

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Rejoinder  
IN  
Service Appeal No.639/2024

**Muhammad Tariq** ..... Appellant  
**Versus**  
Secretary & others..... Respondents

**I N D E X**

S.No.	Description of documents.	Annexure	Pages.
1.	Memo of Rejoinder alongwith affidavit		1-3
2.	Application for condonation of delay		4

Appellant  
through

  
**Saadullah Khan Marwat**

Advocate

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Subject: **REJOINDER**

**Respectfully Sheweth:**

**Preliminary Objections:-**

- 1) All the 06 preliminary objections of the Commission and 04 preliminary objections of the Education Department are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no locus standi or cause of action, not approached with clean hands, no discrimination/ injustice was made to him, appeal is not based on facts and he was treated as per the mandate of law, the same is based on misconception, concealed material facts and barred by law and limitation.

**ON FACTS**

1. That from Para No.1 to 7 the contents of the appeal is admitted correct by Respondent No.3 (PSC). In these paras reference of Judgment dated 24.8.2022 of the Peshawar High Court, Peshawar is given but such judgment was not and never applicable to the case of appellant as he was not made party in the Writ Petition.

More-so, it was the legal duty of the Commission to serve him with Show Cause Notice regarding the change scenario but no such obligation was fulfilled by the Commission and he was straight away removed from service which is against the law.

2. That in the judgment dated 24.08.2022 of the Hon'ble Peshawar High Court Peshawar never directed Commission to oust appellant from service and to appoint him as such.

Vested right accrued to the appellant by serving the department for more than 1 and half year.

In Para No.5 of the comments of Respondent No.1 and 2 it was admitted in categorical manner that the Peshawar High Court Peshawar has never given any direction to oust appellant from service and to appoint respondent No.4 as such.

Further stated that the department did all such Process by keeping in view the Judgment of Peshawar High court Peshawar and not per herself.

The department further states that some positions are still lying vacant as per Ground "F" meaning thereby that appellant shall be adjusted at any lying vacant position.

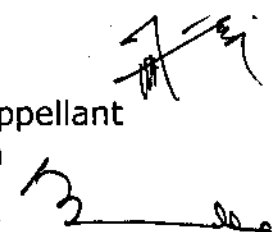
### **GROUND**

All the grounds of the appeal are legal and correct, while that of the comments are illegal and incorrect. The commission as well as the respondents admitted in clear cut manner that no adverse action was taken by the respondents against appellant, but it was the judgment of Peshawar High Court Peshawar who

compelled them to do so irrespective of the fact as to whether action of the respondents against the appellant per the mandate of law or otherwise.

It is therefore, humbly requested that the appeal be accepted as prayed for.

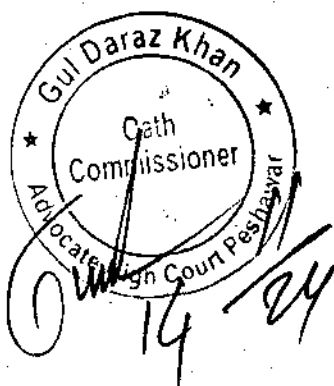
Appellant  
through

  
Saadullah Khan Marwat  
Advocate

Dated: 14.11.2024

**AFFIDAVIT**

I, **Muhammad Tariq** S/o Abdul Wahab r/o Village & PO Ghar Shin District Swat ,do hereby affirm and declare on oath that the contents of the rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



  
Deponent

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**APPLICATION FOR CONDONATION OF DELAY**

**Respectfully Sheweth:-**

1. That the subject appeal is pending before this Hon'ble Tribunal.
2. That appellant was vigilant and knocked the doors of legal forum after he was removed from service by the respondents.
3. That the matter was subjudice before the legal forums so no limitation runs in the same.

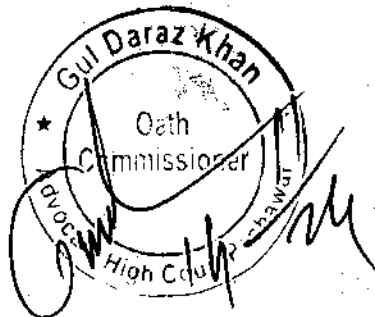
It is therefore, most humbly prayed that on acceptance of the application the delay if any be condoned and the appeal may kindly be decided on merits.

Appellant  
through  
Saadullah Khan Marwat  
Advocate

Dated: 14.11.2024

**AFFIDAVIT**

I, **Muhammad Tariq** S/o Abdul Wahab r/o Village & PO Ghar Shin District Swat ,do hereby affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent