

16th June 2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Respondents No.1,2,3 and 4 have already submitted written reply/comments, while respondents No. 5,6,7 and 8 have not submitted written reply/comments. Learned AAG seeks time for submission of written reply/comments. Last chance is given. To come up for written reply/comments on 02.08.2022 before S.B.



(Kalim Arshad Khan)
Chairman

question of limitation relating to filing of instant appeal intact for determination during full hearing, this appeal, subject to all just and legal objections including objection of limitation is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 01.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee



Chairman

01.12.2021

Counsel for the appellant present. Mr. Kabirullah Khattak,
Addl: AG for respondents present.

Written reply/comments on behalf of respondents No. 1,2,3, and 4 have already been submitted through office which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. To come up for written reply/comments of the remaining respondents No. 5,6,7 and 8 on 01.02.2022 before S.B.

*Due to nonavailability
of bench to come up
for the same on 16/6/22*



(MIAN MUHAMMAD)
MEMBER (E)

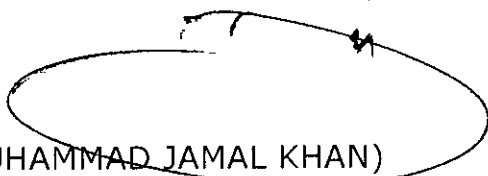
14.07.2021

Counsel for the appellant present. Preliminary arguments heard.

The departmental appeal against the impugned order dated 12.05.2020 was filed on 05.06.2020, which was rejected on 27.07.2020, and the present appeal was filed on 27.08.2020. If the limitation is reckoned from the date of decision of appellate authority, it is time barred; because the appeal was required to be preferred within 30 days from the said date. However, it has been filed one day beyond the next 30 days. In view of particular legal position to be discussed herein-after, the bar of limitation for the time-being is immaterial. In wake of COVID, 19, the Government of Khyber Pakhtunkhwa for the first time declared Public Health Emergency in March, 2020 for three months which was extended from time to time for further term and presently it has been extended by the Government vide Notification No. SOG/HD/1-102/Covid-19/2020/3062, dated 30.06.2021 for the period from 01.07.2021 to 30.09.2021. The case of the appellant falls within the period of emergency. In view of Section 30 of the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020, the limitation period provided under any law shall remain frozen. This appeal having been filed after promulgation of the said Act, is not affected by bar of limitation. Excluding the case of appellant from rigors of limitation, his appeal is fit for full hearing. Keeping the

07.01.2021

Junior to the senior counsel is present for appellant. According to him learned senior counsel is not available today and requested for adjournment. Request is allowed. The appeal is adjourned to 07.04.2021 on which date file to come up for preliminary hearing before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

07.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.07.2021 for the same as before.






READER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 90522 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	10/09/2020	<p>The appeal presented today by Mr. Abbas Khan Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	27.10.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/10/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Appellant in person present.</p> <p>Lawyers are on general strike, therefore, case is adjourned to 07.01.2021 for preliminary hearing, before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

The appeal of Mr. Muhammad Hussain Khan son of Murad Khan Khwaizai Sub Division District Mohmand received today i.e. on 27.08.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be flagged.
- 2- Annexures-A and E of the appeal are illegible which may be replaced by legible/better one.
- 3- Index of the appeal may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 4- Eight more copies/sets of the appeal along with annexures i.e. complete in all respect for respondent may also be submitted with the appeal.

No. 2568 /S.T,

Dt. 02/09 /2020


REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Abbas Khan Mohmand Adv. Pesh.

Sir

Resubmitted after

necessary completion.

mf
Delrofeew

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2020

Muhammad Hussain Khan Appellant

VERSUS

Inspector General & Police and others Respondents

S.No	Description of Documents	Annex	Pages
1.	Grounds of Appeal		1-7
2.	Affidavit		8
3.	Addresses of parties		9
4.	COPY OF appointment letter	A	10
5.	Copy of tamgha e shujaat	B	11-12/1
6.	COPY of pay Roll & Attendance	C,C/1	
7.	Copy of writ petition and order dated 13-02-2020	D	
8.	Copy of Order dated 12-05-2020	E	
9.	Copy of Order dated 27-07-2020	F	
10.	Wakalat Nama		

Appellant *md #el*

Through

ABBAS KHAN MOHMAND

Advocate
cmj
W

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2020

Muhammad Hussain khan S/o Murad khan khwaizai
sub division , Tehsil& District Mohmand , Khyber
Pakhtunkhwa.

..... **Appellant**

VERSUS

1. Inspector General of Police / Provincial Police
Chief, Central Police office, Khyber Road,
Peshawar.
2. Deputy inspector General of Police, Mardan,
Khyber Pakhtunkhwa
3. District Police Officer Ghallani Mohmand.
4. Regional Police Officer, Mardan
5. Government of Khyber Pakhtunkhwa through
Chief Secretary, Civil Secretariat, Peshawar.
6. Secretary Home and Tribal Affairs, Govt. of
Khyber Pakhtunkhwa, Civil Secretariat, Khyber
Road, Peshawar.
7. Deputy commissioner , Mohmand

2

8. DSP Nadir sher s/o Raweesh khan, Baizai sub division, khwaizai Mohmand .. **Respondents**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER. NO 4652/ES DATED 27.07.2020 WHEREBY APPEAL / DEPARTMENTAL PRESENTATION OF THE APPELLANT WAS DISMISSED BY THE RESPONDENT NO. 4 WHICH WAS FILED BY THE APPELLANT AGAINST THE ORDER NO. 2265-67/DPO-M/OSI DATED 12.05.2020 OF RESPONDENT NO. 3 BY VIRTUE OF WHICH THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WAS IMPOSED UPON APPELLANT.

Prayer in Appeal:

On acceptance of this Appeal, the impugned Order in Appeal vide Order No. 4652/ES dated 27.07.2020, order dated 12-05-2020 and Order in Original Dismissal from service may kindly be set aside and the

appellant may please be reinstated into service with all back benefits.

