BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT SWAT

Service Appeal No. 573/2016

Date of Institution... 30.05.2016

Date of decision... 07.12.2017

Bacha Hazrat s/o Muhammad Hazrat r/o Dherai Talash, Tehsil Chakdara Dir Lower (currently serving as DSP H/Q District Shangla. ... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP at Peshawar and 2 others (Respondents)

MR. Adnan Khan Barrister-at-law For appellant.

MR. Kabir Ullah Khattak, Additional AG For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD HAMID MUGHAL, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also dispose of connected service appeals No. 572/2016 Zahid Khan and No. 252/2017 Muhammad Saeed Khan as in all the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellants were promoted as officiating Sub-Inspectors on 20.10.2007. Thereafter they were confirmed as Sub-Inspectors on 10.08.2012. Then they were promoted as officiating Inspectors on 30.01.2013. Prior to that

they were confirmed as Sub-Inspectors on 10.08.2012 after more than five years of their promotion as officiating Sub-Inspectors. In the seniority list which the date of confirmation of appellant was shown as 10.08.2012 which was further circulated on 02.06.2014.

4. Bacha Hazrat appellant filed a representation against this seniority qua the date of confirmation on 09.06.2014 which was finally rejected on 10.05.2016 thereafter he filed the present service appeal on 30.05.2016. Zahid Khan, appellant filed departmental appeal on 27.01.2015 against the said date of confirmation which was rejected on 10.05.2016 and he filed the present service appeal on 30.05.2016. Muhammad Saeed appellant filed similar departmental appeal on 15.02.2016 which was rejected on 16.02.2017 and then he filed the present service appeal on 15.03.2017.

ARGUMENTS

5. Learned counsel for the appellants argued that in the order dismissing the representation of appellant Bacha Hazrat reference is made to rule 12.2 (3) of Police Rules 1934 which deal entirely with a different situation. That in accordance with the judgment of august Supreme Court reported as 1997 SCMR 1514 seniority would be counted from the date of continuous officiation in that grade and not from the date of confirmation. Learned counsel for the appellant further referred to judgment of this Tribunal in service appeal bearing No. 1504/2013 decided on 08.03.2017 in which similar relief was granted to many Sub-Inspectors. That in the said judgment this Tribunal further directed that the appellants (of the said appeals) as well as similarly placed other employees shall be extended the benefit of the said judgment.

6. On the other hand the learned Addl. AG argued that the present appeals are not maintainable being time barred and this Tribunal has no jurisdiction to entertain the present service appeals. The grounds of the objections of the Learned Addl; AG are that the appellants have not assailed on original or appellate order which is *sine qua non* for assuming jurisdiction by this Tribunal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. That the appellants have filed the departmental appeals belatedly and therefore, the present Service Appeals are also time barred. That the appellants are estopped from agitating their right in this Tribunal for laches. That if relief is granted to the appellants then the seniority of so many Police Officers shall be affected who have not been made party to the present appeals. That the appellate order has not been challenged by the appellants in the present appeals.

CONCLUSION

7. This Tribunal would first deal with the objections of the learned AAG regarding limitation. Since the issue of confirmation of the appellants is linked with their seniority, each seniority list would give the appellant a fresh cause of action and at least one of the appellants namely Bacha Hazrat had timely filed representation within 30 days after the circulation of the seniority list. Secondly when this Tribunal has extended the same benefits to similarly placed Police Officers then in view of the judgment reported as 2002-PLC(C.S)-268, no limitation shall run in cases of similarly placed employees. Hence all these appeals are within time. Second objection is that of availability of original or appellate order. The very seniority list circulated is an original order and the appellate order is also there on the file rejecting the departmental appeals of the appellants. This

objection is also over ruled. The third objection is that the appellants have not challenged the appellate orders. In Para 13 & 14 of the appeal of Bacha Hazrat and similarly in all other appeals there is every mention of the appellate order. This objection is also not sustained.

8. On merits the very appellate order has referred to rule 12.2 (3) of the Police Rules 1934. This Tribunal without touching this aspect whether the Police Rules 1934 relating to Punjab are applicable to this province would take this rule on the face value. (the applicability of the Police Rules 1934 to Khyber Pakhtunkhwa would be decided subsequently in some relevant case). If we go through relevant Sub-Rule 3 it is clearly written that the seniority in the case of upper subordinate will be reckoned in the first instance from the date of first appointment. It is next added that seniority shall however be finalized by dates of confirmation. It means that the decisions shall be made on the date of confirmation but seniority shall reckon from the date of first appointment. Therefore, the very interpretation placed by the appellate authority on this rule is misconceived. The judgment of the august Supreme Court of Pakistan pressed into service by the learned counsel for the appellants is in accord with the interpretation of the sub rule mentioned above. Secondly the very judgment of this Tribunal referred to by the learned counsel for the appellant in similar cases had already decided this issue and had already directed the department to extend the benefits of that judgment to all similarly placed employees. The cases of the present appellants squarely fall within the preview of similarly placed employee and the department cannot ignore the appellants from extending the benefit of that very judgment. Coming to the objections of learned AAG regarding non impleadment of those Police Officer

whose seniority would be affected. This Tribunal is of the view that the issue in the present appeals is one of confirmation and the very judgment of this Tribunal has also decided the issue of confirmation. Secondly in such situation when the appellants are entitled to relief then non impleading of any party would not be made basis for rejection of this appeals. Reliance is placed on 2006-SCMR-1938. It may be pertinent to refer to one of the orders of the RPO dated 14.06.2010 turning down the recommendation by DPO with regard to the confirmation of the appellant in which reference was Rule 13.14 of the Police Rules 1934. Similarly the respondents have also mentioned this rule in their comments. This rule does not regulate the issue of confirmation and is therefore, irrelevant.

9. As a sequel to above discussion, the present appeals are accepted. Parties are left to bear their own costs. File be consigned to the record room.

(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

(Muhammad Hamid Mughal)
Member

ANNOUNCED
07.12.2017

05.12.2017 Learned counsel for the appellant present. Mr. Kabir Ullah Khattak, Learned Additional AG for the respondents present. Arguments of the learned counsel for the appellant heard. Learned Additional AG requested for adjournment. Request accepted. To come up for further arguments on 07.12.2017 before D.B at Camp Court, Swat.

MEMBER

CHAIRMAN
Camp Court, Swat

07.12.2017 Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

MEMBER

CHAIRMAN
Camp Court, Swat.

ANNOUNCED
07.12.2017

08.02.2017 Counsel for the appellant, Mr. Muhammad Muzaffar, SI(Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for the respondents present. Counsel for the appellant requested for adjournment. Adjourned for rejoinder and final hearing to 05.06.2017 before D.B at camp court, Swat.

Member

Chairman
Camp court, Swat

08.06.2017 Since the tour programme for the month of June, 2017 to camp court Swat has been cancelled by the Worthy Chairman, therefore, to come up for the same on 03.10.2017 at camp court, Swat. Notices be issued to the parties for the date fixed accordingly.

Registrar

03.10.2017 Counsel for the appellant and Mr. Muhammad Zubair, District Attorney alongwith Muzafar Khan, S.I(Legal) for the respondents present. The learned District Attorney seeks adjournment. Granted. To come up for arguments on 05.12.2017 before the D.B at camp court, Swat.

Member

Chairman
Camp court, Swat

13.7.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as ASI and confirmed vide order dated 13.04.2007. He was promoted as officiating S.I on 20.10.2007. That despite eligibility including qualifying service confirmation of appellant in the rank of S.I was regretted vide impugned order dated 14.06.2010 where-against he preferred departmental appeal which was rejected on 10.05.2016 and hence the instant service appeal on 30.05.2016.

That despite eligibility of the appellant confirmation against the rank of S.I was regretted. That similarly placed employees including junior officials of appellants were promoted and hence the appellant was not extended similar treatment and that the Police Rules including Rule-13-14 was mis-quoted and mis-interpreted to the dis-advantage of appellant and as such the impugned order is nullity in the eyes of law.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 06.10.2016 before S.B at camp court Swat.

Chairman
Camp Court, Swat

06.10.2016

Appellant in person and Mr. Muzaffar Khan, S.I (Legal) alongwith Mian Amir Qadir, GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 08.2.2017 at camp court, Swat.

Chairman
Camp Court, Swat

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 573/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/05/2016	The appeal of Mr. Bad Shah Hazrat presented today by Mr. Adnan Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order please. REGISTRAR
2	31.5.2016	This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on 8-6-2016 CHAIRMAN
	08.06.2016	**Junior to counsel for the appellant present. Requested for adjournment. Adjourned for preliminary hearing to 13.07.2016 at camp court, Swat.** **CHAIRMAN** **Camp Court, Swat.**

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

Service Appeal No. 573 of 2016

Badshah Hazrat .....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP and others.....Respondents

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10.	Wakalatnama	H	

Appellant though Counsel

Dr. Adnan Khan, Barrister-at-Law &
Arshad Khan Advocate
Office: Adnan Law Associates,
Opp. Grassy ground Mingora Swat.
Cell: 0346-9415233

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

Service Appeal No. 573 of 2016

Bacha Hazrat s/o Muhammad Hazrat r/o Dherai Talash, Tehsil Chakddara Dir Lower (currently serving as DSP H/Q District Shangla.

K.P.K Provincial Service Tribunal Diary No. 548 Dated 30-5-2016

.....*Appellant*

VERSUS

1) Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP at Peshawar.
2) The Regional Police Officer, Malakand Division at Saidu Sharif Swat.
3) District Police Officer District Shangla.

.....***Respondents***

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974

PRAYER:

On acceptance of this Appeal, the appellant may be considered to have been confirmed in service as Sub-Inspector on the date of his promotion or after 03 years of service as Officiating SI.

Respectfully Sheweth:

Fixed to-day 30/5/16

1. That the appellant is a serving official of Khyber Pakhtunkhwa Police force, presently serving as acting DSP HQ, District Shangla.

2. That prior to the present rank as SI, the appellant was appointed as Sub-Inspector on 20-10-2007 vide RPO Malakand Office Memo No.4058-65/E.

3. That in the intervening period, the appellant successfully passed Upper College course at Police Training Center Hangu. Course completion result was intimated on 02-08-2007 vide (Copy of result is attached as Annexure "A").

4. That after promotion as Sub-Inspector, the appellant has served in various stations of Malakand Division. This period starts from 27-10-2007 to 19-08-2011, an era considered to be the difficult most one in terms of militancy and insurgency prevailing in the area.

5. That after being promoted as Officiating Sub-Inspector on 20-10-2007 there remained confusion with regard to confirmation of the petitioner in the rank of Sub-Inspector. In this respect the concerned District Police Officer Dir Lower sent a recommendation for confirmation of the appellant as Sub-Inspector on 01-06-2010 (Copy of recommendation is attached as Annexure "B").

6. That respondent No.2 vide letter No.6482 dated 14-06-2010 regretted the recommendation sent to him by the DPO on the ground that the appellant has not yet completed the period for probation in the rank of Sub-Inspector (Copy of letter is attached as Annexure "C").

7. That anomaly existed with regard to the period of service after which an official could be confirmed in list "F". In this respect respondent No.2 sent a reference to respondent No.1 for guidance on the matter. Respondent No.1 while resolving the anomaly wrote in the following terms:

> *"Confirmation case of Sub-Inspectors serving in Malakand Division who have completed other criteria as per Police Rules may be processed after three years service as Sub-Inspector.*

Moreover, copy of the approval of W/PPO is enclosed in which W/PPO has given approval for promotion to list "F" with 03 years' service as SIs instead of 05 years, other requirements remaining the same".

(Copy of letter No.6184/E-II dated 02-04-2012 is attached as Annexure "D").

8. That prior to the above mentioned notes made by respondent No.2, the sub-committee constituted for the removal of the anomaly had recommended various officials of the Police force to list "F" who were having 03 years service as SI instead of 05 years (Copy of recommendations is attached as Annexure "E").

9. That in light of the above recommendations and directives of respondent No.1, various officials being junior than the appellant were confirmed as Sub-Inspectors after completing 03 years period as Officiating Sub-Inspectors.

10. That being treated against the law and discriminated in violation of the law and Constitution, the appellant was brought to promotion list "F" being promoted as officiating Inspector on 30-01-2013.

11. That promotion to list "F" at this belated stage affected the seniority of the appellant vis-à-vis his colleagues. In this respect the appellant filed various representations and departmental appeal before the respondents (Copy of departmental representation with covering letter is attached as Annexure "F").

12. That respondent No.1 dismissed the representation after being held to be not maintainable on 10-05-2016 vide letter No.1249/E-II (Copy of order is attached as Annexure "G").

13. That feeling aggrieved as above and having no other remedy in law, the appellant files this appeal inter alia, on the following grounds:

GROUNDS:

A. That the impugned omission on behalf of the respondents to reckon the confirmation/seniority from belated stage is on the face of it is discriminatory, illegal and un-Constitutional.

B. That no hard and fast rules exists either for reckoning of seniority under the relevant law on the subject. As per the relevant case law seniority of a civil servant starts from the date of initial appointment in respective scale irrespective of confirmation/termination of probation. The appellant being appointed as officiating Sub-Inspector in 2007 is entitled to be in regular and continuous service from the said date. Hence, the appellant is entitled for promotion being his regular service considered from 2007 and not 2013.

C. That assuming for the sake of arguments that seniority of a civil servant starts from the date of confirmation/termination of probation, even then the appellant was entitled as per respondent No.3 recommendation to be confirmed in 2010. Needless to say that respondent No.1 as per recommendation of anomaly committee held that the period of probation prior to list "F" shall be 03 years instead of 05 years. Hence, the appellant at the most should have been confirmed as Sub-Inspector in 2010.

D. That the appellant has become the victim of discrimination at the hands of respondents. Other colleagues of the appellant some of whom were junior to appellant were given benefit of the 03 years rule. The appellant being senior to those individual

and more deserving on the ground of having served in the hard area of Malakand Division has fallen junior to those colleagues. Hence, on this score as well the impugned acts and omissions of respondents are liable to be set aside.

E. That the appellant has a spotless career and exemplary service record in view of rule 13.14 Police Rules 1934. Hence, there is no bar in confirmation/termination of probation in the present case at par with other colleagues of the appellant.

F. That further grounds with leave of this Honourable Tribunal will be raised at the time of oral submissions.

Therefore, it is humbly prayed that on acceptance of this appeal, the appellant may be held entitled to confirmation as Sub-Inspector from the date of appointment of promotion as officiating Sub-Inspector on 20-10-2007. In alternative benefit of 03 years rule may be ordered to be extended to the appellant and his confirmation as Sub-Inspector may be reckoned from 20-10-2010. Any other remedy though may not specifically prayed for but which cannons of justice would demand may also be granted.

Appellant

Bacha Hazrat

CERTIFICATE:

Certified that no such like appeal has earlier been filed before this Honourable Tribunal on the subject matter.

Appellant

Barrister
Advocate High Court

(6)

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

Service Appeal No._____ of 2016

Bacha Hazrat .....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP and others.....Respondents

AFFIDAVIT

I, **Adnan Khan** (Counsel for Appellant) as per instructions of my client, do hereby solemnly affirm and declare that the contents of the above titled Appeal are true and correct to the best of my knowledge and belief. Furthermore, no such like appeal has earlier been filed before this Honourable Tribunal or elsewhere on this subject matter

DEPONENT

Barrister
Dr. Adnan Khan
Advocate High Court

ATTESTED

Muhammad Mushtaq Khan
OATH COMMISSIONER
District Courts Swat.
upto 17/11/2017
No. 15 Date 28-5-2016

(7)

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

Service Appeal No._____ of 2016

Bacha Hazrat .....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP and others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Bacha Hazrat s/o Muhammad Hazrat r/o Dherai Talash, Tehsil Chakddara Dir Lower (currently serving as DSP H/Q District Shangla.

RESPONDENTS:

1) Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP at Peshawar.
2) The Regional Police Officer, Malakand Division at Saidu Sharif Swat.
3) District Police Officer District Shangla.

Appellant

Bacha Hazrat

CERTIFIED TO BE TRUE COPY

Barrister Dr. Adnan Khan Advocate High Court

Annex "A" (8)

POLICE DEPARTMENT

POLICE TRAINING COLLEGE HANGU
Estb: 1935.

Office of the Superintendent of Police, Dir Lower Diary No. 7968 Dated 13/8

P.T.C HANGU

FOR PUBLICATION IN NWFP POLICE GAZETTE PART-II ORDERS BY THE COMMANDANT POLICE TRAINING COLLEGE HANGU.

NOTIFICATION

Dated 02-08-2007

Notification No. 1279 /S/RESULT: Since the training period of Upper College Course has been reduced from Six months to Four months, by the Provincial Police Officer, N.W.F.P, Peshawar vide his office Memo: No.13742-90/E-I dated 19.06.2007, the following students of "Upper College Course" appeared in the final examination, held at PTC Hangu for the term ending 25th July, 2007 and have qualified to be declared as PASSED. They are hereby notified and their order of MERIT is noted against each name.

S/No.	Comp#	Name	Rank	District	Merit
1	A2041	Mian Mazhar Shah	39/MR SI	Mardan	1
2.	A2044	Zahid Khan	302/M ASI	Dir Lower	2
3.	A2043	Badshah Hazrat	303/M ASI	Dir Lower	3
4.	A2042	Gohar Ali	272/P ASI	Peshawar	4
5.	A2038	Shahid Adnan	7/D ASI	D.I.Khan	5
6	A2035	Muhammad Ijaz	274/P ASI	Peshawar	6
7	A2037	Khalid Usman	74/K ASI	Kohat	7
8.	A2040	Muhammad Zaman	304/M ASI	Dir Lower	8
9.	A2039	Muhammad Salim Tariq	6/D ASI	D.I.Khan	9
10.	A2031	Ghulam Mustafa	202/H ASI	Abbottabad	10
11.	A2032	Sabbir Muhammad	30/H SI	Manshera	11
12.	A2045	Afsar Khan	94/K ASI	Kohat	12
13.	A2036	Fazal Wahid	259/P ASI	Peshawar	13
14.	A2030	Razeem Khan	203/H ASI	Abbottabad	14
15.	A2034	Muhammad Aurangzeb	204/H ASI	Kohistan	15
16.	A2047	Hazrat Nabi	206/H ASI	Haripur	16
17	A2046	Faqir Hussain	136/H SI	Abbottabad	17
18.	A2033	Ghanullah Khan	258/P SI	Peshawar	18

OB/EC

DSP Dir 13/08

Note: None of the above could be benefitted as Cadet Law Instructor as envisaged in S.O's No.11/1987 and 7/2003 on the following grounds:

(1) Candidates at Merit No.1 to 9 & 12 have already been benefited with the above quoted orders.

