




Imtiaz Hussain Vs.

Appeal No. _____

Secretary, Livestock Department & two others

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	30.05.2024  	<p style="text-align: center;"><u>PRESENT</u></p> <ol style="list-style-type: none"> 1. Mr. Allah Nawaz Khosa Advocate, Counsel for the appellant. 2. Ms. Saima Nawaz, D.D.A. <p>Instant Service Appeal was filed by the appellant on 29.05.2024 against transfer order dated 24.05.2024, a copy of which has been annexed with the instant service appeal.</p> <ol style="list-style-type: none"> 2. Preliminary arguments were heard. 3. Learned counsel for the appellant stated that the impugned Transfer Order has been passed in violation of the Transfer Policy, 1980 of the Govt. of the Punjab and the appellant has been transferred from Bhakkar to Mianwali, so the appellant shall suffer loss and hardship, being a low paid employee. Learned counsel for the appellant stated the appellant was posted at Civil Veterinary Dispensary, Hito, on 06.05.2024 but the appellant had been transferred after only after 18 days due to political pressure. Learned counsel for the appellant further stated that departmental appeal/representation has already been submitted before the departmental authority/Respondent No.1 but it has not been entertained yet and has not been decided till today. He further contended that the appellant may be allowed to continue performing his duties at Bhakkar and the operation of impugned transfer order dated 24.05.2024 may be suspended. 4. Learned Deputy District Attorney opposed and stated that the appellant has been transferred and under section 9 of the Punjab Civil Servants Act, 1974, every civil servant was bound to serve anywhere within the jurisdiction of the

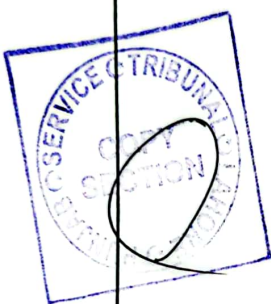
Contd.

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		<p>competent authority. Learned Deputy District Attorney further stated that the instant service appeal was premature and was not maintainable as the appellant has not exhausted his remedy on administrative level since appellant's departmental appeal/representation had not been decided and the requisite period for its disposal has also not elapsed.</p> <p>5. Arguments of learned counsel for the appellant and learned Deputy District Attorney have been heard and file has been perused.</p> <p>6. It has been observed that instant appeal is definitely a premature appeal but the view of the Hon'ble Superior courts and the Service Tribunals expressed in various judgments/decisions calls for grant of judicial remedy in such cases. It is further observed that the departmental appeal/representation is also a remedy available to the appellant at departmental level and prudence demands that all the available remedies should be availed by an individual, in the interest of justice while denial thereof would not serve any purpose. If this premature appeal is not entertained at least to the extent of an appropriate direction, the appellant would be left without any remedy, whereas, the canons of law and justice require that nobody should be left as such, hence, this service appeal is disposed of and since the departmental appeal/representation of the appellant is pending and deeming it appropriate, the departmental authority, i.e. Respondent No.1 is directed to decide the departmental appeal/representation, if pending before him, within statutory</p>

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period from receipt of this order after hearing the appellant as well as others concerned and the departmental representative and pass an order in view of the 'Transfer Policy, 1980 which reads as under:-

"Government servants under transfer may represent against the order and the representation should be decided by the authority next above transferring authority (except where the transfer has been ordered by the Governor) expeditiously as far as possible, within one month. Officers who submit representations for cancellation or holding in abeyance of transfer order on compassionate grounds may be allowed to stay back till their representations are decided and their relievers should be informed simultaneously".



During the pendency of the departmental appeal, the operation of the impugned order dated 24.05.2024 shall remain suspended to the extent of appellant only, if the impugned order has not been acted upon.

7. This appeal is disposed of accordingly.

ANNOUNCED
30.05.2024:

[Signature]
30/5/24
ASIM SADIQ QURESHI
MEMBER-V

Punjab Service Tribunal Lit. Form No. 2285/24

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IN THE PUNJAB SERVICE TRIBUNAL ,
LAHORE.



PST LAHORE.
Dairy No. 1953
Date: 29-5-24

Appeal No. _____/2024

MR.IMTIAZ HUSSAIN (Artificial Insemination
Technician(BS-09), Posted at Civil Veterinary
Dispensary Hito, District Bhakkar.

...Appellant

VERSUS

1. The Secretary Livestock & Dairy Development, Punjab,
Lahore.
2. Director General (EXT) Livestock & Development
department, Punjab, Lahore
3. Mr. ^{M. Akram} ~~M. Akram~~ Akram Artificial Insemination
Technician (BS-09) Posted at Civil Veterinary
Dispensary, Aba Khel District Mianwali.

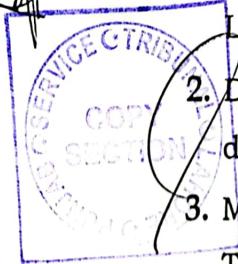
...Respondents

APPEAL U/S OF 04 OF THE PUNJAB SERVICE
TRIBUNAL ACT 1974, AGAINST THE IMPUGNED
TRANSFER ORDER DATED 24.05.2024 PASSED BY
THE RESPONDENT No.02

Respectfully Sheweth: -

1. That names and addresses of the parties given
in the head note of this service appeal are true
and correct for effecting services upon the
parties.

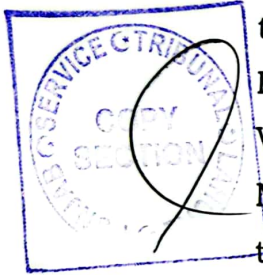
*Note: Identical Appeal NO 1501/24
is decided by the Learned Member V*



2. That briefly stated the facts of the appeal are that the appellant was appointed as Artificial Insemination Technician(BS-09) in the year 06-05-2024 and till today Appellant has been working as AI Technician in L&DD Department and he has been performing his duties up to the entire satisfaction of his superiors and there is no complaint, whatsoever, against him.

Copy of Appointment letter is attached as **Annexure-A.**

3. That vide office impugned order dated 24-05-2024 the Appellant has been transferred by the respondent No.02 from Civil Veterinary Dispensary Hito, District Bhakkar to Civil Veterinary Dispensary, Aba Khel District Mianwali in violation of the established transfer and posting policy without any cause, and adjusted to Mr. Nadeem Akram Artificial Insemination Technician (BS-09) with malafide intention.. Copy of Impugned order dated 24-05-2024 is hereby enclosed as **Annexure-B.**



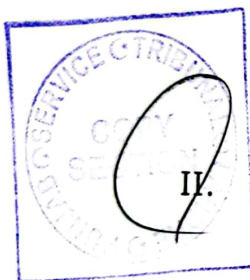
4. That the Appellant filed representation against the impugned order before the respondent No.01 which is still pending till today. Copy of representation is hereby enclosed as **Annexure-C.**

5. That the impugned order dated 24-05-2024 is illegal, without jurisdiction, ab-initio,

void, malafide , arbitrary, discriminatory against law and facts on the following grounds:

GROUNDS

I. That from the bare perusal of the afore-referred order it is very much clear that the same has not been passed in the exigency of the service but at the instance of some political person Home station hence the department adopted pick & choose method and dealing with the Appellant in discriminating way has no legal sanctity in the eyes of law and this type of practice always condemned by this Hon'ble Court as well as Apex Court of this country.



II. The transfer order contravenes the established transfer and posting policy, which mandates that transfers be made in the exigency of service, not as a result of political pressure or personal vendettas.

III. That the transfer order issued by the respondent No-2 is in direct contravention of the established transfer and posting policy, which has been consistently upheld by judgments of superior courts. It is pertinent to note that appellant was recently appointed as Artificial Insemination Technician(BS-09) on 06-05-2024 and as per the existing policy, a civil servant should not be transferred before completing three years of service at one station.

IV. That the appellant is a low-paid employee, and according to the Transfer Policy of 1981, low-paid employees are not to be posted to remote or far-flung locations. This policy is designed to ensure that such employees are not subjected to undue hardship or financial burden. Therefore, the appellant's current Transfer order is in direct violation of the established transfer policy.

V. The rationale behind this 'policy is to ensure stability and continuity in administrative functions, foster expertise in a particular area, and avoid disruption of services due to frequent transfers. By disregarding this policy and transferring me prematurely, the authorities have not only violated the principles of fair governance but have also jeopardized the effective delivery of services to the public.



Copy of transfer Policy is hereby enclosed as **Annexure-D.**

VI. In light of these considerations, Appellant urge to take cognizance of the blatant violation of the transfer policy and ensure that the principles of equity and justice prevail in appellant's case. A fair and impartial evaluation of the circumstances would undoubtedly reveal the illegality and injustice of the transfer order imposed upon appellant on 24-05-2024.

VII. That the impugned transfer order has been executed without providing any concrete or valid reason, which directly contravenes the principles and guidelines set forth in the transfer policy. It is essential to note that a transfer of a civil servant should be carried out only when there exists a legitimate administrative exigency or a compelling need arising from the exigencies of public service.

VIII. The absence of any reason or justification in the transfer order renders it arbitrary and devoid of legal validity., Transparency in administrative decisions is a fundamental aspect of good governance, and every public servant has the right to be apprised of the reasons behind any administrative action taken against them.



IX. That the impugned transfer order is otherwise not sustainable for being based on Malafide and having without application of independent mind and thus liable to be set aside by this Court in its constitutional jurisdiction.

X. That the further legal as well as factual points and grounds / precedents will be submitted at the time of arguments.

XI. That the Appellant has left with no other adequate, efficacious and speedy remedy

except to invoke the jurisdiction of this Hon'ble Court.

PRAYER:-

In the facts and circumstances it is, therefore, respectfully prayed that the Impugned order dated 24.05.2024 (**Annex-B**) passed by the respondent No. 2 may kindly be set aside being against the law, without jurisdiction and arbitrary.

It is further prayed that the operation of the impugned order may also be suspended till the final decision of the main appeal.

Any other just and adequate relief this August Court deems fit and appropriate for the Appellant may also be granted.

[Signature]
Appellant

Through

ALLAH NAWAZ KHOSA *[Signature]*
Advocate High Court
Office 33-A Queens Road,
Lahore.

Dated: 29.05.2024

CERTIFICATE:-

As per instructions of my clients, this is the 1st Service appeal on the subject matter before this Hon'ble Court.

[Signature]
ADVOCATE



[Signature]
CERTIFIED TRUE COPY
Director
Panjab Service Tribunal
Lahore
30/5/24