

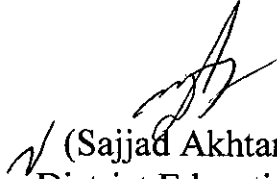
BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 232/2024

Tila Khan Vs Education Department

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(Sajjad Akhtar Iqbal)
District Education Officer,
(Male) Peshawar

08-05-24
Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 232/2024

Tila Khan Vs Education Department

PARA WISE COMMENTS ON BEHALF ON RESPONDENT NO. # 2,3 & 4

Respectfully Sheweth:

The Respondent, submit below:

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12616

Dated 08.05.2024

Preliminary Objections

1. That the appellant has got no cause of action/locus standi.
2. That the Appellant has concealed material facts from this Hon'ble Tribunal.
3. That the appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant appeal is badly time barred.
5. That the instant appeal is not maintainable in its present form.
6. That the instant appeal is bad for non-joinder of the necessary and proper parties.
7. That the appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the appellant is retired Government Servant and he can not file the instant appeal before this Hon'ble Service Tribunal.

Reply of facts:

1. That Para No.1 is Pertains to record. However, the appellant has not Annexed his appointment order and the appellant is bound to produce 1st appointment order for preparation of Pension papers.
2. That in reply to Para No.02 it is submitted that the appellant did not take interest in his duty therefore, he applied for pension.
3. That in reply to Para No.03 it is submitted that the appellant submitted application for retirement on medical ground and the competent authority forwarded the case of the appellant to quarter concerned for further necessary action on 09-02-2022. letter of the department is already attached as Annex-B of the main appeal.
4. That in reply to Para No.04 it is submitted that the Medical Board meeting was held on 20-07-2022 and they recommended the retirement of the appellant with the following remarks.

“The standing Medical Board of the opinion that patient is giving history of low back pain radiation to left leg, numbness, paraesthesia, and spinal claudication. He is having difficulty in walking, bending and weight lifting. He is also giving history of ischemic heart disease, post PCL and is still symptomatic. The patient is unable to continue his Government job and my be boarded out on medical grounds”.

On the above recommendations the appellant was retired from the date of the recommendation of the medical board because he was declared by the Board as not fit for the Government job for further more.

(Copy of recommendation of Medical Board is attached as Annex-A).

- 5. That in reply to Para No.05 it is submitted that the appellant was verbally asked to submitted the relevant documents for example First appointment order etc for the preparation of the pension paper but he was reluctant to submitted the same.
- 6. That in reply to Para No.06 it is submitted that the appellant was retired on the ground of the recommendation of medical board meeting held on 20-07-2022. Because from 20-07-2022 the appellant was retired and he was not fit for Government services from the same date.
- 7. That reply of Para No 07 has been given in the above Para.
- 8. That in reply of Para No. 08 it is submitted that the appellant was retired on medical ground on 20-07-2022 and the medical board declare that the appellant is not able for further Government Services and if the appellant claim the said period he will provide the fitness certificate issued by the Standing Medical Board for the duty rendered after 20-07-2022. In this regard, the District Education Officer (Male) Peshawar also wrote letter No.7010, dated 18-01-2024 to the appellant for further process. But the appellant did not produced the medical fitness certificate till date

(Letter for providing Fitness certificate is attached as Annex-B)

- 9. That the appellant has no cause of action to file the instant appeal in his Hon'ble Service Tribunal.

Reply of Grounds:

- A. That Ground-A is incorrect, misleading and against the fact. The said order is according to law and rules.
- B. That Ground-B s incorrect, misleading and against the fact. How can the appellant perform his duty further more because the medical board recommended the retirement of the appellant on 20-07-2022 and he was not able/fit for further performing his duty.
- C. That Ground-C s incorrect, misleading and against the fact. Detail reply has been given in the above Para.
- D. That Ground-D s incorrect, misleading and against the fact. Detail reply has been given in the above Para.
- E. That Ground-E s incorrect, misleading and against the fact. Detail reply has been given in the facts Para.
- F. That Ground-F s incorrect, misleading and against the fact. The respondent bound to act upon on the existing law and rules..
- G. That Ground-D is incorrect, misleading and against the fact. Detail reply has been given in the facts Para.

H. That the Respondent Department also seek permission to advance additional documents at the time of arguments.

It is therefore; very humble prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost

Muhammad Ishfaq

(Muhammad Ishfaq)
Sub Divisional Official
(Male) Hassan Khel Peshawar
Respondent NO: 4

Sajjad Akhtar Iqbal

(Sajjad Akhtar Iqbal)
District Education Officer
(Male) Peshawar
Respondent NO: 3

Annexure "A"

P-4

OFFICE OF THE CHAIRMAN STANDING MEDICAL BOARD/MEDICAL SUPERINTENDENT POLICE/SERVICES, HOSPITAL PESHAWAR.

The Standing Medical Board comprising the following members assembled in the office of the Medical Superintendent Police/Services, Hospital Peshawar to examine, Mr. Tilla Khan, N/Qasid.

