

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1629/2023

Muhammad Iqbal Retired Assistant Grade Clerk..... (Appellant)

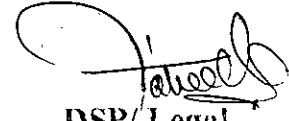
VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa etc.....(Respondents)

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DEPONENT


DSP/ Legal,
CPO, Peshawar

20-05-24
S. 13
Peshawar

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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Muhammad Iqbal Retired Assistant Grade Clerk

.....APPELLANT

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa and others

.....RESPONDENTS

PARA WISE COMMENTS BY RESPONDENT NO. 1 TO 3

RESPECTFULLY SHEWETH!

PRELIMINARY OBJECTIONS:

Khyber Pakhtunkhwa
Seal

(Diary No.) 12877

Date: 17-05-2024

- 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 Hon'ble Tribunal with clean hands.
- e) That the appellant has got no cause of action and locus standi to file instant Service Appeal.
- f) That the appeal is barred by law & limitation.

FACTS:

1. Correct to the extent that the appellant joined the Police department as Junior clerk but during service his performance was not upto the mark with bad or adverse entries/punishment etc.
2. Para No. 2 of appeal to the extent of Departmental Promotion Committee (DPC) is correct, however, appellant's case for promotion as Office Superintendent was discussed in the Departmental Promotion Committee held on 05.07.2013, but due to non availability of Annual Confidential Reports (ACRs), he was deferred from promotion.
3. Para pertains to record, however, the application of appellant was not on sound footing.
4. Para No. 4 of appeal to the extent of DPC and seniority position is correct, however, during Departmental Promotion Committee (DPC) meeting held on 01.01.2015, only the cases of top nine (9) Assistant Grade Clerk were discussed and they were promoted to the rank of Office Superintendent strictly in accordance with the merit policy.
5. Para No. 5 of appeal is correct to the extent of departmental action against appellant on account which he was awarded major punishment of reversion from Assistant Grade Clerk (BPS-16) to Senior Clerk (BPS-14). As discussed in para 2 above case of appellant for promotion to the rank of Office Superintendent was discussed in the DPC held on 05.07.2013 but due to non-availability of ACR, he was not promoted to the rank of Office Superintendent. He has not challenged such deferment after rejection of his representation during his service.
6. Para is correct to the extent that appellant filed Service Appeal No. 769/2018, against the order of reversion, which was allowed by setting aside the impugned orders vide judgment dated 21.10.2021. During pendency of appeal, appellant was retired from

service with effect from 19.11.2020 (AN) vide notification dated 27.11.2020, therefore, he shall be deemed to have been restored to the post of Assistant Grade Clerk with all back benefits and retired as such with effect from 19.11.2020.

7. Para is correct to the extent that judgment dated 21.10.2021 passed in Service Appeal No. 769/2018 has been implemented:
8. The judgment of this Hon'ble Tribunal dated 21.10.2021 has already been implemented, however, as discussed in Paras above, promotion case of appellant was discussed in DPC held on 05.07.2013 but due to non availability of his ACRs he was not promoted to the next rank. His promotion case was again discussed in the DPC meeting held on 01.01.2015, where he was at Serial No. 17 of the seniority list, and only cases of top nine (9) Assistant Grade Clerks were discussed and promoted as Office Superintendent, meant that no vacant post was available nor his name falls in the zone of promotions. Appellant during service has not challenged such deferment and after retirement for anti dated promotion, which was examined by the respondents and filed.
9. That the appellant has got no cause of action and the instant Service Appeal is not maintainable on the following grounds:-


GROUND:

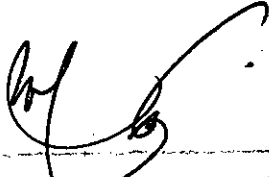
- A. Incorrect, the appellant has been treated in accordance with law/ rules/ facts.
- B. Incorrect, misleading and misconceived. ***"the practice of ante-dated confirmation and promotions have been put down in Raza Safdar Kazmi"*** (a judgment of the Punjab Service Tribunal dated 15.08.2006, passed in Appeal No. 239/2006 and upheld by the Supreme Court vide order dated 29.01.2008, passed in Civil Appeals No. 2017 to 2031 of 2006 and other connected matters).
- C. Incorrect, as already explained in preceding Para.
- D. Incorrect, the appellant has been treated as per law/ rules and Apex Court judgment as mentioned above in Para No. B of Grounds.
- E. As already explained in Para No. 5 of Facts.
- F. Incorrect, the appellant is concealing real facts from this Hon'ble Tribunal. The appellant during service has not challenged such deferment and after retirement he is claiming for ante-dated promotion which is not in accordance with law/rules and Apex Court judgment. The appellant has been treated in accordance with law/ rules.
- G. Incorrect, the appellant has not been suffered from the acts of respondent department. In fact he is concealing real facts from this Hon'ble Tribunal.
- H. As already explained above that ***"the practice of ante-dated confirmation and promotions have been put down in Raza Safdar Kazmi"*** (a judgment of the Punjab Service Tribunal dated 15.08.2006, passed in Appeal No. 239/2006 and upheld by the Supreme Court vide order dated 29.01.2008, passed in Civil Appeals No. 2017 to 2031 of 2006 and other connected matters).
- I. Incorrect, misleading and misconceived. As already explained above in detail.
- J. Incorrect and misleading. The promotion in Police department is always carried out on the basis of seniority-cum-fitness, fulfillment of eligibility criteria and availability of vacancies.
- K. Incorrect, as already explained above in detail.
- L. Correct to the extent that post of office Superintendent is to be filled in by promotion in accordance with law/ rules. But promotion in Police department is always carried out on the basis of seniority-cum-fitness, fulfillment of eligibility criteria and availability of vacancies.

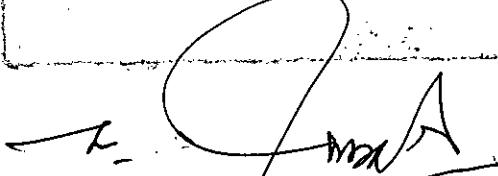
- M. Incorrect, as already explained above that the case of appellant for promotion to the rank of Office Superintendent was discussed in the DPC held on 05.07.2013 but due to non-availability of ACR, he was not promoted to the rank of Office Superintendent. He has not challenged such deferment after rejection of his representation during his service.
- N. Incorrect, as already explained above that *the practice of ante-dated confirmation and promotions have been put down in Raza Safdar Kazmi*" (a judgment of the Punjab Service Tribunal dated 15.08.2006, passed in Appeal No. 239/2006 and upheld by the Supreme Court vide order dated 29.01.2008, passed in Civil Appeals No. 2017 to 2031 of 2006 and other connected matters).
- O. Incorrect, the appellant has been treated in accordance with law/ rules and Apex Court judgment.
- P. Incorrect, misleading and misconceived, as already explained above that the case of appellant for promotion to the rank of Office Superintendent was discussed in the DPC held on 05.07.2013 but due to non-availability of ACR, he was not promoted to the rank of Office Superintendent. He has not challenged such deferment after rejection of his representation during his service.
- Q. As already explained above in preceding Paras.
- R. Incorrect, as already explained above that ante-dated promotion have been stopped by the Hon'ble Apex Court.
- S. Pertains to record of this Hon'ble Tribunal, needs no comments.
- T. Pertains to record of Hon'ble Court, needs no comments.
- U. Incorrect, no violation of constitution exist on part of respondent department.
- V. Incorrect, the appellant has been treated in accordance with law and rules, the appellant has not been deprived from his legitimate rights.
- W. The respondents seeks additional permission to adduce additional grounds at time of hearing of instant Service 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.


Regional Police Officer,
Kohat
Respondent No. 3
(SHER AKBAR) PSP
Incumbent


Deputy Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)
(IRFAN TARIQ) PSP
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. 1629/2023

Muhammad Iqbal Retired Assistant Grade Clerk

.....APPELLANT

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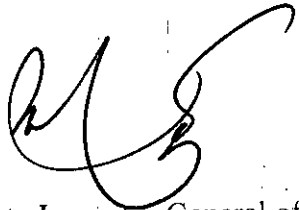
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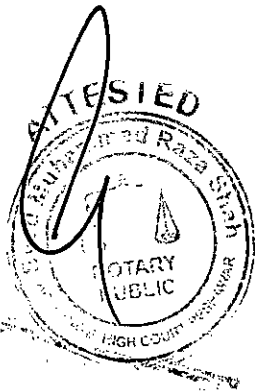
.....RESPONDENTS

