

14.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 09.06.2022 for the same as before.


Reader.

09.06.2022

Proper D.B is on tour. Therefore, the case is adjourned to 08.08.2022 for the same as before.

8.8.2022

Due to the public holiday the case is adjourned to 22-11-2022


Reader



Reader

22nd Nov, 2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt: AG for respondents present.

This case pertains to camp court Swat, therefore, let it be fixed at camp court Swat for arguments on 03.01.2023 before D.B.




(Fareeha Paul)
Member(Executive)

(Kalim Arshad Khan)
Chairman


11.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Sajjad Ahmed Litigation Assistant for official respondents and counsel for intervener namely Said Gul are present.

The Later has submitted an application for impleadment of L.Rs of deceased applicants Said Gul which is placed on file. Arguments on the restoration application heard.

Primarily application submitted by deceased applicant Said Gul would reveal that due to appeal filed by the appellant, he was seriously affected and his service was damaged due to appellant's false and fake contents of appeal wherein he tried to mislead the Hon'ble Tribunal. The arguments as advanced on behalf of the applicants were passed on presumptive right, that had the appellant not preferred the present appeal, he would retire from service and the applicant would have been promoted to higher scale because of the resultant vacancy. The appellant may or may not have a good case for the relief as claimed by him through his service appeal but he being a Government Servant has got a locus standi to bring his grievance before the Tribunal in relation to terms and conditions of the service. The deceased applicants being intervener and now his legal heirs have got no locus standi to be impleaded as party this appeal when they are neither a necessary party nor a proper party. Therefore, both the application are dismissed. Appeal to come up for arguments on merits. However the intervening applicant and his legal heirs would be at liberty to prove their rights if accrued to them in accordance with law.

Adjourned to 14.03.2022 for arguments before D.B. The restraint order dated 15.10.2020 shall remain operative till the date fixed.


(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

11.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Sajjad Ahmed Litigation Assistant for official respondents and counsel for intervener namely Said Gul are present.

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Primarily application submitted by deceased applicant Said Gul would reveal that due to appeal filed by the appellant, he was seriously affected and his service was damaged due to appellant's false and fake contents of appeal wherein he tried to mislead the Hon'ble Tribunal. The arguments as advanced on behalf of the applicants were passed on presumptive right, ~~and~~ that had the appellant not preferred the present appeal, he would retire from service and the applicant would have been promoted to higher scale because of the resultant vacancy. The appellant may or may not have a good case for the relief as claimed by him through his service appeal but he being a Government Servant has got a locus standi to bring his grievance before ^{the} Tribunal in ^{relation to} ~~relevant~~ terms and conditions of the service. The deceased applicants being intervener and now his legal heirs have got no locus standi to ^{be impleaded as party} ~~be proved their presence for the purpose of this~~ appeal ^{when they are neither} ~~and for~~ a necessary party. Therefore, both the application are dismissed. Appeal to come up for arguments on merits, However the intervening applicant and his legal heirs would be at liberty to prove their rights if accrued to them in accordance with law. ^{for notional promotion} ~~the appeal in hand does not suggest~~ ~~nothing~~

Adjourned to _____ before D.B.

(Atiq-Ur-Rehman Wazir)
Member (E)

Chairman

implementable being contrary to law as well as prevalent rules and regulations. In fact such obedience is demonstrated by the concerned officers of the department to please the authorities governing the country just to earn their time being pleasure but on the change of regime and due to their such illegal acts the employees who were appointed suffer badly without any fault on their part and then even nobody bothers for their further career and in such a scenario, the appointing authority should be blamed and not the appellant.

06. We are of the considered opinion that the appellant has not been treated in accordance with law and was unlawfully removed from service for no fault of him. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
11.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN)

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)


ORDER


30.11.2021

Counsel for the appellant present.

Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Sajjad Ahmed Junior Clerk for respondents present. Syed Sardar Hussain Advocate present.

Two different applications were submitted in the office by one Said Gul but notice of the same were not served upon the opposite party. First application was submitted seeking vacation of order dated 15.10.2020, whereby the operation of order dated 06.10.2020 was suspended while the other was submitted seeking impleadment in the panel of respondents. Today notice of both the applications were served upon the appellant as well as learned D.D.A. Reply to both the applications be filed before the next date and file to come up for arguments on 13/12/2021 before D.B. The restraint order dated 15.10.2020 shall remain operative till the date fixed.


(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

13-12-21

DB is on Tour case to come up
For the same on Dated . 12.1.22


Khalid

22.02.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sajjad Ahmad, Legal Clerk, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Last chance is given to the respondents for filing of written reply/comments on 08.04.2021 before S.B. The restraint order already granted vide order sheet dated 15.10.2020 shall continue till the date fixed.


(Muhammad Jamal Khan)
Member

08.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.07.2021 for the same as before.


READER

07.07.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Sajjad Ahmad, Legal Clerk and Farmanullah, Constable for the respondents present.

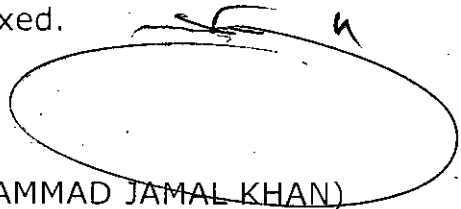
Respondents have furnished reply/comments. The appeal is entrusted to D.B for arguments on 30.11.2021. The restraint order dated 15.10.2020 shall remain operative till the date fixed.


Chairman

14.01.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sajjad Ahmed, Legal Clerk for the respondents, are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Adjourned to 03.02.2021 on which date file to come up for written reply/comments before S.B. The restraint order already granted vide order sheet dated 15.10.2020 shall continue till the date fixed.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

03.02.2021

Counsel for appellant and Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Muhammad Zada, Assistant, for respondents present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Last chance is given to the respondents for furnishing of written reply/comments.

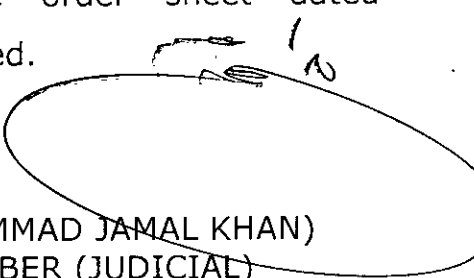
Adjourned to 22.02.2021 on which date file to come up for written reply/comments before S.B. The restraint order already granted vide order sheet dated 15.10.2020 shall continue till the date fixed.


CHAIRMAN

01.12.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Mian Zahid, Superintendent and Sajjad, Litigation Clerk, are also present.

Written reply on behalf of respondents not submitted. Representative of the department seeks further time for submission of written reply/comments. Time given. File to come up for written reply/comments on 21.12.2020 before S.B. The restraint order already granted vide order sheet dated 15.10.2020 shall continue till the date fixed.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

21.12.2020

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Sajjad Ahmad Litigation Officer for respondents present.

Written reply on behalf of respondents was not submitted. Representative of the respondents made a request for adjournment to furnish written reply/comments. Opportunity is granted. To come up for written reply/comments on 14.01.2021 before S.B. The restraint order already granted vide order sheet dated 15.10.2020 shall continue till the date fixed.



(Rozina Rehman)
Member (J)

15.10.2020

Appellant alongwith counsel present. Preliminary arguments heard.

Points raised need consideration. Appeal is admitted to regular hearing. Subject to all just exceptions. The appellant is directed to deposit security and process fee within ten (10) days, thereafter notice be issued to the respondents for submission of written reply/comments on 03.11.2020 before S.B alongwith the appeal, there is an application for suspension of the operation of impugned order dated 06.10.2020. The operation of impugned order dated 06.10.2020 is suspended till the date fixed. Notice of the said application be also given to the respondents.


Appellant Deposited
Security & Process Fee


Member (E)

03.11.2020

Nemo for appellant. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sajjad Ahmad, L.C on behalf of respondent No. 4, are also present.

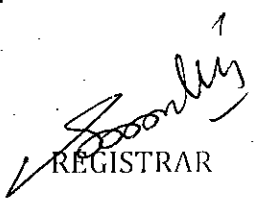
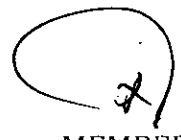
Representative of respondent No. 4 seeks further time to furnish written reply/comments while neither written reply on behalf of remaining respondents submitted nor any representative on their behalf is present, therefore, notices be issued to them for submission of written reply/comments. File to come up for written reply/comments on 01.12.2020 before S.B. The restraint order already granted vide order sheet dated 15.10.2020 shall continue till the date fixed.


(Muhammad Jamal Khan)
Member (Judicial)

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 11927 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/10/2020	<p>The appeal presented today by Mr. Muhammad Ashfaq Khan Akhunkhail Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15.10.2020.</u></p> <p style="text-align: right;"> MEMBER(J)</p> <p style="text-align: center; font-size: 2em; margin-top: 20px;">M</p>
2-	14.10.20	

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 11927/2020
Sattar

Versus

Government of Khyber Pakhtunkhwa & Others
APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974

INDEX OF DOCUMENT

S. No.	Description of Documents	Annexure	Page No.
1.	Memo of Service of Appeal		1-6
2.	Affidavit & Addresses of Parties		7-8
3.	Application for interim Relief		9
4.	Copy of promotion notification	A	10
5.	Copy of the Khyber Pakhtunkhwa Levies Force (transition) Ordinance, 2019	C	11-15
6.	Copies of CM directive dated 04-04-2019 and office order of Respondent No.2	D & E	16-17
7.	Copy of office order dated 29-05-2019 of Respondent No 2	F	18
8.	Copy of grounds of Writ Petition	G	19-25
9.	Copy of Khyber Pakhtunkhwa Levies Force Act, 2019	H	26-30
10.	Copy of the Levies Force (Absorption in Khyber Pakhtunkhwa Police) Rules, 2019	I	31-35
11.	Copies of the promotion order of the appelland and salary slip	J & K	36-37
12.	Copy of Order and Judgment dated 06/2/2020	L	38-39
13.	Copy of Absorption notification	M	40-43
14.	Copy of Notification dated 14/07/2020	N	44-
15.	Copy of impugned order dated 6/10/2020	O	4-5
16.	Waklatnama		


Appellant

Through

M. Ashfaq Khan Akhunkhail
&

Mujeeb Ullah Khan
Advocates,

Khalid & Law Associates
46-C, 2nd Floor Cantonment Plaza,
Peshawar Cantt

Email: Ashfaqkhan182@gmail.com

Cell No.0333-8522332

1

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Sattar S/O Talib,
Deputy Superintendent Police in the Office of DPO Bajaur, at
Timergara merged Tribal District Bajaur Erstwhile FATA
.....Appellant

Versus

- 1) Government of Khyber Pakhtunkhwa through the Secretary, Home & Tribal Affairs Department Islamabad
- 2) Inspector General Police, Khyber Pakhtunkhwa,
- 3) Regional Police Officer, Malakand
- 4) District Police Officer Bajaur Tribal District
- 5) District Commissioner Bajaur Tribal District

..... Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER DATED 06/10/2020 WHEREBY
DEPARTMENTAL APPEAL BEARING NO. CS(F)/L&K/4-
LEVY/APPEAL/2330-32 OF THE APPELLANT HAS BEEN
DISMISSED

PRAAYER

On acceptance of this service appeal, the impugned order may kindly be set aside and Respondents may graciously be directed to allow the Appellants to complete his sixty years statutory service to meet the ends of justice.

Any other relief which this Hon'ble Tribunal deems appropriate in law, equity, and justice may also be granted to the appellant in the best interest of justice.

Respectfully Submitted as under,

Having been aggrieved from the impugned order dated 6/10/2020 of Respondent No.1 in respect of forcible retirement of Appellant on 18/07/2019 against the settled norms and rules, the Appellant compelled to invoke the jurisdiction of this Hon'ble Tribunal because Appellant has no other remedy available except to file the instant appeal

BRIEF FACTS OF THE CASE

1. That the addresses of the parties has correctly been given in the heading of the appeal, which is sufficient for service of summons and notice or any other process that might be required by this Hon'ble Court from time to time
2. That Appellant has been appointed as Sepoy in Bajaur Levis erstwhile FATA Agency on regular basis with effect from 19/07/1982.
3. That the Appellant is performing his duty honestly, diligently, devotedly and the entire satisfaction of his superiors since inception of service. Above all the Appellant has unblemished service record.
4. That Appellant was promoted to the rank of Subidar Major vide office order dated 06/07/2017.

Copies of Notification are annexed as annexure A

5. That after the Constitution (twenty fifth amendment) Act, 2018, the erstwhile Federal Administered Tribal Areas (hereinafter referred as FATA) have been merged in the Province of the Khyber Pakhtunkhwa, and the Federal Levies Force, established under the Federal Levies Force Regulation, 2012, working in the said areas have lost their legal status for working in the merged Districts and sub divisions.
6. That in order to give legal status to the Federal Levies Force in the merged Districts and to re-visit their institutional structure and functional assignment for effective discipline and better performance, the worthy Governor of Khyber Pakhtunkhwa while exercising powers under Article 128 of the Constitution of Islamic Republic of Pakistan, on 12th March, 2019 promulgated "the Khyber Pakhtunkhwa Levies Force (transition) Ordinance, 2019". It is worth to mention here that the Force were absorbed in the KP Police and for this reference Section 6, 9 & 12 of the said Ordinance is very much obvious.

(Copy of the Khyber Pakhtunkhwa Levies Force (transition) Ordinance, 2019 is annexed as annexure C)

7. That the Worthy Chief Minister, Khyber Pakhtunkhwa vide directive no. SO-VI/CMS/2019/2987-89 dated 04-04-2019 desired to merge all the Levies and Khasadar Force of the merged area into Khyber Pakhtunkhwa Police within six months. In compliance of the aforementioned directive Respondent No.2 vide office order No. 581/PA/AIG/E dated 09-04-2019 absorbed all the members of Levies Force in Khyber Pakhtunkhwa Police. (Copies of CM directive dated 04-04-2019 and office order of Respondent No.2 are annexed as D & E)

8. That the Respondent No.2 (IGP) has re designated the ranks including the post held by the Appellant vide office order dated 29-05-2019. The aforementioned office order remove the analogy that Appellant is the employees of KP Police and all the rules are applicable to them of the KP Police
(Copy of office order dated 29-05-2019 of Respondent No 2 is annexed as F)
9. That on 08/04/2019, Respondent No. 4 (DPO Bajaur) on the recommendation Respondent No. 3 (Sub Divisional Police Officer) issued shoulder promotion as Deputy Superintendent of Police in the best interest of the Police Department. It is worth to mention here that the Appellant being member of the Police Force is drawing the salaries from the provincial Government. **Copies of the shoulder promotion order dated posting order of the appellant and salary slip are annexed as annexure G & H**
10. That inspite of crystal clear legal position couples with directives of the Worthy Chief Minister, the Respondents due to malafide intention and discriminatory treatment were going to compulsory/pre-mature retirement of the Appellant on 18/07/2019 under the Federal Levies Force Service Rules, which has been repealed by the Khyber Pakhtunkhwa Levies Force (Transition) Ordinance, 2019. Hence, the Appellant filed writ petition no. 3563/2019 before the Hon'ble Peshawar High Court, Peshawar and the same was clubbed with other connected writ petitions.
(Copy of Writ Petition is annexed as annexure I)
11. That during pendency of the aforementioned Writ Petition of the Appellant, the Khyber Pakhtunkhwa Provincial Assembly passed a bill which was approved and published in official gazette on 16-09-2019 as Act of the provincial legislature of the Khyber Pakhtunkhwa.
(Copy of Khyber Pakhtunkhwa Levies Force Act, 2019 is annexed as annexure J)
12. That thereafter the Government of Khyber Pakhtunkhwa was pleased to framed Rule for the Levies Force **"the Levies Force (Absorption in Khyber Pakhtunkhwa Police) Rules, 2019"** and the same was notified on 24th September, 2020.
(Copy of the Rules dated 24-09-2019 is annexed as K)

13. That the Hon'ble Peshawar High Court, Peshawar, vide order and judgment dated 6/02/2020 disposed off the Appellant writ Petition with directions,

"Arguments heard at length. With the consent of the parties, the instant writ petition is sent to the Secretary Home KP, Copy whereof be retained in office for the purpose of record, who shall treat the same as Departmental Appeal and decide it within in twenty days positively in accordance with law. Till then status quo be maintained"

(Copy of Order and Judgment dated 06/2/2020 is annexed as annexure L)

14. That the Appellant is still serving the Respondents department and is getting his salaries from the Provincial Government, and with hope and legitimate expectancy that the Respondents will treat him according to law. But astonishingly the Respondents on 10/02/2020 issued notification whereby all the members of the force were absorbed in the Khyber Pakhtunkhwa Police except the Appellant. (Copy of Absorption notification is annexed as annexure M)

15. That it is worth to mention here that the Respondent No. 1 vide notification dated 14/7/2020 amended the Federal Levies Force Service (amended) Rules 2013 wherein "all Levies personal shall retire from service on attaining the age of superannuation i-e 60 years or they may opt for retirement after completion of twenty five years regular service"

(Copy of Notification dated 14/07/2020 is annexed as annexure N)

16. That inspite of crystal clear aforementioned rules, the Respondent No. 1 vide impugned order dated 6/10/2020 dismissed the Departmental Appeal of the Appellant.

(Copy of impugned order dated 6/10/2020 is annexed as annexure O)

17. That the impugned order dated 6/10/2020 of Respondent No.1 is wrong, illegal, discriminatory, un-warranted, colorable exercise of power, not in accordance with law and rules applicable, hence, Appellant approaches this Hon'ble Tribunal inter alia on the following grounds.

GROUND OF APPEAL:

- A. That the impugned order of Respondent No.1 is against the fundamental rights of the Appellant guaranteed under the Constitution of Islamic Republic of Pakistan.

- B. That the impugned order of Respondent regarding the compulsory pre-mature retirement of the Appellant from the service of the Department is arbitrary, illegal, unlawful and void abinitio having no legal effect against the accrued right of the Appellant.
- C. That the impugned order of Respondent is against the principle of legitimate expectancy, hence, the very impugned act and order of Respondents is liable to be set aside on this score only.
- D. That admittedly the Appellant is performing his duties as regular employees and no difference could be created amongst the employees who are performing their duties equally coupled with responsibilities, hence, this Hon'ble Court being fountain of justice, protecting the valuable rights of the Appellant cannot left the Appellant at the mercy of the Respondents.
- E. That the impugned order and act of Respondents is in sheer violation of Article 4 and 25 of the Constitution as the Appellant has been treated with discrimination, moreover the Respondents are legally bound to remove the disparity and discrimination while granting the benefits to similar placed employees. Hence, the very act of the Respondent is also in violation of Article 27, 37 and 38 of the Constitution of Islamic Republic Of Pakistan, 1973.
- F. That admittedly the Appellant is getting his salaries and shoulder the responsibilities directed by the Provincial Police Officer after promulgation of the Khyber Pakhtunkhwa Levies (transition) Ordinance, 2019. Hence, the very act of the Respondents being void abinitio is liable to be set aside on this score only.
- G. That the impugned order of the Respondent is against the basic principle of natural justice, fair play and equity.
- H. That it is axiomatic that the matters related to term and condition of service should always be examined and decided objectively, rationally and without any prejudice so that fair reasonable and judicious conclusions/decision being free from any unfair inclination or bias could be emerged. Justice verily should not only be done but also seen to be done in any case, the available facts and underline reference suffice to indicate that the impugned order is against law, justice and dictum laid down by Apex Courts. The discretion has to be exercised fairly, justly and reasonably. Reliance placed on **1995 SMCR 650**
- I. That the impugned act and omission on the part of the Respondent is in sheer violation of Section 24-A of General Clauses Act, 1987, which provides that an authority vested with power, is bound to exercise the same justly, fairly, reasonably and for the advancement of the purpose being vest there in.

- J. That the Appellant has been absorbed in the Khyber Pakhtunkhwa police from the very promulgation of the aforementioned Transition Ordinance, 2019 and even the competent authority
- K. That competent authority has re designated the ranks including the post held by the Appellant vide office order dated 29-05-2019 which is sufficient to prove that the Appellants were absorbed in KP Police and will be governed under the KP Police Rules.
- L. That impugned order of the Respondent is based on discrimination, malafide and colorable exercise of power because the Respondent No.1 has not treated the Appellant according to their own amended Rules framed and dismissed the Appeal of the Appellants on the Rules not applicable on him.
- M. That Appellant may kindly be allowed to raise any other ground at the time of arguments with prior permission of this Hon'ble Court.

In wake of above submission, it is, therefore, most humbly prayed, that on acceptance of instant appeal, the impugned order dated 6/10/2020 may kindly set aside and the Respondent may grievously be directed to treat the Appellant like other similar placed employees of the Department by allowing him to complete his 60 years statutory service to meet the ends of justice.

Or

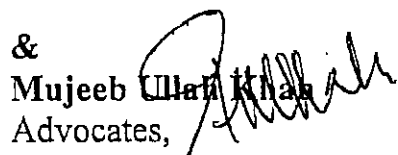
Any other relief which this Hon'ble Tribunal deems appropriate in law, equity, and justice may also be granted to the appellant in the best interest of justice.


Appellant

Through

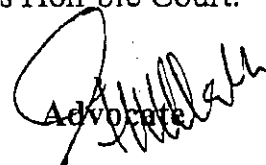
M.Ashfaq Khan Akhunkhail

&


Mujeeb Ullah Khan
Advocates,
High Court, Peshawar

CERTIFICATE

As per instruction of my client prior to the present one, no such like appeal has been filed by the Appellant before this Hon'ble Court.


Advocate

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Sattar

Versus

Government of Khyber Pakhtunkhwa & Others

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974

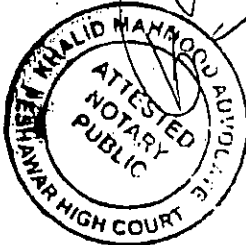
AFFIDAVIT

I, Sattar S/O Talib, Deputy Superintendent Police in the Office of DPO Bajaur, at Timergara merged Tribal District Bajaur Erstwhile FATA, do hereby solemnly affirm and declare on oath that the contents of accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Sattar
Deponent

Identified By

M. Ashfaq Khan
M. Ashfaq Khan
Advocate,
High Court, Peshawar

M. Ashfaq Khan
12/10/20


BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Sattar

Versus

Government of Khyber Pakhtunkhwa & Others

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974ADDRESSES OF PARTIESPetitioners:

Sattar S/O Talib,

Deputy Superintendent Police in the Office of DPO Bajaur, at
Timergara merged Tribal District Bajaur Erstwhile FATARespondents

- 1) Government of Khyber Pakhtunkhwa through the Secretary,
Home & Tribal Affairs Department Islamabad
- 2) Inspector General Police, Khyber Pakhtunkhwa,
- 3) Regional Police Officer, Malakand
- 4) District Police Officer Bajaur Tribal District
- 5) District Commissioner Bajaur Tribal District


Appellant

Through

M. Ashfaq Khan Akhunkhail

&


Mujeeb Ullah Khan

Advocates,

High Court, Peshawar

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

C M. No. /2020

In

Service Appeal No. /2020

Sattar

Versus

Government of Khyber Pakhtunkhwa & Others

APPLICATION FOR SUSPENSION OF THE OPERATION OF
IMPUGNED ORDER DATED 6/10/2020 AND TO MAINTAIN
STATUS QUO TILL FINAL DECISION OF THE CASERespectful Sheweth,

1. That the Appellant has filed the above titled appeal before this Hon'ble Tribunal and has not yet been fixed
2. That instant application may kindly be read as integral part of the main appeal.
3. That the Appellants seeks suspension of operation of impugned order dated 6/10/2020 and to maintain status quo inter alai on the following grounds

GROUND

- A. That the Appellant has a good prima facie case and hopes it success
- B. That balance of conveyance also lies in favour of Appellant
- C. That Appellant is in service and performing his duties and if during pendency of the instant appeal the Respondent forcibly retired the Appellant, then he will suffer irreparable loss

It is, therefore, most humbly prayed that on acceptance of this application, the operation of impugned order dated 6/10/2020 may kindly be suspended and status quo may kindly be maintained till final decision of the main case.

Sattar
Appellant

Through

M. Ashfaq Khan Akhunkhail

&

Mujeeb Ullah Khan

Advocates,

Khalid & Law Associates

46-C, 2nd Floor Cantonment Plaza,

Peshawar Cantt

Email: Ashfaqkhan182@gmail.com

Cell No.0333-8522332

Annexure A (10)



OFFICE OF THE
POLITICAL AGENT, BAJAUR.

