

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR  
AT CAMP COURT SWAT

Service Appeal No. 823/2023

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

Mst. Razia, Senior Theology Teacher (BPS-16), GGHS Barikot Swat.  
..... (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) Swat.
4. Mst. Nadia Noreen SST GGHSS Mingora No. 1 Swat.  
..... (Respondents)

Mr. Fazal Ghani  
Special Attorney ... For appellant


Mr. Inayat Ullah Khan  
Assistant Advocate General ... For respondents

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Date of Institution.....12.04.2023  
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 transfer order 09.12.2022 may very graciously be set...**

**aside and the appellant be transfer from GGHS Barikot  
Swat to GGHSS Mingora No.1 Swat”**

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant is resident of Akbar Abad Mingora Swat and was appointed as Theology Teacher at GGHS Barikot vide order dated 24.07.2015. Respondent No. 3 vide order dated 09.12.2022 transferred private respondent No.4 to GGHSS Mingora No. 1 Swat. Appellant is physically disabled and also senior from private respondent No.4, therefore, she filed departmental appeal which was not responded, hence instant service appeal.

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

4. Special Attorney for the appellant argued that the impugned transfer order is illegal, unlawful and against the principle of justice. He further contended that on the basis of disability and senior from private respondent respondents violated vested right of the appellant, he therefore, requested for acceptance of instant service appeal.


5. Conversely, learned Assistant Advocate contended that appellant and private respondent No.4...being both local of Swat and rightly transferred from GGHS Aboha to GGHS No.1 Mingora being senior from appellant and it is not the prerogative of the employee to claim a right to serve at a place where she choose to serve. He submitted that there is no quota for disable and

transfer is not made on the basis of disability. He therefore, requested for dismissal of instant service appeal.


6. Perusal of record reveals that appellant is serving as Sr. Theology Teacher at GGHS Barikot from the date of their appointment i.e 24.07.2015. Appellant being resident of Mingora daily travel to Barikot for performance of duties. Appellant is disabled/special personal and at top of seniority she has the right to be transferred to nearest school situation at Aboha but respondent NO. 3 due to political consideration and outside influence transfer private respondent No.4 instead of appellant vide order dated 19.12.2022 which is violation of policy and principle of natural justice. Appellant being aggrieved from said order filed departmental appeal which is not responded. Appellant through instant appeal seeks direction to the respondents for her transfer from GGHS Barikot to GGHSS Mingora No.1 Swat, which is against Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, as there is no original or appellate order enabling the appellant to file appeal before this Tribunal.

7. 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

\*Kaleemullah

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

**ORDER**

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

1. Learned counsel for the appellant present. Mr. Inayat Ullah Khan learned Assistant Advocate General alongwith Sultan Nabi, ADO for the respondents 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