

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Service Appeal No.1239/2022

Hidayat Ullah

VS

The Government of Khyber Pakhtunkhwa and others

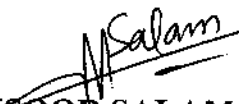
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Dated: 06.11.2024

Through

Appellant


MANSOOR SALAM
ADVOCATES HIGH COURT
PESHAWAR

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Service Appeal No.1239/2022

Hidayat Ullah
VS

The Government of Khyber Pakhtunkhwa and others

Khyber Pakhtunkhwa
Service Tribunal

Case No. 17652

Date 06-11-24

REJOINDER ON BEHALF OF THE APPELLANT TO THE
COMMENTS FILED BY THE RESPONDENTS NO: 01 & 02.

Respectfully Submitted,

Reply to Preliminary objections:-

1. Incorrect and Denied. The appellant has got a good cause of action.
2. Incorrect and denied, the said employee Mr Adnan Ishaq S/o Ishaq Safi etc filed impleadment application, which was dismissed in default, further respondents are apprehended and presumed that said employees will adversely effected, it is settled principal of law that one cannot grant relief mere o apprehensions.
3. Incorrect and denied.
4. Incorrect and denied.
5. Incorrect and denied.
6. Incorrect and denied, appellant has always been treated with iron hand with velvet glove. Appellant is facing charges leveled against him with mala-fide intensions by the departmental respondents.

ON FACTS:

1. Incorrect and totally baseless. The appellant always performed his duties with zeal and zest since his appointment (2008). All the allegation are self-stated and concocted, respondents are very much trying to prove the appellant wrong by one pretext or the others. The respondents right of submitting the reply was struck off by the August Service Tribunal on 05.01.2023 for which they filed an application for setting aside ex-parte order dated 05.01.2023 which was later on withdrawn on 05.10.2023 to file fresh, but no fresh application for same is filed and respondent in there affidavit contented that defense of respondent department was restored on 15.02.2024, but there nothing mention in order sheet and they submitted there reply without adopting protocols set by the Service Tribunals, in order to play hide & seek with August Tribunal.
2. Incorrect and no comments.
3. Correct to the extent that Civil Servant under Sec-10 of Act can be posted, however Incorrect, misleading and exaggerated to the rest of the para, appellant has been posted in D.I.Khan, Peshawar station and perform their duties, respondent with mala-fide intension put allegation of cheating and over writing in service books, and remove him from service, appellant after departmental appeal & reduction in penalty from 05 years to 01 year by

Secretary H.E.D, appellant filed service appeal on 25.01.2021 contested the appeal and August Tribunal set aside the impugned order on 23.02.2024. Further the appellant has always treated discriminately and with mala-fide intentions.

4. Incorrect, appellant never wished before to be posted in home stations Lakki Marwat, however after demised of his elder brother and sicknesses and others domestic problems appellant desired to be posted alike others colleague of the same departments, in Public Library Lakki Marwat, where post of the same BPS is laying vacant, the Sec-13 of the KP Civil Servant Revised Leave Rules 1981 granted discretion to the respondents to secure second medical opinion by requesting the Civil Surgeon or Medical Boards, but the respondent department never hesitate to do so, and plane rejected the appellant application for medical leave, despite the appellant have enough leaves laying in leave account.
5. Incorrect and denied, exaggeration.
6. Incorrect and denied all the disciplinary proceedings has been set aside by the August Service Tribunal though the respondent always treated the appellant with mala-fide intension, more so saying that appellant is treated leniently is just excuses on the part of respondent nothing else.
7. Incorrect and need to comments.
8. No comments.
9. Incorrect, the main issue is seniority, as the respondent also admitted in their Preliminary Objection in Para-02.
10. Incorrect to the extent that departmental appeal was not replied within statutory period of 90 days.

ON GROUNDS:

- A. Hypocratic and malicious. Departmental Appeal was decided after laps of statutory period of 90 Days.
- B. Incorrect. No opportunity of Cross examination was provided during the inquiry and misleading.
- C. Para is Incorrect and mala-fide. On place respondent agitated that the appellant was inquired via phone call as he was unable to travel to Peshawar and on the other hands respondents are agitated that appellant has been heard and waved his right of cross examination. No opportunity of Cross examination was provided during the inquiry and misleading.
- D. Denied.
- E. Denied.
- F. Incorrect and denied and No comments.
- G. Unlawful penalty has awarded to keep the appellant junior from the juniors in seniority list.
- H. Incorrect, appellant has not dealt in according to prevailing laws, rules and policy.

- I. Incorrect, appellant have enough leave in their Leave account, and the respondent did not hesitate to secure the second opinion of MO or Civil Surgeon.
- J. Incorrect and misleading.
- K. Any other grounds will be agitated during the course of arguments with kind permission of the August Tribunal.

It is, therefore, most humbly prayed that on acceptance of instant rejoinder, the appeal of the appellant may graciously be allowed, as prayed for therein.

Dated: 06.11.2024

Through

Appellant



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ADVOCATES HIGH COURT
PESHAWAR**

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AFFIDAVIT

I, Mansoor Salam Advocate BC No.11-1968 as per instruction of my client, affirm and declare that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Tribunal.

F. Shah
DEPONENT

Identified By:

Mansoor Salam
Mansoor Salam
Advocate High Court
Peshawar

