

S.A #.306/2024

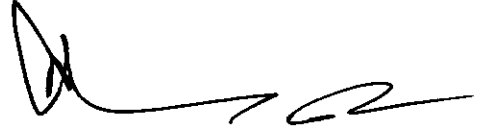
ORDER

2nd Sep. 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for official respondents present. Private respondent No.4 present through counsel. Heard.
2. Vide our detailed judgment of today placed on file, instant service appeal is dismissed with costs. Consign.
3. *Pronounced in open Court at Swat and given under our hands and the seal of the Tribunal on this 2nd day of September, 2024.*



(Rashida Bano)
Member (J)
Camp Court, Swat

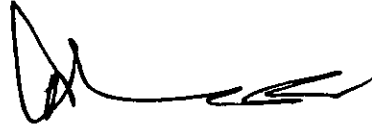


(Kalim Arshad Khan)
Chairman
Camp Court, Swat

Mutazem Shah

may be considered by the department that she might be placed at a nearby station. Consign.

9. *Pronounced in open Court at Swat and given under our hands and the seal of the Tribunal on this 2nd of September, 2024.*



KALIM ARSHAD KHAN
Chairman
Camp Court, Swat



RASHIDA BANO
Member (Judicial)
Camp Court, Swat

Mutazem Shah

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."

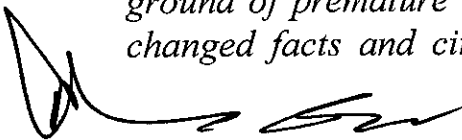
8. The facts and circumstances of this case are almost the same except that the appellant in this case is Drawing Master and the appellants of those cases were Senior Clerks, therefore, on the grounds detailed in those appeals as copied above, this appeal has also no merits and is dismissed with costs. However, keeping in view the medical issues of the appellant, the request of appellant

Swat since 03.08.2007. Vide impugned order 14.11.2023, she was transferred from the said School. The said transfer was assailed on the same day through a departmental appeal, but the same was not responded till approaching to this Tribunal.

6. First point noted by the bench was that appellant has been served at the station, from where she was transferred, for more than sixteen years and the posting transfer policy of the Government of Khyber Pakhtunkhwa does not allow a civil servant to be posted at the same station for more than two years. However, the appellant has enjoyed one station for more than one and half a decade.

7. Secondly, the appellant has been transferred from one station to another within the same district and on the same issue, 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



JUDGMENT

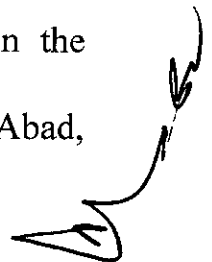
KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was appointed as Drawing Master (BS-15) vide order dated 05.04.1999; she was serving her duty when in the meanwhile, vide impugned order dated 14.11.2023 she was transferred from GGMS Rahim Abad to GGMS Shinkad and private respondent was adjusted at GGMS Rahim Abad; that feeling aggrieved of the said transfer order, she preferred departmental appeal on the same day i.e. 14.11.2023, but the same was not responded within the statutory period of ninety days, therefore, she 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, learned counsel for private respondent 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 District Attorney, assisted by the learned counsel for private respondent controverted the same by supporting the impugned order.

5. The appellant was serving as Drawing Master in the Education Department and was posted at GGMS Rahim Abad,



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR
AT CAMP COURT, SWAT

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

Service Appeal No.306/2024

Date of presentation of appeal.....21.02.2024
Dates of Hearing.....02.09.2024
Date of Decision.....02.09.2024

Dilshad Begum DM BPS-15 Government Girls Middle School
Shinkad, District Swat.

.....(*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 Swat.
4. **Javida DM BPS-15 Government Girls Middle School Rahim Abad, Swat.....(Respondents)**

Present:

Mr. Imdad Ullah, Advocate.....For the appellant
Mr. Muhammad Jan, District AttorneyFor official respondents
Mr. Muhammad Nabi, AdvocateFor private respondent

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER ENDST: NO.9898-904-PF/JAVIDA/DM/GGMS SHINKAD SWAT DATED 14.11.2023, WHEREBY THE APPELLANT IS TRANSFERRED TO A FAR FLUNG AREA, FEELING AGGRIEVED THE APPELLANT FILED A DEPARTMENTAL APPEAL, BUT THE SAME WAS NOT RESPONDED TO DESPITE THE LAPSE OF STATUTORY OF TIME.

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