

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

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


Chairman

EP 108/2020

01.07.2021

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

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

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

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

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

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

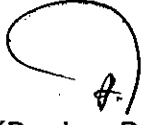
It shows that the appellant has been reverted to his substantive rank of Constable, which has not been challenged by him before the august Supreme Court of Pakistan and has attained finality. So far as remarks

28.06.2021

Petitioner in person present.

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

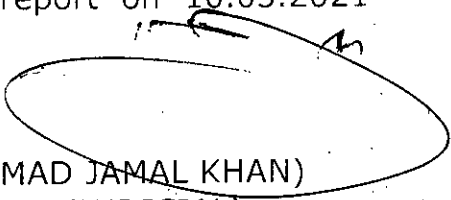
Learned A.A.G made request for a short adjournment of just two days in order to consider the case of the petitioner on humanitarian grounds. Last chance is given. To come up for proper implementation report on 01.07.2021 before S.B.


(Rozina Rehman)
Member(J)

12.01.2021

Petitioner is present in person. Mr. Noor Zaman Khatta, District Attorney and Mr. Arif Saleem, Steno, for the respondents, are also present.

Representative of the department submitted reply to the execution petition, copy of which delivered to petitioner. Counsel for petitioner is not available and petitioner requested for adjournment. The execution petition is adjourned, respondents are directed to submit implementation report on 10.03.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

10.03.2021

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

Learned Additional Advocate General submitted reply to execution petition which is placed on file. A copy thereof also provided to the learned counsel for petitioner for perusal and submission of his rebuttal/rejoinder, if he so deems appropriate. To come up for further proceedings on 06.05.2021 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

06.05.2021

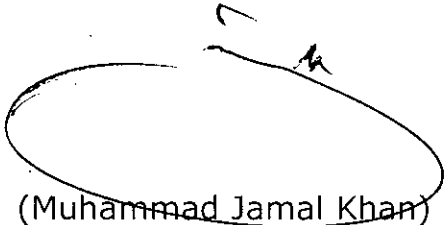
Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 28.06.2021 for the same as before.


Reader

19.10.2020

Petitioner is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Arif Saleem, Steno are also present.

Implementation report not submitted. Representative of the department sought time to furnish implementation report. Adjourned to 23.11.2020 on which date to come up for implementation report before S.B.




(Muhammad Jamal Khan)
Member (Judicial)

23.11.2020

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

Implementation report not submitted. Representative of the department stated at the bar that the implementation report is in process and requests for further time. Adjourned to 12.01.2021 on which date file to come up for implementation report before S.B.

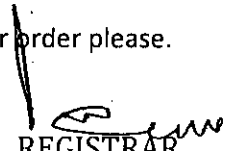
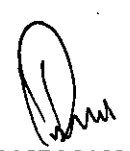
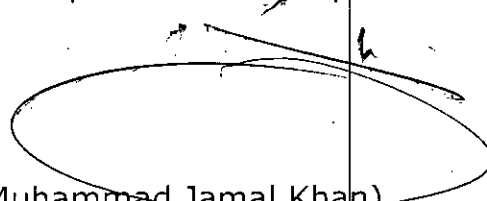


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 108 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.07.2020	<p>The execution petition of Mr. Faqir Shah submitted today by Mr. Naqibullah Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench on <u>04/09/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
04.09.2020		<p>Appellant himself alongwith his counsel is present. Notice be issued to respondents for implementation report for 19.10.2020 before S.B.</p> <p style="text-align: right;"> (Muhammad Jamal Khan) Member (Judicial)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
Execution Petition no. 108/2020

Misc Application No. 108 of 2020

Faqir Shah.....Petitioner

VERSUS

Government of KP and others.....Respondents

INDEX

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Application for implementation	-	01 - 04
2.	Affidavit		05
3.	Addresses of the parties	-	06
4.	Photocopy of tribunal judgment dated 04-05-2017	'A'	07 - 11
5.	Photocopy of judgment dated 13-9-19	'B'	12 - 17
6.	Correspondence department appeal	'C-5'	18 - 22
7.	Wakalat Nama (in original)		23

Petitioner
(Faqir Shah)

Through:

Naqeeb Ullah
(NAQEEB ULLAH KHATTAK)
Advocate,
High Court, Peshawar
Cell # 0343-9122233

Dated:-21-07-2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition no. 108/2020

Misc Application No _____ /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 559

Dated 28-07-2020

Faqir Shah Constable No 591 District Police Kohat

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

VERSUS

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

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

PRAYER:-

On acceptance of this Petition, the Respondents may
graciously be ordered to implement the order dated 13th
~~August~~ ⁻⁰⁹⁻ August, 2019 in Service Appeal No 858/2018 passed by this
Honourable Tribunal.

2

Respectfully Sheweth:-

- 1) That the Petitioner was appointed as Constable on 04th July, 1998 and on completion of necessary police training at Hangu in April, 1999 was transferred to Police Investigation Wing Kohat.
- 2) That on seniority cum fitness basis, he ^{was} also promoted as Head Constable by SP Investigation Kohat and on excellent performance, the SSP (Special Branch) Kohat awarded shoulder promotion as ASI to him.
- 3) That the reason best known to Respondents, the Petitioner was called back to regular police and was demoted to the post of Constable, which order was challenged before this Honourable Service Tribunal in Service Appeal No 1598/13, which appeal was accepted on 04-05-2017 with the condition to hold ^{demo} inquiry written vide para 'A' within 02 months, which was not conducted within 02 months period, hence another service appeal No 1598/2018 titled as Faqir Shah/...Vs....Respondents above, which was accepted on 13-09-2019. (Photocopy Annex 'B' but the said order/judgment is not being complied with).
- 4) That Petitioner departmental appeal from Respondents No 2 to 4 were not acceded to which are Annex 'C').
- 5) That being aggrieved from Respondents for redressal of the Petitioner's grievances, the instant application on the following grounds inter-alia:-

- 3 -

GROUNDS:-

A) That the act of Respondents of not deputing the Petitioner for training the C-II Course despite order of this Honourable Tribunal dated 13-09-2019 tantamounts to disobey this Honourable Tribunal order/judgment.

B) That this Honourable Tribunal order/judgment dated 13-09-2019 concluding para No 10 reads as under:-

“The Appellant was wrongly promoted by the order of SP Investigation Kohat without any fault on the part of Appellant, hence reversion of Appellant to his original post of Constable shall not be treated as stigma or punishment and if the Appellant was otherwise eligible for Lower School Court, he shall be sent for the same, despite the fact that he has become overage. The present appeal is disposed off accordingly.

- into*
- C) The the Respondents neither went ~~to~~ ^{into} CPLA before Supreme Court of Pakistan against judgment/order dated 13-09-2019 of this Honourable Tribunal, *not complying to same for no good reasons.*
- D) That others grounds will be raised at the time of arguments with the permission of this Honourable Court.

It is therefore, humbly submitted to redirect the Respondent to honour the judgment dated 13th September, 2019 of this Honourable Tribunal.

4

Any other relief which this Honourable Tribunal deems just and proper may also be granted to the Petitioner not specifically prayed for herein.

Petitioner *Faqir Shah*
(Faqir Shah)

Through:

Naqeeb Ullah
(NAQEEB ULLAH KHATTAK)
Advocate,
High Court, Peshawar

Dated:-21-07-2020

Note:-

No such like petition has been served before this Honourable Tribunal in the past except the instant petition.

Petitioner *Faqir Shah*

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Misc Application No _____ of 2020

Faqir Shah.....Petitioner

V E R S U S

Government of KP and others.....Respondents

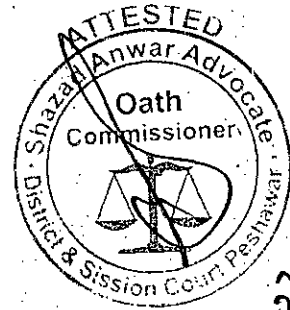
AFFIDAVIT

I, Faqir Shah Constable No 591 District Police Kohat Presently on deputation to Anti-Corruption Establishment Kohat, do hereby solemnly affirm and declare on oath that all the contents of this Application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

DEPONENT Faqir Shah
CNIC # _____
Cell # 03339834659

Identified by:-

Naqeeb Ullah Khattak
(NAQEEB ULLAH KHATTAK)
Advocate
High Court, Peshawar



21.07.2020



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Civil Misc Application No _____ of 2020

Faqir Shah.....Petitioner

V E R S U S

Government of KP and others.....Respondents

ADDRESS OF THE PARTIES

PETITIONER

Faqir Shah Constable No 591 District Police Kohat Presently on deputation to Anti-Corruption Establishment Kohat

RESPONDENTS

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

Appellant/Applicant

Through:

(NAQEEB ULLAH KHATTAK)

Advocate,

High Court, Peshawar

Dated: -21-07-2020

No	Order/ proceedings	Magistrate
1	2	<p style="text-align: right;"><i>Annexure A</i> (70)</p> <p style="text-align: center;"><u>3</u></p>
	<p>04.05.2017</p>	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 1598/2013</p> <p style="text-align: center;">Faqir Shah Versus Govt. of Khyber Pakhtunkhwa through Chief Secretary Home and Tribal Affairs, Peshawar and others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>AHMAD HASSAN, MEMBER:-</u></p> <p style="text-align: center;">Counsel for the appellant and Mr. Ziaullah, Government Pleader for the respondents present.</p> <p>2. Faqir Shah, hereinafter referred to as the appellant has preferred the instant service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 27.09.2013 of respondent no. 3 whereby the appellant was reverted/ reduced from the rank of Head Constable (BPS-07) to Constable on the pretext of misconduct and his departmental appeal dated 02.10.2013 to respondent no. 2 was rejected on 28.11.2013.</p> <p>3. Brief facts of the case are that the appellant was appointed as Constable in the Police Department on 14.07.1998. Subsequently he was promoted as C-II Head Constable by SP. Investigation, Kohat on 20.01.2006. Later on through corrigendum/ addendum C-II (BPS-07) was granted to him vide order dated 20.01.2009. On 28.02.2011 he was given shoulder promotion as Platoon Commander and vide order dated</p>

ATTENDED

[Signature]

Attested
Fazirullah
Advocate/SP
26-6-2018

was required as competent ^{authority S.P Investigation Kohat}

was not vested with powers to grant shoulder promotion.
Appellant got shoulder promotion as Platoon Commander but
there was no provision in the rules for shoulder promotion. He
was reverted back to his original rank of Constable because
promotion order was issued in violation of rules. All codal
formalities were completed before imposing major penalty on
the appellant. The appeal being devoid of any merit be
dismissed with cost. Reliance was placed on 2010 PLC (CS)
924, judgment of this Tribunal passed in service appeal no.
45/2015 dated 17.05.2016 and 803/2012 dated 07.03.2016.

6. Arguments heard and record perused.

7. Having gone through the record it transpired that the
appellant was promoted by SP Investigation, Kohat as C-II
Constable on 20.01.2006. Subsequently through a corrigendum
issued on 20.01.2009 the appellant was given rank of C-II (BPS-
07) instead of only C-II. Through order dated 28.02.2011 he was
given shoulder promotion as Platoon Commander while through
order dated 31.05.2011, he was elevated to the rank of ASI
(shoulder promotion). Afterwards disciplinary proceedings were
initiated against the appellant and charge sheet and statement of
allegations were served him. Charge leveled against the appellant
in the charge sheet is reproduced below:-

You while posted at Investigation Wing Kohat
succeeded to get enlistment C-II list HC and subsequently
got amendment in above promotion order as promoted to
the rank of HC (BPS-07).

ATTENDED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(10)

Inquiry was conducted in questionnaire form in violation of judgments of the Superior Courts. Statements of Saif-ud-Din, Nasir-ud-Din and Forooq Shah clearly confirmed that promotion was given to the appellant by the SP Investigation, Kohat. Hence, we are unable to comprehend how onus of enlistment as C-II Constable lies on the appellant?. It is strange that statement of former SP Investigation, Kohat who was solely responsible for issuing promotion orders from time to time was not recorded by the inquiry officer. To meet the ends of justice inquiry should have been conducted against SP. Investigation, Kohat for making illegal promotions. Respondents owe an explanation for brushing the matter under the carpet and making appellant a scapegoat. Moreover, impugned order is void ab-initio, as time frame contained in FR-29 was not mentioned in it. Inquiry was not conducted in the mode and manner prescribed in the rules and opportunity of fair trial not afforded to the appellant and as such he was condemned unheard.

ATTESTED

ENCLAVE
Kohat, Peshawar
Service Tribunal,
Peshawar

8. In view of the foregoing, we are constrained to accept the present appeal and set-aside the impugned order dated 27.09.2013 and direct the respondents to conduct de-novo inquiry against the appellant and conclude the same within a period of 60 days from the date of receipt of this judgment. The appellant may be fully associated with the inquiry proceedings and all formalities mentioned in the rules must be observed. In case inquiry proceedings are not concluded within the stipulated period, the appellant shall be deemed to have been elevated to his original rank before reversion. Parties are left to bear their own

Annexure B

(18)

costs. File be consigned to the record room

Sh. Ahmad Hassan
Member

Sh. Gulzar Khan
Member

Certified true copy
of the
Service Tribunal,
Peshawar

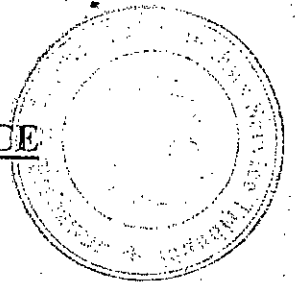
Attested
Razilullah

Advocate Peshawar

26-6-2018

(1) (12)

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**



SERVICE APPEAL NO. 858 /2018\

With application for Condonation of delay No. _____/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1120

Dated 04-7-2018

FAOIR SHAH Constable No. 591 Police Line Kohat,
District Kohat, presently Constable on Deputation to Anti Corruption
Establishment Kohat.....Appellant

VERSUS

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

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL
ACT-1974 AGAINST THE ORDER NO: 8345 DATED 1-11-2017 OF
RESPONDENT NO. 4 WHEREBY THE SERVICES OF APPELLANT AS
C-II HEAD CONSTABLE BPS-7 WERE REVERTED AS CONSTABLE
AND THE DEPARTMENTAL APPEAL DATED 14-11-2017 TO
RESPONDENT NO.3 WAS DECLINED ON 22-6-2018 AND THE
REVISION PETITION DATED 6-3-2018 TO RESPONDENT NO.2 IS AS
YET UNACTIONED AFTER LAPSE OF OVER 90 DAYS, MEANING
THREBY THAT THE SAME TOO HAS BEEN DECLINED.

PRAYER IN SERVICE APPEAL:

Filed to-day

Registrar
4/7/18

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, BOTH THE
IMPUGNED ORDERS DATED 1-11-017 AND 22-6-2018 OF
RESPONDENT NO.3 AND 4 RESPECTIVELY AS WELL AS OF
RESPONDENT NO.2 MAY GRACIOUSLY BE SET ASIDE, BEING
ILLEGAL AND WITHOUT ANY LAWFUL JURISDICTION AND THE
APPELLANT REINSTATED AS C-II HEAD CONSTABLE WITH ALL
BACK BENEFITS OF PAY AND SERVICE, WITH EFFECT FROM 27-9-
2013 I.E. THE DATE ON WHICH THE APPELLANT WAS INITIALLY
REVERTED AND REINSTATED BY THIS HONORABLE TRIBUNAL
ON 4-5-2017 ON SERVICE APPEAL NO.1598/2013 AND FOR DENOVO
ENQUIRY AS THE REVIOUS ONE ENQUIRY WAS DEFECTIVE

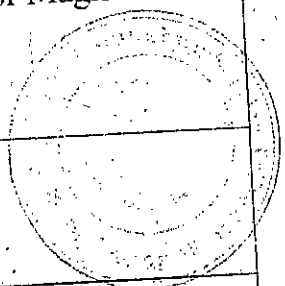
Respectfully Sheweth,

Facts in brevity followed by grounds giving rise to the instant Service
Appeal are submitted hereunder:-

1. That the appellant was appointed as Constable on 14-07-1998 by
Respondent No.4 in Police Department and completed Police Recruit
Course in April 1999 and then transferred to Police Investigation
Wing Kohat.

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Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3



BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL
Service Appeal No. 858/2018

Date of Institution 04.07.2018
Date of Decision 13.09.2019

Faqir Shah Constable No.591 Police Line Kohat, district Kohat
Presently Constable on Deputation to Anti-Corruption
Establishment Kohat..

Appellant

Versus

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

Respondents

13.09.2019

Mr. Muhammad Hamid Mughal-----Member(J)
Mr. Hussain Shah-----Member(E)

JUDGMENT

MUHAMMAD HAMID MUGHAL; MEMBER: Learned

counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present.

2. The appellant (Ex. C-II Head Constable) has filed the present service appeal against the order dated 01.11.2017 whereby, upon holding of de-novo departmental proceedings against the appellant, he was reverted to his original rank of Constable. The appellant has also assailed the order dated 22.06.2018 through which his

13.9.2019
(Handwritten signature)

TESTED

(Handwritten signature)
Member
Kyber Pakhtunkhwa
Service Tribunal,
Peshawar

departmental appeal against the original impugned order was rejected.

3. Learned counsel for the appellant argued that the appellant was appointed as Constable in the year 1998 by District Police Officer Kohat (respondent No.4) and he completed recruit course in 1999; that the appellant was transferred/posted to Investigation Wing as Constable where he was promoted as C-II Head Constable by Superintendent of Police Investigation Kohat vide order dated 20.01.2006; that the promotion of the appellant was confirmed by Superintendent of Police Investigation Kohat vide order dated 20.01.2009; that on 28.02.2013 the appellant was given shoulder promotion as ASI by Superintendent Police Investigation Kohat; that vide order dated 02.07.2013 the appellant was transferred to District Police and thereafter he was departmentally proceeded on the allegation that as to how he got promotion as C-II Head Constable (BPS-07); that vide order dated 27.09.2013 the appellant was reverted to the post of Constable which order was challenged before this Tribunal in Service Appeal No.1598/2013, accepted vide judgment dated 04.05.2017 with the direction to the respondents to conduct de-novo inquiry; that respondent No.4 issued charge sheet to the appellant to which the appellant furnished his reply; that the inquiry officer submitted his report to respondent No.4 who issued Final Show Cause Notice; that the appellant furnished reply to the Show Cause Notice; that eventually respondent No.4 reverted the appellant as Constable vide order dated 01.11.2017; that

13.9.2019

ATTESTED

Secretary
Service Tribunal,
Peshawar

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departmental appeal of the appellant against the order of his reversion was rejected; that the appellant also filed Revision Petition before respondent No.2 but the same was not answered. Learned counsel for the appellant next contended that the impugned orders are against law and norms of justice; that the appellant was promoted in view of his excellent performance; that the allegation leveled against the appellant does not come within the purview of misconduct because the appellant's promotion was made by the Superintendent of Police Investigation Kohat.

4. As against that learned Deputy District Attorney argued that the appellant procured promotion as C-II Head Constable by the order of Superintendent of Police Investigation Kohat who had no authority under the law to do so; that under the Police Rule 13.8, promotion of a Constable as C-II Head Constable is to be made with the approval of the RPO or Capital City Police Officer by the DPO/SP of the District and in the case of the appellant no approval was sought from RPO. Further argued that even otherwise Superintendent of Police Investigation Kohat was not competent to grant promotion to the appellant as C-II Head Constable because Lists A, B C & D are maintained in the office of DPO. Further argued that the orders in relation to the promotion of the appellant passed by Superintendent of Police Investigation Kohat are unlawful and the appellant thereby managed out of turn promotions which are barred by law/rules and are against the judgments of superior courts. Further argued that there is no any provision in the Police Rules

13.9.2019

ATTESTED

Signature
 District Magistrate
 Kohat

16

regarding shoulder promotion. Further argued that all the out of turn promotions have been withdrawn upon the directions of august Supreme Court of Pakistan. Further argued that the appellant was rightly reverted after observing all the legal requirements.

5. Arguments heard. File perused.

6. It is not disputed that the appellant was granted promotion as C-II Head Constable by the Superintendent of Police Investigation Kohat without obtaining any approval from RPO. Learned counsel for the appellant remained unable to demonstrate that the Superintendent of Police Investigation Kohat enjoyed the authority to grant promotion to the appellant as C-II Head Constable.

7. According to the provisions of Police Rule 13.8, Selection Board consisting of District Head of Police of the district concerned and two other officers not below than the rank of Superintendent of Police shall be constituted by the Capital city Police officer or Regional Police Officer (RPO), as the case may be, to consider on the basis of outstanding performance and good reputation of constables for placement on list C-II:

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

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

10. The appellant was wrongly promoted as C-II Head Constable

13.9.2019
 ATTESTED
 [Signature]
 Commissioner,
 Peshawar

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by the order of Superintendent of Police Investigation Kohat without any fault on the part of appellant, hence the reversion of the appellant to his original post of Constable shall not be treated as stigma or punishment and if the appellant was otherwise eligible for Lower School Course in the year 2006 he shall be sent for the same despite the fact that he has become overage. The present service appeal stands disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

(Hussain Shah)
Member

(Muhammad Hamid Mughal)
Member

ANNOUNCED
13.09.2019

Date of ...

Number of ...

Copy ...

Urgency ...

Total ...

Name ...

Date of ...

Date of Delivery of ...

18-09-19
 2400
 28-00
 —
 28-00

 22-10-19
 22-10-19



Arrested e-3

(2.8)

Office of the
District Police Officer,
Kohat

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

No. 4079 /LB dated Kohat the 17/3 /2020

To: The Regional Police Officer, Kohat

Subject: REQUEST FOR LEGAL ACTION

Memo:

Kindly refer to your good office Endst: No. 3313/EC dated 04.03.2020.

It is submitted that the appellant while posted in Investigation Branch, Kohat was promoted to the rank of C-II Head constable by SP Investigation, Kohat and thereafter, he was proceeded with departmentally on the allegation that he managed to get illegal / out of turn promotion as SP Investigation is not competent to accord such promotion.

2. After availing departmental appellate forums against the above order, the appellant filed a service appeal before the Khyber Pakhtunkhwa, Service Tribunal, which was pursued by the officer concerned.

3. The Honorable Tribunal vide judgment dated 13.09.2019 disposed of the appeal and the relevant paras are reproduced:

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

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

4. As per report of concerned official the appellant has not appeared A-1 and B-1 examinations in the year 2006 till date which are mandatory for selection to lower school course. Therefore, the plea of appellant for selection to lower school course is not justified and he is not eligible for selection to the lower school course.

Submitted please.

*Arrested
Qazi Babar
Advocate
Peshawar*

DISTRICT POLICE OFFICER,
KOHAT

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخواہ پشاور

20

Annexure 3

درخواست بابت جائز عرض و معروض

عنوان:

جناب عالی!

میں کنسٹیبل فقیر شاہ بلٹ نمبر 591 سال 1998 کا بھرتی ہوں۔ میں نے پوری سروس میں کبھی افسران بالا کو شکایت کا موقع نہیں دیا، نہ کوئی غیر حاضری کی۔ تاحال میں اپنے خدمات خوش اصولی سے سرانجام دے رہا ہوں۔

Annexure 2

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخواہ پشاور

29

بابت جائز عرض و معروض

عنوان:

جناب عالی!

مؤدبانہ گزارش ہے کہ میں صاحب بہادر ڈاکٹر ثناء اللہ عباسی صاحب آپ کی خدمت میں ایک فریادی درخواست پہلے بھی دے چکا ہوں جو کہ درخواست کے ساتھ لف ہے۔

جناب والا! اس کا جواب جو آپ کی خدمت میں ارسال کیا گیا ہے، کہ محکمہ نے تحریر کیا ہے کہ اس نے A-I اور B-I سال 2006 میں نہیں کیا ہے۔

جناب والا! میں 2006 میں انوسٹی گیشن سٹاف کوہاٹ میں ڈیوٹی سرانجام دے رہا تھا۔ SSP انوسٹی گیشن آفس کو A-I اور B-I کیلئے میرے نام پر کوئی اطلاع ارسال نہیں ہوئی۔ اگر ان کے پاس اطلاع دینے کا کوئی ثبوت ہے تو آپ کی خدمت میں پیش کریں۔

جناب والا! اگر ان کے پاس اطلاع کا کوئی ثبوت نہیں ہے تو پھر میرے ساتھ انصاف کیا جائے اور میری اس فریادی درخواست پر عمل کیا جائے اور مجھے پیشل کیس میں لوئر سکول کورس کیلئے PTC ہنگو بھیجنے کا حکم صادر فرمایا جائے جو کہ آپ کے اختیار میں ہے اور عدالت کا فیصلہ بھی لف درخواست ہے۔

جناب والا! سال 2013 سے انصاف کیلئے کوشش کر رہا ہوں آج سال 2020 ہو چکا ہے۔ لیکن انصاف دینے کیلئے کوئی تیار نہیں ہے۔

انشاء اللہ آپ صاحب سے امید ہے کہ انصاف ملے گا۔

العارض

Attested
Muhammad
Fahim

فقیر شاہ

کانسٹیبل فقیر شاہ نمبر 591 ڈسٹرکٹ پولیس کوہاٹ۔

03339634652

موبائل نمبر

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخواہ پشاور
درخواست بابت جائز عرض و معروض

20
عنوان:

Annexure 3

جناب عالی!

میں کنسٹیبل فقیر شاہ بلٹ نمبر 591 سال 1998 کا بھرتی ہوں۔ میں نے پوری سروس میں کبھی افسران بالا کو شکایت کا موقع نہیں دیا، نہ کوئی غیر
حاضری کی۔ تاحال میں اپنے خدمات خوش اصولی سے سرانجام دے رہا ہوں۔

جناب والا! سال 2006 میں میرا تبادلہ ڈسٹرکٹ انوسٹی گیشن کو ہاٹ ہوا۔ اور وہاں سال 2006 میں مجھے اچھے پرفارمنس کی وجہ سے ایس ایس
پی انوسٹی گیشن نے مجھے C-II ہیڈ کنسٹیبل کے عہدے پر لایا اور بعد میں جب ہیڈ کنسٹیبل کی ویکینی خالی ہوئی تو میں نے دوبارہ سال 2009 میں درخواست
دی کہ مجھے خالی ہیڈ کنسٹیبل کی ویکینی (BPS-07) پر پروموٹ کیا جائے اور جناب ایس ایس پی صاحب نے درخواست پر غور کرنے کے بعد مجھے
پروموٹ کیا۔ سال 1975 کے پولیس رول کے مطابق۔

جناب والا! سال 2013 میں مجھے بغیر کسی سزا دیے رپورٹ کیا گیا۔ مجھ پر کسی قسم کی کوکمپلیٹ وغیرہ بھی نہیں تھی۔ جناب والا! اس کے
بعد میں مجبور ہو کر میں سروس ٹریبونل میں اپیل دائر کی اور چار سال سروس ٹریبونل میں میری اپیل چلتی رہی۔ اور سروس ٹریبونل نے میری اپیل کو سال 2017
میں میرے حق میں منظور کی۔ اور بعد میں محکمہ پولیس میں دو سال منظور شدہ اپیل پڑی رہی۔

جناب والا! میں دوبارہ سال 2018 میں سروس ٹریبونل بیج کو فریاد کی کہ آپ کی منظور شدہ اپیل پر ابھی تک غور نہیں کیا گیا۔ سروس
ٹریبونل نے میری اپیل پر دوبارہ سے غور کر کے سال 2019 میں مجھے لوئر کورس PTC ہنگو کیلئے بھیجنے کا حکم دیا۔

جناب والا! صاحب بہادر جناب انسپکٹر جنرل آف پولیس ثناء اللہ خان عباسی صاحب آپ سے ایک فریادی کنسٹیبل کی درد مندانه گزارش ہے کہ
میں ایک غریب ملازم ہوں اور اللہ کے سوا اور کوئی سفارش نہیں ہے۔ والد صاحب فوت ہو چکے ہیں اور اپنے گھر کا واحد خود کفیل شخص ہوں۔ آپ سے عاجزانہ
التماس ہے کہ مجھے لوئر کورس کیلئے بھیجنے کا حکم صادر فرمایا جائے۔

(عدالت کا فیصلہ درخواست ہے)

العارض

Attested
Muhammad

آپ کا تابع فرمان کنسٹیبل فقیر شاہ بلٹ نمبر 591 متعینہ ڈسٹرکٹ پولیس کوہاٹ

03339634652

موبائل نمبر



21-2-2020



Annexure C-4

21

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

No *587-88*

/CPO/IAB/PAS dated Peshawar the 28 February /2020

To: The **Regional Police Officer,**
Kohat.

Subject: **REQUEST FOR LEGAL ACTION**

Memo:-

Respected Sir,

Enclosed please find herewith an application/complaint submitted by Constable Faqeer Shah from Kohat. After perusal of application, the competent authority has passed the following remarks thereon:

"RPO/Kohat:
As per rules."

It is therefore, requested that order of competent authority may please be complied with under intimation to this office by 16.03.2020 for onward submission to Worthy IGP Khyber Pakhtunkhwa.

*Att. atted
Majidullah
Advocate
Peshawar*

Sd/
(DSP/PAS)
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

C.C

AIG C & E for the favour of information please

Phone No: 9260112.
Fax No: 9260114.

Annexure C-5

22

From: - The Regional Police Officer,
Kohat Region, Kohat.

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

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No. 4760 /EC, Dated Kohat the 30/4/2020.

Subject: - REQUEST FOR LEGAL ACTION.

MEMO:

Kindly refer to your office Letter No. 587-88/CPO/IAB/PAS, dated 28.02.2020 on the subject quoted above.

In this connection, detailed and self-explanatory report received from District Police Officer, Kohat vide his office Letter No. 4079/LB, dated 17.03.2020 is submitted herewith for favour of perusal as desired please.

JH Co

Regional Police Officer,
Kohat Region

Attested

M. Sidique
Advocate Peshawar

23

قیمت
50 روپے

49619



ایڈوکیٹ: نعیم احمد صاحب
 بار کونسل ایسوسی ایشن نمبر: BC-7332
 رابطہ نمبر: 0343 91222 93

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: سر جسٹس بیرونل صوبہ گلبرگ کچھنڈوہ لٹاؤ

مخاطب: <u>فقیر شاہ</u>	دعویٰ: <u>درخواست تہمت</u>
<u>فقیر شاہ</u>	علت نمبر: _____
<u>خدمت خیبر پختونخواہ بلوچستان صوبہ گلبرگ کچھنڈوہ لٹاؤ</u>	مورخہ: _____
	جرم: _____
	تھانہ: _____

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب وہی کارروائی متعلقہ
 آن مقام پشاور کیلئے نعیم احمد صاحب کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 1/2020

_____ مقام

 _____ کے لیے منظور ہے۔

Attested & received

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔
Qazi Iqbal
 Advocate Peshawar

رسید
کیا اور
صفحہ

Faqir Shah



BEFORE THE HONORABLE KHYBER-PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition/
Misc Application No. 108/2020
Faqr Shah

..... Petitioner

VERSUS

Government of Khyber Pakhtunkhwa,
Through Secretary Home,
Civil Secretariat Peshawar & others

..... Respondents

INDEX

S.#	Description of documents	Annexure	pages
1.	Parawise comments	-	01-03
2.	Copy of report Letter No. 19892/LB dated 06.11.2019	A	04
3.	Copy of implementation of judgment of Apex Court pertains to out of turn promotion vide Letter No. CPO/CPB/264 dated 06.10.2020	B	05
4.	Additional doc: copy of judgment in Service Appeal No. 858/2018 dated 13.09.2019	C	06-10
5.	Affidavit	-	11


Deponent /
Representative

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition/
Application No. 108/2020
Munir Shah

..... Petitioner

VERSUS

Government of Khyber Pakhtunkhwa,
Through Secretary Home,
Civil Secretariat Peshawar & others

..... Respondents

PARAWISE COMMENTS, REPLY BY RESPONDENTS.

Respectively Sheweth:-

Preliminary Objections:-

- i. That the applicant has got no cause of action.
- ii. The applicant has got no locus standi.
- iii. The applicant is estopped to file the present application due his own act.
- iv. That the applicant has not come to this Hon. Tribunal with clean hands.
- v. That the application is bad for misjoinder and nonjoinder of parties.
- vi. That the application is bad in eyes of law and not maintainable.
- vii. That according to judgment of Honorable Tribunal passed in service appeal No. 858/2018 dated 13.09.2019, the applicant is not eligible for selection to lower school course. Copy of compliance report is **annexure A**.
- viii. That the applicant had managed out of turn promotion, regarding which the judgments of august Supreme Court of Pakistan is being implemented. Copy is **annexure B**.
- ix. That the application is not justified as is it a miscellaneous application or execution petition? Therefore, the same is liable to be dismissed in limine with cost.

FACTS:-

1. The petitioner was appointed as constable on 14.07.1998 and transfer / posting is a part of service / administrative matter.

②

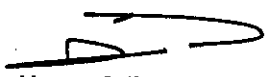
- The issue has already been deliberated and decided by this honorable Tribunal vide judgment dated 13.09.2019. However, it is added that the petitioner was granted out of turn promotion and the august Supreme Court of Pakistan in various judgments declared such promotions, ab-initio, void & null, unconstitutional and un-Islamic Republic of Pakistan. It is further stated that criteria for promotion on list C-II is provided in Police Rule 13.8, wherein in clause -4 selection board consisting of district head of Police of the district concerned and two other officers not below the rank of Superintendent of Police shall be constituted by the CCPO or RPO as the case may be, to consider of outstanding performance and good reputation of constable for placement on list-II which was not fulfilled and SP Investigation has no authority to give promotion. Furthermore, according to Police Rules 13.7-A, qualification of A-1 and B-1 examinations are mandatory / pre-requisite for selection to lower school course and according to sub rule-8 of the Rules ibid, the Head of District Police shall select B-1 qualified candidates for lower school course strictly in accordance with consolidated seniority list as provided in sub rule 13 of the Rules ibid. Hence, the petitioner has neither joined the said examinations, nor qualified therefore, the petitioner is not eligible for selection to lower school course or promotion. Extract of Police Rules are **annexure C & D**.
3. The reasons for reversion of the petitioner from out of turn promotion are detailed in above para No. 2. In compliance with the judgment in service appeal No. 8158/2018, de-novo proceedings were conducted and disposed of accordingly. Regarding, subsequent judgment dated 13.09.2019 in service appeal No. 858/2018, the relevant line of operative para – 10 of the judgment for compliance of respondents is reproduced as, **“and if the appellant was otherwise eligible for Lower School Course in the year 2006, he shall be sent for the same despite the fact that he has become overage”**. In the light of the above, service record of the petitioner was gone through which indicates that the petitioner was neither eligible for selection to Lower School Course in the year 2006, nor till date.
 4. On disposal of service appeals of the petitioner, the petitioner was informed that he is not eligible for selection to Lower School Course on the reasons and out of turn promotion, hence the application of the petitioner if any is unjustified.
 5. The petitioner is estopped to file the instant unjustified application for the reasons mentioned above and his own act.


Grounds:-

- a. Incorrect, there are no C-II course / training in Police Rules. Furthermore, the judgment of the Honorable Tribunal in service appeal No. 858/2018 is honored and the petitioner was not eligible in the year 2006 and till date.
- b. Detail reply is submitted in para No. 3 of the facts and para-A of the grounds.
- c. The petitioner's out of turn promotion is not upheld by the honorable Tribunal vide judgment dated 13.09.2019 and the petitioner is not eligible for selection to Lower School Course. Hence, no need to file CPLA against the judgment.
- d. The respondents through representative may be allowed to advance other grounds during the course of hearing.


Prayer:-

In view of the above, it is prayed that the petition/application contrary to facts, law & rules, devoid of merits and not maintainable may graciously be dismissed with costs.


Secretary Home & TAs Department
Khyber Pakhtunkhwa,
(Respondent No. 1)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 2)


District Police Officer,
Kohat
(Respondent No. 3)


Dy: Inspector General of Police,
Kohat Region
(Respondent No. 4)



Office of the
District Police Officer,
Kohat

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

No. 19892 /LB dated Kohat the 6 / 11 / 2019

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

(Attention AIG Legal)

Subject: **SERVICE APPEAL NO. 858/2018 TITLED FAQIR SHAH CONSTABLE
VS GOVT OF KHYBER PAKHTUNKHWA, THROUGH SECTARY HOME
PESHAWAR & OTHERS**

Memo: Kindly refer to your good office Letter No. 5302/Legal dated
04.11.2019.

It is submitted that as per report of concerned and perusal of service record of the appellant, the appellant did not appear in A-1 and B-1 examinations and qualifications of the said examinations are pre-requisite for selection to the lower school course. Hence, the appellant is not eligible for the said course.

Therefore, the 2nd operative part of the judgment passed in the subject appeal goes in favour of the department.

Submitted for appropriate order please.


DISTRICT POLICE OFFICER,
KOHAT



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

Annexure B (5)

No. CPO/CPW 264

Dated Peshawar 06 October, 2020

To: The Capital City Police Officer,
Peshawar.

All Regional Police Officers, in Khyber Pakhtunkhwa.

Subject: IMPLEMENTATION OF JUDGMENT OF APEX COURT PERTAINS TO OUT
OF TURN PROMOTION

Memo:-

The Competent Authority has directed to implement the judgments of Supreme Court of Pakistan SCMR2013-1752 and SCMR2017-206 titled Shahid Pervez VS Ijaz Ahmad and others, Intra Court appeal 2017/2018 dated 13.05.2018 and judgment in Civil Petition No. 1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 dated 20.06.2020 pertains to Out of turn promotions of Police Officials/Officers in true letter and spirit and report compliance within ten (10) days positively.

The judgments conveyed through official E-mail to your respective offices.

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



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

No. CPO/CPW 264

Dated Peshawar 06 October, 2020.

To: The Capital City Police Officer,
Peshawar.

All Regional Police Officers, in Khyber Pakhtunkhwa.

Subject: IMPLEMENTATION OF JUDGMENT OF APEX COURT PERTAINS TO OUT
OF TURN PROMOTION

Memo:-

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The judgments conveyed through official E-mail to your respective offices.

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

(6)

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	13.09.2019	<p align="center"><u>BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 858/2018</p> <p>Date of Institution 04.07.2018 Date of Decision 13.09.2019</p> <p>Faqir Shah Constable No.591 Police Line Kohat, district Kohat Presently Constable on Deputation to Anti-Corruption Establishment Kohat..</p> <p align="right">Appellant</p> <p align="center">Versus</p> <ol style="list-style-type: none"> Government of Khyber Pakhtunkhwa, through Secretary Home Peshawar. Inspector General of Police (Provincial Chief Police Officer) Peshawar. Deputy Inspector General of Police, Kohat Range, Kohat. District Police Officer (SP) Kohat. <p align="right">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Hussain Shah-----Member(E)</p> <p align="center"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present.</p> <p>2. The appellant (Ex. C-II Head Constable) has filed the present service appeal against the order dated 01.11.2017 whereby, upon holding of de-novo departmental proceedings against the appellant, he was reverted to his original rank of Constable. The appellant has also assailed the order dated 22.06.2018 through which his</p>

13.9.2019

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

departmental appeal against the original impugned order was rejected.

3. Learned counsel for the appellant argued that the appellant was appointed as Constable in the year 1998 by District Police Officer Kohat (respondent No.4) and he completed recruit course in 1999; that the appellant was transferred/posted to Investigation Wing as Constable where he was promoted as C-II Head Constable by Superintendent of Police Investigation Kohat vide order dated 20.01.2006; that the promotion of the appellant was confirmed by Superintendent of Police Investigation Kohat vide order dated 20.01.2009; that on 28.02.2013 the appellant was given shoulder promotion as ASI by Superintendent Police Investigation Kohat; that vide order dated 02.07.2013 the appellant was transferred to District Police and thereafter he was departmentally proceeded on the allegation that as to how he got promotion as C-II Head Constable (BPS-07); that vide order dated 27.09.2013 the appellant was reverted to the post of Constable which order was challenged before this Tribunal in Service Appeal No.1598/2013, accepted vide judgment dated 04.05.2017 with the direction to the respondents to conduct de-novo inquiry; that respondent No.4 issued charge sheet to the appellant to which the appellant furnished his reply; that the inquiry officer submitted his report to respondent No.4 who issued Final Show Cause Notice; that the appellant furnished reply to the Show Cause Notice; that eventually respondent No.4 reverted the appellant as Constable vide order dated 01.11.2017; that

13.9.2019

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

departmental appeal of the appellant against the order of his reversion was rejected; that the appellant also filed Revision Petition before respondent No.2 but the same was not answered. Learned counsel for the appellant next contended that the impugned orders are against law and norms of justice; that the appellant was promoted in view of his excellent performance; that the allegation leveled against the appellant does not come within the purview of misconduct because the appellant's promotion was made by the Superintendent of Police Investigation Kohat.

4. As against that learned Deputy District Attorney argued that the appellant procured promotion as C-II Head Constable by the order of Superintendent of Police Investigation Kohat who had no authority under the law to do so; that under the Police Rule 13.8, promotion of a Constable as C-II Head Constable is to be made with the approval of the RPO or Capital City Police Officer by the DPO/SP of the District and in the case of the appellant no approval was sought from RPO. Further argued that even otherwise Superintendent of Police Investigation Kohat was not competent to grant promotion to the appellant as C-II Head Constable because Lists A, B C & D are maintained in the office of DPO. Further argued that the orders in relation to the promotion of the appellant passed by Superintendent of Police Investigation Kohat are unlawful and the appellant thereby managed out of turn promotions which are barred by law/rules and are against the judgments of superior courts. Further argued that there is no any provision in the Police Rules

13.9.2019

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

at

regarding shoulder promotion. Further argued that all the out of turn promotions have been withdrawn upon the directions of august Supreme Court of Pakistan. Further argued that the appellant was rightly reverted after observing all the legal requirements.

5. Arguments heard. File perused.

6. It is not disputed that the appellant was granted promotion as C-II Head Constable by the Superintendent of Police Investigation Kohat without obtaining any approval from RPO. Learned counsel for the appellant remained unable to demonstrate that the Superintendent of Police Investigation Kohat enjoyed the authority to grant promotion to the appellant as C-II Head Constable.

7. According to the provisions of Police Rule 13.8, Selection Board consisting of District Head of Police of the district concerned and two other officers not below than the rank of Superintendent of Police shall be constituted by the Capital city Police officer or Regional Police Officer (RPO), as the case may be, to consider on the basis of outstanding performance and good reputation of constables for placement on list C-II:

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

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

10. The appellant was wrongly promoted as C-II Head Constable

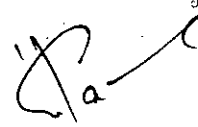
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13.9.2019
ATTESTED

EXAMINER
CIVIL SERVICE TRIBUNAL
Kohat

by the order of Superintendent of Police Investigation Kohat without any fault on the part of appellant, hence the reversion of the appellant to his original post of Constable shall not be treated as stigma or punishment and if the appellant was otherwise eligible for Lower School Course in the year 2006 he shall be sent for the same despite the fact that he has become overage. The present service appeal stands disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
13.09.2019

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

11

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

**Execution Petition/
Misc Application No. 108/2020
Faqir Shah**

..... Petitioner

VERSUS

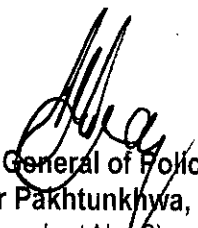
**Government of Khyber Pakhtunkhwa,
Through Secretary Home,
Civil Secretariat Peshawar & others**

.... Respondents

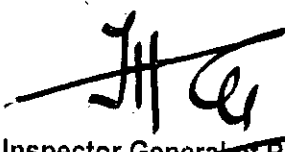
COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.

**Secretary Home & TAs Department
Khyber Pakhtunkhwa,
(Respondent No. 1)**


**Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 2)**


**District Police Officer,
Kohat
(Respondent No. 3)**


**Dy: Inspector General of Police,
Kohat Region
(Respondent No. 4)**



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

STANDING ORDER NO. 6 /2014

Promotion of Constables as C-ii Head Constables

This Standing Order is issued under Article 10(3) of Police Order 2002 in pursuance of the Police Policy Board decision taken in its 11th meeting held on 21st August 2014.

2. **Aim:**-This Standing Order aims to streamline and standardize the criteria and procedure of placement of Constables on promotion List C-ii and their subsequent promotion as C-ii Head Constables.
3. **Placement on C-ii List:**-Those Constables who have crossed the age limit prescribed for A-1/B-1 Exams without qualifying the same may be considered for placement on promotion List C-ii.
4. A Selection Board at the District level, constituted by CCPO or RPO, as the case may be, and consisting of the DPO concerned (SSP Operations in case of District Peshawar) and two other officers not less than the rank of SP, may consider Constables for placement on C-ii list as per the following criteria:
 - a. Outstanding performance;
 - b. Good general reputation.
5. **Procedure:**-Seniority of Constables placed on List C-ii shall be determined from the date of entry into the promotion List C-ii.
6. The Selection Board constituted under section 4 above may recommend to CCPO or RPO, as the case may be, Constables placed on C-ii List for promotion as Head Constables in accordance with the following criteria:

- a. Seniority-cum-outstanding performance;
- b. Good general reputation.

7. After approval of CCPO or RPO, as the case may be, the DPO (SSP Operations in case of Peshawar) shall promote such Constables as C-ii Head Constables.

8. **Promotion of Constables as C-ii Head Constables on reaching superannuation:-**
A large number of Constables retire without being promoted as Head Constables. Such Constables deserve to be promoted as C-ii Head Constables, before their superannuation, in recognition of their long-standing services for the police department.

8.1 The criteria and procedure given in section 3 to 7 above shall not apply to the promotion of Constables promoted as C-ii Head Constables on superannuation. Instead, such constables shall be promoted, in line with the IGP Policy Guidelines No. 04/2013 dated 5th December 2013, according to the following procedure:

- a) The District Head of Police or the Head of a Police Unit, as the case may be, shall place the name of a Constable on promotion List C-ii on the first day of the last six months before the date of his superannuation.
- b) Once the name of a constable has been placed on promotion List C-ii under section 8.1 (a), the District Head of Police or the Head of a Police Unit, as the case may be, shall promote the Constable as Head Constable (C-ii) on the first day of the last three months before the date of his superannuation.
- c) **This procedure shall not apply to constables going on LPR.**
- d) The District Head of Police or the Head of Police Unit, as the case may be, shall maintain a list of all Constables well before their superannuation.

9. Only upto 10% of the vacancies of Head Constables in a District or Unit, as the case may be, shall be filled through promotion from List C-ii. In any case, such promotions shall not exceed 10% of the total vacancies of Head Constables in a District or Unit.

10. **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.

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

(NASIR KHAN DURRANI)
Provincial Police Officer
Khyber Pakhtunkhwa
Peshawar

No:- 428-91 198 dated Peshawar the 14th September 2014

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

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

(MUBARAK ZEB) PSP
DIG Headquarters
Khyber Pakhtunkhwa
Peshawar

No. 15243-44 OS Dt 24-09-2014

Copy to OHE SRA
for Maecton and inform all
concerned.



① Annexure - B
P-06

STANDING ORDER NO. 01 OF 2004.

(Chapter XIII of NWFP Police Rules 1937 and Punjab Police Rules 1934)

372
13/3/2004
Date: 13/3/2004

PREAMBLE.

The August Supreme Court of Pakistan vide its judgement dated 05-08-1998 in the case titled as ASI Sadique Akbar vs ASI Sanobar Khan, held that standing order issued by the Inspector General of Police without the prior approval of the Provincial Govt. required under section 12 of Police Act 1861 (now repealed) is of no legal authority and status. In view of above, standing order No.10 of year 1987, which describes the procedure/method of A-1 & B-1 examination system of marking and subsequent selection of constables for courses by the D/G, carries no legal status and authority. The existing circumstances, therefore render it necessary to issue a standing order describing procedure of A-1 & B-1 exams and marking system, for the selection and promotion of efficient men amongst the constables.

Now, therefore in exercise of the powers, conferred upon me under article 10 (3) of Police Order 2002 this standing order is issued

APPLICABILITY.

The standing order shall apply to all the recruited police personnel in the NWFP and shall come into force at once.

AIM.

To elaborate a procedure of A-1 and B-1 examination, marking system, publication of results, selection of constables for "Lower College Course" and maintenance of promotion lists as per requirement of the present time and efficiency of Police personal.

SCOPE OF STANDARD.

Promotion to lists A-1, B-1, selection to "Lower College Course" and Promotion to list C-1, and maintenance of promotion lists.

SCHEDULE OF EXAMINATION

Examinations shall be held in all districts for promotion of constables for list-A-1 & B-1 during first quarter in each year. Commandant PTC Hangu shall notify the dates and conduct the examination.

QUALIFYING SERVICE FOR A-1 EXAMINATION.

A constable whose name appears on promotion list-A and who has at least three years of experience in the district Police shall qualify to participate in A-1 examination.

SYLLABUS.

Syllabus for examination shall be based on the following duties which a Constable is expected to perform under Police Rules 14.16 and 17.9.

- A. Escort duties.
- B. Guard duties.
- C. Law and Order duties.

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- D. Patrolling.
- E. ~~Anti riot duties.~~
- F. Nakabandies.
- G. Raids in urban and rural areas.
- H. Duties of a beat constable in urban areas.
- I. Rural policing including collection of intelligence on criminals, surveillance of bad characters and criminals and service of process, etc.

EXAMINATION.

The examination shall be held in law.

Law That amount of law which is applicable to the functions of a Constable as well as Police practical work pertaining to constable level.

Examination shall be held simultaneously in all districts of the province. This examination shall be conducted by the Commandant, PTC Hangu who shall prepare the papers, conduct this examination, mark them and declare the results. It shall be the duty of DPO to notify the names of the successful candidates according to the vacancies available and bring their names on promotion list-1. Every qualified constable shall be allowed to avail a maximum of three chances to qualify this examination.

PIA

QUALIFYING SERVICE FOR B-1 EXAMINATION.

Those constables who have completed 2 years service on list A-1 shall be eligible to appear for B-1 examination. It shall be the responsibility of DPOs to ensure that constables are assigned duties in such a manner that they have experience of a few of the following functions, which shall form the syllabi for the B-1 Examination.

- a. Madad Moharrir in a Police Station.
- b. Naib Court.
- c. Detective foot Constable.
- d. Madad Moharrir in Lines.
- e. Assistant to OASI.
- f. Beat Constable in Urban Area.
- g. Rural Policing, i.e. collection of intelligence on Criminals, surveillance of bad Characters / criminals and service of process.

*Accepted
All / 10*

B-1 examination shall similarly be held by the Commandant, PTC Hangu. The examination shall be primarily based on the capabilities of the candidates in functions given above which shall be required to be performed during their tenure as constables. The question paper shall allow sufficient choice.

NOTIFICATION OF RESULTS.

~~The number of candidates to be brought on promotion list B-1 shall be notified by the respective Regional heads/DIGs on the basis of the number of seats that are allotted for the "Lower College Course" during the particular year.~~

Promotion to list B-1 shall be based on a merit list published by the Commandant PTC Hangu for each district.

~~Those who are not selected during the particular examination, shall have no claim to be placed on a waiting list. They shall therefore have to undergo a fresh examination for promotion in the succeeding year. Every individual shall be allowed to avail a maximum of ~~four~~ (3) chances to qualify the B-1 examination.~~

Three

MARKING SYSTEM FOR LIST-A-I, B-I & "LOWER COLLEGE COURSE"

Selection for entry to A-I, B-I and "Lower College Course" shall be based on the marking system, which also now includes a written examination for A-I and B-I.

Weightage of approximately 50% has been given to heads A, B, C, D & E in the marking system whereas 50% weightage has been given to Section 'F' in which the requirement of the written examination has been laid. A study was conducted which indicated that Constables eligible for list A-I score an average of 10 marks (minus marks for C.C) and a candidate for B-I scores an average of 15 marks (minus marks for C.C).
The total marks for written examination for A-I shall be 10 & for B-I 15.

Selection for "Lower College Course" shall be based on marking system but there shall be no written examination as laid down in Section 'F'.

Consideration for those who are likely to become overage shall continue to be given as admissible under the rules.

The original section dealing with personal claim and commendation certificates is being deleted and shall therefore no longer qualify for award of marks.

Selection shall be made purely on merit based on the marking system, i.e. combination of the Sections A, B, C, D, E & F of the new marking system for A-I and B-I and A, B, C, D and E for "Lower College Course"

Promotion to List C-I

On Successful completion of "Lower College Course"

Muhammad Riffat Pasha
(Muhammad Riffat Pasha)
Provincial Police Officer,
NWFP Peshawar.

No. 2715-70/1 dated Peshawar the 21-2-2004.
Copies to:

1. All Dy. Inspector General of Police in NWFP.
2. Commandant PTC Hangu.
3. Commandant ERP Peshawar.
4. All Assitt. Inspector General of Police in NWFP.
5. All DPOs in NWFP (with spare copies one for each Police Station).

Ec

Q

**D. I. O. POLICE
KOHAT**

10/3.

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P-09

Annexure 'A'

Marking system for list A-I & B-I Standing Order No.01 of 2004..

A. Education

A ✓	M.A	10
B	B.A LLB	10
C ✓	B.A	8 ✓
D ✓	E.A	6 ✓
E ✓	Matriculate	4

B. Courses Passed

1 ✓	Initial Computer Course	3
2 ✓	A.T.S Courses ✓	3 ✓
3 ✓	Finger Print Course	1
4 ✓	Tear Gas Course	1
5 ✓	Weapon Course ✓	2
6 ✓	Dog Handling Course	2
7 ✓	Traffic Course	2
8 ✓	First Aid Course	1
9 ✓	Drill instructor Course ✓	6
10 ✓	Section Commander Course	2
11 ✓	Bugler Course	1
12 ✓	Armourer Course	2
13 ✓	Tear Gas instructor Course	1
14 ✓	Basic intelligence Course	1
15 ✓	Watcher Course	1
16 ✓	Civil Defence Course	1
17 ✓	Bomb Disposal Course	2
18 ✓	Fire Man Course	1
19 ✓	High Way Safety Course	1/2
20 ✓	VVIP Protection Course	2
21 ✓	Taikawando Course	2
22 ✓	Rider Squad Posting for one year	1
23 ✓	Rocket Launcher Course	1
24	Crowd Management Course	2

C. Special Qualifications

a.	First or Second in Recruits Examination	2
b.	Marksman	1/2
c.	Tracking	2
d.	Photography	1
e.	Practical Photography	2
f.	Disguising. (First of Second at functional occasions annually in district & PTC Banga)	1

Accepted
MP

D. Character.

a.	Up to six years services for each completed year	1
b.	Plus from 6 to 12 years service for every 3 completed years over 6 years.	1
c.	Plus from 12 to 24 years of service of every 6 completed years, over 12 years.	1

5

P-10

Note: Marks shall be deducted for award of punishment as following:

- Major Punishment =2
- Minor Punishment =1

E. Professional Ability.

a.	Q.P.M	6
b.	P.P.M	4
c.	Single handed arrest U/S 109 CrPc in which conviction obtained	1
d.	Single handed arrested of P.O involved in dacoity, robbery, kidnaping for ransom, murder, car lifting, narcotics, sabotage and forgery.	2
e.**	Single handed arrest of P.O involved in other crimes.	1
f.**	Collection of intelligence leading to the arrest of criminals or recovery of substantial amount of stolen property & narcotics/ explosive.	1
g.**	Single handed arrest of criminal involved in dacoity, robbery, kidnaping for ransom, car lifting, narcotics, sabotage & Forgery.	1
h.**	Any extra ordinary act during the performance of his official duty on the basis of a complete citation to be approved by the DIG	2
i.**	Extra ordinary act of honesty.	2

Note : For (e), (f), (g), (h) & (i) marked (**) detailed citation to be approved by the DIG of the Region.

F. Written Examination.

a.	A-I Examination	10
b.	Qualifying marks	5
c.	B-I Examination	15
d.	Qualifying marks	7 1/2
e.	Marks achieved (to be shown in case of those who qualify the examination.	

Alla
 (Muhammad Riffat Pasha)
 Provincial Police Officer
 NWFP Peshawar.

Accepted
RE
 [Signature]
 [Stamp]

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
02.09.2020	<p><u>W.P. No.2513-P/2020</u></p> <p>Present: Mr. Yousaf Ali, Advocate, for the petitioner.</p> <p>Mr. Arshad Ahmad Khan, AAG, for the Provincial Government.</p> <p>*****</p> <p><u>IJAZ ANWAR, J.</u> Mansoor Ali, petitioner herein, through the instant Constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, has prayed for the following relief:-</p> <ol style="list-style-type: none">i. <i>To declare the impugned inaction of the respondents for not allotting extra seat of intermediate course as illegal, unlawful, void ab-initio and of no legal effect;</i>ii. <i>To direct the respondents No.1 to 5 to issue NOC for intermediate course and consider his due seniority; and</i>iii. <i>To grant any other remedy to which the petitioner is found fit in law; justice and equity.</i> <p>2. In essence, petitioner is aggrieved from the act of the respondents; whereby, he has not been allotted extra seat for Intermediate Course on account of his getting 2nd position/cadet at Police Training Centre, Hangu.</p>



3. Learned counsel for the petitioner, while referring to Police Rules Chapters 13.5 and 13.6, contended that having got distinction in the training at Police Training Centre, Hangu and was declared as cadet, petitioner is entitled to be allowed for the upcoming Intermediate College Course on account of his such distinction.

4. Learned AAG appearing on behalf of the official respondents, at the very outset of hearing, produced a copy of judgment of the Hon'ble Supreme Court of Pakistan, wherein, similar question has already been determined.

5. Arguments heard and record perused.

6. Perusal of the aforesaid judgment of the Hon'ble Supreme Court of Pakistan reveals that it is a leave refusing order; however, while relying upon the reported cases/judgments i.e. "Contempt Proceedings against the Chief Secretary, Sindh and others (2013 SCMR 1752)" and "Ali Azhar Khan Baloch and others Vs. Province of Sindh and others (2015 SCMR 456)", it has held that the Police Rules 13.6 is not applicable and further held that out of turn promotions on the basis of distinction in course cannot be granted. Similarly, the Hon'ble Supreme Court of Pakistan, while referring to Chapter 13.6 of the Police Rules, held that it has also structured promotion to be selection grade of Constables, according to which, list "A" shall be maintained by each Superintendent of Police,

under his personal supervision who are not more than thirty seven years of age and are eligible under Rules 13.5 for promotion to the selection grade of Constables. The number of names in the list shall not exceed twenty percent of the establishment of the grade in the District. Thus, it has provided a criteria of placing names of such officers in the seniority list but it nowhere allowed out of turn promotions or provision of extra seat for the candidates.

7. Learned counsel for the petitioner relied upon a judgment of this Court, wherein, in similar circumstances, this Court has allowed a candidate to be admitted to intermediate Course. Though, this Court has also allowed a number of cases, albeit, recently in view of the judgment of the Hon'ble Supreme Court of Pakistan rendered in Civil Petitions bearing No.1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 decided vide order dated 30.06.2020, the judgment of this Court cannot be pressed into service.

8. For the reasons recorded hereinabove, this writ petition, having no merits, stands dismissed.

Announced
Dt:02.09.2020


JUDGE


JUDGE