

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 310/2023

Gul Naseeb..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa etc.....(Respondents)

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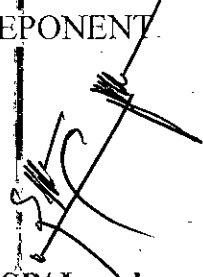
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15-03-2024

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Pesh

DEPONENT



DSP/ Legal,
CPO, Peshawar

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BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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Govt: of Khyber Pakhtunkhwa etc..... (Respondents)

PARA-WISE COMMENTS BY RESPONDENTS NO. 1 TO 3, 5 TO 7

Respectfully Sheweth:-

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 11765

Dated 15-3-2024

PRELIMINARY OBJECTIONS:-

- a) That the appeal is not maintainable in the present form.
- b) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- c) That the appellant is estopped to file the instant Appeal by his own conduct.
- d) That the appellant has not come to this Honorable Tribunal with clean hands.
- e) That the appellant has got no cause of action and locus standi to file instant Appeal.
- f) That the appeal is barred by law & limitation.

OBJECTIONS ON FACTS:-

1. Pertains to record, hence, no comments.
2. Pertains to record, hence, no comments.
3. Pertains to record, hence, no comments.
4. Pertains to record, hence, no comments.
5. Pertains to record, hence, no comments.
6. Pertains to seniority list, hence, no comments.
7. Correct to the extent of preparation of working papers for Departmental Selection Board.
8. Incorrect, no violation of law exist on part of respondent department. The Departmental Promotion Board being competent forum examined the suitability of the petitioner and others on the basis of seniority- cum-fitness but the forum opined that the health condition of the petitioner required examination through a competent medical board to ascertain his fitness and therefore was not considered for promotion to the next higher rank i.e. SP (BS-18) and referred to Standing Medical Board.
9. First portion of this Para is correct to the extent of non consideration of the appellant for promotion to the next rank while remaining portion is already explained in preceding Para.
10. Correct to the extent of departmental appeal of the appellant but the same was meritless and devoid of law/ rules.
11. The instant Service Appeal is not maintainable and is liable to be dismissed on following Grounds.

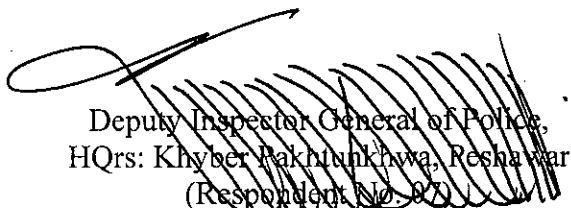
OBJECTIONS ON GROUNDS:-


- A. Incorrect. No illegality and no violation of law exist on the part of answering respondents.
- B. Incorrect. No violation of natural justice has been done by the answering respondents.
- C. Incorrect. As already explained in Para No. 7 & 8 of Facts.
- D. Incorrect. The Departmental Promotion Board constituted under section 122 of Khyber Pakhtunkhwa Police Act, 2017 and Rule 3 of the NWFP (Promotion of SP and DSP) rules, 2007 is a competent forum to examine the cases of all officers who fall in the promotion zone. The Board is authorized under the rules policies and general principles of law as enacted by this Honorable Court to follow principles of seniority cum fitness hence, the unanimous decision of the Board regarding the petitioner is based on facts law/ rules. (Copies of Section 122 of Khyber Pakhtunkhwa Police Act, 2017 and Rule 3 of the NWFP (Promotion of SP and DSP) rules, 2007 are attached as Annexures 'A' & 'B' respectively).
- E. Para is irrelevant hence, needs no comments.
- F. Pertains to record. Contents of FIR No. 47 dated 09.02.2009, is very much clear. In the said occurrence, neither the petitioner nor any person sustained injury. Moreover the petitioner has himself admitted to a medical condition and not an injury which can hinder his ability to hold a higher position where he will be dealing with much security, public order crime and other critical situation regarding his fitness in all respects.
- G. Para is irrelevant hence, needs no comments.
- H. Incorrect. As already explained in Para No. 7 & 8 of Facts.
- I. Pertains to service record hence, needs no comments.
- J. Incorrect. No violation of law exists on the part of answering respondents.
- K. Pertains to service record of the petitioner hence, needs no comments.
- L. Incorrect. That the Departmental Promotion Board is a competent forum under Police Act, 2017 and answering respondents has performed their lawful duties/obligation under the law rules.
- M. Incorrect. The Departmental Promotion Board being competent forum has examined the suitability of the petitioner and others on the basis of seniority- cum-fitness but the forum opined that the health condition of the petitioner required examination through a competent medical board to ascertain his fitness and therefore was not considered and referred to Standing Medical Board.
- N. Incorrect. The petitioner has not been discriminated in any way. Furthermore no violation of human rights and provision of Constitution of Islamic Republic of Pakistan, 1973 have been done by the answering respondents.
- O. Incorrect. The fundamental and legal rights of the petitioners have not been violated by the respondents.
- P. Incorrect. The respondents acted in accordance with law/ rules and no violation of law has been done hence, nepotism and favoritism is out of question.
- Q. Incorrect. As already explained in preceding paras.

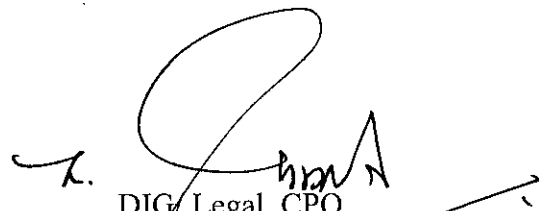
- R. Incorrect. The process of promotion has been carried out in a lawful and transparent manner by the competent forum i.e. Departmental Promotion Board.
- S. Incorrect. No violation of provision of Constitution has been committed by the answering respondents.
- T. The respondents department also seeks permission to raise additional grounds at the time of hearing.


PRAYERS:-


Keeping in view above narrated facts, circumstances, the instant writ petition may kindly be dismissed, being devoid of merits, not maintainable and barred by law, with costs, please.

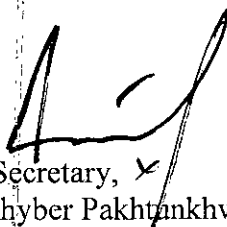

 Deputy Inspector General of Police,
 HQrs: Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 07)
(RIZWAN MANZOOR) PSP
 Incumbent


 Additional Inspector General of Police,
 HQrs: Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 06)
(AWAL KHAN) PSP
 Incumbent


 DIG, Legal, CPO
 For Inspector General of Police,
 Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 5)
(DR. MUHAMMAD AKHTAR ABBAS) PSP
 Incumbent


 Additional Chief Secretary, ✕
 Government of Khyber Pakhtunkhwa,
 Home & TAs Department, Peshawar
 (Respondent No. 2)
(MUHAMMAD ABID MAJEED)
 Additional Chief Secretary
 Home & TAs Department
 Khyber Pakhtunkhwa.


 Secretary,
 Government of Khyber Pakhtunkhwa,
 Establishment Department, Peshawar
 (Respondent No. 3)
(SHAHID ULLAH)
 Incumbent


 Chief Secretary, ✕
 Government of Khyber Pakhtunkhwa
 Peshawar
 (Respondent No. 1)
(NADEEM ASLAM CHAUDHRY)
 Incumbent

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.310/2023

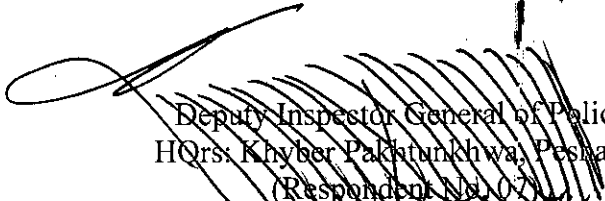
Gul Naseeb (Appellant)


Versus

Govt: of Khyber Pakhtunkhwa etc..... (Respondents)

AFFIDAVIT

I, Rizwan Manzoor, Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm on oath that the contents of Para-wise comments on behalf of respondents are correct to the best of my knowledge/ belief. Nothing has been concealed from this Hon'ble Service Tribunal. It is further stated on oath that in this Para-wise comments, the answering respondents have neither been placed ex-parte nor their defense is struck off.


