


FORM OF ORDER SHEET

Court of _____

Appeal No. 2392/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/11/2024	<p>The appeal of Mr. Saadullah Khan presented today by Mr. Saadullah Khan Marwat Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 15/11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 2392/2024

Saad Ullah Khan

versus

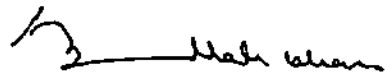
AIG & Others

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S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
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Through

Appellant


Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676

Dated.05-11-2024

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 2392/2024

Saad Ullah Khan S/O Akhtar Ali Khan
R/O Tajikala, Bannu.
Constable No. 477, CTD, Bannu
Region Bannu Appellant

Versus

1. Additional Inspector General of
Police, CTD, KP, Peshawar.
2. Inspector General of Police,
KP, Peshawar.
3. Superintendent of Police,
CTD, Bannu.
4. Commandant FRP, KP
Peshawar. Respondents

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO.13222-30 / EC /
CTD, DATED 08-12-2016 OF R. NO. 01 WHEREBY
ORDER OF PROMOTION TO THE RANK OF HEAD
CONSTABLE WAS CANCELLED AND APPELLANT
WAS REVERTED TO THE RANK OF CONSTABLE
FOR NO LEGAL REASON:**

Respectfully Sheweth:

1. That appellant was initially appointed as Constable on 15-07-2007 and is serving the force to the best of his ability. He is the basic employee of Frontier Reserve Police, Hqr: KP, Peshawar.

2. That appellant passed the required Recruit and Drill Courses. (Copy as annex "A")
3. That due to the dedicated performances of the official duties, appellant was promoted to the rank of Head Constable in the year 2013 by R. No. 04. He also qualified the subsequent required courses with length of service for further promotion. (Copy as annex "B")
4. That issue was cropped up as to whether the promotion of appellant was one step promotion or the same was out of turn. Here it is to point out that promotion of appellant to the rank of Head Constable in FRP was neither one step promotion nor was from other Branch or department but was per the mandate of length of service.
5. That unfortunately, the department in KP generally and in Sind especially has given Out of Turn Promotion to some of the incumbents by showing either extra ordinary performance of the official duties or due to safarash. Some officers / employees of the force were unhappy with the same. Such promotions were assailed in Courts / Tribunals by the aggrieved persons, in KP and in Sind too. Those who were favorites, were brought on transfer / deputation to the police department with malafide. The apex Supreme Court of Pakistan took notice of such illegal and Out of Turn Promotions which were then done away by the apex court. (Copy as annex "C")
6. That the department became influence of the said judgment, cancelled order of promotion of appellant vide order dated 08-12-2016 issued by R. No.01. (Copy as annex "D")
7. That colleagues of appellant filed appeals on the same act before this hon'ble Tribunal which came up for hearing on 03-05-2024 and then the hon'ble Tribunal was pleased to remit the cases of then appellants to respondents for clarification of status and nature of their promotion like above referred Head Constables i.e. Hamaish Khan, Abdul Wadood and Abdul Latif with further direction to decide it within 60 days of receipt of this order. (Copy as annex "E")

8. That on 01-08-2024, appellant submitted departmental appeal before R. No. 02 for setting aside the said order and to restore him to his original position but the same met dead response till date. (Copy as annex "F")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That appellant was promoted to the rank of Head Constable as per the mandate of law. He has in his credit length of service experience and qualified the required courses.
- b. That before issuing of the impugned order, appellant was neither served with any notice nor any enquiry was conducted, being mandatory, so the impugned order is of no legal effect.
- c. That appellant was promoted to the rank of Head Constable at his own district, i.e. FRP Hqr: Peshawar. He was deputed / selected to CTD as confirmed Head Constable of the said district and was never given Out of Turn Promotion.
- d. That the impugned order was passed by the incompetent authority, i.e. R. No. 01. The competent authority for him was Commandant FRP as appellant was the basic employee of FRP authority and not of R. No. 01, so the impugned order is not only without lawful authority but is ab-initio void too.
- e. That the authority misinterpreted the judgment of the apex court as order of promotion of appellant was not Out of Turn but was per Law, Rules, Seniority / Fitness, etc. and not otherwise.
- f. That prior to the issuance of the impugned order, the department reverted dozens of employees from higher rank to lower which orders were assailed before this hon'ble Tribunal and the same were accepted by restoring them to their original positions.
- g. That in the rank of Head Constable, appellant was paying monthly salaries of the grade but after reversion to the rank of constable, he is now paying less pay of the grade.

- h. That the impugned order is not only against law and Rules, as stated above but is also based on malafide.

It is, therefore, most humbly prayed that on acceptance of appeal, the impugned order dated 08-12-2016 of R. No. 01 be set aside and appellant be restored to his original rank of Head Constable with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

سید اللہ خان
Appellant

Through

سید اللہ خان
Saadullah Khan Marwat

Arbab Saiful Kamal

Amjad Nawaz
Advocates.

Dated 05-11-2024

AFFIDAVIT

I, Saad Ullah Khan R/O Tajikala Bannu, Constable No. 477, CTD Bannu Region (Appellant), do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief.

سید اللہ خان

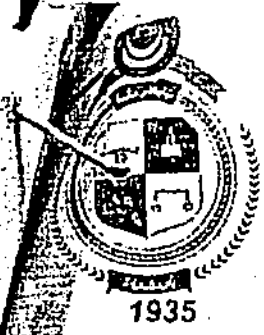
DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal.

سید اللہ خان
ADVOCATE

A S



Ph # 0925-621886
Fax # 0925-623236

Office of the Commandant, Police Training College, Hangu.

To:

1. The Addl: Inspector General of Police/Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Capital City District, Peshawar.
3. The Deputy Inspectors General of Police, Hazara, Bannu, Kohat, Mardan and Malakand Regions.
4. The District Police Officers, Abbottabad, Bannu, Balagram, Buner, Charsadda, Chitral, Dir Lower, Dir Upper, Hangu, Haripur, Kohat, Mansehra, Mardan, Nowshera, Shangla, Swat, Swabi.
5. The Director of CPC Peshawar.
6. The SSP/SP FRP/SPL, Bannu, Abbottabad, Malakand, D.I Khan, Kohat and Peshawar Regions.
7. The Office Superintendent, PTC Hangu.

No. 221 - 52 /S, dated Hangu the 31-1 --2011

Subject: PROFICIENCY CERTIFICATES/DMC/HISTORY SHEETS OF DRILL INSTRUCTORS COURSE TERM ENDING 20.09.2011.

Memorandum: In continuation of this office Notification Ends: No 189-220/S dated 31-1 -2011. The original Proficiency Certificates & Detail Marks Certificates/History Sheets of the following candidates, who have qualified the subject course, are sent herewith for necessary action. The receipt may be acknowledged please

S #	Comp#	Name	Belt#	District/Unit	Remarks:
1	DI-270	Muhammad Tahir	587	Abbottabad	Qualified
2	DI-263	Muhammad Faraz	1224	Abbottabad	Qualified
3	DI-312	Fahad Ali Khan	1226	Abbottabad	Qualified
4	DI-310	Faisal Rehman	885	Abbottabad	Qualified
5	DI-211	Seraj Khan	425	Bannu	Qualified
6	DI-311	Muhammad Arif	1413/1351	Bannu	Qualified
7	DI-216	Asmat Ullah	1074	Bannu	Qualified

طالع الی
 12 سہ ماہیہ میں سے ڈیل کو لیا گیا
 انٹری میں سے ڈیل کو لیا گیا
 ڈیل انٹری میں سے
 5/2/11

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Sl. No.	DI No.	Name	Roll No.	FRP	Result
43	DI-117	Muhammad Nisar	2374	FRP Bannu	Qualified
44	DI-139	Falak Niaz	974	FRP Bannu	Qualified
45	DI-105	Muhammad Iqbal	2531	FRP Bannu	Qualified
46	DI-155	Rafi Ullah	1299/6910	FRP Bannu	Qualified
Term 20.09.2011					
47	DI-218	Hizbullah	2003	FRP Bannu	Qualified
48	DI-300	Muhammad Waris	7726	FRP D.I Khan	Qualified
49	DI-307	Aziz Ullah	7901	FRP D.I Khan	Qualified
50	DI-284	Syed Amcer Ali Shah	7621	FRP D.I Khan	Qualified
51	DI-232	Saad Ullah	7590	FRP D.I Khan	Qualified
52	DI-233	Muhammad Suleman	7777	FRP D.I Khan	Qualified
53	DI-234	Tanveer Hussain	7871	FRP D.I Khan	Qualified
54	DI-297	Qayyum Nawaz	7935	FRP D.I Khan	Qualified
55	DI-249	Syed Zamurd Abbas	7583	FRP D.I Khan	Qualified
56	DI-246	Touheed Zaman	2182/1767	FRP HQrs Pesh:	Qualified
57	DI-208	Saad Ullah Khan	1064	FRP HQrs Pesh:	Qualified
58	DI-259	Hidayat Ullah	2151	FRP HQrs Pesh:	Qualified
59	DI-254	Jawad Ali	1143	FRP HQrs Pesh:	Qualified
60	DI-290	Rafiq Khan	1712	FRP HQrs Pesh:	Qualified
61	DI-289	Irfan Muhammad	2612/316	FRP HQrs Pesh:	Qualified
62	DI-266	Sadar Nawaz	1123	FRP HQrs Pesh:	Qualified
63	DI-274	Abdul Haq	1673	FRP Kohat	Qualified
64	DI-248	Muhammad Arif	1342	FRP Kohat	Qualified
65	DI-251	Nasir Jamal	1421	FRP Kohat	Qualified

APR 2011

7

To Bannu (11/9)

DI - 278 Sher Zadn

433 Shangla

Vide OB No. 293 dated 23.04.2011, due to his illness.

DI - 314 Mulazim Hussain

7750 FRP D.I Khan

Vide OB No. 584 dated 21.07.2011, due to his absence.

(Abdul Waheed Khan)
Commandant,
Police Training College, Hangu.

