

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.242/2023**

**BEFORE: MRS. RASHIDA BANO ... MEMBER (J)**  
**MISS FAREEHA PAUL ... MEMBER (E)**

**Nasir Khan, Acting SP, Director Police School of Investigation, Mera  
Kachori, Peshawar.**

... (Appellant)

**VERSUS**

1. The Government of KP through the Chief Secretary, Civil Secretariat, Peshawar.
2. The Provincial Police Officer, KP, Peshawar.
3. The Adll: Inspector General, HQs, Peshawar.
4. The Capital City Police Officer, Peshawar.
5. The Office Superintendent Estt; (Career Planning Branch). C.P.O Peshawar.
6. Nazir Ahmad, SP, SP/CTD, Hazara Range.
7. Saeed Akhtar, SP, SP Investigation, Battagram.
8. Muhammad Ishtiaq, SP, SP Investigation, Abbottabad.
9. Muhammad Maroof, SP, SP/HQRs; Elite Force.
10. Muhammad Ayaz, SP, Addl: SP Haripur.
11. Muhammad Jamil Akhtar, SP, Addl: SP Abbottabad.
12. Niaz Muhammad, SP, Director P.T.S Sawabi.
13. Hameedullah, SP, AIG Welfare CPO, Peshawar.
14. Sajjad Ahmad, SP, SP Investigation Charsadda.
15. Nazir Khan, SP, D.P.O Orakzai.
16. Shah Hassan, SP, SP Investigation Swat.
17. Sajjad Ahmad Sahibzada, SP, Addl: SP (OPPs:) Mardan.
18. Shaukat Ali, SP, DPO Bajjawar.



19. Abdul Samad, SP, DPO Kurram.  
 20. Muhammad Khalid, SP, SP Investigation Lower Chitral.  
 21. Zia Hassan, SP, DPO Kolai, Palas Kohistan.  
 22. Shafiullah, SP, DPO Swat.

Respondents No.6 to 22 C/o CCPO, Peshawar.

... (Respondents)

Muhammad Asif Yousafzai  
 Advocate ... For appellant

Mr. Asif Masood Ali Shah  
 Deputy District Attorney ... For respondents

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Date of Institution.....16.01.2023  
 Date of Hearing.....13.06.2024  
 Date of Decision.....13.06.2024

### JUDGMENT

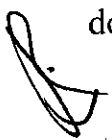
**RASHIDA BANO, MEMBER (J):** The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“That on acceptance of this appeal, the impugned promotion order dated 05.04.2022 may be set aside and the respondents may be directed to consider the appellant for promotion as SP from the date when juniors to appellant were promoted on 04.09.2022 with all back and consequential benefits with further directions to the respondents to correctly record the dates of S.I promotion (20.02.2001) and confirmation as S.I (20.02.2003) in the service record of appellant as well as in DSP’s seniority lists. Any other remedy which this august tribunal deems fit and appropriate that may also be awarded in favor of the appellant.”**



2. Brief facts of the case as given in the memorandum of appeal are that The appellant joined the Police Force (FRP) in 1991 and was promoted to various positions, including officiating Head Constable, ASI, Official S.I, officiating Inspector, and DSP. He was reverted to the rank of Head Constable in 2007 and placed in list "D" of officiating ASIs. He challenged these orders in service appeals, which were accepted. The appellant also filed service appeals against orders dated 30.07.2020 and 20.02.2003, which were decided in his favor. The respondent filed appeal No.164-P/2014 in the apex court, which was decided on 07.10.2020. A committee was constituted, and the Inspector General of Police, Khyber Pakhtunkhwa, issued a notification on 22.12.2020, placing the appellant's name below Falak Naz and above Ishtiaq Ahmed in the sonority list of DSPs. The appellant objected to the corrected seniority list and filed an application for correction. A committee approved the correction on 25.07.2022, and another seniority list was issued on 05.08.2022, placing the appellant's name at 67. The appellant objected to the corrected list and the respondent issued an impugned promotion order on 05.09.2022, where juniors were promoted and the appellant was ignored. He filed a departmental appeal on 26.06.2022, which was not responded to, hence the present service appeal.

3. Respondents were put on notice who submitted their comments on the appeal. We heard the learned counsel for the appellant as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.




4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order.

