

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.1747/2022

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (J)

Shakeel Ahmad (Superintendent of Police) Director Police School of Traffic Management and Telecommunication, Kohat.

.... (Appellant)

VERSUS

1. Inspector of Police Khyber Pakhtunkhwa, Central Police Office, Peshawar.
2. Additional Inspector General of Police Establishment, Khyber Pakhtunkhwa, Central Police Office, Peshawar.
3. Assistant Inspector General of Police Legal, Khyber Pakhtunkhwa, CPO, Peshawar.
4. Ali Hasan, Acting SP Investigation, Orakzai.
5. Aurangzeb, SDPO, Battagram.
6. Sajjad Haider, DSP CTD, Khyber Pakhtunkhwa.
7. Aqiq Hussain, Acting SP Investigation Shangla.
8. Falak Nawaz, SDPO HQr, Hangu.
9. Mazhar Jehan, at the disposal of DIG CTD.
10. Khalid Usman, Acting SP Investigation Kurram.
11. Asad Zubair, Acting SP RRF HQr. Peshawar.
12. Muhammad Riaz. DSP HQr. Bannu.
13. Mehmood Nawaz. DSP FRP D.I. Khan.
14. Muhammad Sattar, SDPO Mulkoh Chitral Upper.
15. Murad Ali. Acting SP Investigation. Lakki Marwat.
16. Habib Ur Rehman. DSP HQrs. Mansehra.
17. Muhammad Fayyaz. Acting SP Investigation. Swabi.
18. Muhammad Zaman. at the Disposal of RPO Malakand.
19. Riaz Muhammad. SOPO Dagar, Buner.
20. Zahoor Ahmad. at the Disposal of DIG Special Branch Khyber Pakhtunkhwa.
21. Zafar Ahmad. Acting SP HOrs. CCP Peshawar.
22. Farman Ullah, Acting SP Investigation Dir Upper.
23. Wahid Ullah. At the disposal of DIG CTD Khyber Pakhtunkhwa.
24. Iftikhar Ali Shah. At the Disposal of DIG CTD Khyber Pakhtunkhwa.
25. Zahid Khan, SDPO Kabal, Swat.
26. Badshah Hazrat. SDPO City. Swat.
27. Naveed Iqbal, Awaiting Posting at CPO Peshawar.
28. Ajmal Khan, SDPO Darosh Chitral Lower.
29. Attiq Ur Rehman, SDPO Lotkoh Chitral Lower.
30. Shahid Adnan, Close to CPO Peshawar.
31. Muhammad Salim Tariq. DSP FRP DJ Khan.
32. Gulshid Khan, SDPO Katlang Mardan.
33. Shaheen Shah Gohar, DSP Traffic/Security Charsadda.
34. Gohar Ali SDPO City-1. CCP Peshawar.

35. Riaz Khan, SDPO Cantt. CCP Peshawar.
36. Fazl e Wahid, SDPO Cantt. Peshawar.
37. Amjad Ali. SDPO Maidan Dir Lower.
38. Izhar Shah, DSP CTD, Khyber Pakhtunkhwa.
39. Sher Rehman. At the Disposal of DIG CTD Khyber Pakhtunkhwa.
40. Jamil Ur Rehman, SDPO Khanpur Haripur.
41. Muhammad Iqrar, DSP HOrs. Kohistan.
42. Shah Nawaz. SDPO Dasu Upper Kohistan.
43. Muhammad Khurshid. DSP CTD Mansehra.
44. Muhammad Altaf. DSP ACE, Khyber Pakhtunkhwa.
45. Fazal e Wahid, SDPO Darra Kohat.
46. Muslim khan. Close to CPO.
47. Muhammad Siddiq. DSP Special Branch.
48. Faqir Hussain, DSP CTD Khyber Pakhtunkhwa.
49. Naseer Khan, DSP Security HMC Peshawar.
50. Hukam Khan, Acting SP Admin & Security CPO Peshawar.
51. Arab Nawaz, DSP HOrs. FRP Peshawar.
52. Meher Ali, DSP Inquiry CPO Peshawar.
53. Yar Nawab, DSP CTO, Khyber Pakhtunkhwa.
54. Iftikhar Ali, SDPO Topi. Swabi.
55. Nisar Khan, Close to CPO Peshawar.
56. Hazrat Ullah. DSP Traffic Town. Peshawar.
57. Amir Hussain, DSP SSU CPEC Mardan.
58. Abdullah Jan. At the disposal of DIG Special Branch Khyber Pakhtunkhwa.
59. Liaqat Ali, DSP Security MMC Mardan.
60. Tayyab Jan, DSP HOrs. CCP Peshawar.
61. Ghulam Siddiq, SDPO Kohistan Dir Upper.
62. Roshan Zeb. DSP NET Swabi.
63. Fazal e Subhan, SDPO Ladah SWTO.
64. Muhammad Ijaz, SDPO Khwaza Khela, Swat.
65. Muhammad Yaseen, At the disposal of DIG CTD. Khyber Pakhtunkhwa.
66. Ibrar Khan, SDPO Kandar Torghar.
67. Muhammad Yaseen, SDPO Ghazi Haripur.
68. Iftikhar Ahmad, SDPO Saddar Haripur
69. Farhad Ali. DSP Investigation, Charsadda.
69. Zakir Hussain, DSP Investigation Haripur.
70. Azam Ali Shah, DSP FRP Hazara.
71. Samina Zaffar. DSP Traffic Warden Abbottabad.
72. Mehboob. SDPO Galiyat. Abbottabad.
73. Muhammad Humayoun, DSP Investigation Abbottabad.
74. Ghulam Muhammad, SDPO Shatial Upper Kohistan.
75. Zahoor Ud Din, at the disposal of DIG Special Branch Khyber Pakhtunkhwa.
76. Muhammad Nabi, DSP CTD, Khyber Pakhtunkhwa.
77. Ayaz Mehmood. DSP Traffic. Mardan.
78. Muhammad Ismail, SDPO.



... (Respondents)

Zia Ullah Tajik
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....28.09.2022
Date of Hearing.....10.09.2024
Date of Decision.....10.09.2024

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of this service appeal, the impugned seniority list dated 28.06.2022 may kindly be set aside and may be relegated to his original position in the seniority with all back benefits and promotion with his batch mates.”

2. Brief facts of the case are that the appellant was initially appointed as Constable in the year 1995. He was promoted as Head Constable in the year 1997 and was promoted as Assistant Sub-Inspector in 2007 and then as Sub-Inspector in the year 2009. That for confirmation on the post of Sub-Inspector, the appellant filed service appeal before this Tribunal, which was allowed on 31.01.2013 and was confirmed as Sub-Inspector w.e.f 01.07.2010. He was promoted to the post of Inspector on 09.05.2013. He was promoted as Deputy Superintendent of Police on 27.08.2019 and was placed at serial No. 120 of the seniority list dated 30.04.2020. That seniority list of DSPs was issued on 21.02.2022 wherein appellant was placed at serial No. 110. That on 28.06.2022 another seniority list of DSPs was issued, whereby appellant was placed at serial No. 184 instead of 110. Feeling aggrieved, he filed

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departmental appeal, which was not responded to, hence the present service appeal.

3. Respondents were put on notice, who submitted written reply/comments on the appeal. We have heard learned counsel for the appellants and District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

5. The learned counsel for the appellant argued that the appellant has not been treated in accordance with law and respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan; that the impugned seniority list issued by the respondents is illegal, incorrect, against the law hence liable to be modified; that seniority list issued on 21.02.2022 attained finality in all respect and was not challenged by any other employees and respondent No. 1 has no authority and power to issue another seniority list and disturbed seniority of the appellant;

5. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that in many cases the police personnel had completed their statutory period of probation, in compliance of Rule 13.18 of Police Rules, 1934 but were not confirmed for want of notification, in violation of rule *ibid*. He submitted that as a result of delayed confirmation, a number of police personnel were affect in terms of promotions and seniority which created serious anomalies in the seniority lists of Police Personnel and resulted in endless litigation as well as demoralization of the police force.

6. Perusal of record reveals that appellant is seeking correction of his seniority position with the request to place him at the alleged correct seniority position i.e. 102 instead of 161 of seniority list for the year 2019. Respondents

in their reply has taken the plea that seniority of the appellant and all other police employees was determined in compliance of judgment of supreme court of Pakistan reported as 2016 SCMR 1215 titled "Gul Hasan Jatoi Vs. Faqeer Muhammad Jatoi" wherein it is observed that:

"It has been observed that in many cases the Police Personnel have completed their statutory period of probation but they were not confirmed for want of notification, and as a result of which such officials have suffered in terms of delayed promotion or loss of seniority, which is a sheer negligence and abuse of power on the part of competent authorities concerned. Hence, we are of the view that this practice must be brought to an effective end so that injustice may not be perpetrated against such officials. Therefore, in future those police personnel who have completed their statutory period of probation, whether it is three years or two years, they shall be confirmed whether or not a notification to that effect is issued".

Above referred judgment is in fact talked about rule 13.18 of the Police Rules, 1934 which says that:

All Police Officers promoted in rank shall be on probation for two years, provided that the appointing authority may, be a special order in each case, permit periods of officiating service to count towards the period of probation. On the conclusion of the probationary period a report shall be rendered to the authority empowered to confirm the promotion who shall either confirm the officer or revert him. In no case shall the period of probation be extended beyond two years and the confirming authority must arrive at a definite decision within that period whether the officer should be confirmed or reverted. While on probation officers may be reverted without departmental proceedings. Such reversion shall not be considered reduction for the purposes of rule 16.4.

7. It also pertinent to mention here that in the impugned seniority list the date of confirmation of the appellant as S.I is 01.07.2010 while those of private respondents No. 4 is 28.01.2000, respondent No. 5 & 6 is 04.12.2006, respondent No. 7 to 13 is 10.01.2007, respondent No.14 is 13.07.2007, respondent No. 15 is 22.11.2006, respondent No. 16 is 22.02.2005, respondent No. 17 is 22.12.2005, respondent No. 18 and 19 is 13.07.2007, respondent No.20 to 23 is 27.05.2008, respondent No. 24 is 25.08.2008, respondent No.25 to 29 is 20.10.2009, respondent No.30 And 31 is 03.11.2009 respondent No. 32 is 04.11.2009, respondent No. 33 is 24.11.2009, respondent No. 34 to 36 is 19.12.2009, respondent No. 37 14.03.2010, respondent No.38 is 26.03.2010, respondent No.39 and 40 is 03.04.2010, respondent No.41 to 44 is 08.04.2010, respondent No.45 is 19.04.2010, respondent No.46 to 60 is 21.04.2010, respondent No.61 is 05.08.2010, respondent No. 62 to 64 is 26.08.2010, respondent No.65 10.09.2010, respondent No.66 to 75 is 19.09.2010, respondent No. 76 is 03.12.2010 and respondent No. 77 and 79 is 30.12.2010. which means that all of them were confirmed earlier than appellant.

8. When respondents were promoted and confirmed as ASI earlier than appellant then they will be ranked senior from the appellant in accordance with rule 13.18 of the Police Rules, 1934. Thus, they were placed senior to the appellant. However, perusal of seniority list reveals that private respondents placed at serial No. 62 to 79 their date of confirmation as ASI is later than appellant in accordance with rule 13.18 and principal laid down in above referred judgment of apex court, therefore, they will be ranked junior to the appellant.



9. For what has been discussed above, we are unison to dismiss the appeal with observation that appellant be considered senior to private respondents No. 62 to 79. Costs shall follow the event. Consign.

10. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 10th day of September, 2024.*



(KALIM ARSHAD KHAN)
Chairman



(RASHIDA BANO)
Member (J)

ORDER
10.09.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy Attorney alongwith Suleman Khan, S.I for the respondents present.

2. Vide our detailed judgment of today placed on file, we are unison to dismiss the appeal with observation that appellant be considered senior to private respondents No. 62 to 79. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 10th day of September, 2024.*


(Kalim Arshad Khan)
Chairman


(Rashida Bano)
Member (J)