

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1456/2018

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS FAREEHA PAUL ... MEMBER(E)

Fazal Ghafoor, Su Inspector Posted at Police School of
Telecommunication, Peshawar. (Appellant)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police Telecom, Khyber Pakhtunkhwa, Peshawar.
3. Chief Capital Police Officer, Peshawar.
4. Additional Inspector General of Police, Headquarters, Khyber Pakhtunkhwa, Peshawar. (Respondents)

Mr. Abid Ali Khan,
Advocate

... For appellant

Mr. Fazal Shah Mohmand,
Addl. Advocate General

... For respondents

Date of Institution.....23.11.2018
Date of Hearing.....08.05.2023
Date of Decision..... 08.05.2023

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 25.10.2018, whereby departmental appeal/representation filed by the appellant for his promotion was dismissed. It has been prayed that on acceptance of the appeal, the impugned order dated 25.10.2018 might be declared as against the law, rules, and principles

of natural justice and might be set aside with the directions to the respondents to promote the appellant as Ad hoc Inspector.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Wireless Technician in Police Department Telecommunication on 10.11.1976. He passed all the courses for promotion as per terms and conditions of Tele Unit and was confirmed as S.I on 02.11.2016. Six posts of Inspectors were vacant since June, 2017 in Tele Unit and he, being the senior most S.I as per seniority list of Tele Unit, applied for his promotion in November, 2017, as well as personally requested his high ups. In the meanwhile recommendation letter was issued by the DIG Police, Telecommunication, requesting for bringing the name of the appellant to list "I" and subsequent promotion to the rank of Inspector as a special case. He submitted departmental appeal/representation on 02.10.2018, which was dismissed on 25.10.2018; 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 Additional Advocate General for the respondents and perused the case file with connected documents in detail.

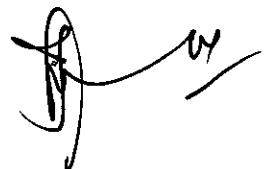
4. Learned counsel for the appellant after presenting the case in detail argued that the appellant had not been treated in accordance with law and rules. He was appointed as Wireless Technician in Police Department Telecommunication on 10.11.1976 and was on the top of the seniority list of Sub Inspectors. He had passed all the courses required for promotion. He



further argued that as per terms and conditions of Telecommunication Unit, he was eligible and fit to be considered for promotion against one of the six posts of Inspectors lying vacant since June, 2017 in the said Unit. He requested that the appeal might be accepted as prayed for.

5. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that vide letter dated 05.04.2018, the DIG, Telecommunication recommended the name of the appellant in promotion list-I^F as he was going to retire on 08.09.2018, on attaining the age of superannuation, however, he was retired from service on 08.09.2018 and there was no provision in rules for promotion after retirement, hence his case was not considered as per law and rules. He requested that the appeal might be dismissed.

6. After hearing the arguments and going through the record presented before us, it transpires that the appellant was appointed in the Telecommunication Department of Provincial Police as Wireless Technician in 1976. On 02.11.2016, he was confirmed as Sub Inspector and was at the top of seniority list of Sub Inspectors, as provided with the service appeal. As he was the senior most Sub Inspector, he submitted various applications to his high ups for considering his name for placing in the promotion list- I^F and subsequent promotion to the rank of Inspector. Those applications were forwarded by them to the Inspector General of Police also. During that correspondence, the appellant got retired from service on attaining the age of superannuation on 08.09.2018 and, therefore, his case was regretted on the



ground that he had retired and there was no provision in the rules for promotion after retirement.

7. It has been noted that at the time when the appellant had taken up the matter of his promotion with his high ups, eight posts of Inspectors were lying vacant in the Police Telecommunication Unit, as is evident from the letter of the DIG of Police, Telecommunication dated 05.09.2018 addressed to the Inspector General of Police, Khyber Pakhtunkhwa. The information was shared with the office of the IGP with reference to the matter of promotion of the appellant, and they were all aware of the fact that he was going to retire in the near future but still they did not expedite the matter to give any benefit to an official who had served the department for 42 years with an unblemished record.

8. In view of the above discussion, the appeal in hand is allowed as prayed for with the directions to the respondents to give ante-date promotion to the appellant to the rank of Inspector alongwith all consequential benefits of pension associated with it. Costs shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 08th day of May, 2023.*


(FAREEHA PAUL)
Member (E)


(KALIM ARSHAD KHAN)
CHAIRMAN

Fazle Subhan PS