

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

In Re-Service Appeal No 267/2023

Case No. 444

M Raza Shah

Versus

Chief Secty, Govt of KP & Others

Date: 17/3/23

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Dated: 17 / 03 / 2023

Respondent No 6,

Through


Muhammad Ayub Khan Shinwari

LL.B; LL.M

ADVOCATE

Supreme Court of Pakistan

CHAMBER

7-A, Haroon Mansion,

Khyber Bazar, Peshawar

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IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re-Service Appeal No 267/2023

M Raza Shah Versus Chief Secty, Govt of KP & Others

Reply on behalf of respondent No 6

Respectfully Sheweth,

Preliminary Objections:

1. That the Service Appeal is premature and against the mandatory provisions of KP Service Tribunal Act, 1974 i.e., Section 4 of the ibid Act, as no final order has been passed yet on the Departmental Appeal of the Appellant.
2. That as per section 10 of KP Civil Servants Act, 1973, a civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local Authority, or a corporation or body set up or established by any such government, thus Posting and Transfer cannot be claimed as a matter of right.
3. That the relief claimed by the appellant is misconceived in facts and law and the Service Appeal is filed without any legal cause of action.
4. That the Appellant has not approached this Honorable Court with clean hands.
5. That the Service Appeal is not maintainable for misjoinder and non joinder of the necessary parties.
6. That the Appellant has concealed the material facts from this Honorable Court.
7. That the Service Appeal is premature.
8. That the Appellant is estopped by conduct to file the title Writ Petition.

On Facts:

1. Para No "1" of the Service Appeal pertains to record.
2. Para No "2" of the Service Appeal pertains to record.
3. Para No "3" of the Service Appeal pertains to record.
4. Para No "4" of the Service Appeal is wrong, incorrect, misleading and misconceived, hence denied. In fact, the impugned order is in accordance with the mandate of per section 10 of KP Civil Servants Act, 1973, wherein it

is laid down that a civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local Authority, or a corporation or body set up or established by any such government, thus Posting and Transfer cannot be claimed as a matter of right.

5. Para No "5" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.
6. Para No "6" of the Service Appeal is wrong and incorrect, hence denied. In fact, the Service Appeal is against the mandatory provisions of KP Service Tribunal Act, 1974 i.e., Section 4 of the ibid Act. The Service Appeal premature, as no final order has been passed yet on the Departmental Appeal of the Appellant.
7. Para No "7" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.
8. Para No "8" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's, furthermore the said plea is not backed by any law, rule or policy.
9. Para No "9" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.

On Grounds:

- A. Para "A" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.
- B. Para "B" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.
- C. Para "C" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's, furthermore the said plea is not backed by any law, rule or policy.
- D. Para "D" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.
- E. Para "E" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.
- F. Para "F" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.
- G. Para "G" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.
- H. Para "H" of the Service Appeal is wrong and incorrect, hence denied. Details are given in preceding para's.

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I: The respondent also seeks permission of this Honorable Court to raise any ground or produce any relevant document in support of his reply.

It is, therefore, prayed that the title Service Appeal may kindly be dismissed with costs.

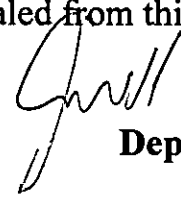
Through

Respondent No. 6


M Ayub Khan Shinwari
Advocate Supreme Court

AFFIDAVIT

I, Zaheer ud Din SDEO(M) adenzai Dir Lower do hereby solemnly affirm and state on oath that the contents of the reply are true and correct to the best of my knowledge and belief and nothing is concealed from this learned tribunal.



Deponent



17/3/2023

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IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CM No _____/2023
in
In Re-Service Appeal No 267/2023

M Raza Shah Versus Chief Secty, Govt of KP & Others

Reply on behalf of respondent No 6

Respectfully Sheweth,

The replying respondents submits as follows:

1. Para No "1" of Application pertains to record.
2. Para No "2" of the application is wrong and incorrect, the contents of the accompanying reply may kindly be read as an integral part of the reply to instant application.
3. Para No "3" of the application is wrong, incorrect, misleading and based on concealment of real facts. In fact, the impugned order has already been acted upon. The replying respondent has assumed the charge and performing his duties as SDEO(M) Adenzai Lower and receiving monthly salary. (Copy of Salary Slip is attached)
4. Para No "4" of the application is wrong and incorrect, details are given in preceding para's.
5. Para No "3" of the application is wrong, incorrect, misleading and based on concealment of real facts. In fact, the impugned order has already been acted upon. The replying respondent has assumed the charge and performing his duties as SDEO(M) Adenzai Lower and receiving monthly salary.

It is, therefore, prayed that the application may kindly be dismissed with costs.

Respondent No 6
Through
M Ayub Khan Shinwari
Advocate Supreme Court

AFFIDAVIT

I, Zaheer ud Din SDEO(M) adenzai Dir Lower do hereby solemnly affirm and state on oath that the contents of the reply are true and correct to the best of my knowledge and belief and nothing is concealed from this learned tribunal.

Deponent



Dist. Govt. KP-Provincial
District Accounts Office Dir at Timargar
Monthly Salary Statement (December-2022)



Personal Information of Mr ZAHEER UD DIN d/w/s of MUHAMMAD SAEED

Personnel Number: 00262811 CNIC: 1530206388737 NTN:
Date of Birth: 02.03.1965 Entry into Govt. Service: 12.07.1999 Length of Service: 23 Years 05 Months 021 Days

Employment Category: Active Permanent

Designation: SUB DIVISIONAL EDUCATION 80546908-DISTRICT GOVERNMENT KHYBE
DDO Code: DA6298-SUB-DIVISIONAL EDUCATION OFFICE ADINZAI (MALE) DIR LOWER
Payroll Section: 001 GPF Section: 001 Cash Center:
GPF A/C No: EDUDA010812 GPF Interest applied **GPF Balance:** 877,006.00 (provisional)
Vendor Number: 30506327 - Mr Zahir Ud Din SDEO Male Munda
Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 17 Pay Stage: 15

Wage type		Amount	Wage type		Amount
0001	Basic Pay	96,370.00	1001	House Rent Allowance 45%	6,650.00
1210	Convey Allowance 2005	5,000.00	1528	Unattractive Area Allow	2,000.00
1947	Medical Allow 15% (16-22)	2,540.00	2148	15% Adhoc Relief All-2013	1,300.00
2199	Adhoc Relief Allow @10%	866.00	2315	Special Allowance 2021	6,074.00
2341	Dispr. Red All 15% 2022KP	9,385.00	2347	Adhoc Rel Al 15% 22(PS17)	9,386.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-1,500.00
3609	Income Tax	-6,197.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 72,219.25 Recovered till DEC-2022: 35,042.00 Exempted: 0.67- Recoverable: 37,177.92

Gross Pay (Rs.): 139,571.00 Deductions: (Rs.): -13,117.00 Net Pay: (Rs.): 126,454.00

Payee Name: ZAHEER UD DIN
Account Number: 06398-00-1
Bank Details: THE BANK OF KHYBER, 080108 BATKHALA BRANCH BATKHALA BRANCH, MALAKAND

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: VILL.TAWDA CHINA

City: DIR LOWER Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official

Temp. Address:

City: Email: zaheerudeenado@gmail.com