

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 425/2024

Muhammad Naeem Khan No. P/307 Inspector/Acting DSP Mardan

.....APPELLANT

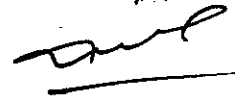
VERSUS

Inspector General of Police KP and others

.....RESPONDENTS

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DEPONENT



DSP/ Legal,
CPO, Peshawar

23-05-2024
S-B
Peshawar

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
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PARA WISE COMMENTS BY RESPONDENT NO. 1 TO 2

RESPECTFULLY SHEWETH!

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12749

Dated 14-05-2024

PRELIMINARY OBJECTIONS:

- a) That the appeal is not maintainable in the present form.
- b) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- c) That the appellant is estopped to file the instant Appeal by his own conduct.
- d) That the appellant has not come to this Honorable Tribunal with clean hands.
- e) That the appellant has got no cause of action and locus standi to file instant Appeal.
- f) That the appeal is barred by law & limitation.

FACTS:

- 1. Pertains to appellant's personal information, however, appellant is not vested with blanket immunity from the rules, law and decision of the respondents under the garb of fundamental rights.
- 2. Pertains to service record of appellant.
- 3. Pertains to service record of appellant.
- 4. Para is correct to the extent of Departmental Selection Committee (DSC) meeting held on 20.12.2023, however, the case of appellant for promotion to the rank of Deputy Superintendent of Police (BPS-17) was discussed in the DSC. The recommendations of the DSC are given as under:-

"Quantification with respect to PERs/ACRs and Advance Course stood at 60.76 marks whereas Committee members unanimously awarded him 02 marks out of 30 marks while keeping in view his Professional Expertise, quality of work and output, experience in Training, Operations, Investigation, his Leadership traits, conduct, discipline, integrity and general reputation (financial, professional and ethical). On cumulative basis he secured total 62.76 Marks as per Standing Order No. 03/2022.

The officer has failed to achieve the requisite score of 65 for promotion to the rank of DSP as per Standing Order No. 03/2022. His case is fit for supersession.

The Committee members are of the view that his variety of experience is missing. He is be assigned field posting.

However, the Committee unanimously recommended that the Officer having a long length of service be deferred and not superseded, on

humanitarian grounds. He is given one year time to improve his performance."

- 5. The recommendations of DSC were communicated to the appellant vide letter dated 08.02.2024 to improve performance in terms of qualitative and quantitative aspect and earn good PERs which may support appellant's consideration for promotion after one year time. (Copy of letter attached as Annexure "A").
- 6. Para No. 6 of appeal is incorrect. Appellant has failed to achieve the requisite score of 65 for promotion to the rank of DSP as per Standing Order No. 03/2022. (Copy of Standing Order is annexed as Annexure "B").
- 7. The case of appellant was fit for supersession, however, the Committee unanimously recommended that the officer having long length of service be deferred and not superseded on humanitarian grounds and given one year time to improve his performance.
- 8. Para No. 8 of appeal is incorrect. The recommendations of DSC are based on facts and in accordance with law/rule. The respondents have not attributed any discrimination to the appellant rather he was treated strictly in accordance with law/rules.
- 9. Para pertains to service record.
- 10. That appellant has got no cause of action to file the instant appeal, which is liable to be dismissed on the following grounds;


GROUNDS:

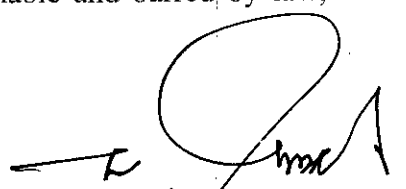
- A. Incorrect. The decision of answering respondents are quite legal and in accordance with the rules/standing order.
- B. Incorrect. The recommendations of DSC are based on facts and in accordance with the law/rules/standing order in vogue.
- C. Incorrect. Appellant was treated in accordance with the law/rules.
- D. Incorrect. As discussed in the preceding Paras, appellant was treated in accordance with the law and the answering respondents have not attributed any discrimination to the appellant.
- E. Incorrect. The respondents have acted strictly in accordance with law/ rules and no discrimination has been done in the promotion case of appellant.
- F. Incorrect. The respondents have acted strictly in accordance with law/rules/policy.
- G. Incorrect. Appellant's case for promotion to the rank of DSP was discussed in the DSC meeting held on 20.12.2023, but he has failed to achieve the requisite score of 65 for promotion as per Standing Order No. 03/2022. His case was fit for supersession, but keeping in view appellant's long length of service, he was deferred and not superseded. He was given one year time to improve his performance.
- H. Incorrect. The order of respondents are quite legal in accordance with law/rules/policy.
- I. Incorrect. Appellant being member of discipline force is not vested with blanket immunity from the law/rules, decision of Government/ department under the garb of fundamental rights, however, the answering respondents acted strictly in accordance with law/rules/ policy.
- J. Incorrect. Appellant was treated as per law/rules/policy.
- K. Incorrect. The recommendations of DSC are quite legal and based on facts, which has been conveyed to appellant to improve his performance in terms of qualitative and quantitative aspect and earn good PERs which may support, appellant's consideration for promotion after one year time.

