

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

S.A No: 823 2022

Muhammad Zakria

VERSUS

Government

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10988

Dated 02-02-2024

Subject: REPLICATION ON BEHALF OF APPELLANT

Appellant humbly submits as under:-

Preliminary Objections:

1. That Para No.1 of reply is incorrect, denied. Departemental appeal has been rejected vide Order dated: 29-3-22 available on Page 75 of the appeal, therefore service appeal has been filed on 20-4-2022 i.e. within on month as per S.4 of KP Service Tribunal Act 1974. Moreover, when law provides a clear limitation then resort to equitable doctrine of laches is not permissible.
2. That Para 2 of reply is incorrect, denied. The earlier appeal has been dismissed as withdrawn with permission to file fresh vide Order dated 18.1.2022 and specifically mentioned the facts of perusing departmental appeal and if need to be thereafter service appeal and accordingly filed the same.
3. That Paras 3 to 11 of reply are incorrect, hence denied.

N.D. 15-05-24
Peshawar,

ON FACTS:

1. That Para No.1 of appeal with respect to departmental appeal has not been denied.
2. That Para No.2 of appeal with respect to departmental appeal has not been denied.
3. That Para 3 of the appeal has not been denied. Specifically, with respect to explanation and charge sheet. Even requirement of Rule 9 of E & D Rules 2011 has been complied with.
4. That respondent didn't deny the fact that appellant never remained absent in past, rest of reply Para 4 is incorrect, denied. They were informed.
5. That Para No.5 of appeal has not been denied with respect to suitability, performance and punctuality. Rest of the reply is incorrect, hence denied.
6. That respondent didn't deny that appellant was one of the best civil servant and mentioning of Rule 20 of KP Government Servants Conduct Rules 1987 is an afterthought and not mentioned in any proceedings and even Sec 9 of E & D Rules 2011 has not been complied with.
7. That Para No.7 of appeal is correct and that of reply is incorrect, hence denied. 2017 SCR 965 is not relevant. There is no confession. Appellant has been acquitted of the charge.

8. That respondent didn't deny that appellant was on duty on 1/2/2012. Rest of the para is incorrect, hence denied.
9. That Para No.9 of appeal is correct and that of reply is incorrect, hence denied.
10. That Para No. 10 of appeal is correct and that of reply is incorrect, hence denied.
11. That Para No. 11 of appeal is correct and that of reply is incorrect, hence denied. Moreover the assertion in this para regarding high risk to appellant's life has not been denied.
12. That Para No. 12 of appeal is correct and that of reply is incorrect, hence denied. Every acquittal is honorable acquittal. There can be hardly any acquittal dishonorable as held in PLD 2010 SC 695. In 1995 SCMR 950, holds that when departmental appeal is not dismissed in time barred, service appeal cannot be dismissal on limitation.
13. That Para No. 13 of appeal is correct and that of reply is incorrect, hence denied.
14. That Para No. 14 of appeal is correct and that of reply is incorrect, hence denied.
15. That Para No.15 of appeal is correct and that of reply is incorrect, hence denied.
16. That respondents did not deny the assertion that for the 1st time with the comments on 9-3-2018, removal Order dated 19-2-2013 is supplied.

17. That Para No. 17 of appeal is correct and that of reply is incorrect, hence denied. Moreover, D.E.O, being incompetent so Order dated 26-3-2018 is void ab-initio and of no legal effect.
18. That Para 18 of appeal is correct and that of reply is incorrect, hence denied. Moreover, D.E.O, being incompetent so Order dated 26-3-2018 is void ab-initio and of no legal effect.
19. That Para No. 19 of appeal is correct as not denied by respondent.
20. That Para No. 20 of appeal is correct and that of reply is incorrect, hence denied. Moreover 2002 SCMR 780, 1982 SCMR 911 are not relevant in instant case.
21. That Para No. 21 of appeal is correct and that of reply is incorrect, denied. Moreover, no postal receipt has been annexed and mere oral assertion is of no legal value.
22. That Para No. 22 That Para No. 21 of appeal is correct and that of reply is incorrect, denied.
23. That Para No. 23 That Para No. 21 of appeal is correct and that of reply is incorrect, denied.
24. That Para No. 24 That Para No. 21 of appeal is correct and that of reply is incorrect, denied.
25. That Para No. 25 That Para No. 21 of appeal is correct and that of reply is incorrect, denied.

26. That Para No. 26 That Para No. 21 of appeal is correct and that of reply is incorrect, denied.

27. That Para No. 27 That Para No. 21 of appeal is correct and that of reply is incorrect, denied.

GROUND:

All grounds of appeal are correct and those of reply are incorrect, hence denied.

It is, therefore humbly requested to accept the Service Appeal. Any other relief deemed fit may also be graciously granted.

Dated: 3-2-2024

Appellant

Through



Amjad Ali
Advocate, Supreme Court
of Pakistan
&

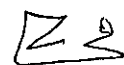
Muhammad Talha Khan
Advocate, High Court,
Peshawar.



Handwritten signature and date 02/24

Affidavit:

I, (The appellant) do hereby solemnly affirm & declare on oath that all contents of instant appeal are true & correct to the best of my knowledge & belief and nothing has been kept concealed or misstated from this Hon'ble Tribunal.



DEPONENT

Zakria