Respectfully Sheweth:

1. That the appellant was induced in service as khasadar/police in the year 2005. (Copy Annex 'A')
2. That due to unblemished record of service and for giving a best performance and so many family members embraced shahadat in war against terror the uncle of Appellant malik Muhammad akbar embraced shahadat and awarded by the president of Pakistan a great national award TAMGHA E SHUJAAT. (Copy of TAMGHA E SHUJAAT is annexed B)
3. That appellant served as khasadar/police in District mohmand till January 2016 but the Respondent No.8 illegally and forcibly stopped the appellant from duty and also received salary of the Appellant with active connivance of Respondent No 7. (copy of pay Roll slip is annexed C & D)
4. That the petitioner approached the office concerned but no fruitful result ,thereafter the Appellant file writ petition No 5944-p/2019 titled Murad khan & others vs Govt of kpk which was decided on 13-02-2020 with certain directions (copy of petition and order is annexed D)

5. That the Respondent no.3 /DPO Mohmand with out following the law and directions of the high court wrongly decided case of the Appellant on 12-05-2020 (**copy of order dated 12-05-2020 is annexed A**)
6. That being aggrieved from the order dated 12-05-2020 of DPO mohmand the Appellant filed Departmental appeal before Respondent No 2. Which was also dismissed vide order No 4652/ES dated 27-07-2020(**copy of order dated 27-07-2020 is annexed F**)
7. That feeling aggrieved of the impugned order dated 12.05.2020 and Order dated 27.07.2020 whereby the departmental appeal of appellant was dismissed, the appellant is constrained to file the instant appeal on the following grounds inter-alia:-

GROUND:

- A. That impugned Order No. 2265-67/DPO M /OSI dated 12.05.2020 of respondent No. 3 by virtue of which the departmental appeal / presentation of appellant was dismissed and Order dated 27.07.2020 of Respondent No. 4 whereby the

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appellant was dismissed from service by imposing major penalty are coram non iudice, illegal, without jurisdiction, lawful authority, against the principal of natural justice, without any grounds and basis, hence the said Orders are liable to set aside.

B. That impugned order are illegal and unjust and in violation of rules and law applicable to the matter.

C. That the appellant rendered unblemished services in the department and acted in accordance to law and to the entire satisfaction of high ups but due to terrorist attacks 14 members of Appellant family embraced shahadat and their houses were destroyed, therefore the Appellant with family rushed to District charsadda to temporary reside and the Appellant continued his duty with zeal and zeast.

D. That the Respondents are making discrimination with employees, because the Appellant was illegally deprived of his salary and now depriving him from service.

E. That the reasons mentioned in the order of Respondent No3 / DPO Mohmand dated 12-05-

6

2020 and Respondent No 4/RPO Mardan dated 27-07-2020 are totally against the law and true facts of the case, because the Appellant was restrained from service which is clear from available record.

- F. That the orders of both forum below are illegal which is liable to be set aside and the Appellant is entitled to allow for official duty and the Appellant is also entitled for salaries along with all back benefits.
- G. That the orders of both forum below and verbal restraining order is against the service law applicable to the matter.
- H. That neither proper inquiry has been conducted nor any show cause notice has been issued to the Appellant
- I. That act/ omission of the authority concerned regarding salaries of Appellant is based on presumption against the official principles which needs to be corrected.
- J. That any other grounds would be adduced by the appellant during arguments on the instant appeal with permission of this Hon'ble Tribunal.

I

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned Order dated 12.05.2020 and Order dated 27.07.2020 and verbal restraining order may please be set aside and the appellant may please be reinstated in the service with all back benefits.

Through

Appellant

mfhd


ABBAS KHAN MOHMAND
Advocate High Court.

CERTIFICATE

Certified that as per instructions of my client, that this is the first Service Appeal on the subject before this Honourable Tribunal.


ADVOCATE

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Service Appeal No. _____/2020

Muhammad Hussain khan Appellant

VERSUS

Inspector General & Police and others Respondents

AFFIDAVIT

I, Muhammad Hussain khan S/o murad khan R/o khwaizai sub division District Mohmand, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent

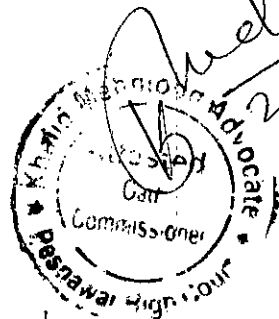
CNIC: 214069-7830327

Cell:

Identified by:

ABBAS KHAN MOHMAND

Advocate High Court.



9

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2020

Muhammad Hussain khan Appellant

VERSUS

Inspector General & Police and others Respondents

ADDRESSES OF PARTIES

APPELLANT

Muhammad Hussain khan S/o murad khan khwaizai sub
division , Tehsil& District Mohmand , Khyber Pakhtunkhwa.

RESPONDENTS

1. Inspector General of Police / Provincial Police Chief,
Central Police office, Khyber Road, Peshawar.
2. Deputy inspector General of Police, Mardan, Khyber
Pakhtunkhwa
3. District Police Officer Ghallani Mohmand.
4. Regional Police Officer, Mardan
5. Government of Khyber Pakhtunkhwa through Chief
Secretary, Civil Secretariat, Peshawar.
6. Secretary Home and Tribal Affairs, Govt. of Khyber
Pakhtunkhwa, Civil Secretariat, Khyber Road,
Peshawar.
7. Deputy commissioner , Mohmand
8. DSP Nadir sher s/o Raweesh khan, Baizai sub
division, khwaizai Mohmand

Appellant
Through


ABBAS KHAN MOHMAND
Advocate High Court.

10

Amma A

OFFICE OF THE POLITICAL AGENT MOHMAND AT GHALLANAI

ORDER

As recommended by the Assistant Political Agent Baizai vide letters No. 768/APA (Baizai) dated 18.08.2005, the Khassadari of Sher Rehman s/o Zamir Gul (Personal No. 108117) Khwezai Khadi Khel, is hereby transferred in the name of Muhammad Hussain s/o Murad Khan Khwezai Kalaji Khel with immediate effect subject to the production of age and medical fitness certificate by the Agency Surgeon Mohmands, Ghallanai.

Political Agent Mohmand,
at Ghallanai

No. 4768-75 /KC,

Dated Ghallanai the 21/08/2005

Copy to:

1. The Assistant Political Agent Baizai Mohmands

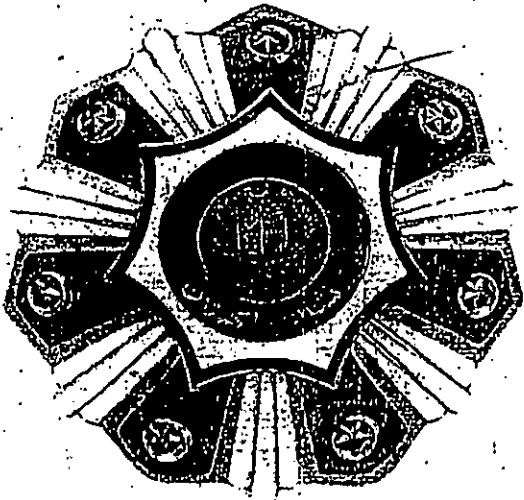
The Political Agent Khassadari office,
Elipindur concerned.

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Political Agent Mohmand,
at Ghallanai

1) (HWR B)

Anx B



PAKISTAN
NATIONAL AWARDS
(CIVIL)

Investiture Ceremony

Islamabad, 23rd March, 2011

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(11)

(12)

MALIK MUHAMMAD AKBAR MOHMAND SHAHEED

Award : Tamgha-i-Shuja'at
(Posthumous)

Field : Gallantry

Malik Muhammad Akbar Mohmand, was a brave tribal elder of Khawezai Khadi Khel. He was chosen as the pioneer head of Aman Committee of his area. The Committee of Khawezai was constituted through a political process in 2008 when the law and order situation in (Sub-Division) Bazai began to deteriorate in retaliation to Government stance against the militants in the area. The peace loving residents of the area began to desert in the face of increasing brutalities of militants. Muhammad Akbar stood like a rock and played an important role in support of LEAs in combating militants and in dismantling of their hideouts in the area. Arrest of Maulvi Umar, the spokesman of TTP from Samghakhi Khawezai was his outstanding achievement. Militants managed to martyr him by exploding an IED planted along roadside on January 14, 2010.

In recognition of his exemplary courage and supreme sacrifice, the President of the Islamic Republic of Pakistan has been pleased to confer on Malik Muhammad Akbar Mohmand (Shaheed), the award of Tamgha-i-Shuja'at (Posthumously).

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MS

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MS

12/1
خونری امن کمیٹی کے شہداء کے نام

جو کہ دہشت گردوں کے ہتھوں مختلف موقعوں پر شہید کردئے گئے ہیں۔

نمبر شمار	نام	تاریخ شہادت	ذریعہ شہادت اور مقام
۱	ملک محمد اجمل (شہید) ولد اکبر سید	09-02-2009	طالبان سے لڑائی میں بمقام خونری
۲	ملک محمد اکبر (شہید) ولد حاجی دلاور	14/01/2010	ریسٹ کنٹرول بم بمقام حلیم زئی
۳	ملک گلستان (شہید) ولد یار باز	14/01/2010	ریسٹ کنٹرول بم بمقام حلیم زئی
۴	ملک محمد انور (شہید) ولد حاجی دلاور	15/06/2008	فائرنگ سے بمقام خونری
۵	ملک عبدالملک (شہید) ولد شاہ میر	09/02/2009	فائرنگ سے بمقام خونری
۶	حیات شاہ (شہید) ولد صاحب زادہ	12/10/2010	فائرنگ سے بمقام خونری
۷	شاگر (شہید) ولد حمید خان	12/10/2010	فائرنگ سے بمقام خونری
۸	رازی (شہید)	12/10/2010	فائرنگ سے بمقام خونری
۹	حاجی شیر افضل (شہید) ولد سرور	26/01/2010	فائرنگ سے بمقام خونری
۱۰	گلاب (شہید)	22/09/2011	فائرنگ سے بمقام خونری
۱۱	نظیم (شہید) ولد موہین	22/09/2011	طالبان نے اغوا کر کے زنج کیا تھا
۱۲	میاں حسرت (شہید) ولد رحیم شاہ	22/09/2011	طالبان نے اغوا کر کے زنج کیا تھا
۱۳	صمر گل (شہید) ولد چشم گل	14/05/2012	ریسٹ کنٹرول کے ذریعے خونری
۱۴	شفتا لوگل (شہید) ولد ریڈی گل	14/05/2012	فائرنگ سے بمقام خونری

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Amir C

00200885 MOHAMMAD HUSSAIN CNIC: 21669783032 Desig: CONSTABLE (80904555) Grade: 07 NTN: Buckle No.: Gaze

PAYMENTS AMOUNT DEDUCTIONS AMOUNT LOAN/FUND PRINCIPAL REPAYED BALANCE

0001 Basic Pay	11,600.00	3007 GPF Subscription	1,010.00-	GPF#:	8,080.00
1210 Convey Allowance 20	1,932.00	3530 Police wel:Fud BS-1 t	232.00-		
1300 Medical Allowance	1,500.00	4004 R. Benefits & Death C	690.00-		
1528 Unattractive Area A	1,000.00				
1547 Ration Allowance	681.00				
1567 Washing Allowance	150.00				
1646 Constabulary R Allow	300.00				
1901 Risk Allowance (Poli	3,530.00				
1902 Special Incentive Al	775.00				
2168 Fixed Daily Allowanc	2,730.00				
2211 Adhoc Relief All 201	834.00				
2224 Adhoc Relief All 201	1,160.00				
2247 Adhoc Relief All 201	1,160.00				
2264 Adhoc Relief All 201	1,160.00				

PAYMENTS 28,512.00 DEDUCTIONS 1,932.00- NET PAY 26,580.00 01.03.2020 31.03.2020
 Branch Code: Payment through DDO Accnt.No:

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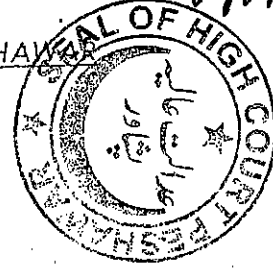
تعداد	نام عہدیدار	قومیت	عنوان	عہدہ
24	سید مگر محمد	56 N.K.	عہدیدار	عہدہ
25	سید ارشد علی	200	طوطہ میل	خلیفہ
26	سید بادشاہ	19 N.K.	" "	عہدیدار
27	سید اقبال خان	3 N.K.B.	زمانہ کو	نصیر احمد
28	سید نور علی	2	" "	نور محمد
29	سید رسول زادہ	1 N.K.	" "	نور محمد
30	سید شہرین	4 N.K.	" "	حفرت محمد
31	سید املستان	117 N.K.	" "	غنی خان
32	سید امیر خان	6 N.B.	" "	تاج محمد
33	سید آقہ بی بی خان	140	مامد کو	خود
34	سید اعتبار خان	31	مسبح کو	مکتوب
35	سید محمد حسین	14	فدوی میل	خود
36	سید محمد علی	252 B.Q.	مامد کو	"
37	سید محمد	253 B.Q.	" "	"
38	سید مراد خان	16	فدوی میل	"
39	سید محمد	53 N/S	عہدیدار	فریاد N/S
40	سید محمد	52	" "	" N/S
41	سید فیروز شاہ	17	طوطہ میل	نیاز علی
42	سید حفیظ محمد	18	" "	احمد
43	سید مختار علی	5	" "	وسیف
44	سید محسن خان	16 N.K.	" "	محمد شہر
45	سید خان بادشاہ	32 B.Q.	" "	محمد عارف
46	سید امجد علی	23 B.Q.	امان کو	محمد عزیز احمد

