BEFORE THE SERVICE TRIBUNAL KHYBER PAKHUNKHWA PESHAWAR.

C. M No. ____-M of 2024

in 5

Appeal No. 1424 of 2023

Rahmat Gul

V/S

Superintendent Engineer C & W & others

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Applicants / petitioners Through Counsel

SATO MUHAMMAD DURRANI

Advocate, High Court

Office: Azim Khan Plaza, Makanbagh, Mingora, Swat Cell No: 0333-9483696

04/09/24 S. B



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHUNKHWA PESHAWAR.

C. M No. ____-M of 2024

in 4

Appeal No. 1424 of 2023

Khyber Pakhtukhwa Service Tribunal

MO.13958

valed 03-67-2024

Rahmat Gul

V/S

Superintendent Engineer C & W & others

APPLICATION TO PLACE ON FILE THE

DOCUMENTS IN THE ABOVE TITLED

CASE AS PER KIND PERMISSION OF THIS

HONORABLE COURT.

Respectfully Sheweth:-

1. That the above titled service appeal is pending for adjudication before this Honorable Court in which date was fixed 03-07-2024 then adjourned 04-09-2024.

- 2. That the appellant / applicant has been directed to submit some necessary documents. (Copies of documents are attached as annexure "AB")
- 3. That now the applicant / appellant want to submit the said necessary documents with the permission of this honorable court.
- 4. That for the submission of such documents there is no legal bar on it.

It is, therefore, humbly prayed, that the documents may kindly be placed on file, considered for just and proper decision of the case.

> Applicant / appellant Through counsel

3 2024

SAID MUHAMMAD DURRANI Advocate High Court



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHUNKHWA PESHAWAR.

C. M No. ____-M of 2024

· in ·

Appeal No. 1424 of 2023

Rahmat Gul

V/S

Superintendent Engineer C & W & others

AFFIDAVIT

I, Rahmat Gul (appellant / applicant), do hereby solemnly declare & affirm that the contents of the above application are true and correct to the best of my knowledge & belief.

Deponent

4

Form-A FORMOF ORDERSHEET

| Court of | |
|----------|----------|
| Case No. | 701/2018 |

| - | Case No | 701/2018 |
|-------|----------------------------------|--|
| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
| 1 | 2 | ′3 |
| 1 | 22/ 05/2018 ^{TT} | The appeal of Mr. Rehmat Gul resubmitted today by Mr. Jehanzeb Khan Afridi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for |
| | na. | proper order please. **REGISTRAR |
| 2- | 28/05/18. | This case is entrusted to S. Bench for preliminary hearing to be put up there on $\frac{06/06/1}{2}$. |
| | | CHAIRMAN |
| | •. | 1 ctc |
| | | |
| | | |
| | | |



The appeal of Mr. Rehmat Gul son of Said Gul r/o Banjaw Banda Raqaba Dheri Distt. Malakand received today i.e. on 18.05.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got singed by the appellant.
- 2- Copy of post up-gradation letter and order dated 26.12.2013 mentioned in para-2 & 4 of the memo of appeal respectively are not attached with the appeal which may be placed on it.
- 3- Copy of impugned order and departmental appeal are not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be attested.

No. 1066 /S.T.
Dt. 21/05 /2018.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Jehanzeb Khan Afridi Adv. Pesh.

1. Memorandum of appeal signed by the Appellant.

2. copy of post up-gradation letter is already attached on pages-8-9.

3. The department contains was not usue any kind of order on my departmental appeal on a stipulated time.

4. Amneruses are attested.

Re-submitted with correction be planeed before Homble bonch.

Jehanzeb rhan Africai Advocate High awat.

Dated: 22/05/2018

t Preliminary arguments

Learned counsel for the appellant present. Preliminary arguments heard.

In the present service appeal the appellant has prayed for the release of salaries. During the course of arguments it transpired that the respondent department (respondent No.4) has issued order dated 26.12.2013 whereby the appellant ceased to be a government employee due to long absence and going abroad without permission of the competent authority/leave sanction.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections including the issue of limitation. The appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 08.08.2018 before S.B

Member

08.08.2018

Appellant Deposited Security & Process Fee Counsel for the appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Security and process fee not deposited. Appellant is directed to deposit security and process fee within seven (7) days, thereafter notices be issued to the respondents for written reply/comments on 04.10.2018 before S.B.

Muhammad Amin Khan Kundi Member

04.10.2018

Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Ali Rehman, SDO (C&W) for the respondents present. Written reply not submitted. Learned Deputy District Attorney requested for time to file written reply. Adjourned. To come up for written reply/comments on 15.11.2018 before S.B.

ATTISTED

(Muhammad Amin Khan Kundi) Member

Shyber Printakhwa Servee Tibunal Peshawa Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 03.01.2019. Written reply not received. Mr. Ali Rehman SDO representative of respondents absent.

Reader

03.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is not present nor written reply submitted therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 14.03.2019 before S.B.

Muhammad Amin Khan Kundi Member

14.03.2019

Learned counsel for the appellant present. Mr. Zafar Ul Haq representative of the respondents department present. Written reply not submitted. Representative of the respondents department seeks time to file written reply/comments. Last opportunity is granted. Adjourn. To come up for written reply/comments on 17.04.2019

before S.B

ATTESTED

Peshawar

Member



17.04.2019

Clerk to counsel for the appellant present. Written reply not submitted. Zafar ul Haq AD representative of the respondents absent. He be summoned with the direction to furnish written reply/comments. Another last opportunity is granted. To come up for written reply/comments on 17.05.2019 before S.B.

17.05.2019 : Petitioner present. Written reply still awaited. Zafar Ul Haq AD representative of respondents who was absent on the previous date, is still absent. Warrant of attachment of salary be issued against the absent representative. Respondents as well as the representative be put to notice for reply/comments on 02.07.2019 before S.B.

Member

02.07.2019

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Representative of the respondent department is not present nor written reply submitted therefore, notices be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Last opportunity is extended subject to the cost of Rs. 1000. Granted. To come up for written reply/comments on 31.07.2019 before S.B.



Counsel for the appellant and Mr. Usman Ghani,
District Attorney alongwith Mr. Muhammad Kamal,
XEN(C&W), Malakand for respondents present.

The representative of respondents No.1 to 5 has deposited the cost of Rs.1000/- and states that the requisite reply has been prepared and also vetted but is yet to be signed by the concerned respondents. The matter is therefore, adjourned to 09.08.2019, failing which the appeal would be proceeded with on the available record.

Chairman

09.08.2019

Counsel for the perfect and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Izharul Haq, AD for the respondents present.

Representative of respondents has submitted parawise comments on behalf of respondents No. 1 to 6 which are placed on record. To come up for arguments before D.B on 08.10.2019. The appellant may submit rejoinder, within one month, if so advised.

Chairman

(10)

0.2019

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Arguments of learned AAG heard at his request. Main contention of learned AAG was that the appellant has not challenged the basic order dated 26.12.2013 whereby he ceased to be a government employee. Learned counsel for the appellant sought adjournment for proper assistance. Adjourn. To come up for arguments on 15.10.2019 before D.B.

Member

Member

15.10.2019

Appellant along with his counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 13.11.2019 for arguments before D.B.

(Ahmad Hassan) Member

(M. Amin Khan Kundi) Member

13.11.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 08.01.2020 for arguments before D.B.

(Ahmad Hassan) Member

ember

(M. Amin Khan Kundi)

Member

Examiner Value Particular Service Tribunal 08.01.2020

Lawyers are on strike as per the decision of Peshawar Bar Association. Adjourn. To come up for further proceedings/arguments on 12.03.2020 before D.B.

40 Member

Member -

12.03.2020

Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant submitted an application for amendments in the instant service appeal on the ground mentioned therein, which is placed on file. A copy of the same is also handed over to the learned AAG for reply. Adjourned. To come up for reply on application/ arguments on 13.05.2020 before D.B.

Member ATTESTED

Member

Khyber Patentiaknya Service Tributanya Service Tributanya

(12)

13:5 .2020

Due to COVID19, the case is adjourned to

 $/7/_2/2020$ for the same as before.

Redner

17.07.2020

Due to COVID-19, the case is adjourned to 14.09.2020 for the same.

Reader

14.09.2020

Counsel for appellant present.

Mr. Kabirullah Khattak learned Additional Advocate General for respondents present.

As per order sheet dated 12.03.2020, an application seeking amendment in service appeal had been filed but till today, reply to the said application has not been filed. A request was made for adjournment by learned Additional Advocate General in order to submit reply; adjourned. To come up for reply and arguments on application seeking amendment in service appeal on 30.09.2020 before D.B.

(Atiq ur Rehman)

Member (E)

(Rozina Rehman) Member (J)

ATTESTED

EXAMINEX Knyber Paktenkhws Service Tribunal Sasiawas 30.09:2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General, is also present.

Time was sought for submission of reply. Time given. Adjourned. To come up for reply and arguments on application for amendment on 11.11.2020 before

D.B.

(Atiq-ur-Rehman Wazir) Member(E)

1. A.

(Muhammad Jamal Khan) Member (J)

11.11.2020

Nemo for appellant.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mumtaz Alam SDO for respondents present.

Representative of respondents submitted reply on application for amendment. Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 20.01.2021 before D.B.

(Mian Muhammad) Member (E) (Rozina Rehman) Member (J)

20.01.2021

Counsel for the appellant and Mr. Asif Masood, DDA for the respondents present.

Copy of parawise comments/reply by respondents No. 1 to 6 in respect of application for amendment of appeal is provided today to the learned counsel for the appellant. To come up for arguments on 22.02.2021 before the D.B.

AZ CESTED

(Mian Muhammad)

lember(E) Nhyles asthushwa

Chairman

22.2-2021

Due to COVID-19, the matter is adjourned to 28.05.2021 for the same.

28.05.2021

06.08.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Former request for adjournment on the ground that he is not prepared for arguments. Adjourned. To come up for arguments on application for amendment in service appeal before the D.B. on 06.08.2021.

(MIAN MUHAMMAD)

Clerk to counsel for appellant present.

(SALAH-UD-DIN) MEMBER (JUDICIAL)

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 15.12.2021 before D.B.

Atiq-Ur-Rehman Wazir)

Member (E)

(Rozina Rehman)

Member (J)

ATTESTRO

Peshawar

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Muneeb Khan S.D.O for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 13.01.2022 for arguments, before D.B.

Rehman Wazir) Member (E)

(Rozina Rehman) Member (J)

15:12-21

DB is on Tour case to come up?
For the Same on Dated. 30-3-22

30.03.2022

Appellant alongwith his counsel present.

Mr. Asif Masood Ali Shah, learned Deputy District Attorney for the respondents present.

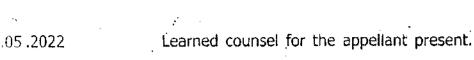
Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned, To comeup for arguments before the D.B on 11.05.2022.

(Rozina Rehman) Member (J)

(Salah-Ud-Din)

Member (J)

AT#ESTED



Learned counsel for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Learned counsel for the appellant at the very outset has not pressed the application for amendment of appeal saying that being a fresh cause of action, he will approach the concerned authority for redressal of his grievances. Till then, he requested that this appeal may be adjourned sine-die with further submission that it may be restored and decided in accordance with law at appropriate time.

Application stands dismissed as withdrawn. The appeal is accordingly adjourned sine-die. Consign.

Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 11th day of May, 2022.

Ashawar

Member (E)

Kaleem Arshad Khan) Chairman

Date of Presentation of Area

Number of Vict.

Corying Par-

Nam-

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Date of Delicety of Par

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.701/2018

Rehmat Gul S/O Said Gul R/O Banjaw Banda Raqba dheri District Malakand

(Appellant)....

V/s

Secretary Communication & Works Department Peshawar & others

(Respondents)....

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| 3 | Executive Engineer C&W Division Malakand letter No.8045-E dated 20-11-2012 & letter No.895/5-E dated 11-12-2012 | I & II | 4-5 |
| 4 | Shaheen Air E-Ticket | III | 6 - |
| 5 | Superintending Engineer C&W Circle Swat letter No.13964-E dated 26-12-2013 | IV | 8 |
| 6 | Sub Divisional Officer letter No.349/3-E dated 09-12-2014 | V | 9 |

Deponent

Muhammad Kamal, Executive Engineer, C&W Division Malakand

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(18)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.701/2018

Rehmat Gul S/O Said Gul R/O Banjaw Banda Raqba dheri District Malakand

(Appellant)....

V/s

Secretary Communication & Works Department Peshawar & others

(Respondents)....

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1 TO 6

Respectfully Sheweth,

Preliminary Objections:-

- 1. That the appeal is not maintainable in the present form.
- 2. That the appellant has no cause of action and locus standi.
- 3. That the appeal is time barred.
- 4. The appellant has deliberately concealed the important material and rules in this case from this Hon'able Tribunal.
- 5. That the appellant is estopped by his own conduct to file the instant appeal.

FACTS:-

- 1. Pertains to record, needs no comments.
- 2. Incorrect, the appellant submitted his arrival report but physically did not obey the orders and remained absent from official duty. The appellant was directed to attend the office / duty immediately vide Executive Engineer C&W Division Malakand letter No.8045-E dated 20-11-2012 & letter No.895/5-E dated 11-12-2012 (Annex I & II). However, after investigation through reliable source, the appellant was found that he has gone abroad (Annex-III). So far the promotion of the appellant is concerned, in this regard it is clarified that the Department has never recommended him for promotion nor issued his promotion Notification as attached with Service Appeal, hence the same found fake and bogus.
- 3. Incorrect, as explained in Para-2 above. Moreover the appellant has not submitted any medical certificate at the time of his arrival report, rather the concerned office processed the pay of the appellant.

(19 0)

- 4. Incorrect, the appellant was proceed under Rule-9 of (E&D Rules) 2011 and after fulfillment of all codal formalities the termination order of appellant issued by the Department (Annex-IV). Moreover the office order No. 240/3-E dated 08-12-2014 erroneously issued and immediately the same was withdrawn vide Sub Divisional Officer letter No.349/3-E dated 09-12-2017 (Annex-V).
- 5. Pertains to record, hence no comments.
- 6. The respondents treated with the appellant in accordance with law / rules / policy interalia with the following grounds:-

GROUNDS:-

- A. Incorrect. The appellant was processed purely in light of the rules/law.
- B. Incorrect, as explained in Para-3 of the Facts above.
- C. Incorrect. There is no discrimination and no violation of rights of the appellant was done.
- D. Incorrect. As expressed in preceding Para-2 of the facts, the appellant was treated within the prescribed procedure.
- E. Incorrect, as explained in Para-2 of facts.
- F. Incorrect, no violation of constitution of Islamic Republic of Pakistan 1973 was made.
- G. Incorrect, as explained in Para-4 of the facts.
- H. Incorrect, as explained in Para-4 of the facts.
- I. The respondents seek permissions of this Hon'able Tribunal to rely additional grounds at the time of arguments.

In view of the above, it is humbly prayed that the instant Service Appeal which is not based on facts may please be dismissed with cost.

Secretary to Gov of Khyber Pakhtunkhwa C&W Department

(Respondent No.1)

Chief Engineer (North)
C&W Department
(Respondent No.2)

Deputy Commissioner

Malakand

(Respondent No.6)

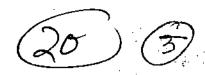
Superintending Physineer C&W Circle Swat

(Respondent No.4)

Executive Engineer, C&W Division Malakand

(Respondent No.5)

C&W Division Malakand (Respondent No.3)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.701/2018

Rehmat Gul S/O Said Gul R/O Banjaw Banda Raqba dheri District Malakand

(Appellant)...

V/s

Secretary Communication & Works Department Peshawar & others

(Respondents)....

<u>AFFIDAVIT</u>

I, Muhammad Kamal Executive Engineer C&W Division Malakand do hereby affirm and declare that all the contents of the reply / comments are correct to the best of my knowledge and belief and nothing has been concealed.

Deponent

Muhammad Kamal, Executive Engineer, C&W Division Malakand



The Superintending Engineer C & W Circle Swat.

DEPARTMENTAL APPEAL AGAINST THE REMOVAL ORDER NO. 1396/4-E. DATED: 26-12-2013 FROM SERVICES AS DRR CLEANER.

