

31th May, 2022

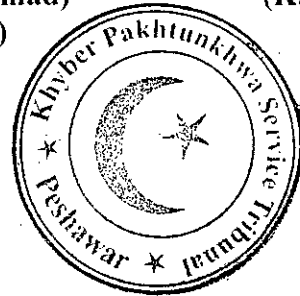
1. None present for the appellant. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

2. On the previous date last opportunity was granted to the learned counsel for the petitioner for preparation of this matter and sufficient time was given. This appeal pertains to the year 2012 and adjourned on one pretext or the other. Called several times till last hours of the court but nobody turned up on behalf of the petitioner. In view of the above, the execution petition is dismissed in default. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 31th day of May, 2022.*

(Mian Muhammad)
Member(E)

(Kulim Arshad Khan)
Chairman



26.01.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Bannu Bench. Adjourned. To come up for arguments on 25.04.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

25th April, 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakheil, Asst. AG for respondents present.

Counsel for the appellant requested for adjournment in order to further prepare the brief. Last opportunity is granted. To come up for arguments before the D.B on 31.05.2022.



(Fareeha Paul)
Member (E)



Chairman

11.11.2021


Petitioner present through counsle.

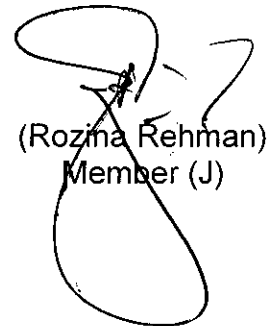
Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Arguments on the application heard. Record perused.

Application in hand was submitted seeking restoration of appeal which was dismissed in default for non-prosecution vide order dated 03.04.2019 and the instant application seeking restoration of appeal was submitted on 18.04.2019 which is well within time.

In this view of the matter, this application for restoration of appeal is accepted. Appeal stands restored. It be registered on its old number. This application stands filed after completion and compilation, whereas, a copy of the same be placed on main file. Case is adjourned to 26.01.2022 for arguments on main appeal before D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

D

06.07.2021

Junior to counsel for petitioner present.

Muhammad Adeel Butt learned Additional A.G for respondents present.

Former made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court, Peshawar. Request is accorded. To come up for arguments on 11.11.2021 before D.B.

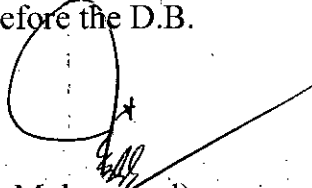

(Rozina Rehman)
Member(J)


Chairman

09.11.2020

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Muhammad Raziq, H.C for respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 18.01.2021 for hearing before the D.B.


(Mian Muhammad)
Member (E)

18.01.2021

Due to COVID-19, the case is adjourned for the same on 02.04.2021 before D.B.


READER

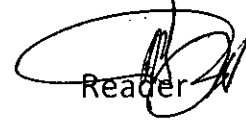
02.04.2021

Due to non availability of the concerned D.B, the case is adjourned to 06.07.2021 for the same.


Reader

9.4 .2020

Due to COVID19, the case is adjourned to
7/7/2020 for the same as before.


Reader

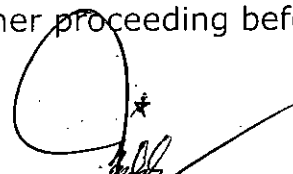
07.07.2020

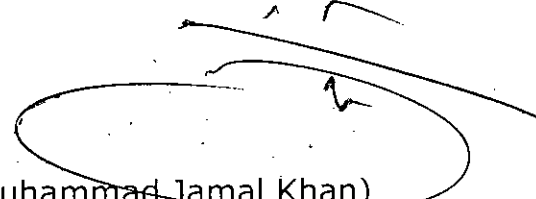
Due to COVID19, the case is adjourned to 01.09.2020 for
the same as before.


Reader

01.09.2020

Petitioner has not forth come at the moment and call
was made at 10:52 A.M. Mr. Riaz Ahmad Paindakheil,
Assistant Advocate General for the respondent is present.
Since the last two adjournments were made on the basis of
COVID-19, process of issuing notices to the petitioner as well
as respondents be repeated for 09.11.2020. File to come up
for further proceeding before D.B.


(Mian Muhammad)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

5/12/19 Due to incomplete bench the
case is adjourned to 13/1/20


Reader

13.01.2020

Petitioner absent. Learned counsel for the petitioner absent. Inayat Ullah H.C representative of the respondent department present and seeks time to furnish reply. Due to general strike of the Bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for reply/arguments on 21.02.2020 before D.B. Petitioner be put to notice for the date fixed.


Member


Member

21.02.2020

Petitioner absent. Learned counsel for the petitioner absent. Mr. Riaz Paindakhel learned Assistant AG for respondents present. Notice be issued to the petitioner for attendance. Adjourned. To come up for further proceedings on 09.04.2020 before D.B.



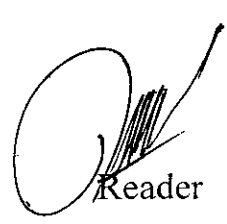



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 188/2019

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 18.04.2019 | <p>The application for restoration of appeal No. 158/2012 submitted by Mr. Yasir Saleem Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 18/4/19</p> |
| 2 | 25-4-19 | <p>This restoration application is entrusted to D. Bench-I to be put up there on <u>27-06-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 27.06.2019 | <p>Counsel for the petitioner present. Due to incomplete bench case is adjourned to 12.09.2019 for arguments before the D.B.</p> <p style="text-align: right;"> Reader</p> |
| | 12.09.2019 | <p>Learned counsel for the appellant present. Notice be issued to the respondents for reply on 11.11.2019 before D.B. Original record also be requisitioned for the date fixed.</p> <p style="text-align: center;">  (Hussain Shah) Member  (M Hamid Mughal) Member </p> |

03.04.2019

Nemo for the appellant. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. It is already 02:55 P.M and despite repeated calls the appellant is unrepresented today.

Dismissed for non prosecution.


Member



Chairman

ANNOUNCED
03.04.2019

18.09.2018

Clerk to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondent present. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not available. Adjourned. To come up for arguments on 31.10.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Kundi)
Member

31.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 06.12.2018.


READER

21.02.2019

Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Learned counsel for the appellant requests for adjournment. Adjourned. To come up for arguments on 03.04.2019 before D.B



Member


Chairman

28.02.2018

Counsel for the appellant present. Mr. Riaz Paindakhel, Assistant AG for the respondent present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20.04.2018 before D.B.


(Gul Zeb Khan)
Member


(M. Hamid Mughal)
Member

20.04.2018

Counsel for the appellant and Addl:AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 11.06.2018 before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

11.06.2018


Learned counsel for the petitioner and Mr. Zia Ullah, learned Deputy District Attorney present. Learned counsel for the petitioner seeks adjournment. Adjourned. To come up for arguments on 03.08.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

03.08.2018


Appellant in person present. Learned counsel for the appellant is absent. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Appellant seeks adjournment on the ground his counsel is not available today. Adjourned. To come up for arguments on 18.09.2018 before D.B.


(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

17.07.2017

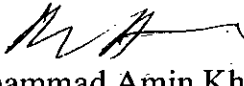
Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. The Learned Executive Member Mr. Gul Zeb Khan is away for interviews in the office of Khyber Pakhtunkhwa Public Service commission therefore, due to incomplete bench the case is adjourned for arguments to 06.11.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member

06.11.2017


Counsel for the appellant Mr. Yasir Saleem, Advocate present and submitted fresh Wakalatnama. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Member copy of the present appeal is not available. Counsel for the appellant is directed to submit Member copy of the present appeal on or before the next date of hearing. Adjourned. To come up for arguments on 01.01.2018 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

01.01.2018

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.02.2018 before D.B.


(Ahmad Hassan)
Member(E)


(M. Amin Khan Kundi)
Member (J)

28.06.2016

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Appellant is directed to submit Member copy of the instant appeal. To come up for arguments on 21.11.2016.


Member


Member

21.11.2016

None present for the appellant. Assistant AG for respondents present. Notice be issued to the appellant and his counsel. To come up for arguments on 27.3.2017.


(ABDUL LATIF)
MEMBER


(MUHAMMAD AMIR NAZIR)
MEMBER

W. Saleem
27/03/16
EU 2303/16

27.03.2017

Mr. Yasir Saleem, Advocate on behalf of counsel for appellant and Mr. Muhammad Jan, Government Pleader for respondents present. Requested for adjournment as counsel for appellant has been appointed as judge of the High Court. Adjourned for final hearing to 17.07.2017 before U.B.


Member


Chairman

28.09.2015

Counsel for the appellant and Addl: AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan, therefore, case is adjourned to 25/11/2015 for arguments.


Member

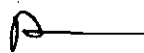
25.11.2015

Counsel for the appellant and Mr. Muhammad Raziq Inspector (Legal) alongwith Addl: AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan. Therefore, the case is adjourned to 12/4/16 for arguments.


Member

12.04.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 28.06.2016.


Member


Member

13.04.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Counsel for the appellant requested for adjournment. Case is, therefore, adjourned to 11.5.2015 for arguments.


MEMBER


MEMBER

11.05.2015

Appellant in person and Mr. Muhammad Jan, GP for the respondents present. Counsel for the appellant is not available and request made by the appellant for adjournment. Therefore, case is adjourned to 30.6.2015 for arguments.


MEMBER


MEMBER

30.06.2015

Counsel for the appellant and Muhammad Jan, GP for the respondents present. Arguments could not be heard due to shortage of time. To come up for arguments on 28.09.2015.


Member


Member

158/12

20.11.2014

Petitioner in person and Mr. Muhammad Adeel Butt, AAG with Wisal Khan, H.C . for the respondents present. The Tribunal is incomplete. To come up for the same on 26.12.2014.


READER

26.12.2014

Petitioner in person and Mr. Muhammad Adeel Butt, AAG with Wisal Khan, H.C for the respondents present. The Tribunal is incomplete. To come up for the same on 06.2.2015.


READER

6.2.2015

Appellant in person and Mr. Muhammad Jan, GP with Iqbal Munir H.C for the respondents present. Counsel for the petitioner was reported to be busy before the Hon'ble High Court. To come up for arguments on 19.3.2015.



MEMBER



MEMBER

19.3.2015

Appellant with counsel, and Mr. Muhammad Jan, GP for the respondents present. Counsel for the appellant requested for adjournment. Therefore, case is adjourned to 13.4.2015 for arguments.



MEMBER



MEMBER

1.10.2013.

Appellant in person and Mr. Muhammad Jan, GP with Nawab Khan, H.C for the respondents present. Mr. Muhammad Aamir Nazir, learned Member is on ex-Pakistan leave. To come up for arguments on 13.1.2014.


MEMBER

13.1.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Riaz Khan, SI (Legal) for the respondents present. Counsel for the appellant is not available, due to strike of lawyers. To come up for arguments on 22.4.2014.


MEMBER

22.4.2014.

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Wisal Muhammad, H.C for the respondents present. Due to general strike of the Bar, counsel for the appellant is not available. To come up for arguments on 19.8.2014.


MEMBER


MEMBER

19.08.2014

Petitioner in person and Mr. Muhammad Jan, GP with Wisal Khan, H.C for the respondents present. The learned Member is on official tour to Abbottabad. To come up for the same on 20.11.2014.


MEMBER

10.10.2012

Appellant with counsel and Mr. Sherafgan Khattak, AAG with Malak Habib, S.I (Legal) for the respondents present. Reply filed. To come up for arguments on 4.2.2012. Rejoinder, if any, in the meantime.


MEMBER

4.2.2013

Counsel for the appellant and Mr. Arshad Alam, GP and Nawab Khan, HC for the respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 09.05.2013. Rejoinder, if any, in the meantime.


Member


Member

09.05.2013

Appellant with junior counsel, and Mr. Muhammad Jan, GP with Nawab Khan, H.C for respondents present. Since senior counsel for the appellant is not available, therefore, case is adjourned to 4.7.2013 for arguments.


MEMBER

4.7.2013

Counsel for the appellant, Mr. Muhammad Jan GP with Nawab Khan, H.C for the respondents present. The Tribunal is incomplete, therefore, case to come up for the same on 19.9.2013.


READER

16.5.2011

Appellant
Counsel for the petitioner and Mr. Muhammad Zubair AGP with Malak Habib, S.I (Legal) for the respondents present. Respondents need further time. To come up for written reply on 20.6.2012.


Member


Member

20.6.2012

Appellant in person and Mr. Sherafgan Khattak, AAG with Mr. Abdul Basit, H.C for the respondents present. The latter needs further time. To come up for written reply positively on 27.7.2012.


MEMBER


MEMBER

27.7.2012

Junior to counsel for the appellant and Mr. Arshad Alam AGP with Abdul Basit, H.C for the respondents present. Respondents need further time. To come up for written reply on 27.9.2012.


MEMBER


MEMBER

27.9.2012

Appellant with junior counsel and Mr. Sherafgan Khattak, AAG with Malak Habib, S.I (Legal) for the respondents present. Respondents need further time. To come up for written reply on 10.10.2012.

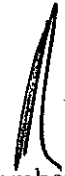

MEMBER


MEMBER


5.03.2012

Counsel for the appellant present and heard on preliminary. Contends that the appellant is entitled to the grant of promotion to the post of DSP (BPS-17) w.e.f. 30.6.2011 when his juniors/colleagues were promoted but the same has been denied to him for no good reason. The appellant submitted his departmental appeal on 29.9.2011 but with no response. Counsel for the appellant argued that the appellant is eligible, senior and fit for promotion has every right to be promoted, however, due to in action of the department he remained deprived. Points raised need consideration. The appeal is admitted to full hearing, subject to all legal objections. The appellant is directed to deposit the Security amount and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply on 5.4.2012.

*Appellant deposited
Process fee & Security
of Rs. 1000/- Bank Receipt
attached with file.*


Member.

5.03.2012

This case be put before the Final Bench  for further proceedings.


Chairman

5.4.2012

Appellant in person and Mr. Arshad Alam, AGP with Malak Habib, S.I (Legal) for the respondents present. The latter needs further time. To come up for written reply positively on 15.5.2012.


MEMBER

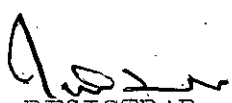
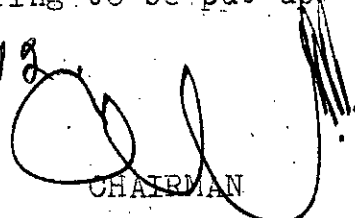

MEMBER

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case No. 152 of 2012

| Serial No. of Order or Proceedings 1 | Date of Order or Proceedings 2 | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3 |
|---|-----------------------------------|---|
| 1 | 30/01/2012 | <p>The appeal of Amir Muhammad Khan presented to-day by Mr. Ijaz Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2 | <u>2-2-2012</u> | <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>5-3-2012</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |

| Serial No. of Order or Proceedings | Date of Order or Proceedings | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary |
|------------------------------------|------------------------------|---|
| 1 | 2 | 3 |
| | | |

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. 158 /2012

Amir Muhammad Khan.....(Appellant)

Versus

PPO and others.....(Respondents)

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| 3 | Judgment and Order dated 22-11-2006 | 'B' | 9-13 |
| 4 | Applications & Notification dated 25-05-2011 | 'C', 'D' | 14-17 |
| 5 | Notification Dated 30.6.2011 | 'E' | 18-19 |
| 6 | Notification dated 17-09-2011 | 'F' | 20 |
| 7 | Departmental Appeal | 'G' | 21 |
| 8 | Vakalatnama | | |

Appellant

Through


IJAZ ANWAR

Advocate Peshawar
FR-3 fourth floor Bilour Plaza
Saddar road Peshawar Cantt
03339107225 (091) 5272054

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 158/2012

163
30/01/2012

Amir Muhammad Khan Inspector, I/C Security
M.P.As Hostel Peshawar.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. Capital City Police Officer, Peshawar.

(Respondents)

Appeal under section 4 of the Khyber Pakhtunkhwa (then NWFP) Service Tribunal Act, 1974 for the grant on promotion to the post of D.S.P BPS-17 w.e.f 30-06-2011 when the juniors / colleagues of the appellant were promoted, the notification dated 17.09.2011 whereby the appellant was allowed seniority and placed in between at S. No. 23 & 24, however, the appellant is denied regular promotion as D.S.P BPS-17, against which the Departmental Appeal dated 29-09-2011 has not been responded despite the lapse of 90 days.

Prayer in appeal:

On acceptance of this appeal the respondents may please be directed to allow consequential promotion to the post of D.S.P BPS-17, w.e.f 30-06-2011 when his colleagues / juniors were promoted with all back benefits.

Respectfully Submitted:

1. That pursuant to his selection by the Khyber Pakhtunkhwa (then NWFP) Public Service Commission, the appellant was appointed as Assistant Sub-Inspector of Police. Due to his spot less service he gained rapid promotion and was promoted as Sub Inspector, during the course of his service he was brought on the list F after recommendation by the Departmental Selection Committee i.e the promotion list for the post of Inspector.

2. That while serving in the said capacity, cases of promotion were referred to the Departmental Promotion Committee for consideration to the post of officiating inspector BPS-16. The appellant being senior most in the List F was eligible and fit, however when vide Office Order dated 14.10.2004 the Notification for promotions was issued the appellant failed to find his name among the promotees.
3. That the appellant enquired about his non- promotion to the post of Inspector, he was informed that he has been reported adverse for the year 2003. The appellant submitted departmental appeal and filed service appeal in this Honorable Tribunal, ultimately the service appeal was allowed vide Judgment and Order dated 07-10-2006 and the adverse entries were expunged. (Copy of the Judgment and Order dated 07-10-2006 is attached as Annexure 'A').
4. That prior to that the appellant was awarded major penalty of reduction to the rank of ASI vide order dated 08-08-2005. That order was also challenged in Service Appeal No. 896 of 2005, the service appeal was also allowed vide Judgment and Order dated 22-11-2006 and the appellant was restored to his original position Sub-Inspector with all back benefits. (Copy of the Judgment and Order dated 22-11-2006 is attached as Annexure 'B').
5. That the respondents remained reluctant in implementing the above Judgments and Orders, despite the request of the appellant on different occasions, ultimately he submitted implementation petitions in this Honorable Tribunal. In the proceedings before the Services Tribunal vide order dated 25-05-2011 the appellant was restored to his original rank of Sub-Inspector from the date of reversion, he was also allowed promotion as Inspector, the adverse ACR was also expunged, then vide notification dated 17-09-2011 the appellant was allowed seniority and he was placed above the name of Inspector Jehanzeb No P / 154 at S No. 24 & below the name of Inspector Amir Shahzad No. P / 157 at S No. 23 in the **Seniority List 'F'** of Inspectors. (Copies of the applications & Notification dated 25-05-2011 are attached as Annexure 'C', & 'D').
6. That vide notification dated 30-06-2011 the Inspectors namely Amir Shahzad and Jehanzeb were allowed promotion to the rank of DSP BPS-17 on regular basis, thus entitling the appellant to promotion as D.S.P BPS-17 on the basis of his seniority allowed vide notification dated 17-09-

2011. (Copy of the Notification dated 30.6.2011 & 17-09-2011 is attached as Annexure 'E' & 'F').

7. That the appellant submitted his Departmental Appeal dated 29.09.2011, for allowing him promotion to the post of D.S.P BPS-17, however no reply was given hence this appeal. (Copy of the Departmental Appeal is attached as Annexure 'G').

Grounds of Appeal:

- A. That the appellant has not been dealt with in accordance with law and thus his rights secured and guaranteed under the law and constitution were badly violated.
- B. That since the appellant was allowed his seniority along with his colleagues, therefore he is entitled to promotion w.e.f the date when his juniors / colleagues were promoted.
- C. That the appellant is fit, eligible and is the senior most however not considering him for promotion was against the law and in violation of his rights.
- D. That in accordance with the judgment of the Supreme Court 2009 SCMR P 396 "Seniority is an invaluable terms and conditions and cannot be interfered with without a valid and just cause circulation of final Combined Seniority List on the direction of the apex court was not a perfunctory ritual without consequential benefits. Rights which have accrued as a result of the Combined Seniority List cannot be denied to the appellants. The appellants are entitled to all the service benefits including Selection Grade and Promotion on the basis of seniority list." Relying upon the judgment of the apex court, since the appellant is allowed seniority entitling him to promotion as D.S.P BPS-17 with all back benefits.
- E. That the appellant remained deprived of his promotion on account of adverse remarks and penalty of reversion, thus on its setting aside by the Service Tribunal he will be entitled to his promotion when his batch mate or his juniors were promoted.
- F. That the appellant seeks the permission of this Honourable Tribunal to rely on additional grounds at the hearing of this appeal.

It is therefore prayed that on acceptance of this appeal the respondent may please be directed to allow consequential promotion to the post of D.S.P BPS-17, w.e.f 30-06-2011 when his colleagues / juniors were promoted with all back benefits

[Signature]
Appellant

Through

[Signature]
3

IJAZ ANWAR
Advocate Peshawar

Affidavit

I do hereby solemnly & declare on oath that the contents of the above appeal are true and correct to the best of my knowledge & belief and that nothing is kept back or concealed from this Honourable Tribunal.

[Signature]
30-1-12
ATTESTED
MALID MAHMOOD ADVOCATE
OATH COMMISSIONER
PESHAWAR HIGH COURT

[Signature]
Deponent

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.



ANNEX - A
5

Appeal No: 65/2005

Date of institution - 27.01.2006
Date of decision - 07.10.2006

Amir Muhammad Khan S.I. Investigation
Staff Police Station Badaber Peshawar.....(Appellant)

VERSUS

1. Provincial Police Officer NWFP Peshawar.
2. Capital City Police Officer, Peshawar.
3. S.S.P. (Investigation) Peshawar.....(Respondents)

Mr. Ijaz Anwar, Advocate.....For appellant.
Mr. Zaffar Abbas Mirza, Acting Govt. Pleader.....For respondents.

MR. ABDUL KARIM QASURIA.....MEMBER.
MR. FAIZULLAH KHAN KHATTAK.....MEMBER.

JUDGMENT.

ABDUL KARIM QASURIA, MEMBER :- This appeal has been filed by the appellant against the order dated 29.6.2004 whereby the adverse remarks for the period from 1.1.2003 to 31.12.2003 were communicated to him with the prayer that the impugned orders may be set aside and the adverse remarks be expunged.

2. Brief facts of the case are that pursuant to his selection by the NWFP Public Service Commission, the appellant was appointed as Assistant Sub Inspector of Police. Due to his spotless service he gained rapid promotion

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JULY 2006

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and was promoted as Sub Inspector. During the course of his service he was brought on list "F" after recommendation by the Departmental Selection Committee i.e. the promotion list for the post of Inspector. While serving in the said capacity, cases of promotion were referred to the DPC for consideration to the post of officiating Inspector BS-16. The appellant being senior most in the list "F" was eligible and fit, however, when vide order dated 14.10.2004 the Notification for promotions was issued but the appellant failed to find his name among the promotees. The appellant enquired about his non-promotion to the post of Inspector, he was informed that he has reported adverse for the year 2003, though it was never conveyed to the appellant. The appellant forthwith submitted an application dated 22.10.2004 for the supply of the said adverse remarks which were accordingly supplied on 22.10.2004. The appellant submitted his departmental appeal dated 22.10.2004 however, it was rejected vide order dated 21.12.2005, communicated to the appellant on 7.1.2006. Hence the instant appeal.

3. The respondents were summoned. They turned up through their representatives and also filed written reply opposing the contention of the appellant. The appellant also filed replication rebutting the objections raised by the respondents in their reply.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the appellant joined the respondent department as selectee of the Public Service Commission as ASI. The appellant got rapid promotion on account of his outstanding record

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and was brought on "F" list eligible for promotion as Inspector. Departmental Promotion Committee considered the cases for promotion as officiating Inspector but the name of the appellant was not found in the promotion order dated 14.10.2004. Later on it became known to the appellant that because of adverse entries in his ACR recorded by respondent No. 3 being the countersigning officer for the period from 1.1.2003 to 31.12.2003, the promotion was denied to him. The counsel further stated that the adverse entries for the period were not conveyed to the appellant while his promotion was blocked on account of these adverse remarks which is a glaring violation of rules/law. The appellant after that requested for conveying the adverse remarks which were conveyed to him on 22.10.2004. It was stated by the counsel that the respondents were bound to convey the adverse remarks within the prescribed time after January 2004 which they badly failed to do. It was also argued that even pending of enquiry against any Government servant is not to be taken as adverse until and unless the charges against the appellant are proved for which he is given punishment under the law. No prior counseling before recording the adverse remarks was given to him which is mandatory for such like action. The appellant preferred a departmental appeal on 22.10.2004 which was rejected on 21.12.2005. The counsel reiterated that no proper procedure has been followed by the respondents which has resulted in damaging the career of the appellant.

6. The AGP while opposing the contention of the appellant stated that the action was taken under the law while respondent N. 3 being the

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SERVICE TRIBUNAL
Jalandhar

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countersigning officer has exercised his power of recording the adverse remarks in the ACR of appellant, covered under the law. The adverse remarks were conveyed to him while his departmental representation was rightly rejected. The AGP requested that the appeal being devoid of merits be dismissed.

7. After listening to the parties and perusal of record, the Tribunal tends to agree with the contention of the counsel for the appellant. It has been proved through perusal of record that the adverse remarks were recorded when an enquiry was still pending against the appellant which was decided at later stage but the appellant was denied promotion because of the adverse remarks which were even not communicated to him. It was against the norms of law and principles of justice as to how a person was condemned without allowing him the chance of defence. In addition to the above anomaly the respondents have failed to give any kind of counseling before recording the adverse remarks in the ACR for the period from 1.1.2003 to 31.12.2003 which is a mandatory requirements in such like cases. The Tribunal, therefore, accepts the appeal and directs the respondent department to expunge the adverse entries recorded in the ACR of the appellant for the period from 1.1.2003 to 31.12.2003. No order as to costs. File be consigned to the record.

ANNOUNCED
07.10.2006.


(ABDUL KARIM QASURIA)
MEMBER.

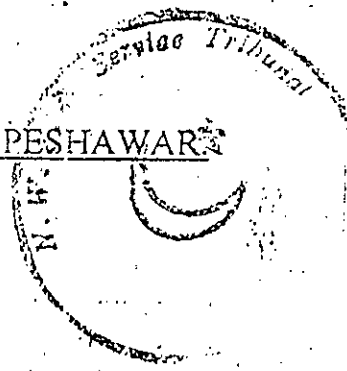

(FAIZULLAH KHAN KHATTAK)
MEMBER.

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BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR



89

APPELLANT: (C)
B

Appeal No. 896/2005

Date of institution – 19.11.2005

Date of decision - 22.11.2006

Amir Muhammad Khan, S.I. Investigation staff,
Police Station Badaber Peshawar.....(Appellant)

VERSUS

1. Provincial Police Officer NWFP Peshawar.
2. Capital Police Officer, Peshawar.
3. Senior Superintendent of Police Investigation,
Peshawar.....(Respondents)

Mr. Ijaz Anwar, advocate.....For appellant.
Mr. Zaffar Abbas Mirza, Acting Govt. Pleader.....For respondents.

MR. ABDUL KARIM QASURIA.....MEMBER.
MR. FAIZULLAH KHAN KHATTAK.....MEMBER.

JUDGMENT.

ABDUL KARIM QASURIA, MEMBER :- This appeal has been filed by the appellant against the order dated 8.8.2005 whereby he was awarded major penalty of reduction to the rank of ASI with the prayer that the impugned orders may be set aside and he be restored to the post of S.I. with full back benefits.

NWFP Service Tribunal
Peshawar
ATTORNEY GENERAL
EXAMINER

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Brief facts of the case as averred from the memo of appeal are that pursuant to his selection by the NWFP Public Service Commission the appellant was directly appointed as ASI in the Police Department. Due to his excellent performance and spotless service career the appellant was promoted as Sub Inspector. He while serving in the said capacity was cleared by the Departmental Promotion Committee and was brought on promotion list "F". The appellant while posted as Sub Inspector (Investigation) in Police Station Badaber was entrusted a criminal case registered on 12.7.2003, FIR No. 576 u/s 324/429/148/149 PPC r/w ¼ Explosive Act for investigation. The appellant rushed to the spot with his contingent staff and started his preliminary investigation on the same day. He prepared site plan, recorded the statements of eye witness under Section 161 of the Cr. P.C, prepared recovery memos, injury sheets. Moreover, he met the local people and enquired and also enquired from his close aides/sources about the case. During the course of his investigation he found that actually there was no such occurrence as reported in the FIR, but it was a concocted story and was designed/staged only to nab the accused in order to pressurize them for surrendering them to a compromise, because the complainant party was charged for murder of the father of the accused. The appellant's further found that the complainant is influential and powerful person and has been charged in scores of murders, therefore, the appellant prepared necessary zimni to this effect, the Incharge of the investigation Liaqat Shah Khan Inspector when visited the alleged place of occurrence after his necessary investigation agreed with his investigation and thus he in his zimni postponed the arrest of the accused. The complainant of the

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criminal case, tried to prevail upon the appellant to make out a case of his choice, however, the appellant refused which annoyed him and he thus filed a complaint against the appellant made therein false and frivolous allegations, thus a departmental proceedings were initiated against the appellant. The appellant was served with a charge sheet to which he submitted his reply and refuted the allegations. The Enquiry Officer obtained the statements of prosecution witnesses in camera and himself cross examined the witnesses, he did not allow the appellant to associate in the enquiry or to cross-examine all the witnesses. The appellant was served with a final show cause notice, the appellant duly replied the show cause notice. Respondent No. 3 without examining the defence plea of the appellant awarded him the major penalty of reduction to the rank of ASI vide order dated 8.8.2005 communicated to the appellant on 27.8.2005 against which he submitted a departmental appeal on 27.8.2005 however, it was rejected vide order dated 18.10.2005 communicated to the appellant on 15.11.2005. Hence the instant appeal.

3. The respondents were summoned. They turned up through their representatives, filed the written reply, contested the appeal and denied the claim of the appellant. The appellant also filed the replication in which the objections raised by the respondents in their reply have been rebutted.

4. Arguments heard and record perused.

The learned counsel for the appellant while initiating the arguments stated that the main charge leveled against the appellant is that he neither

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visited the spot nor carried out investigation in the case. The same has not been touched in the enquiry which means that the Enquiry Officer did not consider it being of no significance in view of facts contained in pages 6 to 17 which belied the allegation contained in the charge sheet, because about 90% of the investigation was conducted by the appellant in the first visit and therefore, the allegation levelled could not be proved. It was further added that the Enquiry Officer did not bother to confine himself to the task given to him i.e. charge sheet but he tried to prove other charges not relevant nor referred in the charge sheet which shows the malicious intention of the respondent department against the appellant. The procedure adopted in enquiry was also illegal and against the express provisions of NWFP Removal from Service (Special Powers) Ordinance, 2000, because the Enquiry Officer instead of allowing the appellant to cross examine the witnesses, he himself cross examined the witnesses and quite astonishingly offered himself for cross examination to the complainant, which shows complete lack of knowledge of the Enquiry Officer regarding the conduct of enquiry. Thus the Enquiry Officer has conducted the enquiry beyond the task given to him which rendered the enquiry defective and devoid of consideration. The charge sheet was neither served nor prepared by the

Enquiry Officer/Enquiry Committee. The counsel in support of the appellant referred to a judgment reported as 2005-PLC (CS)1508-1489. It was further argued that the proceedings were initiated at the behest of criminal person who was having the history of criminal cases against him and in the instant case when he failed to get the investigation conducted according to his wishes he made a false complaint, which has no solid base. The counsel

NWFP Service Tribunal
 Examiner
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stated that the appellant has been reduced to the lower rank without mentioning the period of punishment in contravention of the principle elaborated in the judgment reported in 2006-PLC-(CS)604, 2006-PLC-(CS)557 & 1993 PLC (CS)1082.

6. The AGP Mr. Zaffar Abbas Mirza, argued that the charges leveled against the appellant have been proved. Proper legal procedure was taken against the appellant and he was found guilty and has been rightly punished by the competent authority.

7. After listening to the parties and perusal of record, the Tribunal is of the view that there is sufficient weight in the arguments ^{made} ~~raised~~ by the counsel for the appellant while the enquiry conducted suffers from so many lacunas such as non serving of proper charge sheet/statement of allegations, not giving chance of cross examination of the witnesses to the appellant, denying the chance of personal hearing etc. The record shows that the charge sheet has been issued by the authority himself instead of Enquiry Officer, which shows his personal grudges to victimize the appellant. The appeal is therefore, accepted and the impugned orders are set aside and the appellant is restored to his original post of Sub inspector. No order as to costs. File be consigned to the record.

ANNOUNCED.
22.11.2006.

(ABDUL KARIM QASURIA)
MEMBER.

(FAIZULLAH KHAN KHATTAK)
MEMBER.

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ایپل بحضور جناب CCPO صاحب بھادر کیپٹل سٹی پشاور

ANNEX C

14

ایپل بحضور جناب CCPO صاحب کیپٹل سٹی پشاور عنوان :-

ایپل بحذف فرمانے Adverse ریمارکس از ACR برائے سال 2003ء اور بحال رکھنے اصل سناریائی اپیل کنندہ

جناب عالی!

نہایت منوڈبانہ گزارش ہے کہ من سائل بمورخہ 25/04/1991 بذریعہ NWFP/PSC-ASI بھرتی ہو کر 1997ء میں ASI بنایا جا کر بعد میں بعدہ Si کنفرم کیا جا کر برائے ترقی لسٹ F پر Sis صاحبان عامر شہزاد خان اور جہانزیب خان کے درمیان میرا نام بھی درج تھا پھر ماہ اکتوبر 2004ء میں بمقام CPO - DPC کا اجلاس منعقد ہو کر نتیجتاً میرے سنیر اور جو نیر ساتھیوں کو بعدہ انسپٹر BPS-16 ترقی دی گئی اور مجھے صرف اس لیے محروم رکھا گیا کہ میرے ACR برائے سال 2003ء میں جناب SSP/INV صاحب ضلع پشاور نے منفی Adverse ریمارکس درج کئے تھے جس پر میں نے باضابطہ حکمانہ اپیل دائر کر کے نام منظور ہونے پر سروسز ٹریبونل سے رجوع کیا اسکے بعد مورخہ 08/08/2005 کو جناب SSP/INV صاحب ضلع پشاور نے ایک انوائزی کا فیصلہ کرتے ہوئے مجھے تنزیلی کی سنگین سزا دیکر ASI بنا دیا جس پر بھی میں نے حکمانہ اپیل کر کے نام منظور ہونے پر دوبارہ رجوع کیا۔ معزز سروسز ٹریبونل صوبہ سرحد نے میرے دونوں اپیل ہائے Appeal No. 896/2005 & Appeal No. 65/2005 پر میرے حق میں فیصلے دیئے جسکے خلاف محکمہ نے بوساطت محکمہ قانون بحضور معزز سپریم کورٹ آف پاکستان اپیل بھجوائے جو محکمہ قانون نے AOR صاحب سپریم کورٹ آف پاکستان کو بھجوا کر بعدہ ناقابل سماعت قرار دیدئے ہیں۔ نقول فیصلہ جات سروسز ٹریبونل کے ساتھ تحریری اپیل گزارش کی لیکن تاحال کوئی غور نہیں ہوا ہے لہذا بذریعہ اپیل ہذا خلوص دل سے التجاء کرتا ہوں کہ کسی کی مرینہ بوڑھی والدہ جو بیوہ بھی ہیں کا واحد نرینہ اولاد ہونے کی وجہ سے مجھ پر رحم کرتے ہوئے ازراہ مہربانی میرے ACR برائے سال 2003ء سے Adverse Remarks حذف کرنے اور مجھے اپنی اصل سناریائی پر بحال رکھنے یعنی اپنے سینئر اور جو نیر ساتھیوں کے ساتھ متعلقہ تاریخ ماہ اکتوبر 2004ء سے ترقی دینے کے اور میرے کیریئر کو محفوظ بنائے جانے کے احکامات صادر فرمائیں زندگی بھر ڈعا گور ہوگا۔

فقط نہایت آدب

Sr. Standhly & Commercial & Financial P.L.

العارض

SHC - P/S - WEST CAMP

آپ کا تابع فرمان

ASi امیر محمد خان تھانہ غربی کینٹ کیپٹل سٹی پشاور

Forwarded RP
22/12/2010

جناب عالی!

نہایت منوذبانہ گزارش ہے کہ میں بذریعہ NWFP/PSC مورخہ 25/4/1991 کو ASI بھرتی ہو کر 1997ء میں SI بنایا جا کر بعد میں بعد SI کنفرم کیا جا کر برائے ترقی لسٹ "F" پر SI صاحبان عامر شہزاد خان اور چہانزیب خان کے درمیان میرا نام بھی درج تھا پھر ماہ اکتوبر 2004ء میں بمقام CPO محکمانہ ترقیاتی کمیٹی کا اجلاس منعقد ہو کر نتیجہ مورخہ 14/10/2004 کو میرے سنئیر اور جوئیر ساتھیوں کو بعد انسپکٹور (BPS-16) ترقی دی گئی اور مجھے اس لئے محروم رکھا گیا کہ میرے ACR برائے سال 2003ء میں جناب SSP/INV صاحب ضلع پشاور نے منفی (Adverse) ریمارکس درج کئے تھے جس پر میں نے باضابطہ محکمانہ اپیل دائر کر کے نام منظور ہونے پر سروسز ٹریبونل سے رجوع کیا۔ اس کے بعد مورخہ 8/8/2005 کو جناب SSP/INV صاحب ضلع پشاور نے میرے خلاف ایک انکوائری کا فیصلہ کرتے ہوئے مجھے تفریق کی سنگین سزا دیکر ASI بنا دیا جس پر بھی میں نے محکمانہ اپیل کر کے نام منظور ہونے پر دوبارہ سروسز ٹریبونل سے رجوع کیا۔ معزز سروسز ٹریبونل صوبہ سرحد نے میرے دونوں اپیل ہائے (Appeal No.896/2005 & appeal No.65/2006) پر میرے حق میں فیصلے (جن کے نوپرت انگریزی نقول لف اپیل ہذا ہیں) دیئے ہیں اور میرے سال 2003ء کے ACR سے Adverse ریمارکس حذف کرنے اور مجھے اصلی سناریو سمیت بحال رکھنے کے احکامات صادر کئے ہیں لہذا بذریعہ اپیل ہذا التجا کرتا ہوں کہ ازراہ رحم و مہربانی میرے ACR برائے سال 2003ء سے Adverse ریمارکس حذف/Expunge کرنے اور مجھے اپنی اصلی سناریو پر بحال رکھنے، اپنے سنئیر اور جوئیر ساتھیوں کے ساتھ متعلقہ تاریخ ماہ اکتوبر 2004ء ہی سے ترقی دینے یعنی میرے کیریئر کو محفوظ بنائے جانے کے احکامات صادر فرمائیں ساری عمر دعا گور ہوں گا۔

فقط نہایت آداب

Amir Muhammad

آپ کا تابع فرمان ASI / امیر محمد خان بیرٹ نمبر P4

انوشیکیشن ٹاؤن تھانہ تاتارہ

مورخہ: 11 جون 2007ء

Sing, forwarded

Forwarded for
Strongly recommended by

Cio. Tatar
15.6.07

DSP/IC Cantt.

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اپیل بحضور جناب انسپکٹر جنرل پولیس PPOI صاحب بہادر صوبہ خیبر پختونخواہ

بمقام _____ CPO پشاور

عنوان: اپیل بمراد بحالی اصل سناریائی اپیل کنندہ و ترقی بچہ انسپکٹر (BPS-16)

جناب عالی!

نہایت مودبانہ گزارش ہے کہ میں سائل بمورخہ 25/04/1991 بذریعہ ASI-NWFP/PSC بھرتی ہو کر 1997ء میں SI بنایا جا کر بعد میں بچہ SI کنفرم کیا جا کر برائے ترقی لسٹ F پر SI صاحبان عامر شہزاد خان اور جہانزیب خان کے درمیان میرا نام بھی درج تھا پھر ماہ اکتوبر 2004ء میں بمقام DPC-CPO کا اجلاس منعقد ہو کر نتیجتاً میرے سنیر اور جونیئر ساتھیوں کو بچہ انسپکٹر BPS-16 ترقی دی گئی اور مجھے صرف اسلئے محروم رکھا گیا کہ میرے ACR برائے سال 2003 میں جناب SSP/INV صاحب ضلع پشاور نے مفی ریماکس درج کیے تھے۔ جس پر میں نے باضابطہ حکمانہ اپیل دائر کر کے نام منظور ہونے پر سروسز ٹریبونل سے رجوع کیا۔ اس دوران مورخہ 08/08/2005 کو جناب SSP/INV ضلع پشاور نے ایک انکوآزی کا فیصلہ کرتے ہوئے مجھے تنزیلی کی سنگین سزا دے کر ASI بنا دیا جس پر بھی میں نے حکمانہ اپیل کر کے نام منظور ہونے پر دوبارہ سروسز ٹریبونل سے رجوع کیا۔ سروسز ٹریبونل نے دونوں اپیل ہائے Appeal No. 896/2005 & Appeal No. 65/2005 پر میرے حق میں فیصلے دیے جسکے خلاف حکم نے اپیل بجوائے مگر متعلقہ حکام نے ان فنٹ قرار دیے میں نے نقول فیصلہ جات سروسز ٹریبونل کے ساتھ برائے نفاذ حکمانہ اپیل گزارش کی مگر کوئی غور ہی نہ ہونے پر پھر ایک حکمانہ اپیل گزارش کر کے باہر مجبوری ایک مقدمہ برائے نفاذ فیصلہ جات سروسز ٹریبونل ہی میں دائر کیا ہے۔ جس کے نتیجے میں حال ہی میں حسب الاحکام مجاریہ صاحب حضور، No. 1336 / Legal, NO. 4412-16/EC-II, Dated Peshawar the 18/05/2011 آپریشنز صاحب ضلع پشاور نے بحوالہ آرڈر NO. 4412-16/EC-II, Dated Peshawar 25/05/2011 مجھے تاریخ تنزیلی سے بچہ سب انسپکٹر بحال کر کے میرے 2003 ACR سے Adverse ریماکس بھی حذف فرمادیے ہیں۔ چونکہ بوقت تنزیلی میرا نام ترقی لسٹ "F" پر درج تھا لہذا التجا کرتا ہوں کہ دونوں سزاؤں کے ختم ہو جانے پر اب بھی مجھے انصاف دلائے ہوئے میرا نام لسٹ "F" پر اپنے سنیر اور جونیئر ساتھیوں مذکورین بالا کے درمیان اُس جگہ درج کی جائے جہاں بوقت تنزیلی درج تھا اور کنفرمی بیمار بوڈھی والدہ صاحبہ جو سابق پولیس آفسر کی بیوہ بھی ہیں کا اکلوتا بیٹا ہونے کی وجہ سے مجھ پر رحم کرتے ہوئے ازراہ مہربانی مجھے اپنی اصل سناریائی پر بحال رکھنے اور اپنے سنیر اور جونیئر ساتھیوں کے ساتھ متعلقہ تاریخ ماہ اکتوبر 2004ء سے بچہ انسپکٹر (BPS-16) ترقی دینے اور ان کے ساتھ کنفرم کرنے اور سنیر جو میجر زکودے گئے جملہ فوائد مجھے بھی دلائے جانے اور میرے کیریئر کو یوں محفوظ بنائے جانے کے احکامات صادر فرمائیں زندگی بھر دعا گو رہوں گا۔

نقطہ انتہائی آداب

العارض

آپ کا مخلص تابع فرمان

SI امیر محمد خان / 31/05/2011

متعینہ آپریشنز سٹاف تھانہ غربی پشاور کینٹ

31-05-2011

Forwarded ll

Dy. S. O. Police
Cantt. Circle Peshawar
2/6/2011

Sir, Strongly Recommended and Forwarded For Favourable Considerations pl.

01/06/2011

SHO-P/S-WEST CANTT

No 1351-48
25/5/2011
ANNEX D
17

ORDER

In pursuance to the judgment of the Honourable Service Tribunal Khyber Pakhtunkhwa, Peshawar dated 22.11.2006 vide Appeal No. 896/2005 and the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar Memo: No. 1336/Legal, dated 18.05.2011, *epo* regarding the punishment of reversion awarded to ASI Amir Muhammad is hereby set aside and the appellant is restored to his original rank of Sub Inspector from the date of reversion.

**SENIOR SUPERINTENDENT OF POLICE,
OPERATIONS, PESHAWAR.**

25/5/2011

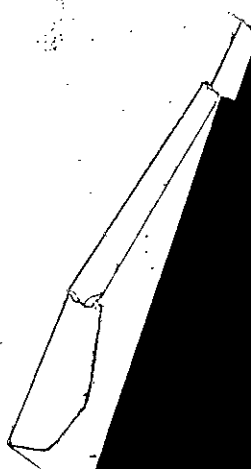
No. 24/2-2011 /EC-II, dated Peshawar the 25/5/2011.

Copy to the:-

1. Capital City Police Officer, Peshawar w/r to his office endst: No. 4375-76/EC-I, dated 24.05.2011.
2. SP/Cantt, Peshawar, SI Amir Muhammad of PS West Cantt: may be informed accordingly.
3. ✓ DSP/Legal for information and necessary action.
4. AS & FMC.

SHIL
Malik Habib

Dy. Supdt. of Police
Legal, CCP/Peshawar
25/5/2011



ANNEX E
-39- (18)

**OFFICE OF THE PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA, PESHAWAR.**

Attention
Hamid / Insp / FIA

NOTIFICATION.

Peshawar, the 30th June, 2011.

No.S/ 3887 /2011, The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar (i.e Competent Authority) on the recommendations of the Departmental Selection Committee held on 25.06.2011, is pleased to Promote the following Inspectors (BPS-16) to the Rank of DSsP (BS-17) on regular basis with immediate effect. However, their promotion will take effect from the date of taking charge of higher responsibilities:-

| S/ No. | Name & No | S/ No. | Name & No. |
|--------|--------------------------------------|--------|---|
| 1. | Inspector Umer Faraz, No. P/53 | 12. | Inspector Amir Shehzad, No. P/157 |
| 2. | Inspector Riaz Ud Din, No. K/14 | 13. | Inspector Jehanzeb, No. P/159 |
| 3. | Inspector Tariq Mehmood, No. H/46 | 14. | Inspector Naveed Iqbal, No. M/115 |
| 4. | Inspector Mukhtiar Ahmed, No. H/50 | 15. | Inspector Muhammad Idrees, No. P/170 |
| 5. | Inspector Muhammad Suleman, No. H/51 | 16. | Inspector Fazal Rabbi, No. M/114 |
| 6. | Inspector Shams Ur Rehman, No. M/106 | 17. | Inspector Ali Muhammad Bogra, No. M/111 |
| 7. | Inspector Fazal Haleem Jan, No. M/46 | 18. | Inspector Nisar Ahmed, No. MR/30 |
| 8. | Inspector Hayat Muhammad, No. M/82 | 19. | Inspector Saleem Dad, No. MR/31 |
| 9. | Inspector Abdul Hameed, No. M/129 | 20. | Inspector Muhammad Sharif, No. K/23 |
| 10. | Inspector Mir Azam, No. M/117 | 21. | Inspector Zarwali, No. K/73 |
| 11. | Inspector Muhammad Saleem, No. M/113 | 22. | Inspector Muhammad Shafiq, No. M/43 |

FIJAZ AHMAD KHAN TORU
Provincial Police Officer,
Khyber Pakhtunkhwa Province,
Peshawar

No.S/ 3988-3927 /2011,

Copy forwarded for information to the:-

1. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary, to Governor, Khyber Pakhtunkhwa, Peshawar.
3. Secretary, to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
4. Secretary, Govt: of Khyber Pakhtunkhwa, E&AD Department, Peshawar.
5. Secretary, Govt: of Khyber Pakhtunkhwa, Finance Deptt: Peshawar.
6. Secretary, Govt: of Khyber Pakhtunkhwa, Home & TA.s Deptt: Peshawar.
7. Accountant General, Khyber Pakhtunkhwa, Peshawar.

[Handwritten Signature]

Hamid
INSP/FIA

40
19

8. Addl: IGP/Ops: Khyber Pakhtunkhwa, Peshawar.
9. Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
10. Addl: IGP/Commandant, PTC Hangu
11. Addl: IGP/Special Branch, Khyber Pakhtunkhwa, Peshawar.
12. Addl: IGP/Investigation Khyber Pakhtunkhwa, Peshawar.
13. Addl: IGP/Elite Force Khyber Pakhtunkhwa, Peshawar.
14. Addl: IGP/Commandant, FRP Khyber Pakhtunkhwa, Peshawar
15. Capital City Police Officer, Peshawar.
16. All Region DIsG in Khyber Pakhtunkhwa.
17. Assistant Inspector General of Police, Traffic, Khyber Pakhtunkhwa, Peshawar
18. Officers Concerned.
19. Registrar, CPO, Peshawar.
20. Supdt: "E" Branch CPO, Peshawar.
21. Manager Govt: Printing Press Khyber Pakhtunkhwa, Peshawar.
22. Supdt: Secret, CPO, Peshawar.
23. U.O.P File (with 22-spare copies)

(KHALID MASOOD)

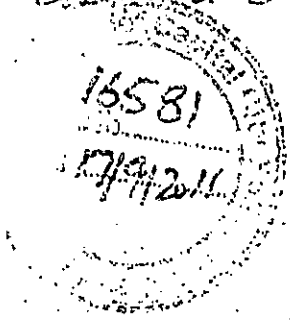
Addl: IGP/HQrs,
For Provincial Police Officer,
Khyber Pakhtunkhwa Province,
Peshawar

90

ANNEX F

20

S/Book 16581
Ct. Roll 1



**FOR PUBLICATION IN THE KHYBER
PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE PROVINCIAL POLICE OFFICER
KHYBER PAKHTUNKHWA, PESHAWAR.**

NOTIFICATION

Dated: 17/9/2011

No. 20187 /E-II, **RESTORATION OF LIST "F" AND PROMOTION
AS OFFG: INSPECTOR:-**

Consequent upon acceptance of appeal by the DPC held on 23.08.2011 Sub-Inspector Amir Muhammad No. P/8 is hereby restored in list "F" and promoted as Offg: Inspector BPS-16 (10000-800-33200) with his colleagues. His name is hereby placed above the name of Inspector Jehanzeb No. P/154 at S/No. 24 and below the name of Inspector Amir Shahzad No. P/157 at S/No. 23 in the seniority list of Inspector issued vide Endst: No. 3985-4000/E-II, dated 12.02.2011.

(KHALID MASOOD)

Add: IGP/Headquarters,
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar 4

No. 20188-90 / E-II dated Peshawar the 17/9/2011.

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

1. Capital City Police Officer, Peshawar w/r to his letter No. 9580/EC-I, dated 11.06.2011. His Service Book, Character Roll and Service Roll received vide your Memo No. 13636/EC-I, dated 22.08.2011 are returned herewith for record in your office.
2. Office Supdt: Secret CPO Peshawar.
3. U.O. P.file.

C.C.P.O. _____
SSP/O _____
SSP/I _____

OFFICE OF THE CAPITAL CITY POLICE OFFICER, PESHAWAR.

No. 8269-71 /EC-I, dated Peshawar the 22/9/2011.

Copy of above togetherwith S.Book, S.Roll of the above named officials are sent to the SSP/Operations, Peshawar w/r to his memo No. 7260/EC-II, dated 22-8-2011.

2. Asstt: Secret togetherwith his Character Roll.
3. EC-II branch.

CAPITAL CITY POLICE OFFICER
PESHAWAR.

ANNEX:- G (21)

The Worthy Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.

Subject: **Grant of confirmation in the rank of Inspector & promotion as per Seniority in List F as is allowed to my Colleagues / juniors vide notification dated 30.6.2011.**

Respected Sir,

That while implementing the judgment of the Honourable Service Tribunal Peshawar, vide Notification dated 17-09-2011 my name has been restored in List F and was promoted as officiating Inspector, similarly it was directed to place my name above Mr. Inspector Jehanzeb serial No. 24 and below the name of Inspector Amir Shehzad at serial No. 23.

It is pertinent to point out here that all my colleagues / junior have since been confirmed against the post of Inspector on 3.5.2008, similarly vide Notification No. S / 3887/2011 dated 30.6.2011 those officers who are below my name in the F list have further been promoted as Deputy Superintendents of Police BPS-17 on regular basis with immediate effect, thus where my restoration has been made to the list F vide order dated 17.9.2011, the effect would be that I will also be given the benefits of my seniority i.e confirmation & further promotion as Deputy Superintendent. moreover the delay in implementing the judgment of the Service Tribunal has deprived me of the promotion along with my colleagues / juniors.

It is therefore most humbly requested that the while implementing the judgment of the Service Tribunal, and keeping in view my restoration to my original position in list F I may also be allowed promotions as was allowed to my colleagues / juniors in the order of seniority and oblige.

Yours truly

Amir Muhammad Khan
Amir Muhammad Khan 29/09/2011
Officiating Inspector

No. P/8, Saad Shaheed Police lines
Peshawar.

Vide NO. 16547/ECI dt 19/10/2011 From CCPO/PR
to worthy PPO-KPK

Forwarded Pl.
SP/HAR...
17/9/11

Forwarded Pl.
Amir Muhammad Khan
30/9/11

30/9/11
Sub-Division of Police
Peshawar

POWER OF ATTORNEY

In The COURT of ICC Service Tribunal Peshawar
Amir Muhammad

For:
Plaintiff
Appellant
Petitioner
Complainant

VERSUS

P.P.O and others

Defendant
Respondent
Accused

Appeal/Revision/Suit/Application/Petition/Case No: _____ of _____
Fixed for _____

I/WE, the undersigned, do hereby nominate and appoint

MR.IJAZ ANWAR ADVOCATE, HIGH COURT, PESHAWAR

_____ my true and lawful attorney, for me in my name and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any appellate Court on any Court to which the business is transferred in the above matter and is agreed to sign and file PETITIONS. An appeal, statements, accounts; exhibits, compromises or other documents whatsoever, in connection with the said matter or any matter arising there-from and also to apply for and receive all documents or copies of documents, depositions etc and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other execution, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may per proper and expedient.

AND I/We hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/We undertake at time of calling of the case by the court/ my authorized agent shall inform the Advocate and make him appear in court, if the case may dismissed in default, if it be proceeded ex-parte the said counsel shall not held responsible for the same. All cost awarded in favour shall the right of Counsel or his nominee, and if awarded against shall payable by me/us.

IN WITNESS whereof I/We have hereto signed at _____ the _____ day to _____ in the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____


Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3, 4th Floor, Bilour Plaza, Saddar Road, Peshawar Cantt.
Ph: 091-52772054 Mobile: 0333-9107225

The Honourable Service Tribunal
KPK - PESHAWAR

SUBJECT: TO CHANGE THE DATE OF HEARING

Respected Sir,

Humbly stated in your honour!
That today 27/07/12 is being fixed
in two petitions of the appellant
before this esteemed Court while my mother
is seriously ill, therefore, it's requested
in your honour to change the date of
hearing in both petitions. For the next
I will be present in time. Thanking yours
anticipations.

Sincerely Yours obediently

Amir / 27/07/12
AMIR MOHAMMAD KHAN
DSP, Security CP-PR

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

Service Appeal No. 158/2012.

Amir Mohammad Inspector, Incharge Security MPA Hostel
Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.....Respondents.

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this court with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.
7. That the appellant got no locus standi and cause of action to file the instant appeal.

FACTS:-

- 1- Para No. 1 pertains to record hence no comments.
- 2- Para No. 2 incorrect. The appellant was well aware of the fact that his ACR for the year 2003 has been reported adverse by the reporting officer due to which appellant was deferred for promotion.
- 3- Para No. 3 correct to the extent that Hon'ble Service Tribunal while accepting the plea of the appellant expunged the adverse remarks from the ACR for the year 2003.
- 4- Para No. 4 correct to the extent that the Hon'ble Service Tribunal while deciding the Service Appeal No. 896/2005 restored the appellant to his original rank of Sub-Inspector.
- 5- Para No. 5 pertains to record, needs no comments.
- 6- Para No.6 pertains to record hence no comments.
- 7- Para No. 7 incorrect. Appellant has been promoted to the rank of DSP (BPS-17) vide notification dated 19.03.2012 by the

Departmental Selection Committee in its meeting held on 17.12.2011. (copy annexed)

GROUND:-

- A- Incorrect. No right of the appellant has been infringed by the respondents.
- B- Incorrect. Appellant has been granted his due right by the respondent by promoting him to the rank of DSP (BPS-17).
- C- Incorrect. Para already explained.
- D- Para pertains to judgment of Supreme Court of Pakistan, hence no comments.
- E- Incorrect. Para already explained in preceding paras.
- F- That the respondents also seek permission of the Hon'ble Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant devoid of merits, legal footing must be set aside/ dismissed.


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


**Capital City Police Officer,
Peshawar.**

140,

MR. PIR MUHAMMAD KHAN
Assalamu Alaikum, The Reader Sahib

Dear, I have gone to Public Disorders
management school Mardaan
for a training of two weeks

Today we have to hear a lecture
of a visiting university psychology
Professor, which is comp

Please change and fix the
next hearing in June

Pl. I will be thankful

~~29/05/15~~ ~~11/05/15~~
DSP (S) PHC PR

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 158/2012

Amir Muhammad, Inspector, Incharge Security MPA Hostel
Peshawar(*Appellant*)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa & Others
.....Respondents

| |
|--|
| <p><u>REJOINDER TO THE PARA WISE REPLY ON</u> <u>BEHALF OF THE APPELLANT</u></p> |
|--|

Respectfully submitted:

The appellant submits his rejoinder as under:

ON PRELIMINARY OBJECTIONS:

1. Contents incorrect and misleading, the instant appeal is filed well within the prescribed period of limitation.
2. Contents incorrect and misleading, all the parties necessary for the disposal of the appeal are arrayed in the instant appeal.
3. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.
4. Contents incorrect and misleading, the appellant has illegally been denied promotion to the post of DSP BPS-17, thus he, aggrieved civil servant, has got the necessary cause action and locus standi to file the instant appeal.
5. Contents incorrect and misleading, no rule of estoppel is applicable to the instant case.
6. Contents incorrect and misleading, all facts necessary for the disposal of appeal are brought before this honorable court and nothing has been concealed.
7. Contents incorrect and misleading, the appeal is well accordance with the prescribed law and rules.
8. As stated in reply to Para 4.

ON FACTS

1. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
2. Contents of Para-2 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
3. No comment being admitted.

4. No comment being admitted.
5. Contents need no reply, however contents of Para-5 of the appeal are true and correct.
6. Contents need no reply, however contents of Para-6 of the appeal are true and correct.
7. Contents of Para-7 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.


GROUNDS

The Grounds (A to F) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

It is therefore humbly prayed that the appeal of the appellant may please be accepted as prayed for.

Appellant

Through


YASIR SALEEM
 Advocate High Court.

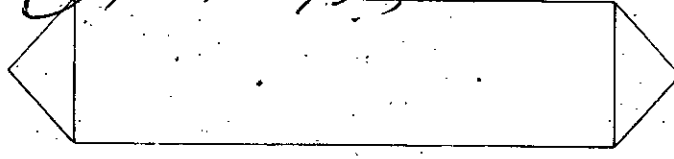
AFFIDAVIT

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honorable Tribunal.



Deponent

بعدالت شہر گجوان کھوہ سرحدی ٹریسٹ



مورخہ 27 مارچ 2017ء پنجاب
مقدمہ اصغر محمد خان بنام لوہانس
دعویٰ سرحدی ٹریسٹ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کسٹماجر کیلئے ماسٹر مسلم (سرحدی) جو البتہ ملین اور کسٹماجر
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 27 مارچ 20

Trustee
Accepted
[Signature]

From Akbar / 27/03/017

اصغر محمد خان
[Signature]

العواہ العواہ

مقام [Signature]
Attestation
Accused