

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C. M. 12(2) CPC No 730/2024
In
Service Appeal No 896/2022

Mst. Musarat Begum.Petitioner

V E R S U S

Director & Others. Respondents


I N D E X

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Dated:-21-10-2024

Respondent No.4

Through


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

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REPLY ON BEHALF OF RESPONDENT NO.4

Respectfully Submitted:-

Preliminary Objections:

Khyber Pakhtunkhwa
Service Tribunal
File No. 16950
Date 21-10-24

- a) The petitioner has got no cause of action and locus standi to file instant petition.
- b) Instant Petition is not maintainable.
- c) The petitioner is estopped by her conduct to bring instant petition.
- d) That all the three ingredients of fraud, misrepresentation and jurisdiction are lacking, hence the petition is liable to be dismissed on this score alone.
- e) That instant petition is time barred.
- f) That subsequent to the Judgment of this Hon'ble Tribunal, the matter was remanded back to the department, the petitioner was called by the department, she was duly provided opportunity of hearing, she duly attended the proceedings, the Departmental Selection Committee was held and even the minutes were prepared and also signed by two members of the DSC, the petitioner when realized

that she failed to defend her case she approached this Hon'ble Tribunal and filed instant petition, as such the petitioner is estopped by her conduct to file instant petition. Further the petitioner could not be allowed to breath hot and cold, hence instant petition is liable to be dismissed on this score too.

- g) The petitioner has not come to this Hon'ble Tribunal with clean hands.
- h) The petitioner has concealed material facts from this Hon'ble Tribunal.
- i) That the petition is bad due to non-joinder and mis-joinder of necessary parties.
- j) That appeal is barred in law and limitation.

PARAWISE REPLY ON FACTS

1. Para No.1 and 2 pertains to record, hence needs no reply.
2. Para No.3 incorrect as the replying respondent were not allocated score of Arabic (Hons), for which she submitted appeal, upon acceptance of which the merit of the replying respondent was corrected and the petitioner was thus placed lower in merit and consequently the replying respondent was appointed.
3. Para No.4 correct to the extent of inquiry resulted in favor of the replying respondent.
4. Para No.5 and 6 pertains to record
5. Para No.7 is correct to the extent of withdrawal of the appointment order of the replying respondent however as the petitioner was favored and proper score was not allocated to the replying respondent.

6. Para No.8 and 9 are correct.
7. Para No.10 & 11 pertains to record however the petitioner was placed Ex-parte vide Order dated 22.03.2023, as she failed to appear on the date of hearing.
8. Para No.12 & 13 pertains to record however even the application was badly time barred, being filed after almost one year.
9. Para No.14 is incorrect as the ex-parte proceedings were not set aside and this Hon'ble Tribunal has passed the Judgment dated 06.03.2024 after hearing the contesting parties on merit and not through misrepresentation as the proceedings were not conducted by the official respondents as per the spirit of the directions of the Hon'ble Peshawar High Court, Peshawar.
10. Para No.15 is incorrect, as there is no fraud and misrepresentation on part of the replying respondent and the Judgment dated 06.03.2024 is in accordance with law on the subject, hence the petition filed by the petitioner is liable to be dismissed.

REPLY TO GROUNDS:

- A. Para under reply is incorrect, as there is no fraud and misrepresentation on part of the replying respondent and the Judgment dated 06.03.2024 is in accordance with law on the subject, hence the petition filed by the petitioner is liable to be dismissed.
- B. Para under reply incorrect and contradictory, had the address of the petitioner incorrect she would never have been served and appeared, while the petitioner duly

appeared, engaged the Counsel, sought time for submission of reply but failed to comply with the Orders and even did not bother to appear before this Hon'ble Tribunal, hence placed ex-parte against which she submitted application after almost one year.


- C. Para under reply is incorrect, as the Judgment was passed after perusal of all record.
- D. Para under reply incorrect, detailed reply has been given in above paras.
- E. Replying respondent also seek leave of this Hon'ble Tribunal to advance additional grounds and proofs at the time of arguments.

It is therefore prayed that petition of the petitioner may kindly be dismissed with heavy costs.

Dated:- 21-10-2024

Respondent No.4

Through


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

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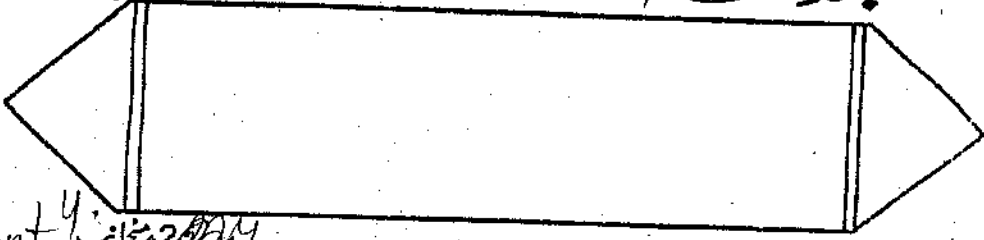
AFFIDAVIT

I, Tahira Bibi Ex Primary School Teacher, Govt. Girls Community Model, School Dhakki Tehsil Tangi District Charsadda, (Respondent No.4), do hereby solemnly affirm and declare on oath that the contents of accompanying **Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Tahira Bibi
DEPONENT

بعدالت جواب سے درخواستیوں کی نشاندہی



Respondent 2024ء بمقام عدالت عالیہ لاہور وغیرہ

موردہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کاروائی متعلقہ
آن مقام کے کے کیلئے محمد عبدالرحمان علی اور ابصار شاہ ایروٹس

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو کسی دہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواخذہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جہات التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المقوم _____ ماہ _____ 2024

بمقام شاہ

Attested to Accepted
Rasheed