

**KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

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

*Service Appeal No.1545/2022*

Date of presentation of Appeal.....27.10.2022  
Date of Hearing.....27.07.2023  
Date of Decision.....27.07.2023

**Mr. Muhammad Usman, SS Economics (BPS-17)** presently posted as SS Economics, GHSS Daag Peshawar under Transfer to GHSS Dagi Banda Nowshera, Khyber Pakhtunkhwa, Nowshera.....(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa through Secretary Education** Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. **The Director (E&SE)** Khyber Pakhtunkhwa, Peshawar.
3. **The District Education Officer (Male)** District Peshawar.
4. **Mr. Fathe Ullah**, under transfer to the post of SS Economics GHSS Daag Peshawar.....(*Respondents*)

Present:

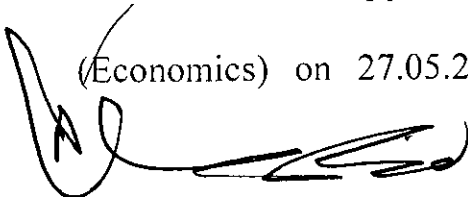
Mr. Muhammad Maaz Madni, Advocate ....For the appellant

Mr. Muhammad Jan, District Attorney .....For official respondents No.1 to 3

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 06.07.2022 WHEREBY APPELLANT HAS UNLAWFULLY BEEN TRANSFERRED TO GHSS DAGI BANDA NOWSHERA IRRESPECTIVE OF THE FACT THAT APPELLANT IS A DISABLE PERSON AND THE PRIVATE RESPONDENT NO.4 HAS BEEN POSTED IN PLACE OF THE APPELLANT AT GHSS DAAG PESHAWAR AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL DATED 18.07.2022 OF THE APPELLANT WITHIN THE STATUTORY PERIOD**

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts of the case as per the averments of the appeal are that appellant was appointed as Subject Specialist (Economics) on 27.05.2019 through Khyber Pakhtunkhwa Public Service



Commission and was posted at GHSS Bakhshali Mardan. Being a disabled person, a corrigendum was issued and he was posted at GHSS Daag Peshawar. He was serving in the said School, when, vide impugned order dated 06.07.2022, he was transferred to the GHSS Dagi Banda, District Nowshera. Feeling aggrieved, he filed departmental appeal, which was not responded to, hence, the instant 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 the official respondents No.1 to 3.

04. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

05. The appellant was appointed on disabled quota on 27.05.2019. The disability of the appellant is thus proven and his contention in the appeal, that because of his disability, he was unable to move//travel to out-district place of posting, gains support. Besides, Clause-(xiv) of the Posting/Transfer Policy of the Government especially a provision in it that while making posting/transfer, humanitarian aspect should also be considered. The disability or for that matter of unablness of the appellant or the contention of the appellant for his inability to move to an out-district have not been controverted by the official respondents



as nothing has been uttered by the respondents in the reply as well as during the course of arguments by the learned District Attorney. Therefore, we would like to dispose of this appeal by directing the respondents to consider the case of the appellant in the light of Para-(xiv)(2) of the Posting/Transfer Policy and keeping in view his nature of disability, he may be posted at a station nearer to his abode preferably and possibly at Peshawar. Costs to follow the event. Cosign.

*06. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 27<sup>th</sup> day of July, 2023.*



**KALIM ARSHAD KHAN**  
Chairman



**FAREEHA PAUL**  
Member (Executive)

*\*Mutazem Shah\**