Deputy Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar
(Respondent No.07)
(RIZWAN MANZOOR) PSP
Incumbent


5/3/2024

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.310/2023

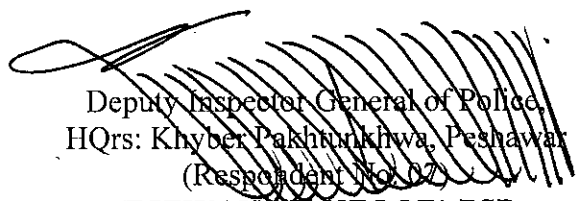
Gul Naseeb (Appellant)

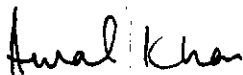
Versus

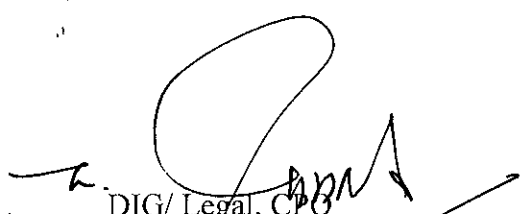
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AUTHORITY LETTER

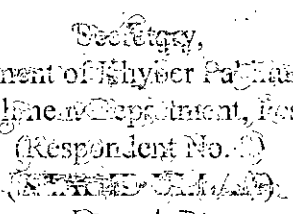
We, respondents do hereby authorize Mr. Faheem Khan DSP/ Legal, CPO, Peshawar to submit Para-wise Comments/ Reply on behalf of respondents in captioned Service Appeal.



Deputy Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)
(RIZWAN MANZOOR) PSP
Incumbent


Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar
(Respondent No. 06)
(AWAL KHAN) PSP
Incumbent


DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 5)
(DR. MUHAMMAD AKHTAR ABBAS) PSP
Incumbent


Additional Chief Secretary,
Government of Khyber Pakhtunkhwa,
Home & TAs Department, Peshawar
(Respondent No. 2)
(MUHAMMAD ABID MAJEED)
Additional Chief Secretary
Home & T.As Department
Khyber Pakhtunkhwa.


Secretary,
Government of Khyber Pakhtunkhwa,
Establishment Department, Peshawar
(Respondent No. 1)
(NADEEM ASLAM CHAUDHRY)
Incumbent


Chief Secretary,
Government of Khyber Pakhtunkhwa
Peshawar
(Respondent No. 1)
(NADEEM ASLAM CHAUDHRY)
Incumbent

any other person or body engaged in investigation of criminal cases outside Pakistan with the permission of the Federal Government.



122. Constitution of Promotion Boards etc.---Subject to rules, promotion of police officers of the provincial police shall be made on the recommendations of the Departmental Promotion Committees or Promotion Boards:

Provided that the departmental promotion committees/promotion boards shall be headed by an officers not below the rank of-

- (a) Superintendent of Police for promotion to the rank of Head Constable;
- (b) Senior Superintendent of Police for promotion to the rank of Assistant Sub-Inspector and Sub-Inspector;
- (c) Deputy Inspector General of Police for promotion to the rank of Inspector;
- (d) Additional Inspector General of Police for promotion to the rank of Deputy Superintendent of Police; and
- (e) Inspector General for promotion to the rank of Superintendent of Police.

123. Maintenance of Daily Diary at a police station.---(1) A register of Daily Diary shall be maintained at every police station in such form as shall from time to time, be prescribed and to record therein the names of all complainants, persons arrested, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined.

(2) The District and Sessions Judge of the District may call for and inspect such Diary.

124. Public Safety Fund.---(1) Government may, by notification in the official Gazette, constitute Public Safety Fund at the Provincial and District levels consisting of-

- (a) grants made by the Federal Government, Government and the District Governments to the Police; and
- (b) contributions voluntarily made in cash or kind by the public for the improvement of police service delivery to be credited to District Public Safety Fund.

*Attended
SJK
15-3-24*

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for DSI/Sr Promotion

Amma

**OFFICE OF THE PROVINCIAL POLICE OFFICER,
NORTH-WEST FRONTIER PROVINCE,
PESHAWAR.**

NOTIFICATION

Peshawar, dated the 20.02.2007.

No. S/ 1000 /07. In exercise of the powers conferred by Article 112 of the Police Order, 2002, the Provincial Police Officer, North-West Frontier Province, with the approval of the Government of the North-West Frontier Province, hereby makes the following rules, namely:

THE NORTH-WEST FRONTIER PROVINCE (PROMOTION OF SUPERINTENDENT OF POLICE AND DEPUTY SUPERINTENDENT OF POLICE) RULES, 2007.

1. **Short title, application and commencement.**—(1) These rules may be called the North-West Frontier Province (Promotion of Superintendent of Police and Deputy Superintendent of Police) Rules, 2007.

(2) It shall apply to the promotion cases of Superintendent of Police and Deputy Superintendent of Police.

(3) It shall come into force at once.

2. **Definitions.**—In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby assigned to them, that is to say—

- (a) "Additional Inspector General" means an Additional Inspector General of Police, North-West Frontier Province;
- (b) "Approving Authority" means the authority competent to appoint Deputy Superintendent of Police or Superintendent of Police, as the case may be;
- (c) "Department" means the Police Department of the North-West Frontier Province;
- (d) "Departmental Selection Board" means the Departmental Selection Board constituted under rule 3;
- (e) "Departmental Selection Committee" means the Departmental Selection Committee constituted under rule 4;
- (f) "Deputy Inspector General" means Deputy Inspector General of Police, NWFP;
- (g) "Deputy Superintendent" means Deputy Superintendent of Police, North-West Frontier Province;
- (h) "Inspector" means an Inspector of Police in the Department;
- (i) "Provincial Police Officer" shall have the same meaning as assigned to it in the Police Order, 2002; and
- (j) "Superintendent of Police" means Superintendent of Police in

Attested

13/02/07
12/02/07

Departmental Selection Board---(1) There shall be a Departmental Selection Board in the Department, which shall consist of the following:

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- (a) the Provincial Police Officer; Chairman
- (b) all Additional Inspectors General; Members
- (c) Capital City Police Officer, if not holding the rank of Additional Inspector General; Member
- (d) four senior-most Deputy Inspectors General; Members
- (e) Deputy Inspector General of Police (Headquarters), if not falling within four senior-most Deputy Inspectors General; Member
- (f) a representative each from the Home and Tribal Affairs Department, Establishment and Administration Department and Finance Department not below the rank of an Additional Secretary; Members

(2) The function of the Departmental Selection Board shall be to consider and recommend Deputy Superintendents of Police for promotion to the rank of Superintendent of Police.

Departmental Selection Committee---(1) There shall be a Departmental Selection Committee in the Department, which shall consist of the following:

- (a) senior-most Additional Inspector General; Chairman
- (b) Capital City Police Officer; Member
- (c) four senior-most Deputy Inspectors General; Members
- (d) Deputy Inspector General of Police (Headquarters), if not falling within four senior-most Deputy Inspectors General; Member

(2) The function of the Departmental Selection Committee shall be to consider and recommend Inspectors of Police for promotion to the rank of Deputy Superintendent of Police.

5 Approving Authorities---The recommendations of the Departmental Selection Committee shall be sent to the Provincial Police Officer for approval while the recommendation of the Departmental Promotion Board shall be submitted to the Chief Minister through the Chief Secretary for approval. After approval notification of promotion of Inspector to the rank of Deputy Superintendent of Police will be issued by the Provincial Police Officer while that of promotion of Deputy Superintendent of Police to the rank of Superintendent of Police will be issued by the Establishment and Administration Department.

Promotion Criteria---Promotion Criteria shall be merit-cum-seniority, integrity and honesty.

Seniority lists---The seniority lists of the officers of the rank of Inspector, Deputy Superintendent of Police shall be prepared, circulated and maintained separately by the Provincial Police Officer.

Attested
15-3-20

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E

General:--In all matters not expressly provided for in these rules, officers of Provincial Police of the rank of Deputy Superintendent of Police and Superintendent of Police shall continue to be governed by such Rules as prescribed by the Government from time to time.

(MUHAMMAD SHARIF VARI)
PROVINCIAL POLICE OFFICER,
NORTH-WEST FRONTIER PROVINCE.

19-2-2007

No.S/1001 — S /07, dated Peshawar, the 20-2-2007.

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

- 1. The Chief Secretary, Govt of NWFP, Peshawar.
- 2. The Secretary, Govt of NWFP, Ex AD, Deptt: Peshawar.
- 3. The Secretary, Establishment Deptt, Govt of NWFP, Pesh:
- 4. The Secretary, Govt of NWFP, Home & T.As Deptt: Peshawar
- 5. The Secretary, Govt of NWFP, Finance Department, Peshaw
- 6. The Manager, Govt of NWFP, Printing Press, Peshawar / publication in Police Gazette Part-I.

Attested
SP
15-3-24