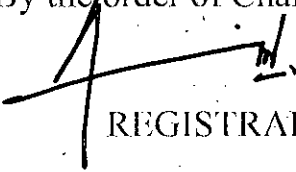


FORM OF ORDER SHEET

Court of _____

Appeal No. 06/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01/01/2024	<p>The appeal of Mr. Abdul Rasheed presented today by Mr. Bashir Khan Wazir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ . Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

Service Appeal No 06 /2023/

Abdur Rasheed.....Appellant

VERSUS

Government of KPK & others.....Respondents

I N D E X

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal	-	1-7
2.	Affidavit	-	8
3.	Copy of the Seniority List	A	10-17
4.	Copy of the Order dated 09.12.2021	B	18-41
5.	Copy of the Order and Judgment dated 29.08.2023	C	42-122
6.	Copy of Notification dated 05.09.2022	D	123-124
7.	Copy of the retirement order	E	125.
8.	Copy of Departmental Appeal	F	126-127
9.	Wakalat Nama		128

Through: _____

Abdur Rasheed
Appellant

Bashir Khan Wazir
(BASHIR KHAN WAZIR)

&

Mehran Ali Shah
MEHRAN ALI SHAH

Advocates, High Court

Peshawar

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

Service Appeal No 26 /2023

Abdur Rasheed S/o Sahib Jan, Ex-Superintendent of Police R/o
Regi Model Town, Peshawar.

.....Appellant

V E R S U S

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Inspector General of Police, KPK Peshawar.
3. Additional Inspector General / Establishment, KPK Peshawar.

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974,
WHEREBY THE RESPONDENTS HAVE BEEN ISSUED
PROMOTION NOTIFICATION NO. SO(E-I)E&AD/2-
4/2022 DATED 05.09.2022, VIDE WHICH THE
JUNIOR TO THE APPELLANT HAVE BEEN
PROMOTED TO THE RANK OF SUPERINTENDENT
OF POLICE BPS-18, WHILE THE APPELLANT WAS
DEPRIVED FROM PROMOTION INSPITE OF THE
FACT THAT THE APPELLANT WAS QUITE ELIGIBLE
FOR PROMOTION FOR THE POST OF
SUPERINTENDENT OF POLICE BPS-18, HOWEVER
THE NAME OF THE APPELLANT WAS NOT
CONSIDERED FOR PROMOTION, AND
DEPARTMENTAL APPEAL WAS FILED BY THE
APPELLANT WHICH WAS NOT DECIDED AFTER
COMPLETION OF THE STATUTORY PERIOD.**

Prayer in Appeal:

It is, therefore, most humbly prayed that, On acceptance of the instant Appeal, the Appellant being eligible and entitled for the promotion to the post of Superintendent of Police BS-18 on Regular Basis as per Length of Service and Seniority list, but the

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Respondents violated the Seniority of the Appellant, therefore, the Respondents may very kindly be directed to promote the Appellant to the post of Superintendent of Police BS-18 on Regular Basis as Notional / Proforma promotion from the date of when his junior were promoted.

Respectfully Sheweth:-

The Appellant humbly submits as under:-

1. That the Appellant is peaceful and law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
2. That the appellant was serving in police department as Acting Superintendent of Police Investigation District Buner and performing his duty honestly with zeal zest.
3. That initially the appellant was appointed as Constable on dated 15.02.1982 and after having being qualified lower course in 1987 and consequently declared around best cadet in the intermediate college course in 1987 and thereafter posted as Cadet Law Instructor under the standing order at PTC Hangu. After successful completion of mandatory tenure the services of the appellant was confirmed in the rank of ASI.
4. That as the appellant was promoted to the rank of DSP on 25-03-2013 and seniority list was revised on 28-06-2022, wherein the name of the appellant was placed at S.No. 35, there after final seniority list was issued on 05-08-2022 wherein the name of appellant placed at S.No 34.
5. That the appellant was lastly posted on acting charge basis as Superintendent of Police Investigation at District Bunner and the respondents while circulated Final Seniority List of DSP executive BS-17 of Khyber Pakhtunkhwa Police issued dated 05.08.2022, vide which the name of the appellant is reflects at Serial No 34. **(Copy of the Seniority List is attached as annexure A)**

6. That in the light of Judgment rendered by the Hon'ble Supreme Court of Pakistan reported 2013 SCMR 1752 and 2013 SCMR 206 and 2018 SCMR 1218, the issue of out of turn promotion was under consideration and the respondents in different occasions issued various orders in respect of out of turn promotion including agitated the point of promotion of cadets and gallantry officers in the police department. The appellant along with his other colleagues while approached to the Hon'ble Peshawar High Court Peshawar in WP NO. 4949/2020, which was decided vide dated 09.12.2021 and set aside the notifications / orders of the respondents. **(Copy of the Order dated 09.12.2021 is attached as annexure B)**

7. That the respondents once again issued various decisions and orders in respect of the same set of police officials, who were awarded gallantry and cadets promotions in light of the decision of Hon'ble Supreme Court of Pakistan, which have been impugned in different Writ Petitions including the WP No. 1093-P/2023, the name of the appellant was also part and parcel of the said Writ Petition. The Hon'ble Peshawar High Court Peshawar, while issued Interim Relief directed to the respondents to maintain Status quo in respect of the Seniority List of the Petitioners / Appellant and later on the Hon'ble Peshawar High Court Peshawar while decided the issue in favour of the appellant and his other colleagues vide dated 29.08.2023 and set aside the impugned notifications of the respondents. **(Copy of the Order and Judgment dated 29.08.2023 is attached as annexure C)**

8. That admittedly the name of the appellant is reflecting at Serial No 3 of the Final Seniority list of DSSP BS-17 of Khyber Pakhtunkhwa Police and he is quite eligible for the promotion to the next higher rank as Superintendent of Police BS-18 on regular basis, however the respondents astonishingly while dropped and ignored the name of the appellant and issued the impugned notification dated 05.09.2022, according to which the Junior most officials have been promoted to the next higher rank and the appellant was informed that as the matter in respect of the cadets are pending before the Hon'ble Peshawar High Court, therefore, the DSB could not recommended his name for promotion.

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(Copy of Notification dated 05.09.2022 is attached as annexure D)

9. That the appellant after the decision rendered by Peshawar High Court Peshawar in the above mentioned Writ Petition, forwarded Departmental Appeal to the competent authority for consideration of his promotion to the post of BPS-18 as Superintendent of Police, during the course of pendency of the Writ Petition, the appellant has got retired from service on the basis of attaining the age of superannuation vide notification dated 14.02.2023 and even till his retirement neither the appellant was promoted to the post of Superintendent of Police BS-18, nor his name has been placed before the DSP. **(Copy of the retirement order is attached as annexure E)**
10. That, a departmental Selection Board was held on 19.08.2022, which was subsequently approved by the by the Honorable Chief Minister Khyber Pakhtunkhwa under which 46 DSSP were promoted to the rank of Superintendent of Police (BS-18) on regular basis vide Notification No. S.O (E-I)E&AD/2-4/2022. The name of the applicant was not included on the pretext of out of turn promotion and absorption in Khyber Pakhtunkhwa Police from other Provinces/Departments despite the Officer Junior to the applicant and appeared after the name of the applicant in the Seniority list were promoted. However, it was also notified in the last mentioned notification that promotion of the applicant shall be subject to the decision of Superior Judiciary.
11. That on 29.08.2023 all petitions pending before the Honorable Peshawar High Court, Peshawar on this issue were decided through a consolidated Judgment in which the applicant being the petitioner, has been declared lawful, as per law, rules and order and it was clearly declared the cadet instructor are not hit by the judgment of the Honorable Supreme Court of Pakistan. Para 44 (1) of the operative part of judgment ibide is reproduced below.

(1) "The police officers who were declared as Cadet and Cadet instructors pursuant to the provisions of the the Police Rules,

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standing order No. 7 of 2003 and duly protected under the Khyber Pakhtunkhwa validation of Standing Order Act 2005 and Chapter 13.7 A and 13.7 B of the Police Rules, they are not hit by the judgment of the Hon'ble Supreme Court of Pakistan relating to out of turn promotions and as such, demotion/reversion order of all such Police Officers are set aside and they are restored to their original positions."

12. The undersigned was at the verge of retirement and got retired on superannuation on 29.03.2023 in the rank of DSP (BS-17) without promotion to next rank.
13. Since all orders regarding demotion or reversion of seniority of the applicant have been set aside by the Hon'ble Peshawar High Court, Peshawar, therefore, the undersigned was and is entitled for promotion with his colleagues who got promoted on 05.09.2022.
14. It is humbly requested that name of the applicant may be considered for promotion to the rank of Superintendent of Police (BS-18), with his colleagues from 05.09.2022 as proforma promotion.
15. That thereafter the appellant was filed Departmental Representation before the competent authority on 26.09.2023, which was even not decided after completion of statutory period. **(Copy of Departmental Appeal is attached as annexure F)**
16. That feeling aggrieved from the act of Respondents, the Appellant having no other adequate and efficacious remedy, approaches this Honourable Tribunal on the following grounds inter-alia:-

GROUND:-

- A) That the Appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
- B) That the appellant alongwith other colleagues have not been consider for their promotion in light of the Judgment of Supreme Court reported in 2013 CCMR 1752 and two other judgments and the name of the appellant along with other similar placed officers have not been considered, the same was impugned by the appellant before the Peshawar High Court in Writ Petition, which has been decided in favour of the appellant and thereafter an appeal was submitted to the respondents for implementation of the Judgment and to decide the earlier departmental Appeal in favour of the appellants.
- C) That after the issuance of impugned promotion order of the colleagues of the appellant, the appellant filed departmental appeal, but the same was not decided and in the meanwhile another notification in respect of the out of turn promotion was issued and the appellant along with other aggrieved incumbents approached to the Peshawar High Court, while impugned the same order of the respondents and the matter of promotion and the earlier departmental appeal was kept pending and even the appellant was informed that till the decision of the Peshawar High Court in the Writ Petition, no decision in whatever manner could be taken in pursuance of departmental appeal. The matter was subjudice before the Hon'ble Peshawar High Court Peshawar and after the decision in favour of the Appellant, the appellant while filed Appeal before the competent authority on dated 26.09.2023 which is yet to be decided.
- D) That in the recent reported Judgment 2023 PLC CS 336 SC Federation of Pakistan VS Jehanzeb, the Hon'ble Supreme Court has decided that whenever any person is not considered due to any administrative slip-up, error or delay, when the right to be considered for

promotion is mature and without such consideration he reach the age of superannuation before the promotion, then obviously the avenue or pathway of proforma promotion comes into field for his rescue. Similarly in the present situation the appellant was even not considered by the respondent on the reasons mentioned above and in the meanwhile the appellant has got retired from his service by reaching to the superannuation and after decision of the August Peshawar High Court the appellant is entitled to be promoted as notional promotion to BPS-18 as Superintendent of Police.

- E) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules, while in the instant case the respondents have not yet considered the case of the Appellant, which is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.
- F) That it is pertinent to mention here that the Appellant was eligible and entitled for promotion but the respondents had illegally and unlawfully not promoting the service of the Appellant, which is illegal, unlawful, without lawful authority and is liable to be declared so.
- G) That the fundamental rights of the Appellant has blatantly violated by the Respondents and the Appellant has been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- H) That the Appellant is not treated in accordance with law, rules and Regulations.
- I) That the Appellant is appointed according to rules and on adopted procedure by the respondents and after his appointments he has never ever given an opportunity of any complaint to the respondents and performed his duties with full devotions, the Appellant being eligible for Promotion being most Senior employee of the Respondents Department.

J) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

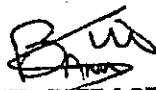

PRAYER:-

It is, therefore, most humbly prayed that, On acceptance of the instant Appeal, the Appellant being eligible and entitled for the promotion to the post of Superintendent of Police BS-18 on Regular Basis as per Length of Service and Seniority list, but the Respondents violated the Seniority of the Appellant, therefore, the Respondents may very kindly be directed to promote the Appellant to the post of Superintendent of Police BS-18 on Regular Basis as Notional / Proforma promotion from the date of when his junior were promoted.

Any other relief, not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.


Appellant

Through:


(BASHIR KHAN WAZIR)
&
MEHRAN ALI SHAH 
Advocates, High Court
Peshawar

CERTIFICATE:

It is certified that no such like Appeal has earlier been filed before this Hon'ble Tribunal.


DEPONENT

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


6/9/23

Service Appeal No _____/2023

**Abdur Rasheed.....Appellant
VERSUS
Government of KPK & others.....Respondents**

AFFIDAVIT

I, Abdur Rasheed S/o Sahib Jan, Ex-Superintendent of Police R/o Regi Model Town, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


~~DEPONENT~~



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A

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

FINAL SENIORITY LIST OF DSsP BS-17 OF KHYBER PAKHTUNKHWA POLICE

Dated: 05/08/2022

No. 1594/SE-I, The Final Seniority List of DSsP BS-17 of Khyber Pakhtunkhwa Police is hereby published for information to all concerned

Sr. No	Name of Officers	Date of Birth	Domicile	Date of SI Promotion	Date of confirmation as SI as per Police Rules 13.18	D.O Promotion as DSP
1	Mr. Qaid Kamal	01.01.1963	Charsadda	01.01.1984	01.01.1996	07.11.2012
2	Muhammad Aleem Jan	11.04.1987	Peshawar	30.01.1996	30.01.1998	24.03.2014
3	Mr. Aamir Shabzad	09.08.1968	Peshawar	30.01.1998	30.01.1998	30.06.2011
4	Mr. Muhammad Arif	10.03.1969	Peshawar	30.01.1998	30.01.1998	19.03.2012
5	Mr. Waqar Ahmad	03.01.1968	Nowshera	01.04.1997	01.04.1999	19.03.2012
6	Mr. Muhammad Shafiq	13.01.1963	Bannu	01.10.1997	01.10.1999	19.03.2012
7	Mr. Muhammad Arif	22.04.1964	Bannu	01.10.1997	01.10.1999	07.11.2012
8	Mr. Gul Naseeb	09.11.1968	Bannu	01.10.1997	01.10.1999	19.03.2012
9	Mr. Sanullah	10.01.1969	Lakki	01.10.1997	01.10.1999	31.03.2012
10	Mr. Amir Muhammad Khan	07.01.1970	Buner	14.10.1997	14.10.1999	19.03.2012
11	Mr. Ali Hassan	06.03.1965	K.Agency	28.01.1998	28.01.2000	24.08.2020
12	Mr. Mukhtiar Ahmad	04.02.1969	Abbottabad	20.02.1998	20.02.2000	30.08.2011
13	Mr. Tahir ur Rahman	28.02.1969	Haripur	20.06.1998	20.08.2000	19.03.2012
14	Mr. Muhammad Suleman	28.07.1970	Mansehra	20.06.1998	20.08.2000	30.06.2011
15	Mr. Janas Khan	10.02.1965	Abbottabad	20.06.1998	20.08.2000	20.01.2011
16	Mr. Zulfiqar Khan Jadoon	15.06.1963	Abbottabad	26.05.1987	20.08.2000	25.03.2013
17	Mr. Asad Mehmood	08.03.1968	Swabi		07.09.2000	24.10.2014
18	Mr. Asif Ali	07.03.1964	Mansehra	26.04.2000	26.04.2002	20.03.2011
19	Mr. Fahim Iqbal	20.01.1969	Haripur	26.04.2000	26.04.2002	25.03.2013

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Sr. No.	Name of Officers	Date of Birth	Domicile	Date of SI Promotion	Date of confirmation as SI as per Police rules 13.18	D.O Promotion as DSP
20	Mr. Khabir Muhammad	01.01.1972	Abbottabad	26.04.2000	26.04.2002	12.09.2014
21	Mr. Zahid-ur-Rehman	25.03.1970	Haripur	26.04.2000	26.04.2002	08.04.2016
22	Mr. Qamar Hayat	08.04.1971	Haripur	26.04.2000	26.04.2002	07.11.2012
23	Mr. Ijaz Ahmad	05.04.1963	Mansehra	26.04.2000	26.04.2002	12.09.2014
24	Mr. Arshad Mehmood	15.08.1964	Mansehra	26.04.2000	26.04.2002	12.09.2014
25	Muhammad Javed	03.06.1963	Mansehra	26.04.2000	26.04.2002	27.10.2015
26	Mr. Falak Niaz	01.04.1965	Swabi	02.05.2000	02.05.2002	07.11.2012
27	Mr. Tajamul Khan	30.09.1965	Swabi	03.07.2000	03.07.2002	24.01.2014
28	Mr. Tariq Habib	05.09.1968	Peshawar	20.09.2000	20.09.2002	31.03.2012
29	Mr. Nisar Ahmad	02.11.1973	Charsadda	20.09.2000	20.09.2002	31.03.2012
30	Mr. Tariq Iqbal	13.04.1974	Peshawar	20.09.2000	20.09.2002	31.03.2012
31	Mr. Aslam Nawaz	01.03.1972	Bahnu	20.09.2000	20.09.2002	31.03.2012
32	Mr. Ishfaq Ahmad	01.11.1971	Lakki	20.09.2000	20.09.2002	07.11.2012
33	Mr. Saleem Aman Ullah	23.03.1970	Peshawar	29.01.2001	29.01.2003	19.07.2013
34	Mr. Abdur Rashid Marwat	30.03.1963	Lakki	01.06.2001	01.08.2003	25.03.2013
35	Mr. Iftikhar Shah	30.04.1968	Mardan	02.06.2001	02.08.2003	25.03.2016
36	Mr. Noor Jamal	10.01.1966	Mardan	31.07.2001	31.07.2003	31.08.2012
37	Syed Mukhtiar Shah	18.10.1967	Haripur	17.11.2001	17.11.2003	24.01.2014
38	Mr. Nazir Ahmad	02.02.1970	Abbottabad	17.11.2001	17.11.2003	07.11.2012
39	Mr. Saqad Akhtar	02.02.1971	Haripur	17.11.2001	17.11.2003	07.11.2012
40	Mr. Niaz Gul	07.03.1971	Abbottabad	17.11.2001	17.11.2003	24.01.2014
41	Mr. Muhammad Ishfaq	04.05.1973	Mansehra	17.11.2001	17.11.2003	24.01.2014
42	Mr. Muhammad Maroof	05.10.1974	Abbottabad	17.11.2001	17.11.2003	02.04.2015
43	Mr. Muhammad Ayaz	03.03.1975	Abbottabad	17.11.2001	17.11.2003	07.11.2012
44	Muhammad Jamil Akhtar	22.02.1977	Haripur	17.11.2001	17.11.2003	07.11.2012
45	Mr. Abdul Hai Khan	01.08.1972	D.I.Khan	23.11.2001	23.11.2003	19.07.2013
46	Syed Nayat Ali Shah	10.01.1972	D.I.Khan	23.11.2001	23.11.2003	24.01.2014
47	Mr. Niaz Muhammad	11.02.1971	Swabi	29.11.2001	29.11.2003	25.03.2013
48	Mr. Hamid Ullah	25.04.1974	Mardan	01.12.2001	01.12.2003	24.01.2014
49	Mr. Sajjad Ahmad	01.04.1968	Swabi	01.12.2001	01.12.2003	25.03.2013
50	Mr. Shah Hassan	01.05.1968	Mardan	01.12.2001	01.12.2003	08.04.2013
51	Mr. Nazir Khan	18.10.1970	Mardan	01.12.2001	01.12.2003	19.07.2013
52	Sajjad Ahmad Sahibzade	02.02.1971	Swabi	01.12.2001	01.12.2003	08.04.2013
53	Mr. Muzamil Shah	08.03.1972	Swabi	01.12.2001	01.12.2003	25.03.2013
54	Mr. Mushtaq Ahmad	15.03.1970	Swabi	01.12.2001	01.12.2003	25.03.2013

