

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 281/2024

Arman Ullah

versus

Superintendent & Others

REJOINDER

Respectfully Sheweth,

PRELIMINARY OBJECTION

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14207

Dated 12/7/24

All the 07 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is not competent, without locus standi, own conduct, unclean hands, mis and non-joinder of parties, time barred and not based on solid ground.

ON FACTS

1. Needs no comments.
2. Not correct. During service time, appellant felt pain in his kidney and was taken by the officials of the department to hospital for treatment. Since 22-06-2023 till 02-07-2023 he was under treatment in one or other hospital mentioned in perceptions. The office was well aware with the sickness of appellant. He was not intentionally absent from duty but under un-avoidable circumstances he was in various hospitals for the purpose. That after some recovery, he resumed duty on 05-08-2023 and thereafter there was no need to take action against him. There is difference against willful absence and sickness illness. The Inquiry Officer never associated appellant with the enquiry proceedings, so the action was one sided and was not per the enquiry procedure. In this para, respondents admitted the medical receipts with rest. The Inquiry Officer was not medically expert to say something about the medical receipts when no proper procedure was adopted in the matter then Final Show Cause Notice has no legal sanctity.

During personal hearing, appellant once again submitted medical perceptions to the authority for perusal but no notice was ever taken of the same either by the Inquiry Officer or by the authority. The matter was not dealt with fairly by the respondents.

3. Not correct. Appellant never absented from duty intentionally but was due to sickness which was not under his control.
4. Not correct. Disciplinary action was not per the mandate of law. He was never associated with the enquiry proceeding and self-made report was prepared by the Inquiry Officer without following the law.
5. Not correct. But from perusal of the enquiry report is transpired that the same consist of one page and cannot be termed as enquiry report.
6. Not correct. Appellant was not absent from duty but was ill and when he became healthy then assumed the charge and illness never remains for all the time.
7. Not correct. Rejection of appeal was not supported by reasons.

GROUNDS:

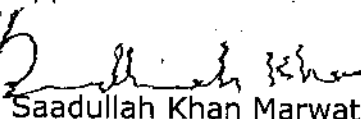
All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are re-affirmed once again.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.



Appellant

Through


Saadullah Khan Marwat

Advocate,

Dated: 12-07-2024

AFFIDAVIT

I, Arman Ullah, appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.





DEPONENT