

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT, ABBOTTABAD

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

Service Appeal No.1063/2024

Date of presentation of Appeal.....29.07.2024
Date of Hearing.....25.09.2024
Date of Decision.....25.09.2024

Shad Muhammad Khan son of Haji Malang Khan presently resident of Mohallah Rehman Abad, College Doraha Labarkot, Tehsil and District Mansehra presently Assistant Engineer/SDO (BPS-17) C&WD, Torghar.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Communication and Works Department, Peshawar.
2. **Chief Secretary, Khyber Pakhtunkhwa Peshawar**...(*Respondents*)

Present:

Mr. Asjad Parvez Abbasi, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney...For respondents

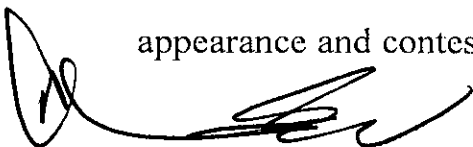
SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER BEARING NO.SOE/C&W/4-7/2024 DATED 24.04.2024 WHEREBY THE ADJUSTMENT ORDER DATED 23.04.2024 OF THE APPELLANT AS SUB DIVISIONAL OFFICER C&W SUB DIVISION TORGHAR WAS CANCELLED.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Facts of the case of the appellant, gathered from memorandum and grounds of appeal are that the appellant was inducted in the respondent department as SDO (BPS-17); that the appellant vide order dated 21.09.2023, he was transferred from

Torghar to District Manshera; that vide another Notification appellant was directed to report to Secretariat, on 15.02.2024; that on the next day, i.e. 16.02.2024, his transfer order dated 15.02.2024 was cancelled his transfer order; that on 23.02.2024, another order was passed wherein, appellant was directed to report to Peshawar; that in the meanwhile, the appellant applied for ex-Pakistan leave which was granted for two months and upon return to Pakistan, vide order dated 23.02.2024 he as adjusted as SDO in Torghar; that after passing of one day, vide order dated 24.04.2024, his adjustment at Torghar was again cancelled; that feeling aggrieved, he filed departmental appeal against the order dated 24.04.2024 and for the purpose he also approached to the Hon'ble Peshawar High Court by filing Writ Petition No.455-A/2024 and the Hon'ble High Court vide order dated 30.04.2024 directed the respondents to decide the departmental appeal within 15 days and the therefore the appellant was kept at liberty to approach proper forum; the departmental appeal was not decided within the statutory period of ninety days, hence, 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

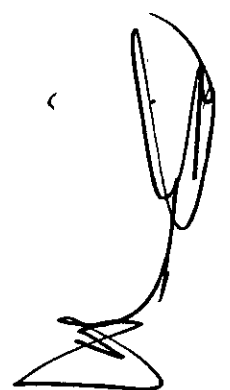


raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant learned Deputy District Attorney for 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(s).

5. Record reflects that the appellant is serving as SDO in the C&W Department. The appellant has faced multiple transfers, notably from Torghar to Mansehra on 21.09.2023, then to the Secretariat on 15.02.2024, and later to Peshawar on 23.02.2024. Such transfers cause disruption for a civil servant. Since the appellant was on ex-Pakistan leave from 21.02.2024 for 60 days and took over the charge again on 23.04.2024 in Torghar in light of the Notification dated 23.04.2024. However, on the next day i.e. 24.04.2024 the adjustment order was withdrawn. Learned counsel for the appellant pointed out that the date of birth of the appellant is 16.04.1965 and only Six (06) months remain in attaining the age of superannuation. Frequent transfer/adjustment orders, raise questions about the rationale behind such decisions and whether they comply with the principles of equity and fairness in public service



6. As the appellant is at the verge of retirement and otherwise too, such frequent transfers are burdensome and unjust. Therefore, impugned order is set aside, instant service appeal is accepted. The respondents are expected to consider the appellant's age and situation to ensure that no further frequent transfers occur, allowing for a dignified and stable conclusion to his service. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 25th day of September, 2024.*



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)

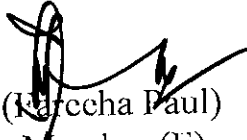
Mutazem Shah


S.A #.1063/2024

ORDER

25th Sep. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Heard.
2. Vide our detailed judgment of today placed on file, impugned order is set aside, instant service appeal is accepted. The respondents are expected to consider the appellant's age and situation to ensure that no further frequent transfers occur, allowing for a dignified and stable conclusion to his service. 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 25th day of September, 2024.*


(Karccha Paul)
Member (F)


(Kalim Arshad Khan)
Chairman

Mutazem Shah