

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
M. RASHIDA BANO ... MEMBER (Judicial)

Amended Service Appeal No.7498/2021

Date of presentation of appeal05.10.2021
Date of presentation of amended appeal.....07.08.2023
Dates of Hearing.....19.07.2024
Date of Decision.....19.07.2024

Mr. Saif Ur Rehman, Inspector (BPS-16), Capital City Police, Peshawar.....(Appellant)

Versus

1. **The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.**
2. **The Capital City Police Officer, Peshawar.**
3. **Mr. Turab, DSP Crime, Central Police Office, Peshawar.**
4. **Mr. Ijaz Ali, DSP Mardan, RPO Office, Mardan.**
5. **Mr. Adnan Azam, DSP Mardan, RPO Office Mardan.**
6. **Mr. Zahid Alam, DSP Chamkani Capital City Police, Peshawar.**
7. **Mr. Shams Ur Rehman, DSP Internal Accountability, Central Police Office, Peshawar.**
8. **Mr. Rahmat Ullah, DSP CPEC Headquarter, Central Police Office, Peshawar.**
9. **Mr. Sajad Hussain, DSP Town, Capital City Police, Peshawar.**
10. **Mr. Shafqat Hussain, DSP Security, CM House Peshawar.**
.....(**Respondents**)

Present:

Mr. Taimoor Ali Khan, Advocate.....For appellant.
Mr. Muhammad Jan, District Attorney.....For official respondents.
Mr. Arbab Saif Ul Kamal, Advocate.....For private respondents No. 6,8,9 and 10

.....
**AMENDED SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974,
AGAINST ORDER DATED 05.04.2022 ISSUED DURING THE
PENDENCY OF INSTANT APPEAL, WHEREBY THE
CONFIRMATION OF THE APPELLANT IN THE RANK OF SI
WAS REVISED FROM 01.10.2014 TO 20.01.2011 INSTEAD OF
01.01.2010, THE DATE ON WHICH THE CONFIRMATION OF**

HIS BATCHMATES AND JUNIORS WERE REVISED AND CONFIRMED IN THE RANK OF SI W.E.F 01.01.2010 AND AGAINST NOT CONFIRMING THE APPELLANT IN THE RANK OF ASI W.E.F. 28.12.2006 AND BROUGHT HIS NAME IN LIST "E" ALONGWITH BATCHMATES AND JUNIORS ACCORDING TO ORDER OF MERIT ASSIGNED BY THE PUBLIC SERVICE COMMISSION, NOT CONFIRMING HIM IN THE RANK OF SI W.E.F. 01.01.2010, NOT PROMOTING HIM AS OFFICIATING INSPECTOR AND BRINGING HIS NAME IN LIST "F" W.E.F.. 30.01.2013 AND NOT CONFIRMING HIM IN THE RANK OF INSPECTOR W.E.F. 19.05.2015, WHEN HIS BATCHMATES AND JUNIORS WERE CONFIRMED IN THE RANK OF ASI, SI PROMOTE THEM AS OFFICIATING INSPECTOR AND CONFIRM THEM IN THE RANK OF INSPECTOR.

.....
Amended Service Appeal No.7878/2021

Date of presentation of appeal06.12.2021
Date of presentation of amended appeal.....07.08.2023
Dates of Hearing.....19.07.2024
Date of Decision.....19.07.2024

Mr. Imtiaz Alam, Inspector (BPS-16), Capital City Police, Peshawar.....(Appellant)

Versus

1. **The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.**
2. **The Capital City Police Officer, Peshawar.**
3. **Mr. Ijaz Ali, DSP Mardan, RPO Office, Mardan.**
4. **Mr. Adnan Azam, DSP Mardan, RPO Office Mardan.**
5. **Mr. Zahid Alam, DSP Chamkani Capital City Police, Peshawar.**
6. **Mr. Shams Ur Rehman, DSP Internal Accountability, Central Police Office, Peshawar.**
7. **Mr. Rahmat Ullah, DSP CPEC Headquarter, Central Police Office, Peshawar.**
8. **Mr. Sajad Hussain, DSP Town, Capital City Police, Peshawar.**
9. **Mr. Shafqat Hussain, DSP Security, CM House Peshawar.**
.....(**Respondents**)

Present:

Mr. Taimoor Ali Khan, Advocate.....For appellant.
Mr. Muhammad Jan, District Attorney.....For official respondents.
Arbab Saif Ul Kamal, Advocate.....For private respondents No.
5,7,8 and 9.

