

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 879/2024

BEFORE: MR. AURANGZEB KHATTAK... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Nadia Ashfaq D/O Ashfaq Ahmad, presently posted at GGHS Palosa
Kemanri, R/O village & Post office Sabir Abad District Karak.
.... (*Appellant*)

VERSUS

1. District Education Officer (Female) District Karak.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa
Peshawar.
3. Shumaila Rasheed CT-IT, presently posted at GGHSS No. 1, Karak.
....(*Respondent*)

Mr. Muhammad Atif Khattak,
Advocate

... For appellants

Mr. Asif Masood Ali Shah
Deputy District Attorney

... For official respondents

Date of Institution..... 25.06.2024
Date of Hearing.....04.10.2024
Date of Decision..... 04.10.2024

JUDGMENT

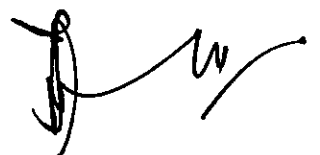
FAREEHA PAUL, MEMBER (E): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974, against the order dated 13.03.2024, whereby the appellant was transferred from GGHSS No. 1 Karak to GGHS Palosa Kemanri. It has been prayed that on acceptance of the appeal, the impugned transfer order dated 13.03.2024 might be set aside and the appellant might be allowed to perform her duty at Government Girls Higher Secondary School No. 1 Karak.

02. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as CT-IT (BPS-12) in Government Girls Higher Secondary School No. 1 Karak on 07.09.2022. Respondent No. 1 issued impugned transfer order dated 13.03.2024, whereby she was transferred to GGHS Palosa Kemanri against the vacant post without assigning any reason and justification. Feeling aggrieved, she preferred departmental appeal to the Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar which was not responded; hence the instant service appeal.

03. Respondents were put on notice. Official respondents submitted their joint written reply/comments. Private respondent No. 3 was served a notice but she did not respond, hence placed ex-parte vide order dated 15.07.2024. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the official respondents and perused the case file with connected documents in detail.

04. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned order dated 13.03.2024 was issued in flagrant violation of the Posting & Transfer Policy of the Provincial Government as the appellant did not complete normal tenure of three years. He further argued that the impugned order was neither in the public interest nor in the exigency of service and was passed in utter violation of the policy on the subject. He requested that the appeal might be accepted as prayed for.

05. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant's initial appointment was school-based and she was posted at GGHSS No. 1 Karak.



Lateron, her services were regularized on 12.07.2023 and she was transferred to GGHS Palosa Kimanri in accordance with the rules. He referred to Section 10 of Khyber Pakhtunkhwa Civil Servants Act 1973 and said that every civil servant was bound to serve anywhere in the province in the best public interest and in exigencies of service. He requested that the appeal might be dismissed.

06. From the arguments and record presented before us it transpired that the appellant was appointed as CT-IT in Government Girls Higher Secondary School No. 1 District Karak on adhoc/contract basis on 07.9.2022 and was later on regularized vide a notification dated 12.07.2023. The instant service appeal has been preferred against a transfer order dated 13.03.2024 vide which she was transferred from GGHSS No. 1 Karak to GGHS Palosa Kimanri against the vacant post. The contention of the appellant is that her transfer is premature in the light of policy of posting/transfer of the Provincial Government. As stated by the respondent department in their reply, the present place of posting at Palosa is the nearest station to her home town and that there should be no problem to her while commuting to her place of posting. Learned counsel for the appellant could not deny the fact that in the light of transfer order dated 13.03.2024 the appellant was not affected adversely rather he stressed only on the tenure as per posting/transfer policy.


07. In the light of Section 10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973, the competent authority is empowered to post a civil servant at any place within the province in the best public interest. In the instant case it



has been noted that the appointment of the appellant was initially school-based but after getting regularization she was transferred. From the date she was initially appointed on 07.09.2022 till her transfer dated 13.03.2024, she had completed almost one year and six months against the normal tenure of two years. We were informed during the course of hearing that she had already assumed the charge at her new place of posing.

08. In view of all the facts narrated before us and the charge assumption by the appellant, the instant appeal has become infructuous and is, therefore, dismissed. Cost shall follow the event. Consign.

- 09. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 04th day of October, 2024.*


(FARIHA PAUL)
Member (E)


(AURANGZEB KHATTAK)
Member (J)

MEMO OF COSTS.
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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3. Shumaila Rasheed CT-IT, presently posted at GGHSS No. 1, Karak.
....(Respondent)

PRESENT

Mr. Muhammad Atif Khattak,
Advocate

... For appellants

Mr. Asif Masood Ali Shah
Deputy District Attorney

... For respondents

Date of Institution..... 25.06.2024
Date of Hearing.....04.10.2024
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Appellant	Amount	respondents	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal.	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Services of processes	Rs. Nil	3. Services of processes	Rs. Nil
4. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
5. Security fee	Rs. 100/-	5. Security Fee	Rs. Nil
6. Profess fee	Rs. Nil	6. Process fee	Rs. Nil
7. Costs	Rs. Nil	7. Costs	Rs. Nil
Total	Rs. 100/-	Total	Rs. Nil

Note:- Counsel Fee is not allowed as the required certificate has not been furnished

Given under our hands and the seal of this Court, this 22nd day of October, 2024.


(FAREEHA PAUL)
Member (E)




(AURANGZEB KHAN)
Member(J)

Fazle Subhan, P.S

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 879 of 2024

Nadia Ashfaq Versus DEO (F) District Karak and
Two others.

S.No. of Order & Date of proceedings	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
Order-07 04 th October, 2024	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Muhammad Atif Khattak, Advocate for the appellant present.2. Mr. Asif Masood Ali Shah, Deputy District Attorney for the official respondents present. <p>01. Vide our detailed judgment consisting of 04 pages, the instant appeal has become infructuous and is, therefore, dismissed. Cost shall follow the event. Consign.</p> <p>02. <i>Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 04th day of October, 2024.</i></p> <p> (FAREEHA PAUL) Member (E)</p> <p> (AURANGZEB KHATTAK) Member (J)</p> <p>*Fazle Subhan, P.S*</p>