

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

Service Appeal No. 1461/2023

Rehmat Ullah..... (Appellant)

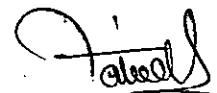
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa etc.....(Respondents)

INDEX

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Para-wise comments		1-6
2.	Affidavit		7
3.	Authority Letter		8
4.	Copy of Promotion order dated 17.12.1995	A	9
5.	Copy of Letter No. CPO/CPB/68 dated 28.02.2022	B	10
6.	Copy of Order dated 10.10.2023	C	11-12
7.	Copy of judgment dated 22.06.2023 of Hon'ble Peshawar High Court	D	13-14
8.	Copy of judgment dated 19.10.2023	E	15-17

DEPONENT



**DSP/ Legal,
CPO, Peshawar**

18-12-2023

Peshawar

1

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1461/2023

DSP Rehmat ullah (Appellant)
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa etc.....(Respondents)

PARA-WISE COMMENTS BY RESPONDENT NO. 2 TO 6

RESPECTFULLY SHEWETH:

That the respondents are submitted as under:-

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9950

Dated 14-12-2023

PRELIMINARY OBJECTIONS:-

- a) That the appeal is not based on facts.
- b) That the appeal is barred by law and limitation.
- c) That the appeal is not maintainable in the present form.
- d) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- e) That the appellant is estopped to file the instant appeal by his own conduct.
- f) That the appellant has not come to this Honorable Tribunal with clean hands.
- g) That the appellant has got no cause of action and locus standi to file the instant Service Appeal.

FACTS

- 1. Pertains to personal information of the appellant hence, needs no comments.
- 2. Pertain to record, however, the appellant was enlisted in 1991 as Special Grade Constable under rules 12.10 A (now redundant) of Police Rules, 1934 according to which an official directly appointed under the rule ibid shall be confirmed and admitted to promotion List B-1 maintained under Police Rule 13.7 and if such officer work well, he shall be sent to the Lower School Course directly when they are confirmed and if they continue to receive good reports, they shall be deputed to the Intermediate College Course subject to conditions that he has completed 06 years of service. In the instant case, the appellant had not qualified 06-years service when he was selected to the Intermediate College Course through an order devoid of rules. Moreover, service record of the appellant is silent regarding the appellant's Lower School Course selection nor the appellant has drawn attention to which means that Police Rules under which the appellant was enlisted was blatantly violated.
- 3. Pertains to record, however, the promotion Notification was issued against rules vide which the appellant was promoted to the rank of officiating ASI prematurely against the pattern set for the Selection Grade Constables.

Moreover, the promotion order would reveal that the appellant was promoted as ASI in a special case which falls in the definition of out of turn promotion deprecated by the august Apex Court judgments passed in 2013 SCMR 1752, Civil Review Petition No. 193/2003 reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 on issues of Out of Turn Promotions (Copy of the promotion order is attached as Annexure-A). Furthermore, the appellant was already brought on promotion list 'D' w.e.f 01.10.1995 vide Notification dated 24.03.1996 as admitted by the appellant, was subsequently promoted as Officiating Assistant Sub-Inspector on 17.12.1995 vide Notification No. 15436/EC in a **Special Case** as admitted by the appellant.

4. Pertains to the Notification of the appellant's confirmation as ASI. However, as explained earlier, the appellant's earlier promotion as officiating ASI in a **Special Case** was devoid of rules by virtue of which the appellant gained out of turn promotion.
5. Pertain to record, needs no comments.
6. Pertains to record, needs no comments.
7. Pertain to record, needs no comments.
8. Incorrect, the Notification No. 6221-25/EC-I dated 28.03.2022 and in continuation No. 6914/EC- I dated 05.04.2022, were issued by the CCPO, Peshawar in compliance of CPO directions vide No. CPO/CPB/68 dated 28.02.2022. The promotions and confirmations of Police officials on the basis of out of turn promotions, adhoc basis or acting charge base promotions in the past created serious anomalies among the various seniority lists of Police ranks. Promotions and confirmations of Police personnel in violation of rules and regulations were termed as "out of turn promotions" by the apex Court of Pakistan firstly in case reported as Malik Nadeem Arif Vs Govt of Sindh etc in 2010/11. The term out of turn promotions, its vires and components were discussed in details and laid to rest by the following apex Court judgments:
 - a) 1998 SCMR 2013
 - b) 2013 SCMR 1752
 - c) 2015 SCMR 456
 - d) 2016 SCMR 1254
 - e) 2017 SCMR 206
 - f) 2018 SCMR 1218

Similarly, in many cases the police personnel had completed their statutory period of probation, in compliance to Rule 13.18 of Police Rules, 1934 (amended 2017) but were not confirmed for want of notification, in violation of rule ibid. This serious issue was addressed and discussed in the apex Court of Pakistan, in the case reported as 2016 SCMR 1254 case titled Gul Hassan

Jatoi etc Vs Faqir Muhammad Jatoi etc. The relevant para of the judgment is reproduced as under:-

74. *It has been observed that in many cases the Police personnel have completed their statutory period of probation but they were not confirmed for want of notification, and as result of which such officials have suffered in terms of delayed promotion or loss of seniority, which is a sheer negligence and abuse of power on the part of competent authorities concerned. Hence, we are of the view that this practices must be brought to an effective end so that injustice may not be perpetrated against such officials. Therefore, in future those police personnel who have completed their statutory period of probation, whether it is three years or two years, they shall be confirmed whether or not a notification to that effect is issued.*

As a result of out of turn promotions and delayed confirmations, a number of police personnel were affected in terms of promotions and seniority which created serious anomalies in the seniority lists of Police personnel and resulted in endless litigation as well as demoralization of the Police force.

In order to streamline the seniority issues in accordance with the apex Court judgments quoted above, the competent authority through Letter No. CPO/CPB/68, dated 28.02.2022 (Annexure 'B') directed that all Regional Police Officers/ Capital City Police Officer should strictly follow Rule 13:18 ibid for confirmation in the substantive rank of SI and revise it accordingly, if there exists any anomaly.

Consequent upon the directions of competent authority, all RPOs/ CCPO revised the seniority of their regions by applying rule ibid and lists of revised seniorities were sent to CPO for revision of list 'F'. Thus, list 'F' was revised and issued on 02.09.2022.

Now, in light of apex Court judgment applying rule 13:18 of Police Rules, 1934, certain police officials got their right of due seniority and become senior than others.

9. Already explained vide above Para in detail.
10. Pertains to record as explained vide Para No. 8, however, representation of the appellant was not maintainable as per law/ rules.
11. Incorrect, the CPO Peshawar order dated 15.03.2023 whereby out of turn promotion of the appellant was withdrawn in compliance of the order dated 26.01.2023 of the august Apex Court in Cr.O.P. No 38/2021 and judgments of the august Apex Court passed in 2013 SCMR 1752, Civil Review Petition No. 193/2003 reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 on issues of Out of Turn Promotions and to avoid contempt proceedings initiated against the respondent department.
12. Pertains to record, needs no comments.

13. Correct to the extent of the Seniority list of DSsP. However, the appellant was demoted in the wake of demotion order issued in compliance of the judgments of the august apex court.
14. Pertains to record. However, representation of the appellant is liable to be set aside as the demotion order was issued in compliance of the judgments of the august apex court.
15. Pertains to the Hon'ble Peshawar High Court, Peshawar vide order dated 22.06.2023 wherein the appellant's case was remitted to the respondent department for re-assessment as per rules. In compliance of the judgment *ibid*, the appellant was re-examined as per rules and available record. In this regard, CPO Peshawar issued a speaking order No. CPO/Legal/E-I/2631 dated 10.10.2023 (**Annexure-C**) whereby the appellant's earlier demotion order was maintained, being issued as per merits. Noteworthy here is that the Hon'ble Peshawar High Court while noting that the respondent department has complied with the directions of the Hon'ble court regarding re-assessment, disposed of the writ petition No. 1393-P/2023 vide its order dated 22.06.2023 (**copy attached as Annexure-D**). Subsequently, the appellant's file another fresh writ petition No. 4553-P/2023 and the same has been dismissed of by the Hon'ble Peshawar High Court vide its order dated 19.10.2023 on account of maintainability. (**Copy attached as Annexure-E**).
16. Pertains to Hon'ble Service Tribunal, needs no comments.
17. Incorrect. The appellant is beneficiary of out of turn promotions and has been proceeded in compliance with Order dated 26.01.2023 of the Hon'ble Supreme Court of Pakistan in *Suo Moto Contempt proceedings* vide *CrI.O. Petition No. 38/2021* 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. Therefore, the appellant also has been proceeded in accordance with law/ rules as well as in the spirit of judgments of Hon'ble Supreme Court of Pakistan pertaining to Out of Turn Promotions and to avoid contempt proceedings initiated in

CrI.O.P No. 38/2021. And whereas the appellant's Writ Petition No. 1393-P/2023 and Writ Petition No. 4553-P/2023 against the impugned orders were dismissed by the Hon'ble Peshawar High Court, Peshawar, therefore, the appellant has been treated quite in accordance with law/ rules and Apex Court judgments hence instant Service Appeal is not maintainable in law and is liable to be dismissed on following Grounds.

GROUNDS

- A. Incorrect, misleading and misconceived. The respondent department has complied with the judgments of the august Apex Court as well as Hon'ble Peshawar High Court, Peshawar. Therefore, the orders passed by the respondent department are quite legal/ lawful and in accordance with constitutional provisions having effective legal effect hence liable to be upheld.
- B. Incorrect and denied. The appellant was prematurely promoted as officiating ASI as a special case and on the basis of such wrong foundation, his upper ladder of seniority was wrongly build as a career path. Therefore, his out of turn promotion was withdrawn and accordingly his due seniority adjusted as per spirit of the august Apex Court judgments.
- C. Incorrect, the appellant has no right accrued under the law, hence, no violation of Articles 4 & 5 of the Constitution of Islamic Republic of Pakistan, 1973 has been committed by the respondent department.
- D. Incorrect and misleading, as already explained in preceding Paras the appellant gained out of turn promotion in violation of law which was withdrawn in compliance of Apex Court judgments and prevailing law, hence, the appellant has not been deprived of his rights.
- E. Incorrect, the appellant substantive rank after demotion is Inspector and shall be considered for further promotion in accordance with law and his seniority cum fitness subject to availability of vacancies.
- F. Incorrect and misleading, the acts/ omissions and commissions of the respondent department are quite legal/ lawful and in accordance with judgments of Apex Court and Hon'ble Peshawar High Court, Peshawar, hence, the same are liable to be upheld.
- G. Incorrect and misleading, as already explained in above Paras that the appellant gained out of turn promotion in violation of law which was withdrawn in compliance of Apex Court judgments and prevailing law, hence, the appellant has not been deprived of his rights.
- H. Incorrect. The appellant is a beneficiary of out of turn promotion which infringed upon the rights of other Police officers in terms of seniority and promotion, hence, the same is withdrawn in compliance of prevailing law and Apex Court judgments.
- I. Incorrect and misleading. As explained above in preceding Paras.

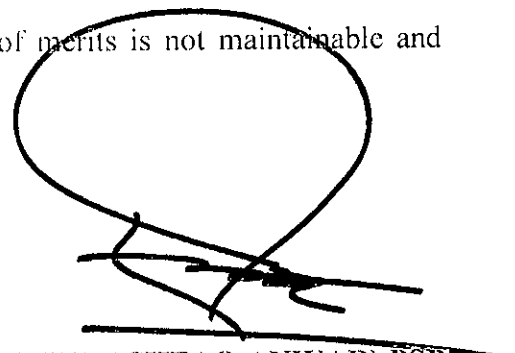
J. The actions/ omissions/ commissions of respondent department are quite legal/ lawful in accordance with norms of justice and provisions of constitution and in accordance with Apex Court judgments whereas the appellant has no cause of action and locus standi, hence, the instant Service Appeal is liable to be dismissed being meritless. The respondent department may also be allowed to adduce additional grounds at the time of hearing of instant Service Appeal.

PRAYER:-

Keeping in view the above stated facts and circumstances, it is therefore humbly prayed that the appeal being devoid of merits is not maintainable and may kindly be dismissed with costs, please.



(MUHAMMAD AZHAR) PSP
Assistant Inspector General of Police,
Establishment, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 6)



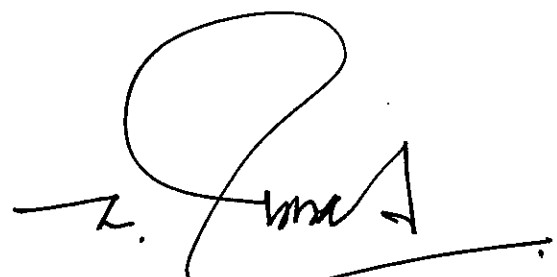
(SYED ASHFAQ ANWAR) PSP
Capital City Police Officer,
Peshawar
(Respondent No. 5)



(DR. ISHTIQA AHMED) PSP/ PPM
Additional Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 4)



(AWAL KHAN) PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 3)



(DR. MUHAMMAD AKHTAR ABBAS) PSP
DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 2)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1461/2023


DSP Rehmat ullah (Appellant)
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa etc.....(Respondents)

AFFIDAVIT

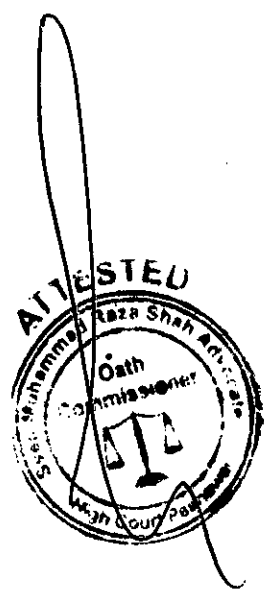
I, Faheem Khan DSP/ Legal, CPO, Peshawar, do hereby solemnly affirm on oath that the contents of accompanying Para-wise Comments/ Reply on behalf of answering respondents to the Service Appeal are correct to the best our knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

It is further stated on oath that this appeal the answering respondents have neither place expertise nor their Defense stated that.



(FAHEEM KHAN)
DSP/ Legal,
CPO, Peshawar

18 JUL 2023



BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1461/2023

DSP Rehmat ullah (Appellant)

VERSUS

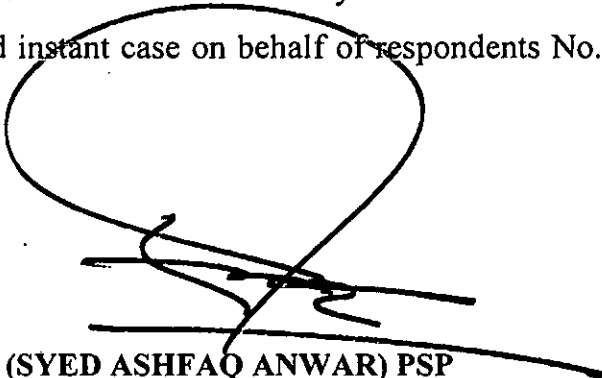
Inspector General of Police, Khyber Pakhtunkhwa etc.....(Respondents)

AUTHORITY LETTER

Mr. Faheem Khan DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments/ reply in the instant Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant case on behalf of respondents No. 2 to 6.



(MUHAMMAD AZHAR) PSP
Assistant Inspector General of Police,
Establishment, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 6)



(SYED ASHFAQ ANWAR) PSP
Capital City Police Officer,
Peshawar
(Respondent No. 5)



(DR. ISHTIAQ AHMED) PSP/ PPM
Additional Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 4)



(AWAL KHAN) PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 3)



(DR. MUHAMMAD AKHTAR ABBAS) PSP
DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 2)

(19)

POLICE DEPARTMENT.

PESHAWAR DISTRICT.

Annex "B"

FOR PUBLICATION IN THE NWFP, POLICE GAZETTED PART-II
ORDER BY THE SR:SU:DT OF POLICE, PESHAWAR.

NOTIFICATION.

Dated Peshawar the 17-12-1995.

No. 15436

/EO, PROMOTION, IHO Rehmatullah No.815 is hereby Promoted as Officiate AAI till further orders, as a special case w.o.f 11.12.1995.