L. That the respondents may also be allowed to raise additional grounds at the time of argument of appeal.

PRAYERS:-

Keeping in view above narrated facts, circumstances, the instant service appeal may kindly be dismissed, being devoid of merits, not maintainable and barred by law, with costs, please.


 Deputy Inspector General of Police,
 HQrs: Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 02)
(RIZWAN KHAN) DSP
 Incumbent


 DIG/ Legal, CPO
 For Inspector General of Police,
 Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS) PSP
 Incumbent

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 425/2024

Muhammad Naeem Khan No. P/307 Inspector/Acting DSP Mardan

.....**APPELLANT**

VERSUS

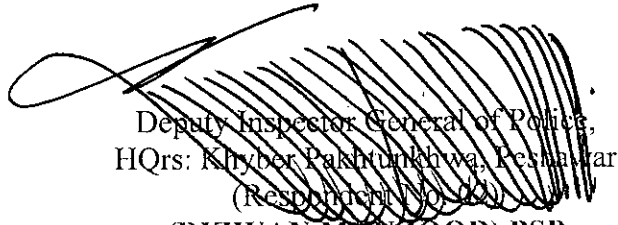
Inspector General of Police KP and others

.....**RESPONDENTS**

AFFIDAVIT

I, Rizwan Manzoor, Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm on oath that the contents of Para-wise comments on behalf of respondents No. 1 & 2 are correct to the best of my knowledge/belief. Nothing has been concealed from this Hon'ble Service Tribunal.

It is further stated on oath that in this Para-wise comments, the answering respondents have neither been placed ex-parte nor their defense is struck off.


Deputy Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar
(Respondent No. 2)
(RIZWAN MANZOOR) PSP
Incumbent



11 4 MAY 2024

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 425/2024

Muhammad Naeem Khan No. P/307 Inspector/Acting DSP Mardan

.....**APPELLANT**

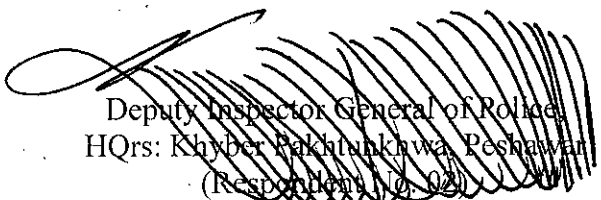
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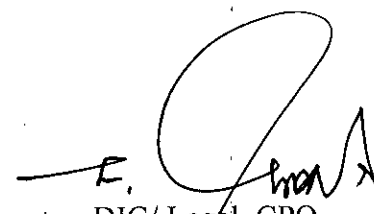
Inspector General of Police KP and others

.....**RESPONDENTS**

AUTHORITY LETTER

Mr. Faheem Khan DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments/ reply in the instant Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant case on behalf of respondents No. 1 & 2.


Deputy Inspector General of Police
HQs: Khyber Pakhtunkhwa, Peshawar
(Respondent No. 2)
(RIZWAN MANZOOR) PSP
Incumbent


DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS) PSP
Incumbent



OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. CPO/CPB/ 33 Dated Peshawar 6 February, 2024

To: Mr. Muhammad Naeem Khan No. P/379,
Inspector (BS-16)
Acting DSP Mardan.

Subject: DEPARTMENTAL SELECTION COMMITTEE DATED 20.12.2023

Memo: Your case for promotion to the rank of Deputy Superintendent of Police (BS-17) was discussed in the Departmental Selection Committee meeting held on 20.12.2023. The recommendations of the DSB are given as under:-

"Quantification with respect to PERs/ACRs and Junior Command Course stood at 60.76 marks whereas Board members unanimously awarded him 92 marks out of 30 marks while keeping in view his Professional Expertise, quality of work and output, experience in Training, Operations, Investigation, his Leadership traits, conduct, discipline, Integrity and general reputation (financial, professional and ethical). On cumulative basis he scored 62.76 Marks as per Standing Order No. 03/2022.

