

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1377/Neem/2019

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Dr. Sumaira Lecturer GGD College, Adenzai Dir Lower.

.... (Appellant)

VERSUS

1. Secretary to the Government of Khyber Pakhtunkhwa Higher Education, Achieves & Libraries Department, Civil Secretariat, Peshawar.
2. Director Higher Education Department.
3. Principal Government Girls Degree College, Adenzai Chakdara.
4. Principal Government Girls Degree College, Temergara Dir Lower.
5. Shahida Lecturer Government Girls Degree College, Dir Upper.

.... (Respondents)

Mr. Nawab Ali Noor  
Advocate

...

For appellant

Mr. Muhammad Jan  
District Attorney

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For respondents

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Date of Institution.....14.10.2019

Date of Hearing.....20.10.2023

Date of Decision.....20.10.2023

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:

“That on acceptance of this service appeal the impugned order dated 10.10.2019 of the respondent No. 1 whereby he has been cancelled transferred/corrigendum orders of appellant through order dated 24.07.2019 and later on through order dated 30.07.2019 transferred the respondent



**No. 5 to GGDC Adenzai may kindly be set aside and the transfer order dated 01.11.2018 and corrigendum dated 13.12.2019 of appellant to GGD College Adenzai may kindly be restore. ”**

2. Brief facts of the case, as given in the memorandum of appeal are that appellant was appointed as Lecture in respondent department vide order dated 30.04.2013. Then she was transferred to GGDC Juligram vide order dated 01.11.2018 and just after one month, through corrigendum, she was posted at GGDC Adenzai vide order dated 13.12.2018. Feeling aggrieved, she filed department appeal, which was rejected; 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 the appellant has not been treated in accordance with law and rules. He further argued that impugned notification issued by the respondent was also not in public interest as required under the posting/transfer policy, therefore, the same is not tenable and liable to be set aside.

5. Learned District Attorney on the other hand contended that the appellant was treated in accordance with law and rules on the subject. He further contended that the appellant was working on wrong post as there is no vacant post of the said subject and scale at GGDC Juligram and Adenzai against which she could be adjusted. He further contended that appellant is a civil servant and transfer/posting of a civil servant comes within the purview



of terms and conditions of her service. A civil servant is to serve where he/she is posted by the competent authority. The competent authority has been empowered by Section 10 of Civil Servant Act 1973 to transfer and post a civil servant in exigency of service.

6. Perusal of record reveals that appellant was performing her duties as Lecturer at GGDC Adenzai Dir Lower from 13.12.2018. Earlier she was posted at GGDC Juligram, where no post of BPS-17 was available therefore, she was posted at Adenzai Dir Lower vide order dated 13.12.2018 but both the orders were cancelled vide order dated 24.07.2019 due to non availability of post of BPS-17. Appellant challenged this cancellation order in her departmental appeal filed on 08.08.2019 which was rejected by the authority vide order dated 10.10.2019. Record transpires that appellant was transferred from GGDC Temergara Dir Lower after five years and eight months but just after seven months she was again transferred back to the said college which is not in accordance with law and rules. Appellant was in fact transferred after seven months of cancellation of transfer/posting order, which is not logical.

7. Learned counsel for the appellant stated at the bar that appellant is still serving at GGDC Temergara Dir Lower which means that she has completed almost ten years at one station which in our view is injustice with her and it causes inconvenience to her. It is also pertinent to mention here that just after five days of issuance of impugned corrigendum order, respondent No. 5 was transferred to GGDC Adenzai Dir Lower which shows that impugned cancellation order was issued by the respondent to accommodate respondent No.5 and to save her from any sort of injunctive order by any competent court of law. So it is held that in fact impugned cancellation order is a step to



facilitate respondent No.5, who now almost completed her tenure at Adenzai. Therefore, impugned cancellation order is hereby set aside being premature and against public interest, coupled with the fact that respondent No.5 had remained posted for four years, which is double of the normal tenure of posting/transfer policy of the Provincial Government. Cost shall follow the events. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 20<sup>th</sup> day of October, 2023.*

  
**(FAREEHA PAUL)**  
Member (E)

  
**(RASHIDA BANO)**  
Member (J)