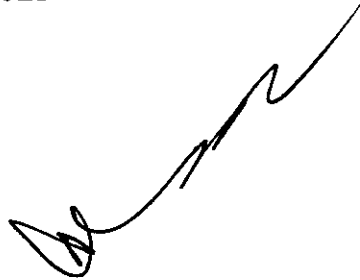


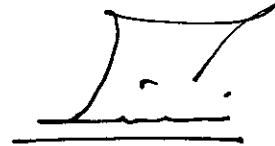
(Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011 is not attracting to case of the appellant, who is a Primary School Head Teacher. Moreover, the appellant has spent about 15 years in GGPS, Ghari Sadozai, D.I.Khan and she could not be allowed to remain posted in the said school for an indefinite period.

8. Consequently, the appeal in hand being without any merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.12.2023



(KALIM ARSHAD KHAN)
CHAIRMAN
CAMP COURT D.I.KHAN



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

which is reproduced as below:-

“3. Appointment, posting and transfer of primary school teachers.---(1) The vacancy of primary school teacher shall be filled in from the candidates belonging to the Union Council of their permanent residence mentioned in their Computerized National Identity Card and domicile, on merit and if no eligible candidate in that Union Council is available where the school is situate, such appointment shall be made on merit from amongst eligible candidates belonging to the adjacent Union Councils: Provided that on availability of a vacancy, a primary school teacher, appointed from adjacent Union Council, as referred to in this sub-section, shall be transferred against a vacant post in a school of the Union Council of his residence within a period of fifteen days.

(2) Upon marriage, the primary school teacher on request may be transferred to the school in the Union Council, where his spouse, ordinarily resides, subject to the availability of vacancy.

(3) The primary school teacher shall be transferred to other school within the Union Council on completion of tenure as may be prescribed subject to the policy of rationalization for maintaining certain student teachers ratio, if any.

(4) Government shall, within a period not exceeding one year of the commencement of this Act, make arrangement for posting of all the primary school teachers appointed prior to coming into force of this Act, to the schools of their respective Union Councils or adjacent Union Councils, as the case may be.”

7. While going through the contents of Section-3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011 as reproduced above, it is evident that the requirement of posting in the concerned Union Council is applicable only in cases of appointment and posting of Primary School Teachers and not that of Primary School Head Teacher. The post of Primary School Head Teacher is a district cadre post and Section-3 of the Khyber Pakhtunkhwa

appellant then approached this Tribunal by way of filing of the instant appeal for redressal of her grievance.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned. Official respondent No. 4 contested the appeal by submitting reply/comments, while rest of the respondents failed to submit reply/comments, therefore, their right of submission of reply/comments was struck off vide order dated 27th October, 2022.

3. Arguments heard and record perused.

4. The main and only contention agitated by learned counsel for the appellant is that the appellant was serving as PSHT in Government Girls Primary School, Garhi Saddozai, which is located in Union Council which the appellant belong, therefore, in view of Section-3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011, her transferred a school located in another Union Council was wrong and illegal.

5. On the other hand, learned Assistant Advocate General contended that Section-3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011 is applicable to the post of Primary School Teachers and not to the post of PSHT, which is a district cadre post.

6. In order to appreciate the controversy in a proper way, it would be advantageous to reproduced Section-3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP COURT D.I.KHAN

BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
SALAH-UD-DIN ... MEMBER (Judicial)

Service Appeal No. 487/2022

Mst. Shazia Ambreen, Primary School Head Teacher (PSHT)
Government Girls Primary School Garhi Saddozai, D.I.Khan.

(Appellant)

Versus

Government of Khyber Pakhtunkhwa, through Secretary Elementary &
Secondary Education Department, Khyber Pakhtunkhwa, Peshawar
and 04 others.

(Respondents)

Present:

Mr. Abdul Ghafoor, Advocate.....For the appellant
Mr. Asad Ali Khan, Assistant Advocate General..... For official respondents
.....

Date of presentation of Appeal.....31.03.2022

Date of Hearing.....20.12.2023

Date of Decision.....20.12.2023

JUDGMENT

SALAH-UD-DIN, MEMBER: Brief facts of the case are that the
appellant was serving as PSHT (Primary School Head Teacher) in
Government Girls Primary School, Garhi Saddozai, D.I.Khan.

Vide the impugned order dated 22.01.2022, she was transferred
from the said school to Government Girls Primary School Ayub
Abad, D.I.Khan, while private respondent No. 5 namely Safia

Noreen was adjusted on her post. The appellant being aggrieved of
the impugned order dated 22.01.2022, challenged the same through
filing of departmental appeal, which was rejected on 22.02.2022. In
the meanwhile, when the Service Tribunal was defunct, she
approached Peshawar High Court, D.I.Khan Bench by way of filing
of Writ Petition which was dismissed being not maintainable. The