

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 919/2024

Date of presentation of appeal.....03.07.2024
Date of Hearing.....04.11.2024
Date of Decision.....04.11.2024

Shafiq Ullah Khan S/o Aziz Ur Rehman, Senior Clerk Office of Executive Engineer (Highway) Division C&W Dept: North Waziristan, Presently at office of Executive Engineer (Highway) C&W Dept: Abbottabad.....(**Appellant**)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary C&W Department Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (Centre) C&W Deptt: Khyber Pakhtunkhwa Peshawar. Secretary Higher Education, Khyber Pakhtunkhwa, Education Department, Peshawar.
3. Adnan Inayat Senior Clerk Office of Executive Engineer (Highway) Division C&W Deptt: Abbottabad, Presently at office of Executive Engineer (Highway) Director Higher Education, Khyber Pakhtunkhwa, G.T Road, Peshawar C&W Dept. North Waziristan.....(**Respondents**)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 05.03.2024 VIDE LETTER NO. CEC/C & WD/2-3/E&A 369 WHEREBY APPELLANT WAS TRANSFERRED FROM EXECUTIVE ENGINEER HIGHWAY DIVISION NORTHWAZIRISTAN TO EXECUTIVE ENGINEER HIGHWAY DIVISION ABBOTTABAD AGAINST POLICY.


PRESENT


1. Mr. Innayat Ullah Khan, Advocate on behalf of the appellant present.
2. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Appellants	Amount	Respondent	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. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs. 100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. 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 04th day of November, 2024.




(Rashida Bano)
Member (J)


(Muhammad Akbar Khan)
Member (E)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 919/2024


Shafiq Ullah Khan versus Secretary Higher Education Khyber Pakhtunkhwa, 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
<p><u>Order-11</u> 04.11.2024</p>	<p>Present:</p> <ol style="list-style-type: none">1. Mr. Innayat Ullah Kha, Advocate on behalf of appellant.2. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present.3. None present on behalf of official respondents hence placed ex-parte.3. Vide our detailed judgment of today placed on file, the appeal in hand is dismissed. Costs shall follow the event. Consign.4. <i>Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 04th day of November, 2024.</i> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Muhammad Akbar Khan) Member (E)</p> <p><i>*Kamranullah*</i></p>

05. Scrutiny of record reveals that the appellant since his appointment as Junior Clerk in 08.02.2010 remained posted at his home district of Bannu and adjacent district of North Waziristan as Junior Clerk for 10 years. Upon his first promotion as Senior Clerk he remained in the same district North Waziristan and was transferred to District Abbottabad vide order dated 05.03.2024 which speaks that out of his entire service rendered so far he remained in the South Region. It is also not disputed that the post held by the appellant is non-executive, therefore, the premature posting of the appellant could not be interfered with normally because of clerical nature of job of the appellant which does not affect any affairs of the department causing prejudice to the public interest as well as to the appellant. The civil servant, as provided under Section-10 of the Civil Servants Act, is required to serve and posted anywhere within the limits of the province or even outside the limits of the province. A civil servant has no vested right to claim his choice of posting. Similarly a civil servant has no vested right to continue or hold of particular post at a particular place. The impugned order is in consonance with the terms and conditions of Civil Servants and as such we do not find any attraction of provisions of Khyber Pakhtunkhwa Civil Servants Act, 1973 and (Appointment, Promotion & Transfer) Rules, 1989 towards the impugned orders. We therefore, dismiss the instant appeal having no merit. Costs shall follow the event. Consign.

06. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 04th day of November 2024.*


(RASHIDA BANO)
MEMBER (E)


(MUHAMMAD AKBAR KHAN)
MEMBER (E)

aside. The transfer order dated 20.10.2023 may kindly be restored with any other relief deeming fit and not specifically asked for”.

02. Brief facts of the case are that the appellant was appointed as Junior Clerk (BPS-11) vide order dated 08.02.2010. Later on he was promoted to the post of Senior Clerk (BPS-14) and was transferred from the office of Executive Engineer Building Division North Waziristan to the office of Executive Engineer Highway Division North Waziristan vide order dated 20.10.2023. He was transferred from the office of Executive Engineer Highway Division North Waziristan to the office of Executive Engineer Highway Division Abbottabad vide impugned order dated 05.03.2024. Feeling aggrieved from the impugned order dated 05.03.2024, the appellant filed departmental appeal on 01.04.2024 which was not responded within the statutory period, hence preferred the instant service appeal on 03.07.2024.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned Deputy District Attorney for the respondents and have gone through the record with their valuable assistance.

04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned, Assistant Advocate General controverted the same by supporting the impugned order(s).

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

BEFORE: RASHIDA BANO ... MEMBER (J)
MUHAMMAD AKBAR KHAN ... MEMBER (E)

Service Appeal No. 919/2024

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VERSUS

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Present:

INNAYAT ULLAH KHAN,
Advocate

--- For appellant.

ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For official respondents

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER (E):-The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer as under;

"That on acceptance of this appeal, the impugned order dated 05.03.2024 may kindly be declared as illegal, against policy and on basis of malafide may kindly be set