

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

**Service Appeal No.1156/2023.**


Driver Head Constable Falak Naz of CCP Peshawar..... **Appellant.**

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.. **Respondents.**

**I n d e x**

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\* DSP/Legal,  
CCP, Peshawar.

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**REPLY BY RESPONDENTS NO. 1, 2 & 3.**

**Respectfully Sheweth:-**

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 8374

**PRELIMINARY OBJECTIONS:-**

Dated 18-10-23

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file the instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

**REPLY ON FACTS:-**

1. Para pertains to record.
2. Incorrect. The appellant without observing legal formalities was given promotion as C-II Head Constable in the year 1992. As per Police Rules 1934, those constables will be promoted to the rank of Head Constable who qualified A-1, B-1 and lower college course.
3. Incorrect. The appellant was given shoulder promotion as ASI in the year 1998 which was against the law/rules. Under Police Rules, a Head Constable will be promoted in the rank of ASI amongst List D subject to qualification of Intermediate Collage Course. Further, promotions and confirmations of Police officials on the basis of out of turn promotion, adhoc basis or acting charge base promotions in the past created serious anomalies among the various seniority lists of Police ranks. Promotions and confirmations of Police personnel in violation of rules and regulations were termed as "out of turn promotions" by the apex Court of Pakistan firstly in case reported as Malik Nadeem Arif Vs Govt of Sindh etc in 2010/11. The term out of turn promotions, its vires and components were discussed in details and laid to rest by the following apex Court judgments:

- a) 1998 SCMR 2013
- b) 2013 SCMR 1752
- c) 2015 SCMR 456
- d) 2016 SCMR 1254
- e) 2017 SCMR 206
- f) 2018 SCMR 1218

4. Incorrect. As explained in the preceding para, the appellant was given shoulder promotion as ASI which falls under the out of turn promotion being not regular promotion. Actually, confirmation/promotion in the respondent department to next higher rank is subject to



completion of laid down criteria and those personnel who fulfill the said qualifications are promoted to the next higher rank. Further, Driver Constables were promoted by the competent authority against the sanctioned post vide order No.2771-34/CRC dated 11.02.2022. (copy of promotion order is annexed as A).

5. Incorrect. The appellant filed departmental appeal and without waiting of the disposal of his departmental appeal, he filed Service Appeal before this Hon'ble Service Tribunal.
6. Incorrect. Promotion of the appellant to next higher rank of ASI & SI is in violation of law/rules and Supreme Court of Pakistan decision ibid which amounts to out- of- turn promotion. Further, appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.


**REPLY ON GROUNDS:-**

- A- Incorrect. Replying respondents are duty bound to act under the law/rules. As per judgment ibid of Hon'ble Supreme Court of Pakistan, all out of turn promotions are banned and declared illegal and against the vested rights.
- B- Incorrect. Appellant has been treated strictly in accordance with law/ rules and no legal/fundamental right has ever been violated. Furthermore promotion in each and every rank is made in pursuance of existing law/rules and standing order.
- C- Incorrect. Appellant has to qualify the requisite laid down criteria for promotion to the next rank of ASI & SI. His request for promotion as ASI and SI is devoid of merit and against the law/rules & apex court judgment. The appellant is given promotion to the rank of driver Head Constable in the year 2022 and he should wait for further promotion.
- D- Incorrect. The appellant wants to gain out of turn promotion which is clear violation of the Hon'ble Supreme Court of Pakistan judgments ibid wherein the apex court in the abovementioned cases, held that the practice/concept of out-of-turn promotions is unconstitutional, being against Fundamental Rights as enshrined in the Constitution of the Islamic Republic of Pakistan, 1973.
- E- Incorrect. Appellant being not eligible was not promoted and by giving promotion to appellant, right of others entitled would definitely be infringed. No nepotism and favoritism is run in the respondents department rather law/rules are strictly followed.
- F- Incorrect. Replying respondents are duty bound to act under the law and avoid discrimination and on the very reasons appellant was not given promotion as ASI & SI being in-eligible.
- G- Incorrect. The appellant is hiding the nature of his position and in reality. The appellant was rightly promoted to the rank of Driver Head Constable with other colleagues in accordance with law/rules. In the instant case no irregularity has been occurred.
- H- Para pertains to record.
- I- Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

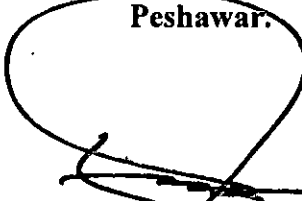


**Prayers:-**

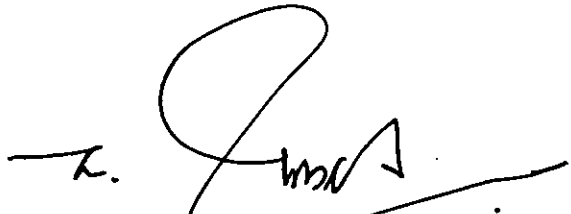
Keeping in view the above stated facts & reasons it is, most humbly prayed that the appeal of the appellant being devoid of merits and limitation, may kindly be dismissed with costs please.



Assistant Inspector General of Police,  
Establishment, Khyber Pakhtunkhwa,  
Peshawar.



~~Capital City Police Officer,~~  
Peshawar.



Provincial Police Officer,  
Khyber Pakhtunkhwa,  
~~Peshawar.~~

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

**Service Appeal No.904 /2023.**


Ex Constable Imran Khan No. 6944 of CCP Peshawar..... **Appellant.**

**VERSUS**

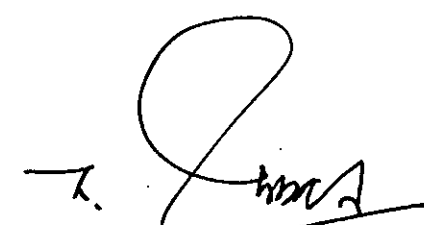
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others..... **Respondents.**

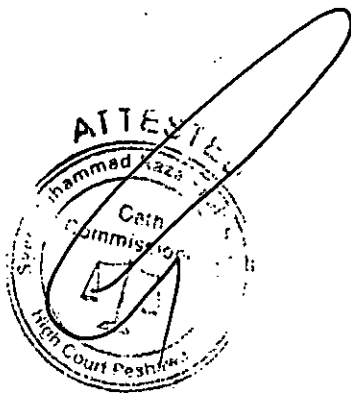
**AFFIDAVIT.**

We respondents No. 1,2,& 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off.

  
Assistant Inspector General of Police,  
Establishment, Khyber Pakhtunkhwa,  
Peshawar.

  
~~Capital City Police Officer,~~  
~~Peshawar.~~

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
~~Peshawar.~~



18 OCT 2023

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

**Service Appeal No.1156/2023.**

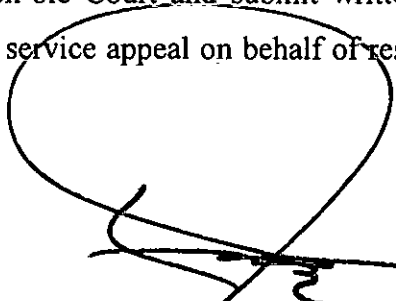
Driver Head Constable Falak Naz of CCP Peshawar..... **Appellant.**

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**AUTHORITY.**

I, **Capital City Police Officer, Peshawar**, hereby authorize **Mr.Inam Ullah** DSP legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.

  
Capital City Police Officer,  
Peshawar.

Annexure A

6

OFFICE OF THE  
CAPITAL CITY POLICE OFFICER  
PESHAWAR

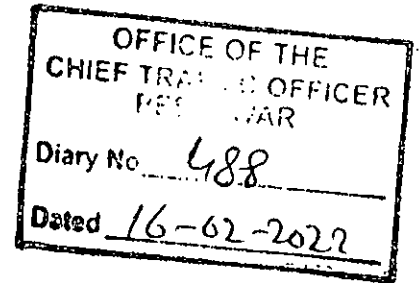
Phone No. 091-9213757  
Fax: No. 091-9212597

N~~o~~. 27/11-34 ICRC, dated Peshawar the 11/02/2022

ORDER

As per the recommendation of Departmental Promotion Committee held on 02.02.2022 & duly approved by the W/CCPO, Peshawar, the under mentioned Driver Constables BPS-7 are hereby promoted as Driver Head Constables BPS-9 (11770-73) 33670) against posts sanctioned for driver cadre in CCP and centralized units as per following details on seniority/cum-fitness basis with immediate effect.

CCP Peshawar	=38
CPO	=01
Investigation CPO	=01
FRP/HQrs/FRP Range Peshawar	=01
Special Branch KPK Peshawar	=03
PTC Hangu	=01
✓ Traffic Highway KPK Peshawar	=02
CTD KPK Peshawar	=14
<b>Total</b>	<b>=61</b>



Their promotion will take effect from the date when they actually take over the charge of their higher responsibility at their new place of posting.

S.No.	Names & Belt Nos.	Present Posting
1.	DFC FALAK NAZ NO. 172/3401	City Traffic
2.	DFC ABDUL BAQI NO.1922	POLICE LINES
3.	DFC JAFFAR SHAH 418	Special Branch
4.	DFC MISAL KHAN NO. 126/904	City Traffic
5.	DFC SAEED ALI SHAH NO 3279	MT STAFF POLICE LINES
6.	DFC RABNAWAZ NO 587	POLICE LINE
7.	DFC AMJID ALI NO.330	POLICE LINE
8.	DFC SHABAB ALI NO 1463	MT STAFF POLICE LINE N.MT
9.	DFC ZULFIQAR KHAN NO. 1233/23	City Traffic
10.	DFC ALI AHMAD NO 3671	MT STAFF POLICE LINES
11.	DFC GUL NAWAZ NO. 1977	POLICE LINE
12.	DFC BASER UR REHMAN NO. 3046	MT STAFF POLICE LINES
13.	DFC MUHAMMAD ALI JAN NO. 3826	MT STAFF POLICE LINES
14.	DFC DIYAZ ALI NO 3956	POLICE LINE
15.	DFC MUHAMMAD IQBAL NO. 1299	POLICE LINE
16.	DFC GUL WAHAB NO. 5142	MT STAFF POLICE LINE
17.	DFC MUHAMMAD FAYAZ NO.725/757/3635/1617	City Traffic
18.	DFC SAEED WALI NO. 3936	MT STAFF
19.	DFC HABIB ULLAH NO. 3528	POLICE LINES
20.	DFC AMAN ULLAH NO. 833	POLICE LINES
21.	DFC YOUSAF KHAN NO. 760	POLICE LINE
22.	DFC ABDUL WAHEED 374	Special Branch
23.	DFC SHAKEEL AHMAD 584	Special Branch
24.	DFC RAJEHAN NO. 1164	PS Chamkani
25.	DFC KACHKOL MUHAMMAD NO 4602	POLICE LINE

Attended  
Ali

	DFC MAMRAIZ KHAN NO.1813	PS PISHTAKHRA
	DFC MALIK HAROON NO.270/5051	City Traffic
28.	DFC SYED HAIDER ALI SHAH NO.1709	Elite Force
29.	DFC IZHAR AHMAD 1712/3390	Elite Force
30.	DFC SYED ALI RAZA NO.3355	WITH SSP.INVESTT:
31.	DFC MUHAMMAD ALI SHAH NO.4489	MT STAFF
32.	DFC MARIFAT SHAH NO.2654	ON LOAN City Traffic
33.	DFC BASHIR KHAN NO.1764	Elite Force
34.	DFC IFTIKHAR ULLAH NO.462	CTD
35.	DFC MUHAMMAD ISRAIL NO.5718	MT POLICE LINE
36.	DFC NOOR-UL-HAQ 5370	DRIVE CHIEF SECURITY KPK
37.	DFC KHALID KHAN.664	Special Branch
38.	DFC GUL KARIM NO150/300/660/465	City Traffic
39.	DFC MUHAMMAD IMTIAZ.659	Special Branch
40.	DFC REHMAN ULLAH NO.1307	PS SHAHQABOOL
41.	DFC NISAR KHAN NO.293/710	Traffic Highway
42.	DFC MUHAMMAD AMJAD NO.1343	POLICE LINE
43.	DFC FAYAZ KHAN NO.4399	POLICE LINE
44.	DFC MUHAMMAD SAJID NO.2482	PS CHAMKANI
45.	DFC MUHAMMAD USMAN NO.1389	DSP INV: RURAL
46.	DFC AMJID KHAN NO. 290-T/4357	City Traffic
47.	DFC NOOR ULLAH NO.3742	POLICE LINES
48.	DFC ABID HUSSAIN NO.1682	PS PHANDU
49.	DFC ARSHID KHAN NO.2454	MT STAFF POLICE LINES
50.	DFC MAQSOOD AHMAD NO.2046	MT STAFF POLICE LINES
51.	DFC ASIF ALI SHAH NO.4193	INVESTIGATION WING
52.	DFC MUHAMMAD SAEED NO.463/3243	City Traffic
53.	DFC HAYAT KHAN NO.2283	GOVERNER HOUSE
54.	DFC RASOOL KHAN NO.436	MT STAFF POLICE LINE
55.	DFC AFSAR ALI NO.4331	MT STAFF POLICE LINE
56.	DFC ABID NOOR NO.2644	GOVERNER HOUSE
57.	DFC QISMAT ALI NO.5310	UNICEF DRIVER
58.	DFC ZILA MUHAMMAD NO.3115	POLICE LINES
59.	DFC IMTIAZ AHMED NO.4190	MT STAFF POLICE LINE
60.	DFC ABDULLAH SHAH NO. 3695	POLICE LINE

Attested  
Daw

MTO/PO/OASI/SRC-II

for information and  
a/a.

(Waseem Ahmad Khali) SSP/Coord:  
For Capital City Police Officer  
Peshawar

OIB No. 2365

Dated: 11/10/2022

CHIEF TRAFFIC OFFICER,  
PESHAWAR

- Copy of above is forwarded for information and necessary action to the:-
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
  2. Capital City Police Officer, Peshawar.
  3. Commandant Elite Force, Special Branch & Traffic Highway KP, Peshawar
  4. Chief Traffic Officer Peshawar
  5. SSSP/Investigation, Coordination & Operation, Peshawar
  6. SsP/Cantt: City, Rural, Security, Saddar Circle & HQs: Peshawar
  7. Dy: Director I.T CCP, Peshawar
  8. Pay Officer CCP, Peshawar
  9. MTO. CCP Peshawar
  10. OASI, PRO to CCPO & FMC