

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, CAMP COURT D.I.KHAN.**

In Service Appeal No.503/2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10220

Dated 2-1-2024

Muhammad Usman Ali
VS.
Provincial Police Officer, etc

**REJOINDER TO COMMENTS OF
RESPONDENTS**

RESPECTFULLY SHEWETH,

The appellants humbly submit the following reply to the comments of respondents.

Reply to Preliminary Objections:

- 1) Incorrect, misconceived and strongly denied. The appeal was filed well within time however, due to Covid-19 pandemic the office of this Honourable Tribunal was closed and the appeal, sent through GPO, was returned to the appellant. Application for condonation of delay has been filed with the service appeal.
- 2) Incorrect. All the necessary parties have been impleaded.
- 3) Incorrect. The dismissal of departmental appeals and revision has provided the appellant a cause of action to file the present appeal.
- 4) Incorrect and thus strongly denied.
- 5) Incorrect and vehemently denied.
- 6) Incorrect. All the material facts have been placed before this Honourable Tribunal.

ON FACTS:

Para No. 1. Correct to the extent of appointment of appellant as constable, however, rest of the para is misconceived and thus denied. The previous absence of the appellant from duty cannot be made basis for the issuance of impugned removal from service order for the reason that the appellant was awarded punishment for the said absence. Hence, any reference of the previous absence would amount to double jeopardy.

Para No. 2. This para is misconceived and distortion of facts hence, denied. The dates and the total period of absence, as mentioned in this para are contradictory to the contents of impugned removal from service order. Moreover, the charge sheet and summary of allegations were never received by the appellant as the signature attributed to appellant, shown on the said documents are different and also same were allegedly served at Sheikh Yousuf Adda, whereas, house of appellant is situated in Sheikh Yousuf Town.

It is worthy to mention that appellant was not associated with the inquiry proceedings and was not given proper opportunity of defence. Hence, he has been condemned unheard.

Moreover, the inquiry report was not annexed with the final show cause notice, and therefore, the final show cause notice was scanty of the legal requirement. Beside no opportunity of audience was afforded to the appellant.

Para No. 3. In reply to this para it is summited that no opportunity of audience was afforded to the appellant by the appellate authority.

Para No. 4. Incorrect. No proof of alleged conveying of the order to the appellant at his home address has been annexed.

Para No. 5. In reply to this para it is summited that no opportunity of audience was afforded to the appellant by the revisory authority.

Para No. 6. Incorrect, misconceived and thus vehemently denied. No proof of alleged conveying of the impugned orders to the appellant at his home address has been annexed. Thus, appellant remained unable to avail the legal remedy.

Para No. 7. Incorrect hence, denied.

ON GROUNDS:

Para-A) Incorrect hence, denied. No proper opportunity of defence or audience has been afforded to the appellant before passing the impugned order. Moreover, inquiry report was also not provided to the appellant with final show cause notice. Hence, the appellant has been condemned unheard.

Para-B) Incorrect. This Para by itself is speaks a volume of the fact that the appellant has not been treated in accordance with the relevant law.

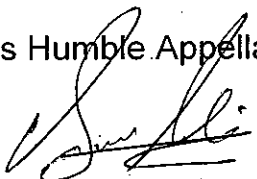
Para-C) Incorrect thus vehemently denied. The charge sheet and summary of allegations were never provided to the appellant and similarly he was not conveyed any information about the inquiry proceedings. Hence, the legal rights of defence and audience of the appellant have been infringed. Final Show Cause notice, being without the inquiry report, was also illegal.

Para-D) Incorrect, misconceived and thus vehemently denied. All the proceedings were mere paper work and no information was either conveyed to the appellant nor was he associated with the inquiry proceedings. Further detailed reply has been given in the above para.

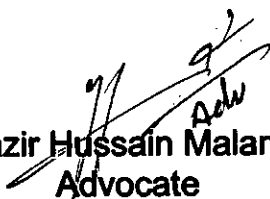
Para-E) Incorrect. Respondents have no legal ground to urge before this Honourable Tribunal.

It is, therefore, humbly prayed that in the light of above submissions, the Service Appeal may kindly be allowed as prayed for.

Yours Humble Appellant

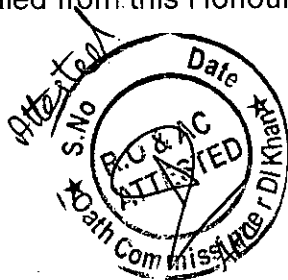

(Muhammad Usman Ali)
Through Counsel

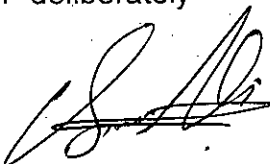
Dt. 27 .12.2023


Nazir Hussain Malana
Advocate

AFFIDAVIT:

I, **the appellant**, do hereby solemnly affirm and declare on oath that all the Para-wise contents of **Rejoinder** are true & correct to the best of my knowledge, belief & information and that, nothing has been deliberately concealed from this Honourable Court.




Deponent