The officer has failed to achieve the requisite score of 65 for promotion to the rank of DSP as per Standing Order No. 03/2022. His case is fit for supersession. The Committee members are of the view that his variety of experience is missing. He is to be assigned field posting."

However, the Committee unanimously recommended that the Officer having a long length of service be deferred and not superseded, on humanitarian grounds. He is given one year time to improve his performance.

Through this Letter you are being conveyed to improve your performance in terms of qualitative and quantitative aspects and earn good PERs which may support your consideration for promotion after one year's time.

IRIZWAN MAZOOQI DSP
SIGNATURE
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

Endst: No. and dated even

- Copy of above is forwarded for information to the:-
1. Additional Inspector General of Police, HQrs: Khyber Pakhtunkhwa.
 2. Regional Police Officer, Mardan Region.
 3. Assistant Inspector General of Police, Legal Khyber Pakhtunkhwa.
 4. PSO to Inspector General of Police, Khyber Pakhtunkhwa.
 5. Office Superintendent Secret & Establishment-I CPO Peshawar.

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**OFFICE OF THE
THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar**

STANDING ORDER NO. 03/2022

KHYBER PAKHTUNKHWA POLICE PROMOTION POLICY 2022

In exercise of the powers conferred by sub-section (3) of section 17 of the Khyber Pakhtunkhwa Police Act, 2017 (Act No. II of 2017), the Inspector General Khyber Pakhtunkhwa Police is pleased to issue the following Standing Order:

Aim

In order to streamline promotions in Khyber Pakhtunkhwa Police Establishment, provide uniform promotions policy, guidelines and mechanism for DPC or DSB for the objective and subjective assessments of the candidates on line for promotion to prevent and minimize the litigations and to clarify the ambiguities arising out of the promotion proceedings, the following patent promotion policy is promulgated.

1. Short Title, Application and Commencement:

- 1) The policy shall be called the Khyber Pakhtunkhwa Police Promotion Policy 2022.
- 2) The policy shall be applicable to promotions of all cadres of Khyber Pakhtunkhwa Police Ministerial Staff and IT Staff.
- 3) The Policy shall come into force at once.

2. Objectives:

Promotion means appointment of an Officer to a higher post in the Khyber Pakhtunkhwa Police. The Khyber Pakhtunkhwa Police Act, 2017 (Act No. II of 2017), the Khyber Pakhtunkhwa Police Rules 1934, The North West Frontier Province (Promotion of Superintendent of Police and Deputy Superintendent of Police) Rules 2007 and other appointment, promotion and transfer rules provide legal framework for appointment by promotion, this standing order further elaborates on methodology for objective assessment of performance of Officers for promotion to higher ranks.

3. Definitions:

- a) "**Actualization**" means assumption of charge of the higher post upon promotion or availing proforma promotion or promotions benefits after retirement.
- b) "**Consideration for Promotion**" means and included the objective and subjective assessment of the candidate on line for all kinds of promotion by DSB, DSC or DPC as the case may be. The recommendation shall include approval, defer and supercede.
- c) "**Departmental Selection Board**" or "**DSB**" means a board constituted under section 122 of the Khyber Pakhtunkhwa Police Act, 2017 (Act No. II of 2017) to consider promotion to all posts in Basic Pay Scales 18 for the time being reserved for promotion in their respective cadres.
- d) "**Departmental Selection Committee**" or "**DSC**" means a committee constituted by the Inspector General Khyber Pakhtunkhwa Police, under section 122 of the Khyber Pakhtunkhwa Police Act, 2017 (Act No. II of 2017) to consider promotion to all posts in

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Basic Pay Scales 17 for the time being reserved for promotion in their respective cadres.

