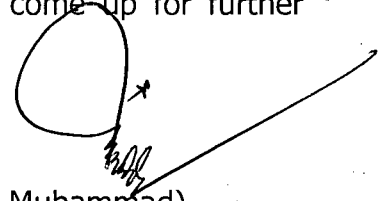


16.08.2022

*Due to non-availability of counsel
of postal tickets was informed
for the date 13/10/2022 telephonically
fixed*

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Notice be issued to the petitioner and his counsel to attend the court on the next date. Adjourned. To come up for further proceedings on 13.10.2022 before S.B.



(Mian Muhammad)
Member (E)

15.02.2022

Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 11.04.2022 for the same as before.


Reader

11.04.2022

Clerk to counsel for the petitioner present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Former requested for adjournment on the ground that learned counsel for the petitioner is out of station. Adjourned. To come up further proceedings on 30.06.2022 before S.B.


(Rozina Rehman)
Member (J)

30.06.2022

Clerk of learned counsel for the petitioner present and requested for adjournment on the ground that learned counsel for the petitioner is busy in Hon'ble Peshawar High Court. Request accepted. To 'up for further proceedings on 16.08.2022 before S.B.



(Fareeha Paul)
Member (E)

E.P. No. 220/2019
Safarullah vs Govt

03.12.2021

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Said Umer, CDO and Mr. Attaullah Khan, Asst: Public Prosecutor/ FG for respondents present.

Implementation report submitted to the office of Registrar Service Tribunal by the respondent-department vide letter dated 20.10.2021. According to the implementation report dated 20.10.2021 all dues on account of Pension, GP fund, Leave Encashment, Benevolent Fund and Retirement Benefits & Death Compensation have been paid to the petitioner. Implementation report is placed on file. Adjourned. To come up for further proceedings on 03.01.2022 before S.B.


(Mian Muhammad)
Member(E)

03.01.2022

Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the petitioner requested for adjournment that he has not gone through the record. Adjourned. To come up for further proceedings on 15.02.2022 before S.B.


(Atiq-Ur-Rehman Wazir)
Member (E)

EP 220/19

12.08.2021

Counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Said Umar, CDO for the respondents present.

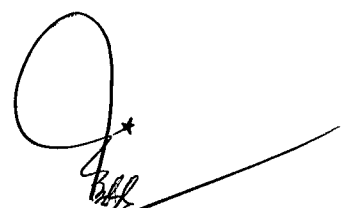
Learned counsel for the petitioner stated that the Benevolent Fund has been paid to the petitioner while payment of Group Insurance is still outstanding. The respondents are directed to pursue the matter for payment of Group Insurance to the petitioner and submit compliance report on next date. Case to come up on 13.10.2021 before S.B.


Chairman

13.10.2021

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Said Umer, CDO and Mr. Attaullah Khan, Asst: Public Prosecutor/FG for respondents present.

Despite clear directions as per order sheet dated 12.08.2021, respondents could not come up with implementation report. On request of the learned AAG last chance is given to the respondents for submission of implementation report. To come up for further proceedings before the S.B on 08.12.2021.


(MIAN MUHAMMAD)
MEMBER (E)

25.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 03.05.2021.



Reader

03.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 23.06.2021 for the same as before.



Reader

23.06.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Said Umar, CDO for the respondents present.

The judgment at credit of the petitioner to the extent of Benevolent Fund and Group Insurance is still to be implemented. Representative of the respondents produced certain documents showing correspondence with different fora for release of Benevolent Fund and Group Insurance to the petitioner. Documents are placed on file.

Respondents are directed to pursue the matter with quarter concerned and submit compliance report positively on the next date. Adjourned to 12.08.2021 before S.B.



Chairman

E.P.No. 220/2019
Sajeerullah vs Govt

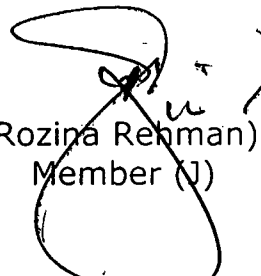
10.02.2021

Petitioner in person present.

Noor Zaman Khattak learned District Attorney alongwith Sajad Ullah Head Clerk and Atta Ullah Forester for respondents present.

A letter on behalf of Divisional Forest Officer Bannu Forest Division is available on file vide which order of this Tribunal was implemented in respect of pension payment, G.P Fund payment and Leave Encashment Payment while the issue in respect of Benevolent Fund and Group Insurance is still pending in two different fora i.e Deputy Commissioner Bannu and Project Manager RB&DC. As such the concerned be put on notice to apprise this Tribunal in respect of Payment of Benevolent Fund and Group Insurance to the present petitioner. They are further directed to make sure the presence of a representative not below the Rank of BPS-17. At the same time, the representatives present today before the Tribunal are directed to produce proper documents showing progress in the instant case to the extent of Benevolent Fund and Group Insurance.

An application for releasing salaries of the respondents No. 1 to 3 was also submitted. In view of the development which was shown to the Tribunal today in shape of payment of certain amount to the petitioner, salary of all the three respondents stand released.

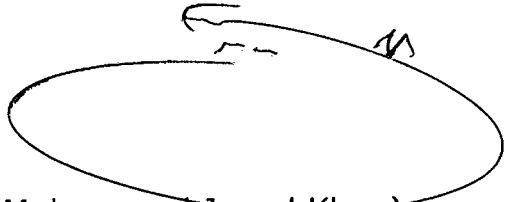

(Rozina Rehman)
Member (J)

09.11.2020

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Said Umer, CDO, for the respondents are present.

Representative of the department submitted leave encashment report which is placed on record.

Since the Members of the High Court as well as of the District Bar Associations, Peshawar, are observing strike today, therefore, learned counsel for petitioner is not available today. Adjourned to 28.12.2020 on which date to come up for further proceedings before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

28.12.2020

Petitioner in person alongwith his counsel is present. Mr. Asif Masood Ali Shah, Deputy District Attorney, for the respondents is also present.

According to the learned counsel petitioner has not been paid payment of his pensionary benefits/emoluments, an amount of Rs. 329000/- in respect of his Benevolent Fund and an amount of Rs. 400000/- with respect to Group Insurance is outstanding.

Representative of respondents is not present before the court in order to ascertain the facts regarding the latest information, therefore, respondents are directed to submit report regarding implementation of the judgment of this Tribunal, they are also directed to make arrangement of payment of the outstanding amount till the next date.

On none appearance of legal representative of respondents, the salary of respondents No. 1 to 3 are hereby attached and accordingly, in compliance thereof notice of attachment and warrants of attachment of salaries be issued to the office concerned and at the same time directing them to depute a legal representative not below the rank of BPS-17 who is well versed in the issues involved. File to come up for implementation report on 10.02.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

E.P 220/2019

23.09.2020

Counsel for the petitioner and Addl. AG alongwith Said Umar, CDO and Zohaib, Junior Clerk for the respondents present.

Representative of the department has provided copy of office order dated 21.09.2020, whereby, sanction for final payment of G.P.Fund for Rs. 711576/- in favour of petitioner has been accorded. He has also submitted copy of Memo. dated 07.08.2020, whereby, amount for payment of encashment of LPR in favour of officials including the petitioner has been requested. It was verbally stated by the representative that there is shortage of about Rs. 65880/- for settlement of claim of petitioner on account of LPR. The proceedings will, however, be completed shortly.

The respondents are required to arrange for payment of total claim of petitioner till next date of hearing. Else, the available amount shall be transferred to the Account of petitioner with the undertaking to complete the payment without further loss of time.

Adjourned to 09.11.2020 before S.B.


Chairman

*E.P. No. 220/2019
Saifeerullah vs Govt*

06.08.2020

Mr. Inayat Ullah Khan, Advocate, for petitioner and petitioner himself are present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Sajjad Ullah, Assistant (Bannu Forest Department) are also present.

Learned Additional AG submitted statement of pension paper whereby the statement of accounts prepared addressed to the District Comptroller of Bannu for onward payment of pensionary/emoluments to the petitioner dated 15.07.2020 bearing No. B&A/Pen-10(S.177)/99-100. Photocopy of the statement was delivered to the petitioner for perusal and objections if any to be submitted on the next date. As regard the payment of GP Fund and LPR that is concern of the respondent-department, their representative is present in the Tribunal, is directed to prepare a statement and submit for perusal and for appropriate orders on 23.09.2020. The representative is also directed to render cooperation to the petitioner facilitating him to receive his pensionary emoluments/benefits from the District Comptroller of Bannu.

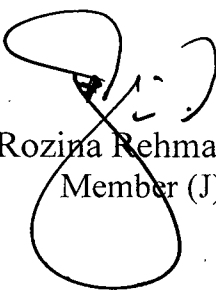

(MUHAMMAD JAMAL KHAN)
MEMBER

19.06.2020

Petitioner in person alongwith his counsel present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Sajjad Ullah Head Clerk for the respondents present.

Perusal of record shows that the respondents were directed to submit implementation report but today representative again requested for another opportunity, therefore last opportunity is given ^{with} ~~Restrict~~ direction to submit implementation report on 15.07.2020 before S.B

Learned Additional Advocate General is directed to produce officer on behalf of the respondents not below 17 Grade as to apprise this court in respect of implementation of the orders of this Tribunal. To come up for further proceedings on the date fixed before S.B.

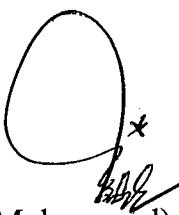

(Rozina Rehman)
Member (J)

15.07.2020

Petitioner with counsel present. Addl: AG alongwith Mr. Rafi Ullah Jan, CDO, Bannu and Mr. Shah Faisal, Assistant for respondents present.

In pursuance of the directions handed down in the Service Tribunal judgment in Service Appeal No. 613/2018 decided on 11.02.2019, the respondents submitted implementation report to the effect that pension payment authority has been issued in respect of the petitioner. The learned counsel for the petitioner, however, requested for adjournment so that conclusive implementation report is submitted before the court.

Adjourned to 06.08.2020 before S.B.


(Mian Muhammad)
Member(E)

30.01.2020

Petitioner in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Wahdat Zeshan DO present.

Petitioner stated that he stood retired from service in the year 2017 and up till now, he is deprived from his pension.

Learned AAG replied that against the judgment under implementation, the respondent department has already filed CPLA before the august Supreme Court of Pakistan and an application for early hearing has also been moved. Learned AAG seeks time to furnish order in relation to suspension of the judgment of this Tribunal. Adjourn. To come up for further proceedings on 12.03.2020 before S.B. The respondent department may issue provisional/conditional order for the payment of monthly pension to the petitioner subject to the outcome of CPLA pending before august Supreme Court of Pakistan, upon obtaining requisite undertaking/security bond from the petitioner.


Member

12.03.2020

Petitioner alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Rafi Ullah Jan, Community Development Officer for the respondents present.

Implementation report not submitted. Respondents are strictly directed to submit implementation report on 15.04.2020 as per previous order sheet dated 30.01.2020, otherwise, coercive measures would be adopted against them.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.04.2020.

Due to public holidays on the account of Covid 19, the case is adjourned. To come up for the same before SB on 09/07/2020.


Reader

13.11.2019

Petitioner alongwith counsel and Addl. AG alongwith Rafiullah, Community Development Officer for the respondents present.

The representative of respondents states that the matter of advice in the instant case has been agitated with the Section Officer (Litigation) as well as Conservator of Forests. The requisite advice is still awaited.

Be that as it may, the respondents are required to submit an implementation report in accordance with the judgment under execution on next date of hearing in case the same is not suspended or set aside by the Apex Court till then.

Adjourned to 17.12.2019 before S.B.



