


17.08.2022

Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Arif Saleem, Stenographer for the respondents present.


Petitioner requested for adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned by way of last chance to submit reply/rejoinder. To come up for further proceedings on 19.10.2022 before S.B.


(Mian Muhammad)
Member (E)

19th Oct, 2022

Petitioner alongwith his counsel present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Ishaq Gul, DSP for respondents present.

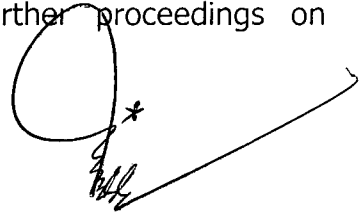
The learned AAG pointed out that in compliance with the judgment of the Tribunal dated 01.03.2018 order was passed vide No 19682/SRC dated 04.11.2019 but the learned counsel for the petitioner submits that the complete compliance of the order was not made and he would assist the court regarding grievances of the appellant. The learned counsel was apprised that the Tribunal was concerned about the relief granted in the judgment only and he should make submissions accordingly on 03.11.2022 before A.B.


(Kalim Arshad Khan)
Chairman

19.05.2022

Petitioner with counsel present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Saleem Stenographer for the respondents present.

Respondent department submitted reply/comments on judgement of the Service Tribunal in service appeal No. 510/2016 "titled Muhammad Noman Versus District Police Officer Kohat etc. The same is placed on file as well as provided to the learned counsel for the petitioner who desired to submit his reply/rejoinder on the next date. To come up for further proceedings on 28.06.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER (E)

28.06.2022

None for the petitioner present. Mr. Kabir Ullah Khattak, Additional AG present.

Notices be issued to petitioner and his counsel. To come up for further proceedings on 17.08.2022 before S.B.

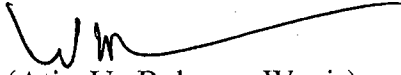


(Fareeha Paul)
Member (E)

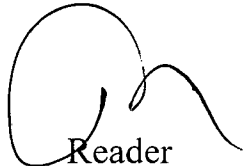
*counsel Infr —
By phone.
11-8-2022*

04.01.2022 Petitioner with counsel present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mr. Arif Saleem Stenographer for the respondents present.

Learned counsel for the petitioner requested for adjournment. Adjourned. To come up for further proceedings before the S.B on 16.02.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)

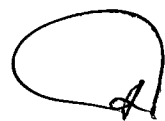
16.02.2022 Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 13.04.2022 for the same as before.


Reader

13.04.2022 Petitioner present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Arif Saleem Stenographer for the respondents present.

Learned counsel for the petitioner requested for adjournment. Adjourned. To come up for further proceedings on 19.05.2022 before S.B.


(Rozina Rehman)
Member (J)

14.09.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG Ishaq Gul, DSP (L) for the respondents present.

Learned counsel for the petitioner seeks further time for preparation and assistance. Request is accorded. Case to come up for further proceedings on 18.10.2021 before S.B.


Chairman

18.10.2021

Nemo for the Petitioner. Mr. Kabirullah Khattak, Addl. AG alongwith Ishaq Gul, DSP (Legal) for the respondents present.


Due to general strike of the bar, Learned counsel for the petitioner is not in attendance. To come up for further proceedings on 16.11.2021 before S.B. Notice be issued to the petitioner for the date fixed.


Chairman

16.11.2021

Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Ishaq Gul, DSP (Legal) for respondents present.

Learned counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 04.01.2022 before S.B.


(Mian Muhammad)
Member(E)

10.03.2021

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Arif Saleem, Steno, for the respondents present.

Learned AG while referring to early execution order dated 04.11.2019 (already placed on file), submitted service particulars of the petitioner, ^{which} are placed on file and a copy thereof stands provided to learned counsel for petitioner for his written reply/rejoinder if he so desires. File to come up for further proceedings on 10.05.2021 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

10.05.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 01.07.2021 for the same as before.


Reader

01.07.2021

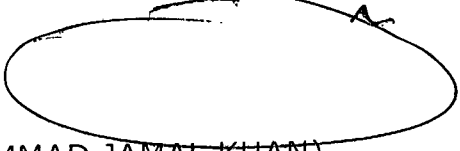
Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Arif Saleem Steno for the respondents present.

Learned counsel for the petitioner seeks adjournment. Adjourned to 14.09.2021 for further proceedings before S.B.


Chairman

12.01.2021

Neither petitioner nor anyone else representing him has appeared despite having been called time and again, therefore, petitioner as well as his respective counsel be noticed for 10.03.2021 before S.B.



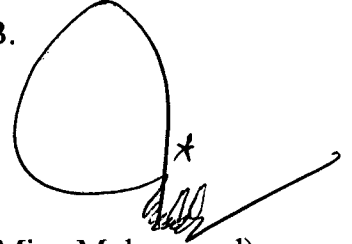
(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

19.08.2020

Counsel for the petitioner present. Addl: AG alongwith Arif Saleem, Steno for respondents present.

Learned counsel for the petitioner requested for arguments. Request is accepted. Learned AAG should assist the court with complete brief of the case on the next date.

Adjourned to 19.10.2020 before S.B.



(Mian Muhammad)
Member(E)

19.10.2020

Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.

The legal fraternity is observing strike today, therefore, the case is adjourned to 23.11.2020 on which date to come up for further proceedings before S.B.

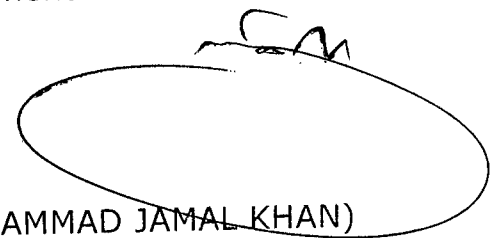


(Muhammad Jamal Khan)
Member (Judicial)

23.11.2020

Petitioner in person alongwith Mr. Khurshid Ahmad Shahan, Advocate, are present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Arif Saleem, Steno, for the respondents are also present.

Partial arguments heard. Learned counsel for petitioner is seeking time for addressing of his remaining arguments due to non preparation of the brief. Adjourned to 12.01.2021 on which date file to come up for remaining arguments before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

03.03.2020

Counsel for the petitioner present. Addl: AG alongwith Mr. Arif Saleem, Steno for respondents present. Representative of the respondents submitted copy of memo. dated 21.08.2019, wherein the respondent No.1 has requested to Inspector General of Police, Khyber Pakhtunkhwa for early fixation of CPLA No. 372-P/2018 against the judgment of this Tribunal passed in service appeal No. 510/2016 dated 01.03.2018. Learned counsel for the petitioner seeks time to confirm the date of hearing of the CPLA in the august Supreme Court of Pakistan. Adjourned. To come up for further proceedings on 09.04.2020 before S.B.


Member

09.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 01.07.2020 for the same. To come up for the same as before S.B.



Reader

01.07.2020

Counsel for the petitioner present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

From the record, it is evident that the petitioner was provisionally granted relief subject to outcome of CPLA. As petitioner is not before the Tribunal in order to apprise the Tribunal as to what is his grievance now, therefore, notice be issued to petitioner for 19.08.2020 before S.B


Member (E)

12.12.2019

Nemo for the petitioner. Asst: AG alongwith Mr. Arif Saleem, ASI for respondents present.

The representative of the respondents states that the CPLA No. 372-P/2018 has been preferred before the apex court, wherein date of hearing is yet to be fixed. He further states that the bill for payment of outstanding back benefits in favour of the petitioner has been prepared and sent to the concerned office for actualization.

To come up for further proceedings on 21.01.2020 before S.B.


Chairman

21.01.2020

Nemo for petitioner. Addl. AG alongwith Arif Saleem, Steno for the respondents present.

The representative of respondents has provided copy of order dated 04.11.2019 whereby the petitioner is provisionally granted relief subject to outcome of CPLA. The document is made part of the record. To come up for further proceedings on 03.03.2020 before S.B.


Chairman

10.10.2019 Learned counsel for the petitioner present. Mr. Kabiurllah Khattak learned Additional Advocate General alongwith Mr. Ishaq Gul DSP for the respondents present. Representative of the respondent department stated that CPLA has been filed before the Apex Court against the judgment under implementation and the same is not yet fixed for hearing so far.

Respondent are directed to either produce suspension of judgment under execution or implementation report on the next date positively. Adjourned. To come up for further proceedings on 07.11.2019 before S.B.


(Hussain Shah)
Member

07.11.2019 Counsel for the petitioner and Addl. AG alongwith Arif Saleem, ASI for the respondents present.

Learned counsel for the petitioner requests for adjournment of the proceedings in order to avail the outcome of order dated 04.11.2019 issued by District Police Officer, Kohat.

Adjourned to 12.12.2019 for further proceedings before S.B.

Chairman 

E.P. No. 224/19
M. Noonan vs Govt

20.08.2019

Petitioner in person ~~and~~ Mr. Muhammad Riaz Khan
Paindakhel, Asstt. AG alongwith Shah Zahoor, Junior Clerk
for the respondents present.

Representative of respondents requests for further
time to submit the implementation report. Adjourned to
17.09.2019 before S.B.


Chairman

17.09.2019

Petitioner alongwith counsel and Addl. AG alongwith
Ishaq Gul, DSP: (Legal) for the respondents present.

Representative of respondents has provided copy of letter
dated 21.08.2019 sent by District Police Officer Kohat to the
Inspector General of Police, K.P Peshawar wherein a request for
submission of application for early fixation of CPLA has been
made.

The respondents shall positively submit the requisite
implementation report on next date of hearing in case the
judgment under execution is not suspended or set aside by the
Apex Court till then.

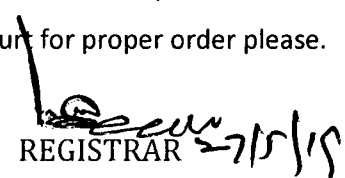


Adjourned to 10.10.2019 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

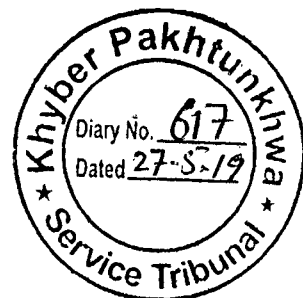
Court of _____

Execution Petition No. 224/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.5.2019	<p>The execution petition of Mr. Muhammad Noman submitted today by Mr. Khurshid Ahmad Shahan 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 27/5/19</p>
2-	28/05/19	<p>This execution petition be put up before S. Bench on <u>26/06/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	26.06.2019	<p>Petitioner in person present. Notice of the present execution petition be issued to the respondents for 20.08.2019. Adjourn. To come up for implementation report/comments on the date fixed before S.B.</p> <p style="text-align: right;"> Member</p>

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Execution Petition No. 224/2019
 C.M. No. _____/2019
 In
 Service Appeal No.510/2016



Muhammad Noman Constable
 Old Belt No.1313 & new Belt No.31, Kohat.....**Petitioner**

Versus

1. District Police Officer, Kohat
2. Deputy Inspector General of Police,
 Kohat Region, Kohat**Respondents**

**Application for implementation of the
 order and judgment passed by this
 Hon'ble Court dated 01.03.2018**

Respectfully Sheweth:-

1. That the petitioner is a law abiding citizen of Pakistan and is serving as constable belt No.31 in the Respondent Department.
2. That priory the petitioner had filed the service appeal before the Honourable Tribunal/Court and the appeal of the petitioner was allowed on 29.05.2015. (Copy of judgment is attached as annexure "A").

