

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

**Service Appeal No. 439/2024**

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

Habib Ullah Khan, Assistant Director Information (BPS- 17) PRO to Chief Secretary, Khyber Pakhtunkhwa Peshawar. ....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary Information & Public Relations, Civil Secretariat Peshawar.
3. Mr. Sajid Mehmood, Assistant Director (BS- 17) Directorate General Information & Public Relations, Peshawar.....(Respondents)

Mr. Noor Muhammad Khattak,  
Advocate

... For appellant

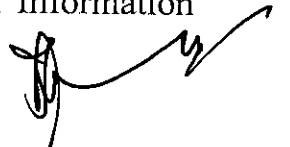
Mr. Muhammad Jan,  
District Attorney

... For official respondents

Date of Institution.....	21.03.2024
Date of Hearing.....	31.05.2024
Date of Decision.....	31.05.2024

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned notification dated 08.12.2023 whereby the appellant was transferred against the cross cadre post of Producer (BPS- 17) and against not taking action on his departmental appeal within the statutory period of ninety days. It has been prayed that on acceptance of the appeal, the impugned notification dated 08.12.2023 might be set aside to the extent of the appellant and private respondent No. 4, and the respondents be directed not to transfer the appellant from his original post of Assistant Director Information

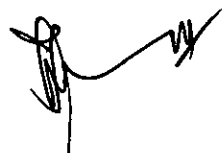


(BPS- 17), alongwith any other remedy which the Tribunal deemed appropriate.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was serving in the respondent department as Assistant Director Information (BPS- 17). Respondent No. 2 issued the impugned notification dated 08.12.2023 whereby the appellant was transferred against the cross cadre post of Producer (BPS- 17) in violation of the prevailing laws and rules and private respondent No. 3 was transferred/posted against his post. Feeling aggrieved, he preferred departmental appeal before respondent No. 1 followed by Writ Petition No. 6238-P/2023 before the Hon'ble Peshawar High Court, Peshawar but the same was dismissed, being not maintainable. The appellant waited for the statutory period of ninety days; hence the instant service appeal.

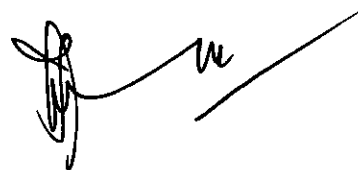
3. Respondents were put on notice. Official respondents No. 1 & 2 submitted their joint written reply. Private respondent No. 3 was placed ex-parte vide order dated 16.05.2024. We heard the learned counsel for the appellant as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned notification was contrary to law and rules on the subject and violative of clause (xiii) of the Posting/Transfer Policy of the Provincial Government and Rule 12 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. He further argued that vide order dated 06.12.2021, in service appeal No. 16578/2020



titled "Manzoor Ahmad Vs. Government of Khyber Pakhtunkhwa and others", the appeal was accepted in the similar circumstances and hence the appellant was also liable for the same treatment under the principle of consistency. Reliance was placed on 2009-SCMR- 1. He requested that the appeal might be accepted as prayed for.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant had proved himself as a nuisance for the department through his unruly conduct and insubordination during his service career spanning over six years. Disciplinary actions initiated against him on numerous occasions spoke volumes of his misconduct and disobedience. He argued that posting and transfer were part and parcel of civil service and always carried out in the best public interest. The appellant, hailing from South Waziristan Tribal District, was first transferred to Pakhtunkhwa Radio Wana after serving for more than six years at Peshawar but later on, on his request, the said order was revised by the competent authority and he was transferred to Pakhtunkhwa Radio FM 92.2 Peshawar. So far as the cross cadre posting was concerned, the learned District Attorney argued that the plea taken by the appellant was incorrect as all the employees recruited against the posts of Assistant Director, Assistant Registrar, Producer, Station Manager and Information Officers were the same cadre having the same qualification and method of recruitment as per rules and their names were placed in the joint seniority list for promotion to the posts of Deputy Director Information/ Public Relation Officer to Governor/Station Director BPS- 18. Being the same cadre, the Assistant Directors information were posted against the post of



Producers and vice-versa on multiple occasions, therefore, no question of injustice arose while transferring him as Producer. He requested that the appeal might be dismissed.

6. Through the instant service appeal, the appellant has impugned the transfer order dated 08.12.2023 vide which he had been transferred from HQ Peshawar/PRO to Chief Secretary to Producer Pakhtunkhwa Radio FM 92.2 MHz, Peshawar. The said transfer had been impugned on the ground that it was a cross cadre posting, which was against the rules. Arguments and record presented before us show that the appellant was appointed on 31.10.2017 as Assistant Director Information/Information Officer in the Information Department Khyber Pakhtunkhwa. As stated by his learned counsel, the appellant remained in Peshawar throughout his service. It was only once that he was transferred as Incharge FM Radio Wana but his transfer order was cancelled at his own request and he was transferred to Peshawar again as Producer Pakhtunkhwa radio FM 92.2 MHz through the impugned notification. The only ground taken in the appeal against the transfer order dated 08.12.2023 was that the appellant was Assistant Director and he was transferred against the post of Producer, which was a different cadre and such transfer was against the rules. Service rules governing the service matters of employees of Directorate of Information Khyber Pakhtunkhwa amended vide notification dated 19.12.2018 were produced before us according to which serial no. 3 of the rules notified on 18.08.2011 were amended and Assistant Director Information/Information Officer/Station Manager/Assistant Registrar/Producer (BS- 17) had been clubbed together having the same qualification. All of them




had joint seniority lists at the level of BPS- 16 also. This means that all the posts mentioned at serial no. 3 of the rules belonged to the same cadre and hence the point stressed upon by the appellant in his appeal as well as his learned counsel before us during the arguments was groundless.

7. Learned counsel for the appellant, while arguing the case also stressed upon the violation of transfer/posting policy by stating that he was not allowed to complete his tenure as PRO to Chief Secretary. Here, one must keep the fact in view and as stated by the learned counsel himself on a query by the bench, that the appellant remained in Peshawar throughout his service career at different positions, either at the level of Headquarter or as PRO with ministers. In such a scenario, the question of tenure does not arise. Moreover, transfer/posting is an exclusive domain of the executive and the competent authority has all the power under the law and rules to transfer a civil servant from one post/place to another to meet the exigencies of service. This Tribunal does not see any violation of law/rules or terms and conditions of the appellant, by the competent authority, while issuing the transfer order impugned before us.

8. In view of the above discussion, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 31<sup>st</sup> day of May, 2024.*

  
(FAREEHA PAUL)  
Member (E)

\*Fazle Subhan PS\*


  
(RASHIDA BANO)  
Member(J)

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31<sup>st</sup> May, 2024 01. Mr. Noor Muhammad Khattak, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31<sup>st</sup> day of May, 2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member(J)

\*Fazal Subhan PS\*