

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

Service Appeal No. 6128/2020

Aqiq Hussain

DSP, Bannu

(Appellant)

Versus

1. INSPECTOR GENERAL OF POLICE, KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT.

(Respondent)

(Rejoinder)

In response to parawise comments submitted by respondents, it is submitted that: -

- i. The appellant has been aggrieved, therefore submitted appeal to the honorable Khyber Pakhtunkhwa service tribunal, Peshawar.
- ii. The respondents have ignored the appellant in seniority and confirmation from the date of promotion, and sought rights through the honorable Khyber Pakhtunkhwa services tribunal.
- iii. Issuing accurate seniority lists and confirmation of a civil servant as per rules was the responsibility of the respondents.
- iv. As explained above in sub clause(iii).
- v. The appeal is maintainable as per law and rules.
- vi. Copy of representation to the Inspector General of Police is annexed as proper representation was made to the Police Chief.
- vii. The appellant has come to the honorable Khyber Pakhtunkhwa Services Tribunal with clean hands for his rights.

viii. As mentioned by the respondents that a final seniority list of DSsP vide notification No. 1594/SE-1 dated 05-01-2022 has been issued, the referred date is incorrect and it was issued on 05-08-2022, through which the rights of the appellant have been infringed and did not assign due seniority of service under purview of Police Rules 12.2(3), which lays down that;
"SENIORITY SHALL, HOWEVER BE FINALLY SETTELED BY DATES OF CONFIRMATION "

Right from ASI under Police Rule 13.18 , a promotion was declared entitled to be confirmed at all stages from date of promotion and the Service Tribunal setting aside orders passed by authorities below whereby representations of civil servant were rejected, granted relief claimed for by civil servant Javed Khan's case D.S.P. 2180 of 1997; Syed Manzar Ali Shah's case 640 of 1996; Messrs Zulfiqar Ahmad and others 912 of 1994, 451 of 1994, 1224 of 1994, 351 of 1994 and 118 of 1992; 1995 PLC (C.S.) 1140; 1997 PLC (C.S.) 687; 1998 PLC(C.S.) 373; 2000 PLC (C.S.) 697; 1996 SCMR 1945 and 1999 SCMR 1594 ref. 2001 PLC (C.S.) 245.

ix. The appeal is valid under purview of law and limitation Act.

Facts:-

1. the respondents admitted the facts and mentioned "needs no comments.
2. The respondents again admitted the facts mentioned by the appellant.
3. The respondents are Police Officers and they are bound by Rules for assigning correct seniority. The appellant name was brought on promotion list "E" with effect from 15-03-2003 on confirming into the rank of ASI by DIG Kohat vide No. 759-62/EC dated 26-03-2005 which has already been annexed with appeal. The appellant was due to be confirmed from the date of promotion as ASI with effect from 15-03-2000, and as SI from 15-03-2005 and as inspector with effect from 30-07-2010 after expiry of probation periods under purview of Rules and decisions referred above in sub clause xiii. The respondents admitted the grievance of the appellant and they mentioned that it has already been resolved, but it has not yet been resolved and still the respondents have kept the appellant deprived.
4. The whole Police Seniority lists are based on A,B,C,D,E,F duly described in the Police Rules 13.1. when the due seniority has not been assigned to the appellant by the DIG

Kohat under purview of 13.9 and 13.10 by not confirming the appellant under Police Rules 12.2 (3) and 13.18 of 1934, thus the rights of the appellant's have been infringed and denied.

The appellant has given a reference of inspector Munawar Khan, whose name was brought on promotion list "E" on 01-01-1996 under Police Rules 13.10 and immediately after three days his name was brought on promotion list "F" vide notification No. 5843/E-II dated 2-03-2012, so therefore the right forum has been appealed/ requested about the injustice made by the respondents with the appellants. The DIG Kohat was bound down under Police Rules 13.10 (1) that half- yearly reports on men entered in the list maintained under this rule shall be furnished in form No. 13.9(3) by the 15th October, in addition to the annual report to be submitted by the 15th January in accordance with Police Rules 13.17.

Under Police Rules 13.11 Publication of list "E" in the Police Gazette, it shall be published by the DIG range annually, not doing such obligations, the appellant has been deprived of his due seniority/ confirmation from the date of promotion step to step.

5. Incorrect. The respondents did not reply to para No.5 of the appellant. It is evident from the seniority lists that CPO Peshawar has done time to time amendments into the seniority lists of the inspectors and DSsP without intimation to the appellant etc.

Furthermore, the respondents incorrect replied that seniority lists of the all officers/ officials stood issue at the end of calendar year. The CPO Peshawar has issued seniority lists twice in calendar year as evident from list "F" Notification No. 3984 dated 10-02-2011, circulated under reference No. 3985-4000 dated 18-02-2011 and No. 5843-E-II on 20-03-2011 circulated under No. 5844-60 E/II dated 26-03-2012 and similarly the seniority lists of the DSsP vide No.352/SE-I on 21-02-2022 and seniority list No. 1355/SE-I dated 28-06-2022 and seniority list No. 1594/SE-I dated 05-08-2022.

6. Incorrect replied, the appellant has put forward the case of Muhammad Sharif No. K/23, whose name was brought on promotion list "E" on 18-5-2002 and he was quickly admitted to list "F" by the CPO Peshawar on 17-12-2003 vide Seniority list No. 3984/E-II dated 10-02-2011 while the appellant has been kept deprived from his due seniority.


7. Incorrect replied by the respondents, seniority lists itself show that time to time and date to date amendments have been made by the CPO Peshawar and such amendments have not been conveyed to the appellant and a single proof/ receipt of mine cannot be produced by the respondents to the honorable Khyber Pakhtunkhwa service tribunal and still the injustice is going on with the appellant.
8. Incorrect replied by the respondents, it was highlighted that inspector Waqar Ahmad's name was brought on promotion list "E" on 09-02-2003 and in the same year his name was included into list "F" on 17-12-2003 and similarly Muhammad No.B/17 was included into list "E" on 31-03-2003 and in the same year his name was brought on promotion list "F" on 17-12-2003 while the appellant name was put on list "E" on 15-03-2003, therefore the appellant has appealed for his due seniority between these two DSsP now promoted SsP. The DIG Kohat was responsible to have assigning right and due seniority to the appellant but he ignored it, although P.R 12.2 quoted by the respondents, lays down that seniority will be reckoned from the date of promotion.
9. Incorrect replied by the respondents , the Khyber Pakhtunkhwa Police is being commanded by a provincial Police Officer, and all the DIsG are responsible to send reports related to list "E" to the IG Police twice in a year under Police Rules 13.10(1) . the respondents should treat all Police Officers in terms of seniority equally.
10. Incorrect replied by the respondents, it has been well explained by the appellant in his appeal and as admitted in para-No.7 by the respondents issuing final seniority list of the DSsP, this is the evidence that CPO Peshawar has issued seniority lists more than one time in a year and amendments on cherry picking etc has been made duly visible in all lists. So, it was the duty of the respondents to have issuance of merit-based seniority lists but unluckily the appellant has been deprived of his due confirmation from the dates of promotions step to steps under purview of Police Rules and referred courts/tribunal judgements.

Prayer:-

in view of the above facts, the appellant may be given his due service seniority and confirmation from the dates of promotions i.e ASI from 15-03-2000, as S.I from 15-03-2005 and as inspector from 30-07-2007 with due seniority in the rank of DSP and placing the name into seniority list between the DSsP now SsP Waqar Ahmad No. P/175 and Muhammad Shafiq No. B/17 and may also decide the appellant due promotion to the rank of superintendent of Police , please.


Appellant

Through


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