
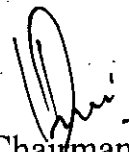


26.02.2019

Counsel for the petitioners alongwith petitioners  
No. 1 & 2 present. Nemo for respondent.

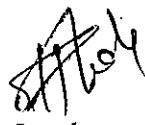
Notice be issued to respondent/learned counsel  
for 02.05.2019. Adjourned for further proceedings  
before the D.B.

  
Member

  
Chairman

02.05.2019

Mr. Muhammad Jan learned Deputy District Attorney  
present. Petitioners and their counsel is not in attendance. Notice be  
issued to the petitioners as well as their counsel for 28.05.2019.  
Adjourn. To come up for further proceedings on the date fixed before  
D.B.

  
Member

  
Member

28.05.2019

None for the petitioners present. Counsel for the  
respondent present. Called for several times but no one  
appeared on behalf of the petitioners, therefore, the  
application in hand is hereby dismissed in default. File be  
consigned to the record room.

Announced:  
28.05.2019



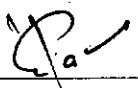
  
Member

  
Member

# FORM OF ORDERSHEET

Court of \_\_\_\_\_

**Misc. Application No. 302 /2018**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27/09/2018	<p>As per direction of the Worthy Chairman in Execution Petition No. 168/2016 vide order sheet dated 26.9.2018, notices be issued to respondents for the date already fixed i.e. 07.11.2018 for further proceedings.</p> <p style="text-align: right;"> REGISTRAR</p>
	26.12.2018	<p>Petitioners absent. Respondents with counsel present. Notices be issued to the petitioners for the date 13.02.2019. Adjourn. To come up for further proceedings on the date fixed before S.B.</p> <p style="text-align: right;"> Member</p>
	13.02.2019	<p>Petitioners No.1 &amp; 2 with counsel present. Learned counsel for the respondents present. Reply of the respondents is available on file. Adjourn. To come up for further proceedings/arguments on 26.02.2019 before D.B.</p> <p style="text-align: right;"> Member</p>

Member

**BEFORE THE HONORABLE  
KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**

PESHAWAR  
*Misc. Application No. 302/2018*

- ✓ 1. **Nisar Ahmad**  
Senior Superintendent Police – Investigations CCP  
CPO, Peshawar.
- ✓ 2. **Tariq Habib**  
Senior Superintendent Police – CTD  
CPO, Peshawar.
3. **Tariq Iqbal**  
Superintendent Police – School of Investigation  
CPO, Peshawar.
4. **Waqar Ahmad**  
Superintendent Police – CTD  
CPO, Peshawar.
5. **Samad Khan**  
Deputy Superintendent Police – Investigations  
CPO, Peshawar.
6. **Arshad Khan**  
Deputy Superintendent Police – Investigations  
CPO, Peshawar.
7. **Tahir Dawar**  
Deputy Superintendent Police – Faqirabad  
CPO, Peshawar.
8. **Abdus Salam Khalid**  
Deputy Superintendent Police – University Town  
CPO, Peshawar.
9. **Alamzeb Khan**  
Deputy Superintendent Police – Investigation  
CPO, Peshawar.
10. **Ateeq Shah**  
Deputy Superintendent Police – City  
CPO, Peshawar.
11. **Rasheed Iqbal**  
Deputy Superintendent Police – CTD  
CPO, Peshawar.
12. **Naseer Ali**  
Deputy Superintendent Police – CTD  
CPO, Peshawar.

(Applicants)

*Versus*

**Asad Mehmood**  
Deputy Superintendent Police – CTD  
CPO, Peshawar.

(Respondent)

Application under Section 12(2) read with Section 151 of CPC with all enabling laws for setting aside the decree dated 15.05.2015 obtained by the Respondent fraudulently, through misrepresentation of facts and law, non-impleadment of necessary parties, and without locus standi.

*Most Respectfully Submitted,*

1. The Applicants are residents of Peshawar currently serving as police officers of assorted ranks in various departments of Khyber Pakhtunkhwa Police ("KP Police") with their lien attached to the Capital Police Office ("CPO"), Peshawar.
2. The Respondent is a resident of Peshawar and currently serving as District Superintendent Police ("DSP") at the Counter-terrorism Department of KP Police with his lien attached to the CPO, Peshawar.
3. The Respondent filed an Appeal No.547/2013 ("the Appeal") before this Honorable Tribunal for the purpose of insetting his name in the bottom of List E ("the Seniority List"), which records of sub-inspectors of KP Police, of 1998 instead of 2004. The Appeal was wrongly decreed in favor of the Respondent on 15/05/2015 ("the Decree"). Subsequently, Execution Petition No.168/2016 ("the Execution") was filed for enforcement of the Decree which is presently pending before this Honorable Tribunal.

*(Annexure-1: Copy of the Decree)*

4. To the Applicants' utter shock and dismay, they were apprised of the Decree and Execution recently on the information intimated to them by their fellow department officers.
5. The Applicants are compelled to file the instant Application as the Respondent has obtained the Decree through fraud, misrepresentation of law and facts, and without any locus standi.
6. In granting the Decree, the Honorable Tribunal came to an erroneous conclusion due to misrepresentation of facts and law after intentionally being misled by the Respondent vis-à-vis material facts of the case and the statute applicable to the issue at hand. The Honorable Tribunal, upon being maliciously misguided by the Respondent, fallaciously directed the KP Police Department to resolve

the issue in the light of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, and Transfer) Rules 1989 ("CSR 1989") despite the fact that the CSR 1989 are extraneous to the Respondent's case. The Respondent's case can only be decided in the light of Police Rules 1934, which, being special law, has an overriding effect on the CSR 1989. The Respondent, prompted by his own ulterior motives, intentionally did not draw the Honorable Tribunal's attention to the Police Rules 1934. Instead, he urged for resolving issue under the provisions of CSR 1989, which is not applicable to the facts in issue.

7. Consequently, the direction in the Decree to the Department for deciding the case in accordance with the CSR 1989 is devoid of legal applicability and therefore a nullity which cannot be executed.
8. More nefariously, the Respondent deluded the Honorable Tribunal through fraud and misrepresentation of facts by not arraying the Applicants who are senior to the Respondent by virtue of their names being higher than the Respondent in the Seniority List. Hence, the Applicants are patently and incontrovertibly necessary parties in the Appeal and their valuable bona fide and legal rights are directly affected by the Decree and the Execution.

*(Annexure-2: Copy of Seniority List)*

9. Likewise, under the Police Rules 1934, the Deputy Inspector General ("DIG") is solely empowered with discretion to maintain and amend the Seniority List in addition to possessing the discretionary authority vis-à-vis promotion to the rank of sub-inspector. The Respondent has further acted in bad faith by not impleading in the Appeal, the DIG who was so authorized and at the time responsible for including his name in the Seniority List of 2004.
10. The Respondent's entire case in the Appeal was grounded on challenging an order ("the Order") passed by the Capital City Police Office ("the CCPO"), which proclaimed inclusion of the Respondent in the bottom of List E w.e.f. 09/02/2004. Extraordinarily, the CCPO

has not been arrayed as a party to the Appeal despite the Order being passed by that very office. These furtive and underhanded acts of not impleading the Applicants, the DIG concerned, and the CCPO as necessary parties have vitiated the entire proceedings of the Appeal and render the Decree void, illegal and liable to be set aside

*(Annexure-3: Copy of the Order)*

11. Subsequently, the Respondent filed an application before the Departmental Promotion Committee ("DPC") for incorporation of his name at the bottom of Seniority List of 1998 on the premise of the Decree. On 27/07/2016 in a meeting ("the Meeting"), having regard to the relevant law and the directions given in the Decree, the DPC concluded that the Respondent's name could only be included in the Seniority List upon qualifying the prescribed criteria appurtenant to sub-inspectors under the Police Rules 1934. The Respondent became eligible for inclusion in the Seniority List upon fulfilling the prescribed criteria in 2004. Resultantly, his name has been validly inserted in the bottom of Seniority List of 2004 w.e.f 09/02/2004 and cannot be legally infixed in any anterior list.


*(Annexure-4: Copy of minutes of the Meeting)*


12. The Respondent, despite maintaining a professional working relationship with the Applicants and operating in the same vicinity as them, willfully omitted to implead a single one of them or the DIG and CCPO concerned as necessary parties in the Appeal. The non-impleadment was a malevolent act of fraud and misrepresentation by the Respondent who has, by a mala fide abuse of position, approached this Honorable Tribunal in order to inequitably and illegally secure personal gains over fellow officers by deliberately omitting to array the aforementioned.
13. The Applicants, by virtue of the Decree, are being stripped of their inherent rights and condemned unheard in breach of the established principle audi alteram partem and Constitutional right to fair trial.


14. It is paramount in the interests of justice, that the legal rights and privileges of the Applicants are protected by granting them a full and fair opportunity to present their cases in order to allow the Honorable Tribunal to establish a flawless opinion and reach a consummate decision based on germane facts and law. Pursuing the alternative will be a flagrant contravention of the Applicants' intrinsic right to fair trial and put the Applicants in a grimly unfair position, by illegally divesting them of their vested and indelible rights and privileges without even affording them a single opportunity of being heard, and instead endowing them on the Respondent.
15. In the light of the foregoing, it is manifest that the Decree warrants an annulment, as not only has the Respondent approached the Honorable Tribunal with unclean hands and acted fraudulently by deliberately not impleading the Applicants and the concerned DIG and CCPO as necessary parties in the Appeal, but he has also obtained the Decree through misrepresentation of law by averring that CSR 1989 are applicable in the instant case instead of Police Rules 1934, which has resulted in a resoundingly fractured decision marred by misreading of facts and misapplication of law.
16. The Applicants reserve the right, with due permission, to present further grounds and arguments verbally, or in writing, and to present further evidence to prove their case.


*Prayer:* In view of the submissions above, it is therefore most humbly prayed that:

- (A) the Decree may kindly be set aside on the ground of being obtained through fraud and misrepresentation of facts and law, misapplication of law, and non-impleadment of the Applicants and the concerned DIG and CCPO as necessary parties; and
- (B) a direction be made with effect to decide the case on merits after arraying the Applicants and the CCPO as necessary parties; and
- (C) the Honorable Tribunal grant any other relief to the Applicants it deems just and appropriate in the circumstances of the case.

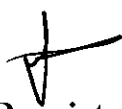
  
Nizam Khan  
SSP Investigator

  
A. Saad Khan

  
ARSHAD KHAN

  
Applicants WAJID AHMED  
Through



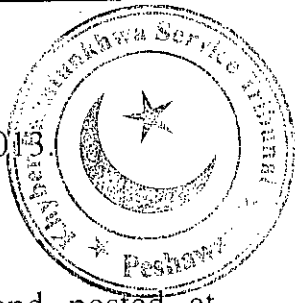
  
**Barrister Saud Khan**  
12, K-3, Phase-III, Hayatabad, Peshawar  
Phone 5817132, 5818446, Mobile: 03340510334  
Email: [saud1792@yahoo.com](mailto:saud1792@yahoo.com)  
[www.isaacslaw.org](http://www.isaacslaw.org)

  
Aman Zeb



Before The Khyber Pakhtunkhwa Service Tribunal Peshawar.

In ref: to Service Appeal No. 547 /2013



Asad Mehmood, Inspector Police, presently working and posted at Directorate of Counter Terrorism (DCT) Special Branch (SB) Khyber Pakhtunkhwa Peshawar.....APPELLANT

VERSUS

543  
11-3-13

- 1). Provincial Police Officer Khyber Pakhtunkhwa, Central Police Office (CPO) Peshawar.
- 2). Additional Inspector General of Police/HQrs: Khyber Pakhtunkhwa, Police Line Peshawar.
- 3). Deputy Inspector General of Police Directorate of Counter Terrorism (DCT) Special Branch (SB) Khyber Pakhtunkhwa Peshawar.

.....RESPONDENTS

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT.AGAINST THE IMPUGNED ORDER BEARING NO. 4673-75/EC-1DATED PESHAWAR 14/05/2007,PASSED ON THE BACK OF THE APPELLANTAND KEEPING HIM UNAWARE WHEREBY HE WAS KEPT AT THE BOTTOM OF SIs ON LIST "E" W.E.09-02-2004 INSTEAD OF 01-01-1998 WHEN HE WAS TRANSFERRED FROM BALUCHISTAN AND ON COMMUNICATION OF THE IMPUGNED ORDER, THE DEPARTMENTAL APPEAL DATED 12-11-2012, FILED BY THE APPELLANT REGARDING CORRECTION IN THE YEAR OF TRANSFER FROM BALUCHISTAN AS 1998 INSTEAD OF 2004, WAS NOT YET RESPONDED.

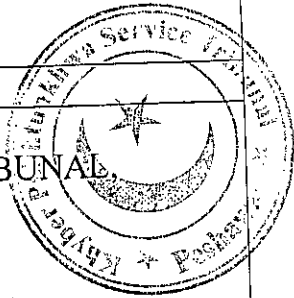
18/3/13

Submitted to... and filed.


18/3/13

ATTESTED

Seal of the Khyber Pakhtunkhwa Service Tribunal Peshawar

No.	Date of order/proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	15.05.2015	<div data-bbox="1187 317 1479 614" style="text-align: right;">  </div> <p style="text-align: center;"><b>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</b></p> <p style="text-align: center;">Service Appeal No. 547/2013,</p> <p>Asad Mehmood, Inspector Police, presently working and posted at Directorate of Counter Terrorism (DCT) Special Branch, Peshawar Versus Provincial Police Officer, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Usman Khan Turlandi, Advocate) and Mr. Muhammad Jan, Govt. for the respondents present.</p> <p>2. Appellant Asad Mahmood, Inspector Police Khyber Pakhtunkhwa is aggrieved with his placement in the seniority list. We would like to reproduce the prayer portion of his appeal, which is as below:-</p> <p style="padding-left: 40px;">"On acceptance of this service appeal, the respondents may please be directed to accord proper correction for granting the appellant his due seniority by keeping him at the bottom of seniority list of Sub Inspectors being transferred from Baluchistan Police to Khyber Pakhtunkhwa Police w.e.f. 07.09.1998 instead of 09.02.2004 and the grievance of the appellant be redressed accordingly."</p> <p>3. Relevant facts as revealed from record, in brief for are that the appellant was enlisted in the Baluchistan Police as probationer ASI on 23.4.1987. ( the date as shown in the written reply of the respondents), the appellant was transferred</p>

**ATTESTED**


  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

from Baluchistan Police to Khyber Pakhtunkhwa Police and posted in the Frontier Reserve Police, Peshawar. Later on 01.3.1999 he was transferred to Directorate of Counter Terrorism (DCT) on deputation basis. It is the contention of the appellant that on his transfer in the year, 1998 from Baluchistan to Khyber Pakhtunkhwa police, his name should have been placed at the bottom of the seniority list of Sub Inspectors. Unfortunately Chief Capital City Police Officer, Peshawar vide his order dated placed his name in the seniority list of Sub Inspectors w.e.f. 09.2.2004 instead of in the year, 1998.

4. It is the contention of the learned counsel for the appellant that due and deserving place in the seniority list has been refused to the appellant by the respondent-department as a result of which, the appellant has been deprived of his legal rights. It was further submitted that some colleagues of the appellant like Zulfiqar Jadoon had also been transferred from Baluchistan to the Khyber Pakhtunkhwa police alongwith the appellant to whom unlike the appellant has been given his due seniority. The learned counsel for the appellant further stressed that the appellant is the victim of discrimination and his junior colleagues were made senior to him and then promoted. He requested that the appeal may be accepted.

