FORM OF ORDER SHEET

Court of _____

Appeal No. 1131/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/05/2023	The appeal of Mr. Muhammad Saleem Khan presented today by Mr. Muhammad Abdullah Baloch Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on _____ By the order of Chairman For REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR CAMP AT D.I.KHAN

Service Appeal No. 1131 /2023

Muhammad Saleem **VERSUS** Govt; of KPK etc
(Appellant) **(Respondents)**

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3.	Copy of order dated: 01-07-2022	A/1	20
4.	Copy of Application dated 18-11-2022	B	21 - 24
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15/05/2023

Your humble appellant

Muhammad Saleem

Through counsel

Muhammad Abdullah Baloch
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR Camp: at D. I. Khan

SERVICE APPEAL NO. 1131 /2023

Muhammad Saleem Khan, No. D/06 presently serving as Acting DSP Kohat Range. R/o Fort road, Gulshan Colony, D.I. Khan
03459827858

Appellant

VERSUES

1. The Provincial Police Officer, Central Police Office, Peshawar.
2. The Addl: Inspector General of Police, Head Quarters, CPO, Peshawar.
3. Regional Police Officer, DIKhan Range, DIKhan.
4. Parvez Hussain 69-D (ASI) presently posted as Inspector CTD, DIKhan.
5. Inam Ullah 98-D (ASI) presently posted as DSP, Darazinda.

Respondents

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST IMPUGNED OFFICE ORDER No.7672/ES DATED 07/11/2022 ISSUED BY RESPONDENT NO. 03 WHEREIN THE APPELLANT WAS WRONGLY REFUSED TO GIVE HIM SENOIRITY IN LIST "E" FROM THE DATE OF HIS APPOINTMENT AND AGAINST INDECISSION UPON THE APPEAL BEFORE THE APPELLATE AUTHORITY.

Note: - Addresses of the parties are sufficient for the purpose of service.

Respected Sir;

1. That the appellant is currently serving as Inspector of Police (operation) District Kohat.
2. That the applicant was inducted in the police department as PASI (BPS-09) on the recommendation of KPK Public Service Commission vide order dated 06/04/2009 by Respondent No. 3. The appellant stood on the 1st merit list assigned by the KPK public service Commission.
3. That the impugned seniority list issued vide Notification No. 556-62/ES dated 11/02/2013, the present appellant was placed junior to some of the private respondent on serial No. 9 Parvez Hussain 69-D (ASI) and No.11 Inam Ullah 98-D (ASI) **(All others retired from Govt Service)** feeling aggrieved the appellant preferred a service appeal No. 1156/2013 before the learned KP service Tribunal to declare the appellant senior than the

private respondents Nos. 9 & 11, details are fully described in the appeal. Copy of memorandum of service appeal is annexed as **Annexure" A".**

4. That the Honourable KPK Service Tribunal vide its order dated 01/07/2022 was pleased to decide the above mentioned service appeal of the appellant and while relying upon the judgment of the august Supreme Court of Pakistan in civil appeals No. 537 to 539 of 2013 dated 31/07/2013, directed the department (Competent Authority) for decision of the case of the appellant in the light of the judgments supra. Copy of the Order dated 01/07/2022 as "**Annexure A/1".**

5. That the competent authority vide impugned order No. 7672/ES dated 07/11/2022 has decided the case of the appellant in negative and did not consider the judgments of the August Supreme Court of Pakistan in Civil Appeal Nos.537 to 539 of 2013 dated 31/07/2013. The competent authority vide its impugned Order, refused to give seniority to the appellant from the due date i.e date of initial appointment. Copy of impugned order was not communicated to the appellant. The appellant moved an application on 18/11/2022. Copies were provided on 19/12/2022. Copies of application submitted by the appellant for provision of copy of order and impugned order are annexed as **"Annexure B & C"**,

6. That feeling aggrieved from the impugned order dated 07/11/2022, the appellant submitted a departmental appeal on 11/01/2023. Copy of departmental appeal is annexed as **"Annexure D"**.

7. That departmental appeal has not been decided and after lapse of statutory period the instant service appeal is being filed, inter alia on the following grounds.

GROUNDS

1. That impugned order dated 07/11/2022 against law and service rules/police rules and was not issued in the light of judgments of Supreme Court as directed by the Honorable Service Tribunal in order at 01/07/2022.

2. That the judgments of the august Supreme Court of Pakistan mentioned hereinabove and there are so many other judgments of the Apex courts which has made the point abundantly clear that "**Seniority had to be reckoned from the date of their appointment**". The case of the appellant is at par with the judgments already delivered by the august Supreme Court of Pakistan and even delivered by the KPK Service Tribunal in various Service Appeals.

3. That one of the moot points involved in the case of appellant is "date of confirmation" of the directly appointed PASIs. The point for reckoning of the seniority has already been decided by not only be Honorable KPK Service Tribunal but also by the August Supreme Court of Pakistan as well, in plethora of judgments. Few amongst other are as follows

S/No	Appeal No	Title	Date of Decision	Court
1	197/2016	Razeem Khan vs KPK	28/06/2018	KP Service Tribunal
2	736/2016	Amjad Ali vs KPK	21/02/2018	KP Service Tribunal
3	182/2017	Zia Ur Rehman vs PPO	19/02/2018	KP Service Tribunal
4	1227/2013	Waqar Ahmad vs PPO	02/08/2018	KP Service Tribunal
5	811/2008	Muneer Hussain Vs IGP	21/12/2011	KP Service Tribunal
6	573/2016	Bacha Hazrat Vs GOP	07/12/2017	KP Service Tribunal
7	182/2017	Zahid ur Rehman Vs PPO	19/02/2018	KP Service Tribunal
8	2537/2000	Zia Hassan Vs IGP	20/01/2004	KP Service Tribunal
9	1265/2012	Haroon ur Rasheed Babar Vs KPK	19/11/2013	KP Service Tribunal
10	192/2004	Shafi Ullah Khan Vs PPO	12/03/2005	KP Service Tribunal
11	1361/2011	Younis Javed Mirza Vs PPO	12/01/2012	KP Service Tribunal
12	1504/2013	Mubarak Khan Vs KPK	08/03/2017	KP Service Tribunal
13	1505/2013	Ali Rehman Khan Vs KPK	08/03/2017	KP Service Tribunal
14	1506/2013	Bahar ud Din Khan Vs KPK	08/03/2017	KP Service Tribunal
15	1507/2013	Ali Rehmat Khan Vs KPK	08/03/2017	KP Service Tribunal
16	1508/2013	Bakht zada Vs KPK	08/03/2017	KP Service Tribunal

17	1509/2013	Riaz Ahmad Vs KPK	08/03/2017	KP Service Tribunal
18	1056/2009	Mir Faraz Khan Vs PPO	16/10/2009	KP Service Tribunal
19	398/2011	Imtiaz Ali Khan Vs PPO	22/01/2013	KP Service Tribunal
20	396/2011	Akbar Ali Vs PPO	22/01/2013	KP Service Tribunal
21	399/2011	Javed Ahmad Vs PPO	22/01/2013	KP Service Tribunal
22	667/2009	Muhammad Asif Vs PPO	12/01/2010	KP Service Tribunal
23	C.A No. 537/2013	PPO Vs Imtiaz Ali Khan	31/07/2013	Supreme Court of Pakistan
24	C.A No. 538/2013	PPO Vs Akbar Ali	31/07/2013	Supreme Court of Pakistan
25	C.A No. 539/2013	PPO Vs Javed Ahmad	31/07/2013	Supreme Court of Pakistan
26	1846/2009	Aziz ur Rehman Vs PPO	01/03/2011	KP Service Tribunal
27	C.P NO. 241-P/2011	PPO Vs Aziz ur Rehman	02/02/2012	Supreme Court of Pakistan
28	C.P No. 242-P/2011	PPO Vs Abdul Sattar	02/02/2012	Supreme Court of Pakistan
29	193/2004	Javed Iqbal Vs IGP	12/03/2005	KP Service Tribunal
30	194/2004	Hazrat Ali Vs IGP	12/03/2005	KP Service Tribunal
31	195/2004	Iftikhar Ahmad Vs IGP	12/03/2005	KP Service Tribunal
32	196/2004	Abdul Wadood Vs IGP	12/03/2005	KP Service Tribunal
33	197/2004	Muhammad Mukhtiar Vs IGP	12/03/2005	KP Service Tribunal
34	198/2004	Mir Qasim Vs IGP	12/03/2005	KP Service Tribunal
35	199/2004	Muhammad Zahir Shah Vs IGP	12/03/2005	KP Service Tribunal
36	200/2004	Mati ur Rehman Vs IGP	12/03/2005	KP Service Tribunal
37	241/2004	Muhammad Younis Khan Vs IGP	12/03/2005	KP Service Tribunal
39	12438/2020	Furqan Javed vs KPK	30/11/2021	KP Service Tribunal

4. That earlier the appellant in his service appeal No. 1156/2013 had prayed that "by accepting this appeal, the seniority list vide notification No. 556-62/ES dated 11/02/2013, may please be set aside and appellant may please be declare as senior to the respondent No. 4 to 21with all back benefits since the date of confirmation." As the civil

appeal No. 537 to 539 of 2013 decided by the August supreme court of Pakistan, the same point had already been decided had attend finality. Thus, the directions were given in order of the Honourable KP Service Tribunal dated 01/07/2022 to decide the case/controversy of the appellant in the light of judgment of the Supreme Court but the judgments of August Supreme Court of Pakistan were even not discussed in the impugned order.

5. That department/respondent had issued a letter No. CPO/CPB/317 dated 08/12/2022, wherein, the controversy was resolved but subsequently the respondents has withdrawn the said letter without any reason and justification

6. That the impugned order No. 7672/ES dated 07/11/2022 impliedly gives expression to annul the Judgment of the Tribunal and simultaneously seems challenging the veracity of the land mark verdicts of the Apex courts on the similar point already implemented in favour of the batch mates of the appellant and others in consequence of the Writ Petition No 3720-P/2018 titled "Qazi Mohammad Arif vs Government of KPK & others vide Revised "E" List Notification of PASIs No 9090/EC-I dated 01/07/2020 and No 7097/EC-I dated 05/06/2020.

7. That as regard to the question regarding date of appointment it has already been resolved vide Revised Notification No. 849 dated 11/03/2014 duly published in official gazette according to Rule 17 sub rule 1 (a) of the KPK Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 ***"the Seniority inter se of civil servants in case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission'.*** Similarly Rule 2 (2) of the Civil Servants (Seniority) Rules1993 ***"If two or more persons are recommended in open advertisement by the Selection Authority their inter-se seniority shall be determined in order of merit assigned by the selection authority".*** **Thus as the date of appointment of PASIs of Shuhada quota is 02/03/2009. So, the date of appointment of as well as his batch mates direct appointed through Public Service**

Commission must be before 02/03/2009 in the light of Notification mentioned above. Moreso, the said revised notification also shows the name of the appellant at the top of his batch mates in region because of merit assigned by Public Service Commission.

8. The KP Service Tribunal has decided in Service appeal No 573/2016, 572/2016 and 252/2017 titled Bacha Hazrat and two other vs PPO/IGP Peshawar ***"If we go through relevant sub rule 3 of 12.2 of the Police Rules, 1934, it is clearly written that seniority in the case of upper subordinates will be reckoned in the 1st instance from the date of 1st appointment. It is next added that seniority shall however be finalized by date of confirmation. It means that the decisions shall be made on the date of confirmation but seniority shall reckon from date of first appointment."***

The KP Service Tribunal has also held in Service Appeal No 1504/2013 to 1509/2013 "Mubarak Khan and Six others vs KPK" as ***"the appellants' were initially appointed as ASIs and after successful probation enlisted as confirmed ASIs but the probationary period was illegally discontinued from their service. Since the appellants were regularized in service on the basis of said service on probation as such the said period is countable as active/regular service of the appellants"*** The Police Department had filed CPLA in the august Supreme Court of Pakistan and the same was dismissed on 10/03/2020.

9. That the competent authority by issuing the impugn order No. 7672/ES dated 07/11/2022 has amalgamated the case of the present appellant with the case and facts of Minhaj Sikander Yar Khan. It is an admitted fact the appellant stood at first position in recruitment examination via Public Service Commission and as per service laws and keeping in view the inter se seniority of batch mates, the appellant ought to be placed senior among all his batch mates.

10. The most important issue of the appellant's case has recently been resolved by this worthy appellate authority vide Notification No. 317/CPB dated 08/12/2022, wherein it has clearly been mentioned that "all PASIs on successful completion of 03 years probation period shall be brought on promotion list "E" from the date of appointment". Copy of Notification is annexed as "**Annexure E**". But unfortunately the same notification has also been withdrawn without assigning any reason.

11. That the appellant being aggrieved person has a right and cause of action to file instant appeal before this Honourable Services Tribunal. The appellant was appointed through KP public service Commission dated 06/04/2009 vide order No. 1164-65/ES dated 06/04/2009. The date of confirmation of the appellant has wrongly been entered as 27/03/2012 which should not be different from the date of appointment i.e 06/04/2009. The appellant is entitled for his due seniority position in impugned seniority list.

12. That the Appellant has not been provided equal treatment when there is no express inhibition against him under the law and has also not been given equal protection of law, which is discriminatory instance of arbitrariness and is against the principles enshrined in Articles-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

13. That the Appellant has been subjected to injustice and the case of Appellant has not been dealt with under the principle of the fair play.

14. That the impugned notification of the Respondents and also the procedure adopted is wrong in the exercise of jurisdiction is in excess of jurisdiction and misapplication of clear rules.

15. That the impugned seniority list is against the settled laws and rules of Seniority in service and no legal footings hence ineffective upon the rights of appellant.

It is, therefore, humbly requested that impugned order 7672 dated 07/11/2022 may kindly be set aside and consequently the appellant may kindly be given his seniority from the due date i.e "date of initial appointment into service" .

Eventually the list "E" may very kindly be revised by giving the appellant seniority from the date of initial appointment.

Consequently due rectification may kindly be made by revising the promotion of appellant as officiating sub-inspector and similarly confirmation of sub-inspector respectively.

Accordingly, the seniority in list "F" may also be rectified by placing the appellant at his due place.

Seniority of the appellant may kindly be rectified/revised keeping in view inter se seniority among his batch mates which would be determine according to merit assigned by the Public Service Commission as per rule 17(1)(a) of KPK Civil Servant (APT) rules,1989 and as per rule 2(2) of Civil Servants (Seniority) rules, 1993.

Any other appropriate order in terms of the case of the appellant may kindly be extended in favour of appellant.

