

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 983/2015**

Date of institution ... 07.09.2015

Date of judgment ... 03.07.2018

Muhammad Bilal Humayun, Head Constable/Computer Operator No. 221,  
Elite Force, KPK, Peshawar.

... (Appellant)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar and two others.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER DATED 13.08.2015, WHEREBY THE  
DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST  
THE REVERSION IN RANK ORDER DATED 24.04.2015 HAS  
BEEN REJECTED FOR NO GROUNDS.

Syed Noman Ali Bukhari, Advocate.

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney

.. For respondents.

MR. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: Learned counsel  
for the appellant present. Mr. Muhammad Jan, Deputy District Attorney  
alongwith Mr. Muqaddar Khan, Inspector (legal) for the respondents also  
present. Arguments heard and record perused.

*M. Amin*  
*3.7.2018*

2. Facts of the case as per present service appeal are that the appellant was serving in Police Department and due to his good performance he was promoted as Head Constable vide order dated 28.07.2011 by the Commandant Elite Force being competent authority. He was reverted to the post of Constable from the post of Head Constable vide order dated 24.04.2015 by the competent authority on the ground that he was illegally promoted. The appellant filed departmental appeal (undated) which was rejected on 13.08.2015 hence, the present service appeal on 07.09.2015.

3. Learned counsel for the appellant contended that the appellant was serving in Police Department as Constable and due to his good performance he was promoted by the competent authority from the post of Constable to the post of Head Constable. It was further contended that the Deputy Commandant illegally reverted him. It was further contended that neither any charge sheet, statement of allegation was served on the appellant nor proper inquiry was conducted therefore, the impugned reversion order is illegal and liable to be set-aside.

4. On the other hand learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the promotion order of the appellant was passed by the competent authority without Departmental Promotion Committee and the promotion of the appellant was out of turn promotion therefore, the promotion order of the appellant was illegal, void and against the spirit of Standing Order No. 2/2011. It was further contended that the appellant was served with charge sheet, statement of allegation and proper inquiry was also conducted therefore, the

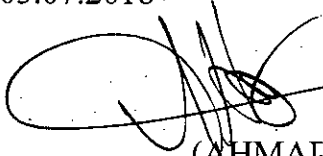
*M Amin*  
3.7.2018

appellant was rightly reverted from the post of Head Constable to the post of Constable and prayed for dismissal of appeal.

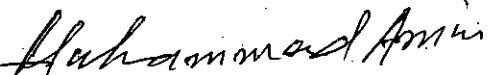
5. Perusal of the record reveals that the appellant was appointed as Constable in Police Department and later on he was promoted from the post of Constable to the post of Head Constable but neither any seniority of the appellant alongwith other employees were considered nor Departmental Promotion Committee was constituted. Meaning thereby that the appellant was promoted out of turn and without prescribed manners therefore, the same does not confer any vested right on the appellant. Hence we do not find any merit in the instant appeal therefore, the same is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED

03.07.2018



(AHMAD HASSAN)  
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

14.02.2018

Appellant in person present. Mr. Kabir Ullah Khattak, Additional AG alongwith Gul Zamin, Inspector for the respondents present. Counsel for the appellant is not in attendance due to general strike of the bar. To come up for arguments on 18.04.2018 before D.B.

  
Member

  
Chairman

18.04.2018

Counsel for the appellant and Addl: AG alongwith Mr. Shiraz, H.C for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.07.2018 before D.B.

  
(Ahmad Hassan)  
Member

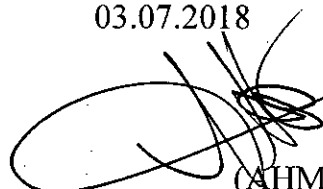
  
(M. Amin Khan Kundi)  
Member

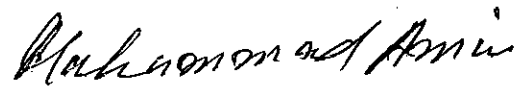
03.07.2018

Learned counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muqaddar Khan, Inspector (legal) for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, we do not find any merit in the instant appeal therefore, the same is dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED  
03.07.2018

  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER



OFFICE OF THE ADDL: INSPECTOR GENERAL OF POLICE,  
INVESTIGATION BRANCH CPO  
KHYBER PAKHTUNKHWA PESHAWAR

**ORDER**

This order will dispose off the appeal dated 04.01.2018 preferred by Constable/Computer Operator Shabbir Ahmad No. 35 of Investigation Unit CPO wherein he supplicated for the restoration of his original rank i.e. Sub Inspector/Computer Operator BPS-14 keeping in view the judgement dated 16.11.2015 passed by the KP Service Tribunal and subsequent CPO's letter No. S/7445-50/16, dated 16.11.2016.

The relevant record reveals that the applicant was enlisted as Constable/Computer Operator in the then Computer Section, established in Central Police Office Peshawar. Likewise his colleagues, after passing through different stages of promotion i.e. Head Constable, ASI he was granted promotion as Sub Inspector/Computer Operator on 29.11.2002. However, the then Addl:IGP/Investigation KP Peshawar, through an order issued vide OB No. 3/Investigation, dated 29.01.2014, reverted the appellant from the rank of Sub Inspector/Computer Operator BPS-14 to Constable/Computer Operator BPS-05 on the grounds that he did not acquire mandatory qualifications for the granted promotions as defined in section 21 of the General Clauses Act 1897.

