

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.291 /2024.

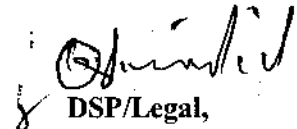
Wariq Shah Sub Inspector of CCP Peshawar..... **Appellant.**

VERSUS

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

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DSP/Legal,
CCP Peshawar.

①

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 291/2024.

Wariq shah Sub Inspector No. 342-P of CCP, Peshawar.....Appellant.

VERSUS

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

REPLY BY RESPONDENTS NO. 1, 2 & 3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 14608

Dated 31-07-24

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
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 Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

1. Para to the extent of initial appointment as Junior Clerk and subsequent appointment as PASI pertains to record while rest of the para is not plausible hence, denied. As every police officer is under obligate to perform his duties with full devotion & honesty because in this department no room liest for lethargy.
2. Correct to the extent that the appellant was awarded punishment because he while posted as Incharge Nakabandi at Ring road Motorway Chowk showed cowardice & negligent attitude. As two suspects having a hand bag were de boarded from a passenger vehicle, when asked for body search, one of them pulled out 9mm Pistol and started indiscriminate firing at Police. The said suspects decamped from the spot and on the way, they confronted the rider squad on whom these suspects also opened firing, resultantly two Constables embraced martyrdom. Hence, after completion of all codal formalities, he was awarded the major punishment of "Time Scale for a period of two years" by SSP/Operations dated 02.10.2009. Subsequently, consequent upon the completion of his punishment period, his name was brought on promotion list "E" on 02.10.2011. (copy of orders are annexure as A,B)
3. Incorrect. Plea taken by the appellant is totally bereft of any substance. In fact the appellant was rightly deferred from confirmation in the rank of ASI due to his punishment of "Time Scale for a period of two years" by SSP/Operations dated 02.10.2009. Later on, he was confirmed in the rank of ASI from the date of his initial appointment i.e 01.03.2006 and brought his name to list E on 02.10.2011 and was also promoted to the rank of Offg: SI on 12.11.2013, after completion of requisite criteria devised for the purpose. Moreover, the apex court of Pakistan had held in its judgment vide C.P No. 2017/2006 dated 29.01.2008 titled as Raza Safdar Kazmi that the practice

of ante-dated confirmation and promotion have been put down. Hence, in light of judgment ibid, the plea of the appellant is liable to set at naught.

- 4. In fact confirmation in the rank of S.I requires completion of eligibility criteria under 13-10 (2) of PR 1934 amended 2017, which provides that "no sub inspector shall be confirmed in a substantive vacancy unless he has been tested for at least a year as an officiating S.I in independent charge of PS, notified post, or as in charge investigation of a PS or CTD". Actually only those Sub Inspectors are confirmed in the ranks who fulfill the laid down criteria and confirmation of no SIs considered without completion of requisite criteria.(copy of rule is annexed as "C")
- 5. Incorrect. Departmental appeal of the appellant was against the facts and law/rules. Therefore it was turned down being not maintainable. The appellant then filed Service Appeal No.7369/2021, and the same was subsequently withdrawn by the appellant. The appellant was promoted as officiating SI on 12.11.2013 and as per rule 13.18 of Police Rules 1934 he got ante dated confirmation w,e,f 12.11.2015 in the rank of SI vide Notification No. 15739/EC-I dated 08.09.2023. The process of seniority in promotion cases is fairly done and no violation of law/rules has ever been committed by the respondents.(copy of notification is annexure as "D")
- 6. Para already explained in detail plea taken by the appellant is not plausible because he has been treated in accordance with law & no discrimination was done by the replying respondents.
- 7. Incorrect. The appellant was treated in accordance with prescribed law/rules and was not discriminated, therefore, the instant Service Appeal may be dismissed on the following grounds:-

