

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

CM No. /2024

IN

Service Appeal No. 1771/2023

Inspector General of Police, Khyber Pakhtunkhwa etc.....(Applicant)


Versus

Tayyab Jan and others.....(Respondents)

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DEPONENT

  
DSP/ Legal,  
CPO, Peshawar

28-06-24  
Peshawar

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**

CM in Service Appeal No. 1771/2023

Inspector General of Police, Khyber Pakhtunkhwa etc.....(Applicant)

Versus

Tayyab Jan and others.....(Respondents)

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 13520

Dated 13-06-24

**CM APPLICATION FOR CLUBBING IDENTICAL SERVICE APPEALS AND  
PLACING ADDITIONAL DOCUMENTS RELATED TO OUT OF TURN  
PROMOTIONS**

The Hon'ble Khyber Pakhtunkhwa Service Tribunal in the captioned Service Appeal vide order dated 24.05.2024 directed the representative to submit list/ details of all such cases along with the date fixed in those cases within three (03) days.

2. The Hon'ble Peshawar High Court, Peshawar while hearing the cases of Out of Turn Promotions, categorized Out of Turn Promotions into Gallantry, Cadetship, FRP cases, Inter-Provincial Transfer & permanent absorption into KP Police, Cadre Change & illegal absorption and Out of Turn Promotions granted to Women Police under the garb of Standing Order No. 04/2014 vide its consolidated judgment dated 29.09.2023 in Writ Petition No. 1587-P/2022.

The Hon'ble Peshawar High Court, Peshawar admitted Cadetship cases, Inter Provincial Transfer cases, Promotional courses on extra seats cases and remitted Women Police cases & Class-IV employees' absorption into Telecommunication Unit and dismissed gallantry cases vide consolidated judgment dated 29.08.2023. The cases of FRP Police officials who had undergone promotional courses with accelerated intervals at the strength of Frontier Reserve Police (FRP) were remitted to Service Tribunal vide separate order dated 29.08.2023 in Writ Petition No. 1289-P/2023.

Respondent Department filed the following CPLAs in the Apex Court against consolidated judgment dated 29.08.2023 in Writ Petition No. 1587/2022:-

S#	CPLA No. in WP	Titled	Category
1.	685-P/2023 in 460-A/2023	Government of KP etc Vs Zulfiqar Jadoon	Inter Provincial
2.	697-P/2023 in 1196-P/2023	IGP KP etc Vs Muhammad Saeed	-do-
3.	707-P/2023 in 1163-P/2023	Government of KP etc Vs Saleem Amanullah	-do-
4.	708-P/2023 in 1164-P/2023	Government of KP etc Vs Jamil Ur Rehman	-do-
5.	725-P/2023 in 1289-P/2023	Government of KP etc Vs Tayyab Jan	FRP
6.	726-P/2023 in 2191-P/2023	Government of KP etc Vs Muhammad Iqbal	-do-

3. The following cases pertain to Out of Turn Promotions of Police Officials based on accelerated promotional courses at the strength of Frontier Reserve Police (FRP). The Hon'ble Peshawar High Court, Peshawar vide separate Order dated 29.08.2023 remitted Writ Petition No. 1289-P/2022 with CM No. 1300 of 12 petitioners to KP Service Tribunal for proper decision under the law;

