

BEFORE THE K.P.K SERVICES TRIBUNAL PESHAWAR.

In Ref. of Appeal No.244/ 2023.

Mian Sadaqat Shah

.....Appellant.

V E R S U S

Govt. of Khyber Pakhtunkhwa & Others.

.....Respondents.

I N D E X

Sr. No.	Description of Documents	Annexure	Page No.
1)	Memo of Rejoinder		1-5

[Signature]
APPELLANT

Dated; 01/08/2023.

Through:-

[Signature]
(Farhan Ullah Shahbanzai)
Advocate High Court,
PESHAWAR

Cell No.0321-9171522

Office- F.F 30, 5th Floor, Bilour Plaza Peshawar Cantt,

Email: farhanullah190@gmail.com

BC- 11- 3153

Next Date- 04-08-23

Peshawar.

1

BEFORE THE K.P.K SERVICES TRIBUNAL PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

In Ref. of Appeal No.244/ 2023.

Diary No. 6790

Dated 02/08/23

Mian Sadaqat Shah

.....Appellant.

V E R S U S

Govt. of Khyber Pakhtunkhwa & Others.

.....Respondents.

REJOINDER ON BEHALF OF APPELLANT.

Respectfully Sheweth:-

Para-wise Reply to the preliminary objections.

1. Para 1 of the preliminary objections is also incorrect and baseless as the appeal of the appellant fully disclose the cause of action.
2. Para 2 of preliminary objections is also incorrect and the appeal of the appellant is very much maintainable in the lights of facts and grounds mentioned in the appeal.
3. Para 3 of the preliminary objections is also incorrect the appeal of the appellant is very much in accordance with law, rules and policy and all necessary facts which was in the knowledge of the appellant has been mentioned in the appeal, further the appeal is having the support of affidavit.
4. Par 4 of the comments is incorrect, respondent failed to point out what facts have been suppressed.
5. Para 5 is also incorrect the appeal of the appellant is based on substantial points of law and fact and there is no malafide motive behind the same and appeal in hand is well within time.

ON FACTS.

1. Para 1 of written reply pertain to record, hence need no reply.
2. Para 2 of written reply pertain to record, needs no reply.
3. Para 1 of written reply pertain to record, hence need no reply.
4. Para 4 totally incorrect and baseless, the appellant has time and again approached the respondents as well as knock the door of the courts for justice, the appeal of the appellant is well within time which is evident from annexure I, J, K & L appended with appeal of the appellant, hence the version put forward by respondents in the instant para is totally erroneous.
5. Para 5 of written reply pertain to record, hence need no reply.
6. Para 6 of the written reply is self-explanatory, when upon the representation of the appellant, the respondent transfer the appellant on 03-01-2020, but after 05 days later the said order of the appellant was withdrawn on 08-01-2020, without any reasons & justification, which shows the conduct of the respondents about the unjustified treatment with the appellant.
7. Para 7 of the written reply is totally misconceived, appellant is posted at Additional Advocate General KPK, Abbottabad office since 2009, there are many employees which has been transferred to Dar-ul-Qaza, D.I Khan, Bannu & Peshawar benches, but appellant has been stationed at Abbottabad for the last 14 years, further spouse policy has been introduced by the government keeping in view the hardships faced by the civil servant due to scattered family, hence claim of the appellant is well within the parameters of legal right, when a policy is there, appellant has every right to be given that benefits, rather depriving appellant from the said right granted under the ibid policy without any reasons, amount to injustice with the appellant.
8. Para 8 legally and factually incorrect, as the posts are centralized which is evident from the transfer posting order dated:03-10-2022, hence the instant para of the written reply has been submitted under misconception by the respondents.

9. Para 9 of the written reply is incorrect, against facts & record, the conduct of the responded clearly shows that appellant has not been treated with fairness, rather respondent failed to implement the spouse policy in case of the appellant.
10. Para 10 of the written reply is against law & facts, appellant has mentioned all the valid grounds in his departmental appeal.
11. Para 11 of the written reply is incorrect, Since the appellant has illegally and wrongly been deprived of his legal right by not considering the case of the appellant under the spouse policy, thus the appellant is having the cause of action/locus standi to file the instant appeal before this Hon,able court/tribunal.

ON GROUNDS.

- A. Para A of written reply is in-correct and against the facts and record the impugned order is totally in contrast with law, rules and spouse policy, hence the impugned order is not tenable in the eye of law.
- B. In response to Para B of written reply it is submitted that indeed under the Civil Servant Act, 1973, the civil servant liable to serve anywhere within or outside the province on any post under Federal or provision government etc, but respondent has himself violated said enactment, as mentioned above appellant is serving at one station for 14/15 years, further appellant seeking his transfer under the policy that too has been enacted by Government, hence plea of the appellant is under the legal & lawful parameters of the spouse policy.
- C. Para C of written reply is self-explanatory rather amount to admission "appellant has served in Abbottabad office for sufficient time" which support the stance of the appellant that appellant has been kept away from transfer for the last so many years, which has created hardships for the appellant, as such appellant & his family has suffered a lot, hence appellant case full attract the spouse policy and appellant entitled to be transferred under the ibid policy.

- D. Para D of the written reply is incorrect, the question is not that there is no office of Advocate General in District Charsadda, rather District Charsadda along with 8/9 other district of Khyber Pakhtunkhwa fall with the domain of Principal Seat of Peshawar High Court, at Peshawar, as such District Charsadda fall under the sphere of Main office of Advocate General at Peshawar, as such case of appellant is to be treated under the said analogy.

- E. Para E of the written reply needs no reply, though reasons has been explained in preceding paras.

- F. Para F of the written reply is totally incorrect and under misconception, as appellant case is about granting him benefit under the spouse policy hence the reasons stated in the instant para are not correct.

- G. Para G of the written reply, needs no reply.

- H. Para H of the written reply is incorrect, against law & policy, neither any valid nor justified reasons has been provided to the appellant regarding his transfer & posting, as why appellant is not entitled for the benefits of spouse policy reliance is place on
 - i. 2014 PLC (C.S) 1032,
 - ii. 2015 PLC (C.S) 1215
 - iii. 2003 PLC (C.S) 1322
 - iv. 2013 PLC (C.S) 153 (about jurisdiction of this Hon'able Tribunal).

- I. Para I of written reply also incorrect, and amount to allegations on appellant, rather para C of grounds of written reply and promotion order of the appellant negate such allegations as mentioned in the instant para.

5

J. With prior permission of the this Hon,able court the appellant may also urged other grounds and produce other proof at the time of hearing of appeal.

It is therefore most humbly prayed that in the light of the above submission and grounds taken in the appeal, the appeal of the appellant may graciously be accepted throughout.


APPELLANT

Dated; 01/08/2023.

Through:-


(Farhan Ullah Shahbanzai)
Advocate High Court,
PESHAWAR

AFFIDAVIT

I, Mian Sadaqat Shah S/O Muhammad Saleh R/O Village Hikmat Abad, Post Office Sardhery, District Charsadda (Appellant), do hereby solemnly affirm and states on oath that the contents of accompanying rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.


(Deponent)

CNIC# 17101-0380776-5

Mobile No. 0301-8840810

ATTESTED

