

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**Amended Service Appeal No. 3865/2021**

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN  
MISS FAREEHA PAUL ... MEMBER(E)

**Mr. Hidayat Ullah Librarian (BPS-18) Government Degree College  
Mathra, Peshawar. .... (Appellant)**

Versus

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Higher Education, Archives & Libraries Department,  
Peshawar.
3. The Director, Higher Education Khyber Pakhtunkhwa, Peshawar.
4. Mr. Ali Rehman, Government Degree College Sabir Abad, Karak.  
..... (Respondents)

Mr. Taimur Ali Khan,  
Advocate

... For appellant

Mr. Muhammad Jan,  
District Attorney,

... For official respondents

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Date of Institution.....26.03.2021  
Date of Hearing.....18.04.2023  
Date of Decision..... 18.04.2023

**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 notification dated 22.12.2020, whereby the appellant was transferred from Government Degree College Mathra, Peshawar to Government Degree College S.K Bala, Bannu and against the order dated 17.03.2021 whereby his departmental appeal was rejected during the pendency of the service appeal. It has been prayed that on acceptance of the



appeal, the impugned orders might be set aside to the extent of appellant and private respondent No. 4 and the respondent department might be directed not to transfer the appellant in violation of posting/transfer instructions.

2. Brief facts of the case, as given in the memorandum and grounds of appeal, are that the appellant was a bonafide resident of District Peshawar and working as Librarian (BPS-18) in the Government Degree College Mathra, Peshawar. Wife of the appellant was also working as Librarian (BPS-17) in Government Girls Degree College Mathra and his children were studying in Al-Amanah Youth Academy Rahatabad, Peshawar. Private respondent No. 4 was on deputation to Directorate of Archives & Libraries and on repatriation, he was posted at GDC Sabir Abad, Karak vide order dated 03.12.2020. He took over the charge of the said post on 10.12.2020. A notification dated 22.12.2020 was passed, whereby the appellant was transferred from Government Degree College Mathra, Peshawar to Government Degree College S.K Bala, Bannu and private respondent No. 4 was transferred on the post of the appellant. It is pertinent to mention here that in the same order Rehana Rahim at Sr. No. 6 was transferred from Government Girls Postgraduate College Mandian, Abbottabad to Government Girls Postgraduate College, Kohat and Saima Noreen at Sr. No. 7 from Government Girls Postgraduate College, Kohat to Government Girls Postgraduate College Mandian, Abbottabad, but transfer order of Saima Nooreen at Sr. No. 7 was cancelled and she was retained at Government Girls Postgraduate College Kohat and Rehana Rahim at Sr. No. 6 was transferred to her home District at GGDC Malikpura, Abbottabad



through a notification dated 19.03.2021, while appellant belonging to District Peshawar was transferred to Bannu despite the fact that his wife was also working as Librarian at Government Girls Degree College Mathra, Peshawar. Feeling aggrieved from the transfer notification dated 22.12.2020, the appellant filed departmental appeal on 24.12.2020 which was not responded within the stipulated period of ninety days; hence he filed service appeal before the Tribunal. During pendency of the appeal, the departmental appeal of the appellant was rejected on 17.03.2021, which was annexed with the written reply/comments submitted before this Tribunal. When the appellant received the rejection order dated 17.03.2021, he filed application for permission to amend the service appeal by challenging the rejection order dated 17.03.2021 which was allowed on 30.05.2022; hence the instant amended appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal except respondent No. 4, who was proceeded against ex-parte in the light of order sheet dated 31.03.2022. We have heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.

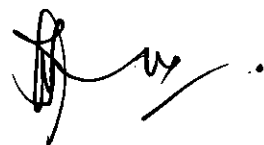
4. Learned counsel for the appellant after presenting the case in detail argued that the impugned transfer notification dated 22.12.2020 was passed in violation of instruction No. (ix) of posting/transfer policy. He further argued that wife of the appellant was also working as Librarian in Government Degree College Mathra, Peshawar and his children were



studying in Peshawar and under the spouse policy he was entitled to serve in District Peshawar. He further argued that according to posting/transfer policy, posting/transfer orders of all the officer up to BS-19, except Heads of the Attached departments irrespective of the grade, would be notified by the concerned Administrative Departments with prior approval of the competent authority but in the case of the appellant, no prior approval was obtained, which was violation of the posting/transfer policy. He requested that the appeal might be accepted as prayed for.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was working as Librarian at Government Degree College Mathra, Peshawar since 03.10.2011 and was rightly transferred to GDC, SK Bala, Bannu after completion of a long tenure there. Moreover, under Section 10 of the Civil Servant Act 1973, every civil servant was liable to serve anywhere as ordered 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 clear that the appellant was serving as Librarian in the Government Degree College Mathra, Peshawar since 2011, which indicates that he had completed his normal tenure rather overstayed not only at one station but in the same college. Record also indicates that respondent No. 4, on repatriation to his parent department, was adjusted in Karak on temporary basis in December 2020 and was later on posted at Peshawar in place of the appellant vide order dated 22.12.2020, that has been impugned before us. Through that order the appellant was transferred to Bannu. There is no



second opinion on the fact that posting/transfer is the prerogative of government through its competent authorities to whom this power has been delegated, based on different pay scales and the Tribunal abstains from interference unless the transfer order is found in utter disregard of the Posting/Transfer Policy or if that is found against the public interest or exigency or in case there is any malice floating on the face of record. There is also no second opinion on the fact that the appellant had completed his normal tenure of posting at Peshawar and that too in the same college for more than 10 years. In view of his overstay at one place, his competent authority had every reason to transfer him to any other station or college. As far as the Wedlock Policy is concerned, it is felt that the government may take into consideration the mental stress that the appellant and his wife would undergo as a result of transfer to some separate stations and hence try to adjust them in such a way that they are transferred at the same station.

7. In view of the above discussion, the appeal in hand is dismissed. Costs shall follow the event. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 18th day of April, 2023.*

  
(FAREEHA PAUL)  
Member (E)

  
(KALIM ARSHAD KHAN)  
CHAIRMAN

*\*Fazal Subhan PS\**