

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**  
**FAREEHA PAUL ...MEMBER (Executive)**

*Service Appeal No.2611/2023*

Date of presentation of appeal.....20.12.2023  
Dates of Hearing.....20.02.2024  
Date of Decision.....20.02.2024

**Mr. Muhammad Asad Khan**, Computer Operator BPS-16, District Education Officer (Female) Battagram office Battagram.

.....*Appellant*

Versus

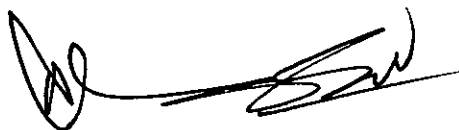
1. **The Secretary** Elementary & Secondary Education, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
2. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **The District Education Officer (Female)**, District Battagram.  
.....(*Respondents*)

Present:

Akhunzada Ahmad Saeed, Advocate.....For the appellant  
Mr. Asif Masood Ali Shah, Deputy District Attorney...For respondents

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**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 08.09.2023J WHEREBY THE APPELLANT WAS TRANSFERRED FROM DEO (F) OFFICE BATTAGRAM AND WAS PLACED AT THE DISPOSAL OF THE DEO (M) BATTAGRAM FOR FURTHER ADJUSTMENT AND AGAINST THE IMPUGNED ACTION BY NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF NINETY DAYS.**



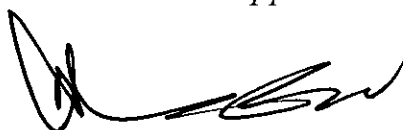
## **JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** According to the memorandum and grounds of appeal, the appellant was serving as Computer Operator in the office of District Education Officer (Female) Battagram. That vide order dated 10.01.2023, he was transferred to the office of District Education Officer (Male) Battagram during ban period. That the appellant filed departmental appeal against the order dated 10.01.2023, which was accepted and the order was withdrawn vide order dated 20.01.2023; that he resumed duty in the office of District Education Officer (Female) Battagram but his salaries were not released since January, 2023. That feeling aggrieved, he filed departmental appeal for release of his salaries, which was not responded, therefore, he filed Service Appeal No.1860/2023 which was allowed vide order dated 12.02.2024 with direction to the respondents to release the salaries of the appellant forthwith. It is, however, observed that at the time of hearing, Service Appeal No.1860/2023, the factum of pendency of this appeal was not brought into the notice of the Tribunal which the appellant ought to have done so. That vide impugned order dated 08.09.2023, he was transferred from the office of District Education Officer (Female) Battagram and his services were placed at the disposal of the District Education Officer (Male) Battagram. Feeling aggrieved, he filed departmental appeal on 13.09.2023 which was not responded, hence, the instant service appeal.



3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and submitted reply.
4. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.
5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order.
6. This Tribunal vide consolidated judgment dated 20.06.2023 passed in Service Appeals No. 657/2022 & 658/2022 titled "Haq Nawaz & other Vs. The Secretary (E&SE) Education Department, Khyber Pakhtunkhwa Peshawar" has already dealt with almost similar matter in the following manner:

*"Both the appellants are from the Ministerial Staff. Vide the impugned transfer order, they were transferred and posted within the same district from one place to other. The projected ground of the appeals is that the appellants have prematurely been transferred. This Tribunal has decided many appeals wherein the question of premature transfer was agitated. A number of such appeals have been allowed and some have been disallowed. The reason of different decisions in the appeals with the specific ground of premature tenure transfer is obviously the changed facts and circumstances. In each case, the peculiar facts and circumstances are to be seen and the matters are decided accordingly. In these appeals both the appellants have been transferred from one place to the other but in the same station so all the questions of disturbance, dislodging, inconvenience or for that matter violation of any policy are totally ruled out. The fact that the posts held by the appellants are of non-Executive duties is undisputed. Therefore, too the premature posting of the appellants within the station could not be interfered with normally because of clerical nature of job of the appellant which does not affect any affairs of the department causing no prejudice to the public interest as well as to the appellants. Such orders are not detrimental to the appellants because there is no change of*



*station and Headquarter. That remains within District Battagram. The Pay, status, emoluments and perquisites remain the same. The appellants suffer no loss. All that happens is that the appellants report to different superiors at the offices within the city/suburban limits. Transfer is an incident of service and is made in administrative exigencies. Normally it is not to be interfered with by the courts. A transfer order is not cancelled at the throw of a hat by the court. Very compelling reasons must exist before a court of law to cancel the order of transfer of a government employee. We do not find any such compelling reasons in these appeals.*

*7. The upshot of the above discussion is that no prejudice has been caused to any of the appellants vide the impugned transfer order, therefore, we find these appeals groundless and dismiss these accordingly. Costs shall follow the event. Copy of this judgment be placed in the connected file. Consign."*

7. The facts and circumstances of this case are almost the same except that the appellant in this case is Computer Operator and the appellants of those cases were Senior Clerks, therefore, on the grounds detailed in those appeals as copied above, this appeal has also no merits and is dismissed with costs. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 20<sup>th</sup> day of February, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**FAREEHA PAUL**  
Member (Executive)

*\*Mutazem Shah\**

12.02.2024

01. Learned counsel for the appellant present. Mr. Habib Anwar, Additional Advocate General alongwith Mr. Ihsan Ullah, ADO for the respondents present. Preliminary arguments heard.

02. Points raised need consideration. The appeal is admitted for regular hearing subject to all just and legal objections by the other side. Appellant is directed to deposit security fees within seven days. Reply/comments on behalf of respondents have already been submitted. To come up for arguments on 20.02.2024 before D.B. P.P given to the parties.


(Muhammad Akbar Khan)  
Member (E)

\*kamranullah\*


ORDER

20<sup>th</sup> Feb. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
2. Vide our detailed judgment of today, placed on file, this appeal has no merits and is dismissed with costs. Consign.
3. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 20<sup>th</sup> day of February, 2024.*

  
(Fariha Paul)  
Member (E)

\*Mutazem Shah\*

  
(Kalim Arshad Khan)  
Chairman