

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No.16445/2020.

Date of Institution ... 17.12.2020

Date of Decision... 16.05.2023

Hidayat Shah Inspector Legal Nowshera.

... (Appellant)

VERSUS

The Provincial Police Officer, Government of Khyber Pakhtunkhwa,
Peshawar and 03 others.

... (Respondents)

MR. ASHRAF ALI KHATTAK,
Advocate

--- For appellant.

MR. ASAD ALI KHAN,
Assistant Advocate General

--- For respondents.

MR. MUHAMMAD AKBAR KHAN
MR. SALAH-UD-DIN

--- MEMBER (EXECUTIVE)
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

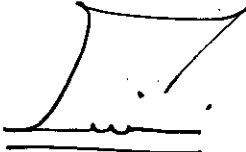
Precise averments as raised by

the appellant in his appeal are that he was enrolled as PSI on 13.03.1988 and was then enlisted in promotion list "F" vide Notification dated 09.07.1991; that one Altaf Hussain (*Shaheed*) was enrolled as PSI in the year 1989 and was enlisted in promotion list "F" on 16.11.1994; that the appellant was well as Altaf Hussain (*Shaheed*) were promoted as officiating Inspectors (Legal) BPS-16 vide same Notification dated 19.11.2007; that Altaf Hussain (*Shaheed*) was junior to the appellant, however he was confirmed as Inspector (Legal) and was then further promoted as DSP (Legal) BPS-17 vide

SCANNED
KPSST
Peshawar



impugned Notification dated 25.07.2013, while the appellant was deferred even from his confirmation as Inspector (Legal) on the ground that his ACRs for the period from 01.01.2008 to 16.05.2008 as well as 2011 and 2012 were not available; that the appellant was senior to Altaf Hussain (*Shaheed*) and was entitled to have been promoted to the post of DSP (Legal) (BPS-17) but he was wrongly and illegally deprived of the same; that the appellant challenged the impugned Notification dated 25.07.2013 through filing of departmental appeal/representation, which was not responded within the stipulated period, hence the instant service appeal.



2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.


4. We have heard the arguments of learned counsel for the parties and have perused the record.


5. The appellant is seeking proforma promotion to the post of DSP (Legal) (BPS-17) mainly on the ground that one Altaf Hussain

(*Shaheed*) was though junior to him but was promoted as DSP (Legal) (BPS-17) vide impugned Notification dated 25.07.2013. Available on the record are minutes of the DPC held on 14.10.2013, whereby confirmation of the appellant as Inspector (Legal) was deferred due to non-availability of his ACRs for the period from 01.01.2008 to 16.05.2008 and for the years 2011 and 2012. The appellant has retired from service with effect from 14.04.2014 and he was admittedly not even confirmed as Inspector (Legal) at the time of his retirement. On the other hand, Altaf Hussain was confirmed as Inspector (Legal) and was then further promoted as DSP (Legal) (BPS-17) vide Notification dated 25.07.2013. When the appellant was admittedly not even confirmed as Inspector (Legal) (BPS-16) at the time of his retirement, there exist no law/rules, whereby he could be granted proforma promotion to the post of DSP (Legal) (BPS-17).

6. Consequent upon the above discussion, it is held that the appeal in hand is without merit, hence dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.05.2023


(MUHAMMAD AKBAR KHAN)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ORDER
16.05.2023

Appellant alongwith his counsel present. Mr. Atta-ur-Rehman, Inspector (Legal) alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, it is held that the appeal in hand is without merit, hence dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.05.2023



(Muhammad Akbar Khan)
Member (Executive)



(Salah-Ud-Din)
Member (Judicial)

SCANNED
16/05/23
Pernewair

10.02.2023

SCANNED
POST
POSTMAN

Appellant in person present. Mr. Uzair Azam Khan,

Additional General for the respondents present.

Appellant requested for adjournment due to engagement of

his learned counsel before the Hon'ble Peshawar High Court.

Granted. To come up for arguments on 16.05.2023 before the D.B.

Original file be also requisitioned.

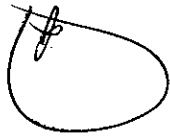
(FAREHHA PAUL)

Member (E)



(ROZINA REHMAN)

Member (J)



26th July 2022 Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 22.09.2022 before the D.B.



(Salah-Ud-Din)
Member (J)



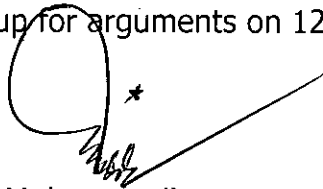
(Kalim Arshad Khan)
Chairman

22.09.2022

Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

⑦

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 12.12.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

12.12.2022

Learned counsel for the appellant present.

Mr. Muhammad Jan, District Attorney for the respondents present.

SCANNED
PESHAWAR

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 10.02.2023 before the D.B.



(FAREEHA PAUL)
Member(E)



(ROZINA REHMAN)
Member (J)

16445/2020

04.01.2022

Counsel for the appellant present. Preliminary arguments heard. Record perused.

Points raised need consideration. The appeal is admitted for hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments 10.03.2022 before the S.B.

Appellant Deposited
Security & Process Fee

10/1/22


(Rozina Rehman)
Member (J)

10.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 31.05.2022 for the same as before.

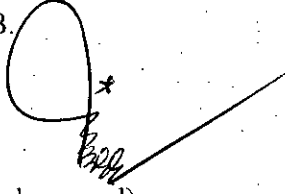


Reader.

31.05.2022

Appellant in person present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Fayyaz H.C for the respondents present.

Written reply/comments on behalf of respondents submitted which is placed on file. Copy of the same is handed over to the appellant. Adjourned. To come up for rejoinder if any, and arguments on 26.07.2022 before D.B.


(Mian Muhammad)
Member (E)

02.06.2021

Appellant with counsel present.

Partial arguments have been heard. Learned counsel for the appellant when confronted that the copy of minutes of the meeting of DPC on whose recommendations, the impugned notification was issued, is not annexed with the memorandum of appeal. An opportunity is given to the appellant for production of that minutes. To come up for further arguments on 09.09.2021 before S.B.


Chairman

09.09.2021

Appellant in person present.

Due to general strike of the legal *fraternity*, the case is adjourned. To come up for preliminary hearing before the S.B on 27.10.2021.


(MIAN MUHAMMAD)
MEMBER (E).

27.10.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Tariq Umer, Inspector (Legal) for respondents presents.

Copy of the minutes of the meeting of DPC as required for production vide order dated 02.06.2021 has been produced by the departmental representative and placed on file. The appellant seeks adjournment due to non-availability of his counsel. Adjourned. To come up for preliminary hearing on 04.01.2022 before S.B.


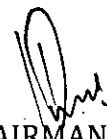


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 16445 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/12/2020	<p>The appeal of Mr. Hidayat Shah resubmitted today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR.</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/02/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
15.02.2021		<p>The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on <u>28.06.2021</u>.</p> <p style="text-align: right;"> Reader</p>

The appeal of Mr. Hidayat Shah Inspect Legal District Nowshera received today i.e. on 17.12.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Affidavit may be got attested by the Oath Commissioner.
- 2- Annexures. B, E and page no. 30 to 32 of the appeal are illegible which may be replaced by legible/better one.
- 3- Annexures of the appeal may be attested.
- 4- Power of Attorney for appellant has not been filed.
- ⑤ In the heading of appeal there are only 4 respondent but in para-8 in the memo of appeal respondent no.5 has been shown. The same may be rectified.

No. 4090 /S.T,

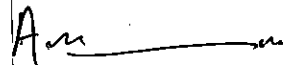
Dt. 18/12 /2020

Mr. Ashraf Ali Khattak Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

SIV

RESUBMISSION after completion



24/12/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

SCANNED
KPST
Peshawar

Service Appeal No. _____/2020

Hidayat ShahAppellant

VERSUS

The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa,
Peshawar.....Respondents

S.No.	Description of documents.	Annexure	Page
1.	Memo of appeal with affidavit.		1-7
2.	Addresses of parties		8
3.	Application for condonation of delay		9-10
4.	Copy of order dated 14.04.2014	A	11
5.	Copy of Notification Dated 19.11.2007	B	12
6.	Copy of Letter No. 27671-73/E-II, dated 05.11.2013	C	13-
7.	Copy of ACRs	D	14-17
8.	Copy of Notification No. S/3906/13 dated 25.07.2013	E	18-
9.	Copy of Departmental Appeal	F	19-21
10.	Copy of Order dated 01.12.2020	G	22-46
11.	Wakalatnama		47

Dated: 10.12.2020

Hidayat Shah
Appellant

Through

Ashraf Ali Khattak
Ashraf Ali Khattak
Advocate High Court

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 16445 /2020

Diary No. 16587

Dated 17/12/2020

Hidayat Shah Inspector Legal NowsheraAppellant
VERSUS

1. The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Regional Police Officer, Mardan Region Mardan,
4. The District Police Officer, District Nowshera.

....Respondents

**SERVICE APPEAL U/S 4 OF SERVICE TRIBUNAL ACT,
1974 AGAINST THE IMPUGNED NOTIFICATION
NO.S/3906/13 DATED 25.07.2013 WHEREIN EX-(LATE)
DSP (LEGAL) ALTAF HUSSAIN(SHAHEED) WAS
PROMOTED TO THE RANK OF DSP LEGAL AND
AGAINST WHICH APPELLANT FILED
DEPARTMENTAL APPEAL WHICH IS STILL PENDING
Filed to-day WITHOUT LEGAL DISPOSAL.**

Registrar

PRAYER

**ON ACCEPTANCE OF INSTANT SERVICE APPEAL,
THIS HON'BLE TRIBUNAL MAY GRACIOUSLY BE
PLEASED TO DECLARE THE IMPUGNED
NOTIFICATION AS ILLEGAL, UNLAWFUL AND
WITHOUT LAWFUL AUTHORITY AND SET ASIDE THE
SAME WITH DIRECTION TO THE RESPONDENTS TO
CONFIRM THE APPELLANT AGAINST THE POST OF**

Re-submitted to -day
and filed.

Registrar

31/12/2020

INSPECTOR LEGAL W.E.FROM THE DATE OF HIS PROMOTION as INSPECTOR LEGAL as per law AND THEREBY AWARD HIM PROFORMA PROMOTION (as appellant has been retired with effect from 14.04.2014) TO THE POST OF DSP LEGAL ACCORDING WITH EFFECT FROM DATE HIS JUNIOR (Late Shaheed DSP (Legal) Altaf Hussain) WAS PROMOTED AS DSP LEGAL WITH ALL BACK BENEFITS.

RESPECTFULLY SHEWETH:-

- 1) That appellant was enrolled as PSI on 13.03.1988 and enlisted in promotion list "F" vide notification dated 09.07.1991 after passing the prescribed standard/ PSI examination with credit. He has now been retired vide Order dated 14.04.2014. (Annexure A).
- 2) That it is pertinent to mention here that appellant Altaf Hussain (Shaheed) DSP Legal have been promoted to the rank of offg: Inspector Legal vide Notification dated 19.11.2007 (Annexure B).
- 3) That it is also pertinent to mention here that appellant is senior to Altaf Hussain (Shaheed) DSP legal on the score of initial appointment as well as on the score of promotion to the promotion list "F". The details are as follows.

Name	Date of Enlistment as PSIO/ SI Legal	Date of Promotion to List "F"	Date of promotion as Offg: Inspector Legal
Hadayat Shah NO.P/348 (Appellant)	13.03.1988	09.07.1991	19.11.2007
Altaf Hussain No/D/33 (RESPONDENT)	17.09.1989	16.11.1994	19.11.2007

- 4) That as per Rule 17(b) of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989, Civil Servant selected for promotion to higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post. On this score appellant is an established senior to the Altaf Hussain (Shaheed) DSP Legal as per details above.
- 5) That appellant has been deferred from confirmation in the rank of Inspector legal on account of incomplete ACRs for the period commencing from 01.01.2008 to 16.05.2008 and for the years 2011 and 2012 issued vide letter No. 27671-73/E-II, dated 05.11.2013 (Annexure-C) by the worthy respondent No.1.
- 6) That Rule 17 Explanation-II of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 provide that if the case of the senior person is differed for the time being for want of certain information or for incompleteness of record or for any other reason not attributing to his fault or demerit such senior person shall have right to be promoted and shall have right to be rank senior from his junior, as in the lower rank/ scale.
- 7) That the deficiency of non completion of ACRs was not the fault of appellant, but was the fault of respondents and appellant was penalized for the fault of his officers. Moreover non completion of ACRs is not the criteria for confirmation. These ACRs (Annexure D). have now been completed in all respect and it is the duty of the respondents to confirm the appellant against the post of Inspector Legal and further promote him to the post of DSP Legal with all back benefits as per law.

- 8) That it is pertinent to mention here that appellant through letter No.27671-73/E-II, dated 05.11.2013 of the worthy respondent No.1 came to know for the 1st time regarding the promotion of ~~Altaf Hussain~~ ^(Shahed) to the post of DSP legal. The respondent No.5 was an established junior to the appellant, but has been promoted to the rank of DSP legal in pursuance of the recommendation of DSC vide Notification No.S/3906/13 dated 25.07.2013 (Annexure E).
- 9) That the appellant being aggrieved of the acts and action of the respondents for not complying with rules of law and policy and for not confirming and promoting him to the post o DSP Legal from the date when his junior has been confirmed and promoted to the rank of DSP Legal; preferred departmental appeal (Annexure F) before the respondent No.1 Which was not disposed off within statutory period, therefore, appellant was constrained to file service appeal No.607 of 2014, which has now been disposed off vide order dated 01.12.2020 (Annex-G), with permission to file a fresh one, hence the instant service appeal inter alias on the following grounds.

GROUND.

- A. That respondents have not treated petitioner in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. As per spirit and provision of Rule 17(b) & Explanation II of the Khyber Pakhtunkwha Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 Rule 13,18 Police rules, 1934 also clear on the point. Appellant has preferential right to be consider for confirmation and promotion and in case a civil servant is differed for the time being for want of certain information or for incomplection of record or for any other reason not attributing to

his fault or demerit such senior person shall have right to be promoted and shall have right to be rank senior from his junior, as in the lower rank/ scale. The relevant law and rules has been violated and the petitioner has not been confirmed against the post of Inspector legal and further promotion to the rank of DSP Legal.

- B. That every civil servant has legitimate expectancy of rising p in Govt: hierarchy by means of promotion but appellant has been deprived of his accrued right of promotion at the fig end of his service, the same is not only illegal and unlawful but highly unwarranted and undersiable.
- C. That all public powers are in the nature of a trust and public functionaries must act as repository of such trust. The authoritative authorities are legally bound to uphold the rule of law, supremacy of constitution and to shun all types of nepotism etc and develop the rule of fair play, equity and justice, but in the instant case the respondents has violated the pubic trust and their oath to safeguard the rights of their subordinates as per law and Constitution and have penalized the appellant for reason not attributing to his fault or demerit.
- D. That appellant has highly been discriminated and has been deferred for simple reason of incomplection of ACRs, whereas ACRs are not the criteria to withheld confirmation and more so junior to appellant has been confirmed and promoted to the rank of DSP Legal, whereas appellant being established senior has been deprived of his right and that too at the fig end of his service.

8

E. That appellant would like to seek the permission of this Honourable court to advance some more grounds at the time of hearing.

For the aforesaid reasons, it is therefore, humbly prayed that the appeal may graciously be accepted as prayed for above.

Any other remedy deemed fit and appropriate in the circumstances may kindly also be granted in favour of appellant.

Dated:

Ashraf Ali Khattak
Appellant

Through *Ashraf Ali Khattak*
Ashraf Ali Khattak
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Hidayat ShahAppellant

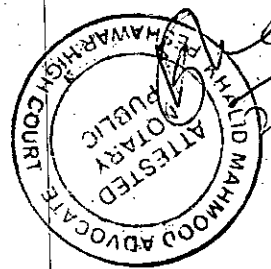
VERSUS

The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa,
Peshawar.....Respondents

AFFIDAVIT

I, Hidayat Shah Inspector Legal Nowshera. (Appellant) do hereby affirm and declare on oath that the contents of the Appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

Hidayat Shah
Deponent



28-12-20

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

Service Appeal No. _____/2020

Hidayat ShahAppellant

VERSUS

The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa,
Peshawar.....Respondents

ADDRESSES OF PARTIES

APPELLANT

Hidayat Shah Inspector Legal Nowshera.

RESPONDENTS

1. The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Regional Police Officer, Mardan Region Mardan,
4. The District Police Officer, District Nowshera.

Hidayat Shah
Appellant

Through

Ashraf Ali Khattak
Ashraf Ali Khattak
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CM No. _____/2020

IN

Service Appeal No. _____/2020

Hidayat ShahAppellant

VERSUS

The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa,
Peshawar.....Respondents

APPLICATION FOR CONDONATION OF DELAY IF ANY.

Respectfully Sheweth:-

1. That this application is being filed alongwith accompanying service appeal, which is yet to be fixed for hearing.
2. That accompanying appeal has been filed in the light of the order of this Honourable tribunal dated 01.12.2020.
3. That the grievance of the appellant is the continuation of the earlier service appeal No. 607/2014.
4. That face and grounds taken in the main appeal may be considered as part and parcel of the instant application.
5. That Superior Courts always prefer merit over technicalities.
6. That there is no legal bar in allowing condonation if any in this regard.

It is therefore, humbly prayed that on acceptance of this application the delay if any in filing the appeal may kindly be condoned.

Applicant

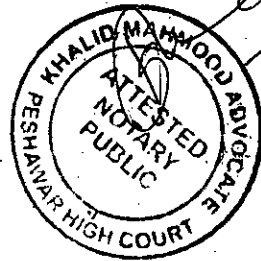
Through

Ashraf Ali Khattak
Ashraf Ali Khattak
Advocate High Court

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the Appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

Ashraf Ali Khattak
DEPONENT



28/12/20

09.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 05.12.2018.

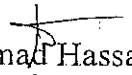

Reader

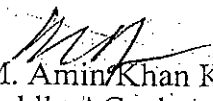
05.12.2018

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 24.01.2019 before D.B.

24.01.2019

(Ahmad Hassan) Counsel for the appellant present. Add: M. Amin Khan Kundi Member along with Mr. Fayaz, H.C for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 08.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

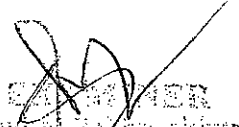
08.03.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Muhammad Wisal, Inspector (Legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Last opportunity is granted for arguments. Adjourn. To come up for arguments on 26.04.2019 before D.B.


(M. AMIN KHAN KUNDI)
MEMBER


(M. HAMID MUGHAL)
MEMBER

ATTESTED


Attestor
Khyber Pakhtunkhwa
Sardar Tribunal,
Peshawar

ATC



26.05.2018

Learned counsel for the appellant and Mr. Z. Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 10.05.2018 before D.B

17.05.2018

MA

(Muhammad Amin Kundi)
MEMBER

[Signature]

(Muhammad Hamid Mughal)
MEMBER

10.05.2018

The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 03.07.2018

[Signature]
READER

03.07.2018

Counsel for the appellant and Mr. Sardar Shoukat Hayat, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 17.08.2018 before D.B.

17.08.2018

[Signature]
(Ahmad Hassan)
Member

MA
(Muhammad Amin Kundi)
Member

Learned counsel for the appellant and Mr. Umar Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.10.2018 before D.B.

MA

(Muhammad Amin Kundi)
Member

[Signature]

(Muhammad Hamid Mughal)
Member

08.10.2018

Learned counsel for appellant and Mr. Kabirullah Khattak learned Additional Advocate General present. Learned counsel for appellant seeks adjournment. Adjourn. To come up for arguments on 09.11.2018 before D.B

ATTESTED

[Signature]

(Hussain Shah)
Member

[Signature]

(Muhammad Hamid Mughal)
Member

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

26.04.2019

Clerk to counsel for the appellant and Adll: AG for the respondents present.

Due to general strike on the call of Bar Association instant matter is adjourned to 17.06.2019 before D.B.

(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

17.06.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Fayyaz Head Constable for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 30.07.2019 before D.B.

Member

Member

30.07.2019

Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Learned counsel for the appellant stated that she has no contact with the appellant. Adjournment requested. The present service appeal is lingering on since the year 2014 hence adjourned by way of last chance. Notice be issued to the appellant for 11.10.2019. To come up for arguments on the date fixed as 11.10.2019 before D.B.

Member

Member

ATTESTED
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Atc

Ullah, DD
strike

38

11.10.2019


Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Fayaz H.C present. Learned counsel for the appellant seeks adjournment on the ground that she would prefer to argue the case in the presence of the appellant. Appellant be put to notice. Adjourned by way of last chance. To come up for arguments on 11.11.2019 before D.B.



Member


Member

11.11.2019


Appellant in person present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Fayaz H.C present. Appellant seeks adjournment on the ground that his counsel is not available being indisposed. Adjourned by way of last chance. To come up for arguments on 19.12.2019 before D.B.

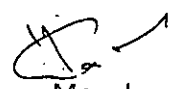

Member


Member

19.12.2019

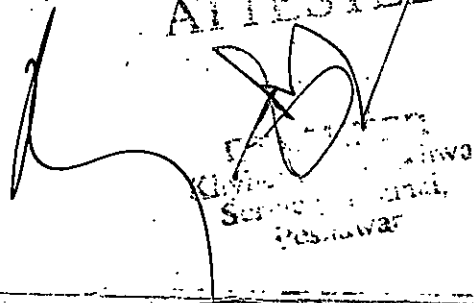
Lawyers are on strike as per the decision of Peshawar Bar Association. Adjourn. To come up for further proceedings/arguments on 29.01.2020 before D.B.


