KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1658 /ST

Dated 30 - 9 - /2019

Το,

The Registrar,

Supreme Court of Pakistan,

Islamabad.

Subject:-

CIVIL APPEAL NO. 1548 OF 2019

OUT OF

CIVIL PETITION NO. 305-P OF 2018

Dear Sir,

Reference your letter No. C.A.1548-P/2019-SCJ dated 23/9/2019, I am directed to forward herewith the original appeal No. 736 of 2016. The same may be returned when no longer required.

Encl. As above.

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.



Ph: 9220581 Fax:9220406

<u>REGISTERED</u> No. C.A. 1548/2019 – SCJ

SUPREME COURT OF PAKISTAN.

Islamabad, dated 3 19, 2023

From

The Registrar, Supreme Court of Pakistan, Islamabad.

Khyber Pakhtukhwa Service Tribunal

To

mabad.

Diary No.

The Registrar, Khyber Pakhtunkhwa Service Tribunal, **Peshawar.** Dated 21-12-2023

Subject: CIVIL APPEAL NO. 1548 OF 2019.

Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, Peshawar and others.

<u>Versus</u>

Amjad Ali (decd.) through his L.Rs. & others:

On appeal from the Order/Judgment of the Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 21.02.2018, in Appeal No. 736 of 2016.

Dear Sir,

In continuation of this Court's letter of even number dated **23.09.2019** and in accordance with the provisions contained in Order X, rule 9, Supreme Court Rules, 1980, a certified copy of the Order/Judgment of this Court dated **22.11.2022**, dismissing the above cited civil appeal, in the terms stated therein, is enclosed for further necessary action.

The original records of the <u>High Court</u> received vide your letter No. <u>1658:</u> dated <u>30.09.2019</u>, is returned herewith.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order: 2. O/Record:

Yours faithfully

(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Bench

Mr. Justice Jamal Khan Mandokhail Mr. Justice Muhammad Ali Mazhar

Civil Appeal No. 1548/2019 & CP No. 277-P/2018

(Against the judgment dated 21.02.2018 of the Khyber Pakhtunkhwa Service Tribunal Abbottabad Bench passed in SA No. 736/2016)

Government of Khyber Pakhtunkhwa thr. Secretary Home & Tribal Affairs, Peshawar and others ...Appellant(s)

Provincial Police Officer Khyber Pakhtunkhwa Peshawar

Versus

Amjad Ali (decd) thr. LRs and others Zahid ur Rehman ...Respondent(s)

For the Appellant(s):

Mr. Zahid Yousaf Qurshi, AOR

For the Respondent(s):

Matloob Khan, DSP Sajjad Khan, DSP Jehanzeb Khan Yousaf Khan M. Tanveer

Date of Hearing:

22.11.2023

ORDER

<u>Jamal Khan Mandokhail, J</u>.

<u>Civil Appeal No. 1548/2019</u>: Precisely facts of the case are that the predecessor of respondent No. 1 (Amjad Khan) filed an appeal before the Service Tribunal, Khyber Pakhtunkhwa, Peshawar ("Tribunal") with the following prayers:

"On acceptance of the instant Service Appeal, respondents may be directed to confirm the appellant as SI w.e.f. 10/10/2012 i.e. the date of deferment instead of 27/08/2015 and seniority of the appellant may be fixed w.e.f. the date of confirmation of his juniors."

The appeal was allowed in the terms mentioned in the judgment of the Tribunal dated 21.02.2018. Hence, this petition.

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2. The learned AOR for the appellants states that the Tribunal passed the impugned judgment, pursuant to which, Amjad Khan was promoted. He points out that Amjad Khan has passed away, therefore, the seniority of the serving respondents will not be affected. Under such circumstances, because of death of Amjad Khan, this petition has become infructuous, which is accordingly dismissed.

CP No. 277-P/2018

- 3. Learned AOR states that for promotion to the post of Inspector, the official must possess upper school training and remained as SHO at least for one year. Learned AOR states that the respondent did not qualify for the reason that he lacks the requisite qualification, but the Tribunal has ignored this aspect of the case and has come to a wrong conclusion.
- 4. The contentions raised require consideration. Issue notice to the respondent.

Certified to be True Copy

Supreme Coost of Privietan Supreme Coost of Privietan Islamabad

Islamabad, 22nd November, 2023 *Rizwan*

T/ 57/353

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT ABBOTTABAD

Service Appeal No. 736/2016

Date of Institution...07.06,2016

Date of decision... 21.02.2018

Amjad Ali son of Mir Alam Khan, Inspector Law Instructor Police Training College, Hangu. (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Peshawar and others. (Respondents)

Mr. Muhammad Arshad Tanoli,

Advocate ... For appellant.

Mr. Ziaullah,

Deputy District Attorney ... For respondents.

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

JUDGMENT

NIAZ MUHAMMAD KHAN, CHARMAN: Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was promoted on officiating basis as Sub Inspector on 16.2.2002. Thereafter he was sent on deputation to Motorway Police in the year, 2002. During his deputation his juniors were promoted and the appellant could not

be promoted for the reason that under Rule 13.10(2) of the Police Rules, 1934 the appellant did not perform duties as SHO for one year out of his District. The appellant in the first round of litigation approached this Tribunal and this Tribunal vide order dated 13.10.2015 remitted the appeal of the appellant to the departmental appellate authority for decision. The departmental authority then decided the departmental appeal on 10.05.2016 by rejecting the prayer of the appellant.

ARGUMENTS

The learned counsel for the appellant argued that since the appellant was on deputation he could not be appointed as SHO for one year outside his district. That non-posting of the appellant as such was not fault of the appellant. The learned counsel for the appellant relied upon a judgment of this Tribunal in service appeal No. 811/2008 entitled "Munir Hussain Vs. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others" decided on 21.12.2011. He further argued that non-posting as SHO could not damage the appellant and that according to judgment of this Tribunal in Service appeal No. 537/2016 entitled "Badshah Hazrat Vs. Government of Khyber Pakhtunkhwa and two others" decided on 07.02.2017 and appeal No. 182/2017 entitled "Zahidur Rahman Vs. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and another" decided on 19.02.2018, the confirmation would be from the date of officiating promotion. That the appellant was confirmed on 27.08.2015 and under the rules and

judgments referred to above, the appellant was entitled to be confirmed from the date of his officiating promotion.

4. On the other hand learned DDA argued that the appellant did not implead those officers/officials who would be declared junior to him through anticipated judgments. That the departmental authority rightly ordered the confirmation of the appellant from 27.08.2015 because he was to undergo certain pre conditions like testing for one year and passing certain courses. He next contended that the present appeal was time barred. He further argued that the appellant was repatriated in the year, 2010 from Motorway Police and thereafter he was posted as SHO and he would be confirmed thereafter.

CONCLUSION.

The appeal is not time barred as in the first round this Tribunal remitted the appeal to departmental appellate authority. There was no need to implead other officials as this is a case of confirmation and not seniority simplicitor. This Tribunal in the above mentioned judgments have already decided this issue by holding that the confirmation of officiating police officials shall be from the date of officiating promotion. This Tribunal also in the judgment of *Munir Hussain's* case discussed a similar case wherein the appellant was sent on deputation to Motorway Police and granted relief to him for not posting him as SHO for one year under Rule 13.10(2) of Police Rules, 1934. This Tribunal therefore, is to treat the case of the appellant at par with the similarly placed officials whose appeals



have been decided by this Tribunal and accepts the appeal of the appellant. The department is directed to take into consideration, the cases of all those similarly placed persons who have not been confirmed from the date of their officiating promotion in the light of the judgments reported as 1996-SCMR-1 and 1996-SCMR-1185 so as to safeguard the interest of senior Sub Inspectors to the appellant. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Khan)

\ Chairman Camp Court, A/Abad

Comin

(Muhammad Hamid Mughal) Member

ANNOUNCED 21.02.2018

18.12.2017

Counsel for the appellant present. Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Abdul Waheed, SI (legal) for the respondents present. Learned counsel for the appellant submitted application for placing of additional documents on court file. Application alongwith record is placed on file. Learned Deputy District Attorney requested for adjournment. Adjourned. To come up for arguments on 15.01.2018 before the D.B at Camp Court, Abbottabad.

(Gul Zeb Khan)

(Muhammad Amin Khan Kundi)

15.1.2018

Member (Executive)
Camp Court Abbottabad
District Attorney alongwith Wajid Ali, S.I(Legal) for the respondents present. Due to general strike of the bar, counsel for the appellant is not in attendance. To come up for arguments on 21.02.2018 before the D.B at camp court, Abbottabad.

Member

Chairman Camp court, A/Abad.

21.02.2018

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Wajid Ali, S.I(Legal) for the 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, A/Abad

ANNOUNCED

21.07.2017

Appellant alongwith counsel and Mr. Muhammad Bilal, DDA alongwith Abdul Waheed, SI (Legal) for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder, if any, and arguments for at camp court, Abbottabad. Private respondents are not present despite approper preservice at hence proceeded ex-parte

> Camp Court, A Abad Camin Court, A/Abath

20.09.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Rejoinder received. Learned Deputy District Attorney seeks adjournment: Adjourned. To come up for final hearing on 17.10.2017 before D.B at Camp Court Abbottabad.

Member

Camp court, A/Abad.

Camp Cont. A.M.

17.10.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 18.12.2017 before the D.B at camp court, Abbottabad.

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Camp court, A/Abad.

25.11,2016

Clerk of counsel for the appellant and Mr. Mir Afzal, S.I (Legal) alongwith Mst. Bushra Bibi, Government Pleader for official respondents No. 1 to 5 present. Requested for adjournment. Fresh notices be issued to respondents No. 6.21 through registered post. To come up for written reply/comments on 16.02.2017 at camp court, Abbottabad.

Chairman Camp Court, A/Abad

16.02.2017

Clerk of counsel for the appellant and Mr. Abdul Waheed, SI (Legal) alongwith Mr. Muhammad Siddique Sr.GP for the official respondents present. Written reply submitted by official respondents. Fresh notices be issued to private respondents through registered post. To come up for written reply of private respondents before S.B on 18.05.2017 at camp court, Abbottabad.

Camp Court, A/Abad

25.05.2017

Since tour programme to camp court, Abbottabad for the month of May, 2017 has been cancelled by the Worthy Chairman, therefore, case to come up for the same on 21.07.2017 at camp court, Abbottabad. Notices be issued to the parties for the date fixed accordingly

Registrar

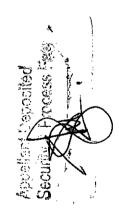
18.08.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Offtg. Sub Inspector and was entitled to confirmation as Sub Inspector in the substantive rank but deprived of the same for not serving as SHO for a period of 2 years constraining the appellant to prefer Service Appeal No. 568/2013 which was decided vide judgment dated 13.10.2015 with the directions to the respondents to treat the same as departmental appeal which was vide impugned order dated rejected communicated to the appellant on 27.5.2016 and hence the instant service appeal on 07.06.2016.

That the appellant was not posted as SHO at any Police Station by the authority and as such no fault could be attributed to the appellant. That the appellant remained as SHO for more than one year and was confirmed as S.I w.e.f. 27.08.2015. That the appellant was entitled to confirmation w.e.f. 14.09.2012 i.e. the date on which similarly placed employees were confirmed.

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 25.11.2016 before S.B, at case Caset 15.15.

Chairman Camp court, A/Abad



Form- A FORM OF ORDER SHEET

.Court of		
Case No.	736/2016	•

C No	Date of order	Order or other proceedings with signature of judge or Magistrate
S.No.	proceedings	Order of other proceedings with signature of Judge of iviagistrate
1	2	3
1.	19/07/2016	The appeal of Mr. Amjid Ali resubmitted today by
		post through Muhammad Arshad Khan Tanoli Advocate may be
•		entered in the Institution Register and put up to Learned
		Member for proper order please.
		REGISTRAR
2-	20-7-16	This case is entrusted to Touring S. Bench at A.Abad for
		preliminary hearing to be put up there on. $12-8-2016$
		MEMBER
	1.4	
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	. v.	
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The appeal of Mr. Amjid Ali son of Mir Alam. Khan Inspector Law Instructor Police Training College Hangu received to-day i.e. on 07.06.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Addresses of respondent no. 6 to 21 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Annexure-C of the appeal is missing.
- 3- Copy of confirmation letter mentioned in para-6 of the memo of appeal is not attached with the appeal which may be placed on it.
- 4- Annexures-A and E of the appeal are illegible which may be replaced by legible/better one.
- 5- Annexures of the appeal may be attested.
- 6- Annexures of the appeal may be flagged.
- 7- 23 more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 969 /S.T; DL 7-6 /2016

> SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR. 🍇

Mr. Muhammad Arshad Khan Tanoli Adv. High Court Abbottabad

> Sir. the appeal duty rectified is re-submitted for your further necessary action as all the objections have been removed Muhammad Trshad Khan Tanoli Advocate High Court Office No. 33 Adjacent to

Det 17/6/2016 ease was inbmilled on 21/6/2076

through Tes No 5063253934 dt 21.6.206 on 14/7/206 due to the reasons that security persons 1978

to deliver the appeal to service tribund. Thenfore, the appeal is se-submilled to day.

M. Arshed bhan tandi Adv. 14/7/2006

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BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 736 /2016

Amjad Ali son of Mir Alam Khan, Inspector Law Instructor Police, Training College, Hangu.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Home & Tribal Affairs, KPK, Peshawar. & others.

....RESPONDENTS

SERVICE APPEAL

INDEX

S.#	Description	Page No.	Annexure
_ 1	Service appeal along with affidavit	1 to 10	
2.	Copy of promotion order	11-11-19	"A"
3.	Copy of repatriation order dated 16/04/2014	12.	"B":
4.	Copy of Rule 13.10 (2) of Police Rule, 1934	13	"C"
5.	Copy of order dated 14/09/2012	14-15	"D"
6.	Copy of posting/ transfer order of the appellant as SHO in Police Station Dharbani District,	16-18	"E"
	Torghar		
7.	Copy of judgment of this Honourable Tribunal dated 13/10/2015	19-21	"F"
8.	Copy of rejection letter	22-24	"G"
9'.	Wakalatnama	25	

Dated: /2016

(Muhammad Arshad Khan Kanon) Advocate High Court, Abbottabad

APPELLAN'

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal Nol 36 /2016

Amjad Ali son of Mir Alam Khan, Inspector Law Instructor Police, Training College, Hangu.

...APPELLANT

Khyber Pakhtukhwa Service Tribunal

Diary No. 57

Dated 07-6-2016

VERSUS

- 1. Govt. of Khyber Pakhtunkhwa, through Secretary Home & Tribal Affairs, KPK, Peshawar.
- 2. IGP, Khyber Pakhtunkhwa, Peshawar.
- 3. Regional Police Officer, Hazara Range, Abbottabad.
- 4. Commandant Police Training College, Hangu.
- 5. DPO Torghar.

Police

6. Habib ur Rehman, presently Inspector at Battagram.

7. Aurangzeb, presently Inspector at Mansehra.

- 8. Mohammad Iqrar, S.I No. 188/H, Law Instructor PTC, Hangu.
- 9: Farhad Ali, S.I No. 4/H, Special Branch, Peshawar.
- 10: Azam Ali Shah, S.I No. 12/H, Operational Wing, Abbottabad.
- 11. Arshad Hussain, S.I No. 66/H, PTC Hangu.
- 12. Matloob Khan, S.I No. 101/H, Investigation Wing, Abbottabad.
- 13. Shah Nawaz, S.I No. 104/H, Operational Wing, Mansehra.
- 14. Shah Mohammad, S.I.No. 58/H, Torghar District Police.

Filedto-day

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Respondenti Mr - 6 to 21

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dt: 21/2/17

Re-submitted to -day

7/6/2016

rar 1917/16"

- 15. Fazal Wahab, S./No. 150/H, Special Branch, Peshwar.
- 16. Jehanzeb Khan, S.I NO. 169/H, Investigation Wing, Mansehra.
- 17. Mohammad Amin, S.I No. 170/H, Traffic Branch, KPK, Peshawar.
- 18. Ehsan Shah S.I No. 223/H, Investigation Wing, Abbottabad.
- 19. Mohammad Yousaf S.I No. 175/H, Operational Wing, Haripur.
- 20. Mohammad Sajjad, S.I No. 229/H, Investigational Wing, Mansehra.
- 21. Fida Mohammad, S.I No.230/H, Operational Wing, Abbottabad, through Central Police Office, Peshawar.

....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974, FOR DECLARATION TO THE EFFECT THAT THE APPELLANT WAS DEFERRED CONFIRMATION OF SUB-INSPECTOR ON 10/10/2012 DELETED DUE TO THE REASON THAT THE APPELLANT DID NOT REMAIN SHO IN POLICE STATION FOR ONE YEAR AS PER RULE 13.10 (2) OF POLICE RULES, 1934. HOWEVER, THE **APPELLANT** COMPLETED ONE YEAR PERIOD OF SHO SHIP W.E.F AUGUST 2014 TO NOVEMBER,

Costo

2015. THEREAFTER, THE APPELLANT WAS
CONFIRMED AS SUB-INSPECTOR ON
27/08/2015 WHEREAS CONFIRMATION OF
THE APPELLANT AS S.I SHOULD HAVE
BEEN W.E.F. 14/09/2012 INSTEAD OF
22/08/2015 AND THE APPELLANT IS TO BE
PLACED SENIOR FROM THOSE JUNIORS TO
THE APPELLANT WERE CONFIRMED ON
10/10/2012 BUT THE RESPONDENTS
DEPARTMENT IS NOT ALLOWING
SENIORITY TO THE APPELLANT W.E.F. THE
DATE OF HIS JUNIORS WERE CONFIRMED
AS S.I WHICH IS DISCRIMINATORY,
PERVERSE, AGAINST THE LAW AND
NATURAL JUSTICE.

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, RESPONDENTS MAY BE DIRECTED TO CONFIRM THE APPELLANT AS S.I W.E.F 10/10/2012 I.E THE DATE OF DEFERMENT INSTEAD OF 27/08/2015 AND SENIORITY OF THE APPELLANT MAY BE FIXED W.E.F THE DATE OF CONFIRMATION OF HIS JUNIORS.

Respectfully Sheweth:

- 1. That the appellant was promoted as Sub-Inspector on 16/02/2002 vide order dated 15/12/2009. Copy of promotion order is attached as Annexure "A".
- 2. That the appellant remained on deputation in Traffic Police, Islamabad NHA&MP till April 2014 vide repatriation order dated 16/04/2014. Copy of repatriation order dated 16/04/2014 is attached as Annexure "B".
- by the respondents' department alongwith his junior counter parts on 10/10/2012. On the ground that the appellant did not remained SHO for 1 years which is Sine Qua Non for confirmation as per Rule 13.10 (2) of Police Rule 1934. Copy of Rule 13.10 (2) of Police Rule, 1934 is attached as Annexure'"C".

- 4. That, thereafter, the appellant was deferred and not confirmed due to the deficiency of 1 year period of SHO ship and respondent No. 6 to 21 who were juniors were confirmed vide order dated 14/09/2012. Copy of order dated 14/09/2012 is attached as Annexure "D".
- 5. That the appellant was posted as SHO in Police Station Dharbani District Torghar in August 2014. Hence, the appellant completed satisfactory SHO period w.e.f August 2014 to November, 2015. Copy of posting/ transfer order of the appellant as SHO in Police Station Dharbani District, Torghar is attached as Annexure "E".
- 6. That after completion of one year mandatory period of SHO ship his services wee confirmed as Sub-Inspector w.e.f 27/08/2015 which should have been w.e.f 14/09/2012 i.e the date of initial deferment.
- 7. That the appellant filed service appeal No. 568/2013 almost on the same subject before

8. .

Tribunal converted the said service appeal into departmental representation on 13/10/2015 and "directed to the appellate authority to examining the case of the appellant to decide his appeal within a period of 03 months of the receipt of this judgment". Copy of judgment of this Honourable Tribunal dated 13/10/2015 is attached as Annexure "F".

That on receipt of representation/ judgment of the Honourable Tribunal in service appeal No. 568/13 dated 13/10/2015, and AIG establishment rejected the same with the remarks that the appellant was ignored from confirmation as Sub-Inspector due to not fulfilling the laid down criteria according to Rule 13/10 (2) of Police Rules, 1934 and further stated that the appellant himself admitted at the time his colleagues were confirmed. He had not fulfilled the criteria for confirmation i.e Rules 13.10(2) of Police Rules, 1934 vide rejection letter No. 1246 dated 10/05/2016 which was received by the

appellant on 27/05/2016. Copy of rejection letter is attached as Annexure "G".

9. That feeling aggrieved, the instant appeal is filed by the appellant, inter-alia, on the following grounds;-

GROUNDS;-

- the appellant on deputation from
 Hazara Range to Traffic Police,
 Islamabad on deputation. Therefore,
 respondents department was supposed
 to detail the appellant as SHO, for one
 year to protect his service carries of
 the appellant.
- ship prior to 14/09/2012 was not due to the fault of appellant but the department should have repatriated him from Traffic Police, Islamabad for completion of 1 year SHO ship in any Police Station of Hazara Division

for the purposes of evaluating his worth and ability.

- (c) That the appellant, in the DPC, held on 14/09/2012 was deferred due to the deficiency mentioned above and respondent No. 6 to 21 were confirmed as Sub-Inspector who were juniors to the appellant.
- deferred and he is subsequently confirmed or promoted, seniority is to allowed w.e.f the date of confirmation/ promotion of his juniors but the appellant was confirmed w.e.f 27/08/2015 instead of 14/09/2012 w.e.f the date of confirmation of his junior counter parts.
- (e) That there is no other prompt remedy available to the appellant except the invocation of jurisdiction of this Honourable Tribunal.

involved in this case shall be agitated before the Honourable Tribunal at the time of arguments.