Chairman

17.12.2019

Nemo for petitioner. Addl. AG alongwith Rafiullah Jan, Community Development Officer for the respondents present.

To come up for further proceedings on 30.01.2020 before S.B.



Chairman

02.09.2019

Counsel for the petitioner and Mr. Usman Ghani, District Attorney alongwith Wahdat Zeshan, SDFO for the respondents present.

The petitioner has submitted rejoinder to the parawise comments by respondents. The same are placed on record. To come up for arguments on 30.09.2019 before S.B.


Chairman

30.09.2019

Nemo for the petitioner. Addl. AG Wahdat Zeeshan, SDFO for the respondents present.

Due to general strike of the bar the matter is adjourned to 24.10.2019 for arguments before S.B.


Chairman

24.10.2019

Petitioner with counsel present. Mr. Kabirullah Khattak learned Addl; AG alongwith Wahdat Zeeshan DFO for the respondents present.

Learned AAG requests for a short adjournment on behalf of the respondents in order to come^{up} with a proposal for conditional payment of pension in favor of petitioner.





Adjourned to 13.11.2019 before S.B


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 220/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.5.2019	<p>The execution petition of Mr. Safeerullah submitted today by Mr. Inayatullah Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	21/05/19	<p>This execution petition be put up before S. Bench on <u>14/06/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
14.06.2019		<p>Petitioner in person present. Notice be issue to the respondents for implementation report for 12.07.2019 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
12.07.2019		<p>Counsel for the petitioner and Addl: AG alongwith Mr. Wahdat Zeeshan, SDFO for respondents present. Representative of the respondents submitted reply which is placed on file. Case to come up for arguments/ further proceedings on 02.09.2019 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK,
PESHAWAR.

E/ Petition No.220/19

In

Appeal No.613/2018

Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department

and others..... Respondents

***REJOINDER ON BEHALF OF
APPELLANT WITH REGARD TO THE
PARA-WISE COMMENTS SUBMITTED ON
BEHALF OF RESPONDENTS.***

Respectfully Sheweth;

Reply Preliminary objections:

All preliminary objections No.1 to 6 are incorrect, hence denied.

REPLY ON FACTS:

- 1) Para-1 of reply is subject to furnishing proof of C.P.L.A. filed before the August Supreme Court of Pakistan on 08.05.2019.

Order XX Rule 1 Supreme Court Rules states and the same is reproduced for ready reference of this Hon'ble Tribunal that;

“(1) The filing of a petition for leave to appeal or an appeal shall not prevent execution of the decree or order appealed against, but the court may, subject to such terms and conditions as it may deem fit to impose, order a stay of execution of the decree or order, or order a stay of proceedings, in any case under appeal to this court”.

It is pertinent to mention that according to reported judgments filing of appeal against judgment of Service Tribunal would not operate suspension of judgment of Service Tribunal. Authority was directed to give effect of Service Tribunal upto specified date. *1999 PLC (CS) 623*

It was also held in a reported judgment i.e. **PLD 1975 Lah 65 and 2004 PLC (CS) 693** that leave to appeal granted by the Supreme Court does not stay or suspension of the order passed by the Lower Court.

- 2) In response to Para-2 it is submitted that this Hon'ble Tribunal already held in categorical terms that;

“It is settled law that if a government servant attains the age superannuation before completion of inquiry disciplinary proceedings against him shall abate”

As far as the observation of this Hon'ble Tribunal that in case of any pecuniary loss to the government has been proved against the appellant, the same may be recovered from the

appellant in accordance with law with leave to ambiguity in mind that the respondents can only take action in accordance with law meaning thereby that this remark needs to be read with the operative part of the judgment where it was held that once a civil servant attains the age of superannuation before completion of inquiry disciplinary proceedings against him shall abate, therefore, the law requires that after retirement of the appellant no further proceedings can be initiated therefore, the law states that any other coercive procedure adopted by respondents would be sheer violation of the law and Pensionary Rules 1963, hence in law no further action can be taken.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant.

3-4) Reply to paras-3 and 4 has already been given in para-2 above.

