

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 08/2021

Hidayat Ullah

Versus

Inspector General of Police and others

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 5767
Date 1/6/2023

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:-

REPLY ON PRELIMINARY OBJECTIONS:-

1. That the appellant has been dismissed from service without any lawful justification, hence, the appellant being aggrieved, therefore, the appeal is maintainable in its present form and attending circumstances, this para is denied.
2. In correct. The answering respondents has not given the parties, which has not been impleaded in the appeal, hence, para is misconceived.
3. That the appeal is well within time, hence, para is misconceived because the impugned order has been issued on 26/08/2020, appellant submitted departmental appeal on 02/09/2020 and submitted the instant appeal well within time.
4. That para#4 is totally denied. The appellant never concealed the material facts from this Honourable Tribunal. As the answering respondents have not given detail of the mis-concealment, hence, para is denied.
5. Para#5 is totally denied. The answering respondents have not explained that who the appellant is estopped by his own conduct, hence, this para is mis-formulated.

OBJECTIONS ON FACTS:-

- 1) Admitted by the respondents, hence, needs no reply.
- 2) Para#2 is squarely denied. No adverse entry is available on the record, hence, this para is denied.
- 3) Para#3 is squarely denied. The stance of the answering respondents is totally denied in respect of medical prescription were reported fake and bogus, because on the available record no documents of declaration of the medical prescription from the competent forum is available including the FSL Report or other Expert opinion. The so called inquiry officer did not bother to procure the expert opinion in respect of declaring/reporting the signature of the medical prescription as bogus. Thus the stance of answering respondents is baseless, on the basis of ill footing, on the ground of manipulation due to some ulterior motives. Moreover, the appellant suffered from COVID-19, hence, para is misconceived and denied.
- 4) Incorrect and misconceived. The answering respondent have not conducted the proper inquiry and in the so called inquiry the inquiry officer did not bother to record the statement of any witness and by giving an opportunity to cross examined the said witness if any, hence, the so called inquiry does not come within ambit of inquiry as envisage in ESTA Code, hence, this para is denied.
- 5) Para#5 is admitted by the respondent. Moreover, the rejection order of the appellate authority is not in accordance with law because they have not considered the aspect as in supra paras.
- 6) Incorrect and misconceived. Moreover, the rejection order on the review petition before IGP merged into the original order of DPO, appellate authority order (DIG) because they have not modified the original order. Hence, the appellant impugned the orders in question and automatically the order of review of the IGP becomes questioned in wake of the principle of the merger. Hence, para is denied.
- 7) Incorrect and misconceived. The appeal maintainable on the following grounds.

OBJECTION ON GROUNDS:

- a) Incorrect and misconceived, hence, denied. As no codle formalities were observed during inquiry as submitted in supra paras.
- b) Para#b is misconceived, the medical descriptions has not been declared fake/bogus by any competent forum and in this regard no inquiry has been conducted by the answering respondent, hence, this para is mis-formulated. Moreover the appellant was seriously ill and in critical condition due to Covid-19, hence, appellant is not responsible for any defects (although not admitted) in the record of hospital including signature of M.S being petty & dutiful employee because the appellant did not know the name and face of Medical officer, thus, appellant is not responsible for the laps on behalf of authorities.
- c) Para c is denied. the service record of the appellant is clean and no adverse entry is available in any serious nature and the alleged previous history is of routine matter. Moreover, the answering respondent cannot take the benefits of the previous history in the instant appeal. hence, this para is denied.
- d) That para d is incorrect. No opportunity of personal hearing was given to the appellant, hence, the question of plausible explanation did not arise.
- e) Para "e" is incorrect. No proper inquiry has been conducted by answering respondent including recording of statement

of witnesses, cross examination, first show cause notice, final show cause notice. Because the allegations as revealed in alleged inquiry did not connected with the allegations as alleged in statement of allegations & charge sheet because in the charge sheet & statement of allegations 42 days of alleged absence has been shown, thus, the whole inquiry of respondents has no legal footings. Moreover, it means that no charge sheet, statement of allegations, show cause notice has given to appellant in short no inquiry has been conducted whatsoever against the appellant. Thus, whole proceedings as alleged against appellant is void ab initio.

- f) Para "f" is incorrect, hence, denied. no codele formlaities were observed by the answering respondent as in supra paras.
- g) Para "g" is denied.
- h) Para "h" is denied. the appeal is well within time and is liable to be accepted.
- i) Para "i" is incorrect. The counsel for the appellant may also be allowed to raise additional grounds.

It is therefore, humbly prayed that appeal of the appellant may kindly be accepted as prayed for in the head note of the main appeal.

Any other relief deems appropriate may please be given to the appellant.

Dated: 26/10/2022

Yours Humble Appellant


Hidayat Ullah
Through Counsel


Sheikh Iftikhar ul Haq
Advocate Supreme Court

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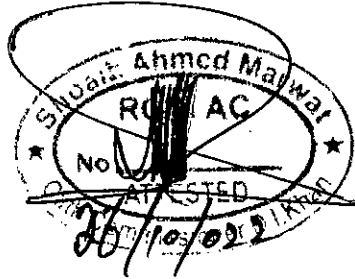
Inspector General of Police and others

REJOINDER ON BEHALF OF APPELLANT

AFFIDAVIT

I, **Hidayat Ullah**, the appellant, do hereby solemnly affirm and declare on Oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief; and nothing has been deliberately concealed from this Honourable Court.

Dated: 26/10/2022



بہا بیگ اللہ
DEPONENT

Identified by:


Sheikh Iftikhar ul Haq
Advocate Supreme Court