

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

Objection Petition

On CM Application No. 795/2023 in Service Appeal No. 1771/2023 & 2072/2023

Tayyab Jan etc Vs Inspector General of Police, Khyber Pakhtunkhwa etc  
&  
Shakil Ahmed Vs Inspector General of Police, Khyber Pakhtunkhwa etc

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DEPONENT



DSP/ Legal,  
CPO, Peshawar

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

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&  
Shakil Ahmed Vs Inspector General of Police, Khyber Pakhtunkhwa etc

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 9613

Dated 30-11-23

The facts pertaining to objection petition on the CM are as under:-

1. Incorrect and misleading. The Letters dated 12.03.2023 & 16.03.2023 are legal, lawful in accordance with Rules and in compliance with Apex Court judgments on the matter of out of turn promotions passed by the Hon'ble Supreme Court of Pakistan in 2013 SCMR 1752, Civil Review Petition No. 193/2003 reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 and in compliance with Order Sheet of Hon'ble Supreme Court of Pakistan dated 26.01.2023 in Suo Moto Contempt proceedings vide CrI.O. Petition No. 38/2021 in CP No. 381-P/2020.
2. Correct to the extent of Writ Petition No. 1289-P/2023 titled Tayyab Jan etc Vs Govt: of Khyber Pakhtunkhwa etc wherein vide Order dated 04.04.2023 interim relief was granted thereof. The Writ Petition was remitted to the Hon'ble Khyber Pakhtunkhwa Service Tribunal vide order dated 29.08.2023 being a matter related to terms and conditions of service for which Hon'ble Tribunal is proper forum for adjudication.
3. Pertains to record, needs no comments.
4. Pertains to official duties, needs no comments.
5. Pertains to record, needs no comments.
6. Incorrect and misleading. The Police Act, 2017 Section 13(8) is very much clear regarding transfer/ posting of Police officers in the following terms:-

*(8) Every police officer shall be liable for posting to any branch, division, bureau and section, or anywhere in or outside the police unless otherwise provided under this Act.*

In addition, the current substantive rank of the appellant is DSP (BS-17) while he was working on Acting Charge Base as SP in his own pay-scale which is clearly mentioned in all orders of transfer/ postings for those officers who are working on Acting Charge Base for the purpose of duties. Acting Charge Base is neither promotion nor entitles an officer for further posting in the senior rank. Hence, the claim of the appellant is totally devoid of law & rules.

Furthermore, in compliance with Order Sheet of Hon'ble Supreme Court of Pakistan dated 26.01.2023 in Suo Moto Contempt proceedings vide Crl.O. Petition No. 38/2021 in CP No. 381/2020 and in pursuance of Judgments passed by Hon'ble Supreme Court of Pakistan in 2013 SCMR 1752, Civil Review Petition No. 193/2003 reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 and consolidated Judgment dated 30.06.2020 in Civil Petitions No. 1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 on issues of Out of Turn Promotions, all Unit Heads, Regional Police Officers and District Police Officers of Khyber Pakhtunkhwa Police were directed vide this office Letter No. CPO/CPB/75, dated 14.02.2023, to ensure compliance of above mentioned Orders in letter and spirit. Accordingly, all Out of Turn Promotions granted to Police personnel either on gallantry or otherwise belonging to different Units, Regions & Districts have been withdrawn by the concerned authorities and consequently their seniority has been re-fixed along with their Batchmates who were promoted during their intervening period by maintaining original inter-se-seniority.

The appellant availed out of turn promotions in FRP hence demoted from the rank of DSP to the rank of SI and his seniority is kept intact with his batchmates in consequence of Hon'ble Supreme Court judgments reported as 2013 SCMR 1752, Civil Review Petition No. 193/2003 reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218, consolidated Judgment dated 30.06.2020 in Civil Petitions No. 1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 and latest dated 26.01.2023 in Suo Moto Contempt proceedings vide Crl.O. Petition No. 38/2021 in CP No. 381/2020.

It is worth to mention here that the appellant along with others approached Hon'ble Peshawar High Court, Peshawar through Writ Petition No. 1289-P/2023 titled Tayyab Jan etc Vs Govt. of Khyber Pakhtunkhwa and the Hon'ble Peshawar High Court vide judgment dated 29.08.2023, remitted the Writ Petition to this Hon'ble Tribunal and this Hon'ble Tribunal vide order dated 05.09.2023 granted interim relief to the appellants and suspended the operations of Letters dated 11.03.2023, 12.03.2023 & 16.03.2023. In compliance of order *ibid*, the appellant is still DSsP and he is taking benefits of the post of DSsP, whereas, his actual rank along with batchmates is the rank of Sub-Inspector after withdrawal of his out of turn promotion against which CPLA No. 725-P/2023 has already been submitted in the Apex Court of Pakistan.

7. Incorrect and misleading hence denied. After Notification No. SO(Police)(E&AD)1-4/2023 dated 29.05.2023, the Government was again notified by the Election Commission of Pakistan vide Notification No. F.16(1)2023-Elec-I, dated 08.09.2023 to deal the transfers/ postings of officers of BS-19 and below at their own level. (Copy of Notification is annexed as Annexure 'A') hence the

stance taken by the appellant in this Para is totally against facts and circumstances. Furthermore, the appellant submitted his charge relinquish report vide No. 8967-78/EC/Trg dated 25.10.2023 thus, his instant CM application becomes infructuous having no legal effect. (Copy of charge relinquish is annexed as Annexure 'B').

8. Incorrect, misleading and misconceived. When appellant was transferred to Kohat Region vide order No. CPO/E-I/Transfer/Posting/1575 dated 06.06.2023 he approached the Hon'ble Peshawar High Court through CM No. 1300-P/2023 and the Hon'ble Court granted interim relief vide order dated 15.06.2023, in the following terms:-

*"Hearing learned counsel for applicants, he has preferred this application for the suspension of order No. CPO/E-I/Transfer/Posting/1575 dated 06.06.2023 which has been passed later after the order dated 04.04.2023 whereby the impugned letters and order have already been suspended. As the main writ petition is already fixed for hearing on 21.06.2023 which is to be taken up after six days, thus it is appropriate that till then the order dated 06.06.2023 shall remain suspended".*

The Writ Petition of the appellant along with other connected petitions were fixed for hearing on 21.06.2023 & 22.06.2023. The Hon'ble Peshawar High Court, Peshawar heard all the Writ Petitions of the out of turn promotions and reserved the judgment which was announced vide consolidated judgment dated 29.08.2023. (Copy of order dated 15.06.2023 is annexed as Annexure 'C').

9. Incorrect, as already explained vide above Paras.
10. Incorrect, as already explained in detail vide above Paras No. 6 to 8 of Facts.
11. Correct to the extent of hearing of Hon'ble Tribunal dated 05.09.2023, however, the respondent department was neither noticed nor heard before granting interim relief vide order dated 05.09.2023 and the same was not in accordance with norms of justice which may be reconsidered on the grounds as mentioned in the instant objection petition.
12. Incorrect and misleading, the appellant's transferred to Kohat Region is a routine transfer/ posting order under Section 13(8) of Khyber Pakhtunkhwa Police Act, 2017 and the appellant is concealing real facts from this Hon'ble Tribunal. As already explained above that current substantive rank of the appellant is DSP (BS-17) and he is borne on the seniority list of DSsP rather than SP while he was working on Acting Charge Base as SP in his own pay-scale which is clearly mentioned in all orders of transfer/ postings for those officers who are working on Acting Charge Base for the purpose of duties. Acting Charge Base is neither promotion nor entitles an officer for posting in the senior rank. Hence, the claim of the appellant is totally devoid of law & rules. Furthermore, the appellant submitted

his charge relinquish report vide No. 8967-78/EC/Trg dated 25.10.2023 thus, his instant CM application becomes infructuous having no legal effect.

13. Incorrect, misleading and misconceived, as explained in above Paras.
14. Incorrect, misleading and misconceived. The Police Act, 2017 Section 13(8) is very much clear regarding transfer/ posting of Police officers in the following terms;-

*(8) Every police officer shall be liable for posting to any branch, division, bureau and section, or anywhere in or outside the police unless otherwise provided under this Act.*

In addition, the current substantive rank of the appellant is DSP (BS-17) while he was working on Acting Charge Base as SP in his own pay-scale which is clearly mentioned in all orders of transfer/ postings for those officers who are working on Acting Charge Base for the purpose of duties. Acting Charge Base is neither promotion nor entitles an officer for further posting in the senior rank. Hence, the claim of the appellant is totally devoid of law & rules.

Furthermore, in compliance with Order Sheet of Hon'ble Supreme Court of Pakistan dated 26.01.2023 in Suo Moto Contempt proceedings vide Crl.O. Petition No. 38/2021 in CP No. 381/2020 and in pursuance of Judgments passed by Hon'ble Supreme Court of Pakistan in 2013 SCMR 1752, Civil Review Petition No. 193/2003 reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 and consolidated Judgment dated 30.06.2020 in Civil Petitions No. 1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 on issues of Out of Turn Promotions, all Unit Heads, Regional Police Officers and District Police Officers of Khyber Pakhtunkhwa Police were directed vide this office Letter No. CPO/CPB/75, dated 14.02.2023, to ensure compliance of above mentioned Orders in letter and spirit. Accordingly, all Out of Turn Promotions granted to Police personnel either on gallantry or otherwise belonging to different Units, Regions & Districts have been withdrawn by the concerned authorities and consequently their seniority has been re-fixed along with their Batchmates who were promoted during their intervening period by maintaining original inter-se-seniority.

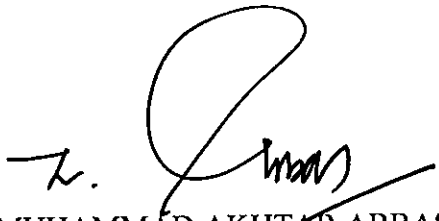
The appellant availed out of turn promotions in FRP hence demoted from the rank of DSP to the rank of SI and his seniority is kept intact with his batchmates in consequence of Hon'ble Supreme Court judgments reported as 2013 SCMR 1752, Civil Review Petition No. 193/2003 reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218, consolidated Judgment dated 30.06.2020 in Civil Petitions No. 1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 and latest dated 26.01.2023 in Suo Moto Contempt proceedings vide Crl.O. Petition No. 38/2021 in CP No. 381/2020. It is worth to mention here that the appellant along with others approached Hon'ble Peshawar High Court, Peshawar through Writ Petition No. 1289-P/2023 titled Tayyab Jan etc Vs Govt. of Khyber

Pakhtunkhwa and the Hon'ble Peshawar High Court vide judgment dated 29.08.2023, remitted the Writ Petition to this Hon'ble Tribunal and this Hon'ble Tribunal vide order dated 05.09.2023 granted interim relief to the appellants and suspended the operations of Letters dated 11.03.2023, 12.03.2023 & 16.03.2023. In compliance of order ibid, the appellant is still DSsP and he is taking benefits of the post of DSsP, whereas, his actual rank along with batchmates is the rank of Sub-Inspector after withdrawal of his out of turn promotion against which CPLA No. 725-P/2023 has already been submitted in the Apex Court of Pakistan. Moreover, the respondent department was neither noticed nor heard before granting interim relief vide order dated 05.09.2023 and the same was not in accordance with norms of justice which may be reconsidered on the grounds as mentioned in the instant objection petition.

15. Incorrect and misleading. The respondent department acted quite in accordance with law/ rules and in compliance of Court orders while stance of the appellant is illegal, unlawful against the law/ rules and Apex Court judgments.

PRAYERS

Keeping in view above narrated facts, circumstances, the instant Objection Petition of the respondent department may kindly be accepted and the instant CM application of applicant may kindly be dismissed being meritless devoid of law/ rules and having no legal force, please.

  
(DR. MUHAMMAD AKHTAR ABBAS) PSP  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar

*Respondent No-1*

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL, PESHAWAR**

CM Application No. 795/2023 in Service Appeal No. 1771/2023 &  
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&  
Shakil Ahmed Vs Inspector General of Police, Khyber Pakhtunkhwa etc

**AUTHORITY LETTER**

Mr. Faheem Khan DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments/ reply in the instant CM in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant case on behalf of respondent No. 1.



(DR. MUHAMMAD AKHTAR ABBAS) PSP  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL, PESHAWAR**

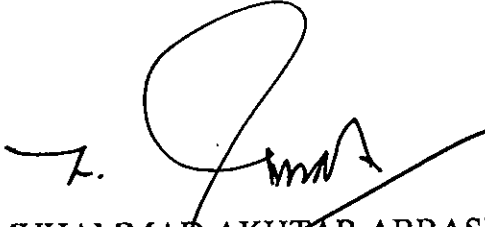
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&  
Shakil Ahmed Vs Inspector General of Police, Khyber Pakhtunkhwa etc

**AFFIDAVIT**

I, Respondent No. 1 do hereby solemnly affirm on oath that the contents of accompanying Reply to the instant CM Application are correct to the best of our knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

It is further stated on oath that in this CM application, the answering respondent has neither been placed ex-parte nor their defense is struck off.

  
(DR. MUHAMMAD AKHTAR ABBAS) PSP  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)



30 NOV 2023



DP75-512502-89 (2)

PS/CS Khyber Pakhtunkhwa  
Diary No. \_\_\_\_\_  
Date: \_\_\_\_\_

No.F.16(1)/2023-Elec-I  
ELECTION COMMISSION OF PAKISTAN  
\*\*\*\*\*

Secretariat,  
Constitution Avenue, G-5/2,  
Islamabad, the 08<sup>th</sup> September, 2023.

PS/Secy E&AD KP  
Diary No. \_\_\_\_\_  
FTS No. \_\_\_\_\_  
Date: \_\_\_\_\_



To, The Chief Secretary,  
Punjab and Khyber Pakhtunkhwa,  
Lahore, Peshawar.

Subject: POSTING/TRANSFER.

Dear Sir,

In continuation of this office letter No. 10(1)/2023-Elec-II dated 10<sup>th</sup> March, 2023 (copy enclosed) following revised guidelines regarding transfers/postings in respect of Provincial Governments are hereby conveyed for compliance in true letter and spirit:

- (i) Transfers/postings cases of Secretaries, heads of attached departments and all BS-20 Officers will be sent to the Commission for concurrence.
- (ii) Postings/transfers cases of important field officers including Commissioners, Deputy Commissioners, Assistant Commissioners, RPOs, DPOs, CPOs, CCPOs, and SDPOs be sent to the Commission for concurrence.
- (iii) Transfers/postings cases of Additional Secretaries BS-19 and below working in the Secretariat be dealt at own level.
- (iv) Transfers/postings cases of all other BS-19 and below officers/officials be dealt at own level.

Altogether  
[Signature]

Encl: As above:

Yours Sincerely,  
[Signature]  
(Ibrar Ahmad Jatol)  
Director (Elections)

## CHARGE RELINQUISH REPORT

In pursuance of Notification issued by the Provincial Police Officer Khyber Pakhtunkhwa Peshawar vide No. CPO/E-1/Transfer/Posting/2661, dated 13.10.2023, I Shakeel Ahmad acting SP (DSP BS-17) relinquished the charge of SP/Training & Admin at Directorate of Training CPO Khyber Pakhtunkhwa Peshawar on 20.10.2023 A/N.




SHAKEEL AHMAD 20/10/2023

(Acting SP/DSP BS-17)  
Directorate of Training,  
Khyber Pakhtunkhwa Peshawar

No. 8967-78 1E/17 dated 25/10/2023.  
Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Addl: Inspector General of Police HQrs Khyber Pakhtunkhwa.
3. Deputy Inspector General of Police Training Khyber Pakhtunkhwa Peshawar.
4. Regional Police Officer, Kohat.
5. District Account Officer, Kohat.
6. AIG Establishment CPO, Peshawar.
7. PSO to IGP Khyber Pakhtunkhwa, Peshawar.
8. Registrar CPO Peshawar.
9. Supdt: E-I & Secret CPO Peshawar.
10. U.O.P files CPO Peshawar.
11. All concern.

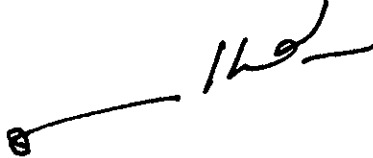

Ahmad  

Additional Inspector General of Police Training,  
Khyber Pakhtunkhwa  
Peshawar

**PESHAWAR HIGH COURT PESHAWAR**  
**FORM "A"**

**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
2	3
15.6.2023	<p><b><u>CM No.1300-P/2023 in WP No. 1289-P/2023.</u></b></p> <p>Present:</p> <p>Mr. Shumail Ahmad Butt, Advocate for petitioners.</p> <p style="text-align: center;">*****</p> <p>Hearing learned counsel for applicants, he has preferred this application for the suspension of order No. CPO/E-1/Transfer/Posting/1575 dated 6.6.2023 which has been passed later after the order dated 4.4.2023 whereby the impugned letters and order have already been suspended. As the main writ petition is already fixed for hearing on 21.6.2023 which is to be taken up after six days, thus it is appropriate that till then the order dated 6.6.2023 shall remain suspended.</p> <p style="text-align: right;"></p> <p style="text-align: right;"><b>SENIOR PUISNE JUDGE</b></p> <p style="text-align: center;"> <b>JUDGE</b></p>

*Handwritten signature/initials*