

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

**Service Appeal No.136/2023.**

Maqbool Jehan SI of CCP Peshawar..... Appellant.

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . Respondents.

**I n d e x**

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

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**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . **Respondents.**

**REPLY BY RESPONDENTS NO. 1, 2 and 3.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS:-**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file the instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

**REPLY ON FACTS:-**

1. First part of the Para pertains to record while rest of the para is denied on the ground that the appellant on transfer from district Buner was received to Peshawar as IHC vide Notification No. 31737-38/E-II dated 26.11.2008 issued by the competent authority i.e. CPO. As such his seniority in CCP Peshawar was fixed at the bottom of his colleague IHCs under the law/rules, vide No.4141-43/E.II dated 16.02.2009. (copy of orders are annexed as A,B)
2. Para not related hence needs no comments.
3. Para is incorrect. Memo/Order dated 10.06.2009 has not been explained by the appellants completely. However, last and operational para of the memo has been suppressed which produced that "All these officials may be dealt strictly according to Standing Order No.3/99. Literate officials may be treated as per Police Rules whereas the cases of illiterate officials may be treated as per criteria in the Standing Orders. Seniority of literate officials be fixed in each list on the basis of courses undergone and criteria fixed under Police Rules Chapter 13."
4. Para is totally incorrect and misleading. Actually the lien of the appellant was transferred from Malakand to CCP Peshawar as IHC vide CPO order Endst: No.4141-43/EII, dated 16.02.2009, in pursuance of which his seniority was correctly fixed at bottom of his other colleague IHCs in accordance with law/rules without occasioning any irregularity. However it is worth clarification that all those officers who had taken undue benefits of promotion from FRP Unit have now been demoted to their substantive ranks in pursuance of Supreme Court judgments 2013 SCMR 1752, 2015 SCMR 456, 2016 SCMR 1254, AND 2017 SCMR 206 and their seniority were fixed with their colleagues.
5. The appellant personally admitted the facts that on transfer from FRP to Malakand Region he was reverted to the rank of HC by the DIG Malakand Region, and then was transferred to CCP Peshawar as IHC. Further, his seniority has correctly been fixed in the bottom of IHCs as per law/rules.(copy of order is annexure as C)
6. Para is incorrect. As explained in the preceding Paras appellant was received on transfer to CCP Peshawar as IHC and was placed at the bottom of IHCs, i.e. on list "D". Besides, his

claim of seniority in the rank of ASI in CCP Peshawar stand illegal as his lien was transferred from Malakand Region to CCP Peshawar as IHC and not as ASI. More so a question arises that when appellant was aggrieved from his seniority in list "D" why he has remained silent for such a long period and willingly carried out duty at CCP Peshawar as IHC. His departmental appeal was thoroughly examined by the competent authority and after due consideration his appeal was rejected on merits.

- 7. Para is incorrect. In pursuance of judgment order dated 29.03.2017, passed by this Hon'ble Service Tribunal in Service Appeal No.1010/2013 the case of the appellant was thoroughly examined by the replying respondents and after due deliberation, his appeal was filed/rejected vide order No.4861-63/EC-I dated 28.04.2017 within limitation of one month period without miscarriage of justice.
- 8. Incorrect. The judgment order dated 24.01.2022 of this Hon'ble Service Tribunal was challenged before the apex Court of Pakistan by filing CPLA No.576-P/2022, which is still pending however, in compliance of the Hon'ble Service Tribunal judgment, the appellant was promoted in the rank of ASI conditionally/provisionally vide notification No.14654-59/EC-I, dated 18.08.2022.
- 9. Incorrect. Objections raised by the appellant against the seniority of Muslim Khan are based on misguiding and misleading facts. Muslim Khan is reckoned senior to him and promoted to the rank of ASI in the year, 2008 after fulfillment of the laid down criteria mandatory for promotion to the next higher rank and the lien of the appellant as IHC was received to CCP Peshawar in the year 2009, hence no discrimination has been done to the appellant in his service career and his seniority. Moreover, the appellant's case was processed time to time **with his colleagues without any legal lapse. Proforma history of services of Maqbool Jehan and Muslim Khan are as under ;**

S.No	Maqbool Jehan (Courses)	Muslim Khan (Courses)
1.	A1: dated 04.01.1997	A1: dated 27.01.1993
2.	B1: dated 1999	B1: dated 23.01.1995
3.	Lower Course: 20.04.2000	Lower Course: 20.09.1995
4.	Inter College Course: 20.03.2004	Inter College Course : 20.09.1996
5.	Upper College Course : 20.11.2017	Upper College Course : 20.03.2009

- 10. Incorrect. Para already explained in the proceeding paras. Further, at that time the appellant was not in the rank of ASI rather was transferred to CCP Peshawar as IHC, hence the plea of confirmation as ASI is not tenable in the eye of law/rules. The appellant wants to gain out of turn promotion which is a clear violation of the Hon'ble Supreme Court of Pakistan judgments wherein the apex court in different cases has held that the practice/concept of out-of-turn promotions is unconstitutional being against Fundamental Rights as enshrined in the Constitution of the Islamic Republic of Pakistan, 1973. Moreover, the concept of ante-dated confirmation and promotion has been repealed by the Supreme Court of Pakistan in Raza Safdar Kazmi" vide judgment dated 29.01.2008, passed in civil appeal No. 2017 to 2031 of 2006 and other connected matter.


