

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
MUHAMMAD AKBAR KHAN... MEMBER (Executive)

Service Appeal No. 1461/2023

Date of presentation of Appeal.....12.07.2023
Date of Hearing.....14.06.2024
Date of Decision.....14.06.2024

Rehmat Ullah DSP Headquarter Frontier Reserve Police (F.R.P)
Police Lines Peshawar.Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional Inspector General of Police Headquarter, C.P.O Peshawar.
4. Additional Inspector General of Police Investigation, C.P.O Peshawar.
5. Chief Capital City Police Officer, Police Lines, Peshawar.
6. Assistant Inspector General of Police (Establishment) C.P.O Peshawar.
.....(**Respondents**)

Present:

Mr. Tariq Khan Hoti, Advocate.....For the appellant
Mr. Umair Azam, Additional Advocate GeneralFor respondents

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the facts gathered from the record, vide Notification dated 24.03.1996, the name of the appellant was brought on list "D" with effect from 01.10.1995; that the appellant was promoted as officiating ASI with effect from 11.12.1995 vide Notification dated 17.12.1995 and was then confirmed as ASI with effect from 15.01.2003 vide Notification dated 21.06.2003 and his name was brought in list "E"; that the appellant was then

promoted as officiating Sub-Inspector vide order dated 31.05.2004 and was confirmed as Sub-Inspector with effect from 03.04.2008 vide Notification dated 09.04.2008; that the appellant was then promoted as officiating Inspector vide Notification dated 20.05.2008 and was confirmed as Inspector vide Notification dated 31.10.2013; that vide Notification dated 24.10.2014, the appellant was promoted as Deputy Superintendent of Police on regular basis, however, vide office order dated 28.03.2022, the seniority of the appellant as well as some other officials was revised and vide order dated 05.04.2022 the name of the appellant was placed at serial No. 19 of the revised seniority list of 518 DSPs; that feeling aggrieved from the orders dated 28.03.2022 and 05.04.2022, the appellant filed representation on 10.10.2022, which was not decided, therefore, the appellant filed Service Appeal No. 570/2023 before this Tribunal on 15.03.2023, however, on the same day i.e 15.03.2023, the appellant was demoted from the rank of Deputy Superintendent of Police (BPS-17) to the rank of Inspector (BPS-16) and his name was placed at serial No. 202 of the seniority list of Inspectors issued on 06.12.2022; that feeling aggrieved from the order dated 15.03.2023, the appellant filed representation, which was not decided, where-after the appellant filed Writ Petition before the Peshawar High Court, Peshawar, however, the said Writ Petition of the appellant was remitted to Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar for reconsidering the matter; that on 05.07.2023, the appellant withdrew his previous Service Appeal No. 570/2023, which was filed on 15.03.2023 with the permission to file afresh to challenge the demotion



order as well; that the appellant has now filed the instant service appeal on 12.07.2023 with the prayers, which are copied as below:-

- I. Set aside the impugned letter/notification of the respondent No. 2 No. 579/legal/E-I dated 15.03.2023 as being arbitrary, capricious, malafide, unreasonable, illegal, unlawful, without jurisdiction and without lawful authority.*
- II. Permanently restrain the respondents from interfering, in any manner whatsoever, with the seniority of the appellant.*
- III. Fixed/re-fixed the seniority of the appellant along with his "D" list colleagues since 01.10.1995 as per Police Rule 13.18.*
- IV. Grant any other relief as this Hon'ble Tribunal deems fit and appropriate in the facts and circumstances of the case."*

2. On receipt of the appeal and admission to full hearing, the respondents were summoned but they failed to submit reply/comments, therefore, vide order dated 10.11.2023 they were placed ex-parte.

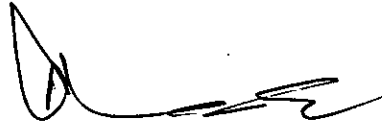
3. We have already heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

4. Narrowing the canvass, learned counsel for the appellant submitted that if at all the appellant could not have been promoted to the rank of officiating ASI on 17.12.1995, which is considered by the department as out of turn promotion, the appellant was rightful to pray that he was entitled to be considered for promotion to the rank of officiating ASI on 02.08.2002, when his other colleagues seniors and juniors, both, were so promoted. In this respect, he produced copy of letter No. 5155-61/EC-I dated 02.08.2002 and pointed out that the IHCs at serial No. 26, 27, 28, 29 and 31 were his fellows. When confronted with the situation, the learned Additional Advocate General and the representative of the respondents namely Muhammad Suleman, Sub-Inspector (Legal) both submitted that the above referred letter was not found in the record of the respondents. However, they say that let the matter be remitted to them so

Service Appeal No.1461/2023 titled "Rehmat Ullah versus Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", decided on 14.06.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

that they could verify the matter and consider the request of the appellant made as above there-after. Disposed of accordingly. Costs shall follow the event. Consign.

5. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 14th day of June, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Naeem Amin