


27.07.2022

Petitioner present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General alongwith Ahmad Jan S.I (Legal) for respondents present.

Request for adjournment was made on behalf of respondents in order to submit proper implementation report. Last chance is given. To come up for submission of proper implementation report on 15.08.2022 before S.B.

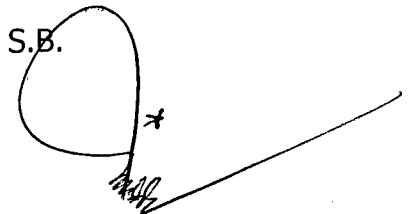


(Rozina Rehman)
Member (J)

15.08.2022

Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Though last chance has been granted as per previous order sheet yet learned AAG requested for adjournment on the ground that DPC is scheduled to be held in the near future upon which final implementation report will be submitted on the next date. Request is acceded to as a last chance. Adjourned. To come up for implementation report on 03.10.2022 before S.B.



(Mian Muhammad)
Member (E)

18.05.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Wisal Khan Reader for the respondents present.

Respondent department produced notification dated 03.03.2022 whereby the Service Tribunal judgement dated 22.06.2021 in service appeal No. 147/2021, has been implemented to the extent that seniority of the petitioner stands revised w.e.f. 14.03.2012 in the rank of Sub-Inspector. The Notification is obviously a provisionally order subject to the outcome of CPLA by the august Supreme Court of Pakistan. Copy of the notification is placed on file as well as provided to learned counsel for the petitioner who requested for adjournment. To come up for further proceedings on 27.07.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)



02.02.2022

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Ahmad Jan, SI (Legal) for the respondents present.

Representative of the CCPO has submitted the copy of a summary dated 28.01.2022 signed by DSP (Legal) CCP Peshawar. The summary discusses the judgment of this Tribunal and subsequent orders passed in proceedings of execution. Accordingly, it has been requested for conditional implementation of the judgment of this Tribunal as CPLA before the Apex Court has already been filed. The representative states that further process in relation to the said summary is underway and the implementation report shall be submitted very soon. Needless to say that if the respondents fail to implement the judgment of this Tribunal despite repeated directions, the law will take its course for coercive measure to get the judgment implemented in its letter and spirit. The copy of this order be sent to the respondents through office of the Tribunal for compliance. To come up for implementation report on 28.02.2022 before S.B.

28.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 18.05.2022 for the same as before. ~~Chairman~~


Reader

31.01.2022

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Ahmad Jan, SI (Legal) for the respondents present.

Due to paucity of time, the matter is adjourned to 01.02.2022 before S.B.


Chairman

01.02.2022

Petitioner alongwith counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Ahmad Jan, SI (Legal) for the respondents present.

Learned AAG seeks short adjournment. The matter is adjourned to 02.02.2022 before S.B.


Chairman

24.01.2022

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl AG alongwith Mr. M. Raziq, H.C for respondents present.

Learned AAG seeks time to submit implementation report on the next date as the same is in process. Adjourned but as a last chance. To come up for further proceedings on 22.02.2022 before S.B.


(Mian Muhammad)
Member(E)

28.01.2022

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Raziq, HC for the respondents present.

Implementation report has not been submitted. Counsel for the petitioner has submitted an application for restraining the respondent department from making promotion from the post of Inspector (BPS-16) to DSP (BPS-17). Notice of the application is given to the respondents and a copy has been handed over to the representative for reply on the next date. Obviously, the interim relief if granted will also cause inconvenience to so many other people and if order is conditionally implemented as directed vide previous order dated 27.07.2021, the department will remain on safe-side and inconvenience of other should also be avoided. Therefore, it is directed for implementation of the order dated 27.07.2021 followed by subsequent orders. To come up for reply on application and implementation report on 31.01.2022 before S.B.

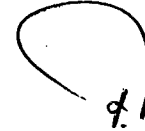

Chairman

13.01.2022

Petitioner in person present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Learned AAG made a request for adjournment till tomorrow in order to produce progress report. Adjourned till tomorrow i.e. 14.01.2022 before this S.B.



(Rozina Rehman)
Member (J)

14.01.2022

Petitioner in person present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

At the very outset a letter dated 14.01.2022 addressed to the Capital City Police Officer was produced, wherein, the competent authority has directed to implement the judgment provisionally subject to outcome of CPLA. A request was made for adjournment in order to produce proper implementation report on or before 24.01.2022 before S.B.

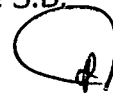


(Rozina Rehman)
Member (J)

06.01.2022

Petitioner in person and Mr. Kabirullah Khattak, Addl. AG alongwith Ahmad Jan, S.I (Legal) for the respondents present.

Perusal of record would reveal that on the preceding date learned AAG (Muhammad Adeel Butt) was not able to justify his previous request with no progress in to the matter of implementation. He assured that he would take the concerned authority on board for implementation of the judgment but today no progress report was submitted and another request for adjournment was made in order to submit implementation report. On the request of learned AAG (Kabairullah Khattak), last chance is given to the respondents to implement the judgment under execution provisionally/conditionally subject to outcome of CPLA by the august Supreme Court of Pakistan and submit implementation report on next date, failing which coercive measure will be taken against the respondents. Case is adjourned to 13.01.2022 before S.B.



(Rozina Rehman)
Member (J)

23.12.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Raziq, H.C for the respondents present.

Despite acceptance of request of learned AAG on previous date for short adjournment so as to pursue the implementation of judgment actively, he has not been able today to justify his previous request with no progress into the matter of implementation. However, he has assured that he will take the concerned authority on board for implementation of the judgment, failing which the Tribunal may take coercive measure in case of non-compliance. Case to come up on 06.01.2022 before S.B.


Chairman

11.11.2021

Counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Ahmad Jan, SI (Legal) for the respondents present.

Despite clear direction given on previous date regarding conditional implementation of the judgment of this Tribunal, the respondents have failed to come up with material progress in pursuance to the direction. In order to prevent the exercise of jurisdiction to take coercive measures within meaning of Section 51 CPC for implementation of the judgment and order of this Tribunal, the respondents should realize to avoid further delay in execution of the judgment. To come up for implementation report on 07.12.2021 before the S.B.


Chairman

07.12.2021

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Ahmad Jan, SI for respondents present.

Learned AAG requested for short adjournment and stated at the bar that he is actively pursuing the implementation of Service Tribunal judgement with the respondent-department. To come up for implementation report on 10.01. 2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

E. P. No. 147/2021
Tasir Umar vs Govt

27.10.2021

Petitioner alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Raziq, H.C for respondents present.

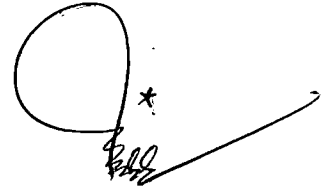
According to the operative part of the judgment, direction was given to the respondents to place the name of the appellant (present petitioner) in the confirmation list with his batch-mates as SI w.e.f 14.03.2012 when his colleagues were confirmed in the rank of SI and accordingly revised the seniority list with all consequential benefits. The representative of the respondents has produced copy of power of attorney for the Advocate on Record with the submission that the process for filing of CPLA before august Supreme Court of Pakistan is in progress. Needless to say, it is right of the respondents to pursue their remedy against the judgment of this Tribunal before the august Supreme Court of Pakistan but in case no order as to suspension of the judgment of this Tribunal is passed, the respondents in absence of suspension order are under obligation to implement the judgment conditionally subject to the decision of the CPLA, after obtaining affidavit from the petitioner that in case the judgment of this Tribunal is reversed, he will have to surrender the benefits got under the conditional order. To come up for implementation of the judgment in the given manner on 11.11.2021 before S.B.


Chairman

11.10.2021

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Raziq, Reader for respondents present.

Clerk of learned counsel for the petitioner seeks adjournment due to General Strike of the Peshawar Bar Association. Adjourned. To come up for further proceedings before the S.B on 30.11.2021.

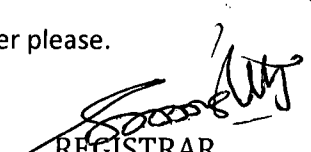


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(MIAN MUHAMMAD)
MEMBER (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 147 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.08.2021	<p>The execution petition of Mr. Tariq Umar submitted today by Mr. Taimur Ali Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench at Peshawar on <u>10/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	10.09.2021	<p>Counsel for the petitioner present.</p> <p>Notice be issued to the respondents. To come up for implementation report on 11.10.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

REFERENCE ATTACHED.

296 LB
28-1-22

Sir,

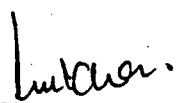
(1) It is submitted that Inspector Tariq Umar of CCP, Peshawar has filed Service Appeal No.271/2018 before the Khyber Pakhtunkhwa Service Tribunal Peshawar for ante date confirmation as Sub Inspector w.e from 14.03.2012 with his colleagues.

(2) The Service Appeal No.271/2018 was contested through Government Pleader. The Hon'able Tribunal without taking into consideration plea of the respondents accepted the appeal, with the direction to respondent department that "the respondents to place the name of appellant in the confirmation list with his batch mates as Sub Inspector w.e.f 14.03.2012 when his colleagues were confirmed in the rank of SI and accordingly revise the seniority list with all consequential benefits". (Copy of the judgment is attached)

(3) On procurement of judgment order dated 22.06.2021 this office moved request for filing CPLA against the judgment order which subsequently was filed in the apex court through law department, which is still subjudice and not yet finalized.

(4) Appellant has now filed execution petition No. 147/2021 for implementation of the judgment order dated 22.06.2021 passed by the Service Tribunal Peshawar. The execution petition was contested and argued by the Govt: Pleader, but the Hon'able Chairman of Service Tribunal ordered that "if order is conditionally implemented as directed vide previous order dated 27.07.2021, but the department will remain on safe-side and inconvenience of other should also be avoided. Therefore, it is directed for implementation of the order dated 27.07.2021 followed by subsequent orders. To come up for reply on application and implementation report on 31.01.2022 before S.B." (Copy of order sheet is attached)

(5) It is therefore requested, that Judgment of the Service Tribunal may be implemented conditionally as CPLA before the Apex Court has already been filed which is still subjudice or otherwise.


DSP/Legal,
CCP, Peshawar.

28/01/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. _____/2021
In Service Appeal No.271/2018

Tariq Umar S/O Muhammad Umar R/O Lali Bagh Kashkal No.1,
Tehsil & District Peshawar.

PETITIONER

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. The Capital City Police Officer, Peshawar.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 22.06.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

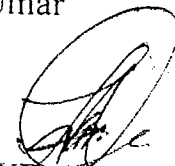
1. That the petitioner has filed service appeal No.271/2018 for the back dated promotion in order to bring the petitioner to the same status as his colleagues are with the prayer that to treat and place the appellants seniority instantly and designate his seniority with colleagues of his batch 2006, in service with all back benefits as his batchmates were confirmed as S.I on 14.03.2012, while the appellant was confirmed as S.I 05.01.2017.
2. The said appeal was finally heard by this Honourable Service Tribunal on 22.06.2021. The Honourable Service Tribunal was kind enough to accept the appeal with the direction to the respondents to place the name of the petitioner in confirmation list with his batchmates as Sub Inspector w.e.f 14.03.2012, when his colleagues were confirmed in the rank of S.I and accordingly revise the seniority list with all consequential benefits. **(Copy of judgment dated 22.06.2021 is attached as Annexure-A)**

3. That the Honourable Service Tribunal directed to the respondents to place the name of the petitioner in confirmation list with his batchmates as Sub Inspector w.e.f 14.03.2012, when his colleagues were confirmed in the rank of S.I and accordingly revise the seniority list with all consequential benefits, but the respondents did not implement the judgment dated 22.06.2021 of this Honourable Tribunal till date.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 22.06.2021 of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 22.06.2021 of this Honourable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 22.06.2021 of this Honourable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.


PETITIONER
Tariq Umar

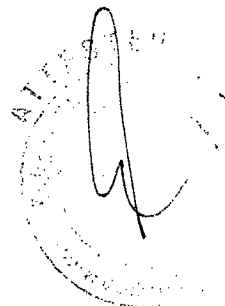
THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

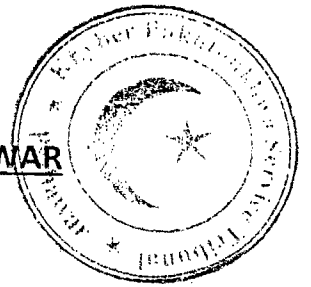
It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.


DEPONENT



IN THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 27 / 2018



Tariq Umar S/O Muhammad Umar R/ D Lali Bagh Kakshal No 1.
Tehsil and District Peshawar..... (Appellant)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar
2. Chief Capital Police Officer, Peshawar (Respondents)

Page No. 30
Date: 10-1-2018

APPEAL

UNDER SECTION 4 OF THE KP. SERVICE TRIBUNALS ACT, 1974 FOR THE BACK DATED PROMOTION IN ORDER TO BRING THE APPELLANT TO THE SAME STATUS AS HIS COLLEAGUES ARE.

PRAYER: -

To treat and place the appellant's seniority instantly and designate his seniority with colleagues of his batch 2006, in service with all back benefits.

Respectfully shewth:-

The Appellant humbly submits as under:-

- 1) That the Appellant was appointed in police department, Khyber Pakhtunkhwa as Assistant Sub Inspector in 20th October, 2006 through Public Service Commission and allotted No 135-P.

(Copies of the service card, CNIC and appointment order are attached as Annex 'A' 'B' & 'C', "C-1" 'C-2' "C-3").

- 2) That the Appellant after joining his service, rendered valuable service to the police department and performed his duty vigilantly with full zeal and devotion.

- 3) That the Appellant after good service and honest officer, the police promoted as appreciating Sub Inspector rank, allotted No 674-P on 01-01-2010 and performed his duty with full zeal and devotion; and during the said period as Sub Inspector the Appellant remained four times as SHO in different police stations for a period of 10 month and 15 days.

(Copy of promotion order (1/1/2010) is attached as Annex "D")

- 4) That the Appellant completed his upper college course along with his batch mates in the year 2011.

Filed to-day
Registrar
10/1/18

Re-submitted to -day and filed

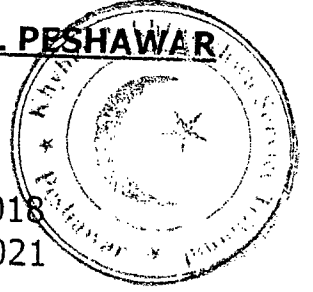
27/2/18

ATTESTED
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 271/2018

Date of Institution ... 10.01.2018
Date of Decision ... 22.06.2021



Tariq Umar S/O Muhammad Umar R/O Lali Bagh Kakshal No.1
Tehsil & District Peshawar.

... (Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar and
one another.

... (Respondents)

Taimur Ali Khan,
Advocate

... For appellant.

Muhammad Adeel Butt,
Additional Advocate General

... For respondents.

SALAH-UD-DIN
ROZINA REHMAN

... MEMBER (J)

... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Facts gleaned out from the memorandum of appeal are that appellant was appointed as Assistant Sub Inspector through Khyber Pakhtunkhwa Public Service Commission on 20th October, 2006. He was promoted as Officiating Sub Inspector and he performed the duties of an S.H.O in different police stations. His batchmates were promoted but the appellant was neither posted to complete his period of S.H.O ship nor was promoted


22/6/21

ATTESTED
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

with his batchmates despite repeated requests to his high-ups. Lastly, he was confirmed in the rank of S.I on 05.01.2017 and his name was placed on list "F" but with immediate effect. After confirmation, he filed departmental appeal but to no avail, hence the instant service appeal.

