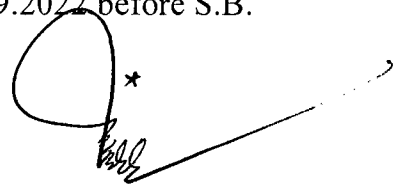


14.07.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned Additional Advocate General requested for adjournment to contact the respondents for submission of implementation report. Adjourned. To come up for implementation report on 08.09.2022 before S.B.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a long horizontal stroke extending to the right. A small asterisk is placed above the end of the signature.

(MIAN MUHAMMAD)  
MEMBER (E)

EP 206/2021

3<sup>rd</sup> June, 2022

Petitioner alongwith counsel and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG for the respondents present.

This judgment was handed down by Mrs. Rozina Rehman, learned Member-J. It would be appropriate that this implementation application be placed before the said Bench. To come up for implementation report on 14.07.2022 before S.B.

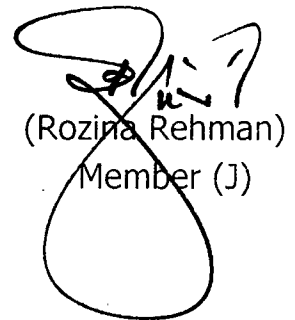


Chairman

14.07.2022

Presence as before.

The undersigned is busy in D.B comprising of Mr. Salah Ud Din, learned Member (Judicial) and the undersigned and today, 20 cases have been fixed, therefore, the instant case is respectfully sent to the learned Chairman for entrustment to any SB for disposal in accordance with law.



(Rozina Rehman)  
Member (J)

14. 07. 2022.

Be sent to the SB  
of Mr. Mian Muhammad  
as I am also  
busy in DB with Mian  
Fareeha Pahal.



21.12.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks adjournment. Last opportunity is granted to the respondents for submission of implementation report on next date. Case to come up on 09.02.2022 before S.B.

  
Chairman

10.02.2022

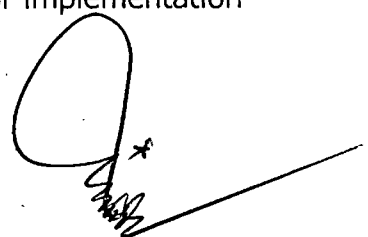
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 30.03.2022 for the same as before.

  
Reader

30.03.2022

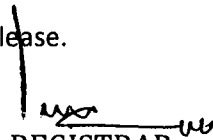


Petitioner in person present. Mr. Kabirullah Khattak, Addl: AG for respondent present.

Learned AAG stated at the bar that Service Tribunal was non-functional and the department has not consulted their office. He therefore, requested for adjournment to contact the respondents for submission of implementation report. The request is acceded to. Adjourned. To come up for implementation report on 03.06.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER(E)

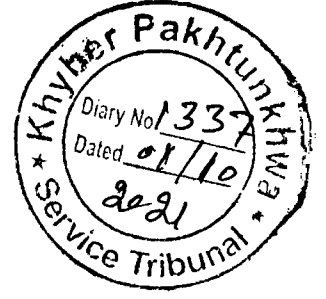
Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Execution Petition No. \_\_\_\_\_/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.10.2021	<p>The execution petition of Mr. Taza Gul submitted today by Mr. Taimur Ali Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench at Peshawar on <u>05/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	05.11.2021	<p>Petitioner alongwith counsel present.</p> <p>Notices be issued the respondents. To come up for implementation report on 21.12.2021 before the S.B.</p> <p style="text-align: right;"> Chairman</p>



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**



Execution petition No. \_\_\_\_\_/2021  
In service appeal No.1311/2018

Taza Gul Sub Inspector (BPS-14)  
Photography Section FSL, Peshawar.

**PETITIONER**

**VERSUS**

1. The Provincial Police Officer, KP, Peshawar.
2. The Addl: Inspector General of Police, Investigation KP, Peshawar.
3. The Addl: Inspector General of Police, Headquarter KP, Peshawar.
4. The director, Forensic Science Laboratory, KP, Peshawar. ✓

**RESPONDENTS**

**EXECUTION PETITION FOR DIRECTING  
THE RESPONDENTS TO IMPLEMENT  
THE JUDGMENT DATED 02.08.2021 OF  
THIS HONORABLE TRIBUNAL IN  
LETTER AND SPIRIT.**


**RESPECTFULLY SHEWETH**

1. That the petitioner has filed service appeal No1311/2018 against the order dated 08.06.2018, whereby the appellant was confirmed as ASI and promoted as Officiating SI (BPS-14) with immediate effect instead of due date i.e 13.08.2013, when his colleagues who were recommended along with the appellant were promoted and against not taking action on the departmental appeal of the appellant within the statutory period of ninety days.
2. That the said appeal was heard by this Honorable service Tribunal on 02.08.2021. The Honorable service Tribunal was kind enough to accept the appeal and impugned order dated 06.08.2018 was set aside to the extent of his promotion with immediate effect. The petitioner was hold entitle for his promotion to the post of sub Inspector w.e.f

13.08.2013 with all consequential benefits. (Copy of judgment dated 02.08.2021 is attached as Annexure-A)

3. That the Honorable Tribunal accepted the appeal and hold the petitioner for his promotion to the post of Sub Inspector w.e.13.08.2013 with all consequential benefits, however till the respondent did not antedate the promotion of the petitioner to 13.08.2013 till date.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honorable Service Tribunal, is totally illegal amount to disobedience and contempt of Court.
5. That the judgment is still in field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 02.08.2021 of this Honorable Service Tribunal in letter and spirit.
6. That the petitioner having no other remedy except to file this execution petition for implementation of judgment dated 02.08.2021 of this Honorable Tribunal.

