

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 8825/2020

BEFORE: MR. SALAH-UD-DIN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Rehmat Wali Ex-SI S/O Muslim Khan R/O Village & P/O Azakhel
Bala, Tehsil and District, Peshawar. (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through its Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, Peshawar.
3. Addl. Inspector General of Police, Headquarters, Khyber Pakhtunkhwa, Peshawar.
4. Regional Police Officer/Capital City Police Officer, Police Department, Peshawar. (Respondents)

Mr. Muhammad Arif Jan,
Advocate ... For appellant

Mr. Naseerud Din Shah,
Assistant Advocate General ... For respondents

Date of Institution..... 28.07.2020
Date of Hearing..... 01.02.2023
Date of Decision..... 01.02.2023

JUDGEMENT

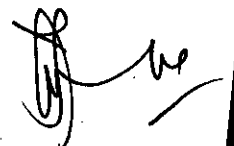
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 09.07.2020 vide which departmental appeal of the appellant was dismissed. It has been prayed that on acceptance of instant appeal, the impugned order dated 09.07.2020 might be set aside



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Peshawar

and the impugned Minutes of the 21st meeting of Police Policy Board held on 29.04.2016 at item No. 06 duly approved by the Provincial Police Officer/IGP, whereby request of the appellant for confirmation as Sub Inspector was rejected, might be declared illegal and void up to the extent of the appellant and he being eligible, trained and qualified might be ordered confirmed/promoted against the rank/post of Sub Inspector to enable him for the promotion as Inspector on retirement. It has been further prayed that the respondents might also be directed to honour the appellant by way of confirming and promoting as Proforma Inspector as he has been retired from his service to enjoy the financial benefits like others.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as Constable in the Police Department on 17.05.1975. He was promoted to the rank of Head Constable in the year 1983 after passing his lower examination. He was selected for intermediate college course in the year 1996, which was successfully completed and he was promoted to the rank/post of ASI in the year 2003 and was allotted number 370-P. He was promoted to the rank of Sub Inspector after the DPC held in the year 2008, after completion of 05 years⁰ service as ASI. He was also sent to attend the Upper Course held at PTC Hangu in the year 2015, which was successfully completed and passed. A meeting of DPC was held on 24.02.2016 in respect of the promotion/confirmation of eligible qualified officers for the rank of Sub-Inspectors but junior to the appellant were promoted/confirmed and he was deprived on the score of short period of



service/period at CTD which was one year and six months instead of the required three years. The respondents assured the appellant for his confirmation and the fact of the retirement from service was also in the knowledge of the respondents. He was retired from service on 13.04.2016. The appellant's case was sent for confirmation on the post of S.I and the same was included in the 21st meeting held on 19.04.2016 of Police Policy Board but his case was not considered for confirmation due to short length of service/experience. Feeling aggrieved, he preferred an appeal before respondent No. 1 on 18.05.2016, which was not responded. Being aggrieved, the appellant approached the Service Tribunal by filing Service Appeal No. 938/2016 which was disposed of with the direction to the respondents to decide the departmental appeal of the appellant within 60 days from the receipt of the judgment. Thereafter, the respondents failed to decide the departmental appeal of appellant within the stipulated time and finally just for no good reason on 09.07.2020, the departmental appeal of the appellant was dismissed by respondent No. 3; hence the present appeal.

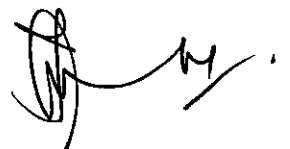
3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Assistant Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, contended that office order dated 09.07.2020 passed by respondent No. 3 and office order dated 29.04.2016 were illegal, unlawful, without lawful



authority and of no legal effect, He further contended that the appellant was promoted to the rank of Officiating S.I on 21.04.2008 and till retirement he performed his duties. He was verbally assured by the competent authorities but even then he was not confirmed for promotion. He further contended that the appellant was discriminated as many other similarly placed officials had been confirmed by the department but the appellant was deprived which was against the norms of justice. He informed that the appellant retired from service on 13.04.2016 but the proforma promotion would enable him for the pensionary benefits as well as for other immunities, privileges etc. He requested that the appeal might be accepted as prayed.

5. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant that vide notification dated 19.02.2016 S.Is junior to him were confirmed, stated that such promotions were made subject to qualifying the prescribed criteria. He contended that confirmation to the rank of S.I required completion of eligibility criteria under rule 13-10(2) of Police Rules 1934 Amended in 2017, which provided that no sub inspector should be confirmed in a substantive vacancy unless he had been tested for at least a year as an officiating S.I in independent Incharge of PS, a notified post, or as in charge investigation of a PS or CTD. As such appellant was also confirmed in the rank of S.I on qualifying the said eligibility criteria. He further contended that the appellant filed service appeal before the Honourable Tribunal which was disposed of with the direction to decide his departmental appeal and in compliance with its order



dated 14.01.2020, case of appellant was examined and filed. The learned AAG informed the bench that the same issues were discussed in detail in the DPC meeting held on 30.06.2020 and the policy issued by the Police Policy Board regarding the notional promotion was withdrawn in that meeting on the grounds that no rules/policy regarding notional promotion were available in the prevailing special law/rules. Moreover, according to him, the policy was contrary to the decision of Apex Court wherein out of turn/notional promotion had been declared illegal and violation of vested right of senior officers. The decision of the Apex Court had been implemented in Pakistan and officers/officials of various ranks had been demoted to original ranks, the learned AAG informed. He further contended that in fact confirmation in the rank of S.I required completion of laid down criteria and those S.Is who fulfilled the said qualification were confirmed in the rank of S.I whereas the appellant did not fulfill the laid down criteria. He requested that the appeal might be dismissed with cost.

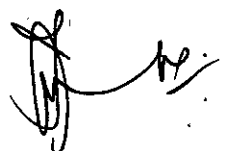
6. After hearing the arguments and going through the record presented before us, it transpires that the appellant was appointed in the provincial police in 1975 as Constable. After fulfilling the laid down criteria, he was promoted to the rank of Head Constable in 1983 and later on as ASI in the year 2003. In 2008, he was promoted as S.I but not confirmed at that position for further promotion. His request for confirmation and promotion as Inspector was placed before the Police Policy Board meeting held on 19.04.2016 but his plea was rejected on the ground that he was not a



confirmed Sub Inspector. By that time the appellant had retired from service on superannuation on 13.04.2016.

7. In an earlier service appeal in this regard his departmental appeal dated 18.05.2016 against the minutes of the meeting of Police Policy Board held on 19.04.2016 was referred by this Tribunal to his competent authority for appropriate decision vide its judgment dated 14.01.2020. That departmental appeal was rejected by his competent authority on 09.07.2020, on the grounds taken by the PPB as mentioned above, which has now been impugned before this bench.


8. Learned counsel for appellant produced additional documents before the bench at the time of hearing and argued that one Said Amin Jan, S.I, who was junior to the appellant, was promoted as Officiating Inspector in the DPC meeting held on 15.11.2016. Now the question is whether the appellant was in service at that time? If he had been in service on 15.11.2016, the arguments presented by the learned counsel would have been worth consideration, but it was not so. The appellant had retired on 13.04.2016 and was no more comparable with his in-service colleagues/juniors. The learned counsel himself admits that the appellant had been confirmed as S.I at the time of his retirement and that financial benefit had been allowed to him, therefore, there seems no further reason to argue that any discrimination had been meted out with him. It appears that the competent authority of the appellant did him a favour when they allowed him confirmation as S.I on his superannuation and gave him the attached financial benefit in his pension.




9. In the light of above discussion the appeal in hand is dismissed.

Parties are left to bear their own costs. Consign.

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


(FARZEHA PAUL)
Member (E)


(SALAH-UD-DIN)
Member (J)


3825/2020

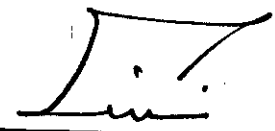
1st Feb. 2023

Mr. Muhammad Arif Jan, Advocate for the appellant present. Mr. Naserud Din Shah, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment consisting of 07 pages, the appeal in hand is dismissed. Parties are left to bear their own costs. Consign.

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


(FARZEHA PAUL)
Member (E)


(SALAH-UD DIN)
Member (J)

5th October, 2022 Junior to learned counsel for the appellant present, Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Junior to counsel for the appellant seeks adjournment on the ground that learned senior counsel is not available today. Last chance is given to argue the case on the next date failing which the case will be decided without the arguments. To come up for arguments on 06.12.2022 before the D.B.



(Fareeha Paul)
Member(Executive)



(Kalim Arshad Khan)
Chairman

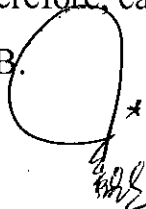
06.12.2022

Appellant alongwith counsel present.

Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Both the parties were ready for arguments however from the record it is evident that seniority list of the appellant is not available on file. Impugned notification in respect of promotion of his juniors is also not available and there is nothing on file which could show that his juniors were promoted when he was in service. Learned counsel when confronted with these questions requested for adjournment in order to submit complete record, therefore, case is adjourned for arguments on 01.02.2023 before D.B.

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(Mian Muhammad)
Member (E)

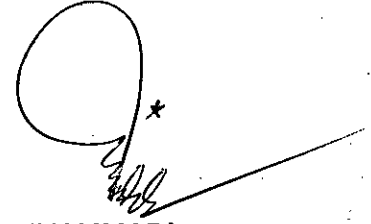


(Rozina Rehman)
Member (J)

18.11.2021

Counsel for the appellant present. Mr. Kabirullah, Addl: AG
alongwith Mr. Muhammad Raziq, H.C for respondents present.

Learned counsel for appellant requested that reply/parawise
comments submitted by respondent No.2 to 4 are sufficient on
their behalf and he would urge the need to post the case for
regular arguments before D.B instead of waiting for reply only
from respondent No.1. To come up for arguments on 07.03.2022
before D.B.



(MIAN MUHAMMAD)
MEMBER (E)

7-3-22

*Due To Retirement of The Hon, ble Chairman
the case is adjourned on 30-6-22*

*of late
Rehman*

30.06.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali
Shah, Deputy District Attorney for respondents present.

Learned counsel for the appellant requested for adjournment
on the ground that he wants to submit rejoinder. Adjourned. To
come up for rejoinder as well as arguments on 05.10.2022 before
the D.B.



(Rozina Rehman)
Member (J)




(Salah Ud Din)
Member (J)

06.07.2021

Appellant in person and Mr. Muhammad Raziq, Reader for respondents No. 2 to 4 alongwith Mr. Kabirullah Khattak, Addl. AG for respondents present.

Respondents No. 2 to 4 have furnished reply/comments. Learned AAG seeks further time on behalf of respondent No. 1. Learned AAG is required to contact respondent No. 1 to submit reply/comments within 10 days in office, positively. In case the respondent No. 1 has failed to furnish reply/comments within the stipulated time, office shall put up the appeal with a report of non-compliance. To come up for arguments before the D.B on 17.11.2021.

Stipulated period has passed and reply has not been submitted.


Chairman

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



8825/2020

04.01.2021

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks further time to furnish reply/comments. He is required to contact the respondents and submit requisite reply/comments on 16.02.2021 positively.

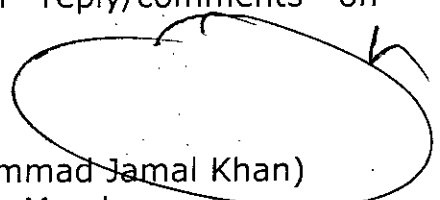


Chairman

16.02.2021

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Muhammad Raziq, Reader, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Last chance is given to the respondents for filing of written reply/comments on 08.04.2021 before S.B.



(Muhammad Jamal Khan)
Member

08.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 06.07.2021 for the same as before.



READER

15.09.2020

Counsel for the appellant present.

Contends that the departmental appeal of appellant was rejected on 09.07.2020 in pursuance to the judgment of this Tribunal passed in Appeal No. 938/2016. The ground for rejection of appeal was given in terms that it was already discussed in 21st Police Policy Board meeting held on 19.04.2016 and was rejected. It clearly suggests that the competent authority did not apply its independent judicious mind to the facts and circumstances of the case of appellant. It is also contended that the same ground is available to the appellant in filing of appeal, therefore, the appeal in hand required to be admitted straightaway.

Subject to all just exceptions, instant 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. To come up for written reply/comments on 16.11.2020 before S.B.

Appellant Deposited
Security Process Fee

15/9/20



Chairman

16.11.2020

Junior to counsel for the appellant and Addl. AG for respondents present.

Learned AAG seeks time to contact the respondents and furnish reply/comments on next date of hearing. Adjourned to 04.01.2021 on which date the requisite reply/comments shall positively be furnished.



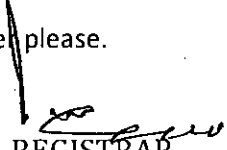

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 8825/2020 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/07/2020	<p>The appeal of Mr. Rehmat Wali resubmitted today by Mr. Muhammad Arif Jan 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>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/09/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Rehmat Wali Ex-SI son of Muslim Khan r/o village Azakhel received today i.e. on 28.07.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- Annexures of the appeal may be attested.
- ✓ 2- Annexures of the appeal may be flagged.
- ✓ 3- Approved file covers is not used.
- ✓ 4- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1940 /S.T,

Dt. 28-07 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Arif Jan Adv.

Sir

R/S submitted after
your complete objection
has received



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No 8825 / 2020


Rehmat Wali.....Appellant

VERSUS

Govt. of KP through its Secretary
Home & Tribal Affairs Department and others
...Respondents

I N D E X

S#	Description of documents.	Annexure	Pages
1.	Service Appeal with affidavit.		1-7
2.	Addresses of the parties		8
3.	Copy of the minutes dated 19.04.2016 and departmental appeal	A - B	9-15
4.	Copy of grounds of Service Appeal and judgment dated 14.01.2020	C	16-20
5.	Copy of impugned order	D	21
6.	Wakalatnama		22


Appellant
Through


Muhammad Arif Jan
Advocate High Court

Chamber:

210, Al-Mumtaz Hotel,
Hashtnagri,
G.T Road, Peshawar
Cell: 0333-2212213

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No 8825 / 2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8132

Dated 28/7/2020

Rehmat Wali Ex-SI
S/o Muslim Khan
R/o Village & P/o Azakhel Bala,
Tehsil & District, Peshawar.Appellant

VERSUS

- 1) Government of Khyber Pakhtunkhwa through its Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar.
- 2) Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, Peshawar.
- 3) Addl; Inspector General of Police, Headquarters, Khyber Pakhtunkhwa, Peshawar.
- 4) Regional Police Officer/ Capital City Police Officer, Police Department, Peshawar.

.....Respondents

**APPEAL U/S 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED
ORDER DATED 09.07.2020 VIDE WHICH
DEPARTMENTAL APPEAL OF THE
APPELLANT WAS DISMISSED**

PRAYER

**On acceptance of instant appeal,
impugned order dated 09.07.2020
graciously be set-aside and the impu**

Filed to-day

Registrar

28/7/2020

Re-submitted to-day
and filed.

Registrar

30/7/2020

Minutes of the 21st meeting of Police policy Board held on 29.04.2016 at item No.06 duly approved by the Provincial Police Officer/IGP, whereby request of the appellant for confirmation as Sub-Inspector was rejected may graciously be declared illegal and void up to the extent of the appellant and the appellant being eligible, trained and qualified may kindly be ordered confirmed/ promoted against the rank/post of Su- Inspector to enable him for the promotion as Inspector on retirement.

It is further prayed that the respondent may also be directed to honor the appellant by way of confirming and promoting as Proforma Inspector as the appellant has been retired from his service to enjoy the financial benefits like others.

Respectfully Sheweth:

Appellant humbly submits as under:-

- 1) That the appellant was initially appointed as Constable in the Police Department as regular on 17.05.1975.
- 2) That the appellant was promoted to the rank of Head Constable in the year, 1983 after passing his lower examination.
- 3) That the appellant was selected for intermediate college course in the year, 1996; that successfully completed

then was promoted to the rank/post of ASI in the year, 2003

- 4) That the appellant after confirmation to the post of ASI was allotted new number as 370P.
- 5) That vide notification No.3464/DC-1 dated 19.02.2016 the respondents confirmed the Sub-Inspectors most of junior to the appellant as indicated by personal number.
- 6) That the appellant was promoted to the rank of Sub-Inspector after the DPC held in the year, 2008 after completion of 5 years' service as ASI.
- 7) That the appellant was also sent to attend the Upper Course held at PTC Hangu in the year, 2015 which was successfully completed and passed.
- 8) That DPC was held on 24.02.2016 in respect of the promotion/confirmation of eligible/qualified officers for the rank of Sub-Inspectors but the other then junior to the appellant were promoted/confirmed and the appellant being eligible and qualified in all respect was deprived on the score of short period of service/period at CTD i.e. 3 year, but the appellant completed only one year and six months however the respondents assured the appellant for his confirmation and the fact of the retirement from service was also in the knowledge of the respondents moreover the appellant was retired from his service on 13.04.2016.

4

- 9) That the appellant case was sent for confirmation on the post of SI and the same was included in the 21st meeting held on 19-04-2016 of Police Policy Board.
- 10) That the case of the appellant was not considered for confirmation due to short length of service/experience period that why the appellant preferred an appeal before respondent No.1 on 18.05.2016, which is pending till date. (Copy of the minutes dated 19.04.2016 and departmental appeal are attached as ANNEX-A & B)
- 11) That being aggrieved, the appellant approached to this hon'ble Tribunal by filing SA.No.938/2016, which was disposed of with the direction to the respondents to decide the departmental appeal of the appellant within 60 days from the receipt of the judgment. (Copy of grounds of Service Appeal and judgment dated 14.01.2020 are Annex "C")
- 12) That thereafter, the respondents failed to decide the departmental appeal of appellant within the stipulated time, and finally just for no good reason on 09.07.2020, the departmental appeal of appellant was dismissed by respondent No.3. (Copy of impugned order is Annex "D")
- 13) That being aggrieved and having no other efficacious remedy except to file the instant appeal on the following amongst other grounds.

GROUND S

A. That the act, commission and omission of the respondents and the office order dated 09.07.2020

5

passed by respondent No.3 and the officer order dated 29.04.2016 (hereinafter impugned up to the extent of appellant) is patently illegal, unlawful, without lawful authority, of no legal effect, having no value in the eyes of law thus be set-aside up to the extent of the appellant and the appellant may kindly be confirmed/promoted to the rank of SI being eligible, trained and qualified in all respect to enable him for promotion as Inspector on retirement.

- B. That the appellant served the department with his full devotion and to the entire satisfaction of his superiors which is evident from his 41 years' unblemished service record.
- C. That the appellant was promoted to the rank of OFFG; SI on 21.04.2008 and till retirement the appellant performed his duties. It is worth mentioned here that the appellant was verbally assured by the competent authorities that's why the appellant was selected and sent for upper college course but even then was not confirmed for promotion which is against the law, rules and regulations.
- D. That the appellant have been discriminated as many other similarly placed Police Officer have been confirmed by the department for promotion but the appellant have been deprived for the same which is against the norms of justice.
- E. That the confirmation and promotion of the appellant is legal and lawful right after completion

6

of one year successful service and in the service of the appellant, the appellant served for about 8 years as SI but the respondents intentionally ignored the appellant for no any cogent reason or justification.

- F. That the Proforma promotion enables the appellant for the pensioner benefits as well as for the other immunities, privileges etc due for retirement from service.
- G. That the respondent No-1 is duty bound by Law to disposed of the appeal of the appellant but knowingly all the facts and legal and lawful right of the appellant, the respondent No-1 feeling guilty to pass an order that's why the appeal of the appellant is pending till date for disposal.
- H. That any other grounds, with the permission of this Hon'ble Court, will be taken at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of instant appeal, the impugned order dated 09.07.2020 may graciously be set-aside and the impugned Minutes of the 21st meeting of Police policy Board held on 29.04.2016 at item No.06 duly approved by the Provincial Police Officer/IGP, whereby request of the appellant for confirmation as Sub-Inspector was rejected may graciously be declared illegal and void up to the extent of the appellant and the appellant being eligible, trained and qualified may kindly be ordered ! confirmed/ promoted against the rank/post of Su- Inspector to

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enable him for the promotion as Inspector on retirement.

It is further prayed that the respondent may also be directed to honor the appellant by way of promoting as Proforma Inspector as the appellant has been retired from his service to enjoy the financial benefits like others.

