

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.687/2024.**

Ahmad Ullah.....Appellant.

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... Respondent.

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DEPONENT

  
DSP/ Legal,  
CPO, Peshawar

15-10-24

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.687/2024.**

Ahmad Ullah..... **Appellant.**

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... **Respondent.**

**PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2**

**Respectfully Sheweth:-**

**Khyber Pakhtunkhwa  
Service Tribunal**

Case No. 16227

Dated 01-10-24

**PRELIMINARY OBJECTIONS:-**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of merits.

**REPLY ON FACTS:-**

As per report received from Career Planning Branch, the factual position of the case is as under;

1. First portion of this para pertains to the appointment of the appellant hence, no comments while to the extent of remaining portion, the stance taken by the appellant is totally bereft of any substance as Rule 12.8 provides that the appellant appointed as Probationer ASI (directly appointed) had to undergo 03 years probationary period before being confirmed as ASI on the termination of such period. Furthermore, the rules (12-8 and 19-25(5) of the Police Rules, 1934) clearly state that PASIs (ASIs appointed direct) shall be on probation for a period of three years after their appointment as such and that they may be confirmed in their appointments (appointments of being as ASI) on the termination of the prescribed period of probation of three years with immediate effect not with retrospective effect i.e. from the date of their appointment by the Range Deputy Inspector General of Police on the report of their respective District Police Officer, provided they have completed the period of their probation of three years successfully in terms of the condition laid down in the PR-19-25(5) of Police Rules, 1934. Moreover, under paragraph IV of the Promotion Policy provided in ESTA CODE Establishment Code Khyber Pakhtunkhwa (Revised Edition) 2011, "Promotion will always be notified with immediate effect." Drawing analogy from this rule, all PASIs might be so confirmed on conclusion of probationary period of three years with immediate effect (the date on which order of their confirmation is issued). The Supreme Court of Pakistan underlined the difference between the date of appointment and date of confirmation in Mushtaq Waraich Vs IG Punjab (PLD 1985 SC 159) in a recent judgment reported vide SCMR 2023 Page 584, the Apex Court has held that "reliance on Qayyum Nawaz [a judgment of the Apex Court, report as 1999 SCMR 1594] that there is no difference between that date of appointment and date of confirmation under the police rules is absolutely

misconceived and strongly dispelled". The Apex Court has further explained PR-12-3(3) of Police Rules, 1934 and declared that the final seniority of officers will be reckoned from the date of confirmation of the officer not from the date of appointment. The honorable Court further held 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 Appeal No. 2017 to 2031 of 2006 and other connected matters). Therefore, PASIs on completion of three years probation period shall not be brought on promotion list "E" from date of appointment. Their name is brought on the promotion list "E" in the manner provided in PR-13-10 and 13-11 of the Police Rules, 1934 not from the date of appointment but from the date of confirmation which, essentially, is a date different from their dates of appointment and compulsorily falls on the termination of the period of their probation for three years under PR-12-8 and 19-25(5) of Police Rules, 1934.

2. Para to the extent of initial appointment as probationer ASI is correct while rest of the para regarding performance of duty with full devotion and to the entire satisfaction of high ups is not plausible because every Police officer is under obligation to perform duty with full devotion and honesty anywhere he posted because in this department no room lies for any lethargy.
3. Incorrect and misleading. Police Rules 12.2(3) which provides that in the first instance the seniority of the upper subordinates shall be reckoned from date of first appointment, officers promoted from a lower Rank being considered senior to persons appointed direct on the same date, and the seniority of officers appointed direct on the same date being reckoned according to age. The Sub-Rule further provides that seniority shall be finally settled by dates of confirmation, the seniority inter se of several officers confirmed on the same date being that allotted to them on first appointment. Rule 12.2(3) provides for two stages for determining the seniority one is prior to the probationary period and is to be reckoned from the first appointment and the final seniority is settled from the date of confirmation which is once the period of probation is successfully completed. Period of probation is important as the officers have to undergo various courses (A,B,C & D) and qualify the same. Once Police officer has successfully undergone the said courses, he stands confirmed at the end of the probationary period. The seniority is once again settled, confirmed at the end of the probationary period. The seniority is once again settled, this being the final seniority from the date of confirmation, the above Rule is therefore, very much clear on the issue that final seniority list of Upper subordinates will be reckoned from the date of confirmation of the officers and not from the date of appointment as enunciated in Police Rules, 1934 Chapter XIX Rule 25 Sub Rule 5 and the issue in question has clearly been dilated upon by the Apex Court of Pakistan in its judgment quoted vide preceding para.
4. As already explained above. Furthermore, the CPO Peshawar issued policy letters in shape of No. CPO/CPB/63 dated CPO/CPB/64 dated 13.02.2023 to resolve the issue once for all and to streamline the issue of seniority lists of DSsP, Inspectors and confirmed Sub Inspectors on list 'F'. In light of seniority list 'E' provided by all RPOs, a combine seniority list of

confirmed Sub-Inspectors on list 'F' issued vide No. 32/E-II/CPO/F List/Seniority dated 24.01.2024, whereby seniority has been maintained as per date of ASI confirmation/ List 'E'. Thus, the appellant has been placed on his due place in accordance with date of ASI confirmation. The appellant has got no locus standi because the issue in question has already been dealt in accordance with law/ rules on the subject and he wrongly challenged the legal orders of respondent department.