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No. _____ /2019

1. Murad Khan S/O Haji Dilwar
2. Muhammad Hussain Khan S/O Murad Khan
3. Muhammad Sabir S/O Ali Khan
4. Muhammad Sadiq S/O Noor Rehman
5. Ali Akbar Khan S/O Haji Dilwar Khan All Residents
Khwazai Bazai Sub division District Mohmand

_____(Petitioners)

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar
- 2) Government of Khyber Pakhtunkhwa through Secretary, Law &
parliamentary affairs, Peshawar
- 3) Secretary Home & Tribal Affairs, KPK Civil Secretariat Peshawar
- 4) Inspector General Police Khyber Pakhtunkhwa Peshawar.
- 5) Deputy Inspector General Mardan.
- 6) District Police Officer Mohmand Chhallaai.
- 7) Deputy Commissioner Mohmand Chhallaai.
- 8) DSP Nadir Sheer, Bazai Sub division S/O Raweesh Khan
Khwazai Mohmand.

_____(Respondents)

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN
1973.

Respectfully Sheweth,

Brief facts leading to the instant writ petition are as below:

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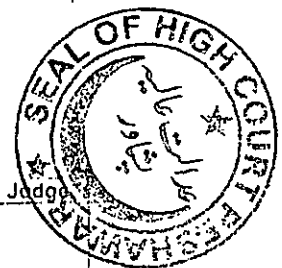
wp2994 2019 Murad Khan vs Govt Hill USB 28 140

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EXAMINER
Peshawar High Court

16

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET



Date of order.	Order or other proceedings with the order of the Judge
13.02.2020	<p><u>W.P.No.5944-P of 2019 with interim relief.</u></p> <p>Present: Mr.Raza Khan Safi, advocate for the petitioners.</p> <p>Mr.Rab Nawaz Khan, AAG alongwith Mr.Nadir Sher, SDPO Tehsil Khwezai for the respondents.</p> <p><u>LAL JAN KHATTAK, J.-</u> Petitioners, through the instant petition, have prayed that the stoppage of their salaries and payment thereof to somebody else by the respondents be declared as null and void.</p> <p>2. At the very outset, learned counsel for the petitioners stated before the court that the petitioners would be satisfied and would not press this petition anymore if directions are given to the respondents No.5 & 6 to look into the petitioners' grievance as contained in the writ petition and try to resolve it at their ends after providing right of audience to them to which the learned AAG got no objection.</p> <p>3. In view of the above, we while disposing of this petition, direct the respondents No.5 & 6 to have a look on the issue brought by the petitioners through the instant writ petition and try to resolve it at their ends after hearing them in accordance with law and rules on the subject within a period of one month and till then the</p>

Join

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EXAMINER
Peshawar High Court

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petitioners' salaries, if any, shall not be paid to anybody else.

Qain
JUDGE
[Signature]
JUDGE

[Signature]
CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan Order 1999

15 FEB 2023

No. 25753
Date of Presentation of Application 13/2/2020
No of Pages 79
Copying fee 30
Total 1
Date of Preparation of Copy 15/2/2020
Date of Delivery of copy 15/2/2020
Received By [Signature]

ATTESTED
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15



18

Annexure E

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MOHMAND TRIBAL DISTRICT AT HQ GHALLANAI**
Email: dpomohmand@gmail.com
Ph: 0924-290179 Fax: 0924-290056


ORDER:

This order will dispose-off Petition remanded by the Honorable Peshawar High Court, Peshawar vide Order dated 13.02.2020 passed in Writ Petition No.5944-P/2019 in the following terms "respondents No.5 & 6 to have a look on the issue brought by the petitioners through the instant writ petition and try to resolve it at their ends after hearing them in accordance with the law and rules on the subject within a period of one month and till then the petitioner's salaries if any, shall not be paid to anybody else".

The petitioners namely Murad Ali s.o Haji Dilawar, Muhammad Hussain s.o Murad Khan, Muhammad Sabir s.o Ali Khan, Muhammad Sadiq s.o Noor Rehman and Ali Akbar Khan s.o Haji Dilawar Khan while serving as Khasadars in Mohmand Tribal District deserted themselves from Khasadar Service during militancy. Hence in order to maintain peace and security, the then Political Administration arranged "Ewazi" in place of these deserters who performed their duties in place of original incumbent during militancy and are to do so till date. It merits mention here that the afore-referred petitioners kept mum from the date of their desertion till the merger. However, when the erstwhile FATA was merged in Khyber Pakhtunkhwa province and the process of absorption of Khasadars in Khyber Pakhtunkhwa Police was initiated, these deserters started filing applications just to restore their service and get permanent Police jobs. Therefore, the petitioners approached the Honorable Peshawar High Court, Peshawar which was decided with the above mentioned directions.

In light of directions vide quoted above, the petitioners were summoned and heard in person but they failed to justify their desertion and approaching the competent forums at a belated stage. Besides, the entire record provided by the District Administration was meticulously perused from which it transpired that the Ewazi who were arranged by the then Political Administration are still performing duties in place of these deserters, therefore, stance taken by the petitioners is totally not based on facts because salaries are being paid to those Ewazi Khasadars who are actually performing duties in place of a member of Khasadar Force (original incumbent). Moreover, the Government of Khyber Pakhtunkhwa through No. LEGIS: 1(4) 2019-Vol-1 date 20.04.2020 has also brought amendment in Section 02 of the Khyber Pakhtunkhwa Khasadar Force Act, 2019 wherein "Ewazi" has properly been defined. The services of Ewazi Khasadars cannot be underestimated as they have rendered their services in the hour of need when terrorism was on its peak in District Mohmand.

Keeping in view the above, the stance taken by the above named petitioners is totally devoid of merit, hence, the petition in hand is filed.


