

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

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 9270

Dated 21/11/2023

Service Appeal No. 1729/2023

Muhammad Ishaq Vs. Government of Khyber Pakhtunkhwa & others

**REPLY TO SERVICE APPEAL TITLED ABOVE ON BEHALF**  
**OF PRIVATE RESPONDENTS.**

**Respectfully Sheweth:**

Having been impleaded as private respondents with permission of this Hon'ble Tribunal vide order dated 15-11-2023 and directed by the same order to file written reply/comments, they seek to submit the reply to above titled appeal with the submissions as follow:-

**PRELIMINARY OBJECTIONS**

1. That the appellant lacks the cause of action and *locus standi* to prefer this appeal.
2. That the appellant is estopped by his conduct to prefer this appeal.
3. That the appeal in its present form is not maintainable.
4. That the departmental appeal as annexed with the memo of appeal does not conform to the requirements of Khyber Pakhtunkhwa Civil Servants Appeal Rules, 1986.
5. That the posts of Assistants, Senior Scale Stenographers and Computer Operators are part of one and the same establishment of Senior Member Board of Revenue and of the Director Land Record; and alienation of Computer Operators as forged by the appellant in memo of appeal is not workable on touchstone of the principle of intelligible differentia.
6. That under the rules, it is lawful power of the department concerned to lay down the method of recruitment, qualification and other conditions of service in consultation with the Establishment

Department and Finance Department; and to promulgate the same by a notification in supersession of any previous notification. So, the impugned notification having been issued by the department in exercise of lawful power does not suffer from lack or misuse of authority.

7. That by the impugned notification, no term and condition of service of the appellant has been adversely affected.
8. That the impugned notification in essence has dealt with the quota prescribed for promotion; and a civil servant having no entitlement to claim promotion as a matter of right is also not entitled to challenge the changes in the promotion quota.
9. That the appellant has preferred this appeal with unclean hands and malice only to satisfy his unfounded grudge against the private respondents as evident from the style and tenor of facts and grounds in memo of appeal.
10. That by a great stretch of imagination as obvious from spiral of facts and grounds, the appellant has not been able to make out a case of arbitrariness or violation of any law or rule on part of official respondents so as to bring about a question of vires regarding the impugned notification.
11. That the amendment brought by the department through impugned notification is purely a policy matter and is immune from jurisdiction of this Hon'ble Tribunal, when question of vires regarding the said notification does not arise.
12. That bare factual account as given in the memo of appeal and so called grounds enumerated therein are nothing but a futile exercise, when the same are not fortified by an legal justification giving cause of action to the appellant for the so called grievance.
13. That this appeal is liable to be dismissed with cost.

## REPLY OF FACTS

1. Para 01 of appeal as designed reveals about introduction of the appellant which is totally irrelevant, as far as his *locus standi* for invoking the jurisdiction of this Hon'ble Tribunal is concerned.
2. Para 02 to 5 enumerate the notifications issued from time to time to prescribe quota for recruitment by promotion to the post of Tehsildar or to amend the same, within meaning of sub rule (2) of Rule 3 of Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989 and as such, they are not deniable.
3. Para 06 except supposing the notification dated 30-05-2023 as arbitrary and unwarranted by the appellant, rest of the para is correct. As far as supposition of the appellant about the impugned notification as to its being arbitrary and unwarranted is concerned, the same is random and baseless. No question as to arbitrariness of the impugned notification or of its being unwarranted arises when the same has been issued under the due process of law and in exercise of lawful authority.
4. Para 07 as designed is not correct and its workability for the purpose of this appeal is denied.
5. In reply to para 08, it is submitted that appellant lacks the cause of action and *locus standi* to prefer this appeal.

## REPLY OF GROUNDS

- A. This ground having been conceived by the appellant is nothing more than his undue stretch of imagination, which otherwise lacks legal and factual foundation. Hence, the same is not correct and is ineffectual to justify the so-called grievance of the appellant.
- B. Ground "B" has no relevancy with the matter in issue. The impugned notification was not issued under a discretionary authority rather the same has been issued under a structured process after compliance with the due legal course and in lawful exercise of authority.
- C. Ground "C" is misconceived. Hence, denied.


D. Ground "D" as pressed into service is not correct.

E. Ground "E" to "H" as conceived by the appellant carry no substance to entitle the appellant to impugn the notification dated 23-05-2023 issued under a structured process of law and in lawful exercise of authority leaving no room for a question of vires or arbitrariness. Hence, all the afore-mentioned grounds as designed are not correct.

It is respectfully prayed that this service appeal may graciously be dismissed with costs.

**PRIVATE RESPONDENTS**

**Through:**

  
**Ahmad Sultan Tareen**  
**Advocate High Court**

  
**Mudassir Ali**  
**Advocate High Court**

  
**Haider Ali,**  
**Advocate High Court**

Dated: 21/11/2023

**VERIFICATION**

I, Haroon ur Rasheed (one among the private respondents) do hereby solemnly affirm and verify that contents of the foregoing written reply are true and correct to the best of my knowledge and belief and nothing has been kept concealed.

  
**RESPONDENT**