KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT CAMP COURT SWAT.

BEFORE: **KALIM ARSHAD KHAN .. CHAIRMAN**
SALAH UD DIN .. MEMBER (Judicial)

Service Appeal No.7050/2021

Latif Ur Rahman S/o Khair Ur Rahman R/o Muhallah Rahatabad, Mangloor, Tehsil Babozai district Swat (constable belt No. 902).
.....***Appellant***)

Versus

1. **Inspector General of Police**, Khyber Pakhtunkhwa at Peshawar.
2. **Regional Police Officer** Malakand Range-III at Saidu Sharif, District Swat.
3. **District Police Officer,** District Swat.

.....(***Respondents***)

Present:

Afaq Ur Rahman Diyar,
Advocate.....For appellant.

Mr. Muhammad Riaz Khan Paindakhel,
Assistant Advocate General.....For respondents.

Date of Institution.....15.07.2021
Dates of Hearing.....08.11.2022
Date of Decision.....08.11.2022

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER NO. 7019 DATED 25.06.2021 WHEREBY THE APPELLANT WAS NOT UPGRADED FROM BPS-07 TO BPS-09.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this appeal the appellant has impugned the order dated No.7019 dated 25.06.2021 whereby the appellant was not allegedly upgraded.

2. We will take the facts to be that the appellant had been in the Police service while the then Chief Minister named Amir Haider Khan Hoti had visited Swat and to encourage the policemen, he ordered the District Police Officer Swat to upgrade all the ranks from constable (BPS-07) to DSP (BPS-17) (in this respect copy of letter No.SO(Police)-HD/5-8/2012/09/KC dated 02.05.2012 of the Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Peshawar was annexed with the appeal); that in the letter annexed with the appeal, the appellant was not upgraded; that the appellant filed a writ petition in 2002 for one step promotion, which was decided in favour of the appellant but the respondents did not act upon the decision of the Honourable Peshawar High Court; that the appellant submitted an application to the District Police Officer for up-gradation which was forwarded to the Regional Police Officer and then to the Inspector General of Police but he could not get the relief and, hence, this appeal with the prayer that the order/letter No.7019 dated 26.06.2021 might be set aside and respondents might be directed to upgrade the appellant from BPS-07 to BPS-09 with all back benefits since 2012.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual

objections. The defence setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

5. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG controverted the same by supporting the impugned order(s).

6. In paragraph 7 of the appeal, the appellant has himself admitted that the benefits of upgradation, extended to the other Police Personnel, vide letter No.SO(Police)-HD/5-8/2012/09/KC dated 02.05.2012 of the Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Peshawar, were not so extended to him, so he ought to have agitated the matter at the relevant point of time but he kept mum for quite long time and all of a sudden submitted application on 30.03.2021 and that too for seeking promotion, while through the instant appeal he seeks upgradation, therefore, the mode and manner in which the appellant has proceeded is totally incomprehensible. Even if we consider his case in the light of letter No.SO(Police)-HD/5-8/2012/09/KC dated 02.05.2012 of the Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Peshawar, the said letter very clearly mentions that the upgradation granted vide the same was subject to the condition that in future no such case/claim of other Police Officials/officers of Swat Region will be honoured. It was further stated in the said letter that the post shall automatically stand downgraded as and when vacated by the present incumbents. Therefore, the appellant,

when once had not been benefitted from the above letter and he had not agitated his grievance at that point of time, he not only because of the inordinate delay in bringing his cause to this Tribunal but also the said letter itself disentitled him from the desired up-gradation. This being so, this appeal is groundless and is dismissed with costs. Consign.

7. ***Pronounced in open Court at Swat and given under our hands and the seal of the Tribunal on this 08th day of November, 2022.***

KALIM ARSHAD KHAN
Chairman
Camp Court Swat

SALAH UD DIN
Member (Judicial)
Camp Court Swat

ORDER

18th Nov, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

2. Vide our detailed judgement of today placed on file (containing 04 pages), this appeal is groundless and is dismissed with costs. Consign.

3. *Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 18th day of November, 2022.*

(Kalim Arshad Khan)
Chairman
Camp Court Swat

(Salah Ud Din)
Member(Judicial)
Camp Court Swat