

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 5734/2021

Muhammad Sajjad

Versus

Inspector General of Police and others

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:-

REPLY ON PRELIMINARY OBJECTIONS:-

1. Incorrect. The appeal of appellant is well within time because the appellant came into the knowledge of the impugned removal order on 21/07/2020 and submitted departmental appeal on 22/07/2020. Hence, after stipulated period the appellant filed the service appeal well within time.
2. In correct. The answering respondents has not given the parties, which has not been impleaded in the appeal, hence, para is misconceived.
3. That the appellant has been removed from service without any lawful justification, hence, the appellant being aggrieved, therefore, the appellant has got cause of action and locus standi to file the instant appeal and attending circumstances, this para is denied.
4. Incorrect. The answering respondent has not explained that how the appellant came to the court with unclean hands.
5. Para#5 is totally denied. The answering respondents have not explained that who the appellant is estopped by his own conduct, hence, this para is mis-formulated.
6. That para#6 is totally denied. The appellant never concealed the material facts from this Honourable Tribunal. As the answering respondents have not given detail of the mis-concealment, hence, para is denied.

OBJECTIONS ON FACTS:-

- 1) Admitted by the respondents, hence, needs no reply.
- 2) Para#2 is squarely denied. the appellant is responsible person and with prior permission of the answering respondents applied for the higher education and got the higher education, which is the fundamental right of the petitioner. The petitioner never remained absent from lawful duty. Moreover, the appellant is a regular with high moral.
- 3) Para#3 is correct to the extent that the petitioner was on earned leave for 30 days and thereafter with prior approval and permission the appellant take admission in M.Sc (Physics) and various correspondence were made between the petitioner and answering respondents through written. Hence, the appellant never remained absent from his duty deliberately but due to the unavoidable circumstances of study.
- 4) Incorrect and misconceived. The answering respondent never conducted a proper inquiry as per E&D Rules 2011 and enabling laws, service laws and police rules, thus the whole alleged process is illegal, void and not sustainable in the eyes of law because the impugned order is void ab initio as issued retrospectively.
- 5) Para#5 is incorrect, hence, denied. No show cause notice was issued and served to the appellant because the appellant was busy in High Education with prior permission from the answering respondents as stated in supra paras the impugned removal order is illegal, hence, the question of fulfilling of codel formalities has no footings at all.
- 6) Incorrect and misconceived. When the appellant came into the knowledge on 21/07/2020, he submitted departmental appeal on the next day, hence, well within time.
- 7) Para#7 is incorrect and denied. The appeal of the appellant in attending circumstances is well within time after the knowledge due to the panic of COVID-19, hence, this para is misconceived.

- 8) Incorrect and misconceived. The appellant being young, educated and the stigma of removal from service of the appellant is behind the thinking of prudent mind because a vast future lies in the career of appellant, hence, the appeal is liable to be accepted on this score alone.

OBJECTION ON GROUNDS:

- a) The joint answer on behalf of appellant against the answering respondents are as follows,

The appellant never willfully absent with happy mood but due to unavoidable circumstances of getting higher education, appellant was mindfully/constructively was on duty and thus the alleged proceedings of inquiry on the back of the appellant have no value in the light of principle of law and service policy. Although the appellant submitted an application in respect of study leave to the higher authorities because getting high education is the fundamental right of the appellant. Thus, the alleged proceedings of inquiry are not sustainable in the eyes of law. Moreover, the impugned removal order is void ab initio because has been issued retrospectively and also against the verdict of superior courts and the impugned removal from service order is liable to be set aside.

It is therefore, humbly prayed that appeal of the appellant may kindly be accepted as prayed for in the head note of the main appeal.

Any other relief deems appropriate may please be given to the appellant.

Dated: 14/02/2023

Yours Humble Appellant


Muhammad Sajjad
Through Counsel


Sheikh Iftikhar ul Haq
Advocate Supreme Court

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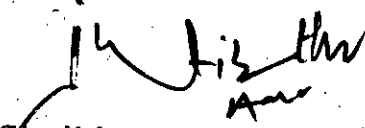
AFFIDAVIT

I, **Muhammad Sajjad**, the appellant, do hereby solemnly affirm and declare on Oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief; and nothing has been deliberately concealed from this Honourable Court.

Dated: 14/02/2023


DEPONENT

Identified by:


Sheikh Iftikhar ul Haq
Advocate Supreme Court