- i. Tayyab Jan DSP alongwith 11 others filed WP No. 1289-P/2023 with CM # 1300-P/2023 challenging their demotion orders dated 16.03.2023 and restrain from demotion. WP was transmitted to Service Tribunal for decision vide order dated 29.08.2023. Police Department filed CPLA# 725-P/2023 in the Apex Court which is pending for adjudication. Appellant filed fresh Service Appeal No. 1771/2023 challenging his demotion order dated 16.03.2023, before the Tribunal. Comments filed.
- ii. Muhammad Iqbal DSP was a party in the Writ Petition No. 1289-P/2022. Now, he has filed Service Appeal No. 1793/2023 against his demotion order which is fixed for 13.06.2024. Comments already filed.
- iii. Shakeel Ahmad DSP was also party in the Writ Petition No. 1289-P/2022. Now, he has filed Service Appeal No. 1771/2023 which is fixed for 13.06.2024. Comments filed. Shakeel Ahmad also filed CM No. 795/2023 in SA No. 1771/2023. Fixed for 13.06.2024. Besides this, Shakeel Ahmad has also filed SA No. 2072/2023 challenging his demotion order dated 16.03.2023 which is fixed for 13.06.2024.
- iv. Nasir Khan DSP has filed Service Appeal No. 242/2023 wherein he challenged SPs promotion notification and claimed his promotion against 17 junior private respondents. He also filed a CM No. 332/2023 in Service Appeal No. 242/2023 wherein he prayed to restrain the department from passing any adverse order against the appellant under the garb of incorrect dates & service data in the seniority lists and record, till the disposal of main service appeal. Fixed for 13.06.2024.

Nasir Khan DSP in pursuance of PHC order dated 29.08.2023 in WP# 1289/2023 remitted to Service Tribunal, filed fresh service appeal No. 1726/2023 wherein he challenged his demotion order dated 15.03.2023. Comments already filed and fixed for 13.06.2024.

- v. Muhammad Riaz Khattak DSP in pursuance of PHC order dated 29.08.2023 in WP No. 1289/2023 filed fresh service appeal No. 2327/2023 wherein he challenged his demotion order dated 14.03.2023 comments filed and fixed for 13.06.2024.
- vi. Ali Hassan DSP in pursuance of PHC order dated 29.08.2023 in WP# 1289/2023, filed fresh service appeal No. 2328/2023 wherein he challenged his demotion order dated 14.03.2023 comments filed and fixed for 13.06.2024.

4. The following cases pertain to Police Officials who were Inter Provincially transferred from other Provinces and permanently absorbed in KP Police in negation of Law/rules and Apex Court Judgments thus the same is infringement upon the rights of other Police Officials in terms of seniority and promotion also called Out of Turn Promotions;

- i. Waqar Ahmad DSP being beneficiary of Inter Provincial Transfer and absorption into KP Police, filed Service Appeal No. 309/2023 wherein he challenged non consideration of his nomination for promotion to BPS-18. Comments filed and fixed for 13.06.2024.
- ii. Asad Mehmood DSP being beneficiary of Inter Provincial Transfer and absorption into KP Police, filed Service Appeal No. 311/2023 wherein he

challenged his non-consideration for promotion to the rank of SP BPS-18 vide Notification dated 05.09.2022.

- iii. Zulfiqar Khan Jadoon @ DSP being beneficiary of Inter Provincial Transfer and absorption into KP Police, filed Service Appeal No. 312/2023 wherein he challenged promotion Notification dated 05.09.2022 and sought his promotion to the rank of SP.
- iv. Saleem Aman Ullah DSP being beneficiary of Inter Provincial Transfer and absorption into KP Police, filed Service Appeal No. 313/2023 wherein he challenged promotion notification dated 05.09.2022 and sought his promotion to the rank of SP. Comments filed and fixed for 13.06.2024.
- v. Sher Wazir DSP (R) being beneficiary of Inter Provincial Transfer and absorption into KP Police, filed Service Appeal No. 314/2023 wherein he challenged promotion notification dated 05.09.2022 and sought his promotion to the rank of SP. Comments filed and fixed for 13.06.2024.

5. The following case of DSP Rehmat Ullah pertains to Out of Turn Promotion in special case deprecated by the law/rules and Apex Court Judgments.

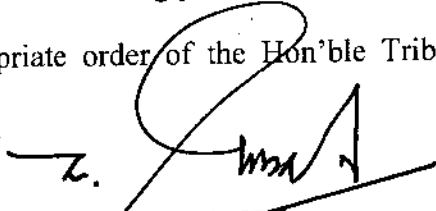
Rahmat Ullah DSP challenged his demotion order dated 15.03.2023 in WP No. 1393-P/2023 which was disposed of vide order dated 22.06.2023 by remitting the matter to IGP KP for decision afresh under the law. Police Department maintained and issued demotion order dated 13.06.2024 which has not been challenged in the instant service appeal but earlier order dated 15.03.2023 has been impugned by the appellant.

