

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

Service Appeal No 1625/2023

Miraj Muhammad (Inspector) s/o Badshah Muhammad r/o Kareen, P/O Darora,  
Katan Payen, Tehsil Dir District Upper Dir.

..... Appellant.

**VERSUS.**


- 1) Inspector General of Police, Khyber Pakhtunkhawa Peshawar.
- 2) Additional Inspector General of Police Headquarter CPO Peshawar.
- 3) Deputy Inspector General of Police Headquarter CPO Peshawar.
- 4) Deputy Inspector General of Police Malakand at Saidu Sharif, Swat.

..... Respondents.

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6/3/24  
SB*

  
Fazal Wali,  
Inspector Legal,  
Dir Upper.

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

Service Appeal No 1625/2023

Miraj Muhammad (Inspector) s/o Badshah Muhammad r/o Kareen, P/O Darora,  
Katan Payen, Tehsil Dir District Upper Dir.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 11525

Dated 1/3/24

Appellant.

**VERSUS.**

- 1) Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
- 2) Additional Inspector General of Police Headquarter CPO Peshawar.
- 3) Deputy Inspector General of Police Headquarter CPO Peshawar.
- 4) Deputy Inspector General of Police Malakand at Saidu Sharif, Swat.

Respondents.

**PARA WISE REPLY ON BEHALF OF RESPONDENTS.**

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS.**

- 1) That the present service appeal is not maintainable in its form.
- 2) That the appellant has not come to this August Tribunal with clean hands.
- 3) That the present appeal is badly time barred.
- 4) That this Honorable Service Tribunal has no jurisdiction to entertain the present service Appeal.
- 5) That the appellant has got no cause of action.
- 6) That the appellant has suppressed the material facts from this Honorable Tribunal.
- 7) That the appellant deliberately concealed the real facts from this August Tribunal.
- 8) That the present appeal is barred by law and rules.

**ON FACTS:**

1. Pertains to record hence needs no comments.
2. Incorrect, the appellant was directly appointed as ASI and he was on probation for period of 03 years. Rules 12.08 and 19-25(5) of Police Rules 1934 clearly states that ASI appointed direct shall be on probation for a period of 03 years after their appointment as such and that they may be confirmed in their appointment of being an ASI on the termination of the prescribed period of probation for 03 years with immediate effect not with retrospective effect i.e from the date of their appointment by the Regional Deputy Inspector General on the report of respective DPOs. Rules 12.8 and 19-25(5) of Police Rules 1934 is reproduced below:-

**PR 12.8:** "Probationary nature of appointments: (1) Inspectors, Sergeants, Sub-

*Inspectors and Assistant Sub-Inspectors who are directly appointed will be considered to be on probation for three years and are liable to be discharged at any time within the period of their probation if they fail to pass the prescribed examinations including the riding test, or are guilty of grave misconduct or are deemed for sufficient reasons, to be unsuitable for service in the Police. A probationary inspector shall be discharged by the Inspector General, and all other Upper Subordinates by Range Deputy Inspector General, Assistant Inspector General, Government (Railway Police, and Assistant Inspector General, Provincial Additional Police. No appeal lies against an order of discharge. (2) The pay admissible to a probationary Inspector, Sergeant, Sub-Inspector or Assistant Sub Inspector is shown in appendix 10.64 Table”.*

**PR 19.25-(5):** *“On the termination of the prescribed period of probation the Superintendent shall submit to the Deputy Inspector General for final orders the full report required by form 19.25 (5) on the probationers working and general conduct, with a recommendation as to whether he should or should not be confirmed in his appointment. In the case of Inspectors such reports shall be forwarded to the Inspector General”.*

The above rules clearly state that PASIs appointed direct shall be on probation for a period of three years after their appointment as such and that they may be confirmed in their appointments (appointment of being an ASI) on the termination of the prescribed period of probation for three years with immediate effect not with retrospective effect.

Moreover paragraph VI of the promotion policy , provided in ESTA CODE Establishment Code Khyber Pakhtunkhawa (Revised Edition) 2011 states that *“Promotion will always be notified with immediate effect”.*

3. Correct to the extent of Regional Police Officer Malakand, order whereby the appellant has been confirmed in the list with immediate effect in accordance with rules.
4. Incorrect, the order was issued by the competent authority in light of Rules 12-08, 19-25(5) of Police Rules 1934 and promotion policy of ESTA Code Establishment Code Khyber Pakhtunkhawa (Revised Edition) 2011, apex court judgments. The order is based on solid reasons and is legal, and no illegality has been committed, by the respondent. As per rules 13-10, 13-11 and 13-13, the regional DIG has the powers to make addition or removal at any time. The rules are reproduced below.

**PR 13.10:** *List E. Promotion to sub-inspectors: (1) A list of all assistant sub-inspectors, who have been approved by the Deputy Inspector General as fit for trial in independent charge of a police station, or for specialist posts on the establishment of sub-inspectors, shall be maintained in card index form by each Deputy Inspector General. Officiating promotions of short duration shall*

*ordinarily be made within the district concerned (vide sub-rule 13.4 (2), but vacancies of long duration may be filled by the promotion of any eligible man in the range at the discretion of the Deputy Inspector General. Half-yearly reports on all men entered in the list maintained under this rule shall be furnished in form No. 13.9 (3) by the 15<sup>th</sup> October, in addition to the annual report to be submitted by the 15<sup>th</sup> January in accordance with Police Rules 13.17 (1)*

**PR 13.11:** Publication of list E in the Police Gazette: *List E of each range shall be published annually in Police Gazette. Additions to the list may be made at any time by Deputy Inspector General but all such addition and the removal of all names under sub rules 13.12 (2) shall be published in the Gazette by special notification. Names shall be entered in the list in order according to the date of admission, length of police service deciding the relative position of assistant sub-inspectors admitted on the same date”.*

**PR 13.13:** Control of Deputy Inspector General: *“ Apart from the special requirements of the foregoing rules regarding the confirmation or revision of orders, Deputy Inspector General are required to pay special attention at their inspections to the working of lists A,B,C and D by Superintendents, they have authority to remove any name which they consider has been improperly admitted, and to give such orders as may be expedient in respect of the methods of selection and the tests applied”;*

5. Incorrect, as already discussed that all the proceeding have been carried out in accordance with rules and no such illegality has been committed by the respondents.
6. Incorrect, all the process have been carried out in accordance with rules and no such discrimination has been done, as all are entitled to avail equal rights as per rules.
7. Incorrect, all the promotions/ conformation were carried out by the respondent No. 04 as per merit/ criteria laid down for the purpose. The appellant has not been deprived from his rights nor has any such illegality been committed by the respondents. The appellant was required to seek remedy at that time if he was feeling aggrieved, however he remained mum.
8. The appeal was filed on the basis of no legal forting.
9. Pertains to record of honorable Peshawar High Court Mingora Bench and the respondent No. 04 issued the seniority list by exercising his rights as per rules 13-11, 13-12 read with 13-13 of Police Rules 1934.
10. Pertains to record, hence needs no comments.
11. Incorrect, the honorable Service Tribunal has got not jurisdiction and the appellant appeal is not based on law/rules and liable to be dismissed on the following grounds.

## GROUNDS

- (A) Incorrect, the notification was issued in accordance with law/rules relating to probation, confirmation, seniority and no illegality has been committed by the respondents.
- (B) Incorrect, as already discussed in preceding para, that the appellant was direct appointed as ASI and as per rules 12-08 and 19-25(5) of Police Rules 1934, he was on probation for a period of three years and after termination of the probation period, he was confirmed in the appointment with immediate effect not with retrospective effect. All these process are done as per rules.
- (C) Needs no comments.
- (D) Incorrect, as disused in preceding para, that as per Police rules, confirmation shall take effect on the termination of probation period of 03 years with immediate effect not retrospective effect.
- (E) Para first regarding initial appointment through public service commission is correct, while the remaining para is incorrect, and the details are discussed in above paras.
- (F) Incorrect, the notification was issued in accordance with rules and no violation or illegality has been committed by the respondents.
- (G) Incorrect, each and every case has its own facts and merits. The notification regarding confirmation relating to appellant and others was issued in light of rules *ibid*.
- (H) Incorrect, details already given in above paras.
- (I) As already discussed that as per rules 12-08 and 19-25(5) of Police Rules 1934, ASIs appointed direct shall be on probation for a period of three year after their appointments as such and that they may be confirmed in their appointments on the termination of the prescribed period of probation i.e, three years with immediate effect. The competent authority issued the orders as per rules and exercising rights over seniority list as per rules 13-11-13-12 and 13-13 of Police Rules 1934.
- (J) Incorrect, rules 12-8 and 13-18 of Police Rules 1934 laid down the criteria for direct appointed and those promoted (ranker ASIs). The rules is reproduced below:-

**PR 12.8:** "Probationary nature of appointments: (1) *Inspectors, Sergeants, Sub-Inspectors and Assistant Sub-Inspectors who are directly appointed will be considered to be on probation for three years and are liable to be discharged at any time within the period of their probation if they fail to pass the prescribed examinations including the riding test, or are guilty of grave misconduct or are deemed for sufficient reasons, to be unsuitable for service in the Police. A*

*probationary inspector shall be discharged by the Inspector General, and all other Upper Subordinates by Range Deputy Inspector General, Assistant Inspector General, Government (Railway Police, and Assistant Inspector General, Provincial Additional Police. No appeal lies against an order of discharge. (2) The pay admissible to a probationary Inspector, Sergeant, Sub-Inspector or Assistant Sub Inspector is shown in appendix 10.64 Table”.*

**PR 13.18:** Probationary period of promotion. *“All Police officers promoted in rank shall be on probation for two years, provided that the appointing authority may, by a special order in each case, permit periods of officiating service to count towards the period of probation. On the conclusion of the probationary period a report shall be rendered to the authority empowered to confirm the promotion who shall either confirm the officer or revert him. In no case shall the period of probation be extended beyond two years and the confirming authority must arrive at a definite decision within that period whether the officer should be confirmed or reverted. While on probation officers may be reverted without departmental proceedings. Such reversion shall not be considered reduction for the purpose of rule 16.4. The rule shall not apply to constables and sub-inspectors promoted to the selection grade, whose case is governed by rules 13.14.*

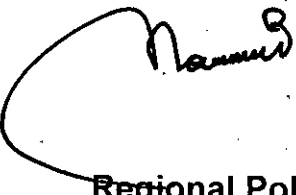
- (K) Incorrect, as already discussed in preceding paras, that confirmation of direct appointee and ranker ASIs are made as per rules and no violation has been committed by the respondents.
- Relevant rules discussed above in detail, hence needs no comments.
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  - Relevant rules discussed above in detail, hence needs no comments.
  - Relevant rules discussed above in detail, hence needs no comments.
- (L) Incorrect, all the process relating to confirmation of ASI's (direct/ranker) has been carried out as per law/ rules and no illegality has been committed by the respondents, never, ever two officials have been confirmed against one substantive vacancy.
- (M) Incorrect, the appellant and others have been treated equally as per law/rules as enshrined in article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973 and no illegality has been committed by the respondents.
- (N) Incorrect, no discrimination with appellant has been done, as appellant and his other colleagues were treated as per rules equally.
- (O) Incorrect, the notification issued by the competent authority is in accordance with rules and no illegality has been committed by the respondents.
- (P) Incorrect, no violation of the rules has been committed by the respondents, as


all the process has been done as per merit and the seniority of the appellant and his other colleagues have been issued as per rules.

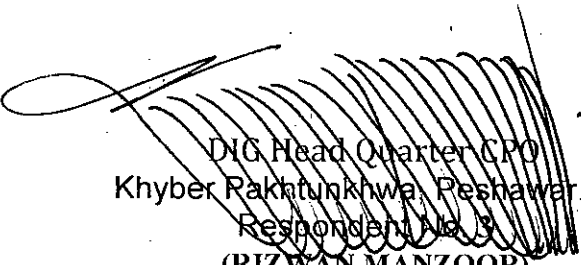
- (Q) Incorrect, all the process carried out by the competent authority are in accordance with rules laid down for confirmation/ promotion which is based on principle of natural justice. These rules are applicable to all members of police force not only to the appellant.
- (R) The respondents also seek leave of this honourable tribunal to rely on additional grounds at the time of arguments/hearing.

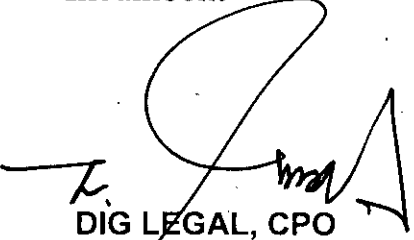
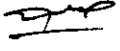
**PRAYER:**

It is therefore humbly prayed that on acceptance of this Para-wise reply, the appeal may graciously be dismissed with cost, please.

  
**Regional Police Officer,**  
Malakand at Saidu Sharif Swat.  
Respondent No.4  
**(MUHAMMAD ALI KHAN)**  
Incumbent  
**Regional Police Officer,**  
Malakand, at Saidu Sharif Swat.

  
**Additional Inspector General of police,**  
Khyber Pakhtunkhwa, Peshawar  
Respondent No.2  
**(AWAL KHAN)**  
Incumbent

  
DIG Head Quarter CPO  
Khyber Pakhtunkhwa, Peshawar.  
Respondent No.3  
**(RIZWAN MANZOOR)**  
Incumbent

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


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**Power of Attorney**

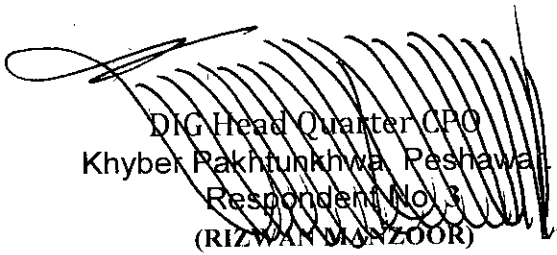
We, the undersigned do hereby authorized Fazal Wali , Inspector Legal to appear on our behalf before the honorable Service Tribunal in the cited above case on each and every date.

He is also authorized to file para wise comments/ reply, prefer appeal and to submit the relevant documents before the Honorable Tribunal.



**Regional Police Officer,**  
Malakand at Saidu Sharif Swat.  
Respondent No.4  
(MUHAMMAD ALI KHAN)

Incumbent  
**Regional Police Officer,**  
Malakand, at Saidu Sharif Swat.

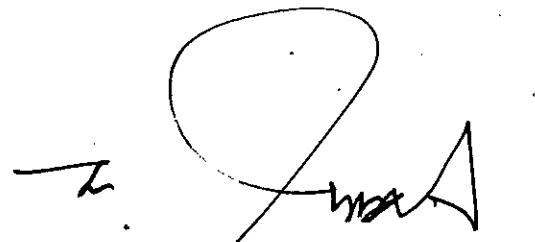


DIG Head Quarter CPO  
Khyber Pakhtunkhwa Peshawar  
Respondent No.3  
(RIZWAN MANZOOR)

Incumbent



**Additional inspector/General of police,**  
Khyber Pakhtunkhwa, Peshawar  
Respondent No.2  
(AWAL KHAN)  
Incumbent



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

Incumbent



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**VERSUS.**

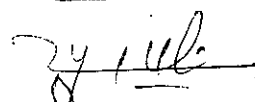
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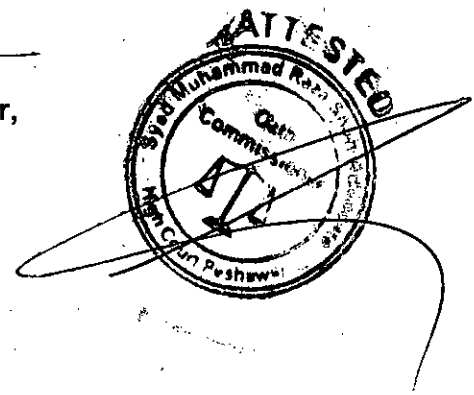
**Affidavit**

I, the undersigned do hereby solemnly affirm and declared that the contents of parawise comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

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



District Police Officer,  
Dir Upper.  
Respondent No. 1  
(Waqar Ahmad)  
Incumbent



01 MAR 2024