

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.1743/2022

Date of presentation of appeal01.12.2022
Dates of Hearing.....08.05.2023
Date of Decision.....08.05.2023

Munir Khan S/O Muhammad Yousaf (Tube Well Operator), Peshawar Museum, Peshawar R/o H# 204, Sector-5 Mohallah Mushtaq Abad, Nothia Jadeed, Peshawar.

.....(*Appellant*)

Versus

1. **Director, Archaeology & Museums, Khyber Pakhtunkhwa, Peshawar Museum, Peshawar.**
2. **Research Officer, Directorate of Archaeology & Museums, Peshawar.**
.....(*Respondent*)

Present:

Mr. Muhammad Maaz Madni,
Advocate.....For appellant.

Mr. Fazal Shah Mohmand,
Additional Advocate General.....For respondents.

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH ALL ENABLING LAWS AND RULES AGAINST THE IMPUGNED ORDER DATED 18.08.2022 WHEREBY THE APPELLANT HAS PRE-MATURE & FREQUENTLY BEEN TRANSFERRED FROM ONE PLACE TO ANOTHER AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL DATED 19.08.2022 OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memo and grounds of appeal the appellant was appointed as Tube Well Operator (BPS-1) vide order dated 24.02.2010; that, while performing his duties as Tube Well Operator at Peshawar Museum Peshawar the respondents department had transferred and posted him as Class-IV at the Western Gate and back store side other than his assign duty of Tube Well Operator vide order dated 01.03.2021; that after working for about ten (10) months, the appellant was transferred from Walled City Peshawar and posted at City Museum Peshawar vide order dated 23.12.2021; that thereafter the appellant was again transferred and posted at Walled City Peshawar vide order dated 19.04.2022; that the appellant was lastly transferred from Walled City Peshawar to Pari Chehra Graveyard vide impugned order dated 18.08.2022; that feeling aggrieved from such frequent and premature transfer orders filed departmental appeal on 19.08.2022 which was not responded within the statutory period of ninety days, and then he filed the instant service appeal.

2. On receipt of the appeal and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant, learned Additional Advocate General for the respondents.



4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules. The impugned premature/frequent transfer order dated 18.08.2022 passed by the respondents against the appellant is against the law, rules and norms of natural justice. The learned counsel requested for setting aside the impugned transfer order.


5. Learned Additional Advocate General refuted the arguments advanced by the learned counsel for the appellant and stated that the appellant was not transferred to any other district although he was deputed for duty in the Sub-Offices of this Directorate within the District Peshawar on staff gap arrangement basis. He further submitted that the appellant was posted at Pari Chehra Graveyard which falls within the premises of Walled City, Peshawar. He requested that the appeal might be dismissed.


6. The appellant was appointed as Tube Well Operator in the Peshawar museum vide order dated 04.02.2010 but had been transferred vide impugned order to Pari Chehra Graveyard on 18.08.2022. Before that he was directed to perform duty at Walled City Peshawar till further order vide order dated 19.04.2022. Not only the appellant is being frequently transferred but also vide the impugned order the appellant has been transferred from his original post of Tube Well Operator to a Graveyard leaving the operation of the Tube Well to another official, which could not



be in the fitness of things as well as in the best public interest, therefore, we allow this appeal and set aside the impugned order, however, the appellant may be assigned any duties in addition to his own actual duty of Tube Well Operator in case there is shortage of staff with the respondents. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 8th day of May, 2023.*


KALIM ARSHAD KHAN
Chairman


FAREEHA PAUL
Member (Executive)

Adnan Shah, PA