

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 873/2023

BEFORE: MR. SALAH-UD-DIN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Mst. Kalsoom Begum, PSHT (BPS-15), GGPS Sifat Mir, Jamrud, District Khyber. (Appellant)

Versus

1. Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (F), District Khyber at Jamrud.
..... (Respondents)

Mr. Mir Zaman Safi,
Advocate ... For appellant

Mr. Asad Ali Khan,
Assistant Advocate General ... For respondents

Date of Institution..... 18.04.2023
Date of Hearing..... 09.06.2023
Date of Decision..... 09.06.2023


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 order dated 10.01.2023 whereby the appellant has been transferred from GPS Abdur Rehman, Mulagori, Jamrud to GGPS Sifat Mir, Jamrud and against no action taken on her departmental appeal within the statutory period of ninety days. It has been prayed that on acceptance of the appeal, the impugned order dated 10.01.2023 might be set aside and the respondents be directed not to transfer the appellant from GGPS Abdur



Rehman, Mulagori, Jamrud till completion of her normal tenure and any other remedy, which the Tribunal deemed fit and appropriate.

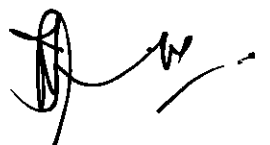
2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant, while performing her duty as SPST (BPS-14) at GGPS Yar Afzal Killi, Jamrud, was promoted to the post of PSHT (BPS-15) vide notification dated 05.08.2022 and subsequently posted at GGPS Lal Mat Shah, Jamrud. She took over the charge against the said post and started performing her duty. Vide order dated 13.08.2022, the appellant was transferred from GGPS Lal Mat Shah Killi, Jamrud to GGPS Abdur Rehman Killi, Mulagori, Jamrud. She took over the charge and started performing her duty at new station. After lapse of 17 days, respondent No. 3 issued corrigendum dated 31.08.2022, whereby the appellant was posted at GGPS Baso Ghari, Jamrud while one Mst. Shakila was transferred against the post of the appellant. Feeling aggrieved from that corrigendum, the appellant preferred service appeal No. 716/2023 before the Service Tribunal and during the pendency of the aforementioned service appeal, respondent No. 3 once again issued the impugned transfer order dated 10.01.2023, whereby the appellant was transferred to a far-flung area of the district i.e. GGPS Sifat Mir, Jamrud on administrative ground. Feeling aggrieved from the order dated 10.01.2023, she preferred departmental appeal. Her previous service appeal before the Service Tribunal was withdrawn by her vide order dated 30.03.2023. She waited for ninety days but no reply was received on her departmental appeal against the impugned order; hence the present appeal.



3. Respondents were put on notice who submitted written replies/comments on the appeal. We heard the learned counsel for the appellant as well as the learned Assistant Advocate General 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, contended that the appellant had been transferred thrice from one station to another in a short span of time, therefore, the order dated 10.01.2023 was not tenable in the eyes of law and liable to be set aside. He further contended that the impugned order was violative of clause-I and IV of the Transfer/Posting Policy of the provincial government. According to him the post of PSHT at GGPS Abdur Rehman Killi, Jamrud was lying vacant due to the retirement of one Mst. Musarat, Ex-PSHT who was posted in place of the appellant. He requested that the appeal might be accepted.

5. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, contended that the appellant was promoted from SPST (BPS-14) to PSHT (BPS-15) but due to non-availability of vacant post of PSHT (BPS-15) at GGPS Yar Afzal Kalay, Jamrud, she was adjusted at GGPS Lal Mat Shah against the vacant post but as per statement of SDEO (Female) Jamrud, she did not take over the charge there. Later on, the transfer order was withdrawn and the appellant was transferred to GGPS Abdur Rehman Killi Mulagori, Jamrud. He further contended that on completion of normal tenure in GGPS Baso Ghari, one Mst. Shakila was transferred to GGPS Abdur Rehman Killi, Jamrud and appellant was transferred to GGPS Baso



Ghari, Jamrud. The appellant did not comply the order and remained absent from duty. Upon non-compliance and absence, the DEO Khyber conducted an inquiry and on the recommendation of the inquiry committee, Mst. Shakila was transferred to GGPS Hajji Shah Alam, Jamrud and the appellant was transferred to GGPS Sifat Mir, Jamrud.

6. Arguments and record presented before us transpire that the appellant, after getting promoted, was adjusted at GGPS Lal Mat Shah, Jamrud against a vacant post but as stated by the learned Assistant Advocate General she did not take the charge there, and the same has been certified by the SDEO (Female) Jamrud also. The said order was then withdrawn and she was transferred to GGPS Abdur Rehman Killi Mulagori, Jamrud. As one of the PSHTs, Mst. Shakila, had completed her tenure at GGPS Baso Ghari, Jamrud, she was transferred to GGPS Abdur Rehman Killi, Jamrud and the appellant was transferred to Baso Ghari, Jamrud. On that order, the appellant preferred a service appeal before this Tribunal which was later on withdrawn on 30.03.2023, as a fresh order dated 10.01.2023 had been issued which is now impugned before us. Through that order the appellant has been transferred from Abdur Rehman, Mulagori, Jamrud to Sifat Mir, Jamrud.


7. Record presented by the respondents shows that an inquiry was conducted against Mst. Kalsoom Begum, the appellant, for her non-compliance of transfer order to GGPS Baso Ghari, Jamrud and absence from her duty. According to the report of that inquiry, the appellant was disobeying the orders of DEO (F) and hence the school was suffering. Based on the




recommendations of the Inquiry Committee, the appellant was transferred to GGPS Sifat Mir, Jamrud. The entire proceedings before us indicate that the appellant never complied with the orders of her high-ups and she never reported to Lalmat, and when further posted to Abdur Rehman Killi, Mulagori, Jamrud, she never left it despite her subsequent transfer.

8. The appellant being a civil servant is bound under the law to serve at any place where her competent authority asks her to serve. Any disobedience of such orders might lead to misconduct on her part. In view of this, the appeal in hand is dismissed. Costs shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 09th day of June, 2023.*


(FARLEHA PAUL)
Member (E)


(SALAH-UD-DIN)
Member (J)