

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

BEFORE: **AURANGZEB KHATTAK ... MEMBER (Judicial)**  
**MUHAMMAD AKBAR KHAN ... MEMBER (Executive)**

**Service Appeal No. 1231/2024**

Date of presentation of Appeal.....26.08.2024  
Date of Hearing.....18.11.2024  
Date of Decision.....18.11.2024

**Mst. Rehana Yasmeen MC (BPS-19) DEO (Female) Mansehra.**  
.....**Appellant**

Versus

1. Chief Minister through Principal Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary to the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Peshawar.
3. Mst. Naghmana Sardar posted as DEO (Female) Mansehra.  
.....**(Respondents)**

Present:

Mr. Kabirullah Khattak, Advocate.....For appellant.  
Mr. Naseer-ud-Din Shah, Assistant Advocate General ....For official respondents.  
Mr. Asad Ullah, Advocate .....For private respondent.  
.....

**JUDGMENT**

**AURANGZEB KHATTAK, MEMBER (JUDICIAL):** The facts of the case, as narrated by the appellant in her memorandum of appeal are that, she has been serving in Education Department since 1993 and she was transferred from the post of DEO (Female) Kohistan to DEO (Female) Mansehra on 17.06.2022. During her tenure in Mansehra, she directed a senior clerk, Mr. Babar Hussain, to perform duties as a focal person for polio. Allegedly, the said Clerk refused to comply and she sought an explanation from him. Appellant claimed that the said

18/11/2024

official then involved political figures, including a provincial vice president of a political party and a Member of the Provincial Assembly, to exert pressure on the appellant. Despite alleged threats, she continued her duties without yielding to political influence. Subsequently, vide notification dated 16.05.2024 she was directed to report to the Directorate of Elementary and Secondary Education, Peshawar. Feeling aggrieved, she submitted review petition challenging the notification dated 16.05.2024, which was not responded. However, vide notification dated 18.07.2024, private respondent No. 3 was posted at her former position. Hence, she filed the instant appeal before this Tribunal for redressal of her grievance.

*18/11/2024*

2. The respondents were summoned, who contested the appeal by way of filing their respective written replies/comments.

3. The learned counsel for the appellant contended that the transfer notification dated 16.05.2024 was politically motivated and violated her rights protected under the Constitution of Pakistan. He next contended that the appellant was prematurely transferred before completing her tenure, violating Clause-IV of the Posting Transfer Policy, 2009. He further contended that the respondents acted arbitrarily and in disregard of the appellant's fundamental rights guaranteed under Articles 4 and 25 of the Constitution. In the last, he argued that notifications dated 16.05.2024 and 18.07.2024 to the extent of the appellant may be set-aside and the appellant may be placed at her place of posting i.e DEO (Female) Mansehra.

4. On the other hand, learned Assistant Advocate General for official respondents assisted by learned counsel for private respondent No. 3 contended that the appellant's transfer was made by the competent authority in compliance with Section 10 of the Civil Servant Act, 1973, emphasizing that such transfers are within the prerogative of the administration for the public interest. He next contended that the appellant failed to substantiate her claims of political interference with any credible or admissible documentary evidence. He further contended that the review petition submitted by the appellant does not meet procedural requirements, as it lacks a proper diary or dispatch number. He next contended that the appellant has assumed her new posting as DEO (Female) Torghar following a subsequent notification dated September 19, 2024, therefore, the grievance regarding her previous transfer has become redundant. In the last, he argued that the appeal in hand being meritless may be dismissed with cost.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. The record shows that the appellant, while serving as District Education Officer (Female) Mansehra, was transferred and directed to report to Directorate of E&SE vide Notification dated 16.05.2024. The appellant has though taken the stance that the notification dated 16.05.2024, was issued under political influence. However, this stance of the appellant is not substantiated by any cogent documentary

*18/11/2024*

evidence that could convincingly demonstrate undue political interference or mala-fide intent on the part of the respondents. In the absence of verifiable proof, such as correspondence, official records, or other tangible evidence linking the transfer notification to alleged political pressure, the claims remain speculative and uncorroborated. So far as the contention of premature transfer is concerned, the record shows that the appellant has been serving at Mansehra since June 2022. In matters of service and administrative decisions, the principle of exigency and public interest holds paramount importance. Transfers, while ideally adhering to the normal tenure specified in policy guidelines, are inherently subject to the discretion of the competent authority to ensure the smooth functioning of public administration and service delivery. Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, confers upon the competent authority the discretion to order postings and transfers of civil servants in the interest of public service. This statutory provision provides a legal framework for administrative decisions related to the movement of civil servants, ensuring that such actions are aligned with organizational needs and the welfare of the public. For ready reference, the text of Section 10 is as follows:-

*"10. Posting and transfers.--- Every civil servant shall be liable to serve anywhere within or outside the Province in any post under the Federal Government, or any Provincial Government or local authority, or a corporation or body set up or established by any such Government:*

18/11/2024

*Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:*

*Provided further that where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve."*


7. The discretionary power granted under this provision underscores that no civil servant can claim a vested right to remain posted in a particular position or location, as their service is subject to the administrative needs of the government. The authority must, however, be exercised judiciously, ensuring no mala-fide intent or arbitrary action. In the present case, the appellant has failed to provide evidence of mala-fide motives or arbitrariness in the issuance of the transfer order. Moreover, while the Posting and Transfer Policy, 2009, recommends a standard tenure, it explicitly recognizes that transfers may occur earlier in exceptional circumstances, such as administrative exigencies or matters of public interest. The policy does not override the statutory authority granted under Section 10, which remains the governing framework for such decisions. Therefore, the impugned transfer notification appears to be a fair exercise of authority under Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, aimed at achieving administrative efficiency and addressing the needs of the department. The contention of premature transfer is thus unsustainable in light of the broader principles of public interest and statutory compliance. Furthermore, vide notification dated September


*Amir*  
*18/11/2024*

19, 2024, the appellant has already been posted as DEO (Female) Torghar and she assumed the charge of her new posting.

8. Consequently, the appeal in hand being lack of merit is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 18<sup>th</sup> day of November, 2024.*

  
AURANGZEB KHATTAK  
Member (Judicial)

  
MUHAMMAD AKBAR KHAN  
Member (Executive)

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

**Service Appeal No. 1231/2024**

Date of presentation of Appeal

26.08.2024

Date of hearing

18.11.2024

Date of Decision

18.11.2024

**Mst. Rehana Yasmeen MC (BPS-19) DEO (Female) Mansehra.**

.....*Appellant*

Versus

1. Chief Minister through Principal Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary to the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Peshawar.
3. Mst. Naghmana Sardar posted as DEO (Female) Mansehra.  
.....(*Respondents*)

---


**PRESENT**


1. Mr. Kabirullah Khattak, Advocate.....For appellant.
2. Mr. Naseer-ud-Din Shah, Assistant Advocate General ....For official respondents.
3. Mr. Asad Ullah, Advocate .....For private respondent.

<b>Appellants</b>	<b>Amount</b>	<b>Respondent</b>	<b>Amount</b>
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
<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 18<sup>th</sup> day of November 2024.

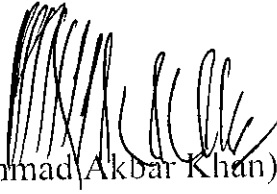

  
**Muhammad Akbar Khan**  
Member (Executive)

  
**Aurangzeb Khattak**  
Member (Judicial) 18/11/2024

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Service Appeal No. 1231/2024

Mst. Rehana Yasmeen versus Chief Minister through Principal Secretary Khyber Pakhtunkhwa Peshawar and others.

S.No. of Order & Date of proceeding	<b>Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary</b>
<p><u>Order-09</u> 18<sup>th</sup> November, 2024.</p>	<p>Present:</p> <ol style="list-style-type: none"><li>1. Appellant alongwith Mr. Kabirullah Khattak, Advocate.</li><li>2. Mr. Naseer-ud-Din Shah, Assistant Advocate General on behalf of official respondents.</li><li>3. Mr. Asad Ullah, Advocate on behalf of private respondent.</li></ol> <p>Arguments heard and record perused.</p> <p>Vide our judgment of today placed on file, the appeal in hand being lack of merit is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 18<sup>th</sup> day of November, 2024.</i></p> <p> (Muhammad Akbar Khan) Member (Executive)</p> <p> (Aurangzeb Khattak) 18-11-2024 Member (Judicial)</p>

\*Naeem Amin\*