

23.4.2015

Appellant with counsel, Addl. AG with Ghulam Mustafa, Inspector for the official respondents and junior to counsel for private respondents No. 5 to 12, 14 to 17, 21, 23, 30 and 40. present. Arguments of the learned counsel for the appellant heard. The Leader counsel for private respondents is not present because of illness of his father being hospitalized. Addl. AG also requested for time to argue the case alongwith counsel for private respondents. As such case is adjourned to 15.5.2015 for further arguments.


MEMBER


MEMBER

15.05.2015

Appellant with counsel, Mr. Usman Ghani, Sr.GP for the official respondents and junior to counsel for private respondents present. Counsel for the private respondents is not available due to unavoidable circumstances. To come up for arguments either verbally or written on 20.5.2015.


MEMBER


MEMBER

21.05.2015

Appellant with counsel (Mr. Abdul Shakoor Khan, Advocate), Mr. Muhammad Adeel Butt, Addl. A.G for the official respondents and counsel for private respondents (Mr. Muhammad Asif Yousafzai, Advocate) present. Arguments heard. Record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 405/2014, titled "Muhammad Amjad Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc." this appeal is also remitted to the P.P.O Khyber Pakhtunkhwa, Peshawar as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
21.05.2015


MEMBER


MEMBER

6.2.2015

Appellant with counsel, Mr. Muhammad Jan, GP with Ghulam Mustafa, Inspector for the official respondents No. 1 to 4 and counsel for private respondents No. 5 to 12 present. Written replies of respondents No. 1 to 12 already received. Private respondent No. 14 present who submitted that he will contest this appeal. Private respondents No.19 & 34 in person present and submitted written reply and supported case of the appellant. Private respondents 25, 27,32, 33, & 45 sent their replies and supported case of the appellant. Other respondents have been served but not present, hence placed ex-parte. The learned counsel for the appellant submitted that he does not want to submit any rejoinder and requested that the case may be fixed for arguments. Therefore, case to come up for arguments on 02.3.2015. In the meanwhile private respondent No. 14 is directed to submit his reply, if any, before the date fixed.


MEMBER

2.3.2015

Appellant with counsel, Mr. Usman Ghani, Sr.GP with Ghulam Mustafa, Inspector for the official respondents and Mr. Muhammad Asif Yousafzai, Advocate for private respondents No. 5 to 12 present. He also appeared on behalf of private respondents No. 14, 15, 16, 17, 21, 23, 30, and 40, submitted wakalatnamas on their behalf and requested for setting aside ex-parte proceedings dated 6.2.2015 against them and relied on the written reply already submitted by him. As such ex-parte proceedings against above said respondents are set aside. The learned Member-II of the D.B is busy in Bench-III, therefore, case is adjourned to 23.4.2015 for arguments either verbally or written.


MEMBER

15.12.2014

Clerk to counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Abdul Qayum, S.I(Legal) for the official respondents and clerk to counsel for private respondents present. The Tribunal is incomplete. To come up for the same on 19.1.2015.



READER

19.1.2015

Appellant with counsel, Mr. Muhammad Adeel Butt, AAG for the official respondents and Mr. Muhammad Asif Yousafzai, Advocate for private respondents No. 5 to 12 present. It was pointed out that no further order about respondents No. 13 to 45 has been issued. Since the appellant has made them respondents, therefore, it is necessary to issue them notices. In view of their number, notice be served upon them through DPO, Tor Ghar to be directed and that after services of the respondents, compliance report be submitted to this Tribunal. To come up for written reply of private respondents No. 13 to 45, on 6.2.2015.



MEMBER

22.08.2014

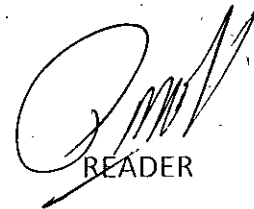
Counsel for the appellant and Mr. Kbeerullah, Asstt. A.G with Abdul Qayum, SI on behalf of official respondents and counsel for private respondents No. 5 to 12 present. The learned Member is on leave, therefore, case to come up for the same on 10.09.2014.



Reader

10.09.2014

Counsel for the appellant, Mr. Muhammad Adeel Butt, AAG with Abdul Qayum, SI (L) for official respondents and junior to counsel for private respondents No. 5 to 12 present. The learned Member is on leave. To come up for the same on 30.09.2015.



READER

30.09.2014

Counsel for the appellant, Mr. Muhammad Adeel Butt, AAG with Abdul Qayum, SI for the official respondents present and reply on main appeal filed. Junior to counsel for private respondents No. 5 to 12 present who already filed written reply. Counsel for the appellant does not want to file rejoinder and requested that the case may be fixed for arguments on main appeal. To come up for arguments on main appeal on 15.12.2014.



MEMBER

14.5.2014

Appellant with counsel, Mr. Muhammad Jan GP and Counsel for the private respondents present. Counsel for the appellant wants to argue the stay application. Counsel for the private respondents stated that actually the case was fixed for 12.6.2014, and he received no notice for hearing the application to-day. Therefore, case to come up for written reply on main appeal as well as reply/arguments on stay application on 12.6.2014.

MEMBER

MEMBER

12.6.2014

Counsel for the appellant, AAG with Shad Muhammad, R.I for official respondents and Mr. Muhammad Asif Yousafzai, Advocate/counsel for private respondents No. 5 to 12 present and Wakalatnama placed on file. None is available on behalf of other respondents. Fresh notices be issued to them positively. To come up for written reply on main appeal as well as reply/arguments on stay application on 09.7.2014.

MEMBER

MEMBER

9.7.2014.

Appellant in person, Mr. Muhammad Jan, GP for official respondents present and requested for time to contact them. Counsel for private respondents No. 5 to 12 present and reply filed. Copy handed over to appellant. Appellant is directed to provide fresh and complete address of other private respondents within 15 days and thereafter, notices be issued to them. To come up for written reply on 22.08.2014.

MEMBER

MEMBER

Appeal No. 406/2014
Mr. Abdul Rashid

3

31.03.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 09.10.2013, he filed departmental appeal on 05.12.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 20.03.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. Appellant has also filed an application for interim relief. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply/comments on main appeal on 12.06.2014 as well as reply/arguments on application on 17.04.2014.

Member

31.03.2014

This case be put before the Final Bench PK for further proceedings.

Chairman

17.4.2014

Appellant in person and AAG with Muhammad Amin Tanoli, Inspector for the official respondents and Mr. Muhammad Asif Yousafzai, Advocate for respondents No. 5, 6, 7, 8, 9, 10, 11, and 12 present and requested for further time. None is available on behalf of other private respondents. Fresh notices be issued to them through registered post. To come up for written reply on 12.6.2014.

MEMBER

MEMBER

22.4.2014.



Appellant in person present and submitted an application wherein he requested for early hearing instead of 12.6.2014. Request is accepted. To come up for written reply on 14.5.2014 instead of 12.6.2014. Notices be issued to the respondents.

MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 406/2014

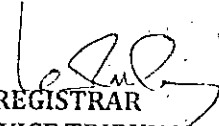
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24/03/2014	<p>The appeal of Mr. Abdur Rasheed resubmitted today by Mr. Abdul Shakoor Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-3-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>31-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The joint appeal of M/S. Muhammad Amjid, Abdur Rasheed, Zanfer and Muhammad Atlas received today i.e. on 20.03.2014 is incomplete on the following scores which is returned to the counsel for the appellants for completion and resubmission within 15 day.

- 1- Appeal may be got signed by the appellants and counsel.
- 2- Annexures of the appeal may be attested.
- 3- Addresses of respondent No. 5 to 45 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal Rules 1974.
- 4- Law under which appeal is filed is not mentioned.
- 5- Heading of the appeal is incomplete which may be completed.
- 6- Page No. 54 of the appeal is illegible which may be replaced by legible/better one.
- 7- Sub rule 2 of rule-3 of appeal rules 1986 requires that every affected civil servant shall prefer the appeal separately; therefore the appeal of the above named appellants may be filed separately/individually.
- 8- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent in each appeal may also be submitted with the appeal.


No. 473 /S.T.

Dt. 20/3 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Abdul Shakoor Khan Adv. A. Abad

After removing the objections raised, the appeal is re-submitted to the place next before the Honorable Tribunal for preliminary hearing and C.M.A for stay. It is also submitted an application for the grant of exemption for filing the copies of appeals for respondents till the admission of regular hearing of said appeal is also filed.


Abdul Shakoor Khan
Adv. A. Abad
24.3.2014

BEFORE THE KPK SERVICE TRIBUNAL
PESHAWAR

Appeal No. 406 /2014.

Abdur Rasheed Head constable, KPK Police
Department posted in District Torghar.

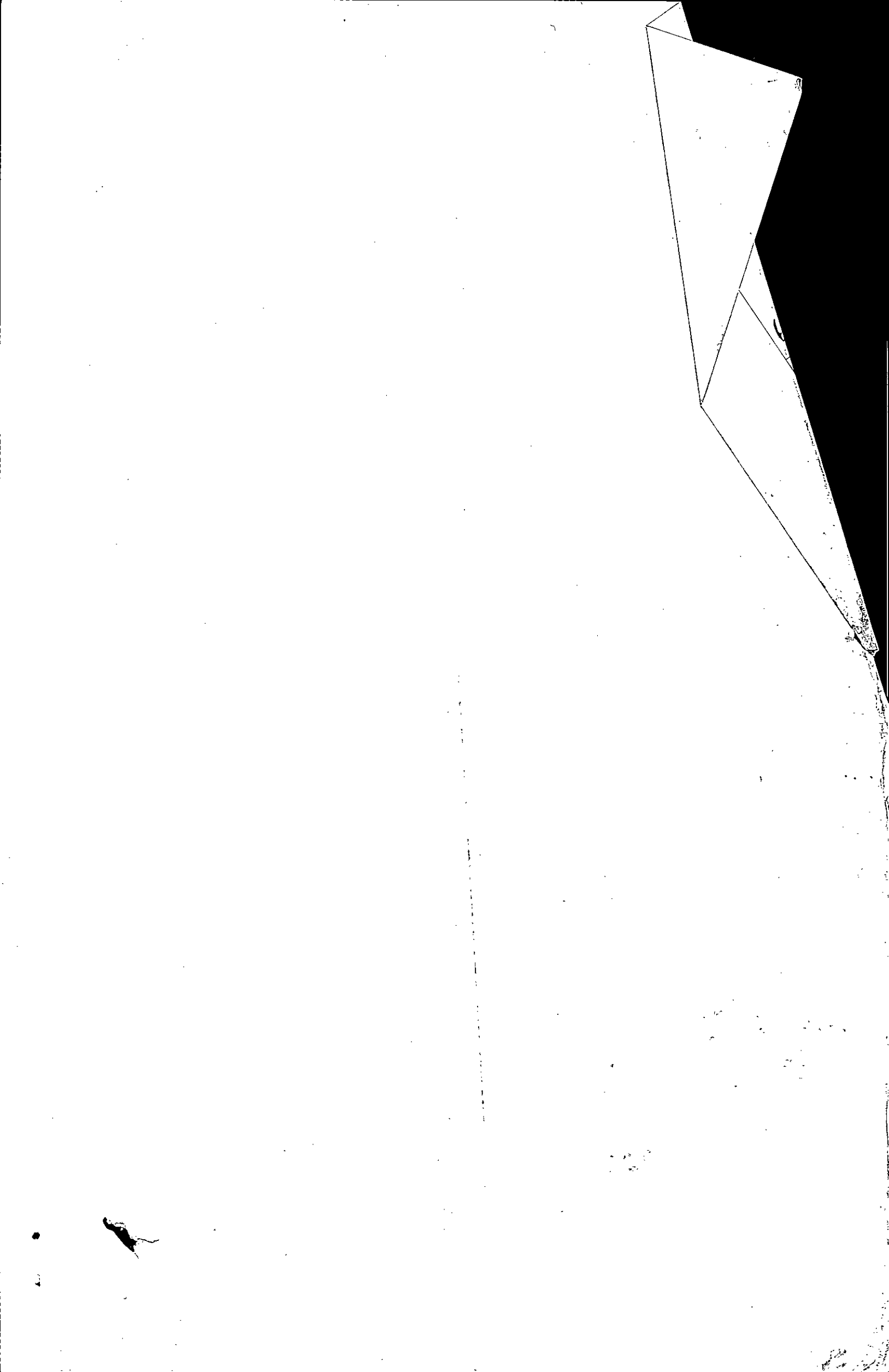
Appellant 417
20/3/14

Versus

Provincial Police Officer, KPK, Peshawar and
others. **Respondents**

Appeal
I N D E X

S.No.	Particulars	Annexures	Pages
1	Appeal alongwith affidavit.		1-29
2	Photocopy of the transfer order.	A	30
3	Copy of list of C-I.	B	31-32
4	Copy of relevant rule.	C	33-39
5	Copy of petition.	D	40-47
6	Copy of order of Honourable Peshawar High Court.	E	48-49
7	Photocopy of the decision of said committee.	F	50-54
8	Copies of letter dated 04.07.2012 of DIG Office, Hazara Region and letter of Provincial Police Officer KPK Peshawar letter dated 30/07/2012.	G & H	55-56
9	Copies of minutes of Police Darbar Torghar dated 05/10/2012 and letter of DIG Hazara Region dated 07/11/2012.	I & J	57-58
10	Copy of letter dated 09/10/2013.	K	60
11	Copy of appeal and so-called seniority list of Head Constables of	L & M	61



	District Torghar.		
12	Copy of standing order dated 08/04/2009.	N	65
13	C.M. Application with Affidavit.		66-68
14	C.M. Application for exemption.		69-70
15	Vakalatnama		70

Appellant

Through:-



(Abdul Shakoor Khan)

Advocate Supreme Court of Pakistan.

Dated:- ____/03/2014.

BEFORE THE K.P.K SERVICE TRIBUNAL
PESHAWAR.

Appeal No. 406 /2014.

Abdur Rasheed Head constable, KPK Police Department posted in District Torghar.

Appellant

Versus

1. Provincial Police Officer, KPK, Peshawar.
2. Additional Inspector General of Police, Establishment KPK, Peshawar.
3. Regional Police Officer, Hazara Region, Abbottabad.
4. District Police Officer, Torghar.
5. Qaim Ali Shah Head Constable District Police Torghar through District Police Officer Torghar.
6. Sohail Head Constable District Police Torghar through District Police Officer Torghar.
7. Waheed Murad Head Constable District Police Torghar through District Police Officer Torghar.

re-submitted to ~~406~~
and filed.

Handwritten signature
24/3/14

8. Cadet Sarfraz son of Ali Zaman, Head Constable District Police Torghar through District Police Officer Torghar.
9. Shahzad Head Constable of District Police Torghar through District Police Officer Torghar.
10. Niaz Ahmed Head Constable of District Police Torghar through District Police Officer Torghar.
11. Muhammad Arshad Head Constable of District Police Torghar through District Police Officer Torghar.
12. Ejaz Ali Head Constable of District Police Torghar through District Police Officer Torghar.
13. Naseer Akther Head Constable of District Police Torghar through District Police Officer Torghar.
14. Waris Khan Head Constable of District Police Torghar through District Police Officer Torghar.
15. Sanullah Head Constable of District Police Torghar through District Police Officer Torghar.
16. Ghulam Jan Head Constable of District Police Torghar through District Police Officer Torghar.

17. Abdul Qadeer Head Constable of District Police Torghar through District Police Officer Torghar.
18. Malik Imtiaz Head Constable of District Police Torghar through District Police Officer Torghar.
19. Alam Zaib Head Constable of District Police Torghar through District Police Officer Torghar.
20. Muhammad Ayub Head Constable of District Police Torghar through District Police Officer Torghar.
21. Abdul Mateen Head Constable of District Police Torghar through District Police Officer Torghar.
22. Muhammad Saleem Head Constable of District Police Torghar through District Police Officer Torghar.
23. Khalil ur Rehman Head Constable of District Police Torghar through District Police Officer Torghar.
24. Muhammad Asif Head Constable of District Police Torghar through District Police Officer Torghar.
25. Muhammad Sajid Head Constable of District Police Torghar through District Police Officer Torghar.

26. Muhammad Sajid Head Constable of District Police Torghar through District Police Officer Torghar.
27. Waqas Head Constable of District Police Torghar through District Police Officer Torghar.
28. Bin Yameen Head Constable of District Police Torghar through District Police Officer Torghar.
29. Zaheer Head Constable of District Police Torghar through District Police Officer Torghar.
30. Qaisar Zohaib Head Constable of District Police Torghar through District Police Officer Torghar.
31. Muhammad Rafi Head Constable of District Police Torghar through District Police Officer Torghar.
32. Mir Afghun Head Constable of District Police Torghar through District Police Officer Torghar.
33. Wazir Muhammad Head Constable of District Police Torghar through District Police Officer Torghar.
34. Ahmed Saeed Head Constable of District Police Torghar through District Police Officer Torghar.

35. Muhammad Rizwan Head Constable of District Police Torghar through District Police Officer Torghar.
36. Abid Khan Head Constable of District Police Torghar through District Police Officer Torghar.
37. Ghulam Mohi-ud-Din Head Constable of District Police Torghar through District Police Officer Torghar.
38. Muhammad Mustaqim Head Constable of District Police Torghar through District Police Officer Torghar.
39. Muhammad Iqbal Head Constable of District Police Torghar through District Police Officer Torghar.
40. Anwar Head Constable of District Police Torghar through District Police Officer Torghar.
41. Taleh Muhammad Head Constable of District Police Torghar through District Police Officer Torghar.
42. Gul Afzal Head Constable of District Police Torghar through District Police Officer Torghar.
43. Sohail Nadeem Head Constable of District Police Torghar through District Police Officer Torghar.

44. Fida Muhammad Khan Head Constable of District Police Torghar through District Police Officer Torghar.
45. Ghulam Shabir Head Constable of District Police Torghar through District Police Officer Torghar.

Respondents

APPEAL UNDER SECTION 4 K.P.K
SERVICE TRIBUNAL ACT 1974.

It is respectfully submitted as under:-

1. That appellant above named originally joined the police service as foot constable in the year 1996 being resident of District Abbottabad was posted in District Abbottabad.
2. That in the year 2011 in Hazara Range new District namely Torghar was established. After the establishment of District Torghar the ASIs and Sub Inspectors and Inspectors of Police Force of Hazara Region working in various District of said region were transferred to Torghar as per the orders of his

superior officers. While the foot constable and Head Constables who were working in various District in Hazara Region on their request were posted in new District Torghar. The private respondents before their posting in Distt Torghar on their request or loan basis were working in various District of Hazara Region as Constables and Head Constables. It is also not out of place to mention here that all of them joined the Police Department in Hazara Region and did lower course after the appellant. In this way they were not only junior to appellant in Police Deptt but were junior in lower course. Photocopy of the transfer order of appellant is annexed as Annexure A.

3. That it is not out of place to mention here that appellant was promoted as Head Constables in 2013 after being posted in District Torghar. It is also not out of place to mention here that no foot

constable can be promoted to the position of Head Constable under the Police Rules 1934 chapter No.13 Para No.13.8, unless he undergoes lower course training at Hangu Police Training College. It is further added here that appellant has passed lower course training on 20.09.2006.

4. That appellant after his posting in District Torghar was declared senior to those Head Constable of District Torghar who were promoted earlier to him on the basis of aforementioned rule. Under the said rule the Head Constable who has passed lower course training first shall rank senior to other Head Constable who did the same course after him. The same seniority gives the first right to that Head Constable for doing intermediate course who has passed lower course training first and also secured better position than others as per the merit order of Hangu Training College. Copy of list of C-I was stood on 30.09.2013 and

prepared by the District Police Officer Torghar as per the mandate of rule 13.8 chapter 13 of Police Rules 1934 is annexed as Annexure B.

5. That it is not out of context to mention here that in District Torghar since 2011 till first October 2013 all those Head Constables have been sent for intermediate training course at Police Training College Hangu who had passed the lower course earlier than other Head Constables and were enlisted senior in list C as per the requirement of Police Rules and standing order of Police Force. Copy of relevant rule is annexed as annexure C.

6. That in the year 2012 the Head Constable namely Ayaz Khan Head Constable who due to wrong application of law which was not applicable in the case of Police employees was enlisted junior to respondents No. 5 to 7 and others

Head Constables of District Torghar. But subsequently on the intervention of Hazara Region office of Police the correct law applied and on his having passed lower training course earlier than all the others Head Constables of Distt Torghar was declared senior to them and list C was prepared according to Police Rules and standing order. Accordingly said Ayaz Khan was selected for intermediate course. The respondents No 5 to 7 on the selection of said Ayaz Khan filed a constitutional Petition No.306-A of 2012 before the Honourable Peshawar High Court. Copy of petition is annexed as Annexure D.

7. That the Honourable Peshawar High Court vide its order dated 25/04/2012 without passing any effective order treated the aforesaid petition of respondents No.5 to 7 as their representation and ordered the same be sent to District Police Torghar and Regional

Police Officer Hazara with direction that they may consider the grievance of said respondents in accordance with law within the period of 30 days, if not earlier from the receipt of said order. The said Police Officers of Police were also directed that in case the grievances of respondents No.5 to 7 are not redressed then they tender reasons for same in writing and communicate to the respondents and Additional Registrar of Peshawar High Court Abbottabad Bench. Copy of order of Peshawar High Court is annexed as Annexure E.

8. That it is also not out of context to mention here that aforesaid Ayaz Khan Head Constable No.254 in the meanwhile had completed the intermediate course from Police Training College Hangua, according to the Police Rules. It is further added here that the said Ayaz Khan Head constable after doing the intermediate course is now enlisted.

in List-D. Which is maintained by the District Police Officer Torghar and has become eligible for his promotion as ASI.

9. That subsequent to the order of this Honourable Court dated 25/04/2012 the Police Department constituted a committee vide order dated 26/06/2012 for consideration of the representation of respondents No.5 to 7. It is worthy to mention here Deputy Inspector General of Hazara Region, Abbottabad, as its Chairman, headed the said committee. Whereas, District Police Officer Abbottabad, Senior Superintendent Investigation, Abbottabad, Senior Superintendent Coordination/FRP Abbottabad and deputy superintendent Legal/ Investigation Abbottabad were its members. The said committee after detailed deliberation has come to the conclusion that the grievances of respondents No.5 to 7 were having no force since the name of Mr. Ayaz Khan and two other Head Constables

from District Torghar were sent to Police Training College, Hangu for intermediate course according to the list C-I maintained by District Police Officer Torghar as per Police Rules 1934. Photocopy of the decision of said committee is annexed as Annexure F.

10. That, private respondents did not challenge the decision of aforesaid committee before any forum. It is worthy to mention here that in the meanwhile the Deputy Inspector General of Hazara who was also chairman of said committee has vide its letter dated 04/07/2012 sought the guidance from the office of Provincial Police Officer KPK, Peshawar, with regard to the maintenance of seniority list of Head Constable of District Torghar who have been transferred from other District of Hazara Region on their request or lone basis. The Provincial Police Officer KPK Peshawar vide its letter dated

30.07.2012 advised the Deputy Inspector General Hazara region that rules are clear, the seniority of Head Constables of every District will be counted from the date and merit order of lower school course not otherwise. Copies of letter dated 04.07.2012 of DIG Office, Hazara Region and letter of Provincial Police Officer KPK dsPeshawar letter dated 30/07/2012 are annexed as Annexure G & H.

11. That as hinted here in above the respondents No.5 to 9 did not challenge the decision of aforesaid committee and relevant Police Rules before proper forum on the basis of which it is declared and followed in all over Pakistan by Provincial Police Force that list C-I will be maintained according to the order from the date of passing lower training course and merit order of said course of Head Constable. However, they in the month of October 2012 raised their said

grievance before the Police Darbar at Police Line District Torghar, which was already answered by the aforesaid committee. The District Police Officer Torghar assured them that he would discuss their grievance with the Deputy Police Inspector General Hazara Range and would try his best to accommodate them as per their request. The copy of the minutes of said Darbar was sent to Deputy Police Inspector General Hazara Region. He on the receipt of said minute vide his letter dated 07/11/2012 advised the District Police Officer Torghar that criteria has already been settled vide Police Rules 1934 and the same be followed. He has also drawn his attention to Provincial Police Officer letter dated 30/07/2012, which is referred to hereinabove in para No.10. Copies of minutes of Police Darbar Torghar dated 05/10/2012 and letter of DIG Hazara Region dated 07/11/2012 are annexed as Annexure I & J.

12. That the private respondents despite of the legal opinion of AIG Establishment, which was conveyed to DIG Hazara Region, from the office of Provincial Police Officer KPK Peshawar maneuvered a letter in their favour from the Office of Additional I.G.P KPK Peshawar dated 09/10/2013. The same was absolutely against the Police Rules 1934 and standing order of Police Force. Copy of letter dated 09/10/2013 is annexed as Annexure K.

13. That the appellant alongwith three other head constables of District Torghar who were effected and resultantly despite of having ripe up of their case for intermediate course would become unable to do the same on their due turn according to the police rules made a representation within 30 days after being aware of the said letter before the respondent No.1. Subsequently the District Police Officer Torghar has made unlawful

seniority list of Head Constables of District Torghar which was not only discriminatory but was in disregard of Police Rules 1934. Copy of appeal/representation and so-called seniority list of Head Constables of District Torghar are annexed as Annexure L & M.

14. That, more than three months have been elapsed since the filing of appeal before the I.G KPK Peshawar, but he has taken no action upon it as yet. Under the circumstances, the appellant is left with no other option but to file this appeal before this Honourable Tribunal, inter-alia, on the following grounds and that other better grounds which shall be urged at the time of hearing.

G R O U N D S

- a. That since 1934 onwards and till this date the Police Force in United India and after its

partition i.e after the creation of Pakistan and India is following the Police Rules 1934 with regard to the terms and conditions of Police Force Personnel i.e right from foot constable to Deputy Superintendent of Police. Under the said Rules there is no concept of seniority list bottom wise as maintained in the case of other civil servants in the light of Civil Servant Act 1973. Thus, the preparation of impugned seniority list bottom wise of Head Constables of District Torghar by the District Police Officer Torghar like other civil servants is violative of Police Rules 1934.

b. That under the Police Rules 1934 only those Police Constables who after passing A & B courses when do lower course training becomes entitle to do intermediate course subject to his promotion as Head Constable. The first right to be placed in list C-I will be of that

Head Constables who has passed lower course training first irrespective of the prior promotion of other Head Constable who has passed lower training course after him.

c. That the private respondents have not called in question the decision of committee which was constituted in the light of the order of Peshawar High Court dated 25/04/2012 and it has declared that under the Police Rules 1934 and standing order meant for Khyber Pakhtunkhwa police force only those Head Constables have got the first right to do intermediate course first who are enlisted senior in list C-I because of his passing lower training course first and having better merit. In view of this position, it is clearer than crystal that private respondents maneuvered a letter dated 09/10/2013 purportedly issued by

Additional Inspector General of Police Head Quarter KPK Peshawar and on the basis of which the District Police Officer Torghar has prepared seniority list of Head Constables of Torghar against the Police Rules 1934 and Khyber Pakhtunkhwa police force standing orders. As the said rules only talk about list C-I of Head Constables and under it the Head Constable who have passed lower training course first and having better merit position shall rank senior to others for the purpose of doing intermediate course from concerned Police Training College. Thus, the impugned seniority list of Head Constables prepared by D.P.O, Torghar is illegal and respondents No.5 to 9 and all other private respondents in view of that list are having no prior right then the appellant for doing intermediate course from Police Training College Hangu, as the appellant have passed lower

training course much earlier to the said respondents.

d. That the list C-I of Head Constables which was prepared as per the mandate of chapter 13 rule 13.8 of Police Rules 1934 give the first right to that Head Constables who passes lower course prior in time and better in merit.

e. That throughout the KPK Province in every District the list C of Head Constables is prepared in the order in which order Head Constable passes the lower course irrespective of his promotion i-e in case he is promoted after doing lower course shall rank senior to that head constable who although promoted earlier to him but did lower course after him. Thus, the District Police Officer Torghar in no way can make the District exception to the Police Rules 1934 and as such his that act is not only violative of Police Rules

1934, but is a sheer discrimination against the appellant and three others Head constables and as such is a naked violation of Article 25 of the Constitution of Pakistan.

f. That District Police Officer Torghar was having no lawful authority to prepare a seniority list of Head Constable Torghar in violation of Police Rules 1934 and Standing order of Provincial Police Officer dated 08/04/2009. Copy of standing order dated 08/04/2009 is annexed as annexure N.

g. That appellant and private respondents have been transferred to District Torghar from other Districts of Hazara Region on their own request and there was no distinction amongst them. Nor any competent authority, before the posting of appellant, and private respondents in District Torghar,

have made any distinction between the appellant, three other head constables and private respondents under the standing order. Thus, the impugned seniority is illegal being violative of Police Rules 1934 and discriminatory being violative of article 25 of the Constitution of Pakistan. As such, in view of this position the District Police Officer Torghar was having no lawful authority and jurisdiction to make a distinction between the appellant and respondents for the purpose of doing intermediate course and giving priority to the respondents No.5 to 9 and others Head Constables over the appellant.

h. That the impugned illegal seniority list of Head Constables which is made in violation of Police Rules 1934 and standing order of Provincial Police Officer KPK is self explanatory that appellant, have passed the lower

course much earlier to the private respondents, and even three head constables who were shown as junior in that list were sent for intermediate course on 01.10.2013. As such appellant and three other head constables are having the legal right in terms of Police Rules 1934 to be sent in the end of March 2014 for intermediate course at concerned Police Training College.

i. That so far the rule 13.8 of chapter 13 of Police Rules 1934 and standing order dated 08/04/2009 has not been declared by any court of law as unconstitutional or illegal. Thus, in view of this position, the District Police Officer Torghar was having no lawful authority and jurisdiction to act otherwise than that rule and standing order. Thus he is having no lawful authority to deprive the appellant and three other head constables from their

due right of doing intermediate course training at Police Training College, which fall due in end of March 2014.

j. That no rule and law and practice, which attain the status of law can be done away with by the executive order or decision. Thus, in view of this position the impugned illegal seniority list of Head Constables, which was prepared by the District Police Officer Torghar on the basis of an illegal executive order through that appellant have been denied from his right to do intermediate training course from concerned Training College which fall due in the end of March 2014.

k. That, private respondents are younger than the appellant as they have joined the Police Department as foot constables much after the appellant and they according to their age and seniority as per

lower training course will be able to do intermediate course much earlier to the cut off year for said training.