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Sr. No.	Name of Officers	Date of Birth	Domicile	Date of SI Promotion	Date of confirmation as SI under Police Rules 13.18	D.O Promotion as USP
55.	Mr. Shaukat Ali	05.03.1971	Swabi	01.12.2001	01.12.2003	30.11.2012
56.	Mr. Abdul Samad	14.04.1969	Swabi	01.12.2001	01.12.2003	25.03.2013
57.	Mr. Muhammad Khalid	01.01.1970	Chitral	01.12.2001	01.12.2003	24.01.2014
58.	Mr. Zia Hassan	01.11.1974	DIKhan	13.12.2001	13.12.2003	02.01.2014
59.	Mr. Salah-ud-Din	15.01.1970	Tank	24.01.2002	24.01.2004	07.11.2012
60.	Mr. Shafullah	01.04.1971	DIKhan	24.01.2002	24.01.2004	07.11.2012
61.	Mr. Tauheed Khan	20.10.1963	DIKhan	25.01.2002	25.01.2004	19.03.2012
62.	Mr. Rahim Hussain	11.05.1970	Shangla	17.10.2002	17.10.2004	12.09.2014
63.	Mr. Amjad Hussain	24.03.1971	Mansehra	17.10.2002	17.10.2004	12.09.2014
64.	Mr. Murad Ali	09.01.1973	Bannu	30.09.2000	30.09.2002	02.04.2015
65.	Mr. Ali Gohar	23.03.1968	K. Agency	13.01.2003	13.01.2005	02.04.2015
66.	Mr. Habib Ur Rehman	04.03.1966	Mansehra	20.02.2003	20.02.2005	30.08.2016
67.	Mr. Nasir Khan	20.12.1972	Peshawar	20.02.2003	20.02.2005	30.01.2018
68.	Mr. Waqar Ahmad	12.04.1974	Charsadda	01.05.2003	01.05.2005	02.04.2015
69.	Mr. Abdus Salam Khalid	24.06.1976	Lakki	01.05.2003	01.05.2005	25.03.2016
70.	Mr. Sajjad Hussain	23.03.1978	Nowshera	23.06.2003	23.06.2005	02.04.2015
71.	Muhammad Tahir Shah	01.03.1972	Bannu	24.07.2003	24.07.2005	24.01.2014
72.	Mr. Safdar Khan	30.04.1971	Kohat	29.08.2003	29.08.2005	02.04.2015
73.	Mr. Hidayat Ullah Shah	20.04.1965	Swabi	20.12.2003	20.12.2005	25.03.2016
74.	Mr. Shakeel Ahmad	14.04.1969	Charsadda	20.12.2003	20.12.2005	12.09.2014
75.	Mr. Khan Khel	10.04.1969	Mardan	20.12.2003	20.12.2005	24.01.2014
76.	Mr. Muhammad Saeed	04.05.1969	Mardan	20.12.2003	20.12.2005	12.09.2014
77.	Mr. Rasheed Iqbal	15.01.1974	Mardan	20.12.2003	20.12.2005	25.03.2016
78.	Mr. Muhammad Fayaz	07.03.1974	Mardan	20.12.2003	20.12.2005	25.03.2016
79.	Ms. Aneela Naz	09.10.1971	Peshawar	01.01.2004	01.01.2006	02.04.2015
80.	Ms. Asmat Ara	15.04.1975	Swabi	01.01.2004	01.01.2006	02.04.2015
81.	Mrs. Shazia Shahid	30.04.1976	Charsadda	01.01.2004	01.01.2006	02.04.2015
82.	Mr. Mujeeb Ur Rehman	02.04.1969	B. Bannu	08.04.2004	08.04.2006	02.04.2015
83.	Mr. Nisar Muhammad	20.01.1973	Lakki	17.04.2004	17.04.2006	24.01.2014
84.	Mr. Rahmat Ullah	05.03.1971	Nowshera	31.05.2004	31.05.2006	24.10.2014
85.	Mr. Mustafa Kamal Pasha	01.09.1969	Bannu	07.10.2004	07.10.2006	02.04.2015
86.	Mr. Azmat Ali Khan	06.01.1970	Bannu	07.10.2004	07.10.2006	02.04.2015
87.	Mr. Shabir Hussain Shah	15.08.1972	Lakki	07.10.2004	07.10.2006	12.09.2014
88.	Arbab Shafullah Jan	09.10.1966	Peshawar	22.11.2004	22.11.2006	02.01.2014
89.	Mr. Rafiullah	12.03.1968	Peshawar	22.11.2004	22.11.2006	02.01.2014

Sr. No	Name of Officers	Date of Birth	Domicile	Date of SI Promotion	Date of confirmation as SI as per Police Rules 13.18	D.O Promotion as DSP
90.	Muhammad Atiq Shah	01.09.1978	Charsadda	22.11.2004	22.11.2006	06.02.2014
91.	Mr. Yasir Aman	11.08.1970	Peshawar	22.11.2004	22.11.2006	02.04.2015
92.	Mr. Naseer Ali	03.10.1975	Charsadda	22.11.2004	22.11.2006	30.09.2016
93.	Mr. Murad Ali	13.04.1965	Charsadda	22.11.2004	22.11.2006	15.11.2016
94.	Mr. Aurang Zeb	05.01.1970	Mansehra	04.12.2004	04.12.2006	30.09.2016
95.	Mr. Sajjad Haider	20.04.1970	Abbottabad	04.12.2004	04.12.2006	15.11.2016
96.	Mr. Muhammad Ilyas	01.04.1973	Mardan	07.12.2004	07.12.2006	18.08.2015
97.	Mr. Arshad Khan	30.05.1974	Peshawar	08.12.2004	08.12.2006	07.03.2017
98.	Ms. Nazia Naureen	01.12.1970	Abbottabad	09.12.2004	09.12.2006	12.09.2014
99.	Mrs. Shahzadi Noshad	10.04.1972	Blangu	09.12.2004	09.12.2006	12.09.2014
100.	Mr. Alamzeb	12.02.1980	Mardan	23.12.2004	23.12.2006	24.10.2014
101.	Mr. Aqil Hussain	01.04.1965	Kohat	10.01.2005	10.01.2007	18.08.2015
102.	Mr. Falak Nawaz	03.02.1969	Kohat	10.01.2005	10.01.2007	25.03.2016
103.	Mr. Mazhar Jehan	12.12.1970	Kohat	10.01.2005	10.01.2007	24.08.2020
104.	Mr. Khalid Usman	06.01.1987	Karak	10.01.2005	10.01.2007	18.08.2015
105.	Mr. Asad Zubair	15.01.1980	Kohat	10.01.2005	10.01.2007	29.11.2018
106.	Mr. Muhammad Riaz	13.08.1973	Karak	10.01.2005	10.01.2007	24.08.2020
107.	Mr. Zafar Khan	10.01.1963	Buner	16.04.2005	16.04.2007	24.10.2014
108.	Mrs. Puzia Allaf	20.07.1969	Peshawar	13.05.2005	13.05.2007	02.04.2015
109.	Ms. Hamida Bano	04.12.1970	Peshawar	13.05.2005	13.05.2007	02.04.2015
110.	Mr. Muhammad Ismail	12.01.1966	Lakki	07.06.2005	07.06.2007	25.03.2016
111.	Mr. Mehmood Nawaz	07.03.1974	Lakki	02.07.2005	02.07.2007	30.01.2018
112.	Mr. Muhammad Saitar Khan	04.04.1964	Chitral	13.07.2005	13.07.2007	25.03.2016
113.	Mr. Muhammad Zaman	01.01.1965	Buner	13.07.2005	13.07.2007	25.03.2016
114.	Mr. Riaz Muhammad	10.12.1962	Swabi	13.07.2005	13.07.2007	15.11.2016
115.	Mr. Rizwan Habib	19.04.1974	Mansehra	28.12.2005	28.12.2007	12.09.2014
116.	Mr. Jehangir Khan	10.11.1965	Abbottabad	28.12.2005	28.12.2007	24.10.2014
117.	Mr. Shah Mumtaz	20.02.1965	Dir Lower	27.05.2006	27.05.2008	30.01.2018
118.	Mr. Zahoor Ahmed	01.01.1980	Dir Lower	27.05.2006	27.05.2008	24.08.2020
119.	Mr. Zafar Ahmad	10.01.1979	Chitral	27.05.2006	27.05.2008	30.01.2018
120.	Mr. Farmanullah	27.10.1978	Dir Lower	27.05.2006	27.05.2008	30.01.2018
121.	Mr. Wahid Ullah	01.04.1981	Dir Lower	27.05.2006	27.05.2008	24.08.2020
122.	Mr. Iftikhar Ali Shah	11.05.1976	Bannu	25.08.2006	25.08.2008	15.11.2016
123.	Mr. Amir Hussain	25.05.1965	Swabi	07.11.2006	07.11.2008	30.09.2016
124.	Mr. Sher Afzar	09.02.1963	Swabi	23.11.2006	23.11.2008	29.11.2016

Sr. No	Name of Officers	Date of Birth	Domicile	Date of SI Promotion	Date of confirmation as SI as per Police Rules 1910	D.O Promotion as DSP
125	Mr. Muhammad Rauf	04.04.1963	Mardan	23.11.2006	23.11.2008	25.03.2016
126	Mr. Roknan Zeb	07.01.1965	Swabi	18.04.2007	13.04.2009	25.03.2016
127	Mr. Manzada	31.01.1963	Charsadda	16.07.2007	16.07.2009	25.03.2016
128	Mr. Zahid Khan	08.04.1967	Mkd. Agency	20.10.2007	20.10.2009	29.11.2018
129	Mr. Badshah Hazrat	15.02.1969	Dir Lower	20.10.2007	20.10.2009	29.11.2018
130	Mr. Naveed Iqbal	13.03.1981	Swat	20.10.2007	20.10.2009	29.11.2018
131	Mr. Ajmal Khan	15.05.1982	Mkd. Agency	20.10.2007	20.10.2009	16.05.2019
132	Mr. Aqilur Rehman	01.11.1981	Chitral	20.10.2007	20.10.2009	24.08.2020
133	Mr. Shahid Adnan	27.03.1973	D.I.Khan	03.11.2007	03.11.2009	30.01.2018
134	Mr. Muhammad Saleem Tariq	01.03.1969	D.I.Khan	03.11.2007	03.11.2009	29.11.2018
135	Mr. Gul Shid Khan	31.08.1980	Charsadda	04.11.2007	04.11.2009	30.01.2018
136	Mr. Shahéen Shah Gohar	03.03.1977	Charsadda	24.11.2007	24.11.2009	07.03.2017
137	Mr. Gohar Ali	15.11.1974	Peshawar	19.12.2007	19.12.2009	30.09.2016
138	Mr. Riaz Khan	03.02.1975	Peshawar	19.12.2007	19.12.2009	30.09.2016
139	Mr. Fazal Wahid	12.01.1971	Malakand	19.12.2007	19.12.2009	30.09.2016
140	Mr. Amjad Ali	24.04.1969	Swabi	14.03.2008	14.03.2010	30.09.2016
141	Mr. Ishaq Shah	06.03.1966	Mardan	26.03.2008	26.03.2010	30.09.2016
142	Mr. Shajir Rehman	05.04.1954	Mardan	03.04.2008	03.04.2010	15.11.2016
143	Mr. Jamilur Rehman	18.01.1974	Abbotabad	07.01.2008		12.03.2018
144	Mr. Muhammad Idhar	11.02.1982	Manshera	08.04.2008	08.04.2010	16.05.2019
145	Mr. Shah Nawaz	06.06.1967	Manshera	08.04.2008	08.04.2010	24.08.2020
146	Mr. Muhammad Khurshid	12.01.1982	Manshera	08.04.2008	08.04.2010	07.03.2017
147	Mr. Muhammad Altaf	12.03.1969	Thatta	08.04.2008	08.04.2010	30.09.2016
148	Mr. Fazal Wahid	01.12.1968	Mardan	19.04.2008	19.04.2010	29.11.2018
149	Mr. Mushtaq Khan	16.02.1970	Mardan	21.04.2008	21.04.2010	30.01.2018
150	Mr. Muhammad Saddique	16.11.1968	Abbotabad	21.04.2008	21.04.2010	30.01.2018
151	Mr. Faqir Hussain	02.02.1967	Peshawar	21.04.2008	21.04.2010	29.11.2018
152	Mr. Naseer Khan	01.01.1968	Charsadda	21.04.2008	21.04.2010	15.11.2016
153	Mr. Hukam Khan	14.03.1939	Charsadda	21.04.2008	21.04.2010	30.01.2018
154	Mr. Anap Nawaz	11.02.1969	Charsadda	21.04.2008	21.04.2010	15.11.2016
155	Mr. Mehar Ali	01.01.1969	Nowshera	21.04.2008	21.04.2010	30.01.2018
156	Mr. Yar Nawab	05.11.1963	Mardan	21.04.2008	21.04.2010	30.01.2018
157	Mr. Ishaq Ali	10.02.1968	Charsadda	21.04.2008	21.04.2010	30.01.2018
158	Mr. Nasir Khan	22.11.1968	Charsadda	21.04.2008	21.04.2010	30.01.2018
159	Mr. Hazrat Ujan	06.07.1964	Charsadda	21.04.2008	21.04.2010	30.01.2018

Sr. No.	Name of Officers	Date of Birth	Domicile	Date of SI Promotion	Date of confirmation as SI as per Police Rules 13.18	D.O Promotion as DSP
160.	Mr. Fazal Dad	16.03.1966	Charsadda	21.04.2008	21.04.2010	16.05.2019
161.	Mr. Abdullah Jan	24.10.1963	Peshawar	21.04.2008	21.04.2010	18.02.2022
162.	Mr. Liaqat Ali	08.04.1964	Charsadda	21.04.2008	21.04.2010	30.01.2018
163.	Mr. Tavyab Jan	01.05.1970	Charsadda	21.04.2008	21.04.2010	30.01.2018
164.	Mr. Asif Mehmood	25.04.1975	Bannu	04.07.2008	04.07.2010	18.02.2022
165.	Mr. Ghulam Sadiq	01.02.1968	Mkd. Agency	05.08.2008	05.08.2010	16.05.2019
166.	Mr. Roshan Zeb	16.02.1964	Mardan	26.08.2008	26.08.2010	30.01.2018
167.	Mr. Fazal Subhan	02.05.1968	Nowshera	26.08.2008	26.08.2010	30.01.2018
168.	Mr. Muhammad Ijaz Khan	01.09.1977	Charsadda	26.08.2008	26.08.2010	15.11.2016
169.	Mr. Muhammad Yaseen	30.03.1975	Charsadda	10.09.2008	10.09.2010	16.11.2016
170.	Mr. Ibrar Khan	20.05.1970	Abbottabad	19.09.2008	19.09.2010	16.11.2016
171.	Mr. Muhammad Yaseen	20.12.1973	Haripur	19.09.2008	19.09.2010	07.03.2017
172.	Mr. Iftikhar Ahmad	10.05.1968	Mansehra	19.09.2008	19.09.2010	14.03.2017
173.	Mr. Farrad Ali	16.11.1962	Mardan	19.09.2008	19.09.2010	16.05.2019
174.	Mr. Zakir Hussain	09.03.1966	Abbottabad	19.09.2008	19.09.2010	30.01.2018
175.	Mr. Azam Ali Shah	01.01.1963	Abbottabad	19.09.2008	19.09.2010	16.05.2019
176.	Mrs. Garmila Zafar	25.12.1975	Haripur	19.09.2008	19.09.2010	07.03.2017
177.	Mr. Mehboob	16.12.1966	Abbottabad	19.09.2008	19.09.2010	07.03.2017
178.	Mr. Muhammad Hamayun	01.04.1963	Abbottabad	19.09.2008	19.09.2010	30.01.2018
179.	Mr. Ghulam Muhammad	01.11.1963	Mansehra	19.09.2008	19.09.2010	30.01.2018
180.	Mr. Zahoor Ud Din Khan	05.05.1963	D.I. Khan	03.12.2008	03.12.2010	15.11.2016
181.	Mr. Muhammad Nabi	09.10.1966	Charsadda	30.12.2008	30.12.2010	30.01.2018
182.	Mr. Ayaz Mehmood	20.02.1971	Mardan	30.12.2008	30.12.2010	30.01.2018
183.	Mr. Shakeel Ahmed	01.01.1974	Peshawar	29.01.2009		30.12.2019
184.	Mr. Hussain Ghulam	10.03.1970	Hangu	28.07.2009	28.07.2011	16.05.2019
185.	Mr. Muhammad Akbar	11.05.1963	Mardan	11.08.2009	11.08.2011	18.02.2022
186.	Mr. Zareef Khan	01.01.1969	Swabi	11.08.2009	11.08.2011	18.02.2022
187.	Mr. Bashir Dad	14.04.1972	Mardan	28.08.2009	28.08.2011	30.01.2018
188.	Mr. Arshad Hussain	15.05.1967	Shangla	28.08.2009	28.08.2011	16.05.2019
189.	Mr. Malloob Khan	13.04.1970	Haripur	28.08.2009	28.08.2011	24.08.2020
190.	Mr. Shan Nawaz	08.08.1965	Mansehra	28.08.2009	28.08.2011	30.09.2016
191.	Mr. Fazal Wahab	15.01.1965	Mardan	28.08.2009	28.08.2011	24.08.2020
192.	Mr. Jehanzeb Khan	30.11.1986	Abbottabad	28.08.2009	28.08.2011	24.08.2020
193.	Mr. Muhammad Amin	06.09.1962	Abbottabad	20.08.2009	20.08.2011	10.02.2022
194.	Mr. Muhammad Sohail	30.04.1977	Mansehra	28.08.2009	28.08.2011	19.04.2022

Sr. No	Name of Officers	Date of Birth	Domicile	Date of SI Promotion	Date of confirmation as SI as per Police Rules, 13.16	D.O Promotion as DSP
195	Mr. Muhammad Yousaf	24.08.1984	Haripur	13.10.2009	13.10.2011	24.08.2020
196	Mr. Muhammad Sajjad	24.03.1969	Mansehra	13.10.2009	13.10.2011	24.08.2020
197	Mr. Fida Muhammad	11.12.1964	Abbottabad	13.10.2009	13.10.2011	24.08.2020
198	Mr. Alam Zeb	10.11.1963	Mardan	18.11.2009	18.11.2011	30.01.2018
199	Mr. Saeed Khan	15.04.1964	Peshawar	18.11.2009	18.11.2011	30.01.2018
200	Mr. Muhammad Ishaq	21.12.1968	Nowshera	18.11.2009	18.11.2011	16.05.2019
201	Mr. Pasham Gul	29.04.1963	Mardan	18.11.2009	18.11.2011	30.01.2018
202	Mr. Nasrullah Khan	20.04.1968	Peshawar	18.11.2009	18.11.2011	18.02.2022
203	Mr. Janan Habib	16.05.1964	Charsadda	18.11.2009	18.11.2011	24.08.2020
204	Mr. Amir Nawaz	20.03.1970	Charsadda	18.11.2009	18.11.2011	29.11.2018
205	Mr. Afsar Zaman	01.09.1969	Mardan	18.11.2009	18.11.2011	29.11.2018
206	Mr. Rajab Ali	09.02.1975	Kohat	18.11.2009	18.11.2011	24.08.2020
207	Mr. Noor Ullah	10.05.1964	Peshawar	18.11.2009	18.11.2011	30.01.2018
208	Mr. Mukhtar Ahmad	03.12.1964	Charsadda	18.11.2009	18.11.2011	30.01.2018
209	Mr. Muhammad Irfan	01.08.1970	Karak	12.07.1997	12.07.1999	16.05.2019
210	Mr. Arshad Ahmed	06.01.1982	Nowshera	01.01.2010	01.01.2012	24.08.2020
211	Mr. Muhammad Kamran	12.02.1981	Malakand	01.01.2010	01.01.2012	18.02.2022
212	Mr. Sajid Mumtaz	27.12.1979	Charsadda	01.01.2010	01.01.2012	18.02.2022
213	Mr. Fida Hussain	21.01.1983	Peshawar	01.01.2010	01.01.2012	18.02.2022
214	Mr. Ijaz Ali	10.04.1983	Charsadda	01.01.2010	01.01.2012	18.02.2022
215	Mr. Zaka Ullah	01.10.1965	Nowshera	01.01.2010	01.01.2012	18.02.2022
216	Mr. Ali Khan	20.02.1968	Mkd Agency	01.01.2010	01.01.2012	24.08.2020
217	Mr. Abdur Rashid	03.05.1968	Charsadda	01.01.2010	01.01.2012	29.11.2018
218	Mr. Khalid Khan	02.01.1969	Nowshera	01.01.2010	01.01.2012	29.11.2018
219	Mr. Niaz Muhammad	14.09.1973	Charsadda	01.01.2010	01.01.2012	29.11.2018
220	Mr. Taj Muhammad Khan	13.02.1979	Nowshera	01.01.2010	01.01.2012	18.02.2022
221	Mr. Tauheed Ullah	08.04.1982	Charsadda	01.01.2010	01.01.2012	29.11.2018
222	Mr. Ijaz Ali	14.05.1978	Charsadda	01.01.2010	01.01.2012	18.02.2022
223	Mr. Adnan Azam	16.06.1984	Charsadda	01.01.2010	01.01.2012	18.02.2022
224	Mr. Zahid Alam	15.07.1987	Peshawar	01.01.2010	01.01.2012	18.02.2022
225	Mr. Renmatullah	07.03.1986	Peshawar	01.01.2010	01.01.2012	18.02.2022
226	Mr. Muhammad Irfan Jan	15.03.1979	Mardan	20.03.2010	20.03.2012	18.02.2022
227	Mr. Lughnan Khan	15.01.1980	Mardan	20.03.2010	20.03.2012	18.02.2022
228	Mr. Ikhbraz Khan	14.01.1985	Mardan	20.03.2010	20.03.2012	18.02.2022
229	Pir Zac Badshah	25.06.1972	Mkd Aov	20.03.2010	20.03.2012	18.02.2022

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Sl. No	Name of Officers	Date of Birth	Station	Date of SI Promotion	Date of confirmation as SI in Police Rules 13 18	D.O Promotion as SI
230	Mr. Muhammad Fazil	03.12.1978	Swabi	20.03.2010	20.03.2012	18.02.2022
231	Mr. Ihtiaz Ali	03.01.1977	Mardan	20.03.2010	20.03.2012	18.02.2022
232	Mr. Sabir Qul	04.03.1984	Mardan	20.03.2010	20.03.2012	18.02.2022
233	Mr. Azmal Ali	01.04.1978	Kohat	11.07.2010	11.07.2012	18.02.2022
234	Mr. Sadiq Khan	06.04.1983	Kohat	24.08.2010	24.08.2012	18.02.2022
235	Mr. F. Zahid	01.01.1974	Karak	24.08.2010	24.08.2012	18.02.2022
236	Mr. Nazir Hussain	10.01.1975	Harro	24.08.2010	24.08.2012	18.02.2022
237	Mr. Muhammad Yousof	10.01.1975	Karak	24.08.2010	24.08.2012	18.02.2022
238	Mr. Nazeer Khan	02.04.1977	Kohat	24.08.2010	24.08.2012	18.02.2022
239	Mr. Abid Khan	01.03.1979	Kohat	24.08.2010	24.08.2012	18.02.2022
240	Mr. Umaid Ali	01.02.1974	Karak	24.08.2010	24.08.2012	18.02.2022

DR. ZAHEED AHMED
 IAS/BS (Administrative)
 Commissioner, General of Police,
 Khayber Pakhtunkhwa,
 Peshawar.