3. The brief facts of the case are that the petitioner Muhammad Noman Constable No.1313 /new belt No.31 of Kohat police was dismissed from service by the competent authority vide his impugned order dated 05.01.2012 against which he preferred departmental appeal. The appellate authority vide his order dated 11.04.2012 converted punishment of dismissed of petitioner from service into removal from his service
4. That the petitioner had preferred the appeal against the aforesaid impugned order before the Honourable Court.
5. That the Honourable Tribunal pass the order and judgment dated 29.05.2015 whereby the petitioner was reinstated into service and for the purpose of fresh against him strictly in accordance with law, rules to be conducted in transparent manner and an impartial mode. Back benefits will be subject to the outcome of fresh departmental inquiry. The appeal was allowed accordingly.
6. That subsequently the charge sheet, statement of allegation was issued to the petitioner.

7. That the petitioner submitted the reply to the charge sheet.
8. That the inquiry was conducted and thereafter the order was passed by the respondent No.1 dated 17.02.2016 whereby the it was held that the Inquiry Officer submitted his findings exonerated the petitioner from the charges leveled against him and consequently the de-nove enquiry was filed.
9. That thereafter the petitioner submitted an application requesting therein for release of his pay for the period of 05.01.2012 to 29.02.2015 as the petitioner has been exonerated in the de-nove enquiry vide office OB No.155 dated 17.02.2016.
10. That thereafter the petitioner filed the appeal No.510/2016 before the Hon'ble Court.
11. That the Hon'ble Court passed the order and judgment dated 01.03.2018 whereby the findings as per Para No.6 is produced as under

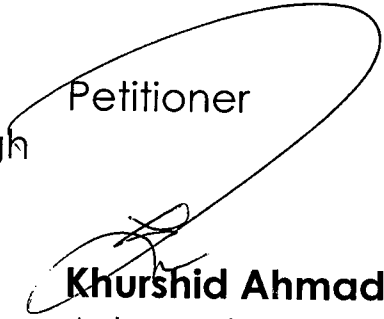
"Coming to the merits of the appeal the judgment relied upon by learned counsel for the petitioner is very much clear and the facts of the

reported judgment are very nearer to the present appeal. In the reported case the petitioner was dismissed for embezzlement and then he was reinstated. The same arguments were advanced before the august Supreme Court of Pakistan that no work no pay. The august Supreme Court of Pakistan decided that it would be seen that it was the fault of the petitioner not to work or it was due to the department that he was not allowed to work. The August Supreme Court of Pakistan finally held that it was not the fault of the petitioner not to work but he did not work due to dismissal order. And the august Supreme Court of Pakistan finally decided that the petitioner shall be considered on duty for all purposes and was held to be entitled for not only back benefits but also for other rights like seniority, promotion etc. this Tribunal therefore, accepts the appeal of the petitioner and hold the petitioner entitled for the back benefits and it is also ordered that the petitioner should not be deprived any right of promotion etc including his training/completion of course for promotion etc if there is no other hindrance except his dismissal." (Copy of order dated 01.03.2018 is attached as annexure "B").

12. That till date no compliance of the aforesaid order/judgment has been made on the part of the respondents, the petitioner approach time and again to the respondents/authorities concerned but the matter remained unresolved.
13. That the petitioner has been deprived of from his basic and legal rights and the very act on the part of the respondents amounts to contempt of court.

It is, therefore requested that on acceptance of this instant application, the respondents may kindly be directed to implement the order/judgment passed by the Hon'ble Court dated 01.03.2018.

Any other relief may also be awarded which deem fit and appropriate in the circumstance of the case may also be passed in favour of the petitioner.

Through  Petitioner

Khurshid Ahmad Shahan
Advocate, Peshawar

Dated 07.05.2019

Before the Service Tribunal KPK,
Peshawar

Muhammad Noman

v/s D.P.O etc

AFFIDAVIT

1. Mr. Noman s/o Muhammad Siddique s/o College Town, Kohat do hereby solemnly affirm & declare on oath that the contents of petition are correct & true to the best of my knowledge & belief & nothing has been concealed or kept secret from the Hon'ble Court.


PETITIONER.

25 MAY 2019

ATTESTED



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Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	29.05.2015	<p>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p>Appeal No. 516/2012</p> <p>Muhammad Noman Versus District Police Officer, Kohat etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Counsel for the appellatant (Khursheed Ahmad, Advocate) and Government Pleader (Mr. Muhammad Jan) for the respondents present.</p> <p>2. Appellant Muhammad Noman Ex-Constable No. 1313 of Kohat Police was dismissed from service by the competent authority vide his impugned order dated 05.01.2012 against which he preferred departmental appeal. The appellate authority vide his order dated 11.04.2012 converted punishment of dismissal of appellant from service into removal from his service. The allegation against the appellatant is that he had obtained advance salary loan for a sum of Rs. 1,50,000/- from National Bank of Pakistan Hangu on the alleged forged signature of the competent authority.</p> <p>3. The learned counse. for the appellatant argued that the appellatant had submitted his loan form to the Pay</p>

APPELLANT
M. Noman

Seal of the Tribunal

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officer namely Ajmal Hussain and that allegation of forgery against the appellant are totally false and baseless. He submitted that the alleged forge signatures were never sent to the FSL for its verification and thus on record there is no evidence at all that the appellant is involved in making forged signatures of DPO, Kohat. He requested that both the impugned orders may be set aside and the appellant may be reinstated in service with all back benefits.

4. The learned Government Pleader on behalf of the respondents-department submitted that all codal formalities of the charge sheet, statement of allegations, proper enquiry and show cause notice have been observed and full opportunity of personal defence and personal hearing has been provided to the appellant. He next submitted that per findings of the enquiry officer in the enquiry report, charge was proved against the appellant, therefore, he was properly punished according to rules. He requested that the appeal may be dismissed.

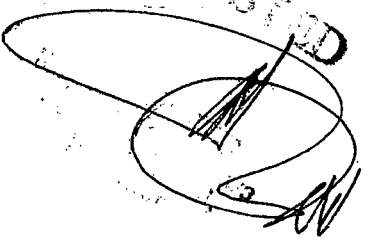
5. We have heard arguments of the learned counsel for the appellant and learned Government Pleader for the respondents and perused the record.

6. According to the charge sheet the appellant obtained advance salary loan from National Bank of Pakistan Hangu Road Branch Kohat on the bogus

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signature of DPO Kohat. The source of this information is report of the Manager National Bank of Pakistan Kohat's letter No. KTH Road/ADV SAL dated 08.09.2011. This letter was not found on record. That the appellant had received advance salary loan as stated at the bar by the learned counsel for the appellant. So the question would be whether notice of the forged signature was taken by the Bank subsequent to sanction of loan. It is not on record that the appellant had submitted papers to the office of DPO or to the bank concerned. It appears from record that the documents for laon were submitted to the Pay Officer and that Pay Officer was also suspected for such forgery as evident from the record of the enquiry officer. This is correct that the enquiry officer has not tried at all to collect evidence of forgery so much so that statement of Bank Manager was also not recorded who was a very important witness in the process. Further that the enquiry officer has just recorded statements of the appellant and statement of the pay officer whose interest was opposite to each other. The record does not reveal that Pay Officer has been departmentally proceeded against. Summing up the entire discussion, the Tribunal is of the considered view that both the impugned orders entailing a harsh punishment are not sustainable in the eyes of law and liable to be set aside for the ends of justice. Order accordingly. The appellant is reinstated into ^{service} for the purpose of fresh enquiry against him strictly in accordance with law/rules to be conducted in a

ATTESTED


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transparent manner and an impartial mode. Back benefits will be subject to the outcome of fresh departmental enquiry. The appeal is allowed accordingly. Parties are left to bear their own costs. File be consigned to the record room.

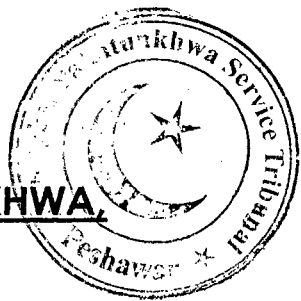
ANNOUNCED
29.5.2015

*SLP P/S Panchabhai Shetye,
member*
*SLP Shrihari Latiya,
member*

[Signature]
29.5.2015

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① 11



BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

In re:
Service Appeal No. 510 /2016

M. W. F. Province
Service Tribunal
Diary No. 482
Dated 13-5-2016

Muhammad Noman Constable
Old Belt No.1313 & new Belt No.31, Kohat.....**Appellant**

Versus

1. District Police Officer, Kohat
2. Deputy Inspector General of Police,
Kohat Region, KohatRespondents

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
AGAINST THE ORDER DATED 15.04.2016
OF THE RESPONDENT NO.1 WHEREBY THE
INTERVENING /OUT OF SERVICE PERIOD
OF THE APPELLANT/CONSTABLE NOMAN
NO.31 FROM THE DATE OF 05.01.2012 TO
29.05.2015 IS TREATED AS LEAVE WITHOUT
PAY INSTEAD OF AWARDING THE BACK
BENEFITS ETC.**

~~13/5/16~~
~~13/5/16~~
13/5/16

Respectfully Sheweth:-

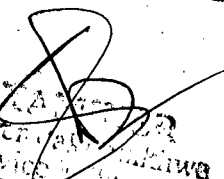
1. That the appellant is a law abiding citizen of Pakistan and is serving as constable belt No.31 in the Respondent Department.

ATTESTED

Attesting Officer
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

2. That priorly the appellant had filed the service appeal before the Honourable Tribunal/Court and the appeal of the appellant was allowed on 29.05.2015. (Copy of judgment is attached).
3. The brief facts of the case are that the appellant Muhammad Noman Constable No.1313 /new belt No.31 of Kohat police was dismissed from service by the competent authority vide his impugned order dated 05.01.2012 against which he preferred departmental appeal. The appellate authority vide his order dated 11.04.2012 converted punishment of dismissed of appellant from service into removal from his service
4. That the appellant had preferred the appeal against the aforesaid impugned order before the Honourable Court.
5. That the Honourable Tribunal passed the order and judgment dated 29.05.2015 whereby the appellant was reinstated into service and for the purpose of fresh inquiry against him strictly in accordance with law, rules to be conducted in transparent manner and in an impartial mode. Back benefits will be subject to the outcome of

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(13)

(13)

fresh departmental inquiry. The appeal was allowed accordingly.

6. That subsequently the appellant was reinstated for the purpose of fresh inquiry and charge sheet, statement of allegations was issued to the appellant.
7. That the appellant submitted the reply to the charge sheet/statement of allegation.
8. That the fresh inquiry was conducted and thereafter the order was passed by the respondent No.1 dated 17.02.2016 whereby it was held that the Inquiry Officer submitted his findings & exonerated the appellant from the charges leveled against him and consequently the de-nove enquiry was filed.
9. That thereafter the appellant submitted an application requesting therein for release of his pay for the period of 05.01.2012 to 29.02.2015 as the appellant has been exonerated in the de-nove enquiry vide office OB No.155 dated 17.02.2016.
10. That the impugned order dated 15.04.2016 has been passed by the respondent No.1 whereby

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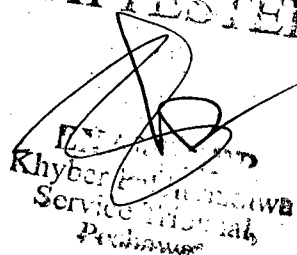
EXAMINED
Rhyber Police Station
Service Tribunal,
Peshawar

the intervening period of the appellant from the date of 05.01.2012 to 29.02.2015 is treated as leave without pay hence the instant appeal on the following amongst other grounds:

GRUNDS:-

- A. That the impugned order is against the law and facts on record.
- B. That no proper findings rather no finding has been passed while passing the impugned order.
- C. That the appellant has been penalized for no fault on his part.
- D. That the Honourable Tribunal had accepted the appeal of the appellant with the finding that the back benefits will be subject to the outcome of fresh Departmental Enquiry and admittedly the appellant has been exonerated from the charges leveled against him and the de-nove enquiry was filed by the respondent No.1 and even though the appellant has been deprived of from his basic and legal rights.
- E. That the appellant has suffered a lot throughout the entire period and also suffered mental torture, agony and distress beside monitory laws.