District Police Officer,
Mohmand Tribal District

Dated 12/05/2020

District Police Office
Mohmand

No. 29656/DPO-M/OSI

Copy forwarded to:

- Regional Police Officer, Mardan for information, please.
- SP Court & Litigation, CPO, Peshawar w/r to Letter No. 1138-39/Legal dated 24.02.2020

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18

بخدمت جناب DPO صاحب مہمند ضلع مہمند

OSI

(1) In report
with in
of day part

درخواست برائے حاصل کرنے اجازت بابت ڈیوٹی، حسب ضابطہ۔

درخواست بمراد ادائیگی تنخواہ ساکلاں از جنوری 2016 تا حال بمطابق حکم پشاور ہائی کورٹ

پشاور رٹ نمبر 5944/2019 حکم محررہ 13-02-2020

جناب عالی

ساکلاں حسب ذیل عرض رساں ہیں۔

1- یہ کہ ساکلاں زیر دستخطی علاقہ تحصیل خویزئی بیزئی ضلع مہمند کا مستقل رہائشی باشندہ گان ہیں، اور محثیت خاصدار پولیس تعینات ہیں، اور پاکستان کا وقادار شہری ہیں، جبکہ مسول علیہ نادر شیر کی وجہ سے ڈیوٹی پر حاضر ہونے سے منع کیا جا رہا ہے، اور ساکلاں کو ڈیوٹی پر نہیں چھوڑا جاتا ہیں، اور اس کی وجہ سے مسکی نادر شیر نے من ساکلاں کا تنخواہ بلا کسی قانونی حثیت کے ہڑپ کیا ہے جو کہ خلاف قانون اور قابل وصولی ہے۔

2- یہ کہ مسول علیہ نے کچھ عرصہ سے من ساکلاں کے تنخواہ بلا کسی قانونی حثیت کے لے جا رہا ہے اور اس بابت من ساکلاں نے متعدد درخواستیں آپ جناب کے خدمت میں گزاری ہے، جو کہ بعد میں من ساکلاں نے لیک رٹ پشاور ہائی کورٹ میں دائر کیا ہے، جس میں مسول علیہ نادر شیر کو بھی نوٹس ہوارٹ نمبر 5944/2019 حکم محررہ 13-02-2020 میں عدالت حضور

نے مذکورہ رٹ بر فیصلہ کرتے ہوئے آپ جناب کو حسب قانون من ساکلاں کے جملہ گزارشات کو

قانون کے مطابق فیصلہ کرنے کا حکم ہو چکا ہے (نقل رٹ اور حکم عدالت لف ہیں)

3- یہ کہ مسول علیہ نادر شیر نے، دھوکہ دہی، فراڈ، بلا اجازت من مدعیان جملہ تنخواہیں لے گیا ہے، جو کہ خلاف قانون عمل ہے، جس کی بابت من ساکلاں نے ایک درخواست اس سے پہلے متعدد درخواستیں گزاری ہے، مگر تا حال کوئی کارروائی نہیں ہوئی ہے۔

3- یہ کہ من ساکلاں کو بلا کسی وجہ سے ڈیوٹی سے محروم کیا جا رہا ہے جو کہ ہمارا قانونی حق ہے، اور کسی بھی شخص کو ہمارے حقوق پامال کرنے کا کوئی حق نہ ہے۔

4- یہ کہ مسول علیہ کے اس فعل سے من ساکلاں کو سخت نقصان ہوا ہے، جسکی وجہ سے من ساکلاں کا کثیر رقم مسول علیہ کی طرف ہٹایا ہے

لہذا آپ صاحبان سے استدعا ہے کہ منظور در خواست، ہذا، من ساکلاں کو اپنے ڈیوٹی کرنے کی اجازت دی جاویں، اور مسول علیہ کے خلاف کارروائی کے لئے ہمارے جملہ تنخواہیں ادا کرنے کے احکامات صادر فرمائی جاویں۔، نیز دیگر دوسری جو قرین انصاف ہوں

مرحمت فرمائی جاویں۔

عرض

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مراد خان

مراد خان ولد حاجی دلاور خان (108087) 2۔ محمد حسین ولد مراد (200885) 3۔ محمد صادق ولد نور محمد (352281)

0344-9853945

4۔ محمد صابر ولد علی خان (352280) 5۔ علی اکبر ولد دلاور خان (108344) ساکلاں خویزئی خادی خیل وچہ جوہہ ضلع مہمند

0344-9853945 موبائل مراد خان

20

Amir F

ORDER.

This order will dispose-off the joint departmental appeal preferred by the following **Ex-Khasadars** namely **Murad Khan, Muhammad Hussain, Muhammad Sabir, Muhammad Sadiq and Ali Akbar** of Mohmand District Police against the order of District Police Officer, Mohmand, whereby their application, remanded by the Honorable Peshawar High Court, Peshawar vide order dated 13.02.2020 passed in writ petition No. 5944-P/2019, was filed by the District Police Officer, Mohmand vide No. 2265-67/DPO-M/OSI dated 12.05.2020. The appellants preferred the instant joint appeal. They were summoned to Orderly Room. However, one of the appellant Murad Khan claiming to represent the other appellants, appeared before the undersigned in Orderly Room held in this office on 22.07.2020 and heard him in person. He stated in a categorical manner that he is representing the other 04 appellants too. From the careful perusal of record, it transpired that the appellants, while serving as Khasadar in Mohmand Tribal District, deserted themselves from Khasadar Service in the year 2009, when militancy was on its peak. Hence, in order to maintain peace and security, the then Political Administration arranged "Ewazi" in place of these deserters who performed their duties in place of original incumbent during militancy and are performing their duties till date. It is worthwhile that the appellants remained silent from the date of their desertion till merger of erstwhile FATA. But when Mohmand Tribal District was merged in Khyber Pakhtunkhwa Province and the process of absorption of Khasadars in Khyber Pakhtunkhwa was initiated. These deserters sprang into action by filing applications just to get permanent Police Jobs. Besides, none of the appellant advanced any cogent justification regarding remaining silent for such a long time pertaining to their restoration of Khasadar Service. Moreover, the Government of Khyber Pakhtunkhwa vide No. LEGIS: 1 (4) 2019-Vol-1 dted 20.04.2020 has also brought amendment in Section 02 of the Khyber Pakhtunkhwa Khasadar Force Act, 2019 wherein "Ewazi" has properly been defined.

Based on the appreciation of the aforementioned facts, the stance of appellants regarding restoration of their Khasadar Service is bereft of any substance.

Keeping in view the above, I, **Sher Akbar, PSP S.St 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.

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Regional Police Officer,
Mardan.

No. 4652 /ES, Dated Mardan the 27 - 7 - 12020.

Copy forwarded to District Police Officer, Mohmand for information and necessary wr to his office Memo: No. 2745-46/DPO-M/OSI dated

21

To: The DIG Police Mardan &
Newly merged Tribal District Khyber Pakhtunkhwa,
Mohmand

Subject: DEPARTMENTAL APPEAL / REPRESENTATION AGAINST
THE ORDER OF DISTRICT POLICE OFFICER DISTRICT
MOHMAND VIDE ORDER NO.2265-67 DATED 12-05-2020.

Respected Sir,

It is submitted for your kind information:

1 chawage

- 1 That under signed official belongs to Tehsil ~~555~~ District Mohmand and were as Khasadsr/Constables (Police) in district Mohmand (Copy of pay slips & NIC of all 5 officials are attached as Annexed A,B)
- 2 That during the Military Operation in Tribal Area (Zarb-e-Azab) the petitioners and others family members of the petitioners are fully participated with the security forces and resultantly numbers of family members of the petitioners embraced shahadat, and due to this very reasons TAMGHA-I-SHUJAAT award was given to the brother of Murad Khan. (Copy of the Award is Annexure C)
- 3 That some time back Political agent/DC Mohmand verbally restrained the petitioners from official duty while salaries of the, petitioners, were also illegally stopped, the petitioners came to know that the same salaries were malafidely given to one Nadir-Sheer (Constable) Shoulder promoted DSP, without any legal justification.
- 4 That the petitioner approaches to the offices concerned but no fruit full result, resultantly the petitioners file writ petiti. NO 5944-P/2019 titled Murad Khan etc VS Government of KP etc which was decided on dated 13-02-2020 with certain directions (Copy of the writ petition and order are Annexure D,E).
- 5 That learned DPO Mohmand without following the law and Direction of the High court the case was wrongly decided on dated 12-05-2020, which sheer violation of the Constitution of Islamic Republic of Pakistan, and Services laws applicable to the matter.

(Copy of the order dated 12-05-2020 of DPO is attached) F

- 6 That being aggrieved from the order of DPO Mohmand NO 2265-67/DPO M /OSI dated 12-05-2020, which also against the direction of Honorable Peshawar High Court Judgment dated 13-02-2020, (supra) submitting this Departmental Appeal on the following grounds inter alia:-

Grounds

- a. That order of the DPO Mohmand NO 2265-67/DPO M /OSI dated 12-05-2020 is totally illegal baseless, having no legal value which is liable to be set aside, and the petitioners are entitled to allow for official duty and furthermore the petitioners are entitled for the salaries, along with all back benefit accordingly.
- b. That order of the DPO Mohmand NO 2265-67/DPO M /OSI dated 12-05-2020 and verbal restraining order is against the services laws applicable to the matter.

*OSI -
For n/a as
asked.*

*DPO(M)
17/06/20*

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22

- c. That action / omission of the authority concerned regarding the salaries of the appellant is based on presumptions against the official principles which needs to be corrected, by this honorable office/authority.
- d. That the reasons mentioned in the order of DPO Mohmand NO 2265-67/DPO M /OSI dated 12-05-2020 is totally against the true facts of the case, and the appellants were restrained from services and which is clear from the available record.
- e. That the order of the learned DPO Mohmand NO 2265-67/DPO M /OSI dated 12-05-2020 is violating the fundamental as well as Constitutional rights, because the same salaries are illegally withdrawing by the Nadir sheer, which clear violation of the court order and other relevant laws, and no proper chance of hearing were given to the appellants.

It is, therefore requested that the order of DPO Mohmand NO 2265-67/DPO M /OSI dated 12-05-2020 may kindly be set-aside being illegal, void ab-initio and the undersigned/appellants may kindly be allowed for official duty, and salaries of the petitioners/appellants may kindly also be paid accordingly with all back benefits.

Any other relief deemed just and proper by Your Honour, not specifically asked for, may also be granted in favour of the under signed, please.

Dated 05 June 2020

Yours Obediently,

[Signature]
 Murad Khan Haji Dilawa
 (Constable)
 District Mohmand Police Ghallanai

0344-9853945

- 2) Muhammad Hussian Khan S/O Murad Khan (Constable) *withd*
- 3) Muhammad Sabir S/O Ali Khan (Constable) *withd*
- 4) Muhammad Sadiq S/O Noor Rahman (Constable) *withd*
- 5) Ali Akbar Khan S/O Haji Dilawaer Khan All Resident of khadikheilKhwezia District Mohmand (Contact No 0313-9806689)

ATTESTED
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[Signature]

E.C / D.P.O Mohmand

ALB. 3592 LES
06-09-06-020

For comments.

[Signature]
 For RPO Mohmand
 09/06/2020.

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL No. 10522/2020

Muhammad Hussain..... (Appellant)

VERSUS

Inspector General Of Police, KP CPO Peshawar


& others (Respondents)

I N D E X

S. No	Description of documents	Annexure	Page
1.	Para-wise comments		1-4
2.	Affidavit		5
3.	Authority Letter		6
4.	Copy of Report/Statement of DSP Khwaizai (Respondent No.8)	A	7
5.	Copy of The Khyber Pakhtunkwa Khasadar Force (Amendment) Act.	B	8-9
6.	Copy of HOME & TRIBAL AFFAIR DEPARMENT JUDGMENT.	C	10-11

Respondents

Through



Abdul Khaliq

Focal Person for

DPO Mohmand.

Cell: 0345-9426323

CNIC: 21407-1965811-9

Dated: 23/12/2021

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 10522/2020

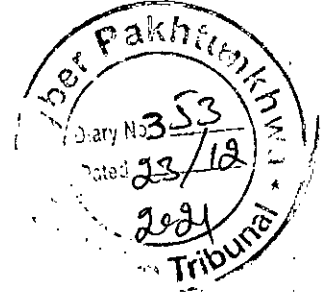
Muhammad Hussain..... (Appellant)

VERSUS

Inspector General Police KP CPO Peshawar & others.....(Respondents)

PARAWISE REPLY BY RESPONDENTS NO 1,2,3 & 4

RESPECTFULLY SHEWETH:



Preliminary Objections:-

1. That the instant service appeal is not maintainable under the law.
2. That the appeal is not based on facts.
3. That the appellant has got no cause of action and locus standi.
4. That the appellant has concealed the real facts from the honorable Tribunal.
5. That the service appeal is bad for miss-joinder and non-joinder of necessary and proper parties.
6. That the appellant is estopped to file the service appeal by his own conduct.
7. That the appeal is barred by law & limitation.