Member


Member

AKC

ATTESTED


Secretary
Peshawar

11.10.2019

29.01.2020

Junior to counsel for the appellant and Mr. Ziaullah, DD for the respondents present.

Former requests for adjournment due to general strike of the Bar. Adjourned to 30.03.2020 for arguments before the D.B.


Member


Member

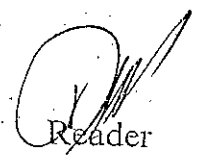
30.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.06.2020 before D.B.


Reader


18.06.2020


Due to Covid-19, the case is adjourned. To come up for the same on 07.09.2020 before D.B.

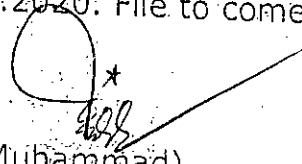

Reader

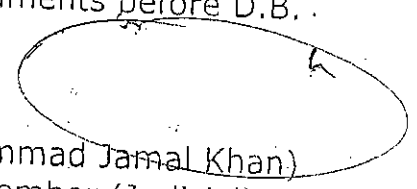
07.09.2020

Miss. Uzma Syed, Advocate for appellant is present. Mr. Usman Ghani, District Attorney alongwith representative of the department Mr. Fayaz, Head Constable for the respondents are also present. Learned counsel for appellant submitted that wife of appellant has died, therefore, he could not available today and sought for adjournment. Adjourned to 28.09.2020. File to come up for arguments before D.B.


ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


(Mian Muhammad)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

36

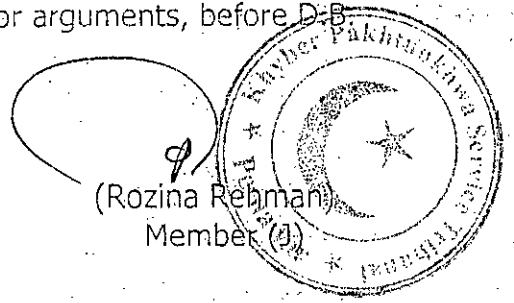
14.10.2020

Junior counsel for appellant present.

Zara Tajwar learned Deputy District Attorney for respondents present.

A request was made for adjournment as senior counsel is not available. Application for adjournment is placed on file and case is adjourned to 01.12.2020 for arguments, before D.B.

(Mian Muhammad)
Member (E)



(Rozina Rehman)
Member (D)

01.12.2020

Appellant alongwith counsel and Zara Tajwar, DDA alongwith Fayaz Khan, ASI for the respondents present.

During the course of arguments, it transpired that the appellant stood retired from service on 14.04.2014, whereas, the appeal in hand was filed on 23.04.2014. The factum of retirement of appellant was not noted in the memorandum of appeal which, which if mentioned, could alter/change the format concept of appeal.

When confronted with the position, the appellant/counsel requested for withdrawal of the appeal with reservation of right of appellant to file a fresh one in order to remove the anomaly/error.

Instant appeal is disposed of as withdrawn. The appellant may have recourse to proceedings, including the submission of service appeal, but in accordance with law. File be consigned to the record room.

(Mian Muhammad)
Member(E)

Chairman

ANNOUNCED
01.12.2020

Certified to be true copy

Chairman
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation: 02/12/2020
Number of Pages: 2800
Copying Fee: 30.00
Deposit: 4.00
Total: 34.00
Date of Disposal: 02/12/2020
Date of Appeal: 02/12/2020



Police No.99
100-9-12-1990-(62)

GS&PD,NWFP. 1559 F.S. 500P. of

POLICE DEPARTMENT

DISTRICT NOWSHERA

No.13-17

Annual Confidential Report on the working of Assistant Sub-Inspector, Sub-Inspectors and Inspectors for the year ending 31st December, 2011.

Name, Provincial of Range No. Rank and Grade	Inspector Hidayat Shah Khattak
Father's Name	Dilbar Khan
Where and on what duties Employed during the past 12 Months	From <u>01.01.2011 to 31.07.2011</u> Inspector Legal, Nowshera.
Class of Superintendent of Police's Report, i.e. "A" "B" or "C"	"A"
Is he honest?	NO complaints received.

- Remarks by:-**
1. Superintendent of Police,
 2. Regional Deputy Inspector General of Police.

1.1.2011 to 31.7.2011

(Hidayat Ali Khan)
CAMPUSAL CITY POLICE OFFICER,
PESHAWAR.

An efficient and effective employee who has good command over his subject matter. Moreover, he has excellent communication skills both in speech and writing.

(MUHAMMAD QURAIISH KHAN)PSP,
District Police Officer,
Nowshera.

Atc

Police No.99
500P. of 100-9-12-1990-(62)



16

GS&PD,NWFP. 1559 F.S

POLICE DEPARTMENT

DISTRICT NOWSHERA

No.13-17

Annual Confidential Report on the working of Assistant Sub-Inspector, Sub-Inspectors and Inspectors for the year ending 31st December, 2011.-


Name, Provincial of Range No. Rank and Grade	Hidayat Shah Khattak Inspector (Legal)
Father's Name	Dilbar Khan
Where and on what duties Employed during the past 12 Months	From <u>01.08.2011 to 31.12.2011.</u> Inspector Legal Nowshera.
Class of Superintendent of Police's Report, i.e. "A" "B" or "C"	A'
Is he honest?	Yes.

- Remarks by:-**
1. Superintendent of Police,
 2. Regional Deputy Inspector General of Police.

1.8.2011 to 31.12.2011


(SYED LATIF AKBAR)
CAPITAL CITY POLICE OFFICER
PESHAWAR.

A dutiful and highly responsible officer.


(MUHAMMAD HUSSAIN)PSP,
District Police Officer,
Nowshera.

Atc

YB

17

Police No.99
100-9-12-1990-(62)

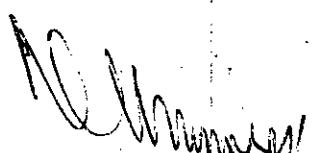
GS&PD,NWFP. 1559 F.S. 500P. of


POLICE DEPARTMENT


DISTRICT NOWSHERA

No.13-17

Annual Confidential Report on the working of Assistant Sub-Inspector, Sub-Inspectors and Inspectors for the year ending 31st December, 2012.

Name, Provincial of Range No. Rank and Grade	Mr. Hidayat Shah Khattak Inspector Legal
Father's Name	Mr. Dilbar Khan
Where and on what duties Employed during the past 12 Months.	From 01.01.2012 to 31.12.2012 Inspector Legal, Nowshera
Class of Superintendent of Police's Report, i.e. "A" "B" or "C"	"A"
Is he honest?	No Complaint
Remarks by:- 1. Superintendent of Police, 2. Regional Deputy Inspector General of Police, 1.1.2012 to 31.12.2012	A reasonably good officer.  (MUHAMMAD HUSSAIN) PSE District Police Officer, Nowshera


 (SYED LATIF AHTEF)
 CAPITAL CITY POLICE OFFICER,
 PESHAWAR

Atc


Anx-E

18

Better Copy

OFFICER OF THE
PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA, PESHAWAR.

Dated Peshawar, the 25-07-2013

NOTIFICATION

No. S/3906/13. In pursuance of the provision contained in section 05 of the Khyber Pakhtunkhwa, (Promotion of Superintendent of Police and Deputy Superintendent of Police) Rules 2007, the Competent Authority i.e Provincial Police Officer, on recommendations of the Departmental Selection Committee meeting held on 05-07-2013n is pleased to promote the following Inspectors Legal (BS-16) to the rank of Deputy Superintendent of Police Legal (BS-17) on regular basis with immediate effect.

The officers on promotion shall remain on probation for a period of one year in terms of Section 06 (02) of Khyber Pakhtunkhwa, Civil Servants Act, 1973 read with Rules 5(1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

Their promotion will take effect from the date they actually assume the charge of higher responsibility.

S.No.	Name and No
1.	Inspector Imtiaz Gul, K715
2.	Inspector Legal Falak Nawaz, K/28
3.	Inspector Altaf Hussain, D/33
4.	Inspector Legal Mushtaq Ahmad D/26

Sd/-

(HISAN GHANI)

Provincial Police Officer,

Khyber Pakhtunkhwa, Peshawar.

No.3907-40/13, dated Peshawar the, 25-07-2013.

Copy of above is forwarded for information and necessary action to the: -

1. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
3. Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
4. Secretary Govt., Khyber Pakhtunkhwa, E&AD Deptt: Peshawar.
5. Secretary Govt: Khyber Pakhtunkhwa, Finance. Deptt: Peshawar.
6. Secretary Govt: Khyber Pakhtunkhwa, Home & TAs Deptt: Peshawar
7. Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. Additional IGP/Hqrs: Khyber Pakhtunkhwa, Peshawar.
9. Addl: IGP/Operation, Khyber Pakhtunkhwa, Peshawar.
10. Addl: IGP/Special Branch, Khyber Pakhtunkhwa, Peshawar.
11. Addl: IGP/Investigation, Khyber Pakhtunkhwa, Peshawar.
12. Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
13. Commandant FRP, Khyber Pakhtunkhwa, Peshawar.
14. Commandant PTC, Hangu.
15. Capital City Police Officer, Peshawar.
16. All Region DIGs of Police, Khyber Pakhtunkhwa.
17. A.I.S.G of Police Traffic, Khyber Pakhtunkhwa, Peshawar.
18. Director, ACE, Khyber Pakhtunkhwa, Peshawar.
19. Officer concerned
20. Registrar, CPO, Peshawar.
21. Spdl: "E" Branch CIO
22. Manager Govt press KPK, Peshawar.
23. UOP Files
24. Office Copy

Atc

Sd/-

KHALID MASOOD

Addl: IGP/Hqrs:

For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

~~Ameeb~~

(X)

Anx-F

(19) o/c

From: The District Police Officer,
Nowshera.

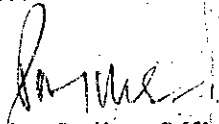
To: The Deputy Inspector General of Police,
Mārdān Rēgiōn-I, Mardān.

No. 55 /PA dated Nowshera the 23 / 1 /2013.

Subject: APPEAL/REPRESENTATION AGAINST THE IMPUGNED
NOTIFICATION VIDE NO. 5/3906/3 DATED 25-07-2013

Memo:

Enclose kindly find herewith the application submitted
by Mr. Hidayat Shah Inspector Legal, Nowshera for onward submission to the
competent authority for sympathetic consideration please.


District Police Officer,
Nowshera

Atc
A

(X)

20

To

The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

THROUGH PROPER CHANNEL

Subject: APPEAL/REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION VIDE NO. S/3906/13 DATED 25-07-2013

R/Sir,

The applicant very humbly submits appeal/representation against the subject notification on the following grounds: -

1. That the applicant was appointed as PSI (Sub Inspector Legal) on 13-03-1988, in the Peshawar Range, Peshawar.
2. That after passing the standard/PSI examination with credit, the name of the applicant was brought on promotion list "F" on 09-07-1991.
3. That the applicant was promoted to the rank of offg: Inspector Legal on 19-11-2007.
4. That on the recommendation of Departmental Selection Committee meeting held on 05-07-2013, Mr. Altaf Hussain No. D/33, Inspector Legal was promoted to the rank of DSP Legal vide notification No. S/3906/13 dated 25-07-2013, who was junior to the applicant in enlistment as well as in list "F". The dates are tabulated as below.

