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REGISTERED
No. C.As. 901-913/2024 – SCJ
SUPREME COURT OF PAKISTAN.

Islamabad, dated 3-07-2024, 2024.

From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

The Registrar,
K.P.K., Service Tribunal,
Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 141734

Dated 10-07-2024

Subject: CIVIL APPEAL NOS. 901 to 913 OF 2024.
OUT OF
CIVIL PETITION NOS. 204-P to 215-P & 1848/2023.

1. AIG Establishment for Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others. (App. in C.As.901-912/2024).
 2. Sajjid Khan and others. (App. in C.A.913/2024).
- Versus
1. Hameed Ullah and others. (Res. in C.A.901/2024).
 2. Zain Ullah and others. (Res. in C.A.902/2024).
 3. Amir Aman and others. (Res. in C.A.903/2024).
 4. Waheed Ullah and others. (Res. in C.A.904/2024).
 5. Saif Ullah and others. (Res. in C.A.905/2024).
 6. Danish Sarwar and others. (Res. in C.A.906/2024).
 7. Imtiaz and others. (Res. in C.A.907/2024).
 8. Waheed ur Rehman and others. (Res. in C.A.908/2024).
 9. Rehmat Ullah and others. (Res. in C.A.909/2024).
 10. Ibrahim and others. (Res. in C.A.910/2024).
 11. Nasir Mehmood and others. (Res. in C.A.911/2024).
 12. Khalil-ur-Rehman and others. (Res. in C.A.912/2024).
 13. Hameed Ullah and others. (Res. in C.A.913/2024).

On appeal from the Judgment/Order of the KPK., Service Tribunal, Peshawar dated 01.02.2023, in Appeal Nos. 4956, 4803, 4804, 4805, 4806, 4957, 4958, 4959, 4960, 4961, 4962 & 4991 of 2021.

Dear Sir,

I am directed to forward herewith a certified copy of the Order/Judgment of this Court dated 28.06.2024, converting into appeal the above cited civil petitions and allowing as well as disposing of the civil misc. applications, in the terms stated therein, for information and necessary action.

I am also to invite your attention to the directions of the Court contained in the enclosed Order for immediate compliance.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order:

Yours faithfully,


(MUHAMMAD SHAHID HABIB
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

48/24

THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Amin-ud-Din Khan
Justice Athar Minallah

**Civil Petition Nos.204-P to 215-P of
2023 & Civil Petition No.1848 of 2023**

(Against the judgment dated 1.2.2023 of the
Khyber Pakhtunkhwa Service Tribunal,
Peshawar passed in Service Appeal Nos.4956,
4803, 4804, 4805, 4806, 4957, 4958, 4959,
4960, 4961, 4962 and 4991 of 2021)

AIG Establishment for Inspector General
of Police Khyber Pakhtunkhwa, Peshawar
Sajjid Khan and others

(in CP 204-P to 215-P/23)
(in CP 1848/23)
... **Petitioners**

Versus

Hameed Ullah and others
Zain Ullah and others
Amir Aman and others
Waheed Ullah and others
Saif Ullah and others
Danish Sarwar and others
Imtiaz and others
Wahheed ur Rehman and others
Rehmat Ullah and others
Ibrahim and others
Nasir Mehmood and others
Khalil-ur-Rehman and others
Hameed Ullah and others

(in CP-204-P/2023)
(in CP-205-P/2023)
(in CP-206-P/2023)
(in CP-207-P/2023)
(in CP-208-P/2023)
(in CP-209-P/2023)
(in CP-210-P/2023)
(in CP-211-P/2023)
(in CP-212-P/2023)
(in CP-213-P/2023)
(in CP-214-P/2023)
(in CP-215-P/2023)
(in CP-1848/2023)
... **Respondents.**

For the petitioner(s): Syed Kausar Ali Shah, Additional Advocate General,
Khyber Pakhtunkhwa
(in CPs-204-P to 215-P of 2023)

Mr. Amjad Ali, ASC
(in CP-1848 of 2023)

For respondent No.1: Mr. Misbahullah Khan, ASC
(in all cases)

For respondent Nos.2-4: Mr. Amjad Ali, ASC
(in CPs-204-P to 215-P of 2023)


Amicus curie: Mr. Kamran Adil, DIG (Operations) Punjab.