Dated: 15/05/2023

Humble Appellant

Muhammad Saleem Khan
Range No. D/06
Presently Acting DSP Kohat Range
Through Counsel

Dated: 15/05/2023

Mohammad Abdullah Baloch
(Advocate High Court, D.I.Khan)
0314-6932557

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

Service Appeal No._____/2023

Muhammad Saleem **VERSUS** Govt; of KPK etc
(Appellant) **(Respondents)**

CERTIFICATE

Certified that earlier an appeal No 1165/2023 was decided by the Worthy Tribunal on 01/07/2022. Besides, appellant have not filed an appeal regarding the subject controversy, in this august Tribunal.

Dated 15/05/2023

Appellant

AFFIDAVIT

I, **Muhammad Saleem**, appellant herein, do hereby solemnly affirm on oath that all para-wise contents of the appeal are true and correct to the best of my knowledge, belief and nothing has been deliberately concealed from this Honourable Court, nor anything contained therein, based on exaggeration or distortion of facts.

15/05/2023

DEPONENT

BEFORE THE SERVICE TRIBUNAL K.P.K, PESHAWAR.

11

Service Appeal No. _____ /2013

Saleem Parvez (ASI No.87/D) S/o Ghulam Qasim r/o Garhi Sadozai Dera Ismail Khan.

.....(Appellant)

VERSUS

1. I.G of Police Khyber Pakhtunkhwa, Peshawar.
2. D.I.G, Police Dera Ismail Khan Range.
3. D.I.G, Head Quarters K.P.K, Peshawar
4. Fazal Rahim 33-D (OSI), c/o D.P.O, D.I.Khan.
5. Mumtaz 104-D (OSI), c/o D.P.O, D.I.Khan.
6. Abdullah Khan 6-D (ASI), c/o D.P.O, D.I.Khan.
7. Allah Nawaz 7-D (ASI), c/o D.P.O, D.I.Khan.
8. Liaqat Ali 50-D (ASI), c/o D.P.O, D.I.Khan.
9. Parvez Hussain 69-D (ASI), c/o D.P.O, D.I.Khan.
10. Adam Khan 78-D (ASI), c/o D.P.O, D.I.Khan.
11. Imam Ullah 98-D (ASI), c/o D.P.O, D.I.Khan.
12. Abdul Ghani 107-D (ASI), c/o D.P.O, D.I.Khan.
13. Ghulam Farid 109-D (ASI), c/o D.P.O, D.I.Khan
14. Shah Nadir 110-D (ASI), c/o D.P.O, D.I.Khan.
15. Mohammad Yaqoob 11-D (ASI), c/o D.P.O, D.I.
16. Mohammad Ashraf 112-D (ASI), c/o D.P.O, D.I.
17. Ebad Wazir 89-D (ASI), c/o CCPO Peshawar.
18. Minhaj Sikindar Yar Khan 88-D (ASI), c/o D.P.O, D.I.Khan.
19. Kashif Sattar 92-D (ASI), c/o D.P.O, D.I.Khan.
20. Mohammad Adnan 91-D (ASI), c/o D.P.O, D.I.Khan
21. Fazal Ur Rehman 94-D (ASI), c/o D.P.O, D.I.Khan.

.....(Respondents)

Attested to be True Copy

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER OF RESPONDENT NO.2 ISSUED VIDE A ORDER NO. 556-62 / ES DATED 11/02/2013 IN WHICH THE RESPONDENT NO. 2 HAS SHOWN THE APPELLANT JUNIOR TO THE RESPONDENT NO. 4 TO 21 WHICH IS AGAINST THE LAW, RULES AND THAT OF RESPONDENT NO.1 WHO DID NOT RESPOND THE DEPARTMENTAL APPEAL OF APPELLANT.

Respectfully Sheweth:-

1- That the appellant was inducted in Police Department as probationer Assistant Sub-Inspector (BPS-9) on the recommendation of Khyber Pakhtunkhwa Public Service Commission vide order dated 06/04/2009. Copy of order dated 06/04/2009 is enclosed as *Annexure "A"*.

2- That the appellant stood first on the merit list proposed by the K.P.K Public Service Commission which is also upheld by the Police Department.

3- That the impugned seniority list issued by Respondent No.2 vide notification No. 556-62/ES dated 11/02/2013, shows the appellant junior to the respondents No. 4 to 21, copy of impugned seniority list is enclosed as ***" Annexure B".***

4- That the appellant being aggrieved, preferred Departmental appeal / representation U/S 22 of Civil Servant Act 1973 to respondent No. 2 against the impugned seniority list vide notification No. 556-62/ES dated 11/02/2013. Copy of Departmental Appeal dated 11/03/2013 is enclosed as ***" Annexure C".***

5- That the respondents No. 1 & 2 being competent authority to entertain the Departmental appeal / representation for reddressal of grievances of appellant did not responed to the same.

6- That the applicant now constrained to move this Honourable Tribunal for the redressal of grievances for the following amongst other grounds:

GROUNDS:-

a) That the impugned seniority list have no legal footing, hence ineffective upon the rights of appellant.

b) That the respondents No. 4 to 16 are juniors to the appellant as the date of confirmation of the appellant is earlier than that of the respondents No. 4 to 16 and also the respondents no. 17 to 21 are juniors to the appellant according to the merit of KPK Public Service Commission and also according to the age.

c) That the respondent No. 1 to 2 have ignored the rules and facts just to accommodate their blue eyed which is patiently illegal.

d) That the impugned seniority list is also the violation of Police Rules and statutory provision as well as the dictum late down by the superior Court in their various judgments, hence the same is illegal, against the law, facts, equity and justice and no legal footing to stand upon.

e) That the seniority list has been prepared on the basis of self made formula / criteria, thus the same is need to be set-aside and declared against the law / rules and natural justice.

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That the impugned seniority list is classical example of colorful exercise of the powers by showing the junior officials as senior to the appellant which is sufficient to prove the malafide of the respondents.

That the impugned seniority list is by its self speaks volume the grievances the appellant as a topper of K.P.K Public Service Commission has been shown junior to the officials who have just passed the commission exam.

That it is just fair as well as in the interest of justice and in view of the above facts and circumstances, the impugned seniority list wherein the appellant has been deprived from his due right, may be declared as illegal, unlawful and without jurisdiction and the same is need to be set at naught.

It is, therefore, humbly requested that by accepting this service appeal, the seniority list vide notification No. 555-62/ES dated 11/02/2013 may please be set-aside and the appellant may please be declared as senior to the respondent No. 4 to 21 with all back benefits since the date of confirmation and any other relief as deemed fit may also be ordered in favour of appellant.

Your Humble Appellant

Salim Parvez

Through Counsel

Dated: 09/07/2013

SYED SHAHID SHERAZI
Advocate High Court
Dera Ismail Khan.

AFFIDAVIT:

I Saleem Parvez S/o Ghulam Qasim (ASI Police) r/o Garhi Sadozai Tehsil and District D.I.Khan, do hereby solemniy affirm declared on oath that contents of the above **Service appeal** are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

Deponent

IDENTIFIED

SYED SHAHID SHERAZI
Advocate High Court
Dera Ismail Khan.

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BEFORE THE SERVICE TRIBUNAL K.P.K, PESHAWAR.

Service Appeal No. . . /2013

Saleem Parvez.....Appellant

VERSUS

Provincial Police Officer & Others.....Respondents

ADDRESS OF PARTIES

APPELLANT:
Saleem Parvez S/o Ghulam Qasim r/o Garhi Sadozai Dera Ismail Khan.

RESPONDENTS:

1. I.G of Police Khyber Pakhtunkhwa, Peshawar.
2. D.I.G, Police Dera Ismail Khan Range.
3. D.I.G, Head Quarters K.P.K, Peshawar.
4. Fazal Rahim 33-D (OSI), c/o D.P.O, D.I.Khan.
5. Mumtaz 104-D (OSI), c/o D.P.O, D.I.Khan.
6. Abdullah Khan 6-D (ASI), c/o D.P.O, D.I.Khan.
7. Allah Nawaz 7-D (ASI), c/o D.P.O, D.I.Khan.
8. Liaqat Ali 50-D (ASI), c/o D.P.O, D.I.Khan.
9. Parvez Hussain 69-D (ASI), c/o D.P.O, D.I.Khan.
10. Adam Khan 78-D (ASI), c/o D.P.O, D.I.Khan.
11. Inam Ullah 98-D (ASI), c/o D.P.O, D.I.Khan.
12. Abdul Ghani 107-D (ASI), c/o D.P.O, D.I.Khan.
13. Ghulam Farid 109-D (ASI), c/o D.P.O, D.I.Khan.
14. Shah Nadir 110-D (ASI), c/o D.P.O, D.I.Khan.
15. Mohammad Yaqoob 11-D (ASI), c/o D.P.O, D.I.Khan.
16. Mohammad Ashraf 112-D (ASI), c/o D.P.O, D.I.Khan.
17. Ebad Wazir 89-D (ASI), c/o C.C.P.O Peshawar.
18. Minhaj Sikindar Yar Khan 88-D (ASI), c/o D.P.O, D.I.Khan.
19. Kashif Sattar 92-D (ASI), c/o D.P.O, D.I.Khan.
20. Mohammad Adnan 91-D (ASI), c/o D.P.O, D.I.Khan.
21. Fazal Ur Rehman 94-D (ASI), c/o D.P.O, D.I.Khan.

Your Humble Appellant
Saleem Parvez

Through counsel

9-7-2013

SYED SHAHID SHERAZI
Advocate High Court
Dera Ismail Khan.

Dated: 09/07/2013

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(5)

D.I.KHAN REGION

POLICE DEPARTMENT

SENIORITY LIST OF OFFG: SUB INSPECTORS AND CONFIRMED ASSISTANT SUB INSPECTORS ON LIST 'E' AS IT STOOD ON 31.12.2012

NOTIFICATOIN NO. 555 /ES Seniority List - The Seniority List of Offg: Sub Inspectors/ Confirmed Assistant Sub Inspectors on List 'E' of D.I Khan Region Police as it stood on 31.12.2012 is hereby published for information to all concerned.

S#	Names & Number	Date of Birth	Date of Enlistment	Date of entry to list "E"	Promotion as Offg: SI	Education	Remarks
1	OSI Sanaullah No. 1/D	05.04.1955	14.07.1973	30.11.2004	08.03.2007	Matric	—
2	OSI Ghazanfar Ali No. 44/D	10.06.1955	27.08.1974	30.11.2004	08.03.2007	Matric	—
3	OSI Faridullah No. 37/D	01.06.1954	01.12.1972	30.11.2004	08.03.2007	Matric	—
4	OSI Imam Muhammad No. 41/D	11.10.1954	21.03.1971	30.11.2004	08.03.2007	7th	—
5	OSI Muhammad Iqbal No. 47/D	25.06.1955	01.09.1975	30.11.2004	26.04.2007	9th	—
6	OSI Muhammad Ashraf, No.54/D	05.02.1955	23.12.1976	01.01.2007	16.05.2007	F.A	—
7	OSI Ghulam Bashir, No 55/D	01.01.1957	12.04.1976	01.01.2007	11.05.2007	Matric	—
8	OSI Haroon-ul-Rashid, No 11/D	01.04.1957	20.03.1975	08.03.2007	08.03.2007	Matric	—
9	OSI Allah Wasaya, No 56/D	11.01.1957	22.09.1976	01.01.2007	11.09.2007	Matric	—
10	OSI Ghulam Khan, No 57/D	16.05.1955	17.10.1975	01.01.2007	27.10.2007	Matric	—
11	OSI Mazhar Hussain Shah, 58/D	01.06.1956	15.03.1979	01.01.2007	03.11.2007	Matric	—
12	OSI Muhammad Nawaz, 59/D	07.02.1955	21.02.1976	01.01.2007	25.10.2007	Matric	—
13	OSI Muhammad Riaz, 61/D	01.04.1955	09.07.1976	01.01.2007	27.10.2007	Matric	—
14	OSI Inayatullah, 62/D	10.10.1954	14.10.1975	01.01.2007	27.10.2007	Matric	—
15	OSI Muhammad Hanif, 63/D	12.02.1957	30.10.1975	01.01.2007	27.10.2007	M.A/ LLB	—
16	OSI Allah Nawaz, 64/D	08.06.1956	02.09.1975	01.01.2007	27.10.2007	Matric	—
17	OSI Amir Muhammad Faqir, 67/D	22.08.1956	10.04.1976	01.01.2007	09.11.2007	Matric	—
18	OSI Shah Nawaz, 45/D	15.05.1958	03.06.1976	01.06.2007	05.11.2007	Matric	—
19	OSI Abdullah Khan, 69/D	12.03.1958	03.05.1978	24.10.2007	08.11.2007	Matric	—
20	OSI Fazil Khan, 8/D	05.07.1957	03.04.1976	24.10.2007	09.03.2008	9th	—
21	OSI Abdul Qayyum, 71/D	09.05.1955	01.09.1975	24.10.2007	29.02.2008	Matric	—
22	OSI Mira Jan, 72/D	24.07.1954	27.07.1973	24.10.2007	17.04.2008	Matric	—
23	OSI Shah Nawaz, 73/D	22.03.1956	15.09.1975	24.10.2007	15.05.2008	Matric	—
24	OSI Faizullah, 74/D	10.02.1956	20.08.1975	24.10.2007	03.05.2008	Matric	—
25	OSI Abdul Majeed, 75/D	03.06.1956	18.11.1976	24.10.2007	05.08.2008	Under Matric	—
26	OSI Muhammad Hashim, 79/D	12.06.1959	13.02.1980	19.05.2008	13.12.2008	Under Matric	—
27	OSI Rustam Khan, 80/D	13.04.1958	20.12.1976	19.05.2008	16.12.2008	Matric	—
28	OSI Shama Jan, 81/D	03.12.1959	28.09.1978	19.05.2008	04.12.2008	F.A	—
29	OSI Sabir Shah, 14/D	05.10.1953	27.09.1978	25.07.2008	14.12.2008	Matric	—
30	OSI Abdul Hamid, 15/D	10.05.1956	24.11.1976	25.07.2008	04.02.2009	Matric	—
31	OSI Amir Abdullah, 20/D	07.02.1958	23.11.1981	25.07.2008	01.03.2009	Matric	—
32	OSI Allah Bakhsh, 82/D	01.03.1955	28.02.1980	25.07.2008	21.02.2009	F.A	—
33	OSI Bashir Hussain, 83/D	05.03.1960	16.01.1979	25.07.2008			

Dy: Inspector General of Police
D.I.Khan Range D.I.Khan

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Secretary
Civil Law Associates
D.I.Khan

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34	ICS Muza Mir, 9/D	01.01.1957	06.09.1979	01.01.2009	21.06.2009	Matric	
35	ICS Shah Jahan, 12/D	25.06.1955	31.10.1975	01.01.2009	25.06.2009	9th	
36	ICS Matta Hussain, 15/D	08.04.1954	02.04.1979	01.01.2009	25.06.2009	Matric	
37	ICS Faiz Kaleem, 19/D	05.09.1960	01.04.1980	01.01.2009	08.08.2009	Matric	
38	ICS Ghulam Yasin, 24/D	04.02.1960	28.01.1985	01.01.2009	06.08.2009	Matric	
39	ICS Muhammad Nawaz, 34/D	05.01.1961	30.01.1979	01.01.2009	07.08.2009	9th	
40	ICS Ghulam Kazim, 35/D	15.04.1960	18.01.1979	01.01.2009	12.08.2009	9th	
41	ICS Abdul Latif, 84/D	16.10.1960	06.03.1979	01.01.2009	07.08.2009	Matric	
42	ICS Inayatullah, 85/D	10.03.1960	05.03.1980	01.01.2009	06.08.2009	Matric	
43	ICS Khalid Mehmood, 86/D	15.06.1971	29.12.1994	01.01.2009	17.06.2009	F.A	
44	ICS Mir Ajab, 23/D	11.10.1956	23.12.1978	31.07.2009	08.09.2009	Matric	
45	ICS Alla-ud-Din, 29/D	06.05.1960	01.06.1978	31.07.2009	08.09.2009	F.A	
46	ICS Salawat Khan, 81/D	01.01.1960	27.08.1978	31.07.2009	08.09.2009	Matric	
47	ICS Fazal Hussain Shah, 68/D	01.01.1958	09.04.1979	31.07.2009	09.09.2009	Matric	
48	ICS Saadullah Khan, 90/D	01.08.1958	07.12.1979	31.07.2009	10.09.2009	Matric	
49	ICS Mir Aslam, 100/D	01.01.1958	06.07.1978	31.07.2009	11.12.2009	Matric	
50	ICS Allah Dad, 97/D	21.01.1959	07.11.1979	31.07.2009	12.12.2009	Matric	
51	ICS Muhammad Nawaz, 99/D	01.05.1960	27.05.1978	31.07.2009	14.12.2009	Matric	
52	ICS Muhammad Idrees, 16/D	19.04.1978	10.10.2006	01.02.2010	23.06.2011	BA/LLB	
53	ICS Tariq Saleem, 22/D	31.03.1980	10.10.2006	01.02.2010	23.06.2011	MSc	
54	ICS Sadiqullah, 51/D	01.08.1969	29.12.2006	01.02.2010	23.06.2011	M.A	
55	ICS Syed Asghar A. Shah, 61/D	03.01.1974	29.12.2006	01.02.2010	14.12.2012	M.A	
56	ICS Saif-ur-Rehman, 31/D	15.10.1975	29.12.2006	01.02.2010	14.12.2012	M.A	
57	ICS Muhammad Alamgir, 49/D	06.10.1980	29.12.2006	01.02.2010	14.12.2012	M.A	
58	ICS Muhammad Imtiaz, 52/D	02.02.1982	29.12.2006	01.02.2010	14.12.2012	B.A	
59	ICS Fazal Rahim, 33/D	10.03.1963	02.03.1982	15.03.2010	14.12.2012	Matric	
60	ICS Mumtaz Khan, 104/D	01.06.1965	26.12.1987	20.07.2010	14.12.2012	B.A	
61	ICS Syed Sagheer Abbas Shah, 42/D	09.04.1984	05.10.2007	06.10.2010	14.12.2012	F.A	
62	PASI Abdullah Khan, 6/D	20.07.1961	05.04.1981	15.06.2011	-	Matric	
63	PASI Allah Nawaz, 7/D	16.08.1956	07.03.1975	15.06.2011	-	F.A	
64	PASI Liaqat Ali, 50/D	10.01.1959	21.11.1978	15.06.2011	-	F.A	
65	PASI Pervez Hussain, 69/D	15.04.1973	11.10.1993	15.06.2011	-	F.A	
66	PASI Adam Khan, 73/D	09.11.1958	16.11.1976	15.06.2011	-	Matric	
67	PASI Inamullah, 96/D	09.01.1967	01.07.1989	15.06.2011	-	Matric	
68	PASI Abdul Ghani, 107/D	01.03.1957	21.10.1975	15.06.2011	-	Matric	
69	PASI Ghulam Farid, 109/D	10.06.1960	25.09.1980	15.06.2011	-	Matric	
70	PASI Shah Nadir, 110/D	10.09.1957	14.10.1975	15.06.2011	-	Matric	
71	PASI Muhammad Yaqoob, 111/D	01.12.1956	20.10.1975	15.06.2011	-	9th	
72	PASI Muhammad Ashraf, 112/D	05.04.1960	18.04.1978	15.06.2011	-	9th	
73	PASI Ebad Wazir, 39/D	27.01.1982	24.02.2009	25.02.2012	-	MA/LLB	On deputation to CCP Peshawar
74	PASI Minhaj Sikandar Yar Khan, 88/D	19.08.1981	07.03.2009	27.03.2012	-	MBA	
75	PASI Kashif Sattar, 92/D	06.04.1985	14.03.2009	27.03.2012	-	F.Sc	

Dy. Inspector General of Police
D.I.Khan Range D.I.Khan

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76	ASI Muhammad Adrian, 91/D	[illegible]	14.03.2009	27.03.2012	-	FSc	
77	ASI Fazal-ur-Rehman, 94/D	05.03.1987	19.05.2009	27.03.2012	-	FA	
78	ASI Saleem Parvez, 87/D	21.03.1978	26.03.2009	27.03.2012	-	FSc	
79	ASI Shamullah, 93/D	09.03.1981	10.04.2009	11.04.2012	-	FA	
80	ASI Abdul Ghani, 10/D	11.01.1967	28.10.1976	23.04.2012	-	Matric	
81	ASI Jan Muhammad, 81/D	05.03.1962	19.02.1981	23.04.2012	-	5th	
82	ASI Ghulam Ali, 39/C	13.11.1967	21.06.1976	23.04.2012	-	Matric	
83	ASI Said Marjan, 42/C	25.11.1965	26.11.1984	23.04.2012	-	Matric	

(MOHAMMAD ALI BABA KHEL) PSP
Deputy Inspector General of Police
Dera Ismail Khan Region

No. 556-62/ES dated D.I.Khan the 11-02-2013

Copy of above is forwarded for information & necessary action to the:-

1 The Additional Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar.
Two spare copies of the notification are enclosed for publication
2 The Addl: Inspector General of Police, Special Branch, Khyber Pakhtunkhwa, Peshawar
3 The Capital City Police Officer, Peshawar
4--5 The District Police Officers, D.I.Khan & Tank
6--7 The Superintendent of Police, Investigation, D.I.Khan & Tank

They are requested to please inform all the Police Officers serving under their command. Any officer who have objection on his seniority he should submit his representation within one month after the issue of the list.

(MOHAMMAD ALI BABA KHEL) PSP
Deputy Inspector General of Police,
Dera Ismail Khan Region
11/11/13

Attested to be true copy

Syed Shafiq Bhittani
Advocate, High Court
Services Law Associates
D.I.Khan

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To,

The Deputy inspector General of Police

D.I.Khan region.

Subject: **DEPARTMENTAL APPEAL/REPRESENTATION**

Respectfully sheweth.

1. That the applicant was appointed as A.S.I Police on the recommendation of the Public Service Commission vide order dated 06-04-2009.(Copy of order is attached).

2. That the applicant stood first on the merit list proposed by the Public Service Commission which is also upheld by the Police Department.

3. That the Sonority List issued by your kind office Vide notification No.550-62/ES, dated 11-02-2013 is against the law and rules recommended by the statute.(Copy of impugned Seniority List is attached).

4. That the impugned Seniority List is against the law and facts therefore ineffective upon the right of applicant because the order No. 1164-65/ES dated 6.4-2009 the applicant stood first on the same but in the impugned Seniority List, the applicant has been shown Joiner to the other officials/ badge mates mentioned in the order dated 6-04-2009.

5. That the impugned Seniority List is not prepared according to law because the impugned Seniority List is against the facts i.e. dated of first appointment, age and education.

6. That the applicant will suffer irreparable loss, if the impugned Seniority List remains in the failed.

Attested to be true copy

Syed Shahid Shirazi

7. That it is just fair as well as in the interest by justice that the appellant may be shown senior the badge mates, who was appointed vide same date and order.

It is therefore prayed that by accepting this Departmental Appeal/Representation, the applicant may please be shown senior to their badge mates according to his date of first appointment and may kindly be promoted accordingly.

Appellant

Dated: 11-03-2013

Saleem Parvez (A.S.I)
S/O Ghulam Qasim

Appeal No. 1156/2013
Saleem Perveez VS Govt 20

1st July 2022

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General, Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Khalil, SI for official respondents and private respondent No.11 in person present. Representative of the official respondents submitted that private respondent No.4 was duly informed but he is not present today.

2. At the very onset, the learned counsel for the appellant produced copy of judgment of the august Supreme Court of Pakistan passed in civil appeals No. 537 to 539 of 2013 on 31.07.2013. In paragraph-5 of which it was observed that the persons (Police officers) though confirmed subsequently but their seniority had to be reckoned from the date of their appointment. It was further observed that they could not be treated differently when seniority of many other employees similarly placed had been reckoned from the date of their appointment. When confronted with the situation not only the learned AAG but also the private respondent as well as learned counsel for the appellant agreed that the matter might be remitted to the department for reconsideration of the case of the appellant in the light of the judgment of the august Supreme Court of Pakistan after providing opportunity of hearing to both the sides and then pass a speaking order in accordance with law, rules, and judgments of the august Supreme Court of Pakistan, within sixty days from the receipt of this order under intimation to this Tribunal through its Registrar. The appeal is disposed of in the above terms. Consign.

3. *Pronounced in open court in D.I.Khan and given under our hands and seal of the Tribunal on this 1st day of July, 2022.*

SD/-
(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

SD/-
(Mian Muhammad)
Member
Camp Court D.I.Khan

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جناب عالی!

میں انیکرز کی سپیشل اپیل نمبر 1156/2013 جو کہ محترم عدالت ہذا
ٹریبونل بخدمت تکلیف پولیس کو ریمانڈ کی کہ جس پر جناب RPO صاحب
آرڈر کیے جس کی مصدقہ نقل میں سائل کو اشد ضرورت ہے۔ عین نوازش ہوگی

العارض

از: ڈاکٹر محمد سلیم خان ولد [illegible] سکونت [illegible]
0345 981 7852

Sir
Commandant Police
[illegible]
19/11/24

Attested to be true copy
[illegible]

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Subject: APPLICATION

Sir,

Kindly refer to your office letter No. 8374/ES, dated 07.12.2022.

It is submitted that as per Right to Information Act, 2013 as well in the light of Police Rules. 11-63 (2):-

"The applicant can obtain the said order for purpose of preferring appeals".

The attested copies of the said order may be provided, if approved, please.

Dy: Superintendent of Police,
Legal, Dera Ismail Khan

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OFFICE OF THE
REGIONAL POLICE OFFICER,
DERA ISMAIL KHAN REGION

0966-9280291 Fax # 9280290
estt.rpo.dik@gmail.com

No. 8374 /ES dated D.I.Khan the 07 /11/2022

To The Deputy Superintendent of Police,
Legal, DI Khan

Subject: **APPLICATION**

Memorandum

Application preferred by Inspector Muhammad Salim No. D/06, has requested for the provision of attested copies of order passed in 1156/2013, is enclosed herewith for legal opinion, please.

Received today
on 08/12/2022

Regional Police Officer,
Dera Ismail Khan
5/12

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Const: Asmatullah No. 1403

Received Page (24)

19-12-2017

0341-4367728

Attested to be true

Cons. Cell

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No. 7672 /ES, Dated DI Khan the 07/11/2022.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Saleem Pervez S/O Ghulam Qasim Caste Baloch R/O Dera Ismail Khan **(Petitioner)**

VS

1) Inspector General of Police Khyber Pakhtunkhwa, Peshawar
2) Dy: Inspector General of Police DIKhan Range Dera Ismail Khan
3) District Police Officer, Dera Ismail Khan.

(Respondents)

Service Appeal No. 1156 of 2013

Subject:- JUDGEMENT IN SERVICE APPEAL NO. 1156/2013 SALEEM PERVEZ VS GOVT.OF KP ETC.

Mr. Saleem Pervez (ASI No. 87/D) S/O Ghulam Qasim, R/O of Garhi Saddozai, Dera Ismail Khan, prayed in his service appeal titled above that "by accepting this appeal, the seniority list vide notification No. 556-62/ES, dated 11/02/2013, may please be set aside and the appellant may please be declared as senior to the respondent No. 4 to 21 with all back benefits since the date of confirmation and any other relief as seemed fit may also be ordered in favour of appellant" on the following grounds:

a) That the impugned seniority list has no legal footing, as it is against the rules and the dicta laid down by the superior courts in their various judgments, and that it has been based on self-made formula/criteria to favour their blue-eyed with mala fide intention.
b) That the Respondents No. 4 to 16 are junior to the appellant as the date of confirmation of the appellant is earlier than that of the respondents No. 4 to 16, and that the Respondents No. 17 to 21 are junior to the appellant according to the merit of KPK Public Service Commission and, also according to the age.

2. The Honourable Service Tribunal KP, vide their order dated 01.07.2022, referred the matter to the department for their consideration of the case of the appellant in the light of the judgment of the August Supreme Court of Pakistan after providing opportunity of hearing to both the sides and then pass a speaking order in accordance with law, rules, and judgments of the August Supreme Court of Pakistan.

3. Both parties were heard.

6. After hearing the parties and perusing the record it has transpired that there are two sets of respondents:

a) THE RANKERS: Those who were appointed as ASI by way of promotion -Respondents No. 4 to 16
b) THE PROBATIONERS: Those who were appointed direct as ASI by way of Initial Appointment -Respondents No. 17 to 21.
   i. Those Probationers who were appointed at the recommendation of Khyber Pakhtunkhwa Public Service Commission (KPPSC)-Respondents NO.17&18.
   ii. Those Probationers who were appointed at the recommendation of the Govt. of Khyber Pakhtunkhwa on Shaheed Quota (SQ) @5% of the total sanctioned strength vide Government of NWFP Home & T.As Department letter No. SO(P-I) HD/3-22/08 dated 19.02.2009 and IGP

Attested
Regional Police Officer
Dera Ismail Khan
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office Letter No. 5908-13/E-II dated 02.03.2009- Respondents NO.19, 20 &21.

The petitioner claims that he is senior to respondents No 4 to 16 on the ground that his date of confirmation falls earlier that of theirs, and that he is senior to the respondents 17 to 21 on the ground that the stood first according to the merit list issued by the KP Public Service Commission and that he was not only senior to them (respondents 17 to 21) by way of merit but also the same by way of age. The following table reflects their Date of Birth (DOB), Dates of Appointment (DOA) as constables in case of respondents No.1 to 16 (Column No.4) and as Assistant sub-Inspectors (ASI) in case of Respondents 17 to 21 (Column No.4), Dates of promotion as Assistant Sub-Inspector (ASI) (Column No.5), Dates of Confirmation (DAC) as ASI (Column No.6), and Dates of Bringing their names on the Promotion List E (Column No.7). Respondents No.1 to 16 were appointed as ASI by way of promotion, whereas the petitioner and the Respondents No.17 to 21 were done so by way of initial appointment (Appointed direct). Moreover, Respondents No 19 to 21 were appointed direct not through the KP Public Service Commission like the petitioner and the Respondent 16 and 17 but were appointed direct on martyr's quota @ 5% quota of the permanent vacancies.

