BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 5744/2021

Faizan Ahmad Tariq Vs. IG Police KPK & Others

REJOINDER TO THE COMMENTS FILED BY THE PRIVATE RESPONDENTS.

RESPECTFULLY SUBMITTED:

That the appellant most graciously request the permission of this Honourable Court to submit this rejoinder to the comments furnished by the Respondents:

Preliminary Objections:

All the preliminary objections raised by the Respondents are untenable, illegal and without any basis in law. The appellant have got cause of action, because their service is at stake. The stance of the respondents have no nexus with legality. The appellant is the one aggrieved of these actions and thus has cause of action. The appellant also has legal rights violated and thus is well within his rights to approach this honourable court.

On Facts:

Para 1 of the appeal is correct, the reply is also admitted as correct. As the appellant was appointed against the post of Probationer Assistant Sub-Inspector through Khyber Pakhtunkhwa Public Service Commission.

Para 2 of the appeal is correct, the reply thereto also admitted as correct. As the appellant appeared in the competitive examination held Khyber Pakhtunkhwa Public Service Commission

Para 3 of the appeal is correct, the reply thereto is misconceived as no details were given in the reply.

Para 4 of the appeal is totally correct, the reply thereto is an admission on part of the respondent that indeed supernumerary posts were created after being agreed by the finance department to the creation of 300 supernumerary posts of ASI (BPS-9).

Para 5 of the appeal is correct and the reply thereto is incorrect. There cannot be two different yardsticks for the same posts. If the Notification is not legal and in negation of the law, then how does it still holds field and why has it not been rescinded.

Furthermore, this is what makes the case of the appellant one of discrimination.

Para 6 of the appeal is correct, the reply thereto is incorrect. Inadvertently the word deceased is written in place of Shuhada. It is imperative to note that similar issues came before Kohat and Bannu. Reference can be made to RPO Bannu letter dated 22-12-2021, RPO Kohat letter dated 11-01-2022 and letter dated 18-09-2020 of 16 PKP.

Para 7 of the appeal is correct, the reply is also admitted correct as the matter pertains to record.

Para 8 of the appeal is correct, the reply thereto is incorrect. The Rules and Act have been violated and the same is wrongly applied to appellants in one way to their detriment as against others. The letters referred to in response to para 6 makes it clear.

Para 9 of the appeal is correct. However the reply is misconceived, the rules pertaining to regular employees are wrongly being applied to temporary employees.

Para 10 of the appeal is correct, the reply thereto is evasively denied. The Regional Police Officer Mardan may confirm only those ten supernumerary PASI's who were adjusted in due manner against the 5% Quota prescribed for Shuhada Wards but conformation was required to be done with effect from the date of their adjustment instead of the date of their temporary appointment.

Para 11 of the appeal is correct, the reply thereto is denied. The Act and Rules have even been violated by the Respondent and reference has been given to judgements of superior courts in the appeal.

Para 12 of the appeal is correct, the reply thereto is incorrect. The notification was issued by the respondent to which they are bound and not by the appellants because none of the above mentioned supernumerary PASI's were adjusted against the regular posts and every adjustment made against the regular post after 20-02-2017 would rank junior to the appellant.

Para 13 of the appeal is correct, the reply thereto is incorrect. The alleged order was never communicated to the appellant.

No such thing is available on the record regarding communication of the said self-styled order to the appellant. Furthermore, the alleged order is neither addressed nor communicated by any means to the appellant. It is also imperative to note that the reply of the official respondents is ironically silent on any order having been issued. If there were any order issued, the official respondents would have annexed the same. Therefore, the self-styled concocted order annexed with the reply of the private respondents is denied having no bearing on the appellant and thus should be discarded.

Para 14 of the appeal is correct, the reply thereto is admitted being a matter of record.

Para 15 of the appeal is correct the reply thereto is incorrect as no grounds exist on part of the respondents.

Grounds:

All the grounds of the appeal are correct, the reply thereto is denied in totality. Reply has been given in above paras.

The referral of the appellant is to the judgement and the recommendation is based on the verdict of the Supreme Court in the same judgement as referred to by the appellant.

The eligible and properly recruited commissioned PASI's may be preferred for displaying their names on list "E."

Prayer:

It is, therefore, most humbly prayed that the appeal may so kindly be allowed.

Appellant

Through

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AFFIDAVIT

I, Faizan Ahmad Tariq.

, do hereby solemnly affirm on oath that the contents of this rejoinder are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honorable Court.

ATTESTED

Gul Faraz Khan
Advocate

DEPONENT