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S.B
Peshawar

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BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12531

E. P. No. 735/2023
IN

Dated 03-05-2024

S. A. No. 1280/2013

Khalid Saleem Marwat

versus

Chief Secretary & Others

REPLY TO OBJECTION PETITION OF RESPONDENTS BY APPLICANT:

Respectfully Sheweth,

Before to part with Preliminary Objections of the respondents, it is stated that under what law the Objection Petition was filed by the respondents before the hon'ble Tribunal. It is tactics of delay on behalf of respondents to avoid implementation of the judgment dated 14-09-2022 so far. Respondents are trying to delay the matter in one way or the other because also such questions have been cooped / replied in the appeal as well as in the said judgment.

Preliminary Objections:

1. Not correct. The maxim, "no one could be judge in his own cause". Strange enough that the matter has been adjudged by the legal forums up to apex Supreme Court of Pakistan and if such question arose, then respondents shall take shelter of her defense.
2. Not correct. It was the duty of the respondents to appoint Inquiry Officer as per her own wisdom. The Inquiry Officer was not appointed by the applicant but by the decision of the authority. Hence decision of the KP Service Tribunal is per the mandate of law and not personal bias / malafide.
3. Not correct. Appellant has approached this hon'ble Tribunal with clean hands, seeking implementation of the judgment of the hon'ble Tribunal dated 14-09-2022. Much time has since been elapsed because respondents are playing foul play in the matter to delay the same in one way or the other as is evident from the Objection Petition in hand.

4. Totally false and absolutely incorrect. The decision of the hon'ble Tribunal is quite per principle of justice.

FACTS

1. In response to Para No. 01 of the Objection Petition, it is submitted that applicant was appointed as PCS Officer B-17 in 1990, was promoted to B-18 on 21-05-2008 and retired from service on 29-04-2012.

Frivolous complaints was made against applicant and as for as enquiry into the matter was conducted, the same was not per the mandate of law and illegal and unwarranted penalty of reduction was imposed upon appellant because the same order was then set aside by the hon'ble Tribunal and each and every adverse action was thrashed out by the hon'ble Tribunal, upheld the judgment by the apex Supreme Court of Pakistan. The authority failed to honour the judgment of the hon'ble Tribunal in letter and spirit. It was not the duty of the applicant to place his case before PSB for promotion to B-19 but it was the sacred duty of the authority to honour the judgment in letter and spirit but the authority slept over the same for years.

2. Correct to the extent that appellant challenged the penalty of reduction before the hon'ble Tribunal in appeal and after hearing pro and contra arguments, the hon'ble Tribunal was pleased to allow appeal vide order dated 15-12-2011 and remanded the same to the competent authority for Denovo enquiry after setting aside the impugned order dated 25-05-2010. When chance was given to the authority for holding denovo enquiry into the matter against applicant, then why the authority slept over the order of the hon'ble Tribunal. Lapses of the authority / department cannot be attributed to applicant.
3. As above, yet the authority shifts her own burden to applicant. When the hon'ble Tribunal provided opportunity to hold denovo enquiry against appellant but the authority miserably failed to implement the judgment of the hon'ble Tribunal in letter and spirit who was involved in the case by not following direction of the hon'ble Tribunal was not the headache of the applicant but was of

the department / authority. The authority should impose penalty over the Inquiry Officer who regret to conduct enquiry but the Inquiry Officer was well conversant with the case and was of the opinion that nothing exists against appellant for his no fault. The justice was defeated by the authority and not by the applicant.

4. Correct to the extent by nominating Muhammad Tayyab Awan Member Board of Revenue for conduct of denovo enquiry on 12-04-2012. He showed his un-willingness that he is not in a position to hold enquiry being associated with applicant, thereafter Mian Muhammad Khan was nominated to conduct denovo enquiry against the applicant who conducted the same by adhering to law that by now applicant is retired from service and no enquiry could be affected against retired personnel under the law. (FR 54-A)
5. Admitted correct to the extent of dropping Charge Sheet against applicant as by then he was retired from service on 29-04-2012 and under FR 54-A, no enquiry could be held against retired personnel.

The case of applicant was then examined by the Establishment Department and CPLA was filed before the apex Supreme Court against the judgment but by then much water has been flown beneath the bridge and the department could not achieve the goal.

6. Though penalty of reduction to lower post / scale for three years was imposed upon appellant on 25-05-2011 but it is wrong to hold that at that time appellant was not holding post in B-18 but in para No. 01 it was admitted in categorical manner by the respondents that applicant was promoted to B-18 on 21-05-2008, meaning thereby that applicant was at that time in BPS-18. It is also incorrect to hold that proforma promotion in promotion policy 2009 does not exist, such question was agitated before the legal forums but nothing came fruitful to the hands of the department. And as stated earlier, frivolous Objection Petition is filed by the respondents before the hon'ble Tribunal to defeat the cause of applicant for no legal reason but to delay the matter one way or other.

FACTS AND OBJECTIONS

1. Not correct. Applicant was never proved guilty in enquiry but such illegal and un-warranted punishment was thrashed out by the legal forums having no legal sanctity.
2. Not correct. The matter was not dealt with by the respondents in accordance with law, so at the time when the enquiry was not conducted well within time applicant was retired from service and under the law, was not amenable to any penal action.
3. Not correct. Whether Inquiry Officer was one and the same was not the headache of the applicant but it was the legal duty of the authority / respondent to nominate a person who is alien to applicant. Here it would be also not out of place to mention that all penalties imposed upon applicant by the department were thrashed out and the department / respondents are legally bound to honour the judgment of the hon'ble Tribunal / apex Supreme Court of Pakistan in letter and spirit.

It is, therefore most humbly requested that Objection Petition without substance, without support of any law, time barred, to delay the matter for no obvious reason be dismissed with heavy cost as judgment was delivered in the case on 14-09-2022.

Khalid Saleem Marwat
Applicant

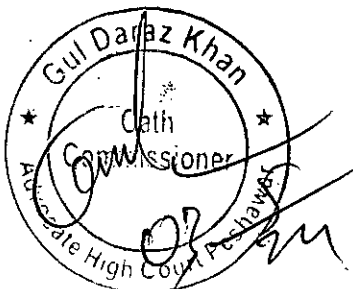
Through

Saadullah Khan Marwat
Saadullah Khan Marwat
Advocate,

Dated: 02-05-2024

AFFIDAVIT

I, Khalid Saleem Marwat (applicant), do hereby solemnly affirm and declare that contents of **Reply** to Objection Petition are true and correct to the best of my knowledge and belief.



Khalid Saleem Marwat
DEPONENT