

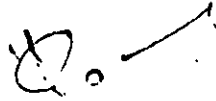
Order

18.12.2019

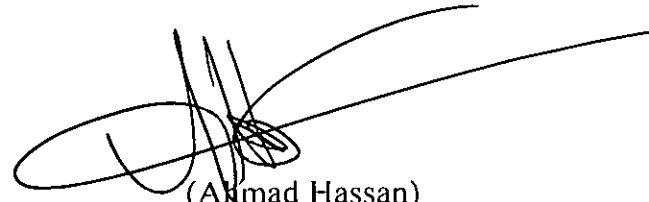
Counsel for the appellant present. Mr. Muhammad Jan, DDA alongwith Mr. Ikhtiar Ali, Inspector and Mr. M. Raziq, Reader for respondents present. Arguments heard and record perused.

This appeal is also dismissed of as per detailed judgment of today placed on file in service appeal no. 683/2018 titled "Abdul Jalal Khan -vs- Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat Peshawar and four others." Parties are left to bear their own cost. File be consigned to the record room.

Announced:
18.12.2019



(Muhammad Hamid Mughal)
Member



(Ahmad Hassan)
Member

16.12.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Ikhtiar Ali Inspector present. Arguments heard. To come up for order on 18.12.2019 before D.B.


Member


Member

02.10.2019

Clerk to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Aziz Shah Reader for the respondents present. Representative of the respondent department submitted reply of the amended appeal, which is placed on file. Clerk to counsel for the appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned. To come up for rejoinder/further proceedings on 09.10.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

28.10.2019

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Aziz Shah Reader present. Learned AAG requested for adjournment. Adjourn. To come up for arguments on 11.11.2019 before D.B.


Member


Member

11.11.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present and seeks adjournment to furnish documents/standing order relevant for the purpose of disposal of the present service appeal.

It appeared that AG Office vetted the comments of respondents without caring for availability of relevant documents. Malik Habib DSP (Legal) representative of the respondent department absent. He be summoned with direction to furnish relevant recruitment promotion criteria of Traffic Wardens. Adjourn. To come up for further proceedings/arguments on 16.12.2019 before D.B.


Member


Member

26.04.2019

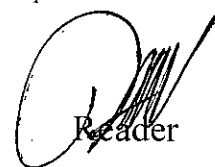
Clerk to counsel for the appellant present and submitted amended appeal. Notice be issued to respondents for 27.06.2019. To come up for further proceedings on the next ^{date} before D.B.


Member


Member

27.06.2019

Counsel for the appellant and Addl. AG for the respondents present. Due to incomplete bench case is adjourned to 07.08.2019 for arguments before the D.B.


Reader

07.08.2019


Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment Adjourn. To come up for arguments on 25.09.2019 before D.B.


Member


Member

15.10.2018

Clerk to counsel for the appellant present. Mr. Abdul Razaq, H.C alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply on behalf of the respondents ^{not} submitted. Learned AAG seeks adjournment. Granted. Case to come up for written reply/comments on 12.11.2018 before S.B.


(Ahmad Hassan)
Member


28.12.2018

Clerk to counsel for the appellant present. Abdur Raziq H.C representative of the respondent department present and seeks time to furnish written reply. Granted. To come up for written reply/comments on 30.01.2019 before S.B.


Member

30.01.2019

Clerk of counsel for appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Raziq, Head Constable for the respondents present and requested for further adjournment for filing of written reply. Adjourned to 25.02.2019 for written reply/comments before S.B.


(Muhammad Amin Khan Kundi)
Member

25.02.2019

Appellant in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Raziq, H.C for respondents present. Written reply on behalf of respondent no. 2 to 5 submitted while responded no.1 relied on the same. Case to come up for rejoinder and arguments on 22.03.2019 before D.B.


Member
(Ahmad Hassan)

20.07.2018

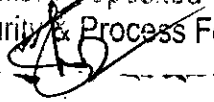
Clerk to counsel for the appellant present. Learned Additional Advocate General present. Security and process fee not deposited. Clerk to counsel for the appellant requested for further time to deposit security and process fee. Requested accepted. Seven days given to deposit security and process fee. Thereafter notices be issued to the respondents for written reply/comments on 03.08.2018 before S.B.



Member

03.08.2018

Appellant Deposited
Security & Process Fee



Clerk of counsel for the appellant present. Security and process fee has not been deposited. Appellant is directed to deposit the same within 7 days. Thereafter notices be issued to the respondents for submission of written reply/comments. To come up for further proceedings on 18.09.2018 before S .B.



Chairman

18.09.2018

Neither appellant nor his counsel present. Mr. Aziz Shah, Reader alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. Representative of the respondents sought some time to submit the same. Granted. Case to come up for written reply/comments on 15.10.2018 before S.B.



Member

04.06.2018

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued inter-alia that service appeal of identical nature bearing No. 677/2018 has already been admitted for regular hearing and this Tribunal has also granted status-quo in the said service appeal.

Points raised need consideration. Admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for written comments. To come up for written reply/comments on 07.06.2018 before S.B. Annexed with the present appeal is an application for interim relief. Notice of the said application be also given to the respondent department for the date fixed. Status-quo be maintained till the date fixed.



Member

07.06.2018

Clerk of the counsel for appellant and Addl. AG for respondents present. Security and process fee not deposited. Clerk of the counsel for appellant requested for further time to deposit security and process fee. Request accepted by way of last chance. Five days given to deposit security and process fee. Thereafter notices be issued to the respondents for written reply/comments on 28.06.2018 before S.B. Status-quo be maintained till the date fixed.



Member

28.06.2018

Clerk of the counsel for appellant and Addl. AG for respondents present. Security and process fee not deposited. Clerk of the counsel for appellant requested for further time to deposit security and process fee. Request accepted by way of last chance. Seven days given to deposit security and process fee. Thereafter notices be issued to the respondents for written reply/comments on 20/7/2018 before S.B. Status-quo be maintained till the date fixed.

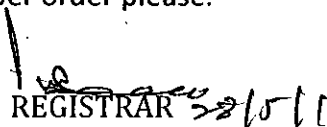



Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 724/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28/05/2018	<p>The appeal of Mr. Afzal Gul presented today by Mr. Zartaj Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 28/05/18</p>
2-	29/05/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/06/18.</u></p> <p> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. 724 /2018

Afzal Gul, ASI No. 760/P CCP Peshawar, Khyber Pakhtunkhwa.

(Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa through chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Peshawar and others.

(Respondents)

INDEX

S#	Description of Documents	Annexure	Page#
1	Service Appeal		1-5
2	Addresses of Parties		6
3	Affidavit		7-8
4	Copy of the rules	A	10-15
5	Copies of the writ petition and judgment dated 13.05.2015	B	16-18
6	Copy of the notification dated 24.307.2015	C	20-23
7	copies of the letter dated 31.08.2015 and notification dated 04.09.2015	D & E	24-25
8	Copy of the writ petition and Judgment dated 24.11.2015	F & G	26-51
9	Copy of the Judgment dated 26.01.2018	H	52
10	Vakalatnama		53

Appellant

Through



ZARTAJ ANWAR
Advocate Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 724/2018.

Afzal Gul ASI No. 760/P CCP, Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. AIG/Establishment CPO, Peshawar.
3. DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
4. Capital City Police Officer, Peshawar.....Respondents.

Reply on behalf of Respondents No. 1, 2, 3 & 4.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this court with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.
7. That the appellant has got no locus standi and cause of action to file the instant appeal.

FACTS:-

- 1- Para relates to record hence needs no comments.
- 2- Para No. 2 is for the petitioner to prove.
- 3- Para No. 3 is admitted correct.
- 4- Para No. 4 is legal, hence no comments.
- 5- Para No. 5 relates to record, hence needs no comments.
- 7-Para No. 7 relates to record, hence needs no comments.
- 8-Para No. 8 pertains to record, hence needs no comments.
- 9-Para No.9 is incorrect. Actually Traffic Warden is a separate Establishment, and appellant alongwith his other colleagues were not entitled for promotion over the sanctioned seats of other establishment i.e. Traffic Warden therefore their promotion order being unlawfully passed on the vacant seats of other unit was cancelled vide order Endst: No. 16570/EC-I dated 04.09.2015 in pursuance of 18th

Police Policy Board (PPB) meeting held on 13.08.2015 in the best interest of the department.

10-Para No. 10 is incorrect. The order dated 24.11.2015 passed by the Hon'able Court was without Jurisdiction which was challenged in the Apex Court, by filing CPLA through Law Department. The Supreme Court of Pakistan subsequently vide judgment dated 26.01.2018 set aside order of the Hon'ble Court , converted the petition into department appeal and remanded back to respondent department with the direction to decide the same in one month.

11-Para No. 11 is correct as per record.

12-Para is incorrect. The appeal was decided within stipulated period of one month and their appeal was rejected vide order dated 21.02.2018 by respondent department. (Copy annexed)

13-Para No. 13 is incorrect. Order issued on 04.09.2015 was lawful and based on genuine grounds.

GROUND:-

- A- Incorrect. The appellant was treated as per law/rules, no provision of law has been violated.
- B- Incorrect. Para already explained in above para's, and no right of appellant has been violated.
- C- Incorrect. As already explained in the above para that traffic warden is a separate establishment functioning under the command of DIG/Traffic and promotion over the vacant posts of warden was inadvertently made which after due deliberation was later on cancelled vide order dated 04.09.2015 by the respondent department.
- D- Para is repetition of Para C.
- E- Incorrect. The appellant was provided full opportunity of personal hearing.
- F- Incorrect. The appellant was legally treated as per law and rules.
- G- That respondent may also be allowed to advance any additional ground at the time of hearing of the appeal.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant devoid of merits, legal footing may be set aside/ dismissed.



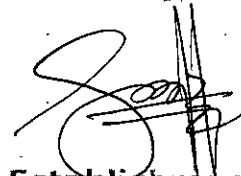
**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Deputy Inspector General of Police,
Hqrs: Khyber Pakhtunkhwa, Peshawar.**



**Capital City Police Officer,
Peshawar.**



**AIG Establishment,
Khyber Pakhtunkhwa, Peshawar.**

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

Service Appeal No. 724/2018.

Afzal Gul ASI No. 760/P CCP, Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. AIG/Establishment CPO, Peshawar.
3. DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
4. Capital City Police Officer, Peshawar.....Respondents.

AFFIDAVIT.


We respondents 1, 2 and 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



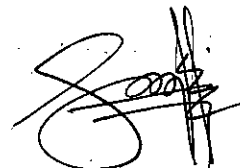
**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Deputy Inspector General of Police,
Hqrs:KhyberPakhtunkhwa,Peshawar.**



**Capital City Police Officer,
Peshawar.**



**AIG Establishment,
KhyberPakhtunkhwa,Peshawar.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 724/2018.

Afzal Gul ASI No. 760/P CCP, Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. AIG/Establishment CPO, Peshawar.
3. DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
4. Capital City Police Officer, Peshawar.....Respondents.

Reply on behalf of Respondents No. ~~1~~, 2, 3&4. ⁵

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this court with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.
7. That the appellant has got no locus standi and cause of action to file the instant appeal.

FACTS:-

- 1- Para relates to record hence needs no comments.
- 2- Para No. 2 is for the petitioner to prove.
- 3- Para No. 3 is admitted correct.
- 4- Para No. 4 is legal, hence no comments.
- 5- Para No. 5 relates to record, hence needs no comments.
- 7-Para No. 7 relates to record, hence needs no comments.
- 8-Para No. 8 pertains to record, hence needs no comments.
- 9-Para No.9 is incorrect. Actually Traffic Warden is a separate Establishment, and appellant alongwith his other colleagues were not entitled for promotion over the sanctioned seats of other establishment i.e. Traffic Warden therefore their promotion order being unlawfully passed on the vacant seats of other unit was cancelled vice order (Endst: No. 16570/EC-I dated 04.09.2015 in pursuance of 18th

Police Policy Board (PPB) meeting held on 13.08.2015 in the best interest of the department.

10-Para No. 10 is incorrect. The order dated 24.11.2015 passed by the Hon'ble Court was without Jurisdiction which was challenged in the Apex Court, by filing CPLA through Law Department. The Supreme Court of Pakistan subsequently vide judgment dated 26.01.2018 set aside order of the Hon'ble Court, converted the petition into department appeal and remanded back to respondent department with the direction to decide the same in one month.

11-Para No. 11 is correct as per record.

12-Para is incorrect. The appeal was decided within stipulated period of one month and their appeal was rejected vide order dated 21.02.2018 by respondent department. (Copy annexed)

13-Para No. 13 is incorrect. Order issued on 04.09.2015 was lawful and based on genuine grounds.

GROUND:-

- A- Incorrect. The appellant was treated as per law/rules, no provision of law has been violated.
- B- Incorrect. Para already explained in above para's, and no right of appellant has been violated.
- C- Incorrect. As already explained in the above para that traffic warden is a separate establishment functioning under the command of DIG/Traffic and promotion over the vacant posts of warden was inadvertently made which after due deliberation was later on cancelled vide order dated 04.09.2015 by the respondent department.
- D- Para is repetition of Para C.
- E- Incorrect. The appellant was provided full opportunity of personal hearing.
- F- Incorrect. The appellant was legally treated as per law and rules.
- G- That respondent may also be allowed to advance any additional ground at the time of hearing of the appeal.

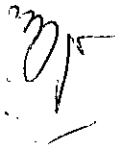
PRAYERS:-

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant devoid of merits, legal footing may be set aside/ dismissed.

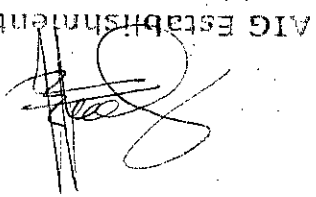
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.



Deputy Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.



Capital City Police Officer,
Peshawar.



AIG Establishment,
Khyber Pakhtunkhwa, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 724/2018.

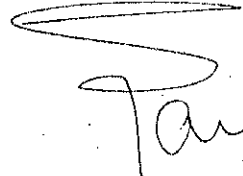
Afzal Gul ASI No. 760/P CCP, Peshawar.....Appellant.

VERSUS.

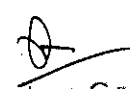
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. AIG/Establishment CPO, Peshawar.
3. DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
4. Capital City Police Officer, Peshawar.....Respondents.

AFFIDAVIT.

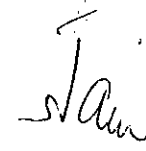
We respondents 1, 2 and 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



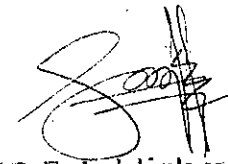
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.



Deputy Inspector General of Police,
Hqrs:KhyberPakhtunkhwa,Peshawar.



Capital City Police Officer,
Peshawar.



AIG Establishment,
KhyberPakhtunkhwa,Peshawar.

1

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. 724/2018

Afzal Gul, ASI No. 760/P CCP Peshawar, Khyber
Pakhtunkhwa.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1000

(Appellant)

Dated 28/05/2018

VERSUS

1. Govt of Khyber Pakhtunkhwa through chief Secretary
Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. A.I.G/ Establishment central Police Office, Peshawar.
4. D.I.G Headquarters, Khyber Pakhtunkhwa Peshawar.
5. Capital City Police Officer, Peshawar.

(Respondents)

**Appeal under Section 4 of the Khyber
Pakhtunkhwa Service Tribunal Act, 1974,
against the order dated 04.09.2015 ,
whereby the promotion notification dated
24.07.2015, of the appellant has been
cancelled / withdrawn, against which his
Departmental appeal has not been
responded despite the lapse of 90 days
Statutory Period.**

Prayer in Appeal: -

Filed to-day

Registrar

28/5/18

**On acceptance of this appeal the order
dated 04.09.2015, may please be set-aside
and the appellant may be allow to continue
his duties as Sub inspector as duly
considered and promoted by the competent
authority by full filling all the legal and
codal formalities vide order dated
24.07.2015 which was also publish in the
official Gazette, the appellant may also be
held entitled for full consequential and
back benefits of service.**

Respectfully Submitted:

1. That the appellant was initially enlisted as PASi in the Police department and are the regular employee of Khyber Pakhtunkhwa police under the administration control of the Capital City Police, Peshawar.
2. That ever since his appointment, the appellant had performed his duties as assigned to him with zeal and devotion and there was no complaint whatsoever regarding his performance. It is pertinent to mention here that during the entire service, the performance of the appellant remained commendable, he traced and arrested criminals who were required to the Police in some high profile cases, besides this during the roar of militancy, he always remained in the front line against the militants and demonstrated exceptional performance, gallantry and devotion beyond the call of duty. His performance was also appreciated by the High Ups.
3. That there are two categories of police officers performing duties, the first category consists of the police officers promoted from the rank of constable and reached to the status of confirmed ASI of police, while the second category are the police officers who were directly appointed as probationer ASI through Public Service Commission.
4. That Chapter XIII of Police Rules, 1934 deal with the promotion of the police officers from one rank to the other. Rule XIII (10) deals with the promotion to the post of Sub inspector. Similarly under Rule XIII (10) list (E) is prepared consisting of confirmed ASI, who were consider eligible for promotion to the posts of Sub inspector. (Copy of the rules are attached as annexure A)
5. That some of the employees of the police department filed writ petition no 3652/2014, wherein they have sought directions to the respondents to finalize the seniority list of direct / promotee assistant sub inspectors. The writ petition was disposed off vide judgment and order dated 13.05.2015. (Copies of the writ petition and judgment dated 13.05.2015 are attached as annexure B)

6. That the appellant was considered and placed at the top of the seniority list and thus was eligible to be promoted to the post of Sub inspector.
7. That the name of the appellant along with other colleagues were placed before the Departmental Promotion Committee for promotion to the rank of officiating Sub inspector, the Departmental Promotion Committee in its meeting held on 17.07.2015 considered them and when found fit were recommended for promotion vide notification dated 24.07.2015 with immediate effect. (Copy of the notification dated 24.07.2015 are attached as annexure C)
8. That the notification dated 24.07.2015 of the promotion of the appellant and other employees was duly implemented and has taken its effect.
9. That it is pertinent to mention that there are no separate promotion rules in the different branches of the police department, throughout the officers from regular police are transferred to Traffic Branch etc. However the respondents vide letter dated 31.08.2015 while referring to minutes of the meeting of the 18th Police Policy Board meeting held on 13.08.2015 it was directed that the promotions of Sun inspectors should be immediately cancelled allegedly that these seat/ post belong to Traffic Wardens. Accordingly the respondents quite illegally and without lawful authority cancelled vide notification dated 04.09.2015 the promotion notification dated 24.07.2015 of the appellant as sub inspector. (copies of the letter dated 31.08.2015 and notification dated 04.09.2015 are attached as annexure D & E)
10. That the appellant along with other colleagues approached the Peshawar High Court Peshawar by filling Writ Petition No. 3113-P/2015 which was after hearing allowed by this Hon;able Court vide judgment and order **dated 24.11.2015.** (Copy of the writ petition and Judgment dated 24.11.2015 are attached as annexure F & G)
11. That the respondents filed C P. NO. 34-p/2016 before the August Supreme Court of Pakistan against the same Judgment which was allowed vide Judgment and order dated 26.01.2018 and the petition was converted to departmental appeal and was

sent to the respondent department. (Copy of the Judgment dated 26.01.2018 are attached as annexure H)

12. That the writ petition was converted to departmental appeal on 26.01.2018 to the appellate authority, however it has not been responded despite the lapse of 90 days Statutory Period.
13. That the impugned Order/ notification dated 04.09.2015, is illegal unlawful against law and facts and without lawful authority, hence liable to be set aside inter alia on the following grounds :

GROUND S :

- A. That the appellant has not been treated in accordance with law and his rights secured and guaranteed under the law have been violated.
- B. That the appellant was fit and eligible, was rightly been promoted as sub inspector, the order whereby the promotion of the appellant has been cancelled is illegal unlawful without lawful authority and of no legal effect.
- C. That the letter dated 31.08.2015 is violative of the police rules 1934, therefore no separate promotion rules in the traffic branch of the police department, therefore, cancelling the promotion of the appellant allegedly on the ground that these post belong to the traffic warden, is illegal and against the record.
- D. That the letter dated 31.08.2015 is self contradictory, that at present traffic branch has not been declare as separate cadre in the police department, similarly the respondents have yet to frame rules for forming separate rules for the traffic wardens.
- E. That the appellant has not provided with right of hearing before cancelling the promotion orders.
- F. That the law provides a separate mode for withdrawing the promotion of the regular employee as instant case no such mode has been adopted, therefore, order


cancelling the promotion of the appellant is legally not sustainable.

- G. That the appellant seeks the permission of this Honorable Court to rely on additional grounds at the hearing of this Appeal.

It is therefore prayed that on acceptance of this service appeal the order dated 04.09.2015, may please be set-aside and the appellant may be allow to continue his duties as Sub inspector as duly considered and promoted by the competent authority by full filling all the legal and codal formalities vide order dated 24.07.2015 which was also publish in the official Gazette, the appellant may also be held entitled for full consequential and back benefits of service..


Appellant

Through


ZARTAJ ANWAR
Advocate Peshawar

CERTIFICATE

Certified that no service appeal on the same subject and between the same parties was previously or concurrently filed.


Appellant

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

Appeal No. _____/2018

Afzal Gul, ASI No. 760/P CCP Peshawar, Khyber
Pakhtunkhwa.

(Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber
Pakhtunkhwa, Civil Secretariat Peshawar and others.

(Respondents)

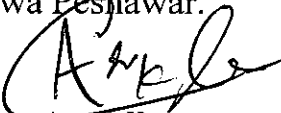
ADDRESSES OF PARTIES

Appellant:

Afzal Gul, ASI No. 760/P CCP Peshawar, Khyber
Pakhtunkhwa.

Respondents:

1. Govt of Khyber Pakhtunkhwa through chief Secretary
Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. A.I.G/ Establishment central Police Office, Peshawar.
4. D.I.G Headquarters, Khyber Pakhtunkhwa Peshawar.
5. Capital City Police Officer, Peshawar.


Appellant

Through



ZARTAJ ANWAR
Advocate Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2018

Afzal Gul, ASI No. 760/P CCP Peshawar, Khyber
Pakhtunkhwa.

(Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber
Pakhtunkhwa, Civil Secretariat Peshawar and others.

(Respondents)

AFFIDAVIT

I, Afzal Gul, ASI No. 760/P CCP Peshawar, Khyber
Pakhtunkhwa., do hereby solemnly affirm and declare that
the contents of the above Service Appeal are true and
correct to the best of my knowledge and belief and that
nothing has been kept back or concealed from this
Honourable Court.


Deponent

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2018

Afzal Gul, ASI No. 760/P CCP Peshawar, Khyber
Pakhtunkhwa.

(Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa through chief Secretary Khyber
Pakhtunkhwa, Civil Secretariat Peshawar and others.

(Respondents)

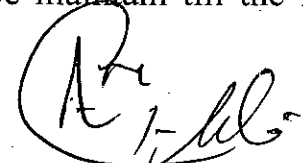
*Application for restraining the respondents from
giving effect to the order dated 04.09.2015 and
filling the post of sub inspector by maintain status
quo till the decision of the appeal.*

Respectfully Submitted:


1. That the applicant has filed today the above noted service appeal in this Honourable tribunal in which no date is fixed so far.
2. That the facts and ground mentioned in the service appeal may also be read as integral part of this application.
3. That the applicant has got a good prima facie case and there is likelihood of it success.
4. That the applicant would be exposed to great hard ship and inconvenience in case the respondents are not restrained from giving effect to the order dated 04.09.2015 and filling the post of sub inspector.

5. That it will also serve the interest of justice if respondents are restrained from taking any action against the applicants and status is maintained till the final disposal of the service appeal.

It is, therefore, humbly prayed that on acceptance of this application the respondents may please be restrained from giving effect to the order dated 04.09.2015 and filling the post of sub inspector and status quo may kindly be maintain till the final decision of the Appeal.

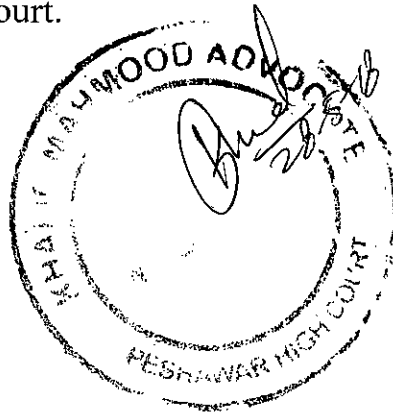

Applicant/Appellant

Through


ZARTAJ ANWAR
Advocate Peshawar

AFFIDAVIT

I, Afzal Gul, ASI No. 760/P CCP Peshawar, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare that the contents of the above Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Court.




Deponent

ANNEX "A"

10

FORM No. 12-41 (1).

POLICE DEPARTMENT.

District. _____

LONG ROLL OF THE POLICE FORCE OF THE ABOVE DISTRICT. (HALF SHEET OF INDIAN PAPER).

1	2	3	4	5	6		7	8	9	10	11	12
					(a) Feet.	(b) Inches.						
Constabulary Number.	Name and parentage.	Date of enlistment.	Caste.	Age on enlistment.	Height.		Residence.	Particular marks.	Detail of past service prior to entering constabulary.	Promotions and reductions.	Date and cause of leaving police.	Remarks giving reference to the Serial No. in the Punishment Register of any punishment awarded.
					(a) Village.	(b) Police Station.						
					(c) District.							

13-1. Promotion from one rank to another.—(1) Promotion from one rank to another, and from one grade to another in the same rank, shall be made by selection tempered by seniority. Efficiency and honesty shall be the main factors governing selection. Specific qualifications, whether in the nature of training courses passed or practical experience, shall be carefully considered in each case. When the qualifications of two officers are otherwise equal, the senior shall be promoted. This rule does not affect increments within a time-scale.

(2) Under the present constitution of the police force no lower subordinate will be entrusted with the independent conduct of investigations or the independent charge of a police station or similar unit. It is necessary therefore that well-educated constables, having the attributes necessary for bearing the responsibilities of upper subordinate rank, should receive accelerated promotion so as to reach that rank as soon as they have passed the courses prescribed for, and been tested and given practical in the ranks of constable and head constable.

(3) For the purposes of regulating promotion amongst enrolled police officer six promotion lists—A, B, C, D, E and F will be maintained.

Lists A, B, C and D, shall be maintained in each district as prescribed in rules 13-6 13-7, 13-8 and 13-9 and will regulate promotion to the selection grade of constables and to the ranks of head constables and assistant sub-inspector. List E shall be maintained in the office of Deputy Inspectors-General as prescribed in sub-rule 13-10 (1) and will regulate promotion to the rank of sub-inspector. List F shall be maintained in the office of the Inspector-General as prescribed in sub-rule 13-15 (1) and will regulate promotion to the rank of inspector.

Entry in or removal from A, B, C, D or E lists shall be recorded in the order book and in the character roll of the police officer concerned. These lists are nominal rolls of those officers whose admission to them has been authorized. No actual selection shall be made without careful examination of character rolls.

13-2. Power to grant increments.—Increments of pay to all upper and lower subordinates shall be granted, when due, by Superintendents provided that an increment may be withheld as a formal punishment in accordance with the rules contained in Chapter XVI. The withholding of increments shall be entered in the order book in the case of constables and head constables, and in the case of inspectors, sergeants, sub-inspectors and assistant sub-inspectors published in the *Police Gazette*. In the case of members of the clerical cadre, increments shall be granted or withheld, by a formal order in each case, by the head of the office concerned. When an efficiency bar is placed at any stages in a time-scale, it shall be passed only on the authority of a specific order by an officer competent to withhold an increment in the time-scale concerned. In the case of sergeants and sub-inspectors the sanction of the Inspector-General and Deputy Inspector-General, respectively is required.

13-3. Power to make promotions among gazetted and enrolled police officers.—(1) The power to make promotions among gazetted officers and from non-gazetted to gazetted rank, vests in the Provincial Government with the concurrence of His Excellency the Governor.

(2) Deputy Inspectors-General and the Assistant Inspector-General, Government Railway Police, shall make promotions to the rank of Inspector. The Inspector-General, who maintains promotion list 'F'—vide Police Rule 13-15, of Sub-Inspectors and Sergeants, will notify the Deputy Inspector-General of a Range or the Assistant Inspector-General, Government Railway Police when a substantive in the rank of Inspector is to be filled by an officer under his control.

Substantive promotions to the rank of sub-inspector and assistant sub-inspector shall be made by Superintendents of Police and the Assistant Superintendent, Government Railway Police. Deputy Inspectors-General of Ranges, who maintain promotion lists 'D' and 'E' for these two ranks in the case of District Police will notify the Superintendent of Police of a district when a vacancy in either rank is to be filled by an officer in his district.

Promotions to the rank of head constable shall be made by Superintendents of Police and the Assistant Superintendent, Government Railway Police.

(3) The seniority of inspectors, sergeants, sub-inspectors and assistant sub-inspectors is shown in the list printed annually under the orders of the Inspector-General. Seniority of head constables in districts will be recorded in form to 88 (1).

COMMENTS

Punjab Police Rules, 1934, rule 13.3-A Government Servant (Police)—Reversion—Promotion List C—Reservation from officiating position to substantive post—Does not amount to reduction in rank—petitioner reverted but not awarded any major punishment—Major punishment not having been awarded petitioner's name, held, could not be removed from promotion list 'C'—Constitution of Pakistan (1962), Art. 98.

The reversion from the officiating position to substantive post does not amount to reduction in rank.

Since the petitioner's rank was not reduced by his reversion to the rank of foot-constable, therefore, he was not awarded any major punishment which could be a bar to admission or retention of his name in list 'C' (P. 35)-A. (Taj Mohammed vs. The Superintendent of Police Rahim Yar Khan and 3 others, (PLD 1973 Baghud-ul-Jadid p. 30).

13-4. Power to make officiating promotions.—(1) Officiating promotions to the rank of inspector shall be made by Deputy Inspector-General of ranges and the Assistant Inspector-General, Government Railway Police. If the flow of promotion is unevenly distributed amongst ranges, the Inspector-General of Police shall make suitable transfers of sub-inspectors on the promotion list from one range to another.

(2) Officiating promotion to the rank of sub-inspector and assistant sub-inspector shall be made by Superintendents of Police and Assistant Superintendent, Government Railway Police. If the flow of promotion is unevenly distributed among districts, the Deputy Inspector-General shall make suitable transfers of assistant sub-inspectors and head constables on the promotions lists from one district to another.

(3) All promotions concerning upper subordinates made under this rule shall be published in the *Police Gazette*, and notification by Superintendents shall be sent in through the Deputy Inspector-General, who shall have the power to revise such orders on recording reasons in each case. If any Superintendent has not enough men on lists D and E in his district to fill temporary appointments in either rank, which he is required to make, he shall apply to the Deputy Inspector-General for a man from another district.

13-5. Promotion to the selection grade of constables.—(1) No constable shall be promoted to the selection grade of constables unless he is (a) physically up to the required standard (sub-rule 12-16 (1)), (b) can read and write simple Urdu sentences and English numerals and (c) has a character roll clear of any entry carrying a moral stigma. Condition (a) can be relaxed by Superintendents of Police for good reasons to be recorded and conditions (b) and (c) can be relaxed by Deputy Inspector-General and the Assistant Inspector-General, Government Railway Police.

(2) Men who possess the essential qualifications prescribed in sub-rule (1) shall be removed as vacancies occur according to their order of making on the following system:—

(a) Education:—

F.A. or higher	...	5 marks
Matriculation	...	3 marks
Non-matriculation but above primary	...	2 marks

(b) Courses passed—

(i) Lower School	...	5 marks
(ii) Drill at Police Training School	...	3 marks
(iii) Traffic (by an approved standard)	...	2 marks
(iv) Finger Print	...	2 marks
(v) 1st or 2nd in recruits' examination	...	1 mark
(vi) St. John's Ambulance 1st Aid Course	...	1 mark
(vii) Armourer's Course	...	2 marks

(c) Professional ability—

Up to a maximum of 10 marks

(d) Character—

Up to a maximum of 10 marks.

(3) Full marks under (c) and (d) in sub-rule (2) shall not be given to a constable with less than ten years service. Marking under (c) shall be estimated by commendation certificates and other proofs of special ability in detective work, disguising, intelligence duty and the like.

Illustration.—A, who has passed the First Arts Examination; is 1st in his recruits course, has passed traffic and finger print courses, has three years' service and has learnt the work of assistant police station clerk, might have 15 marks. B, a semi-illiterate constable of 24 years' service with 18 commendation certificates, a clear roll, and established reliability in shadowing work, might have 22 marks gained under (c) and (d) only.

(4) Notwithstanding the marking system described in sub-rule (2), men posted to onerous and responsible duty, such as instructors, permanent traffic staff, clerical appointments at police stations and head-quarters, secret service and central investigating agency duty, may be given temporary promotion to the selection grade. Men promoted solely on these grounds shall be reverted to the time-scale at any time if they fail to give satisfaction on the duty for which they have been promoted or removed from such duty for a period exceeding three months.

(5) Constables of and above the Matriculation standard of education and having exceptional family claims may be promoted to the selection grade immediately on passing their recruits course with credit, notwithstanding the marking system described in sub-rule (2). Direct appointments to this grade are made in accordance with rule 12 10-A.

(6) A sheet in Form 13-5 (6) shall be attached to the character roll of every constable for maintaining the marking system prescribed in this rule.

(7) Promotion to the selection grade shall be on probation for three years and constables so promoted may be reverted without formal departmental proceedings within three years of their such promotion if they fail to maintain an exemplary standard of conduct and efficiency. Such reversions shall be freely made.

(8) Removal from the selection grade after once being confirmed in it involves formal proceedings. In the case of a selection grade constable who, on being sentenced judicially to a punishment of fine or simple imprisonment, or both, or to rigorous imprisonment not exceeding one month, is not dismissed under Police Rule 16-2(2) the normal minimum departmental punishment shall be reduction to the time scale. Similarly, in the case of a selection grade constable found guilty of inefficiency, whether in general or in respect of the special qualifications for which promotion has been given, the normal minimum punishment shall be reduction to the time scale.

13-6. List A. Promotion to the selection grade of constables.—List A (in Form 13-6) shall be maintained by each Superintendent of Police, under his own personal supervision, of constables eligible under rule 13-5 for promotion to the selection grade of constables. The number of names in the list shall not exceed 20 per cent of the establishment of the grade in the district.

13-7. List B. Selection of candidates for admission to courses at the Police Training School.—List B (in Form 13-7) shall also be maintained by each Superintendent of Police and shall be divided into two parts:—

- (1) Selection grade constables considered suitable as candidates for the Lower School course at the Police Training School.
- (2) Constables (selection or time scale) considered suitable for drill and other special courses at the Police Training School.

Selection shall be made from this list as vacancies occur for admission to the courses concerned at the Police Training School, provided that no constable shall be considered eligible for any such course until the entry of his name in list 'B' has been approved by the Deputy Inspector-General of the Range. Ordinary seniority in age shall be given prior consideration in making such selections, irrespective of the date of admission to the list, and care must be taken that a constable borne on the list is not allowed to become over age for admission to the school before being selected. The restrictions on admission to the lower school course and Instructors' courses at the Police Training School limit the conditions for admission to List B. No constable shall be admitted to that list whose age is such that he cannot in the normal case be sent to the Training School before he attains the age of 30 years. No constable, who has failed to qualify at the Training School, shall be re-admitted to the list unless the Superintendent and the Principal of the School are in agreement that he is deserving of another chance of qualifying in the course; in the event of disagreement as to such a case the Deputy Inspector-General shall decide.

No. S.O. (H) 1 (1)-472. —In exercise of the powers conferred by section 46 of the Police Act, 1861 (Act of 1861), the Governor of Baluchistan is pleased to direct that in the Punjab Police Rules, 1934, in their application to the province of Baluchistan, following further amendment shall be made, namely:—

In rule 13.7, for the figure "(30)" appearing between the words attains the age of and word "years," the figure "33" shall be substituted.

13-5. List C. Promotion to head constables.—(1) In each district a list shall be maintained in card index form [Form 13-8(1)] of all constables who have passed the Lower School Course at Phillaur and are considered eligible for promotion to head constable. A card shall be prepared for each constable admitted to the list and shall contain his marking under sub-rule 13-5 (2), and notes by the Superintendent himself, or furnished by gazetted officers under whom the constable has worked, on his qualifications and character. The list shall be kept confidentially by the Superintendent and shall be scrutinized and approved by the Deputy Inspector-General of Police at his annual inspection.

(2) Promotions to head constable shall be made in accordance with the principle described in sub-rules 13-1 (1) and (2). The date of admission to List C shall not be material, but the order of merit in which examinations have been passed shall be taken into consideration in comparing qualifications. In cases where other qualifications are equal, seniority in the police force shall be the deciding factor. Selection grade constables who have not passed the Lower School Course at the Police Training School but are otherwise considered suitable may, with the approval of the Deputy Inspector-General, be promoted to head constable up to a maximum of ten per cent of vacancies.

13-5A. Disqualification for admission to or retention in Lists A, B or C.—(1) The infliction of any major punishment shall be a bar to admission to or retention in lists A, B or C, provided that (a) for special reasons to be recorded by the Superintendent in each case, and subject to confirmation by the Deputy Inspector-General, this disqualification may be waived and (b) after six months' continuous good conduct in the case of censure or confinement to quarters or on expiry of the period of reduction in the case of reduction for a specified period, a constable may be re-admitted at the discretion of the Superintendent.

(2) Gazetted officers shall look out for, and encourage their inspectors and sub-inspectors to bring to notice, constables who, by reason of their general character and ability or of special acts, are suited for inclusion in lists A, B or C, and shall, after satisfying themselves by necessary enquiries, make suitable recommendations to the Superintendent.

13-9. List D. Promotion to assistant sub-inspectors.—(1) A list shall be maintained in each district in card index Form 13-9 (1) of those head constables who have passed the lower school course and the intermediate school course at the Police Training School and are approved by the Deputy Inspector-General as eligible for officiating or substantive promotion to the rank of assistant sub-inspector. No head constable shall be admitted to this list who is not thoroughly efficient in all branches of the duties of a constable and head constable and of established integrity.

(2) Officiating promotion to the rank of assistant sub-inspector shall be made from the list prescribed in sub-rule (1), as far as possible in rotation so as to give each man a trial in the duties of the higher rank. Substantive promotion shall be made by the Deputy Inspector-General in accordance with the principles described in rule 13-1, and officiating promotion shall be made in accordance with sub-rule 13-4 (2).

(3) Half-yearly reports in Form 13-9 (3) on all head constables in this list shall be furnished on the 15th March and the 15th September to the Deputy Inspector-General.

13-10. List E. Promotion to sub-inspectors.—(1) A list of all assistant sub-inspectors, who have been approved by the Deputy Inspector-General as fit for trial in independent charge of a police station, or for specialist posts on the establishment of sub-inspectors, shall be maintained in card index form by each Deputy Inspector-General. Officiating promotions of short duration shall ordinarily be made within the district concerned (vide sub-rule 13-4 (2)), but vacancies of long duration may be filled by the promotion of any eligible man in the range at the discretion of the Deputy Inspector-General. Half-yearly reports on all men entered in the list maintained under this rule shall be furnished in form No. 13-9 (3) by the 15th October, in addition to the annual report to be submitted by the 15th January in accordance with Police Rule 13-17 (1).

(2) No assistant sub-inspector shall be confirmed in a substantive vacancy in the rank of sub-inspector unless he has been tested for at least a year as an officiating sub-inspector in independent charge of a police station in a district other than that in which his home is situated.

13-11. Publication of List E in the *Police Gazette*.—List E of each range shall be published annually in *Police Gazette*. Additions to the list may be made at any time by Deputy Inspector-General but all such additions and the removal of all names under sub-rule 13-12 (2) shall be published in the *Gazette* by special notification. Names shall be entered in the list in order according to the date of admission, length of police service deciding the relative position of assistant sub-inspectors admitted on the same date.

13-12. Method of filling temporary vacancies in the rank of sub-inspector.—(1) In filling temporary vacancies in the rank of sub-inspector the object shall be to test all men on list E as fully as possible in independent charges. The order in which names occur in the list should be disregarded, the opportunities of officiating in the higher rank being distributed as evenly as possible. An assistant sub-inspector officiating as a sub-inspector should ordinarily continue so to officiate for the duration of the vacancy, and should not be reverted merely because another assistant sub-inspector senior to him is not officiating. This principle may, however, be modified if in any case its observance would result in a thoroughly competent man being deprived by a man markedly his junior of an officiating appointment of more than 8 months' duration.

(2) The conduct and efficiency of men on lists D and E shall be at all times watched with special care. Any officer, who, whether in his substantive rank or while officiating as an assistant sub-inspector or sub-inspector, is guilty of grave misconduct of a nature reflecting upon his character or fitness for responsibility, or who shows either by specific acts or by his record as a whole, that he is unfit for promotion to higher rank shall be reported to the Deputy Inspector-General

for removal from list D or list E, as the case may be. In interpreting this rule discrimination shall be shown between faults which are capable of elimination by experience and further training, and those which indicate definite incompetence and defects of character. Officers whose names have been removed from either list D or list E may be restored by order of the Deputy Inspector-General in recognition of subsequent work or conduct of outstanding merit.

13-13. Control by Deputy Inspector-General.—Apart from the special requirements of the foregoing rules regarding the confirmation or revision of orders, Deputy Inspector-General are required to pay special attention at their inspections to the working of lists A, B, C and D by Superintendents; they have authority to remove any name which they consider has been improperly admitted, and to give such orders as may be expedient in respect of the methods of selection and the tests applied.

13-14. Promotions to and in the selection grades of sub-inspector.—(1) Promotion to the various selection grades of sub-inspectors shall be made by Superintendents of Police and the Assistant Superintendent, Government Railway Police, as vacancies in the sanctioned establishment of such appointments occur in accordance with the principle laid down in rule 13-1.

(2) No sub-inspector shall be considered eligible for promotion to a selection grade unless he has at least eight years' approved service as an upper subordinate, of which at least five shall have been in the rank of sub-inspector, and unless he is thoroughly efficient and competent to hold charge of a police station of first class importance. No sub-inspector who has been punished by reduction, stoppage of increment, or forfeiture of approved service for increment, shall be eligible for promotion to a selection grade. Exceptions to this rule may be made only with the sanction of the Inspector-General in recognition of distinguished service and exemplary conduct.

(3) Sub-Inspectors promoted to the 4th selection grade shall be on probation for one year and may be reverted without formal departmental proceedings within the period of their probation if they fail to maintain an exemplary standard of conduct and efficiency.

13-15. List F Promotion to Inspectors.—(1) Recommendations on behalf of Sergeants and Sub Inspectors considered fit for promotion to the rank of Inspector shall be submitted with their annual confidential reports on the 15th January each year to Deputy Inspectors General by Superintendents of Police in form 13-15 (1). Recommendations on behalf of Sergeants and Sub-Inspectors employed in the Government Railway Police will be sent direct to the Inspector-General of Police by the Assistant Inspector-General, Government Railway Police, in the same form and not later than October each year. The Deputy Inspector-General shall decide, after seeing the officers recommended, and in consideration of their records, and his own knowledge of them, whether to endorse the recommendations of Superintendents of Police and forward them to the Inspector-General. He will keep a copy of any recommendation so forwarded in the personal file of the officer; if he decides not to endorse a recommendation, he shall retain the original in the officer's personal file and send a copy of his own order on it to the Superintendent concerned. Deputy Inspectors-General shall finally submit recommendations to the Inspector-General as soon as they are satisfied as to the fitness of officers recommended, but in no case later than October each year.

(2) Such of the officers recommended as the Inspector-General may consider suitable shall be admitted to promotion list 'F' [Form 13-15 (2)] which will, however, not be published. Deputy Inspector-General shall be informed, and shall in turn inform the Superintendents concerned, of the names of those who have been admitted to the List; similar information will be sent to the Assistant Inspector-General, Government Railway Police.

The original personal files of Sub-Inspectors admitted to the list shall be transferred to the Inspector-General after duplicates have been prepared for retention in the office of the Deputy Inspector-General by the Assistant Inspector-General, Government Railway Police, as required by rule 12-38 (1). Copies of all subsequent annual confidential reports prepared in form 13-17 in respect both of Sergeants and Sub-Inspectors admitted to the list will, on return by the Inspector-General in accordance with rule 13-17 (1), be recorded by Deputy Inspector-General or the Assistant Inspector-General or the Assistant Inspector-General, Government Railway Police, with the duplicate personal files of the officers concerned. Copies of all entries ordered to be made in personal files other than annual confidential reports will be forwarded to the Inspector-General as soon as made for record with the original personal files; all such copies shall be attested by the Deputy Inspector-General or the Assistant Inspector-General, Government Railway Police, personally.

(3) When submitting recommendations for the entry of fresh names in List F, Deputy Inspectors-General and the Assistant Inspector-General, Government Railway Police, will at the same time submit specific recommendations (which need not be accompanied by detailed confidential reports) as to the retention or removal of officers already admitted to the list. On receipt of these recommendations, the Inspector-General will review the Provincial List, and pass orders regarding the retention or exclusion of names, at the same time communicating his decision to the Deputy Inspectors-General and the Assistant Inspector-General, Government Railway Police.

(4) Seniority in list 'F' will be in accordance with the date of entry in that list. Sub-Inspectors admitted to list 'F' on the same date will be placed in that list in order according to their date of permanent promotion to selection grade, and if the date of permanent promotion to selection grade is the case of two or more Sub-Inspectors admitted to list 'F' on one and the same date then according to date of permanent promotion to time-scale. Sergeants will be shown in list 'F' according to the date of entry in the list. When, however, two or more Sergeants are admitted to list 'F' on the same date, their names will be shown in order of seniority among themselves.

13-16. Promotion to the rank of Inspector.—(1) Substantive vacancies in the rank of Inspector, same those which are specially designated for the appointment of probationers, shall be filled by promotion of officers from list 'F' selected according to the principles laid down in rule 13-1. Sergeants are eligible for promotion in the appointments reserved for European Inspectors.

(2) Temporary vacancies in the rank of inspector shall be filled by the officiating promotion of officers on 'F' list by the authorities empowered by rule 13-4 to make the appointment. Such officiating promotions shall be made in accordance with the principles laid down in sub-rule 13-12 (1) in the case of E list, and the second part of that rule shall, *mutatis mutandis*, govern the scrutiny of the work of F list officers and the removal from that list of the names of those whose are found unfit for the rank of inspector.

(3) No officer whose name is not on F list shall be appointed to officiate as inspector without the special sanction of the Inspector-General. When no officer on F list available in the range for a vacancy which the Deputy Inspector-General is required to fill, application shall be made to the Inspector-General to appoint a man from another range.

13-17. Annual Confidential Reports.—(1) Superintendents shall prepare and submit annually to the Deputy Inspector-General, after obtaining the District Magistrate's remarks thereon, reports in form 13-17 on the working of all Upper Subordinates serving under them. These reports shall be submitted to reach the Deputy Inspector-General on or before 18th January.

Deputy Inspector-General and the Assistant Inspector-General, Government Railway Police, will add their own remarks and retain reports on Assistant Sub-Inspectors and Sub-Inspectors who are not on List 'F' in their own offices. Reports on all Inspectors, Sub-Inspectors on List 'F' and Sergeants will be forwarded by Deputy Inspectors-General and Assistant Inspector-General, Government Railway Police, so as to reach the Inspector-General on or before the 15th February. In the cases of Indian Inspectors of the General Line, Sub-Inspectors on list 'F' and all Sergeants, Deputy Inspector-General and Assistant Inspector-General, Government Railway Police, will attach with each report so submitted a duplicate copy thereof. Any remarks recorded by the Inspector-General on the original report will be copied in his office on to the duplicate prior to the latter for record with the duplicate personal file maintained in accordance with rule 12-38 (1).

(2) Reports shall be of three kinds, A, B and C, and shall be marked as such:—

A reports:—Reports in which for special reasons it is recommended that promotion be given irrespective of seniority.

B reports:—Reports in which it is recommended that promotion be given in the ordinary course of seniority.

C reports:—Reports in which it is recommended that the officer be passed over for promotion or that the taking of departmental action on general grounds of inefficiency or unsatisfactory conduct be considered.

In 'A' and 'C' reports detailed reasons must be given for the recommendations made.

The purport of All 'C' reports shall be communicated to the officers concerned at a personal interview or, if this is not possible, in writing. Written acknowledgments shall be taken and attached to their personal files. In communicating such reports, the instructions contained in paragraph 7 of Punjab Government Consolidated Circular No. 1 shall be followed. Ordinarily, the submission of two successive 'C' reports regarding an officer will result automatically in the institution of departmental proceedings against him on such charge as the contents of the reports may justify.

(3) Superintendents shall submit annually to the Deputy Inspector-General by the 15th January confidential reports in form 13-17-A on the working of all gazetted officers serving under them. Deputy Inspectors General will add their own remarks and forward the reports to reach the Inspector-General on or before the 15th February.

The gist of adverse reports shall be communicated in writing to the officers concerned subject to the conditions specified in paragraph 7 of Punjab Government Consolidated Circular No. 1 and their acknowledgment shall be taken and attached to their personal files.

(4) The names and designation of the officers writing reports shall invariably be typed or written in block letters below their signatures.

(5) Reporting Officers shall comment generally on the way in which the officer has carried out his various duties during the year and shall give an estimate of his personality, character and abilities, including detective powers and ability to conduct prosecutions. The report shall contain an opinion on any point specially required at any particular time, e.g. fitness to pass an efficiency bar. Particular mention shall be made of the officer's relations with his fellow-officers and the general public and of his honesty.

13-18. Probationary period of promotion.—All Police Officers promoted in rank shall be on probation for two years, provided that the appointing authority may, by a special order in each case, permit periods of officiating service to count towards the period of probation. On the conclusion of the probationary period a report shall be rendered to the authority empowered to confirm the promotion who shall either confirm the officer or revert him. In no case shall the period of probation be extended beyond two years and the confirming authority must arrive at a definite decision within that period whether the officer should be confirmed or reverted. While on probation officers may be reverted without departmental proceedings. Such reversion shall not be considered reduction for the purpose of rule 16-4.

This rule shall not apply to constables and Sub-Inspectors promoted to the selection grade, whose case is governed by rules 13-14.

13-19. Special promotion to recipients of the King's Police and Fire Service Medal and the Indian Police Medal.—(1) A constable receiving the award of the King's Police and Fire Service Medal shall be promoted in the first substantive vacancy of head constable within occurs in the district in which he is serving subsequent to the award of the medal being gazetted.

(2) A constable awarded the Indian Police Medal shall, if not already in the selection grade, be promoted to that grade on probation as prescribed in rule 14-5 (7).

Alfa

15

Sheet for maintenance of marking system.

DISTRICT

POLICE DEP

Constable No. Name

Date of enrolment

A. EDUCATION:—

B. COURSES PASSED:—

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)

C. PROFESSIONAL ABILITY:—

- (1)
- (2)
- (3)
- (4)

D. CHARACTER:—

Total.....

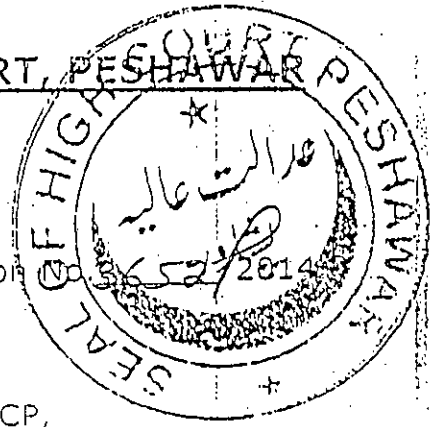
Initials of gazetted officer and date.....

Onerous and responsible duties to which posted (*vide* sub-rule 13-5 (4). }

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)

NOTE.—Marks allotted under heads C and D according to the prescribed in sub-rule 13-5 (3) shall be added to or reduced as occasion change being initialled and dated by a gazetted officer.

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No. 3652/2014

1. Abdus Sattar B. No. 746/P ASI, CCP, Peshawar.
2. Fazal Hadi No. 747/P ASI, CCP, Peshawar.
3. Manzoor Khan. 748/ASI Opertaion Room, CPO, Peshawar.
4. Tahir Ali Khan No. 749/P ASI, Charsadda.
5. Bismillah Jan No. 750/P ASI, Charsadda.
6. Imran Ullah No. 751/P ASI, Charsadda.
7. Wisal Khan No. 753/P ASI, Nowshera.
8. Muhammad Arif Khan No. 754/P ASI, CCP, Peshawar.
9. Muhmmad Umer No. 755/P ASI, CCP, Peshawar.
10. Masood Khan No. 756/P ASI, INVistigation Wing, Peshawar.
11. Muhammad Tahir5 No. 757/P ASI, AIG Legal, CPO, Peshawar.
12. Aftab Khan NO. 758/P ASI, AIG Legal, Peshawar.
13. Rehmat Ullah No. 759/P ASI, Charsadda.
14. Afzal Gul No. 760/P ASI, CCP, Peshawar.
15. Riaz Ahmed No. 761/P ASI, CCP, Peshawar.
16. Afzaal Khan No. 766/P ASI, CCP, Peshawar.
17. Ihsan Ullah No. 767/P ASI, CCP, Peshawar.
18. Naveed Gul No. 768/P ASI, Charsadda.
19. Bahar Ali No. 769/P ASI, Charsadda.
20. Muhmmad ARshad No: 770/P ASI, CCP, Peshawar.
21. Asif Khan No. 771/P ASI, Charsadda.
22. Muhammad Rafiq 772/P ASI, CCP, Peshawar.
23. Tehsin Ullah No. 773/P ASI, CCP, Peshawar.

ATTESTED
EXAMINER
Peshawar High Court
18 MAY 2015

[Signature]
03 DEC 2014

[Signature]

17



24. Laiq Zada 774/P ASI, CCP, Peshawar.
25. Irfan Ullah No. 776/P ASI, Charsadda.
26. Wajid Khan No. 777/P ASI, CCP, Peshawar.
27. Akhter Hussain No. 778/P ASI, CCP, Peshawar.
28. Aizaz Alam Khan Khalil No. 783/P ASI, CCP, Peshawar.
29. Imtiaz Ahmed No. 784/P ASI, CCP, Peshawar.
30. Asif Ali Khan No. 785/P ASI, CCP, Peshawar.
31. Saleem Khan No. 786/P ASI, CCP, Peshawar.
32. Inam Ullah No. 787/P ASI, CCP, Peshawar.
33. Muhmmad Asif Khan No. 788/P ASI, CCP, Peshawar.
34. Ayub Khan No. 789/P ASI, CCP, Peshawar.
35. Qazi Muhmmad Arif No. 790/P ASI, CCP, Peshawar.
36. Mumtaz Khan No. 791/P ASI, CCP, Peshawar.
37. Bilal Hussain No. 792/P ASI, CCP, Peshawar.
38. Abdullah Jalal Khan No. 793/P ASI, CCP, Peshawar.
39. Muhmmad Mubarak Zaib Gul No. 794/P ASI, CCP, Peshawar.
40. Saeed Jan No. 795/P ASI, CCP, Peshawar.
41. Muhammad Ishfaq No. 796/ P ASI, Charsadda.
42. Ahmed Ullah Khan No. 797/P ASI, CCP, Peshawar.
43. Muhammad Waqas Yousuf No. 798/P ASI, Nowshera.
44. Muhmmad Ayaz No. 799/P ASI, Nowshera.
45. Mamoon Rashid No. 800/P ASI, CCP, Peshawar.
46. Adil Sayed No. 801/P ASI, Nowshera.
47. Syed Asgher Khan No. 802/P ASI, Nowshera.
48. Noman Knan No. 803/P ASI, CCP, Peshawar.

ATTESTED
EXAMINER
Peshawar High Court
18 MAY 2015

FILED TO
Deputy Registrar
03 DEC 2

Petitioners

Versus

1. Chief Capital City Police Officer, KP, Peshawar

18

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

WP No. 3652 of 2014

JUDGMENT

Date of hearing 13-5-2015

Petitioners Abdul Ghafoor by M/s Saad ul Pleh Khan Man
3- Shahab Khattak Advocate
Respondent C.C. P. by M/s Rab Nawaz Khan A.A.

NISAR HUSSAIN KHAN, J. - Petitioners seek issuance of an appropriate writ directing the authority to finalize seniority list of the direct/promotee Assistant Sub Inspectors and then promotion to the rank of Sub Inspectors be made on the basis of seniority-cum-fitness.

2. In essence grievance of petitioners is that they were directly appointed as Assistant Sub Inspectors through prescribed procedure of Selection on the recommendation of the Public Service Commission in the year 2010 and later on confirmed on 13.8.2014 on completion of probationary period. At the same time, there are promotee Assistant Sub Inspectors. Petitioners are legitimately

APPROVED
EXAMINED
10 MAY 2015

[Handwritten signature]

19

expecting their promotion according to the seniority list which has not been prepared as yet while meeting of the Departmental Promotion Committee is scheduled to be held in near future but in the absence of seniority list, petitioners would be deprived of their consideration.

3. Respondents in their comments have contradicted the stance of petitioners on factual and legal planes. However, on the preceding date, respondents through learned AAG were directed to finalize the seniority list and provide the same before the Court. Today, the seniority list attested by DSP (Legal) CCP, Peshawar, has been furnished, in view of which petitioners' grievance has been redressed. Respondents shall circulate the said seniority list amongst all the ASIs on which they may take legal course, if they have any grievance and thereafter may approach the proper forum against any final order. This petition is disposed of accordingly.

