BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

C.M No. 73/2021

Date of institution 02.03.2021

Tariq Iqbal, District Police Officer, Upper Dir, CPO, Peshawar and 12 others.

VERSUS

Abdul Hai Khan, Deputy Superintendent Police, Assistant (Crime) Anti-Corruption Establishment, D.I.Khan and 04 others.

ORDER
27.06.2022

Mr. Maqsood Ali, Advocate for the petitioners present. Respondent No. 1 alongwith his counsel Mr. Muhammad Ismail Alizai, Advocate present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General for official respondents No. 2 to 5 present.

The instant 12 (2) CPC Application has been filed by the petitioners, challenging judgment dated 17.12.2020 passed by this Tribunal in Service Appeal No. 991/2018 titled "Abdul Hai Khan Versus Government of Khyber Pakhtunkhwa through Home Secretary and 27 others" .

Learned counsel for the petitioners submitted copies of order bearing Endorsement No. 3448-55/ES, order bearing Endorsement No. 3457-64/ES, order bearing Endorsement No. 3466-75/ES as well as copy of order bearing Endorsement No. 3477-86/ES dated 30.05.2022 passed by Regional Police Officer Dera Ismail Khan and stated at the bar that as the grievance of the petitioners has been redressed, therefore, the instant 12 (2) CPC Application may be dismissed as withdrawn. In this respect, statement of learned counsel for the petitioners recorded and placed on file.

In view of the above, the application in hand stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
27.06.2022

(ROZINA REHMAN)
MEMBER (JUDICIAL)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Statement of Mr. Maqsood Ali, Advocate (counsel for petitioners), on oath:

Stated that I am counsel for the petitioners in 12 (2) CPC Application No. 73/2021 titled "Tariq Iqbal etc. Versus Abdul Hai Khan etc". As Regional Police Officer D.I.Khan has passed orders dated 30.05.2022, therefore, grievance of the petitioners has been redressed, hence the instant 12(2) CPC application may be dismissed as withdrawn.

Special Power of Attorney executed by petitioners in favour of Mr. Waqas Ahmed S/O Fazli-e-Subhan is mark "A", while Wakalatnama attested by Special Attorney Mr. Waqas Ahmad in my favour is exhibit P.B. .Copies of orders dated 30.05.2022 passed by Regional Police Officer D.I.Khan are mark "C".

R.O & A.C
27.06.2022

M. ali
Mr. Maqsood Ali, Advocate
(Counsel for the petitioners)

(Rozina Rehman)
Member (J)

(Salah-ud-Din)
Member (J)

22nd April, 2022

Counsel for the petitioners present. Respondent No. 1 in person present. Mr. Muhammad Adeel Butt, Addl. AG for the official respondents present. Respondent No. 1 has submitted reply to the instant Petition. Placed on file.

Petitioners No. 2 and 4 have submitted applications through the Registrar of this office for placing on file the affidavit, wherein they solemnly affirm and declare on Oath that they have neither filed any appeal nor given any power of attorney to submit above tilted Petition U/S 12(2) CPC in this Tribunal on their behalf to anyone. Both the applications alongwith Affidavits are placed on file.

To come up on 12.05.2022 for arguments before D.B.

(MIAN MUHAMMAD)
Member (E)

Chairman

12-5-22 Proper DB not available the case is adjourned on 27-6-22

Reader

16.12.2021 Learned counsel for the petitioners present. Respondent No. 1 (Abdul Hai Khan) alongwith his counsel present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 2 to 5 present.

To come up for reply as well as arguments on 12(2) CPC petition before the D.B on 25.01.2022.

(Atiq Ur Rehman Wazir)
Member (E)

(Salah-ud-Din)
Member (J)

25.01.2022 Clerk of the learned counsel for the petitioners present. Respondent No.1 (Abdul Hai Khan) in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General for official respondents No.2 to 5 present.

Respondent No.1 requested for time to submit reply/comments. Clerk of the learned counsel for petitioners also stated that learned counsel for petitioners is unable to attend the Tribunal today due to strike of lawyers. Adjourned. To come up for reply as well as arguments on 12(2) CPC petition before the D.B on 09.03.2022.

(Rozina Rehman)
Member (J)

(Salah-Ud-Din)
Member (J)

9-3-22 Due to retirement of the Hon'ble Chairman the case is adjourned to come up for the same as before on 23-4-22

Reader

06.2021 Learned counsel for respondent No. 1 submitted an application, which is placed on file.

This application has been submitted on two counts. Firstly that case should be heard at Camp Court D.I.Khan and other that the Bench comprising of the same Members, which decided the original appeal, may hear the present application under Section 12(2) CPC.

As far as the first submission is concerned, the same is not workable unless tour to Camp Court, D.I.Khan is held in routine. As far as the second submission is concerned, the application has already been placed on file and the applicant may press the same to said extent before the D.B seized, ~~if~~ so advised. File is sent back to before the DB on next date.

the D.B for 06-10-2021 ~~hearing of the matter on next date.~~

Chairman

06.10.2021 Petitioner No. 1 and 11 in person alongwith counsel for the petitioners present. Respondent No. 1 (Abdul Hai Khan) in person and Mr. Muhammad Adeel Butt, Addl. AG for respondents No. 2 to 5 present.

To come up for further proceedings on instant petition on 16.12.2021 before the D.B.

(Mian Muhammad)
Member(Executive)

Chairman

FORMOF ORDERSHEET

Court of 73

Petition 12(2) No. /2021 in Amended appeal no. 991/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02/03/2021	The petition U/S 12 (2) C.P.C submitted by Tariq Iqbal and 12 others through Mr. Maqsood Ali Advocate may be entered in the relevant Register and put up to the Court for proper order please. REGISTRAR
2-		This Petition be put up before D. Bench on 02-04-2021 CHAIRMAN
	02.04.2021	Counsel for petitioner present. He submitted that another petition submitted under section 12(2) titled Nisar Ahmad & Others is pending adjudication in this Tribunal in which next date of hearing is 29.06.2021, therefore, he requested that the instant petition may be fixed on 29.06.2021. Request is accepted and case is adjourned to 29.06.2021 for hearing before D.B. In the meanwhile, respondents be put on notice for the date fixed. (Atiq ur Rehman Wazir) Member (E) (Rozina Rehman) Member (J)

BEFORE THE HONORABLE
KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In Re: C.M No. 73 /2021
In Amended Service Appeal No. 991 /2018

1. **Tariq Iqbal**
   District Police Officer, Upper Dir
   CPO, Peshawar.

2. **Tauheed Khan**
   Superintendent of Police Special branch DIK
   CPO, Peshawar.

3. **Salah-ud-Din**
   District Police Officer Mohmmand
   CPO, Peshawar.

4. **Aslam Nawaz**
   Superintendent of Police Investigation
   CPO, Peshawar.

5. **Tahir Iqbal**
   District Police Officer Kuram Agency
   CPO, Peshawar.

6. **Shafiullah**
   District Police Officer – North Waziristan
   CPO, Peshawar.

7. **Qamar Hayat**
   District Police Officer Toor Ghar
   CPO, Peshawar.

8. **Nazeer Ahmad**
   Superintendent of Police – CTD Hazara
   CPO, Peshawar.

9. **Muhammad Ayaz**
   Superintendent of Police Operation Haripur
   CPO, Peshawar.

10. **Muhammad Jamil Akhtar**
    Superintendent of Police Operation Mansehra
    CPO, Peshawar..

11. **Shoukat Ali**
    District Police Officer South Waziristan
    CPO, Peshawar.

12. **Tariq Habib**
    Superintendent of Police Investigation, Mardan
    CPO, Peshawar.

13. **Nisar khan**
    District Police Officer Orakzai CPO, Peshawar.

.....*Applicants*

Versus

1. **Abdul Hai Khan**
   Deputy Superintendent Police ,
   Assistant (Crime) Anti Corruption Establishment, DI-Khan
2. **Government of Khyber Pakhtunakhwa**
   through Home, Secretary, KPK, Peshawar
3. **The Secretary to the Government of Khyber Pakhtunkhwa,**
   Home of Tribal Affairs Department, Peshawar
4. **The Provincial Police Officer,**
   Central Police Officer, Peshawar
5. **Additional Inspector General of Police,**
   Headquarter, CPO Peshawar

.....***Respondents***

Application U/s 12, (2) read with Section 151 of Cpc, 1908, with all enabling Laws, for setting aside ex-part Order/Decree dated 17.12.2020 obtained by the Respondent no.1fraudullantly through misrepresentation of fact and law, non-impleading necessary parties, and without locus standi

Respectfully Sheweth,

1. The Applicants are residents of Khyber Pakhtunkhwa currently serving as police officers of assorted ranks in various departments of Khyber Pakhtunkhwa Police ("KP Police") with their lien attached to the different ranges. CCPO Peshawar, Hazara, Mardan, Upper Dir, Orakzai District,Kurram Parachinar etc

2. The Respondent is a resident of Peshawar and currently serving as District Superintendent Police ("DSP") at the Assistant (Crime) Anti-Corruption Establishment, DI-Khan Police with his lien attached to the CPO, Peshawar.

3. The Applicants are filing this Application through Waqas Ahmad S/o Fazil-e-e Subhan R/o Tarnab Farm Pehsawar who is duly authorized via a power of attorney is competent to file this Application on the

Applicant's behalf and is acquainted with the facts of the case which he can depose on oath.

Annexure-1: Copy of the Power of Attorney

4. That the Respondent-1 claims his seniority from the date of his appointment as Assistant Sub Inspector (BPS-09) in KP Police Department on the recommendation of Khyber Pakhtunkhwa Public Service Comission on 01.02.1995 and was placed at top of the merit list at Serial No.1 and also consider himself as aggrieved of the Final Seniority List vide office Endst; no 307/SE-1 dated 22.03.2018 wherein all the Applicants are junior to him and the name of Respondent-1 is placed at Serial No. 67, while he claims to be placed at Serial No.30 in place of Mr. Tauheed Khan, which is illegal, ineffective as per law and Police Rules, 1934 as under the mentioned Rules introduced the formula of Seniority cum Fitness and also the availability of vacancy in their range (Regional Police Office).

5. That to the Applicants' utter shock and dismay, they were apprised of the Decree and Execution recently on the information intimated to them by their fellow department officers.

6. That the Applicants are compelled to file the instant Application as the Respondent has obtained the Decree through fraud, misrepresentation of law and facts, and without any *locus standi.*

7. That in granting the Decree, the Honorable Tribunal came to an erroneous conclusion due to misrepresentation of facts and law after intentionally being misled by the Respondent vis-à-vis material facts of the case and the statute applicable to the facts-in-issue. The Learned Tribunal, upon being maliciously misguided on facts by the Respondent, fallaciously directed the KP Police Department to resolve the issue in the light of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, and Transfer) Rules 1989 ("CSR 1989") despite the fact that the CSR 1989 are extraneous to the Respondent's case. The Respondent's case can only be decided in the light of Police

Rules 1934, which, being special law, has an overriding effect on the CSR 1989. The Respondent, prompted by his own ulterior motives, intentionally did not draw the Honorable Tribunal's attention to the Police Rules 1934. Instead, he urged for resolving issue under the provisions of CSR 1989, which is not applicable to the facts-in-issue.

8. The Police Act, 1861 and the Police Rules 1934 according to their tenor must be regarded as a special law, and their existence cannot be lost sight of while considering the applicability of the other general Laws.

9. Article 268-Constitution of Pakistan 1973 keeps alive the existing Laws until altered, repealed or amended by the appropriate legislator. The term "Existing Law" not only means an Act or Ordinance but also includes the rules within its ambit. Therefore, both the Police Act, 1861, and the rules framed there under fall within the definition of this term and continued to operate till today.

10. Article 240-Constitution of Pakistan enables the appropriate legislator to enact a Law relating to the appointment to and the terms and conditions of the services of the Federal and the Provincial Governments. Both Police Order 2002 and Civil Servants Act 1974 does not provide exclusion of the Police Act, 1861 or the Police Rules 1934, to impede their operation as existing law under article 268 of Constitution of Pakistan.

11. The Police Act 1861 and Police Rules 1934, which is existing Law could not also be challenged for the infraction of any fundamental rights in force while in case of civil servants they are not excepted from the operation of fundamental rights. If Police has to be treated as a civil servant in the matter of their seniority/promotion, then like other civil servants they will also enjoy the same benefits as regards the infraction of any fundamental rights. Article 8(3)(A) of the Constitution of Pakistan excepted the Police force from application of fundamental rights.

12. Provisions of the Special Law or of a disciplinary character were enacted with the object to fulfill the requirements of discipline force; the purpose cannot be achieved if the provisions of General Laws were to be applied.
Constitution of Pakistan 1973
PLD 1985 (Supreme Court 159 Full Bench

13. Police Rules outset the golden principle of seniority "SENIORITY is reckoned from the date of confirmation in the substantive rank".

14. Under Police Rules, promotion lists are separately maintained from the seniority list such as A, A1, B1, C, D, E and F. The confirmed officers from the seniority list are picked up for the promotion at district, divisional and provincial level to the next higher rank making a pyramid to filter good and bad. The leftover are constrained to improve their performance and compete for promotion to achieve the goal of "seniority cum fitness" the basic golden principle for promotion as envisaged in Police Rules 13.1.

15. Criterion for determining seniority of subordinate ranks of Police force held would be provided by Rule 12(2) Police Rules 1934 as from the date of their confirmation and not from dates of continuous appointment in the grade. (August Supreme Court of Pakistan)

16. That consequently, the direction in the Decree to the Department for deciding the case in accordance with the CSR 1989 is devoid of legal applicability and therefore a nullity which cannot be executed.

17. That more nefariously, the Respondent deluded the Honorable Tribunal through fraud and misrepresentation of facts by not arraying the Applicants who are senior to the Respondent by virtue of their names being higher than the Respondent in the Seniority List. The Applicants are patently and incontrovertibly necessary parties in the Appeal and their valuable bona fide and legal rights are directly affected by the Decree and the Execution.

18. That under the Police Rules 1934, the Deputy Inspector General ("DIG") is solely empowered with discretion to maintain and amend the Seniority List in addition to possessing the discretionary authority vis-à-vis promotion to the rank of sub-inspector. The Respondent has further acted in bad faith by not impleading in the Appeal, the DIG who was so authorized and at the time responsible for including his name in the Seniority List of 1995.

19. That the Respondent's entire case in the Appeal was grounded on challenging an order ("the Order") passed by the Inspector General of Police Khyber Pakhtunkhwa which proclaimed inclusion of the Respondent at Serial 30 of seniority list of DSP BS 17 List-F w.e.f. 22.03.2018. Extraordinarily, the PPO has not been arrayed as a party to the Appeal despite the Order being passed by that very office. These furtive and underhanded acts of not impleading the Applicants, the DIG concerned, and the PPO as necessary parties have vitiated the entire proceedings of the Appeal and render the Decree void, illegal and liable to be set aside

Annexure-2: Copy of the Order

20. That subsequently, the Respondent filed an application before the Departmental Promotion Committee ("DPC") for incorporation of his name at the Serial No. 30 of Seniority List of 2018 on the premise of the Decree. The Respondent became eligible for inclusion in the Seniority List upon fulfilling the prescribed criteria throughout his career. Resultantly, his name has been validly inserted at the Serial No. 67 of Seniority List of 2018, and the Respondent-1 claiming his seniority from the merit list of KPPSC from 1995, which cannot be legally infixed in any anterior list.

21. That the non-impleadment of necessary parties was a malevolent act of fraud and misrepresentation by the Respondent who has, by *mala fide* abuse of position, approached this Honorable Tribunal in order to inequitably and illegally secure personal gains over fellow officers by deliberately omitting to array the necessary parties.

22. The Applicants, by virtue of the Decree are being stripped of their inherent rights and condemned unheard in breach of the established jurisprudence on *audi alteram partem* and Constitutional right to fair trial under the Pakistani law.

23. The Respondent has failed to adduce a copy of the seniority list duly certified by the relevant authority. In these circumstances, the annexures to the Appeal, which purport to be attested by the legal representative of the Respondent, are a gross violation of the law and hence not capable of being relied upon as evidence. The Honorable Tribunal ought to have been properly assisted during the Appeal with regards to such evidence as the Appeal warranted a dismissal on this score alone.

24. It is paramount in the interests of justice, that the legal rights and privileges of the Applicants are protected by granting them a full and fair opportunity to present their cases in order to allow the Honorable Tribunal to establish a flawless opinion and reach a consummate decision based on germane facts and law. Pursuing the alternative will be a flagrant contravention of the Applicants' intrinsic right to fair trial and put the Applicants in a grimly unfair position, by illegally divesting them of their vested and indelible rights and privileges without even affording them a single opportunity of being heard, and instead endowing them on the Respondent.

25. In the light of the foregoing, it is manifest that the Decree warrants an annulment, as not only has the Respondent approached the Honorable Tribunal with unclean hands and acted fraudulently by deliberately not impleading the Applicants and the concerned DIG and CCPO as necessary parties in the Appeal, but he has failed to incorporate a certified copy to his Appeal and obtained the Decree through misrepresentation of law by averring that CSR 1989 are applicable in the instant case instead of Police Rules 1934. This has resulted in a resoundingly fractured decision marred by misreading of facts and misapplication of law.

26. The Applicants reserve the right, with due permission of the Learned Tribunal, to present further grounds and arguments verbally, or in writing, and to present further evidence to prove their case.

Prayer: In view of the submissions above, it is therefore most humbly prayed that:-

(A) The Order/Judgment/Decree dated 17.12.2020 may kindly be set aside on the ground of being obtained through fraud and misrepresentation of facts and law, misapplication of law, and non-impleadment of the Applicants and the concerned DIG and CCPO as necessary parties; and

(B) A direction be made with effect to decide the case on merits after arraying the Applicants and the CCPO as necessary parties; and

(C) The Honorable Tribunal may kindly grant any other relief to the Applicants it deems just and appropriate in the circumstances of the case.

Applicants

Through

Maqsood Ali
AHC

BEFORE THE HONORABLE
KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In Re: Revision Petition No. _____/2021

Tariq Iqbal & 13 Others

..... ***Petitioner***

Versus

Abdul Hai Khan & Others

..... ***Respondents***

Affidavit

I, **Waqas Ahmad S/o Fazil-e-e Subhan R/o Tarnab Farm Pehsawar**, attorney for the Petitioner do here by solemnly affirm on oath that contents of this Petition are true and correct to the best of knowledge and belief and nothing has been concealed intentionally from this honourable Court.

Deponent

02 MAR 2021

ATTESTED

Hafiz Muhammad Sadiq Qureshi
Oath Commissioner
Advocate High Court Peshawar

Identified by:

Maqsood Ali
Advocate High Court.

BEFORE THE HONORABLE
KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In Re: Revision Petition No. _____/2021

Tariq Iqbal & 13 Others

..... ***Petitioner***

Versus

Abdul Hai Khan & Others

..... ***Respondents***

APPLICATION UNDER ORDER XXXIX RULE 1 FOR GRANT OF TEMPORARY INJUNCTION

Respectfully Sheweth;

The Applicant humbly submits as under:

1. That the facts and the grounds of the petition 12(2)Cpc,1908 may kindly be read as part and parcel of this interim relief application.

2. That the Applicant has a *prima facie* case and is sanguine about its success.

3. That the balance of convenience also tilts in favour of granting interim relief to the Applicant.

4. That the applicant would suffer irreparable loss if the proceeding is not suspendered tills the final adjudication of instant Revision Petition.

Prayer: It is therefore, most humbly requested that on acceptance of this application the Operation Order & Judge dated 17.12.2020 may

please be Suspend till the final adjudication of Application 12(2) Cpc,1908.

Or any other relief as deemed appropriate by this honourable Court under the circumstance, specifically not asked for, may graciously also be granted.

Applicant
Through

Maqsood Ali
AHC
Advocates & Consultants
12, K-3, Phase-III, Hayatabad, Peshawar
Phone 5817132, 5818446, Mobile: 0333 9215562
Email: Pleader58@gmail.com
www.isaaclaw.org

AFFIDAVIT

I, Waqas Ahmad S/o Fazil-e-e Subhan R/o Tarnab Farm Pehsawar, attorney for the Petitioner do here by solemnly affirm on oath that contents of this Petition are true and correct to the best of knowledge and belief and nothing has been concealed intentionally from this honourable Court.

Deponent

ATTESTED 02 MAR 2021
Hafiz Muhammad Sadiq Durrani
Oath Commissioner
Advocate High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

In Amended service Appeal No.991/2018

Abdul Hai Khan Deputy Superintendent of Police Presently Posted As Assistant (Crime), Anti Corruption Establishment at D.I.Khan

(Appellant)

VERSUS

1. **Government of KPK, through Home Secretary, KPK Peshawar.**
2. **The Secretary to the Govt; of Khyber Pakhtunkhwa, Home of Tribal Affairs Department, Peshawar.**
3. **The Provincial Police Officer, Central Police Officer, Peshawar.**
4. **The Addl; Inspector General Of Police, Head Quarters, CPO, Peshawar.**
5. **Mr. Tauheed Khan, DSP C/O Central Police Office, Peshawar.**
6. **Mr. Salah ud din, DSP C/O Central Police Office, Peshawar.**
7. **Mr. Tariq Habib, DSP C/O Central Police Office, Peshawar.**
8. **Mr. Nisar Ahmad, DSP C/O Central Police Office, Peshawar.**
9. **Mr. Aslam Nawaz, DSP C/O Central Police Office, Peshawar.**

Ex-parte vide order sheet dated 27.8.19

ATTESTED

Khyber Pakhtunkhwa Service Tribunal Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.991/2018

Date of Institution: 10.08.2018
Date of Decision: 17.12.2020

Abdul Hai Khan Deputy Superintendent of Police, Presently posted as Assistant Director (Crime), Anti corruption Establishment at D.I. Khan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Home Secretary and 27 others.

... (Respondents)

Muhammad Abdullah Baloch
Advocate ... For Appellant

Mr. Muhammad Jan
Deputy District Attorney ... For Official Respondents

Mrs. ROZINA REHMAN ... **MEMBER (J)**
Mr. ATIQ UR REHMAN WAZIR ... **MEMBER (E)**

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT: -

Mr. ATIQ UR REHMAN WAZIR: - Appellant Mr. Abdul Hai Khan, was initially appointed as Assistant Sub Inspector (BPS-9) in Provincial Police on the recommendations of Khyber Pakhtunkhwa Public Service Commission on 01.02.1995 and was placed at top of the merit list; that in due course of time, the appellant was promoted to the post of DSP; that departmental final seniority list of DSPs was issued on 22.03.2018, wherein the appellant was placed much junior to his colleagues, who all were junior to him in the initial seniority list assigned by Public Service Commission; that he is also placed junior to those inducted in service much later than the appellant. The appellant filed

.departmental appeal on 19.04.2018, but of no avail, hence the instant appeal with prayers that seniority list dated 22.03.2018 may be set aside and seniority of the appellant may be placed at Serial No. 30 i.e. above Mr. Tauheed Khan in accordance with seniority rules as envisaged in Esta Code and Civil Service Regulations.

2. Written reply/comments were submitted by respondents.

3. Arguments heard and record perused.

4. Learned counsel for the appellant contended that the appellant was initially appointed as ASI on 01.02.1995 on the recommendations of Khyber Pakhtunkhwa Public Service Commission and was placed at the top of the seniority list. Learned counsel for the appellant further contended that during the course, the appellant was promoted to the rank of DSP and as per impugned final seniority list issued on 22.03.2018, the appellant is placed at Serial No. 67 below the name of Mr. Nazir Khan and above Mr. Muhammad Tahir, while the officers junior to him have been placed at Serial No. 30, which for all intent and purposes is erroneous and wrongly placed. The learned counsel for the appellant argued that in view of Rule 17 (1) (a) of the Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the seniority inter se of civil servants shall be determined in case of persons appointed by initial recruitment, in accordance with merit assigned by Commission. Learned counsel for the appellant contended that the impugned seniority list is based on error and an outcome of improper reckoning due to misreading of record to the effect that those inducted in service much later than the appellant i.e. Nazir Ahmad, Saeed Akhtar, Muhammad Ayaz and Muhammad Jamil are placed at Serial No. 48 to 51 of the said list much above the appellant. He further added that as per Rule 17 (2) of Khyber

Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer) Rules, 1989, seniority in various cadres of the civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre. Section 8 (4) of the Civil Servants Act, 1973 also provides that seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular (initial) appointment. Learned counsel for the appellant argued that the appellant is entitled for equal treatment as per article 25 of the Constitution and his seniority need to be considered from the merit list of the Public Service Commission. Learned counsel for the appellant referred to the judgments of this Tribunal in Service Appeal No. 79/2019, Service Appeal No. 736/2016, Service Appeal No. 162/2014 and Service Appeal No. 1227/2013, where in similar nature cases, relief has already been granted by this tribunal. Learned counsel for the appellant also referred to the judgments of Supreme Court of Pakistan in 2016 SCMR 1254 and 2002 PLC (CS) 1388. On question of limitation the learned counsel referred to the judgment of supreme court of Pakistan in 2002 PLC (CS) 1388 and 2009 PLC (CS) 178, where on the issue of promotion, pay and other emoluments, limitation would not foreclose his right accrued to him. Learned counsel for the appellant prayed that in view of the situation, the impugned seniority list dated 22.03.2018 may be set aside and the respondents may be directed to place the name of the appellant at Serial No. 30 above Mr. Tauheed Khan in accordance with seniority rules to meet the end of justice with all consequential benefits of service.

5. The learned Deputy District Attorney appeared on behalf of official respondents stated at bar that seniority issue of the appellant was discussed in meeting of a committee constituted for the purpose on 29.11.2018 and it was

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

observed that the appellant was confirmed as Sub Inspector on 19.05.2006 and his name was brought on list F on 20.12.2006, whereas his juniors were confirmed as SI on 07.04.2003 and brought their names on list F earlier to the appellant i.e. 16-12-2005. The committee noted that his seniority was disturbed due to late confirmation in the rank of sub inspector. Since the list of promotion/ confirmation of officers in the rank of ASIs and SIs are dealt with in the regions, therefore the committee recommended that his case may be sent to Regional Police Officer (RPO) D.I. Khan to revisit his seniority in the light of rules and fact mentioned in his application. Accordingly, his case was examined at the level of RPO D.I. Khan and it was observed that appellant was at Serial No. 1 of the seniority list after his induction in service as ASI on 01.02.1995, but his name was placed at Serial No. 4 instead of Serial No. 1 without any reason mentioned in the confirmation order and their names were brought on list E w.e.f. 25.04.1998 in which the name of Mr. Tauheed Khan at Serial No. 8 was placed on top of the list. Learned Deputy District Attorney contended that the RPO office was not sure as to why his name was brought to Serial No. 4 instead of Serial No. 1, as there was no adverse action taken against the appellant nor any other reason assigned. One of the probable reasons mentioned was that it might be due to age.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

6. We are conscious of the fact that time limitation needs to be kept in mind, but in the lights of judgments of Supreme Court of Pakistan referred to above and in view of provisions of S.23 of Limitation Act 1908, the appellant has a continuous cause of action and issuance of seniority list at belated stage by respondents created a fresh cause of action for the appellant, not knowing the fact that his late confirmation in 2006 would entail seniority issue at a later stage. In order to ascertain the actual situation, representative of RPO D.I. Khan

was summoned by Court, who stated at bar that there was nothing adverse against the appellant during the time, but the change in seniority might be due to clerical mistake, which travelled along the seniority of the appellant and culminated into the final seniority list issued in 2018. We also did not find anything adverse on record except his late confirmation due to unknown reasons. It is also established from the prevailing rules that civil servants 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. Moreover this tribunal as well as Supreme Court of Pakistan in number of Judgments have granted relief in similar cases.

