

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 988/2017

Aman Ullah

versus

Director Health & Others

REPLICATION

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

All the preliminary objections of the respondents are illegal and incorrect. No reason in support of the same is ever given as to why the appellant concealed material facts from this hon'ble Tribunal, how and why appellant is estopped to file the instant appeal, time barred which rejection order dated 8-6-17 was received to appellant from the office of R. No. 1 on 25-7-17 and therefore, filed the instant service appeal, so not time barred beside the issue pertains to money matter limitation does not run.

ON FACTS:

1. Not replied.
2. Misconceived, the reply of the respondents is out of context, the appellant never sought anything regarding past and closed transaction. The appellant was falsely charged where from the appellant was acquitted.
3. Admitted correct regarding acquittal, rest of the para is irrelevant and regarding past and closed transaction. Previous laxities cannot be applied in the present situation. Moreover, when the salaries were not paid then how can be recovered.

4. Admitted correct to the extent of acquittal. Rest of the para is incorrect as the appellant was suspended vide order dated 8-5-2003, so how appellant moved application, and pay allowed and how paid when the appellant was behind the bar at the relevant time, it is proven fact that the two types of employees are serving the hospital, one civil servants and other Institutional servants, the appellant is a civil servant which is also cleared from letters attached with the appeal. So FR & SR, CSR and other laws are applicable to appellant.
5. Incorrect. Clear directions were given for considering the appellant case for back benefits according to law as the appellant is a civil servant, so all the laws applicable to civil servant is applicable to the appellant besides the superior courts has clarified the point that if someone is acquitted then the period, he remained behind the bars, the same will be paid to him with all service benefits, including seniority, etc.
6. Incorrect. Representation was not considered in accordance with law, as the law on the point is clear that a civil servant who is charged for offence remained behind the bar, then if acquitted from the charges then the department will give him all benefits including salaries, seniority, promotion, etc. according to his entitlement. Moreover, the representation of appellant was rejected on 8-6-17 copy of which was received from the office on 25-7-17, thereafter this appeal, so how time barred beside the matter is a recurring cause so no limitation runs.
7. Incorrect. Letter attached with appeal clarify the position on so many occasions, further more the appellant is a civil servant. So is to be dealt as a civil servant. The law and judgments of the Supreme Court is to be applied in the instant case.
8. Not commented upon so admitted correct. The appellant is getting less pay than his juniors and given B-4, whereas juniors is serving in B-5.
9. Incorrect. The representation was rejected on 8-6-17 copy of the same was received from the office on 25-7-17 thereafter, the service appeal in this hon'ble Tribunal on 22-8-17, so is quite within time.

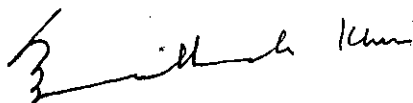
GROUNDS:

All the grounds of the appeal are legal and correct, while that of the reply are illegal and incorrect. The same are again adopted.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Appellant

Through


Saadullah Khan Marwat
Advocate,

Dated: 02-01-2019

AFFIDAVIT

I, Aman Ullah appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.


DEPONENT