

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 158/2012

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KAHAN ... MEMBER (E)

Amir Muhammad Khan Inspector, I/C Security, M.P.As Hostel, Peshawar.  
.... (Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
  2. Capital City Police Officer, Peshawar
- .... (Respondents)

Mr. Yasir Saleem  
Advocate ... For appellant

Mr. Muhammad Jan  
District Attorney ... For respondents

Date of Institution.....30.01.2012  
Date of Hearing.....30.11.2023  
Date of Decision.....30.11.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“On acceptance of this service appeal the respondents may please be directed to allow consequential promotion to the post of D.S.P BPS-17, w.e.f 30-06-2011 when his colleagues/juniors were promoted with all back benefits.”**

2. Brief facts of the case, as given in the memorandum of appeal, are that appellant joined the Police Department as selectee of the Khyber Pakhtunkhwa Public Service Commission and appointed as Assistant Sub Inspector, was promoted to the post of Sub-Inspector. Due to adverse remarks appellant was not promoted to the post of officiating Inspector (BPS-16). Feeling aggrieved, he filed service appeal, which was allowed vide order dated 07.10.2006 and the adverse entries were expunged. Appellant was also awarded major penalty of

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reduction to a lower stage vide order dated 08.08.2005, which he challenged in service No. 896/2005 which was allowed vide order dated 22.11.2006 and he was restored to his original position i.e Sub-Inspector with all back benefits. Vide notification dated 30.06.2011 juniors to the appellant were promoted to the post of DSP (BPS-17), feeling aggrieved, he filed departmental appeal, which was not responded to, hence, the present service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and thus his rights secured and guaranteed under the law and constitution were badly violated. He further argued that the appellant was allowed his seniority alongwith his colleagues, therefore, he is entitled to promotion w.e.f the date when his juniors/colleagues were promoted. He submitted that seniority is an invaluable terms and condition and cannot be interfered without valid and just cause circulation of final combined seniority list on the direction of the apex court was not a perfunctory ritual without consequential benefits. Rights which have accrued as a result of the combined seniority list cannot be denied to the appellants. The appellants are entitled to all the service benefits including Selection Grade and promotion on the basis of seniority. Lastly he submitted that appellant is fit, eligible and senior most however, not considering him for promotion was against the law. He, therefore, requested that instant appeal might be accepted as prayed for. Reliance is placed on 2009 SCMR P. 296.

5. Learned District Attorney contended that the appellant has been treated in accordance with law and rules. He further contended that the



appellant was well aware of the fact that his ACR for the year 2003 has been reported adverse by the reporting officer due to which appellant was deferred for promotion. He further contended that appellant has been promoted to the rank of DSP (BPS-17) vide notification dated 19.03.2012 by the Departmental Selection Committee in its meeting held on 17.12.2011.

6. Perusal of record reveals that pursuant to his selection by the Khyber Pakhtunkhwa Public Service Commission, the appellant was appointed as ASI. Due to his spotless service he gained rapid promotion and was promoted as S.I. During course of his service he was brought on list "F" after recommendation by the DSC. While serving in the said capacity, cases of promotion were referred to the DPC for consideration to the post of officiating Inspector. The appellant being senior most in the list "F" was eligible and fit, however, when vide order dated 14.10.2004 the notification for promotion was issued, but appellant failed to find his name amongst the promotees. The appellant enquired about his non-promotion to the post of Inspector, he was informed that he was reported for the year 2003, though same was never conveyed to the appellant. Against which appellant filed service appeal bearing No.65/2005 which was accepted vide order dated 07/10/2006 by this tribunal and adverse remarks were expunged. Appellant was awarded major punishment of reduction in to rank of ASI from S.I vide order dated 08/08/2005 which was also challenged in service appeal No.896/2005 by the appellant which was accepted by this tribunal on 22.11.2016. The appellant was restored to the rank of Sub-Inspector. Then appellant filed application on 31.05.2011 to CCPO Peshawar for placing his name at its original due position below Amir Shehzad, S.I and above Jehanzeb, S.I. at list "F".




7. For grant of promotion from the date upon which his colleagues and

juniors were promoted. He was placed at his due place and position in seniority list 'F', but vide notification dated 30.06.2011 colleagues and juniors to the appellant were promoted by ignoring appellant. Appellant again filed departmental appeal to the PPO on 29.09.2011 for grant of confirmation in the rank of Inspector & promotion as per seniority in list 'F' as is allowed to his colleagues/juniors vide notification dated 30/06/2011 because inspector Jehanzeb, whose name was below at serial No.24 and Amir Shehzad, whose name was above appellant at serial No.23 were promoted vide above mentioned order. Appellant was although promoted as DSP (BS-17) during period of the appeal vide order dated 19/03/2012 but with immediate effect.

8. It is admitted position on record that appellant was at list 'F' above Mr. Jehanzeb and below Mr. Amir Shehzad when departmental proceeding was initiated against him which give rise to litigation. Litigation ended in favour of appellant with direction to place his name in between above mentioned two Inspectors by this tribunal, order of this tribunal was also implemented by respondents themselves vide order dated 17.09.2011. So it is demand of justice that appellant be also given promotion from the date when his colleagues and juniors were i.e. Inspector Jehanzeb and Amir Shehzad were promoted i.e. 30.06.2011.

9. For what has been discussed above, we accept the appeal in hand as prayed for. Costs shall follow the event. Consign.

10. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 30<sup>th</sup> day of November, 2023.*

  
(MUAHAMMAD AKBAR KHAN)  
Member (M)

  
(RASHIDA BANO)  
Member (J)