

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Service Appeal No. 157/2016

Niaz Ali(Petitioner)

Versus

PPO Khyber Pakhtunkhwa and others..... (Respondents)

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Respondents
Through


Department
Representative

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Service APPEAL NO ~~157~~/2018

Niaz Ali.....(Appellant)

VERSES

The Inspector General of Police Khyber Pakhtunkhwa Peshawar and
others..... (Respondent)

Subject: **PARAWISE COMMENTS TO APPEAL ON BEHAULF OF**
RESPONDENT'S No. 1 to 3

Respectfully Shewith.

The Para-wise comments to Appeal on behalf of respondents
are submitted as below:-

Preliminary objections.

1. That the Appellant has got no cause of action to file the instant appeal.
2. That the Appellant has not come to this honorable Tribunal with clean hands.
4. That the Appeal is bad in law due to mis-joinder and non joinder of necessary parties.
5. That appeal is not maintainable in its present form.
6. That the appeal is time barred.
7. That the Honorable Tribunal has no jurisdiction in to adjudicate the matter.

FACTS.

1. That Para No I Service Appeal is admitted correct according to Service record hence no comments.
2. That Para No. 2 of Service Appeal is not admitted correct. In fact appellant remained involved in a criminal case pertaining to dishonest issuance of cheque to the complainant in case FIR No. 431 dated 17.05.2016 u/s 489-F-PPC PS Gulberg Peshawar. Confined in Judicial Lockup Central Jail Peshawar and absented himself from duties for a period of 61 days. The appellant was properly proceeded against in accordance with the rules on the subject and removed from service while found guilty of misconduct.

3. That Para No. 3 of Service Appeal is incorrect, infact the appellant was ordered removed from service by SSP Investigation CPO, Peshawar vide order dated 05.09.2016, the appellant challenged the order by filing departmental appeal to Addl: Inspector General of Police Investigation Khyber Pakhtunkhwa Peshawar which was entertained vide order dated 02.11.2016 and punishment of removal from service of appellant was converted to compulsory retirement from service due to longer service of appellant in Police department for a period of more than 25 years. In revision to Worthy Inspector General of Police Khyber Pakhtunkhwa Peshawar, the punishment of compulsory retirement from service of appellant was converted to the punishment of forfeiture of two year service in two stages and reinstated in service vide order dated 10.03.2017 (copy of the order is "A").
4. That Para No. 4 of Service Appeal is incorrect and based on exaggeration hence no comments.
5. That Para No. 5 of Service Appeal is incorrect. According to record, promotion order of Police officer to next grade was made by the Competent Authority in accordance with the rules during removal of appellant from Police Service hence no further comments (copy of the promotion order is "B").
6. The Departmental appeal filed by the appellant, claiming seniority and promotion to the rank of ASI was received to Carrier and Planning Branch CPO Peshawar and referred to Director FSL for comments vide letter No.I/CPB dated 01.01.2018 which are still awaited (copy of letter enclosed as Annexure "A").

Grounds .

- A: Incorrect, infact the appellant remained involved in Criminal case of forgery by issuing cheque of bogus nature and absented himself from duties for a period of more than two months and removed from service after conduct of departmental enquiry strictly in accordance with the rules.
- B. Incorrect, already explained vide Para No. 5 to the facts. No discrimination whatsoever was exercised against the appellant and he was dealt strictly in accordance with law / rules.

- C. Incorrect and detail reply has been given above.
- D. Incorrect, already explained in reply to Para 5 of the facts. Maximum relief was extended to the appellant by the Departmental Authority however he does not deserve promotion according to his wishes.
- E. Incorrect and wrong self detail reply has been given above.
- F. The respondents also reserve their legal right to add some additional grounds during the course of arguments.

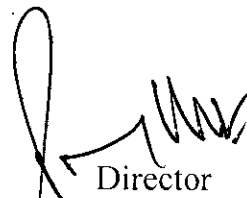
In the light of above facts and circumstances, it is requested that Service Appeal filed by the appellant may be dismissed being not based on facts and without any legal justification.



Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 1)



Addl: Inspector General of Police,
Investigation Khyber
Pakhtunkhwa,
Peshawar.
(Respondent No. 2)



Director
Forensic Science Laboratory
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.151/2018

Niaz AliAppellant

Versus

PPO KPK and others.....Respondents

REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO
REPLY FILED BY RESPONDENTS.

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous. The appellant has got cause of action and for that matter locus standi to file the instant appeal. The instant service appeal is based upon bonafide intention. All necessary and proper parties are arrayed in the instant appeal. The appeal is very much maintainable and well within time.

Facts:

1. Needs no rejoinder.
2. Incorrect hence emphatically denied. Appellant was falsely implicated in the criminal case. Appellant was removed from service. Later on, he preferred departmental Revision under Rule 11-A of the Police Rules whereby penalty was converted into forfeiture to two years service, therefore, the stance of absence is misconceived.
3. Incorrect hence denied. The detailed reply has already been given in the preceding para.
4. Incorrect hence denied.
5. Incorrect hence denied. After restoration to his actual position, appellant was fully eligible to be promoted against the rank of ASI but the Department did not consider appellant despite his eligibility and fitness.

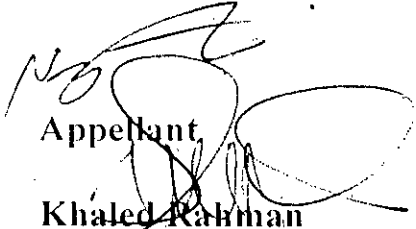
6. Needs no rejoinder.

Grounds:

- A. Incorrect hence denied. Appellant has not been treated according to law. As already explained above that after converting his major penalty into minor one and serving out the said period, appellant was entitled to be promoted against the rank of ASI.
- B. Incorrect hence denied. It is settled principle of law that minor penalty could not be hurdle in way of promotion.
- C. Needs no rejoinder.
- D. Incorrect hence denied. Answering Respondents did not answer the subject para. In violation Article-13 of the Constitution of the Islamic Republic of Pakistan, 1973 double jeopardy was awarded in the shape of non-considering him for promotion inspite of his eligibility and fitness and forfeiture of service.
- E. Needs no rejoinder.
- F. Needs no rejoinder.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through


Appellant

Khaled Rahman

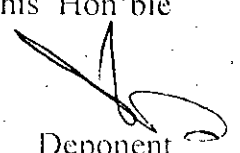
Advocate,

Supreme Court of Pakistan

Dated: ___/10/2018

Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 151/2018

Date of institution ... 15.01.2018

Date of judgment ... 10.12.2019

Niaz Ali, Head Constable No. 152

Finger Print Bureau (FPB) Investigation, Peshawar ... (Appellant)

VERSUS

1. The Inspector General of Police Government of Khyber Pakhtunkhwa.
2. The Additional Inspector General of Police Investigation, Khyber Pakhtunkhwa Peshawar.
3. The Director Forensic Science Laboratory Khyber Pakhtunkhwa, Peshawar.
... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE PROMOTION ORDERS DATED 18.11.2016 AND 28.12.2016 COMMUNICATED TO APPELLANT ON 08.09.2017 WHEREIN JUNIORS TO APPELLANT WERE PROMOTED TO THE RANK OF ASI (BPS-09) IN THE FINGER PRINT BUREAU (FBP) INVESTIGATION POLICE DEPARTMENT FOR WHICH APPELLANT PREFERRED A DEPARTMENTAL APPEAL ON 29.09.2017 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Mr. Khaled Rahman, Advocate

.. For appellant.

Mr. Riaz Ahmad Paindakheil, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Head Constable. He was imposed major penalty of removal from service vide order dated 05.09.2016 on the allegation that he remained absent from duty since 25.04.2016 ~~on the~~

in
due to
~~allegation~~ of involvement in case vide FIR No. 431 dated 17.05.2016 under section 489 PPC Police Station Gulberg, Peshawar. The appellant filed departmental appeal which was partially accepted and the order of removal from service was converted into compulsory retirement vide order dated 02.11.2016. The appellant filed revision petition which was also partially accepted and the punishment of compulsory retirement was converted into minor punishment of forfeiture of two years in two stages and accordingly reinstated the appellant into service vide order dated 10.03.2017. After removal from service till the reinstatement of the appellant, the respondents-department have promoted the junior colleagues of the appellant from the posts of Head Constables to the posts ASIs vide order dated 18.11.2016 & 28.12.2016, the appellant has claimed in para-5 of the service appeal that he was unaware of the promotion orders of his junior colleagues till 08.09.2017, therefore, after gaining knowledge of the said promotion order of his junior colleagues, the appellant filed departmental appeal on 29.09.2017 but the same was not responded hence, the present service appeal.

M. Amin
10.12.2019

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department as Head Constable. It was further contended that the appellant was imposed major penalty of removal from service vide order dated 05.09.2016 on the aforesaid allegation. It was further contended that the appellant filed departmental appeal which was partially accepted and the order of removal from service was converted into compulsory retirement vide order dated 02.11.2016. It was further contended that the appellant filed revision petition which was also partially accepted and the punishment of

compulsory retirement was converted into minor punishment of forfeiture of two years in two stages and he was reinstated in service vide order dated 10.03.2017. It was further contended that during the intervening period i.e from the date of his removal from service till reinstatement his junior colleagues were promoted from the posts of Head Constables to the posts of ASIs vide order dated 18.11.2016 & 28.12.2016. It was further contended that the appellant came to know the aforesaid promotion orders of his junior colleagues on 08.09.2017, therefore, the appellant filed departmental appeal on 29.09.2017 but the same was also not responded. It was further contended that since the appellant has challenged the order of his penalty before the competent forum therefore, respondent-department was required to adjourn the promotion proceeding of his junior colleagues and wait for the adjudication of the appellant case but the respondent-department has not waited for the adjudication of the case of appellant and illegally promoted his junior colleagues therefore, it was vehemently contended that the appellant is also entitled for promotion to the post of ASI with effect from the date when his juniors were promoted with all consequential benefits including arrear of salaries etc. In support of his arguments, he also relied on 2007 PLC (C.S) 303 Supreme Court of Pakistan.

5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department as Head Constable. It was further contended that the appellant was imposed major penalty of removal from service vide order dated 05.09.2016. It was further contended that the appellant filed departmental appeal which was partially accepted and the order of removal from service was converted into

M. Amin
10.12.2019

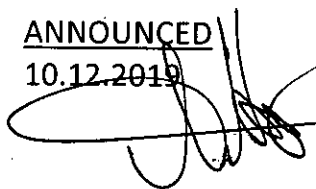
compulsory retirement vide order dated 02.11.2016. It was further contended that the appellant filed revision petition which was also partially accepted and the punishment of compulsory retirement was converted into minor punishment of forfeiture of two years in two stages vide order dated 10.03.2017. It was further contended that the junior colleagues of the appellant were promoted on 18.11.2016 and 28.12.2016 when the appellant was not in service and the junior colleagues of the appellant were fully entitled and eligible for promotion, therefore, the appellant is not entitled for promotion to the post of ASI with effect from the date when his junior colleagues were promoted and in this respect he also relied on judgment of this Service Tribunal passed in Service Appeal No. 1129/2016 whereby a similar nature appeal was dismissed by this Tribunal on the basis of judgment reported as 1985 SCMR 1410. It was further contended that the case law referred by learned counsel for the appellant is not applicable in the present service appeal as in that case the civil servant was not removed from service rather he was imposed major penalty of reduction in time scale by one stage but in the present case the appellant was removed from service when his junior colleagues were promoted. It was further contended that in case the appeal of the appellant is accepted, the seniority of his juniors must be affected, therefore, the appellant was required to implead his junior colleagues who have been promoted after his removal order but he has not impleaded them, therefore, the appeal is also liable to be dismissed due to non-joinder of necessary parties, therefore, it was vehemently contended that the appeal has no force and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department as Head Constable. He was removed from service vide order

M. Anwar
10.12.2019

dated 05.09.2016 on the aforesaid allegation. The appellant filed departmental appeal which was partially accepted and the order of removal from service was converted into compulsory retirement vide order dated 02.11.2016. The appellant filed revision petition which was also partially accepted and the punishment of compulsory retirement was converted into minor punishment of forfeiture of two years in two stages and the appellant was reinstated in service vide order dated 10.03.2017. The record further reveals that the appellant has challenged the promotion orders dated 18.11.2016 & 28.12.2016 of his junior colleagues and has prayed that he may also be promoted from the date when his juniors were promoted but the record reveals that the juniors to the appellant were promoted on 18.11.2019 & 28.12.2016 when the appellant was not in service and he was imposed major penalty of removal from service vide order dated 05.09.2016 and again his major penalty of removal from service was converted into compulsory retirement vide order dated 02.11.2016 and he was reinstated in service by the revisional authority vide order dated 10.03.2017 when the junior colleagues of the appellant were already promoted as at the relevant time the appellant was not in service, therefore, now he is not entitled for promotion from the date when his juniors were promoted. Moreover, in case, the appeal of the appellant is accepted, the seniority of his junior colleagues must be affected, therefore, the appellant was also required to implead his juniors but he has also not impleaded them, therefore, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.12.2019





(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.11.2019

Appellant alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Arguments heard. Case to come up for order on 10.12.2019 before D.B.


(Ahmad Hassan)
Member

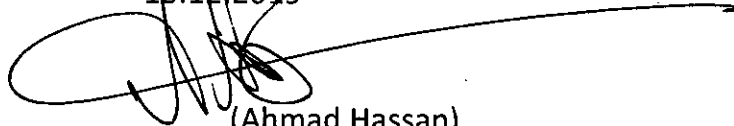

(M. Amin Khan Kundi)
Member

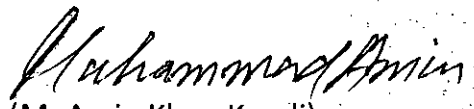
10.12.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.12.2019



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

29.05.2019

Appellant with counsel and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 15.07.2019 before D.B.


Member


Member

15.07.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 27.09.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

27.09.2019

Counsel for the appellant present. Learned Asst: AG for respondents present. Learned counsel for the petitioner seeks adjournment. Adjourn. To come up for arguments on 15.11.2019 before D.B.


Member


Member

04.02.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney alongwith Muhammad Sher Inspector present. Adjourn. To come up for arguments on 15.03.2019 before D.B.


Member



Member

14.03.2019

Counsel for the appellant and Addl. AG for the respondents present.

Learned counsel for the appellant has submitted rejoinder in response to the reply submitted by the respondents. Learned AAG seeks time to go through the same and further prepare the brief.

Adjourned to 24.04.2019 before the D.B.

~~26.04.2019~~

~~Due to general strike of the bar, the case is adjourned to come up for further proceedings/arguments on 29.05.2019 before D.B.~~

~~Member~~

~~Chairman~~

~~Member~~

~~Member~~

26.04.2019

Due to general strike of the bar, the case is adjourned. To come up for further proceedings/arguments on 29.05.2019 before D.B.


Member


Member

08.10.2018

Appellant Niaz Ali in person present. Mr. Sher Alam, S.I (Legal) alongwith Mr. Usman Ghani, District Attorney for the respondent present. Written reply submitted. To come up for rejoinder, if any, and arguments on 26.11.2018 before the D.B.


Chairman

26.11.2018

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 12.12.2018 before D.B.


Member


Member

12.12.2018

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Amir Ali SI present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourn. To come up for arguments on 04.02.2019 before D.B.


Member


Member

08.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 03.07.2018.



Reader

03.07.2018

Junior counsel for the appellant and Mr. Sardar Shaukat Hayat, Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 17.08.2018 before S.B.



Member

17.08.2018

Appellant Niaz Ali in person present. Mr. Muhammad Raghif, Inspector alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. Learned AAG sought some time to submit the same. Case to come up for written reply/comments on 08.10.2018 before S.B.



Chairman

Niaz Ali

05.03.2018

Learned counsel for the appellant present. Preliminary arguments heard and case file perused.

Learned counsel for the appellant argued that the appellant was inducted as Constable in the Police Department on 10.07.1991 and was later on promoted on account of his unblemished and outstanding service. That the appellant remained absent due to false implication in a criminal case vide FIR No. 431, dated 17.05.2016 and due to which he was removed from service vide order dated 05.09.2016. That on appeal the appellant was reinstated ~~vide order dated 10.03.2017~~ vide order dated 10.03.2017 by converting the penalty into forfeiture of 2 years service in 2 stages. That subsequently the respondents promoted Hamid Khan H.C No. 153, Ajmir Shah H.C No. 151 & Zar Muhammad H.C No. 155 and others while ignoring him from promotion. That the appellant filed departmental appeal before respondent no. 1 on 06.12.2017 which was not responded. That the respondents have illegally ignored the appellant from promotion which is against the law/rules as well as the basic rights enshrined in the Constitution.

Points raised need consideration. Admitted for regular hearing subject to all legal objections including limitation. The appellant is also directed to deposit security and process within (10) days, whereafter notice be issued to the respondents department for written reply/comments on 23.04.2018 before S.B.


(Gul Zeb Khan)
Member

23.04.2018




None present on behalf of appellant. Learned Addl. AG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 08.05.2018 before S.B.


Member



Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 151 /2018

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 31/1/2018 | <p>The appeal of Mr. Niaz Ali resubmitted today by Mr. Khaled Rehman Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | 06/02/18 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/02/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 12.02.2018 | <p>Clerk of the counsel for appellant present and requested for adjournment on the ground that learned counsel for the appellant is not in attendance today due to strike of the Bar. Adjourned. To come up for preliminary hearing on 05.03.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member (J)</p> |

The appeal of Mr. Niaz Khan Head Constable No. 152 FBP received today i.e. on 15.01.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

In the memo of appeal the name of the appellant has been written as Niaz Khan while the documents attached with the appeal show the name of the appellant as Niaz Ali which may be rectified.

No. 123 /S.T,

Dt. 16/01 /2018

Sondels
do
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Rehman Adv. Peshawar.

