


31<sup>st</sup> August, 2023

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

2. Lawyers are on strike, therefore, case is adjourned to 19.12.2023 for arguments before the D.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar



(Salah-ud-Din)  
Member (Judicial).



(Kalim Arshad Khan)  
Chairman


17.05.2023

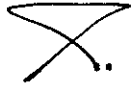
Junior of learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Supreme Court of Pakistan. Adjourned. To come up for arguments before the D.B on 01.08.2023. Parcha Peshi given to the parties:

SCANNED  
KPST  
Peshawar


\*Naeem Amin\*


  
(Muhammad Akbar Khan)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

1<sup>st</sup> August, 2023 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on ~~01~~<sup>31</sup> 08.2023 before the D.B. PP given to the parties.

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

\*Kaleemullah

SCANNED  
KPST  
Peshawar

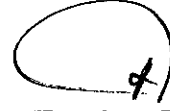
18<sup>th</sup> Nov. 2022

Lawyers are on strike today.

Case is adjourned to 12.01.2023 for arguments before the DB. Office is directed to notify the next date on the notice board as well as website of the Tribunal.



(Fareeha Paul)  
Member(E)



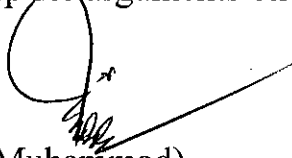
(Rozina Rehman)  
Member(J)

12.01.2023


Appellant alongwith his counsel present. Mr. Arif Saleem, Steno alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellánt sought adjournment on the ground that he has not made preparation for arguments. Adjourned.

To come up for arguments on 18.04.2023 before the D.B.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

18<sup>th</sup> April, 2023

1. Counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Last chance is given to learned counsel for the appellant for arguments, failing which the case will be decided on the basis of available record without the arguments. To come up for arguments on 17.05.2023 before the D.B. P.P given to the parties.



(Fareeha Paul)  
Member (E)



(Kalim Arshad Khan)  
Chairman

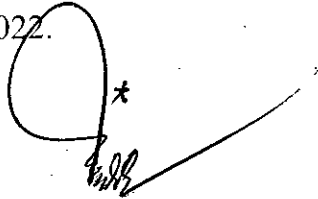
SCANNED  
KPST  
Peshawar

SCANNED  
KPST  
Peshawar


06.07.2022

Appellant alongwith Mr. Umer Farooq Mohmad, Advocate (Junior of learned counsel for the appellant) present. Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the Hon'ble Peshawar High Court, Mingora Bench (Dar-ul Qaza), Swat. Adjourned. To come up for arguments before the D.B on 12.10.2022.



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

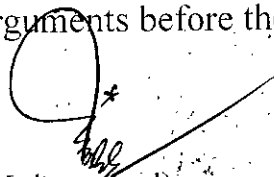


(SALAH-UD-DIN)  
MEMBER (JUDICIAL)


12.10.2022

Junior of learned counsel for the appellant present. Mr. Ishaq Gul, DSP (Legal) alongwith Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 21.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

11.08.2021

Appellant with counsel present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted for full hearing, subject to all just and legal objections including that of limitation to be determined during full hearing. 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 after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 17.12.2021 before the D.B.

Appellant Deposited Security & Process Fee  
M.M.

  
Chairman

17.12.2021

Junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG along with Mr. Arif Saleem, Steno for respondents present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the junior of learned counsel for the appellant. To come up for arguments on 29.03.2022 before D.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

29-3-2022

Proper DB not available the case is adjourned to come up for the same as before on 6-7-2022

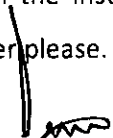


  
Reader

Form-A

# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 2769 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/02/2021	<p>The appeal of Mr. Mubarak Shah Khan presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 11/2/2021</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/04/21</u></p> <p> CHAIRMAN</p>
	26.04.2021	<p>Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 11.08.2021 for the same as before.</p> <p> Reader</p>

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

SERVICE APPEAL NO. 2764 /2021

**MUBARAK SHAH KHAN V/S POLICE DEPARTMENT**

**I N D E X**

<b>S.NO</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
<b>1</b>	Memo of appeal	.....	1 - 4
<b>2</b>	Stay Application	.....	5
<b>3</b>	Relevant page of Service Book	<b>A</b>	6
<b>4</b>	Promotion	<b>B</b>	7
<b>5</b>	Option	<b>C</b>	8
<b>6</b>	Relevant page of Service Book	<b>D</b>	9
<b>7</b>	Impugned Order dated 21.12.2020	<b>E</b>	10
<b>8</b>	Letter dated 30.12.2020	<b>F</b>	11
<b>9</b>	Departmental Appeal Dated 22.12.2020	<b>G</b>	12-13
<b>10</b>	Appellate order dated 27-01-2021	<b>H</b>	14
<b>11</b>	Latter dated 4-2-2021	<b>I</b>	15
<b>12</b>	Judgement dated 29-11-2005	<b>J</b>	16-31
<b>13</b>	Wakalat Nama	.....	32

Dated: 11-02-2021

**APPELLANT**

Through:

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

FLATE NO. 04, 2<sup>ND</sup> FLOOR,  
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,  
WARSAK ROAD, PESHAWAR

**0345-9383141**

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

**SERVICE APPEAL NO. \_\_\_\_\_/2021**

Mr. Mubarik Shah Khan, Head Constable (C-II)  
CDI PTS Kohat.

.....**APPELLANT**

**VERSUS**

1. The Inspector General of Police, Khyber pakhtunkhwa, central police office, Peshawar.
2. The Additional Inspector General (Establishment), Central police office, Peshawar.
3. The Regional Police Officer, Kohat Region, District Kohat.

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST  
THE IMPUGNED ORDER DATED 21-12-2020 WHEREBY  
THE APPELLANT HAS NOT BEEN REVERTED TO HIS  
SUBSTANTIVE RANK OF IHC AND AGAINST THE  
APPELLATE ORDER DATED 04-02-2021 WHEREBY THE  
DEPARTMENTAL APPEAL 22-12-2020 OF THE APPELLANT  
HAS BEEN REJECTED ON NO GOOD GROUNDS**

**PRAYER:**

That on acceptance of this appeal the impugned orders dated 21-12-2020 and 04-02-2021 may very kindly be set aside and the respondents may be directed to restore the appellant on the rank of Inspector with all back & consequential benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**Respectfully Sheweth:**

**FACTS:**

**Brief facts which give rise to the instant appeal are as under:-**

1. That appellant is the employee of the respondent Department and is initially appointed as Constable vide order dated 07-03-1982 in District Kohat and after serving for a considerable time the appellant is given promotion to the rank of Head Constable in the year 1999.
2. That the appellant after working as Head Constable for a period of more than 5 years the appellant was promoted to the rank of SI/PC for a period of 3 years with immediate effect vide DIG



Police Kohat dated 27-11-2004 for which necessary entries have also been made in the service of the appellant. Copy of the relevant page of Service Book is attached as annexure ..... **A.**

3. That the appellant was allowed promotion to the rank of Inspector (BPS-16) as CDI in light of PTC Manual Rule 87 & 88 while on deputation to PTC Hangu as Drill Instructor hence, the appellant sort out option for allowing annual increment in the lower scale on 01-12-2011 as Sub-Inspector vide order dated 22-12-2011. Copy of Promotion & Option is attached as annexure ..... **B & C.**
4. That later on, the appellant pay was also fixed in the rank of SI vide order dated 08-09-2016 for which necessary entry was also made in the Service Book of the appellant. Copy of the relevant page of Service Book is attached as Annexure ..... **D.**
5. That astonishingly after serving for a period of more than 16 years the respondent issued the impugned order dated 21-12-2020 whereby the appellant was reverted back from the rank of SI/PC to his substantive post of C-II Head constable and in this respect order dated 30-12-2020 was issued for taking over the charge of his original/reverted post of CDI. Copy of the Impugned Order dated 21.12.2020 & letter dated 30.12.2020 is attached as annexure ..... **E & F.**
6. That the appellant feeling aggrieved from the impugned order dated 21-12-2020 filed Departmental Appeal dated 22-12-2020 before respondent no. 1 but the representation of the appellant was decline vide letter dated 27-01-2021 communicated to the appellant on 04-02-2021. Copy of the Departmental Appeal, appellate order dated 27.01.2021 & letter dated 04.02.2021 are attached as annexure ..... **G, H & I.**
7. That the appellant having no other efficacious, adequate and alternate remedy but to approach this Honourable Tribunal on the following grounds amongst others:

**GROUND:-**

**A-**That the impugned reversion order dated 21-12-2020 and thereafter passing the appellate order dated 29-07-2020 is against the Law, Rule, fact & material available on record hence not tenable in the eye of Law and is liable to be set aside.

**B-**That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above

and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

**C-** That the respondents acted in arbitrary and malafide manner while issuing the impugned reversion order dated 21-12-2020 and thereafter passing the appellate order dated 29-07-2020.

**D-** That the impugned reversion order dated 21-12-2020 and thereafter passing the appellate order dated 29-07-2020 is against the norms of Natural Justice, therefore the same is not tenable in the eye of law and needs to be struck down

**E-** That the appellant has completed a long period of 16 years and while issuing the impugned reversion order dated 21-12-2020 and thereafter passing the appellate order dated 29-07-2020 is against.

**F-** That act of the respondent by issuing the impugned reversion order dated 21-12-2020 and thereafter passing the appellate order dated 29-07-2020 is clear violation of the Principal of Locus Poententiae, as the appellant has worked for quite considerable time.

**G-** That act of the respondent is also against Section-7 of the Civil Servant Act 1973 read with Rule-16 of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer), Rules 1989.

**H-** That act of the respondents while issuing the impugned reversion order dated 21-12-2020 and thereafter passing the appellate order dated 29-07-2020 is violative under Article 38 (e) of the Constitution of Pakistan, 1973 as it has clearly been mentioned in the ibid article that state is bound:

“to reduce disparity in the income and earnings of the individuals including persons in the various services of Pakistan”,

Therefore, in light of the above mentioned Article the appellant is fully entitle to be retained as SI.

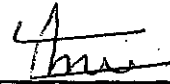
**I-** That this Honourable Tribunal has allowed appeal having involved similar question of law in case titled Jamdad Khan VS Deputy Commandant FRP, Peshawar & Others in Appeal no. 941/2003 decided on 29-11-2005. Copy of Judgment dated 29.11.2005 is attached as annexure ..... **J.**

**J-** That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 11-02-2021

Appellant



MUBARAK SHAH KHAN

Through

**NOOR MOHAMMAD KHATTAK**

  
&

**MUHAMMAD MAAZ MADNI**

Advocate,  
High Court, Peshawar

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

APPEAL NO. \_\_\_\_\_/2021

**MUBARAK SHAH V/S POLICE DEPARTMENT**

**APPLICATION FOR SUSPENSION OF OPERATION OF**  
**THE IMPUGNED ORDER DATED 21-12-2020 TILL THE**  
**DISPOSAL OF THE ABOVE MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 21-12-2020.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned order dated 21-12-2020 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the impugned order dated 21-12-2020 may very kindly be suspended till the disposal of the above mentioned appeal.

Dated: 11-02-2021

APPLICANT

  
**MUBARAK SHAH**

THROUGH:

  
**NOOR MOHAMMAD KHATTAK**

&

**MUHAMMAD MAAZ MADNI**  
**ADVOCATES**

6

Officer Mubarak of PIR  
is hereby reverted to his substantive  
rank of 7th class He (C-1) with  
15-5-2004 vide B.N. 238  
dt 19.5.2004

1.	Name
2.	Designation
3.	Department
4.	Existence
5.	(Old) Scale
6.	Existence
7.	Pay pay
8.	Date

Reverted to his parent  
District Kohat vide Provincial Police  
officer No 23365-67/E-II dt 16-12-2004  
Pay Band 12/2004-15 PQR, Peshawar

Commandant  
Police Training College  
Hangu

Deputy Superintendent of Police  
Welfare & PQR NWFP, Peshawar

Amexure A

Pay C

Service From	15/5/99	30/4/2004
Has been verified		
Pay Band & Acquisition		
Kept in this office		

Signature  
Police Training College  
Hangu.

Targeted from 5-2004 31-12-2004  
Has been verified  
Pay Band & Acquisition  
Kept in this office  
Signature  
Deputy Superintendent of Police  
Welfare & PQR NWFP

upgraded  
increment

4) P. as HC @ Rs. 4620/- p.m.w.e. from 31-12-2004

Deputy Superintendent of Police  
Welfare & PQR, NWFP, Peshawar.

Promoted to the rank of S/PC  
for a period of 3 years with immediate  
effect vide D.O/Potom dated 29/11/04. He will not  
(No. 2352-55/PC, dated 29/11/04) He will not  
claim any security or reversion to his  
substantive rank till his pay band is  
as per officer attached

District P...

ATTACHED

7

Annexure - B

ORDER

SI/PC Mubarak Shah of Kohat Region on deputation to PTC Hangu as drill instructor is hereby promoted to the rank of Inspector BPS-16 as CDI in the light of PTC Manual Rule 87 & 88.

His promotion will take effect from the date he actually take over the charge of his higher responsibility.

His promotion is purely on temporary basis and relating to the premises of PTC Hangu.

In case of his repatriation to his parent region he will be reverted to his original rank of SI/PC.

(KHALID MASOOD)  
Addl: IGP/Headquarters  
For Provincial Police Officer  
Khyber Pakhtunkhwa  
Peshawar

No. 24006-8 /E-II dated Peshawar the 05/11/2011

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

1. Commandant PTC Hangu w/r to his letter No. 851/PC dated 31-11-2011.
2. Deputy Inspector General of Police, Kohat Region.
3. PSO to PPO Khyber Pakhtunkhwa Peshawar.

Handwritten notes and signatures on the left side of the list.

ATTACHED

8

Annexure - C

**OPTION.**

I Mr. Mubarik Shah Khan Inspector of this college hereby Opt to re-fix my pay in the higher scale on 02.12.2011 after allowing annual increment in the lower scale on 01.12.2011 as Sub Inspector.

*[Signature]*

**MUBARIK SHAH KHAN**  
Inspector

NO. 4437 /EC, Dated Hangu the, 22-12-2011.

Copy to District Account Officer Hangu for information and necessary action.

*[Signature]*

**COMMANDANT**  
Police Training College Hangu.

**ATTACHED**

# (9) Annexure - D

Add. No.   
 pay to   
 office B...

Sl. No.	Description	Amount	Total
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

Total amount of the original ...  
 ...  
 Date: 21/11/2016

(Signature)





10

OFFICE OF THE  
REGIONAL POLICE OFFICER  
KOHAT REGION

No. 21723- /EC

Dated 21/12 /2020

ORDER

*Annexure - E //*

C-II Head Constable Mubarak Shah of this Region, presently posted at Police Training School Kohat, was promoted from the rank of C-II Head Constable to the Rank of SI/PC for a period of 03 years vide this office order Endst: 2952-55/EC dated 28.11.2004, governed by Standing Order No. 1/2006/FRP.

Record indicates that the official has completed his specified tenure of promotion, but still performing duty in the same rank, which is unjustified and contrary to the Standing Order ibid. Moreover, the Standing Order is not operative in the district presently.

In view of the above, legal and factual aspects, SI / PC Mubarak Shah is hereby reverted to this substantive rank of C-II Head Constable with immediate effect.

*JH Ce*  
Regional Police Officer,  
Kohat Region

OFFICE OF THE REGIONAL POLICE OFFICER, KOHAT REGION

No. 21724-25 /EC,

Dated 21/12 /2020

Copy of above is submitted for favour of information to the Inspector General of Police Khyber Pakhtunkhwa please.

- 2 District Police Officer, Kohat *along with G. Bodd & S. Rall*
- 3 Superintendent of Police Training School Kohat.

*Encl: G. Bodd  
S. Rall  
ACBS/ED  
y/w  
8/11/2021*

*JH Ce*  
Regional Police Officer,  
Kohat Region

*ATTACHED*

*Rule 13.1 of the Police Rules 1934  
does not allow temporary promotion  
to the next rank!*



11

از RI پولیس ٹریننگ سکول کوہاٹ Annexure - F

بنام: مبارک شاہ CDI پولیس ٹریننگ سکول کوہاٹ

منوان: چارج CDI، اور ایجنٹ ریک

بکار سرکار

حسب احکم آفسران بالا جیسا کہ آپ بحوالہ لپٹر نمبر EC/25-24721 مورخہ: 2020-12-21 مجاریہ جناب ذی الٰہی سی صاحب کوہاٹ SI/PC سے CHI ہیڈ کانسٹیبل کے عہدہ پر تنزل ہو چکے ہیں آپ اور ایجنٹ ریک لگائیں اور CDI کا چارج سجاد احسن SI کو بھی بھیجی جائے گی۔



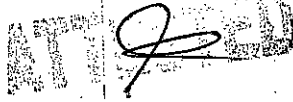
RI

PTS کوہاٹ

30 12 20

اندر ملین کاپی: 1۔ جناب ڈائریکٹر، PTS کوہاٹ

2۔ ریڈر ڈائریکٹر / عمر / LO / سجاد احسن SI



(12)

Amurise - 9

The Inspector General Police  
Ikpik Peshawar

Subj: - Cancellation of impugned order

NO 21724-25/EC dated 21-12-20  
by the regional police officer  
Kohat region

Respectfully  
Sincerely

① That - the petitioner was appointed  
as Constable on 2-3-1982 in Distt  
Kohat.

② that the petitioner was promoted to  
Head Constable in the year 1999.

③ that through office order (andst/  
magsa.55/EC the petitioner was promoted  
from his substantive rank to SI

(copy attached).

④ that - the petitioner was again  
promoted from Bps 14 SI to

P.T.O →

Amurise - 9

(13)

Bps is inspector. The petitioner served

the department PIS Kohat on Bps

14/16 for sixteen years. Copy attached.

That the impugned order no 21724.25/EC

dated 21-12-2020 was passed against petitioner

without notice and personal hearing.

That the impugned order was passed

against petitioner instead that the

petitioner have less than 3 Year upto

retirement and your honor have

awarded me many times on my

performance and 38 Nos awards are

on my service book and personal file.

That with no disciplinary action has

been taken against because of my

good and appreciated service record.

It is therefore requested that

impugn order on subject may be

Cancelled.

CC to  
DIG Kohat  
DIG Trans Kohat

Mubarik Khan  
CDI PIS Kohat  
22.12.20  
Cell no 3469255 308  
MTS



19

OFFICE OF THE  
REGIONAL POLICE OFFICER,  
KOHAT REGION.

E-mail: ecregionofficekohat@gmail.com, Phone: No. 0922-9260115, Fax No. 0922-9260114

To: -

The Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

Annexure - H

No. 1238 /EC, Dated Kohat the 27/11 /2021.

Subject: -

APPLICATION.


Memo:

Kindly refer to your office Endst: No. 326/E-IV dated 07.01.2021. The requisite report on the application of Mubarak Khan CDI PTS Kohat is submitted as under: -

1. The applicant was enrolled as Constable on 07.03.1982 in district Police Kohat. Subsequently, the applicant while posted at Recruit Training Wing, Kohat on deputation was promoted as C-II Head Constable vide order dated 11.10.1999.
2. During his posting, the applicant was promoted to the rank of SI/PC for the period of 03 years by Deputy Inspector General of Police Kohat Region, vide order. Endst: No. 2952-55/EC, dated 28.11.2004.
3. It was come into the notice of the competent authority that the applicant was promoted SI/PC only for a specific period i.e. 03 years, but the applicant is still enjoying / serving in the said rank, which is unjustified.
4. In view of above, the relevant record was requisitioned by concerned and gone through in the light of above and available record, the undersigned passed the impugned order and the applicant is reverted from the rank of SI/ PC to his respective rank of Head Constable(C-II).
5. Despite laps of specific period of promotion of the applicant, his service in the said rank was unjustified, contrary to rules and burden on public exchequer as well.
6. The impugned order passed by the undersigned is legal and speaking one, while the application is not maintainable in its present form and bad in law.

