

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR**

S. A. No. 189 /2022

Amjad Nawaz

versus

CCPO & Others

**REJOINDER**

**Respectfully Sheweth,**

**Preliminary Objections:**

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 4219

Date 10/3/2023

- a. Not correct. The appeal is neither barred by law nor by limitation as is evident from the dates mentioned therein.
- b. Not correct. All the necessary parties have been impleaded and are sufficient for the purpose.
- c. Not correct. Appellant has come to the hon'ble Tribunal with clean hands.
- d. Not correct. Appellant has cause of action and locus standi as respondents played very dirty role and fraud in the matter.
- e. Not correct. No estoppel ever exists.
- f. Not correct. No material fact was concealed nor brought on surface.
- g. Not correct. Appeal is quite maintainable and bears merit.
- h. Not correct. The department misinterpreted the order dated 29-11-2012 of the hon'ble court where paragraph-2 is very much clear on the subject, so the hon'ble Tribunal has the exclusive jurisdiction in the matter as in the earlier round of the matter, no such objection was ever tainted.

**ON FACTS**

1. Needs no comments.

2. Not correct. At the time, father of appellant died. The post of ASI B-09 was falling not in the purview of Public Service Commission but was in the control of the Administrative Department and if the position was such as alleged by the respondents, then the result could have been otherwise. The said judgment was not set aside but in paragraph-2, the department was directed to accommodate the appellants against the vacancies for which they are qualified as early as possible. (Other connected appeals were also fixed on the same date and only appellant was accommodated other incumbents were not). Appellant was law graduate and is fully qualified for the post.
3. As above and as stated earlier, the post of ASI was at that time of B-09 however, the same was later on upgraded to B-11.
4. Needs no comments.
5. Admitted correct by respondents regarding order of the apex court by directing the department to accommodate them against the vacancy for which they were qualified as early as possible. The other colleagues in the said judgment of the Board of Revenue were never ousted from service by concerned authority.
6. Not correct. The respondents misinterpreted the order of the apex court by withdrawing order of appointment dated 29-09-2010 of appellant while of the others was never withdrawn / cancelled / recalled.
7. Not correct. The para of the appeal is correct regarding submission of representation before R. No. 02 for restoring order of appointment dated 29-09-2010 and 12-11-2010 with all back benefits.
8. Not correct. Appellant was quite eligible and fit for appointment as ASI because at the same time such post of ASI B-09 was out of the purview of Public Service Commission.
9. Admitted correct by the respondents regarding acceptance of Service Appeal by the hon'ble Service Tribunal. The observation made in the judgment dated 28-03-2016 of the hon'ble Service Tribunal was never complied with in letter and sprits.

10. Not correct. Actual facts were not brought by the office into the notice / knowledge of the respondents by the Legal Branch due to malice.
11. Not correct. Appellant was reinstated in service by R. No. 02 on 01-11-2016 and assume charge of the said post on 10-11-2016 at 02.30 PM.
12. Not correct. The para of the appeal is correct. Appellant attended the office at 08.30 AM on 11-11-2016 but no sooner had occupied the seat when order of discharge from service at 09.00 AM was handed over to him on 11-11-2016 at the same day / time.
13. Not correct. Appellant submitted representation before R. No. 02 on 07-12-2016 by highlighting misdeeds of Legal Branch of the department to hold enquiry in the matter but no such enquiry was ever held there and then. Filing of representation by the department was never served upon appellant.
14. Not correct. In fact one Falak Niaz AIG Legal was given warning of dire consequences by the hon'ble High Court for deceiving in other case of Ikramullah vs IGP & Others where appellant was counsel in that case. So he termed this as his disgrace on behalf of appellant. Appellant was discharge from service on 11-11-2016 then he remained no more in service then why he was served with Charge Sheet on 30-01-2017. Whole drama was staged by the said AIG / Legal Branch and authority was unaware about order of discharge from service nor the same was signed by him.
15. Needs no comments regarding filing of Service Appeal for reinstatement in service by appellant on 03-04-2017.
16. Not correct. The para of the appeal is correct. Regarding subsequent rejection order dated 04-05-2017 on his representation, this rejection order was never brought during the whole proceedings before the hon'ble Service Tribunal by the respondents. This rejection order was never endorsed to appellant for service what to speak of its receipt by appellant.