Date of hearing: 28.06.2024

ORDER

Athar Minallah, J.- The Inspector General of Police, Khyber
Pakhtunkhwa has sought leave against the judgment dated 01.2.2023
of the Khyber Pakhtunkhwa Service Tribunal ("**Tribunal**")

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Court Associate
Supreme Court of Pakistan
Islamabad

2. The respondents were appointed as Constables in the Districts of their respective domiciles. They were later transferred by the competent authority to District Mardan where they were placed at the bottom of the seniority list. It appears from the record that "lien" was also transferred to District Mardan. The respondents while serving in District Mardan fulfilled the criteria for promotion and they were consequently promoted to the post of Head Constable. It appears from the record that they were, *prima facie*, promoted against the sanctioned posts in District Mardan. The respondents were aggrieved when the competent authority ordered their transfer to their respective parent Districts of their domicile. After exhausting departmental remedies, they invoked the jurisdiction of the Tribunal and the latter vide the impugned judgment dated 01.2.2023 allowed the appeals and consequently set-aside the orders whereby they were transferred to the Districts of their respective domiciles.

3. It appears from the impugned judgment of the Tribunal that the relevant provisions of the Khyber Pakhtunkhwa Police Act of 2017 ('Act of 2017') and the Police Rules, 1934 ('Rules of 1934') were not taken into consideration. This Court vide order dated 17.01.2024 had appointed Mr. Kamran Adil, Deputy Inspector General of Police (Operations), Punjab as *amicus curie* to assist us on the legal questions involved in these petitions. The latter appeared before us today and highlighted the legal position regarding status of the respondents in the light of the Act of 2017 and the Rules of 1934. He, however, has drawn our attention to the principles enunciated by this Court in the case of Syed Hammad Nabi¹. He has emphasized that in the light of the said principles it would be appropriate if the dispute involved in the petitions in hand is remanded to the Inspector General of Police,

¹ Syed Hammad Nabi and others v. Inspector General of Police, Punjab and others (2023 SCMR 584)

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Khyber Pakhtunkhwa for its resolution in the light of the provisions of the Act of 2017 and the Rules of 1934.

4. This Court in the aforementioned judgment has emphasized that ordinarily the courts should allow the police force to regulate its affairs by its statutory framework, which in this case is the Act of 2017 and the Rules of 1934. It has further been emphasized that disputes among the police officers must be resolved first by the Inspector General of Police or his representatives and only in case of any legal interpretation or blatant abuse of the process provided under the statutory framework the courts should interfere in the working of the police force so as to enable the force to maintain its functioning, autonomy, independence and efficiency. The learned counsels for the respondents when confronted with the suggestion made by the *amicus curie*, taking a fair stance, have stated that as suggested, the matter may be remanded to the Inspector General of Police, Khyber Pakhtunkhwa for resolving the dispute in accordance with the statutory framework i.e. the Act of 2017, the Rules of 1934 and other relevant regulations. However, they have further stated that in order to protect the legitimate interests of the respondents, no adverse action be taken against them till the matter is resolved and a decision has been made by the Inspector General of Police, Khyber Pakhtunkhwa. The Additional Advocate General, Khyber Pakhtunkhwa has also supported the suggestion made by the *amicus curie*.

5. For the above reasons and with the consent of the Additional Advocate General, Khyber Pakhtunkhwa and the counsels for the respondents, these petitions are converted into appeals and allowed. Consequently the impugned judgment dated 01.2.2023 is hereby set-aside and the matter is remanded to the Inspector General of Police, Khyber Pakhtunkhwa for resolving the dispute in the light of the

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provisions of the Act of 2017, the Rules of 1934 and other applicable rules/regulations. We are sanguine that the Inspector General of Police, Khyber Pakhtunkhwa will decide the matter expeditiously, preferably within thirty days from the date of receipt of a certified copy of this order. In the meanwhile, the respondents shall continue to serve in the District Mardan and they shall be dealt with in accordance with the resolution of the dispute by the Inspector General of Police, Khyber Pakhtunkhwa through a speaking order.

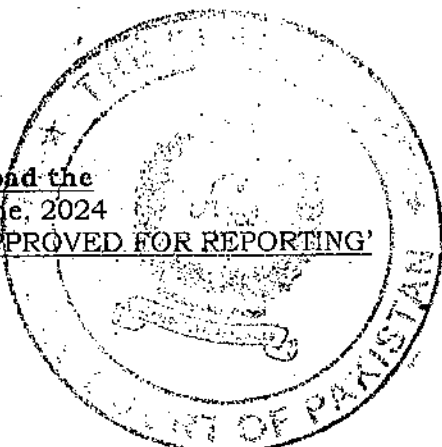
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Islamabad the
28th June, 2024

'NOT APPROVED FOR REPORTING'

(Amir Sh.)

24/7/24



Certified to be True Copy

[Handwritten Signature]

Court Associate
Supreme Court of Pakistan
Islamabad