AFFIDAVIT

I, Irfan Tariq 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 to 3 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. 02)
(IRFAN TARIQ)PSP
Incumbent



17 MAY 2024

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1629/2023

Muhammad Iqbal Retired Assistant Grade Clerk

.....**APPELLANT**

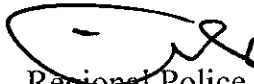
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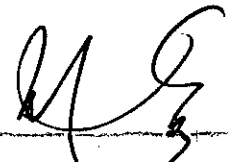
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
.....**RESPONDENTS**

AUTHORITY LETTER

Mr. Faheem Khan DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments/ reply in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar in the above mentioned Service Appeal and also to defend Service Appeals on behalf of respondents No. 1 to 3.


Regional Police Officer,
Kohat
Respondent No. 3
(SHER AKBAR) PSP
Incumbent


Deputy Inspector General of Police,
HQs: Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)
(IRFAN TARIQ) PSP
Incumbent

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


MINUTES OF THE DEPARTMENTAL SELECTION COMMITTEE MEETING HELD ON 01-01-2015 & 05-01-2015 IN THE CONFERENCE ROOM-II, CPO PESHAWAR

A meeting of Departmental Selection Committee was held on 01-01-2015 and 05-01-2015 in Conference Room-II CPO to discuss/examine the following cases:-

- Promotion of Senior Most Assistant Grade Clerks & Stenographers (BPS-16) to Office Supdt: (BPS-17).
- Application of Muhammad Aftab Database Administrator of Traffic.
- Application of Pervez Elahi Registrar, CPO.

2. The following officers attended the meeting:-

| | | |
|----|--|----------|
| 1. | Mian Muhammad Asif, Addl: IGP/HQrs: Khyber Pakhtunkhwa. | Chairman |
| 2. | Mr. Shaukat Hayat, Addl: IGP/Special Branch, Khyber Pakhtunkhwa. | Member |
| 3. | Mr. Muhammad Ali Baba Khel, Addl: IGP/Inv: Khyber Pakhtunkhwa. | Member |
| 4. | Mr. Mubarak Zeb, DIG/HQrs: Khyber Pakhtunkhwa. | Member |
| 5. | Syed Fida Hassan Shah, AIG/Establishment, CPO, Peshawar. | Member |
| 6. | Mr. Mushtaq Ahmed AIG/Legal, CPO, Peshawar. | Member |

3. 10 vacancies of Office Superintendent (BPS-17) were available and required to be filled in by promotion from amongst the senior most Assistant Grade Clerks & Stenographers (BPS-16). According to laid down procedure, 05 years ACRs, No Departmental Enquiry and Medical Fitness Certificates cum seniority are required to be examined for promotion to the next scale. Apart from this Stenographers are to be cleared a departmental exam.

4. The Departmental Selection Committee examined the cases in the light of laid down procedure spelled in Para No.3. Recommendations of the Departmental Selection Committee are noted against each:-

| S.No | NAME | REGIONS/UNITS | REMARKS |
|-------|---------------------------------------|----------------|---|
| i. | Muhammad Nisar, Asstt: Grade Clerk | Battagram | Recommended to be promoted subject to completion of ACRs for the period 01-01-2012 to 31-12-2012 within one (1) month. |
| ii. | Khurshid Anwar, Asstt: Grade Clerk | RTW, Mansehra | Recommended to be promoted subject to completion of ACRs for the period 01-01-2009 to 30-07-2009, 01-01-2010 to 31-12-2010 & 01-01-2011 to 27-04-2011 within one (1) month. |
| iii. | Inamullah Jan, Asstt: Grade Clerk | Special Branch | Recommended to be promoted. |
| iv. | Bakht Biland, Asstt: Grade Clerk | FRP/Swat | Recommended to be promoted. |
| v. | Attaullah Khan, Asstt: Grade Clerk | Bannu | Recommended to be promoted subject to completion of ACRs for the period 01-01-2012 to 29-04-2012 & 17-03-2013 to 26-06-2013 within one (1) month. |
| vi. | Habib Ali, Asstt: Grade Clerk | RTC Kohat | Superseded due to adverse ACR for the period of 01-01-2012 to 02-10-2012. |
| vii. | Abdul Hamid, Asstt: Grade Clerk | D.I.Khan | Recommended to be promoted. |
| viii. | Nowsherawan, Asstt: Grade Clerk | Bannu ✓ | Recommended to be promoted subject to completion of ACR for the period 16-03-2013 to 24-06-2013 within one (1) month. |
| ix. | Muhammad Ilyas, Asstt: Grade Clerk | FRP/D.I.Khan | Recommended to be promoted. |
| x. | Muhammad Riaz-I, Stenographer | Abbottabad | Recommended to be promoted subject to completion of ACRs for the period 21-05-2009 to 31-12-2009 & 01-01-2013 to 19-08-2013 within one (1) month. |

