

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 107/2023

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Mst. Imtiaz Tabasum W/O Fazal Malik CIPE presently GGHSS  
Charsadda Sherpao. .... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar.
  2. Director Elementary & Secondary Education Department Peshawar.
  3. District Education Officer (F), Peshawar.
- .... (Respondents)

Mr. Abdul Ghaffar Khan Mohmand  
Advocate ...

For appellant

Mr. Muhammad Jan  
District Attorney ...

For respondents

Date of Institution.....03.01.2023  
Date of Hearing.....13.10.2023  
Date of Decision.....13.10.2023

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 this appeal, this Hon’ble Tribunal may kindly be pleased to adjust the appellant on the post of her own district which are available and laying vacant in different school of the district.”**

2. Brief facts of the case, as given in the memorandum of appeal, are that appellant was appointed through Public Service Commission as DPE (BPS-16) at Government Girls Higher Secondary School, Pir Pai Nowshera vide order dated 27.05.2006. Later on she was promoted to BPS-17, 18 and then to BPS-19 as Senior Instructor Physical Education (CIPE) and was posted at GGHSS, Sherpao District Charsadda. Feeling aggrieved she preferred departmental appeal, which was not responded, hence the 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 appellant has not been treated in accordance with law and rules and respondents violated Article 4 & 25 of the Constitution of Islamic Republic of Pakistan 1973. He further argued that husband of the appellant is a government servant working as a Primary School Head Teacher at Peshawar and on the basis of spouse policy, therefore, she might be adjusted at Peshawar. He submitted that appellant had already served more than seven years in out district i.e Nowshera which is, violation of tenure of posting/transfer policy.

5. Learned District Attorney contended that the appellant was treated in accordance with law and rules. He further contended that respondents were empowered under Section 10 of the Civil Servants



Act 1973, for placing the services of the appellant throughout the province in the best public interest and the appellant is duty bound to serve anywhere throughout the province wherever they posted in public interest. He argued that posting/transfer of appellant is also subject to availability of posts, which is district Peshawar now a days not available.

6. Perusal of record reveals that appellant was initially appointed as DPE (Female) in BPS-16 qualifying competitive exam, in respondent department at GSHSS Pirpai Nowshera vide order dated 27-05-2006. Appellant was promoted to BPS-17 at the same station. Later on appellant was promoted to BPS-18 and then to BPS-19 after serving departmental efficiently and with full devotion. Appellant was posted at as Senior Instructor Physical Education (CIPE) at GGHSS Sherpao District Charsada. Appellant challenged her transfer/Posting order dated 14.09.2022 by terming it in violation of spouse policy, hardship and against the public interest. The Government of Khyber Pakhtunkhwa has introduced transfer posting policy, condition relevant to the instant appeal are (i) (vi) and (xi). The Government of Khyber Pakhtunkhwa Posting Transfer Policy states that;

i. All the posting/transfer shall be strictly in public interest and shall not be abused/misused to victimize the Government Servants.

iv. The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the



tenure shall be two years and for the hard areas the tenure shall be one year.

ix. Regarding the posting of husband/wife, both in provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.


Admittedly appellant belongs to District Peshawar and during entire service of eighteen years she only remain posted at Peshawar for three years. Husband of the appellant is Primary School Head Teacher (PSHT) at Peshawar which fact is not denied by the respondents. Respondents alleged that now a days post at Peshawar is not vacant, therefore, appellant is posted at Charsada. It is also an admitted fact that appellant has school-going children who are studying in Peshawar, due to which appellant daily commutes from Peshawar to Charsada, which creates hardship for a married lady who will have to look after her children, husband, and daily domestic routine affairs. So, in the peculiar circumstances of the case, the impugned order will be looked upon from the above-mentioned perspective with a sympathetic view, even by the respondents too.

7. So far question of non -availability of post of BPS-19 at Peshawar is concerned, the appellant produced a seniority list of Director Physical Education (Female). In accordance with which date of birth of one Mst. Saeeda Begum is 01.01.1964 and she will be retired on 31.12.2023 after attaining the age of superannuation, therefore, respondents are directed to consider and adjust the appellant


on said post after her retirement as she also has the right to be treated like other colleagues who remain posted at Peshawar for very long.

8. As a sequel to above discussion, we disposed of instant appeal on the above mentioned terms. Costs shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of October, 2023.*

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

Kaleemullah

  
(RASHIDA BANO)  
Member (J)

**ORDER**

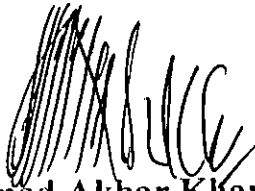
13<sup>th</sup> Oct, 2023 1. Learned counsel for the appellant present. Mr. Muhammad

Jan learned District Attorney for the respondents present.

2. Vide our detailed judgement of today placed on file, the instant appeal is disposed of. Costs shall follow the event.

Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of October, 2023.*



**(Muhammad Akbar Khan)**  
Member (E)



**(Rashida Bano)**  
Member (J)