It is, therefore most humbly prayed that the respondents may kindly be directed to implement the judgment dated 02.08.2021 of this Honorable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fir and appropriate that, may also be awarded in the favour of petitioner.

  
PETITIONER  
Taza Gul

THROUGH:

  
TAIMUR ALI KHAN  
ADVOCATE HIGH COURT

**AFFIDAVIT:**

It is affirmed and declared that the contents of the execution petition are true and correct to best of my knowledge and belief.



  
DEPONENT

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1311 /2018

KPK Service Tribunal  
Peshawar

Case No. 1536

Dated 16-10-2018

Tazi Gul, Sub Inspector (BPS-14),  
Photography Section FSL, Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police officer, KPK, Peshawar.
2. The Addl: Inspector General of Police, Investigation KPK, Peshawar.
3. The Addl: Inspector General of Police Head Quarter KPK, Peshawar.
4. The Director, Forensic Science Laboratory, KPK, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 08.06.2018, WHEREBY THE APPELLANT WAS CONFIRMED AS ASSISTANT SUB INSPECTOR AND PROMOTED AS OFFICIATING SUB INSPECTOR (BPS-14) WITH IMMEDIATE EFFECT INSTEAD OF HIS DUE DATE I.E 13.08.2013 WHEN HIS COLLEAGUE WHO WERE RECOMMENDED ALONG WITH THE APPELLANT WERE PROMOTED AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE WITHIN THE STATUTORY PERIOD NINETY DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENT DEPTT: MAY PLEASE BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF SUB INSPECTOR (BPS-14) FROM HIS DUE DATE I.E 13.08.2013 WHEN HIS COLLEAGUE WHO WERE RECOMMENDED ALONG WITH THE APPELLANT WERE PROMOTED BY MODIFYING THE ORDER DATED 08.06.2018 WITH ALL BACK AND CONSEQUENTIAL



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**



Service Appeal No.1311/2018

Date of Institution ... 16.10.2018  
Date of Decision ... 02.08.2021

Taza Gul, Sub Inspector (BPS.14), Photography Section FSL,  
Peshawar.

... (Appellant)

**VERSUS**

The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and  
three others.

... (Respondents)

Taimur Ali Khan,  
Advocate

... For appellant.

Muhammad Riaz Khan Paindakheil,  
Assistant Advocate General

... For respondents.

ROZINA REHMAN

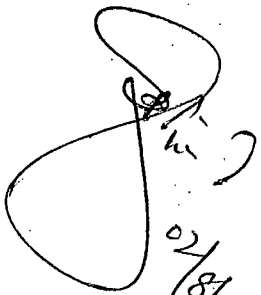

... MEMBER (J)

ATIQU UR REHMAN WAZIR

... MEMBER (E)

**JUDGMENT**

ROZINA REHMAN, MEMBER, (J): Brief facts of the case are that the appellant joined police department as constable on 13.12.1988 and in due course was permanently transferred to Forensic Science Laboratory on 14.05.2001. During the course of his service, he was promoted as ASI on 14.01.2011. The appellant along with his other colleagues, were considered for further promotion to the post of Sub-Inspector, but his case was deferred due to adverse entry in his ACR whereas his other

  
02/08/21  


colleagues were promoted. The appellant filed Service Appeal #.1153/2013 before this Tribunal and this Tribunal vide judgment dated 27.10.2017 expunged the adverse remarks. In pursuance of the judgment, the appellant was promoted as officiating Sub-Inspector on 08.06.2018 with immediate effect. Feeling aggrieved, the appellant filed departmental appeal dated 21.06.2018, which was not responded within the statutory period, hence the instant service appeal with prayers that respondents may be directed to consider his promotion along with all consequential benefits with effect from 13.08.2013, when his other colleagues, who were recommended along with the appellant were promoted, but case for promotion of the appellant was deferred

2. Learned counsel for the appellant has contended that not taking action on departmental appeal of the appellant within statutory period and not promoting the appellant from his due date are against law, promotion rules and principle of natural justice; that the appellant was recommended for promotion on 03.04.2013 along with his other colleagues and they were promoted but the appellant was deferred due to adverse ACR, which however, was expunged by this Tribunal, therefore the appellant is now entitled for promotion with effect from 13.08.2013, when his other colleagues were promoted, as the reason for his deferment has vanished.

