

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, SWAT

Service Appeal No. 1049/2024

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

Bakht Zia Bibi wife of Latifur Rehman resident of Ziarat Talash, Dherai,
Tehsil Timergara, District Dir Lower.

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Education,
Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa,
Peshawar.

....(Respondent)

Mr. Muhammad Shahidullah
Advocate

... For appellant

Mr. Muhammad Jan
District Attorney

... For respondents

Date of Institution..... 26.07.2024

Date of Hearing.....05.11.2024

Date of Decision..... 05.11.2024

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Tribunal Act 1974, against the order dated 01.07.2024, whereby the transfer order dated 27.06.2024 of the appellant was withdrawn. It has been prayed that on acceptance of the appeal, the impugned order dated 01.07.2024 might be set aside and the appellant might be adjusted as SPET at GGHS Nagrai Payeen, alongwith any other remedy which the Tribunal deemed appropriate.



02. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as PET (BPS- 9) and adjusted at GGHS Baghdushkhel, Talash, Dir Lower on 24.01.2007, wherefrom she was transferred to GGHS Nagrai Payeen on 30.09.2010 and then to GGMS Sarai Bala. She, while performing her duty in GGHS Warsak (BPS- 16) and one Taj Begum, SPET GGHSS Nargria Payeen submitted an application for mutual transfer, but their request was not considered. The concerned authority vide order dated 14.06.2024, transferred another candidate to GGHSS Nagrai Payeen despite the fact that she was junior to the appellant. Feeling aggrieved, the appellant filed an appeal before respondent No. 2, which was accepted vide order dated 27.06.2024. Respondent No. 3 withdrew the transfer order of the appellant vide impugned order dated 01.07.2024 but she was not adjusted against the post of SPET at GGHSS Nagrai Payeen; hence the instant service appeal.

03. Respondents were put on notice who submitted their joint written reply/comments. We heard the learned counsel for the appellant as well as learned District Attorney for the 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 appellant was SPET and was entitled for adjustment against the post of SPET but she was transferred against a wrong post of Subject Specialist (Urdu) and a junior PET was adjusted against the post of SPET in the said school. He argued that the appellant was repeatedly transferred in violation of Posting/Transfer Policy of the Provincial Government. He requested that the appeal might be accepted as prayed for.



05. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant submitted application for mutual transfer at the time when complete ban was imposed by the Provincial Government on posting/transfer. He argued that under section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1974, every civil servant is bound to serve anywhere in the province in the best public interest. He requested that the appeal might be dismissed.


06. Through the instant service appeal, an order dated 01.07.2024 has been impugned before us vide which three orders dated 14.06.2024, with different endorsement numbers, were cancelled/withdrawn. One of the orders withdrawn through the impugned order was of the appellant whereby she was transferred vide Endst. No. 2016-21 dated 14.06.2024. Arguments and record presented before us transpired that the appellant was transferred through an order dated 14.06.2024 from GGHS Warsak to GGHSS Nagrai Payeen against the post of Subject Specialist (Urdu). As stated by the learned counsel for the appellant the order was illegal as the appellant was a Senior Physical Education Teacher but she was transferred against the post of Subject Specialist (Urdu) but through the impugned order dated 01.07.2024 the order dated 14.06.2024 was withdrawn and the appellant was retained at GGHS Warsak instead of adjusting her on the post of SPET at GGHSS Nagri Payan. The posting/transfer history presented by the appellant showed that she was transferred to GGHS Warsak upon her promotion to BS- 16 on 17.08.2023. This shows that she had not yet completed her normal tenure at Warsak and any transfer before completing the normal tenure would be premature and a violation of the Posting/Transfer policy of the




provincial government. Moreover, the appellant being a civil servant could not put any pressure on the competent authority to post her at the position of her own choice rather she is bound to obey the orders of the competent authority who is fully empowered under Section 10 of the Khyber Pakhtunkhwa Civil Servants Act 1973 to transfer her at any position within the province.

07. In view of the above discussion, it is extremely clear that the appellant has not yet completed her normal tenure at GGHS Warsak and that she cannot claim for a posting of her own choice; hence the appeal is dismissed being groundless. Cost shall follow the event. Consign.

08. *Pronounced in open court in Swat and given under our hands and seal of the Tribunal on this 05th day of November, 2024.*


(FAREEHHA PAUL)
Member (E)
Camp Court, Swat


(AURANGZEB KHATTAK) 05th 11 2024.
Member (J)
Camp Court, Swat.

MEMO OF COSTS.
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1049/2024

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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 05th day of November, 2024.


(FAZEELA PAUL)
Member (E)
Camp Court, Swat




(AURANGZEB KHATTAK) 05/11/2024
Member(J)
Camp Court, Swat

Fazle Subhan, P.S

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1049 of 2024

Bakht Zia Bibi Versus Government of Khyber Pakhtunkhwa
through Secretary Education,
Peshawar and one other.

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-08 05 th November, 2024	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Muhammad Shahidullah, Advocate on behalf of the appellant.2. Mr. Muhammad Jan, District Attorney on behalf of the respondents. <p>01. Vide our detailed judgment consisting of 04 pages, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.</p> <p>02. <i>Pronounced in open court in Swat and given under our hands and seal of the Tribunal on this 05th day of November, 2024.</i></p> <p> (FARSEHA PAUL) Member (E) Camp Court, Swat</p> <p> (AURANGZEB KHATTAK) Member (J) Camp Court, Swat</p> <p>*Fazle Subhan, P.S*</p>