ORDER
16.09.2021

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

The appeal in hand was called on for hearing after various intervals, however neither the appellant nor anyone else appeared on his behalf till the closing time, therefore, the appeal in hand stands dismissed in default. Parties to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.09.2021

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

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

20.01.2021 Junior counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Raziq Reader for respondents present.

Written reply was not submitted. Representative of respondents made a request for time to furnish written reply/comments; granted. To come up for written reply/comments on 18.03.2021 before S.B.

(Rozina Rehman)
Member (J)

18.03.2021 Junior to counsel for the appellant present. Addl: AG alongwith Mr. Muhammad Raziq, Reader for respondents present.

Written reply not submitted. Representative of the respondents seeks time to submit written reply/comments on the next date of hearing. Granted but as a last chance.

Adjourned to 27.05.2021 before S.B.

(Mian Muhammad)
Member (E)

27.05.2021 Junior to counsel for the appellant and Mr. Javaidullah, Asstt. AG alongwith Muhammad Raziq, H.C for the respondents present.

Respondents have furnished Reply/comments. Placed on record. The appeal is assigned to D.B for arguments on 16.09.2021.

Chairman

28.09.2020 Counsel for the appellant present.

Learned counsel referred to the order of departmental appellate authority dated 17.07.2020 and contended that the same was passed in a mechanical fashion and without application of independent judicious mind. He also argued that the judgment of Apex Court referred to in the order was also misapplied to the case of appellant. The judgment was about the cases, wherein, out of turn promotions were allowed to the police officials throughout the country.

Appellant Deposited Security & Process Fee

Subject to all just exceptions including the delay, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 30.11.2020 before S.B.

Chairman

30.11.2020 Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondents not submitted. Learned Additional Advocate General is directed to ensure presence of representative of the department and submit reply on the next date. Adjourned to 20.01.2021 on which date file to come up for written reply/comments before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 9143 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/08/2020	The appeal presented today by Mr. Muhammad Usman Khan Turlandi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 28/09/2020 CHAIRMAN

(1)

Before the Khyber Pakhtunkhwa Service Tribunal
PESHAWAR.

In Ref; to Service Appeal No. 9143 of 2020.

SI Fazli -e-Hadi No.P/227 .....Versus.....APPELLANT.

INDEX

S. No.	Description of Documents	Annex	P. No.
1.	Service Appeal with Affidavit.		01-09
2.	Office order dated 09/02/2016.	"A"	10-11
3.	Copy of the Standing Order No. 9/2014.	"B"	12
4.	Copy of Note Sheet dated 11/04/2017.	"C"	13
5.	Copy of Note Sheet dated 22-04-2017.	"D"	14
6.	Promotion Notification dated 03-05-2016.	"E"	15
7.	Order dated 27-02-2019 in W.P No. 2705.	"F"	16-20
8.	Copy of Notification Dated 06-11-2019.	"G"	21-22
9.	Copy of Notification dated 25-11-2016.	"H"	23-24
10.	Copy of the SMS & joint application.	"I"	25=28
11.	Order, dated 24-05-2017 in WP No. 1858.	"J"	29-31
12.	Order/Judgment dated 11-12-2019	"K"	32-37
13.	Impugned order dated 17-07-2020.	"L"	38-40
14.	Vokalatnama in original.		41

APPELLANT.

(Ex-SI- Fazli–e-Hadi Khan)

Through;

Muhammad Usman Khan
Turlandi
Advocate Peshawar.

Dated:- 08/08/2020 .

OFFICE: Flat # C-1 Haji Murad Plaza,Opp: Bank of Punjab, Dalazak Road, Peshawar.
Cell# 0333-9153699 *** 0300-5895841

(2)

e the Khyber Pakhtunkhwa Service Tribunal
PESHAWAR.

In Ref; to Service Appeal No. 9143 of 2020

Fazli–e-Hadi, Ex- Sub-Inspector Police No. P-227, S/O Muhammad Akbar R/O Manga Dargai, (Charsadda)..... APPELLANT.

VERSUS

1) Provincial Police Officer/IGP, Khyber Pakhtunkhwa, Central Police Office (CPO) Peshawar.
2) Additional Inspector General of Police Headquarter.
3) Capital City Police Officer, Police line Peshawar...**RESPONDENTS.**

***Service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act against the final impugned Order No. CPO/CPB/167 dated 17-07-2020 whereas the appeal* regarding notional promotion to the rank/post of Inspector *under the garb of policy* vide *official* letter No-247-53/ CPB dated 09/02/2016, promulgated by the respondent No. 1 was rejected/filed and whereas the appellant being highly eligible, deserving and confirmed Sub-Inspector, properly placed on list "F" was deprived of his legitimate right of such promotion only on discriminative score.**

PRAYERS:

On acceptances of this service Appeal and in accordance with the impugned policy, the impugned order may be set-aside and respondents may please be directed to ensure the notional promotion of the appellant to the rank/post of Inspector being highly eligible, deserving and confirmed Sub-Inspector, properly placed on list "F" and extend equal treatment in terms of Articles 4, 8, 9, 14, 18 and 25

(2)

Before the Khyber Pakhtunkhwa Service Tribunal
PESHAWAR.

In Ref; to Service Appeal No. 9143 of 2020

Khyber Pakhtukhwa Service Tribunal
Diary No. 8511
Dated 10/8/2020

Fazli–e-Hadi, Ex- Sub-Inspector Police No. P-227, S/O Muhammad Akbar R/O Manga Dargai, (Charsadda)..... APPELLANT.

VERSUS

1) Provincial Police Officer/IGP, Khyber Pakhtunkhwa, Central Police Office (CPO) Peshawar.
2) Additional Inspector General of Police Headquarter.
3) Capital City Police Officer, Police line Peshawar...**RESPONDENTS.**

Service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act against the final impugned Order No. CPO/CPB/167 dated 17-07-2020 whereas the appeal **regarding notional promotion to the rank/post of Inspector** ***under the garb of policy*** **vide** ***official*** **letter No-247-53/ CPB dated 09/02/2016, promulgated by the respondent No. 1 was rejected/filed and whereas the appellant being highly eligible, deserving and confirmed Sub-Inspector, properly placed on list "F" was deprived of his legitimate right of such promotion only on discriminative score.**

Filed to-day
Registrar
10/8/2020

PRAYERS:

On acceptances of this service Appeal and in accordance with the impugned policy, the impugned order may be set-aside and respondents may please be directed to ensure the notional promotion of the appellant to the rank/post of Inspector being highly eligible, deserving and confirmed Sub-Inspector, properly placed on list "F" and extend equal treatment in terms of Articles 4, 8, 9, 14, 18 and 25

of the constitution as his colleagues have already been granted such promotion just before their retirement in such upper age zone and the appellant by depriving of his due promotion, was retired from service on attaining the age of superannuation on mere discrimination.

Respectfully Sheweth;

1) That the appellant belongs to the respectable family of his respective village and has joined services in police department and was gradually promoted as confirmed sub- Inspector being placed on list "F" dated 31/3/2016.

2) That a policy (Impugned hereinafter) vide letter No-247-53/ CPB dated 09/02/2016 was promulgated whereas CCPO Peshawar and all Regional Police Officers (RPOs) were asked to send cases of those confirmed Sub-Inspectors to CCPO, who have left three (03) months period to their retirement for the inclusion of their name in list "F" and grant of officiating promotion to the rank of Inspector whereas the appellant has already been placed on list "F" and seek only his promotion to the rank of inspector. (Copy of the office order No-247- 53 /CPB date 09/02/2016 is annexure "A").

3) That the appellant though, was already entered into overage zone but even then, in violation of the Standing Order No. 9/2014 regarding "Upper age limit for Intermediate and upper Courses", he was selected/forced for upper course at police Training College Hango whereas, the appellant was succeeded and the result of upper course was announced on 31/5/2015 and thereafter the appellant was properly placed on list "F" on 19/7/2016 and was allotted new belt number P-227 thus, he was otherwise eligible under all enabling Police Rules for his due/ legitimate right of promotion to the rank of Inspector. (Copy of the Standing Order No. 9/2014 is annexure "B").

4) That the appellant being confirmed Sub-Inspector, placed on list "F" having qualified upper course in upper age limit, had already been entered in his retirement zone on attaining the age of superannuation dated 04/05/2017 had to be promoted to the

rank/post of Inspector before or just after his retirement in accordance with the impugned policy.

5) That in such like situation, earlier some 20 cases of confirmed Sub-Inspectors, who were standing on one and the same pedestal and whose case was totally at par with the case of appellant, was approved and were promoted to the rank of Inspectors. (Copy of the Note Sheet dated 11/04/2017 is annexure "C").

6) That as for as vacancies for promotion to the rank of Inspector and especially promotion of the appellant on such analogy is concerned, Note Sheet-CPO, right from Para No. 35 to 39, being self-explanatory and if looked at a glance, there are more than sufficient vacancies to accommodate the appellant/Co-appellants for their due/legitimate right of promotion to the rank of Inspectors. (Copy of the Note Sheet-CPO dated 22-04-2017 is annexure "D").

7) That in continuation/consequence of the Policy ibid, a Notification No. 1740/E-III dated 03-05-2016 regarding "Admission to List "F" and promotion as Officiating Inspector to BPS-16" was issued whereas 03 confirmed Sub-Inspectors were promoted as such who were to be retired on or before 31-07-2016. (Copy of the promotion Notification date 03-05-2016 is annexure "E").