It is, therefore, humbly prayed that on acceptance of the instant service appeal, respondents may be directed to confirm the appellant as S.I w.e.f 14/09/2012 instead of 27/08/2015 and the seniority of the appellant may be fixed w.e.f his confirmation of his juniors.

...APPELLANT

Through

Dated: /2016

Muhammat Arshad Khan Tanoli) Advokate High Court, Abbottabad

<u>VERIFICATION: -</u>

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

..APPELLANT

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal	No	/2016
•		

Amjad Ali son of Mir Alam Khan, Inspector Law Instructor Police, Training College, Hangu.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Home & Tribal Affairs, KPK, Peshawar. & others.

....RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Amjad Ali son of Mir Alam Khan, Inspector Law Instructor Police, Training College, Hangu, do hereby solemnly affirm and declare that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

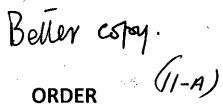
DEPONENT

Identified by;

(Muhammata Arshad Khan Tanoli) Advocate High Court, Abbottabad

CPG. NWEP Part 1 cher No. 14377/E-1 dated 10-06-2009, Commandant RP NWFF Lindst: No. 773 EC dated 17-10-2005 and Endst: No. 9011-13/EC dated 15-12-2009. The promot on/semority of following upper subordinates are hereby regularized as noted (Cs.C) against each their names according to Police Rules 13.18;-. Date of confirmation/promotion Confirmed in the Rank of ASI and promoted to List Offg: ASI from 16-01-1998 Name of otheral "E" W. e. from 01-07-2003 Offg: SI w.e. from 16-02-2002 Islamabad Ampi Ali Offg: ASI from 02-12-1999 Confirmed in the Rank of ASI and promoted to List " w.c.from \$1-07-2003. Offer SI w.c. from 20-02-2003 Rubblera Confirmed in the Rank of ASI and promuted to List Olig: ASI from 20-04-2000 min w. c. from 01-07-2003 Confirmed in the Rank of SI w.e. from Haripet Confirmed in the Rank of ASI and promoted to List Khanwaiz "L" W. c from 01-07-2003. Offg: Sl w e from 04-12-2004 Offg: ASI from 04-12-2000. Confirmed in the Kank of ASI and promoted to List "E" w 2. from 01-07-2001 Offic SI w e from 20-05-2005 CiO, Pennish Confirmed in the Rank of ASI and promoted to list "1" w.c. from 01-07-2003. Offe: \$1 w e. from 20-05-Baspet Offig: ASI from 20-04-2000. Confirmed in the Rank of ASI and promoted to List Trans. 2 from 61-67-2003. Oils: Sl we from 04-12-2054 Offs: ASI from 24-11-2005. Kohisad Confirmed in the Rank of ASI and premoted to "" n.c. from 24-11-2007. Abbellows. Mg: ASI from 24-11-2005. Confirmed in the Rank of Asl and promoted to List "E" w.c. from 24-11-2007. 刈掛 12049 Soo - 29 /E. Dated Abbumabad the Copy of above is forwarded for information and necessary action to that-Imposing Guaral of Police, Islamabad with reference to PPO NVFP, Peshawar Commandant, FRY, NWP, Periawar with reference to his Endst: No. 7737/EC Endst: No. 8864-98, L-1! dated 02-04-2069. dated 17-10-2009 & Fader No. 9011-13/EC, dated 15-12-2009. Deputy Inspector General of Police, Special Branch, NWFP, Poshawar. District Police, Officer, Abiomahad, District Police Officer, Maripur. th District Polica Officer, Manschea. District Police Officer, Robistan. CO. OS/AS Reg. na Office Abuottabett. No.4 facts Muhart Inspec as offic UIU Mazara Service Operational Wing Mansorma SI Muliammati Nazir No.129/H SI About Rashid No. 134/H

CLICE





As per CPO NWFP Peshawar direction vide letter No. 14377/E-I dated 10.06.2009 and letter No. 7737/EC dated Peshawar the 17.10.2009 Commandant FRP NWFP Peshawar promotion order of the following literate official of FRP now transferred to regular Police is hereby regularized according to Police Rules 13-

pt-		
Name of official	Previous order dated	Now Regularized
Amjid Ali	1. ASI/PC on 16.01.1998	1. Offg: ASI from 16.01.1998
	2. SI/PC on 16.10.1999	2. Confirmed in the rank of ASI and
		promoted to list "E" w.e.f 01.07.2003
		3. Offg: SI w.e.f 16.02.2002
Habib ur Rehman	1. SI/PC on 02.11.2002	1. Offg: ASI from 02.12.1999
		2. Confirmed in rank of ASI and promoted
	·	to List "E" w.e.f 01.07.2003
		3. Offg: SI w.e.f 20.02.2003
Khanwaiz	1. SI/PC on 22.07.2003	1. Offg: ASI from 20.04.2003
		2. Confirmed in the rank of ASI and
		promoted to list "E" w.e.f 01.07.2003
		3. Offg: SI w.e.f 04.12.2004
Aurangzeb	1. SI/PC on 22.07.20003	1. Offg: ASI from 20.04.2000
		2. Confirmed in the rank of ASI and
		promoted to list "E" w.e.f 01.07.2003
		3. Offg: SI w.e.f 04.12.2004
Imtiaz	1. SI/PC on 22.07.20003	1. Offg: ASI from 04.12.2000
		2. Confirmed in the rank of ASI and
		promoted to list "E" w.e.f 01.07.2003
		3. Offg: SI w.e.f 20.05.2005
Liaqat Ali	1. SI/PC on 22.07.20003	1. Offg: ASI from 04.12.2000
		2. Confirmed in the rank of ASI and
	- 1	promoted to list "E" w.e.f 01.07.2003
	1 100	3. Offg: SI w.e.f 20.05.2005

-Sd-

Deputy Inspector General of Police Hazara Region Abbottabad

No. 800-09

18.

/EC, dated Abbottabad the 16 - of - 2009

256-HU33

P-12

OFFICE OF THE INSPECTOR GENERAL OF POLICE ISLAMABAD

No. 3602-08/E-I

Dated: 16/04/2014

ORDER

On completion of maximum deputation period with Capital Territory Police, Islamabad, Sub-Inspector Amjad Khan No. 256/H of Khyber Pakhtunkhwa Police is hereby repatriated to his parent department with immediate effect.

2. This issues with the approval of the DIG/Headquarters, Islamabad.

(ASHRAF ZUBAIR SIDDIQUI) PSP

AIG/Establishment, for Inspector General of Police, Islamabad.

OB/OSI

Copy to:-

1. The Inspector General of Police, Khyber Pakhtunkhwa Police, Peshawar.

2. AGPR, Islamabad.

3. SSP/Logistics and SSP/Islamabad with request to relieve the above named Sub-Inspector of his duties from ICT Police immediately with directions to report to his parent department under intimation to this office.

4. Accountant, o/o the SSP/Logistics, Islamabad.

5. Incharge, Admin Branch, o/o the SSP/Logistics, Islamabad.

6. Officer concerned.

Advocate High Court
Office Not 33 Adjacent to

Allester

او ایش آن اسلام آباد (3) تمام ہیڈ کنٹیلان مندرجہ فہرست ہذا کی نسبت ششما ہی رپورٹیس 15 مارچ اور 15 سمبر کو فارم 13-9 (2) پرڈیٹی انسپکڑ جزل کوارسال کی جائیں گی۔

فہرست ہ۔ سب انسکٹر کے عہدہ برتر تی۔ 10-13 (۱) ڈپٹی انسکٹر جزل کارڈ انڈکس فارم پران تمام اسٹنٹ سب انسکٹر دل کی فہرست مرتب رکھیں گے۔ جن کے نبست وہ منظوری دے بھے ہوں کہ وہ اس لائق ہیں۔ کہ ان کو تھا نے کا بطور خود مخار انبچارج مقرر کر کے یا عملہ سب انسکٹر ان میں خاص آ سامیوں پرتر تی دے کر ان کا کام دیکھا جائے۔ تھوڑ نے تھوڑ نے عرصہ کی قائم مقام ترقیاں عام طور پرضلع متعلقہ کے اندر سے کی جائیں گی۔ (دیکھوقاعدہ 13-14(2)۔ لیکن آگر لیے عرصہ کی تائم مقام ترقیاں عام طور پرضلع متعلقہ کے اندر سے کی جائیں گی۔ (دیکھوقاعدہ 13-14(2)۔ لیکن آگر لیے عرصہ کے لیے آ سامیاں خالی ہوں تو ڈپٹی انسکٹر جزل اپنی منشاء کے مطابق حلقہ میں کسی مناسب آ دی کوتر تی دے کر انہیں پُر کر سکتے ہیں۔ ششاء ہی رپورٹیس ان تمام آ دمیوں کے متعلق جن کے نام قاعدہ ہذا کے مطابق تیار شدہ فہرست میں درج ہوں۔ 15 اکتوبر تک فارم 13-9(3) میں ارسال کی جائیں گی۔ ماسوائے اس سالا ندر پورٹ کے جو قاعدہ میں درج ہوں۔ 15 کورک کی میں عربی کو تی ہے۔

(2) کمی اسٹنٹ سب انسپٹر کوسب انسپٹری کے عہدہ میں اساس خالی آ سامی پرستقل نہیں کیا جائے گا۔ جب تک کہ کم از کم ایک سال کیلئے اسٹیے رہائش ضلع کے سوا اے کسی اور ضلع میں بحثیت قائم مقام بطورخود عمّارا فسرانچارج تھانہ مقرر کرے آزمانہ لیا گیا ہو۔ پوکیس گزیش میں فہرست''ای'' کی اشاعت ۔ 11-13 ہرایک علقہ کی نہرست ای سالانہ پولیس گزٹ میں شائع کی بھائے گی۔ ڈپٹی انسکٹر جزل اس فہرست میں کسی وقت بھی ایز ادبیاں کر سکتے ہیں۔ لیکن تمام ایز ادبیاں یا اخراج زیر قاعدہ من 12-13 (2) خاص اعلان كى ذريع بوليس كز ف ميس شائع كے جاكيں مع -اس فهرست ميں نام تاريخ داخله كى ترتيب ميں درج كئے جائيں مے۔ جن اسٹنٹ سب انسيئران کي تاريخ داخله ايك برگي ان كي تقديم و تاخير كافيصلة عرصه ملازمت بوليس كے لحاظ سے بوگا۔ عہدہ سبِ انسکِٹری کی عارضی خالی آسامیوں کو پُرکرنے کا طریقہ۔ 12-13 (۱) بانسکِٹری کے عهده کی عارفینی خالی آسامیوں کو پر کرنے کا معالیہ ہوگا۔ کہ جہاں تک ہوشکے فہرست''ای'' میں دینج شده آ دمیوں کوخودمخار عبدون پرنگار پوری طرح آ زمالیا جائے۔جس ترتیب میں نام فہرست نہ کور میں درج ہوں اس کونظرا نداز کر دینا جاہے۔اور اس بالاتر عراق میں قائم مقامی سے مواقع کوحی الامکان برابر برابرتقسیم کرنا جا ہے۔ جواسٹنٹ سب انسیکٹر قائم مقام سب انسیکٹر لگا موا ہو رے بالعوم اٹنے عمر کہ تک لگار بخے رہا جاہے جتنے عرصہ کیلئے آسای خالی ہوگئ ہو۔ اور محض اس وجہ سے اسے واپس نہیں تركيبيا يركم اوراستكر كرنتي المراكب سقدم الملازمت بوه قائم مقام نيس لكا مواربهر حال اكركوني قائم مقام آسا می آن ما ای آن موارد می این مولی مولی مولی مولی مولی ایسا آدی نگا موا موجوایک اور آدی سے جونهایت بی لاگن مر متاخر (Advocate High Cathol NIDR) این مسلم این می موت اس اصول میں ترمیم کی جاستی ہے۔ متاخر (2) نواست کا Advocate High Cathol میں ترمیم کی جانت کو ہروقت خاص خور سے زیرنظر رکھنا ہوگا۔ جوافسرخواہ اپنے دون نواست کا Disti Rar Abbottabad کی این کا کا تعدید کو ہروقت خاص خور سے زیرنظر رکھنا ہوگا۔ جوافسرخواہ اپنے

<u>ORDER.</u>

Ph: 0992-931002 Fax: 0992-9310023 mex

A DPC was held in this office on 31-08-2012 under the chairmanship of undersigned for confirmation of SIs. The cases of 24 Offg: SIs were considered strictly on merits, competency, integrity and reputation.

Consequent upon the recommendation of DPC, the following Offg: SIs who have completed their two years officiating/probation period and fulfilled the laid down criteria for substantive rank under PR.13-1, 13-10 (2), 13-18 are hereby confirmed with effect from 31-08-2012:-

s.no.	NAME & NO.	PRESENT POSTING	NEW
SNOL			
5.1.0.	NAME & NO.		REGION
- }			NO.
	1/22 L Vancus No. 188/14	Law Instructor PTC Hangu	*H/29_
01	SI Muhammad Iqrar No.188/H	Special Branch	FH/30
02	SI Farhad Ali No.4/H	Operational Wing Abbottabad	- I-I/32
03	SI Azam Ali Shah No.12/H	PTC Hangu	H/33
04	SI Arshad Hussain No.66/H	Investigation Wing	J-I/34
05	SI Matloob Khan No.101/H	Abbottabad	
		Operational Wing Mansehra	I-I/35
06	SI Shah Nawaz No.104/H	Torghar District	II/36
07	Si Shad Muhammad No.58/H	Special Branch	H/37
08	SI Fazal Wahab No. 150/H	Investigation Wing Manschra	. H/39
09	St Jehan Zeb Khan No.169/H	Traffic Khyber Pakhtunkhwa	H/42
. 10	SI Muhammad Amin No.170/H	Investigation Wing	I-I/44
11	SI Ehsan Shah No.223/H	Abbottabad -	
		1 137' - Homissur	H/46
12	SI Muhammad Yousaf	Operational wing range	,
	No.175/H	Wing Manselva	[-]/47
13	SI Muhammad Sajjad No.129/H	Investigation Wing Mansehra Operational Wing Abbottabad	
	SI Fida Muhammad No.230/H	T Chaccallonal Willy Moderable	

Advocate High Court Office No. 33 Adjacent to

Musled

Deputy Inspector General of Police Hazara (Abbottabad)

CO Syled Sheewar H. Shah)

/2012. No. 13958-7/IEC, Dated Abbottabad the 14

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

AIG Special Branch Khyber Pakhtunkhwa Peshawar.

1. All District Police Officers, in Hazara Region.

All Senior Superintendent of Police, Investigation in Hazara Region. 2. 3.

Commandant Police Training College Hangu.

Superintendent of Police, Traffic Peshawar.

OS/AS Region Office Abbottabad.

(5) Appendix "B"

Annex

A Promotion Board to considered the cases of Offg: SIs for substantive promotion/confirmation under P.R 13.18 was held on 16-06-2010 in the Office of the undersigned which was attended by the following Officers:-

		•		
1	Muhammad Suleman	. DIG. Hazara (Abbottabad)	=	Chairman

2 Mr. Imran Shahid, DPO, Abbottabad = Member

3 Dr. Wagar-ud-Din Syed, DPO Mansehra = Mémber

Each candidate was considered strictly on merit. The board has decided that their 2 years Cffg: service is counted towards their probation period under P.R 13-18 in the light of their integrity and reputation. They are confirmed in their substantive Rank of SIs with effect from 16-06-2010.

S#	Name & No.	Present posting	New Region No	Remarks
1. 7	Habib-ur-Rehman	Kohistan	H/25?	-
2.	Aurangzeb	Mansehra	11/258	Conditionally confirmed subject to the availability of ACR for the years 2005, 2006 & 2007 being satisfactory.
3.	Sajjad Haider	Kohistan	H261	Conditionally confirmed subject to the availability of ACR for the year 2007 being satisfactory.
4.	Muhammad Altaf	Mansehra	H/155	<u></u>
5.	Shah Nawaz	CCP, Peshawar	: i/191	
6.	'Muhamr.ad Khurshid	Kohistan	H/201	,
7	Ghulam Mustafa	·Kohistan	H/202	
8:	Hazarat Nabi	Inv: Haripur	F1/205	
9.	Muhammad Iqbal	EAC Peshawar	H/211	
10.	Altaf A L	Inv: Harigur .	H <i>i</i> 31	

Advocate High Court
Office No. 32 Adjacent to

(MUHAMMAD SULEMAN)
Deputy Inspecto: General of Police
Hazara (Abbottabad)

No 7810-16

/E, dated Abbottabad the

3/5-12010

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

- DG: Anti Corruption, K.P.K, Peshawar.
- 2. District Police Officers, Haripur, Abbottabad, Mansehra and Kohistan.
- 3. Senior Superintencent of Folice, Investigation, Haripur.
- 4. . OS/ AS Region Office Aboottabad.

FROM :DIG POLICE HAZARA

FAX NO. : 2092 992 9310023

2015 19:07 P4 Phone No. 0992-9510021 No. 0992-9310023

ORDER

Following transfers/postings amongst the upper subordinates

are hereby ordered with immediate effect;-

- ·	NAME & NO	FROM	TO
S#	Inspector Raja Mehboob Khan No.H/18	Operational Wing Abbottabad	Operational Wing Lower Kohistan
02	SI Ghulam Murtaza No.240/H	Operational Wing Abbottabad	Operational Wing Torghar
03	SI Sheryar No.289/H	Operational Wing Lower Kohistan	Operational Wing Abbottabad
04	SI Amjad Khan No.H/02	Operational Wing Torghar	Operational Wing Abbottabad

Serial No.01 will draw his pay as usual from Operational Wing

Abbottabad.

Regional Police Officer Hazara Region Abbottabad

No. 18215-39/E dated Abbottabad the 10-11 /2015.

Copy of above is forwarded for information and necessary

action to the:-

District Police Officer, Abbottabad. 1.

District Police Officer Lower Kohistan. 2.

District Police Officer Upper Kohistan 3.

District Police Officer Torghar.

Advocate High Court Office No. 33 Adjacent to

SRC/PO On m/cechin



This your office Merno: No. 115/E-II, dated 11-01 2019.

It is bring info your Kind notice that the said Inspector was posted National Highway & Motorway Police Islamabad and not fulfilling the Criteria as laid down in Police Rule Chalder Fig. 13, as he was neither posted as SHO/ Dif investigation wing) or en advar unit in which he was considered fit for Confirmation as SI. He remained posted in the branches like Motorway/ National Highway Police International relation may any follows as fulfill the criteria, later on he was posted to harmful. District where he remained maked as SHO Police Station Darbani for a period or one year:

After that he has fulfill the criteria and Confirmed in rank of States. this office Q dec Pt., 44409-61645 dated 08-09-2015 and recommended for promotion into list "F". He was accordingly admitted into list "F" and promoted as hitg: Inspector by the CPO Mals Mondoston No. 3844-55/E-III dated 15-12-2016 His combined. No. application a absolutary haseless

Advocate High Court Office No 33 Adjacent to Tier Bar Abbottabad

Better copy, P-18 Annex E

Memo:-

Kindly refer to your office Memo No. 115/E-II dated 11.01.2016.

It is bring info your kind notice that the said Inspector was posted Nation Highways and Motorway Police Islamabad and not fulfilling the Criteria as laid down in Police Rule Chapter No. 13 as he was neither posted as SHO / OII (investigation wing) or any other unit in which he was considered fit for confirmation as SI. He remained posted in the branches like Motorway, National Highway Police Islamabad which are not falling to fulfill the criteria, later on he was posted to Torghar District where he remained post as SHO Police Station Darbani for a period of one year.

After that he has fulfill the criteria and Confirmed in the rank of SI vide this office Order no. 14499-516/E, dated 08.09.2015 and recommended for promotion into list "F". He was accordingly admitted into list "F" and promoted as offg: Inspector by the CPO Vide notification No. 3844-55/E-III dated 15.12.2015. His contain in his application is absolutely baseless.

-Sd
Deputy Inspector General of Police

Hazara Region Abbottabad

Muhammad Astran Khan Tano
Advicate High Court
Office No. 33 Adjacent to

Diett Bor Abbottabad

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	,	Du - Fordari	Order or other proceedings with signature of Judge
	Sr. No.	Date of order/	Magistrate (2)
		proceedings	Wagistine 3
	1	2	
	1.		KHYBER PAKHTUNKHWA SERVICE TRIBUNARY PESHAWAR.
			Service Appeal No. 568/2013
			Amjad Ali Versus the Provincial Police Officer, KI'K, Peshawar etc.
			IUDGMENT
		13.10.2015	PIR BAKHSH SHAH, MEMBER - Appellant with
			counsel (Mr. Muhammad Asif Yousafzai, Advocate) and
			Government Pleader (Mr. Ziaullah) for the official
			respondents present.
•			2. The appellant is aggrieved with order dated
		,	14.09.2012 vide which as many as 14 Sub Inspectors of the
	•		1 Dulas Pulas

2. The appenant is aggressed 14.09.2012 vide which as many as 14 Sub Inspectors of the Police Department were confirmed under Police Rules-13.1, 13.10.(2) and 13.18. According to the appellant he was ignored despite the fact that he was senior to them and that he also performed as Offig. S.I. w.e.f. 16.2.2002.

Since his departmental appeal was also not replied, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

- Arguments heard and record perused.
- 4. It appears from the reply of the respondent department that the appellant was on deputation.

 According to the said reply the S.Is who were confirmed vide impugned order dated 14.9.2012had fulfilled the laid

Allested

Office No. 33 Adjacent

down criteria according to the rules but the appellant was found deficient, hence he was not confirmed.

- 5. While arguing for the appellant, the learned counsel for the appellant submitted that though service as SHO may be required for such confirmation but the respondent department did not provide any such opportunity to the appellant, therefore, he was wrongly penalized for no fault on his part. Conversely, it was submitted on behalf of the respondent department that for confirmation as Sub Inspector, display of performance as \$\frac{4}{3}\$HO is pre-requisite according to the Police Rules.
 - departmental appeal dated 10.10.2012 of the appellant has been examined by the respondent department as on record there is no order of the appellate authority. There is nothing on record like PER's of the appellant to show that the appellant was otherwise also deficient per laid down criteria beside performance as SHO, hence the matter of his suitability or non-suitability for confirmation cannot be examined by the Tribunal on the available record. In the sated circumstances, the Tribunal is of the considered view to remit the case of the appellant to the appellant and to decide his appeal within a period of three months of the receipt of this judgment. The appeal is disposed off

Allestet.

* Advocate High Court
Office Not 33 Adjacent to
District Art Abbottabed

accordingly. Parties are left to bear their own costs. File be consigned to the record.

7. This judgment will also dispose of 2 other connected appeals bearing No. 499/2013 Umer Rehman and No. 500/2013 Muhammad Aurangzeb, involving common question of facts and law, in the same manner.

ANNOUNCED 13.10.2015. By fir Brekest Crass

Hember

: 2-7.10.2g

1200 (220)

27.10-2015

Allishid

Advocate High Court
Office No. 33 Adjacent



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

246 /E-II, dt: /0/05/2016.

То

The

Regional Police Officer,

No.

Hazara Region.

Subject:

APPEAL NO. 568/2013 "TITLED SI AMJID ALI VS

IGP KHYBER PAKHTUNKHWA AND OTHERS".

Memo:

Please refer to DSP Legal Abbottabad Endst: No. 1143/L,

dated 30.10.2015.

According to Legal Branch CPO report, Sub-Inspector Amjid Ali of Hazara Region filed Service Appeal No. 568/2013 for restoration of his seniority. He contended that RPO/Hazara issued confirmation order of private Respondents cited in the appeal vide order 14.09.2012, while he was ignored from confirmation as he was not allegedly fulfilling the prescribed criteria. The appeal was contested by Abbottabad Police and Service Tribunal remitted the case to respondent for decision of the departmental appeal of the appellant.

Decision:-

As per record, Sub-Inspector (now Inspector) Amjid Ali of Hazara Region was ignored from confirmation as Sub-Inspector due to not fulfilling the laid down criteria according to the Rule 13.10(2) of Police Rules 1934. Sub-Inspector (now Inspector) Amjid Ali himself admitted at the time his colleagues were confirmed he had not fulfilled the criteria for confirmation i.e Rule 13.10(2) of Police Rules 1934. Therefore, his representation is not maintainable. He may be informed accordingly.

(NAJEEB UR REHMAN BUGVI)PSP

AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

No 1947-hx /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.

Advocate High Court
Office Not 33 Adjacent to

JIS POLICE HEDARH

:0090 992 9310023



2015 19:35 Santa 80, 9992-9319621

ORDER

At approved by the Departmental Promotion Committee hor on 27-08-2015 in the office of the undersigned the following officiating Sub inspectors who have completed their two years officiating i probation period and fulfilled the laid down criteria for substantive rank under Police Rules. 13-1, 13-19 (2) and 13-18 and standing order No.21/2014 are hereby confirmed as Sub Inspectors with effect from 27-08-2015

They are allotted new Region numbers as noted against each their

ളന്നുള		PRESENT POSTING A	REGION TO
) }#	NAME AND NO.	Operational Wing Torgnar	H/02
¦	SI Amjad Ali No.256/H	CTD Hazara	H/04 H/4(
 02	SI Muhammad Ishal No.90/H SI Muhammad Ishalag No.149/H	Operational Wing Hangur	HM 10
03 04	SI Abdul Wahees No.155/H	Investigation Wing Harrow	1875 - 1985 - 19
05	, SI Muhammad Afzal No 165/H	Operational Wing Abbottabari	H50
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Advocate High Court
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Phone No. 0992-9310021 Fax No. 0992-9310023

8 Sep. 2015 19:26

24	Si Muhammad Aslam No 138/H	Operational Wing Upper Kohistan	H/131
25	Si Niaz Muhammad No 148/H	CTD Hazara	H/132
26	SI Muhammad Javed No.216/H	Operational Wing Torghan	H/133
 27	SI Abdul Rashid No.220/H	Operational Wing Abbettabad	H/134
	SI Abdul Hamid No.227/H	Police School of Intelligence Abbottabad	4/135
<u></u> . 29	SI Muhammad Hanif No.263/H	Operational Wing Abbottabad	H/136
30	SI Bashir Ahmed No.76/H	Operational Wing Upper Kohistan	H/137
31	SI Tanveer Ahmed No.122/H	CTD Abbottabac	H/139

Hazara Region Abbottabad (AEČ Dilawar)

No. 14489-576 /E, dated Abbottabad the _057-09 /2015.

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

- Addl: Inspector General of Police Special Branch Knyber Pakhtunkhwa 1. Peshawar.
- Deputy Inspector General of Police, Training Khyber Pakhtunkhwa 2. Peshawar.
- Deputy Inspector General of Police CTD Khyber Pakhtunkhwa 3. Peshawar
- Ali District Police Officers in Hazara Region. 4.
- All Superintendents of Police Investigation in Hazara Region. 5.
- Superintendent of Police CTD Hazara Abbottabad. Ö.
- Director, Police School of Intelligence Police Lines Abbottabad. 7.
- GS/AS Region Office Abbottabad. 8.

(Necessary Gezette Notification may be issued accordingly)

Advocate High Court

Office No. 133 Adjacent

كورث فيس وكالت ناميه بعدالت خناب حسر حسن مروس رطر (لرو آل) عنوان: ما فرا المجار من مام حکومت عام مروست علی مرا - Eimi , Du a Bri باعث تحرية نكه إصبي مقدمه مندرجه میں اپی طرف ہے واسطے ہیروی وجواب دہی کل کارِوائی متعلقہ آں مقام El cutato vie o citalina de ر میں گئے ہو ایک رہا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب بل مقرر کر کے افر ارکرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ وتقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک رو پیہ وعرضی دعویٰ کی تصدیق اوراس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ نہ کور کی کل پاکسی جزوی کاروائی کے لئے کسی اور وکیل یا مخارصاحب قانونی کوایئے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگااورصاحب مقررشدہ کوبھی وہی اور ویسے ہی اختیارات ہوں گےاوراس کا ساختہ پر داختہ مجھ کومنظور وقبول ہوگا۔ دوران مقدمہ جوخرج و ہرجانہ التوائے مقدمہ کے سبب ہو گا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایار قم وصول کرنے کا بھی اختیار ہوگا۔اگر کوئی پیشی مقام دورہ پر ہویا حدے باہر ہوتو وکیل صاحب موصوف یا بند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کر دہ میں کوئی جز و بقایا ہوتو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراداستجارت نالش بصیغہ مفلسی کے دائر کرنے اوراس کی پیروی کابھی صاحب موصوف کواختیار ہوگا۔ لہذاوکالت نامة تحرير کرديا تا كەسندر ہے۔ Acopled M. Arshadbean land.

وقاص فو **نوستسه م**ی تجیری (اسه مرآباد) ^د

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRUIBUNAL PESHAWAR

Service Appeal No.736/2016.

Amjad Ali	(Ap	pellant)
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VERSUS

Govt: of Khyber Pakhtunkhwa, through Secretary Home & Tribal Affairs, department Khyber Pakhtunkhwa, Peshawar and other.....(Respondents)

Subject: - COMMENTS ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS:-

- a. That the appellant has no cause of action to the appeal. Hence, appeal is liable to be discussed.
- b. That the appeal has not been based on facts.
- c. That the appeal is not maintainable in its present form.
- d. That the appeal is bad for non-joinder of necessary and mis-joinder of necessary parties.
- e. That the appellant is estopped to file the appeal.
- f. That the appeal is barred by law and limitation.
- g. That the appellant has not come to the Honorable Tribunal with clean hands.
- h. That the appellant has suppressed the original feels from this Honorable tribunal. Hence, not entitled for any relief and appeal is liable to be discussed without any further proceeding.
- i. That the appellant has treated as per law and rule. Hence, appeal is liable to be discussed.
- j. That the authority has passed the order under appeal after fulfillment all the formalities.

FACTS:-

- 1. Correct to the extent of the appellant was promoted as officiating Sub-Inspector with effect from 16.02.2002.
- 2. Correct to the extent of the appellant was transferred on deputation basis to Islamabad Traffic Police.
- 3. Correct to the extent that confirmation in the rank of Sub-Inspector in Police department is governed by Police Rule 13.10(2).
- 4. Incorrect, appellant was correctly deferred from confirmation in the rank of Sub-Inspector as he was not fulfilling the criteria prescribed for confirmation in the rank of Sub-Inspector.
- 5. Correct to the extent that on repatriation from Islamabad Police in the Year 2014 appellant was posted as SHO.
- 6. Correct to the extent that the appellant was confirmed in the rank of Sub-Inspector when he fulfilled the prescribed criteria.
- 7. Correct the departmental representation of appellant was without any force and substance therefore, the same was correctly rejected.
- 8. Incorrect, the representation of appellant was rejected vide detailed and speaking order. Copy already enclosed with the original appeal.
- 9. Incorrect, the appeal is not maintainable in the given grounds.

c.

- a. Incorrect, appellant willingly managed his transfer to traffic Police Islamabad therefore the respondents were incompetent to post the appellant as SHO because he was serving the Islamabad Police.
- b. Incorrect, appellant preferred serving Traffic Police Islamabad then his posting as SHO therefore, the inaction of the appellant delayed his confirmation in the rank of Sub-Inspector.
- c. Incorrect, appellant was correctly deferred from confirmation in the rank of Sub-Inspector as he was not fulfilling the prescribed criteria given in the Police Rule 13.10 (2).
- d. Incorrect, Police is disciplinary force and the promotion, of Police Officer of junior ranks is governed by Police Rules, that is special law and an officer is confirmed in the rank of Sub-Inspector when he fulfill the prescribed criteria.
 - Incorrect, appellant has wrongly approached this Honorable Tribunal. He was confirmed in the rank of Sub-Inspector from due date. Appellant was voluntarily serving Islamabad Traffic Police which delayed his confirmation in the rank of Sub-Inspector.
 - The respondents may also be allowed to raise other grounds during hearing of the case.

It is therefore, prayed that the appeal of appellant may be dismissed with costs.

Secretary Home & Tribal Affairs, Khyber Pakhtunkhwa Peshawar (Respondent No. 1)

Inspector General Police, Khyber Pakhtunkhwa,

hyber Pakhtunkhwa Peshawar.

(Respondent No. 2)

Provincial Police Officer

Khyber Pukhtunkhawa

Regional Police Officer

(Respondent No. 3)

Commandant

Police Training College

(Responde No. 4)

District Police Officer,
Torghar

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BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

1 202 17

Service Appeal No.736/2016

Amjad Ali

...APPELLANT

VERSUS

Govt. of KPK, through Secretary Home & Tribal Affairs Department, KPK, Peshawar & others.

... RESPONDENTS

REJOINDER ON BEHALF OF APPELLANT

INDEX

S. No.	Description	Page Nos.	Annexure
1.	Rejoinder alongwith affidavit	1 to 4	,
2.	Copy of rule 12.2 (3) of police rule 1934		"A"

Through

Dated: <u>20/9</u>/2017

(Muhamad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

.APPELLANT

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No.736/2016

Amjad Ali

...APPELLANT

VERSUS

Govt. of KPK, through Secretary Home & Tribal Affairs Department, KPK, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth;-

REJOINDER ON PRELIMINARY OBJECTIONS:

- a. That Para "a" is incorrect and denied. In fact, the matter relates to the terms and condition of service.
 Therefore, the appellant is entitled for promotion with retrospective effect.
- b. That Para "b" is incorrect and denied.

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- c. That Para "c" is incorrect and denied.
- d. That Para "f", "g", "h", "i" and "j" are incorrect and denied. Valuable rights of promotion with retrospective effect are involved because the appellant was deferred and is also entitled for seniority w.e.f the date of his juniors who have been promoted at the time of deferment of the appellant. In this regard, rule 12.2 (3) of police rule 1934 is attached as Annexure "A".

REJOINDER ON FACTS;-

- 1. Para No.1 needs no reply. As para-1 of the appeal has been admitted.
- 2. Para No.2 needs no reply.
- 3. Para No.3 is correct to the extent of Police Rule 13.10(2). It is submitted that respondents' department was to check worth of the appellant after his posting as SHO in Police Station.

- 4. That Para No.4 of the comments is correct to the extent of deferment but rest of the para is incorrect and denied.
- 5. Para No.5 needs no reply.
- 6. Para No.6 is correct to the extent of confirmation to rank of Sub-Inspector w.e.f 28/08/2015 which should have been w.e.f 16/02/2002 as admitted by the department in para-1 of their comments.
- 7. Para No.7 is incorrect and denied. The rejection order is not a speaking order and valuable rights of the appellant have been denied.
- 8. Para No.8 has been replied in Para-7 above.
- 9. Para No.9 is incorrect and denied.

REJOINDER ON GROUNDS;-

a. Para "a" is incorrect and denied. That
the appellant was posted by the
department/ respondent in Traffic

- b. Para "b" is incorrect and denied.Reply has already been given in paraa above.
- c. Para "c" is incorrect. The department was to follow the law of the deferment at the time of confirmation of the appellant as S.I.

In view of the above, it is prayed that appeal of the appellant may graciously be accepted as prayed for.

...APPELI

Through

Dated: <u>2019</u>/2017

(Muhamad Arshad Khan Tanoli) Advocate High Court, Abbottabad

AFFIDAVIT

I, Amjad Ali, Appellant, do hereby affirm and declare that the contents of foregoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Tribunal.

DEPONENT

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Vol. II

THE POLICE RULES, 1934

Head constables and constables in each district shall be borne on dis rolls and shall receive constabulary numbers.

12-2. Seniority and probation .- (1) The seniority of Assistant Superintendents of Police is regulated by the orders passed from time to time by the Secretary of State and the Central Government.

No Probationary Assistant Superintendent of Police shall be permanently appointed as an Assistant Superintendent of Police until he has passed the prescribed departmental examination.

A Probationary Assistant Superintendent of Police who does not qualify by passing these examinations within two years, or at the first examination after two years, from the date of his joining the service, will be removed from Government service: Provided that the Provincial Government shall have power to relax this rule in special cases, when the Probationary Assistant Superintendent of Police is likely to make a good police officer.

- (2) The rules governing the probation and seniority of Deputy Superintendents of Police are contained in Appendix 12.1.
- (3) All appointments of enrolled police officers are on probation according to the rules in this Chapter applicable to each rank.

Seniority, in the case or upper subordinates, will be reckoned in the first instance from date of first appointment, officers promoted from a lower rank being considered senior to persons appointed direct on the same date, and the seniority of officers appointed direct on the same date being reckoned according to age. Seniority shall, however, be finally settled by dates of confirmation, the seniority inter se of several officers confirmed on the same date being that allotted to them on first appointment. Provided that any officer whose promtion or confirmation is delayed by reason of his being on deputation outside his range or district shall, on being promoted or confirmed, regular the seniority which he originally held vis-a-vis any officers promoted or confirmed before him. during his deputation.

The seniority of lower subordinate shall be reckoned from dates of appointment, subject to the conditions of rule 12.24 and provided that a promoted officer shall rank senior to an officer appointed direct to the same rank on the :same date.

- 12-3. Direct appointments of inspectors and assistant sub-inspectors.— Except as provided in Rules 12.1 and 12.4, direct appointments shall not be made except in the rank of inspector, prosecuting sub-inspector and assistant sub-inspector. Such appointments in the rank of inspector and assistant subinspector may be made up to a maximum of ten per cent and twenty-five per cent of vacancies, respectively.
- 12-3-A. Appointment of Urdu Stenegraphers.—Appoint to the special posts of Urdu Stenographers is made in the rank of assistant sub-inspector by the Deputy Inspector-General of Police, Criminal Investigation Department, Punjab. These appointments are governed by the rules contained in Appendix 12-3-A.
- 12-3-B. Recruitment to the Technical District. (1) Direct appointment to the rank of Assistant Sub-Inspector in the Technical District shall be made on

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Voi. II

THE POLICE RULES, 1934

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- 12-3-B. Recruitment to the Technical District. -(1) Direct appointment to the rank of Assistant Sub-Inspector in the Technical District shall be made on

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 417 /ST

Dated 28 / 02 / 2018

To

The Inspector General of Police, Government of Khyber Pakhtunkhwa, Peshawar.

Subject:

ORDER/JUDGEMENT IN APPEAL NO. 736/2016, MR. AMJID ALI.

I am directed to forward herewith a certified copy of Judgment/Order dated 21/02/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No.736/2016

Amjad Ali

...APPELLANT

VERSUS

Govt. of KPK through Secretary Home etc.

...RESPONDENTS

SERVICE APPEAL

APPLICATION FOR PLACING OF ADDITIONAL DOCUMENTS ON COURT FILE.

Respectfully Sheweth;-

- 1. That the captioned appeal is pending adjudication and next date of hearing is fixed on 18/12/2017.
- 2. That some additional documents are to be placed on court file.

In view of the above, it is prayed that documents attached with the instant petition may be ordered to be placed on the court file.

Through

(Muhammad Arshad Khan Tanoli) Advocate High Court, Abbottabad

Dated: _____/2017

As per CPO NWTP Peshawar direction vide letter No. 4377/E-1.

dated 10.06.2009, Promotion orders of the following literate official of FRP now transferred to Regular Police is hereby regularized according to Rollee Rules 13.18

	<u> منظم مستواد وستنسب مستحد وسم وتبعث وتعريبها و</u>		
	Name of official	Previous order/date	Now Regularized
٠	amidali 13	1 ASI/PC on 16=1=199	3 1. Offg. ASI from 16.01 1.998
		2, SI/RC on 16 (0:1299	2.2. Confirmed in the nank of ASI and promoted to list "I;
٠.	· 中国 (1000年)		effect from 17/2003
<i>:</i> '			\$\\\ \\$\\\ \otagraphi
•. •	Habib-uj-Rehmanas	T. SI/P.C on 2.1/1,2002	TOffg: ASI from 2:12:1999
•			2. Confirmed in the rank of ASI and promoted to list. E
1			effect from 1.7.2003
Ç,	Miles and Market		35 Offg: Sl.w.e.f. 20:02:2003
17	Khan Waiz	1.SI/PC 22:07.2003	1 Offg ASI from 20.04 2000
ŧ.			2 Confirmed in the rank of ASI and promoted to list "E"
ŗ			Leffect from 1 07/2003
Ą			3 Offg Sl w.e.f.04 12 2004
3	Aurangzeb	1.SI/PC 22`07.2003	A. Confirmed in the rank of SI w.e.f 30.06.2007.
ž	6200	1.01/PC-22.07.2003	Offg: ASI from 20.04-2000
			2. Confirmed in the rank of ASI and promoted to list "!"
			with effect from 1.07.2003
•			3. Offg -SI w e ::04 12 2004
1	intiaz	1.SI/PC 22.07.2003	
1		22.07.2003	1 Offig: ASI from 04:12.2000
1			2. Confirmed in the rank of ASI and promoted to list 15.
1.			effect from 1.07.2003
			3: Offg: SI we F20 05 2005
[.	Liagat Ali	SI/PC 22:07.2003	1-0ffg: ASI from 04.12.2000
ŀ			2. Confirmed in the collect were
ľ			2-Confirmed in the rank of ASI and promoted to list "F" week of the confirmed to the confir
			Offg St.vef20.05.2005
- :	** ** * * * * * * * * * * * * * * * *		CLECTURE 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.

COMMANDANI

FRONTIER RESERVE POLICE

NWEP PESHAWAR

dated Peshawar the

Copy of above is forwarded to the Deputy Inspector General of Police Hazara Region-II for information and necessary.

Muhammad Arshad Al Advocate High Court

From The Provincial Police Officer.

NWTP. Peshawar.

The Commandant

Frontier Reserve Police,

NWFP Peshawar.

dated Peshawar the // 🗻

/2009.

Subject:

TRANSFER OF LITERATE OFFICIAL OF FRP NWFP TO DOMICILE DISTRICT

Memo.

Please refer to your Memo No. 1789/EC dated 08.04.2009.

The promotion case of FRP Personnel has been examined in DSC meeting held on 07.05.2009 and agreed to the recommendations submitted by Committee constituted for the purpose which is reproduced below:

The Committee after due deliberation and in order to give effect to the orders of the honourable High Courts recommend that earlier decision on the DPC should not be applied retrospectively and all officials of the FRP be given permanent. status and may be confirmed in their rank with their colleagues after completing their probation period as per PR 13 13 7

Benefit received by the officials in the FRP till decision of DPC and their repatriation to the Districts of their domicile be kept in tact so that they should not be deprived of any right as per decision of the Court

All these officials may be dealt strictly according to standing order No. 3/99. Literate officials may be treated as per Police Rules whereas cases of illiterate officials may be treated as per criteria in the Standing Orders. Seniority of literate cofficials be fixed in each list of the basis of course undergone and criteria fixed under Police Rules Chapter 13.

(ABDUL MA

Addr. IGP/Headquarters. or Provincial Police Officer, NWFP Peshawar.

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Office Not 33 Adjacent to

(ABDUL MAJEED KHAN MARWAT)

Addl: IGP/Headquarters, For Provincial Police Officer. NWFP Peshawari.

FAK (40, 10092 992 9310023



Phone No. 0992-9310023

ORDER

An approved by the Departmental Promotion Committee held on 27-08-2015 in the office of the undersigned the following officiating Sub-inspectors who have completed their two years officiating / probation period and fulfilled the laid down criteria for substantive rank under Police Rules. 13-1, 13-10 (2) and 13-18 and standing order No.21/2014 are hereby contirmed as Sub-inspectors with effect from 27-08-2015.

They are allotted new Region numbers as noted against each their

nameš:-

S#	NAME AND NO.	PRESENT POSTING	REGION NUMBER
NT () 1 MR	SI Anjad Ali No.: 256/H	Operational Wing Torgnar.	H/02
02	SI Muhammad Iqbal No.90/H	CTD Hazara	! H/04
03	SI Muhammad-Ishtiaq No. 149/H	Operational Wing Harrour	H/45
04	SI Abdul Waheed No.155/H	! !nvestigation Wing Hanpur	. H/110
. 05	SI Muhammad Afzal No.165/H	Investigation Wing Haripur	Him
06	SI Rafi-uz-Zaman No.166/H	Operational Wing Haripur	· HMSS
1 . 1 1. 1 1 . 5 7	SI Gulzar Khan No.168/H	Operational Wing Abbottabas	H/153
08	Si Khalid Perver No.178/H	CTD Hazara	rith f
. 09 . 09	SI Sardar Muhammad Ajmal	investigation Whig Handur	H/1 15
10	No.180/H SI Alf Akbar No.181/H	r i investigation Wing Abboitabac	H/105
11	SI Fazal Dad No.182/H	Operational Wing Abnottace	H.117
12	L SI Muhammad Afzai No.208/H.	Operational Wing Abbertaged	H:
. 14	St Reham Nawaz No.9/H	CTD Hazara	H/120
14	Si Chanan Khan No.10/H	Operational Wing Mansenia	H/12:
15	SI Jahan Zeb No.15/H	GTO Hazara	H/153
 !	SI Muhammad Rawaii No 197H	Investigation Wing Abbottabad	- F/126 -
47	Si Muhammad Arif No.26/H	CTD Hazara	FF/124 -
: '' : '18	St Muhammad Javed No.48/h	Investigation Wing Managence	: u/026
19	St Khalil-ur-Renman No.49/H	February Pener	17725
; · ·	the same of the sa	Modernation Wind Established	H:127
1 20 1 · · · ·	SI Haider Zaman No 54/H	Operational Wing the Court of	H/128 -
•	SI Khawaj Muhammad No.7 / Ii	CAB A A SENTING COM 21	H/129
1 22	Si Muhammad Nazir No. 129/H	Op Anti-tar Wing Townson	H.136
23	SI Abdul Rashia No. 134/H		

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24	Si Muhammad Aslam No 136/H		Operational Wing Upper Kohistan	H/131
25	SI Niaz Muhammad No.148/H		CTD Hazara	H/132
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28	SI Abdul Hamid No.227/H	14	Police School of Intelligence Abbottabad	H1135
29	SI Muhammad Hanif No.263/H	1	Operational Wing Abbottabad	H/136
30	SI Bashir Ahmed No.76/H	V.	Operational Wing Upper Kohistan	H/137
31	SI Tanveer Ahmed No.122/H		CTD Abbottabad	H/139
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Hazara Region Abbottabad (AEČ Dilawar)

No. 14489-576 /E, dated Abbottabad the 08-08 /2015.

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

- Addl: Inspector General of Police Special Branch Knyber Pakhtunkhwa Peshawar.
- Deputy Inspector General of Police, Training Khyber Pakhtunkhwa Peshawar.
- Deputy Inspector General of Police CTD Khyber Pakhtunkhwa Peshawar.
- 4. All District Police Officers in Hazara Region.
- All Superintendents of Police Investigation in Hazara Region.
- Simerintendent of Police CTD Hazara Abbottabad. Ö.
- Director, Police School of Intelligence Police Lines Abbottabad.
- CS/AS Region Office Abbottabad.

(Necessary Gazette Notification may be issued accordingly)

Page 2 of 2

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PROCEEDING OF PROMOTION BOARD

Departmental Promotion Board was convened in the office of undersigned on 06-04-2006 for confirmation of SIs of this Region on two years probation.

The Departmental Promotion Board consisted of the following officers:-

1. Mr. Attaullah Wazir, Deputy Inspector General of Police, Hazara

2. Mr. Iftikhar Khan District Police Officer, Abbottabad

3. Raja Naseer Ahmed, Superintendent of Police, Investigation Abbottabad =

Member

Each candidate was considered strictly on merit. Keeping in view the latest policy of the Government giving proper weight-age of integrity and reputation of the officers at the time of making their substantive promotion/ confirmation on 02 years probation.

S#	NAME & NUMBER	DECISION OF THE POPULATION OF
ì	SI Muhammad Nasir 17/H	DECISION OF THE DEPARTMENTAL PROMOTION BOARD.
<u> </u>	1711	Deferred, not eligible for confirmation as he has neither qualified upper class cour nor remained on any independent charge of Police Station.
2	SI Khabir Muhammad No. 30/H	Deferred, not eligible for confirmation as he has neither qualified upper class cours nor remained on any independent charge of Police Station.
3	SI Zahid-ur-Rehman No. 31/H	Found suitable but substantive confirmation will be considered authenticated of qualifying running upper class course.
4	SI Muhammad Saddique No. 34/H	Found suitable for substantive confirmation in the Rank of SI.
5	SI Muhammad Nawaz No. 35/H	Deferred, he has not served as independent charge of Police Station for one year.
6	SI Ijaz Ahmed No. 37/H	Found suitable for substantive confirmation in the Rank of SI.
7	SI Arshid Mehmood No. 38/H	Found suitable for substantive confirmation in the Rank of SI.
8,	Sl Javid Khan No. 39/H	Deferred, due to the ill reputation in public.
9	SI Babar Khan No. 40/H	Deferred, not eligible for confirmation as he has neither qualified upper class course nor remained on any independent charge of Police Station.
10	SI Mukhtiar Hussain Shah No. 47/H	Found suitable for substantive confirmation in the Rank of SI.
11	Sl. Niaz Gui No. 50/H	Found suitable for substantive confirmation in the Rank of SI.
12	SI Muhammad Ishtiaq No. 51/H	Found suitable for substantive confirmation in the Rank of SI.
13	SI Muhammad Mehroof No. 52/H	Deferred, he has not served as independent charge of Police Station for one year.
14	Sl Jehanzeb Khan:No. 44/H	Deferred, he has not served as independent charge of Police Station for one year.
15	SI Muhammad Salcem Jadoon No. 45/H	Found suitable for substantive confirmation in the Rank of SI.
16	SI Muhammad Islam No. 100/H	Found suitable for substantive confirmation in the Rank of SI.

(MR. IFTIKHAR KHAN) District Police Officer Abbottabad.

(RAJA NASEER AHMED)
Superintendent of Police, Investigation

(MR. ATTAULLAH WAZIR) Deputy Inspector General of Polic Hazara (Abbottabad)

Abbottabad

Advocate High Court Winjaming Arcing Office No. 33 Adjacent

BEFORE KLYBER PAKHTUNKHWA SERVICE TRIBUNA CAMP COURT ABBOTTABAD

AMENDED APPEAL NO. 811/2008

Date of institution ... 07.06.2008 ... 21.12.2011 Date of judgment

Munir Hussain S/o Muhammad Roshan, Inspector II-61 Investigation, Mansehra.

... (Appellant)

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

2. Deputy Inspector General of Police, Hazara Division, Abbottabad.

3. Janis Khan No.11-52 and 72 others

AMENDED APPEAL ACCORDING TO THE FRESH PROMOTION LIST OF 2010 AGAINST THE ORDER OF RRESPONDENTS NO.1 & 2 VIDE WHICH THE APPELLANT WAS NOT CONFIRMED ON THE GROUND OF HAVING NOT REMAINED SHO FOR ONE YEAR IN THE LIGHT OF POLICE RULES 13/10/2.

Mr. Muhammad Arshad Tanoli,

Advocate.

McTahir Iqbal, AGP

Mr.Muhammad Zubair Khan, Advocate.

For appellant

For official respondents No.1 & 2 -

For private respondents No.59 to 62 & 73

Mr.Qalandar Ali Khan Mr.Sultan Mehmood Khattak,

Chairman Member

JUDGMENT

Munir Flussain, appellant, has, in OALANDAR ALI KHAN, CHAIRMAN:his appeal, impugued orders of Inspector General of Police, KPK, Peshawar (Respondent No.1) and Deputy Inspector General of Police. Hazara Division, Abbottabad (Respondent No.2) whereby he was not confirmed as Sub-Inspector (S.I).

In his appeal, the appellant averred that having joined Police Department as Assistant Sub-Inspector (ASI) vide order dated 24.4(1991, he was sent to Motor Way Police where he served as Inspector in BPS-16 for a period of three years. The appellant was promoted as Sub-Inspector alongwith other colleagues in the region. His case Mongwith other colleagues was placed before Departmental Promotion Board, which

confirmed his colleagues as S.Is on 8.10.2001 but he was

with the provision of Police Rules 13.10.(2), and he was, therefore, deprived of his Mintful position in the seniority list of Inspectors and Sub-Inspectors prepared subsequently, and, as such, the officers junior to him were placed senior to him in the subsequent seniority lists. Consequently, colleagues of the appellant were promoted as Inspectors in the year 2005 while he was promoted as Inspector in the year 2006. The appellant submitted appeal to the D.I.G of Police, Hazara Range, Abbottabad which was turned down/filed and conveyed to the appellant vide memo, dated 25.4.2008 and further through endorsement dated 5.5.2008, against which he lodged this appeal on 7.6.2008, inter-alia, on the grounds that order of respondents was against law as he was transferred to Motor Way Police not on his choice, rather he was forced to make his arrival; and that it was the discretion of respondent No.2 to post him as SHO in District, therefore, he could not be made to suffer for the acts of others having no fault on his part.

the appeal was initially filed against the Inspector General of Police NWFP (KPK) and D.I.G Hazara Division, Abbottabad, and private respondents No.3 to 75 were added subsequently through amendment in the appeal. The official respondents, as well as some of the private respondents contested the appeal, mainly, on the ground that the appellant was not recommended for confirmation as S.I alongwith his colleagues as he had not remained SHO for one year. The official respondents, however, admitted that the appellant was transferred to Motor Way Police not on his own choice and that he was otherwise entitled for promotion/confirmation as S.I as he stood at S.No.193 of the seniority list. They also admitted that colleagues of the appellant were promoted to the rank of Inspectors in the year 2005 whereas he was promoted in the year 2006. The private respondents, who contested the appeal i.e. respondents No. 59,60,61, 62 and 73 showed their no concern with the case as seniority list upto the rank of S.I was maintained at the regional level. They, however, contended that the appellant went to Motor Way Police on one step promotion and after enjoying ten attended to being Inspector in Motor Way Police, he returned to his region as S.I.

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Arguments of the learned counsel for the appellant, learned AGP and learned counsel for private respondents heard and record perused.

ihi.

The main issue which falls for determination in the present appeal is that whether the respondent-department rightly ignored the appellant from confirmation/promotion as S.I on the ground of his not fulfilling the requirements of Police Rule 13.10.(2) whereby an ASI was required to serve as SHO for a period of at least one year outside his home. district before he is confirmed as S.I. In the case of the appellant, he was appointed as Assistant Sub-Inspector vide order dated 24.4,1991 and was otherwise eligible for confirmation in the rank of Sub-Inspector, according to admission of official respondents in their written reply/comments, but was not confirmed by the Departmental Promotion Board as he had not remained SHO for one year as laid down in P.R 13.10(2), on 8.10.2001. He preferred departmental appeal for seniority on 30.10.2007, which was rejected/filed on merits by the D.I.G of Police, Hazara Range, Abbottabad (Respondent No.2). The appellant has filed this appeal on the ground that he was not sent to the Motor Way Police on his own choice, rather he was forced to join Motor Way, and that it was he prerogative/discretion of the D.I.G to post him as SHO, for which he cannot be held responsible or at fault; Regarding the first contention of the appellant, the official respondents have themselves admitted in their written reply that the appellant was transferred to Motor Way Police not at his own choice. Therefore, he is right when he says that he should not be made to suffer for the acts of others. Like-wise, he is correct when he says that it was not his prerogative to be posted as SHO, rather the authority vested in the D.I.G to post him as SHO in order to qualify for confirmation as S.I in accordance with the provision of P.R 13,10(2). In any case, case of the appellant was deferred for want of fulfillment of the requirements of the said provision of Police Rules, and he was not only confirmed as S.I by the Departmental Promotion Board in its meeting held on 11.5,2004 but also promoted as Inspector in the year 2006. In such a situation, when the appellant was not superseded and deferred only for some deficiency, in his eligibility, and he is promoted subsequently, his promotion w

from the date of promotion of his other colleagues. This principle was also reiterated in the judgment of this Tribunal in the case reported as PLI 1992 Tr.C(Services) 53 (Service Tribunal, NWFP, Peshawar).

6. Consequently, the appeal is accepted and by setting aside the impugned order of respondent No.2, the official respondents are directed to ante-date/confirm the appellant from the date his other colleagues were confirmed as S.Is. There shall, however, be no order as to costs.

ANNOUNCED

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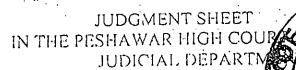
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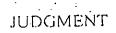
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30.12.2011

Muhammad Arshad Alian Court
Advocate High Court
Advocate High Court
Office No. 33 Adjacent





..WP No 1615-07 of 2007. Date of hearing 20.3.2008.

Ali Hassan petitioner No.1 and Tayyeb Jan petitioner No.4 are present in person.

Mr.Muhammad Saeed Khan, Addl. A.G. alongwith Mr.Saadat Mehdi, DSP for the respondents.

MUHAMMAD RAZA KHAN. C. J.- This order shall also be deemed to be an order in the connected Writ Petitions No.1616 and 1617 of 2007 as the identical questions are involved in all these cases. Through these Constitutional Petitions the petitioners have challenged the letter dated 16.2.2007, whereby the suggestion relating to the promotion order of Frontier Reserve Police (FRP) literate officials, moved by the Commandant FRP, was considered by the DPC and it was held that under Chapter 13 of the Police Rules no constable/head constable can be admitted to list 'D' unless he is thoroughly efficient in all the branches of duties of the Constable/Head Constable. The Constable reasons advanced in the impugned letter for declining the proposition of the FRP is a transit force and the officials are transferred to their

Districts of domicile after five years.

admitted that some of the employees of FRP were erroneously

the matter came to the notice of the concerned

passed which is in accordance with the police rules applicable to the police establishment.

- The petitioners contend that they had been appointed in the reserve police and they had been serving for a period ranging between 15 to 20 years and that their colleagues have been upgraded and promoted to senior positions, but the refusal to place them in Dielist and to promote them, shall adversely affect their service interest amounting to discrimination. It was claimed that their colleagues in FRP have been given accelerated promotion and most of them are presently working as ASIs and SIs despite the fact that they were recruited along with the petitioners.
- establishment and no more a transit force and there is no proof that the personnel working therein was temporarily posted for five years, therefore, the discriminatory treatment, meted out to them, is violative of the fundamental rights, particularly when, they will be placed at an extra-ordinary junior position if transferred to the Districts and enlisted there on the basis of their length of service and experience in all branches of police force. In any case, since the petitioners have not been transferred out of the Frontier Reserve Police within the prescribed period of five years, as stated in the impugned of the therefore, a mistake on the part of the concerned authorities cannot be penaltated and known the fault of the others. Moreover the decision to rectify a wrong practice shall definitely operate prospectively and it cannot be applied to the

ATTESTED

petitioners retrospectively who had been recruited in FRP and had been continuously serving the department for over lifteen years.

We, therefore, direct that the case of the regularization, promotions and opportunities for enlistment in the intermediate course etc., shall be re-examined at a higher level under the supervision of the Provincial Police Officer and the decision dated 16.2.2007 may be re-considered by the concerned DPC so that nobody should be discriminatively deprived of his legal rights and that no decision be made operative retrospectively damaging the members of the discipline torce who have to perform extra-ordinary duties and who deserve to be adequately compensated and encouraged. The re-consideration process be finalized within a period of two months and the result thereof be communicated to the petitioners and a report may be forwarded to the Registrar of this Court. With these observations these petitions are disposed of .

M. Mallaman Calana and the result thereof be disposed of .

Announced: Dated 20.3.2008.

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Read Constable Amfad Ali No. 1898 (on promotion rist-b of FRP/Hazara Range is hereby promoted to the Rank of Clig: 01/20 in t. BPS-14 for a period of 3 years with immediate effect.

On promotion he is posted to rRP/Kohat Range Kenat, vice SI/PO Sherin Zamin of FRP/Kohat, who will report to 13P/s chestar

> DEPUTY COMMANDANT, FROMIER RESERVE FULLDS WATP PERMAN.

HU, Dated Peshawar the 16 -/

Copy of above in afformatied for information and then the Advocate High Court

- 1. Supat: o. Police, IRP Mazara Ranged
- 2. Supit: of Police, FRP/Kohat Range Kenst.
- 5. Dy: Supdt: Of rolice, Far/AQ: Peshawar.
- 4. Acctt: FNP/HQ: Peshawar.

The gist of adverse reports shall be communicated in writing to the officers concerned subject to the conditions specified in paragraph 7 of Punjab. Government Consolidated Circular No. 1 and their acknowledgment shall be taken and attached to their personal files. (4) The names and designation of the officers writing reports shall invariably the typed or written in block letters below their signatures. (5) Reporting Officers shall comment generally on the way in which the officer has carried out his various duties during the year and shall give an estimate of his personality, character and abilities, including detective powers and ability to conduct prosecutions. The report shall contain an opinion on any point specially required at any particular time, e.g., fitness to pass an efficiency bar. Particular mention shall be made of the officer's relations with his fellow officers and the general public and of his honestly. (5) Reporting Officers shall comment generally on the way in which the 13-18. Probationary period of promotion.—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 curbority must arrive at a definite decision within that period whether the officer authority must arrive at a definite decision within that period whether the officer should be confirmed or reverted. While on probation officers may be reverted without departmental proceedings. Such reversion shall not be considered without departmental proceedings. Such reversion shall not be considered reduction for the purpose of rule 16.4. This rule shall not apply to constables and Sub-Inspectors promoted to the selection grade, whose case is governed by rules 13:14. Medal and the Indian Police Medal.—(1) A constable receiving the award of the King's Police and Fire Service Medal and the Indian Police Medal.—(1) A constable receiving the award of the King's Police and Fire Service Medal shall be promoted in the first substantive vacancy of head constable within occurs in the district in which he is serving subsequent to the award of the medal being gazetted. ... (2) A constable a awarded the Indian Police Medal shall, if not already in the selection grade, be promoted to that grade on probation as prescribed in Trule 14.5 (7). Unique repeat Nation Advocate High Court Office No. 33 Adjacent to wist i Aar Abbolined

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No.736/2016

Amjad Ali

...APPELLANT

VERSUS

Govt. of KPK, through Secretary Home & Tribal Affairs Department, KPK, Peshawar & others. ...RESPONDENTS

INDEX

S. No.	Description	Page Nos.	Annexure
1.	Rejoinder alongwith affidavit	1 to 4	
2.	Copy of rule 12.2 (3) of police rule	. •	"A"
	1934		

...APPELLANT

Through

Dated: 20/9/2017

Advocate High Court, Abbottabad

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No.736/2016

Amjad Ali

...APPELLANT

VERSUS

Govt. of KPK, through Secretary Home & Tribal Affairs Department, KPK, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth;-

REJOINDER ON PRELIMINARY OBJECTIONS:

- a. That Para "a" is incorrect and denied. In fact, the matter relates to the terms and condition of service.

 Therefore, the appellant is entitled for promotion with retrospective effect.
- b. That Para "b" is incorrect and denied.

- c. That Para "c" is incorrect and denied.
- d. That Para "f", "g", "h", "i" and "j" are incorrect and denied. Valuable rights of promotion with retrospective effect are involved because the appellant was deferred and is also entitled for seniority w.e.f the date of his juniors who have been promoted at the time of deferment of the appellant. In this regard, rule 12.2 (3) of police rule 1934 is attached as Annexure "A".

REJOINDER ON FACTS:-

- 1. Para No.1 needs no reply. As para-1 of the appeal has been admitted.
- 2. Para No.2 needs no reply.
- 3. Para No.3 is correct to the extent of Police Rule 13.10(2). It is submitted that respondents' department was to check worth of the appellant after his posting as SHO in Police Station.

- 4. That Para No.4 of the comments is correct to the extent of deferment but rest of the para is incorrect and denied.
- 5. Para No.5 needs no reply.
- 6. Para No.6 is correct to the extent of confirmation to rank of Sub-Inspector w.e.f 28/08/2015 which should have been w.e.f 16/02/2002 as admitted by the department in para-1 of their comments.
- 7. Para No.7 is incorrect and denied. The rejection order is not a speaking order and valuable rights of the appellant have been denied.
- 8. Para No.8 has been replied in Para-7 above.
- 9. Para No.9 is incorrect and denied.

REJOINDER ON GROUNDS;-

a. Para "a" is incorrect and denied. That
the appellant was posted by the
department/ respondent in Traffic

Police Islamabad at their own deputation.

- b. Para "b" is incorrect and denied.

 Reply has already been given in paraa above.
- e. Para "c" is incorrect. The department was to follow the law of the deferment at the time of confirmation of the appellant as S.I.

In view of the above, it is prayed that appeal of the appellant may graciously be accepted as prayed for.

..APPELLATT

Through

Dated: 20/9 /2017

(Muhamitad Arshad Khan Tanoli) Advocate High Court, Abbottabad

AFFIDAVIT

I, Amjad Ali, Appellant, do hereby affirm and declare that the contents of foregoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Tribunal.

DEPONENT