Name	Date of enlistment as PSI/SI Legal	Date of promotion to list "F"	Date of promotion as Offg: Inspector
Hidayat Sbah No. P/348 (applicant)	13-03-1988	09-07-1991	19-11-2007
Altaf Hussain No. D/33	17-09-1989	16-11-1994	19-11-2007

5. That the applicant was unaware of the above promotion order of DSP Legal and came to know at the time when he was deferred from confirmation as Inspector Legal due to incompleteness of ACRs for the years 01-01-2008 to 16-05-2008, 2011 and 2012 issued vide letter No. 27671-73/E-II, dated 05-11-2013, by the worthy Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

Att
B

6. That no doubt the applicant has not so far been confirmed as PSI/SI legal in black and white but under the prevailing rules i.e. Police Rules 13-18 read with section 07 of Khyber

7X

21

Pakhtunkhwa Civil Servants Act 1973 and Khyber Pakhtunkhwa Civil Servants (appointment, promotions and transfer) Rules 1989, is impliedly confirmed from the date of appointment (13.3.1988) as PSI as the applicant has successfully completed his probationary period as PSI/SI Legal and Inspector, Legal. The copies of relevant law are attached for ready reference which are Annexure "A, B and C".

7. That the applicant was deferred from confirmation in the rank of Inspector Legal on the basis of incompleteness of ACRs for the period 01-01-2008 to 16-05-2008, 2011 and 2012, whereas under the law, ACR is not criteria for confirmation. Moreover, these ACRs have been completed and forwarded to the concerned office. It is added, that the non-issuance of confirmation order is not the fault of applicant for which he can not be penalized.
8. That the service record of the applicant and Altaf Hussain DSP Legal clearly shows that the applicant is senior to the said DSP Legal as the applicant was inducted in the Police Department as PSI in the year 1988 whereas Altaf Hussain was inducted in 1989. It is also clear from the said record that the name of the applicant was brought on promotion list "F" more than 03 years prior to Altaf Hussain DSP Legal.
9. That the applicant is at the verge of retirement and will be relieving the Department on 15-04-2014 and if he is not promoted to the rank of DSP Legal being entitled will be a victim of negligence by the Department.
10. That the judgments of the Khyber Pakhtunkhwa, Services Tribunal and Supreme Court of Pakistan on the law point are clear on the point under consideration. (Copies are Annexure "D and E").

Retirement

It is therefore very humbly prayed that on the acceptance of this appeal/representation, the applicant may kindly be provided his due right and be promoted to the rank of DSP Legal ante-dated when his junior was promoted please.

Atc
[Signature]

Yours Obediently,

(HIDAYAT SHAH)
Inspector Legal,
Nowshera
23/01/2014

Anx - G

22

FOR THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 607 /2014

SCANNED
KPST
Peshawar

Hadayat Shah Inspector Legal
Nowshera..... Appellant

Versus

The Provincial Police Officer,
Peshawar and others.
..... Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal with Affidavit			1-7
2.	Copy of promotion to the post of Inspector legal.		A	8
3.	Copy of Notification wherein appellant confirmation as Inspector legal has been has been differed.		B	9
4.	Copy of ACRs for the period commencing from 01-01-2008 to 16-05-2008 and for the years 2011 and 2012		C	10-13
5.	Copy of Notification dated 25-07-2013.		D	14
6.	Copy of departmental appeal		E	15-17
7.	Wakalat Nama			18

Through

Hadayat Shah
Appellant

ASHRAF ALI KHATTAK

Ashraf Ali KHATTAK

and

Nawaz Khan Khattak
Nawaz Khan Khattak
Advocates, Peshawar

Dated: _____ / 04/2014

ASHRAF ALI KHATTAK
ADVOCATE

AK

B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 607 /2014

Hadayat Shah Inspector Legal Nowshera.....Petitioner.

Versus

1. The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Regional Police Officer, Mardan Region Mardan,
4. The District Police Officer, District Nowshera.
5. Mr Altaf Hussain DSP Legal.....Respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO. S/3906/13 DATED 25-07-2013, WHEREIN RESPONDENT NO.4 HAS BEEN PROMOTED TO THE RANK OF DSP LEGAL AND AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL WHICH IS STILL PENDING WITHOUT LEGAL DISPOSAL.

PRAYER:-

On accepting the instant service appeal this Honourable Tribunal may graciously be pleased to declare the impugned notification as illegal, unlawful and without lawful authority and set aside the same with direction to the respondents to confirm the appellant against the post of Inspector Legal and thereby promote him to the post of DSP Legal as per appellant entitlement and as per law and rules with all back benefits.

ATC
J

Respectfully Sheweth,

Facts giving rise to the present writ petition are as under:-

1. That appellant was enrolled as PSI on 13-03-1988 and enlisted in promotion list "F" vide notification dated 09-07-1991 after passing the prescribed standard/PSI examination with credit. He has got 26 years service at his credit with unblemished and clean sheeted conduct record and has never been rated as unqualified and inefficient.
2. That it is pertinent to mention here that appellant and respondent No.4 has been promoted to the rank of Offg: Inspector Legal vide Notification dated 19-11-2007 (Annexure-A).
3. That it is also pertinent to mention here that appellant is senior to respondent No.4 on the score of initial appointment as well as on the score of promotion to the promotion list "F". The details are as follow:-

Name	Date of Enlistment as PSI/SI Legal	Date of Promotion to List "F"	Date of promotion as Offg: Inspector Legal
Hadayat Shah No.P/348 (Appellant)	13-03-1988	09-07-1991	19-11-2007
Altaf Hussain No.D/33 (Respondent No.4)	17-09-1989	16-11-1994	19-11-2007

Atc
R

4. That as per Rule 17(b) of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989; Civil Servant Selected for promotion to higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post. On this score appellant is an established senior to the respondent No.4 as per details above.
5. That appellant has been deferred from confirmation in the rank of Inspector legal on account of incomplete ACRs for the period commencing from 01-01-2008 to 16-05-2008 and for the years 2011 and 2012 issued vide letter No.27671-73/E-II, dated 05-11-2013 (Annexure-B) by the worthy respondent No.1.
6. That Rule 17 Explanation-II of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 provide that if the case of the senior person is differed for the time being for want of certain information or for incompleteness of record or for any other reason not attributing to his fault or demerit such senior person shall have right to be promoted and shall have right to be rank senior from his junior, as in the lower rank/scale.
7. That the deficiency of non completion of ACRs was not the fault of appellant, but was the fault of respondents and appellant was penalized for the fault of his Officers. Moreover non completion of ACRs is not the criteria for confirmation. These ACRs (Annexure-C) have now been completed in all respect and it is the duty of the respondents to confirm the appellant against the post of Inspector Legal and further promote him to the post of DSP Legal with all back benefits as per law.
8. That it is pertinent to mention here that appellant through letter No.27671-73/E-II, dated 05-11-2013 of the worthy respondent No.1 came to know for the 1st time regarding the promotion of respondent

Atc
K

No.4 to the post of DSP Legal. The respondent No.4 is an established junior to the appellant, but has been promoted to the rank of DSP Legal in pursuance of the recommendation of the DSC vide Notification No. S/3906/13 dated 25-07-2013 (Annexure-D).

9. That appellant being aggrieved of the acts and action of the respondents for not complying with rules of law and policy and for not confirming and promoting him to the post of DSP Legal from the date when his junior has been confirmed and promoted to the rank of DSP Legal; preferred departmental appeal (Annexure-E) before the respondent No.1, which is still pending without lawful disposal and hence the statutory period has been elapsed, therefore, the instant service appeal inter alia on the following grounds:-

Grounds:

- A. That Respondents have not treated petitioner in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. As per spirit and provision of Rule 17(b) & Explanation-II of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 appellant has preferential right to be consider for confirmation and promotion and in case a civil servant is differed for the time being for want of certain information or for incompleteness of record or for any other reason not attributing to his fault or demerit such senior person shall have right to be promoted and shall have right to be rank senior from his junior, as in the lower rank/scale. The relevant law and rules has been violated and the petitioner has not been confirmed against the post of Inspector legal and further promotion to the rank of DSP Legal.
- B. That every civil servant has legitimate expectancy of rising up in Govt: hierarchy by means of promotion but appellant has been deprived of his accrued right of promotion at the fig end of his

Atc
R

service, the same is not only illegal and unlawful but highly unwarranted and undesirable.

- C. That all public powers are in the nature of a trust and public functionaries must act as repository of such trust. The authoritative authorities are legally bound to uphold the rule of law, supremacy of Constitution and to shun all types of nepotism etc and develop the rule of fair play, equity and justice, but in the instant case the respondents has violated the public trust and their Oath to safeguard the rights of their subordinates as per law and Constitution and have penalized the appellant for reason not attributing to his fault or demerit.
- D. That appellant has highly been discriminated and has been deferred for simple reason of incompleteness of ACRs, whereas ACRs are not the criteria to withheld confirmation and more so junior to appellant has been confirmed and promoted to the rank of DSP Legal, whereas appellant being established senior has been deprived of his right and that too at the fig end of his service.
- E. That appellant would like to seek the permission of this Honourable Court to advance some more grounds at the time of hearing.

For the aforesaid reasons, it is therefore, humbly prayed that the appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioner.

Wadhat Sheli

Petitioner

Atc
R

Through

ASHRAF ALI KHATTAK

Advocate

Ashraf Ali Khattak

(Signature)

Nawaz Khan Khattak

and

Nawab Zada
Advocates, Peshawar.

Dated: _____ / 04/ 2014

Atc
R

FOR THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. _____/2014

Hadayat Shah Inspector Legal Nowshera.Petitioner.

Versus

The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa, Peshawar
and others..... Respondents.

Affidavit

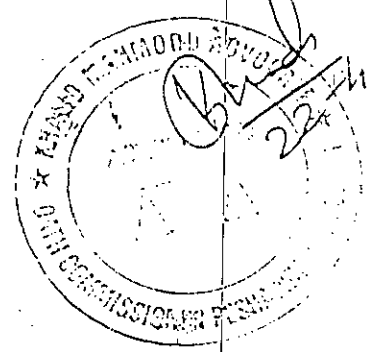
I, Hadayat Shah Inspector Legal Nowshera, do hereby
solemnly affirm and declare on oath that the contents of this writ
petition are true and correct to the best of my knowledge, and nothing
has been concealed from this Hon'ble Court.

Hadayat Shah

Deponent

Identified by ASHRAF ALI KHATTAK
ADVOCATE

Ashraf Ali Khattak
Advocate, Peshawar



AEC

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

30

Service Appeal No. 607/2014

Hidayat Shah,
Ex-Inspector Legal, Nowshera.

Appellant

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Regional Police Officer, Mardan Region, Mardan.
4. The District Police Officer, Nowshera.
5. Mr. Altaf Hussain, DSP, Legal

Respondents

PARAWISE REPLY ON BEHALF OF RESPONDENTS No. 1,2,3 & 4

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly time-barred.
3. That the appeal is bad in law.
4. That the appellant is estopped from moving the instant appeal due to his own conduct.
5. That the appeal is not maintainable in its present form.
6. That the appellant has not come to the Honourable Tribunal with clean hands.
7. That the appellant has already been retired from service vide No. 306/E-II dated 16-04-2014. (Copy attached).

On Facts

1. Para to the extent of enrolment is incorrect. Because initially the appellant was enrolled/enlisted as constable on 22-08-1977, while later on he was appointed as temporary PSI. Whereas, rest of the para pertains to record. needs no comments.
2. Para pertains to record, needs no comments.
3. Para is for the appellant to prove. Moreover, if the appellant was in the knowledge that he is senior to respondent No. 4 allegedly on the score of initial appointment as well as on the score of promotion to list "I", he was required to seek remedy well in time but he willfully and deliberately failed to do so.
4. Para explained earlier, needs no comments.

AAC
Bj

The appellant was deterred due to non-availability of ACRs because it is an essential element for confirmation, which is also admitted by the appellant. He did not bother to remove this deficiency. Therefore, the stance of appellant being devoid of its legal footing is liable to be set at naught.

That it is worth mentioning that order vide notification dated 25-07-2013 regarding promotion of Inspector Legal to the rank of DSP Legal was issued, but the appellant did not bother to challenge the same or seek remedy from the competent forum well in time, rather he moved representation after lapse of almost 05 months and 09 days which was badly time barred.

Para incorrect. Neither the respondent department had any grudge against the appellant, nor he had been discriminated. Moreover, the performance of an official/officer can be judged from his ACRs in case of non availability of ACRs it is not possible to evaluate the performance of a person being in officiating rank.

Para incorrect. In order to conceal/suppress the fact of limitation, the appellant cooked the story of non awareness from the promotion of DSP Legal, therefore, the plea taken by the appellant is not sustainable in the eyes of law.

Para incorrect the appellant was required to seek remedy within time but he willfully and deliberately filed the above mentioned departmental appeal at a belated stage when he was on the verge of getting retired and there are plethora of judgments of this Honourable Tribunal as well as the apex court of Pakistan on the score of limitation wherein leave has been declined.

On grounds

A. Para incorrect. The respondent department has treated the appellant in accordance with law, rules and policy because the respondents have no discrimination/grudge against the appellant, hence plea of the appellant is not tenable in the eyes of law.

B. Para incorrect. Neither the appellant has been deprived of his legal rights nor any illegality has been committed.

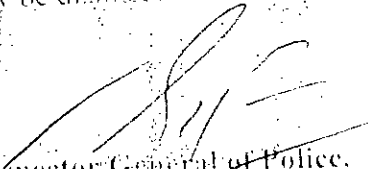
C. Para incorrect and already explained, hence, needs no comments.

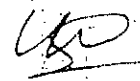
D. Para incorrect. The stance taken by the appellant regarding discrimination being devoid of its legal footing, is liable to be set at naught.

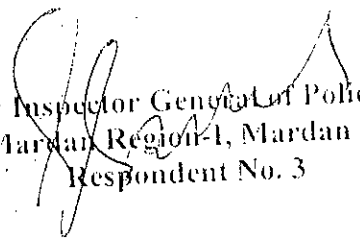
E. That the respondents also seek permission of this Honourable Tribunal to adduce additional grounds at the time of arguments.

Atc
4

It is, therefore, most humbly prayed that keeping in view the above submissions, appeal of the appellant may very graciously be dismissed with cost.


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 1


Capital City Police Officer,
Peshawar.
Respondent No. 2


Deputy Inspector General of Police,
Mardan Region-1, Mardan
Respondent No. 3

District Police Officer,
Nowshera.
Respondent No. 4

Atc
ll

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

Service Appeal No. 607/2014

Hidayat Shah,
Ex-Inspector-Legal, Nowshera.

.....Appellant

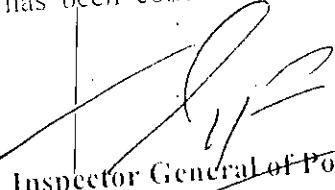
V E R S U S

- 1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. The Capital City Police Officer, Peshawar.
- 3. The Regional Police Officer, Mardan Region, Mardan.
- 4. The District Police Officer, Nowshera.
- 5. Mr. Altaf Hussain, DSP, Legal

.....Respondents

AFFIDAVIT

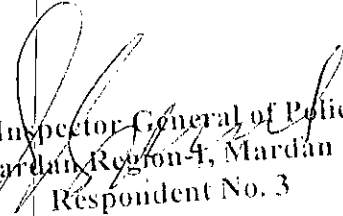
We the respondents No. 1, 2, 3 & 4 do hereby solemnly affirm and declare on Oath that the contents of parawise comments to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable Tribunal.



Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 1



Capital City Police Officer,
Peshawar.
Respondent No. 2



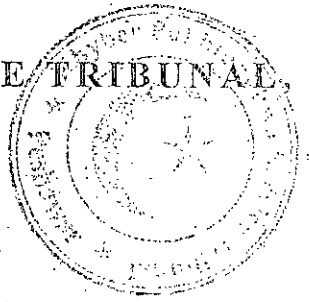
Deputy Inspector General of Police,
Mardan Region-4, Mardan
Respondent No. 3



District Police Officer,
Nowshera.
Respondent No. 4

ATC


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



SERVICE APPEAL NO. 607 /2014

23/9/14

Hadayat Shah Inspector Legal Nowshera.Petitioner.

Versus

1. The Provincial Police Officer, Govt: of Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Regional Police Officer, Mardan Region Mardan,
4. The District Police Officer, District Nowshera.
5. Mr Altaf Hussain DSP Legal (Late).....Respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO. S/3906/13 DATED 25-07-2013, WHEREIN RESPONDENT NO.4 HAS BEEN PROMOTED TO THE RANK OF DSP LEGAL AND AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL WHICH IS STILL PENDING WITHOUT LEGAL DISPOSAL.

PRAYER:-

23/9/14

On accepting the instant service appeal this Honourable Tribunal may graciously be pleased to declare the impugned notification as illegal, unlawful and without lawful authority and set aside the same with direction to the respondents to confirm the appellant against the post of Inspector Legal and thereby promote him to the post of DSP Legal as per appellant entitlement and as per law and rules with all back benefits.

ATTESTED

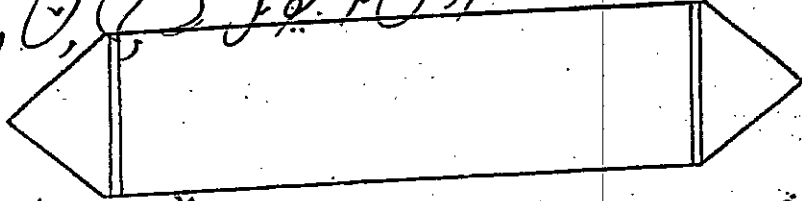
[Signature]
Khyber Pakhtunkhwa
Service Tribunal

re-submitted as
and filed.

30/11/14

[Signature]

بعدالت سر دس اے بیوٹل کے بارے میں



تاریخ: 20 مئی 2022ء
مقام: پشاور

سر دس اے بیوٹل

موضوع
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز
دیکل صاحب کو رضی نامہ کرنے پر تقرر ثالثہ فیصلہ بر حلف دینے سے جواب دہی اور اقبال و دعویٰ اور
بصورت دیگر کرنے اجراء اور صولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی بطریقہ یا اپیل کی برآمدگی اور مشورتی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پر ساختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب اتوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا احد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اذکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم 10
تاریخ: 20 مئی 2022ء

مقام: پشاور
کے لئے منظور ہے۔

Accepted by

Head of Sheds

As L (11)

MINUTES OF THE DEPARTMENTAL SELECTION COMMITTEE MEETING.

A meeting of Departmental Selection Committee was held under the Chairmanship of Mr. Khalid Masood, Additional Inspector General of Police Headquarters, Khyber Pakhtunkhwa in CPO, Peshawar on 05.07.2013 to consider the following cases:-

1. Promotion of Inspectors Legal (BS-16) to the rank of DSP Legal (BS-17)
2. Promotion case of Inspector Computer (BS-16) to DSP Computer (BS-17)

The D.S.C thoroughly examined the case of promotion of Inspector Legal (BS-16) to DSP Legal (BS-17). The ACR synopsis, seniority list and merit of the following Inspectors Legal were perused and the following recommendations were made:-

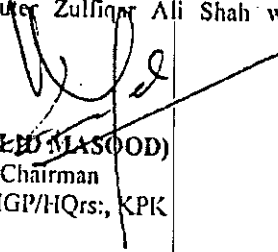
1. Promotion of Inspectors Legal (BS-16) to the rank of DSP Legal (BS-17)

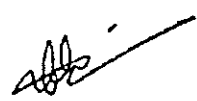
S. No.	Name & Numbers	Remarks
1.	Inspector Legal Imtiaz Gul, K/15	The DSC examined his case and recommended him for promotion to the rank of DSP Legal (BS-17) on regular basis.
2.	Inspector Legal Falak Nawaz, K/28	The DSC examined his case and recommended him for promotion to the rank of DSP Legal (BS-17) on regular basis.
3.	Inspector Legal Altaf Hussain, D/33	The DSC examined his case, confirmed him in the rank of Inspector Legal & recommended for promotion to the rank of DSP Legal (BS-17) on regular basis subject to his arrival to his Parent Deptt: Police.
4.	Inspector Legal Abdul Sattar, B/62	The DSC examined his case and deferred him due to his illness i.e brain hemorrhage.
5.	Inspector Legal Akbar Ali, D/25	The DSC examined his case and deferred him due to facing departmental proceeding in DIKhan.
6.	Inspector Legal Mushtaq Ahmad, D/26	The DSC examined his case and recommended him for promotion to the rank of DSP Legal (BS-17) on regular basis.

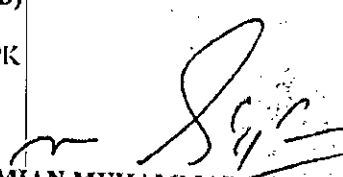
The officers recommended for promotion will be on probation for a period of one year in terms of Section-6 (2) of Khyber Pakhtunkhwa Civil Servants Act-1973 read with rules-15 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and transfer) rules-1989.

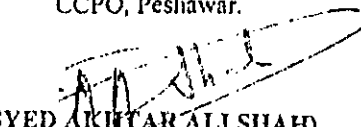
2. Promotion case of Inspector Computer (BS-16) to DSP Computer (BS-17).


The case was discussed threadbare. It was pinpointed that the case for framing the service structure of Information Technology group is under process. As the service structure is framed, the case for promotion of Inspector Computer Zulfikar Ali Shah will put before the DSC for considerations.