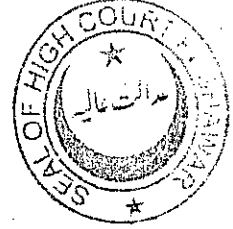
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IN THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. /2020



1. **Raham Hussain,**
Deputy Superintendent of Police,
Hayatabad (JCC 6th),
CCP Peshawar.
2. **Banaras Khan,**
Superintendent of Police (Investigation),
Mardan.
3. **Abdul Rasheed Khan,**
Superintendent of Police (Investigation),
Buner, Malakand.
4. **Shah Mumtaz,**
Superintendent of Police CTD,
Peshawar,
5. **Aqiq Hussain,**
Deputy Superintendent of Police,
LRH Peshawar.
6. **Muhammad Iqbal,**
Deputy Superintendent of Police,
Bannu.
7. **Noor Zamin Shah,**
Deputy Superintendent of Police,
FRP HQ Peshawar.
8. **Inamullah ,**
Inspector,
D/7 ASDPO Wana S.W, DIK.
9. **Aslam Khan,**
Deputy Superintendent of Police,
Karak, at D.I. Khan,
10. **Murad Khan,**
Acting Superintendent of Police (Elite Force),
Peshawar,
11. **Arshad Mehmood,**
Superintendent of Police (Investigation),
12. **Rizwan Khan,**
Deputy Superintendent of Police,
Special Branch, Hazara.

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13. **Ejaz Ahmad,**
Acting Superintendent of Police.
14. **Amjid Hussain,**
Deputy Superintendent of Police,
Hangu.
15. **Jehangir Khan,**
Deputy Superintendent of Police CTD,
Investigation, Abbottabad.
16. **Muhammad Javid ,**
Acting Superintendent of Police (Investigation),
D.I. Khan.
17. **Gohar Ali,**
Deputy Superintendent of Police,
Regi, CCP Pesh.
18. **Riaz Khalil,**
Deputy Superintendent of Police,
Badaber Peshawar,
19. **Afsar Khan,**
Deputy Superintendent of Police,
Hangu, Kohat.
20. **Muhammad Ejaz,**
Deputy Superintendent of Police,
Charsadda.
21. **Arshad Hussain,**
Deputy Superintendent of Police,
Police Training Center (PTC), Kohat.
22. **Hussain Ghulam,**
Deputy Superintendent of Police,
Police Training Center (PTC), Kohat.
23. **Khalid Usman,**
Deputy Superintendent of Police,
Bannu.
24. **Shahid Adnan,**
Acting Deputy Superintendent of Police,
Bannu.
25. **Muhammad Salim Tariq,**
Acting Deputy Superintendent of Police,
D.I. Khan,
26. **Gul Rauf,**
Inspector, Bannu,

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27. **Amjad Hussain,**
Inspector,
FR Kohat, Kohat.
28. **Muhammad Ramzan,**
Inspector, D.I. Khan.
29. **Attaullah,**
Inspector, D.I. Khan.
30. **Abdul Samad Qureshi,**
Sub-Inspector, Bannu.
31. **Niaz Muhammad,**
Sub-Inspector, Bannu.
32. **Muhammad Naeem,**
Sub-Inspector,
CCP Peshawar.
33. **Riaz Ali Shah,**
Sub-Inspector,
CCP Peshawar.
34. **Qazi Nisar Ahmad,**
Sub-Inspector,
CCP Peshawar.
35. **Muhammad Idrees,**
Sub-Inspector,
CCP Peshawar.
36. **Sajjad Ahmad,**
Sub-Inspector,
CCP Peshawar.
37. **Muhammad Ishaq Toru,**
Sub-Inspector,
CCP Peshawar.
38. **Babar Khan,**
Sub-Inspector,
CCP Peshawar.
39. **Abdul Ali,**
Sub-Inspector,
CCP Peshawar.
40. **Bakht Munir,**
Sub-Inspector,
CCP Peshawar.
41. **Mushtaq Khan,**
Sub-Inspector,
CCP Peshawar.

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42. Ali Said,
Sub-Inspector,
CCP Peshawar.
43. Samar Abbas,
Sub-Inspector,
D.I. Khan.
44. Khan Zada Khan,
Sub-Inspector,
D.I. Khan,
45. Tariq,
Sub-Inspector,
D.I. Khan.
46. Muhammad Ishaq,
Sub-Inspector,
D.I. Khan,
47. Shafiullah,
Assistant Sub-Inspector,
Bannu.
48. Qamar Shahzad,
Assistant Sub-Inspector,
CCP Peshawar.
49. Akram Jan,
Assistant Sub-Inspector,
CCP Peshawar.
50. Fayaz Khan,
Head Constable (IHC),
CCP Peshawar.
51. Aurangzeb Khan,
Sub-Inspector,
CCP Peshawar.
52. Zameer Abbas,
Assistant Sub-Inspector,
D.I. Khan.
53. Saeed Ullah,
Assistant Sub-Inspector,
PS Cantt Kohat.
54. Zafar Abbas,
Assistant Sub-Inspector,
D.I. Khan.
55. Sharif Ullah,
Assistant Sub-Inspector,
D.I. Khan.

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56. **Tariq Khan,**
Sub-Inspector,
CCP Peshawar.
57. **Lady Nausheen Siddiqui,**
Head Constable,
D.I. Khan.
58. **Waqar Baloch,**
Head Constable,
D. I Khan
59. **Gul Rahman,**
Sub-Inspector,
Kohistan, at PTC Hangu.
60. **Muhammad Ayaz,**
Sub-Inspector,
Kohat.
61. **Ali Rahman,**
Sub-Inspector,
Kohat.
62. **Johar Ali,**
Assistant Sub-Inspector,
Dir Upper, at PTC Hangu,
Malakand.

PETITIONERS

Versus

1. **Government of Khyber Pakhtunkhwa,**
through Secretary Home & Tribal Affairs.
2. **Inspector General of Police,**
Khyber Pakhtunkhwa, Peshawar
3. **Capital City Police Officer, Peshawar.**
4. **Regional Police Officer, Mardan.**
5. **Regional Police Officer, Kohat.**
6. **Regional Police Officer, Bannu.**
7. **Regional Police Officer, D.I Khan.**
8. **Regional Police Officer, Hazara.**
9. **Regional Police Officer, Malakand.**

RESPONDENTS

ATTESTED
EXAMINER
Peshawar High Court
Peshawar

**PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF PAKISTAN, 1973.**

Respectfully Sheweth:

ON FACTS:

1. **THAT** petitioners are members of Khyber Pakhtunkhwa Police Service and are serving at posts and places mentioned in the heading of the petition.
2. **THAT** to attract the finest and willing officers in the department for posting to Police Training Institutes, Respondent No.2 issued an incentive package vide Standing Order No.11 of 1987 dated 17.01.1987. Copy of Standing Order No.11 of 1987 dated 17.01.1987 is enclosed herewith marked "A".
3. **THAT** Standing Order 11 of 1987 was struck down by Khyber Pakhtunkhwa Service Tribunal in a Service Appeal No. 178/1991 vide judgment dated 30.6.94. This judgment was assailed by the Respondents before august Supreme Court of Pakistan in Civil Appeal No.162 & 163 of 1995 which was however dismissed vide consolidated judgment dated 18.05.1998 reported as 1998 SCMR 2013. The Service Tribunal as well as august Supreme Court of Pakistan, found the Standing Order No.11 of 1987 as invalid on the sole ground that the power of Inspector General to make rules or policy was subject to approval of Provincial Government under Section 12 of Police Act 1861, while in the case in hand before issuing Standing Order No.11 of 1987 approval of Provincial Government was not obtained. Copy of judgment 1998 SCMR 2013 is enclosed herewith marked "B".
4. **THAT** in the above background Respondent No.2 issued Standing Order No.7 of 2003 with the incentives identical to the earlier Standing Order No.11 of 1987 but, with the approval of Provincial Government.
5. **THAT** to validate the rights created by erstwhile Standing Order No.11 of 1987 Provincial Assembly enacted Khyber Pakhtunkhwa Validation of Standing Order Act, 2005 (Act IV of 2005). Section 2 of the Act provided that: -

"(1) Notwithstanding anything contained in the existing service rules governing the promotion and seniority of Constables, Head Constables, Assistant Sub-Inspectors and Sub-Inspectors of the Police Department, or any

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decree, order or judgment of a court, or for reasons of any procedural deficiency,-

- (a) *the rights of promotion and seniority accruing under Standing Order No. 11 of 1987 (hereinafter referred to as the said Order), issued by the Inspector General of Police, [Khyber Pakhtunkhwa], in the larger public interest, with the sole intention and object to improve the efficiency and sense of responsibility amongst the aforesaid Police personnel, shall be deemed, and shall always be deemed, to have validly been accrued; and*
- (b) *all appointments and promotions made and seniority lists drawn from 1987 till date, on the basis of the said Order, shall always be deemed to have validly been made and drawn and shall not be called in question before any court or authority."*

Copy of Khyber Pakhtunkhwa Validation of Standing Order Act, 2005 (Act IV of 2005) is enclosed herewith marked "C".

6. THAT petitioners, amongst others, are the beneficiaries of Standing Orders No.11/1987,7/ 2003 and Act IV of 2005, because they availed the incentives offered through said Standing Orders after fulfilling all the requisite conditions provided therein.
7. THAT the august Supreme Court of Pakistan in its judgment reported as 2013 SCMR 1752 held and declared all out of turn promotions of police officials, made under section 9-A of Sindh Civil Servants Act, 1973 as ultra vires of the Constitution. Section 9-A of Sindh Civil Servants Act, 1973 is reproduced bellow for ready reference:-

"9-A Notwithstanding anything contained in this Act or any other law for the time being in force or any judgment of any Court, a civil servant who provenly exhibits the act f gallantry while performing his duties or very exceptional performance beyond the call of duty, may be granted out of turn promotion or award or reward in such manner as may be prescribed.

The operative part of judgment reported as 2013 SCMR 1752 on the question of out of turn promotion is reproduced below: -

"We further hold and declare that all out of turn promotions made under Section 9-A of the Sindh Civil Servants Act, 197, by

the Sindh Government to an employee or civil servant with or without backdated seniority since 22.1.2002, when section 9-A was inserted through Ordinance IV of 2002, are ultra vires of the Constitution."

Copy of 2013 SCMR 1752 is enclosed herewith marked "D".

8. THAT since there was a similar provision i.e. Section 8-A in the Punjab Civil Servants Act, 1973 which provided for out of turn promotion to police officials for the act of gallantry, august Supreme Court in its order passed on 26.1.2016 in Civil Appeal No.184-L of 2013 ordered as under:-

"We expect that all out of turn promotions granted either to the police personnel on gallantry award or otherwise shall be undone within four weeks from today and their seniority be re-fixed with their batch mates in terms of the directions contained in the aforesaid judgments. Out of turn promotions ranging from constable to any gazette officers shall be streamlined in terms of the aforesaid two judgments. On completion of the exercise, the I.G Police Punjab, Home Secretary, Punjab and Chief Secretary, Punjab, shall submit compliance report with the Assistant Registrar of the Court for our perusal in chambers. This order shall be communicated to the I.G, Punjab, Home, Secretary, Punjab and Chief Secretary, Punjab, for their information and compliance and noncompliance of this judgment shall expose the concerned officials to contempt proceedings."

In consequence to above direction, such out of turn promotions to police personnel in province of Punjab, granted under Section 8-A were also withdrawn. Section 8-A of the Punjab Civil Servants Act is reproduced bellow:-

"8-A Notwithstanding anything contained in this Act or any other law for the time being in force or in any contract, or rights claimed or acquired under any judgment of any Court or Tribunal, a civil servant who provenly exhibits exemplary intellectual, moral and financial integrity and high standard of honesty and gives extraordinary performance in the discharge of his duties, may be granted out of turn promotion or award or reward in such manner as may be prescribed"

9. THAT the police officials from Punjab police, aggrieved from the above, filed a number of review petitions before the Supreme Court, which were heard and dismissed through consolidated judgement of Shahid Pervaiz case, reported as 2017 SCMR 206. It was held that *"both provisions* (Section 8-A of Punjab Civil

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Servants Act and Section 9-A of Sind Civil Servants Act) are similar in nature and cater to the same purpose-out of turn promotion-which we have consistently held to be unconstitutional and void ab initio." The operative part of the judgment was as under:-

"For the aforesaid reasons, all the listed Review Petitions and the Applications are dismissed. The I.G.P, Punjab, the Home Secretary, Punjab, and the Secretary, Establishment Division, are directed to comply with the judgment, by fixing the seniority of all the Police Officers who were given out of turn promotion alongwith their batch-mates, as if they were never given out of turn promotion. However, the orders of withdrawal of out of turn promotion passed by the Department/Competent Authority shall be recalled against the Police Officers who had earned out of turn promotions, pursuant to the judgments of superior Courts/Service Tribunals, as discussed in paragraph 111 of this judgment. For the purpose of compliance of this judgment, necessary D.P.C/Board, as the case may be, shall be immediately held without further loss of time and a compliance report be submitted to the Registrar of this Court for our perusal in Chambers. This exercise shall be completed within a period of one month. The Advocate General, Punjab, and the learned Attorney General for Pakistan shall communicate the directives of this Court to the relevant authorities."

Copy of judgment 2017 SCMR 206 is enclosed herewith marked "E".

10. THAT the Hon'ble Supreme Court of Pakistan in its subsequent full Court Judgment, in Akhtar Umar Hayat Lalayka's case, reported as 2018 SCMR 1218, while upholding consolidated Judgment supra in Shahid Pervaiz's 2017 SCMR 206 case further modified the same in the following words:

"The exception created in Para No.111 of the Shahid Pervaiz's case (Supra) read with Para No.143 thereof, wherein the promotion was extended to the category of cases "wherein out of turn promotion was granted to individuals pursuant to the Judgments of the High Court, Service Tribunal and the Supreme Court, is hereby withdrawn by exercising suo-moto review jurisdiction."

Copy of judgment 2018 SCMR 1218 is enclosed herewith marked "F".

11. THAT a number police personnel of Khyber Pakhtunkhwa, junior to petitioners, approached respondents for withdrawal of out of turn promotions granted to

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police officials in the province. Having failed in their such endeavor, they filed Writ Petition No 4062/2020 titled Javaid Khan etc. vs Government of Khyber Pakhtunkwa seeking annulment of all out of turn promotions, including those of petitioners, granted to the police officials in the Province, in implementations of afore referred judgments of Supreme Court. This Hon'ble Court on 29.09.2020 while issuing notice to respondents has asked for their comments. Some of the Petitioners have also filed application for their impleadment as respondents in the case. Copies of Writ Petition No 4062/2020, and order sheet are enclosed herewith collectively marked "G1 to G2".

12. THAT in the above background, when this Hon'ble court had taken cognizance of the matter and respondents were put on notice, Respondent No.2 has issued a letter/directive dated 6th October, 2020 to Capital City Police Officer and all Regional Police officers, in the province with a vague directive to implement the afore mentioned judgments of Supreme Court which *"pertains to out of turn promotions of police officials/officers in letter and spirit and report compliance within ten (10) days positively."*

Copy of letter/directive 06.10.2020 is enclosed herewith marked "H".

13. THAT on 08.10.2020 the same matter was taken up in 56th Meeting of the Police Policy Board under the chairmanship of Respondent No.2, wherein on the basis of misconceived and misleading briefing by AIG / Legal following decisions were made: -

"After threadbare discussion, the Board unanimously agreed to implement the judgments of Apex Court in letter & spirit as all the provinces of Pakistan have already implemented the same judgments. Furthermore, in compliance with the above judgments of out of turn promotions given to officials/ officers in the shape of any kind of incentive, gallantry performance under validation Act or rules etc. will be reversed and the seniority of such officers shall be reckoned from their date of appointment with their batch mates/ colleagues."

Copy of minutes of 56th Meeting of the Police Policy Board is enclosed herewith marked "J".

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14. THAT being aggrieved of letter dated 06.10.2020 and decision contained in minutes of Police Policy Board dated 08.10.2020 and having no other remedy available, petitioners are constrained to approach this Hon'ble court on the followings amongst other: -

GROUNDS:

- A) THAT fast track promotion earned by petitioners under Standing Order No.11 of 1987 and 7 of 2003 not only after completion of competitive process under Police Rules 1934 but also volunteering and serving for 3 years in Police Training Institute could not be equated with out of turn promotions granted on the ground of gallantry etc. held to be illegal and unconstitutional by the august Supreme Court of Pakistan in the referred judgments.
- B) THAT neither province of Khyber Pakhtunkhwa was party to the proceedings before august Supreme Court of Pakistan nor any legislative instruments, rules OR Standing Orders 7,11 and Validation Act of 2005 were challenged, considered or struck down by the Court. The cases before the Supreme Court of Pakistan pertained only to province of Sind and Punjab. Directions by the Supreme Court of Pakistan were also issued to the concerned authorities of Sind and Punjab for implementation of the judgments and submit compliance report. Hence, question of so-called implementation of such judgments against police personnel in province of Khyber Pakhtunkhwa is without any legal basis.
- C) THAT out of turn promotions granted in the provinces of Sind and Punjab were under Section 9-A and 8-A of Sind and Punjab Civil Servants Acts which empowered the provincial government to grant out of turn promotion to a Civil Servant for the act of gallantry etc. The august Supreme Court of Pakistan held such out of turn promotions to be arbitrary, discriminatory and based on personal likes and dislikes. There being no corresponding provision in Khyber Pakhtunkhwa Civil Servants Act, the ratio of such judgments, by no stretch of imagination, can be extended the promotions granted to petitioners.
- D) THAT even the august Supreme court in referred judgments had drawn distinction between out of turn promotions granted in exercise of arbitrary executive powers for gallantry etc. AND promotions granted under a policy with no element of arbitrariness or cherry picking

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involved. The later kind of out of turn promotions were found to be justified by the Court in Para 133 of judgment reported as 2017 SCMR 206 at page 269 while dealing with Sport Policy. This squarely covers the case of petitioners, Para 133 is reproduced bellow for ready reference:-

"133. We believe that there is some justification for allowing out-of-turn promotions, and that too up to the level of ASIs only, due to the fact that certain qualifications / courses / examinations have been prescribed in the Policy in order to be qualified for such promotions. In other words, there is no element of an arbitrary or selective choice of candidates for the accelerated promotions and they have to meet the bare minimum requirements of the Police Rules"

- E) THAT it is pertinent to note that incentives offered through Standing orders 11/1987 and 7/87 are/were available to all police personnel and no amount of choice or selection was available to any authority. The choice was with the personnel to avail the incentive provided that they:-
- (a) Qualified amongst first five (5) in Lower School Course, Intermediate School course OR Upper Class Course.
 - (b) Volunteered to serve in the Training Institute for 3 years; AND
 - (c) Earned category "A" reports.

Selection, thus, was totally fair, merit based and indiscriminatory.

- F) THAT even otherwise, when this Hon'ble Court had already taken cognizance of matter of applicability and implementation of referred Supreme Court Judgments to the police force of Khyber Pakhtunkhwa, notice had been issued to the respondents and Comments called from them, the issuance of impugned directives/orders by respondent No. 2 display highhandedness on his part and amounts to bypassing the process of the Court.
- G) THAT petitioners were granted, decades ago, one step promotions once in their service career as Head Constables, A.S.Is or S.Is after training with their batch-mates and qualifying in competitive exams under the provisions of Police Rules, 1934, under Standing Orders Nos 11/1987 and 7/2003 duly protected under Act IV of 2005. After regular

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progression, under the rules, they are now holding the posts of DSPs, SPs and ASIs etc. Impugned exercise at this stage is not only without any legal basis but is highly oppressive effecting the morale of the Force and is creating anomalies in the service structure.

It is, therefore, most respectfully prayed that on acceptance of the writ petition the Hon'ble Court may graciously be pleased to: -

A. Declare:

- (i) That the judgment of august Supreme Court of Pakistan reported a 2013, 2017, 2018 declaring out of turn promotion to police officials on the ground of gallantry etc. pertain to the provinces of Sind and Punjab are not applicable to the promotions granted to the petitioners under Standing Order 11/1983, 7/2003 and Act IV of 2005 in Khyber Pakhtunkhwa.
- (ii) The impugned directive order dated 06.10.2020 of Respondent No.2 and decision dated 08.10.2020 of Police Policy Board are illegal, without lawful authority and of no legal effect.

B. Direct the Respondent to refrain from taking any adverse action against the petitioners in respect of rights of promotion and seniority accrued to them under Standing Orders No.11/1987, 7/2003 and validated vide Validation Act IV of 2005.

INTERIM RELIEF:

It is earnestly and respectfully prayed that by way of interim relief operation of impugned order dated 06.10.2020 and decision dated 08.10.2020 may be suspended and respondents may be restrained from taking any action adverse to the petitioners in pursuance thereof and status quo may be maintained till the final decision of writ petition.

Any other relief appropriate in the circumstances but not specifically asked for may also be granted to the petitioner, with costs.

Petitioners
through

Imtiaz Ali

Imtiaz Ali
Advocate, Supreme Court of Pakistan.

Syed Asif Jalal

Syed Asif Jalal,
Advocate High Court

Dated: 08.10.2020.

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CERTIFICATE:

Certified that petitioner has not filed any other writ petition on this subject earlier.

LuThaqin
Advocate.

REFERENCES:

- i. The Constitution of the Islamic Republic of Pakistan, 1973
- ii. Police Rules, 1934.

NOTE:

1. Three spare copies of the WP are enclosed in a separate file cover.
2. Memo of address is also attached.
3. Notices of filing the instant petition along with copies of the same have been send/dispatched to each of the respondents through registered post/courier.

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IN THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. / 2020

Raham Hussain & Others **PETITIONERS**

Versus

Government of Khyber Pakhtunkhwa & Others **RESPONDENTS**

AFFIDAVIT

I, Aqiq Hussain, DSP LRH Peshawar, R/o Shinwari Town, Gulshan Abad, Kohat (Petitioner No.5, CNIC No.14301-4290490-1, Cell No.0333-966-9150) do hereby solemnly declare and state: -

- 1. That the accompanying petition with interim relief has been drafted under my instructions.
- 2. That I am personally conversant with the facts and circumstances as contained therein.
- 3. That the facts and circumstances mentioned therein are true and correct to the best of my knowledge and belief.

Deponent.
0333-9669150

VERIFICATION:

The contents of the above affidavit are true and correct to the best of my knowledge and belief.

Verified on Oath at Peshawar this 2 day of October, 2020.

Deponent.
CNIC = 14301 4290490-1

Identified by:
Imtiaz Ali
Imtiaz Ali
Advocate.

No.....	10974
Certified	
affirmed	
day of	Oct
at	DSP
Signature	<i>Aqiq Hussain</i>
Date	20/10/2020

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qanoon-e-Shahadat Act 1984
23 DEC 2023

Raham Verified

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**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR**
(Judicial Department)



**W.P.No.4949-P of 2020 with Interim relief
with COC No.230-P of 2021.**

Date of hearing: 09.12.2021.

M/s Imtiaz Ali and Malik Muhammad Sadiq
Awan, advocates for the petitioners.

M/s Shumail Ahmad Butt, Advocate General
and Muhammad Sohail, AAG for the
respondents.

JUDGMENT

LAL JAN KHATTAK, J.- Vide our detailed
judgment recorded in W.P.No.684-A of 2021
titled "Ubaid Khan etc Vs. Government of
Khyber Pakhtunkhwa etc", this petition
alongwith the listed COC stands disposed of
in terms thereof.

Jan
JUDGE

[Signature]
JUDGE

[Signature]
JUDGE

Announced.

24.03.2022.

Sadiq Sharif C9 (LB) (Hon'ble Mr. Justice Lal Jan Khattak, Hon'ble Mr. Justice S.M. Atique
Shah and Hon'ble Mr. Justice Syed Anwar Ali)

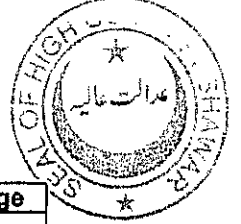
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Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qadon-e-Shahadat Act 1984
23 DEC 2023

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FORM 'A'
FORM OF ORDER SHEET



Date of order.	Order or other proceedings with the order of the Judge
09.12.2021	<p><u>W.P.No.684-A of 2021 with Interim relief.</u></p> <p>Present: M/s Barrister Adnan Khan, Imtiaz Ali, Malik Muhammad Siddique Awan and Junaid Anwar Khan, advocates for the petitioners.</p> <p>M/s Shumail Ahmad Butt, Advocate General and Muhammad Sohail, AAG for the respondents.</p> <p>-----</p> <p><u>LAL JAN KHATTAK, J.-</u> Through this judgment, we shall decide the connected W.P.No.587-M of 2020 titled "Badshah Hazrat & others Vs. Government of Khyber Pakhtunkhwa & others" and W.P.No.4949-P of 2020 titled "Raham Hussain & others Vs. Government of Khyber Pakhtunkhwa & others" as common question of law and fact is involved in all the three petitions wherein the petitioners have questioned the legality of decisions/orders dated 15.04.2021, 21.04.2020 and 06.10.2020 as well as minutes of the 56th Police Policy Board meeting held on 08.10.2020, whereby office of the Inspector General of Police Khyber Pakhtunkhwa has directed all the Regional Police Officers of the Province to implement the judgments of the Supreme Court of Pakistan reported in 2013 SCMR 1752, 2017 SCMR 206 and other judgments in letter and spirit pertaining to the out of turn promotions given to the police officials/officers performing their duties in the Province.</p> <p>2. In a nutshell, It is the petitioners' case that the</p>

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accelerated positions held by them in the police department on no canon of law could be equated with the out of turn promotions subject matter of the judgments of the Hon'ble Supreme Court cited above and as such the impugned orders and decisions of the respondents intended to deprive them of their such positions in the Police Force are unwarranted and sans any lawful authority.

3. While presenting the petitioners' case, their learned counsel argued before the court that the fast track positions held by the petitioners in the Police Department of Khyber Pakhtunkhwa have come to them due to their hard work, getting top positions in the recruitment centers, successful teaching in the training institutions, securing "A" grade reports from their seniors in line with their duties, pursuant to the provisions of Standing Order No.11 of 1987, No.7 of 2003, relevant Police Rules, the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005 (Act No.IV of 2005) and per provisions of The Khyber Pakhtunkhwa Police Act, 2017, therefore, they cannot be deprived of their such gains on the ground of giving effect to the ibid judgments of the apex court which, per learned counsel for the petitioners, were delivered in some different background and circumstances.

4. As against the above, the learned Advocate General argued that the positions earned by the petitioners are analogous to the out of turn promotions given to the police officials and officers posted in the

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Police Departments of the Provinces of Sindh or Punjab which have been declared illegal and unconstitutional by the apex court in its numerous judgments with directions to the concerned Provincial Governments to re-fix their seniority positions with initial batch mates in line with the principles laid down in the judgments, therefore, per Article 89 of the Constitution of Pakistan, 1973, the impugned orders passed and decisions taken are well within the competence of the respondents in order to implement the judgments of the apex court.

5. We have heard learned counsel for the petitioners, the learned Advocate General and also gone through the available record with their valuable assistance.

6. In the elaborated judgments of the Hon'ble Supreme Court of Pakistan reported in 2013 SCMR 1752, 2017 SCMR 206 and others, no doubt the apex court has declared the out of turn promotions as illegal and unconstitutional but admittedly the issue raised and dealt with in the referred judgments pertains to the out of turn promotions of the police officials/officers of the Provinces of Sindh and Punjab which were given to the promotees in their individual capacity under Section 9-A of the Sindh Civil Servants Act, 1973 and Section 8-A of Punjab Civil Servants Act, 1974 which are reproduced hereinbelow:-

"9-A of Sindh Civil Servants Act, 1973.

Notwithstanding anything contained in this Act or any other law for the time being in force or any judgment of any Court, a civil servant who provently exhibits, the act of gallantry while performing his duties or very exceptional

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performance beyond the call of duty, may be granted out of turn promotion or award or reward in such manner as may be prescribed.

8-A of Punjab Civil Servants Act, 1974.

Notwithstanding anything contained in this Act or any other law for the time being in force or in any contract, or rights claimed or acquired under any judgment of any Court of Tribunal, a civil servant who provenly exhibits exemplary intellectual, moral and financial integrity and high standard of honesty and gives extraordinary performance in the discharge of his duties, may be granted out of turn promotion or award or reward in such manner as may be prescribed".

7. In exercise of the powers under the ibid laws, out of turn promotions were given by the relevant authorities to the police officials/officers of the two Provinces mentioned above on the basis of their individual gallantry performance and bravery through separate orders whereas the accelerated positions got by the petitioners herein are because of their getting top positions in the Training Institutions of the Province, their successfully performing instructional duties in the police recruitment centers for prescribed period, their getting "A" reports from their superiors pursuant to the Standing Order 11 of 1987, Standing Order 7 of 2003, Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, rule 13.6(1) of the Police Rules, 1934 and in accordance with the provisions of the Khyber Pakhtunkhwa Police Act, 2017. For better understanding of the issue, Standing Order No.11, which was later on validated through Khyber Pakhtunkhwa Standing Order Act, 2005, is reproduced

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hereinbelow:-

BACKGROUND Personnel posted as Instructors at Police Training Schools serve with extreme reluctance.

The time an officer is posted to an instructional assignment, he makes very conceivable effort, political, administrative, medical, compassionate etc. to have his posting orders cancelled.

The state of mind of such a person, who arrives at a Police Training Institution as an Instructor, can be clearly visualized. He feels that he has been discriminated against, he is disgruntled and in a pathetic frame of mind with this state of mind, those Instructors create an atmosphere of a penal institution in the Training Centre.

For many years, this Department has been cognizant of this problem. Some efforts have been made to find a solution. Various incentives have been offered to Instructors but none of them has had any impact. Posting at Police Training Centre still continues to be considered as a punishment posting.

Ideally Instructors in Training Schools would not only be willing to serve but must be amongst the finest officers in the Department. To believe this and personnel posted to Police Training Institutions as staff members, as being offered the following incentives, Instructors selected in pursuance of those incentives, will be categorized as CADET INSTRUCTORS:

INCENTIVES

1. H.C. INSTRUCTORS

Constables undergoing the Lower School Course, who pass amongst the first 5 in the Class, will be qualified to serve as H.C. Instructors provided they volunteer to serve in the Training Institute for 3 years.

Immediately at the end of 3 years, if they have earned "A" reports, they would be admitted to

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Intermediate School Course and their names would be placed on Promotion List 'D' as soon as they qualify the Intermediate School Course.

2. A.S.I. INSTRUCTORS.

Head Constables undergoing the Intermediate School Course, who qualify amongst the first 5 in the class, will be qualified to serve as Instructors provided they volunteer to work there for 3 years and earned category "A" reports. They would be confirmed in the rank of Assistant and Sub Inspector and their names would be brought on Promotion List 'E'.

3. S.I. INSTRUCTORS

Sub Inspectors undergoing Upper Class Course, who qualify the first 5 in the Class, will be qualified to serve as Instructors SI(s) provided they volunteer to work there for 3 years and earn category "A" reports.

At the end of that period, they would be confirmed in the rank of S.I. and their names will be brought on Promotion List 'F'.

3.A. Alternatively if volunteers are not available to the offer contained in Para 3 above, Sub-Inspectors who volunteer to serve as Instructors and are selected by the Principal, PTS, Hangu, will be offered the same incentives, i.e. after a tenure of 3 years at P.T.S. Hangu with "A" reports, they will be confirmed as Sub-Inspectors and their names brought on List 'F'.

NOTE:-

1. These incentives will not apply to directly recruited A.S.I(s).
2. These incentives can be availed of only once in a person's career.
3. Officers who are selected as Instructors on the basis of Promotion Examinations passed before 1984, will have to serve in the Training Institution for 2 years instead of 3 years.
4. The instructional tenure at PTS Hangu will be

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reduced to half for those officers who have secured first five positions in the promotion examinations but have already served in the Training Institution for two years.

8. Perusal of the impugned decisions/orders would show that the respondents intend to implement the judgments of the Hon'ble Supreme Court without peeping into the background and without analyzing the situations in which the out of turn promotions were given to the police personnel of the two Provinces and the accelerated positions secured by the police officials/officers performing their duties in the Province of Khyber Pakhtunkhwa. Proceeding against the petitioners by the respondents through the impugned decisions and orders by looking at the case issue superficially instead of resolving the same with deep thoughts and in a probing manner and without having a look at the history and background of both the situations will not be a fair step as they are holding the accelerated positions since long which had come to them through a merit based laid down criteria and in a structured manner and not for any braveness. It would not be out of place to mention here that since 2013, the Hon'ble Supreme Court has repeatedly declared the out of turn promotions as illegal by directing the Provincial Governments to streamline policy relating to the grant of out of turn promotions but uptill now the Government of Khyber Pakhtunkhwa has not taken any step in that direction. Whether the Provincial Government wants to withdraw the incentives given to its police personnel through the Khyber

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Pakhtunkhwa Validation of Standing Order Act, 2005, Police Rules, 1934 and the Khyber Pakhtunkhwa Police Act, 2017 or it is eager to keep the same intact is a question which needs resolution in a befitting and probing manner. Indecisiveness and the lethargic conduct of the Government to the ibid effect is very lamentable which has created chaos and caused unrest in the entire Police Force of the Province which situation cannot be countenanced.

9. For what has been discussed above, we dispose of these petitions in terms that the impugned decisions/orders are set aside and the petitioners' cases are sent to the Provincial Government of Khyber Pakhtunkhwa through the Chief Secretary first to clarify its position whether it wants to continue with the matter of awarding accelerated positions to members of its Police Force in line with the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, prevailing Police Rules and Khyber Pakhtunkhwa Police Act, 2017 or not and then decide the issue raised in the petitions accordingly but till such policy is streamlined, no adverse action shall be taken against the petitioners.

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JUDGE

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JUDGE

Announced on:
24.03.2022

Sadiq Shah, CS (LB) (Hon'ble Mr. Justice Lat Jan Khattak, Hon'ble Mr. Justice S.M. Adilque Shah & Hon'ble Mr. Justice Syed Areeb Ali)

26356
 Date of Presentation of Application..... 23-12-2023
 No of Pages..... 24-P
 Copying fee..... 96-00
 Total.....
 Date of Preparation of Copy..... 23-12-2023
 Date of Delivery of Copy..... 23-12-2023
 By..... *[Signature]*

CERTIFIED TO BE TRUE COPY

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EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qanoon-e-Shahadat Act 1904

23 DEC 2023

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BEFORE THE PESHAWAR HIGH COURT,
PESHAWAR.

(ORIGINAL JURISDICTION)



Writ Petition No. _____ -P of 2023.

- 1) Khalid Usman s/o Gul Shah Namir r/o Kashmiri Banda Tarkhakoi, District Karak (DSP).
- 2) Amjad Hussain s/o Hassan Gul r/o Churangi, Distrit Kohat (Inspector Belt No. K/116).
- 3) Hussain Ghulam s/o Ghulam Hassan (DSP).
- 4) Qazi Nisar Ahmad s/o Qazi Muhammad Ibrahim (SI 527/E).
- 5) Gohar Ali s/o Sahib Zada (DSP).
- 6) Riaz Khan (DSP).
- 7) Abdul Ali Shah s/o Noor Zamin Shah (SI P/582).
- 8) Muhamamd Asif Ali Gohar s/o Ali Gohar r/o Mastal, District Mansehra presently Hast Mera Qalandar Abad (SP).
- 9) Muhammad Ijaz s/o Qadar Gul r/o Talash Amaish Kalay Sherpao, District Charsadda (SP/SSU).
- 10) Rahim Hussain s/o Khan Zaman Khan r/o Chagam Puran, District Shangla (SP at Peshawar).
- 11) Noor-ul-Islam s/o Fazal Hadi
- 12) Asif Khan s/o Qamar Zaman
- 13) Gul Malik s/o Abdul Rauf (Belt No.565).
- 14) Sheharyar Ahmad s/o Fida Muhammad (SI/86-P).
- 15) Bakht Munir s/o Gul Rahim (Belt No.P-599/SI)
- 16) Yar Khan s/o Saleh Muhammad Khan
- 17) Abdul Rashid Khan s/o Sabir Khan
- 18) Shehensha Gohar s/o Ali Gohar
- 19) Muhamamad Ikram Khan s/o Sher Bahadar Khan
- 20) Abdur Rahman s/o Abdul Manan (Belt No.741)
- 21) Khan Akhtar s/o Naib Khan (Belt No.8)
- 22) Muhammad Faisal s/o Mumtaz Hussain (Belt No.1384)
- 23) Amjad Hussain s/o Ali Asghar r/o Maswal, District Mansehra (DSP).
- 24) Hafiz Janas s/o Ghulam Qadir r/o Supply Abbottabad (DSP).

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- 25) Rizwan Habid s/o Habib-ur-Rahman r/o Baisian Balakot (DSP).
- 26) Yasin Khan s/o Muhammad Banaras r/o Tarnawa Haripur (DSP).
- 27) Muhammad Nazir s/o Pir Khan r/o Talkandi Kokamang, Abbottabad (Inspector).
- 28) Amir Khan s/o Lal Muhammad r/o Kangra Colony Sekra, Haripur (SI).
- 29) Jehangir Khan s/o Moharam Khan r/o Jabrai Bandai (DSP)
- 30) Fida Khan s/o Fazal Dad Khan r/o Kaskai Abbottabad (DSP)
- 31) Jehanzeb s/o Muhammad Khan r/o Kangar Pain Abbottabd (DSP).
- 32) Matloob Khan s/o Khushal Khan (DSP)
- 33) Sabir Khan s/o Dariman r/o Moin Abad Pano Dherai (DSP)
- 34) Muhammad Hayat s/o Muhammad Khitab r/o Ghazi Haripur (Inspector)
- 35) Shaheen s/o Muhammad Maskin r/o Rankot Boi (Inspector)
- 36) Rahim Shah s/o Maskin Shah r/o Dhaga Saidan
- 37) Waqar Ali Khan s/o Swali Muhammad Khan (Inspector)
- 38) Arshad s/o Awal Khan (DSP)
- 39) Ishtiaq (Sub-Inspector)
- 40) Mazhar Mehmood s/o Ali Asghar (SI)
- 41) Muhammad Sajjad s/o Abdul Jalil (DSP)
- 42) Muhammad Altaf s/o Muhammad Aman (DSP)
- 43) Shah Nawaz Khan s/o Muhammad Yousaf (DSP)
- 44) Atta Ullah s/o Muhammad Ramzan (Inspector)
- 45) Inam Ullah s/o Ainullah Khan (Inspector D/7)
- 46) Qamar Abbas s/o Syed Kazim Hussain Shah (SI D/13)
- 47) Khan Zada s/o Bahadar Khan (SI D/90)
- 48) Shahid Adnan s/o Ahmad Saeed Khalil (DSP)
- 49) Salim Tariq (DSP)
- 50) Tariq s/o Musa Khan (SI)
- 51) Gul Rauf Khan s/o Jabaray Khan (Inspector B/43)
- 52) Saeed Ullah s/o Rab Nawaz (ASI/15-D)

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- 53) Zafar Abbas s/o Ghulam Abbas (SI).
- 54) Babar Khan s/o Saleh Muhammad (SI)
- 55) Muhammad Akram Jan s/o Sher Bahadar Khan (ASI)
- 56) Arshad Hussain s/o Khan Zaman Khan (DSP)
- 57) Abdul Samad Qureshi s/o Abdul Majeed Qureshi (SI B/06)
- 58) Shafi Ullah Shah s/o Muhammad Zar Ali Shah (SI 87/B)
- 59) Niaz Muhammad Khan s/o Dost Muhammad Khan (SI 12/B)

.....Petitioners

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
- 2) Provincial Police Officer/Inspector General of Police at Peshawar.
- 3) Additional Inspector General of Police (Establishment) Central Police Office, Peshawar.
- 4) Capital City Police Officer at Peshawar.
- 5) Regional Police Officer, Mardan Region at Mardan.
- 6) Regional Police Officer, Bannu Region.
- 7) Regional Police Officer, Kohat at Kohat.
- 8) Regional Police Officer, Hazara at Abbottabad.
- 9) District Police Officer, District Mardan at Mardan.
- 10) District Police Officer, Swabi at Swabi.
- 11) District Police Officer, District Abbottabad.
- 12) District Police Officer, District Haripur.
- 13) District Police Officer, District Mansehra.
- 14) District Police Officer, District Battagram.
- 15) District Police Officer, District Kohistan Lower.
- 16) District Police Officer, District Kohistan Upper.
- 17) District Police Officer, District Charsadda at Charsadda.
- 18) District Police Officer, Kohat at Kohat.
- 19) District Police Officer, Hangu at Hangu.

.....Respondents

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WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN:

Respectfully Sheweth:

- 1) That the petitioners are serving police officers of Khyber Pakhtunkhwa Police presently posted at different stations of the Province.
- 2) That a few decades ago, Police Training School (the School) was established in District Hangu to train the initial recruits and in-service personnel of the police force in the Province of KPK.
- 3) That as a policy, the then serving members of the police force were to be deputed to the School as Instructors and others staff members. However, owing to the fact that the School was a newly established institution situated at a far flung district of the Province, such members would accept the deputation with extreme reluctance and would start conceivable efforts to get their posting cancelled.
- 4) That in order to encourage deputation to the School and to incentivize the same, respondent No.2 (IGP) issued a standing order in the year 1987 [Standing Order No.11/87 Chapter XIX of Police Rules] (Copy of Standing order is attached as Annexure "A")
- 5) That as per the incentives prescribed for an aspirant deputationist, an official volunteering himself to be posted at the School will be rewarded with entitlement to confirmation in the higher rank/promotion list after the end of three years deputation period.

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- 6) That the petitioners volunteered themselves for their deputation in the Training School and were subsequently posted thereto. The petitioners allocated numerous years of their youth for the betterment of the Training School which at present enjoys the fame of being state of the art Training Center in the Country.
- 7) That needless to say that after serving for the requisite three years deputation period, the petitioners were rewarded with the prescribed incentives and were listed in the next promotion list.
- 8) That the above mentioned incentive, which was termed as out of turn promotion at that time was challenged before different Judicial Forums all the way to the august Supreme Court of Pakistan. The Hon'ble apex Court while deciding the appeal held that the Inspector General under the then Police Law (Police Act 1861) lacked the authority to issue Standing Order of the kind. However, to protect the benefit accrued to the promotees, the august Court directed the Provincial Government to give the requisite legal backing to the Standing Order No.11 of 1987 (Copy of judgment reported as 1998 SCMR 2013 is attached as Annexure "B").
- 9) That consequently, the Provincial Government issued another Standing Order namely Standing Order No.07/2003. However, to give legislative protection to the Standing Orders, the Provincial Assembly enacted an Act namely the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005 (Act No. IV of 2005) whereby the Standing Order No.11 of 1987 was indemnified and any benefit accrued as a result of the said

Standing Order was deemed to have been validly issued (Copy of Act No. IV of 2005 is attached as Annexure "C").

- 10) That later on, vires of the above mentioned Act were challenged before this Hon'ble Court but without any success. Thus, the Act of Assembly is very much in the field speaking as of now.
- 11) That crossing the above mentioned barriers, the petitioners started their duties in the field with new zeal and enthusiasm. So much so, in the peak of insurgency in the Province, the petitioners performed their regular duties upto the entire satisfaction of their high ups. However, the same has not been without administrative miseries and agonies.
- 12) That a few years back, an attempt was made to deprive the petitioners of the fruits of the aforementioned lawful events. In this respect respondent No.3 on behalf of respondent No.2 issued a directive to the concerned RPOs and DPOs whereby the matter has been reopened and it has been directed in equivocal terms though that the beneficiaries of SO 11/87 be sent back to their original places in the seniority list (Copy of order dated 15-04-2020 with better copy is attached as Annexure "D").
- 13) That consequently, committees were constituted in different regions for giving effect to the above mentioned directives, which has the force to revert the petitioners to lower scales. In order to do so, reliance was placed on the Judgments of the august Supreme Court of Pakistan reported as 2013 SCMR 1752 & 2017 SCMR 206 dated 13-05-2018 passed in Intra Court Appeals and connected petitions (Copy of office order

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dated 21-04-2020 is Annexure "E" while judgment reported as 2017 SCMR 206 is attached as Annexure "F").

- 14) That the petitioners and many other similarly placed personnel of the force apprehending withdrawal of the incentive granted to them and the resultant reversion as a consequence thereof, filed various constitutional petitions before this Hon'ble Court. The Hon'ble Court while considering different judgments on the subject referred the matter for constitution of a larger bench.
- 15) That later on, a larger bench was constituted which heard all the connected petitions in detail on 09-12-2021. Vide a detailed judgment announced on 24-03-2022, Hon'ble Larger Bench in the following terms:

"Whether the provincial Government wants to withdraw the incentives given to its Police Personnel through the Khyber Pakhtunkhwa validation of Standing Order Act, 2005, Police Rules 1934, and the Khyber Pakhtunkhwa Police Act, 2017 or it is eager to keep the same intact is a question which needs resolution....we dispose of these petitions in terms that the impugned decisions/orders are set aside and the petitioners' cases are sent to the Provincial Government of Khyber Pakhtunkhwa through the Chief Secretary first to clarify its position whether it wants to continue with the matter of awarding accelerated positions..... or not and then decide the issue raised in the petitions accordingly but till such policy is streamlined,

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no adverse action shall be taken against the petitioners".

(Copy of judgment dated 24-03-2022 is attached as Annexure "G").

- 16) That the Provincial Government assailed that above mentioned judgment of this Hon'ble Court by filing various CPLA' before the apex Court. The august Supreme Court was pleased to dismiss the petitions vide order dated 19-01-2023. Hence, the judgment of this Hon'ble has attained finality for all legal purposes (Copy of order dated 19-01-2023 is attached as Annexure "H").
- 17) That pursuant to the above mentioned categoric and unequivocal judgment of this Hon'ble Court, the petitioners were expecting that the Provincial Government (the Chief Minister & the Cabinet) will look into the matter in line with the ibid judgment and take a policy decision whether to continue with the matter of awarding accelerated promotions under the Police Act, 2017 and other enabling laws. Regrettably, no such action was taken rather respondent No.2 sought approval of respondent No.1 for withdrawal of the relevant enabling provisions of law/rules. In this respect letter dated 14-04-2022 was sent by respondent No.2 to respondent No.1 (Copy of letter dated 14-04-2022 is attached as Annexure "I").
- 18) That in response, the Home Secretary Government of Khyber Pakhtunkhwa while acting on behalf of the Chief Secretary wrote a letter to respondent No.2 (IGP) whereby the requested approval (for withdrawal of provisions) was granted (Copy of letter dated 21-04-2022 is attached as Annexure "J").

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- 19) That thereafter in extreme haste, respondent No.2 directed the concerned RPOs, Commandants and CCPO to withdraw the incentives from the beneficiaries, inter alia, of the Standing Order No.11/87 and Validation Act, 2005 thereby demoting the said beneficiaries by issuing a directive on 20-04-2022 (Copy of letter dated 20-04-2022 is attached as Annexure "K").
- 20) That some colleagues of the petitioners posted at Malakand Division assailed the above mentioned directives before the Mingora Bench of this Hon'ble Court by way of filing WP No. 488-M/2022. The Hon'ble Court was pleased to grant interim relief to the petitioners of the said case, which is sub judice as yet (Copies of various of interim orders are attached as Annexure "L").
- 21) That further to the above, respondent No. 2 issued another directive on 14-02-2023 to carry on with the withdrawal of incentives granted to the members of the force by calling them out of turn promotions without highlighting the fact that this Hon'ble Court through its larger bench has already held that the incentives availed by the petitioners does not amount to "out of turn promotions" (Copy of directive dated 14-02-2023 is Annexure "M").
- 22) That subsequently, another directive was issued on 12-03-2023 whereby the matter has been ordered to be expedited and the incentives to be withdrawn without further delay (Copy of directive dated 12-03-2023 is Annexure "N").
- 23) That consequently, the concerned RPOs and DPOs issued various orders, whereby the incentives granted to some of the petitioners have been withdrawn vide office orders issued on

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13-03-2023, 14-03-2023 and 15-03-2023 (Copies of reversal orders are Annexure "O").

- 24) That on the other hand, the respondents are all set to revert the remaining petitioners to a lower scale while boldly and arrogantly flouting the judgment of this Hon'ble Court. Hence, being aggrieved and having no other adequate remedy in law, the petitioners file this petition, *inter alia*, on the following grounds:

GROUND:

- A) That the impugned act of reopening of the entire matter which is a past and closed transaction having administrative, judicial and legislative backing is illegal and unconstitutional. Hence, a declaration and prohibition ought to be issued to protect the legal and constitutional rights of the petitioners.
- B) That the respondents are misinterpreting the judgment of the august apex Court on the subject. The judgment passed in cases of Sindh and Punjab has no bearing on the instant case. Furthermore, the judgment pertains to out of turn promotions which are always deemed as illegal and not to promotions which in present case have legislative backing and that too granted on the direction of the apex Court.
- C) That needless to say that the petition challenging vires of the Validation Act of 2005 was dismissed by this Hon'ble Court without any further petition or appeal to the Hon'ble Supreme Court. Furthermore, the Act has not been struck down by the apex Court in its judgment dated 13-05-2018. Hence, the Act is in the field and the petitioners cannot be deprived of the fruits of the said enactment.

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- D) That the recent judgment of this Hon'ble Court gave certain directions to the Provincial Government which included a clarification as to whether the Government wants to continue with awarding accelerated positions to the Police Force under the Validation of Standing Order Act, 2005 and the Police Act, 2017. Needless to say that while using the term "Provincial Government", this Hon'ble Court was referring to a Cabinet headed by the Worthy Chief Minister. Without putting the matter for consideration of the Cabinet, the Chief Secretary while purporting to be above the Provincial Government, issued withdrawal of not only administrative Standing Orders but also Legislative Enactments.
- E) That the role of the IGP is also no less ironical and regrettable than that of the Chief Secretary. The former is boldly seeking withdrawal of Legislative Enactments from an Administrative Officer who happens to be a Grade-21 Officer. Even a layman would subscribe to the assertion that an Act of Assembly can only be repealed by another Act of the same Assembly. The respondents have acted not only in violation of law of the land but have also attempted to undermine the constitutional authority of the Judicial and Legislative organs of the State, which acts may not be overlooked by this Hon'ble Court.
- F) That as per the mandates of the judgment of this Hon'ble Court passed in W.P No.484-A/2021 and other connected petitions, it was for the Provincial Government to take a policy decision as to whether they want to carry on with the notion of accelerated promotion for instance as provided under the Police Act, 2017. Regrettably, provisions of the Police Act, 2017 have not been touched whatsoever meaning thereby that the

government impliedly wants to keep its prerogative of awarding accelerated promotions. On the other hand, the petitioners have been pin pointed and the incentives granted to them have been indicated to be withdrawn (Copy of relevant provisions of the KP Police Rules, 2017 are attached as Annexure "P").

- G) That the final reversion orders have been passed when judgment of this Hon'ble Court (the larger bench's judgment) is already in the field. The said judgment categorically restrains the respondents from taking any adverse action against the petitioners till the policy decision of the Provincial Government. It is a settled law that any action taken in violation of a restraining order is a nullity *ipso facto*, hence, the recent reversion orders are liable to be quashed on this score as well.
- H) That the respondents want to give an impression that the *ibid* judgment of this Hon'ble Court is not in line with the judgment of the Hon'ble apex Court reported as 2017 SCMR 206. The Larger Bench of this Hon'ble Court had thoroughly examined all the relevant judgments of the apex Court while reaching the current conclusion. Furthermore, judgment of the apex Court also impliedly affirms stance of the present petitioners. Thus, as per Paragraph 133 of the apex Court's judgment it has been held:

"we believe that there is some justification for allowing out of turn promotions, and that too upto the level of ASIs only, due to the fact that certain qualification/courses/examinations have been prescribed in the Policy in order to be qualified for such promotion. In other words,

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there is not element of an arbitrary or selective choice of candidates for the accelerated promotions and they have to meet the bare minimum requirements of the Police Rules”.

- I) That needless to say that the impugned exercise is being conducted as a result of political pressure exerted by some junior colleagues of the petitioners upon the respondents. Hence, this Hon'ble Court may intervene in order to protect the precious rights of the petitioners.
- J) That the matter does not pertain to normal promotion rather withdrawal of a statutory benefit accrued to the petitioners. Being so, the matter does not fall within the ordinary terms and conditions of service and as such the bar contained in Article 212 of the Constitution does not apply to the instant case. Furthermore, intricate legal and constitutional questions are involved in the case in hand, hence this Hon'ble Court can rightly assume jurisdiction in the instant matter.
- K) That further grounds with leave of this Hon'ble Court will be raised at the time of oral submissions.

It is, therefore, humbly prayed that on acceptance of this petition, writs be issued in the following terms:

- (i) The impugned withdrawal of Standing Order No.11/87, Standing Order No.07/2003 and the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005 by respondent No.1 through letter dated 21-04-2022 and the subsequent reversion

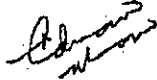
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orders issued on 13-03-2023, 14-03-2023 and 15-03-2023 may be declared as an act of transgression and intrusion into the exercise of legislative and judicial authority of the State, hence the same may be set aside.

- (ii) The respondents may be restrained from acting in any manner detrimental to the interests of the petitioners in furtherance of the above mentioned orders.
- (iii) Any other remedy, though may not specifically prayed for but which circumstances of the case would demand in the interests of justice, may also be granted.

Petitioners
Through Counsel



Dr. Adnan Khan, Barrister-at-Law,
Advocate Supreme Court of Pakistan.

&



Waqas ur Rahman
Advocate High Court


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INTERIM RELIEF:

By way of interim relief, the respondents may be restrained from disturbing the present seniority of the petitioners. In addition, operation of the impugned reversion orders may be kept in suspension till the final decision of the main petition.

Petitioners
Through Counsel

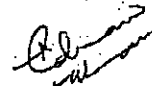

Dr. Adnan Khan, Barrister-at-Law,
Advocate Supreme Court of Pakistan.

&

Waqas ur Rahman
Advocate High Court

LIST OF BOOKS IN THE CONCERNED WRIT

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Case Law as per need.

ADVOCATE



CERTIFICATE:

As per direction of my clients, no such like Writ Petition earlier has been filed by the petitioner on the subject matter before this Hon'ble Court.

ADVOCATE



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**BEFORE THE PESHAWAR HIGH COURT,
PESHAWAR.**

(ORIGINAL JURISDICTION)

Writ Petition No. _____-P of 2023.

Khalid Usman (DSP) & others.....Petitioners

VERSUS

Government of Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT

I, Bakht Munir s/o Gul Ra him (Petitioner No.15), do hereby affirm and declare that all contents of this Writ Petition are true and correct to the best of my knowledge and nothing has been kept concealed from this Hon'ble Court.

DEPONENT

Bakht Munir

Bakht Munir
s/o Gul Ra him

17301-4163363-9

Identified by
[Signature]
Waqar-uz-Zaman
Attc.

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qanoon-e-Shahadat Act 1984
23 DEC 2023

No. 579.66...
Certified that the above was verified on solemnly affirmation before me in office this
day of ... March ... 2023 by ... Bakht Munir
s/o ... Gul Ra him /o ... Peshawar
who was identified by ... <i>[Signature]</i>
who is personally known to me:
<i>[Signature]</i> Peshawar High Court, Peshawar

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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.1093-P/2023

Khalid Usman and others

Vs.

**Government of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and others.**

Date of hearing 21.06.2023 & 22.06.2023.

Petitioner(s) by: **Barrister Dr. Adnan Khan.**

Respondent(s) by: **Mr. Amir Javed, Advocate General and Mr. Mubashir Manzoor, AAG along with Mr. Rizwan Manzoor, DIG(HQrs), Khyber Pakhtunkhwa Police, CPO. Muhammad Asif, AIG(Legal), CPO. Muhammad Tariq Usman, Inspector (Legal), CPO.**

JUDGMENT

IJAZ ANWAR, J. For the reasons recorded in Writ
Petition No.1587-P/2022 titled "Shah Mumtaz etc Vs
Government of Khyber Pakhtunkhwa and others" this writ
petition is allowed, the order of demotion/reversion stands
set-aside and the petitioners are restored to their original
positions.

Announced

Dt: 29-8-23.

JUDGE

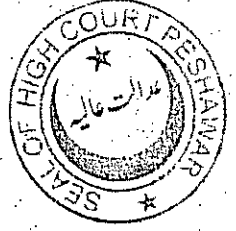
JUDGE

(Amir Shehzad) *

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

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qanoon-e-Shahadat Act 1984
23 DEC 2023

Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT.W.P.No. 1587-P/2022Shah Mumtaz and others Versus The
Government of Khyber Pakhtunkhwa and
others.Date of hearing 21.06.2023 and 22.06.2023Date of Announcement 29-08-2023.

Petitioner (s) by:

Barrister Syed Mudasser Ameer, Ahmad Shah Afridi, Barrister Adnan Khan, Imtiaz Ali, Sajeed Khan Afridi, Saad Ullah Khan Marwat, Ashraf Ali Khattak, Junaid Anwar Khan, Saif Ullah Mangol, Muhammad Arshad Khan Tanoli, Bilal Ahmad Kakaizai, Qazi Jawad Ihsan Ullah Qureshi, Shumail Ahmad Butt, Abid Ali Khan, Nadir Qayyum, Tariq Khan Hoti, Amin Ur Rehman Yousafzai, Shahid Raza, Waqas Ur Rehman, Muzammil Khan, Javed Iqbal Gullbeia and Asad Mehmood, Advocates.

Respondent (s) by:

Mr. Amir Javed, Advocate General, Mr. Mubashir Manzoor and Mr. Hasnain Tariq AAGs along with Mr. Rizwan Manzoor, DIG(HQrs), Khyber Pakhtunkhwa Police, Muhammad Asif, AIG(Legal), Muhammad Tariq Usman, Inspector (Legal), CPO, Peshawar.

JUDGEMENT

IJAZ ANWAR. J:- Through this single

judgment, we intend to decide the instant writ.

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petition as well as the connected writ petitions

listed below, as in all these petitions, common

questions of law and facts are involved. The list

of connected petitions is as under: -

- i. W.P No. 453-M/2021 titled "Habib Ullah Khan Vs Government of Khyber Pakhtunkhwa and others".
- ii. COC 161/2022 in WP No. 4949/2020 titled "Raham Hussain and others Vs Government of Khyber Pakhtunkhwa and others".
- iii. COC No.366/2022 in WP No. 2363/2013 titled "Amjid Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- iv. W.P No.488-M/2022 titled "Badshah Hazrat and others Vs Government of Khyber Pakhtunkhwa and others".
- v. W.P No.3761-P/2022 titled "Jamal Shah and others Vs Government of Khyber Pakhtunkhwa and others".
- vi. COC 150/2023 in WP No.2267/2013 titled "Ayat Ullah Vs Government of Khyber Pakhtunkhwa and others".
- vii. W.P No.325-M/2023 titled "Zahid Ali and others Vs Government of Khyber Pakhtunkhwa and others".
- viii. W.P No.329-M/2023 titled "Jawahar Ali and others Vs Government of Khyber Pakhtunkhwa and others".
- ix. W.P No.398-A/2023 titled "Gul Rehman and others Vs Government of Khyber Pakhtunkhwa and others".
- x. W.P No.399-A/2023 titled "Mr. Farooq and others Vs Government of Khyber Pakhtunkhwa and others".
- xi. W.P No.420-A/2023 titled "M. Haroon Khan Vs Government of Khyber Pakhtunkhwa and others".
- xii. W.P No.421-A/2023 titled "Taufoor Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- xiii. W.P No.422-A/2023 titled "M. Ajmal Vs Government of Khyber Pakhtunkhwa and others".

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- xiv. W.P No.423-A/2023 titled "Waheed Khan Vs Government of Khyber Pakhtunkhwa and others".
- xv. W.P No.460-A/2023 titled "Zulfiqar Ali Vs Government of Khyber Pakhtunkhwa and others".
- xvi. W.P No.472-A/2023 titled "Fazal Rahim Vs Government of Khyber Pakhtunkhwa and others".
- xvii. W.P No.503-A/2023 titled "Qazi Muhammad Ajmal Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- xviii. W.P No.504-A/2023 titled "Zakir Hussain Vs Government of Khyber Pakhtunkhwa and others".
- xix. W.P No.532-A/2023 titled "Sardar Muhammad Basheer and others Vs Government of Khyber Pakhtunkhwa and others".
- xx. W.P No.539-A/2023 titled "Muhammad Yasir and others Vs Government of Khyber Pakhtunkhwa and others".
- xxi. W.P No.551/2023 titled "Baber Zaman and others Vs Government of Khyber Pakhtunkhwa and others".
- xxii. W.P No.577-A/2023 titled "Raja Hashim Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- xxiii. W.P No.730-A/2023 titled "Ubaid Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- xxiv. W.P No.1023-P/2023 titled "Rajab Ali and others Vs Government of Khyber Pakhtunkhwa and others".
- xxv. W.P No.1092-P/2023 titled "M. Sohail and others Vs Government of Khyber Pakhtunkhwa and others".
- xxvi. W.P No.1093-P/2023 titled "Khalid Usman and others Vs Government of Khyber Pakhtunkhwa and others".
- xxvii. W.P No.1097-P/2023 titled "Ayat Ullah Vs Government of Khyber Pakhtunkhwa and others".
- xxviii. W.P No.1163-P/2023 titled "Saleem Aman Ullah and others Vs Government of Khyber Pakhtunkhwa and others".
- xxix. W.P No.1164-P/2023 titled "Jamil Ur Rehman Vs Government of Khyber Pakhtunkhwa and others".

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- xxx. W.P No.1182-P/2023 titled "Amjid Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- xxxii. W.P No.1196-P/2023 titled "M. Saeed and others Vs Government of Khyber Pakhtunkhwa and others".
- xxxiii. W.P No.1197-P/2023 titled "Shams Ur Rehman and others Vs Government of Khyber Pakhtunkhwa and others".
- xxxiiii. W.P No.1277-A/2023 titled "Kabir Ahmad Vs Government of Khyber Pakhtunkhwa and others".
- xxxv. W.P No.1281-P/2023 titled "Asif Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- xxxvi. W.P No.1405-P/2023 titled "M. Imran and others Vs Government of Khyber Pakhtunkhwa and others".
- xxxvii. W.P No.1449-P/2023 titled "Shahab Khan Vs Government of Khyber Pakhtunkhwa and others".
- xxxviii. W.P No.1467-P/2023 titled "Sayed Asma Bukhari Vs Government of Khyber Pakhtunkhwa and others".
- xxxix. W.P No.1464-P/2023 titled "Sameena Zafar Bukhari Vs Government of Khyber Pakhtunkhwa and others".
- xl. W.P No.1469-P/2023 titled "Nazia Noreen Jadoon Vs Government of Khyber Pakhtunkhwa and others".
- xli. W.P No.1587-P/2023 titled "Irad Ali Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- xlii. W.P No.1588-P/2023 titled "M. Atif Kazmi and others Vs Government of Khyber Pakhtunkhwa and others".
- xliii. W.P No.1612-P/2023 titled "M. Tariq Jamal Vs Government of Khyber Pakhtunkhwa and others".
- xliv. W.P No.1814-P/2023 titled "Fazal Ullah Vs Government of Khyber Pakhtunkhwa and others".
- xlv. W.P No.1815-P/2023 titled "Hameed Khan and others Vs Government of Khyber Pakhtunkhwa and others".
- xlvi. W.P No.1836-P/2023 titled "Fazal Mehmood and others Vs Government of Khyber Pakhtunkhwa and others".
- xlvii. W.P No.747-A/2023 titled "Zareen Taj Vs Government of Khyber Pakhtunkhwa and others".

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2. The background of this and the connected cases is that the Hon'ble Supreme Court of Pakistan in the case reported as "Contempt Proceedings against the Chief Secretary Sindh and others (2013 SCMR 1752) took up the matters pertaining to the vires of the following legislative instruments:

- (1). The Sindh Civil Servants (Regularization of Absorption) Ordinance, 2011.
- (2). The Sindh Civil Servants (Regularization of Absorption) Act, 2011.
- (3). The Sindh Civil Servants (Amendment) Ordinance, 2012.
- (4). The Sindh Civil Servants (Second Amendment) Ordinance, 2012.
- (5). The Sindh Civil Servants (Amendment) Act, 2013.
- (6). The Sindh Civil Servants (Second Amendment) Act, 2013.

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3. In the reported judgment, the matter of absorption, deputation, reemployment and out of turn promotion in the Police department of province of Sindh were under consideration, and while rendering its judgment the apex court has given certain guidelines holding such absorption, deputation,

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reemployment, out-of-turn promotion made in the province of Sindh as violative of law/rules and to such extent, even the relevant provisions of the referred laws allowing out of turn promotion were also held to be ultra vires of the Constitution and law. The said judgment was conveyed to the Hon'ble Chief Justice, Sindh High Court through Registrar, and circulated to all the Chief Secretaries of the Provinces, Secretary Establishment and specifically to the Chief Secretary of Sindh for compliance of the judgement in letter and spirit.

4. Again, in the case of "Ali Asghar Baloch and others Vs Province of Sindh and others (2015 SCMR 456), Civil Review Petitions against the judgement above referred were taken up and the apex court further elaborated the matter and again directed the Chief Secretaries of all the Provinces for

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implementation of the judgement across the board. Thereafter, those matters were again discussed in Review Petitions reported as “Shahid Pervaiz Vs Ejaz Ahmad and others” (2017 SCMR 206) and the earlier view was further elaborated and reiterated.

5. This and the connected matters have arisen out of the implementation of the above judgments of the Hon'ble Supreme Court of Pakistan, as allegedly the Police Department has carried out an exercise and after scrutiny, numerous officers were reverted/repatriated terming their appointment/promotion/absorption and transfer to be hit by the judgements ibid of the apex Court. The affectees have approached this court in different identical writ petitions, a Division Bench of this Court while hearing these petitions formulated certain points and referred the matter for constitution of a Larger Bench in

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WP No.587-P/2020 on 19.5.2021. That order

being relevant is reproduced as under: -

"Inter-alia, contends, though there are judgments of the Hon'ble Supreme Court of Pakistan reported as "2013 SCMR 1752, 2015 SCMR 456 and 2017 SCMR 206" deprecating the grant of out of turn promotion and it was in view of the judgments of the Hon'ble Supreme Court of Pakistan that respondents have also decided to revert all such promotees in the Department. Learned counsel, however, has referred to the Police Rules, 1934 (Appendix 13.4), according to which, Police Cadets were allowed accelerated promotions in view of their outstanding performance during training. He then referred to the Standing Order No.11 of 1987 which was given validation vide the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, pursuant to the decision of the Hon'ble Supreme Court of Pakistan reported as "1998 SCMR 2013". He further contended that the judgments, rendered by the Hon'ble Supreme Court of Pakistan, have never dealt with the issue of accelerated promotions of Cadets and Instructors of Training Colleges.

2. We have heard the arguments of learned counsel for the petitioners at certain length and also come across some conflicting judgments of this Court, wherein, one of us, his lordship Hon'ble Mr. Justice Lal Jan Khattak has allowed similar petition while another one is authored by his lordship Hon'ble Mr. Justice Rooh-ul-Amin Khan, dismissing similar petition. Though, in the presence of the judgments of the Hon'ble Supreme Court of Pakistan, there is no need of formation of a Larger Bench; albeit, the question raised in this and the connected petitions prima facie suggests that it was not specifically dealt with by the august Apex Court in the above referred judgments. Since

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the question involved in this case has a far-reaching effect and will affect about 3000 officers of the Police Department; as such, the Hon'ble Chief Justice is requested to constitute a Larger Bench to examine these cases and to see whether the findings/observations of the august Apex Court would also affect the promotions of the Cadets and Instructors of the Police Training Colleges and also to resolve the opposing views of different Benches."

6. It is pertinent to mention here that pursuant to the order of this Court, a Larger Bench was constituted. The Larger Bench accordingly vide order dated 09.12.2021 disposed of identical writ petitions by remitting the matter to the Chief Secretary of Khyber Pakhtunkhwa with the following directions: -

"For what has been discussed above, we dispose of these petitions in terms that the impugned decisions/orders are set aside and the petitioners' cases are sent to the Provincial Government of Khyber Pakhtunkhwa through the Chief Secretary first to clarify the position whether it wants to continue with the matter of awarding accelerated positions to members of its Police Force in line with the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, prevailing Police Rules and Khyber Pakhtunkhwa Police Act, 2017 or not and then decide the issue raised in the petitions accordingly but till such policy is streamlined, no adverse action shall be taken against the petitioners."

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Accordingly vide letter dated 14.4.2022,
allegedly in compliance of the judgement of this
Court, necessary approval of the worthy Chief
Secretary was requested for withdrawal of:

- (i) Standing Order No. 11/1987.
- (ii) Letter No. 20710-60/1995.
- (iii) Standing Order No. 07/2003.
- (iv) Khyber Pakhtunkhwa
Validation of Standing Orders
Act, 2005.
- (v) Standing Order No. 17/2014.
- (vi) Standing Order No. 05/2016.
- (vii) PR 13.7B of Police Rules,
amended 2017.

Accordingly, necessary approval was
granted vide letter dated 21.4.2022 and pursuant
thereto, the impugned orders were passed.

**MAINTAINABILITY OF THE WRIT
PETITION.**

7. We will first deal with the
objection raised by the learned Advocate General
regarding maintainability of these petitions with
specific reference to Article 212 of the
Constitution of Islamic Republic of Pakistan,
1973. We are in complete agreement with the

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arguments of the learned Advocate General that where the matter primarily relates to the terms and conditions of service of a civil servant, the jurisdiction of the High Court under Article 212 is barred, however, in the instant matter, the issue in hand pertains to the implementation of the judgements of the Hon'ble Supreme Court of Pakistan above referred, besides we have seen that the respondent Department has bracketed all matters within the sphere of "out of turn promotion" ignoring the fact that the matters brought before this court either pertain to up-gradation, nomination for training, transfer from one Province to another, repatriation, absorption etc which in our view does not relate to terms and conditions of service particularly when analyzed in the context of implementation of the judgements of the apex Court. Similarly, in this judgment we intend not to discuss individual

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cases of the petitioners/affectees rather would refer to the judgements of the Hon'ble Supreme Court of Pakistan and also the legal instruments which were applied at the relevant time by the respondent Department while dealing with its employees and to see whether these matters are also hit by the judgement of the apex Court. Interestingly, earlier, these matters were brought before this court for which a Larger Bench was constituted. We find that pursuant to the judgement of Larger Bench of this Court, the respondents have not conducted themselves in accordance with law and through the impugned orders, besides withdrawing Standing Orders issued under Police Act, an Act of the Provincial Assembly was also allegedly withdrawn which is beyond their competence and is in fact violation of the judgement of the Larger Bench of this Court, thus we have also to examine these cases

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in the light of the judgment of the larger bench of this court and to see as to whether the judgment of this court is complied with in letter and spirit or otherwise.

8. We are cognizant of our jurisdiction and will restrict ourselves within the four corners of law while dealing with these matters in this judgment. We are, thus, of the view that it being an important constitutional matter and we have only to see as to whether the cases of the petitioners before this court are hit by the judgement of the Hon'ble Supreme Court of Pakistan or they are distinguishable. We, therefore, tends to examine the parameters set by the August Supreme Court of Pakistan in the above-reported case and to see whether these have been correctly applied to the case of petitioners or otherwise under the following headings:-

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I. OUT OF TURN PROMOTION.

9. Chapter-XII of the Police Rules, 1934 deals with the matters of appointment and enrolment. In all these cases, the petitioners were initially appointed as constables with exception of certain cases which will be dealt with separately. Chapter 12.5 of the Police Rules deals with criteria for appointment of constables. Admittedly, in none of the cases, there is any objection regarding initial appointment of the petitioners as constable in the Police Department. Chapter 19 deals with the training and examination of such constables/officers. Chapter 19.2 of the Police Rules relates to training of recruits while Chapter 19.25 deals to the training of upper subordinates which includes Inspectors/ Sub Inspectors and Assistant Sub Inspectors. Chapter 13 deals with promotions from one rank to another. Chapter 13.1 provides "Promotion

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from one rank to another, and from one grade to another in the same rank shall be made by selection tempered by seniority. Efficiency and honesty shall be the main factors governing selection. Specific qualifications, whether in the nature of training courses passed or practical experience, shall be carefully considered in each case. When the qualifications of two officers are otherwise equal, the senior shall be promoted. This rule does not affect increments within a time-scale."

10. It is pertinent to mention here that for the purpose of promotion to the rank of Head constable, Assistant Sub Inspector, Sub Inspector and Inspector, different promotion/seniority lists are maintained and these lists are in fact the eligibility lists for promotion to the next rank, however, unlike any other service, to become eligible for further promotion, passing of certain

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courses are mandatory under the Police Rules.

Under Chapter 13.6 of the Rules, Promotion List

"A" is maintained for selection grade of the

constables and according to Chapter 13.6, certain

percentage is provided for bringing constables in

selection grade. Under Chapter 13.6, list "B" is

prepared for admission to course at Police

Training College and Chapter 13.7-A provides

the criteria for placement of constables in List-A

and List-B. It being relevant is reproduced

below:

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"13.7A. Criteria for placement of List A and List B. (1). A Constable appointed under these rules shall be placed on List A as provided in rule 13.6, if he has:

(i) Completed three (03) years' service.

(ii) Qualified recruit course as provided in these rules; and

(iii) Qualified A1 examination; provided that upper age limit for appearing in A1 examination shall be thirty-seven (37) years and qualifying marks shall not be less than forty percent (40%) of the total marks".

11. Chapter 13-7 B which was added

through Notification dated 16.3.2017 has now

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been withdrawn through the impugned orders which provide exemption from A-1 and B-1 examination on the basis of cadetship. In these rules, the recruits who are among the top 20 position holders in their initial training have to appear in the cadetship examination according to the criteria provided therein. It is also reproduced for ease of reference.

"13.7B. Exemption from A1 and B1 examination on the basis of cadetship. --(1) Each recruit training institute shall declare its top twenty best recruits, who have obtained at least fifty (50) percent marks in their respective final exams for appearance in the cadetship examination for the purpose of exemption from A1 and B1 examinations.

(2) The cadetship examination shall be amongst all the best recruits as provided in sub-rule (1), collectively.

(3) The number of cadets shall be decided according to the number of trainees in each term irrespective of school/course as per following details but shall not exceed five in number:

S.NO.	Number of recruits	Number of cadets
1	1-200	1
2	201-400	2
3	401-600	3
4	61-800	4
5	801 and above	5

(4) The Cadetship Examination shall have two parts carrying hundred (100) marks each, i.e. Written Exam and Physical Test. The written examination shall be conducted through an accredited testing agency on the basis

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of recruit course syllabus while the physical examination shall be conducted by a Cadet Examination Board comprising of the following members:

- (a) Deputy Inspector General Training; Chairman
 - (b) Commandant Police Training Center Hangu; Member
 - (c) One Officer not below the rank of Member Superintendent of Police nominated by The Central Police Office; and
 - (d) Principal Elite Police Training Center. Member-cum-Secretary
- (5) The Physical Exam shall consist of the following components carrying marks as mentioned against each.
- (a) Rifle Shooting; 30 Marks
 - (b) Pistol Shooting; 30 Marks
 - (c) Cross-Country Run; (5 Miles in 50 Minutes for Men, 5 KMs in 50 Minutes for Women) 20 Marks
 - (d) 09 Feet Wall Climbing; and 10 Marks
 - (e) 20 Feet Rope Climbing. 10 Marks

Note: (1) Lady Police candidates shall be exempted from Rope Climbing and wall climbing tests. The total marks obtained by a Lady Police candidate in Rifle Shooting, Pistol Shooting and Cross-Country Run shall be adjusted in the scale of 100 marks.

(2) Each category of marks shall be further elaborated by Provincial Police Officer through standing orders.

(6) A candidate who tops shall be declared as Cadet, provided that marks obtained by the candidate in the Cadetship Examination shall not be, in any case, less than 60% of the total marks.

12. All the constables who passed A-1

and B-1 courses became eligible for promotion

as Head constable and as such, they are brought

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in promotion List-C. On their promotion as Head constable if they pass the lower school course and the intermediate school course at Police Training School, they become eligible for officiating or substantive promotion to the rank of Assistant Sub Inspector and as such, their names are brought in promotion list-D as maintained under Chapter 13.9 of the Police Rules. Similarly, on their promotion from the said list to the rank of Assistant Sub Inspector, their names are brought in List-E and they become eligible for the rank of Sub Inspector.

Under Chapter 13.10 of the Rules, in case they are fulfilling the criteria for promotion to the rank of Sub Inspector are allowed promotion as such, then under Chapter 13.15 of the Police Rules, they are brought on Promotion List-F.

13. Thus, this promotion List-F is in fact an eligibility list for further promotion to the

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post of Inspector. In the instant case, however, as stated above, the issue mainly pertains to the promotion from the rank of constable/Head constable and then to the rank of Assistant Sub Inspector. As such, we will restrict ourselves to the consideration of such police officers for promotion which is allegedly termed as out of turn promotion. The then Inspector General of Police through Standing Order 11 of 1987 notified certain criteria for the cadet Instructors in order to attract brilliant officers from amongst the recruits who performed well during training and also to provide incentive to the officers to become training instructors at Police Training Schools. Thus, this Standing Order provides different incentives up to the rank of Sub Inspector. It being relevant is reproduced as under:

1. HC Instructors.
Constables undergoing the Lower School Course who pass amongst the

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first five in the class, will be qualified to serve as HC instructors provided that they volunteer to serve in the Training Institute for three years.

Immediately at the end of three years if they have earned category 'A' reports they would be admitted to Intermediate School Course and their names placed on promotion list 'D' as soon as they qualify the Intermediate School Course.

2. ASI Instructors.

Head Constable undergoing the Intermediate School Course, who qualify amongst the first five in the class, will be qualified to serve as instructors provided they volunteer to work there for three years and earn category 'A' reports. They would be confirmed in the rank of ASI and their names would be brought on promotion list 'E'.

S.I Instructors.

Sub inspectors undergoing upper college course, who qualify amongst the first five in the class, will be qualified to serve as instructors provided they volunteer to work there for three years and earn category 'A' reports.

At the end of that period, they would be confirmed in the rank of SI and their names will be brought on promotion list 'F'.

3.A. Alternative if volunteers are not available to the offer contained in Para 3 above, sub Inspectors volunteer to serve as instructors and are selected by the Principal, PTS Hangu, will be offered the same incentive, i.e. after a tenure of three years as PTS Hangu with 'A' reports, they will be confirmed as Sub Inspectors and their names will be brought on list 'F'.

14. This Standing Order was questioned at the relevant time before the Service

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Tribunal on the ground that the Inspector General of Police can issue such standing order in terms of section 12 of the Police Act, 1861 only after the approval of the Provincial Government while in the issuance of Standing Order 11 of 1987, no such approval was so obtained. Identical Service Appeals were allowed by the Service Tribunal which were further impugned before the apex Court and the appeal was dismissed. The same is reported as "Siddiq Akbar ASI and others Vs Sandbar Khan ASI and others" (1998 SCMR 2013). The stance of the Provincial Government regarding the aim and object of issuance of Standing Order 11 "to bring about efficiency in the police force and also to provide incentive to the outstanding officers of the police to serve in the police training schools" has not been disputed by the apex Court, however, it was observed that since the Standing

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Order was issued in violation of law, as such, it cannot be maintained. Thereafter, in terms of Article 10 Sub article 3 of the Police Order, 2002, Standing Order 7 of 2003 was notified with the approval of the Provincial Government. Again certain incentives were provided in order to attract police officers to training institutions and to improve the quality of training. This Standing Order 7 of 2003 was in fact the reproduction of the earlier Standing Order 11 of 1987 which was struck down being incompetently issued. Similarly, through Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, necessary protection was given to all the orders issued pursuant to Standing Order 11 of 1987. Section 3 of the Act of 2005 being relevant is reproduced below:

“Validation of Standing Order 11 of 1987. (1) Notwithstanding anything contained in the existing service rules governing the promotion and seniority of constables, Head

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Constables, Assistant Sub Inspector, and Sub Inspector of the Police Department of any decree order of judgement of a Court, of for reasons of any procedural deficiency.....

a. The rights of promotions and seniority accruing under Standing Order No.11 of 1987 (hereinafter referred to as the said order), issued by the Inspector General of Police, North West Frontier Province, in the larger public interest, with the sole intention and object to improve the efficiency and sense of responsibility amongst the aforesaid police personnel, shall be deemed and shall always be deemed to have validity been accrued and

b. All appointments and promotions made and seniority lists drawn from 1987 till date, on the basis of the said order, shall always be deemed to have validity been made and drawn and shall not be called in question before any court or authority.

(2) The existing service rules governing the seniority of the said Police personnel till such time as formally amended, shall, to the extent of service for the purposes under subsection (1), be deemed to have been implied modified."

15. We have thus seen that by dent of the above Standing Orders, the recruits/constables who are undergoing the lower school course and passed the same with distinction have to voluntary serve for 03 years in the training Institute and if they earned category 'A' reports they will be admitted to

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Intermediate School Course and their names would be placed in the promotion List 'D' as soon as they qualify the Intermediate course. Similar incentives are provided for those Head constables who are among the five best qualifier in the class will have to serve for 03 years and they would be confirmed in the rank of ASI and their names would be placed in promotion list 'E'.

16. The main objection on these promotions is that the mandatory courses for constables to qualify A-1 and B-1 course were skipped while allowing promotion to such constables. The necessary courses which is the eligibility criteria for the rank of Head constable and onward are in fact short term examinations duly conducted by the training schools while the persons who are benefited with the Standing Orders 11 of 1987 and 7 of 2003 were in fact the

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examiner/Instructors because such Constable/ Head constable Instructors have to remain for long three years in such training schools and as an Instructors they have to impart education, training courses and lectures on law, investigation and disciplinary rules to the recruits and trainees. Thus, they gain much knowledge about the existing laws, rules and regulations pertaining to the disciplined Police force, as against the constables/Head constables who are on field duty and only to appear in the A1 and B1 examination. Similarly, the recruits and the police officers who are declared as cadet and selected as cadet Instructors are not through any arbitrary process but on account of their outstanding performance in the recruit training or Lower school course/ Intermediate school course. Thus, under no circumstance, such cadet can be termed as out of turn promotee rather on

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account of their brilliant performance, they were allowed to appear in the out of turn training courses which made them eligible for their further progression in service. It is pertinent to mention here that the Provincial Government has in the year 2017, through Notification No. 755/Legal dated 16.3.2017, added 13.7A and 13.7B to Chapter 13 of the Police Rules. 13.7A provides the criteria for placement at list A and B where under all constables having completed three years of service are eligible to appear in the A1 and B1 examinations which is the eligibility criteria for the rank of Head constable. It is also pertinent to mention here that despite having seniority in List-A but if such constable cannot qualify these courses, would not be eligible for promotion to the rank of Head constable and thus any constable qualifying such course earlier are allowed promotion to the rank of Head constable

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irrespective his seniority and under no circumstances such promotion can be termed as out of turn promotee. Same is the case with the added 13.7B which provides an exemption from A1 and B1 examination on the basis of cadetship. In terms of this 13.7B, each recruit training institute shall declare its top twenty best recruits, who have obtained at least fifty (50) percent marks in their respective final exams for appearance in the cadetship examination for the purpose of exemption from A1 and B1 examination which provides a comprehensive criteria and only candidates who are one of the best recruit can be declared as cadet and only then they can be allowed exemption from this A1 and B1 examination. This 13.7B has also unfortunately been withdrawn and thereby the candidates having ability to excel and to be given chances for further progression are deprived and

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the department have placed such brilliant officers in stagnancy and they have to remain on such lower ranks waiting for their seniority to be promoted to further rank in routine, such promotion may be valid in other service but surely not in police uniformed service. Presently in view of the cadetship positions such rankers finds their ways even to the rank of DSP/PSP induction, however, while striking down such provisions, such brilliant officers would be deprived from their share in such higher position.

17. We have thus examined the judgements rendered by the Hon'ble Supreme Court of Pakistan in the matter of out of turn promotion and find that the petitioners who were benefited from the application of Standing Order 11 of 1987 and 7 of 2003 or 13.7B of the Police rules were not hit by the judgements of the Hon'ble Supreme Court of Pakistan and their

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cases are thus distinguishable.

18. It is pertinent to mention here that the background and the objects and reasons in which the Standing Order 11 pertaining to Cadet Instructors was introduced and the incentives allowed to the brilliant police officers is duly mentioned in the Standing Order 11 which is reproduced for ease of reference.

"Personnel posted as instructor at Police Training School serve with extreme reluctance. The moment an officer is posted on an instructional assignment, he makes every conceivable effort, political, administrative, compassionate etc to have his posting orders cancelled.

The state of mind of such a person who arrives at a police training institution as an instructor, can be clearly visualized. He feels that he has been discriminated against, he is disgruntled and in a pathetic frame of mind. With this state of mind, these instructors create an atmosphere of a penal institution in the Training Centers.

For many years, the department has been cognizant of this problem. Some efforts have been made to find a solution. Various incentives have been offered to instructors but none of them has had any impact. Posting at Police Training still continues to be considered as a punishment posting.

Ideally Instructors in Training School should not only be willing to serve but must be amongst the finest officers in the department. To achieve this end personnel posted to Police Training Institution as staff member are being

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offered the following incentives, will be categorized as CADET INSTRUCTOR."

19. Thus, the above was the background for issuance of the Standing Order 11 and it appears that the brilliant and finest officers were declared Cadets in their respective Lower School course, Intermediate School course and Upper College course and Cadet Instructors and none of them were ever directly allowed promotion but were allowed to undergo the next training course in view of their best performance and for having remained as Cadet Instructor or having been declared as best Cadet in their respective trainings. We, are thus of the view that the petitioners who were declared as Cadet or Cadet Instructors and have undergone the respective trainings and pursuant thereto were allowed their promotion in terms of the Police Rules can under no circumstances be termed as out of turn promotion. The orders

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whereby the promotion orders of such Cadets and Cadet Instructors were reversed is against the law and cannot be termed as hit by the judgements of the apex Court.

PROMOTION/UP-GRADATION ON ACCOUNT OF GALLANTRY ACTS OR HAVING REMAINED STEADFAST IN THE VOLATILE AREAS DURING MILITANCY/TERRORISM.

20. We have before us certain cases wherein some of the petitioners were allowed promotion on account of their gallantry performance, risking their lives and also pertains to police officers who have served in the terrorism hit areas who were then allowed one step upgradation/promotion.

Vide circular No. Finance Department/SO(FR)/7-8/2010/Vol. II dated 4.3.2010, the Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) decided to upgrade posts in District Swat

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for one step promotion of police officers who were on active duty in operation period as per directive of Chief Minister. The same being relevant is reproduced below:

'To
The Secretary to Govt: of
NWFP,
Home & Tribal Affairs
Department.

Subject: UPGRADATION OF POSTS IN DISTRICT SWAT FOR ON STEP PROMOTIONS OF POLICE OFFICERS ON ACTIVE DUTY IN OPERATIONS PERIOD AS PER DIRECTIVE OF CHIEF MINISTER.

Dear Sir,

I am directed to refer to your letter No.SO(Police-II)HD/5-9/09/KC, dated 04.02.2010 on the subject noted above and to state that competent authority has been pleased to up-grade posts in District Swat for one step promotion of Police Officials on active duty in operation period as personal, subject to the condition that the posts shall automatically stand downgraded to his original rank on vacation by the concerned officials by transfer, promotion or retirement, the detail is as follows:-

S.No.	From	To	No. of Posts
1.	Constable BS-5	Head Constable BS-7	364
2.	Head Constable BS-7	Assistant Sub-Inspector BS-9	28
3	Assistant Sub-Inspector BS-9	Sub-Inspector BS-14	18

21. Repealed section 9-A of the Sindh

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Civil Servants Act, 1973 and 8-A of the Punjab Civil Servants Act, 1974 provides for granting out of turn promotion to a civil servant on account of acts of gallantry. Section 9-A ibid being relevant is reproduced as under:

"Section 9-A of Sindh Civil Servants Act, 1973

Notwithstanding anything contained in this Act or any other law for the time being in force or any judgment, a civil servant who provenly exhibits, the act of gallantry while performing his duties or very exceptional performance beyond the call of duty, may be granted out of turn promotion or award or reward in such manner as may be prescribed."

22. In the Contempt of Court proceedings case reported as 2013 SCMR 1752, the Hon'ble Supreme Court has dealt with these legislations. The aim and object of the legislation was also reproduced in the judgment ibid it being relevant is as follows: -

"The law enforcement personnel of Sindh Police in the past have risked their lives and exhibited exceptional acts of gallantry in the line of duty. Therefore, in order to retain the morale of the Force, it is expedient to

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make certain amendments in the Sindh Civil Servants Act, 1973. The Bill seeks to achieve the above object."

Para 164 of the Contempt case "2013 SCMR 1752" has dealt with the question of upgradation/promotion on account of acts of gallantry. It being relevant is reproduced as under: -

"164. We support that morale of police personnel be boosted, as intended in the aforesaid impugned legislations, and on their exhibiting exceptional acts of gallantry, they should be given awards and rewards on merits. In order to confer award or reward on the police officer for his act of gallantry the Sindh Government will constitute a committee under Rule 8-B, to evaluate the performance of the police officer upon whom the proposed award or reward has to be bestowed. However, out of turn promotion in police force would not boost the morale of the police force, on the contrary by impugned legislative instruments granting out of turn promotion to police officers, has demoralized the force. This Court in the case of Watan Party reported in (PLD 2011 SC 997) has already directed the Sindh Government to depoliticize the police force. The out of turn promotions have engendered inequalities and rancor among the batch mates/course mates, rendering many of them junior/subordinate to their junior colleagues. Under section 9A, the Sindh Government, has granted out of turn promotions to the civil servants, who do not belong to police force. By using the word

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'Gallantry' in section 9-A of the Act of 1973, the legislature never intended to grant out of turn promotion to civil servants other than police force, but the Sindh Government has extended this benefit to civil servants. We for the aforesaid reasons stated hereinabove, are clear in our mind that the impugned legislations on the issue of out of turn promotion and grant of backdated seniority are violative of Articles of the Constitution referred to hereinabove and are liable to be struck down."

23. Similarly in the case of Ali Asghar

Khan Baloch and others Vs Province of Sindh

and others (2015 SCMR 456) while dealing

with the case of upgradation, the august Supreme

Court has held as under: -

"138. During the hearing of the review petitions, we have noticed that the Sindh Government has upgraded certain posts of individuals without any mechanism of upgradation to benefit them. The expression 'upgradation' is distinct from the expression 'promotion' which has not been defined either in the Act or the Rules framed thereunder, and is restricted to the post and not with the person occupying it. The upgradation cannot be made to benefit a particular individual in terms of promoting him to a higher post or further providing him with the avenues of lateral appointment or transfer or posting. In order to justify the upgradation, the Government is required to establish that the department needs restructuring, reform or to meet the exigency of service in public interest. In the absence of these pre-

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conditions, upgradation is not permissible. We have noticed that some of the civil servants have been promoted to higher posts against the tenural limitations, without qualifying the requisite departmental examinations/ trainings under the garb of upgradation. Such civil servants having not been promoted in accordance with law need to be reverted to their substantive ranks/posts which they were holding immediately before their upgradation and their seniority shall be determined along with their batchmates. The Sindh Government shall undertake this exercise and report compliance within 4 weeks through the Chief Secretary, Sindh."

24. In the case of "Ali Asghar Baloch and others ibid in para 122 and 123, such promotion/upgradation on account of gallantry acts were deliberated in detail. Both the paras being relevant are reproduced as under:

"122. The issue of out of turn promotions has been dealt with by us in detail in the judgment sought to be reviewed and we reached the conclusion that it was violative of Articles 240, 242, 4, 8, 9 and 25 of the Constitution. Mr. Adnan Iqbal Chaudhry, learned Advocate Supreme Court has contended that section 9-A of the Act has not been struck down by this Court, while declaring the out of turn promotions as unconstitutional. We are mindful of this fact as we have held that the Competent Authority can grant awards or rewards to the Police Officers, if they show act of gallantry beyond the call of duty. However, we

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had struck down the very concept of 'out of turn promotion' being violative of Constitution for the reasons incorporated in paras 158 to 164 of the judgment under review.

123. The contention of Mr. Adnan Iqbal Chaudhry, learned Advocate Supreme Court was that the provisions of section 9-A of the Act could not be interpreted to exclude other categories of Civil Servants except police force. According to him any Civil Servant other than the Police Officer, can also perform gallantry act beyond the call of duty. We are not persuaded by the arguments of the learned counsel for the petitioner as the terms 'Gallantry' and 'Beyond the Call of Duty' have to be interpreted by invoking the Rule of 'ejusdem generis'. The expression 'Gallantry' used in Section 9-A of the Act has not been defined either in the Act or in the Rules, therefore, we have to give to term 'Gallantry' the ordinary dictionary meaning while interpreting it. The term 'Gallantry' means 'Brave, Courageous, valiant, fearless, bold and daring'. All these adjectives directly relate to the nature of duty which a Civil Servant performs. These adjectives can only be attached to security personnel. Therefore, we can safely hold that the term 'Gallantry' as used in section 9-A of the Act could only apply to Police Personnel and award and reward on their gallantry performance be conferred upon them and not to other species of Civil Servants. However, such award or reward should be given under a transparent process after objective assessment of their valour by a committee, in a just manner under the prescribed Rules."

25. There are handful of cases, wherein,
Police Officers were allowed promotions on

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account of showing courage and gallantry in performance of their duties. It also appears that such officers were allowed promotion without having undergone any pre-requisite training, similarly, in some of the cases even a Division Bench of this Court has allowed their cases holding them entitled to promotion, without undergoing the requisite training, particularly in W.P No.2667-P/2023 decided on 21.10.2013 in which leave to appeal was also refused by the Apex Court, however, since in their cases the officers were allowed promotion/ upgradation without undergoing the requisite training, as such, in view of the judgments of the Apex Court referred to above, no protection can be granted to such promotions, because such promotions were in violation of Chapter 13 of the Police Rules, as such, these petitions are also stands dismissed.

26. In view of the judgment of the

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Hon'ble Supreme Court of Pakistan above referred when there is no such legal instrument allowing such upgradation/promotion without undergoing the necessary training/courses such promotion/upgradation are legally not tenable, withdrawal of such upgradation/promotion thus needs no interference.

2nd CATEGORY OF CASES OF WOMEN POLICE OFFICERS WHO ARE ALLEGEDLY ALLOWED PROMOTION OUT OF TURN

The second category is of the cases of promotion of women police officers who were allowed promotion in terms of Standing Order 4 of 2014. It being relevant is reproduced below: -

**"STANDING ORDER NO.4/2014
Promotion of Women Constables**

This Standing Order is issued under Article 10(3) of Police Order 2002 in pursuance of the Police Policy Board decision taken in its 1st meeting held on 19th December 2013.

2. *Aim: - The ratio of women officer in the rank of Head Constables and ASIs is very low. As per the standard ratio, for a group of 10 Women Constables working in a District, there should be at least one Women Head Constables. Similarly,*

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for every group of three Women Head Constables, there should be one Woman ASI. Presently, women police officers are clearly under represented on higher positions as they get lesser opportunities of promotion. This imbalance in women representation in police should be gradually addressed.

This Standing Order not only aims at streamlining the criteria and procedure of promotion of women Constables but also aims to encourage women police officers to assume higher responsibilities.

3. Promotion of women Constables as Head Constables: - One out of ten Women Constables in a District shall be promoted as Head Constable on the basis of seniority-cum-fitness formula.

4. Promotion of Women Head Constables as ASIs:- One out of three Women Head Constables in a District shall be promoted as ASI on the basis of seniority-cum-fitness formula.

5. The mandatory of exams, promotion courses, trainings and/or any other qualifications shall apply to promotions under these provisions."

27. In view of the culture and customs of this particular area of the country women show much reluctance in joining the police force, similarly, those who have joined the police force cannot be expected to undergo such stringent courses and training with their male counterparts that is why Standing Order No.4 of 2014

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provides for their promotion in accordance with the detailed criteria provided therein. Besides in view of the fact that appointment of women in police was a recent experiment and their ratio in officer category i.e ASIs was very low as such certain quota was earmarked for them so that such senior women police officers be allowed promotion in accordance with standing order. The comments offered by the respondent nowhere suggest that any of the petitioners was favoured in promotion, in violation of the police Rules or law but apparently, they were allowed promotion after having undergone the requisite courses and on the basis of Seniority-cum-fitness formula. However, the respondent's department has while allegedly implementing the judgment of the Apex Court termed all such promotions to be violative of the procedure, Rules and allegedly as out of turn. We, therefore, set aside

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the reversion orders and remit the cases of the petitioners to the respondent department to reconsider the decision after scrutinizing the record of each promotee and to see whether while allowing them promotions, such female officers have undergone the requisite training, if so, their promotion orders shall stand and be retained, otherwise, the respondent department would be at liberty to withdraw the same.

POLICE OFFICERS NOMINATED FOR TRAINING ON ADDITIONAL SEAT

28. We have before us cases of some of the police officers who have though undergone the requisite training courses but their promotion was termed as out of turn on the only ground that they were sent for training on additional seats over and above the prescribed quota for the training courses. It is pertinent to mention here that these police officers were otherwise holding their substantive rank and

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were eligible to be deputed for such training however, either on account of limitation of quota seats or on account of their age hurdles they could have deprived forever from these courses as such at the relevant time if any of such petitioner is send on additional seat for such training and have then undergone such courses and thereafter gained promotion alongwith their colleagues cannot be termed as out of turn promotion, as it has nowhere been shown that such police officers have disturbed the seniority of their batch mates, all such identical matters are allowed and disposed of in the above manner.

**TRANSFER FROM OTHER PROVINCES
AND ABSORBED IN KHYBER
PAKHTUNKHWA POLICE.**

29. We have noted that different persons, permanent residents of this Province, on account of temporary residence got domiciles in other Provinces of this country, have in

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accordance with law applied either against the post of Constable or Assistant Sub-Inspectors and were duly selected and appointed in the province of Baluchistan and Sindh. In one case titled Zulfiqar Ali W.P. No.461-A/2023, appeared in the competitive exam and was duly recommended by the Sindh Public Service Commission and appointed as Assistant Sub-Inspector in the year, 1987. He also gained promotion as Sub-Inspector in Sindh Police, however, he applied through the proper channel for his transfer from Sindh Police to Khyber Pakhtunkhwa Police. After necessary process and approval of both the Inspector General of Police of Sindh and Khyber Pakhtunkhwa, petitioner was transferred vide order dated 04.02.1996. On his transfer to the Khyber Pakhtunkhwa Police, he was posted as Sub-Inspector in Hazara Range with immediate

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effect, however, in accordance with law, he was placed at the bottom of the seniority list of Sub-Inspectors.

30. Rule 8 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 deals with Inter-Provincial Transfer of the civil servants serving either under Federal Government or Provincial Governments.

It, being relevant to the case in hand, is reproduced as under: -

8. Inter-Provincial Transfer: -

(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules: -

Provided that: -

(i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;

(ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;

(iii) the person concerned holds appointment to the post in his parent Department on regular basis;

(iv) the person concerned is a bona fide resident of the Khyber Pakhtunkhwa.

(v) a vacancy exists to accommodate the request for such a transfer; and

(vi) Provided further that in most deserving cases, the merit of which shall be

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determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-à-vis other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request for transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case".

31. We have examined each individual case of transfer of the Police officials/officers and find that the transfer orders were strictly in accordance with Rule 8 of the APT Rules and after transfer, they were absorbed in the Khyber Pakhtunkhwa Police. Interestingly, in some of the cases, the Constables transferred from Sindh Police or Baluchistan Police are still serving as Constables even after a decade of their transfers, albeit, without considering the fact that the case of police employees was not hit by the judgment of the Hon'ble Supreme Court of Pakistan, yet

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such police officials/officers were allegedly repatriated through the impugned orders.

32. The Hon'ble Supreme Court of Pakistan has specifically dealt with such matters in the cases of "Contempt of Court Proceedings against the Chief Secretary, Sindh and others (2013 SCMR 1752) and Ali Azhar Khan Baloch and others Vs. Province of Sindh and others (2015 SCMR 456)". It is pertinent to mention here that even in those judgments, the apex Court has referred to the transfer of employees and considered it as permissible. The judgment of the apex Court above referred was rendered in the cases where the Province of Sindh and Province of Punjab have allowed transfer of non-civil servants to a cadre, service or posts meant for civil servants. Interestingly, in those cases, it was found out that employees of Autonomous Bodies including

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Pakistan Steel Mills were transferred and absorbed in the Secretariat service, besides, teachers were also absorbed in the Police Department against technical posts while in the instant case, the Constables/ASIs on their appointments in other provinces, have gone through the requisite trainings and were in the Police Service. The only benefit granted to such police officials/officers was that their hardship was reduced to some extent when they were allowed transfers to serve in their own Province and that too against the same posts/rank and in terms of Rule 8 of the APT Rules, they were placed at the bottom of the seniority list of their respective ranks in the Police department Khyber Pakhtunkhwa. We have noted that at the relevant time, there were NOCs from the respective Provinces on such transfer besides such Police officials/officers were possessing the requisite

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qualifications/ experience/ trainings, were holding such posts on regular basis and were bonafide residents of the Khyber Pakhtunkhwa, thus were absorbed against the vacant posts in the police department of this Province. All the legal formalities were duly complied with at the time of their transfers. As noted above, the judgments of the Hon'ble Supreme Court of Pakistan were rendered in completely different situations which is not the case here, because, the petitioners were transferred within the Police service and have never disturbed the terms and conditions of any of the civil servants/ Police officials/officers serving at the relevant time.

33. It is pertinent to mention here that the august Supreme Court of Pakistan in Criminal Revision Petition No. 131 and 133 of 2016 titled Zulfiqar Ahmad Lillah vs Government of Sindh through its chief Secretary,

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Sindh disposed of different Review petitions and held that all those employees who are in BPS-1 to BPS-7 will not be repatriated to their parent department, rest of the employees who are not in regular police and are not in uniform shall be repatriated to their parent department as if they were never absorbed in the Motorway Police and their lien even if terminated shall stand revived in terms of the directives contained in the cases reported as Contempt Proceedings against Chief Secretary Sindh and others (2013 SCMR 1752). Thus the uniform police officers are otherwise given protection by the apex court as such, there is no question of repatriation of the police officers transferred in accordance with law. The above view was again reiterated in Criminal Original Review No. 36 of 2017 decided on 05.10.2018 by the apex Court.

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34. Besides transfer and absorption of employees within the same police force from regular to telecommunication mostly about two decades back without affecting the seniority or other terms and conditions of service of employees besides were having the same status of civil servants cannot be considered as against the law or out of turn nor hit by the judgment of apex court.

35. Such being the case, we find that the impugned orders whereby the absorption of such Police officials/officers were withdrawn and were allegedly repatriated, are against the law and not hit by the judgments of the Hon'ble Supreme Court of Pakistan, above referred and as such are set aside.

ABSORPTION OF CLASS-IV EMPLOYEES
AGAINST THE POST OF CONSTABLES

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36. In these cases, mostly the petitioners were either appointed as Civil Helpers/Naib Qasid or Cook and were later promoted to the posts of Constables. We have been informed that the necessary Recruit Course required for such post of Constable has already been completed by those petitioners and ever since their appointment/promotion, they are still working as Constables.

37. Apparently, it seems that the post of Constable is meant for initial recruitment and is not a promotion post; similarly, as held by the Hon'ble Supreme Court of Pakistan in Azhar Ali Khan Baloch case and COC's proceedings case that absorption cannot be ordered by changing the cadre. In these set of cases, Naib Qasid, Bahishti and Cooks were allegedly promoted and re-designated as Constables. Comments of the respondents are scanty and have not commented

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as to whether thereafter such employees were allowed to undergo the requisite training meant for the recruits or otherwise, in any case, the petitioners being at the lowest of the rank in the Police Department, as such, the Department was required to have scrutinized each individual case as to whether they have undergone the requisite training and that on their re-designation, whether any of the Police Constables were in any manner affected and that the prerequisite criteria pertaining to height and chest width were fulfilled by these Constables. This exercise has never been undertaken by the respondents, as such, we deem it appropriate to set-aside the impugned orders and remit back the case of these Class-IV employees, subsequently, absorbed/ appointed as Constables and to examine the case of each petitioner in the light of directions contained in the judgments of the Hon'ble

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Supreme Court of Pakistan and to see as to whether, their status as civil servants was in any manner affected by such re-designation and that any of the civil servants already serving were affected in any manner. Even otherwise, the apex Court has given protection to the low paid employees from BPS 1 to 7 and uniform police officials in the case of "Zulfiqar Ahamd Lillah and others Vs Government of Sindh through the Chief Secretary, Sindh." The relevant para is reproduced as under: -

"The above listed petitions are disposed of in the terms that all those employees who are in BPS-1 to BPS-7 will not be repatriated to their parent departments, rest of the employees who are not in regular police and are not in uniformed shall be repatriated to their parent department, as if they were never absorbed in the Motorway police and their lien even if terminated shall stand revived in terms of the directives contained in the cases reported as Contempt Proceedings against Chief Secretary Sind and others (2013 SCMR 1752) and Ali Asghar Khan Baloch and others Vs Province of Sindh and others (2015 SCMR 456) as the issue of absorption raised in these cases has already been decided by this Court in the aforesaid judgements. It is further clarified that the employees who are repatriated to their parent departments will be entitled to the salaries from the date of notification of

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their repatriation subject to their joining in the department within 15 days from the date of communication of this order and the Additional Attorney General for Pakistan present in court, shall ensure compliance. They will also be entitled to promotion with their batch mates in their original departments."

COC No.161-P/2022 in W.P No.4949-P/2022

38. This COC petition is arisen out of the order of the larger Bench of this Court passed in W.P. No.684-A/2021 decided on 09.12.2021, whereby, the cases of the petitioners were sent to the Provincial Government to decide the fate of the Khyber Pakhtunkhwa Standing Order Act, 2005, prevailing Police Rules and Khyber Pakhtunkhwa Police Act, 2017 regarding alleged accelerated promotions.

39. Since the respondent/Department has already vide letter dated 21.04.2022 taken a decision considering that the order of this Court has been complied with and those orders have separately been challenged in separate matters, as

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such, we dispose this COC petition having become infructuous.

VIRES OF IMPUGNED ORDERS DATED

14.4.2022, 21.4.2022 AND 12.3.2022.

40. Without going into the detail background as we have already referred the same in the above paras, in order to implement the judgement and orders of the Hon'ble Supreme Court in case the cases reported as 2013 SCMR 1752, 2015 SCMR 456 and 2017 SCMR 206, the respondents have initiated process for withdrawal of those promotions which are considered violative of law and recent judgement of the apex Court. Such matters when questioned before this court, a larger Bench was constituted and this court in the judgement dated 24.3.2022 in W.P No. 684-A/2021 after hearing both the parties remitted the matter to the Provincial Government with direction to clarify the position whether it

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wants to continue with the matter of awarding accelerated positions to members of its Police Force in line with the Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, prevailing Police Rules and Khyber Pakhtunkhwa Police Act, 2017 or not. The matter was referred to the Chief Secretary by the Police Department through letter No. 157/CPB, dated 14.4.2022 for approval of withdrawal of the following Standing Orders and Acts which provided for out of turn promotion.

- (i) Standing Order No. 11/1987.
- (ii) Letter No. 20710-60/1995.
- (iii) Standing Order No. 07/2003.
- (iv) Khyber Pakhtunkhwa Validation of Standing Orders Act, 2005.
- (v) Standing Order No. 17/2014.
- (vi) Standing Order No. 05/2016.
- (vii) PR 13.7B of Police Rules, amended 2017.

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Vide the impugned order dated 21.4.2022, the Chief Secretary accorded approval for the withdrawal of the same.

41. We, during the course of hearing when

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sought clarification from the learned AAG regarding the placement of the matter before the Provincial Government pertaining to the withdrawal of the legislative instruments and decision of the Provincial Government under which these Standing Orders were issued or the Validation Act was promulgated by the Provincial Assembly, his response is that since the Hon'ble Supreme Court has in the above referred judgements held all such legal instruments providing for out of turn promotion as violative of the law and thus according to him by operation of the judgement of the apex Court, these legal instruments have been brushed aside and it does not require placement of the matter before the Provincial Assembly or before the Cabinet in respect of the Standing Orders which were approved by the Provincial Cabinet.

42. We have already examined the

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effects of the Standing Order No.11 of 1987, Standing Order No. 7 of 2003, Khyber Pakhtunkhwa Validation of Standing Order Act, 2005, and other relevant Standing Orders. Withdrawal of the Validation of Standing Orders Act, 2005, is beyond the competence of the respondents, as it being legislation can only be undone by the Provincial Assembly and not through an executive order, as such, to such extent, the letter dated 14.04.2022 followed by the impugned order dated 21.04.2022 is against the law and legally not tenable. It is pertinent to mention here that the rights accrued under Standing Order No.11 of 1987 and the Standing Order No.7 of 2003 were already given protection through Validation Act, besides, since these were valid instruments, thereby, different Police Officers have undergone their respective trainings when declared as cadets and cadet

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instructors, as such, as already held that such promotions cannot be legally withdrawn, however, since a larger bench of this Court has directed the Provincial Government to decide as to whether it opt to continue with the Standing Orders or otherwise, and as such, since Provincial Government has decided not to continue with the same, as such, it being a policy matter, this Court consider its hands as tied in the matters pertaining to the policy decision, therefore, no interference is required, however, the training conducted pursuant to these Standing Orders and promotion made were valid at the relevant time, as such, the impugned orders would be having no retrospective effect in the matter, even otherwise we have held in the earlier paras that the judgment rendered by the Apex Court have no application to the case in hand.

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43. Writ petitions filed against the Orders dated 14.04.2022 and 21.04.2022 issued after the decision of the larger bench judgment stand disposed of in the above manner.

44. In view of the above-detailed reasons so recorded, this and the connected writ petitions are decided in the following manners:-

I. *The police officers who were declared as Cadet and Cadet Instructors pursuant to the provisions of the Police Rules, Standing Order No:11 of 1987, Standing Order No.7 of 2003 and duly protected under the Khyber Pakhtunkhwa Validation of Standing Orders Act 2005 and Chapter 13.7 A and 13.7 B of the Police Rules, they are not hit by the judgment of the Hon'ble Supreme Court of Pakistan relating to out of turn promotions, and as such, demotion/reversion orders of all such police officers are set aside and they are restored to their original positions.*

II. *Promotions/ upgradations made on account of gallantry acts are hit by the judgments of the Hon'ble apex Court, as such, all such upgradations/promotions made on account of gallantry acts or allegedly as they stood fast in the*

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performance of duties during the waves of terrorism are not protected and are hit by the judgment of the Apex Court, therefore, all such writ petitions are dismissed in the light of para 25 of this judgment.

- III. *Cases of Women police officers send for trainings/courses and allowed promotion under Standing Order No. 4 of 2014 are remitted back to the respondent department to reconsider their positions in term of para 27 of this judgment.*
- IV. *Police officers nominated for training on additional seats are considered as not hit by the judgment of the Hon'ble Supreme Court of Pakistan, and as such, their writ petitions are allowed and the impugned order of reversion/demotion is set-aside.*
- V. *Officers transferred from other provinces and absorbed in Khyber Pakhtunkhwa Police or transferred and absorbed within the same police force from other cadre are also considered to be in accordance with law and not hit by the judgment of the Hon'ble Supreme Court of Pakistan, the impugned repatriation orders are thus set aside in the light of para 35 of this judgment.*
- VI. *Cases of absorption of Class-IV employees against the post of Constables are disposed of and their cases are remitted back to the respondent*

ATTESTED
EXAMINER
Peshawar High Court
Peshawar

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department to reconsider its decision in accordance with detailed reasons given in para 37 of this judgment.

VII. Contempt of Court cases stand disposed of as the judgment of a larger bench decided on 09.12.2021 has since been complied with vide letter dated 21.04.2022.

VIII. Writ petitions questioning vires of orders dated 12.03.2022, 14.04.2022, 21.04.2022 are disposed of considering it as a policy decision of the Provincial Government, however, their letters to the extent of setting aside the Khyber Pakhtunkhwa Validation of Standing Order Act 2005 is set aside, and the impugned letters are held to have prospective effect as held in para 42 of this judgment.

JUDGE

JUDGE

Announced;
Dt: 29.08.2023

(DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Syed Muhammad Atifur Shah

26357

23-12-2023

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EXAMINER

Peshawar High Court, Peshawar

Authorized Under Article 8, 7 of

the Qanoon-e-Shahadat Act 1984

23 DEC 2023



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the September 05, 2022

NOTIFICATION

NO. SOLE-DE&AD/2-4/2022. On the recommendations of the Departmental Selection Board, in its meeting held on 19.08.2022 and subsequent approval of the Chief Minister, Khyber Pakhtunkhwa being Competent Authority, the following Deputy Superintendents of Police (BS-17) are hereby promoted to the rank of Superintendents of Police (BS-18), on regular basis, with immediate effect :-

Sr. No.	NAME OF OFFICERS	Sr. No.	NAME OF OFFICERS
1.	Mr. Qazi Kamal	2.	Mr. Muhammad Ajeem Jani
3.	Mr. Muhammad Araf	4.	Mr. Muhammad Shafiq
5.	Mr. Muhammad Araf	6.	Mr. Saraulah
7.	Mr. Mukhtar Ahmad	8.	Mr. Tahir-Ur-Rahman
9.	Mr. Muhammad Sulman	10.	Mr. Tahir Iqbal
11.	Mr. Khair Muhammad	12.	Mr. Omer Hayat
13.	Mr. Fakir Nazir	14.	Mr. Tajamul Khan
15.	Mr. Tariq Habib	16.	Mr. Nisar Ahmad
17.	Mr. Tariq Iqbal	18.	Mr. Aslam Nawaz
19.	Mr. Ishaq Ahmad	20.	Mr. Mukhtar Shah
21.	Mr. Noor Jamal	22.	Syed Mukhtar Shah
23.	Mr. Nazeer Ahmad	24.	Mr. Saad Akhtar
25.	Mr. Muhammad Ishaq	26.	Mr. Muhammad Maroof
27.	Mr. Muhammad Ayaz	28.	Mr. Muhammad Jamil Akhtar
29.	Mr. Abdul Haq	30.	Syed Inayat Ali Shah
31.	Mr. Muzammas Muhammad	32.	Mr. Hamid Usah
33.	Mr. Saqad Ahmad	34.	Mr. Shah Hussain
35.	Mr. Nazir Khattak	36.	Mr. Saqad Ahmad Sanbada
37.	Mr. Muzammas Shah	38.	Mr. Mushaq Ahmad
39.	Mr. Shaukat Ali	40.	Mr. Abdul Samad
41.	Mr. Muhammad Khalid	42.	Mr. Zia Hassan
43.	Mr. Shafiqullah	44.	Mr. Sohail Afzal
45.	Mr. Mir Feroz	46.	Mr. Muhammad Asif

2. The officers, on promotion, will remain on probation for a period of one year or till retirement, whichever is earlier, in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. Promotion of the officers stood at Sr. No. 33 to 43 shall be subject to the decision of the Superior Judiciary and Cabinet regarding the issue of "out of turn promotion" and absorption in Khyber Pakhtunkhwa Police from other Provinces/Departments.

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**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

4. Posting/transfer orders will be issued by Provincial Police Officer, Khyber Pakhtunkhwa.

**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Endst. No. & date even.

Copy of above is forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Home & TAs Department.
4. Provincial Police Officer, Khyber Pakhtunkhwa.
5. Accountant General, Khyber Pakhtunkhwa.
6. Capital City Police Officer, Khyber Pakhtunkhwa.
7. All Regional Police Officers in Khyber Pakhtunkhwa.
8. Director, Information, Khyber Pakhtunkhwa.
9. PSO to Chief Secretary, Khyber Pakhtunkhwa
10. PS to Chief Secretary, Khyber Pakhtunkhwa
11. PS to Secretary Establishment/PS to SS(E)/SS (Reg)/PA AS(HRD)/DS(E)/SO(E II) Establishment Department.
12. PS to Secretary (Admn.)/D.S(A)/SO(Secret)/ Director Protocol/ Estate Officer/ACSO Cypher/Deputy Director (IT) Administration Department, Khyber Pakhtunkhwa.
13. Officers concerned.
14. Manager, Govt. Printing Press Peshawar.


SECTION OFFICER (ESTT-I)

'E'

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NOTIFICATION

NOTICE - The Government of India, Ministry of Home Affairs, is pleased to advise that the following persons have been appointed to the post of...

Sd/-
(Sd/-) **SECRETARY**
Ministry of Home Affairs, Government of India
New Delhi

For further details, please refer to the notification...

(Sd/-) **SECRETARY**
Ministry of Home Affairs, Government of India
New Delhi

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BEFORE THE PROVINCIAL POLICE OFFICER, KHYBER PAKHTUNKHWA.

Subject: **IMPLEMENTATION OF DECISION OF THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR IN W.P NO. 1587-P/2022 AND OTHERS, PASSED ON 29.08.2023 WITHDRAWAL OF ORDER NO. 598/LEGAL/E-I DATED 16.03.2023**

Hon'ble Sir,

It is most respectfully stated that:-

1. The undersigned was recruited as Constable on 15.02.1982. I qualified Lower Course in 1987. That, I was declared all round best Cadet in the Intermediate College Course in 1997.
2. That, being Cadet, I was posted at PTC Hangu as Cadet Law Instructor under Standing Order No. 11/1987 validated by the Provincial Assembly under "Validation of Standing Order act 2005 (KP Act No. IV of 2005)"
3. After successful completion of mandatory tenure and obtaining three consecutive category "A", A.C.Rs, I was confirmed in the rank of ASI and brought on promotion list "E".
4. After that I was promoted as DSP (BS-17) in 2013 on the basis of best performance and in the normal course of promotion procedure.
5. According to Final Seniority List of DSsP of Khyber Pakhtunkhwa Police issued, vide Order No. 1594/SE-I, dated 05.08.2022, by the W/IGP KP, name of the undersigned was appeared at Serial No. 34, below the name DSP Saleem Aman Ullah and the above the name of DSP Ifikhar Shah. Copy of Seniority List is attached.
- 6. That, a departmental Selection Board was held on 19.08.2022, which was subsequently approved by the by the Honorable Chief Minister Khyber Pakhtunkhwa under which 46 DSsP were promoted to the rank of Superintendent of Police (BS-18) on regular basis vide Notification No. S.O (E-I)E&AD/2-4/2022. The name of the applicant was not included on the pretext of out of turn promotion and absorption in Khyber Pakhtunkhwa Police from other Provinces/Departments despite the Officer Junior to the applicant and appeared after the name of the applicant in the Seniority list were promoted. However, it was also notified in the last mentioned notification that promotion of the applicant shall be subject to the decision of Superior Judiciary.

7. That on 29.08.2023 all petitions pending before the Honorable Peshawar High Court, Peshawar on this issue were decided through a consolidated Judgment in which the applicant being the petitioner, has been declared lawful, as per law, rules and order and it was clearly declared the cadet instructor are not hit by the judgment of the Honorable Supreme Court of Pakistan. Para 44 (1) of the operative part of judgment ibide is reproduced below.

(I) "The police officers who were declared as Cadet and Cadet instructors pursuant to the provisions of the the Police Rules, standing order No. 7 of 2003 and duly protected under the Khyber Pakhtunkhwa validation of Standing Order Act 2005 and CHater 13.7 A and 13.7 B of the Police Rules, they are not hit by the judgment of the Hon'ble Supreme COURT of Pakistan relating to out of turn promotions and as such, demotion/reversion order of all such Police Officers are set aside and they are restored to their original positions."

8. The undersigned was at the verge of retirement and got retired on superannuation on 29.03.2023 in the rank of DSP (BS-17) without promotion to next rank.
9. Since all orders regarding demotion or reversion of seniority of the applicant have been set aside by the Hon'ble Peshawar High Court, Peshawar, therefore, the undersigned was and is entitled for promotion with his colleagues who got promoted on 05.09.2022.
10. It is humbly requested that name of the applicant may be considered for promotion to the rank of Superintendent of Police (BS-18), with his colleagues from 05.09.2022 as proforma promotion.

Thanking you in anticipation.

ABDUR RASHEED

Retired DSP (Investigation Buner)
Dated, 25.09.2023

بعدالت سرویس ٹریبونل نے یہ

B-216 09.2053

0333-9732415

2 جناب
بنام

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنگہ

مقدمہ مشدرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام پیشہ اصرار کیلئے ایڈووکیٹ جنرل سرگودھا
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جات التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المترقوم _____ ماہ _____ 20

العبد _____ واد العبد _____

کے لئے منظور ہے۔

بمقام