

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

Service Appeal No. 922 of 2022.

Ghulam Hakeem s/o Muhammad Zaman R/o Surbat District & Tehsil, Dir  
(Upper). (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand at Saidu Sharif Swat.
3. Bacha Khan Driver Head Constable, Police Lines Dir Upper.
4. The District Police Officer, Upper Dir.

(Respondents).

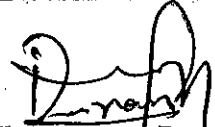
Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 5578

Dated 25/05/23

**Index.**

S: No.	Documents	Annexures	Pages
1	Para wise Comments	-	1-2
2	Power of Attorney	-	3
3	Affidavit	-	4
4	Reversion Order	-A-	5
5	Promotion Order	-B-	6
6	Judgment	-C-	7-10

  
Inspector Legal,  
Dir Upper.

Next date of  
hearing is 7/6/23  
in court room.

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

Service Appeal No. 922 of 2022.

Ghulam Hakeem s/o Muhammad Zaman R/o Surbat District & Tehsil, Dir  
(Upper). (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand at Saidu Sharif Swat.
3. Bacha Khan Driver Head Constable, Police Lines Dir Upper.
4. The District Police Officer, Upper Dir.

(Respondents).

**PARA WISE REPLY BY RESPONDENTS.**

Respectfully Sheweth :.

Preliminary objections:

1. That the instant service Appeal is not maintainable in the present form and liable to be dismissed.
2. That the Appellant has got no cause of action and locus standi to file the instant Appeal.
3. That the Appellant is estopped due to his own conduct to file the instant appeal.
4. That the Appellant has concealed the material facts from the honorable Service Tribunal.
5. That jurisdiction of this honorable service Tribunal has wrongly been invoked.
6. That the Appeal is bad for mis-joinder and non-joinder of necessary parties.
7. That the Appeal is barred by law & limitation.

**FACTS:**

1. Correct
2. Correct
3. Correct
4. Correct
5. Correct to the extent that in the light of judgment of Service Tribunal Khyber Pakhtunkhwa dated 03.12.2019 and the august Supreme Court of Pakistan judgment dated 25.11.2021, the appellant was reverted to the Rank of Driver Head Constable vide Regional Police Malakand endst: No. 312/E, dated 05.01.2021 and Bacha Khan was promoted vide Order no117-18/E. (Orders of the RPO & judgment are annexed as Annexures A, B & C).
6. The appellant has wrongly challenged the legal and valid orders of respondents through unsound grounds.

(2)

**5 GROUND:-**

- A. Incorrect, the orders No. 117-18/E, dated 05.01.2022 regarding the promotion is legal, lawful and is not liable to be struck down and is in accordance with the Khyber Pakhtunkhwa service tribunal judgment dated 03.12.2019.
- B. Incorrect, order No. 117-13 /E, is legal, lawful and is in accordance with law.
- C. Incorrect, the Supreme Court of Pakistan has dismissed the appeal of the appellant and respondents department and later on Khyber Pakhtunkhwa service tribunal in its judgment of execution petition ordered to implement the judgment of Service Tribunal in letter and spirit.
- D. Incorrect, the reversion of the appellant is taken place in the light of judgment of the Khyber Pakhtunkhwa Service Tribunal and the August supreme court of Pakistan.
- E. Incorrect, no constitutional rights of the appellant has been violated.


**PRAYER:**

Keeping in view the above facts and reasons, it is humbly prayed that the appeal being not maintainable may kindly be dismissed with cost please.

Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar.



Regional Police Officer,  
Malakand at Saidu Sharif,  
Swat.



Regional Police Officer,  
Malakand Region,  
Saidu Sharif, Swat.

District Police Officer,  
Upper Dir.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No. 922 of 2022.

Ghulam Hakeem s/o Muhammad Zaman R/o Surbat District & Tehsil, Dir (Upper).

(Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand at Saidu Sharif Swat.
3. Bacha Khan Driver Head Constable, Police Lines Dir Upper.
4. The District Police Officer, Upper Dir.

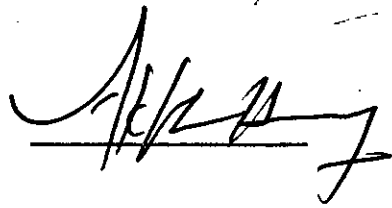
(Respondents).

**Power of Attorney**


We, the undersigned do hereby authorized Imran Khan Inspector Legal to appear on our behalf before the honorable Court in the cited above case on each and every date.

He is also authorized to file para wise comments/ reply, prefer appeal and to submit the relevant documents before the Honorable Court.

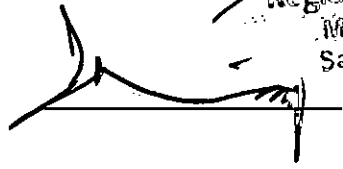
**Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.**



**Regional Police Officer,  
Malakand at Saidu Sharif, Swat.**



**Regional Police Officer,  
Malakand Region,  
Saidu Sharif, Swat.**



**District Police Officer,  
Dir Upper.**

4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

Service Appeal No. 922 of 2022.

Ghulam Hakeem s/o Muhammad Zaman R/o Surbat District & Tehsil, Dir  
(Upper).

(Appellant)

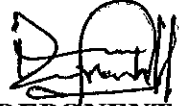
Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand at Saidu Sharif Swat.
3. Bacha Khan Driver Head Constable, Police Lines Dir Upper.
4. The District Police Officer, Upper Dir.

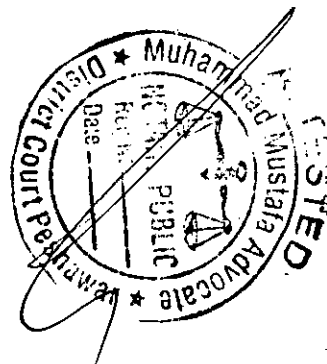
(Respondents).

**Affidavit**

I, Imran Khan, Inspector Legal do hereby solemnly affirm and declare that the contents of parawise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

  
DEPONENT  
Imran Khan,  
Upper Dir.

23 MAY 2023



44

5

2

ordr 06<sup>01</sup>  
2021



**OFFICE OF THE  
REGIONAL POLICE OFFICER, MATAKAND**

**SAIDU SHARIF SWAT.**  
Ph: 0946-9240381-88 & Fax No: 0946-9240300  
Email: dir.police1@yuhoo.com

**ORDER:**

In compliance of Service Tribunal, Khyber Pakhtunkhwa, Peshawar, judgment dated 03/12/2019 and August Supreme Court of Pakistan, judgment dated 25/11/2020, Driver ASI Ghulam Hakim of Dir Upper District is hereby struck down / reverted to the rank of Driver Head Constable with immediate effect.

OFFICE OF THE DPO  
Dy: 87  
Date: 6/1/2021  
UPPER DIR

Regional Police Officer,  
Matakand Region, Saidu Sharif Swat

No. 312 /E,

Dated 05-01-2021.

Copy of above for information and necessary action to District Police Officer, Dir Upper with reference to his office Endst: No. 6681-83/E dated 25/12/2020.

\*\*\*\*\*

OB Noe 16

06-01-2021

OB/EL  
For file  
[Signature]  
06/1/21

Attest  
Dsp [Signature]

13

Better Copy

(5)

OFFICE OF THE  
REGIONAL POLICE OFFICER MALAKAND  
SAIDU SHARIF SWAT  
Ph: 0946-9240381-88 & Fax No. 0946-9240390

ORDER

In compliance of Service Tribunal Peshawar, judgment dated 03.12.219 and August Supreme Court of Pakistan, dated 25.11.2020, Driver ASI Ghulam Hakim of Dir Upper District is hereby struck down/ reverted to the rank of Driver Head Constable with immediate effect.

Regional police officer  
Malakand Region, Saidu sharif SWAT

No. 312/E  
Dated 05.01.2021

Copy of above for information and necessary action to District Police Officer, Dir Upper with reference to his office Endst: No. 661/E dated 23.12.2020.

