

**BEFORE THE KHYBER PAKHTUNKHWA,  
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 770/2023

Muhammad Ayaz Ex-Inspector, Firearms,  
Section Fsl, Khyber Pakhtunkhwa, Peshawar.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12417

Dated 26/4/24

.....(Appellant)

**VERSUS**

1. The Director forensic Laboratory, KPK Peshawar.
2. The AIG of Police (Investigation) KP, CPO, Peshawar.

.....(Respondents)

**REJOINDER ON BEHALF OF APPELLANT**

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(I-V) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Incorrect and misleading. While para-1 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, there is no adverse entry against the appellant which means that the appellant has clear and good service record through out.
- 2 Incorrect. While para-2 of the appeal is correct as mentioned in the main appeal of the petitioner. Moreover, the one sided inquiry was conducted without providing any chance of defense to appellant. Even inquiry report was not provide to the appellant with show cause notice. In absence of proper disciplinary proceedings, the appellant was condemned unheard,

whereas the principle of audi alteram partem was always deemed to be imbedded in the statute and even if there was no such express provision, it would be deemed to be one of the parts of the statute, as no adverse action can be taken against a person without providing right of hearing to him. Reliance is placed on **2010 PLD SC 483**. The Supreme Court of Pakistan in its judgment reported as **2008 SCMR 1369** have held that in case of imposing major penalty, the principles of natural justice required that a proper inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

- 3 Incorrect and misleading. While para-3 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the inquiry report was later on collected at the time filling appeal. The show cause notice is clear on this respect no enquiry report is enclosed with the show cause notice. Further it is added that regards the allegation no statement was recorded nothing was proved but the appellant was punished due to some personal grudges. The points need to be resolved there is that , the FSL Deptt: was made in 1976 and from 1976, before posting of the appellant as incharge Fire Arms Section any register was maintained by the any incharge, if not, then what kind of lack of interest in duty was proved by the inquiry officer. What malafide of the appellant was proved by the inquiry officer? In this regards any statement was recorded.
- 4 Incorrect and misleading. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explain in above para. Further is added that Perusal of inquiry proceedings clearly reflects that there are no incriminating materials even the statement of complainant was also not recorded which can condemn or connect the appellant with the alleged charges but dragged for the reason as member of the Section / Branch.
- 5 Incorrect and misleading. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant.

**GROUND:**

- A) Incorrect. Impugned order are unjust, illegal and were not passed in accordance with law and rules on the subject. Therefore liable to be set aside.
- B) Incorrect. While para B of the appeal is correct.
- C) Incorrect. While para-C of the appeal is correct. Moreover the respondent deptt admitted that they have not provided chance to petitioner to produce evidence and witness for his defense, however it fundamental right of the appellant for fair trail which embedded in Constitution of Islamic republic of Pakistan in shape of Article-10A. further it is clear that the deptt recorded irrelevant statement by his own wishes just to penalize the appellant. It is pertinent to mentioned here that all statement which is recorded is related to the counting of cartridges, which is irrelevant to allegation leveled against the appellant i.e regards stock register, information to seniors, storing ammunition in haphazard manner, recovery of charas, misappropriation of ammunitions. The statement was silent about the same. Further it is added that the deptt level allegation of storing ammunition in haphazard manner but without clearing that any proper safe place and manner is available for storing such ammunitions or any SOPs was provided for the same.
- D) Incorrect. While para-D of the appeal is correct. Moreover as explained in above paras.
- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- H) Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.

- I) Incorrect. While para-I of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- J) Incorrect. While para-J of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- K) Incorrect. While para-K of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- L) Incorrect. While para-L of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- M) Incorrect. While para-M of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras t.
- N) Incorrect. While para-N of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- O) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- P) Incorrect. While para-P of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- Q) Incorrect. While para-Q of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- R) Incorrect. While para-R of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- S) Incorrect. While para-S of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- T) Incorrect. While para-T of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras Further it is added that the appellant properly raised this point in

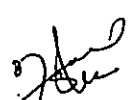
reply to charge sheet, the stock register never maintained.

- U) Incorrect. While para-U of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras. The appellant never remained negligent in his duties. And inquiry report in his finding stated that no sops/ mechanism is available for FSL Arms Section.
- V) Incorrect. While para-V of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- W) Incorrect. While para-W of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- X) Incorrect. While para-X of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in above paras.
- Y) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

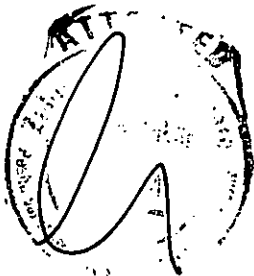
  
APPELLANT  
Muhammad Ayaz

Through:

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE, PESHAWAR.

### AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



  
DEPONENT