


KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 9139/2020

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Bahadur Khan, Ex-Sub-Inspector Police, No. P/341 R/O Shabqadar,
Charsadda. (Appellant)

VERSUS

1. Provincial Police Officer/IGP, Khyber Pakhtunkhwa, Central Police Officer, Peshawar.
2. Additional Inspector General of Police Headquarter.
3. Capital City Police Officer, Police Lines Peshawar.

.... (Respondents)

Mr. Taimoor Ali Khan
Advocate

For appellant

Mr. Muhammad Jan
District Attorney

For respondents

Date of Institution.....10.08.2020

Date of Hearing.....10.10.2023

Date of Decision.....10.10.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of this appeal and in accordance with the impugned policy, the impugned order may kindly be set aside and respondents may please be directed to ensure the notional promotion of the appellant to the rank/post of Inspector being highly eligible, deserving and confirmed sub-Inspector, properly place on list F and extend equal treatment in terms of Article 4, 8, 9, 14, 18 and 25 of the constitution as his colleagues have already been granted such promotion just before retirement in such upper age zone and the appellant by depriving of his

due promotion, was retired from service on attaining the age of superannuation on mere discrimination."

2. Through this single judgment we intend to dispose of instant service appeal as well as connected (i) Service Appeal No. 9140/2020 titled "Muhammad Ali Khan Vs. Inspector General of Police, Khyber Pakhtunkhwa and others" (ii) Service Appeal No. 9141/2020 titled "Mohammad Nawaz Khan Vs. Inspector General of Police, Khyber Pakhtunkhwa and others" (iii) Service Appeal No. 1942/2020 titled "Naseer Ur Rehman Vs. Inspector General of Police, Khyber Pakhtunkhwa and others" (iv) Service Appeal No. 1943/2020 titled "Fazli Hadi Vs. Inspector General of Police, Khyber Pakhtunkhwa and others" as in all these appeals common question of law and facts are involved.


3. Brief facts of the case, as given in the memorandum of appeal, are that appellants have joined services in police department and were gradually promoted as confirmed Sub-Inspector being placed on list "F" dated 31.03.2016. Respondent introduce a policy vide letter dated 09.02.2016 wherein CCPO and all RPOs were asked to send cases of those confirmed Sub-Inspectors to CCPO who have left three months period to their retirement for inclusion their name in list "F" and grant officiating promotion to the rank of Inspector. The name of the appellants were already on list "F" and they seek promotion to rank of Inspectors. They were selected for upper course and upon completion of course their names were properly placed in list "F" on 19.07.2016 and were eligible for promotion. As the appellants entered in his retirement zone on attaining the age of superannuation had to be promoted to the rank of Inspector before or just after his retirement in accordance with impugned policy. In such like situation twenty confirmed Sub-Inspectors having case at par with applicant

were promoted to the rank of Inspector and appellant alongwith others were ignored. Feeling aggrieved appellants filed departmental appeal which was not responded then they filed writ petition before Worthy Peshawar High Court, Peshawar which was dismissed vide order dated 24.05.2017. Appellant filed service appeal No. 1286/17 which was also disposed of vide judgment dated 11.12.2019. In consequence of that order departmental appeal of the appellant was rejected by the respondent vide order dated 17.07.2020. Feeling aggrieved appellant filed instant appeal.

4. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

5. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules. He further contended that due to unblemished service record they were promoted to the rank of confirmed Sub-Inspector. He further contended that appellants have passed the Upper Course Training and were fully qualified and eligible for promotion to the rank of Inspector and juniors were promoted hence respondents violated Article 4, 25 & 27 of the constitution of the Constitution of Islamic Republic of Pakistan.

6. Learned District Attorney contended that the appellant has not been treated in accordance with law and rules. He further contended that claim of appellants for promotion as Inspector on the basis of placing his name in list "F" is quite unlawful and illegal. As list "F" is maintained on the basis of seniority on provincial level and appellant were not entitled for promotion as Inspectors. He argued that respondent department is made




purely on seniority cum fitness basis adopting proper procedure and no one rights has been violated.

7. Perusal of record reveals that appellants were serving in respondent department who were confirmed as Sub-Inspectors and were enlisted at list "F" dated 31.03.2016. That respondent introduced a policy vide letter No. 247-53/CPB dated 29.02.2016 wherein CCPO Peshawar and all RPOs asked to send cases of those confirmed Sub-Inspectors to CCPO who have left months period to their retirement for inclusion their names in list "F" and grant officiating promotion to the rank of Inspector. It is pertinent to mentioned here that appellants were already placed on list "F" and they requested for his promotion only. Respondent despite the fact of appellants being entered into overage zone in violation of standing order 09/2014 selected for upper course and he remained successful and result of the upper course was announced on 31.05.2015 after which appellants were properly placed on list "F" by allotting him Belt No. 341. So, appellants being eligible for promotion to rank of Inspector, attain the age of superannuation on 04.05.2017, had to be promoted to the rank of Inspector before or just after his retirement in accordance with the above mentioned policy. Appellant case is that earlier 20 confirmed Sub-Inspector who were at the verge of retirement having case similar to appellant were promoted to the rank of Inspector vide notification dated 11.04.2017 beside one Inspector Mumtaz No. P/345 who was confirmed Sub-Inspector like appellant, was promoted as officiating Inspector, vide notification dated 03.05.2016. It is also on record that on basis of policy dated 09.02.2016 three Inspectors/colleagues of the appellant filed writ petition, which was accepted and they were promoted vide order dated 03.05.2016. It is noted with great concern that every time appellants were discriminated by the


respondent and he knocked the door of court for redressal of his grievances which is violation of Article 4 and 25 of the Constitution of Islamic Republic of Pakistan.

8. In our humble view, appellants have right to be treated like his other colleagues. Therefore, in the circumstance we deemed it appropriate to remit back the case of appellants to department to consider it again at par with his other colleague who were given benefit of the policy as if his case was consider at due time then there will be no question of out of turn promotion. Respondents are directed to decide it within sixty days after receipt of this of order. Costs shall follow the event. Consign.

9 *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 10th day of October, 2023.*


(MUHAMMAD AKBAR KHAN)
Member (E)

Kaleemullah


(RASHIDA BANO)
Member (J)

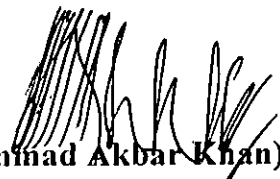
ORDER


10th Oct, 2023

1. Appellant alongwith his counsel present. Mr. Muhammad Jan learned District Attorney alongwith Mr. Zahoor Khan, S.I (Legal) for the respondents present.

2. Vide our detailed judgement of today placed on file, we deemed it appropriate to remit back the case of appellant to the department to consider it again at par with his other colleague who were given benefit of the policy as if his case was consider at due time then there will be no question of out of turn promotion. Respondents are directed to decide it within sixty days after receipt of this of order. Costs shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 10th day of October, 2023.*


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)