BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1747/2022

Shakeel Khan..... (Appellant)

VERSUS

IGP, KP etc.....(Respondents)

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Respondents through

20/6/2023
Peshawar

DSP/ Legal (BPS-17)
CPO, Peshawar

(1)

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REPLY BY RESPONDENTS NO. 1 TO 3

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

a) That the appellant has got no cause of action.

b) That the appellant has got no locus standi to file the instant Service Appeal.

c) That the appellant is estopped to file the present appeal.

d) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

e) That the appeal is bad for law/ rules and limitation as well.

FACTS

1. Para pertains to record needs no comments.
2. Para pertains to record needs no comments
3. Para pertains to Hon'ble Service Tribunal needs no comments
4. Para pertains to record needs no comments
5. Para pertains to record needs no comments.
6. Para pertains to record needs no comments.
7. Para pertains to record needs no comments.
8. Incorrect, that in many cases the police personnel had completed their statutory period of probation, in compliance of Rule 13.18 of Police Rules, 1934 (amended 2017) but were not confirmed for want of notification, in violation of rule ibid. This serious issue was addressed and discussed in the apex Court of Pakistan, in the case reported as 2016 SCMR 1254 case titled Gul Hassan Jatoi etc Vs Faqir Muhammad Jatoi etc. The relevant para of the judgment is reproduced as under:-

74. It has been observed that in many cases the Police personnel have completed their statutory period of probation but they were not confirmed for want of notification, and as result of which such officials have suffered in terms of delayed promotion or loss of seniority, which is a sheer negligence and abuse of power on the part of competent authorities concerned. Hence, we are of the view that this practices must be brought to an effective end so that injustice may not be perpetrated against such officials. Therefore, in future those police personnel who have completed their statutory period of probation, whether it is three years or two years, they shall be confirmed whether or not a notification to that effect is issued.

As a result of delayed confirmations, a number of police personnel were affected in terms of promotions and seniority which created serious anomalies in the seniority lists of Police personnel and resulted in endless litigation as well as demoralization of the Police force.

i. In order to streamline the seniority issues in accordance with the apex Court judgments quoted above, the competent authority through Letter No. CPO/CPB/68, dated 28.02.2022 (Annexure **"A"**) directed that all Regional Police Officers/ Capital City Police Officer should strictly follow Rule 13:18 ibid for confirmation in the substantive rank of SI and revise it accordingly, if there exists any anomaly.

ii. Consequent upon the directions of competent authority, all RPOs/ CCPO revised the seniority of their regions by applying rule ibid and lists of revised seniorities were sent to CPO for revision of list 'F'. Thus, list 'F' was revised and issued on 02.09.2022. and subsequently DSPs seniority list was revised and issued on 28.06.2022. Those who were late confirmed in violation of Rule 13.18 were brought to equal treatment in accordance with Apex Court's above quoted judgment and were given revise confirmation in the rank of Sub-Inspector in light of apex Court judgment, applying Police Rules, 13.18 uniformly throughout KP Police, certain officials got their right of due seniority and become senior than others. Appellant's case fall among those who are affected by the mentioned legal/ lawful procedure.

Furthermore, instant Service Appeal is liable to be dismissed on following Grounds.

GROUNDS

A. Incorrect, as already explained above in para No. 8.
B. Incorrect, respondent department is determined in its all endeavors to streamline seniority and eradicate anomalies and discriminations.
C. Incorrect, as already explained above.
D. As explained above.
E. Incorrect, as already explained above.
F. Pertains to Hon'ble Apex Court as explained above.
G. Incorrect as explained above.
H. Pertains to Hon'ble Apex Court as explained above.
I. That the answering respondents may be allowed to raise additional grounds at time of hearing of instant Service Appeal.

PRAYER:-

Keeping in view the above stated facts and circumstances, it is therefore humbly prayed that the appeal is not maintainable being devoid of merits hence, may kindly be dismissed with costs, please.

Assistant Inspector General of Police,
Legal, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 3)

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

Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)

A (3)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. CPO/CPB/ 68 Dated Peshawar 28 Feb: 2022

To : The Capital City Police Officer,
Peshawar.

All Regional Police Officers,
Khyber Pakhtunkhwa.

Subject: ANOMALIES RELATED TO CONFIRMATION STATUS AWARDED TO SUB INSPECTORS.

Memo:-

The Competent Authority has directed to streamline the seniority issues of DSsP, Inspectors and confirmed Sub Inspectors already on List "F". It has been observed that due to following reasons the problems arise in the seniority lists.

i. In majority of the cases received to CPO for admission to the centralized seniority list, it has been observed that the confirmation in the rank of Sub Inspectors is considered from the date of DPC instead of completion of mandatory period of two years for confirmation as per Police Rules 13.18.

ii. Similarly, Police Rules 13.10(2) provides for two years mandatory period as SHO/other Units.

In order to streamline the seniority issues, the Competent Authority has directed that all RPOs/CCPO should strictly follow Police Rules 13.18 for confirmation in the substantive rank and revise it accordingly, if there exists any anomaly. The requisite rules are quoted below for ready reference:-

a. Police Rules 13.18. 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 of probation be extended beyond two years and the confirming authority must arrive at a definite decision within that period whether officer should be confirmed or reverted.

b Police Rules 13.10(2) No Sub Inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an officiating Sub Inspector in independent charge of a Police Station, a notified Police Post or as in-charge investigation of a Police Station or in Counter Terrorism Department.
According amendment Police Rules 2017, provided further that he shall also have to spend one year in any other Unit excluding the period spent on long leave, deputation or promotional training courses i.e. Upper College Course'.

The report may be communicated to this office within one week i.e. 08.03.2022 positively.

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

Attested

(4)

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AFFIDAVIT

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

DEPONENT

ATTESTED

NOTARY PUBLIC

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

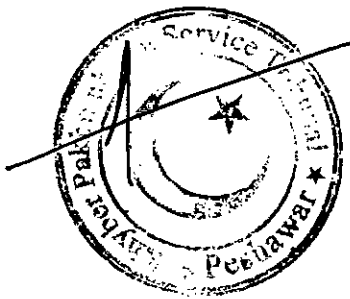
31-2023

AUTHORITY LETTER

Mr. Tariq Umar DSP / Legal, CPO is authorized to pursue the cases pertaining to Police Department in Honorable Peshawar High Court, Peshawar submission of Para-wise comments, reply in Court on behalf of undersigned, please.

Inspector General of Police
Khyber Pakhtunkhwa,
Peshawar.

Cost of Rs. 1000/- received in Service Appeal No. 1747/2022, titled Shakeel Ahmad Khan —VS— Police on 01/06/2023 in the office of Assistant Registrar.



01/06/2023