

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

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

Service Appeal No. 2402/2021

Date of presentation of Appeal.....02.02.2021
Date of Hearing.....09.10.2024
Date of Decision.....09.10.2024

Shahzad Alamgir Ex. EPI (Tech), BHU Daki, District Charsadda.
.....**Appellant**

Versus

1. The Secretary Health, Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. The District Health Officer, Charsadda.
.....**(Respondents)**

Present:

Mr. Taimur Ali Khan, Advocate.....For appellant
Mr. Muhammad Jan, District Attorney.....For respondents
.....

JUDGMENT

AURANGZEB KHATTAK, MEMBER (JUDICIAL): - Facts of the case as narrated by the appellant are that, he was appointed as PHC Technician (MP) on August 19, 2016. He reported to his duty station at BHU Daki on August 24, 2016, following medical clearance. Despite continuous service, his salary was withheld without explanation. He filed Writ Petition No. 5262-P/2019 in the Peshawar High Court. During proceedings, it was disclosed that his appointment order had been cancelled vide order dated January 18, 2017. The Peshawar High Court dismissed the case as withdrawn, allowing the appellant to challenge the cancellation separately. He filed

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departmental appeal on October 10, 2020, regarding cancellation of his appointment order and unpaid salary, which was not responded within the statutory ninety-day period. He has now filed the instant service appeal before this Tribunal for redressal of his grievance.

2. The respondents were summoned, who contested the appeal by filing written replies/comments.

3. The learned counsel for the appellant contended that the appellant was appointed as PHC Technician (MP) on August 19, 2016, following appropriate selection processes and reported for duty on August 24, 2016. He next contended that despite regular attendance, the appellant's salary was not released, therefore, multiple applications for salary release went unanswered, prompting the appellant to seek judicial intervention through a writ petition. He further contended that during the pendency of the writ petition, a cancellation order dated January 18, 2017, was served on the appellant, which is illegal and not tenable. He also contended that his diploma from the Skill Development Council was valid and the cancellation was based on a wrongful pretext of a different diploma being declared fake. He next argued that neither any inquiry was conducted in the matter nor show cause notice was issued before cancelling the appointment order of the appellant, hence, the appellant was condemned unheard. He further referenced a precedent (Writ Petition No.2351-P/2017), where Peshawar High Court ordered release of salary in a similar case, claiming entitlement under principles of equity. In the last, he argued that the appeal in hand may be accepted as prayed for.

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4. On the other hand, the learned District Attorney for the respondents opposed the contentions of the learned counsel for the appellant and argued that the appellant's appointment was provisional, contingent upon verification of educational credentials. He next contended that diploma of the appellant was later on verified as fake by the Faculty of Paramedical and Allied Health Sciences. He further contended that the appointment order of the appellant was cancelled in accordance with stipulated conditions that required authenticity of credentials for employment continuity. He also contended that the appellant was informed of the cancellation of appointment order. He next argued that the actions taken against the appellant were in line with legal and procedural standards, suggesting that appellant's recourse to this appeal is unfounded due to his submission of a fake diploma. He further argued that the appellant's failure to address the authenticity of his diploma in detail further weakens his case under the Qanun-e-Shahadat Ordinance 1984, which dictates that unchallenged facts are considered admitted. In the last, he argued that the appeal in hand may be dismissed being meritless.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. The available record shows that appellant seeks a remedy against the cancellation of his appointment as PHC Technician (MP) and the non-disbursement of his salary for the period from August 19, 2016 to September 22, 2020. The impugned order dated January 18, 2017, which allegedly cancelled appointment order of the appellant based on the submission of a fake diploma. The appellant's

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appointment was conditional upon the submission of verifiable academic credentials. The District Health Officer (DHO) of Charsadda initiated the verification process on December 5, 2016, by sending a letter to the Secretary, Khyber Pakhtunkhwa Medical Faculty, Peshawar, to verify the appellant's diplomas and certifications. Although the credentials were initially verified, the DHO raised concerns about the authenticity due to suspicious signature and absence of an official seal. Dissatisfied, the DHO sent another verification request on July 10, 2017, to the same authority. The Chief Executive Officer of the Faculty of Paramedical & Allied Health Sciences declared the credentials of the appellant as fake/bogus on January 12, 2017. However, the appellant contested this, claiming his diploma originated from the "Skill Development Council," not the "Faculty of Paramedical & Allied Health Science, Khyber Pakhtunkhwa." There is a lack of documentary evidence. Neither the original documents submitted by the appellant for his appointment nor the ones sent for verification by the respondents are on record. There were administrative discrepancies and potential misinterpretations regarding the appellant's qualifications. The failure to provide complete records and evidence complicates the case. Given these circumstances, we find that the evidence and documentation provided are incomplete to substantiate the claims against the appellant definitively. Thus, to ensure fairness, the case is remitted back to the respondents.


7. Consequently, the impugned order dated January 18, 2017, is set aside and the appellant is reinstated in service for the purpose of

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inquiry. The respondents are directed to conduct a comprehensive inquiry into the credentials and circumstances surrounding the appellant's appointment and its revocation within a period of 90 days from the date of receipt of a copy of this judgment. It is imperative that during this renewed inquiry process, the appellant be afforded a fair opportunity to present his case and defend his credentials. The inquiry should be thorough, objective and transparent, with all relevant documents and testimonies reviewed. The appellant must be given a fair chance to submit his documentation and any explanations regarding the credentials referenced in the appointment. Parties are left to bear their own costs. File be consigned to the record room.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 09th day of October, 2024.*



AURANGZEB KHATTAK
Member (Judicial)



RASHIDA BANO
Member (Judicial)

ORDER

09th Oct, 2024

1. Appellant alongwith his counsel present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, the impugned order dated January 18, 2017, is set aside and the appellant is reinstated in service for the purpose of inquiry. The respondents are directed to conduct a comprehensive inquiry into the credentials and circumstances surrounding the appellant's appointment and its revocation within a period of 90 days from the date of receipt of a copy of this judgment. It is imperative that during this renewed inquiry process, the appellant be afforded a fair opportunity to present his case and defend his credentials. The inquiry should be thorough, objective and transparent, with all relevant documents and testimonies reviewed. The appellant must be given a fair chance to submit his documentation and any explanations regarding the credentials referenced in the appointment. Parties are left to bear their own costs. File 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 09th day of October, 2024.*


(Rashida Bano)
Member (Judicial)


(Aurangzeb Khattak)
Member (Judicial)

29.07.2024 1. Junior to learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.

2. Junior to learned counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is busy before the Hon'ble Peshawar High Court, Peshawar. Last chance is given. To come up for arguments on 28.10.2024 before D.B. P.P given to parties.

SCANNED
K P S T
PESHAWAR



(Rashida Bano)
Member (J)



(Kalim Arshad Khan)
Chairman

Kaleemullah

Note

8th October, 2024 The case is accelerated being target one. Hence be fixed on 09/10/2024 before DB at Principal Seat Peshawar. The Counsel is informed telephonically.



(Habib Ur Rehman Orakzai)
Registrar