


IN THE KHYBER PUKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2504 /2023.

Jehan Zaib SDM VERSUS Director E&S Edu; & others.

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Through Counsel **APPELLANT**

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Dated; 07/05/2024.

(7)

IN THE KHYBER PUKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2504 /2023.

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Reply/Rejoinder to the comments of respondents.

Respectfully sheweth.

D: 12912
21-05-2024

Preliminary objections on the comments.

That the entire preliminary objections all from S.No.1 to 09, are wrong, illegal, against the fact and based on presumption and assumption and without any supporting proof. Hence the same are not of any worth, being baseless, weightless and against the law and logic and ration as well. Therefore the same are denied and requested to be rejected with imposing of huge cost. Because the respondent No. 2 while passing the order impugned on 07/08/2023, removing the services of the appellant was basing solely on mala fide intention, personal grudge of the respondents No.2, who by collusion and wrong approach to the respondent No.1, has just to take revenge of his personal grudge of not paying him/respondent No.2, illegal gratification, demanded by respondent No.2, who wrongly on mala fide intention had transferred the appellant from GHS Diewana Baba to GHSS Totalai vide order NO. 5359-64 dated 16/12/2022 already challenged vide Service Appeal No.986/2023,(now become infructuous due to passing of the order impugned dt, 07/08/2023) and then the withdrawal of that wrong and illegal order of transfer was conditioned with payment of the said gratification, which was denied by the appellant. Hence wrongly and without fulfillment of the required codal formalities without any show cause notice or conduction of any enquiry or personal hearing or production of any proof or evidence or right of cross examination there on etc was made before passing, neither the previous transfer order on administrative grounds nor before passing of the impugned order of removal from service dated 07/08/2024. while the cruel behavior of the respondent No.2 to this effect that already NOC for B.Ed study (as per annexure "A" was issued and application for leave was forwarded by the head master as per annexure "B", as a penalty and punishment salary Rs, 18876/- was deducted, for the said leave taken for examination of B.Ed, in the month of November 2022,also transfer as a punishment was made. Hence the appellant was punished twice for leave of B.Ed examination and the instant Removal from service order impugned dated 07/08/2023 is a 03rd punishment which goes against this rule and principles that one should not be double jeopardized for a single fault or action/offence, which ever is any be. Hence the same is not maintainable.

Objections/reply on comments on FACTS.

1. That the comments is an evasive denial which tantamount to admission.

2. No reply or objection as being admitted the PARA.
3. That the comments /objection is wrong . The appellant had already applied for B.Ed examination leave and the days were spent in examination for which already NOC was granted by the respondent NO.2 already annexed as "A" and pay was for the said days amounting Rs, 18876/ was deducted by treating the period as leave without pay despite the appellant have enough earned leave on his account but in addition to that punishment in a shape of transfer order dated 06/12/2022, on administrative grounds was 2nd punishment for the same alleged offence while the order impugned Reoval frm service dated 07/08/023 was the 3rd punishment which all are not sustainable in eye of law being double jeopardized and also the same are without any show cause notice or personal hearing or conduction of any enquiry or production of any evidence or cross there on. Hence are not sustainable under the law but is liable to be set aside being void orders all having no legal value. Hence denied on the same score.
4. As admitted by the respondents the major portion of the PARA concerned. The charge of allegations only for the 1st rime seen by the appellant in this comments, as neither the same has been communicated nor any enquiry to this effect has ever been conducted and so on, no show cause Notice was issued . No codal formalities as required under E & D Rues 197/2011 as per detail reply to the Para 3 above , have been fulfilled by any authority. Hence the all the orders impugned dated 07/08/2023, and others are not sustainable in the eyes of law, being Condemnation unheard but is liable to be set aside in favour of the appellant. Hence denied.
5. That the entire reply is wrong and against the fact that nothing has been found even annexure A to H being . as per detail reply in preliminary objection/reply and against 2 & 3 denied the stance and content.
6. That this para NO.6 of the comments is totally wrong and baseless and without any proof Hence denied. However detail reply has already been given in aforesaid paras. The stance of the respondents is totally wrong and based on lie as no legal proceeding has been made before all the order and the order impugned dated 07/08/023.
7. That as per previous detail reply this para is totally wrong false and denied.
8. The comments against the para No.8 is also totally wrong and denied as per previous detail reply .

