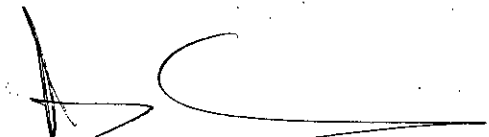


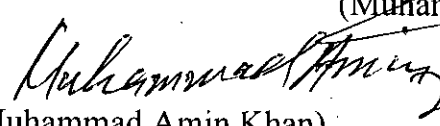
Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	29.03.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 1010/2013</p> <p>Maqbool Jahan-vs-The provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Counsel for appellant and Mr. Ziaullah, Government Pleader for respondents present.</p> <p>2. Mr. Maqbool Jahan, hereinafter referred as the appellant has preferred the instant service appeal with a prayer to direct the respondents to include his name as confirmed ASI with effect from 31.05.2007 and promotion to the list-E with effect from 31.05.2007 as mentioned in order dated 12.09.2009 passed on the strength of the judgment of the Hon'ble Peshawar High Court Peshawar dated 20.03.2008.</p> <p>3. According to the stance of the appellant he was officiating ASI with effect from 31.05.2005 and was confirmed in the rank of ASI and promoted to list-E with effect from 31.05.2007 vide order dated 12.09.2009 which order was passed on the strength of the judgment of the Hon'ble Peshawar High Court Peshawar dated 20.03.2008.</p> <p>4. Respondents have taken the stance that the judgment of the Hon'ble Peshawar High Court Peshawar was not pronounced at the</p>

time of reversion of the appellant to the post of incharge Head Constable (IHC). That the departmental appeal of the appellant to that effect is under consideration.

4. We have heard arguments of learned counsels for the parties and perused the record.

5. The respondents are in a position to decide the grievances of the appellant in accordance with the judgment of the august Peshawar High Court Peshawar dated 20.03.2008 and, according to their stance taken in the written statement, the same is under consideration in departmental appeal as such we direct that the grievances of the appellant be positively decided by the respondents without further loss of time and within a period one month from the date of communication of this judgment. In case they fail to decide the said grievances of the appellant within the specified period of one month then it shall be deemed that they have accepted the stance and entitlement of appellant and in such eventuality he shall be considered as officiating ASI with effect from 31.05.2005 and confirmed ASI in list-E with effect from 31.05.2007. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

  
(Muhammad Azim Khan Afridi)  
Chairman

  
(Muhammad Amin Khan)  
Member

ANNOUNCED  
29.03.2017

15.08.2016

Agent to counsel for the appellant and Additional AG for respondents present. Agent to counsel for the appellant requested for adjournment as counsel for the appellant is not available today before the Tribunal. To come up for arguments on ~~27-10-16~~ before D.B.

Member

Member

27.10.2016

Counsel for the appellant and Addl. AG for the respondents present. Learned Addl. AG requested for adjournment. Adjourned for final hearing 03.01.2017 before the D.B.

Member

Chairman

03.01.2017


Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on ~~29~~ 03.2017.

(ASHFAQUE TAJ)  
MEMBER

(MUHAMMAD AMIR NAZIR)  
MEMBER

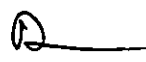
03.2016


Appellant in person and Mr. Aziz Shah, H.C  
alongwith Mr. Ziaullah, GP for respondents present.  
Arguments could not be heard due to learned Member  
(Executive) is on leave. To come up for arguments on  
29.04.2016 before D.B.

  
Member

29.04.2016

Counsel for the appellant and Mr. Muhammad Ghani, S.I  
alongwith Mr. Usman Ghani, Sr.GP for respondents present.  
Arguments could not be heard due to paucity of time. To come up  
for arguments on 28.06.2016.

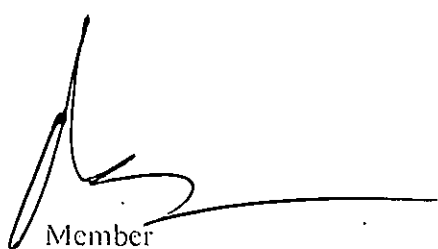
  
Member

  
Member

28.6.2016

Counsel for the appellant and Mr. Ziaullah, GP for  
respondents present. Counsel for the appellant requested for  
adjournment. Adjournment accepted. To come up for arguments on  
15.8.2016.

  
Member

  
Member

02.01.2015

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for arguments on 24.06.2015.

Reader.

24.06.2015

Counsel for the appellant and Asstt. AG for the respondents present. Counsel for the appellant is not available. Therefore, case is adjourned to 08.09.2015 for arguments.

  
Member  
Member

08.09.2015

Counsel for the appellant and Addl. A.G for respondents present. Due to paucity of time therefore, arguments could not be heard To come up for arguments on 14-1-16.

  
Member  
Member

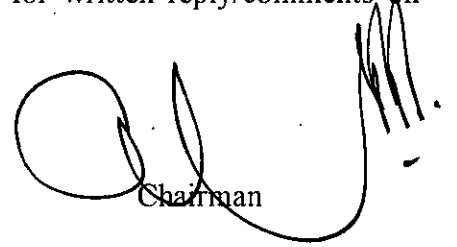
14.01.2016

Junior to counsel for the appellant and Mr. Aziz Shah, Reader alongwith Mr. Muhammad Jan, GP for respondents present. Junior to counsel for the appellant stated that senior counsel for the appellant is stated busy before the august High Court Peshawar and requested for adjournment. To come up for arguments on 11-1-16.

  
MEMBER  
MEMBER

13.01.2014

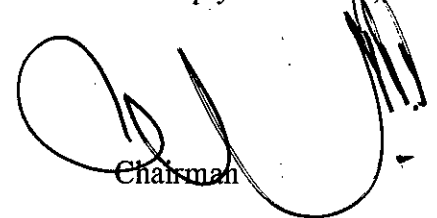
Clerk of counsel for the appellant and Mr. Riaz Ahmad, SI (Legal) on behalf of respondents with AAG present. Written reply has not been received. To come up for written reply/comments on 10.4.2014.



Chairman

10.4.2014

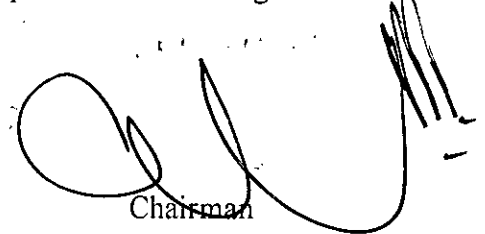
Appellant with counsel and Mr. Iqbal Munir, SI (Legal) for respondents with AAG present. Written reply has not been received. Another chance is given for written reply/comments positively, on 18.7.2014.



Chairman

18.7.2014

Appellant with counsel and Mr. Riaz Ahmad, SI (Legal) for respondents with AAG present. Written reply received on behalf of the respondents, copy whereof is handed over to the learned counsel for the appellant for rejoinder. The learned counsel for the appellant requested for fixation of the case for arguments with further request for permission to file rejoinder in the meantime. Rejoinder be filed in the meantime, with copy for the opposite side for arguments on 2.1.2015.



Chairman

Appeal No. 10/0/2013.  
Mr. Meqbool Jehan.

3.

20.09.2013

Counsel for the appellant present and heard on preliminary.

Appellant deposited  
security & process fee  
Rs 180/- Bank receipt  
is attached with  
file

Shaf

Contended that the appellant has not been treated in accordance with the law/rules. Vide order dated 12.09.2009 the appellant was promoted as officiating ASI from 31.05.2005 and conformed in the rank of ASI and promoted to list E from 31.05.2007. The appellant was then sent to Malakand Division and was subsequently posted again in Peshawar region. The appellant was shown at the bottom of the list E, against which the appellant filed departmental appeal on 25.02.2013 but no reply received within the statutory period of 90 days. Hence the present appeal on 08.05.2013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections/limitation. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 21.11.2013 for submission of written reply.

Member.

4.

20.09.2013

This case be put before the Final Bench P for further proceedings.

Chairman

21-11-13.

Appellant with counsel and Khalid Nohd,  
SI, Legal, for respondent present.  
The worthy chairman is an honor. To come  
up for written reply/comment on 13-1-14.


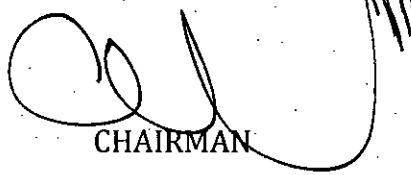
Khalid Nohd

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1010/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/06/2013	<p>The appeal of Mr. Maqbool Jahan resubmitted today by Mr. Muhammad Asif Yousafzai 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	16-7-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>20-8-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>




The appeal of Mr. Maqbool Jahān Officiating ASI received today i.e. on 08/05/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be got signed by the appellant.
- 2- Copy of order dated 14.11.2007 mentioned in para-5 of the memo of appeal (Annexure <sup>(D)</sup> C) is not attached with the appeal which may be placed on it.
- 3- Fair copy of departmental appeal may be also be annexed with the appeal. <sup>(E)</sup>

No. 760 /S.T,

Dt. 9/5 /2013.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M. Asif Yousafzai Adv. Pesh.

Sir,

1. removed.
2. order dt: 14.11.07 will be produced at the time of hearing.
3. removed.

Re-submitted.



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

APPEAL NO. 1010 /2013

Mr. Maqbool Jahan

V/S


P.P.O. & Others.

.....  
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<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
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2.	Copy of Judgment (20.3.2008)	A	05-07
3.	Copy of Letter dated (10.6.2009)	B	08
4.	Copy of Order	C	09
5.	Copy of Order	D	10
6.	Copy of Appeal	E	11 *
7.	Vakalat Nama	---	12

APPELLANT  
Maqbool Jahan

THROUGH:

  
M. ASIF YOUSAFZAI  
ADVOCATE

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

APPEAL NO. 1010 /2013

APPEAL NO. 1010  
SERIES NO. 884  
DATED 08/5/13

Mr. Maqbool Jahan, Officiating ASI No.4481,  
Capital City Police, Peshawar.

**APPELLANT**

VERSUS

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Central City Police Officer, Peshawar.
3. The SSP Headquarters, Peshawar.

**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE NWFP  
SERVICE TRIBUNAL ACT 1974 FOR DIRECTING  
THE RESPONDENTS TO MENTION THE  
APPELLANT AS CONFIRMED ASI WITH EFFECT  
FROM 31.5.2007 AND PROMOTION TO LIST-E  
WITH EFFECT FROM 31.5.2007 AS MENTIONED  
IN THE ORDER DATED 12.9.2009 PASSED ON  
THE BASIS OF THE HONORABLE PESHAWAR  
HIGH COURT, PESHAWAR DIRECTIONS AND  
AGAINST NOT TAKING ANY ACTION ON THE  
DEPARTMENTAL APPEAL OF THE APPELLANT  
WITHIN THE STATUTORY PERIOD OF 90 DAYS.**

**PRAYER:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE  
RESPONDENT MAY BE DIRECTED TO CONSIDER  
THE APPELLANT AND MENTION HIM AS  
CONFIRMED ASI WITH EFFECT FROM 31.5.2007  
AS MENTIONED IN THE ORDER DATED  
12.9.2009 INSTEAD OF SHOWING THE  
APPELLANT AS OFFICIATING ASI IN THE  
OFFICIAL RECORD. ANY OTHER REMEDY  
WHICH THIS AUGUST TRIBUNAL DEEMS FIT

Filed to court  
8/5/13

Submitted to  
and filed  
25/6/13

**AND APPROPRIATE THAT MAY ALSO BE  
AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:**

1. That the appellant joined the FRP during the year 1987. The appellant has passed lower college course in 1999 and intermediate college course at PTC Hangu in the year 2004. The appellant was promoted as officiating ASI on 31.5.2005. All the dates are recorded in Departmental Appeal of the Appellant, the copy of which is attached as Annexure-E.
2. That in the year 2007, some colleagues of the appellant filed Writ Petition in the Peshawar High court, Peshawar against the discriminatory treatment of FRP because colleagues of the appellant (Petitioners in the Writ Petition) were not treated as regular police despite of performance duties as such and also against the reversion / demotion in the case of transfer to the district of domicile. The Writ Petition was heard on 20.3.2008 and the Honorable Court was kind enough to pass an order that *"We feel that apparently the FRP is now a regular establishment and no more a transit force and there is no proof that the personal working therein was temporarily posted for five years, therefore, the discriminatory treatment, meted out to them is violative of the fundamental rights, particularly when, They will be placed at any extra-ordinary junior position if transferred to the Districts and enlisted there on the basis of their length of service and experience in all branches of police force. In any case, since the petitioners have not been transferred out of the Frontier Reserve Police within the prescribed period of five years, as stated in the year impugned order, therefore, a mistake on the part of the concerned authorities can not put the petitioners in an adverse situation and they can not be penalized for the fault of the others. Moreover, the decision to rectify a wrong practice shall definitely operate prospectively and it can not be applied to the continuously serving the department of rover fifteen years. We, therefore, direct that the case of the regularization, promotion and opportunities for enlistment in the intermediate course etc. shall be re examined at a higher level under the supervision of the Provincial Police Officer and the decision dated 16.2.2007 may be re-considered by the concerned DPC so that nobody shall be discriminatively deprived of his legal rights and that no decision be made operative retrospectively*

*damaging the members of the discipline force who have to perform extra ordinary duties and who deserve to be adequately compensated and encouraged. The re-consideration process be finalized within a period of two months and the result thereof be communicated to be petitioners and a report may be forwarded to the Registrar of this Court. With these observations these petitions are disposed of. Copy of the Judgment is attached as Annexure-A.*

3. That after the Judgment of the august Peshawar High court, Peshawar, the PPO KPK issued a letter dater 10.6.2009 in which it was clarified *"to give effect to the orders of the Honorable High Court recommends that earlier decision on the DPC should not be applied retrospectively and all officials of the FRP be given permanent status and may be confirmed to their rank with their colleagues after completing their probation period as per FR 1318."* Copy of the Order is attached as Annexure-B.
4. That on the basis of the above decision of the committee, the appellant was considered as promoted Officiating ASI with effect from 31.5.2005 and confirmed in the rank of ASI and promoted to List-E with effect from 31.5.2007. Copy of Order is attached as Annexure-C.
5. That as exact time, the appellant was transferred to Malakand Region along with other colleagues as officiating ASI vide order dated 14.11.2007, but the appellant was reverted to the rank of H.C by the then DIG Malakand Region –III being officiating ASI. But at that time, the judgment of the High Court was not in field. Copy of Order is attached as Annexure-D.
6. That the appellant was again transferred from Malakand Division to Peshawar Range and in the office of CCPO, Peshawar. The appellant's name is still mentioned in the record as officiating ASI which is totally violation of the order of dated 12.9.2009. Even the appellant name has not been incorporated in the list-E of the CCPO Peshawar office. The appellant asked about non inclusion of his name in List-E, he was simply informed by the concerned office that he is still officiating ASI, therefore, the appellant forthwith filed Departmental Appeal on 11.1.2013 and waited for statutory period of 90 days but no reply has been received so far, hence the present appeal on the following grounds amongst the others: Copy of the appeal is attached as Annexure – E.

**GROUNDS:**

- A) That not considering the appellant as confirmed ASI as per order dated 12.9.2009 and not taking any action on the departmental appeal of the appellant within statutory period of 90 days, is against the law, facts, norms of justice, and material on record, therefore, not tenable.
- B) That the appellant has been confirmed ASI with effect from 31.5.2007 as per order dated 12.9.2009 which was passed on the direction of Peshawar High Court, therefore, the said benefits can not be taken away from the appellant.
- C) That the appellant has not been treated according to law and rules, rather he has been dealt in an arbitrary manner by not considering him as confirmed ASI which will badly affect his service career even in the coming promotion.
- D) That the order dated 10.6.2009 and 12.9.2009 are still in filed, therefore, the appellant can not be refused benefits of those orders.
- E) That the appellant has been discriminated because all his colleagues who stood confirmed and regularized on the basis of Peshawar High court which are still enjoying their ranks whereas the appellant has been given a rank of officiating ASI, which is great injustice to the appellant.
- F) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT   
Maqbool Jahan

THROUGH:

  
M. ASIF YOUSAFZAI  
ADVOCATE

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT PESHAWAR  
JUDICIAL DEPARTMENT

(10)  
A (S)

JUDGMENT

..WP No.1615-07 of:2007.

Date of hearing 20.3.2008.

Ali Hassan petitioner No.1 and Tayyeb Jan petitioner No.4  
are present in person.

Mr.Muhammad Saeed Khan, Addl. A.G. alongwith Mr.Saadat Mehdi,  
DSP for the respondents.

**MUHAMMAD RAZA KHAN, C. J.**- This order shall also be  
deemed to be an order in the connected Writ Petitions No.1616 and  
1617 of 2007 as the identical questions are involved in all these cases.  
Through these Constitutional Petitions the petitioners have challenged  
the letter dated 16.2.2007, whereby the suggestion relating to the  
promotion order of Frontier Reserve Police (FRP) literate officials,  
moved by the Commandant FRP, was considered by the DPC and it  
was held that under Chapter 13 of the Police Rules no constable/head  
constable can be admitted to list 'D' unless he is thoroughly efficient in  
all the branches of duties of the Constable/Head Constable. The  
reasons advanced in the impugned letter for declining the proposal, was  
that FRP is a transit force and the officials are transferred to their  
Districts of domicile after five years.

2. In the comments the respondents No.1, 2 and 3 have  
admitted that some of the employees of FRP were erroneously  
promoted and when the matter came to the notice of the concerned  
authorities they placed it before the DPC where the said order was

ATTESTED

EXAMINER  
Peshawar High Court

police establishment. ⑥

3. The petitioners contend that they had been appointed in the reserve police and they had been serving for a period ranging between 15 to 20 years and that their colleagues have been upgraded and promoted to senior positions, but the refusal to place them in 'D' list and to promote them, shall adversely affect their service interest amounting to discrimination. It was claimed that their colleagues in FRP have been given accelerated promotion and most of them are presently working as ASIs and SIs despite the fact that they were recruited alongwith the petitioners.

4. We feel that apparently the FRP is now a regular establishment and no more a transit force and there is no proof that the personnel working therein was temporarily posted for five years, therefore, the discriminatory treatment, meted out to them, is violative of the fundamental rights, particularly when, they will be placed at an extra-ordinary junior position if transferred to the Districts and enlisted there, on the basis of their length of service and experience in all branches of police force. In any case, since the petitioners have not been transferred out of the Frontier Reserve Police within the prescribed period of five years, as stated in the impugned order, therefore, a mistake on the part of the concerned authorities cannot put the petitioners in an adverse situation and they cannot be penalized for the fault of the others. Moreover the decision to rectify a wrong practice shall definitely operate prospectively and it cannot be applied to the

ATTESTED  
[Signature]  
[Name]  
[Designation]



continuously serving the department for over fifteen years.

(2)

We, therefore, direct that the case of the regularization, promotions and opportunities for enlistment in the intermediate course etc., shall be re-examined at a higher level under the supervision of the Provincial Police Officer and the decision dated 16.2.2007 may be re-considered by the concerned DPC so that nobody should be discriminatively deprived of his legal rights and that no decision be made operative retrospectively damaging the members of the discipline force who have to perform extra-ordinary duties and who deserve to be adequately compensated and encouraged. The re-consideration process be finalized within a period of two months and the result thereof be communicated to the petitioners and a report may be forwarded to the Registrar of this Court. With these observations these petitions are disposed of.

sd/ Muhammad Raza Khan C.J

sd/ Shahji ur Rehman Khan

Announced:  
Dated 20.3.2008.

CERTIFIED TO BE TRUE COPY

14501

10-04-13

Date of Presentation of Application ..... 10/04/13  
No of Pages ..... 11-P  
Copies for .....  
Urgent .....  
Fees ..... 22-  
Date of ..... 10-4-13  
Date of ..... 10-4-13  
Date of ..... 10-4-13

Registrar Court Peshawar  
Section 87 of  
The Q.A. Ordinance No. 1 of 1984

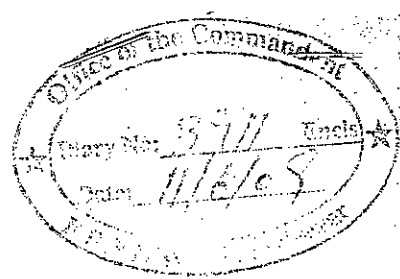
Uthman Jaleel

KONAR 13

From The Provincial Police Officer,  
NWFP, Peshawar.