Dated Khar The 06/07/2017

No. 111 /BL

OFFICE ORDER.

Consequent upon the recommendations of Departmental promotion committee in its meeting held on 05/07/2017. Subedar Sattar Regt: No. 2217 of Bajaur Levies is hereby promoted as Subedar Major (BPS-16) on regular basis against the vacant post of Subedar Major (BPS-16) in Bajaur Levies Force with immediate effect.

POLITICAL AGENT/COMMANDANT,
BAJAUR LEVIES

No. 112-126 /BL

Copy forwarded to:-

1. The Section Officer(LK&B), SAFRON Division Islamabad.
2. The Section Officer (L&K) Law & Order Department FATA Secretariat, Peshawar.
3. The Assistant Political Agent Khar.
4. The Assistant Political Agent Nawagai.
5. The Agency Accounts Officer Bajaur at Khar.
6. Subedar Major Bajaur Levies.
7. Nazar Bajaur Levies.
8. Official concerned.

For information and necessary action.

POLITICAL AGENT/COMMANDANT,
BAJAUR LEVIES

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11 Annexure C

An

ORDINANCE

provide for the maintenance of Khyber Pakhtunkhwa Levies Force and to enable its
Transition to Khyber Pakhtunkhwa Police

THE KHYBER PAKHTUNKHWA
LEVIES FORCE TRANSITION ORDINANCE 2019.
(KHYBER PAKHTUNKHWA ORDINANCE NO. _____ OF 2019)

WHEREAS upon the merger of the Federally Administered Tribal Areas with the Province of Khyber Pakhtunkhwa through the 25th Constitutional Amendment, it is necessary to bring the Federal Levies Force governed by the Federal Levies Force Regulation, 2012 under the control of the Government of Khyber Pakhtunkhwa and to rename it as the Khyber Pakhtunkhwa Levies Force;

AND WHEREAS it is expedient to streamline the functioning of the Khyber Pakhtunkhwa Levies Force in line with the current law and order and security imperatives in the area of its jurisdiction;

AND WHEREAS it is necessary to provide legal cover to the transition of the Khyber Pakhtunkhwa Levies Force to Khyber Pakhtunkhwa Police:

NOW THEREFORE, it is hereby enacted as follows:

1. Short Title, Extent and Commencement

(1) This Ordinance may be called the Khyber Pakhtunkhwa Levies Force Transition Ordinance, 2019.

(2) The provisions of this Ordinance shall apply to all the members of the Federal Levies Force governed by the Federal Levies Force Regulation, 2012, which is to be renamed under this Ordinance as the Khyber Pakhtunkhwa Levies Force or any other person inducted from other force and the officers authorized by the Government to command the Force, wherever they may be.

(3) It shall come into force at once.

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Definitions

In this Ordinance unless there is anything repugnant in the subject or context:

- (a) "Ordinance" means the Khyber Pakhtunkhwa Levies Force Transition Ordinance, 2019;
- (b) "Code" means the Code of Criminal Procedure, 1898 (Ordinance No. 12 of 1974);
- (c) "Commandant" means Commandant of the Khyber Pakhtunkhwa Levies Force;
- (d) "Department" means the Home & Tribal Affairs Department of the Government of Khyber Pakhtunkhwa;
- (e) "District Police Officer" means the head of police of a district as defined in section 21 of the Khyber Pakhtunkhwa Police Ordinance, 2017;
- (f) "Director General" means the Director General of the Khyber Pakhtunkhwa Levies Force;
- (g) "Force" means the Khyber Pakhtunkhwa Levies Force;
- (h) "Government" means the Government of Khyber Pakhtunkhwa;
- (i) "Provincial Police Officer" means the Provincial Police Officer of Khyber Pakhtunkhwa Police;
- (j) "Police" means the Khyber Pakhtunkhwa Police;
- (k) "Public Agency" means any department or attached department of the Government, public authority, commission or autonomous body set up under any legislative instrument, or public sector company or body corporate, owned, controlled or financed by the Government;
- (l) "Prescribed" means prescribed under the Rules under this Ordinance;
- (m) "Rules" means rules framed under this Ordinance;
- (n) Regional Police Officer means the head of police in a region constituted under section 14 (1) of the Khyber Pakhtunkhwa Police Act, 2017.

3. Power to maintain Khyber Pakhtunkhwa Levies Force

The Government shall maintain the Khyber Pakhtunkhwa Levies Force (hereinafter referred to as the Force) for such functions as prescribed under this Ordinance.

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Constitution of the Force.

The Force shall consist of a Director General and Deputy Directors General, to be appointed by the Government in consultation with the Provincial Police Officer of Khyber Pakhtunkhwa Police, and such number of other officers / officials as may be prescribed, including but not limited to the Commandant:

Provided that the Director General, DDGs and the Commandant shall be officers of the Khyber Pakhtunkhwa Police;

Provided further that the District Police Officer shall be assigned the additional charge of the position of the Commandant Levies Force in the same District:

Provided further that the RPO shall be assigned the additional charge of the position of the DDG of Levies force in the same police region.

5. Appointments / Recruitments in the Force

Recruitments / Appointments in the service shall be made subject to the Rules as prescribed by the Government.

6. Superintendence and Administration of the Force

- (1) The superintendence over the Force shall vest in the Government.
- (2) The supervision and administration of the Force shall vest in the Director General.
- (3) The operational control of the Force shall vest in the Commandant.

7. Duties and Functions of the Force

Notwithstanding anything contained in any other law for the time being in force, the Force shall have the same duties and functions as those specified in the Khyber Pakhtunkhwa Police Ordinance, 2017.

8. Powers of the Force

Notwithstanding anything contained in any other law for the time being in force, the Force shall have all the powers conferred on Police by the Code of Criminal Procedure, 1898 as

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exercised by the Khyber Pakhtunkhwa Police under the Khyber Pakhtunkhwa Police Ordinance, 2017, for the performance of their duties and functions.

9. Liabilities of officers and members of the Force

(1) It shall be the duty of every officer and member of the Force to promptly obey and execute all lawful orders and instructions issued to him by the Commandant or any other officer authorized by him in this behalf to issue such orders and instructions.

(2) The Force shall be an Essential Service and every member of the Force shall be liable to serve whenever he is required to serve by the Director General.

10. Constitution of Selection and Promotion Committees

The Government shall notify Selection and Promotion Committees for recruitment and promotion of employees of the Force.

11. Postings, Transfers and Distribution of the Force

(1) The Commandant shall be competent to post and transfer members of the Force within the District.

(2) The Director General shall be competent to post and transfer members of the Force from one District to another in the province.

(3) The DDG shall be competent to post and transfer members of the Force from one district to another within the region.

12. Absorption

(1) Notwithstanding anything contained in any other law for the time being in force, the members of the Force may be absorbed in Khyber Pakhtunkhwa Police subject to the procedure as prescribed.

(2) Until their absorption in the Khyber Pakhtunkhwa Police, the members of the Force shall be governed by their existing terms and conditions of service under the Federal Levies Force (Service) Rules, 2012.

13. Assistance and Support to Government Functionaries

The Commandant shall provide assistance and support to the District Administration and Heads of all Public Agencies in the District, required for performing their official duties.

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14. Power to make Rules

The Government may make Rules for carrying out the purposes of this Ordinance.

15. Ordinance to override other laws

The provisions of this Ordinance shall be enforced notwithstanding anything repugnant or contrary contained in any other law for the time being in force.

16. Indemnity

Except as otherwise expressly provided in this Ordinance, no suit, prosecution or other legal proceeding shall lie against any member of the Force, Government or any other authority for anything which is done in good faith or intended to be done under the Ordinance or any Rule made thereunder.

17. Removal of Difficulties

If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Department may notify a committee to take a decision not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty.

18. Repeal

The Federal Levies Force Regulation, 2012 is hereby repealed.

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16
Annexure D



OFFICE OF THE INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA,
CENTRAL POLICE OFFICE, PESHAWAR

dated 9/10/2019

No. 51 / P/AIG/E

To: The Capital City Police Officer, Peshawar.
All Regional Police Officers in Khyber Pakhtunkhwa.

Subject:- Absorption of Levies and Khasadar in Khyber Pakhtunkhwa Police.

Reference the Honorable Chief Minister's directive No.SO-VI/CMS/2019/3987-89, dated Peshawar the 04-04-2019, wherein it has been desired to merge all the Levies and Khasadar force of the Merged Areas into Khyber Pakhtunkhwa Police within six months.

