

**BEFORE THE HONORABLE KP SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 309/2023

Waqar Ahmed .....(Appellant)

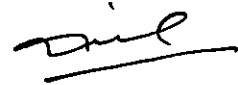
VERSUS

The Government of Khyber Pakhtunkhwa, etc.....(Respondents)

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DEPONENT



DSP/ Legal,  
CPO, Peshawar

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**BEFORE THE HONORABLE KP SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 309/2023

Waqar Ahmed .....(Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, etc.....(Respondents)

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10428

Dated 08-1-2024

RESPECTFULLY SHEWETH:

**PRELIMINARY OBJECTIONS:-**

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

**FACTS:-**

1. Pertains to record hence, needs no comments.
2. Correct to the extent of inter-provincial transfer from Province of Baluchistan Police to KP Police and subsequent permanent absorption in KP Police in violation of Apex Court judgments on cadre change and absorption reported as 2013 SCMR 1752 and 2015 CMR 456. The Apex Court of Pakistan in these two judgments clearly declared that no civil servant or non-civil servant or a deputationist can be allowed to travel horizontally outside his cadre, post, department or service and to penetrate into a different cadre, post, department or service through appointment by transfer and subsequent permanent absorption. Such practice impinges upon the rights of native employees in that service, post or cadre in terms of seniority and promotion which against the constitution of Islamic Republic of Pakistan, 1973. None of the employee's rights can be intrude on at the cost of appointment by transfer to another employee and permanent absorption in a post, cadre, department or service. The Apex Court further held that such practice be put to a permanent end and the principles laid down in these judgments be implemented retrospectively without discrimination. Relevant Paras of 2013 SCMR 1752 are as under:-

*115. To appreciate the contentions of the parties, we intend to take up different issues arising out of impugned enactments one by one. We will first take up the issue of "absorption" of different employees regularized by the Sindh Government in exercise of the powers conferred upon them under the impugned legislations:-*

- i. *The Sindh Civil Servants (Regularization of Absorption) Ordinance, 2011 (Ordinance III of 2011).*
- ii. *The Sindh Civil Servants (Regularization of Absorption) Act, 2011 (Act XVII of 2011).*
- iii. *The Sindh Civil Servants (Amendment) Ordinance, 2012.*
- iv. *The Sindh Civil Servants (Second Amendment) Ordinance, 2012.*

v. The Sindh Civil Servants (Amendment) Act, 2013.

vi. The Sindh Civil Servants (Second Amendment) Act, 2013.

116. From the contentions of the learned Additional Advocate General Sindh and the learned counsel for the parties, we can safely conclude that the term "absorption" has neither been defined by the Act of 1973 nor by the Rules framed thereunder. The impugned legislative instruments have also failed to give any meaningful definition to the said term. In the impugned instruments, the Provincial Assembly has given unbridled powers to the Chief Minister to appoint by transfer (absorb) any person from any organization. The Act of 1973 is promulgated pursuant to Articles 240 and 242 of the Constitution, which provides mode of appointment in terms of Section 5. Section 26 of the Act of 1973 empowers Government to make Rules in order to carry out the purposes of the Act. In exercise of such powers the Sindh Government has framed Rules which are called Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974. These Rules provide the procedure for appointment of Civil Servants by three modes (i) Recruitment by initial appointment, (ii) Appointment by promotion and (iii) Appointment by transfer. 'Absorption' itself is an appointment by transfer and could only be made under Rule 9A of the Rules of 1974. Under Rule 9A, if a person, who has been rendered surplus on account of abolition of his post in any office or Department of the government or autonomous body and or on account of permanently taking over of the administration of such autonomous body wholly or partially by the Government, can be appointed by transfer to any post in a Department or office in the Government subject to (i) he possesses such qualifications as laid down under Rule 3(2) for appointment to such post, (ii) he shall be appointed to a post of equivalent or comparable scale and in case, if such post is not available then to a post of lower scale and (iii) his seniority shall be reckoned from the date of appointment in that cadre with a further rider that his previous service, if not pensionable, shall not be counted for pension and gratuity. By present impugned legislations, no mechanism has been provided for absorption of an employee, who is appointed by transfer (absorbed) from different organizations in Sindh Government. In fact those who did not have matching qualifications, experience and expertise were transferred on deputation, and absorbed against the language of parent statute and the Rules framed there-under. Such absorption in absence of mechanism under the newly added section, on the face of it, is violative of the provisions of the Constitution. We during the hearing, required the Secretary Services to provide us the list of the Civil Servants, who are employed in the Sindh Government which is reproduced herein under:-

117. According to the list, there are in all 582,746 civil servants in the Sindh Government. The present impugned legislation is likely to affect the civil servants, who are presently working in BS-11 to BS-22, which comes to 153745 in number. The Civil Servants under the mandate of the Constitution have been guaranteed the fundamental rights being citizens. Article 4(1) provides that all citizens are entitled to enjoy equal protection of law and have inalienable right to be treated in accordance with law. In this respect the Act of 1973 framed under the command of Articles 240 and 242 of the Constitution provides protection to all the Civil servants by assuring them that the law promulgated by the Parliament and/or Provincial Assemblies will be subject to the Constitution. The phrase "subject to the Constitution" has been used as prefix to Article 240 which imports that Assemblies cannot legislate law against service structure provided in Part XII of Chapter 1 of the Constitution.

118. Article 9 of the Constitution provides protection to every citizen of life and liberty. The term "life and liberty", used in this Article is very significant as it covers all facets of human existence. The term "life" has not been defined in the Constitution, but it does not mean nor it can be restricted only to the vegetative or animal life or mere existence from conception to death. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The term "life" includes 'reputation' 'status' and all other ancillary privileges which the law confers on the citizen. A civil servant is fully protected under Article 9 and cannot be deprived of his right of reputation and status. Under the impugned instruments a person, who without competing through the recruitment process is conferred status of a civil servant. The impugned legislation has amended service laws in a manner to deprive the civil servants from their rights to status and reputation under Article 9 of the Constitution.

119. A civil servant, who after passing the competitive exam in terms of the recruitment rules, is appointed on merits, loses his right to be considered for promotion, when an employee from any other organization is absorbed under the impugned legislative instruments, without competing or undertaking competitive process with the backdated seniority and is conferred the status of a civil servant in complete disregard of recruitment rules. Under the impugned enactments, it is the sole discretion of the Chief Minister to absorb

any employee serving in any other organization in Pakistan to any cadre in the Sindh Government. The discretion of the Chief Minister to absorb any employee from any part of Pakistan to any cadre with backdated seniority directly affects the fundamental rights of all the civil servants in Sindh being violative of the Article 4 which provides equal protection of law to every citizen to be treated in accordance with law, which is inalienable right of a citizen. The impugned legislative instruments have been promulgated to extend undue favour to few individuals for political consideration and are against the mandate of the Civil Servant Act and recruitment rules framed thereunder. The impugned instruments are discriminatory and pre-judicial to public interest as such enactments would be instrumental in affecting the Civil servants' tenurial limitations and their legitimate expectancy of future advancement. The provision of absorption on the plain reading reveals that this provision has been promulgated to circumvent and obviate the very framework of the Provincial civil structure, as envisaged by the Constitution and law. By such impugned instruments, a parallel system based on discrimination and favoritism has been imposed to supersede the existing law, Rules and Regulations governing the important matters of civil servants like 'absorption', therefore, it can be safely held that the impugned instruments being discriminatory are violative of Article 25 of the Constitution, as it is not based on intelligible differentia notrelatable to the lawful object.

120. The impugned Ordinance and Act of 2011 validating absorption by the Sindh Government are ultra vires of Articles 240 and 242 of the Constitution, as these instruments, in the first place, have been promulgated without amending the Act of 1973, and the rules framed there-under. Moreover, the impugned validation instruments are multiple legislation and do not provide mechanism by which absorption of different employees took place in complete disregard of the parent statute and the rules framed there- under. By these impugned validating instruments restriction placed by Articles 240 and 242 of the Constitution has been done away. The validating instruments allowed absorption of a non Civil Servant conferring on him status of a Civil Servant and likewise absorption of a Civil Servant from noncadre post to cadre post without undertaking the competitive process under the recruitment rules. We may further observe that the Provincial Assembly can promulgate law relating to service matters pursuant to the parameters defined under Articles 240 and 242 of the Constitution read with Act of 1973 but, in no way, the Provincial Assembly can introduce any validation Act in the nature of multiple or parallel legislation on the subject of service law.

121. By the impugned legislations 'absorption' of an employee in ex-cadre group would deprive the seniority and progression of career of meritorious civil servants. A substantial number of unfit and unmeritorious officers and beneficiaries have been absorbed in the important groups, services, positions with the help of authorities and such legislations allow this to continue. The absorption, by way of impugned instruments, would practically cause removal of constitutional and legal differentiations that exist between various cadres, posts and services. Moreover, the culture of patronage will intensify the activity of bringing more politicization, inefficiency and corruption in the provincial services. The Civil Servants Act and Rules framed provide transparency in appointments, which would disappear and the employees who could not get in service through competitive process may also be obliged to look for a political mentor instead of relying on merits in order to protect their careers. We may also observe here that the absorption under the aforesaid impugned instruments is not only confined to non-civil servants to civil servants but through these impugned instruments non-civil servants, who were serving on non-cadre posts, have been transferred and absorbed to cadre posts, the pre-requisite of which is competitive process through Public Service Commission or by other mode provided in the relevant recruitment rules. Law of such nature which is violative of the recruitment rules will encourage corruption and badgovernance and the public at large will loose confidence in the officials who are being absorbed under the garb of the aforesaid impugned instruments.

122. In the case of Syed Mahmood Akhtar Naqvi and others vs.

Federation of Pakistan and others (PLD 2013 S.C 195), this Court while

interpreting the guarantees extended to civil servants, has observed in Para-10 as under:-

"10. It is worth noting that the Constitution of 1956 and 1962 contained chapters outlining certain safeguards for the civil services. In the 1973 Constitution, the framers omitted a similar chapter from the Constitution and shifted the onus to ordinary legislation. The Law Minister at the time, who

was steering the Constitution Bill informed the Constituent Assembly that in the past, constitutional protection for civil servants had been granted "because those who served came from outside and they needed these protections in respect of service". However, since now "this country [was] being run by the leaders of the people" such protections were no more deemed necessary. The purpose of this change therefore, was to "[break] away from the past colonial traditions" and to emphasize the point that civil servants were not entitled to "any superior or higher status" compared to other citizens. Another reason the Law Minister gave was that the "Constitution is the basic document providing the fundamentals and this matter was not so fundamental as to be provided in the Constitution."

(Parliamentary Debates, 31<sup>st</sup> December, 1972 and 19<sup>th</sup> February, 1973). It was therefore decided that, as stated in Articles 240, 241 and 242 of the Constitution, the matter would be dealt with through statutes. Such statutes were subsequently passed and include the Civil Servants Act, 1973. It may be emphasized that whatever else the intent behind these changes may have been, it could not have been meant to subjugate of civil servants to constantly changing political imperatives. The intent of the Constitution cannot but be a fuller realization of the goal set out in the speech of the country's founding father quoted earlier : " fearlessly, maintaining [the] high reputation, prestige, honour and the integrity of [the civil] service."

123. Though the Court interpreted the provisions of Federal Civil Servants Act of 1973 in the aforesaid judgment but the law and the rules prescribed therein are identical to the language of the Act of 1973 with minor exceptions. We therefore, can safely hold that the impugned instruments empowering validation to the absorbees and appointment by transfer (absorption) of non-civil servant to a cadre post in Sindh Government are contrary to the parameters guaranteed by the Constitution under Articles 240 and 242 and absorptions in such manner to extend favours to unmeritorious employees by the Sindh Government. Such absorption has led to the burnt of increasing lawlessness and violence on onehand and on the other hand meritorious officers despite discharging their duties with utmost dedication and professional excellence are affected with agriping sense of insecurity in respect of their future prospects in careers.

124. We have also noticed the absorption of employees from different departments/organizations in the Sindh Police through the impugned legislation and the material placed before us reflects that almost all of them have been absorbed for political considerations. The senior police officers in the rank of D.I.G, SSP, SP, DSP etc., without undergoing the mandatory police training, are posted in field particularly in Karachi, which has resulted in deteriorating law and order situation in Sindh specially in Karachi owing to their lack of competence. This Court in the case of Watan Party and another vs. Federation of Pakistan and others (PLD 2011

S.C 997) popularly known as "Karachi Law & Order case", has noticed this situation and observed as under:-

"31. It seems that the police primarily being responsible to enforce law and order has no intention to deliver. Either they are scared or they are dishonest or absolutely lack the requisite skills. It could be that in the year 1992 operation clean up was launched against MQM wherein statedly, the police had played an active role, but subsequently, 92 police officers/officials disappeared and up till now there is no clue of their whereabouts nor is it known that by whom, and under whose patronage, such persons were abducted and/or killed. Another reason appears to be that police force has been highly politicized, recruitments have been made in political consideration. It came to light during hearing of the case that in police force many police officers have been recruited on political considerations who have managed to occupy such posts for extraneous considerations and senior officers in the rank of SSP, SP and DSP etc. have been inducted into the force from other organizations without following any rules and even they have not undergone training for the purpose of policing. To highlight

this aspect, following information has been obtained from the Advocate General, Sindh: -

1. Mr. Dost Ali Baloch from Intelligence Bureau, absorbed in Sindh Police with effect from 14-10-1998, presently working as Director General Finance, CPO Sindh Karachi (BS-20).
2. Mr. Muhammad Malik from FIA, absorbed in Sindh Police with effect from 31-10-2007, presently working as Director General Traffic, Planning & Regulation, Sindh Karachi (BS-20).
3. Mr. Muhammad Riaz Soomro from Anti-Narcotic Force, absorbed in Sindh Police with effect from 26-02-2008, presently working as SSP, District Mirpurkhas (BS-19).
4. Mr. Muhammad Ali Baloch appointed as Assistant Director (Computer) in Sindh Police on 6-4-1999, presently working as SSP, District Tando Muhammad Khan (BS-19).
5. Mr. Abdul Hadi Bullo from OMG, absorbed in Sindh Police with effect from 16-7-2003, presently working as SSP District Matiari (BS-19).
6. Mr. Attaullah K. Chandio, from Solicitor Department, absorbed in Sindh Police with effect from 1-6-1995, presently working as SP, Special Branch, Mirpurkhas (BS-18).
7. Mr. Shahid Hussain Mahesar on deputation from Intelligence Bureau with effect from 26-7-2009, presently working as SSP Political (SB) Karachi (BS-18).
8. Mr. Zameer Ahmed Abbasi on deputation from National Accountability Bureau with effect from 31-12-2008, presently working as SDPO/Frere, District South, Karachi Range (BS-17).
9. Mr. Shiraz Asghar Shaikh, on deputation from PEMRA with effect from 23-8-2008, presently working as SDPO/Darakhshan, District South, Karachi Range (BS-17).
10. Mr. Faisal Mukhtar Vakaasi on deputation from National Accountability Bureau with effect from 31-3-2009, presently working as Principal, Training & Recruitment, Karachi Range (BS-17).
11. Mr. I.D. Mangi, on deputation from ACE, Sindh with effect from 10-4-2009, presently working as DSP/ACLC, Karachi Range (BS-17).
12. Major (R) Khurram Gulzar, re-employed on contract basis as DIGP (BS-20) for a period of one year with effect from 27-12-2010.
13. Col. (R) M.A. Wahid Khan, re-employed as Principal, S.B.B. EPT Razzakabad, Karachi (BS-19) for a period of one year with effect from 1-9-2008. Extension granted for two years with effect from 1-9-2009.
14. Major Col. (R) Muhammad Ahsan Umar, re-employed as SSP, District East, Karachi Range (BS-19) for a period of two years with effect from 24-9-2010.

125. The impugned legislation on absorption is persons/class specific as it extends favours to specific persons infringing the rights guaranteed to all the civil servants under the service structure provided under Articles 240 and 242 of the Constitution. This Court in the case of Baz Muhammad Kakar and others vs. Federation of Pakistan and others (PLD 2012 S.C 870) has held that the legislature cannot promulgate laws which are person/class specific as such legislation instead of promoting the administration of justice caused injustice in the society amongst the citizens, who were being governed under the Constitution. In the case in hand the impugned legislation, prima facie, has been made to protect, promote and select specific persons who are close to centre of power, and has altered the terms and conditions of service of the civil servants to their disadvantage in violation of Article 25 of the Constitution.

126. From the above discussion, the aforesaid legislative instruments on the issue of absorption are liable to be struck down being violative of Constitutional provisions referred to hereinabove, therefore, we hold as under:-

- (i) That the Sindh Government can only appoint a person by absorption by resorting to Rule 9A of the Rules of 1974.
- (ii) Sindh Government cannot order absorption of an employee who is a non-civil servant, however, an employee of an autonomous body can be absorbed in Sindh Government subject to conditions laid down under Rule 9-A of the Rules of 1974.
- (iii) Sindh Government cannot absorb a civil servant of non-cadre post to any cadre which is meant for the officers who are recruited through competitive process.
- (iv) Any backdated seniority cannot be granted to any absorbee and his inter-se seniority, on absorption in the cadre shall be maintained at the bottom as provided under the Rules regulating the seniority.
- (v) No civil servant of a non-cadre post can be transferred out of cadre to be absorbed to a cadre post which is meant for recruitment through competitive process. A civil servant can be transferred out of cadre to any other department of the government subject to the restrictions contained under Rule 9 (1) of the Rules of 1974.
- (vi) The legislature cannot enlarge the definition of "civil servant" by appointing a non-civil servant through transfer on the basis of absorption conferring him status of civil servant pursuant to the impugned legislation which is violative of the scheme of civil service law as provided under Articles 240 and 242 of the Constitution.

183. A copy of this judgment be sent to the Chief Justice, Sindh High Court through Registrar for circulating it amongst the learned Judges. A copy of this judgment be also sent to all the Chief Secretaries of the Provinces as well as the Secretary, Establishment Division, Government of Pakistan, Islamabad, with the direction to streamline the service structure of Crl.Org.P.No.89/11 etc. 138 civil servants in line with the principles laid down in this judgment. The Chief Secretary and Secretary, Services, Sindh, are further required to comply with this judgment in letter and spirit and report compliance within three weeks.

Furthermore, relevant Paras of 2015 SCMR 456 are reproduced as under:-

*"Neither a person can be absorbed under these Rules nor a Civil Servant or non-civil servant nor could a deputationist be allowed to travel horizontally outside his cadre to penetrate into a different cadre, service or post through an appointment by transfer".*

*"we further clarify that even a civil servant cannot be transferred to any other cadre, department, posts or service unless he is eligible for such post, in terms of the rule 3(2) & qualifies the test of rules 4,6,7 & 8 of 1974 APT, Rules."*

3. Pertains to record, however, as explained above the principles of Apex Court are obligatory upon all state organs to be implemented as envisaged in Articles 189 and 190 of the Constitution of Islamic Republic of Pakistan, 1973.
4. Pertains to record, however, as explained in above Paras, the Apex Court directions were implemented in all other provinces in letter and spirit, therefore, in compliance of Apex Court orders, the same were also implemented in KP Police as well as to streamline the service structure in accordance with principles laid down by the Apex Court of Pakistan.
5. Pertains to record, however, seniority and promotions of the appellant infringed upon the rights of other police officers depriving them from their due seniority and promotion within

cadre in KP Police. Such gain of seniority and promotion has been declared as out of turn promotion in plethora of Apex Court judgments reported as 2013 SCMR 1752, 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206 & 2018 SCMR 1218.

