

**MEMO OF COSTS**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No.191/2024**

Date of Institution..... 26.01.2024  
Date of Hearing..... 04.11.2024  
Date of Decision..... 04.11.2024

Haji Nawab Assistant BPS-16 Govt: Girls College Daggar Buner  
.....(Appellant)

**VERSUS**

1. Secretary Higher Education, Khyber Pakhtunkhwa, Education Department, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, G.T Road, Peshawar.
3. Principal Govt; Girls Degree College Daggar Buner....(Respondents)

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**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17.10.2023 VIDE WHICH DEPARTMENTAL APPEAL WAS REFERRED, BUT UNRESPONDED WITHIN THE STIPULATED PERIOD OF TIME, HENCE THE INSTANT APPEAL.**

**PRESENT**


1. Mr. Arif Jan, 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. <del>Nil</del> 7000 ✓ |
| <b>Total</b>                      | <b>Rs. 100/-</b> | <b>Total</b>                      | <b>Rs. Nil</b>            |

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 04<sup>th</sup> day of November, 2024.



  
(Rashida Bano)  
Member (J)

  
(Muhammad Akbar Khan)  
Member (E)

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Service Appeal No. 191/2024

Haji Nawab 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-09</u><br/>04.11.2024</p> | <p>Present:</p> <ol style="list-style-type: none"><li>1. Mr. Arif Jan, Advocate on behalf of the appellant present.</li><li>2. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.</li><li>3. Vide our detailed judgment of today placed on file, the appeal in hand is dismissed. Costs shall follow the event. Consign.</li><li>4. <i>Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 04<sup>th</sup> day of November, 2024.</i></li></ol> <p><br/>(Rashida Bano)<br/>Member (J)</p> <p><br/>(Muhammad Akbar Khan)<br/>Member (E)</p> <p><i>*Kamranullah*</i></p> |

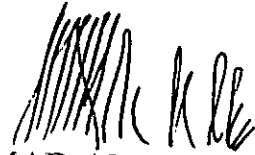
which does not affect any affairs of the department causing prejudice to the public interest as well as to the appellant. The civil servant, as provided under Section-10 of the Civil Servants Act, is required to serve and posted anywhere within the limits of the province or even outside the limits of 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 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 order.

07. We did not find any malafide in the impugned order dated 17.10.2023 as such the impugned order does not require any interference by the Tribunal. The instant appeal, therefore, stands dismissed. Costs shall follow the event. Consign.

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



(RASHIDA BANO)  
MEMBER (E)



(MUHAMMAD AKBAR KHAN)  
MEMBER (E)

\*Kamranullah\*

Government Girls Degree College, Daggar (Buner) and again he was prematurely transferred within a short span of six months from Government Girl Degree College Daggar, Buner to Government Degree College, Totalai, District Buner vide impugned order 17.10.2023 without completion of his normal tenure which is neither in the public interest nor in any exigency of service rules.

05. Learned Deputy District Attorney for the respondents has contended that the appellant is liable to serve anywhere in the province as per law and rule; that under Section 10 of Civil Servant Act, 1973, the competent authority is empowered to transfer a civil servant from one place to another in exigency of service and in the public interest; that the civil servant has no vested right to claim posting/transfer of her choice; that the impugned order is therefore, legal, passed by the competent authority is according to law and rules, therefore, be maintained in favour of the respondent department and the service appeal be dismissed, he concluded.

06. Scrutiny of record reveals that the appellant was working as Assistant (BPS-16) at Govt. Girls Degree College Daggar Buner and later on he was transferred to Govt. Girls Degree College Totali, District Buner vide impugned order dated 17.10.2023. It transpired that the transfer of the appellant has been made within the same district and the appellant has also complied with the order and working at Govt. Girls Degree College Totali, District Buner. 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

*appellant may kindly be allowed to keep and continue his official duties with previous post/designation etc with all service benefits. Any other relief deemed fit in the circumstances of the case may also be granted in favour of appellant.”*

02. Brief facts of the case are that the appellant was serving as Assistant (BPS-16) and was posted at Government Girl Degree College Daggar, Buner (respondent No. 3); that on 17.10.2023 the Director Higher Education (respondent No. 2) transferred the appellant from Government Girls Degree College Daggar, Buner to Government Degree College, Totalai, District Buner. Feeling aggrieved from the impugned order dated 17.10.2023, the appellant filed departmental appeal on 24.10.2023 which was not responded, hence preferred the instant service appeal on 26.01.2024.

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. Learned counsel for the appellant contended the respondents have not treated the appellant in accordance with law, rule and policy and Article-4 of the Constitution of Islamic Republic of Pakistan, 1973; that the impugned order dated 17.10.2023 is illegal, unlawful, without lawful authority, hence not sustainable in the eye of law; that on 10.04.2023 the appellant was transferred from Government Degree College, Lundkhuwar (Mardan) to

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR**

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

*Service Appeal No. 191/2024*

Date of presentation of Appeal.....26.01.2024  
Date of Hearing.....04.11.2024  
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Haji Nawab Assistant BPS-16 Govt: Girls Degree College Daggar  
Buner.....(Appellant)

**VERSUS**

1. Secretary Higher Education, Khyber Pakhtunkhwa, Education Department, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, G.T Road, Peshawar.
3. Principal Govt: Girls Degree College Daggar Buner.....(Respondents)

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Present:

ARIF JAN,  
Advocate

--- For appellant.

ASIF MASOOD ALI SHAH,  
Deputy District Attorney

--- For the respondents  
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**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 copied as under;

*"That on acceptance of the instant appeal, the impugned order dated 17.10.2023 passed by respondent No. 2 against the appellant may graciously be set aside/withdrawn being against the law rules and regulation governing the subject matter and the*