REPLY ON GROUNDS:-


- A. Incorrect. The Notification No.15739/EC-I dated 08.09.2023 issued by the competent authority is just legal, lawful and in accordance with law/rules without any pick and choose.
- B. Incorrect. The appellant has been treated strictly in accordance with law/rules and no legal right has ever been violated.
- C. Incorrect. The objections raised by the appellant in the para having no legal footing as promotion/confirmation in KPK Police is given to those officials who fulfill the said qualification/criteria and promoted to the next higher rank. The appellant was rightly promoted to the next higher ranks in accordance with law/rules.
- D. Incorrect. Besides chapter 13.18 of Police Rules 1934, an officer is also bound to fulfill the laid down criteria mandatory for the confirmation in the rank of SI as envisaged in chapter 13.10 (2) of Police Rules 1934 as well. The appellant was given Seniority as per rule 13.18 of Police Rules 1934 and was granted him ante dated confirmation in the rank of SI vide Notification dated 08.09.2023.
- E. Incorrect. The respondents did not deprive anyone from their due right i.e. promotional courses. No omission or commission on the part of replying respondents and he was rightly promoted to the next higher ranks in accordance with law/rules.
- F. Incorrect. Pertains to personal information to the appellant, however; he had gained benefits from the period of his service.
- G. Incorrect. Appellant has been treated strictly in accordance with law/rules and was granted promotion/confirmation in the rank of SI vide Notification ibid. The appellant after completion of

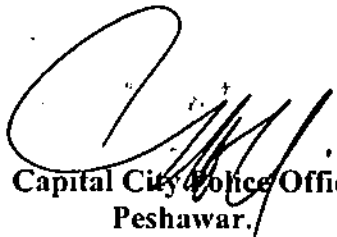
the laid down criteria was promoted to the next higher rank on his own turn as per law/rules in vogue.

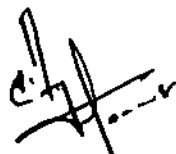
- H. Incorrect. Colleagues of the appellant were promoted/confirmed after their fulfillments of laid down criteria in accordance with law/rules, whereas, the appellant was deferred from promotion/confirmation due to facing departmental enquiries. Moreover, no discrimination has been done to the appellant and was dealt with law/rules.
- I. Incorrect. Each and every case has separate facts and grounds. In the instant case no irregularity has been made. Furthermore, replying respondents have to followed law/rules and no violation of the fundamental rights of the appellant has been committed. The appellant was given seniority as per 13.18 of Police Rules 1934.
- J. Incorrect. The appellant has been conferred anti dated seniority by granting him revised confirmation in the rank of SI, hence his grievance settled vide Notification ibid.
- K. Incorrect. Para pertains to record, appellant was employee of the respondent department but during service, his performance was not up to the mark and falls under moral turpitude.
- L. That respondents may also be allowed to advance any additional ground at the time of hearing of the appeal.

PRAYER.

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


**Superintendent of Police,
 HQrs, Peshawar.
 (Raham Hussain)
 (Respondent No.3)
 Incumbent**


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


**AIG/ Legal,
 For Inspector General of Police,
 Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 1)
 (MUHAMMAD ASIF)
 Incumbent**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 291/2024.

Wariq shah Sub Inspector No. 342-P of CCP, Peshawar.....Appellant.

VERSUS

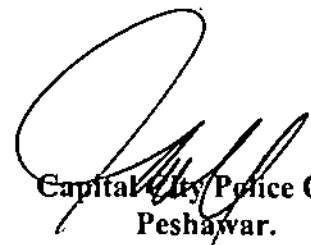
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.....Respondents.

AUTHORITY.

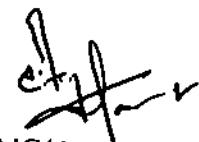
We respondents are hereby authorize Mr.Inam Ullah DSP legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.



Superintendent of Police,
HQrs, Peshawar.
(Raham Hussain)
(Respondent No.3)
Incumbent



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



AIG/ Legal,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(MUHAMMAD ASIF)
Incumbent

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 291/2024.

