

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1220/2023

Najeeb Ullah

V/S

Police Deptt:


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APPELLANT
Najeeb Ullah

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

&

UZMA SYED
ADVOCATE, HIGH COURT

16-05-24

(10)

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

Service Appeal No. 1220/2023

Khyber Pakhtunkhwa
Service Tribunal

Najeeb Ullah Ex-Constable No.1862
DSP/Rural-II, Bannu.

Case No. 12813

Dated 16-05-24

.....(Appellant)

VERSUS

1. The Inspector General of Police, KP, Peshawar.
2. The Regional Police Officer Bannu Region Bannu.
3. The District Police Officer Bannu.

.....(Respondents)

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-8) 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 admitted correct by the respondent department as service record is already in custody of the respondent department.
- 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 along with show cause notice. In absence of proper

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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.
- 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. Further it is added that no show cause notice was issued to the appellant before termination order. Which is against the natural justice.
- 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. Moreover inquiry report only be provided along with show cause notice for proper rebuttal but in the instant case no show cause notice was served upon the

(3)

appellant so, the provision of inquiry report is out of question.

- C) Incorrect. While para-C of the appeal is correct. Moreover no chance of cross examination was provided to the appellant, it is fundamental right of the appellant for fair trial 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.
- 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. Further it is added that the respondent without any investigation declared the accused as innocent which is not permissible.
- 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.

- (9)
- 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. Further it is added that the Fb ID on the name of Ahmad Tanha was properly exist, the proof of the same was annexed as **annexure-R**.
- O) Legal.

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


APPELLANT
Najeebullah

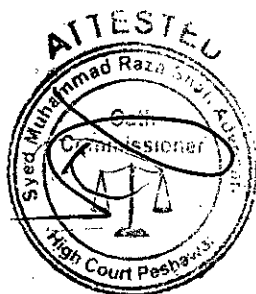
Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

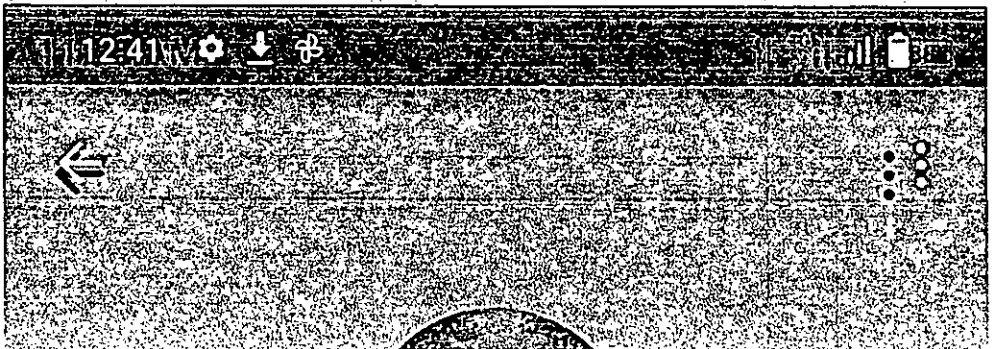
AFFIDAVIT

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


DEPONENT



16 MAY 2024



A 5



Ahmad Tanha



Audio



Video



Profile



Mute

Theme



Quick reaction



Nicknames

Word effects



More actions

View media, files & links



Search in conversation



Notifications & sounds



On



Share



Lens



← Ahmad... active now [phone icon] [video icon] [group icon]

③

[profile icon] Waya g sek ye

Hamed zabar khell

Achaa Tek

[profile icon] Pozeshan rokawa

Shay pa char da

Sena

[profile icon] Sema

Chetake

Pe sema do

3500

Reg shay



[plus icon] [camera icon] [share icon] [microphone icon] Aa [lens icon] [thumbs up icon]
Share Lens

6:52 AM Ahmad...
active now



3500

Reg shay



109.03KB



Der cheg nade da ho

Aa
Share LENS



Ahmad...

active 10m



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Der cheg nade da ho

A kanaaa yar



Da s mo ahpl stat de qyome
ye pa 3800wer kayeee

Sha za cherta der Sha



Watan ta r sa gand gure ta

Weeta ho polic gadai v har
teem



Polic de za zemawar ya r sa

Sha Rega do

03355389377



Ta call Kawa da mo nambar
da

Ok do



Aa



Share

Lens

