

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

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

Service Appeal No.681/2023

Date of presentation of Appeal.....24.03.2023
Date of Hearing.....25.07.2023
Date of Decision.....25.07.2023

Professor Dr. Nasreen Jabeen (BPS-20) Principal, GGDC Daggar Buner.....*Appellant*

Versus

1. Government of Khyber Pakhtunkhwa through its Chief Secretary, Civil Secretariat, Peshawar.
2. **Secretary** Higher Education, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. **Dr. Sadaf Umar**, Associate Professor Mathematics (BPS-19), GGDC Daggar Buner.....(*Respondents*)

Present:

Muhammad Arif Jan, Advocate.....For the appellant

Mr. Muhammad Jan,

District Attorney.....For official respondents 1 and 2.

Private respondent No.3 has been placed ex-parte vide order sheet dated 06.06.2023

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 19.12.2022 VIDE WHICH DEPARTMENTAL APPEAL WAS PREFERRED, BUT UN-RESPONDED WITHIN THE STIPULATED PERIOD NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Facts of the case are that appellant was initially appointed as Lecturer (BPS-17) (Islamiyat/Arabic) in



the year, 1988; that upon promotion to BPS-20, the appellant was posted/transferred to Government Girls Degree College, Daggar, Buner as Principal/Professor in September, 2018 and serving till date; that vide impugned office letter/order dated 19.12.2022, the appellant was transferred by respondent No.1 to Government Girls Degree College, Jandol Dir Lower; that feeling aggrieved, the appellant preferred representation/review petition which was not responded within the statutory period of ninety days, 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 appellant and learned District Attorney for official respondents 1 and 2.

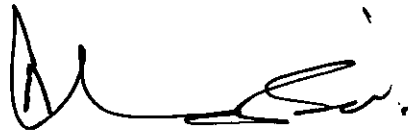
04. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules. From the bare perusal of the impugned order dated 19.12.2022, it is very much clear that the same has not been passed in the exigency of the service, but upon the instance of some political person. He further argued that the impugned transfer order is against the policy relating to the transfer/posting issued by the government of Khyber Pakhtunkhwa from time to time, because the appellant was transferred when she is at the verge of retirement from service. Learned counsel for the appellant mentioned in ground-F of the grounds of appeal that the august Supreme Court of Pakistan strictly restrained the

authorities/departments from posting/transfer of any employee who is at the verge of his/her retirement. He prayed that the impugned transfer order dated 19.12.2022 might be set aside.

05. Learned District Attorney on the other hand argued that the instant appeal is not maintainable because posting/transfer of a civil servant under Section (10) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 could be made by the competent authority anywhere even outside of the province. Moreover, the appellant was posted in the best public interest and no political motivation was involved. He prayed that the appeal might be dismissed.

06. Admittedly the appellant is going to retire on 29.02.2024 and only seven months are left from her superannuation, therefore, in the interest of justice, convenience and because she is in the last leg of her service, this appeal is allowed and she be retained as Principal Government Girls Degree College, Daggar Buner till her superannuation on 29.02.2024. 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 25th day of July, 2023.*



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)