Attested  
\_\_\_\_\_  
D/S P. U. S. W. / 21

(6)



**OFFICE OF THE  
REGIONAL POLICE OFFICER, MALAKAND**

**/SAIDU SHARIF SWAT.**

**Ph: 0946-9240381-88 & Fax No. 0946-9240390**

**Email: digmalakand@yahoo.com**

**ORDER:**

In compliance of the Service Tribunal, Khyber Pakhtunkhwa Peshawar, Order Sheet dated 22/06/2021, Writ Petition No. 45/2020 in appeal No. 226/2018, Driver Head Constable Bacha Khan No. 236 of Dir Upper District is hereby promoted as Driver Assistant Sub-Inspector against the existing vacancy of Driver ASI in Dir Upper District, with effect from 06/01/2021.

*Z. Asghar*

**ZEESHAN ASGHAR (PSP)**

**Regional Police Officer,**

**Malakand Region, Saidu Sharif Swat**

*\*Naqi\**  
*2/11*

No. 117-18 /E,

Dated:- 05-01-2022.

Copy of above for information and necessary action to the:-

1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar with reference to CPO Peshawar Memo: No. 6679-80/Legal, dated 30/07/2021
- ✓ 2. District Police Officer, Dir Upper with reference to his office Memo: No. 7376/EB, dated 30/12/2021.

\*\*\*\*\*

*OB/EC/OASI  
for action*

*DPO Me  
10-1-22*

*Attested  
DySP Legal*



(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
AT CAMP COURT SWAT.

Service Appeal No. 291/2018

Date of Institution ... 16.2.2018

Date of Decision ... 03.12.2019



Zahir-ur-Rehman, Driver/Constable no. 449, Police Lines, Dir Upper.

(Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and five others.

(Respondents)

MR. SHAAZULLAH KHAN,  
Advocate

---

For appellant.

MR. M. RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General

---

For respondents no. 1 to 3

MR. MUHAMMAD KAMRAN KHAN,  
Advocate

---

For respondents no. 4.to 6

MR. AHMAD HASSAN,  
MR. MUHAMMAD HAMID MUGHAL

---

MEMBER(Executive)

---

MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER: Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS.

02. Learned counsel for the appellant argued that he was appointed as Driver Constable on 10.01.2003. That the respondents notified a seniority list of Driver Constables of Dir Upper in which his name wrongly placed at serial no.4. He was senior to the private respondents. Feeling aggrieved, he filed departmental appeal and the competent authority constituted a committee to resolve the issue of seniority

ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa Service Tribunal

of the appellant vis-à-vis private respondents. Through order dated 24.05.2016, the committee revised the seniority list of Driver Constables of Dir Upper wherein, the name of the appellant was put at an appropriate by showing him senior to the private respondents. To his astonishment, private respondents were promoted as Driver Head Constable vide impugned order dated 29.12.2014 and 13.12.2015. These orders were communicated to the appellant upon his request on 19.10.2017 and departmental appeal was preferred on 20.10.2017. Promotion given to the private respondents was against the rules and order passed to this effect had no value in the eyes of law.

03. Learned counsel for private respondents argued that they were rightly promoted under Police Rules 1934 on the basis of seniority-cum-fitness. As in the past punishments were awarded to the appellant and his service record was not satisfactory, therefore, he was not considered for promotion. The plea taken by the appellant that he never received the orders regarding promotion of private respondents was without substance, as the respondents widely disseminated these orders. Moreover, he was not fit for promotion. He also raised the issue of limitation that the present appeal was barred by time.

04. Learned Assistant Advocate General relied on arguments advanced by the learned counsel for private respondents.

**CONCLUSION.**

05. As regards the issue of limitation raised by the learned counsel for private respondents was concerned, though the appellant was considered for promotion but

TESTED  
 EXAMINED  
 Hyderabad District  
 Service Tribunal  
 Hyderabad

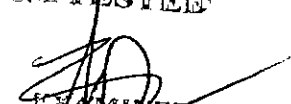
9

3

ignored on the basis of wrong seniority list. Private respondents were promoted as Driver Head Constable vide order dated 29.12.2011 and 31.12.2015. However, in the absence of any solid evidence, denial by the respondents and perusal of available record, the plea taken by the appellant that he came to know about the said order on 19.10.2017 and filed departmental appeal on 20.10.2017 seems logical, convincing and worth consideration. Furthermore, on the basis of report dated 24.05.2016 and after correction of seniority position, it was incumbent on the respondents to have reviewed the promotion orders referred to above. Moreover, issues relating to promotion, confirmation and seniority were not hit by limitation, as held by superior courts in numerous judgments. In addition to this, it was against the cardinal principles of substantive justice to deprive a civil servant of his due right just on the strength of technicalities and when the respondents were unable to defend their case on merits. In this case illegalities, favoritism and arbitrary acts of the respondents have been proved beyond any shadow of doubt, therefore, the appellant has every right to be treated fairly on merit.

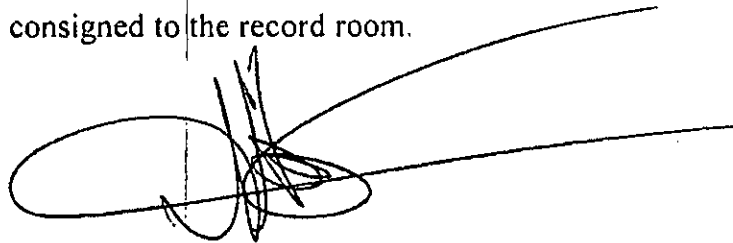
06. Now coming to the merits of the case, it is clarified that the appellant and private respondent no.4 were appointed as Driver Constable on 09.01.2003. However, being senior in age the appellant was shown senior to the private respondents. This fact was also confirmed by the order/report dated 24.05.2016 prepared by the committee on the directions of the competent authority. However, private respondents was wrongly promoted vide order dated 29.12.2014 and 31.12.2015. The record has established that these promotions were made on the basis of disputed seniority list which had no validity in the eyes of law and any promotion made on the basis of that was illegal and unlawful. The appellant was

TESTED

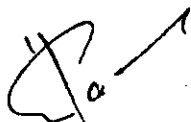
  
Member-Punishment  
Service Tribunal  
Peshawar

entitled to be considered for promotion from 29.12.2014. The plea taken by the learned counsel for the private respondents that the appellant was ignored because of his service record/punishment was also a lame excuse and against the invogue rules/policy.

07. As a sequel to the above, the appeal is accepted, the impugned order dated 29.12.2014 is set aside to the extent of private respondent no.4. The respondents are directed to consider the case of promotion of the appellant from the due date. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)  
Member  
Camp court Swat



(MUHAMMAD HAMID MUGHAL)  
Member

ANNOUNCED  
03.12.2019

Certified to be true copy

**EXHIBIT**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application	25/5/23
Number of Words	page 9
Copying Fee	20/-
Urgent	5/-
Total	25/-
Name of	
Date of	25/5/23
Date of Delivery of Copy	25/5/23

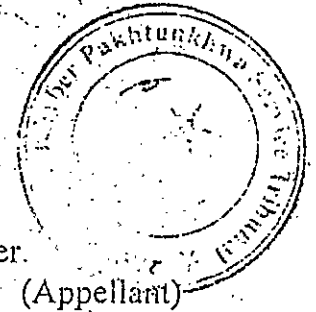
7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
AT CAMP COURT SWAT.

Service Appeal No. 291/2018

Date of Institution ... 16.2.2018

Date of Decision ... 03.12.2019



Zahir-ur-Rehman, Driver/Constable no. 449, Police Lines, Dir Upper.

(Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and five others.

(Respondents)

MR. SHAAZULLAH KHAN,  
Advocate

For appellant.

MR. M. RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General

For respondents no. 1 to 3.

MR. MUHAMMAD KAMRAN KHAN,  
Advocate

For respondents no. 4 to 6

MR. AHMAD HASSAN,  
MR. MUHAMMAD HAMID MUGHAL

MEMBER (Executive)  
MEMBER (Judicial)

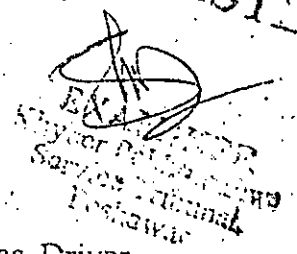
JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS.

02. Learned counsel for the appellant argued that he was appointed as Driver Constable on 10.01.2003. That the respondents notified a seniority list of Driver Constables of Dir Upper in which his name wrongly placed at serial no.4. He was senior to the private respondents. Feeling aggrieved, he filed departmental appeal and the competent authority constituted a committee to resolve the issue of seniority

ATTESTED



Altaf d  
Dsp Mujal

of the appellant vis-à-vis private respondents. Through order dated 24.05.2016, the committee revised the seniority list of Driver Constables of Dir Upper wherein, the name of the appellant was put at an appropriate by showing him senior to the private respondents. To his astonishment, private respondents were promoted as Driver Head Constable vide impugned order dated 29.12.2014 and 13.12.2015. These orders were communicated to the appellant upon his request on 19.10.2017 and departmental appeal was preferred on 20.10.2017. Promotion given to the private respondents was against the rules and order passed to this effect had no value in the eyes of law.

03. Learned counsel for private respondents argued that they were rightly promoted under Police Rules 1934 on the basis of seniority-cum-fitness. As in the past punishments were awarded to the appellant and his service record was not satisfactory, therefore, he was not considered for promotion. The plea taken by the appellant that he never received the orders regarding promotion of private respondents was without substance, as the respondents widely disseminated these orders. Moreover, he was not fit for promotion. He also raised the issue of limitation that the present appeal was barred by time.

04. Learned Assistant Advocate General relied on arguments advanced by the learned counsel for private respondents.

#### CONCLUSION.

05. As regards the issue of limitation raised by the learned counsel for private respondents was concerned, though the appellant was considered for promotion but

ATTESTED

*[Signature]*

ASSISTANT ADVOCATE GENERAL  
GOVERNMENT OF PUNJAB  
LAW DEPARTMENT

*Attested*  
*DSP*

ignored on the basis of wrong seniority list. Private respondents were promoted as Driver Head Constable vide order dated 29.12.2011 and 31.12.2015. However, in the absence of any solid evidence, denial by the respondents and perusal of available record, the plea taken by the appellant that he came to know about the said order on 19.10.2017 and filed departmental appeal on 20.10.2017 seems logical, convincing and worth consideration. Furthermore, on the basis of report dated 24.05.2016 and after correction of seniority position, it was incumbent on the respondents to have reviewed the promotion orders referred to above. Moreover, issues relating to promotion, confirmation and seniority were not hit by limitation, as held by superior courts in numerous judgments. In addition to this, it was against the cardinal principles of substantive justice to deprive a civil servant of his due right just on the strength of technicalities and when the respondents were unable to defend their case on merits. In this case illegalities, favoritism and arbitrary acts of the respondents have been proved beyond any shadow of doubt, therefore, the appellant has every right to be treated fairly on merit.

06. Now coming to the merits of the case, it is clarified that the appellant and private respondent no.4 were appointed as Driver Constable on 09.01.2003. However, being senior in age the appellant was shown senior to the private respondents. This fact was also confirmed by the order/report dated 24.05.2016 prepared by the committee on the directions of the competent authority. However, private respondents was wrongly promoted vide order dated 29.12.2014 and 31.12.2015. The record has established that these promotions were made on the basis of disputed seniority list which had no validity in the eyes of law and any promotion made on the basis of that was illegal and unlawful. The appellant was

ATTES

*[Handwritten signature]*

*Attested  
Dsp ugd*

(10)

entitled to be considered for promotion from 29.12.2014. The plea taken by the learned counsel for the private respondents that the appellant was ignored because of his service record/punishment was also a lame excuse and against the invogue rules/policy.

07. As a sequel to the above, the appeal is accepted, the impugned order dated 29.12.2014 is set aside to the extent of private respondent no.4. The respondents are directed to consider the case of promotion of the appellant from the due date. Parties are left to bear their own costs. File be consigned to the record room:

(AHMAD HASSAN)  
Member  
Camp court Swat

(MUHAMMAD HAMID MUGHAL)  
Member

ANNOUNCED  
03.12.2019

*Certified to be a true copy*  
  
Member of the  
Service Tribunal  
Peshawar

Date of Presentation	12-12-19
Number of Pages	2052
Copying Fee	2200
Urgent	
Total	2200
Name of	
Date of	18-12-19
Date of	18-12-19

*Attested*

*DSP nejar*