

09.05.2019

Clerk of counsel for the appellant present and requested for adjournment. Adjourned to 26.06.2019 for preliminary hearing before S.B.



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

26.06.2019

Learned counsel for the appellant present and seeks adjournment Adjourn. To come up for preliminary hearing on 22.07.2019 before S.B.



Member

22.07.2019

Nemo for appellant.

On 26.06.2019 learned counsel for the appellant appeared and requested for adjournment which was granted. Today no one is present on behalf of the appellant despite that case has been called more than once.

Dismissed for non-prosecution. File be consigned to the record room.






Chairman

Announced:  
22.07.2019

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 392/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/03/2019	<p>The appeal of Mr. Muhammad Tahir presented today by Mr. Zartaj Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 21/3/19</p>
2-	29/03/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/04/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	08.04.2019	<p>Nemo for appellant.</p> <p>Notice to appellant/counsel be issued for 09.05.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

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

Appeal No. 392 /2019

Muhammad Tahir, ASI No.757/P CCP Peshawar,  
Khyber Pakhtunkhwa

.....(Appellant)

**V E R S U S**

Govt of Khyber Pakhtunkhwa through Chief  
Secretary, Civil Secretariat, Peshawar and others

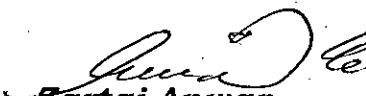
.....Respondents

**I N D E X**

S#	Description of Documents	Annex	Pages
1.	Service Appeal with Affidavit		1-5
2.	Addresses of parties		6
3.	Copy of the Rules	<b>A</b>	7-12
4.	Copy of the Writ petition and judgment dated 13.05.2015	<b>B</b>	13-16
5.	<b>Copy of the Notification dated 24.07.2015</b>	<b>C</b>	17-20
6.	<b>Copies of the letter dated 31.08.2015 and notification dated 04.09.2015</b>	<b>D&amp;E</b>	21-22
7.	Copy of the writ petition and judgment dated 24.11.2015	<b>F&amp;G</b>	23-47
8.	Copy of the writ petition judgment dated 26.01.2018	<b>H</b>	48
9.			

*M-Tahir*  
Appellant

Through

  
**Zartaj Anwar**  
Advocate, High Court  
Cell#03

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

Appeal No. 392/2019

Muhammad Tahir, ASI No. 757/P CCP Peshawar, Khyber  
Pakhtunkhwa.

(Appellant)

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 377

Dated 21-3-2019

VERSUS

1. Govt of Khyber Pakhtunkhwa through chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. A.I.G/ Establishment central Police Office, Peshawar.
4. D.I.G Headquarters, Khyber Pakhtunkhwa Peshawar.
5. Capital City Police Officer, Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 04.09.2015, whereby the promotion notification dated 24.07.2015, of the appellant has been cancelled / withdrawn, against which his Departmental appeal has not been responded despite the lapse of 90 days Statutory Period.

Filed to-day  
Registrar  
21/3/19

Prayer in Appeal: -

On acceptance of this appeal the order dated 04.09.2015, may please be set-aside and the appellant may be allow to continue his duties as Sub inspector as duly considered and promoted by the competent authority by full filling all the legal and codal formalities vide order dated 24.07.2015 which was also publish in the official Gazette, the appellant may also be held entitled for full consequential and back benefits of service.

**Respectfully Submitted:**

1. That the appellant was initially enlisted as PASi in the Police department and are the regular employee of Khyber Pakhtunkhwa police under the administration control of the Capital City Police, Peshawar.
2. That ever since his appointment, the appellant had performed his duties as assigned to him with zeal and devotion and there was no complaint whatsoever regarding his performance. It is pertinent to mention here that during the entire service, the performance of the appellant remained commendable, he traced and arrested criminals who were required to the Police in some high profile cases, besides this during the roar of militancy, he always remained in the front line against the militants and demonstrated exceptional performance, gallantry and devotion beyond the call of duty. His performance was also appreciated by the High Ups.
3. That there are two categories of police officers performing duties, the first category consists of the police officers promoted from the rank of constable and reached to the status of confirmed ASI of police, while the second category are the police officers who were directly appointed as probationer ASI through Public Service Commission.
4. That Chapter XIII of Police Rules, 1934 deal with the promotion of the police officers from one rank to the other. Rule XIII (10) deals with the promotion to the post of Sub inspector. Similarly under Rule XIII (10) list (E) is prepared consisting of confirmed ASI, who were consider eligible for promotion to the posts of Sub inspector. (Copy of the rules are attached as annexure A)
5. That some of the employees of the police department filed writ petition no 3652/2014, wherein they have sought directions to the respondents to finalize the seniority list of direct / promotee assistant sub inspectors. The writ petition was disposed off vide judgment and order dated 13.05.2015. (Copies of the writ petition and judgment dated 13.05.2015 are attached as annexure B)

6. That the appellant was considered and placed at the top of the seniority list and thus was eligible to be promoted to the post of Sub inspector.
7. That the name of the appellant along with other colleagues were placed before the Departmental Promotion Committee for promotion to the rank of officiating Sub inspector, the Departmental Promotion Committee in its meeting held on 17.07.2015 considered them and when found fit were recommended for promotion vide notification dated 24.07.2015 with immediate effect. (Copy of the notification dated 24.307.2015 are attached as annexure C)
8. That the notification dated 24.07.2015 of the promotion of the appellant and other employees was duly implemented and has taken its effect.
9. That it is pertinent to mention that there are no separate promotion rules in the different branches of the police department, throughout the officers from regular police are transferred to Traffic Branch etc. However the respondents vide letter dated 31.08.2015 while referring to minutes of the meeting of the 18<sup>th</sup> Police Policy Board meeting held on 13.08.2015 it was directed that the promotions of Sun inspectors should be immediately cancelled allegedly that these seat/ post belong to Traffic Wardens. Accordingly the respondents quite illegally and without lawful authority cancelled vide notification dated 04.09.2015 the promotion notification dated 24.07.2015 of the appellant as sub inspector. (copies of the letter dated 31.08.2015 and notification dated 04.09.2015 are attached as annexure D & E)
10. That the appellant along with other colleagues approached the Peshawar High Court Peshawar by filling Writ Petition No. 3113-P/2015 which was after hearing allowed by this Hon;able Court vide judgment and order dated 24.11.2015. (Copy of the writ petition and Judgment dated 24.11.2015 are attached as annexure F & G)
11. That the respondents filed C P. NO. 34-p/2016 before the August Supreme Court of Pakistan against the same Judgment which was allowed vide Judgment and order dated 26.01.2018 and the petition was converted to departmental appeal and was sent to the respondent department. (Copy of the Judgment dated 26.01.2018 are attached as annexure H)

12. That the writ petition was converted to departmental appeal on 26.01.2018 to the appellate authority, however it has not been responded despite the lapse of 90 days Statutory Period.
13. That the impugned Order/ notification dated 04.09.2015, is illegal unlawful against law and facts and without lawful authority, hence liable to be set aside inter alia on the following grounds :

GROUND S :

- A. That the appellant has not been treated in accordance with law and his rights secured and guaranteed under the law have been violated.
- B. That the appellant was fit and eligible, was rightly been promoted as sub inspector, the order whereby the promotion of the appellant has been cancelled is illegal unlawful without lawful authority and of no legal effect.
- C. That the letter dated 31.08.2015 is violative of the police rules 1934, therefore no separate promotion rules in the traffic branch of the police department, therefore, cancelling the promotion of the appellant allegedly on the ground that these post belong to the traffic warden, is illegal and against the record.
- D. That the letter dated 31.08.2015 is self contradictory, that at present traffic branch has not been declare as separate cadre in the police department, similarly the respondents have yet to frame rules for forming separate rules for the traffic wardens.
- E. That the appellant has not provided with right of hearing before cancelling the promotion orders.
- F. That the law provides a separate mode for withdrawing the promotion of the regular employee as instant case no such mode has been adopted, therefore, order cancelling the promotion of the appellant is legally not sustainable.
- G. That the appellant seeks the permission of this Honorable Court

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It is therefore prayed that on acceptance of this service appeal the order dated 04.09.2015, may please be set-aside and the appellant may be allow to continue his duties as Sub inspector as duly considered and promoted by the competent authority by full filling all the legal and codal formalities vide order dated 24.07.2015 which was also publish in the official Gazette, the appellant may also be held entitled for full consequential and back benefits of service.

M. Tahir  
Appellant

Through

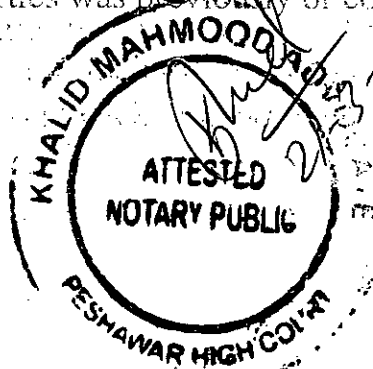
ZARTAJ ANWAR  
Advocate Peshawar

AFFIDAVIT

I, Muhammad Tahir, ASI No. 757/P CCP Peshawar, Khyber Pakhtunkhwa, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare that the contents of the above Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honorable Court.

M. Tahir  
Deponent

Certified that no service appeal on the same subject and between the same parties was previously or concurrently filed.



M. Tahir  
Appellant



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

Appeal No. \_\_\_\_\_/2019

Muhammad Tahir, ASI No.757/P CCP Peshawar,  
Khyber Pakhtunkhwa  
.....(**Appellant**)

**V E R S U S**

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

**ADDRESSES OF PARTIES**

**APPELLANT:-**

Muhammad Tahir, ASI No.757/P CCP Peshawar,  
Khyber Pakhtunkhwa

**R E S P O N D E N T S**

1. Govt of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. A.I.G Establishment Central Police Officer, Peshawar.
4. D.I.G Headquarters, Khyber Pakhtunkhwa, Peshawar.
5. Capital City Police Officer, Peshawar.

*M. Tahir*  
Appellant

Through

*Zartaj Anwar*  
Zartaj Anwar

Advocate, High Court

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No. 352/2014

1. Abdus Sattar B. No. 746/P ASI, CCP, Peshawar.
2. Fazal Hadi No. 747/P ASI, CCP, Peshawar.
3. Manzoor Khan. 748/ASI Opertalon Room, CPO, Peshawar.
4. Tahir Ali Khan No. 749/P ASI, Charsadda.
5. Bismillah Jan No. 750/P ASI, Charsadda.
6. Imran Ullah No. 751/P ASI, Charsadda.
7. Wisal Khan No. 753/P ASI, Nowshera.
8. Muhammad Arif Khan No. 754/P ASI, CCP, Peshawar.
9. Muhammad Umer No. 755/P ASI, CCP, Peshawar.
10. Masood Khan No. 756/P ASI, INvigation Wing, Peshawar.
11. Muhammad Tahir5 No. 757/P ASI, AIG Legal, CPO, Peshawar.
12. Aftab Khan NO. 758/P ASI, AIG Legal, Peshawar.
13. Rehmat Ullah No. 759/P ASI, Charsadda.
14. Afzal Gul No. 760/P ASI, CCP, Peshawar.
15. Riab Ahmed No. 761/P ASI, CCP, Peshawar.
16. Afzal Khan No. 766/P ASI, CCP, Peshawar.
17. Ihsan Ullah No. 767/P ASI, CCP, Peshawar.
18. Naveed Gul No. 768/P ASI, Charsadda.
19. Bahar Ali No. 769/P ASI, Charsadda.
20. Muhammad ARshad No: 770/P ASI, CCP, Peshawar.
21. Asif Khan No. 771/P ASI, Charsadda.
22. Muhammad Rafiq 772/P ASI, CCP, Peshawar.
23. Tehsin Ullah No. 773/P ASI, CCP, Peshawar.

ATTESTED  
EXAMINER  
Peshawar High Court  
18 MAY 2015

*[Signature]*  
08 DEC 2014

*[Signature]*

- 24. Lalq Zada 774/P ASI, CCP, Peshawar.
- 25. Irfan Ullah No. 776/P ASI, Charsadda.
- 26. Wajid Khan No. 777/P ASI, CCP, Peshawar..
- 27. Akhter Hussain No. 778/P ASI, CCP, Peshawar.
- 28. Alzaz Alam Khan Khalil No. 783/P ASI, CCP, Peshawar.
- 29. Imtiaz Ahmed No. 784/P ASI, CCP, Peshawar.
- 30. Asif Ali Khan No. 785/P ASI, CCP, Peshawar.
- 31. Saleem Khan No. 786/P ASI, CCP, Peshawar.
- 32. Inam Ullah No. 787/P ASI, CCP, Peshawar.
- 33. Muhmmad Asif Khan No. 788/P ASI, CCP, Peshawar.
- 34. Ayub Khan No. 789/P ASI, CCP, Peshawar.
- 35. Qazi Muhmmad Arif No. 790/P ASI, CCP, Peshawar.
- 36. Mumtaz Khan No. 791/P ASI, CCP, Peshawar.
- 37. Bilal Hussain No. 792/P ASI, CCP, Peshawar.
- 38. Abdullah Jalal Khan No. 793/P ASI, CCP, Peshawar.
- 39. Muhmmad Mubarak Zaib Gul No. 794/P ASI, CCP, Peshawar.
- 40. Saeed Jan No. 795/P ASI, CCP, Peshawar.
- 41. Muhammad Ishfaq No. 796/ P ASI, Charsadda.
- 42. Ahmed Ullah Khan No. 797/P ASI, CCP, Peshawar.
- 43. Muhammad Waqas Yousuf No. 798/P ASI, Nowshera.
- 44. Muhammad Ayaz No. 799/P ASI, Nowshera.
- 45. Maroon Rashid No. 800/P ASI, CCP, Peshawar.
- 46. Adil Sayed No. 801/P ASI, Nowshera.
- 47. Syed Asgher Khan No. 802/P ASI, Nowshera.
- 48. Noman Knan No. 803/P ASI, CCP, Peshawar. . . . . Petitioners

Versus

- 1. Chief Capital City Police Officer, KP, Peshawar

ATTESTED  
 EXAMINER  
 Peshawar High Cour  
 18 MAY 2015

FILED TO  
 Deputy Regi  
 03 DEC 2

*Attest*

15

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

W.P. No. 3652 of 2014

JUDGMENT

Date of hearing 13-5-2015

Petitioners: Abdul Ghaffar Khan & Mrs Saadia Perveen Khan  
vs Shahabuddin Khan & Advocate  
Respondent: C.C. Babu & Mr. Raza Khan A.A.G.

\*\*\*\*\*

NISAR HUSSAIN KHAN, J. - Petitioners seek issuance of an

appropriate writ directing the authority to finalize seniority list of the direct/promotee Assistant Sub Inspectors and then promotion to the rank of Sub Inspectors be made on the basis of seniority-cum-fitness.

2. In essence grievance of petitioners is that they were directly appointed as Assistant Sub Inspectors through prescribed procedure of Selection on the recommendation of the Public Service Commission in the year 2010 and later on confirmed on 13.8.2014 on completion of probationary period. At the same time, there are promotee Assistant Sub Inspectors. Petitioners are legitimately

RECEIVED  
EXAMINED  
10 MAY 2015

*[Handwritten signature]*

expecting their promotion according to the seniority list which has not been prepared as yet while meeting of the Departmental Promotion Committee is scheduled to be held in near future but in the absence of seniority list, petitioners would be deprived of their consideration.

3. Respondents in their comments have contradicted the stance of petitioners on factual and legal planes. However, on the preceding date, respondents through learned AAG were directed to finalize the seniority list and provide the same before the Court. Today, the seniority list attested by DSP (Legal) CCP, Peshawar, has been furnished, in view of which petitioners' grievance has been redressed. Respondents shall circulate the said seniority list amongst all the ASIs on which they may take legal course, if they have any grievance and thereafter may approach the proper forum against any final order. This petition is disposed of accordingly.

*Caf Nisar Husain Khan*

JUDGE

Announced on  
15th May, 2015.

*Caf Wajid Ali Sethi*  
JUDGE

CERTIFIED TO BE TRUE COPY

Peshawar High Court, Peshawar  
10 MAY 2015

22506  
Number of Application *12/15*  
Number of Copy *12/15*  
Delivery *12/15*  
Number of Copy *12/15*

*[Handwritten signature]*

POLICE DEPTT:

FOR PUBLICATION IN THE KHYBER PAKH, TUNKHWA, POLICE  
ORDERS BY THE CAPITAL CITY POLICE OFFICER, KHYBER PAKHTUN

NOTIFICATION

Dated 24/11/11

No. 3685/EC-1, PROMOTION TO THE RANK OF OFFICER SI:- As approved  
Promotion Committee meeting held on 07-07-2011 the following Confirmed  
City Police, Peshawar are hereby promoted to the rank of Officer Sub-Inspectors