Respected Sir,

- 1. That I filed a Service Appeal No. 701-P/2018, before the services Tribunal Peshawar regarding the release of the withheld salaries against the department.
- 2. That astonishingly in the Reply/Comments the respondents have annexed an illegal order of Removal/Termination from services against me and such order have never been communicated to me and through the instant reply got knowledge of the same. (Removal/ Termination Order is attached)
- 3. That the fake order of termination on dated 26/12/2103 against me in which I was ceased to be a Govt. servant while on other side the I was transferred to the office of the Deputy Commissioner Malakand vide office order No 240/3-E, Dated 08/12/2014.
- 4. That after appointing as a DRR cleaner I was performing my duty with great honesty and was latter on promoted to BPS-04 by the Finance department vide office order No. KC/FD/SO FR/7-20/2015, Dated 17/08-2015. (Copy of the post upgraded letter is attached).
- That no charge sheet and statement of allegations and final show cause notice was issued against me.
- That no fair and impartial inquiry was constituted against me in order to substantiate the guilt or otherwise regarding the allegations leveled against me.

Prayer:

It is therefore requested that by acceptance of this Departmental Appeal an appropriate order may please be issued declaring the office order No.1396/4-E, Dated: 26/12/2014 whereby a major penalty of Removal/Termination from services was issued is illegal, unlawful without lawful authority and of no legal effect and the same is liable to struck down and kindly Re instant me in services with all arrears and back benefits or any other remedy deemed proper may also be allowed in my favour.

Dated: 29.08.2019

Appellant ---

Rehmat Gul S/O Said Gul

Mobile: 0342 3589256

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(23)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE,

TRIBUNAL, PESHAWAR

Service Impunal

Restoration Application No 41/2003 Diagram

Rehmat Gul S/o Said Gul R/o Banjaw Banda Raqba Dheri
District Malakand.

VERSUS

Secretary C&W Khyber Pakhtunkhwa Peshawar & others

APPLICATION FOR RESTORATION OF THE APPEAL TITLED ABOVE WHICH WAS ADJOURNED SINE-DIE BY THIS HON'BLE COURT ON DATED 11.05.2022

Respectfully sheweth:

- 1. That the above mentioned service Appeal is sine die adjourned by this Hon'ble Tribunal.
- 2. That the service Appeal was adjourned Sine-die by this Hon'ble Tribunal with directions to approach the concerned authority for the redressal of the Applicant's grievances due to a fresh cause of action against the respondents. (Copy of the order is attached herewith)
- 3. That by complying with the court's order the Applicant made a departmental Appeal to the concerned Department

ATTENIED

Peshawar



which has not been decided in accordance with the law at the appropriate time. (Copies of the Departmental Appeal and courier receipts are attached)

It is, therefore, requested that by acceptance of this Application, the Appeal may kindly be restored which was adjourned sine-die by this Hon'ble Tribunal.

Through

Dated: 10.11.2022

A PPELLANT

JEHANZEB KHAN AFRIDI

Advocate, High Court

Peshawar

Cell # 0300-5940011

Email: ik.khan09@yahoo.com

BC # 11-1856

FESTED

Peshawar



Form-A FORM OF ORDER SHEET

| Court of | |
|-----------------------------|---------|
| Restoration Application No. | 41/2023 |

| | | Restoration Application No. 41/2023 |
|-------|------------------------------|---|
| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge |
| 1 | 2 | 3 |
| 1 . | 18.01.2023 | The application for restoration of Appeal No. |
| | | 701/2018 submitted today by Mr. Jehanzeb Khan Afridi |
| 4. | | Advocate. It is fixed for hearing before touring Division |
| | | Bench at Swat on 6-2-23 Original file be |
| | | requisitioned. Parcha Peshi is given to |
| · | | appellant/counsel. |
| | | |
| | SCANNED | By the order of Chairman |
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| | ; | REGISTRAR |
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| , | | |
| | | |
| | | |
| | 06.02.2023 | Nemo for the petitioner. |
| | | Notice for prosecution of the petition be issued to the |
| | | petitioner as well as his counsel and to come up on |
| | 7 | be issued to the respondents. |
| | | In Luis. |
| | | (Muhammad Akbar Khan) (Salah-ud-Din) |
| | | Member (E) Camp Court Swate Camp Court Swate |
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| | | All Tribunol |