

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 1547/2023

Riazullah Khan No. 729/MR ASI

.....Appellant

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

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DSP Legal,  
Nowshera

6-2-24

(1)

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.....Respondents

**Khyber Pakhtunkhwa  
Service Tribunal**

**Para-wise comments by respondents:-**

Respectfully Sheweth,

Diary No. 11066

Dated 09-02-24

**PRELIMINARY OBJECTIONS**

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the Hon'ble Tribunal has no jurisdiction to adjudicate the matter.
6. That the appeal is bad for miss-joinder and non-joinder of necessary parties.

**REPLY ON FACTS**

1. Para to extent of initial appointment as constable pertains to record needs no comments while rest of the Para is not plausible because every Police Officer is under obligation to discharge his duties with full zeal, zest and upto the entire satisfaction of his high ups.
2. Para to the extent of qualifying promotion course pertains to record needs no comments while rest of the Para is not plausible because every Police Officer after completion and qualifying promotion courses, gets promoted to the next higher rank through due process of law but not at the stake of infringement of rights of others.
3. Para already explained needs no comments.
4. Correct to the extent that the appellant alongwith others submitted application wherein they alleged that due to detachment of District Nowshera from Capital City Police, Peshawar and its attachment with Mardan Region twice resulted in their seniority issue, hence, requested that they may be accorded seniority as per Intermediate College Course. Therefore, opinion was sought and in light of opinion the grievances of appellant were redressed accordingly. (Copy of opinion of AIG Legal is annexure-A while copy of order whereby the appellants were given Inter-se Seniority is annexure-B.
5. Para to the extent of completion of ACR and other requisite criteria for promotion to the rank of Sub-Inspector, pertains to record needs no comments while rest of the Para is totally incorrect hence denied. As after according seniority to the appellant and others, no Departmental Promotion Committee meeting was held in order to consider the appellant and his other colleagues for promotion to the rank of Sub-Inspector rather the said meeting was held on 22.01.2019 about 06 months earlier from the date of according seniority to the appellant. Hence plea of the appellant regarding ignoring and depriving him from promotion to the rank of Sub-Inspector is totally baseless rather devoid of any legal footing.

6. Correct to the extent that details of all those confirmed Assistant Sub-Inspectors were asked from all District Police Officers as well as Superintendents of Police Investigation Mardan, who were performing their duties under the command of abovementioned Police Officers. However, it is pertinent to mention here that according to section 31 of Police Act 2017 quota has been reserved for Fast Track Promotion which reads as under:-

31. **Appointment of Sub Inspectors.** ---(1) The post of the Sub-Inspector shall be filled in the following manner: -

- (i) subject to competitive examination, twenty five percent (25%) by selection on merit from amongst Assistant Sub-Inspectors on recommendation of Public Service Commission in the prescribed manner; and
- (ii) Seventy five percent (75%) from amongst Assistant Sub-Inspectors on the recommendation of **Departmental Promotion Committee** in the prescribed manner.

The other terms and conditions of service shall be such as may be prescribed.

Therefore, in light of the above, no promotion was made to the rank of Sub-Inspector because the quota reserved for promotees had already been filled hence, Departmental Promotion Committee meeting was not held till date for the purpose.

7. Para already explained needs no comments.
8. Plea taken by the appellant is not plausible as discussed earlier that after according seniority to the appellant and others, no Departmental Promotion Committee meeting was held in order to consider the appellant and his other colleagues for promotion to the rank of Sub-Inspector rather the said meeting was held on 22.01.2019 about 06 months earlier from the date of according seniority to the appellant. Hence plea of the appellant regarding ignoring and depriving him from promotion to the rank of Sub-Inspector is totally baseless rather devoid of any legal footing.

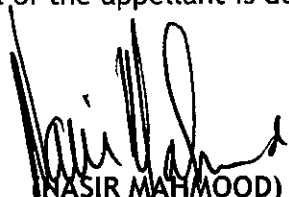
**REPLY ON GROUNDS:**


- A. Incorrect. Plea taken by the appellant is totally devoid of merit because neither the appellant has been deprived from his due right of promotion nor from confirmation to the rank of Sub-Inspector rather he will be considered for the same in light of Law/Rules on the subject.
- B. Incorrect. Stance taken by the appellant is totally ill-based because department has no grudges or ill-will against the appellant to deprive him of any promotion or confirmation.
- C. Plea taken by the appellant is totally against the Law and Rules because Police has its own special law/rules which govern the promotion and seniority of Police Officers.
- D. Correct to the extent that the DPC is required to be held but the same is to be held if vacancies are available for promotion and in case of non-availability of vacancies, the holding of Departmental Promotion Committee meeting will certainly be a futile exercise. Moreover, the appellant in this Para has categorically admitted that since 2019 no Departmental Promotion Committee meeting was held hence, in this scenario if Departmental Promotion Committee meeting is not held, how the appellant and others could have been considered for promotion to the rank of Sub-Inspectors.
- E. Para already explained needs no comments.

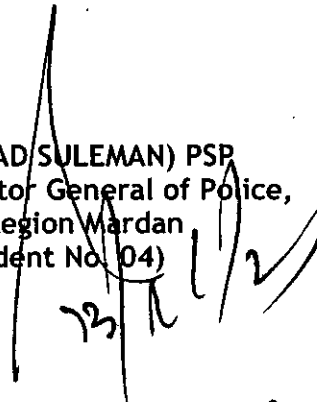
- F. Incorrect. Plea taken by the appellant is totally against the Law/Rules on the subject because in case of non-availability of vacancies, how the appellant and his colleagues could be promoted and confirmed as alleged by the appellant.
- G. The respondents also seek permission of this Honourable Tribunal to adduce additional grounds at the time of arguments.

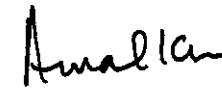
**PRAYER:-**

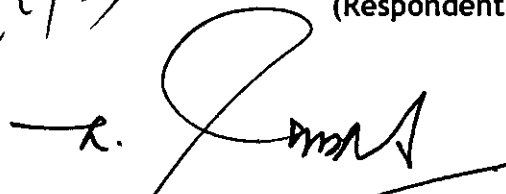
Keeping in view the above stated facts and rules it is most humbly prayed that the appeal of the appellant is devoid of legal force may kindly be dismissed with costs please.

  
 (NASIR MAHMOOD) PSP  
 District Police Officer,  
 Nowshera  
 (Respondent No. 01)

  
 (MUHAMMAD AZHAR) PSP  
 Assistant Inspector General of Police  
 Establishment Khyber Pakhtunkhwa,  
 Peshawar.  
 (Respondent No. 03)

  
 (MUHAMMAD SULEMAN) PSP  
 Deputy Inspector General of Police,  
 Mardan Region Mardan  
 (Respondent No. 04)

  
 (AWAL KHAN) PSP  
 Additional Inspector General of Police  
 Headquarters Khyber Pakhtunkhwa,  
 Peshawar.  
 (Respondent No. 02)

  
 (DR. MUHAMMAD AKHTAR ABBAS) PSP  
 DIG/Legal, CPO  
 For Inspector General of Police,  
 Khyber Pakhtunkhwa, Peshawar.  
 (Respondent No. 05)

(4)

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.....Appellant

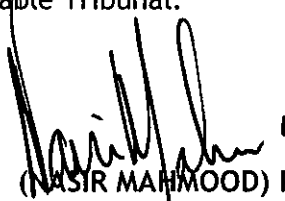
VERSUS

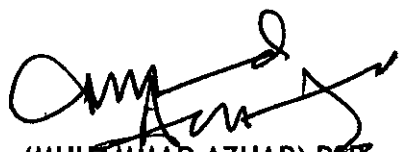
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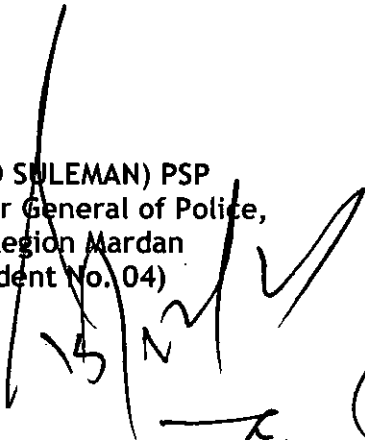
.....Respondents


**AUTHORITY LETTER**

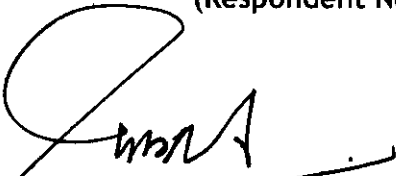
Ijaz Hussain DSP Legal Nowshera is hereby authorized to appear and do the needful on behalf of respondents in the Khyber Pakhtunkhwa, Service Tribunal, in the above cited service appeal. He is also authorized to submit any document and record, statement etc required by the Honourable Tribunal.

  
(NASIR MAHMOOD) PSP  
District Police Officer,  
Nowshera  
(Respondent No. 01)

  
(MUHAMMAD AZHAR) PSP  
Assistant Inspector General of Police  
Establishment Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 03)

  
(MUHAMMAD SULEMAN) PSP  
Deputy Inspector General of Police,  
Mardan Region Mardan  
(Respondent No. 04)

  
(AWAL KHAN) PSP  
Additional Inspector General of Police  
Headquarters Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 02)

  
(DR. MUHAMMAD AKHTAR ABBAS) PSP  
DIG/Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
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**AFFIDAVIT**

I, Nasir Mahmood, District Police Officer, Nowshera do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honourable tribunal.

It is further stated on Oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off.



  
(Nasir Mahmood)  
District Police Officer,  
Nowshera  
(Respondent No. 01)

09 FEB 2024

(6)

Ammed - A 72

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

No. 1001 /Legal dated Peshawar, the 28/02/2019.


To: - The District Police Officer,  
Nowshera.


Subject: - GUIDANCE/ LEGAL OPINION

Memo:- Please refer to your office letter No.35/legal dated 19.02.2019 on the subject cited above.

The seniority of applicants may not be disturbed due to attachment & detachment of District Nowshera from one Region to other Region.

They are entitled to seniority as per merit list of PTC Hangu results of lower school course and intermediate school course.

  
AIG/Legal,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
11.01.2019



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Annex "B"

**ORDER.**

Consequent upon the decision made in the Departmental Promotion Committee meeting held in this office on 18.09.2019 under the Chairmanship of the undersigned, the following ASIs are hereby accorded Inter-se Seniority with their Colleagues with whom they underwent Intermediate College Course as per orders of merit issued by Police Training College Hangu.

S. No.	Name & No.	Place of Posting	Date of Qualified Intermediate College Course	Order of merit of Intermediate College Course
1.	ASI Nasir Khan No. 726/MR	CTD KPK	20.03.2011	124
2.	ASI Mr Akbar Khan No. 733/MR	Nowshera District	20.09.2011	11
3.	ASI Iftikhar Hussain No. 734/MR	Nowshera District	20.09.2011	27
4.	ASI Said Nabi Shah No. 787/MR	Nowshera District	20.09.2011	83
5.	ASI Shahid Khan No. 788/MR	Nowshera District	20.03.2012	08
6.	ASI Hidayat Shah No. 727/MR	ACE KPK	20.03.2012	71
7.	ASI Yar Badshah No. 728/MR	Nowshera District	20.03.2012	106
8.	ASI Riaz-Ullah No. 729/MR	Nowshera District	20.03.2012	130
9.	ASI Javid Khan No. 780/MR	Elite Force KPK	20.09.2012	21
10.	ASI Salaem Khan No. 781/MR	Traffic Peshawar	20.03.2013	145
11.	ASI Kifayat Ullah 730/MR	Nowshera District	20.09.2013	156
12.	ASI Tahir Zameer No. 731/MR	National Highways & Motorway Police	20.09.2013	161
13.	ASI Marjan Ali No. 732/MR	National Highways & Motorway Police	20.09.2013	190

*Muhammad Ali Khan*  
(MUHAMMAD ALI KHAN) PSP  
Regional Police Officer,  
Mardan.

No. 7549-54 / ES.

Dated Mardan the 05/07 / 2019.

- 1. Copy forwarded for information and necessary action to the:-
- 2. Deputy Inspector General of Police CTD Khyber Pakhtunkhwa, Peshawar.
- 3. DIG/Commandant National Highways & Motorway Police Training College, Sneikhpura.
- 4. Deputy Commandant Elite Force Khyber Pakhtunkhwa, Peshawar.
- 5. District Police Officer, Nowshera.
- 6. Chief Traffic Officer, Peshawar.
- 7. Assistant Director Anti Corruption Establishment Nowshera Range

*[Handwritten Signature]*