

Service Appeal No. 1473/2023 titled "Muhammad Tahir versus The District Education Officer (Male) Kohat and others", decided on 28.08.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

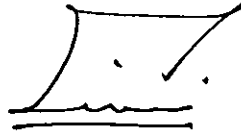
07. The upshot of the above discussion is that the appellant could not make out a case, therefore, finding no merit in this appeal, we dismiss the appeal with costs. Consign.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 28th day of August, 2023.*



KALIM ARSHAD KHAN

Chairman



SALAH-UD-DIN

Member (Judicial)

**Mutazem Shah **

thirdly, that the appellant was transferred by the Director Elementary & Secondary Education, who had no power to transfer the appellant.

06. As to the first point mooted before us, we observe that successive transfers of the appellant i.e. from one place to other is not finding favor with us, as the above referred different orders show that the single order dated 11.04.2023 was being cancelled and restored time and again and there were no orders of transfer to different places. As to the second point of alleged premature transfer, admittedly, the appellant was transferred as Senior Clerk Education Office (Male), Kohat vide mutual transfer order dated 04.03.2021 and after completion of normal tenure of two years, he was transferred vide the impugned transfer order. According to the latest posting/transfer policy of the Provincial Government, the normal tenure of posting is now two years, therefore, this contention of the appellant could also not be given any weight. Now, coming to the last submission of the appellant that he was transferred by the Director Elementary & Secondary Education Khyber Pakhtunkhwa, who was not competent to transfer the appellant because the appellant was working against a district cadre post, the learned Additional Advocate General, representing the official respondents, has produced District Education Office (Male) Job Descriptions & Competencies and submitted that the post of the appellant was that of a provincial cadre post and the Director E&SE was very much competent to transfer the appellant. The above document could not be controverted by the appellant.



11.04.2023 was restored on 04.07.2023. Therefore, he filed the instant service appeal before this Tribunal.

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, learned Additional Advocate General for official respondents and learned counsel for private respondent No.4.

04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General assisted by the learned counsel for private respondent No.4 controverted the same by supporting the impugned order(s).

05. The appellant has impugned the office order bearing endorsement No.3905-8 dated 11.04.2023. Only three grounds are urged by the learned counsel for the appellant before this Tribunal, one is that the appellant was successively being transferred as would be evident from the orders dated 11.04.2023, 17.04.2023, 28.04.2023, 15.05.2023, 20.06.2023 and 04.07.2023, secondly, that order dated 11.04.2023 (which is now in the field after its repeated cancellation and restoration), was premature and normal tenure of three years posting of the appellant was not yet completed and



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Facts gleaned out from the memorandum of appeal are that appellant was appointed as Clerk (BP-07) in the office of District Education Officer (Male), Kohat. During service, he was promoted to the post of Senior Clerk (BPS-14). That on 04.03.2021 through mutual transfer, the appellant was transferred in the office of Respondent No.1; that on 11.04.2023, his services were struck off from the office of respondent No.1 and were handed over to GHSS Muslim Abad, Kohat; that being aggrieved from the impugned order dated 11.04.2023, he filed departmental appeal which was not responded to, therefore, he filed Writ Petition No.1580-P/2023 before the Hon'ble Peshawar High Court, Peshawar and on 03.05.2023 the respondents were directed to dispose of the departmental appeal of the appellant within 10 days, but fiasco; that in the meantime, vide corrigendum order dated 17.04.2023, the order dated 11.04.2023 was reverted. Therefore, the appellant approached the respondents and took charge as a Computer Operator in the office of respondent No.1 and again on 28.04.2023, the said corrigendum order was cancelled; that when the appellant approached the concerned school for taking charge on 15.05.2023, the corrigendum order was again restored; that when the appellant approached the Education Department for charge, then, again on 20.06.2023, previous order of 15.05.2023 was canceled and appellant was directed to approach the concerned school; that when the appellant approached the concerned school, again the impugned order dated



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH-UD-DIN ... MEMBER (Judicial)

Service Appeal No.1473/2023

Date of presentation of Appeal.....17.07.2023
Date of Hearing.....28.08.2023
Date of Decision.....28.08.2023

Mr. Muhammad Tahir Senior Clerk District Education Office (male)
Kohat*Appellant*

Versus

1. **The District Education Officer (Male), Kohat.**
2. **The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
3. **The Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
4. **Mr. Fazal Rehman, Senior Clerk, GHSS Muslim Abad, Kohat.....***Respondents*

Present:

Mr. Muhammad Amin Khattak Lachi, AdvocateFor the appellant
Mr. Fazal Shah Mohmand, Additional Advocate General ...For respondents No.1 to 3
Mr. Hassan U.K Afridi, Advocate.....For Private respondent No.4

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE NOTIFICATION/OFFICE ORDER DATED 11.04.2023 WHEREBY APPELLANT WAS TRANSFERRED FROM THE OFFICE OF DISTRICT EDUCATION OFFICER (D.E.O) MALE KOHAT TO GHSS MUSLIM ABAD KOHAT AND ALL THE SUBSEQUENT ORDERS DATED 17.04.2023, 28.04.2023, 15.05.2023, 20.06.2023 & 04.07.2023.