Sr: Supdt of Police,
Peshawar. 13/12

No. 15437-42

/EO, dated Peshawar the 13/12/1995.

Copy of above alongwith 6 Spare Copies is forwarded to Dy:Inspector General of police, PR, Peshawar for favour of information.

- 2) SP/Nowshara.
- 3) SP/ HQrs Peshawar.
- 4) DSP/ HQrs.
- 5) PA to SsP Peshawar.
- 6) Pay Officer.
- 7) P.M.O

Sr: Supdt of Police,
Peshawar. 13/12

63/PM

Alleged

ATTACHED

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR

No. CPO/CPB/ 68 Dated Peshawar 28 Feb: 2022

To : The Capital City Police Officer,
Peshawar.

All Regional Police Officers,
Khyber Pakhtunkhwa.

Subject: ANOMALIES RELATED TO CONFIRMATION STATUS AWARDED TO SUB
INSPECTORS.

Memor:-

The Competent Authority has directed to streamline the seniority issues of DSsP, Inspectors and confirmed Sub Inspectors already on List "F". It has been observed that due to following reasons the problems arise in the seniority lists.

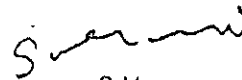
- In majority of the cases received to CPO for admission to the centralized seniority list, it has been observed that the confirmation in the rank of Sub Inspectors is considered from the date of DPC instead of completion of mandatory period of two years for confirmation as per Police Rules 13.18.
- Similarly, Police Rules 13.10(2) provides for two years mandatory period as SHO/other Units.

In order to streamline the seniority issues, the Competent Authority has directed that all RPOs/CCPO should strictly follow Police Rules 13.18 for confirmation in the substantive rank and revise it accordingly, if there exists any anomaly. The requisite rules are quoted below for ready reference:-

- Police Rules 13.18. All Police Officers promoted in rank shall be on probation for two years, provided that the appointing authority may, by a special order in each case, permit periods of officiating service to count towards the period of probation. On the conclusion of the probationary period a report shall be rendered to the authority empowered to confirm the promotion who shall either confirm the officer or revert him. In no case shall the period of probation be extended beyond two years and the confirming authority must arrive at a definite decision within that period whether officer should be confirmed or reverted.
- Police Rules 13.10(2) No Sub Inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an officiating Sub Inspector in independent charge of a Police Station, a notified Police Post or as in-charge investigation of a Police Station or in Counter Terrorism Department. According amendment Police Rules 2017, provided further that he shall also have to spend one year in any other Unit excluding the period spent on long leave, deputation or promotional training courses i.e. Upper College Course'.

The report may be communicated to this office within one week i.e. 08.03.2022

positively.



Sd/-

(SABIR AHMED) PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar.



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

No.CP/Legal/E-I/2631

dated the

10 / 10 / 2023.

ORDER

In compliance with Order of Hon'ble Supreme Court of Pakistan dated 26.01.2023 in *Suo Moto Contempt proceedings* vide CrI.O. Petition No. 38/2021 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.

2. In this regard, the case regarding Out of Turn Promotion of Mr. Rehmat Ullah DSP was examined and his Out of Turn Promotion was withdrawn vide order No. 579/Legal/E-I, dated 15.03.2023. Mr. Rehmat Ullah DSP challenged the Order *ibid* vide Writ Petition No. 1393-P/2023 in the Honorable Peshawar High Court, Peshawar. The Honorable Peshawar High Court, Peshawar vide its Order dated 22.06.2023 disposed of the Petition in the following terms:-

"In view of the above, this writ petition is disposed of with the direction to the respondents to reconsider the impugned decision and also to ascertain that on his promotion as officiating ASI and on his subsequent regular promotion, has he got any undue benefit in the regular promotion. Besides, the petitioner be also given right of hearing. Till then, the impugned letter/Notification No. 579/Legal/E-I dated 15.03.2023 shall remain suspended".

3. Mr. Rehmat Ullah DSP was again provided an opportunity of personal hearing on 15.09.2023 in compliance of Honorable Peshawar High Court, Peshawar order dated 22.06.2023 and heard in person in detail.

