

1st June, 2023

1. Learned counsel for appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

2. Being not prepared, learned counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 11.09.2023 before D.B. P.P given to the parties.

SCANNED
AT
Peshawar



(Salah-Ud-Din)
Member (J)



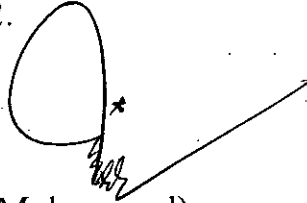
(Kalim Arshad Khan)
Chairman

Mutazem Shah

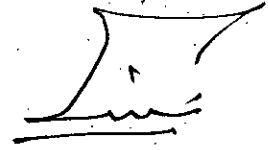
02.11.2022

Appellant in person present. Mr. Muhammad Jan, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 26.12.2022.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

26.12.2022

Due to winter vacation, the case is adjourned to 29.03.2023 before the same.



Reader

29th Mar, 2023

Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl: AG for the respondents present.

Learned counsel for the appellant seeks adjournment. To come up for arguments on 01.06.2023 before D.B. P.P given to the parties.



(Salah Ud Din)
Member (Judicial)



(Kalim Arshad Khan)
Chairman

SCANNED
KASHT
Peshawar

06.06.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Wisal, Head Constable alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for rejoinder, if any, as well as arguments on 17.08.2022 before the D.B.

(Fareeha Paul)
Member (E)

(Salah-ud-Din)
Member (J)

17/08/2022

Due to summer vacation the case is adjourned 02/11/2022

for the same.

Reader.

Stipulated period passed reply not submitted.

29.07.2021

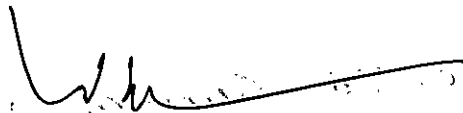
Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.


Chairman

09.11.2021

Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Comments on behalf of respondents received, copy of which handed over to appellant, who requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for rejoinder, if any, as well as arguments before the D.B on 10.02.2022.


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


(Salah-Ud-Din)
Member (J)

10-2-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 6/6/2022


Reader

22.06.2021

Counsel for the appellant present: Preliminary arguments heard.

13

BP

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 09.11.2021 before the D.B.

Appellant Deposited
Security & Process Fee

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22/6/21

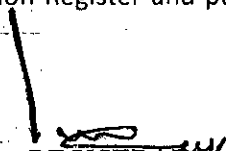


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Chairman

P

FORM OF ORDER SHEET

Court of _____

Case No.- 920 /2021 2

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/01/2021	<p>The appeal of Mr. Gulzar Khan presented today by Mr. Kamran Sarwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	15.03.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/03/21</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 22.06.2021 before S.B.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL No: - 920 /2020

Gul Zar Inspector (Rtd) *VERSUS* The Inspector General of Police Khyber Pukhtunkhawa and Another.

..... Petitioner


..... Respondents

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S#	Description of the Documents	Annex	Pages
1.	Memo of Service Appeal		1-6
2.	Affidavit	*	7
3.	Addresses of Parties	*	8
4.	Copy of notification of retirement	"A"	9
5.	Copy of Service Appeal with final judgment	"B"	10-11
6.	copy of Notification of revised Seniority	"C"	12
7.	Copy of judgment dated 25.09.2020	"D"	13
8.	Copy of Departmental Appeal	"E"	14-15
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Dated: 14/01/2021

Through:


Appellant

Kamran Sarwar

Advocates High Court,

Peshawar.

10

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL No: - _____/2021

Gul Zar Khan Inspector (Rtd) Investigation unit CPO,
Police Department Khyber Pukhtoonkhwa, Peshawar.

..... *Appellant*

Versus

1. The Inspector General of Police Khyber Pukhtunkhawa
2. The Additional Inspector General of Police, Establishment Department Khyber Pukhtunkhawa.

.....*Respondents*



APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ACTION OF THE
RESPONDENTS BY NOT ISSUING REVISED
SENIORITY LIST AND NON-AWARDING
PRO-FORMA PROMOTION TO THE
APPELLANT TO THE POST OF DSP FROM
THE DATE WHEN HIS COLLEGUES WERE
PROMOTED AND AGAINST NG ACTION
TAKEN ON THE
DEPARTMENTAL APPEAL OF APPELLANT
WITHIN THE STATUTORY PERIOD OF
NINETY DAYS.