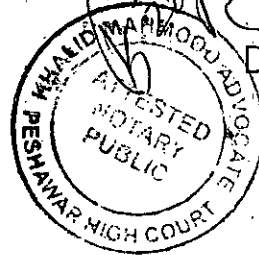
Any other relief deemed fit in the circumstances of the case may also be granted.

Rahmatwali

Appellant
Through
Muhammad Arif Jan
Advocate High Court

AFFIDAVIT

I, Rehmat Wali Ex-SI S/o Muslim Khan R/o Village & P/o Azakhel Bala, Tehsil & District, Peshawar do hereby affirm and declare on oath that the contents of instant Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.



Rahmatwali
Deponent

8

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No _____ / 2020

Rehmat Wali.....Appellant

VERSUS

Govt. of KP through its Secretary
Home & Tribal Affairs Department and others
.Respondents

ADDRESSES OF THE PARTIES

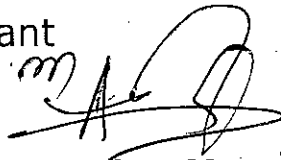
APPELLANT:

Rehmat Wali Ex-SI S/o Muslim Khan
R/o Village & P/o Azakhel Bala,
Tehsil & District, Peshawar. ...

RESPONDENTS:

- 1) Government of Khyber Pakhtunkhwa through its Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar.
- 2) Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, Peshawar.
- 3) Addl; Inspector General of Police, Headquarters, Khyber Pakhtunkhwa, Peshawar.
- 4) Regional Police Officer/ Capital City Police Officer, Police Department, Peshawar.

Appellant
Through



Muhammad Arif Jan
Advocate High Court

Amex - A

9

Amex - C

MINUTES OF THE 21st MEETING OF POLICE POLICY BOARD HELD ON 19.04.2016 IN CONFERENCE ROOM OF CENTRAL POLICE OFFICE, UNDER THE CHAIR PERSON OF INSPECTOR GENERAL OF POLICE, KHYBER PAKHTUNKHWA.

1. The meeting commenced with recitation of Holy Quran.
2. All Addl: IGsP, CCPO, DIG/CTD, and other Senior Officers of CPO participated.
3. The agenda items of the meeting were discussed at length
4. Opening the discussion, Worthy IGP welcomed the participants and invited the DIG/HQrs for presentation on the agenda points.
6. After the discussion, following decisions were unanimously made:-

S.No	Agenda Items	Decisions
1.	a) SIVS Request of Syed Kamran Shah brother of Shaheed Constable Syed Zeshan Haider for recruitment as ASI in Shuhada quota b) Contentious cases of Shuhada sons/ brothers Wards	i) A committee of the following officers headed by Addl IGP/ Investigation is constituted to finalize the proposals relating to the maximum age limit of a candidate to be enlisted against shuhada quota:- 1) Addl/IGP Investigation Chairman. 2) Commandant FRP. Member. 3) DIG/HQ 4) AIG/ Establishment 5) Rep of Law & Estab Deptt: ii) Letter of Entitlement will be issued by CPO to the heirs of Shaheed Police officers about the Shaheed package to be provided. iii) A Condolence letter from CPO will also be issued to the family of Shaheed. iv) Eldest son of Shaheed officer whether born to the first wife or subsequent wife of the Shaheed officers will have the first right to be enlisted under the Shaheed package if he fulfils the criteria of recruitment. v) There will be no age limit for police officer already serving as constable
2.	DIG CTD has forwarded the application of SI Nazir Khan SHO PS CTD Kohat for considering the period as SHO in his confirmation case.	The board unanimously decided that SHO period is required under Police Rules 13-10 to be considered for any Police Station.
3.	Standing Order No.21/2014 and SHO Period	Time spent in a Unit to meet the requirements of Police Rules 13-10 (whether in case of SHO period) will be added to the time period required for next promotion in standing order 21/2014.
4.	Application of S.Is of Traffic Warden Police Peshawar for declaring the period spent in Traffic as period for promotion likewise other units.	A Committee of the following officers will submit proposals relating to the period spent in Traffic Police as required in Standing Order No.21/2014 for promotion to the next rank. i) Addl IGP Elite Force Chairman. ii) CCPO, Peshawar Member iii) AIG/Establishment Member iv) SSP/Traffic Pesh Member.
5.	Request of SI Taj uddin Khan of Operation branch for	The applicant is not confirmed Sub Inspector thus his plea was rejected.

ATTESTED

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	confirmation/ Promotion	
6.	Request of the following S.As of CTD for confirmation and promotion as Inspector as they are going to retire on superannuation pension i) SIR Chmat Wali. ii) SIR A.G. Gul	Being not confirmed Sub Inspectors, their plea rejected.
7.	Request of SI Muhammad Aslam of Malakand Region for confirmation/ promotion to the rank of Inspector	Referred to DPC
8.	Two years period of Inspector in FRP for promotion as DSP will equal with one year period of investigation and other training institutes	The board accepted the proposal and agreed to the proposal of commandant FRP. Amendment in Standing Order 21/2014 to be issued by DIG/HQrs.
9.	Application of SI Abdur Rashid for promotion as Inspector	Referred to DPC.
10.	New Police Club in Police Lines Peshawar	The CCPO Peshawar was asked to put up proposal in the next meeting.

The meeting ended with the note of thanks by the Chairman.

Sd.
NASIR KHAN DURRANI
Provincial Police Officer
Khyber Pakhtunkhwa.

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

No. 927-80/PA/DIG/HQ dated Peshawar the 28/04/2016.

The above minutes of the 21st Police Policy Board meeting held on 19-04-2016 duly approved by the Inspector General of Police Khyber Pakhtunkhwa are forwarded for necessary action. Compliance report shall be submitted to the undersigned by the concerned officers for the perusal of Inspector General of Police.

1. All Heads of Police offices in Khyber Pakhtunkhwa.
2. AIGs/Establishment, Finance & Legal.
3. Director I.T.
4. PSO to IGP Khyber Pakhtunkhwa.

Attest
A.D.

(Muhammad Alam Shinwari)PSP
DIG/HQ,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

ATTESTED

(100) (11)
Amex - 'B'

To

The Govt. of Khyber Pakhtunkhwa
Secretary to Tribal Affair Department
Civil Secretariat, Peshawar

Subject: Departmental Appeal/Representation against the Minutes of the 21st meeting of Police Policy Board held on 29.04.2016 at item No.06 duly approved by the Provincial Police Officer /IGP, whereby request of the applicant for confirmation as S.I has been rejected.

Respectfully Sheweth:-

That the applicant submits as under:

1. That the applicant joined the police department on 17.05.1975 in the captivity of Constable with matric qualification.
2. That later on the appellant was promoted to the post of Head Constable in the year 1983, where after the appellant was sent for intermediate training which the appellant qualified in the year 1996.
3. That the appellant was promoted to the post of ASI in the year 2004 and was confirmed vide notification bearing No.3717/EC-I conformation in the rank of ASI, Admission to promotion list "E" and promotion in the rank of OFFG, SI. (Copy of notification is enclosed as annexure "A").

ATTESTED
X

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4. That the appellant after confirmation to the post of ASI was allotted new number as 370P.
5. That the Department through notification No.3464/DC-I dated 19.02.2016 confirmed Sub-inspectors most of which are junior to the appellant as indicated by the personal No. allotted to them in the form of confirmation of S.Is.
6. That the appellant was promoted to the post of OFFG: SI, on 21.04.2008 and remained on various parts of operation as well as especial assignments and on the successful career the appellant was transferred to CTD, Khyber Pakhtunkhwa, on 23.09.2014 which post the appellant retained till retirement at the age of superannuation.

"It is pertinent to mention here that in the month of February 2015 the appellant was also sent for upper College Course and the appellant completed the said course with success and his result was announced and declared vide notification No.1219/S/result dated 18.06.2015. (Copy annexed herewith as mark "B").

7. That the appellant's case was sent for confirmation on the post of SI and the same was included in the 21st Meeting of Police policy Board held on 19.04.2016 at item No.6. (Copy of the minutes endowed No.927-80/PA/DIG/HQ dated 28.04.2016 as annexure "C").

ATTESTED
[Signature]

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8. That the appellant has been retired from service on 13.04.2016 at the age of superannuation.
9. That the appellant invokes the Departmental Appellate jurisdiction, for the redressal of his grievance, on the following grounds, inter alia.

GROUND S:

- A. That the appellant served the Department for almost 41 along years with spotless service and to this effect his ACRs/PERs bear the testimony. The appellant was marked grade "A" in the ACRs/PERs.
- B. That the appellant was promoted to the post of OFFG: SI on 21.04.2008 and till his retirement the appellant worked against the said post to the entire satisfaction of his superior and on the basis of his service career, the services of appellant were transferred to CTD Khyber Pakhtunkhwa on 23.09.2014.
- C. That the appellant during this whole service career performing his duties as per rules, regulation of the Armed forces and not a single complaint, whatsoever, has been made against the appellant.
- D. That the appellant also served at various sensitive police stations of the province and remained successful in various operations, even against hard criminals.

ATTESTED

[Signature]

14

- E. That the post of S.I against which the appellant worked since 21.04.2008 till 13.04.2016 was the part of S.I existed on the budget by the department permanently.
- F. That the rejection of the plea of the appellant for confirmation against the post of S.I is on flimsy grounds.
- G. That the rejection of the plea of the confirmation against the post of S.I is against all the norms of justice, rules regulation and even the pronouncement of superior judiciary of the country.
- H. That the appellant have been discriminated as many other similarly placed Police Officers have been confirmed by the Department in the post.
- I. That the confirmation of the appellant is a legal and lawful right after completion of one year successful service and in the service of the appellant, the appellant has served as S.I for almost 8 years but this aspect of the case has been ignored.
- J. That the appellant also request for personal hearing so that the appellant may explain his case before your honour with justification and solid documentary evidence.

It is therefore, most humbly prayed that on acceptance of this Department Appeal the remarks /decision to the effect of rejection of confirmation as S.I

~~TESTED~~

15

may please be set aside and the appellant being eligible and qualified may be confirmed against the post of S.I with effect from 21.04.2008 as the appellant has successfully performed his duties on the same post till 13.4.2016.

Any other relief, in the given facts and circumstances which the appellant has not specifically asked for and the appellant is entitled to, may also be granted in his favour with all back benefit with seniority.

Appellant

Rehmat Wali
S/o Muslim Khan
Ex-SI, CTD, KPK, Peshawar
Now Azakhel Bala Tehsil &
District Nowshera
Cell No.0300-5881704
0310-9084451

Dated 18.05.2016

Copy to

I.G.P Khyber Pakhtunkhwa, Peshawar

Attested
[Signature]

ATTESTED

16

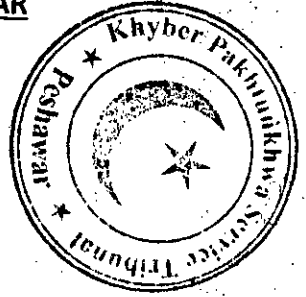
Annexure - C

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 938/2016

Date of institution ... 02.09.2016

Date of judgment ... 14.01.2020



Rehmat Wali Ex-SI S/o Muslim Khan R/o Village & P.O Azakhel Bala Tehsil and District Nowshera. ... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department Civil Secretariat, Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa Central Police Office Peshawar. ... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE MINUTES OF THE 21ST MEETING OF POLICE POLICY BOARD HELD ON 29.04.2016 AT ITEM NO. 06 DULY APPROVED BY THE PROVINCIAL POLICE OFFICER/IGP, WHEREBY REQUEST OF THE APPELLANT FOR CONFIRMATION AS SUB-INSPECTOR WAS REJECTED.

Mr. Muhammad Arif Jan, Advocate .. For appellant.
Mr. Riaz Ahmad Paindakheil, Assistant Advocate General .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. HUSSAIN SHAH .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith Mr. Naeem Hussain, Inspector (Legal) for the respondents present.

Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department. He was promoted to the rank of ASI in the year 2003. After confirmation to the post of ASI he was allotted new

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

M. Amin
02.01.2020

2 (17)

number and the appellant was also promoted to the rank of officiating Sub-Inspector (S.I) on the recommendation of Departmental Promotion Committee in the year 2008 but the appellant was not confirmed on the said post of Sub-Inspector (S.I). The appellant also passed the upper course held at PTC Hangu in the year 2015. The Departmental Promotion Committee was constituted but the juniors to the appellant were promoted/confirmed and the appellant being eligible and qualified was deprived. The case of the appellant was sent for confirmation on the post of S.I and promotion to the post of officiating Inspector and the same was included in the 21st meeting held on 19.04.2016 of Police Policy Board but the case of the appellant was not considered for confirmation on the post of S.I and promotion to the post of officiating Inspector due to short length of service/experience vide order dated 28.04.2016. Feeling aggrieved, the appellant filed departmental appeal to the Government of Khyber Pakhtunkhwa Secretary to Tribal Affairs Department Civil Secretariat Peshawar on 18.05.2016 but the same was not responded hence, the present service appeal.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was appointed as Police Constable in the year 1975. It was further contended that he was promoted to the rank of Head Constable in the year 1983 after passing his lower examination. It was further contended that he was selected for intermediate college course in the year 1996 and successfully completed and then was promoted to the rank of ASI in the year 2003. It was further contended that he was also confirmed at the post of ASI. It was further

M. Amin
14.1.2020

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

18

contended that he was also promoted to the officiating Sub-Inspector on the recommendation of Departmental Promotion Committee in the year 2008. It was further contended that the Departmental Promotion Committee was held on 24.02.2016 in respect of promotion/confirmation of eligible/qualified officer to the rank of Sub-Inspectors but the juniors to the appellants were promoted/confirmed and the appellant being eligible and qualified was deprived from confirmation. It was further contended that again the impugned minutes of 21st meeting of Police Policy Board on 19.04.2016 was held whereby the request of the appellant for confirmation as Sub-Inspector and promotion to the post of Officiating Inspectors was rejected on the ground that he being not confirmed Sub-Inspector is not entitled for promotion to the post of officiating Inspector, therefore, the appellant filed departmental appeal on 18.05.2016 but the same was not responded. It was further contended that the appellant was promoted to the officiating Sub-Inspector in the year 2008, therefore, the appellant served for about eight years but the respondent-department has illegally deprived the appellant from confirmation to the post of Sub-Inspector and promotion to the post of Officiating Inspector, therefore, prayed for acceptance of appeal.