8) That some of the aggrieved Confirmed Sub-Inspectors had filed Writ Petition No. 2706/2018 before the august Peshawar High Court, seeking their such due promotion to the rank of Inspector BPS-16 as per policy and in the light of the order dated 27-02-2019, Notification No. 2795/E-III Dated 06-11-2019 regarding their such promotion was passed. (Copy of the order dated 27-02-2019 passed in WP No. 2706/2018 and Notification Dated 06-11-2019 is annexure "F" & "G" respectively).

9) That another Notification No. 4414/E-III dated 25-11-2016 was emerged and the appellant was succeeded to get a copy whereof,

whereas similarly placed some 17 Sub-Inspectors were promoted to the rank of Inspector BPS-16 who were proceeded on retirement within next 03 months after their due such promotion. (Copy of the Notification No. 4414/E-III dated 25-11-2016 is annexure "H").

10) That the appellant while could not get his due promotion to the rank of Inspector as per policy ibid, approached the respondent No 1 through SMS and also filed joint applications which was duly forwarded vide official letter No 6955/EC-I dated 10/04/2017.(Copy of the SMS & joint application and forwarding memo is annexure "I").

11) That the departmental appeal was not responded in either way and the appellant while aggrieved of his fate and could not get his desired response and redressal of his graveness, filed writ petition No. 1858-P/2017 before the Peshawar High Court Peshawar which was dismissed for want of jurisdiction under Article 212 of the Constitution vide order dated 24-05-2017. However the writ petition was treated as service appeal and the appellant being a civil servant was directed to approach this august Tribunal. (Copy of the order dated 24-05-2017, passed in WP No. 1858-P/2017 is annexure "J").

12) That the appellant, in the given circumstances, submitted departmental appeal (Annexure-"F") and on expiry of the stipulated period, also filed Service Appeal No. 1286/2017 wherein, vide order/judgment dated 11-12-2019, this august Tribunal was pleased to *"direct the departmental authority to decide their departmental appeals for notional promotion to the rank of officiating Inspectors through speaking order as per rule and law within a period of three (3) months from the date of receipt of copy of this judgment. The respondent-department is further directed to convey the order of the departmental authority to the appellants and thereafter, if the appellants were aggrieved from the order of departmental authority, they are at liberty to approach this Tribunal subject to all legal objections. All the aforementioned service appeals*

are disposed of in the above terms". (Copy of the order/Judgment dated 11-12-2019 passed in Service Appeal is annexure "K").

13) That in consequence of the orders dated 11-12-2019 ibid, the impugned order dated 17-07-2020 was passed whereas the departmental appeal, filed by the appellant was rejected/filed. (Copy of the impugned order dated 17-07-2020 is annexure "L").

14) That in the given circumstances, the appellant being highly eligible, while aggrieved of his fate and aggrieved of the impugned order dated 17-07-2020 and while having no alternate remedy available, is constrained to approach this august Tribunal for the redressal of his grievances and grant of legitimate right of notional promotion to the rank of officiating Inspector inter-alia on the following grounds.

GROUNDS.

a) **Because** discrimination in service as observed by the respondents in the matter of promotion of the appellant to the rank of Inspector who being legally eligible is highly deplorable and condemnable, being unlawful, unconstitutional, without lawful authority, without jurisdiction, against the norms of natural justice and equity hence to be declared as such.

b) **Because** the appellant being deserving and eligible candidate for his due promotion to the rank of Inspector while no adverse remarks whatsoever have ever been assigned to him from any quarter and thus valuable right has been accrued to him and such rights could not be taken away in an arbitrary and fanciful manner.

c) **Because** the illegality is floating from the surface of the record.

d) **Because** it is clear discrimination which is strictly forbidden under Article 25 and 27 of the Constitution and is a fundamental valuable right of every citizen.

e) **Because** the appellant has time and again discriminated by the respondents and thus misprized and neglected by not giving him

his due right, as the appellant is/was entitled to be given the same status and accorded with the same treatment as was accorded to other similarly placed colleagues.

f) **Because** the act of respondents in depriving the appellant of his right of promotion to the rank of Inspector BPS-16 on regular basis and promoting others, clearly smacks with nepotism and malafide.

g) **Because** the act of respondents in neglecting and refusing the right of promotion to the rank of Inspector BPS-16 on regular basis is also against the Devine ordain of Allah Almighty as under the principles of natural justice and fundamental human rights of the appellant, the respondents has usurped the right of a human being and have thus bypassed the divine rule to give everyone his due right.

h) **Because** the act of the respondents if seen with serious note, the same are also in clear disregard of Article 9 of the Constitution of the Islamic republic of Pakistan 1973 as the same are meant to deprive the appellant from his right to life as the life is mainly dependent on bread and butter which is earned by a person through rendering service.

i) **Because** the respondents are bound to provide the appellant equal protection of law and must not to discriminate the appellant in service as it is inviolable and jealously guarded right of the appellant under the Constitution of the Islamic republic of Pakistan 1973 to be promoted to the rank of Inspector BPS-16.

j) **Because** the act of the respondents are also violative of Articles 03, 04, 8, 09, 25 and 27 of the Constitution of the Islamic republic of Pakistan 1973.

k) **Because** Article 4 of the Constitution of Pakistan and Islamic principles of equity and equal treatment with citizen are downtrodden deliberately for ulterior motive, which needs the interference of this august Tribunal.

l) **Because** the appellant has not been dealt with in accordance with law and equity and has illegally been put to, financial trouble and hardship in the prevailing circumstances of dearness, scarcity and uncertainty while the appellant in the light of policy (Annexure "A") dated 09/02/2016, regarding notional promotion policy, shall be deemed to have been promoted to the rank of Inspector being legally entitled to draw/receive his all consequential back benefits accordingly.

m) **Because** valuable right was accrued to the appellant whereas his fundamental valuable rights have been encroached by the respondents on their personal whims & wishes and such encroachment is hit by the command of the constitution of the Islamic Republic of Pakistan 1973.

n) **Because** the respondents have transgressed their power and the appellant has been denied the fundamental rights of being treated fairly, justly and equally in accordance with law whereas, other colleagues of the appellant who were standing on one and the same pedestal and whose case is totally at par with the case of the appellant, have earlier been promoted on different occasions as such and thus valuable rights has been accrued to the appellant which has taken legal effect and such legal rights could not be taken away with a single stroke of pen.

o) **Because** the impugned order is contrary to the policy promulgated by the respondents themselves and subsequently using of two yards to give/extend the benefit of the impugned policy to one set of employees and depriving the other set of employees is hit by the command of the fundamental rights guaranteed by the constitution and also against the norms of natural justice.

p) **Because** appellant seeking his notional promotion which amounts to monitory benefits only and such loss of monitory benefits is a continuous wrong and continuous injury which carries recurring cause of action and this august Tribunal has the jurisdiction to adjudicate upon the matter.

q) That further submission will be advanced at the time of hearing the petitioners at the bar.

Keeping in view the above facts, circumstances and submissions, and on acceptances of this service Appeal and in accordance with the impugned policy, the impugned order dated 17-07-2020 may be set-aside and respondents may please be directed to ensure the notional promotion of the appellant to the rank/post of Inspector being highly eligible, deserving and confirmed Sub-Inspector, properly placed on list "F" and extend equal treatment in terms of Articles 4, 8, 9, 14, 18 and 25 of the constitution as his colleagues have already been granted such promotion just before their retirement in such upper age zone and the appellant by depriving of his due promotion on mere discrimination, was retired from service on attaining the age of superannuation.

Any other remedy if available may also be extended in favor of the appellant to meet the ends of justice.

APPELLANT.

(Ex-SI- Fazli–e-Hadi Khan)

Through;

Muhammad Usman Khan
Turlandi
Advocate Peshawar.

Dated:- 09/08/2020 .

AFFIDAVIT.

I, Fazli–e-Hadi Ex- Sub-Inspector Police, No. 227, S/O Muhammad Akber R/O Manga Dargai, (Charsadda), the appellant, do hereby solemnly affirm and declare on oath that the contents of the appeal are true and correct and nothing has been kept secret or concealed therein from this honorable Tribunal.

DEPONENT.

(Ex-SI, Fazli–e-Hadi Khan)

ATTESTED
DAWOOD KHAN ADVOCATE
NOTARY PUBLIC
HIGH COURT PESHAWAR

10-08-2020

ANNEXURE A

Annex "E"

(10)

INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA,
CENTRAL POLICE OFFICE,
PESHAWAR.

DY No 152/ES
Dt: 1-02-16

No. 247-53 /CPB, dated Peshawar the 09-02-2016

To: The Capital City Police Officer, Peshawar.
All Regional Police Officers in Khyber Pakhtunkhwa.

Subject: **ADMISSION TO LIST "F" AND PROMOTION AS OFFG: INSPECTORS**

Memo:

As approved by the Competent Authority, I am directed to convey that in future, promotion cases shall be discussed/considered on quarterly basis as per following schedule:-

1.	Ist Week of March
2.	Ist Week of June
3.	Ist Week of September
4.	Ist Week of December

The authority has further directed that list of the confirmed Sub-Inspectors who are due to be retired in next 06 months must be maintained at CCPO & respective RPOs Offices and cases for inclusion of their names in List "F" and grant of Officiating promotion as Inspector will be forwarded at least 03 months period to their retirement.

Already Received by EC
12-2-16

(NAJEEB-UR-REHMAN BUGVI)
AIG/Establishment,
For Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

No. 254-56 /CPB

Copy of above is forwarded for information to the:-

1. Addl: Inspector General of Police, HQrs: Khyber Pakhtunkhwa.
2. Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa.
3. Incharge, Central Registry Cell, CPO, Peshawar.

No. 655-58/ES, Dt: 10-02-16.
Copy to all concerned.

PB

ATTESTED TO BE TRUE COPY

ATTESTED TO BE TRUE COPY

dated 10-04-2017 EC-I

(11)

BETTER COPY

(Better Copy) Page-9 Annexure-A

Inspector General of Police
Khyber Pakhtunkhwa
Central Police Officer

No. 247-53 CPB dated Peshawar the 09/12/2016

To

The Capital City Police Officer, Peshawar,
All Regional Police Officers in Khyber Pakhtunkhwa

Subject: Admission to list "F" and promotion as offg: Inspectors

Memo:

As approved by the Competent Authority, I am directed to convey that in further, promotion cases shall be discussed/ considered on quarterly basis as per following schedule:

1.	1st Week of March
2.	1st Week of June
3.	1st Week of September
4.	1st Week of December

The authority has further directed that list of the confirmed Sub-Inspectors who are due to be retired in next 06 months must be maintained at CCPO & respective RPOs Offices and cases for inclusion of their names in List "F" and grant of Officiating promotion as Inspector will be forwarded at least 03 months period to their retirement.

(NAJEEB-UR-REHMAN BUGVI)
AIG/Establishment
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar.

No. 254-56/CPB

Copy of above is forwarded for information to the:

1. Addl: Inspector General of Police, HQrs: Khyber Pakhtunkhwa.
2. Deputy Inspector General of Police, HRs: Khyber Pakhtunkhwa.
3. Incharge General Registry Cell, CPO, Peshawar.

ATTESTED TO BE TRUE COPY

ATTESTED

(12)

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

STANDING ORDER NO. 9/2014

Upper Age Limit for Intermediate and Upper Courses

This Standing Order is issued under Article 10(3) of Police Order 2002 in pursuance of the Police Policy Board decision taken in its 5th meeting held on 29th January 2014.

2. Aim:- Presently, the upper age limit for Intermediate and Upper College Courses is very low that need to be raised for opening greater opportunities of promotion. Again, the upper age limit for A-1 and B-1 Examinations has been raised already, therefore, the age limit for Intermediate and Upper College Courses need to be raised accordingly.

3. The upper age limit for Intermediate and Upper College Courses shall be as under:

a) Intermediate Course:	48 years;
b) Upper College Course:	52 years.

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

5. **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.

6. **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

(13)

ANNEXURE C

ANNEXURE

NOTE SHEET — C.P.O.

Sir,

The RPO/Hazara vide PUC has forwarded an application in respect of SI Muhammad Saeed Khan No. H/76 (on List "F") of Haripur District for promotion as Offg: Inspector. Because Sub-Inspector Muhammad Saeed Khan will be retired on superannuation pension on 14.04.2017.

In this connection it is submitted that as per CPO letter No. 247-53/CPB dated 09-02-2016 at "F/A", CCPO/Peshawar & all Regional Police Officers were asked to send cases of confirmed Sub Inspectors to CPO, who have left three (03) months period to their retirement for the inclusion of their names in list "F" and grant of Offg: promotion as Inspector.

In the light of above, earlier cases of twenty (20) confirmed Sub Inspectors were received and considered by the Departmental Promotion Committee in different meetings and approved by Inspector General of Police, Khyber Pakhtunkhwa.

Similarly, cases of the following confirmed Sub Inspectors, who were retiring within next three (03) months period received including the applicant Muhammad Saeed No. H/76 at Sr. No. 05:-

S. NO	NAME OF OFFICER	REGION	DATE OF RETIREMENT
1.	SI Mir Afzal No. H/141	Hazara	04-03-2017
2.	SI Muhammad Anwar No. P/396	CCP, Peshawar	24-03-2017
3.	SI Inayatullah No. B/06	Bannu	31-03-2017
4.	SI Karimullah No. 391/M	Malakand	03-04-2017
5.	SI Muhammad Saeed No. H/76	Hazara	14-04-2017
6.	SI Haroon-ur- Rasheed No. D/7	D.I.Khan	31-03-2017
7.	SI Arif-ur-Rehman No. 376/M	Malakand	15-04-2017
8.	SI Abdul Kabir No.16/M	Malakand	01-04-2017

The issue was discussed in the Departmental Promotion Committee meeting held on 19.01.2017 and it was decided that imparting promotion to the afore SIs will amount to out of turn promotion, which has been banned by Supreme Court of Pakistan. Therefore all cases placed before the committee are recommended to be filed, which was approved by the Inspector General of Police, Khyber Pakhtunkhwa, at "F/B".

Submitted for favour of kind perusal, please.

11.4.2017
Office Supdt: CP Branch

AIG/Establishment 11/4/2017

Worthy DIG/HQrs Submitted for perusal of para-5 and approval please

11/4/2017 (PTO)

ATTESTED TO BE TRUE COPY

ATTESTED TO BE TRUE COPY

ATTESTED

(14)

ANNEXURE D

NOTE SHEET — C.P.O.

Subject: Reference Ante Note Para-13 & 14

Sir,

The following confirmed Sub-Inspectors already on List "F" of Capital City Police Peshawar are retiring after attaining the age of superannuation as noted against their names:-

Sr. No.	Name	Region	Date of Retirement
1.	Mehmood Ali	CCP, Peshawar	20.05.2017
2.	Shaukat Ali	CCP, Peshawar	20.05.2017
3.	Abdur Raziq	CCP, Peshawar	25.04.2017
4.	Badan Khan	CCP, Peshawar	04.05.2017
5.	Bahadar Khan	CCP, Peshawar	04.05.2017
6.	Muhammad Riaz	CCP, Peshawar	08.05.2017

It is worth mentioning here that according to Seniority List "F", the seniority of the above named Sub-Inspectors is as under:-

S. NO.	NAME & NO.	REGION	DATE OF RETIREMENT
1.	Bahar Ali	Mardan	31.12.2040
2.	Allah Nawaz	D. I. Khan	07.06.2018
3.	Sajawal Khan	D. I. Khan	28.02.2020
4.	Abdul Latif	D. I. Khan	10.10.2020
5.	Bashir Hussain	D. I. Khan	05.03.2020
6.	Muhammad Nawaz	D. I. Khan	30.04.2020
7.	Muhammad Nawaz	D. I. Khan	05.01.2021
8.	Sabir Shah	D. I. Khan	06.10.2018
9.	Allah Dad	D. I. Khan	21.01.2019
10.	Shama Jan	D. I. Khan	02.12.2019
11.	Ghulam Yasin	D. I. Khan	04.02.2020
12.	Faiz Kaleem	D. I. Khan	06.09.2060
13.	Zahoor Muhammad	Mardan	23.03.2020
14.	Muhammad Nawaz Khan	Mardan	01.02.2026
15.	Mehmood Ali	CCP, Peshawar	20.05.2017
16.	Khalid Khan	CCP, Peshawar	03.02.2020
17.	Shaukat Ali	CCP, Peshawar	20.07.2017
18.	Abdur Raziq	CCP, Peshawar	25.04.2017
19.	Muhammad Rasheed	CCP, Peshawar	20.04.2019
20.	Badan Khan	CCP, Peshawar	04.05.2017
21.	Razd Ali	CCP, Peshawar	25.01.2020
22.	Bahadar Khan	CCP, Peshawar	04.05.2017
23.	Jan Muhammad	CCP, Peshawar	22.06.2018
24.	Murad Ali	CCP, Peshawar	17.02.2019
25.	Sabz Ali	CCP, Peshawar	01.09.2018
26.	Gulzar Khan	CCP, Peshawar	31.12.2019
27.	Muhammad Riaz	CCP, Peshawar	08.05.2017

According to record, 55 vacancies of Inspectors are available. Out of total vacancies, fifty (50) vacancies of Inspectors required to be reserved for Fast Track Promotion.

To accommodate the cases of Sub-Inspectors scheduled to be retired within a few days, if approved the vacancies required for the covering of promotion of all twenty seven (27) Sub-Inspectors may be utilized of the vacancies reserved for Fast Track Promotion.

Submitted for favour of kind perusal & orders, please.

AIG/Establishment 24/4/2017

ATTESTED TO BE TRUE COPY

Worthy DIG/HQrs:

(15)

ANNEXURE E

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

NOTIFICATION

No. 1740 E-III, **ADMISSION TO LIST "F" AND PROMOTION AS OFFG: INSPECTOR (BPS-16) :-** Dated: 03 / 05 /2016

As per recommendation of the DPC dated 29.04.2016 duly approved by the Worthy Inspector General of Police Khyber Pakhtunkhwa, the names of following confirmed Sub-Inspectors are hereby included into List "F" and promoted as Offg: Inspectors (BPS-16) with immediate effect:-

Sr. No	NAME & NO.	REGION	RECOMMENDATION	
1.	SI Mumtaz No. P/345	CCP Peshawar	Recommended for inclusion of his name into List "F" and promotion as Offg: Inspector. His name was included in the list for the course required as per Standing Order No. 3/2015.	6-5-2016
2.	SI Momin Khan No. 123/M	Malakand	Recommended for inclusion of his name into List "F" and promotion as Offg: Inspector. His name was included in the list for the course required as per Standing Order No. 3/2015.	9-6-2016
3.	SI Sher Bahadar No. MR/119	Mardan	Recommended for inclusion of his name into List "F" and promotion as Offg: Inspector. His name was included in the list for the course required as per Standing Order No. 3/2015. Moreover, he is serving in Investigation Branch and he will continue his tenure in Investigation according to Standing Order No. 21/2014.	31-7-2016

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

Necessary Gazette Notification may be issued accordingly.

Sd/-
Mian Muhammad Asif
Addl: IGP/HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. 1741-49 /E-III

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

i. The Addl: IGP/HQrs: Khyber Pakhtunkhwa Peshawar.
ii. The Capital City Police Officer, Peshawar.
iii. The Regional Police Officers Mardan & Malakand Regions.
iv. The Registrar CPO, Peshawar.
v. The Office Supdt: Secret CPO, Peshawar.
vi. The Office Supdt: E-II and CP Branch CPO, Peshawar.
vii. The Incharge Central Registry CPO Peshawar.

ATTESTED TO BE TRUE COPY

Najeeb

(NAJEEB-UR-REHMAN BUGVI)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa.

ANNEXURE F

S.T

29/4/19

(16)

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No 2767 /2018

1. Khadim Shah, Sub Inspector, No 399/P, FRP Peshawar Range, Peshawar.
2. Ali Jan, Sub Inspector, No 404/P FRP Peshawar, Range Peshawar
3. Muhammad Rashid Sub Inspector, No 338/P, Investigation Wing Charsadda.
4. Murad Ali Khan, Sub Inspector, No 405/P FRP Peshawar Range Peshawar.
5. Nowsherawan Khan, Sub Inspector,, No 167/M, DPO Office Bunir.
6. Khalid Khan, Sub Inspector, No 543/M, Investigation Wing District Bunir
7. Faiz Muhammad, Sub Inspector, No 500/M Sub Inspector/SHO Over Chitral
8. Iqbal Uddin, Sub Inspector, No 492/M, Sub Inspector/Kalas Chitral.
9. Mir Azam, Sub Inspector, No 92/M, Sub Inspector/ASHO PS Chitral.
10. Sultan Khan, Sub Inspector, No 37/M, Police Lines Chitral.
11. Qurban Khan, Sub Inspector, No 533/M, PTC Hangu
12. Muhammad Wali Shah, Sub Inspector, No 544/M, CTD Chitral.
13. Saeed Ullah, Sub Inspector, No 385/M SHO PS Chitral.
14. Gul Zameen, Sub Inspector, No 159/M DPO Office Dir Upper.
15. Muhammad Siyar, Sub Inspector, No 154, Incharge PP Jabbar Dir Upper.
16. Shireen Zada, Sub Inspector, No 212/M, ASHO PS Gandigar.
17. Abdul Qayyum, Sub Inspector, No 260, PS Gandigar Dir Upper.
18. Javed Iqbal, Sub Inspector, No 147/M Police Lines Dir Upper.
19. Fazal Karim, Sub Inspector, No 32/M, PS Dir Upper.
20. Muhammad Riaz, Sub Inspector, No 467/M, OII PS Wari Dir Upper.
21. Bahar Ali Sub Inspector, No 18/MR, District Police Mardan.
22. Nigar Hussain, Sub Inspector, No 1391/MR, Incharge PP Azara Abad.
23. Zahid Khan, Sub Inspector, No 134/MR, Incharge PP Janda.

0345-6040887

ATTESTED TO BE TRUE COPY

17

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET

Date of Order or Proceedings	*Order or others Proceedings with Signature of Judge*
1	2
27.02.2019	C.M.No.118-P/2019 with C.M.No. 202-P/2019 in W.P No.2706-P/2018. Present: Mr. Fazal Shah Mohmand, Advocate, for the petitioners. Mr. Rab Nawaz Khan, AAG, for the respondents. ********** *MUSARRAT HILALI, J.-* The instant writ petition has been filed by the petitioners under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, wherein they have prayed that the impugned Notification No. 755/legal dated 16.03.2017 to the extent of amendment in Rule 19-25-A of Police Rules 1934 with Standing Order No.21/2014, whereby illegal conditions have been imposed for promotion of Sub Inspectors to the rank of Inspectors, is illegal, unlawful, without lawful

PESHAWAR HIGH COURT PESHAWAR SEAL

ATTESTED TO BE TRUE COPY

ATTESTED
EXAMINER
Peshawar High Court

authority and ineffective upon the rights of the petitioners and the same may be struck down. They have further prayed that the respondents may be directed to promote the petitioners as Inspectors (BPS-16) with effect from 10.05.2018 with all back benefits.

2. Learned counsel for the petitioners has also filed C.M.No. 48-P/2019 for impleadment of Mukarram Shah (SI) No.P/59 CTD, Peshawar and Alamgir (SI) No. P/33 SHO Risalpur Nowshera and C.M.No. 202-P/2019 for impleadment of Behram Gul, Sub-Inspector No.P-56. CTD, Peshawar in the panel of petitioners.

3. At the very outset of the proceedings, learned AAG referred to judgment of Peshawar High Court, Mingora Bench delivered in W.P. No. 601-M/2018 decided on 03.12.2018 and submitted that the Hon'ble Division Bench had

ATTESTED TO BE TRUE COPY

ATTESTED
EXAMINER
Peshawar High Court

already disposed of identical case, involving similar point, therefore, the instant petition be also disposed of in the light of terms mentioned therein.

4. On 03.12.2018, the Hon'ble Division Bench, while disposing of W.P. No. 601-M/2018, has passed the following order:-

> *"6. It is pertinent to note that deferment and supersession are two different concepts and in case when after fulfilling the criteria, the petitioners are promoted to the post of Inspector, they will be entitled to ante-dated seniority in terms of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973.*
>
> *7. In view of the above, this writ petition is disposed of with direction to the respondent No.1 to provide an opportunity to the present petitioners to undergo the requisite/mandatory courses as envisaged in Police Rules, 1934 within shortest period of time."*

5. In the light of above judgment, the instant writ petition is disposed of accordingly. However, we also direct the respondents to

ATTESTED TO BE TRUE COPY

ATTESTED
EXAMINER
Peshawar High Court

promote those petitioners who became retired during pendency of this petition, if entitled. Similarly, both the CMs for impleadment are also allowed as prayed for and office shall make necessary entry in this regard in the heading of the petition.

JUDGE

JUDGE

Announced
27.02.2019

No 6686
Date of Presentation of Application 08-03-19
No of Pages 4
Copying Fee
Urgent Fee 20
Total 08-03-19
Date of Delivery of Copy 08-3-19
Received 8-3-19

CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Qanun-e-Shahadat Order 1984
08 MAR 2019

(DB) Hon'ble Mr. Justice Ikramullah Khan
Hon'ble Justice Musarrat Hilali

Noor Shah, PS

ATTESTED TO BE
TRUE COPY

ANNEXURE- G.
S.T ...
29/4/19

(27)

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No 2706 /2018

1. Khadim Shah, Sub Inspector, No 399/P, FRP Peshawar Range, Peshawar.
2. Ali Jan, Sub Inspector, No 404/P FRP Peshawar, Range Peshawar
3. Muhammad Rashid Sub Inspector, No 338/P, Investigation Wing Charsadda.
4. Murad Ali Khan, Sub Inspector, No 405/P FRP Peshawar Range Peshawar.
5. Nowsherawan Khan, Sub Inspector, No 167/M, DPO Office Bunir.
6. Khalid Khan, Sub Inspector, No 543/M, Investigation Wing District Bunir
7. Faiz Muhammad, Sub Inspector, No 500/M Sub Inspector/SHO Over Chitral
8. Iqbal Uddin, Sub Inspector, No 492/M, Sub Inspector/Kalas Chitral.
9. Mir Azam, Sub Inspector, No 92/M, Sub Inspector/ASHO PS Chitral.
10. Sultan Khan, Sub Inspector, No 37/M, Police Lines Chitral.
11. Qurban Khan, Sub Inspector, No 533/M, PTC Hangu
12. Muhammad Wali Shah, Sub Inspector, No 544/M, CTD Chitral.
13. Saeed Ullah, Sub Inspector, No 385/M SHO PS Chitral.
14. Gul Zameen, Sub Inspector, No 159/M DPO Office Dir Upper.
15. Muhammad Siyar, Sub Inspector, No 154, Incharge PP Jabbar Dir Upper.
16. Shireen Zada, Sub Inspector, No 212/M, ASHO PS Gandigar.
17. Abdul Qayyum, Sub Inspector, No 260, PS Gandigar Dir Upper.
18. Javed Iqbal, Sub Inspector, No 147/M Police Lines Dir Upper.
19. Fazal Karim, Sub Inspector, No 32/M, PS Dir Upper.
20. Muhammad Riaz, Sub Inspector, No 467/M, OII PS Wari Dir Upper.
21. Bahar Ali Sub Inspector, No 18/MR, District Police Mardan.
22. Nigar Hussain, Sub Inspector, No 1391/MR, Incharge PP Azam Road.
23. Zahid Khan, Sub Inspector, No 134/MR, Incharge PP Janda.

