

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1202/2022

BEFORE: ROZINA REHMAN --- MEMBER(J)
MUHAMMAD AKBAR KHAN--- MEMBER(E)

Mst. Nadia Anjum D/o Faqir Muhammad R/o District
Abbottabad..... (*Appellant*)

VERSUS

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

Present:

ROEEDA KHAN
Advocate

--- For Appellant

ASIF MASOOD ALI SHAH,
Deputy District Attorney,

--- For respondents

Date of Institution.....01.08.2022

Date of Hearing.....21.03.2023

Date of Decision.....21.03.2023

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER(E):- The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

“That on acceptance of this appeal the impugned order dated 3103.2022 may kindly be set aside and the appellant may kindly be transferred from the post of SDEO Razzar Swabi to the post of Chota Lahore Swabi or may kindly be

transferred to any sub division Abbottabad City, Sub Division Lower Tanawal District Abbottabad in service alongwith all back benefits, any other remedy which this Hon'ble Tribunal deems fit that may also be granted in favor of the appellant."

02. Brief facts of the case are that the appellant was working in the respondent department has been promoted to the post of SDEO (BPS-17) and has been transferred/posted to SDEO Chota Lahore Swabi on 07.10.2021. However, he was subsequently transferred from Chota Lahore Swabi to Razzar Swabi vide impugned order dated 31.03.2022. Feeling aggrieved the appellant filed departmental appeal on 05.04.2022 which was not decided within the statutory period, hence the appellant filed the instant service appeal on 01.08.2022.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned Deputy District Attorney and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the appellant has been promoted to the post of SDEO (BPS-17) and transferred/posted as SDEO Chota Lahore Swabi on 07.10.2021. The appellant submitted her arrival report to the said post on 09.10.2021 but she was transferred from SDEO Chota Lahore Swabi to SDEO Razzar Swabi vide impugned order dated 31.03.2022 where she could only serve 05 months and 24


days. Learned counsel for the appellant further contended that the appellant is an unmarried lady and residing with her parents in District Abbottabad; that the appellant has not been treated in accordance with law and rules on the subject, as such, the respondents violated Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan; that the impugned order is against the transfer/posting policy, therefore not tenable and liable to be set aside;


05. Learned Deputy District Attorney for the respondents has contended that the appellant is liable to serve anywhere in the province as per law and rule; that under Section 10 of Civil Servant Act, 1973, the competent authority is empowered to transfer a civil servant from one place to another in exigency of service and in the public interest; that the civil servant has no vested right to claim posting/transfer of her choice; that the impugned order is therefore, legal, passed by the competent authority is according to law and rules, therefore, be maintained in favour of the respondent department and the service appeal be dismissed, he concluded.

06. From the discussion and perusal of record available on case file it transpired that the transfer of the appellant has been made within the same district and the appellant has also complied with the order and working at Tehsil Razzar of District Swabi for almost one year. No illegality or malafide was found involved, therefore, the instant appeal is dismissed. However, the respondent department may look into the convenience of the appellant being single lady on humanitarian ground to

adjust her posting in her home district or nearby home station whenever posting/transfer in the department is warranted. Consign.

07. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 21st day of March, 2023.*


(ROZINA REHMAN)
MEMBER (E)


(MUHAMMAD AKBAR KHAN)
MEMBER (J)