

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15049

Dated 19/8/24

Service Appeal No. 861/2024

Mr. Gul Faraz.....(Appellant)

Versus

Chief Secretary and others.....(Respondents)

REPLY ON BEHALF OF RESPONDENT NO.3

Respectfully Sheweth,

Preliminary objections

- 1- That the appellant has not come to this Honorable Tribunal with clean hands.
- 2- The appellant is not an aggrieved person nor has any locus standi to file the present appeal.
- 3- That the appellant has concealed material facts from this Honorable Tribunal.
- 4- That the appellant is estopped by his own conduct to file the present appeal.
- 5- That the present appeal is against the prevailing law and rules.
- 6- That the appellant is not entitled for any relief, he has sought from this Honorable Tribunal.
- 7- That the present appeal is liable to be dismissed being devoid of any merits.
- 8- That the present appeal is barred by law and limitation.

On facts: -

1. Pertains to record.
2. Correct to the extent that the appellant was posted as Deputy District Education Officer (Male) Lakki Marwat vide notification dated 22-11-2022 in his own pay scale.
3. Correct to the extent that the services were placed at the disposal of the Directorate vide notification 21-03-2024. However, the appellant was posted as SDEO Male Hangu vide notification dated 10-06-2024 against the vacant post.

4. As admitted at Para No. 04 that the appellant also impugned the matter before the Peshawar High Court Peshawar in COC. As the same cause of action cannot be impugned in various Courts of law/Tribunal, therefore, the instant service appeal may be dismissed.
5. Incorrect and denied. No departmental appeal has been filed before the competent authority.
6. Incorrect and denied. The services of the appellant was required as SDEO (Male) Hangu, therefore, the competent authority under Section-10 of Civil Servant Act, 1973 posted him as SDEO.
7. Incorrect and denied. The departmental appeal against the notification dated 10-06-2024 is yet to be decided and impugned the same in the instant service appeal is premature.
8. Incorrect and denied. The appellant did not file any departmental appeal against the notification dated 22-03-2024 therefore, the instant service appeal may be dismissed in limini.

On Grounds: -

- A. Incorrect and denied. The Teaching Cadre personals can be posted against the Management Cadre post in light of Management Cadre Service Rules Notification No.SO(SM)E&SED/3-2/2016/SSRC of M.C datcd 27-03-2019.
- B. Incorrect hence denied as replied above.
- C. Incorrect, the respondents are empowered u/s 10 of Civil Servant Act. 1973 to post Teaching Cadre against the post of Management Cadre, keeping in view the service rules of Management Cadre dated 27-03-2019 in the public interest.
- D. Incorrect hence denied. The appellant was posted as SDEO (Male) Hangu vide notification date 10-06-2024.

Moreover, the appellant is duty bound to perform duty everywhere across the province and he cannot refuse the lawful command/orders of the competent authority. Further, the appellant belongs from Provincial Cadre and his services are transferable throughout the province.

- E. Incorrect and denied. The appellant was posted against the post BPS-18 in his own pay scale, therefore, the tenure of two years does not run against the same. The appellant was posted as SDEO (Male) Hangu vide notification dated 10-06-2024.
- F. Incorrect and denied. The same issue was impugned by Mst. Gul Raj in Execution Petition No. 294/2024 in Service Appeal No. 409/2019 has been dismissed vide order dated 28-06-2024.
- G. Incorrect and denied. As mentioned in above para's.
- H. Incorrect and denied. The appellant has not annexed/produced any material which shows interference from political figures.
- I. The respondents always obeys the laws and rules and procedures.
- J. The order dated 10-06-2024 is competent and made as per law rules and policy.
- K. That the counsel for respondents may be allowed to raise additional grounds at the time of arguments.

It is therefore most humbly requested that the appeal of the appellant may kindly be dismissed with cost.

Respondent No:3

Through


Zahir Shah Marwat
Advocate,
High Court Peshawar

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No. 861/2024

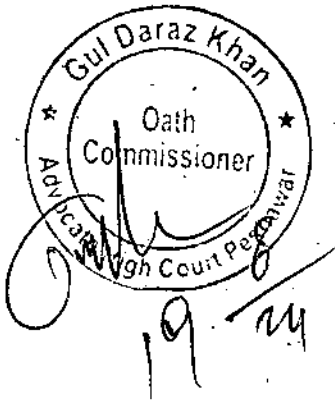
Mr. Gul Faraz.....(Appellant)

Versus

Chief Secretary and others.....(Respondents)

FFIDAVIT

As per instructions from my clients I, Mr. Zahir Shah Marwat Advocate, do hereby affirm and declare that the contents of this rejoinder are true and correct to the best of my knowledge and information and nothing has been concealed from this Hon;ble Court.



[Signature]
Deponent