

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN**CHAIRMAN
MUHAMMAD AKBAR KHAN... MEMBER (E)

Service Appeal No.1218/2023

Date of presentation of appeal.....23.05.2023
Date of Hearing.....02.10.2023
Date of Decision.....02.10.2023

**Mst. Musarrat Begum, SST (G) (BPS-16), ASDEO (F), Circle SD
Wazir Uthmanzai, Bannu Under transfer to DEO (F) for further
posting.....Appellant**

Versus

1. **The Secretary Elementary & Secondary Education Department,**
Khyber Pakhtunkhwa, Peshawar.
2. **The Director, Elementary & Secondary Education Department,**
Khyber Pakhtunkhwa, Peshawar.
3. **The District Education Officer (F),** District Bannu.
4. **Mst. Nusrat Bano SST (G) Circle Koti Saddat Bannu,** under transfer
as ASDEO (F) Circle SD Wazir Uthmanzai, Bannu.

Present:

Mr. Kamran Khan, Advocate.....For the appellant
Mr. Asad Ali Khan, Assistant Advocate General.....For respondents

***APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER/NOTIFICATIONS
DATED 19.05.2023 WHEREBY THE NOTIFICATION
DATED 18.05.2023 HAS BEEN RESTORED IN UTTER
VIOLATION OF TRANSFER/POSTING POLICY.***

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The facts gathered from the
memorandum and grounds of appeal are that the appellant is the
employee of the Education Department and was serving as SST (G);
that in the meanwhile, she was posted against the newly created post of



ASDEO (Female) vide order dated 11.02.2021; that on 07.04.2023, the appellant was transferred and was placed at the disposal of the DEO (Female) Bannu for further posting. Feeling aggrieved, she filed departmental appeal, which was accepted and the said order was withdrawn. But to the utter surprise of the appellant, the withdrawn Notification dated 07.04.2023 in respect of the appellant as well as private respondent, was also withdrawn by the respondents vide the impugned order dated 19.05.2023, therefore, she filed the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeals by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondent.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG refuted the same by pressing their stances.

5. There is no ifs ands or buts about the fact that the appellant and private respondent, both are SSTs from the General Cadre, therefore, none of the two are having any locus standi to strive for posting in the Management Cadre i.e. for the post of ASDEO (F). Even the civil servant, who is in the relevant grade cannot claim posting against his

choice post rather it is the domain and prerogative of the departmental authorities to post a Civil Servant against any post but proper person against the proper post should be posted. Reliance is placed on 2018 SCMR1411 titled "Khan Muhammad versus Chief Secretary Government of Balochistan and others".

6. This Tribunal and also the Supreme Court of Pakistan in a number of cases has held that proper persons should be posted against their proper cadre which in this case, is posting of an officer of Management Cadre against the Management Post. Proper person against proper post is also the spirit of clause-xiii of the Posting/Transfer Policy of the Government of Khyber Pakhtunkhwa.

7. For the reasons we hold that neither the appellant nor private respondent but in view of the clause xiii Posting/Transfer Policy, the concerned authorities shall ensure the posting of proper person in grade 16 against the post of ASDEO i.e. Management Cadre and not from the Teaching Cadre. The appeal is disposed of in the above terms. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 2nd October, 2023.*



KALIM ARSHAD KHAN

Chairman



MUHAMMAD AKBAR KHAN

Member (Executive)