

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

**Service Appeal No. 136/2018**

**BEFORE: MRS. RASHIDA BANO ... MEMBER (J)**  
**MR. AURANGZEB KHATTAK ... MEMBER (J)**

**Muhammad Yousaf Khan** Driver Constable No. 264, (BPS-07) S/o Haji Sahar Gul, R/o Surizai Payan, Naray Kalay, Bilal Abad, Peshawar.

**Through Legal heirs:-**

1. Gulzad Gai (Widow) 2. Abdullah (Son) 3. Shaista Bibi (Daughter)
  4. Zeenat Bibi (Daughter) 5. Shehla (Daughter) 6. Muhammad Ismail (Son)
  7. Muhammad Abbas (Son) 8. Zohra Bibi (Daughter)
- ... (Appellants)

**VERSUS**

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General, CTD/Special Branch of Police, Khyber Pakhtunkhwa, Peshawar.

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Ms. Roeeda Khan,  
Advocate

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For appellant

Mr. Muhammad Jan,  
District Attorney

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For respondents

Date of Institution.....25.01.2018  
Date of Hearing .....08.08.2024  
Date of Decision .....08.08.2024

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**JUDGMENT**

**RASHIDA BANO, MEMBER (J):-** The appellant, who initially joined the police department as a Vehicle Mechanic Helper on 01/01/1976, contests his demotion order dated 08/12/2016, which reverted him from the rank of Driver Inspector BPS-16 to Driver Constable BPS-05 (now BPS-07). Feeling aggrieved, the appellant filed departmental appeal, which was dismissed vide order dated 19.01.2018, hence the appellant approached this Tribunal through filing of instant service appeal for redressal of his grievance.

2. Respondents were put on notice who submitted reply on the appeal.


3. Learned counsel for the appellant has argued that the appellant has not been treated in accordance with law, policy, and the constitutional safeguards provided under Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973. He next argued that the post of the appellant was a technical one and should not have been affected by the Supreme Court's decision addressing out-of-turn promotions, as the appellant had completed necessary technical courses. He further argued that respondent No. 1 dismissed the departmental appeal of the appellant without considering the merits properly, rendering the decision mechanical and not in line with principles of natural justice. He also argued that the demotion order lacks a detailed rationale and seems to be based on assumptions, failing to adhere to fair judicial procedure. He next contended that the appellant being a member of Technical Unite i.e Member of Telecommunication, no training is required for his promotion to the next higher rank. He further contended that the colleague of the appellant namely Mr. Zahir Gul, who was in the rank of Inspector (BPS-16) was promoted as Acting DSP/MT Telecommunication HQrs but the appellant was demoted, hence he was discriminated.

4. Conversely, Learned Deputy District Attorney for the respondents argued that promotion orders of the appellant violated established seniority protocols and did not comply with mandatory promotion courses, as per police rules and orders from the Supreme Court. He next argued that the reversion order of the appellant was issued to align with the Supreme Court's ruling that declared out-of-turn promotions unconstitutional, thus ensuring compliance with legal standards. He further argued that the technical courses cited by the appellant do not

suffice for rank-based promotions, and necessary qualification courses were not completed. He also argued that the promotion orders of the appellant violated established seniority protocols and did not comply with mandatory promotion courses, as per police rules and orders from the Supreme Court.

5. We heard the learned counsel for the appellant as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.

6. The perusal of the case file reveals the appellant, having initially joined the police force as a Vehicle Mechanic Helper on January 1, 1976. The appellant contested the order dated December 8, 2016, which rescinded his promotion from Inspector Driver (BPS-16), citing it as an out-of-turn promotion, and demoted to his original substantive rank of Head Constable with immediate effect. Examination of the records indicates that the appellant was initially promoted to the rank of officiating Assistant Sub-Inspector (ASI) by order dated July 31, 1989, clearly stated to be on a temporary basis until further orders, without any claims to seniority over his seniors. This indicates that the promotion was out-of-turn because the temporary nature and the stipulation against claiming seniority would not be warranted if the promotion was earned by due seniority. There was no subsequent confirmation order for the appellant as ASI. On January 5, 1995, the appellant was further promoted directly to officiating Sub-Inspector (SI) with effect from January 16, 1995, followed by another promotion on January 8, 2001, to Officiating Inspector (BPS-16) for two years with the condition of being posted to C.P.O/Peshawar. Police Rules require an officer promoted on an




officiating basis to be confirmed in that rank before being eligible for consideration for the next rank, subject to passing requisite training courses evaluated by the Departmental Promotion Committee (DPC). The appellant failed to produce evidence of having completed required training for the respective promotions to ASI, Sub-Inspector, or Inspector. The arguments of the appellant, presented by his counsel, suggesting exemptions due to posting in the Technical/Telecommunication Unit, is misconceived as the Police Standing Orders specifically outline compulsory training for promotions within the Police Telecommunication Unit of Khyber Pakhtunkhwa. These requirements are documented under the training schedule, establishing that promotions are contingent upon evaluation by a selection committee, seniority, and completion of specified training courses. Seniority stands as essential factor for promotions of civil servants, including police officers. The appellant failed to provide any seniority lists confirming that his promotions were made in due order rather than out-of-turn. The Supreme Court of Pakistan had already mandated that the police department must adhere to centralized seniority lists to ensure fairness. The present case lacks any recommendations from the DPC, and no seniority list or qualified training courses were provided to validate that the appellant's promotions followed proper procedures. The appellant's promotions to ASI, officiating Sub-Inspector, and Inspector are indeed identified as out-of-turn. Additionally, the appellant's comparison with Mr. Zahir Gul, who promoted to Acting DSP/MT Telecommunication Headquarters, lacks substantiation. The appellant's assertion that he and Mr. Zahir Gul were batch-mates who should have received similar promotions fails since the appellant did not provide supporting appointment or confirmation documents from seniority




lists. Hence, these arguments remain unsubstantiated and cannot be validated. In summation, the records unequivocally indicate that the promotions received by the appellant were out-of-turn and did not comply with the established regulations governing promotions within the police department. The absence of confirmations, training completions, and proper seniority lists effectively invalidates the appellant's claims of rightful promotion. Therefore, the order of December 8, 2016, rescinding the appellant's promotion and demoting him to his original rank of Head Constable, is upheld. The appeal is dismissed in its entirety.

7. In the judgment reported as 2018 SCMR 1218, the Supreme Court of Pakistan addressed the issue of out-of-turn promotions granted to certain police officers. The Court emphasized the necessity of adhering to principles of fairness and equality within the framework of public service. The Court determined that the out-of-turn promotions, which had been made following the decrees from lower courts, were contrary to the established norms of merit and seniority. It concluded that such promotions undermined the integrity of the police service and could set a detrimental precedent. As a result, the Supreme Court directed the Provincial Inspector General of Police, the Provincial Home Secretary, and the Secretary of the Establishment Division to ensure compliance with its judgment. The Court ordered that the seniority of all police officers and officials who had received out-of-turn promotions be recalibrated to reflect their original status, effectively treating them as if they had never received these promotions. This judgment reaffirmed the principle that promotions in public service should be conducted based on merit and established procedures, thus ensuring equal opportunity for all officers to



advance in their careers based on their performance and service record. The decision also served as a critical reminder of the need for transparent governance in public institutions to maintain public trust and uphold the rule of law.

8. Moreover, in the judgment reported as 2010 PLC (CS) 924 by the Supreme Court of Pakistan, addressed the issue of out-of-turn promotions within public departments. The judgment highlighted several fundamental principles regarding the conduct of public service promotion practices and their implications on the fabric of public service and governance. The Supreme Court held that out-of-turn promotions not only contravene the constitutional provisions of equality and meritocracy but are also inconsistent with the intrinsic values and injunctions of Islam. The judgment emphasized that such promotions lead to widespread frustration among employees who earn their positions through merit and hard work, ultimately diminishing the spirit of public service. One of the core arguments made in the judgment is that out-of-turn promotions create an environment of undue preference, which can foster resentment among employees. When promotions are granted outside of the established criteria, it undermines the principles of fairness and equality that are essential in any public service structure. This practice can lead to a demotivated workforce, where employees feel that their contributions and merit are unrecognized and undervalued, which is detrimental to the effectiveness of public service delivery. Moreover, the Court pointed out that while reward and recognition can be instrumental in promoting a positive ethos within the public sector, these should not be the basis for accelerated promotions. Instead, the Court advocated for a merit-based



promotion system that considers performance, qualifications, and service records, thereby ensuring that promotions are earned rather than given as favors. Upholding the values of justice and transparency supports the integrity of public service and enhances public trust in governmental institutions. In conclusion, the judgment from the Supreme Court of Pakistan serves as a clarion call for the adherence to meritocracy in public service promotions. By rejecting out-of-turn promotions, the Court reinforced the ideals of equality, fairness, and dedication to public service, urging all public departments to align their promotion policies with both constitutional mandates and Islamic principles, thus fostering a culture of integrity and accountability within public service.

9. Consequently, the appeal in hand being meritless is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 08 day of August, 2024.*

  
(AURANGZEB KHATTAK)  
Member (J)

  
(RASHIDA BANO)  
Member (J)

05<sup>th</sup> August, 2024

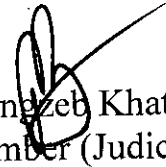
Learned counsel for the appellant present. Syed Amir Abbas, DSP (Legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment with the commitment that he will positively argue the appeal on the next date. Granted. To come up for arguments on 08.08.2024 before the D.B. In case of failure, the appeal in hand will be decided on merit on the available record. Parcha Peshi given to the parties.

RECEIVED  
08.08.2024  
PESHAWAR



(Rashida Bano)  
Member (Judicial)




(Aurangzeb Khattak)  
Member (Judicial)

\*Naeem Amin\*

**ORDER**

08<sup>th</sup> August, 2024

1. Learned counsel for the appellant present. Syed Amir Abbas, DSP (Legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, the appeal in hand being meritless is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 08<sup>th</sup> day of August, 2024.*



(Aurangzeb Khattak)  
Member (Judicial)



(Rashida Bano)  
Member (Judicial)

\*Naeem Amin\*