*Deficiency have been removed by
correcting the name of the appellant
in the memo.*

[Signature]
31-01-2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 151 /2018

Mr. Niaz (Ali) Appellant

VERSUS

IGP KPK and others Respondents

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| 3. | Order of appellant's reinstatement and forfeiture of two years service | 10.03.2017 | B | 6 |
| 4. | Seniority List | 31.03.2016 | C | 7-8 |
| 5. | Impugned Notifications | 18.11.2016 28.12.2016 | D | 9-10 |
| 6. | Application | 08.09.2017 | E | 11 |
| 7. | Departmental Appeal | 29.09.2017 | F | 12-13 |
| 8. | Letter | 15.06.2017 | G | 14 |
| 9. | Wakalat Nama | | | |

Through

Niaz
Appellant

Khaled Rahman
Advocate,
Supreme Court of Pakistan
3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: 12 /01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 151 /2018**Mr. Niaz Ali**

Head Constable No.152

Finger Print Bureau (FPB)

Investigation, Peshawar Appellant

Versus

Khyber Pakhtukhwa
Service TribunalDiary No. 39Dated 15-1-2018

1. **The Inspector General of Police**
Govt of Khyber Pakhtunkhwa.
2. **The Addle: Inspector General of Police**
Investigation, Khyber Pakhtunkhwa Peshawar.
3. **The Director**
Forensic Science Laboratory
Khyber Pakhtunkhwa, Peshawar..... Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE PROMOTION ORDERS DATED 18.11.2016 and 28.12.2016 COMMUNICATED TO APPELLANT ON 08.09.2017 WHEREIN JUNIORS TO APPELLANT WERE PROMOTED TO THE RANK OF ASI (BPS-9) IN THE FINGER PRINT BUREAU (FPB) INVESTIGATION POLICE DEPARTMENT FOR WHICH APPELLANT PREFERRED A DEPARTMENTAL APPEAL ON 29.09.2017 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned orders dated 18.11.2016 and 28.12.2016 communicated to appellant on 08.09.2017 may graciously be modified and appellant may be promoted to the rank of ASI (BPS-09) with effect from the date juniors were promoted with all consequential back benefits including arrears of salaries etc.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

Filed to Registrar
15/1/18
Registrar
Resubmitted to-day
Registrar
31/1/18

1. **That** the appellant was inducted in the Police Department as Constable on 10.07.1991 and was later on promoted as Head Constable on the account of his unblemished and outstanding service on 25.07.2001. Appellant has been working in FSL Branch at Peshawar since long and performing his duties to the entire satisfaction of the high-ups.
2. **That** the appellant was falsely implicated in a criminal case vide FIR No.431, dated 17.05.2016, U/S 489 PPC, PS Gulberg, Peshawar. Due to illness, appellant could not attend his office, therefore, on the account of absence appellant was suspended. An Enquiry Committee was constituted and after conducting enquiry the Report was submitted. On the recommendation of the Enquiry Committee appellant was awarded major penalty of removal from service vide office order dated 05.09.2016 (*Annex:-A*). The said removal order was challenged before the appellate authority wherein removal from service was converted into compulsory retirement vide order dated 02.11.2016.
3. **That** being aggrieved of the order *ibid*, appellant preferred departmental revision under Rule-11-A Khyber Pakhtunkhwa Police Rule-1975, before the competent authority, wherein the competent authority was pleased to convert major penalty into forfeiture of two years service in two stages and accordingly reinstated him into service vide order dated 10.03.2017 (*Annex:-B*) on account of his long services of more than 27 years.
4. **That** since his reinstatement, appellant has been performing his duties with zeal and zest and no complaint whatsoever has been lodged against him throughout his service.
5. **That** appellant dwells at Serial No.22 of the Seniority List of Inspectors, SIs, ASIs, HCs and Constables of Finger Print Bureau (FPB) vide Seniority List dated 31.03.2016 (*Annex:-C*), however,

juniors to him have been promoted to the rank of ASI (BPS-09) vide Impugned Notifications of different dates i.e. 18.11.2016 and 28.12.2016 (*Annex:-D*) of which the appellant was unaware till 08.09.2017 when the same were obtained through self efforts vide application dated 08.09.2017 (*Annex:-E*).

6. **That** appellant, being incensed, preferred a Departmental Appeal on 29.09.2017 (*Annex:-F*) to Respondent No.1 but the same was not disposed of within statutory period of 90 days, hence this appeal inter-alia on the following grounds:-

GROUND:

- A. **That** Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused to promote the appellant to the next higher grade, which is unjust, unfair and hence not sustainable in the eye of law.
- B. **That** in spite of admitted senior position of appellant in the Seniority List i.e. Serial No.22 he was ignored and juniors to him were promoted to the rank ASI, malafide, without any lawful justification against the law and policy thus liable to be modified to the extent of promotion of appellant.
- C. **That** the appellant has rendered valuable services for the Department for long 27 years. He has been serving as Head Constable w.e.f. 25.07.2011 which is essential condition for promotion to the next higher rank. In spite of appellant's admitted senior position in the Seniority List, promoting the juniors to next higher rank by the Department is deviation from Department's own record for the purpose of promotion which is clear violation of the law and against the fundamental rights of the appellant.

- D. **That** once the appellant has been reinstated into service and was in the line of promotion, therefore, depriving him from his right of promotion falls within the purview of double jeopardy under Article-13 of the Constitution of the Islamic Republic of Pakistan-1973 "*No person shall be prosecuted or punished for the offence more than once*".
- E. **That** appellant is senior, eligible and fit for promotion in all respect and not considering him for promotion against the policy and natural justice which is liable to be struck down.
- F. **That** appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for may also be granted to appellant.

Through

Niaz
Appellant

Khaled Rahman
Advocate,
Supreme Court of Pakistan

Dated: 12/01/2018

ORDER

Annex "A" - 5

This order will dispose off the departmental enquiry against Head Constable Niaz Ali No. 152 of Investigation Unit CPO Peshawar who was proceeded against departmentally on the following charges:

As intimated by the Moharrar PS Investigation (CB) vide DD report No. 05 dated 27.05.2016 that you were absent from your lawful duty since 25.04.2016 vide DD report No. 05 dated 25.04.2016 and that you have also been charged/involved in case vide FIR No. 431 dated 17.05.2016 u/s 489-F PPC PS Gulberg Peshawar.