REPLY ON FACTS:-

1. Pertains to record of ex Political Agent, Mohmand Agency and record is not available with answering respondents.
2. Pertains to record of ex-Political Agent Mohmand. Appellant has not performed duty with answering respondents and remained deserter from official duty during active service.
3. Incorrect, Khasadari was in the name of the appellant but due to militancy in District Mohmand, the appellant deserted himself from khasadar service and never personally performed duties as Khasadar/Police. In facts duty was performed by substitute (Iwazi) khasadar on behalf of appellant and salary were paid to the Iwazi Khasadar who actually performing duty **(Report/Statement of DSP Nader Sher Respondent No 8 is enclosed as Annexure A)**. The term "Iwazi" was defined in THE KHYBER PAKHTUNKHWA KHASADAR FORCE (AMENDMENT) ACT, 2020 dated 12th August, 2020,

Clause (e-i) (**Annexure B**) is enclosed. When Khasadar Force was merged in KP Police the District Scrutiny Committee recommended Iwazi Khasadar (who performed duties in time of insurgency) for absorption in KP Police.

4. Correct to the extent that the petitioner approached the office concern and the judgment of Honorable Peshawar High Court in writ petition No 5944-p/2019 titled Murad Khan and others vs Govt of KPK, dated 13-02-2020, but the appellant failed to provide any cogent justification regarding remaining silent for such a long period pertaining to their restoration of Khasadar Service, hence declared unfit for absorption in KP Police service. It is pertinent to mention that the appeal of the appellant also dismissed by Home & Tribal Affairs Department Task Force, dated 23/08/2021 (**Annexure C**).
5. Incorrect, Respondent No.3/ DPO Mohmand always obeyed the law and directions of Honorable High Court and the case of appellant was decided according to rules/ laws and policies and direction of Honorable Peshawar Highcourt, because the appellant deserted from his services during peak of militancy in Mohmand Tribal district. Hence, in order to maintain peace and security, the then Political Agent Mohmand Agency arranged "Iwazi" Khasadar, who actually performed duties in place of the appellant in time of insurgency and salaries were paid to the Iwazi Khasadar. The appellant remained silent and never performed duties during militancy in the area, but when peace and order restored and Mohmand tribal district was merged in Khyber Pakhtunkhwa Province and Khasadar Force were merged in KP Police, the appellant filed application to get permanent Police job, for which he was found ineligible and Iwazi Khasadar was absorbed in KP Police.
6. Pertain to record, both the orders were convincing, based on cogent reasons and in accordance with rules/Policy of Government and the Departmental Appeal being unsatisfactory, hence rejected.
7. Appellant has got no cause of action, therefore, the instant appeal may kindly be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A.** Incorrect, both orders of the respondents are based on facts, justice and in accordance with law/ rules and Policy of Government.
- B.** Incorrect, as explained above the orders are legal and justified under the existing rules/Policy of Government.

- C.** Incorrect, as the appellant is not being the regular employee of KP Police, hence there is no record available regarding his services. It is pertinent to mention that in this Para of Service appeal the appellant himself admitted that he run away to District Charsada and left the duty in Mohmand Agency without any permission.
- D.** Incorrect, as the appellant was not the employee of KP Police and nor he was discriminated by the respondents. The appellant salaries were paid to the Iwazi Khasadar who performed duty in place of the appellant before merger of erstwhile FATA and after merger the appellant was ineligible for absorption in kp police, hence the Iwazi Khasadar was absorbed in KP Police in accordance with rules.
- E.** Incorrect, the reasons mentioned in the order of Respondents are totally in accordance with law/rules and based on facts, because the appellant deserted from his services as Khasadar at time of militancy in the area before merger of erstwhile FATA and there is no record available regarding appellant services with answering respondents.
- F.** The orders of Respondents are totally in accordance with law/rules and the appellant has not performed duty with answering respondents, therefor he is not entitled for any relief/back benefits.
- G.** Incorrect, appellant being not regular employee of KP Police, the service law/rules is only applicable to KP Police employees, in fact the appellant was deserted from his services as khasadar before merger of erstwhile FATA, therefor the orders of respondents are based on facts, law/rules.
- H.** Incorrect, the plea of the appellant badly barred by law, in fact he deserted from duty during active service in Mohmand Agency under the command of ex-Political Agent Mohmand Agency and appeared after merger of Mohmand Agency in KP.
- I.** Incorrect, the appellant has not done duty before and after merging of Khasadar in Khyber Pakhtunkhwa Police. Appellant is not now employee of KP Police and he is not entitled for any payment under the rules. Respondents have acted in accordance with law/rules and never violated any provision of constitution.
- J.** Respondent may kindly be allowed to add any other grounds/ documents at the time of hearing.

PRAYERS:

Keeping in view the above stated facts it is humbly prayed that the appeal being not maintainable, barred by law/ limitation may kindly be dismissed with costs, please.



**District Police Officer,
Mohmand
(Respondent No. 3)**



**Regional Police Officer,
Mardan, Khyber Pakhtunkhwa,
(Respondent No. 4)**



**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)**

5

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL No. 10522/2020

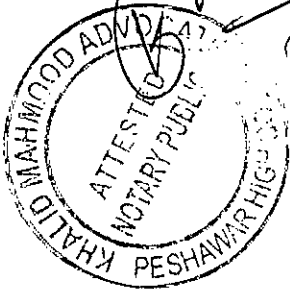
Muhammad Hussain..... (Appellant)

VERSUS

Inspector General Of Police, KP CPO Peshawar & others (Respondents)

AFFIDAVIT

I, **Abdul Khaliq** Focal Person for, District Police Officer, Mohmand do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondents No. 1, 2, 3 & 4 is correct to the best of my knowledge and belief. Nothing has been concealed from this Honorable Khyber Pakhtunkwa Service Tribunal Peshawar.



DEPONENT

ABDUL KHALIQ

Focal Person for,
DPO, Mohmand

CNIC: 21407-1965811-9

CELL: 0345-9426323




6
OFFICE OF THE DISTRICT POLICE OFFICER,
MOHMAND TRIBAL DISTRICT AT HQ GHALLANAI

Email: dpomohmand@gmail.com
Ph: 0924-290179 Fax: 0924-290056

No. 211 /DPO/M
Dated:- 24/03/2021

AUTHORITY LETTER

I do hereby authorized Mr. Abdul Khaliq No.1154 (Focal Person for District Police Officer Mohmand), to submit legal documents, comments and affidavit on my behalf before the Honorable Service Tribunal, Peshawar.