11. That appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.

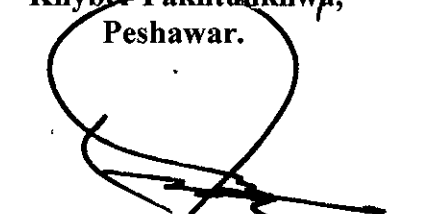
**REPLY ON GROUNDS:-**


- A) Incorrect. Para already explained in the proceeding paras. Further, the appellant was placed at bottom of his colleagues in list "D" in CCP after his transfer from Malakand Region.
- B) Incorrect. The appellant is hiding the nature of his position and in reality his name was placed at bottom of IHCs which is accepted by the appellant. The appellant was rightly promoted to the next higher ranks with his other colleagues in accordance with law/rules. In the instant case no irregularity has been committed. Furthermore, replying respondents are duty bound to follow law/rules and no right of the appellant has been violated.
- C) Incorrect. Para already explained in the proceeding Para. Further, appellant has been treated strictly in accordance with law and no legal right has ever been violated. The appellant was promoted to the rank of ASI with his others colleagues in accordance with law/rules.
- D) Incorrect. The appellant has never been deprived of his due right nor treated with discrimination. After placing the name of appellant at seniority list at bottom of IHC in Capital City Police (CCP) Peshawar the appellant and his colleagues were confirmed as ASI and were promoted smoothly to the next higher ranks with his colleagues as per law rules.
- E) Incorrect. The objections raised in the Para by the appellant are denied, having no legal footing and against the norms of law as the replying respondents have always followed the law/rules in its true letter & spirit.
- F) That respondents may also be allowed to advance any additional grounds at the time of hearing of the appeal.

**PRAYERS:-**

It is, therefore, most humbly prayed that in light of the above facts and submissions the appeal of the appellant is being devoid of merits and legal footing and may kindly be dismissed with costs please.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Superintendent of Police,  
HQrs: Peshawar.

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

**Service Appeal No.136/2023.**

Maqbool Jehan SI of CCP Peshawar..... **Appellant.**


**VERSUS**

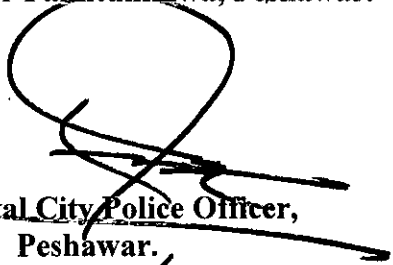
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . **Respondents.**


**AFFIDAVIT.**

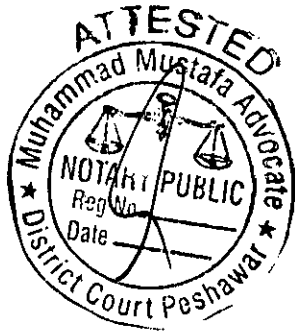
We respondents 1, 2 and 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

*The respondents are neither proceeded Ex-parte nor any cost is imposed.*

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Superintendent of Police,  
HQrs: Peshawar.



07 JUN 2023

5

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

**Service Appeal No.136/2023.**

Maqbool Jehan SI of CCP Peshawar..... **Appellant.**

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . **Respondents.**

**AUTHORITY.**

I, **Capital City Police Officer, Peshawar**, hereby authorize **Mr.Inam.Ullah** DSP legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of undersigned.

  
**Capital City Police Officer,  
Peshawar.**

**ORDER**

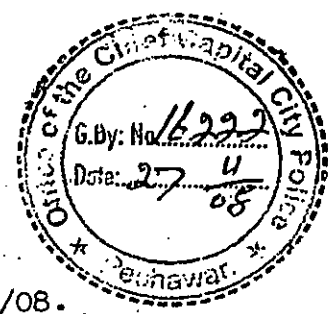
IHC Maqbool Jehan No. 446 of Bunir District is hereby transferred and posted to CCP/Peshawar with immediate effect.

*(Signature)*  
(MALIK NAVLED KHAN)  
Provincial Police Officer,  
NWFP, Peshawar.  
26/11/2008.