Wariq shah Sub Inspector No. 342-P of CCP, Peshawar.....**Appellant.**

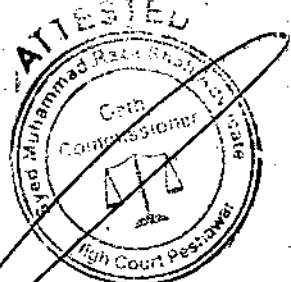
VERSUS

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

AFFIDAVIT.

We respondents No. 2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of my knowledge and belief and nothing has concealed/kept secret from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off.

(Handwritten signature and date 31/12)



(Handwritten signature)
**Superintendent of Police,
HQrs, Peshawar.
(Raham Hussain)
(Respondent No.3)
Incumbent**

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

This order will dispose off the Departmental Enquiry against ASI Wariq Shah Constables Akhtar Gul No.1262 & Javed No.3871 of Police Station, Paharipora committed that on 07-08-2009 at 10:25 hrs during checking of Nakabandi at Ring Road point, Motorway-chock two suspects were come down from passenger vehicle having a hand bag in one of in his hand. They were directed for search. But one of the accused pull out a 9 MM pistol from his bag and started firing at Police party. ASI Wariq Shah I/C of nakabandi points alongwith two Constables Akhtar No. 1262 and Javed No. 3871 have Showed Cowardice and negligence on their part as the accused party decamped from the spot and on their way, two riders did face the accused party and started firing at riders as a result the two riders have embraced Shahadath.

In this whole story they played a negative role and did not bother to chase the accused party resultantly both the Constables (Riders) have embraced Shahadath which shows gross mis conduct on their part

As such they were issued proper charge sheet with statement of allegations, while DSP/Security (Mr. Shahid Ali Khan) was appointed as Enquiry Officer for proceedings.

Findings of the Enquiry Officer were received in which they are recommended for major punishment.

Therefore, they were issued Final Show Cause Notice to which their replies were received but found un-plausible. All the 03 defaulter officers were also provided the opportunity personal hearing but did not satisfy the undersigned.

I have gone through the case file and perused the record, also keeping in view the recommendation of the Enquiry Officer for major punishment, therefore, I came to the conclusion to take the decision, hence PASI Wariq Shah, Constables Akhtar Gul No.1262 & Javed No.3871 are hereby awarded the following major punishment as noted against each their names: under the NWFP Removal from service (Special Power) Ordinance 2000 with immediate effect.

S.NO	NAME & RANK	PUNISHMENT AWARDED
1.	PASI Wariq Shah	Time Scale ASI for the period of two years
2.	Constables Akhtar Gul No.1262	Time Scale constable for the period of two years
3.	Constable Javed No.3871	Time Scale constable for the period of two years

Order Announced

[Signature]
 SENIOR SUPERINTENDENT OF POLICE,
 OPERATIONS, PESHAWAR.

O.B. No. 241-09
3163
 Dated 9-10-2009
 No. 1568-71 /PA; dated Peshawar, the 10 /2009.

- Copy for information to:
- The Capital City Police Officer, Peshawar w/r to his office No.1235/PA; dated 15-08-2009.
 - DSP/Security (Mr. Shahid Ali Khan)
 - EC-I, EC-II, OASI, CRC, P.O & AS.

[Signature]

B 7

12

"E"
-13-

CCP, PESHAWAR.

POLICE DEPTT.

FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE CAPITAL CITY POLICE OFFICER KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION

Dated 11/10/2012.

No. 17159/EC-I, CONFIRMATION IN THE RANK OF PASI AND
PROMOTION TO LIST "E".- In the light of recommendations submitted by
Departmental Promotion Committee held on 13-09-2012, PASI Waris Shah No.32/P
of Capital City Police, Peshawar is hereby confirmed in the rank of PASI w.e from
08-03-2006 and also brought his name on promotion list "E" with effect from
02-10-2011.

