FORM OF ORDER SHEET

Court-ôf

lmp	The implementation of Mr. Muhammad Asghar received today by registered post through Mr. Imtiaz Ali Marwat Advocate. It is fixed for implementation report before touring Single Bench at
ate of brder proceedings	urder or other proceedings with signature of judge
,	3
14.03.2024	The implementation petition of Mr.
	Muhammad Asghar received today by registered post
•	through Mr. Imtiaz Ali Marwat Advocate. It is fixed for
	implementation report before touring Single Bench at
	D.i.Khan on Original file be
	requisitioned. AAG has noted the next date. The
,	counsel for the petitioner has been informed
	telephonically.
	By the order of Chairman REGISTRAR

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR, CAMP AT D.I.KHAN.

Implementation/Execution Petition No. 2.1.2. of 2024. In Judgment dated 21/11/2023 in Service appeal No. 54/2023.

Muhammad AsgharPetitioner/Appellant **VERSUS**Inspector General of Police etcRespondents

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Your Humble Petitioner

Muhammad Asghar

Through Counsel

Dated; 4/03/2024

Imtiaz Ali Khan Marwat Advocate District Bar, DIKhan, Cell#0346-7847274.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR, CAMP AT D.I.KHAN.

Implementation/Execution Petition No. 442 of 2024. In Judgment dated 21/11/2023 in Service appeal No. 54/2023.

Diney No. 1/7

Muhammad Asghar son of Ghulam Akbar Resident of Athoog, Kirri Khaisor, Tehsil Paharpur District District Dera Ismail Khan, Ex-Sub Inspector).

.....Petitioner

VERSUS

- 1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Regional Police Officer, DIKhan.

.....Respondents

IMPLEMENTATION / EXECUTION PETITION JUDGMENT DATED 21/11/2023 SERVICE APPEAL NO. 54/2023 WHEREBY THE HONOURABLE SERVICE TRIBUNAL DIRECTED TO COMPLETE THE FURTHER PROCESS OF SENIORITY ON LIST ACCORDANCE WITH THE ENTRIES IN LIST "E" WITHIN 60 DAYS AND THE RIGHTS OF **APPELLANT** MAY **ALSO** RETIRED TREATED IN THE SAME MANNER AND THE IN ACTION ON THE PART OF RESPONDENTS TO COMPLY THE JUDGMENT.

Respectfully Sheweth:-

Brief facts of the case are:

That the present petitioner lodged a service 1. appeal No. 54/2023 against order bearing No. 259/ES dated 11/01/2023 of Regional Police Officer, DIkhan whereby appellant / petitioner was not granted revised seniority in promotion list "E" and order No. CPO/CPB/329 dated 30/12/2022 and No. 317/CPB dated 08/12/2022 of Inspector General of Police

seniority and back benefits for no good grounds.

depriving appellant / petitioner from right of

2. That the Honourable Service Tribunal accepted the service appeal vide consolidated judgment dated 21/11/2023 and directed that rights of retired appellant may also be treated in the same manner. Copy of service appeal is enclosed as **Annexure "A"** and judgment dated 21/11/2023 is enclosed as **Annexure "B"**.

- 3. That the petitioner / appellant submitted an application along with copy of judgment for implementation / compliance, but the respondents are reluctant to obey the directions so far. Copy of application is enclosed as **Annexure "C"**.
- 4. That as per Section 7 of the KP Civil Servant Act, petitioner / appellant is entitled to confirmation / seniority and promotion from back date along with his colleagues and also entitled to promotion along with all back benefits / arrears as per Section 17 of the ibid Act even after retirement.
- 5. That the petitioner has no other remedy, but to file the instant implementation petition.

6. That counsel for the petitioner / appellant may kindly be allowed to raise additional grounds during the course of arguments.

In view of the above, it is, therefore, most respectfully prayed that on acceptance this petition, the judgment dated 21/11/2023 in Service Appeal No. 54/2023 may kindly be got implemented to ensure the justice.

Your Humble Petitioner

Muhammad Asghar
Through Counsel

Dated; 4/03/2024

Imtiaz Ali Khan Marwat Advocate District Bar, DIKhan, Cell#0346-7847274.

AFFIDAVIT:-

I, **Muhammad Asghar** son of Ghulam Akbar Resident of Athoog, Kirri Khaisor, Tehsil Paharpur District District Dera Ismail Khan, Ex-Sub Inspector), the petitioner, do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAVAR CAMP COURT AT DERA ISMAIL KHAN.
Service Appeal No. 50 / 2023

.....(Appellant) Muhammad Asghar

VERSUS

Govt. of KPK etc.....(Respondents).

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Your Humble Appellant

Muhammad Asshar Through Counsel

Dated: 06/03/2023

INTIAZ ALI KHAN MARWAT

Advocate, District Bar, Dera Ismail Khan Mobile #0346-7847274

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP COUNT AT DERA ISMAIL KHAN.

Service Appeal No. _____/2023

Muhammad Asghar S/o Ghulam Akbar Resident of Athog, Kirri Khaisor, Tehsi Paharpur District Dava Ismail Khan, Sub-Inspector Police (Retired).

.....(Appellant)

VERSUS

- 1. Government of Khyper Pakhtunkhwa, through Secretary to Govt. Khyber Pakhtunkhwa, Peshawar.
- 2. Inspector General Police, Khyber Pakhtunkhwa, Peshawar.
- 3. Regional Police Officer, Dera Ismail Khan.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST ORDER BEARING NO. 259/ES DATED 11/01/2023 OF REGIONAL POLICE OFFICER DERA ISMAIL KHAN WHEREBY APPELLANT WAS NOT GRANTED REVISED SENIORITY IN PROMOTION LIST "E" AND ORDER NO. CPO/CPB/329 DATED 30/12/2022 AND NO. 317/CPB DATED 08/12/2022 OF INSPECTOR GENERAL POLICE DEPRIVING APPELLANT FROM RIGHT OF SETTORITY AND BACK EENEFITS FOR NO GOOD GROUNDS.

Respectfully Sheweth:-

- That the appellant is naturally bonafide citizen of Islamic Republic of Pakistan and hails from respectable family of District Dera Ismail Khan.
- 2. That appellant was appointed as constable in Police Department on 14/01/1982 and performed his duties with full zest and devotion. The appellant gained promotion to the rank of Head Constable in due course.
- That appellant was promoted as officiating ASI vide order Endst; No. 2950-56/E.S dated

- 4. That appellant was confirmed in the rank of ASI vide order No. 2341-45/ES dated 26/06/2014. Copy of confirmation order dated 26/06/2014 is enclosed as Annexure "B".
- That appellant was promoted to the rank of officiating SI on 24/03/2016 and the appellant was confirmed as SI vide notification bearing Endst; No SE 42- E.S dated 31/12/2021. Copy of order dated 28/10/2019 is enclosed as Annexure "C".
- <u>5.</u> That Regional Departmental Scrutiny committee was constituted for rectification / revised seniority strictly in accordance with Police Rules, 13-18.
- 7. That scrutiny Committee recommended for rectification / revised seniority w.e.from 2009. Copy of security committee recommendation is enclosed as *Annexure "D"*.
- 8. That appellant being ranker / promotee also deserve similar treatment as laid down in .Constitution of Islamic Republic of Pakistan, 1973.
- <u>9.</u> That appellant lodged department appeal / representation to the respondent No. 2 for revised seniority, but no response.
- That in the meanwhile appellant was retired from service vide DPO DIKhan Office bearing Endst; No. 434-38/EC dated 19/01/2023. Copy of retirement order dated 19/01/2023 is enclosed as Annexure "E".
- That in compliance with kind verdicts of August Supreme Court of Pakistan, Honourable Peshawar High Court, Peshawar and this Honourale Tribunal, the I.G.P Khyber Pakhtunkhwa directed for bringing the names

of promoted ASIs on list "E" from date of officiating promotion as ASI on completion of successful completion of probation period. Copy of impugned order dated 08/12/2022 is enclosed as *Annexure* "F".

- That respondent No. 2, the I.G.P Khyber Pakhtunkhwa Peshawar vide letter no. CPO/CPB/329 dated 30/12/2022 directed to submit lists of revised seniority excluding the retired, deceased and Shuhada Officers. Copy of impugned order dated 30/12/2022 is enclosed as *Anne sure* "G".
- That respondent No. 2 vide ibid order further directed for not allowing back benefits and promotion.
- That now RPC DIKhan has assigned reserved seniority as ASI vide No. 259/E.S dated 11/01/2023 but depriving appellant being retired. Ccpy of impugned sonority list is enclosed as *Annexure "H"*.
- That as per reported judgments of this Honourable Tribunal, the appellant is also entitled to all back benefits of revised seniority and promotion even after retirement.
- That feeling aggrieved by impugned orders the appellant has no others adequate remedy except to file the instant service appeal before this Honourable Tribunal, inter alia, on the following grounds;

GROUNDS:

- A. That the impugied orders are wrong, illegal and against norms of justice and needs to be set aside.
- E. That the impugned orders are also contradictory to Police Rules and Service Laws, hence liable to be set aside.
- <u>C.</u> That the impugned orders are unwarranted, illegal, hence not tenable in the eyes of law.

- <u>p.</u>
 That the impugned orders are also in violation of reported judgments of the August Supreme Court of Pakistan as well as this Honourable Tribunal.
- E. That as per Pchce Rules 13-18 an official shall be confirmed on completion of 02 Years probation period.
- That appellant was promoted as appointing ASI on 12/11/2007 and was required to be confirmed on 12/11/2009 on completion of 02 years probation period.
- That in the impugned order / letter dated 30/12/2022 respondents admits that beneficiary orders and notification have retrospective effect, but in the note para have deprived the appellant from their right of seniority and promotion.
- H. That the right of seniority and promotion has accrued to the appellant during service (before retirement), for which appellant may not be denied vested rights for no fault on his part.
- That appellant has applied for rectification of his seniority during service and the in-action on the part of respondents is violation of the Law & Rules.
- <u>J.</u> That the scrutiny committee has also recommended for correction / revised seniority of other colleagues.
- K. That any right accrued during service, shall be admissible to appellant even after retirement.
- L. That it is a crystal principle of law that where a law requires a thing to be done in a particular manner, the same is to be done in that manner and not otherwise.
- M. That from every angle appellant is entitled to revised seniority and all back benefits thereto.
- N. That the rights of appellant were infringed vide impugned order dated 30/12/2022 and order

dated 11/01/2023, therefore, the instant appeal is within time. However, application for condonation of delay is also attached.

It is, therefore, humbly prayed that on acceptance of instant service appeal, the respondents may kindly be directed to grant revised seniority to appellant along with all back benefits as well as consequential benefits including proforma promotion as Inspector.

Your Humble Appellant

Muhammad Asghar
Through Counsel

Dated: 16/03/2023

IMTIAZ ALI KHAN MARWAT

Advocate, District Bar, Dera Ismail Khan Mobile #0346-7847274

CERTIFICATE:-

It is certified that no such like amended appeal has been lodged by appellant, prior to the instant one against impugned order of revision.

Deponent

AFFIDAVIT:-

I, Muhammad Asghar S/o Gaulam Akbar Resident of Athog, Kirri Khaisor, Tehsi Paharpur District Dera Ismail Khan, Sub-Inspector Police (Retired), do hereby solemnly affirm declared on oath that contents of the **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

IDENTIFIED BY:

IMTIAZ ALI KHAN MARWAT Advocate, District Bar,

Dera Ismail Khan.

Deponent

Solomissioner D.

Ameter B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP COURT AT DERA ISMAIL KHAN.

Service Appeal No. 541 /2023

Muhammad Asghar S/o Ghulam Akbar Resident of Athog, Kirri Khaisor, Tehsi Paharpur District Dera Ismail Khan, Sub-Inspector Police (Retired).

....(:Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, Secretary to Govt. Khyber Pakhtunkhwa, Peshawar.

