

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BEFORE: **AURANGZEB KHATTAK** ... MEMBER (Judicial)
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No. 2222/2021

Date of presentation of Appeal.....01.02.2021
Date of Hearing.....27.09.2024
Date of Decision.....27.09.2024

**Muniza Akbar, SST, Government Girls Higher Secondary School
Dhobian District Swabi.**

.....**Appellant**

Versus

1. The Secretary, (E&SE) Department Khyber Pakhtunkhwa Peshawar.
 2. The Secretary Finance, Department of Finance, Khyber Pakhtunkhwa, Peshawar.
 3. District Education Officer (Female), District Swabi.
-**(Respondents)**

Present:

Mr. Munfat Ali Yousafzai, Advocate,For appellant
Mr. Muhammad Jan, District Attorney.....For respondents
.....

JUDGMENT

AURANGZEB KHATTAK, MEMBER (JUDICIAL): The facts of the case, as alleged by the appellant in her memorandum of appeal, are that she has been serving as SST Teacher in the respondent department since November 30, 2015. She earned her M.Phil degree from Shaheed Benazir Bhutto University Peshawar on August 5, 2016. She applied for the M.Phil allowance, which was granted to her from June 28, 2019, instead of August 5, 2016. Feeling aggrieved, she filed departmental appeal, which was not responded within the statutory period of 90 days, hence the instant appeal.

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2. On receipt of the appeals and admission to full hearing, the respondents were summoned but they failed to submit reply/comments, therefore, vide order dated 05.12.2022, the right of the respondents for submission of reply/comments was ceased.

3. The learned counsel for the appellant contended that due to continuous service of the appellant as an SST Teacher, along with her M.Phil qualification, entitling her to the M.Phil allowance from August 5, 2016 in light of Government of Pakistan's memorandum (F.No-3(6)IMP/2016-336) dated July 1, 2016, which allows M.Phil degree holders to receive a monthly allowance of Rs. 2500 starting from July 1, 2016. He next contended that the late approval and subsequent allowance from June 28, 2019, contravenes the clear provisions laid out in the earlier memoranda, which allow for payments from July 1, 2016. He further contended that the late approval of the allowance to the appellant is discriminatory and violates Articles 4 (right to fair treatment), 25 (right to equality), and 38 (right to social and economic welfare) of the Constitution of Pakistan. In the last, he argued that the appellant may be granted M.Phil allowance from August 5, 2016, rather than from the later date of June 28, 2019, with all back benefits.

4. Learned District Attorney for the respondents contended that the allowance in question starts from the date of approval by the competent authority and not from the date of degree acquisition or notification dated 14.07.2016. He next contended that the appellant was required to forthwith submit application with the competent authority for sanction of the said allowance after obtaining the M.Phil degree but she remained


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silent for longtime, however when she presented her M.Phil degree with application for the allowance, the same was allowed with immediate effect; that the appellant has not annexed the copy of the said application and the copy of the sanction order with the appeal to conceal the real facts from the Tribunal. He further argued that the allowance is allowed with immediate effect on presentation of the degree duly verified from the Higher Education Commission. He contended that the appellant is not entitled to recovery of any arrears of the allowance in question because the notification dated 14.07.2016 issued by the Finance Department is silent about the payment of any arrears of the allowance. He pointed out that the appellant has produced no documentary evidence to show that anyone else has received arrears of the M.Phil allowance. He requested for dismissal of the appeal.

5. We have heard the arguments of learned counsel for the appellant as well as learned District Attorney for the respondents and have perused the record.

6. The appellant has allegedly been serving as SST Teacher in the Education Department since November 30, 2015. She obtained her M.Phil degree from Shaheed Benazir Bhutto University Peshawar on August 5, 2016. The Government of Pakistan, through an office memorandum dated July 1, 2016, authorized an M.Phil allowance of Rs. 2500/- per month for employees with such degree recognized by the Higher Education Commission (HEC), effective from July 1, 2016. Additionally, the Khyber Pakhtunkhwa Finance Department issued a similar notification on July 14, 2016. The grievance of the appellant is

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that since she got her M.Phil degree in the year 2016, therefore, in view of the said notification dated 14.07.2016, the respondents were required to allow the allowance to her since 2016 but the department's decision to commence the M.Phil allowance to her from June 28, 2019 is wrong and liable to be corrected. As pointed out by the learned District Attorney the appellant has not annexed copy of her application with the appeal which was submitted by her with the competent authority for grant of the M.Phil allowance. She has also not annexed the order by virtue of which the allowance was granted to her. So it is not known as to when she applied for the grant of allowance. But as per contents of the appeal the allowance was granted to her on 28.06.2019, meaning thereby that the application for grant of the allowance was filed by her in the year 2019 after remaining silent for 03 years. She has annexed no documentary proof with her appeal to show that anyone else has received any arrears of the said allowance.


7. The notification dated 01.07.2016 issued by the Finance Division Islamabad and notification dated 14.07.2016 issued by the Finance Department Peshawar are silent about the payment of any arrears of the allowance. The allowance in question is not a general allowance rather it is a special allowance and is granted to those who acquire or possess M.Phil degree but any employee considering himself entitled for such allowance will have to apply for the same whenever he wishes so and if found eligible by the quarter concerned, the same may be granted to him with immediate. Since the appellant applied for the allowance by


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presenting her degree in the year 2019, therefore, the same has rightly been granted to her since 20.06.2019.

8. Consequently, the appeal is dismissed due to insufficient supporting documentation to warrant the claims for the M.Phil Allowance and arrears from the date claimed by the appellant. Parties are left to bear their own costs. The file is to be consigned to the record room.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 27th day of September, 2024*


AURANGZEB KHATTAK
Member (Judicial) 27/09/2024


RASHIDA BANO
Member (Judicial)


Nacem Amin


19th Sept, 2024

None present on behalf of the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

File be put up for appearance of appellant/counsel on 27/09/2024 before the D.B.

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INDEXED
Peshawar


(Fareeha Paul)
Member (Executive)



(Aurangzeb Khattak)
Member (Judicial)


Naeem Amin

ORDER

27th Sept, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Attiq-ur-Rehman, Assistant for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, the appeal is dismissed due to insufficient supporting documentation to warrant the claims for the M.Phil Allowance and arrears from the date claimed by the appellant. Parties are left to bear their own costs. The file is to be consigned to the record room.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 27th day of September, 2024.*


(Rashida Bano)
Member (Judicial)


(Aurangzeb Khattak) 27/09
Member (Judicial) 2024.

Naeem Amin