

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 1242/2024.

Sajjad Ahmad HC.....Appellant.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

& Others.....Respondents.

INDEX

S#	Description of document	Annexure	Page
1	Parawise comments	-	1-3
2	Affidavit	-	4
3	Power of attorney	-	5
4	Copy of order	A	6
5	Copy of enquiry report	B	7-9
6	Copy of order	C	10-11
7	Copy of order RPO	D	12-14

Dr
SI - legal sub

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 1242/2024.

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Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

& Others.....Respondents.

WRITTEN REPLY BY RESPONDENTS.

Respectfully Sheweth:

Preliminary Objections.

1. That the appellant has got no cause of action and locus standi to file instant appeal.
2. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
3. That the appeal is barred by law and & limitation.
4. That the appellant has not come to this Hon'ble Tribunal with clean hands.
5. That the instant appeal is not maintainable in its presents form.
6. That the appellant concealed material facts from this Hon'ble Tribunal.
7. That the appellant has been estopped by his own conduct to file the appeal.

REPLY ON FACTS.

1. Correct only to the extent that, he was enlisted as Executive / General duty Constable in the year 1986. For rest of the para, it is submitted that he was promoted as C-II Head Constable in the year 1999 vide DPO Swabi order No. 180 dated 08.02.1999 as per rules. However, subsequently, he was promoted to the rank of Sub Inspector without qualifying requisite courses, this falling in definition of out of turn promotion directed by august Supreme Court of Pakistan reported in 2013 SCMR 1752, 2015 SCMR 456, and 2016 SCMR1254.
2. The case of appellant was examined by the competent authority from the rank of C-II Head Constable to Sub Inspector in the light of apex court judgment and found that he has neither qualified promotion courses i-e Lower School Course & Intermediate college course respectively nor his name enlisted on any Promotion List i-e D & E before being promoted to the rank of Sub Inspector. Since his case falls within the preview of Out of Turn promotion which has already been declared as unconstitutional / illegal by the Apex Court, therefore, in pursuance of the judgment reported above, the appellant was demoted from the rank of Sub Inspector to his substantive rank of C-II Head Constable. (Copy of order is attached as annexure "A").
3. Pertains to the judgment of this Hon'ble Tribunal passed in Service Appeal 16437/2020 whereby the case of appellant was remitted to department for proper departmental enquiry. In compliance of this Hon'ble Tribunal, proper enquiry was conducted. (Copy of enquiry report is annexure "B").

4. Correct to the extent that in compliance with the judgement of the Hon'ble Tribunal proper enquiry through SDPO Topi was conducted.
5. Incorrect as in compliance of the Hon'ble Tribunal order proper enquiry was conducted and the enquiry report established that the withdrawal order dated 30.12.2019 has been passed as per law and august apex court judgment, then, District Police Officer, Swabi passed speaking order bearing No.1049-54/ PA dated 04.03.2024 where in the earlier order dated 30.12.2019 was maintained to have been passed as per law (**Copy of order is annexure "C"**).
6. Correct to the extent of departmental appeal filed before the respondent No 2 which was rightly rejected being devoid of merit. Moreover, he has not filed revision petition that would forwarded through proper channel (**Copy of order RPO is attached as annexure "D"**).
7. That the appellant has been treated in accordance with law and august apex court judgments pertaining to out of turn promotion. Therefore, the instant appeal being devoid of law and also attracting principle of respected judicata is liable to be dismissed on following grounds.

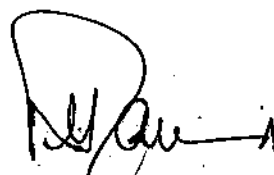
8. **GROUND**S

- A. Incorrect, the orders of respondents are in accordance with law and rules and no constitutional provision has been violated.
- B. Incorrect proper enquiry in compliance of the Hon'ble Tribunal was conducted and the appellant was dealt in accordance with rules.
- C. Incorrect as in compliance with judgment of Hon'ble Tribunal, proper enquiry was conducted by the respondents during which record of appellant was examined by the respondents and found that he has not qualified any courses mandatory for promotion and he holds the rank of Sub Inspector against rules which clearly shows that his case falls within the preview of out of turn promotion which has already been declare unconstitutional / illegal by apex court.
- D. Incorrect as the appellant has not qualified any promotional course i-e lower and Intermediate thus he was not illegible for further promotion but got out of turn promotion up to the rank of Sub Inspector, hence, rightly demoted to his original rank of Head Constable C-II. Incorrect. Moreover, it is submitted that selection to promotional courses is done against scrutiny list (promotion officer list). Therefore, the appellant's name did not exist on any promotion list. Inclusion in Promotion List is subject to qualifying exam as per rules.
- E. Incorrect, reply already given vide para above.
- F. Incorrect, appellant was treated in accordance with law / rules whereas the reversion order is strictly in accordance with the compliance of the judgments of Apex Supreme Court of Pakistan on out of turn promotion, reported in 2013 SCMR 1752.
- G. Incorrect. The appellant has been preceded in compliance of the apex court judgments.
- H. Incorrect. Appellant has been provided opportunity of hearing as per law / rules and no discrimination what so ever has been committed by respondents. Rests in already explained vide para above.
- I. Incorrect, reply already given vide para above.
- J. Incorrect. The order of respondent No.2 was passed strictly in accordance with law.

- K. Incorrect. The appellant did not file any revision petition before concern forum.
- L. Incorrect. Appellant was treated as per law / rules and in compliance of the august court judgments.
- M. Incorrect. The orders of respondents are in accordance with law and rules.
- N. Incorrect, the orders of respondents are strictly in accordance with law and principle of natural justice.
- O. Incorrect and misleading the orders of respondents are strictly in accordance with the judgment of Apex Supreme Court of Pakistan on out of turn promotion and as per law.
- P. That the respondents may also be allowed to advance other grounds and proofs at the time of arguments before this Hon'ble Tribunal.

PRAYERS.

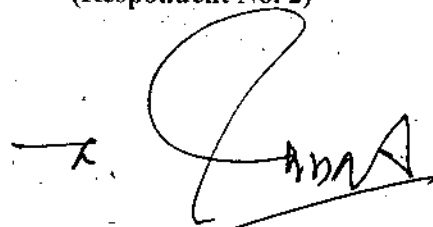
Keeping in view the above narrated facts, it is humbly prayed that the instant appeal being devoid of merits may very kindly be dismissed with costs, please.



(HAROON RASHID KHAN)PSP
District Police Officer, Swabi.
(Respondent No. 1)



(NAJEEB-UR-REHMAN BAGVI)PSP
Regional Police Officer, Mardan.
(Respondent No. 2)



DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(DR. MUHAMMAD AKHTAR ABBAS)PSP
(Respondent No. 3)
Incumbent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

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& Others.....Respondents.

AFFIDAVIT:-

I the respondent No.1 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/ true to the best of my knowledge/ belief and nothing has been concealed from the honorable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/cost.

ATTESTED
Syed Muhammad
Magistrate
30/10/24



(HAROON RASHID KHAN)PSP
District Police Officer, Swabi.
(Respondent No. 1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 1242/2024.

Sajjad Ahmad HC.....Appellant.

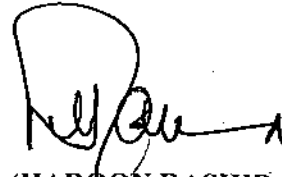
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

& Others.....Respondents.

POWER OF ATTORNEY.

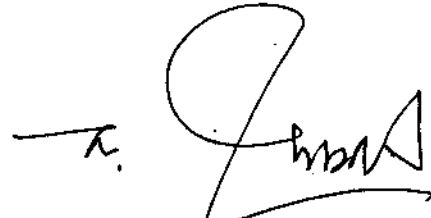
We, the respondent No. 1 to 3 do hereby appoint Mr. Muhammad Fazil DSP investigation Swabi as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt. Pleader attach to Tribunal.



(HAROON RASHID KHAN) PSP
District Police Officer, Swabi.
(Respondent No. 1)



((NAJEEB-Ur-REHMAN BAGVI) PSP
Regional Police Officer, Mardan.
(Respondent No. 2)



DIG/Legal CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(DR. MUHAMMAD AKHTAR ABBAS) PSP
(Respondent No. 3)
Incumbent

6

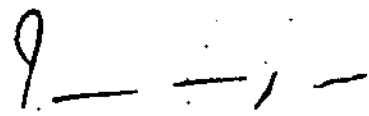
"A"

ORDER.

The promotion cases of Sajjad Ahmad from the rank of C-II Head Constable to Sub Inspector (MTO) was examined and found that he has not qualified promotion courses and presently serving as Sub-Inspector. so in the light of judgment of Honorable Supreme Court of Pakistan, on out of turn promotion SI Sajjad Ahmad is hereby reverted from the rank of Sub Inspector to his substantive rank of C-II Head Constable with immediate effect.

OB No 1161

Dated 30/12 /2019.


District Police Officer,
e/c Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 11647-48 /EC. dated Swabi, the 30-12 /2019.

Copies to all concerned.

ATTESTED

PIO
District Police Officer, Swabi.

"B"

7

DY: No. 81 /TP
DATED: 26/01/2024

SUBJECT: DEPARTMENTAL ENQUIRY AGAINST SI SAJJAD AHMAD NO. 990.

Memo:

It is submitted that the subject departmental enquiry against SI Sjjad Ahmad No.990 was entrusted to the undersigned vide Dy: No.197/CC/PA dated 27.12.2023 on the following act/ omission:

1. SI Sajjad Ahmad No. 990/Swabi of this District Police was promoted as C-II Head Constable vide this office OB No. 180 dated 02.08.1999 under rules PR-13-8 (2) and standing order No.06/2014. Later on , he managed to promote himself to the rank of ASI vide this office OB No. 1004 dated 25.11.2005 and then to the rank of Sub Inspector vide this office OB No. 1150 dated 10.03.2011. The promotion order of SI Sajjad Ahmad to the ranks of ASI and SI are contrary to Police Rules 1934 and against the consolidated judgment dated 30.06.2020 of Supreme Court of Pakistan, wherein all such incentives/accelerated promotions have been termed as out of turn promotions and declared them as illegal, unlawful, un-constitutional, un-Islamic and null.
2. Above commission/omission falls under the purview of mis-conduct and is punishable under Rules 4 a & b of Police Rules 1975 amended 2014.

ENQUIRY PROCEEDINGS:

The instant enquiry proceedings were commenced in compliance of judgment dated: 07-11-2023 passed in Service Appeal No.16437/2020 by the Honorable Service Tribunal, Khyber Pakhtunkhwa, Peshawar whereby his case/appeal was remitted to the Department with the directions to conduct proper enquiry against the defaulter official in the above allegations. In this regard he was summoned, heard and his statement was recorded. He was asked to produce all the relevant notifications/standing orders/rules/law which may support his stance regarding his promotion from C-II Head Constable up to the rank of Sub-Inspector. He was also given opportunity to contest and defend promotions, he availed during his long service carrier, by affording legal footing thereto. The grounds he raised in support of his plea/promotion via appeal/petitions during departmental proceedings and finally in the Service Tribunal, KP were perused. Copies of all the promotion/reversion orders passed by the department as well as judgment announced by the Apex Court of Pakistan on 'out of turn promotions' was also requisitioned and minutely perused.

OBSERVATIONS :

The undersigned after hearing the appellant and perusal of his service record along with the relevant rules, laws etc. have been constrained to pin-point the following observations:

1. Whether the MT staff of Police Department retains its own hierarchy i-e MT strength?
2. Whether the appellant was appointed as constable on general duty or MT staff?

ATTESTED

PIC
District Police Officer, Swabi.

3. If he was appointed constable on general duty then whether his cadre was changed from general to MT?
4. Whether the appellant has qualified all the courses mandatory for promotion?
5. Whether the appellant's name has been retained on promotion Lists-D & E?
6. What is legal status of List C-II under Police Rules, 1934 and Standing Order No.06/2014?
7. What was Board Decision on his appeal/mercy petitions?
8. Observations raised by the Service Tribunal, KP vide judgment dated:07-11-2023 in Service Appeal No.16437/2020 on the definition of 'Out of turn promotion' which needs to be commented upon here in light of judgment passed by the Apex Court of Pakistan.

Before declaring the question of his being promoted out-of-turn from the rank of C-II Head Constable to the rank of Sub-Inspector, it is an utmost requirement to resolve and explain the above observations in light of promotion/reversion orders, relevant rules/ law and judgment of the Apex Court of Pakistan passed in the case of 'out of turn promotions'.

- The MT Staff is a specialized cadre/ technical branch and like other sections/establishments of police department it also maintains its own hierarchy where promotions are made subject to the requisite criteria i.e seniority-cum-Fitness .
- The appellant was appointed as general duty constable in the year 1986 in District Kohistan and was later on transferred to District Swabi.
- The appellant name was brought on List-C II as Head Constable against 10% quota reserved under Rule 13(8)(ii) of Police Rules, 1934 and was promoted as officiating Head Constable C-II vide OB No.180 dated: 08-02-1999 by the then Superintendent of Police, Swabi. Later on he was transferred to MT section and promoted as ASI MT Staff despite the fact that his cadre was not changed from general to MT section.
- The service record reveals that the appellant did not qualify the courses mandatory for each promotion i-e Lower and Intermediate school (courses)
- His name was also not found in either list i-e D & E maintained for the purpose of promotion after passing mandatory courses.
- Important extract of the relevant rule 13.8(2) of Police Rules, 1934 is reproduced as "selection grade constables who have not passed the lower school course at the Police Training School but are otherwise considered suitable may, with the approval of the Deputy Inspector-General, be promoted to head constable up to maximum of ten percent of vacancies" whereas Para No.8 & 8.1 of the standing order Standing Order No.06/2014 recommend for promotion (C-II Head Constable) only those constables, who have been overaged and could not qualify the requisite A-1/B-1 exams for either reasons, and place their names on list C-II in the following way:
 - a. The district Head of police or the Head of a police unit, as the case may be, shall place the name of a constable on promotion list C-II on the first day of the last 06 months before the date of superannuation
 - b. Once the name of a constable has been placed on list C-II u/s 8.1 (a), the district Head of Police or the Head of Police Unit, as the case may be, shall promote the constable as Head constable (C-II) on the first day of the last three months before the day of as superannuation.

ATTESTED

PIO

District Police Officer, Swabi.

B/2

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- After perusal of service record of the appellant the Board rejected his petition/appeal vide Order No.4576/20 dated:17-11-2020 Office of the IGP, KP Peshawar by citing reasons that the appellant neither qualified promotion courses nor his name was retained in promotion lists maintained for the purpose. Moreover, the Board termed all his promotions 'out of turn' in light of judgment of the Supreme Court of Pakistan (2018 SCMR 1218).
- The Service Tribunal raised ambiguity on definition of the term 'out of turn promotion' whereas reference was also made to the length of service of and the good performance shown by the appellant during his service carrier. The issues of seniority and promotion must be settled within the department strictly in accordance with the Rules and only matters requiring legal interpretation may go up before the courts. Moreover, the Supreme Court of Pakistan in various judgments has explicitly termed 'out of turn promotion' as un-islamic, unconstitutional and void ab-initio. The Honorable Tribunal could better interpret the term 'out of turn promotion' both in the light of Police Rules and judgment rendered on the ibid term by the Supreme Court of Pakistan.

RECOMMENDATIONS:

To maintain organizational justice and make the force strongly committed and more dedicated towards its duty, it is imperative that the Police (department) must function as a rule based organization to ensure their carrier progression (promotions). The promotion/reversion case of appellant was thoroughly discussed at every forum of this department in light of the Rules as well as verdict of the Apex Court of Pakistan on 'out of turn promotions'.

In view of the above observations, the appellant was found promoted against the rules and termed the same against the spirit of the ibid judgment. Hence, he was rightly reverted from the rank of Sub-Inspector to that of C-II Head Constable.


Sub-Divisional Police Officer

TOPI,(Swabi)

ATTESTED.


PIO

District Police Officer, Swabi.



(1208)
"C"
10

**OFFICE OF THE
DISTRICT POLICE OFFICER, SWABI
PHONE# 0938-920050 FAX# 0938-920054
EMAIL: dpo_swabi@yahoo.com**

No.1049-54 IPA,

Dated. 04/03/2024

ORDER

This order is aimed to dispose-off the departmental proceedings conducted against **HC Sajjad Ahmad No.990 (ex-Sub-Inspector)** of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office No.197/CC/PA, dated 27.12.2023 on the following allegations.

In compliance with the Judgment dated 07.11.2023 of Honorable Khyber Pakhtunkhwa Service Tribunal, in Service Appeal No.16437/2020 titled Ex SI Sajjad Ahmad Vs IGP and Honorable Supreme Court of Pakistan judgments reported as 2013 SCMR 1752, Civil Review Petition No.193/2003 reported in 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 and consolidated Judgment dated 30.06.2020 in Civil Petitions No.1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 on issues of out of Turn Promotions, the then DPO Swabi issued demotion order of Ex-SI Sajjad Ahmad (hereinafter referred as appellant) from the rank of Sub Inspector to his substantive rank of C-II Head Constable vide OB No.1141 dated 30.12.2019. The Honorable Tribunal vide order dated 07.11.2023 set aside the orders dated 30.12.2019, 29.01.2020 & 17.11.2020 and remitted the matter to respondents to conduct proper enquiry. In response to the order of Honorable Tribunal and vide Inspector General of Police, Khyber Pakhtunkhwa Memo: No.7390/Legal dated 26.12.2023, SI Sajjad Ahmed was issued with Charge Sheet and Summery of Allegations and Mr. Muhammad Shafiq, SDPO Topi was appointed as Enquiry Officer to conduct proper departmental enquiry against him. The Enquiry Officer held enquiry, recorded statements of all concerned, went through the record and submitted his finding report, wherein he stated that the order is issued in the following terms:-

Record in respect of appellant reveals that he was appointed on 01.10.1986 at District Kohistan and later on transferred to District Swabi. He neither qualified the A-I, B-I examinations nor participated in Lower and Intermediate College Courses, but due to his considerable length of service, he was promoted to the rank of C-II Head Constable vide this office OB No.180 dated 08.02.1999, under Rule PR 13.8 (2) and standing order 06/2014. Later on, contrary to Police Rules 1934, he was promoted to the rank of Assistant Sub Inspector vide this office OB No.1004 dated 25.11.2005 and then to the rank of Sub Inspector vide this office OB No.1150 dated 10.03.2011. Later on Ex- SI Sajjad Ahmad was demoted to his substantive rank of C-II Head Constable vide this office OB No.1141 dated 30.12.2019. Resultantly, he preferred a departmental appeal to the appellate authority which was rejected and filed being devoid of merit by the RPO Mardan vide No.1066/ES dated 29.01.2020. The appellant then preferred Revision Petition under Rule 11-A of Police Rules, 1975 (amended 2014) which was rejected vide No.S/4577-86/20 dated 17.11.2020.

As per the Honorable Apex court of Pakistan judgments reported as 1998 SCMR 2013, Muhammad Nadeem Arif vs Inspector General of Police, Punjab Lahore (PLC 2010 CS 924), Ghulam Shabbir vs, Muhammad Munir Abbasi and others (2011 PLC CS) 763, 2013 SCMR 1752, 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 & Consolidated Judgment dated 30.06.2020 in Civil

ATTESTED

PIO 
District Police Officer, Swabi.

211

(11)

Petitions No.1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019, termed all kinds of incentive/accelerated promotions as out of turn promotions and declared them illegal, unlawful, unconstitutional, unislamic, void ab-initio and null. Furthermore, in compliance with recent Order of Honorable Supreme Court of Pakistan dated 26.01.2023 in Suo Moto Contempt proceedings vide Crl.O. Petition No.38/2021 in C.P No.381/2020, all Unit Heads, Regional Police Officers and District Police Officers of Khyber Pakhtunkhwa Police were directed vide CPO Peshawar Letter No. CPO/CPB/75, dated 14.02.2023, to ensure compliance of above mentioned orders in letter and spirit. Accordingly, all out of Turn Promotions granted to Police personnel either on gallantry or otherwise and related to different Units, Regions & Districts have been withdrawn by concerned authorities and consequently their seniority has been re-fixed alongwith their batchmates who were promoted as per spirit of rules ibid by maintaining original inter-se-seniority.

The appellant was awarded an opportunity of personnel hearing dated and was heard in person and his service record perused carefully. The appellant defended his case and raised his reservation and was assured that his case will be settled on merit and in accordance with law/rules.

