

ORDER

1st Feb, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents present. Syed Noman Ali Bukhari, Advocate for private respondents present.

2. Vide our detailed judgment of today placed on file, we allow the appeal and set aside the impugned order being not maintainable supported by any legal backing. Costs shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of this Tribunal on this 1st day of February, 2023.*



(Kalim Arshad Khan)
Chairman



(Muhammad Akbar Khan)
Member (E)

Due to deletion of the case
to come up for the same on 31-1-2023

On
Read

31st Jan, 2023 Learned counsel for the appellant present. Mr. Muhammad Adeel
Butt, Additional Advocate General for official respondents present.
Syed Noman Ali Bukhari, Advocate for private respondents present.

Arguments heard. To come up for order on 01.02.2023 before
D.B.

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

26.08.2022

Learned counsel for the appellant present. Mr. Atta Ur Rehman Inspector alongwith Mr. Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

Learned Member (Judicial) Mrs. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 05.09.2022 before the D.B.

(Salah-Ud-Din)
Member(J)

05.09.2022

Due to leave of the Worthy Chairman, the Bench is incomplete. Case to come up for the same on 22.09.2022 before the D.B.

Reader

22.09.2022

Nemo for the appellant. Mr. Muhammad Riaz Khan Paidakhel, Assistant Advocate General for official respondent No. 1 present. Learned counsel for private respondents No. 2 to 4 present.

Notice for prosecution of the appeal be issued to the appellant as well his counsel through registered post and to come up for arguments on 24.11.2022 before the D.B.

*Noted by Counsel,
26.09.2022
[Signature]*

(Mian Muhammad)
Member (E)

(Salah-Ud-Din)
Member (J)

Service Appeal No 4956/2021 titled "Hamced Ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" service appeal No. 4957/2021 titled "Danish Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and other" service appeal No. 4958/2021 titled "Intiaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" service appeal No: 4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" service appeal No 4960/2021 titled "Rehmat ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and other" service appeal No 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" service appeal No. 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" service appeal No. 4991/2021 titled "Khalil-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" service appeal No. 4803/2021 titled "Zain Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" service appeal No.4804/2021 titled "Amir Aman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" service appeal No. 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office. (CPO), Peshawar and others" decided on 01.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
MUHAMMAD AKBAR KHAN...MEMBER (Executive)

aa again
AIG
Service Appeal No.4956/2021

Hamced Ullah, HC(Belt No.) 662 Police Department Khyber Pakhtunkhwa Presently serving at District Mardan.

.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan LHC** Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takht Bhai Mardan.

.....(**Respondents**)

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

official respondents
for private respondents
N _____

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

.....
Service Appeal No.4957/2021

Danish Sarwar, HC Belt No. 2266 Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(Appellant)

Service Appeal No 4956/2021 titled "Hameed Ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4957/2021 titled "Danish Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No. 4958/2021 titled "Imtiaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4960/2021 titled "Rehman ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4991/2021 titled "Khatil-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4803/2021 titled " Zain Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4804/2021 titled "Amir Aman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" decided on 01.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal Peshawar

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takht Bhai Mardan.
.....(**Respondents**)

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

Service Appeal No.4958/2021

Imtiaz, HC Belt No. 08Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takh Bhai Mardan.
.....(**Respondents**)

Present:

Service Appeal No.4956/2021 titled "Hameed Ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4957/2021 titled "Daush Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No. 4958/2021 titled "Inniaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal-No.4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4960/2021 titled "Rehmat ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No. 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4991/2021 titled "Khalid-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar and others" service appeal No. 4803/2021 titled " Zain Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others", service appeal No.4804/2021 titled " Amir Aman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" decided on 01.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

.....
Service Appeal No.4959/2021

Waheed-Ur-Rehman, HC Belt No. 18Mardan Police Department
Khyber Pakhtunkhwa, Presently Serving at District
Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan**,LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**,LHC Police Station Takht Bhai Mardan.
.....(**Respondents**)

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

Service Appeal No.4956/2021 titled "Hameed Ullah-vs-AIG Establishment for Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4957/2021 titled "Danish Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other," service appeal No. 4958/2021 titled "Imtiaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4960/2021 titled "Rehmat ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No. 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4991/2021 titled "Khalid-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4803/2021 titled "Zain Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No.4804/2021 titled "Amir Anam-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" decided on 01.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Service Appeal No.4960/2021

Rehmat Ullah, HC Belt No. 49Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takh Bhai Mardan.
.....(**Respondents**)

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023
.....

Service Appeal No.4961/2021

Ibrahim, HC Belt No. 2473Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takh Bhai Mardan.
.....(**Respondents**)

Service Appeal No 4956/2021 titled "Hameed Ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4957/2021 titled "Danish Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No 4958/2021 titled "Imtiaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4960/2021 titled "Rohmat ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No. 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4991/2021 titled "Khalid-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4803/2021 titled "Zain Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4804/2021 titled "Amir Aman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" decided on 01.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

.....
Service Appeal No.4962/2021

Nasir Mehmood, HC Belt No. 1173Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takhy Bhai Mardan.
.....(**Respondents**)

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023
.....

Service Appeal No.4956/2021 titled "Hameed Ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4957/2021 titled "Danish Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No 4958/2021 titled "Imtiaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4960/2021 titled "Rehmat ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No. 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar and others" service appeal No. 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar and others" service appeal No. 4991/2021 titled "Khalil-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4803/2021 titled "Zam Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No.4804/2021 titled "Amir Aman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" decided on 01.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar

Service Appeal No.4991/2021

Khalil-Ur-Rehman, HC Belt No. 65Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takh Bhai Mardan.
.....(**Respondents**)

Present:

Mr. IRFAN ALLI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

Service Appeal No.4803/2021

Zain Ullah, HC Belt No. 1279Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takh Bhai Mardan.
.....(**Respondents**)

Service Appeal No.4956/2021 titled "Hameed Ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4957/2021 titled "Danish Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No. 4958/2021 titled "Intiaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4960/2021 titled "Rehmat ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4991/2021 titled "Khalil-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4803/2021 titled " Zain Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No.4804/2021 titled "Amir Aman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" decided on 01/02/2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

.....
Service Appeal No.4804/2021

Amir Aman, HC Belt No. 185 Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(***Appellant***)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashfaq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takh Bhai Mardan.
.....(***Respondents***)

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

Service Appeal No.4956/2021 titled "Hameed Ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4957/2021 titled "Danish Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No 4958/2021 titled "Imtiaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4960/2021 titled "Rehmat ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No. 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4991/2021 titled "Khalil-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4803/2021 titled "Zain Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No.4804/2021 titled "Amir Amun-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar and others" service appeal No. 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" decided on 01.02.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

.....
Service Appeal No.4805/2021

Waheed Ullah, HC Belt No. 22Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takh Bhai Mardan.
.....(**Respondents**)

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023

.....
Service Appeal No.4806/2021

Saif Ullah, HC Belt No. 1237Mardan Police Department Khyber Pakhtunkhwa, Presently Serving at District Mardan.....(**Appellant**)

Versus

1. **AIG Establishment**, for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar.
2. **Sajjad Khan** LHC Motorway Police on Deputation Basis.
3. **Kashif Ashafq**, LHC Police Training Center, Hangu on deputation basis.
4. **Sher Alam**, LHC Police Station Takh Bhai Mardan.
.....(**Respondents**)

Service Appeal No.4956/2021 titled "Hameed Ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4957/2021 titled "Danish Sarwar-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No 4958/2021 titled "Imtiaz -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4959/2021 titled "Waheed-ur-Rehman -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4960/2021 titled "Rehmat ullah-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and other" service appeal No 4961/2021 titled "Ibrahim -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4962/2021 titled "Nasir Mehmood -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4991/2021 titled "Khalil-ur-Rehman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No. 4803/2021 titled " Zain Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No.4804/2021 titled "Amir Aman-vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" service appeal No 4805/2021 titled "Waheed Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" and 4806/2021 titled "Saif Ullah -vs-AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO), Peshawar and others" decided on 01/02/2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Muhammad Akbar Khan, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar

Present:

Mr. IRFAN ALI,
Advocate.....For appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General.....For respondents.

Date of Institution.....06.04.2021
Dates of Hearing.....31.01.2023
Date of Decision.....01.02.2023
.....
....

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 04.01.2021 WHEREBY THE RESPONDENT TRANSFERRED THE APPELLANT TO THEIR PARENT DISTRICT ACCORDING TO HIS DOMICILE WHICH IS ILLEGAL, UNLAWFUL AND DECLARE NULL AND VOID IN THE EYE OF LAW.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment the instant appeal and connected service appeals detailed above are decided as all the eleven are against the same departmental proceedings and involve similar question.

2. According to the facts gathered from the record, the appellant is presently serving in the Police department as Head constable in District Mardan; that the respondent department earlier transfer^{ed} the appellant from the District Karak to District Mardan vide order dated 12.02.2016 on lien basis

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and the appellant was at the bottom of seniority list; that after transfer to District Mardan, the appellant completed the requisite period of service in the respondent department, District Police Officer Mardan conducted Departmental Promotion Committee on 19.05.2016, the appellant was promoted from the post of Constable (BPS-5) to Head Constable (BPS-7) vide dated 24.05.2016; that after completion of the prescribed period of service, the respondents issued impugned order dated 04.01.2021 whereby the appellant was transferred from District Mardan to his parent District i.e. District Karak against which, the appellants filed departmental appeal which was not responded within the stipulated statutory period, hence, the instant service appeal.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing written replies raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellants.

4. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.

5. Learned counsel for the appellant contended that the appellant is presently serving in the Police Department as Head constable in District Mardan; The appellant was transferred from District Karak to District Mardan

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vide order dated 23.02.2016 on lien bases and placed at the bottom of the seniority against those who were already serving in the District Mardan. The appellant after transfer and completion of his requisite period in the respondent department, District Police Officer Mardan conducted DPC wherein the appellant alongwith his other colleagues were promoted from the post of Constable (BPS-5) to Head Constable (BPS-7) vide order dated 24.05.2016; that the respondent department issued the impugned order dated 04.01.2021 and the appellant was transferred to his parent district keeping his seniority at equal footing with his colleagues of the same district; that the issue of lien the respondents sought advice from legal section vide dated 11.02.2021, and legal section admittedly, advised vide office order dated 03.03.2021 that civil servants can have right of lien for the period of three years if they join another department and the right of lien cannot be disturbed in this period; that the said transfer will affect seniority and promotion of the appellant if transfer is given effect and is not retained in the present District i.e District Mardan at his current post as Head Constable (BPS-7) which is against the Constitution of Islamic Republic of Pakistan. Moreover, the impugned order dated 04.01.2021 is not sustainable in the eye of law.

6. Learned Additional Advocate General controverted the arguments of learned counsel for the appellant and contended that the transfer of the appellant from District Mardan to his parent District i.e. District Karak is sole

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prerogative of the department which is lawful and in accordance with law. The detachment of the appellant from District Mardan was because as the Constables of District Mardan have completed lower school course and complained about the promotion on their reserved seats of Head Constable, as a result of which the lien of appellant was detached from District Mardan and attached to his parent District of domicile and his seniority is kept intact alongwith his colleagues of his parent District; that stance taken by the appellant is devoid of merit in terms of completion of prescribed period of service because neither the Police Rules nor the Police Act prescribed any period of service; that the impugned order passed by the competent authority is in accordance with law and rules, he concluded.

7. The appellants are aggrieved of the order No.59-79/E-IV dated 04.01.2021 whereby the lien of the appellants, attached with District Mardan was transferred to their parent District. Their seniority was to remain intact with their colleagues in their parent Districts of domicile. So the question involved in these appeals appears to be basically regarding lien. It appears that word lien is used in the initial order with some misconception because the lien is a right/title of the government servant to hold a permanent post in substantive capacity in the parent department. Here the appellants have not gone to any other department rather remained in the Police but in a way transferred from various Districts to Mardan, therefore, it cannot be said that they had gone to

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some other department from their parent department with lien at their parent department. Admittedly the appellants are in the Police department and have been deputed to Mardan, where not only their seniority was fixed amongst the colleagues serving at that district but were also promoted. Therefore, the usage of words transfer of lien was not appropriate either in the order of 2016 or in the impugned order nor the learned IA officer could point out any provision in the civil servants laws or the police laws to justify usage of these words. On the other hand usage of these words has not only created anomalies but has led to filing of these appeals.

8. The Rules of the Government of Khyber Pakhtunkhwa in this respect state as under:

"Lien: Means the title of a Government servant to hold a permanent post in a substantive capacity.

***General Principles:** - * Two or more Government servants cannot be appointed substantively to the same permanent post at the same time. * A Government servant cannot be appointed substantively, except as a temporary measure, to two or more permanent posts at the same time. * If a Government servant holds a lien on a certain post, no other Govt. servant can be appointed substantively to that post. * There is only one substantive holder of a given permanent post. * When a Government servant is going to be confirmed in a certain post, he should exercise option that he agrees to the termination of his lien on any other permanent post held by him in a substantive capacity.*

***Retention of Lien:** - Substantive holder of a permanent post retains lien in the following cases: - * While performing the duties of that post. * While on Foreign Service, or holding a temporary post, or officiating in another post. * During joining*

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time on transfer to another post. * During suspension. *
During leave.

Suspension of Lien: - a (Compulsory) : A competent authority shall suspend the lien of a government servant holding a permanent post substantively whenever he is appointed in a substantive capacity to a tenure post or to a permanent post outside the cadre or if he is appointed provisionally against a post on which another Government servant holds a lien.

b (Optional): The competent authority may also, at his option, suspend the lien of a Govt. servant holding a permanent post substantively if he is deputed out of Pakistan or goes on foreign service, or is transferred in a substantive or officiating capacity to a post in another cadre, provided that in all the above cases, the period is not less than 3 years.

Revival of Lien: - The Suspended lien will revive as soon as the Government servant ceases to hold a lien against any of the posts in (a) or (b).

Termination of Lien: - *A substantive holder of a permanent post acquires a lien on that post and ceases to hold any lien previously acquired on any other post. *If appointed to a permanent post, his lien on tenure post must be tenanted. *On appointment to the posts of Chief Engineer or Governor, their lien on permanent posts must be tenanted. *When Chief Engineer takes leave immediately on vacating his office or post, he shall be left without lien on any other permanent post. *When appointed to a permanent post outside the cadre on which he is borne, his lien or suspended lien on his previous post can be terminated on the written request of the Government servant concerned and not otherwise."

9. None of the above situations appear to have been covered in these appeals.

There is no explanation by the department whether the appellant was newly appointed at Mardan District so that his lien matter could be looked into that

way or what was the reason or rule allowing the respondent to pass order that

detachment of ✓

lien of the appellants was detached? *Yes* If the department intended that it was

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a transfer of the appellants made in 2016 and that transfer was either cancelled or the impugned order was in a way fresh transfer of the appellants, the department ought to have made a clear order in that respect. Construction of the impugned order in the manner it has been constructed in no way can be termed to be a transfer order.

11. Coming to the private respondents we find that they had never challenged the stay of the appellants at Mardan since 2016 till filing of these appeals. Besides they did not file any reply, therefore, ^{it could not be ascertained} how any of the terms and conditions of service would be affected by setting aside the impugned order, ~~could not be ascertained.~~

10. Therefore, we allow these appeals and set aside the impugned order being not supported by any legal backing. Costs shall follow the event. Consign.

11. ***Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 31st day of January, 2023.***

KALIM ARSHAD KHAN
Chairman

MUHAMMAD AKBAR KHAN
Member (Executive)

1st Feb, 2023

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

In view of the letter No. 6227-61/SDJ/HRW/ADMIN dated 30.03.2022 of the honourabl Peshawar High Court, Peshawar produced by learned counsel for the appellant, he submits that grievance of the appellant would be resolved. As regard this appeal, he says that it may be disposed. The appeal in hand is disposed of accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under our hand and seal of this Tribunal on this 1st day of February, 2023.*

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman...

Appeal No. 4956/2021
Hameedullah vs Govt

17.01.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Noor Daraz Khan, SI (Legal) for the official respondents present. Mr. Taimur Ali, Advocate for private respondents present.

Official respondents have already submitted reply/comments. Private respondents are directed to submit their reply, if so advised, before next date. To come up for arguments on 11.05.2022 before the D.B. The restraint order dated 05.01.2022 shall remain operative till next date.



(Atiq-Ur-Rehman Wazir)
Member (E)




Chairman

11-5-2022

The case is adjourned due to non availability of DB so come up for the same on ~~26-8-2022~~ 8-6-2022

8.6.22

Proper DB is av. ^{Ready} ~~Not~~ ^{for} ~~the~~ ^{case} ~~is~~ ^{to} ~~be~~ ^{held} ~~on~~ ^{on} 26.8.22 for same.



Hameed Ullah


05.01.2022

Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present. Mr. Taimur Ali Khan, Advocate for applicants present.

Arguments on impleadment application heard.

This Tribunal observed that if the appellant succeeds, the applicants of the impleadment application might suffer from decision of this Tribunal. Therefore, they should be given opportunity to contest the appeal, hence they are impleaded as private respondents. Entry be made in the heading of appeal and relevant register with red ink. Case to come up for reply/comments of the newly impleaded respondents as well as arguments before the D.B on 17.01.2022.

Alongwith the appeal the appellant has also submitted an application for restraining the respondents not to implement the impugned order dated 04.01.2021, notice of which has already been given to the respondents vide order sheet dated 04.06.2021. The operation of the impugned transfer order dated 04.01.2021 is suspended till next date.


(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

14.10.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General
alongwith Khyal Roz Inspector for respondents present.

Reply was not submitted within the stipulated period.
Learned A.A.G made request for time to submit reply/comments.
Last chance is given for submission of reply within 10 days in
office.

An application for impleadment as respondent was filed *by*
Sajjad Khan, Kashif Ashfaq and Sher Alam. Notice of the
application was served upon appellant and learned A.A.G. To
come up for reply and arguments on the instant application
seeking impleadment on 05.01.2022 before D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)




(Rozina Rehman)
Member (J)



12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.



Chairman

24.09.2021

Counsel for appellant present.

Javid Ullah learned A.A.G alongwith Khyal Roz Inspector for respondents present.

Reply on behalf of respondents is still awaited. Request for adjournment was made on behalf of respondents in order to submit reply/comments. Request is accorded with direction to furnish the same within 10 days positively in office. To come up for arguments on 14.10.2021 before D.B.


(Rozina-Rehman)
Member (J)


Chairman

Stipulated period passed reply not submitted.

04.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 14.10.2021 before the D.B.

Appellant Deposited
Security & Process Fee

14/6/21

Alongwith the appeal, the appellant has also filed an application for interim relief. Notice of application be also given to the respondents.




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4956 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/04/2021 27/05/21	<p>The appeal of Mr. Hameedullah resubmitted today by Mr. Irfan Ali Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

This is an appeal filed by Mr. Hameedullah today on 06.04.2021 against the order dated 04.01.2021 against which he preferred/made departmental appeal/ representation on 20.01.2021 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 663 /ST,

Dt. 06/04/2021

REGISTRAR 6/4/2021
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr.Irfn Ali Yousafzai Adv. Pesh.

Note

*Resubmitted after
office objection*

Qureshi

23-04-21

BEFORE THE KHYBER PAKHTUNKHWA SERVICES

TRIBUNAL, PESHAWAR

Service Appeal No. _____/2021

Hameed Ullah.....Appellant

V E R S U S

DIG Establishment.....Respondent

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Memo of Appeal	*	1-6
2.	Application for interim relief	*	7-8
3.	Copy of order dated 23/02/2016	A	9
4.	Copy of order dated 24/05/2016	B	10-11
5.	Copy of impugned order dated 04/01/2021	C	12-13
6.	Copy of application	D	14
7.	Copy of letter dated 11/02/2021	E	15
8.	Copy of letter dated 03/03/2021	F	16
9.	Wakalat Nama	*	17

Through

Appellant

(Signature)
Irfan Ali Yousafzai

Advocate, High Court,

Peshawar

Cell# 0314-9070658

Date: 26/03/2021

implead vide
order dated
5/1/22

- 2 i. Sajjad Khan, (LHC) Motorway Police on Deputation Basis.
- 3 ii. Kashif Ashfaq, (LHC) Police Training Centre, Hangu on Deputation Basis.
- 4 iii. Sher Alam, (LHC) Police Station Takht Bhai Mardan.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

Service Appeal No. 4956 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4576

Dated 06/4/2021

Hameed Ullah, HC (Belt No. 662)

Police Department Khyber Pakhtunkhwa

Presently serving at District Mardan **Appellant**

V E R S U S

1. **AIG Establishment for Inspector General of Police**
Khyber Pakhtunkhwa, Central Police Office, (CPO),
Peshawar Respondent

APPEAL UNDER SECTION 4 OF
THE SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED
ORDER DATED 04/01/2021
WHEREBY THE RESPONDENT
TRANSFERRED THE APPELLANT
TO THEIR PARENT DISTRICT
ACCORDING TO HIS DOMICILE
WHICH IS ILLEGAL, UNLAWFUL
AND DECLARE NULL AND VOID
IN THE EYE OF LAW.

Filed to-day

Ullah
Registrar

06/04/2021

Re-submitted to -day
and filed.

Ullah
Registrar

23/4/21 **Prayer in Appeal:**

On acceptance of this appeal, the impugned order dated 04/01/2021 may very graciously be

set aside and appellant may kindly be retain in the present District i.e. District Mardan where the appellant got promotion and completed the considerable length of his service in District Mardan.

Respectfully Sheweth:

1. That the appellant is respectable and law abiding citizen of Pakistan has every legal and constitutional right duly protected under the law and constitution of Islamic Republic of Pakistan 1973.
2. That appellant was serving as Head Constable (BPS-07) in the respondent department and presently serving the department at his best of ability.
3. That the respondent earlier transfer the appellant from the District Kohat to District Mardan vide order dated **23/02/2016** on lien base in which the appellant accept bottom seniority. **(Copy of order dated 23/02/2016 is attached as Annexure-A)**
4. That the appellant after transfer to district Mardan completed his requisite period of service

and the District Police Officer Mardan conducted DPC on 19/05/2016 and promoted the appellant from (BPS-05) to (BPS-07) on 24/05/2016. **(Copy of order dated 24/05/2016 is attached as Annexure-B)**

5. That the appellant performing his duty with his best ability at District Mardan and no objection raised by the respondent upon the service carrier of the appellant and there is no red entry in the record of the appellant.
6. That after completion prescribed period of service the respondent issued impugned order No. 59-79/E-IV dated 04/01/2021 vide which the appellant transferred from District Mardan to his parent district and intact his seniority with his colleagues in his parent district. **(Copy of impugned order dated 04/01/2021 is attached as Annexure-C)**
7. That appellant addressed an application to the respondent for review the impugned order dated 04/01/2021 but no fruitful result till date. **(Copy of application is attached as Annexure-D)**
8. That the Regional Police Officer, Mardan also sent a letter No. 807/ES, dated 11/02/2021 for seeking legal guidance of the attachment and detachment of lien period of the appellant. **(Copy**

of letter dated 11/02/2021 is attached Annexure-E)

9. That the respondent also admitted vide letter No. 1307/Legal dated 03/03/2021 that the "Civil Servant can retain lien for 3 years at permanent post when civil Servant joint other post in any other department and the civil servant lien cannot be detached or attached. **(Copy of letter dated 03/03/2021 is attached as Annexure-F)**
10. That beside the above mentioned facts and appellant completed lien period of 3 years and did not join any other department and still serving in his department but the respondent issued transfer order in which the seniority of the appellant will remain intact with the colleague of his parent district instead of present district, which is illegal, unlawful and liable to be withdrawn.
11. That it is pertinent to mention here that due to above mention transfer order, the seniority and service carrier of the appellant will be at risk and the promotion of the appellant will also disturbed.
12. That appellant is aggrieved from the order of respondent dated 04/01/2021 and his other action in inaction (Impugned herein) with no

other remedy hence approached this Honourable Tribunal on the following amongst other grounds:

GROUND S:

- A. That on impugned order dated 04/01/2021 is against the law, unwarranted and illegal.
- B. That the appellant has served the department at the best of his ability but even that respondent attached the lien of the appellant and transferred to his parent district, which is illegal and liable to be rectified.
- C. That the impugned order of the respondent is not sustainable in the eye of law.
- D. That the department is violating all the basic fundamental rights and protections given the constitution of Islamic Republic of Pakistan, 1973.
- E. That the conduct of respondent is offending the principle of natural justice, equity and fair play.
- F. That in the peculiar facts and circumstances of the case, the interference of this Hon'ble Tribunal is warranted under the law.

6

G. That the appellant be allowed to add/rely upon other grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 04/01/2021 may very graciously be set aside and appellant may kindly be retain in the present District Mardan.

Any other remedy which deem fit appropriate may also be granted in favour of appellant.

Through


Appellant



Irfan Ali Yousfzai
Advocate, High Court,
Peshawar

Date: 26/03/2021

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

CM No: _____/2021
IN
Service Appeal No. _____/2021

Hameed Ullah.....**Appellant**

V E R S U S

DIG Establishment.....**Respondent**

**APPLICATION FOR SUSPENSION
OF IMPUGNED ORDER DATED
04/01/2021, TILL THE FINAL
DISPOSAL OF THE MAIN APPEAL**

Respectfully Sheweth:

1. That the captioned Appeal is being filed before this Honourable Tribunal, in which no date of hearing has yet been fixed.
2. That the grounds of Appeal may be read as integral part of this application.
3. That on the face of it, the applicant has got strong arguable case and is sanguine about its success.

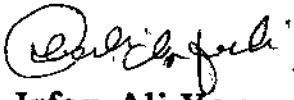
- 4. That the balance of convenience also lies in favour of applicant for grant of interim relief.

- 5. That if the transfer order dated 04/01/2021 is not suspended, than applicant would sustain irreparable loss, which is not redeemable in terms of money.

It is, therefore, most humbly prayed that on acceptance of this application, the impugned transfer order dated 04/01/2021 may kindly be suspended, till the final decision of the case.


Appellant

Through


Irfan Ali Yousafzai
Advocate, High Court,
Peshawar

Date: 26/03/2021



(6) "A" (9)
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

ORDER

The lien of LHC Hamid Ullah No. 66 of District Kohat (presently serving in PTC Hangu) is hereby detached from district Police Kohat and attached with District Police Mardan with immediate effect.

He will accept bottom seniority.

NAJEEB

(NAJEEB-UR-REHMAN BUGYI) PSP
AIG/Establishment
For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar

No. 3593-21 /E-IV, dated Peshawar the 23/02/2016

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

1. Deputy Inspectors General of Police, Mardan Region and Kohat Region.
2. Commandant PTC Hangu w/r to his letter No. 43/EC, dated 12.01.2016
3. District Police Officer Mardan w/r to his Memo No. 342/EC dated: 29.01.2016
4. District Police Officer, Kohat w/r to his letter No. 3593/SRC, dated 16.02.2016.

23/02/16

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[Signature]
to *[Signature]* copy
Advocate

(9A)

BETTER COPY OF THE PAGE NO.
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

ORDER

The lien of LHC Hamid ulah no 66 of District Police Haraju (Presenting serving in Elite Force KPK) is hereby detached from district Police Kohat and attached with District Police Mardan with immediate effect.

He will accept bottom Seniority.

AIG/Establishment
For Inspector General of Police
Khyber Pakhtunkhwa Peshawar

No. 2218-21 /E-IV, dated Peshawar the 23/2/2016

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

1. Addl: IGP/Elite Force KPK; Peshawar w/r to his Memo No. _____ dated _____.
2. Deputy Inspector General of Police, Mardan Region and _____ Region.
3. District Police Officer Mardan w/r to his Memo No. 342 dated 29-1-2016.
4. District Police Officer 3593 Kohat w/r to his letter No. 3593 dated 16-2-2016.

Promotion
order

Annex "B" (10)

ORDER.

The following Constables on promotion list C-I of this District are hereby promoted to the rank of Offg: Head Constable in BPS.7 (7490-15940) from the date of DPC held on 19.05.2016 with immediate effect.

S.No	Name & Number	Remarks
1.	Muhammad Khalid No. 5838	Promoted
2.	Waheed Ullah No. 22	Promoted
3.	Jan Alam No. 23/151	Promoted
4.	Imtiaz No. 2375	Promoted
5.	Khalil Ur Rahman No. 65	Promoted
6.	Zain Ullah No. 1279	Promoted
7.	Muhammad Shahid No. 3634/720	Promoted
8.	Saif Ullah No. 1237	Promoted
9.	Hameed-ullah No. 66	Promoted
10.	Danish Sarwar No. 2268	Promoted
11.	Waheed Ur Rahman No. 18	Promoted
12.	Hameed Khan No. 4794	Promoted
13.	Jawad Hussain No. 2119	Promoted
14.	Sajjad Ali No. 318	Promoted
15.	Zahoor Khan No. 2640	Promoted
16.	Niaz Ali No. 2959	Promoted
17.	Ashfaq Khan No. 2046	Promoted
18.	Raza Ullah No. 4343	Promoted
19.	Haji Akbar No. 83	Promoted
20.	Iqbal Hussain No. 1706	Promoted
21.	Meer Aman No. 185	Promoted
22.	Waqas Khan No. 33	Promoted
23.	Shehzad Ahmad No. 1824	Promoted
24.	Wajid Khan No. 1841	Promoted
25.	Faiz Muhammad No. 3900	Promoted
26.	Nasir Mahmood No. 1173	Promoted
27.	Nehad Ali No. 2942	Promoted
28.	Manzar Ali No. 2642	Promoted
29.	Gohar Ali No. 2902	Promoted
30.	Zaid Ullah No. 2384	Promoted
31.	Iftikhar Ali No. 319	Promoted
32.	Syed Sulaiman Shah 214	Promoted
33.	Zawar Hussain No. 2989	Promoted
34.	Nehad Ali No. 1829	Promoted
35.	Said Kareem No. 5263	Promoted
36.	Muhammad Ishfaq No. 15	Promoted
37.	Khalid No. 2232	Promoted
38.	Adnan No. 3173	Promoted
39.	Azam Shah No. 5192	Promoted
40.	Suhrab Shakir No. 2249	Promoted
41.	Mukhtiar Said No. 5167	Promoted
42.	Rahmat Ullah No. 49	Promoted

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IN THE PRESENCE OF
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to be the copy
Advocate

11

43.	Munsif Dad No. 1860	Promoted
44.	Muhammad Ayaz No. 3169	Promoted
45.	Aurangzeb No. 2651	Promoted
46.	Riaz Gul No. 4355	Promoted
47.	Muhammad Ibrahim No. 598	Promoted
48.	Kareem Ullah No. 5176	Promoted
49.	Nabi Haris No. 2893	Promoted
50.	Ibrahim No. 2473	Promoted
51.	Muhammad Shakir No. 2844	Promoted

OB No. 1304

Dated 3-5-16.

[Handwritten Signature]

District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN.

No. 3137-44 /EC, dated Mardan the, 24-5- 2016.

Copy submitted to the:

1. Addl: IGP/ Commandant Elite Force Khyber Pakhtunkhwa Peshawar for favour of information Please.
2. DIG, Special Branch KPK Peshawar.
3. Deputy Inspector General of Police, CTD Peshawar.
4. Commandant PTC Hangu.
5. SP FRP Kohat.
6. SP Elite Force Kohat.
7. Principal RTW Kohat.
8. OSI.

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Advocate

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Advocate

ADVOCATE

(12) Anze "C"

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

No. 59-79 /E-IV, dated Peshawar, the 04/10/2021

ORDER

The list of the following Lower Subordinates of various Districts presently attached with District Police Mardan are hereby transfer to their parent District of domicile with immediate effect.

Their seniority shall remain intact with their colleagues in their parent Districts of domicile:-

S.No.	NAME & BELT NO.	DISTRICTS
1.	HC Inam Ullah No. 1234	Nowshera
2.	HC Muhammad Shakir No. 2844	Abbottabad
3.	HC Abdul Raziq No. 1235	Nowshera
4.	HC Kifayat Ullah No. 1674	Karak
5.	HC Ikram Ullah No. 133/102.	DIKhan
6.	HC Hizar Ali No. 7175/499	Swabi
7.	HC Imtiaz No. 08	Karak
8.	HC Muhammad Khalid No. 5838	Karak
9.	HC Waheed Ullah No. 22	Tank
10.	HC Jan Alam No. 23/151	Manshara
11.	HC Imtiaz No. 2374	Manshara
12.	HC Nasir Mehmood No. 1173/2071	Karak
13.	HC Mir Aman No. 185	Karak
14.	HC Zain Ullah No. 1279	Karak
15.	HC Muhammad Shahid No. 734/720	Manshara
16.	HC Saif Ullah No. 1237	Karak
17.	HC Rahmat Ullah No. 49	Karak
18.	HC Farooq Anwar	Nowshera
19.	HC Hamd Ullah No. 66/1932	Karak
20.	HC Danish Sarwar No. 2268	Karak
21.	HC Waheed Ur Rehman No. 18/2579	Karak
22.	HC Fiaz Muhammad No. 3900/597	Swabi
23.	HC Ibrahim No. 2473	Nowshera
24.	HC Iftikhar No. 3431	Charsadda
25.	HC Amjid Muhammad	Charsadda
26.	HC Shah Faisal No. 118/SB	CCP, Peshawar

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Advocate Advocate

13



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

27.	LHC Tahir Amin No. 2632	Mardan
28.	LHC Abdur Raheed No. 476	Lakki Marwat
29.	LHC Asif No. 6456	Lakki Marwat
30.	LHC M. Haleem No. 541	Dir Lower
31.	LHC Younas No. 6480	Lakki Marwat
32.	LHC Shamsher Ali No. 6106	Nowshera

(ZAHOOR TABBAR AFRIDD)PSP
AIG/Establishment.

For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.

Endst: No. & dated even:-

Copy forwarded to the:-

1. Capital City Police Officer, Peshawar.
2. Regional Police Officers, Mardan, Hazara, Bannu, DIKhan & Malakand Region Swat.
3. Commandant FRP Khyber Pakhtunkhwa, Peshawar.
4. Commandant PTC / Hangu.
5. Deputy Commandant Elite Force Khyber Pakhtunkhwa, Peshawar.
6. District Police Officer, Mardan with reference to his office letter Nos. 6578/OSI, dated 26.11.2020 & No. 8899/OSI, dated 24.12.2020.
7. District Police Officers, Nowshera, Abbottabad, Karak, DIKhan, Swabi, Tank, Manshra, Charsadda, Lakki Marwat & Dir Lower.

2/2.

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Advocate

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Advocate

14

جناب عالی!

گزارش ہے کہ سائل D2, D6, 2DD6 کو ٹیکہ پولیس ضلع کوہاٹ میں بھرتی ہوا ہے۔ سائل نے سال 2015ء کے فیسٹ ٹرم میں لوئر سکول کورس PTC ہنگو سے پاس کیا ہوا ہے۔ سائل سال 2016ء میں ضلع مردان Lein ٹرانسفر کر کے خود بھی ٹرانسفر ہو کر آیا ہے اور تاحال احسن طریقے سے ضلع مردان میں نوکری کر رہا ہے۔ سائل کو ضلع ہذا میں آفسران بالا صاحبان نے مئی 2016ء میں C1 ہیڈ کنسٹیبل پر موٹ کیا ہوا ہے۔ ضلع ہذا میں سائل کو BOTTOM سنیا رٹی پر رکھ کر پروموشن دی گئی ہے۔ سائل نے اپنی مستقبل کی خاطر اپنا گھریا، خوشی غم، بہن بھائی دیگر رشتہ داران سے دور رہ کر حالیہ مقصد حاصل کیا ہے۔ جناب AIG صاحب اسٹبلشمنٹ پشاور کے حکم نمبری 59-79/EIV مورخہ 04.01.2021 کے مطابق سائل کا Lein ضلع ہذا سے منسوخ کر کے آبائی ضلع تبدیل کروایا ہے۔ جس سے سائل کی حالیہ سنیا رٹی متاثر ہوئی ہے۔ ضلع ہذا میں سائل نے بہت سے نشیب فرائز کا سامنا کیا ہے اور حتیٰ الوسع کوشش کی ہے کہ آفسران بالا صاحبان کو شکایت کا موقع نہ دیا جائے۔

استدعا ہے کہ سائل کی حالیہ سنیا رٹی کو اب برقرار رکھتے ہوئے نظر ثانی فرمائی جا کر حالیہ متنازعہ بالا چھٹی انگریزی کو

Withdraw کر کے مشکور فرمائیں۔ سائل تاجات دعا گو رہے گا۔

سعید کو ایش ہوگی

المرقوم 12.01.2021

العارض

آپ کا تابع حکم حمید اللہ نمبر 1932/662/HC متعینہ پولیس لائن مردان

Sir,

Forwarded

12/1/21

Le / PL / MAN

12/1/21

Sir,

Forwarded

12/1/21

Rif / PL / MAN

12/1/21

(14A)

جناب عالی! خود بیان گزار سے کہ جو اہم جیٹ انگریز انگری 59-79/E-iv 04 021
جناب جناب AIG اسٹیٹسٹ لٹ اور معروف دستوں کے ساتھ
سال 2016 میں اینا Lein ضلع کو دھاک سے ضلع مردان تبدیل کر دیا گیا۔
باقاعدہ طور پر نبرٹم NOC لیکر BOTTOM سپیاریٹی قبول کر کے 2016 سے اخراجات
باقاعدہ کے حکم انکا کے مطابق پوری ایمانڈری کسٹاٹو ناٹال اپنی ڈیولپمنٹ کے خزانے کے
فرالٹن سرائیگا کے رہا ہے 2016 میں سٹائل LHC عیدہ سے HC عیدہ پر اخراجات
باقاعدہ کے مطابق لولس رولز افیرن باقاعدہ باقاعدہ کے پروجیکٹ کے ساتھ
نے ضلع مردان سے ترقی ضروری ہے اور ضلع مردان KPIC لولس کا حق بھی ادا کیا جائے

جناب والا

سالانہ نمونہ 5 سال اپنے مستقبل کی خاطر اپنا گورنر خوسی غم والہ
میل نے اور دیگر نمونہ دران سے دور اپنا مقصد حاصل ہے اور 5 سال مسلسل ضلع مردان
اور KPIC لولس میں اپنے فرالٹن کی افام دسی میں اخیر ان باقاعدہ باقاعدہ کے پروجیکٹ کے ساتھ
کا موقع میں دیا ہے اور ناٹال اپنے ڈیولپمنٹ کے خزانے کے خزانے کے ساتھ
نبرٹم رولز افیرن سٹائل لولس کے ساتھ اپنے ڈیولپمنٹ کے خزانے کے ساتھ
59-79/E-iv 04 021 withdraw کر کے سٹائل اور اعلان سٹائل پر دم کرس سٹائل عمر سٹائل کا کو دھاکو دھاکو

خود کی مسن لائسنس ہوگی
مستند
20 021

العارف
آجکانا لوج حکم حمید اللہ
1932/662
HC پولیس لائن مردان

ATTESTED
to be true copy
Advocate

Government of Khyber Pakhtunkhwa
Office of the Regional Police Officer,
Mardan
Phone No. 0937-9230113, Fax No. 0937-9230115.
Email Address: - esrpmardan@gmail.com

To: The Assistant Inspector General of Police,
Legal, Khyber Pakhtunkhwa, Peshawar.

No. 807 /ES, dated Mardan Region, the 11 / 02 /2021.

Subject: REQUEST FOR SEEKING LEGAL GUIDANCE.

Memo:

Reference to the above noted subject.

The District Police Officer, Mardan vide his office letter No. 319/OSI dated 14.01.2021 has requested for detachment of lien of those Lower Subordinates who though hail from other Districts and their lien was attached with District Mardan after seeking proper concurrence from the District Police Officers, concerned by this office on different occasions (copy enclosed).

It is pertinent to mention here that the Central Police Office, Peshawar vide Orders Memo: Nos. 59-79/E-IV dated 04.01.2021 and 835-38/E-IV dated 20.01.2021 has also detached the lien of those Lower Subordinates whose lien was attached with District Mardan by the Central Police Office, Peshawar.

It is also worth to add here that these lower subordinates had accepted bottom seniority and are performing their duties in District Mardan since their transfer. In order to avoid any injustice/illegality by detaching their lien in a mechanical manner, this office may be provided legal guidance on the issue of attachment and subsequent detachment of lien of Police Officers.

[Signature]
Regional Police Officer,
Mardan.

CC.

- To the District Police Officer, Mardan for information w/r to his office Memo: No. quoted above.
- Assistant Inspector General of Police, Establishment Khyber Pakhtunkhwa, Peshawar.

OSI
For information.

DPO, Mardan.
11/2/21

ATTESTED
[Signature]
to be true copy
Advocate

ATTESTED
to be true copy
Advocate



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

No. 1307 /Legal dated Peshawar, the 3/3/2021

To: The Regional Police Officer,
Mardan.

Subject:- **REQUEST FOR SEEKING LEGAL GUIDANCE.**

Memo:-

Please refer to your Office Letter No. 807/ES, dated 11.02 the subject cited above.

KP Police act 2017 Section 13 (8) provides that every Officers shall be liable for Posting to any Branch, Division, Bureau and so Anywhere in or outside the Police unless otherwise provided under the ibid act.

Further more in Standing Order No. 02/2016, the lien is Constable to Sub-Inspector is very clear. All personnel serving in Central Unit & Deputation from concerned Districts and Regions and their lien will be in the District/Regions.

Besides above, Civil Servant can retain lien for 03 years at permanent post when Civil Servant join other post in any other department.

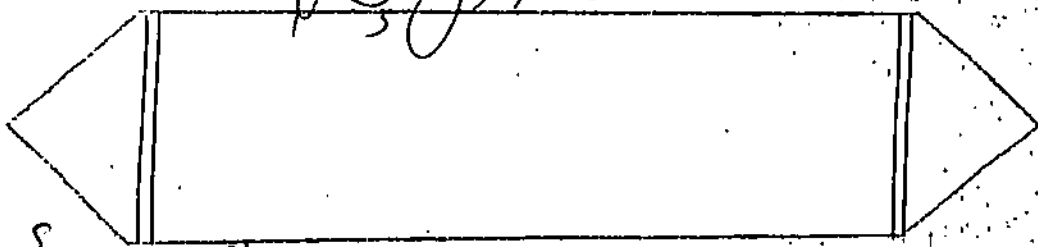
In view of the above quoted Law/Rules a Police Officer transferred to anywhere but his lien cannot be detached or attached w istrict/Unit.

[Signature]
AIG/LEGAL
For Inspector General
Khyber Pakhtunkhwa
17/02/2021

ATTESTED
[Signature]
to be true copy
Advocate

ATTESTED
to be true copy
Advocate

بعد الت کروں ٹریبونل ان س



2021ء جناب سید

سید راشد بنام DIG
استغاثہ

Service Appeal

اور
مقدمہ
دعوی
چیم

باعث تحریر آنکے

مقدمہ متاثرہ عثمان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکل کارروائی متعلقہ
آن مقام محکمہ سیر کیلئے محمد خان علی پور مغربی ایم او گ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز
دیکل صاحب کو راجسی نامہ کرنے و تقریر حالت و فیصلہ بر حلقہ دینے جواب دہی اور اقبال دعوی اور
بصورت دعوی کرنے اجراء اور وصولی چیک درو پیہار عرضی دعوی اور درخواست ہر قسم کی تسدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری کی طرف یا ایجیل کی برادگی اور مندرجی
نیز راج کر کے اپیل گمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل ناچری کارروائی کے واسطے اور دیکل یا مختار قانونی کو ایسے ہمراہ یا اپنے بجائے تقریر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو کسی دہی جلسہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دیکل صاحب پابند ہوں گے کہ پیروی
ہو کر کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم _____ ماہ _____ 2021ء
_____ واد الع

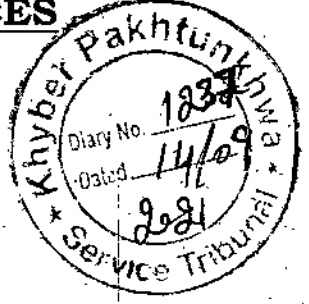
کے لئے منظور ہے۔

0314-9070658
SC-09-1766

Attested
ATTESTED
by
Advocate

محمد اللہ خان 666
ڈسٹرکٹ پولیس سردار
ہے

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



CM No. _____/2021
IN
Service Appeal No.4803/2021

Hameed Ullah.....**Appellant**

*Put up to the court with
relevant appmt on the date fixed.*
VERSUS
DIG Establishment.....**Respondent**

14/9/2021

Reader.

**APPLICATION FOR SUSPENSION OF
THE IMPUGNED TRANSFER ORDER
05/08/2021 OF THE RESPONDENTS,
TILL THE FINAL DECISION OF THE
SERVICES APPEAL WITH ALL
ANOTHER CONNECTED APPEALS**

Respectfully Sheweth:

1. That the accompanying service appeal along with other connected appeals are being filed before this Hon'ble Tribunal, which are fixed for 14/10/2021.
2. That the appellants/petitioners earlier challenged the impugned order No. 835-38/E-IV dated 20/01/2021 and order No. 59-79/E-IV dated 04/01/2021 before Hon'ble Tribunal but

this Hon'ble Tribunal did not grant the stay order and verbally stated that the department will not take any adverse action against the appellants/petitioner till their reply.

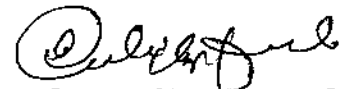
3. That this Hon'ble Tribunal also calls the comments from the respondents department, but the respondents till date failed to submit their comments and issued another transfer order of the appellants/petitioners which is impugned herein in which also mentioned the previous transferred orders which is subjudice before this Hon'ble Tribunal. **(Copy of impugned transfer order dated 05/08/2021 is attached herewith)**
4. That the appellants/petitioners have got a good prima facie case in their favour, and are sanguine about its success.
5. That the balance of convenience also lies in favour of the petitioners.
6. That if the impugned transfer order dated 05/08/2021 is not suspended, then the petitioners would suffer irreparable loss.
7. That the facts and grounds of the revision petition may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the impugned transfer order dated 05/08/2021 of the respondents may kindly be suspended, till the final decision of the appeal with all other connected appeals.

Dated:- 14/09/2021

Applicant/Petitioner

Through:-



Irfan Ali Yousafzai

Advocate, High Court,
Peshawar

NOTE:

Instant appeal is connected with the other appeal Nos. 4805, 4806, 4956, 4957, 4958, 4959, 4960, 4961, 4962 and 4991.



ADVOCATE

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

CM No. _____/2021
IN
Service Appeal No.4803/2021

Hameed Ullah.....**Appellant**

V E R S U S

DIG Establishment.....**Respondent**

AFFIDAVIT

I, **Hameed Ullah, HC (Belt No. 66), Police Department Khyber Pakhtunkhwa Presently serving at District Mardan**, do hereby solemnly affirm and declare on oath that the contents of accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

DEPONENT

Identified by

Irfan Ali Yousafzai
Advocate, High Court,
Peshawar



14/9/2021

37874/2

9633
10/10/2021

Government of Khyber Pakhtunkhwa
Office of the Regional Police Officer,
Mardan

Phone No. 0937-0230113, Fax No. 0937-0230115.
Email Address: - gerpomardan@gmail.com

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

No. 4105 /ES, dated Mardan Region, the 05/08/2021.

Subject: SMS COMPLAINT AGAINST HEAD CONSTABLES AND LHCs OF OTHER REGIONS/DISTRICTS.

Memo:

It is submitted that ten of the following Head Constables were detached from Mardan District and attached with their parent District of Domicile vide your good office order Nos. 835-38/E-IV dated 20.01.2021 and 59-79/E-IV dated 04.01.2021.

S. No.	Name & No.	Home District	Present place of posting
1.	Ikram Ullah No. 102	D.I Khan	Mardan
2.	Nasir Mohmood No. 2071	Karak	Mardan
3.	Mir Aman No. 626	Karak	Mardan
4.	Muhammad Shahid No. 978	Mansehra	Mardan
5.	Farooq Anwar No. 168	Nowshera	Mardan
6.	Hamid Ullah No. 662	Kohat	Mardan
7.	Waheed Ur Rehman No. 2579	Karak	Mardan
8.	Asif No. 566	Lakki Marwat	Mardan
9.	Muhammad Haleem No. 426	Dir Lower	Mardan
10.	Shamsher Ali No. 2460	Nowshera	Mardan
11.	Imran No. 930	Dir Upper	Mardan
12.	Shahid No. 3174	Dir Upper	Mardan

Now the District Police Officer, Mardan vide his office Memo: No. 3815/EC dated 17.06.2021 has requested that the above named Lower Subordinates may be transferred from Mardan District to their parent District of Domicile. Consequent upon an unknown employee of Mardan District preferred a complaint on Pakistan Citizen Portal regarding the existence of these Lower Subordinates in Mardan District.

It is therefore, requested that the above named Lower Subordinates may kindly be transferred from Mardan District to their parent District of Domicile as their lien has already been detached from Mardan District please.

cc.

Dy: No. 5587 IE-IV
Dt: 11/08/2021

Regional Police Officer,
Mardan.


To the District Police Officer, Mardan for information w/r to his office Memo: No. quoted above.



OFFICE OF THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

No. 8538-45 IEW dated Peshawar the 21 / 11 / 1972

Copy of certified is forwarded to DPOs, D.Khat. Karak, Manshra,
Nowshera, Kohat, Lakki Market, District Lower & Dir for their concurrence.


(NOOR AFSHAN)
Registrar
For Inspector General of Police
Khyber Pakhtunkhwa Peshawar.



BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 4956/2021

Hameed Ullah HC Belt No. 662/ Mardan **Appellant**

VERSUS

AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central
Police Office, (CPO) Peshawar

..... **Respondents**

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S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
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2.	Affidavit		4

Respondent through



(TARIQ UMAR)
DSP/ Legal, CPO
17301-4997553-7
0333-8878882

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

Service Appeal No. 4956/2021

Hameed Ullah HC Belt No.662 Police Department Khyber Pakhtunkhwa presently serving at District Mardan**appellants**

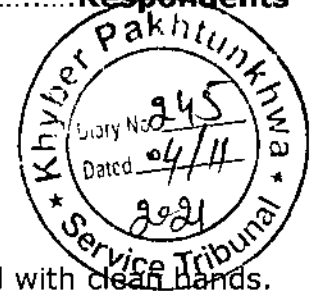
VERSUS

AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, (CPO) Peshawar**Respondents**

Para-wise reply by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS



1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law and limitation.

REPLY ON FACTS

1. Para to the extent of respectable and law abiding citizen a Pakistan is not related as the same pertains to the person of appellant. While rest of the para is legal because constitutional rights of every person is protected.
2. Correct to the extent that the appellant was serving as Head Constable in Police department. While rest of the para is not plausible because every Police Officer is duty bound to perform his duties to the best of his ability.
3. Correct to the extent that the appellant was transferred along with lien to District Mardan and he was placed in the bottom of seniority list.
4. Para to the extent of transfer to District Mardan is correct while completion of requisite period and subsequent promotion on the basis of completion of requisite period is not plausible. As when any constable qualifies Lower School Course and vacancies fall vacant, then he will be promoted as Officiating Head Constable on the basis of seniority cum fitness by Departmental Promotion Committee (DPC).
5. Incorrect. Plea taken by the appellant is not plausible because every Police Officer is duty bound to perform his duties to the best of his ability. Moreover,

lack of red entry in the record does not exonerate any of the Police Officer from lawful orders.

6. Incorrect. Stance of the appellant is totally devoid of merit in terms of completion of prescribed period of service because neither the Police Rules nor the Police Act prescribe any period of service as alleged by the appellant. Moreover, the appellant though hails from District Karak and transferred his lien to District Mardan, therefore, he was transferred alongwith lien to his parent District and his seniority with his colleagues will remain intact in his parent District. Since most of the Lower School Course qualified Constables of District Mardan were aggrieved as Head Constables hailing from other Districts were promoted on the vacancies of District Mardan and those whose parent District is Mardan, are waiting for their turn for promotion to the rank of Head Constables, therefore, they submitted application as result of which the lien of appellant was detached from District Mardan and attached to his District of domicile. Besides, seniority of appellant is kept intact with his colleagues of Lower School Course in his District.
7. Para pertains to record needs no comments.
8. Correct to the extent that the then Regional Police Officer, Mardan addressed a letter to Central Police Office Peshawar for seeking legal guidance.
9. Correct to the extent that in response to the aforementioned letter, the Assistant Inspector General of Police Legal Khyber Pakhtunkhwa opined that Civil Servant can retain lien for three years at permanent post when civil servant join other post in any other department. But it is worthwhile that the appellant has neither joined other department nor other post rather remained in Police Department. Moreover, para 2 of the ibid letter is also worth perusal.
10. Correct to the extent that the appellant is serving in Police Department and his lien has been transferred to his parent District where his seniority will remain intact with his colleagues there in his parent District. However, rest of the para is bereft of any legal footing.
11. Incorrect. Stance taken by the appellant is totally devoid of merit because it is pertinent to mention here that the appellant after his transfer to District Mardan was promoted to the rank of Head Constable on the vacancy of District Mardan much before his colleagues of his District of Domicile and till date enjoyed all the facilities extended to the promoted officers. However, when the constables of District Mardan qualified Lower School Course and brought on promotion list C-I, are waiting for their turn for promotion to officiating Head Constables, have submitted applications that Police Officers of other Districts have occupied their vacancies as result of which they have suffered irreparable loss in terms of their due promotion. Resultantly lien of all those Head Constables including the appellant was detached who though hail from other Districts were promoted against the vacancies of District Mardan.

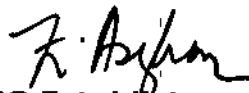
12. That the appeal of the appellant being not maintainable is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

- A. Incorrect. Plea taken by the appellant is not plausible because order passed by the competent authority is legal, lawful and according to norms of natural justice. Hence, liable to be maintained.
- B. Incorrect. Plea taken by the appellant is not plausible because every Police Officer is duty bound to perform his duties to the best of his ability. As in this department no room lies for lethargy. Besides, transfer of lien of the appellant to his parent district is legal and lawful hence required to be maintained.
- C. Incorrect. Stance of the appellant is totally ill based, hence, liable to be set at naught.
- D. Para already explained needs no comments.
- E. Incorrect. The appellant has been treated according to the norms of natural justice and law/ rules.
- F. Incorrect. Stance of the appellant is not maintainable as order passed by the competent authority is in accordance with law/ rules hence needs no interference.
- G. That Respondent also seeks permission of this Honorable Tribunal to seek additional grounds at the time of arguments.

PRAYER:-

Keeping in view the above stated facts it is most humbly prayed that the appeal of the appellant being not maintainable, may very kindly be dismissed, with costs please.


**AIG Establishment,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent)**

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 4956/2021

Hameed Ullah HC Belt No. 662/ Mardan **Appellant**

VERSUS

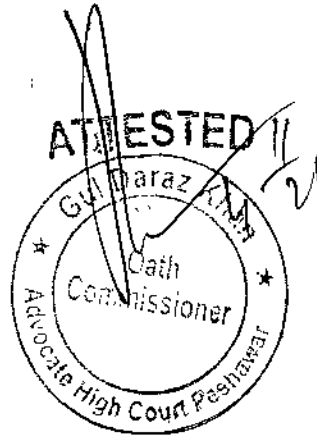
AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Central
Police Office, (CPO) Peshawar

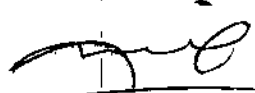
..... **Respondents**

AFFIDAVIT

I, Tariq Umar DSP/ Legal, CPO do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondent is correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

Respondent through




(TARIQ UMAR)
DSP/ Legal, CPO
17301-4997553-7
0333-8878882

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 4956/2021

Hameedullah

V/S

Police Deptt: and others.


.....
**APPLICATION FOR IMPLEADMENT AS
RESPONDENTS IN THE INSTANT APPEAL.**

.....

RESPECTFULLY SHEWETH:

1. That the appellants has filed the instant appeal alongwith suspension application in this Honorable Tribunal against the order dated 04.01.2021 whereby the appellants was transferred to his parent District according to his Domicile.
2. That the instant appeal was admitted for regular hearing on 04.06.2021 and notice of appeal alongwith application was issued to the respondents and fixed for today i.e 24.09.2021.
3. That the applicants are the permanent employee of District Police Mardan and if the instant appeal is decide in the favour of appellants then it will ultimately effect the right of applicants.
4. That since the applicants are necessary party but has not been arrayed as the respondents in the instant appeal. Therefore the applicants wants to file the instant application for impleadment as respondents in the instant appeal. The names and addresses of the applicants are mentioned below:-
 - i. Sajjad Khan, (LHC) Motorway Police on Deputation Basis.
 - ii. Kashif Ashfaq, (LHC) Police Training Centre, Hangu on Deputation Basis.
 - iii. Sher Alam, (LHC) Police Station Takht Bhai Mardan.
5. That as the applicants are necessary party and has been constitutional duly to defend their cause but not arrayed as respondents in the instant appeal.

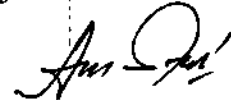
It is, therefore, most humbly prayed that on acceptance of this application for impleadment the applicants may be impleaded in the panel of respondents in the instant appeal enabling to defend their rights. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in the favour of the applicants.



APPLICANTS

Sajjad Khan etc.

THROUGH:



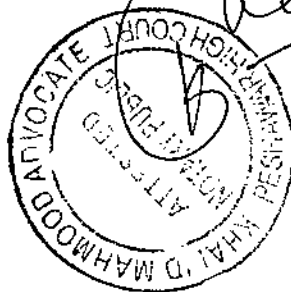
(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.

AFFIDAVIT

I, do hereby solemnly affirm and declare that the contents of this Application are true and correct to the best of my knowledge and belief.



DEPONENT

Sajjad Khan

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Hameed Ullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

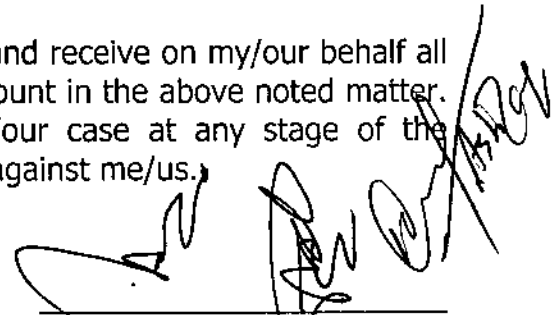
Police Deptt & others (Respondent)
(Defendant)

I/We, Sajjad Khan, Asif Ashfaq & Sheer Alam

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court of Pakistan**, 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 _____/2021




(CLIENT)

ACCEPTED




(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME OF PAKISTAN,


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,


(ASAD MEHMOOD)
ADVOCATE HIGH COURT,


(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

OFFICE:
Room # FR-8, 4thFloor,
Bilour Plaza, Peshawar,
Cantt: Peshawa

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing 422 -p/2022

In case No. 4956 -p/2021

Hameed ullah & others vs Govt of KPK

Presented by M. Asid Yousafzai on behalf of appellant. Entered in the relevant register.

Put up alongwith main case

REGISTRAR

Last date fixed	17-1-2022
Reason(S) for last adjournment, if any by the Branch Incharge.	private respondents are directed to submit reply
Date(s) fixed in the similar matter by the Branch Incharge	NFA
Available dates Readers/Assistant Registrar branch-	NFA


Assistant Registrar

REGISTRAR