

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR**

**Service Appeal No. 2027/2023**

**BEFORE:** RASHIDA BANO --- MEMBER (J)  
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Mr. Said Amir Ali Shah, Village Secretary (BPS-09), Village Council  
Kattan Bala, District Dir Upper.....(*Appellant*)

**VERSUS**

1. The Director General Local Government & Rural Development  
Department, Khyber Pakhtunkhwa, Peshawar.
2. The Assistant Director, Local Government & Rural Development  
Department, District Dir Upper.
3. Mr. Rahim Zada, Village Secretary, VC Aligasar, District Dir Upper.  
.....(*Respondents*)

**Present:-**

NOOR MUHAMMAD KHATTAK,  
Advocate --- For Appellant

MUHAMMAD JAN,  
District Attorney --- For respondents.

Date of Institution.....06.10.2023  
Date of Hearing..... 27.11.2023  
Date of Decision..... 27.11.2023

**JUDGMENT.**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** The instant service  
appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa  
Service Tribunal, Act 1974 with the prayer copied as under;

*“That on acceptance of this appeal the impugned transfer  
orders dated 15.06.2023 & 27.09.2023 and appellate order dated  
28.09.2023 may kindly be set aside and the respondents may  
kindly be directed not to transfer the appellant from the post of*

*village Secretary Village Council Kattan Bala, Dir Upper. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.”*

02. Brief facts of the case are that the appellant was appointed as Village Secretary village Council Kattan Bala (BPS-07) vide office order dated 15.02.2016; that the appellant was transferred from Village Council Kattan Bala to Village Council Aligasar vide impugned order dated 15.06.2023. Feeling aggrieved from the impugned order 15.06.2023 the appellant filed departmental appeal and the order dated 15.06.2023 was withdrawn on 22.08.2023 but again on 27.09.2023 the order dated 22.08.2023 was withdrawn and the impugned order dated 15.06.2023 was restored. Feeling aggrieved the appellant filed departmental appeal which was rejected vide order dated 28.09.2023, hence preferred the instant service appeal on 06.10.2023

03. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative. Respondents No. 1 & 2 contested the appeal by way of filing written reply, while private respondent No. 3 failed to submit their written reply on the date fixed, therefore, he was proceeded ex-parte.

04. Learned counsel for the appellant contended that the impugned transfer orders dated 15.06.2023 & 27.09.2023 and appellate order dated 28.09.2023 issued by the respondents are against the law, facts, norms of natural justice hence not tenable and liable to be set aside; that the appellant has not been treated in accordance with law and rules and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic

of Pakistan 1973; that the impugned transfer orders are also violative of Clause-I, IV & XIII of Transfer/Posting Policy of Provincial Government of Khyber Pakhtunkhwa; that the impugned orders dated 15.06.2023, 27.09.2023 and appellate order dated 28.09.2023 are not passed in the public interest which is clear violation of judgments passed by this Honourable Tribunal and also the apex Supreme Court of Pakistan, hence impugned orders are void ab-initio; that as per rules and condition of the advertisement the post of the appellant is non transferrable being purely neighborhood/Village Council cadre.

05. On the other hand, learned District Attorney contended that the post of Village Secretary is District cadre and he can be transferred in the limits of concerned District; that the order was issued in accordance with law and rules; that the appellant remained for 07 years as Secretary Village Council Kattan Bala and he was transferred to Village Council Aligasar in the best interest of public which is nearest to the Village Council Kattan Bala & Aligasar.

06. We have heard the arguments of learned counsel for the parties and have perused the record.

07. During scrutiny of record it came to surface that one Irshad Ullah, who was similarly placed employee had filed Service Appeal bearing No. 1425/2022 titled "Irshad Ullah Versus The Director General Local Government & Rural Development Department Khyber Pakhtunkhwa Peshawar and others", which was allowed by this Tribunal vide judgment dated 05.05.2023. Para-5 & 6 of the said judgment is reproduced below:-

*“During the course of arguments, learned counsel for the appellant produced copy of order dated 03.08.2022 passed by the Hon’ble Peshawar High Court, Abbottabad Bench in Writ Petition No. 930-A/2022 whereby almost a similar matter was taken up by the Hon’ble Peshawar High Court and was decided in the following manner;*

*After arguing the case for a while, learned counsel for the petitioner agreed that let the matter be sent to respondent No. 1 (Secretary Local Government and Rural Development Department, Peshawar), for consideration of grievances of the petitioner. He shall see whether the transfer and posting of Village Secretary of Village Council was legal and justified. He shall also see that when appointments of persons are made on the basis of locality i.e. from same village council then making said posting transferrable would not carry any potential to prejudice rights of some localities; whether such powers are not open to misuse and abuse. He shall also see the regular duration with which petitioner has constantly been transferred from one place to another.*

*In view of the above, the instant petition is disposed of accordingly. Learned Additional AG, present in court, is directed to convey order of this Court to Secretary Local Government for consideration and necessary action.”*


*We would like to follow the Hon’ble Peshawar High Court and would send the matter to the Secretary Local Government and Rural Development to see this order in the above perspective. The Secretary Local Government and Rural Development shall decide the matter within 30 days of receipt of copy of this order under*

*intimation to the Tribunal through its Registrar. Costs shall follow the event. Consign."*

08. In view of the above judgment rendered by this Tribunal dated 05.05.2023 in Service Appeal bearing No. 1425/2022 titled "Irshad Ullah Versus The Director General Local Government & Rural Development Department Khyber Pakhtunkhwa Peshawar and others." The instant appeal is transmitted to Secretary Local Government and Rural Development Department to examine and decide the issue on the analogy of aforementioned appear under intimation to the Tribunal through its Registrar. Costs shall follow the event. Consign.

09. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 27<sup>th</sup> day of November, 2023.*

  
(Rashida Bano)  
Member (J)

  
(Muhammad Akbar Khan)  
Member (E)

ORDER

27.11.2023

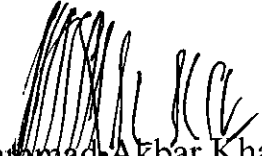
01. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for official respondents present. None present on behalf of private respondents, despite issuance of proper notice hence they are proceeded ex-party. Arguments heard and record perused.

02. Vide our detailed judgment of today separately placed on file, consisting of (05) pages, The instant appeal is transmitted to Secretary Local Government and Rural Development Department to examine and decide the issue on the analogy of aforementioned appear under intimation to the Tribunal through its Registrar. Costs shall follow the event. Consign.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 27<sup>th</sup> day of November, 2023.*



(Rashida Bano)  
Member (J)



(Muhammad Akbar Khan)  
Member (E)