

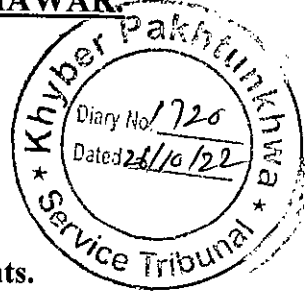
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.192 /2022.

Ex- Service Man Wisal Muhammad No.7360 of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**



REPLY BY RESPONDENTS NO. 1, &2.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file the instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.
8. That the appellant is not a permanent employee hence this Hon'ble Tribunal has no jurisdiction under section 04 of Service Tribunal Act 1974 to entertain the appeal.

REPLY ON FACTS:-

- 1) Incorrect. The appellant was appointed in the respondent department as Ex-Service Man on contract basis, later on he was struck off from force on the charges of wilful absence. Worth mentioning here that this Hon'ble Tribunal has no jurisdiction to entertain appeal of the appellant, as he was not a government/ civil servant. Further, appeal of the appellant is also badly time barred.
- 2) Incorrect. The appellant while posted at PS Pishtakhara absented himself from his lawful duty w.e. from 04.10.2013 to 23.10.2014 without taking leave/permission. In this regard he was issued show cause notice, but the appellant did not bothered to appear before the competent authority, hence he was struck off from force and contract was terminated. Further, the appellant deliberately concealed this information about criminal case from his department and high ups.
- 3) Incorrect. The appellant being not a permanent employee was not required proper departmental enquiry as per law/rules. His claim for conducting enquiry is not lawful/ legal. The appellant being a contract employee was legally struck off from force, as he is not entitled to deal as a regular employee or civil servant.
- 4) Incorrect. In fact the appellant being a contract employee has no right to file departmental appeal for his grievance against any punishment order passed by the competent authority on account of his misconduct.

REPLY ON GROUNDS:-


- A) Incorrect. The punishment order passed by the competent authority is legal/lawful and liable to be upheld.
- B) Incorrect. The appellant being a contract employee was legally struck off from force, as he is not entitled to deal as a regular employee or civil servant.
- C) Incorrect. The appellant was deliberately absented himself from his lawful duty without taking any leave or permission, hence he was struck off from force and contract was terminated.
- D) Incorrect. The appellant being not a permanent employee was not required to issue him charge sheet with statement of allegation and proper departmental enquiry as per law/rules. His claim for conducting enquiry is not lawful/legal being a contract employee.
- E) Incorrect. The appellant being a contract employee was legally struck off from force, as he is not entitled to deal as a regular employee or civil servant.
- F) Incorrect. The appellant was treated as per law/rules and no violation of Constitution of Pakistan 1973 has done by the replying respondents.
- G) Incorrect. The appellant was issued show cause notice and the punishment order passed by the competent authority as per law/rules and terms of contract.
- H) Incorrect. Para explained in the above para. Furthermore the appellant was rightly struck off from force.
- I) Incorrect. The appellant was deliberately absented from his lawful duty without taking any leave or permission, hence he was struck off from force and contract was terminated.
- J) Incorrect. The punishment order was just legal and has been passed in accordance with law.
- K) Incorrect. The appellant was absented himself from his lawful duty without taking leave/permission and plea of his criminal case has no legal footage as he has not informed his boss regarding his act.
- L) Para already explained in the preceding para. Furthermore he was issued show cause notice, but did not appear before the competent authority.
- M) Incorrect. The appellant being not a permanent employee was no need to suspend till the order of competent court.
- N) Incorrect. The appellant was treated as per law/rules.
- O) Incorrect. The appellant being a contract employee was legally struck off from force, as he is not entitled to treat as regular employee/ civil servant.
- P) Incorrect. Para already explained in detailed in the above paras. Further, the appellant was not a regular employee, hence there is no need to issue him charge sheet, with

statement of allegation to conduct departmental enquiry against the Ex- Service Man (appellant).

Q) That the respondents may also be permitted to raise additional grounds at the time of arguments.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits, and legal footing, may kindly be dismissed with costs please.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQrs: Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

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Ex- Service Man Wisal Muhammad No.7360 of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**

AFFIDAVIT

We respondents No. 1 & 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Hon'ble Tribunal.

Capital City Police Officer,
Peshawar.

Superintendent of Police,
HQs: Peshawar.



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AUTHORITY.

I, **Capital City Police Officer, Peshawar**, hereby authorize **Mr.Ahmad Jan** SI legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.

**Capital City Police Officer,
Peshawar**

