

10<sup>th</sup> Jan. 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Learned counsel for the appellant requested for adjournment

in order to prepare the brief. Adjourned. To come up for arguments on 13.05.2024 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)  
Member (E)

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

13<sup>th</sup> May. 2024

1. Junior to counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. Former made a request for adjournment as senior was not available today. Adjourned. To come up for arguments on 06.06.2024 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)  
Member (E)

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

SCANNED  
By: ST  
Peshawar

06<sup>th</sup> June, 2024

SCANNED  
KPST  
Peshawar

1. Clerk to counsel for the appellant present. Mr. Arshad Azam, Assistant Advocate General alongwith Mr. Sohrab Khan, Lecturer for the respondents present.
2. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourned by way of last chance. To come up for arguments on 26.06.2024 before the D.B. Parcha Peshi given to the parties.



(Fareeha Paul)  
Member (Executive)



(Kalim Arshad Khan)  
Chairman

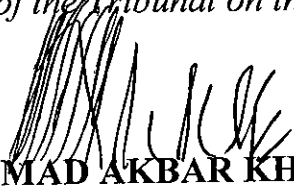
\*Naeem Amin\*

**ORDER**

26.06.2024 1 Learned counsel for the appellant present. Mr. Muhammad Jan, learned District Attorney alongwith Mr. Sohrab Khan, Lecturer for the respondents present.

2. Vide our detailed judgement of today placed on file, we are unison to held that punishment awarded to the appellant is in accordance with the rules and law which was awarded by complying all the codal formalities and principle of justice. 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 26<sup>th</sup> day of June, 2024.*



(MUHAMMAD AKBAR KHAN)  
Member (E)



(RASHIDA BANO)  
Member (J)


\*M.Khan

not attend the college and performed the duties. Therefore, he was not on his old place of posting and status quo means to keep the matter/things/situation intact as it is without any change till next date. So, it will not of any benefit to the appellant if transfer posting order was suspended then situation will be different and will be helpful to appellant to counter his charge of disobedience.

8. From inquiry report it is establishing that appellant filed to comply orders of provincial government rather resist to comply his transfer/posting order on different pretext which put the environment of the college into a state of disarray. Inquiry committee provided proper opportunity to the appellant to defend himself which he properly availed but he failed to justify his non obedience to the government orders and to disturb the environment of the college.

9. For what has been discussed above, we are unison to held that punishment awarded to the appellant is in accordance with the rules and law which was awarded by complying all the codal formalities and principle of justice. 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 26<sup>th</sup> day of June, 2024.*

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

government degree College Khan Kohi Nizam Pur, District Nowshera and the service of the appellant were placed at the disposal of FATA Secretariat vide order dated 07.02.2017. However the post remained vacant. He filed departmental appeal against the premature and illegal transfer to the concerned authority and after that the appellant filed service appeal No.508/2016 before this Tribunal Peshawar. During the preliminary hearing the impugned transferred order was also suspended by this Tribunal but respondent department allow the appellant to perform his duty on his post and started inquiry against the appellant committed contempt of court by non-compliance the order of this Honorable court. Respondent department issued charge sheet, statement of allegations and final show cause notice which has been properly replied by the appellant where the appellant denied all the allegation leveled against him. Appellant in compliance, in the best interest of public, relinquished the charge from the post of lecturer at Government College Nowhera on 07.09.2018 and have recently taken charge of his assignment at Government Degree College, Kalaya District Orakzai.

7. Main contention of the appellant before inquiry is that he challenged impugned order in civil suit where status quo was granted to him but when learned counsel for the appellant was asked to produce the same, he produced first order wherein no status quo or suspension of the transfer order was issued otherwise too matter of transfer posting does not fall within the domain of jurisdiction of civil court as it related to terms and condition of the service of the civil servant and Article 212 of constitution put bar of jurisdiction to all legal forum except Service Tribunal Act, Therefore, if any stay or suspension order passed by any other forum including civil court have no legal effect. So far, as question of status quo, admittedly appellant was relieved from duties vide order dated 24.04.2017 and was

2. Brief facts of the case are that appellant was appointed as Lecturer on contract basis on 28.11.2005 and later on his services were regularized in the year 2009. The appellant was posted in Government Degree College Khan Kohi Nizampur on 24.07.2015. He was transferred from Government Degree College Khan Kohi Nizampur District Nowshera and his services were placed at the disposal of FATA Secretariat vide order dated 07.02.2017, against which appellant filed service appeal No. 508/2016 before this Tribunal. During pendency of service appeal, respondents issued charge sheet, statement of allegation and show cause notice which was replied by the appellant by negating all the allegations. Thereafter, respondents vide impugned order dated 29.05.2019 imposed minor punishment of withholding of two increments for two years. Feeling aggrieved, he filed departmental appeal on 26.06.2019, which was rejected on 12.09.2019, hence the instant service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

5. 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 controverted the same by supporting the impugned order(s).

6. Perusal of record reveals that appellant is appointed as Lecturer on contract basis on 28.11.2005, later on service of the appellant has been regularized in the year 2009 by the respondent department. He has been transferred from

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 1600/2022**

**BEFORE: MRS. RASHIDA BANO ... MEMBER (J)**  
**MR MUHAMMAD AKBAR KHAN ... MEMBER (E)**

Mr. Ikramullah (Lecturer in Pashto BPS-17), Government Degree College,  
Kalya District Orakzai.

.... (*Appellant*)

**VERSUS**

1. Government Of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariate Peshawar.
2. The Secretary, Higher Education Khyber Pakhtunkhwa Peshawar.
3. The Director, Higher Education Department Peshawar.
4. The Principal, Government Degree College, Khan Kohi, Nizampur, District, Noshehra.

.... (*Respondents*)

Roeeda Khan  
Advocate

... For appellant

Mr. Muhammad Jan  
District Attorney

... For respondents

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Date of Institution.....22.10.2019  
Date of Hearing.....26.06.2024  
Date of Decision.....26.06.2024

**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:

**“That on acceptance of the instant appeal, the impugned order dated 29.05.2019 and 12.09.2019 may kindly be set aside and the appellant be kindly be ordered to be restored his two interments alongwith all back benefits.”**