5. Perusal of record reveals that the appellant joined the Police Force (FRP) as Constable in the year 1991. The appellant after qualifying the requisite trainings was promoted as Head Constable on 14.04.1998, officiating ASI on 04.04.2000, promoted as S.I under Police Rules 13:18 on 20.02.2001, and also promoted as officiating Inspector on 30.07.2010, and DSP on 30.01.2018. While performing duties as Sub Inspector, the appellant was reverted to the rank of Head Constable on 26.10.200 and also name was placed in list "D" of officiating Assistant Sub Inspectors. The appellant challenged those orders in Service Appeal No.1101/2007 in this August Tribunal. The said appeal was finally heard on 23.09.2008 and the appeal was accepted as prayed for. The respondent filed CPLA No.193-P/2009 in the apex court, but same was dismissed as barred by time. The appellant also filed service appeal No.407/2011 against the order dated 30.07.2010 whereby his name was included in list "F" with immediate effect, instead of 20.02.2003. The said appeal was accepted with directions of enlisting his name in list "F" w.e.f. 20.02.2003 with all consequential/benefits. The respondents filed appeal No.164-P/2014 in the apex court. The apex court decided the appeal on 07.10.2020 and remanded the case to the department to correctly determine the seniority after hearing all police officials who may be affected. A committee was constituted and submitted his recommendations on 23.11.2020. The Additional IGP (Hq) issued the notification on 22.12.2020, based on



recommendation of the committee, wherein the appellant's name was placed below the name of Falak Niaz and above the name of Ishtiaq Ahmad in the seniority list of DSPs. The same decision/compliance was also communicated to the worthy Registrar Supreme Court of Pakistan on 30.12.2020. The Corrected Seniority list of DSPs was issued on 21.02.2022 by the respondents, wherein the name of the appellant was placed at serial No.37 i.e. after Falak Niaz and above Ishtiaq Ahmad. The CCPO's office has also communicated the correct dates confirmation as ASI, SI and Inspector of the appellant to the AIG (Hq) office, vide memo dated 29.04.2022 and also enclosed the copies of precious correspondence.

6. Appellant's name in accordance with correct seniority list for the year 2021 issued on 02/12/2022 was placed at his proper and correct seniority position at Serial No.37 below the name of the Falak Niaz DSP and above the name of Ishtiaq Ahmad DSP. This seniority list was issued after hearing all the affected employees upon in light of direction of apex court of the country. Recommendation in shape of compliance report was also sent by the respondent to worthy Supreme Court of Pakistan on 30.12.2020. We fail to understand that when seniority of the appellant was corrected in light of direction of the Supreme Court and said factum of correctness was also communicated to the IGP KPK by the CCPO on 06/09/2021 by placing name of the appellant at proper place at Serial No.9 having correct dates of promotion as officiating S.I on 20.02.2001 and confirmed S.I 20.02.2003. This information was given by CCPO for the purpose of promotion to the rank of SP. This information about date of confirmation as S.I 20.02.2003 was also




communicated to AIG (HQ) by CCPO vide memo dated 29.04.2022 despite having correct information about correct placement of the appellant at his proper seniority position but respondents/establishment issued seniority list of DSPs on 28.07.2022 for year 2022 wherein again appellant was placed at wrong seniority position at serial No.63 which is against the rules and even violation of report of the committee submitted to worthy Supreme Court of Pakistan. Appellant alongwith others applied for correction of seniority list upon which committee constituted, who recommended correction in the seniority list, when again committee recommended correction then it was incumbent upon the respondents establishment to issue correct seniority list and after correction of seniority proceed with promotion of the DSPs to the post of S.P but respondents despite knowing about correct seniority position, considered the juniors to the appellant in the meeting and promoted them by ignoring the appellant vide impugned notification. DSPs Falak Niaz and Mr. Ishtiaz Ahmad above and below the appellant after his proper placement in seniority list of year 2021 prepared in accordance with recommendation of committee constituted upon direction of the worthy Supreme Court of Pakistan, was promoted which is against the rules, because 33 Juniors to the appellant was promoted by the respondent and it is due to preparation of seniority list having wrong details about appellant and due to inefficiency of the staff/dealing clerks of the respondents establishment who were involved in the process of preparation of seniority lists of the appellant's cadre.

7. We are unison to hold that appellant despite being senior, wrongly ignored against the rules by the respondent for promotion to the post of SP,



therefore, appeal in hand is accepted as prayed for. Cost shall follow the event.  
Consign.

8. *Pronounced in open court in Peshawar and given under our hands  
and seal of the Tribunal on this 13<sup>th</sup> day of June, 2024.*

  
**(Farzeha Paul)**  
Member (E)

  
**(Rashida Bano)**  
Member (J)

\*M.Khan

24<sup>th</sup> May, 2024

1. Junior to counsel for the appellant and Mr. Umair Azam, Additional Advocate General for the respondents present.

2. Former made a request for adjournment as senior was not available today. Adjourned. To come up for arguments on 13.06.2024 before D.B. P.P given to the parties.

SCANNED  
MUTAZEM  
PESHAWAR

(Muhammad Akbar Khan)  
Member (E)

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

**ORDER**

13.06.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, learned District Attorney alongwith Wisal Khan, SP for the respondents present.

2. Vide our detailed judgment of today placed on file, We are unison to hold that appellant despite being senior, wrongly ignored against the rules by the respondent for promotion to the post of SP, therefore, appeal in hand is accepted as prayed for. Cost shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of June, 2024.*

(Fareeha Paul)  
Member (E)

(RashidaBano)  
Member (J)