After his reversion to the rank of Constable/Computer Operator, he preferred a departmental appeal followed by an appeal in the KP Service Tribunal. The Honourable Tribunal in its judgement dated 16.11.2015 remarked that *since departmental appeal of the appellant has not been responded therefore the Tribunal is of the considered view that further indulgence by the Tribunal at this stage may cause further complications. Hence the appeal is remitted to the appellant authority with the direction to examine appeal of the appellant and decide the same strictly on merits without any discrimination*".

However the appellant could not get his grievances redressed due to some legal implications in the matter. On 16.11.2016, a letter No. S/7445-50/16, dated 16.11.2016 was issued from office of the Inspector General of Police, KP Peshawar wherein the present status quo of the staff of Computer Section was directed to be maintained till the decision of the Provincial Government regarding their merger in IT cadre.

After issuance of the above mentioned CPO's letter, there is no bar to entertain the appeal of Constable/Computer Operator Shabbir Ahmad to bring him at par with his colleagues.

In view of the above and opinion of DSP Legal Inv: Branch CPO dated 09.03.2018, I, Ishtiaq Ahmad Addl:IGP/Investigation KP Peshawar in exercise of powers conferred upon me under rule 11-A of NWFP now Khyber Pakhtunkhwa Police Rules 1975, set aside order vide OB No. 3/Investigation, dated 29.01.2014 and order restoration of original rank of the appellant i.e. Sub Inspector/Computer Operator BPS-14 with immediate effect and till the decision of absorption case of Computer Operators in I.T cadre already referred to the Provincial government vide CPO's letter No. S/7445-50/16, dated 16.11.2016. The appellant shall not claim any back benefits.

Sd/-----

DR. ISHTIAQ AHMAD (PSP)  
Addl: Inspector General of Police  
Investigation KP Peshawar

No. 4240-52/EC/Inv: dated Peshawar, the 6/04/2018.


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

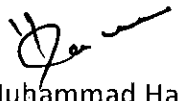
1. Director I.T CPO.
2. PA to Addl:IGP/Investigation KP Peshawar.
3. Accountant Inv:
4. Official concerned.
5. DSP Admn Inv:

*Fasih-ud-Din*  
( DR. FASIH-UD-DIN) PSP  
Deputy Inspector General of Police,  
Investigation Admn CPO Peshawar

11.08.2017

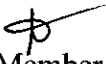
Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Assistant AG for the respondents present. Clerk of the counsel for appellant seeks adjournment on the ground that learned counsel for the appellant is not available. Adjourned. To come up for arguments on 04.12.2017 before D.B.

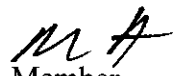
  
(Muhammad Amir Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member (J)

04.12.2017


Counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant requested that similar nature of appeal titled Bashir Ahmad-vs-Government has been fixed on 11.01.2018, therefore the same may also be clubbed with the said appeal. Request accepted. To come up for arguments on 11.01.2018 before D.B alongwith connected appeal.

  
Member  
(Executive)

  
Member  
(Judicial)

11.01.2018

Counsel for the appellant and Asst: AG alongwith Mr. Muqaddar Khan, Inspector for respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 14.02.2018 before D.B.

  
(Ahmad Hassan)  
Member(E)

  
(M. Hamid Mughal)  
Member (J)

19.08.2016

Counsel for the appellant and Addl. AG for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 21.12.2016.

Member

Member

21.12.2016

Counsel for the appellant and Mr. Javed Iqbal, Inspector (Legal) alongwith Mr. Ziaullah, Gp for the respondents present. Since other Member of the Bench is on leave therefore, arguments could not be heard. To come up for arguments on 04.05.2017 before D.B.

(MUHAMMAD AZAMIR NAZIR)  
MEMBER

04.05.2017

Junior to counsel for the appellant and Mr. Ziaullah, Government Pleader for the respondent present. Junior to counsel for the appellant requested for adjournment due to non availability of his senior counsel. Request Accepted. To come up for arguments on 11.08.2017 before D.B.



(Gul Zeb Khan)  
Member



(Ahmad Hassan)  
Member



29.09.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable/Computer Operator and promoted as Head Constable on 28.7.2011. That the appellant was subjected to inquiry on the allegations of irregularity in promotion and vide impugned order dated 24.5.2015 he was reverted to his previous position as Constable/Computer Operator regarding which he preferred departmental appeal which was rejected on 13.8.2015 and where-after service appeal was preferred on 7.9.2015.

Appellant Deposited Security & Process Fee

That the appellant was promoted in the prescribed manners and irregularity, if any in the process, cannot be attributed to appellant and that the case of the appellant is protected by the rule of locus-poenitentiae and, furthermore, the departmental appeal was not decided by the competent authority.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 3.12.2015 before S.B.

  
Chairman

03.12.2015

Appellant with counsel and Mr. Javed Iqbal, Inspector (legal) alongwith Addl: A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 21.4.2016.

  
Chairman

21.04.2016

Counsel for the appellant and Addl: AG for respondents present. Rejoinder submitted and requested for adjournment. To come up for arguments on 19-8-16

  
MEMBER




  
MEMBER

FORM-A

FORM OF ORDER SHEET

Court \_\_\_\_\_

Case No. 983/2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	07.09.2015	<p>The appeal of Mr. Muhammad Bilal Hamayun presented to-day by Mr. Muhammad Asif Yousafzai, Advocate, 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> <p>11-9-15</p> <p>This case be put up before the S.Bench for preliminary hearing on <u>11-9-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
B	11.09.2015	<p>Agent of counsel for the appellant present. Seeks adjournment. Adjourned to 29.9.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 983 /2015

Muhammad Bilal Humayun

V/S

Police Deptt:

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-4
2.	Copy of appointment order	A	5
3.	Copy of promotion order	B	6
4.	Copy of charge sheet	C	7
5.	Copy of statement of allegations	D	8
6.	Copy of reply charge sheet	E	9
7.	Copy of inquiry report	F	10-10A
8.	Copy of order dated 24.4.2015	G	11
9.	Copy of departmental appeal	H	12
10.	Copy of rejection order	I	13
11.	Vakalat Nama	-----	14

APPELLANT

THROUGH:

  
M.ASIF YOUSAFZAI

&

  
TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 983/2015

E.W.F. Tribunal  
Service Tribunal  
Diary No. 1033  
Dated 7.9.15

Muhammad Bilal Humayun H.Constable/ Computer Operator No. 221,  
Elite Force, KPK, Peshawar.

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Commandant Elite Force, KPK Peshawar.
3. The Deputy Commandant Elite Force, KPK, Peshawar.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT,  
1974 AGAINST THE ORDER DATED 13.08.2015, WHEREBY THE  
DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE REVERSION  
IN RANK ORDER DATED 24.04.2015 HAS BEEN REJECTED FOR NO  
GROUNDS.

*7/9/15*  
PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER  
DATED 13.08.2015 AND 24.04.2015 MAY BE SET ASIDE AND THE  
APPELLANT MAY BE RESTORED TO HEAD CONSTABLE/  
COMPUTER OPERATOR RANK WITH ALL BACK AND  
CONSEQUENTIAL BENEFITS. AND ANY OTHER REMEDY, WHICH  
THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT,  
MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**R. SHEWETH:**

**FACTS:**

1. That the appellant was appointed as Constable/Computer Operator in Police Department vide order dated 28.5.2010 and completed all his due training etc for office duty and also have good service record throughout. (Copy of appointment order is attached as Annexure-A)
2. That on the basis of best performance of the appellant, the appellant was promoted as Head Constable/Computer Operator vide order dated 28.7.2011 by the Commandant Elite Force being competent authority. (Copy of the promotion order is attached as Annexure-B)
3. That charge sheet and statement of allegations was served to the appellant regarding his promotion as Head Constable Computer operator, which was duly replied by the appellant and denied all the allegation therein. (Copy of charge sheet, statement of allegations and reply to charge sheet are attached as Annexure-C,D&E)
4. That then one sided inquiry was conducted against the appellant but none of the statement was recorded or record examined in presence of the appellant. Even the fault of appellant was not proved by the enquiry officer. (Copy of the inquiry report is attached as Annexure-F)
5. That on dated 24.4.2015 the impugned order was passed in which the appellant was reverted to post of Constable/Computer Operator from Head Constable/Computer Operator without serving final show cause notice. (Copy of order dated 24.4.2015 is attached as Annexure-G)
6. That against the order dated 24.4.2015, the appellant filed departmental appeal but the same was also rejected by incompetent authority for no good ground on dated 13.08.2015. (Copy of departmental appeal and rejection order are attached as Annexure-H&I).
7. That now the appellant come to this august Tribunal on the following grounds amongst others.

**GROUND:**

- A) That the impugned order dated 13.08.2015 and 24.04.2015 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules and even punished for no fault on his part.
- C) That the appellant was promoted by the Commandant Elite Force whereas the reversion order was passed by the Dy: Commandant and as such a lower rank officer cannot undo the order of superior rank officer.
- D) That even the final rejection order was passed by the incompetent authority as evident from the signature and as such that order is too liable to be set-aside.
- E) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- F) That final show cause notice was not issued to the appellant before reverting him as Constable. Which is the violation of principles of Audi Alteram Partem and law and rules.
- G) That in impugned order dated 24.4.2015, it was mentioned that the promotion of the appellant from Constable to Head Constable is against the spirit of the standing order No.2/2011, whereas, the appellant is not working as filed constable but he is working as Computer operator and the standing is not applicable to Computer Operator. Therefore the impugned order is liable to set aside on this ground alone.
- H) That the appellant has been discriminated as many colleagues of the appellant working as Constable/Computer Operator were promoted

to Head Constable/Computer Operator and still enjoying the benefits of promotion up to the rank of Inspector, while the appellant was deprived from the same benefits by reverting him as Constable.

- I) That even the enquiry officer has not proved the fault and guilt of appellant which is very much evident from the findings of the inquiry officer.
- J) That the penalty is reversion and for that period is to be fixed under FR-29, whereas no period has been specified in the impugned order.
- K) That the reversion order of the appellant is against the principle of Locus Poenitentiae as promotion order created certain rights in the favour of the appellant which cannot be withdrawn so simply and the appellant cannot be held responsible for any irregularity committed by high ups.
- L) That even the final rejection order dated 13.8.2015 is not a speaking order, which is the violation of Section-24(A) of the General Clause Act and the Supreme Court judgment reported as 1991 page -2330.
- M) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT

  
Muhammad Bilal Humayun

THROUGH:

  
(M.ASIF YOUSAFZAI)

&

  
(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR

④ A ⑤  
=

**FOR THE PUBLICATION IN NWFP POLICE GAZETTE PART-II  
ORDERS BY THE PROVINCIAL POLICE OFFICER, K.P.K.**

**NOTIFICATION**

Dated / /2010

No. \_\_\_\_\_/EF, APPOINTMENT/POSTING: Having been approved by Departmental Selection Committee Mr. Muhammad Bilal Humayun s/o Muhammad Humayun r/o Mohalla Bahlo, Khail-Payan Village & Post Office Badaber Tehsil & District, Peshawar is hereby appointed as Constable/Computer Operator BPS-05 (3530-190-8850) purely on temporary basis in the K.P.K, Police with effect from the date he actually reports for duty their place of posting subject to medical fitness and verification of character and antecedents etc.