No. 189 - 220 /S, dated Hangu, the 31-1-2012

Copy of above is submitted for information and necessary action to:

1. The Addl. Inspector General of Police/Commandant, FRP, Khyber Pukhtunkhwa, Peshawar.
2. The Capital City Police Officer, Capital City District, Peshawar.
3. The Deputy Inspectors General of Police, Hazara, Bannu, Kohat, Mardan and Malakand Regions.
4. The District Police Officers, Abbottabad, Bannu, Battagram, Buner, Charsadda, Chitral, Dir Lower, Dir Upper, Hangu, Haripur, Kohat, Manshra, Mardan, Nowshera, Shangla, Swat, Swabi.
5. The Director, CPC Peshawar.
6. The SSP/SP FRP/SPL, Bannu, Abbottabad, Malakand, D.I Khan, Kohat and Peshawar Regions.
7. The Office Supdt. PTC Hangu.

SRC/CAS

for fixation of 07/02

Superintendent of Police
FRP/Bannu

07/02
2012

(Abdul Waheed Khan)
Commandant,
Police Training College, Hangu.

ORDER

On the recommendation of DPC held on 12.08.2013, the following section/Brill
 Courses qualified constables of FRP-Khyber Pakhtunkhwa are hereby promoted as Head
 constable BPS-07 (5800-320-15400) purely on temporary basis with immediate effect.

S. No	Name & No of constables	Name of Range
1.	Ajmal Khan 6068	FRP Bannu Range
2.	Khurshid Rehman 154	FRP Kohat Range
3.	Nazar Hussain 73	FRP Kohat Range
4.	Zafar Mehmood 7853	FRP Dikhan Range
5.	Azeem Ullah 1316	FRP Kohat Range
6.	Surat Khan 6341	FRP Bannu Range
7.	Asmat Ullah 6911	FRP Bannu Range
8.	Wali Badshah 6907	FRP Bannu Range
9.	Rafi Ullah 6916	FRP Bannu Range
10.	Zia-ud-din 6354	FRP Bannu Range
11.	Muhammad Younas 1472	FRP Kohat Range
12.	Rafiqullah 431	FRP HQrs: Peshawar
13.	Imran 6494	FRP Bannu Range
14.	Zain Ullah 251	FRP Kohat Range
15.	Iftikhar 255	FRP Kohat Range
16.	Asghar Ali 6367	FRP Bannu Range
17.	Rizwan Ullah 1468	FRP Kohat Range
18.	Ihsan Ullah 6150	FRP Bannu Range
19.	Saddiq-ur-Rahman 1664	FRP Kohat Range
20.	Ihsan Ullah 6359	FRP Bannu Range
21.	Sohrab Khan 5674	FRP Bannu Range
22.	Yaseen Ali Shah 6095	FRP Bannu Range
23.	Syed Ain Ullah Shah 5996	FRP Bannu Range
24.	Sajid Kamal 5672	FRP Bannu Range
25.	Sami Ullah 6007	FRP Bannu Range
26.	Milkat Ullah 6090	FRP Bannu Range
27.	Mohammad Tahir 8137	FRP Dikhan Range
28.	Asghar Ali 3783	FRP Malakand Range
29.	Arif Ullah 6668	FRP Bannu Range
30.	Mohammad Nazif 6768	FRP Bannu Range
31.	Raham Ali 6736	FRP Bannu Range
32.	Jan Bahadar 3881	FRP Malakand Range
33.	Sardar Ali 3888	FRP Malakand Range
34.	Sher Ahmad 6537	FRP Bannu Range
35.	Mohammad Iqbal 6716	FRP Bannu Range
36.	Mohammad Nisar 6589	FRP Bannu Range
37.	Inam Ullah 6583	FRP Bannu Range
38.	Gul Muhammad 6639	FRP Bannu Range
39.	Kaleem Ullah 6500	FRP Bannu Range
40.	Qudrat Ullah 6603	FRP Bannu Range
41.	Tariq Iqbal 6759	FRP Bannu Range
42.	Safdar Nawaz 1401	FRP Kohat Range
43.	Sher Afzal 6708	FRP Bannu Range
44.	Mushirrat Khan 1469	FRP Kohat Range
45.	Gul Haseem 1380	FRP Kohat Range
46.	Nageeb Ullah 16	FRP Kohat Range
47.	Aman Ullah 1385	FRP Kohat Range

(Signature)

48.	Kifayat Ullah 1485	FRP Kohat Range
49.	Muhammad 1356	FRP Kohat Range
50.	Nasir Jamal 1421	FRP Kohat Range
51.	Rasheed Ullah 1382	FRP Kohat Range
52.	Aminan Ullah 1395	FRP Kohat Range
53.	M. Ishaq 1347	FRP Kohat Range
54.	M. Shafiq 1349	FRP Kohat Range
55.	M. Asghar 7624	FRP DIKhan Range
56.	M. Noiman 7538	FRP DIKhan Range
57.	Ifthikhar-ud-Din 7666	FRP DIKhan Range
58.	Mohammad Irfan 7665	FRP DIKhan Range
59.	Naseem Khan 7694	FRP DIKhan Range
60.	Tanveer Hussain 7871	FRP DIKhan Range
61.	Mohammad Aziz 7901	FRP DIKhan Range
62.	Ikram Ullah 7840	FRP DIKhan Range
63.	Qudrat Ullah 7747	FRP DIKhan Range
64.	Dil Kinnaz 6176	FRP Bannu Range
65.	Abdul Walid 6269	FRP Bannu Range
66.	Ahmed Razaq Khan 6274	FRP Bannu Range
67.	S. Mohammad Farooq 6336	FRP Bannu Range
68.	Hudat Ullah 6337	FRP Bannu Range
69.	Sand Ullah Jan 10742	FRP HQrs: Peshawar
70.	Ifthikhar Ahmad 1798	FRP Kohat Range
71.	Sana Ullah 209	FRP Kohat Range
72.	Kashif 75	FRP Kohat Range
73.	M. Zubair 8191	FRP DIKhan Range
74.	Habib Nawaz 1040	FRP HQrs: Peshawar
75.	Jawad Ali 1143	FRP HQrs: Peshawar
76.	Saddar Nawaz 5652	FRP Bannu Range
77.	Ikhtiar Badshah 9	FRP Kohat Range
78.	Rafi Ullah 61	FRP Kohat Range
79.	Saidar Dawood 185	FRP Kohat Range
80.	Hidayat Ullah 2151	FRP HQrs: Peshawar
81.	Rafi Ullah 6681	FRP Bannu Range

On promotion as Head constable the following transfer/posting are hereby ordered as per detail given below:

S. No	Name & No of constables	From	To
1.	Ajmal Khan 6068	FRP Bannu Range	FRP Bannu Range
2.	Khurshid Rehman 154	FRP Kohat Range	FRP Kohat Range
3.	Nazar Hussain 73	FRP Kohat Range	FRP Kohat Range
4.	Zafar Mahmood 7853	FRP DIKhan Range	FRP DIKhan Range
5.	Azeem Ullah 1316	FRP Kohat Range	FRP Kohat Range
6.	Surat Khan 6341	FRP Bannu Range	FRP Bannu Range
7.	Asmat Ullah 6911	FRP Bannu Range	FRP Bannu Range
8.	Wali Badshah 6907	FRP Bannu Range	FRP Bannu Range
9.	Rafi Ullah 6916	FRP Bannu Range	FRP Bannu Range
10.	Zia-ud-din 6354	FRP Bannu Range	FRP Bannu Range
11.	Muhammad Younas 1472	FRP Kohat Range	FRP Kohat Range
12.	Rafiullah 131	FRP HQrs: Peshawar	FRP HQrs: Peshawar
13.	Imran 6194	FRP Bannu Range	FRP Bannu Range
14.	Zain Ullah 251	FRP Kohat Range	FRP Kohat Range
15.	Ifthikhar 255	FRP Kohat Range	FRP Kohat Range

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2017 P L C (C.S.) 725

[Supreme Court of Pakistan]

Present: Amir Hani Muslim and Umar Ata Bandial, JJ.

REGIONAL POLICE OFFICER GUJRANWALA and another

versus

EJAZ AHMAD and others

Civil Appeal No.184-L of 2013, decided on 26th January, 2016.

(On appeal from judgment dated 20-3-2012 of the Punjab Service Tribunal, Lahore, passed in Appeal No. 110 of 2011).

PLC(Serv) (1)

(a) Civil service---

—Promotion—Out of turn promotion—No civil servant (or police personnel) was entitled to out of turn promotion on account of gallantry award or otherwise. [p. 726] A

Contempt Proceedings Against Chief Secretary Sindh 2013 SCMR 1752, and Ali Azhar Khan Baloch v. Province of Sindh 2015 SCMR 456 ref.

(b) Civil service---

—Seniority—Ante-dated seniority to a civil servant—Violation of the law. [p. 726] B

Contempt Proceedings Against Chief Secretary Sindh 2013 SCMR 1752 and Ali Azhar Khan Baloch v. Province of Sindh 2015 SCMR 456 ref.

Siraj ul Islam, Additional P.-G. and Rana M. Anwar, S.P. (L) Gujranwala for Appellants.

Aftab Gull, Advocate Supreme Court for Respondent No.1.

Aftab Mustafa, Advocate Supreme Court for Respondent No.7.

M. Arif Gondal, Advocate Supreme Court for Respondents Nos.6, 8, 10, 24, 26, 28, 30, 32-35, 37-39 and 41.

Respondents Nos.4, 13 and 19 in person.

Date of hearing: 26th January, 2016.

ORDER

AMIR HANI MUSLIM, J.— The issue raised in these proceedings have already been answered by the judgments of this Court reported as Contempt Proceedings Against Chief Secretary Sindh (2013 SCMR 1752) and Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456). It has been declared in the aforesaid judgment that no Police Personnel and/or Civil Servant is entitled to out of turn promotion on account of gallantry award or otherwise. It has further declared that ante-dated seniority to a Civil Servant is violation of the law.

2. Through the impugned judgment, the Regional Police Officer has challenged the anti-date seniority granted to the Respondents, which has been dealt with in depth in the aforesaid judgments and has been declared to be unconstitutional and *ultra vires* of the fundamental rights of the Civil Servants. We, therefore, set aside the impugned judgment, in terms of the law enunciated in the aforesaid judgments, and allow the Appeal.

Amir Hani Muslim
Signature

Umar Ata Bandial
Signature

2017]


Jan Muhammad v. National Bank of Pakistan
(Ayesha A. Malik, J)

727.

3. The learned Additional Advocate General, Punjab, states that the Punjab Government has started implementing judgments of this Court reported as Contempt Proceedings Against Chief Secretary Sindh (2013 SCMR 1752) and Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456) and till date substantial portion of seniority of the Police personnel has been re-fixed. We must record our displeasure over the inaction on the part of the Punjab Government for the directions issued by this Court in 2013 and 2015. We expect that all the out of turn promotions granted either to the police personnel on gallantry award or otherwise shall be undone within four weeks from today and their seniority be re-fixed with their batch mates in terms of the directions contained in the aforesaid judgments. Out of turn promotions ranging from Constable to any gazetted officers shall be streamlined in terms of the aforesaid two judgments. On completion of the exercise, the I.G. Police Punjab, Home Secretary, Punjab and Chief Secretary, Punjab, shall submit compliance report with the Assistant Registrar of this Court for our perusal in Chambers. This order shall be communicated to the I.G. Punjab, Home Secretary, and Chief Secretary, Punjab, for their information and compliance and non-compliance of this judgment shall expose the concerned officials to contempt proceedings.

MWA/R-6/SC

Order accordingly.

Att-As


Att-As


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ORDER

8-12-16

In compliance with the direction of Honorable Supreme Court, and Worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar vide Memo No S/6601-02/16 dated 10.10.2016, One Step out of turn promotions to the following Officers / Officials of CTD Khyber Pakhtunkhwa from their substantive ranks are also hereby withdrawn / cancelled and brought to their original / substantive ranks with immediate effect.

S.No	Name Rank & No	District	S No	Name Rank & No	District
1.	SI Yasin Khan	Nowshera	49 ✓	HC Muhammad Zubair No 245	Tank FRP ✓
2.	ASI Riaz Ali Khan	Mardan	50 ✓	HC Bakhsh Khan No 346	Bannu
3.	ASI Hakim Khan	Charsadda	51 ✓	HC Syed Mudassar Shah No 84	Bannu
4.	ASI Rigad Gul	Mardan	52 ✓	HC Abdulah Akbar No 344	Bannu
5.	HC Ahmed Jon No 06	Peshawar	53 ✓	HC Shada Ullah No 365	Bannu
6.	HC Gul Mai Khan No 18	Peshawar	54 ✓	HC Nawaz No 368	Bannu
7.	HC Nabees Ud Din No 24	Peshawar	55 ✓	HC Araf Ullah No 446	Bannu
8.	HC Abdul Malik No 28	Peshawar	56 ✓	HC Sad Ullah No 477	Bannu
9.	HC Khyal Mir No 96	Peshawar	57	HC Muhammad Araf No 153	Swabi
10.	IIC Nazma Khan No 72	Peshawar	58	HC Gul Sherif No 142	Nowshera
11. ✓	HC Siyal No 113	Peshawar	59	HC Misri Khan No 643	Abbotabad
12.	HC Noor Ud Din No 156	Peshawar	60	IIC Adz Ur Rahman No 07	Mardan
13.	HC Kaleem Ullah No 167	Peshawar	61	HC Sraaj Ud Din No 301	Kohistan
14.	HC Muhammad Ibrahim No 319	Peshawar	62	HC Sana Ullah No 621	Kahai
15. ✓	HC Mohammad Siyal No 384	Peshawar	63	HC Zahid Ullah No 682	Kahai
16. ✓	HC Sajid Ali No 572	Peshawar	64	HC Gul Saeed No 582	Kahai
17.	HC Asim Ullah No 747	Peshawar	65	HC Shahbaz No 345	Tank
18.	HC Shezad Gul No 406	Special Case	66 ✓	HC Muhammad Ayaz No 175	Lakki Marwal
19.	HC Hameesh Khan No 04	Mardan	67 ✓	HC Sharif Ullah No 336	Lakki Marwal
20.	IIC Anjad Khan No 82	Mardan	68 ✓	IIC Noor Ul Arain No 473	Lakki Marwal
21.	HC Aurangzeb No 87	Mardan	69	HC Sajjad Hussain Shah No 48	FRP ✓
22.	HC Bakht Zada Khan No 97	Mardan	70	HC Sajad Hussain Shah No 48	Di Khan
23.	HC Gul Umer No 119	Mardan	71 ✓	HC Ghazi Gul No 68	Di Khan
24.	HC Lal Zada No 134	Mardan	72 ✓	HC Muhammad Tahir No 137	Tank FRP ✓
25.	HC Mazid Khan No 57	Mardan	73	HC Ikram Ullah No 181	Tank FRP ✓
26.	HC Rajaer Dad Shah No 152	Mardan	74	HC Waheed Ullah No 186	Nowshera
27.	HC Fayaz Ali No 699	Mardan	75	HC Abbas Khan No 114	Charsadda
28.	HC Nadeem Hassan No 787	Mardan	76	HC Munib Shah NO 149	Charsadda
29.	HC Hashmat Ali No 104	Mardan	77	HC Javed No 161	Charsadda
30.	HC Gul Shed No 142	Swabi	78	HC Masood Khan No 189	Charsadda
31.	HC Javeed Ahmad No 1370	Nowshera	79	HC Sajid Ullah No 180	Charsadda
32.	IIC Nudum Shah No 618	Chitral	80	HC Shada Muhammad No 120	Charsadda
33. ✓	HC Ikram Shah No 499	Kohistan	81	HC Sadik Ullah No 141	Swabi
34.	IIC Darwish Khan No 1110	Abbotabad FRP	82	HC Amir Zada No 791	Swabi
		Kohistan		IIC Abdulah No 717	Swabi