No. 31737-38 /E-II dated Peshawar the

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

1. Capital City Police Officer Peshawar.
2. Deputy Inspector General of Police Malakand Region.



*(Signature)*

SSP/O	_____
SSP/1	_____
SSP/2	_____
SSP/3	_____
SSP/4	_____
SSP/5	_____
SSP/6	_____
SSP/7	_____
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SSP/27	_____
SSP/28	_____
SSP/29	_____
SSP/30	_____

*(Signature)*

OFFICE OF THE CCPO/PESHAWAR.

NO. 10612-18 /EC.II dt: /08.

Copy to, the:=

1. DSP/Hqrs:
2. PO.
3. EC-I.
4. RI/Line.
5. AS ✓
6. FMC
7. OASI.

*(Signature)*  
1/12/08  
FOR CAPITAL CITY POLICE OFFICER  
PESHAWAR.

*(Handwritten notes)*  
RK  
12/11/08  
2/12

ATTESTED  
*(Signature)*  
MOINUD-DIN-MUMAYYIN  
Advocate-at-Law  
Supreme Court of Pakistan  
For Govt of NWFP, Peshawar

(A)

(7)

**BETTER COPY.**

**ORDER**

IHC Maqbool Jehan No.446 of Bunir District is hereby transferred and posted to CCP/Peshawar with immediate effect.

(MALIK NAVEED KHAN)  
Provincial Police Officer,  
NWFP, Peshawar.

No.31737-38/E-II dated Peshawar 26.11.2008.

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

1. Capital City Police Officer Peshawar.
2. Deputy Inspector General of police Malakand Region.

**OFFICE OF THE CCPO/PESHAWAR.**

No.10612-18/EC.II dated /2008

Copy to the :-

1. DSP/HQrs:
2. PO.
3. EC-I.
4. RI/Line
5. AS.
6. FMC
7. OASI.

*Attested  
Rashid*



3  
8

31

PLEASE SEE ITS  
LIGIBLE COPY

ORDER

Callan of Lt. C. Maqbool, Jahan No. 48/46 of Bunt District is hereby  
transferred from Malakand Region (Bunt District) and attached with Capital City Police  
Peshawar with immediate effect.  
He will accept promotion seniority.



*AM*  
ABDUL MAJEED KHAN MARWAT  
PSP  
DIG/Headquarters  
For Provincial Police Officer  
NWFP, Peshawar

Callan of Lt. C. Maqbool, Jahan No. 48/46 of Bunt District is hereby  
transferred from Malakand Region (Bunt District) and attached with Capital City Police  
Peshawar with immediate effect.  
He will accept promotion seniority.

Copy of above is forwarded for information and necessary action to the

Deputy Inspector General of Police, Malakand Region III, Swat  
Capital City Police Officer, Peshawar w/r to his Memo No. 1813/COI  
dated 09/02/2009

District Police Officer, Bunt

OFFICE OF THE DEPUTY CHIEF OF POLICE OFFICER - PESHAWAR

No. 107-19/COI-3, Dated Peshawar, 16/12/2009

Copy of above is sent for information and  
necessary action to the

- 1. SO'S Branch, COP, Peshawar ✓
- 2. Asst. Secy, JOP, Peshawar ✓
- 3. Dy. Officer, COP, Peshawar ✓
- 4. SO'S Branch, COP, Peshawar ✓
- 5. SO'S Branch, JOP, Peshawar ✓
- 6. SO'S Branch, COP, Peshawar ✓

TESTED  
DIN-HUMAN  
Court of Peshawar

Attached  
Bhattar

**ORDER**

The lien of IHC Maqbool Jehan No.4481/446 of Bunir District is hereby detached from Malakand Region (Bunir district) and attached with Capital City Police Peshawar with immediate effect.

He will accept bottom seniority.

(ABDUL MAJEED KHAN MARWAT)  
PSP

DIG/Headquarters,  
For Provincial Police Officer,  
NWFP, Peshawar

No. \_\_\_\_\_/4141-47/EC-II, dated Peshawar the 16/02/2009.

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

1. Deputy Inspector General of Police, Malakand Region-III Swat.
2. Capital City Police Officer, Peshawar w/o to his Memo: No.1813/EC-I, dated 09.02.2009.
3. District Police Officer, Buire.

**OFFICE OF THE CAPITAL CITY POLICE OFFICER, PESHAWAR**

No.1707-12/EC-I, dated Peshawar the 19/02/2009.

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

1. EC-III Branch CCP, Peshawar.
2. Asstt: Secret CCP, Peshawar.
3. Pay Officer, CCP, Peshawar.
4. C.R.C Branch CCP, Peshawar.
5. P.M.O Branch, CCP, Peshawar.
6. OASI Branch, CCP, Peshawar.

