

IN THE KHYBER PAKHTONKHTWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1448/2023.

Zia Ur Rahman

Vs

DEO Male Buner and others.

REPLICATION TO THE REPLY

Respectfully Sheweth;

Preliminary Objections

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8387

Dated 18-10-23

1. That the appellant was transferred on mala fide intention and ill will just for their interest of the respondents even No.1 & 2 against the public interest. The transfer impugned was made without any counterpart of the appellant and the school was left with PET for a considerable long period and when the appellant was performing his duty there in the said school he was forcefully even by use of physical force restrained from duty and then the same school was left to run without PET intentionally. While the appellant resisting the order impugned being pre mature, against the spouse policy and on to be made on administrative grounds with a false charges without any enquiry or asking any show cause or to be hear the appellant. That the order No. 3659-64 dated 01/08/2023, which during pendency of the instant Service Appeal No.1448/023, wherein the transfer order dated 09/01/2023 and subsequent corrigendum order dated 07/03/023, both have been impugned while the departmental against the same has accepted by the appellate authority. So the appellant has legally under obligation to attend his old station GMS wachkhar Kawga which he is regularly attending but wrongly in violation of the order dated 27/4/023 of the Director E & S Education KP, by disobeying the same he restrain the appellant from performing his duty and the Respondent even No.1 and also 2 , by wrongly and against the fact, considering the appellant as absent and passed the order against which the appellant has also filed Departmental Appeal on, 03/08/2023. Copy annexed.
2. That order impugned dated, 09/01/2023, where by the appellant has been transferred from GMS Wachkhar Kawga, by the respondent No.1, was totally based on mala fide intention and ill will. The same was illegal against the transfer policy and was not sustainable or maintainable or existed under the law because the same was/is, a Pre mature and against the spouse policy and also was/is on administrative grounds but neither any show cause Notice was issued nor any enquiry was conductive against the appellant was also not personally heard as were the requirement of the E & D Rules 1973 and also of 2011. So therefore the appellate authority / director E & S education K.P Peshawar, directed the respondent No.1 to withdraw the same, while accepting the departmental of the appellant, on dated 27/04/2023. Copy annexed for ready reference.

Sweet.
04-11-23

3. That the respondent No.1 was also in violation and disobeying the Order of the Hon; Director E & n SE, K.P Peshawar, dated 27/4/2023, who being appellate authority had accepted the departmental appeal of the appellant and directed to withdraw the same, had stopped the monthly salary of the appellant respondent No.1, vide order No. 824 dated.17/2/2023. Hence the entire action and inaction, both of the respondent No.1 are illegal and void being based on mala fide and ill well.
4. That Not only the pay of the appellant has been stopped by the respondent No.1 against the law with collusion and false complaints of the respondent No.2, but also the appellant was by using of Physical Force and beating restrained from performing of his Govt; duty and complaint for lodging of FIR was rejected by the Ad J 1st Buner on Technical Ground that the offence made to be constituted not cognizable. and so on
5. That the further legal and factual points will be raised at the time of arguments.

Replication on Preliminary objections

That the entire contents of the Reply of the Respondents are illegal on mala fide intention and against the law and policy hence all are wrong and of no legal weight hence denied.

Replication on Reply on Facts

1. That facts of the contention at S. No.1 & No.2 of the Service appeal have been admitted which shows and proved that previous more than 9/10 years long service of the appellant was handsome and was excellent which had commended by the Head Master GHS Katkala. While the respondents No.1 & 2 on mala fide intention and ill well for no fault of the appellant had intended to spoil the career of the appellant and was planned to transfer him under so called wrong and baseless charges on administrative grounds without any show cause of conduction of any enquiry or heard personally in violation of the procedure laid down by the E & D Rules 1973/2011. Hence all the adverse mala fide actions and orders impugned are illegal and not sustainable but are liable to be set aside in favour of the appellant from the date of issue.
2. That contents No.3 of the reply is denied all the complaints of the Head master/respondent No.2 was baseless and no communication was made to the appellant and no enquiry or show cause was issued by the respondent No.1, hence all the orders impugned of the respondent No.1 and 2 are baseless and without any enquiry and the E & D Rule 1973/2011 has been violated. The reply No.3 is wrong and denied as the charges leveled against the appellant has no proof in black and white.

3. That reply at S.No.4 is baseless and without proof. While both the respondents No.1 & 2 are supporting each other for illegal gaining and the appellant was transferred just not to know about their illegal means and disclose therefore he was transferred pre mature and against the spouse policy on the pretext of baseless charges without any enquiry or showing cause on so called disciplinary grounds. Hence denied being wrong.
4. That S. No.5 of the reply of facts of the respondents are false and baseless both the transfer orders were in a short span of time and pre mature and were against the spouse policy and were not sustainable under the law because the same was on administrative ground without any enquiry etc under E& D rule 1973/2011. The remaining reasoning of the respondents are without any proof in black and white. Hence denied and stressed up on the factual and legal grounds. The appellant has been dealt against the law and mala fide just for personal interest of the respondents against the public interest. That in the preliminary objections the same has replied.
5. That the entire stance even against S.No.6 is wrong and mere repetition of previous wordings hence denied and the content concerned is denied. The appellant is not under legal obligation to perform his duty at a new station but in old which he does. The contention of the respondents even No.1 & 2 are totally in correct as the departmental appeal of the appellant was accepted by the appellate authority and therefore he was justified to perform his duty in his old school/GMS wachkhar koga as he was not due to attend either Janak banda or GHS Malka, the charge of absentia is wrong and on the same bases the misconduct or other charges all are wrong while stoppage of salary of the appellant was made on 17/2/2023, effective from 1/2/2023, ie earlier than wrong transfer impugned and the alleged absentia is also wrong, because the appellant was transferred to GHS Malaka ie on 07/03/2023 than the stoppage of salary of the appellant. hence denied, while the subsequent Removal from Service of the appellant is totally against on personal grudge, interest and to satisfy the ego of the respondents No.1 & 2 against the law and rules which is not sustainable under the law and is also without show cause Notice and without conduction of any enquiry of personal hearing. Against which proper timely departmental appeal has been filed/lodged before the competent authority.
6. That the contents No.7of the reply of the respondents is wrong and false because the complaint under section 22 A Cr PC was wrongly dismissed on technical knock with the plea that the offences of the one Iftikharul Ghani

and mohammad Sadiq was not falling in category of cognizable offence. Hence denied as wrong.

7. That the **contents No.8 of** the reply of the respondents is wrong and false as per detail reply recorded against S.No.7 of this rejoinder above, may considered reply in detail of this contents. The reply is wrong and denied appeal of the appellant was accepted not rejected.

Rejoinder to the Grounds

- A. That the content A of the reply to the Grounds are totally wrong and the order /Notification all is against law and E & D rules as without show cause Notice, Enquiry and without awarding any opportunity of personal hearing. So both the impugned order of Transfer, stoppage of pay and subsequent order of removal from service of the appellant all are illegal and not sustainable having nullity in the eyes of law. Hence denied all.

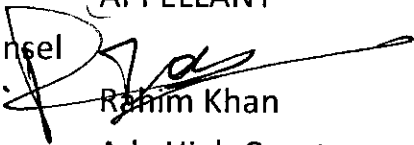
- B. That the entire stance even against **B, is wrong and mere repetition of previous wordings hence denied and the content concerned is denied.**

The appellant is not under legal obligation to perform his duty at a new station but in old which he does. The contention of the respondents even No.1 & 2 are totally in correct as the departmental appeal of the appellant was accepted by the appellate authority and therefore he was justified to perform his duty in his old school/GMS wachkhwar koga as he was not due to attend either Janak banda or GHS Malka, the charge of absentia is wrong and on the same bases the misconduct or other charges all are wrong while **stoppage of salary of the appellant was made on 17/2/2023, effective from 1/2/2023, ie earlier than wrong transfer impugned and the alleged absentia is also wrong, because the appellant was transferred to GHS Malaka ie on 07/03/2023** than the stoppage of salary of the appellant. hence denied, while the subsequent Removal from Service of the appellant is totally against on personal grudge, interest and to satisfy the ego of the respondents No.1 & 2 against the law and rules which is not sustainable under the law and is also without show cause Notice and without conduction of any enquiry of personal hearing. Against which proper timely departmental appeal has been filed/lodged before the competent authority.

- C. That the contents C is wrongly repeating the false and fabricated story in their defense having no concern with truth. Hence as already explained in detail against "B" and in other places deeming sufficient and denied the whole stance of the respondents.

- D. That the alleged report of the Head Master was based on mala fide intention having no reality therein but was a collusion between the respondents even No.1 & 2 who have misguided and misrepresenting the other respondents for misleading this Honourable Tribunal. The stance of the respondents are totally wrong as the student of the school GMS wachkhar koga and their parents have lodged their complaint of corruption of the Head Master and the iftikharul Ghani, DEO Buner both on CITIZEN PORTAL and vide application sent through Post office which the respondent No.4 and also the secretary Education has ignored wrongly. Hence denied as per detail reply already recorded in this rejoinder against other paras.
- E. That the contents all fall against E, F, G & H are wrong as discussed in detail in this rejoinder. Hence denied.

Therefore, it is humbly prayed that on acceptance of this rejoinder/replication the order impugned in the service appeal of the appellant dated,09/01/2023, 17/02/2023, 07/03/2023 including the subsequent order /notification End; No.3659-64 dated 01/08/2023 may be set aside with imposing huge cost on the respondents. further relief to which the appellant is otherwise entitle under the law though not prayed for specifically may also be granted in favour of the appellant.

APPELLANT
Through counsel 
Rahim Khan
Adv High Court
Office; at Distt; courts Daggar Buner
Cell= 03439049185
Dated 03/10/2023.

Certificate

It is to certify that the entire contents of this replication/rejoinder are correct.


Appellant

In The Khyber Pakhtunkhwa Service Tribunal Peshawar-
Service appeal No-1448/2023.

Zia Ur Rahman

Vs

DEO Male Buner and others.


REPLICATION TO THE REPLY.

AFFIDAVIT.

I, ZIA UR RAHMAN S/O HABIB UR RAHMAN R/O Village Kankowai Post Office Nawagi Tehsil Mandanr District Buner /PET GMS Wachkhar Kawga Distt; Buner, do hereby affirm and declare on oath that the entire contents of the instant Petition and the Application for interim relief are true and correct to the best of my knowledge and belief and that no such like rejoinder/ replication in the title case, on the subject and title has been filed earlier in this Hon; Tribunal or in any other court decided or pending in any court.


PETITIONER/DEPONENT
15101-2047226-9




18/10/23