5. Incorrect and misleading, as already explained above regarding issuance of seniority list the same has been issued in accordance with policy letters as well as in accordance with law/ rules governing the subject.
6. Incorrect and misleading. The order passed by the Capital City Police Officer, Peshawar in light of Committee report dated 31.08.2017 was erroneous wherein some of the Probationer Assistant Sub-Inspectors of Capital City Police, Peshawar were granted revised confirmation in the rank of ASI, revised admission to List 'E' from their date of appointment (2010) & revised promotion as Offg: SI (2014) against the spirit of Police Rules, 1934 and in violation of the judgments of the Hon'ble Supreme Court of Pakistan. The principle of confirmation from the date of initial appointment is put down by the august Apex Court in case titled as Mushtaq Waraich Vs IG Punjab (PLD 1985 SC 159) by underlining the difference between the date of appointment and date of confirmation. In a recent judgment reported in SCMR 2023 Page 584, wherein the august Apex Court has held that "reliance on Qayyum Nawaz [a judgment of the Apex Court, reported as 1999 SCMR 1594] that there is no difference between the date of appointment and date of confirmation under the Police Rules is absolutely misconceived and strongly dispelled". The august Apex Court has further explained Rule 12.2(3) of Police Rules, 1934 and declared that the final seniority of officers will be reckoned from the date of confirmation of the officers not from the date of appointment. The honorable apex Court further held 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). Moreover, paragraph-VI of the Promotion Policy, provided in ESTA CODE Establishment Code Khyber Pakhtunkhwa (Revised Edition) 2011 also highlights the fact that "*promotion will always be notified with immediate effect*". Such seniority revision against merits on the basis of the committee report ibid unduly surpassed many senior most Sub-Inspectors on List 'F', setting a very bad precedent. Therefore, anomalies already referred to were found in the seniority lists of Khyber Pakhtunkhwa Police due to which promotions could not be done for long time. Pertinent to mention here that the petitioners of Writ Petition No. 3720/2018 filed COC No. 381-P/2022 and the same was dismissed on the grounds that policies of the Police department issued vide No. No. CPO/CPB/63 dated 13.02.2023 and No. CPO/CPB/64 dated 13.02.2023 and CPO/CPB/68 dated 28.02.2023, were produced in the COC hearing and the Hon'ble Peshawar High Court, Peshawar was gracious enough to dismiss the COC vide order dated 12.10.2023.

7. Plea taken by the appellant is totally devoid of any merit. However, detailed reply regarding the issue in question has been given in the preceding para.
8. Para pertains to record, needs no comments.
9. Incorrect. plea taken by the appellant is ill based. In fact, in order to resolve the issue of seniority of DSsP, Inspectors and Sub-Inspector on promotion list 'F' all Regional Police Officers were directed to revise the confirmation of all officers on promotion list 'E' strictly in accordance with Police Rules, 1934 Chapter-XIII Rule 18. In compliance with the directions conveyed vide Memo No. CPO/CPB/68 dated 28.02.2022, the seniority of all officers was revised accordingly.
10. Pertains to record, needs no comments.
11. Correct to the extent of issuance of revised seniority list dated 22.11.2022. It is worth mentioning here that in order to streamline the seniority issues, the Competent Authority directed all RPOs/ CCPO should strictly follow Police Rules 13.18 for confirmation in the substantive rank and revise it accordingly in accordance Rule ibid. Hence, on the basis of reports received from the Regions/ CCP, the revised list 'F' was prepared and issued accordingly.
12. The respondent department acted in accordance with law/ rules and Supreme Court orders, hence, any departmental appeal against the lawful orders of the respondent department is contrary to law/ rules.
13. The appellant has got no locus standi to file the instant appeal hence, the same is liable to be dismissed on the following grounds amongst others;

#### **REPLY ON GROUNDS**

- A. Incorrect and denied. The appellant has been treated in accordance with law/ rules hence, no rights of appellant have been violated by the respondent department.
- B. Incorrect. The appellant is concealing real facts from this Hon'ble Tribunal as already explained above that in order to streamline the seniority issues, the Competent Authority directed that all RPOs/ CCPO should strictly follow the Police Rules 13.18 read with 19.25(5) for confirmation in the substantive rank and revise it accordingly. Hence, on the basis of reports received from the Regions/ CCP, the revised list 'F' was prepared and issued accordingly in accordance with Rules ibid.
- C. Incorrect and misleading. The principle of confirmation from the date of initial appointment is put down by the august Apex Court in case titled Mushtaq Waraich Vs IG Punjab (PLD 1985 SC 159) by underlining the difference between the date of appointment and date of confirmation. In a recent judgment reported as 2023 SCMR Page 584 the august Apex Court has held that "reliance on Qayyum Nawaz [a judgment of the Apex Court, reported as 1999 SCMR 1594] that there is no difference between the date of appointment and date of confirmation under the Police Rules is absolutely misconceived and strongly dispelled". The august Apex Court has further explained Rule 12.2(3) of Police Rules, 1934 and declared that the final seniority of officers will be reckoned from the date of confirmation of the officers.

not from the date of appointment. The honorable apex Court further held 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). Moreover, paragraph-VI of the Promotion Policy, provided in ESTA CODE Establishment Code Khyber Pakhtunkhwa (Revised Edition) 2011 also highlights the fact that "*promotion will always be notified with immediate effect*". Such seniority revision against merits on the basis of the committee report ibid unduly surpassed many senior most Sub-Inspectors on List 'F', setting a very bad precedent. Therefore, the anomalies already referred to were found in the seniority lists of Khyber Pakhtunkhwa Police due to which promotions could not be done for long time. Pertinent to mention here that the petitioners of Writ Petition No. 3720/2018 filed COC No. 381-P/2022 and the same was dismissed on the grounds that policies of the Police department issued vide No. No. CPO/CPB/63 dated 13.02.2023 and No. CPO/CPB/64 dated 13.02.2023 and CPO/CPB/68 dated 28.02.2023 (**Annexures A to C respectively**), were produced in the COC hearing and the Hon'ble Peshawar High Court, Peshawar was gracious enough to dismiss the COC vide order dated 12.10.2023 (**Court order is at Annexure-D**).

**D.** As already explained above in detail.

**E.** As discussed earlier the CPO Peshawar issued policy letters in shape of No. CPO/CPB/63 dated CPO/CPB/64 dated 13.02.2023 to resolve the issue once for all and to streamline the issue of seniority lists of DSsP, Inspectors and confirmed Sub Inspectors on list 'F'. In light of seniority list 'E' provided by all RPOs, a combine seniority list of confirmed Sub-Inspectors on list 'F' issued vide No. 32/E-II/CPO/F List/Seniority dated 24.01.2024, whereby seniority has been maintained as per date of ASI confirmation/ List 'E'. Thus, the appellant has been placed on his due place in accordance with date of ASI confirmation. The appellant has got no locus standi because the issue in question has already been dealt in accordance with law/ rules on the subject and he wrongly challenged the legal orders of respondent department.

**F.** As already explained above that promotion in Police department is always carried out on the basis of seniority cum fitness and fulfillment of eligibility criteria coupled with availability of vacancy. There are special rules in shape of Police Rules, 1934, the Khyber Pakhtunkhwa Police Act, 2017 and Standing Orders which deal with promotion from one rank to the next higher rank and confirmation in the substantive rank after fulfilling requisite criteria/mandatory periods for the subject purpose.

**G.** Incorrect and misleading, as explained The order passed by the Capital City Police Officer, Peshawar in light of Committee report dated 31.08.2017 was made erroneously wherein some of the Probationer Assistant Sub-Inspectors of Capital City Police, Peshawar were granted revised confirmation in the rank of ASI, revised admission to List 'E' from their date of appointment (2010) & revised promotion as Offg: SI (2014) against the spirit of Police Rules, 1934 and in violation of the judgments of the Hon'ble Supreme Court of Pakistan. The principle of confirmation from the date of initial appointment is put down by the august Apex

Court in case titled as Mushtaq Waraich Vs IG Punjab (PLD 1985 SC 159) by underlining the difference between the date of appointment and date of confirmation. In a recent judgment reported in SCMR 2023 Page 584, wherein the august Apex Court has held that "reliance on Qayyum Nawaz [a judgment of the Apex Court, reported as 1999 SCMR 1594] that there is no difference between the date of appointment and date of confirmation under the Police Rules is absolutely misconceived and strongly dispelled". The august Apex Court has further explained Rule 12.2(3) of Police Rules, 1934 and declared that the final seniority of officers will be reckoned from the date of confirmation of the officers not from the date of appointment. The honorable apex Court further held 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). Moreover, paragraph-VI of the Promotion Policy, provided in ESTA CODE Establishment Code Khyber Pakhtunkhwa (Revised Edition) 2011 also highlights the fact that "*promotion will always be notified with immediate effect*". Such seniority revision against merits on the basis of the committee report ibid unduly surpassed many senior most Sub-Inspectors on List 'F', setting a very bad precedent. Therefore, the anomalies already referred to were found in the seniority lists of Khyber Pakhtunkhwa Police due to which promotions could not been done for long time. Furthermore, COC No. 381-P/2022 was dismissed on the grounds that policies of the Police department issued vide No. No. CPO/CPB/63 dated 13.02.2023 and No. CPO/CPB/64 dated 13.02.2023 and CPO/CPB/68 dated 28.02.2023, were produced in the COC hearing and the Hon'ble Peshawar High Court, Peshawar was gracious enough to dismiss the COC vide order dated. 12.10.2023.

H. Para already explained in detail in the preceding paras.

I. Incorrect. Plea taken by the appellant is totally ill based because Police Rules 1934 have duly been followed regarding the subject issue and detailed reply has also been made in the preceding paras.

J. Para explained in detail in preceding paras.

K. Para explained in detail in preceding paras.

L. Incorrect. The Police is governed by special law/ rules in shape of Police Rules, 1934, the Khyber Pakhtunkhwa Police Act, 2017 and Standing Orders which deal with promotion from one rank to the next higher rank and confirmation in the substantive rank after fulfilling requisite criteria/mandatory periods for the subject purpose.

M. Incorrect. Stance taken by the appellant is ill based rather a whimsical one. As in a recent judgment reported as 2023 SCMR Page 584 the august Apex Court has held that "reliance on Qayyum Nawaz [a judgment of the Apex Court, reported as 1999 SCMR 1594] that there is no difference between the date of appointment and date of confirmation under the Police Rules is absolutely misconceived and strongly dispelled". The august Apex Court has further explained Rule 12.2(3) of Police Rules, 1934 and declared that the final seniority of officers will be reckoned from the date of confirmation of the officers not from the date of

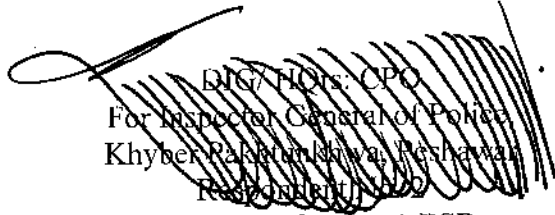
appointment. The honorable apex Court further held that " the practice of ante-dated confirmation and promotions have been put down in Raza Safdar Kazmi" (a judgment of the Punjab Service Tribunal dated 15.08.2006 passed in Appeal No. 239/2006 and upheld by the Supreme Court vide order dated 29.01.2008, passed in Civil Appeals No. 2017 to 2031 of 2006 and other connected matters). Moreover, paragraph-VI of the Promotion Policy, provided in ESTA CODE Establishment Code Khyber Pakhtunkhwa (Revised Edition) 2011 also highlights the fact that "*promotion will always be notified with immediate effect*". Such seniority revision against merits on the basis of the committee report ibid unduly surpassed many senior most Sub-Inspectors on List 'F', setting a very bad precedent. Therefore, the anomalies already referred to were found in the seniority lists of Khyber Pakhtunkhwa Police due to which promotions could not been done for long time.


- N. Incorrect. Plea taken by the appellant is totally devoid of any legal footing because the issue in question has already been settled down by the Apex Court of Pakistan in its judgment reported vide quoted above wherein, things have been made crystal clear and in light of judgment ibid the stance of the appellant is liable to be set at naught.
- O. Para explained earlier in detail.
- P. Incorrect and misleading. The appellant is not entitled for revise confirmation as he has already been placed on his due place as per Police Rules 1934 as well as Apex Court judgment explained above.
- Q. Already explained in detail in preceding Paras.
- R. Incorrect. As explained above that Police is governed by special law/ rules in shape of Police Rules, 1934, the Khyber Pakhtunkhwa Police Act, 2017 and Standing Orders which deal with promotion from one rank to the next higher rank and confirmation in the substantive rank after fulfilling requisite criteria/mandatory periods for the subject purpose.
- S. Incorrect. The appellant has not been discriminated by the respondent department.
- T. Incorrect. The appellant has already been treated in accordance with law/ rules on the subject.
- U. Incorrect. The respondent department has strictly followed law/ rules as well as Apex Court judgment explained above.
- V. Incorrect. As already explained above that the appellant has been placed on his due seniority along with his batchmates. Hence, no deviation of law/ rules exists on part of the respondent department.
- W. Incorrect as already explained in preceding paras.
- X. The appellant has been placed on his due seniority in accordance with law/ rules and Apex court judgment explained above.



**PRAYERS:-**

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellants being devoid of merit and legal footing, may kindly be dismissed with cost please.

