

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT, ABBOTTABAD

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
FAREEHA PAUL ... MEMBER(Executive)

Service Appeal No.613/2024

Date of presentation of Appeal.....23.04.2024
Date of Hearing.....24.09.2024
Date of Decision.....24.09.2024

Nadia Rasheed, Certified Teacher (BPS-15), Government Girls Middle School, Gharyal, District Mansehra.....(***Appellant***)

Versus

1. **Director** Elementary & Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar.
2. **District Education Officer (Female)**, Mansehra.
3. **Government of Khyber Pakhtunkhwa**, through Secretary elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. **Asma Fazal**, Certified Teacher (BPS-15), Government Girls High School, Khait Sahrish, District Mansehra.(***Respondents***)

Present:

Mr. Fazal Shah Mohmand, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney...For official respondents
Mr. Tabarik Thakkur, Advocate.....For private respondent No.4

**SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE OFFICE
ORDER DATED 27.03.2024 WHEREBY ON
ACCEPTANCE OF DEPARTMENTAL APPEAL
OF RESPONDENT NO.4, OFFICE ORDER
ISSUED VIDE ENST. NO.1321-25 DATED
22.09.2023 HAS BEEN WITHDRAWN.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Facts of the case of the appellant, gathered from memorandum and grounds of appeal are that the appellant was serving in the Government Girls High School Shamdhara as Certified Teacher (BPS-15); that vide order 22.09.2023 she was transferred to GGMS

Gharyal, Manshra but the same was withheld on 28.09.2023, however, on the same day, the order was restored; that against the restoration of transfer order dated 28.09.2023 the private respondent No.4 made representation for transfer of the appellant; that the respondent No.3, vide order dated 03.10.2023 transferred the private respondent No.4 to GGMS Gharyala; that vide impugned order dated 27.03.2024, the respondent No.1 withdrew the order dated 22.09.2023, whereby, the appellant had transferred to GGMS Gharyal, Manshra; that feeling of the order dated 27.03.2024, the appellant filed the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who 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.

3. We have heard learned counsel for the appellant learned Deputy District Attorney for official respondents and learned counsel for the private respondent No.4.

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, assisted by the learned counsel for private respondent No.4, controverted the same by supporting the impugned order(s).

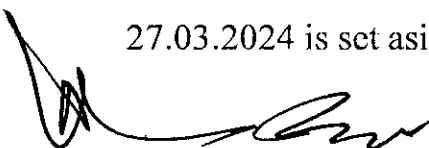
5. The matter involved in this case is transfer of Certified Teachers. Appellant was once transferred, which order was withheld, and later on, the same was restored. However, upon the interference the i.e. Secretary to Government of Khyber Pakhtunkhwa, Peshawar the said order was again withdrawn. The order dated 03.10.2023 was passed by the Secretary Education for transferring the private respondent No.4 at GGMS Gharyal, where the appellant was already posted, which is as under:

"Mst. Asma Fazal, C.T GGIIS Khait Sahrish District Manshera is hereby transferred and posted at GGMS Gharyala District Manserha against the vacant post with immediate effect."

6. As the order dated 22.09.2023 was already in field, meaning thereby the appellant was serving in the GGMS Gharayala, which was wrongly declared by the Secretary as vacant. However, in the light of the order of the Secretary, the Director E&SE issued the impugned order dated 27.03.2024 withdrawing the order dated 22.09.2023. All the above proceedings do not state any reason why successive transfers of the appellant were made.

7. Therefore, this Tribunal is of the view that the impugned does not seem justified.

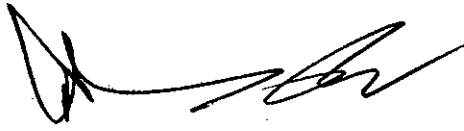
8. In view of the above, the impugned order dated 27.03.2024 is set aside and the appeal in hand is accepted. The



Service Appeal No.613/2024 titled "Nadia Rasheed, -vs- Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar and others" declared on 24.09.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad.

private respondent No.4 may also be adjusted keeping in view her submission before the departmental authorities. Costs shall follow the event. Consign.

9. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 24th day of September, 2024.*



KALIM ARSHAD KHAN
Chairman
Camp Court, Abbottabad



FAREEHA PAUL
Member (Executive)
Camp Court, Abbottabad


Mutazem Shah


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ORDER

24th Sep. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present. Private respondent No.4 present through counsel. Heard.
2. Vide our detailed judgment of today placed on file, the impugned order dated 27.03.2024 is set aside and the appeal in hand is accepted. The private respondent No.4 may also be adjusted keeping in view her submission before the departmental authorities. Costs shall follow the event. Consign.
3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 24th day of September, 2024.*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah