

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Execution Petition No. _____/2022
In Service Appeal No. 9270/2020

Khayal Badshah

V/S

police Deptt:

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Khayal
PETITIONER
Khayal Badshah

THROUGH:

Handwritten Signature
SYED NOMAN ALI BUKHARI
ADVOCATE, HIGH COURT

&
Handwritten Signature
(UZMA SYED)
ADVOCATE, PESHAWAR

Cell No: 0306-5109438

(1)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Execution Petition No. _____/2022
In Service Appeal No.9270/2020

Mr. Khayal Badshah Sub-Inspector no. 933/p
Special Branch Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2410

Dated 21/12/22

PETITIONER

VERSUS

1. The Inspector General of Police: KP Peshawar.
2. The Capital City Police Officer KP, Peshawar.
3. The Deputy Inspector General of Police: KP Peshawar.

RESPONDENTS

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 22/07/2022 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**

.....

RESPECTFULLY SHEWETH:

1. That the applicant/Petitioner filed Service Appeal No-9270/2020 for confirmation.
2. That the said appeal was finally heard by the Honorable Tribunal on 22/07/2022. The Honorable Tribunal is kind enough to accept

the appeal of appellant as prayed for. (Copy of judgment is attached as Annexure-A).

3. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 22-07-2022.
4. That the respondent totally violated the judgment of Hon'able Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implement the same in letter and spirit.
6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 22-07-2022 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

Khayal
PETITIONER
 Khayal Badshah

THROUGH:

Noman
(SYED NOMAN ALI BUKHARI)
 ADVOCATE HIGH COURT.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.



Badshah
DEPONENT

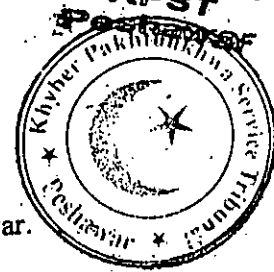
A (3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.9270/2020

Date of Institution ... 12.08.2020

Date of Decision ... 22.07.2022



Mr. Khyal Badshah Sub-Inspector No.933/p Special Branch Peshawar.

(Appellant)

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and two others.

(Respondents)

Syed Noman Ali Bukhari,
Advocate

... For appellant.

Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents.

Mrs. Rozina Rehman
Miss. Fareeha Paul

... Member (J)
... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER: The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“On acceptance of this appeal, the respondents may be directed to consider the appellant for confirmation against the post/rank of Sub-Inspector from his due date with his batch-mates/from the date when junior was promoted with all back and consequential benefits.”

2. Brief facts of the case are that appellant was appointed as Constable in the year 1986 and promoted to the post of SI on 27.09.2011. He completed all the requisite and mandatory professional trainings and courses including Upper

APPESTED

MEMBER (J)
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

Course and was on the top of the seniority list. It was in the year 2018 when the respondents conducted the DPC Meeting on 18.04.2018 wherein the colleagues of the appellant were confirmed as SI on 24.04.2018 but appellant was ignored. New amendment was introduced on 14.09.2017, wherein, for confirmation as SI, the period of one year shall be spent in any other unit including Traffic police. Another DPC meeting was conducted on 03.03.2020 and again appellant was not considered without any reason. He, therefore, filed departmental appeal which was rejected, hence the present service appeal.

3. We have heard Syed Noman Ali Bukhari, Advocate learned counsel for the appellant and Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Syed Noman Ali Bukhari Advocate, learned counsel for appellant argued that not considering the appellant for confirmation as SI and the rejection order is against law, facts and norms of justice, therefore, liable to be set aside. That the appellant was deprived from his right of promotion in an arbitrary manner which is the violation of Articles-2, 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. It was further argued that the appellant spent period in Traffic police, therefore, he shall be deemed eligible for promotion. He, therefore, requested for acceptance of the instant service appeal.

