



Constable, Hamaish Khan No.03 from reversion impugned revision order dated 08.12.2016, whose promotion order was cancelled alongwith appellant vide single order dated 08.12.2016 impugned before us.

9. Perusal of these three orders reveals that their cases were sent by appellate authority for determination of status of their promotion, whether it was in accordance with seniority cum fitness and after passing of required course or otherwise upon clarification of their Parent District, they were promoted on their own turn alongwith their colleagues, their reversion order was withdrawn by the respondents. Therefore, in our humble view respondent should have sent cases of all the appellants for clarification about their promotion whether it was on their due turn after fulfilling required criteria in accordance with rules and practice in vogue or otherwise i.e. out of turn before withdrawal of their promotion order vide impugned order but they had not done so.

10. For what has been discussed above, we remit the cases of the appellants to respondents for clarification of status and nature of their promotion like above referred Head Constables i.e. Hamaish Khan, Abdul Wadood and Abdul Latif with further direction to decide it within 60 days of receipt of this order. Cost shall follow the event.

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

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

7. Perusal of record reveals that appellants were appointed as constable in Police Department. Appellants qualified/passed all the courses i.e. Recruit, Drill, Instructor, Selection Commander, Platoon Commander, Weapon Gas, ATS etc. Appellants after qualification of all the courses required for promotion besides having required length of service at their credit were promoted to the rank of Head Constable. Appellants were awarded selection grade as per their own turn and their promotion was in accordance with rules and not out of turn but unfortunately respondents vide impugned order cancelled the order of promotion of appellants by getting influenced from judgment of Supreme Court of Pakistan about out of turn promotion.

7. Appellants were basically employees of the FRP promotion criteria for whom is given in standing order 01/2020 in accordance with which main qualification for promotion to the rank of Head Constable is as such;

- a) Qualified Selection Commander Course or Drill course.
- b) Physical Fitness according to Police Rules 12-16 (1).
- c) Character Roll clear of entry carrying moral stigma, beside seniority.

Appellants annexed with their appeals certificate of Selection Commander Course and alleged that they were promoted on the basis of seniority cum fitness by their relevant authority but respondent without confirming from their concerned authority who promoted them, with a stroke of pen reverted them, which is not justified.

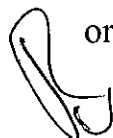
8. Learned Counsel for the appellants during arguments produced order of withdrawal of names of Head Constable, Abdul Wadood No.1003 dated 13.03.2018, Head Constable, Abdul Latif No.470 dated 16.04.2018 and Head

aggrieved, they filed departmental appeals, which were not responded, hence the present service appeal.

4. Respondents were put on notice, who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

5. Learned counsel for the appellant argued that appellants have not been treated in accordance with law and rules; that appellants were promoted to the rank of Head Constable as per law/rules as they have required length of service and experience on their credit; that appellants were promoted to the rank of Head Constable and their promotions were rather not out of turn; that the authority mis-interpreted the judgment of the apex court as order of promotion was not out of turn but was as per law, rules, seniority-cum-fitness; that impugned order was passed by the incompetent authority which is void ab-initio, hence not tenable and liable to be set aside.

6. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules; that the appellant did not undergone/carried out mandatory departmental courses required for promotion to the rank of Head Constable; that appellants were given accelerated promotion/out of turn promotion. The apex court vide its judgment has held that out of turn promotions are illegal, violation of Article of the constitution, law and rules. Therefore, in compliance of the judgment all out of turn promotion orders were withdrawn and officials/officers were brought to their original/substantive ranks.



are mentioned below, as in all these appeals common questions of law and facts are involved:

1. Service Appeal No. 776/2017
2. Service Appeal No. 777/2017
3. Service Appeal No. 778/2017
4. Service Appeal No. 779/2017
5. Service Appeal No. 780/2017
6. Service Appeal No. 781/2017
7. Service Appeal No. 782/2017
8. Service Appeal No. 783/2017
9. Service Appeal No. 784/2017
10. Service Appeal No. 785/2017
11. Service Appeal No. 786/2017
12. Service Appeal No. 787/2017
13. Service Appeal No. 788/2017
14. Service Appeal No. 789/2017
15. Service Appeal No. 270/2018

2. The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“It is therefore, most humbly prayed that on acceptance of appeal, the impugned order dated 08.12.2016 of R.No.1 be set aside and appellant be restored to his original rank of Head Constable with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.”**

3. Appellants' cases in brief are that they were appointed on different dates and in different districts (given in the respective appeals) in the Police Department. According to the appeals the appellants are qualified Recruit, Drill Instructor, Section Commander, Platoon Commander, Weapon, Gas, ATS courses and were performing their duties with the entire satisfaction of their superiors. They were promoted to the rank of Head Constable in the year, 2012; in light of the judgment of the apex court dated 26.01.2016, respondents cancelled the promotion order of the appellants on 08.12.2016. Feeling

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No. 775/2017**

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

Muhammad Zaman S/O Gul Dad Khan, B.No.174, Head Constable,  
Headquarter, Counter Terrorism Department, Peshawar.

.... (Appellant)

**VERSUS**

1. Additional Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, CTD, Peshawar.
4. Commandant FRP, Headquarter, Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

Mr. Arbab Saif ul Kamal  
Advocate

... For appellant

Mr. Muhammad Jan  
District Attorney

... For respondents

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Date of Institution.....05.05.2017

Date of Hearing.....03.05.2024

Date of Decision.....03.05.2024

**JUDGMENT**

**RASHIDA BANO, MEMBER (J):** Through this single judgment, we intend to dispose of the instant service appeal as well as connected service appeals which