

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 363 /2023

5666
30/5/2023

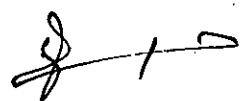
SAJID KHAN APPELLANT

VERSUS

PROVINCE OF KPK ETC RESPONDENTS

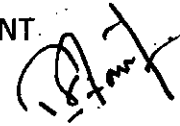
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APPELLANT

THROUGH:



**SHAHZADA IRFAN ZIA
ADVOCATE, PESHAWAR**

**21-B, Nimra centre, Faqir Abad, Peshawar.
CELL. 0300-9345297**

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Appeal No. 363/ 2023

SAJID KHAN APPELLANT

VERSUS

PROVINCE OF KPK ETC RESPONDENTS

RÉJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

REPLY OF OBJECTIONS

All the objections taken by respondents are factually incorrect and legally untenable. The appellant has a legal cause of action and valid locus standi. The appeal filed by the appellant is within time and maintainable in its present form. The appellant approached this learned Tribunal with clean hands and with a bonafide claim moreover he impleaded all the parties necessary and proper for the adjudication of the instant appeal.

ON FACTS

1. Needs no reply.
2. Incorrect. A well founded and reasonable reply submitted by appellant was altogether ignored and not considered by the authorities.
3. Incorrect. Judicial review of this Tribunal is necessary to consider whether an officer who himself a witness of an occurrence can be appointed as inquiry officer in the case/matter.
4. Incorrect. The averment of appeal is correct. The findings of the inquiry officer are not fair and impartial rather he reproduced the false story of the complainant in toto and failed to dig out the truth. **It is worth to mention that as a result of a compromise between the appellant and the complainant the appellant has been acquitted by the court of competent jurisdiction in the criminal case vide order dated 06-04-2023, thus the criminal charge against the appellant is washed away which is the sole ground of his removal from service, therefore, the impugned orders of the departmental authorities are liable to be set aside and the appellant is entitle to be reinstated in to service. (Copy of acquittal order is attached as R/1)**

1. PLJ 2011 (Supreme Court) 280

2. 2012 SCMR- 165

3. 1998 SCMR- 1993

5 & 6. Incorrect. The averments of the para-5&6 of the appeal are correct while the reply offered by respondents is incorrect. •

ON GROUNDS

A TO G

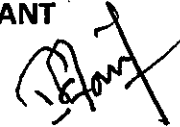
All the grounds taken in the appeal by the appellant are legal and correct while the reply offered by respondents is incorrect and not material moreover not based on law and rules, therefore, untenable, furthermore the appellant has got the acquittal order dated 06-04-2023 from the competent court, therefore, as per verdicts of the august Supreme Court of Pakistan referred here in above the appellant is entitle to be reinstated into his service as criminal charge is no more in the field.

It is therefore humbly requested that relief may kindly be granted as prayed for in the appeal.



APPELLANT

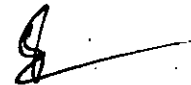
THROUGH



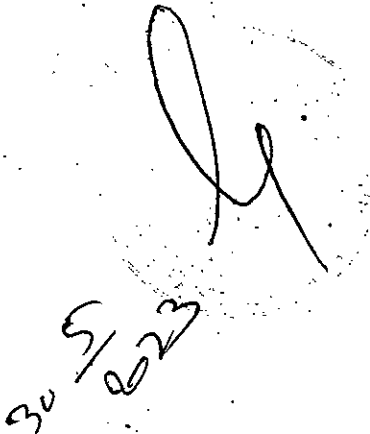
**SHAHZADA IRFAN ZIA
ADVOCATE, PESHAWAR
CELL. 0300-9345297**

AFFIDAVIT

I, Sajid Khan S/O Jurabaz Khan, EX- SI, District Bannu, do hereby declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge & belief and nothing has been concealed from the court.



DEPONENT



30/5/23

(R-1) (Annexure: A)

State VS Sajid Khan

FIR No. 1081 dated 17/09/2022 u/s 506-186-366 PPC / 118 Police Act-2017 PS City

IN THE COURT OF MUHAMMAD IMTIAZ
JUDICIAL MAGISTRATE-I, BANNU

O-----03
06/04/2023

DyPP Kamran Amir for the state present. Accused and complainant in person present. Counsel for accused moved an application for the early hearing of instant case which was fixed for 19/04/2023 on the ground mentioned therein. Case file was requisitioned from the date fixed for today.

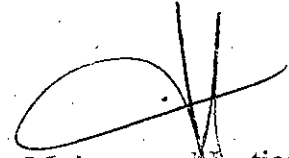
Complainant stated at the bar that he has patched up the matter with the accused; therefore, he is not interested in pursuing further with the present case against the accused and has got no objection upon the acquittal of the accused in the instant case. In this regard, the statement of complainant was recorded before the court. Copy of CNIC of complainant is ExPA, while copy of compromise deed is ExPB.

Although the offences are non-compoundable. However, complainant is not interested to prosecute the accused any further. He has no objection if the accused is acquitted in the instant case. Since the complainant does not want to charge the accused and neither wants to proceed with the instant case, so, there is no probability of conviction even if the entire evidence is recorded. In this regard wisdom is derived from 1997 SCMR 1411, 1999 P.Cr.L.J 1107 and 2004 P.Cr.L.J 490. Reliance is also placed on PLD 2016 Peshawar page 26.

Thus, keeping in view the factum of compromise, accused is acquitted in the instant case u/s 249 A Cr.P.C on the basis of compromise. Sureties are discharged from their liabilities of bail bonds. Case property if any be dealt as per law.

File be consigned to record room after its necessary completion and compilation.

Announced
06/04/2023

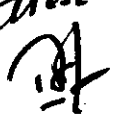

Muhammad Imtiaz
Judicial Magistrate-I
Bannu

ATTESTED

06 APR 2023

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