Amir
M

Amir
3

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35.	HC Lals Khan No 151	Karak	83	HC Tasneem Ul Haq No 1526	Buner
36.	HC Noor Rahim No 171	Karak	84	HC Bakht Munir No 501	Dir Lower
37.	HC Taj Malook No 641	Hangu	85	HC Khadim Ullah No 827	Dir Upper
38.	HC Muhammad Zaman No 174	Lakki Marwal	86	HC Muhammad Lall No 1304	Dir Upper
39.	HC Asif Ahmad No 1440	Chitral	87	HC Zakir Husain No 1317	Chitral
40.	DHC Muhammad Yousaf No 264	Peshawar	88	DHC Aman Ullah No 64	Peshawar
41.	DHC Habib Khan No 92	Peshawar	89	DHC Gul Wahab No 123	Peshawar
42.	DHC Asad Zia No 599	Mardan	90	DHC Abdul Ghayas No 202	Swabi
43.	DHC Ahsan Hussain No 172	Nowshera	91	DHC Waris Khan No 164	Nowshera
44.	DHC Tilwal Khan No 165	Charsadda	92	DHC Rehman Said No 837	Swat
45.	DHC Abdur Rasheed No 838	Swat	93	DHC Muhammad Hassan No 872	Chitral
46.	DHC Rehmat Nabi No 880	Chitral	94	DHC Abdul Wadod No 1003	Bannu
47.	DHC Akhtar Faraz No 1060	Lakki Marwal	95	DHC Abdul Lall No 470	Dir Khan
48.	DHC Asmat Ullah No 391	Lakki Marwal			

Due to non availability of the vacancies of Constables in this Unit, their pay will be drawn against the vacant post of Head Constables till further orders.

Senior Superintendent of Police, CTD
 Headquarters, Asbolkhad,
 Khyber Pakhtunkhwa.

Additional Inspector General of Police,
 CTD, Khyber Pakhtunkhwa,
 Peshawar.

No 13222-30-1/EC/CTD

Dated Peshawar the 08/12/2016

Copy of above is forwarded for information and necessary action to the:-

- i. Worthy Inspector General of Police, Khyber Pakhtunkhwa w/r to his office Memo No S/6601-02/16 dated 10.10.2016.
- ii. All Regional SSsP, CTD Khyber Pakhtunkhwa.
- iii. Superintendent of Police, CTD HQrs: Peshawar.
- iv. SRC, CTD HQrs: Peshawar to check & make necessary entries in the service records of all those Police Officers / Officials of this Unit who have been promoted as out of turn:
- v. PA / PSO to Worthy Addl: IGP, CTD Khyber Pakhtunkhwa.
- vi. Acctt: CTD HQrs: Peshawar.
- vii. OASI, CTD HQrs: Peshawar.
- viii. MTO / MHC CTD HQrs: Peshawar.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 775/2017

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (B)

Muhammad Zaman S/O Gul Dad Khan, B.No.174, Head Constable,
Headquarter, Counter Terrorism Department, Peshawar.

(Appellant)

VERSUS

1. Additional Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, CTD, Peshawar.
4. Commandant FRP, Headquarter, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

Mr. Arbab Saif ul Kamal
Advocate

For appellant

Mr. Muhammad Jan
District Attorney

For respondents

Date of Institution.....05.05.2017

Date of Hearing.....03.05.2024

Date of Decision.....03.05.2024

JUDGMENT

RASHIDA BANO, MEMBER (J): Through this single judgment, we intend to dispose of the instant service appeal as well as connected service appeals which

ATTESTED

RASHIDA BANO
MEMBER (J)
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

are mentioned below, as in all these appeals common questions of law and facts are involved:

1. Service Appeal No. 776/2017
2. Service Appeal No. 777/2017
3. Service Appeal No. 778/2017
4. Service Appeal No. 779/2017
5. Service Appeal No. 780/2017
6. Service Appeal No. 781/2017
7. Service Appeal No. 782/2017
8. Service Appeal No. 783/2017
9. Service Appeal No. 784/2017
10. Service Appeal No. 785/2017
11. Service Appeal No. 786/2017
12. Service Appeal No. 787/2017
13. Service Appeal No. 788/2017
14. Service Appeal No. 789/2017
15. Service Appeal No. 270/2018

2. The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

"It is therefore, most humbly prayed that on acceptance of appeal, the impugned order dated 08.12.2016 of R.No.1 be set aside and appellant be restored to his original rank of Head Constable with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case."

3. Appellants' cases in brief are that they were appointed on different dates and in different districts (given in the respective appeals) in the Police Department. According to the appeals the appellants are qualified Recruit, Drill Instructor, Section Commander, Platoon Commander, Weapon, Gas, ATS courses and were performing their duties with the entire satisfaction of their superiors. They were promoted to the rank of Head Constable in the year, 2012; in light of the judgment of the apex court dated 26.01.2016, respondents cancelled the promotion order of the appellants on 08.12.2016. Feeling

Attorneys

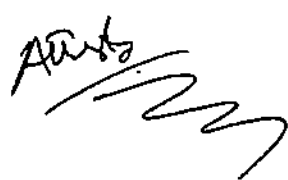
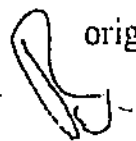
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 Service Tribunal
 Peshawar

aggrieved, they filed departmental appeals, which were not responded, hence the present service appeal.

