

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

**PESHAWAR**

Service Appeal No. 1889-P/2023

Sajjad Ahmed Khan.....(Appellant)

VERSUS

Inspector General of Police, KP etc.....(Respondents)

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DEPONENT



DSP/ Legal,  
CPO, Peshawar

07.03.24  
Peshawar

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**REPLY BY RESPONDENTS NO. 1 TO 3**

RESPECTFULLY SHEWETH:

**Khyber Pakhtunkhwa Service Tribunal**

Diary No. 11100

Dated 13-02-2024

**PRELIMINARY OBJECTIONS:-**

- a) That the appellant has got no locus standi to file the instant Service Appeal.
- b) That the appellant is estopped to file the present appeal.
- c) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- d) That the appeal is badly barred by law.
- e) That the appeal of the appellant comes under the principle of res-judicata.

**FACTS:**

- 1. Pertains to personal information of the appellant, needs no comments.
- 2. Pertains to record, needs no comments.
- 3. Pertains to record, needs no comments.
- 4. Pertains to the transfer order impugned by the appellant in the instant appeal which, however, is an internal administrative order passed by the respondent department. Rules 1.1 and 1.2 of Police Rules, 1934 highlight that Police is Provincial Police District, meaning thereby that it is a provincial entity to be headed by a Provincial Police Officer of the rank of Inspector General of Police. The Hon'ble Supreme Court of Pakistan in case titled Mushtaq Warraich Vs IGP, Punjab (PLD 1985 SC 159) was also categorical in highlighting the Police as Provincial Police District governed by the Provincial Government in the following terms:-

*"Before I dwell on the main question, it would be appropriate here to give a background of this Act. The Police Act, 1861, was enacted at a time when the Government of India Act, 1858, as amended by the Government*

*of India (Amendment) Act, 1859, held the field, and as its, preamble shows the object of enacting it was "to reorganize the police and make it a more efficient instrument for the prevention and detection of crime". By section 7 of this Act the entire Police Establishment under "Local Government", which was later, substituted by the words 'Provincial Government' was deemed to be one police force which was to be formally enrolled and constituted in such a manner as from time to time ordered by the Provincial Government. A provision was also made for enrolling officers and men to constitute such force but the number was left to be determined by the Provincial Government".*

Under the Police Rules, 1934, as also maintained in the Para-57 of the august apex court judgment reported in 2016 SCMR 1254 in case titled Gul Hassan Jatoi VS Faqir Muhammad Jatoi, seniority of the Constable and Head Constable is maintained in the District, whereas seniority of ASI and SI is maintained by the Range DIG and seniority of the Inspector is maintained at provincial level by the Central Police Office. The appellant is serving in the rank of Inspector and share seniority on provincial level maintained at CPO Peshawar. The appellant's transfer order shall not affect his seniority. Furthermore, as per Section 4 (4) of KP Police Act, 2017 and Rule 1.5 of Police Rules, 1934, the appellant is liable to perform duties in any branch, division, bureau and section within the province.

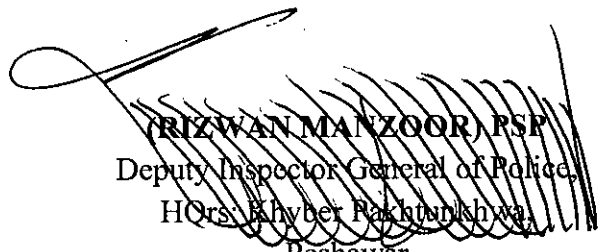
5. Already explained vide above para.
6. The appellant's departmental appeal challenging his valid and lawful transfer order is devoid of any merits as he has been merely transferred from one region to another through an administrative order.
7. The appellant has been treated in accordance with law and nothing adverse has been taken against him. Thus, the appellant has no locus standi to file the instant appeal and thus, being not maintainable, is liable to be dismissed, inter alia, on the following grounds;

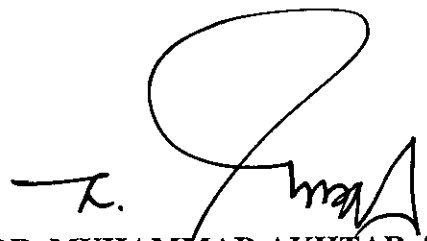
**GROUND:**


- (i) Incorrect, the order dated 26.05.2023 has been issued in accordance with law.
- (ii) Incorrect and misleading as already explained vide above para. No constitutional provision has been violated by the respondent department.
- (iii) Denied as incorrect. The subject transfer order was issued before issuance of ban vide the Establishment Department Notification dated 29.05.2023.
- (iv) The appellant has never furthered the reason cited in the para before his senior officers for sake of sanction of leave/ attendance of patient etc.
- (v) That the answering respondents may be allowed to raise additional grounds at time of hearing of instant Service Appeal.

**PRAVER:-**

Keeping in view the above stated facts and circumstances, it is therefore humbly prayed that the appeal is not maintainable being devoid of merits hence, may kindly be dismissed with costs, please.

  
**(RIZWAN MANZOOR) PSP**  
Deputy Inspector General of Police,  
H/Os, Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No. 2)

  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)

  
**(NADEEM ASLAM CHAUDHRY)**  
Chief Secretary,  
Government of Khyber Pakhtunkhwa  
Peshawar  
(Respondent No. 3)

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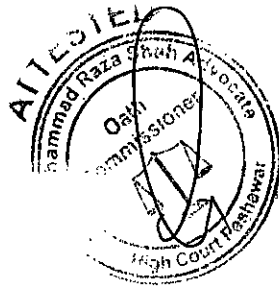
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**AFFIDAVIT**

I, Rizwan Manzoor, Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm on oath that the contents of Para-wise comments on behalf of respondents No. 1 to 3 are correct to the best of my knowledge/belief. Nothing has been concealed from this Hon'ble Service Tribunal. It is further stated on oath that in this Para-wise comments, the answering respondents have neither been placed ex-parte nor their defense is struck off.



13/2/23

*(Handwritten signature of Rizwan Manzoor)*

**(RIZWAN MANZOOR) PSP**  
Deputy Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No. 2)

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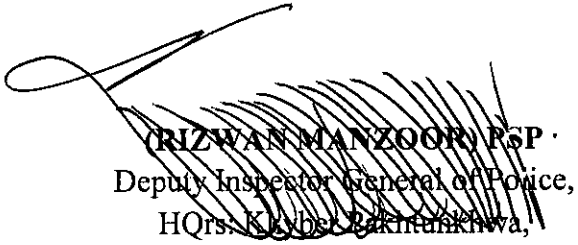
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**AUTHORITY LETTER**

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 Service Appeal on behalf of respondents No. 1 to 3.

  
**(RIZWAN MANZOOR) PSP**  
Deputy Inspector General of Police,  
HQrs. Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No. 2)

  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)

  
**(NADEEM ASLAM CHAUDHRY)**  
Chief Secretary,  
Government of Khyber Pakhtunkhwa  
Peshawar  
(Respondent No. 3)