  
DIG/ Hqs: CPO  
For Inspector General of Police,  
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)**  
Incumbent

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**Service Appeal No.687/2024.**

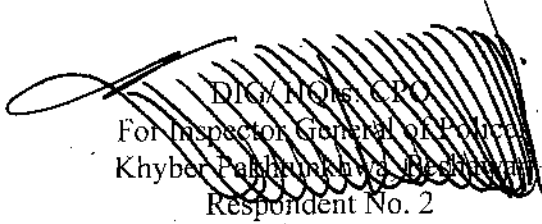
Ahmad Ullah.....Appellant.

**VERSUS**

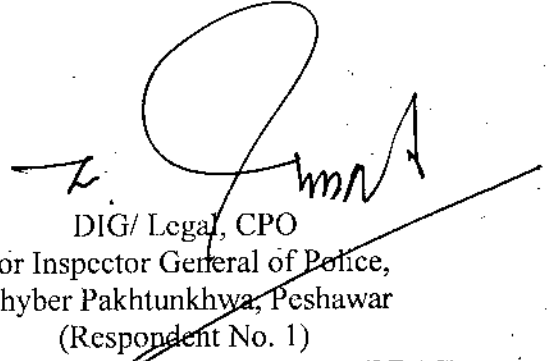
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... Respondent.

**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.

  
DIG/ HQs, CPO  
For Inspector General of Police,  
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)**  
Incumbent

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

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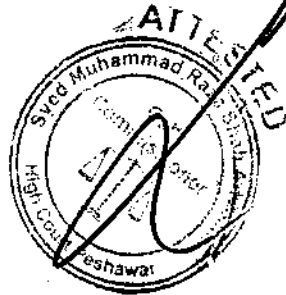
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... Respondent.

**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.

DIG/ HQrs: ISPO  
For Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar  
(Rizwan Manzoor) PSP  
Incumbent



01 OCT 2024



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

No. CPO/CPB/ 63Dated Peshawar 13 February 2023IMMEDIATE

To: The Regional Police Officer,  
Hazara Region.

Subject: DATE OF CONFIRMATION OF ASIs PROMOTED FROM RANKS (RANKER ASIs)

Memo:

Reference your office letter No 29504/E dated 13.12.2022 wherein a legal advice was sought on the following law point:

- i. Whether all ASIs promoted from lower rank shall be brought on promotion list "E" after successful completion of 02 years' probation period from the date of officiating promotion or not?
2. ASIs promoted from ranks (Ranker ASIs) may be confirmed in their ranks "on the conclusion of the probationary period" of two years. They shall NOT be confirmed from the date of their promotion as ASIs from the lower rank of HC. PR 13.18 of Police Rules 1934 is hereby reproduced as a ready reference: -

*Rule 13.18, Probationary Period of Promotion" all Police Officers promoted in rank shall be on probation for two years, provided that the appointing authority may, by 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."*

*This rule shall not apply to constables and Sub-Inspectors promoted to the selection grade, whose case is governed by rules, 13.5 and 13.4."*

3. Moreover, under paragraph VI of the Promotion Policy, provided in ESTA CODE Establishment Code Khyber Pakhtunkhwa (Revised Edition) 2011, "promotion will always be notified with immediate effect." Drawing analogy from this rule, all Ranker ASIs might be so confirmed on conclusion of probationary period of two years with immediate effect (the date on which order of their confirmation is issued).

4. The Supreme Court of Pakistan underlined the difference between the date of appointment and date of confirmation in Mushtaq Waraich Vs IG Punjab (PLD 1985 SC 159). In a recent judgment (dated 2<sup>nd</sup> November 2022 in Civil Appeal No. 1172 to 1178 of 2020 and Civil Petition No. 3789 to 3896, 2260-L to 2262-L and CP 3137-L) the Apex Court, has held that "reliance on Qayyum Nawaz [a

Attested  
[Signature]

ll  
13/02/23


judgment of the Apex Court, reported as 1999 SCMR 1594] that there is no difference between the date of appointment and date of confirmation under the police rules is absolutely misconceived and strongly dispelled". The Apex court has further explained PR 12.3(3) of Police Rules, 1934 and declared that the final seniority of officers will be reckoned from the date of confirmation of the officers not from the date of appointment. The honourable Court further held 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).

5. It is, therefore, made clear that ASIs promoted from lower rank shall be brought on promotion list "E" after successful completion of 02 years' probation period NOT from the date of officiating promotion. Their names may be brought on the Promotion List E in the manner provided in PR 13.10 and 13.11 of the Police Rules, 1934 NOT from the date of promotion but from the date of confirmation which, essentially, is a date different from their dates of promotion and compulsorily falls on the termination of the period of their probation of two years under PR 13.8 of the Police Rules, 1934.