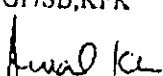

(KHALID MASOOD)
Chairman
Addl: IGP/HQrs., KPK



(LIAQAT ALI KHAN)
CCPO, Peshawar.


(MIAN MUHAMMAD ASIF)
Addl: IGP/Operations, KPK


(SYED AKHTAR ALI SHAH)
PPM/QPMI
Addl: IGP/SB, KPK


(AMIR HAMZA MAHSUD)
Addl: IGP/Commandant, FRP, KPK


(AWAL KHAN)
DIG/HQrs: KPK

APPROVED

(IHSAN GHANI)
Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

**MINUTES OF THE DPC MEETING HELD ON 14.10.2013 AT 10:00
AT CPO CONFERENCE ROOM PESHAWAR.**

A meeting of the Departmental Promotion Committee was held at the Office of the Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar at 10:00 hrs on 14.10.2013. The following Officers attended the meeting:-

- | | | |
|---|---|----------|
| 1 | Mr. Khalid Masood
Addl: Inspector General of Police,
Headquarters KPK, Peshawar. | Chairman |
| 2 | Mr. Tariq Javed.
Deputy Inspector General of Police,
HQrs KPK Peshawar | Member |
| 3 | Mr. Mubarak Zeb,
Deputy Inspector General of Police,
E & I, KPK Peshawar | Member |
| 4 | Syed Fida Hassan Shah
Assistant Inspector General of Police,
Establishment CPO Peshawar | Member |
| 5 | Muhammad Younis,
Deputy Director Legal, CPO Peshawar | Member |

Miscellaneous cases of the following Police officers were discussed and recommendations as noted against each:-

Case of SIs in Khyber Pakhtunkhwa Police on list "F" for promotion as Offg: Inspectors	The DPC in its meeting held on 14.10.2013 examined the case of the following Sub-Inspectors on list "F" for promotion as offg: Inspectors. The following decisions in respect of the SI's under consideration:-			
	S#	NAME & RANK	REGION /UNIT	RECOMMENDATION
	1.	Said -ul-Amin No. 195/M	Malakand Region	Recommended him for promotion as Offg: Inspector
	2.	SI Bashir Ahmad No. 223/M	Malakand Region	Recommended him for promotion as Offg: Inspector
	3.	SI Liaqat Khan No. H/54	Hazara Region	Recommended him for promotion as Offg: Inspector
	4.	SI Ata Ullah No. D/18	DIKhan	Recommended him for promotion as Offg: Inspector
	5.	SI Sadat Khan No. K/25	Kohat Region	Recommended him for promotion as Offg: Inspector
	6.	SI Fazal Hanif No. K/48	Kohat Region	Recommended him for promotion as Offg: Inspector
	7.	SI Muhammad Yousaf No. K/71	Kohat Region	Recommended him for promotion as Offg: Inspector
	8.	SI Nazir Khan No. K/72	Kohat Region	Recommended him for promotion as Offg: Inspector
	9.	SI Abid Khan No. K/74	Kohat Region	Recommended him for promotion as Offg: Inspector
	10.	SI Umar Hayat No. K/20	Kohat Region	Recommended him for promotion as Offg: Inspector
	11.	SI Sajjad Hussain No. K/74	Kohat Region	Recommended him for promotion as Offg: Inspector
	12.	SI Muhammad Akbar No. MR/86	Mardan Region	Recommended him for promotion as Offg: Inspector
	13.	SI Zareef Khan No. MR/87	Mardan Region	Recommended him for promotion as Offg: Inspector
	14.	SI Mushtaq Hussain No. MR/88	Mardan Region	Recommended him for promotion as Offg: Inspector
	15.	SI Nizar Ali No. MR/89	Mardan Region	Recommended him for promotion as Offg: Inspector
16.	SI Asif Mehood No. B/01	Bannu Region	Recommended him for promotion as Offg: Inspector subject to ACR for the period from 06.07.2008	

54.	Muhammad Rouf No. MR/67	Mardan	Recommended to be confirmed as Inspector
55.	Hidayatullah Shah No. MR/62	Swabi	Recommended to be confirmed as Inspector
56.	Muhammad Ismail No. P/107	Lakki	Deferred due to confinement in Jail

Confirmation Case of Inspector Legal

Probation period of the following offg: Inspectors Legal on list "F" have been completed and required to confirm them in the rank of Inspector:

The DPC thoroughly examined their case in its meeting held on 14.10.2013 and made recommendations as noted against each:-

S/NO	NAME	HOME DISTRICTS	RECOMMENDATIONS
1. ✓	Ghulam Hussain No. D/54	DIKhan	Recommended to be confirmed as Inspector Legal
2. ✓	Hidayat Shah No. P/248	Charsadda	Deferred due to non availability of ACR for the period from 01.01.2008 to 16.05.2008 and for the year 2011 & 2012
3. ✓	Abdul Sattar No. K/02	Karak	Recommended to be confirmed as Inspector Legal
4. ✓	Abdul Aziz No. B/34	Bannu	Recommended to be confirmed as Inspector Legal
5. ✓	Mir Faraz No. B/38	Bannu	Recommended to be confirmed as Inspector Legal
6. ✓	Muhammad Asif No. B/36	Lakki	Recommended to be confirmed subject to satisfactory ACR for the period from 01.01.2012 to 30.06.2012.
7. ✓	Sohail Afzal No. B/33	Bannu	Recommended to be confirmed as Inspector Legal.
8. ✓	Javed Ahmed No. D/28	DIKhan	Deferred due to non availability of ACR for the period from 16.09.2008 to 31.12.2008, 01.01.2011 to 20.04.2011 for the year 2012.
9. ✓	Bashir Ahmed No. P/100	Dir	Recommended to be confirmed as Inspector Legal.
10. ✓	Muhammad Ibrahim Azhar No. K/98	Kohat	Deferred due to non availability of ACR for the period from 01.01.2008 to 31.12.2008, 01.01.2009 to 28.06.2009 for the year 2012.
11. ✓	Ishaq Gul No. K/58	Kohat	Recommended to be confirmed as Inspector Legal
12. ✓	Ibraheem Ullah No. K/55	Kohat	Recommended to be confirmed as Inspector Legal
13. ✓	Raza Muhammad No. P/03	Swabi	Deferred due to non availability of ACR for the years 2009, 2010, 2011 & 2012.
14. ✓	Karnal Hussain	Kohat	Recommended to be confirmed as Inspector Legal

Case of SI Mustaqeem Shah of FSL

The Addl: IGP/Investigation Khyber Pakhtunkhwa Peshawar vide his memo No. 8540/ dated: 22.10.2007 had forwarded case of SI Mustaqeem Shah and others from promotional Inspector.

His case was examined by DPC meeting held on 07.11.2007 and superseded for promotion as Inspector due to indifferent recorded.

He made representation against the DPC decision, which was examined and filed.

Feeling aggrieved he filed an appeal in the Khyber Pakhtunkhwa Service Tribunal which was decided in his favour with the contents to consider his promotion to the post of Inspector with effect from 14.01.2008 and further that he be placed Senior to respondent Nos. 2 - an Jehanzeb Khan and Inayatullah Khan.

The judgment of Khyber Pakhtunkhwa Service Tribunal was challenged in apex Supreme Court of Pakistan by the Police department. The apex Supreme Court on 16.01.2013 passed judgment on the foregoing reasons, while maintaining the impugned judgment, the same was modified to the extent that question of seniority of Mustaqeem Shah and Jehanzeb Khan shall be fixed in their respective sections. With this modification the appeal is disposed".

The judgment of apex Supreme Court was sent to Addl: IGP/ Investigation for re-fixation of his seniority:

The Addl: IGP/Investigation Khyber Pakhtunkhwa Peshawar issued his seniority order and his case has been referred to this office for promotion as Inspector in the light of Court judgment.

His case was examined by DPC in its meeting held on 25.07.2013 and recommended him for promotion as offg: Inspector with his colleagues. His promotion notification was issued accordingly.

On receipt of Notification the Addl: IGP/Investigation Khyber Pakhtunkhwa has intimated that during the year 2008 no vacancy of Inspector was available in Chemical Section FSL. Therefore guidance is solicited regarding the words with his colleagues as to whether the officer shall stand promoted since 2008 or from the date when he taken over the charge of Inspector.

His case was examined by DPC in its meeting held on 14.10.2013 and referred his case to Sub Committee consisting of the following Officers to examine his case and put up report to next DPC.

1. AIG/Establishment CPO, Peshawar.
2. Dy: Director Legal CPO, Peshawar.
3. Office Supdt: Secret CPO, Peshawar.


(KHALID MASOOD)

Chairman

Addl: Inspector General of Police,
HQrs Khyber Pakhtunkhwa Peshawar


(TARIQ JAVED)

Member

Deputy Inspector General of Police,
HQrs Khyber Pakhtunkhwa
Peshawar


(MUBARAK ZEB)

Member

Deputy Inspector General of Police,
E&I, Khyber Pakhtunkhwa
Peshawar


(SYED FIDA HASSAN SHAH)

Member

Assistant Inspector General of Police,
Establishment CPO Peshawar


(MUHAMMAD YUNIS)

Member

Deputy Director Legal CPO,

Approved


(NASIR KHAN DURRANI)

Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar.

Annex-B (9)

From : The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

To : The Acdl: IGP/Special Branch,
Khyber Pakhtunkhwa,
Peshawar.

The Capital City Police Officer,
Peshawar.

The Deputy Inspectors General of Police,
Mardan Region, Kohat Region & Dikhan Region.



No. 27671-287/E-II, dated Peshawar the 05/11/2013.

Subject: CONFIRMATION AS INSPECTOR LEGAL.

Memo:

Confirmation case of the following Inspectors Legal was discussed in DPC meeting held on 14.10.2013 and they were deferred due to non-availability of their ACRs for the period as noted against their names.

S.No	NAME & NO	MISSING ACRs
1.	Hidayat Shah No. P/248	01.01.2008 to 16.05.2008, 2011 & 2012
2.	Muhammad Asif No. B/35 of Special Branch.	01.01.2012 to 30.06.2012.
3.	Javed Ahmad No. D/28 of Dikhan Region.	01.01.2008 to 31.12.2008, 01.01.2009 to 28.06.2009 & 2011.
4.	Raza Muhammad No. P/03 of Charsadda District.	2009, 2010, 2011 & 2012.

OFFICE OF THE CAPITAL CITY POLICE OFFICER, PESHAWAR

No. 336-37/AS, dated Peshawar the 11/11/2013.

Copy of above is forwarded for information and necessary action to:-

1. District Police officer Nowshera
2. District Police Officer Charsadda

FOR CAPITAL CITY POLICE OFFICER,
PESHAWAR

Anx - D (14)

Better Copy

OFFICER OF THE
PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA, PESHAWAR.