0345-6040887

ATTESTED TO BE TRUE COPY

FILED TODAY
Deputy Registrar
23 MAY 2018

ATTESTED
EXAMINER
Peshawar High Court

(29)

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

NOTIFICATION

No. 2795 /E-III, PROMOTION AS OFFG: INSPECTORS (BPS-16) Dated: 06/11/2019

In pursuance of Peshawar High Court Judgment dated 27.02.2019 in CM No. 118-P/2019, CM No. 202-P/2019 and Writ Petition No. 2706-P/2018, recommendations made by the Departmental Promotion Committee in its meeting held on 01.10.2019, the following confirmed Sub-Inspectors on List "F" are hereby promoted as Offg: Inspectors (BPS-16) with immediate effect:-

S.NO	NAME & NO.	REGION	RECOMMENDATION
1.	SI Sabir Shah D/32	DIKhan	The DPC examined his case and recommended him for promotion to the rank of Offg: Inspector (BPS-16) w.e.from 10.05.2018 on regular basis.
2.	SI Ihsan Ullah P/349	CCP/Peshawar	The DPC examined his case and recommended him for promotion to the rank of Offg: Inspector (BPS-16) w.e.from 10.05.2018 on regular basis.
3.	SI Khadim Shah P/399	CCP/Peshawar	The DPC examined his case and recommended him for promotion to the rank of Offg: Inspector (BPS-16) w.e.from 10.05.2018 on regular basis.

Sd/-
Muhammad Naeem Khan. Dr, PSP
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar

No. 2796-2806 /E-III. Dated Peshawar, the 06 / 11 /2019.

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

1. Addl: IsGP in Khyber Pakhtunkhwa.
2. Capital City Police Officer, Peshawar.
3. Commandant FRP Khyber Pakhtunkhwa Peshawar.
4. Deputy Inspector General of Police Special Branch Khyber Pakhtunkhwa Peshawar.
5. Regional Police Officer DIKhan.
6. AIG/Legal CPO, Peshawar.
7. Office Supdt: Secret CPO, Peshawar.
8. Office Supdt: E-II CPO/Peshawar.
9. U.O.P files.

ATTESTED TO BE TRUE COPY

(SADIQ BALOCH) PSP
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

(23)

ANNEXURE H

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

NOTIFICATION

No. 4414 /E-III, ADMISSION TO LIST "F" & PROMOTION AS OFFG: INSPECTOR Dated: 25 /11/2016

As per recommendation of the DPC dated 15.11.2016 duly approved by the worth Inspector General of Police Khyber Pakhtunkhwa, names of the following confirmed Sub-Inspector are hereby included in List "F" & promotion as Offg: Inspector with immediate effect:-

S.NO	NAME & NO.	REGION	RECOMMENDATION
1.	SI Said Amin Jan No. P/393	CCP, Peshawar	Recommended for promotion as Offg: Inspector. The Committee further recommended fo exemption from Standing Order No. 3/2015 because he is retiring on 11.12.2016, afte attaining the age of superannuation.
2.	SI Anwar Dad Khan No. MR/115	Mardan	Recommended for promotion as Offg: Inspector. The Committee further recommended fo exemption from Standing Order No. 3/2015 because he is retiring on 01.02.2017, afte attaining the age of superannuation.
3.	SI Muhammad Zaman No. K/74	Kohat	Recommended for promotion as Offg: Inspector. The Committee further recommended fo exemption from Standing Order No. 3/2015 because he is retiring on 31.01.2017, afte attaining the age of superannuation.
4.	SI Naeem Khan No. 277/M	Malakand	Recommended for promotion as Offg: Inspector. The Committee further recommended fo exemption from Standing Order No. 3/2015 because he is retiring on 01.02.2017, afte attaining the age of superannuation.
5.	SI Shoukat Saleem No. K/31	Kohat	Recommended for promotion as Offg: Inspector. The Committee further recommended fo exemption from Standing Order No. 3/2015 because he is retiring on 04.02.2017, afte attaining the age of superannuation.
6.	SI Diyar Khan No. MR/133	Mardan	Recommended for promotion as Offg: Inspector. The Committee further recommended fo exemption from Standing Order No. 3/2015 because he is retiring on 11.02.2017, afte attaining the age of superannuation.
7.	SI Muhammad Waris No. 312/M	Malakand	Recommended for promotion as Offg: Inspector. The Committee further recommended fo exemption from Standing Order No. 3/2015 because he is retiring on 17.02.2017, afte attaining the age of superannuation.
8.	SI Aqleem Khan No. K/37	Kohat	Recommended for promotion as Offg: Inspector. The Committee further recommended fo exemption from Standing Order No. 3/2015 because he is retiring on 23.02.2017, afte attaining the age of superannuation.

ATTESTED TO BE TRUE COPY

(25)

9.	SI Arif-ur-Rahman No. 376/M	Malakand	Recommended for inclusion of his name in with his colleagues.
10.	SI Muhammad Adnan No. D/37	D.I.Khan	Recommended for inclusion of his name in L
11.	SI Naqeeb Ullah No. D/42	D.I.Khan	Recommended for inclusion of his name in L
12.	SI Muhammad Ramzan No. D/44	D.I.Khan	Recommended for inclusion of his name in L
13.	SI Saleem Pervez No. D/06	D.I.Khan	Recommended for inclusion of his name in L
14.	SI Said Marjan No. D/43	D.I.Khan	Recommended for inclusion of his name in L
15.	SI Kashif Sattar No. D/15	D.I.Khan	Recommended for inclusion of his name in L
FSL CASES			
16.	SI Maqbali Khan of Fire Arm Section	FSL	Recommended for promotion as Offg: Inspe
17.	SI Kafoor Khan of Finger Print Bureau Section	FSL	Recommended for promotion as Offg: Inspe

Sd/-
MIAN MUHAMMAD ASIF
Addl: IGP/HQrs:
For Inspector General of Police
Khyber Pakhtunkhwa,
Peshawar.

No. 4415-29/E-III

Copy of above is forwarded for information to the:-

i. Addl: Inspector General of Police, HQrs: Khyber Pakhtunkhwa Peshawa
ii. Addl: Inspector General of Police, Investigation, Khyber Pakh Peshawar.
iii. Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa Peshav
iv. Capital City Police Officer, Peshawar.
v. Regional Police Officers, Mardan, Malakand, Kohat & D.I.Khan Regions.
vi. PSO to worthy Inspector General of Police, Khyber Pakhtunkhwa.
vii. PRO to worthy Inspector General of Police, Khyber Pakhtunkhwa.
viii. Director, FSL, Khyber Pakhtunkhwa Peshawar.
ix. Registrar, CPO, Peshawar.
x. Office Supdt: Secret CPO, Peshawar.
xi. Office Supdt: E-II CPO Peshawar.
xii. Office Supdt: CP Branch CPO, Peshawar.

ATTESTED TO BE
TRUE COPY

(NAJEEB-UR-REHMAN BUG
AIG/Establishment,
For Inspector General of Pol
Khyber Pakhtunkhwa,
Peshawar

(25)

ANNEXURE 9

NOTE SHEET — C.P.O.

Subject:- SMS (Promotion as Inspector on age of superannuation) 7.3.2017

Respected IGP assalam u alikum. Sir we are the sub inspectors of peshawar district and also on list F from a long time and going to be retired in 2017. and there is so many vacancies of inspetor in peshawar. It is therefore requested that kindly promote u. as inspector before the date of retirement we will be very thankful to you for this kind of act. Our name and date of retirement is as under. 1. Si mahmood ali no. P.334 date of retirment 19.5.17 2. Si abdul razzaq no. P.337 date of retirement 25.4.17 and SI muhammad anwar khan no.p 396 date of retirement is 25.3.17 we will pray for your long life sir 03025926828

SO CPB:- Put up as per rule/regulation.

AIG/Establishment

ATTESTED TO BE TRUE COPY

(26)

بخدمت جناب ایڈیشنل انسپکٹر جنرل آف پولیس ہیڈکوارٹر خیبر پختونخوا پشاور

بوساطت جناب CCP صاحب

درخواست برائے پروموشن بعہدہ انسپکٹر

جناب عالی:

گزارش ہے کہ ہم مندرجہ ذیل سب انسپکٹر صاحبان سال ASI/P کے عنوان سے 2015 میں 57/58 سال کی عمر میں PTC ہنگو سے ایڈوانس کورس پاس کر چکے ہیں۔ اور 2016 میں باقاعدہ (F) لسٹ پر آ گئے ہیں۔ اور اب عنقریب ریٹائرمنٹ ہونے والے ہیں۔ مگر ہمارا پروموشن بعہدہ انسپکٹر ابھی تک نہیں ہوا ہے۔

درخواست ہے کہ ہماری حالات زار پر رحم کر کے ہمیں بعہدہ انسپکٹر ترقی دیا جائے تاکہ ہم مشکور رہیں۔ تمام عمر آپ کو دعا دیتے رہیں گے

(1) اے ایس آئی محمود علی	P 334 / 01	تھانہ ...	تاریخ ریٹائرمنٹ	19-5-2017
(2) اے ایس آئی ...	P 341 / 011	... آباد	"	4-5-2017
(3) اے ایس آئی ... خان	P 394 / ASHO	داؤدزئی	"	4-5-2017
(4) اے ایس آئی محمد نواز	P 22 / 01	تھانہ ...	"	13-7-2017
(5) اے ایس آئی فضل ...	MR 125 / 01	تھانہ ...	"	10-9-2017
(6) اے ایس آئی ...	P 351 / TW			4-5-2017

ATTESTED TO BE TRUE COPY

ATTESTED

99

OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

Telephone No.091-9210641 Fax No. 091-9212597

No. 6755 /EC-I, dated Peshawar the 10 / 4 /2017.

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

Subject: **APPLICATIONS.**

Memo:

Enclosed find herewith a joint applications preferred by the following confirmed SIs of Capital City Police, Peshawar requesting therein for appearance before the Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar in connection with their promotion to the rank of Inspectors as they will be retired on superannuation from the date noted against each:-

		Date of Retirement
1.	SI Mehmood Ali No. P/344	19-05-2017
2.	SI Abdur Raziq No. P/337	25-04-2017
3.	SI Bahadar Khan No. P/341	04-05-2017
4.	SI Muhammad Riaz No. P/347	08-05-2017

FOR CAPITAL CITY POLICE OFFICER,
PESHAWAR.

AIG (Estab)
Please put up on
note sheet alongwith
relevant rules and precedence
for the perusal of
worthy IGP.
10/04/2017.

DS/CPB

17/4/2017

ATTESTED TO BE
TRUE COPY

dated 10-04-2017 EC-I

(19) (28)

Before the worthy Inspector General of Police Khyber Pakhtunkhwa
PESHAWAR.

Subject: Request for grant of notional Promotion to the rank of Inspector.

Respected Sir, With due respect and humble submission, it is to sate that in the year 2015, being in upper age limit, I have been bestowed a chance and was selected for the upper course and after passing the said course, my name was brought on list "F" in the year 2016 accordingly whereas I was already entered in retirement zone and thus on attaining the age of superannuation I got retired from service dated 10-09-2017.

2) That in the light of newly promulgated policy for fast track promotion, I being a confirmed Sub-Inspector, properly placed on list "F" and being entered in retirement zone had to be promoted to the rank of Inspector but due to unknown reason, I was deprived of my due legitimate right of such promotion and retired as Sub-Inspector.

3) That some of our colleagues standing on one and the same pedestal, have already been given such fast track promotion just before their retirement on attaining the age of superannuation.

Keeping in view my long unblemished and devoted services and the above facts and circumstances, it is, therefore, most humbly requested that by granting notional promotion, I may very graciously be promoted to the rank of Inspector please.

I my children will pray for your long life and prosperity.

Yours most obediently

SI Fazal-e-Hadi No. MR/125
Dated: 14-07-2017.

ATTESTED TO BE TRUE COPY

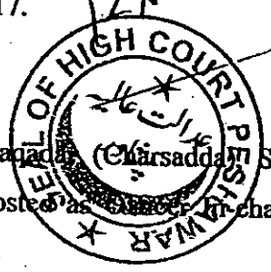
Khalid Mehmood Advocate
Attested
Oath Commissioner
Peshawar High Court

(29) ANNEXURE J

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

In Ref, to WP No. 1257-P/ 2017.

LNo 2247/17



Bahadar khan SI S/O Abdul Malik Khan R/O Shabaqadar (Charsadda), Sub-Inspector Police, No P-341, presently working and posted as Officer In-charge investigation wing, Police Station Faqir Abad Peshawar.

Mahmood Ali S/O Abdu Hanan R/O Dhakki, (Thangi,Charsadda), Sub-Inspector Police, No P-334, presently working and posted as Officer In-charge investigation wing, Police Station Yakatoot, Peshawar.

Muhammad Nawaz SI S/O Feroz khan R/O Jagra (Peshawar), Sub-Inspector Police, No P-22, presently working and posted as Officer In-charge investigation wing, Police Station Urmer, Peshawar.

4) Fazal e Hadi S/O Muhammad akbar R/O Manga Dargai (Charsadda), Sub-Inspector Police, No P-227, presently working and posted as Officer In-charge investigation wing, Police Station Nissata,Charsadda.

5) Badan khan S/O Haji Sabz Ali Khan R/O Khweshki Bala (Nowshera), Sub-Inspector Police, No P-394, presently working and posted as Additional SHO, Police Station Daud Zai ,Peshawar..... **PETITIONERS.**

Versus

1) Provisionally Police Officer (PPO) Central Police Officer (CPO) Khyber Pakhtunkhwa Peshawar.

2) Additional Inspector General of police, Headquarter, Central Police Officer (CPO) Khyber Pakhtunkhwa Peshawar.

3) Capital city police officer (CCPO) police lines Peshawar.

.....**RESPONDENTS.**

ATTESTED
EXAMINER
Peshawar High Court
17 JUN 2017

ATTESTED TO BE
TRUE COPY

(30)

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the signature of Judge
24.05.2017	**Writ Petition No.1858-P/2017** Present:- Mr. Muhammad Usman Khan Turlandi, Advocate, for the petitioners. ***** **ROOH-UL-AMIN KHAN, J.-** By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan (the Constitution), Bahadar Khan and 04 others, the petitioners, serving in Police Force of Khyber Pakhtunkhwa as Sub-Inspectors, seek issuance of a writ to direct the respondents to promote them as Inspectors on the basis of seniority-cum-fitness as well as on the ground of they being entered in the zone of attaining the age of superannuation, as in such circumstances, their other colleagues had already been granted promotion. 2. Admittedly, petitioners are civil servants. The matter of promotion is one of the incidents of terms and conditions of civil service. Disputes relating to such matters fall within the exclusive jurisdiction of the Service Tribunal while the jurisdiction of the High Court is barred by the express provisions of Article 212 (2) of the Constitution of Islamic Republic of Pakistan, 1973.

Siraj Afridi P.S/D

ATTESTED
EXAMINER
Peshawar High Court
15 JUN 2017

ATTESTED TO BE
TRUE COPY

(31)

3. Accordingly, this petition being not maintainable stands dismissed. However, the petitioners , may voice their grievance before the proper forum, if they so desire.

Announced:
24.05.2017.

JUDGE

JUDGE

SEAL OF HIGH COURT PESHAWAR
عدالت عالیہ پشاور

Sd/ Roohul Amin J
Sd/ Syed Afsar Shah J

CRETIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984
15 JUN 2017

ATTESTED TO BE TRUE COPY

No 28534
Date of Presentation of Application 25/5/17
No of Pages 8
Copying fee
Urgent Fee
Total 22-00
Date of Preparation of Copy 15/6/17
Date Given For Delivery 15/6/17
Date of Delivery of Copy 15/6/17
Received By

Siraj Afridi P.S/D

(32) ANNEXURE K

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1286/2017

Date of institution ... 16.11.2017
Date of judgment ... 11.12.2019

Bahadar Khan S/O Abdul Malik Khan R/O Shabqadar (Charsadda) Ex-Sub-Inspector Police, No. 9/341 Peshawar. ... (Appellant)

VERSUS

1. Provincial Police Officer/IGP, Khyber Pakhtunkhwa, Central Police Officer (CPO) Peshawar.
2. Additional Inspector General of Police Headquarter.
3. Capital City Police Officer, Police Line Peshawar. ... (Respondents)

Service appeal U/S-4 of the Khyber Pakhtunkhwa Service Tribunal Act, against the impugned policy vide official letter No.-247-53/CPB dated 09.02.2016, promulgated by the respondent No. 1 regarding notional promotion to the rank/post of Inspector and whereas the appellant being highly eligible, deserving and confirmed Sub-Inspector properly placed on list "F" was deprived of such promotion and subsequently retried from service on attaining the age of superannuation who filed departmental representation dated 14.07.2017 for ther redressal of his grievances, which was not yet responded.

Mr. Muhammad Usman Khan Turlandi, Advocate. .. For appellant.
Mr. Ziaullah, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. HUSSAIN SHAH .. MEMBER (EXECUTIVE)

ATTESTED

Khyber Pakhtunkhwa Service Tribunal Peshawar

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER:- Our this judgment shall disposed of instant service appeal as well as Service Appeal No. 1287/2017 titled "Mahmood Ali Versus Provincial Police Officer/IGP, Khyber Pakhtunkhwa, Central Police Officer (CPO) Peshawar and others", Service Appeal No. 1288/2017 titled "Fazl-e-Hadi Versus Provincial Police Officer/IGP,

ATTESTED

Khyber Pakhtunkhwa, Central Police Officer (CPO) Peshawar and others", Service Appeal No. 1289/2017 titled "Naseer-Ur-Rehman Versus Provincial Police Officer/IGP, Khyber Pakhtunkhwa, Central Police Officer (CPO) Peshawar and others" and Service Appeal No. 1290/2017 titled "Muhammad Nawaz Versus Provincial Police Officer/IGP, Khyber Pakhtunkhwa, Central Police Officer (CPO) Peshawar and others" as common question of law and facts are involved in all the service appeals.

2. Learned counsel for the appellants and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Raziq, Head Constable for the respondents also present. Arguments heard and record perused.

3. Brief facts of all the aforementioned service appeals are that the appellant were serving in Police Department and were promoted as conformed Sub-Inspectors on list "E" dated 31.03.2016. That a policy letter No-247-53/CPB dated 09.02.2016 was promulgated, the CCPO Peshawar and all Regional Police Officers (RPOs) were asked by the Inspector General of Police that the list of confirmed Sub-Inspectors who are due to be retired in next six months must be maintained at CCPO Peshawar and respective Regional Police Offices for inclusion of their names in list "F" and grant of officiating promotion as Inspectors will be forwarded at least three months period to their retirement. That the appellants have passed Upper Course Training and their names were also placed at list "F" on 19.07.2016 therefore, they were eligible for their legitimate right of promotion to the rank of Officiating Sub-Inspectors. That the respondent—department as per aforesaid policy were bound to promote the appellants to the rank of Officiating Inspectors before their retirement. That the appellants have been retired on attaining the age of

ATTESTED

ATTESTED TO BE TRUE COPY

Khyber Pakhtunkhwa Service Tribunal Peshawar

(35)

superannuation on 04.05.2017 but the respondent-department has not promoted them to the post of Officiating Inspectors despite the facts that they were fully qualified and eligible for promotion of the same post. That after retirement, the appellants filed departmental appeals for notional promotion to the worthy Inspector General of Police on 14.07.2017 but the same were not responded hence, the present service appeals.

4. Respondents were summoned who contested the appeals by filing written replies/comments.

5. Learned counsel for the appellants contended that the appellants were serving in Police Department. It was further contended that due to their unblemished service record they were promoted to the rank of confirmed Sub-Inspectors. It was further contended that the respondent No. 1 issued the aforesaid policy dated 09.12.2016 wherein the CCPO Peshawar and all Regional Police Officers (RPOs) were directed by the Inspector General of Police that the list of confirmed Sub-Inspectors who are due to be retired in next six months must be maintained at CCPO Peshawar and respective Regional Police Offices for inclusion of their names in list "F" and grant of officiating promotion as Inspectors will be forwarded at least three months period to their retirement. It was further contended that that the appellants had passed the Upper Course Training and were fully qualified and eligible for promotion to the post of Officiating Sub-Inspectors as they were going to be retired in near future but the respondent-department had not promoted them to the post of officiating Inspectors despite the facts that they were fully eligible and qualified for promotion to the post of Officiating Sub-Inspectors and there junior were also promoted on the basis of aforesaid policy but the

11.12.2018

ATTESTED

Khyber Pakhtunkhwa Service Tribunal Peshawar

ATTESTED TO BE TRUE COPY

appellants were illegally deprived from promotion. It was further contended that the appellants have been now retired from service on 04.05.2017 on attaining the age of superannuation therefore they filed departmental appeals for the promotion of the said post to the worthy Inspector General of Police Khyber Pakhtunkhwa Peshawar on 14.07.2017 but the same were not responded. Therefore, prayed that the appeals may be accepted and the department may be directed to issue notional promotion order of the appellants to the post of Officiating Inspectors.

6. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellants and contended that the appellants were confirmed in the rank of Sub-Inspectors and their names were placed on list "F" which meant that they were never deprived from their due right of promotion and the promotion cases were to be considered on their own merits. It was further contended that as a large number of confirmed Sub-Inspectors are waiting for promotion as Inspectors on their own number/rotation as per seniority of list "F". It was further contended that on retiring on pension, the appellants are not entitled to claim further promotion. It was further contended that under section-4 of the Service Tribunal Act, a civil servant if aggrieved from any final order, whether original or appellate in respect of any term and condition of his service may file service appeal but in the present service appeal neither any original nor any appellate order has been challenged therefore, the service appeal is not maintainable and prayed for dismissal of all the aforementioned service appeals.

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED TO BE TRUE COPY

7. Perusal of the record reveals that the appellants were serving in Police Department and due to their unblemished service record they were promoted up to the rank of confirmed Sub-Inspectors. The respondent-department has issued the aforesaid policy wherein it was directed by the Inspector General of Police to Capital City Police Officer as well as all the Regional Police Officers (RPOs) in Khyber Pakhtunkhwa to forward the cases of confirmed Sub-Inspectors mentioned their names in list "F" for grant of Officiating Inspectors within three months period to their retirement. The record further reveals that the appellants have claimed in their service appeals that they have passed the Upper Course Training and were fully qualified and eligible for promotion to the rank of Officiating Inspectors on the basis of aforesaid policy dated 09.12.2016 issued by the Inspector General of Police Khyber Pakhtunkhwa Peshawar but they were not promoted to the post of Officiating Inspectors before their retirement dated 04.05.2017 and their juniors were promoted to the rank of Officiating Inspectors on the basis of aforesaid policy therefore, now they are also entitled for notional promotion to the rank of Officiating Inspectors on the basis of aforesaid policy. The record further reveals that the appellants have also filed departmental appeals dated 14.07.2017 for notional promotion to the worthy Inspector General of Policy but the said departmental appeals were not decided/responded by the departmental authority and it is well settled law that a service appeal may be filed against any final order whether original or appellate in respect of any term and condition of his service but in the present case neither original nor final order has been passed by the respondent-department, therefore, we deem it appropriate to direct the departmental authority to decide their departmental appeals for notional

11.12.2019

ATTESTED

Service Tribunal, Peshawar

ATTESTED TO BE TRUE COPY

promotion to the rank of Officiating Inspectors through speaking order as per rules and law within a period of three months from the date of receipt of copy of this judgment. The respondent-department is further directed to convey the order of departmental authority to the appellants and thereafter, if the appellants were aggrieved from the order of departmental authority they are at liberty to approach this Tribunal subject to all legal objections. All the aforementioned service appeals are disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.12.2019

(HUSSAIN SHAH)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Certified to be true copy

Date of Presentation of Application 24-12-19
Number of Words 2400
Copying Fee 26-00
Urgent
Total 26-00
Name of Copyist
Date of Complection of Copy 02-01-2020
Date of Delivery of Copy 02-01-2020

ATTESTED TO BE TRUE COPY

ANNEXURE L

(38)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. CPO/CPB/ 167 Dated Peshawar 17 July 2020

ORDER

The following retired Sub Inspectors of CCP Peshawar filed Service Appeals Nos. 1286, 1287, 1288, 1289 and 1290 in Service Tribunal Khyber Pakhtunkhwa Peshawar regarding their notional promotion to the rank of Offg: Inspector:-.

I. Fazal-e-Hadi Ex-Sub Inspector.
II. Bahadar Khan Ex-Sub Inspector.
III. Mehmood Ali Ex-Sub Inspector.
IV. Naseer-Ur-Rehman Ex-Sub Inspector.
V. Muhammad Nawaz Ex-Sub Inspector.

In compliance to the judgment of Service Tribunal Khyber Pakhtunkhwa Peshawar dated 11.12.2019, a meeting of the Departmental Promotion Committee was held on 30.06.2020 at CPO to discuss the cases of Retired Sub-Inspectors of CCP Peshawar in the light of order of Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar.

Earlier a DPC meeting was held at CPO regarding promotion of confirmed Sub Inspectors to the rank of Offg: Inspectors, who were retiring within next three (03) months. The Chairman of the committee observed that imparting promotion of the S.Is will amount to out of turn promotion, which has been banned by Supreme Court of Pakistan. Hence, filed the subject cases.

The Policy issued by the Police Policy Board regarding the notional promotion was withdrawn in subsequent meetings on the grounds that no rules/policy regarding notional promotion available in the prevailing special law/rules. That the policy was contrary to the decision of Apex Court wherein out of turn promotion/notional promotion has been declared illegal and violation of vested right of senior officer. The decision of Apex Court has been implemented in Pakistan and officer of various ranks has been demoted to original rank.

Keeping in view of the above facts and threadbare discussion amongst the participants in the light of law and rules/policy in vogue and perusal of record, the Departmental Promotion Committee endorsed the previous decision and recommended in the light of Honourable Supreme Court of Pakistan vide judgment in Criminal Original Petition No. 89/2011 dated 16.05.2013 and Intra Court Appeal No. 04/2017 dated 13.05.2018 that all notional/out of turn promotion are banned, therefore the committee unanimously rejected/filed the appeals of appellants.

Sd/-
(DR. ISHTIAQ AHMED) PSP/PPM
Addl: Inspector General of Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar.

Endst: No. and dated even

Copy of above is forwarded to:-

1. Additional Inspector General of Police, HQrs: Khyber Pakhtunkhwa Peshawar.
2. DIG/HQrs: Khyber Pakhtunkhwa Peshawar.
3. Capital City Police Officer, Peshawar.
4. Registrar, Service Tribunal Khyber Pakhtunkhwa Peshawar for information in Service Appeals Nos. 1286, 1287, 1288, 1289 and 1290 vide judgment dated 11.12.2019.
5. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: Secret and E-III CPO Peshawar.

ATTESTED TO BE TRUE COPY

(KASHIF ZULFIQAR)PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

BETTER COPY

(39)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. CPO/CPB/167 Dated Peshawar 17 July , 2020

ORDER

The following retired Sub Inspector of CCP Peshawar filed Service Appeals Nos. 1286,1287,1288 1289 and 1290 in service tribunal Khyber Pakhtunkhwa Peshawar regarding their notional promotion to the rank of offg: Inspector:-

i. Fazal-e-hadi Ex-sub inspector.
ii. Bahadar khan Ex-sub inspector.
iii. Mehmood ali Ex-sub inspector.
iv. Naseer-ur-rehman Ex-sub inspector.
v. Muhammad Nawaz Ex-sub inspector.

In compliance to the judgment of service tribunal Khyber Pakhtunkhwa Peshawar dated 11.12.2019 a meeting of Departmental promotion Committee was held on 30.06.2020 at CPO to discuss the case of retired Sub-inspector od CCP Peshawar in the light of order of honorable service tribunal Khyber Pakhtunkhwa Peshawar.

Earlier a DPC meeting was held at CPO regarding promotion of confirmed sub inspector to the rank of offg: inspector. Who were retiring within next three(03) months. The chairman of the committee observed that imparting promotion of the S.Is will amount to out of turn promotion. Which has been banned by superme cout of Pakistan. Hence filled the subject cases.

The policy issued by the police policy Board regarding the notional promotion was withdrawn in subsequent meetings on the grounds that no rules/ policy regarding notional promotion available in the prevailing special law/rules. That

ATTESTED TO BE
TRUE COPY

the policy was contrary to the decision of Apex court where in out of turn promotion/notional promotion has been declared illegal and violation of vested right of senior officer. The decision of Apex court has been implemented in Pakistan and officer of various ranks has been demoted to original rank.

Keeping in view of the above facts and threadbare discussion amongst the participants in the light of law and rules/policy in vogue and perusal of record the departmental promotion committee endorsed the previous decision and recommended in the light of honourable Supreme Court of Pakistan vide judgment in criminal original petition no.89/2011 dated 16.05.2013 and intra court appeal no.04/2017 dated 13.05.2018 that all notional/out of turn promotion are banned therefore the committee unanimously rejected/filed the appeals of appellants.

Sd/-

Add: inspector General of police

HQrs:Khyber Pakhtunkhwa

peshawar

Endst:NO.and dated even

Copy of above is forwarded to:-

i. Additional inspector General of police HQrs/: Khyber Pakhtunkhwa Peshawar
ii. DIG/HQrs:Khyber Pakhtunkhwa Peshawar
iii. Capital city police officer Peshawar
iv. Register service tribunal Khyber Pakhtunkhwa Peshawar for information in service appeal nos.1286,1287,1288,1289 and 1290 vide judgment dated 11.12.2019
v. AIG/Legal Khyber Pakhtunkhwa Peshawar
vi. Office supdt: Secret and E-III CPO peshawar

AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
peshawar

ATTESTED TO BE
TRUE COPY

بعدالت خیبر پختونخوا سروس ٹریبونل پشاور

Appellant فضل ھادی S. Appeal No. ____ /2020

بنام PPO وغیرہ Respondents

مورخہ

مقدمہ فضل ھادی سابقہ سب انسپکٹر پولیس Appellant

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام KPK S.T کیلئے ~~محمد عثمان خان ترلانڈی~~ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ ایڈوکیٹ ہائیکورٹ پشاور کا کاملی کوقیات ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک ورو پیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور 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 بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند رہے۔

ATTESTED & ACCEPTED

المرقوم سات ماہ اگست 2020

العبد ____ گواہ ____ العبد

~~محمد عثمان خان ترلانڈی~~ 27/20

کے لئے منظور ہے ایڈووکیٹ پشاور ھائی کورٹ

بمقام KPK-ST

Fazli Hadi
Appellant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.9143/2020.

Ex- Sub Inspector Fazli-e-Hadi No.P/227 of CCP, Peshawar.....**Appellant.**

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police HQrs:, Peshawar.
3. Capital City Police Officer, Peshawar.....**Respondents.**

REPLY BY RESPONDENTS NO. 1, 2, &3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of merits.
8. That the matter already banned by the Honorable Supreme Court.

FACTS:-

(1) Correct to the extent that appellant was recruited as constable in respondent department and was promoted to the rank of sub-inspector on merit of Seniority which clearly reflects that respondents department has strictly followed law/rules and miscarriage of justice is totally avoided.

(2) Correct to the extent that respondents issued direction/policy for the betterment/welfare of police personnel, so that eligible candidates may not be deprived of their due right of promotion meaning thereby to expedite promotion cases of the police copes. It is worth to mention here that the policy was contrary to the decision of the Apex Court wherein out of turn/notional promotion has been declared illegal and violation of vested rights of senior officer.

(3) Incorrect. In fact qualification of upper college course is one of the eligibility criteria for confirmation in the rank of SI and placing name of the individual in list "F" besides it is a consolidated list prepared amongst all the regions of KPK, on seniority basis. The appellant think only for his own betterment having no care about the seniority of other eligible candidates.

(4) Para is totally incorrect, claim of appellant for promotion as inspector on the basis of placing his name in list "F" is quite unlawful and illegal. Actually list "F" is maintained on the basis of seniority on provincial level and appellant was not entitled for promotion as inspector.

(5) Incorrect and based on misguiding material promotion in the respondents department is made purely on seniority cum fitness basis without adopting picks and choose formula.

(6) Incorrect Para no.37 of the note sheet of CPO is worth perusal which clearly indicates that vacant posts for fast track promotion were reserved.

(7) Incorrect as explained above, promotion is made on the basis of seniority cum fitness and nothing vice versa. The honorable Supreme Court of Pakistan vide judgment dated 16.05.2013 and dated 13.05.2018 held that all the notional/out of turn promotion are illegal and against the fundamental right.(copy of judgment is annexure as A)

(8) Incorrect in compliance with honorable court order dated 27.02.2019 passes in W.P No.2706-P/ 2018 a DPC meeting was held on 01.10.2019 wherein only suitable and eligible candidates for promotion against the existing posts of inspectors likely to be retired on pension and non of the disentitled were promoted/recommended.

(9) Para is incorrect as explained above.

(10) Para relates to record hence needs no comments.

(11) Pertains to record of Honorable court, needs no comments.

(12) Para correct to the extent that in compliance with this honorable tribunal orders dated 11.12.2019 case of appellant and his other co-appellants were deeply discussed by the DPC meeting held on 30.06.2020. The policy issued by the Police Policy Board regarding the notional promotion was withdrawn in the meeting on the grounds that no rules/policy regarding notional promotion available in the prevailing special law/rules. That policy was contrary to the decision of Apex court wherein out of turn/notional promotion has been declared illegal and violation of vested right of senior officer. The decision of the Apex court has been implemented in Pakistan and officer of various ranks have been demoted to original rank. Therefore the committee after due deliberation rejected/filed the appeals of the appellants on merits.(rejection order is annexure as B)

(13) Incorrect explained above in detail.

(14) That the appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.

GROUNDS:-

A. Incorrect, neither any discriminatory treatment has ever been given to the appellant nor occurred any illegality in the promotion case of appellant.

B. Incorrect as explained in the preceding paras.

C. Incorrect. The appellant was treated as per law/rules.

D. Incorrect. Replying respondents are duty bound to act under the law and avoid discrimination and on the very reasons appellant was not given promotion as inspector being in-eligible.

E. Para is repetition of the above Para needs no comments.

F. Incorrect. No nepotism and favoritism is run in the respondents department rather law/rules are strictly followed.

G. Incorrect. No fundamental right of the appellant has been violated under the existing law/rules. The appellant was treated as per law/rules.

H. Incorrect. The appellant was treated as per law/rules and no violation of the Constitution of Pakistan 1973 has been done by the replying respondents.

I. Incorrect. Appellant being not eligible was not promoted and by giving promotion to appellant, right of others entitled would definitely be infringed.

J. Incorrect. No violation of the Constitution of Pakistan 1973 has been done by the replying respondents.

K. Incorrect. No violation of the Constitution of Pakistan 1973 has been done by the replying respondents.

L. Incorrect. The para already explained in detail in the proceeding paras. Furthermore promotion in each and every rank is made is pursuance of existing law/rules, and the appellant was not eligible under the rules.

M. Incorrect. The appellant has given all his due right and has not been infringed, and no law/rules have been violated by the replying respondents.

N. Incorrect. Numbers of eligible candidates of list "F" are waiting for promotion to the rank of Inspector but promotion as Inspector is made as per seniority of list "F". No legal rights of the appellant have been violated by the replying respondents.

O. Incorrect. As per judgment of honorable Supreme Court of Pakistan dated 16.05.2013 and dated 13.05.2018 all notional/out of turn promotion are banned and declared illegal and against the vested rights. The appellant was rightly proceeded under the law/rules.

P. Incorrect. Notional promotion is strictly banned by the apex court in various judgments as explained above.

Q. Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

In view of the above, and keeping in view the gravity of slackness, willful negligence and misconduct of appellant, it is prayed that appeal being devoid of merit may kindly be dismissed with cost please.

Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

Additional Inspector General
of Police, Hqrs: Peshawar,

Capital City Police Officer,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.9143/2020.

Ex- Sub Inspector Fazli-e-Hadi No.P/227 of CCP, Peshawar.....**Appellant.**

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police HQrs:, Peshawar.
3. Capital City Police Officer, Peshawar.....**Respondents.**

AFFIDAVIT

We respondents No. 1 ,2, &3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

Additional Inspector General of Police, Hqrs: Peshawar,

Capital City Police Officer,
Peshawar.