

**BEFORE KHYBER PAKHTUNKHWA PESHAWAR
SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12032

Dated 01-04-2024

Service Appeal No. 387/2022

Niaz Ali Khan.

....APPELLANT

VERSUS

DPO Abbottabad & others.

...RESPONDENTS

SERVICE APPEAL

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth; -

PRELIMINARY OBJECTION;-

1. That Para No.1 of the reply is incorrect. The service appeal is maintainable in its present form.
2. That Para No.2 of the reply is incorrect.
3. That Para No.3 of the reply is incorrect, the appellant has filed the appeal with clean hands and nothing has been concealed from this Honourable Court.

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4. That Para No.4 of the reply is incorrect, the appellant has not suppressed any material facts from this Honourable Court.
5. That Para No.5 of the reply is incorrect, all the necessary parties have been arrayed as respondents.
6. Para No.6 of the reply is incorrect. The appeal is well within time and not barred by law and limitation according to the decisions of the Apex Courts wherein it has been declared that during service the employee can file appeal for minor punishments imposed, hence there is no period of limitation for filing such appeal.

FACTUAL OBJECTION:-

1. Para No. 1 of the appeal is correct, while the reply is not clear.
2. Para No. 2 of appeal is correct, the appellant was acquitted for the charges leveled against him by the competent court of law.
3. That Para No. 3 of the appeal is correct while Para 3 of reply is incorrect for the reasons that the dismissal from service order was not properly served upon the appellant.

4. Para 4 is correct.
5. Para 5 is correct. However, appellant was acquitted from the charges leveled against him by the competent court of law.
6. Para No. 6 is correct. The reply is misconceived as the same is not according to the law because the charges leveled against the appellant in criminal case were not proved in the trial and the appellant was acquitted then how come the charges leveled against him were proved in departmental inquiry. Moreover the appellant was not heard personally in that initial inquiry.
7. That Para No. 7 of the appeal is correct. The appellant was not served with the show cause notice. Even after the decision of earlier judgment passed by this Honourable Tribunal.
8. That Para No. 8 of appeal is correct. The judgment passed by this Honourable Court was not implemented in letter and spirit as the inquiry report was not served upon the

appellant and the appellant again submitted departmental appeal.

9. That Para No. 9 of the reply is correct. However it is against the law that when the departmental appeal of the appellant is accepted then it must be accepted in toto.

GROUND:

- a. Para A of grounds of the reply is incorrect comprehensive reply is already been given in above paras.
- b. Para B of grounds of the reply is incorrect. The order of appellate authority is not maintainable in the eye of law because the charges leveled against the appellant in the FIR were not in the trial of the case.
- c. Para C of the grounds of the reply is incorrect. The order of the appellate authority was not conveyed to the appellant till date. The answering respondents has not appended any prove

regarding the service of impugned order upon the appellant.

d. Para D of the appeal is incorrect, while the reply is incorrect.

e. Para E of the appeal is incorrect, while the reply is incorrect.

f. Para F of the appeal is incorrect, while the reply is incorrect.

It is, therefore, humbly prayed that by accepting the instant service appeal, the order No. 1218/PA dated 08.04.2019, wherein the appellant was awarded minor punishment for the forfeiture of one year service and leave without pay may graciously be set-aside and appeal of the appellant may graciously be allowed with one year approved service and back benefits.

...APPELLANT

Through

Dated: 05/03/2024


(SAJID IQBAL)

Advocate High Court, Abbottabad

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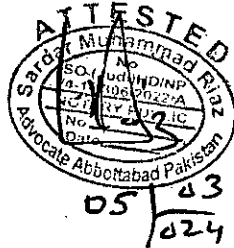
...RESPONDENTS

SERVICE APPEAL

REJOINDER ON BEHALF OF APPELLANT

AFFIDAVIT

I *Niaz Ali Khan S/o Tariq Khan, R/o Near GHS Boys High School, Sheikh ul Bandi, Tehsil and District Abbottabad*, do hereby solemnly affirm and declare on oath that the contents of foregoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



DEPONENT