

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.7878 /2021.

Inspector Imtiaz Alam of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others **Respondents.**

REPLY BY RESPONDENTS NO. 1 & 2.

Respectfully Sheweth:-

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 3049
Dated 18-1-2023

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 parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
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 this Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

1. Para pertains to record and Hon'ble High Court Peshawar hence needs no comments.
2. First part of the Para pertains to PSC KP who would be in a better position for reply while rest of the Para pertains to the appointment order of in-service PASIs dated 28.12.2006 hence needs no comments.
3. Correct to the extent of appointment of appellant w.e.f. 17.04.2007 vide order dated 21.04.2007 while rest of the para pertains to KPPSC and Hon'ble Peshawar High Court.
4. Incorrect and misleading, hence denied. Firstly, applicants appointed on different dates could not be called batch mates. In fact, the appellants appointment was delayed due to withholding of one post by the PSC KP on the direction of Hon'ble Peshawar High Court order dated 14.06.2006 in Writ Petition No. 787/2006 dismissed vide judgment dated 18.01.2007. It is pertinent to mention here that no question of seniority was raised at that time by the appellant nor any specific directions were given by the Hon'ble High Court to that effect. The appellant badly failed to agitate his appointment and seniority at proper forum within time. Moreover, seniority of a police officer takes effect from the date of regular appointment, it cannot be conferred from a retrospective date to the appointment.
5. Incorrect and misleading. Already explained vide above Para 4, the appellants appointment order was delayed due to withholding of 01 post by the KPPSC on the direction of Peshawar High Court, later to get appointment on 17.04.2007 and claiming seniority against those who were appointed prior to him i.e. on 28.12.2006 is without reason, illegal and against rules/regulations. The appellant's seniority shall actually take

effect from the date of his appointment. Moreover, the appellant did not submit any departmental appeal in this regards.

6. The instant appeal is badly time barred and not tenable in the eyes of law liable to be dismissed on the following grounds.

REPLY ON GROUNDS:-

A. Incorrect. Seniority of an official in Police department takes effect from the date of regular appointment, it cannot be conferred from a retrospective date to the appointment. Hence, these appointed on 28.12.2006 are not even batch mates of those appointed on 17.04.2007. The appellant has not preferred any departmental appeal.

B. Incorrect, already explained in Para 4 of facts.

C. Incorrect, already explained in Para 4 of facts.

D. Incorrect. The appellant's right has never been denied after his appointment.

E. Incorrect, as the appointment order of Shuhada Sons was issued prior to the appointment order of the appellant, therefore, their seniority take effect earlier than the appellant. Appellant's claim to be batch mate of those appointed earlier is illegal, against the rules/regulations.

F. Incorrect, rule 13:18 of Police Rules, 1934 is strictly observed in case of the appellant and recently it has been applied uniformly throughout KP Police without discrimination.

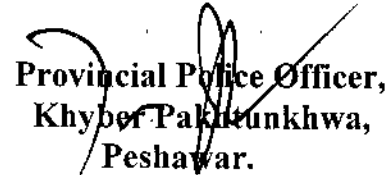
G. Incorrect, the appellant has been treated in accordance with Law/Rules and he's claiming seniority of a date when he was not even in service at that time hence his claim is illegal, devoid of merit and against the natural justice.


H. Incorrect, the appointment of the officials, now promoted as DSPs and against whom the appellant claims his seniority, was prior to the appointment of the appellant. Hence, his claim in any respect is not based on merit.

I. The respondent may also be allowed to adduce other cogent grounds at the time of hearing.

PRAYERS:-

Keeping in view the above stated facts & reasons it is, most humbly prayed that the appeal of the appellant being devoid of merits, may kindly be dismissed with costs, please.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.

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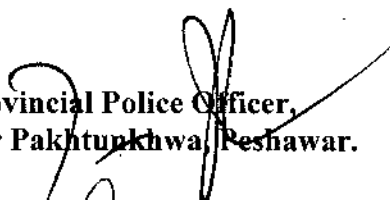
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AFFIDAVIT.

We respondents 1 and 2 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.**


**Capital City Police Officer,
Peshawar.**

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AUTHORITY.

I, **Capital City Police Officer, Peshawar**, hereby authorize **Mr.Ahmad Jan** SI legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.

**Capital City Police Officer,
Peshawar.**

