BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.764/2024.

Imtiaz Ahmad of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**

I n d e x

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18/09

DSP/Legal,
CCP, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.764/2024.

Imtiaz Ahmad.....**Appellant.**

VERSUS

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

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

Respectfully Sheweth:-

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. Pertains to the appointment record of the appellant.
2. Pertains to record.
3. Pertains to record.
4. 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. **(Copy of Letter is at Annexure 'A')**
5. As discussed earlier 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. Furthermore, CPO Peshawar issued policy letters in shape of No. CPO/CPB/63 dated CPO/CPB/64 dated 13.02.2023 **(Annexure "B" & "C")** 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. Moreover, it is noteworthy that the Apex Court of Pakistan 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.

6. 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, hence, the instant appeal is liable to be dismissed on the following grounds amongst others;

REPLY ON GROUNDS

A. Incorrect and denied. As already explained above in detail.

B. Incorrect and misleading. As already explained above 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. Furthermore, 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. Moreover, it is noteworthy that the Apex Court of Pakistan 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.

C. Incorrect and misleading. Stance taken by the appellant is totally devoid of any substance because the revised seniority lists were duly conveyed to all concerned however, the appellant himself kept mum for the reason best known to him.

D. Incorrect as already explained above in detail.

E. Incorrect and misleading. As already explained above 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. Furthermore, 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. Moreover, it is noteworthy that the Apex Court of Pakistan 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 been done for long time.

F. As explained earlier that 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's 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.

PRAYERS:-

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

Capital City Police Officer,
Peshawar
Respondent No. 2
(Qasim Ali Khan) PSP
Incumbent

DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 1
(Dr. Muhammad Akhtar Abbas) PSP
Incumbent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.764/2024.

Imtiaz Ahmad.....**Appellant.**

VERSUS

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

AFFIDAVIT

I, Qasim Ali Khan Capital City Police Officer, Peshawar, do hereby solemnly affirm on oath that the contents of accompanying Para-wise Comments/ Reply on behalf of respondents No. 1 & 2 to the Service Appeal are correct to the best our knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

It is further stated on oath that in this Service Appeal, the answering respondents have neither been placed ex-parte nor their defense is struck off.

Capital City Police Officer,
Peshawar.
(Respondent No. 2)
(QASIM ALI KHAN) PSP
Incumbent

ATTESTED

19 SEP 2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.764/2024.

Imtiaz Ahmad.....**Appellant.**

VERSUS

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

AUTHORITY LETTER

Mr. Inam Ullah DSP/ Legal, Peshawar is authorized to submit Para-wise comments/ reply in the captioned Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant case on behalf of respondents No. 1 & 2.

Capital City Police Officer,
Peshawar
Respondent No. 2
(Qasim Ali Khan) PSP
Incumbent

DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 1
(Dr. Muhammad Akhtar Abbas) PSP
Incumbent

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.

i. 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.

ii. 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:-

a. **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.

b. **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) PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar.

Attested

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

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

IMMEDIATE

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."*

13/02/23

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 2nd 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

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 2031of 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."*

13/02/23

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.

Attested

(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

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

Attested

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

No. CPO/CPB/ 64 Dated 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.*

13/12/23

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.*"

Attested

(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. 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 2nd 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 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 2031of 2006 and other connected matters.).

13/02/23

7. It is, therefore, made clear that <u>PASIs on completion of 03 years' probation period shall NOT be brought on promotion list "E" from date of appointment.</u> 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:

"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 [illegible] promotion.

Attested

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 andRevise 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.

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 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

Attested