

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
FAREEHA PAUL ...MEMBER (Executive)

Service Appeal No.1471/2023

Date of presentation of appeal.....14.07.2023

Dates of Hearing.....21.02.2024

Date of Decision.....21.02.2024

Muhammad Zaman S/O Amir Hamza, R/O Adam Zai, Lakki Marwat,
Sub Inspector, Police Line, Bannu.....(*Appellant*)

Versus

1. **Provincial Police Officer**, Khyber Pakhtunkhwa, Peshawar.
2. **Regional Police Officer**, Bannu Region, Bannu..(*Respondents*)

Present:

Mr. Arbab Saiful Kamal, Advocate.....For appellant

Mr. Asif Masood Ali Shah, Deputy District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE NOTIFICATION DATED 19.04.2023 OF R. NO.1, WHEREBY APPELLANT WAS DROPPED FROM PROMOTION TO THE RANK OF OFFICIATING INSPECTOR B-16 FOR NO LEGAL REASON.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, appellant was initially appointed as Constable on 21.02.1982 and through step wise promotions, lastly, was promoted to the post of Sub Inspector. That for further promotion to the rank of Officiating Inspector, letter for submission of ACRs of the Sub Inspectors of List "F", were written to the Heads of Police Department. That subsequently, seniority list of Sub-Inspectors on list "F" of the Khyber Pakhtunkhwa Police was issued, wherein, name of appellant was reflected at Serial No.16. That the appellant submitted his ACRs for the period concerned. That vide impugned order dated 10.05.2023 other colleagues of the appellant were

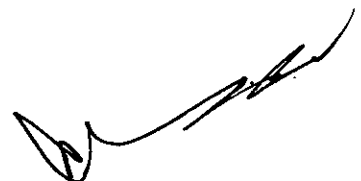
promoted to Officiating Inspectors and the appellant was deferred on the basis of missing of his ACRs. Feeling aggrieved, he filed departmental appeal which was also rejected. Hence, the instant service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.

04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

05. Perusal of record reveals that the appellant was serving as Sub-Inspector and was found eligible for promotion to the post of Officiating Inspector (BPS-16), however, he was deferred and admittedly, his juniors were promoted as Officiating Inspector vide Notification dated 19th April, 2023. In the said Notification of promotion, the name of the appellant was not included on the ground that his PERs up-to the year 2021 were missing. In this regard, correspondence had also been made in the shape of letter dated 23.06.2023 addressed to the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar by the




Regional Police Officer, Bannu Region, Bannu, the contents of the letter are reproduced below:

"It is intimated for favour of kind information that according to the contents of application, the police officer concerned has been deferred from officiating promotion as Inspector due to non-availability of ACTs for the years 2020 and 2021 which had been requisitioned by CPO Peshawar from all the Unit Heads of Police Department Khyber Pakhtunkhwa Peshawar, CCPO Peshawar and all the RPOs in Khyber Pakhtunkhwa vide CPO Peshawar letter No.113-37/23 dated 17.01.2023, letter No.S/472-96/23 dated 21.02.2023 and letter No.S/891 900/23 dated 10.04.2023 in connection with DPC meeting for promotion as officiating inspectors at CPO level but the said ACRs were not submitted in time to CPO Peshawar and departmental proceedings against the defaulter ones are being initiated by the undersigned under relevant rules in the subject case and subsequently, the said police officer was deferred due to the reason from promotion as Officiating Inspector in the DPC meeting held on 19.04.2023 as CPO,, Peshawar.

It is, therefore, requested that the said police officer SI Muhammad Zaman No.B 51 is entitled for promotion as Officiating Inspector from the retrospective date i.e. 19.04.2023 being one at the verge of retirement with no fault at his credit please."

In the above letter, the respondents have admitted missing of PERs, which was made a reason for deferment of the appellant for promotion. Admittedly, it is a case of deferment and deferment is not a punishment while the reason for deferment is stated by the department to be non-production of PERs/ACRs of some period which was not the fault on the part of the appellant, rather the department ought to have procured the same at the proper point of time.

06. Be that as it may as the appellant has retired during the pendency of this appeal, therefore, it is deemed appropriate to remit the matter to the department for consideration of the appellant for his promotion in accordance with law and




Service Appeal No.1471/2023 titled "Muhammad Zaman -vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others", decided on 21.02.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Farecha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal Peshawar.

rules from the date his juniors were promoted and he was deferred, on receipt of ACRs up-to the year 2021 and decide his case within 60 days. Consign.

07. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 21st day of February, 2024.*


KALIM ARSHAD KHAN
Chairman


FARECHA PAUL
Member (Executive)

Mutazem Shah

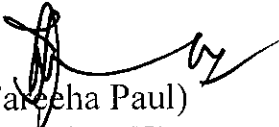
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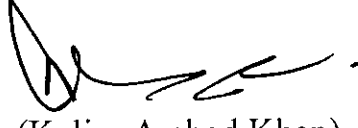
21st Feb. 2024

1. Learned counsel for the appellant and Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, it is deemed appropriate to remit the matter to the department for consideration of the appellant for his promotion in accordance with law and rules from the date his juniors were promoted and he was deferred, on receipt of ACRs up-to the year 2021 and decide his case within 60 days. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 21st day of February, 2024.*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah