

**BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 1072 of 2024.

Ex Head Constable Sher Khan son of Mashey Lal, Police Department, Police Line District Upper Chitral Buni.

.....Appellant


**VERSUS**

1. Regional Police Officer Malakand Division Saidu Sharif Swat.
2. District Police Officer, District Upper Chitral Buni.
3. District Account Officer, District Upper Chitral Buni.

.....Respondents

Index

S. No.	Description of Documents	Annex	Page No.
1	Para wise comments	-	1,2
2	Authority Letter.		3
3	Affidavit		4
4	Counter Affidavit.		5
5	Copy of PG No.03/2013	A	6
6	Copy of Service Book	B	7
7	Copy of Medical Certificate	C	8

  
District Police Officer,  
Chitral Upper

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Line District Upper Chitral Buni.

.....Appellant

**VERSUS**

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2. District Police Officer, District Upper Chitral Buni.
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17542  
4/11/24

.....Respondents

**Parawise Comments on behalf of Respondent No 1 and 2.****Preliminary objections:-**

Respectfully Sheweth!

- (1) That the appeal in hand is badly time-barred.
- (2) That the appellant has not come to this honorable Tribunal with clean hands.
- (3) That the appellant has got no cause of action to prefer the appeal at hand.
- (4) That the appeal is not maintainable in its present form.

**On facts.**

1. Correct to the extent that the appellant was promoted to the rank of Head Constable with effect from 02.10.2022 but on the basis of a concessional benefit as envisaged in Policy Guideline No.04/2013 issued by the office of the Inspector General of Police Khyber Pakhtunkhwa, after completion of mandatory period of three (03) months in list C-II, which was being given to every retiring Police officer prior to his retirement with the sole objective that no Police Officer be retired without promotion..... (Copy attached as annexure "A").
2. Correct to the extent that according to the retirement order the appellant retired in the year 2023, but the service book of the appellant shows that his date of birth is 02.01.1962 however later on alteration has been made in his service book and over writing is clear on page No.1 of the service book....( Copy attached as annexure "B").
3. Correct to the extent that observation has been made by the concerned authority to the effect that the correct date of birth of the appellant is 02.01.1962 but later on alteration and over writing has been made in the service book of the appellant and his date of birth was altered and wrote as 02.01.1963.
4. Correct to the extent that when the case of appellant was processed for pension, it came to light that alternation was made in his service book and his correct date of birth which was entered in his service book at the very first instance of his appointment is 01.02.1962 but the appellant in order to get benefits made alternation by making overwriting and changed the same. Hence, when the said alternation came to surface, the appellant was treated accordingly by making deductions of money in shape of salaries given to him in lieu of such alternation.


5. Incorrect. Stance taken by the appellant is totally bereft of any substance because the appellant has made alternation in his service record by changing his correct date of birth. Moreover, he has been treated leniently by making only deductions as his this act of alternation attracts a harsher punishment being involved in cheating and forgery.
6. Incorrect hence denied. As according to the available records, no such departmental appeal has been received as alleged by the appellant.
7. Incorrect hence denied. As the said deduction has been made on the basis of appellant's false and miss representation and concealment of his correct date of birth, therefore the deduction of one year salary of the appellant is lawful, legal and justified in the eye of law. Therefore, appeal of the appellant is liable to be dismissed.