6. Mode of bringing names of Assistant Sub-Inspectors (ASIs- both PASIs and Ranker ASIs) on promotion list E, confirmed in the manner provided above, is given in PR 13.10 and 13.11 of the Police Rules, 1934. Therefore, their names may be brought on the Promotion List E in the manner provided in the said two rules.

7. Keeping in view the above, this office letter No. CPO/CPB/317 dated 08.12.2022, that intended to create a parity between the dates of confirmation of ASIs appointed direct (PASIs) and those of the ASIs promoted from ranks (Ranker ASIs), is hereby withdrawn being against the letter and spirit of PR 12.8, 19.25 (5) Police Rules, 1934), in case of PASIs and against the PR 13.18 of the Police Rules, 1934 in case of the ASIs promoted from ranks (Ranker ASIs). The following was laid down in the said letter:

- "a. All PASIs on successful completion of 03 years' probation period shall be brought on promotion list "E" from date of appointment.
- b. All ASIs promoted from lower rank shall be brought on promotion list "E" after successful completion of 02 years' probation period from date of officiating promotion."

Attested  


8. You are, therefore, requested to:

- (a) register that the Date of Promotion and Date of Confirmation of a Ranker ASI are Not the Same, as has been misconceived by many, but are different from each other: Date of confirmation falls after two years of the date of promotion in case of Ranker ASI according to PR 12.8, and 13.8 of the Police Rules, 1934 respectively.
- (b) Withdraw all Changes Brought in the List E in compliance with this office letter No CPO/CPB/317 dated 08.12.2022 and Revise the List E of your Range to substitute all those dates of confirmation of all Assistant Sub-Inspectors appointed by way of

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 13/02/23

promotion from lower rank (Ranker ASIs) which were fixed retrospectively from the date of their Promotion with those falling after date of conclusion of the period of their probation for two years in the light of observations noted at paragraphs No. 2, 3, 4, 5, 6. & 7 above.

- (c) ensure that ASIs promoted from ranks (Ranker ASIs) shall **NOT** be Confirmed from the Date of their Promotion (from the rank of Head Constable to ASI) rather, *might* be so confirmed "*on the conclusion of the probationary period*" of two years, with immediate effect (the date on which order of their confirmation was issued).
- (d) Send compliance report by 23.02.2023.



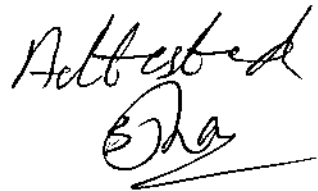
13/02/23

(SHAUKAT ABBAS) PSP  
DIG/HQrs,  
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, Headquarters, Khyber Pakhtunkhwa.
2. All Regional Police Officers in Khyber Pakhtunkhwa for compliance of the instructions given at Paragraph 8 of this letter by 23.02.2023.
3. Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa for compliance.
4. PSO to Inspector General of Police, Khyber Pakhtunkhwa.
5. PA to Deputy Inspector General of Police, Headquarters, Khyber Pakhtunkhwa.
6. PA to AIG/Establishment Khyber Pakhtunkhwa.
7. Office Superintendent Establishment I, II and III CPO Peshawar.



(SHAUKAT ABBAS) PSP  
DIG/HQrs,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar



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

No. CPO/CPB/ 64Dated Peshawar 13 February 2023**IMMEDIATE**

To: The Regional Police Officer,  
Hazara Region.

Subject: **LEGAL ADVICE ON THE QUESTION OF DATE OF CONFIRMATION OF PASIs**  
**(ASIs APPOINTED DIRECT)**

Memo:

Reference your office letter No. 29504/E dated 13.12.2022, wherein a legal advice was sought on the following law point: -

- i) Whether all PASIs on completion of 03 years' probation period shall be brought on promotion list "E" from date of appointment or not?
2. As per PR 12.8 of the Police Rules 1934, Assistant Sub-Inspectors appointed direct (Commonly known as PASIs) "will be considered to be on probation for three years" and that, under PR 19.25(5), "on the termination of the prescribed period of probation the Superintendent shall submit to the Deputy Inspector-General for final orders the full report required by Form 19.25(5) on the probationer's working and general conduct, with a recommendation as to whether he should or should not be confirmed in his appointment."
3. Both rules are hereby reproduced as a ready reference:

**PR 12.8 Probationary nature of appointments.** - (1) *Inspectors, Sergeants, Sub-Inspectors and Assistant Sub-Inspectors who are directly appointed will be considered to be on probation for three years and are liable to be discharged at any time during or on the expiry of the period of their probation if they fail to pass the prescribed examinations including the riding test, or are guilty of grave misconduct or are deemed, for sufficient reason, to be unsuitable for service in the police. A probationary inspector shall be discharged by the Inspector-General and all other Upper Subordinates by Range Deputy Inspector-General and Assistant Inspector-General, Government Railway Police, Assistant Inspector-General, Provincial Additional Police (designated as Commandant, Provincial Additional Police). No appeal lies against an order of discharge. (2) The pay admissible to a probationary Inspector, Sergeant, Sub-Inspector or Assistant Sub-Inspector is shown in Appendix 10.64, Table A.*

