BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 4758 of 2021.

Abdul Kabir ..... (Appellant)

Versus

8. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
9. The Regional Police Officer,Malakand Devision At Swat.
10. The District Police Officer, Upper Dir

..... (Respondents)

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Inspector Legal,
Dir Upper.

(2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

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Abdul Kabir ..... (Appellant)

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1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer,Malakand Devision At Swat.
3. The District Police Officer, Upper Dir

..... (Respondents)

PARA WISE REPLY BY RESPONDENTS.

Respectfully Sheweth :

Respondents submit as under;

Preliminary objections:

1. That the instant service Appeal is not maintainable in the present form and liable to be dismissed.
2. That the Appellant has got no cause of action and locus standi to file the instant Appeal.
3. That the Appellant is estopped due to his own conduct.
4. That the Appellant has concealed the material facts from the Honorable Service Tribunal.
5. That jurisdiction of this Honorable service Tribunal has wrongly been invoked.
6. That the Appeal is bad due to mis-joinder and non-joinder of necessary parties.
7. That the Appeal is barred by law &limitation.

ON FACTS.

1) Correct.
2) Correct.
3) Incorrect, in compliance with the directions of Khyber Pakhtonkhwa Service Tribunal vide order

dated 04/11/2019 the appellant was reinstated into service but did not allowed to the back benefits.

4) Correct.
5) Correct.
6) Incorrect, respondent No.03 being competent and authorized rightly constituted a committee to look into the grievances of appellant and redress the same as per law but the committee declined to give any back benefit to the appellant, hence the respondent No.03 rightly passed order dated 17/09/2020 wherein the back benefits were declined to the appellant.(committee order, findings are attached as annexure A,B)
7) Pertains to the record, need no comments.
8) Incorrect, following a proper De-nove enquiry, respondent No.3 issued orders and did not allow back benefits to the appellant.
9) Incorrect, the order of the respondent are legal, lawful and in accordance with law on the following grounds.

GROUNDS.

A. Incorrect, the order of the respondent No. 03 is speaking one and in accordance with law.
B. Incorrect, respondent No.3 has rightly constituted the said committee to redress the grievances of the appellant and nothing illegal or unconstitutional has been committed by the respondents while dealing the case of the appellant.
C. Incorrect, on the directions of Khyber Pakhtunkhwa Service Tribunal the appellant was re-instated into service and also issue fresh show cause notice issued to the appellant and the issue of back benefits are left on the outcomes of De-nove enquiry which is clear and Crystal and resultantly the back benefits were refused.

D. The respondents may also be allowed to reply any other grounds on the permission of this honorable Khyber Pakhtunkhwa service Tribunal.

E. Reply to this Para is given in the preliminary objections.

Prayer,

It is therefore, humbly prayed that the order dated 17.09.2020 may be declared legal, valid and in accordance with law and the appeal may please be dismissed with coast.

Provincial Police Officer,
Khyber Pakhtunkhwa,Peshawar.

Regional Police Officer,
Malakand at Saidu Sharif, Swat.

Regional Police Officer
Malakand Region,
Saidu Sharif, Swat.

District Police Officer,
Upper Dir.

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 4758 of 2021.

Abdul Kabir ..... (Appellant)

Versus

1 The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. The Regional Police Officer,Malakand Devision At Swat.
5. The District Police Officer, Upper Dir

..... (Respondents)

Power of Attorney

We, the undersigned do hereby authorized Noor Baz Inspector Legal to appear on our behalf before the honorable Service Tribunal in the cited above case on each and every date.

He is also authorized to file Para wise comments/ reply, prefer appeal and to submit the relevant documents before the court.

Respondents:

1. **Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.**

2. **Regional Police Officer, Malakan at Saidu Sharif Swat**

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

3. **District Police Officer, Upper Dir.**

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 4758 of 2021.

Abdul Kabir ..... (Appellant)

Versus

2 The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
6. The Regional Police Officer,Malakand Devision At Swat.
7. The District Police Officer, Upper Dir

..... (Respondents)

Affidavit

I, Noor Baz, Inspector/Legal do hereby solemnly affirm and declared that the contents of para wise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

ATTESTED

KHWAJA YASIR ABBAS ADVOCATE District Courts Swat No. 299 Date 7.2.2022 OATH COMMISSIONER

DEPONENT
Noor Baz Inspector
Legal, Upper Dir.

(9)

(30)

Annexture "F"

OFFICE OF THE
DISTRICT POLICE OFFICER,
UPPER DIR
Ph: 0944-880531 Fax: 0944-880192
Email: dpodirupper@gmail.com

OB No. 759 /Appeal, Dated Dir Upper the [illegible], 2020.

CONSTITUTION OF COMMITTEE

A Committee of the following officers is hereby constituted with the direction to examine the case of Computer Operator Abdul Kabir BPS-16 for back benefits and decide as to whether he is entitled for all back benefits or other wise

1. DSP HQrs Upper Dir
2. Pay Officer Local Office
3. ASI Legal

Committee Members will submit their report within 03 days

District Police Officer,
Upper Dir

No. 14712 /EB/Appeal, dated Upper Dir 01/10/2020

Attached as annex – Para (6)

(31) Annexture "G"

فائنڈنگ رپورٹ۔

جناب عالی!

تحریر ہے۔ کہ دفتر جناب DPO صاحب سے چھٹی انگریزی نمبری 734 مورخہ 09.09.2020 بمعہ درخواست عبدالکبیر KPO موصول ہو کر پایا گیا۔ کہ جناب DPO صاحب نے DSP ہیڈ کوارٹر ،پے آفیسر، ASI لیگل پر مشتمل کمیٹی تشکیل کر کے عبدالکبیر KPO کو (Back Benefit) کے بابت تین یوم کے اندر رپورٹ پیش کرنے کا حکم فرمایا۔ اندریں بارہ دفتر OASI برانچ سے عبدالکبیر KPO کے سابقہ انکوائریاں کے فائنڈنگ رپورٹ حاصل کر کے پایا گیا۔ کہ عبدالکبیر KPO کے خلاف شاہی بخت DSP سرکل کوہستان نے انکوائری کر کے عبدالکبیر KPO کو انکوائری میں قصوروار ٹھہرا کر بحوالہ OB نمبر 672 مورخہ 14.11.2018 کو محکمہ پولیس سے برخاست کیا گیا۔ مذکورہ نے سروس ٹریبونل پشاور کیمپ کورٹ سوات کے حکم پر بحال ہو کر بحوالہ OB نمبر 1050 مورخہ 09.12.2019 کو بحالی کا حکم صادر ہو کر (De-nove) انکوائری جناب SP صاحب انوسٹی گیشن دیر بالا کو حوالہ ہوئی۔ جناب SP صاحب انوسٹی گیشن نے انکوائری مکمل کر کے جناب DPO صاحب کو پیش کی۔ جناب DPO صاحب نے بحوالہ OB نمبر 240 مورخہ 16.03.2020 کو عبدالکبیر KPO کو (Back Benefit) نہ دینے اور تنخواہ شروع کرنے کا حکم صادر فرمایا۔ اب عبدالکبیر KPO کا DPO صاحب کو (Back Benefit) کیلئے درخواست کرنا درست نہیں۔ کیونکہ DPO صاحب دیر بالا نے مذکورہ کو (Back Benefit) کا حقدار نہ سمجھ کر درج بالا حکم صادر فرمایا ہے۔ رپورٹ مرتب ہو کر بمراد مناسب صدور حکم پیش خدمت ہے۔

Seen

DPO/DIR

17/09/2

ASI لیگل دیر بالا۔ 16/09/2020

ڈی ایس پی، ہیڈ کوارٹر دیر بالا۔ 16/09/2020

پے آفیسر، دیر بالا۔ 16/9/20

Para 6

Annexure