

12.01.2023

Counsel for the appellant present.

Muhammad Adeel Butt learned Additional Advocate

General for respondents present.

SCANNED
KPST
Peshawar

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned.

To come up for arguments on 13.04.2023 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

01.09.2022

Learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

Learned Member (Judicial) Mrs. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on restoration application on 13.10.2022 before the D.B.

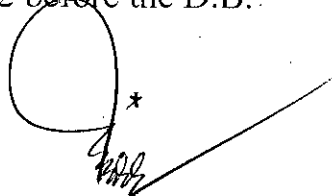


(Salah-Ud-Din)
Member(J)

13.10.2022

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present.

Learned counsel for the appellant seeks adjournment for preparation of arguments. Adjourned. To come up for arguments on 18.11.2022 before the D.B.



(Mian Muhammad)
Member (E)




(Salah-Ud-Din)
Member (J)

18th Nov. 2022

Lawyers are on strike today.

Case is adjourned to 12.01.2023 for arguments before the DB. Office is directed to notify the next date on the notice board as well as website of the Tribunal.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member(J)

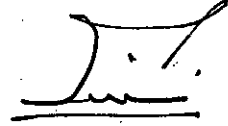
25.04.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come for arguments on 19.05.2022 before D.B.



(Rozina Rehman)
Member (J)



(Salah-Ud-Din)
Member (J)

19.05.2022

Appellant in person present. Mr. Fazal Subhan, Head Constable alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned Member (Judicial) Ms. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 23.06.2022 before the D.B.



(Salah-ud-Din)
Member (Judicial)

23.06.2022

Appellant in person present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Former made a request for adjournment as his counsel is busy before Hon'ble Peshawar High Court, Peshawar; granted. To come up for arguments on 01/10/2022 before D.B.



(Fareeha Paul)
Member(E)

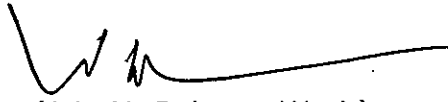


(Rozina Rehman)
Member (J)

17.01.2022

Mr. Muslim Shah Rabbani, Adocate for appellant present and submitted fresh Wakalatnama which is placed on file. Mr. Mu hammad Adeel Butt, Addl. AG for the respondents present.

Former seeks adjournment to prepare the brief. Request accorded. To come up for arguments on 31.03.2022 before the D.B.



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


Chairman

31.03.2022

Appellant in person present. Mr. Fazle Subhan, Head Constable alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on ~~25.04.2022~~ before the D.B.



(Rozina Rehman)
Member (J)


(Salah-ud-Din)
Member (J)

P.S


28.07.2021

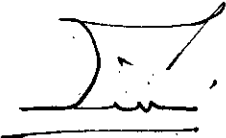
Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.


Chairman

27.10.2021

Appellant alongwith Mr. Umer Farooq (junior of learned counsel for the appellant) present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and submitted comments, copy of which handed over to junior of learned counsel for the appellant, who sought adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for rejoinder, if any, as well as arguments on 01.12.2021 before the D.B.


(Mian Muhammad)
Member (E)

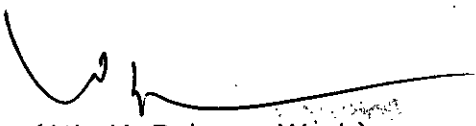

(Salah-Ud-Din)
Member (J)

01.12.2021

Junior to counsel for the appellant present.

Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Fazal Subhan H.C for respondents present.

Former made a request for adjournment as senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 17.01.2022 before D.B.


(Atiq Ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

25.03.2021

Appellant present through counsel. This case was fixed for 18.05.2021 but was requisitioned for today on the written request of the learned counsel for appellant.

Preliminary arguments heard. Record perused.

Points raised need consideration. Appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to the respondents. To come up for written reply/comments on 28/06/2021 before S.B.

Appellant Deposited
Security & Process Fee

[Handwritten signature]

[Handwritten signature]

(Rozina Rehman)
Member (J)

28.06.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Fazal Subhan H.C for respondents present.

The respondents have not submitted written reply. They are required to submit written reply/comments in office within 10 days positively. If the written reply/comments are not submitted in office within stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 27.10.2021 before D.B.

Stipulated period has passed and reply has not been submitted.

[Handwritten signature]




(Rozina Rehman)
Member(J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 26437 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/12/2020	<p>The appeal of Mr. Sajjad Ahmad resubmitted today by Mr. Noor Muhammad Khattak 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> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01-02-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>01.02.2021</p> <p>Counsel for the appellant present.</p> <p>States that hearing in the case was not noted in his diary for today hence adjournment is requested. Adjourned to 18.05.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Sajjad Ahmad Sub Inspector of police District Swabi received today i.e. on 16.12.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- ② Copy of promotion order of the appellant as Sub Inspector is not attached with the appeal which may be placed on it.
- 3- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be attested.
- 5- Annexures of the appeal may be flagged.
- 6- Five more copies/sets of the appeal along with the annexures i.e. complete in all respect may also be submitted with the appeal.

No. 4086 /S.T,

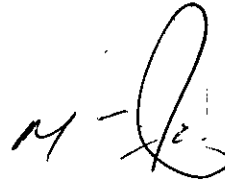
Dt. 17/12 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:
Sir,

That objection No. 2 has not been removed, due to non availability of the promotion order ~~dated~~ which may be placed before the bench later, while all other objections have been removed, hence re-submitted today dated 31.12.2020.


31/12/2020.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2020

SAJJAD AHMAD

VS

POLICE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2	Order dated 30.12.2019	A	4.
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6	Appellate order	E	11.
7	Vakalat nama	12.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. 16437 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16534

Dated 16/12/2020

Mr. Sajjad Ahmad, Sub inspector (MTO),
District police Sawabi.

..... APPELLANT

VERSUS

- 1- The Inspector General Of Police, Khyber Pakhtunkhwa Peshawar.
- 2- The Regional Police Officer, Mardan Region.
- 3- The District Police Officer District Sawabi.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 30/12/2019 WHEREBY THE APPELLANT WAS REVERTED FROM THE POST OF SUB-INSPECTOR TO THE POST OF C-II HEAD CONSTABLE AND AGAINST THE APPELLATE ORDER DATED 29/01/2020 AND REVISIONAL ORDER DATED 17/11/2020 WHEREBY THE APPEAL AND REVISION OF APPELLANT WERE REGRETTEED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal the impugned orders dated 30/12/2019, 29/01/2020 and 17/11/2020 may kindly be set aside and the appellant may please be restored on his original post of sub-inspector with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise on the present appeal are as under:

- 1- That appellant was serving as sub-inspector (MTO) in the respondents department quite efficiently and up to the entire satisfaction of his superiors.
- 2- That it is pertinent to mention here that the appellant was reverted from the post of sub-inspector to the post of C-II head constable vide impugned order dated 30/12/2019. Copy of impugned order dated 30/12/2019 is attached as annexure.....A.

Filed to-day

Registrar

16/12/2020

Re-submitted to-day
and filed.

Registrar

31/12/20

- 3- That feeling aggrieved from the above mentioned impugned order the appellant filed departmental appeal before respondent no.2 but the same has been regretted on no good grounds vide impugned appellate order dated 29/01/2020. Copy of departmental appeal and appellate order dated 29/01/2020 are attached as annexure **B&C.**
- 4- That feeling further aggrieved from the impugned appellate order the appellant file revision petition under rule 11-A of police rules 1975 before respondent no.1 but same has also been regretted vide impugned revisional order dated 17/11/2020 on no good grounds. Copies of revision petition and appellate revisional order dated 17/11/2020 are attached as annexure..... **D.**
- 5- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

GROUND:

- A- That the impugned orders dated 30/12/2019,29/01/2020 and 17/11/2020 are against the law, facts and norms of natural justice hence not tenable in the eye of law and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafide manner by reverting the appellant from the post of sub-inspector to the post of C-II head constable.
- D- That the appellant has been discriminated on the subject noted above and as such the respondents violated the principle of natural justice.
- E- That no show cause notice has been issued to the appellant before passing the impugned order which is mandatory under police rules 1975.
- F- That no opportunity of personal hearing has been extended to appellant which is not only against the law on the subject but also against the principle of natural justice.

- G- That no regular inquiry has been conducted by the respondents before issuing the impugned order.
- H- That appellant has been properly promoted by competent authority on his own turn and not out of turn as alleged by the respondents.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 14.11.2020

APPELLANT


SAJJAD AHMAD

THROUGH:


**NOOR MUHAMMAD KHATTAK
&
SHAHZULLAH YOUSAFZAI
ADVOCATE**

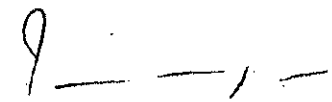
A = (4)

ORDER.

The promotion cases of Sajjad Ahmad from the rank of C-II Head Constable to Sub Inspector (MTO) was examined and found that he has not qualified promotion courses and presently serving as Sub Inspector, so in the light of judgment of Honorable Supreme Court of Pakistan, on out of turn promotion SI Sajjad Ahmad is hereby reverted from the rank of Sub Inspector to his substantive rank of C-II Head Constable with immediate effect.

OB No 1141

Dated 30-12 /2019.


District Police Officer,
Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 11647-48 /EC, dated Swabi, the 30-12 /2019.

Copies to all concerned.



dt, 8-2-1999

Superintendent
Police Swabi

To

The Regional Police Officer,
Mardan Region, District Mardan

B - 5

Subject: **DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 30.12.2019
WHEREBY THE UNDERSIGNED HAS BEEN REVERTED FROM THE RANK OF SUB
INSPECTOR TO THE SUBSTANTIVE RANK OF C-II HEAD CONSTABLE**

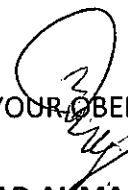
Respected Sir,

With due respect it is stated that the undersigned was serving as Sub-Inspector (MTO) before your good self-Department efficiently. During performing my duties as Sub-Inspector the District Police Officer, District Swabi issued the impugned order dated 30.12.2019 whereby the undersigned has been reverted from the rank of Sub-Inspector to the substantive rank of C-II Head Constable without issuing any notice to the undersigned. That the undersigned has been served against the rank of Sub Inspector for quite considerable period and also promoted to the rank of Inspector on acting charge basis but astonishingly the concerned authority reverted the undersigned to the substantive rank of Head Constable without giving any opportunity of personal hearing which is against the prescribed law and rules. That the undersigned feeling aggrieved from the impugned order dated 30.12.2019 preferred the instant Departmental appeal before your good self for redressal of my grievances.

It is therefore, most humbly requested that the impugned order dated 30.12.2019 may very kindly be set aside and the concerned authority may kindly be directed to restore the undersigned on the rank of Sub-Inspector with all back benefits.

Dated: 08.01.2020

YOUR OBEIENTLY


SAJJAD AHMAD, Inspector
Police Lines, District Swabi

C-6



ORDER.

This order will dispose-off the departmental appeal preferred by Head Constable (C-II) Sajjad Ahmad No. 990 of Swabi District Police against the order of District Police Officer, Swabi, whereby he was reverted from the rank of Sub Inspector (MTO) to Head Constable (C-II) vide OB No. 1141 dated 30.12.2020.

Appellant Sajjad Ahmad was serving as Sub Inspector in Swabi District and remained posted in different branches. The promotion cases of appellant from officiating rank of Head Constable (C-II) to the rank of officiating Sub Inspector (MTO) was examined by the District Police Officer, Swabi. From the perusal of service record of appellant, it revealed that the appellant has not qualified any promotion courses i.e. Lower School and Intermediate College Course respectively. Besides, his name was also not brought on either of the Promotions List i.e. D and E and was holding the rank of Sub Inspector. Since his case fell within the purview of out of turn promotion which has been already declared as unconstitutional and illegal by the Apex Court. Therefore, in the light of judgment of Honorable Supreme Court of Pakistan, the appellant was reverted to his substantive rank of Head Constable (C-II) by the District Police Officer, Swabi OB No. 1141 dated 30.12.2019.

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 28.01.2020.

From the perusal of service record of the appellant, it came to light that neither the appellant has qualified promotion courses nor his name has been brought on Promotion Lists maintained for the purpose. Besides, the appellant was appointed as general duty constable and not driver constable. The contention of the appellant regarding his promotion on the vacancy of Motor Transport Staff is also not justifiable as he had been appointed as a Constable on the general cadre vacancy. Moreover, the case of appellant also comes within the domain of the out of turn promotions, which have already been declared as unlawful by the Apex Court of Pakistan vide its verdict.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer,
Mardan.

efal
C/PD ASI / PS
PS Swabi
30-01-20

No. 1066 /ES, Dated Mardan the 29-01-2020.

Copy forwarded to District Police Officer, Swabi for information and necessary w/r to his office Memo: No. 15/Insp: Legal dated 17.01.2020. His Service Record is returned herewith.

(*****)

Th

Proper Channel

Subject:

Departmental review petition u/r 11 Sub para 2(Proviso) r/w 11-A(Revision) of KPK Police rules 1975, against the impugned orders, Passed by DPO bearing endst No.11647-49 dated 30.12.2019 and W/DIG Region Mardan vide Endost No.1066/ES, dated 29.01.2020.

Sir,

The petitioner respectfully prefers this review/revision against the impugned order under subject, inter-alia on the following grounds, amongst others.

PRELIMINARIES:

1. At the very outset, this may be stated that promotion to the rank of sub inspector was not out of turn as reflecting from the order of appellate authority i.e worthy DIG Mardan but it was made through regular DPC and order was issued accordingly by worthy DIG Mardan vide endst No.494-95/ES dated 08.03.2011.
2. Case of applicant falls within the principle locus poenitentiae, and the worthy competent authorities after long period of 14/15 years brought the applicant to the rank of Head constable **when the applicant had already been given the rank of inspector/promotion on acting charge base and action against such persistent rank for long time has been repelled, in reported judgment 2002 PLC (C.S)506(a), declaring as unjustified.**
3. Action of authority against civil servant, in case of any violation of prescribed procedure for appointment etc has been condemned by the Hon'able Supreme Court of Pakistan in reported judgments, depicted as under.
 - a. **2004 SCMR 303** prescribed procedure was not followed by concerned authority, the civil servant should not be blamed for what was to be performed and done by competent authority.....competent authorities should be held responsible and liable for laps on their part.authorities had terminated services of civil servant without any just and legal cause.....**leave to appeal of department was refused.**



b. **2005 SCMR 85**.....Authorities were bound to issue show cause notice to civil servantsif such notice should have been issued, the civil servant might have come out with defense that the appointments (here the case is of demotion) were not illegal.....if at all, had been committed by department itself for which action the civil servant should not be penalized.....principle of natural justice and audi alteram partem was violated which could not be ignored unless fair opportunity had been given at once stage or other**authority could not be allowed to punish others for illegal acts of its own**.....Termination order was declared void as well violative of principles of natural justice, locus poenitentiae and estoppel.civil servant was reinstated.

c. **2006 SCMR 678**.....Appointment of employee, if made illegally, could not be cancelled under (E&D) Rules.Instead of taken action against such employee, action must be taken against appointing authority for committing misconduct by making illegal appointment as per his own admission.**The employee was reinstated in service.**

d. The applicant has not been given any opportunity to explain his status as a lawful employee, by not issuing show cause notice to explain the status which is against **the principles of natural justice and fair play, as per reported judgment 2005 PLC (C.S) 1291.**

4. **The confirmation as selection grade Sub Inspector requires the period of probation for one year, contained u/r 13.14 (3) of PR 1934, which was completed without any departmental proceedings, the applicant/officer fully maintained standard and conduct/efficiency hence the applicant was confirmed selection grade Sub Inspector.**

5. The order of demotion to the rank of Head constable was directed without any charge/misconduct against the petitioner, superior court has held that **authority should not be allowed to undo the promotion of civil servant with one stroke of pen for no fault of civil servants.**

6. Two pre-requisite conditions for promotion to next rank, to successfully press into service of **rule 13.18 PR 1934 are, (a) existence of vacancy (b)satisfactory service record which have been fully fulfilled in the**

case of applicant hence the orders passed by competent authorities are without lawful justifications. (9)

7. Passing or undergoing relevant courses cannot be used against the applicant as deputation to courses was beyond his control and the Hon'able court granted relief to civil servant / police Sub inspector on the basis of seniority, reported in judgment KLR 1997 (Services cases) 199.

ON FACTS:

1. The applicant was appointed as constable in the year 1986, promoted as Head Constable on 08.02.1999(Annexure-A) and thereafter on fulfilling eligible criteria promoted as ASI on 23.11.2005(Annexure-B). Subsequently on account of outstanding performance I was promoted as Sub Inspector on 08.03.2011 through regular DPC by worthy DIG Mardan vide notification No.994-95/ES dated 08.03.2011.(Annexure-C)
2. In view of good reputation and honest / integrated performance, the applicant was promoted to the rank of inspector on acting charge base vide endst No.2798-99/E dated 07.04.2016. (Annexure-D)
3. The applicant without any plausible cause or justified reason, was awarded major penalty of reduction in rank by demoting to the rank of Head Constable without any inquiry by worthy DPO vide order dated 30.12.2019. (Annexure-E)
4. The impugned order was challenged through appeal u/r 11 KP Police Rules 1975 (Amended 2014) before worthy DIG Mardan but was not considered and vide order dated 29.01.2020, the punishment/demotion, awarded by worthy DPO was upheld. (Annexure-F)

GROUND OF Review/Revision:

The impugned orders of worthy authorities, are assailable on the following grounds, along with supporting stance / rules, raised in the preliminaries

1. The impugned orders are unjust, unlawful and without authority / jurisdiction hence coram non judice and void abeneticio.
2. The applicant has spotless service record of 34/35 years and throughout his carrier he has been awarded, commended and given best postings / blessings with good ACRs.



3. The applicant was promoted to rank of Sub inspector through regular process and promotion orders were issued as per proper notifications, discussed here-in-before.
4. No inquiry proceedings or show cause notice was issued to the petitioner / applicant and the orders passed by worthy authorities are against the administration of natural justice, also the Constitution 1973.
5. The applicant was a confirmed sub inspector and 02 step demotions from rank of sub inspector is unwarranted rather unlawful.
6. The impugned order has not only caused irreparable loss to the career of applicant but also have an effect on family reput/status, amongst the inhabitants of area, having created embarrassing/uncomfortable situation.
7. The worthy competent authority did not hear the petitioner patiently to explain the circumstances / alleged charges, did not consider lengthy service of about 35 years but passed the impugned order, under subject, without consulting proper record and rules there upon.

PRAYER

Above in view, it is humbly prayed that by accepting this review/revision, the impugned order dated 29.01.2020 may very kindly be set aside and orders for bringing back to original status of the petitioner may kindly be passed.

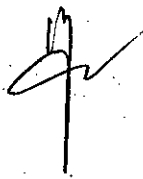


Sincerely yours

Sajjad Ahmed No.990
(Applicant)

Ex-Inspector District Swabi

0333/9851716





OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 4576 /20, dated Peshawar the 17/11 /2020. E-11

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **Head Constable Sajjad Khan No. 990 (the then SI)**. The petitioner was serving as Sub-Inspector in Swabi District and remained posted in different branches. His promotion cases from officiating rank of Head Constable (C-II) to the rank of officiating Sub-Inspector (MTO) was examined by the District Police Officer, Swabi. From the perusal of service record of applicant, it revealed that he has not qualified any promotion courses i.e. Lower School and Intermediate College Course respectively. Besides, his name was also not brought on either of the Promotion List i.e. D and E and was holding the rank of Sub-Inspector. Since his case fell within the purview of out of turn promotion which has been already declared as unconstitutional and illegal by the Apex Court. Therefore, in the light of judgment of Honorable Supreme Court of Pakistan, he was reverted to his substantive rank of Head Constable (C-II) by District Police Officer, Swabi vide OB No. 1141, dated 30.12.2019. His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 1066/ES, dated 29.01.2020.

Meeting of the Appellate Board was held on 05.11.2020, wherein the petitioner was present and heard in detail.

Perusal of record reveals that the petitioner has not qualified promotion courses nor his name has been brought on Promotion Lists maintained for the purpose. He was appointed as general duty Constable and not Driver Constable. His case comes within the domain of the out of turn promotions which has been declared as unlawful by the Supreme Court of Pakistan. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.


Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 4577-86 /20,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. One Service Book, one Service Roll and one Fauji Missal of the above named HC received vide your office Memo: No. 3737-38/ES, dated 18.06.2020 is returned herewith for your office record.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-III, CPO Peshawar.
8. Officer concerned.


(SALMAN CHOUDHRY)
Deputy Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Sajjad Ahmad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

(RESPONDENT)
(DEFENDANT)

I/We *Sajjad Ahmad*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** 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 cost. 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.

Dated. ____/____/2020

S

CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

MUHAMMAD MAAZ MADNI

&

AFRASIAB KHAN WAZIR
ADVOCATES

OFFICE:
Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 16437/2020.

Sajjad Ahmad Ex-Sub Inspector (MTO) now Head Constable.....Appellant

VERSUS

Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents

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J. Ahmad
Imp. Legal
Supt.
27/1/2021



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 16437/2020.

Sajjad Ahmad Ex-Sub Inspector (MTO) now Head Constable.....Appellant

VERSUS

Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Shewith,

Preliminary Objections.

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties, hence not maintainable in its present form.
3. That the appeal is barred by law & limitation.
4. That the appellant has not come to this Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the appellant concealed the material facts from this Hon'ble Tribunal.
7. That the appellant has been estopped by his own conduct to file the appeal.

Reply on facts.

1. Para No. 01 of appeal pertains to record, hence need no comments.
2. Para No. 02 of appeal to the extent of demotion from the rank of Sub Inspector to Head Constable is correct. Appellant was enlisted in Police Department as Constable on general cadre vacancy, however during his service, he could not qualified requisite promotion courses and becomes overage, but due to his good performance, his name was brought on promotion list C-II and later on promoted as C-II Head Constable. The respondent No. 3 examined the promotion cases of appellant from the rank of C-II Head Constable to Sub Inspector and found that he has not qualified any promotion courses i.e. Lower School Course & Intermediate College Course respectively nor his name was brought on either of the promotion lists i.e. D & E and holding the rank of Sub Inspector. Since his case fall within the purview of out of turn promotion which has already been declared as unconstitutional/illegal by the Apex Court, therefore in compliance of judgment of Hon'ble Supreme Court of Pakistan (**2018 SCMR 1218**), appellant was demoted from the rank of Sub Inspector to his substantive rank of Head Constable (C-II) (**Copy of order attached as Annexure "A"**).

②


3. Para No. 03 of appeal to the extent of filling of departmental appeal before respondent No. 2 is correct, however the same was examined by the appellate authority, which was rejected being devoid of merits (**Copy of appellate order attached as Annexure "B"**).
4. Para No. 4 of appeal to the extent of revision is correct, however the same was also rejected on merit (**Copy of revisional order attached as Annexure "C"**).
5. That the appellant has got no cause of action to file the instant appeal and the present appeal is groundless, which needs to be dismissed with cost.


Reply on grounds.

- A. Incorrect. The respondents acted strictly in accordance with the judgment of Apex Court passed in out of turn promotion case.
- B. Incorrect. Appellant was treated in accordance with the law/rules/ruling of Apex Court.
- C. Incorrect. The reversion order is strictly in accordance with the judgment of Apex Supreme Court of Pakistan on out of turn promotion.
- D. Incorrect. Reply already given vide paras above.
- E. Incorrect. Appellant's promotion cases fell within the purview of out of turn promotion which has already been declared illegal and unconstitutional by the Apex Court and in compliance of judgment of Apex Court, appellant was demoted from the rank of Sub Inspector to his substantive rank of Head Constable (C-II).
- F. Incorrect. Reply already given vide paras above.
- G. Incorrect. Reply already given vide paras above.
- H. Incorrect. Reply already given vide para-1 above.
- I. That respondents will also seeks permission to advance other grounds and proofs at the time of argument of case.

PRAYERS

Keeping in view the above stated facts it is humbly prayed that the appeal being devoid of merits and legal force may kindly be dismissed with costs, please.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)**


**Deputy Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 2)**


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

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 16437/2020.

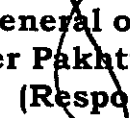
Sajjad Ahmad Ex-Sub Inspector (MTO) now Head Constable.....Appellant


VERSUS

Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents

POWER OF ATTORNEY.

We, the respondent No. 1 to 3 do hereby appoint Mr. Faheem Khan Inspector Legal Swabi as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 1)**


**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 2)**


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

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 16437/2020.

Sajjad Ahmad Ex-Sub Inspector (MTO) now Head Constable.....Appellant


VERSUS

Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT:-

We the respondent No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 1)**


**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 2)**


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

5

Annexure - A

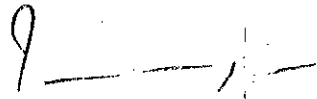
Office of the District Police Officer, Swabi

ORDER.

The promotion cases of Sajjad Ahmad from the rank of C-II Head Constable to Sub Inspector (MTO) was examined and found that he has not qualified promotion courses and presently serving as Sub Inspector, so in the light of judgment of Honorable Supreme Court of Pakistan, on out of turn promotion SI Sajjad Ahmad is hereby reverted from the rank of Sub Inspector to his substantive rank of C-II Head Constable with immediate effect.

OB No 1141


Dated 30-12 /2019.


District Police Officer,
Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

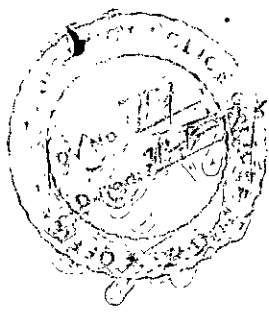
No. 11647-49 /EC, dated Swabi, the 30-12 /2019.

Copies to all concerned.

Attached to be four copy

up to level
2/2/2019

alt, 8-2-1999

Superintendent
Police Swabi



⑥
Annexure - B

ORDER.

This order will dispose-off the departmental appeal preferred by **Head Constable (C-II) Sajjad Ahmad No: 990** of Swabi District Police against the order of District Police Officer, Swabi, whereby he was reverted from the rank of Sub Inspector (MTO) to Head Constable (C-II) vide OB No. 1141 dated 30.12.2020.

Appellant Sajjad Ahmad was serving as Sub Inspector in Swabi District and remained posted in different branches. The promotion cases of appellant from officiating rank of Head Constable (C-II) to the rank of officiating Sub Inspector (MTO) was examined by the District Police Officer, Swabi. From the perusal of service record of appellant, it revealed that the appellant has not qualified any promotion courses i.e. Lower School and Intermediate College Course respectively. Besides, his name was also not brought on either of the Promotions List i.e. D and E and was holding the rank of Sub Inspector. Since his case fell within the purview of out of turn promotion which has been already declared as unconstitutional and illegal by the Apex Court. Therefore, in the light of judgment of Honorable Supreme Court of Pakistan, the appellant was reverted to his substantive rank of Head Constable (C-II) by the District Police Officer, Swabi OB No. 1141 dated 30.12.2019.

A Headed
Dated
17/01/2020
17/1/20

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 28.01.2020.

From the perusal of service record of the appellant, it came to light that neither the appellant has qualified promotion courses nor his name has been brought on Promotion Lists maintained for the purpose. Besides, the appellant was appointed as general duty constable and not driver constable. The contention of the appellant regarding his promotion on the vacancy of Motor Transport Staff is also not justifiable as he had been appointed as a Constable on the general cadre vacancy. Moreover, the case of appellant also comes within the domain of the out of turn promotions, which have already been declared as unlawful by the Apex Court of Pakistan vide its verdict.

Keeping in view the above, I, **Sher Akbar, PSP S.St Regional Police Officer, Mardan**, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer,
Mardan.

No. 1066 /ES, Dated Mardan the 29 - 01 - /2020.

Copy forwarded to District Police Officer, Swabi for information and necessary w/r to his office Memo: No. 15/Insp: Legal dated 17.01.2020. His Service Record is returned herewith.

