

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Objection Petition In Execution No. 227/2021
in
Service Appeal No. 291/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5686

Dated 30/5/2023

Abdullah Jan(Appellant)


Versus

Provincial Police Officer, Khyber Pakhtunkhwa(Respondent)

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Respondents through


DSP/ Legal (BPS-17)
CPO, Peshawar

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

In Execution No. 227/2021
in
Service Appeal No. 291/2019

Abdullah Jan(Appellant)
Versus
Provincial Police Officer, Khyber Pakhtunkhwa etc.....(Respondents)

Subject: **OBJECTION PETITION ON JUDGMENT 30.08.2021**

The facts pertaining to objection petition are as under:-

1. That, the appellant had filed Service Appeal No. 291/2019, with the following prayers:-

"On acceptance of instant appeal, the impugned order dated 09.01.2019 may kindly be set aside and the appellant may kindly be order to be promoted to the rank of DSP from the date of his eligibility along with all back benefits".

2. That, this Hon'ble Tribunal vide Judgment dated 30.08.2021 accepted the Service Appeal. The operating Para is reproduced as under:-

"In view of the foregoing discussion, the instant appeal is accepted by setting aside the impugned order dated 09.01.2019 and the appellant is held entitled to promotion from the date, when his other batch mates were promoted along with all back benefits".

3. That, in compliance with the Judgment dated 30.08.2021, DPC held on 15.02.2022 and appellant Mr. Abdullah Jan was promoted as DSP (BS-17) vide Notification NO. CPO/E-I/Promotion/332 dated 18.02.2022. (Annexure 'A').
4. That the appellant submitted objections on Notification dated 18.02.2022 and claimed ante dated promotion with his colleagues who earlier completed their requisite courses and mandatory periods hence was promoted vide Notification dated 18.02.2018. At that time the appellant was deficient of one year period as per spirit of Rule 13.10(2) as well as 13.16A of amended Police Rules 2017. The appellant was at bottom of seniority list.
5. That in DPC dated 19.08.2020, he was again deferred due to mentioned reason however to comply with direction of Hon'ble Service Tribunal, the respondent department revised appellant's promotion w.e.f 24.08.2020 instead of 18.02.2022 vide Corrigendum Notification No.CPO/E-I/Corrigendum/Revised Promotion/1650 dated 16.08.2022. (Annexure 'B').
6. That, the appellant again submitted objections in Service Tribunal on corrigendum Notification ibid and claimed ante dated promotion with those colleagues who got promoted on 13.02.2018 after fulfillment of eligibility criteria. The Hon'ble Tribunal on 19.11.2022 took notice of the non implementation of its directions and issued Show Cause Notices to the respondents.

7. That, respondent department issued Speaking Order No. 1632A/ Legal, dated 04.05.2023, along with reply of Show Cause Notice and salary release application were submitted in the Hon'ble Khyber Pakhtunkhwa Service Tribunal.
8. That, the Supreme Court of Pakistan underlined the difference between the date of appointment and date of confirmation in Mushtaq Warich Vs IGP Punjab (PLD 1985 SC 159). In a recent Judgment (dated 2nd November 2022 in Civil Appeal No. 1172 to 1178 of 2020 and Civil Petition No. 3789 to 3896, 2260-L to 2262-L and CP 3137-L) the Apex Court, has held that "*reliance on Qayyum Nawaz* [a judgment of the Apex Court, reported as 1999 SCMR 1594] *that there is no difference between the date of appointment and date of confirmation under the Police rules is absolutely misconceived and strongly dispelled*". The Apex Court has further explained PR 12.2(3) of Police Rules, 1934 and declared that the final seniority of officers will be reckoned from the date of confirmation of the officers not from the date of appointment. The Hon'ble Court further held that "*the practice of ante-dated confirmation and promotions have been put down in Raza Safdar Kazmi*" (a judgment of the Punjab Service Tribunal dated 15.08.2006, passed in Appeal No. 239/2006 and upheld by the Supreme Court vide order dated 29.01.2008, passed in Civil Appeals No. 2017 to 2031 of 2006 and other connected matters).
9. That, as claim of the appellant of ante-date promotion w.e.f 13.02.2018 is devoid of Apex Court Judgment mentioned above. Therefore, complying with Hon'ble Tribunal Judgment dated 30.08.2021 would defy the Apex Court Judgments mentioned above.

