

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, SWAT.

Service Appeal No. 803/2022

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

Zafar Iqbal (Private Secretary BPS-17) to Deputy Commissioner
 Dir Upper. (*Appellant*)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Secretary, Board of Revenue, Civil Secretariat Khyber Pakhtunkhwa, Peshawar.
4. Commissioner, Malakand Division, Saidu Sharif, Swat.
5. Deputy Commissioner Upper Dir. (*Respondents*)

Mr. Imran Khan,
 Advocate ... For appellant

Mr. Umair Azam Khan,
 Addl. Advocate General ... For respondents

Date of Institution.....18.05.2022
 Date of Hearing.....07.03.2023
 Date of Decision..... 07.03.2023

JUDGMENT

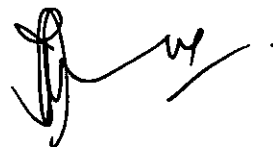
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the transfer order dated 11.02.2022 whereby the appellant was prematurely transferred, against which his departmental dated 15.02.2022 was not responded. It has been prayed that on acceptance of the appeal, the impugned order might be set aside and the



appellant might be allowed to continue his service on the post of Private Secretary to Deputy Commissioner Dir Upper.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially performing his duties as Senior Scale Stenographer (BPS-16) in the office of the Deputy Commissioner, Dir Upper. His services were surrendered to Commissioner Malakand vide office order dated 17.08.2018. He assumed the charge of Private Secretary BPS-17 to the Deputy Commissioner Dir Upper on 01.10.2019, and started performing his duties but vide office order dated 24.09.2020, his services were again transferred/surrendered to Board of Revenue, without completing the normal tenure. He was again posted as Private Secretary to the Deputy Commissioner, Dir Upper vide office order dated 29.01.2021. He assumed the charge of the post on 01.02.2021 but he was again transferred and placed at the disposal of the Board of Revenue vide order dated 29.06.2021. Vide office order dated 27.09.2021, he was posted as Private Secretary to the Deputy Commissioner, Dir Upper and he assumed the charge on 01.10.2021. Vide impugned order dated 11.02.2022, he was against prematurely transferred due to political motivation. Feeling aggrieved, the appellant preferred departmental appeal before the competent authority which was not responded; hence the present appeal.

3. Respondents were put on notice. They submitted their joint written reply/comments on the appeal and denied the claim of the appellant. We




have heard the learned counsel for the appellant and learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the details of the case and argued that the appellant was not treated in accordance with law and posting & transfer policy of the Provincial Government. He further argued that normal tenure of the posting was two years but the appellant spent only four months on the post of Private Secretary to Deputy Commissioner, Dir Upper. He further argued that according to the posting/transfer policy, all the posting/transfer should be strictly in public interest and should not be abused and misused to victimize the government servants. According to him the transfer order of the appellant was based on the malafide intention and was only to adjust their own blue eyed person. He requested that the appeal might be accepted as prayed for.

5. The learned Additional Advocate General while rebutting the arguments of learned counsel for the appellant argued that as per Section 10 of the Civil Servants Act, 1973, the appellant was bound to serve anywhere as required by his competent authority. He requested that the appeal might be dismissed.


6. After hearing the arguments and going through the record presented before us, it is evident that the appellant was never allowed to complete his posting tenure of two years since 2018. It has been noted that within a span of three and a half years, from August 2018 to February 2022, he

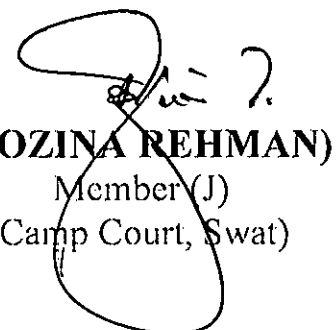


was surrendered four times from the position of Private Secretary to Deputy Commissioner, Dir Upper to the Commissioner Malakand and later on the Board of Revenue. During this entire period he was transferred again, four times, to the office of Deputy Commissioner, Dir Upper as his Private Secretary. Arguments of the Learned Additional Advocate General and reply of respondents do not present any reason why the appellant was surrendered by the Deputy Commissioner, Dir Upper and why he was transferred again to his office.

7. In view of the above discussion, the instant appeal is allowed with the directions to the respondents to allow the appellant to complete his normal tenure of posting of two years at the current position/station and only then he be transferred to any other office/station. Parties are left to bear their own costs. Consign.

8\ *Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal this 07th day of March, 2023.*


(FAREEHA PAUL)
Member (E)
(Camp Court, Swat)


(ROZINA REHMAN)
Member (J)
(Camp Court, Swat)