Resultantly the defaulter official was placed under suspension and a preliminary enquiry was conducted by DSP Sardar Abdul Hameed of this unit who in his findings reported that HC Niaz Ali No. 152 was still absent from his lawful duty. After 61-days prolong absence, the defaulter official reported his arrival back on 25.06.2016.

A Final Show Cause Notice was also issued to the defaulter official but the reply submitted by him was found unsatisfactory. He was heard in person but he could not advance any plausible justification regarding his willful absence. He contended that he was ill and remained hospitalized but he did not produce any medical documents concerning to his illness or to justify his prolong absence.

I have gone through the material placed on file and reached to the conclusion that Head Constable Niaz Ali No. 152 not only remained absent from duty for about 61-days without any application or seeking permission but he also has been involved/charged in a criminal case vide FIR No. 431/2016 u/s 489-F PPC PS Gulberg Peshawar. All this reflects his lethargic attitude towards official duty and gross misconduct on his part. In addition, his reply to the Final Show Cause Notice has also been found unsatisfactory which shows that he has no plausible grounds to advance in support of the charges against him.

Keeping in view the above, I, the undersigned, hereby remove him from service under Police Rules 1975 (amended 2014 KPK Police E&D Rules 2014), with effect from the date of absence.

Order announced.

Acctt:
SRC

[Signature]
Director FSL
Date: 5/9/16

[Signature]
(ABDUR RASHEED)
Senior Superintendent of Police
Investigation CPO KP Peshawar

No. 10624-29 /EC/Inv: dated Peshawar, the 5 /09/2016.

Copies are sent for information and n/action to the:-

1. Addl:IGP Investigation KP Peshawar.
2. DIG Hqrs: Investigation: KP Peshawar.
3. Director FSL KP Peshawar.
4. DSP Admn Inv:
5. Accountant Inv:
6. Official concerned.

OB. No. 16/Inv

dt. 5-9-2016

ATTACHED

Forensic Science Laboratory
No. 1181
Date: 6-9-2016

Annex "B"

10-3-21



INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 1399 /17, dated Peshawar the 10/03/2017.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 1.1-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Head Constable Niaz Ali No. 152. The appellant was removed from service by SSP/Investigation, CPO Peshawar vide order Endst: No. 10624-29/EC/Inv; dated 05.09.2016 on the charges of involvement in a criminal case vide FIR No. 431/2016 u/s 489-F PPC Police Station Gulberg, Peshawar and absence from duty for 61 days.

He preferred appeal to Addl: IGP/Investigation, Khyber Pakhtunkhwa, Peshawar. Addl: IGP/Investigation, KPK converted his punishment into compulsory retirement from service vide order No. 12588-92/EC, dated 02.11.2016.

Meeting of Appellate Board was held on 09.02.2017 wherein appellant was heard in person. During hearing petitioner contended that he was ill and FIR was lodged due to misunderstanding.

Petitioner was removed from service by SSP/Investigation, CPO Peshawar and his punishment was converted to compulsory retirement by Addl: IGP/Investigation, Khyber Pakhtunkhwa, Peshawar vide order dated 02.11.2016. Petitioner has already been compensated by the Appellate Authority. The petitioner contended that the dispute was patched up in between him and complainant party.

Petitioner further contended that he was ill and FIR was lodged due to misunderstanding. He has qualified Recruit Course, Civil Defence, Proficient Course and Bomb Reconnaissance Course. According to his service record there is no bad entry in his long service.

Keeping in view his long service of 25 years, 01 month and 25 days the punishment awarded to him is harsh, therefore the Board decided that his punishment is converted into forfeiture of two years service in two stages, he is warned to be careful in future and he is hereby re-instated in service from the date of compulsory retirement.

This order is issued with the approval by the Competent Authority.

(NAJEEB-UR-REHMAN BUGVI)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/1400-1407/16.

Copy of the above is forwarded to the:

1. Addl: IGP/Investigation, Khyber Pakhtunkhwa, Peshawar.
2. SSP, Investigation, CPO Peshawar
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar
7. Office Supt: E-IV CPO Peshawar.
8. Central Registry Cell, CPO.

SRC/Acctt:

Director FSK
22/3/2017

Addl: Investigator General of Police,
Investigation
Khyber Pakhtunkhwa, Peshawar.

SENIORITY LIST OF INSPECTOR, SIs, ASIs HCs, AND CONSTABLE OF FINGER PRINT BUREAU (FPB) AS STOOD ON 31.03.2016

No. _____ /EC/Inv: the seniority list of FPB is hereby published for information.

| S. No. | Name & Rank | Home Distt: | Education | Date of Birth | Date of Enlist: | Date of Transfer of Lien | Date of Promot: as HC | Date of Confirm: as HC | Date of Promot: as ASI | Date of Confirm: as ASI | Date of Promot: to List E | Date of Promot: as SI | Date of Confirm: as SI | Date of Promot: as Insp: | Date of Confirm: as Insp: |
|--------|-----------------------|-----------------|------------------|---------------|--------------------|--------------------------|-----------------------|------------------------|------------------------|-------------------------|---------------------------|-----------------------|------------------------|-----------------------------|---------------------------|
| 1 | Insp: Zaheer Ahmad | A-Abad | FA | 29.10.57 | 29.10.75 As Const: | 13.01.79 | 01.05.77 | 29.10.81 | 01.10.78 | 05.05.85 | 05.08.85 | 20.09.79 | 20.09.91 | 23.01.15 | - |
| 2 | SI Kafoor Khan | Charsadda | FA | 01.05.60 | 16.11.78 As Const: | 25.09.91 | 15.08.80 | - | 07.08.85 | 20.09.91 | - | 18.10.92 | 19.10.94 | - | - |
| 3 | SI Khalid Jan | Charsadda | 10 th | 05.01.61 | 09.04.79 As Const: | 25.09.91 | 15.08.80 | 09.04.85 | 07.08.85 | 20.09.91 | - | 01.02.93 | 02.02.95 | - | - |
| 4 | SI Safdar Ali Shah | Karak | BA | 20.04.69 | 02.11.88 As Const: | 02.11.88 | 01.01.89 | 01.01.92 | 22.01.94 | 24.02.96 | - | 27.03.99 | 07.06.01 | - | - |
| 5 | SI Muhammad Fahim | Peshawar | MA | 01.05.64 | 20.10.82 As Const: | 02.08.86 | 19.09.91 | 19.09.93 | 22.01.94 | 24.02.96 | - | 27.03.99 | 07.06.01 | - | - |
| 6 | SI Shahdat Hussian | Peshawar | 10 th | 15.12.61 | 31.05.80 As Const: | 25.09.91 | 19.09.91 | 19.09.94 | 22.01.94 | 24.02.96 | - | 27.03.99 | 07.06.01 | - | - |
| 7 | SI Irfan Ullah | Peshawar | 10 th | 20.05.65 | 17.09.88 As Const: | 25.09.91 | 01.10.88 | 01.10.91 | 22.01.94 | 24.02.96 | - | 27.03.99 | 07.06.01 | - | - |
| 8 | SI Khan Sher | Swabi | BA | 20.12.60 | 16.12.85 As Const: | 28.09.92 | 07.09.91 | 07.09.93 | 22.01.94 | 24.02.96 | - | 03.04.01 | 04.04.03 | - | - |
| 9 | SI Riaz-ur-Rehman | Peshawar | FA | 10.10.70 | 21.11.88 As Const: | 21.11.88 | 22.01.94 | 23.01.96 | 03.04.96 | 04.04.98 | - | 25.07.01 | 30.07.03 | - | - |
| 10 | SI Alamgir Khan | Mardan | 10 th | 13.01.65 | 10.12.88 As Const: | 25.09.91 | 22.01.94 | 23.01.96 | 24.03.97 | 25.03.99 | - | 15.09.01 | 16.09.03 | Transfer to Anti Corruption | |
| 11 | SI Fayaz Ahmad | Peshawar | BA | 13.03.66 | 18.12.88 As Const: | 16.09.91 | 22.01.94 | 23.01.96 | 27.03.99 | 09.05.01 | - | 20.03.08 | 21.03.10 | - | - |
| 12 | SI Habib-ur-Rehwar | Peshawar | FA | 01.04.71 | 25.10.92 As Const: | 25.10.92 | 22.01.94 | 23.01.96 | 27.03.99 | 28.03.01 | - | 20.03.08 | 21.03.10 | - | - |
| 13 | SI Alamgir | Mardan | 10 th | 05.01.68 | 02.11.92 As Const: | 02.11.92 | 03.02.94 | 04.02.96 | 27.03.99 | 28.03.04 | - | 14.01.11 | - | - | - |
| 14 | SI Sher Ali | Peshawar | FA | 20.01.73 | 25.01.94 As Const: | 25.01.94 | 04.09.97 | 04.09.99 | 27.03.99 | 26.03.01 | - | 24.12.14 | - | - | - |
| 15 | SI Muhammad Ijaz Khan | Malakand Agency | FA | 11.02.74 | 01.03.94 As Const: | 01.03.94 | 04.09.97 | 04.09.99 | 27.03.99 | 28.03.01 | - | 24.12.14 | - | - | - |
| 16 | ASI Noor Zada | Malakand Agency | FA | 22.02.75 | 01.03.94 As Const: | 01.03.94 | 27.03.99 | 25.06.04 | 09.05.01 | 08.05.03 | - | - | - | - | - |
| 17 | ASI Mukhtiar Ali | Mardan | FA | 18.05.68 | 07.09.87 As Const: | 17.03.94 | 27.03.99 | 25.06.04 | 25.07.01 | 24.07.03 | - | - | - | - | - |
| 18 | ASI Muhammad Yousaf | Mardan | BA | 06.01.65 | 06.12.92 As Const: | 11.04.94 | 27-3-99 | 27-01-01 | 15-9-01 | 16-09-03 | - | - | - | Transfer to Anti Corruption | |

9/5/2016

Annex 2, -7

Peshawar

| No. | Name & Rank | Home Distt: | Education | Date of Birth | Date of Enlist: | Date of Transfer of Lien | Date of Promot: as HC | Date of Confirm: as HC | Date of Promot: as ASI | Date of Confirm: as ASI | Date of Promot: to List E | Date of Promot: as SI | Date of Confirm: as SI | Date of Promot: as Insp: | Date of Confirm: as Insp: |
|-----|------------------------------|-----------------|------------------|---------------|--------------------|--------------------------|-----------------------|------------------------|------------------------|-------------------------|---------------------------|-----------------------|------------------------|--------------------------|---------------------------|
| 19 | ASI Muhammad Islam | Malakand Agency | 10 th | 17.03.76 | 04.12.94 As Const: | 04.12.94 | 27.03.99 | 25.06.04 | 17.04.08 | 18.04.10 | - | - | - | - | - |
| 20 | ASI Siraj Mohammad | Mardan | 10 th | 20.03.73 | 09.09.92 As Const: | 01.11.95 | 27.03.99 | 25.06.04 | 17.04.08 | 18.04.10 | - | - | - | - | - |
| 21 | ASI Ishtiaq Ahmad | Peshawar | MA | 07.02.79 | 10.07.98 As Const: | 10.04.99 | 24.05.01 | 26.05.03 | 24.12.14 | 23.12.16 | - | - | - | - | - |
| 22 | HC Niaz Ali No.152 | Mardan | FA | 11.02.73 | 10.07.91 | 19.6.2000 | 25.07.01 | - | - | - | - | - | - | - | Investigation C.P.O |
| 23 | HC Hameed Khan No.153 | Peshawar | BA | 08.04.70 | 29.08.93 | 10.6.2000 | 15.09.01 | 16.09.03 | - | - | - | - | - | - | - |
| 24 | HC Ajmer Shah No. 151 | Malakand Agency | FA | 09.04.66 | 15.01.95 | 15.6.2000 | 06.12.07 | - | - | - | - | - | - | - | - |
| 25 | HC Zar Muhammad No. 154 | Peshawar | 10 th | 25.02.68 | 27.06.89 | 14.12.2000 | 17.04.08 | - | - | - | - | - | - | - | - |
| 26 | HC Asad Ali No. 155 | Mardan | D-Com | 05.10.78 | 11.07.01 | 11.07.01 | 17.04.08 | - | - | - | - | - | - | - | - |
| 27 | HC Masood-ur-Rehman | Charsadda | BA | 01.03.74 | 10.08.01 | 10.08.01 | 23.02.15 | - | - | - | - | - | - | - | - |
| 28 | FC S.Ijaz Hussain Shah No.75 | Peshawar | 10 th | 01.09.83 | 21.09.01 | 21.09.01 | - | - | - | - | - | - | - | - | - |
| 29 | FC Muhammad Mujahid No. 112 | D.I.Khan | 10 th | 06.09.86 | 01.11.07 | 01.11.07 | - | - | - | - | - | - | - | - | - |
| 30 | FC Muhammad Amin No. 33 | Peshawar | FA | 14.04.79 | 02.8.2000 | 21.04.08 | - | - | - | - | - | - | - | - | - |

(DR. ISHTIAQ AHMED KHAN)PSP
 Addl: Inspector General of Police,
 Investigation, Khyber Pakhtunkhwa, Peshawar

No. 3924-26 /EC, dated 27/4/2016.

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

- 1 Provincial Police, Officer, Khyber Pakhtunkhwa, Peshawar.
- 2 PA to DIG/HQs: Investigation, Khyber Pakhtunkhwa, Peshawar.
- 3 Director, FSL, Khyber Pakhtunkhwa, Peshawar.

SRE
Director FSL
9/5/2016

Forensic Science Laboratory

Date No. 541 /FSL

Date: 9/5/16

IN CHARGE, FSL WING
 Khyber Pakhtunkhwa, Peshawar



3246
211116

FOR PUBLICATION IN THE KHYBER PUKHTUNKHWA POLICE GAZETTE PART-II
ORDERS BY THE ADDL/IGP INVESTIGATION KHYBER PUKHTUNKHWA
PESHAWAR

NOTIFICATION

Dated Peshawar, the _____/11/2016.

NO.-----/EC/INV:- **PROMOTION:-** As recommended by the Departmental Promotion Committee in its meeting held on 14.11.2016, the following Police Officers/officials of FSL KP, Peshawar are hereby promoted to the next higher rank as noted against each with immediate effect and till further orders against the existing vacancies of their respective sections:-

| S.NO. | NAME/DESIGNATION | SECTION | PROMOTED AS |
|-------|------------------------|---------------------|-------------------------|
| 1. | ASI Noor Zada | FPB | Sub Inspector BPS-14 |
| 2. | ASI Mukhtiar Ali | -do- | -do- |
| 3. | ASI Muhammad Yousaf | -do- | -do- |
| 4. | ASI Muhammad Islam | -do- | -do- |
| 5. | ASI Amarat Ali Shah | Fire Arms | -do- |
| 6. | HC Hameed Khan No. 153 | FPB | ASI BPS-09 |
| 7. | HC Ajmer Shah No. 151 | -do- | -do- |
| 8. | HC Abdul Wahid No. 174 | Fire Arms | -do- |
| 9. | HC Dil Roz No.164 | Chemical Section | -do- |
| 10. | HC Nizar Ahmad No. 176 | -do- | -do- |

(DR. MASOOD SALEEM) PSP
Addl: Inspector General of Police
Investigation KP Peshawar

EC/Inv: dated Peshawar, the 18/11/2016.

Copies are forwarded for information and necessary action to

the:-

1. DIG/HQRS:/Investigation CPO Peshawar.
2. SP/Investigation CPO
3. Director FSL Khyber Pakhtunkhwa Peshawar.
4. PA to Addl:IGP/Investigation Khyber Pakhtunkhwa Peshawar.
5. Gazette Clerk Inv:

(DR. MASOOD SALEEM) PSP
Addl: Inspector General of Police
Investigation KP Peshawar

Attested
DSP
FSL
Khyber Pakhtunkhwa
3/13/17

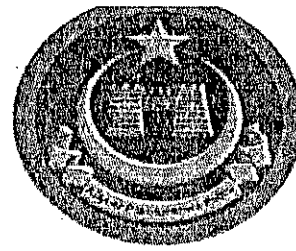
SRC

for my actions

Director

FSL
22/11

18/11



-10

FOR PUBLICATION IN THE KHYBER PUKHTUNKHWA POLICE GAZETTE PART-II ORDERS BY THE ADDL/IGP INVESTIGATION KHYBER PUKHTUNKHWA PESHAWAR

NOTIFICATION

Dated Peshawar, the _____/12/2016.

/EC/INV:- PROMOTION:- As recommended by the Departmental Promotion Committee in its meeting held on 19.12.2016, the following Police Officer/officials of FSL KP, Peshawar are hereby promoted to the next higher rank as noted against each with immediate effect and till further orders against the existing vacancies of their respective sections:-

| S. NO. | NAME/DESIGNATION | SECTION | PROMOTED AS |
|--------|---------------------|---------|---|
| 1. | ASI Siraj Muhammad | FPB | Offg: Sub Inspector BPS-14 (12720-980-42120) |
| 2. | HC Zar Muhammad | FPB | Offg: ASI BPS-09 (9800-610-28160) |
| 3. | HC Asad Ali No. 155 | FPB | Offg: ASI BPS-09 (9800-610-28160) |

(DR. MASOOD SALEEM) PSP
Addl: Inspector General of Police
Investigation KP Peshawar

No. 14760-64

/EC/Inv: dated Peshawar, the 28 /12/2016.

