

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

**Service Appeal No. 7910/2021**

**BEFORE:** SALAH-UD-DIN --- MEMBER(J)  
MUHAMMAD AKBAR KHAN--- MEMBER(E)

Mr. Rahat Ullah, (SCT BS-16) GCMHSS, Upper  
Dir..... (*Appellant*)

**VERSUS**

1. The Director (E&SE) Education Department, Khyber Pakhtunkhwa, Peshawar.
2. The District Education Officer (Male), Dir Upper, Khyber Pakhtunkhwa.
3. The Principal, GCMHSS, Dir Upper.....(*Respondents*)

**Present:**

KAMRAN KHAN,  
Advocate

--- For Appellant

ASIF MASOOD ALI SHAH,  
Deputy District Attorney,

--- For respondents

Date of Institution.....22.12.2021

Date of Hearing.....19.05.2023

Date of Decision.....19.05.2023

**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 orders dated 24.11.2021 & 17.12.2021 may very kindly be set aside and the respondents may kindly be directed not to transfer the appellant from GCMHSS, Dir Upper. Any*

*other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.”*

02. Brief facts of the case are that the appellant is serving in the respondent department as SCT (BPS-16). He was transferred and posted at GCMHSS, Dir Upper vide order dated 27.02.2020. He was again transferred by respondent No. 3 from GCMHSS, Dir Upper to the office of District Education Officer (M) Dir, Upper. Against the said order the appellant filed an application to respondent No. 2 but respondent No. 2 further transferred the appellant to GHS Dobando vide impugned order dated 17.12.2021. Feeling aggrieved, the appellant filed departmental appeal which was not responded within the statutory period, hence preferred the instant service appeal on 22.12.2021.

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 Additional Advocate General and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the impugned transfer orders dated 24.11.2021 & 17.12.2021 are against the law, facts, norms of natural justice, hence not tenable and liable to be set aside. That the impugned order dated 24.11.2021 was passed by Principal GCMHSS Dir Upper, who was not the competent authority, therefore, the impugned order is coram-non-judice. That the transfer order of the appellant was issued vide Notification dated 17.12.2021 on administrative ground


without mentioning any reason, therefore, the same is not tenable in the eye of law. He further contended that the impugned transfer orders dated 24.11.2021 & 17.12.2021 is violative of Clause-I, IV and XIII of transfer/posting policy of the Government of Khyber Pakhtunkhwa, he concluded.


05. Learned Deputy District Attorney on behalf of respondents contended that the appellant was serving in GCMHSS Dir Upper as Certified Teacher (BPS-15) and was promoted to the post of Senior Certified Teacher (BPS-16) on 27.02.2020. That the appellant was not dutiful and many complaint were lodged against him regarding non observance of school timing and compliance of lawful orders of his superior. That on the basis of such allegations the respondent No. 3 being competent authority relieved the appellant vide order dated 24.11.2021 with the request for strict action against the appellant and he was placed at the disposal of District Education Officer (M) Dir Upper. He further contended that proper inquiry was conducted by the Deputy District Education Officer (M) Dir Upper on 16.12.2021 and after recommendations of the inquiry the appellant was adjusted at GHS Dobando on 17.12.2021 against the vacant post lying near to his residence. That the adjustment order dated 24.11.2021 & 17.12.2021 were made in good faith and as per law and rules.

06. Perusal of record would reveal that the appellant remained posted in GCMHSS Dir Upper for longer period as Certified Teacher (BS-15). After his promotion as Senior CT (BS-16) he remained posted in the same school vide order dated 27.02.2020. The normal tenure of

posting of a Civil/Government Servants on a particular station of duty is 02 years as per Government Posting Transfer Policy. The appellant has rendered service at present school for more than normal tenure. A civil servant has no right to remain posted at his choice of station for more than the prescribed tenure. Moreover the appellant has been posted at GHS Dobando in the same Tehsil and District which is near to his home and as such we find no ground to interfere in the posting/transfer order dated 17.12.2021. The instant appeal is therefore, dismissed. Costs shall event the follow. Consign.

07. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 19<sup>th</sup> day of May, 2023.*

  
(SALAH-UD-DIN)  
MEMBER (J)

  
(MUHAMMAD AKBAR KHAN)  
MEMBER (E)

\*Kamranullah\*