

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.

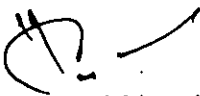

Member


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.


(Hussam 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

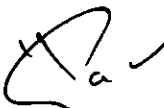

Member

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

25.09.2019

Junior to counsel for the petitioner present. Mr. Zia Ullah Learned Deputy District Attorney for the respondent present. Junior to counsel for the petitioner seeks adjournment as senior counsel for the petitioner is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 02.10.2019 before D.B


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

22.03.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Mr. Muhammad Raziq, H.C for the respondents present.

During the course of arguments while stating facts involved in the appeal in hand, learned counsel for the appellant contended that the respondent-department failed to decide the departmental appeal of appellant as required through the order passed by the apex court on 26.01.2018.

The learned DDA stated that the requisite decision on departmental appeal was duly made on 21.02.2018 and the appeal stood rejected. The said fact was noted in the comments submitted by respondents in the appeal in hand, however, the order so passed was not questioned in the appeal.


Learned counsel for the appellant on the other hand stated that the mentioning of rejection of departmental appeal was though made part of the reply by the respondents, however, a copy of the order was never annexed therein. He added that the contents of order of rejection are not before the Tribunal even today. Similarly, the appellant is ignorant of the said contents as he was never conveyed the same.

Learned DDA provided today a copy of the decision upon departmental appeal passed on 21.02.2018 to the appellant whereupon his learned counsel requested for permission to submit an amended appeal also questioning the legal validity of order *ibid*.

In the facts and circumstances of the case, the appellant is allowed to submit amended appeal within a fortnight subject to all just exceptions.

Adjourned to 26.04.2019 before the D.B.


Member


Chairman

15.10.2018

Clerk to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondent present. Due to general strike of the bar, the case is adjourned. To come up on 01.11.2018 before D.B


Member


Member

01.11.2018

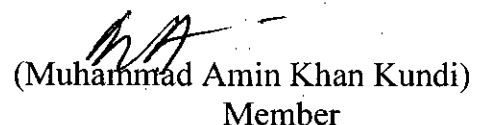
Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 20.12.2018 before D.B.


Reader

20.12.2018

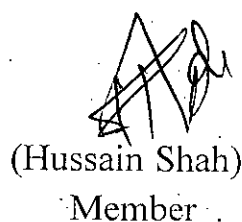
Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Clerk of counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the Hon'ble Peshawar High Court. Adjourned. To come up for arguments alongwith connected appeals on 15.02.2019 before D.B.

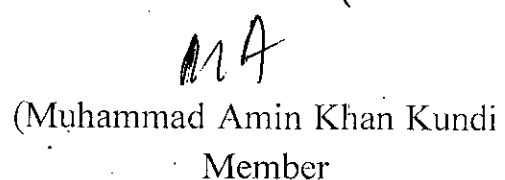

(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

15.02.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file and also requested for adjournment. Adjourned. To come up for arguments on 22.03.2019 before D.B


(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

20.07.2018

Clerk to counsel for the appellant and Mr. Sardar Shaukat Hayat learned Additional Advocate General alongwith Mr. Aziz Reader present. Written reply not submitted. Representative of the respondents seeks time to file written reply/comments. Granted by way of last chance. To come up for written reply/comments on 03.08.2018 before S.B


Member

03.08.2018

Neither appellant nor his counsel present. Mr. Aziz Shah, Reader alongwith Mr. Kabriullah Khattak, Addl: AG for respondents present. Written reply not submitted. Representative of the respondents requested for adjournment. Granted. To come up for written reply/comments 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 submitted. Case to come up for written arguments on 15.10.2018 before D.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 with 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.

Appellant Deposited
Security & Process Fee


Member

28.06.2018



Clerk of the counsel for appellant present. Mr. Muhammad Jan, DDA for the respondents presents. Written reply not submitted on behalf of respondents. Requested for adjournment. Granted. To come up for written reply/comments on 20.07.2018 before S.B. Status quo be maintained till the date fixed.


Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 716/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25/05/2018	<p>The appeal of Mr. Nauman Khan 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 style="text-align: right;"> REGISTRAR 25/5/18</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 style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Imranullah ASI No. 751/P CCP Charsadda received today i.e. on 23.05.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Page no. 52 of the appeal is illegible which may be replaced by legible/better one.

No. 1076 /S.T.

Dt. 23/5 /2018.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zartaj Anwar Adv. Pesh.

his

*Re Submitted orders confirmed
unless furthering copy*



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. 727/2018

Imran Ullah, ASI No. 751/P CCP Charsadda.

(Appellant)

VERSUS

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

(Respondents)

INDEX

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5	Copies of the writ petition and judgment dated 13.05.2015	B	16-19
6	Copy of the notification dated 24.07.2015	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	26-31
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Appellant

Through



ZARTAJ ANWAR
Advocate Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Amended Appeal No. _____/2019

Imran Ullah ASI No.751/P CCP, Peshawar.....

(Appellant)

VERSUS

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


(Respondents)

INDEX

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5	Copies of the writ petition and judgment dated 13.05.2015	B	15-18
6	Copy of the notification dated 24.307.2015	C	19-22
7	copies of the letter dated 31.08.2015 and notification dated 04.09.2015	D & E	23-24
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Appellant

Through


ZARTAJ ANWAR
Advocate Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Amended Appeal No. _____/2019

Imran Ullah ASI No.751/P CCP, Peshawar.....

(Appellant)

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)

Amended 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 been rejected on 21.02.2018 communicated on 22.03.2019.

Prayer in Appeal: -

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 Constable 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 24.307.2015 are attached as annexure C)
8. That the notification dated 24.07.2015 of the promotion of the appellant and other employees were 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, and the same has been rejected vide order dated 21.02.2018 communicated on 22.03.2019 during proceedings in this Hon;able Tribunal.(Copy of the order dated 21.02.2018 is attached as annexure I)
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.

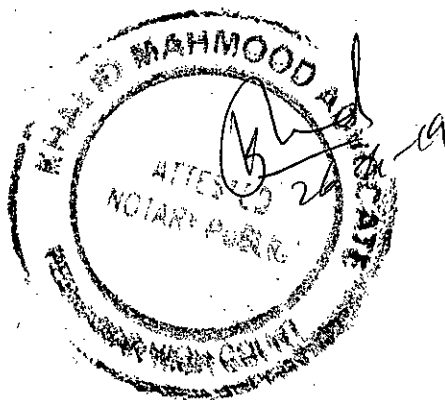
Imran Ullah
Appellant

Through

Zartaj Anwar
ZARTAJ ANWAR
Advocate Peshawar

AFFIDAVIT

I, Imran Ullah ASI No.751/P CCP, *Khyber Pakhtunkhwa*, Peshawar do hereby solemnly affirm and declare that the contents of the above **Amended 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.



Imran Ullah
Deponent

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Amended Appeal No. ____/2019

Imran Ullah ASI No.751/P CCP, Peshawar.....

(Appellant)

VERSUS

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

(Respondents)

ADDRESSES OF PARTIES

Appellant:

Imran Ullah ASI No.751/P CCP, Peshawar

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

Amended Appeal No. ____/2019

Imran Ullah ASI No.751/P CCP, Peshawar.....

(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.

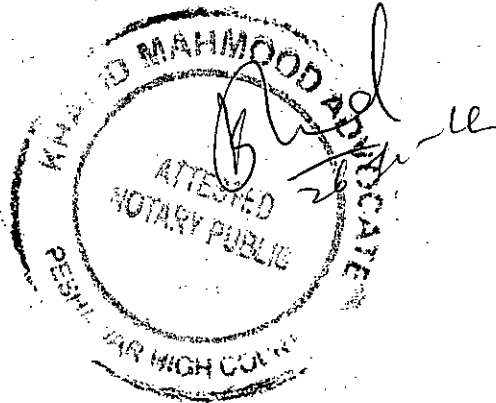
Imran Ullah
Applicant/Appellant

Through

Zartaj Anwar
ZARTAJ ANWAR
Advocate Peshawar

AFFIDAVIT

I, Imran Ullah ASI No.751/P CCP, *Khyber Pakhtunkhwa*, Peshawar do hereby solemnly affirm and declare that the contents of the above Application 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.



Imran Ullah
Deponent

ANNEX A¹⁹

Chap. XII. APPOINTMENTS AND ENROLMENTS.

CHAPTER XIII. Promotions

DISTRICT _____

FORM No. 13-41 (1).

POLICE DEPARTMENT. 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.	Height.	(a) Village.	(b) Police Station.						(c) District.
Constabulary Number.	Name and parentage.	Date of enlistment.	Caste.	Age on enlistment.	(a) Feet.	(b) Inches.	Height.	(a) Village.	(b) Police Station.	(c) District.	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.

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 stage 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 ranks vests in the Provincial Government with the concurrence of His Excellency the Governor.

ATTACHED

(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 Baghul-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 toll 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 16 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 15-2(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)-4/72. -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.

13-8. 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.

13-8A. 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 Inspector-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.

ANNEXED

(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 Inspector-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 Inspector-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, save 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 Inspector-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 which 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).

ATTESTED



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Sheet for maintenance of marking system.

DISTRICT

POLICE DEPARTMENT.

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 principles described in sub-rule 13-5 (3) shall be added to or reduced as occasion arises, each change being initialled and dated by a gazetted officer.

ANUMER "B" 15

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No. 3/2014

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

ATTESTED
C. S. D. S. M. M.

ATTESTED

- 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. Alzaz 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 Cour
 18 MAY 2015

FILED TO
 Deputy Reg
 03 DEC 2

Petitioners

Versus

- 1. Chief Capital City Police Officer, KP, Peshawar

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

10P No. 3652 of 2014

JUDGMENT

Date of hearing 13 - 5 - 2015

Petitioners Abdul Samad Khan & Mr. Saadullah Khan
vs Shahabuddin Khan Advocate
Respondent C.C. P. No. 100/2014

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

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PESHAWAR HIGH COURT
13 MAY 2015

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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 points. 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.

Edy Nisar
JUDGE

Announced on
13th May, 2015.

Edy Wajan
JUDGE

22506

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CERTIFIED TO BE TRUE COPY
Examiners, Peshawar High Court, Peshawar
10 MAY 2015

[Signature]

ANNEX "C" 19

CCP, PESHAWAR.

POLICE DEPTT:

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/JC-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 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	CCP, Peshawar
3.	ASI Bahar Ahmad No. 1129/P	Charsadda/Upper College Course
4.	ASI Jamshid Khan No. 1163/P	Nowshera/Upper College Course
5.	ASI Inayat ur Rehman No. 1168/P	Nowshera
6.	ASI Muhammad Alam No. 1181/P	Nowshera
7.	ASI Masood Jan No. 584/P	Charsadda
8.	ASI Hidayat Ullah No. 1148/P	Charsadda
9.	ASI Murad Ali No. 1329/P	Charsadda
10.	ASI Muhammad Iqbal No.1218/P	CCP, Peshawar
11.	ASI Muhammad Gul No.1219/P	Special Branch
12.	ASI Sartaj No. 12/P	CCP, Peshawar
13.	ASI Ghulam Hussain No.1221/P	Special Branch
14.	ASI Hayat Gul No.1222/P	Special Branch.
15.	ASI Humayun Khan No.1223/P	Traffic, Peshawar
16.	ASI Fida Muhammad No.1224/P	CCP, Peshawar
17.	ASI Subhan Ullah No.1225/P	Traffic, Peshawar
18.	ASI Khalid Khan No. 1227/P	CCP, Peshawar
19.	ASI Hamid Rauf/Khan No.1228/P	Special Branch
20.	ASI Sartaj Khan No.1229/P	CCP, Peshawar
21.	ASI Wasif ur Rehman No.1230/P	Traffic, Peshawar
22.	ASI Sardar Hussain No.1231/P	CTD KPK
23.	ASI Farid Khan No.1232/P	CCP, Peshawar
24.	ASI Tehseen Ullah No.1233/P	CCP, Peshawar
25.	ASI Yasir Gul No.1224/P	Traffic, Peshawar
26.	ASI Atta Ullah No.3/P. SI on ACB.	Reader SSP/Opt.
27.	ASI Sajjad Ahmed No.1236/P	CCP, Peshawar
28.	ASI Wajid Ali No.1237/P	CCP, Peshawar
29.	ASI Khalid Muhammad No.1238/P	Anti-corruption
30.	ASI Jawad Hussain No.1240/P	Islamabad Police
31.	ASI Rikhmeen No.1239/P	CCP, Peshawar
32.	ASI Jehan Zeb No.1241/P	Special Branch
33.	ASI Abdul Wall No.1242/P	Traffic, Peshawar
34.	ASI Nowsherawan No.1243/P	CCP, Peshawar
35.	ASI Zahir Shah No.1244/P	CCP, Peshawar
36.	ASI Momin Shah No.1245/P	Traffic, Peshawar
37.	ASI Yahya Jan No.1246/P	Traffic, Peshawar
38.	ASI Saif Ullah No.1247/P	CCP, Peshawar

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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 Shamsah 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. 413	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 Latif 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 Muhammd Saeed No.1297/P	CTD KPK
87.	ASI Wali Khan No.1298/P	CCP, Peshawar
88.	ASI Irfan Ullah No.1299/P	CCP, Peshawar

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89.	ASI S. Mir Abu-ul Hassan No.1300/P	CCP, Peshawar
90.	ASI Maaz Ullah No.1301/P	Traffic, Peshawar
91.	ASI Iftikhar Ali No.1302/P	Charsadda
92.	ASI Abdullah Jan No. 1303/P	PTC Hangu
93.	ASI Zulfiqar Ali No.1304/P	Traffic, Peshawar
94.	ASI Alamgir No. 1305/P	Traffic, Peshawar
95.	ASI Muhammad Usman No.956/ 1328/P	CCP, 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	Traffic, Peshawar
101.	ASI Munawar Khan No. 1313/P (SI on ACI)	Traffic, Peshawar
102.	ASI Farid Gul No. 1318/P	CCP, 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	PTC Hangu
108.	ASI Qazi Nisar Ahmad No. 1325/P	CCP, Peshawar
109.	ASI Abdus Sattar No. 746/P	Elite Force KPK
110.	PASI Fazal Hadi No. 747/P	Elite Force KPK
111.	ASI Aftab Khan No. 758/P	AIG Legal Branch CPO
112.	ASI Manzoor Khan No. 748/P	Operation Room CPO
113.	ASI Masood Khan No. 756/P	CCP, Peshawar
114.	ASI Muhammad Tahir No. 757/P	AIG Legal Branch CPO
115.	ASI Muhammad Umer No. 755/P	CCP, Peshawar
116.	ASI Tahir Ali No. 749/P	Charsadda
117.	ASI Wisal Khan No. 753/P	Elite Force KPK
118.	ASI Afzal Gul No. 760/P	CCP, Peshawar
119.	ASI Bismillah Jan No. 750/P	Charsadda
120.	ASI Muhammad Arif No. 754/P	CCP, Peshawar
121.	ASI Imran Ullah No.751/P	Charsadda
122.	ASI Rehmat Ullah Jan No. 759/P	Charsadda
123.	ASI Rizaz Ahmad No. 761/P	CCP, Peshawar
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	Charsadda
127.	ASI Muhammad Arshid No. 770/P	CCP, Peshawar
128.	ASI Asif Khan No.771/P	Charsadda
129.	ASI Muhammad Rafique No. 772/P	CCP, Peshawar
130.	ASI Lalq Zada No.774/P	CCP, Peshawar
131.	ASI Irfan Ullah No.776/P	Charsadda
132.	ASI Wajid Khan No.777/P	CCP, Peshawar
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

Notification


TESTED

139.	ASI Saeed Jan No. 795/P	CCP, Peshawar
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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 Noor 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 Khalista 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 Naveed Gul No.768/P	Nowshera	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.

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

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar, With request that the newly promoted Offg: SIs of CCP, Peshawar now deputation to the Districts/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,
13. Sector-H/11, Islamabad.
14. District Police Officers, Nowshera & Charsadda.
15. EC-II, PO & AS.



ANNEX "D" 23

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

No. 2402 - C/II

dt. 31-08-2015

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.

ANNEX "E" QU




OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

Phone No.091-9210641 Fax No.0919212597

No. 16570 /EC-I, dated Peshawar the 04/1/2015 /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 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.13685-13706/EC-I, dated 24.07.2015 is hereby cancelled.


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

No. 16571-96 /EC-I;

Copy of above is forwarded for information and necessary action

to the:-

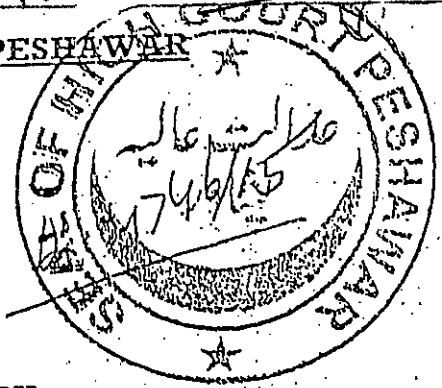
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Inspector General of Police, NH & Motorway Police, Islamabad.
3. Addl: Inspector General of Police, Investigation KPK, Peshawar.
4. Addl: Inspector General of Police, Special Branch KPK, Peshawar.
5. Addl: Inspector General of Police, Elite 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. ✓ SSSP/Operation, Investigation & Traffic, Peshawar.
12. The Senior Superintendent of Police, Logistic Headquarter, Sector-H/11, Islamabad.
13. District Police Officers Charsadda & Nowshera.
14. EC-II, PO, AS CC & Computer Cell.

4-9-15



ANNEX "F" 20

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



W.P.No. 3113-P/2015

1. Muhammad Israr, ASI No.506/NSR, CTD KPK.
2. Muhammad Sher, ASI No.1561, CPP, Peshawar.
3. Bahar Ahmad, ASI No.1129/P, Charsadda/ Upper College Course.
4. Jamshid Khan, ASI No.1163/P, Nowshera/ Upper College Course
5. Inayat-ur-Rehman, ASI No.1168/P, Nowshera.
6. Muhammad Alam, ASI No.1181/P, Nowshera.
7. Masood Jan, ASI No.584/P, Charsadda
8. Hidayat Ullah, ASI No.1148/P, Charsadda
9. Murad Ali, ASI No.1329/P, Charsadda
10. Muhammad Iqbal, ASI No.1218/P, CCP, Peshawar
11. Muhammad Gul, ASI No.1219/P, Special Branch
12. Sartaj, ASI No.12/P, CCP, Peshawar
13. Ghulam Hussain, ASI No.1221/P, Special Branch
14. Hayat Gul, ASI No.1222/P, Special Branch
15. Humayun Khan, ASI No.1223/P, Traffic, Peshawar
16. Fida Muhammad, ASI No.1224/P, CCP, Peshawar
17. Subhan Ullah, ASI No.1225/P, Traffic, Peshawar
18. Khalid Khan, ASI No.1227/P, CCP, Peshawar
19. Hamid Rauf Khan, ASI No.1228/P, Special Branch
20. Sartaj Khan, ASI No.1229/P, CCP, Peshawar
21. Wasif-ur-Rehman, ASI No.1230/P, Traffic, Peshawar
22. Sardar Hussain, ASI No.1231/P, CTD KPK
23. Farid Khan, ASI No.1232/P, CCP, Peshawar
24. Tehseen Ullah, ASI No.1233/P, CCP, Peshawar

Dr. [Signature]
02 SEP 2015

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Peshawar High Court
20 DEC 2016

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

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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

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- 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

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 Peshawar High Court
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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

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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.

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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.

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- 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 is directed that the promotions of SI's should be immediately cancelled allegedly that these seats 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

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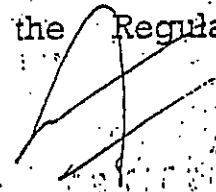
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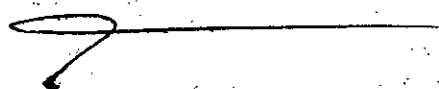
promoting, as such having adequate remedy available in law is constrain to invoke the Constitutional jurisdiction of this Hon'ble Court, inter alia, on the following grounds:-

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 Traffic 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.

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Peshawar High Court
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Employees as instant case no such mode has been adopted, therefore, order cancelling the promotion of the petitioners is legally not sustainable.

G. That the petitioners seek permission of this Hon'ble Court to relay on additional grounds at the time of hearing of this petition.

It is, therefore, requested that on acceptance of this writ petition an appropriate writ petition may please be issued as prayed for. OR


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

INTERIM RELIEF

That the respondents may please be restrained from giving effect to the order dated 04.09.2015 and filling the post of Sub-Inspectors till the decision of titled writ petition.


Petitioners

Through


IJAZ ANWAR
Advocate, Peshawar

CERTIFICATE:

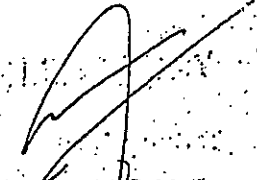
Certified as per information furnished by petitioner that no such like writ petition has earlier been filed before this Hon'ble Court.


Advocate

LIST OF BOOKS:

- 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2) Law books as per need.

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Peshawar High Court
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ADMISSION 35

Judgment.
BEFORE PESHAWAR HIGH COURT
PESHAWAR.



Judicial Department.

Writ Petition No. 3113-P of 2015.

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

Vs

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

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

Petitioner(s) by *M.R. Yaqub Ammar Advocate*.....

Respondent(s) : *Cont. by M.R. 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

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EXAMINER
Peshawar High Court
20 DEC 2016

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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

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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

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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

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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:-

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"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

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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".

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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-Hajj 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

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Peshawar High Court
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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

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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

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 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

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 EXAMINER
 Lower High Court
 20 DEC 2016

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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

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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".

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 High Court
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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 of---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

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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

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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. Wajid Ahmad Khan
M. Muzaffar H. Khan

Announced
 24th November, 2015.
 Tariq Khan.

JUDGE

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 Presentation of Application *20/12/15*
 IS *20/12/15*
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 Delivery *20/12/15*
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CERTIFIED TO BE TRUE COPY
 EXAMINER
 Peshawar High Court, Peshawar
 Authorized Under Article 87 of
 the Constitution of Pakistan

20 DEC 2016

ANNEX "H" 51

APPELLATE JURISDICTION

PRESENT: MR. JUSTICE MIAN SAQIB NISAR, CJ
MR. JUSTICE UMAR ATA BANDA
MR. JUSTICE NAZ UL AHSAN

CIVIL PETITION NO. 24-P OF 2018
for (appeal against) the judgment dated
26/1/2015 of the Peshawar High Court
has been passed by W.P. No. 2111/2015

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

Muhammad Israr & others

For the Petitioner(s): Mr. Zahid Younis Qureshi, Addl AG
Jalangi Khan, S8, PTC Hazara

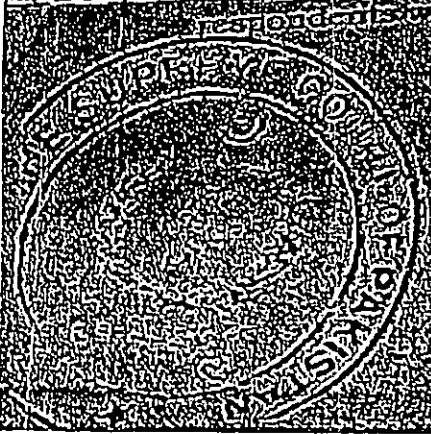
For Respondents 1,2,7: Mr. Nawaz Akhtar, AGC

Other Respondents N.R.

Date of Hearing: 26.01.2018

ORDER

MIAN SAQIB 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 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/- Umar Ata Banda
Sd/- Naz ul Ahsan

Checked to be
[Signature]

REGISTERED



OFFICE OF THE **ANNEX I**
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

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No. 613 /Legal dated Peshawar, the 21/2 /2018.

ORDER

NO 311 - LB
21-02-0184 ①

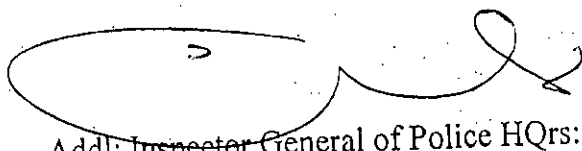
This order is passed in compliance with judgment of the Honorable Supreme Court of Pakistan dated 26.01.2018, passed in Civil Petition No. 34-P/2016, titled Government of Khyber Pakhtunkhwa through Chief Secretary Peshawar and others Versus Muhammad Israr and others. The brief, yet relevant, facts of the case are that Muhammad Israr and 138 others Assistant Sub-Inspectors (names mentioned in the memo of Writ Petition / representation) of Police of District Peshawar (hereinafter referred to as appellants) were promoted to the rank of officiating Sub-Inspector vide Notification No. 3685/EC dated 24.07.2015 of Capital City Police Officer, Peshawar. Later on it came to light that the promotion of appellants were made against the vacancies created and sanctioned for Traffic Warden Service of alien cadre. Therefore, in pursuance of the decision made in 18th Police Policy Board, the promotion order of appellant was cancelled vide order of Capital City Police Officer, Peshawar dated 04.09.2015.

The appellants filed Writ Petition No. 3113-P/2015 before the Honorable Peshawar High Court Peshawar against the cancellation of their promotion orders. The Writ Petition was contested on the ground that the appellant were promoted against the vacancies exclusively created for Traffic Warden Service and the matter relates to terms and conditions of service and the appellants have approached wrong forum. However, the Honorable High Court accepted the petition vide order dated 24.11.2015.

Civil Petition was lodged against the judgment of the Peshawar High Court Peshawar before the Honorable Supreme Court of Pakistan and the Honorable Court allowed the petition and the impugned judgment of Honorable High Court Peshawar was set aside. However, on the request of respondents / appellants the Honorable Courts directed that the Writ Petition filed by the appellants may be treated as departmental appeal and the department may decide the representation of the appellants within a period of 01 month.

LISTED

On receipt of the order of the Honorable Court, the relevant record was thoroughly examined which revealed that the impugned promotions of appellants were made against the vacancies of the Traffic Warden Service which was amounting to out of turn promotion. The Honorable Supreme Court of Pakistan has issued clear directions with regard to stoppage of out of turn promotion. The promotion of appellants against the vacancies of alien cadre were correctly cancelled by the Capital City Police Officer, Peshawar. There is no force and merit in the representations of appellants, and their prayer is not tenable, hence the representation is rejected.



Add: Inspector General of Police HQrs:
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 613 /18

Copy of the above is forwarded to the Capital City Police Officer, Peshawar with reference to his office memo No. 216/LB dated 06.02.2018, for service of the copy of the order on the appellants.

Add: Inspector General of Police HQrs:
Khyber Pakhtunkhwa,
Peshawar.

ATTESTED

54
1

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

Appeal No. 727 /2018

755
23/5/2018

Imran Ullah; ASI No. 751/P CCP Charsadda.

(Appellant)

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.

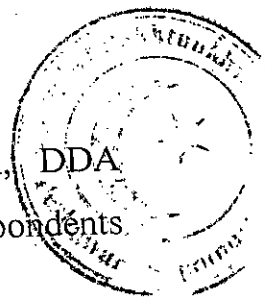
Prayer in Appeal: -

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.

22
23/5/18
K. G. G. G. G. G.

28/5/18

Copy
23 copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



22.03.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Mr. Muhammad Raziq, H.C for the respondents present.

During the course of arguments while stating facts involved in the appeal in hand, learned counsel for the appellant contended that the respondent-department failed to decide the departmental appeal of appellant as required through the order passed by the apex court on 26.01.2018.

The learned DDA stated that the requisite decision on departmental appeal was duly made on 21.02.2018 and the appeal stood rejected. The said fact was noted in the comments submitted by respondents in the appeal in hand, however, the order so passed was not questioned in the appeal.

Learned counsel for the appellant on the other hand stated that the mentioning of rejection of departmental appeal was though made part of the reply by the respondents, however, a copy of the order was never annexed therein. He added that the contents of order of rejection are not before the Tribunal even today. Similarly, the appellant is ignorant of the said contents as he was never conveyed the same.

Learned DDA provided today a copy of the decision upon departmental appeal passed on 21.02.2018 to the appellant whereupon his learned counsel requested for permission to submit an amended appeal also questioning the legal validity of order ibid.

In the facts and circumstances of the case, the appellant is allowed to submit amended appeal within a fortnight subject to all just exceptions.

Adjourned to 26.04.2019 before the D.B.

Member

Chairman

Date of Completion of Copy 23-4-19
 Number of Words 600
 Copying Fee 6
 Urgent 6
 Total 6
 Name of Copyist [Signature]
 Date of Completion of Copy 24-4-19
 Date of Delivery of Copy 24-4-19

Certified true copy
 [Signature]
 [Stamp]

POWER OF ATTORNEY

In the Court of KPK Service Tribunal Peshawar
Indus Court

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of KPK & Co } 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 Rs 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 _____


Zartaj Anwar
Advocate High Courts

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3- 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0331-9399185
BC-10-9851
CNIC:17301-1610454-5

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. 727 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 755

Dated 23/5/2018

Imran Ullah, ASI No. 751/P CCP Charsadda.

(Appellant)

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: -

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.

Filed Monday
23/5/18
Registrar

Re-submitted to -day
and filed.

Registrar
28/5/18

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 Sub-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 filing Writ Petition No. 3113-P/2015 which was after hearing allowed by this Honorable 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

Imran Ullah, ASI No: 751/P CCP Charsadda.

(Appellant)

VERSUS

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

(Respondents)

ADDRESSES OF PARTIES

Appellant:

Imran Ullah, ASI No. 751/P CCP Charsadda.

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

Imran Ullah, ASI No. 751/P CCP Charsadda.

(Appellant)

VERSUS

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

(Respondents)

AFFIDAVIT

I, Imran Ullah, ASI No. 751/P CCP Charsadda, *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.



Imran Ullah
Deponent

2777-01

07/12

1977

1977-01-01

1977-01-02

1977-01-03

1977-01-04

1977-01-05

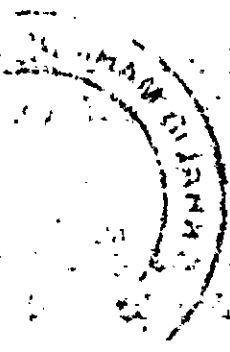
07/12

1977-01-06

1977-01-07

1977-01-08

1977-01-09



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2018

Imran Ullah, ASI No. 751/P CCP Charsadda.

(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.

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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.

[Signature]
Applicant/Appellant

Through

[Signature]
ZARTAJ ANWAR
Advocate Peshawar

AFFIDAVIT

I, Imran Ullah, ASI No. 751/P CCP Charsadda, *Khyber Pakhtunkhwa*, Charsadda 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.

[Signature] 18
Deponent