2. The Provincial Police Officer/IGP has directed that necessary working should be initiated forthwith to give effect to the directive of the Honorable Chief Minister Khyber Pakhtunkhwa.

3. In working out vacancies(new posts), the principles/rules/laws governing absorption must be kept in mind with regard to grant of equivalent ranks and pay(salary) protection.

4. If any difficulty arises in giving effect to the above directive, the same may be put-up on priority basis to the CPO for removal of the difficulty as per rules and procedures.

(SADIQ BALOCH) PSP,
AIG Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

CC.

1. Addl. IGP/HQrs, Khyber Pakhtunkhwa, Peshawar.
2. DIG HQrs, Khyber Pakhtunkhwa, Peshawar.
3. DIG Finance & Procurement, Khyber Pakhtunkhwa, Peshawar.
4. PSO to IGP Khyber Pakhtunkhwa.

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Annexure E

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CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA.No. SO-VI/CMS/2019
Dated Peshawar the 04-04-2019

To:

The Chief Secretary,
Govt of Khyber Pakhtunkhwa.

Subject:

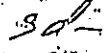
MERGER OF LEVIES AND KHASSADAR OF MERGED DISTRICTS
INTO KHYBER PAKHTUNKHWA POLICE.

Dear Sir,

I am directed to refer to the subject noted above, and to state that the Chief Minister Khyber Pakhtunkhwa, has desired to merge all the levies and Khassadar force of the Merged areas into Khyber Pakhtunkhwa Police within six months.


Necessary action may kindly be taken on the above directive of the Honorable Chief Minister, please.

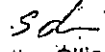
Yours faithfully,


Section Officer-VI

Copy forwarded for information:-

1. Secretary to Govt of Khyber Pakhtunkhwa, Home Department.
2. Secretary to Govt of Khyber Pakhtunkhwa, Finance Department.
3. PSO to Inspector General of Police, Khyber Pakhtunkhwa.


ATTESTED
ATTESTED


Section Officer-VI

Annexure

(E)
(18)

BETTER COPY

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
CENTRAL POLICE OFFICE
KHYBER PAKHTUNKHWA
PESHAWAR

NOTIFICATION

Dated Peshawar the 29/05/2019
No.4476/GB:- The Provincial Police Officer, Khyber
Pakhtunkhwa is pleased to re-designate the following ranks of
Levies and Khasadar Forces for the purpose of their
injection/absorption in Khyber Pakhtunkhwa Police with
immediate effect:-

S.No.	From Rank in Levies/Khasadar	To Rank in Police
1.	Sepoy	Constable (BPS-07)
2.	Lance Naik	Constable A-1 (BPS-07)
3.	Naik	Constable B-1, LHC (BPS-07)
4.	Hawaldar	Head Constable (BPS-09)
5.	Naib Subedar	Assistant Sub Inspector (BPS-11)
6.	Subedar	Sub Inspector (BPS-14)
7.	Subedar Major	Inspector (BPS-16)

Sd/-
MUHAMMAD NAEEM KHAN, DR. PSP
Inspector General of Police
Khyber Pakhtunkhwa
Peshawar

Endst No. & Date event:-

Copy forwarded to the:-

1. Secretary Establishment, Govt of Khyber Pakhtunkhwa, Peshawar.
2. Secretary Finance, Govt of Khyber Pakhtunkhwa, Peshawar.
3. Secretary Home and Tribal Affairs Department, Gov of Khyber Pakhtunkhwa, Peshawar.
4. All Heads of Police, Khyber Pakhtunkhwa.
5. PSO to IGP Khyber Pakhtunkhwa, Peshawar.
6. Registrar CPO.

(SADIQ BALOCH) PSP
AIG/Establishment
Inspector General of Police

NOTED

19
Annexure

G

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. _____ P / 2019

Sattar and another

VERSUS

The Government of Khyber Pakhtunkhwa, through its Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar and 02 others

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

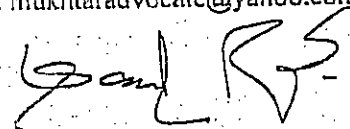
INDEX

Sr.No.	Description Of Documents	Date	Annex	Pages
1.	Opening sheet.	-	-	
2.	Urgent form			
3.	Writ Petition.		-	
4.	Affidavit		-	
5.	Addressed of parties		-	
6.	Promotion orders	06-7-2017	A 1	
7.	Khyber Pakhtunkhwa Transition Ordinance 2019		A	
8.	Promotion order	08-04-2019	B	
9.	office order	09-04-2019	C	
10.	Notice to Respondents	-		
11.	Court Fee Stamps	-	-	
12.	Vakalatnama	-	-	

Through:-
Dated: /06/2019


Petitioners

MUKHTAR AHMAD MANERI
Advocate Supreme Court of Pakistan
0333-2156006
Email: mukhtaradvocate@yahoo.com


AMAAD NASIR KUNDI
Advocate High Court, Islamabad
Cell No: 0346-7865039
Email: amaadkundi786@gmail.com

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BEFORE THE HONOURABLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. _____ P/2019

1. Sattar S/o Talib, Deputy Superintendent of Police in the Office of DPO Bajaur, at Timergarah merged Tribal District Bajaur erstwhile FATA.
2. Gulzar Khan S/o Mahibullah,, Deputy Superintendent of Police in the Office of DPO Bajaur, at Timergarah merged Tribal District Bajaur erstwhile FATA.

...Petitioners

VERSUS

1. The Government of Khyber Pakhtunkhwa, through its Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar.
2. The District Police Officer merged Tribal District Bajaur erstwhile FATA Agency at Timergarah.
3. The Deputy Commissioner of merged Tribal District, Bajaur.

..... Respondents

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

Respectfully Sheweth: -

Having been aggrieved by the verbal order of respondent in respect of the forcible / premature retirement on 17-07-2019, against the settled norms and rules, the petitioners are compelled to invoke the constitutional jurisdiction of this Honourable Court, because the petitioners have no other speedy or efficacious remedy available except to file the instant writ petition.

BRIEF FACTS OF THE CASE

1. That the petitioner No.1 has been appointed as Sepoy in Bajaur Levy erstwhile FATA Agency on regular basis w.e.f. 19-07-1982 and lastly

both the petitioners were promoted to the post of Subedar Major w.e.f. 06-07-2017 (Annex-A-1). The petitioner No. 2 has also been enjoying the same service like petitioner No. 1. Since his inception in the service he has been performing his duties honestly, diligently, devotedly and to the entire satisfaction of his superiors and his service record has all along been neat and clean;

2. That the Levies Force has been merged into the Khyber Pakhtunkhwa Police by the "Khyber Pakhtunkhwa Ordinance of 2019" hereinafter called LEVIES FORCE TRANSITION ORDINANCE 2019 vide copy of Levies Force Ordinance is attached herewith as annexure "A".
3. That the DPO Bajaur herein respondent No.2 while issued promotion office order No.23/EB dated 08-04-2019 (Annex-B) wherein the petitioners have been granted shoulder promotion against the post of Deputy Superintendent of Police (BPS-16). It is pertinent to mention here that they are merged into Khyber Pakhtunkhwa Police by the above said transition ordinance 2019.
4. That by the office order No.581/PA/AIG/E dated 09-04-2019 (A copy of office order attached as annexure "C") issued by on the instruction of Inspector General of Police, KPK wherein all employees of Levies Force and Khasadar were absorbed in Khyber Pakhtunkhwa Police. Needless to observe that Hon'ble Chief Minister directive No.SO-VI/CMS/2019/3987-89 dated 04-04-2019 wherein it has been desired to merge all the Levies and Khasadar Force of the merged areas into Khyber Pakhtunkhwa Police within six months but till now, no progress has been made out by the respondent department. In para No.3 of the said letter it has been stated that "*in working out vacancies (new posts) the principles / rules / laws governing absorption must be*

kept in mind with regard grant of equivalent ranks and pay (salary) protection".

5. That the respondents due to mala fide intention, and discriminatory treatment, are going to compulsory / premature retire the petitioners on 17-07-2019 under the Federal Levies Force Rules which has been repealed by the KPK Levies Force Transition Ordinance 2019 *ibid*.
6. That the respondents are bound to allow the petitioners to continue their service on attaining the age of superannuation i.e. 60 years of age under the law and rules. Recently, the Provincial Assembly of Government of KPK has enhanced upto 63 years of age instead of 60.
7. That the petitioners approached the respondents and requested them to desist from their illegal designs of retiring them, but they did not pay any heed and put deaf ear. Hence this writ petition *inter alia* on the following grounds: -

G R O U N D S

- A. That the impugned act/verbal impugned order in respect of compulsory premature retirement from service of the department is arbitrary, illegal, unlawful and void ab-initio having no legal effects against the rights of the petitioners;
- B. That the petitioners have a legitimate expectancy to continue their services, hence the impugned omission / act of the department is liable to be set aside in view of the doctrine of legitimate expectancy.
- C. That this Honourable Court has already granted the relief to the similar employees in its landmark judgment dated 30-06-2015 and 07-12-2016 (Annex-D). Hence the petitioner is also entitled for same relief in view of Article 25 of the Constitution of Islamic Republic of Pakistan 1973. It is significant to mention here that in view of the judgments of the August Supreme Court of Pakistan reported in "1996 SCMR 1185" & "2002 SCMR 71 & 82", the petitioners are also legally entitled to the benefits of the judgment of this Honourable Court cited *supra* as once a question of law is decided by this Honourable Court, the benefit of the same may also be extended to the non litigants herein petitioners as well.

- D. That the petitioners have performed their duties as regular employee and no difference could be created amongst the employees who are performing their duties equally and with responsibilities. Therefore, the petitioners cannot be left at the mercy of the respondents without protecting their valuable rights.
- E. That the act of the respondent department is also violative to the Article 4 and 25 of the constitution of Islamic Republic of Pakistan, 1973 as the petitioners have been treated with discrimination. Moreover, the respondent is legally bound to remove discrimination and disparity while granting the benefits as some of the employees have been granted the similar benefit where as the petitioners have been ignored, hence the act of the respondent is also violative to Article 27, 37 and 38 of the constitution of Islamic Republic of Pakistan, 1973.
- F. That the impugned verbal order of petitioners' retirement from services, amounts to penalty of compulsory retirement from service which could not be imposed on the petitioner without a show cause notice and personal hearing.
- G. That the impugned act is violative to the principle of natural justice fair play equity and also a worst example of colourable exercise of authority.
- H. That the impugned act is against the fundamental rights guaranteed under the constitution of Islamic Republic of Pakistan 1973.
- I. That the impugned omission/ inaction/ delay on the part of respondents regarding retiring them from service amounts to depriving the petitioners of the means of livelihood (in shape of benefits attached to the higher post and higher status) without hearing them, which is against the Constitutional Obligation imposed on the State and its Agencies regarding promotion of social justice.
- J. That the petitioners are being denied the legitimate right to continue their services, which is an attempt to deprive the petitioner from their valuable legal right.
- K. That the petitioners have not been dealt with in accordance with law, which itself is violation of provisions of Article 4 of the Constitution of Islamic Republic of Pakistan. The expression "law" as employed in the said Article is positively of wider import, which also includes the duty of every public functionary to act in the given matter justly, fairly and in accordance with the principles of natural justice.

- L. That it is an axiomatic that the matters relating to terms and conditions of service should always be examined and decided objectively, rationally and without any prejudice so that fair, reasonable and judicious conclusions / decisions being free from any unfair inclination or bias could be emerged. Justice verily should not only be done but also seen to be done. In any case, the available facts and underlined references suffice to indicate that the impugned action of the respondents is at an absolute variance from the settled principles of law and justice and dictum laid down by this Honourable Court. The discretion is not being exercised fairly, justly and reasonably. Reference is made to the judgment of the august Supreme Court of Pakistan reported in "1995 SCMR 650".
- M. That the impugned acts and omission on part of the respective authorities are in express violation of section 24-A of the General Clause Act, 1987, which provides that an authority vested with any power is bound to exercise the same justly, fairly, reasonably and for the advancement of the purpose being vested therein.
- N. That the constitutional system of the Islamic Republic of Pakistan attaches far most importance in the administration of matters relating to the appointment and retirement. Refusal thereto is against all norms of service, justice, equity, good conscious and fair play. It negates the principle of legitimate expectancy, where a citizen has been deprived off from his vested right without any fault on his part. It is not only discriminatory but also against the Article 37 & 38 of the Constitution of the Islamic Republic of Pakistan, 1973, where it has been envisaged that the State is bound to promote social Justice and economic well being of the people. Particularly, under clause (e) of Article 35 it has been made obligatory to the state to reduce disparity in the income and earning of individuals including persons in various classes of the service of Pakistan by providing equal opportunities to all for their career advancement. The Government has ample power to act in aid to justice to remove iniquitous treatment meted out to the petitioners.
- O. That the action of the respondents is a worst example of colorable exercise of powers by the authority and is also against the principle of natural justice, fair play and equity.
- P. That the petitioners have no alternate, efficacious and speedy remedy available except the instant constitutional petition.

PRAYER

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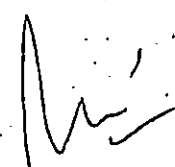
It is therefore respectfully prayed that by acceptance of the instant petition with costs the verbal impugned order dated 17-07-2019 regarding compulsory/premature retirement from service may graciously be set aside, quashed, declared illegal and without lawful authority and the respondents-department may kindly be directed to allow the petitioners in order to complete his 60 years statutory service to meet the ends of justice.

Any other relief, which this Honourable Tribunal deems fit and appropriate, may also be granted.


Interim Relief:

It is therefore prayed that during pendency of the above said petition, as an interim relief, the respondents may graciously be restrained from taking any adverse action of pre mature retirement/ compulsory retirement from service of the petitioners till final disposal of the writ petition.

Through:-

 Petitioners

MUKHTAR AHMAD MANERI
Advocate Supreme Court of Pakistan


AMAAD NASIR KUNDI
Advocate High Court, Islamabad
Cell No: 0346-7865039

List of Books

- 1. Constitution, 1973
- 2. Reference Books

NOTE

- 1. Three spare copies of the Writ Petition are enclosed in a separate file cover.
- 2. Memo of addresses is also attached.

CERTIFICATE

It is certified that this is first Writ Petition on the subject, moved before this Honourable Court by the Petitioners, as per instructions of the clients/petitioners.


MUKHTAR AHMAD MANERI
Advocate Supreme Court of Pakistan

26
Annexure (H)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 16th SEPTEMBER, 2019.

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 16th September, 2019.

No. PA/Khyber Pakhtunkhwa/Bills-68/2019/7010.— The Khyber Pakhtunkhwa Levies Force Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 12th September, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 12th September, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA LEVIES FORCE ACT, 2019.
(KHYBER PAKHTUNKHWA ACT NO. XXXV OF 2019)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 16th September, 2019).

AN
ACT

to provide for the maintenance of Khyber Pakhtunkhwa Levies Force and to enable its transition to Khyber Pakhtunkhwa Police.

WHEREAS after Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018), the erstwhile Federally Administered Tribal Areas have been merged in the Province of the Khyber Pakhtunkhwa, and Federal Levies Force, established under the Federal Levies Force Regulation, 2012, working in the said areas, has lost its legal status for working in the merged districts and sub-divisions:

AND WHEREAS it is in the best public interest to allow the Federal Levies Force to continue its functions in the merged districts and sub-divisions and to regulate and maintain it under the administrative control of the Government of Khyber Pakhtunkhwa;

AND WHEREAS to achieve the objectives it is expedient to give legal status to the Federal Levies Force in the merged districts and sub-divisions and to re-visit its institutional structure and functional assignment for effective discipline, better performance and optimal utility;

It is hereby enacted as follows:

1. **Short title, application, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Levies Force Act, 2019.

(2) It shall apply to all the members of Levies Force.

(3) It shall extend to the districts and sub-divisions of the Province of Khyber Pakhtunkhwa as provided in the Schedule.

(4) It shall come into force at once.

2. **Definitions.**---In this Act, unless there is anything repugnant in the subject or context,-

(a) "Code" means the Code of Criminal Procedure, 1898 (Act of V of 1898);

(b) "Commandant" means the Commandant of the Levies Force;

(c) "Department" means the Home and Tribal Affairs Department of the Government of Khyber Pakhtunkhwa;

(d) "Deputy Director General" means the Deputy Director General of the Levies Force;

(e) "Director General" means the Director General of the Levies Force;

(f) "Government" means the Government of the Khyber Pakhtunkhwa;

(g) "Levies Force" means the Federal Levies Force, established under the repealed regulation and re-constituted, regulated and maintained under this Act;

(h) "Police" means the Khyber Pakhtunkhwa Police;

(i) "prescribed" means prescribed by rules;

(j) "Provincial Police Officer" means the Provincial Police Officer of Khyber Pakhtunkhwa Police;

(k) "public agency" means any department of Government, attached department, public authority, commission or autonomous body, setup under any statutory instrument, or public sector company or body corporate, owned, controlled or financed by Government;

(l) "repealed regulation" means the Federal Levies Force Regulation, 2012, repealed under section 15 of this Act;

(m) "rules" mean rules made under this Act; and

(n) "Schedule" means the Schedule appended to this Act.

3. **Reconstitution and maintenance of Levies Force.**—(1) On commencement of this Act, the Levies Force shall be re-constituted and maintained by Government in accordance with the provisions of this Act and shall be known as the Khyber Pakhtunkhwa Levies Force, consisting of-

- (a) the Director General;
- (b) the Deputy Director General;
- (c) the Commandant; and
- (d) all existing strength of members of the Levies Force working in the merged districts and sub-divisions, as specified in the Schedule.

(2) The Director General, Deputy Director General and the Commandant shall be the officers of the Police.

(3) The District Police Officer shall be assigned the additional charge of the Commandant in the same district.

(4) The Regional Police Officer shall be assigned the additional charge of the Deputy Director General in their Police Region.

(5) The Deputy Director General, who shall be appointed by Government, in consultation with the Provincial Police Officer, in such manner and on such terms and conditions as may be prescribed.

Explanation: For the purpose of this section, Regional Police Officer and District Police Officer shall have the same meanings as are given to them, respectively, in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017).

4. **Superintendence, administration and control of the Levies Force.**—(1) The overall power of superintendence of the Levies Force shall vest in Government.

(2) The general administration and operational control of the Levies Force shall vest with the Director General to be exercised by him either directly or through the Commandant in the district.

5. **Powers and duties of the Levies Force.**—(1) Notwithstanding anything contained, in any other law for the time being in force, the Levies Force shall have the parallel policing powers as are assigned to the Police under the Code.

(2) Without prejudice to the generality of the foregoing policing powers under subsection (1), the Levies Force shall perform such institutional or organizational functions and duties as provided under the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017).

6. **Liabilities of officers and members of the Levies Force.**—(1) It shall be the duty of every member of the Levies Force to obey and execute all lawful orders and instructions, issued to him by the Commandant or any other officer authorized by him in this behalf to issue such orders and instructions.

(2) The Levies Force shall be an essential service and every member thereof shall be liable to serve whenever he is required to serve by the Director General.

7. **Constitution of Selection and Promotion Committees.**---Government shall notify the Selection and Promotion Committees for recruitment and promotion of employees of the Levies Force.

8. **Postings, transfers and distribution of the Levies Force.**---(1) The Commandant shall be competent to post and transfer members of the Levies Force within the district.

(2) The Director General shall be competent to post and transfer members of the Levies Force from one district to another.

(3) Subject to the decision of the Department, a sufficient number of members of the Levies Force shall be placed at the disposal of the District Administration in performing its legally mandated functions.

9. **Absorption.**---(1) Notwithstanding anything contained in any other law for the time being in force, the members of the Levies Force may be absorbed in the Police, subject to the procedure as may be determined by Government.

(2) Until their absorption in the Police, the members of the Levies Force shall be governed by their existing terms and conditions of service under the Federal Levies Force (Amended) Service Rules, 2013.

10. **Assistance and support to Government functionaries.**---On the requisition of the District Administration, the Commandant shall provide assistance and support to the District Administration and Heads of all public agencies in the District, required for performing their official duties.

11. **Power to make rules.**---Government may make rules for carrying out the purposes of this Act.

12. **Act to override other laws.**---The provisions of this Act shall be in force notwithstanding anything repugnant or contrary contained in any other law for the time being in force.

13. **Indemnity.**---Except as otherwise expressly provided in this Act, no suit, prosecution or other legal proceedings shall lie against any member of the Levies Force, Government or any other authority for anything which is done in good faith or intended to be done under this Act or the rules.

Explanation: The phrase "good faith" shall have the same meaning as given to it in section 52 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

14. **Removal of difficulties.**---If any difficulty arises in giving effect to any of the provisions of this Act, the Department may notify a committee to take a decision not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

15. **Repeal and savings.**---(1) The Federal Levies Force Regulation, 2012 and the Khyber Pakhtunkhwa Levies Force Ordinance, 2019 (Khyber Pakhtunkhwa Ordinance No. III of 2019) are hereby repealed.

(2) Notwithstanding the repeal of the Federal Levies Force Regulation, 2012, under sub-section (1), the Federal Levies Force (Amended) Service Rules, 2013 shall continue to remain in force and the terms and conditions of service of all the members of the Levies Force shall be governed thereunder until new rules are made under this Act.

(3) Anything done, action taken, rule made or notification or orders issued under the Khyber Pakhtunkhwa Levies Force Ordinance, 2019 (Khyber Pakhtunkhwa Ord. No. III of 2019), and the Federal Levies Force Regulation, 2012, shall be deemed valid and the same shall not be called in question in any Court of law.

SCHEDULE
[see section-1(3)]

Part-A

S.No.	District.
1.	Bajaur.
2.	Mohmand.
3.	Khyber.
4.	Orakzai.
5.	Kurrum.
6.	South-Waziristan.
7.	North-Waziristan.

Part-B

S.No.	Sub-Division.
1.	Hasan Khel in district Peshawar.
2.	Darra Adam Khel in district Kohat.
3.	Beltani in district Lakki Marwat.
4.	Wazir in district Bannu.
5.	Jandola in district Tank.
6.	Darazinda in district Dera Ismail Khan.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMJAD ALI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

Annexure

①

NOTIFICATION

Postment, dated the 21st September, 2019.

14
No. 50(Police-II)/HD/SMY/2019:- In exercise of the powers conferred by section 14 of the Khyber Pakhtunkhwa Levies Force Act, 2019 (Khyber Pakhtunkhwa Act. No. XXXV of 2019), read with sub-section (1) of section 9 thereof, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

The Levies Force (Absorption in the Khyber
Pakhtunkhwa Police) Rules, 2019

1. Short title, application and commencement:---(1) These rules may be called the Levies Force (Absorption in the Khyber Pakhtunkhwa Police) Rules, 2019.

(2) These rules shall apply to all members of the Levies Force.

(3) These rules shall come into force at once.

2. Definitions:--- In these rules, unless there is anything repugnant in the subject or context, the following expressions shall have the meanings hereby respectively assigned to them, that is to say,-

(a) "absorption" means the process of permanent induction of the members of the Levies Force into the Police, in accordance with these rules;

(b) "Act" means the Khyber Pakhtunkhwa Levies Force Act, 2019 (Khyber Pakhtunkhwa Act. No. XXXV of 2019); and

(d) "The schedule" means the Schedule appended to these rules.

(2) Words and expressions used, but not defined in these rules shall have the same meanings as are respectively assigned to them in the Act.

3. Absorption—The members of the Levies Force shall be permanently absorbed into the Higher Pakhtunkhwa Police, against vacancies to be newly created in the Police Department for the purpose in the following manner:

1. (a) A Selecting Committee, headed by the Commandant, and having one member each from District Administration and District Account Officer of the district concerned, shall prepare the lists of all the members of the Levies Force after personal appearance and scrutiny of record for submission to the Provincial Police Officer;

2. (b) the lists, submitted to the Provincial Police Officer, under sub-rule (1), after proper sifting, shall be forwarded to Home and Tribal Affairs Department of Government with the recommendations for permanent absorption of members of the Levies Force in the Police into the respective ranks or cadres as per the Schedule; and

3. (c) the Home and Tribal Affairs Department of Government, after receiving the lists of all the members of Levies Force, shall issue notification of absorption of the Levies Force in the Police after approval of the Cabinet.

4. Remuneration or incentives.--The Levies Force, after absorption into the Police, shall be entitled to the same benefits, remuneration and other incentives, as are enjoyed by other members of the Police.