(*****)

Received
OB/ESP/PA/11/20
17/01/20

33/01/2020



Annexure - C

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 4576 /20, dated Peshawar the 17/11/2020.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Head Constable Sajjad Khan No. 990 (the then SI). The petitioner was serving as Sub-Inspector in Swabi District and remained posted in different branches. His promotion cases from officiating rank of Head Constable (C-II) to the rank of officiating Sub-Inspector (MTO) was examined by the District Police Officer, Swabi. From the perusal of service record of applicant, it revealed that he has not qualified any promotion courses i.e. Lower School and Intermediate College Course respectively. Besides, his name was also not brought on either of the Promotion List i.e. D and E and was holding the rank of Sub-Inspector. Since his case fell within the purview of out of turn promotion which has been already declared as unconstitutional and illegal by the Apex Court. Therefore, in the light of judgment of Honorable Supreme Court of Pakistan, he was reverted to his substantive rank of Head Constable (C-II) by District Police Officer, Swabi vide OB No. 1141, dated 30.12.2019. His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 1066/ES, dated 29.01.2020.

Meeting of the Appellate Board was held on 05.11.2020, wherein the petitioner was present and heard in detail.

Perusal of record reveals that the petitioner has not qualified promotion courses nor his name has been brought on Promotion Lists maintained for the purpose. He was appointed as general duty Constable and not Driver Constable. His case comes within the domain of the out of turn promotions which has been declared as unlawful by the Supreme Court of Pakistan. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.


Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 4577-86 /20,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan: One Service Book, one Service Roll and one Fauji Missal of the above named HC received vide your office Memo: No. 3737-38/ES, dated 18.06.2020 is returned herewith for your office record.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-III, CPO Peshawar.
8. Officer concerned.


(SALMAN CHOUDHRY)
Deputy Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

بعدالت

جناب سرور سروس سپرویز صدر محفوخواہ پیارہ

کورٹ فیس

17/1/2022

201ء منجانب اسپلینٹ سجاد احمد

مورخہ

صاحب احمد

مقدمہ

دعویٰ

جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی وکل کاروائی متعلقہ آن مقام مسطور کے لئے مسلم شاہ اریانی ایڈوکیٹ کو 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 و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا ایبل کی برآمدگی اور منسوخی دائر کرنے کی اپیل نگرانی و نظر ثانی و پیروی کرے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرری کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخی پیشی مقام دورہ پر ہو یا تاکہ حد سے باہر ہو تو وکیل صاحب پابند ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

الرقوم 20 ماہ

بیتہ سجاد احمد

گواہ شہادہ

Advocate ID Bc-10-6262

کے لئے منظور ہے۔

Bar Council KPK

Bar Association MDN

Attested & Accepted

Malim

Contact No-0300-5723977

MUSLIM SHAH ARYANI
ADVOCATE
High Court Peshawar
at Mardan

31/3
22
D.B. I
17
22

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 16437/2020

SAJJAD AHMAD

V/S
OTHERS

GOVT. OF KP&

REJOINDER ON BEHALF OF APPELLANT IN RESPONSE
TO THE REPLY SUBMITTED BY THE OFFICIAL
RESPONDENTS

R/SHEWETH:

(1 to7):

All the objections raised by the respondents are incorrect, baseless and not in accordance with law and rules, rather the respondents are estopped due to their own conduct to raise any objection at this belated stage of the appeal. That the appellant is a civil servant and he has all the rights to approach this august service tribunal for the remedy provided to him under the law.

ON FACTS:

- 1- Para -1 has not been objected by the respondents therefore need no reply.
- 2- Para-2 of the comments is not replied accordingly as through this para the respondents are misleading the honorable tribunal as well as making misrepresentation. That the appellant was promoted vide order dated 8.03.2011 in light of the recommendations of the DPC meetings conducted on 04.03.2011 after fulfilling and completing the requisite test and examination. Copy of the promotion order dated 08.03.2011 is attached as annexure.....**A.**
- 3- Admitted correct hence needs no comments but the appellate authority did not consider the appeal of the appellant with due care and caution and rejected it in a hasty manner.
- 4- Para-04 of the comments is admitted hence needs no reply.

ANNEX "A"

3

Government of Khyber Pukhtunkhawa
Office of the Deputy Inspector General of Police
Mardan Region-I, Mardan
Phone No. 0937-9230113, Fax No. 0937-9230115

From: The Deputy Inspector General of Police,
Mardan Region-I, Mardan

To: The District Police Officer, Mardan.
The District Police Officer, Swabi.

No. 994-95 /ES.

8, March, 2011.

Subject: PROMOTION.

Memo: As approved by the DPC held in this office on 04.03.2011 the following are hereby promoted in the existing vacancy of MT Staff.

S. No.	Name/Rank	From	To	Remarks
1	ASI Sajjad Ahmad No. 7/MR	Swabi District (On promotion)	Mardan District	Promoted as SI/MFO on the existing vacancy of Mardan District. He will attach for the purpose of pay with Mardan District remained posted at Swabi District till further orders.
2	Head Constable Muhammad Islam	Mardan District (On promotion)	Swabi District	Promoted as ASI (MFO) on the existing vacancy of Swabi District. He will attach for the purpose of pay with Swabi District remained posted at Mardan District till further orders.

Necessary Gazette Notification be issued accordingly.

(ABDULLAH KHAN) PSP

Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 996 /ES.

Copy to PA of Region Office, Mardan for information and necessary action.

(ABDULLAH KHAN) PSP

Deputy Inspector General of Police,
Mardan Region-I, Mardan.