On appointment they are posted to various Region/District/Unit.

The condition of his services will be as under:-

1. His services are liable to be terminated within 14 days notice without assigning any reason.
2. Further promotion will be on merit.

(KHALID MASOOD)

Additional Inspector General of Police,  
Elite Force, Khyber Pakhtunkhwa, Peshawar.

No. 2733-38 /EF, Dated Peshawar the 28 / 05 /2010.

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

1. Addl: Inspector General of Police, Investigation, K.P.K, Peshawar alongwith 02 spare copies for publication in the NWFP, Gazette Part-II.
2. Accountant General, K.P.K, Peshawar.
3. Office Superintendent, Elite Force, K.P.K, Peshawar.
4. Accountant Elite Force, Elite Force, K.P.K, Peshawar.
5. EC, OASI Elite Force, Elite Force, K.P.K, Peshawar.


**ATTESTED**



B (6)

**ORDER**

Muhammad Bilal Humayun Constable Computer Operator No. 221 of Elite Force, Khyber Pukhtunkhwa, Peshawar is hereby promoted as Head Constable BPS-07 with immediate effect.

  
**COMMANDANT,**  
Elite Force, Khyber Pukhtunkhwa,  
Peshawar.

No. SS16-21 /EF, dated Peshawar the 28 / 7 /2011.

Copy to the:-

1. Deputy Commandant, Elite Force, Khyber Pukhtunkhwa, Peshawar.
2. DSP/HQrs: Elite Force, Khyber Pukhtunkhwa, Peshawar.
3. Accountant, Elite Force, Khyber Pukhtunkhwa, Peshawar.
4. SRC/EC and OASI, Elite Force, Khyber Pukhtunkhwa, Peshawar.

**ATTESTED**



C 9

**CHARGE SHEET**

I, Sajid Khan Mohmand, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, hereby charge you H/Constable Computer Operator, Bilal Humayun No. 2489, of Elite Force as follows;

You got irregular promotion to the rank of Head Constable against the spirit of standing order No. 02/2011.


2. By reason of the above, you appear to be guilty of misconduct under the Police Rules (amended vide NWFP gazette, 27<sup>th</sup> January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.


3. You are, therefore, directed to submit your defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.

4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

  
(SAJID KHAN MOHMAND)  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar.

**ATTESTED**  


D 8

**SUMMARY OF ALLEGATIONS**

I, Sajid Khan Mohmand, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that H/Constable Computer Operator Muhammad Bilal Humayun No. 2489, of Elite Force Khyber Pakhtunkhwa has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette, 27<sup>th</sup> January 1976).

**SUMMARY OF ALLEGATIONS**

He got irregular promotion to the rank of Head Constable against the spirit of standing order No. 02/2011.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Nousher Khan Acting SP Elite Force Headquarters is appointed as Enquiry Officer.
3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.
4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

(SAJID KHAN MOHMAND)

Deputy Commandant

Elite Force Khyber Pakhtunkhwa Peshawar.

No. 18946-50 /EF, dated Peshawar the 26/12/2014.

Copy of the above is forwarded to the:-

- ✓ 1. Acting Superintendent of Police, Elite Force Headquarters.
2. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
3. Accountant / SRC, Elite Force Khyber Pakhtunkhwa Peshawar.
4. HC/Computer Operator Bilal Humayun No.2489 of Elite through reader SP Elite HQrs:.

دستور العمل سے ایسی ایسی صورتیں  
 Bilal  
 29-12-2014

(SAJID KHAN MOHMAND)

Deputy Commandant

Elite Force Khyber Pakhtunkhwa Peshawar.

0343-9763977

**ATTESTED**

Respected Sir,

E  
9  
=

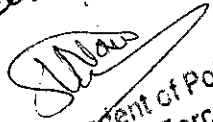
Kindly refer to the Charge Sheet issued to me.


**With Due Respect I Submit the following Reply for your kind Persual.**

1. I was promoted as Head Constable by the Competent Authority Deputy Commandant Elite Force Khyber Pakhtunkhwa, Peshawar looking to my efficiency vide order No.5516-21 dated 28/07/2011 and a period of 03 year have passed in getting the promotion.
2. There is no specific service Rules for Computer Operator (Executive) promotion in Khyber Pakhtunkhwa, Police.
3. The promotion is not obtained but is given by the officers for efficiency/good work done by the officials.
4. Before my promotion as Head Constable Computer Operator a Computer Operator Shah Nawaz was also promoted as Head Constable by Commandant Elite Force Khyber Pakhtunkhwa, Police Peshawar and now days he is serving in Capital city Police.
5. After my promotion many Computer Operator were promoted whose list exist with SRC of Elite Force Khyber Pakhtunkhwa, Peshawar.
6. It is submitted that only myself his been charge sheeted for the promotion which is discrimination with me.
7. No Seniority list is maintained in Elite Force for Computer Operator.
8. That in Khyber Pakhtunkhwa, Police Computer Operator (in investigation Unit CPO) another district/unit were promoted to the rank of Inspector, Sub inspectors, ASIs and HCs.
9. My promotion was not made under standing order No.02/2011 as standing meant for those Constables who first lower School course passed and it is not implacable for Computer Operator.

In view of the above submission I request your good honor to exonerate me from the change and file the enquiry.

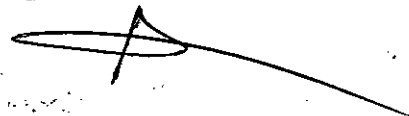
Attested

  
Superintendent of Police  
HQRS Elite Force  
Peshawar

  
9-1-2015

Muhammad Bilal Humayun NO.2489  
HC/Computer Operator  
Elite Force Khyber Pakhtunkhwa, Peshawar.

ATTESTED



## فائنڈنگ رپورٹ

جناب عالی!

بحوالہ انکوائری بر خلاف کمپیوٹر آپریٹر ہیڈ کنسٹیبل بلال ہمایون نمبر 2489 معروض خدمت ہوں کہ کنسٹیبل مذکورہ ایلٹ فورس میں مورخہ 28.05.2010 کو بطور کنسٹیبل کمپیوٹر آپریٹر بھرتی ہوا تھا۔

کنسٹیبل مذکورہ بحوالہ آرڈر نمبر 5516/EF مورخہ 28.07.2011 اسی وقت کے مجاز آفسران بالا صاحبان نے ہیڈ کنسٹیبل پروموٹ کیا تھا جو حالات واقعات اور ضرورت کے تحت کرایا گیا تھا۔

ہیڈ کنسٹیبل مذکورہ پر چارج شیٹ تقسیم ہو کر اپنا تحریری بیان پیش کیا جو ہمراہ لف ہے۔ ہیڈ کنسٹیبل مذکورہ پر جرح بھی کیا گیا ہے اس کے علاوہ اور بھی کمپیوٹر آپریٹر کنسٹیبلان ایلٹ فورس میں پروموٹ ہوئے ہیں جو لسٹ ہمراہ لف ہیں۔ لہذا مذکورہ کا پروموشن (Irregular) ہو چکا ہے۔ علاوہ ازیں اندریں بارہ آفسران بالا صاحبان کی کمیٹی رپورٹ بھی واضح مفصل لف ہے۔

انکوائری رپورٹ مرتب ہو کر بغرض مناسب حکم آفسران بالا صاحبان کی خدمت اقدس میں ارسال کی جاتی ہے۔

S. Nani  
سپریٹنڈنٹ آف پولیس  
ایلٹ فورس ہیڈ کوارٹر پشاور  
28-01-2015

Call him in O.L.  
2/9

ATTESTED

DY No 687  
30-1-15  
Peshawar

1611 BIEF  
30-01-15

(نیل 28 قطار)

RI  
M  
05  
30/11

سوال نمبر 1 کیا آپ نے دیکرونی کو دس یا سس کہا ہے ؟  
 جواب: ہاں ہاں کہا ہے۔ میں ایڈ فورس میں بہرے ہوا ہوں آج تک  
 کوئی بھی کمپنر ایئر میں نے دیکرونی کو دس نہیں کہا ہے

سوال نمبر 2 کیا آپ نے فری ٹور پر ہجوم پر وعوشن کے لیے  
 درخواست دیا تھا ؟  
 جواب: اضراں مارا صاحبان کے میرے کام کو دیکھ کر پر وعوشن کیا ہے

سوال نمبر 3 جب آپ بھرتی ہوئے تو کتنے عرصے میں پر وعوشن  
 ہوئی تھی ؟

جواب: تقریباً ایک سال میں پر وعوشن ہوا ہے

Attested

S. M. Khan  
 Superintendent of Police  
 HON'S Elite Force  
 Peshawar

Bilal  
 22-1-2015

مددگار  
 0313-9763977

ATTESTED





Office of the Addl: Inspector General of Police  
Elite Force Khyber Pakhtunkhwa Peshawar



No. 1 /EF

Dated 24/04/2015

**ORDER**

A committee was constituted to scrutinize the appointment of HC Computer Operator Muhammad Bilal Humayun No. 2489 and his promotion to the rank of Head Constable. The committee submitted its report that:-

- i. Muhammad Bilal Humayun was enlisted against a vacant post of Constable Computer Operator by Addl: IGP Elite Force.
- ii. Promotion to the rank of Head Constable was irregular and against the spirit of Standing Order No. 2/2011 which conditions promotion to the rank of Head Constable on ad-hoc basis with qualifying Lower School Course.

As per direction of CPO, this office initiated proper departmental enquiry and issued Charge Sheet with Summary of Allegations vide this office Endst: No. 18946-50/EF, dated 26.12.2014 to HC Computer Operator Muhammad Bilal Humayun No. 2489 and Mr. Nousher Khan, Acting SP Elite Force Headquarters Peshawar was appointed as Enquiry Officer.

In light of the enquiry report, HC Computer Operator Muhammad Bilal Humayun No. 2489 is hereby reverted to his original rank of Constable Computer Operator with immediate effect.

(SYED FIDA HASSAN SHAH) P.S.P.

Deputy Commandant

Elite Force Khyber Pakhtunkhwa Peshawar

No. 4771-77 /EF

12-4-15

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

1. PSO to IGP Khyber Pakhtunkhwa, Peshawar.
2. Superintendent of Police, Elite Force, HQrs: Peshawar.
3. Accountant, Elite Force, Peshawar.
4. EC/SRC, Elite Force, Peshawar.
5. RI/OASI, Elite Force, Peshawar.

**ATTESTED**

Respected Sir,

Subject:- APPEAL

With due respect it is submitted that I have been reverted from the rank of Head Constable vide order No. 4771-77/EF dated 24.04.2015. I have been promoted vide order No 5516-21/EF dated 27.07.2011 & I am working as Computer Operator therefore, standing order No 2/2011 is not applicable for Computer Operator. My many colleagues Computer Operators were promoted as Head Constable before & after my promotion.

It is, therefore, humbly requested that my appeal may kindly be accepted & my original rank be restored for which I will pray for your long life & prosperity.

Yours obediently servant

*Bilal*

(Muhammad Bilal Humayun)  
Constable Computer Operator  
Elite Force Khyber Pakhtunkhwa  
Peshawar

ATTESTED





Office of the Addl: Inspector General of Police  
Elite Force Khyber Pakhtunkhwa Peshawar



I  
13  
60

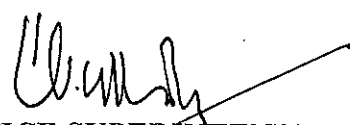
No. 10008 /EF

Dated 13 /08/2015

To : Mr. Muhammad Bilal Hamayun s/o Muhammad Hamayun  
R/O Near Army Welfare Trust Kohat Road, PO Badaber,  
Tehsil & District Peshawar.

Subject: APPEAL

Reference to your appeal dated 13.05.2015 which has <sup>been</sup> filed by the competent authority.

  
**OFFICE SUPERINTENDENT**  
For Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar  
11/14  
12-08-15

**ATTESTED**



# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar.

M. Bilal Humayun (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Dept. (Respondent)  
(Defendant)

I/We M. Bilal Humayun (Appellant)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Bilal

( CLIENT )

ACCEPTED

M. Asif Yousafzai

**M. ASIF YOUSAFZAI**  
Advocate.

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

Taimur Ali Khan  
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.

Service Appeal No. 983/2015

Muhammad Bilal Humayun.....(Appellant)

Versus

Provincial Police Officer, Government of Khyber Pakhtunkhwa,  
Peshawar and others..... (Respondents)

Subject:- COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth!

Preliminary Objections:-

- a) That the appeal has not been based on facts.
- b) That the appeal is not maintainable in the present form.
- c) That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- d) That the appellant is estopped by his own conduct to file the appeal.
- e) That the appeal is barred by law and limitation.
- f) That the appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Correct to the extent that the appellant was appointed as constable on temporary basis in BPS-5.
2. Incorrect, appellant gained irregular promotion to the rank of head constable against the spirit of standing order No. 2/2011. Copy of the standing order is enclosed as Annexure-A.
3. Correct to the effect that charge sheet and statement of allegations were issued to the appellant that he has gained irregular promotion against the spirit of standing order No. 2/2011.
4. Incorrect, proper opportunity of defense was provided to the appellant and enquiry officer reported that the promotion of appellant his irregular.
5. Correct to the extent that the impugned order was passed after providing full opportunity of defense to the appellant.

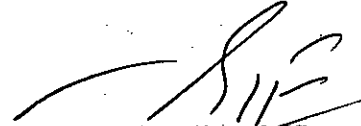
6. Incorrect, the appeal of appellant was correctly filed as there was no force in the appeal of appellant.
7. Incorrect, the appeal of appellant is not sustainable on the grounds advanced in the appeal.

GROUND:-


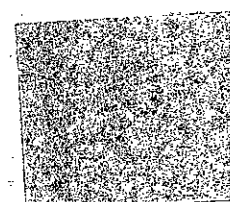
- A. Incorrect, the impugned orders are just legal and have been passed in accordance with law and rules.
- B. Incorrect, though appellant was demoted to the substantive rank from the irregular promotion rank of head constable yet the respondent provide chance of hearing to the appellant by issuing charge sheet and statement of allegations.
- C. Incorrect, Deputy Commandant was competent authority furthermore, Commandant Elite Force also filed the appeal of appellant.
- D. Incorrect, the appeal was filed by the competent authority and appellant was only informed by order dated 13.08.2015 of action taken on his departmental appeal.
- E. Incorrect, appellant was associated in enquiry proceedings but he failed to substantiate his irregular promotion.
- F. Incorrect, appellant failed to substantiate his irregular promotion therefore, final show cause notice was not issued to appellant.
- G. Incorrect, appellant was recruited as constable therefore he has wrongly contended that he was not a field constable.
- H. Incorrect, appellant has not been discriminated and he was treated in accordance with law and rules.
- I. Incorrect, no penalty has been imposed on appellant he was only demoted to original rank from the rank of head constable to which he was irregularly promoted.
- J. Incorrect, appellant was demoted as he was irregularly promoted to the rank of head constable therefore, mention of period was not required as illegal promotion confer no right on appellant.

- K. Incorrect, illegal and irregular promotion confer no right on appellant therefore, principle of locus poenitentiae cannot be invoked.
- L. Incorrect, no penalty was imposed on appellant. The irregular promotion order was canceled therefore, the departmental appeal was filed.
- M. The respondent may also be allowed to raise other grounds during hearing of the case.

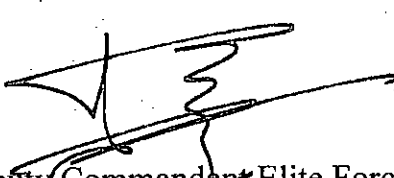
It is therefore, prayed that the appeal may be dismissed with costs



Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No.1)



Commandant Elite Force,  
Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No.2)



Deputy Commandant Elite Force,  
Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No.3)

**PROVINCIAL POLICE OFFICER'S STANDING ORDER NO 2/ 2011**  
**ELITE POLICE FORCE**

This standing order is being issued under Article 10(3) of Police Order 2002 and in supersession of all standing orders issued so far in respect of Elite Force personnel in Khyber Pakhtunkhwa.

**I. Constitution of the force**

The government of Khyber Pakhtunkhwa has established Elite police force, hereinafter referred to as force, in the provincial police as a separate unit consisting of senior and junior rank police officers.

**II. Terms & conditions**

1. Police officers of junior ranks fulfilling the following criteria will be eligible for selection and training in the force.
  - a. Be physically and mentally fit with no major punishment having bearing on his character.
  - b. Be of age not exceeding 30 years for constable having a minimum of 3 years police service
  - c. Be of age not exceeding 35 years for Head constable and lower school qualified Constable
  - d. Be of age not exceeding 32 years for initially recruited ASIs
  - e. Be of age not exceeding 40 years for Sub Inspector
2. Selection of constables in the Force will be made by a committee having one representative of the force not below the rank of a Superintendent of police.
3. Selection of constables for the force will be made in accordance with the sanctioned strength of the district police. The constables so selected will undergo basic Elite course.
4. All police officers who qualify their lower course and all initially recruited ASIs, after completion of their probation, shall be transferred to the force in a phased manner according to the requirement of the force. These officers will be selected by the Commandant/Deputy Commandant of the force on need basis.
5. Selection of Sub-Inspectors in the district for transfer to Elite Force shall be made by the Commandant/Deputy Commandant of Elite force on need basis in consultation with concerned DPO.
6. All selected junior police officers, except constables, shall undergo Elite command course.
7. Force members after successful completion of basic Elite course may preferably be posted in a platoon deployed in the district of their domicile. However, range DisG may transfer Elite platoon from one district to another in his range in consultation with Commandant Elite Force.
8. Selection for in service promotion courses of members of the force may be made by the concerned DPO on whose district strength they are borne. For this purpose a duplicate service roll or such record which help in the selection of courses of Elite personnel shall be kept in the concerned district.

9. Posting in the district of domicile shall not restrict the PPO/Commandant from transferring/deploying Elite platoons or Elite trained officers of junior rank in any district of the Province.
10. Police officers transferred to the force shall serve for a term mentioned below against each category. In case, a force member gets promotion, he shall continue to serve in the force to complete his term.
  - a. Constable 5 years
  - b. Head constable 3 years
  - c. Initially recruited ASI 18 months
  - d. SI / Inspector 2 years

All junior ranks police officers willing to continue their services in the force after completion of their 1<sup>st</sup> term, if found physically and mentally fit, shall undergo a refresher course and after successfully qualifying that course will be retained in the force for one additional term but constables and HCs on attaining the age of 40 years whereas ASIs and SIs on attaining the age of 45 years shall be transferred to their home districts/regions.

11. In case of incapacitation or injury/serious disease, force members shall be transferred to his district or region as the case may be. All junior ranks police officers in the force shall be screened annually to check their mental and physical health in a manner to be specified by the commandant.

### III. Training

Commandant, Deputy Commandant and Training officers, of the force shall devise training and refresher courses, its duration and subjects for each category of junior rank police officers.

### IV. Indemnity

An injury caused or death occurred, in *bona fide* process of the training, shall not make the government, senior rank officers or any instructor liable to prosecution or legal action.

### V. Deployment

12. Duties of the force shall be restricted in the districts to QRF (duties specified in the standing order for QRF), raids, hostage/rescue operations and protection/escort of VVIPs (including CM/Governor).
13. The Elite Force shall be stationed in the District Police lines only. However if the situation demands, can be deployed only at sub-divisional headquarter Police Station under intimation to the Commandant/Deputy Commandant. Adequate boarding & ~~other facilities~~ shall be provided by the concerned DPO/CCPO.
14. *Only the CCPO in DPO may deploy force members in a ~~...~~ period but the deployment shall not be less than 10 force members at a time. ~~...~~ Nakabandi shall be supervised by SHO or SI. Force members shall not perform body or vehicle search so that they could not come into physical contact with general public.*

Subject: AMENDMENT IN STANDING ORDER NO. 02/2011

1. Reference PUC
2. Para 23 of the subject standing order needs to be amended as suggested by AIG Est vide PUC.
3. The original para 23 is reproduced below.  
"All officiating Sub Inspectors who serves for at least 2 continuous years in the force shall be eligible for confirmation as Sub Inspector subject to their good performance. Period served in the force may be treated as period served as SHO which is mandatory for the confirmation as Sub Inspector".
4. The proposed para 23 is also reproduced below.  
"Two years continuous period spent in Elite force by an officiating Sub-Inspector shall be considered as holding of independent charge of a police station for one year".
5. It is also been observed that sub-inspectors drawing pay from Elite but not physically serving in Elite will also get benefit from para 23 of the standing order referred to above. To remove this lacuna, it is suggested that para 23 needs to be amended as follows.  
*"Two years continuous period spent physically by offg: sub-inspectors in Elite force including the period of command course shall be considered as holding of independent charge of a police station for one year".*
6. Incentive of the one step ad-hoc promotion for SI during their posting in Elite force was withdrawn because most of the SIs transferred to Elite earlier were not physically fit to undergo newly devised command course for upper subordinates. We intend to weed them out when Elite trained upper subordinates are placed at platoon level. At the moment 09 SIs have been given one step ad-hoc promotion. It is suggested that incentive already given to those 09 officers may not be withdrawn. However, the newly arrived SIs will not get this incentive as per standing order No. 02/2011.
7. Para 05 and 06 are submitted for approval.

*MMM*  
DC/EF 3/10

Addl: IGP/EF *C*  
*2/10*

Addl: IGP/Ops *D*

PPD  
~~PPD~~ Par 5 & 6 are approved  
*2/10*  
*C*  
*20/10*



From : The Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.


To : All Heads of Police Offices  
In Khyber Pakhtunkhwa.

No. 8485-8539/C-I, Dated Peshawar the 25/10 2011.

Subject: AMENDMENT IN STANDING ORDER NO.02 / 2011 ELITE FORCE.


Memo:  
The following amendment has been made in standing order No. 02/2011 for Elite Police Force. Please read Para-23 of clause – VII incentives as under:-

“Two years continues period spent physically by offg. sub-inspectors in Elite Force including the period of command course shall be considered as holding of independent charge of Police station for one year”.

  
(SADIQ KAMAL KHAN)  
DIG/HQrs:

For Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

Seen

  
DY: Commandant  
26/10

From : The Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

To : All Heads of Police Offices  
In Khyber Pakhtunkhwa.

No. 8572-8626/C-I, Dated Peshawar the 27 / 10 /2011.

Subject: AMENDMENT IN STANDING ORDER NO.02 / 2011 ELITE FORCE.

Memo:

Please read "continuous" instead of "continues" mentioned in first line of  
the amendment issued vide this office memo: No. 8485-8539/C-I, dated 25.10.2011

Seen



(SADIQ KAMAL KHAN)

DIG/HQrs:

For Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar

Dy Comdt  
28/11

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 983/2015

Muhammad Bilal Humayun VS Police Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

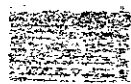
**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(a-f) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Admitted correct. Hence no comments.
- 2 Incorrect. The appellant was regular promoted to the rank of Head constable by competent authority after fulfilling all codal formalities.
- 3 First portion of the para 3 is admitted correct hence no comments, while the rest of the para is incorrect as appellant was regular promoted to the rank of Head constable by competent authority after fulfilling all codal formalities.
- 4 Incorrect. No proper opportunity of defence was provided to the appellant before passing the impugned order 24.4.2015.
- 5 First portion of the para 5 is admitted correct hence no comments, while the rest of the para is incorrect. Hence denied.



- 6 Incorrect. The appellant has good cause of action and therefore he filed departmental which was rejected for no good ground.
- 7 Incorrect. The appellant has good cause of action therefore the appeal of the appellant is sustainable on the grounds advanced in the appeal.

**GROUNDS:**

- A. Incorrect. The impugned orders are unjust, illegal and have not been passed in accordance with law and rules and liable to be set aside.
- B. Incorrect. The appellant was regular promoted to the rank of Head constable by competent authority after fulfilling all codal formalities and demoted to the rank of constable without providing chance of defence to the appellant.
- C. Incorrect. The competent authority for the appellant is Commandant elite force and not Dy: Commandant Elite Force as the appellant was promoted by the commandant Elite Force.
- D. Incorrect. While para D of the appeal is correct.
- E. Incorrect. The appellant was neither associated with the inquiry proceeding nor has been any statement of witness has been in the presence of the appellant. Moreover the appellant was regular promoted to the rank of Head constable by competent authority after fulfilling all codal formalities.
- F. Incorrect. The appellant was regular promoted to the rank of Head constable by competent authority after fulfilling all codal formalities. Moreover show cause notice was mandatory by law and rule before passing an impugned.
- G. Incorrect. While para G of the appeal is correct.
- H. Incorrect. The appellant has been discriminated as many colleagues of the appellant working as Constable/computer Operator were promoted to

head constable/ Computer operator and still enjoying the benefits of promotion up to the rank of inspector, while the appellant was deprived from the same benefits by reverting him as constable.

- I. Incorrect. Hence denied.
- J. The appellant was regular promoted to the rank of Head constable by competent authority after fulfilling all codal formalities. Therefore it vested every right to the appellant.
- K. Incorrect. While para K of the appeal is correct.
- L. Incorrect. Not replied according to para L of the appeal. Moreover para L of the appeal is correct.
- M. Legal.

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

APPELLANT  
Muhammad Bilal Humayun

Through:

  
(M. ASIF YOUSAFZAI)

&

(TAIMUR ALI KHAN)  
ADVOCATES PESHAWAR.

### **AFFIDAVIT**

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



  
DEPONENT