

ORDER

10.05.2024 1. Learned counsel for the appellant present. Mr. Arshad

Azam, Assistant Advocate General for the respondents present.

Arguments heard and record perused.

2. Vide our detailed judgment of today separately placed on

file, we set aside the impugned orders dated 06.12.2023 and

22.02.2024 so as to allow her to complete her tenure at the

present school. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our*

*hands and seal of the Tribunal on this 10<sup>th</sup> day of May, 2024.*



(KALIM ARSHAD KHAN)  
CHAIRMAN




(MUHAMMAD AKBAR KHAN)  
MEMBER (E)

there since 28.01.2022. The stance of the respondents that the appellant was transferred on administrative grounds does not hold good as no ground was properly explained with evidence to corroborate their stance. There is a copy of Show Cause Notice dated 01.01.2024 available on record which contains plethora of allegations. The appellant in her written reply has categorically denied the allegations with substantial evidence. We believe that unless allegations against a civil servant are inquired into in a proper way and substantiated properly he or she remains innocent. Transfer of a civil servant is not a punishment but routine affairs of Government service. Tenure of a civil servant in a particular station of duty is clearly spelled out in the Posting/Transfer Policy of the Provincial Government. Since tenure of the appellant is not complete at her present school, therefore, we set aside the impugned orders dated 06.12.2023 and 22.02.2024 so as to allow her to complete her tenure at the present school. Costs shall follow the event. Consign.

07. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 10<sup>th</sup> day of May, 2024.*

  
(KALIM ARSHAD KHAN)  
CHAIRMAN

  
(MUHAMMAD AKBAR KHAN)  
MEMBER (E)

notice dated 01.01.2024 issued by the respondents is based on ridiculous allegations against the appellant which was duly replied by the appellant and denied the allegation; that proper NOC was obtained from the respondents for M.Phil studies; that respondent No. 3 & 4 issued a letter dated 27.12.2023 to the bank concerned for stoppage of salary of the appellant which was stopped from December 2023 by the bank concerned; that the appellant submitted application for release of her salary to respondent No. 3 on 21.01.2024 but in vain; that the fundamental rights of the appellant have been violated by the respondents and the appellant has been discriminated and has denied his due rights guaranteed under the Constitution of Islamic Republic of Pakistan.

05. On the other hand, learned Assistant Advocate General contended that the appellant was transferred after receiving complaints and recommendation of the SDEO as she was polluting the peaceful environment of the school and spoiling the future of the students hence she was transferred purely on administrative grounds; that the respondent have never made any lawful and illegal act but in fact the case of the appellant was dealt as per existing law, rules and policy; that the respondents have never made any discrimination and never violated any article of the Constitution of Islamic Republic of Pakistan 1973.

06. Scrutiny of record shows that the appellant was transferred from GGPS Shamtiaz Kala Khel Bannu to GGPS Jhadri Muhammad Khel Kotka Sharif Ullah Bannu vide order dated 06.12.2023. The tenure of the appellant at her present school was not complete as she was working

*Shamtiaz Kala Khel, Bannu and respondents may further be directed to release the salary of the appellant for the end of justice.”*

02. Brief facts of the case are that the appellant was transferred and posted from GGPS Hala Din Murib Baka Khel to GGPS Shamtiaz Kala Bannu vide office order dated 28.01.2022; that on 27.11.2023 the appellant fell seriously ill and submitted application for medical leave to respondent No. 3 which was sanctioned vide order dated 14.12.2023; that despite sanctioned of medical leave granted by respondent No. 3 the head teacher of the school marked the appellant absent from duty since 28.11.2023 till 16.12.2023; that respondent No. 3 issued impugned transfer order dated 06.12.2023 whereby, the appellant was transferred from GGPS Shamtiaz Kala Khel Bannu to GGPS Jhadri Muhamamd Khel Kotka Sharif Ullah Bannu. Feeling aggrieved from the impugned transfer order the appellant filed departmental appeal before respondent No. 2 on 01.01.2024 which was regretted by the appellate authority on 22.02.2024, hence preferred the instant service appeal on 29.02.2024.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in her appeal. We have heard arguments of learned counsel for the appellant, learned Assistant Advocate General for the respondents and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended the impugned orders are illegal, against the Posting Transfer Policy and also based on malafide intention, hence liable to be set aside; that the show cause

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN  
**MUHAMMAD AKBAR KHAN** ... MEMBER (E)

*Service Appeal No. 341/2024*

Date of presentation of Appeal.....29.02.2024

Date of Hearing.....10.05.2024

Date of Decision.....10.05.2024

Mst Bibi Ruqia (PST) School Teacher, GGPS Shamtiaz Kala Kehl, Bannu,  
R/o P.O Kala Khel, Masti Khan, Kala Khel, Tehsil and District  
Bannu.....(Appellant)

**VERSUS**

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa  
Peshawar.
2. District Education Officer (DEO) Female, District Bannu.
3. Sub Divisional Education Officer (SDEO) Female District Bannu.  
.....**Respondents)**

MUHAMMAD ILYAS ORKAZAI,  
Advocate

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For appellant.

ARSHAD AZAM,  
Assistant Advocate General

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For respondents

**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;

*"On acceptance of the instant service appeal, both the  
impugned transfer order dated 06.12.2023 and  
22.02.2024 of respondents No. 2 & 3 may kindly be set  
aside and consequently this appeal the appellant may  
kindly be allowed to continue her service in GGPS*