7. In the light of facts and circumstances of the present case, the impugned seniority list dated 22-03-2018 is set aside and the instant appeal is accepted as prayed for. No orders as to costs. File be consigned to the record room.

ANNOUNCED
17.12.2020

(ROZINA REHMAN)
MEMBER (J)

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

Certified to be ture copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 16/2/21
Number of Words 2000
Copying Fee 22/-
Urgent 4/-
Total 26/-
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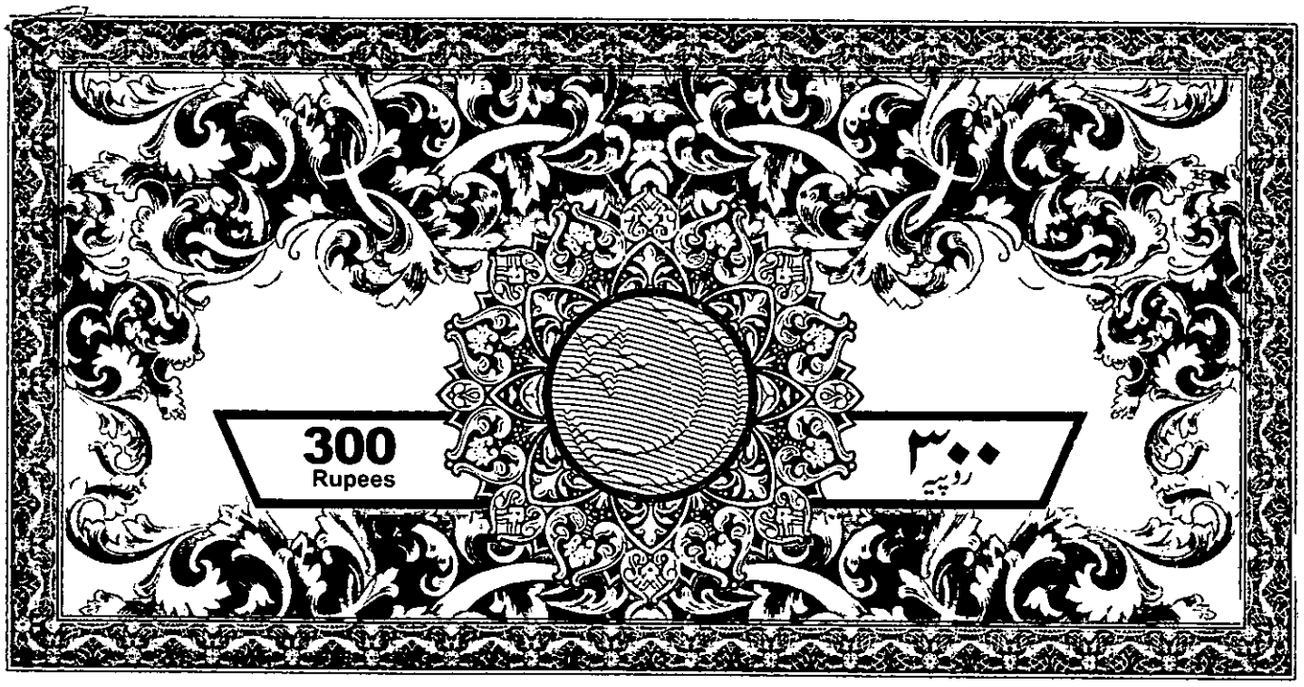

Mark "A"
23/06/2022
Member (J)

مختیارنامہ خاص برائے پیروی مقدمہ

مایانکہ (1) طارق اقبال (2) توحید خان (3) صلاح الدین (4) اسلم نواز (5) طاہر اقبال (6) شفیع اللہ (7) قمر حیات (8) نذیر احمد (9) محمد آیاز (10) محمد جمیل اختر (11) شوکت علی (12) طارق حبیب (13) نثار خان تمام ملازمین سنٹرل پولیس آفس پشاور ہیں۔ دریں وقت بقائمی ہوش و حواس خمسہ و بلاجبر واکراہ غیرے مقران ہیں بدیں وجہ کہ ما مقران کی جانب سے ایک درخواست (2)12 ضابطہ دیوانی بعنوان **طارق اقبال وغیرہ** بنام **عبدالحئی خان وغیرہ** جو کہ **بعدالت جناب سروس ٹریبونل پشاور** دائر ہونے جارہا ہے۔ ما مقران بوجہ سرکاری ملازمت مقدمہ مذکورہ بالا کی پیروری اصالتاً کرنے سے قاصر ہیں اس لئے اپنی جانب سے مسمی **وقاص احمد** ولد فضلِ سبحان سکنہ ترناب فارم، تحصیل و ضلع پشاور کو مختیار خاص مقرر کرکے اختیارات کلی دیتے ہیں کہ مختیار خاص موصوف مقدمہ / درخواست ہذا کی پیروی کرے، ہر قسم بیان تحریری و زبانی دیوے، بیان حلفی و تصدیق دیوے، بغرض پیروی مقدمہ وکلاء کا تقرر کرے، درخواست دیوے، اپیل کرے، اپیل در اپیل، نگرانی و نظر ثانی کرے، ہماری جانب سے دعویٰ جواب دعویٰ، عرضی دعویٰ، اقبال دعوی، فیصلہ ثالثی، دستبردار نامہ کرے، ضروریات گواہان دیوے، شہادت قلمبند کرے، دیگر کوئی درخواست برائے ترمیم دیوے، تقرر ثالثان کرے، بغرض پیروی مقدمات از عدالت سروس ٹریبونل پشاور، ابتدائی تاعدالت عالیہ و عظمیٰ تک میں مختیار خاص موصوف ہر قسم وجملہ کاروائی تحریری وزبانی سرانجام دیوے، من مقر کو منظور و قبول ہوگا۔ لہذا مختیار نامہ خاص سنداً تحریر ہے۔

المرقوم: 02.03.2021

العبد _____

طارق اقبال (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

توحید خان (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

(اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

اسلم نواز (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

طاہر اقبال (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

شفیق اللہ (اختیار دہندہ)

شناختی کارڈ نمبر: 17101-8435975

العبد _____

قمر حیات (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

نذیر احمد (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

محمد آیاز (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

محمد جمیل اختر (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

شوکت علی (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

طارق حبیب (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

شار خان (اختیار دہندہ)

شناختی کارڈ نمبر: _____

العبد _____

وقاص احمد (اختیار گرہندہ)

شناختی کارڈ نمبر: 17301-5312830-7

گواہ شد _____

شناختی کارڈ نمبر: 14302-8063469-7

گواہ شد _____

شناختی کارڈ نمبر: 17301-1001944-5

Treasury Wing) Peshawar.
Office of the Controller of Accounts
04 MAR 2024

Ex-P-B

Member (J)
27/06/2022

قیمت 50 روپے

75703

ایڈوکیٹ: M. ali

بارکونسل/ایسوسی ایشن نمبر: 13-4173

رابطہ نمبر: 0333-9874748

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: ____________________

منجانب:	دعویٰ: درخواست 12(2)
Abdul Hai Khan بنام Tariq Iqbal DPO Dir, Anti corruption Director	علت نمبر:
	مورخہ
	جرم:
	تھانہ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی کاروائی متعلقہ آن مقام ____ کیلئے ____ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظرثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی بمقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں۔ لہٰذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 2-3-2021

PESHAWAR BAR ASSOCIATION KHYBER PAKHTUNKHWA
گواہ شد

العبد العبد

مقام سروس ٹربیونل پشاور کے لیے منظور ہے۔

Accepted by M. ali

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

OFFICE OF THE
REGIONAL POLICE OFFICER,
DERA ISMAIL KHAN REGION
✆ 0966-9280291 Fax # 9280290
✉ estt.rpo.dik@gmail.com

No. /ES dated D.I.Khan the 30 /05/2022

ORDER

In compliance with the execution Judgment of the Honorable Service Tribunal Peshawar, dated 17.12.2020, in Service Appeal No.991/2018, titled Abdul Hai Khan, Deputy Superintendent of Police Vs. Govt. of Khyber Pakhtunkhwa, through Home Secretary and 27 others, & direction of the Inspector General of Police Khyber Pakhtunkhwa, Peshawar, vide letter No. CPO/CPB/421 dated 16.11.2021, and in continuation with this office Order No. 3448-55/ES, dated 30.05.2022, and Order No. 3457-64/ES dated 30.05.2022 and this office Order No. 3466-75/ES dated 30.05.2022 & in the supersession of this order of bringing their names on the Promotion List E, issued vide this office Notification No.622/ES, dated 25.04.1998, the **date of bringing his name,** along with that of his batchmates, **on the Promotion List E,** is hereby revised in the light of PR. 13.11 and 19.25(5), and judgement of the Honourable Supreme Court of Pakistan in case titled Gul Hassan Jatoi and others Vs Faqir Muhammad Jatoi and others, reported in 2016 SCMR 1254, in the manner provided in the following table:

Table: *Table showing **inter se seniority** of ASIs appointed by way of initial appointment vide office Order No.236-38/ES dated 01.02.1995, on **the Promotion List E.***

