

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 95 /2023

Muhammad Shamarez

V/S

Finance Deptt: etc.

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APPELLANT

Muhammad Shamrez

Through:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.

S. Noman Ali Bukhari
&
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. /2023

Khyber Pakhtunkhwa
Service Tribunal

Duty No. 10041

Dated 22-10-2023

Muhammad Shamarez

V/S

Finance Deptt: etc.

.....

**REJOINDER ON BEHALF OF APPELLANT TO
THE REPLY OF RESPONDENTS**

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RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct by the respondent Department as service record has already in custody of the respondent department.
2. Admitted correct by the respondent Department as service record has already in custody of the Respondent Department. Moreover the rest of the contentions of the respondent is misleading and incorrect. As per Judgment of the Supreme Court cited as **2023 SCMR-686** wherein the Supreme Court held that the promotion case of the candidate holding acting charge under the recommendation of Departmental Promotion Committee may be considered by the competent authority with their fine sense of judgment and proper application of mind from the date when the post in the promotion quota fall vacant. So the appellant is entitled for regular promotion from the date of eligibility and vacancy available in his quota.
3. Admitted correct by the respondent Department as service record has already in custody of the respondent department. Moreover the rest of the contention of the respondents is misleading and incorrect. As per Judgments of the Superior Court the regular promotion

4. Admitted correct by the respondent Department as service record has already in custody of the Respondent Department. Moreover the rest of the contention of the respondents is misleading and incorrect
5. Admitted correct by the respondent Department as service record has already in custody of the Respondent Department. Moreover the rest of the contention of the respondents is misleading and incorrect
6. Admitted correct by the respondent Department as service record has already in custody of the Respondent Department.
7. Not replied as per Para-8.

GROUNDS:-

- A) Incorrect. While Para-A of grounds of the appeal is correct. Moreover as mentioned in above Para-2.
- B) Incorrect. While Para-B of grounds of the appeal is correct. Moreover as mentioned in above Para-2.
- C) Incorrect. While Para-C of grounds of the appeal is correct. Moreover as mentioned in above Para-2.
- D) Admitted correct by the respondent Department as record has already in custody of the respondent department.
- E) Admitted correct by the respondent Department as record has already in custody of the respondent department.
- F) Admitted correct by the respondent Department as record has already in custody of the respondent department.
- G) Incorrect, while Para-G of the ground appeal is correct. Moreover the impugned rules are irrational, disadvantageous and inequitable which is violation of Article-38 of the Constitution of the Islamic Republic of Pakistan, 1973. Further it is added as per Judgment of the Superior Court the Court/Tribunal has jurisdiction to interfere in the policy matter where irrationality and discrimination exist. So the Tribunal has power to interfere and rationalize the impugned rules.
- H) Incorrect, while Para-H of the ground appeal is correct. Moreover, proper departmental appeal has been filed by the appellant which is evident from Page No. 21 of the main appeal.

- J) Incorrect, while Para-J of the ground appeal is correct. Moreover as explained in above Para-2 & 3 of the facts.
- K) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

Muhammad Shamarez

Through:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.
& *S. Noman Ali Bukhari*
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able Tribunal.

DEPONENT

