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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No. 1484/2024

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

Yar Muhammad, Tehsildar Settlement Operation Manshra, under transfer to Board of Revenue, Khyber Pakhtunkhwa, Peshawar. .... (*Appellant*)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
3. Director Land Record, Khyber Pakhtunkhwa Peshawar.
4. Mr. Muhammad Jamshed Tehsildar, under transfer to Settlement Operation Mansehra. ....(*Respondents*)

Mr. Noor Muhammad Khattak,  
Advocate

... For appellants

Mr. Muhammad Jan  
District Attorney

... For respondents No. 1 to 3

Mr. Taimur Ali Khan  
Advocate

... For private respondent No. 4.

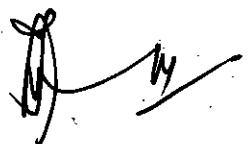
Date of Institution..... 19.09.2024

Date of Hearing.....22.10.2024

Date of Decision..... 22.10.2024

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 10.09.2024, whereby the appellant was transferred from Settlement Operation, Mansehra and his services were placed at the disposal of Board of Revenue, Khyber Pakhtunkhwa and against the



order dated 18.09.2024, whereby his departmental appeal was regretted. It has been prayed that on acceptance of the appeal, the impugned orders might be set aside and the appellant might be retained as Settlement Tehsildar, Settlement Operation, Mansehra, alongwith any other relief which the Tribunal deemed appropriate.

02. Brief facts of the case, as given in the memorandum of appeal, are that the appellant, while posted as Tehsildar Dassu District Kohistan Upper, was transferred/posted as Tehsildar Balakot, District Mansehra vide order dated 24.10.2022. He was again transferred from Balakot and posted as Tehsildar Judbah District Torghar, vide order dated 02.05.2023. He was once again transferred from Judbah and posted as Tehsildar Balakot District Mansehra vide order dated 21.08.2023. Vide order dated 13.12.2023, he was transferred from Balakot to Settlement Operation Mansehra. Vide impugned order dated 10.09.2024, his services were placed at the disposal of Board of Revenue Khyber Pakhtunkhwa and private respondent No. 4, waiting for posting, was transferred to Settlement Operation Mansehra. Feeling aggrieved, he preferred departmental appeal which was regretted vide order dated 18.09.2024; hence the instant service appeal.

03. Respondents were put on notice. Official respondents No. 1, 2 and 3 submitted their joint written reply while private respondent No. 4 submitted reply through his counsel. We heard the learned counsel for the appellant, learned District Attorney for the official respondents and learned counsel for private respondent No. 4 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 not treated in accordance with law and rules on the subject. He argued that the impugned transfer order was issued in violation of clause-i, iv and xiii of the Posting/Transfer Policy of the Provincial Government as the appellant was transferred prematurely from Settlement Operation Mansehra. Learned counsel for the appellant referred to a circular letter dated 09.09.2024, circulated to all the Commissioners and Deputy Commissioners of the province that all the field revenue staff i.e. Tehsildar, Naib Tehsildar, District Kanungo, District Revenue Accountant, Kanungo and Patwari of their respective Divisions who had completed two years tenure on a post might be transferred forthwith but in case of the appellant the aspect of two years tenure was not adhered to by the department itself. He further argued that the appellant was made a rolling stone by issuing his frequent transfer orders in a short span of time. 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 being a government servant, posting/transfer was a part of service and being provincial cadre post, a Tehsildar could be posted anywhere in the province in the best public interest. He further argued that the circular letter dated 09.09.2024 had no relevancy with the transfer of the appellant being issued by the Provincial Government in exigencies of service. He requested that the appeal might be dismissed.

6. Learned counsel for the private respondent No. 4 relied on the arguments advanced by the learned Deputy District Attorney and added that



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private respondent No. 4 was also transferred frequently but he obeyed all those orders passed by the competent authorities. He requested that the appeal might be dismissed.

07. Through the instant service appeal, the appellant had impugned the transfer order dated 10.09.2024, vide which he was transferred from Settlement Tehsildar, Settlement Operation Manshera and his services were placed at the disposal of Board of Revenue Khyber Pakhtunkhwa, on the ground that the said transfer was premature and in violation of the Posting & Transfer Policy of the Provincial Government as he was not allowed to complete his normal tenure of two years at the previous place of posting. Arguments and record presented before us transpired that the appellant remained posted at one position or another in one district i.e. District Mansehra since October, 2022 except for one time when he was transferred as Tehsildar Judbah District Torghar vide an order dated 02.05.2023; but in that case also he remained there, hardly, for a period of three months after which he was again transferred to District Mansehra. As stated by the respondents in their reply, the position of Tehsildar was a provincial cadre post and hence any civil servant serving as Tehsildar could be posted anywhere in the province, in the best public interest. Moreover, the Khyber Pakhtunkhwa Civil Servant Act, 1973 also empowered the competent authority to post a civil servant on any position in the province in the best public interest. Here we would like to refer to a judgment reported as 2024 PLC (C.S.) 77, according to which it is an undisputed fact that posting/transfer of civil servants is an exclusive domain of the executive, which in the instant case is the Government of Khyber Pakhtunkhwa. In the





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light of the Constitution of Islamic Republic of Pakistan, there is trichotomy of powers; legislature has the power of making laws, executive is vested with the power of enforcing and implementing those laws whereas the judiciary interprets the laws. This trichotomy provides a balance in the affairs of the state. When the roles of every constituent are defined, then how can this Tribunal interfere in the domain of the provincial government? We feel that this Tribunal should not interfere in the domain of executive unless there is any breach of law. In the case in hand, we do not see any violation of law or rules.

08. In the light of the above discussion, the appeal in hand is 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 22<sup>nd</sup> day of October, 2024.*

  
(FAREEHA PAUL)  
Member (E)

 22<sup>10</sup>  
2024  
(AURANGZEB KHATTAK)  
Member (J)

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MEMO OF COSTS.  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1484/2024

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Advocate

... For appellants

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... For respondents No. 1 to 3

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... For private respondent No. 4.

Date of Institution..... 19.09.2024


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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 22<sup>nd</sup> day of October, 2024.

  
(FAREEHA PAUL)  
Member (E)

  
(AURANGZEB KHATTAK)  
Member(J)

(7)



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. **1484** of **2024**

Yar Muhammad

Versus

Government of Khyber  
Pakhtunkhwa, through Chief  
Secretary Peshawar and 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-06 22 <sup>nd</sup> October, 2024	<p>Present:</p> <ol style="list-style-type: none"><li>1. Noor Muhammad Khattak, Advocate for the appellant.</li><li>2. Mr. Muhammad Jan, District Attorney for the respondents.</li><li>3. Mr. Taimur Ali Khan, Advocate on behalf of private respondent No. 4.</li></ol> <p>01. Vide our detailed judgment consisting of 05 pages, the appeal in hand is 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 22<sup>nd</sup> day of October, 2024.</i></p> <p style="text-align: center;"> (FAREEHA PAUL) Member (E)</p> <p style="text-align: center;"> (AURANGZEB KHATTAK) Member (J)</p> <p>*Fazle Subhan, P.S*</p>