1	2	3	4	5	6
S/No	**Name & Address**	**Range No. Allotted**	**Distt. To which posted**	**Previous Date of bringing their names of the Promotion List E**	**Revised Date of bringing their names of the Promotion List E**
1	Abdul Hai Khan S/O Ahmad Saeed Khan, R/O Village Chuhdwan, Distt. DI Khan	27/D	DI Khan	25.04.1998	02.02.1998
2	Syed Inayat Ali Amjad S/O Syed Murad Ali Shah , R/O Village Thathal, P.O Mandhran Kalan, Chashma Road Distt. DI Khan	28/D	DI Khan	25.04.1998	02.02.1998
3	Kalim Ullah S/O Hafiz Bashir Ahmad, P.O Haji Morah DI Khan	37/D	DI Khan	25.04.1998	02.02.1998
4	Zia Hassan S/O Gul Hassan, Village Khainu Khel, DI Khan	45/D	Tank	25.04.1998	02.02.1998
5	Salah-ud-Din Ayub S/O Rehmatullah Village & P.O, Darraki, Tehsil & District Tank	46/D	Tank	25.04.1998	02.02.1998
6	Shafiullah Khan S/O Amanullah Khan Village & P.O Maddai, Tehsil Kulachi, District DI Khan	47/D	Tank	25.04.1998	02.02.1998
7	Mohammad Nadeem Siddiqi S/O Ghulam Yaseen, Siddiqi House Faqir Abad Behind Commence College DI Khan	48/D	DI Khan	25.04.1998	02.02.1998
8	Tauhid Khan s/o Abdul Hamid Khan, Village Kirri Malang, District DI Khan	49/D	DI Khan	25.04.1998	02.02.1998

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

No. 3477-86/ES,
Copies to:-

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for favour of information w.r.t letter No. quoted above, please.
2. The Registrar, Khyber Pakhtunkhwa, Service Tribunal Peshawar.
3. The District Police Officer, D.I.Khan to issue gazetted notification accordingly.
4. The District Police Officer, Tank to issue gazetted notification accordingly.
5. Mr. Abdul Hai Khan, DSP, Assistant Director, Anti-Corruption Establishment DI Khan
6. Mr. Syed Inayat Ali Amjad, DSP, Acting SP Investigation, Kohat
7. Mr. Zia Hassan, DSP, Acting SP Investigation, Bannu
8. Mr. Salah ud Din, DSP, SP Security, CCP Peshawar
9. Mr. Shafi Ullah, DSP, Acting DPO Karak.
10. Mr. Tauheed Khan, DSP, Acting SP Special Branch, South at Bannu.

30/05/22

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

OFFICE OF THE
REGIONAL POLICE OFFICER,
DERA ISMAIL KHAN REGION
0966-9280291 Fax # 9280290
estt.rpo.dik@gmail.com

No. /ES dated D.I.Khan the 30 /05/2022

ORDER

In compliance with the execution Judgment of the Honorable Service Tribunal Peshawar, dated 17.12.2020 in Service Appeal No.991/2018, titled Abdul Hai Khan, Deputy Superintendent of Police Vs. Govt. of Khyber Pakhtunkhwa, through Home Secretary and 27 others, & direction of the Inspector General of Police Khyber Pakhtunkhwa, Peshawar, vide letter No. CPO/CPB/421 dated 16.11.2021, this office Order No.315-17/ES dated 09.03.1998 and in continuntion with this office Order No. 3448-55/ES, dated 30.05.2022, and in supersession of this Order No.315-17/ES dated 09.03.1998 ((wherein name of the petitioner Abdul Hai DSP was relegated to serial no. 4 from serial no. 01 in violation of this office Order No.236-38/ES dated 01.02.1995 (order of his initial appointment) while confirming him in his substantive rank of Assistant Sub-Inspector (ASI)), his *inter se seniority* viz a viz his batchmates is hereby restored to its original order as provided in the order of their initial appointment vide this office Order No.236-38/ES dated 01.02.1995 in the manner provided in the following table:

Table: *Table showing inter se seniority of ASIs appointed by way of initial appointment vide office Order No.236-38/ES dated 01.02.1995.*

1	2	3	4
S/No	Name & Address	Range No. Allotted	Distt. To which posted
1	Abdul Hai Khan S/O Ahmad Saeed Khan, R/O Village Chuhdwan, Distt. DI Khan	27/D	DI Khan
2	Syed Inayat Ali Amjad S/O Syed Murad Ali Shah , R/O Village Thathal, P.O Mandhran Kalan, Chashma Road Distt. DI Khan	28/D	DI Khan
3	Kalem Ullah S/O Hafiz Bashir Ahmad, P.O Haji Morah DI Khan	37/D	DI Khan
4	Zia Hassan S/O Gul Hassan, Village Khainu Khel, DI Khan	45/D	Tank
5	Salah-ud-Din Ayub S/O Rehmatullah Village & P.O. Barraki, Tehsil & District Tank	46/D	Tank
6	Shafiullah Khan S/O Amanullah Khan Village & P.O Maddai, Tehsil Kulachi, District DI Khan	47/D	Tank
7	Mohammad Nadeem Siddiqi S/O Ghulam Yaseen, Siddiqi House Faqir Abad Behind Commerce College DI Khan	48/D	DI Khan
8	Tauhid Khan s/o Abdul Hamid Khan, Village Kirri Malang, District DI Khan	49/D	DI Khan

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

No. 3457-64/ES,
Copies to:-

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for favour of information w.r.t letter No. quoted above, please.
2. The Registrar, Khyber Pakhtunkhwa, Service Tribunal Peshawar.
3. Mr. Abdul Hai Khan, DSP, Assistant Director, Anti-Corruption Establishment DI Khan
4. Mr. Syed Inayat Ali Amjad, DSP, Acting SP Investigation, Kohat
5. Mr. Zia Hassan, DSP, Acting SP Investigation, Bannu
6. Mr. Salah ud Din, DSP, SP Security, CCP Peshawar
7. Mr. Shafi Ullah, DSP, Acting DPO Karak.
8. Mr. Tauheed Khan, DSP, Acting SP Special Branch, South at Bannu.

30/05/22

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

Before The KPK Service Tribunal Peshawar

Tariq Iqbal and others bs Abdul Hai Khan and others

CM.No: 73/021

Application for placing file the affidavit submitted bythe applicant/ petitioner.

Respected Sir:-/

The Applicant humbly submits as under.

1: that the above mentioned petitioner is pending before this honorable tribunal and is fixed for today.

That in the said petition, the petitioner at S.No:11 never filed/ signed the petition and seeks permission of this honorable tribunal to place on file the affidavit to this effect.

It is therefore prayed that on acceptance of this application, the attached affidavit of the applicant may placed on file .

Shoukat Ali

Dy. Commandant

Tourism Police

Khyber Pakhtunkhuwa

(Applicant / petitioner #11)

16201-0699523-9

06/10/2021

Put up to the Worthy Chairman with relevant application

6/10/2021.

Read

Place on file.

06/10/2021

BEFOE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

C.MNo.73/2021

Tariq Iqbal and Others VS Abdul Hai Khan and Others

AFFIDAVIT

I, Shoukat Ali, Dy; Commandant Tourism Police, Khyber Pakhyunkhwa (Applicant No.11) do hereby solemnly affirm and declare on oath that the deponent have neither filed any appeal nor given any power of attorney to submit above titled 12 (2) CPC petition in this Honorable Tribunal on my behalf to anyone to the best of my knowlegde and belief.

Shoukat Ali
Dy; Commandant
Tourism Police,
Khyber Pakhtunkhwa
Applicant No.11

ATTESTED
Sardar Muhammad Raza Shah Advocate
Oath Commissioner
High Court Peshawar

06 OCT 2021

Before the KPK Service Tribunal Peshawar

Tariq Iqbal and other vs Abdul Hai Khan and others

CM.No:73/021

Application for placing file the affidavit submitted by the applicant / petitioner.

Respected Sir:-/

The Applicant humbly submits as under.

1. That the above mentioned petitioner is pending before this Honourable tribal and is fixed for today.

That in the said petition, the petitioner at S.No: 02 never field / signed the petition and seeks permission of this Honourable Tribunal to place on file the affidavit to this effect.

It is therefore prayed that on acceptance of this application, the attached affidavit of the applicant may place on file.

Put up to the Court with relevant application.

22/4/2021

Tauheed Khan
Superintendent of Police
Special Branch
Southern Regions

Applicant / Petitioner# 02

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

C.M.No.73/2021

Tariq Iqbal and Others VS Abdul Hai Khan and Others

AFFIDAVIT

I, Tauheed Khan, Superintendent of Police, Special Branch Southern Region, (Applicant / Petitioner# 02) do hereby solemnly affirm and declare on oath that the deponent have neither filed any appeal nor given any power of attorney to submit above titled 12.(2) CPC petition in this Honorable Tribunal on my behalf to anyone to the best of my knowledge and belief.

Zahid Ullah Khan Advocate
Oath Commissioner
Distt. Courts Peshawar
22-4-22

Tauheed Khan
Superintendent of Police
Special Branch
Southern Regions

Applicant / Petitioner# 02

Before the KPK Service Tribunal Peshawar

Tariq Iqbal and other vs Abdul Hai Khan and others

CM.No:73/021

Application for placing file the affidavit submitted by the applicant / petitioner.

Respected Sir:-/

The Applicant humbly submits as under.

1. That the above mentioned petitioner is pending before this Honourable tribal and is fixed for today.

   That in the said petition, the petitioner at S.No: 02 never field / signed the petition and seeks permission of this Honourable Tribunal to place on file the affidavit to this effect.

It is therefore prayed that on acceptance of this application, the attached affidavit of the applicant may place on file.

Put up to the court with relevant application.

22/4/2022

Reader

Tabib Ullah Khan Advocate
Distt: Courts Peshawar

Shafi Ullah
District Police Officer
Karak

Applicant / Petitioner# 06

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

C.M.No.73/2021

Tariq Iqbal and Others VS Abdul Hai Khan and Others

AFFIDAVIT

I, Salah Ud Din SP, Security, CCP, Peshawar (Applicant / Petitioner# 03) do hereby solemnly affirm and declare on oath that the deponent have neither filed any appeal nor given any power of attorney to submit above titled 12 (2) CPC petition in this Honorable Tribunal on my behalf to anyone to the best of my knowledge and belief.

Zahid Ullah Khan Advocate
Oath Commissioner
Courts Peshawar
22-2-22

Salah Ud Din
SP, Security,
CCP, Peshawar

Applicant / Petitioner# 03

Before Hon'ble Chairman, KP Service Tribunal
Peshawar.

CM No 73/2021
In SA 991/2018

Tariq Iqbal etc
vs
Abdul Hye Khan etc

Proceedings u/s 12.2 CPC

Put up to the court along with original file
29/6/21

Application for fixation of Title mentioned petition before the concerned DB/at D.I.Khan

Reader

Respectfully Stated,

1. That subject mentioned application is pending before this Hon'ble Tribunal fixed for today posted with DB-I.
2. That Judgment called for in question in the petition under rep: was rendered by a DB comprising of Mr. Rozina Rehman (J) and Mr. Atiq-ur-Rehman, Member (E) at Camp Court, D.I.Khan on 7.12.2020.
3. That for any inadvertance or concealment of true facts on part of applicants it has been placed/posted before Hon'ble DB-I.
4. That propriety as well law requires that the application can be taken up by the court which decided at first instance.
5. That it would be in accordance with

... - law to fix the application under mention before the concerned DB, preferably at Camp Court Dhir in the next schedule of tours.

It is therefore, humbly requested that the office may kindly be directed to put the title mentioned application with DB comprising of the forementioned Hon'ble members at Camp Court Dhir during the next tour scheduled.

Dated 24.06.2021

Respectfully,

(Abdul Hye Khan)
Respdt. No. 1.
Through Counsel.

(Muhammad Ismail Khan)
Advocate High Court
Dera Ismail Khan.

Mark "C" (Four sheets)
27/06/2022

OFFICE OF THE
REGIONAL POLICE OFFICER,
DERA ISMAIL KHAN REGION
0966-9280291 Fax # 9280290
estt.rpo.dik@gmail.com

No. /ES dated D.I.Khan the 30 /05/2022

ORDER

In compliance with the execution Judgment of the Honorable Service Tribunal Peshawar, dated 17.12.2020 in Service Appeal No.991/2018, titled Abdul Hai Khan, Deputy Superintendent of Police Vs. Govt. of Khyber Pakhtunkhwa, through Home Secretary and 27 others, & direction of the Inspector General of Police Khyber Pakhtunkhwa, Peshawar, vide letter No. CPO/CPB/421 dated 16.11.2021, this office Order No.315-17/ES dated 09.03.1998 ((wherein name of the petitioner Abdul Hai DSP was relegated to serial no. 4 from serial no. 1 in violation of this office Order No.236-38/ES dated 01.02.1995 (order of his initial appointment) while confirming him in his substantive rank of Assistant Sub-Inspector (ASI)) & Notification No.622/ES dated 25.04.1998 ((wherein name of the petitioner Abdul Hai DSP was further relegated to serial no. 7 from serial no. 4 in violation of this office Order No.236-38/ES dated 01.02.1995 (order of his initial appointment) while placing his name on the Promotion List E)), are hereby withdrawn.

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

No. 3442-55 /ES,

Copies to:-

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for favour of information w.r.t letter No. quoted above, please.
2. The Registrar, Khyber Pakhtunkhwa, Service Tribunal Peshawar.
3. Mr. Abdul Hai Khan, DSP, Assistant Director, Anti-Corruption Establishment DI Khan
4. Mr. Syed Inayat Ali Amjad, DSP, Acting SP Investigation, Kohat
5. Mr. Zia Hassan, DSP, Acting SP Investigation, Bannu
6. Mr. Salah ud Din, DSP, SP Security, CCP Peshawar
7. Mr. Shafi Ullah, DSP, Acting DPO Karak.
8. Mr. Tauheed Khan, DSP, Acting SP Special Branch, South at Bannu.

30/05/22

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

OFFICE OF THE
REGIONAL POLICE OFFICER,
DERA ISMAIL KHAN REGION
0966-9280291 Fax # 9280290
estt.rpo.dik@gmail.com

No. /ES dated D.I.Khan the 30 /05/2022

ORDER

In compliance with the execution Judgment of the Honorable Service Tribunal Peshawar, dated 17.12.2020 in Service Appeal No.991/2018, titled Abdul Hai Khan, Deputy Superintendent of Police Vs. Govt. of Khyber Pakhtunkhwa, through Home Secretary and 27 others, & direction of the Inspector General of Police Khyber Pakhtunkhwa, Peshawar, vide letter No. CPO/CPB/421 dated 16.11.2021, this office Order No.315-17/ES dated 09.03.1998 and in continuation with this office Order No. 3448-55/ES, dated 30.05.2022, and in supersession of this Order No.315-17/ES dated 09.03.1998 ((wherein name of the petitioner Abdul Hai DSP was relegated to serial no. 4 from serial no. 01 in violation of this office Order No.236-38/ES dated 01.02.1995 (order of his initial appointment) while confirming him in his substantive rank of Assistant Sub-Inspector (ASI)), his ***inter se seniority*** viz a viz his batchmates is hereby restored to its original order as provided in the order of their initial appointment vide this office Order No.236-38/ES dated 01.02.1995 in the manner provided in the following table:

Table: *Table showing **inter se seniority** of ASIs appointed by way of initial appointment vide office Order No.236-38/ES dated 01.02.1995.*

1	2	3	4
S/No	**Name & Address**	**Range No. Allotted**	**Distt. To which posted**
1	Abdul Hai Khan S/O Ahmad Saeed Khan, R/O Village Chuhdwan, Distt. DI Khan	27/D	DI Khan
2	Syed Inayat Ali Amjad S/O Syed Murad Ali Shah , R/O Village Thathal, P.O Mandhran Kalan, Chashma Road Distt. DI Khan	28/D	DI Khan
3	Kalim Ullah S/O Hafiz Bashir Ahmad, P.O Haji Morah DI Khan	37/D	DI Khan
4	Zia Hassan S/O Gul Hassan, Village Khainu Khel, DI Khan	45/D	Tank
5	Salah-ud-Din Ayub S/O Rehmatullah Village & P.O, Darraki, Tehsil & District Tank	46/D	Tank
6	Shafiullah Khan S/O Amanullah Khan Village & P.O Maddai, Tehsil Kulachi, District DI Khan	47/D	Tank
7	Mohammad Nadeem Siddiqi S/O Ghulam Yaseen, Siddiqi House Faqir Abad Behind Commernce College DI Khan	48/D	DI Khan
8	Tauhid Khan s/o Abdul Hamid Khan, Village Kirri Malang, District DI Khan	49/D	DI Khan

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

No.3457-64/ES,
Copies to:-

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for favour of information w.r.t letter No. quoted above, please.
2. The Registrar, Khyber Pakhtunkhwa, Service Tribunal Peshawar.
3. Mr. Abdul Hai Khan, DSP, Assistant Director, Anti-Corruption Establishment DI Khan
4. Mr. Syed Inayat Ali Amjad, DSP, Acting SP Investigation, Kohat
5. Mr. Zia Hassan, DSP, Acting SP Investigation, Bannu
6. Mr. Salah ud Din, DSP, SP Security, CCP Peshawar
7. Mr. Shafi Ullah, DSP, Acting DPO Karak.
8. Mr. Tauheed Khan, DSP, Acting SP Special Branch, South at Bannu.

30/05/22

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

OFFICE OF THE
REGIONAL POLICE OFFICER,
DERA ISMAIL KHAN REGION
0966-9280291 Fax # 9280290
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No. 3465 /ES dated DI Khan the 30/05/2022

ORDER

In compliance with the execution Judgment of the Honorable Service Tribunal Peshawar, dated 17.12.2020 in Service Appeal No.991/2018, titled Abdul Hai Khan, Deputy Superintendent of Police Vs. Govt. of Khyber Pakhtunkhwa, through Home Secretary and 27 others, & direction of the Inspector General of Police Khyber Pakhtunkhwa, Peshawar, vide letter No. CPO/CPB/421 dated 16.11.2021, and in continuation with this office Order No. 3448-55/ES, dated 30.05.2022, and Order No3457-64/ES dated 30.05.2022 & in supersession of the order of his confirmation, issued vide this office Order No.315-17/ES dated 09.03.1998, the **date of his confirmation in the substantive rank of ASI**, along with that of his batchmates, is hereby revised in the light of PR. 12.2(3), 12.8, 19.25(5) and judgement of the Honourable Supreme Court of Pakistan in case titled Gul Hassan Jatoi and others Vs Faqir Muhammad Jatoi and others, reported in 2016 SCMR 1254, in the manner provided in the following table:

Table: *Table showing **inter se seniority** and **date of confirmation in the substantive rank of ASIs**, appointed by way of initial appointment vide office Order No.236-38/ES dated 01.02.1995.*

1	2	3	4	5	6
S/No	**Name & Address**	**Range No. Allotted**	**Distt. to Which Posted**	**Previous Date of Confirmation Vide Order No.315-17/ES dated 09.03.1998**	**Revised Date of Confirmation**
1	Abdul Hai Khan S/O Ahmad Saeed Khan, R/O Village Chuhdwan, Distt. DI Khan	27/D	DI Khan	01.02.1995	01.02.1998
2	Syed Inayat Ali Amjad S/O Syed Murad Ali Shah , R/O Village Thathal, P.O Mandhran Kalan, Chashma Road Distt. DI Khan	28/D	DI Khan	01.02.1995	01.02.1998
3	Kalim Ullah S/O Hafiz Bashir Ahmad, P.O Haji Morah DI Khan	37/D	DI Khan	01.02.1995	01.02.1998
4	Zia Hassan S/O Gul Hassan, Village Khainu Khel, DI Khan	45/D	Tank	01.02.1995	01.02.1998
5	Salah-ud-Din Ayub S/O Rehmatullah Village & P.O, Darraki, Tehsil & District Tank	46/D	Tank	01.02.1995	01.02.1998
6	Shafiullah Khan S/O Amanullah Khan Village & P.O Maddai, Tehsil Kulachi, District DI Khan	47/D	Tank	01.02.1995	01.02.1998
7	Mohammad Nadeem Siddiqi S/O Ghulam Yaseen, Siddiqi House Faqir Abad Behind Commence College DI Khan	48/D	DI Khan	01.02.1995	01.02.1998
8	Tauhid Khan s/o Abdul Hamid Khan, Village Kirri Malang, District DI Khan	49/D	DI Khan	01.02.1995	01.02.1998

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

No. 3466-75 /ES,

Copies to:-

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for favour of information w.r.t letter No. quoted above, please.
2. The Registrar, Khyber Pakhtunkhwa, Service Tribunal Peshawar.
3. The District Police Officer, D.I.Khan to issue gazetted notification accordingly.
4. The District Police Officer, Tank to issue gazetted notification accordingly.
5. Mr. Abdul Hai Khan, DSP, Assistant Director, Anti-Corruption Establishment DI Khan
6. Mr. Syed Inayat Ali Amjad, DSP, Acting SP Investigation, Kohat
7. Mr. Zia Hassan, DSP, Acting SP Investigation, Bannu
8. Mr. Salah ud Din, DSP, SP Security, CCP Peshawar
9. Mr. Shafi Ullah, DSP, Acting DPO Karak.
10. Mr. Tauheed Khan, DSP, Acting SP Special Branch, South at Bannu.

30/05/22

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

OFFICE OF THE
REGIONAL POLICE OFFICER,
DERA ISMAIL KHAN REGION
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No. /ES dated D.I.Khan the 30 /05/2022

ORDER

In compliance with the execution Judgment of the Honorable Service Tribunal Peshawar, dated 17.12.2020, in Service Appeal No.991/2018, titled Abdul Hai Khan, Deputy Superintendent of Police Vs. Govt. of Khyber Pakhtunkhwa, through Home Secretary and 27 others, & direction of the Inspector General of Police Khyber Pakhtunkhwa, Peshawar, vide letter No. CPO/CPB/421 dated 16.11.2021, and in continuation with this office Order No. 3448-55/ES, dated 30.05.2022, and Order No. 3457-64/ES dated 30.05.2022 and this office Order No. 3466-75/ES dated 30.05.2022 & in the supersession of this order of bringing their names on the Promotion List E, issued vide this office Notification No.622/ES, dated 25.04.1998, the **date of bringing his name,** along with that of his batchmates, **on the Promotion List E,** is hereby revised in the light of PR. 13.11 and 19.25(5), and judgement of the Honourable Supreme Court of Pakistan in case titled Gul Hassan Jatoi and others Vs Faqir Muhammad Jatoi and others, reported in 2016 SCMR 1254, in the manner provided in the following table:

Table: *Table showing **inter se seniority** of ASIs appointed by way of initial appointment vide office Order No.236-38/ES dated 01.02.1995, on **the Promotion List E.***

1	2	3	4	5	6
S/No	**Name & Address**	**Range No. Allotted**	**Distt. To which posted**	**Previous Date of bringing their names of the Promotion List E**	**Revised Date of bringing their names of the Promotion List E**
1	Abdul Hai Khan S/O Ahmad Saeed Khan, R/O Village Chuhdwan, Distt. DI Khan	27/D	DI Khan	25.04.1998	02.02.1998
2	Syed Inayat Ali Amjad S/O Syed Murad Ali Shah , R/O Village Thathal, P.O Mandhran Kalan, Chashma Road Distt. DI Khan	28/D	DI Khan	25.04.1998	02.02.1998
3	Kalim Ullah S/O Hafiz Bashir Ahmad, P.O Haji Morah DI Khan	37/D	DI Khan	25.04.1998	02.02.1998
4	Zia Hassan S/O Gul Hassan, Village Khainu Khel, DI Khan	45/D	Tank	25.04.1998	02.02.1998
5	Salah-ud-Din Ayub S/O Rehmatullah Village & P.O, Darraki, Tehsil & District Tank	46/D	Tank	25.04.1998	02.02.1998
6	Shafiullah Khan S/O Amanullah Khan Village & P.O Maddai, Tehsil Kulachi, District DI Khan	47/D	Tank	25.04.1998	02.02.1998
7	Mohammad Nadeem Siddiqi S/O Ghulam Yaseen, Siddiqi House Faqir Abad Behind Commence College DI Khan	48/D	DI Khan	25.04.1998	02.02.1998
8	Tauhid Khan s/o Abdul Hamid Khan, Village Kirri Malang, District DI Khan	49/D	DI Khan	25.04.1998	02.02.1998

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

No. 3477-86/ES,
Copies to:-

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for favour of information w.r.t letter No. quoted above, please.
2. The Registrar, Khyber Pakhtunkhwa, Service Tribunal Peshawar.
3. The District Police Officer, D.I.Khan to issue gazetted notification accordingly.
4. The District Police Officer, Tank to issue gazetted notification accordingly.
5. Mr. Abdul Hai Khan, DSP, Assistant Director, Anti-Corruption Establishment DI Khan
6. Mr. Syed Inayat Ali Amjad, DSP, Acting SP Investigation, Kohat
7. Mr. Zia Hassan, DSP, Acting SP Investigation, Bannu
8. Mr. Salah ud Din, DSP, SP Security, CCP Peshawar
9. Mr. Shafi Ullah, DSP, Acting DPO Karak.
10. Mr. Tauheed Khan, DSP, Acting SP Special Branch, South at Bannu.

30/05/22

(SHAUKAT ABBAS) PSP
Regional Police Officer
Dera Ismail Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KPK, PESHAWAR.

In Re CM No 73/2021
Amended Service Appeal No.991 /2018

Tariq Iqbal & Others..... (Appellants)

Versus

Abdul Hai Khan etc ..... (Respondents)

APPLICATION U/S 12 (2) CPC
REPLY ON BEHALF OF RESPONDENT # 1

Respectfully Sheweth,

The Respondent No 1 humbly replies as under:-

PRELIMINARY OBJECTIONS

1. That the petition is not maintainable in the eyes of law in its present form.
2. That the Petitioners are estopped by their own unwholesome conduct as Public Servants to file present petition.
3. That since Petitioners were in prior knowledge of the Service Appeal moved by the answering respondents, hence the Petition U/S 12 (2) code of Civil Procedure Code, 1908 is incompetent and not maintainable on said score.
4. That the Petitioners have got no cause of action or locus standi to file the instant petition, particularly so that there is provision for Review under Rule 3 of Appeal Rules, 1986, yet not availed by the Petitioners.
5. That the Petition is having no force is based on fabricated fictitious assertion is the outcome of ill will, malafide on part of petitioners. Therefore, not maintainable.
6. That the Petitioners have not come to this Honourable Tribunal with clean hands having supressed relevant facts. In-fact the Petitioners were arrayed as Respondents in the memorandum of Service Appeal moved by the answering Respondent and notices were properly issued to them through Registered post. Hence, the petitioners have no right to file the instant Petition.
7. That the Petitioners have concealed material facts from Honourable Tribunal. The petitioners were also summoned through a proper advertisement published in daily "Mashriq" newspaper under the direction of the Honourable Tribunal, but they deliberately avoided to attend the proceedings of Service Appeal No 991/2018 before the Tribunal despite publication through Newspaper issuance of advertisement, hence, they were placed Ex-Parte. The Petitioners also did not contest or challenge the order of ex-parte placement.

8. That the petition is bad in law due to misjoinder/non-joinder of necessary parties. Neither permission has been sought nor granted to the Petitioners to file Civil Petition by their higher authorities as per Rules, therefore, they have deliberately omitted to implead the necessary parties.
9. That the Honourable Tribunal has no jurisdiction to entertain the instant petition in its present form because the departmental Appeals of the Petitioners are pending at competent forum as contemplated by the Act XVIII of 1973 and the Rules of 1989.
10. That the Petitioners have failed to specifically point out or plead and prove any fraud practiced or any misrepresentation on the part of Respondent No. 1, therefore, the Petition is liable to be dismissed without any further proceedings.
11. That as stated in the objections supra, the Petition u/s 12 (2) CPC is bereft of cause of action and is liable to dismissal with special costs.

REPLY ON FACTS

1. This para of petition is correct to the extent that the Petitioners are serving in the Police Department on various Ranks in different Ranges under the control of Central Police Office as well as the official Respondents.
2. This para is correct only to the extent that Respondent No 1 is posted as Assistant Director (Crimes) in the Anti-Corruption Establishment while the rest of the para regarding his Residence at Peshawar is strongly denied and is malafide on part of Petitioners. The Respondent is bonafide resident of Dera Ismail Khan District having his abode there besides being posted as Assistant Director (Crimes) at DIKhan.
3. This para is incorrect thus vehemently denied. The status of the power of attorney placed with the petition is fictitious because most certain Petitioners have denied their signatures as fake. An affidavit has already been placed on file that no permission has been given to file the instant petition to the referred person by Mr Shoukat Ali shown placed as the Petitioner No 11 of the array of Petitioners.
4. This para is also incorrect, hence strongly denied. The opinion of Deputy Superintendent of the Police (Legal), DIKhan Range and Regional Police Officer, as placed on record clearly shows that Seniority of the Appellant was shuffled/disturbed without any reason in the confirmation order which travelled a long way and finally culminated in the final seniority list impugned through Service appeal No 991/2018 and consequently the Seniority list was set-aside by the Honorable Tribunal through Judgement dated 17/12/2020. Similarly, the representative of Regional Police Officer as referred in the corresponding para admitted at the Bar that there was nothing adverse available on records against Respondent No 1 and change in Seniority occured be due to clerical mistake. Hence the Service Appeal was accepted on merit in light of prevailing law besides a number of Judgments of the Honorabale Tribunal as well as Supreme Court of Pakistan in similar cases.

5. This para is Incorrect, hence forcefully denied. The petitioners had the due knowledge of all the proceedings through the official Respondents, issuance of notices from the Tribunal through Registered post and finally summoning of the Respondents through advertisement published in daily Newspaper "Mashriq". Therefore, the stance of the petitioners is having no truth in it and is totally false and fictitious based on malafide, hence, not sustainable. Copy of the advertisement is placed as Annex-A.
6. This para is incorrect, hence hotly denied. The Petitioners have miserably failed to bring any substance in support of their claim in order to prove any fraud practiced upon the Tribunal, or any misrepresentation as required U/S 12 (2) of the code of Civil Procedure, 1908.
7. This para is incorrect, thus intensively denied. The minutes of the Departmental Promotion Committee Meeting held on 30.11.2016 in respect of Seniority of Inspectors clearly reflected that the Seniority had been revised as per Police Rules as well as inter-se-merit issued by the KP Public Service Commission. The averment of the Petitioners on said score is not in line with their agitated stance.
8. This para as reflected in the petition under consideration is incorrect. The same ground, were already taken and agitated by the Official Respondents in their Para-wise comments submitted by the official Respondents during proceedings in the Service Appeal , however, the Tribunal after thread bare examination, consideration and discussion, accepted the appeal of the answering Respondent in light of the Law. There is no legal infirmity in the Judgement passed by the honourable Tribunal, hence has wrongly been challenged through instant petition.
9. This para is legal hence needs no comments.
10. This para is incorrect thus perversely denied. The Petitioners have referred irrelevant provisions of the Laws with reference to the Seniority of the Appellant on the one hand but deliberately skipped the relevant provisions of the KP Civil Servant Act, 1973, KP Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 and Civil Servant (Seniority) Rules, 1993, particularly in light of the fact that petitioner is appointed as Civil Servant through KP Public Service Commission's Competitive Exam.
11. This para is incorrect thus heatedly denied. The petition u/s 12 (2) CPC of the Petitioners is in violative of law & Rules, is beyond any reasoning/ grounds as well, hence, ineffective upon the rights of the answering Respondent.
12. This para is incorrect hence fervently denied. The instant petition is against equity and fair treatment, thus ineffective on the rights of Respondent. According to Rule 17 sub rule 1 (a) of the KP Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 'The Seniority inter se of civil servants is to be determined in case of persons appointed by initial recruitment, in accordance with the order of merit assigned by

the Commission'. Thus, the Respondent was wrongly been deprived of his due Seniority in light of the merit of the Commission despite fact that the he was placed at Top of the merit list at Serial No 1 and the same top position remained intact in the Appointment Order issued by the Deputy Inspector General of Police, Dera Ismail Khan.

13. This para is incorrect, forcefully denied. According to Rule 2 (2) of the Civil Servants (Seniority) Rules, 1993 "If two or more persons are recommended in one advertisement by the Selection Authority their inter-se seniority shall be determined in order of merit assigned by the selection authority".
14. This para is factually and legally incorrect. According to Section 8 (4) of the KPK Civil Servant Act, 1973, "Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from date of regular (initial) appointment.
15. This para is incorrect, hence severely denied. As per Police Rules, the seniority among the ASIs is required to be fixed from the date of confirmation in the said rank and the Respondent after completion of three year successful probation period was confirmed along with his colleagues from the date of his appointment. Hence, the instant Petition is not maintainable and incompetent in the eyes of law in its present form.
16. This para is incorrect, hence sternly denied. The Judgement passed by the Honourable Tribunal in favour of the answering Respondent had been referred and placed before the Scrutiny Committee of the Law Department, Government of Khyber Pakhtun Khwa, Peshawar for consideration on filing of Appeal. However, the Committee decided with consensus that the same is not fit case for filing of Appeal/CPLA in the Supreme Court of Pakistan and remanded back the matter to the Department for implementation, hence, the Judgment has attained finality. The petitioners are apparently attempting to defy the due course and have wrongly filed the present petition to the detriment of the rights of the answering respondent but also to defy implementation of the judgement passed by this honourable Tribunal.
17. This para is incorrect, hence harshly denied. The Honourable Tribal had required and allowed the Respondent to array the Petitioners in the memorandum on appeal vide order dated 27/03/2019 hence an amended appeal was submitted on 23/04/2019. The notice of the same was issued to the petitioners followed by advertisement in daily Newspaper "Mashriq" published on 02/07/2019. The Petitioners deliberately avoided to contest the Appeal and were, therefore, placed ex-parte. The petitioners have deliberately distorted the material facts in order to create confusion by filing the instant petition.
18. This para is incorrect, hence denied. The Representative of the Regional Police Office Mr Habib Ur Rehman from Establishment Branch attended the Tribunal on 25/11/2020 as was summoned and he produced the relevant records pertaining to the

conclusion on 10/12/2020. Hence, this para is based on malafide, and logically incorrect.

19. This para is incorrect, hence denied. That the Petition has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present frame, form and context, and therefore, is liable to Rejection.
20. This para is correct to the extent that the Respondent No 1 had filed a departmental appeal through proper channel and the same was recommended by the Departmental Promotion Committee held on 29/11/2018 to transmit the same to the Regional Police Officer, DIKhan to revisit Seniority of the answering respondent. The claim of the Respondent qua his Seniority was duly acknowledged to DIG DIKhan who declared that seniority of the answering respondent was disturbed without any legal justifiable reason.
21. This para is incorrect, hence hardly denied. All the necessary as well as proper parties were arrayed and impleaded in Service Appeal No 991/2018 with the permission of the Tribunal.
22. This para is incorrect, hence roughly denied. Interestingly, the appeal of the Petitioner No 5 Mr Tahir Iqbal was also decided in the afore mentioned DPC, meaning thereby the Petitioners were in knowledge of the appeal filed by the answering respondents right from the very first day but they omitted to contest the case, hence have waived off their right to file the instant petition which is nothing but an effort to perpetuate the litigation beyond any lawful justication.
23. This para is incorrect, hence coercively denied. The Rule of law may kindly be allowed to prevail and the interest of the state must be protected as constitutional obligation.
24. This para is incorrect, effectively denied. The answering Respondent ought to be provided equal treatment when there is no express inhibition against him under the law.
25. This para is also incorrect violently denied. The answering Respondent was earlier subjected to injustice by the Departmental authority and the case had not been dealt with under the principle of fair play. Therefore, impugned Seniority list was in conflict with the above mentioned service rules and judgments of the Apex Court, hence, the Hounorable KP Service Tribunal has rightly accepted the Service Appeal of the Respondent No 1 and eventually it was acceded by the Scrutiny Committee of the Law Department being the Apex Committee on legal matters at the Provincial level to declare it unfit for further appeal to higher forum i.e August supreme Court of Pakistan.
26. The counsel for the Respondent No 1 may very kindly be allowed to urge additional grounds, if need so.

PRAYER

It is, therefore, humbly Prayed that on gracious acceptance of para-wise comments, the Petition filed U/S 12 (2) CPC being devoid of legal footings and merits be dismissed with costs.

Your Humble Respondent No 1

Dated: 22 / 04/2022

(Abdul Hai Khan)
Through Counsel

Advocate, D'Thio

CERTIFICATE / AFFIDAVIT

I, Abdul Hai Khan, the appellant hereby, solemnly affirm and declare on oath that contents of the Reply are true and correct to the best of my knowledge, belief and per the official records, also, that nothing is will-fully kept or concealed from his Hon'ble Tribunal.

ATTESTED

(Abdul Hai Khan)
Deponent

Azmat Ali Advocate
Notary Public
Judicial Complex Peshawar

22-04-2022