(SALAH UD DIN KUNDLI)
DISTRICT POLICE OFFICER
MOHMAND TRIBAL DISTRICT

بیان دران نادر شرفان DSP

نادر شرفان و دیگر حامی رویشیہ اور حیرت یادی خلیہ حال
DSP خوشنئی نے دریافت بیان کیا کہ ^① نادر خان و دیگر حامی در اور خان
محمد حسین ^② و دیگر ادا - ^③ عزیز صادق ^④ و دیگر حامی نادر خان ^⑤ علی البر
و دیگر اور خان ساکنان خوشنئی قادی خلیہ و حیرت یادی مہند سال 2008

سے طامہ دار فورس سے کھگورہ کھان ہیں - کیونکہ منکرہ کھان طامہ دار
کی ڈز کی وجہ سے اسٹیک بھگورہ ہے - سال 2015 سے طامہ دار
فورس خوشنئی کی موبیڈار میں اخراج حوالہ ہوئی ہے - جب تک
خارج حوالہ ہوا - تو اس وقت پہلے سے منکرہ کھان کے حوالہ
پر عمومی موجود ہے - جو طامہ دار خوشنئی سے ڈیوٹی سے تنخواہ وصول
کرتے ہیں - اور تنخواہ لینے وقت انکو ڈیوٹی سے ہٹ کر کے ہیں -
تاہم اضرائیہ ماہ آرا سے نسبت کوئی آرا در جاری کر لگا
جو عام ان کی پاسداری کرینگے - میں منکرہ کھان کے تنخواہ
کے بارے میں لا اعلم ہوں - کیونکہ یہ تنخواہ عمومی وصول کرتے ہیں -
یہ بیان ہے

نادر شرفان کے خلیہ
0348-0958887

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 12th AUGUST, 2020.

PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 12th August, 2020.

No. PA/Khyber Pakhtunkhwa/Bills-109/2020/3266.— The Khyber Pakhtunkhwa Khasadar Force (Amendment) Bill, 2020 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 31st July, 2020 and assented to by the Governor of the Khyber Pakhtunkhwa on 10th August, 2020 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA KHASADAR FORCE (AMENDMENT) ACT, 2020. (KHYBER PAKHTUNKHWA ACT NO. XXX OF 2020)

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 12th August, 2020).*

AN ACT

*to amend the Khyber Pakhtunkhwa
Khasadar Force Act, 2019.*

WHEREAS it is expedient to amend the Khyber Pakhtunkhwa Khasadar Force Act, 2019 (Khyber Pakhtunkhwa Act No. XXXIV of 2019), for the purposes hereinafter appearing:

It is hereby enacted as follows:-

- 1. Short title and commencement.**— (1) This Act may be called the Khyber Pakhtunkhwa Khasadar Force (Amendment) Act, 2020.
(2) It shall come into force at once.
- 2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XXXIV of 2019.**— In the Khyber Pakhtunkhwa Khasadar Force Act, 2019 (Khyber Pakhtunkhwa Act No. XXXIV of 2019), hereinafter referred to as the said Act, in section 2, after clause (c), the following new clause shall be inserted, namely:

“(e-i) “Iwazi” means a surrogate member of the Khasadar Force, who is actually performing duties in place of a member of the Khasadar Force and is getting full or split remuneration for the services rendered, whereas the salary is still drawn in name of the one in whose place he is performing such duties in the Khasadar Force;”.

3. **Amendment of section 3 of the Khyber Pakhtunkhwa Act No. XXXIV of 2019.**--- In the said Act, in section 3, in sub-section (1), after the word “members”, occurring at the end, the words and comma “or Iwazis, as the case may be” shall be inserted.

4. **Repeal of the Khyber Pakhtunkhwa Ordinance No. VIII of 2020.**---- The Khyber Pakhtunkhwa Khasadar Force (Amendment) Ordinance, 2020 (Khyber Pakhtunkhwa Ordinance No. VIII of 2020) is hereby repealed.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa



(10) *Anexure 'C'*

**Home & Tribal Affairs Department
(Levy & Khassadars Wing)**

No. CS(F)/L&K/4-Khasadar/Appeal/Task Force/ 1039-43

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Dated: 22/8/2021

1. APPEAL TITLE: RAB NAWAZ & 199 OTHERS, ZAHIR SHAH S/O MUHAMMAD ZAMAN, MURAD KHAN S/O HAJI DILAWAR, ALI AKBAR S/O HAJI DILAWAR, MUHAMMAD HUSSAIN S/O MURAD KHAN, MUHAMMAD SABIR S/O ALI KHAN, MUHAMMAD SADIQ S/O NOOR KHAN, AJMAL S/O BISMILLAH.
2. APPEAL TITLE: MUHAMMAD DAWOOD FAQIR, BILAL MUSTAFA AND GHULI MUSTAFA.

ORDER.

1. Whereas, the above captioned appeals having identical question of law and facts, have been clubbed together.
2. And whereas, appellants ex-Khassadars of Mohmand Tribal District submitted appeals for their re-instatement in service with back benefits.
3. And whereas, after the merger of erstwhile FATA with the Khyber Pakhtunkhwa, Home and Tribal Affairs Department Khyber Pakhtunkhwa has been entrusted with the affairs of the Levies and Khassadars.
4. And whereas, the competent authority has been pleased to place the above appeals before the Committee already constituted for such purpose in Home and Tribal Affairs Department Khyber Pakhtunkhwa.
5. And whereas, appellants were called for personal hearing on 29.04.2021 and 22.06.2021. Appellants (Rab Nawaz, Rehmat Ullah and Fazal Rabi; and Bilal Mustafa & others) averred that they had regularly performed their duties till 2008 and due to military operation in the area, they were forced to leave their native areas therefore, could not perform duties. Appellants further contended that their colleagues, who were also dismissed on desertion charges were reinstated by the respondent while they have been discriminated by not reinstating in the service.
6. And whereas, Representative of Department responded that appellants deserted and left their posts without getting permission of the Commandant/Administration. Further argued that appellants were time and again directed to report for duty but to no avail.

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The then District Administration/Commandant Khassadar Force had managed substitutes/Ewzi in their places.

7. And whereas, the Khassadars Force (Absorption in Khyber Pakhtunkhwa Police Rules 2019, provides absorption of Ewzi/substitute in place of the original Khassadars their substitutes, recommended by the Scrutiny Committee, have been absorbed in Police Department.
8. Now therefore, after thorough examination of record and hearing the parties, it reveals that appellants showed cowardice and became deserters in the period when their services were utmost required in war against terror/militancy; they are not fit to be reinstated in the Force. Hence, appeals in hand are dismissed.

Secretary
to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst. No. & date even.

CC to:

1. Inspector General of Police, Khyber Pakhtunkhwa
2. Registrar, Peshawar High Court, Peshawar
3. Deputy Commissioner, Mohmand
4. District Police Officer, Mohmand
5. Deputy Secretary (Judicial), Home & TAs Department, Khyber Pakhtunkhwa


Section Officer (Levy & Khassadars)