Prof. Nisar Hussain Khan

JUDGE

Prof. Wajid

JUDGE

Announced on
13th May, 2015.

Prof. Nisar Hussain Khan
CERTIFIED TO BE TRUE COPY

Prof. Wajid
Peshawar High Court, Peshawar
10 MAY 2015

22/5/06
No. of Application *18/2015*
8
No. of Copy *18/2015*
Delivery *18/2015*
No. of Copy *18/2015*
Prof. Nisar
Prof. Wajid

POLICE DEPTT:

20

(25)

ANNEX C

CCP, PESHAWAR.

FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE CAPITAL CITY POLICE OFFICER, KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

Dated 24/07/2015.

No. 3685/EC-1, PROMOTION TO THE RANK OF OFFG: SI:- As approved by the Department Promotion Committee meeting held on 07-07-2015 the following Confirmed "E" list ASIs of Capital City Police, Peshawar are hereby promoted to the rank of Offg: Sub-Inspectors with immediate effect.

Their promotion will take effect from the date they actually take over in charge of their higher responsibilities at their new place of posting.

S#	Rank, Name & No.	Place of Posting.
1.	ASI Muhammad Israr No.506/NSR	CTD KPK
2.	ASI Muhammad Sher No.1561	CTD KPK
3.	ASI Bahar Ahmad No. 1129/P	CCP, Peshawar
4.	ASI Jamshid Khan No. 1163/P	Charsadda/Upper College Course
5.	ASI Inayat ur Rehman No. 1168/P	Nowshera/Upper College Course
6.	ASI Muhammad Alam No. 1161/P	Nowshera
7.	ASI Masood Jan No. 584/P	Nowshera
8.	ASI Hidayat Ullah No. 1148/P	Charsadda
9.	ASI Murad Ali No. 1329/P	Charsadda
10.	ASI Muhammad Iqbal No.1218/P	Charsadda
11.	ASI Muhammad Gul No.1219/P	CCP, Peshawar
12.	ASI Sartaj No. 12/P	Special Branch
13.	ASI Ghulam Hussain No.1221/P	CCP, Peshawar
14.	ASI Hayat Gul No.1222/P	Special Branch
15.	ASI Humayun Khan No.1223/P	Special Branch.
16.	ASI Fida Muhammad No.1224/P	Traffic, Peshawar
17.	ASI Subhan Ullah No.1225/P	CCP, Peshawar
18.	ASI Khalid Khan No. 1227/P	Traffic, Peshawar
19.	ASI Hamid Rauf/Khan No.1228/P	CCP, Peshawar
20.	ASI Sartaj Khan No.1229/P	Special Branch
21.	ASI Wasif ur Rehman No.1230/P	CCP, Peshawar
22.	ASI Sardar Hussain No.1231/P	Traffic, Peshawar
23.	ASI Farid Khan No.1232/P	CTD KPK
24.	ASI Tehseen Ullah No.1233/P	CCP, Peshawar
25.	ASI Yasin Gul No.1224/P	CCP, Peshawar
26.	ASI Atta Ullah No.3/P. SI on ACB.	Traffic, Peshawar
27.	ASI Sajjad Ahmed No.1236/P	Reader SSP/Opt:
28.	ASI Wajid Ali No.1237/P	CCP, Peshawar
29.	ASI Khial Muhammad No.1238/P	CCP, Peshawar
30.	ASI Jawad Hussain No.1240/P	Anti-corruption
31.	ASI Rikhmeen No.1239/P	Islamabad Police
32.	ASI Jehan Zeb No.1241/P	CCP, Peshawar
33.	ASI Abdul Wali No.1242/P	Special Branch
34.	ASI Nowsherawan No.1243/P	Traffic, Peshawar.
35.	ASI Zahir Shah No.1244/P	CCP, Peshawar
36.	ASI Momin Shah No.1245/P	CCP, Peshawar
37.	ASI Yahya Jan No.1246/P	Traffic, Peshawar.
38.	ASI Saif Ullah No.1247/P	Traffic, Peshawar
		CCP, Peshawar

Notification



39.	ASI Iftikhar Ahmed No. 1248/P	CCP, Peshawar
40.	ASI Ijaz Ullah No. 1249/P	CCP, Peshawar
41.	ASI Noor Saeed No. 1251/P	CCP, Peshawar
42.	ASI Muhammad Rizq No. 1252/P	CCP, Peshawar
43.	ASI Haji Rehman No. 1253/P	CCP, Peshawar
44.	ASI Siraj No. 1254/P	Traffic, Peshawar
45.	ASI Nasim Akbar No. 1255/P	CCP/ Traffic, Peshawar
46.	ASI Qaim Khan No. 1256/P	CCP, Peshawar
47.	ASI Bakht Munir No. 1257/P	CPC, Peshawar
48.	ASI Shamshad Ali No. 1258/P	CCP, Peshawar
49.	ASI Gul Muhammad No. 1259/P	CCP, Peshawar
50.	ASI Qayyum Dad No. 1260/P	CCP, Peshawar
51.	ASI Khalid Khan No. 1261/P	CCP, Peshawar
52.	ASI Jehangir Khan No. 1262	Special Branch
53.	ASI Sher Alam No. 1263/P	CCP/Traffic Peshawar
54.	ASI Ihsan ul Haq No. 1264/P	Traffic, Peshawar
55.	ASI Hashmat Khan No. 1265/P	CCP, Peshawar
56.	ASI Wajid Ali No. 473	Elite Force KPK.
57.	ASI Muslim Khan No. 1266/P	Traffic, Peshawar
58.	ASI Nasir ur Rehman No. 1267/P	CCP, Peshawar
59.	ASI Tariq Niaz No. 1268/P	CCP, Peshawar
60.	ASI Aurang Zeb No. 1269/P	CCP, Peshawar
61.	ASI Gul Jalal No. 1270/P	CCP, Peshawar
62.	ASI Javid Akhtar No. 1271/P	Traffic, Peshawar
63.	ASI Tila Muhammad No. 1272/P	Special Branch
64.	ASI Falak Taj No. 1273/P	CCP, Peshawar
65.	ASI Murad Ali No. 1274/P	CCP, Peshawar
66.	ASI Sajjad Ali No. 1275/P	CCP, Peshawar
67.	ASI Khan Muhammad No. 1276/P	CCP, Peshawar
68.	ASI Bakhtiar Khan No. 1278/P	CCP, Peshawar
69.	ASI Shaukat Khan No. 1280/P	CCP, Peshawar
70.	ASI Mukhtiar No. 1281/P	CCP, Peshawar
71.	ASI Mushtaq No. 1282/P	CCP, Peshawar
72.	ASI Mukamil Shah No. 1283/P	CCP, Peshawar
73.	ASI Muhammad Tariq No. 1284/P	CCP, Peshawar
74.	ASI Jamshaid No. 1285/P	CCP, Peshawar
75.	ASI Shakir Ullah No. 1286/P	CCP, Peshawar
76.	ASI Sultan Sher No. 1287/P	CCP, Peshawar
77.	ASI Bakht Saeed No. 1288/P	CCP, Peshawar
78.	ASI Jan Badshah No. 1289/P	Special Branch
79.	ASI Shakar Ghayas No. 1290/P	CCP, Peshawar
80.	ASI Shahid Rehman No. 1291/P	Motorway Police
81.	ASI Javed Khan No. 1292/P	CCP, Peshawar
82.	ASI Lalq Shah No. 1293/P	CCP, Peshawar
83.	ASI Zulfiqar No. 1294/P	CCP, Peshawar
84.	ASI Hassan Ali No. 1295/P	CCP, Peshawar
85.	ASI Fazal Raziq No. 1296/P	CPO/Operation Room
86.	ASI Muhammad Saeed No. 1297/P	CTD KPK
87.	ASI Wali Khan No. 1298/P	CCP, Peshawar
88.	ASI Irfan Ullah No. 1299/P	CCP, Peshawar

[Handwritten Signature]

Notification



89.	ASI S. Mir Abu-ul Hassan No.1300/P	
90.	ASI Maaz Ullah No.1301/P	CCP, Peshawar
91.	ASI Iftikhar Ali No.1302/P	Traffic, Peshawar
92.	ASI Abdullah Jan No. 1303/P	Charsadda
93.	ASI Zulfiqar Ali No.1304/P	PTC Hangu
94.	ASI Alamgir No. 1305/P	Traffic, Peshawar
95.	ASI Muhammad Usman No.956/ 1328/P	Traffic, Peshawar
96.	ASI Shah Jehan No.1307/P	CCP, Peshawar
97.	ASI Iqbal Shah No.1308/P	CCP, Peshawar
98.	ASI Ajmal Khan No. 1309/P	CCP, Peshawar
99.	ASI Malook Jan No.1310/P	CCP, Peshawar
100.	ASI Muhammad Iqbal No.1311/P	CCP, Peshawar
101.	ASI Munawar Khan No. 1313/P (SI on ACB)	Traffic, Peshawar
102.	ASI Farid Gul No. 1318/P	Traffic, Peshawar
103.	ASI Misal Khan No.1319/P	CCP, Peshawar
104.	ASI Muhammad Aftab No. 1320/P	CCP, Peshawar
105.	ASI Ilyas Khan No. 1321/P	CCP, Peshawar
106.	ASI Muhammad Rizaz No. 1322/P	CCP, Peshawar
107.	ASI Muhammad Javed No. 1323/P	CCP, Peshawar
108.	ASI Qazi Nisar Ahmad No. 1325/P	PTC Hangu
109.	ASI Abdus Sattar No. 746/P	CCP, Peshawar
110.	PASI Fazal Hadi No. 747/P	Elite Force KPK
111.	ASI Aftab Khan No. 758/P	Elite Force KPK
112.	ASI Manzoor Khan No. 748/P	AIG Legal:Branch CPO
113.	ASI Masood Khan No. 756/P	Operation:Room CPO
114.	ASI Muhammad Tahir No. 757/P	CCP, Peshawar
115.	ASI Muhammad Umer No. 755/P	AIG Legal:Branch CPO
116.	ASI Tahir Ali No. 749/P	CCP, Peshawar
117.	ASI Wisal Khan No. 753/P	Charsadda
118.	ASI Afzal Gul No. 760/P	Elite Force KPK
119.	ASI Bismillah Jan No. 750/P	CCP, Peshawar
120.	ASI Muhammad Arif No. 754/P	Charsadda
121.	ASI Imran Ullah No.751/P	CCP, Peshawar
122.	ASI Rehmat Ullah Jan No. 759/P	Charsadda
123.	ASI Rizaz Ahmad No. 761/P	Charsadda
124.	ASI Afzal Khan No.766/P	CCP, Peshawar
125.	ASI Ihsan Ullah No.767/P	CCP, Peshawar
126.	ASI Bahar Ali No.769/P	CCP, Peshawar
127.	ASI Muhammad Arshid No. 770/P	Charsadda
128.	ASI Asif Khan No.771/P	CCP, Peshawar
129.	ASI Muhammad Rafique No. 772/P	Charsadda
130.	ASI Lalq Zada No.774/P	CCP, Peshawar
131.	ASI Irfan Ullah No.776/P	CCP, Peshawar
132.	ASI Wajid Khan No.777/P	Charsadda
133.	ASI Akhtar Hussain No.778/P	CCP, Peshawar
134.	ASI Ahmad Ullah Khan No. 797/P	CCP, Peshawar
135.	ASI Abdullah Jalal Khan No. 793/P	CCP, Peshawar
136.	ASI Nauman Khan No. 803/P	CCP, Peshawar
137.	ASI M.Mubarak Zeb Gul No.794/P	CCP, Peshawar
138.	ASI Imtiaz Ahmad No. 784/P	CCP, Peshawar


Alfred

Notification

Their posting will be issued separately.

The following ASIs have been deferred from promotion to the rank of offg: SIs reason mentioned against their names:-

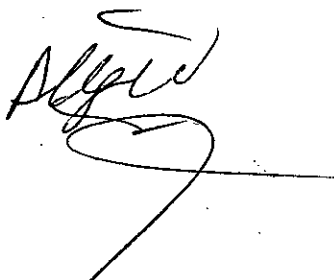
S#	Rank, Name, & No	Place of posting	Reason
1.	ASI Dawa Moor No. 1111/P (SI on ACB)	Traffic, Peshawar	Deferred from promotion to the rank of offg to non availability of ACR-2012/4 m.
2.	ASI Khalsta Khan No.1279/P	CCP, Peshawar	Deferred from promotion to the rank of offg to non availability of ACR 2014.
3.	ASI Izzat Khan No.1306/P	Traffic, Peshawar	Deferred from promotion to the rank of offg to non availability of ACR 2014.
4.	ASI Navced Gul No.768/P.	Nowhere	Deferred from promotion to the rank of offg to non availability of ACR 2014 and also ab
5.	ASI Tehseen Ullah No.773/P	CCP, Peshawar	Deferred from promotion to the rank of offg to non availability of ACR 2014.


CAPITAL CITY POLICE OFFICER,
PESHAWAR.

No. 13686-13706 EC-I, dated Peshawar the, 24-7-2015.

the:- Copy of above is forwarded for information and necessary action

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar, With request that the newly promoted Offg: SIs of CCP, Peshawar now deputation to the District/units mentioned against each may be repatriated to CCP, Peshawar for further posting at Traffic, Warder system please.
2. Inspector General of Police, NH & Motorway Police: Islamabad.
3. Addl: Inspector General of Police Investigation, KPK, Peshawar.
4. Addl: Inspector General of Police Special Branch, KPK, Peshawar.
5. Addl: Inspector General of Police Elite Force KPK, Peshawar.
6. Deputy Inspector General of Police CTD KPK, Peshawar.
7. Deputy Inspector General of Police Mardan Region.
8. Commandant Police Training College Hangu.
9. Commandant CPC University Campus, Peshawar.
10. Director Anti Corruption Establishment KPK.
11. SSsP/Operations, Investigation & Traffic, Peshawar.
12. The Senior Superintendent of Police, Logistic Headquarter, Sector-H/11, Islamabad.
13. District Police Officers, Nowshera & Charsadda.
14. EC-II, PO & AS.





OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

ANNEX-1

No. 2402-E-III

31-08-015

To The Capital City Police Officer,
Peshawar.

Subject:- Minutes of the 18th Police Policy Board meeting held on 13th August 2015.

Please refer to Minutes of PPB-18, vide Endst No. 1598-1650/PA, dated 28.08.2015.

