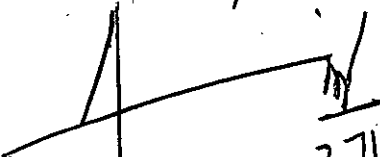


Cost of Rs. 500/- received in Service Appeal No. 2018/2023

Titled Jawaid Younas vs Police

in the office of Assistant Registrar, Vide Order 27/02/2024
submitted on 27/02/2024.


27/02/24
Assistant Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2000 To 500

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 2018/2023

Jawaid Yunas.....(Appellant)

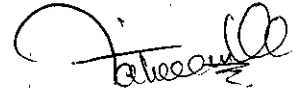
VERSUS

Government of Khyber Pakhtunkhwa and others..... (Respondents)

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S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Para-wise comments		1-3
2.	Affidavit		4
3.	Authority Letter		5

DEPONENT



DSP/ Legal,
CPO, Peshawar

27-02-2024
Pesh

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 2018/2023

Jawaid Yunas.....(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa and others..... (Respondents)

PARAWISE COMMENTS BY RESPONDENTS NO. 1 TO 4

**Khyber Pakhtunkhwa
Service Tribunal**

RESPECTFULLY SHEWETH:

Diary No. 11391

PRELIMINARY OBJECTIONS:-

Dated 27-02-2024

- a) That the appellant has got no locus standi to file present appeal.
- b) That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- c) That the appellant is estopped by his own conduct to file the instant appeal.
- d) That the appellant has not come to this Hon'ble Tribunal with clean hands.
- e) That the appellant has got no cause of action to file the present appeal.
- f) That the appellant is concealing real facts from this Hon'ble Tribunal.
- g) That the appeal is barred by law and limitation.

FACTS:

1. Pertains to Service Record, hence need no comments.
2. Pertains to Service Record, hence need no comments.
3. Pertain to record, however, appellant's promotion to the rank of DSP dated 26.06.2003 was on acting charge basis as admitted by the appellant while acting charge basis promotion is neither a regular promotion nor it entitles a person for regular promotion. In fact, acting charge base promotions are given only for the purpose of duty and one cannot claim regular promotion on the basis of acting charge base. Promotions in Police Force are always on seniority-cum-fitness basis & fulfillment of requisite trainings & courses. Appellant's claim for advance increments of BPS-17 is without substance, in suffice, illegal, unlawful and against the law/rules. When a person is not promoted to the rank of DSP nor was entitled then how he could claim a right for which he was not even entitled at that time.
4. Incorrect. Misleading and misconceived. The appellant promotion to the rank of SP (BPS-18) was not overdue in the year 2009/2010 rather for the purpose of need and duty, he was given acting charge or shoulder promotion as usually do the Police Department. Such acting charge base promotion does not entitle an officer for regular promotion or pensionery benefits under the law. Furthermore, ante dated promotions have been put down by the Apex Court of Pakistan in judgment reported as 2023 SCMR 584. The officer retired in the year 2010 and after lapse of 14 years, his claim for pensionery benefits of acting charge base or shoulder promotions is quite illegal, excessiveness, unlawful and against the law/rules.

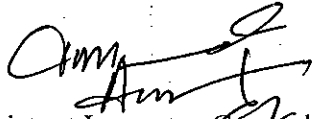
5. Pertain to record, however, the claim of appellant at this belated stage is without substance and excessiveness as explained in above Paras.
6. Incorrect and misconceived of rules/law as explained in detail in above Paras.
7. Pertain to record. However, he should be contended with what has been granted to him by the Department in return of his services and avoid unnecessary litigation against his benefactor department.
8. Incorrect and misleading, claim of appellant is without substance, illegal, unlawful and against the norms of justice. No such application is lawful for an unlawful claim of right. Appellants claim is childish insisting and claiming for an illegal & unlawful right is without suffice & legal effect.
9. Irrelevant. After elapse of 14 years, the claim of appellant is unlawful, unjustified and greedy in nature.
10. That the petitioner failed to bring a good prima facie case having solid locus standi to this Hon'ble Tribunal and the instant appeal is just wastage of time may be dismissed in-limine inter-alia on the following grounds:

GROUND:

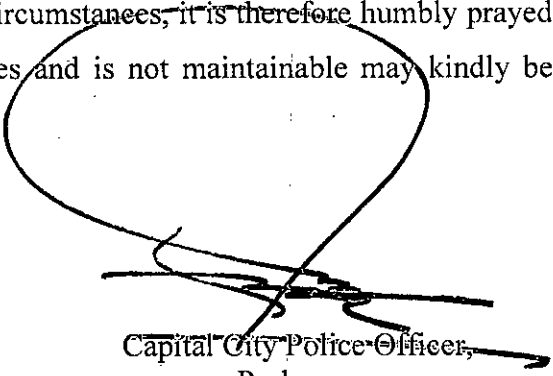
- A. Incorrect, the acts of answering respondents are in accordance with law/ rules. As already explained above in Para No. 3 of Facts that acting charge basis promotion does not entitle an officer for regular promotion or pensionary benefits under the law. Furthermore, ante dated promotions have been put down by the Apex Court of Pakistan in judgment reported as 2023 SCMR 584. The officer retired in the year 2010 and after lapse of 14 years, his claim for pensionary benefits of acting charge basis or shoulder promotions is quite illegal, excessiveness, unlawful and against the law/rules. Furthermore, the promotions in Police Force are always on the basis of seniority-cum-fitness and fulfillment of requisite trainings and courses.
- B. Incorrect and misleading, as already explained in preceding Para.
- C. Incorrect, the appellant has been treated in accordance with law/ rules/ policy. No violation of any Article of Constitution of Islamic Republic of Pakistan 1973, exists on part of respondents.
- D. Incorrect, the appellant has neither been discriminated by the answering respondents. In fact the claim of the appellant for ante-dated promotion is devoid of law/ rules, policy and against the Apex Court judgment.
- E. Incorrect, the acts of the answering respondents are in accordance with law/ rules and as well as legal. The claim of the appellant for his promotion after retirement is totally against the law/ rules.
- F. The answering respondents may also be allowed to adduce additional grounds at the time of hearing before the Hon'ble Court.

PRAYERS

Keeping in view the above legal and factual circumstances, it is therefore humbly prayed that the appeal being devoid of merits, law/ rules and is not maintainable may kindly be dismissed with costs please.



Assistant Inspector General of Police,
Establishment, Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)
(MUHAMMAD AZHAR) PSP
Incumbent



Capital City Police Officer,
Peshawar

(Respondent No. 4)
(SYED ASHFAQ ANWAR) PSP
Incumbent



DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 2)
(DR. MUHAMMAD AKHTAR ABBAS)
Incumbent



Additional Chief Secretary,
Government of Khyber Pakhtunkhwa,
Home & T.As Department, Peshawar
(Respondent No. 1)
(ABID MAJEED)
Incumbent

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

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 2018/2023

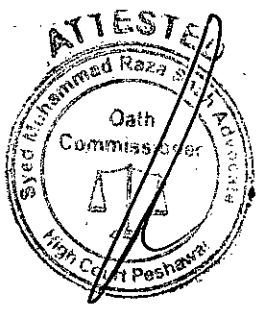
Jawaid Yunas.....(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa and others..... (Respondents)

AFFIDAVIT

I, Muhammad Azhar, Assistant Inspector General of Police, Establishment, Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm on oath that the contents of Para-wise comments on behalf of respondents No. 1 to 4 are correct to the best of our 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.



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Assistant Inspector General of Police,
Establishment, Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)
(MUHAMMAD AZHAR) PSP
Incumbent

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 2018/2023

Jawaid Yunas.....(Appellant)

VERSUS

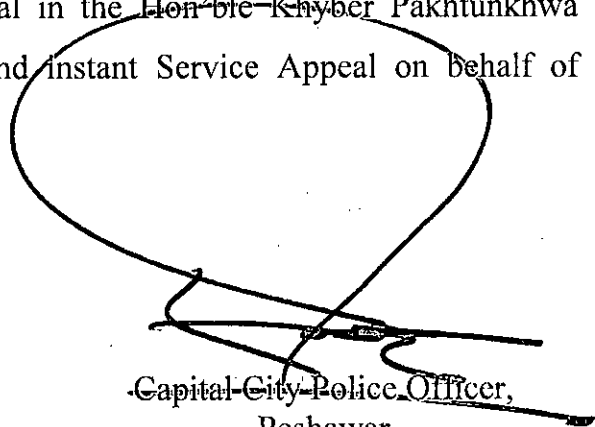
Government of Khyber Pakhtunkhwa and others..... (Respondents)

AUTHORITY LETTER

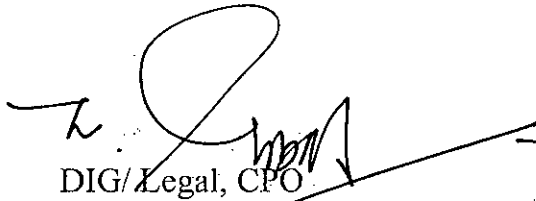
Mr. Faheem Khan DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments/ reply in the instant Service Appeal in the Hon^{ble} Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant Service Appeal on behalf of respondents No. 1 to 4.



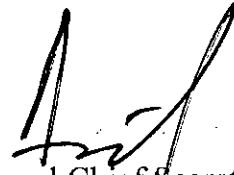
Assistant Inspector General of Police,
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DIG/ Legal, CPO
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Additional Chief Secretary,
Government of Khyber Pakhtunkhwa,
Home & TAs Department, Peshawar
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Home & TAs Department
Khyber Pakhtunkhwa.