- e) "**Departmental Promotion Committee**" or "**DPC**" means a committee constituted by the Inspector General Khyber Pakhtunkhwa Police, under section 122 of the Khyber Pakhtunkhwa Police Act, 2017 (Act No. II of 2017) to consider promotion to all posts in Basic Pay Scales 07 to 16 for the time being reserved for promotion in their respective cadres.
- f) "**Deferment**" means an officer not approved for promotion by the appointing authority on recommendations of the DSB, DSC or DPC, as the case may be, for reasons to be recorded in writing as prescribed for deferment by this Promotion Policy or any other Law, Rules, or Standing Order.
- g) "**Promotion on Acting-Charge Basis**" is a promotion on acting charge basis against a clear vacancy in case the officer does not possess the requisite length of service/experience.
- h) "**Regular Promotion**" is a promotion against a clear vacancy, which may occur due to promotion of the incumbent to a higher post on regular basis, his retirement, death, dismissal, removal from service, creation of a new post or any other such reason.
- i) "**Supersession**" means an officer not approved for promotion by the appointing authority on recommendations of the DSB, DSC or DPC, as the case may be, for reasons to be recorded in writing as prescribed for supersession by this Promotion Policy or any other Law, Rules, or Standing Order.
- j) "**Standing Order**" means an order issued by the Inspector General of Khyber Pakhtunkhwa Police under sub-section (3) of section 17 of the Khyber Pakhtunkhwa Police Act, 2017 (Act No. II of 2017).

4. Mandate of DSB, DSC or DPC:

- 1) The DSB, DSC or DPC, as the case may be, shall consider an officer for promotion in order of seniority and in accordance with any rules or criteria specified for promotion to the particular post in Khyber Pakhtunkhwa Police.
- 2) While making consideration for promotion, the DSB, DSC or DPC, as the case may be, shall follow the provisions of this policy and guidelines set out in any rules specified for promotion to a particular post in Khyber Pakhtunkhwa Police.
- 3) Subject to availability of a post for the time being reserved for promotion, an officer shall be considered for promotion and after such consideration, he shall be recommended for regular promotion; or appointment on acting charge basis; or deferment; or supersession.

5. Eligibility and fitness of candidates:

- 1) An officer shall be considered for promotion to posts reserved for promotion subject to his suitability and assessment of the following aspects:
 - a) Seniority position.
 - b) Satisfactory completion of probation period.
 - c) Qualification/experience as provided in the relevant service rules.
 - d) Minimum five years length of service in the rank the officer is presently holding.
 - e) Minor penalty of withholding of promotion for a specific period, will take effect from the date when a junior is considered for promotion and is promoted on regular basis for the first time.
 - f) Medical Fitness.

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- 2) Successful completion of mandatory training and passing of any prescribed departmental promotion examination provided in any Law, Rules, or Standing Order. Provided that in case an officer who is nominated in order of seniority for mandatory training declines to proceed on training for two consecutive training courses, then he/she would forfeit the right to consideration for promotion.

6. Grounds for deferment:

- 1) After consideration of the names on the panel, the DSB, DSC or DPC may recommend a civil servant for deferment on the basis of any one or more of the following reasons:
 - a) PER dossier is incomplete, or any other document/information required by the DSB, DSC or DPC for determining his suitability for promotion is not available.
 - b) The record of the officer for last three years contains an adverse PER/ACR, and decision on his representation against adverse remarks is pending.
 - c) Disciplinary proceedings, anti-corruption, or other enquiries or criminal cases are pending against the officer. However, preliminary inquiry/probe in the department or complaint pending with Anti-Corruption Establishment shall not be considered as a cause of deferment.
 - d) The officer is on deputation with a foreign Government/ international organization.
 - e) The officer is on training abroad/long leave for a period of more than six months or is not likely to return within a period of six months.
 - f) The officer is on contract appointment outside or within the department.
 - g) The inter se seniority of the officer is disputed/ subjudice.
 - h) The officer has not earned a full year's report after having been on deputation abroad/employment with foreign Government/long leave.
 - i) The officer does not fulfill any specific condition laid down for a specific category of officers/officials such as mentioned any Law, Rules, or Standing Order.
- 2) The civil servant whose promotion has been deferred will be considered in the subsequent DSB or DSC, as soon as the reason of deferment ceases to exist. The officer who for any reason is deferred for promotion shall regain his original seniority if he is not subsequently superseded.

7. Grounds for Supersession:

- 1) The Board shall supersede those officers who do not fulfill the eligibility threshold as provided in this Policy or any other Law, Rules or Standing Order.
- 2) The DSB, DSC or DPC may recommend a civil servant for supersession on the basis of any one or more of the following reasons:
 - a) The record of the officer contains adverse remarks (not expunged after representation) during the last three years.
 - b) The officer has failed to qualify or failed to appear in the prescribed departmental examination (within the prescribed attempts) or mandatory training.
 - c) The officer has been awarded a major penalty within three years of the date of consideration for promotion, and penalty order is not set aside by competent authority.
 - d) The officer has been awarded 05 or more minor penalties during the last 03 years.
 - e) The officer has been deferred by three consecutive DSBs, DSCs or DPCs.

