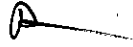


03.03.2016

Counsel for the appellant and Mr. Ziaullah, GP
for respondents present. Since the court time is over,
therefore, the case is adjourned to 08.06.2016 for
arguments.



Member



Member

08.06.2016

Counsel for the appellant, Mr. Ziaullah, GP for respondents
present. Learned counsel for the appellant informed this Tribunal
that the appellant has died therefore the appeal is abated. Orders
accordingly. File be consigned to the record room.

ANNOUNCED
08.06.2016



MEMBER



MEMBER

30.3.2015

Counsel for the appellant and Ziaullah, GP for the respondents present. The learned Member (Judicial) is on official tour to D.I.Khan, therefore, case to come up for arguments on ~~17.06.2015~~


MEMBER

11.06.2015

Counsel for the appellant and Mr. Aziz Shah, H.C alongwith Mr. Ziaullah, GP for the respondents present. It was pointed out by the learned GP that the appellant has been died, therefore the appeal stands abed. This contention was controvers by the learned counsel for the appellant and requested that the case may be fixed for arguments on the above points. To come up for arguments on the point of maintainability on 10.09.2015.


Member


Member

10.09.2015

Clerk of counsel for the appellant and Mr. Aziz Shah, Rider alongwith Mr. Ziaullah, GP for respondents present. Learned counsel for the appellant is not in attendance today therefore, arguments could not be heard. To come up for arguments on the point of maintainability on 3-3-16.


Member


Member

13.3.2014

Appellant with counsel (Mr. Sajid Amin, Advocate) and Mr. Riaz Ahmad, SI(Legal) for respondents with Mr. Muhammad Jan, GP present. The learned counsel for the appellant produced copy of notification dated 11.2.2014 whereby the appellant alongwith others has been promoted to the rank of offg. Inspector (BPS-16) but with immediate effect. The learned counsel for the appellant stated that though grievance of the appellant to the extent of his promotion stands redressed vide notification, but his prayer for promotion from the date his colleagues were promoted and back benefits and arrears is still outstanding. Written reply has not been received, and GP requested for further time. Another chance is given for written reply/comments on 11.6.2014.


CHAIRMAN

11.6.2014

Counsel for the appellant (Mr. Sajid Amin, Advocate) and Mr. Riaz Ahmad, SI (Legal) on behalf of the respondents with AAG present. Written reply/comments received on behalf of the respondents, copy whereof is handed over to the learned counsel for the appellant for rejoinder on 24.9.2014.


Chairman

24.09.2014

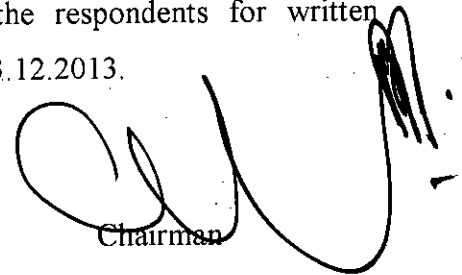
Appellant with counsel (Mr. Sajid Amin, Advocate) and Mr. Riaz Ahmad, SI (legal) on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments on 30.03.2015.


Chairman

Appeal No. 603/2013.
Syed ulayyat Shah

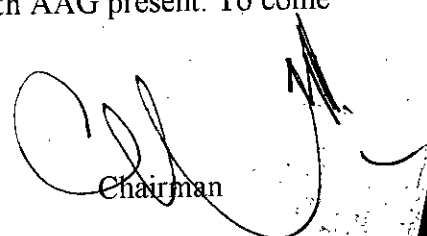
3.
24.9.2013

Appellant present in person and heard. The appellant, inter-alia, contended that he is serving in the Traffic Staff of the Police Department as Sub-Inspector and has rendered meritorious service and has also earned commendation certificate etc, but he has not been promoted as officiating Inspector (BPS-16) by the respondent-department, apparently, due to the reason that he had not remained S.H.O, as per requirement of the rules; but he was not at fault for that omission as he could not post himself as SHO, which was, indeed, prerogative of the authorities. The appellant further contended that Sub-Inspectors junior to him have been promoted while superseding him for no fault on his part, and thus depriving him of his lawful right of promotion being senior Sub-Inspector. The appellant concluded that he preferred departmental appeal against promotion of junior officers to him, but his departmental appeal was summarily rejected, without assigning any reason, by the PPO, KPK, Peshawar (respondent No. 1) and conveyed to him vide memo. dated 11.3.2013, hence this appeal on 3.4.2013. The points raised at the Bar need consideration. Admit. Process fee and security be deposited within 10 days. Thereafter, Notices be issued to the respondents for written reply/comments before Bench-I on 13.12.2013.


Chairman

13.12.2013

Appellant the counsel (Mr. Sajid Amin, Advocate) and Mr. Wisal Ahmad, SI (Legal) for respondents with AAG present. To come up for written reply/comments on 13.3.2014.


Chairman

Note. The appellant deposited
Security & Process fee Rs 160/-
Bank receipt attached on file
S

21.05.2013

Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment Ordinance, 2013) (Khyber Pakhtunkhwa Order II of 2013), the case is adjourned on note Reader for proceeding as before on 2.7.2013


Reader.

02.07.2013

Munshi to counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa Ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 21.08.2013.


Reader

21.08.2013



Appellant with counsel present. Pre-admission notice be issued to the respondents as well as Sr.GP/GP to produce all the proper record including seniority list. To come up for preliminary hearing on 24.09.2013.


Member

Handwritten notes:
D/C
A.R. Khan
S

Form-A
FORM OF ORDER SHEET

Court of _____
Case No. 603 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03/04/2013	<p style="text-align: center;">The appeal of Mr. Syed Wilayat Shah presented today by Mr. Ijaz Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	8-4-2013.	<p style="text-align: center;">This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>21-5-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 603 /2013

Syed Wilayat Shah, Sub-Inspector No.546-P, R/O Traffic Staff,
Peshawar.

(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.


(Respondents)

INDEX

S. No.	Description of Documents	Annexure	Page No.
1	Memo of Appeal & Affidavit		1-3
2	Commendation Certificate	A	4
3	Recommendations for promotion	B & C	5-6
4	Notification dated 13.01.2013	D	7-7 th
5	Departmental appeal	E	8
6	Rejection order dated 11.03.2013	F	9
7.	Vakalatnama		


Appellant

Through


IJAZ ANWAR
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 603 /2013

KWP Peshawar
Service Tribunal
Case No. 673
Dated 03/4/13

Syed Wilayat Shah, Sub-Inspector No.546-P, R/O Traffic Staff,
Peshawar.

(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Capital City Police Officer, Peshawar.

(Respondents)

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the refusal of the respondents to consider the appellant for his promotion to the post of Inspector, when his colleagues were promoted vide notification No. 2409 E-II dated 30.01.2013 against which his Departmental Appeal was regretted vide letter dated 11.03.2013 communicated to the appellant on 22.03.2013.

Prayer in Appeal:

On acceptance of this appeal the impugned order of rejection dated 11.03.2013 my please be set aside and the respondents may please be directed to consider the appellant for promotion to the rank of Inspector with effect from the date his colleagues were promoted all back benefits and arrears.

Respectfully submitted:

1. That the appellant was initially appointed as Constable in the Police Department in the year 1982, during the course of his service he gained promotions and lastly promoted as Sub-Inspector. Ever since his appointment the appellant performed his duties as assigned to him with full devotion and honesty and there was no complaint whatsoever regarding his performance.
2. That appellant has at his credit clean and exemplary service record, his services were always appreciated. (Copy of the commendation certificate is attached as Annexure A).

Filed to the
[Signature]
3/4/13

3. That thereafter the appellant remained posted at various Stations lastly he was posted in Traffic Police and presently he is posted there.
4. That in the year 2010 due to his seniority, the appellant was recommended for his promotion to the post of Inspector, however he remained deprived of because of the fact that he has not been posted as SHO, independent incharge of police station for one year. (Copies of the recommendations are attached as Annexure B & C)
5. That recently promotions were made vide notification dated 30.01.2013, however the appellant was not even considered for promotion on the ground that he has not served as independent incharge of a police station, he submitted his departmental appeal, it was however filed vide letter dated 11.03.2013 communicated to the appellant on 22.03.2013. (Copies of the notification dated 30.01.2013, appeal and rejection order are attached as Annexure D, E & F)
6. That the appellant prays for the acceptance of his appeal inter alia on the following grounds:-

Grounds of Appeal:

- A. That the appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated.
- B. That in accordance with law the respondents were required to have processed the cases of promotion of the appellant also, however it was refused, thus the appellant has been deprived of his vested right of consideration for promotion.
- C. That the mandatory provisions of Section 9 of Khyber Pakhtunkhwa (then NWFP) Civil Servant Act, 1973 read with Khyber Pakhtunkhwa (then NWFP) Civil Servant (Appointment, Promotions and Transfer) Rules, 1989 and enabling instructions contained in the ESTA Code, read with Police Rules, 1934 have not been adhered to by the respondents thus he has been deprived of his legal and due rights.

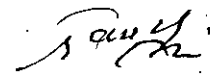
- D. That posting as SHO/ Independent Incharge of the Police Station is not the prerogative of the appellant, rather this authority vested in the CCPO to post him SHO in order to qualify for confirmation as SI and than be considered him for promotion to the rank of Inspector, similarly there is nothing on record that the appellant has disobeyed any order of his appointment as SHO, therefore when there is no fault on his part for being posted on such post, how can he be denied the consideration for promotion on this score.
- E. That the appellant has been discriminated against, as similar placed working with the appellant was allowed the benefits of promotion, but it was refused illegally to the appellant.
- F. That the appellant seeks the permission of this Honourable Court to rely on additional grounds at the hearing of this appeal.

It is therefore prayed that on On acceptance of this appeal the impugned order of rejection dated 11.03.2013 my please be set aside and the respondents may please be directed to consider the appellant for promotion to the rank of Inspector with effect from the date his colleagues were promoted all back benefits and arrears.


Appellant

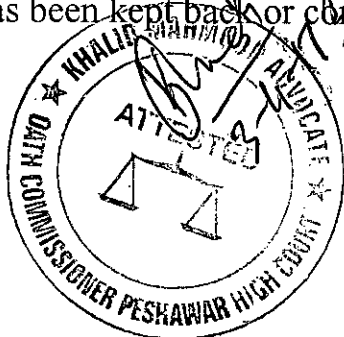
Through

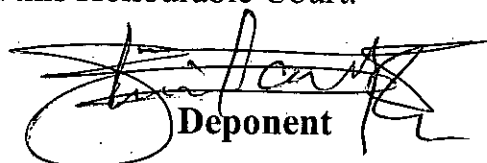
IJAZ ANWAR
Advocate, Peshawar
&


SAJID AMIN
Advocate, Peshawar

Affidavit

I, Syed Wilayat Shah, Sub-Inspector No.546-P, R/O Traffic Staff, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the above appeal are true and correct and that nothing has been kept back or concealed from this Honourable Court.




Deponent

2/2

Inspector General of Police
N.W.F.P.

De furo

Dated 19

Cash reward Rs. 3000/-

dated 7.4.88 U/S 7 B.S.A. (S. 133A) 1981

PP KOLCHAY GATE, PESHAWAR VIDE PIR NO. 174

has good work for detecting five hoodlums

in recognition of

District PESHAWAR

on of

constable WILYAT SHAH NO. 2431

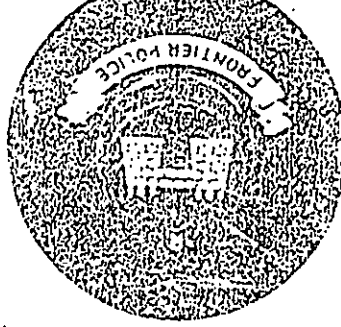
INSPECTOR GENERAL OF POLICE N.W.F.P.

MR. J. DEWARDA ASSISTANT COMMISSIONER

Granted by

CLASS I

Commendation Certificate



North West Frontier Province Police

Spencer - J

(3)

ANNEX: B

From: The Senior Superintendent of Police,
Traffic, Khyber Pakhtunkhwa, Peshawar.

To: The Deputy Inspector General of Police,
Traffic, Khyber Pakhtunkhwa, Peshawar.

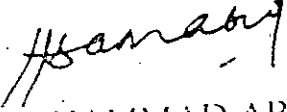
No: 325 /OASI, dated Peshawar, the 26 / 07: 2010.

Subject:- PROMOTION TO "I" LIST.

Memo:

It is submitted that SI Syed Wilayat Shah is serving as Reader to the undersigned and working extremely well in the capacity as Reader. He is dependable and hardworking officer. He has ample experience with good working credential and has an un-blemished record.

Keeping in view his outstanding and meritorious performance during complete service, he is strongly recommended for exemption of one year posting as SHO for confirmation to the rank of Inspector.


(SYED HAMMAD ABID)PSP
Senior Superintendent of Police,
Traffic, Peshawar.



From : The Deputy Inspector General of Police,
Traffic, Khyber Pakhtunkhwa, Peshawar.

Amended - C

To : The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

(6)


No. 1546/EC, dated Peshawar the 16/11/2010:

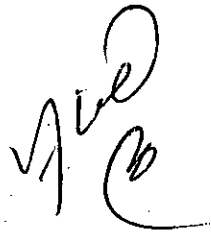
Subject: PROMOTION OF "F" LIST

Memo:

It is submitted that SI Syed Wilayat Shah is serving as Reader to the SSP/Traffic, Peshawar and working extremely well in the capacity as Reader. He is dependable and hard working officer. He has ample experience with good working credential and has an un-blemished record.

Keeping in view his outstanding and meritorious performance during complete service, he is requesting for exemption of one year posting as SHO for confirmation to the rank of Inspector and personal appearance before the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.


(KASHIF ALAM) PSP
Deputy Inspector General of Police
Traffic Khyber Pakhtunkhwa, Peshawar



ANNEX - D
7

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

NOTIFICATION

Dated: 30 / 10 / 2013

No. 2409 E-II, PROMOTION LIST-F AND PROMOTION AS OFFG:
INSPECTOR

The names of the following confirmed Sub-Inspectors of Khyber Pakhtunkhwa Police have been approved as per recommendation of the DPC for inclusion in list -F and promotion to the rank of Offg: Inspectors BPS-16 (10000-800-34000) with immediate effect.

