant Advocate General

--- For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE ORDER DATED 03.05.2023 COMMUNICATED ON 08.09.2023 WHEREBY ARREARS OF SALARIES W.E.F 07/2013 TO 02.07.2019 WITH ALL BACK WERE NOT GRANTED TO APPELLANT, AGAINST WHICH HE UNLAWFULLY REJECTED VIDE IMPUGNED APPELLANT LETTER DATED 09.10.2023.

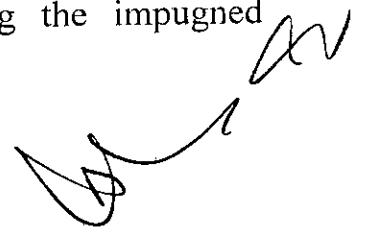


JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN:- Brief facts of the case as per memorandum of appeal, are that the appellant was appointed as PTC (BPS-07) vide order dated 26.07.2006 by respondents and posted at Boys Communal School, Botton Sharif. The appellant is basically aggrieved from the dated 03.05.2023 passed in light of the judgment of Hon'ble Peshawar High Court, Peshawar passed in Writ Petition No. 4147-P/2017 dated 03.10.2018, whereby the competent authority re-affirmed the corrigendum/reinstatement order dated 06.01.2023 and regularized the intervening period, during which he was abroad between his termination and reappointment/re-instatement period w.e.f. 04.03.2014 to 01.07.2019 treating as leave without pay (EOL). Feeling aggrieved from the impugned order dated 03.05.2023, the appellant filed departmental appeal on 27.09.2023 which was rejected vide order dated 09.10.2023, hence preferred the instant service appeal on 06.11.2023

02. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned Assistant Advocate General and have gone through the record with their valuable assistance.

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



04. The appellant was appointed as a PTC (BPS-07) on 26.07.2006 by the respondents and posted at Boys Communal School, Botton Sharif. The appellant's grievance arises from an order dated 03.05.2023, which was passed following the judgment of the Hon'ble Peshawar High Court in Writ Petition No. 4147-P/2017 dated 03.10.2018. The judgment led to the re-affirmation of the corrigendum/reinstatement order dated 06.01.2023. In line with the directions of the High Court, the intervening period between the appellant's termination and reappointment/reinstatement from 04.03.2014 to 01.07.2019 was treated as leave without pay (EOL). The appellant, dissatisfied with the treatment of this period, filed a departmental appeal on 27.09.2023, which was rejected on 09.10.2023. Consequently, the appellant preferred the current service appeal on 06.11.2023, challenging the legality and fairness of the impugned orders.

05. The appellant had earlier approached the Peshawar High Court, Peshawar by filing Writ Petition No.4741-P/2017 for his reinstatement. The relief was granted in the following manner:

"For what has been discussed above, the instant writ petition is allowed, the impugned termination order dated 04.03.2014 is set aside and the petitioner is reinstated in service, however, the respondents are directed to initiate proper regular inquiry against him under the relevant Rules as to whether during his absence from job he was employed elsewhere or not. Since the petitioner has not worked against the post, therefore, he is not entitled to the wages for intervening period and his said period be treated as leave without pay."

06. Whereas, the respondents, instead of reinstating the appellant, re-appointed him, however the appellant was aggrieved of the word re-appointment, therefore, filed COC petition and accordingly, the Peshawar High Court ordered the respondents to consider him as reinstated into service



by replacing the word “re-appointment” with “re-instatement”. In compliance of the directions, the respondents made the ordered replacement. The appellant, on the basis of that replaced word “reinstatement” has sought back benefits of the intervening period. While the back benefits have categorically been denied to the appellant by the Hon’ble High Court.

07. In view of the above, instant service appeal, being devoid of any merits, stands dismissed with costs. Consign.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 23rd day of October, 2024.*



(KALIM ARSHAD KHAN)
CHAIRMAN



(MUHAMMAD AKBAR KHAN)
MEMBER (E)

Kamranullah

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.2453/2023

Date of presentation of Appeal.....06.11.2023
Date of Hearing.....23.10.2024
Date of Decision.....23.10.2024

Abdul Qayyum, PTC (BPS-07) GPS Khadam Killi,
Jarud.....(Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar.
2. The Director Education, Elementary & Secondary Education. Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer, District Khyber.
4. The District Account Officer, District Khyber at Jamrud...(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION/OMISSION OF RESPONDENT DEPARTMENT WHEREBY HIS MONTHLY SALARY HAS BEEN STOPPED W.E.F. 21/09/2022 AND BEING AGGRIEVED WITH THIS INACTION/OMMISSION, THE APPELLANT HAS BEEN DULY FILED DEPARTMENTAL APPEAL/REPRESENTATION DATED 13.07.2023, AND THE RESPONDENT AUTHORITY IS RELUCTANT TO PASS ANY APPROPRIATE ORDER, THUS, THE SAMME HAS NOT BEEN DECIDED DESPITE OF EXPIRY OF STATUTORY PERIOD, HENCE, THIS APPEAL.


PRESENT

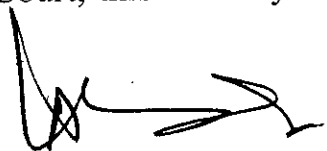
1. Mr. Muhammad Amin Ayub, Advocate on behalf of the appellant present.
2. Mr. Naseer Ud Din Shah, Assistant Advocate General, for respondents present.

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. 100/-	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. 100/-	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 23rd day of October, 2024.

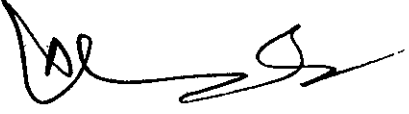


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 1453/2023

Abdul Qayyum versus Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar and three others

S. No. of Order & Date of Proceedings	Order or other proceedings with signature of Chairman/Member (s)/Registrar and that of parties or counsel where necessary
<p><u>Order-09</u> 23rd October, 2024</p>	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Muhammad Amin Ayub, Advocate on behalf of the appellant present.2. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.3. Vide our detailed judgment of today placed on file, the instant service appeal, being devoid of any merits, stands dismissed with costs. Consign.4. <i>Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 23rd day of October, 2024.</i> <p style="text-align: right;"> (KALIM ARSHAD KHAN) CHAIRMAN</p> <p style="text-align: right;"> (MUHAMMAD AKBAR KHAN) MEMBER (E)</p> <p>*Kamranullah*</p>