*Attested
[Signature]*

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8. Communication of Reasons of Deferment/Supersession:

- 1) The officers deferred or superseded by the DSB, DSC or DPC shall be informed about the reasons for their supersession/deferment to enable such officers to improve their performance and to complete their record/any other deficiency, as the case may be.

9. Effect of Supersession on Promotion:

- 1) An officer who is superseded on any account shall lose his seniority and if he subsequently promoted, his seniority will be fixed at the top of the officers with whom he is promoted.
- 2) An officer who is superseded on any account shall not be considered for promotion unless he has earned one more PER for one full year.
- 3) First supersession shall be for one year and the case of the officer shall be brought up before the DSB, DSC or DPC after the lapse of that period. If the officer/official is superseded again, the supersession shall be for three years and if he is superseded again (third time) then it shall be treated as permanent supersession.

10. Forgo of Promotion:

- 1) Promotion is a mode of appointment, therefore, an officer after issuance of promotion notification, can refuse to accept the promotion. However, on such refusal he shall stand superseded.
- 2) The effect of such a supersession shall be for three years and the officer shall be considered for promotion after three years. In case the officer is cleared for promotion and he again forgoes promotion then the officer shall be deemed to have been permanently superseded.

11. Minimum Threshold Marks & Quantification:

- 1) The minimum threshold marks for promotion to various Basic Scales shall be calculated as per weightage in the following table:

Basic Scale	Last 05 Years PER/ACR	Training Score	DSB, DSC or DPC Score
BS 18	50 % weight	20 % weight	30 % weight
BS 17	60 % weight	20 % weight	20 % weight
BS 16	80 % weight	Pass	20 % weight
Others	80 % weight	Pass	20 % weight

- 2) The DSB, DSC or DPC, as the case may be shall apply its collective judgment to determine the fitness for promotion, and award marks to an officer and place him in category A, B or C in accordance with the classification given in the following table:

Category	Marks for BS-18	Marks for BS-17 and below
A	21-30	13-20
B	11-20	6-12
C	01-10	01-05

Attested
[Signature]

- 3) The DSB, DSC or DPC, as the case may be shall categorize officers on the attributes and parameters as given in the following table.

Parameters/ attributers	Marks for BS-18	Marks for BS-17 and below
Professional Expertise, quality of work and output	7.5	05
Variety and relevance of experience Training, Operations, Investigation and others	7.5	05
Leadership, conduct, discipline and behavior	7.5	05
Integrity, General reputation (financial, professional, ethical)	7.5	05

- 4) The minimum threshold marks for promotion to various Basic Scales shall be as follows:

Basic Scale	Minimum Threshold Marks
BS-18	70 % Marks
BS 17	65 % Marks
BS 16	60 % Marks
Others	50 % Marks

- 5) The PERs/ACRs shall be quantified in the following manner:

Grading	Quantification
Outstanding (A+)	10 Marks
Very Good (A)	8 Marks
Good (B)	7 Marks
Average (C)	5 Marks
Below Average (D)	3 Marks

12. Specialist Cadres:

- 1) The condition of mandatory periods as contained in Police Rules for general cadre shall not be strictly applicable to officers belonging to specialist cadres such as Traffic Wardens Service, Counter Terrorism Cadre, or any other specialized cadre of purely technical posts, for promotion within their own lines of specialization under their respective service rules.

13. Panel of Officers Per Vacancy:

- 1) A panel consisting of a minimum of two officers per vacancy shall be submitted for consideration of the DSB, DSC or DPC depending on availability of the eligible officers in the cadre.

14. Power to Remove Difficulties:

- 1) The Provincial Police Officer may by notification make changes in this Standing Order as deemed appropriate.


Attested
Moh

Sd/-
(MOAZZAM JAH ANSARI)PSP
(QPM, UNPM, NSWC)
PROVINCIAL POLICE OFFICER
KHYBER PAKHTUNKHWA

No. 531-630 /GB, dated Peshawar the 02 December, 2022

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

1. All Heads of Police Offices in Khyber Pakhtunkhwa.
2. PRO to PPO.
3. Registrar CPO, Peshawar.



(ABBAS AHSAN)PSP
DIG Headquarters,
Khyber Pakhtunkhwa, Peshawar

Abbas Ahsan
PRO