S#	NAME & RANK	REGION /UNIT
1.	SI Noor Jalil No. 175/M	Malakand Region
2.	SI Ghulam Hassan No. 226/M	Malakand Region
3.	SI Umar Daraz Khan No. D/11	DIKhan Region
4.	SI Bashir Dad No. P/149	CCP Peshawar
5.	SI Muhammad Riaz No. K/107	Kohat Region
6.	SI Roshan Zeb No. P/51	CCP Peshawar
7.	SI Gul Sheed No. P/152	CCP Peshawar
8.	SI Taj Malook No. P/153	CCP Peshawar
9.	SI Muhammad Saddique No. P/154	CCP Peshawar
10.	SI Abdur Rehman No. P/155	CCP Peshawar
11.	SI Samin Jan No. P/156 ✓	CCP Peshawar
12.	SI Amir Badshah No. P/157	CCP Peshawar
13.	SI Tayyab Jan No. P/158	CCP Peshawar
14.	SI Fazal Wahid No. P/159 ✓	CCP Peshawar
15.	SI Fazal Subhan No. P/160 ✓	CCP Peshawar
16.	SI Alam Zeb No. P/161	CCP Peshawar
17.	SI Saeed Khan No. P/162	CCP Peshawar
18.	SI Mira Jan No. P/163	CCP Peshawar
19.	SI Noor Ullah No. P/164	CCP Peshawar
20.	SI Muhammad Ishaq No. P/165	CCP Peshawar
21.	SI Pasham Gul No. P/166	CCP Peshawar
22.	SI Mukhtiar Ahmad No. P/167	CCP Peshawar
23.	SI Amir Nawaz No. P/168	CCP Peshawar
24.	SI Laiqat Khan No. P/169	CCP Peshawar
25.	SI Muhammad Shoaib No. P/170	CCP Peshawar
26.	SI Afsar Zaman No. P/171	CCP Peshawar
27.	SI Johar Shah No. P/173	CCP Peshawar
28.	SI Ali Khan No. P/174	CCP Peshawar
29.	SI Abdur Rashid No. P/175	CCP Peshawar
30.	SI Khalid Khan No. P/176	CCP Peshawar
31.	SI Niaz Muhammad No. P/177	CCP Peshawar

YCP

32.	Allama Iqbal No.p/178	CCP Peshawar
33.	SI Tuheed ullah No. p/179	CCP Peshawar
34.	Muhammad Naeem No.P/180	CCP Peshawar
35.	SI Waheedullah No. M/160	Malakand Region
36.	SI Muhammad Nawaz No. M/273	Malakand Region
37.	SI Zahid Khan No. M/ 302	Malakand Region
38.	SI Badshah Hazrat No. M/303	Malakand Region
39.	SI Naveed Iqbal No. M/176	Malakand Region
40.	SI Ajmal Khan No. M/151	Malakand Region
41.	SI Atiqur Rehman No. M/ 261	Malakand Region
42.	SI Muhammad Saeed No. M/317	Malakand Region
43.	SI Ghulam Sadique No. M/269	Malakand Region
44.	SI Muhammad Iqbal No. K/10	Kohat Region
45.	SI Hussain Ghulam No. K/87	Kohat Region
46.	SI Muhammad Iqbal No. H/29	Hazara Region
47.	SI Farhad Ali No. H/30	Hazara Region
48.	SI Azam Ali Shah No. H32	Hazara Region
49.	SI Arshad Hussain No. H/33	Hazara Region
50.	SI Matloob Khan No. H/34	Hazara Region
51.	SI Shahnawaz No. H/35	Hazara Region
52.	SI Shad Muhammad No. H/36	Hazara Region
53.	SI Fazal Wahab No. H/37	Hazara Region
54.	SI Jehanzeb Khan No. H/39	Hazara Region
55.	SI Muhammad Amin No. H/42	Hazara Region
56.	SI Ihsan Shah No. H/44	Hazara Region
57.	SI Muhammad Younsaf No. H/46	Hazara Region
58.	SI Muhammad Sajjad No. H/47	Hazara Region
59.	SI Fida Muhammad No. H/48	Hazara Region
60.	SI Zahoor Ahmed No. M/127	Malakand Region
61.	SI Habib Ullah Khan No. M/168	Malakand Region
62.	SI Fazal Dad No. P/181 ✓✓	CCP Peshawar
63.	Abdullah Jan No. P/182 ✓	CCP Peshawar
64.	Gohar Khan No.P/183	CCP Peshawar
65.	Naseem Hayat No.P/184 ✓	CCP Peshawar
66.	Nasrullah Khan No.p/185	CCP Peshawar
67.	SI Janan Habib No. P/186	CCP Peshawar
68.	SI Arshad Ahmed No. P/187	CCP Peshawar
69.	SI Muhammad Kamran No. P/188	CCP Peshawar
70.	SI Sajid Mumtaz No. P/189	CCP Peshawar
71.	SI Fida Hussain No.P/190 ✓	CCP Peshawar
72.	SI Ijaz Ali No. P/191	CCP Peshawar
73.	SI Zakaullah No. P/192 ✓✓	CCP Peshawar
74.	SI Taj Muhammad Khan No. P/193 ✓	CCP Peshawar
75.	SI Ijaz Ali No. P/194	CCP Peshawar
76.	SI Adnan Azam No. P/195	CCP Peshawar