4. The case of Mr. Rehmat Ullah DSP was reconsidered and re-examined under directions received from Honorable Peshawar High Court in instant case. In this regard, CPO Peshawar through official letter bearing No. CPO/CPB/241, dated 12.07.2023 referred back his case to CCPO Peshawar in light of comments made by Honorable Peshawar High Court. In response, details provided by the CCPO, Peshawar through Letter bearing No. 15901/EC-I dated 12.09.2023 highlighted that he was enlisted as Constable on 29.03.1992 and completed his Lower College Course on 04.11.1993. He further completed Intermediate College Course on 01.10.1995. Later on,

No.

Dated:

he was promoted as Offg: ASI on 19.12.1995 in a special case (Gallantry) and on the contrary, his colleagues were promoted as Offg: ASIs on 02.08.2002. Reply of CCPO, Peshawar reconfirmed that DSP Rehmat Ullah was promoted as Officiating ASI against Special Case (Gallantry) in year 1995 whereas his batchmates were promoted as Officiating ASIs on 02.08.2002. CCPO, Peshawar through above mentioned letter has further conveyed that after withdrawal of his Out of Turn Promotion, his seniority would stand at S.No. 203 below the name of Inspector Zakir Ullah No. P/308 of the seniority list issued vide No. 431/E-II/CPO/Seniority, dated 06.12.2022.

5. Therefore, after re-examining and reconsidering the case of DSP Rehmat Ullah, his demotion Order issued vide Order No. 579/Legal/E-I, dated 15.03.2023 was found as per merits. Therefore, his case is being disposed of through this Order and he stands demoted from the rank of DSP to the rank of Inspector and his seniority is fixed below the name of Inspector Zakir Ullah No. P/308 as per seniority list of Inspectors issued vide No. 431/E-II/CPO/Seniority, dated 06.12.2022.

Sd-

Akhtar Hayat Khan, PSP
PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA,

C.C

- Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- Secretary, Home & TAs Department, Government of Khyber Pakhtunkhwa, Peshawar.
- Additional Inspector General of Police/Commandant, Elite Force, Khyber Pakhtunkhwa Peshawar.
- Additional Inspector General of Police, Investigation, Khyber Pakhtunkhwa Peshawar.
- Additional Inspector General of Police, Operations, Khyber Pakhtunkhwa Peshawar.
- Additional Inspector General of Police, Special Branch, Khyber Pakhtunkhwa Peshawar.
- Additional Inspector General of Police, HQrs: Khyber Pakhtunkhwa, Peshawar.
- Additional Inspector General of Police, Training. Khyber Pakhtunkhwa, Peshawar.
- All Regional Police Officers in Khyber Pakhtunkhwa.
- All Heads of Police Units, Khyber Pakhtunkhwa.
- PSO to W/ Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- AIG/ Legal, CPO, Peshawar.
- Registrar, CPO, Peshawar.

*Alister
Syed*

(RIZWAN MANZOOR) PSP
Deputy Inspector General of Police, HQrs
For Inspector General of Police
Khyber Pakhtunkhwa,
Peshawar

PESHAWAR HIGH COURT, PESHAWAR**ORDER SHEET**

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
22.06.2023	<p><u>W.P No.1393-P/2023.</u></p> <p>Present: Mr. Tariq Khan Hoti, Advocate for the petitioner.</p> <p>Mr. Amir Javed, Advocate General and Mr. Mubashir Manzoor, AAG.</p> <p>Mr. Rizwan Manzoor, DIG(HQrs), Khyber Pakhtunkhwa Police, CPO.</p> <p>Muhammad Asif, AIG(Legal), CPO.</p> <p>Muhammad Tariq Usman, Inspector (Legal), CPO.</p> <p>*****</p> <p><u>IJAZ ANWAR, J.</u> It is alleged that the petitioner was promoted as officiate ASI, as a special case, vide order dated 17.12.1995, however, according to the learned counsel for the petitioner, he was brought on list D, along with his colleagues vide Office Order dated 24.03.1996 and was treated as head Constable. He further stated that in the year 2003, he was confirmed as ASI along with his colleagues. He further submitted that on mere promotion as officiating ASI, he has not disturbed the seniority of any of the police officials/officers.</p> <p>2. The representatives of the respondent department present in the Court, stated that in order to ascertain all these facts, he will be having no objection if this case is remitted back to the respondent department for its reconsideration.</p>

Alister
Soylo

2.1

3. In view of the above, this writ petition is disposed of with direction to the respondents to reconsider the impugned decision and also to ascertain that on his promotion as officiating ASI and on his subsequent regular promotion, has he got any undue benefit in the regular promotion. Besides, the petitioner be also given right of hearing. Till then, the impugned letter/Notification No.579/legal-E-I dated 15.03.2023 shall remain suspended.

Announced
Dt:22.06.2023



JUDGE



JUDGE

(Amir Shehzad) *

(DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice S.M Attique Shah

Amir Shehzad
Ijaz Anwar

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.4553-P/2023 with IR

Rehmat Ullah

Vs.

Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar and others

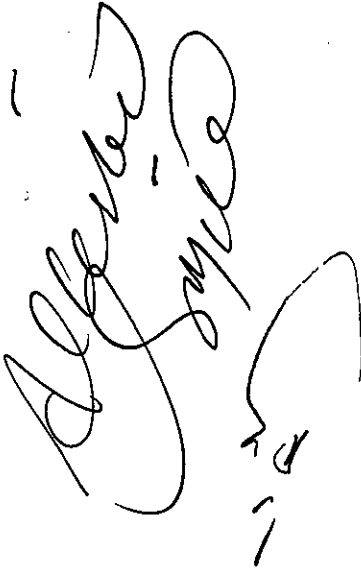
Date of hearing 19.10.2023
For petitioner(s): Mr. Tariq Khan Hoti, Advocate.
For respondent(s): Mr. Mubashir Manzoor, AAG
alongwith Muhammad Tariq
Usman, Inspector, CPO,
Peshawar.

JUDGMENT

IJAZ ANWAR, J. This writ petition has been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

“It is, therefore, most humbly prayed that on acceptance of this writ petition, this Hon’ble Court may graciously be pleased to:

- i. Declare the impugned letter/notification of respondent No.2 No.CPO/legal/E-1/2631 vide dated 10.10.2023 is arbitrary, capricious, malafide, unreasonable, illegal, unlawful, without jurisdiction and void ab-initio.
- ii. Set aside the impugned letter/Notification of the respondent No.2 CPO/legal/E-1/2631 vide dated 10.10.2023, as being arbitrary, capricious, malafide, unreasonable, illegal, unlawful, without jurisdiction and without any lawful authority.
- iii. Permanently restrain the respondents from interfering, in any manner whatsoever, with the seniority of the petitioner under the garb of out of turn promotion and through the impugned letter/notification of the respondents No.CPO/legal/E-1/2631 vide dated 10.10.2023.



iv. Grant any other relief as this Hon'ble Court deems fit and appropriate in the facts and circumstances of the case".

2. In essence, the petitioner is aggrieved of the order dated 10.10.2023 issued by the Provincial Police Officer, Office of the Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, Peshawar, whereby, his earlier demotion order from the post of DSP to Inspector issued vide order dated 15.03.2023 was reconsidered and found as per merits and his case was disposed of.

3. Arguments heard and record perused.

4. Perusal of the record reveals that the petitioner has called in question the order dated 10.10.2023, whereby, his earlier demotion order was confirmed and he stood demoted from the rank of DSP to Inspector and his seniority was fixed below the rank of Inspector Zakir Ullah, which primarily relates to the terms and conditions of service of a civil servant, besides, in view of the bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, the jurisdiction of this Court is barred to entertain such petition. Similarly, the petitioner has also alternate remedy available under the law by approaching the Khyber Pakhtunkhwa Service Tribunal for the redressal of his grievance.

5. In view of the above, this writ petition, being not maintainable, stands dismissed in limine. However, learned counsel for the petitioner stated that the petitioner has already submitted departmental appeal against the impugned

order, as such, it would be appropriate that after completion of the statutory period, petitioner may approach the Khyber Pakhtunkhwa Service Tribunal for the redressal of his grievance, if he is so advised.

Announced
Dt:19.10.2023



JUDGE



JUDGE

*Announced
19/10/23*