PRAYER IN SERVICE APPEAL:

ON ACCEPTANCE OF THIS SERVICE APPEAL:

- A. THE DIRECTION MAY KINDLY BE ISSUED TO THE RESPONDENTS FOR ISSUING REVISED SENIORITY LIST AND AWARDING PROFORMA-PROMOTION TO THE APPELLANT TO THE POST OF DSP WHEN HIS COLLEAGUES WERE PROMOTED.**
- B. ANY OTHER RELIEF OF WHICH THE APPELLANT IS ENTITLED TO AND THE APPELLANT HAS NOT ASKED FOR SPECIFICALLY, MAY ALSO BE GRANTED IN FAVOR OF THE APPELLANT AGAINST THE RESPONDENTS.**

Respectfully Sheweth:-

Facts giving raise to the present Service Appeal are as under: -

- 1. That the appellant joined police department of Khyber Pakhtunkhwa on dated 16.12.1978 as a constable and was retired on superannuation as an Inspector Investigation unit CPO, on dated 31.12.2019. (Copy of notification of retirement is attached as Annexure "A")**
- 2. That the appellant was promoted on dated 02.04.2008 as officiating sub-inspector and according to police rules one year posting as SHO is the only pre-requisite for the confirmation in the Rank of officiating Sub Inspector, but the appellant was not confirmed after three years while his colleagues were not**

only confirmed but were also promoted to the Higher Rank, against which the appellant filed a service appeal (appeal No 554/2013 with title Gulzar Khan VS PPO/CCPO KPK) in this Hon,ble Tribunal. **(copy of Service Appeal with final judgment is attached as Annexure "B")**

3. **That** service appeal was accepted by this Hon,ble Tribunal but respondents failed to make confirmation of the appellant from the date on which his colleagues were confirmed within stipulated period.
4. **That** the appellant filed an execution petition No 117/16 with Title Gulzar Khan Versus PPO and others in this Hon,ble Tribunal, in the consequence of which the respondents department issued a notification Dated 26.02.2020 through which the confirmation of appellant was approved and then notification of confirmation of the appellant as Sub-Inspector dated 01.03.2016 was revised with effect from 24.01.2011. **(Copy of Notification Dated 26.02.2020 is attached as annexure "C")**
5. **That** after Issuing a notification for confirmation of the appellant as Sub-Inspector with effect from 24.01.2011 the appeal was disposed of accordingly on dated 25.09.2020. **(Copy of judgment is attached as annexure "D")**
6. **That** the appellant filed Departmental appeal on dated 05/10/2020 with the respondents for

issuing revised seniority list according to the revised Notification and awarding proforma promotion with his colleagues but is still not replied. (Copy of Departmental appeal dated 05/10/2020 is attached as annexure "E").

7. That the appellant having no other adequate, and efficacious remedy, hence filed this Service Appeal on the following grounds **inter alia**:-

GROUND:-

- A. That the appellant possesses the required academic qualification and having an excellent track record, remained SHO Crime Branch and was retired as an Inspector Investigation unit CPO, Police Department Khyber Pukhtoonkhwa, Peshawar.
- B. That action of the respondents regarding non issuing revised seniority list and non-awarding pro-forma-promotion to the appellant with his colleagues is illegal against the law, facts and norms of natural justice.
- C. That the appellant has not been treated by the respondents' department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

D. That there is no fault on the side of appellant in awarding promotion with his colleagues while According to the judgment of Supreme Court, If it had shown that civil servant was not promoted when his batch-mates were promoted without there being any fault on his part, he could claim pro forma promotion, irrespective of the fact whether he was holding the post on acting charge basis or not. Reliance in this respect can be placed on **the judgment of August Supreme Court 2004 P L C (C.S.) 914 (Citation -b) the relevant citation of the judgment is as under: -**

(b) Civil service---

---- Pro forma promotion, claim for---If it was shown that civil servant was not promoted when his batch-mates were promoted without there being any fault on his part, he could claim pro forma promotion, irrespective of the fact whether he was holding the post on acting charge basis or not---If the promotion of the civil servant was deferred without any fault on his part, he could be given pro forma promotion irrespective of the fact whether he was holding relevant post on acting charge basis or not.

E. That It is a settled principal of law that if service, benefits have actually accrued to an employee but for one reason or the other such benefits could not

be awarded to such an employee, then, irrespective of the fact of his/her having retired from service, the department concerned shall still have to further consider her case for such a promotion and to allow him/her benefits of such a promotion, even after retirement from service.

F. That the act of the respondents is illegal, unconstitutional, without any legal authority and not only discriminatory but the result of Mala fide on the part of respondents.

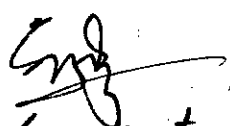
G. That appellant has vested right of equal treatment before law and the act of the respondents to deprive the appellant from pro-forma promotion is unconstitutional and clear violation of fundamental right.

H. That the appellant seeks permission of this Honorable Tribunal to raise any other grounds at the time arguments.

It is, therefore, most humbly prayed that on acceptance of this Service Appeal, an appropriate Direction as prayed for may please be issued in favour of the Appellant against the respondents.

Dated: - _____

Through: -


Petitioner/Appellant

KAMRAN SARWAR
Advocates High Court,
Peshawar.



Anex A 9

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

PH: 091-9210239 Fax: 091-9210927

Dated Peshawar the May, 2020.

NOTIFICATION

No. _____ /CPO/E-11/retirement:- Without prejudice to the legal remedies available to Provincial Government and in pursuance of judgment of the Peshawar High Court Peshawar dated 19/02/2020 in WP No. 5673-F-2019 Inspector Guzar Khan P/346 of Investigation Unit CPO Peshawar, shall stand retired from Government service on 31/12/2019 on attaining the age of superannuation, as his date of birth is 01/01/1960 subject to CPI A/Appeal of the Provincial Government against aforementioned judgment of Peshawar High Court and any order contrary to and when issued by the apex Court of Pakistan.

Sd/-
DR. ISHTIAQ AHMAD PSP PPM
Addl. Inspector General of Police (CPO)
For Inspector General of Police
Khyber Pakhtunkhwa
Peshawar

Endst: No. & date even.

Copy forwarded to the -

1. Addl. Inspector General of Police Inv Khyber Pakhtunkhwa w.r to No. 3606/PC Inv dated 24.04.2020
2. Office Supdt. Secret Branch, CPO Peshawar
3. C.O.P.I.E

Handwritten signature
ATTACHED

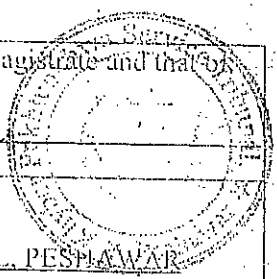
(Dr. ZAHED ULLAH) PSP
AIG Establishment
For Inspector General of Police
Khyber Pakhtunkhwa Peshawar

(10)

Anex "B"

(4)

Date of Order	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
Date of Proceedings	2
09.12.2015	3



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.554/2013

(Gulzar Khan vs Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 2 others)

JUDGMENT

MR. PIR BAKHSH SHAIK, MEMBER: Appellant with counsel and

Mr. Ziaullah, GP for respondents present.

1. Per memo of appeal, the appellant was appointed as Constable in the Police Department vide order dated 16.12.1978. The appellant was promoted as Officiating Sub-Inspector vide notification dated 2.4.2008. That as Sub-Inspector, his colleagues were confirmed which right was not extended to the appellant against which he submitted representation dated 26.2.2011 followed by reminder dated 12.10.2011 and 6.11.2012. That on 25.2.2013 the appellant unofficially came to know that his representation has been rejected on the ground that he had not qualified upper-college course and hence this service appeal under section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Reply of the respondent-department is on file in which respondent-department has replied that the representation has been rejected for the reason that the appellant had not qualified upper-college course.

2. Arguments heard and record perused.

3. It was submitted by learned counsel for the appellant that per Rules-13.10 of Police Rules, 1934 para 1 (b) of sub-section 10 upper-college course is not mandatory for confirmation to the post of Sub-Inspector. He also submitted that the standing order of 2009 is not approved by the Government. Learned counsel for the appellant argued that the appellant remained SHO for 2 years and 7 months. While placing reliance on the judgment of this Tribunal in Appeal No. 1602/2010 decided on 14.3.2012, learned counsel for the

(Signature)
ATTESTED

ATTESTED
(Signature)
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

appellant further argued that an identical case, was allowed by this Tribunal and the appellant was confirmed as Sub-Inspector, and the appellant is also entitled to the same treatment.

4. This appeal was resisted by learned Government Pleader on the grounds that the appeal is not against the final order therefore, the same is not maintainable. He further submitted that the appeal is also time barred and requested that appeal may be dismissed.

5. During the course of arguments, a copy of order dated 17.3.2011 issued from the office of CCPO bearing No. 4584 was submitted, which shows that departmental appeal of the appellant was rejected on the grounds under that standing order No. 10/2009 the upper-college course is mandatory. Evidently, this is the final order, hence, the appeal could not be treated as ~~a non~~ maintainable on the ground there was not final order.

6. It was not shown on behalf of the respondent-department that rejection of departmental appeal of the appellant has been timely communicated to the appellant. Since its timely communication to the appellant is not proved by the respondent-department therefore, the appeal can not be treated as time barred. ✓

7. In the stated situation we direct the respondent-department to go through the judgment of this Tribunal delivered in Appeal No. 1602/2010 titled Nageebullah-vs-DIG Police and if this case is found identical with the referred case of Nageebullah then the matter be decided on the analogy of the referred case, with in three months after receipt of this judgment. The appeal is disposed off accordingly. Parties are left to bear to their own costs. File be consigned to the record room.

Announced Sdt - Pir Bakhtish Shah
9.12.2015 Member

Sdt - Abdul Latif
Member

Certified to be true copy
Khair Ahmad
Secretary
Service Tribunal,
Peshawar

APPEAL DISMISSED

Date of Communication 31.12.2015
No. 8020
31.12.2015
31/12/2015

(12)

Anex "C"



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

Telephone No.091-9210641 Fax No. 091-9212597

POLICE DEPTT: CCP, PESHAWAR.

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

NOTIFICATION.

Dated 26/02/2020.

No. 4255 /EC-I, **REVISED CONFIRMATION IN THE RANK OF SIS:-** In the light of judgment of Service Tribunal dated 09.12.2015 & 18.11.2009, direction of Worthy Inspector General of Police conveyed through AIG Legal CPO, Peshawar vide his office Letter No.38/Legal, dated 01.01.2020, recommendation of Departmental Selection Committee meeting held on 24 & 26-12-2019 at CCP, Peshawar and approved by the competent authority the confirmation of SI Gulzar Khan now Inspector No. P/346 of Capital City Police Peshawar presently serving in Investigation Khyber Pakhtunkhwa, Peshawar issued vide this office notification No.4167-79/EC-I, dated 01-03-2016 is hereby revised w.e.from 24.01.2011.

(SSP/COORDINATION)
FOR CAPITAL CITY POLICE OFFICER,
PESHAWAR.

4255-56
No. _____/EC-I,

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

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Addl: Inspector General of Police, Investigation Khyber Pakhtunkhwa, Peshawar,
3. Addl: Inspector General of Police, H.Qrs: Khyber Pakhtunkhwa, Peshawar.
4. AIG, Legal CPO, Peshawar w/r to his office NO.38/Legal, dated 01.01.2020.
5. Asstt: Secret Branch, & EC-II, CCP, Peshawar.

CPB

[Signature]
ATTESTED

Execution Petition No. 117/2016

25.09.2020

Mr. Kamran Sarwar, Advocate, learned counsel for the petitioner is present. Mr. Kabirullah Khattak, Addl: Advocate General for respondents present.

The learned Additional Advocate General while referring to the CCPO letter No. 4288/E:C-I dated 26.02.2020 was of the view that Services Tribunal judgement in Service Appeal No. 554 /2013 dated 09.12.2015 has been implemented in true letter and spirit of para-7 thereof. On the contrary, the learned counsel for the petitioner did not agree to the contention and objected that back benefits have not been given to the petitioner in the said notification by the respondent-department. The directions of Service Tribunal in its judgement dated 09.12.2015 were, "In the stated situation we direct the respondent-department to go through the judgement of this Tribunal delivered in Appeal No.1602/2010 titled Nageebullah-vs-DIG Police and if this case is found identical with the referred case of Nageebullah then the matter be decided on the analogy of the referred case, within three months after receipt of this judgement. The appeal is disposed off accordingly". It is understood that the Services Tribunal judgement stands implemented according to its letter and spirit. If the learned counsel for the petitioner has objection on its execution with reference to the order dated 26.02.2020, he may make it a fresh cause of action at appropriate forum. The instant execution petition is disposed of accordingly. File be consigned to the record room.

DP
ATTESTED

Announced:
25.09.2020

M.M.
(Mian Muhammad)
Member (E)

To,

Inspector General of Police,
Khyber Pakhtunkhwa.

(14)
Anex^{ar} E²

Subject:

APPEAL FOR ISSUING REVISED SENIORITY

R/Sir,

It is humbly submitted that wide Court judgments on 09.12.2015 & 18.11.2009, the implementation of court directions to revise my confirmation as Sub Inspector was accepted on 25.09.2020 and the said confirmation was revised w.e.f 24.01.2011 as per attached Notification issued by CCPO, Peshawar vide No.4788/EC-I, dated 26.03.2020.


In light of above it is requested that new/revised seniority with my colleagues may please given to me along with Performa promotion. I shall be thankful.

Your's obediently,


GULZAR KHAN

Inspector (Rtd)

Investigation, CPO, Peshawar.


ATTESTED



15

**ADDL INSPECTOR GENERAL OF POLICE,
INVESTIGATION, KHYBER PAKHTUNKHWA,
PESHAWAR**

Ph: No. 091-9210052
Fax: No. 091-9210052
Email: ReaderInv351@gmail.com

No: 9016

EL PESHAWAR
Peshawar the 5/10 /2020

To,

The Inspector General of Police,
Khyber Pakhtunkhwa.

Subject:

**APPEAL FOR REVISED SENIORITY & PROFORMA
PROMOTION**

Memo:

Kindly refer to the attached application submitted by Gulzar Khan, Inspector (Rtd), Investigation Unit CPO, wherein he has requested for issuing him revised seniority and proforma promotion.

The same is forwarded herewith to your good office for perusal and kind orders, please.

For Addl: Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar.

No: 9017 / Reader/Inv: EL

Copy is of above is sent herewith for information to the Capital City Police Officer, Peshawar.

EL
PESHAWAR

For Addl: Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar.

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

VAKALATNAMA

Service Appeal No. _____/2021

Gul ZarKhan Inspector (Rtd)

Versus

The Inspector General of Police Khyber Pukhtunkhawa and Another.

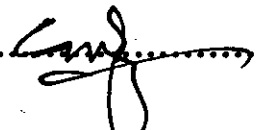
I/We, Gul Zar Khan Inspector (Rtd) do hereby appoint, Kamran Sarwar Advocates, in the above mentioned case, to do all or any of the following acts, deeds and things:-

- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2- To sign and verify and file or withdraw all proceeding, cases, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3- To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.


AND hereby agree:-

- a- That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remain unpaid.

In witness whereof I/We have signed this Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this 14 day of Janury, 2021.

Executants. 

Attested & Accepted by:


Kamran Sarwar
Advocate High Court

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

Service Appeal No. 920/ 2021

Gul Zar Inspector..... (Appellant)


VERSUS

IGP KP etc.....(Respondents)

INDEX

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Para-wise comments		1-2
2.	Affidavit		3
3.	Copy of Notification No. 4288/EC-I, dated 26.02.2020	A	4

Respondents through


(TARIQ UMAR)
Inspector/ Legal CPO,
Peshawar.

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

Service Appeal No. 920/ 2021

Gul Zar Inspector..... (Appellant)
VERSUS

IGP KP etc.....(Respondents)

REPLY BY RESPONDENTS NO. 1 & 2.

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

- a) That the appeal is badly barred by law & limitation.
- b) That the appeal is not based on facts.
- c) That the appeal is not maintainable in the present form.
- d) That the appeal is bad for miss-joinder and non-joinder of necessary parties.
- e) That the appellant is estopped to file the appeal by his own conduct.
- f) That the appellant has not come to this Honorable Tribunal with clean hands.
- g) That the appellant has got no cause of action to file instant service appeal.

FACTS:-


1. Pertains to record of Investigation Unit, CPO.
2. Correct to the extent that the appellant was promoted as Offg: Sub-Inspector on 02.04.2008 and his colleagues were confirmed and further promoted while appellant had not qualified Upper College Course which is mandatory under Standing Order No. 10/2009. As seniority and promotions are totally subject to seniority-cum-fitness along with qualification of prescribed training/ courses.
3. Incorrect. Confirmation of the appellant was done as soon as the appellant qualified pre-requisite criteria laid down under the law/ rules.
4. Pertain to record of Investigation Unit, CPO.
5. Correct hence, needs no comments.
6. Correct to the extent that appellant was granted revised seniority through Notification No. 4288/ EC-I dated 26.02.2020 (enclosed as Annexure "A"), in light of judgments dated 09.12.2015 & 18.11.2009 of Khyber Pakhtunkhwa Service Tribunal, Peshawar conditionally and provisionally subject to outcome of CPLA which is still pending in the Apex Court of Pakistan.
7. The appeal of the appellant is not maintainable may be dismissed on the following Grounds.


GROUND:-

- A. Pertains to qualification and ex-service record of appellant.
- B. Incorrect. The revised seniority issued to the appellant is in accordance with law/ rules and in compliance of judgments of Honorable Tribunal.
- C. Incorrect. The appellant has been treated in accordance with law/ rules and no Article of Constitution of Islamic Republic of Pakistan has been violated by the answering respondents.
- D. Incorrect. That the appellant seniority has been revised in accordance with judgments of Honorable Tribunal in true letter & spirit. The matter is still sub-judice in Apex Court of Pakistan and the appellant also retired on attaining the age of superannuation. Furthermore, formulation of seniority list is pending due to matter of Out of Turn Promotions in Khyber Pakhtunkhwa Police which is also pending in the Apex Court.
- E. Respondent department has provided all the benefits to appellant under rules/ policy.
- F. Incorrect. The act of the respondents is quite legal, constitutional and in accordance with law and no discrimination or malafide has been done on the part of answering respondents.
- G. Incorrect. The appellant has not been deprived from his legal rights and no violation of fundamental rights has been done by answering respondents.
- H. The respondents may also be allowed to raise additional Grounds at the time of hearing of the instant Service Appeal.

PRAYER:-

Keeping in view the above stated facts and rules on the issue it is humbly prayed that the appeal being devoid of merits may kindly be dismissed with costs, please.


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


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

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

Service Appeal No. 920/ 2021


Gul Zar Inspector..... (Appellant)
VERSUS

IGP KP etc.....(Respondents)

AFFIDAVIT

I, Tariq Umar Inspector/ Legal CPO, Peshawar do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondents No. 1 & 2 are correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

Respondents through


(TARIQ UMAR)
Inspector/ Legal CPO,
Peshawar.

(12)

Anex



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

Telephone No. 091-9210641 Fax No. 091-9212597

POLICE DEPTT:

CCP, PESHAWAR.

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

NOTIFICATION.

Dated 26/02 /2020.

No. 4255 /EC-I, **REVISED CONFIRMATION IN THE RANK OF SIS:-** In the light of judgment of Service Tribunal dated 09.12.2015 & 18.11.2009, direction of Worthy Inspector General of Police conveyed through AIG Legal CPO, Peshawar vide his office Letter No.38/Legal, dated 01.01.2020, recommendation of Departmental Selection Committee meeting held on 24 & 26-12-2019 at CCP, Peshawar and approved by the competent authority the confirmation of SI Gulzar Khan now Inspector No. F/346 of Capital City Police Peshawar presently serving in Investigation Khyber Pakhtunkhwa, Peshawar issued vide this office notification No.4167-79/EC-I, dated 01-03-2016 is hereby revised w.e.from 24.01.2011.

(SSP/COORDINATION)
FOR CAPITAL CITY POLICE OFFICER,
PESHAWAR.

No. 4255 /EC-I,

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

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Addl: Inspector General of Police, Investigation Khyber Pakhtunkhwa, Peshawar,
3. Addl: Inspector General of Police, H.Qrs: Khyber Pakhtunkhwa, Peshawar.
4. AIG, Legal CPO, Peshawar w/r to his office NO.38/Legal, dated 01.01.2020.
5. Asstt: Secret Branch, & EC-II, CCP, Peshawar.

CPB

AP
ATTESTED