6. The Apex Court of Pakistan decided departmental CPLAs No. 685-P/2023 in 460-A/2023, 697-P/2023 in 1196-P/2023, 707-P/2023 in 1163-P/2023 & 708-P/2023 in 1164-P/2023 etc vide its order dated 29.04.2024 by setting aside judgment dated 29.08.2023 of Peshawar High Court, Peshawar and remitted the matter to Inspector General of Police, Khyber Pakhtunkhwa for decision afresh under the law. While CPLAs No. 725-P/2023 in 1289-P/2023 & 726-P/2023 in 2191-P/2023 against Order dated 29.08.2023 of the Hon'ble Peshawar High Court are subjudice before the Apex Court (copy of judgment is enclosed).

### PRAYER

Keeping in view the above, the Hon'ble Service Tribunal is requested to club all the cases of Out of Turn Promotions mentioned at Para 4 above, having same question of law involved therein and remit the cases to Respondent Department for decision afresh under the law in light of Apex Court order dated 29.04.2024, while the cases mentioned at Para No. 3 & 5 may be decided accordingly.

Submitted for kind perusal and appropriate order of the Hon'ble Tribunal, please.

  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
Incumbent

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**

CM No. /2024

IN

Service Appeal No. 1771/2023

Inspector General of Police, Khyber Pakhtunkhwa etc.....(Applicant)

Versus

Tayyab Jan and others.....(Respondents)

**AFFIDAVIT**

I, Faheem Khan DSP/ Legal, CPO, Peshawar, do hereby solemnly affirm on oath that the contents of accompanying CM on behalf of respondent i.e. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for placing additional documents and clubbing identical Service Appeals in captioned Service Appeal are correct to the best of our knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

13 JUN 2024



A handwritten signature in black ink, appearing to read "Faheem Khan".

(FAHEEM KHAN)  
DSP/ Legal,  
CPO, Peshawar



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR

No. 135 /PA/DIG/HQrs

Dated Peshawar, the 08/11/2023

AUTHORITY LETTER

Mr. Faheem Khan Acting DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments/ replies in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar, under affidavit in his name and also to defend Service Appeals on behalf of Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

*This issues with approval of Inspector General of Police, Khyber Pakhtunkhwa.*

(REZWAN MANZOOR) DSP  
Deputy Inspector General of Police, HQrs,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar

CC:

- Copy of above is forwarded to the:-
1. Addl: Inspector General of Police, HQrs Khyber Pakhtunkhwa.
  2. Deputy Inspector General of Police, Legal, Khyber Pakhtunkhwa.
  3. AIG/Establishment, Khyber Pakhtunkhwa.
  4. AIG/Legal, Khyber Pakhtunkhwa.
  5. PSO to Worthy Inspector General of Police, Khyber Pakhtunkhwa.
  6. Registrar CPO.
  7. Acting DSP/ Legal, CPO, Peshawar
  8. OS, Legal Branch, CPO.

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**

CM in Service Appeal No. 1771/2023

Inspector General of Police, Khyber Pakhtunkhwa etc.....(Applicant)

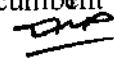
Versus

Tayyab Jan and others.....(Respondents)

**AUTHORITY LETTER**

Mr. Faheem Khan DSP/ Legal, CPO, Peshawar is authorized to submit CM application for placing additional documents and clubbing identical Service Appeals in the captioned Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant Service Appeal on behalf of respondents.



DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
Incumbent  


**THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Bench-II:**


Mr. Justice Syed Mansoor Ali Shah  
Mr. Justice Muhammad Ali Mazhar  
Mr. Justice Athar Minallah

**Civil Petition Nos.3582, 3583, 3813, 657-P of 2023, 81-P of 2024, Civil Petition Nos.657-P, CMA No.81-P/2024 in CP-657-P/2023, Civil Petition Nos.675-P to 709-P of 2023 and Civil Petition No.737-P of 2023 along with CMA No.3599 of 2024 in CPLA-No.NU/2024**

(Against the judgment dated 29.08.2023 of the Peshawar High Court, Peshawar passed in W.P. Nos.1815-P/23, 1814-P/23, 453-M/21, 1587-P/22, 488-M/22, 3761-P/22, 325-M/23, 329-M/23, 398-A/23, 399-A/23, 420-A/23, 421-A/23, 422-A/23, 423-A/23, 460-A/23, 472-A/23, 503-A/23, 504-A/23, 532-A/23, 539-A/23, 551-A/23, 577-A/23, 730-A/23, 747-A/23, 1093-P/23, 1092-P/23, 1196-P/23, 1197-P/23, 1277-P/23, 1281-P/23, 1405-P/23, 1449-P/23, 1468-P/23, 1587-P/23, 1588-P/23, 1612-P/23, 1163-P/23, 1164-P/23, 1836-P/23 and 1097-P of 2023) (CMA No.3599/24 for permission to file and argue the CPLA)

Hameed Khan and others	...Petitioners in CP-3582/2023
Fazal Ullah	Petitioner in CP-3583/2023
Habib Ullah Khan and others	Petitioner in CP-3813/2023
Govt. of K.P. thr. its Chief Secretary Peshawar and others	Applicant in CMA-81-P/2024 in CP-657-P/2023
Govt. of K.P. thr. its Chief Secretary, Peshawar and others	Petitioners in all remaining cases except CPs-676-P, 685-P, 686-P, 694-P, 697-P, 698-P, 700-P, 701-P and 737-P of 2023
Deputy Inspector General of Police-Telecommunication K.P., Peshawar and others	Petitioners in CP-676-P/2023
Secretary Home & Tribal Affairs Deptt. Govt. of K.P. Peshawar and others	Petitioners in CP-685-P/2023

**ATTESTED**

  
Senior Court Associate  
Supreme Court of Pakistan  
Islamabad



The Provincial Police Officer,  
K.P. Peshawar and others

Petitioners in CP-  
686-P/2023

The Provincial Police Officer,  
K.P. Peshawar and others

Petitioners in CP-  
694-P/2023

The Inspector General of Police, K.P.  
Peshawar now Provincial Police Officer,  
CPO, Peshawar, K.P. and others

Petitioners in CP-  
697-P/2023

The Inspector General of Police, K.P.  
now Provincial Police Officer, K.P. Peshawar  
and others

Petitioners in CP-  
698-P/2023

Deputy Inspector General of Police-  
Telecommunication, K.P. Peshawar and others

Petitioners in CP-  
700-P/2023

Govt. of K.P. through Secretary Home &  
Tribal Affairs Department, Peshawar and  
others

Petitioners in CP-  
701-P/2023

Ayat Ullah

Petitioner in CP-  
737-P of 2023

Muhammad Yousaf, DSP Alizai Kurram  
and others

Applicant in CMA-  
3599/24 in CPLA-  
Nil/24

*Versus*

Government of K.P. thr. Chief Secy. Peshawar,  
etc.

...Respondents in  
CP-3582/2023

Government of K.P. thr. Secretary Home &  
Tribal Affairs Department, Peshawar and others

...Respondents in  
CP-3583/2023

Government of K.P. thr. I.G. K.P./Provincial  
Police Officer, Peshawar and others