**PR 19.25 Training of upper subordinates** (1) *"Inspectors, sub-inspectors, and Assistant Sub-Inspectors, who are directly appointed, shall be deputed to the Police Training School to undergo the course of training laid down for such officers in the Police Training School Manual and are liable to discharge if they fail to pass the prescribed examinations or are badly reported on."*

(5) *"On the termination of the prescribed period of probation the Superintendent shall submit to the Deputy Inspector-General for final orders the full report required by Form 19.25(5) on the probationer's working and general conduct, with a*

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*recommendation as to whether he should or should not be confirmed in his appointment. In the case of inspectors such reports shall be forwarded to the Inspector-General."*

4. The two rules (12.8 and 19.25(5) of the Police Rules, 1934) clearly state that PASIs (ASIs appointed direct) shall be on probation for a period of three years after their appointment as such and that they may be confirmed in their appointments (appointment of being an ASI) *on the termination of the prescribed period of probation* for three years with immediate effect NOT with retrospective effect i.e. from the date of their appointment by the Range Deputy Inspector General of Police on the report of their respective District Police Officers provided they have completed the period of their probation of three years successfully in terms of the conditions laid down in the PR 19.25 (5) of the Police Rules, 1934.

5. Moreover, under paragraph VI of the Promotion Policy, provided in ESTA CODE Establishment Code Khyber Pakhtunkhwa (Revised Edition) 2011, "*promotion will always be notified with immediate effect.*" Drawing analogy from this rule, all PASIs might be so confirmed on conclusion of probationary period of three years with immediate effect (the date on which order of their confirmation is issued).

6. The Supreme Court of Pakistan underlined the difference between the date of appointment and date of confirmation in Mushtaq Waraich Vs IG Punjab (PLD 1985 SC 159). In a recent judgment (dated 2<sup>nd</sup> November 2022 in Civil Appeal No. 1172 to 1178 of 2020 and Civil Petition No. 3789 to 3896, 2260-L to 2262-L and CP 3137-L) the Apex Court, has held that "*reliance on Qayyum Nawaz [a judgment of the Apex Court, reported as 1999 SCMR 1594] that there is no difference between the date of appointment and date of confirmation under the police rules is absolutely misconceived and strongly dispelled*". The Apex court has further explained PR 12.3(3) of Police Rules, 1934 and declared that the final seniority of officers will be reckoned from the date of confirmation of the officers not from the date of appointment. The honourable Court further held that "*the practice of ante-dated confirmation and promotions have been put down in Raza Sofilar 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.).

7. It is, therefore, made clear that PASIs on completion of 03 years' probation period shall NOT be brought on promotion list "E" from date of appointment. Their names may be brought on the Promotion List E in the manner provided in PR 13.10 and 13.11 of the Police Rules, 1934 NOT from the date of appointment but from the date of confirmation which, essentially, is a date different from their dates of appointment and compulsorily falls on the termination of the period of their probation for three years under PR 12.8 and 19.25(5) of the Police Rules, 1934.

8. Keeping in view the above, this office letter No. CPO/CPB/317 dated 08.12.2022, that intended to create a parity between the dates of confirmation of ASIs appointed direct (PASIs) and those of the ASIs promoted from ranks (Ranker ASIs), is hereby withdrawn being against the letter and spirit of PR 12.8, 19.25 (5) Police Rules, 1934, in case of PASIs and against the PR 13.18 of the Police Rules, 1934 in case of the ASIs promoted from ranks (Ranker ASIs). The following was laid down in the said letter:

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- "a. All PASIs on successful completion of 03 years' probation period shall be brought on promotion list "E" from date of appointment.
- b. All ASIs promoted from lower rank shall be brought on promotion list "E" after successful completion of 02 years' probation period from date of original promotion."



9. Keeping the above in view, you are, therefore, requested to:

- (a) register that the Date of Appointment and Date of Confirmation of an Assistant Sub-Inspectors appointed direct (PASIs) are Not the Same, as has been misconceived by many, but are different from each other: Date of confirmation falls after three years of the date of appointment in case of an Assistant Sub-Inspectors appointed direct (PASIs) and the same (date of confirmation) falls after two years in case of an Assistant Sub-Inspector promoted from ranks (Ranker ASI) according to PR 12.8, and 13.8 of the Police Rules, 1934 respectively.
- (b) Withdraw all Changes Brought in the list E in compliance with this office letter No CPO/CPB/317 dated 08.12.2022 and Revise the List E of your Range and substitute all those dates of confirmation of all Assistant Sub-Inspectors appointed direct (PASIs) which were fixed retrospectively from the date of their appointment with those falling after the termination of the period of their probation for three years in the light of observations noted at paragraphs No. 2, 3, 4, 5, 6,7, and 8 above.
- (c) ensure that ASIs appointed direct (PASIs) shall NOT be Confirmed from the Date of their Appointment but *might* be so confirmed "*On the termination of the prescribed period of probation*" of three years, with immediate effect (the date on which order of their confirmation was issued).
- (d) Send compliance report by 23.02.2023.



(SHAUKAT ABBAS) PSP  
DIG/HQrs,

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, Headquarters, Khyber Pakhtunkhwa.
2. All Regional Police Officers in Khyber Pakhtunkhwa for compliance of the instructions given at Paragraph 9 of this letter by 23.02.2023.
3. Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa.
4. PSO to Inspector General of Police, Khyber Pakhtunkhwa.
5. PA to Deputy Inspector General of Police, Headquarters, Khyber Pakhtunkhwa.
6. PA to Assistant Inspector General of Police, Establishment, Khyber Pakhtunkhwa.
7. Office Superintendent Establishment I, II and III CPO Peshawar.



(SHAUKAT ABBAS) PSP  
DIG/HQrs,

For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar

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

No. CPO/CPB/ 68

Dated Peshawar 28 Feb: 2022

To : The Capital City Police Officer,  
Peshawar.  
All Regional Police Officers,  
Khyber Pakhtunkhwa.

Subject: ANOMALIES RELATED TO CONFIRMATION STATUS AWARDED TO SUB  
INSPECTORS.

Memo:-

The Competent Authority has directed to streamline the seniority issues of DSSP, Inspectors and confirmed Sub Inspectors already on List "F". It has been observed that due to following reasons the problems arise in the seniority lists.

- In majority of the cases received to CPO for admission to the centralized seniority list, it has been observed that the confirmation in the rank of Sub Inspectors is considered from the date of DPC instead of completion of mandatory period of two years for confirmation as per Police Rules 13.18.
- Similarly, Police Rules 13.10(2) provides for two years mandatory period as SHO/other Units.

In order to streamline the seniority issues, the Competent Authority has directed that all RPOs/CCPO should strictly follow Police Rules 13.18 for confirmation in the substantive rank and revise it accordingly, if there exists any anomaly. The requisite rules are quoted below for ready reference:-

- Police Rules 13.18. All Police Officers promoted in rank shall be on probation for two years, provided that the appointing authority may, by 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 officer should be confirmed or reverted.
- Police Rules 13.10(2) No Sub Inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an officiating Sub Inspector in independent charge of a Police Station, a notified Police Post or as in-charge Investigation of a Police Station or in Counter Terrorism Department. According amendment Police Rules 2017, provided further that he shall also have to spend one year in any other Unit excluding the period spent on long leave, deputation or promotional training courses i.e. Upper College Course.

The report may be communicated to this office within one week i.e. 08.03.2022 positively.

*Sd/-*  
*(SABIR AHMED) P.S.P.*  
Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa,  
Peshawar.

**PESHAWAR HIGH COURT PESHAWAR**  
**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
12.10.2023.	<p data-bbox="646 582 1279 662"><u>COC No. 381-P/2022 in WP No. 1817-P/2022.</u></p> <p data-bbox="662 700 1279 864">Present: M/s Barrister Waqar Ali, Zartaj Anwar, Saadullah Marwat &amp; Arbab Saiful Kamal, advocates for the petitioners.</p> <p data-bbox="824 902 1279 1091">Ms. Shakeela Begum, Asstt. Alongwith M. Asif, AIG (Legal) &amp; Tariq Umer DSP (Legal). *****</p> <p data-bbox="646 1141 1284 1695"><b><u>ABDUL SHAKOOR, J.-</u></b> Through the instant contempt petition, petitioners seek initiation of contempt of Court proceedings against the respondents-contemnors for flouting the judgment of this Court dated 05.07.2022, rendered in the captioned writ petition.</p> <p data-bbox="654 1733 1300 2275">2. Since, this Court with the concurrence of learned counsel for the parties had sent the petitioners' case to the respondent No.1 for its placement before the respondent No.2 to consider their grievance, which as per report of the respondents, is to be considered after removing anomalies from</p>

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the seniority list pursuant to the judgment of apex Court and in accordance with true spirit of relevant rules of police Rules 1934.

3. In view of the above, we do not see any justification to initiate a contempt proceedings against the respondents and thus disposed of accordingly.

  
JUDGE,  

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JUDGE