5. On the other hand, learned Assistant AG for the respondents opposed the contention of learned counsel for the appellant and contended that for promotion to the post of Officiating Inspector confirmation of Sub-Inspector was necessary but the appellant was not confirmed Sub-Inspector, therefore, he was not promoted to the post of Officiating Inspector vide minutes of 21st Police Policy Board meeting dated 19.04.2016. It was further contended that for confirmation of Sub-Inspector, the appellant was required to remain SHO,

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

M. Amin
14/1/2020

19

investigation officer etc for specific period but the appellant had not fulfilled the requirement necessary for the post of confirmed Sub-Inspector, therefore, he was not confirmed on the post of Sub-Inspector and due to non-confirmation of Sub-Inspector, he was also not entitled for promotion to the post of Officiating Inspector, therefore, it was vehemently contended that the appeal has no force and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant has claimed in the appeal that he was promoted to the rank of Sub-Inspector in the year 2008 on the recommendation of Departmental Promotion Committee and he was retired from service on 13.04.2016 but for a such long period of eight years he was not confirmed on the post of S.I and was also not promoted to the post of Officiating Inspector for his no fault while the juniors to him were confirmed on the post of Sub-Inspector and have also been promoted to the post of Officiating Inspectors while the respondent-department have stated in the comments/written reply that the appellant had not fulfilled the required criteria provided in Police Rules 13.10 (ii) and standing order issued from time to time, therefore, he was not confirmed on the post of Sub-Inspector and was also not entitled to the post of Officiating Inspector. The record further reveals that the appellant has also filed departmental appeal dated 18.05.2016 for confirmation to the post of Sub-Inspector as well as promotion to the post of Officiating Inspector with back benefits but the same has not been decided by the departmental authority, therefore, we deem it appropriate to direct the departmental authority to decide the departmental appeal dated 18.05.2016 filed by the appellant as per rule and law within a period of 60 days from the date of receipt of copy of this judgment with further direction to communicate

ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar.

M. Amin
 14.1.2020

20


the order of department authority to the appellant and thereafter, if the appellant was aggrieved he will be at liberty to approach this Tribunal. As such, the appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
14.01.2020


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Date of Presentation of Application 15-01-2020
Number of Words 2000
Copying Fee 22-00
Urgent —
Total 22-00
Name of Copyist [Signature]
Date of Completion of Copy 30-01-2020
Date of Delivery of Copy 30-01-2020

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



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

21
Annexure - D

No. CPO/CPB/ 156

Dated Peshawar

09 July, 2020

ORDER

The retired Sub Inspector Rehmat Wali of CCP Peshawar filed a Service Appeal No. 938/2016 in Khyber Pakhtunkhwa Service Tribunal Peshawar for confirmation and promotion to the rank of Offg: Inspector (BS-16). The judgment of Service Tribunal Khyber Pakhtunkhwa dated 14.01.2020 vide Para No. 06 that "Perusal of the record reveals that the appellant has claimed in the appeal that he was promoted to the rank of Sub-Inspector in the year 2008 on the recommendation of Departmental Promotion Committee and he was retired from service on 13.04.2016 but for a such long period of eight years he was not confirmed on the post of S.I and was also not promoted to the post of Officiating Inspector for his no fault while the juniors to him were confirmed on the post of Sub-Inspector and have also been promoted to the post of Officiating Inspectors while the respondent-department have stated in the comments / written reply that the appellant had not fulfilled the required criteria provided in Police Rules 13.10 (ii) and standing order issued from time to time, therefore, he was not confirmed on the post of Sub-Inspector and was also not entitled to the post of Officiating Inspector. The record further reveals that the appellant has also filed departmental appeal dated 18.05.2016 for confirmation to the post of Sub Inspector as well as promotion to the post of Officiating Inspector with back benefits but the same has not been decided by the departmental authority, therefore, we deem it appropriate to direct the departmental authority to decide the departmental appeal dated 18.05.2016 filed by the appellant as per rule and law within a period of 60-days from the date of receipt of copy of judgment with further direction to communicate the order of department authority to the appellant and thereafter, if the appellant was aggrieved he will be at liberty to approach this Tribunal. As such, the appeal is disposed of in the above terms".

In compliance with the directions of the August Court, the relevant record of the Petitioner was thoroughly examined. The petitioner was summoned and heard in person. He could not satisfy the Competent Authority about his contention.

Moreover, the case of the petitioner had already been discussed in 21st Police Policy Board meeting held on 19.04.2016 and was rejected. Hence, the appeal of the petitioner is hereby rejected being meritless.

Sd/-
(DR. ISHTIAQ AHMED) PSP/PPM
Addl: Inspector General of Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar.

Endst: No. and dated even

Copy of above is forwarded to:-

1. Additional Inspector General of Police, HQrs: Khyber Pakhtunkhwa.
2. DIG/HQrs: Khyber Pakhtunkhwa.
3. Capital City Police Officer, Peshawar.
4. Registrar, Service Tribunal Khyber Pakhtunkhwa Peshawar for information in Service Appeal No. 938/2016 vide judgment dated 14.01.2020.
5. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: Secret and E-III CPO Peshawar.

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

21/7/20

22

WAKALATNAMA

IN The Honble Kpk Service Tribunal Peshawar

Rahmat wali

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

Govt of Punjab

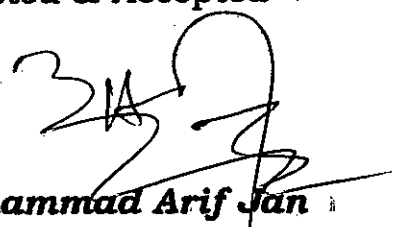
(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case SA 200

I/We, Appellant do hereby appoint and constitute **Muhammad Arif Jan Advocate** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/us as my/our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/our matter.

Attested & Accepted

CLIENT/S



Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213

Rahmat wali

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.8825/2020.

Rehmat Wali Ex- Sub Inspector of CCP, Peshawar.....**Appellant.**

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police HQrs:, Peshawar.
3. Capital City Police Officer, Peshawar.....**Respondents.**

REPLY BY RESPONDENTS NO. 1, 2, &3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appellant has no cause of action and locus standi.
2. That the appeal is badly barred by law & limitation.
3. That the matter already banned by the Honorable Supreme Court.
4. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
5. That this Honorable Tribunal has no jurisdiction to adjudicate upon the matter.
6. That the appellant is estopped by his own conduct to file the instant appeal.
7. That the appellant has not come to Hon'able Tribunal with clean hands.
8. That the appellant has concealed the material facts from Honorable Tribunal.
9. That the appeal is not maintainable being devoid of merits.

FACTS:-

- (1) Correct to the extent that appellant was recruited as constable in respondent department and was promoted to the rank of sub-inspector on merit of Seniority/fitness.
- (2) Para pertains to record.
- (3) Para pertains to record of promotion, hence needs no comments.
- (4) Para pertains to record, hence needs no comments.
- (5) Incorrect. Promotion in the rank of Sub Inspector and Inspector is made subject to qualifying the prescribed criteria and no pick and choose formula is followed.
- (6) Incorrect. In List "E" i.e. to the rank of Sub Inspector and in List "F" i.e to the rank of Inspector is basically made subject to qualifying the prescribed and pre-requisite criteria.
- (7) Incorrect and misleading. In fact qualification of upper college course is one of the eligibility criteria for confirmation in the rank of SI.

- (8) Para is incorrect and misleading. In fact confirmation in the rank of S.I requires completion of eligibility criteria under 13-10 (2) of Police Rules 1934 Amended 2017, which provides that "no sub inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an officiating S.I in independent Incharge of PS, a notified post, or as in charge investigation of a PS or CTD. As such appellant was also confirmed in the rank of S.I on qualifying the said eligibility criteria. (copy of Rule is annexed as "A")
- (9) Para is irrelevant and misleading. Proper criteria for confirmation as SI in Police Rules 1934 and standing orders are explained in detail.
- (10) Incorrect. The appellant did not fulfill the laid down criteria for confirmation in the rank of SI.
- (11) Correct to the extent that the appellant filed Service Appeal before this Honorable Tribunal which was disposed of with the direction to decide his departmental appeal.
- (12) Incorrect. In compliance with this honorable Service Tribunal orders dated 14.01.2020, case of appellant was examined and filed. The same issues were deeply discussed by the DPC meeting held on 30.06.2020. The policy issued by the Police Policy Board regarding the notional promotion was withdrawn in the meeting on the grounds that no rules/policy regarding notional promotion available in the prevailing special law/rules. That policy was contrary to the decision of Apex court wherein out of turn/notional promotion has been declared illegal and violation of vested right of senior officer. The decision of the Apex court has been implemented in Pakistan and officer of various ranks have been demoted to original rank.
- (13) That the appeal of the appellant being devoid of merits may kindly be dismissed.

GROUND:-


- A. Incorrect. The orders passed by the competent authority as per law/rules and neither any discriminatory treatment has ever been given to the appellant nor occurred any illegality in the promotion case of appellant.
- B. Incorrect. The performance of appellant was not up to the mark.
- C. Incorrect. Confirmation in the rank of S.I requires completion of eligibility criteria under 13-10 (2) of Police Rules 1934 amended 2017, which provides that "no sub inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an officiating S.I in independent Incharge of PS, a notified post, or as in charge investigation of a PS or CTD. As such appellant was also confirmed in the rank of S.I on qualifying the eligibility criteria.
- D. Incorrect and misleading. In fact confirmation in the rank of S.I requires completion of laid down criteria and those S.Is who fulfill the said qualification

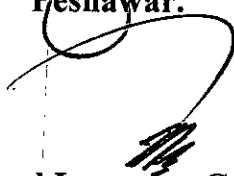
on priority are confirmed first in the rank of S.I. the appellant did not fulfill the laid down criteria.


- E. Incorrect. The para already explained in detail in the proceeding paras. Furthermore promotion in each and every rank is made in pursuance of existing law/rules, and the appellant was not eligible under the rules.
- F. Incorrect. As per judgment of honorable Supreme Court of Pakistan dated 16.05.2013 and dated 13.05.2018 all notional/out of turn promotion are banned and declared illegal and against the vested rights. The appellant was rightly proceeded under the law/rules.(copy of judgment is annexure as "B")
- G. Incorrect. Appellant being not eligible was not promoted and by giving promotion to appellant, right of others entitled would definitely be infringed.
- H. Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with costs please.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Additional Inspector General,
of Police, HQrs: Peshawar.


Capital City Police Officer,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.8825/2020.


Rehmat Wali Ex- Sub Inspector of CCP, Peshawar.....Appellant.

VERSUS.


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police HQrs:, Peshawar.
3. Capital City Police Officer, Peshawar.....Respondents.

AFFIDAVIT.

We respondents 1, 2 and 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Additional Inspector General,
of Police, HQrs: Peshawar.


Capital City Police Officer,
Peshawar.

10. In rule 13.10, for sub rule (2) the following shall be substituted namely:

“(2) No Sub-Inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an officiating Sub-Inspector in independent charge of a Police Station, a notified Police Post, or as in-charge Investigation of a Police Station or in Counter Terrorism Department:

Provided further that he shall also have to spend one year in any other Unit excluding the period spent on long leave, deputation or promotional training course i.e. upper college course”.

11. After rule 13.16, the following new rule shall be added, namely:

“13.16A. **One year mandatory tenure for promotion to Deputy Superintendent of Police.**---An Inspector shall be promoted to the post of Deputy Superintendent of Police after successful completion of mandatory training i.e. Advance Course and completion of one year tenure as Inspector in the Investigation Branch, or Counter Terrorism Department, or Special Branch, or any police training institution.”.

12. After Form No. 13.7, the following new Appendices shall be added, namely:

“Appendix 13.7A (I)
(See sub-rule (1) of rule 13.7A)

S.No	SUBJECTS	MARKS
1.	Approved Syllabus of Recruit Course	200
2.	Basic General Knowledge (General Knowledge regarding Pakistan & Khyber Pakhtunkhwa)	30
3.	English Communication	20

Appendix 13.7B (I)
(See sub-rule (2) of rule 13.7A)

S.No	SUBJECTS	MARKS
1.	LAWS i. Pakistan Penal Code ii. Criminal Procedure Code iii. Local and Special Laws iv. Qanoon-e- Shahdat v. Khyber Pakhtunkhwa Police Act, 2017 vi. Huddood Laws	60
2.	Police Rules, 1934	50
3.	English Translation	30
4.	General Knowledge	30
5.	Police Initiatives	30

Note: The subjects mentioned at serial No. 1 and 2 shall include selected portion of the relevant laws to be approved by the Provincial Police Officer.”.

13. In rule 19.2, after sub-clause (2), the following new sub-rule shall be added, namely:

“(3) Written examination of recruit course shall be conducted through an accredited testing agency approved by the Provincial Police Officer.”.



