

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No.1174/2020

Ex-Insp: Sher Ali Khan (No.110-M) Posted at Police Lines District Swat
..... Appellant.

VERSUS

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand at Saidu Sharif Swat.
3. The District Police Officer, Dir Lower..... Respondents

INDEX

S.#	Description of documents	Annexure.	Pages
1.	Para wise comments	-	1-3
2.	Power of attorney.	-	4
3.	Affidavit.	-	5
4.	Copy of Police Rules 13-11 and 13-12.	"A"	6-7



(Noor ul Hamid)
SI Legal
Dir Lower

-11-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No.1174/2020

Ex-Insp: Sher Ali Khan (No.110-M) Appellant.

VERSUS

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand at Saidu Sharif Swat.
3. The District Police Officer, Dir Lower..... Respondents

PARA WISE REPLY BY RESPONDENTS NO. 01, 02 AND 03..

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

- 1) That the service appeal is not maintainable in its present form
- 2) That the appellant has not come to this august Tribunal with clean hands.
- 3) That the present appeal is badly barred by law & limitation.
- 4) That this Honorable Service Tribunal has no jurisdiction to entertain the present service Appeal.
- 5) That the appeal has got no cause of action.
- 6) That the appellant has suppressed the material facts form this Honorable Tribunal.
- 7) That the appeal is bad for mis – Joinder and non joinder of necessary parties.

ON FACTS.

1. Pertains to service record of appellant, hence needs no comments.
2. Correct to the extent of Regional Police Officer, Malakand Order No. 2715-21/E, dated 21.06.2008 whereby the appellant has been confirmed in the rank of SI with immediate effect.
3. As additions/removals/revision in list “E” is the competency of Region DIG as per Police Rules 13-11 and 13-12. (Copy of rules attached as annexure “A”).
4. Each and every case has its own facts/ circumstances and every order of the judiciary is honorable.
5. Correct to the extent that earlier incentives in shape of out-of-turn promotion were conferred in the light of Standing Order No. 11/1987. Validation of Standing Order Act 2005, however declared by the apex court as illegal, unconstitutional and even un-Islamic vide its judgment reported as 2013 SCMR 1752, 2015 SCMR 456, 2017 SCMR 206.
6. Pertains to record.
7. Correct to the extent that DIG exercise rights over seniority list as per Police Rules 13-11, 13-12 read with 13-13.

8. Incorrect, his representation was properly examined in light of his service record and rules 13-18 of Police Rules 1934. He has been given seniority in list "E" with effect from 01.12.2001 and his representation was found groundless, rightly filed by the competent authority. Furthermore the notification No. 11644-68/E, dated 30.10.2019 was issued as per Police Rules 13-11, 13-12 and 13-13 and the revised confirmation as ASI, admission to list E and confirmation as SI were made in accordance with rules 12-8, 13-18, 19-25 (5) and various judgments passed in by Service Tribunal. Respondent No. 04 Muhammad Khalid was directly recruited as ASI; therefore he was confirmed as SI on 01.12.2003. No illegality has been done in revised seniority list and all these process were conducted on the principle of natural justice.
9. Incorrect, the official record is silent regarding his departmental appeal dated 01.11.2019 and the appellant has no cause of action to file the instant service appeal, as all these process has been done as per rules/policy.

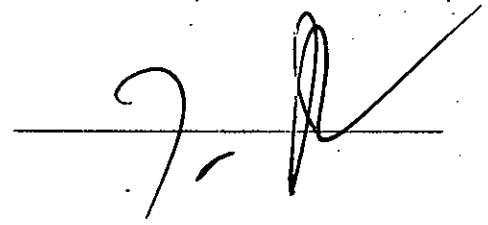
GROUND.

- A. Incorrect, proper opportunities of hearing were given to the appellant but he failed to advance any plausible ground.
- B. Incorrect, the appellant was treated in accordance with law and the orders of confirmation in revised seniority are legal and lawful.
- C. Incorrect, the appellant was treated in accordance with law/rules and no violation has been committed by the respondents. Furthermore, no malafide is involved on the part of respondents.
- D. The honourable Service Tribunal disposed off the appeal being devoid of merits.
- E. Incorrect, all the orders/correspondence issued by the competent authority are in accordance with rules/regulation and within competency. No irregularity has been committed by the respondents.
- F. Incorrect, the respondents have fully followed the seniority policies, revision/admission and removals in lists have been done as per rules.
- G. Already the rules are discussed.
- H. Incorrect, the appellant wrongly made party respondent No.04, as he was confirmed in revised seniority process by the respondents in light of rules.
- I. The respondent also seeks leave of this honorable Tribunal to adduce additional grounds at the time of argument / hearing.

PRAYER.

It is therefore humbly prayed that on acceptance of above submission, the instant service appeal may graciously be dismissed with costs please.

**Inspector General of Police
Khyber Pakhtunkhwa Peshawar.**

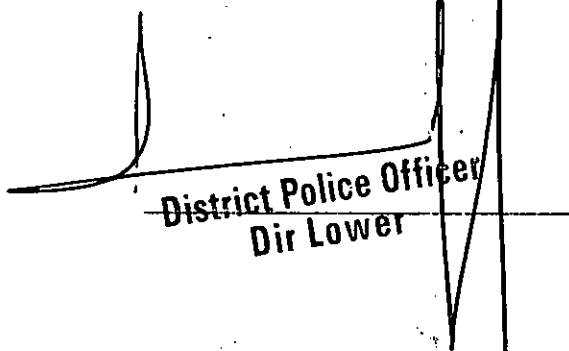


**Regional Police Officer,
Malakand at Saidu Sharif Swat.**



**Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.**

**District Police Officer,
Dir Lower.**



**District Police Officer
Dir Lower**

*Submitted for vetting
Please my friend*

*Reader (Legal) Dir L
03-02-2023*

*Vetted
Subject to correction
annexed all relevant
records along with index
and affidavit.
100/1200
03/02/23*

Submitted for approval of AAC.

Approved
**Additional Director General
Khyber Pakhtunkhwa
Service I**
**Inspector General
Khyber
Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No.1174/2020

Ex-Insp: Sher Ali Khan (No.110-M) Appellant.

VERSUS

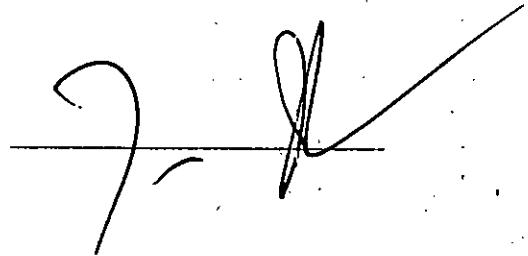
1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand at Saidu Sharif Swat.
3. The District Police Officer, Dir Lower..... Respondents

POWER OF ATTORNEY

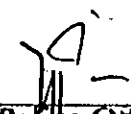
SI Noor-ul-Hamid of Legal Branch Dir Lower is hereby authorized to appear on our behalf before the Honorable Service Tribunal in the above Service appeal and pursue the case on each and every date.

He is also authorized to submit all the relevant documents in connection with the above Service Appeal.

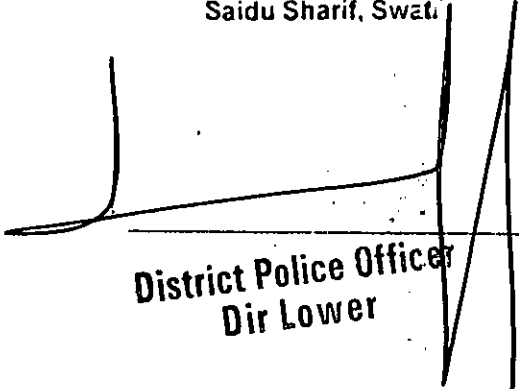
**Inspector General of Police
Khyber Pakhtunkhwa Peshawar.**



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


**Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.**

**District Police Officer,
Dir Lower.**


**District Police Officer
Dir Lower**

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No.1174/2020

Ex-Insp: Sher Ali Khan (No.110-M) Posted at Police Lines District Swat
..... Appellant.

VERSUS

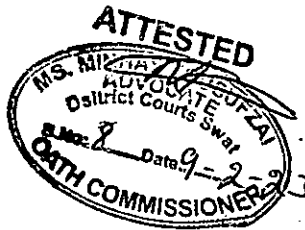
1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand at Saidu Sharif Swat.
3. The District Police Officer, Dir Lower..... Respondents

AFFIDAVIT.

I, Noor-ul-Hamid SI Legal District Dir Lower Police do hereby solemnly affirm and declare on oath, that the contents of the Para wise reply is true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.



(Noor-ul-Hamid)
SI Legal
Dir Lower



13.11 Publication of List E in the Police Gazette. -- List E of each range shall be published annually in the police Gazette. Additions to the list may be made at any time by Deputy Inspectors-General but all such additions and the removal of all names under sub-rule 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.

13.12. Method of filling temporary vacancies in the rank of Sub-Inspector—(1) In the filling

temporary vacancies in the rank of Sub-Inspector the object shall be to test all men on list E as full as possible in independent charges. The order in which names occur in the list should be disregarded, the opportunities of officiating in the higher rank being distributed as evenly as possible. An Assistant Sub-Inspector officiating as a Sub-Inspector should ordinarily continue so to officiate for the duration of the vacancy, and should not be reverted merely because another Assistant Sub-Inspector senior to him is not officiating. This principle may, however, be modified if in any case its observance would result in of thoroughly competent man being deprived by a man markedly his junior of an officiating appointment of more than 8 month's duration.

(3) The conduct and efficiency of men on lists D and E shall be at all times watched with special care. Any officer, who, whether in his substantive rank or while officiating as an Assistant Sub-Inspector or Sub-Inspector is guilty of grave misconduct of a nature reflecting upon his character or fitness for responsibility, or who shows wither by specific acts or by his record as a whole, that he is unfit for promotion to higher rank shall be reported to the Deputy Inspector-General for removal from list D or E, as the case may be. In interpreting this rule discrimination shall be shown between faults which are capable of elimination by 8experience and further training, and those which indicate definite incompetence and defects of character. Officers Whose names have been removed from either list D or list E may be restored by order of the Deputy Inspector-General in recognition of subsequent work or conduct of outstanding merit.

13.13. Control by Deputy Inspectors-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 list 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 fo the methods of selection and the tests applied.

(6) (7)

12.8 . Probationary nature of a appointments. - (1) Inspectors, Sergeants, Sub-Inspectors and Assistant Sub-Inspector who are directly appointed will be considered to be on probation for three years and are liable to be discharge at any time during or on the expiry of 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 reason, to be unsuitable for service in the police. A probationary inspector shall be discharge by the Inspector-General and all other Upper Subordinates by Range Deputy Inspector-General and Assistant Inspector-General Government Railway Police, Assistant Inspector-General, Provisional Additional Police (designated as Commandant, Provincial Additional Police) and Assistant Inspector-General of Police(Traffic). No appeal lies against an order of discharge.

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 period 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 with in a reasonable time soon after the expiry of 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.

19-25. Training of upper subordinates - (1) Inspector, sub-inspectors and assistant sub-inspectors, who are directly appointed, shall be deputed to the Police Training School to undergo the course of training laid down for such officers in the Police Training School Manual and are liable to discharge in they fail to pass the prescribed examinations or are badly reported on.

(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 probationer's working and general conduct, with a recommendation as to whether he should or should not be confirmed in his appointment. In the cae of inspectors such reports shall be forwarded to the Inspector-General.