

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

In Service Appeal No. 1261 /2023

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 8956

Dated 13-11-23

Hafeez Ullah

**VERSUS**

Govt. of Khyber Pakhtunkhwa & others

**COMMENTS/PARA-WISE REPLY TO THE  
SERVICE APPEAL FROM RESPONDENT NO.8**

**RESPECTFULLY SHEWETH,**

Respondent No.8 humbly submits following comments/reply to the above cited Service Appeal:

**Preliminary Objections:**

1. That that service appeal is not maintainable as Departmental Appeal against the impugned order was time barred, as the Honourable Peshawar High Court, D.I.Khan Bench, did not condone the delay while referring the Writ Petition to the departmental authority.
2. That the appellant has deliberately concealed the material facts from this Honourable Tribunal.
3. That the appellant has not come to the Court with clean hands.
4. That the service appeal is incompetent.

**PARA-WISE REPLY:**

*Para-i* Correct to the extent of office order dated 14.03.2023.

*Para-ii* This para of the service appeal is incorrect, misconceived and therefore, vehemently denied. The respondent No.8 still

holds the charge of the post of Senior Clerk/SDA as he has not relinquished the charge of his post in the office of X.En Highway Division, South Waziristan at Tank. The alleged Handing/Taking Over report is fake as respondent No.8 has never handed over the charge of anything to the appellant. Moreover, purported Handing/Taking Over bears the date 18.03.2023, which fall in Saturday, a gazetted holiday.

**Para-iii**

Correct to the extent of issuance of office order dated 20.03.2023. Whereas, rest of the para is strongly denied being incorrect. The charge of the post of Senior Clerk/SDA in the office of X.En Highway Division, South Waziristan at Tank, has not been handed over by respondent No.8 to the appellant. One-sided arrival report, if submitted by appellant, cannot be a replacement of the Charge of the post, particularly when appellant is still holding the charge of his said post, and never relinquished the same. Similarly, the alleged Handing/Taking-over report is fake and bears the date of Saturday, a gazetted holiday.

Moreover, arrival report against an already occupied post does not carry any legal weight and also does not confer any vested right in the appellant. Hence, the office order dated 20.03.2023 is fully in accordance with law and is operative for all practical purposes.

**Para-iv**

Correct to the extent of filing writ petition No.196-D/2023 and order dated 26.04.2023 of the Honourable High Court. However, it would not be out of place to mention that the appellant's writ petition against order dated 20.03.2023 was converted into departmental representation vide order dated 26.04.2023 and referred to the Departmental Authority. However, the time was no condoned by the Honourable High Court. Hence, it becomes clear that the departmental appeal filed after 36 days, instead of 30 days, was six days' time

barred from the order dated 20.03.2023. This legal lapse on the part of appellant also renders the service appeal to be not maintainable.

**ON GROUNDS:**

- Para 1.* Incorrect and strongly denied. Order dated 20.03.2023 is fully in accordance with law and is not open to any exception. Moreover, the order dated 10.05.2023 too is based on the proper exercise of the authority, particularly when, Departmental Appeal of the appellant was time barred.
- Para 2.* Incorrect and hence, denied. The competent authority has lawfully exercised its powers in issuing office order dated 20.03.2023 particularly when the earlier office order dated 14.03.2023 was not acted upon in the letter and spirit.
- Para 3.* Incorrect and vehemently denied. No aspect of discrimination, political victimization, arbitrariness or mala-fide could be pointed out by the appellant.
- Para 4.* There is no cavil with the provisions of provincial Posting & Transfer Policy, nevertheless, under the provisions of K.P. Civil Servants Act, 1973, the appellant is bound to serve anywhere according to the satisfaction of Departmental.
- Para 5.* Incorrect, misconceived and thus denied. The clerical staff is required to serve anywhere according to the satisfaction of the departmental authority, within or outside of a particular district and the provincial Posting & Transfer Policy in no way mandated for the compulsory transfer of the clerical staff outside a particular district except under extreme exigency and that too upon the discretion of the competent authority.

As far the alleged handing/taking over report is concerned, the same is fake, carry the date of a gazetted holiday and also respondent No.8 never relinquished the charge of his post.

Further detail reply has been given in the above paras which needs not to be reproduced here again.

- Para 6.** Incorrect hence, denied. Forwarding the copy of any official order to anyone, cannot ipso facto means the political victimization.
- Para 7.** Incorrect and thus strongly denied. No constitutional rights of appellant have been violated. Moreover, constitutional rights of respondent No.8 are also involved.
- Para 8.** Incorrect and strongly denied. Baseless allegations have been levelled which have already been replied in the above paragraphs.
- Para 9.** Incorrect. Appellant has no legal grounds to urge.
- Para 10.** Misconceived. The departmental appeal of the appellant was time barred and therefore, present Service Appeal too is not maintainable.

**It is, therefore, humbly prayed that in the light of above submissions, the Service Appeal may kindly be dismissed with cost.**

**Respondent No.8**

  
**Sami Ullah Khan**  
**Through Counsel**

Dt. 13/11/2023

  
**HAJI MUHAMMAD SHAKEEL**  
**Advocate High Court, D.I.Khan.**

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

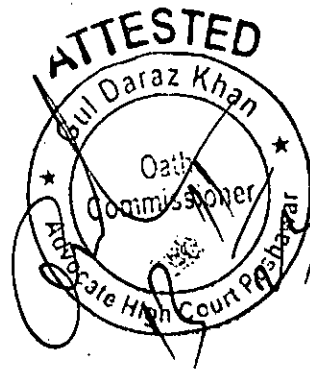
In Service Appeal No. 1261 /2023

Hafeez Ullah  
**VERSUS**  
Govt. of Khyber Pakhtunkhwa & others

**COMMENTS/PARA-WISE REPLY TO THE  
SERVICE APPEAL FROM RESPONDENT NO.8**

**AFFIDAVIT:**

I, *Sami Ullah Khan, the respondent No.8*, do hereby solemnly affirm and declare on oath that all the Para-wise contents of **COMMENTS/REPLY** are true & correct to the best of my knowledge, belief & information and that, nothing has been deliberately concealed from this Honourable Court.



Respondent No 8  
Sami Ullah  
Khey  
Depoent