5. Conversely, learned AAG argued that confirmation in the rank of SI requires completion of eligibility criteria under Rule-13.10(2) of Police Rules, 1934 as amended in 2017 which provides that no Sub Inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an Officiating SI in independent Incharge of PS, a notified post or as Incharge

ATTESTED

WITNESSES
 Syed Noman Ali Bukhari
 Advocate

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Investigation of a PS or CTD and that confirmation in the rank of SI is not made on the basis of seniority rather it is done subject to fulfillment of laid down criteria. Lastly, he submitted that appellant was never deprived of his due right nor was treated with discrimination and that respondents are duty bound to follow law.

6. From the record it is evident that vide Notification dated 27.09.2011 appellant alongwith 140 others, being on Acting Charge Basis of Capital City Police, Peshawar on Promotion List-E were promoted to the rank of Officiating SIs. Appellant stood at Serial No.125 of the above mentioned notification. It was on 24.04.2018 when on the recommendation of the Departmental Promotion Committee meeting held on 18.04.2018, colleagues of the present appellant were confirmed in the rank of SI. Confirmation in the rank of SI requires completion of eligibility criteria under Rule-13.10(2) of Police Rules, 1934 Amended 2017 which provides that:

"No sub inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an Officiating SI in independent Incharge of Police Station, a notified, or as Incharge Investigation of a Police Station of CTD"

In the instant case, appellant was appointed as Constable in 1986 and promoted as ASI in the year 2008 and further promoted to the post of SI in 2011. He has completed all the requisite and professional trainings and courses including upper course in the year 2014. He also completed tenure period at Special Branch and he was also on the top of seniority list. His colleagues were confirmed as SI vide Notification dated 24.04.2018. New amendment was introduced in rules on 14.09.2017 which was given effect from 30.06.2018

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa

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wherein provided that for confirmation as SI, the period of one year shall be spent in any other unit wherein also include Traffic police Khyber Pakhtunkhwa and such period was already spent by the appellant. The next DPC meeting was conducted on 03.03.2020 and once again he was not considered for promotion. He is in Special Branch from 23.09.2015 till date and he spent five years in Traffic Police Khyber Pakhtunkhwa and he was not considered for promotion on the analogy that new policy was introduced on 30.06.2018 and that he served in Traffic before 30.06.2018. So far as the period of one year as an Officiating SI in independent Incharge of PS, a notified or as Incharge Investigation of a PS or CTD is concerned that also holds no ground because it was for the authority to give the appellant assignment of such post being a disciplined force and that the appellant could not post himself as an independent Incharge to meet the requirement. Juniors to the appellant have become seniors to him and the appellant has been discriminated which is evident from the record. Vide notification dated 27.09.2011 vide which appellant alongwith others were promoted to the rank of Officiating Sub Inspectors is available on file, wherein, the name of the present appellant is available at Serial No.125 while Waheed Shah at Serial No.128, Muhammad Tahir at Serial No.134 and Anwar Shah at Serial No.138. Another Notification in respect of confirmation in the rank of Sub Inspectors is also available on file vide which Waheed Shah and Muhammad Tahir who were juniors to appellant were promoted and the appellant was discriminated. Another Notification dated 11.03.2020 is available on file vide which Anwar Shah junior to appellant was confirmed in rank of SI.

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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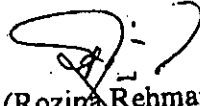
In view of the above discussion, instant service appeal is accepted as

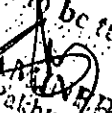
prayed for. Parties are left to bear their own costs. File be consigned to record

room.

ANNOUNCED
22.07.2022


(Farzeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

Certified to be true copy

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 22/07/2022
Number of Words 2400
Copying Fee 26/-
Urgent _____
Total 26/-
Name of Copyist _____
Date of Completion of Copy 05/12/22
Date of Delivery of Copy 05/12/22

بعدالت

KP Service Tribunal, Peshawar

سہ 2 منجانب
بنام

حیال نامہ

مورخہ

مقدمہ

دعویٰ

جرم

لوٹریس ڈسٹرکٹ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام میں اور کیانے سبب معصان محلی میں رہے کی سبب

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا کٹرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج 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 مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب ہے وہوگا۔ 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 لکھ دیا کہ سندر ہے۔

Attest
by
27/1/2014

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ماہ

الرقوم

العین دگ واہ العین

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