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Attested by
27-8-2024

| | | | |
|-------|-----------------------------------|-------|---|
| xi. | Kamran Ali, Stenographer | FRIP | Superseded due to indifferent service record. He has not qualified Departmental Examination also. |
| xii. | Muhammad Riaz-II, Stenographer | Bannu | Deferred because he has not qualified Departmental Examination. |
| xiii. | Abdur Rasheed-I, Stenographer | PCU | Recommended to be promoted. |

5. As regard to agenda item 1.b, Mr. Muhammad Aftab Database Administrator submitted an application wherein he has requested to refer his case to Provincial Govt: for up-gradation of his post as reflected in the IT Rules of Khyber Pakhtunkhwa, Police Department. The case does not come under the domain of Departmental Selection Committee.

6. As regard to agenda item 1.C, Mr. Pervez Elahi stated in his application that he has taken over the charge of the post of Registrar CPO, and he was deprived from two increments due to faulty notification, which is great financial loss to him. The Committee after perusing the record directed that a fresh notification of promotion of Mr. Pervez Elahi be issued.

7. Meeting ended with vote of thanks to all.

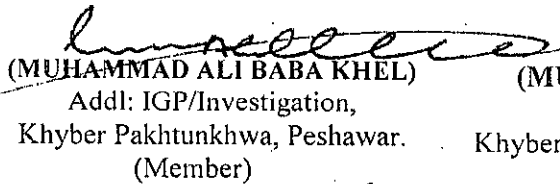
Chairman



(MIAN MUHAMMAD ASIF)
Addl: IGP/Headquarters,
Khyber Pakhtunkhwa, Peshawar.



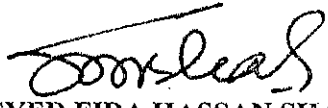
(SHAUKAT HAYAT)
Addl: IGP/Special Branch,
Khyber Pakhtunkhwa, Peshawar.
(Member)



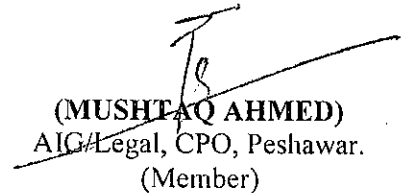
(MUHAMMAD ALI BABA KHEL)
Addl: IGP/Investigation,
Khyber Pakhtunkhwa, Peshawar.
(Member)



(MUBARAK ZEB)
DIC/HQrs:
Khyber Pakhtunkhwa, Pesh:
(Member)

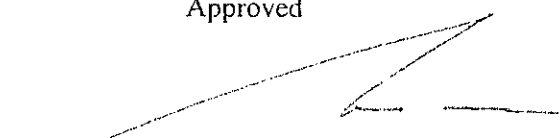


(SYED FIDA HASSAN SHAH)
AIG/Establishment,
CPO, Peshawar.
(Member)



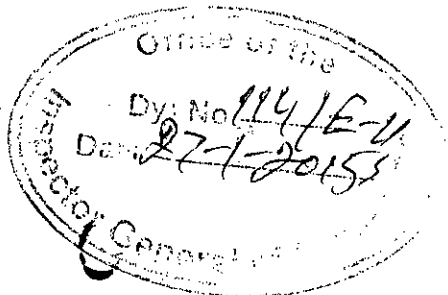
(MUSHTAQ AHMED)
AIG/Legal, CPO, Peshawar.
(Member)

Approved



(NASIR KHAN DURRANI)
Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

Attested
SPC
17-8-24



EU