

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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

Service Appeal No.302/2023

Date of presentation of Appeal.....10.02.2023
Date of Hearing.....04.11.2024
Date of Decision.....04.11.2024

Mrs. Ambreen Anjum Ex-Headmistress, Government High School
Qasab Khana, Peshawar.....(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. **Secretary to Government of Khyber Pakhtunkhwa** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.....(*Respondents*)

Present:

Mr. Ali Azim Afridi, 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 ORDER DATED 07.11.2022 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED DESPITE THE LAPSE OF 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 initially appointed as Certified Teacher and later on was appointed as Headmistress (BPS-17) through Khyber Pakhtunkhwa Public Service Commission vide Notification

dated 10.06.2011; that she was serving in GGHS Qasab Khana Peshawar as Headmistress; that in the relevant school, there was a canteen whose proprietor was a Naib Qasid namely Mian Arshad Khan; that the appellant instructed that he (Mian Arshad) cannot run canteen in the girls school, being a male; that the appellant also corresponded by the appellant to her high-ups, vide letter 23.11.2019; that a Certified Teacher namely Saima Yousaf, of the GGHS Qasaban Peshawar was also reported by the appellant to the high-ups by the appellant through letter dated 16.11.2021; that in the meanwhile, a student was allegedly raped by Mian Arshad Khan, Naib Qasid the FIR of which was registered by the parents of that student and the Naib Qasid was arrested; that an inquiry was initiated into the matter wherein, Mr. Abdul Saeed, Principal GHS No.3 was appointed as Inquiry Officer; that the appellant requested for replacing the said Inquiry Officer being the cousin of Saima Yousaf, who had allegedly personal grudges with the appellant; that despite her request, inquiry was conducted and she was proceeded against by issuing show cause notice which was replied by the appellant; that vide impugned Notification dated 07.11.2022, she was dismissed from service; that feeling aggrieved, she filed departmental appeal on 09.11.2022, however, the same was not responded within the statutory period of ninety days, 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 Assistant 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 Assistant Advocate General controverted the same by supporting the impugned order(s).
5. The appellant, who was initially appointed as Certified Teacher and after applying for the post of Headmistress she was appointed accordingly. While serving as Headmistress Government Girls High School, Qasaban, Peshawar, there was a canteen, run by a Naib Qasid namely Mian Muhammad Arshad upon which the appellant raised objection. Besides, she also reported a teacher namely Saima Yousaf regarding her absence from duty. In the meanwhile, the occurrence of rape of a student took place. An inquiry was ordered into the matter and inquiry officer namely Abdul Saeed, Principal GHS No.3, Peshawar was nominated, upon which, the appellant raised objection that the said officer was the cousin of Saima Yousaf against whom the appellant wrote to the high-ups. However, inquiry was conducted and the appellant was served with show

cause notice. Resultantly, she was dismissed from service vide order dated 07.11.2022. The said order was assailed by the appellant before the appellate authority but bore no response within 90 days, hence this appeal.

6. During the inquiry proceedings, the students who were examined, had alleged that the behavior of the appellant was rude, while teachers had also stated that the main alleged culprit namely Mian Arshad Khan was blue eyed of the appellant. They also complained about the behavior of the appellant. There is nothing contained in the inquiry report that the appellant was given any opportunity of cross-examining the witnesses nor the statements were reproduced, rather summaries of the statements were given in the inquiry report. The appellant was Headmistress of the school and although, she was responsible to the extent that she ought to have supervised any event happening in the canteen, which should have been in her knowledge and she should have taken proper steps in due course of time, but mere allegation of certain students and teachers and that too, about the harsh attitude of the appellant, no other particular act or connivance of the appellant was proved during the course of inquiry, which, otherwise, had no adverse effect because the appellant was not provided any opportunity of cross-examination.

7. In view of the above situation, the punishment awarded to the appellant is harsh and does not commensurate with the

guilt of the appellant. Therefore, the impugned Notification dated 07.11.2022 of dismissal of the appellant is set aside, appellant is reinstated into service and the penalty of dismissal is converted into withholding two annual increments for two years. 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 4th day of November, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Muzarem Shah


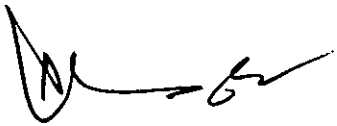
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.302 of 2023

Mst. Ambreen Anjum

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 4 th November, 2024.	<p><u>Kalim Arshad Khan, Chairman</u></p> <p>Present:</p> <ol style="list-style-type: none">1. Mr. Ali Azim Afridi, Advocate, on behalf of appellant.2. Mr. Naseer Ud Din Shah, Assistant Advocate General, on behalf of respondents.3. This case was fixed for 29.11.2024, however, on the written request of the learned counsel for appellant, the same was fixed for today i.e. 04.11.2024, for hearing.4. Vide our detailed judgment of today, placed on file, the impugned Notification dated 07.11.2022 of dismissal of the appellant is set aside, appellant is reinstated into service and the penalty of dismissal is converted into withholding two annual increments for two years. Costs shall follow the event. Consign.5. <i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 4th day of November, 2024</i> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p><small>*Mutazem Shah*</small></p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 302 of 2023

Mrs. Ambreen Amjum versus Govt. of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar and 02 others.

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>Order-12 24th October, 2024.</p> <p>SCANNED KPST Peshawar</p>	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Fazal Shah Mohmand, Advocate on behalf of the appellant.2. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents. <p>Learned counsel for the appellant seeks adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 29/11/2024 before D.B at the Principal Seat, Peshawar. <i>Parcha Peshi</i> given to the parties.</p> <p>(Fareeha Paul) Member (Executive)</p> <p>(Aurangzeb Khattak) Member (Judicial)</p> <p><i>*Naeem Amin*</i></p>

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.302/2023

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Mrs. Ambreen Anjum Ex-Headmistress, Government High School Qasab Khana,
Peshawar.....(*Appellant*)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
 2. Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
-(*Respondents*)

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


PRESENT

1. Mr. Ali Azim Afridi, Advocate, for the Appellant
2. Mr. Naseer Ud Din Shah, Assistant 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. 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 4th day of November, 2024.


Rashida Bano
Member (Judicial)


Kalim Arshad Khan
Chairman