...Respondents in  
CP-3813/2023

Shah Mumtaz and others

...Respondents in  
CP-657-P/2023 and  
CMA-81-P/2024

**ATTESTED**

  
Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

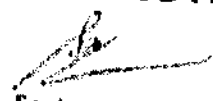
Badshah Hazrat and others	...Respondents in CP-675-P/2023
Jamal Shah and others	...Respondents in CP-676-P/2023
Zahid Ali and others	...Respondents in CP-677-P/2023
Jawahar and others	...Respondents in CP-678-P/2023
Gul Rehman and others	...Respondents in CP-679-P/2023
Muhammad Farooq and others	...Respondents in CP-680-P/2023
Muhammad Haroon Khan	...Respondents in CP-681-P/2023
Taifoor Khan and another	...Respondents in CP-682-P/2023
Muhammad Ajmal	...Respondents in CP-683-P/2023
Waheed Khan	...Respondents in CP-684-P/2023
Zulfiqar Ali	...Respondents in CP-685-P/2023
Fazal Raheem	...Respondents in CP-686-P/2023
Qazi Muhammad Ajmal Khan and another	...Respondents in CP-687-P/2023
Zakir Hussain	...Respondents in CP-688-P/2023

**ATTESTED**

  
Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

Sardar Muhammad and others	...Respondents in CP-689-P/2023
Muhammad Yasir and others	...Respondents in CP-690-P/2023
Babar Zaman and others	...Respondents in CP-691-P/2023
Raja Hashim Khan and another	...Respondents in CP-692-P/2023
Ubaid Khan and others	...Respondents in CP-693-P/2023
Zareen Taj and others	...Respondents in CP-694-P/2023
Khalid Usman and others	Respondents in CP- 695-P/2023
Muhammad Suhail and others	...Respondents in CP-696-P/2023
Muhammad Saeed and another	...Respondents in CP-697-P/2023
Shams ur Rehman and others	...Respondents in CP-698-P/2023
Kabeer Ahmad	...Respondents in CP-699-P/2023
Asif Khan and others	...Respondents in CP-700-P/2023
Muhammad Imran and another	...Respondents in CP-701-P/2023
Shahab Khan	...Respondents in CP-702-P/2023
Sameena Zafar Bokhari	...Respondents in CP-703-P/2023
Irada Ali and others	...Respondents in CP-704-P/2023
Muhammad Atif Kazmi and others	...Respondents in CP-705-P/2023

**ATTESTED**

  
Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

Tariq Jamal ... Respondents in  
CP-706-P/2023

Salcem Amanullah and others ... Respondents in  
CP-707-P/2023

Jamil ur Rehman ... Respondents in  
CP-708-P/2023

Fazal Mehmood and others ... Respondents in  
CP-709-P/2023

Inspector General of Police, CPO, Peshawar and  
others ... Respondents in  
CP-737-P/2023

Government of K.P. through its Chief Secretary,  
Peshawar and others ... Respondents in  
CMA-3599/24 in  
CPLA-Nil/24.

**In attendance:**

Syed Mubashar Shah, ASC  
Mr. Zia ur Rehman Tajik, ASC  
Dr. Adnan Khan, ASC  
Mr. Mudassar Khalid Abbasi, ASC  
Mr. Shumail Butt, ASC  
Mr. Junaid Anwar, ASC  
Mr. Ashraf Ali, ASC  
Syed Rifaqat Hussain Shah, AOR  
Mr. Muhammad Tariq Khan, AOR  
Ch. Akhtar Ali, AOR  
Mr. Muhammad Sharif Janjua, AOR

Shah Faisal Ilyas, Addl. A.G.  
Mian Saadullah Jandoli, AOR  
Muhammad Asif AIG (Legal)  
Farook Khan, DSP  
Muhammad Tariq Usman, Inspector

Date of Hearing: 29.4.2024

**ORDER**

**Syed Munsoor Ali Shah, J.-** Brief background of the case is that in a series of judgments handed down by this Court i.e. in the matter of contempt proceedings against Chief Secretary, Sind and others (2013 SCMR 1752), Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456) and Shahid Pervaiz v. Ejaz Ahmad (2017 SCMR 206) the practice of out of turn promotion was deprecated and directions were issued to the

