

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (Judicial)

Service Appeal No.1644/2022

Date of presentation of Appeal.....18.11.2022
Date of Hearing.....01.06.2023
Date of Decision.....01.06.2023

Mr. Sajid Awais, SST (Bio/Chem:), GHSS Mandori, District Kohat.
.....*Appellant*

Versus

1. **The Government** of Khyber Pakhtunkhwa through Secretary Elementary and Secondary, Peshawar.
2. **The Director**, Elementary and Secondary Education, Peshawar.
3. **The District Education Officer (Male)**, Kohat.
4. **Mr. Muhammad Abid, SST (Bio/Chem), GCHS, Kohat.**
.....(*Respondents*)

Present:

Mr. Muhammad Kamran, Advocate.....For the appellant

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

Nemo.....For private respondent No.4

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**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ACTION OF THE
RESPONDENTS BY NOT TRANSFERRING THE
APPELLANT TO THE GCHS, KOHAT AND AGAINST
THE IMPUGNED ACTION OF THE RESPONDENTS BY
REGRETTING THE DEPARTMENTAL APPEAL ON NO
GOOD GROUNDS.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case are that
appellant was appointed as SST (Chem/Bio) on contract basis on 09.05.2014

and his services were later on regularized vide notification dated 16.03.2018; that the appellant was posted at the GHSS Mandoor (Kohat); that private respondent No.4 was appointed as Secondary School Teacher (SST Chem/Bio) in (BPS-16) on school based and contract basis; that meeting of Departmental Promotion Committee was held as a result of which some posts of SST (Bio/Chem) were vacated and the District Education Officer (Male) Kohat adjusted private respondent No.4 from the Government High School Marmalak, Kohat to the Government Comprehensive High School, Kohat vide notification dated 27.08.2022 till the arrival of regular employee; that the appellant was residing in Togh Bala, Kohat with his family and had to travel three hours daily from home to the duty station; that the appellant had been working at the same station for the last eight long years; that the appellant filed departmental appeal on 06.04.2022 to the Principal for transferring him to GCHS, Kohat; that the Principal forwarded the departmental appeal to the District Education Officer (Male) Kohat but the same was not responded; that the appellant filed a writ petition in the Hon'ble Peshawar High Court which was disposed of vide order dated 18.10.2022 with the directions to the respondents to decide the departmental appeal within a period of three days; that the respondent-department regretted the departmental appeal of the appellant vide appellate order dated 20.10.2022; hence, the present service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.

04. Learned counsel for appellant contended that the action of the respondents by rejecting the representation of the appellant on no good grounds was against the law, facts, rules and material available on record. He further argued that the appellant had not been treated in accordance with law and rules and as such the respondents violated Article 4 and 24 of the Constitution of Islamic Republic of Pakistan, 1973

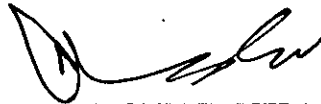
05. As against that learned Additional Advocate General argued that vide notification dated 19.12.2018, the respondent No.4 was appointed as SST in BPS-16 on school based policy and was adjusted at GCHS Kohat against the vacant post of SST by the Department upon the rejection of the application of the appellant vide order dated 10.06.2022 by the DEO(M) Kohat on the ground that there is only one post of SST available in shape of the appellant for students at GHS Mandori, Kohat, hence, he could not be adjusted at GCHS, Kohat.

06. There is no impugned order in this case rather the appellant contends that he had submitted application to the District Education Officer (Male), Kohat; that he had been serving at the GHSS Mandoor, District Kohat for almost eight years and had applied for a number of times for his transfer. In this respect he had also filed a writ petition before the Hon'ble Peshawar High court which was disposed of with the direction that the departmental representation of the appellant should be decided within three days. It was then on 20.10.2022, the District Education Officer (Male) Kohat, regretted



the request of the appellant on the grounds that the elders of Ilaqa alongwith Members of the Parents Teachers Council (PTC), Mandoori made a request not to transfer the appellant. In this appeal the appellant has prayed that the respondents might be directed to transfer the appellant from the GCHS Mandoori to GCHS Kohat. Granting of the prayer made in the appeal, may not be, though, in the domain of the Tribunal, but we, while disposing of the appeal in hand, would like to observe that keeping in view the long tenure of posting of the appellant at one station i.e. for about eight years is not inconsonance with the Transfer/Posting Policy of the Provincial Government, which fact may be looked into by the Competent Authority if deemed appropriate. Costs shall follow the event. Consign.

07. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 1st day of June, 2023.*



KALIM ARSHAD KHAN
Chairman



SALAH UD DIN
Member (Judicial)

Adnan Shah, P.A.