During the PPB meeting, it was unanimously agreed that a separate standing order may be issued for streamlining the affairs of Traffic Wardens that will address issues such as selection, deputation, training and promotion etc. of Traffic Wardens. The Board decided that till permanent recruitment of traffic wardens, seats will be filled temporary deputations. However, they will not get promoted on the seats sanctioned for traffic wardens nor will claim seniority if they are posted on a senior rank in traffic warden. On repatriation to parent district, they will be repatriated in their substantive ranks.

2. The Board took serious note of the recent promotions of SIs by CCPO on the posts of Traffic Wardens. They Board directed that since these seats belong to the traffic wardens, these promotions should be cancelled with immediate effect.

3. It is therefore, requested that action about Para-2 above of PPB may be taken forthwith and report be communicated to this office please.

(ASIF IQBAL MOMAND)
AIG/Establishment,
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

No. 2403-4 /E-III
Copy to the:-

- DIG HQrs, Khyber Pakhtunkhwa, Peshawar.
- PSO to IGP, Khyber Pakhtunkhwa, Peshawar.



25

(4)

ANNEX

OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

Phone No.091-9210641 Fax No.0919212597

No. 16570 /EC-I, dated Peshawar the 04/1/09 /2015.

ORDER.

In pursuance of 18th Police Policy Board Meeting held on 13.08.2015 duly approved by Inspector General of Police Khyber Pakhtunkhwa, Peshawar issued vide DIG/HQrs: Letter Endst: No.1598-1650/PA/DIG/HQrs:, dated 26.08.2015 & AIG Establishment, Khyber Pakhtunkhwa, Peshawar Letter No.2404/E-II, dated 31.08.2015, the promotion Notification of 139 promoted Offg: Sub-Inspectors issued vide this office Notification No.13685-13706/EC-I, dated 24.07.2015 is hereby cancelled.

(Mubarak Zeb)PSP
Capital city Police Officer,
Peshawar.

No. 16571-94 /EC-I,

to the:-

Copy of above is forwarded for information and necessary action.

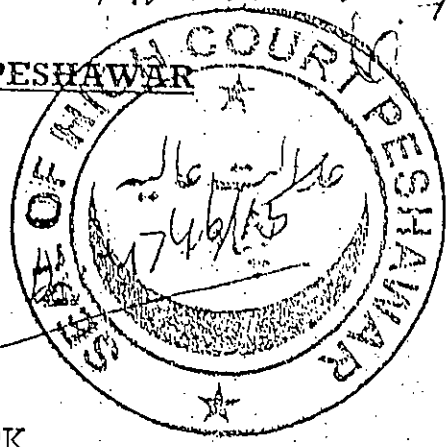
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Inspector General of Police, NH & Motorway Police, Islamabad.
3. Addl: Inspector General of Police, Investigation KPK, Peshawar.
4. Addl: Inspector General of Police, Special Branch KPK, Peshawar.
5. Addl: Inspector General of Police, Elite Force KPK, Peshawar.
6. Deputy Inspector General of Police, CTD KPK, Peshawar.
7. Deputy Inspector General of Police, Mardan Region.
8. Commandant Police Training College Hangu.
9. Commandant CPC, university Campus, Peshawar.
10. Director Anti-Corruption Establishment KPK.
11. ✓ SsP/Operatlon, Investigation & Traffic, Peshawar.
12. The Senior Superintendent of Police, Logistic Headqarter, Sector-H/11, Islamabad.
13. District Police Officers Charsadda & Nowshera.
14. EC-II, PO, AS CC & Computer Cell.

27

4-9.15

26 7/17/11/12/15/14

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



W.P.No. 3113-P/2015


- Muhammad Israr, ASI No.506/NSR, CTD KPK.
- Muhammad Sher, ASI No.1561, CPP, Peshawar.
- Bahar Ahmad, ASI No.1129/P, Charsadda/ Upper College Course.
- Jamshid Khan, ASI No.1163/P, Nowshera/ Upper College Course
- Inayat-ur-Rehman, ASI No.1168/P, Nowshera.
- Muhammad Alam, ASI No.1181/P, Nowshera.
- Masood Jan, ASI No.584/P, Charsadda
- Hidayat Ullah, ASI No.1148/P, Charsadda
- Murad Ali, ASI No.1329/P, Charsadda
- Muhammad Iqbal, ASI No.1218/P, CCP, Peshawar
- Muhammad Gul, ASI No.1219/P, Special Branch
- Sartaj, ASI No.12/P, CCP, Peshawar
- Ghulam Hussain, ASI No.1221/P, Special Branch
- Hayat Gul, ASI No.1222/P, Special Branch
- Humayun Khan, ASI No.1223/P, Traffic, Peshawar
- Fida Muhammad, ASI No.1224/P, CCP, Peshawar
- Subhan Ullah, ASI No.1225/P, Traffic, Peshawar
- Khalid Khan, ASI No.1227/P, CCP, Peshawar
- Hamid Rauf Khan, ASI No.1228/P, Special Branch
- Sartaj Khan, ASI No.1229/P, CCP, Peshawar
- Wasif-ur-Rehman, ASI No.1230/P, Traffic, Peshawar
- Sardar Hussain, ASI No.1231/P, CTD KPK
- Farid Khan, ASI No.1232/P, CCP, Peshawar
- Tehseen Ullah, ASI No.1233/P, CCP, Peshawar

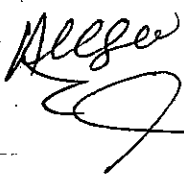
09 SEP 2015

Handwritten signature

ATTESTED
EXAMINER
Peshawar High Court
20 DEC 2015

- 27
25. Yasin Gul, ASI No.1224/P, Traffic, Peshawar
 26. Atta Ullah, ASI No.3/P SI on ACB, Reader SSP/ Opt;
 27. Sajjad Ahmed, ASI No.1236/P, CCP, Peshawar
 28. Wajid Ali, ASI No.1237/P, CCP, Peshawar
 29. Khial Muhammad, ASI No.1238/P, Anti-corruption
 30. Jawad Hussain, ASI No.1240/P, Islamabad Police
 31. Rikhmeen, ASI No.1239/P, CCP, Peshawar
 32. Jehan Zeb, ASI No.1241/P, Special Brach
 33. Abdul Wali, ASI No.1242/P, Traffic, Peshawar
 34. Nowsherawan, ASI No.1243/P, CCP, Peshawar
 35. Zahir Shah, ASI No.1244/P, CCP Peshawar
 36. Momin Shah, ASI No.1245/P, Traffic Peshawar
 37. Yahya Jan, ASI No.1246/P, Traffic Peshawar
 38. Saif Ullah, ASI No.1247/P, CCP, Peshawar
 39. Iftikhar Ahmed, ASI No.1248/P, CCP, Peshawar
 40. Ijaz Ullah, ASI No.1249/P, CCP, Peshawar
 41. Noor Saeed, ASI No.1251/P, CCP, Peshawar
 42. Muhammad Riaz, ASI No.1252/P, CCP, Peshawar
 43. Haji Rehman, ASI No.1253/P, CCP, Peshawar
 44. Siraj, ASI No.1254/P, Traffic, Peshawar
 45. Nasim Akbar, ASI No.1255/P, CCP/ Traffic, Peshawar
 46. Qaim Khan, ASI No.1256/P, CCP, Peshawar
 47. Bakht Munir, ASI No.1257/P, CCP, Peshawar
 48. Shamshad Ali, ASI No.1258/P, CCP, Peshawar
 49. Gul Muhammad, ASI No.1259/P, CCP, Peshawar
 50. Qayyum Dad, ASI No.1260/P, CCP, Peshawar
 51. Khalid Khan, ASI No.1261/P, CCP, Peshawar
 52. Jehangir Khan, ASI No.1262, Special Branch
 53. Sher Alam, ASI No.1263/P, CCP/ Traffic, Peshawar
 54. Ihsan-ul-Haq, ASI No.1264/P, Traffic, Peshawar
 55. Hashmat Khan, ASI No.1265/P, CCP, Peshawar
 56. Wajid Ali, ASI No.473, Elite Force KPK


ATTESTED
EXAMINED
Peshawar High Court
02 SEP 2015
20 DEC 2016





- 57. Muslim Khan, ASI No.1266/P, Traffic, Peshawar
- 58. Nasif-ur-Rehman, ASI No.1267/P, CCP, Peshawar
- 59. Tariq Niaz, ASI No.1268/P, CCP, Peshawar
- 60. Aurang Zeb, ASI No.1269/P, CCP, Peshawar
- 61. Gul Jalal, ASI No.1270/P, CCP, Peshawar
- 62. Javid Akhtar, ASI No.1271/P, Traffic Peshawar
- 63. Tila Muhammad, ASI No.1272/P, Special Branch
- 64. Falak Taj, ASI No.1273/P, CCP, Peshawar
- 65. Murad Ali, ASI No.1274/P, CCP, Peshawar
- 66. Sajjad Ali, ASI No.1275/P, CCP, Peshawar
- 67. Khan Muhammad, ASI No.1276/P, CCP, Peshawar
- 68. Bakhtiar Khan, ASI No.1278/P, CCP, Peshawar
- 69. Shaukat Khan, ASI No.1280/P, CCP, Peshawar
- 70. Mukhtiar, ASI No.1281/P, CCP, Peshawar
- 71. Mushtaq ASI No.1282/P, CCP, Peshawar
- 72. Mukamil Shah, ASI No.1283/P, CCP, Peshawar
- 73. Muhammad Tariq, ASI No.1284/P, CCP, Peshawar
- 74. Jamshaid, ASI No.1285/P, CCP, Peshawar
- 75. Shakir Ullah, ASI No.1286/P, CCP, Peshawar
- 76. Sultan Sher, ASI No.1287/P, CCP, Peshawar
- 77. Bakht Saeed, ASI No.1288/P, CCP, Peshawar
- 78. Jan Badshah, ASI No.1289/P, Special Branch
- 79. Shakar Ghayas, ASI No.1290/P, CCP, Peshawar
- 80. Shahid Rehman, ASI No.1291/P, Motorway Police
- 81. Javed Khan, ASI No.1292/P, CCP, Peshawar
- 82. Laiq Shah, ASI No.1293/P, CCP, Peshawar
- 83. Zulfiqar, ASI No.1294/P, CCP, Peshawar
- 84. Hassan Ali, ASI No.1295/, CCP, Peshawar P
- 85. Fazal Raziq, ASI No.1296/P, CPO/ Operation Room
- 86. Muhammad Saeed, ASI No.1297/P, CTD KPK
- 87. Wali Khan, ASI No.1298/P, CCP, Peshawar
- 88. Irfan Ullah, ASI No.1299/P, CCP, Peshawar

ATTESTED
 EXAMINER
 Peshawar High Court
 20 DEC 2016

Handwritten signature



- 89. S.Mir Abu-ul-Hassan, ASI No.1300/P, CCP, Peshawar
- 90. Maaz Ullah, ASI No.1301/P, Traffic, Peshawar
- 91. Iftikhar Ali, ASI No.1302/P, Charsadda
- 92. Abdullah Jan, ASI No.1303/P, PTC Hangu
- 93. Zulftiqar Ali, ASI No.1304/P, Traffic, Peshawar
- 94. Alamgir, ASI No.1305/P, Traffic, Peshawar
- 95. Muhammad Usman, ASI NO.956/1328/P, CCP, Peshawar
- 96. Shah Jehan, ASI No.1307/P, CCP, Peshawar
- 97. Iqbal Shah, ASI No.1309/P, CCP, Peshawar
- 98. Ajmal Khan, ASI No.1309/P, CCP, Peshawar
- 99. Malook Jan, ASI No.1310/P, CCP, Peshawar
- 100. Muhammad Iqbal, ASI No.1311/P, Traffic, Peshawar
- 101. Munawar Khan, ASI No.1313/P (SI on ACB), Traffic, Peshawar
- 102. Farid Gul, ASI No.1318/P, CCP, Peshawar
- 103. Misal Khan, ASI No.1319/P, CCP, Peshawar
- 104. Muhammad Aftab, ASI No.1320/P, CCP, Peshawar
- 105. Ilyas Khan, ASI No.1321/P, CCP, Peshawar
- 106. Muhammad Riaz, ASI No.1322/P, CCP, Peshawar
- 107. Muhammad Javed, ASI No.1323/P, PTC Hangu
- 108. Qazi Nisar Ahmad, ASI No.1325/P, CCP, Peshawar
- 109. Abdus Sattar, ASI No.746/P, Elite Force KPK
- 110. Fazal Hadi, PASI No.747/P, Elite Force, KPK
- 111. Aftab Khan, ASI No.758/P, AIG Legal Branch CPO
- 112. Manzoor Khan, ASI No.748/P, Operation Room CPO
- 113. Masood Khan, ASI No.756/P, CCP, Peshawar
- 114. Muhammad Tahir, ASI No.757/P, AIG Legal Branch CPO
- 115. Muhammad Umer, ASI No.755/P, CCP, Peshawar
- 116. Tahir Ali, ASI No.749/P, Charsadda
- 117. Wisal Khan, ASI No.753/P, Elite Force KPK
- 118. Afzal Gul, ASI No.760/P, CCP, Peshawar

ATTESTED
 EXAMINER
 Peshawar High Court
 20 DEC 2015

[Handwritten Signature]
 20 DEC 2015

[Handwritten Signature]



30

119. Bismillah Jan, ASI No.750/P, Charsadda
120. Muhammad Arif, ASI No.754/P, CCP, Peshawar
121. Imran Ullah, ASI No.751/P, Charsadda
122. Rehmat Ullah Jan, ASI No.759/P, Charsadda
123. Riaz Ahmad, ASI No.761/P, CCP, Peshawar
124. Afzal Khan, ASI No.766/P, CCP, Peshawar
125. Ihsan Ullah, ASI No.767/P, CCP, Peshawar
126. Bahar Ali, ASI No.769/P, Charsadda
127. Muhammad Arshid, ASI No.770/P, CCP, Peshawar
128. Asif Khan, ASI No.771/P, Charsadda
129. Muhammad Rafique, ASI No.772/P, CCP, Peshawar
130. Laiq Zada, ASI No.774/P, CCP, Peshawar
131. Irfan Ullah, ASI No.776/P, Charsadda
132. Wajid Khan, ASI No.777/P, CCP, Peshawar
133. Akhtar Hussain, ASI No.778/P, CCP, Peshawar
134. Ahmad Ullah Khan, ASI No.797/P, CCP, Peshawar
135. Abdullah Jalal Khan, ASI No.793/P, CCP, Peshawar
136. Nauman Khan, ASI No.803/P, CCP, Peshawar
137. M. Mubarak Zeb Gul, ASI No.794/P, CCP, Peshawar
138. Imtiaz Ahmad, ASI No.784/P, CCP, Peshawar
139. Saeed Jan, ASI No.795/P, CCP, Peshawar

.....Petitioners

Versus

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar
2. Inspector General, Khyber Pakhtunkhwa, Peshawar
3. A.I.G/ Establishment Central Police Office, Peshawar.
4. D.I.G Headquarters, Khyber Pakhtunkhwa, Peshawar.
5. Capital City Police Officer, Peshawar

.....Respondents

ATTESTED
EXAMINER
Peshawar High Court
20 DEC 2016

(12) 31

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973

Prayer in Writ Petition:-

On acceptance of this writ petition an appropriate writ petition may please be issued declaring the petitioners as fit to hold the rank of Sub-Inspector, was duly considered by the Departmental Promotion Committee and validly promoted vide Notification dated 24.07.2015. The letter dated 31.08.2015, whereby direction were issued for the cancellation of the promotion of the petitioners and order dated 04.09.2015, whereby the promotion Notification dated 24.07.2015 is cancelled, is illegal, unlawful, without lawful authority and of no legal effect. The petitioners have even right to continue in the rank of Sub-Inspector, OR

Any other remedy deemed proper in the circumstances of the case and not specifically asked for may also be granted.

Respectfully Sheweth:

1. That the petitioners are the Regular Employees of the K.P Police serving under the administration control of the Capital City Police, Peshawar.
2. That there are two categories of the petitioners for the Police Officers performing duties, the first

ATTESTED
EXAMINER
Peshawar High Court
20 DEC 2016

20 SEP 2015

Allegor

10

32

category are consists of the police officers promoted from the Rank of Constable and reached to the status of confirmed ASI of Police, while the second category are the police officers who were directly appointed as probationer ASI through Public Service Commission.

3. That Chapter-XIII of the Police Rules, 1934 deals with the promotion of the Police Officer from one rank to the other. Rule-XIII (10) deal with the promotion to the post of Sub-Inspector. Similarly under Rule-XIII (10) list (E) is prepared consisting of confirmed ASI, who were consider eligible for promotion to the posts of Sub-Inspectors. (Copy of the Rules/ Chapter-XIII is attached as Annexure "A")
4. That recently some of the employees' of the Police Department have filed W.P.No.3652-P/2014, wherein they have sought the direction to the respondents to finalize the seniority list of direct/ promotee/ Assistant Sub Inspector. The writ petition was disposed-off vide judgment and order dated 13.05.2015, when the respondents produced seniority list-(E) List ASI's of Capital City Police, Peshawar as it stood on 31.03.2015. (Copies of the judgment and order dated 13.05.2015 and seniority list dated 31.03.2015 are attached as Annexure "B" & "C")
5. That the petitioners were placed at the top of the seniority list and thus were considered eligible to be promoted to the post of Sub-Inspector.

UNTESTED
EXAMINER
Peshawar High Court
20 DEC 2016

[Signature]
20 SEP 2015

[Signature]

(17)

6. That the names of the petitioners were placed before the Departmental Promotion Committee for promotion to the rank of officiating Sub-Inspector, the Departmental Promotion Committee in its meeting held on 17.07.2015 considered them and when found fit were recommended for promotion. Accordingly vide Notification dated 24.07.2015 the petitioners were promoted to the rank of officiating Sub-Inspector with immediate effect. (Copy of Notification dated 24.07.2015 is attached as Annexure "D")
7. That the Notification of promotion of the petitioners was implemented and has taken its effect.
8. That it is pertinent to point out here that presently there are no separate promotion rules in the different branches of the Police Department, throughout the officers from Regular Police are transferred to Traffic Branch etc. However, vide letter dated 31.08.2015 referring to minutes of the 18th Police Policy Board Meeting held on 13.08.2015, it as directed that the promotions of SI's should be immediately cancelled allegedly that these seat belong to traffic worden's. Accordingly vide Notification dated 04.09.2015 the promotion Notification dated 24.07.2015 of the petitioners as officiating Sub-Inspector is cancelled. (Copies of letters dated 31.08.2015 and 04.09.2015 are attached as Annexure "E" & "F")
9. That since the respondents have questioned their promotion primarily regarding their fitness for

ATTESTED
EXAMINER
Pestrawar High Court
20 DEC 2016

Attested

[Signature]

07 SEP 2015

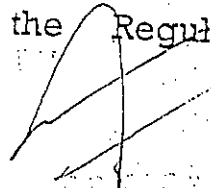
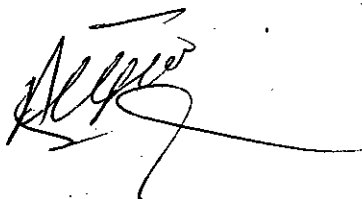
34

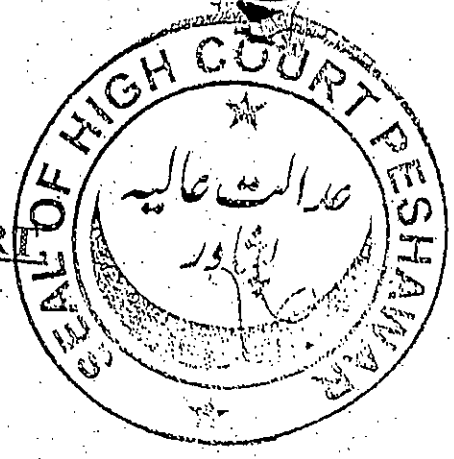
promoting, as such having adequate remedy available in law is constrain to invoke the Constitutional jurisdiction of this Hon'ble Court, inter alia, on the following grounds:-

GROUNDS

- A. That the petitioners have not been treated in accordance with law, hence their rights secured and guaranteed under the law and Constitution have been recklessly violated.
- B. That the petitioners were fit and eligible, were rightly promoted as Sub-Inspectors, the order whereby the promotion of the petitioners has been cancelled, is illegal, unlawful, without lawful authority and of no legal effect.
- C. That the letter dated 31.08.2015 is violative of the Police Rules 1934, therefore, no separate promotion rules in the Traffic Branch of the Police Department, therefore, cancelling the promotion of the petitioners allegedly on the ground that these post belongs to the Traffic Warden, is illegal and against the record.
- D. That the letter dated 31.08.2015 is self contradictory, that at present traffic branch has not been declare as separate cadre in the Police Department. Similarly the respondents have yet to frame Rules for forming separate rules for the Trafic Warden's.
- E. That the petitioners are not provided with right of hearing before cancelling the promotion order.
- F. That the law provide a separate mode for withdrawing the promotion of the Regular

ATTESTED
EXAMINER
Peshawar High Court
20 DEC 2016





Judgment.
BEFORE PESHAWAR HIGH COURT
PESHAWAR.

Judicial Department.

Writ Petition No. 3115-P of 2015.

Muhammad Israr, ASI & others.....petitioners.

Vs

Govt. of Khyber Pakhtunkhwa & others.....Respondents.

Date of hearing.....24th November, 2015.....

Petitioner(s) by *MR. Jaz Ahmad Advocate*.....

Respondent(s) *Govt. by MR. Farooq Adam A AG*.....

WAQAR AHMAD SETH, J:- Muhammad Israr, ASI &

138 others have invoked the writ jurisdiction of this Court,
under Article 199 of the Constitution of Islamic Republic of
Pakistan, 1973, with the following prayers:-

“That on acceptance of this writ
petition an appropriate writ may
please be issued declaring the
petitioners as fit to hold the rank of
Sub-Inspector, was duly considered
by the Departmental Selection
Committee and validly promoted
vide notification dated 24.07.2015.
The letter dated 31.08.2015,
whereby directions were issued for
the cancellation of the promotion of
the petitioners and order dated

[Signature]

STED
INER
High Court
EC 2016

04.09.2015, whereby the promotion notification dated 24.07.2015 is cancelled, is illegal, unlawful, without lawful authority and of no legal effect. The petitioners have even right to continue in the rank of sub-Inspector".

2. The averments made by the petitioners in the petition are that, the petitioners herein are of two categories. first category are consisting of those police officers who are promoted from the rank of Constables and reached to the status of confirmed ASI's, while the second category are the police officers, who were directly appointed as ASI's by the Khyber Pakhtunkhwa, Public Service Commission. It is averred in the petition that prior to the instant writ petition a writ petition bearing No. 3652-P of 2014 was filed, wherein direction was sought to finalize the seniority list of the direct / promotee Assistant Sub Inspector and then promotion to the rank of Sub-Inspector on the basis of seniority cum-fitness was asked, which was disposed of on furnishing the said seniority list prepared under Rule-XIII (10) list (E) and according to the said list, petitioners were placed at the top of the seniority list, and thus were considered eligible for promotion to the post of Sub-Inspector; that on 17.07.2015, the meeting of Departmental



Promotion Committee was held wherein petitioners were promoted to the rank of officiating Sub-Inspector and accordingly notification dated 24.07.2015 was issued. It is further averred that at present there are no separate promotion rules in the different branches of police department, the officer from regular police are transferred to traffic police etc, but vide impugned letter dated 31.08.2015, referring to minutes of the 18th Police Policy Board Meeting dated 13.08.2015, it was directed that the promotion of SI's should be cancelled immediately as, these posts belongs to traffic wardens, so vide impugned notification dated 04.09.2015, the promotion notification dated 24.07.2015 was cancelled.

3. Petitioners feeling aggrieved from the actions of respondents and having no other adequate and efficacious remedy have knocked the door of this Court through the petition in hand.

4. Comments were called from respondents, which they furnished, wherein they stated that the Departmental Promotion Committee had wrongly made recommendations for promotion of petitioners to the rank of SI, against the vacancies exclusively sanctioned and reserved for newly created Traffic

ATTESTED
 EXAMINER
 shawar High Court
 20 DEC 2016

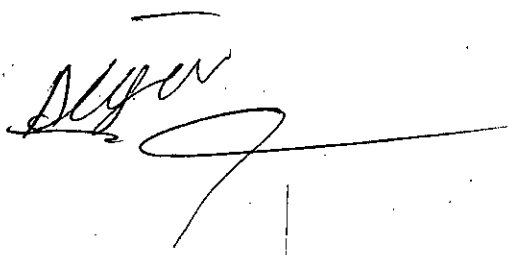
11

Wardens Service unit of Police. Police Policy Board took notice of promotion of petitioners made against wrong post and decided that the promotion order shall be rescinded; that promotion against vacancies sanctioned and allotted to Traffic Warden Service confer no right on petitioners. It is well settled principle of law that wrong and void orders do not create any right. Further stated that Traffic Wardens Service was recently introduced, and Provincial Government accorded sanction of creation of separate strength for the said unit of Police. Respondent No.2 has promulgated standing order No. 5/2015 for regulating the recruitment and promotion of Traffic Warden Services Officer, therefore, the competent authorities correctly made decision of cancellation of the promotion of petitioners made against the vacancies of Traffic Warden Service.

5. We have heard learned counsel for the parties and available record perused with their valuable assistance.

6. Record is suggestive that being fit, competent and eligible for promotion, petitioners were duly considered and promoted vide promotion order dated 24.07.2015, as officiating Sub-Inspectors by the Departmental Promotion Committee. Respondents have not grudged their promotion on their

ATTESTED
EXAMINER
Bhawar High Court
20 DEC 2016



40

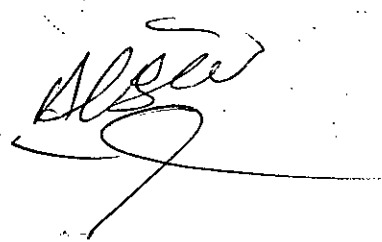
(31)

eligibility, competency, fitness or otherwise. The notification dated 24.07.2015; whereby petitioners were promoted to the rank of officiating Sub-Inspector, with immediate effect was also published in the police gazette part-II. The grievance started with a letter No. 2402-E III dated 31.08.2015, which in fact are the minutes of the 18th Police Policy Board meeting held on 13.08.2015 and for the purposes of petitioner's case, the relevant portion i.e paragraph 2 & 3 reads as under:-

2. "The Board took serious note of the recent promotions of SIs by CCPO on the posts of Traffic Wardens. They Board directed that since these seats belong to the traffic warden, these promotions should be cancelled with immediate effect.

3. It is therefore, requested that action about Para-2 of PPB may be taken forthwith and report be communicated to this office please.

7. The above referred orders / directions of the alleged Police Policy Board was implemented vide order No. 16570 / EC-I dated, Peshawar 04.09.2015, issued by CCPO, Peshawar, which reads as under:-

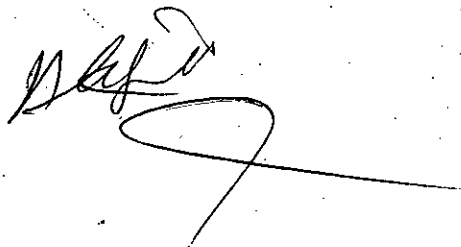


TESTED
EXAMINER
Peshawar High Court
20 DEC 2016

"In pursuance of 18th Police Policy Board Meeting held on 13.08.2015 duly approved by Inspector General of Police Khyber Pakhtunkhwa, Peshawar issued vide DIG / HQrs; Letter Endst: No. 1598-1650 / PA DIG / HQrs; dated 28.08.2015 & AIG Establishment, Khyber Pakhtunkhwa, Peshawar Letter No. 2404/E-II, dated 31.08.2015, the promotion Notification of 139 promoted Offg: Sub-Inspectors issued vide this office Notification No. 13706/EC-I, dated 24.07.2015 is hereby cancelled".

8. The Police Policy Board, who issued the directions and in reference to those directions the subsequent order dated 4.9.2015, was issued, figures nowhere in the law. Learned counsel for the respondents / AAG alongwith departmental representative present in the court, was time and again directed to show that under what authority of law the Police Policy Board has been constituted and what are their functions, especially in reference to the Departmental Promotions Orders issued by the duly constituted Promotion Committee, but failed to produce so. We have gone through the Police Laws of Pakistan, but nowhere could locate the said Police Policy Board

ATTESTED
EXAMINER
Peshawar High Court
20 DEC 2016



and its functions or powers. On the face of it the impugned order / directions dated 31.8.2015 of Police Policy Board & subsequent order of Capital City Police Officer, Peshawar dated 04.09.2015 are void ab initio as the same are not issued on the directions and on behalf of competent authority or lawful authority.

9. The void order as defined by Corpus Juris Secundum, in (Vol. 92 PP-1021-1024) is "Expression void in the strict or accurate sense means "absolute null" that is to say incapable of rectification or confirmation and of no effect whatever". The Supreme Court of Pakistan in the case of Chief Settlement Commissioner v Raja Muhammad Fazil Khan (PLJ 1975 SC 15) defined a void order as follows:-

As order is to be treated as void only when it is made by a court, tribunal or other authority which has no jurisdiction either as regards the subject matter, the pecuniary value or the territorial limits when the dispute arise. Such an order would amount to usurpation of power unwarranted by law and accordingly it would be nullity".

TESTED
AMINER
ar High Court
0 DEC 2016

Alger

[Signature]

10. A void order was that order, which was passed by an authority not competent to pass it and in the instant case, when the Police Policy Board nowhere figures in the Administration Authority of the police department then its directions are prima facie void ab initio and are of no lawful authority, thus, the subsequent order dated 4.9.2015 of Capital City Police Officer, Peshawar, regarding cancellation of earlier promotion order are also of no effect. In the case of Moulana Atta ur Rehman Vs Al-Haji Sardar Umer Farooq and other reported in PLD 2008 SC 663 (b) it has been held as under:-

“---When the basic order is without lawful authority and void ab initio, then the entire superstructure raised thereon falls on the ground automatically”.

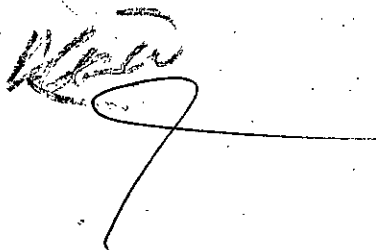
Again in the case of Mustafa Lakhani Vs Pakistan Defence Officer Housing Authority, Karachi, reported in 2008 SCMR, 661 (b) it has been held:-

“---Subsequent orders passed on basis of void order---Legal effect stated. If on the basis of a void order subsequent orders have been passed either by the same authority or by other authorities, the whole series of such orders together with

ATTESTED

EXAMINER
Peshawar High Court

20 DEC 2016



44

(20)

the posts of Traffic Wardens, whereas, a glance over the promotion order would show that in all 139 ASI's were promoted as officiating Sub-Inspectors out of which only 17 have been posted against the traffic post, which even otherwise are inter-transferable, hence the reasons given for withdrawal / cancellation is not legal nor lawful.

13. Learned counsel for the respondents strongly objected to the maintainability of writ petition in view of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973; the non availing of departmental remedy / alternate remedy by way of departmental appeal and that officiating Sub Inspectors promotion do not confer a right as the same promotion was officiating only.

14. The plea of officiating promotion is not correct because in the police hierarchy there is a cadre of officiating Sub Inspectors from the "E" list of ASI's and the officiating is not in the sense as is otherwise used in the civil servant promotions. As regarding the objections of maintainability of writ petition and the cancellation of promotion, as per learned AAG, pertains to terms and conditions of service, therefore, the petitioners being civil servants were supposed to have

TESTED
AMINER
Bar High Court
0 DEC 2016

[Handwritten signature]

45

the superstructure of rights and obligations built upon them, must unless some statute or principle or law recognizing as legal the change position of the parties is in operation, would fall to the ground, because such orders have as little legal foundation as the void order".

11. In the Police Department, right from Police Rules, 1934, Khyber Pakhtunkhwa, Police Rules, 1975, Police Order, 2002 and all the relevant provision of departmental law / rules / regulations for promotion purposes, the Departmental Promotion Committee is the relevant and competent for the purpose of promotions and as such the same authority has the powers to rescind / withdraw or cancel the same, therefore, where under the rules, regulations and policy have been framed for regulating promotions, any breach or deviation from them for malafide reasons or due to arbitrary act of the competent authority would entitled an aggrieved employee to challenge the same in the Court of law. Reliance in this respect is place on

PLD 2003 SC 175 (d).

12. The perusal of impugned directions dated 31.8.2015 would reveal that the reasons for cancellation of promotions of the petitioners was that, they were promoted on

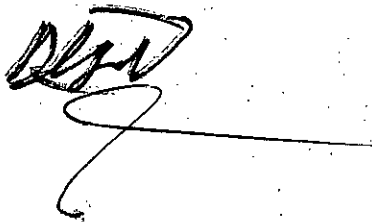
STED
JINER
High Court
DEC 2016

[Handwritten signature]

challenged the impugned orders before Service Tribunal under Section 4 of the Khyber Pakhtunkhwa, Service Tribunal Act, 1974, by availing first the remedy of departmental appeal, which even otherwise, was mandatory before filing the writ petition by way of alternate remedy by relying on PLD 1997 SC 351, 1990 SCMR, 1238, 2015 SCMR, 253, 2002 SCMR 549 and 2002 PLC (CS) 244.

15. We have given our anxious consideration to the proposition and are of the view that an appeal under section 4 of the Service Tribunal Act, 1974, lies against an order passed by a "Departmental Authority" in respect of any of the terms and conditions of service and in the explanation given to the said section 4 the word "Departmental Authority" means an authority other than a tribunal, which is "competent" to make an order in respect of any of the terms and conditions of civil servant. In the instant case as pointed out earlier, that the impugned orders / directions issued by Police Policy Board are void, of no lawful authority as the Police Policy Board is not a Departmental Authority as defined in the section ibid. Same is the condition for departmental representation. Since the impugned orders are of no lawful authority or even no authority

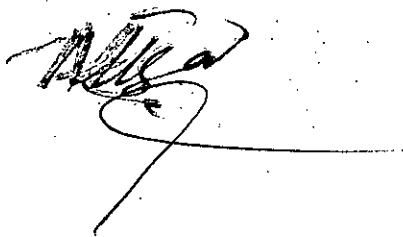
TESTED
XAMINER
awar High Court
20 DEC 2016



of the department for the purpose of promotions, service discipline etc hence without availing the departmental remedy writ is competent and maintainable. In the case of Collector of Custom Valuation and another Vs Karachi Bulk storage and terminals Ltd, reported in 2007 SCMR 1357, (a) it has been held that:-

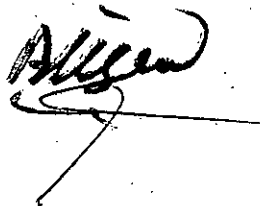
“---Art. 199---Constitutional petition before High Court---Maintainability ---Impugned order found to be illegal, contrary to law or void ab initio---Remedies under departmental hierarchy, non-availing of---Aggrieved party in such case would be entitled to invoke constitutional jurisdiction of High Court”.

16. In such like cases, as the present one where an order has been passed by an authority whose existence is doubtful alongwith powers and functions, not explained anywhere, then the availability of adequate remedy would not be an absolute bar against the exercise of constitutional jurisdiction of this Court. In exceptional cases, like the present one, this Court can entertain the constitutional petition directly, therefore, the objection in this regard is spurned. Even

h.


otherwise, the High Court was competent to interfere such provision of law in exercise of constitutional jurisdiction where the competency of the authority is in question. In the case of Farzand Raza Naqvi and 5 others Vs Muhammad Din and others, reported in 2004 SCMR, 400, it has been held that "if an order impugned is a void order or it has been passed without lawful jurisdiction, the non availing of alternate remedy of appeal against such order would not bar High Court to proceed in constitutional jurisdiction and declare such orders as without lawful authority, rule that High Court should not entertain constitutional petition and adjudicate the matter in a constitutional jurisdiction in which remedy of appeal, review or revision is applicable, under the statute, is not an absolute rule and in exceptional cases, the strict observations of the rule that extra ordinary remedy of constitutional petition cannot be availed in a matter in which relief being sought under Article 199 of the Constitution could be granted by way of appeal, review or revision may cause in justice in substance, therefore, application of such rule would depend on facts and circumstances of each case".

ESTED
MINER
High Court
DEC 2016



Likewise, in similar situation the Apex Court in the case of Brig Muhammad Bashir Vs Abdul Karim and others reported in PLD 2004 SC 271, (d) has held that:-

“---Art. 199---Constitutional jurisdiction of High Court, exercise o---Principles object and scope--- Articles 199 of the Constitution casts an obligations on High Court to act in aid of law, protect the rights of citizens within the framework of the Constitution against infringement or law and constitution by the Executive Authorities, strike a rational compromise and a fair balance between the rights of citizens and auctions of State functionaries, claimed to be in the larger interest of Society---Such power is conferred on High Court, under the Constitution and is to be exercised subject to Constitutional limitations---Provision of Art. 199 of the Constitution is intended to enable High Court to control executive so as to bring it in conformity with the law--- Whenever the executive acts in violation of law, an appropriate order can be granted which can relieve the citizens of the effects of illegal action---Relief can be granted to the citizens of the country under Art. 199 of the Constitutions, against infringement of any provisions of law or of the Constitutions as it is an omnibus Article---If the citizens of the country are deprived of the guarantee given to them under the constitution, illegally or not in accordance with law, then provision

Aliyan

So (31)

of Art. 199 of the constitution can always be invoked for redress--- Paramount consideration in exercise of constitutional jurisdiction is to foster justice and right a wrong---So long as statutory bodies and Executive Authorities act without fraud and bona fides within the powers conferred on them by the statute, the judiciary cannot interfere with them---Ample power is vested in High Court to issue directions to an Executive Authority when such an Authority is not exercising its power bona fide for the purpose contemplated by the law or is influenced by extraneous and irrelevant considerations---Where a statutory functionary acts mala fide or in a partial, unjust and oppressive manner, High Court in exercise of its constitutional jurisdiction has ample power to grant relief to the aggrieved party".

17. Lastly learned AAG while relying on 2013 SCMR, 1752, contended that perpetual rights cannot be claimed on an illegal order, therefore, the authority cancelled the promotion orders of the petitioners and the same cannot be granted as of right. Indeed, perpetual rights cannot be claimed on an illegal order, but in the instant case, the order of promotion dated 24.07.2015 is quite legal and lawful, because the same has been issued with the approval by of Departmental Promotion Committee, by the Competent Authority and

Ally

51

nowhere in the comments, so filed by the respondents and arguments at bar, they have contended that petitioners were neither fit nor eligible for promotion, rather it has been proved on record that the cancellation order is of no lawful authority and a void order. The principle of locus poenitentiae could be invoked by competent authority till the time the decisive stage was not reached. In the instant case it is established that the orders were conveyed and acted upon, the said orders were even published in the gazette part-II and petitioners have reported to their place of posting as well, then a valuable right have accrued to the petitioners and as such they cannot be deprived of vested right by the authority, in view of which this writ petition is allowed as prayed for. Petitioners are deemed to be promoted from the date of their promotion order dated

24.07.2015.

M. Waqar Ahmad Khan
M. Musarat Hilloki

Announced
 24th November, 2015.
 Tariq Khan.

JUDGE

12098
 Presentation of Application 20/12/16
 20/12/16
 20/12/16
 20/12/16
 20/12/16
 20/12/16

CERTIFIED TO BE TRUE COPY
 EXAMINER
 Peshawar High Court, Peshawar
 Authorized Under Article 87 of
 The Qanun-e-Shahadat Order 1984
 20 DEC 2016

11/12/15
Accepted

52

INSTITUTIONAL COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT: MR. JUSTICE MIAN SAOIB NISAR, CJ
MR. JUSTICE UNQAR ATA BASHIR
MR. JUSTICE WAZ UL AHISAN

CIVIL PETITION NO. 34-P OF 2018
For appeal against the judgment dated
24.11.2015 of the Peshawar High Court
Petitioner named as (W.P) No. 311/P/2015

Govt. of K.P. through Chief Secretary, Peshawar
& others

Muhammad Israr & others

VERSUS

For the Petitioner(s):

Mr. Zahid Yousof Qureshi, Addl. AG
Jahangir Khan, SI, PTC Hazara

For Respondents 1,2,7:

Mr. Naweed Akhtar, AGC.

Other Respondents

N.R.

Date of Hearing:

26.01.2018

ORDER

MIAN SAOIB NISAR, CJ - Learned counsel for Respondents No. 1, 2 and 7 state that he has no objection if the impugned judgment is set aside. However, his writ petition be sent to the department as an appeal or representation under the law. Learned Additional Advocate General, Khyber Pakhtunkhwa also states that he has no objection to that effect. In the light of the above, this petition is converted into appeal and allowed and the impugned judgment is set aside in the terms noted above. The department is directed to decide the appeal/representation of the respondents within a period of one month.



Sd/- Mian Saqib Nisar
Sd/- Unqar Ata Bashir
Sd/- Waz ul Ahisan

Entered to be...

Mian

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

Present: MR. JUSTICE MIAN SAQIB NISAR
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO.34-P OF 2016

(On appeal against the judgment dated
24.11.2015 of the Peshawar High Court
Peshawar, passed in W.P. No.3113-P/2015)

Goyt. of K.P through Chief Secretary, Peshawar.....Petitioners

V E R S U S

Muhammad Israr & others.....Respondents

For Petitioner (s): Mr. Zahid Yousaf Qureshi, Addl. AG
Jahangir Khan, SI, PTC Hangu,

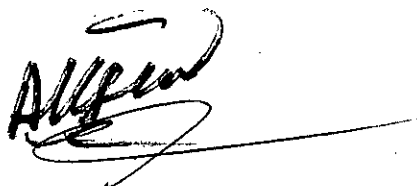
For Respondents 1,2,7: Mr. Naveed Akhtar, ASC

Other Respondents: N.R.

Date of hearing: 26.01.2018

MIAN SAIQB NISAR, CJ.—Learned counsel for Respondents No.1, 2 and 7 states that he has no objection if the impugned judgment is set aside. However, his Writ Petition be sent to the department as an appeal or representation under the law, Learned Additional Advocate General, Khyber Pakhtunkhwa, also states that the has no objection to that effect, in the light of the above, this petition is converted into appeal and allowed and the impugned judgment is set aside in the terms noted above. The department is directed to decide the appeal/representation of the respondents within a period of one month.

Sd/- Mian Saqib Nisar J
Sd/- Umar Ata Bandial, J
Sd/- Ijaz ul Ahsan J



POWER OF ATTORNEY

In the Court of _____

AFZAL GUEL (PAG)

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of KPK and others.

} Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/W, the undersigned, do hereby nominate and appoint

ZARTAJ ANWAR ADVOCATE, my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromise or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

[Handwritten signature]

[Handwritten signature]
Zartaj Anwar

Advocate High Courts

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3-J, Fourth Floor, Bifour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0331-9399185