To The Commandant  
Frontier Reserve Police,  
NWFP Peshawar.

No. 14377 /E-I. dated Peshawar the 10/16/2009.



Subject: TRANSFER OF LITERATE OFFICIAL OF FRP NWFP TO  
DOMICILE DISTRICT.

Memo. Please refer to your Memo No. 1789/EC dated 08.04.2009.

The promotion case of FRP Personnel has been examined in DSC meeting held on 07.05.2009 and agreed to the recommendations submitted by Committee constituted for the purpose which is reproduced below:

The Committee after due deliberation and in order to give effect to the orders of the honourable High Court recommends that earlier decision on the DPC should not be applied retrospectively and all officials of the FRP be given permanent status and may be confirmed in their rank with their colleagues after completing their probation period as per PR 13.18.

Benefit received by the officials in the FRP till decision of DPC and their repatriation to the Districts of their domicile be kept in tact so that they should not be deprived of any right as per decision of the Court.

All these officials may be dealt strictly according to standing order No. 3/99. Literate officials may be treated as per Police Rules whereas cases of illiterate officials may be treated as per criteria in the Standing Orders. Seniority of literate officials be fixed in each list of the basis of course undergone and criteria fixed under Police Rules Chapter 13.

(ABDUL MAJEED KHAN MARWAT)  
PSP

Addl. IGP/Headquarters,  
For Provincial Police Officer,  
NWFP Peshawar.

No. \_\_\_\_\_ /E-I.

Copy to all DisG in NWFP for information and necessary action.

**ATTESTED**

(ABDUL MAJEED KHAN MARWAT)  
PSP

Addl. IGP/Headquarters,  
For Provincial Police Officer,  
NWFP Peshawar.

9

ORDER

Promotion orders of the following literate officials of FRP now transferred to Regular Police for regularization according to Police Rules 13, 18.

Name of official	Previous order/d etc	New Regularized
Fayyaz Jan.	1. ASI/PC on 26.7.2000 2. SI/PC on 22.7.2003	1. Offg: ASI from 31.5.2000. 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 1.7.2003. 3. Offg: SI w.e.f. 22.7.2003.
Riaz Khan	1. SI/PC on 22.7.2003	1. Offg: ASI from 1.1.2001 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 1.7.2003. 3. Offg: SI w.e.f. 22.7.2003.
Syed Tahir Shah.	1. ASI/PC on 1.11.2004	1. Offg: ASI from 1.11.2004 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 1.11.2006
Imdad Ullah	1. ASI/PC on 05.06.06	1. Offg: ASI from 31.05.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 31.05.2007.
Maqbool Khan	1. ASI/PC on 05.06.06	1. Offg: ASI from 31.05.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 31.05.2007.
Irshad Ali	1. ASI/PC on 17.3.07	1. Offg: ASI from 1.1.2007

*[Signature]*  
COMMANDANT  
FRONTIER RESERVE POLICE  
NWFP PESHAWAR.

No. 7001-2 Dated Peshawar the 12-9-09.

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

Add: Inspector General of Police, Special Branch NWFP Peshawar,  
Capital City Police Office, Peshawar

**ATTESTED**

*[Signature]*

Sir,

NO

1-9-13

11-1-13

CC PO  
office

E

11

With due respect it is submitted that I was appointed as constable in FRP during the year 1987. I have qualified Lower College course during the year 1999 and Intermediate college course term ending 20.03.2004.

I was promoted as Offg: ASI on 31.05.2005. Later on I was transferred from FRP to Malakand Region alongwith my other colleagues as Offg: ASI vide CPO letter No. 25317-23/E-II dated 14.11.2007. I was reverted to the rank of HC by the Dg Malakand Region-III as per CPO direction that his name will be placed at list D in which he qualified Intermediate College course. My other colleagues lodge writ petitions No 1615,1616,1617/2007 in Peshawar High Court. The Hon'ble High Court Peshawar decided on 20.03.2008 that the case of the regularization promotion and opportunity for enlistment in the Intermediate course etc shall be re-examined at a higher level under the supervision of Provincial Police Officer and the decision dated 16.02.2007 may be re-considered by the concerned DPC. SO that nobody should be discriminatively deprived of his legal rights and that no decision made operative retrospectively damaging the members the discipline force who have performed extraordinary duties and who deserved to adequately compensated and encouraged. The reconsideration process be finalized within a period of two months and the result thereof may be communicated. ( Copy attached).

After that to give effect to the orders of Hon'ble High Course the PPO/KPK directed Commandant FRP that early decision of the DPC should not be applied retrospectively and all the officials of FRP be given permanent status and may be confirmed in their ranks with their colleagues, after completion probation period as per Police Rules 13.18. ( Copy attached).