Attested

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the order of the Judge
09.12.2021	<p data-bbox="561 533 1094 568"><u>W.P.No.684-A of 2021 with interim relief.</u></p> <p data-bbox="561 598 1279 695">Present: M/s Barrister Adnan Khan, Imtiaz Ali, Malik Muhammad Siddique Awan and Junaid Anwar Khan, advocates for the petitioners.</p> <p data-bbox="715 727 1279 824">M/s Shumail Ahmad Butt, Advocate General and Muhammad Sohail, AAG for the respondents.</p> <p data-bbox="796 832 848 849">----</p> <p data-bbox="561 887 1292 2013"><u>LAL JAN KHATTAK, J.-</u> Through this judgment, we shall decide the connected W.P.No.587-M of 2020 titled "Badshah Hazrat & others Vs. Government of Khyber Pakhtunkhwa & others" and W.P.No.4949-P of 2020 titled "Raham Hussain & others Vs. Government of Khyber Pakhtunkhwa & others" as common question of law and fact is involved in all the three petitions wherein the petitioners have questioned the legality of decisions/orders dated 15.04.2021, 21.04.2020 and 06.10.2020 as well as minutes of the 56th Police Policy Board meeting held on 08.10.2020, whereby office of the Inspector General of Police Khyber Pakhtunkhwa has directed all the Regional Police Officers of the Province to implement the judgments of the Supreme Court of Pakistan reported in 2013 SCMR 1752, 2017 SCMR 206 and other judgments in letter and spirit pertaining to the out of turn promotions given to the police officials/officers performing their duties in the Province.</p> <p data-bbox="577 2038 1292 2073">2. In a nutshell, it is the petitioners' case that the</p>

Gain

accelerated positions held by them in the police department on no canon of law could be equated with the out of turn promotions subject matter of the judgments of the Hon'ble Supreme Court cited above and as such the impugned orders and decisions of the respondents intended to deprive them of their such positions in the Police Force are unwarranted and sans any lawful authority.

3. While presenting the petitioners' case, their learned counsel argued before the court that the fast track positions held by the petitioners in the Police Department of Khyber Pakhtunkhwa have come to them due to their hard work, getting top positions in the recruitment centers, successful teaching in the training institutions, securing "A" grade reports from their seniors in line with their duties, pursuant to the provisions of Standing Order No.11 of 1987, No.7 of 2003, relevant Police Rules, the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005 (Act No.IV of 2005) and per provisions of The Khyber Pakhtunkhwa Police Act, 2017, therefore, they cannot be deprived of their such gains on the ground of giving effect to the ibid judgments of the apex court which, per learned counsel for the petitioners, were delivered in some different background and circumstances.

4. As against the above, the learned Advocate General argued that the positions earned by the petitioners are analogous to the out of turn promotions given to the police officials and officers posted in the

Gain

Police Departments of the Provinces of Sindh or Punjab which have been declared illegal and unconstitutional by the apex court in its numerous judgments with directions to the concerned Provincial Governments to re-fix their seniority positions with initial batch mates in line with the principles laid down in the judgments, therefore, per Article 89 of the Constitution of Pakistan, 1973, the impugned orders passed and decisions taken are well within the competence of the respondents in order to implement the judgments of the apex court.

5. We have heard learned counsel for the petitioners, the learned Advocate General and also gone through the available record with their valuable assistance.

6. In the elaborated judgments of the Hon'ble Supreme Court of Pakistan reported in **2013 SCMR 1752, 2017 SCMR 206** and others, no doubt the apex court has declared the out of turn promotions as illegal and unconstitutional but admittedly the issue raised and dealt with in the referred judgments pertains to the out of turn promotions of the police officials/officers of the Provinces of Sindh and Punjab which were given to the promotees in their individual capacity under Section 9-A of the Sindh Civil Servants Act, 1973 and Section 8-A of Punjab Civil Servants Act, 1974 which are reproduced hereinbelow:-

"9-A of Sindh Civil Servants Act, 1973.

Notwithstanding anything contained in this Act or any other law for the time being in force or any judgment of any Court, a civil servant who provenly exhibits, the act of gallantry while performing his duties or very exceptional

Gain

performance beyond the call of duty, may be granted out of turn promotion or award or reward in such manner as may be prescribed.

8-A of Punjab Civil Servants Act, 1974.

Notwithstanding anything contained in this Act or any other law for the time being in force or in any contract, or rights claimed or acquired under any judgment of any Court of Tribunal, a civil servant who provenly exhibits exemplary intellectual, moral and financial integrity and high standard of honesty and gives extraordinary performance in the discharge of his duties, may be granted out of turn promotion or award or reward in such manner as may be prescribed".

7. In exercise of the powers under the ibid laws, out of turn promotions were given by the relevant authorities to the police officials/officers of the two Provinces mentioned above on the basis of their individual gallantry performance and bravery through separate orders whereas the accelerated positions got by the petitioners herein are because of their getting top positions in the Training Institutions of the Province, their successfully performing instructional duties in the police recruitment centers for prescribed period, their getting "A" reports from their superiors pursuant to the Standing Order 11 of 1987, Standing Order 7 of 2003, Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, rule 13.6(1) of the Police Rules, 1934' and in accordance with the provisions of the Khyber Pakhtunkhwa Police Act, 2017. For better understanding of the issue, Standing Order No.11, which was later on validated through Khyber Pakhtunkhwa Standing Order Act, 2005, is reproduced

Gain

hereinbelow:-

BACKGROUND Personnel posted as Instructors at Police Training Schools serve with extreme reluctance.

The time an officer is posted to an instructional assignment, he makes very conceivable effort, political, administrative, medical, compassionate etc. to have his posting orders cancelled.

The state of mind of such a person, who arrives at a Police Training Institution as an Instructor, can be clearly visualized. He feels that he has been discriminated against, he is disgruntled and in a pathetic frame of mind with this state of mind, those Instructors create an atmosphere of a penal institution in the Training Centre.

For many years, this Department has been cognizant of this problem. Some efforts have been made to find a solution. Various incentives have been offered to Instructors but none of them has had any impact. Posting at Police Training Centre still continues to be considered as a punishment posting.