5. The learned Senior Government Pleader resisted this appeal on the ground that order dated 14.5.2007 was passed by the CCPO, Peshawar but he has not been made a party, that the

**ATTESTED**

  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

appeal is badly time barred. He requested that the appeal may be dismissed.

6. We have heard arguments of the learned counsel for the parties and have perused the record with their assistance.

7. On perusal of the impugned order dated 14.5.2007 seniority of the appellant has been determined w.e.f. 09.2.2004. If the appellant had come from Baluchistan to Khyber Pakhtunkhwa Police in the year, 1998, the reason should have been given by the competent authority as to why seniority of the appellant is being determined w.e.f. 09.2.2004 instead of 07.09.1998 in contravention of rule 8(2) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. For ready reference, we would like to reproduce sub para-2 of Rule 8 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 which is as follows:-

**8. Inter-Provincial Transfer,----(2)** A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purposes of determining his seniority viz-a-viz other members borne on the cadre."

8. The record shows that the Provincial Police Officer alongwith AIG (Headquarters) and D.I.G DCT/Special Branch of Khyber Pakhtunkhwa have been made party. The Tribunal is of the considered opinion that in the presence of these respondents, relief can be granted to the appellant and thus the appeal cannot be declared so bad for non-joinder of CCPO, Peshawar as necessary party. It is also evident that it is a

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

continuous wrong and the appellant cannot be ousted on the ground of limitation.

9. For the reasons stated above, the Tribunal is of the considered view to remit this appeal to the respondent-department to decide the same in the light of Rule-8(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 and to give the appellant his due/deserving place in the seniority list. The appeal is allowed accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
15.5.2015

*Sd/- Pir Bakhtish Shah,  
Member*

Certified to be true copy

*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*Sd/- Abdul Latif,  
Member*

Date of Presentation of Application 29-8-17  
Number of Words 2000  
Copying Fee 12/-  
Urgent 2/-  
Total 14/-  
Name of Copyist [Signature]  
Date of Completion of Copy 29-8-17  
Date of Delivery of Copy 29-8-17

89

15

C R D R .  
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In pursuance of JPO Order No. 6783/1-11 dated 28.03.2007, the lien of Original Asst. Member presently posted to Motor Way Police is hereby attached with Capital City Police, Peshawar at the office of office in a list of JPO w.e. from 09.03.2004. His name will be placed between the ranks of Asst. Member Asst. Member at S.No. 355 and Asst. Member at S.No. 356 in the Seniority list of office of Capital City Police, Peshawar.

He is allotted Capital City Police post number 275/1.

*[Signature]*  
CAPITAL CITY POLICE OFFICERS,  
PESHAWAR.

No. 4673-75 /1-1, Dated Peshawar the, 14 / 5 / 2007.

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

1. The Inspector General of Police, National Highway Motor-way Police, H/No. 7, P.O. Khan Road, Peshawar. He may please be informed accordingly.
2. Asst. Member, C.P., Peshawar.
3. Asst. Member, C.P., Peshawar.

*allotted*  
**SSP- Investigations**  
Peshawar

Attested  
 Superintendent of Police  
 War

ملفوظ  
 (مستحق)  
 عن مدرس  
 في سنة 1391

No.	Name	Grade	Joining Date	Qualification	Transfer Date	Post	Remarks
222	Sabir Khan 18/P	18/P	8-12-58	F.A.	21-12-73	Pat. 10-6-59	
223	Tariq Malik 24/P	24/P	5-9-62	F.Sc	7-12-78	Pat. 10-10-78	Confirmed w.e.f 19-11-03 Promoted on 16-12-05
224	Jamroz Khan 6/P	6/P	15-3-69	F.A.	9-12-98	Pat. 10-6-99	
225	Saifur Rahman 20/P	20/P	20-1-71	F.Sc	21-12-94	Pat. 10-10-98	Resignation accepted 27-12-99
226	Affasib Hussain 19/P	19/P	1-7-71	B.A.	9-12-98	Pat.	
227	Nisar Ahmad 20/P	20/P	2-11-73	F.Sc	9-12-98	Pat. 10-10-98	Confirmed w.e.f 19-11-03 Promoted on 16-12-05
228	Abfandyar 10/P	10/P	24-3-74	F.A.	9-12-98	Pat. 10-10-98	
229	Tariq Asghar 31/P	31/P	13-4-74	F.Sc	9-12-98	Pat. 10-10-98	Confirmed w.e.f 19-11-03 Promoted on 16-12-05
230	Aslam Nawaz 74/P	74/P	1-3-72	B.Sc	9-12-98	Pat. 10-10-98	
231	Jahangir Ahmad 94/P	94/P	1-11-71	B.A.	9-12-98	Pat. 10-10-98	Confirmed w.e.f 23-8-05
232	Muhammad Abbas 11/P	11/P	30-12-70	B.A.	9-12-98	Pat. 10-6-99	18-9-2005
233	Zain Khan 186/P	186/P	1-5-1960	MA/LL.B	9-12-98	Pat. 10-6-99	Confirmed Promoted Received on transfer from Punjab Pro. A adjusted in P.H. vide P.H. no. 501-3185, dt. 13-1-99.
234	Shahidullah 10/P	10/P	13-8-46	10/P	9-12-98	Pat. 10-6-99	Promoted on 18-9-2005 vide Punjab Pro. no. 501-3185, dt. 13-1-99.
235	Muhammad Abbas 10/P	10/P	3-5-61	10/P	9-12-98	Pat. 10-6-99	Promoted on 18-9-2005

D/O Confirmation as SI

Confirmed w.e.f 19-11-03  
Promoted on 16-12-05

Resignation accepted  
27-12-99

Confirmed w.e.f 19-11-03  
Promoted on 16-12-05

Confirmed w.e.f 19-11-03  
Promoted on 16-12-05

18-9-2005

Confirmed w.e.f 23-8-05

18-9-2005

Promoted on 18-9-2005  
vide Punjab Pro. no. 501-3185, dt. 13-1-99.

Attested

Supervisor  
Confirmed as SI

S/No.	Name & No.	Birth	Enlistment	Edue.	into	of No entry	Promotion as SI	USC	Remarks	
374	Shafiqullah No. 174/P	9-10-66	1-3-2000	F.A	1-3-2000		22-11-2004	-	-2007	Confirmed as SI
375	Rafiqullah No. 173/P	12-3-68	1-3-2000	F.A	"		22-11-2004	20-9-2006		Confirmed as SI
376	Jasir Aman No. 171/P	11-8-70	"	"	"		22-11-2004	20-3-2005		Confirmed as SI
377	Dismissed as Muhammad Iskand. 15/P	15-3-76	"	"	"					Dismissed from service
378	Adil Abdal No. 180/P	26-7-77	"	"	"		22-11-2004	30/11/07		
379	Zulfikar Ali No. 95/P	8-9-80	"	F.Sc	"		22-11-2004	Refused		Dismissed from service by SCPT on 08/10/07
380	Naseem Ali No. 190/P	3-X-75	26-12-2000	B.A	26-12-2000		22-11-2004	20-9-2005		Confirmed
381	Mohammad Aliq Shah	1-9-78	"	F.A	"		22-11-2004	20-3-2007		Confirmed
382 A	Muyad Ali 237/P	13-4-65	21-9-83	10th	2-12-03		22-11-04	13-07-2008		Confirmed
382 B	Shahid Ismail 238/P	12-1-66	21-2-84	10th	2-8-04		25-5-05			
382 C	Munir Laz Khan 9/P	7-4-54	5-8-74	F.A	15-12-09		25-5-2005	U.A.		
383	Mehmoed Ali 34/P	20-7-57	25-X-75	10th	"		18-10-05			
384	Inayat ur Rehman 7/P	3-2-50	5-11-70	7th	"		18-10-05			LPR w.e. from 1-7-09 vide on 9012-21/EC-II dated 1-7-01
385	Khan Abbas 100/P	12-1-51	31-1-70	10th	"		18-10-05			
385 A	Niaz Ali No.	20-5-57	16-9-75	10th	-		18-12-05	U.A.		
386	Muhammad Yaqub 6/P	6-8-1971	10th	"	"		28-1-06			Relo w.o. 26-3-08 vide no 766-75/Eg II dt 25-1-07

15/3



Corporation  
15 87

Name	d/o Birth	d/o APP	Edu	NISEJ "E"	D/O Residence 25 01	usc
326. Gulzar Muhammad 195/P	1-6-54	27-9-73	FA	6-10-1999	8-12-2001	
327. Fozal Rubbi-- 196/P	1-2-48	3-10-68	10th	6-10-1999	8-12-2001	O.A.
328. Sher Alam 197/P	10-11-51	-	-	6-10-1999	8-12-2001	O.A.
329. Dost Muhammad 198/P	1-10-45	2-10-71	10th	6-10-1999	8-12-2001	O.A.
330. Saadullah 199/P	1-5-51	24-7-71	FA	6-10-1999	8-12-2001	O.A.
331. Samin Jan 200/P	7-8-59	11-8-70	9th	6-10-1999	8-12-2001	O.A.
332. Noor Muhammad 201/P	1-1-50	1-1-70	10th	6-10-1999	8-12-2001	O.A.
<del>333. Muhammad Inayat 202/P</del>	<del>18-6-57</del>	<del>22-9-73</del>	<del>10th</del>	<del>6-10-99</del>	<del>8-12-2001</del>	<del>O.A.</del>
<del>334. Noor-ul-Qaviar 203/P</del>	<del>13-3-53</del>	<del>3-12-70</del>	<del>10th</del>	<del>6-10-1999</del>	<del>28-12-2001</del>	<del>O.A.</del>
335. Muhammad Munir 204/P	1-4-48	7-12-68	10th	6-10-1999	28-12-2001	O.A.
336. Rinkhan-ud-Din 205/P	4-7-52	14-4-71	10th	6-10-1999	28-12-2001	O.A.
<del>337. Sher Zaman 206/P</del>	<del>6-9-51</del>	<del>8-9-69</del>	<del>7th</del>	<del>26-4-2001</del>	<del>28-12-2001</del>	<del>O.A.</del>
<del>338. Nasir Khan 167/P</del>	<del>20-12-72</del>	<del>2-5-91</del>	<del>BA</del>	<del>20-2-2001</del>	<del>20-2-2001</del>	<del>O.A.</del>
<del>339. Waqar Ahmad 159/P</del>	<del>12-4-74</del>	<del>26-6-98</del>	<del>BA</del>	<del>1-7-2001</del>	<del>22-6-2004</del>	<del>20-9-2002</del>
328. Aziz Jan 160/P	24-4-74	26-6-98	BSc	1-7-2001	2-7-2003	
<del>330. [Name] 155/P</del>	<del>30-5-74</del>	<del>24-6-98</del>	<del>Fsc</del>	<del>1-7-2001</del>	<del>22-11-2004</del>	<del>20-9-05</del>

Attested  
*[Signature]*

ملفوظ  
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13

Reverted to the bank of No. 25 No. 270  
Line Transfer from  
20-9-2002  
Poll.

Corporation

20-9-05 Reverted from [Name]

13

O R D E R .  
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In pursuance of CPO Memo: No.6383/E-II dated 28.03.2007, the lien of Offg:SI Asad Mehmood presently posted to Motor Way Police is hereby attached with Capital City Police, Peshawar at the bottom of Offg:SIa on list "E" w.e.from 09.02.2004. His name will be placed between the names of SI Muhammad Fazil No.70/P at S/No.355 and SI Safdar Ali No.76/P at S/No.356 in the Seniority List of Offg:SIa of Capital City Police, Peshawar.

He is allotted Capital City Police Peshawar Number 275/P.

2 CAPITAL CITY POLICE OFFICER,  
PESHAWAR.

No. 4673-75/EC-I, Dated Peshawar the 14/5/2007.

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

1. The Inspector General of Police, National Highway & Motor-way Police, H/No.7, Main Kaghan Road, F-8/5 Islamabad. He may please be infomed accordingly.
2. EC-II Branch, C.C.P., Peshawar.
3. Asstt:Secret, C.C.P., Peshawar.

**MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 27.07.2016**

A meeting of Departmental Promotion Committee was held on 27.07.2016 at 1400 hours in the CPO Conference Room-II, under the Chairmanship of Mian Muhammad Asif, Addl: IGP/Headquarters Khyber Pakhtunkhwa to discuss the representations made by Police Officers of various rank regarding their service matters.

2. The following officers attended the meeting:-

I.	Addl: IGP/HQrs: Khyber Pakhtunkhwa.	Chairman
II.	DIG/HQrs: Khyber Pakhtunkhwa.	Member
IV.	AIG/Establishment, Khyber Pakhtunkhwa.	Member
V.	AIG/Legal, Khyber Pakhtunkhwa.	Member

3. All the officers who made representation were also in attendance. Each of them was given opportunity of personal hearing and pleading his case before the committee.

4. The Committee after hearing the officers and perusal of record, discussed each case threadbare in light of laws & rules in vogue and took decision noted below in each case:-

**I. REPRESENTATION OF ZAHID-UR-REHMAN INSPECTOR NO. H/76 (NOW DSP)**

Zahid-ur-Rehman Inspector No. H/76 (now DSP) has submitted a departmental appeal for antedating his promotion in the rank of Inspector with effect from 06.04.2006 and restoration of his seniority with colleague officers. Appellant has contended in the appeal that on promotion to the rank of Sub-Inspector he was placed on probation for two years while the officiating promotion period of colleague officer was counted towards probation and the same concession was denied to him thus he was discriminated.

His representations were regretted by CPO vide order dated 17.05.2011 and 23.05.2012. He filed Service Appeal No. 318/2012 and the Service Tribunal vide order dated 18.07.2014 remitted the case to appellate authority for reconsideration of the prayer of appellant. Comments received from the office of RPO/Hazara Region vide Memo: No. 5049/E dated 16.04.2011 at "Annex-A".

**DECISION**

As per Rules/Policy a Sub-Inspector is confirmed in the rank after fulfilling the prescribed criteria Upper College Course and having experience of independent charge of Police Station or other units of Police Department as envisaged in Rule 13.10(2) of Police Rules and Standing orders issued in this behalf. According to record, appellant had not completed the aforementioned pre-conditions for confirmation in the rank of Sub-Inspector, therefore, he was not confirmed with colleague officers. Appellant qualified Upper College Course on 30.04.2006 and completed mandatory period under Police Rule 13.10(2) on 04.02.2007. He was rightly confirmed in the rank of Sub-Inspector when he qualified Upper College Course and completed mandatory period for confirmation as Sub-Inspector. Therefore, his representation for antedating confirmation in the rank of SI with effect from 06.04.2006 is not tenable, as the existing rules do not allow such antedating confirmation.

**II. APPLICATION OF AZIZ AHMAD INSPECTOR NO. M/268 FOR PROMOTION AS INSPECTOR**

Aziz Ahmad Inspector No. M/268 of Malakand Region has contended in his representation that he was confirmed on 10-08-2012 in the rank of Sub-Inspector. His name was not recommended for promotion List "F" due to pending enquiry therefore he was deferred. He was again deferred in the year 2013 due to departmental enquiries and eventually he was promoted on 10-03-2014. His seniority was disturbed due to departmental enquiries. He requested for restoration of seniority with his colleague officers. Comments received from the office of RPO/Malakand Region vide Memo: No. 3532/E, dated 23.04.2015 at "Annex-B".

**DECISION**

The record was examined which revealed that during DPC meeting held on 10.01.2013, his name was dropped for inclusion in List "F" and promotion as Offg: Inspector as Regional Police Officer Malakand did not recommend him. His case was again discussed in the DPC meeting held on 25.07.2013 and he was superseded. Regional Police Officer did not recommend him. On the receipt of proper recommendation on Form 13-15 from the office of RPO/Malakand Region, his case was discussed in the DPC meeting held on 07.02.2014 and his name was included in List "F" and he was promoted as Offg: Inspector. His name exists in the Seniority List on promotion with his colleagues promoted in the DPC held on 07.02.2014. His request for restoration of seniority is not tenable on facts. Therefore, his representation is without any force and substance and worth rejection.

**III. APPLICATION OF SHAH MUMTAZ ACTING DSP SWABI**

Appellant had earlier filed departmental appeal for antedating his confirmation in the rank of Sub-Inspector and restoration of seniority which was regretted by CPO in light of available record then he filed Service Appeal No. 485/2012 and the Service Tribunal remitted the case to appellate authority vide order dated 18.07.2014 for reconsideration of the prayer of appellant.

He contended in due course of time that he while posted in Malakand Region, was promoted in the rank of SI with effect from 27.05.2006 and was transferred to Mardan Region vide order dated 03.12.2006. He was transferred to Mardan Region vide order dated 04.01.2011. He pointed out that his case was not confirmed in the rank of SI by RPO/Malakand and he was neither considered nor informed in the rank of SI in Mardan Region despite the fact that his lien was still intact in his parent region Malakand. Comments received from the office of RPO/Malakand Region vide Memo: No. 4615/E, dated 25.05.2011.

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Sub-Inspector  
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007. Later on, his lien  
colleague officers were  
in view of his transfer to  
Bill 04.01.2011. Comments  
2016 at "Annex-C".

## DECISION

The appellant produced various orders of confirmation of colleague officers confirmed in the rank of SI issued by the RPO Malakand when lien of appellant was still intact in Malakand Region. According to DIG/Malakand Region Letter No. 1777-86/E, dated 27.05.2006 seventeen (17) ASIs including ASI Shah Mumtaz No. 282/M of Swat District were promoted to the rank of Offg: Sub-Inspector by the DPC held in Regional Police HQrs: Malakand on 12.05.2006. He qualified Upper College Course in the year 2005. He completed mandatory period for confirmation as per Rule 13.10(2) of Police Rules 1934 as SHO in the year 2006. He was eligible for confirmation in the rank of Sub-Inspector with his colleagues but he was not confirmed in the rank of Sub-Inspector as he was transferred and serving in Mardan Region. The contention of appellant is substantiated by the record, the committee recommends that RPO Malakand must revise the confirmation of appellant in the rank of Sub-Inspector with his colleague officers as and when he fulfilled the prescribed criteria and experience required for confirmation in the rank of SI within the meaning of Police Rules 13.10(2). On revision of his confirmation in the rank of Sub-Inspector his seniority will be revised accordingly.

#### **IV. APPLICATION OF ASAD MEHMOOD INSPECTOR (NOW DSP) OF CTD FOR REVISED SENIORITY**

Asad Mehmood DSP was enlisted in the Baluchistan Police as Probationer ASI on 23.04.1987. He was transferred from Baluchistan Police to Khyber Pakhtunkhwa Police in 1998 and posted in Frontier Reserve Police, Peshawar. On 07.11.2008 he was transferred to Directorate of Counter Terrorism now CTD on deputation basis. According to his contention his name should have been placed at the bottom of Seniority List of Sub-Inspector with effect from 1998. According to the order/judgment announced on 15.05.2015, the Honorable Tribunal remitted the Service Appeal mentioned above to the department to decide the same in the light of Rule 8 (2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transferred) Rules 1989 with the direction to give him his due/deserving place in the Seniority List.

The examination of the record reveals that appellant was received on transferred from Baluchistan Police in year 1998 and was posted at FRP. His lien was transferred to CCP Peshawar vide order dated 28.03.2007 by the time he was posted in Motorway Police. CCPO placed his name at the bottom of Seniority List of SIs with effect from 09.02.2004. He claimed seniority with effect from 1998 instead of 2004. He filed Service Appeal No. 547/2013 and Tribunal remitted the case to respondent department for reconsideration of the prayer of appellant. CCPO has reported that appellant was confirmed in the rank of Sub-Inspector on qualifying Upper College Course and criteria required for the confirmation in the rank of Sub-Inspector within the meaning of Police Rule 13.10(2). The Service Tribunal has observed that the case of appellant may be examined in the light of Civil Servant (Appointment, Promotion & Transfer) Rules 1989 while promotion and appointment of Police officers are regulated by Police Rules. Confirmation in the rank is determining factor for fixation of seniority and Police officers are confirmed in the rank subject to qualifying the prescribed criteria and experience. Comments received from the office of CCPO/Peshawar vide Memo: No. 10145/EC-I, dated 31.05.2016 at "Annex-D".

## DECISION

Appellant has correctly been confirmed in the rank of Sub-Inspector on qualifying the prescribed experience. He was serving in Motorway Police and did not prefer in timely fulfilling of the criteria prescribed for confirmation in the rank of SI. The late confirmation in the rank of SI is due to his own conduct of appellant as he was serving Motorway Police for long period therefore, the committee recommends the rejection of his representation.

#### **V. APPLICATION OF NIAZ MUHAMMAD DSP OF CTD CHARSADDA FOR DUE SENIORITY**

Niaz Muhammad DSP in his application stated that he was appointed as PASI on 27.11.1994, promoted as Offg: SI on 06.06.2002, confirmed in the rank of Sub-Inspector on 25.02.2005, brought on List-"F" on 20.12.2006, promoted as Offg: Inspector on 27-03-2007, confirmed in the rank of Inspector on 28.01.2010 and promoted as DSP on 25.03.2013. His colleague namely DSP Shaukat Ali and other colleagues in Mardan Region were promoted as Offg: Sub-Inspector on 01-12-2001 confirmed as Sub-Inspector on 11-04-2003, brought on List-"F" and promoted as Offg: Inspector on 27-03-2007, confirmed in the rank of Inspector on 28-01-2010 and promoted as DSP on 16.10.2012. He was deferred from promotion as Offg: Sub-Inspector due to serving UN Mission but later-on, promoted as Offg: Sub-Inspector. The applicant requested for restoration of his original seniority of Offg: Sub-Inspector on 01.12.2001 and confirmation from 11.04.2003 with his Region colleagues.

The relevant record was examined which revealed that the colleague officers were confirmed in the rank of Sub-Inspector prior to appellant as appellant was serving UN mission. The seniority of Police officer is reckoned from the date of confirmation in the rank in the light of Rule 12.2(3) of Police Rules 1934. Since the colleague officers of appellant were confirmed in the rank of Sub-Inspector earlier than the appellant therefore, they will stand senior to appellant. He was serving UN mission which disturbed his seniority. Comments received from the office of DIG/Mardan Region vide Memo: No. 7260/ES, dated 08.12.2015 at "Annex-E".

## DECISION

The committee is of the opinion that the seniority of appellant has correctly been fixed in the rank of Sub-Inspector when he fulfilled the prescribed criteria and qualifications within the meaning of Police Rule 13.10(2) therefore the committee recommend rejection of the representation.

### VI. APPLICATION OF BAZMEER KHAN INSPECTOR (NOW DSP) FOR SENIORITY WITH HIS COLLEAGUES

Bazmeer Khan Inspector now DSP has contended in his representation that he was enlisted as PASI on 08.05.1981 and promoted as Sub-Inspector in the year 1988. In the year 1994, his colleagues namely Shams-ur-Rehman, Ayaz Khan, Aziz Khan etc were confirmed but he was ignored. Later-on, he was confirmed on 19.09.2001 with his juniors. He has been placed at Sr. No. 214 of the Seniority List of 2005, while his colleague namely Shams-ur-Rehman is at Sr. No. 119. He has requested for seniority with his colleagues.

As per report received from RPO/Hazara, he was superseded from confirmation due to adverse entry in his ACR for the year 1991 and Advice for the year 1993. Comments received from the office of RPO/Hazara Region vide Memo: No. 18078/E dated 03.11.2015 at "Annex-F".

## DECISION

The relevant record was examined, which revealed that appellant was superseded from confirmation in the rank of SI as his ACRs for the years 1991 & 1993 were adverse.

Moreover, antedating seniority with effect from 04.05.1999 with his colleagues instead of 19.01.2001 has already been granted to appellant vide CPO Order No. 19078-19120/E-II, dated 16.08.2007 on the basis of revised confirmation in the rank of Sub-Inspector. There is no force and substance in his prayer, therefore the committee recommends the rejection of his representation.

### VII. REPRESENTATION OF JEHAZEB INSPECTOR NO. H/43 FOR HIS SENIORITY AND PROMOTION TO THE RANK OF DSP

Jehanzeb Inspector has contended that he was proceeded against departmentally and Major Punishment of compulsory retirement from service was awarded vide RPO/Hazara Order No. 14526-27, dated 30.12.2015. The appellant preferred an appeal before the Service Tribunal Khyber Pakhtunkhwa against the order of compulsory retirement. The Honorable Service Tribunal Peshawar vide order dated 02.03.2015 held that "*The impugned order is not sustainable in the eye of Law. Hence impugned order dated 30.12.2013 of compulsory retirement of the appellant is set aside, he is reinstated in his original position and the case is remanded back to the Respondent No. 2 with the direction to initiate fresh enquiry against the appellant under relevant Law/Rules*". The Supdt: of Police/Investigation Mansehra conducted de-novo enquiry in the light of charges leveled in the Charge Sheet. The Supdt: of Police/Investigation Mansehra after initiating proper departmental enquiry declared that the charges against the applicant have not been proved and recommended his exoneration from the charge. He has requested that his seniority may be restored. Comments received from the office of RPO/Hazara Region vide Memo: No. 20520/EC dated 10.12.2015 at "Annex-G".

## DECISION

The date of confirmation in the rank of Sub-Inspector is the determining factor for fixation of seniority as per Rule 12.2(3) of Police Rules 1934. Therefore, the committee recommends that the seniority of appellant may be fixed in accordance with the date of confirmation of appellant in the rank of Sub-Inspector.

### VIII. REPRESENTATION OF QAMAR ZAMAN INSPECTOR NO. H/81 FOR RESTORATION OF SENIORITY

Qamar Zaman Inspector in his application stated that he while posted as ASHO PS KTS District Haripur, was falsely implicated in a departmental enquiry without any fault on his part. He was awarded punishment of reduction in rank from SI to ASI by District Police Officer, Haripur. He challenged the reversion order, therefore, Regional Police Officer Hazara Region accepted his appeal and converted the punishment of reduction in rank from SI to ASI to reduction in pay for one stage. The seniority of the petitioner was also restored by Regional Police Officer Hazara Region with his colleague officers. He has requested for seniority with his colleagues as per order of RPO Hazara Region. Comments received from the office of RPO/Hazara Region vide Memo: No. 16633/E dated 14.10.2015 at "Annex-H".

## DECISION

According to report of RPO/Hazara Region, his seniority was restored with his colleagues. He was confirmed as Sub-Inspector on 31.03.2014. As per Rule 12.2(3) of Police Rules 1934, the seniority of officer is reckoned from the date of confirmation in the rank of Sub-Inspector. The Appellant was confirmed in the rank of Sub-Inspector on 31.03.2014 by RPO/Hazara Region vide his office order No. 10195-97/PA dated 20.11.2014. Therefore, the committee recommended fixation of his seniority in accordance with date of confirmation in the rank of Sub-Inspector.

**IX. REPRESENTATION OF BAROZ KHAN INSPECTOR NO. 80/H FOR REVISE SENIORITY**

Baroz Khan Inspector in his application stated that his name was not placed in the Seniority List according to his date of confirmation as Sub-Inspector. He requested for seniority according to his date of confirmation in the rank of Sub-Inspector. Comments received from the office of RPO/Hazara Region vide Memo: No. 15535/E dated 23.09.2015 at "Annex-I".

**DECISION**

As per Police Rule 12.2(3) of Police Rules 1934, the seniority of officer is reckoned from the date of confirmation in the rank of Sub-Inspector. Appellant was confirmed in the rank of Sub-Inspector on 23.08.2013 by RPO/Hazara Region vide his office order No. 15964-65/E dated 02.10.2014. Therefore, the committee recommended fixation of his seniority in accordance with date of confirmation in the rank of Sub-Inspector.

**X. APPLICATION OF FAQIR HUSSAIN INSPECTOR NO. P/214 OF CTD FOR REVISED SENIORITY**

Faqir Hussain Inspector in his application stated that he was confirmed as Sub-Inspector on 06-08-2012. The applicant demands seniority on the basis of revised confirmation.

He was confirmed as Sub-Inspector with effect from 02-08-2013 vide Notification No. 13977/EC-I, dated 02-08-2013. Later-on, Commandant PTC Hangu intimated that Inspector Faqir Hussain No. P/214 of CCP Peshawar received on transfer as Sub-Inspector under Standing Order No. 11/87 & 7/2003 on 06-08-2009. Served as Sub-Inspector for 03 years on deputation basis with effect from 06-08-2009 to 06-08-2012. During his three (03) years tenure at PTC Hangu, he earned category "A" reports and requested that he may be confirmed as Sub-Inspector with effect from 06-08-2012 as per the above Standing Orders. On the request of Commandant PTC Hangu, he was given confirmation in the rank of Sub-inspector with effect from 06-08-2012 instead of 02-08-2013 as per Standing Orders No. 11/87 & 7/2003 vide Notification No. 13536/EC-I, dated 20-10-2014. Comments received from the office of CCPO/Peshawar vide Memo: No. 16884/EC-I dated 09.09.2015 at "Annex-J".

**DECISION**

As per Rule 12.2(3) of Police Rules 1934, the seniority of officer is reckoned from the date of confirmation in the rank of Sub-Inspector. Appellant's confirmation in rank of Sub-Inspector was revised on 06.08.2012 instead of 02.08.2013 by CCPO Peshawar vide Notification No. 13536/EC dated 20.10.2014. Therefore, the committee recommended fixation of his seniority in accordance with date of confirmation in the rank of Sub-Inspector.

Chairman



(MIAN MUHAMMAD ASIF)

Add: IGP/Headquarters,  
Khyber Pakhtunkhwa,  
Peshawar.

(MUHAMMAD ALAM SHINWARI)

DIG/Headquarters,  
Khyber Pakhtunkhwa,  
Peshawar

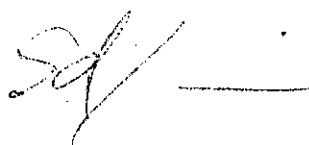
(NAJEEB UR REHMAN BUGVI)

AIG/Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

(FALAK NAWAZ)



AIG/Legal,  
Khyber Pakhtunkhwa,  
Peshawar.

Approved



(NASIR KHAN DURRANI)

Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

قیمت 50 روپے	 	20932
ایڈووکیٹ سید سعید احمد بار کونسل ایسوسی ایشن نمبر:	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
رابطہ نمبر: 0334-051-0334		

بعدالت جناب:

مخاطب:	دعویٰ:
Nisar Ahmad & Others	Service
بنام	علت نمبر:
Asad Mahmood	مورخہ:
	جرم:
	تھانہ:

### باعث تحریر آگہ

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

آن مقام Peshawar کیلئے Barrister Saad Khan کو وکیل 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 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 یا کٹرفہ 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 کاروائی 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: 02/01/2018

مقام \_\_\_\_\_ واہ شد \_\_\_\_\_ کے لیے منظور ہے۔

verified  
&  
attested

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Nisar Ahmad  
17301-1980374-1

Asad Mahmood  
17301-9674089-3

Asad Mahmood  
17101-3648939-3

Asad Mahmood  
17301-1980374-1

Asad Mahmood  
17301-1980374-1

Asad Mahmood  
17301-8174248



قیمت  
50 روپے



20933

ایڈووکیٹ Barrister Saad Khan

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر: 0334-051-0334

پشاور بار ایسوسی ایشن، خیبر پختونخوا

KP Services Tribunal

بعدالت جناب:

Applicants	Service
مخائب:	دعویٰ:
Nisar Ahmad & Others	علت نمبر:
بنام	مورخہ:
Asad Mehmood	جرم:
	تھانہ:

**باعت تحریر آگہ**

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

آن مقام Peshawar کیلئے Barrister Saad Khan کو وکیل 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 و تقرر ثالث و فیصلہ برحلف 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 کاروائی 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: 05/01/2018

المرقوم: 05/01/2018

مقام Peshawar کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

**BEFORE THE HONOURABLE KPK SERVICE TRIBUNAL PESHAWAR.**

**Execution petition No.168/2016.**

**In**

**service appeal No.547/2013**

**SUBJECT: Reply on behalf of the respondent to the application under Rule 12, Order 2 etc. of the Civil Procedure Code submitted by the applicants in execution petition No.168/2016 followed by the service appeal No.547/2013, decided on 15-05-2015.**

**Respectfully Sheweth:**

1. Needs no comments. Pertains to the record of the Police Department.
2. Need no comments.
3. Correct to the extent that the respondent while aggrieved of his present position of the seniority list in the year 2004, was constrained to approach this Honorable Tribunal for his exact/correct and due place at the bottom of seniority list of Sub-Inspectors of KPK Police in the year 1998. The respondent/Sub-Inspector Police was transferred from the province of Baluchistan w.e.from 07.09.1998 and reported his arrival in Peshawar Range. As in light of the sub para 02 of Rule 08 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, transfer/posting orders passed by both the Provincial Governments, there is clearly mentioned that the respondent/transferee would accept bottom seniority of S.Is in the NWFP Police. Similarly sub para 02 of Rule 08 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 is reproduced here under for ready reference.

**Section 08: Inter Provincial Transfer---(2) . A person so transferred shall be placed at the bottom of the cadre strength which he joined for the purpose of the determining his seniority viz-a-viz other members borne on the cadre.**

As such the respondent was legally awarded bottom seniority from the year 1998 when he was transferred to NWFP.

4. Incorrect. The applicants are not legally aggrieved. The applicants were in proper knowledge of the appeal No. 547/2013 which was pending

since 2013 till 15-05-2015, while on the other hand the respondent had never sought his seniority over any one of the applicants rather he has sought his bottom seniority in the year 1998 when his services stood transferred from Baluchistan to NWFP.

5. Incorrect. The appeal was legally decreed in his favour on 15-05-2015. That the respondent has not made any fraud or misrepresentation before the Honourable Service Tribunal and not concealed the real facts from the Tribunal. The respondent even cannot think of deceiving the Tribunal while presently excaiton petition is in progress.
6. Incorrect. Detailed reply has been given in Para-3 & 5 above.
7. Incorrect. That the Honourable Service Tribunal decided the matter as per law and the respondent has been given due seniority. But the decision has not been implemented by the department as yet.
8. Incorrect. This is incorrect. The respondent deserves due seniority as per police rules 1934 and CSR 1989, since the respondent reported arrival in Peshawar range in the year 1998. Therefore, needs seniority to be awarded from the said date. The seniority of the respondent was wrongly fixed from the year 2004 by the department vide order Endst: No.4673-75/EC-1 dated Peshawar the 14.05.2007 and the respondent was compelled to knock the door of the court i.e Honourable Service Tribunal.
9. The seniority assigned by the Honourable Service Tribunal is according to the law/rules.
10. The respondent approached the court with clean hands and left himself on the mercy of court.
11. The case of assigning seniority of the respondent was not dealt with in accordance with law, rule of the land and Police Rule 1935. The respondent was given seniority from 2004 and as such approached to the Honourable court seeking seniority from year 1998.

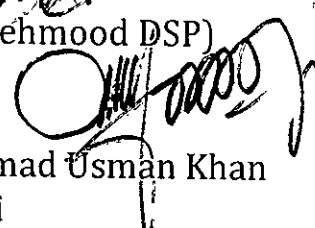
12. That the respondent arrayed IG KP Mr. Nasir Durrani, Addl: IG KP, Mr. Mian Muhammad Assif and DIG/CTD Mr. Salahuddin Masood as parties in his appeal who are sufficient for the disposal of appeal.
13. Incorrect. Since the department assigned seniority from year 2004 instead of 1998. At present it is not a case of promotion or confirmation but the respondent was deprived of his due seniority.
14. It is incorrect. All the fellow candidates were apprised of the appeal/writ petition but they deliberately avoided to approach the court at that time. After the decision of the appeal and consequent decree in the favor of respondent, they have approached this court with ulterior motives.
15. It is incorrect. All the proceeding has been completed by the court as per law and the rights of the applicants have not been affected as alleged by them.
16. The case has regularly been tried by the Tribunal and all concerned counsels have been provided opportunity of hearing. After completion of the argument and all legal formalities, the Tribunal decreed and awarded due seniority to the respondent.
17. It is incorrect. The seniority given to the respondent by Honourable Service Tribunal is according to law/rules. The decision is based on facts.

Note:

It is worth mentioning that the appeal of applicants u/s 12(2) is devoid of facts and is based on molafide. They are using delaying tactics and wasting the precious time of Tribunal. The Tribunal decided the appeal in favor of the respondent after due trial. From the contents of the appeal, it does not constitute 12(2) which may be rejected/set aside and the decision of the Service Tribunal may be implemented in its true spirit.

Through

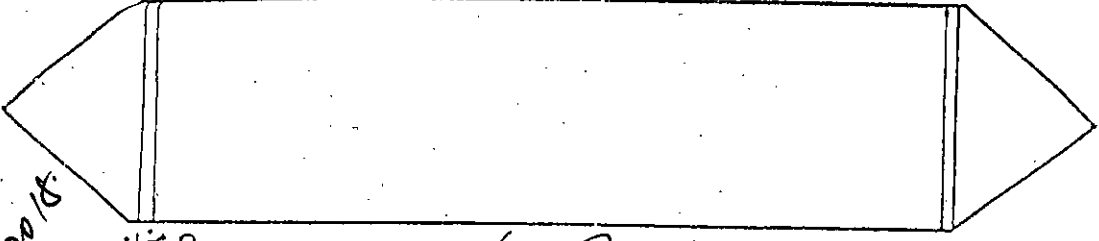
Respondent:  
  
(Asad Mehmood DSP)

  
Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Before the Honble Chairman KPK Service Tribunal  
Peshawar

بعدالت

Plan on file  
6/8/2018



2 پنجاب  
بنام

Execution Petition

No. 168/2016

Asad Mahmood

Nasir Khan Provincial Police Officer etc

باعث تحریرانگہ

موردہ  
مقدمہ  
دعوی  
جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
آن مقام Rizwanullah Advocate Peshawar کے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا اوکالت نامہ لکھ دیا کہ سندر ہے۔

Asad Mahmood

Attested & accepted  
14/8/18  
Adv.

المرقوم 31 ماہ جولائی 2018

(Peshawar only) کے لئے منظور ہے۔

بمقام

**BEFORE THE HONORABLE**  
**KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR**

1. **Nisar Ahmad**  
Senior Superintendent Police – Investigations CCP  
CPO, Peshawar.
2. **Tariq Habib**  
Senior Superintendent Police – CTD  
CPO, Peshawar.
3. **Tariq Iqbal**  
Superintendent Police – School of Investigation  
CPO, Peshawar.
4. **Waqar Ahmad**  
Superintendent Police – CTD  
CPO, Peshawar.
5. **Samad Khan**  
Deputy Superintendent Police – Investigations  
CPO, Peshawar.
6. **Arshad Khan**  
Deputy Superintendent Police – Investigations  
CPO, Peshawar.
7. **Tahir Dawar**  
Deputy Superintendent Police – Faqirabad  
CPO, Peshawar.
8. **Abdus Salam Khalid**  
Deputy Superintendent Police – University Town  
CPO, Peshawar.
9. **Alamzeb Khan**  
Deputy Superintendent Police – Investigation  
CPO, Peshawar.
10. **Ateeq Shah**  
Deputy Superintendent Police – City  
CPO, Peshawar.
11. **Rasheed Iqbal**  
Deputy Superintendent Police – CTD  
CPO, Peshawar.
12. **Naseer Ali**  
Deputy Superintendent Police – CTD  
CPO, Peshawar.

*Versus*

*(Applicants)*

**Asad Mehmood**  
Deputy Superintendent Police – CTD  
CPO, Peshawar.

*(Respondent)*

Application under Section 12(2) read with Section 151 of CPC with all enabling laws for setting aside the decree dated 15.05.2015 obtained by the Respondent fraudulently, through misrepresentation of facts and law, non-impleadment of necessary parties, and without locus standi.

*Most Respectfully Submitted,*

1. The Applicants are residents of Peshawar currently serving as police officers of assorted ranks in various departments of Khyber Pakhtunkhwa Police ("KP Police") with their lien attached to the Capital Police Office ("CPO"), Peshawar.
2. The Respondent is a resident of Peshawar and currently serving as District Superintendent Police ("DSP") at the Counter-terrorism Department of KP Police with his lien attached to the CPO, Peshawar.
3. The Respondent filed an Appeal No.547/2013 ("the Appeal") before this Honorable Tribunal for the purpose of insetting his name in the bottom of List E ("the Seniority List"), which records of sub-inspectors of KP Police, of 1998 instead of 2004. The Appeal was wrongly decreed in favor of the Respondent on 15/05/2015 ("the Decree"). Subsequently, Execution Petition No.168/2016 ("the Execution") was filed for enforcement of the Decree which is presently pending before this Honorable Tribunal.

*(Annexure-1: Copy of the Decree)*

4. To the Applicants' utter shock and dismay, they were apprised of the Decree and Execution recently on the information intimated to them by their fellow department officers.
5. The Applicants are compelled to file the instant Application as the Respondent has obtained the Decree through fraud, misrepresentation of law and facts, and without any locus standi.
6. In granting the Decree, the Honorable Tribunal came to an erroneous conclusion due to misrepresentation of facts and law after intentionally being misled by the Respondent vis-à-vis material facts of the case and the statute applicable to the issue at hand. The Honorable Tribunal, upon being maliciously misguided by the Respondent, fallaciously directed the KP Police Department to resolve

the issue in the light of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, and Transfer) Rules 1989 (“CSR 1989”) despite the fact that the CSR 1989 are extraneous to the Respondent’s case. The Respondent’s case can only be decided in the light of Police Rules 1934, which, being special law, has an overriding effect on the CSR 1989. The Respondent, prompted by his own ulterior motives, intentionally did not draw the Honorable Tribunal’s attention to the Police Rules 1934. Instead, he urged for resolving issue under the provisions of CSR 1989, which is not applicable to the facts in issue.

7. Consequently, the direction in the Decree to the Department for deciding the case in accordance with the CSR 1989 is devoid of legal applicability and therefore a nullity which cannot be executed.
8. More nefariously, the Respondent deluded the Honorable Tribunal through fraud and misrepresentation of facts by not arraying the Applicants who are senior to the Respondent by virtue of their names being higher than the Respondent in the Seniority List. Hence, the Applicants are patently and incontrovertibly necessary parties in the Appeal and their valuable bona fide and legal rights are directly affected by the Decree and the Execution.

*(Annexure-2: Copy of Seniority List)*

9. Likewise, under the Police Rules 1934, the Deputy Inspector General (“DIG”) is solely empowered with discretion to maintain and amend the Seniority List in addition to possessing the discretionary authority vis-à-vis promotion to the rank of sub-inspector. The Respondent has further acted in bad faith by not impleading in the Appeal, the DIG who was so authorized and at the time responsible for including his name in the Seniority List of 2004.
10. The Respondent’s entire case in the Appeal was grounded on challenging an order (“the Order”) passed by the Capital City Police Office (“the CCPO”), which proclaimed inclusion of the Respondent in the bottom of List E w.e.f. 09/02/2004. Extraordinarily, the CCPO



has not been arrayed as a party to the Appeal despite the Order being passed by that very office. These furtive and underhanded acts of not impleading the Applicants, the DIG concerned, and the CCPO as necessary parties have vitiated the entire proceedings of the Appeal and render the Decree void, illegal and liable to be set aside

*(Annexure-3: Copy of the Order)*

11. Subsequently, the Respondent filed an application before the Departmental Promotion Committee (“DPC”) for incorporation of his name at the bottom of Seniority List of 1998 on the premise of the Decree. On 27/07/2016 in a meeting (“the Meeting”), having regard to the relevant law and the directions given in the Decree, the DPC concluded that the Respondent’s name could only be included in the Seniority List upon qualifying the prescribed criteria appurtenant to sub-inspectors under the Police Rules 1934. The Respondent became eligible for inclusion in the Seniority List upon fulfilling the prescribed criteria in 2004. Resultantly, his name has been validly inserted in the bottom of Seniority List of 2004 w.e.f 09/02/2004 and cannot be legally infix in any anterior list.

*(Annexure-4: Copy of minutes of the Meeting)*

12. The Respondent, despite maintaining a professional working relationship with the Applicants and operating in the same vicinity as them, willfully omitted to implead a single one of them or the DIG and CCPO concerned as necessary parties in the Appeal. The non-impleadment was a malevolent act of fraud and misrepresentation by the Respondent who has, by a mala fide abuse of position, approached this Honorable Tribunal in order to inequitably and illegally secure personal gains over fellow officers by deliberately omitting to array the aforementioned.
13. The Applicants, by virtue of the Decree, are being stripped of their inherent rights and condemned unheard in breach of the established principle audi alteram partem and Constitutional right to fair trial.

14. It is paramount in the interests of justice, that the legal rights and privileges of the Applicants are protected by granting them a full and fair opportunity to present their cases in order to allow the Honorable Tribunal to establish a flawless opinion and reach a consummate decision based on germane facts and law. Pursuing the alternative will be a flagrant contravention of the Applicants' intrinsic right to fair trial and put the Applicants in a grimly unfair position, by illegally divesting them of their vested and indelible rights and privileges without even affording them a single opportunity of being heard, and instead endowing them on the Respondent.
15. In the light of the foregoing, it is manifest that the Decree warrants an annulment, as not only has the Respondent approached the Honorable Tribunal with unclean hands and acted fraudulently by deliberately not impleading the Applicants and the concerned DIG and CCPO as necessary parties in the Appeal, but he has also obtained the Decree through misrepresentation of law by averring that CSR 1989 are applicable in the instant case instead of Police Rules 1934, which has resulted in a resoundingly fractured decision marred by misreading of facts and misapplication of law.
16. The Applicants reserve the right, with due permission, to present further grounds and arguments verbally, or in writing, and to present further evidence to prove their case.

*Prayer:* In view of the submissions above, it is therefore most humbly prayed that:

- (A) the Decree may kindly be set aside on the ground of being obtained through fraud and misrepresentation of facts and law, misapplication of law, and non-impleadment of the Applicants and the concerned DIG and CCPO as necessary parties; and
- (B) a direction be made with effect to decide the case on merits after arraying the Applicants and the CCPO as necessary parties; and
- (C) the Honorable Tribunal grant any other relief to the Applicants it deems just and appropriate in the circumstances of the case.

Applicants  
Through

**Barrister Saud Khan**

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