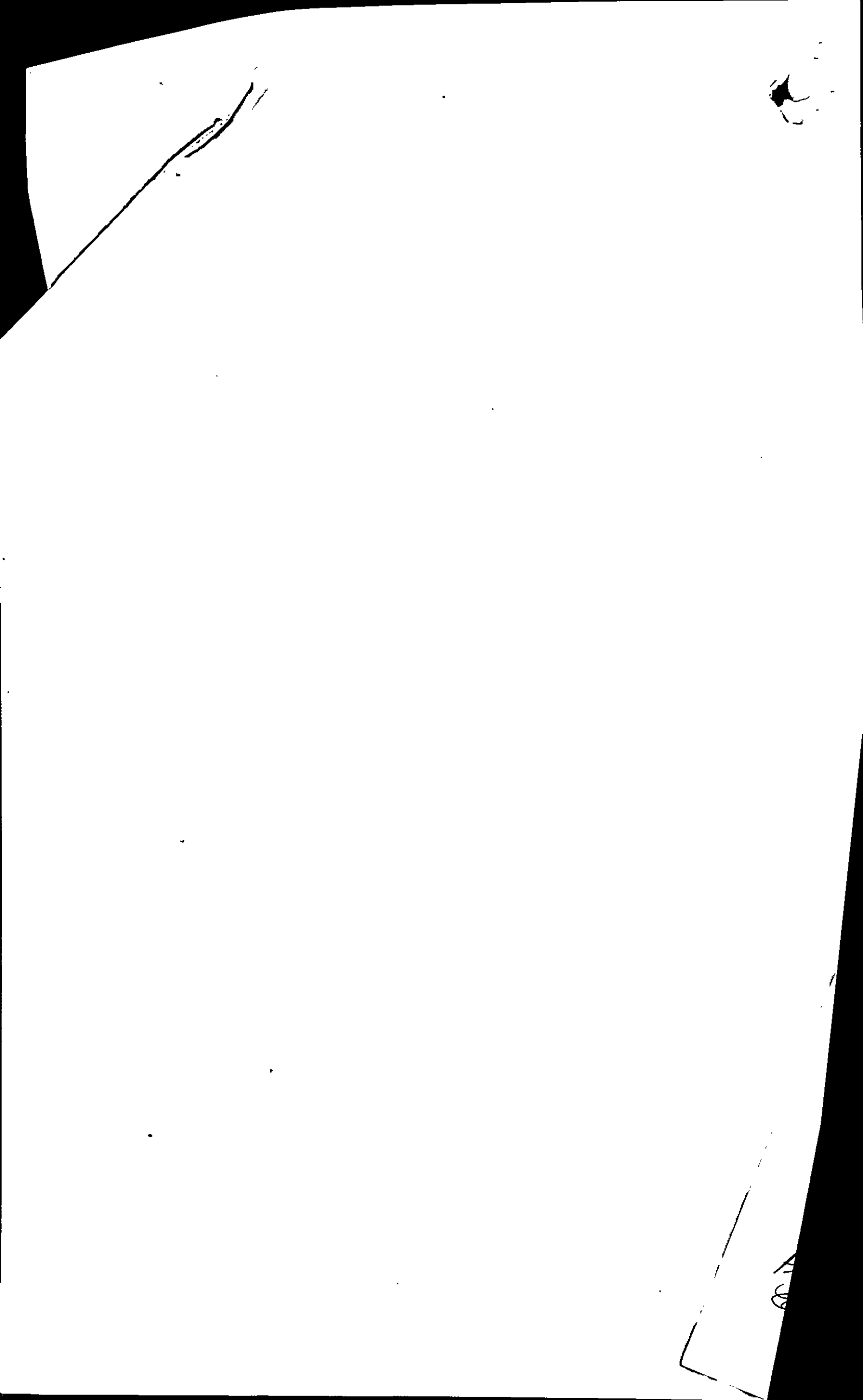
Their promotion will take effect from the date they actually  
charge of their higher responsibilities at their new place of posting.

S#	Rank, Name & No.	Place of Posting.
1.	ASI Muhammad Israr No.506/NSR	CTD KPK
2.	ASI Muhammad Sher No.1561	CCP, Peshawar
3.	ASI Bahar Ahmad No. 1129/P	Charsadda/Upper College Course
4.	ASI Jamshid Khan No. 1163/P	Nowshera/Upper College Course
5.	ASI Inayat ur Rehman No. 1168/P	Nowshera
6.	ASI Muhammad Alam No. 1181/P	Nowshera
7.	ASI Masood Jan No. 584/P	Charsadda
8.	ASI Hidayat Ullah No. 1148/P	Charsadda
9.	ASI Murad Ali No. 1329/P	Charsadda
10.	ASI Muhammad Iqbal No.1218/P	CCP, Peshawar
11.	ASI Muhammad Gul No.1219/P	Special Branch
12.	ASI Sartaj No. 12/P	CCP, Peshawar
13.	ASI Ghulam Hussain No.1221/P	Special Branch
14.	ASI Hayat Gul No.1222/P	Special Branch
15.	ASI Humayun Khan No.1223/P	Traffic, Peshawar
16.	ASI Fida Muhammad No.1224/P	CCP, Peshawar
17.	ASI Subhan Ullah No.1225/P	Traffic, Peshawar
18.	ASI Khalid Khan No. 1227/P	CCP, Peshawar
19.	ASI Hamid Rauf/Khan No.1228/P	Special Branch
20.	ASI Sartaj Khan No.1229/P	CCP, Peshawar
21.	ASI Wasif ur Rehman No.1230/P	Traffic, Peshawar
22.	ASI Sardar Hussain No.1231/P	CTD KPK
23.	ASI Farid Khan No.1232/P	CCP, Peshawar
24.	ASI Tehseen Ullah No.1233/P	CCP, Peshawar
25.	ASI Yasin Gul No.1224/P	Traffic, Peshawar
26.	ASI Atta Ullah No.3/P. SI on ACB.	Reader SSP/Opt:
27.	ASI Sajjad Ahmed No.1236/P	CCP, Peshawar
28.	ASI Wajid Ali No.1237/P	CCP, Peshawar
29.	ASI Khial Muhammad No.1238/P	Anti-corruption
30.	ASI Jawad Hussain No.1240/P	Islamabad Police
31.	ASI Rikhmeen No.1239/P	CCP, Peshawar
32.	ASI Jehan Zeb No.1241/P	Special Branch
33.	ASI Abdul Wali No.1242/P	Traffic, Peshawar
34.	ASI Nowsherawan No.1243/P	CCP, Peshawar
35.	ASI Zahir Shah No.1244/P	CCP, Peshawar
36.	ASI Momin Shah No.1245/P	Traffic, Peshawar
37.	ASI Yahya Jan No.1246/P	Traffic, Peshawar
38.	ASI Saif Ullah No.1247/P	CCP, Peshawar

Notification

39.	ASI Iftikhar Ahmed No. 1246/P	CCP, Peshawar
40.	ASI Ijaz Ullah No. 1249/P	CCP, Peshawar
41.	ASI Noor Saheed No. 1251/P	CCP, Peshawar
42.	ASI Muhammad Riz No. 1252/P	CCP, Peshawar
43.	ASI Haji Rehman No. 1253/P	CCP, Peshawar
44.	ASI Siraj No. 1254/P	Traffic, Peshawar
45.	ASI Nasim Akbar No. 1255/P	CCP/ Traffic, Peshawar
46.	ASI Qaim Khan No. 1256/P	CCP, Peshawar
47.	ASI Bakht Muhr No. 1257/P	CCP, Peshawar
48.	ASI Shamshad Ali No. 1258/P	CCP, Peshawar
49.	ASI Gul Muhammad No. 1259/P	CCP, Peshawar
50.	ASI Qayyum Dad No. 1260/P	CCP, Peshawar
51.	ASI Khalid Khan No. 1261/P	CCP, Peshawar
52.	ASI Jehangir Khan No. 1262	Special Branch
53.	ASI Sher Alam No. 1263/P	CCP/Traffic Peshawar
54.	ASI Ihsan ul Haq No. 1264/P	Traffic, Peshawar
55.	ASI Hashmat Khan No. 1265/P	CCP, Peshawar
56.	ASI Wajid Ali No. 413	Elite Force KPK
57.	ASI Muslim Khan No. 1266/P	Traffic, Peshawar
58.	ASI Nasir ur Rehman No. 1267/P	CCP, Peshawar
59.	ASI Tariq Niaz No. 1268/P	CCP, Peshawar
60.	ASI Aurang Zeb No. 1269/P	CCP, Peshawar
61.	ASI Gul Jalal No. 1270/P	CCP, Peshawar
62.	ASI Javid Akhtar No. 1271/P	Traffic, Peshawar
63.	ASI Tilla Muhammad No. 1272/P	Special Branch
64.	ASI Falak Taj No. 1273/P	CCP, Peshawar
65.	ASI Murad Ali No. 1274/P	CCP, Peshawar
66.	ASI Sajjad Ali No. 1275/P	CCP, Peshawar
67.	ASI Khan Muhammad No. 1276/P	CCP, Peshawar
68.	ASI Bakhtiar Khan No. 1276/P	CCP, Peshawar
69.	ASI Shaukat Khan No. 1280/P	CCP, Peshawar
70.	ASI Mukhtiar No. 1281/P	CCP, Peshawar
71.	ASI Mushtaq No. 1282/P	CCP, Peshawar
72.	ASI Mukamil Shah No. 1283/P	CCP, Peshawar
73.	ASI Muhammad Tariq No. 1284/P	CCP, Peshawar
74.	ASI Jamshaid No. 1285/P	CCP, Peshawar
75.	ASI Shakir Ullah No. 1286/P	CCP, Peshawar
76.	ASI Sultan Sher No. 1287/P	CCP, Peshawar
77.	ASI Bakht Saeed No. 1288/P	CCP, Peshawar
78.	ASI Jan Badshah No. 1289/P	Special Branch
79.	ASI Shakar Ghayas No. 1290/P	CCP, Peshawar
80.	ASI Shahid Rehman No. 1291/P	Motorway Police
81.	ASI Javed Khan No. 1292/P	CCP, Peshawar
82.	ASI Lalq Shah No. 1293/P	CCP, Peshawar
83.	ASI Zulfiqar No. 1294/P	CCP, Peshawar
84.	ASI Hassan Ali No. 1295/P	CCP, Peshawar
85.	ASI Fazal Raziq No. 1296/P	CPO/Operation Room
86.	ASI Muhammad Saeed No. 1297/P	CTD KPK
87.	ASI Wali Khan No. 1298/P	CCP, Peshawar
88.	ASI Irfan Ullah No. 1299/P	CCP, Peshawar

Notification





89.	ASI S. Mir Abu-ul Hassan No.1300/P	CCP, Peshawar
90.	ASI Maaz Ullah No.1301/P	Traffic, Peshawar
91.	ASI Iftikhar Ali No.1302/P	Charsadda
92.	ASI Abdullah Jan No. 1303/P	PTC Hangu
93.	ASI Zulfiqar Ali No.1304/P	Traffic, Peshawar
94.	ASI Alamgir No. 1305/P	Traffic, Peshawar
95.	ASI Muhammad Usman No.956/ 1326/P	CCP, Peshawar
96.	ASI Shah Jehan No.1307/P	CCP, Peshawar
97.	ASI Iqbal Shah No.1308/P	CCP, Peshawar
98.	ASI Ajmal Khan No. 1309/P	CCP, Peshawar
99.	ASI Malook Jan No.1310/P	CCP, Peshawar
100.	ASI Muhammad Iqbal No.1311/P	Traffic, Peshawar
101.	ASI Munawar Khan No. 1313/P (SI on ACE)	Traffic, Peshawar
102.	ASI Farid Gul No. 1318/P	CCP, Peshawar
103.	ASI Misal Khan No.1319/P	CCP, Peshawar
104.	ASI Muhammad Aftab No. 1320/P	CCP, Peshawar
105.	ASI Ilyas Khan No. 1321/P	CCP, Peshawar
106.	ASI Muhammad Rizaz No. 1322/P	CCP, Peshawar
107.	ASI Muhammad Javed No. 1323/P	PTC Hangu
108.	ASI Qazi Nisar Ahmad No. 1325/P	CCP, Peshawar
109.	ASI Abdus Sattar No. 746/P	Elite Force KPK
110.	ASI Fazal Hadi No. 747/P	Elite Force KPK
111.	ASI Aftab Khan No. 756/P	AIG Legal:Branch CPO
112.	ASI Manzoor Khan No. 748/P	Operational Room CPO
113.	ASI Masood Khan No. 756/P	CCP, Peshawar
114.	ASI Muhammad Tahir No. 757/P	AIG Legal:Branch CPO
115.	ASI Muhammad Umer No. 755/P	CCP, Peshawar
116.	ASI Tahir Ali No. 749/P	Charsadda
117.	ASI Waseel Khan No. 753/P	Elite Force KPK
118.	ASI Afzal Gul No. 760/P	CCP, Peshawar
119.	ASI Bismillah Jan No. 750/P	Charsadda
120.	ASI Muhammad Arif No. 754/P	CCP, Peshawar
121.	ASI Imran Ullah No.751/P	Charsadda
122.	ASI Rehmat Ullah Jan No. 759/P	Charsadda
123.	ASI Rizwan Ahmad No. 761/P	CCP, Peshawar
124.	ASI Afzal Khan No.766/P	CCP, Peshawar
125.	ASI Ihsan Ullah No.767/P	CCP, Peshawar
126.	ASI Bahar Ali No.769/P	Charsadda
127.	ASI Muhammad Arshid No. 770/P	CCP, Peshawar
128.	ASI Asif Khan No.771/P	Charsadda
129.	ASI Muhammad Rafique No. 772/P	CCP, Peshawar
130.	ASI Lalq Zada No.774/P	CCP, Peshawar
131.	ASI Irfan Ullah No.776/P	Charsadda
132.	ASI Wajid Khan No.777/P	CCP, Peshawar
133.	ASI Akhtar Hussain No.778/P	CCP, Peshawar
134.	ASI Ahmad Ullah Khan No. 779/P	CCP, Peshawar
135.	ASI Abdullah Jalal Khan No. 793/P	CCP, Peshawar
136.	ASI Nauman Khan No. 803/P	CCP, Peshawar
137.	ASI M. Mubarak Zeb Gul No.794/P	CCP, Peshawar
138.	ASI Imtiaz Ahmad No. 784/P	CCP, Peshawar

Notification

Their posting will be issued separately.

The following ASIs have been deferred from promotion to the rank of offg: SIs reason mentioned against their names:-

S#	Rank, Name & No	Place of posting	Reason
1.	ASI Dawat Noor No. 1111/P (SI on ACB)	Traffic, Peshawar	Deferred from promotion to the rank of offg to non availability of ACR-2012/4 m.
2.	ASI Khalista Khan No.1279/P	CCP, Peshawar	Deferred from promotion to the rank of offg to non availability of ACR 2014.
3.	ASI Izzat Khan No.1306/P	Traffic, Peshawar	Deferred from promotion to the rank of offg to non availability of ACR 2014.
4.	ASI Naveed Gul No.768/P	Nowshera	Deferred from promotion to the rank of offg to non availability of ACR 2014 and also ab
5.	ASI Tehseen Ullah No.773/P	CCP, Peshawar	Deferred from promotion to the rank of offg to non availability of ACR 2014.

CAPITAL CITY POLICE OFFICER,  
PESHAWAR.

No. 13686463706 EC-I, dated Peshawar the, 24-7-2015.

the:-

Copy of above is forwarded for information and necessary action

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar. With request that the newly promoted Offg: SIs of CCP, Peshawar now deputation to the Districts/units mentioned against each may be repatriated to CCP, Peshawar for further posting at Traffic, Warder system please.
2. Inspector General of Police, NH & Motorway Police, Islamabad.
3. Addl: Inspector General of Police Investigation, KPK, Peshawar.
4. Addl: Inspector General of Police Special Branch, KPK, Peshawar.
5. Addl: Inspector General of Police Elite Force KPK, Peshawar.
6. Deputy Inspector General of Police CTD, KPK, Peshawar.
7. Deputy Inspector General of Police Mardan Region.
8. Commandant Police Training College Hangu.
9. Commandant CPC University Campus, Peshawar.
10. Director Anti Corruption Establishment KPK.
11. SSSP/Operations, Investigation & Traffic, Peshawar.
12. The Senior Superintendent of Police, Logistic Headquarter, Sector-H/11, Islamabad.
13. District Police Officers, Nowshera & Charsadda.
14. District Police Officers, Nowshera & Charsadda.
15. EC-II, PO & AS.

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

21  
ANNEX D

No. 2402 - E-III

dt. 31-08-015

To: Capital City Police Officer,  
Peshawar.

Subject: Minutes of the 18<sup>th</sup> Police Policy Board meeting held on 13<sup>th</sup> August 2015.

Please refer to Minutes of PPB-18, vide Endst No. 1598-1650/PA, dated 28.08.2015.

During the PPB meeting, it was unanimously agreed that a separate standing order may be issued for streamlining the affairs of Traffic Wardens that will address issues such as selection, computation, training and promotion etc. of Traffic Wardens. The Board decided that till permanent recruitment of traffic wardens, seats will be filled temporary appointments. However, they will not get promoted on the seats sanctioned for traffic wardens nor will they get seniority if they are posted on a senior rank in traffic warden. On repatriation to parent district they will be repatriated in their substantive ranks.

2. The Board took serious note of the recent promotions of SIs by CCPO on the posts of Traffic Wardens. They Board directed that since these seats belong to the traffic wardens, these promotions should be cancelled with immediate effect.

3. It is therefore, requested that action about Para-2 above of PPB may be taken forthwith and report be communicated to this office please.

(ASIF IQBAL MOMAND)  
AIG/Establishment  
For Provincial Police Officer,  
Khyber Pakhtunkhwa Peshawar.

No. 2403-4 /E-III  
Copy to the:-

DIG HQrs, Khyber Pakhtunkhwa, Peshawar.  
CC to ICP, Khyber Pakhtunkhwa, Peshawar.



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Ann

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OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR.

Phone No.091-9210641 Fax No.091-9212597

No. 16570

/EC-I, dated Peshawar the

04/1/2015

/2015.

ORDER.

In pursuance of 18<sup>th</sup> Police Policy Board Meeting held on 13.08.2015 duly approved by Inspector General of Police Khyber Pakhtunkhwa, Peshawar Issued vide DIG/HQrs: Letter Endst: No.1598-1650/PA/DIG/HQrs: dated 28.08.2015 & AIG Establishment, Khyber Pakhtunkhwa, Peshawar Letter No.2404/E-II, dated 31.08.2015, the promotion Notification of 139 promoted Offg: Sub-Inspectors Issued vide this office Notification No.13685-13706/EC-I, dated 24.07.2015 is hereby cancelled.

(Mubarak Zeb) PSp  
Capital city Police Officer,  
Peshawar.

No. 16571-94 /EC-I,

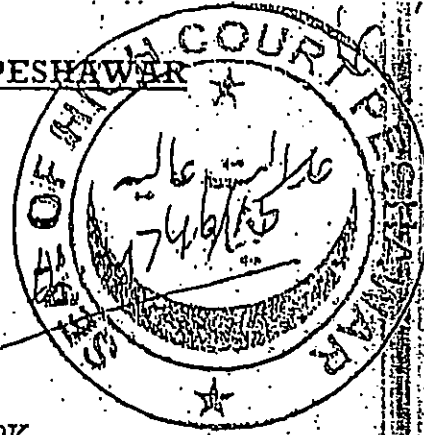
to the

Copy of above is forwarded for information and necessary action.

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Inspector General of Police, NH & Motorway Police, Islamabad.
3. Add: Inspector General of Police, Investigation KPK, Peshawar.
4. Add: Inspector General of Police, Special Branch KPK, Peshawar.
5. Add: Inspector General of Police, Elite Force KPK, Peshawar.
6. Deputy Inspector General of Police, CTD KPK, Peshawar.
7. Deputy Inspector General of Police, Mardan Region.
8. Commandant Police Training College Hangu.
9. Commandant CPC, University Campus, Peshawar.
10. Director Anti-Corruption Establishment KPK.
11. SSSP/Operation, Investigation & Traffic, Peshawar.
12. The Senior Superintendent of Police, Logistic Headquarter, Sector-H/11, Islamabad.
13. District Police Officers Charsadda & Nowshera.
14. EC-II, PO, AS CC & Computer Cell.

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4-9-15



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ARUNEF

P.No. 3113-P/2015

- Muhammad Shar, ASI No.506/NSR, CTD KPK.
- Muhammad Sher, ASI No.1561, CPP, Peshawar.
- Bahar Ahmad, ASI No.1129/P, Charsadda/ Upper College Course.
- Jamshid Khan, ASI No.1163/P, Nowshera/ Upper College Course.
- Inayat-ur-Rehman, ASI No.1168/P, Nowshera.
- Muhammad Alam, ASI No.1181/P, Nowshera.
- Masood Jan, ASI No.584/P, Charsadda
- Hidayat Ullah, ASI No.1148/P, Charsadda
- Murad Ali, ASI No.1329/P, Charsadda
- Muhammad Iqbal, ASI No.1218/P, CCP, Peshawar
- Muhammad Gul, ASI No.1219/P, Special Branch.
- Sartaj, ASI No.122/P, CCP, Peshawar
- Ghulam Hussain, ASI No.1221/P, Special Branch
- Hayat Gul, ASI No.1222/P, Special Branch
- Humayun Khan, ASI No.1223/P, Traffic, Peshawar
- Fida Muhammad, ASI No.1224/P, CCP, Peshawar
- Subhan Ullah, ASI No.1225/P, Traffic, Peshawar
- Khalid Khan, ASI No.1227/P, CCP, Peshawar
- Hamid Rauf Khan, ASI No.1228/P, Special Branch
- Sartaj Khan, ASI No.1229/P, CCP, Peshawar
- Wasif-ur-Rehman, ASI No.1230/P, Traffic, Peshawar
- Sardar Hussain, ASI No.1231/P, CTD KPK
- Farid Khan, ASI No.1232/P, CCP, Peshawar
- Tehseen Ullah, ASI No.1233/P, CCP, Peshawar

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20 DEC 2015

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- 25 Yasin Gul, ASI No.1224/P, Traffic, Peshawar
- 26 Atta Ullah, ASI No.3/P SI on ACB, Reader SSP/ Opt
- 27 Sajjad Ahmed, ASI No.1236/P, CCP, Peshawar
- 28 Wajid Ali, ASI No.1237/P, CCP, Peshawar
- 29 Khial Muhammad, ASI No.1238/P, Anti-corruption
- 30 Jawad Hussain, ASI No.1240/P, Islamabad Police
- 31 Rikhmeen, ASI No.1239/P, CCP, Peshawar
- 32 Jehan Zeb, ASI No.1241/P, Special Brach
- 33 Abdul Wali, ASI No.1242/P, Traffic, Peshawar
- 34 Nowsherawan, ASI No.1243/P, CCP, Peshawar
- 35 Zahir Shah, ASI No.1244/P, CCP Peshawar
- 36 Momin Shah, ASI No.1245/P, Traffic Peshawar
- 37 Yahya Jan, ASI No.1246/P, Traffic Peshawar
- 38 Saif Ullah, ASI No.1247/P, CCP, Peshawar
- 39 Mithhar Ahmed, ASI No.1248/P, CCP, Peshawar
- 40 Ijaz Ullah, ASI No.1249/P, CCP, Peshawar
- 41 Noor Saeed, ASI No.1251/P, CCP, Peshawar
- 42 Muhammad Riaz, ASI No.1252/P, CCP, Peshawar
- 43 Haji Rehman, ASI No.1253/P, CCP, Peshawar
- 44 Siraj, ASI No.1254/P, Traffic, Peshawar
- 45 Nasim Aldar, ASI No.1255/P, CCP/ Traffic, Peshawar
- 46 Qaim Khan, ASI No.1256/P, CCP, Peshawar
- 47 Bakht Munir, ASI No.1257/P, CCP, Peshawar
- 48 Shamshad Ali, ASI No.1258/P, CCP, Peshawar
- 49 Ghani Muhammad, ASI No.1259/P, CCP, Peshawar
- 50 Qayyum Dad, ASI No.1260/P, CCP, Peshawar
- 51 Khalid Khan, ASI No.1261/P, CCP, Peshawar
- 52 Jehangir Khan, ASI No.1262, Special Branch
- 53 Sher Alam, ASI No.1263/P, CCP/ Traffic, Peshawar
- 54 Ihsan-ul-Haq, ASI No.1264/P, Traffic, Peshawar
- 55 Hashmat Khan, ASI No.1265/P, CCP, Peshawar
- 56 Wajid Ali, ASI No.473, Elite Force.KPK

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APPROVED  
02 SEP 2015  
20 DEC 2016

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- 57. Muslim Khan, ASI No.1266/P, Traffic, Peshawar
- 58. Nasif M. Rehman, ASI No.1267/P, CCP, Peshawar
- 59. Tariq Naz, ASI No.1268/P, CCP, Peshawar
- 60. Aurang Zeb, ASI No.1269/P, CCP, Peshawar
- 61. Gul Jalal, ASI No.1270/P, CCP, Peshawar
- 62. Javid Akhtar, ASI No.1271/P, Traffic Peshawar
- 63. Tila Muhammad, ASI No.1272/P, Special Branch
- 64. Falak Tariq, ASI No.1273/P, CCP, Peshawar
- 65. Murad Ali, ASI No.1274/P, CCP, Peshawar
- 66. Sajjad Ali, ASI No.1275/P, CCP, Peshawar
- 67. Khan Muhammad, ASI No.1276/P, CCP, Peshawar
- 68. Bakhtiar Khan, ASI No.1278/P, CCP, Peshawar
- 69. Shaoukat Khan, ASI No.1280/P, CCP, Peshawar
- 70. Mukhtar, ASI No.1281/P, CCP, Peshawar
- 71. Mushtaq, ASI No.1282/P, CCP, Peshawar
- 72. Mukamul Shah, ASI No.1283/P, CCP, Peshawar
- 73. Muhammad Tariq, ASI No.1284/P, CCP, Peshawar
- 74. Jamshaid, ASI No.1285/P, CCP, Peshawar
- 75. Shakir Ullah, ASI No.1286/P, CCP, Peshawar
- 76. Sultan Sher, ASI No.1287/P, CCP, Peshawar
- 77. Baqit Saeed, ASI No.1288/P, CCP, Peshawar
- 78. Jan Baqshah, ASI No.1289/P, Special Branch
- 79. Shakar Chayas, ASI No.1290/P, CCP, Peshawar
- 80. Shahid Rehman, ASI No.1291/P, Motorway Police
- 81. Javed Khan, ASI No.1292/P, CCP, Peshawar
- 82. Faiz Shah, ASI No.1293/P, CCP, Peshawar
- 83. Zulfiqar, ASI No.1294/P, CCP, Peshawar
- 84. Hassan Ali, ASI No.1295, CCP, Peshawar P
- 85. Hazal Raza, ASI No.1296/P, CPO/ Operation Room
- 86. Muhammad Saeed, ASI No.1297/P, CTD IKPK
- 87. Wali Khan, ASI No.1298/P, CCP, Peshawar
- 88. Aman Ullah, ASI No.1299/P, CCP, Peshawar

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20 DEC 2016

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89. S. Mir Abu-ul-Hassan, ASI No.1300/P, CCP, Peshawar

90. Maaz Ullah, ASI No.1301/P, Traffic, Peshawar

91. Iftikhar Ali, ASI No.1302/P, Charsadda

92. Abdullah Jan, ASI No.1303/P, PTC Hangu

93. Zulfikar Ali, ASI No.1304/P, Traffic, Peshawar

94. Alamgir, ASI No.1305/P, Traffic, Peshawar

95. Muhammad Usman, ASI NO.956/1328/P, CCP, Peshawar

96. Shah Jehan, ASI No.1307/P, CCP, Peshawar

97. Iqbal Shah, ASI No.1309/P, CCP, Peshawar

98. Ajmal Khan, ASI No.1309/P, CCP, Peshawar

99. Malook Jan, ASI No.1310/P, CCP, Peshawar

100. Muhammad Iqbal, ASI No.1311/P, Traffic, Peshawar

101. Munawar Khan, ASI No.1313/P (SI on ACB), Traffic, Peshawar

102. Farid Gul, ASI No.1318/P, CCP, Peshawar

103. Masal Khan, ASI No.1319/P, CCP, Peshawar

104. Muhammad Aftab, ASI No.1320/P, CCP, Peshawar

105. Ilyas Khan, ASI No.1321/P, CCP, Peshawar

106. Muhammad Riaz, ASI No.1322/P, CCP, Peshawar

107. Muhammad Javed, ASI No.1323/P, PTC Hangu

108. Qazi Nisar Ahmad, ASI No.1325/P, CCP, Peshawar

109. Abdus Sattar, ASI No.746/P, Elite Force KPK

110. Fazal Hadi, ASI No.747/P, Elite Force, KPK

111. Aftab Khan, ASI No.758/P, AIG Legal Branch CPO

112. Manzoor Khan, ASI No.748/P, Operation Room CPO

113. Mesood Khan, ASI No.756/P, CCP, Peshawar

114. Muhammad Tahir, ASI No.757/P, AIG Legal Branch CPO

115. Muhammad Umer, ASI No.756/P, CCP, Peshawar

116. Tahir Ali, ASI No.749/P, Charsadda

117. Wasal Khan, ASI No.753/P, Elite Force KPK

118. Fazal Gul, ASI No.760/P, CCP, Peshawar

ATTESTED

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20 DEC 2016

*[Signature]*  
20 DEC 2016

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- 119. Bismillah Jan, ASI No.750/P, Charsadda
- 120. Muhammad Arif, ASI No.754/P, CCP, Peshawar
- 121. Iqbal Ullah, ASI No.751/P, Charsadda
- 122. Rehmat Ullah Jan, ASI No.759/P, Charsadda
- 123. Ijaz Ahmad, ASI No.761/P, CCP, Peshawar
- 124. Afzal Khan, ASI No.766/P, CCP, Peshawar
- 125. Mansan Ullah, ASI No.767/P, CCP, Peshawar
- 126. Bahar Ali, ASI No.769/P, Charsadda
- 127. Muhammad Arshid, ASI No.770/P, CCP, Peshawar
- 128. Asif Khan, ASI No.771/P, Charsadda
- 129. Muhammad Rafique, ASI No.772/P, CCP, Peshawar
- 130. Iqbal Zada, ASI No.774/P, CCP, Peshawar
- 131. Iqbal Ullah, ASI No.776/P, Charsadda
- 132. Waheed Khan, ASI No.777/P, CCP, Peshawar
- 133. Agha Hussain, ASI No.778/P, CCP, Peshawar
- 134. Ahmad Ullah Khan, ASI No.797/P, CCP, Peshawar
- 135. Abdullah Jalal Khan, ASI No.793/P, CCP, Peshawar
- 136. Nauman Khan, ASI No.803/P, CCP, Peshawar
- 137. M. Musbarak Zeb Gul, ASI No.794/P, CCP, Peshawar
- 138. Iqbal Ahmad, ASI No.784/P, CCP, Peshawar
- 139. Saeed Jan, ASI No.795/P, CCP, Peshawar

.....Petitioners

Versus

- 1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar
- 2. Inspector General, Khyber Pakhtunkhwa, Peshawar
- 3. AFG/ Establishment Central Police Office Peshawar.
- 4. D & C Headquarters, Khyber Pakhtunkhwa Peshawar.
- 5. Capital City Police Officer, Peshawar

.....Respondents

ATTESTED

CLERK OF COURT

20 DEC 2016

*Attested*

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12

WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN, 1973

Prayer in Writ Petition:-

On acceptance of this writ petition an appropriate writ petition may please be issued declaring the petitioners as fit to hold the rank of Sub-Inspector, was duly considered by the Departmental Promotion Committee and validly promoted vide Notification dated 24-07-2015. The letter dated 31-08-2015 whereby direction were issued for the cancellation of the promotion of the petitioners and order dated 04-09-2015, whereby the promotion Notification dated 24-07-2015 is cancelled, is illegal, unlawful, without lawful authority and of no legal effect. The petitioners have even right to continue in the rank of Sub-Inspector, OR

Any other remedy deemed proper in the circumstances of the case and not specifically asked for may also be granted.

Respectfully Sheweth:

1. That the petitioners are the Regular Employees of the K.P. Police serving under the administration and control of the Capital City Police, Peshawar.
2. That there are two categories of the petitioners for the Police Officers performing duties, the first

ATTESTED  
EXAMINER  
Peshawar High Court  
20 DEC 2016

20 DEC 2016

*Ali Aslam*



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category are consists of the police officers promoted from the Rank of Constable and reached to the status of confirmed ASI of Police, while the second category are the police officers who were directly appointed as probationer ASI through Public Service Commission.

3. That Chapter-XIII of the Police Rules, 1934 deals with the promotion of the Police Officer from one rank to the other. Rule-XIII (10) deal with the promotion to the post of Sub-Inspector. Similarly under Rule-XIII (10) list (E) is prepared consisting of confirmed ASI who were consider eligible for promotion to the posts of Sub-Inspectors. (Copy of the Rules/Chapter-XIII is attached as Annexure "A")

That recently some of the employees of the Police Department have filed W.P. No. 3652/P/2014 where in they have sought the direction to the respondents to finalize the seniority list for direct promotion/ Assistant Sub Inspector. The writ petition was disposed off vide judgment and order dated 13-05-2015, when the respondents produced seniority list (E) list ASIs of Capital City Police Peshawar as it stood on 31-03-2015. (Copies of the judgment and order dated 13-05-2015 and seniority list dated 31-03-2015 are attached as Annexure "B" & "C")

That the petitioners were placed at the top of the seniority list and thus were considered eligible to be promoted to the post of Sub-Inspector.

TESTED  
EXAMINER  
North West High Court  
20 DEC 2016

*[Signature]*  
20-12-2015

*[Signature]*



6. That the names of the petitioners were placed before the Departmental Promotion Committee for promotion to the rank of officiating Sub-Inspector, the Departmental Promotion Committee in its meeting held on 17.07.2015 considered them and when found fit were recommended for promotion. Accordingly vide Notification dated 24.07.2015 the petitioners were promoted to the rank of officiating Sub-Inspector with immediate effect. (Copy of Notification dated 24.07.2015 is attached as Annexure "D")

7. That the Notification of promotion of the petitioners was implemented and has taken its effect.

8. That it is pertinent to point out here that presently there are no separate promotion rules in the different branches of the Police Department throughout the officers from Regular Police are transferred to Traffic Branch etc. However, vide letter dated 31.08.2015 referring to minutes of the 18th Police Policy Board Meeting held on 13.08.2015, it is directed that the promotions of SIs should be immediately cancelled allegedly that these seats belong to traffic worden's. Accordingly vide Notification dated 04.09.2015 the promotion Notification dated 24.07.2015 of the petitioners as officiating Sub-Inspector is cancelled. (Copies of letters dated 31.08.2015 and 04.09.2015 are attached as Annexure "E" & "F")

9. That since the respondents have questioned their promotion primarily regarding their fitness for

ATTESTED  
 J. K. SHARMA  
 Registrar, District Court  
 20/09/2015

*[Handwritten Signature]*  
 20 SEP 2015

*[Handwritten Signature]*



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promoting, as such having adequate remedy available in law is constrain to invoke the Constitutional jurisdiction of this Hon'ble Court *inter alia*, on the following grounds:-

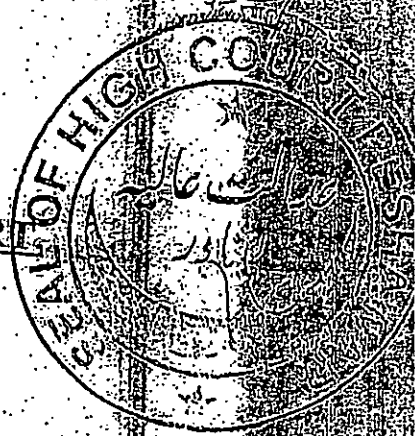
GROUNDS

- A. That the petitioners have not been treated in accordance with law, hence their rights secured and guaranteed under the law and Constitution have been recklessly violated.
- B. That the petitioners were fit and eligible, were rightly promoted as Sub-Inspectors, the order whereby the promotion of the petitioners has been cancelled, is illegal, unlawful, without lawful authority and of no legal effect.
- C. That the letter dated 31-08-2015 is violative of the Police Rules 1934, therefore, no separate promotion rules in the Traffic Branch of the Police Department, therefore, cancelling the promotion of the petitioners allegedly on the ground that these post belongs to the Traffic Warden is illegal and against the record.
- D. That the letter dated 31-08-2015 is self contradictory that at present traffic branch has not been declare as separate cadre in the Police Department. Similarly the respondents have yet to frame Rules for forming separate rules for the Traffic Warden's.
- E. That the petitioners are not provided with right of hearing before cancelling the promotion order.
- F. That the law provide a separate mode for withdrawing the promotion of the Regular

WITNESSED  
EXAMINER  
Punjab High Court  
22.12.2016

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ANNEX 39



Judgment  
**BEFORE PESHAWAR HIGH COURT**  
**PESHAWAR.**

Judicial Department.

Writ Petition No. 3113-P of 2015.

Muhammad Israr, ASI & others.....petitioners.  
Vs

Govt of Khyber Pakhtunkhwa & others.....Respondents

Date of hearing.....24<sup>th</sup> November, 2015.

Petitioner(s) by: *Mir. Jaz Amir Advocate*

Respondent(s): *Grant by MR Farooq Adami A.C.*

**WAQAR AHMAD SETHI, J.** Muhammad Israr, ASI &

others have invoked the writ jurisdiction of this Court

under Article 199 of the Constitution of Islamic Republic of

Pakistan, 1973, with the following prayers:-

“That on acceptance of this writ petition an appropriate writ may please be issued declaring the petitioners as fit to hold the rank of Sub-Inspector, was duly considered by the Departmental Selection Committee and validly promoted vide notification dated 24.07.2015. The letter dated 31.08.2015, whereby directions were issued for the cancellation of the promotion of the petitioners and order dated

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04.09.2015, whereby the promotion notification dated 24.07.2015 is cancelled, is illegal, unlawful, without lawful authority and of no legal effect. The petitioners have even right to continue in the rank of sub-Inspector".

The averments made by the petitioners in the petition are that, the petitioners herein are of two categories. First category are consisting of those police officers who are promoted from the rank of Constables and reached to the status of confirmed ASI's, while the second category are the police officers, who were directly appointed as ASI's by the Member Paktunkhwa, Public Service Commission. It is averred in the petition that prior to the instant writ petition a writ petition bearing No. 3652-P of 2014 was filed, wherein direction was sought to finalize the seniority list of the direct / promotee Assistant Sub Inspector and then promotion to the rank of Sub-Inspector on the basis of seniority cum fitness was asked. The writ petition was disposed of on furnishing the said seniority list prepared under Rule XIII (10) list (D) and according to the said list petitioners were placed at the top of the seniority list and thus were considered eligible for promotion to the post of Sub-Inspector, that on 17.07.2015, the meeting of Departmental

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Promotion Committee was held wherein petitioners were promoted to the rank of officiating Sub-Inspector and accordingly notification dated 24.07.2015 was issued. It is further averred that at present there are no separate promotion rules in the different branches of police department, the officers from regular police are transferred to traffic police etc, but vide impugned letter dated 31.08.2015, referring to minutes of the 18<sup>th</sup> Police Policy Board Meeting dated 13.08.2015, it was directed that the promotion of SI's should be cancelled immediately as, these posts belongs to traffic wardens, so, vide impugned notification dated 04.09.2015, the promotion notification dated 24.07.2015 was cancelled.

3. Petitioners feeling aggrieved from the actions of respondents and having no other adequate and efficacious remedy have knocked the door of this Court through the petition in hand.

4. Comments were called from respondents, which they furnished, wherein they stated that the Departmental Promotion Committee had wrongly made recommendations for promotion of petitioners to the rank of SI, against the vacancies exclusively sanctioned and reserved for newly created Traffic

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Wardens Service unit of Police. Police Policy Board took notice of promotion of petitioners made against wrong post and decided that the promotion order shall be rescinded; that promotion against vacancies sanctioned and allotted to Traffic Warden Service confer no right on petitioners. It is well settled principle of law that wrong and void orders do not create any right. Further stated that Traffic Wardens Service was recently introduced, and Provincial Government accorded sanction of creation of separate strength for the said unit of Police. Respondent No.2 has promulgated standing order No. 5/2015 for regulating the recruitment and promotion of Traffic Warden Services Officer, therefore, the competent authorities correctly made decision of cancellation of the promotion of petitioners made against the vacancies of Traffic Warden Service.

5. We have heard learned counsel for the parties and available record perused with their valuable assistance.

6. Record is suggestive that being fit, competent and eligible for promotion, petitioners were duly considered and promoted vide promotion order dated 24.07.2015, as officiating Sub-Inspectors by the Departmental Promotion Committee. Respondents have not grudged their promotion on their

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eligibility, competency, fitness or otherwise. The notification dated 24.07.2015, whereby petitioners were promoted to the rank of officiating Sub-Inspector, with immediate effect was also published in the police gazette part-II. The grievance started with a letter No. 2402-E III dated 31.08.2015, which in fact are the minutes of the 18<sup>th</sup> Police Policy Board meeting held on 13.08.2015 and for the purposes of petitioner's case, the relevant portion i.e paragraph 2 & 3 reads as under:-

2. "The Board took serious note of the recent promotions of SIs by CCPO on the posts of Traffic Wardens. They Board directed that since these seats belong to the traffic warden, these promotions should be cancelled with immediate effect.

3. It is therefore, requested that action about Para-2 of PPB may be taken forthwith and report be communicated to this office please.

7. The above referred orders / directions of the alleged Police Policy Board was implemented vide order.No. 16570 / EC-I dated, Peshawar 04.09.2015, issued by CCPO, Peshawar, which reads as under:-

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"In pursuance of 18<sup>th</sup> Police Policy Board Meeting held on 13.08.2015 duly approved by Inspector General of Police Khyber Pakhtunkhwa, Peshawar issued vide DIG / HQrs; Letter Endst: No. 1598-1650 / PA DIG / HQrs; dated 28.08.2015 & AIG Establishment, Khyber Pakhtunkhwa, Peshawar Letter No. 2404/E-II, dated 31.08.2015, the promotion Notification of 139 promoted Offg: Sub-Inspectors issued vide this office Notification No. 13706/EC-I, dated 24.07.2015 is hereby cancelled".

8. The Police Policy Board, who issued the directions and in reference to those directions the subsequent order dated 4.9.2015, was issued, figures nowhere in the law. Learned counsel for the respondents / AAG alongwith departmental representative present in the court, was time and again directed to show that under what authority of law the Police Policy Board has been constituted and what are their functions, especially in reference to the Departmental Promotions Orders issued by the duly constituted Promotion Committee, but failed to produce so. We have gone through the Police Laws of Pakistan, but nowhere could locate the said Police Policy Board

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and its functions or powers. On the face of it the impugned order / directions dated 31.8.2015 of Police Policy Board & subsequent order of Capital City Police Officer, Peshawar dated 04.09.2015 are void ab initio as the same are not issued on the directions and on behalf of competent authority or lawful authority.

D. The void order as defined by Corpus Juris Secundum, in (Vol. 92 PP-1021-1024) is "Expression void in the strict or accurate sense means "absolute null" that is to say incapable of rectification or confirmation and of no effect whatever". The Supreme Court of Pakistan in the case of Chief Settlement Commissioner v Raja Muhammad Fazil Khan (PLJ 1975 SC 15) defined a void order as follows:-

As order is to be treated as void only when it is made by a court, tribunal or other authority which has no jurisdiction either as regards the subject matter, the pecuniary value or the territorial limits when the dispute arise. Such an order would amount to usurpation of power unwarranted by law and accordingly it would be nullity".

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10. A void order was that order, which was passed by an authority not competent to pass it and in the instant case, when the Police Policy Board nowhere figures in the Administration Authority of the police department then its directions are prima facie void ab initio and are of no lawful authority, thus, the subsequent order dated 4.9.2015 of Capital City Police Officer, Peshawar, regarding cancellation of earlier promotion order are also of no effect. In the case of Moulana Atta ur Rehman Vs Al-Hajj Sardar Umer Farooq and other reported in PLD 2008 SC 663 (b) it has been held as under:-

“---When the basic order is without lawful authority and void ab initio, then the entire superstructure raised thereon falls on the ground automatically”.

Again in the case of Mustafa Lakhani Vs Pakistan Defence Officer Housing Authority, Karachi, reported in 2008 SCMR, 661 (b) it has been held:-

“---Subsequent orders passed on basis of void order---Legal effect stated. If on the basis of a void order subsequent orders have been passed either by the same authority or by other authorities, the whole series of such orders together with

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the posts of Traffic Wardens, whereas, a glance over the promotion order would show that in all 139 ASI's were promoted as officiating Sub-Inspectors out of which only 17 have been posted against the traffic post, which even otherwise are inter-transferable, hence the reasons given for withdrawal / cancellation is not legal nor lawful.

13. Learned counsel for the respondents strongly objected to the maintainability of writ petition in view of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973; the non availing of departmental remedy / alternate remedy by way of departmental appeal and that officiating Sub Inspectors promotion do not confer a right as the same promotion was officiating only.

14. The plea of officiating promotion is not correct because in the police hierarchy there is a cadre of officiating Sub Inspectors from the "E" list of ASI's and the officiating is not in the sense as is otherwise used in the civil servant promotions. As regarding the objections of maintainability of writ petition and the cancellation of promotion, as per learned AAG, pertains to terms and conditions of service, therefore, the petitioners being civil servants were supposed to have

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the superstructure of rights and obligations built upon them, must unless some statute or principle or law recognizing as legal the change position of the parties is in operation, would fall to the ground, because such orders have as little legal foundation as the void order".

11. In the Police Department, right from Police Rules, 1934, Khyber Pakhtunkhwa, Police Rules, 1975, Police Order, 2002 and all the relevant provision of departmental law / rules / regulations for promotion purposes, the Departmental Promotion Committee is the relevant and competent for the purpose of promotions and as such the same authority has the powers to rescind / withdraw or cancel the same, therefore, where under the rules, regulations and policy have been framed for regulating promotions, any breach or deviation from them for malafide reasons or due to arbitrary act of the competent authority would entitled an aggrieved employee to challenge the same in the Court of law. Reliance in this respect is place on

PLD 2003 SC 175 (d).

12. The perusal of impugned directions dated 31.8.2015 would reveal that the reasons for cancellation of promotions of the petitioners was that, they were promoted on

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challenged the impugned orders before Service Tribunal under Section 4 of the Khyber Pakhtunkhwa, Service Tribunal Act, 1974, by availing first the remedy of departmental appeal, which even otherwise, was mandatory before filing the writ petition by way of alternate remedy by relying on PLD 1997 SC 351, 1990 SCMR, 1238, 2015 SCMR, 253, 2002 SCMR 549 and 2002 PLC (CS) 244.

15. We have given our anxious consideration to the proposition and are of the view that an appeal under section 4 of the Service Tribunal Act, 1974, lies against an order passed by a "Departmental Authority" in respect of any of the terms and conditions of service and in the explanation given to the said section 4 the word "Departmental Authority" means an authority other than a tribunal, which is "competent" to make an order in respect of any of the terms and conditions of civil servant. In the instant case as pointed out earlier, that the impugned orders / directions issued by Police Policy Board are void, of no lawful authority as the Police Policy Board is not a Departmental Authority as defined in the section *ibid*. Same is the condition for departmental representation. Since the impugned orders are of no lawful authority or even no authority

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of the department for the purpose of promotions, service discipline etc hence without availing the departmental remedy, writ is competent and maintainable. In the case of Collector of Custom Valuation and another Vs Karachi Bulk storage and terminals Ltd, reported in 2007 SCMR 1357, (a) it has been held that:-

“---Art. 199---Constitutional petition before High Court---Maintainability ---Impugned order found to be illegal, contrary to law or void ab initio---Remedies under departmental hierarchy, non-availing of---Aggrieved party in such case would be entitled to invoke constitutional jurisdiction of High Court”.

16. In such like cases, as the present one where an order has been passed by an authority whose existence is doubtful alongwith powers and functions, not explained anywhere, then the availability of adequate remedy would not be an absolute bar against the exercise of constitutional jurisdiction of this Court. In exceptional cases, like the present one, this Court can entertain the constitutional petition directly, therefore, the objection in this regard is spurned. Even

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otherwise, the High Court was competent to interfere such provision of law in exercise of constitutional jurisdiction where the competency of the authority is in question. In the case of Farzand Raza Naqvi and 5 others Vs Muhammad Din and others, reported in 2004 SCMR, 400, it has been held that "if an order impugned is a void order or it has been passed without lawful jurisdiction, the non availing of alternate remedy of appeal against such order would not bar High Court to proceed in constitutional jurisdiction and declare such orders as without lawful authority, rule that High Court should not entertain constitutional petition and adjudicate the matter in a constitutional jurisdiction in which remedy of appeal, review or revision is applicable, under the statute, is not an absolute rule and in exceptional cases, the strict observations of the rule that extra ordinary remedy of constitutional petition cannot be availed in a matter in which relief being sought under Article 199 of the Constitution could be granted by way of appeal, review or revision may cause in justice in substance, therefore, application of such rule would depend on facts and circumstances of each case".

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Likewise, in similar situation the Apex Court in the case  
of Brig Muhammad Bashir Vs Abdul Karim and others

reported in PLD 2004 SC 271, (d) has held that:-

“---Art. 199—Constitutional jurisdiction of High Court, exercise o—Principles object and scope— Articles 199 of the Constitution casts an obligations on High Court to act in aid of law, protect the rights of citizens within the framework of the Constitution against infringement or law and constitution by the Executive Authorities, strike a rational compromise and a fair balance between the rights of citizens and auctions of State functionaries, claimed to be in the larger interest of Society—Such power is conferred on High Court, under the Constitution and is to be exercised subject to Constitutional limitations—Provision of Art. 199 of the Constitution is intended to enable High Court to control executive so as to bring it in conformity with the law— Whenever the executive acts in violation of law, an appropriate order can be granted which can relieve the citizens of the effects of illegal action—Relief can be granted to the citizens of the country under Art. 199 of the Constitutions, against infringement of any provisions of law or of the Constitutions as it is an omnibus Article—If the citizens of the country are deprived of the guarantee given to them under the constitution, illegally or not in accordance with law, then provision

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of Art. 199 of the constitution can always be invoked for redress--- Paramount consideration in exercise of constitutional jurisdiction is to foster justice and right a wrong---So long as statutory bodies and Executive Authorities act without fraud and bona fides within the powers conferred on them by the statute, the judiciary cannot interfere with them---Ample power is vested in High Court to issue directions to an Executive Authority when such an Authority is not exercising its power bona fide for the purpose contemplated by the law or is influenced by extraneous and irrelevant considerations---Where a statutory functionary acts mala fide or in a partial, unjust and oppressive manner, High Court in exercise of its constitutional jurisdiction has ample power to grant relief to the aggrieved party".

17. Lastly learned AAG while relying on 2013 SCMR 1752, contended that perpetual rights cannot be claimed on an illegal order, therefore, the authority cancelled the promotion orders of the petitioners and the same cannot be granted as of right. Indeed, perpetual rights cannot be claimed on an illegal order, but in the instant case, the order of promotion dated 24.07.2015 is quite legal and lawful, because the same has been issued with the approval by of Departmental Promotion Committee, by the Competent Authority and

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nowhere in the comments, so filed by the respondents and arguments at bar, they have contended that petitioners were neither fit nor eligible for promotion, rather it has been proved on record that the cancellation order is of no lawful authority and a void order. The principle of locus poenitentiae could be invoked by competent authority till the time the decisive stage was not reached. In the instant case it is established that the orders were conveyed and acted upon, the said orders were even published in the gazette part-II and petitioners have reported to their place of posting as well, then a valuable right have accrued to the petitioners and as such they cannot be deprived of vested right by the authority, in view of which this writ petition is allowed as prayed for. Petitioners are deemed to be promoted from the date of their promotion order dated

24.07.2015.

*M. M. Khan*  
*M. M. Khan*

Announced  
 24<sup>th</sup> November, 2015.  
 Tariq Khan.

JUDGE

1209  
 Reservation of Application 20/12/15  
 20/12/15  
 Distribution of Copy 20/12/15  
 Delivery 20/12/15  
 Copy of Copy 20/12/15  
 11/2/15

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 EXAMINER  
 Peshawar High Court, Peshawar  
 Authorized Under Article 170 of  
 The Constitution of Pakistan Order 704  
 20 DEC 2016

*Accepted*

APPELLATE JURISDICTION

PRESENT: MR. JUSTICE MIAN SAQIB NISAR, CJ  
MR. JUSTICE UNQAR ATA BANDA  
MR. JUSTICE WAZUL HASAN

CIVIL PETITION NO. 242 OF 2018  
For appeal against the judgment dated 11.2.2015 of the Revenue Tribunal, Faisalabad  
Petitioner against W.P. No. 315 of 2015

Govt. of K.P. through Chief Secretary, Peshawar & others

Muhammad Israr & others

For the Petitioner(s): Mr. Zahid Yousaf Qureshi, Addl. AG  
Jahangir Khan, SI, PTC Hazara

For Respondents 1,2,7: Mr. Naweed Akhtar, AGC

Other Respondents N.R.

Date of Hearing: 26.01.2018

ORDER

MIAN SAQIB NISAR, CJ - Learned counsel for Respondents No. 1, 2 and 7 state that he has no objection if the impugned judgment is set aside. However, his writ petition be sent to the department as an appeal or representation under the law. Learned Additional Advocate General, Khyber Pakhtunkhwa also states that he has no objection to that effect. In the light of the above, this petition is converted into appeal and allowed and the impugned judgment is set aside in the terms noted above. The department is directed to decide the appeal/representation of the respondents within a period of one month.



Sd/- Mian Saqib Nisar  
Sd/- Unqar Ata Banda  
Sd/- Wazul Hasan

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IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

Present: MR. JUSTICE MIAN SAQIB NISAR  
MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO.34-P OF 2016

(On appeal against the judgment dated  
24.11.2015 of the Peshawar High Court  
Peshawar, passed in W.P. No.3113-P/2015)

Govt. of K.P through Chief Secretary, Peshawar.....Petitioners

**V E R S U S**

Muhammad Israr & others.....Respondents

For Petitioner (s): Mr. Zahid Yousaf Qureshi, Addl. AG  
Jahangir Khan, SI, PTC Hangu.

For Respondents 1,2,7: Mr. Naveed Akhtar, ASC

Other Respondents: N.R.

Date of hearing: 26.01.2018

MIAN SAIQB NISAR, CJ.—Learned counsel for Respondents No.1, 2 and 7 states that he has no objection if the impugned judgment is set aside. However, his Writ Petition be sent to the department as an appeal or representation under the law. Learned Additional Advocate General, Khyber Pakhtunkhwa, also states that he has no objection to that effect, in the light of the above this petition is converted into appeal and allowed and the impugned judgment is set aside in the terms noted above. The department is directed to decide the appeal/representation of the respondents within a period of one month.

Sd/- Mian Saqib Nisar J  
Sd/- Umar Ata Bandial, J  
Sd/- Ijaz ul Ahsan J



**POWER OF ATTORNEY**

In the Court of KPK Senior Federal Judges

Muhammad Tahir } For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

**VERSUS**

Govt of KPK and Ors } Defendant  
} Respondent  
} Accused  
}

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/W, the undersigned, do hereby nominate and appoint

**ZARTAJ ANWAR ADVOCATE**, my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromise or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

**AND** to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

**AND** I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

**PROVIDED** always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

**IN WITNESS** whereof I/we have hereto signed at \_\_\_\_\_  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_ M. Tahir

  
**Zartaj Anwar**

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