BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 905/2022.

Sadiq Khan, S/o Gul Akbar Khan R/o Kajeer Abad Dakhi Kot Qalandar Taji Kila, Tehsil & District Bannu presently Head constable 7873 of FRP Police Line-2, FRP Bannu.....Appellant.

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

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RESPONDENTS

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PARAWISE REPLY BY RESPONDENTS 1 to 6.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS:-

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has no cause of action and locus stand to file the instant appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

FACTS:-

1. Pertains to record, needs no comments.
2. Correct to the extent that Standing Order No. 01/2006 was promulgated to regulate the promotion system in FRP and those officials who successfully qualified the promotional courses were promoted, subject to their own seniority and fitness however, the same Standing Order has already been repealed in the year 2014.
3. Correct to the extent that the most senior officials who failed to qualify the promotional courses and become overage and otherwise eligible for promotion, were promoted to the rank of Head constable on seniority and merit basis.
4. Correct to the extent that the Honorable High Court has issued directions that the appellant shall be considered for promotion in accordance with law/rules. Thus the directions of Honorable High Court was implemented in letter and spirit and the appellant was consider for promotion to the rank of Head constable, but he was found ineligible for promotion as Head constable as per law/rules.
5. Incorrect. Feeling aggrieved the respondents department has filed CPLA against the COC filed by the appellant, however, in the meanwhile the appellant was promoted to the rank of Head constable on conditional basis subject to outcome of CPLA. Thus the appellant was not entitled for back benefits.
6. Incorrect. Departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.

7. Incorrect. The appellant has not come to this Honorable Tribunal with clean hands, hence this appeal being devoid of merits may kindly be dismissed on the following grounds.

GROUNDS:-

1. Incorrect. The allegations are false and baseless. In fact the appellant was not entitled/eligible for promotion as Head constable as he was appointed as constable in the year 2004 and at that time he was most junior from those officials, who were promoted as Head constables in the year 2009 on seniority and merit basis. Hence, the act of respondents are legally justified and in accordance to law/rules.
2. Incorrect. The appellant was not entitled for the back benefits as at that time the appellant was a most junior constable, from others officials who were promoted to the rank of Head constable, which most of them were already retired from service on superannuation pension accordingly. Hence, the appellant is legally not entitled for the back benefits.
3. Incorrect. In the light of directions of the Honorable High Court issued vide judgment dated 21.11.2017 the appellant was considered for promotion as Head Constable, but he was found ineligible for such promotion. However, subsequently in pursuance with COC he was promoted to the rank of Head constable on provisional basis, subject to outcome of CPLA. It is pertinent to mention here that earlier promoted Head constables were not granted any back benefits and for the reason the appellant is legally not entitled for the back benefits.
4. Incorrect. The orders issued by the respondents in the case of appellant are legally justified and in accordance with law/rules. As such the Honorable High Court has issued only directions for considerations the promotion case of appellant in accordance with law and rules and resultantly in the light of COC the appellant has been provisionally promoted to the rank of Head constable, subject to outcome of CPLA. Moreover, other placed Head constables who were promoted in the year 2009 were not granted any back benefits. Thus the orders passed by the respondents in the case of appellant are legally justified and in accordance to law.

PRAYERS:-

Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being devoid of merits may kindly be dismissed with costs please.

Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 04 & 06)

Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 03)

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01, 02 & 05)

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AFFIDAVIT

We respondents No. 1 to 6 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of our knowledge and belief that nothing has been concealed from this Honorable Court.

It is further stated on oath in this Appeal, the Answering Respondents have neither been Placed ex-parte nor their defanee has been Struck off/cost

Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 04 & 06)

Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 03)

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01, 02 & 05)

ATTESTED

Azmat Ali Advocate
Notary Public
Judicial Complex
26/9/2023

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AUTHORITY LETTER

Respectfully Sheweth:-

We respondents No. 1 to 6 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs; to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.

Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 04 & 06)

Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 03)

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
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