3. Learned A.A.G appearing on behalf of respondents contended that it is correct that case of the appellant for promotion was deferred due to bad entry in his ACR and upon judgment of this honorable Tribunal, the appellant was promoted vide order dated 08.06.2018 with immediate effect, as promotions are always made with immediate

ATTESTED  
 02/08/21  
 EXAMINER  
 Service Tribunal

effect and not with retrospective effect; that promotion is neither a vested right nor it can be claimed with a retrospective effect; that promotion of the appellant was made in accordance with law and rule and no discrimination was made.

4. We have heard learned counsel for the parties and have perused the record. Record reveals that the appellant along with his other colleagues was considered for promotion to the post of Sub-Inspector, but his case was deferred due to adverse entry in his ACR, whereas his other colleagues were promoted vide order dated 13.08.2013. Adverse remarks were expunged by order of this Tribunal vide judgment dated 27.10.2017, hence the very reason, for which promotion of the appellant was deferred has vanished. Moreover, deferment shall not debar the appellant from confirmation from the date of his deferment, after making good the deficiency. We did not find anything adverse on record except deferment. It is also established from the prevailing rules that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post. The Supreme Court of Pakistan in its judgment reported in 2016 SCMR 1784 have held that such civil servant would rank and be deemed to have been promoted in the same batch at par with his contemporary batch-mates, who were promoted earlier to him.

5. In view of the foregoing, the instant appeal is accepted and the impugned order dated 08.06.2018 is set aside to the extent of his promotion with immediate effect. The appellant is held entitled for his promotion to the post of Sub-Inspector with effect from 13.08.2013

ATTESTED  
 EXAMINER  
 Member Public Works  
 Service Tribunal  
 Islamabad


16/10/20  
 16/10/20

with all consequential benefits. Parties are left to bear their own costs.

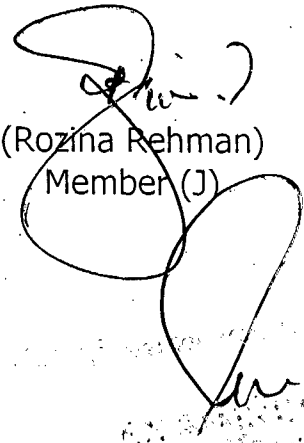
File be consigned to record room.

ANNOUNCED.

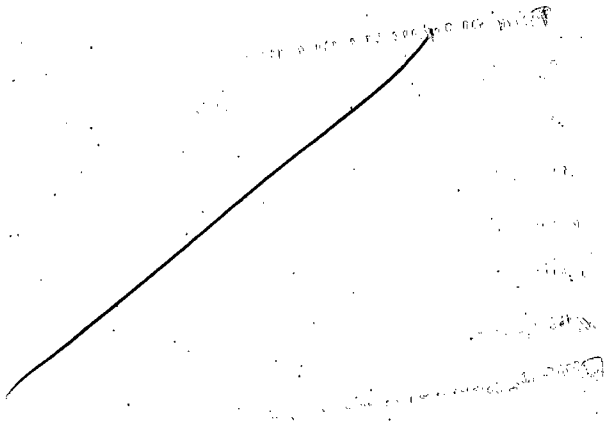
02.08.2021



(Atiq-ur-Rehman Wazir)  
Member (E)



(Rozina Rehman)  
Member (J)



28/9/21  
2400  
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28/9/21  
28/9/21

**VAKALAT NAMA**

NO. \_\_\_\_\_/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Taza Gul (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Deptt. (Respondent)  
(Defendant)

I/We, Taza Gul

Do hereby appoint and constitute **Mr. Taimur Ali Khan, Advocate High Court of Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/2021

Taza Gul  
(CLIENT)

ACCEPTED

Taimur Ali Khan  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT  
OF PESHAWAR.

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B  
PESHAWAR.

No.

Appeal No. EP 206 of 20 21

Tara Gul Appellant/Petitioner

the P.P.O. KPK Peshawar Respondent

Respondent No. 2

Notice to: —

the Addl. Inspector General of Police Investigation KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....21/12/21.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of ~~appeal~~ EP 2 is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this.....16th.....

Day of.....Nov.....20 21

for 1st Representation Report

22/11

Registrar,

Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. T.B

No.

Appeal No. E.P. No. 206 of 20 21

Taza Gul Appellant/Petitioner

the P.O. KPK Peshawar Respondent

Respondent No. 3

Recd Notice to: Taza Gul

the Addl. Inspector General (F) Police Head Quarter KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 21/12/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 16<sup>th</sup>

Day of Nov 20 21

for implementation Report

  
Registrar

Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B  
PESHAWAR.

No.

Appeal No. E.P. 206 of 20 21  
Tara Gul Appellant/Petitioner

The P.P.O. KPK Peshawar Respondent  
Versus

Respondent No. 1

Notice to:

Received  
7/11/21  
7/11/21 The Provincial Police Officer KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....21/11/21.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this.....16<sup>th</sup>.....

Day of.....Nov.....20 21

For Implementation Report

[Signature]  
Registrar

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

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2. Always quote Case No. While making any correspondence.