BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No.16445/2020

Date of Institution... 17.12.2020

Date of Decision... 16.05.2023

Hidayat Shah Inspector Legal Nowshera.

... (Appellant)

VERSUS

The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar and 03 others.

... (Respondents)

MR. ASHRAF ALI KHATTAK, Advocate --- For appellant.

MR. ASAD ALI KHAN, Assistant Advocate General --- For respondents.

MR. MUHAMMAD AKBAR KHAN --- MEMBER (EXECUTIVE)
MR. SALAH-UD-DIN --- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise averments as raised by the appellant in his appeal are that he was enrolled as PSI on 13.03.1988 and was then enlisted in promotion list "F" vide Notification dated 09.07.1991; that one Altaf Hussain *(Shaheed)* was enrolled as PSI in the year 1989 and was enlisted in promotion list "F" on 16.11.1994; that the appellant was well as Altaf Hussain *(Shaheed)* were promoted as officiating Inspectors (Legal) BPS-16 vide same Notification dated 19.11.2007; that Altaf Hussain *(Shaheed)* was junior to the appellant, however he was confirmed as Inspector (Legal) and was then further promoted as DSP (Legal) BPS-17 vide

impugned Notification dated 25.07.2013, while the appellant was deferred even from his confirmation as Inspector (Legal) on the ground that his ACRs for the period from 01.01.2008 to 16.05.2008 as well as 2011 and 2012 were not available; that the appellant was senior to Altaf Hussain *(Shaheed)* and was entitled to have been promoted to the post of DSP (Legal) (BPS-17) but he was wrongly and illegally deprived of the same; that the appellant challenged the impugned Notification dated 25.07.2013 through filing of departmental appeal/representation, which was not responded within the stipulated period, hence the instant service appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

4. We have heard the arguments of learned counsel for the parties and have perused the record.

5. The appellant is seeking proforma promotion to the post of DSP (Legal) (BPS-17) mainly on the ground that one Altaf Hussain

(Shaheed) was though junior to him but was promoted as DSP (Legal) (BPS-17) vide impugned Notification dated 25.07.2013. Available on the record are minutes of the DPC held on 14.10.2013, whereby confirmation of the appellant as Inspector (Legal) was deferred due to non-availability of his ACRs for the period from 01.01.2008 to 16.05.2008 and for the years 2011 and 2012. The appellant has retired from service with effect from 14.04.2014 and he was admittedly not even confirmed as Inspector (Legal) at the time of his retirement. On the other hand, Altaf Hussain was confirmed as Inspector (Legal) and was then further promoted as DSP (Legal) (BPS-17) vide Notification dated 25.07.2013. When the appellant was admittedly not even confirmed as Inspector (Legal) (BPS-16) at the time of his retirement, there exist no law/rules, whereby he could be granted proforma promotion to the post of DSP (Legal) (BPS-17).

6. Consequent upon the above discussion, it is held that the appeal in hand is without merit, hence dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.05.2023

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(MUHAMMAD AKBAR KHAN)
MEMBER (EXECUTIVE)

Nacem Amin