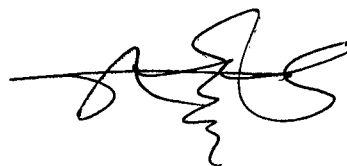
REPLY ON GROUNDS:

A. Para-A is incorrect, hence denied.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant. Further explanation has been furnished in para-2 above.

B. Reply to Grounds B, C, D and E has been given in para-2 and ground "A" above.

Since the respondents have miserably failed to make reference to any provisions of law in E&D Rules or any other rules which make them competent to make recovery of alleged so-called, vexatious and non-substantiated allegation of loss to the government ex-chequer, therefore, the respondents cannot take any further proceedings against the appellant. Any further proceeding would amount to sheer abuse of the mandate of E&D and Pensionary Rules, 1963, therefore, the non-releasing of the pensionary benefits by the respondents to the appellant would amount to abuse of powers, hence the execution petition No.220/19 in Appeal No.613/18 may kindly be allowed with heavy cost and implement the judgment dated 11.02.2019 passed in favour of the appellant in letter and spirit with strict directions to the respondents to forthwith release his pension and all other due emoluments illegally withheld since the date of his retirement.



Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 02.09.2019

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK,
PESHAWAR.

E/ Petition No.220/19
In
Appeal No.613/2018

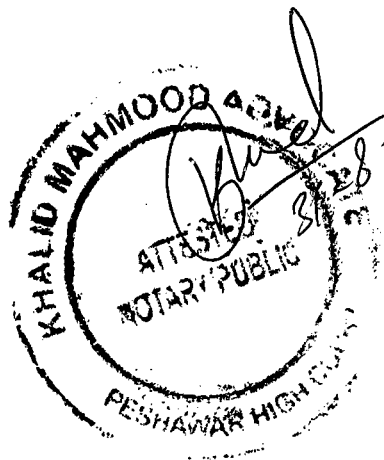
Safeer Ullah Khan Appellant

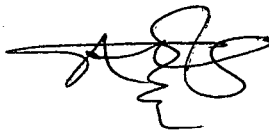
Versus

Secretary to Govt. of K.P. Environmental Department
and others..... Respondents

AFFIDAVIT

I, **Safeer Ullah Khan** son of Malik Mir Dad Khan Ex-Deputy Ranger, Bannu Sub Division, Forest Bannu R/O Sero Bada Khel, Tehsil and District Bannu do hereby affirm and declare on oath that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.




 19
 Deponent

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK,
PESHAWAR.

E/ Petition No.220/19

In

Appeal No.613/2018

Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department

and others..... Respondents

**REJOINDER ON BEHALF OF
APPELLANT WITH REGARD TO THE
PARA-WISE COMMENTS SUBMITTED ON
BEHALF OF RESPONDENTS.**

Respectfully Sheweth;

Reply Preliminary objections:

All preliminary objections No.1 to 6 are incorrect, hence denied.

REPLY ON FACTS:

- 1) Para-1 of reply is subject to furnishing proof of C.P.L.A. filed before the August Supreme Court of Pakistan on 08.05.2019.

Order XX Rule 1 Supreme Court Rules states and the same is reproduced for ready reference of this Hon'ble Tribunal that;

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It is pertinent to mention that according to reported judgments filing of appeal against judgment of Service Tribunal would not operate suspension of judgment of Service Tribunal. Authority was directed to give effect of Service Tribunal upto specified date. *1999 PLC (CS) 623*

It was also held in a reported judgment i.e. **PLD 1975 Lah 65** and **2004 PLC (CS) 693** that leave to appeal granted by the Supreme Court does not stay or suspension of the order passed by the Lower Court.

