

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

11/4

S.A No. 637/2022

Rafaqit Ullah

versus

Secretary & Others

REJOINDER

Respectfully Sheweth,

PRELIMINARY OBJECTION

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3374

Dated 1-2-2023

All the 05 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action / locus standi, hon'ble Tribunal has no jurisdiction in the matter, appellant has a vested right to challenge the same in the hon'ble Tribunal, the hon'ble Tribunal has the exclusive jurisdiction in the matter, the appeal is quite maintainable and not barred by any law, there is no need to file departmental appeal against the impugned Notification but still appellant invited the attention of the authority to the subject matter for justice, all parties have been impleaded and appellant has come to the hon'ble Tribunal with clean hands and nothing is concealed.

ON FACTS

- 1-2. Needs no comments. Regarding appointment as Computer Operator and dedicated performances of services.
3. Not correct. The para of the appeal is correct. In each and every department promotion quota is made more than the quota of transfer because when no eligible and qualified person is available in the promotion quota then of course, the post is to be filled up by transfer but in the case in hand, suitable and qualified person is available then the same shall be filled in by promotion and not by transfer. The Government is required to frame Rules for the benefits of parent department and not for outsider. These rules are not for the interest for the public because interest nexus with the parent department and not from outside. The hon'ble Tribunal is quite competent to do or undo Rules, Notifications, Regulations

etc by keeping in view the need of parent department. Appellant is quite aggrieved from the notification impugned because he will never see such post of B-17 in his whole service career. Even the 07 years experience is also much high because in all the rules of the departments, 05 years experience is tented.

4. Not correct. The para of the appeal is correct and as stated earlier when post of Secretary B-17 is to be filled in from the quota of PMS Officers B-17 then Computer Operators would not see such post in his whole service career.
5. Not correct. The para of the appeal is correct. Act, Rules, Regulation etc never becomes time barred and no limitation runs against such items. More so, if first appeal was decided by the appellate authority, then limitation runs but not against Acts, Rules etc. No other court has any power to step into the issue except the hon'ble Tribunal to do or undo the same and as stated earlier, by keeping in view 35% quota of promotion, then no Computer Operator will enjoy the fruit of the post of Secretary B-17 because 65% quota by transfer is much higher as compare to the 35% quota.

GROUNDS:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are re-affirmed once again.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.


Appellant

Through


Saadullah Khan Marwat

Advocate,

Dated: 31-01-2023

AFFIDAVIT

I, Rafiqatullah, appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.


DEPONENT