Rejoinder On GROUNDS

- A. That the stance and comments and wording all of this para, are in correct as per detail given earlier hence denied the same.
- B. That the stance and comments and wording all of this para, are


Incorrect as per detail given earlier hence denied the same.

- C. That the comment are equal to evasive denial tantamount of admission. Hence denied the stance of the respondents and supported the stance of the appellant.
- D. That the comments against the para "D" is wrong and denied as per detail reply already recorded above.
- E. Denied the contents in the para because the whole action and inaction of the respondents even No.2 & 1 was basing on Mala fide intention , ill will , Personal grudge and revenge of not giving illegal gratification to the respondent No.2 by the appellant as demanded from the appellant by the respondent NO.2. while the act impugned of the respondent NO.1 is with collusion wrongly just to support the wrong action and stance of the respondent No.1 by respondent No.2 Being close colleague of the respondent No. 2. Hence denied.
- F. That the contents of the para "F" is not authoritative because the right of appeal has been given in the statutory provision of law, hence denied being in violation of that provision. However it is evident from the mode and tune or manner of this para, including other expression in the instant comments of the respondents, representing by the respondent No.2, that the action of even the respondent No.2 , being District Head of the appellant, was purely, basing on a manner like dictators as of the previous era of the JUNGAL or iron and stone age. Which reflects and indicative of severe mala fide being basing on personal grudge (having with the appellant and with his other colleagues with home the respondent No.2 has earlier made compromise and was assure for that he will no more act against them on previous mala fide) and Not a parliamentary one hence is un desirable in part of a public servant or officer. Sorry for. However for ready reference and kind perusal of this Honourable Tribunal, a group joint pictures and photography of the compromising event, in presence of mediator, namely Abdul Latif, ADC Buner as annexed for ready reference and also a copy of comments for only one of these person namely Inayatullah SPST GPS ALAGRAM BUNER, are annexed as "A".
- G. That as per expressed against para "F" above the mode and manner or tune of the respondents even No.2, can be perused and known well from the remarks of this para "G" which is reproduced here for the purpose. " the appellant has been treated as per law , Rules & procedure by the Department in the titled appeal as known facts "ARE NEEDED NOT TO BE ENQUIRED " hence it is clear crystal from this remarks that no enquiry in the case in hand of the appellant has ever been conducted. Thus the order impugned including other previous

orders effecting the appellant from very earlier are without any enquiry as per natural and emotional expression of the respondents even No.2 being a main role of the play. Hence denied the artificial reasoning of the respondents.

- H. That the stance of the respondents as taken in the para "H" is the repetition of the previous wording which has not any legal or factual coverage hence denied and invite this Hon; Tribunal to the expression and reply/objections at against "F" & "G" above is again referred to be kindly perused. However the appellant will also seek permission of this Hon; Tribunal for more and further legal and factual arguments and proofs in the case.

It is therefore humbly submitted and prayed that on acceptance of the instant rejoinder the service appeal of the appellant on the subject may be allowed by reinstatement of the services of the appellant, on his post in GHS Diwana Baba Buner, with all back benefits. Further relief to which the appellant is otherwise entitle under the law though not specifically prayed for in the service appeal of the appellant, may also be granted in favour of the appellant.

Through Course **APPELLANT**

Rahim Khan
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Cell = 03439049185
Dated; 07/05/2024.

Certificate

It is to certify that the entire contents of this rejoinder are true and correct and that no such like rejoinder has earlier been filed before this Hon; Tribunal or in any other court or has been considered earlier.

APPELLANT.



(5)

IN THE KHYBER PUKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

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Jehan Zaib SDM VERSUS Director E&S Edu; & others.

"Respondents"

Reply/Rejoinder to the comments of respondent No. 1 & 2.

AFFIDAVITE

I, Jehan Zaib S/O Mirdad Khan Village Kulyarai Tehsil Gagra District Buner /SDM B 16, G.H.S Diewana Baba District Buner, do hereby affirm and declare on oath that entire contents of the rejoinder and reply to respondents No.1 to 4, are true and correct and that also no other rejoinder or reply has not been filed before this by me/the appellant.

ATTESTED
M. Rizwan
No. 07
Dist. Courts Dagg
No. 07-2024

Deponent
15101-6920956-3
JEHAN ZAIB /appellant.
15101-6920956-3