

ORDER

1st Feb, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents present. Syed Noman Ali Bukhari, Advocate for private respondents present.

2. Vide our detailed judgment of today separately placed on file of service appeal No. 4956/2021 titled "Hameed Ullah Versus AIG Establishment, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Officer, (CPO) Peshawar and others", we also allow the appeal and set aside the impugned order being not maintainable supported by any legal backing. Costs shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of this Tribunal on this 1st day of February, 2023.*



(Kalim Arshad Khan)
Chairman



(Muhammad Akbar Khan)
Member (E)

22.09.2022

Nemo for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for official respondent No. 1 present. Learned counsel for private respondents No. 2 to 4 present.

*Noted by Counsel
Qureshi
22/9/22*

Notice for prosecution of the appeal be issued to the appellant as well his counsel through registered post and to come up for arguments on 24.11.2022 before the D.B.

(Mian Muhammad)
Member (E)

(Salah-Ud-Din)
Member (J)

*Due to deletion of the
case to come up for the case
on 31/1/2022*

*On
Rds*

31st Jan, 2023

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents present. Syed Noman Ali Bukhari, Advocate for private respondents present.

Arguments heard. To come up for order on 01.02.2023 before D.B.

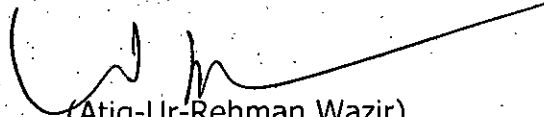
(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

05.01.2022

Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present. Mr. Taimur Ali Khan, Advocate for applicants present.

File to come up alongwith connected appeal No. 4956/2021 titled Hameed Ullah Vs. Police Department, before the D.B on 17.01.2022.

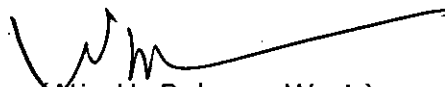

(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

17.01.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Noor Daraz Khan, SI (Legal) for the official respondents present. Mr. Taimur Ali, Advocate for private respondents present.

File to come up alongwith connected appeal No. 4956/2021 titled "Hamedullah Vs. Police Department Khyber Pakhtunkhwa" on 11.05.2022 before the D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

11-5-22

Proper DB not available the case is adjourned on 26-7-22

26-7-2022

Proper DB not available the case is adjourned to 22-9-2022

*officer
Reader*

Reader

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.


Chairman

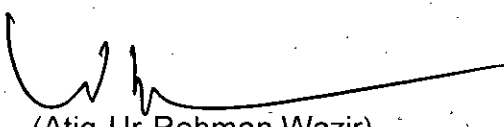
Stipulated period passed reply not submitted.

14.10.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Khyal Roz Inspector for respondents present.

File to come up alongwith connected service appeal No.4956/2021 titled Hameed Ullah Vs. Police Department, on 05.01.2022 before D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

04.06.2021

Counsel for the appellant present. Preliminary arguments heard.

NEC

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 14.10.2021 before the D.B.

Appellant Deposited
Security & Process Fee

14/6/21

Alongwith the appeal, the appellant has also filed an application for interim relief. Notice of application be also given to the respondents.

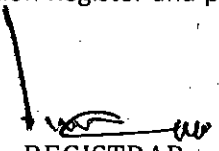


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4803 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/04/2021	<p>The appeal of Mr. Zain Ullah presented today by Mr. Irfan Ali Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	27/05/2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/6/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

Service Appeal No. _____/2021

Zain Ullah **Appellant**

V E R S U S

DIG Establishment..... **Respondent**

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Memo of Appeal	*	1-6
2.	Application for interim relief	*	7-8
3.	Copy of order dated 03/02/2016	A	9
4.	Copy of order dated 24/05/2016	B	10-11
5.	Copy of impugned order dated 04/01/2021	C	12-13
6.	Copy of application	D	14
7.	Copy of letter dated 11/02/2021	E	15
8.	Copy of letter dated 03/03/2021.	F	16
9.	Wakalat Nama	*	17

Zain Ullah
Appellant

Through

Irfan Ali Yousafzai

Irfan Ali Yousafzai
Advocate, High Court,
Peshawar
Cell# 0314-9070658

Date: 26/03/2021

impleaded
vide order
dated 5/1/2022

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

Service Appeal No. 4803 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4568

Dated 06/04/2021

Zain Ullah, HC (Belt No. 1279)

Police Department Khyber Pakhtunkhwa

Presently serving at District Mardan **Appellant**

V E R S U S

AIG Establishment for Inspector General of Police
Khyber Pakhtunkhwa, Central Police Office, (CPO),
Peshawar **Respondent**

**APPEAL UNDER SECTION 4 OF
THE SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED
ORDER DATED 04/01/2021
WHEREBY THE RESPONDENT
TRANSFERRED THE APPELLANT
TO THEIR PARENT DISTRICT
ACCORDING TO HIS DOMICILE
WHICH IS ILLEGAL, UNLAWFUL
AND DECLARE NULL AND VOID
IN THE EYE OF LAW.**

Filed to-day
Registrar
06/04/2021

Prayer in Appeal:

On acceptance of this appeal, the impugned order dated 04/01/2021 may very graciously be

set aside and appellant may kindly be retain in the present District i.e. District Mardan where the appellant got promotion and completed the considerable length of his service in District Mardan.

Respectfully Sheweth:

1. That the appellant is respectable and law abiding citizen of Pakistan has every legal and constitutional right duly protected under the law and constitution of Islamic Republic of Pakistan 1973.
2. That appellant was serving as Head Constable (BPS-07) in the respondent department and presently serving the department at his best of ability.
3. That the respondent earlier transfer the appellant from the District Karak to District Mardan vide order dated 03/02/2016 on lien base in which the appellant accept bottom seniority. **(Copy of order dated 03/02/2016 is attached as Annexure-A)**
4. That the appellant after transfer to district Mardan completed his requisite period of service

and the District Police Officer Mardan conducted DPC on 19/05/2016 and promoted the appellant from (BPS-05) to (BPS-07) on 24/05/2016. **(Copy of order dated 24/05/2016 is attached as Annexure-B)**

5. That the appellant performing his duty with his best ability at District Mardan and no objection raised by the respondent upon the service carrier of the appellant and there is no red entry in the record of the appellant.
6. That after completion prescribed period of service the respondent issued impugned order No. 59-79/E-IV dated 04/01/2021 vide which the appellant transferred from District Mardan to his parent district and intact his seniority with his colleagues in his parent district. **(Copy of impugned order dated 04/01/2021 is attached as Annexure-C)**
7. That appellant addressed an application to the respondent for review the impugned order dated 04/01/2021 but no fruitful result till date. **(Copy of application is attached as Annexure-D)**
8. That the Regional Police Officer, Mardan also sent a letter No. 807/ES, dated 11/02/2021 for seeking legal guidance of the attachment and detachment of lien period of the appellant. **(Copy**

of letter dated 11/02/2021 is attached
Annexure-E)

9. That the respondent also admitted vide letter No. 1307/Legal dated 03/03/2021 that the "Civil Servant can retain lien for 3 years at permanent post when civil Servant joint other post in any other department and the civil servant lien cannot be detached or attached. **(Copy of letter dated 03/03/2021 is attached as Annexure-F)**

10. That beside the above mentioned facts and appellant completed lien period of 3 years and did not join any other department and still serving in his department but the respondent issued transfer order in which the seniority of the appellant will remain intact with the colleague of his parent district instead of present district, which is illegal, unlawful and liable to be withdrawn.

11. That it is pertinent to mention here that due to above mention transfer order, the seniority and service carrier of the appellant will be at risk and the promotion of the appellant will also disturbed.

12. That appellant is aggrieved from the order of respondent dated 04/01/2021 and his other action in inaction (Impugned herein) with no

other remedy hence approached this Honourable Tribunal on the following amongst other grounds:

GROUND S:

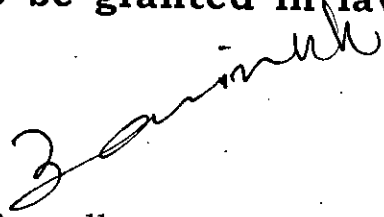
- A. That on impugned order dated 04/01/2021 is against the law, unwarranted and illegal.
- B. That the appellant has served the department at the best of his ability but even that respondent attached the lien of the appellant and transferred to his parent district, which is illegal and liable to be rectified.
- C. That the impugned order of the respondent is not sustainable in the eye of law.
- D. That the department is violating all the basic fundamental rights and protections given the constitution of Islamic Republic of Pakistan, 1973.
- E. That the conduct of respondent is offending the principle of natural justice, equity and fair play.
- F. That in the peculiar facts and circumstances of the case, the interference of this Hon'ble Tribunal is warranted under the law.

