

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

Service Appeal No. 1453/2022 converted from Writ Petition No. 2824-P/2021

Riaz Khan Ex-DSP..... (Appellant)
VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 744

Inspector General of Police, Khyber Pakhtunkhwa etc


.....(Respondents)

Dated 11/9/22

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Respondents through


DSP/ Legal,
CPO, Peshawar.

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PESHAWAR

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Inspector General of Police, Khyber Pakhtunkhwa etc

.....(Respondents)

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 6

RESPECTFULLY SHEWETH:

That the respondents are submitted as under:-

PRELIMINARY OBJECTIONS:-

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

FACTS

1. Pertains to service record of the appellant hence no comments.
2. Pertains to record.
3. Incorrect, probation period is a part of Government service and a Government servant is entitled to the benefits of service on probation if found satisfactory and also when the officer, on the basis of such service, is regularized as confirmed civil servant. The appellant being appointed as Probationer ASI (directly appointed) undergoes 03 years probationary period before being confirmed as ASI on the termination of such period in the spirit of Rule 12.8 & 19.25(5) of Police Rules, 1934.
4. Incorrect, as already explained in preceding para.
5. Incorrect, official record is silent in this regard and it may be presumed that no departmental appeal was submitted before the competent authority.
6. Pertains to record of the Hon'ble Khyber Pakhtunkhwa Service Tribunal.
7. Pertains to Judgment dated 08.03.2017 of the Hon'ble Khyber Pakhtunkhwa Service Tribunal.
8. Incorrect and denied, as per record no such application was submitted.
9. Incorrect, seniority lists are updated and revised each year regularly. However the appellant did not mention which seniority list he wanted to get revised.
10. Pertains to record.
11. Pertains to record.
12. Incorrect, seniority lists are revised each calendar year.


13. Incorrect, seniority lists are revised each year regularly. However, claim of appellant is devoid of law and merits as seniority fixation after retirement is a past and closed transaction.
14. Correct to the extent of departmental appeal of the appellant which was rightly turned down by the competent authority on reasonable grounds.
15. Appellant has been dealt in accordance with law/ rules and got no cause of action and locus standi to invoke the jurisdiction of this Hon'ble Tribunal, hence the appeal may be dismissed on the following Grounds.

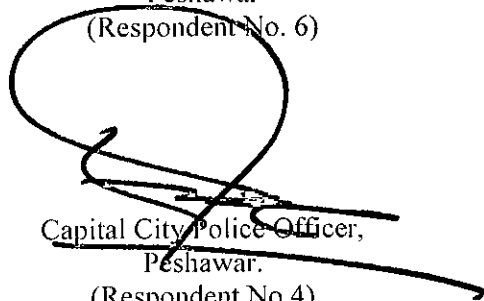
GROUND

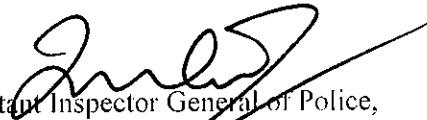
- A. Incorrect, the letter was legal and lawful as the appellant got superannuation retirement before Departmental Selection Board was convened hence, not entitled for promotion.
- B. Incorrect, the appellant is not entitled for promotion after retirement and without convening of Departmental Selection Board.
- C. Incorrect, misleading and misconceived, the respondent department neither committed discrimination nor violated any Article of Constitution of Islamic Republic of Pakistan, 1973.
- D. Pertains to record of the Hon'ble Peshawar High Court Judgment. However, vide the quoted Judgment, the petitioner before getting retired on superannuation was considered in Selection Board for purpose of promotion to BS-22 as prayed for, thought even then he was not promoted. While in the instant appeal, the appellant had got his due seniority in the rank of DSP. However, he was not considered in a Departmental Selection Board for promotion to next rank before he gets retired. Hence, he is not entitled for such promotion after his superannuation retirement. Moreover, no officer can claim promotion as of right.
- E. Incorrect, the appellant is not entitled for promotion after retirement as the same is past and closed transaction.
- F. Incorrect and misleading as no right of the appellant was denied rather he was treated in accordance with law.
- G. Incorrect, as already explained above, probation period is always counted towards regular service after its successful completion hence, no violation of law or discrimination has been committed by the respondent department.
- H. Incorrect, the departmental appeal of the appellant was rightly turned down by the competent authority on reasonable grounds.
- I. The answering respondents may also be allowed to adduce additional grounds at time of hearing of instant Service Appeal.

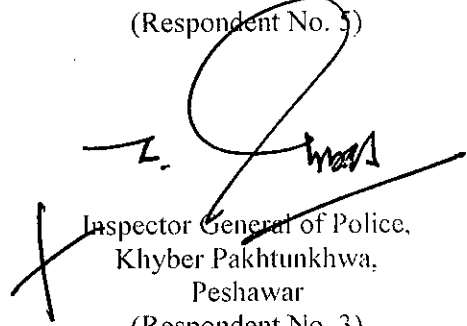
PRAYER:-


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


Incharge,
Pay Branch, Khyber Pakhtunkhwa Police,
Peshawar
(Respondent No. 6)


Capital City Police Officer,
Peshawar.
(Respondent No.4)


Assistant Inspector General of Police,
Establishment, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 5)


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


Secretary,
Government of Khyber Pakhtunkhwa,
Home & TAs Department, Peshawar
(Respondent No. 2)

**Home Secretary,
Khyber Pakhtunkhwa**

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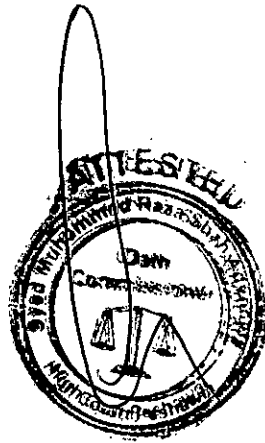
AFFIDAVIT

I, Tariq Umar DSP/ Legal, CPO do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondent are correct to the best my knowledge and belief. Nothing has been concealed from this Hon'ble Tribunal. It is further stated on oath that in this progress report, the answering respondents have neither been placed ex-parte nor their defense is struck off.

Respondent through



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



11 SEP 2023

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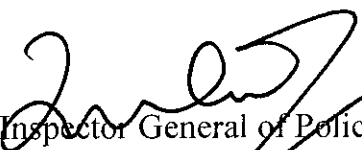
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VERSUS

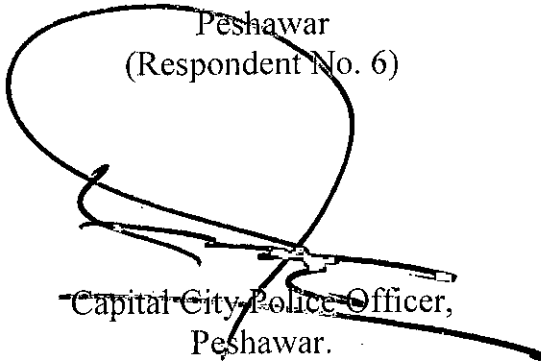
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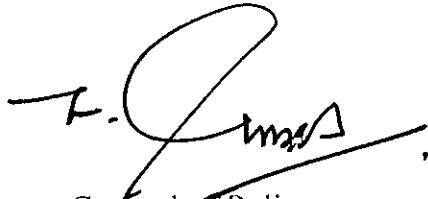
AUTHORITY LETTER


Mr. Tariq Umar DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments in captioned Service Appeal on behalf of respondents in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar.


Incharge,
Pay Branch, Khyber Pakhtunkhwa
Police,
Peshawar
(Respondent No. 6)


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