Ideally Instructors in Training Schools would not only be willing to serve but must be amongst the finest officers in the Department. To believe this and personnel posted to Police Training Institutions as staff members, as being offered the following incentives, Instructors selected in pursuance of those incentives, will be categorized as CADET INSTRUCTORS:

INCENTIVES

1. H.C. INSTRUCTORS

Constables undergoing the Lower School Course, who pass amongst the first 5 in the Class, will be qualified to serve as H.C. Instructors provided they volunteer to serve in the Training Institute for 3 years.

Immediately at the end of 3 years, if they have earned "A" reports, they would be admitted to

Gain

Intermediate School Course and their names would be placed on Promotion List 'D' as soon as they qualify the Intermediate School Course.

2. A.S.I. INSTRUCTORS.

Head Constables undergoing the Intermediate School Course, who qualify amongst the first 5 in the class, will be qualified to serve as Instructors provided they volunteer to work there for 3 years and earned category "A" reports. They would be confirmed in the rank of Assistant and Sub Inspector and their names would be brought on Promotion List 'E'.

3. S.I. INSTRUCTORS

Sub Inspectors undergoing Upper Class Course, who qualify the first 5 in the Class, will be qualified to serve as Instructors SI(s) provided they volunteer to work there for 3 years and earn category "A" reports.

At the end of that period, they would be confirmed in the rank of S.I. and their names will be brought on Promotion List 'F'.

3.A. Alternatively if volunteers are not available to the offer contained in Para 3 above, Sub-Inspectors who volunteer to serve as Instructors and are selected by the Principal, PTS, Hangu, will be offered the same incentives, i.e. after a tenure of 3 years at P.T.S. Hangu with "A" reports, they will be confirmed as Sub-Inspectors and their names brought on List 'F'.

NOTE:-

1. These incentives will not apply to directly recruited A.S.I(s).
2. These incentives can be availed of only once in a person's career.
3. Officers who are selected as Instructors on the basis of Promotion Examinations passed before 1984, will have to serve in the Training Institution for 2 years instead of 3 years.
4. The instructional tenure at PTS Hangu will be

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reduced to half for those officers who have secured first five positions in the promotion examinations but have already served in the Training Institution for two years.

8. Perusal of the impugned decisions/orders would show that the respondents intend to implement the judgments of the Hon'ble Supreme Court without peeping into the background and without analyzing the situations in which the out of turn promotions were given to the police personnel of the two Provinces and the accelerated positions secured by the police officials/officers performing their duties in the Province of Khyber Pakhtunkhwa. Proceeding against the petitioners by the respondents through the impugned decisions and orders by looking at the case issue superficially instead of resolving the same with deep thoughts and in a probing manner and without having a look at the history and background of both the situations will not be a fair step as they are holding the accelerated positions since long which had come to them through a merit based laid down criteria and in a structured manner and not for any braveness. It would not be out of place to mention here that since 2013, the Hon'ble Supreme Court has repeatedly declared the out of turn promotions as illegal by directing the Provincial Governments to streamline policy relating to the grant of out of turn promotions but uptill now the Government of Khyber Pakhtunkhwa has not taken any step in that direction. Whether the Provincial Government wants to withdraw the incentives given to its police personnel through the Khyber

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Pakhtunkhwa Validation of Standing Order Act, 2005, Police Rules, 1934 and the Khyber Pakhtunkhwa Police Act, 2017 or it is eager to keep the same intact is a question which needs resolution in a befitting and probing manner. Indecisiveness and the lethargic conduct of the Government to the ibid effect is very lamentable which has created chaos and caused unrest in the entire Police Force of the Province which situation cannot be countenanced.

9. For what has been discussed above, we dispose of these petitions in terms that the impugned decisions/orders are set aside and the petitioners' cases are sent to the Provincial Government of Khyber Pakhtunkhwa through the Chief Secretary first to clarify its position whether it wants to continue with the matter of awarding accelerated positions to members of its Police Force in line with the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, prevailing Police Rules and Khyber Pakhtunkhwa Police Act, 2017 or not and then decide the issue raised in the petitions accordingly but till such policy is streamlined, no adverse action shall be taken against the petitioners.


JUDGE

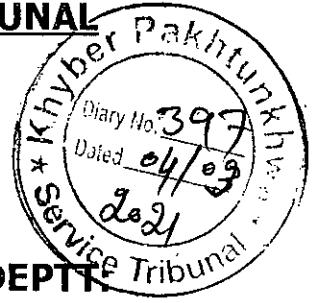

JUDGE


JUDGE

Announced on:

24.03.2022

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



*Put up to the court with
relevant appeal*

APPEAL NO. 16437/2020

SAJJAD AHMAD

VS

POLICE DEPTT.

**APPLICATION FOR EARLY HEARING IN THE ABOVE MENTIONED
TITLED APPEAL**

R/SHEWETH:

- 1- That the above mentioned appeal is pending adjudication before this August Tribunal which is fixed for hearing on dated 18.05.2021.
- 2- That appellant filed the above mentioned service appeal against the impugned order dated 30.12.2019 whereby the appellant was reverted from the post of Sub-Inspector to the post of C-II Head Constable.
- 3- That the appeal of the appellant has been fixed on dated 18.05.2021 which too far to meet the end of justice earlier.
- 4- That the interest of justice demands that such like matter be heard as early as possible to meet the ends of justice and also to meet the principles of access to justice.

It is therefore, most humbly prayed that on acceptance of this early hearing application the above mentioned appeal of the appellant may be heard on an earlier date to meet the ends of justice.

*At preliminary stage.
Be accelerated to a date
in last week of March, 2021.*

Dr. 5/3/21

25/03

APPELLANT

SAJJAD AHMAD

Through:

**NOOR MOHAMMAD KHATTAK
ADVOCATES**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

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APPELLANT

SAJJAD AHMAD

Through:


NOOR MOHAMMAD KHATTAK
ADVOCATES