

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 6685/2021

Before: MR. KALIM ARSHID KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (Judicial)

Gul Arif, Acting DSP, Civil Secretariat, Peshawar...(Deceased appellant)

- i. Bibi Zohra (Widow)
- ii. Mohib Ur Rehman (Son)
- iii. Muhammad Arif (Son)
- iv. Sumaira Arif (Daughter)
- v. Akif Arif (Son)
- vi. Muhammad Saqib (Son)
- vii. Bibi Zainab (Daughter) (Legal heirs)

VERSUS

1. Capital Police Officer, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
... (Respondents)

Arbab Saiful Kamal
Advocate --- For appellant

Naseer Uddin Shah
Assistant Advocate General --- For respondents

Date of Institution..... 05.05.2021
Date of Decision..... 30.09.2024
Date of Hearing..... 30.09.2024

JUDGMENT

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

“That on acceptance of the appeal, seniority list dated

30.04.2020 be set aside modified and name of appellant be



placed at Sr. No. 113 above the name of Fazal Dad with all service benefits.”

2. Brief facts of the case are that appellant was appointed as a Constable in the year 1980 and was promoted to Head Constable in 1994. The said process was when in the year 2005, he was promoted to the rank of Assistant Sub-Inspector and thereafter to the rank of Sub-Inspector in the year 2009 and was further promoted to the rank of Inspector in the year 2013 on officiating basis, and confirmed in the year 2015. Currently serving as Acting DSP for the last year. The appellant, alongwith others, were confirmed as ASI on 21-04-2008 and included in promotion list "E". After passing the Upper College Course in the year 2009, the appellant ranked 2nd in the merit, with several juniors placed below him. On 15-03-2013, a seniority list of Inspectors/Sub-Inspectors was issued by the respondents, omitting the name of appellant, while junior colleagues were listed, despite his confirmation as Sub-Inspector in 2013, where juniors were ranked above him. Revised notification in 2017 and subsequent promotions to DSP rank in 2018 and 2019 again favored juniors, including Fazal Dad, without legal explanation. Seniority lists in 2020 further placed his juniors ahead of the appellant, prompting him to submit a representation on 06-01-2021 to correct his placement in seniority list, but no action was taken, leading to this appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and submitted reply.

4. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.



5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant Advocate General controverted the same by supporting the impugned orders.

6. The appellant through instant appeal seeks his placement at proper place in seniority list for the year 2020, above the name of Fazal Dad at Serial No. 144. Appellant was appointed as Constable, was promoted and confirmed as ASI on 23.04.2008 and his name along with Arab Nawaz Khan, Noor Zaman Tayyab Jan Khan, Fazil Wahid, Izhar Shah, Ayaz Mehmood, Yar Nawaz, Abid Ur Rehman, Mehr Ali, Hazrat Ullah etc. were brought on list "E" on 05.04.2009. Appellant also passed upper college course on 01.12.2009. Respondent department issued seniority list of Inspectors on 15.03.2013 wherein name of the appellant was missing and junior to him, above named officials, were included in it. Appellant was confirmed as Inspector on 21.06.2013 and his name was placed at serial No. 5, while Mr. Adil Abdal, S Abu Ali Shah, Muhammad Daud and Bad Shah Khan were placed at serial No. 1 to 4 despite being junior to appellant. Appellant alleged that Fazal Dad seniority was revised on 08.12.2017 who was junior to him. Therefore, he will also be given seniority by placing senior to him at serial No. 144.

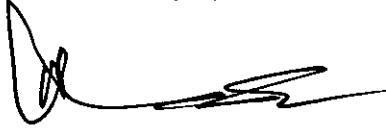
7. Appellant in his appeal para No.5 categorically mentioned that he was confirmed as Inspector on 21.06.2013. If he was aggrieved from it he was required to challenge it with due time i.e 30 days of its passing but he kept mum till 06.01.2021 when he filed departmental appeal for correction of seniority list. He was required to challenge his confirmation order within time but he had not done so now he is not only estopped by his conduct to challenge it but is also quite later. Respondents in the existing list placed the appellant at his due and



right place. Otherwise too, promotion in the police department is contingent upon successful completion of certain training and mandatory period of different assignments and is not similarly on the basis of seniority. It is also pertinent to mentioned here that appellant died on 29.10.2022 and list of his legal heirs were submitted.

8. For what has been discussed above, the appeal in hand is dismissed being devoid of merits. Costs shall the follow the event.

9. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 30th day of September, 2024.*



(KALIM ARSHID KHAN)
CHAIRMAN



(RASHIDA BANO)
MEMBER (Judicial)


ORDER
30.09.2024

1. Learned counsel for the appellant present. Mr. Naseer Uddin Shah, Assistant Advocate General alongwith Qaisro Khan, Inspector for the respondents present.

2. Vide our detailed judgment of today placed on file, the appeal in hand is dismissed being devoid of merits. Costs shall follow the event.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 30th day of September, 2024.*


(KALIM ARSHID KHAN)
CHAIRMAN


(RASHIDA BANO)
MEMBER (Judicial)

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