

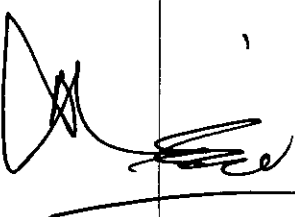
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 1412 of 2022

Habibullah

Versus

Government of Khyber Pakhtunkhwa Education Department & others

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Judge and that of parties or counsel where necessary
<p><b><u>ORDER</u></b> 10<sup>th</sup> November, 2023.</p>	<p style="text-align: center;"><b><u>KALIM ARSHAD KHAN. CHAIRMAN.</u></b></p> <ol style="list-style-type: none"><li>1. Learned Counsel for the appellant present and has been heard.</li><li>2. This appeal is against the order dated 27.05.2022 to the extent of the case of the appellant, whereby the appellant was transferred and posted at GHSS Shalpin Swat while the private respondent (Tehseenullah) was transferred and posted at GHSS Haryana Bala, Peshawar.</li><li>3. It is prayed in the appeal that office Notification dated 27.05.2022 passed by respondent No.1 might be set aside and the appellant might be adjusted/posted/transferred at GHSS Haryana Bala, Peshawar instead of GHSS Shalpin, Swat.</li><li>4. The prayer made in the appeal cannot be granted because nobody can seek posting of his choice. Reliance is placed on the judgment dated 15.01.2023 of the Supreme Court passed in CP No.1532 of 2022 titled "<i>Dr. Muhammad Saleem versus Government of Baluchistan and others</i>", wherein the Supreme Court held as under:  "5. This Court has already highlighted the scope of interference with the executive function of postings and transfers of</li></ol>

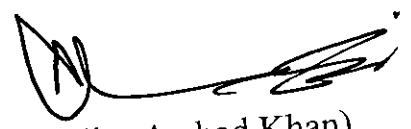
*government officials. It has been held that the transfer of a government official from one place or post to another to meet the exigencies of service was within the exclusive domain and competence of the competent authorities of the executive organ of the State and, ordinarily, it is not amenable to interference except in extraordinary circumstances. This principle is subject to the condition that the terms and conditions of service are not adversely affected. Moreover, an official has no vested right to claim to be posted/transferred to any particular place of his choice, nor is there a vested right to continue to hold a particular post at a particular place. The transfer and posting of a government servant is limited to the given tenure, if any, or at the pleasure of the competent authority. The question of whether the posting and transfer made by the competent authority was in the public interest is not open to judicial review by a tribunal or court and utmost caution and restraint ought to be exercised in interfering with or encroaching upon the exclusive domain of the executive authorities. The decisions in connection with posting and transfer of government servants must not be subjected to judicial scrutiny unless a law has been clearly violated or mala fide and malice is established without the need for making an inquiry. The interference of the Tribunal or courts in matters relating to postings and transfers is, therefore, an encroachment upon the executive domain and in breach of the seminal principle of separation of powers embedded in the Constitution. The Tribunal was not justified in interfering with the posting/transfer orders of the respondent nor was it in consonance with the settled principles relating thereto. The impugned judgment is, therefore, set-aside and with leave of this Court the petition is converted into an appeal and allowed."*

5. Therefore, this appeal has no merits and is dismissed in limine.

Consign.

*[Handwritten signature]*  
16/11/23

6. Pronounced in open Court at Peshawar and given under my hand  
and seal of the Tribunal on this 10<sup>th</sup> day of November, 2023.



(Kalim Arshad Khan)  
Chairman