2. Inspector General Police, Khyber Pakhtunkhwa, Peshawar.

3. Regional Police Officer, Dera Ismail Khan.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PARHTUN HWA SER CE TRIBUNAL ACT 1974 AGAINST ORDER DEARING NO. 259/ES 11/01/2023 OF REGIONAL POLICE OFFICER DERA ISMAIL KHAN WHEREBY APPELLANT GRANTED REVISED SENIORITY IN PROMOTION LIST AND ORDER NO. CPO/CPB/329 30/12/2022 AND NO. 017/CPB DATED 08/12/2022 OF INSPECTOR GENERAL POLICE DEPRIVING APPELLANT FROM RIGHT OF SENIORITY AND BACK BENEFITS FOR NO GOOD GROUNDS. .

Respectfully Sheweth:-

- That the appellant is naturally bonafide citizen I. of Islamic Republic of Pakistan and hails from respectable family of District Dera Ismail Khan.
- That appellant was appointed as constable in 2. Police Department on 14/01/1982 performed his duties with full zest devotion. The appellant gained promotion to the rank of Head Constable in due course.

That appellant was promoted as officiating ASI vide order Endst; No. 2950-56/E.S dated Certification be thre copy

thunchwa Service Tribunal. Peshawar

Service Appeal No.541/2023

ORDER 21st Nov. 2023

Kalim Arshad Khan, Chairman: Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Khalid Nawaz, Inspector for the respondents present.

- 2. Vide our detailed order of today, placed on file of connected Service Appeal No.332/2021 titled "Shah Jehan Vs. Police Department" this case is also disposed of in terms of the said order. Copy of the order be placed on file of this case. Consign.
- 3. Pronounced in open Court at D.I.Khan and given under our hands and seal of the Tribunal on this 21st day of November, 2023.

(Muhammad Akbar Khan) Member (E)

Certified betare copy

Peshawat

(Kalim Arshad Khan) Chairman

Mutazem Shah

Service Appeal No.332/2023 titled "Shah Jehan & others Vs. Government of Khyber Pakhtunkhwa"

ORDER

21st Nov. 2023 Kalim Arshad Khan, Chairman: Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Khalid Nawaz, Inspector for the respondents present.

- At the very outset, learned Deputy District Attorney produced copy of revised seniority list-E. After going through the revised seniority list-E, the learned counsel for appellant stated that although, the seniority position was corrected in accordance with part of the prayer of the appellant to the extent of bringing the appellant on List-F. Rest of the relief was also being granted, which was in process in accordance with the entries in List-E, on which, learned counsel says that the appellant would be satisfied, if the remaining process is completed within a period of 60 days. Learned counsel further says that the rights of the retired appellant may also be treated in the same manner. Order accordingly. This order shall also decide the connected Service Appeals No.333/2023, 334/2023, 335/2023, 337/2023, 338/2023, 339/2023, 340/2023, 341/2023, 343/2023, 344/2023, 345/2023, 346/2023 and 541/2023. Copy of this order be placed in files of all connected appeals. Consign.
 - Pronounced in open Court at D.I.Khan and given under our hands and seal of the Tribunal on this 21st day of November, 2023.

Cersia

∩Muhan

Member (E)

Kalim Arshad Khan). peshawar

Mutazem Shah

Ameter

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

SUBJECT:-

IMPLEMENTATION OF ORDER DATED 21/11/2023 PASSED BY THE HONOURABLE SERVICE TRIBUNAL, KHYEER PAKHTUNKHWA, PESHAWAR IN SERVICE APPEAL NO. 541 OF 2023 TITLED "MUHAMMAD ASGHAR VS IGP ETC".

Respected Sir,

The applicant submits the following for yours kind and sympathetic consideration;-

- 1. That the applicant while serving in Police Department was promoted as officiating ASI vide order bearing No. 2950-56 dated 12/11/2007 and was confirmed as ASI vide order No. 2341-45 dated 26/06/2014.
- 2. That consequent upon confirmation as ASI,—the applicant was promoted as officiating SI on 24/03/2016 and confirmed as SI vide notification No. 5842-66/ES dated 31/12/2021.
- 3. That due to grievances of ranker police officials a scrutiny committee was constituted to examine the cases to revise the confirmation that scrutiny committee recommended to revise the date of confirmation as ASI w.e.from 2009 but competent authority delayed the decision.
- 4. That applicant was retired on superannuation vide order No. 434-38/EC dated 19/01/2023.
- 5. That yours good office vide order No. 317/CPB dated 08/12/2022 directed to revise / bring the names of ASIs on list E from the date of successful completion of probation period but again vide order / letter No. CPO/CPS/329 dated 30/12/2022 directed not to include the names of retired police officers, back benefits and promotion.
- 6. That being aggrieved from the impugned orders the applicant lodged a service appeal for revised seniority along with all back benefits.

- 7.—That during hearing of appeal, a copy of revised seniority list-E was produced before Honourable Service Tribunal on behalf of respondents / competent authority with the assurance that further revision is in progress and will be completed within period of 02 months / 60 days.
- 8. That as per Section 7(4) of KP-Civil Servant Act, the applicant is also entitled to revised confirmation and back benefits accruing there from.
- 9. That now the Honourable Service Tribunal vide order dated 21/11/2023 has accepted all the service appeals and ordered to complete the process of compliance within 60 days. That the right of retired appellant may also be treated in the same manner. Order accordingly. Copy of order is enclosed.

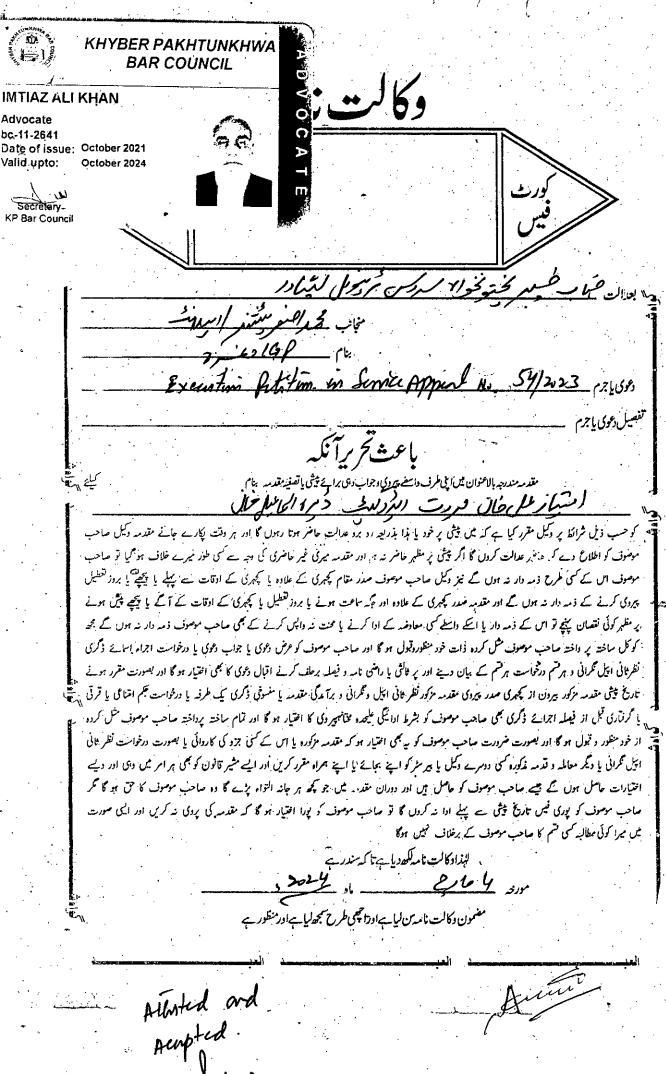
In view of above, it is humbly prayed that in compliance with order dated 21/11/2023 of the Service Tribunal, the applicant may kindly be granted proforma revised seniority in list-E and promotion as well as revised confirmation in list-F with all back benefits accruing there from as laid down in Section 7(4) of the KP Civil Servant Act. I shall be highly obliged.

Yours Faithfully,

Dated/J/12/2023

MUHAMMAD ASGHAR

S/o Ghulam Akbar
R/o Athog, Kirri Khaisor,
District D.I.Khan.
(Sub-Inspector Police retired,
No. D/28)



Advocati