Table 1: *Table showing names of the respondents to the Service Appeal No 1156/2013 and their seniority according to the Promotion List E as it stood on 31.12.2012, issued vide No.556-62/ES, dated 11.02.2013*

1	2	3	4	5	6	7
Respondent No.	Seniority No. as per the Promotion List E as it stood on 31.12.2012, issued vide No. 556-62/ES, dated 11.02.2013.	Name & Rank	DOB	DOA	DOP as ASI	DOC as ASI	Date of Bringing Name on the Promotion List "E"
4.	59	Inspector Fazal Raheem No.33/D	10.03.63	02.03.82	01.03.07	01.03.10	15.03.10
5.	60	SI Mumtaz Khan No.104/D **(Died)**	01.06.63	26.12.87	12.11.07	20.07.10	20.07.10
6.	62	SI Abdullah Khan No.6/D **(RTD)**	20.07.61	05.04.81	01.03.07	15.06.11	15.06.11
7.	63	SI Allah Nawaz No.7/D **(RTD)**	18.08.56	07.03.75	14.11.07	15.06.11	15.06.11
8.	64	SI Liaqat Ali No.50/D **(RTD)**	10.01.59	21.11.78	01.03.07	15.06.11	15.06.11
9.	65	Inspector Pervaz Hussain, 69/D	15.04.73	11.10.93	01.03.07	09.06.11	15.06.11
10.	66	SI Adam Khan No.78/D **(RTD)**	09.11.58	18.11.76	01.03.07	15.06.11	15.06.11
11.	67	Inspector Inam Jilah No.98/D	09.01.67	01.07.89	14.05.07	15.06.11	15.06.11
12.	68	SI Abdul Ghani No.107/D **(RTD)**	01.03.57	21.10.75	16.05.07	15.06.11	15.06.11
13.	69	SI Ghulam Farid No.109/D **(RTD)**	10.06.60	25.09.80	10.06.07	15.06.11	15.06.11
14.	70	SI Shah Nadir No 110/D **(RTD)**	10.09.57	14.10.75	16.05.07	15.06.11	15.06.11
15.	71	SI Muhammad Yaqoob No.111/D **(RTD)**	01.12.56	20.10.75	16.05.07	15.06.11	15.06.11
16.	72	SI Muhammad Ashraf No.112/D **(Died)**	05.04.60	18.04.78	26.05.07	15.06.11	15.06.11
17.	73	Sub Inspector Ebad Wazir No.	27.01.82	24.02.09	-	24.02.09	25.02.12
18.	74	Inspector Minhaj Sikandar	19.08.81	07.03.09	-	07.03.09	27.03.12
19.	75	Inspector Kashif Sattar No. 92/D	06.04.85	14.03.09	-	14.03.09	27.03.12
20.	76	Inspector Muhammad Adnan No. 91/D	14.04.89	14.03.09	-	14.03.09	27.03.12
21.	77	Fazal ur Rehman No. 94-D	02.03.87	19.03.09	-	19.03.09	27.03.12
	78	Saleem Pervez No.87/D	01.03.78	26.03.09	-	26.03.09	27.03.12

7. Prayer of the Petitioner requires us to address the following three issues:

7.1 DATE OF APPOINTMENT: What is the Date of Appointment of the Petitioner and the Respondents according to the impugned Seniority List E as it stood on 31.12.2012 issued vide No.556-62/ES, dated 11.02.2013; and what ought to be the *Date of Appointment* of the petitioner and respondents according to law?

Attested

7.2 DATE OF CONFIRMATION: what is the Date of Appointment of the Petitioner and the Respondents according to the impugned Seniority List E as it stood on 31.12.2012 issued vide No.556-62/ES, dated 11.02.2013; and what ought to be the *Date of Confirmation* of the petitioner and respondents according to law?

7.3 DATE OF BRINGING NAMES ON THE SENIORITY LIST E: what is the Date of Bringing names the Petitioner and the Respondents according to the impugned Seniority List E as it

Regional Police Officer
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stood on 31.12.2012 issued vide No.556-62/ES, dated 11.02.2013; and what ought to be the Date of Bringing names the Petitioner and the Respondents on the Promotion List E according to according to law?

7.4 PRINCIPLES OF SENIORITY: which principles of authority have been adopted while placing the names of the Petitioner and the Respondents according to the impugned Seniority List E as it stood on 31.12.2012 issued vide No.556-62/ES, dated 11.02.2013; and what ought to be the principles to be adopted while placing names of the petitioner and the Respondents in the Seniority List and what ought to be the Final Seniority in the light of legal position held in this judgment?

7.1 DATE OF APPOINTMENT

7.1.1 What is the Date of Appointment of the Petitioner and the Respondents according to the impugned Seniority List E as it stood on 31.12.2012 issued vide No.556-62/ES, dated 11.02.2013; and what ought to be the *Date of Appointment* of the petitioner and respondents according to law? The following questions in this regard are also relevant.

a) What is and what should be the date of appointment of the petitioner and those appointed direct on Shaheed quota basis?

b) Is it the date on which approval of the recommendation of the N.W.F.P Public Service Commission by the IG KP was received by the office of the office of DIG DI Khan OR the date on which DIG DI Khan formally appointed him as ASI vide his Order No.1164-65/ES, dated 06.04.2009 **(ANNEX J)**? Analogically speaking, the issue boils down to the question: should the date of birth of a child be the one on which he/she is born by his/her mother OR the one he/she had conceived him/her?

c) Likewise, should the date of arrival be declared as the date of appointment or the date on which formal order of appointment by a competent authority has been issued? In this case should 14.04.2009-*the date on which the petitioner joined Police department vide Daily Diary No.31 dated 14.04.2009 at the Police Lines DI Khan for duty*- be declared as the date of his appointment or the *date on which the petitioner formally joined the police force after having been appointed as such?*

7.1.2 Dates of appointment of the Respondents No. 4 to 16 are given in the column No. 5 above. These are in fact the date on which these Rankers were promoted as ASI from the rank of HC, and, thus, were appointed as ASI by way of Promotion.

7.1.3 According to the impugned List E the dates of appointment of the petitioner and that of the respondents are given in column No. 4 & 5 of the table 1 above. There is no dispute as to the dates of appointment of the respondents No. 4 to 16. However, the dates of appointment of the petitioner and that of the respondents No. 17 to 21 have been recorded without legal authority and are against facts as these were the dates on which they were either sent by the DIG DI Khan for medical examination- a precondition before appointment- or they joined DI Khan Police after having been appointed by the competent authority.

Attested

7.1.4 *It is therefore, concluded that the date of appointment of the petitioner is 06.04.2009, vide No. 1164-65/ES, dated 06.04.2009 (ANNEX A). Dates of appointments of the Respondents 4 to 16 remains unamended in columns No. 4 of the Table 1 above. Likewise, dates of appointment of the Respondents 17 &18 (appointed at the recommendation of N.W.F.P- PSC), and that of the Respondents No. 19,20 & 21, recorded in column No. 3 of the Table-5 and 3 below is hereby declared to be illegal on the basis of facts stated below.*

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Dera Ismail Khan
19-12-2022

a) N.W.F.P Public Service Commission vide Letter N.W.F.P- PSC (ASI)-Interview 2009/05195, Dated 04.02.2009 **(ANNEX B)**, recommended to IGP N.W.F.P to appoint the petitioner along with the others as ASI (BS-09).

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b) IGP vide No 3867-73/E-II, dated 12.02.2009 **(ANNEX C)** wrote to the Deputy Inspector General of Police DI Khan Range that "the appointment of the following candidates [including the petitioner at serial 47] are hereby approved as Assistant Sub-Inspectors (BPS-09) (3820-230-10720) against the 25% quota reserved for direct appointment in Police Department, vide Govt. of N.W.F.P Home & T.As Department, letter No (Police) HD/03-22/2000 dated 17.10.2003" with the direction that "necessary notification regarding their appointment may please be issued subject to medical test under the relevant rules and prescribed manner under intimation to all concerned."

c) This letter of the IGP (No 3867-73/E-II, dated 12.02.2009) was received by the office of the Deputy Inspector General of Police DI Khan Range on 19.02.2009 vide Diary No. 436/ES, dated 19.02.2009 **(ANNEX D)**.

d) On the same date i.e., 19.02.2009, the then Deputy Inspector General of Police DI Khan, directed the then DPO DI Khan to get them examined medically and to verify their character vide No. 582/ES, dated 19.02.2009 **(ANNEX E)**.

e) The IGP wrote to the then Deputy Inspector General of Police DI Khan vide 7012-18/E-I, dated 04.03.2010 **(ANNEX F)**, and stating therein that "in continuation to this office letter no. 12755, dated 06.03.2009 on the subject noted above and to state that the inter se merit position of the recommended candidates for the post of ASI (BPS-09) in Police Department is sent here for record at your office, as per detail given below: the petitioner stood at serial No. 11 of this list and Mr. Saeem Pervez s/o Ghulam Qasim stands at No. 1 of this list.

f) In continuation with the letter No. 3867-73/E-II, dated 12.02.2009 the then IGP wrote another letter to the Deputy Inspector General of Police DI Khan to intimate approval of the appointment of ASIs vide 5687-91/E-II, dated 28.02.2009. This letter was received on 07.03.2009 vide diary 570/ES, dated 07.03.2009 **(ANNEX G)**.

g) The Deputy Inspector General of Police DI Khan Range approved the appointment of the petitioner along with others as Assistant Sub-Inspectors (ASI) (BPS-09) vide No. 1164-65/ES, dated 06.04.2009 **(ANNEX H)** from the date of his "arrival in the district subject to the medical fitness and character verification."

h) In the meanwhile, another batch of ASIs was recruited directly by the Govt. against the Shaheed quota. The IGP approved their appointment vide his Order No. 5908-13/E-II, dated 02.03.2009 **(ANNEX I)**.

i) In compliance with this approval the Deputy Inspector General of Police DI Khan approved them for appointment vide No. 1162-63/ES, dated **06.04.2009** **(ANNEX J)**.

j) Now enters DPO DI Khan on the stage of issuing orders of appointment.

k) On 30.04.2009, DPO DI Khan, appointed him as Assistant Sub-Inspectors (ASI) (BPS-09) vide No. 4707-09/, dated 30.04.2009, w.e.f. **07.03.2009** **(ANNEX K)**.

l) On 21.05.2012 DPO DI Khan issued another order of appointment of the petitioner and his colleagues vide 9195-97/dated 21.05.2012 **(ANNEX L)** and revised his date of appointment from 07.03.2009 to **14.04.2009** stating therein that "their date of appointment has been reconsidered from the date of their arrival for duty at Police Lines instead of Medical Fitness."

a. **19.02.2009** is the latest date of appointment claimed by the Respondent No. 18- Mr. Minhaj Sikandar in his Service Appeal No Execution Petition No. 223/229-2019 Minhaj Sikandar Yar Khan Vs Police Department **(ANNEX Q)** before the Service Tribunal KP. The record reveals that this date of appointment i.e., 19.02.2009, has never been notified by any of the competent authorities. It, however, appeared mysteriously in the Promotion List E issued vide this office Notification No. 882, endorsement No. 883-89,

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dated 12.03.2014, under the column "remarks" which states as under: "Revised Seniority vide Notification No. 849, dated 11.03.2014." Whereas Letter No. 849, endorsement. 850-53/ES, dated 11.03.2014, nowhere declares 19.02.2009 as his date of first appointment. The same is reproduced below as a ready reference; "in supersession of this office notification No. 4186-88/ES, dated 31.12 2013 and No. 4190-92/ES, dated 31.12 2013, and in the light of guidance communicated vide CPO Peshawar No. 16399-404-E-II, dated 11.07.2013, **the inter se seniority** of the following probationer ASIs is fixed as per Police Rule 12.2.(3) there being great contradiction in their date of arrival and medical fitness. Therefore, the probationer ASIs selected on merit vide order notification No 3867-73/E-II, dated 12.02.2009. issued by Provincial Police Officer, Khyber Pakhtunkhwa Peshawar being appointed prior to PASI of Shuada quota vide separate notification No. 5908-13/E-II, dated 02.03.2009.

i) PASI Saleem Pervez No. 87/D
ii) PASI Minhaj Sikandar No.88/D
iii) PASI Ibaad Wazir No. 89/D
iv) PASI Muhammad Adnan No. 91/D
v) PASI Sharifullah No.93/D
vi) PASI Kashif Sattar No. 92/D
vii) PASI Fazal Rehman No. 94/D
viii) PASI Naqeebullah No. 95/D

m) The following two tables, table 2 & 3, summarize the dates of appointment of the Petitioner and those of his batchmates along with the principles based on which they were so issued:

Table 2: *Table showing different dates of first appointments of the Petitioner and his batchmates (appointed at the recommendation of KPPSC.)*

1	2	3	4	5	6
S/No.	Name & Rank	DOA Vide RPO DI Khan No. 1164-65/ES, dated 06.04.2009 *(Date of issuance of order of appointment at his arrival in the district)*	DOA Vide DPO DI Khan No. 4707-09/, dated 30.04.2009 *(Date of his medical fitness)*	DOA Vide DPO DI Khan No 9195-97, dated 21.05.2012 *(Date of Arrival for duty in the Daily Diary of the Police Lines)*	DOA That appeared mysteriously in the Promotion List E Only Vide RPO DI Khan No.882/ES, dated 12.03.2014 *(Mysterious, needs to be inquired into.)*
1.	Inspector Muhammad Saleem No. 87/D	06.04.2009	26.03.2009	11.04.2009	19.02.2009
2.	Inspector Minhaj Sikandar No.88/D	06.04.2009	07.03.2009	14.04.2009	19.02.2009
3.	Sub Inspector Ibad Wazir No.89/D	06.04.2009	24.02.2009	16.04.2009	19.02.2009

Source: Office record of the offices of DPOs and RPO DI Khan Range

Table 3: *Table showing different dates of first appointments of the Respondents and their batchmates (appointed on 3Q).*

1	2	3	4	5	6
S/No	Name & Rank	DOA Vide RPO DI Khan No. 1162-63/ES, dated 06.04.2009 (Date of his arrival in the district)	DOA Vide DPO DI Khan & Tank No. 4710-18, dated 30.04.2009 & 2693-94, No.2696-97 dated 07.05.2009 respectively (Date of his medical fitness)	DOA Vide DPO DI Khan No. 9199-9201-A, dated 21.05.2012 (Date of Arrival for duty in the Daily Diary of the Police Lines)	DOA After the issuance of RPO order No 849/ES, dated 11.03.2014
1.	PASI Muhammad Adnan No. 91/D	06.04.2009	14.03.2009	11.04.2009	07.03.2009
2.	PASI Kashif Sattar No. 92/D	06.04.2009	14.03.2009	11.04.2009	07.03.2009
3.	PASI Fazal ur Rehman No. 94/D	06.04.2009	19.03.2009	11.04.2009	07.03.2009
4.	PASI Sharif Ullah No. 93/D	06.04.2009	10.04.2009	"	07.03.2009
5.	PASI Naqeeb Ullah	06.04.2009	13.04.2009	"	07.03.2009

Source: Office record of the offices of DPOs and RPO DI Khan Range

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n) Lists "E" did not remain unaffected by this oscillation of the authorities to determine the date of appointment of the present petitioner and the respondents No. 16 to 21. The following two tables- table 4 & 5, reflect the appearance of the two different dates of appointment on the two Promotions Lists "E" issued in 2013 and 2014:

Table 4: *Table showing the dates of appointment of the petitioner and the Respondents 17 & 18.*

S/No.	Name	DOA Vide List "E" (as it stood on 31.12.2012) Issued vide No. 556-62/ES, dated 11.02.2013	DOA Vide List" E" (as it stood on 31.12.2013) Issued vide No. 883-89/ES, dated 12.03.2014
1	Inspector Muhammad Saleem No. 87/D	26.03.2009	19.02.2009
2	Inspector Minhaj Sikandar No.88/D	07.05.2009	19.02.2009
3	Sub Inspector Ebad Wazir No.89/D	24.03.2009	19.02.2009

Source: Office record of the offices of DPOs and RPO of the DI Khan Range

Table 5: *Table showing the dates of appointment of the petitioner and the Respondents 19, 20 & 21.*

S/No	Name	DOA Vide List "E" (as it stood on 31.12.2012) Issued vide No. 556-62/ES, dated 11.02.2013	DOA Vide List" E" (as it stood on 31.12.2013) Issued vide No. 883-89/ES, dated 12.03.2014
1	PASI Muhammad Adnan No. 91/D	14.03.2009	07.03.2009
2	PASI Kashif Sattar No. 92/D	14.03.2009	07.03.2009
3	PASI Fazal ur Rehman No. 94/D	19.03.2009	07.03.2009
4	PASI Sharif Ullah No. 93/D	10.04.2009	07.03.2009
5	PASI Naqeeb Ullah No.95/D	13.04.2009	07.03.2009

Source: Office record of the offices of DPOs and RPO of the DI Khan Range

7.1.5 Those who were appointed by way of promotion (Rankers) and those who were appointed directly as ASIs on Shaheed quota basis did not agitate the issue of date of appointment. The present petitioner and the Respondent No. 18 agitated the issue of the dates of their appointment through the Service Appeals before the KP Service Tribunal with the aim to get senior to each other. The following questions need to be addressed while adjudicating upon the legality of the date of appointment:

a) *Firstly*, whether DPO has legal authority to *revise* an order of appointment a DIG? I haven't come across a rule in Police Rules, 1934, which authorise a DPO to revise an order of the Range DIG. Therefore, dates of appointment, issued by the DPO DI Khan after the issuance of the same by the Range DIG are declared to have been issued without any legal authority.

b) *Secondly*, although under PR 12.1 of the Police Rules, 1934, DPO, not the DIG, is the appointing authority, yet DIG DI Khan issued order of appointment of the petitioner vide No. 1164-65/ES, dated 06.04.2009 **(ANNEX H)** from the date of his *"arrival in the district subject to the medical fitness and character verification."* He did the same for those appointed on Shuhada quota vide No. 1162-63/ES, dated 06.04.2009 **(ANNEX J).** In compliance with this order of appointment vide No. 1164-65/ES, dated 06.04.2009 **(ANNEX H)** the petitioner and the Respondents formally joined the police department on the dates & DD numbers mentioned against each in column No. 6 in the table No.6 below. These are their Dates of Joining the District Police DI Khan, not of their Appointment. Both dates cannot be substituted with each other.

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Table 6: *Table showing the dates of appointment of the petitioner and the Respondents 19, 20 & 21.*

1	2	3	4	5	6	7	8
Respondent No.	Seniority No. as per the Promotion List E as it stood on 31.12.2012, issued vide No. 556-62/ES, dated 11.02.2013.	Name & Rank	Date of Birth (DOB)	Date of Appointment (DOA)	Date of Promotion (DOP) as ASI	Date of Joining District DI Khan Police	DOC as ASI
4	59	Inspector Fazal Raheem No.33/D	10.03.63	02.03.92	01.03.07		01.03.10

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5.	60	SI Mumtaz Khan No.104/D **(Died)**	01.06.65	26.12.87	12.11.07		20.07.10
6.	62	SI Abdullah Khan No.6/D **(RTD)**	20.07.61	05.04.81	01.03.07		15.06.11
7.	63	SI Allah Nawaz No.7/D **(RTD)**	18.08.56	07.03.75	14.11.07		15.06.11
8.	64	SI Liaqat Ali No.50/D **(RTD)**	10.01.59	21.11.78	01.03.07		15.06.11
9.	65	Inspector Pervez Hussain, 69/D	15.04.53	11.10.93	01.03.07		09.06.11
10.	66	SI Adam Khan No.78/D **(RTD)**	09.11.58	18.11.76	01.03.07		15.06.11
11.	67	Inspector Inam Ullah No.98/D	09.01.67	01.07.89	14.05.07		15.06.11
12.	68	SI Abdul Ghani No.107/D **(RTD)**	01.03.57	21.10.75	16.05.07		15.06.11
13.	69	SI Ghulam Farid No.109/D **(RTD)**	10.06.60	25.09.80	10.06.07		15.06.11
14.	70	SI Shah Nadir No.110/D **(RTD)**	10.09.57	14.10.75	16.05.07		15.06.11
15.	71	SI Muhammad Yaqoob No.111/D **(RTD)**	01.12.56	20.10.75	16.05.07		15.06.11
16	72	SI Muhammad Ashraf No.112/D **(Died)**	05.04.60	18.04.78	26.05.07		15.06.11
17.	73	Sub Inspector Ebad Wazir No.	27.01.62	24.02.09	-		24.02.09
18.	74	Inspector Minhaj Sikandar	19.08.61	07.03.09	-		07.03.09
19.	75	Inspector Kashif Satar No. 92/D	06.04.65	14.03.09	-		14.03.09
20.	76	Inspector Muhammad Adnan No. 91/D	14.04.89	14.03.09	-		14.03.09
21.	77	Fazal ur Rehman No. 94-D	02.03.67	19.03.09	-		19.03.09
	78	Saleem Pervez No.87/D	01.01.78	26.03.09	-		26.03.09

c) *Thirdly*, can an inward diary number of a letter containing approval of the IGP **(ANNEX D & G)**, referred to above, received by the DIG DI Khan may be substituted with the order of appointment issued by him vide No. 1164-65/ES, dated 06.04.2009 **(ANNEX H)?** Perusal of the record has revealed that the two dates of appointment- 19.02.2009, 07.03.2009 - are in fact the dates embossed by the office of the then DIG DI Khan on inward diary of receipt of the two letters ((vide No. 436/ES, dated 19.02.2009 **(ANNEX D)** & vide 570/ES, dated 07.03.2009 **(ANNEX G)**)- that contained approval of the IGP N.W.F.P, in two sets of the appointment of the petitioner and all those who had been recommended by the N.W.F.P Public Service Commission to be appointed as ASI by way of initial appointment.

7.1.6 *It is, therefore, concluded that 06.04.2009 vide No. 1164-65/ES, dated 06.04.2009 (ANNEX H) is the date of appointment of the present petitioner and the respondents No. 17 to 21.*

7.2 **DATE OF CONFIRMATION:** What ought to be the *Date of Confirmation* of the petitioner and respondents according to law? The honourable Service Tribunal directed, vide their order date 01.07.2022, to reconsider the case of the appellant in the light of the judgment of the August Supreme Court (Civil Appeals No. 537 to 539 Of 2013 on 31.07.2013 wherein in paragraph 5 the court observed that the persons (police officers) though confirmed subsequently but their seniority had to be reckoned from the date of their appointment.

7.2.1 We take this opportunity to submit humbly that there is no rule that provides that the persons (police officers) though confirmed subsequently but their seniority had to be reckoned from the date of their appointment. Moreover, we have not come across a rule that provided that *the date of confirmation of the petitioner is the date of his appointment.* We substantiate our contention with the following submissions:

a) The question of date of confirmation is directly linked with that of date of appointment. Therefore, the issue at hand is both a question of fact and that of law at the same time.

i) The Question of Fact pertains to the date of appointment. It has been submitted under paragraph 7.1 that date of appointment of the petitioner and that of the respondents No. 17 to 21 is 06.04.2009, issued by the DIG DI Khan vide his Order No. 1162-63/ES, dated 06.04.2009. Appearance of 19.02.2009 as a date of appointment of the petitioner in yet another service appeal Service Appeal No Execution Petition No. 223/229-2019 Minhaj Sikandar Yar Khan Vs Police Department, that appeared for the first time in the Promotion List E issued notified vide Notification No. 882/ES, endorsement No. 883-89/ES, dated 12.03.2014, is still a mystery. A separate inquiry into this issue has been ordered to identify the architect of this date of appointment and the one who inserted it in the said Promotion List" E" as it stood on 31.12.2013. **(ANNEX N).**

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ii) *The Question of Law* is: what is the date of confirmation of a directly appointed ASI at the successful completion of his period of probation? Whether or not any provision of law declares expressly or impliedly that the date of confirmation of an ASI appointed direct shall be reckoned to be his date of appointment after the successful completion of his period of probation? Since PR 12.2(3) of the Police Rules, 1934, provides that "Seniority shall, however, be finally settled by **date of confirmation**", the determination of the date of confirmation has become the root cause of the present controversy. Relevant Police Rules 1934 nowhere declare, expressly or impliedly, that date of confirmation of the directly appointed ASIs shall be reckoned from the date of their appointment. We hereby reproduce the relevant rules on the question of probation and the date of confirmation as a ready reference!

- PR 12.8 of the Police Rules, 1934 provides that: *(1) Inspectors, Sergeants, Sub- Inspectors and Assistant Sub-Inspectors who are directly appointed will be considered to be on probation for three years and are liable to be discharged at any time during or on the expiry of the period of their probation if they fail to pass the prescribed examinations including the riding test, or are guilty of grave misconduct or are deemed, for sufficient reason, to be unsuitable for service in the police. A probationary inspector shall be discharged by the Inspector-General and all other Upper Subordinates by Range Deputy Inspector-General and Assistant Inspector-General, Government Railway Police; Assistant Inspector-General, Provincial Additional Police (designated as Commandant, Provincial Additional Police, and Assistant Inspector-General of Police (Traffic). No appeal lies against an order of discharge. [Provided that the competent authority may, if it so thinks fit in any case, extend the period of probation by one year in the aggregate and pass such orders at any time during or on the expiry of the extended period of probation as it could have passed during or on the expiry of original period of probation] (2) The pay admissible to a probationary Inspector, Sergeant, Sub- Inspector or Assistant Sub-Inspector is shown in A.* PR 12.8 of the Police Rules, 1934, makes it clear that the directly appointed ASI shall be on probation for a period of three years; they would be confirmed only if they have successfully completed the period of probation: without rendering themselves liable to be discharged or period of probation extended for a year by the competent authority for committing any of the misconducts. This rule does not provide that the ASIs appointed direct shall be confirmed from the date of their appointments. This rule provides that such directly recruited ASIs might be confirmed on the successful termination of their period of probation of three years. Where from this interpretation of this rule has popped up? Neither the Tribunal has stated this anywhere in his judgment nor does the petitioner expressly mention this in his petition.
- PR 19.25(5) expressly states that *"on the termination of the prescribed period of probation the Superintendent shall submit to the Deputy Inspector-General for final orders the full report required by Form 19.25(5) on the probationer's working and general conduct, with a recommendation as to whether he should or should not be confirmed in his appointment. In the case of inspectors such reports shall be forwarded to the Inspector-General. The progress and final reports shall be filed with the character rolls of the officers concerned."* This rule too does not say anything about the date of confirmation. The sentence "as to whether he should or should not be confirmed in his appointment" cannot be construed as commanding the competent authority to confirm them from the date of appointment and it cannot by any principle of interpretation be interpreted to be the "date of appointment." Special attention is drawn to the opening words of this rule which say that *"on the termination of the prescribed period of probation"* the process of their confirmation is kicked in, not before the same. Deputy

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Inspector General of Police (DIGP) is the competent authority to pass the final order of their confirmation, reversion, or extension in the period of probation. This rule does not direct the competent authority to confirm them with retrospective effect. The intention of this rule is to confirm them with immediate effect- the date on which an order of confirmation is passed by the competent authority i.e., *"on the termination of the prescribed period of probation."*

- Some guidance may also be sought from PR 13.18. It lays down some principles of probation and confirmation of police officers promoted in rank (Rankers), who happen to be respondents in the case in hand. The rule is reproduced as a ready reference: *"All Police Officers promoted in rank shall be on probation for two years, provided that the appointing authority may, by a special order in each case, permit periods of officiating service to count towards the period of probation. On the conclusion of the probationary period a report shall be rendered to the authority empowered to confirm the promotion who shall either confirm the officer or revert him. In no case shall the period for probation be extended beyond two years and the confirming authority must arrival at a definite decision within that period whether the officer should be confirmed or reverted. While on probation officers may be reverted without departmental proceedings. Such on probation officers may be reverted without departmental proceedings. Such reversion shall not be considered reduction for the purpose of rule 16.4. This rule shall not apply to constables and Sub-Inspectors promoted to the selection grade, whose case is governed by rules 13.14."* This is the only rule which creates an exception to curtail the length of period of probation: it allows an appointing authority to reduce the period of probation of two years in case of police officers promoted in rank by issuing a special order in each case. This exception, too, empowers an appointing authority only to "permit periods of officiating service to count towards the period of probation." Officiating service has been clearly defined in the Police Rules 1934. But it has erroneously been taken as period of probation. Secondly, there is a difference between "officiating rank" and "substantive rank." Promotions on officiating ranks are regulated by PR 13.12 of the Police Rules, 1934, whereas promotions on the substantive ranks are governed in Chapter XIII of the Police Rules, 1934. The two promotions are different by way of their reversions. Reversion from an officiating rank is not a punishment in terms of PR 16.4 the Police Rules, 1934, whereas, in case reversion from a substantive is a punishment in terms of the same. Unfortunately, almost every order of promotion on the substantive rank is perhaps unintendedly declared as a promotion on "officiating higher rank." For instance, most of the orders of promotion on the substantive ranks read as under: "A is hereby promoted from the rank of ASI to "officiating Sub-Inspector." Similar orders of promotion are issued for the promotion of probationer ASIs (directly appointed ASIs). They have almost always unintendedly been promoted to the substantive rank of SIs but have been written as promoted to the rank of officiating SIs. Thus, the two entirely different promotions have been intermingled to some devastating consequences. One of such consequences has been that the practice of testing junior officers on seniors ranks by ways of officiating promotions for a fixed period of time have been completely given up. Therefore, the competent authorities have lost a leverage to test and try junior officers on senior ranks for a specific period on temporary

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vacancies. Juniors have been denied by this ignorance of PR 13.12 to avail an opportunity to experience the requirements of the upcoming senior rank. The second loss caused by this ignorance has been the extinction of the practice of "permitting the counting of period of officiating service towards a period of probation." This is leverage available to competent authorities to reduce period of probation by counting their officiating service towards their period of probation. Instead of counting period on an officiating service towards the period of his probation, the competent authorities have illegally started not only reducing but eliminating the period of probation altogether by confirming ASIs appointed direct in their appointments from the date of their appointments. The exception of "permitting the counting of period of officiating service towards a period of probation" by a competent authority is an exception not a rule and that he has to pass such an order as a special case with reasons to be recorded. Even such an exception cannot be extended arbitrarily across the board to everyone. And above all, it cannot at all be extended to ASIs appointed direct as in their case the period of officiating service does not exist in most of the cases.