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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F. That due to the false allegations against the appellant the appellant also could not avail the relevant course and promotion thereof, whereas the other colleagues have availed the course for the post of the Hawaldar for which the appellant his also legal entitled and in this regard the direction may very kindly be passed.

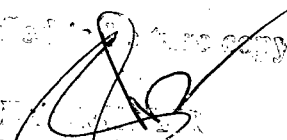
It is, therefore, humbly prayed that on acceptance of this appeal, the impugned order of respondent No.1 dated 15.04.2016 may kindly be set aside and direction may kindly be passed to the respondents to award back benefits /salaries etc. for the intervening period of 05.01.2012 to 29.05.2015 and be appellant be selected for lower course.

Any other relief deemed appropriate but not specifically asked for may also be granted.

Through Appellant

Khurshid Ahmad Shahan
Advocate, Peshawar

Dated 13.05.2016

Certificate of Copy

 Khurshid Ahmad Shahan
 Service Tribunal,
 Peshawar

Date of Filing

Number of Pages

Copy Fee

Stamp Fee

Other Charges

Total

Remarks

05-03-18

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 510/2016

Date of Institution ... 13.05.2016

Date of Decision ... 01.03.2018



Muhammad Noman Constable,
Old belt No.1313 & new Belt No.31, Kohat.

... (Appellant)

VERSUS

1. District Police Officer, Kohat and another.

... (Respondents)

MR. KHURSHID AHMAD SHAHAN,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents **ATTESTED**

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER(Executive)

(Signature)
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN:- Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service on certain charges of fake signatures on 05.01.2012. In the first round of litigation this Tribunal ordered for de-novo proceedings on 29.05.2015. The department after holding de-novo proceedings exonerated the appellant on 17.02.2016 but no order for back benefits was passed on 17.02.2016. Thereafter a separate order was passed by the competent authority on 15.04.2016 wherein the period out of service was ordered to be considered as leave without pay. The appellant then approached this Tribunal against the said order on 13.05.2016.

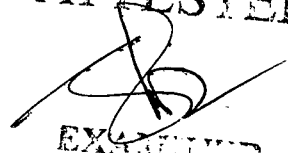
ARGUMENTS

3. Learned counsel for the appellant argued that this Tribunal in its order dated 29.05.2015 while directing the department to hold de-novo proceedings observed that the issue of back benefits shall be subject to the final outcome of the de-novo proceedings. That the department vide order dated 15.04.2016 instead of granting back benefits to the appellant considered the period out of service as Extra Ordinary Leave. That no fault could be attracted to the appellant not to serve the department and in view of judgment reported as 2013 SCMR 752 entitled "*Chairman, State life Insurance Corporation of Pakistan, Karachi-vs-Siddiq Akbar*", the appellant shall be considered to be on duty and shall be entitled for the back benefits.

4. On the other hand learned Addl: Advocate General argued that the present appeal was not maintainable for the reasons that the appellant did not file departmental appeal against the order dated 15.04.2016 and in view of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 the service appeal was not maintainable. He further argued that the department had rightly denied the back benefits for the reason that the appellant did not perform any duty. That it was a rule that no work no pay.

CONCLUSION.

5. This Tribunal is first to decide the maintainability of the present service appeal. This Tribunal in its earlier order had directed the department to decide the issue of back benefits subject to final outcome of the de-novo proceedings. In de-novo proceedings the appellant was exonerated. Thereafter separate order was passed on 15.04.2016 in which the back benefits were denied to the appellant. The appellant did not file the departmental appeal against the said order but the question


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 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

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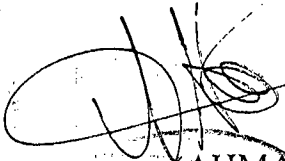
would be whether due to non-filing of departmental appeal the appellant would be non-suited. This Tribunal is of the view that this is the matter of financial benefits which cannot be denied to a civil servant and no limitation would be attracted in such cases. If no limitation is attracted then whether non-filing of departmental appeal would be a clog on entertaining the present service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. Since the present service appeal is the continuation of earlier service appeal, the appellant was not bound to challenge the order in departmental appeal and if this opinion is not correct then the appellant cannot be non-suited on this technical ground. And if the arguments of the learned Addl: AG is accepted then this Tribunal would direct the appellant to file departmental appeal afresh and departmental appeal would be in time even today as no limitation would run in order refusing financial benefits. In such a situation the departmental appeal would be competent and appellant would again come to this Tribunal after waiting for 90 days and the result would be the same. So this is the technicality on the basis of which the appellant cannot be non-suited.


6. Coming to the merits of the appeal the judgment relied upon by learned counsel for the appellant is very much clear and the facts of the reported judgment are very nearer to the present appeal. In the reported case the appellant was dismissed for embezzlement and then he was reinstated. The same arguments were advanced before the august Supreme Court of Pakistan that no work no pay. The august Supreme Court of Pakistan decided that it would be seen that it was the fault of the appellant not to work or it was due to the department that he was not allowed to work. The August Supreme Court of Pakistan finally held that it was not the fault of the appellant not to work but he did not work due to dismissal order. And the august Supreme Court of Pakistan finally decided that the appellant shall be

ATTESTED

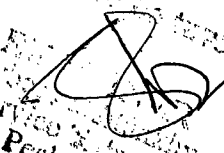

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

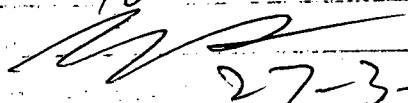
considered on duty for all purposes and was held to be entitled for not only back benefits but also for other rights like seniority, promotion etc. This Tribunal therefore, accepts the appeal of the appellant and hold the appellant entitled for the back benefits and it is also ordered that the appellant should not be deprived any right of promotion etc including his training/completion of course for promotion etc if there is no other hindrance except his dismissal. Parties are left to bear their own costs. File be consigned to the record room.


(AHMAD HASSAN)
MEMBER


(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
01.03.2018

Certified to be true copy

Khushal Singh
Service of Tribunal,
Peshawar

Date of Presentation of Application 05-03-18
Number of Words 1600
Copying Fee 10
Urgent —
Total 10
Name of Copyist 
Date of Copy 27-3-18
Date of Delivery of Copy 27-3-18

Page
12016/SEMR 1784

قیمت 50 روپے	10999			
ایڈوکیٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ایسوسی ایشن نمبر: 8748				
رابطہ نمبر: 0375-6282788				

بعدالت جناب: سرول سٹوڈنٹس (Prov) لیٹم

مخانب: سید	دعوی: PETITION
عہد لہذا	علت نمبر:
بنام	مورخہ:
DPD	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ مقدمہ کے لئے آن مقام 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 برحلف 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 نظر ثانی 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 باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائنہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم:

الع بد **گواہ شد** الع بد

مقام کے لیے منظور ہے۔

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No. *510*
1/1976
Appeal No..... of 2016.
M. M. Memon Appellant/Petitioner
Versus
Police Station, District Respondent
Respondent No..... *7*

Notice to: — *Police Station, District*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *08-08-2017* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of..... *July*.....2017

for M. M. Memon

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

5/12/1974
Appeal No. *5/10* of 20 *16*,
M. M. Khan Appellant/Petitioner
Versus
Police Officer Respondent
Respondent No.

Notice to: -

Police Officer
WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of *appeal* is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of..... *July*20 *1974*

Signature of Registrar

**Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.**

- Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No. 15140 /LB dated Kohat the 21-108/2019

To: - The Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar
(Attention AIG Legal)

Subject: - REQUEST FOR EARLY FIXATION OF CPLA, AGAINST THE
JUDGEMENT OF KP SERVICE TRIBUNAL DATED 01.03.2018
PASSED IN SERVICE APPEAL NO. 510/2016 TILED
MUHAMMAD NUMAN VS DISTRICT POLICE OFFICE KOHAT
AND OTHERS

Memo: -

It is submitted that the subject named constable was dismissed from service. Subsequently, in compliance with the judgment of learned KP Service Tribunal, dated 29.05.2015, denovo enquiry was conducted wherein he was reinstated in service, but the period of out of service was treated as leave without pay.

2. The appellat filed service appeal vide No. 510/2016 for financial back benefit, which was allowed by KP Service Tribunal vide its Judgment dated 01.03.2018. On 27.04.2018, the department has submitted case to Honorable Advocate General, Khyber Pakhtunkhwa for lodging of CPLA against the impugned Judgment.

3. Now, the official has filed Execution Petition before the Tribunal vide No. 224/19 for implementation of the judgment, which is fixed for hearing on 17.09.2019 and the learned Tribunal has directed for submission of implementation report

4. It is therefore, requested that Honorable Advocate General, Khyber Pakhtunkhwa may kindly be approached for early fixation of CPLA and suspension order of the impugned Judgment please.


DISTRICT POLICE OFFICER,


KOHAT

No. 15141 /L.B

Copy of above is submitted for favour of information to the Regional
favour of information please.


DISTRICT POLICE OFFICER,


KOHAT

ORDER

In pursuance of judgment dated 01.03.2018 of Khyber Pakhtunkhwa Service Tribunal, in service Appeal No. 510/2016, order sheet dated 17.09.2019 and approval of the Worthy Inspector General of Police KP Peshawar vide letter No.5211/Legal dated 25.10.2019, the order of the KPK Service Tribunal dated 01.03.2018 is followed & Constable Mohammad Noman No. 31 is hereby granted ^{relief} conditionally & provisionally subject to the outcome of CPLA with back benefit with immediate effect.


CAPT. (® WAHID MEHMOOD) PSP
DISTRICT POLICE OFFICER,
KOHAT

No. 19680 / SRC, dated Kohat the 4.11 /2019.

Copy to above is submitted for favour information to the :-

- ✓ 1. Inspector General of Police Khyber Pakhtunkhwa Peshawar for favour of information w/r quoted above please.
2. Regional Police Officer, Kohat Region Kohat.
3. Superintendent of Police FRP Kohat Range.
4. All Concerned for compliance.


CAPT. (® WAHID MEHMOOD) PSP
DISTRICT POLICE OFFICER,
KOHAT

ORDER

In pursuance of judgment dated 01.03.2018 of Khyber Pakhtunkhwa Service Tribunal, in service Appeal No. 510/2016, order sheet dated 17.09.2019 and approval of the Worthy Inspector General of Police KP Peshawar vide letter No.5211/Legal dated 25.10.2019, the order of the KPK Service Tribunal dated 01.03.2018 is followed & Constable Mohammad Noman No. 31 is hereby granted ^{relief} conditionally & provisionally subject to the outcome of CPLA with back benefit with immediate effect.


CAPT. (® WAHID MEHMOOD) PSP
DISTRICT POLICE OFFICER,
KOHAT

No. 19680 / SRC, dated Kohat the 4.11 /2019.

Copy to above is submitted for favour information to the :-

- ✓ 4. Inspector General of Police Khyber Pakhtunkhwa Peshawar for favour of information w/r quoted above please.
5. Regional Police Officer, Kohat Region Kohat.
6. Superintendent of Police FRP Kohat Range.
- 4 All Concerned for compliance.


CAPT. (® WAHID MEHMOOD) PSP
DISTRICT POLICE OFFICER,
KOHAT



Office of the
District Police Officer,
Kohat

Ph: #. 0922-9260116 Fax #. 0922-9260125

No. 16910 /LB dated Kohat the 20th /2019

IMMEDIATE

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

(Attention, AIG Legal)

Sub: **REQUEST FOR EARLY FIXATION OF CPLA, AGAINST THE
JUDGMENT OF KP SERVICE TRIBUNAL DATED 01.03.2018 PASSED
IN SERVICE APPEAL NO. 510/2016 TITLED MUHAMMAD NUMAN VS
DISTRICT POLICE OFFICER KOHAT AND OTHERS**

Memo:

Kindly refer to this office Memo No. 15140/LB dated
21.08.2019.

It is submitted that the subject petition is subjudice before KP
Service Tribunal. This office vide above quoted reference has made request for
early fixation of CPLA with application for suspension of impugned judgment, but
CPLA has yet not fixed.

The petition was fixed for submission of implementation
report on 17.09.2019 and DSP Legal Kohat appeared before the tribunal on
behalf of respondents / department. The Honorable Chairmen has directed to
submit the requisite implementation report on the next date of hearing i.e
10.10.2019.

Therefore, the enclosed copy of the order is submitted for
kind perusal and further / appropriate order please.

Encl: 02

No. 16911 /LB

Copy of above is submitted to the Regional Police Officer, Kohat for
favour of information please.

DISTRICT POLICE OFFICER,
KOHAT

DISTRICT POLICE OFFICER,
KOHAT

7/11/19 (TR)
Recd

POLICE DEPARTMENT

DISTRICT KOHAT

12/12/19

ORDER

In pursuance of judgment dated 01.03.2018 of Khyber Pakhtunkhwa Service Tribunal, in service Appeal No. 510/2016, order sheet dated 17.09.2019 and approval of the Worthy Inspector General of Police KP Peshawar vide letter No.5211/Legal dated 25.10.2019, the order of the KPK Service Tribunal dated 01.03.2018 is followed & Constable Mohammad Noman No. 31 is hereby granted ^{relief} conditionally & provisionally subject to the outcome of CPLA with back benefit with immediate effect .


CAPT. ® WAHID MEHMOOD) PSP
DISTRICT POLICE OFFICER,
KOHAT

No. 19680 / SRC, dated Kohat the 4.11 /2019.

Copy to above is submitted for favour information to the :-

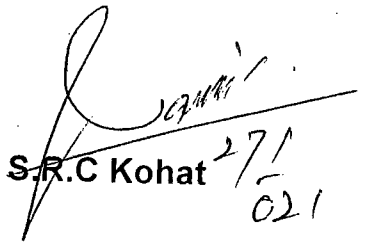
- ✓ 4. Inspector General of Police Khyber Pakhtunkhwa Peshawar for favour of information w/r quoted above please.
- 5. Regional Police Officer, Kohat Region Kohat.
- 3. Superintendent of Police FRP Kohat Range.
- 4. All Concerned for compliance.


CAPT. ® WAHID MEHMOOD) PSP
DISTRICT POLICE OFFICER,
KOHAT

SERVICE PARTICULARS

S #	Name & number	Date of Birth	Date of Enrollment	Recruit Course	Qualified Examination	Age		
						Year	Month	Day
1.	Constable Noman Khan No. 5603	02.05.1987	06.08.2007	20.06.2010	<i>A-I</i> 2011	33	07	28

His name is placed in seniority list of A-I qualified constables. Further seniority will be fixed subject to qualifying B-I examination, in accordance with Standing Order No. 14/2014 and Police Rules 13.7-A (Amended-2017).


S.R.C Kohat 27/02/1



22

OFFICE OF THE
THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

STANDING ORDER NO. 19 /2014

**Upper Age Limit for A-1 and B-1 Exams and
Selection Criteria for the Lower Course**

This Standing Order is issued under Article 10(3) of Police Order 2002 in pursuance of the Police Policy Board decision taken in its 4th meeting held on 29th January 2014.

2. **Aim:-** Presently, the upper age limit for A-1 and B-I Examination is very low due to which a large number of Constables cannot avail the opportunity of further promotion and get retired as Constables. This state of affairs also results in creating frustration amongst the Constabulary, affecting their performance for the rest of their career. Similarly, there are a number of anomalies in the selection criteria for Lower School Course. This Standing is aimed at streamlining and addressing these two issues.

3. **Upper age-limit for A-1 and B-1 Exams:-**The upper age limit for appearing in A-1 and B-I Examinations shall be as under:

- | | | |
|----|-----------|-----------|
| a) | A-I Exam: | 37 years; |
| b) | B-I Exam: | 40 years. |

4. The cut-off date for calculating the upper age limit for either of the above Examinations shall be the 31st day of the month of December falling before the respective Examination.

5. **There shall be no bar on the number of attempts for a candidate to appear either in A-I or B-I Examination within the prescribed age limit.**

6. Both A-1 and B-1 Examinations shall be conducted through EATA or any other well-reputed testing agency approved by the Inspector General of Police.

7. The entire process of both A-1 and B-1 Examinations shall be completed before the 15th day of March every year.

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8. A Constable shall be eligible to appear in A-1 Examination if he has three years service, counted from the date of enlistment, and has qualified Rec Course.

No
- tier

9. Qualifying marks for A-1 and B-1 Examinations shall be as under:

- a) A-1 Examination: Not less than 40% of the total;
- b) B-1 Examination: Not less than 50% of the total.

9.1 The Inspector General of Police may, by a general or special order, raise the minimum qualification marks for A-1 or B-1 Examination from time to time if so required due to any reason.

9.2 B-1 qualified Constables shall be selected for the Lower Courses of the same year in the order of merit of B-1 Examination against the available number of Lower Course seats. The B-1 Examination merit list shall not be valid for the next year.

10. Constables qualifying A-1 Examination shall stand eligible for appearing in B-1 Examination, subject to the fulfillment of other requirements.

11. A candidate shall be eligible to appear in B-1 Examination, subject to fulfilling other requirements, if he has earned minimum 6 marks, at any stage after recruitment, in the "Graded Professional Courses" or any other course so determined by the Inspector General of Police. However, a candidate obtaining 4 marks in the "Graded Professional Courses" or any other course so determined by the Inspector General of Police shall be eligible to appear in B-1 Examination conducted during the year 2015.

12. **Selection Criteria for Lower School Course:**-Those Constable who qualify B-1 Examination shall be eligible for the Lower School Course in the basis of seniority and order of merit.

13. The number of seats for the Lower School Course shall be fixed every year by the Inspector General of Police on the recommendation of the following committee.

- a) The Additional IGP Headquarters;
- b) The DIG Training;
- c) The AIG Establishment.

14.1 The above Committee shall also allocate seats for the Lower School Course to each District in accordance with the ratio of the total strength of Constables in that District worked out against the total number of seats.

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Recr...

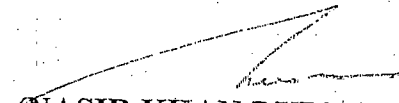
No seats of the Lower School Course shall be allocated to any police unit except districts.

15 A consolidated seniority list of all Constables enlisted in a District, or having domicile of the District in case of Constables serving in FRP, shall be maintained in that District which shall include seniority-wise names of all Constables of the District whether such Constables are serving in that District or have been transferred to or working in other Police Units, e.g. Special Branch, FRP, CTD, Investigation, Elite Force, Range Officer, CPO, etc.

15.1 The concerned Heads of District Police shall select B- 1 qualified candidates for Lower Course strictly in accordance with the seniority and merit position as reflected in the consolidated seniority list mentioned in section 15 above; whether the Constables are, at the time of selection, serving in that District or have been transferred to or working in any other Police Unit, e.g. Special Branch, FRP, CTD, Investigation, Elite Force, Range Officer, CPO, etc.

16. Power to remove difficulties:- If any difficulty arises in giving effect to this order, the Provincial Police Officer may by notification make such provisions as deemed appropriate.

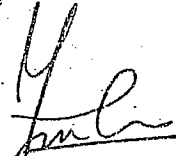
17. Amendment:- All previous Standing Orders on the subject, to the extent of the provisions of this order, shall stand amended.


(NASIR KHAN DURRANI)
Provincial Police Officer
Khyber Pakhtunkhwa
Peshawar

No:- 920-990/98 dated Peshawar the 17th October 2014

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

1. All Heads of Police Offices in Khyber Pakhtunkhwa;
2. PRO to PPO;
3. Registrar CPO.


(MUBARAK ZEB) PSP
DIG Headquarters
Khyber Pakhtunkhwa
Peshawar

No 16608-29 Ds dt 24-10 12th

copy to Addl SP all SPs

all SHOs I/R-15, 1/2 Traffic
1/2 DSB h/o, SRECHE, to inform
all subordinate under your command.

7474
24/10/14

0300-9018480
9210641
081

EXTRAORDINARY

REGISTERED NO. P.III

GOVERNMENT



GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 16TH MARCH, 2017.

OFFICE OF THE PROVINCIAL POLICE OFFICER GOVERNMENT OF THE KHYBER PAKHTUNKHWA

NOTIFICATION

Peshawar, dated the 16.03.2017.

No.755/Legal.-In exercise of the powers conferred by section 140 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017), the Provincial Police Officer, with the approval of Government, is pleased to direct that in the Police Rules, 1934, the following further amendments shall be made, namely:

AMENDMENTS

1. In rule 12.1, after sub-rule (4), the following new sub-rules shall be added, namely:

“(5) No official of police establishment shall be allowed to change the cadre in which he was initially appointed.

(6) The official appointed on contract shall not perform duty in any other Unit except in the Unit for which his services are hired. The period of contract shall be for one year and may be renewed upon satisfactory performance report.”.

2. For rule 12.4, the following shall be substituted, namely:

“**12.4. Recruitment in Traffic Warden Service.**---(1)Direct recruitment in the Traffic Warden Service shall be in rank of Constable and Assistant Sub-Inspector in the same manner as provided for initial recruitment of Constable and Assistant Sub-Inspector in the general cadre.

(2) On appointment, the Constable and Assistant Sub-Inspector in addition to the basic recruit and probation courses, shall undergo mandatory Elite Course and Specialized Traffic Training Courses as determined by Provincial Police Officer.

(3) The ratio of Fast Track Promotion in the Traffic Warden Service, in the ranks of Assistant Sub-Inspector, Sub-Inspector and Inspector, shall be same as provided for Assistant Sub-Inspectors, Sub-Inspectors and Inspectors under the Khyber Pakhtunkhwa Police Act, 2017.

(4) The Constable and Assistant Sub-Inspector shall be promoted on seats allocated for them in their respective districts and regions. The promotion within the Traffic Wardens shall be upto the rank of Inspector subject to completion of requisite promotional and capacity building courses as determined by Provincial Police Officer.

(5) An Inspector of Police Warden Service shall be eligible for promotion as Deputy Superintendent of Police against general posts of Deputy Superintendents of Police, if he successfully completes the requisite courses including Advance Course provided under these rules and also qualifies specialized courses of minimum two (02) weeks each in the Police School of Intelligence, Police School of Investigation, Police School of Tactics and Police School of Public Disorder and Riot Management besides (04) weeks general policing orientation course and (08) weeks field attachment with Sub-Divisional Police Officer office and Police Stations. Deputy Superintendent of Police so promoted shall be eligible to be

27. Any family member (as included in Colum No. 18) arrest, prosecuted, as in any case, terrorism or otherwise and restricted or exhausted, if so full particulars including dates should be furnished. _____

28. **Declaration:**

- (i) I solemnly affirm and declare that all the information given above is correct to the best of knowledge and I have not concealed any face.
- (ii) I further undertake that neither me nor any of my family members is involved in any suspicious criminal activity and no case is registered against me except as given in column No. 22 I may be prosecuted if I have concealed any facts or have given wrong information.

Name _____ s/o _____

Thumb Impression



Signature _____

Date: _____

Note:-Attach certified copies of the following documents:-

1. CNIC

2. Photograph

3. Discharge Certificate (If ex-employee).”.

5. After rule 12.26, the following new rule shall be added, namely:

“12.26-A. **Deputation in Police Department.**---Officers/officials on deputation from other Provincial and Federal Departments or autonomous bodies to Police Establishment shall not be allowed except for relevant specialized duties. The deputationist so transferred shall only be posted in Units/Branches relevant with their specialization, skill and experience.”.

6. After rule 13.1, the following new rule shall be added, namely:

“13.1A. **Meeting of Departmental Promotion Board or Committees.**---The Departmental Selection Board or the Committees, as the case may be, shall hold minimum three (03) promotional meetings in a year as follows:

- (i) first meeting before 31st of March;
- (ii) second meeting before 31st of July; and
- (iii) third meeting before 30th November.”.

7. After rule 13.7, the following new rules shall be inserted, namely:

“13.7A. **Criteria for placement on List A and List B.**---(1) A Constable appointed under these rules shall be placed on List A as provided in rule 13.6, if he has-

- (i) completed three (03) years service;
- (ii) qualified recruit course as provided in these rules; and
- (iii) qualified A1 examination: provided that upper age limit for appearing in A1 examination shall be thirty-seven (37) years and qualifying marks shall not be less than forty percent (40%) of the total marks.

Note:

The syllabus for A1 examination shall be as per Appendix 13.7A (I).

(2) Subject to rule 19.10, a Constable placed on A1 list shall be eligible for appearing in B1 examination for the purpose of eligibility on List B as provided in rule 13.7. A Constable, who qualifies A1 examination, shall be eligible to appear in B1 examination to be held next year. The syllabus for B1 examination shall be as per Appendix 13.7A (II):

Provided that upper age limit for appearing in B1 examination shall be forty (40) years and qualifying marks shall not be less than fifty percent (50%) of the total marks.

(3) The cut-off date for calculating the upper age limit for either of the above examinations shall be the 31st day of the month of December falling before the respective examination.

(4) There shall be no bar on the number of attempts for a candidate to appear either in A1 and B1 examination within the prescribed age limit.

(5) Both A1 and B1 examinations shall be conducted through an accredited testing agency approved by the Provincial Police Officer.

(6) The entire process of both A1 and B1 examinations shall be completed before the 31st day of March every year.

(7) The Provincial Police Officer may by general or special order raise the minimum qualification marks for A1 and B1 examinations from time to time.

(8) Constables who qualifies B1 examination shall be eligible for the lower school course in the order of merit in B1 examination. The Head of the District Police shall select B1 qualified candidates for lower school course strictly in accordance with consolidated seniority list as provided in sub-rule (13).

(9) The examination for the lower school course shall be conducted through an accredited testing agency approved by Provincial Police Officer.

(10) The duration of lower school course shall be sixteen (16) weeks. The lower course qualified Constables shall also undergo six (06) weeks Field Tactics Course under supervision of Commandant Elite Force.

(11) In each district on the basis of total strength of Head Constables of the district including share of Central Units, the Provincial Police Officer on the recommendation of the following Committee fix every year the number of seats for the lower school course:

- (a) the Additional Inspector General of Police Headquarters;
- (b) the Deputy Inspector General Training;

- (c) the Assistant Inspector General of Police Establishment; and
- (d) any other member not below the rank of Superintendent of Police, nominated by the Provincial Police Officer.

(12) No seats of the lower school course shall be allocated to any police unit except districts.

(13) A consolidated seniority list of all Constables enlisted in a district, or having domicile of the district, shall be maintained in that district which shall include seniority-wise names of all Constables of the district whether such Constables are serving in that district or they have been transferred to or working in other police Units.

13.7B. Exemption from A1 and B1 examination on the basis of cadetship.---

(1) Each recruit training institute shall declare its top twenty best recruits, who have obtained at least fifty (50) percent marks in their respective final exams for appearance in the cadetship examination for the purpose of exemption from A1 and B1 examinations.

(2) The cadetship examination shall be amongst all the best recruits as provided in sub-rule (1), collectively.

(3) The number of cadets shall be decided according to the number of trainees in each term irrespective of school/course as per following details but shall not exceed five in number:

S. No	Number of recruits	Number of cadets
1	1-200	1
2	201-400	2
3	401-600	3
4	601-800	4
5	801 and above	5

(4) The Cadetship Examination shall have two parts carrying hundred (100) marks each, i.e. Written Exam and Physical Test. The written examination shall be conducted through an accredited testing agency on the basis of recruit course syllabus while the physical examination shall be conducted by a Cadet Examination Board comprising of the following members:

- (a) Deputy Inspector General Training: Chairman
- (b) Commandant Police Training Center Hangu: Member
- (c) One Officer not below the rank of Superintendent of Police nominated by The Central Police Office: and Member
- (d) Principal Elite Police Training Center. Member-cum-Secretary

(5) The Physical Exam shall consist of the following components carrying marks as mentioned against each.

- (a) Rifle Shooting: 30 Marks
- (b) Pistol Shooting: 30 Marks

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 224/2019 in
Service Appeal No. 510/2016

Muhammad Numan
Const: No 1313 / 31

..... Petitioner / Appellant

VERSUS

District Police Officer, Kohat & other Respondents

INDEX

S #	Description of documents	Annexure	pages
1.	implementation report	-	01-02
2.	Data with qualification of A-1 examination	A	03
3.	Copy of Police Rules 13.7-A criteria for selection to Lower School Course	B	04-07
4.	Copy of Standing Order No. 14/2014 (Criteria for selection to Lower School Course).	C	08-10
5.	Copy of order passed by this Honorable Tribunal in an identical nature execution petition No. 108/2020	D	11-13
6.	Judgment of august Supreme Court of Pakistan & PHC in out of turn promotion	E	14

Deponent

P-1

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 224/2019 in
Service Appeal No. 510/2016

Muhammad Numan
Const: No 1313 / 31

..... **Petitioner / Appellant**

VERSUS

District Police Officer, Kohat & other Respondents

**IMPLEMENTATION REPORT ON JUDGMENT DATED 01.03.2018
PASSED IN SERVICE APPEAL NO. 510/2016.**

Respectfully Sheweth:-

Preliminary Objections:-

- i. That the petitioner has got no cause of action.
- ii. That the petitioner has got no locus standi.
- iii. That the petition is not maintainable in its present form.


IMPLEMENTATION

1. The judgment of honorable Tribunal has been implemented in letter & spirit. The petitioner has been reinstated in service and granted due seniority i.e his name is placed in A-1 qualified constables list. Copy is **annexure A**.
2. All financial back benefits have been granted to the petitioner.
3. The intention of petitioner is seeking for selection to lower school course which is **unwarranted and there is hindrance** on the following grounds :-
 - a. That according to Police Rules 13.7-A and Standing Order No. 14/2014 qualification of A-1 & B-1 examinations are mandatory for selection to lower school course. The petitioner has not been appeared in B-1 examination eligible according to rules and standing order ibid. Copy of Police Rules is **annexure B & C**.

- b. That the petitioner has not been deprived any right of training / promotion and he is allowed to undergo the B-1 examination with unlimited chances till attaining age of 40 years. Thus on qualifying B-1 examination, he shall be selected for Lower School Course strictly in accordance consolidated seniority list as provided in sub Rule -13 the Rules *ibid.* therefore, presently non qualifying of the pre-requisite examination is hindrance in his selection to Lower School Course.
- c. That an identical nature of execution petition No. 108/2020 has been filed by this Honorable Tribunal vide order dated 01.07.2021. Copy is **annexure D.**
- d. That without qualifying of requisite criteria / examination / promotion to the next course / rank falls under the ambit of out of turn promotion. The august Supreme Court of Pakistan was pleased to done away all the out of turn promotions through different judgments.

Prayer:-

In view of the above, it is prayed that the petition is devoid of merits and not maintainable may graciously be filed / dismissed with costs.


District Police Officer,
Kohat
(Respect: 1)

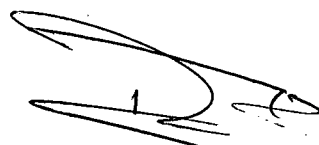
P. 03

Annexure - A

SERVICE PARTICULARS

S #	Name & Number	Date of Birth	Date of Enrollment	Recruit Course	Qualified Examination A-1	Age		
						Y	M	D
1.	Constable Noman Khan No. 5603	02.05.1987	06.08.2007	20.06.2010	2011	34	06	28

His name is placed in list of A-1 qualified constables. Further seniority will be fixed subject to qualifying B-1 examination, in accordance with Standing Order No. 14/2014 and Police Rules 13.7-A (Amended -2017).



S.R.C Kohat

EXTRAORDINARY
GOVERNMENT



P 04
Annex B
REGISTERED NO. P.III

G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 16TH MARCH, 2017.

OFFICE OF THE PROVINCIAL POLICE OFFICER GOVERNMENT OF THE KHYBER PAKHTUNKHWA

NOTIFICATION

Peshawar, dated the 16.03.2017.

No.755/Legal.-In exercise of the powers conferred by section 140 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017), the Provincial Police Officer, with the approval of Government, is pleased to direct that in the Police Rules, 1934, the following further amendments shall be made, namely:

AMENDMENTS

1. In rule 12.1, after sub-rule (4), the following new sub-rules shall be added, namely:

“(5) No official of police establishment shall be allowed to change the cadre in which he was initially appointed.

(6) The official appointed on contract shall not perform duty in any other Unit except in the Unit for which his services are hired. The period of contract shall be for one year and may be renewed upon satisfactory performance report.”.

2. For rule 12.4, the following shall be substituted, namely:

“**12.4. Recruitment in Traffic Warden Service.**---(1)Direct recruitment in the Traffic Warden Service shall be in rank of Constable and Assistant Sub-Inspector in the same manner as provided for initial recruitment of Constable and Assistant Sub-Inspector in the general cadre.

(2) On appointment, the Constable and Assistant Sub-Inspector in addition to the basic recruit and probation courses, shall undergo mandatory Elite Course and Specialized Traffic Training Courses as determined by Provincial Police Officer.

(3) The ratio of Fast Track Promotion in the Traffic Warden Service, in the ranks of Assistant Sub-Inspector, Sub-Inspector and Inspector, shall be same as provided for Assistant Sub-Inspectors, Sub-Inspectors and Inspectors under the Khyber Pakhtunkhwa Police Act, 2017.

(4) The Constable and Assistant Sub-Inspector shall be promoted on seats allocated for them in their respective districts and regions. The promotion within the Traffic Wardens shall be upto the rank of Inspector subject to completion of requisite promotional and capacity building courses as determined by Provincial Police Officer.

(5) An Inspector of Police Warden Service shall be eligible for promotion as Deputy Superintendent of Police against general posts of Deputy Superintendents of Police, if he successfully completes the requisite courses including Advance Course provided under these rules and also qualifies specialized courses of minimum two (02) weeks each in the Police School of Intelligence, Police School of Investigation, Police School of Tactics and Police School of Public Disorder and Riot Management besides (04) weeks general policing orientation course and (08) weeks field attachment with Sub-Divisional Police Officer office and Police Stations. Deputy Superintendent of Police so promoted shall be eligible to be posted anywhere on any assignment.

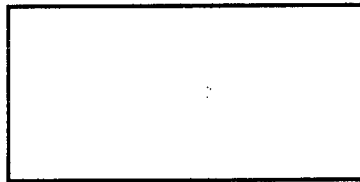
27. Any family member (as included in Colum No. 18) arrest, prosecuted, as in any case, terrorism or otherwise and restricted or exhausted, if so full particulars including dates should be furnished. _____

28. **Declaration:**

- (i) I solemnly affirm and declare that all the information given above is correct to the best of knowledge and I have not concealed any face.
- (ii) I further undertake that neither me nor any of my family members is involved in any suspicious criminal activity and no case is registered against me except as given in column No. 22 I may be prosecuted if I have concealed any facts or have given wrong information.

Name _____ s/o _____

Thumb Impression



Signature _____

Date: _____

Note:-Attach certified copies of the following documents:-

- 1. CNIC
- 2. Photograph
- 3. Discharge Certificate (If ex-employee).”.

5. After rule 12.26, the following new rule shall be added, namely:

“12.26-A. Deputation in Police Department.---Officers/officials on deputation from other Provincial and Federal Departments or autonomous bodies to Police Establishment shall not be allowed except for relevant specialized duties. The deputationist so transferred shall only be posted in Units/Branches relevant with their specialization, skill and experience.”.