6. Pertains to record, however, seniority and promotions of the appellant infringed upon the rights of other police officers depriving them from their due seniority and promotion within cadre in KP Police. Such gain of seniority and promotion has been declared as out of turn promotion in plethora of Apex Court judgments reported as 2013 SCMR 1752, 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206 & 2018 SCMR 1218.
7. Pertains to record, however, seniority and promotions of the appellant infringed upon the rights of other police officers depriving them from their due seniority and promotion within cadre in KP Police. Such gain of seniority and promotion has been declared as out of turn promotion in plethora of Apex Court judgments reported as 2013 SCMR 1752, 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206 & 2018 SCMR 1218.
8. Pertains to record, however, appellant was transferred and permanently absorbed from other province and Police service, thus infringed upon the rights of other Police officials below him in terms of seniority and promotions. The same practice has been put to an end by the Apex Court strictly, therefore, all provinces and departments repatriated the alien officials to their respective provinces and departments. The Apex Court further held that their seniority be fixed with their batchmates in parent departments as if they were never repatriated. Therefore, the appellant among others were repatriated to his parent department for his legitimate progression career. He has neither been discriminated nor deprived of seniority or promotions, rather the purpose is to streamline the service structure in compliance of Apex Court judgments.
9. Pertains to record, however, continuity of a wrong knowingly is sheer violation and unjustified. The appellant was transferred and permanently absorbed from other province and Police service, thus infringed upon the rights of other Police officials below him in terms of seniority and promotions. Whenever, a Police official is allowed to absorb from other province, then he degrades the position of other junior officials below him in seniority thus native junior officials are deprived from seniority and promotions. The same practice has been put to end by the Apex Court strictly, therefore, all provinces and departments repatriated the alien officials to their respective provinces and departments. The Apex Court further held that their seniority be fixed with their batchmates in parent departments as if they were never repatriated. Therefore, the appellant among others were repatriated to his parent department for his legitimate progression career.
10. Pertains to record as explained in above Paras. However, during the last Departmental Promotion Board, the case of the appellant was not considered on the basis of Apex Court judgments regarding out of turn promotions as the appellant was falling under ambit of out of turn promotions (Inter Provincial Transfer), however, recently Peshawar High Court, Peshawar in its judgment dated 29.08.2023, passed in Writ Petition No. 1587-P/2022, stated that the case of the appellant does not fall in the ambit of out of turn promotion. Hence, he was considered in the promotion board recently held on 17.10.2023 and he has been



promoted from the rank of DSP<sub>3</sub> to the rank of Superintendent of Police conditionally and provisionally subject to outcome of CPLA of the Police Department subjudice in Apex Court. The summary for approval of the W/ Chief Minister, Khyber Pakhtunkhwa has been sent vide Letter No. CPO/CPB/DSB/284 dated 23.10.2023 (Copy annexed as Annexure 'A') while minutes of the instant DSB shall be submitted as soon as received.

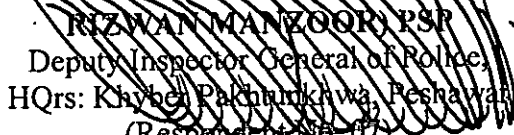
- 11. Incorrect, no departmental appeal is legal against an order issued in compliance of Apex Court order.
- 12. Incorrect, the departmental appeal of the appellant was illegal, unlawful, against the Apex Court orders and norms of justice hence could not be considered. Further the instant Service Appeal is liable to be dismissed on following Grounds.

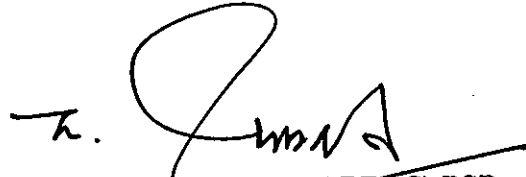
**GROUND:-**

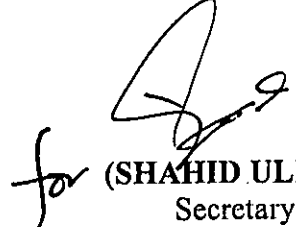
- A. Incorrect, non-consideration of the appellant for promotion is legal in accordance with law/ rules and Apex Court judgments reported as 2013 SCMR 1752 & 2015 SCMR 456.
- B. Incorrect, the acts of respondent department are in accordance with principles of natural justice.
- C. Incorrect, as already explained above in detail in Paras No. 4 to 9 of Facts.
- D. Incorrect, the permanent absorption in wake of Inter-provincial transfer has been declared unconstitutional, unislamic, void ab-initio and null by the Hon'ble Apex Court reported as 2013 SCMR 1752 & 2015 SCMR 456. Such absorption infringed the rights of eligible personnel and deprived them from their fundamental rights.
- E. Incorrect as already explained in preceding Para.
- F. Incorrect, such absorption in wake of Inter-Provincial transfer was in violation of Apex Court judgments reported as 2013 SCMR 1752 & 2015 SCMR 456.
- G. Incorrect, as already explained in detail in preceding Paras.
- H. Incorrect, no violation of law exist on part of respondent department. Furthermore, the respondent department implemented the judgments of Hon'ble Apex Court reported as 2013 SCMR 1752 & 2015 SCMR 456.
- I. Incorrect, there is no linkage of the departmental enquiry and PER in instant case.
- J. Incorrect, the appellant was not entitled for promotion as per judgments of Hon'ble Apex Court reported as 2013 SCMR 1752 & 2015 SCMR 456.
- K. Incorrect, the appellant was not eligible for promotion as per compliance of judgments of Apex Court of Pakistan reported as 2013 SCMR 1752 & 2015 SCMR 456.
- L. Incorrect, the lien of officer always intact in district/ unit/ province initially he appointed. Hence, on this score, the lien of the appellant was in his parent province.
- M. Incorrect, the appellant has neither been discriminated by the respondent department nor any violation of constitution exists on part of respondent department.
- N. Incorrect, the respondents have not violated the fundamental and constitutional rights of petitioner.
- O. Incorrect, the respondent department acted in accordance with law/ rules and Apex Court judgments explained hereinabove.
- P. Incorrect, the actions of respondents are quite in accordance with legal ground.
- Q. Incorrect, the appellant is blaming respondent department. The appellant is concealing real facts from this Hon'ble Tribunal.
- R. Incorrect, no Article of Constitution has been violated by the respondent department.
- S. The respondents department also seeks permission to raise additional grounds at the time of arguments.

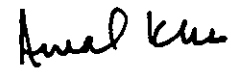
PRAYERS


Keeping in-view above narrated facts, circumstances, the instant writ petition may kindly be dismissed, being devoid of merits, not maintainable and barred by law, with costs, please.

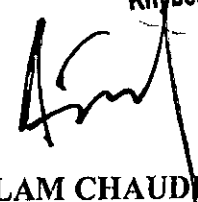
  
**RIZWAN MANZOOR) PSP**  
Deputy Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 07)

  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 5)

  
**(SHAHID ULLAH)**  
Secretary,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Peshawar  
(Respondent No. 3)

  
**(AWAL KHAN) PSP**  
Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 06)

  
**(MUHAMMAD ABID MAJEED)**  
Secretary,  
Government of Khyber Pakhtunkhwa,  
Home & TAs Department, Peshawar  
(Respondent No. 2)

  
**NADEEM ASLAM CHAUDHRY**  
Chief Secretary,  
Government of Khyber Pakhtunkhwa  
Peshawar  
(Respondent No. 1)

**Additional Chief Secretary  
Home & T.As Department  
Khyber Pakhtunkhwa.**

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Service Appeal No. 309/2023

Waqar Ahmed .....(Appellant)


**VERSUS**


The Government of Khyber Pakhtunkhwa, etc.....(Respondents)

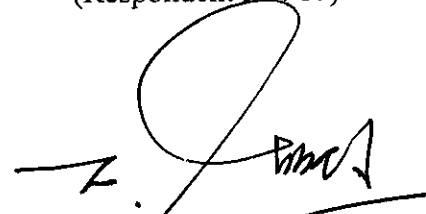
**AFFIDAVIT**


We, Respondents No. 1 to 3 & 5 to 7 do hereby solemnly affirm on oath that the contents of accompanying Reply to the Service Appeal are correct to the best our knowledge and belief. Nothing has been concealed from this Honorable Tribunal.


It is further stated on oath that in this Service Appeal, the answering respondents have neither been placed ex-parte nor their defense is struck off.


  
**(RIZWAN MANZOOR) PSP**  
Deputy Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 07)

  
**(AWAL KHAN) PSP**  
Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 06)

  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 5)

  
**(MUHAMMAD ABID MAJEED)**  
Secretary,  
Government of Khyber Pakhtunkhwa,  
Home & TAs Department, Peshawar  
(Respondent No. 2)  
**Additional Chief Secretary**  
**Home & T.As Department**  
**Khyber Pakhtunkhwa.**

  
**(SHAHID ULLAH)**  
Secretary,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Peshawar  
(Respondent No. 3)

  
**NADEEM ASLAM CHAUDHRY**  
Chief Secretary,  
Government of Khyber Pakhtunkhwa  
Peshawar  
(Respondent No. 1)



**BEFORE THE HONORABLE KP SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 309/2023

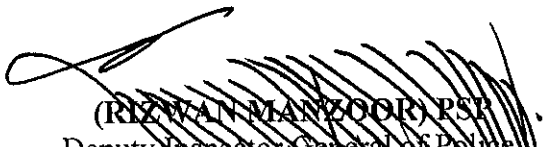
Waqar Ahmed .....(Appellant)

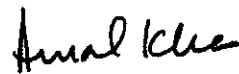
VERSUS

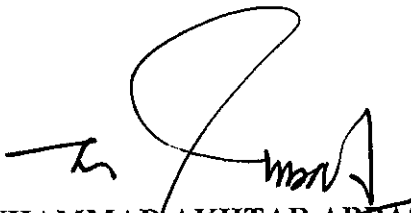
The Government of Khyber Pakhtunkhwa, etc.....(Respondents)


**AUTHORITY LETTER**

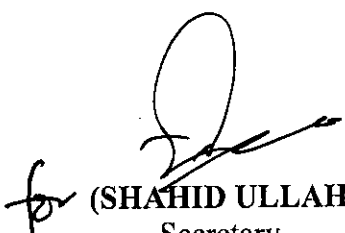
Mr. Faheem Khan DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments/ reply in the instant Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant case on behalf of respondents.


  
**(RIZWAN MANZOOR) PSP**  
Deputy Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 07)

  
**(AWAL KHAN) PSP**  
Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 06)

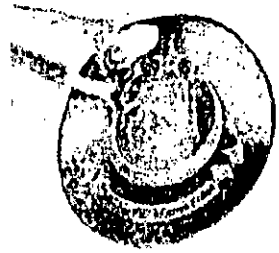
  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 5)

  
**(MUHAMMAD ABID MAJEED)**  
Secretary,  
Government of Khyber Pakhtunkhwa,  
Home & TAs Department, Peshawar  
(Respondent No. 4)  
**Additional Chief Secretary**  
**Home & T.As Department**  
**Khyber Pakhtunkhwa.**

  
**(SHAHID ULLAH)**  
Secretary,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Peshawar  
(Respondent No. 3)

  
**NADEEM ASLAM CHAUDHRY**  
Chief Secretary,  
Government of Khyber Pakhtunkhwa  
Peshawar  
(Respondent No. 1)

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



No. CPO/CPB/DSB/ 284 Dated Peshawar 23 October, 2023

To : The Additional Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Home & TAs Department,  
Peshawar.

Subject: SUMMARY OF PROMOTION OF DSsP BS-17 TO THE RANK OF SsP  
BS-18 ON REGULAR BASIS FOR APPROVAL OF HONORABLE CHIEF  
MINISTER KHYBER PAKHTUNKHWA

Memo:

Kindly find enclosed herewith Summary on the subject cited above for onward submission to the Honourable Chief Minister, Khyber Pakhtunkhwa please.

Encls: As Above:

*(Signature)*  
(RIZWAN MANZOOR) PSP  
DIG, Headquarters,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

Endst: No. and dated even

Copy of above is forwarded to the PSO to Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for information.

*Attested*  
*(Signature)*