

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP COURT, ABBOTTABAD**

Service Appeal No. 1771/2022

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN  
MISS FAREEHA PAUL ... MEMBER (E)

Mst. Asma Qazi SS English (BPS-17), R/O Railway Station Mohallah  
Eidgah Haripur. .... (Appellant)

Versus

1. Chief Secretary through Government of Khyber Pakhtunkhwa Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department Peshawar.
3. Director Elementary & Secondary Education, Peshawar.  
.....(Respondents)

Mr. Kabirullah Khattak,  
Advocate

... For appellant

Mr. Asif Masood Ali Shah,  
Deputy District Attorney

... For respondents

Date of Institution..... 08.11.2022  
Date of Hearing..... 23.10.2023  
Date of Decision..... 23.10.2023

**JUDGEMENT**

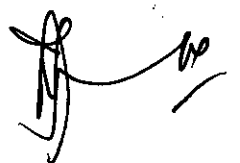
**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 31.08.2022, whereby the appellant's transfer order dated 31.08.2022 from GGHSS Nullah Soha Haripur to GGHSS Alooili was withdrawn, against which she filed departmental appeal on 05.09.2022 which was not decided within the statutory period. It has been prayed that on acceptance of the appeal, the impugned order dated 31.08.2022 might be set aside and the order whereby the appellant was transferred from GGHSS Nullah

Soha Haripur to GGHSS Aooli Haripur might be restored in favour of the appellant alongwith all back benefits.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as SST (BPS-16) on 08.12.2008 and promoted to BPS-17 vide order dated 13.11.2017. She while performing her duty at GGHSS Nullah Soha Haripur was transferred to GGHSS Alobli Haripur vide order dated 31.08.2022. She took over charge of the said post on 01.09.2022 and started performing her duty. The respondent department prepared pay roll of the appellant at the said school. The respondent department vide order dated 31.08.2022, withdrew the transfer order dated 31.08.2022, without any reason. Feeling aggrieved, the appellant submitted departmental appeal on 05.09.2022, which was not decided within the statutory period, hence the instant service appeal.

3. Respondents were put on notice. They submitted their joint written reply/comments on the appeal. We heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

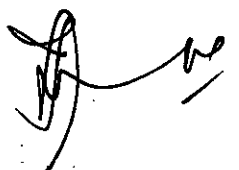
4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant after completing her normal tenure at GGHSS Nullah Soha Haripur was transferred to GGHSS Aooli vide order dated 31.08.2022 but through the impugned order the said order was withdrawn, which was against the posting/transfer policy of the Provincial Government. He further argued that the impugned order was void and illegal because it was passed against the law and rules. The learned counsel referred to a Service Appeal



No. 7042/2021 which was a similar nature case and accepted by the Tribunal on 31.01.2022. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that on the verbal demand of the District Education Officer (Female) Haripur and the Principal GGHSS Nullah Soha, Haripur the transfer order dated 31.08.2022 was withdrawn on the very same day when it was issued for the reason of shortage of English Teacher in GGHSS Nullah Soha, Hariur, in the best public interest. He further argued that as the transfer order of the appellant was withdrawn on the same day, therefore, any act in furtherance of that order was against the law and facts and hence ineffective upon the rights of the appellant. He further argued that the appellant had no right of appeal as she was not an aggrieved person under Article 212 of the Constitution of Islamic Republic of Pakistan and requested that the appeal might be dismissed.

6. From the arguments and record presented before us, it transpires that the appellant, while serving as Subject Specialist English (BS-17), was transferred from GGHSS Nullah Soha Haripur to GGHSS Aooli, Haripur vide a Notification of the Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department dated 31.08.2022. On the very same day, that Notification was withdrawn. As stated by the respondents in their reply, as well as before this bench during arguments, the Principal GGHSS Nullah Soha, after receipt of the transfer Notification, immediately placed a verbal request before the competent authority that they were short of English Teachers and that the transfer notification dated 31.08.2022 would




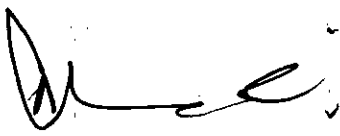
adversely affect the students. In view of that request the notification was withdrawn on the same day.

7. In view of the above discussion, this bench feels that the grievance of the appellant does not seem justified because she is a civil servant and under the law and rules, she is bound to serve at any place where her competent authority orders her to serve. In the present case, as the notification of transfer was withdrawn on the same day, there seems no justification of declaring it void or illegal or for that matter against the tenure policy of the Government. As far as processing the salary is concerned, it appears that just a source form was filled and no further process was carried out for payment of salary for the month of September, 2022.

8. The appeal in hand is, therefore, dismissed. However, as stated by the appellant that she had completed her normal tenure of posting at GGHSS Nullah Soha, the respondents are at liberty to post her at any other place as per rules/policy. Costs shall follow the event. Consign.

9. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal this 23<sup>rd</sup> day of October, 2023.*

  
(FAREEHA PAUL)  
Member (E)  
Camp Court, Abbottabad


  
(KALIM ARSHAD KHAN)  
Chairman  
Camp Court, Abbottabad

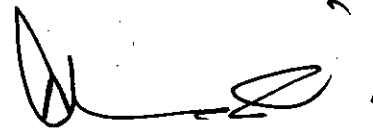
ORDER

23<sup>rd</sup> Oct. 2023 01. Mr. Kabirullah Khattak, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, the appeal in hand is dismissed. However, as stated by the appellant that she had completed her normal tenure of posting at GGHSS Nullah Soha, the respondents are at liberty to post her at any other place as per rules/policy. Costs shall follow the event. Consign.

03. *Pronounced in open Court at camp court, Abbottabad and given under our hands and the seal of the Tribunal on this 23<sup>rd</sup> day of October, 2023.*

  
(Fareeha Paul)  
Member (E)  
Camp Court, A/Abad

  
(Kalim Arshad Khan)  
Chairman  
Camp Court, A/Abad