

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

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

**Service Appeal No. 7865/2021**

Date of presentation of Appeal.....13.12.2021  
Date of Hearing.....25.07.2024  
Date of Decision.....25.07.2024

**Tariq Usman S/o Anab Gul**, Sub-Inspector at Police Training School Kohat, R/o Village and P/O Tarkhai Koi, Tehsil and District Karak.  
.....**Appellant**

Versus

1. Provincial Police Officer/Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Kohat Region, Kohat.
3. District Police Officer, Kohat.
4. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar. ....(**Respondents**)

Present: -----

Mr. Shahid Qayum Khattak, Advocate.....For appellant  
Mr. Muhammad Jan, District Attorney .....For respondents  
.....

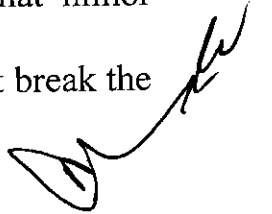
**JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** According to the facts gathered from the record are that the appellant was appointed as a Probationer Assistant Sub-Inspector (PASI) through the Public Service Commission in Khyber Pakhtunkhwa Police on 21.10.2006. Upon completion of probationary period, he was selected for the Upper College Course in October 2009, mandatory for promotion to the rank of Sub-Inspector. The particulars of the appellant were submitted for confirmation as ASI in 2009 but were not confirmed timely. The appellant, after being promoted as officiating Sub-Inspector (SI) and completing mandatory periods as per the amended Police Rules, was recommended for inclusion in List 'F' for further

promotion. However, his departmental representation for promotion to Inspector, submitted on 10.03.2021, was declined on the grounds of a break in service. Feeling aggrieved, the appellant filed a revision petition before the Inspector General of Police, Khyber Pakhtunkhwa, who remanded the matter back to the Regional Police Officer, Kohat, with the opinion that minor punishments and leave without pay should not affect seniority. However, despite this opinion, the Regional Police Officer dismissed the case of the appellant on 16.11.2021. The appellant has now approached this Tribunal through filing of instant appeal for redressal of his grievance.

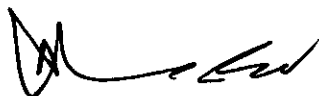
2. On receipt of the appeal and its admission to regular hearing, the respondents were summoned. Respondents put appearance through their respective representative and contested the appeal by way of filing para-wise reply, raising therein numerous legal as well as factual objections.

3. The learned counsel for the appellant argued that name of the appellant was requisitioned for confirmation as ASI in 2009, but the confirmation was not processed within due time, which caused great loss to the appellant. He next contended that after promotion as officiating Sub-Inspector, the appellant completed mandatory periods and was recommended for inclusion in the List 'F' for promotion but his seniority was not considered due to an alleged break in service. He further contended that the departmental representation of the appellant for promotion to Inspector was illegally declined due to a purported break in service, which is against the law. He also contended that despite being advised by the Inspector General of Police to Regional Police Officer, Kohat Region that minor punishments do not affect seniority and leave without pay does not break the



service period, the Regional Police Officer illegally dismissed the case of the appellant as he lacked jurisdiction because the revision petition was submitted before the Inspector General of Police, Khyber Pakhtunkhwa. He next argued that the appellant pursued higher education at Quaid-i-Azam University, Islamabad, and applied for leave without pay through proper channels, therefore, the period of absence, treated as leave without pay, should not be considered a break in service. He also argued that the seniority and service record of the appellant have been adversely affected by the respondent actions and he has been unjustly denied promotion while his batch-mates have progressed. In the last he argued that the right to seniority is inherent and can only cease upon death or superannuation, therefore, denial of seniority violates fundamental rights as per the Constitution of Pakistan, hence, the appeal in hand might be accepted as prayed for.

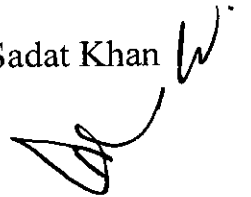
4. Conversely, learned District Attorney for the respondents contended that as per Police Rules 19.25, the mandatory training courses (A, B, C, D) for upper subordinates must be completed but the appellant, although appointed as Probationer Assistant Sub Inspector on 21.10.2006, had not completed the required course due to selection for an upper college course instead, which led to his return, unqualified, for willful absence and eventual discharged. He next contended that the appellant remained absent without permission, leading to his discharged from service vide order dated 08.04.2010 passed by District Police Officer, Karak. He further contended that the appellant was reinstated on 10.08.2012 after a de-novo inquiry and was confirmed in the rank of ASI and placed on Promotion List "E" on 27.06.2013. He also contended that the appellant eventually being promoted



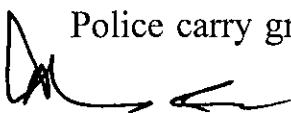
to officiating Sub Inspector on 18.02.2016 and confirmed in that rank as per established criteria under Rules 13.10(2) and Police Rules Amendment, 2017. He next argued that seniority and promotions are strictly maintained as per Police Rules 12.2 (3) and subsequent inclusion in Promotion List "F" on 22.02.2021 was done according to Police Rules 13.15, which specify seniority based on the date of entry into the list. He further argued that representation of the appellant about his seniority was examined, and a committee was formed by Regional Police Officer Kohat Region, Kohat, which found the representation unjustified. He also argued that the Regional Police Officer Kohat Region, Kohat issued a speaking order rejecting the representation on 16.11.2021 and the appellant did not appeal further before Provincial Police Officer, Khyber Pakhtunkhwa and directly filed the current appeal, which is legally incorrect. In the last he argued and promotions were governed strictly per relevant rules and criteria (Police Rules 12.2 (3), 13.10 (2), 13.15 (4), therefore, the impugned orders are legal, hence, the appeal in hand is liable to be dismissed.

5. We have heard the arguments of learned counsel for the appellant and learned District Attorney for the respondents and have perused the record.

6. Perusal of the record would show that appellant was appointed as a Probationary Assistant Sub-Inspector (ASI) through Public Service Commissioner Khyber Pakhtunkhwa Police on 21.10.2006. After successful completion of the probationary period, the appellant was selected for the Upper College Course in October 2009, a mandatory course for promotion to Inspector. In 2009, the appellant name was requisitioned for confirmation as ASI alongside his colleagues, being positioned between PASI Sadat Khan



No. 25/K and PASI Shafiq-ur-Rehman No. 17/K, as per the Regional Police Officer, Kohat memo dated 03.12.2009. The District Police Officer, Karak, submitted the relevant service particulars of the appellant on 15.12.2009, however, the appellant was not confirmed in due course. The appellant, having been promoted as officiating Sub-Inspector, completed the mandatory periods as per the amended Police Rules and was recommended for inclusion in List 'F' by the Provincial Police Officer, Khyber Pakhtunkhwa, vide notification dated 22.02.2021. Subsequent to this, the appellant sought promotion to the rank of Inspector but his representation dated 10.03.2021 was declined on 14.04.2021 by the Regional Police Officer, Kohat Region, on the ground of a break in service. Following the rejection, the appellant filed a revision petition before the Inspector General of Police, Khyber Pakhtunkhwa, who referred the matter to the Assistant Inspector General of Police, Legal (AIG/Legal) for a legal opinion. The AIG/Legal opined that minor punishment does not affect seniority and leave without pay under the Leave Rules did not break the continuity of the intervening period of service. Based on these findings and in adherence to the rules, the Inspector General of Police, Khyber Pakhtunkhwa concluded that the appellant was entitled to maintain his seniority alongside his batch-mates. This decision reaffirmed the appellant right to seniority alongside his batch-mates, which was a determination made after consulting the AIG/Legal. The Inspector General of Police, being the highest-ranking officer in the police department, holds a superior position to the Regional Police Officer. Therefore, the decisions made by the Inspector General of Police carry greater authoritative weight compared to those of the Regional




Police Officers. The principle of hierarchical precedence dictates that the orders of higher authorities prevail over those of subordinate officers. We find that the Regional Police Officer order dated 16.11.2021, which contradicts the earlier decision by the Inspector General of Police, was issued without sufficient legal basis. The Regional Police Officer, Kohat Region action undermines the legal and administrative coherence required within the police department. Moreover, it is evident that the opinion of the Inspector General of Police, Khyber Pakhtunkhwa, dated 30.07.2021, was legally sound and administratively binding. The subsequent rejection by the Regional Police Officer, Kohat Region, on 16.11.2021, lacks legal justification and is, therefore, invalid.

7. Consequently, the impugned orders dated 14.04.2021 and 16.11.2021 are set-aside and the appeal in hand is accepted as prayed for. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25 day of July, 2024.*



**KALIM ARSHAD KHAN**  
Chairman




**AURANGZEB KHATTAK**  
Member (Judicial)

Service Appeal No. 7865/2021 titled "Tariq Usman Versus Provincial Police Officer/Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others"

**ORDER**

25<sup>th</sup> July, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Usman, DSP (Legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, the impugned orders dated 14.04.2021 and 16.11.2021 are set-aside and the appeal in hand is accepted as prayed for. Costs shall follow the event. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25 day of July, 2024.*

  
(Aurangzeb Khattak)  
Member (Judicial)

  
(Kalim Arshad Khan)  
Chairman