

Before the Honorable Service Tribunal KyberPakhtunkhwa Peshawar.

COC No. 17 / 2023. IN E.P 154/2022 IN S/A NO. 12438/2020.

**Furqan Javed SUB Inspector presently working posting as CO/Anti- Corruption
Tank.....
Petitioner**

VERSUS

Provincial Police Officer etc.

Respondents

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Deponent

Before the Honorable Service Tribunal KyberPakhtunkhwa Peshawar.

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Respectfully Sheweth,

1. Incorrect, that as per prayer and in pursuance of the judgment dated 30-11-2021 of KP Service Tribunal Peshawar in Service Appeal No. 12438/2021 and CPO Peshawar letter No. 159/legal, dated 11-01-2022, the name of the Appellant was brought on list "E" from the date of appointment/confirmation as ASI i.e 10-02-2011. However, his seniority was considered as per with his batch mates to the effect that he will be considered junior to all those officers in the same Rank who are otherwise senior to him.

According to Peshawar High Court Judgment in Service Appeal No. 06-P of 2021 Kalim Arshad Khan VS Peshawar High Court through Registrar has been given Judgment in respect of the seniority according to Law/ Rules that seniority of the Appellant be assigned with effect from the date with his batch mates of the same selection process was appointed. (Judgment of Peshawar High Court consisting of 21 pages is annexed)

- i) Correct, hence needs no comments.
- ii) Incorrect, SI Frqan Javed was promoted with his colleague as a Officiating Sub-Inspector vide this office order endorsement No. 938-43/EC dated 28-03-2016. The promotion was given to the Appellant when he was eligible and fit for promotion i.e 28-03-2016.
2. Pertain to record, needs no comments.
3. Incorrect, on the direction of Honorable court the name of the petitioner was brought on list "E" from the date of confirmation of ASI dated 10-02-2011 vide Range Office order no.353 dated 16-11-2022 and his seniority will be considered at per with his batch mates.
4. Reply has already been given in above para.
5. Incorrect, proper order vide No. 353 was issued on 18-11-2021 and a copy was send to all concerned.
6. Pertain to record, needs no comments.
7. Incorrect, proper order was issued by the office of RPO Bannu Region Bannu vide No. 353 dated 16-11-2022 as per the Judgment of Honorable Tribunal and his seniority was fixed with his colleagues. So far his confirmation is concerned,
 - i). DPC meeting was held on 14-05-2018 for promotion/confirmation of SI to the substantive rank of SIs, but the Appellant was deferred due to in complete mandatory professional courses 09 marks mandatory according to Police Rules 19.25(5), missing of ACR for the period of 28-04-2017 to 31-12-2017. (Committee report is annexed)

ii). As another DPC meeting was held on 29-06-2018 for confirmation/promotion but he was not confirmed due to his name was removed from list "E" by the then RPO Bannu. (Committee report is annexed)

iii). On 06-10-2021 a DPC meeting was held for promotion/confirmation to the substantive rank of SIs but he was deferred due to pending departmental enquiry and incomplete ACRs for the years 2018 and 2020. (Committee report is annexed)

On 09-11-2021 DPC meeting was held SI Furqan Javed was promoted to the substantive rank of SI on 09-11-2021 vide RPO Office endorsement No.5686-87/EC dated 25-11-2021 with the condition that he will be confirmed after 2 years probations under Police Rules 13.18. (Committee report is annexed)

According to judgment of Supreme Court of Pakistan in Civil Appeal No.1172 to 1178 of 2020 in Civil Petition No. 3789 to 3796,2260-L to 2262-L and CP 3137-L of 2020 Titled **Syed Hammad Nabi VS IG Punjab, seniority of lower subordinate will be fixed according to Police Rules12.2(3) which provides that in the first instance the seniority of the upper subordinates shall be reckoned from date of first appointment, officers promoted from a lower Rank being considered senior to persons appointed direct on the same date, and the seniority of officers appointed direct on the same date being reckoned according to age. The Sub-Rule further provides that seniority shall be finally settled by dates of confirmation, the seniority inter se of several officers confirmed on the same date being that allotted to them on first appointment. Rule12.2(3) provides for two stages for determining the seniority; one is prior to the probationary period and is to be reckoned from the first appointment and the final seniority is settled from the date of confirmation which is once the period of probation is successfully completed⁹. Period of probation is important as the officers have to undergo various courses (A,B,C&D)¹⁰ and qualify the same. Once Police Officer has successfully undergone the said courses he stands confirmed at the end of the probationary period. The seniority is once again settled, this being the final seniority from the date of confirmation. The above Rule is, therefore, very clear that final seniority list of Inspectors will be reckoned from the date of confirmation of the officers and not from the date of appointment.**

It is pertinent to mention that Seniority is always fixed on the basis of eligibility -competence but in the present case the Appellant has not yet fulfilled the mandatory requirements/criteria which is required according to Police Rules 19.25(5) 13.18 and 13.10.(2) i.e 1 year period out of District or other Unit (FRP,ELITE and Special Branch and Police Training Institution). Therefore, the appellant was not confirmed.