- 2) In response to Para-2 it is submitted that this Hon'ble Tribunal already held in categorical terms that;

“It is settled law that if a government servant attains the age superannuation before completion of inquiry disciplinary proceedings against him shall abate”

As far as the observation of this Hon'ble Tribunal that in case of any pecuniary loss to the government has been proved against the appellant, the same may be recovered from the

appellant in accordance with law with leave to ambiguity in mind that the respondents can only take action in accordance with law meaning thereby that this remark needs to be read with the operative part of the judgment where it was held that once a civil servant attains the age of superannuation before completion of inquiry disciplinary proceedings against him shall abate, therefore, the law requires that after retirement of the appellant no further proceedings can be initiated therefore, the law states that any other coercive procedure adopted by respondents would be sheer violation of the law and Pensionary Rules 1963, hence in law no further action can be taken.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant.

3-4) Reply to paras-3 and 4 has already been given in para-2 above.

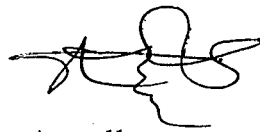
REPLY ON GROUNDS:

A. Para-A is incorrect, hence denied.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant. Further explanation has been furnished in para-2 above.

B. Reply to Grounds B, C, D and E has been given in para-2 and ground "A" above.

Since the respondents have miserably failed to make reference to any provisions of law in E&D Rules or any other rules which make them competent to make recovery of alleged so-called, vexatious and non-substantiated allegation of loss to the government ex-chequer, therefore, the respondents cannot take any further proceedings against the appellant. Any further proceeding would amount to sheer abuse of the mandate of E&D and Pensionary Rules, 1963, therefore, the non-releasing of the pensionary benefits by the respondents to the appellant would amount to abuse of powers, hence the execution petition No.220/19 in Appeal No.613/18 may kindly be allowed with heavy cost and implement the judgment dated 11.02.2019 passed in favour of the appellant in letter and spirit with strict directions to the respondents to forthwith release his pension and all other due emoluments illegally withheld since the date of his retirement.



Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 02.09.2019

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK,
PESHAWAR.

E/ Petition No.220/19
In
Appeal No.613/2018

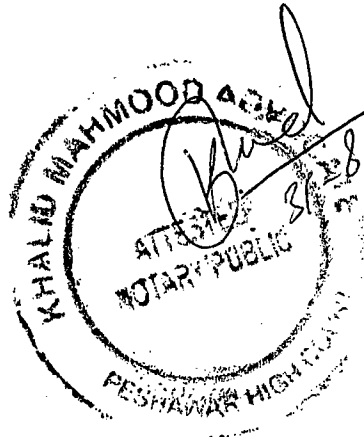
Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department
and others..... Respondents

AFFIDAVIT

I, **Safeer Ullah Khan** son of Malik Mir Dad Khan Ex-Deputy Ranger, Bannu Sub Division, Forest Bannu R/O Sero Bada Khel, Tehsil and District Bannu do hereby affirm and declare on oath that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



19
Deponent

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK,
PESHAWAR.

E/ Petition No.220/19

In

Appeal No.613/2018

Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department
and others..... Respondents

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APPELLANT WITH REGARD TO THE
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BEHALF OF RESPONDENTS.**

Respectfully Sheweth;

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REPLY ON FACTS:

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It is pertinent to mention that according to reported judgments filing of appeal against judgment of Service Tribunal would not operate suspension of judgment of Service Tribunal. Authority was directed to give effect of Service Tribunal upto specified date. *1999 PLC (CS) 623*

It was also held in a reported judgment i.e. **PLD 1975 Lah 65 and 2004 PLC (CS) 693** that leave to appeal granted by the Supreme Court does not stay or suspension of the order passed by the Lower Court.

- 2) In response to Para-2 it is submitted that this Hon'ble Tribunal already held in categorical terms that;

“It is settled law that if a government servant attains the age superannuation before completion of inquiry disciplinary proceedings against him shall abate”

As far as the observation of this Hon'ble Tribunal that in case of any pecuniary loss to the government has been proved against the appellant, the same may be recovered from the

appellant in accordance with law with leave to ambiguity in mind that the respondents can only take action in accordance with law meaning thereby that this remark needs to be read with the operative part of the judgment where it was held that once a civil servant attains the age of superannuation before completion of inquiry disciplinary proceedings against him shall abate, therefore, the law requires that after retirement of the appellant no further proceedings can be initiated therefore, the law states that any other coercive procedure adopted by respondents would be sheer violation of the law and Pensionary Rules 1963, hence in law no further action can be taken.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant.

3-4) Reply to paras-3 and 4 has already been given in para-2 above.

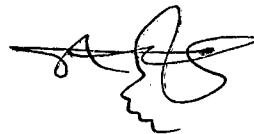
REPLY ON GROUNDS:

A. Para-A is incorrect, hence denied.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant. Further explanation has been furnished in para-2 above.

B. Reply to Grounds B, C, D and E has been given in para-2 and ground "A" above.

Since the respondents have miserably failed to make reference to any provisions of law in E&D Rules or any other rules which make them competent to make recovery of alleged so-called, vexatious and non-substantiated allegation of loss to the government ex-chequer, therefore, the respondents cannot take any further proceedings against the appellant. Any further proceeding would amount to sheer abuse of the mandate of E&D and Pensionary Rules, 1963, therefore, the non-releasing of the pensionary benefits by the respondents to the appellant would amount to abuse of powers, hence the execution petition No.220/19 in Appeal No.613/18 may kindly be allowed with heavy cost and implement the judgment dated 11.02.2019 passed in favour of the appellant in letter and spirit with strict directions to the respondents to forthwith release his pension and all other due emoluments illegally withheld since the date of his retirement.



Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 02.09.2019

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK,
PESHAWAR.

E/ Petition No.220/19
In
Appeal No.613/2018

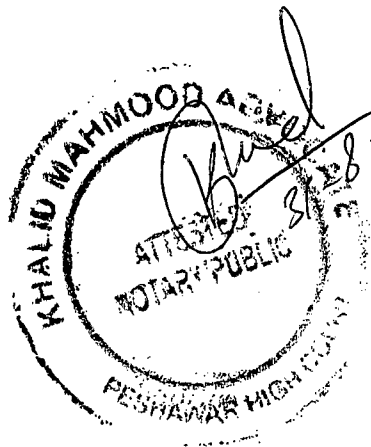
Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department
and others..... Respondents

AFFIDAVIT

I, **Safeer Ullah Khan** son of Malik Mir Dad Khan Ex-Deputy Ranger, Bannu Sub Division, Forest Bannu R/O Sero Bada Khel, Tehsil and District Bannu do hereby affirm and declare on oath that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



19
Deponent

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK,
PESHAWAR.

E/ Petition No.220/19

In

Appeal No.613/2018

Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department

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**REJOINDER ON BEHALF OF
APPELLANT WITH REGARD TO THE
PARA-WISE COMMENTS SUBMITTED ON
BEHALF OF RESPONDENTS.**

Respectfully Sheweth;

Reply Preliminary objections:

All preliminary objections No.1 to 6 are incorrect, hence denied.

REPLY ON FACTS:

- 1) Para-1 of reply is subject to furnishing proof of C.P.L.A. filed before the August Supreme Court of Pakistan on 08.05.2019.

Order XX Rule 1 Supreme Court Rules states and the same is reproduced for ready reference of this Hon'ble Tribunal that;

“(1) The filing of a petition for leave to appeal or an appeal shall not prevent execution of the decree or order appealed against, but the court may, subject to such terms and conditions as it may deem fit to impose, order a stay of execution of the decree or order, or order a stay of proceedings, in any case under appeal to this court”.

It is pertinent to mention that according to reported judgments filing of appeal against judgment of Service Tribunal would not operate suspension of judgment of Service Tribunal. Authority was directed to give effect of Service Tribunal upto specified date. *1999 PLC (CS) 623*

It was also held in a reported judgment i.e. **PLD 1975 Lah 65 and 2004 PLC (CS) 693** that leave to appeal granted by the Supreme Court does not stay or suspension of the order passed by the Lower Court.