- Copies are forwarded for information and necessary action to the:-
1. DIG/HQRS:/Investigation CPO Peshawar.
 2. DSP/Investigation (Legal) CPO
 3. Director FSL Khyber Pakhtunkhwa Peshawar.
 4. PA to Addl:IGP/Investigation Khyber Pakhtunkhwa Peshawar.
 5. Gazette Clerk Inv:

Attested
n DSP
8/19/2017
DSP Investigation
FSL Peshawar
Khyber Pakhtunkhwa

(DR. MASOOD SALEEM) PSP
Addl: Inspector General of Police
Investigation KP Peshawar
8/27/12

for FSL
28/12/16

ATTACHED

جہاں علی اے "F" کا نام

11 - موربانہ نزار علی اے، کہ سائل FPB/FS2 کی سٹیٹس کی

لیسٹ جیڈ کونٹریٹس میں سب جیڈ کونٹریٹس سے

شیرہے، اسکے باوجود سائل کی درخواستیں سٹیٹس

ہے۔ اور سائل سے پانچ جو نیر جیڈ کونٹریٹس ASI

کے عہدہ پر ترقی پاب ہوئے ہیں۔

یہاں اس پر عیاں ہے کہ سائل کو ان جیڈ کونٹریٹس

کی ASI والہ آرڈر کی کاپی دیا جائے

1) عہدہ خان

2) اجیر شاہ

3) زری

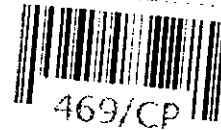
4) اسد علی

5) مسعود الرحمن

9
8/2017

کارخانہ ال - ال
اسد علی نیر جیڈ کونٹریٹس FPB
8/19/2017

Q



The Inspector of General of Police
Govt. of Khyber Pakhtunkhwa,
Police Lines, Peshawar.

Annex "F"
- 12

Subject: Departmental appeal against the Impugned Notifications dated 18.11.2016, 28.12.2016 and 15.06.2017 communicated to the appellant on 08.09.2017 wherein juniors to appellant were promoted.

Respected Sir,

With due respect I have the honour to submit this departmental appeal for your kind consideration and favourable action on the following facts and grounds:

1. That the appellant was inducted in the Police Department as Constable and later on promoted as Head Constable on the account of his unblemished and outstanding service. Now appellant has been working in FSL Branch since very long and performing his duties to the entire satisfaction of the high-ups.
2. That the appellant has falsely been implicated in a criminal case vide FIR No.431, dated 17.05.2016, U/S 489 PPC, PS Gulberg, Peshawar. Due to illness, appellant could not attend his office, therefore, on the account of absence appellant was suspended. An enquiry committee was constituted. On the recommendation of the Inquiry Committee appellant was awarded major penalty of removal from service vide office order dated 05.09.2016(copy of order is *Annexure A*). The said removal order was challenged before the competent authority wherein removal from service was converted into compulsory retirement.
3. That being aggrieved of the order *ibid*, appellant preferred departmental revision under Rule-11-A Khyber Pakhtunkhwa Police Rule-1975, before the competent authority, wherein the competent authority was pleased to convert major penalty of removal from service into forfeiture of two years service in two stages and accordingly reinstated him into service vide order dated 10.03.2017 (*Annexure B*) on the account of his long services of more than 27 years.
4. That since his reinstatement, appellant has been performing his duties with zeal and zest and no complaint whatsoever has been lodged against him throughout his service.
5. That appellant dwells at Serial No.22 of the Seniority List of Inspectors, SIs, ASIs, HCs and Constables of Finger Print Bureau (FPB) vide Seniority List dated 31.03.2016 (*Annexure C*), however, in spite of his senior position appellant was ignored and juniors to him were promoted to the post of Sub Inspectors (BPS-14) vide Impugned Notifications of different dates i.e.

CPB
6/10/17
Ror

ATTACHED

18.11.2016, 28.12.2016 and 15.06.2017 (*Annexure D*) of which the appellant was unaware till 08.09.2017 when the same were communicated to the appellant.

6. That appellant has time again and again brought his grievance into the notice of the authorities but invain, hence the appellant being aggrieved of the impugned notifications ibid, prefers the instant departmental appeal on the following grounds:-

Grounds:

- A. That the appellant has the fundamental and constitutional right of promotion but has unlawfully been deprived of the same in violation of law and rules on the subject.
- B. That appellant is senior, eligible and fit for promotion in all respect and not considering him for promotion against the policy and natural justice which is liable to be struck down.
- C. **That** once the appellant has been reinstated into service and was in the line of promotion, therefore, depriving him from his right of promotion falls within the purview of double jeopardy under Article-13 of the Constitution of the Islamic Republic of Pakistan-1973 "*No person shall be prosecuted or punished for the offence more than once*".

It is, therefore, humbly requested that the impugned Notifications dated 18.11.2016, 28.12.2016 and 15.06.2017 may graciously be set aside in and appellant be promoted in the light of Seniority List with all back benefits.

OS-CP
↓
29/9

Yours faithfully


Niaz Ali

Head Constable No.152
Finger Print Bureau (FPB)
Investigation,
Khyber Pakhtunkhwa

Dated: 29 /09/2017

2-10-2017


ACCEPTED



Forensic Science Laboratory
29, Sector B-1 Phase-V Hayatabad
Khyber Pakhtunkhwa Peshawar
Tel. 091-9217394/Fax. 091-9217251

No. 622 Date 15-06-17

Ana ex "G"

- 14

The Addl: Inspector General of Police,
Investigation, Khyber Pakhtunkhwa, Peshawar.

SUBJECT: PROMOTION

Memo:

Please refer to your office letter No.5743/EC/Inv: dated 14-06-2017 on the
subjected cited above.

Service record of the following officials of this lab are sent herewith as
desired please.

| Name | Rank | Service Record | |
|--------------------|------|----------------|--------------|
| | | Character Roll | Fauji Missal |
| ✓ Masood-ur-Rehman | H.C | 01 | 01 |
| Abid Jawad | F.C | 01 | 01 |

Attested
in presence of
DSP
8.8/2017
DSP Investigation
FSL Peshawar
Khyber Pakhtunkhwa

(RAJ NAWAZ KHAN)
Director
Forensic Science Laboratory
KP, Peshawar.

O/C
15/6

REGISTERED

بعدالت سرسین ڈیڑھ لکھ روپے



2018ء منجانب ایپیل کی
تاریخ بنام سرسین

موزخہ
مقدمہ
دعویٰ
جرم

یاعت تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کے لئے سر سین ڈیڑھ لکھ روپے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ

پر داختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 12 ماہ 2018ء

گواہ

کے لئے منظور ہے۔

بمقام

Attested
Accepted