

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 950/2022

BEFORE: MRS. ROZINA REHMAN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Haleema Bibi (BPS-19) District Education Officer (Female) Chitral Lower, Tehsil and District Chitral Lower. (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department at Civil Secretariat, Peshawar.
3. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar..... (Respondents)

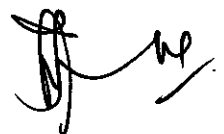
Mr. Sher Hyder Khan,
Advocate ... For appellant

Mr. Naseerud Din Shah,
Assistant Advocate General ... For respondents

Date of Institution..... 23.06.2022
Date of Hearing..... 23.12.2022
Date of Decision..... 23.12.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 17.06.2022 whereby the appellant was transferred from District Education Officer (Female) Chitral Lower and her services were placed at the disposal of Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa. It has been prayed that on acceptance of the appeal, the impugned order to the extent of the appellant



might be set aside and she might be allowed to complete her tenure according to Posting/Transfer Policy, 2009.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant while performing her duties in the respondent department was posted as District Education Officer (Female) Chitral Lower in pursuance of Notification dated 08.02.2022. After assumption of charge, the same posting/transfer notification was held in abeyance vide office order dated 22.02.2022 and subsequently restored on 05.04.2022. After performing her duty for 4 months, the appellant was again transferred vide order dated 17.06.2022 and her services were placed at the disposal of Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa. Feeling aggrieved, she submitted departmental appeal before the appellate authority on 20.06.2022, which was turned down on 21.06.2022; hence the present appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Assistant Advocate General for the respondents and perused the case file with connected documents in detail.

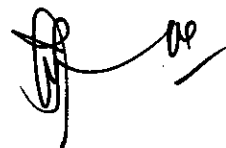
4. Learned counsel for the appellant after presenting the case in detail contended that the appellant throughout her career performed her duties honestly, fairly, efficiently and to the satisfaction of her superiors, specially her tenure of service on the subject post was exemplary and outstanding. Furthermore her excellent services as DEO (Female) Chitral Lower had been



highly appreciated by high ups of the department. He further contended that the impugned transfer order was in violation of Posting/Transfer Policy of the Provincial Government as the appellant was transferred three times within a short span of 04 months without observing the policy on the subject. He argued that the impugned order was against the principle of wedlock policy as husband of the appellant was serving in District Health Office, Chitral Lower. He requested that the appeal might be accepted as prayed for.

5. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, contended that the appellant was adjusted against the post of DEO(F) Chitral Lower for the purpose of smooth functioning of official business of the said district till the arrival of the incumbent from the management cadre for posting against the said post, as the appellant was basically working against the post of Principal in BPS-19, teaching cadre, and was liable to serve in the said capacity for which she had been recruited. He further contended that the post of the District Education Officer was purely a Management Cadre post while the appellant belonged to Teaching Cadre and she had been treated as per law and rules vide notification dated 17.06.2022. He further contended that the post of the appellant was provincial cadre post and as per Section 10 of Civil Servants Act, 1973, she was liable to serve anywhere in the province in exigencies of service. He requested that the appeal might be dismissed with cost.

6. Arguments and record presented before us indicates that the appellant is a BPS-19 officer in the teaching cadre of Elementary & Secondary



Education Department. She was serving as Principal, Government Girls High School, Broze, Chitral Lower from where she was posted as District Education Officer (F) Chitral Lower, when that position became vacant, as a stop gap arrangement. The position of DEO (F) is a management cadre post and being an employee of Teaching Cadre, the appellant should not have been appointed against that post. It is important to note here that the official respondents had been directed through various judgments not to intermingle the posts in two cadres and post officials from one cadre to the other. The respondents, however, failed to comply with those directions which is a sorry state of affairs. It has been noted that the responsible officers themselves defy the rules and policy of the Government. In the case in hand, the administrative department, after posting a teaching cadre employee against the management cadre post, realized that they have violated the policy and rules and hence they rectified it by placing the services of the appellant at the disposal of Directorate of Elementary and Secondary Education.

7. For what has been discussed above, we dismiss the appeal in hand. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 23rd day of December, 2022.*


(FAREEHA PAUL)
Member (E)


(ROZINA REHMAN)
Member (J)

23rd Dec. 2022

Mr. Sher Hyder Khan, Advocate for appellant present. Mr. Naseerud

Din Shah, Assistant Advocate General for the respondents present.

Arguments heard and record perused.

2. Vide our detailed judgement containing 04 pages, it transpires that the appellant is a BPS-19 officer in the teaching cadre of Elementary & Secondary Education Department. She was serving as Principal, Government Girls High School, Broze, Chitral Lower from where she was posted as District Education Officer (F) Chitral Lower, when that position became vacant, as a stop gap arrangement. The position of DEO (F) is a management cadre post and being an employee of Teaching Cadre, the appellant should not have been appointed against that post. It is important to note here that the official respondents had been directed through various judgments not to intermingle the posts in two cadres and post officials from one cadre to the other. The respondents, however, failed to comply with those directions which is a sorry state of affairs. It has been noted that the responsible officers themselves defy the rules and policy of the Government. In the case in hand, the administrative department, after posting a teaching cadre employee against the management cadre post, realized that they have violated the policy and rules and hence they rectified it by placing the services of the appellant at the disposal of Directorate of Elementary and Secondary Education. In the light of above discussion, we dismiss the appeal in hand. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 23rd day of December, 2022.*


(FAREEHA PAUL)
Member (E)


(ROZINA REHMAN)
Member (J)