

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Re in:

Service Appeal No. 1832/2024

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 17973
Dated 15/11/24

Saeed Ullah VS DEO & Others

REJOINDER TO THE PARAWISE

COMMENTS:

Respectfully Sheweth:

Rejoinder on preliminary objections:

1. Incorrect, the appellate has got good cause of action/ locus standi to file the instant appeal.
2. Incorrect, nothing of the material facts have been concealed from this Hon'ble Tribunal intentionally or deliberately.
3. Incorrect the appellant has come to this Hon'ble Tribunal with clean hands.
4. Incorrect the appeal is well within time .

5. In correct the appeal is not bad for misjoinder and non-joinder of the necessary parties.
6. Incorrect the cancellation order dated 05/06/2024 has been issued by the respondent No. 1 beyond legal sphere and liable to be set aside.
7. Incorrect the appellant is/ was transferred illegally and in utter disregard to posting/ transfer policy/ rules.

REJOINDER ON FACTS:

1. Needs no rejoinder.
2. Para No. 2 is not denied regarding transfer order dated 04/06/2024. However the order dated 05/06/2024 is against the law/ policy / rules governing the subject matter, therefore is liable to be set aside.

3. Incorrect, as stated in Para No. 3 of the main appeal, the respondent No. 1 abruptly cancelled the transfer order of the appellant and posted respondent No. 3, therefore without following the law and the precedents established by the apex Courts, therefore, not tenable in the eyes of law and is liable to be set aside.

4. Para No. 4 of the Parawise Comments is totally wrong hence denied. Already the copy of the departmental appeal is available in main file, but when it was not denied in the statutory period then the titled Service Appeal was filed before this Hon'ble Tribunal.

5. Para No. 5 of the Parawise comments is denied. The appellant having no other alternate adequate remedy before him has filed the titled Service Appeal.

REJOINDER ON GROUNDS:

- A. Ground "A" of Parawise comments is baseless, hence denied. The appellant has served at GPS

Bahadar Khan Kali for a period of one and half year, while on the other hand the respondent No. 3 has spend very less period at his earlier posting at GPS Aalki Banda, so in such scenario the cancellation of the order dated 04/06/2024 is not reasonable.

- B. Incorrect as stated in the main Appeal, the order dated 05/06/2024 issued by respondent No. 1 is unlawful and in utter disregard of posting/ transfer policy.
- C. Incorrect, as stated in the main appeal in ground "C". the appellant assumed the charge in light of the order dated 04/06/2024 then on the very next date i.e. on 05/06/2024 its cancellation without giving any chance of hearing to the appellant is against the natural justice as well as is the violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973.
- D. Ground "D" of the Parawise comments is incorrect, hence denied. Appellant is resident of the same

Union Council wherein his transfer was made vide order dated 04/06/2024 for this reason too the appellant has a vested right to be posted there by.

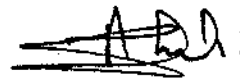
E. Ground "E" of the Parawise comments is incorrect hence denied. Already mentioned in the earlier paras the impugned order 05/06/2024 issued by respondent No. 1 is against the natural law as well as Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973.

F. As mentioned in the memo of appeal.

It is, therefore, most humbly prayed that on acceptance of the instant rejoinder, the Parawise comments on behalf of respondent may be rejected and appeal of the appellant may kindly be allowed as per prayer.

Appellant

Through



Asghar Shah

Advocate High Court,
Peshawar.

Dated: 15/11/2024