

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
RASHIDA BANO ...MEMBER (Judicial)

Service Appeal No.580/2024

Date of presentation of appeal.....08.04.2024
Dates of Hearing.....12.07.2024
Date of Decision.....12.07.2024

Wajid Ali Shah S/O Said Hukam Shah (SST) General (BPS-16)
Presently posted at GHSS Naway Kalay Buner.

.....*Appellant*

Versus

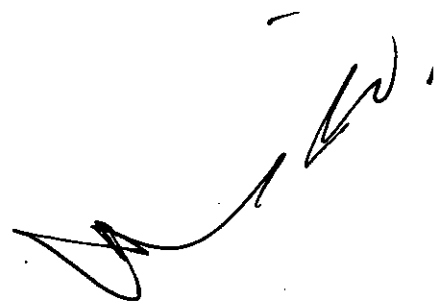
1. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
 2. **The District Education Officer (Male)**, District Buner.
-(*Respondents*)

Present:

Mr. Waqas Ali Shah, Advocate.....For the appellant

Mr. Muhammad Jan, District Attorney...For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 WHEREBY THE RESPONDENT NO.2 TRANSFERRED THE APPELLANT VIDE IMPUGNED NOTIFICATION NO.8013-19/RATIONALIZATION/SST DATED 08.12.2023 ON THE BASIS OF RATIONALIZATION POLICY FROM GCMHS DAGGER NO.1 TO GHSS NAWAKALY MAY BE DECLARED AS ILLEGAL, VIDE-AB-INITIO AND EFFECTIVE UPON THE RIGHT OF THE APPELLANT AND THE SAME MAY BE SET ASIDE IN THE BEST INTEREST OF JUSTICE.



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was serving as Secondary School Teacher (General) in the Education Department at District Buner in GCMHS Dagger No.1; that vide impugned order dated 08.12.2023, he was transferred from GCMHS Dagger No.1 to GHSS Naway Kalay. That the appellant filed departmental appeal against the order dated 08.12.2023, which was not entertained, therefore, he filed the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and submitted reply.

3. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

4. 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.

5. Perusal of record shows that the appellant was and is serving in the same District i.e. District Buner. He was transferred from one place to another, which is "inter-district transfer" and the appellant has challenged the said transfer before this Tribunal. While 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."

6. The facts and circumstances of this case are almost the same except that the appellant in this case is SST 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.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12th day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Atuazem Shah