PRAYERS

Therefore, keeping in view the above facts and circumstances, Department is determined to comply with Hon'ble Tribunal orders in true letter and spirit. The seniority of appellant has been revised in accordance with law/ rules and Apex Court Judgments. The claim of appellant of ante dated promotion as DSsP w.e.f 13.02.2018 is contrary to the Rules and against the Apex Court Judgments, therefore, Hon'ble Tribunal is requested to issue appropriate orders in this regard, please.



DSP/ Legal,
CPO, Peshawar.
30.05.2023

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

Dated Peshawar the 18/02/2022

NOTIFICATION

No. GPOIE-III/Promotion/332, In pursuance of the provision contained in Section-5 of the Promotion Rules-2007 and on the recommendations of Departmental Selection Committee meeting held on 15th February, 2022, the following Inspectors (BS-16) (Executive & Technical) of Khyber Pakhtunkhwa Police are hereby promoted to the rank of Deputy Superintendent of Police (BS-17) on regular basis with immediate effect.

The officers on promotion shall remain on probation for a period of one year in terms of Section 6 (2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989

The promotion shall take effect from the date they actually assume the charge of the higher responsibilities:-

S#	Name of officers & No.	S#	Name of officers & No.
17.	Mr. Azmat Ali No. K/200	17.	Mr. Luqman Khan No. MR/80
18.	Mr. Muhammad Sohail No. H/07	18.	Mr. Ikhtiraz Khan No. MR/81
19.	Mr. Muhammad Amin No. H/42	19.	Pir Zar Badshah No. MR/82
20.	Mr. Abdullah Jan No. P/182	20.	Mr. Muhammad Fazil No. MR/83
21.	Mr. Nasrullah Khan No. P/185	21.	Mr. Imtiaz Ali No. MR/84
22.	Mr. Muhammad Kamran No. P/188	22.	Mr. Sadat Khan No. K/25
23.	Mr. Saif Mumtaz No. P/189	23.	Mr. Fazal Hanif No. K/48
24.	Mr. Fida Hussain No. P/190	24.	Mr. Nazar Hussain No. K/70
25.	Mr. Ijaz Ali No. P/191	25.	Mr. Muhammad Yousaf No. K/71
26.	Mr. Zakaullah No. P/192	26.	Mr. Nazir Khan No. K/72
27.	Mr. Tariq Muhammad Khan No. P/193	27.	Mr. Abid Khan No. K/74
28.	Mr. Ijaz Ali No. P/194	28.	Mr. Umar Hayat No. K/20
29.	Mr. Adnan Azam No. P/195	29.	Mr. Muhammad Akbar No. MR/86
30.	Mr. Zahid Alam No. P/196	30.	Mr. Zareef Khan No. MR/87
31.	Mr. Rehmatullah No. P/197	31.	Mr. Asif Mehmood No. B/01
32.	Mr. Muhammad Inam Jan No. MR/59	32.	Mr. Sabir Gul No. MR/90
33.	Mr. Zulfikar Ahmad (Technical Special Branch)		

Their posting Notification will be issued separately.

Note:-

1. The DSC meeting held on 19.08.2020 recommended Mr. Muhammad Sohail No. H/07 to be deferred from promotion to the rank of DSP (BPS-17) because he had not completed mandatory period in a Unit specified as per amended Police Rule 13.16A dated 16.03.2017. At the time of meeting, he was serving in ACE, therefore the Committee directed that he will be promoted once he earns good ACR for a calendar year from any specified Unit. Subsequently in compliance of the DSC decision, he was transferred to Special Branch on 19.04.2021. Mr. Muhammad Sohail No. H/07 is also promoted to the rank of DSP w.e.f 19.04.2022; on successful completion his mandatory period as per amended Police Rule 13.16A.

2. Mr. Abdullah Jan No. P/182 is conditionally and provisionally subject to the outcome of CPLA No 543-P/2021 dated 30.08.2021 in compliance of Execution petition No.227/2021 in Service Appeal No. 291/2019 and Order Sheet dated 10.01.2022 of Khyber Pakhtunkhwa Service Tribunal

ATTENDED

(Signature)

Sd/-
(SABIR AHMED) PSP
Additional Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa.

Endst: No. & date even.

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. All Addl Inspectors General of Police in Khyber Pakhtunkhwa.
3. All Deputy Inspectors General of Police in Khyber Pakhtunkhwa
4. All Heads of Units, in Khyber Pakhtunkhwa.

010



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

Dated Peshawar the 12th of 12/2022

6. AIG Legal CPO Peshawar.
7. Director IT CPO Peshawar.
8. Officers concerned.
9. All concerned District Accounts Officers in Khyber Pakhtunkhwa.
10. Registrar, CPO Peshawar.
11. Supdt: Secret CPO Peshawar.
12. Supdt: E-II, CPO Peshawar.
13. Supdt: CPB CPO Peshawar.
14. U.O.P File.

 18/02,

(IRFAN TARIQ) PSP

AIG/Establishment,

For Inspector General of Police,

Khyber Pakhtunkhwa,

Peshawar

ATTESED





OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Dated Peshawar the 16/08/2022

NOTIFICATION

No. GPO/E-I/Corrigendum/Revised Promotion/ 1650. This office Notification No. GPO/E-I/Promotion/332 dated 18.02.2022, in compliance with the Judgment dated 22.08.2021 of Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No.291/2019 and Execution Petition No.227/2021, Order dated 28.06.2022 of the Khyber Pakhtunkhwa Service Tribunal Peshawar and duly approved by the Competent Authority the date of promotion of Mr. Abdullah Jan DSP (BS17) is hereby revised w.e. from 24.05.2020 instead of 18.02.2022.

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

Endst: No. & date even.

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Addl: Inspector General of Police HQrs: Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General of Police HQrs: Khyber Pakhtunkhwa Peshawar.
4. Deputy Inspector General of Police Special Branch, Khyber Pakhtunkhwa Peshawar.
5. Peshawar.
6. Registrar Service Tribunal Khyber Pakhtunkhwa.
7. ~~AIG Legal CPO Peshawar (enclosed complete file).~~
8. Officer concerned.
9. Registrar CPO Peshawar.
10. Supdt: Secret, CPO Peshawar.
11. Officer concerned.
12. U.O.P. File.

ATTESED

(DR. ZAID ULLAH) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Objection Petition In Execution No. 227/2021

in

Service Appeal No. 291/2019

Abdullah Jan(Appellant)

Versus

Provincial Police Officer, Khyber Pakhtunkhwa etc.....

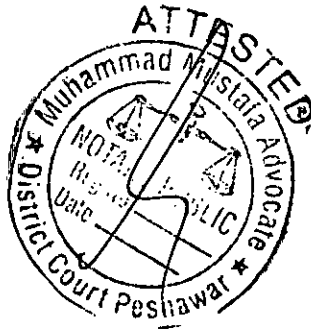
AFFIDAVIT

I, Tariq Umar DSP/ Legal CPO, Peshawar (BPS-17) do hereby solemnly affirm on oath that the contents of Objection Petitions on behalf of respondent department is correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

DEPONENT



TARIQ UMAR
DSP/ Legal, CPO
17301-4997553-7
0333-8878882



30 MAY 2023