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

12(2) Petition No. 51/2023

In S. A No. 1217/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7342

Dated 4/9/2023

Ghulam Dastagir

Versus

DC & others

Reply on behalf of Respondent No. 3

Respectfully Sheweth:

Preliminary Objections:

1. That the application is not maintainable as the contents of Suit 12(2) are not fulfilled.
2. That the petitioner is estopped by his own conduct to file the instant application.
3. That the petitioner was suppose to file CPLA in the Hon'ble Supreme Court of Pakistan rather than filing the instant application.

4. That the malafide of the petitioner is apparent from the record as each and every aspect of the case has been discussed in the judgment.
5. That the petitioner wants to open a Pandora Box by filing the instant application whereas appellate forum is available to him.

ON FACTS:

1. No Comments, pertaining to record.
2. No Comments, pertaining to record.
3. No Comments, pertaining to record.
4. No Comments, pertaining to record.
5. Pertains to record, however the order dated 27.01.2023 was already acted upon on 18.02.2023 much before 30.05.2023, order of the tribunal.
6. Correct. The appeal was dismissed on merits and each and every point is discussed in the judgment.

ON GROUNDS:

- A. Incorrect, the order/judgment is very much tenable as based on merit and if petitioner is aggrieved of the

order / /judgment, he should prefer CPLA in Hon'ble Supreme Court rather coming to the same forum.

- B. Incorrect, petitioner/appellant has dealt with in accordance with law, he was given chance of proving his case but failed to prove his case. The appeal was decided on merit, how can the provision of Section 12(2) can be attributes to the instant case.
- C. Incorrect, that when the main appeal of the petitioner is dismissed. Then the orders passed on the basis of illegal, interpretation of orders of the Tribunal also comes to the ground automatically.

It is, therefore, most humbly prayed that the application is without any substance be dismissed with heavy cost.



Respondent No. 3

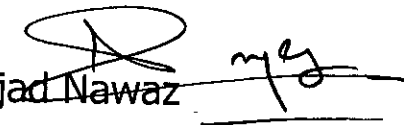
Through



Saad Ullah Khan Marwat



Arbab Saiful Kamal



Amjad Nawaz

Advocates, Peshawar

Dated: 04.09.2023

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

Misc. App No. _____/2023
In 12(2) Petition No. 51/2023

Ghulam Dastagir

Versus

DC & others

Reply to the Application for Interim Relief

Respectfully Sheweth:

1. No Comments.
2. Incorrect, the petitioner has got no case at all, the petitioner instead of filing CPLA in Hon'ble Supreme Court, coming to the same forum which has dismissed the appeal.
3. Incorrect, no balance of convenience lies in favour of the petitioner/appellant as the appeal has already been dismissed on merit.
4. Incorrect. The order/judgment dated 07.08.2023 is based on sound reasons after discussing merits of the

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case so no irreparable loss would cause to petitioner / appellant.

5. Incorrect. The appeal was dismissed after considering the facts and grounds, so the same cannot be questioned by filing appeal instead of approaching Hon'ble Supreme Court.

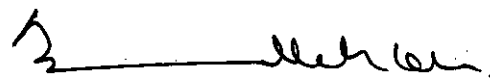
Note: The Hon'ble Tribunal has discussed each and every point involved in the appeal, the Hon'ble Tribunal even discussed the illegal interpretation of orders dated 30.05.2023 in consequence of which order dated 25.07.2023, whereby posting was given to petitioner/appellant in violation of order of tribunal and warned the department from passing illegal orders, using the name of Hon'ble Service Tribunal. **(Copy attached)**.

It is, therefore, most humbly prayed that the application is without any substance be dismissed with heavy cost and stay granted may be recalled in the interest of justice.



Respondent No. 3

Through



Saad Ullah Khan Marwat

Advocate, Peshawar

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

Misc. App No. _____/2023
In 12(2) Petition No. 51/2023

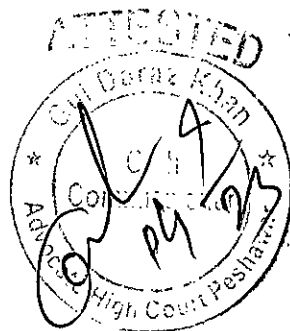
Ghulam Dastagir

Versus

DC & others

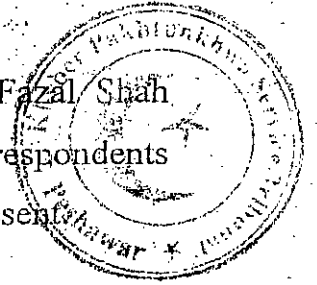
AFFIDAVIT

I, (Respondent No. 3), do hereby solemnly affirm and declare on Oath that the contents of the Reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Deponent

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Appeal No. 1217/2023
Ghulam Dost



04.08.2023 1. Clerk of counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for official respondents present. Private respondent No. 3 alongwith his counsel present.

2. It is pertinent to mention here that official respondents misinterpreted order dated 30.05.2023 of this Tribunal and in the grab of the said order, transfer/posting order dated 25.07.2023 was issued by mentioning "in pursuance of Service Tribunal order dated 30.05.2023" whereas this Tribunal had not directed for transfer/posting of appellant as Halqa Patwari Wadpaga, rather vide order dated 30.05.2023, operation of the order dated 27.01.2023 was suspended subject to the condition that if had not already been acted upon. It came into our notice that order dated 27.01.2023, impugned in the Service Appeal by the appellant, was already acted upon on 18.02.2023, much before passing of order dated 31.05.2023 by this Tribunal. In this respect charge report is annexed with the written reply/comments of respondent No.3 and also the same fact is mentioned in para-5 of factual grounds, and at para-4 of factual objection of parawise comments of respondent No. 1 & 2. When order was already acted upon, then in such a situation there was no need to reverse the order by using the name of this Tribunal, therefore, in our view, order dated 25.07.2023 is not in accordance with direction of this Tribunal. The department is, therefore, directed to be careful while passing any order using the name of the Service Tribunal in such cases. Attention is invited to an order dated 26.07.2023 of this Tribunal in Service Appeal No. 1433/2023 in this regard. Copy of this order sheet be sent to the Worthy Chief Secretary Khyber Pakhtunkhwa Peshawar as well as the Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar. Adjourned. To come up on 07.08.2023 before the D.B. P.P given to the parties.

(Fareeha Paul)
Member (E)

(Rashida Bano)
Member (J)

Stamp: Service Tribunal, Peshawar, Khyber Pakhtunkhwa. Date: 04.08.2023. The stamp is partially obscured by a signature.

Handwritten signature: *Atiqul*

بعد الت چاپ سروس ٹریڈ میوٹل صوبہ سندھ پشاور

منجانب اعلیٰ

غلام دستگیر بنام

منجانب (رہنما نڈنگ نمبر 3 عمران پٹوی

دعویٰ اعلیٰ

درخواست (2) 12

باسمہ شکریمہ اشک

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مترجمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آراء تمام پشاور کیسٹ میں اسکاٹلڈ اسکاٹلڈ اسکاٹلڈ ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب مروف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے باطنی نامہ و تقریر ثالث و فیصلہ برتلاف میں جواب دہی اور قبیل دعویٰ اور لکھنؤ ڈگری کرنے اجراء اور وصولی چیک در پیہ اور مرضی دعویٰ اور درخواست برتلاف برتلاف کی تقدیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز لکھنؤ عدم پیروی یا ڈگری کی طرفہ یا اپنی کی برآمدگی اور دستخطی نیز دائر کرنے اپنی نگرانہ نظر ثانی و پیروی کرنے کا اختیار ہوگا اور لکھنؤ ضرورت مقدمہ منکرہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا اور اس پر مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب مروف ہوں گے نیز بقایا ذریعہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درجہ پر ہو یا مد سے باہر ہو تو وکیل صاحب یا ہمد نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا کالت نامہ رکھ دیا کہ سند ہے۔

4/9/23. المرقوم

القید

القید

القید

ارباب نیگ انکمال
ایڈووکیٹ

سیدہ اللہ بیگم
ایڈووکیٹ

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انجمن لوڈ
ایڈووکیٹ

عمران پٹوی
R. 100. 3