

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.1362/2023**

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

Mst. Nazara W/O Muhammad Shah Saud, PSHT Government Girls Primary  
School, Sur Kamar Jamrud, District Khyber. ... (Appellant)

**VERSUS**

1. The Director of Professional Development Khyber Pakhtunkhwa  
Charsadda Road, Peshawar.
2. District Education Officer (Female), Khyber.
3. Principal Regional Professional Development Centre (F). District Khyber,  
Jamrud.
4. Mst. Sadaf Ashraf Subject Specialist at Regional Professional  
Development Centre (F), Jamrud District Khyber.

... (Respondents)

Mr. Malik Jehangir Khan  
Advocate

...

For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

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For respondents

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Date of Institution.....16.06.2023  
Date of Hearing.....19.03.2024  
Date of Decision.....19.03.2024

**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:



**“On acceptance of this service appeal, the respondents may very graciously be directed to withdraw the office order dated 21.01.2023, so that the appellant may continue to reside in the allotted accommodation.”**

2. Brief facts of the case, as given in the memorandum of appeal, are that appellant belongs to district Charsadda and is serving as Primary School Head Teacher at Sur Kamar Jamrud District Khyber. She has no residential accommodation at District Khyber, therefore, she applied for allotment of government residential accommodation in District Khyber. She was allotted official residence No.7 in Elementary College Colony (F) Jamrud District Khyber vide order dated 20.04.2022. Vide impugned order dated 21.01.2023 the allotment order issued in favour of appellant was cancelled and house was allotted to private respondent No.4. Feeling aggrieved, she filed departmental appeal which was not responded, 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 Deputy District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for appellant argued that appellant has not been treated in accordance with law and rules. He further argued that the impugned office order dated 21.01.2023 is against the law, rules on the subject. He further argued that impugned office order was also issued in violation of Section 24-A of the General Clauses Act, 1897; that the impugned order is based on surmises and conjecture, hence liable to be set aside.



5. Conversely, learned Deputy District Attorney contended that appellant has been treated in accordance with law and rules. He further argued that residence is the ownership of the college and only college employees are entitled for its occupation under the rules and appellant is the employee of District Education Office.

6. Perusal of record reveals that appellant is serving in respondent department as PSHT at Sur Kamar, Jamrud District Khyber. She belongs to district Charsadda and have no residential accommodation at Jamrud. Therefore she applied for allotment of official accommodation at her duty place and was accordingly allocated Bangalow no.7 at Elementary College Colony Female Jamrud vide order 20/4/2022 by the Principal Government Elementary College Female Jamrud. Appellant is residing in it alongwith her family. Respondent No.3, all of sudden, in January 2023 cancelled allotment order of the Bangalow No.7 in favor of appellant vide order dated 21/1/2023 and allotted said Bangalow to respondent No.4. Appellant in instant appeal challenged said cancellation of allotment order in accordance with letter dated 10/11/2023 by Additional Director (Admn). Admittedly appellant is employee at district level/ cadre while house/ residence constructed within the premises of the colleges/ institutions RPDC (M/F) are made only for the employees of DPO/ RPDC(M/F) of Khyber Pakhtunkhwa, hence the said residential accommodation would not be allocated to anyone else except staff of DPO/ RPDCS (M/F) of the province. It is also mentioned in it that all existing unauthorized occupants of Bungalow/Quarter be issued three notices to vacate



the accommodation and then approach to their parent department with similar request for vacation, if no positive response is achieved, Deputy Commissioner and District Police Officer of the concerned District be requested to assist the Department in vacating the Government property/building.

7. It is also pertinent to mention here that respondent N0.4 is the employee of DPO/RPDCS(f) of the college itself and under above mentioned rule she is entitled for the allotment of Bangalow No.7 which was allocated to appellant. It held in chapter iv, serial No.13 of the Khyber Pakhtunkhwa Residential Accommodation at Districts (Procedure for allotment) Rules 2018, that;


***“(1) The competent authority may allow an allottee to change his residential accommodation with another vacant residential accommodation in accordance with his entitlement on the first come first get basis subject to the availability of such residential accommodation.***

***(2) Mutual exchange of residential accommodation between the allottees may be allowed by the competent authority, subject to the condition that both the residential accommodations are of the same category and none of the allottees are due for retirement in the next years and both the allottees have resided in their residential accommodations for a minimum period of five years.”***

8. So, allotment order of Bangalow N0.7 in favor of appellant was cancelled as per prevailing policy because appellant being employee of District Jamrud is not entitled for allotment of residence of DPO/RPDC (F).

9. For what has been discussed above, the appeal in hand is dismissed having no force in it. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19<sup>th</sup> day of March, 2024.*

  
(Faraha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)


**ORDER**

19.03.2024

1. Learned counsel for the appellant present. Mr. Masaood Ali Shah learned District Attorney for the respondents present.
2. Vide our detailed judgment of today placed on file, the appeal in hand is dismissed having no force in it. Costs shall follow the event. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19<sup>th</sup> day of March, 2024.*



(Faraha Paul)  
Member (E)



(Rashida Bano)  
Member (J)