- 2) In response to Para-2 it is submitted that this Hon'ble Tribunal already held in categorical terms that;

“It is settled law that if a government servant attains the age superannuation before completion of inquiry disciplinary proceedings against him shall abate”

As far as the observation of this Hon'ble Tribunal that in case of any pecuniary loss to the government has been proved against the appellant, the same may be recovered from the

appellant in accordance with law with leave to ambiguity in mind that the respondents can only take action in accordance with law meaning thereby that this remark needs to be read with the operative part of the judgment where it was held that once a civil servant attains the age of superannuation before completion of inquiry disciplinary proceedings against him shall abate, therefore, the law requires that after retirement of the appellant no further proceedings can be initiated therefore, the law states that any other coercive procedure adopted by respondents would be sheer violation of the law and Pensionary Rules 1963, hence in law no further action can be taken.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant.

3-4) Reply to paras-3 and 4 has already been given in para-2 above.

REPLY ON GROUNDS:

A. Para-A is incorrect, hence denied.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant. Further explanation has been furnished in para-2 above.

B. Reply to Grounds B, C, D and E has been given in para-2 and ground "A" above.

Since the respondents have miserably failed to make reference to any provisions of law in E&D Rules or any other rules which make them competent to make recovery of alleged so-called, vexatious and non-substantiated allegation of loss to the government ex-chequer, therefore, the respondents cannot take any further proceedings against the appellant. Any further proceeding would amount to sheer abuse of the mandate of E&D and Pensionary Rules, 1963, therefore, the non-releasing of the pensionary benefits by the respondents to the appellant would amount to abuse of powers, hence the execution petition No.220/19 in Appeal No.613/18 may kindly be allowed with heavy cost and implement the judgment dated 11.02.2019 passed in favour of the appellant in letter and spirit with strict directions to the respondents to forthwith release his pension and all other due emoluments illegally withheld since the date of his retirement.



Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 02.09.2019

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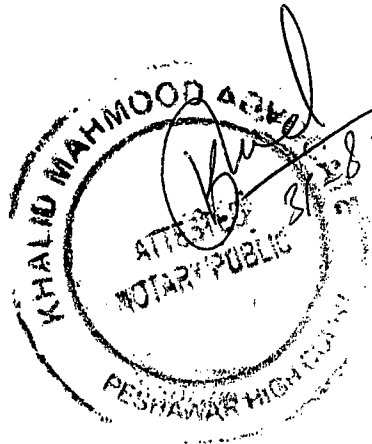
Safeer Ullah Khan Appellant


Versus

Secretary to Govt. of K.P. Environmental Department
and others..... Respondents

AFFIDAVIT

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 19
 Deponent

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK.
PESHAWAR.

E/ Petition No.220/19

In

Appeal No.613/2018

Safer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department
and others..... Respondents

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It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant.

3-4) Reply to paras-3 and 4 has already been given in para-2 above.

REPLY ON GROUNDS:

A. Para-A is incorrect, hence denied.

It is pertinent to mention that no provision of law has been cited by the respondents in the reply/ comments to indicate that under what authority of law proceedings can be initiated for recovery of the so-called alleged, frivolous and vexatious claim that Rs.70,57,204/- has been caused loss to the government by the appellant. Further explanation has been furnished in para-2 above.

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Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 02.09.2019

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, KPK,
PESHAWAR.

E/ Petition No.22019
In
Appeal No.613/2018

Safeer Ullah Khan Appellant

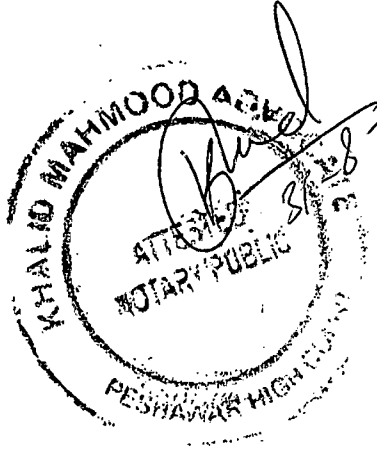
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Deponent



19