The Standing Medical Board is of the opinion that patient is giving history of low back pain radiating to left leg, numbness, paraesthesia and spinal claudication. He is having difficulty in walking, bending and weight lifting. He is also giving history of ischemic heart disease. Post PCI and is still symptomatic. The patient is unable to continue his Government job and may be boarded out on medical grounds.

STATION PESHAWAR

DATE: 20/07/2022

(Dr. Niaz Muhammad)
Chairman
Standing Medical Board
Medical Superintendent
Police/Services, Hospital,
Peshawar.

(Dr. Nazeer Ahmad)
Ophthalmologist
Police/Services Hospital,
Peshawar...Member...

(Dr. Asif Izhar)
Physician
Police/Services, Hospital
Peshawar. Member...

(Dr. Kamran Khan)
Orthopedic Surgeon
Standing Medical Board
Police/Services Hospital, Peshawar

(Dr. Aurangzeb Afridi)
DMS/Secretary
Standing Medical Board
Peshawar.....

Attested

Anwar B

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Registered Post

District Education Officer
(Male) Peshawar.

No. 7010 /

Dated 18/01 /2024

To,

Tila Khan,
Ex- Naib Qasid,
Govt: Primary School Baz Meer Kely, Sub Division Hassan Khel,
Peshawar.

Subject: **PROVIDE HEALTH FITNESS CERTIFICATE ISSUED BY STANDING MEDICAL BOARD FOR THE DUTY RENDERED AFTER 20-07-2022.**

Memo:

Reference to your Application dated 05-10-2023, it is stated that on your own request, the STANDING MEDICAL BOARD vide its Letter No.5559-60/MS/SMB/2021-22 dated 29-07-2022 declared you "unable to continue your Government job and may be boarded out on medical grounds" But in Para No.07 of your Application dated 05-10-2023, you have stated that you have performed the duty during the period w.e.f 19-08-2022 to 15-09-2023 while on your own request, the STANDING MEDICAL BOARD on dated 20-07-2022 has declared you "Unable to continue Govt: job"

You are therefore, directed to provide HEALTH FITNESS CERTIFICATE duly issued by the STANDING MEDICAL BOARD for the duty rendered after 20-07-2022 when the STANDING MEDICAL BOARD had already declared you unfit for Govt: job.

If you did not provide the same, it will be presumed that you have committed mis-chief either with Education Department or Standing Medical Board otherwise you will be proceeded under the law as this office has already registered F.I.R against you for such illegal act.

District Education Officer
(Male) Peshawar

Endst: No. 7011-13 /Dated 18/01 /2024

Copy of the above is forwarded for information to:-

1. Chairmain, Standing Medical Board, Medical Superintendent Police/ Service Hospital Peshawar w/r to Letter No.5559-60/MS/SMB/2021-22/ Tila Khan dated 29-07-2022.
2. Mr.Amanat Ullah Qureshi (Investigation Officer-VI) Provincial Ombudsman Secretariat,Khyber Pakthunkhwa w/r to complaint No.PO/Complaint/429/02/2023/284,dated 02/01/2024.
3. Assistant Director (Admin) E&SE Khyber Pakhtunkhwa Peshawar w/r Letter No.2114/ F.No.11-A-20/C-IV/Complaint/Peshawar/Vol-7 dated 05-12-2023.

District Education Officer
(Male) Peshawar.

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Affidavit

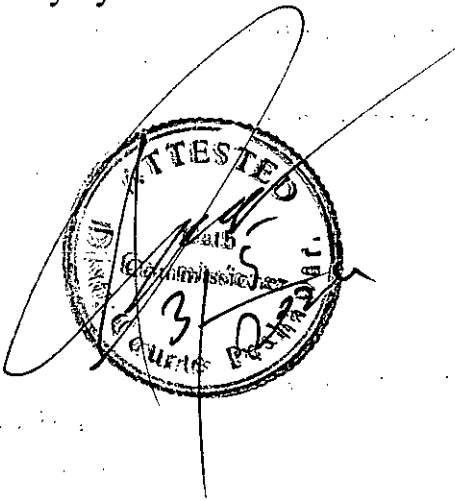
I, Sajjad Akhtar Iqbal DEO (Male) Peshawar do hereby solemnly affirm and declare on oath that the contents of the reply on behalf of respondents is correct to the best of my knowledge and nothing has been concealed from this Hon,ble court.it is further stated that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off/cost.

DEPONENT

[Signature]
Sajjad Akhtar Iqbal
District Education Officer
(Male) Peshawar


Respondent No-3

Identify by



AUTHORITY LETTER

Mr. Arshad Ali, ADEO (Litigation) office of the District Education Officer (Male) Peshawar is hereby authorized to submit this Para Wise Comments in Service Appeal No.232/2024 titled Tila Khan VS Govt: of KPK & others on behalf of the Education Department (E &SE) KP Peshawar.


Sajjad Akhtar Iqbal
District Education Officer
(Male) Peshawar