IN THE KHBER PAKHTUNKHAWA SERVICE TRIBUNAL, PESHAWAR
Service Appeal No 271 / 2018

Tariq Umar S/O Muhammad Umar R/O Lali Bagh Kakshal No 1.
Tehsil and District Peshawar..... (Appellant)

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 30

Dated 10-1-2018

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar
2. Chief Capital Police Officer, Peshawar (Respondents)

APPEAL

UNDER SECTION 4 OF THE KP. SERVICE TRIBUNALS ACT, 1974, FOR THE BACK DATED PROMOTION IN ORDER TO BRING THE APPELLANT TO THE SAME STATUS AS HIS COLLEAGUES ARE.

PRAYER: -

To treat and place the appellant's seniority instantly and designate his seniority with colleagues of his batch 2006, in service with all back benefits.

Respectfully shewth:-

The Appellant humbly submits as under:-

- 1) That the Appellant was appointed in police department, Khyber Pakhtunkhwa as Assistant Sub Inspector in 20th October, 2006 through Public Service Commission and allotted No 135-P.
(Copies of the service card, CNIC and appointment order are attached as Annex 'A' 'B' & 'C', "C-1" 'C-2' "C-3").
- 2) That the Appellant after joining his service, rendered valuable service to the police department and performed his duty vigilantly with full zeal and devotion.
- 3) That the Appellant after good service and honest officer, the police promoted as appreciating Sub Inspector rank, allotted No 674-P on 01-01-2010 and performed his duty with full zeal and devotion; and during the said period as Sub Inspector, the Appellant remained four times as SHO in different police stations for a period of 10 month and 15 days.
(Copy of promotion order (1/1/2010) is attached as Annex "D")
- 4) That the Appellant completed his upper college course along with his batch mates in the year 2011.

Filed to-day

Registrar
10/1/18

Re-submitted to -day and filed.

Registrar

27/2/18

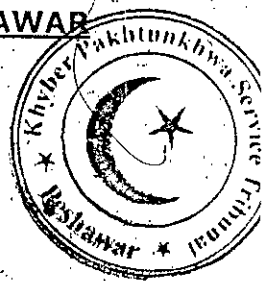
ATTESTED

EXAMINER
Khyber Pakhtunkhwa Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 271/2018

Date of Institution ... 10.01.2018
Date of Decision ... 22.06.2021



Tariq Umar S/O Muhammad Umar R/O Lali Bagh Kakshal No.1
Tehsil & District Peshawar.

(Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar and
one another.

(Respondents)

Taimur Ali Khan,
Advocate. ... For appellant.

Muhammad Adeel Butt,
Additional Advocate General ... For respondents.

SALAH-UD-DIN ... MEMBER (J)
ROZINA REHMAN ... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Facts gleaned out from the memorandum of appeal are that appellant was appointed as Assistant Sub Inspector through Khyber Pakhtunkhwa Public Service Commission on 20th October, 2006. He was promoted as Officiating Sub Inspector and he performed the duties of an S.H.O in different police stations. His batchmates were promoted but the appellant was neither posted to complete his period of S.H.O ship nor was promoted.

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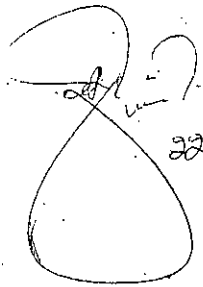


with his batchmates despite repeated requests to his high-ups. Lastly, he was confirmed in the rank of S.I on 05.01.2017 and his name was placed on list "F" but with immediate effect. After confirmation, he filed departmental appeal but to no avail, hence the instant service appeal.

2. Learned counsel for appellant contended that the appellant was initially appointed as Assistant Sub Inspector on 20th October, 2006 and was confirmed in rank of A.S.I vide notification dated 01.01.2010. That in a D.P.C Meeting, other colleagues of the appellant were confirmed whereas the case of appellant was not considered. He submitted that the appellant was confirmed in the rank of S.I on 05.01.2017 but with immediate effect instead of confirming him from the date when his other colleagues were confirmed. Learned counsel further argued that appellant was treated in a discriminatory manner as some other Officiating Sub Inspectors who were deferred for want of deficiency, were confirmed with those colleagues who had been confirmed earlier. He submitted that there is nothing on file which could show any sort of bad entry on the record of the appellant and that he was never superseded. He submitted that in case of deferment for want of any deficiency, seniority is not affected and this is the legal right of the appellant to be confirmed from the date when his other colleagues were confirmed. He contended that such act of the respondents was discriminatory and against the law as the appellant was not treated in accordance with law and his rights guaranteed under the Constitution were badly violated. Reliance was

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placed on the judgments of this Tribunal in Service Appeal No. 79/2019; 407/2011; 1227/2013 and 197/2016, wherein, in similar nature cases, relief was granted by this Tribunal. He, therefore, requested for placing the name of the appellant in the confirmation list with his colleagues by ante dating his confirmation to meet the ends of justice with all back benefits.

3. Conversely, learned A.A.G submitted that the appellant was provided with several opportunities to show efficiency and good work in the discharge of his official duty as S.H.O but he failed to perform his duty up to the satisfaction of his seniors. He submitted that he was suspended and was dealt with departmentally on account of inefficiency and misuse of official authority. He contended that confirmation in the rank of S.I is subject to qualifying the laid down criteria and the appellant on the fulfillment of said pre-requisite criteria, under Rule 13.10(2) was confirmed in the rank of S.I without any discrimination.

4. Perusal of record would reveal that appellant was appointed/recruited as an A.S.I upon the recommendation of Khyber Pakhtunkhwa Public Service Commission. He alongwith his batchmates/colleagues, was confirmed in the rank of A.S.I vide notification dated 01.01.2010 and his name was brought on promotion list "E" w.e.f 25.09.2006. Name of the appellant finds mention at Serial No.4, whereas, his colleagues Johar Shah, Abdur Rasheed and Khalid Khan have been placed at Serial No.9, 13 and 14 respectively. His above-mentioned colleagues were confirmed in the

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

22/6/21

rank of S.I w.e.f 14.03.2012 vide notification dated 10.09.2012, whereas, the appellant was confirmed in the rank of S.I with immediate effect vide notification dated 05.01.2017. There is nothing on file which could show that he was superseded rather he was not considered on the ground of not completing a period of one year as an Officiating Sub Inspector in independent charge of a Police Station in a district. The issue relating to confirmation of the appellant as Sub Inspector from the date when his colleagues were confirmed, holds ground as it was not within the authority of the appellant to post himself as an S.H.O of an independent Police Station. We did not find anything adverse on record except deferment to substantiate his confirmation on later date. It is established from the prevailing rules that civil servant selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se seniority as in the lower post.

5. For the above-mentioned reasons, we are constrained to accept the present appeal with directions to the respondents to place the name of appellant in the confirmation list with his batchmates as Sub Inspector w.e.f 14.03.2012 when his colleagues were confirmed in the rank of S.I and accordingly revise the seniority list with all consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
22.06.2021


(Salah-ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

Certified to be true copy
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Service Tribunal
Peshawar