AMENDED SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST ORDER DATED 05.04.2022 ISSUED DURING THE PENDENCY OF INSTANT APPEAL, WHEREBY THE CONFIRMATION OF THE APPELLANT IN THE RANK OF SI WAS REVISED FROM 01.10.2014 TO 20.01.2011 INSTEAD OF 01.01.2010, THE DATE ON WHICH THE CONFIRMATION OF HIS BATCHMATES AND JUNIORS WERE REVISED AND CONFIRMED IN THE RANK OF SI W.E.F 01.01.2010 AND AGAINST NOT CONFIRMING THE APPELLANT IN THE RANK OF ASI W.E.F. 28.12.2006 AND BROUGHT HIS NAME IN LIST "E" ALONGWITH BATCHMATES AND JUNIORS ACCORDING TO ORDER OF MERIT ASSIGNED BY THE PUBLIC SERVICE COMMISSION, NOT CONFIRMING HIM IN THE RANK OF SI W.E.F. 01.01.2010, NOT PROMOTING HIM AS OFFICIATING INSPECTOR AND BRINGING HIS NAME IN LIST "F" W.E.F.. 30.01.2013 AND NOT CONFIRMING HIM IN THE RANK OF INSPECTOR W.E.F. 19.05.2015, WHEN HIS BATCHMATES AND JUNIORS WERE CONFIRMED IN THE RANK OF ASI, SI PROMOTE THEM AS OFFICIATING INSPECTOR AND CONFIRM THEM IN THE RANK OF INSPECTOR.

.....

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this appeal and the connected service appeal No. 7878/2021 titled "Imtiaz Alam versus The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others" are decided as both are regarding the same subject matter and can conveniently be decided together.

2. Brief facts gathered from the amended memo and grounds of appeal No. 7498/2021 are that the appellant was appointed as ASI w.e.f 15.06.2007 vide notification dated 23.06.2007; that the colleagues and juniors to the appellant were confirmed in the rank of ASI w.e.f 28.12.2006 and further promoted to the post of Sub-Inspector (SI) vide notification dated 01.01.2010; that colleagues and juniors to the appellant

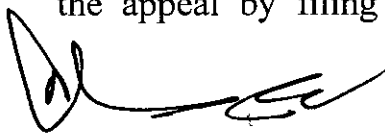


were then confirmed in the rank of SI w.e.f 14.03.2012 vide notification dated 10.09.2012 and further promoted to the post of officiating Inspector through notification dated 30.01.2013 and confirmed in the rank of Inspector vide notification dated 19.10.2015; That the appellant was confirmed in the rank of SI on 01.10.2014 with immediate effect and was promoted to the rank of officiating Inspector on 05.11.2014 further confirmed on 10.04.2016; that the appellant filed departmental appeal on 17.06.2021 for his seniority which was not responded; That the appellant then filed service appeal before this Tribunal and during pendency of appeal, the respondent department issued an order dated 05.04.2022, whereby the confirmation of the appellant in the rank of SI was revised from 01.10.2014 to 20.01.2011 and his batchmates and juniors confirmation in the rank of SI were also revised to 01.01.2010 and as the appellant had claimed his confirmation in the rank of SI w.e.f. 14.03.2012 i.e. the date when his batchmates and juniors were confirmed in the rank of SI; that the appellant filed departmental appeal for confirmation in the rank of ASI, SI and Inspector from the date when his batchmates and juniors were confirmed, hence, the instant service appeal.

3. Brief facts gathered from the amended memo and grounds of appeal No. 7498/2021 are that the appellant was appointed as ASI against 19% quota reserved for in service graduate Constable/Head Constable w.e.f. 17.04.2007 vide notification dated 21.04.2007, despite the fact that batchmates of the appellant were appointed on 28.12.2006; that the colleagues and juniors to the appellant were confirmed in the rank of ASI

w.e.f 28.12.2006 and further promoted to the post of Sub-Inspector (SI) vide notification dated 01.01.2010; that colleagues and juniors to the appellant were then confirmed in the rank of SI w.e.f 13.09.2012 vide notification dated 10.10.2012 and further promoted to the post of officiating Inspector through notification dated 30.01.2013 and confirmed in the rank of Inspector vide notification dated 19.10.2015; that the appellant was confirmed in the rank of SI on 01.10.2014 with immediate effect and was promoted to the rank of officiating Inspector on 05.11.2014 further confirmed as inspector on 10.04.2016; that the appellant filed departmental appeal for his seniority which was not responded; that the appellant then filed service appeal before this Tribunal and during pendency of appeal, the respondent department issued an order dated 05.04.2022, whereby the confirmation of the appellant in the rank of SI was revised from 01.10.2014 to 20.01.2011 and his batchmates and juniors confirmation in the rank of SI were also revised to 01.01.2010 and as the appellant had claimed for his confirmation in the rank of SI w.e.f. 13.09.2012 i.e. the date when his batchmates and juniors were confirmed in the rank of SI; that the appellant filed departmental appeal for confirmation in the rank of ASI, SI and Inspector from the date when his batchmates and juniors were confirmed, hence, the instant service appeal.

4. 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.

5. We have heard learned counsel for the appellants, learned District Attorney for official respondents and counsel for private respondents.

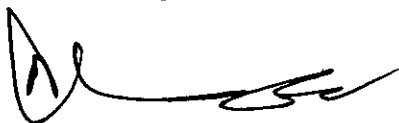
6. Both the appellants have filed appeals under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 05.04.2022 issued during the pendency of instant appeal, whereby the confirmation of the appellant to the rank of Sub-Inspector was revised from 01.10.2014 to 20.01.2011 instead of 01.01.2010, the date on which the confirmation of his batchmates and juniors were allegedly revised and confirmed in the rank of Sub Inspector w.e.f 01.01.2010 and against not confirming the appellant in the rank of Assistant Sub-Inspector w.e.f. 28.12.2006 and brought his name in list "E" alongwith batchmates and juniors according to order of merit assigned by the public service commission, not confirming him in the rank of SI w.e.f. 01.01.2010, not promoting him as officiating Inspector and bringing his name in list "F" w.e.f. 30.01.2013 and not confirming him in the rank of Inspector w.e.f. 19.05.2015, when his batchmates and juniors were confirmed in the rank of ASI, SI promote them as officiating inspector and confirm them in the rank of inspector.

7. In these appeals, the appellants have made the following prayer:

"That on acceptance of this amended appeal, the respondents may kindly be directed to confirm the appellant in the rank of ASI and also brought his name in list "E" w.e.f. 28.12.2006 according to the order of merit

assigned by the Public Service Commission in the rank of SI w.e.f 01.01.2010 by modifying the order dated 05.04.2022 to the extent of the appellant, promote the appellant to the rank of officiating Inspector and brought his name in list "F" w.e.f. 30.01.2013 and further confirm him in the rank of Inspector w.e.f. 19.10.2015, when his batchmates and juniors were confirmed in the rank of ASI, SI promote to the rank of officiating Inspector and confirmed in the rank of Inspector respectively by revising his seniority in the rank of ASI, SI and Inspector. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also, be awarded in favour of appellant"


8. The appeals and prayers show that the appellants are seeking confirmation in the rank of ASI, SI and Inspector from the date when their batchmates and juniors were confirmed. They are originally aggrieved from the orders dated 28.12.2006 and 01.01.2010, which they have not challenged in time rather they have filed departmental appeal against the impugned orders on 17.06.2021 and 02.09.2021, which is hopelessly barred by time. Because of the delay in filing departmental appeals, the appeals before the Tribunal are not maintainable. According to 2018 SCMR 997 titled "Syed Rizwan Ahmad versus Secretary CADD Islamabad", the august Supreme Court of Pakistan held that where a right was required to be asserted, it had to be done vigilantly and no indulgence could be shown to indolent and negligent litigant. In matters relating to arising out the service matters, a civil servant had to display vigilance and promptitude in approaching the appropriate fora and unexplained delay was always a material factor which could prove fatal for him. This being so, these appeals are dismissed. Costs shall follow the event. Consign.



Service Appeal No. 7498/2021 titled "Saif Ur Rehman versus The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others" and connected Appeal No.7878/2021 titled "Imtiaz Alam Khan versus The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others" decided on 19.07.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rashida Bano, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

09. ***Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 19th day of July, 2024.***


KALIM ARSHAD KHAN
Chairman


RASHIDA BANO
Member (Judicial)

Adnan Shah, PA