**ATTESTED**

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

respective police authorities to rectify the issue. In pursuance thereof the matter was taken up by the police authorities. On initiation of the matter some of the police officers challenged the matter before the Peshawar High Court which came up before a Full Bench of the Peshawar High Court which *vide* order dated 24<sup>th</sup> of March 2022 passed in Writ Petition No.684-A of 2021 issued a direction to the Chief Secretary, KPK that in the light of the *Khyber Pakhtunkhwa Validation of Standing Order Act, 2005* ('Validation Act'), *Police Rules, 1934* and *K.P. Police Act, 2017* the matter be taken up and the issue of accelerated, out of turn promotions be considered and a policy decision be taken in this regard. Thereafter, *vide* letter dated 21<sup>st</sup> of April, 2022 the matter was taken up by the Inspector General of Police, Khyber Pakhtunkhwa who issued directions to all the concerned RPOs, CCPOs and Units to demote all such officers enjoying accelerated and out of turn promotions in the light of the judgments of the Supreme Court of Pakistan. According to the AIG Police, Khyber Pakhtunkhwa, present in Court, in all cases speaking orders of demotion were passed against the officers after granting them a hearing while in some other matters the officers preferred Writ Petitions before the High Court and obtained interim relief. It is these cases which have come before us through the impugned judgment.

2. The primary question raised by the learned counsel for the respondents is that their accelerated or out of turn promotions stand protected under the Validation Act and therefore, the said out of turn promotion should not have been set aside unless and until there was a legislative change brought about in the Validation Act. They also contend that in earlier judgments of the Supreme Court, the scope and *vires* of the Validation Act has not been discussed nor the said Validation Act had been set aside by this Court in these cases.

3. Be that as it may, we note at the outset that the respondents could not have approached the High Court without there being any order passed against them, hence some of the petitions in this regard are premature. As far as the cases where order of demotion had been passed still the respondents could not have approached the High Court as there was a clear bar of Article 212 of the Constitution as out of turn promotions relates to terms and conditions of service of a civil servant and they should have instead approached the Provincial Service Tribunal.

**ATTESTED** 

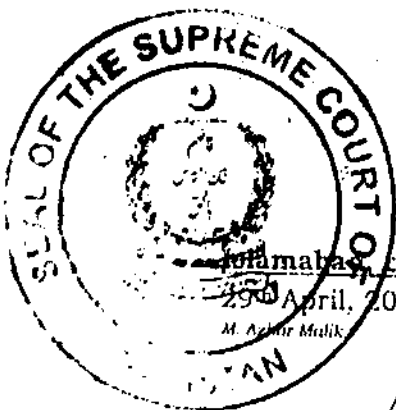
  
Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

4. Faced with these facts, the parties have now arrived at a consensus that the things are different in KPK due to the prevalence of the Validation Act which validates and protects the earlier out of turn promotions made by the I.G. Police, Khyber Pakhtunkhwa. The parties have no objection if the matter is placed afresh before the concerned competent authority who will pass a speaking order regarding the out of turn promotions granted to the Police Officers in KPK. in the light of the judgments of the Supreme Court of Pakistan as well as the statutory framework existing in the KPK i.e. the Validation Act, Police Rules, 1934 and K.P. Police Act, 2017. Any earlier order passed of demotion without addressing the scope of this legal framework is set aside. The parties shall appear before the competent authority within a month and we are sanguine that the competent authority will decide the matter once and for all considering the entire legislative framework within the period of two months thereof after granting a hearing to the concerned officers and by passing a speaking order. All the petitions are therefore, converted into appeals and allowed in the foregoing terms. The impugned judgment is set aside.

**CMA No.3599 of 2024 in CPLA-No.Nil/2024**

For the reasons mentioned therein, this CMA for permission to file and argue the petition is allowed and the petition to be numbered by the office is converted into appeal and allowed by setting aside the impugned judgment.

Sd/-J  
Sd/-J  
Sd/-J



Certified to be True Copy

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

GR No. 6/359/24 Civil/Criminal  
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