In view of above, it is submitted that the application being meritless may kindly be rejected, please.

ATTACHED

  
Regional Police Officer,  
Kohat Region.  
ali.



15

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

No. 1528 /E-IV dated Peshawar, 04/02/2021

To : The SP/Directorate of Training  
Khyber Pakhtunkhwa,  
Peshawar.

Annexure - I

Subject: APPLICATION

Memo:

Please refer to your office letter No. 1242/Trg, dated: 04.01.2021 on the subject noted above.

After perusal, the subject case has been examined and filed by the Competent Authority.

  
(SYED ANIS-UL-HASSAN)

Registrar

For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar

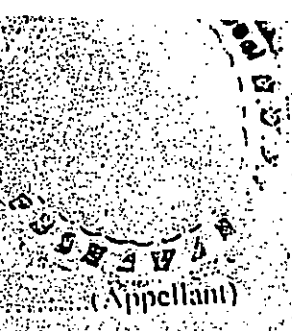


Annexure - J

Appeal No. 941/2003

Date of institution - 22.09.2003  
Date of decision - 29.11.2005

Jamdad Khan, Ex-SI/PC FRP Hqrs, Peshawar



(Appellant)

VERSUS

- 1. Deputy Commandant, FRP Peshawar
- 2. Commandant, FRP, NWFP, Peshawar
- 3. I.G.P. N.W.F.P. Peshawar

(Respondents)

Mr. Saadullah Khan Marwat, Advocate..... For appellant.  
 Mr. Zaffar Abbas Mirza, Acting Govt. Pleader..... For respondents.

ABDUL KARIM QASURIA  
 GHULAM FAROOQ KHAN

MEMBER.  
MEMBER.

Handwritten notes on the left margin: "01/12/05", "25/11/05", and "D. J. Khan".

JUDGMENT

ABDUL KARIM QASURIA, MEMBER :-

This judgment will dispose of the appeal filed by Jamdad Khan appellant against the order dated 7.6.2003 of Deputy Commandant FRP Peshawar, whereby he was reverted from the post of SI/PC (B-14) to the rank of Head Constable (B-7) in the FRP, Peshawar. The appellant has prayed that the impugned order may be set aside and he be re-instated in service with full back benefits.

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2. Brief facts of the case as narrated in the memo of appeal... appellant was initially appointed in the Force on 2.12.1979. He was promoted to the rank of Head Constable on 6.6.1987. He was further promoted to the rank of S.I. on 4.6.1982. He was also granted selection grade. Without any reason and justification when the appellant was at the verge of retirement, he was reverted from the rank of S.I. to the rank of Head Constable vide the impugned order dated 7.6.2003 against which the appellant submitted a representation before respondent No. 2 which met with dead response till date. The Force was brought on regular basis by the Provincial Government.

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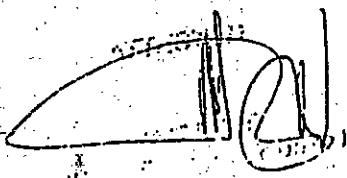
3. The grounds of appeal are that after the lapse of statutory period of 90 days, the appellant preferred the present appeal before the Tribunal challenging the impugned order as illegal, without lawful authority and having been passed in violation of the existing laws on the grounds that the said post was still in existence. He was reverted straightaway from BS-14 to BS-7 while usually reversion order has to be made step by step. Selection Grade (BS-9) was also recalled from him for no reason. The appellant was also promoted to the rank of SI/PC, being eligible, qualified and fit for the said post and he in the same capacity served the Force for 10/11 years but he was reverted in colourful manner and against the prescribed procedure enunciated in the rules. In the year 2000, FRP was brought on permanent and regular basis and Standing Order No. 3 was not applicable in the case of



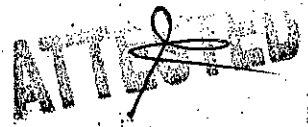
appellant because the order was not passed at that time by the competent legal sanctity as the same was not passed at that time by the competent forum. It must be kept in mind that the appellant served the Force for 10/11 years as stated earlier without any complaint, so the principle of locus poenitentiae is applicable in his case because the order was acted upon, implemented and has got finality which cannot be rescinded at a single stroke of pen, except adhering to law. Much less the appellant was neither served with any notice nor he was given opportunity of defence what to speak of holding of enquiry in the matter. In similar circumstances while reverting the other officials, they were served with prior notices before the passing of the demotion orders. Legally reversion amounts to termination of service but such act was without re-coursing to law and in similar circumstances this Tribunal was pleased to accept "Appeal No. 15/1980 of Fazal Hussain Vs. IGP NWFP and others and Appeal No. 70/1995 of Taj Muhammad Vs. Commandant FRP and others.

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 J. Singh

4. The respondents were served with notices who submitted their written statements by contesting the appeal on merit as well as on law points. Preliminary objections to the extent of limitation, mis-joinder and non joinder of necessary parties, without cause of action and jurisdiction were raised.



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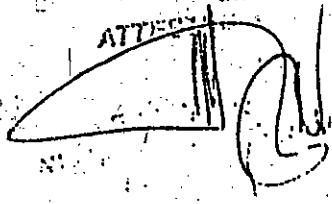


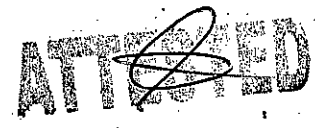
5. On factual side, the appellant was a constable in Additional Police, which was later on converted into FRP as per record. He was promoted to the rank of SI/PC on officiating basis as such he was reverted to his substantive rank. The reversion from officiating rank is not punishment and no proceedings were required to be initiated against the appellant under the E&D Rules.

6. The appellant has submitted his replication in rebuttal. According to replication the appeal is well within time. No lacuna has been pointed out. No such party has been pointed out as to who was the necessary party and the parties impleaded in the appeal are quite sufficient for the purpose. The appellant has a cause of action as not only he was reverted from the higher rank to the lowest rank but his monthly pay was also reduced from Rs. 11,000/- to Rs. 4,000/-. No element of unclean hands has ever been pointed out. The Tribunal has the exclusive jurisdiction in the matter.

7. On factual it has been submitted that every change in pay scale, whether temporary, officiating, stop gap arrangements, acting charge basis, etc amounts to promotion as per the judgments of the Hon'ble Supreme Court of Pakistan. Even grant of selection grade also amounts to promotion. The appellant was never served with any notice for the purpose. Till date, no rejection order has been received by the appellant. Even the same is not attached with the copy submitted before the Tribunal what to speak of

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supply of copy to the appellant. Standing order...  
 there exists any difference in the orders of promotion of the appellant. The promotion of the appellant was on merit and is not open to fire. Apart from the above, in orders dated 11.4.2003 and 7.6.2003 numerous officials were promoted like appellant but they have not been reverted and are still serving as such. In order dated 11.5.1994, Khurshid Anwar SI/PC is still serving as promotee and has not been reverted and this order has been kept secret. In order dated 28.1.1998 at S.No. 1 and 2 Ali Hussain and Syed Asghar Ali are still serving as promotees ASIs, Riazuddin, Haq Dad Khan, Fazal Hussain, etc were given promotions on the same basis and retired as Inspectors. Some Inspectors were given warning of reversion but they have not been reverted as yet.

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8. Arguments heard and record perused.
9. At the time of hearing, the Tribunal observed that apparently, the appeal is directed against the order of reversion issued by the Deputy Commandant, FRP, Peshawar (Respondent No.1) but the order of promotion was made by the Commandant, FRP, NWFP, Peshawar (Respondent No.2). So legally and as is held by the apex superior courts, inferior authority cannot interfere with the order of the superior authority and was not amenable to any interference by the inferior authority. The post of SI/PC carries a higher pay scale B-14, status and responsibility as compared to the

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of SI/PC without any valid reason.

10. The preliminary objections raised by the Government Pleader on behalf of the respondents were considered at length but they were ruled out of the contents. The appellant categorically mentioned in the para of the appeal that on 14.6.2003, he preferred an appeal to the Commandant, FRP, NWFP, Peshawar (Respondent No. 2), against the order dated 7.6.2003 of respondent No. 1 but the same is still pending before respondent No. 2 while more than 90 days have been elapsed. The respondents in their reply have mentioned that the representation of the appellant was rejected by the Authority but this was controverted on an affidavit and mentioned that the reply of the respondents is vague and incorrect in the sense that no order of the Authority in respect of the filing of the appeal has ever been communicated to him. On perusal of the record, there seems nothing that the order of rejection has ever been communicated to the appellant, so the appeal is well within time. Other preliminary objections raised by the respondents are also of flimsical nature. It has been held in several cases that this Tribunal is competent to entertain appeals of the aggrieved officials because they are civil servants. Since this objection has been settled once for all and the Tribunal as well as apex higher courts have entertained such like cases in numbers, so we need not dwell upon the issue any more.

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11. The appellant has a cause of action of service have been violated as he was reverted from the rank of SI/PC (B-14) straightaway to the rank of Head Constable (B-7) on no legal reason, so the appellant has cause of action and this Tribunal has the exclusive jurisdiction regarding the subject matter. The points impliedly are sufficient for the purpose to resolve the issue in hand. No element of un-clean hands has ever been pointed out.

12. While discussing the merit of the case, the learned counsel for the appellant contended that the appellant was promoted to the Grade-14. After 11 years, he was reverted to Grade-7 without any rhyme or reason. Other Head Constables, who were promoted alongwith the appellant on completion of 10/11 years tenure were either kept in service or retired from service as SI/PCs instead of reverting them to the rank of Head Constables. In order dated 01.4.2003, the officials at S.No. 4, Gul Shaid Khan, Habibur Rehman at S.No. 16, Rehmat Ali at S.No. 17 were not reverted but are still serving as such. Similarly, in the order dated 28.1.1998 the officials at S.No. 3, 4, and 5 have been reverted while the officials at S.No. 12 and 6 were not reverted and are still serving as such. Such is the position of the order of the year of 1995 wherein all the officials were retired from service in capacity of SI/PCs except at S.No. 16, Fazal Muhammad who was not reverted while at S.No. 17 Gul Tazeer No. 872 was reverted. In order dated 4.6.1992, the appellant was reverted. Rest of the incumbents were retired from service in

Still serving

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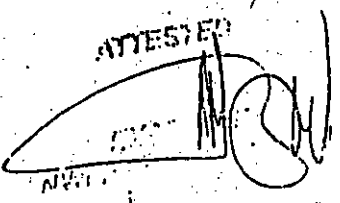
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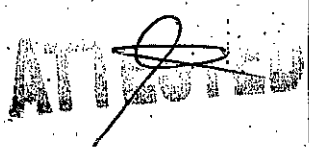
reverted. In order dated 7.6.2003 incumbent at S.I.P.C. / ...  
reverted and is still serving as such.

13. The learned counsel for the appellant drew the attention of this Tribunal to other officials namely Humayun Khan, Hayat Khan, Altaf Khan, Mian Zada who were promoted to the post of ASI/PCs on 1.7.1992 but they are still serving the Force as such. Similar other instances also exist. There is no provision in the Police Rules to the effect that Head Constable when promoted and posted as SI/PC would stand reverted after three years. In support of this contention he quoted authority of the Supreme Court of Pakistan, PLD-1965-SC, P-106 "Constitution of Pakistan, 1962" Article 96 (Government Servants) Service Rules not in existence - letters issued by Executive Authorities regarding service matter, increments, etc. cannot take the place of properly framed Rules (P-110-C).

14. The counsel for the appellant further contended that if it is presumed without conceding that the appellant was reverted after completion of normal tenure as SI/PC and this reversion was not by way of punishment, even then the issue of show cause notice to the appellant was mandatory. In support of this contention reliance was placed on PLD-1958 Ka Page-35 "(a) Constitution of Pakistan, Article 181 (ii) reduction in rank - provision, show cause notice applied even if reduction is not by way of penalty or punishment P-40 (e) SCMR-1994-2232.

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eligible and qualified for his promotion on the basis of seniority-cum-fitness as he has 26 years unblemished service record at his credit. As such he could not be reverted except by way of punishment and that too in accordance to law. Since the appellant did not commit any irregularity/illegality nor he was proceeded against under any rule, his reversion was without any lawful authority.

16. The Government Pleader while replying to some of the points raised by the counsel for the appellant stated that the appellant was promoted on officiating basis and not on regular basis after completion of normal tenure of 6 years, he was reverted to Grade-7 in normal course. The temporary promotion cannot be claimed as a matter of right as it is not guaranteed. The counsel further argued that the provision does not exist in Police Rules with regards to the promotion of Head Constable to the rank of Sub Inspector/Platoon Commander. The promotion is granted to the incumbents in the interest of administration as a temporary measure. Only those upper subordinates were allowed to remain in officiating capacity for a longer period who are qualified in the Intermediate as well as Upper School Courses. The appellant has not undergone that courses and as such, he could not be allowed to remain as officiating Sub Inspector for ever. He was promoted as SI/PC in officiating capacity and on completion of three years tenure, he was considered for reversion to his substantive rank of Head Constable who was promoted to officiate as Sub Inspector on

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Kumar  
Inspector

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Commander for 7 years

years service on their own request. In the normal course, they had to be reverted to the rank of head Constable after completion of 3 years tenure.

17. While rebutting the stand of Government Pleader, the counsel for the appellant stated that "officiating" does not exist in the promotion order of the appellant but even if it is presumed without conceding that the promotion of the appellant was ordered on officiating/temporary basis, even then demotion from the post of Platoon Commander to that of Head Constable could not be ordered without issuing show cause notice to the appellant. The appellant relied on High Court judgment appearing in PLD-1958 (W.P) Karachi 35 which is set out as under :-

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"Government Servant (Railways) Promotion by authority competent to promote temporarily - Promotee un-aware of restricted character of such authority order reverting Railway servant set aside in circumstances of case law of agency and estoppel -

Constitution of Pakistan (1975), Art. 170. (P.805)A' and SCMR 1994 2232. (f) Constitution of Pakistan (1973), Art. 199. Maxim: "Audi alteram partem" Employee of statutory corporation- Reversion - Absence of statutory rules - remedy Corporation while taking action against its employee, either issuing show cause notice to him nor giving him opportunity of hearing - Corporation having violated principles of natural

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without lawful authority

18. In view of the conflicting views and contradictory stands taken by the parties, it would be difficult to resolve the controversy unless a reference is made to promotion/demotion orders issued by the authorities from time to time. The first order of promotion was issued by the DIG Police Peshawar Range on 4.6.1992. This order is silent about the nature of promotion i.e. regular or otherwise. It also does not mention that the appellant would be reverted as Head Constable after completion of fixed tenure of 3/6 years. We have considered this difference in the two orders on the same subject but we have come to the conclusion that the orders issued by the higher authority i.e. DIG Peshawar would naturally take preference. The claim of the appellant that he was unaware of the restricted character of the promotion would therefore prevail. The appellant is thus entitled to the benefit of the judgment of the Dacca High Court in the Writ Petition No. 239 of 1961 (PLD-1963-Dacca 801) (para 11).

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19. The appellant was considered suitable for promotion by the DIG Peshawar Range. This suitability naturally meant seniority-cum-fitness. The appellant is un-doubtedly senior. He is also fit for promotion as he has 25/26 years service at his credit. The appellant possess more than satisfactory record of service. He has earned certificates and cash rewards on several occasions. Entries with regard to all these facts are available in the service

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WITHOUT LAW...

18. In view of the conflicting views and contradictory stands taken by the parties, it would be difficult to resolve the controversy unless a reference is made to promotion/demotion orders issued by the authorities from time to time. The first order of promotion was issued by the DIG Police Peshawar Range on 4.6.1992. This order is silent about the nature of promotion i.e. regular or otherwise. It also does not mention that the appellant would be reverted as Head Constable after completion of fixed tenure of 3/6 years. We have considered this difference in the two orders on the same subject but we have come to the conclusion that the orders issued by the higher authority i.e. DIG Peshawar would naturally take preference. The claim of the appellant that he was unaware of the restricted character of the promotion would therefore prevail. The appellant is thus entitled to the benefit of the judgment of the Dacca High Court in the Writ Petition No. 239 of 1961 (PED-1963-Dacca 801) (para 11).

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19. The appellant was considered suitable for promotion by the DIG Peshawar Range. This suitability naturally meant seniority-cum-fitness. The appellant is un-doubtedly senior. He is also fit for promotion as he has 25/26 years service at his credit. The appellant possess more than satisfactory record of service. He has earned certificates and cash rewards on several occasions. Entries with regard to all these facts are available in the service

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at the relevant time.

20. The net result of the above discussion is that the appellant was promoted on regular basis and some orders of respondents, no doubt, bear the word "officiating" but since these orders were not endorsed to the appellant, he is entitled to the benefit of the judgment of Dacca High Court in Writ Petition of 239/1961. Moreover, the appellant could not be demoted on the basis of a Standing Order because such letter had no force of law in view of the judgment of Hon'ble Supreme Court of Pakistan appearing in PLD-1965 (S.C) 16. It is also evident that the appellant became the victim of differential treatment. Other Head Constables who were promoted with the appellant were retired as Platoon Commanders whereas the appellant was reverted back as Head Constable.

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D. J. Khan

21. The counsel for the appellant further contended that after expiry of the probationary period, an official on completion of probationary period becomes permanent and his probationary period automatically ceases. Reliance was placed on PLC-1994-CS-84-PLC-92 CS1327.

22. That most of the orders of promotion to the next higher ranks have been passed by the Commandant, FRP (Respondent No.2), while the orders of reversion to the lower ranks were prompted by the Deputy Commandant, FRP Peshawar, so the same have no legal value as subordinate authority can not legally interfere with the orders of the higher authority. Only on this

is liable to be set aside.

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Forces are hereby regularized.

Para No. 5 at Page-2 of the said order reads as under :-

"5. The location of staff created are shown in Annexure-B. The duties and responsibilities of the new set up will be the same as those of regular police else where and its services will be governed by the police rules or any other rules applicable to their counter parts in regular police."

24. In view of the above discussion, the Tribunal agrees with the arguments advanced by the learned counsel for the appellant, accepts the appeal, sets aside the impugned order and re-instates the appellant in service.

25. This judgment will also dispose off the following connected appeals, as identical questions of law and facts are involved in all these cases :-

<u>S.No.</u>	<u>Appeal No.</u>	<u>Name of appellant</u>	<u>Versus</u>	<u>Impugned order</u>
1.	836/2003	Asal Khan	Dy.cammandan FRP etc.	16.4.2003
2.	896/2003	Nazir Badshah	-do-	7.6.2003
3.	1185/2003	Farhad Khan	-do-	1.7.2003
4.	948/2003	Gulfaraz Khan	-do-	7.6.2003
5.	949/2003	Muhammad Irshad	-do-	7.6.2003
6.	950/2003	Abdul Rehman	-do-	7.6.2003
7.	951/2003	Nasrullah Khan	-do-	7.6.2003
8.	952/2003	Gul Tazar	-do-	7.6.2003
9.	169/2005	Saidur Rehman	-do-	18.10.2004
10.	170/2005	Hayatullah	-do-	18.10.2004
11.	171/2005	Mira Khan	-do-	18.10.2004
12.	172/2005	Fida Muhammad	-do-	18.10.2004
13.	173/2005	Mahir Khan	-do-	18.10.2004

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17	264/2005	Ibrahim Khan	-do-	18.10.2004
18	106/2005	Rajmali Khan	-do-	18.10.2004
19	107/2005	Raza Khan	-do-	18.10.2004
20	108/2005	Haji Niaz Muhammad	-do-	18.10.2004
21	109/2005	Yousaf Khan	-do-	18.10.2004
22	942/2003	Sartaj Khan	-do-	7.6.2003
23	943/2003	Akbar Khan	-do-	7.6.2003
24	944/2003	Alauddin	-do-	7.6.2003
25	945/2003	Ghulam Akbar	-do-	7.6.2003
26	946/2003	Abdul Halcem	-do-	7.6.2003
27	947/2003	Luqman Hakim	-do-	7.6.2003
28	953/2003	Ali Muhammad	-do-	7.6.2003
29	954/2003	Mir Alam Khan	-do-	7.6.2003
30	955/2003	Muhammad Gul	-do-	7.6.2003
31	956/2003	Habibur Rehman	-do-	7.6.2003
32	957/2003	Noor Bahadur	-do-	7.6.2003
33	958/2003	Hastam Khan	-do-	7.6.2003
34	706/2004	Amir Nawaz	SP FRP etc	24.8.2004

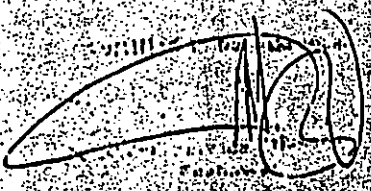
26. No order as to costs. File be consigned to the record.

ANNOUNCED  
29.11.2005.

  
(ABDUL KARIM QASURIA)  
MEMBER.

  
(GHULAM FAROOQ KHAN)  
MEMBER.

25/11/05



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 Name of .....  
 Date of Ct. .... 7-12-05  
 Date of ..... 7-12-05

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S.A No. - 170/2005

Hayatullah Khan s/o Ghulam Jan,  
R/O Railway Colony, Peshawar,  
Ex-SI/PC, FRP, Peshawar.....

APPELLANT

Versus

1. Deputy Commandant,  
Frontier Reserve Police, Peshawar.

2. Commandant,  
Frontier Reserve Police,  
N.W.F.P., Peshawar.

3. Inspector General of Police,  
N.W.F.P., Peshawar.....

RESPONDENTS

APPEAL AGAINST ORDER NO. 7279-88/EC, DATED 18.10.2004  
OF REPENDENT NO. 1, WHEREBY APPELLANT WAS REVERTED  
FROM THE RANK OF S.I/PC TO THE RANK OF HEAD  
CONSTABLE FOR NO REASON.

29.11.2005

Parties present. Vide our detailed judgment of today in Appeal No. 941/2003 Jamdad Khan Versus Deputy Commandant FRP etc, this appeal is accepted. No order as to costs. File be consigned to the record after completion.

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29.11.2005.

Member A

Member B

Urgent

Total

Name

Date of

Signature

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~~ATTENTION~~

**VAKALATNAMA**

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

APPEAL NO: \_\_\_\_\_ OF 2020

Mubarak Shah Khan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Police Department..

(RESPONDENT)  
(DEFENDANT)

I/We Mubarak Shah Khan

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2020

the  
CLIENT

**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**  
**(BC-10-0853)**  
**15401-0705985-5**

KAMRAN KHAN

&

AFRASIYAB WAZIR  
ADVOCATES

**OFFICE:**

Flat No.4, 2<sup>ND</sup> Floor,  
Juma Khan plaza near  
FATA Secretariat, Warsak road  
Peshawar City. Mobile No. 0345-9383141

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

Service Appeal No. 2764/2021  
Mubarik Shah HC  
HC (C-II) PTS Kohat

..... Appellant

**VERSUS**

Inspector General of Police,  
Khyber Pakhtunkhwa & others

..... Respondents

**INDEX**

S #	Description of documents	Annexure	pages
1.	Parawise comments	-	01-04
2.	Affidavit	-	05
3.	Copy of promotion order of appellant to the rank of HC C-II.	A	06
4.	Copy of order Endst: No. 2952-55/EC dated 23.11.2004. (with better copy)	B	07
5.	Copy of reversion order from the rank of Inspector / CDI to the rank of SI / PC dated 08.09.2016	C	08
6.	Copy of Director PTS Kohat, Letter & Reversion order of appellant, passed by respondent No. 3	D-D.1	09-10
7.	Copy of standing order No. 1/2006/FRP (now not operative)	E	11
8.	Copy of standing order No. 2/2014	F	12-16
9.	Case references of august Supreme Court of Pakistan passed in out of turn promotion	G	17

Deponent



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

---

**Service Appeal No. 2764/2021**

**Mubarik Shah HC**

HC (C-II) PTS Kohat

..... Appellant

**VERSUS**

Inspector General of Police,  
Khyber Pakhtunkhwa & others

..... Respondents

**PARAWISE COMMENTS BY RESPONDENTS.**

**Respectfully Sheweth:-**

**Preliminary Objections:-**

- i. That the appellant has got no cause of action.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
- iv. That the appellant is estopped to file the instant appeal for his own act.
- v. That the appeal is bad in eyes of law and not maintainable.
- vi. That the appellant has not approached the honorable Tribunal with clean hands.
- vii. That the case of appellant falls under the ambit of out of turn promotion and all such promotions have been declared illegal and unconstitutional by august Supreme Court of Pakistan in various judgments.

**Facts:-**

1. Correct to the extent that the appellant was appointed as constable in district Police Kohat. The remaining para is incorrect, as per Police Rules 13.7-A, qualification required courses / trainings i.e A-1 & B-1 and lower school course are mandatory to the promotion of Head Constable, while the appellant had not undergone the above mandatory courses. He was promoted to the rank of Head Constable (C-II), according to Police Rules 13.8 (2). The said order is also illegal as no approval from DIG Police was sought as required under the rules ibid. Copy of order is annexure A.

2. Pertains to record, the appellant was promoted to the rank of SI / Platoon Commander by Deputy Inspector General of Police, vide his office order Endst: No. 2952-55/EC dated 23.11.2004 for a specific period of 03 years, but he served in the same rank till 21.02.2020, which is violation of the aforesaid order on one hand and caused loss to the public exchequer on other hand by getting financial benefits in the same rank. Copy of order is **annexure B**.
3. The appellant while posted at PTC Hangu on deputation was promoted to the rank of Inspector / Chief Drill Instructor conditionally i.e purely on temporary basis and relating to the premises of PTC Hangu. Subsequently, the appellant was reverted to the rank of SI vide order dated 08.09.2016. Copy is **annexure C**.
4. Pertains to record, hence no comments.
5. The appellant was posted on deputation at Police Training School Kohat and Director PTS has intimated District Police Officer, Kohat, (not impleaded as respondent) and respondent No. 3 regarding status of the appellant and issuing appropriate orders. Therefore, in the light of aforesaid letter and relevant record, it was observed by respondent No. 3 that the appellant was promoted only for a **period of 03 years**, but he is illegally enjoying his service in the same rank beyond the laps of the prescribed period. Therefore, the impugned order was passed by respondent No. 3. Copy Letter and impugned order are **annexure D & D-1**.
6. The appeal of appellant against the impugned order filed before respondent No. 1 was devoid of merits, contrary to rules and rightly filed by the competent authority under the law / rules.
7. The appellant has not approached this Honorable Tribunal with clean hands and also estopped to file the instant appeal for his own act /facts.

**Grounds:-**

- A. Incorrect, the appellant was promoted to the rank of SI / PC **only for a period of 03 years**, vide order dated 27.11.2004, but he served in the same rank for a period of about 20 years. Therefore, the impugned order passed by respondent No. 3, is legal and speaking one.


- B. Incorrect, the appellant has been treated in accordance with the existing rules / terms and condition of his promotion order. Therefore, no violation of the constitution has been made by the respondents.
- C. Incorrect, reply is submitted in the above paras.
- D. Incorrect, reply is submitted in the above paras.
- E. Long service of the appellant has no concern with the illegal retention / serving of appellant in the rank of SI / PC beyond the prescribed **period of 03 years**.
- F. Incorrect, the Respondent No. 3 while exercising powers u/s 21 of General Clause Act passed the impugned orders.
- G. Incorrect, the case of appellant does not fall under the ambit of Civil Servants Act-1973 or the Khyber Pakhtunkhwa, (Appointment, Promotion & Transfer) Rules – 1989.
- H. Incorrect, the impugned order is passed by respondent No. 3 in accordance with the terms and condition of his promotion order, which was passed **only for the 03 years**. The appellant has not undergone and the requisite training / courses provided under Chapter – 13 of Police Rules – 1934 and Amended 2017. Therefore, the appellant is not entitled to hold the rank of SI / PC. Furthermore, such promotion falls under the ambit of out of turn promotion.
- I. Incorrect, the case referred by appellant in para No. 1, of his appeal is not identical in nature as, the appeal & judgment passed in service appeal No. 941/2003 dated 29.11.2005 pertains to Frontier Region Police. The appellant of the aforesaid appeal and other appellants of connected appeals were employed of Frontier Region Police (FRP). The appellant of aforesaid service appeal was promoted by DIG HQrs, Khyber Pakhtunkhwa, Peshawar Range vide, his reversion order was passed by Deputy Commandant FRP Peshawar, who was subordinate of the DIG HQrs. Therefore, the subordinate authority can't legally interfere with the orders of the higher authority. Furthermore, promotion of FRP personnel to the rank of SI / PC was carried out in accordance with the Standing Order No. 1/2006/FRP according to required criteria mentioned at serial No. 3 of the ibid Standing Order. Besides above, in respect of FRP personnel a comprehensive Standing Order No. 2/2014 has been issued and is operative in field, while standing order No. 1/2006/FRP is not operative now. Therefore, Standing Order No. 1/2006/FRP is not applicable to the district Police, as, the appellant is appointed and is at the strength of district Police. He was promoted by DIG Police, Kohat for a specific period of 03 years and reverted to the rank of Head Constable C-II by the same authority. It is added that promotion of Police officials is governed under Chapter 13 of Police Rules 1934 and amended-2017. The appellant is neither qualified the required criteria for promotion to the rank of Head Constable, nor other ranks.

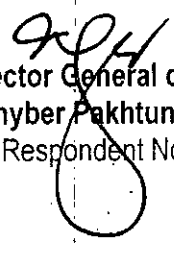
and SI etc. Copy of standing orders No. 1/2006/FRP and 2/2014 are annexure E & F.


- J. The respondents may also be allowed to advance other grounds during the course of arguments.

**Prayer:-**

In view of the above, it is prayed that the appeal contrary to facts, law & rules, devoid of merits and not maintainable may graciously be dismissed with costs.

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

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

  
Regional Police Officer,  
Kohat  
(Respondent No. 3)  
~~Regional Police Officer~~  
Kohat Region Kohat

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

Service Appeal No. 2764/2021  
**Mubarak Shah HC**  
HC (C-II) PTS Kohat

..... Appellant

**VERSUS**

Inspector General of Police,  
Khyber Pakhtunkhwa & others

..... Respondents

**COUNTER AFFIDAVIT**

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.

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

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

Regional Police Officer,  
Kohat

(Respondent No. 3)  
**Regional Police Officer**  
**Kohat Region Kohat**

P-6  
Annex A

O R D E R.

LHC.Mubarik Shah of this district Police  
now on deputation to RTW.Kohat is hereby promoted as  
Head Constable (C-II) with immediate effect.

( KHALID HABIB KHAN )  
Superintendent of Police, Kohat.

OB.NO. 1031

Dated 11-10/1999.

Arms B<sup>3</sup> P<sup>2</sup> 07

Offgr ASI Mubrook of P<sup>1</sup> Hangu is hereby reverted to his substantive rank of Offgr HC (C-II) w.e.f 15-5-2004 vide O B No. 238 dt 18.5.2004.

Reverted to his parent

District Kohat vide Provincial Police Office No 23365-67/E-II dt 16-12-2004  
Pay paid for 12/2004 - m PQR - Peshawar

*J. Ghani*  
Commandant  
Police Training College  
Hangu

Deputy Superintendent of Police  
Welfare & PQR NWFP, Peshawar

Service From 15<sup>5</sup>/<sub>99</sub> To 30<sup>4</sup>/<sub>2004</sub>  
Have been verified and found correct  
*J. Ghani*  
Commandant  
Police Training College  
Hangu

Service From 5-5-2004 to 31-12-2004  
Has been verified and found correct  
Pay Rate to Accountant  
Capt in this office  
*J. Ghani*  
Dy. Supt. of Police  
Welfare & PQR NWFP

PI as HC @ RS. 4620/- p.m.w.e. from 31-12-2004

*J. Ghani*  
Deputy Superintendent of Police  
Welfare & PQR NWFP, Peshawar.

Promoted to the rank of SIPP  
for a period of 3 years with immediate  
effect vide OIG/Peshawar dt 29/11/04. He will not  
retain any seniority on reversion to his  
substantive rank. His pay is fixed @ Rs 5000/-  
per month attached.

- | PAY FILE |                   |
|----------|-------------------|
| 1.       | Name              |
| 2.       | Des               |
| 3.       | Dep               |
| 4.       | Exi               |
| 5.       | (OL<br>Cor<br>Sca |
| 6.       | Exi               |
| 7.       | Pay<br>pa         |
| 8.       | Date              |

Upgraded  
increment

**ORDER**

Promoted to the rank of SI / PC for a period of 03 years with immediate effect vide DIG/Police Kohat Endst: No. 2952-55/EC dated 23/11/04. He will not claim any seniority on reversion to his substantive rank. His pay fixed @ Rs. 5020/PM per option attached.

**-Sd-  
District Police Officer,  
Kohat**



1	2	3	4	5	6	7	8
Name of Post	Whether Substantive or officiating and whether permanent or temporary	Officiating state- ( ) substantive appointment or ( ) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II	Pay in substantive position	Additional pay for officiating	Other emoluments falling under term pay	Date of appointment	Signature of Government servant
درجہ عارضی	عارضی مستقل	اگر عارضی ہے تو رول کے مطابق پیش کیا سچا ہے؟	تجوڑا بلڈر عارضی عمارت	زائید تجوڑا مطور قائم مقام	اسوائے تجوڑا دیگر الائش	تاریخ تقریری	
			Rs. P.s.	Rs. P.s.			

P.I. Insp. Rs. 18000 pm  
With Effect from 2.12.2012  
Munir

P.I. Insp. Rs. 19500 pm  
With Effect from 2.2.2013  
Munir

P.I. Insp. Rs. 20400 pm  
With Effect from 2.1.2014  
Munir

Pay fixed provisionally to the extent of Rs. 26365/12  
2.1.2014

Handwritten notes and signatures on the left side of the table.

P.I. Insp. Rs. 27400 pm  
With Effect from 1.7.2015  
Munir

Pay fixed provisionally to the extent of Rs. 33800/12  
1.7.2015  
Munir

**ORDER**  
Reverted to his original rank i.e. Sub-Inspector vide PIC OB No. 698 dt. 08/9/2016.  
His pay fixed @ Rs. 30350/12  
Munir

BETTER COPY

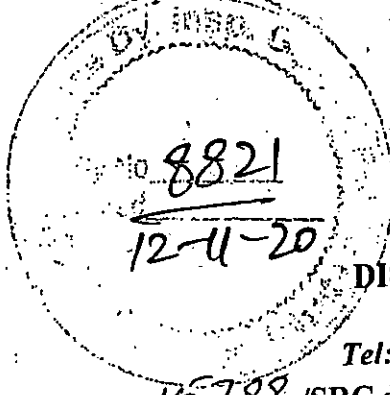
ORDER

Reverted to the original rank i.e Sub Inspector vide PTC OB

No. 698 dated 28.09.2016.

This pay fixed Rs. 30360/PM, as SI.

-Sd-  
Commandant,  
Police Training College,  
Hangu



Annex D P-9

OFFICE OF THE  
DISTRICT POLICE OFFICER,  
KOHAT

Tel: 0922-9260116 Fax 9260125

No. 15788 /SRC dated Kohat the 12.11 /2020.

To: The Regional Police Officer,  
Kohat Region, Kohat.

Subject: **IMPLEMENTATION OF JUDGMENT OF APEX COURT PERTAINS TO  
OUT OF TURN PROMOTION.**

Memo: - Kindly refer to the subject cited above:-

It is submitted that Director PTS Kohat vide his Memo No. 931/HC dated 06.11.2020, has intimated that SI/PC Mubarak Shah was promoted as SI/PC for the period of three years vide your good office Order Endst: No. 2952-55/EC dated 28.11.2004 and he was transferred to PTC Hangu vide PPO KP Peshawar Order Endst No. 11531-33/E-II dated 29.06.2005. After separation from PTC Hangu he was transferred to PTS Kohat vide Commandant PTC Hangu OB No. 327 dated 09.10.2018.

In the light of above judgment, it is therefore requested that necessary order may kindly be passed in this respect.

His service particular alongwith service record is enclosed herewith for favour of perusal. please.

  
DISTRICT POLICE OFFICER,  
KOHAT

No. 15788 /SRC

Copy of above is forwarded to the Director Police Training School, Kohat for information w/r to his letter quoted above please

  
DISTRICT POLICE OFFICER,  
KOHAT

F 27 - 18/21

Annex D<sub>1</sub> - P-10



OFFICE OF THE  
REGIONAL POLICE OFFICER  
KOHAT REGION

No. 21723- /EC

Dated 21/12 /2020

D<sub>1</sub>

ORDER

C-II Head Constable Mubarak Shah of this Region, presently posted at Police Training School Kohat, was promoted from the rank of C-II Head Constable to the Rank of SI/PC for a period of 03 years vide this office order Endst: 2952-55/EC dated 28.11.2004, governed by Standing Order No. 1/2006/FRP.

Record indicates that the official has completed his specified tenure of promotion, but still performing duty in the same rank, which is unjustified and contrary to the Standing Order *ibid*. Moreover, the Standing Order is not operative in the district presently.

In view of the above, legal and factual aspects, SI / PC Mubarak Shah is hereby reverted to this substantive rank of C-II Head Constable with immediate effect.

  
Regional Police Officer,  
Kohat Region

OFFICE OF THE REGIONAL POLICE OFFICER, KOHAT REGION


No. 21724-25 /EC,

Dated 21/12 /2020

Copy of above is submitted for favour of information to the  
Inspector General of Police Khyber Pakhtunkhwa please  
2. District Police Officer Kohat *Amjad Ali Bhatt*  
3. Superintendent of Police Training School Kohat *S. Raza*

*Amjad Ali Bhatt*  
*S. Raza*


  
Regional Police Officer,  
Kohat Region



**STANDING ORDER NO. 1/2006 /FRP**  
**SYSTEM OF PROMOTION IN FRONTIER RESERVE POLICE**

Amx E  
P-11

Police/  
khwa;

	<p>According to Notification NO. SO(Police-I)FD/3-10/14-5-149 dated 15/01/1988 from Government of NWFP Home &amp; TAs Department, the duties and responsibilities of Frontier Reserve Police are the same as those of Regular Police elsewhere and its services are governed by Police Rules-1934 or any other rules applicable to their counterparts in the regular Police. Therefore, promotion from one rank to another and one grade to another shall be in accordance with Chapter-13 of the Police Rules. For this purpose, lists A,B,C,D &amp; E shall be kept in the office of Commandant Frontier Reserve Police NWFP Peshawar. However, where there are no specified rules for promotions in accordance with the above lists the following procedures shall be adopted for the promotions of Section Commanders and Platoon Commanders:-</p>
<p>ifications For ion To The FHC/SC</p>	<p>Minimum qualification for promotion to the rank of HC/SC shall be:-</p> <ol style="list-style-type: none"> <li>Qualified Section Commanders Course.</li> <li>Physical fitness according to Police Rules-12-16(i)</li> <li>Character Roll clear of entry carrying moral stigma.</li> <li>Preference shall be given to candidates who have qualified Drill Course.</li> </ol>
<p>ications For ion To The S/PC</p>	<p>Minimum qualification for promotion to the rank of S/PC shall be:-</p> <ol style="list-style-type: none"> <li>Service as Section Commander for 3 years.</li> <li>Platoon Commander Course passed.</li> <li>Physical fitness according to Police Rules 12-16(i)</li> <li>Character Roll clear of entry carrying moral stigma.</li> </ol>
<p>Criteria for promotion to the HC/SC</p>	<ol style="list-style-type: none"> <li>Those Constables who have qualified Lower School Course may be promoted according to the Police Rules 13-8 read with 13-1(i)&amp;(ii).</li> <li>Those who are not at list "C" but have qualified Section Commander Course, Drill Course and are physically fit having clean service record may be promoted upto the ratio of 10% of the posts of Head Constables.</li> </ol>
<p>Criteria for promotion to the ASI</p>	<p>As the nature of duties of ASIs is that of staff officer, therefore, those C-1 Head Constables who have completed their tenure in the rank of Head Constable may be promoted to the rank of ASI for a period of two years. If the Commandant FRP intends to grant extension beyond two years, the officer be reverted and promoted again for further period of two years so that rules 13-18 is not violated. However, further extension may not be granted.</p>
<p>Section Grade promotion</p>	<p>For selection grade promotion existing rules and standing orders applicable to the District Police may be followed.</p>
<p>Deputations</p>	<ol style="list-style-type: none"> <li>Senior constables on promotion list "C" senior HCs on list "D" and senior ASIs on list "E" may be requisitioned to FRP from the District Police at the ratio of 25% of the sanctioned posts of Head Constables and SIs. They shall be given one step promotion according to the above procedure. Such deputationists may be reverted to their parent district when they complete their 6 years tenure in FRP. However, in case of any complaint or having bad record any officer on deputation may be returned to his parent district on the recommendation of Commandant Frontier Reserve Police.</li> <li>Head Constable/ASIs and SIs who are on deputation presently from the District Police may be allowed to continue their services upto the period of extension (they have been granted already).</li> </ol>
<p>Special</p>	<p>Standing Order No 3/FRP/099 is hereby repealed.</p> <p align="right">               (M. RATTAT PASHA)              Provincial Police Officer              NWFP Peshawar         </p>

99  
3  
1/2012

3/22-6-21/06 dated Peshawar, the 21/6/2006

Copy of above is forwarded to all the District Police Offices in NWFP for information and necessary action.

**STANDING ORDER NO. 1/2006/FRP**

**Subject:**

**SYSTEM OF PROMOTION IN FRONTIER RESERVE POLICE**

1. General	According to Notification No. SO(Police-I)II D-10/146-149 dated <u>15-11-88</u> of Government of NWFP Home & TAs Department, the duties and responsibilities of Frontier Reserve Police are the same as those of Regular Police elsewhere and its services are governed by Police rules-1934 or any other rules applicable to these counterparts in the regular Police. Therefore promotion from one rank to another and one grade to another shall be in accordance with Chapter – 13 of the Police Rules. For this purpose list A,B,C,D & E shall be kept in the office of commandant Frontier Reserve Police, NWFP Peshawar. However, where there are no specified rules for promotion in accordance with the above lists the following particulars shall be adopted for the promotions of Section Commanders and Platoon Commanders.
2. Qualification for promotion to the Rank of HC/SC	Minimum qualification for promotion to the Rank of HC/SC shall be:- a. Qualified Section Commander Course. b. Physical fitness according to Police Rules – 12-16(i) c. Character Roll clear of entry carrying moral stigma. d. Preference shall be given to candidates who have qualified Drill Course.
3. <del>Qualification for promotion to the Rank of SI/PC</del>	Minimum qualification for promotion to the rank of SI/PC shall be:- a. <del>Service as Section Commander for 03 years</del> b. <del>Platoon Commander Course passed.</del> c. Physical fitness according to Police Rules – 12-16(i). d. Character Roll clear of entry carrying moral stigma
4. Criteria for promotion to the Rank of HC/SC	i) Those constables who have qualified Lower School Course may be promoted according to the Police Rules 13-8 read with 13-1(i) & (ii). ii) Those who are not at list "C" but have qualified Section Commander Course, Drill Course and are physically fit having clean service record may be promoted upto the ratio of 10% of the posts of Head Constables.
5. Criteria for promotion to the Rank of ASI	As the nature of duties of ASIs is that of staff officer, therefore those C-I Head Constables who have completed their tenure in the Rank of Head Constables may be promoted to the Rank of ASI for a period of 02 years. If the Commandant FRP decides to grant extension beyond two years, the officer be reverted and promoted again for further period of two years so that rules 13-18 is not violated. However further extension may not be granted.
6. Selection Grade Promotion	For selection grade promotion existing rules and standing orders applicable to the District Police may be followed.
7. Deputation	i). Senior Constables on promotion list "C" senior HCs on list "D" and senior ASIs on list "E" may be requisitioned to FRP from the District Police at the ratio of 25% of the sanctioned posts of Head Constables and Sis. They shall be given one step promotion according to the above procedure. Such deputationists may be reverted to their parent districts when they complete their two years tenure in FRP. However, in case of any complaint or having bad record, any officer on deputation may be returned to his parent district on the recommendations of Commandant Frontier Reserve Police. ii). Head Constables/ASIs and Sis who are on deputation presently from the District Police may be allowed to continue their service upto the period of extension they have been granted already.
8. Repeal	Standing order No. 3/FRP/1999 is hereby repealed.

.....Sd.....  
**(MUHAMMAD RAFFAT PASHA)**  
Provincial Police Officer,  
NWFP, Peshawar

No. 3422-62/C-I dated Peshawar the 27/05/2006

Copy of above is forwarded to all Head of Police Offices in NWFP, for information and necessary action.



Annex F P.12  
3

OFFICE OF THE  
THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar

STANDING ORDER NO. 2 /2014

**Frontier Reserve Police (FRP)**

This Standing Order is issued under Article 10(3) of Police Order 2002, in supersession of all previous Standing Orders issued with regard to Frontier Reserve Police(FRP) and to give effect to the recommendations of the Committee on the Re-organization of FRP as subsequently approved and notified vide PPO Notification No. 4126-40/SE-1 dated Peshawar 11<sup>th</sup> April 2014.

1. **General:-**The provisions of Police Order 2002, Police Rules 1934 and/or any other laws and rules applicable to Police shall apply mutatis mutandis to the members of FRP.
2. **Aim:-**This Standing Order aims to streamline the organization, administration and functioning of FRP in accordance with the provision of Police Order 2002, Police Rules 1934 and other laws and rules applicable to Police Department.
3. **Establishment of FRP:-**The Frontier Reserve Police (FRP), originally known as Frontier Armed Reserve (FAR), was established within Police Department vide Home Department Order No. SO(P-II)HD/8-10/146-149 dated 16-01-1988, by merging together a number of small units of Police Department.
4. **Mandate:-**FRP shall assist the District Police in the following duties:
  - a) Anti-riot operations;
  - b) Operations against criminals and Proclaimed Offenders;
  - c) Security of VVIPs/VIPs, sensitive and vulnerable establishments;
  - d) Deployment on Highway Patrolling Posts; and
  - e) Any other duty assigned by the Provincial Police Officer.

30-11/2014

5. **Organization:**-FRP organization shall include police officers of senior and junior ranks, ministerial and follower staff posted in, or hitherto (so far) enrolled in FRP.

5.1 FRP shall be headed by an officer not below the rank of Deputy Inspector General of Police as Commandant FRP. He shall work under the direct supervision of the Provincial Police Officer.

5.2 The Commandant FRP shall be assisted by as many Deputy Commandants (SPs BS-18), SPs FRP Ranges, Assistant Commandants (DSPs/ASP BS-17), other junior rank officers, and ministerial staff as determined by the Provincial Police Officer from time to time.

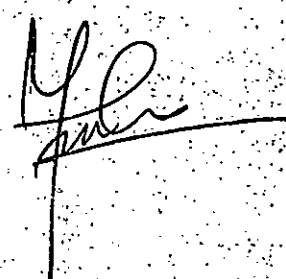
5.3 FRP shall be organized into such active Companies, Platoons and Sections and support staff, posted in FRP Headquarters, Police Regions and Police Districts, as determined by the Provincial Police Officer. An FRP Company, headed by an Inspector designated as Company Commander, shall consist of 3 FRP Platoons, each consisting of 1 SI/ASI as In-charge, 4 HCs and 40 FCs. An FRP Section shall consist of 1 HC and 10 FCs. The "illiterate" officers/officials of FRP shall be distributed in such a manner that they are evenly represented in each Platoon.

5.4 The FRP Headquarters shall be located at Peshawar or at any other place declared as FRP Headquarters by the Provincial Police Officer.

6. **Requisitioning of FRP:** The administrative and operational control of FRP shall rest with the Commandant FRP. However, the Capital City Police Officer (CCPO), or any Regional Police Officer (RPO) may requisition FRP strength for the mandated duties, subject to the approval of Provincial Police Officer.

6.2 The Commandant FRP, subject to any general or specific order of the Provincial Police Officer, may place the services of the FRP strength so requisitioned, for a specific period, at the disposal of CCPO or RPOs. The Commandant FRP may, subject to any general or specific order of the Provincial Police Officer, extend for a specific period the stay of FRP strength placed at the disposal of CCPO or RPOs.

6.3 Once the FRP strength is placed in a District, the operational command of the FRP strength so placed shall rest with the District Head of Police concerned. The FRP strength deployed, permanently or temporarily, on Highway Patrolling Posts shall also be subject





to the operational command of the District Head of Police. The District Head of Police will ensure to make suitable arrangements for the lodging of the FRP strength placed in the District.

6.4 The senior most officer of FRP in a District shall be responsible for the general administration, welfare and discipline of the FRP strength, including maintenance of daily parade statement and daily duty roster. He shall keep the Commandant FRP and the District Head of Police informed about the administration, discipline, welfare or any other important matter with regard to the FRP strength in the District.

6.5 SP FRP Range shall be responsible for the general administrative, welfare and discipline of the FRP strength placed in a Region, including maintenance of daily parade statement and daily duty roster. He shall also keep the Commandant FRP, RPO, and the District Head of Police, informed about the administration, discipline, welfare or any other important matter with regard to the FRP strength in the Region.

7. **Recruitment in FRP:-**According to Police Order 2002, recruitment of constables is the exclusive authority of the District Head of Police. FRP is neither a Police District nor a Police Region. Therefore, henceforth, there shall be no recruitment or enrollment of constables in FRP.

8. **Vacancies in FRP:-**Vacancies occurring in FRP in any junior rank shall be filled through posting of officers from each District for a specific tenure. The Central Police Office (CPO) shall transfer junior most officers in each rank to FRP in accordance with the share of the respective District (Ref: section 8.3 below). Once transferred to FRP, following shall be the minimum tenure of junior rank officers in FRP:

- a) Inspector: 1 Year: (Excluding any period of leave other than casual leave)
- b) SI/ASI: 1 Year: (do)
- c) HC/EC: 2 Years: (do)

8.1 This tenure criteria shall not apply to the illiterate officers of FRP.

8.2 The vacancies occurring in a District due to transfer of officer to FRP shall be filled in the following manner and order:

- a) Repatriation of officers from FRP to the District concerned

P 15 (3)

- b) Promotion of officers on the strength of the District;
- c) Fresh recruitment.

8.3 Each District shall have a percentage share in the vacancies of FRP in junior ranks proportionate to the total strength of that District. Since presently, some Districts are over-represented in FRP, this balance shall be gradually restored.

9. **Transfer of FRP officers to their Districts of Domicile:-**All junior rank officers of FRP, except illiterate officers, shall be transferred to their Districts of Domicile after completion of their tenure in FRP. First should be transferred those who have served longest periods in FRP.


9.1 In case no vacancy is available in the District of Domicile, the officer transferred from FRP shall be adjusted against vacancies in his respective Region till the availability of vacancy in his District of Domicile.

9.2 The 'illiterate' officers of FRP shall not be transferred to Districts/Regions. Only the following categories of junior rank officers of FRP may be transferred to Districts/Regions:

- a) **Constables** who have been recruited on the basis of matric qualifications;
- b) **Head Constables** who have qualified Lower Course as constables;
- c) **ASIs** who have qualified Intermediate Course as Head Constables or have been directly recruited through Public Service Commission;
- d) **SIs** who have qualified Intermediate Course or have been directly recruited as ASIs through Public Service Commission; and
- e) **Inspectors** who have qualified Upper College Course.

10. **Fixing seniority of FRP personnel on transfer to their Districts of Domicile:-** An officer repatriated from FRP to his District of Domicile shall not be placed on the bottom of the seniority list merely due to transfer from FRP.

10.1 Seniority of an officer of FRP on transfer to his respective District of Domicile shall be determined first on the basis of entry into service and then from the date of entry into the relevant promotion list. Should the date of entry into service or the date of entry into a promotion list of an officer transferred from FRP to a District and an officer

  
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ready borne the strength of that District are the same, the officer older in age shall be placed ahead on the promotion list.

**11. Promotion of FRP Personnel:-**FRP is neither a Police District nor a Police Range. Therefore, promotion lists A, B, C, D and E shall no more be maintained in FRP. Instead, promotion of officers posted in FRP, as is the case of other units, shall be done by District Heads of Police or the RPOs, as the case may be, against the available vacancies in accordance with Chapter 13 of Police Rules 1934. The District Heads of Police or the RPOs, as the case may be, shall maintain consolidated lists of all officers, whether posted in the District/Range or in any other unit, including FRP.

**12. Promotion Courses for FRP personnel:-**Since the promotion lists of all junior rank police officers of FRP will be henceforth maintained in the irrespective Districts of Domicile and respective Ranges, nominations of FRP personnel for promotion courses i.e. Lower, Intermediate and Upper Course, shall be carried out by their respective Districts and Ranges.

12.1 All training quotas/seats hitherto allocated to FRP for promotion courses are hereby withdrawn.

12.2 The District Heads of Police or the RPOs, as the case be; shall nominate officers for promotion courses strictly in accordance with seniority and merit position, irrespective of the fact whether the officers so nominated are working in the Districts are have been posted to FRP.

12.3 In order to ensure fairness to all, the District Heads of Police or the RPOs, as the case may be, shall maintain consolidated promotion lists of all officers whether they are posted in the Districts, Regions, FRP, Special Branch, Investigation, Elite Force, Counter Terrorism Department, Traffic, CPO or any other unit or who are serving on deputation in other departments.

12.4 The Commandant FRP, however, may nominate officers working in FRP for professional courses or other capacity building training courses. For this purpose, the CPO will ensure the allocation of fair share to FRP.

**13. Issues of 'Illiterate' officers of FRP:-**Since 'illiterate' officers of FRP cannot be transferred to Districts/Regions, their issues with regard to seniority, promotion,

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promotion courses and capacity building courses, shall be dealt with through a separate Standing Order.

15. **Standard Operating Procedures of FRP:-**The Commandant FRP shall formulate, subject to the approval of the Provincial Police Officer, detailed Standard Operating Procedures (SOPs) for the smooth implementation of the provisions of this Standing Order.

16. **Indemnity:-**Any order passed, instruction issued or duty assigned with regard to FRP or its personnel so far under any previous Standing Order shall stand valid.

18. **Power to remove difficulties:-**If any difficulty arises in giving effect to this order, the Provincial Police Officer may by notification make such provisions as deemed appropriate.

19. **Repeal:-**All previous Standing Orders issued with regard to FRP are hereby repealed.

(NASIR KHAN DURRANI)  
Provincial Police Officer  
Khyber Pakhtunkhwa  
Peshawar

No:- 172-235/98 dated Peshawar the 8<sup>th</sup> September 2014

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

1. All Heads of Police Offices in Khyber Pakhtunkhwa;
2. PRO to PPO;
3. Registrar CPO;

No. 15105-07 /GS dt 22-09/14

(MUBARAK ZEB) PSP  
DIG/Headquarters  
Khyber Pakhtunkhwa  
Peshawar



for Macton  
C.P.O. to S.P.O. of the P.O.

**CASES REFERENCES, JUDGMENT OF AUGUST SUPREME COURT OF  
PAKISTAN & PHC IN OUT OF TURN PROMOTION**

S #	Type / Category of out of turn promotion	Relevant judgment	Relevant paras
1.	Cadetship / law or Drill under the garb of. 1. Standing Order No. 11/87. 2. Standing Order No. 7/2003 3. Standing Order 2014 4. Validation Act 2005	a. 1998 SCMR 2013. b. 2016 SCMR 1254 c. 2013 SCMR 1752 d. 2015 SCMR 456 e. 2017 SCMR 206. f. 2018 SCMR 1218	a. Para 9. b. Para 46. c. Paras 158, 162 & 164 d. Para 122 e. Para 98 to 104 and 111 f. Para 69.
2.	Gallantry promotions under the garb of special case	a. 2013 SCMR 1752 b. 2015 SCMR 456 c. 2017 SCMR 206. d. 2018 SCMR 1218	a. Para 152, 162 & 164. b. Para 122, 123 & 127 c. Para 98 to 104, 130 & 111 d. Para 71, 72 & 76. e. Para 69.
3.	FRP / Platoon Commander / Campus Police	a. 2013 SCMR 1752 b. 2016 SCMR 1254. c. 2015 SCMR 456. d. 2017 SCMR 2016	a. Para 121, 123, 124, 126, 158, 162 & 164 b. Para 71, 72 & 73. c. Para 114 to 116 & 121. d. Para 98 104.
4.	Sports	2017 SCMR	Para 94 to 137

**OTHER RELATED JUDGMENTS**

1. Consolidated judgment dated 30.06.2020 of the Apex Court in CP No. 1996, 2026, 2431, 2437-2450, 2501 & 2502 of 2019.
2. Judgment dated 02.09.2020 of Honorable Peshawar High Court in Writ Petition No. 2513-P/2020.
3. Judgment dated 31.01.2019 of Honorable Peshawar High Court in Writ Petition No. 538-P/2019.
4. Judgment dated 26.11.2020 of Honorable Peshawar High Court in Writ Petition No. 5192-P/2020.

All these judgments are available in Writ Petition No. 4062-P/2020 alongwith CM No. 54-P/2021, decided by Honorable Peshawar High Court Peshawar vide judgment dated 14.04.2021.

- Under Section 21 of the Police Act, 1861, Inspector General of Police can make rules with prior approval of the Government except promotion related matters.