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**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.**

Service Appeal No. 1092/2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No.

4887

Dated

14/4/2023

Zar khan, Ex-Fc No. 53,
Police Line Nowshera.

APPELLANT

VERSUS

1. The Provincial Police Officer, KP Peshawar.
2. The Regional Police Officer, Mardan.
3. The District Police Officer, Nowshera.

RESPONDENTS

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 First part of para-1 of the appeal is admitted correct, hence no comment while rest of the para is incorrect, as the appellant did not impersonated himself as constable Sohail, but he went to examination Centre with Sohail just to company him
- 2 Incorrect. The appellant went with friend namely Muhammad Sohail to accompany him. The appellant was waiting for his friend

outside of examination hall. Meanwhile the unpleasant situation were created outside the examination hall when different candidates went out from the hall along with paper to solve it with their friends meanwhile stampede was created when examiners came out from the exam hall most of the people were escaped from the place. However the appellant along with some others people did not left the spot and the examiner took the appellant along with other people to the exam premises. More over on the complaint of Assistant Director ETEA SHO PS city charsadda took appellant to police station but after proper investigation the SHO concerned did not found the guilt of appellant and left him without further proceedings.

- 3 Admitted correct by the respondents hence no comments
- 4 Incorrect. The inquiry conducted against the appellant was not according to the prescribed procedure, nor given opportunity of cross examination and the appellant was punished without conducting proper inquiry which is violation of law and rules and as such the impugned orders are liable to be set aside.
- 5 Incorrect. The appellant has submitted detailed reply to the show cause notice in which he deny the allegation and gave the real facts about the issue but despite this he was punished.
- 6 Incorrect. And explain above.
- 7 Incorrect. The appellant did not commit any misconduct and has been punished for no fault on his part.
- 8 Incorrect. The appellant has good cause of action to file the instant service appeal which is liable to be accepted.

GROUNDS:

- A) Incorrect. While para-A of the appeal is correct
- B) Incorrect. While para-A of the appeal is correct.
- C) Incorrect. No opportunity of defence was allowed to the appellant as neither the statement were recorded in his presence nor the opportunity of cross examination were given to the appellant, but despite he was dismissed from service without proper opportunity.
- D) Incorrect. No statement was recorded in the presence of appellant and the appellant has been punished only on the presumption basis due to his presence in the location of examination Centre. And on

the presumption basis no one can be punished as per superior court judgment.

- E) Incorrect. No proper and regular inquiry was conducted before passing impugned orders.
- F) Incorrect. While para-F of appeal is correct
- G) Incorrect. While para-G of appeal is correct.
- H) Incorrect. While para-H of appeal is correct.
- I) Incorrect. While para-I of appeal is correct.
- J) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

THROUGH:



**TAIMUR ALI KHAN
ADVOCATE HIGH COURT
&**



**SHAKIR ULLAH TORANI
ADVOCATE**

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



DEPONENT