Keeping in view the above, the out of turn promotion case of the appellant was thoroughly enquired and his service record re-examined under the law/rules and in the light of Apex Court judgments ibid wherein it transpires that he was promoted to the rank of C-II Head constable in accordance with law but his further promotions to the rank of Assistant Sub Inspector vide this office OB No.1004 dated 25.11.2005 and then to the rank of Sub Inspector vide this office OB No.1150 dated 10.03.2011 were found against rules and judgments ibid of the Apex Court. Therefore, to meet the ends of justice, appellant's promotions vide this office OB No.1004 dated 25.11.2005 & OB No.1150 dated 10.03.2011 were rightly withdrawn vide order OB No.1141 dated 30.12.2019, by reverting him to his substantive rank of HC C-II.



HAROON RASHID KHAN (T.ST/PSP)
DISTRICT POLICE OFFICER
SWABI

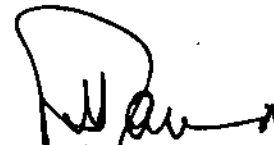
OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

Copies of above forwarded to the: -

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar w/r to his office Memo: No.7390/Legal, dated 26.12.2023.
2. Regional Police Officer, Mardan.
3. Pay Officer.
4. Establishment Clerk
5. I/C PAL
6. Fauji Missal Clerk.

ATTESTED

PIO
District Police Officer, Swabi.



HAROON RASHID KHAN (T.ST/PSP)
DISTRICT POLICE OFFICER
SWABI

D (12)

ORDER.

This order will dispose-off the departmental appeal preferred by C-II Head Constable Sajjad Ahmad No. 1208 of Swabi District Police against the order of the District Police Officer, Swabi, whereby he was demoted to the rank of Sub Inspector vide Order No. 1049-54/PA dated 04.03.2024 being out of turn promotee. In compliance with the Judgment dated 07.11.2023 of Honorable Khyber Pakhtunkhwa Service Tribunal, in Service Appeal No.16437/2020 titled Ex- Sub Inspector Sajjad Ahmad vs IGP and Honorable Supreme Court of Pakistan judgments reported as 2013 SCMR 1752, Civil Review Petition No. 193/2003 reported in, 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 and consolidated Judgment dated 30.06.2020 in Civil Petitions No. 1996, 2026, 2431, 2437 to 2450, 2501 and 2502 of 2019 on issues of out of Turn Promotions, the then DPO Swabi issued demotion order of Ex-Sub Inspector Sajjad Ahmad (hereinafter referred as appellant) from the rank of Sub Inspector to his substantive rank of C-II Head Constable vide OB No. 1141 dated 30.12.2019.

The Honorable Tribunal vide order dated 07.11.2023 set aside the orders dated 30.12.2019, 29.01.2020 & 17.11.2020 and remitted the matter back to respondents to conduct proper enquiry. In response to the order of Honorable Tribunal and vide Inspector General of Police, Khyber Pakhtunkhwa Memo: No. 7390/Legal dated 26.12.2023, Sub Inspector Sajjad Ahmed was issued Charge Sheet and Summery of Allegations and Mr. Muhammad Shafiq, the then Sub Divisional Police Officer, (SDPO) Topi, District Swabi was appointed as Enquiry Officer to conduct proper departmental enquiry against him. The Enquiry Officer held enquiry recorded statements of all concerned, went through the record and submitted his finding report wherein he stated that the order is issued in the following terms:-

Record in respect of appellant reveals that he was appointed on 01.10.1986 at District Kohistan and later on transferred to District Swabi. He neither qualified the A-1, B-1 examinations nor participated in Lower and Intermediate College Courses, but due to his considerable length of service, he was promoted to the rank of C-II Head Constable vide office OB No. 180 dated 08.02.1999, under Rule PR 13.8 (2) and standing order 06/2014. Later on, contrary to Police Rules 1934, he was promoted to the rank of Assistant Sub Inspector vide OB No. 1004 dated 25.11.2005 and then to the rank of Sub Inspector OB No. 1150 dated 10.03.2011.