As per decision of Hon'ble High Court Peshawar and CPO decision I was promoted as ASI and brought to list "E" with effect from 31.05.2007. ( Copy attached)

After transfer from Malakand Region to Peshawar Region I was asked for option dated 16.02.2009. Now my name is required to be placed at the proper of confirmed ASI on list E with effect from 16.02.2009 in the office of Capital City Police Officer Peshawar.

It is therefore requested that my name may very kindly be placed at the proper of confirmed ASI on list "E" with effect from 16.02.2009 and CCP Peshawar.

Sent to  
3360/EC-I/ppo  
25.2.13 office

ATTESTED

Your's Obediently

(Signature) 11/13

Offg: ASI No. 4443 Peshawar

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Magbool Jehan (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Deptt. (Respondent)  
(Defendant)

I/We (Magbool Jehan Appellant)

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

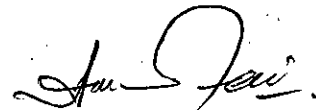
I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel, is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding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

Dated \_\_\_\_\_/20



( CLIENT )

ACCEPTED



**M. ASIF YOUSAFZAI**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

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

Service Appeal No.1010/2013.

Mr. Maqbool Jahan, Officiating ASI No. 4481 CCP, Peshawar.....Appellant.

**VERSUS.**

- 1- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2- The Capital City Police Officer, Peshawar.
- 3- SSP/HQrs, Peshawar.....Respondents

**Reply on behalf of the 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 got no locus standi and cause of action to file the instant appeal.
8. That the Hon'ble Tribunal has no jurisdiction to entertain the instant appeal.

**FACTS:-**

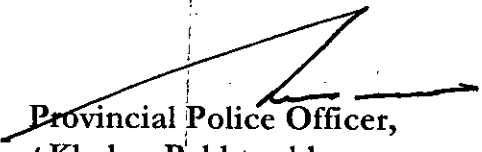
- 1- Para No. 1 pertains to record, hence needs no comments.
- 2- Para No. 2 pertains to court record, hence needs no comments.
- 3- Para No. 3 pertains to records, hence needs no comments.
- 4- Para No. 4 is incorrect and denied. The real fact is that the appellant was reverted to rank of IHC by the DIG Malakand and on his transfer to CCP his name was placed at bottom. The appellant will be promoted with his colleagues on his own turn. No discrimination will be done to him
- 5- Para No. 5 pertains to record, hence needs no comments.
- 6- Para No. 6 is incorrect and denied. The appellant was reverted to the Rank of Inter Head Constable (IHC) by the DIG Malakand Region and subsequently, he was transferred to Capital City Police (CCP) Peshawar from Malakand region as Inter Head Constable (IHC) and therefore his name was fixed in bottom. Departmental appeal of the appellant is under consideration, so some time may pass to decide such matter. Hence the appellant will be dealt on merits.


**GROUND:-**

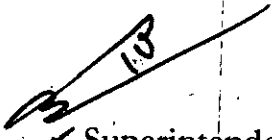
- A- Incorrect. As already explained that the appellãnt was placed on bottom here after his transfer from Malakand Region while he will be confirmed on merit with his present colleagues.
- B- Incorrect. The appellant is hiding the nature of his position and in reality his name was placed at bottom, and his confirmation as Assistant Sub Inspector (ASI) will be decided as per the recommendations of Departmental Promotion Committee.
- C- Incorrect and denied. The appellant will be dealt on his promotion matter in accordance with the law/rules.
- D- Incorrect. Para is for the appellant to prove.
- E- Incorrect. After placing the name of appellant at seniority list on bottom in Capital City Police (CCP) Peshawar his colleagues are still on waiting list for conformation of Assistant Sub Inspector (ASI) and they including the appellant will be confirmed as per the disciplinary rules. No discrimination has been done, to the appellant.
- F- The respondents may also be permitted to raise additional grounds at time of arguments.

**PRAYER:-**

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

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Superintendent of Police  
HQrs:, Peshawar.

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

Service Appeal No.1010/2013.

Maqbool Jahan Officiating ASI No. 4481 CCP, Peshawar.....Appellant.

**VERSUS.**

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, HQrs:, Peshawar.....Respondents.

**AFFIDAVIT**


We respondents No 1 to 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

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

**Respondent No.1**

  
**Capital City Police Officer,  
Peshawar.**

**Respondent No.2**

  
**Superintendent of Police,  
HQrs:, Peshawar.  
Respondent No.3**



24/6

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

Service Appeal No. 1010/2013

Maqbool Jahan

VS

Police Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Admitted correct by respondents as the service record of the appellant is present with the respondent department.
- 2 Admitted correct by respondents as judgment of Hon'able High Court Peshawar is present with the respondent department.
- 3 Admitted correct by respondents as the service record of the appellant is present with the respondent department.
- 4 Incorrect. As per judgment of august High Court Peshawar, the PPO KPK issued a letter on dated 10.6.2009 in which it was clarified "*to give effect to the orders of the Honorable High Court recommends that earlier decision of the DPC should not be applied retrospectively and all officials of the FRP be given permanent status and may be confirmed to their rank with their*

*Colleagues after completing their probation period as per FR 1318".* On the basis of decision of the committee, the appellant was considered as promoted Officiating ASI with the effect from 31.5.2005 and confirmed in the rank of ASI and promoted to List-E with the effect from 31.5 2007. Commandant FRP also sent a letter No. 7001-2 dated 12.9.2009 to CCP Peshawar for further necessary action. Similarly the Commandant FRP also sent a letter No. 9011-13 dated 15.2.2009 to DIG Hazara Region in respect of other Police Officials. The DIG Hazara (Abbotabad) in compliance with letter No. 9011-13 dated 15.12.009 sent by the Commandant FRP, regularized the promotion/ seniority of those officials by vide order dated 16.1.2010, but the case of the appellant has not been processed so for despite the clear direction of Commandant FRP to CCP Peshawar for necessary action. (Copy of the orders dated 15.12.2009 and 16.1.2010 are attached as Annexure R1&R2)

- 5 Admitted correct by the respondents as the service record is present with the respondent department.
- 6 Incorrect. As per judgment of august High Court Peshawar, the PPO KPK issued a letter on dated 10.6.2009 in which it was clarified "*to give effect to the orders of the Honorable High Court recommends that earlier decision of the DPC should not be applied retrospectively and all officials of the FRP be given permanent status and may be confirmed to their rank with their Colleagues after completing their probation period as per FR 1318".* On the basis of decision of the committee, the appellant was considered as promoted Officiating ASI with the effect from 31.5.2005 and confirmed in the rank of ASI and promoted to List-E with the effect from 31.5 2007. Commandant FRP also sent a letter No. 7001-2 dated 12.9.2009 to CCP Peshawar for further necessary action. Similarly the Commandant FRP also sent a letter No. 9011-13 dated 15.2.2009 to DIG Hazara Region in respect of other Police Officials. The DIG Hazara (Abbotabad) in

compliance with letter No. 9011-13 dated 15.12.009 sent by the Commandant FRP, regularized the promotion/ seniority of those officials by vide order dated 16.1.2010, but the case of the appellant has not been processed so for despite the clear direction of Commandant FRP to CCP Peshawar for necessary action. Moreover the Deptt: is bound to response on the departmental appeal to the appellant with in the statutory period of ninety days according to Supreme Court judgment.


**GROUND:**


- A) Incorrect. While para A of the appeal is correct.
- B) Incorrect. The appellant has not hid the nature of his position, but he has been confirmed ASI with the effect from 31.5.2007 as per order dated 12.9.2009 which was passed on the direction of Peshawar High Court.
- C) Incorrect. The appellant has not been treated on his promotion matter in accordance with the law and rules which will badly affect his service career even in the coming promotion.
- D) Incorrect. As the orders dated 10.6.2009 and 12.9.2009 was not cancelled or withdraw till now, which means that these orders are still in field, therefore the appellant can not be refused benefits of the those orders.
- E) Incorrect. While para E of the appeal is correct.
- F) Legal.

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

APPELLANT  
Maqbool Jahan

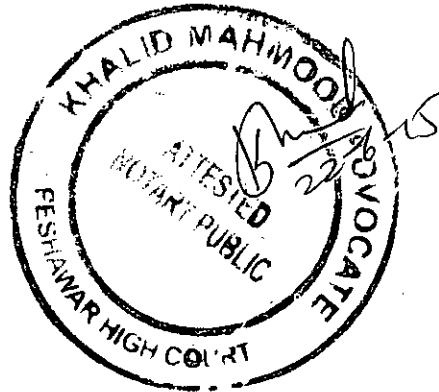
Through:

  
( M. ASIF YOUSAFZAI )

&  
  
( TAIMUR ALI KHAN )  
ADVOCATES, PESHAWAR.

**AFFIDAVIT**

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




  
DEPONENT

R I

ORDER.

As per CPO NWFP Peshawar direction vide letter No. 14377/E-1 dated 10.06.2009. Promotion orders of the following literate official of FRP now transferred to Regular Police is hereby regularized according to Police Rules 13,18.

Name of official	Previous order date	Now Regularized
Zeenat Hussain	1. ASI/PC on 01.01.99 2. SI/PC on 17.11.2000	1. Offg: ASI from 01.01.1999 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 1.7.2003. 3. Offg: SI w.e.f. 17.11.2000
Haji Akbar	1. ASI/PC on 17.5.2003 2. SI/PC on 22.07.2003	1. Offg: ASI from 17.05.2003 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 17.05.2005. 3. Offg: SI w.e.f. 22.07.2003.
Sajjad Haider	1. SI/PC 22.07.2003	1. Offg: ASI from 20.04.2000 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 01.07.2003. 3. Offg: SI w.e.f. 04.12.2003.
Ah Ahmad	1. Offg: ASI/PC on 24.11.05	1. Offg: ASI from 24.11.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 24.11.2007.
Sajjad Hussain	Offg: ASI/PC on 24.11.05	1. Offg: ASI from 24.11.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 24.11.2007.
Zaffar Iqbal	Offg: ASI/PC on 24.11.05	1. Offg: ASI from 24.11.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 24.11.2007.
Hakim Khan	Offg: ASI/PC on 24.11.05	1. Offg: ASI from 24.11.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 24.11.2007.
Abdullah	Offg: ASI/PC on 24.11.05	1. Offg: ASI from 24.11.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 24.11.2007.
Chanyaz	Offg: ASI/PC on 24.11.05	1. Offg: ASI from 24.11.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 24.11.2007.
Muhammad Hanif	Offg: ASI/PC on 24.11.05	1. Offg: ASI from 24.11.2005 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 24.11.2007.
Said Badshah	1. ASI/PC on 28.01.1998. 2. SI/PC on 01.04.2000	1. Offg: ASI from 20.09.2005. 2. Confirmed in the rank of ASI and promoted to list "1" with effect from 20.09.2007

  
 COMMANDANT  
 FRONTIER RESERVE POLICE  
 NWFP PESHAWAR.

No. 9011-13 /PC dated Peshawar the 12<sup>th</sup> 15/2/09.

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

1. Deputy Inspector General of Police Kohat Region.
2. Deputy Inspector General of Police Mafkand Region.
3. Deputy Inspector General of Police Hazara Region.

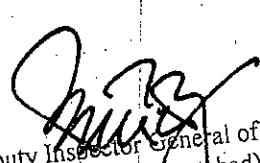
**ORDER**

As per CPO, NWFP Peshawar Letter No. 14377/E-I dated 10-06-2009, Commandant FRP NWFP Endst. No. 7737/EC dated 17-10-2009 and Endst. No. 9011-13/EC dated 15-12-2009.

R 2

The promotion/seniority of following upper subordinates are hereby regularized as noted against each their names according to Police Rules 13.18:-

S#	Name of official	Present posting	Date of confirmation/promotion
1	Amjid Ali	Islamabad	1. Offg: ASI from 16-01-1998 2. Confirmed in the Rank of ASI and promoted to List "E" w. e. from 01-07-2003 3. Offg: SI w.e. from 16-02-2002
2	Habib-ur-Rehman	Kohistan	1. Offg: ASI from 02-12-1999 2. Confirmed in the Rank of ASI and promoted to List "E" w.e. from 01-07-2003. 3. Offg: SI w.e. from 20-02-2003.
3	Khanwaiz	Haripur	1. Offg: ASI from 20-04-2000 2. Confirmed in the Rank of ASI and promoted to List "E" w. e. from 01-07-2003 3. Confirmed in the Rank of SI w.e. from 30-06-2007
4	Aurangzeb	Mansehra	1. Offg: ASI from 20-04-2000 2. Confirmed in the Rank of ASI and promoted to List "E" w. e. from 01-07-2003. 3. Offg: SI w. e. from 04-12-2004
5	Imtiaz	CID, Peshawar	1. Offg: ASI from 04-12-2000. 2. Confirmed in the Rank of ASI and promoted to List "E" w. e. from 01-07-2003. 3. Offg: SI w. e. from 20-05-2005.
6	Liaqat Ali	Haripur	1. Offg: ASI from 04-12-2000. 2. Confirmed in the Rank of ASI and promoted to list "E" w. e. from 01-07-2003. 3. Offg: SI w. e. from 20-05-2005.
7	Sajjad Haider	Kohistan	1. Offg: ASI from 20-04-2000. 2. Confirmed in the Rank of ASI and pro noted to List "E" w. e. from 01-07-2003. 3. Offg: SI w.e. from 04-12-2004
8	Chanwaiz	Abbottabad	1. Offg: ASI from 24-11-2005. 2. Confirmed in the Rank of ASI and promoted to List "E" w.e. from 24-11-2007.
9	Muhamamd Hanif	Abbottabad	1. Offg: ASI from 24-11-2005. 2. Confirmed in the Rank of ASI and promoted to List "E" w.e. from 24-11-2007.

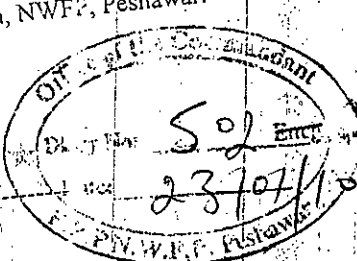
  
 Deputy Inspector General of Police,  
 Hazara (Abbottabad)  
 15/01/2009

No. 800-09 /E, Dated Abbottabad the

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

1. Provincial Police Officer, NWFP Peshawar.
2. Inspector General of Police, Islamabad with reference to PPO NWFP, Peshawar Endst. No. 8896-93/E-I dated 02-04-2009.
3. ✓ Commandant, FRP, NWFP, Peshawar with reference to his Endst. No. 7737/EC dated 17-10-2009 & Endst. No. 9011-13/EC, dated 15-12-2009.
4. Deputy Inspector General of Police, Special Branch, Peshawar.
5. District Police Officer, Abbottabad.
6. District Police Officer, Haripur.
7. District Police Officer, Mansehra.
8. District Police Officer, Kohistan.
9. US/AS Region Office Abbottabad.

Seen/EC  
  
 Commandant

  
 PPO NWFP Peshawar  
 502  
 23/07/09

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 Recd

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR.

No. 695 /ST

Dated 7 / 4 / 2017

To


The Provincial Police Officer ,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 29.3.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.