- Likewise, PR 12.2(3) of Police Rules 1934 nowhere provides that the petitioner might be assigned seniority from the date on which his name was brought on the promotion List "E" i.e., 27.03.2012. The said rule is hereby reproduced as a ready reference: "Seniority in the case of upper subordinates will be reckoned in the first instance from the **date of first appointment,** officer promoted from the lower rank being considered senior to persons appointed direct on the **same date,** and seniority of officers appointed direct on the same date be reckoned according to **age.** Seniority shall, however, be finally settled by **date of confirmation**".

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7.2.2 *It may, therefore, be concluded that a person appointed direct against a permanent post with a definite condition of probation is to be confirmed in the grade with effect from the date on which he successfully completes the period of probation. The decision whether he should be confirmed, or his probation extended should be taken soon after the expiry of the initial probationary period of three years in the case of the petitioner (ASI appointed direct) and of two years in case of the respondents (RANKERS). According to the record available with this office the respondents No. 4 to 16 were appointed as ASIs by way of promotion on the dates mentioned at Column No.6 of the table 7 below, whereas the petitioner and Respondents No. 17 to 21 were appointed by way of the first appointment on the dates mentioned at column 5 of the table below. Column No. 7 of the table reflects the dates of their confirmation on the dates mentioned against each. And their seniority shall be reckoned from the date of their confirmation as ASI given in column No. 7 below: -*

Table 7: Table showing the date of first appointment of the Petitioner & the respondents according to the available record.

1	2	3	4	5	6	7
Respondent No.	Seniority No. as per the Promotion List E as it stood on 11.12.2012, issued vide No. 556-62/ES, dated 11.02.2013.	Name & Rank	Date of Birth (DOB)	Date of Appointment (DOA)	Date of Promotion (DOP) as ASI	DOC as ASI
4.	59	Inspector Fazal Raheem No.33/D	10.03.63	02.03.82	01.03.97	01.03.10
5.	60	SI Mumtaz Khan No.104/D **(Died)**	01.06.65	26.12.87	12.11.07	20.07.10
6.	62	SI Abdullah Khan No.6/D **(RTD)**	20.07.61	05.04.81	01.03.07	15.06.11
7.	63	SI Allah Nawaz No.7/D **(RTD)**	18.08.56	07.03.75	14.11.07	15.06.11
8.	64	SI Liaqat Ali No.50/D **(RTD)**	10.01.59	21.11.78	01.03.07	15.06.11

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9.	65	Inspector Pervaz Hussain, 69/D	15.04.73	11.10.93	01.03.07	09.06.11
10.	66	SI Adam Khan No.78/D **(RTD)**	09.11.58	18.11.76	01.03.07	15.06.11
11.	67	Inspector Inam Ullah No.98/D	09.01.67	01.07.89	14.05.07	15.06.11
12.	68	SI Abdul Ghani No.107/D **(RTD)**	01.03.57	21.10.75	16.05.07	15.06.11
13.	69	SI Ghulam Farid No.109/D **(RTD)**	10.06.60	25.09.80	10.06.07	15.06.11
14.	70	SI Shah Nadir No.110/D **(RTD)**	10.09.57	14.10.75	16.05.07	15.06.11
15.	71	SI Muhammad Yaqoob No.111/D **(RTD)**	01.12.56	20.10.75	16.05.07	15.06.11
16.	72	SI Muhammad Ashraf No.112/D **(Died)**	05.04.60	18.04.78	26.05.07	15.06.11
17.	73	Sub Inspector Ebad Wazir No.	27.01.82	06.04.2009	-	06.04.2012
18.	74	Inspector Minhaj Sikandar	19.08.81	06.04.2009	-	06.04.2012
19.	75	Inspector Kashif Sattar No. 92/D	06.04.85	06.04.2009	-	06.04.2012
20.	76	Inspector Muhammad Adnan No. 91/D	14.04.89	06.04.2009	-	06.04.2012
21.	77	Fazal ur Rehman No. 94-D	02.03.87	06.04.2009	-	06.04.2012
	78	Saleem Pervez No.87/D	01.03.78	06.04.2009	-	06.04.2012

Source: Office record of the offices of DPOs and RPO of the DI Khan Range

7.3 **DATE OF BRINGING NAMES ON THE SENIORITY LIST E:** What is the Date of Bringing names the Petitioner and the Respondents on the Seniority List E according to the impugned Seniority List E as it stood on 31.12.2013 issued vide No.556-62/ES, dated 11.02.2013; and what ought to be the Date of Bringing names the Petitioner and the Respondents on the Promotion List E according to according to law?

7.3.1 The Service Tribunal in Service Appeal No Execution Petition No. 223/229-2019 Minhaj Sikandar Yar Khan Vs Police Department has declared it paradoxical to assign seniority to the petitioner from the date on which his name was brought on the promotion List "E" *(27.03.2012 – a date different from the date of appointment and that of confirmation and that which falls later than the two former dates by three years).* The Tribunal further asserts that "this decision goes against the spirit of Rule 12.2(3) of Police Rules, hence lacks legal backing." While interpreting the said rule the Tribunal concluded that "a plain reading of the said rule would help resolve the controversy deliberately created by the respondents." But, instead of interpreting PR 12.2(3) of Police Rules, 1934 in a manner that it supports the position taken by the Tribunal above, they resorted to cite another judgment of the Tribunal to rely on stating therein that "similar point was also decided by this Tribunal in a judgment dated 07.12.2017 rendered in service appeal no. 573/2016." While skipping the need to examining and interpreting the Rule 12.2(3) of Police Rules 1934, the Tribunal suddenly concluded that "According to this yardstick date of confirmation of the appellant was 19.02.2009, while that of private respondents 20.07.2010 and 2011. For all intent and purposes, they were junior to the appellant. Presumably, private respondents were banking on length of service, which was not the criteria for determination of seniority." In the present order the Service Tribunal has directed to reconsider the case of the petitioner in the light of the judgments of the Supreme Court of Pakistan.

7.3.2 We take this opportunity to make the following SUBMISSIONS to bring forth an interpretation of the relevant rules that is essentially opposed to the one held by the Tribunal:

a) PR 13.10 provides that, *"LIST E. PROMOTION TO SUB-INSPECTOR (1) a list of Assistant-Sub-Inspectors, who have been approved by the Deputy Inspector General as fit for trial in independent charge of a police station, or for specialist posts on the establishment of sub-inspectors shall be maintained in card index form by each Deputy Inspector General. Officiating promotions of short duration shall ordinarily be made within the district concerned (vide sub-rule 13.4(2), but vacancies of long duration may be filled by the promotion of any eligible man in the Range at the discretion of the Deputy Inspector- General. Half yearly reports on all men entered in the list shall maintained under this rule shall be furnished in Form No. 13.9(3) by the 15th October, in addition to the Annual reports to be submitted by the 15th January in accordance with Police Rule 13.17(1). (2) No sub-inspector*

shall be confirmed in a substantive vacancy in the rank of sub-inspector unless he has been tested for at least a year as an officiating sub-inspector in independent charge of a police station in a district other than that in which his home is situated."

b) PR 13.11 of the Police Rules, 1934 provide that *"name of ASIs may be brought on the Promotion List E **at any time** by Deputy Inspectors-General but all such additions and the removal of all names under sub-rule 13.12(2) shall be published in the Gazette by a special notification. Names shall be entered in the list in order according to the date of admission, length of police service deciding the relative position of Assistant Sub-Inspectors."*

c) PR 13.11 clearly empowers Deputy Inspector General of Police to admit or delete name of any of the eligible ASIs on the Promotion list E ***at any time*** after they have met **required qualifications** for such admission. Direction of the Tribunal to bring the name of the petitioner from the date of confirmation (date of appointment) appears to be inconsistent with the express and unambiguous provision of PR 13.11.

d) Qualification required for bringing name of an eligible ASI on the Promotion List E have been provided in PR 13.10(2). We would not engage ourselves with the qualification part much as the question in hand is the date on which name of the petitioner is to be brought on the Promotion List E.

7.3.3 Service Appeal No Execution Petition No. 223/229-2019 Minhaj Sikandar Yar Khan Vs Police Department, the petitioner (Respondent No. 18 in the petitioner at hand) attempted to turn the clock back in the case of not only of his dates of appointment and of confirmation but also that of bringing his name on the Promotion list E. Thus, by hiding facts and twisting rules he misled the Tribunal to drive them to declare a date of his own choice as his date of appointment which essentially falls earlier than the date on which he stands appointed by the competent authority. Then, he embarked upon an ambitious project of driving the Tribunal to confirm and promote him the day he was appointed. Thus, all three dates of appointment, confirmation, and promotion in a career of a police officer have been clubbed together to be the one date i.e., date of his appointment by the Tribunal. This appears neither logical nor legally sustainable in the light of PR 12.2(3), 13.1, 13.10, 13.11, 19.25 (5) of the Police Rules, 1934.

7.3.4 Our submissions in the preceding paragraphs have attempted to establish that his date of appointment is 06.04.2009. Secondly, according to the rules quoted above his date of confirmation turns out to be a date after 06.04.2012. Likewise, the date of bringing his name on the Promotion List E could also be possibly any date after he was confirmed in the substantive rank of ASI on the termination of the period of his probation of three years.

7.3.5 The petitioner joined as the Probationer ASI on 06.04.2009- about two years after the date of appointment of Respondents No. 4 to 16 as ASIs by way of promotion of the respondents as according to PR 13.18 of the Police Rules 1934 they were confirmed as ASIs on 01.03.2010. But according to the PR 12.8 and 19.25(5) of the Police Rules 1934, they became eligible to be confirmed after 06.04.2012. This is the date (06.04.2012) after which he could be brought on the List E. Dates of bringing names of the petitioner and that of the respondents are given in column No 8 in the table 8 of the table 8 below. This date (06.04.2012) is not acceptable to the petitioner as the date of confirmation owing to the fundamental reason that by this date (06.04.2012) he had become junior to the respondents No 4 to 16 by almost two years, who stood confirmed as ASIs by the competent authority under PR 13.18 on 01.03.2010 of the Police Rules, 1934. This is the root cause of the long-standing litigation. This leads us to the final question: what the criteria of are determining the seniority of the petitioner and the respondents.

Attested

Special Police Officer
Dera Ismail Khan
19-12-2022

Table 8: *Table showing dates of bringing names of the petitioner and the respondents on the Promotion List "E"*

1	2	3	4	5	6	7	8
Respondent No	Seniority No. as per the Promotion List E	Name & Rank	Date of Birth (DOB)	Date of Appointment (DOA)	Date of Promotion (DOP) as ASI	DOC as ASI	Date of Bringing Name on the

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	as it stood on 31.12.2012, issued vide No. 556-62/ES, dated 11.02.2013.						Promotion List "E"
4.	59	Inspector Fazal Raheem No.33/D	10.03.63	02.03.82	01.03.07	01.03.10	15.03.10
5.	60	SI Mumtaz Khan No.104/D **(Died)**	01.06.65	26.12.87	12.11.07	20.07.10	20.07.10
6.	62	SI Abdullah Khan No.6/D **(RTD)**	20.07.61	05.04.81	01.03.07	15.06.11	15.06.11
7.	63	SI Allah Nawaz No.7/D **(RTD)**	14.08.56	07.03.75	14.11.07	15.06.11	15.06.11
8.	64	SI Liaqat Ali No.50/D **(RTD)**	10.01.59	21.11.78	01.03.07	15.06.11	15.06.11
9.	65	Inspector Pervaz Hussain, 69/D	15.04.73	11.10.93	01.03.07	09.06.11	15.06.11
10.	66	SI Adam Khan No.78/D **(RTD)**	09.11.58	18.11.76	01.03.07	15.06.11	15.06.11
11.	67	Inspector Inam Ullah No.98/D	09.01.67	01.07.89	14.05.07	15.06.11	15.06.11
12.	68	SI Abdul Ghani No.107/D **(RTD)**	01.03.57	21.10.75	16.05.07	15.06.11	15.06.11
13.	69	SI Ghulam Farid No.109/D **(RTD)**	10.06.60	25.09.80	10.06.07	15.06.11	15.06.11
14.	70	SI Shah Nadir No.110/D **(RTD)**	10.09.57	14.10.75	16.05.07	15.06.11	15.06.11
15.	71	SI Muhammad Yaqoub No.111/D **(RTD)**	01.12.56	20.10.75	16.05.07	15.06.11	15.06.11
16.	72	SI Muhammad Ashraf No.112/D **(Died)**	05.04.60	18.04.78	26.05.07	15.06.11	15.06.11
17.	73	Sub Inspector Ebad Wazir No.	27.01.82	06.04.2009	-	06.04.2012	07.04.2012
18.	74	Inspector Minhaj Sikandar	19.08.81	06.04.2009	-	06.04.2012	07.04.2012
19.	75	Inspector Kashif Sattar No. 92/D	06.04.85	06.04.2009	-	06.04.2012	07.04.2012
20.	76	Inspector Muhammad Adnan No. 91/D	14.04.89	06.04.2009	-	06.04.2012	07.04.2012
21.	77	Fazal ur Rehman No. 94-D	02.03.67	06.04.2009	-	06.04.2012	07.04.2012
	78	Saleem Pervez No.87/D	01.03.78	06.04.2009	-	06.04.2012	07.04.2012

Source: Office record of the offices of DPOs and RPO of the DI Khan Range

7.4 PRINCIPLES OF SENIORITY: which principles of authority have been adopted while placing the names of the Petitioner and the Respondents according to the impugned Seniority List E as it stood on 31.12.2012, issued vide No.556-62/ES, dated 11.02.2013; and what ought to be the principles to be adopted while placing names of the petitioner and the Respondents in the Seniority List and what ought to be the Final Seniority in the light of legal position held in this judgment?

