

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

Objection petition No. /2022

In Execution petition No. 456/2021 in Service Appeal No. 1456/2018

Fazal Ghafoor .....(Appellant)

Versus

Inspector General of Police, Khyber Pakhtunkhwa etc .....  
(Respondents)

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Objector through



**(MAMOON UR RASHEED)**  
Acting DSP/ Legal,  
CPO, Peshawar.

21/09/23

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(Respondents)

Khyber Pakhtunkhwa  
Service Tribunal  
Diary No. 7715  
Dated 20/9/23

The facts pertaining to objection petition are as under:-

1. That, the appellant had filed Service Appeal No. 1456/2018, with the following prayers;-  
*"On acceptance of this appeal, the order dated 25.10.2018 may graciously be declared against law, rules, principles of natural justice and may be set aside with the directions to the respondents to promote the appellant as adhoc Inspector".*
2. That, the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar vide judgment dated 08.05.2023, disposed of the instant Service Appeal in the following terms;-  
*"In view of the above discussion, the appeal in hand is allowed as prayed for with the directions to respondents to give ante-date promotion to the appellant to the rank of Inspector along with all consequential benefits of pension associated with it".*
3. That, Police Department has already filed CPLA against impugned Judgment in the Hon'ble Apex Court of Pakistan which is subjudice.
4. That, there is no provision in Police Rules, 1934 amended 2017 or Police Act, 2017 for grant of adhoc promotion. The same is devoid of law/ rules and alien to Police Force. Hence, the Hon'ble Tribunal is requested to modify the relief granted and issues appropriate orders in this regard.
5. That, ante-dated confirmations and promotions, adhoc promotion and Out of Turn Promotions have been deprecated by the Hon'ble Apex Court in various Judgments. The Supreme Court of Pakistan underlined the difference between the date of appointment and date of confirmation in Mushtaq Warich Vs IGP Punjab (PLD 1985 SC 159). In a recent Judgment (dated 2<sup>nd</sup> November 2022 in Civil Appeal No. 1172 to 1178 of 2020 and Civil Petition No. 3789 to 3896, 2260-I. to 2262-I. and CP 3137-I.) the Apex Court, has held that *"reliance on Qayyum Nawaz* [a judgment of the Apex Court,

reported as 1999 SCMR 1594] *that there is no difference between the date of appointment and date of confirmation under the Police Rules is absolutely misconceived and strongly dispelled*". The Apex Court has further explained that Police Rule 12.2(3) of Police Rules, 1934 stipulates that the final seniority of officers will be reckoned from the date of confirmation of the officer and not from the date of appointment. The Hon'ble Court further held that *"the practice of ante-dated confirmation and promotions have been put down in Raza Safdar Kazmi"* (a judgment of the Punjab Service Tribunal dated 15.08.2006, passed in Appeal No. 239/2006 and upheld by the Supreme Court vide order dated 29.01.2008, passed in Civil Appeals No. 2017 to 2031 of 2006 and other connected matters).

Moreover, under paragraph VI of the Promotion Policy, provided in ESTA CODE Establishment Code Khyber Pakhtunkhwa (Revised Edition) 2011, *"promotion will always be notified with immediate effect."* Drawing analogy from this rule, all PASIs might be so confirmed on conclusion of probationary period of three years with immediate effect (the date on which order of their confirmation is issued).

The Apex Court of Pakistan in its Judgment Musthaq Ahmed Warraich Vs IGP reported as PLD 1985 SC 159 and Civil Appeal No. 1172 to 1178 of 2020 titled Syed Hammad Nabi Vs IGP, Punjab has declared that Rule 12.2 of Rules ibid is the basic criteria for determination of seniorities of Police Officers of subordinate ranks.

6. That, adhoc/ gallantry or ante-dated promotions have been declared as Out of Turn Promotions by the Apex Court of Pakistan in following landmark Judgments:-

1998 SCMR 2013.

Muhammad Nadeem Arif vs. Inspector General of Police, Punjab Lahore (PLC 2010 CS 924).

Ghulam Shabbir vs. Muhammad Munir Abbasi and others (2011 PLC (C.S) 763.

2013 SCMR 1752.

2015 SCMR 456.

2016 SCMR 1254.

2017 SCMR 206.

2018 SCMR 1218.

Consolidated Judgment dated 30.06.2020 in Civil Petitions No. 1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019.

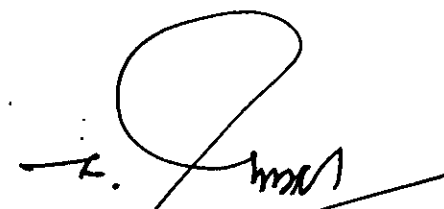
7. That, the respondent department is submissive to Court Orders being binding and obligatory upon it, hence committed to abide by the law in letter and spirit. The appellant has prayed for adhoc promotion while there is no concept of adhoc promotions within Police Force. The Hon'ble Tribunal

accepted appellant's appeal as prayed for which has created confusion as how to introduce adhoc promotion when it even do not exists in Police Rules, 1934 and Police Act, 2017. The same is therefore, brought into kind notice of Hon'ble Tribunal through this Objection Petition and request for further appropriate orders.

8. That, respondents also seek additional permission of this Hon'ble Tribunal to raise additional grounds at time of arguments.

#### PRAYERS

Keeping in view above narrated facts, circumstances, the Execution Petition of the appellant may kindly be dismissed being meritless and having no legal force, please.

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

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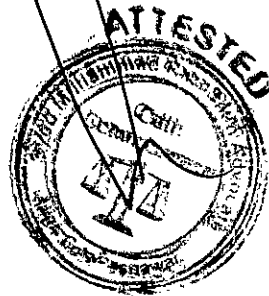
**AFFIDAVIT**

I, Mamoon Ur Rasheed Acting DSP/ Legal, CPO, do hereby solemnly affirm on oath that the contents of accompanying Objection Petition on behalf of Objector i.e. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar 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 appeal the arguments defendants have neither been placed on record nor their defense has been struck off-*

*Mamoon Ur Rasheed*

(MAMOON UR RASHEED)  
Acting DSP/ Legal,  
CPO, Peshawar.



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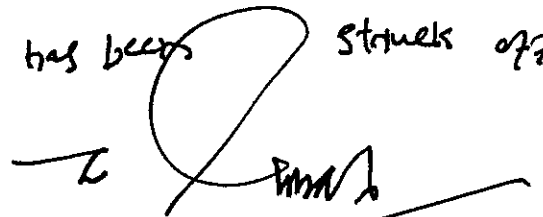
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(Respondents)

**AUTHORITY LETTER**

Mr. Mamoon Ur Rasheed Acting DSP/ Legal, CPO, Peshawar is authorized to defend the above mentioned Execution Petition and submission of Objection Petition on behalf of Objector in Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar.

it is further stated on oath in this appeal.  
the answering respondents have neither been placed  
ex - parte nor their defense has been struck off -



Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar