

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No.6353/2020

Date of presentation of appeal06.07.2020

Dates of Hearing.....31.05.2023

Date of Decision.....31.05.2023

Mst. Bibi Hajira, Lecturer in Home Economics (BPS-17), Government Girls Degree College Sadda, Kurram, under transfer to Government Girls Degree College Tall (Hangu).....(**Appellant**)

Versus

1. **The Chief Secretary**, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. **The Secretary**, Government of Khyber Pakhtunkhwa, Higher Education Department, Civil Secretariat, Peshawar.
3. **The Director**, Higher Education Department, Khyber Pakhtunkhwa.
4. **The Principal**, Government Girls Degree College, Tall (Hangu).
5. **The Principal**, Government Girls Degree College Hangu.
6. **Ms. Abida Dil Nasheen**, Lecturer in History (BPS-17), Government Girls Degree College Sadda, Kurram, under transfer to Government Girls Degree College, Hangu.....(**Respondents**)

Present:

Mr. Khush Dil Khan, Advocate.....For appellant.

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

Syed Noman Ali Bukhari, Advocate.....For the private respondent No.6

.....
SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 06.02.2020 ISSUED BY RESPONDENT NO.2 THEREBY APPELLANT WAS TRANSFERRED FROM GGDC SADDA, KURRAM TO GGDC TALL (HANGU) AND BY THIS ORDER RESPONDENT NO.7 WAS ALSO TRANSFERRED FROM GGDC SADDA, KURRAM TO GGDC HANGU AGAINST WHICH THE APPELLANT FILED

**DEPARTMENTAL APPEAL BEFORE THE RESPONDENT NO.1
VIDE DATED 04.03.2020 BUT THE SAME WAS NOT DISPOSED
OF WITHIN STATUTORY PERIOD OF NINETY DAYS.**

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Service Appeal No.7811/2020

Date of presentation of appeal14.07.2020
Dates of Hearing.....31.05.2023
Date of Decision.....31.05.2023

Mst. Bibi Hajira, Lecturer in Home Economics (BPS-17), Government Girls Degree College Sadda, Kurram, under transfer to Government Girls Degree College Tall (Hangu).....(**Appellant**)

Versus

1. **The Chief Secretary**, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. **The Secretary**, Government of Khyber Pakhtunkhwa, Higher Education Department, Civil Secretariat, Peshawar.
3. **The Director**, Higher Education Department, Khyber Pakhtunkhwa.
4. **The Principal**, Government Girls Degree College, Sadda, District Kurram.
5. **The Principal**, Government Girls Degree College, Tall (Hangu).
6. **Ms. Abida Dil Nasheen**, Lecturer in History (BPS-17)/Ex-Incharge Principal, Government Girls Degree College Sadda, Kurram, under transfer to Government Girls Degree College, Hangu.
7. The District Accounts Officer, District Kurram.....(**Respondents**)

Present:

Mr. Khush Dil Khan, Advocate.....For appellant.

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

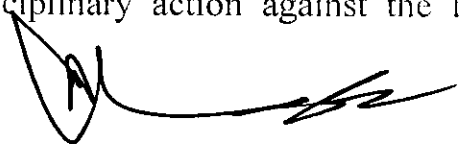
.....
**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR
RELEASING THE MONTHLY SALARY WITH ALL
ADMISSIBLE ALLOWANCES AND OUTSTANDING AMOUNTS
OF THE SALARIES WITH ALL ADMISSIBLE ALLOWANCES
W.E.F 01.06.2019 TILL FILING OF THIS APPEAL AND
ONWARD TO APPELLANT FOR WHICH SHE ALSO FILED
DEPARTMENTAL APPEAL BEFORE THE RESPONDENT NO.2
ON 19.03.2020 BUT THE SAME WAS NOT DISPOSED OF
WITHIN STATUTORY PERIOD OF NINETY DAYS.**

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CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this appeal and the connected service appeal No.7811/2020 titled "Mst. Bibi Hajira versus The Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar and others" are decided as both the appeals have been filed by the same appellant and can conveniently be decided together.

2. According to the facts gathered from the record in service appeal No.6353/2020, the appellant was initially appointed as Lecturer in the Home Economics Subject (BPS-17) on contract basis by an order dated 04.11.2010 and was posted at the Government Girls Degree College Alizai, Kurram; that her services were also regularized on 26.05.2014 alongwith other colleagues under similar circumstances; that the appellant was then transferred to the Government Girls Degree College Sadda, Kurram in the year 2017; that during this period respondent No.7 was working as Incharge Principal of the College as well as also exercising the power of the Drawing Disbursing Officer (DDO); that respondent No.7, being Incharge Principal, had developed personal grudges with the appellant on her request for allotment of a vacant bungalow in the premises of the college due to which she was annoyed and without any transfer order of the competent authority or without approval of the competent authority, issued a relieving chit vide No. 130-07 dated 24.05.2019; that the appellant filed an application on 10.06.2019 to respondent No.2 (Secretary), who issued an order vide letter dated 24.06.2019 under the signature of Section Officer (College-III), wherein relieving order was withdrawn with the direction to initiate disciplinary action against the Incharge



Principal; that on 06.02.2020 a notification was issued by respondent No.2, whereby the appellant was transferred from the Government Girls Degree College, Sadda, Kurram to the Government Degree College Tall (Hangu) and by the same order respondent No.7 was also transferred to the Government Girls Degree College Hangu; that feeling aggrieved, the appellant preferred departmental appeal on 04.03.2020 which was not responded within the statutory period of ninety days, hence, this appeal.

3. Facts of the connected service appeal No.7811/2020 are the same with the addition that the appellant filed an application on 10.06.2019 to respondent No.2 (Secretary) for cancellation of illegal relieving chit, issued by respondent No.6 and respondent No.2 issued an order vide letter dated 24.06.2019 under the signature of Section Officer (College-III) wherein relieving order was withdrawn with the direction to initiate disciplinary action against the Incharge Principal (respondent No.6) but inspite of this clear order of the competent authority the respondent No.6 had neither submitted computer source for activation of appellant salary nor allowed her to mark her daily attendance; that the appellant then submitted an application on 12.07.2019 for release of her monthly salary with all admissible allowances but despite clear directions of various authorities, the respondent No.6 had not acted and ignored the orders of the competent authority; that the appellant filed writ petition No. 1360-P/2020 before the Hon'ble Peshawar High Court, Peshawar for release of her monthly salary which was dismissed vide order dated 18.03.2020 for want of jurisdiction under Article 212 of the Constitution, 1973. That the appellant was then transferred vide order dated 06.02.2020; that she filed departmental appeal on



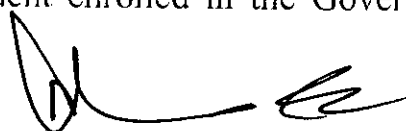
19.03.2020 before respondent No.1, which was not responded within the statutory period, hence, this appeal.

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

5. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

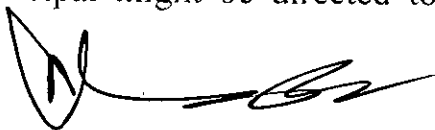
6. Learned counsel for the appellant argued that respondent No.2 had acted in arbitrary manner and unlawfully transferred the appellant from the Government Girls Degree College, Sadda, Kurram to the Government Girls Degree College, Tall, Hangu by way of the impugned notification, without legal justification, which was not tenable. He further argued that the impugned order, to the extent of appellant, had neither been passed in the exigency of service nor in the public interest or on any compliant which was illegal and tainted with malafide. Moreover, the respondents had unlawfully stopped her monthly salary in illegal manner on the basis of personal grudges which was not sustainable. He requested that the appeals might be accepted.

7. Learned Additional Advocate General on behalf of official respondents argued that the appellant had been treated in accordance with law and rules. He further argued that there was no single student enrolled in the Government Girls



Degree College, Sadda Kurram of the subject of the appellant; that there was an issue of allotment of Bungalow on which an inquiry was conducted and one of the recommendation of the inquiry committee was that the Principal might be directed to allot room to the appellant in the hostel to remove her difficulties while coming from Dogar to Sadda station but without her spouse as the FATA female students belonged to the tribal families, and most of them were veiled women, hence, living with spouse inside the premises of Girl College would be against the regional traditions and customs. It was added that another issue was raised when the appellant had captured pictures and made videos of the students, complaints were received from students and parents to the Principal, who demanded relieving the appellant. Although the appellant was accordingly relieved by the Principal but that relieving order was withdrawn by the department by constituting an enquiry committee to probe into the grievances of the students wherein it was recommended that the appellant might be transferred/adjusted somewhere else where students of her subject were enrolled.

8. The appellant was transferred vide transfer notification dated 06.06.2020 from the Government Girls Degree College, Sadda Kurram to Government Girls Degree Tall (Hangu). She assailed the transfer order on the ground that the transfer order was not lawful, against the public interest and without any exigency. The respondents refuted the allegations of the appellant and contended in the reply that there was no single student enrolled in the Government Girls Degree College, Sadda Kurram of the subject of the appellant; that there was an issue of allotment of Bungalow on which an inquiry was conducted and one of the recommendation of the inquiry committee was that the Principal might be directed to allot room to the



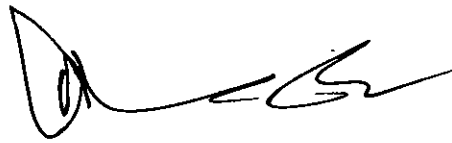
appellant in the hostel to remove her difficulties while coming from Dogar to Sadda station but without her spouse as the FATA female students belonged to the tribal families, and most of them were veiled women, hence, living with spouse inside the premises of Girl College would be against the regional traditions and customs. It was added that another issue was raised when the appellant had captured pictures and made videos of the students, complaints were received from students and parents to the Principal who demanded relieving the appellant. Although the appellant was accordingly relieved by the Principal but that relieving order was withdrawn by the department by constituting an enquiry committee to probe into the grievances of the students wherein it was recommended that the appellant might be transferred/adjusted somewhere else where students of her subject were enrolled.

9. If we leave aside the ground that transfer cannot be made as a punishment yet the solid ground that there was no student of the subject of the appellant studying in the college from where the appellant was transferred is a valid ground of public interest as government exchequer cannot be wasted on a teacher who does nothing at the place of posting rather the interest of public as well as exigency would be that her services should be properly utilized at the station where needed or at least where there are students of the subject in which the appellant has specialization and/or wherever the competent authority desires being empowered under Seciton-10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973. This being so while dismissing this appeal we would like to ask the respondents to consider future posting of the appellant keeping in view the fact that she being a lady might not be able to travel to far-flung area having regard to the posting/transfer policy of the Government.



10. As to the connected appeal regarding release of salaries, the official respondents had vide letter No. 20918 dated 20.09.2021 directed the Principal Government Girls Degree College, Sadda Lower Kurram to release the salaries of the appellant, therefore, we dispose of this appeal with the direction to the respondents to release the salary of the appellant for the period those were withheld, if not already released. Costs shall follow the event. Consign.

11. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 31st day of May, 2023.*



KALIM ARSHAD KHAN

Chairman



MUHAMMAD AKBAR KHAN

Member (Executive)

Adnan Shah, PA