(2) Candidates at Merit No. 10 & 11 didn't attended the board process for Cadetship.

(3) Candidates at Merit No.13 to 18 have not obtained 70 or above % marks in over all subjects, as requirements, provided in S.O.No.1 of 2004 issued by the Commandant, PTC Hangu.

Commandant,
Police Training College Hangu

Annex "B" (9)

From The District Police Officer,
Dir Lower at Timergara.

To The Deputy Inspector General of Police,
Malakand Region-III, Saidu Sharif, Swat.

No. 9112 /EB, Dated Timergara, the 1-6 /2010.

Sub:- APPLICATION FOR CONFIRMATION AS S.Is.

Memo;-

Application of S.Is Bad Shah Hazrat Khan No.303/M and Zahid Khan No.302/M of this District Police for confirmation in the rank of Sub-Inspectors are submitted herewith for favour of condideration, please.

Encls:- (02)

District Police Officer,
Dir Lower at Timergara.

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

DyIG's Lower/SDPO-Adl
22-6-10

Annex "C" (5) (10)

From:- The Deputy Inspector General of Police,
Malakand Region, Saidu, Shariff, Swat .

To :- The District Police Officer,
Dir Lower at Timergara.

No. 6482 /EB, Dated Timergara, the 15-6 /2010.

Subject:- APPLICATION FOR CONFIRMATION IN THE RANK OF S.I.

Memo:-

Reference your office Memo: No.9112/EB, dated 01-06-2010.

The following SIs of your district have not yet completed the period for confirmation in the rank of SIs as required vide Police Rules 13.14:-

1. SI Badshah Hazrat No.303/M.
2. SI Zahid Khan No.302/M.

Sd/-
Deputy Inspector General of Police,
Malakand Region, Saidu, Sharif, Swat.

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT T.GARA.

No. 10413-14 /EB, Dated Timergara, the 21/6 /2010.

Copies to SI Badshah Hazrat SHO P.S.Ouch & SI Zahid Khan SHO P.S Mayar for information with reference to their applications.

S Ho-ouch

For information pl

District Police Officer,
Dir Lower at Timergara.

Adam Zai
SDPO
23-06-2010

CERTIFIED TO BE TRUE COPY

Barrister
D. Aslam Khan
Advocate High Court

Annex "D" (11)

Diary No. 6102 Dated 9/4/12

1397/5 2/4/12

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

To : The Deputy Inspector General of Police,
Malakand Region, Swat.

No. 6184 /E-II dated Peshawar the 2 / 4 /2012.

Subject: **CONFIRMATION/LIST "F"**

Memo:

Please refer to your office Memo: No. 1784/E dated: 20.03.2012.

Confirmation case of Sub-Inspectors serving in Malakand Region who have completed other criteria as per Police Rules may be proceed after three years Service as Sub-Inspector.

Moreover copy of the approval of W/PPO is enclosed in which W/PPO has given approval for promotion [redacted] instead of 5 years, other requirements remaining the same.

No. 2177-84/E dt 2/4/2012

E.C

Inform all DPOs in Malakand Region.

(MUMTAZ KHAN) 31/3
Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar

Deputy Inspector General of Police
Malakand Region, Saidu Sharif Swat

No 7667-70/EC, dt 11/4/2012

All SDPOs except Chakdara to inform all the SIs mentioned below who are of required criteria.

1. SI Zahid Khan No. 302/M SI F
2. " Ajmal Khan No. 151/M
3. " Akbar Mohmand No. 220/M
4. " Saeed-ur-Rehman No. 31/M

District Police Officer,
Dir Lower at Timergara
9/4

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

Annex "E" (12)

RECOMMENDATION FOR THE APPROVAL OF THE W/PPO FOR RELEXATION IN POLICE RULE 13-14(2) FOR PROMOTION TO LIST "F" OF SIs WITH THREE YEARS SERVICE AS SI INSTEAD OF 5 YEARS

The following SIs of Khyber Pakhtunkhwa Police were recommended by their Region DIsG on proper Form i.e 13.15 (1) for admission to list "F" and promotion as Offg: Inspector.

S/NO	NAME
10.	SI Abdul Khanan No. B/62
11.	SI Altaf No. H/85
12.	SI Shah Nawaz No. H/191
13.	SI Muhammad Khurshid No. H/201
14.	SI Ghulam Mustafa No. H/202
15.	SI Hazrat Nabi No. H/204
16.	SI M. Altaf No. H/31
17.	SI Amjid Ali No. MR/73
18.	SI/Inspector (on adhoc basis) Sher Rehman No. MR/74

Their case was examined by DPC in its meeting held on 14.12.2010.and was deferred from admission to list "F" and promotion as Offg: Inspector as they have not competed 05 years service as Sub-Inspector.

Now the following SIs have made representation and stated therein that Police Rules 13-14 relates to promotion of SI as selection grade and not inclusion to list "F" and promotion as Offg: Inspector. Thus Police Rule 13-14 related to selection grade is also not applicable as selection grade system has been subsided since long. He further stated that Police Rule 13-15 and 13-16 is applicable for admission to list "F" and promotion as Offg: Inspector and requested that their case may kindly be considered in accordance with Police Rules 13-15 and 13-16.

8 SI Amjid Ali No. MR/173 of Mardan Region.
9. SI Sher Rehman No. MR/174 of Mardan Region.
10. SI Hazrat Nabi No. H/206 of Hazara Region.
11. SI Muhammad Altaf No. H/31 of Hazara Region.
12. Muhammad Altaf No. H/85
13. Ghulam Mustafa No. H/202
14. Khurshid Khan No. H/201.

Their representations were put up to AIG/Legal on which he also furnished his comments.

Their case was again examined by DPC in its meting held on 05.04.2011 and entrusted to Sub-Committee consisting of the following officers to examine and submit their report to DPC.

1. DIG/HQrs
2. AIG/Establishment
3. AIG/ Legal
4. Registrar

The Sub-Committee examined their case on 06.05.2011 and submitted their finding which is as under.

The Sub-Committee thoroughly examined the case and come to unanimous conclusion that Police Rule 13.14 relates to promotion of SI as selection grade and the selection grade system has been discontinued there fore the Police Rule 13.14 is not applicable for consideration of SI inclusion to list "F" and promotion as offg: Inspector.

The Sub-Committee agreed to recommend for consideration for admission to list "F" and promotion as Offg: Inspectors the cases of SIs duly recommended by DIG Region concerned under form 13.15 (1) as per Police Rules 13.15 and 13.16.

There was disagreement on the interpretation of Police Rule 13.14 among the committee members of DPC wherein it is stated that 5 years service as an SI is mandatory for promotion to selection grade. Members observed that since selection grade has been abolished the provision of 5 years does not stand. However, Additional IGP Special Branch was of the view that the 5 years mandatory period for promotion stays since the promotion is to an even higher level i.e to promotion list "F". The members finally agreed to refer the issue to the Provincial Police Officer to seek approval for promotion to list "F" of SIs with three years service as SI instead of 5 years, other requirements remaining the same. The option is exercised under Police Rule 13.14,(2) " Exception to this rule may be made only with the sanction of the Inspector General in recognition of distinguished service and exemplary conduct".

Kind order/approval of the W/PPO is solicited.

(KHALID MASOOD)
Addl: IGP/Headquarters,
Khyber Pakhtunkhwa
Peshawar.

(FIAZ AHMAD KHAN TORU)
Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar.

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Barrister
Dr. Adnan Khan
Advocate High Court

Annex "F" (13)

CR#

From : **The Regional Police Officer, Malakand, at Saidu Sharif, Swat.**

To : **The Provincial Police Officer, Khyber Pukhtunkhwa, Peshawar.**

No. 4679 **/E, dated Saidu Sharif, the** 09-06 **/2014.**

Subject: **REPRESENTATION OF SENIORITY LIST "F".**

Memorandum:

A self explanatory representation preferred by Inspector Badshah Hazrat No. M/303 of Investigation Wing Dir Lower, requesting therein for fixation his seniority with his colleague along with its enclosures is submitted herewith for favour of consideration please.

Encls: 26

Regional Police Officer,
Malakand, at Saidu Sharif, Swat.

No. 4680 **/E,**

Copy to Head of Investigation Wing, Dir Lower with reference to his office memo: No. 2707/Inv: dated 04/06/2014.

Regional Police Officer,
Malakand, at Saidu Sharif, Swat.

Dig. Cvo-314/Est
Dt: 16/06/014

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

E-10
Dt: 18/6

SE-II
18/6

(14)

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

THROUGH PROPER CHANNEL

Subject: **REPRESENTATION FOR SENIORITY LIST "F"**

Respected Sir,

Kindly refer to worthy provincial police officer Khyber pakhtoonkhwa memo no 370-90/E-11 dated 9.5.2014 on the subject "SENIORITY OF INSPECTORS/ SUB INSPECTOR ON LIST "F"OF KHYBER PAKHTUKHWA AS IT STOOD ON 09.05.2014 .In this connection I have to submit my following presentation in connection of my seniority of list "F".

- That I was promoted as Offg: SI vide worthy RPO Swat notification / order No. 4058-65/E, dated 20.10.2007.
- That I have passed my upper college course vide notification No. 1299 dated 02.08.2007 issued by Commandant PTC Hangu.
- **That as SI my posting period as Incharge Investigation remained as under.**

S. No	Place of Posting	From	TO
1	I.C Investigation PS Khall	27.10.2007	10.03.2008
2	I.C investigation PS Balambat	22.10.2008	23.03.2009

- **That as SI/ SHO Period remained as under.**

S. No	Place of Posting	From	TO
1	SHO PS Khall	11.03.2008	18.09.2008
2	SHO PS Khall	23.03.2009	10.10.2009
3	SHO PS Ouch	10.10.2009	07.02.2011
4	SHO PS Khall	07.02.2011	19.08.2011

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Barrister Dr. Adnan Khan Advocate High Court

- That I was confirmed as Offg: Sub Inspector vide Regional Police Officer Malakand memo: No. 5629-44/E-11 dated 10.08.2012.
- That my name was brought on promotion list "F" vide Provincial Police Officer Khyber Pakhtunkhwa order No. 2409/E-II dated 30.01.2013 and consequently promoted to the rank of Offg: inspector vide memo: No. 2579-84/E-II dated 01.02.2013.
- That as per rules my offg. Period as Sub Inspector of two years completed on 27.10.2009.
- That my posting as SHO for one year continues period also completed on 23.06.2010 with **"A"** reports of ACRs.
- That my ACRs reports as offg: si recorded **"A"** in the mentioned period

(15)

- That despite the above facts my confirmation was ignored as my request for confirmation was not considered vide RPO memo: No. 6482/EB dated 14.06.2010 without any cogent reason.
- That in the cited period other Junior Officer names were brought on promotion list 'F' on 30.07.2010.
- That for instance the name stood in Seniority List vide SNo 84.85.99.100.106.107.125.126.141.144.152 and other were junior then me but despite the fact that I was qualified for confirmation as Sub Inspector was ignored due to unknown reasons.
- That my name is stood vide serial No. 221 in the circulated seniority list.
- That beside the above officer other junior officer also confirmed and promoted to the rank of Inspector, but I have no access to their service record to mentioned their name.
- That my duedate of confirmation / promotion to List "F" is 23.03.2010 instead of 10.08.2012.
- Keeping in view the above facts it is therefore humbly requested that the seniority list showing seniority of inspectors may kindly revised and my name may kindly be placed before the name of Afsar khan and after the name of Shaukat Ali stood vide serial no 84 and 83 respectively.

Your obediently

BADSHAH HAZRAT No. 303
C.O HQrs: Investigation Wing,
Dir Lower..
(MALAKAND REGION III)

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Barrister
Dr. Adnan Khan
Advocate High Court

(16)

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

To : The Regional Police Officer,
Malakand Region Swat.

No. 777 /E-II, dated Peshawar, the 24/7 /2014.

Subject: **REPRESENTATION OF SENIORITY LIST 'F'**

Memo:

Please refer to your Memo No.4679/E , dated 09.06.2014.

The Representation preferred by Inspector Badsha Hazrat No.M/303 of investigation Wing Dir Lower is sent herewith for comments please.

Encl: As above

(Farhad Ali Yousafzai)
Registrar
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

24/7

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Barrister
Dr. Adnan Khan
Advocate High Court

Reg
Region III
Reference:-

(17)

WORKING PAPER REGARDING REPRESENTATION OF INSPECTOR BADSHAH HAZRAT NO. M/303 FOR SENIORITY WITH HIS COLLEAGUES

The RPO/Malakand has forwarded an application of Inspector Badshah Hazrat at "F/A". Inspector Badshah Hazrat in his application stated that he was promoted as Offg: Sub-Inspector on 20.10.2007 and passed Upper College Course on 02.08.2007. As Sub-Inspector his posting period as Incharge Investigation remained as under:-

SR.NO	PLACE OF POSTING	FROM	TO
1.	I.C Investigation PS Khall	27.10.2007	10.03.2008
2.	I.C Investigation PS Balamabat	22.10.2008	23.09.2009

As Sub-Inspector/SHO period remained as under:-

SR.NO	PLACE OF POSTING	FROM	TO
1.	SHO PS Khall	11.03.2008	18.09.2008
2.	SHO PS Khall	23.03.2009	10.10.2009
3.	SHO PS Ouch	10.10.2009	07.02.2011
4.	SHO PS Khall	07.02.2011	19.08.2011

He was confirmed as Offg: Sub-Inspector on 10.08.2012. His name was brought on promotion List "F" on 30.01.2013 and consequently promoted to the rank of Offg: Inspector on 01.02.2013. As per rules, his Offg: period as Sub-Inspector of two years completed on 27.10.2009. His posting as SHO for one year continues period also completed on 23.06.2010 with "A" reports ACRs. His ACRs reports as Offg: Sub-Inspector recorded "A" in the mentioned period. Despite the above facts, his confirmation was ignored as his request for confirmation was not considered vide RPO Memo: No. 6482/EB, dated 14.06.2010 without any cogent reason. In the cited period other junior officers names were brought on promotion List "F" on 30.07.2010. For instance the names stood in the Seniority List at Sr. Nos. 84, 85,99, 100, 106, 107, 125, 126, 141, 144, 152 and others were junior to him but despite the fact that he was qualified for confirmation as Sub-Inspector was ignored due to unknown reasons. His name is stood at Sr. No. 221. Besides the above officer, other junior officers were also confirmed and promoted to the rank of Inspector. But he has no access to their service record to mentioned their names. His due date of confirmation/promotion to List "F" is 23.03.2010 instead of 10.08.2012. He requested that the Seniority List at "F/B" showing seniority of Inspectors may kindly revised and his name may kindly be placed before the name of Afsar Khan and after the name of Shaukat Ali stood vide Sr. No. 84 & 83 respectively.

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Barrister
Dr. Adnan Khan
Advocate High Court

COMMENTS OF RPO MALAKAND

RPO Malakand comments were sought at "F/C". The relevant Paras of the comments are reproduced as under:-

It is submitted for kind perusal that as per previous policy in Malakand Region Sub-Inspector on List-"E" on the availability of confirmed posts of Sub-Inspectors, were promoted substantively on two year probation and subsequently confirmed in the rank of Sub-Inspectors by counting their period of Offg: towards probation period as provided in Police Rule 13.18.

Offg: Sub-Inspectors, having five years service as Sub-Inspectors were considered for confirmation as Sub-Inspector under Police Rule 13.14 (2)(a).

On observation by the Sub-Inspector that the period for confirmation as Sub-Inspector is two years in the other Region, guidance was solicited from CPO, Peshawar vide his office Memo: No. 1784/E, dated 20.03.2012.

In response the CPO, Peshawar vide Memo: No. 6184/E-II, dated 02.04.2012 passed remarks that confirmation case of Sub-Inspectors serving in Malakand Region who have completed other criteria as per Police Rules may be processed after three years service as Sub-Inspector. Which is being complied with in letter and spirit.

Later-on, the CPO, Peshawar vide letter No. 370/E-III, dated 06.02.2015 directed that Police Rules 13.18 should be follow/complied with for confirmation as Sub-Inspector, which requires further clarification as to whether it is to apply to the promotion in the Offg: rank or substantive, as confirmation of Sub-Inspectors has specific term and condition lay down.

1. .Qualifying Upper College Course.
2. Posting as SHO or OII or 03 years in S.B or CTD or Training Institution or 02 years service Elite Force.
3. Clear ACRs for 05 years.

A large number of Sub-Inspectors have been confirmed in his Region according to the 5/3 years policy, who have been subsequently promoted as Inspectors/DSsP.

Revision of date of confirmation of Inspector Badshah Hazrat at this stage will provide a base for other Inspectors/DSsP to submit similar applications for seniority which will not only disturb the seniority of Inspectors/DSsP of Malakand Region but will also disturb the seniority of DSsP and Inspectors at Provincial level.

It is therefore, requested that the matter may kindly be considered at the CPO level and his office may be guided how to go ahead with the revision of the date of confirmation of Inspector Badshah Hazrat as Sub-Inspector and other similar cases which may come of if revision of his date of confirmation is done.

FACTS

As per record, names at Sr. Nos. 84 & 83 i.e Shaukat Ali Shah No. K/94 and Afsar Khan belong to Kohat Region and they were confirmed as Sub-Inspectors on 30.06.2008. While according to RPO Malakand letter at "F/D", date of confirmation of applicant at Sr. No. 8 is 10.08.2012.

Committee has to decide the case.

CERTIFIED TO
BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

Annex "G" (19)

(2)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR
No. 12491 /E-II, dt: 10/05/2016

To : The Regional Police Officer,
Malakand Region.

Subject: REPRESENTATION OF INSPECTOR BADSHAH HAZRAT NO.M/303.

Memo:

Please refer to letter No. 6817/E, dated 31.08.2015 Inspector Badshah Hazrat M/303 stated that as per rules, his Offg: period as Sub-Inspector of two years completed on 27.10.2009. His posting as SHO for one year continues period also completed on 23.06.2010 with "A" reports ACRs. His ACRs reports as Offg: Sub-Inspector recorded "A" in the mentioned period. Despite the aforementioned facts, his confirmation without any cogent reason.

RPO Malakand comments were sought. According to RPO/Malakand reply, as per previous policy in Malakand Region Sub-Inspector on List-"E" on the availability of confirmed post as Sub-Inspectors were promoted substantively on two year probation and subsequently confirmed on 10.08.2012 in the rank of Sub-Inspectors by counting their period of Offg: towards probation period as provided in Police Rule 13.18.

Decision:

He was confirmed as Sub-Inspector on 10.08.2012 According to Rule 12.2(3) Police Rules 1934, seniority reckoned from the date of confirmation. Therefore, his representation is not maintainable.

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

No. 12492-97 /E-II,

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

1. Office Supdt: Secret Branch, CPO
2. Incharge Central Registry Cell, CPO.

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

19-A

BETTER COPY

OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKKHWA
CENTRAL POLICE OFFICE PESHAWAR
No.1249/E-II, dt: 10/05/2016

To The Regional Police Officer,
Malakand Region

Subject: REPRESENTATION OF INSPECTOR BADSHAH HAZRAT No.M/303

Memo:

Please refer to letter NO.6817/E dated 31-03-2015.

Inspector Badshah Hazrat M/303 stated that as per rules, his Offg: period as Sub-Inspector of two years completed on 27-10-2009. His posting as SHO for one year continuous period also completed on 23-06-2010 with "A" reports ACRs. His ACRs reports as Offg: Sub-Inspector recorded "A" in the mentioned period. Despite the aforementioned facts, his confirmation without any cogent reason.

RPO Malakand comments were sought. According to RPO/Malakand reply as per previous policy in Malakand Region, Sub-Inspectors were on list "E" on the availability of confirmed posted of Sub-Inspectors were promoted substantively on two year probation and subsequently confirmed on 10-08-2012 in the rank of Sub-Inspector by counting their period of Offg: towards proation period as provided in Police Rule 13.18.

Decision:

He was confirmed as Sub-Inspector on 10-08-2012. According to Rule 12.2(3) Police Rules 1934, seniority reckoned form the dated of confirmation. Therefore, his representation is not maintainable.

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

No.1250-51/E-II,
Copy of above is forwarded for information and necessary action to the:-

1. Office Supdt: Secret Branch, CPO
2. Incharge Central Registry Cell, CPO

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

بعدالت معزز خیبر پختونخواہ سروس ٹریبونل پشاور

کورٹ فیس		قیمتی ایک روپیہ

مورخہ 26 مئی 2016ء منجانب اپیلانٹ

مقدمہ بادشاہ حضرت بنام حکومت وغیرہ

دعویٰ سروس اپیل

جُرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کارروائی متعلقہ آن مقام پشاور / مینگورہ کے لیے بیرسٹر ڈاکٹر عدنان خان ایڈووکیٹ / ارشد خان ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ وتقرر ثالث وفیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک وروپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائیر کرنیا پیل نگرانی ونظر ثانی وپیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور وقبول ہوگا دوران مقدمہ میں جو خرچہ وہرجانہ التوائے مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا وخرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں۔ لہٰذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم 26 ماہ مئی 2016ء

العبد ______ گواہ شد ______ العبد

بادشاہ حضرت

بمقام پشاور / مینگورہ سوات کے لئے منظور ہے۔

Attested & Accepted

ADNAN LAW ASSOCIATES

Barrister
Dr. Adnan Khan
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.573/2016.

BachaHazrat s/o Muhammad Hazrat r/o DheraiTalash, Tehsil ChakddaraDir Lower (currently serving AS DSP H/Q District Shangla).

..... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP at Peshawar.
2. The Regional Police Officer, Malakand Division at Saidu Sharif Swat.
3. District Police Officer District Shangla.

..... Respondents

Subject: REPLY ON BEHALF OF RESPONDENTS NO.1, 2 & 3.

Preliminary Objections

1. Appellant is claiming seniority against his joiners but no one has been cited as private respondents therefore the appeal is not maintainable.
2. Under Police Rules 1934, there is nowhere mention that confirmation is to be granted from the date of appointment, hence the prayer for confirmation with effect from 20/10/2007 is quorum non judice.
3. The appeal of appellant is badly time barred. He has admitted that he made successive representations. It is well settled principle of law that successive departmental representations do not confer fresh right for lodging service appeal. Moreover the department/competent Authority issue seniority list with confirmation of the officers and in footing note direct all officers whoever aggrieved with the said list on merit counts, should file representation within one month but the appellant has not availed this opportunity as such the appeal is squarely timebarred.
4. That the appeal has not been based on facts.
5. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
6. That the appellant is estopped by his own conduct to file the appeal.
7. That the appellant has not approached this Honorable Tribunal with clean hands.
8. That the appellant has got no cause of action and locus standi.
9. That the appellant has suppressed material facts from this Honorable Tribunal.

Facts

1. Pertains to record hence no comments.
2. Pertains to record hence no comments.
3. Pertains to record hence no comments.
4. Pertains to record hence no comments.

5. Correct to the extent that appellant's case was recommended by District Police Officer Dir Lower as per record.

6. Correct to the extent that Competent Authority did not honor DPO's request and the recommendation was rejected as per law. It is worth clarifying that the appellant should have preferred appeal against the rejection order in the competent forum but the appellant did not approach accordingly, hence the instant appeal is squarely time barred on that score which is not maintainable in its form.

7. Incorrect the reference agitated in Para 7 does not particularly relate to the case of appellant and it is just circulation/directives for the subordinate authorities to process the case of confirmation within the four corners of Police Rules 1934, for the officers fulfilling the requisite criteria.

8. Incorrect Police Rule 13-14(2) of Police Rules 1934 is only applicable to the officers for consideration of selection grade promotion which is not applicable to the instant appeal as the present appeal relates to regular promotion and not the selection grade promotion.

9. Incorrect the appellant has neither mentioned the names of junior officers nor made them parties in the present appeal, therefore comments against other officers would not be appropriate.

10. Incorrect no discrimination or action against law has been taken against the appellant and this is worth to mention that if he is brought on Promotion list "F" on 30/1/2013, the appellant should have approached the Honorable Tribunal immediately after representation to the competent authority but he overlooked the process and as such this appeal is time barred as infructuous, being not filed within time.

11. Incorrect the appellant has admitted that he filed various representations while did not bother to file service appeal which makes the instant appeal as time barred and is not entertain able on this score of time limitation.

12. Incorrect the representation of the appellant has been correctly dismissed by the competent authority in accordance with Police Rules 1934.

13. Approach to the competent forum by any individual is the right given by the rules/law and Constitution of Islamic Republic of Pakistan hence no comments.

Grounds

A. Incorrect the appellant was neither discriminated nor treated illegally and the impugned order under appeal is based on legal circumstance.

B. Incorrect the Policerule do not provide confirmation from the date of appointment of civil servant and citation of confirmation is based on satisfactory working during period of probation coupling with completion of probation period provided under Police Rule 13-18 of Police Rules 1934.

C. Incorrect the plea taken in this Para is not worth consideration on account of time limitation as the appellant should have agitated his grievance before this Honorable Tribunal well in time.

D. No discrimination or illegality has been passed in the case of appellant and he has been extended his due right under the rules from time to time. The appellant has failed to mention the names of junior officers and did not make them party in the instant appeal therefore needs no comments.

E. Pertains to record. The service record of appellant can be submitted whenever directed by this Honorable Tribunal.

F. During the course of arguments, respondents also seeks permission of this Honorable Tribunal to submit additional grounds, if any

Prayer:

It is therefore, humbly prayed that keeping in view of aforementioned submissions, the subject appeal of appellant devoid of merit, legal footing may graciously be dismissed.

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

Regional Police Officer,
Malakand at Saidu Sharif, Swat
(Respondent No. 2)

District Police Officer,
Shangla
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 573/2016.

Bacha Hazrat s/o Muhammad Hazrat r/o Dherai Talash, Tehsil Chakddara Dir Lower (currently serving AS DSP H/Q District Shangla).

..... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Provincial Police Officer/ IGP at Peshawar.
2. The Regional Police Officer, Malakand Division at Saidu Sharif Swat.
3. District Police Officer District Shangla.

..... Respondents

AUTHORITY LETTER

Muhammad Muzaffar Khan Sub Inspector Legal District Shangla is hereby authorized to appear on behalf of the Respondents No. **1, 2 & 3** before the honorable Service Tribunal Peshawar. He is authorized to submit all required documents and replies etc pertaining to the appeal through the Government Pleader.

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

Regional Police Officer,
Malakand, at Saidu Sharif, Swat
Regional Police Officer,
Malakand Saidu Sharif, Swat
(Respondent No. 2)

District Police Officer,
Shangla
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 573/2016.

Bacha Hazrat s/o Muhammad Hazrat r/o Dherai Talash, Tehsil Chakddara Dir Lower (currently serving as DSP H/Q District Shangla).

..... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Provincial Police Officer/ IGP at Peshawar.
2. The Regional Police Officer, Malakand Division at Saidu Sharif Swat.
3. District Police Officer District Shangla.

..... Respondents

AFFIDAVIT

We the deponents in the above titled service appeal, do here by solemnly affirm and declare on oath that the contents of Para wise comments are correct and true to the best of our knowledge and belief and nothing have been kept concealed from this honorable tribunal.

Deponents

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

Regional Police Officer,
Malakand Saidu Sharif, Swat
(Respondent No. 2)

District Police Officer,
Shangla
(Respondent No. 3)

Annex "B" (A) (9)

From The District Police Officer,
Dir Lower at Timergara.

To The Deputy Inspector General of Police,
Malakand Region-III, Saidu Sharif, Swat.

No. 9112 /EB, Dated Timergara, the 1-6 /2010.

Sub:- APPLICATION FOR CONFIRMATION AS S.Is.

Memo;-

Application of S.Is Bad Shah Hazrat Khan No.303/M and Zahid Khan No.302/M of this District Police for confirmation in the rank of Sub-Inspectors are submitted herewith for favour of condideration, please.

Encls:- (02)

District Police Officer,
Dir Lower at Timergara.

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

No. 20441/SDPO Adl
22-6-10

Annex "B" (10)

From:- The Deputy Inspector General of Police, Malakand Region, Saidu Sharif, Swat.

To:- The District Police Officer, Dir Lower at Timergara.

No. 6482 /EB, Dated Timergara, the 15-6 /2010.

Subject:- APPLICATION FOR CONFIRMATION IN THE RANK OF S.I.

Memo:-

Reference your office Memo No.9112/EB, dated 01-06-2010.

The following SIs of your district have not yet completed the period for confirmation in the rank of SIs as required vide Police Rules 13.14:-

1. SI Badshah Hazrat No.303/M.
2. SI Zahid Khan No.302/M.

Sd/-
Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat.

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT T.GARA.

No. 10413-14 /EB, Dated Timergara, the 21/6 /2010.

Copies to SI Badshah Hazrat SHO P.S.Ouch & SI Zahid Khan SHO P.S Mayar for information with reference to their applications.

SHO Ouch
For information

SDPO Adenzai
23/6-2010

District Police Officer,
Dir Lower at Timergara.

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2660 /ST Dated 13 /12/2017

To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Shangla.

Subject: **JUDGEMENT/ ORDER IN APPEAL NO. 573/16, MR. BACHA HAZRAT** & 2 OTHERS

I am directed to forward herewith a certified copy of Judgment/order dated 07/12/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

O/C

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

In Service Appeal No.573 of 2016

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VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer and others

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Opp. Grassy ground Mingora Swat.
Cell: 03469415233

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AFFIDAVIT

I, **Adnan Khan** (Counsel for Appellant), as per instructions of my client, do hereby solemnly affirm and declare that the contents of the above rejoinder in titled Appeal are true and correct to the best of my knowledge and belief.

DEPONENT

Dr. Adnan Khan, Barrister-at-Law

ATTESTED
OATH COMMISSIONER
License No
No 108 Date 25-3-2017
District Courts Swat

(6) Annex A-1

RPO Malakand

1771/E

Date 28-5-014

From: The Inspector General of Police,
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To: All Addl: Inspectors General of Police,
Khyber Pakhtunkhwa, Peshawar.
The Capital City Police Officer,
Peshawar.
All Regional Police Officers,
In Khyber Pakhtunkhwa, Peshawar.
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Khyber Pakhtunkhwa, Peshawar.
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Hangu.
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No 4375-86 /E
Dt 28-05-2014

All DPOs / Heads of ... in Mkd Region

For information and n/action as directed please.

Encl: 12

Office Supdt:
For Regional Police Officer,
Malakand, at Saidu Sharif Swat

EC

Circulate amongst all concerned accordingly.

PO/Ombhur
2/6/2014

CERTIFIED TO BE TRUE COPY

Barrister
Dr. ... Khan
Advocate High Court

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High Court

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