7.4.1 The Tribunal held that, "It is a paradoxical situation, where according to rules, he was *confirmed from the date of appointment* i. e (19.02.2009) (revised order), but seniority assignment from the date of entry in List "E" i.e., 27.03.2012. This decision goes against the spirit of Rule 12.2(3) of Police Rules, hence lacks legal backing. Had this case not been on solid footings/backed by rules, the respondents would not have given him conformation from date of appointment. It further augments the stance of the appellant." (Para 5 of the judgment by the Khyber Pakhtunkhwa Service Tribunal Camp Court DI Khan in Minhaj Sikandar Vs the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and twenty-three others, dated 26.03.2019).

7.4.2 "To illustrate the issue in its true perspective, we would like to seek guidance from Rule 12.2(3) of the Police Rules 1934 *"Seniority in the case of upper subordinates will be reckoned in the first instance from the date of first appointment, officer promoted from the lower rank being considered senior to persons appointed direct on the same date and seniority of officers appointed direct on the same date be reckoned according to age. Seniority shall, however, be finally settled by date of confirmation"*. A plain reading of the said rule would help resolve the controversy deliberately created by the respondents." "Similar point was also decided by this Tribunal in judgment dated 07.12.2017 rendered in service appeal no. 573/2016. Despite knowledge rules were misinterpreted with mal intent just to deprive the appellant of his due right. According to this yardstick date of confirmation of the appellant was 19.02.2009, while that of private respondents 20.07.2010 and 2011. For all intent and purposes, they were junior to the appellant. Presumably, private respondents were banking on length of service, which was not the criteria for determination seniority. The appellant has succeeded in making out a strong case of discriminatory treatment received by him from the respondents in violation of Article 25 of the

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Constitution. Similar point was decided by the Supreme Court (AJ&K) through 1999 PLC (CS) 349 and 1999 SCMR 1185." *(Para 7 & 8 of the judgment by the Khyber Pakhtunkhwa Service Tribunal Camp Court DI Khan in Minhaj Sikandar Vs the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and twenty-three others, dated 26.03.2019).* As a sequel to above, the appeal is accepted, and impugned seniority list dated 12.03.2014 is set aside. Respondents are directed to *assign seniority to the appellant from the* ***due date.*** *" (Para 9 of the judgment by the Khyber Pakhtunkhwa Service Tribunal Camp Court DI Khan in Minhaj Sikandar Vs the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and twenty-three others, dated 26.03.2019)."*

7.4.3 While hearing the execution petition No. 223/229-2019 Minhaj Sikandar vs PPO KP etc., the Tribunal held on 23.11.2021 that "it has become expedient to draw parameters for the expression "***due date***" as used in operative part of the judgment dated 26.03.2019 for its execution in letter and spirit." "It is a matter of rule that the confirmation of the petitioner on the part of ASI of police being direct appointee was to be reckoned from the date of his appointment made on 19.02.2009, on completion of prescribed probation period, but due to its having been reckoned otherwise with adverse effect on appellant's seniority, service dispute arose compelling him to invoke the jurisdiction of this Tribunal. The direction given in the judgement under execution to assign seniority to the petitioner from due date is not divertible to reckon any other date of his confirmation than the date of appointment after completion of probation period as PASI."

7.4.4 The present petitioner has also prayed that he may be declared as senior to the Respondents No. 4 to 16 and then he may be declared as senior to the Respondents No. 17 to 21 on the principle of age. The perusal of the record and the arguments floated above it is concluded at that the petitioner is hereby declared as junior to Respondents No. 4 to 16 and senior to Respondents No 17 to 21 on the basis of the following arguments:

a) PR 12.2 (3) **Seniority and Probation** lays down the principles to determine seniority of upper subordinates. PR 12.2 is hereby reproduced as a ready reference: "Seniority in the case of upper subordinates will be reckoned in the first instance from the date of first appointment. Officer promoted from the lower rank being considered senior to persons appointed direct on the same date, seniority of officers appointed direct on the same date be reckoned according to age. Seniority shall, however, 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: provided that any officer whose promotion or confirmation is delayed by reason of his being on deputation outside his range or district, shall on being promoted or confirmed, regain the seniority which he originally held vis-à-vis any officers promoted or confirmed before him during his deputation."

b) Supreme Court of Pakistan held in Inspector-General Of Police, Punjab, Lahore Versus Mushtaq Ahmad Warraich, Supreme Court 1985 PLD 159, that "Rule 12.2 of the Punjab Police Rules, 1934, will provide the criterion for determining the seniority of the subordinate ranks of the Police force as from the dates of their confirmation and not from the dates of continuous appointment in the grade as laid down in rule 8(1)(b) of the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974 read with section 7(2) of the Punjab Civil Servants Act, 1974." **(ANNEX O)**

c) It is now crystal clear that the provisions of PR 12.2 of the Police Rules, 1934, govern the matters relating to the seniority of the upper subordinates. Under PR 1.13 of the Police Rules, 1934, "the expression "upper subordinates" includes all enrolled officers of and above the rank of Assistant Sub-Inspector." Thus, the PR 12.2 relates to the petitioner and the respondents.

d) The Supreme Court of Pakistan, while interpreting the PR 12.2 has made it clear that "Rule 12.2 of the Punjab Police Rules, 1934, will provide the criterion for determining the seniority of the subordinate ranks of the Police force as from the dates of their confirmation."

e) The date of confirmation of the petitioner and the respondents, therefore, assumes the paramount importance. The issue of date of confirmation has been submitted in detail in the paragraphs under 7.2 at length. In the light of the submissions made above, it may be stated that it would be illegal to interpret the ***due date*** of the confirmation of

Attested

Deputy District Officer
Dera Ismail Khan
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the petitioner as a date to be reckoned as his date of appointment in true letter and spirit of PRs 12.2(3), 12.8, 13.18, 19.25(5) of the Police Rules, 1934.

f) As has been submitted under paragraphs 7.1 above, the **date of appointment** of the petitioner is in fact 06.04.2009. No other date of appointment is admissible in law.

g) Likewise, under PRs 12.2(3), 12.8, 13.18, 19.25(5) of the Police Rules, 1934, as explained under paragraphs 7.2 above, his **date of confirmation** becomes due on 06.04.2012. This is the date on which the period of his probation terminates. Deputy Inspector General of Police of the Range is empowered to confirm him in his appointment on the recommendation of the concerned DPO. This process takes some time. Even if it is assumed that he will be liable to be confirmed on the date the period of probation of three years terminates, he cannot be confirmed a day before 06.04.2012.

h) Similarly, under PRs 13.10 & 13.11 of the Police Rules, 1934 and in the light of submissions made under paragraphs 7.3, the date of **bringing his name on the Promotion List E** might fall *any time* after 06.04.2012, not before this date by any stretch of any principle of interpretation of the rules on the subject.

i) Under the light of these submissions, we may conclude that the petitioner is junior to the respondents who were appointed as ASI by way of promotion on 01.03.2007. Under PR 13.18 of the Police Rules, 1934, they were supposed to be confirmed on the termination of period of their probation for two years on or after 01.03.2009. According to the record available, reflected on the Table 8 above, they were confirmed in the rank of ASI on 01.03.10, 09.06.11 & 15.06.11. Under PR 12.2(3) of the Police Rules, 1934, as interpreted above, the respondents are senior to him, and he is junior to them as his period of probation terminated on 06.04.2012- almost a year after the respondents stood confirmed in their ranks on the dates 01.03.10, 09.06.11 & 15.06.11, respectively.

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j) He is, however, declared a senior to the Respondents No 17 to 21 because he is senior in age. Dates of their appointment are given in column No. 4 of the Table 8 above.

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k) The final seniority position of the petitioner and the respondents is provided in the Table 9 below in the light of submissions made above.

l)

Table 9: *Final seniority position of the petitioner and the Respondents*

1	2	3	4	5	6	7	8
Respondent No.	Seniority No. as per the Promotion List E as it stood on 31.12.2013, issued vide No. 556-62/ES, dated 11.02.2013.	Name & Rank	Date of Birth (DOB)	Date of Appointment (DOA)	Date of Promotion (DOP) as ASI	DOC as ASI	Date of Bringing Name on the Promotion List "E"
4.	59	Inspector Fazal Raheem No.33/D	10.03.63	02.03.82	01.03.07	01.03.10	15.03.10
5.	60	SI Mumtaz Khan No.104/D **(Died)**	01.06.65	26.12.87	12.11.07	20.07.10	20.07.10
6.	62	SI Abdullah Khan No.6/D **(RTD)**	20.07.61	05.04.81	01.03.07	15.06.11	15.06.11
7.	63	SI Allah Nawaz No.7/D **(RTD)**	18.08.56	07.03.75	14.11.07	15.06.11	15.06.11
8.	64	SI Liaqat Ali No.50/D **(RTD)**	10.01.59	21.11.78	01.03.07	15.06.11	15.06.11
9.	65	Inspector Pervaz Hussain, 69/D	15.04.73	11.10.93	01.03.07	09.06.11	15.06.11
10.	66	SI Adam Khan No.78/D **(RTD)**	09.11.58	18.11.76	01.03.07	15.06.11	15.06.11
11.	67	Inspector Inam Ullah No.98/D	09.01.67	01.07.89	14.05.07	15.06.11	15.06.11
12.	68	SI Abdul Ghani No.107/D **(RTD)**	01.03.57	21.10.75	16.05.07	15.06.11	15.06.11
13.	69	SI Ghulam Farid No.109/D **(RTD)**	10.06.60	25.09.80	10.06.07	15.06.11	15.06.11
14.	70	SI Shah Nadir No.110/D **(RTD)**	10.09.57	14.10.75	16.05.07	15.06.11	15.06.11

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	71	SI Muhammad Yaqoob No.111/D (RTD)	01.12.56	20.10.75	16.05.07	15.06.11	15.06.11
16.	72	SI Muhammad Ashraf No 112/D (Died)	05.04.60	18.04.78	26.05.07	15.06.11	15.06.11
	73	Saleem Perver No.87/D	01.03.78	06.04.2009	-	06.04.2012	07.04.2012
17.	74	Sub Inspector Ehad Wazir No.	27.01.82	06.04.2009	-	06.04.2012	07.04.2012
18.	75	Inspector Minhaj Sikandar	19.08.81	06.04.2009	-	06.04.2012	07.04.2012
19	76	Inspector Kashif Sattar No. 92/D	06.04.83	06.04.2009	-	06.04.2012	07.04.2012
20	77	Inspector Muhammad Adnan No. 91/D	14.04.89	06.04.2009	-	06.04.2012	07.04.2012
21	78	Fazal ur Rehman No. 94-D	02.03.87	06.04.2009	-	06.04.2012	07.04.2012

8. At the end, It is, therefore, humbly prayed that keeping in view the submissions made at para 7 above all the following orders of appointment of the petitioner may be declared as null and void ab intio as they were based on flying assumptions and intended to turn the clock back without the authority of law,

9.1.1 DPO DI Khan vide No. 4707-09/, dated 30.04.2009, declaring him appointed w.e.f. 07.03.2009 **(ANNEX K)**- the date on which they were sent for medical examination- and

9.1.2 DPO DI Khan vide NO. 9195-97/dated 21.05.2012 **(ANNEX L)**- revising his date of appointment from 07.03.2009 to 14.04.2009, issued after the original order of his appointment issued by the DIG DI Khan vide his Order No. 1162-63/ES, dated 06.04.2009 **(ANNEX J).**

9.1.3 List "E" as it stood on 31.12.2012, Issued by DIG DI Khan, vide No. 556-62/ES, dated 11.02.2013 **(ANNEX M)**, which shows that the date of his appointment was 07.03.2009.

9.1.4 List "E" as it stood on 31.12.2013, Issued by DIG DI Khan, vide No. 883-89/ES, dated 12.03.2014 (ANNEX N), which shows that the date of his appointment was 19.02.2009.

9.2 It is prayed that the **date of confirmation** of the petitioner may be decreed to be reckoned from the date on which terminates the prescribed period of probation of the probationer and that of the respondents and NOT from any other date that falls before the termination of this period of probation. It is also prayed that reckoning of date of confirmation from the date of appointment in the case of petitioner and of all those ASIs appointed direct may be decreed to be illegal as has been provided in PR 12.8 and 19.25(5) of the Police Rules, 1934. Since it has been established that the date of appointment of the petitioner is 06.04.2009, the prescribed period of probation for three years of the petitioner may be decreed to be reckoned from 06.04.2009 NOT from any other date of appointment.

9.3 It is further prayed that a direction may be passed to the effect that the petitioner and all those ASIs who, have been or may be appointed direct, by way of competitive examination, conducted by the Khyber Pakhtunkhwa (N.W.F.P) Public Service Commission, *may* be confirmed in their appointment *on the termination of the prescribed period of probation of three years and that such termination would not take effect retrospectively from the date of appointment of the petitioner and that of such ASIs but with effect from the date that falls after the date of termination of the period of probation for three years provided that they successfully complete such period of probation without being reverted or granted extension in the period of probation as has been intended by the* PR 12.8 and 19.25(5) of the Police Rules, 1934.

9.4 It is further prayed that the direction to set aside the impugned seniority list "E" dated 12.03.2014, as it stood on 31.12.2013, issued by DIG DI Khan, vide No. 883-89/ES, dated 12.03.2014 **(ANNEX N)**, whereby he was brought on the impugned List E w.e.f. 20.02.2012, may be reviewed and amended for the reasons recorded under sub- paragraphs of para 7 above.

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9.5 It may also be decreed that the principle under which his name was brought on the impugned List E was correct. The principle stated that his name might be brought on the Promotion List E by the competent authority *at any time* after his confirmation on the termination of the prescribed period of probation for three years.

9.6 But the date of appointment from which his period of probation for three years was reckoned does not exist on record as has been submitted under sub-paragraphs of the para 7 above. According to record his legal date of appointment is 06.04.2009 vide No. 1164-65/ES, dated 06.04.2009 (ANNEX H). His period of probation of three years was supposed to be reckoned from this date i.e., 06.04.2009 not from 19.02.2009 as the latter does neither exist nor stands issued by any of the competent authorities.

9.7 It is, therefore, prayed further that it may be decreed that an inward diary number of the office of the DIG DI Khan cannot be declared as the date of appointment of the petitioner and that of any other police officer. It is further prayed that it may be decreed that an endorsement for medical examination can also not be declared as the date of appointment of the petitioner. For the reasons recorded at para 5, it may be decreed that neither 19.02.2009 nor 07.03.2009 were the dates of appointment of the petitioner, his date of appointment notified by the competent authority was 06.04.2009.

9.8 It is further prayed that the seniority List "E" as it stood on 31.12.2012, at present (ANNEX P), may be set aside and the seniority list "E" prepared afresh in the light of Table No. 9 above and may be decreed to be legal and valid. Such seniority List E is **Annexed herewith.**

(SHAUKAT ABBAS)
PSP
Regional Police Officer,
Dera Ismail Khan Region

Attested

Regional Police Officer
Dera Ismail Khan
19-12-2022

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The Inspector General of Police,
Khyber PakhtunKhwa
Peshawar.

Through: Proper Channel.

Subject: DEPARTMENTAL APPEAL/ REPRESENTATION AGAINST IMPUGNED OFFICE ORDER NO. 7672/ES DATED 07.11.2022

That appellant is currently posted as Inspector Police (Operation) at District Dera Ismail Khan.

Respected Sir,

The appellant humbly submits as under,

1. That the appellant is currently posted as Inspector police (operation) at District Dera Ismail Khan.
2. That the appellant was inducted in police department as PASI (BPS-09) on the recommendation of KPK Public Service Commission vide order dated 06/04/2009 by worthy RPO Dera Ismail Khan. The appellant stood 1st on the merit list assigned by the KPK Public Service Commission.
3. That the impugned seniority list issued vide notification No. 556-62/ES dated 11/02/2013, the present appellant was placed junior to some of the private respondents. feeling aggrieved the appellant preferred a service appeal No. 1156/2013 before the learned Khyber Pakhtunkhwa Service Tribunal to declare the appellant as Senior than the private respondents#4 to 21, details are fully described in the appeal. Copy of the memorandum of Service appeal is annexed.

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4. That the Honourable KPK Service Tribunal vide its order dated 01/07/2022 was pleased to decide the above mentioned service appeal of the appellant and while relying upon the judgment of the august Supreme Court of Pakistan in civil appeals No. 537 to 539 of 2013 dated 31/07/2013, directed the department (Competent Authority) for decision of the case of the appellant in the light of the judgments supra.

5. That the competent authority vide impugned order No. 7672/ES dated 07/11/2022 has decided the case of the appellant in negative and did not consider the judgments of the August Supreme Court of Pakistan in Civil Appeal Nos.537 to 539 of 2013 dated 31/07/2013. The competent authority vide its impugned Order, refused to give seniority to the appellant from the due date i.e date of initial appointment. Feeling aggrieved the instant service appeal is being filed after receiving the copy of impugned Order on 19/12/2022, inter alia on the following ***grounds.***

6. That the judgments of the august Supreme Court of Pakistan mentioned hereinabove and there are so many other judgments of the Apex courts which has made the point abundantly clear that "**Seniority had to be reckoned from the date of their appointment**". The case of the appellant is at par with the judgments already delivered by the august Supreme Court of Pakistan and even delivered by the KPK Service Tribunal in various Service Appeals.

7. That one of the moot points involved in the case of appellant is "date of confirmation" of the directly appointed PASIs. The point for reckoning of the seniority has already been dedcided by not only be Honorable KPK Service Tribunal but also by the August Supreme Court of Pakistan as well, in plethora of judgments.

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8. Few amongst other are as follows

S/No	Appeal No	Title		Date of Decision	Court
1	197/2016	Razeem Khan vs KPK		28/06/2018	KP Service Tribunal
2	736/2016	Amjad Ali vs KPK		21/02/2018	KP Service Tribunal
3	182/2017	Zia Ur Rehman vs PPO		19/02/2018	KP Service Tribunal
4	1227/2013	Waqar Ahmad vs PPO		02/08/2018	KP Service Tribunal
5	811/2008	Muneer Hussain Vs IGP		21/12/2011	KP Service Tribunal
6	573/2016	Bacha Hazrat Vs GOP		07/12/2017	KP Service Tribunal
7	182/2017	Zahid ur Rehman Vs PPO		19/02/2018	KP Service Tribunal
8	2537/2000	Zia Hassan Vs IGP		20/01/2004	KP Service Tribunal
9	1265/2012	Haroon ur Rasheed Babar Vs KPK		19/11/2013	KP Service Tribunal
10	192/2004	Shafi Ullah Khan Vs PPO		12/03/2005	KP Service Tribunal
11	1361/2011	Younis Javed Mirza Vs PPO		12/01/2012	KP Service Tribunal
12	1504/2013	Mubarak Khan Vs KPK		08/03/2017	KP Service Tribunal
13	1505/2013	Ali Rehman Khan Vs KPK		08/03/2017	KP Service Tribunal
14	1506/2013	Bahar ud Din Khan Vs KPK		08/03/2017	KP Service Tribunal
15	1507/2013	Ali Rehmat Khan Vs KPK		08/03/2017	KP Service Tribunal

16	1508/2013	Bakht zada Vs KPK	08/03/2017	KP Service Tribunal
17	1509/2013	Riaz Ahmad Vs KPK	08/03/2017	KP Service Tribunal
18	1056/2009	Mir Faraz Khan Vs PPO	16/10/2009	KP Service Tribunal
19	398/2011	Imtiaz Ali Khan Vs PPO	22/01/2013	KP Service Tribunal
20	396/2011	Akbar Ali Vs PPO	22/01/2013	KP Service Tribunal
21	399/2011	Javed Ahmad Vs PPO	22/01/2013	KP Service Tribunal
22	667/2009	Muhammad Asif Vs PPO	12/01/2010	KP Service Tribunal
23	C.A No. 537/2013	PPO Vs Imtiaz Ali Khan	31/07/2013	Supreme Court of Pakistan
24	C.A No. 538/2013	PPO Vs Akbar Ali	31/07/2013	Supreme Court of Pakistan
25	C.A No. 539/2013	PPO Vs Javed Ahmad	31/07/2013	Supreme Court of Pakistan
26	1846/2009	Aziz ur Rehman Vs PPO	01/03/2011	KP Service Tribunal
27	C.P NO. 241-P/2011	PPO Vs Aziz ur Rehman	02/02/2012	Supreme Court of Pakistan
28	C.P No. 242-P/2011	PPO Vs Abdul Sattar	02/02/2012	Supreme Court of Pakistan
29	193/2004	Javed Iqbal Vs IGP	12/03/2005	KP Service Tribunal
30	194/2004	Hazrat Ali Vs IGP	12/03/2005	KP Service Tribunal
31	195/2004	Iftikhar Ahmad Vs IGP	12/03/2005	KP Service Tribunal
32	196/2004	Abdul Wadood Vs IGP	12/03/2005	KP Service Tribunal

Attested to be true copy

33	197/2004	Muhammad Mukhtiar Vs IGP	12/03/2005	KP Service Tribunal
34	198/2004	Mir Qasim Vs IGP	12/03/2005	KP Service Tribunal
35	199/2004	Muhammad Zahir Shah Vs IGP	12/03/2005	KP Service Tribunal
36	200/2004	Mati ur Rehman Vs IGP	12/03/2005	KP Service Tribunal
37	241/2004	Muhammad Younis Khan Vs IGP	12/03/2005	KP Service Tribunal
39	12438/2020	Furqan Javed vs KPK	30/11/2021	KP Service Tribunal

9. That the impugned order No. 7672/ES dated 07/11/2022 impliedly gives expression to annul the Judgment of the Worthy Tribunal and simultaneously seems challenging the veracity of the land mark verdicts of the Apex courts on the similar point already implemented in favour of the batch mates of the appellant and others in consequence of the Writ Petition No 3720-P/2018 titled "Qazi Mohammad Arif vs Government of KPK & others vide Revised "E" List Notification of PASIs No 9090/EC-I dated 01/07/2020 and No 7097/EC-I dated 05/06/2020.

10. That as regard to the question regarding date of appointment it has already been resolved vide Revised Notification No. 849 dated 11/03/2014 duly published in official gazette according to Rule 17 sub rule 1 (a) of the KPK Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 ***"the Seniority inter se of civil servants in case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission".*** Similarly Rule 2 (2) of the Civil Servants (Seniority) Rules1993 ***"If two or more persons are recommended in open advertisement by***

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the Selection Authority their inter-se seniority shall be determined in order of merit assigned by the selection authority". **Thus as the date of appointment of PASIs of Shuhada quota is 02/03/2009. So, the date of appointment of as well as his batch mates direct appointed through Public Service Commission must be before 02/03/2009 in the light of Notification mentioned above. Moreso, the said revised notification also shows the name of the appellant at the top of his batch mates in region because of merit assigned by Public Servic Commission.**

11. The KP Service Tribunal has decided in Service appeal No 573/2016, 572/2016 and 252/2017 titled Bacha Hazrat and two other vs PPO/IGP Peshawar ***"If we go through relevant sub rule 3 of 12.2 of the Police Rules, 1934, it is clearly written that seniority in the case of upper subordinates will be reckoned in the 1st instance from the date of 1st appointment. It is next added that seniority shall however be finalized by date of confirmation. It means that the decisions shall be made on the date of confirmation but seniority shall reckon from date of first appointment."*** The KP Service Tribunal has also held in Service Appeal No 1504/2013 to 1509/2013 "Mubarak Khan and Six others vs KPK" as ***"the appellants' were initially appointed as ASIs and after successful probation enlisted as confirmed ASIs but the probationary period was illegally discontinued from their service. Since the appellants were regularized in service on the basis of said service on probation as such the said period is countable as active/regular service of the appellants"*** The Police Department had filed CPLA in the august Supreme Court of Pakistan and the same was dismissed on 10/03/2020.

12. That the competent authority by issuing the impugn order No. 7672/ES dated 07/11/2022 has amalgamated the case of the present appellant with the case and facts of Minhaj Sikander Yar Khan. It is an admitted fact the the appellant stood at first position in recruitment examination via Public Service Commission and as per service laws and keeping in view the inter se seniority of batch mates, the appellant ought to be placed senior among all his batch mates.

13. The most important issue of the appellant's case has recently been resolved by this worthy appellate authority vide Notification No. 317/CPB dated 08/12/2022, wherein it has clearly been mentioned that "all PASIs on successful completion of 03 years probation period shall be brought on promotion list "E" from the date of appointment". Copy of Notification is annexed.

14. That your good-self has got ample powers to accept the instant application.

It is, therefore, humbly requested that impugned order may kindly be set aside and consequently the appellant may kindly be given his seniority from the due date i.e "date of initial appointment into service"

Eventually the list "E" may very kindly be revised by giving the appellant seniority from the date of initial appointment.

Consequently due rectification by revising the promotion of appellant as officiating sub-inspector and similarly confirmation of sub-inspector and Inspector Promotion respectively.

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Accordingly, the seniority in list "F" may also be rectified by placing the appellant at his due place.

Seniority of the appellant may kindly be rectified/revised keeping in view inter se seniority among his batch mates which would be determine according to merit assigned by the Public Service Commission as per rule 17(1)(a) of KPK Civil Servent (APT) rules,1989 and as per rule 2(2) of Civil Servants (Seniority) rules, 1993.

Any other appropriate order in terms of the case of the appellant may kindly be extended in favour of appellant.

Dated 11/01/2023

Humble Appellant

Muhammad Saleem Khan
Belt No. D/06
Serving as Inspector Police (Operation)
District Police Dera Ismail Khan

Sir,
Forwarded

12/01/2023

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INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. 317 /CPB, dated the 08 / 12 / 2022.

To: The Capital City Police Officer,
Peshawar.

All Regional Police Officer,
In Khyber Pakhtunkhwa.

Subject: **DECISION ON PROMOTION TO LIST 'E'**

Memo:-

In pursuance of judgment dated 24.04.2019 of Hon'ble Peshawar High Court, Peshawar while disposing of Writ Petition No. 3720-P/ 2018 titled Qazi Muhammad Arif Vs Govt: of Khyber Pakhtunkhwa followed by Khyber Pakhtunkhwa Service Tribunal, Peshawar judgment dated 30.11.2021 in Service Appeal No. 12438/2020 titled Furqan Javed SI Vs Govt: of Khyber Pakhtunkhwa etc wherein the Police Department was directed to bring the petitioners PASIs on seniority list "E" from the date confirmation of their appointments as per the spirit of Police Rules, 1934 (amended 2017).

The Constitution of Islamic Republic of Pakistan dictates equal treatment and prohibits discrimination in its Articles 4 & 25. Furthermore, the Hon'ble Supreme Court of Pakistan has held in several reported judgments that if a competent court of law decide a point of law or fact and if such decision cover not only the case of those litigating before the Court but some other also, then under the dictate of justice, the benefit of that judgment should not be restricted to those who had litigated, rather shall be equally extended to those who had not indulge in the litigation.

Foregoing in view the Competent Authority has directed to follow the following instructions in order to bring parity in promotion to list "E":

a) *All PASIs on successful completion of 03 years probation period shall be brought on promotion list 'E' from the date of appointment.*
b) *All ASIs promoted from lower rank shall be brought on promotion list "E" after successful completion of two years probation period from the date of officiating promotion.*

Sd/-
(SABIR AHMED) PSP
Additional Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

CC

- Deputy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- AIG/ Establishment, Khyber Pakhtunkhwa, Peshawar.
- PSO to W/ IGP, Khyber Pakhtunkhwa, Peshawar.
- AIG/ [illegible]

ZUNAIRA KANWAL
Sale
1197
Date of issue: June 2022
Valid upto: June 2025

Secretary
KP Bar Council

ADVOCATE HIGH COURT

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وکالت نامہ

کورٹ فیس

ایک روپیہ قیمت

Before the KP Service Tribunal Peshawar at Camp D.I.Khan

بعدالت جناب

Appellant منجانب

Govt. of KPK etc بنام Muhammad Saleem

دعویٰ یا جرم

تفصیل دعویٰ یا جرم Service Appeal

باعث تحریر آنکہ

مقدمہ مندرجہ بالاعنوان میں اپنی طرف واسطے پیروی وجوابدہی برائے پیشی یا تصفیہ مقدمہ مقام DIKhan کیلئے

Muhammad Abdullah Baloch (AHC) / Zunaira Kanwal

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بذریعہ مختیار خاص روبرو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر مظہر حاضر نہ ہوا۔ اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہوگیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر کچہری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا عتانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور وقبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، یا جواب دعویٰ یا درخواست اجرائے ڈگری ونظرثانی اپیل ونگرانی وہر قسم درخواست پر دستخط وتصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی یا راضی نامہ وفیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از کچہری صدر پیروی مقدمہ مذکورہ نظرثانی واپیل ونگرانی وبرآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ یا درخواست حکم امتناعی یا قرقی یا گرفتاری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ مختانہ پیروی کا اختیار ہوگا اور تمام ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور وقبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا بصورت درخواست نظرثانی اپیل یا نگرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو ہرجانہ التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں۔ لہذا وکالت نامہ لکھدیا ہے۔ تاکہ سند رہے

المرقوم 23 مئی 2022

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے۔ اور منظور ہے

العبد العبد

Accepted
07/5
03146932557

M. Saleem --- Appellant