77.	SI Zahid Alam No. P/196	CCP Peshawar
78.	SI Rehmatullah No. P/197	CCP Peshawar
79.	SI Muhammad Inam Jan No. MR/59	Mardan Region
80.	SI Luqman Khan No. MR/80	Mardan Region
81.	SI Ikhtraz Khan No. MR/81	Mardan Region
82.	SI Pir Zar Badshah No. MR/82	Mardan Region
83.	SI Muhammad Fazil No. MR/83	Mardan Region
84.	SI Imtiaz Ali No. MR/84	Mardan Region
85.	SI Ghazi Marjan No. D/17	Dikhan Region

Their promotion will take effect from the date, they actually take over charge of their higher responsibilities.

Necessary Gazette Notification may be issued accordingly.

Their posting order will be issued separately.



(KHALID MASOOD)
Addl: IGP/Headquarters,
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar.

No. 2410-24 /E-II

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

1. Addl: IGP/Special Branch Khyber Pakhtunkhwa Peshawar.
2. Capital City Police Officer, Peshawar.
3. All Region DisG in Khyber Pakhtunkhwa.
4. Commandant PTC Hangu.
5. Deputy Inspector General of Police, DCT/SB Khyber Pakhtunkhwa
6. Assistant Inspector General of Police, Traffic Khyber Pakhtunkhwa
7. Director Anti-Corruption Establishment Khyber Pakhtunkhwa.
8. Office Supdt: Secret CPO Peshawar.
9. Accountant CPO Peshawar.
10. U.O.P file

40

ANNEX:- E

بخدمت جناب پرائشل پولیس آفیسر صاحب پشاور

(B)

جناب عالی!

گزارش ہے۔ کہ سائل سال 1982ء کو محکمہ پولیس میں بطور کنسٹیبل بھرتی ہوا تھا۔ بدوران ملازمت سائل کو اچھی کارکردگی کی بناء پر افسران بالا کی طرف سے کئی بانعامات سے نوازا گیا ہے۔ علاوہ ازیں سائل کی تعیناتی بمقام چوک یادگار پولیس چوکی تھی کہ ایک عدد بم جو کہ پولیس چوکی کو تباہ کرنے کیلئے رکھا گیا تھا کو ناکارہ بنایا۔ جس کی وجہ سے سائل کو اس وقت کے IGP صاحب کی طرف سے I-CC سرٹیفکیٹ اور نقد انعام سے نوازا گیا۔

جناب عالی! سائل نے اپنی سروس نہایت ایمانداری اور خوش اسلوبی سے سرانجام دی ہے۔ اور کبھی بھی ڈیوٹی میں کوتاہی کا مرتکب نہیں رہا ہے۔ جبکہ افسران بالا کو بھی کسی قسم کی شکایت کا موقع نہیں دیا۔

سائل نے PTC ہنگو سے اپر (Upper) کورس پاس کیا ہے۔ اور سائل کے اپر کورس میں شریک ساتھی تقریباً تین سال پہلے انسپکٹر کے عہدے پر ترقیاب ہو چکے ہیں۔

جناب عالی! بحوالہ نوٹیفکیشن نمبری II-2409/E مورخہ 30-01-2013 میں بھی مجھ سے جو نیئر

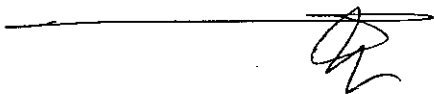
ملازماں پر موٹ ہو چکے ہیں۔ اور سائل ابھی تک اپنی جائز ترقیابی کا منتظر ہے۔

بذریعہ درخواست ہذا استدعا ہے۔ کہ سائل کو سیناریٹی دینے کے ساتھ ساتھ کنفرم انسپکٹر پر موٹ کرنے کا حکم صادر فرما کر مشکور فرمائیں۔ سائل بمعہ اہل و عیال تاحیات دعا گور ہے گا۔

العارض

آپکا تابع فرمان SI سید ولایت شاہ

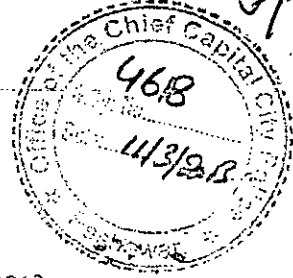
نمبر 546/P متعینہ ٹریفک سٹاف پشاور





ANNEX - F

(9)



From : The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

To : The Capital City Police Officer,
Peshawar.