**On Grounds.**

- A. Incorrect. The deduction of the salary of the appellant by the Respondents is legal, Lawful, justified and maintainable in the eye of law.
- B. Plea taken by the appellant in not plausible because the respondent department cannot make any alternation in any record, rather the appellant has somehow managed to do so. Resultantly he was succeeded in making the alternation to get benefits in shape of salaries for the one extra year.
- C. Incorrect. The respondent No.3 after going through the available record at the time of his retirement has rightly highlighted the fault and raised a valid observation which caused deduction of the salary of the appellant which is routine practice, therefore allegation of malafide and ill will on the part of replying respondents is immaterial.
- D. Incorrect. The original data of birth of the appellant is 02.01.1962 which has been tempered as 02.01.1963 in the Service Book. The Medical Certificate submitted at the time of his enrollment by the appellant himself corroborates his original date of birth as 1962..... (Copy of Medical Certificate attached as annexure "C").
- E. Incorrect. Without tempering in the Service Book, he would not been able to serve an extra period of one year, it is an established principle that an illegal act/omission never entitle a person for any benefit, therefore the appellant has no right to have the deducted salary.
- F. Incorrect. The deduction being valid, lawful, legal and well reasoned is maintainable in the eye of law.
- G. That respondents also seek permission of this honorable Tribunal to raise additional grounds at the time of argument.

**Prayer:**

In light of the facts submitted above the appeal in hand may kindly be dismissed with cost please.

  
District Police Officer,  
Chitral Upper  
Respondent No.02  
(ATTIQ SHAH)  
Incumbent

  
Regional Police Officer,  
Malakand Region Swat  
Respondent No.01  
IRFAN ULLAH KHAN(PSP)  
Incumbent

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.....Respondents


**VERSUS**

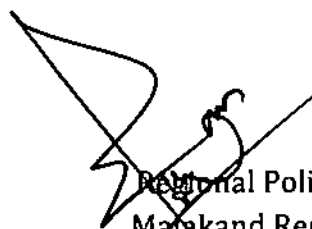
1. Government of Khyber Pakhtunkhwa (KPK) through Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
3. AIG/Establishment for Inspector General of Police Khyber Pakhtunkhwa Peshawar
4. Deputy Inspector General of Police Malakand Division Saidu Sharif Swat.
5. District Police Officer Chitral.
6. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

**Authority Letter.**

Sher Mohsinul Mulk DSP Legal of District Police Chitral is hereby authorized and deputed to attend Service Tribunal, Khyber Pakhtunkhwa, Peshawar in Service Appeal No.1072 of 2024 titled Sher Khan VS Regional Police Officer Malakand Region Swat and others as departmental representative

  
District Police Officer,  
Chitral Upper  
Respondent No.02  
(ATTIQ SHAH)  
Incumbent

  
Regional Police Officer,  
Malakand Region Swat  
Respondent No.01  
IRFAN ULLAH KHAN(PSP)  
Incumbent

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.....Respondents

**Affidavit**

We the following respondents do hereby solemnly affirm that the contents of Parawise comments are true to the best of our knowledge and 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*



District Police Officer,  
Chitral Upper  
Respondent No.02  
(ATTIQ SHAH)  
Incumbent

Regional Police Officer,  
Malakand Region Swat  
Respondent No.01  
IRFAN ULLAH KHAN(PSP)  
Incumbent





OFFICE OF THE  
THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar

Policy Guidelines: Promotion of Constable on Superannuation

PG-4/2013

**1 Objective**

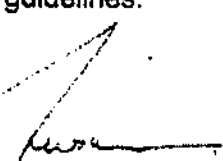
It has been noted that some of the police constables fail to get promotion to the next rank till the age of superannuation. In order to acknowledge the good services of such constables, they shall be promoted as Head Constables before superannuation in accordance with the following procedure.

2 A Constable reaching superannuation shall be brought on Promotion List C-II on the day falling six months prior to his/her superannuation.

3 A Constable so brought on C-II List shall be promoted as Head Constable (C-II) on the day falling three months prior to his/her superannuation.

4 The District Head of Police or the other officer so authorized by the District Head of Police shall maintain in his office a list of all eligible constables for promotion under these guidelines.

5 These guidelines shall be widely circulated for the awareness of all constables so that they are able to make applications for promotion in accordance with these guidelines.

