



11.01.2018

Counsel for the appellant and Asst: AG alongwith Mr. M. Riza Khan, Inspector for respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 14.02.2018 before D.B.


(Ahmad Hassan)
Member(E)


(M. Hamid Mughal)
Member (J)

14.02.2018

Appellant in person present. Mr. Kabir Ullah Khattak, Additional AG alongwith Gul Zamin, Inspector for the respondents present. Counsel for the appellant is not in attendance due to general strike of the bar. To come up for arguments on 18.04.2018 before D.B.

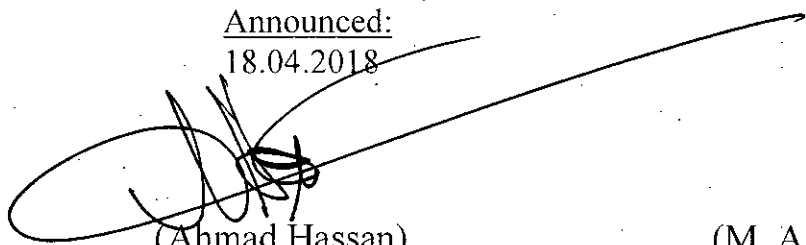

Member

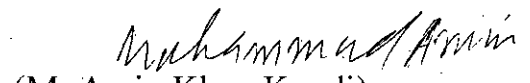

Chairman

18.04.2018

Counsel for the appellant and Assistant AG for respondents present. Counsel for the appellant submitted an application for withdrawal of the instant appeal. In this respect his signature also obtained in the margin of the order sheet. Request accepted and the appeal in hand is therefore, dismissed as withdrawn. File be consigned to the record room.

Announced:
18.04.2018


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

*The Grievances of the Appellant was
Adressed there fore the Appellant
has Appeal
18-4-18*

18.05.2017


Clerk of the counsel for appellant and Mr. Muhammad Shoaib, Sub Inspector alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 05.09.2017 before D.B.

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

05.09.2017


Counsel for the appellant present. Mr. Kabir Ullah Khattak, Assistant Advocate General for the respondents present. Counsel for the seeks adjournment. Adjourned. To come up for arguments on 16.11.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

16.11.2017

Counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 11.01.2018 before the D.B.


Member


Chairman

14.06.2016

Counsel for the appellant and Asstt. AG for the respondents present. Requested for adjournment. To come up for written reply/comments on 14.07.2016 before S.B.


Chairman

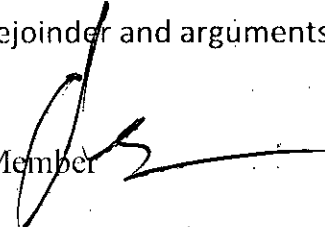
14.07.2016

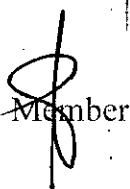
Counsel for the appellant and Mr. Imtiaz Gul, SP (lit) alongwith Addl. AG for respondents present. Written reply submitted. Copy handed over to Addl. AG. The appeal is assigned to D.B for rejoinder and final hearing on 7.9.2016.


Member

07.09.2016

Appellant in person and Mr. Sattar Khan, SI alongwith Usman Ghani Sr. GP for respondents present. Rejoinder not submitted. Requested for time to file rejoinder. To come up for rejoinder and arguments on 4-1-17.


Member


Member

04.01.2017

~~04.01.2017~~

Counsel for the appellant and Mr. Hafeez ul Haq, SI alongwith Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 18.5.17. In. VP for respondents present. Rejoinder submitted, which is placed on file. To come up for


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

(ASHFAQUE TAJ)

(MUHAMMAD AAMIR NAZIR)

6.05.2016

Appellant with counsel present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant impugned order dated 21.3.2016 whereby his departmental appeal against the order dated 29.1.2014 has been rejected.

Brief facts of the case are that the appellant was initially appointed as Constable on 15.5.1993 and while serving as SI on officiating basis he was reverted to the rank of Constable with immediate effect vide impugned order dated 29.1.2014. Against which appellant filed departmental appeal which was not responded and hence he filed service appeal No. 561/2014 before this Tribunal, which was disposed of vide judgment dated 16.11.2015 whereby the case was remanded to the respondent department with the direction to decided departmental appeal of the appellant on merit without discrimination. However, vide order dated 21.3.2016 the departmental appeal was dismissed, hence the present appeal.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 14.6.2016 before S.B.

Appellant Deposited
Security & Process Fee

15.06.2016

Counsel for the appellant and Asstt. AG
alongwith Daud Jan, Supdt. for the respondents present.
Requested for adjournment. Last opportunity ^{Member} granted. To
come up for written reply/comments on 24.08.2016 before
S.B.

Chairman.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 412/2016

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1 | 18.04.2016 | <p>The appeal of Mr. Shabir Ahmad presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p> |
| 2 | 25-04-2016 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>28.4.16</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p> |
| | 28.4.2016 | <p>Appellant in person present. Seeks adjournment due to strike of the bar. Adjourned for preliminary hearing to 6.5.2016 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p> |

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 412 /2016

Shabbir Ahmad

V/S

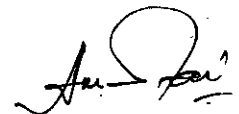
Police Deptt:

INDEX

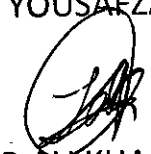
| S.NO. | DOCUMENTS | ANNEXURE | PAGE |
|-------|--------------------------------|----------|-------|
| 1. | Memo of Appeal | ----- | 1-4 |
| 2. | Copy of order dated 15.5.1993 | A | 5 |
| 3. | Copy of order dated 19.11.1996 | B | 6 |
| 4. | Copy of order dated 1.4.1999 | C | 7 |
| 5. | Copy of order dated 29.11.2002 | D | 8 |
| 6. | Copy of order dated 29.1.2014 | E | 9 |
| 9. | Copy of departmental appeal | F | 10-12 |
| 10. | Copy of memo of appeal | G | 13-17 |
| 14 | Copy of judgment | H | 18-21 |
| 12. | Copy of order dated 21.3.2016 | I | 22 |
| 13. | Copy of officials list | J | 23-25 |
| 14. | Vakalat Nama | ----- | 26 |

APPELLANT

THROUGH:


(M.ASIF YOUSAEZAI)

&


(TAIMUR ALI KHAN)
ADVOCATES, PESHAWAR

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 412 /2016

Shabbir Ahmad Ex- Sub inspector now Constable Computer Cell
Investigation Wing, C.P.O, Peshawar

A.W.F. Province
Service Tribunal
Diary No 386
Dated 18-4-2016

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Addl: Inspector General of Police Investigation wing (Crime Branch)
KPK, CPO, Peshawar.
3. The Deputy Inspector of Police Investigation (Crime Branch) KPK, CPO,
Peshawar.

(RESPONDENTS)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT,
1974 AGAINST THE ORDER DATED 21.3.2016, WHEREBY THE
DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER
DATED 29.01.2014 HAS BEEN REJECTED IN PURSUANT TO THE
JUDGMENT OF THE SERVICE TRIBUNAL DATED. 16.00.2015.**

PRAYER:

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED
21.03.2016 AND 29.01.2014 MAY BE SET ASIDE AND THE
APPELLANT MAY BE REINSTATED TO HIS ORIGINAL RANK OF SUB
INSPECTOR WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY
OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND
APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF
APPELLANT.**

*Filed to App
Registrar
18/4/16*

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was enlisted in the police department on 15.5.1993 as Constable/Computer Operator (BPS-5) in the Computer Centre of Crime Branch C.P.O, Peshawar and since then he performed his duties up to the entire satisfaction of his superior and no complaint has been filed against him. (Copy of order dated 15.5.1993 is attached as Annexure-A)
2. That during the course of his service the appellant was promoted as Head Constable on 19.4.1995 as ASI on 19.11.1996 and as SI on 1.4.1999. Copies of orders 19.11.1996, and 1.4.1999 are attached as Annexure- B&C)
3. That while serving as such, without assigning any reason, the appellant was reverted to the rank of assistant sub Inspector vide order dated 6.4.2002 , however he was again promoted to the post of Officiating Sub Inspector vide order dated 29.11.2002 on account of his efficiency and hard work. Since the appellant was performing his duties in the said capacity. (Copy of order dated 29.11.2002 is attached as Annexure-D)
4. That while serving in the said capacity(S.I), to the great surprise of the appellant, without serving any notice, charge sheet or show cause notice, the appellant was reverted to the post of Constable vide order dated 29.1.2014, allegedly on the ground that the crime/ Investigation Wing is not empowered to make promotion of Police staff nor the said police official has acquired mandatory qualifications necessary for the promotion. (Copy of order dated 29.1.2014 is attached as annexure-E)
5. That against the order dated 29.1.2014, the appellant filed departmental appeal on dated 6.2.2014, however his departmental was not responded in the statutory period of 90 days. thereafter the, the appellant filed service appeal No. 561/2014 in this august Service Tribunal which was decided on 16.11.2015 with the direction that since departmental appeal of the appellant has not been responded therefore, the Tribunal is of the considered view that further indulgence by the Tribunal at this stage may cause further complications. Hence, the appeal is remitted to the appellate authority with the direction to examine appeal of the appellant and

decide the same strictly on merits without any discrimination. (Copies of memo of , departmental appeal, service appeal and judgment are attached as Annexure-F, G&H)

6. That on the direction of august Service Tribunal, the department called departmental appellate Board meeting on dated 2.3.2016 in which the Departmental Appellate Board decided that all promotions in the investigation Wing, Sis, ASIs, HCs, and constables as well as other Units of Police have been done against law and rules may be set aside/ cancelled vide order dated 21.3.2016. (Copy of order dated 21.3.2016 is attached as Annexure-I)
7. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUNDS:

- A) That the impugned orders dated 21.03.2016 and 29.01.2014 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That no proper procedure has been followed before reverting the appellant down to the rank of Constable, the appellant has not been served with any notice or charge sheet, or show cause notice before the issuance of impugned order, which is the violation of law and rules.
- C) That the appellant was promoted by the competent authority after observing all necessary formalities and had performed duties against the promoted posts for a considerable long period, thus certain valuable rights have been created in the favor of the appellant which cannot be withdrawn so easily.
- D) That when there is no quota for the lower and intermediate course for Crime Branch Peshawar, in such circumstances the appellant cannot be held responsible for not undergoing the said courses and even the appellant was never nominated for such courses by the authorities. Thus the appellant cannot be penalized for the faults of others.
- E) That the appellant remained as Sub Inspector for about 12 years, therefore under the provision of 13-18, Police Rules the appellant

having not reverted in the initial 2 years period of his promotion, which matured his rights to be allowed to regular promotion instead of reversion.

- F) That the appellant was initially appointed in Crime Branch (now Investigation Wing) C.P.O Peshawar and have got promotion to different ranks in the same branch, thus his lien cannot be transferred to any other district without his consent.
- G) That the appellant was discriminated as the Appellate Departmental Board in his order mentioned that that all promotions in the investigation Wing, Sis, ASIs, HCs, and constables as well as other Units of Police have been done against law and rules may be set aside/ cancelled, but despite that all other officials are still working on their posts while only the appellant was reverted. (Copy of the name of those officials is attached as Annexure-K)
- H) That even the reversion for two steps lower in the same succession is illegal and not warranted under the law.
- I) That the appellant has more the 20 years service carrier and reversion would spoil his future service carrier.
- J) The appellant has been condemned unheard and not been treated according to law and rules.
- K) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

Shabbir Ahmad

THROUGH:

(M.ASIF YOUSAFZAI)

&

(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR .

A (F) (S)

ENLISTMENT ORDER.

Candidate Mr. Shabir Ahmad
S/o Abdul Wakil resident of Village Jungara
Police Station Chorah Teh: Mardan Distt: Mardan
enlisted as Constable/Computer Operator in the Computer
Centre CPD in DPS No. 5, i/c (Rs. 1035-49-730) w.e. from 12-5-73
and allotted Constabulary No. 116
128-CB

He is enlisted merely on temporary basis and his service
would be liable to termination any time without any notice
under Police Rules 12-21.

Height 5' 5 1/2" Chest 30" x 32"
Age 23 years Education F.Sc
Date of Birth 6.4.1970

[Signature]

Superintendent of Police
Crimes Branch NWFP C.P.O. Peshawar

O.B. No. 156 /CU.
Dated 15-5- /1993.

Copy to

- 1. Accountant's Crimes Branch.
- 2. SRC Crimes Branch.

ATTESTED

[Signature]

ORDER

B (6)

The following Offg:Head Constables of Computer Centre Crimes Branch, N.W.F.P, Peshawar are hereby promoted as Offg:ASIs against the existing Vacancies with immediate effect:-

1. H/Constable Shabir Ahmed No.116
2. " Sadid Ullah No.38
3. " Arif Hussain Shah No.121

On promotion they are remain posted to the Computer Centre Crimes Branch, N.W.F.P, Peshawar.

Shaukat Ali Khan
(SHAUKAT ALI KHAN)
Dy:Inspector General of Police,
Crimes Branch, N.W.F.P, Peshawar.
(P.A.)

OB No. 358 /Crimes.

Dated 19-11-1995

No. 3498-3502 /Crimes, dt: Peshawar, the 19.11.1995.

Copy of above is forwarded for information and necessary action to the:-

1. Incharge Computer Centre Crimes Branch, N.W.F.P, Peshawar.
2. Accountant Crimes Branch, Peshawar.
3. Reader to DIG/Crimes Branch, Peshawar
4. Lines Officer, Crimes Branch, Peshawar.
5. S.R.C/Crimes Branch, Peshawar.

ATTESTED

A

POLICE DEPARTMENT.

CRIMES BRANCH, NWFP, PESHAWAR.

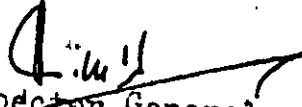
FOR PUBLICATION IN THE NWFP POLICE GAZETTE PART-II.

ORDERS BY THE DY.INSPECTOR GENERAL OF POLICE,
CRIMES BRANCH, N.W.F.P., PESHAWAR.

NOTIFICATION.

NO. 1507 /CRIMES, PROMOTION:- A.S.I Shabir Ahmed of
Computer Cell/Crimes Branch, is hereby promoted as Offg:S.I
in BFS-14 (2065-161-4480/-) in existing vacancy with immediate
effect till further order.

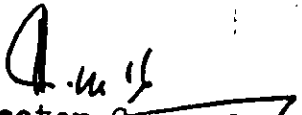
On promotion he remain posted in Computer Cell
Crimes Branch, Peshawar.


Dy:Inspector General of Police,
Crimes Branch, NWFP, Peshawar.
(M.Irshad)

No. 1508-12 /Crimes, at:peshawar the 1/4 /1999.

Copy of above is forwarded for
information and necessary action to :-

- 1) The I/C Computer Cell/Crimes Branch, Peshawar.
- 2) The SP/Crimes Branch, with two spare copies of Gazette
Notification for publication in Police Gazette Part-II.
- 3) Accountant/SRG/Steno to DIG/Crimes Branch.


Dy:Inspector General of Police,
Crimes Branch, NWFP, Peshawar.



FOR PUBLICATION IN THE N.W.F.P POLICE GAZETTE PART-II.
ORDERS BY THE ADDL: IG INVESTIGATION NWFP, PESHAWAR.

NOTIFICATION.

Dt: Peshawar, the 29/11/2002.

NO. 5807 SRC/Inves: PROMOTION AS OFFG: SUB INSPECTOR:- Being efficient and hard working, ASI Shabir Ahmad of Computer Section (Inves:) is hereby promoted as Offg: Sub Inspector BS-14 (3100-240-10200) in an existing vacancy of this unit, with immediate effect.

On promotion he will remain posted in Computer Section (Inves:) Peshawar.

(FAQIR HUSSAIN)
Addl: Inspector General of Police,
Investigation N.W.F.P, Peshawar.

NO. 5808-14 /Inves:

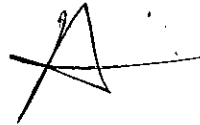
Copy forwarded for information and n/action to the:-

1. SSP/Inves:
2. I/C Computer Centre
3. Accountant
4. S. Clerk. Alongwith two spare copies for publication in the NWFP Police gazette part-II.
5. RA to Addl: IG/Inves:
6. S.R.C.

(FAQIR HUSSAIN)
Addl: Inspector General of Police,
Investigation N.W.F.P Peshawar.
Mutahid.

29.11*

ATTESTED



E E (9)

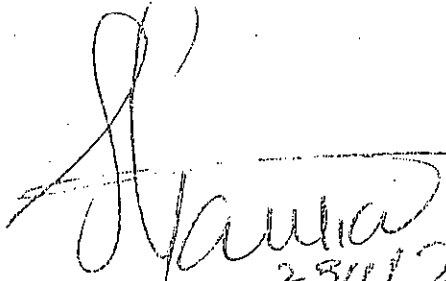
ORDER

This order is directed to regularize services of Shabir Ahmad officiating SI presently serving in computer cell Crimes branch/Investigation CPO Peshawar.

Service record of Shabir Ahmad Officiating SI reflects that he was enrolled as constable on 15.05.1993 in the Computer Center CPO Peshawar, promoted to the rank of HC on 19.04.1995, as ASI on 02.12.21996, as SI on 01.04.1999, reverted to the rank of ASI on 06.04.2002 and again promoted to rank of SI on 29.11.2002. However in light of the Police Rules 21.25 since, Crimes/Investigation Wing in not empowered to make promotions of the police staff nor the said police official has acquired mandatory qualifications necessary for the promotions detailed above, therefore the promotions made thereof are of no legal consequence and thus set-a-side. Moreover in this regard section 21 of the General Clauses Act 1897 is also clear on the subject.

In view of the above Shabir Ahmad officiating SI is therefore reverted to the rank of constable with immediate effect. He may submit an application for transfer of his lien to his parent district so that in light of Police Rules chapter 13 his promotion and other relevant matters may be dealt with by the district concerned.

Announced


23/11/2014
Additional Inspector General of Police
Investigation Khyber Pakhtunkhwa,
Peshawar


OB. No. 3/2ms:
Dated: 28-1-014

OFFICE OF THE ADDL:IGP INVESTIGATION KPK, PESHAWAR

No. 862-66/EC/Inv, dated Peshawar, the 28/11/2014.

Copy of above is sent for information and necessary action to the:-

1. Incharge Computer Section Inv
2. Director I.T CPO
3. PA to Addl:IGP/Investigation
4. Accountant Inv
5. SHO PS Inv (CB)


ATTESTED



F (10)

CR# 7525/EB

To
The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

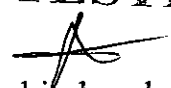
Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 29.01.2014, WHEREBY THE UNDERSIGNED HAS BEEN REVERTED FROM THE POST OF OFFICIATING SUB INSPECTOR TO THE RANK OF CONSTABLE.**

Prayer in appeal.

ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL THE ORDER DATED 29.01.2014, MAY PLEASE BE SET ASIDE AND THE UNDERSIGNED MAY BE REINSTATED TO HIS ORIGINAL RANK OF OFFICIATING SUB INSPECTOR WITH ALL CONSEQUENTIAL BENEFITS.

Respectfully submitted.

ATTESTED



I very humbly submit the following few lines for your kind and sympathetic consideration:

EM
6/2

SR

06/02/14

1. That I was initially enlisted as Constable / Computer Operator BPS-05 in the Computer Center of Crime Branch C.P.O, Peshawar, w.e.f from 12.05.1993, vide order dated 15.05.1993. Ever since my enlistment, I have performed my duties as assigned to me with zeal and devotion and without giving any chance of complaint whatsoever to my superiors.

2. That during the course of my service I was promoted to the rank of Head Constable on 19.04.1995, to the Rank of Assistant Sub Inspector on 02.12.1996 and to the Rank of Sub Inspector on 01.04.1999.

3. That while serving as such, without assigning me any reason or giving me any notice I was reverted to the Rank of Assistant Sub Inspector vide order dated 06.04.2002, however I was again Promoted to the post of Officiating Sub Inspector vide order dated 29.11.2002, on account of my efficiency and hard work. Since then I was performed my duties in the said capacity.

4. That while serving in the said capacity, to the great surprise of the undersigned, without serving upon me any notice, I was reverted three step lower to the post of Constable vide order dated 29.01.2014, allegedly on the ground that the "Crime / Investigation Wing is not empowered to make promotions of Police staff nor the said police

1117/EB-II
6/2/14

official has acquired mandatory qualifications necessary for the promotion.”

- 5. That the reversion so made is illegal unlawful without lawful authority and is thus liable to be set aside inter alia on the following grounds:

GROUND OF DEPARTMENTAL APPEAL.

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B. That no procedure has been followed before the reversion of the undersigned to the Rank of Constable, I have not been served with any notice or charge sheet, thus the Reversion so made is liable to be set aside.
- C. That the undersigned was promoted by the competent authority, after observing all necessary formalities, moreover, I have taken charge of the higher post and have performed my duties against the post of Sub Inspector for more then 10 years, thus valuable rights have been created in my favour the same cannot be undone with one stroke of pen.
- D. That I was initially appointed in the Computer Centre of Crime Branch (now Investigation Wing), C.P.O Peshawar and have got promotions to different Ranks in the same branch, thus my lien cannot also be transferred to any other district without my consent.
- E. That I remained as Sub Inspector for a period of more then 2 years, therefore under the provisions of 13-18, Police Rules the undersigned having not been reverted in that period has matured his right to have been allowed to regular promotion instead of reversion.

ATTESTED

- F. That the undersigned was promoted to higher Posts, I obeyed the orders and performed the duties of the higher post, my salary was also fixed against the promoted posts. Therefore, the pay once fixed in the higher posts can under no circumstances be reduced or withdrawn.
- G. That on promotion of the undersigned valuable rights have been created in my favour, the order of promotion has taken its effect, therefore, the same cannot be rescinded or snatched illegally.

- H. That reversion to lower Post amounts to penalty for which proper right of hearing is required coupled with service of proper show cause, in the instant case no such procedure was adopted, thus the order of reversion is illegal and not tenable.
- I. That even otherwise the reversion thrice consecutively is illegal and not warranted under the law.
- J. That I have at more then 20 years service career at my credit, the reversion made would spoil my bright service career.

It is, therefore, humbly prayed that on acceptance of this departmental appeal the orders dated 29.01.2014, may please be set aside and the undersigned may be reinstated to his original rank of officiating sub inspector with all consequential benefits.

Yours Obediently

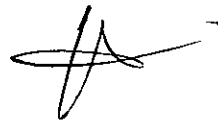


SHABIR AHMAD

Ex- Sub Inspector now Constable
Computer Centre Investigation Wing,
C.P.O, Peshawar.

Dated: 6 / 02 / 2014

ATTESTED



10 G (13)

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

Appeal No. _____/2014

7/16
16-5-14

Shabbir Ahmad Ex-Sub Inspector now Constable Computer Cell
Investigation Wing, C.P.O, Peshawar.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police Investigation Wing
(Crime Branch) Khyber Pakhtunkhwa CPO, Peshawar.
3. DIG of Police Investigation (Crime Branch) Khyber
Pakhtunkhwa CPO, Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber
Pakhtunkhwa Service Tribunal Act, 1974, against
the Order dated 29.01.2014, whereby the
Appellant has been reverted from the Rank of SI
to the Rank of Constable, against which the
departmental appeal dated 06.02.2014 has not
been responded despite the lapse of 90 days
statutory period.

CAO
16/5/14

Prayer in Appeal: -

On acceptance of this appeal the order dated
29.01.2014, may please be set-aside and the
Appellant may please be re-instated to his
original rank of Sub Inspector with all back
benefits.


ATTESTED

(Signature)

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Respectfully Submitted:

1. That the appellant was initially enlisted as Constable / Computer Operator BPS-05 in the Computer Center of Crime Branch C.P.O, Peshawar, w.e.f from 12.05.1993, vide order dated 15.05.1993. Ever since his enlistment, the appellant performed his duties as assigned to him with zeal and devotion and there was no complaint regarding his performance. (Copy of enlistment order dated 15.5.1993 is attached as annexure A).
2. That during the course of his service, the appellant also got promoted to different ranks. He was promoted as Head Constable on 19.04.1995, as Assistant Sub Inspector on 19.11.1996 and as Sub Inspector on 01.04.1999. (Copies of orders dated 19.4.1995, 19.11.1996 and 01.4.1999 are attached as annexure B,C & D).
3. That while serving as such, without assigning any reason, the appellant was reverted to the Rank of Assistant Sub Inspector vide order dated 06.04.2002, however he was again Promoted to the post of Officiating Sub Inspector vide order dated 29.11.2002, on account of his efficiency and hard work. Since then appellant was performing his duties in the said capacity. (Copy of order dated 29.11.2002 are attached as annexure E).
4. That while serving in the said capacity, to the great surprise of the appellant, without serving any notice, Charge Sheet or Show Cause Notice appellant was reverted to the post of Constable vide order dated 29.01.2014, allegedly on the ground that the "Crime / Investigation Wing is not empowered to make promotions of Police staff nor the said police official has acquired mandatory qualifications necessary for the promotion." (Copy of order dated 29.1.2014 is attached as annexure F).
5. That aggrieved from the order dated 29.01.2014, the appellant submitted his departmental appeal dated 06.02.2014, however his departmental appeal has not been responded despite the lapse of 90 days statutory period. (Copy of the departmental appeal is attached as Annexure G)
6. That the reversion so made is illegal unlawful without lawful authority and is thus liable to be set aside inter alia on the following grounds:

ATTESTED

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 GROUNDS OF APPEAL.

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before reverting the Appellant down to the Rank of Constable, the Appellant has not been served with any notice or charge sheet, nor he has been provided any opportunity of hearing before the issuance of the impugned orders thus the orders so made are liable to be set aside,
- C. That the Appellant was promoted by the competent authority, after observing all necessary formalities, moreover, the order of promotions have taken its effect, the appellant has taken over the charge of the higher post and had performed duties against the promoted posts for a considerable long period, thus valuable rights have been created in his favor and the same cannot be undone or snatched away illegally.
- D. That the appellant has not been given opportunity of personal hearing before reverting him to a lower rank hence he has been condemned unheard.
- E. That according to police Rules 21-25(6) in every exceptional cases and for the political branch only with the written sanction of the DIG personally, direct enrollment as constable or in the higher ranks may be made to the Criminal Investigation Department.
- F. That the appellant was directly appointed as constable in Crime Branch, Peshawar and was promoted as officiating Head Constable and officialiting Sub Inspector (S I) on the vacancies in the Crime Branch Peshawar.
- G. When there are no quota for the Lower and Intermediate courses for Crime Branch Peshawar in such circumstances the appellant can not be held responsible for not undergoing the said courses.

ATTESTED

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- H. That the Appellant was initially appointed in Crime Branch (now Investigation Wing), C.P.O Peshawar and have got promotions to different Ranks in the same branch, thus his lien cannot be transferred to any other district without his consent.
- I. That the Appellant remained as Sub Inspector for almost 12 years, therefore under the provisions of 13-18, Police Rules the Appellant, having not been reverted in the initial 2 years period of his promotion, has matured his right to be allowed to regular promotion instead of reversion.
- J. That the Appellant was promoted to higher Posts, he obeyed the orders and performed the duties of the higher post, his salary was also fixed against the promoted posts. Therefore, the pay once fixed in the higher posts can under no circumstances be reduced or withdrawn.
- K. That some similarly placed employees, who were also appointed/ transferred in the Crime Branch and also got promotions in the same branch/ wing, they have been retained in the same branch and are still serving there against the same promoted post thus the appellant has been highly discriminated and humiliated.
- L. That on promotion of the Appellant, valuable rights have been created in his favour and the order of promotion has taken its effect, therefore, the same cannot be rescinded or snatched illegally.
- M. That reversion to lower Post amounts to penalty for which proper right of hearing is required coupled with service of proper show cause, but in the instant case no such procedure was adopted, thus the order of reversion is illegal and not tenable.
- N. That the Appellant has never been served with any Show Cause Notice nor was he allowed any opportunity of personal hearing before the order of reversion.
- O. That even otherwise the reversion for two steps lower in same succession is illegal and not warranted under the law.

ATTESTED

P. That the Appellant has at his credit more than 20 years service career, the reversion made would spoil his bright service career.

Q. That the appellant also seek permission of this honorable Tribunal to rely on additional grounds at the time of hearing of this appeal.

It is, therefore, humbly prayed that on acceptance of this appeal the order dated 29.01.2014, may please be set-aside and the Appellant may please be re-instated to his original rank of Sub Inspector with all back benefits.

Through

S. Ijaz Anwar
Appellant

Ijaz Anwar
IJAZ ANWAR
Advocate Peshawar

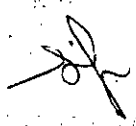
Sajid Amin
&
SAJID AMIN
Advocate, Peshawar

ATTESTED

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H 18

| Sr. No. | Date of order/ proceedings | Order or other proceedings with signature of Judge/ Magistrate |
|---------|----------------------------|--|
| 1 | 2 | 3 |
| | 16.11.2015 | <p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Service Appeal No. 561/2014</p> <p style="text-align: center;">Muhammad Ijaz Versus the Provincial Police Officer, KPK, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSI SHAH, MEMBER.-</u> Counsel for the appellant (Mr. Sajid Amin, Advocate) and Sr. Government Pleader (Mr. Usman Ghani) with Mr. Amir Hamza, S.I and Muhammad Ghani, S.I for the respondents present.</p> <p>2. The appellant was appointed as Constable BS-5 in the Crime Branch vide order dated 2.7.1991 of the Addl. Inspector General of Police, Crimes Branch, Khyber Pakhtunkhwa, Peshawar. He alongwith other constables were promoted as Head Constable BS-7 on officiating basis vide order dated 01.12.2001 of the Deputy Inspector General of Police Crimes Branch, Peshawar. He was further promoted as ASI BS-9 on officiating basis vide order dated 21.4.2012 of the DIG of Police (Headquarters) Investigation-III, Khyber Pakhtunkhwa, Peshawar. Conversely Vide impugned order dated 13.12.2013 read with order dated 23.12.2013, both issued from the office of the Addl. I.G of Police (Investigation), KPK, the promotion orders of the appellant were cancelled with immediate effect and he was reverted to his substantive</p> |



President of
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED


rank of the Constable. Further vide order dated 26.2.2013. issued from the office of A.I.G (Establishment), the appellant was treated on deputation to the Investigation Unit and was repatriated to his parent district Mar4dan with immediate effect. The appellant is aggrieved with the above impugned orders dated 13.12.2013, 23.12.2013 and 26.2.2013 vide which his promotion was cancelled and further that he was also repatriated. His departmental appeals dated 23.12.2013 and 08.1.2014, per memo: of appeal has also not been responded so far, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

ATTESTED

- 3. Arguments heard and record perused.
- 4. The learned counsel for the appellant submitted that no show cause notice was issued to the appellant before passing of the impugned orders, no opportunity of personal hearing was provided to him, therefore, the appellant has been deprived of his right of defence/hearing. It was further submitted that the promotion orders were passed by the competent authority and after lapse of sufficient time, the same provided vested right in favour of the appellant, therefore, the same cannot be unilaterally taken away from him. The learned counsel also submitted that the appellant has been discriminated as H.C Shafiullah and Mujahid Hussain both in the similar situation, were left untouched and retained whereas the appellant was

ATTESTED

 Khyber Pakhtunkhwa
 Service Tribunal

reverted. He requested that the impugned orders may be set aside and the appellant may be reinstated into position, he enjoyed before passing of the orders of reversion.

5. The learned Government Pleader resisted the appeal on the ground that the Crimes Branch is part and parcel of the Khyber Pakhtunkhwa Police which does not have a separate promotion quota or separate promotion rules for its staff and as promotion of the appellant was against the Police Rules and as the order was passed by an incompetent authority therefore, the same orders were rightly cancelled. It was further submitted that the impugned order is a speaking order showing that the appellant had not undergone the relevant courses for the purpose of promotion, therefore, the impugned orders being illegal and void ab-initio could not be left intact. He requested that the appeal may be dismissed.

6. We have heard the arguments of the learned counsel for the parties and perused the record. **ATTESTED**

7. This cannot be disputed that the Crimes Branch is part and parcel of the Khyber Pakhtunkhwa Police, being regulated by its rules for the purpose of promotion and maintaining the of the seniority list. Evidently this aspect of the matter was lost sight of by the concerned officers who passed the promotion orders. Irony of the issue is that the appellant has served on the promoted post for sufficient

ATTESTED

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Secretary
Khyber Pakhtunkhwa
Police

time in the course of which they also received emoluments but nobody took notice of the same. This being so it would be also irony if the impugned cancellation orders are found based on whims, likes and dislikes and pick & choose as alleged by the appellants that H.C Shafiullah and Mujahid Hussain were left untouched. Since departmental appeal of the appellant has also not been responded therefore, the Tribunal is of the considered view that further indulgence by the Tribunal at this stage may cause further complications. Hence, the appeal is remitted to the appellate authority with the direction to examine appeals of the appellants and decide the same strictly on merits without any discrimination. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

8. Our this single judgment will also dispose off connected service appeals No. 562/2014 Muhammad Tariq, No. 563/2014 Fazl-ur-Rehman, No. 564/2014 Hamayun Khan, No. 538/2014 Nizar Muhammad and No. 715/2014 Shabir Ahmad having common questions of law, in the same manner.

ANNOUNCED
16.11.2015

sd

(PIR BAKHSH SHAH)
MEMBER

(ABDUL LATIF)
MEMBER

ATTESTED

Date of Filing: 20-11-2015
 No. of Pages: 1600
 No. of Exhibits: 2-0
 Date of Disposal: 20-11-2015
 Date of Judgment: 20-11-2015
 Date of Appeal: 20-11-2015

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

No. S/ 2249 /16, Dated Peshawar the 21/03/2016.

ORDER

This order is hereby passed to dispose of departmental appeals under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975. Appellants namely Muhammad Ijaz, Muhammad Tariq, Fazl-ur-Rahman, Hamayun Khan, Nizar Muhammad and Shabir Ahmad (Computer Operator), while serving as ASIs/SI in Investigation CPO, were reverted to their substantive rank of Constables by the then Addl: IGP/Investigation Khyber Pakhtunkhwa Peshawar vide order dated 29.01.2014 because it was found that they have not undergone the basic promotion courses i.e lower intermediate and were promoted in violation of rules.

The above mentioned officers filed Service Appeal No. 561, 562, 563, 537, 715 & 538/2014 respectively, which were vide consolidated dated 16.11.2015 as referred to above. The relevant para of the judgement review as follows:-

"This cannot be disputed that the Crimes Branch is part and parcel of the Khyber Pakhtunkhwa police, being regulated by its rules for the purpose of promotion and maintaining the seniority list. Evidently this aspect of the matter was lost sight by the concerned officers who passed the promotion orders. Irony of the issue is that the appellant has served on the promoted post for sufficient time in the course of which they also received emoluments but nobody took notice of the same. This being so it would be also irony if the impugned cancellation order are found based on whims, likes and dislikes and pick and choose as alleged by the appellants that HC Shafiqullah and Mujahid Hussain were left untouched. Since departmental appeal of the appellant has also not been responded, therefore, the Tribunal of the considered view that further indulgence by the Tribunal at this stage may cause further complications. Hence the appeal is remitted to the appellate authority with the direction to examine appeals of the appellants and decide the same strictly on merits without any discrimination"

Meeting of the Appeal/Review Board was held on 02.03.2016, and the appellants were heard in person. The cases were perused; lists obtained from Addl: IGP/Investigation, Khyber Pakhtunkhwa Peshawar was also perused/examined by the board. The Board decided that all promotions in the Investigation Wing/Computer Section as well as other Units have been done against law and rules. Therefore, the cases of these Constables may be filed with the recommendation that all such promotions in the light of the Supreme Court of Pakistan decision on out of turn promotions be cancelled.

This order is passed in the light of judgement of Service Tribunal Khyber Pakhtunkhwa Peshawar that all promotions in the Investigation Wing, SIs, ASIs, HCs & Constables as well as other Units have been done against law and rules may be set aside/cancelled. All such promotions in the light of the Supreme Court of Pakistan decision on out of turn promotions may also be cancelled.

This order is issued with approval by the Competent Authority.

(MUHAMMAD ALAM SHINWARI)
DIG/HQs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 2250-6/16,

Copy of the above is forwarded for information and necessary action, to the:

1. Addl: IGP/Investigation Khyber Pakhtunkhwa Peshawar.
2. AIG/Establishment, CPO.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. Director, IT, CPO, Peshawar.
5. SP/Admn: CPO, Peshawar.
6. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
7. PA to Addl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
8. Office Supdts: E-I, II, III & IV CPO, Peshawar.
9. Central Registry Cell (CRC) CPO.

ATTESTED

D. Hussain

J 23

SENIORITY LIST OF COMPTROLLER

| Name | Education | D.O. Birth | D.O. Appointment | D.O. Lien Transferred | D.O. Promotion as HC | D.O. Promotion as ASI | D.O. Promotion as SI | D.O. Promotion as Inspector | REMARK |
|---|-----------------------------------|------------|------------------|-----------------------|----------------------|-----------------------|-------------------------------|-----------------------------|---|
| <i>Computer section</i> Ins: Zulfiqar Ali Shah | M.A | 20.10.1969 | 20.10.1991 | 20.10.1991 | 22.07.1993 | 19.04.1995 | 06.04.2002 | 13.11.2007 | Transferred from Computer 27.07.1993 with |
| 2. SI M. Aslam Khan | DAE. Civil Engineering Technology | 15.08.1968 | 15.10.1991 | 15.10.1991 | 22.07.1993 | 19.04.1995 | 13.11.2007 | - | -do- |
| 3. SI Najeebullah | F.A | 13.08.1969 | 20.10.1991 | 20.10.1991 | 22.07.1993 | 19.04.1995 | 11.12.2007 | - | -do- |
| 4. ASI Abdul Mateen | B.A | 09.10.1968 | 27.10.1991 | 27.10.1991 | 22.07.1993 | 19.04.1995 | - | - | -do- |
| 5. ASI Shakir Hussain | B.A | 01.02.1967 | 23.02.1992 | 23.02.1992 | 22.07.1993 | 19.04.1995 | - | - | -do- |
| 6. ASI Shabbir Ahamad | M.A | 06.04.1970 | 12.05.1993 | 12.05.1993 | 19.04.1995 | 19.11.1996 | 29.11.2002 in Invest; Section | - | Enlisted in Comp |
| 7. ASI Sadeed Ullah | M.A | 01.01.1969 | 13.05.1993 | 13.05.1993 | 19.04.1995 | 19.11.1996 | - | - | Transferred |
| 8. ASI Nasir Hussain | M.A | 15.06.1970 | 15.05.1993 | 15.05.1993 | 01.02.1997 | 01.04.1999 | - | - | Enlisted in Con |
| 9. ASI Syed Abid Ali Shah | M.A | 05.02.1971 | 15.05.1993 | 15.05.1993 | 07.04.1999 | 20.10.2001 | - | - | -do- |
| 10. ASI Umar Khan | B.A | 08.04.1967 | 28.03.1994 | 28.03.1994 | 08.09.2006 | 19.12.2007 | - | - | -do- |
| 11. ASI Habib Ullah | M.A | 02.11.1966 | 18.04.1994 | 18.04.1994 | 16.11.2006 | 29.02.2008 | - | - | -do- |
| 12. ASI Shams-uz-Zaman | B.A | 19.09.1969 | 01.06.1994 | 01.06.1994 | 14.11.2007 | 13.02.2010 | - | - | -do- on leave |
| 13. ASI Akhtar Ali | B.A | 22.09.1970 | 01.06.1994 | 01.06.1994 | 14.11.2007 | 13.02.2010 | - | - | -do- |

ATTESTED

[Signature]

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|--|--------|------------|----------------------------|------------|------------|------------|--|--|---|
| ASI Abdul Haleem / 136 | Matric | 05.02.1973 | 22.10.1991 in CB | 18.09.1994 | 02.04.2008 | 14.01.2011 | | | to Anti Corruption, Man Enlisted in CB |
| 15. HC Sajid Ali/121 <i>retrn</i> | B.A | 06.02.1974 | 15.06.1994 in CB | | 14.05.2008 | | | | |
| 16. HC Muhammad Ishaq / 48 | F.A | 01.05.1972 | 03.10.1994 | 03.10.1994 | 14.01.2011 | | | | Enlisted in Computer Se |
| 17. Constable Liaqat Ali / 37 | B.A | 15.02.1970 | 25.07.1994 in CB | 30.04.1995 | | | | | do- |
| 18. Constable RahatUllah/42 | B.A | 26.04.1976 | 04.06.1995 | 04.06.1995 | | | | | do- |
| 19. Constable Fasih ur Rehman/45 | B.A | 06.11.1970 | 31.08.1995 Junior Clerk | 01.07.1996 | | | | | Appointed as Junior Cl |
| 20. Constable Akhtar Zaman | B.A | 12.02.1972 | 27.01.1997 | 27.01.1997 | | | | | Enlisted in Computer Se |
| 21. Constable Sajid Anwar | B.A | | 29.05.2001 | | | | | | Transferred to Traffic |
| 22. Constable Muhammad Ayaz/ 35 | F.A | 07.02.1978 | 27.09.2001 | 27.09.2001 | | | | | Enlisted in Computer Se |
| 23. Constable Taufeeq Ahmad | F.A | 31.03.1976 | 31.10.2001 | 31.10.2001 | | | | | Transferred to Mobile |
| 24. Constable Nasir Khan/36 | B.A | 14.03.1981 | 08.11.2001 | 08.11.2001 | | | | | Transferred to Elite Fo |
| 25. Constable Zahoor ur Rehman / 47 | Matric | 15.04.1982 | 08.11.2001 | 08.11.2001 | | | | | Enlisted in Computer Se |
| 26. Constable Syed Naseer Ahmad | | | 01.12.2001 | 01.12.2001 | | | | | Transferred to Traffic |
| 27. Constable Waliullah / 40 | B.A | 05.02.1969 | 15.07.1991 in CB | 11.01.2002 | | | | | Enlisted in CB |

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|-----|-----------------------------------|----------------------------------|------------|---------------------|------------|--|--|--|--|--------------------------|
| 29. | Constable Kafeel Jan / 38 | F.A | 02.02.1978 | 29.06.2002 | 29.06.2002 | | | | | Enlisted in Com... |
| | Constable Shah Nawaz / 49 | F.A | 15.04.1980 | 29.06.2002 | 29.06.2002 | | | | | Transferred to Elite Po |
| 30. | Constable Asghar Ali / 43 | DAE Civil Engineering Technology | 05.03.1979 | 29.06.2002 in CB | 29.11.2002 | | | | | Enlisted in CB |
| 31. | Constable Muhammad Irshad / 70 | F.A | 10.01.1975 | 20.11.2001 in CB | 10.02.2007 | | | | | -do- |
| 32. | Constable Asmat Ali Shah / 65 | B.A | 15.11.1979 | 21.04.2001 Bannu | 29.11.2007 | | | | | Enlisted in Bannu Dist |
| 33. | Constable Mian Zulfiqar Ali / 104 | F.A | 25.01.1984 | 29.06.2002 in CB | 29.11.2007 | | | | | Enlisted in Co... |
| 34. | Constable Misbaullah / 44 | F.A | 07.03.1984 | 27.05.2008 | 27.05.2008 | | | | | Enlisted in Computer Sc |
| 35. | Constable Ziaullah / 36 | BSc | 22.03.1986 | 21.05.2009 | 21.05.2009 | | | | | -do- |
| 36. | Constable Muhammad Irfan / 49 | BA | 12.05.1985 | 04.05.2006 | 10.06.2009 | | | | | Enlisted in F... |
| 37. | Constable Muhammad Ashfaq / 96 | F.A | 22.07.1978 | 31.05.2001 | 04.02.2011 | | | | | Enlisted in... |
| 38. | Constable Aamir Khan / 14 | Matric | 17.04.1989 | 18.06.2012 | 18.06.2012 | | | | | Enlisted in Comput... Sc |

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A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 412/2016

Shabir Ahmad(Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and others....(Respondents)

COMMENTS BY RESPONDENTS ARE SUBMITTED AS UNDER.

Preliminary objections:-

- a) The appeal has not been based on facts.
- b) The appeal is not maintainable in the present form as according to Section-4 (b) (i) of Khyber Pakhtunkhwa Service Tribunal Act 1974, no appeal shall lie to the Tribunal against an order or decision of departmental authority determining fitness or otherwise a person to be appointed to or hold a particular post or to be promoted to higher post or grade.
- c) The appeal is barred by law and limitation.
- d) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- e) The appellant has not come to the Tribunal with clean hands.
- f) The appellant has approached wrong forum.

FACTS:-

1. Correct to the extent that appellant was appointed as Constable/Computer Operator in Computer Center Crime Branch CPO vide OB No. 156, dated 15.05.1993.
2. Correct to the extent that appellant was promoted to the next ranks of Head Constable, ASI and SI but his promotion orders were found irregular as he had not qualified the prescribed promotion courses.
3. Correct to the extent of alleged promotion and demotion of appellant, however, the promotions were later on found irregular therefore appellant and others were reverted to the substantive rank of constable.
4. Incorrect, appellant was provided full opportunity of personal hearing before passing impugned order of his reversion from the rank of SI to the substantive rank of constable. The impugned order was passed on 29.01.2014 by competent authority.
5. Correct to the extent that appellant had earlier filed a Service Appeal which was contested and the Tribunal remitted the case to respondents department to examine appeal of appellant vis-à-vis similarly promoted other Police officers.

Correct to the extent that the representation of appellant was rejected by the competent authority with directions to all head of unit of Police to undo the out of turn promotion in compliance with the judgment of Honorable Supreme Court of Pakistan.

7. Incorrect, the appeal of appellant is not sustainable on the given grounds.

GROUNDS

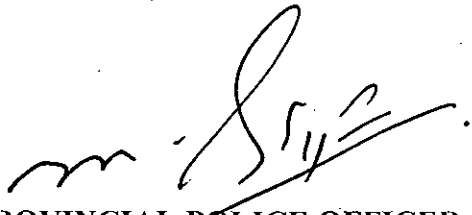
- A. Incorrect the impugned orders are just, legal and have been passed in accordance with law and rules. Appellant has not qualified any promotion course prescribed for promotion to next rank. He had earned irregular and out of turn promotion. The Honorable Supreme Court of Pakistan issued directions to all Inspector General of Police that out of turn promotion generates frustrations amongst the force.
- B. Incorrect, appellant had earned out of turn and irregular promotion and under the law and rules reversion to substantive rank is no punishment. Therefore adopting of procedure of disciplinary action is not required. Anyhow, the appellate authority in compliance with the order of the Honorable Service Tribunal provided opportunity of hearing to appellant but he failed to explain earning out of turn and irregular promotion.
- C. Incorrect, it is a well settled principle of law that wrong and void order does not confer any right. The promotions order of appellant were found illegal and irregular, therefore, principle of poenitentia are not invoked.
- D. Incorrect, appellant was required to transfer his lien to his home district if he desired promotion to next ranks. The seniority of junior ranks Police officers is maintained in the district and region. Crime Branch does not maintain seniority lists. Furthermore, there is nothing on the record that appellant has applied for appearing in promotion courses.
- E. Incorrect, illegal and irregular order do not create any right. Appellant had earned irregular and out of turn promotion therefore, the same were withdrawn in compliance with orders of the Honorable Supreme Court of Pakistan.
- F. Incorrect, no one on the strength of crime branch has ever been selected for promotion courses.
- G. Incorrect, all units have withdrawn irregular and out of turn promotion.
- H. Incorrect, illegal and irregular promotions earned by Police officers were withdrawn in view of the judgment of the Honorable Supreme Court of Pakistan.
- I. Incorrect, long service is no criteria for promotion. Police officers are promoted subject to qualifying promotion courses.

Incorrect, appellant was heard by the appellate authority

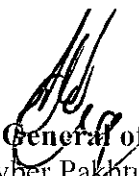
K.

The respondents may be also be allowed to raise other grounds during hearing of the case.

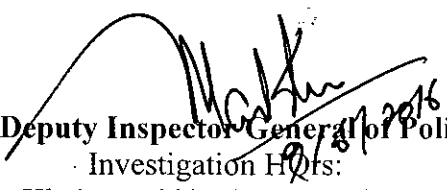
It is therefore, prayed that appeal of Appellant may be dismissed with costs.



PROVINCIAL POLICE OFFICER,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.1)



Addl: Inspector General of Police,
Investigation Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 2)



Deputy Inspector General of Police,
Investigation Hqs:
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 412/2016

Shabir Ahmad(Appellant)


VERSUS

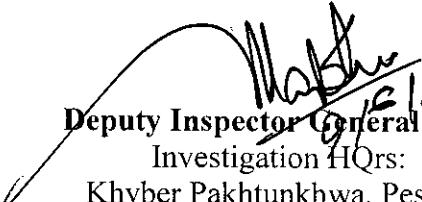
Provincial Police Officer Khyber Pakhtunkhwa Peshawar and others....(Respondents)

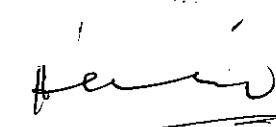

COUNTER AFFIDAVIT

We, the bellow mentioned respondents, do hereby Solemnly affirm and declare on oath that contents of reply are correct and true to the best of our knowledge and belief and nothing has been concealed from this honorable Service Tribunal.


PROVINCIAL POLICE OFFICER,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.1)


Addl: Inspector General of Police,
Investigation Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 2)


Deputy Inspector General of Police,
Investigation HQrs:
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.3)


13.2.2016


BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 412/2016

Shabbir Ahmad

VS

Police Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (a-f) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.


FACTS:

1. Admitted correct by the respondents hence no comments.
2. First portion of para is admitted correct hence no comments while the rest of para is incorrect as the appellant was promoted by the competent authority after fulfilling all codal formalities.
3. Not replied according to para 4 of the appeal. Moreover para 3 of the appeal is correct.
4. Incorrect. While para 4 of the appeal is correct.
5. Admitted correct. Hence no comments.
6. Incorrect. While para 6 of the appeal is correct.
7. Incorrect. The appellant has good cause of action and is liable to be accepted on the following grounds.

GROUNDS:

- A) Incorrect. The impugned orders are not in accordance with law, facts, norms of justice and material therefore not tenable and liable to set aside.
- B) Incorrect. While para B of the appeal is correct.
- C) Incorrect. The appellant was promoted by the competent authority after fulfilling all codal formalities. Which means that the appellant promotion has done according to law, rules and prescribed procedure.
- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. The appellant was promoted by the competent authority after fulfilling all codal formalities. Which means that the appellant promotion has done according to law, rules and prescribed procedure.
- F) Incorrect. While para F of the appeal is correct.
- G) Incorrect. While para G of the appeal is correct.
- H) Not replied according to para H of the appeal. Moreover para H of the appeal is correct.
- I) Incorrect. While para I of the appeal is correct.
- J) Incorrect. The appellant was not given chance of defence and has been condemned unheard.
- K) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

Through: APPELLANT

(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
&

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

hai
DEPONENT

04 JAN 2017