1. That under the Police Rules 1934 Chapter 13 and Rule 13.3 for the purpose of the promotion from foot constable to Inspector there shall be six list namely A, B, C, D, E & F. List A, B, C & D shall be kept District wise and according to it constables shall be promoted to Head Constables and Head Constables as Assistant Sub-Inspector. There is no concept of seniority list of Head Constables under the Police Rules 1934 as prepared by District Police Officer Torghar simply to accommodate the unjust, illegal, request of the respondent 5 to 9. Thus, the same is liable to be quashed.

m. That since 2011 i.e after the establishment of District Torghar

till October 2013, the Head Constables who were enlisted in list C-I according to Police Rules 1934 have been sent for intermediate training course at Police Training College Hangu. So, in this view of the matter appellant have got every right to be sent to Hangu Police Training College for doing intermediate course, which enables the Head Constables for his promotion to ASI in the end of March 2014.

n. That, the DPO Torghar has scraped the right of appellant of doing intermediate course from Hangu Training college which is scheduled to be commenced in the first week of April 2014 without issuing any show cause notice and calling his objection in regard to the impugned seniority list which has got no room under the police rule 1934 and Khyber Pakhtunkhwa police standing orders.

o. That the appeal is within time.

It is, therefore, very humbly prayed that this Tribunal may graciously be pleased to declare that the list C-I of Head Constables of District Torghar as stood before or on 30.09.2013 is according to Police Rules 1934 and appellant have got the prior right to do intermediate course then the private respondents, which fall in the end of March 2014 and impugned seniority list which is prepared by the District Police Officer Torghar after 30/09/2013 is violative of Police Rules 1934 and it does not vest with any right to respondents No.5 to 9 and other private respondents for doing intermediate course prior to the appellant.


Appellant

Through:-



(Abdul Shakoor Khan)
Advocate Supreme Court of
Pakistan.

Dated:- ____/03/2014.

BEFORE THE KPK SERVICE TRIBUNAL**PESHAWAR**

Appeal No. _____/2014.

Abdur Rasheed Head constable, KPK Police
Department posted in District Torghar.

Appellant**Versus**

Provincial Police Officer, KPK, Peshawar and
others.

Respondents**AFFIDAVIT**

I Abdur Rasheed Head constable, KPK Police
Department posted in District Torghar do
hereby declare on oath that the contents of
the appeal are true and correct and nothing
has been concealed from this Honourable
Tribunal.

Abdul Rasheed
Deponent



P-30

1

ORDER

ANNEXURE

A-0

LHC Abdul Rasheed No.520 of Operational Wing Abbottabad is hereby transferred and posted to Torghar District with immediate effect.

P-30

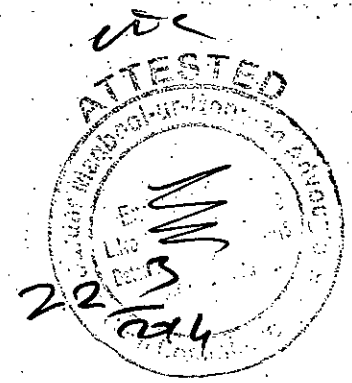
B.O.

Deputy Inspector General of Police
Hazara (Abbottabad)
(AEC Dilawa)

No. 18771-72 /E, Dated Abbottabad the 26/12 /2012.

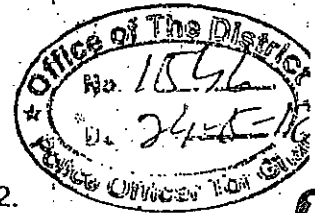
Copy of above is forwarded for information and necessary action to the:-

1. District Police Officer Abbottabad.
2. District Police Officer Torghar.



From: The Deputy Inspector General of Police,
Hazara (Abbottabad)

To: The District Police Officer,
Torghar.



No. /E, Dated Abbottabad the, /2012.

Subject: SENIORITY LIST OF LHC PROMOTION LIST C-I /
OFFICIATING HCs.

P-31

Memorandum:

ANNEXURE B

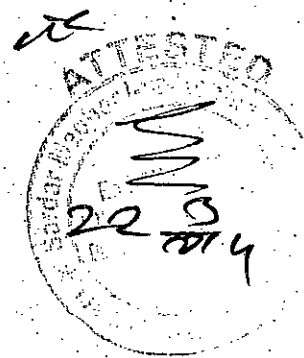
Please refer to your office memo: No.963/OHC dated
14-04-2012.

P-32

As almost all the LHCs on list C-I have been transferred to
Torghar District on permanent basis at their own request from down Districts,
therefore their seniority may be maintained in accordance with the order of merits of
Lower Class Course (C-I) in the light of instructions issued by the Provincial Police
Officer Khyber Pakhtunkhwa vide No.9430/E-I dated 08-04-2009 (copy enclosed).

Deputy Inspector General of Police
Hazara (Abbottabad)
(AEC Dilawar)

Handwritten notes:
OHC
Per 9/9
[Signature]
DPO/96
24/5/12



SENIORITY LIST OF HEAD CONSTABLE OF DISTRICT TORGHAR

S. No	Name & No.	D/O Birth	Date of Enlistment	Edu:	Term Ending	Order of Merit	Date of Brought on C-I	Date of Promotion as HC	Facing any Dep: Enquiry	REMARKS
1	HC Mir Afghan No.52	20.02.1976	20.10.1999	10 th	20.09.2006	83	20.09.2006	06.06.2013		
2	HC Wazir Muhammad No.355	10.04.180	20.10.1999	FA	20.09.2006	100	20.09.2006	06.06.2013		
3	HC Ghulam Shabir No. 415	02.07.1975	15.10.1996	10 th	20.09.2006	151	20.09.2006	20.05.2013		
4	HC Amjid Khan No.93	24.02.1975	27.06.1996	10 th	20.09.2006	190	20.09.2006	06.06.2013		
5	HC Atlas No. 171	06.10.1972	04.10.1993	10 th	20.09.2006	209	20.09.2006	30.12.2010		
6	HC Abdur Rasheed No.338	20.04.1975	20.10.1999	10 th	20.03.2007	15	20.03.2007	06.06.2013		
7	HC Zafar Khan No.359	03.04.1978	20.10.1999	FA	25.07.2007	84	25.07.2007	06.06.2013		
8	HC Waqas No. 341	02.06.1975	20.10.1999	FA	25.07.2007	90	25.07.2007	21.05.2012		
9	HC Muhammad Sajid No. 290	02.02.1975	25.09.1996	10 th	30.11.2007	12	01.12.2007	02.01.2013		
10	HC Alam Zaib No. 5	02.08.1980	01.05.2001	FA	20.03.2009	143	20.03.2009	22.03.2012		
11	HC Niaz Ahmad No. 67	03.01.1984	28.01.2002	FSc	20.09.2009	95	01.10.2009	24.01.2012		
12	HC Sarfraz Ahmad No. 280	10.03.1987	03.05.2007	FA	20.09.2009	95	01.10.2009	19.12.2011		
13	HC Bin Yameen No. 342	10.12.1978	20.10.1999	FSc	20.09.2009	98	20.09.2009	02.01.2013		
14	HC Qaim Ali Shah No. 281	15.09.1977	28.01.2002	FA	20.09.2009	141	01.10.2009	19.12.2011		
15	HC Muhammad Rafi No.354	02.02.1981	24.01.2002	FA	20.09.2009	161	20.09.2009	06.06.2013		
16	HC Malik Imtiaz No. 269	16.01.1978	20.10.1999	10 th	20.09.2009	213	20.09.2009	02.01.2013		
17	HC Muhammad Rizwan No.358	12.08.1972	07.11.1995	BA	17.05.2005	97	18.05.2005	06.06.2013		Transfer from Sindh Police seniority accepted. at bottom Arrival Date 23.11.2009
18	HC Ejaz Ali No. 163	01.01.1978	20.06.2000	BA	20.03.2010	17	01.04.2010	24.01.2012		
19	HC Shehzad Ahmad No. 282	16.04.1978	28.01.2002	BA	20.03.2010	86	01.04.2010	19.12.2011		
20	HC Waris Khan No. 168	17.12.1978	28.01.2002	FA	20.03.2010	118	01.04.2010	05.03.2012		
21	HC Sanauallah No.182	04.04.1980	01.02.2002	FA	20.09.2010	40	20.09.2010	05.03.2012		
22	HC Muhammad Sohail No. 283	01.01.1982	29.10.2003	MA	20.09.2010	81	01.10.2010	24.01.2012		
23	HC Ahmad Saeed No. 356	13.04.1980	01.07.2000	FA	20.09.2010	132	14.11.2010	22.03.2012		
24	HC Ghulam Mohi-ud-Din No.362	13.02.1980	20.06.2000	BA	20.03.2011	25	01.04.2011	06.06.2013		
25	HC Muhammad Sajid No. 336	04.01.1980	20.11.2003	FA	20.03.2011	27	20.03.2011	02.01.2013		

P.32

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26	HC Waheed Murad No. 253	01.05.1979	28.01.2002	FA	20.03.2011	66	01.04.2011	24.01.2012		
27	HC Naseer Akhtar No. 272	01.11.1978	05.03.2002	FA	20.03.2011	77	20.03.2011	05.03.2012		
28	HC Fida Muhammad Khan No.396	16.03.1986	18.03.2008	MA	20.03.2011	88	04.07.2011	01.09.2013		
29	HC Abid Khan No. 317	21.03.1978	03.04.1996	10 th	11.10.2008	60/C	17.12.2008	20.09.2009		Transfer from Baluchistan Police seniority accepted at bottom arrival Date 02.07.2011
30	HC Ghulam Jan No. 191	01.05.1981	01.07.2002	10 th	20.09.2011	6	20.09.2011	03.07.2012		
31	HC Zaheer No. 347	20.04.1980	24.02.2000	10 th	20.09.2011	39	20.09.2011	02.01.2013		
32	HC Muhammad Arshid No. 140	20.01.1983	29.10.2003	BA	20.09.2011	175	15.02.2012	05.03.2012		
33	HC Abdul Qadeer No. 209	03.03.1981	01.05.2001	FA	20.09.2011	214	31.01.2012	20.04.2012		
34	HC Muhammad Ayaz No. 213	14.06.1983	01.01.2003	FSc	20.09.2012	15	18.12.2012	02.01.2013		
35	HC Abdul Mateen No. 173	17.06.1988	14.07.2009	BA	20.09.2012	46	18.12.2012	02.01.2013		
36	HC Muhammad Saleem No. 187	02.01.1984	18.10.2004	MA	20.09.2012	48	18.12.2012	02.01.2013		
37	HC Khalil ur Rehman No. 141	16.04.1983	05.03.2003	FA	20.09.2012	119	18.12.2012	02.01.2013		
38	HC Qaisar Zaib No. 349	01.04.1983	01.04.2005	BA	20.09.2012	132	01.10.2012	02.01.2013		
39	HC Muhammad Asif No. 285	01.01.1985	15.10.2004	FA	20.09.2012	133	18.12.2012	02.01.2013		
40	HC Muhammad Mustaqim No.289	01.01.1984	01.02.2002	10 th	20.03.2013	31	20.03.2013	06.06.2013		
41	HC Muhammad Iqbal No.249	01.03.1985	05.11.2003	FA	20.03.2013	84	20.03.2013	06.06.2013		
42	HC Anwar No.252	01.03.1980	05.11.2003	10 th	20.03.2013	110	20.03.2013	06.06.2013		
43	HC Taleh Muhammad No.123	01.05.1980	15.10.2004	FA	20.03.2013	144	20.03.2013	06.06.2013		
44	HC Gul Afzal No.340	20.12.1979	10.04.2001	10 th	20.03.2013	215	20.03.2013	06.06.2013		
45	HC Sohail Nadeem No.211	20.04.1986	15.10.2004	BA	20.03.2013	301	20.03.2013	06.06.2013		

P-35

22/3



etc

[Signature]
District Police Officer,
Torghar

S.A-RASHID KHAN
POLICE RULES, 1934

P-30

ANNEXURE-C

مجموعہ قواعد پولیس

P-36

مرتبہ بلکم سوبان گورنمنٹ ریورنٹس ۱۲ دیکٹ نمبر ۱۸۶۱

P-34

تمام کلاسوں کے طلباء پولیس کے استفادہ کے لئے

ترمیم شدہ

مع

پولیس آرڈر 2002ء

(چیف ایگزیکٹو آرڈر نمبر 22 مورخہ 14 اگست 2002)

پیشرز

ایم محمد سلیمان قریشی اینڈ سنز لاپس سٹریٹ نمبر 10 لاہور

RS. 250

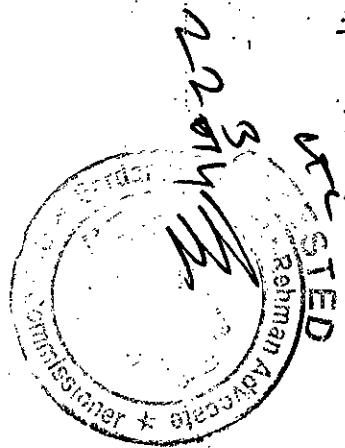
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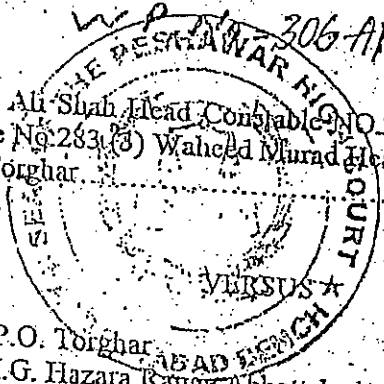
Handwritten text in Urdu script, likely a legal document or a collection of letters. The text is arranged in approximately 15 horizontal lines. It contains various phrases and some specific references, such as "بسم اللہ الرحمن الرحیم" at the beginning and "اللہ تعالیٰ" throughout. There are some markings that look like dates or specific identifiers, such as "۱۱-۶" and "۱۱-۷".

Handwritten text in Urdu script, continuing from the right page. It is arranged in approximately 15 horizontal lines. The text is dense and appears to be a continuation of the legal or administrative document. It includes similar phrases and references to Allah. There are some markings that look like dates or specific identifiers, such as "۱۱-۶" and "۱۱-۷".



۱۱-۶

BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD



(1) Qaim Ali Shah Head Constable NO.281 (2) Sohail Head Constable No.283 (3) Waheed Murad Head Constable No.253, District Torghar.....Petitioners

(1) D.P.O. Torghar
(2) D.I.G. Hazara Range Abbottabad
(3) Ayaz Khan Head Constable NO.254.....Respondents

ANNEXURE D

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 FOR A DECLARATION THAT THE SELECTION OF RESPONDENT NO.3 FOR INTERMEDIATE COURSE BY RESPONDENT NO.2 IS ARBITRARY, DISCRIMINATORY, MALAFIDE, FANCIFUL AND WITHOUT LAWFUL AUTHORITY AND JURISDICTION OR ANY OTHER ORDER WHICH IS DEEMED APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE MAY GRACIOUSLY BE ISSUED.

Respectfully Sheweth!

The brief facts leading to the instant petition are as follows:-

1. That, the petitioners joined police department as constables and thereafter they were sent to their respective training at P.T.C. Hangu, and they qualified/passed the said trainings.

That, the petitioners after having been declared successful in their respective training came back to District Manshra and started performing their duties.

No 1391
17-4-12
FILED TODAY
17/4/12

Certified to be True Copy
Examiner
Peshawar High Court
District Bench

22/3
2014
ATTESTED
Saidat Mansoori
Oath Commissioner

P-2 P-44

P.41

3. That, the petitioners were selected for lower School Course and they joined the said course at P.T.C. Hangu and also qualified the said course.
4. That, the petitioners after their return from P.T.C. Hangu joined their duties at District Mansehra.
5. That, after the settlement of Kala Dhaka into Torghar, the petitioners were sent on loan to District Torghar, where petitioners served as such for about 9 months. (The copy of order sending them on loan is attached as Annexure "A").
6. That, the petitioners submitted an application to respondent NO.1 for their absorptions on permanent basis and accordingly the petitioners were made permanent at District Torghar by respondent No.1. (The copy of order is attached as Annexure "B").
7. That, petitioners were sent as L.H.C. at Torghar and respondent No.1 passed an order vide which the petitioners were promoted as Head Constables. (The copies of orders are attached as C.1&C.2" respectively).
8. That, respondent No.3 who was then serving as L.H.C. in District Abbottabad was transferred to Torghar and he was promoted to the rank of head constable by respondent No.1. (The copies of transfer and promotion orders are attached as Annexure "D&E" respectively).

FILED TODAY

Additional Registrar High Court Bench Abbottabad

Certified to be True Copy
2315-13
Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Section 7 of Act 19 of 1901

22/3/19
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Peshawar High Court
Abbottabad Bench
Oath Commissioner

- 9. That, a seniority list of head constable of District Torghar was prepared by respondent No.1, wherein petitioner have been shown at Serial No.6,9&12 respectively, whereas respondent No.3 has been shown at Serial No.14. (The copy of seniority list is attached as Annexure "F").
- 10. That, respondent No.2 passed an order vide which respondent No.3 has been selected for intermediate college course on 09.04.2012 vide order NO.890-92/OHC. (The copy of selection for intermediate course is attached as Annexure "C").
- 11. That, the petitioners have no other efficacious remedy except to approach this honourable court on the following amongst other grounds.

GROUND

- A. That, the petitioners were sent on loan to District Torghar by D.P.O. Mansehra, where they served for about 9 months, whereafter, respondent NO.1 passed an order vide which petitioners have been absorbed/merged on permanent basis in the police department of Kala Dhaka.
- B. That, the petitioners were sent as L.H.C. at Kala Dhaka where they were promoted as H.C. and a seniority list was prepared wherein, they were shown at Serial No.6,9&13 respectively.

That, respondent No.3 who was sent as L.H.C. and he was promoted as H.C. subsequent to the promotions of the petitioners and thus respondent NO.4 was junior to the petitioners for all practical purposes.

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 22.5.13
 Examiner
 Peshawar High Court
 Abbottabad Bench
 Submitted Under Section 25 of P.D. Act
 FILED

ADDITIONAL
 17/4/13

22/3/14
 ATTESTED
 Sd/-
 Librarian
 District Court
 Abbottabad

P-4

P-40

D. That, according to the policy laid down for the absorption/merging, an official from another District, if sent to another District at his own request, will be placed at the bottom of seniority list irrespective of his other qualifications, but in this particular case the very basic law/policy has been blatantly violated by respondents NO.1&2. (The copy of the policy is attached as Annexure "X").

P. 43

E. That, according to the policy so laid down, it was incumbent upon respondent No.1&2 to have selected for intermediate course officials who had been absorbed on permanent basis and promoted much earlier than respondent No.3, but for reasons best known respondent No.3 was selected and petitioners had been deprived of a right so arisen to them.

F. That, the petitioners have opted for a backward and far flung difficult District of Torghar with the sole object to have a chance of promotion, but such chance of promotion was taken away in an arbitrary and fanciful manner which per-se is a malafide on the part of respondent.

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23.5.13
Examiner
Peshawar High Court
Abbottabad Bench
Amrullah Bhattar 2007 E Act Ordina

It is therefore, most humbly prayed and requested that on acceptance of writ petition the impugned notification/order of selection of respondent NO.3 for intermediate course be declared without lawful authority.

7/4/12

22/3
ATTESTED
Sardar Khushal-ur-Rehman
Liaison Officer
Qadh

P-5

P-5

47

INTERIM RELIEF

It is therefore, most humbly prayed that the operation of impugned notification/order of selection of respondent NO.3 for intermediate course may kindly be suspended till the disposal of writ petition.

Dated: 16.4.2012

Qaim Ali Shah etc.
.....Petitioners

P.44

Through
Shad Muhammad Khan
SHAD MUHAMMAD KHAN
ADVOCATE
SUPREME COURT OF PAKISTAN
(MANSEHRA)

VERIFICATION

This is to certify that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this honourable Court.

Dated: 16.4.2012

Waheed Murad

Waheed Murad
.....Deponent

Certified to be True Copy
22.5.13
Examiner
Peshawar High Court
Abbottabad Bench
Under Section 49 of the Courts Act, 1973

FILED TODAY

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Adnan
Peshawar High Court
Abbottabad Bench
17/4/12



BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD

P. 42 48

Qaim Ali Shah etc.....Petitioners

VERSUS

D.P.O. Torghar etc.....Respondents

P. 45

WRIT PETITION

AFFIDAVIT

I, Waheed Murad S/O Noor Ur Rehman, resident of Mohallah Dab No.2, Tehsil and District Mansehra, do hereby solemnly affirm and declare that the contents of foregoing writ petition are drafted under my supervision which are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this honourable Court.

Dated: 16-4-12

Waheed Murad

Waheed Murad
.....Deponent

1353-0536695-1

Certified to be True Copy

22.5.13
Peshawar High Court
Abbottabad Bench
Amendment Under Section 5 of the Ordinance

No. 2062/156 Receipt No. 156

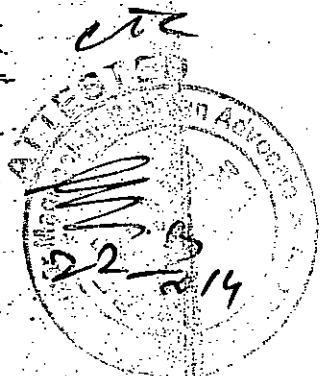
I certify that the above was verified on 5/5/12 before me at

Waheed Murad S/O Noor Ur Rehman
Mohallah Dab No. 2, Tehsil Mansehra

FILED TODAY

[Signatures]
17/4/12

[Signatures]
18/4



BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD

P. 48

Qaim Ali Shah etc.....Petitioners

VERSUS

D.P.O. Torghar etc.....Respondents

P. 46

WRIT PETITION

AFFIDAVIT

I, Waheed Murad S/O Noor Ur Rehman, resident of Mohallah Dab No.2, Tehsil and District Mansehra, do hereby solemnly affirm and declare that the contents of foregoing writ petition are drafted under my supervision which are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this honourable Court.

Dated: 16-4-13

[Signature]

Waheed Murad
.....Deponent

13583-0536695-1

Certified to be True Copy

23.5.13
Examiner
Peshawar High Court
Abbottabad Bench
Admin. Order Under Sec 15 A of Ordinance

No. 7062/156 Receiver No. 156

certified that the above was verified on 23.5.13 before me as a Magistrate

At a place called Mohallah Dab No. 2, District Mansehra

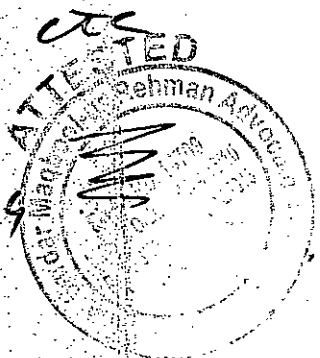
FILED TODAY

[Signature]
17/4/13

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18/4

22/5/13



23

BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD

P. 492 A

Qaim Ali Shah etc.....Petitioners

VERSUS

D.P.O. Torghar etc.....Respondents

WRIT PETITION

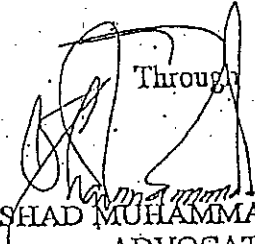
P. 47

LIST OF LAW BOOKS

1. The Constitution of Islamic Republic of Pakistan 1973.
2. Other law books as per need.

Dated: 16-4-12

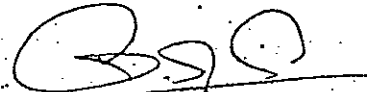
Qaim Ali Shah etc.
.....Petitioners

Through

 SHAD MUHAMMAD KHAN
 ADVOCATE
 SUPREME COURT OF PAKISTAN
 (MANSEHRA)

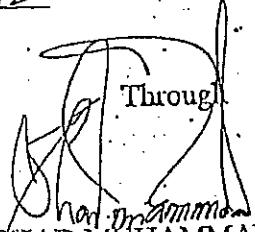
CERTIFICATE

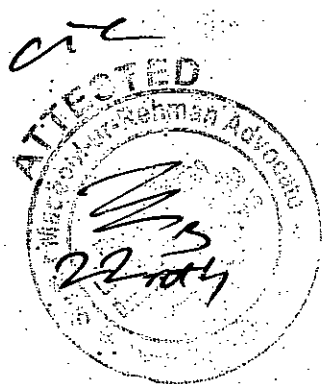
It is to certify that neither the writ petition of this nature so far has been earlier instituted nor decided by any court of law.


Dated: 16-4-12


 Qaim Ali Shah etc.
Petitioners

Certified to be True Copy
 23.5.13
 Peshawar High Court
 Abbottabad Bench
 (Authorized Under Section 20 of the Peshawar High Court Act, 1973)

Through

 SHAD MUHAMMAD KHAN
 ADVOCATE
 SUPREME COURT OF PAKISTAN
 (MANSEHRA)




 17/4/12

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH
JUDICIAL DEPARTMENT

10
P. 50

W.P No: 306-A of 2012

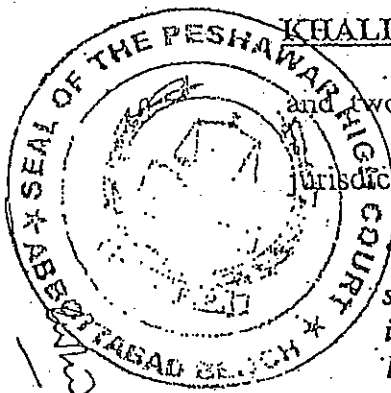
JUDGMENT ANNEXURE

E 48

Date of hearing..... 25-04-2012

Appellant(s)/Petitioner (s)..... Qaim Ali Shah by Mr. Shad Muhammad Khan, Advocate

Respondent (s)..... D.P.O. et al.



KHALID MAHMOOD :-J:

Qaim Ali Shah

and two others; petitioners, seek the constitutional jurisdiction of this Court, praying that;

"The impugned notification/order of selection of respondent No.3 for intermediate course be declared without lawful authority."

2. The learned AAG present in Court in a different matter accepts notice of this petition.

3. Lest this Court passes any findings, which may prejudice the case of either of the parties, we treat the present petition as representation and be sent to respondents No.1 and 2 with the directions to consider the grievance of the petitioners in accordance with law within a period of 30 days, if not earlier, from the receipt of this judgment.

Certified to be True Copy
22-5-13
Peshawar High Court
Abbottabad Bench
Enforced Under Sec 75 Act (Ordinance)



P-51 P. 49

5. In case, the grievances of the petitioners are not redressed, respondents are to tender reasons for the same in writing and communicate the same to the petitioners and Additional Registrar of this Court, within the stipulated period stated, hereinabove.

6. This petition is disposed of in the above terms.

Announced:
25.04.2012

SD. JUDGE

Certified to be True Copy
Examined 23.05.13
Peshawar High Court
Abbottabad Bench
Authorized Under Section 75 A of Ordinance

22-5-14
RECEIVED
S. J. Khan
S. J. Khan
S. J. Khan

REPRESENTATION OF HC QAIM ALI SHAH NO.281, HC SOHAIL
AND HC WAHEED MURAD NO.253 PETITIONERS.

P. 50

ANNEXURE E

P. 50

In compliance with the order dated 24-04-2012 passed by Honorable Peshawar High Court (Abbottabad Bench) in Writ Petition No. 16-A/2012; the instant writ petition is considered as a *de facto* "representation" and is placed before the DPC/DSC constituted in the matter vide this office Memo: No.8291-94/E dated 26-06-2012.

ii). (a) The crux's of the contention put-forth by the petitioners 1,2 & 3 (HC Qaim Ali Shah No.281, HC Sohail No.283 and HC Waheed Murad No.253 respectively) in their representation alongwith grounds in the instant Writ Petition claiming that Respondent No.3 (namely Ayaz Khan, Head Constable No.254) was junior to the petitioners for all practical purposes and as a consequence thereof he should not have been selected for the Intermediate School Course by Respondent No.2 (namely RPO/DIG Hazara) vide his impugned order No. 4261-71/E dated 05-04-2012 (copy enclosed at Annexure-A) which was amongst others also sent to DPO Torghar vide this office Endst: No.4272-75/E dated 05-04-2012 in so far as it pertains to DPO Torghar Memo: No.784/SRC dated 17-03-2012.

(b) According to DPO Torghar letter No.784/SRC dated 17-03-2012 the Serial No. of Petitioners and Respondent No.3 stood as follows:-

<u>Name & No of Petitioner/Respondent</u>	<u>Serial No. according to seniority list</u>
HC Qaim Ali Shah No.281 (Petitioner No.1)	Serial No.6
HC Sohail No.283 (Petitioner No.2)	Serial No.9
HC Waheed Murad No.253 (Petitioner No.3)	Serial No.13
HC Ayaz Khan No.254 (Respondent No.3)	Serial No.14

(c) Vide this office Endst: No.4272-75/E dated 05-04-2012, DPO Torghar was advised that the case for selection of Intermediate College Course is returned with the directions that it may be prepared in the light of directions received from PPO Khyber Pakhtunkhwa Peshawar vide Memo: No.9430/E-I dated 08-04-2009 (copy enclosed at Annexure-B). Subsequently DPO Torghar furnished a recommendation vide his Memo: No.872/SRC dated 06-04-2012 (copy enclosed

22 3
2014



Annexure-C). As per revised recommendations of DPO Torghar, the revised serial Nos. of the petitioners and respondent No.3 stood as follows: -

<u>Name & No of Petitioner/Respondent</u>	<u>Serial No. according to seniority list</u>
HC Qaim Ali Shah No.281 (petitioner No.1)	Serial No.10
HC Sohail No.283 (Petitioner No.2)	Serial No.17
HC Waheed Murad No.253 (Petitioner No.3)	Serial No.19
HC Ayaz Khan No.254 (Respondent No.3)	Serial No.5

(Note:- The Head Constables Khan Afsar No.268 at Serial No.1 of the seniority list was overage and HC Abdul Sattar No.4 at Serial No.2 had earlier been compulsorily retired by DPO Torghar.)

(d). Based on the fresh/revised recommendation of the DPO Torghar, Respondent No.2 (DIG Hazara) issued Memo: No.4424/E dated 07-04-2012 (copy enclosed at Annexure-D), whereby the following three Offg. Head Constables (on promotion list C-I) were selected for Intermediate College Course in PTC Hangu commencing from 14-04-2012, which is still in progress (total duration: 06 months):-

S. No.	Name & No.
1	HC Abdul Ghafar No.94
2	HC Bashir Dad No.31
3	HC Ayaz Khan No.254

III). The DPC/DSC constituted vide Memo: No.8291-94/E dated 26-06-2012 examined the matter in detail.

The relevant Police Rule which governs the promotion list "C" is PR-13.8 of Police Rule 1934 (copy attached at Annexure-E). This is to be r/w PPO's Khyber Pakhtunkhwa Memo: No.9430/E-I dated 08-04-2009.

The policy referred to by the petitioners in their instant Writ Petition (i.e. at Annexure-H of the writ petition) is a Memo: of the S&GAD (now Establishment Department) of the Khyber Pakhtunkhwa Govt., which is only relevant to the officials who are transferred from one group/cadre to another (i.e. It pertains to deputationists and their permanent absorption in the borrowing

22/06/12
P. P. 51



corrected.

preparation of list "C", which was pointed out to them and subsequently suffered from teething problems which resulted in the initial incorrect

At the same time it may be said that District Torgar being a new District was...
...the petitioners, namely HC Qaim Ali Shah No.281, HC Sohail No.283 and HC Wahed Murad No.253 qualified Lower School Course during the terms ending 20-09-2009, 20-09-2010 and 20-03-2011 respectively during their posting in Manshera District. Whereas respondent No.3 (HC Aayaz Khan No.254) qualified the same course during the term ending 20-09-2006 during his posting in the same District. As is evident from the above HC Aayaz Khan No.254 and the other years earlier to petitioner No.1 (HC Qaim Ali Shah No.281) 04 year and 1/2 years earlier to petitioner No.2 (HC Muhammad Sohail No.283) and 4 1/2 years earlier to petitioner No.3 (HC Wahed Murad No.253) as such as per the criteria mentioned above, the names of the petitioners should be placed at the bottom of list "C" to all the three

his name is placed at the bottom of list "C".

(a) If a constable comes from another province (Inter Provincial Transfer) name is placed at the bottom of the same PTC Hangu Course

(b) If a constable from FRP is transferred to District Regular Police his reference PRO Khyber Pakhtunkhwa Memo: No.9430/E-II dated 08-04-2009).

Course to be placed on list "C" is as per the "order of merit" of PTC Hangu

At the same time the criteria for placing a Constable who has qualified Lower School Course to be placed on list "C" is as per the "order of merit" of PTC Hangu

the criteria for selection for Inter College Course is solely based on the merit of the candidates.

terms and conditions of service are governed by the Police Order, 2002. Police

reference to all Annexure-H of their Writ Petition does not apply to them (their

petitioners (namely HC Qaim Ali Shah No.281, HC Sohail No.283 and HC Wahed Murad No.253) have changed their department group/cadre. As such the policy

the Police Department (whether in Manshera or Torgar) and none of the three petitioners, they were and continue to be in the instant case of the petitioners.

P-52

P-54

(37)

departments in the instant case of the petitioners. They were and continue to be in the Police Department (whether the Mansehra to Torghar) and none of the three petitioners namely HC Qaim Ali Shah No. 281, HC Sohail No. 283 and HC Waheed Murad No. 253 have changed their department group / cadre. As such the policy referred to at Annexure-H of their writ petition does not apply to them (their terms and conditions of service are governed by the Police Order 2002, Police Rules 1934 and E&D Rule 1973).

(v) The criteria for selection for Inter College Course is solely based on the seniority No. as per list "C".

(vi) (a) The Criteria for placing constable who has qualified Lower School course to be placed on list "C" is as per the "order of merit" of PTC Hangu reference DPO Khyber Pakhtunkhwa Memo: No. 9430/E-II dated 08/04/2009.

(b) if a constable from FRP is transferred to District Regular Police his name is placed at the bottom of the same PTC Hangu Course.

(c) If a constable comes from another province (Inter Provincial Transfer) his name is placed at the bottom of list "C".

(vii) The petitioners namely HC Qaim Ali Shah NO. 281 HC Sohail No. 283 and the Waheed Murad No. 253 qualified Lower School Course during the terms ended 20/09/2009, 20/09/2010 and 20/03/2011 respectively during their posting at Mansehra District whereas respondent No. 3 (HC Ayaz Khan No. 254) qualified the lower course during the term ended 20/09/2006 during his posting in Abbottabad District. As is ended term the above HC Ayaz Khan No. 254 qualified lower court 3 years earlier to petitioner No. 1 HC Qaim Ali Shah No. 289, 04 years earlier to petitioner No. 2 HC Muhammad Sohail No. 283) and 4½ years earlier to petitioner No. 3 HC Waheed Murad No. 253). As such as per the criteria mentioned HC Ayaz Khan No. 254 stood senior in promotion list "C" to all the three petitioners.

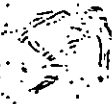
(viii). Lastly it may be said that District Torghar being a new District was suffering from teaching problems which resulted in the initial incorrect preparation of list "C" which was pointed out to them and subsequently corrected.

In conclusion the DSC/DPC is of the opinion that selection for the College Course commencing from 14-04-2012 was made on merits and the advances of the petitioners namely HC Qaim Ali Shah No.281, HC Sohail No.283 and HC Waheed Murad No.253 are neither based on facts and are not supported by Police Rules and as enunciated by the PPO, Khyber Pakhtunkhwa:

MEMBER

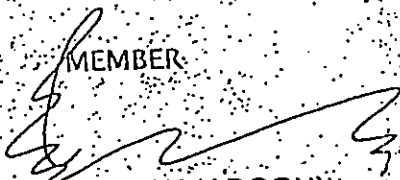

(HAFIZ JANIS)

Deputy Supdt. of Police
Legal/Investigation
Abbottabad

P.  58

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MEMBER


(SARFARAZ KHAN JADOON)

Senior Supdt. of Police
Coordination/FRP
Abbottabad

MEMBER


(MIAN RAZA HUSSAIN)


Senior Supdt. of Police
Investigation, Abbottabad

MEMBER


(MUHAMMAD KARIM KHAN)

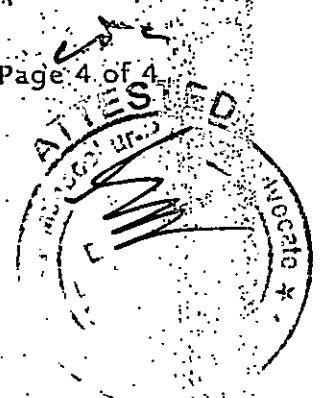
District Police Officer
Abbottabad

CHAIRMAN


(MUHAMMAD NAEEM KHAN)

Deputy Inspector General of Police
Hazara Region Abbottabad

22/3/14



From: The Deputy Inspector General of Police,
Hazara (Abbottabad)

To: The AIG Establishment,
Khyber Pakhtunkhwa, Peshawar.

No. 8652 /E, Dated Abbottabad the, 04/07/2012.

Subject: SENIORITY OF C-I HEAD CONSTABLES.

Memorandum:

As per list attached of C-I LHCs who were transferred to Torghar District on permanent basis where they were promoted according to the date of passing their Lower Class Course as noted against their names.

Moreover, Head Constable Muhammad Zubair No.688 on list C-I has passed Lower Class Course on 20-09-2003, he was promoted as C-I Head Constable in Abbottabad District. Thereafter he was transferred to Torghar District on 28-04-2012 at his own willing.

Prior to this the C-I LHCs mentioned in the attached list who were willingly transferred to Torghar District and promoted as C-I Head Constables before the arrival of Head Constable Muhammad Zubair.

The guidance is solicited as to whether he is kept on the bottom after the names of those LHCs who were promoted as C-I Head Constables before his arrival in Torghar District or otherwise.

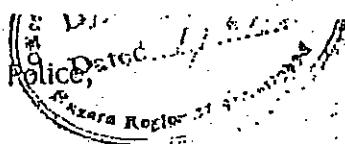
Deputy Inspector General of Police
Hazara (Abbottabad)
(AEC Dlawar)



ANNEXURE **H**

Peshawar.

To : The Deputy Inspector General of Police,
Hazara Region, Abbottabad.



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No. 15019 /E-II dated Peshawar the 30 17 /2012.

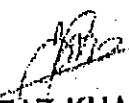
Subject: SENIORITY OF C-I HEAD CONSTABLES

Memo:

Please refer to your office Memo: No. 8658/E dated: 04.07.2012.

The AIG/Establishment has recorded the following remarks on the letter under reference.

Rules are clear. See PR. Seniority is counted from the date of merit order of lower school course.

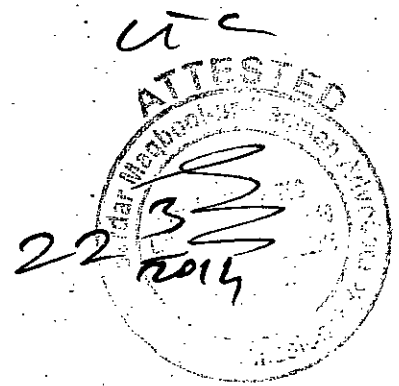

(MUMTAZ KHAN)
Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar

EA
2/1/8

ABC

PPs attached

3/8



ANNEXURE-1

P-57

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POLICE DEPARTMENT

DISTRICT TORGHAR

Office of the DPO Torgar, No 1932 /GB, dated the 15/10/2012.

MINUTES OF POLICE DARBAR HELD AT POLICE LINES TORGHAR ON 05-10-2012.

After taking over the charge of the District, the undersigned on 05-10-2012, held Police Darbar in District Police Lines Torgar. Officers were asked to come forward and put forth their problems and proposals/suggestions for the improvement of District Police working. The following officers presented their issues.

1. Mr. Shad Muhammad Khan SI (SHO Judbāh).

SHO Judbāh has requested that the strength of this Police Station is facing problem of cooking due to non availability of cook.

The undersigned informed/clarified the SHO that sanction of cooks has been accorded and cooks are being enlisted shortly.

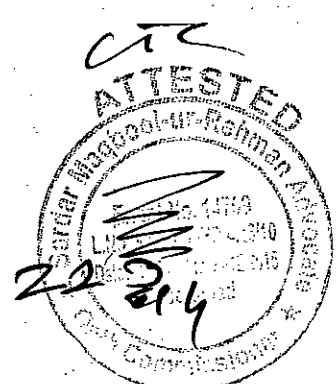
2. Head Constable Naveed Ahmad & other Head Constables

The HC Naveed Ahmad, Qaim Ali Shah, Niaz Ahmad, Ejaz and other Head Constables who were transferred to this district since long but not selected for Intermediate College Course. They pinpointed/objected that most of LHCs transferred from down district after them have been selected for Intermediate College Course and after taking on advantage of Intermediate College Course were tried for transfer back to their home district which is not fair and against the justice. They also requested that highups may kindly be approached that seniority list may be maintained in this district and LHCs received on transfer after their arrival may be kept on bottom. They also requested that the period of posting of LHCs may kindly be fixed for 03 years.

The undersigned assured the Head Constables that it would be discussed with the worthy Deputy Inspector General of Police Hazara Range Abbottabad and he would try his best to accommodate them as per their request.

ADDRESS OF DISTRICT POLICE OFFICER.

The Chair in his address stated that we are working and living like a family, therefore, each and every Police officer facing any problem may visit my office without any hesitation to explain the issue and efforts will be made to solve the same. The every Monday has been fixed as orderly room day and any upper/lower subordinates can approach the undersigned.



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P- ()

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1. Discipline/Welfare of Police Force.

Due attention should be paid towards discipline, any one found violating discipline will be proceeded against departmentally, there will be no compromise on discipline. All out efforts will be made for the welfare of the Police officers. The officers/Jawans should be well dressed/good turn-out. There should be no additional and unapproved badges or any other article with the uniform. The Government has already been made considerable increase in the salaries of Police Force, therefore, we should work hard and honestly.

2. Police-Public Relations.

There should be no Police atrocity on public, any one found involved in such cases will be dealt with departmentally. They should be polite with the public and their behavior should be exemplary. The politicians should be given due respect but no undue and illegal favour should be given to them. Any problem must be brought into the notice of the undersigned. The Police officers should create cordial and good relation with the citizens. The Moharrir staff should improve their attitude and they should be polite with the public visiting Police Station for lodging reports/complaints.

3. Alertness and Visibility of Police.

There should be Police visibility every where to create a sense of security in the general public. The Police noticing incident must reach at the spot immediately. The Police officer/Jawans on duty should be fully alert. Use of bullet proof Jackets and helmets should be ensured.

4. Postings/Transfers.

Postings/transfers will be made on merit basis. Use of political pressure or any other selfish for getting choice posting should be avoided. The officers and Jawans having any problem should come to my office to solve the same.

MA 22
District Police Officer,
Targhar

Copy to:-

- > The Deputy Inspector General of Police, Hazara Range Abbottabad for favour of information, please.
- > DSP HQ Targhar.
- > All SHOs.
- > Lines Officer. ✓

22/11/14

ATTESTED

Deputy Inspector of Police

Targhar

From: The Deputy Inspector General of Police,
Hazara (Abbottabad)

To: The District Police Officer,
Torghar

ANNEXURE-4

No. 16430 /E, Dated Abbottabad the, 07/11 /2012.

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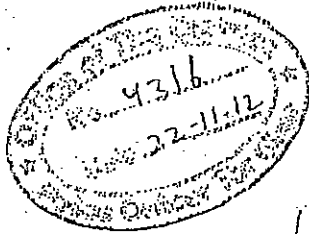
Subject:- MINUTES OF POLICE DARBAR HELD AT POLICE LINES
TORGHAR ON 05-10-2012.

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Memorandum:

Please refer to your office Memo: No.1932/GB dated 15-10-2012. (Minutes of Police Darbar held at Police Lines Torghar on 05-10-2012 Para No.2).

The criteria already being followed i.e. seniority be maintained according to the date of passing of Lower Class Course. In this connection attention is also invited to PPO Khyber Pakhtunkhwa letter No.15019/E-II dated 30-07-2012 and this office letter No.8658/E dated 04-07-2012 (copy attached).



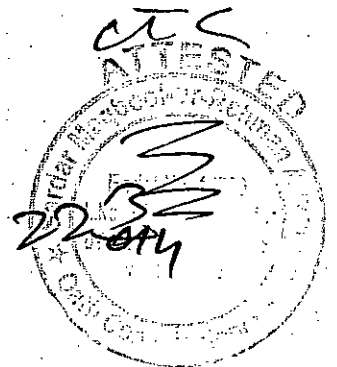
[Signature]
Deputy Inspector General of Police
Hazara (Abbottabad)
(AEC Dilawar)

[Handwritten mark]

[Handwritten mark]

SAC/OHC
To inform all
the Hex:

[Signature]
DP/TG
21-11-12



To: - The Addl: Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa,
Peshawar.

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To: - The District Police Officer,
Torgar,

ANNEXURE-K

No. 369 / 13, Dated Peshawar the: 9/10/13 2013.

Subject:- GRIEVANCES OF HEAD CONSTABLE OF DISTRICT TORGAR.

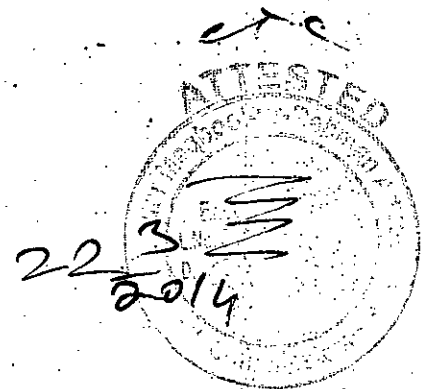
Memo:-

In connection with your office memo No. 438/PA, dated 10.04.2013 it is stated that under the Police Rules, seniority list of C-I Head Constable is maintained at the district level and those C-I Head Constables who are transferred from other districts to district Torgar on the basis of their willing / consent will undoubtedly will be placed at the bottom of the seniority list. As far as inter district transfers within the same Region, HC's / ASI's on list-D and SI's on list-E will not disturb seniority because such lists are maintained at the Regional level.

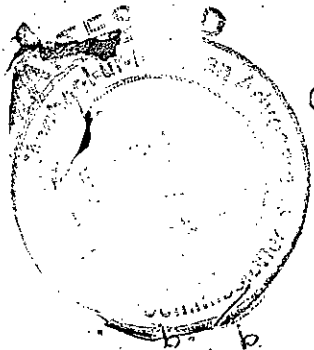
In view of the position explained above the LHC's who have been transferred on the basis of their willingness to district Torgar be placed at the bottom of the seniority list.

Furthermore, transfers to Torgar on loan basis to be stopped.

Addl: Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa,
Peshawar.



خدمتِ ما - IGP صاحب غیر مختون خواہ



Amner-L صاحب عالی P. 61

سرکارِ سندھ

مدارست صاحب سائنس ضلع تورنگ میں بطور ہیڈ ٹیچر
 ڈیوٹی سرانجام دے رہے ہیں۔ ضلع تورنگ جو کہ سال 2011ء
 میں بنا ہے۔ ضلع ہذا میں مختلف اضلاع سے ایک ہی ریجن
 سے H.C اپنی ذمہ داری سے ضلع تورنگ میں گئے ہیں۔ اور اسٹریٹیجی
 کورس کے لئے ضلع تورنگ سے I.C کی سیارٹی پر ضلع ہذا سے
 ٹیکر آج تک I.C کی سیارٹی پر ہی جاتے رہے ہیں۔ سال
 2011ء میں ہی جو نئے H.C نے کالجوں پر ایبٹ آباد، پنجاب
 ایگریکلچرل یونیورسٹی کی سیارٹی ایے کی ہیں ہوئی جائے۔
 بلکہ باغیچہ میں ہونا چاہئے۔ اس پر عدالت عالیہ نے فیصلہ
 نوٹس سے اسکی نسبت Comments طلب کیے۔ پانچ روپی
 کیس میں دیے ہیں I.G صاحب ہزارہ کی زیر نگرانی میں SSP صاحب
 ایک DSP کیلئے Comments دیے ہیں۔ ہذا پر کالجوں پر
 نے Comments کی روٹی میں اپنی رٹ خارج کر دی اور
 ضلع ہذا میں I.C کی سیارٹی پر عدزماں اسٹریٹیجی کورس
 کرتے رہے۔

آئی
5

حال ہی میں تاریخ 15/10 کو ایک حکم جاری ہوا ہے سیارٹی
 باغیچہ کی ہوئی جائے۔ جس کی وجہ سے سینیئر عدزماں نوٹس
 کی حق تلفی ہو رہی ہے۔

بذریعہ درخواست استدعا ہے کہ ضلع ہذا میں سب معمول سیارٹی
 آج مطابق نوٹس دوکرتے باغیچہ 13 فقرہ 8 سال 1934ء عام کے
 حکم کے حکم صادر فرمایا جائے۔ اگر باغیچہ کا نفاذ ہی کرنا ہے تو
 حکم کی تاریخ کے بعد ہونا چاہئے۔

8/2

المرقوم: 05/12/2013

العارض

Office of the Punjab
 (Establishment Wing)
 No. 19036/E-1
 Date: 5/12/13
 Akbar Juttan Khan

2013
 359 H.C زلفرخان
 341 H.C ی و قاسم
 99 H.C کی رماقہ

Amjed H.C 93
 H.C 171
 H.C 338

POLICE DEPARTMENT

DISTRICT TORGHAR

ANNEXURE

SENIORITY LIST OF HEAD CONSTABLE OF DISTRICT TORGHAR ON BOTTOM.

S. No	Name & No.	D/O Birth	Date of Enlistment	Edu:	Term Ending	Order of Merit	Date of Brought on C.I.	Date of Promotion as HC	Facing any Dep: Enquiry	Date of arrival	REMARKS
1.	HC Sarfraz Ahmad No. 280 ✓	10.03.1987	03.05.2007	FA	20.09.2009	95	01.10.2009	19.12.2011		16.11.2011	
2.	HC Qaim Ali Shah No. 281 ✓	15.09.1977	28.01.2002	FA	20.09.2009	141	01.10.2009	19.12.2011		16.11.2011	
3.	HC Shehzad Ahmad No. 282 ✓	16.04.1978	28.01.2002	BA	20.03.2010	86	01.04.2010	19.12.2011		16.11.2011	
4.	HC Muhammad Sobail No. 283 ✓	01.01.1982	29.10.2003	MA	20.09.2010	81	01.10.2010	24.01.2012		16.11.2011	
5.	HC Niaz Ahmad No. 67 ✓	03.01.1984	28.01.2002	FSC	20.09.2009	95	01.10.2009	24.01.2012		21.12.2011	
6.	HC Muhammad Arshid No. 140 ✓	20.01.1983	29.10.2003	BA	20.09.2011	175	15.02.2012	05.03.2012		23.11.2011	
7.	HC Ejaz Ali No. 163 ✓	01.01.1978	20.06.2000	BA	20.03.2010	17	01.04.2010	24.01.2012		26.12.2011	
8.	HC Waheed Murad No. 253 ✓	01.05.1979	28.01.2002	FA	20.03.2011	66	01.04.2011	24.01.2012		23.01.2012	
9.	HC Naseer Akhtar No. 272 ✓	01.11.1978	05.03.2002	FA	20.03.2011	77	20.05.2011	05.03.2012		10.02.2012	
10.	HC Waiz Khan No. 168 ✓	17.12.1978	28.01.2002	FA	20.03.2010	118	01.04.2010	05.03.2012		17.02.2012	
11.	HC Sanaullah No. 182 ✓	04.04.1980	01.02.2002	FA	20.09.2010	40	20.09.2010	05.03.2012		01.03.2012	
12.	HC Ghulam Jun No. 191 ✓	01.05.1981	01.07.2002	10 th	20.09.2011	6	20.09.2011	05.07.2012		22.03.2012	
13.	HC Abdul Qadeer No. 209 ✓	03.03.1981	01.05.2001	FA	20.09.2011	214	31.01.2012	20.04.2012		12.04.2012	
14.	HC Malik Imtiaz No. 269 ✓	16.01.1978	20.10.1999	10 th	20.09.2009	213	20.09.2009	02.01.2013		01.07.2012	



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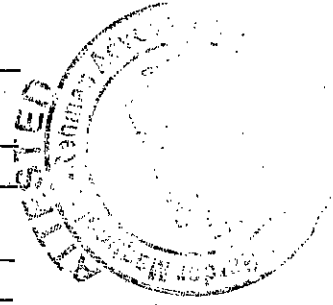
P-83

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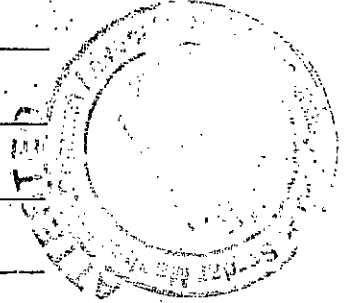
15.	HC Alam Zaib No. 5	02.08.1980	01.05.2001	FA	20.03.2009	143	20.03.2009	22.03.2012		07.08.2012	
16.	HC Muhammad Ayaz No. 213	14.06.1983	01.01.2003	FSc	20.09.2012	15	18.12.2012	02.01.2013		20.09.2012	
17.	HC Abdul Mateen No. 173	17.06.1988	14.07.2009	BA	20.09.2012	46	18.12.2012	02.01.2013		20.09.2012	
18.	HC Muhammad Saleem No. 187	02.01.1984	18.10.2004	MA	20.09.2012	48	18.12.2012	02.01.2013		20.09.2012	
19.	HC Khalil ur Rehman No. 141	16.04.1983	05.03.2003	FA	20.09.2012	119	18.12.2012	02.01.2013		20.09.2012	
20.	HC Muhammad Asif No. 285	01.01.1985	15.10.2004	FA	20.09.2012	133	18.12.2012	02.01.2013		20.09.2012	
21.	HC Muhammad Sajid No. 290	02.02.1975	25.09.1996	10 th	30.11.2007	12	01.12.2007	02.01.2013		18.10.2012	
22.	HC Muhammad Sajid No. 336	04.01.1980	20.11.2003	FA	20.03.2011	27	20.03.2011	02.01.2013		24.10.2012	
23.	HC Waqas No. 341	02.06.1975	20.10.1999	FA	25.07.2007	90	25.07.2007	21.03.2012		12.11.2012	
24.	HC Bin Yameen No. 342	10.12.1978	20.10.1999	FSC	20.09.2009	98	20.09.2009	02.01.2013		12.11.2012	
25.	HC Zaheer No. 347	20.04.1980	24.02.2000	10 th	20.09.2011	39	20.09.2011	02.01.2013		13.12.2012	
26.	HC Qaisar Zaib No. 349	01.04.1983	01.04.2005	BA	20.09.2012	132	01.10.2012	02.01.2013		13.12.2012	
27.	HC Abdur Rasheed No. 338	20.04.1975	20.10.1999	10 th	20.03.2007	15	20.03.2007	06.06.2013		10.01.2013	
28.	HC Muhammad Rafi No. 354	02.02.1981	24.01.2002	FA	20.09.2009	161	20.09.2009	06.06.2013		15.01.2013	
29.	HC Mir Afghun No. 52	20.02.1976	20.10.1999	10 th	20.09.2006	83	20.09.2006	06.06.2013		05.02.2013	
30.	HC Amjid Khan No. 93	24.02.1975	27.06.1996	10 th	20.09.2006	190	20.09.2006	06.06.2013		05.02.2013	
31.	IIC Wazir Muhammad No. 355	10.04.180	20.10.1999	FA	20.09.2006	100	20.09.2006	06.06.2013		07.02.2013	
32.	IIC Ahmad Saeed No. 356	13.04.1980	01.07.2000	FA	20.09.2010	132	14.11.2010	22.03.2012		12.02.2013	
33.	IIC Muhammad Rizwan No. 358	12.08.1972	07.11.1995	BA	17.05.2005	97	18.05.2005	06.06.2013		13.02.2013	Transfer from Sinc Police seniority accepted at bottom. Arrival Date 23.11.2009

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(43)

34.	HC Abid Khan No. 317	21.03.1978	03.04.1996	10 th	11.10.2008	60/C	17.12.2008	20.09.2009		14.02.2013	Transfer from Baluchistan Police seniority accepted at bottom arrival Date 02.07.2011
35.	HC Zafar Khan No. 359	03.04.1978	20.10.1999	FA	25.07.2007	84	25.07.2007	06.06.2013		28.02.2013	
36.	HC Ghulam Mohi-ud-Din No. 362	13.02.1980	20.06.2000	BA	20.03.2011	25	01.04.2011	06.06.2013		14.03.2013	
37.	HC Muhammad Mustaqim No. 289	01.01.1984	01.02.2002	10 th	20.03.2013	31	20.03.2013	06.06.2013		20.03.2013	
38.	HC Muhammad Iqbal No. 249	01.03.1985	05.11.2003	FA	20.03.2013	84	20.03.2013	06.06.2013		20.03.2013	
39.	HC Anwar No. 252	01.03.1980	05.11.2003	10 th	20.03.2013	110	20.03.2013	06.06.2013		20.03.2013	
40.	HC Talch Muhammad No. 123	01.05.1980	15.10.2004	FA	20.03.2013	144	20.03.2013	06.06.2013		20.03.2013	
41.	HC Gul Afzal No. 340	20.12.1979	10.04.2001	10 th	20.03.2013	215	20.03.2013	06.06.2013		20.03.2013	
42.	HC Sohail Nadeem No. 211	20.04.1986	15.10.2004	BA	20.03.2013	301	20.03.2013	06.06.2013		20.03.2013	
43.	HC Fida Muhammad Khan No. 396	16.03.1986	13.03.2008	MA	20.03.2011	88	04.07.2011	01.09.2013		06.07.2013	
44.	HC Atlas No. 171	06.10.1972	04.10.1993	10 th	20.09.2006	209	20.09.2006	30.12.2010		29.08.2013	
45.	HC Ghulam Shabir No. 415	02.07.1975	15.10.1996	10 th	20.09.2006	151	20.09.2006	20.05.2013		24.09.2013	

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[Signature]
District Police Officer,
Torghar

PHONE NO. 091-9210545

FAX NO. 091-9210927

~~P-60~~

FROM:

The Provincial Police Officer,
N.W.F.P., PESHAWAR.

Annex N

TO:

The DIG of Police,
Hazara Region, ABBOTTABAD.

P. 65

No. 9430

/E-I, Dated Peshawar, the 28/1/2009

SUBJECT:-

APPLICATION.

MEMO.

dated 2-4-2009.

Please refer to your Memo.No.3963/E

The seniority list is required to be maintained strictly in accordance with the order of merit of P.T.C. Hangu result and selection to all sort of courses are made on seniority of lists-C-D & E and not promotion.

M. M. M.

(MUHAMMAD SULAMAN I
DIG/HARR.
Hazara Region, Peshawar



BEFORE THE KPK SERVICE TRIBUNAL
PESHAWAR

C.M No. _____/2014.
In Ref:
Appeal No. _____/2014

Abdur Rasheed Head constable, KPK Police
Department posted in District Torghar.

Applicant/Appellant

V e r s u s

Provincial Police Officer, KPK, Peshawar and
others.

Respondents

APPLICATION TO THE EFFECT THAT THE
RESPONDENT NO.1 TO 4 MAY NOT ACT UPON THE
IMPUGNED ILLEGAL SENIORITY LIST OF HEAD
CONSTABLES OF DISTRICT TORGHAR WHICH IS
PREPARED BY D.P.O, TORGHAR AFTER THE LIST
C-I OF HEAD CONSTABLES DISTRICT TORGHAR
AS STOOD ON OR BEFORE 30.09.2013 TILL THE
FINAL DISPOSAL OF MAIN APPEAL.

It is respectfully submitted as under:-

1. That the above title appeal is filed today and is not fixed for its hearing as yet.
2. That the contents of main appeal be treated as integral part of this application and same are not repeated herein for the sake of brevity.
3. That the applicant/ appellant have made out a good prima-facie case in his favour and there is every likelihood of its success.

4. That balance of convenience leans in the favour of applicant/appellant as he has joined the Police Department much prior to the private respondents and have also passed lower training school course prior to them and due to that reason he was enlisted in list C-I as senior to them as stood on or before 30.09.2013. In case the official respondents are not restrained from acting upon the impugned illegal seniority list of Head Constables prepared by DPO Torghar after 30/09/2013 then applicant/ appellant shall suffer irreparable loss.

It is therefore, humbly prayed that this Honourable Tribunal by way of ad-interim order restrain the respondents No.1 to 4 from acting upon the impugned illegal seniority list of Head Constables of District Torghar till the final disposal of main appeal and accordingly be restrained from sending the private respondents for intermediate course to Hangu training College prior to the appellant.

Applicant/ Appellant

Through:-



(Abdul Shakoor Khan)
Advocate Supreme Court of
Pakistan.

Dated:- ____/03/2014.

BEFORE THE KPK SERVICE TRIBUNAL

PESHAWAR

C.M No. _____/2014.
In Ref:
Appeal No. _____/2014

Abdur Rasheed Head constable, KPK Police
Department posted in District Torghar.

Applicant/Appellant

V e r s u s

Provincial Police Officer, KPK, Peshawar and
others.

Respondents

AFFIDAVIT

I, Abdur Rasheed Head constable, KPK Police
Department posted in District Torghar do
hereby declare on oath that the contents of
the application are true and correct and
nothing has been concealed from this
Honourable Tribunal.

Deponent



BEFORE THE KPK SERVICE TRIBUNAL

PESHAWAR

C.M No. _____/2014.
In Ref:
Appeal No. _____/2014.

Abdur Rasheed Head constable, KPK Police
Department posted in District Torghar.

Applicant/Appellant

V e r s u s

Provincial Police Officer, KPK, Peshawar and
others.

Respondents

**APPLICATION FOR GRANT OF EXEMPTION OF
FILING THE COPIES OF APPEALS FOR PRIVATE
RESPONDENTS TILL THE ADMISSION OF
AFORESAID APPEAL FOR REGULAR HEARING.**

It is respectfully submitted as under.

1. That the titled appeal is filed today and is not fixed for its hearing.
2. That the appellant due to financial constraint at the moment is unable to file 45 copies of appeal alongwith annexures for private respondents.

It is therefore, humbly requested that this Honourable Tribunal may graciously be pleased to exempt the appellant for filing the copies of appeal for private respondents till the admission of aforesaid appeal for regular hearing.

Applicant/ Appellant

Through:-



(Abdul Shakoor Khan)
Advocate Supreme Court of
Pakistan.

Dated:- ____/03/2014.

کورٹ فیس
قیمتی

وکالت نامہ

بعدالت Before The KPK Service Tribunal Peshawar

عنوان: Abdur Rehman PPO KPK & Co

منجانب: Appellant

نوعیت مقدمہ: Service Appeal

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آں مقام

Abdul Shalek w/ ltrn ASC at Peshawar

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم:

بمقام:

Accepted by

Abdul Shalek w/ ltrn
ASC at Peshawar

Before The Honorable Chairman - KPK Service Tribunal
Peshawar

Abdur Rehman v/s Provincial Police Officers
KPK & others

Application for an early hearing the
attached case at Peshawar.

It is respectfully submitted as under:

11, That the attached appeal being NO 406/2014
along with stay application was filed on
20.3.2014

12, That office of the Honorable Tribunal
raised many objections with respect to said
appeal. The same after removing the
said objections is re-submitted today for
its preliminary hearing along with stay application.

13, That the matter of appeal is such which
require an early hearing. Due to that very
reason a stay application is also filed.
If the same appeal along with stay application
is not heard before 30th March then the very
purpose of its filing shall be defeated.
Hence this application

It is, therefore, very humbly prayed that
Worthy Chairman may graciously be pleased to
pass an order for the early hearing of attached
matters before 30th March at Peshawar

Applicant / Applicant

Abdul Shaleem Khan
ASC Date

24.3.2014

Asy

کے عدالت جناب کے Service Tribunal کے پاس در

عبدالرشید HC 338 (ایڈیشن)

بنا

Provincial کیس ایفٹر K.P.K وغیرہ

درخواستیں ملداد Early Hearing

جناب عالی درخواستیں ذیل کی ہیں۔

جس کے مقدمہ عنوان زیر جوہر اختتامیہ

جس میں آئینہ نامی بیٹی 19-06-2006 اور فریڈ

نہی کی Warrant Matter ہے۔

نہی کی مسائل کے ضمنی حقوق مسائل ہے۔

لکھنا شہداء کے مسائل کی درخواست

Early Hearing منظر، فریڈ، بیٹی، نامی، جلد غنائت

فرمانی کارب۔

27-4-19

عبدالرشید HC 338 کے پاس بندہ اور بیٹی

Advocate
Hd.

وکالت نامہ

قیمتی

کورٹ فیس

بعدالت جناب Service Tribunal KKK لٹنٹ

بعدالت جناب

ابلاغت

منجانب

عبدالرشید Provincial Police Officer جناب

اپیل

دعویٰ یا جرم

باعث تحریر آنکہ لٹنٹ Service Tribunal KKK اعوان

مندرجہ بالا عنوان میں اپنی طرف سے بیرونی وجوہات ہی مقام لٹنٹ Service Tribunal KKK اعوان ماہ کو میں ایڈووکیٹ بدر شرط وکیل مقرر کیا۔ کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا ہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا۔ اور حاضری کی وجہ سے کسی وجہ پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ یا کچہری کے مقرر اوقات سے پہلے یا بروز تعطیل بیرونی کرنے کے مجاز نہ ہونگے۔ اگر مقدمہ مقام کچہری کے کسی اور جگہ سماعت ہونے پر یا بروز کچہری کے اوقات کے آگیا یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے رابطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپروٹاشی و راضی نامہ و فیصلہ برخلاف کرنے اقبال دعویٰ کا اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ بیرونی مختار نامہ کرینکا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہونگے جیسے صاحب موصوف کو۔ پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیرونی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سندر ہے مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

20

مورخہ:

العبد العبد العبد

Accepted by Me

Advocate
A.C.D.

Abdullah

عبدالرشید

عبدالرشید

ابلاغت

اعوان

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

Service Appeal No. 406/2014

Abdul Rasheed
Zafar

VS

Police Deptt:

.....
REPLY ON BEHALF OF RESPONDENTS
NO.5,6,7,8,9,10,11,12
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

1. The appellant has no locus standi and cause of action.
2. The appellant has concealed material facts from this august Tribunal.
3. The appellant has not come with clean hands.
4. The appeal is time barred.
5. The appeal is maintainable.
6. The appeal is bad for non-joinder and mis-joinder of parties.
7. The appeal is estopped by his own conduct to file the present appeal.

FACTS:

1. Pertain to record, hence no comments.
2. Pertain to record, however civil servant are legally bound to perform their duties where they are posted. More over the police staff seniority is based on Distt: Police strength and as such the officials in Distt; to Ghar prior to the appellant stood senior to the appellant under the Rules 8 of APT Rules. Therefore mere having passed exam after to appellant makes no grounds for claiming seniority.

3. Incorrect and misconceived. The seniority of Distt; Police within Distt: is based on the date when who joined the Distt; police and not on the basis of P.R 13.8 of 1934.
4. Incorrect and misconceived, hence denied.
5. Matter of record, hence no comments.
6. Pertain to High Court Recorded. However High Court clearly directed in its judgment that the grievances of the said respondents may consider in accordance with law with in 30 days.
7. Incorrect. the respondents No. 5 to 7 are senior to Ayaz Khan but Ayaz Khan was sent for intermediate course and completed the course inspite of clear direction of High Court to consider the grievance of respondents No. 5 to 7 thus depriving due rights of the respondents No. 5 to 7.
8. Incorrect. The private respondents No. 5 to 7 are senior to Ayaz Khan but the police Deptt: did not consider them according to clear direction of High Court and sent Ayaz Khan for intermediate course.
9. Pertain to record, however respondents No. 5 to 7 are senior and their name should be mention above to Ayaz Khan and other junior Head Constables in seniority list.
10. Incorrect. private respondents No. 5 to 9 raised their grievances before the Police Darbar at Police Line District Torghar which was assured by DPO Torgher to accommodate them as per their request, moreover the letter dated is not according to law as High Court clearly directed the official respondents to consider the grievances but the official respondents did not consider respondents No. 5 to 9 grievances and sent Ayaz Khan and other for intermediate course.

11. Incorrect. The letter from the office of Additional I.G.P dated 9.10.2013 is not maneuvered but according to law and rules.
12. Incorrect. the letter dated 9.10.2013 is according to law and rules and has not effected the appellant along three other head constables, moreover the seniority list of head constables made by DPO Torgha is according to law and rules.
13. The appeal of appellant is not maintainable and time barred.
14. The appeal filed by the appellant is not according to law and rules, hence not maintainable.

GROUND:

- A. Incorrect. The seniority list prepared by the DPO Torghar is according to law and rule.
- B. Incorrect, hence denied.
- C. Incorrect. private respondents No. 5 to 9 raised their grievances before the Police Darbar at Police Line District Torghar which was assured by DPO Torgher to accommodate them as per their request, moreover the letter dated is not according to law as High Court clearly directed the official respondents to consider the grievances but the official respondents did not consider respondents No. 5 to 9 grievances and sent Ayaz khan and other for intermediate course. Moreover The letter from the office of Additional I.G.P dated 9.10.2013 is not maneuvered but according to law and rules and on the basis of this letter the DPO Torghar prepared seniority list and that seniority list is according to law and rules.
- D. Incorrect. Hence denied.
- E. Incorrect. The private respondents are senior to Ayaz khan but Ayaz khan was selected for

intermediate course on which the respondents No. 5 to 7 filed Constitutional Petition before the Honourable Peshawar High Court. Moreover the DPO Torghar acted according to law and rules.

- F. Incorrect. the DPO Torghar has lawful authority to prepare the seniority list and the seniority list prepared by him is according to law and rule keeping in view Rule -8 of APT Rules 1989..
- G. Incorrect. Every civil servant is bound to do duty in any location weather he is transfer by his superior or by his own request. The seniority list prepared by competent authority is according to law and rules and the DPO Torghar has not made any distinction between the appellant and respondents for the purpose of doing intermediate course and has placed every one including appellant and respondents according to his right.
- H. Incorrect. Hence denied.
- I. Incorrect. the DPO Torghar acted according to law and rule and did not deprive the appellant and three other Head Constables from their due right.
- J. Incorrect. The seniority list prepared by the DPO Torghar on the basis of executive order is according to law and rule and the appellant have not been deprived from his by placing the appellant on his right position.
- K. Incorrect. Hence denied.
- L. Incorrect. Hence denied.
- M. Incorrect. The appellant has not right to sent to Hangu Police Training College for doing intermediate course according to his position in seniority list.

- N. Incorrect. The DPO Torghar has not scraped the right of the appellant, but he acted upon the rules and law.
- O. The appeal is not within time.

It is, therefore, most humbly prayed that the appeal in hand may be dismissed with cost through out/merit less and devoid of any legal footing. *being*

Replying respondents
5,6,7,8,9,10,11,12

Through:

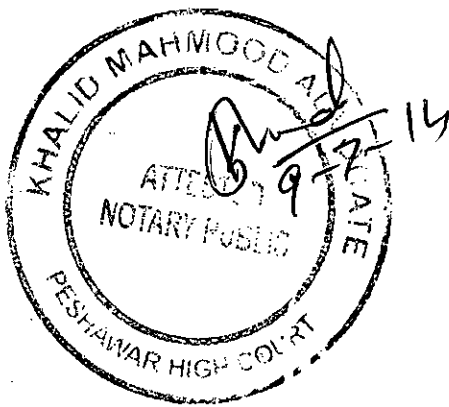
M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

&
(TAIMUR ALI KHAN)
ADVOCATE PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of reply are true and correct to the best of my knowledge and belief.

Rai
DEPONENT



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

Service Appeal No. 406/2014

_____ VS

Police Deptt:

.....

**REPLY ON BEHALF OF RESPONDENTS
NO.5,6,7,8,9,10,11,12**

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

1. The appellant has no locus standi and cause of action.
2. The appellant has concealed material facts from this august Tribunal.
3. The appellant has not come with clean hands.
4. The appeal is time barred.
5. The appeal is maintainable.
6. The appeal is bad for non-joinder and mis-joinder of parties.
7. The appeal is estopped by his own conduct to file the present appeal.

FACTS:

1. Pertain to record, hence no comments.
2. Pertain to record, however civil servant are legally bound to perform their duties where they are posted. More over the police staff seniority is based on Distt: Police strength and as such the officials in Distt; to Ghar prior to the appellant stood senior to the appellant under the Rules 8 of APT Rules. Therefore mere having passed exam after to appellant makes no grounds for claiming seniority.

3. Incorrect and misconceived. The seniority of Distt; Police within Distt: is based on the date when who joined the Distt; police and not on the basis of P.R 13.8 of 1934.
4. Incorrect and misconceived, hence denied.
5. Matter of record, hence no comments.
6. Pertain to High Court Recorded. However High Court clearly directed in its judgment that the grievances of the said respondents may consider in accordance with law with in 30 days.
7. Incorrect. the respondents No. 5 to 7 are senior to Ayaz Khan but Ayaz Khan was sent for intermediate course and completed the course inspite of clear direction of High Court to consider the grievance of respondents No. 5 to 7 thus depriving due rights of the respondents No. 5 to 7.
8. Incorrect. The private respondents No. 5 to 7 are senior to Ayaz Khan but the police Deptt: did not consider them according to clear direction of High Court and sent Ayaz Khan for intermediate course.
9. Pertain to record, however respondents No. 5 to 7 are senior and their name should be mention above to Ayaz Khan and other junior Head Constables in seniority list.
10. Incorrect. private respondents No. 5 to 9 raised their grievances before the Police Darbar at Police Line District Torghar which was assured by DPO Torgher to accommodate them as per their request, moreover the letter dated is not according to law as High Court clearly directed the official respondents to consider the grievances but the official respondents did not consider respondents No. 5 to 9 grievances and sent Ayaz khan and other for intermediate course.

seniorly list.
intermediate course according to his position in
Hauzu Police Training College for doing
M. Incorrect. The appellant has not right to sent to

G. Incorrect. Hence denied.

K. Incorrect. Hence denied.

right position.
deprived from his by placing the appellant on his
to law and rule and the appellant have not been
Tordar on the basis of executive order is according
J. Incorrect. The seniorly list prepared by the DPO

other Head Constables from their due right.
and rule and did not deprive the appellant and three
I. Incorrect. the DPO Tordar acted according to law

H. Incorrect. Hence denied.

respondents according to his right.
placed every one including appellant and
purpose of doing intermediate course and has
between the appellant and respondents for the
and the DPO Tordar has not made any distinction
competent authority is according to law and rules
or by his own request. The seniorly list prepared by
any location whether he is transfer by his superior
C. Incorrect. Every civil servant is bound to do duty in

keeping in view Rule -8 of APJ Rules 1988.
prepared by him is according to law and rule
prepare the seniorly list and the seniorly list
E. Incorrect. the DPO Tordar has lawful authority to

DPO Tordar acted according to law and rules.
Honourable Peshwar High Court. Moreover the
to 1 filed Constitutional Petition before the
intermediate course on which the respondents No. 2

- N. Incorrect. The DPO Torghar has not scraped the right of the appellant, but he acted upon the rules and law.
- O. The appeal is not within time.

It is, therefore, most humbly prayed that the appeal in hand may be dismissed with cost through out/merit less and devoid of any legal footing. *wing*

Replying respondents
5,6,7,8,9,10,11,12

Through:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

&
(TAIMUR ALI KHAN)
ADVOCATE PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of reply are true and correct to the best of my knowledge and belief.



Khalid Mahmood Atee
DEPONENT

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

Service App No 405 to 408 / 2014
Abdul Rashid No 406
Muhammad Amjad Appellant

VERSUS

Police Department etc..... Respondents

SERVICE APPEAL

**WRITTEN REPLY ON BEHALF OF
RESPONDENTS NO.1 TO 4.**

Index

S#	Particulars of documents	Annexure	Pages
1	Memo of written reply.	
2	Copy of letter No.25349 dated 09.10.2013.	"A"	
3	Copy of the seniority list.	"B"	
4	Copy of the letter of DPO.	"C"	

Dated 02.09.2014

Provincial Police Officer etc.
..... Respondents No.1 to 4

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

Muhammad AmjadAppellant

VERSUS

Police Department etc.....Respondents

SERVICE APPEAL

**WRITTEN REPLY ON BEHALF OF
RESPONDENTS NO.1 TO 4.**

Respectfully Sheweth!

PRELIMINARY OBJECTIONS.

1. The appellant has got no cause of action.
2. The appellant has no locus standi to institute baseless appeal.
3. That appeal is not maintainable in its present form.
4. The appellant has not come to the tribunal with clean hands.
5. Appeal is time barred.
6. That this Honourable tribunal has got no jurisdiction to entertain the appeal.

7. The appellant is estopped by his own conduct to file the present appeal.
8. The appeal is bad due to mis-joinder and non-joinder of necessary parties.

FACTUAL OBJECTIONS:

1. Para No.1 needs no comments.
2. Para No.2 is correct upto the extent of newly created District Torghar. As far as the rest of the para is concerned, head of the department has power to transfer the officials and officers as per the requirements for running the administrative functions.

It is further added that District Torghar newly created District in which no fundamental facilities were available and nobody was willing to perform his duty due to which high ups given incentive to the officials for the smooth functioning.

3. Para No.3 is incorrect. The seniority list was prepared on first come first basis by the respondent No.4 on the direction of respondent No.2 vide his letter No.25349 dated 09.10.2013.
(Copy attached as annexure "A").
4. Para No.4 is totally incorrect.

5. Para No.5 needs proof. The Head of the District has power to select the officials for training course on the basis of the whole record and efficiency and on arrival basis.

(Copy of the seniority list is attached as annexure "B").

6. It is correct, the presentation of respondents was considered by the committee and held that the selection for inter college course was made on merit and in accordance with rules. But the decision was challenged by the respondents before the higher forum while decided in the favour of respondents No.5 and 7. *(Copy of the order is attached as annexure "A").*

7. Para No.7 is incorrect. Respondent No.4 has submitted the detail report to the respondent No.2 regarding the grievances of Head Constables and other, whole situation of the newly created District Torghar on which respondent No.2 passed an order on 09.10.2013.

(Copy of the letter of DPO is attached as annexure "C").

8. Para No.8 is incorrect. The detail has been given in the above para.
9. In reply to para No.9, it is submitted that police department Constituted Committee on the direction of Honourable High Court in the year 2012, while the submissions of the respondent No.4 regarding grievances of Head Constables were submitted in the year 2013 on the basis of which high up of Police Department that is respondent No.2 passed appropriate order in the light of the detail report of the respondent No.4 considering the circumstances and whole situation of newly created District Torghar.
10. Para No.10 is incorrect, the detail has been given in the above paras. The respondents have already submitted their grievances before high ups and after getting comments from respondent No.4 the order was passed by respondent No.2 which is intact.
11. In reply to para No.11, it is submitted that after the decision of departmental committee, the high ups decided in the year 2013 considering the whole

situations of the new created District
Torghar.

12. Para No.12 is incorrect, the case of the
respondents No.5 to 7 is different
which was reconsidered by the
respondent No.2 on the basis of the
detailed report of the respondent No.4.

13. Para No.13 is incorrect. Respondents
No.1 to 4 rightly and bonafidely
decided the matter considering the
circumstances of new created District
in their capacity for the betterment of
enhance working capability.

14. Para No.14 needs proof.

GROUNDS

- a. Para No.(a) is incorrect, respondent
No.4 prepared seniority list after
fulfilling all codal formalities.
- b. Para No.(b) is incorrect.
- c. In reply to para No.(c) it is submitted
that the request of respondents No.5 to
9 was considered by the high ups and
rightly passed the order dated
09.10.2013 and on the basis of that
order, the respondent No.4 prepared
seniority list according to Law.

- d. Para No.(d) is incorrect, the seniority list was prepared in the light of the direction of high ups dated 09.10.2013.
- e. Para No.(e) is incorrect. Respondents No.5 to 7 are senior to appellant as per the seniority list issued by respondent No.4 as directed by respondent No.2.
- f. Para No.(f) is incorrect. The seniority list was prepared according to Law.
- g. Para No.(g) is incorrect, after creation of new District Tor Ghar which is situated in far flung/unattractive area, the high ups of police department gave incentive on the report of respondent No.4 just to smooth running of the government functionary and encourage the police officials.
- h. Para No.(h) is incorrect, the detail has been given in the above paras.
- i. Para No.(i) is incorrect. Respondent No.4 has rightly prepared the seniority list obeying the order of respondent No.2 dated 09.10.2013 which is according to police rules and Law.
- j. Para No.(j) is incorrect, the seniority list was prepared by respondent No.4

just according to Law and Police rules, the order of the police high ups is on bonafide basis just for smooth functioning of the department.

- k. Para No.(k) is incorrect, on the basis of seniority list prepared by respondent No.4, most of the officials have completed their training course and the instant appeal is being infructuous.
- l. Para No.(l) is incorrect, the detail has already been given in above paras.
- m. Para No.(m) is incorrect, the police officials were sent for police training college on the basis of seniority list prepared by respondent No.4 which is still intact. No discrimination was made by the respondent.
- n. Para No.(n) is incorrect, the respondent No.4 i.e. DPO Tor Ghar selected the police officials for training according to the seniority list which is still intact.
- o. Para No.(o) is incorrect, the appeal is time barred and infructuous.

3

A

From: - The Addl: Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa,
Peshawar.

To: - The District Police Officer,
Torgar.

No. 25349 / Legal, Dated Peshawar the: 09/10 /2013.

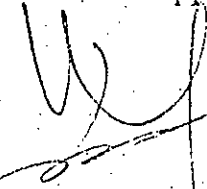
Subject: - GRIEVANCES OF HEAD CONSTABLE OF DISTRICT TORGAR.

Memo:-

In connection with your office memo No. 438/PA, dated 10.04.2013 it is stated that under the Police Rules, seniority list of C-I Head Constable is maintained at the district level and those C-I Head Constables who are transferred from other districts to district Torgar on the basis of their willing / consent will undoubtedly will be placed at the bottom of the seniority list. As far as inter district transfers within the same Region, HC's / ASI's on list-D and SI's on list-E will not disturb seniority because such lists are maintained at the Regional level.

In view of the position explained above the LHC's who have been transferred on the basis of their willingness to district Torgar be placed at the bottom of the seniority list.

Furthermore, transfers to Torgar on loan basis to be stopped.


Addl: Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa,
Peshawar.

2
copy to Dill / Hazara

ORGHA
Date of promotion
HC
12.2011
12.2011
12.2011
1.01.2012
1.01.2012
1.01.2012
1.01.2012
1.01.2012
15.05.2012
15.05.2012
15.05.2012
05.07.2012
30.04.2013
02.01.2013