17. Not correct. The department does not know how to deal with the matter. Glaring mistakes and illegalities was again repeated on 22-05-2017 and 08-06-2017 by assigning appellant duty of Jail Security. How a discharge person from service could perform sensitive duty of Jail Security?
18. Not correct. On 09-06-2017, appellant was again served with 2<sup>nd</sup> Charge Sheet that he was posted at Police Line Peshawar for duty but was absent from duty since 15-11-2016 to 09-06-2017. Every act of the respondents in the matter is condonable.
19. Not correct. Appellant was directed by DSP City-II to appear on 11-08-2017 at 11 AM for enquiry into the matter. He appeared in the office but was sent back by the Inquiry Officer, saying that he is unable to conduct enquiry into the matter because the matter has neither any head nor any tail.
20. Not correct. The Charge Sheet was replied on 16-08-2017 by highlighting the misusing of power by the respondents.
21. Not correct. Though respondents submitted written reply before hon'ble Tribunal but order dated 04-05-2017 was never annexed with the comments to show that representation of appellant was rejected.
22. Not correct, being matter of record, the hon'ble Tribunal directed appellate authority to decide matter / fate of appellant with speaking order within 30 days vide order dated 12-11-2021 of the hon'ble Tribunal.
23. Not correct. The order of the hon'ble Tribunal was remitted to the respondents for compliance on 29-11-2021 which was rejected on 22-12-2021 by saying that representation of appellant was already decided on 15-04-2017 which order, till date, is not available on record either of respondent or at the record of hon'ble Tribunal.
24. Not correct. Order of rejection of representation of appellant was received by him on 30-12-2021 vide letter dated 28-12-2021 of the respondents.

25. Not correct. In the Rules / Regulations of Public Service Commission, it was written in categorical manner that post of ASI B-09 does not come under the purview of the Commission. Such position has been explained by the hon'ble High Court in its judgments.

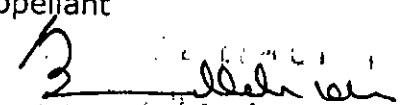
**GROUND:**

- a. Not correct. The subject matter was pertaining before the enactment of Police Rules 2017. At that time, the post of ASI B-09 was not in the purview of the Commission but was under the power of authority.
- b. Not correct. The case of appellant as well as other incumbents in CPLA was totally on same footing. Order of the High Court was not set aside rather directed respondents department to appoint incumbents as per qualification and appellant is well qualified for the post as he has served such post for the last three years. Other employees of the other departments were never ousted from service.
- c. Not correct. The para of the appeal is not replied to its contents regarding completion of one year PTC Hangu Training.
- d. Not correct. The apex court never directed in the order to oust appellant from service rather stressed upon to accommodate person as per qualification. Order of with-drawl of appointment orders were not based on legal footing.
- e. Not correct. It was nowhere written in any law of the Police Department to appoint appellant as Junior Clerk. The said post never comes under the Purview of Commission. In the judgment dated 17-11-2015 of the hon'ble High Court as well as in the judgment dated 09-02-2017 of the apex court, position about the post of ASI B-09 was clear by holding therein that post of ASI B-09 was not in the purview of the Commission.
- f. Not correct. Appellant has not sought such post in open quota but in Deceased Sons Quota. At that time the post was under the purview of the department and not of the Commission.

- g. Not correct. The ground of the appeal is correct. The Commission is authorized to the post of B-11 and not of B-09 as is also held by the apex court in its judgments.
- h. Not correct. The concluding para of the judgment of the hon'ble Tribunal dated 23-05-2016 and its treatment by the department was altogether different and not per the verdicts of the said judgment of the hon'ble Tribunal.
- i. Not correct. The ground of the appeal is correct regarding arrival report for duty at 02.30 pm on 10-11-2016 and handed over impugned order dated 11-11-2016 at 08.30 am to appellant.
- j. Not correct. No fact was ever concealed by appellant nor was brought on surface by the respondents.
- k. Not correct. The ground of the appeal is correct. Such impugned order dated 11-11-2016 was not signed by the authority but by the said AIG of Legal Branch by committing fraud in the matter.
- l. Totally false and absolutely incorrect. Being crucial ground of the appeal, the same requires worth consideration by the hon'ble Tribunal and to note the misdeeds and irresponsible attitude by the respondents requiring disciplinary action against them and to also punish he who did fraud in the case.
- m. Not correct. The position has been explained in the preceding paras and the fraud played by the respondents as well as the said Legal Branch.
- n. Not correct. The ground of the appeal is correct by explaining the whole position in the grounds above.

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

Appellant  
Through

  
Saadullah Khan Marwat

Advocate,

Dated: 01-12-2023

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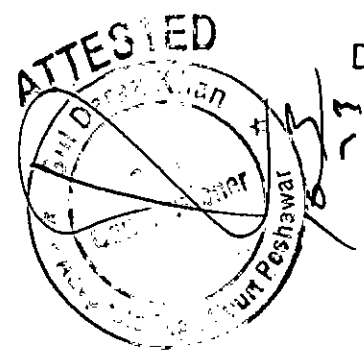
CCPO & Others

**AFFIDAVIT**

I, **Amjad Nawaz** (Appellant), do hereby solemnly affirm and declare that contents of the **Rejoinder / Replication** are true and correct to the best of my knowledge and belief

I reaffirm the same on oath once again to be true and correct as per the available record.

  
DEPONENT



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