(6)

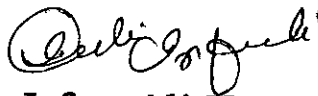
G. That the appellant be allowed to add/rely upon other grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 04/01/2021 may very graciously be set aside and appellant may kindly be retain in the present District Mardan.

Any other remedy which deem fit appropriate may also be granted in favour of appellant.


Appellant

Through



Irfan Ali Yousfzai
Advocate, High Court,
Peshawar

Date: 26/03/2021

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

CM No. _____/2021
IN
Service Appeal No. _____/2021

Zain Ullah **Appellant**

V E R S U S

DIG Establishment..... **Respondent**

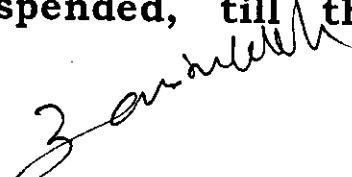
**APPLICATION FOR SUSPENSION
OF IMPUGNED ORDER DATED
04/01/2021, TILL THE FINAL
DISPOSAL OF THE MAIN APPEAL**

Respectfully Sheweth:

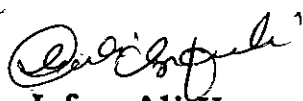
1. That the captioned Appeal is being filed before this Honourable Tribunal, in which no date of hearing has yet been fixed.
2. That the grounds of Appeal may be read as integral part of this application.
3. That on the face of it, the applicant has got strong arguable case and is sanguine about its success.

4. That the balance of convenience also lies in favour of applicant for grant of interim relief.
5. That if the transfer order dated 04/01/2021 is not suspended, than applicant would sustain irreparable loss, which is not redeemable in terms of money.

It is, therefore, most humbly prayed that on acceptance of this application, the impugned transfer order dated 04/01/2021 may kindly be suspended, till the final decision of the case.


Appellant

Through


Irfan Ali Yousafzai
Advocate, High Court,
Peshawar

Date: 26/03/2021



500
8-2-16



Applicable
Tip "A"
9

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

ORDER

The lien of LHC Zain Ullah No. 1279 of Karak District now on deputation to PTC Hangu as Drill instructor is hereby detached from Karak District and attached with Mardan District with immediate effect.

He will accept bottom seniority.

Najeeb

(NAJEEB-UR-REHMAN BUGVI)PSP
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar. 02/1/16

No. 1451-54 /E-IV dated Peshawar the 03 102 /2016

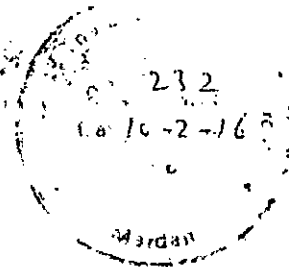
Copy of above is forwarded for information and necessary action to the:-

1. Deputy Inspector General of Police, Kohat Region, Kohat.
- ✓ 2. Deputy Inspector General of Police, Mardan Region w/r to his Memo No. 665/ES dated: 22.01.2016.
3. District Police Officer, Mardan w/r to his letter No. 928/EC, dated: 27.01.2016
4. District Police Officer, Karak.

NO: 1122/ES

dt: 09/2/16

*Extra information
for information
action. 8/2*



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Advocate

Promotion
order

Anx "B" (10)

ORDER.

The following Constables on promotion list C-I of this District Police are hereby promoted to the rank of Offg: Head Constable in BPS.7 (7490-15-19940) from the date of DPC held on 19.05.2016 with immediate effect.

No	Name & Number	Remarks
1.	Muhammad Khalid No. 5838	Promoted
2.	Waheed Ullah No. 22	Promoted
3.	Jan Alam No. 23/151	Promoted
4.	Imtiaz No. 2375	Promoted
5.	Khalil Ur Rahman No. 65	Promoted
6.	Zain Ullah No. 1279	Promoted
7.	Muhammad Shahid No. 3634/720	Promoted
8.	Saif Ullah No. 1237	Promoted
9.	Hameed-ullah No. 66	Promoted
10.	Danish Sarwar No. 2268	Promoted
11.	Waheed Ur Rahman No. 18	Promoted
12.	Hameed Khan No. 4794	Promoted
13.	Jawad Hussain No. 2119	Promoted
14.	Sajjad Ali No. 318	Promoted
15.	Zahoor Khan No. 2640	Promoted
16.	Niaz Ali No. 2959	Promoted
17.	Ashfaq Khan No. 2046	Promoted
18.	Raza Ullah No. 4343	Promoted
19.	Haji Akbar No. 83	Promoted
20.	Iqbal Hussain No. 1706	Promoted
21.	Meer Aman No. 185	Promoted
22.	Waqas Khan No. 33	Promoted
23.	Shehzad Ahmad No. 1824	Promoted
24.	Wajid Khan No. 1841	Promoted
25.	Faiz Muhammad No. 3900	Promoted
26.	Nasir Mahmood No. 1173	Promoted
27.	Nehad Ali No. 2942	Promoted
28.	Manzar Ali No. 2642	Promoted
29.	Gohar Ali No. 2902	Promoted
30.	Zaid Ullah No. 2384	Promoted
31.	Iftikhar Ali No. 319	Promoted
32.	Syed Sulaiman Shah 214	Promoted
33.	Zawar Hussain No. 2989	Promoted
34.	Nehad Ali No. 1829	Promoted
35.	Said Kareem No. 5263	Promoted
36.	Muhammad Ishfaq No. 15	Promoted
37.	Khalid No. 2232	Promoted
38.	Adnan No. 3173	Promoted
39.	Azam Shah No. 5192	Promoted
40.	Suhrab Shakir No. 2249	Promoted
41.	Mukhtiar Said No. 5167	Promoted
42.	Rahmat Ullah No. 49	Promoted

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Advocate

43.	Munsif Dad No. 1860	Promoted
44.	Muhammad Ayaz No. 3169	Promoted
45.	Aurangzeb No. 2651	Promoted
46.	Riaz Gul No. 4355	Promoted
47.	Muhammad Ibrahim No. 598	Promoted
48.	Kareem Ullah No. 5176	Promoted
49.	Nabi Haris No. 2893	Promoted
50.	Ibrahim No. 2473	Promoted
51.	Muhammad Shakir No. 2844	Promoted

OB No. 1304

Dated 23-5-16.

[Handwritten Signature]

District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN.

No. 3137-44 /EC, dated Mardan the, 24-5-2016.

Copy submitted to the:

1. Addl: IGP/ Commandant Elite Force Khyber Pakhtunkhwa Peshawar for favour of information Please.
2. DIG, Special Branch KPK Peshawar.
3. Deputy Inspector General of Police, CTD Peshawar.
4. Commandant PTC Hangu.
5. SP FRP Kohat.
6. SP Elite Force Kohat.
7. Principal RTW Kohat.
8. OSI.

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Advocate

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Advocate

Advocate

(12) Anze "C"

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

No. 59-79 /E-IV, dated Peshawar, the 04/10/2021

ORDER

The lien of the following Lower Subordinates of various Districts presently attached with District Police Mardan are hereby transfer to their parent District of domicile with immediate effect.

Their seniority shall remain intact with their colleagues in their parent Districts of domicile:-

S.No.	NAME & BELT NO.	DISTRICTS
1.	HC Inam Ullah No. 1234	Nowshera
2.	HC Muhammad Shakir No. 2844	Abbottabad
3.	HC Abdul Raziq No. 1235	Nowshera
4.	HC Kifayat Ullah No. 1674	Karak
5.	HC Ikram Ullah No. 133/102	DIKhan
6.	HC Hizar Ali No. 7175/499	Swabi
7.	HC Imtiaz No. 08	Karak
8.	HC Muhammad Khalid No. 5838	Karak
9.	HC Waheed Ullah No. 22	Tank
10.	HC Jan Alam No. 23/151	Manshara
11.	HC Imtiaz No. 2374	Manshara
12.	HC Nasir Mehmood No. 1173/2071	Karak
13.	HC Mir Aman No. 185	Karak
14.	HC Zain Ullah No. 1279	Karak
15.	HC Muhammad Shahid No. 734/720	Manshara
16.	HC Saif Ullah No. 1237	Karak
17.	HC Rahmat Ullah No. 49	Karak
18.	HC Farooq Anwar	Nowshera
19.	HC Hamd Ullah No. 66/1932	Karak
20.	HC Danish Sarwar No. 2268	Karak
21.	HC Waheed Ur Rehman No. 18/2579	Karak
22.	HC Fiaz Muhammad No. 3900/597	Swabi
23.	HC Ibrahim No. 2473	Nowshera
24.	HC Ifikhar No. 3431	Charsadda
25.	HC Amjid Muhammad	Charsadda
26.	HC Shah Faisal No. 118/SB	CCP, Peshawar

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Advocate Advocate

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

27.	LHC Tahir Amir No. 2632	Mardan
28.	LHC Abdur Rasheed No. 476	Lakki Marwat
29.	LHC Asif No. 6456	Lakki Marwat
30.	LHC M. Haleem No. 541	Dir Lower
31.	LHC Younas No. 6480	Lakki Marwat
32.	LHC Shamsher Ali No. 6106	Nowshera

(ZAHQOR BABAR AFRIDI)PSP
AIG/Establishment.

For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.

Endst: No. & dated even:-

Copy forwarded to the:-

1. Capital City Police Officer, Peshawar.
2. Regional Police Officers, Mardan, Hazara, Bannu, DIKhan & Malakand Region Swat.
3. Commandant FRP Khyber Pakhtunkhwa, Peshawar.
4. Commandant PTC / Hangu.
5. Deputy Commandant Elite Force Khyber Pakhtunkhwa, Peshawar.
6. District Police Officer, Mardan with reference to his office letter Nos. 6578/OSI, dated 26.11.2020 & No. 8899/OSI, dated 24.12.2020.
7. District Police Officers, Nowshera, Abbottabad, Karak, DIKhan, Swabi, Tank, Manshra, Charsadda, Lakki Marwat & Dir Lower.

2/2.

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Advocate

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Advocate

تھرو پراپر چینل

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخوا پشاور

جناب عالی!

گزارش ہے کہ بحوالہ چھٹی انگریزی نمبری IV-79/E-59 مورخہ 04.01.2021 بجاریہ جناب IG Establishment صاحب پشاور معروض خدمت ہوں کہ سائل نے سال 2016 میں اپنا Lein ضلع کوہاٹ سے ضلع مردان تبدیل کر دیا ہے۔ اور باقاعدہ طور پر بذریعہ NOC لیکر Bottom سینٹریٹی قبول کر کے 2016 سے افسران بالا صاحبان کے حکم احکام کے مطابق پوزیٹیو ایمانداری کیساتھ تاحال اپنی ڈیوٹی کے فرائض سرانجام دے رہا ہے۔ سائل نے 2015 فرسٹ ٹرم میں لوئز کورس پاس کر کے 19.05.2016 کو افسران بالا صاحبان نے باقاعدہ طور پر بمطابق پولیس رولز بعد HC پروموٹ کیا ہے۔ سائل نے ضلع مردان سے ترقی ضروری ہے اور ضلع مردان KPK پولیس کا حق بھی ادا کیا ہے۔

جناب عالی! سائل نے گزشتہ 05 سال اپنے مستقل کی خاطر اپنا گھرانہ، خوشی و غم، والدین، بال بچے اور دیگر رشتہ داران سے دور اپنا مقصد حاصل کیا ہے اور 05 سال میں ضلع مردان اور KPK پولیس میں اپنے فرائض کی انجام دہی میں افسران بالا صاحبان کو کوئی بھی شکایت کا موقع نہیں دیا ہے اور تاحال اپنے ڈیوٹی کے فرائض انجام دے رہا ہے۔

لہذا سائل بذریعہ درخواست تحریری استدعا کرتا ہے۔ کہ درج بالا چھٹی نمبری IV-79/E-59 مورخہ 04.01.2021 کو Withdraw کر کے سائل اور ایلیان سائل پر رحم کریں۔ سائل عمر مجرد عا گورہیگا۔

عین نوازش ہوگی۔

الرقوم: 04.01.2021

الغراض

زین اللہ نمبر 1279/HC متعینہ پولیس ٹریننگ کالج ہنگو۔

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Advocate

Anze "E"

(15)

3

Government of Khyber Pakhtunkhwa
Office of the Regional Police Officer,
Mardan
Phone No. 0937-9230113, Fax No. 0937-9230115.
Email Address: - esrpomardan@gmail.com

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

No. 807 /ES, dated Mardan Region, the 11 / 02 /2021.

Subject: REQUEST FOR SEEKING LEGAL GUIDANCE.

Memo: Reference to the above noted subject.

The District Police Officer, Mardan vide his office letter No. 319/OSI dated 14.01.2021 has requested for detachment of lien of those Lower Subordinates who though hail from other Districts and their lien was attached with District Mardan after seeking proper concurrence from the District Police Officers, concerned by this office on different occasions (copy enclosed).

It is pertinent to mention here that the Central Police Office, Peshawar vide Orders Memo: Nos. 59-79/E-IV dated 04.01.2021 and 835-38/E-IV dated 20.01.2021 has also delached the lien of those Lower Subordinates whose lien was attached with District Mardan by the Central Police Office, Peshawar.

It is also worth to add here that these lower subordinates had accepted bottom seniority and are performing their duties in District Mardan since their transfer. In order to avoid any injustice/illegality by detaching their lien in a mechanical manner, this office may be provided legal guidance on the issue of attachment and subsequent detachment of lien of Police Officers.


Regional Police Officer,
Mardan.


CC.

1. To the District Police Officer, Mardan for information w/r to his office Memo: No. quoted above.
2. Assistant Inspector General of Police, Establishment Khyber Pakhtunkhwa, Peshawar.

nsi
for information.

ATTESTED

to be true copy
Advocate

ATTESTED

to be true copy
Advocate

DPC/Mardan
11/2/21



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

No. 1307 /Legal dated Peshawar, the 3 13 /2021

To: The Regional Police Officer,
Mardan.

Subject:- **REQUEST FOR SEEKING LEGAL GUIDANCE.**

Memo:-

Please refer to your Office Letter No. 807/ES, dated 11.02 the subject cited above.

KP Police act 2017 Section 13 (8) provides that every Officers shall be liable for Posting to any Branch, Division, Bureau and anywhere in or outside the Police unless otherwise provided under the ibid act.

Further more in Standing Order No. 02/2016, the lien is Constable to Sub-Inspector is very clear. All personnel serving in Central Unit & deputation from concerned Districts and Regions and their lien will be in the District/Regions.

Besides above, Civil Servant can retain lien for 03 years at permanent post when Civil Servant join other post in any other department.

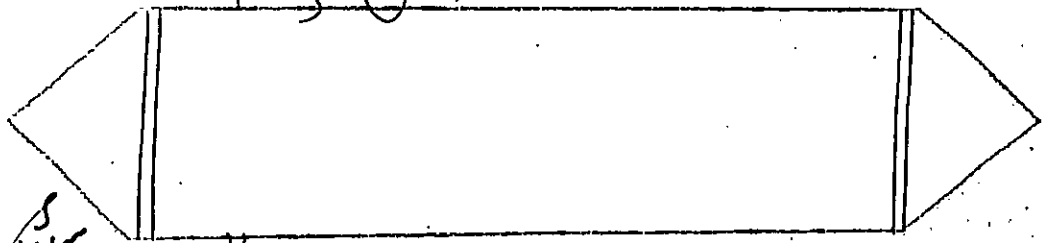
In view of the above quoted Law/Rules a Police Officer transferred to anywhere but his lien cannot be detached or attached with District/Unit.

[Signature]
AIG/LEGAL
For Inspector General
Khyber Pakhtunkhwa
15.02.2021

ATTESTED
[Signature]
to be true copy
Advocate

ATTESTED
[Signature]
to be true copy
Advocate

بند الت کروں نہ ہوں نہ



2021ء پنجاب سائیکل

رین اسٹیشن بنا نام DIG

اسٹیشن بنا

Service Appeal

مقدمہ
دعویٰ
چیم

باعث تخریب آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی رکھ کر روائی متنازعہ /
 آن مقام سینئر سپرنٹنڈنٹ پولیس کیلئے سینئر سپرنٹنڈنٹ پولیس کے
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو رضی نامہ کرنے و تقرر حالتہ فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تسلیق
 ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادری اور مندرجہ
 نیز دائرہ کرنے اپیل نگرانی و نظر ثانی اور 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 یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی حملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
 پروا خیر منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درجاندہ التوائے مقدمہ کے سبب سے روگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 نہ کریں۔ لہذا وکالت نامہ لکھا یا کہ سند ہے۔

المقوم 26 اہ خارج 2021

کے لئے منظور ہے۔

0314-9070659
60-09-1766

ATTESTED
to be true copy
Advocate

رین اسٹیشن 1276 پولیس سٹیشن 66 لاہور Di
H.C
Jaim

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 4803 /2021

Zain Ullah

V/S

Police Deptt: and others.

.....
**APPLICATION FOR IMPLEADMENT AS
RESPONDENTS IN THE INSTANT APPEAL.**

.....

RESPECTFULLY SHEWETH:


1. That the appellant has filed the instant appeal alongwith suspension application in this Honorable Tribunal against the order dated 04.01.2021 whereby the appellant was transferred to his parent District according to his Domicile.
2. That the instant appeal was admitted for regular hearing on 04.06.2021 and notice of appeal alongwith application was issued to the respondents and fixed for today i.e 24.09.2021.
3. That the applicants are the permanent employee of District Police Mardan and if the instant appeal is decide in the favour of appellant then it will ultimately effect the right of applicants.
4. That since the applicants are necessary party but has not been arrayed as the respondents in the instant appeal. Therefore the applicants wants to file the instant application for impleadment as respondents in the instant appeal. The names and addresses of the applicants are mentioned below:-
 - i. Sajjad Khan, (LHC) Motorway Police on Deputation Basis.
 - ii. Kashif Ashfaq, (LHC) Police Training Centre, Hangu on Deputation Basis.
 - iii. Sher Alam, (LHC) Police Station Takht Bhai Mardan.
5. That as the applicants are necessary party and has been constitutional duly to defend their cause but not arrayed as respondents in the instant appeal.

It is, therefore, most humbly prayed that on acceptance of this application for impleadment the applicants may be impleaded in the panel of respondents in the instant appeal enabling to defend their rights. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in the favour of the applicants.


APPLICANTS

Sajjad Khan etc.

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN

& 
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.

AFFIDAVIT

I, do hereby solemnly affirm and declare that the contents of this Application are true and correct to the best of my knowledge and belief.




DEPONENT

Sajjad Khan

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Zain Ullah

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt & others

(Respondent)
(Defendant)

I/We, Sajjad Khan, Khushif Ashfaq & Sher Alam

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court of Pakistan**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021


(CLIENT)

ACCEPTED



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN.


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

(ASAD MEHMOOD)
ADVOCATE HIGH COURT,

S. Khanz
(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawa

05/01/22
14/10

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

Service Appeal No. 4803/2021

Zain Ullah HC Belt No. 1279/ Mardan.....**Appellant**

VERSUS


AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central
Police Office, (CPO) Peshawar

.....**Respondents**

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Respondent through



(TARIQ UMAR)
DSP/ Legal, CPO
17301-4997553-7
0333-8878882

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 4803/2021

Zain Ullah HC Belt No. 1279 Police Department Khyber Pakhtunkhwa presently serving at District Mardan **appellants**

VERSUS

AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar **Respondents**

Para-wise reply by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law and limitation.

REPLY ON FACTS

1. Para to the extent of respectable and law abiding citizen a Pakistan is not related as the same pertains to the person of appellant. While rest of the para is legal because constitutional rights of every person is protected.
2. Correct to the extent that the appellant was serving as Head Constable in Police department. While rest of the para is not plausible because every Police Officer is duty bound to perform his duties to the best of his ability.
3. Correct to the extent that the appellant was transferred along with lien to District Mardan and he was placed in the bottom of seniority list.
4. Para to the extent of transfer to District Mardan is correct while completion of requisite period and subsequent promotion on the basis of completion of requisite period is not plausible. As when any constable qualifies Lower School Course and vacancies fall vacant, then he will be promoted as Officiating Head Constable on the basis of seniority cum fitness by Departmental Promotion Committee (DPC).
5. Incorrect. Plea taken by the appellant is not plausible because every Police Officer is duty bound to perform his duties to the best of his ability. Moreover,



lack of red entry in the record does not exonerate any of the Police Officer from lawful orders.

6. Incorrect. Stance of the appellant is totally devoid of merit in terms of completion of prescribed period of service because neither the Police Rules nor the Police Act prescribe any period of service as alleged by the appellant. Moreover, the appellant though hails from District Karak and transferred his lien to District Mardan, therefore, he was transferred alongwith lien to his parent District and his seniority with his colleagues will remain intact in his parent District. Since most of the Lower School Course qualified Constables of District Mardan were aggrieved as Head Constables hailing from other Districts were promoted on the vacancies of District Mardan and those whose parent District is Mardan, are waiting for their turn for promotion to the rank of Head Constables, therefore, they submitted application as result of which the lien of appellant was detached from District Mardan and attached to his District of domicile. Besides, seniority of appellant is kept intact with his colleagues of Lower School Course in his District.
7. Para pertains to record needs no comments.
8. Correct to the extent that the then Regional Police Officer, Mardan addressed a letter to Central Police Office Peshawar for seeking legal guidance.
9. Correct to the extent that in response to the aforementioned letter, the Assistant Inspector General of Police Legal Khyber Pakhtunkhwa opined that Civil Servant can retain lien for three years at permanent post when civil servant join other post in any other department. But it is worthwhile that the appellant has neither joined other department nor other post rather remained in Police Department. Moreover, para 2 of the ibid letter is also worth perusal.
10. Correct to the extent that the appellant is serving in Police Department and his lien has been transferred to his parent District where his seniority will remain intact with his colleagues there in his parent District. However, rest of the para is bereft of any legal footing.
11. Incorrect. Stance taken by the appellant is totally devoid of merit because it is pertinent to mention here that the appellant after his transfer to District Mardan was promoted to the rank of Head Constable on the vacancy of District Mardan much before his colleagues of his District of Domicile and till date enjoyed all the facilities extended to the promoted officers. However, when the constables of District Mardan qualified Lower School Course and brought on promotion list C-I, are waiting for their turn for promotion to officiating Head Constables, have submitted applications that Police Officers of other Districts have occupied their vacancies as result of which they have suffered irreparable loss in terms of their due promotion. Resultantly lien of all those Head Constables including the appellant was detached who though hail from other Districts were promoted against the vacancies of District Mardan.


12. That the appeal of the appellant being not maintainable is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

- A. Incorrect. Plea taken by the appellant is not plausible because order passed by the competent authority is legal, lawful and according to norms of natural justice. Hence, liable to be maintained.
- B. Incorrect. Plea taken by the appellant is not plausible because every Police Officer is duty bound to perform his duties to the best of his ability. As in this department no room lies for lethargy. Besides, transfer of lien of the appellant to his parent district is legal and lawful hence required to be maintained.
- C. Incorrect. Stance of the appellant is totally ill based, hence, liable to be set at naught.
- D. Para already explained needs no comments.
- E. Incorrect. The appellant has been treated according to the norms of natural justice and law/ rules.
- F. Incorrect. Stance of the appellant is not maintainable as order passed by the competent authority is in accordance with law/ rules hence needs no interference.
- G. That Respondent also seeks permission of this Honorable Tribunal to seek additional grounds at the time of arguments.

PRAYER:-

Keeping in view the above stated facts it is most humbly prayed that the appeal of the appellant being not maintainable, may very kindly be dismissed, with costs please.


**AIG Establishment,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent)**

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

Service Appeal No. 4803/2021

Zain Ullah HC Belt No. 1279/ Mardan.....**Appellant**

VERSUS


AIG/ Establishment.....**Respondents**

AFFIDAVIT

I, Tariq Umar DSP/ Legal, CPO do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondent is correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

Respondent through




(TARIQ UMAR)
DSP/ Legal, CPO
17301-4997553-7
0333-8878882