Dated Peshawar, the 25-07-2013

NOTIFICATION

No. SA906/13. In pursuance of the provision contained in section 05 of the Khyber Pakhtunkhwa, (Promotion of Superintendent of Police and Deputy Superintendent of Police) Rules 2007, the Competent Authority i.e. Provincial Police Officer, on recommendations of the Departmental Selection Committee meeting held on 05-07-2013, is pleased to promote the following Inspectors Legal (BS-16) to the rank of Deputy Superintendent of Police Legal (BS-17) on regular basis with immediate effect.

The officers on promotion shall remain on probation for a period of one year in terms of Section 06 (02) of Khyber Pakhtunkhwa, Civil Servants Act, 1973 read with Rules 15(1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

Their promotion will take effect from the date they actually assume the charge of higher responsibility.

S.No.	Name and No
1.	Inspector Imtiaz Gul, K/715
2.	Inspector Legal Falak Nawaiz, K/38
3.	Inspector Altaf Hussain, D/33
4.	Inspector Legal Mushtaq Ahmad, D/36

Sd/
(HISAN GHANI)
Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

No. 3907-10/13, dated Peshawar the, 25-07-2013.

Copy of above is forwarded for information and necessary action to the:-

1. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
3. Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
4. Secretary Govt, Khyber Pakhtunkhwa, E&AD Deptt, Peshawar.
5. Secretary Govt, Khyber Pakhtunkhwa, Finance, Deptt, Peshawar.
6. Secretary Govt, Khyber Pakhtunkhwa, Home & TAs Deptt, Peshawar.
7. Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. Additional IGP/Hqrs, Khyber Pakhtunkhwa, Peshawar.
9. Addl: IGP/Operation, Khyber Pakhtunkhwa, Peshawar.
10. Addl: IGP/Special Branch, Khyber Pakhtunkhwa, Peshawar.
11. Addl: IGP/Investigation, Khyber Pakhtunkhwa, Peshawar.
12. Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
13. Commandant FRP, Khyber Pakhtunkhwa, Peshawar.
14. Commandant PTC, Hangu.
15. Capital City Police Officer, Peshawar.
16. All Region DIGs of Police, Khyber Pakhtunkhwa.
17. A.I.S.G of Police Traffic, Khyber Pakhtunkhwa, Peshawar.
18. Director, ACE, Khyber Pakhtunkhwa, Peshawar.
19. Officer concerned
20. Registrar, CPO, Peshawar.
21. Spdt: "E" Branch CIO
22. Manager Govt. press KPK, Peshawar.
23. POP Files
24. Office Copy

Sd/-
KHALID MASOOD
Addl: IGP/Hqrs:
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

or by the Public Works Department according to circumstances and in accordance with the orders contained in Part IV of the Law Department Manual, 1926.

(2) Any existing contract or other instrument, which has not been executed as above shall be reported for orders to the Inspector-General of Police.

11.62. Bonds: Bonds taken in the Police Department to secure the due performance of duty shall be executed only in one or other of the forms authorized by the Inspector-General of Police. Specimens of these forms may be obtained on application to the Central Police Office.

11.63. Supply of copies of Police records: (1) No document or record belonging to, or in the custody of the police, and no copy or extract from such document, shall be furnished to any private individual or to any Government servant for his private use, save under the authority of an express provision of the law, or by order of a Court acting within its legal powers, or of a general or special order issued by a competent authority in respect of any class or classes of documents.

(2) By a general order of the Inspector-General extracts, or copies from files of departmental proceedings, may be granted to police officers or ex-police officers for the purpose of preferring appeals.

(3) Except in cases where copies are required by law, or other competent authority, to be given free, fees shall be charged for all copies at the same rates as are in force for the time being in the civil courts, and shall be paid as follows:—

- (a) Half to the copyist.
- (b) One-tenth to the examiner.
- (c) The remaining amount shall be credited into the treasury as Police Income under head "Fees, Fines and Forfeitures."

11.64. Cancellation of stamps: (1) Court-fee stamps upon dutiable instruments presented to or issued by police officers, shall be cancelled, in the manner prescribed in Chapter 4-C, Volume IV of the Rules and Orders of the High Court, 1931.

(2) The first hole to be made on receipt of a document bearing a court-fee stamp and on the issue of a copy shall be made by a small circular punch; the second hole to be made on receipt of a copy shall be made by a small triangular punch; and the second hole, in the case of a document other than a copy, and the third hole in the case of a copy, shall be made, when the record is finally filed, by the record-keeper with a small square punch.

11.65. Certain copies requiring to be stamped: When copies of documents falling under Articles 6, 7 and 9 of Schedule I of Act VII of 1870 (The Court-Fees Act), and Article 25, Schedule I of Act II of 1899 (The ³¹Pakistan Stamp Act), are submitted with petitions without being stamped, the petition should ordinarily be returned to the sender or presenter with direction that orders, cannot be passed unless it is resubmitted with the copy duly stamped.

31. Subs. by the Gaz. of Pb. Part III, Notifi. No. 7258/M-III, dated 27.4.1983.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR.

Service Appeal No. 16445/2020

Hidayat Shah.....(Appellant)

Versus

PPO KPK & Others.....(Respondents)

INDEX

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Para-wise Comments	-	1-3
2.	Affidavit		4
3.	Copy of Order of Retirement	A	5
4.	Copy of Enlistment as Constable	B	6-7
5.	Reply to the Application for Condonation of delay	-	8-9

Respondents through



Ijaz Hussain
Insp: Legal, Nowshera.

(1)

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

Service Appeal No. 16445/2020

Hidayat Shah,
Ex-Inspector Legal, Nowshera.

.....Appellant

V E R S U S

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Regional Police Officer, Mardan.
4. The District Police Officer, Nowshera.

.....Respondents

PARAWISE REPLY ON BEHALF OF RESPONDENTS No. 1,2,3 &4

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the appeal is badly time-barred.
3. That the appeal is barred in law.
4. That the appellant is estopped from filing the instant appeal due to his own conduct.
5. That the appeal is not maintainable in its present form.
6. That the appellant has not come to the Honourable Tribunal with clean hands.
7. That the appellant has already been retired from service vide No. 306/E-II, dated 16-04-2014. (Copy of order of retirement is Annexure "A").

On Facts

1. Para to the extent of enrolment is incorrect. Because initially the appellant was enrolled/enlisted as constable on 22-08-1977, while later on he was appointed as temporary Prosecuting Sub Inspector. Whereas, rest of the para pertains to record, needs no comments. (Copy of enlistment as Constable is annexure "B").
2. Para pertains to record.
3. Para is subject to proof. Moreover, if the appellant was in the knowledge that he is senior to respondent No. 4 allegedly on the score of initial appointment as well as on the score of promotion to list "F", he was required to seek remedy well in time but he willfully and deliberately failed to do so.


4. Already explained in para 3 *ibid*.
5. The appellant was deferred due to non availability of ACRs because it is an essential element for confirmation, which is also admitted by the appellant, meaning thereby that despite the knowledge of having deficiency regarding his ACRs, he did not bother to remove this deficiency. Therefore, the stance of appellant being devoid of its legal footing is liable to be set at naught.
6. That it is worth mentioning that order vide notification dated 25-07-2013 regarding promotion of Inspector Legal to the rank of DSP Legal was issued, but the appellant did not bother to challenge the same or seek remedy from the competent forum well in time, rather he moved representation after lapse of almost 05 months and 09 days which was badly time barred.
7. Para incorrect. Neither the respondent department had any grudge against the appellant, nor he had been discriminated. Moreover, the performance of an official/officer can be judged from his ACRs. In case of non availability of ACRs, it is not possible to evaluate the performance of a person being in officiating rank.
8. Para incorrect. In order to conceal/suppress the fact of limitation, the appellant raised the plea of non-awareness from the promotion of DSP Legal, therefore, the plea taken by the appellant is not sustainable in the eyes of law.
9. Para incorrect, the appellant was required to seek remedy within time but he willfully and deliberately filed the above mentioned departmental appeal at a belated stage when he was on the verge of getting retired and there are plethora of judgments of this Honourable Tribunal as well as the apex court of Pakistan on the score of limitation wherein leave has been declined.


On grounds


- A. Para incorrect. The respondent department has treated the appellant in accordance with law/rules and policy because the respondents have no discrimination/ grudge against the appellant, hence plea of the appellant is not tenable in the eyes of law.
- B. Para incorrect. Neither the appellant has been deprived of his legal rights nor any illegality has been committed.
- C. Para incorrect and already explained above.
- D. Para incorrect. The stance taken by the appellant regarding discrimination being devoid of its legal footing, is liable to be set at naught.


E. That the respondents also seek permission of this Honourable Tribunal to adduce additional grounds at the time of arguments.

It is, therefore, most humbly prayed that keeping in view the above submissions, appeal of the appellant may very graciously be dismissed with cost.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 1


Capital City Police Officer,
Peshawar.
Respondent No. 2


Regional Police Officer,
Mardan
Respondent No. 3


District Police Officer,
Nowshera.
Respondent No. 4

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

Service Appeal No. 16445/2020

Hidayat Shah,
Ex-Inspector Legal, Nowshera.

.....Appellant

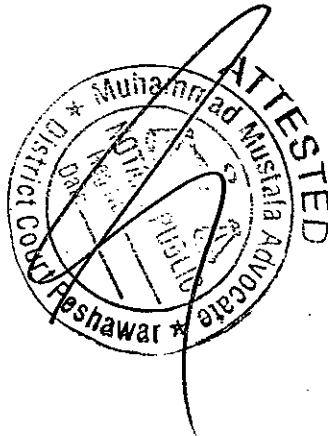
V E R S U S

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Regional Police Officer, Mardan.
4. The District Police Officer, Nowshera.

.....Respondents

AFFIDAVIT

We the respondents No. 1,2,3 & 4 do hereby solemnly affirm and declare on Oath that the contents of parawise comments to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable Tribunal.



[Signature]
 Provincial Police Officer,
 Khyber Pakhtunkhwa,
 Peshawar.
 Respondent No. 1

[Signature]
 Capital City Police Officer,
 Peshawar.
 Respondent No. 2

[Signature]
 Regional Police Officer,
 Mardan
 Respondent No. 3

[Signature]
 District Police Officer,
 Nowshera.
 Respondent No. 4

5 Annex: A

FOR PUBLICATION IN THE KHYBER
PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION

No. _____ /E-II RETIREMENT ON SUPERANNUATION PENSION
Inspector Legal Hidayat Shah No. P-348 of Nowshera district shall
stand retires from service on attaining the age of superannuation i.e 60 years
w.e from 14.04.2014 (A.N). He should deposit all Govt: belonging with the
relevant store.

Dated: 11/11 / 2014.

23/11
17/11/14

Sd/-
(MAIN MUHAMMAD ASIF)
Addl: IGP/ Headquarters,
For Inspector General of Police,
Khyber pakhtunkhwa,
Peshawar.

No. _____ /E-II,
Copy of above is forwarded for information and necessary action to
the:-

1. Regional Police Officer Mardan.
2. District Police Officer Nowshera.
3. DAO Nowshera.
4. Office Supdt: Secret Branch CPO.
5. U.O.P File.

E.G. / 14/11
For information

Syed Fida Hassan Shah
(SYED FIDA HASSAN SHAH)
AIG/ Establishment
For Inspector General of Police,
Peshawar.

(5/11/14)

17-4-2014

Office of the IGP
Peshawar
11/11/14

[Handwritten signature]

Ann - A

11

FOR PUBLICATION IN THE KHYBER
PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION

Dated: 14/4 / 2014.

No. _____ /E-II RETIREMENT ON SUPERANNUATION PENSION

Inspector Legal Hidayat Shah No. P-348 of Nowshera district shall stand retires from service on attaining the age of superannuation i.e 60 years w.e from 14.04.2014 (A.N). He should deposit all Govt: belonging with the relevant store.

Sd/-

(MAIN MUHAMMAD ASIF)

Addr: IGP/ Headquarters,
For Inspector General of Police,
Khyber pakhtunkhwa,
Peshawar.

No. _____ /E-II,

Copy of above is forwarded for information and necessary action to the:-

1. Regional Police Officer Mardan.
2. District Police Officer Nowshera.
3. DAO Nowshera.
4. Office Supdt: Secret Branch CPO.
5. U.O.P File.

(SYED FIDA HASSAN SHAH)

AIG/ Establishment

For Inspector General of Police,
Peshawar.

EG/14
For 27-4-2014

(514/14)

17-4-2014

Acc
A

Office of the DPO
10/4/14
@ 21/4/2014 (P.N.)
Peshawar

Handwritten signature

(X)

Anx-B

12

PUBLICATION IN THE NWFP POLICE GAZETTE PART-II, ORDERS!
PROVINCIAL POLICE OFFICER NWFP PESHAWAR.

NOTIFICATION

Dated: 19/11/2007

No. 25711

II-II. PROMOTION AS OFFG: INSPECTORS LEGAL:

The following Sub Inspectors Legal on list F of the Districts noted against each have been examined by the DPC held on 07.11.2007 and approved by the Provincial Police Officer NWFP promotion to the rank of Offg: Inspectors Legal BPS-16 (5050-390-16750) with immediate effect.

Appellant
Respt# 5

S/NO	NAME & NUMBER	HOME DISTRICT
1.	SI/Legal Hidayat Shah No. P/248	Nowshera
2.	SI/Legal Altaf Hussain No. D/33	DIKhan.
3.	SI/Legal Sher Zada No. M/11	Bunir
4.	SI/Legal Abdul Aziz No. B/34	Bannu
5.	SI/Legal Sohail Afzal No. B/33	Bannu

Their promotion will take effect from the date they actually taking their higher responsibilities.

Necessary Gazette Notification may please be issued accordingly.

Their posting order will be issued separately.

Khurshid Alam Khan
(KHURSHID ALAM KHAN)
Add: IGP/HQs
For Provincial Police Officer,
NWFP, Peshawar.

No. 25712-19
II-II

Copy of above is forwarded for information and necessary action to the:

1. Addl: IGP/Investigation alongwith 2 Spare Copies for publication in the NWFP Gazette Part-II.
2. Deputy Inspectors General of Police Mardan Region-I, Mardan
3. Deputy Inspectors General of Police Malakandi Region-III, Swat.
4. Deputy Inspectors General of Police Bannu Region.
5. Deputy Inspectors General of Police DIKhan Region.
6. Director Anti Corruption NWFP, Peshawar.
7. Assistant Secret CPO alongwith 05 spare copies for placing in their original Character Roll.
8. U.G.P. File

No 6446/PS dated 22-11

EC
for 21/11
23/11

6441
24-11-07

Copy to DPO Nowshera
for signature and stamping
By Inspection General of Police
Mardan Dango Mardan.

DPS/NSV
23/11

Atc
B

(A)

Anx - C

(13)

From : The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

To : The Addl: IGP/Special Branch,
Khyber Pakhtunkhwa,
Peshawar.

The Capital City Police Officer,
Peshawar.

The Deputy Inspectors General of Police,
Mardan Region, Kohat Region & DIKhan Region.



2829

12/11/13

No. 27671-23 E-II, dated Peshawar the 05/11/2013.

Subject: CONFIRMATION AS INSPECTOR LEGAL..

Memo:

Confirmation case of the following Inspectors Legal was discussed in DPC meeting held on 14.10.2013 and they were deferred due to non-availability of their ACRs for the period as noted against their names:

S.No	NAME & NO	MISSING ACRs
1.	Hidayat Shah No. P/248	01.01.2008 to 16.05.2008, 2011 & 2012
2.	Muhammad Asif No. B/36 of Special Branch.	01.01.2012 to 30.06.2012.
3.	Javed Ahmad No. D/28 of DIKhan Region.	01.01.2008 to 31.12.2008. 01.01.2009 to 28.06.2009 & 2012.
4.	Raza Muhammad No. P/03 of Charsadda District.	2009, 2010, 2011 & 2012.

OFFICE OF THE CAPITAL CITY POLICE OFFICER, PESHAWAR

No. 336-37/AS, dated Peshawar the 11/11/2013.

Copy of above is forwarded for information and necessary action to:-

1. District Police officer Nowshera
2. District Police Officer Charsadda

PA
En on action

[Signature]
12/11/2013

[Signature]
FOR CAPITAL CITY POLICE OFFICER,
PESHAWAR

Atc
[Signature]

~~Annex - C~~

(X)

Anx - D

(14)

Police No.99
100-9-12-1990-(62)

GS&PD, NWFP. 1559 F.S. 500P. of

POLICE DEPARTMENT

DISTRICT NOWSHERA

No.13-17

**Annual Confidential Report on the working of Assistant Sub-Inspector, Su
Inspectors and Inspectors for the year ending 31st December, 2008.**

Name, Provincial of Range No. Rank and Grade	Inspector Hidayat Shah Khattak
Father's Name	Dilbar Khan
Where and on what duties Employed during the past 12 Months.	From 01.01.2008 to 17.05.2008 Inspector Legal, Nowshera.
Class of Superintendent of Police's Report, i.e. "A" "B" or "C"	A
Is he honest?	No Complaint.

Remarks by:-
 (1) Superintendent of Police,
 (2) Regional Deputy Inspector
 General of Police

A good officer. Polished
and competent.

(MUBARAK ZEB) PSP,
 District Police Officer,
 Nowshera.

Agreed

[Signature]

D. G. Mandan

Ate
R

Annex B

CHARACTER ROLL OF

6. APPOINTMENTS, PROMOTIONS, REDUCTIONS, DISCHARGES, ETC.

contin

1	2	3	4	5
Appointed, promoted, suspended, reduced, discharged, dismissed, resigned or died	To what grade and pay, appointed, promoted or reduced	Date	No. of District Order	Full Signature of Superintendent of Police
<p><i>Pl as Comd (C) Rs 266/-</i></p> <p><i>SALES</i></p> <p><i>OF Rs...</i></p> <p><i>et Rs...</i></p> <p><i>With n...</i></p> <p><i>12 197...</i></p> <p>ASST: ACCOUNTS OFFICER, OFFICE OF THE ACCOUNTANT GENERAL, N.W.F.P. PESHAWAR</p> <p><i>Spl. in command as Comd: ar Rs 284/- pay with...</i></p> <p><i>Pl as Comd: ar Rs 290/- pay with...</i></p>	<p>✓</p>	<p>12 197...</p>	<p>12</p> <p>81</p>	<p><i>DEPT. SUPDYS OF POLICE PESHAWAR</i></p> <p><i>OF POLICE</i></p> <p><i>195...</i></p> <p><i>for 82 Peshawar</i></p> <p><i>for 82 Peshawar</i></p>

7. TRANSFERS BEYOND THE DISTRICT.

Date	From	To	Authority for
<p><i>13.3.88</i></p>	<p><i>Peshawar Distt:</i></p>	<p><i>Charsadda Distt:</i></p>	<p><i>for 88 Peshawar</i></p>

Appointed as Temporary P.S. with effect from 13.3.88

Vide Notification No. 4789/0 dt. 20.3.88

CHARACTER AND SERVICE ROLL OF

Annex: B, H

INSTABULARY No. () in

DITTO () in

DITTO () in

DISTRICT

DISTRICT

DISTRICT

Name	Father's Name	Tribe or Caste	Village or Town	Post and Telegraph Office	Police Station	District	Province	Date of Birth	Height	Chest Measurement	Date of Enrolment	Age on Enrolment	Distinctive Marks
Hiidayat Shah		Dilbar Khan	Alghar	Dosehra	do	Kham Mabe	PESHAWAR	15-4-54	5' 4"	33 x 34 1/2	22-8-77	23-4-9	

Verification Roll No. _____ dated _____ received back and attached to the fauji misal.

Government Service prior to present employment, which is approved, for pension service.

Service or department	Rank or Grade	Pay of last Appointment	From	To	PERIOD			
					Year	Months	Days	
Cause of and character of discharge from service.			Reference to orders approving above service for pension service in the Police Department.					

I understand that I have been appointed under section 7 of the Police Act (V of 1861), and the purport of that Act and the provisions of the Rules issued under it and now in force, by which my discipline and conduct are to be governed have been explained to me. I agree to serve faithfully under the provisions of the said Police Act and to obey all lawful orders issued to me by my Superior Officers and to undertake not to resign my appointment within three years from the date of my appointment. I have received a certificate of appointment issued under section 8 of the Police Act (V of 1861).

Dated:

Signature.

Impression of fingers and thumb of left hand

Senior Supt. of Police

Hiidayat Shah

Left little	Left ring	Left middle	Left index	Left thumb

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

Service Appeal No. 16445/2020

Hidayat Shah,
Ex-Inspector Legal, Nowshera.

.....Appellant

V E R S U S

Provincial Plice Officer, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

REPLY TO THE APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth: -

1. Incorrect. The instant service appeal is fixed for hearing before the Honourable Tribunal for 31-05-2022.
2. Para is for the appellant to prove that he filed the instant appeal in the light of this Honourable Tribunal dated 01-12-2020.
3. Incorrect. The instant appeal is not in the continuation of earlier service appeal No. 607/2014, because, the same was withdrawn by the appellant and fresh appeal i.e the instant appeal was moved by the appellant.
4. Incorrect. The same cannot be considered as integral part of the petition.
5. Incorrect. As the apex court of Pakistan has held that the question of limitation cannot be considered a "technicality" as it has got its own significance and would have substantial bearing on merits of the case.
6. There are plethora of judgments of the superior court, that in case of delay of appeal, proper explanation for each day is required to be given; while appellant has failed to explain any reason for such delay.

Prayers

It is, therefore, most humbly prayed that on acceptance of above submissions, the instant application for condonation of delay may very kindly be dismissed/filed, please.

SCAD 1
KPT
Peshawar

Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 01

Capital City Police Officer,
Peshawar.
Respondent No. 02

Regional Police Officer,
Mardan.
Respondent No. 03

District Police Officer,
Nowshera.
Respondent No.4