No. 5240 /E-II dated Peshawar the 01/11/13 /2013.

Subject: APPLICATION

Memo:

Please refer to your office Memo: No 3651/EC-I dated 28.02.2013

The case of SI Syed Wilayat Shah of Traffic Police Peshawar has
been examined and filed by the competent authority please.


(JAVED IQBAL)
Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 603/2013

Syed Wilayat Shah.....(*Appellant*)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa, Peshawar &
others..... (*Respondents*)

REJOINDER TO THE PARA WISE REPLY ON
BEHALF OF THE APPELLANT

Respectfully submitted:

The appellant submits his rejoinder as under:

ON PRELIMINARY OBJECTIONS:

1. Contents incorrect and misleading, the instant appeal is filed well within the prescribed period of limitation.
2. Contents incorrect and misleading, all parties necessary for the disposal of the appeal are arrayed in the instant appeal.
3. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.
4. Contents incorrect and misleading, the appellant has illegal been denied / not considered for promotion from the date when it

- colleagues / juniors were promoted, hence he has the necessary cause of action to file the instant appeal.
5. Contents incorrect and misleading, no rules of estoppel is applicable to the instant case.
 6. Contents incorrect and misleading, all necessary facts are brought before this Honourable tribunal and nothing has been concealed.
 7. Contents incorrect and misleading, the appellant has illegal been denied / not considered for promotion from the date when it colleagues / juniors were promoted, hence being an aggrieved civil servant he has got the necessary locus standi and cause of action to file the instant appeal.
 8. Contents incorrect and misleading , though ~~being~~ the appellant has now been promoted to the rank of officiating inspector vide order dated 11.02.2014, but with immediate effect, while the appellant has in the instant appeal prayed for consideration for promotion from the date when his juniors / colleagues were promoted. Since the grievance of the appellant is still not fully redressed hence the objection of the respondents that the appeal is infructuous is misconceived and baseless. **(Copy of the Promotion order dated 11.02.2014, is attached as Annexure Rj-I)**

ON FACTS

1. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
2. Contents need no reply, however contents of Para-2 of the appeal are true and correct.
3. Contents need no reply, however contents of Para-3 of the appeal are true and correct.
4. Contents of Para-4 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.

5. Contents need no reply, however contents of Para-5 of the appeal are true and correct.
6. Contents of Para-4 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.


GROUNDS

The Grounds (A to F) taken in the memo of appeal are legal and will be substantiated at the time of arguments.


It is, therefore, humbly prayed that the appeal of the appellant may please be accepted as prayed for.


Appellant

Through


IJAZ ANWAR
Advocate, Peshawar.

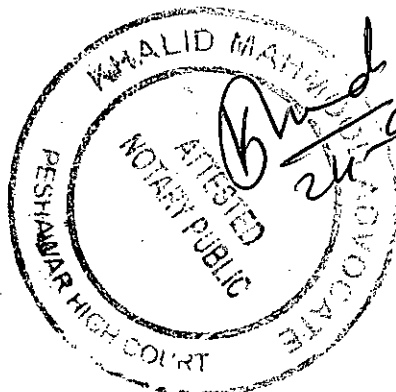
&


SAJID AMIN
Advocate, Peshawar.

AFFIDAVIT

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.


Deponent



B-1

**FOR PUBLICATION IN THE KHYBER
PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA, PESHAWAR.**

NOTIFICATION

Dated: 11 / 02 / 2014

No. 11141 E-II PROMOTION LIST-F AND PROMOTION AS OFFG:
INSPECTOR :-

As per recommendation of the DPC in its meeting held on 07.02.2014 duly approved by the W/IGP Khyber Pakhtunkhwa the names of the following confirmed Sub-Inspectors of Khyber Pakhtunkhwa Police are hereby brought on list "F" and promoted to the rank of Offg: Inspectors BPS-16 (10000-800-34000) with immediate effect:-

