

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
AURANGZEB KHATTAK ... MEMBER (Judicial)

Service Appeal No.310/2023

Date of presentation of appeal27.01.2023
Dates of Hearing.....22.07.2024
Date of Decision.....22.07.2024

Gul Naseeb Khan, Deputy Superintendent of Police, Police Lines, Peshawar. Presently posted as DSP, CPO, Peshawar.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat Peshawar
2. **Secretary**, Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. **Secretary**, Establishment Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. **Provincial Selection Board**, through its Chairman, office of the Inspector General of Police, Government of Khyber Pakhtunkhwa, Central Police Office, Peshawar.
5. **Provincial Police Officer**, Government of Khyber Pakhtunkhwa, Central Police Office, Peshawar.
6. **Additional Inspector General (Headquarters)**, Central Police office, Khyber Pakhtunkhwa, Peshawar.
7. **Deputy Inspector General (Headquarters)**, Central Police office, Khyber Pakhtunkhwa, Peshawar.....(*Respondents*)

Present:

Mr. Bashir Khan Wazir, Advocate.....For appellant.

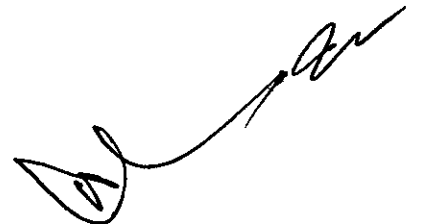
Mr. Muhammad Jan, District Attorney.....For respondents.

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST PROMOTION NOTIFICATION DATED 05.09.2022, WHEREBY APPELLANT HAS BEEN DEFERRED/NOT CONSIDERED FOR PROMOTION ON ILLEGAL AND UNLAWFUL GROUNDS AND JUNIORS TO THE APPELLANT HAVE BEEN PROMOTED.
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JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts gathered from the memo and grounds of appeal are that the appellant was initially appointed as Assistant Sub-Inspector (ASI) on 24.04.1991; that consequent upon appointment of the appellant as ASI, the appellant was confirmed on 03.11.1996 with effect from the date of initial appointment; that thereafter the appellant was promoted from the rank of ASI to the rank of Sub-Inspector followed by confirmation, keeping in view his seniority position; that the appellant was again promoted from the rank of Sub-Inspector to the rank of Inspector by the respondent department followed by his confirmation as Inspector; that finally the appellant was promoted from the rank of Inspector to the rank of Deputy Superintendent of Police (DSP) and was confirmed as well; that as per law, the name of the appellant was also reflected in the final seniority list at serial No.08; that since the appellant acquired the required length of service and other criteria for the purpose of promotion to the rank of Superintendent of Police BPS-18, hence, his working papers were prepared and sent for the purpose of consideration for promotion to the Provincial Promotion Board; that the appellant was astonished to see that the PSB had acted in utter violation of law as the appellant was not considered by the Board on the analogy that he had obtained and submitted his medical certificate from Lakki Marwat, therefore, he was not considered; that the factum of non-consideration of the appellant had been reflected in the minutes of the meeting of Provincial Selection Board held on 19.08.2022; that the appellant feeling aggrieved,



preferred departmental appeal, which was not responded within the stipulated period on ninety days, hence, the instant service appeals.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant, learned District Attorney for respondents.

4. Through this appeal, the appellant has made the following prayer:

"It is, therefore, requested that on acceptance of this appeal the respondent department/Board may please be directed to consider the name of the appellant for the purpose of promotion at par with and ahead of his colleagues/batchmates/juniors and the term "not considered" due to any reason, may please be declared as illegal and unlawful moreover seniority of the appellant may also be restored, with such other relief as may deem fit in the circumstances of the case may also be granted".

5. The above prayer shows that the appellant is seeking promotion to the post of Superintendent of Police (BPS-18). Record reveals that the promotion case of the appellant was placed before the Selection Board in its meeting held on 19.08.2022, wherein appellant was not considered for promotion to the post of Superintendent of Police (BPS-18) on the following grounds:

"The board did not consider him for promotion to the rank of SP (BPS-18). The officer remained OSD from 18.04.2022 till date. It was pointed out in the Board proceedings that he got his Medical Certificate from Lakki Marwat. The Board members are of the view that his case be referred to Medical Board to check his fitness for active field duty".



6. Before his appearance and conduct of the Medical Board, he filed this appeal seeking promotion. The appellant appeared before the Medical Board and the Medical Board submitted his report on 30.05.2023, declaring him physically and mentally fit for promotion, therefore, in the interest of justice, we direct that the case of the appellant may be reconsidered for promotion in the light of relevant law and rules. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 22nd day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



AURANGZEB KHATTAK
Member (Judicial)

Adnan Shah, PA


ORDER

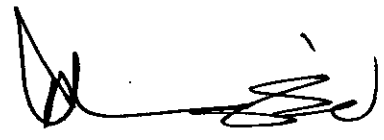
22nd July, 2024

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

2. Vide our detailed judgement of today placed on file, we direct that the case of the appellant may be reconsidered for promotion in the light of relevant law and rules. Costs shall follow the event. Costs shall follow the event. Consign.

3. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 22nd day of July, 2024.


(Aurangzeb Khattak)
Member(Judicial


(Kalim Arshad Khan)
Chairman

Adnan Shah, P.A

28.06.2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Mr. Wisal Khan, SP Court for the respondents present.

2. Representative of respondent is directed to produce first appointment order of the appellant. Lists of B-1, C, D, E and F before and after passing of lower intermediate, upper & advance courses and junior commandant course and lists after his promotion as officiating & confirmation in different ranks and criteria for placing with Head Constable, ASI, SI, Inspector after treating them as out of turn promotes. He shall also submit record that whether any appellant got promoted on the basis of gallantry, shoulder or cadetship or special case and order of the committee after decision of apex court dated 07.10.2020. File to come up for record and arguments 22.07.2024 before D.B. P.P given to the parties.

30
PESHAWAR

(Muhammad Akbar Khan)
Member (E)

(Rashida Bano)
Member (J)

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