

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1600/2022
Javed Iqbal

..... Appellant

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5566

Dated 25/5/2023

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

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Deponent

25-5-2023

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Constable, District Kohat

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..... Respondents

PARAWISE COMMENTS BY RESPONDENTS NO. 1 TO 3

Respectfully Sheweth:-
Preliminary Objections:-

- a) That the appeal is not based on facts.
- b) That the appeal is barred by law and limitation.
- c) That the appeal is not maintainable in the present form.
- d) That the appeal is bad for misjoinder and nonjoinder of necessary parties.
- e) That the appellant is estopped to file the instant appeal for his own act.
- f) That the appellant has not approached the honorable Tribunal with clean hands.
- g) That the appellant has got no cause of action and locus standi to file the instant service appeal.

Facts:-

S #	Para of the facts / grounds	Reply with annexures
1.	Briefly facts are as per record that the appellant was enrolled as constable in the FRP Police Kohat on 11-08-2009 and in the year 2014 the appellant on the basis of Mutual Transfer as per NOC transferred from the FRP -Police Kohat to Regular District Police and qualified all necessary and mandatory courses for promotion while during service in Kohat Police.	Pertains to service record and mandatory course hence no comments.
2.	That the Respondent No. 3 in the year 2016 fixed the seniority of those qualified candidates who have qualified the lower college course and the appellant name was also enlisted vide serial No. 251 and then after a list pertaining to qualified lower course candidate from 2018 to 2022 appellant was not consider in seniority list and	Pertains to record, hence no comments.


	<p>appellant name was placed at serial No-136.</p>	
<p>3.</p>	<p>That another seniority list of LHC was prepared and published in which the name of the appellant would have to be placed at serial No. 118 but astonishingly the name of appellant was removed from the seniority list without any sufficient cause.</p>	<p>Incorrect, Standing order No. 02/2016 at Para No. 01 provides that "all personnel serving in the central units will be on deputation from concerned District and Regions and their lien will be in their parent District / Region. If in the past any recruitment has been carried out directly in the central units and lien of such recruits has not be fixed so far, it will be fixed in District of Domicile of the concerned recruit". In light of above quoted Standing order, the District Police Officer, Kohat sent letter to District Police Officer, Karak vide his office Letter No. dated 19.09.2022, wherein, District Police Officer, Karak was requested for fixation of seniority of appellant with his colleagues in the term ending 31.07.2015, being Karak his domicile district. (Copy of Letter dated 19.09.2022 is annexure A)</p>
<p>4.</p>	<p>That the appellant feeling aggrieved from the impugned order preferred departmental representation which was also rejected and the appellant as no option except Honorable Tribunal for speedy justice and redressal of appellant grievance on the following grounds inter -alia:</p>	<p>Further added that the departmental appeal of the appellant was rejected being meritless by the Regional Police Officer, Kohat vide order dated 12.10.2022, on the grounds that the DPO Kohat has acted according to Standing Order No. 02/2016. (Copy of order dated 12.10.2022 is annexure B). Furthermore, the instant service appeal is liable to be dismissed on following grounds.</p>
<p>Grounds:-</p>		
<p>a.</p>	<p>That the impugned order of respondent No 3 is not in accordance with the law, rules and principle of justice which needs urged consideration and liable to be set aside.</p>	<p>Incorrect, order of respondent No. 3 is in accordance with law / rules.</p>

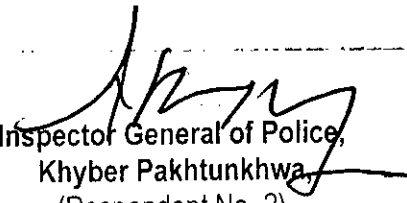
b.	That it is an admitted fact that seniority is hard earned by an official / officer and such hard earned seniority cannot be taken away by a stroke of pen	<u>Incorrect</u> , the appellant seniority is being fixed in his parent district of domicile hence, the appellant has not been deprived from the seniority.
c.	That it is established from the record of the appellant that appellant with the approval of the worthy officer was transferred from FRP – Police Kohat to District Police Kohat	<u>Incorrect</u> , every Police officer / official is bound to perform duty anywhere throughout the province as per Police Act – 2017. The appellant being member of disciplined Police Force has to perform official duty anywhere posted but his seniority will remain intact in parent district of domicile.
d.	That the appellant while transferred from FRP Kohat to District Police qualified all necessary exams and courses and there is no justification to remove the name of the appellant from the seniority list and the respondents No-3 took the cover of standing order of 2016	<u>Incorrect</u> , promotion in Police department is always carried out on the basis of seniority cum fitness and qualification of mandatory promotion courses. The appellant is under obligation for completion of mandatory courses for promotion but his seniority will remain intact in district of domicile.
e.	That the standing order reveals that it was enforced with immediate effect but unfortunately the said standing order was used and enforced with the retrospective effect.	<u>Incorrect and misleading</u> , the appellant has been treated in accordance with Sanding Order ibid.
f.	That enforcing standing order No. 02/2016 with the retrospective effect and making the appellant victim of the said standing order is neither legal nor justified and the appellant has been made victim of the standi g order which is not applicable to the appellant as the appellant does not f 11 within the ambit of standing order	<u>Incorrect and misleading</u> , the appellant has not been deprived of seniority. The respondents acted in accordance with law / rules.
g.	That the respondent No-3 without any lawful justification removed the name of the appellant as the appellant after joining District Police never remain in any other district and tenders good service it is also worth mentioning here that other officer of identical nature qualified all and mandatory courses and	<u>Incorrect</u> , as already explained above in Para No. 3, hence no comments.

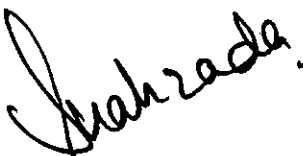
	promoted and still in District Police	
h.	That the appellant is still unable to realize that what appealed to the mind of respondent No 3 for issuing of impugned order	Incorrect , the appellant is blaming the respondents for lawful act which is mandate of respondents in accordance with law / rules.
i.	That the appellant dragged unnecessarily into litigation which is clearly mentioned in superior courts guidelines	Incorrect , the appellant has not been dragged into litigation by respondents.
j.	That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts	Incorrect , the orders of respondents are in accordance with facts / grounds as well as law / rules. No malafide has been done by the answering respondents.
k.	That the impugned order is outcome of surmises and conjecture	Incorrect , no surmises and conjecture exist towards appellant.

Prayer

In the view of above circumstances it is humbly prayed that the impugned order of respondent No. 3 may graciously pleas be set aside for the end of justice and directions for inclusion of name of appellant in the list of LHCs seniority list of District Police Kohat may kindly be issued and the appellant may be placed alongwith his colleagues (Batch mates) i.e. below the name of Muhammad Waqas at serial No-117 of seniority list of June 2022 with all consequential benefits in the larger interest of justice or blessed with any suitable re Honorable tribunal deem fit	Keeping in view the above stated fact ad circumstances, it is therefore, humbly prayed that the appeal is not maintainable being devoid of merits hence, may kindly be dismissed with costs, please.
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 Dy: Inspector General of Police
 Kohat Region, Kohat
 (Respondent No. 1)


 Inspector General of Police,
 Khyber Pakhtunkhwa,
 (Respondent No. 2)


 District Police Officer,
 Kohat
 (Respondent No. 3)

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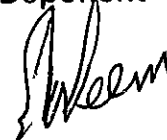
Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

AFFIDAVIT

Arif Saleem, Steno DSP Legal, (Focal Person) of this office do hereby solemnly affirm on oath the contents of Para-wise comments on behalf of Respondent No. 1 to 3 are correct to the best my knowledge and belief. Noting has been concealed from this Honorable Tribunal.

Deponent



ARIF SALEEM
Focal Person
Steno to DSP
Legal Kohat
14301-2094798-3
0333-9629409



06/05
2023

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Annex A



**OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT**

Tel: 0922-9260116 Fax: 9260125

No. 8649 /SRC dated Kohat the 19/9 /2022.

To: The District Police Officer,
Karak.

Subject: **SENIORITY FIXATION.**

Memo: -

It is submitted that LHC Javed Iqbal No.70 of this district police, presently serving in Investigation Wing, Kohat resident of Kote Kale District Karak was enlisted on 11.08.2009 in FRP Kohat Region Kohat vide SP FRP Kohat Range, Kohat OB No.448 dated 11.08.2009.

He passed recruit course at PTC Hangu for the term ending 20.09.2010 vide SP FRP OB No.457 dated 31.12.2010. He passed A-1 exam through ETEA vide SP FRP Kohat OB No.220 dated 19.05.2014. He transferred from FRP Kohat to Operation Staff Kohat vide IGP KP Peshawar Order Endst: No.449-52/E-IV dated 09.01.2015. He passed B-1 exam through ETEA from Kohat and selected for lower School Course vide RPO Kohat Order Endst: No. 2211-14 dated 27.03.2015 and qualified on 31.03.2015.

According to Standing Order No.02/2016 at Para No. 01 *that all personnel serving in the central Units will be on deputation from concerned District and Regions and their lien will be in their parent District /Region. If in the past any recruitment has been carried out directly in the central units and lien of such recruits has not been fixed so far; it will be fixed in District of domicile of the concerned recruit.*

Therefore in view of above standing order his application is sent herewith for fixation of his seniority in district Karak with his collogue in the term ending 31.07.2015, please.

(MUHAMMAD SULEMAN) PSP
District Police Officer,
Kohat

No. 8650 /SRC,

Copy of above is sent for information to the Superintendent of Police Investigation Wing, Kohat with reference to his office Memo: No.3722/SRC dated 13.07.2022. The service roll of LHC Javed Iqbal No.70 is returned herewith, please.

(MUHAMMAD SULEMAN) PSP
District Police Officer,
Kohat

*Accepted
Muhammad Suleman*

(1) B 21

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Annex-B




**OFFICE OF THE
REGIONAL POLICE OFFICER,
KOHAT REGION**

E-mail: rpkohat@gmail.com, Phone: No. 0922-9260112, Fax No. 0922-9260114

ORDER.

This order will dispose of a departmental appeal filed by LHC Javed Iqbal No. 70 against the impugned seniority issued by District Police Officer, Kohat vid Letter No. 8650/SRC, dated 19.09.2022. The appellant is aggrieved from the fixation of h seniority with district Karak.

Record gone through which indicates that DPO Kohat has acte according to Standing Order No. 02/2016, hence the appeal is meritless and hereb **dismissed.**


Regional Police Officer,
Kohat Region

No. 14847-49 IEC, dated Kohat the 12 / 8 / 2022.

Copy to Superintendent of Police, Investigation Wing, Kohat fo information w/r to his office Memo: No. 4860/SRC, dated 29.09.2022.

2. The District Police Officers, Kohat & Karak.


Regional Police Officer,
Kohat Region


ATTESTED

Attested
Mubeen

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AUTHORITY LETTER

Mr. Arif Saleem steno to DSP Legal, Kohat (Focal Person) of this office is hereby authorized to file the parawise comments and any other registered documents in the Honorable Tribunal on behalf of respondents / defendant and pursue the appeal as well.

District Police Officer,
Kohat
(Respondent No. 3)


D.P.O. KOHAT