

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1154/2023

Dr. Najeeb-ur-Rehman

.....Appellant

VERSUS

Govt. of KPK through Chief Secretary etc.

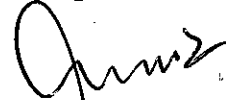
.....Respondents

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Dated: 6/03/2024

Your Humble Appellant,
Through counsel



GUL TIAZ KHAN MARWAT,
Advocate High Court, D.I.Khan

15/4/24

D.I.Khan

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.....Appellant

VERSUS

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.....Respondents

REJOINDER ON BEHALF OF APPELLANT TO THE COMMENTS/REPLY OF
RESPONDENTS 1 to 4 and 6

Respectfully Sheweth:-

Preliminary Objections:

- a) That this para is incorrect and misconceived.
- b) That this para is also incorrect and misconceived.
- c) That this para is also incorrect and baseless.
- d) That this para needs no reply.
- e) That this para is also incorrect and baseless.

ON FACTS:

1. That this para is incorrect and misconceived.
2. That this para needs no reply.
3. That this para also needs no reply.
4. That this para is incorrect and baseless. It is an admitted fact that the pensionary benefits were stopped and suspended on the letters of Anti-Corruption Department Govt. of KPK Peshawar on the pretext that an open inquiry is under progress against the appellant by the Anti-Corruption Department and prior to completion of open inquiry by the Anti-Corruption Department, respondent No. 2 issued the impugned order of recovery from the gratuity/pension of Appellant and subsequently, the open inquiry

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against the appellant has been closed/ filed vide office letter No. 2848-49 dated 24.03.2022 and recently Directorate of Anti-Corruption Establishment KPK Peshawar has issued a letter during pendency of the instant appeal addressed to Director General (Research) Live Stock and Dairy Development Department KPK Peshawar vide No. 7970-74 dated 25.10.2023 stating therein that the letter sent earlier by the Assistant Director SIW, D.I.Khan regarding suspension of pension and other emoluments of Appellant may be treated as withdrawn as the subject inquiry has already been filed. "Moreover, this establishment has no objection of issuance of pension and other emoluments to the officer i.e. the Appellant". Copy of letter is enclosed as R-1.

5. That this para is also incorrect and misconceived as the three years project was not of the Provincial Govt. but it was a project of Federal Govt. for which the Provincial Govt. is not authorized to conduct Audits. Furthermore it is the prerogative of Audit Department to carry out Audit of the accounts and not the prerogative of the Provincial Govt. i.e. the respondents to carry out audit of the account.
6. That this para needs no reply.
7. That this para is incorrect, misconceived and self-stated story of Respondents as neither any regular inquiry has been conducted in the matter nor any charge-sheet, statement of allegations or show

Qureshi

cause Notice has been served upon the Appellant but straightway an order of recovery has been passed against the Appellant.

8. That this para is also incorrect, misconceived as explained in Para-4 above.
9. That this Para needs no reply.
10. That this Para also needs no reply.
11. That this para is also incorrect, misconceived as explained in Para-4 above.
12. That this para is also incorrect, misconceived as explained in Para-4 above.
13. That this para is incorrect and misconceived and self-stated story of the respondents.
14. That this para is also incorrect, misconceived as explained in Para-4 above.
15. That this para is incorrect and misconceived.
16. That this para is also incorrect, misconceived as explained in Para-4 above. It is the legal, statutory and moral obligation of respondents to release the amount of Rs. 71,31,558/- wrongly been recovered and withheld by the respondents after closing of open inquiry and after issuance of letter dated 25.10.2023 by the Directorate of Anti-Corruption Establishment KPK Peshawar.
17. That this para is incorrect and misconceived as explained in Para-16 above.
18. That this Para needs no reply.

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19. That this para is incorrect and misconceived as explained in Para-16 above.
20. That this para is incorrect and misconceived as this honourable Tribunal is the proper Forum for redressal of grievances of Appellant and the honourable High Court or the Civil Courts have no jurisdiction in the matter.
21. That this Para needs no reply.
22. That this Para also needs no reply.
23. That this Para also needs no reply.

GROUNDS:

- A. That this para is incorrect and misconceived. The respondents have no authority to carry out Audit but it is a job of Auditor general of Pakistan to carry out Audit of accounts.
- B. That this para is incorrect and baseless. It is an admitted fact that the pensionary benefits were stopped and suspended on the letters of Anti-Corruption Department Govt. of KPK Peshawar on the pretext that an open inquiry is under progress against the appellant by the Anti-Corruption Department and prior to completion of open inquiry by the Anti-Corruption Department, respondent No. 2 issued the impugned order of recovery from the gratuity/pension of Appellant and subsequently, the open inquiry against the appellant has been closed/ filed vide office letter No. 2848-49 dated 24.03.2022 and recently Directorate of Anti-Corruption Establishment KPK Peshawar has issued a letter during pendency of the instant appeal addressed to Director

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General (Research) Live Stock and Dairy Development Department KPK Peshawar vide No. 7970-74 dated 25.10.2023 stating therein that the letter sent earlier by the Assistant Director SIW, D.I.Khan regarding suspension of pension and other emoluments of Appellant may be treated as withdrawn as the subject inquiry has already been filed. "Moreover, this establishment has no objection of issuance of pension and other emoluments to the officer i.e. the Appellant".

- C. That this para is also incorrect and baseless.
- D. That this para is incorrect, misconceived and self-stated story of Respondents as per reply given in Para-B above.
- E. That this para is incorrect and misconceived. The respondents have no authority to carry out Audit but it is a job of Auditor general of Pakistan to carry out Audit of accounts.
- F. That this para needs no reply.
- G. That this para also needs no reply.
- H. That this para also needs no reply.
- I. That this para is incorrect and baseless as per reply given in Para-E above.
- J. That this para is incorrect and baseless as per reply given in Para-B above.
- K. That this para needs no reply.
- L. That this para also needs no reply.
- M. That this para also needs no reply.
- N. That this para also needs no reply.

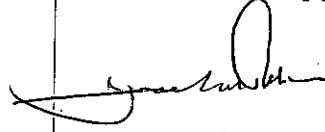
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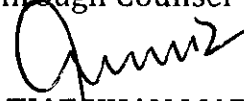
It is, therefore, prayed that the Appeal may please be accepted and financial and pensionary benefits withheld by the respondents may please be released/paid to appellant so as to meet ends of justice.

Dated: 6/03/2024

Your Humble Appellant,



Dr. Najeed-ur-Rehman
Through Counsel



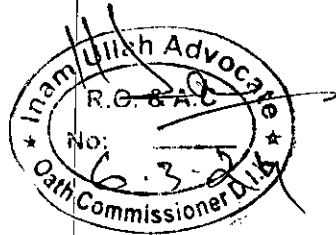
GUL TIAZ KHAN MARWAT,
Advocate High Court, D.I.Khan

AFFIDAVIT:

I, Dr. Najeed-ur-Rehman Ex-PRO/ Station Director Research and Dairy Development Station Paharpur District: D.I.Khan, the Appellant do hereby solemnly affirm and declare on Oath that the contents of the rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.



DEPONENT





DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT
KHYBER PAKHTUNKHWA

No. 2970-74 / DACE/Peshawar, Dated: 25/10/2023

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R/1

To,

The Director General (Research)
Livestock and Dairy Development Department,
Khyber Pakhtunkhwa,
Peshawar.

Subject: - CLOSURE OF OPEN ENQUIRY NO.03/2017-AH AGAINST
INCHARGE LIVESTOCK RESEARCH CENTRE PAHARPUR
DISTRICT D.I.KHAN AND OTHERS.

R/sir,

I am directed to refer to the subject noted above and to state that the above mentioned open enquiry has been closed vide this office letter No.2848-49 dated 24.03.2022 by the competent authority on the recommendation of field staff and legal wing staff of this Establishment.

The letter sent earlier by Assistant Director SIW, D.I.Khan regarding suspension of pension and other emoluments of Dr. Najeebullah Ex-Incharge Research Centre Paharpur District D.I.Khan may be treated as withdrawn as the subject enquiry has already been filed (copy enclosed). Moreover this Establishment has no objection of issuance of pension and other emoluments to the officer please.

Encl: 01.

Assistant Director (Complaints)

ENDST OF EVEN NO. & DATE

Copy forwarded to the :-

1. The PS to Secretary Agriculture Department Khyber Pakhtunkhwa Peshawar.
2. Assistant Director Crimes, ACE, D.I.Khan.
3. Dr. Najeeb-ur-Rehman Ex-PRO/Station Director Livestock and Dairy Development Department Paharpur District D.I.Khan R/o Mohallah Hafiz Jamal D.I.Khan City.
4. recordKeeper, Directorate of (ACE), Peshawar.

Attested
Jamil
Adi

Assistant Director (Complaints)