2. Learned counsel for appellant contended that the appellant was initially appointed as Assistant Sub Inspector on 20th October, 2006 and was confirmed in rank of A.S.I vide notification dated 01.01.2010. That in a D.P.C Meeting, other colleagues of the appellant were confirmed whereas the case of appellant was not considered. He submitted that the appellant was confirmed in the rank of S.I on 05.01.2017 but with immediate effect instead of confirming him from the date when his other colleagues were confirmed. Learned counsel further argued that appellant was treated in a discriminatory manner as some other Officiating Sub Inspectors who were deferred for want of deficiency, were confirmed with those colleagues who had been confirmed earlier. He submitted that there is nothing on file which could show any sort of bad entry on the record of the appellant and that he was never superseded. He submitted that in case of deferment for want of any deficiency, seniority is not affected and this is the legal right of the appellant to be confirmed from the date when his other colleagues were confirmed. He contended that such act of the respondents was discriminatory and against the law as the appellant was not treated in accordance with law and his rights guaranteed under the Constitution were badly violated. Reliance was

ATTESTED


 H. S. JINER
 District In-charge
 District Jail
 Mysore

22/6/21

placed on the judgments of this Tribunal in Service Appeal No. 79/2019; 407/2011; 1227/2013 and 197/2016, wherein, in similar nature cases, relief was granted by this Tribunal. He, therefore, requested for placing the name of the appellant in the confirmation list with his colleagues by ante dating his confirmation to meet the ends of justice with all back benefits.

3. Conversely, learned A.A.G submitted that the appellant was provided with several opportunities to show efficiency and good work in the discharge of his official duties as S.H.O but he failed to perform his duty up to the satisfaction of his seniors. He submitted that he was suspended and was dealt with departmentally on account of inefficiency and misuse of official authority. He contended that confirmation in the rank of S.I is subject to qualifying the laid down criteria and the appellant on the fulfillment of said pre-requisite criteria, under Rule 13.10(2) was confirmed in the rank of S.I without any discrimination.

4. Perusal of record would reveal that appellant was appointed/recruited as an A.S.I upon the recommendation of Khyber Pakhtunkhwa Public Service Commission. He alongwith his batchmates/colleagues, was confirmed in the rank of A.S.I vice notification dated 01.01.2010 and his name was brought on promotion list "E" w.e.f 25.09.2006. Name of the appellant finds mention at Serial No.4, whereas, his colleagues Johar Shah, Abdur Rasheed and Khalid Khan have been placed at Serial No.9, 13 and 14 respectively. His above-mentioned colleagues were confirmed in the

22/6/21

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rank of S.I w.e.f 14.03.2012 vide notification dated 10.09.2012, whereas, the appellant was confirmed in the rank of S.I with immediate effect vide notification dated 05.01.2017. There is nothing on file which could show that he was superseded rather he was not considered on the ground of not completing a period of one year as an Officiating Sub Inspector in independent charge of a Police Station in a district. The issue relating to confirmation of the appellant as Sub Inspector from the date when his colleagues were confirmed, holds ground as it was not within the authority of the appellant to post himself as an S.H.O of an independent Police Station. We did not find anything adverse on record except deferment to substantiate his confirmation on later date. It is established from the prevailing rules that civil servant selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se seniority as in the lower post.

5. For the above-mentioned reasons, we are constrained to accept the present appeal with directions to the respondents to place the name of appellant in the confirmation list with his batchmates as Sub Inspector w.e.f 14.03.2012 when his colleagues were confirmed in the rank of S.I and accordingly revise the seniority list with all consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
22.06.2021

(Salah-ud-Din)
Member (J)

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(Rozina Rehman)
Member (J)