

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 1428/2023

Date of Institution ... 04.07.2023

Date of Decision... 28.08.2023

Mst. Salma Bibi, PST (BPS-12), GGPS Shahwoor Bala, Dir Upper under  
Transfer to GGPS Sundrai.

... (Appellant)

**VERSUS**

The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Education  
Department, Khyber Pakhtunkhwa, Peshawar and 02 others.

... (Respondents)

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MR. NOOR MUHAMMAD KHATTAK,  
Advocate

--- For appellant.

MR. MUHAMMAD JAN,  
District Attorney

--- For respondents.

MR. KALIM ARSHAD KHAN  
MR. SALAH-UD-DIN

--- CHAIRMAN  
--- MEMBER (JUDICIAL)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Succinct facts giving rise to  
filing of the instant appeal are that the appellant was appointed as PST  
on adhoc basis vide order dated 10.09.2022 and was posted in GGPS  
Shahoor Bala and she allegedly assumed the charge of her post.  
Corrigendum order was then issued on 17.10.2022, whereby the  
appellant was posted in GGPS Sundrai and her services  
were regularized vide order dated 14.12.2022. Vide order dated  
15.04.2023, the appellant was again restored/adjusted at her previous  
station i.e GGPS Shahoor Bala, however vide the impugned order  
dated 08.05.2023, the afore-mentioned order dated 15.04.2023 was  
withdrawn. The appellant challenged the same by way of filing



departmental appeal followed by preferring Writ Petition before the august Peshawar High Court. It was during the pendency of the said Writ Petition that the departmental appeal of the appellant was regretted vide order dated 03.07.2023, constraining the appellant to file the instant appeal.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative and contested the appeal by way of filing written reply raising therein numerous legal and factual objections.

3. Learned counsel for the appellant contended that the impugned order dated 08.05.2023 as well as appellate order dated 03.07.2023 are against law and norms of natural justice, hence not tenable in the eye of law; that the appellant was frequently transferred from one station to another and was not allowed to complete her normal tenure of posting; that the appellant was restored/adjusted in GGPS Shahoor Bala vide order dated 15.04.2023 but the same was withdrawn without any legal justification; that the departmental appeal of the appellant was rejected without assigning any cogent and legal reasons; that the appeal in hand may be allowed by issuing direction to the respondents to retain the appellant in GGPS Shahoor Bala till completion of her normal tenure.

4. On the other hand, learned District Attorney for the respondents has argued that the appellant was though initially posted in GGPS Shahoor Bala, however one Mst. Nadia Bano was having higher position in merit than the appellant, therefore, her appeal was allowed

by the appellate committee and she was posted in GGPS Shahoor Bala, while the appellant was posted in GGPS Sundrai; that adjustment order of the appellant at GGPS Shahoor Bala was issued on 15.04.2023, however the same was then withdrawn for the reason that no teacher was available for teaching in GGPS Sundrai as the other teacher serving in the said school was on maternity leave; that the appeal of the appellant may be dismissed with cost.

5. We have heard the arguments of learned counsel for the parties and have perused the record.


6. A perusal of the record would show that after her appointment as PST (BPS-12), the appellant was posted in GGPS Shahoor Bala on 10.09.2022, however through corrigendum dated 17.10.2022, she was then posted at GGPS Sundrai. The appellant was then adjusted in GGPS Shahoor Bala vide office order dated 15.04.2023 issued by District Education Officer (Female) Dir Upper. It is astonishing that the same District Education Officer (Female) Dir Upper issued impugned order dated 08.05.2023, whereby the earlier order dated 15.04.2023 was withdrawn on the ground that a complaint was lodged before the Deputy Commissioner Dir Upper regarding closure of GGPS Sundrai due to adjustment/restoration of the appellant to GGPS Shahoor Bala. On our query, representative of the respondents stated at the bar that the teacher, who was on maternity leave, has now resumed her duty in GGPS Sundrai. Even otherwise too, if there was any shortage of teachers in GGPS Sundrai, the competent Authority was required to have transferred any other teacher to the said



school, who had already spent more than normal tenure of two years of posting in any other school of the concerned Union Council.

7. In view of the above discussion, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
28.08.2023



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)



(KALIM ARSHAD KHAN)  
CHAIRMAN


*\*Naeem Amin\**


ORDER  
28.08.2023

Learned counsel for the appellant present. Mr. Majeed Ullah, ASDEO alongwith Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
28.08.2023

  
(Kalim Arshad Khan)  
Chairman

  
(Salah-Ud-Din)  
Member (Judicial)