S/NO	NAME & RANK	REGION/UNIT
1.	SI Shafiq-ur Rehman No. K/17	Kohat
2.	SI Faqir Hussain No. P/214	CCP, Peshawar
3.	SI Javed Khan No. P/215	CCP, Peshawar
4.	SI Muhammad Hanif No. P/216	CCP, Peshawar
5.	SI Saif Ali No. P/217	Mardan Region
6.	SI Jehan Akbar No. P/218	Mardan Region
7.	SI Muhammad Zaman No. P/219	Mardan Region
8.	SI Sultan Badshah No. P/220	Mardan Region
9.	SI Saifullah No. P/221	Mardan Region
10.	SI Abdul Nazir No. P/222	CCP, Peshawar
11.	SI Bashir Ahmad No. P/24	Mardan Region
12.	SI Atta Muhammad No. MR/93	Mardan Region
13.	SI Maroof Khan No. P/220	Mardan Region
14.	SI Tika Khan No. 289/M	Malakand Region
15.	SI Ahmad Essa No. 290/M	Malakand Region
16.	SI Qazi Asmatullah No. MR/96	Mardan Region
17.	SI Shahenshah No. MR/97	Mardan Region
18.	SI Sadat Khan No. MR/98	Mardan Region
19.	SI Zar Wali No. P/225	CCP, Peshawar
20.	SI Hastam Khan No. P/226	CCP, Peshawar
21.	SI Kiramat Shah No. P/227	CCP, Peshawar
22.	SI Riaz Khan No. P/228	CCP, Peshawar
23.	SI Dost Muhammad No. P/229	CCP, Peshawar
24.	SI Sardar Gul No. P/230	CCP, Peshawar
25.	SI Sher Afzal No. P/231	CCP, Peshawar
26.	SI Syed Muzaffar Shah No. P/232	CCP, Peshawar
27.	SI Muhammad Shabir No. P/233	CCP, Peshawar
28.	SI Shams-ur-Rehman No. P/234	CCP, Peshawar
29.	SI Sajjad Hussain No. P/235	CCP, Peshawar
30.	SI Shafqat Hussain No. P/236	CCP, Peshawar
31.	SI Syed Tahir Shah No. P/237	CCP, Peshawar
32.	SI Ihsan Shah No. P/07	CCP, Peshawar
33.	SI Sabz Ali No. P/238	CCP, Peshawar
34.	SI Sanobar Shah No. P/239	CCP, Peshawar
35.	SI Zewar Shah No. P/241	CCP, Peshawar
36.	SI Saz Wali No. P/242	CCP, Peshawar
37.	SI Mudasir Shah No. P/243	CCP, Peshawar
38.	SI Fazal Rehman No. P/244	CCP, Peshawar
39.	SI Bashir Gul No. P/245	CCP, Peshawar
40.	SI Ghani-ur-Rehman No. P/246	CCP, Peshawar
41.	SI Latifullah No. K/134	Kohat Region

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42.	SI Farid Shah No. 247	CCP, Peshawar
43.	SI S. Wilayat Shah No. P/249	CCP, Peshawar
44.	SI Mukhtiar Ali No. P/250	CCP, Peshawar
45.	SI Ghaffar Ali No. P/251	CCP, Peshawar

Their promotion will take effect from the date, they actually take over charge of their higher responsibilities.

Necessary Gazette Notification may be issued accordingly.

Their posting order will be issued separately.

(MIAN MUHAMMAD ASIF)

Addl: IGP/Headquarters

For Inspector General of Police,

Khyber Pakhtunkhwa

Peshawar

No. 4142-SI/E-II

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

1. Addl: IGP/Elite Force Khyber Pakhtunkhwa Peshawar.
2. Addl: IGP/Special Branch Khyber Pakhtunkhwa, Peshawar.
3. Capital City Police Officer, Peshawar.
4. Deputy Inspectors General of Police, Malakand, Kohat & Mardan Regions.
5. Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa, Peshawar.
6. Commandant PTC Hangu.
7. Office Supdt: Secret CPO alongwith their original Character Rolls for record in his office.
8. U.O.P File.

23

**FOR PUBLICATION IN THE KHYBER
PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA, PESHAWAR.**

NOTIFICATION

Dated: 11 / 02 / 2014

No. 1141 E-II PROMOTION LIST-F AND PROMOTION AS OFFG:
INSPECTOR :-

As per recommendation of the DPC in its meeting held on 07.02.2014 duly approved by the W/IGP Khyber Pakhtunkhwa the names of the following confirmed Sub-Inspectors of Khyber Pakhtunkhwa Police are hereby brought on list "F" and promoted to the rank of Offg: Inspectors BPS-16 (10000-800-34000) with immediate effect:-

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41.	SI Latifullah No. K/134	Kohat Region

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Their promotion will take effect from the date, they actually take over charge of their higher responsibilities.

Necessary Gazette Notification may be issued accordingly.

Their posting order will be issued separately.

(MIAN MUHAMMAD ASIF)

Addl: IGP/Headquarters

For Inspector General of Police,

Khyber Pakhtunkhwa

Peshawar

No. 4142-SI/E-II

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

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6. Commandant PTC Hangu.
7. Office Supdt: Secret CPO alongwith their original Character Rolls for record in his office.
8. U.O.P File.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. ~~6027~~ /2013.

Syed Wilayat Shah, Inspector No. 249/P r/o Traffic Staff Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar..... Respondents.

PRELIMINARY OBJECTIONS.

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

FACTS:-

- 1- First part of Para No.1 pertains to record while rest of Para is for the appellant to prove.
- 2- Para No. 2 pertains to record, hence needs no comments.
- 3- Para No. 3 pertains to record, hence needs no comments.
- 4- Para No. 4 incorrect. The recommendation of the appellant for promotion to the rank of Inspector was rejected on the ground that as per the Police Rules 13-10(2), the appellant did not fulfill the criteria for confirmation to the rank of Sub-Inspector. While confirmation of Sub-Inspector is mandatory for the promotion to the rank of Inspector. (Police Rules 13-10(2) is annexed). "A"
- 5- First part of Para No.5 is already explained in preceding Para while rest of the Para is incorrect on the ground that whereas, the Sub-Inspector is eligible to be promoted as Inspector when he fulfills the prescribed criteria of Police Rules 13-10(2) and standing order No.10, 2009. **Subsequently, the appellant was confirmed as Sub-Inspector after completion of his period of OII PS Traffic vide dated 28.01.2014 and also promoted to the rank of 'F' list Inspector, vide dated 11.02.2014.** (Standing order No. 10, 2009 is annexed "B")
- 6- Para No. 6. That the respondents also pray for dismissal of his appeal on the following grounds.

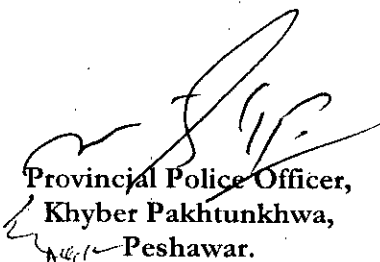
GROUND:-


- A- Incorrect. The appellant was treated in accordance with the law and no injustice has been done to him.
- B- Incorrect. Para already explained.
- C- Incorrect. The provisions of law and rules have been adhered to by the respondents **and the appellant was never deprived of his rights.**

- D- Incorrect and denied on the ground that only a capable officer is eligible for the post of SHO and the competent authority is in best position to assess the capabilities of an officer serving under his command.
- E- Incorrect. No discrimination and illegality has been done.
- F- That the respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

It is therefore most humbly prayed that in light of above stated facts/submissions, the appeal of the appellant may be dismissed being devoid of merit.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 609/2013.


Syed Wilayat Shah, Inspector No. 249/P r/o Traffic Staff Peshawar.....Appellant.


VERSUS.

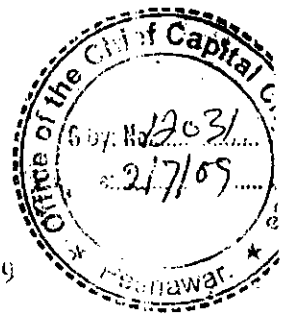
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar..... Respondents.

AFFIDAVIT.

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


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.



STANDING ORDER NO 40 /2009
UPPER COLLEGE COURSE

Introduction:- In exercise of the powers conferred by Police Order Article 10 (3) of Police Order 2000, the following standing order is issued to make the upper college course mandatory for further promotion from the rank of SI.

Object:- To promote efficiency of an individual in particular and the Police force in general.

Order:- The aim of standing order is to streamline the efficiency and increase of knowledge of upper subordinates in accordance with the need of the day. Qualifying of upper college course shall be mandatory for further promotion to the Rank of Inspector and the following criteria for selection of upper college course shall be followed:-

1. The officer should be a confirmed ASI and his name must exist at list "E" of his parent District.
2. Physically fit up to the maximum age of forty eight (48) years.
3. Relaxation in age limit should only be granted by the PPO in case of extraordinary service, up to two years, subject to physical fitness.

W. Mansoor Khan
Provincial Police Officer,
NWFP Peshawar

.....
OFFICE OF THE PROVINCIAL POLICE OFFICER, N.W.F.P. PESHAWAR.

No. 7287-7331 /C-I, Dated Peshawar the 17 /2009.

Copy of above is sent to all Head of Police Officers in N.W.F.P. for information and necessary action.

Si

POWER OF ATTORNEY

In The COURT of 12 P 12 Service Tribunal Peshawar
Syed Wilayat Shah

For:
Plaintiff
Appellant
Petitioner
Complainant

VERSUS

P.P.O and others

Defendant
Respondent
Accused

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

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

MR.IJAZ ANWAR ADVOCATE, HIGH COURT, PESHAWAR

Sajid Anwar Advocate my true and lawful attorney, for me in my name and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any appellate Court on 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, compromises 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 execution, 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 Practioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever 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 do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may per proper and expedient.

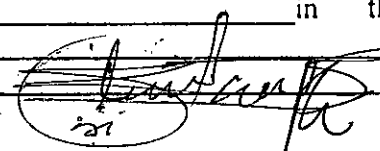

AND I/We hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

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 dismissed in default, if it be proceeded ex-parte the said counsel shall not held responsible for the same. All cost awarded in favour shall the right of Counsel or his nominee, and if awarded against shall payable by me/us.

IN WITNESS whereof I/We have hereto signed at Peshawar the _____ day to _____ in the year _____

Executant/Executants _____

*Accepted subject to the terms regarding fee _____

Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3, 4th Floor, Bilour Plaza, Saddar Road, Peshawar Cantt.
Ph: 091-52772054 Mobile: 0333-9107225