6. After rule 13.1, the following new rule shall be added, namely:

“13.1A. Meeting of Departmental Promotion Board or Committees.---The Departmental Selection Board or the Committees, as the case may be, shall hold minimum three (03) promotional meetings in a year as follows:

- (i) first meeting before 31st of March;
- (ii) second meeting before 31st of July; and
- (iii) third meeting before 30th November.”.

7. After rule 13.7, the following new rules shall be inserted, namely:

“13.7A. ~~Criteria for placement on List A and List B.~~---(1) A Constable appointed under these rules shall be placed on List A as provided in rule 13.6, if he has-

P 5-

- (i) completed three (03) years service;
- (ii) qualified recruit course as provided in these rules; and
- (iii) qualified A1 examination; provided that upper age limit for appearing in A1 examination shall be thirty-seven (37) years and qualifying marks shall not be less than forty percent (40%) of the total marks.

Note:

The syllabus for A1 examination shall be as per Appendix 13.7A (I).

(2) Subject to rule 19.10, a Constable placed on A1 list shall be eligible for appearing in B1 examination for the purpose of eligibility on List B as provided in rule 13.7. A Constable, who qualifies A1 examination, shall be eligible to appear in B1 examination to be held next year. The syllabus for B1 examination shall be as per Appendix 13.7A (II):

Provided that upper age limit for appearing in B1 examination shall be forty (40) years and qualifying marks shall not be less than fifty percent (50%) of the total marks.

(3) The cut-off date for calculating the upper age limit for either of the above examinations shall be the 31st day of the month of December falling before the respective examination.

(4) There shall be no bar on the number of attempts for a candidate to appear either in A1 and B1 examination within the prescribed age limit.

(5) Both A1 and B1 examinations shall be conducted through an accredited testing agency approved by the Provincial Police Officer.

(6) The entire process of both A1 and B1 examinations shall be completed before the 31st day of March every year.

(7) The Provincial Police Officer may by general or special order raise the minimum qualification marks for A1 and B1 examinations from time to time.

(8) Constables who qualifies B1 examination shall be eligible for the lower school course in the order of merit in B1 examination. The Head of the District Police shall select B1 qualified candidates for lower school course strictly in accordance with consolidated seniority list as provided in sub-rule (13).;

(9) The examination for the lower school course shall be conducted through an accredited testing agency approved by Provincial Police Officer.

(10) The duration of lower school course shall be sixteen (16) weeks. The lower course qualified Constables shall also undergo six (06) weeks Field Tactics Course under supervision of Commandant Elite Force.

(11) In each district on the basis of total strength of Head Constables of the district including share of Central Units, the Provincial Police Officer on the recommendation of the following Committee fix every year the number of seats for the lower school course:

- (a) the Additional Inspector General of Police Headquarters;
- (b) the Deputy Inspector General Training;

- (c) the Assistant Inspector General of Police Establishment; and
- (d) any other member not below the rank of Superintendent of Police, nominated by the Provincial Police Officer.

(12) No seats of the lower school course shall be allocated to any police unit except districts.

(13) A consolidated seniority list of all Constables enlisted in a district, or having domicile of the district, shall be maintained in that district which shall include seniority-wise names of all Constables of the district whether such Constables are serving in that district or they have been transferred to or working in other police Units.

13.7B. Exemption from A1 and B1 examination on the basis of cadetship---

(1) Each recruit training institute shall declare its top twenty best recruits, who have obtained at least fifty (50) percent marks in their respective final exams for appearance in the cadetship examination for the purpose of exemption from A1 and B1 examinations.

(2) The cadetship examination shall be amongst all the best recruits as provided in sub-rule (1), collectively.

(3) The number of cadets shall be decided according to the number of trainees in each term irrespective of school/course as per following details but shall not exceed five in number:

S. No	Number of recruits	Number of cadets
1	1-200	1
2	201-400	2
3	401-600	3
4	601-800	4
5	801 and above	5

(4) The Cadetship Examination shall have two parts carrying hundred (100) marks each, i.e. Written Exam and Physical Test. The written examination shall be conducted through an accredited testing agency on the basis of recruit course syllabus while the physical examination shall be conducted by a Cadet Examination Board comprising of the following members:

- (a) Deputy Inspector General Training; Chairman
- (b) Commandant Police Training Center Hangu; Member
- (c) One Officer not below the rank of Superintendent of Police nominated by The Central Police Office; and Member
- (d) Principal Elite Police Training Center. Member-cum-Secretary

(5) The Physical Exam shall consist of the following components carrying marks as mentioned against each.

- (a) Rifle Shooting; 30 Marks
- (b) Pistol Shooting; 30 Marks



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OFFICE OF THE
THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

STANDING ORDER NO. 19 /2014

**Upper Age Limit for A-1 and B-1 Exams and
Selection Criteria for the Lower Course**

This Standing Order is issued under Article 10(3) of Police Order 2002 in pursuance of the Police Policy Board decision taken in its 4th meeting held on 29th January 2014.

2. **Aim:-** Presently, the upper age limit for A-1 and B-I Examination is very low due to which a large number of Constables cannot avail the opportunity of further promotion and get retired as Constables. This state of affairs also results in creating frustration amongst the Constabulary, affecting their performance for the rest of their career. Similarly, there are a number of anomalies in the selection criteria for Lower School Course. This Standing is aimed at streamlining and addressing these two issues.

3. **Upper age-limit for A-1 and B-1 Exams:-** The upper age limit for appearing in A-1 and B-I Examinations shall be as under:

- | | | |
|----|-----------|-----------|
| a) | A-I Exam: | 37 years; |
| b) | B-I Exam: | 40 years. |

4. The cut-off date for calculating the upper age limit for either of the above Examinations shall be the 31st day of the month of December falling before the respective Examination.

5. **There shall be no bar on the number of attempts for a candidate to appear either in A-I or B-I Examination within the prescribed age limit.**

6. Both A-1 and B-1 Examinations shall be conducted through EATA or any other well-reputed testing agency approved by the Inspector General of Police.

7. The entire process of both A-1 and B-1 Examinations shall be completed before the 15th day of March every year.

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8. A Constable shall be eligible to appear in A-1 Examination if he has three years service, counted from the date of enlistment, and has qualified Rec. Course.

9. Qualifying marks for A-1 and B-1 Examinations shall be as under:

- a) A-1 Examination: Not less than 40% of the total;
- b) B-1 Examination: Not less than 50% of the total.

9.1 The Inspector General of Police may, by a general or special order, raise the minimum qualification marks for A-1 or B-1 Examination from time to time if so required due to any reason.

9.2 B-1 qualified Constables shall be selected for the Lower Courses of the same year in the order of merit of B-1 Examination against the available number of Lower Course seats. The B-1 Examination merit list shall not be valid for the next year.

10. Constables qualifying A-1 Examination shall stand eligible for appearing in B-1 Examination, subject to the fulfillment of other requirements.

11. A candidate shall be eligible to appear in B-1 Examination, subject to fulfilling other requirements, if he has earned minimum 6 marks, at any stage after recruitment, in the "Graded Professional Courses" or any other course so determined by the Inspector General of Police. However, a candidate obtaining 4 marks in the "Graded Professional Courses" or any other course so determined by the Inspector General of Police shall be eligible to appear in B-1 Examination conducted during the year 2015.

12. **Selection Criteria for Lower School Course:-** Those Constable who qualify B-1 Examination shall be eligible for the Lower School Course in the basis of seniority and order of merit.

13. The number of seats for the Lower School Course shall be fixed every year by the Inspector General of Police on the recommendation of the following committee.

- a) The Additional IGP Headquarters;
- b) The DIG Training;
- c) The AIG Establishment.

14.1 The above Committee shall also allocate seats for the Lower School Course to each District in accordance with the ratio of the total strength of Constables in that District worked out against the total number of seats.

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No seats of the Lower School Course shall be allocated to any police unit except districts.

15 A consolidated seniority list of all Constables enlisted in a District, or having domicile of the District in case of Constables serving in FRP, shall be maintained in that District which shall include seniority-wise names of all Constables of the District whether such Constables are serving in that District or have been transferred to or working in other Police Units, e.g. Special Branch, FRP, CTD, Investigation, Elite Force, Range Officer, CPO, etc.

15.1 The concerned Heads of District Police shall select B- 1 qualified candidates for Lower Course strictly in accordance with the seniority and merit position as reflected in the consolidated seniority list mentioned in section 15 above; whether the Constables are, at the time of selection, serving in that District or have been transferred to or working in any other Police Unit, e.g. Special Branch, FRP, CTD, Investigation, Elite Force, Range Officer, CPO, etc.

16. Power to remove difficulties:- If any difficulty arises in giving effect to this order, the Provincial Police Officer may by notification make such provisions as deemed appropriate.

17. Amendment:- All previous Standing Orders on the subject, to the extent of the provisions of this order, shall stand amended.

(NASIR KHAN DURRANI)
Provincial Police Officer
Khyber Pakhtunkhwa
Peshawar

No:- 920-990/93 dated Peshawar the 17th October 2014

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

1. All Heads of Police Offices in Khyber Pakhtunkhwa;
2. PRO to PPO;
3. Registrar CPO.

(MUBARAK ZEB) PSP
DIG Headquarters
Khyber Pakhtunkhwa
Peshawar

No 16608-29 DS dt 24-10-14
copy to Addl. SP all SDPs
all SHOs (AR-15, 1/2 T266)
1/2 DSB HQ, SREOHE, to inform
all subordinate under your command.

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24/10/14

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P-11

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



Execution Petition no. 108/2020

Misc Application No _____ /2020

Khyber Pakhtunkhwa Service Tribunal

Diary No. 552

Dated 28-07-2020

Faqir Shah Constable No 591 District Police Kohat

Presently on deputation to Anti-Corruption Establishment Kohat.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat Peshawar
2. Inspector General of Police/Provincial Chief Officer, Peshawar
3. Deputy Inspector General of Police/Regional Police Officer, Kohat
4. District Police Officer (SP Kohat).....(Respondents)

Application on behalf of Petitioner for implementation of this Honourable Tribunal judgment/order dated 13th September, 2019 in Service Appeal No 858/2018 titled as "Faqir Shah....Versus....The aforementioned Respondents"

PRAYER:-

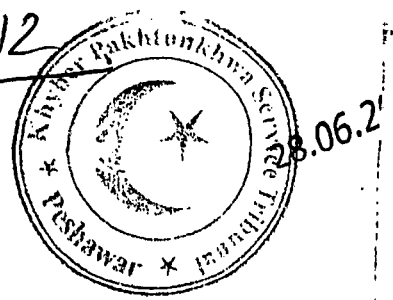
On acceptance of this Petition, the Respondents may graciously be ordered to implement the order dated 13th August, 2019 in Service Appeal No 858/2018 passed by this Honourable Tribunal.

ATTESTED

Khyber Pakhtunkhwa Service Tribunal Peshawar

- 2 -

P-12



EP 108/2020

01.07.2021

Petitioner alongwith counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Ishaq Gul, DSP (Legal) for the respondents present.

Arguments on the Execution Petition have been heard and record perused.

The petitioner through the Execution Petition at hand sought implementation of the judgment dated 13.09.2019. The operative part of the judgment is reproduced as under:-

"8. This Tribunal is, therefore, constrained to hold that the promotion order of the appellant as C-II Head Constable, passed by Superintendent of Police Investigation Kohat has no legal sanctity.

9. In view of above the prayer of the appellant in the present service appeal, for his reinstatement as C-II Head Constable is rejected.

10. The appellant was wrongly promoted as C-II Head Constable by the order of Superintendent of Police Investigation Kohat without any fault on the part of appellant, hence the reversion of the appellant to his original post of Constable shall not be treated as stigma or punishment and if the appellant was otherwise eligible for Lower School Course in the year 2006, he shall be sent for the same despite the fact that he has become overage."

It shows that the appellant has been reverted to his substantive rank of Constable, which has not been challenged by him before the august Supreme Court of Pakistan and has attained finality. So far as remarks

ATTESTED

[Signature]
EXAMINER
Service Tribunal
Peshawar

regarding deputing the petitioner to Lower School Course are concerned, the same are advisory in nature. According to Police Rules 13.7-A qualification of A/I and B/I Examinations are mandatory/pre-requisite for selection to lower school course and according to sub rule 8 of the Rules *ibid*, the Head of District Police shall select B/I qualified candidate for lower school course strictly in accordance with consolidated seniority list as provided in sub rule 13 of the Rules *ibid*. Hence, the petitioner has neither joined the said examinations nor qualified, therefore, the petitioner is not eligible for selection to lower school course or promotion.

In view of the above, the Execution Petition at hand is filed and consigned to the record room.


Chairman

Date of Presentation of Application 01-7-21
Number of Words 200
Copying Fee 14/-
Total 14/-
Name of Applicant _____
Date of Receipt of Copy 17/8/21
Date of Delivery of Copy 17/8/21

Certified to be true copy

Chairman
**Keyhole Audit Bureau
Service Tribunal,
Peshawar**

CASES REFERRED TO BY JUDGMENT OF AUGUST SUPREME COURT OF PAKISTAN IN OUT OF TURN PROMOTION

S #	Type / Category / turn promotion	Relevant judgment	Relevant paras
1.	Cadetship / law or Drill uniform of. 1. Standing Order No. 1 2. Standing Order No. 2 3. Standing Order 2014 4. Validation Act 2005	a. 1998 SCMR 2013. b. 2016 SCMR 1254 c. 2013 SCMR 1752 d. 2015 SCMR 456 e. 2017 SCMR 206. f. 2018 SCMR 1218	a. Para 9. b. Para 46. c. Paras 158, 162 & 164 d. Para 122 e. Para 98 to 104 and 111 f. Para 69.
2.	Gallantry promotions uniform of special case	a. 2013 SCMR 1752 b. 2015 SCMR 456 c. 2017 SCMR 206. d. 2018 SCMR 1218	a. Para 152, 162 & 164. b. Para 122, 123 & 127 c. Para 98 to 104, 130 & 111 d. Para 71, 72 & 76. e. Para 69.
3.	FRP / Platoon Commander of Police	a. 2013 SCMR 1752 b. 2016 SCMR 1254. c. 2015 SCMR 456. d. 2017 SCMR 2016	a. Para 121, 123, 124, 126, 158, 162 & 164 b. Para 71, 72 & 73. c. Para 114 to 116 & 121. d. Para 98 104.
4.	Sports	2017 SCMR	Para 94 to 137

OTHER RELATED JUDGMENTS

1. Consolidated judgment dated 30.06.2020 of the Apex Court in CP No. 1996, 2026, 2431, 2437-50, 2501 & 2502 of 2019.
2. Judgment dated 10.09.2020 of Honorable Peshawar High Court in Writ Petition No. 2513-P/2020.
3. Judgment dated 11.01.2019 of Honorable Peshawar High Court in Writ Petition No. 538-P/2019.
4. Judgment dated 26.11.2020 of Honorable Peshawar High Court in Writ Petition No. 5192-P/2020.

All these judgments are available in Writ Petition No. 4062-P/2020 alongwith CM No. 54-P/2021 decided by Honorable Peshawar High Court Peshawar vide judgment dated 14.04.2021.

- Under Section 21 of the Police Act, 1861 Inspector General of Police can make rules with prior approval of the Government, except promotion related matters.

ORDER

In pursuance of judgment dated 01.03.2018 of Khyber Pakhtunkhwa Service Tribunal, in service Appeal No. 510/2016, order sheet dated 17.09.2019 and approval of the Worthy Inspector General of Police KP Peshawar vide letter No.5211/Legal dated 25.10.2019, the order of the KPK Service Tribunal dated 01.03.2018 is followed & Constable Mohammad Noman No. 31 is hereby granted ^{relief} conditionally & provisionally subject to the outcome of CPLA with back benefit with immediate effect.


CAPT. ® WAHID MEHMOOD) PSP
DISTRICT POLICE OFFICER,
KOHAT

No. 19680 / SRC, dated Kohat the 4. 11 /2019.

Copy to above is submitted for favour information to the :-

- ✓ 4. Inspector General of Police Khyber Pakhtunkhwa Peshawar for favour of information w/r quoted above please.
3. Regional Police Officer, Kohat Region Kohat.
3. Superintendent of Police FRP Kohat Range.
4. All Concerned for compliance.


CAPT. ® WAHID MEHMOOD) PSP
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CAPT. ® WAHID MEHMOOD) PSP
DISTRICT POLICE OFFICER,
KOHAT

2016 S C M R 1784

[Supreme Court of Pakistan]

Present: Mushir Alam and Dost Muhammad Khan, JJ

CHIEF SECRETARY, SINDH---Appellant

Versus

RIAZ AHMED MASSAN and another---Respondents

Civil Appeal No.28-K of 2013, decided on 27th April, 2016.

(Against judgment dated 22-10-2012 passed by Sindh Service Tribunal at Karachi in Appeal No.13 of 2012)

(a) West Pakistan Civil Service (Executive Branch) Rules, 1964---

---R. 8(4)---Sindh Civil Servants (Departmental Examinations) Rules, 1978. R. 5---Civil servant--- Confirmation to post---Departmental examination---As per R. 8(4) of the West Pakistan Civil Service (Executive Branch) Rules, 1964, it was responsibility of the civil servant to undergo 6 months' training and appear in required qualifying exams within 15 months, to earn confirmation to his post---In terms of R. 5 of the Sindh Civil Servants (Departmental Examinations) Rules, 1978, it was not the duty of the controlling/ appointing authority to issue any reminder, explanation call or show cause notice etc. directing any civil servant to appear in the qualifying exams.---Rule 5(2) of the Sindh Civil Servants (Departmental Examinations) Rules, 1978 cast responsibility on the shoulder of the civil servant desiring to appear in the examination to give intimation in a prescribed manner to the examining authority directly or through appointing authority not later than 15 days before the date scheduled for such examination---Controlling/appointing authority could not be burdened with the responsibility for issuing any reminder, explanation call, show cause notice, etc directing a civil servant to appear in examination to qualify.

(b) West Pakistan Civil Service (Executive Branch) Rules, 1964---

---R. 8(4)--- Civil servant--- Confirmation to post--- Departmental examination--- Consequence for not qualifying the required exams per R. 8(4) of Executive Branch Rules, 1964 was that the civil servant, so appointed shall not be confirmed to the appointed post unless he qualified the prescribed examination.

(c) Civil service---

---Promotion---Civil servant promoted belatedly for no fault on his part---When promotion of such civil servant to next higher grade was effected then his promotion and seniority was to be counted and reckoned with his contemporary junior officers who were promoted earlier to him.

(d) Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975---

Handwritten notes in a circle: "2", "C.G.", "Promotion", "B.V. Case".

---R. 13---Deferment of promotion---Grounds---Proforma promotion---Scope---Civil servant not promoted on his turn on the ground that either his seniority was under dispute or was not determined; or, he was on deputation, training or on leave; or disciplinary proceedings were pending against him; or he was not considered by the selection authority inadvertently---When dispute as to seniority of such civil servant was resolved in his favour; or his deputation, training or leave was over; or disciplinary proceedings culminated in his favour, or where inadvertence for not considering his promotion was remedied, only then on subsequent promotion, such civil servant would rank and be deemed to have been promoted in the same batch at par with his contemporary batchmates who were promoted earlier to him.

(c) Sindh Civil Servant (Appointment, Promotion and Transfer) Rules, 1974---

---Rr. 2 & 7-A---Civil Service Rules, 1950, Vol.1, R. 31---Antedated promotion---Scope---As a general rule promotion took effect from the date on which a civil servant assumed the charge of higher post---Only exception to grant antedated promotion by the competent authority to a superannuated or deceased civil servant, was provided under R. 7-A of the Sindh Civil Servant (Appointment, Promotion and Transfer) Rules, 1974 (with effect from 18-3-2006)---Where a civil servant who was in fact recommended for promotion to next high post by the Provincial Selection Board or the Departmental Promotion Committee as the case may be but before issuance of his notification for promotion, such civil servant either passed away or retired, in such eventuality pre-condition to assume charge as mandated under R. 31 of Civil Service Rules (1950), Vol. 1 was done away under R. 7-A (2) of the Sindh Civil Servant (Appointment, Promotion and Transfer) Rules, 1974 (with effect from 18-3-2006).

Mukesh Kumar, Additional A.-G. Sindh, M. Kassim Mirjat, Advocate-on-Record and Ghulam Ali Brahmani, Additional Secretary, S&GAD, Sindh for Appellant.

Shabbir Ahmed Awan, Advocate Supreme Court and Mazhar Ali B. Chohan, Advocate-on-Record for Respondents.

Date of hearing: 27th April, 2016.

JUDGMENT

MUSHIR ALAM, J.---Instant appeal by leave of Court arises out of judgment dated 22.10.2012, passed by learned Sindh Service Tribunal, Karachi, whereby Respondent No.1 was held to be entitled for proforma promotion from BPS-17 to BPS-18 with effect from 28.8.2003, when his juniors were promoted instead of his actual promotion on 16.12.2005, with all back benefits financial and consequential towards his pension.

2. Facts, in brief, appear to be that the Respondent No.1 hailing from Department of Sindh Local Government Services, was appointed as an Assistant Commissioner BS-17 on regular basis per appointment Notification dated 21.11.1992, where under he was required not only to undergo 6 months' training but also to qualify Assistant Collector Departmental Examination (Part I and II) within 15 months from date of his appointment, to earn confirmation under Rule 8(4) of the West Pakistan Civil Service (Executive Branch) Rules, 1964 (hereinafter referred to as Executive Branch Rules 1964). To consider promotion of BS-17 officers to BS-18, Provincial Selection Board (PSB) meeting was held on 28.8.2003, his name was placed at serial No.24 of the list but, was superseded to which he took no exception.

3. It is matter of record that a month thereafter, the worthy Chief Minister, in purported exercise of powers under Rule 13 of the Executive Branch Rules 1964 accorded exemption to the respondent from passing the Assistant Collector's Departmental Examination (Part-I and II) as prescribed under Rule 8(4) *ibid* thereof as a special case on the ground of his being more than 56 years of age.

4. Subsequent to such relaxation, Respondent was promoted to (BS-18) on 16.12.2005, at this stage also he took no exception. However, on representation, his past service was counted only for the purposes of pensionary and other pecuniary benefits *vide* order dated 22.2.2007 and his request for promotion with his juniors was not conceded to. Respondent superannuated on 30.9.2007 *vide* Notification issued on 02.5.2007 and he did not agitate the matter any further. However, on 12.2.2012 he filed an appeal under section 4 of the Sindh Service Tribunal Act, 1973 *inter alia* praying for proforma promotion with back benefits *w.e.f.* 28.8.2003, the date when his juniors were promoted. Appeal was contested. It was denied that respondent has any right to claim any proforma promotion, that too after retirement. The learned Service Tribunal, *vide* impugned order dated 22nd October, 2012, granted all reliefs to the respondent. In Para No.21 of the impugned judgment, the learned Tribunal not only held that the Respondent is entitled to proforma promotion from BPS-17 to BPS-18 *w.c.f.* 28.8.2003, the date when his juniors were promoted instead of 16.12.2005 with all back benefits financial and consequential, but also extended him proforma promotion to BS-19.

5. Learned Service Tribunal through the impugned judgment further directed the appellant for passing proper order in above terms within a period of two months. In appeal, however, leave was granted by this Court on 1.3.2013 *inter alia* on the ground that "in the given circumstances to consider whether Tribunal can direct proforma promotion after retirement".

