BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 991/2024

Nehal Muhammad .....*Petitioner*

Versus

The Hon'ble District & Sessions Judge and Others..... ***Respondents***

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Dated:

Respondent No. 2 & 3
Through

Basharat Rauf,
Senior Civil Judge (Admin),
Battagram

BASHARAT RAUF
Senior Civil Judge/JM
Battagram

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 991/2024

Nihal ....(Petitioner)

District & Sessions Judge Battagram & Others.....(Respondents)

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 2 & 3

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS: -

1. That the petitioner has got no cause of action/locus standi to file the instant petition.
2. That the petitioner has not come to this Hon'able Court with clean hands.
3. That the petitioner is not legally competent to file a baseless and frivolous Service Appeal against respondents.
4. That this Hon'able Court has got no jurisdiction to adjudicate upon the matter.
5. That the Petitioner has deliberately concealed material facts from this Hon'able Court.
6. That the Service Appeal is barred by law.
7. That the Petitioner has not annexed any documents in support of his claim/stance.
8. That the Petitioner is estopped by law and his own conduct to file a baseless and meritless Service Appeal against the Answering Respondents.
9. That the Petitioner is not legally competent to invoke the jurisdiction of this Hon'able Court by filing a frivolous Petition.
10. That the instant Petition is bad in its present form hence not maintainable and liable to be dismissed with special cost throughout.

ON FACTS: -

1. Para No. 01 is correct.
2. Para No. 02 is correct.
3. Para No. 03 is correct.
4. Para No. 04 is correct.
5. Para No. 05 is correct.
6. Para No. 06 is correct.
7. Para No. 07 is denied. Test and interview were held and processed by the Departmental Selection Committee dated 04/12/2021, however

all the appointments made on the basis of said process were cancelled vide order No. 186-190/SCJ/Admin/BM dated 28/05/2022.

8. Correct to the extent that DSC was held on 04/12/2021, however said process was cancelled vide Office Order No. 186-190/SCJ/Admin/BM dated 28/05/2022.
9. Correct to the extent of issuance of Appointment orders, however said process was cancelled vide Office Order No. 186-190/SCJ/Admin/BM dated 28/05/2022.
10. Para No. 10 is correct, however said process was cancelled vide Office Order No. 186-190/SCJ/Admin/BM dated 28/05/2022.
11. Para No. 11 is correct, however said process was cancelled vide Office Order No. 186-190/SCJ/Admin/BM dated 28/05/2022.
12. Para No. 12 is correct.
13. Para No. 13 is correct.
14. Para No. 14 is correct.
15. Para No. 15 is incorrect, denied. Order dated 28/05/2022 was issued after following all the legal formalities.
16. Legal, pertains to record.
17. Legal, pertains to record.
18. Legal, pertains to record.
19. Legal, pertains to record.
20.

ON GROUNDS: -

A. Incorrect, against facts & law, hence denied. The letter dated 26/05/2022 & Office Order dated 28/05/2022 have been issued by the Competent Authority in accordance with law & rules after fulfilling all legal and codal formalities.

B. Incorrect, against facts & law, hence, denied. The letter dated 26/05/2022 & Order dated 28/05/2022 have been passed on the basis of inquiry report. The inquiry was conducted according to rules and regulations.

C. Incorrect, against facts & law, hence, denied. It is clearly mentioned in the appointment orders of the Petitioners that their service shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of period of probation.

D. Incorrect, against facts & law, hence, denied. Mere order of appointment does not create any vested right. Petitioners did not serve so the question of creation of vested or any other right does not arise at all. Answering Respondents are authorized by the law and rules to cancel the recruitment process of Petitioners.

E. Incorrect, against the law and facts, hence denied.

F. Incorrect, against facts & law, hence denied. The Answering Respondents are legally authorized to undo/cancel the process of recruitment. No vested right accrued to the Petitioners and the letter

dated 26/05/2022 & Order dated 28/05/2022 are passed under the law. Furthermore, no fundamental right of the Petitioners has been violated by the Answering Respondents. Petitioners badly failed to annex even a single document in support of their contention and they are not legally competent to invoke the jurisdiction of this Hon'able Court by filing Service Appeal.

G. Incorrect, against facts & law, hence, denied. As stated above the services of the Petitioners were liable to be terminated without assigning any reason.

It is therefore, most humbly prayed that the titled Service Appeal filed by the Petitioner being incorrect, baseless, frivolous, illegal, without any substance and against the record, be dismissed.

Any other remedy which this Hon'able court deem proper in the circumstances may also graciously be awarded in favour of the Respondents.

Respondent No. 02
Registrar, Peshawar High Court,
Peshawar
IKHTIAR KHAN

Respondent No. 03
Senior Civil Judge (Admin),
Battagram

BASHARAT RAUF
Senior Civil Judge/JM
Battagram

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeals No. 991/2024

Nehal Ahmad .....*Petitioner*

Versus

The Hon'ble District & Sessions Judge and Others..... *Respondents*

COUNTER AFFIDAVIT

I, **Basharat Rauf, Senior Civil Judge (Admin), Battagram**, do hereby affirm and declare on oath that the contents of this reply/comments are true and correct to the best of my knowledge and nothing has been concealed from this Hon'able Court. It is further stated on oath that answering respondents have neither been placed exparte nor their defense was struck off/lost.

Deponent

Basharat Rauf,
Senior Civil Judge (Admin),
Battagram

PIR ZAMAN SHAH
Oath Commissioner
Battagarm
12/10/24

BASHARAT RAUF
Senior Civil Judge (Admin)
Battagram

OFFICE OF THE
SENIOR CIVIL JUDGE, ADMIN
BATTAGRAM

Ph# 0997-310170
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Email: scjbatagram@yahoo.com
www.districtcourtsbattagram.gov.pk

AUTHORITY LETTER

Mr. Nasrullah Jan, Superintendent (BPS-17), District Courts, Battagram is hereby authorized and directed to attend the following service appeal fixed before Worthy Services Tribunal at Abbottabad on each and every date as departmental representative alongwith complete record: -

Service Appeal No. 991/2024
Nehal Muhammad vs DSJ, Battagram & Others

(BASHARAT RAUF)
SENIOR CIVIL JUDGE, ADMIN
BATTAGRAM

BASHARAT RAUF
Senior Civil Judge/JM
Battagram

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AUTHORITY LETTER

Mr. Muhammad Younas Khan, Assistant Bps-16 of the establishment of undersigned bearing CNIC No: 13202-0776318-9 is hereby authorized to proceed **Khyber Pakhtunkhwa Service Tribunal, Peshawar** in connection with official matter in following service appeals.

Service Appeal No. 991/2024
Nehal Muhammad vs DSJ, Battagram & others

BASHARAT RAUF
SENIOR CIVIL JUDGE, ADMIN
BATTAGRAM

BASHARAT RAUF
Senior Civil Judge/JM
Battagram