

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 7712/2018

21

Rahim Shah S/O Asil Zada resident of Charbagh Tehsil Charbagh District Swat.

..... Appellant

VERSUS

District Police Officer, Swat & others

..... Respondents

Khyber Pakhtunkhwa
Service Tribunal

Case No. 3437

7/2/2023

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District Police Officer
Swat

24.
12.5.22

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PARAWISE REPLY BY RESPONDENT

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no Cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

FACTS:

1. Pertain to personal information of appellant, hence needs no comments.
2. Correct to the extent that appellant was enlisted as Constable (Special Police Force) on contract basis for the period of two year in the year 2009 and later on regularized vide Notification No.15784 dated 09/12/2019.
3. Incorrect. According to service book of appellant, he was recruited in Police Department as Special Police Force on contract basis for two years vide OB No.144 dated 09/10/2009 by DPO, Swat. His date of birth is mentioned as 01/01/1966 in service book. Moreover on the basis of his CNIC No.15602-7269206-3, his date of birth is 01/01/1966 which was issued to him on 22/05/2006 and was valid up to 30/04/2016. On the basis of same CNIC he was enlisted in Police department. (Copy of CNIC is enclosed as annexure "A").
4. Pertain to record and learned Civil Judge/Court, hence needs no comments.

5. Incorrect. The date of birth of appellant was recorded correctly in his service book as provided by him at the time of enlistment. The date of birth once entered in service book could only be changed or modified within two years of enlistment, however the appellant neither informed the department regarding correction in his date of birth nor any proof is available on record in this regard.
6. Incorrect. Appellant was required to apply for the change or modified of his date of birth within two years after joining service in Police department, however he did not apply for the same with statutorily period of two year, therefore under rules, correction regarding his date of birth at this belated stage cannot be entertained, after lapse of stipulated period of two years, the date of birth of appellant will be presumed as correct and final. Moreover, the appellant has wrongly invoked the jurisdiction of this honorable tribunal through unsound grounds.

GROUND:

- a. Incorrect. That action/inaction of the respondents are lawful, legal and in accordance with law/rules.
- b. Incorrect. As stated above, appellant was required to apply for the rectification of his date of birth within two years after joining service in Police department, however he did not apply for the same with statutorily period of two year, therefore under rules, correction regarding his date of birth at this belated stage cannot be entertained, after the lapse of stipulated period of two years, the date of birth of appellant will be presumed as correct and final.
- c. Incorrect. That the date of birth of the appellant as per his CNIC is 01/01/1966 and on the basis of this, he was enlisted as Special Police Officer and his date of birth has been rightly entered in his service book as per available CNIC at the time of enlistment.
- d. Incorrect. That the date of birth of appellant was recorded correctly in his service book as per his CNIC provided by him at the time of enlistment. The date of birth once entered in service book could only be rectify within two years of enlistment, however the appellant neither informed the department within stipulated period of two years regarding correction in his date of birth nor is any proof available on record in this regard.
- e. Incorrect. That appellant has not been deprived of his legal right. The appellant was required to apply for correction in his date of birth within first

two year of enlistment, but he failed to do so, hence after the lapse of stipulated period of tow year, the date of birth is considered to be final.

f. Incorrect. No malafide has been shown by the respondent. The conduct of respondent is legal and in accordance with law/rules.

g. Para already explained above in detail.

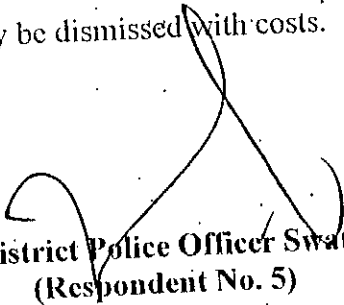
h. Pertain to record. Appellant has performed duty as routine and not shown any good performance.


i. First portion of this para is pertain to record, however the appellant was required to apply for the rectification of his date of birth within two years after joining service in Police department, however he did not apply for the same within statutorily period of two year.

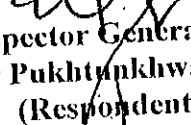
j. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

PRAYER:

Keeping in views the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.


District Police Officer Swat
(Respondent No. 5)


Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.
Regional Police Officer,
Malakand Region
(Respondent No. 6)


Inspector General of Police,
Khyber Pukhtunkhwa, Peshawar
(Respondent No. 7)

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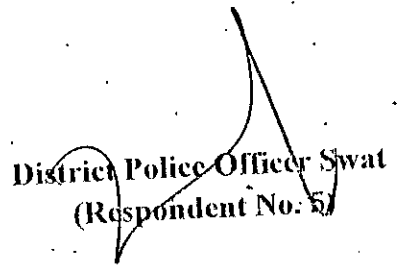
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AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.


District Police Officer Swat
(Respondent No. 5)


Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.
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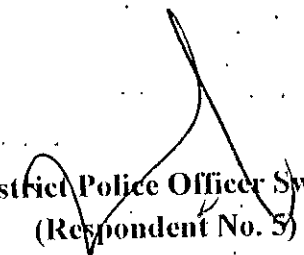
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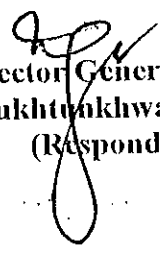
..... Respondents

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Naeem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal:


District Police Officer Swat
(Respondent No. 5)


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Malakand Region,
Saidu Sharif Swat,
Regional Police Officer,
Malakand Region
(Respondent No. 6)


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Khyber Pakhtunkhwa, Peshawar
(Respondent No. 7)