6. Mr. Mukesh Kumar, learned Additional Advocate General, Sindh assails the impugned Judgment on the ground *inter alia* that at the very outset, the appeal was time barred. Secondly, that Respondent No.1 was lacking in qualification, required for promotion, therefore he was rightly superseded for valid and justified reasons. It was urged that when the PSB was held on 22.8.2003 besides the respondent No.1; many other officers including ones placed at serial Nos.2, 4, 5 and 22 were also superseded due to the reason that they had not qualified the departmental promotion examination as required under Rule 8(4) of Executive Branch Rules, 1964. It was further urged that the Respondent No.1 superannuated on 2.7.2007 and the Service Appeal filed by him on 13.2.2012, on the face of it, was barred by time. It was argued that the requirement to qualify examination was relaxed on 23.9.2003 almost a month after the meeting of PSB, therefore, he could not claim any benefit as such exemption was neither granted nor could be granted retrospectively.

7. Learned Law Officer, also points out that this Court on 24.2.15 observed that after the constitutional dispensation in 1973, the Chief Minister has no power to nominate and promote any Civil Servant by relaxing Executive Branch Rules, 1964. It was observed by this Court that the rules are in conflict with various provisions of the Constitution of Islamic Republic of Pakistan, 1973 and to examine *vires* of the rules notice was issued to the Additional Advocate General, Sindh with direction to place on record the list of such persons who were promoted by the competent authority without qualifying the required examination. The issue to examine *vires* of West Pakistan Civil Service (Executive Branch) Rules, 1964, will be taken up separately, lest it may not prejudice the case of those serving officers who may be the beneficiary of such exemption.

8. It was urged that the learned Tribunal proceeded on erroneous assumption that prior to PSB meeting Respondent No.1 was neither reminded nor called upon by the controlling authority to appear

in qualifying examination or that the Controlling/appointing authority was obliged to give any opportunity of being heard prior to holding PSB meeting thus arrived at an erroneous conclusion. It was urged that reliance on the case of Syed Ayaz Hussain v. Chief Secretary SST (2005 PLC (C.S.) 295) is also misplaced. He prays for setting aside of the impugned order.

9. Mr. Shabbir Ahmed Awan, learned ASC appearing for Respondent No.1, supports the impugned judgment of the learned Tribunal. As regards objections as to Limitation, it was urged that it was not an issue before the Tribunal and even if it was so, then it would be deemed to have been condoned by the Service Tribunal. In support of his contentions, he has placed reliance on the case of Zafar Iqbal v. WAPDA (1995 SCMR 16) and Anwar Muhammad v. General Manager, Pakistan Railways (1995 SCMR 950).

10. On merits, it was contended that promotion of Respondent No.1 is to be reckoned with effect from 28.8.2003 when his contemporary juniors were promoted and not from 16.12.2005, when he was accorded promotion to BS-18. It was argued that once he was given exemption to qualify exams, he earned a right to be promoted. It was further urged that it is settled position in law that when a civil servant is denied promotion for no fault on his part and when promotion to a higher grade is effected later then seniority of such civil servant is counted and reckoned with his contemporary junior officers who were promoted earlier to him.

11. To a Court query, as regards representation claiming to count his service in KMC towards leave, pension and gratuity and so also proforma promotion vide departmental representation; dated 23.11.2006 which was considered only to the extent of counting his past service for the purposes of leave, pension and gratuity vide order dated 22.2.2007 which order was not objected to or challenged, it was stated that no objection as to bar of limitation was taken and such question cannot be raised now. He, however, concedes that this Court may consider such question on its own.

12. We have heard learned Law Officer of the Province as well as learned ASC representing Respondent No.1 and have gone through the material available on record.

13. Respondent No.1, as noted above was considered for promotion to BS-18 along with his contemporary service mate in BS-17 by the PSB on 28.8.2003. However, he was superseded "due to his failure to pass the pre-requisite departmental examination and missing ACRs for the period from 06.5.1998 to 31.12.1998, 1999 and 2002." In this context, as regards the assumption of the learned Tribunal in para 10 of the impugned decision that "during long 13 years was there issued any reminder, explanation call, show cause notice, etc directing Respondent to appear in examination to qualify till PSB deliberated and superseded vide minutes of meeting dated 28.8.2003" and further in para 12 that "prior to the PSB meeting neither Respondent was afforded any opportunity to be heard nor decision of the PSB regarding supersession had been communicated to him, which is mandatory requirement for administration of justice before imposing any penalty" it may be observed that in terms of notification of appointment of the respondent as reproduced in para 2 above, it was the responsibility of the Respondent No.1 to undergo 6 months training and appear in required qualifying exams within 15 months, to earn confirmation to his post in BS-17 as per Rule 8(4) of the Executive Branch Rules, 1964. In terms of Rule 5 of the Sindh Civil Servants (Departmental Examinations) Rules, 1978, it is not the duty of the controlling/appointing authority to issue any reminder, explanation, call or show cause notice etc. directing any Civil Servant to appear in the qualifying exams before the meeting of PSB as assumed by the learned Tribunal and on the contrary in terms of section 3 of the Rules of 1978, a civil servant, is required to pass examination as prescribed for the post or service to which he is appointed. In terms of sub-section (1) to section 5 *ibid*, required exams are held twice a year.

Subsection (2) of section 5 of the Rules of 1978 casts responsibility on the shoulder of the civil servant desisting to appear in the examination to give intimation in a prescribed manner to the examining authority directly or through appointing authority not later than 15 days before the date scheduled for such examination, which Respondent chose not to appear for over a decade. In this view of the matter, learned Tribunal erred in placing burden and responsibility on the controlling/appointing authority for issuing "any reminder, explanation call, show cause notice, etc directing Respondent to appear in examination to qualify" before the meeting of PSB. No law mandates or binds controlling or appointing authority to issue any show cause notice to a civil servant before holding PSB meeting as held by the Service Tribunal. Consequence for not qualifying required exams per Rule 8(4) of Executive Branch Rules 1964 is that the Civil Servant, so appointed shall not be confirmed to the appointed post unless he qualifies prescribed exam. It is the Respondent No.1 to blame himself for not appearing in qualifying exams during his more than a decade long service in BS-17 and not earning conformation required to be considered and earn promotion to next higher grade.

14. There is no cavil to the proposition advanced by Mr. Shabbir Awan, learned ASC for the Respondent No.1 that in case a civil servant is denied promotion for no fault on his part and when his promotion to next higher grade is effected later then promotion and seniority of such civil servant is counted and reckoned with his contemporary junior officers who were promoted earlier to him. As noted in the preceding paragraph, it is the Respondent No.1 who is to blame himself for not qualifying the requisite exams throughout his service spread over a decade, he could not compete or rank at par with his peers BS-17 officer, who qualified prescribed departmental examination, a condition precedent for earning confirmation to BPS 17 and in turn to be eligible to earn promotion to next higher grade. Therefore, he was rightly superseded by the PSB in its meeting dated 28.8.2003 (see *Maqbool Ahmed v. Military Accountant General and 2 others* 1993 SCMR 119 and *Shahid Hussain v Muhammad Jehangir Shahzad*).

15. Learned counsel for Respondent No.1 failed to point out any statutory provision in the Civil Servants Act, 1973 and or Sindh Civil Servant (Appointment, Promotions and Transfer) Rules 1974, for ante dated proforma promotion. It may be observed that earlier such practice, as urged by learned ASC for the Respondent No.1 cannot be cited as a valid departmental precedent nor, can be sanctified by this Court, being against the mandate of law. Even otherwise, in presence of Rule 13 of Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975 a Civil Servant who is not promoted on his turn on the ground inter alia; (i) his seniority is under dispute or is not determined; (ii) he is on deputation, training or on leave; or disciplinary proceedings are pending against him; or (iii) he is not considered by the selection authority inadvertently. The moment cause as noted in rule 13 ibid for deferment of promotion of a Civil Servant is removed, in as much as dispute as to his seniority is resolved in his favour, deputation, training or leave is over, disciplinary proceedings culminated in his favour or where inadvertence for his non consideration is remedied, only then on subsequent promotion, such civil servant would rank and be deemed to have been promoted in the same batch at par with his contemporary batch mates who were promoted earlier to him. In the instant case, Respondent No.1's promotion was not deferred for impendent in Rule 13 ibid but he was superseded for lack of qualification. Furthermore, in terms of Rule 31 of the Civil Services Rules, 1950 (Volume 1), promotion takes effect from the date on which a Civil Servant assumes the charge of higher post. Only exception to grant antedated promotion by the competent authority to a superannuated or deceased Civil Servant, has been carved out by grafting Rule 7-A of the Sindh Civil Servant (Appointment, Promotion and Transfer) Rules, 1974 (with effect from 18.3.2006), in a situation where a Civil Servant who was in fact recommended for promotion to next high post by the Provincial Selection Board or the Departmental Promotion Committee as the case may be but before issuance of his notification for promotion, such Civil Servant either passes away or retires, in such eventuality

pre-condition to assume charge as mandated under Rule 31 ibid is done away under Rule 7-A(2) of the Sindh Civil Servant (Appointment, Promotion and Transfer) Rules, 1974 (with effect from 18.3.2006). Respondent No.1's case does not fall within the exception provided under Rule 7-A of the Rules 1974, in as much as he was not recommended for promotion by the PSB from BPS-17 to BPS-18 in its meeting dated 28.8.2003, to which he took no exception. (See also Muhammad Yousuf v. Chairman Railway Board etc 1991 SCMR 1559 and Abid Hussain Sherizi v. Ministry of Industry and Production, Government of Pakistan) 2005 SCMR 1742).

16. Adverting to question of limitation, Respondent No.1 had all the opportunities to appear and qualify such exams, which are notified and held twice a year in terms of Sindh Civil Servant (Departmental Examination) Rules, 1978 as noted above. He is to blame himself for not availing such opportunity for over a decade. It is also a matter of record that Respondent No.1 was granted exemption on 23.9.2003 from appearing in qualifying exams by the Chief Minister Sindh, he was later promoted in (BS-18) on 16.12.2005. Then also he took no exception nor did he claim any promotion with retrospective effect. Very first representation made by him claiming such retrospective proforma promotion and counting his past service in KMC for pensionary and another benefit was made through departmental representation dated 23.11.2006 and part of such representation was conceded vide order dated 22.2.2007, he then repeated on 25.9.2007 followed by 17.4.2008 and lastly on 11.10.2011 and instant appeal was filed on 12.02.2013.

17. As regards contention of Mr. Shabbir Ahmed Awan, learned ASC that question of limitation was not before the Tribunal, therefore, appellant cannot be allowed to raise it now. He however concedes that such aspect may be considered by this Court. He had no explanation to offer as to why the Respondent No.1 when promoted to (BS-18) on 16.12.2005 took no exception. On his representation, his past service in KMC was counted only for the purposes of pensionary and other pecuniary benefits in terms of Rule 239 of the Sindh Civil Service Rules, 1950, (Volume-1) vide order dated 22.2.2007 and his request for promotion was not conceded to which order also he took no exception. He superannuated on 30.9.2007 as per Notification dated 02.5.2007, than also he did not agitate the matter of his proforma promotion beyond making representation any further and chose to remain quite. Therefore, he cannot escape the consequences for not availing the remedy of Appeal in accordance with law and within limitation provided for under section 4 of the Services Tribunal Act, 1973. It is the duty of the Tribunal to see whether the appeal before it was well within time or otherwise. Respondent No.1 filed subject appeal on 12.2.2012 which is hopelessly barred. Therefore, both on merits as well as on limitation he had no case before the Tribunal (See Gul Jan v. Naik Muhammad PLD 2012 SC 421).

18. In view of the foregoing discussion, the impugned judgment of Service Tribunal dated 22.10.2012 is set aside and the appeal is allowed.

MWA/C-10/SC

Appeal allowed.