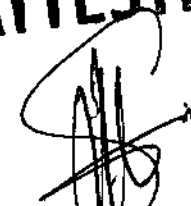
  
(NASIR KHAN DURRANI)  
Inspector General of Police  
Khyber Pakhtunkhwa  
Peshawar

**No.3325-75/PPO Dated Peshawar 5<sup>th</sup> December 2013.**

Copy for information and necessary action to:-

1. All Heads of Police Offices in Khyber Pakhtunkhwa;
2. The Capital City Police Officer, Peshawar;
3. All Regional Police Officers in Khyber Pakhtunkhwa;
4. All District Police Officers in Khyber Pakhtunkhwa;
5. AIG Establishment with the direction to follow up the implementation of these guidelines;
6. Director IT CPO Peshawar with the direction to email copy to all concerned;
7. PSO to IGP.

**ATTESTED**

  
DSP Legal,  
Chitral Lower.

  
(MUBARAK ZEB) PSP  
DIG Headquarters  
Khyber Pakhtunkhwa

*RECEIVED*

DISBURSE  
DEPARTMENT  
CHITRAL

Name		Father's Name		Tribe or caste	
Sherv		Maghary Lal.		Village or Town	
Ranking		Belim		Post and Telegraph Office	
Maghary		do		Police Station	
Clinical		NWPA		District	
2-1-1963 (or 24 Jan)		5-6		Province	
32 1/2 x 34		2-1-1983		Date of Birth	
20 years		A. Little wound Scar on Rt. side of face head.		Height	
				Chest Measurement	
				Date of Enrolment	
				Age on Enrolment	
				Distinctive Marks	

Form Roll No. 112 dated 23/12/82 received back and attached to the Form Roll  
 subject Service prior to present employment, which is approved for position service.

Department	Rank or Grade	Pay of Last Appointment	From	To	PERIOD		
					Years	Months	Days

I understand that I have been appointed under section 7 of the Police Act (V of 1861) and the purpose of that section of the Act and of the Rules framed under it and now in force, by which my designation and conduct are governed is to serve faithfully under the provisions of this said Police Act and to obey all lawful orders issued to me. I agree to serve faithfully under the provisions of this said Police Act and to obey all lawful orders issued to me. I understand and undertake not to resign my appointment within three years from the date of my enrolment. I declare of appointment issued under section 8 of the Police Act (V of 1861).



Position of fingers and thumb of left hand

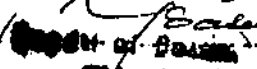
Left ring	Left middle	Left index	Left thumb

Annexure B  
 9B  
 DSP Magal,  
 Chitral Lower.

ATTESTED

MEDICAL CERTIFICATE

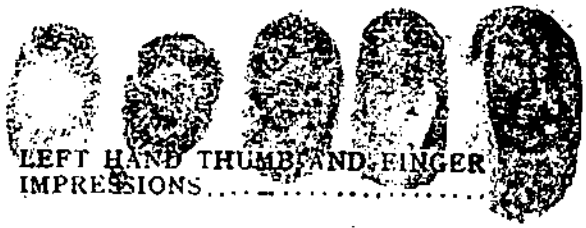
Name of Official Sher  
 Caste or race Mashay (Mishay)  
 Father's name Mashay Lal  
 Residence Balim P.S. Mashay District Chitral  
 Date of birth 1962  
 Exact height by measurement 5'6" (height) 32 1/2" x 34"  
 Personal mark of identification A little wound Scar on Rt. side of forehead  
 Signature of the Official   
 Signature of head of office 

Seal of Office   
 Date 2-1-83

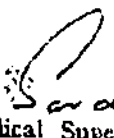
I do hereby certify that I have examined Mr. Sher a candidate for employment in the Office of the Police Department Chitral and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except NIL

I do not consider this as disqualification for employment in the office of the Police Dept. Chitral. His age according to his own statement 20 year and by appearance about 20 years.

ATTESTED



  
 DSP Legal,  
 Chitral Lower.

  
 Sarder M.  
 Medical Superintendent,  
 Civil Hospital,  
 4/1/83