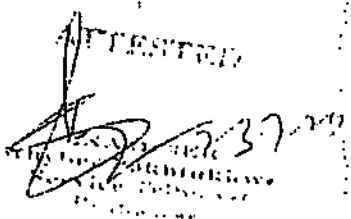
4. Respondents were put on notice, who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

5. Learned counsel for the appellant argued that appellants have not been treated in accordance with law and rules; that appellants were promoted to the rank of Head Constable as per law/rules as they have required length of service and experience on their credit; that appellants were promoted to the rank of Head Constable and their promotions were rather not out of turn; that the authority mis-interpreted the judgment of the apex court as order of promotion was not out of turn but was as per law, rules, seniority-cum-fitness; that impugned order was passed by the incompetent authority which is void ab-initio, hence not tenable and liable to be set aside.

6. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules; that the appellant did not undergone/carried out mandatory departmental courses required for promotion to the rank of Head Constable; that appellants were given accelerated promotion/out of turn promotion. The apex court vide its judgment has held that out of turn promotions are illegal, violation of Article of the constitution, law and rules. Therefore, in compliance of the judgment all out of turn promotion orders were withdrawn and officials/officers were brought to their original/substantive ranks.



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7. Perusal of record reveals that appellants were appointed as constable in Police Department. Appellants qualified/passed all the courses i.e. Reoruit, Drill, Instructor, Selection Commander, Platoon Commander, Weapon Gas, ATS etc. Appellants after qualification of all the courses required for promotion besides having required length of service at their credit were promoted to the rank of Head Constable. Appellants were awarded selection grade as per their own turn and their promotion was in accordance with rules and not out of turn but unfortunately respondents vide impugned order cancelled the order of promotion of appellants by getting influenced from judgment of Supreme Court of Pakistan about out of turn promotion.

7. Appellants were basically employees of the FRP promotion criteria for whom is given in standing order 01/2020 in accordance with which main qualification for promotion to the rank of Head Constable is as such;

- a) Qualified Selection Commander Course or Drill course.
- b) Physical Fitness according to Police Rules 12-16 (1).
- c) Character Roll clear of entry carrying moral stigma, beside seniority.

Appellants annexed with their appeals certificate of Selection Commander Course and alleged that they were promoted on the basis of seniority cum fitness by their relevant authority but respondent without confirming from their concerned authority who promoted them, with a stroke of pen reverted them, which is not justified.

8. Learned Counsel for the appellants during arguments produced order of withdrawal of names of Head Constable, Abdul Wadood No.1003 dated 13.03.2018, Head Constable, Abdul Latif No.470 dated 16.04.2018 and Head

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 37/16
 Head Constable
 Police Department
 Islamabad

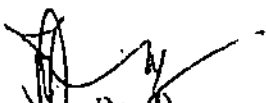
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Constable, Hamaish Khan No.03 from reversion impugned revision order dated 08.12.2016, whose promotion order was cancelled alongwith appellant vide single order dated 08.12.2016 impugned before us.

9. Perusal of these three orders reveals that their cases were sent by appellate authority for determination of status of their promotion, whether it was in accordance with seniority cum fitness and after passing of required course or otherwise upon clarification of their Parent District, they were promoted on their own turn alongwith their colleagues, their reversion order was withdrawn by the respondents. Therefore, in our humble view respondent should have sent cases of all the appellants for clarification about their promotion whether it was on their due turn after fulfilling required criteria in accordance with rules and practice in vogue or otherwise i.e. out of turn before withdrawal of their promotion order vide impugned order but they had not done so.

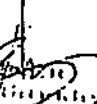
10. For what has been discussed above, we remit the cases of the appellants to respondents for clarification of status and nature of their promotion like above referred Head Constables i.e. Hamaish Khan, Abdul Wadood and Abdul Latif with further direction to decide it within 60 days of receipt of this order. Cost shall follow the event.


11. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 3rd day of May, 2024.


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

ATTESTED


Attestation Officer
Service Tribunal
Peshawar


Attestation Officer

F 19

بخدمت جناب انسپکٹر آف پولیس صوبہ خیبر پختونخواہ پشاور

عنوان۔ اپیل برخلاف حکم نمبری 13222-30/EC/CTD مورخہ 08.12.16 جاری

کردہ ایڈیشنل انسپکٹر جنرل آف پولیس سی ٹی ڈی، کے پی پشاور جسکی رو سے سائل کی ترقیاتی برعہدہ

ہیڈ کنسٹیبل کینسل کرنے کا حکم صادر فرمایا گیا ہے۔

جناب عالی! سائل حسب ذیل گزارش کرتے ہیں۔

1. یہ کہ سائل مجوزہ طریقہ کار اپنانے کے بعد مورخہ 15.07.2007 میں کانٹیل بھرتی ہوا تھا۔
2. یہ کہ بعد ازاں سائل نے ریکورڈ، ڈرل انسٹرکٹو وغیرہ کے کورسز راج شدہ طریقہ کار کے مطابق پاس کئے ہیں۔
3. یہ کہ سائل نہایت خوش اسلوبی کے ساتھ اپنے فرائض منصبی سرانجام دیتا رہا اور پھر محکمہ کی ضرورت کے مطابق سال 2013 میں بہ عہدہ ہیڈ کانٹیل ترقی پایا ہوا۔ جہاں ضرورت پڑتی سائل کو سالانہ انکریمنٹس و سلیکشن گریڈ سے بھی نوازا جاتا رہا۔

یہاں اس ام کی وضاحت ضروری ہے کہ سائل کی ترقیاتی نہ تو ان سٹیپ پروموشن کی تھی نہ ہی کسی دیگر برانچ یا محکمہ میں جانے کی وجہ سے تھی بلکہ قانون کے مطابق تھی اور نہ ہی آؤٹ آف ٹرن۔

Attest


4. یہ کہ بد قسمتی سے اثر و رسوخ اور غیر معمولی کارکردگی دکھانے پر محکمہ نے بعض ملازمین کو آؤٹ آف ٹرن پر دوشن دی تھی۔ جس پر بعض اہلکاران نے ناخوشی کا اظہار کیا تھا۔ بلکہ بعض عدالتوں / ٹریبیونلز میں آؤٹ آف ٹرن پر دوشن کو چیلنج کیا خاص کر سندھ حکومت نے جہاں تشویش بہت زیادہ تھی اور اسکو ختم کرنے کے لئے قانون نافذ کرنے والے ایجنسیوں نے غیر معمولی کارکردگی دکھائی تھی۔ نیز بعض نے محکموں کے منظور نظر آفسران سے ٹرانسفر / ڈی پوٹیشن پر لے کر اس بہتی گنگا میں زیادہ ہاتھ دھوئے تھے جو کہ یہ معاملہ سپریم کورٹ آف پاکستان پہنچا جس نے اپنے فیصلے میں قرار دیا کہ آؤٹ آف ٹرن پر دوشن غیر قانونی ہیں۔ کیسز کو ریٹائر کر کے اس کا دوبارہ جائزہ لینے کو کہا۔

5. یہ کہ فیصلہ سپریم کورٹ کے برعکس، مسائل کا پر دوشن بمطابق مجوزہ قانون، رولز سیناریو ڈیفنس کے مطابق تھا نہ کہ آؤٹ آف ٹرن۔

6. یہ کہ حکم معذرتہ جاری کرنے سے پہلے نہ تو سامان کو کوئی نوٹس دیا تھا نہ ہی کوئی انکوائری کروائی گئی تھی جو کہ ضروری تھا تاکہ معلوم ہو سکے کہ آپا سامان کی ترقی پر عہدہ پائیڈ کا نشیلا مجوزہ طریقہ کار کے مطابق تھی یا اسکے برعکس۔

7. یہ کہ مسائل کو متعلقہ سٹیشنز / ڈسٹرکٹ ہائے سے چٹا کر کے بطور کنفرم ہیڈ کا نشیلا سی ٹی ڈی میں متعین کیا تھا۔ متعلقہ آسامیوں پر آؤٹ آف ٹرن پر دوشن نہیں ہوئی تھی۔ بلکہ کمانڈنٹ ایف آر پی نے اپنے ہاتھ پر پر دوشن دی تھی۔

8. یہ کہ مسائل کے لئے مجاز اتھارٹی ایڈیشنل انسپکٹر جنرل آف پولیس سی ٹی ڈی نہیں ہے۔ وہ مسائل کا ریورشن کرنے کا مجاز نہ ہے۔ بلکہ مسائل کے لئے مجاز اتھارٹی کمانڈنٹ ایف آر پی ہے۔ لہذا حکم صدر شدہ نہ صرف با مجاز اتھارٹی ہے۔ بلکہ سرے سے غلط ہے۔

Ata As

9. یہ کہ قبل ازیں محکمہ نے ایسے احکامات جاری کئے تھے اور ملازمین کے عہدہ ہابالا سے تنزلی کی تھی جسکو نہ صرف فاضل ٹریبیونل نے غیر قانونی قرار دینے سے بلکہ سپریم کورٹ آف پاکستان نے فاضل ٹریبیونل کا فیصلہ برقرار رکھا تھا۔

10. یہ کہ سائل پہلے گریڈ بالا میں زیادہ تنخواہ جات لیتے تھے جبکہ مذکورہ حکم کے بعد ادنا گریڈ میں دینے جائینگے جو کہ مزاحمت کیا جاتا ہے۔

11. ایذا کہ حکم معصومہ صرف برخلاف قانون ہے بلکہ بنی بریدستی ہے۔ علاوہ ازیں سائل کے دیگر ساتھیوں نے حکم مذکورہ بالا کے خلاف ٹریبیونل ہذا میں اپیل نمبر 775/17 محمد زمان وغیرہ بنام محکمہ پولیس دائر کئے تھے جو مورخہ 03.05.2024 کو منظور ہو کر حکم مذکورہ کو کالعدم قرار دیا۔

لہذا استدعا ہے کہ حکم مورخہ 08.12.16 کو نہ صرف کالعدم و منسوخ قرار دیا جاوے بلکہ سائل کو تمام سابقہ مزاحمت کے ساتھ سابقہ عہدے پر بحال فرمانے کا حکم صادر کیا جاوے۔

المرقوم 01.08.2024

العارض محمد اللہ خان

محمد اللہ ولد اختر علی خان

ساکن تاجکولہ بنوں

کنشیل 447 سی ٹی ڈی بنوں ریجن

رابطہ نمبر۔ 0334-8825207

Attest
[Signature]