Later on Ex- Sub Inspector Sajjad Ahmad was demoted to his substantive rank of C-II Head Constable vide OB No.1141 dated 30.12.2019. Resultantly, he preferred a departmental appeal to the appellate authority which was rejected and filed being devoid of merit by the then Regional Police Officer, Mardan vide Order No. 1066/ES dated 29.01.2020.

The appellant then preferred Revision Petition under Rule 11-A of Police Rules, 1975 (amended 2014) which was rejected vide Order No. S/4577-86/20 dated 17.11.2020.

ATTESTED

PIO 
District Police Officer, Swabi.

As per the Honorable Apex Court of Pakistan judgments reported as 1998 SCMR 2013. Muhammad Nadeem Arif vs Inspector General of Police, Punjab Lahore (PLC 2010 CS 924), Ghulam Shabbir vs Muhammad Munir Abbasi and others (2011 PLC CS) 763, 2013 SCMR 1752, 2015 SCMR 456, 2016 SCMR 1254, 2017 SCMR 206, 2018 SCMR 1218 & Consolidated Judgment dated 30.06.2020 in Civil Petitions No 1996, 2026, 2431 2437 to 2450, 2501 and 2502 of 2019, termed all kinds of incentive/accelerated promotions as out of turn promotions and declared them illegal, unlawful, unconstitutional, un-Islamic, void ab-initio and null. Furthermore, in compliance with recent Order of Honorable Supreme Court of Pakistan dated 26.01.2023 in Sua Moto Contempt proceedings vide Cr.O. Petition No. 38/2021 in C P No.381/2020, all Unit Heads, Regional Police Officers and District Police Officers of Khyber Pakhtunkhwa Police were directed vide CPO Peshawar Letter No. CPO/CPB/75, dated 14.02. 2023, to ensure compliance of above mentioned orders in letter and spirit. Accordingly, all out of Turn Promotions granted to Police personnel either on gallantry or otherwise and related to different Units, Regions & Districts have been withdrawn by concerned authorities and consequently their seniority has been re-fixed alongwith their batch-mates who were promoted as per spirit of rules ibid by maintaining original inter-se-seniority

The appellant was provided an opportunity of personal hearing and was also heard in person and his service record was perused carefully.

Keeping in view the above, the out of turn promotion case of the appellant was thoroughly enquired and his service record was re-examined under the law/rules and in light of the Apex Court judgments ibid wherein it transpires that he was promoted to the rank of C-II Head constable in accordance with law but his further promotions to the rank of Assistant Sub Inspector vide OB No. 1004 dated 25.11.2005 and then to the rank of Sub Inspector vide this office OB No. 1150 dated 10.03 2011 were found against the rules and judgments ibid of the Apex Court. Therefore, to meet the ends of justice, appellant's promotions vide office OB No. 1004 dated 25.11.2005 & OB No. 1150, dated 10.03 2011 were rightly withdrawn vide order OB No. 1141 dated 30.12.2019, by demoting him to his substantive rank of Head Constable C-II.

Feeling aggrieved from the order of the District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 24.04.2024.

From the perusal of service record of the appellant, it came to light that neither the appellant has qualified promotion courses nor his name has been brought on Promotion Lists maintained for the purpose. Besides, the appellant was appointed as general duty constable and not driver constable. The contention of the appellant regarding his promotion on the vacancy of Motor Transport Staff is also not justifiable as he had been appointed as a Constable on the general cadre vacancy. Moreover, the case of appellant also comes within the domain of the out of turn promotions, which have already been declared as unlawful by the Apex Court of Pakistan vide its detailed verdicts mentioned above.

ATTESTED

PIO

District Police Officer, Swabi.

D/2

(14)

Keeping in view the above, I, Najeeb-Ur-Rehman Bugvi, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

(Najeeb-Ur-Rehman Bugvi) PSP
Regional Police Officer,
Mardan.

No. 1365 /ES, Dated Mardan the 13/05 /2024.

Copy forwarded to District Police, Swabi for information and necessary action w/r to his office Memo: No. 67/Legal dated 09.04.2024. His Service Record is returned herewith.

(****)

OB/EC/OHC/PA
for n/action

Handwritten mark

DPO Swabi
14.05.2024

4090
14.05.24

ATTESTED

PIO [Signature]
District Police Officer, Swabi.