

**ORDER**

5<sup>th</sup> Oct, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for official respondents present. Learned counsel for private respondent No. 4 present.
2. Vide our detailed judgement of today placed on file, the appeal in hand is devoid of merits, which is hereby dismissed. Costs shall follow the event. Consign.
3. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of October, 2023.*



(SALAH UD DIN)  
Member (J)  
Camp Court, Swat




(RASHIDA BANO)  
Member (J)  
Camp Court, Swat


proper and in accordance with rules and base on merit as respondent No.4 is suffering for the last four years in a 65 KM far away school Zaimdara outside her Tehsil.

6. Perusal of record reveals that appellant is serving in respondent department as DM in GGMS Mator Asbmr from the date of her appointment i.e 01.11.2014. Appellant came to know that DM post is vacant in GGHSS Shah Alambaba and she put her request for her transfer to her high ups but respondents instead of considering appellant transferrēd/posted respondent No. 4 to said post due to her influential and political approach vide order dated 09.12.2022,. Appellant being aggrieved filed departmental appeal as appellant is serving on the same post for eight years while respondent No.4 served on her previous post only for four years. Appellant through instant appeal seeks direction against the respondents for her posting/transfer from GGMS Mator to GGHSS Shah Alam Baba which against Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. Besides there is no original or appellate order enabling the appellant to file appeal before this Tribunal.

7. As a sequel to above discussion, As a sequel to the above discussion, we are of the view that appeal in hand is devoid of merits, which is hereby dismissed. Costs shall follow the event. Consign.

8. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of October, 2023.*

  
(SALAH UD DIN)  
Member (J)  
Camp Court, Swat

  
(RASHIDA BANO)  
Member (J)  
Camp Court, Swat

**the extent of serial No. 9 may very graciously be set aside... and the appellant be transfer from GGMS Mator, Asbanr to GGHSS Shah Alam Baba.”**

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant is resident of Shawa, Tehsil Adenzai, Dir-Lower and was appointed as DM at GGMS Mator, Asbanr vide order dated 01.11.2014. The appellant came to know about the vacant post in GGHSS Shah Alam Baba. Appellant submitted application for her transfer to that school. Posting/transfer order was issued in which private respondent was transferred to GGHSS Shah Alambaba due to influential approach. The appointment notification of the appellant as DM post is 01.11.2014 while that of private respondent is 19.03.2019 which not only shows the date of their respective appointment, but also the tenure of job on a hard area. Appellant filed departmental appeal, which was rejected being premature, hence instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the impugned notification up to the extent of respondent No.4 is illegal, unlawful and against the principle of justice to the stance of appellant and may be set and appellant be transferred from GGMS Mator Asbanr to GGHSS Shah Alam Baba.

5. Conversely, learned District Attorney assisted by learned counsel for private respondent contended that order passed by the respondent is legal,

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR  
AT CAMP COURT SWAT

Service Appeal No. 868/2023

BEFORE: MR. SALAH UD DIN ... MEMBER (Judicial)  
MRS. RASHIDA BANO ... MEMBER (Judicial)

Mst. Shabeena Saeed D/O Saeed Khan W/O Azad Khan R/O Shawa,  
Tehsil Adenzai District Dir Lower.

.... (Appellant)

VERSUS

1. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) Temargara Dir Lower.
4. Mst. Haseeba D/O Muhammad Uzair R/O Ouch, Tehsil Adenzai Dir Lower, DM GGHS Shah Alambaba.

.... (Respondents)

Mr. Azad Khan  
Advocate

... For appellant

Mr. Wajid Khan  
Advocate

... For private respondent

Mr. Muhammad Jan  
District Attorney

... For respondents

Date of Institution.....17.04.2023

Date of Hearing.....05.10.2023

Date of Decision.....05.10.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“On acceptance of instant appeal, the impugned portion of an order/notification dated 09.12.2022 up to**