[Signature]
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

No. 17159/EC-I,

action to the:-

Copy of above is forwarded for information and necessary.

1. Addl: Inspector General of Police Investigation KPK, Peshawar alongwith two spare copies for publication KPK, Gazette Notification part-II.
2. Senior Superintendent of Police, Operation Peshawar.
3. Assistant Secret CCP, Peshawar.
4. EC-II Branch CCP, Peshawar.

[Signature]

[Signature]

11/10/2012

(C8)

10. In rule 13.10, for sub rule (2) the following shall be substituted namely:

“(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:

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 course i.e. upper college course”.

11. After rule 13.16, the following new rule shall be added, namely:

“13.16A. **One year mandatory tenure for promotion to Deputy Superintendent of Police.**—An Inspector shall be promoted to the post of Deputy Superintendent of Police after successful completion of mandatory training i.e. Advance Course and completion of one year tenure as Inspector in the Investigation Branch, or Counter Terrorism Department, or Special Branch, or any police training institution.”.

12. After Form No. 13.7, the following new Appendices shall be added, namely:

“Appendix 13.7A (I)
(See sub-rule (1) of rule 13.7A)

S.No	SUBJECTS	MARKS
1.	Approved Syllabus of Recruit Course	200
2.	Basic General Knowledge (General Knowledge regarding Pakistan & Khyber Pakhtunkhwa)	30
3.	English Communication	20

Appendix 13.7B (I)
(See sub-rule (2) of rule 13.7A)

S.No	SUBJECTS	MARKS
1.	<u>LAWS</u> i. Pakistan Penal Code ii. Criminal Procedure Code iii. Local and Special Laws iv. Qanoon-e- Shahdat v. Khyber Pakhtunkhwa Police Act, 2017 vi. Huddood Laws	60
2.	Police Rules, 1934	50
3.	English Translation	30
4.	General Knowledge	30
5.	Police Initiatives	30

Note: The subjects mentioned at serial No. 1 and 2 shall include selected portion of the relevant laws to be approved by the Provincial Police Officer.”.

13. In rule 19.2, after sub-clause (2), the following new sub-rule shall be added, namely:

“(3) Written examination of recruit course shall be conducted through an accredited testing agency approved by the Provincial Police Officer.”.

POLICE DEPTT:CCP, PESHAWAR.

FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE CAPITAL CITY POLICE OFFICER KHYBER PAKHTUNKHWA,
PESHAWAR.

NOTIFICATION.Dated 08/09/2023.

No. 15739 REC-I, CONFIRMATION IN THE RANK OF SIs:- The cases is regarding confirmation of following officiating Sub-Inspectors of CCP Peshawar scrutinized by the Departmental Promotion Committee in the meeting, held on 23.08.2023. In light of the recommendations of the DPC, officiating periods of those SIs who have fulfilled the requisite criteria as stipulated in the amended Police Rules, 13-10(2), are counted towards probation periods under Police Rules 13-18 and they are confirmed in the rank of SI against the substantive posts from the dates mentioned against their names. Those Officiating SIs who were found deficient are differed due to reasons noted against their names.

New constabulary numbers are allotted to all confirmed SIs as noted below:-

S#	Name and Rank	Present Posting	D.O promotion as Offg: SI	D.O Confirmation as SI under P/R 13.18	Decision	New CCP Nos.
1.	SI Wariq Shah No.32/P	FRP, KP	12-11-2013	12-11-2015	Recommended for confirmation in the rank of SI.	P/342
2.	SI Shamroz Khan No. 873/P	CTD, KP	27.09.2011	27.09.2013	Recommended for confirmation in the rank of SI.	P/359
3.	SI Ujaqat Ali No.1151/P	FRP, KP	16.04.2014	16.04.2016	Recommended for confirmation in the rank of SI.	P/395
4.	SI Tariq Niaz No. 1268/P	CTD, KP	03-03-2017	03-03-2019	Recommended for confirmation in the rank of SI.	P/487
5.	SI Khaista Khan No. 1279/P	FRP, KP	12-02-2019	12-02-2021	Recommended for confirmation in the rank of SI	P/603
6.	SI Shakir Ullah No.1286/P	FRP, KP	12-02-2019	12-02-2021	Recommended for confirmation in the rank of SI.	P/604
7.	SI Maaz Ullah No.1301/P	Special Branch	12-02-2019	12-02-2021	Recommended for confirmation in the rank of SI.	P/605
8.	SI Abdullah Jan No. 1303/P	FRP, KP	12-02-2019	12-02-2021	Recommended for confirmation in the rank of SI.	P/606
9.	SI Muhammad Iqbal-1311/P	Special Branch	12-02-2019	12-02-2021	Recommended for confirmation in the rank of SI.	P/607
10.	SI Tehseen Ullah No.773/P	Special Branch	16.04.2014	16.04.2016	Recommended for confirmation in the rank of SI.	P/608
11.	SI Muhammad Waqas Yousaf No.198/P	District Nowshera	16.04.2014	16.04.2016	Recommended for confirmation in the rank of SI.	P/609
12.	L/SI Mughis No.804/P	Elite Force	16.04.2014	16.04.2016	Recommended for confirmation in the rank of SI.	P/610
13.	L/SI Saeeda Shaheen No. 806/P	CCP, Peshawar	16.04.2014	16.04.2016	Recommended for confirmation in the rank of SI.	P/611

Adverse
J

1/3/2023

14.	SI Jehangir Shah No. 1354/P	CCP, Peshawar	15-4-2019	15-4-2021	Recommended for confirmation in the rank of SI.	P/612
15.	SI Shah Jehan No. 1363/P	CTD, KP	15-4-2019	15-4-2021	Recommended for confirmation in the rank of SI.	P/613
16.	SI Shabir Hussain No. 75/P	Special Branch	15.4.2019	15.4.2021	Recommended for confirmation in the rank of SI.	P/614
17.	SI Sanullah No. 1367/P	Special Branch	15.04.2019	15.04.2021	Recommended for confirmation in the rank of SI.	P/615
18.	SI Muhammad Shafiq No. 1374/P	CCP Peshawar	15-4-2019	15-4-2021	Recommended for confirmation in the rank of SI.	P/616
19.	SI Muhammad Jan No. 81/P	CTD, KP	15.04.2019	15.04.2021	Recommended for confirmation in the rank of SI.	P/617
20.	SI Asmat Khan No. 92/P	Special Branch	15.04.2019	15.04.2021	Recommended for confirmation in the rank of SI.	P/618
21.	SI Kifayat Khan No. 101/P	CTD, KP	24-01-2020	24-01-2022	Recommended for confirmation in the rank of SI.	P/619
22.	SI Shoukat Ali No. 110/P	CCP, Peshawar	24-01-2020	24-01-2022	Recommended for confirmation in the rank of SI.	P/620
23.	SI Muhammad Jaffar No. 188/P	Elite Force	24-01-2020	24-01-2022	Recommended for confirmation in the rank of SI.	P/621
24.	SI Umar Gul No. 193/P	CCP, Peshawar	24-01-2020	24-01-2022	Recommended for confirmation in the rank of SI.	P/622
25.	SI Nisar Ullah No. 195/P	CCP, Peshawar	24-01-2020	24-01-2022	Recommended for confirmation in the rank of SI.	P/623
26.	SI Hakeem Ullah No. 198/P	Special Branch	24-01-2020	24-01-2022	Recommended for confirmation in the rank of SI.	P/624
27.	SI Iqbal Shah No. 200/P	CCP, Peshawar	24-01-2020	24-01-2022	Recommended for confirmation in the rank of SI.	P/625
28.	SI Shah Wali No. 204/P	CCP, Peshawar	24-01-2020	24-01-2022	Recommended for confirmation in the rank of SI.	P/626
29.	SI Hiaz Ali No. 207/P	Special Branch	08-05-2020	08-05-2022	Recommended for confirmation in the rank of SI subject to satisfactory ACR for the year of 2022.	P/627
30.	SI Wasif Ullah No. 210/P	Special Branch	08-05-2020	08-05-2022	Recommended for confirmation in the rank of SI.	P/628
31.	SI Syed Malook No. 212/P	Special Branch	08-05-2020	08-05-2022	Recommended for confirmation in the rank of SI subject to satisfactory ACR for the year of 2022.	P/629
32.	SI Iqbal Hussain No. 1324/P	Elite Force	08-05-2020	08-05-2022	Recommended for confirmation in the rank of SI.	P/630
33.	SI Abdul Malik No. 230/P	Special Branch	08-05-2020	08-05-2022	Recommended for confirmation in the rank of SI.	P/631

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34.	SI M. Arif No. 318/P	Special Branch	08-05-2020	08-05-2022	Recommended for confirmation in the rank of SI.	P/632
35.	SI Qaiser Khan No. 320/P	CTD, KP	08-05-2020	08-05-2022	Recommended for confirmation in the rank of SI.	P/633
36.	SI Sadaqat Khan No. 338/P	FRP, KP	29-01-2021	29-01-2023	Recommended for confirmation in the rank of SI.	P/634
37.	SI Malik Aman No. 395/P	CTD, KP	29-01-2021	29-01-2023	Recommended for confirmation in the rank of SI.	P/635
38.	SI Tariq Ahmed No. 399/P	FRP, KP	26-05-2021	26-05-2023	Recommended for confirmation in the rank of SI.	P/636
39.	SI Gul Nabi Shah No. 402/P	Special Branch	26-05-2021	26-05-2023	Recommended for confirmation in the rank of SI.	P/637

The following offg: SIs are deferred from confirmation in the rank of SIs for the reason as noted against each:-

S#	Name and Rank	Present Posting	Reason
1.	Offg: SI Shehryar Ahmed No. 86/P	FRP, KP	Deferred due to incomplete mandatory period under Amended Police Rules 13.10(2).
2.	Offg: SI Israr Muhammad No. 213/P	FRP, KP	Deferred due to incomplete mandatory period under Amended Police Rules 13.10(2).
3.	Offg: SI Malang Jan No. 331/P	CCP, Peshawar	Deferred due to incomplete mandatory period under Amended Police Rules 13.10(2).

8/9/23
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

No. _____ /EC-I,

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

1. The Additional Inspectors General of Police, Investigation, Special Branch, Elite Force & CTD KPK, Peshawar.
2. The Deputy Inspector General of Police, Headquarters, Khyber Pakhtunkhwa, Peshawar.
3. The Commandant, FRP Khyber Pakhtunkhwa, Peshawar.
4. The Deputy Inspector General of Police, Mardan Region.
5. The Assistant Inspector General of Police, Establishment, Khyber Pakhtunkhwa, Peshawar
6. The Senior Superintendents of Police, Operations, Investigation & Chief Traffic Officer, Peshawar.
7. District Police Officer, Nowshera.
8. EC-II & AS, CCP Peshawar.

Alvish
Q

Cost remitted

حق سال

تاریخ وصولی (2024-2029) (یا) (تاریخ وصولی) 2024-2029
 و یا (تاریخ وصولی) (تاریخ وصولی) (تاریخ وصولی)
 سال 2000 (تاریخ وصولی) (تاریخ وصولی)
 (تاریخ وصولی) (تاریخ وصولی) (تاریخ وصولی)

Amirul
 M.S. / M. S. / M. S.
 31-7-2024

Allowed.
 R
 31/7/24.