

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1290 of 2023

Aizaz Khan S/o Iqbal Hussain Chowkidar R/o Mohallah Ibrahim Khel, Odigram,
District Swat.

...Appellant

VERSUS


The Secretary Elementary and Secondary Education Department Government of
Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

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Appellant Through


Imdad Ullah

Advocate Swat

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BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9969

Dated 19-12-2023

Service Appeal No. 1290 of 2023

Aizaz Khan S/o Iqbal Hussain Chowkidar R/o Mohallah
Ibrahim Khel, Odigram, District Swat.

...Appellant

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REJOINDER BY THE APPELLANT

Respectfully Sheweth:

Preliminary Objections:

That all the preliminary objections are incorrect, baseless and law, rules and facts, hence are specifically denied. Moreover the Appellant has got a prima facie case in his favour and has approached this Honourable Tribunal well within time and with clean hands and this Honourable Tribunal has got the jurisdiction to adjudicate upon the same.

On Facts:

- i. Para 1 of the contract amounts to admission, hence needs no reply.

- ii. *Para 2 of the comments also amounts to admission also needs no reply.*
- iii. *Para 3 of the comments as drafted also being admission needs no reply.*
- iv. *Para 4 of the comments as drafted also amounts to admission needs no reply.*
- v. *Para 5 of the comments as drafted being admission also needs no reply.*
- vi. *Para 6 of the comments as drafted is against the law and rules on the subject hence is specifically denied. The Appellant was made scape goat for the inaction of the Authority and was further made to suffer. The para shows the colorful exercise of authority to the utter detriment of the Appellant on one hand while bulldozing the law and rules on the subject on other, which the law never approves of.*
- vii. *Para 7 of the comments as drafted is denied for the reason that the same being completely based on misstatements and concealment of material facts. The Respondent Department in order to shift its burden to the Appellant has resorted to contradictory statements and are blowing both hot and cold in one breath. In the preceding para it has been clearly admitted that the adjustment is made as a result of the departmental appeal of the Appellant while in the instant para the same is denied. Furthermore the Appellant was*

adjusted only to save their skin while in reality the Appellant was never given any charge by the Headmaster concerned neither is the Appellant allowed to mark his presence despite the fact that the Appellant is present all the time, in this regard an application is also submitted to the Respondent No. 3, but the same is not responded to till date and that too to the utter detriment of the Appellant. Copy of the application is enclosed as Annexure "A".

- viii. Para 8 of the comments as drafted is against the law and rules on the subject, hence denied, however the same will be rebutted at the time of the arguments with the leave of this Honourable Tribunal.

On Grounds:

- a. Ground A of the comments as drafted is incorrect, against the facts and is based on misstatements and concealment of material facts. The Appellant is never allowed to perform his duties at the schools the Appellant is transferred to despite repeated applications by the Appellant to the same effect, thus the para is denied specifically.
- b. Ground B of the comments as drafted also is based on misstatements and concealment of facts. The Appellant is never allowed to perform his duties bald of any reasons and is made to suffer since his appointment till date, thus his vested right of access

to public office is denied to him bald of any reasons, which is never approved of by any law, hence the para is denied specifically as well.

c. Ground C of the comments as drafted also is evasive, illusive and whimsical, never to speak of the misstatements and concealment of facts, thus the para is denied as well.

d. Ground D of the comments as drafted also is devoid of merits hence the same is denied as well.

e. Ground E of the comments as drafted also is based on misstatements and concealment of material facts, the Respondent No. 3 is unable to implement his orders and is making the Appellant a scape goat so as to save his skin as well as his inability to implement his orders, despite the same being brought into his notice, but, to no avail, thus the para is denied specifically as well.

It is, therefore, very respectfully prayed that on acceptance of this rejoinder the appeal of the Appellant may very kindly be decided as prayed for originally.

Appellant

Aizaz Khan
Aizaz Khan

Through Counsel,

Imdad Ullah
Imdad Ullah

Advocate Swat

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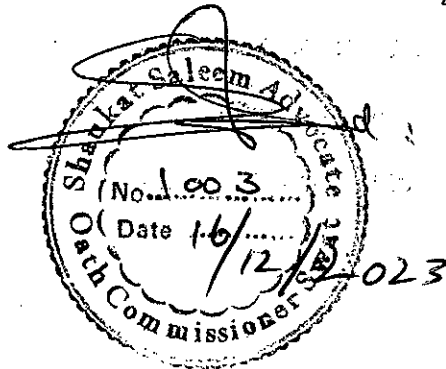
...Respondents

AFFIDAVIT

It is solemnly stated on Oath that all the contents of
this rejoinder are true and correct to the best of my
knowledge and belief and nothing has either been
misstated or kept concealed before this Honourable
Tribunal.

Deponent


Aizaz Khan



Mr Aⁿ

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To,


The DEO (M)

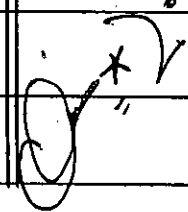
Swat

Subject 2nd Cell notice.

Respected Sirs

Reference No ~~7817~~ 7817
dated 2/10/2023. I am ~~Perf~~
Performing my duties regularly
and in light of Cell Notice
No - dated 7/9/2023. I again
met the Head master, but was
again told that my attendance
cannot be marked. I then
submitted an application for
mutual transfer to your goodly
but still waiting for proper
orders. Please I shall be
very thankful to you.

Attested

Advocate



Your obediently
Name: Azag Khan