

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR**

SERVICE APPEAL NO. 1537/2022.

Rizwan Habib.....(Appellant)

VERSUS

IGP, KP etc(Respondents)

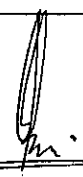
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(02) Spare Copies Submitted
at Camp Court Abbottabad
on. 19-06-23-


Dy: Superintendent of Police,
Legal, Abbottabad.

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

Service Appeal No. 1537/2022.

Rizwan Habib(Appellant)

VERSUS

IGP, KP etc (Respondents)

REPLY BY RESPONDENTS No. 2 TO 5.

**Khyber Pakhtunkhwa
Service Tribunal**

RESPECTFULLY SHEWETH

Diary No. 6504

PRELIMINARY OBJECTIONS: -

Dated 17/07/23

- 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 for implication and removal of anomalies as provided under Rule 13.18 of Police Rules 1934.
- d. That the appeal is bad for mis-joinder and non-joinder of unnecessary and proper parties.
- e. That the appeal is bad for law/ rules and limitation as well.

FACTS:-

1. Para pertains to the service record of the appellant hence no comments.
2. Para pertains to the record needs no comments.
3. Para pertains to the record needs no comments.
4. Para pertains to the record needs no comments.
5. Para pertains to the record needs no comments.
6. Incorrect, that in many cases the Police 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.

Furthermore, In compliance with order sheet of Hon'ble Supreme Court Pakistan dated 26.01.2023 in Suo Moto Contempt proceedings vide Crl O Petition No. 38/2021 and in pursuance of Judgment passed by Hon'be Supreme Court of Pakistan in 2013 SCMR 1752, civil Review Petition No. 193/2003.

reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 and consolidated Judgment dated 30.06.2020 in Civil Petitions No. 1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 on issues of Out of Turn Promotions, all Unit Heads, Regional Police Officers and District Police Officers of Khyber Pakhtunkhwa Police were directed vide this office Letter No. CPO/CPB/75, dated 14.02.2023, to ensure compliance of above mentioned Orders in letter and spirit. Accordingly, all Out of Turn Promotions granted to Police personnel either on gallantry or otherwise belonging to different Units, Regions & Districts have been withdrawn by the concerned authorities and consequently their seniority has been refixed along with their Batch mates who were promoted during their intervening period by maintaining original inter-se-seniority.

In view of the above, case regarding Out of Turn Promotion of Mr. Muhammad Rizwan DSP was examined. As per details provided by office of RPO, Hazara Region vide Letter bearing No.5491/E, dated 12.03.2023 on subject "**collection of data of police officers falling under the definition of out of turn promotion**", gained benefit of Lower College Course during term ending 20-09-1996 & promoted as HC vide Order No.397-403/OASI dated 22-01-1995 before his colleagues & qualified Intermediate College Course, his name was brought on promotion list "D". After withdrawal of Out of Turn Promotion Order he is demoted from the rank of DSP to the rank of Sub Inspector with immediate effect vide CPO Letter No. 535/ Legal/E-I, dated 14.03.2021.

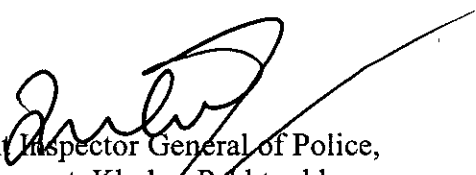
7. Incorrect, as already explained in preceding Paras hence no comments.
8. Incorrect as already explained in Para No. 6.
9. Incorrect, as explained above.
10. Incorrect, promotions, confirmation and placing on seniority lists are subject to fulfilling the required criteria, mandatory courses/ training as per Police Rules, 1934. Therefore, the appellant cannot claim seniority mere on his length of service. Furthermore, the instant Service Appeal is liable to be dismissed on following Grounds.

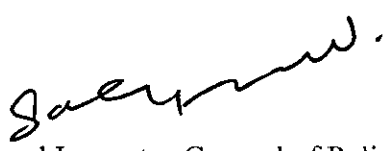
GROUNDS


- a. Incorrect, as already explained above in para No. 6.
- b. Incorrect, promotions, confirmation and placing on seniority lists are subject to fulfilling the required criteria, mandatory courses/ training as per Police Rules, 1934. Therefore, the appellant cannot claim seniority mere on his length of service.
- c. Incorrect, as already explained above.
- d. Incorrect, as already explained above.
- e. Incorrect, as explained above. 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. Therefore, the competent authority through Letter No. CPO/CPB/68, dated 28.02.2022 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.
- f. Incorrect, no negligence exists on part of answering respondents.
- g. That the answering respondents may be allowed to raise additional grounds at time of hearing of instant Service Appeal.

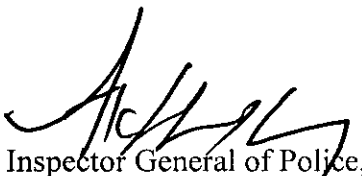
PRAYER:-

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,
Establishment, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 3)


Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 4)


Regional Police Officer,
Hazara Region Abbottabad
(Respondent No. 05)


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

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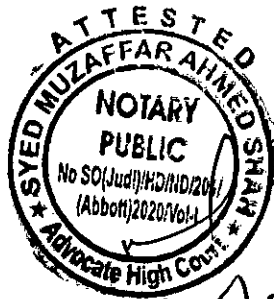
IGP, KP etc(Respondents)

AFFIDAVIT.

I, Muhammad Tanveer DSP Legal, Abbottabad do hereby affirm on oath that the contents of written comments are true to the best of my knowledge & belief and nothing has been concealed from the Honorable Tribunal.

It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor there defense has been struck off / case.

DEPONENT.



28/5/23

Annexure "A"

5

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

Attested

D-1. Superintendent of Police
Legal Abbottabad

Sd/-


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

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

AUTHORITY LETTER.

I, Regional Police Officer, Hazara Region, Abbottabad do hereby authorize to Mr. Hamad Khan, Reader DSP Legal, Abbottabad to file comments/Reply before the Honorable Service Tribunal, Khyber Pakhtunkhwa in the following Service Appeals, on behalf of Respondents.

1. Service Appeal No. 1537/2022 titled Rizwan Habib acting SP Vs IGP and others.
2. Service Appeal No. 1538/2022 titled Jehangir Khan acting SP Vs IGP and others.
3. Service Appeal No. 1521/2022 titled Hafeez ur Rehman Ex-Constable No. 113 Vs IGP and others.
4. Service Appeal No. 624/2023 titled Muhammad Irfan Ex-Constable No. 542 Vs IGP and others.
5. Service Appeal No. 367/2023 titled Abdul Rashid Inspector (R) Vs IGP and others.


**Regional Police Officer,
Hazara Region, Abbottabad.**
**Regional Police Officer
Hazara Abbottabad**