FOR CAPITAL CITY POLICE OFFICER,  
PESHAWAR

*Amesed*  
*Qureshi*

ATTESTED  
*M. S. Humayun*  
MOINUDDIN-HUMAYUN  
Advocate-on-Record  
Sudhania Court of Law

PLEASE SEE ITS  
LIGIBLE COPY

32

C (10)


O R D E R.

The following Head Constables of this district Police mentioned at S.NO.36,37,38 and 39 of the District Seniority List are hereby demoted from their substantive rank of Head Constable to Constable with effect from 1.7.2008.

- 1.H.C:Paul Khan NO.288.
- 2.H.C: Hasham Ali NO.298.
- 3.H.C: Ghulam Muhammad NO.238.
- 4.H.C. Muhammad Hanif NO.295.

In following Head Constables arrived c transfer from Swat District to this district vide Dy:Inspector General of Police Malakand Region Swat Endst: NO.2626/E, dated 17.6.2008 are hereby adjusted against the above vacancies and allotted Constabulary number noted against their name.

- 1.H.C.Muslim Shah NO.198.
- 2.H.C. Muhammad Zaman NO.4.
- 3.H.C. Maqbool Jehan NO.446.
- 4.H.C. Shah Room. No-22.

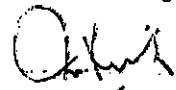
  
District Police Officer,  
Buner.

O.B.NO. 279

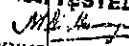
Dated. 24.7.08

No 4004 /E dt. 24.7.2008

Copy of above is submitted to the Deputy Inspector General of Police Malakand Region Swat for favour of information with reference to his office Endst:NO. quoted above.

  
District Police Officer,  
Buner.

ATTESTED

  
MOINUDDIN HUSSAIN  
Advocate-on-Record,  
Supreme Court of Pakistan  
For Govt of P.S.K. Peshawar

Attested  


(11)  
legible copy 32

**ORDER.**

The following Head Constables of this district Police mentioned at S.No.36,37,38 and 39 of the District Seniority List are hereby demoted from their substantive rank of Head Constable to Constable with effect from 01.07.2008.

1. H.C. Pau Khan No.288.
2. H.C. Hasham Ali No.298.
3. H.C. Ghulam Muhammad No.238.
4. H.C. Muhammad Hanif No.295.

The following Head Constables arrived on transfer from Swat District to this district vide Dy: Inspector General of Police Malakand Region vide Endst: No.2626/E, dated 17.06.2008 are hereby adjusted number noted against their name.

1. H.C. Muslim Shah No.198.
2. H.C. Muhammad Zaman No.4.
3. H.C. Maqbool Jehan No.446.
4. H.C. Shah Room No.22.

Sd/-  
District Police Officer,  
Bunner.

O.B. No. 279  
Dated. 24.07.2008.  
No. 4004 /E dated 24.07.2008.

Copy of above is submitted to the Deputy Inspector General of Police Malakand Region Swat for favor of information with reference to his office Endst: No. quoted above.

ATTESTED  
*M. H. Khan*  
MOJIBUL HUSSAIN  
Advocate  
Shirana Bazar, Peshawar  
For Govt of F.W.P.

Sd/-  
District Police Officer,  
Bunner.

PLEASE SEE ITS  
LEGIBLE COPY

34

CO (12)

**ORDER**

On repatriating from FRP vide Provincial Police Officer, NWFP  
war Endst: No.29317-23; dated 14/11/2007. On the reversion to the rank of  
Constable as selection Grade. The pay of Head Constable Maqbool Jan is hereby  
in BPS-09, Rs.6605/- with effect from 01/12/2007 is allotted constabulary

*[Signature]*  
District Police Officer, Swat

214/1

13 / E

16/1/2008

ATTESTED

*[Signature]*  
MOINUD-DIN-HUNAYUN  
Advocate-on-Record  
Supreme Court of Pakistan  
P.O. Box 2229, Faisalabad

Attested  
*[Signature]*

13

Legible Copy 34

**ORDER**

On repatriating from FRP vide Provincial Police Officer, NWFP Peshawar Endst: No.29317-23, dated 14/11/2007. On the reversion to the rank of Head Constable as selection Grade. The pay of Head Constable Maqbool Jan is hereby fixed in BPS-09, RS.6605/- with effect from 01/12/2007 is allotted constabulary Number.

District Police Officer, Swat.

No. 13/E  
Dated 16/01/2008.

ATTESTED  
*M. S. Khan*  
MADINUS-DIN-HUMAYUN  
Advocate-at-Large  
Supreme Court of Pakistan  
For Govt of NWFP, Peshawar

*M. S. Khan*  
*M. S. Khan*