

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1305/2023

Abdul Wahid..... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa etc

.....(Respondents)

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DEPONENT



Acting DSP/ Legal,
CPO, Peshawar

31/10/23

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VERSUS

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PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS. NO. 1 & 2

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 78317

Dated 25/09/23

- 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

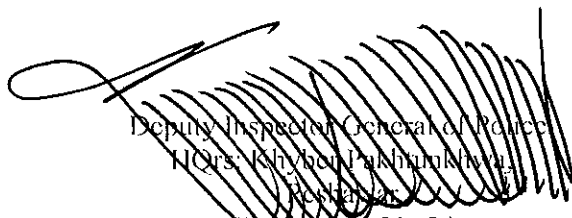
1. Needs no comments as the para pertains to service record of the appellant.
2. Incorrect, the appellant got superannuation retirement on 13.02.2023 while Departmental Selection Committee meeting was held on 01.03.2023 wherein other officers were considered and promoted. The appellant would have been considered for promotion to the next higher rank of DSsP if he was in service. To the misfortune of the appellant, the DSC convened after his superannuation retirement.
3. Incorrect, the appellant got retired on 13.02.2023 while Departmental Selection Committee (DSC) was held on 01.03.2023.
4. Incorrect, the appellant retired way before the conduct of DSC hence was not eligible to get promotion.
5. Incorrect and misleading, as already explained vide preceding Paras.
6. Pertains to record, hence, no comments.
7. Pertains to record, hence, no comments
8. Pertains to record. However, the promotion process is subject to certain conditions of seniority cum fitness. Promotion of other officers' does not affect the individual evaluation.
9. Pertains to record. However, promotion is at the discretion of the competent authority and it is subject to fulfilling the mandatory criteria.

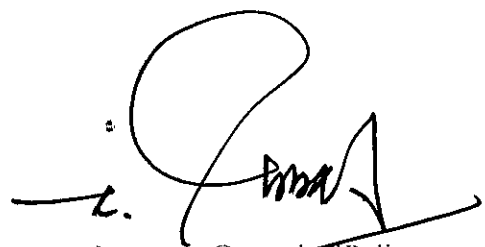
GROUNDS

- A. The respondent department stance is based on the existing rules and regulations and it is within the scope of authority. The appellant's promotion is subjected to the prescribed criteria.
- B. Pertains to seniority list however, seniority alone is not the sole criterion for promotion. Factors such as merit, performance and fitness are also taken into consideration.
- C. The promotion of one officer after retirement does not necessarily set as precedent for all cases. Each promotion decision is considered independently based on individual merit.
- D. Incorrect, as already vide above para, promotion of one officer after retirement does not establish universal rule.
- E. Incorrect, the appellant has been treated in accordance with law and regulation.
- F. The appellant's service record is acknowledged. However, eligibility for promotion is based on specific promotion criteria of concerned department.
- G. Incorrect, the appellant got retired before convening of DSC meeting hence, he was deprived from promotion in accordance with laid down rules.
- H. The 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 is not maintainable being devoid of merits hence, may kindly be dismissed with costs, please.


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


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

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AFFIDAVIT

I, Mamoon Ur Rasheed Acting DSP/ Legal, CPO, do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondent No.1 & 2 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 Para-wise comments, the answering respondents have neither been placed ex-parte nor their defense is struck off. /est

Respondents through



(Mamoon Ur Rasheed)
Acting DSP/ Legal,
CPO, Peshawar.



25 SEP 2023

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TRIBUNAL, PESHAWAR**

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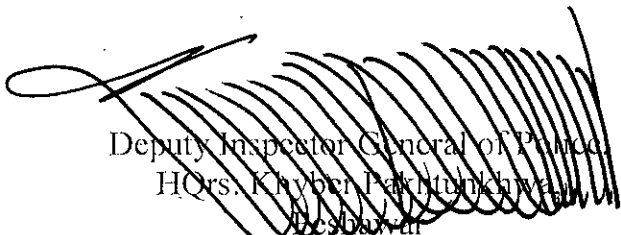
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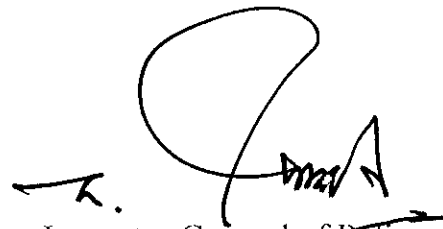
Inspector General of Police, Khyber Pakhtunkhwa etc

.....(Respondents)

AUTHORITY LETTER

Mr. Mamoon Ur Rasheed Acting DSP/ Legal, CPO, Peshawar is authorized to defend the above mentioned Service Appeal and submission of Para-wise comments/ reply on behalf of respondents in Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar.


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


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