



GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT
31-Sher Shah Block New Garden Town, Lahore

ORDER

No. SO(Estt.)33-88/2023. WHEREAS, Rana Muhammad Tahir, Counsellor (BS-18/Personal), awaiting posting in Special Education Department filed representation against order dated 07.08.2023 passed by the **Secretary Special Education** whereby he was posted at Govt. Secondary School for the Blind (Boys), Sargodha. The petitioner filed **Writ Petition No.52053/2023** with the **Lahore High Court, Lahore** which disposed of the case with the following direction, vide order dated 18.08.2023:

"Mr. Abubaker Aslam, Law Officer, Special Education Department, on instructions, states that appeal of the petitioner shall be decided within 30 days and matter of interim relief to the petitioner shall also be decided within 03 days and that till decision of his appeal, no adverse action shall be taken against the petitioner for his failure to join the post where he is transferred. Learned counsel for the petitioner seeks disposal of the titled petition in terms of the aforementioned assurance, which is disposed of accordingly."

2. **AND WHEREAS**, comments were obtained from the Administrative Department. **Mr. Kamran Abdullah Siddiqui**, Member-II (Inquiries), S&GAD was appointed as Hearing Officer to afford personal hearing to the petitioner and to submit a comprehensive report to arrive at a definitive decision.
3. **AND WHEREAS**, the Member-II (Inquiries), S&GAD after affording personal hearing to the petitioner in the presence of the Departmental Representative of the Special Education Department submitted report of hearing proceedings stating therein that the petitioner reiterated the points already raised in his representation and contended that he is a special person (Blind) but even so he performed his duties at different stations with zeal, devotion, diligence and to the best of his abilities. During the service of about 15 years, no disciplinary proceedings against him were initiated, not to speak of any punishment against him. Hence, he had un-blemished service record. He had qualification of M.A. Special Education (Punjab University), L.L.B (Punjab University) and M.Phil Special Education (UMT). He was selected on merit by the Punjab Public Service Commission as Counselor (BS-17) for Special Education Department in 2008 and was posted at Gujranwala. At intervals, he remained posted at Pasrur, Daska etc. and was again posted at Gujranwala in 2013 and till the issuance of order dated 23.09.2022, he remained serving at Gujranwala without any sort of complaint. It was however, irony of fate that on wayward considerations, he was directed to report to the Special Education Department, Lahore, particularly depicting in the order dated 23.09.2022 that this direction / transfer was under Para-5(e) of the Transfer Policy, 2022 on administrative grounds, whereas the Chief Minister Punjab, had been pleased to approve for special persons (disabled), keeping in view the true spirit of "employment and rehabilitation Ordinance 1981" for persons with disabilities and after 18th amendment disabled persons "(employment and rehabilitation) Ordinance 1981 promulgated as disabled persons (employment and rehabilitation) amendment Act, 2012", that all departments would ensure to overcome difficulties facing by special persons i.e., posting near to their homes or early accessible workplace (if available). As

per official documents available in the department, his present / permanent address was same i.e, Sokanvand, Tehsil Pasrur, District Sialkot. It was also a matter of record that he was transferred from Gujranwala under Para-5(e) of the Transfer Policy 2022, which states as under:-

"5. There shall be ban on the following transfers / postings: -

(e). No transfer shall be made on disciplinary or administrative grounds except coupled with inquiry under the Punjab Employees Efficiency, Discipline and Accountability Act, 2006".

Although his transfer from Gujranwala was made about a year ago on the administrative grounds, yet no disciplinary proceedings under PEEDA Act, 2006 or any other law have been initiated against him. He claimed that even the Para-5(e) *ibid*, was misinterpreted. The petitioner further contended that his peculiar family circumstances could also be served as mitigating circumstance in his case. He was living with his wife and four small children under age of 8 years with his aged parents at their fag end of above 70 years age and his two un-married sisters were also disabled / special persons. One elder sister Shugufta Rani, who is a victim to muscular dystrophy (permanent paralysis), is serving as Assistant Professor of Economics (BS-18) at Government College for Women Pasrur, District Sialkot. The other disabled sister, Azra Akram, was also blind and posted as Principal, Degree College (Women) Pasrur, Sialkot, at her home town. He being the only son of his parents had to look after his old parents / disabled sisters, which could only be possible by attending them in Pasrur. While posted at Gujranwala as Counselor (BS-18 / Personal), he was in a position to take care of the family easily whereas in case of his posting at Sargodha, he being himself a blind person could not perform his God-ordained duties of serving the parents / disabled sisters. The petitioner also referred to a United Nation Convention according to which it had been made mandatory to protect the rights of persons with disabilities, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment and the redress of grievances. He quoted the preamble of the UNCRPD under Clause(X) according to which the family is the natural and fundamental group unit of society and is entitled to protection by society and the state, and that persons with disabilities and their family members should receive the necessary protection and assistance. Through the order dated 23.09.2022, he claimed to have been subjected to abuse of administrative powers of the executive particularly when the post of Counselor (BS-18) was lying vacant at Gujranwala. He complained that he was being forced to work at Sargodha. The petitioner further added that the impugned order dated 07.08.2023 was violative of the Transfer Policy prevailing with the Punjab Government. The petitioner prayed that the order dated 23.09.2022 whereby he was displaced from Gujranwala and the order dated 07.08.2023 pertaining to his posting at Sargodha might be set aside and he again be posted at Gujranwala against vacant post.

4. **AND WHEREAS**, on the other hand, the Departmental Representative stated that the petitioner while posted at Govt. Secondary School of Special Education for Blind, Madina Town, Faisalabad was transferred and posted at Govt. Institute for the Blind, Gujranwala *vide* order dated 04.10.2013. The District Education Officer (Special Education), Gujranwala, *vide* letter dated 08.11.2021, forwarded the complaint filed by Principal, Govt. Institute for the Blind, Gujranwala and requested that services of the petitioner might be surrendered in the best interest of the institute. The Director (Admn),

Directorate General of Special Education Punjab, Lahore, *vide* letter dated 07.12.2021, also forwarded a copy of the letter of DEO (SE), Gujranwala and complaint of the Principal, Govt. Institute of the Blind, Gujranwala with the request that services of the petitioner might be surrendered in the larger interest of the institute's administration as well as special students. Moreover, the Principal, Govt. Institute for the Blind, Gujranwala filed a complaint dated 18.05.2022 against the petitioner wherein certain charges of serious nature were levelled. The complaint filed by Principal, Govt. Institute for the Blind, Gujranwala was forwarded to the Director General, Special Education Punjab, Lahore, *vide* letter dated 22.08.2022 to seek their comments / recommendations. In response, the Deputy Director (Admn), Directorate General of Special Education Punjab, Lahore forwarded the complaint of the Principal, Govt. Institute for the Blind, Gujranwala and requested that services of the petitioner might be withdrawn as he was spoiling the academic environment of the institute. It was further requested that the petitioner might be transferred from the school and regular inquiry under PEEDA Act, 2006 be initiated against him. Keeping in view the contents of the complaint filed against the petitioner, documents attached therewith and recommendations of the DGSE contained in letter dated 29.08.2022, the petitioner was directed to report to the Department on administrative grounds *vide* order dated 23.09.2022. In compliance thereof, the petitioner submitted his joining to the Special Education Department on 27.09.2022. The DGSE was requested, *vide* letter dated 10.10.2022, to conduct a probe in the matter and submit report. The DGSE, *vide* letter dated 21.03.2023, forwarded the probe report conducted by the committee constituted by DEO (SE), Gujranwala wherein it was recommended that in the best interest of special students as well as keeping the environment of Govt. Institute for the Blind, Gujranwala congenial, it was strongly recommended that Rana Muhammad Tahir, Counselor might be transferred from the Institute. Meanwhile, the petitioner filed complaint against the Principal, Govt. Institute for the Blind, Gujranwala dated 17.01.2023 which was sent to the DGSE *vide* letter dated 15.02.2023 with the request to conduct joint probe against the petitioner and the Principal, Govt. Institute for the Blind, Gujranwala and submit recommendations to meet the ends of justice. The petitioner who was awaiting posting in the department was posted at Government Secondary School for the Blind (Boys), Sargodha, against a vacant post *vide* impugned order dated 07.08.2023 after receiving concurrence from the Election Commission of Pakistan. The petitioner, in compliance with order dated 07.08.2023, assumed the charge of his new post on 09.08.2023. The Departmental Representative further stated that the post of Counsellor (BS-17) is of a provincial cadre and the incumbent is required to serve anywhere in Punjab.

5. **AND WHEREAS**, after examining the record / material available in the case file, considering arguments presented by the petitioner and report of the Hearing Officer, it is observed that the representationist was transferred and directed to report to the Administrative Department in the wake of multiple complaints against him. Subsequently, he was posted in Sargodha *vide* order dated 07.08.2023 where he joined and assumed the charge. During hearing, it transpired that the representationist does not enjoy a good reputation due to which the principal amongst other officers requested that the petitioner's services were withdrawn because he was spoiling the academic environment. The petitioner could not establish that he was transferred by the Competent Authority with *mala fide* or without any administrative requirement. Transfer of any employee is an incidence of service and employee cannot claim as a matter of right to remain posted at a choice place. The order issued on administrative ground does not violate any right of the employee. Under Section 9 of the Punjab Civil Servants

Act, 1974, "every civil servant shall be liable to serve anywhere within or outside the province in any post". The petitioner remained posted as Counsellor at Government Institute for Blind from 04.10.2013 to 23.09.2022. Thus, he has already availed around nine years of service there. As such, no interference is warranted.

6. **NOW THEREFORE**, under the circumstances, I, **Zahid Akhtar Zaman**, Chief Secretary, Punjab, do hereby **reject** the representation of **Rana Muhammad Tahir**, being devoid of merit and substance.

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(**ZAHID AKHTAR ZAMAN**)
CHIEF SECRETARY, PUNJAB

Dated: Lahore the 25th October, 2023

No. & Date Even.

A copy is forwarded to the:

1. Director General, Directorate General of Special Education, Punjab, Lahore.
2. Deputy Secretary (Service Matters) to Chief Secretary, Punjab w.r. to Note dated 10.10.2023.
3. District Education Officer (Special Education), Gujranwala and Sargodha with the request to ensure delivery of this order to the petitioner under intimation to this department.
4. Principal/Headmaster, Govt. Secondary School for the Blind (Boys), Sargodha with the request to ensure delivery of this order to the petitioner under intimation to this department. After decision of departmental appeal / representation of the petitioner by the Chief Secretary, Punjab, the order, *whereby operation of transfer order dated 07.08.2023 was suspended*, has become infructuous, hence it is requested that necessary steps for initiation of pay of the petitioner from District Accounts Office, Sargodha may be taken under intimation to this department.
5. Petitioner concerned / **Rana Muhammad Tahir**, Counsellor (BS-18/Personal), Govt. Secondary School for the Blind (Boys), Sargodha.
6. PS to Secretary Special Education Department.


(**GHULAM FATIMA BANDIAL**)
SECTION OFFICER (ESTT.)