8. Incorrect, the order/judgment of the Honorable Tribunal has been implemented by revising the date on list "E" from the date of confirmation as a ASI i.e 10-02-2011 vide RPO Office Endorsement No. 4516-19/EC dated 18-11-2022 and Endst: No. 4795-98/EC dated 12-12-2012 and as per the EP No. 154/2022 vide RPO Endst: no 244-50/EC dated 23-01-2023 was produced before the Honorable Tribunal but the Appellant did not agree and submitted objection petition which was against the Law/Rule and Policy.

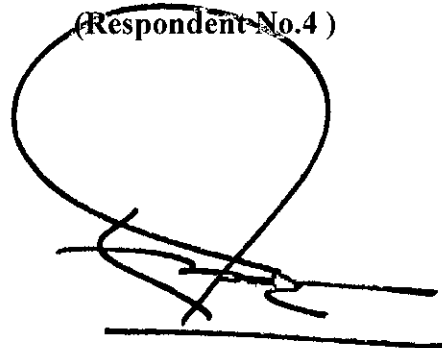
9. Incorrect, the respondents were not thrown back the order/directions of the Honorable Tribunal dated 30-11-2021 nor have committed any illegality which comes within the ambit of Contempt of Court.
10. The respondents department did not violate any order of this Honorable court. Therefore, the COC petition may kindly be dismissed with cost.
11. The respondents did not violate any vested right of the petitioner. Therefore, the respondents have not exposed themselves to the penal section of the Contempt Ordinance.
12. The Respondent Department may kindly be allowed to raise additional Grounds at the time of arguments.

PRAYER:

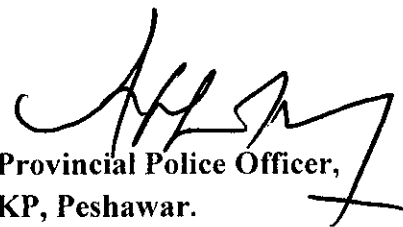
It is therefore humbly prayed that on acceptance of reply/comments of the respondents the COC petition of the Appellant may kindly be dismissed with co



**DSP Legal Bannu
(Respondent No.4)**



**Regional Police Officer,
Bannu, Region Bannu
(Respondent No. 3)**



**Provincial Police Officer,
KP, Peshawar.
(Respondent No.2)**



**Secretary to GOVT. KP,
Home & Tribal Affairs Peshawar
(Respondent No. 1)
Home Secretary,
Khyber Pakhtunkhwa**

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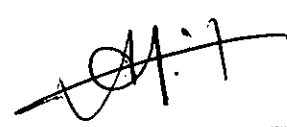
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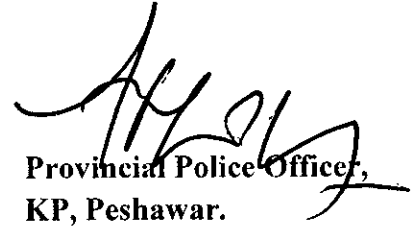
AUTHORITY LETTER.

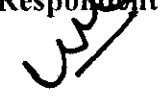
Mr. Muhammad Farooq Khan, DSP Legal, Bannu, is hereby authorized to appear before the Peshawar Service Tribunal on behalf of the undersigned in the above cited COC.

They are authorized to submit and sign all documents pertaining to the present COC.


Muhammad Farooq Khan
DSP Legal Bannu
(Respondent No.4)


Regional Police Officer,
Bannu, Region Bannu
(Respondent No. 3)


Provincial Police Officer,
KP, Peshawar.
(Respondent No.2)


Secretary to GOVT. KP,
Home & Tribal Affairs
Peshawar **Home Secretary,**
(Respondent No: 1) **Kyber Pakhtunkhwa**

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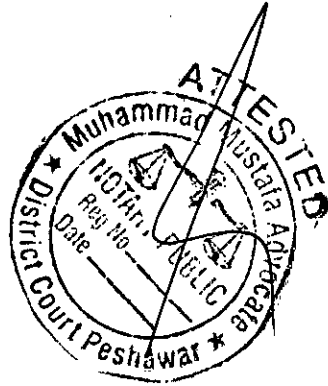
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AFFIDAVIT.

I, **Muhammad Farooq Khan**, DSP Legal, Bannu, representative for the Respondents No.1 to 4, do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Tribunal.



DEPONENT