5. Training.--Special training modules shall be designed by the Training Wing of the Police Department for imparting requisite police training so that the members of the Levies Force are fully sensitized with all Police functions.

6. Seniority.--Members of the Levies Force, who are absorbed into the Police, in accordance with Government orders and instructions, shall take seniority in the Police from the date of the initial appointment upon recruitment in the Levies Force:

Provided that the officer inducted in one batch, upon induction, shall retain their inter se seniority as in the Levies Force:

7. Repeal and saving.--(1) All rules, orders or instructions including the Federal Levies Force Service Rules, in force in respect of the Levies Force, immediately before the commencement of these rules shall be deemed as repealed, in so far those rules, orders or instructions are inconsistent with these rules.

(2) Notwithstanding the repeal of all the rules, orders or instructions, including the Federal Levies Force (Service) Rules under sub-rule (1)-

- (a) affecting the seniority and promotion, all promotions done, seniority determined and orders made, shall be deemed to have been done, determined and made, in accordance with law. The repeal shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed rules, order and instructions.

310
9271
737
345
194
09

(b) shall not affect any investigation or legal proceedings in any Court of Law and shall be continued in the same manner as if the Laws and Rules have not been repealed.

8. Removing of difficulties.--(1) If any difficulty arises in giving effect to any provision of these rules and notification made thereunder, a Technical Committee, consisting of three members of the Police Department, to be notified by the Provincial Police Officer, headed by an Officer of Police, who shall not be below the rank of Deputy Inspector General of Police and two other members of Police Department, whose ranks shall not be less than Senior Superintendent of Police, may recommend to Government for giving effects to the provisions of these rules.

(2) Government, after considering such recommendations, submitted by the Technical Committee, under sub-rule (1), may, by notification, make such orders, not inconsistent with the provisions of the Act or these rules, as may appear to it to be necessary for the purpose of removing such difficulty.

1. S.No.	2. From rank in Levies.	3. To rank in Police.
1.	Scpoy.	Constable (BPS-07).
2.	Lance Naik.	Constable A-1 (BPS-07).
3.	Naik.	Constable B-1 (BPS-07).
4.	Hawaldar.	Head Constable (BPS-09).
5.	Naib Subedar.	Assistant Sub-Inspector (BPS-11).
6.	Subedar.	Sub-Inspector (BPS-14).
7.	Subedar Major.	Inspector (BPS-16).

Secretary to Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department

Ends 1/10 & date even:

Copy of the above is forwarded for information to the:

1. The Principal Secretary to Government, Khyber Pakhtunkhwa, Peshawar.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
3. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. The Registrar, Peshawar High Court, Peshawar.
5. The Secretary to Government of Khyber Pakhtunkhwa, Law Parliamentary Affairs & Human Rights Department, Peshawar.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. P.S to Secretary Home, Khyber Pakhtunkhwa, Peshawar.
8. The Manager, Government Printing Press, Peshawar with the request that it may be published in the official gazette and 50 copies be furnished to this office.

Section Officer (Police-II)
Ph: 091-0210503
Fax: 091-0210201

Anneux J

(36)



OFFICE OF THE
DISTRICT POLICE OFFICER,
BAJAUR AT TIMERGARA.

No. 23 /EB, dated 08-04/2019

To: -

The Regional Police Officer,
Malakand, at Saidu Sharif Swat


Subject: -

**RECOMMENDATION FOR SHOULDER PROMOTION IN
RESPECT OF SUBEDAR MAJORS.**

Memo: -

It is submitted that in order to streamline the affairs of; and establishment of regular Police system in District Bajaur the following Subedar Majors Khyber Pakhtunkhwa Lives Force as defined in Khyber Pakhtunkhwa Lives Force (Maintenance, Regulation and Protection of Service) (Transition) Ordinance, 2019 is recommended for shoulder promotion as Deputy Superintendent of Police in the best interest of the Police Department, please:-


S.No	Name	Father Name	Rank	BPS	Date of Birth	Cell No.
1.	Gul Zar Khan	Mahib Ullah	Subedar Major	16	1964	0302-9470588
2.	Abdul Satar	Talib	Subedar Major	16	1964	6303-8774694


District Police Officer,
Bajaur at Timergara

No. 24-26 /GB,

Copy of above is forwarded for information to the:-

1. ✓ Deputy Inspector General of Police, Special Branch, Khyber Pakhtunkhwa, Peshawar.
2. ✓ Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
3. ✓ PSO to IGP/Khyber Pakhtunkhwa Peshawar.


District Police Officer,
Bajaur at Timergara

37 Annexure K

Total De Total Déductions 6,698.00

63,605.00 63,605.00

D.O.B LFP Quota:

01.07.1964 HABIB BANK LIMITED INAYAT KALI BAJOUR

37 Year 37 Years 06 Months 014 Days 7900121503

Bajaur at Khar

SH:5 SH:6 P Sec:001 Month:January 2020

BJ4024 -Inspector Bajaur (Levies)

Pers #: 0 Pers #: 00464665 Buckle: 2217 INSPECTOR BAJAUR (LEVIES)

Name: ! Name: SATTAR NTN:

INSPI INSPECTOR GPF #:

CNIC No. CNIC No.2110421664699 Old #:

GPF Inter: GPF Interest Free

16 A 16 Active Temporary BJ4024

PAYS AND ALLOWANCES:

0001-Ba: 2199-Adhoc Relief Allow @10% 659.00

1210-Co: 2211-Adhoc Relief All 2016 10% 2,425.00

1300-Me: 2224-Adhoc Relief All 2017 10% 3,259.00

1528-Un: 2247-Adhoc Relief All 2018 10% 3,259.00

1646-Co: 2264-Adhoc Relief All 2019 10% 3,259.00

1901-Risk Allowance (Police) 6,060.00

1933-Special Risk Allowance 5,000.00

2148-15% Adhoc Relief All-2013 980.00

2168-Fixed Daily Allowance 4,900.00

Gross P Gross Pay and Allowances 70,391.00

DEDUCTI DEDUCTIONS:

3660-5% House Rent Chrgs(2005)


1,477.00

PESHAWAR HIGH COURT, PESHAWAR.ORDER SHEET

Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge.
<u>06/02/2020</u>	<p data-bbox="450 565 805 616"><u>WP No. 3563-P/2019 with IR</u></p> <p data-bbox="450 624 1173 718"><u>Present:</u> Mr. Misbahullah Khan, Advocate, for the petitioners.</p> <p data-bbox="614 726 1284 896">M/s Muhammad Taufeeq Qureshi DAG & Umer Farooq, AAG along with Kiramat Shah Programmer on behalf of Deputy Commissioner Malakand.</p> <p data-bbox="470 947 1316 1024" style="text-align: center;">==</p> <p data-bbox="470 947 1316 1024"><u>WAQAR AHMAD SETH, CJ.-</u> Through the instant Writ</p> <p data-bbox="470 1057 1316 1133">Petition, petitioners seek issuance of an appropriate writ with the</p> <p data-bbox="470 1184 718 1235">following prayer:-</p> <p data-bbox="654 1286 1284 1668" style="text-align: center;"><i>"It is therefore respectfully prayed that by acceptance of the instant petition with costs the verbal impugned order dated 17.07.2019 regarding compulsory/premature retirement from service may graciously be set aside, quashed, declared illegal and without lawful authority and the respondents-department may kindly be directed to allow the petitioners in order to complete his 60 years statutory service to meet the ends of justice".</i></p> <p data-bbox="510 1694 1364 1872">2. Arguments heard at length. With the consent of the parties, the instant Writ Petition is sent to the Secretary Home.</p> <p data-bbox="510 1898 1364 1987">KP, copy whereof be retained in office for the purpose of record,</p>

who shall treat the same as Departmental Appeal and decide it within twenty (20) days positively in accordance with law. Till then, status quo be maintained.

3. Writ Petition stand disposed of accordingly.


Chief Justice


Judge

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT.**

Annexure



NOTIFICATION

Peshawar dated the, 10/2/2020

No.SO(Police)HD/SMY 2019 Merged Area/ 161-71 In pursuance of the provisions contained in section 9 of the Khyber Pakhtunkhwa Levies Force Act, 2019 (Khyber Pakhtunkhwa Act No.XXXV of 2019) read with rule 3 of the Levies Force (Absorption in the Khyber Pakhtunkhwa Police) Rules, 2019, the Home and Tribal Affairs Department, with the prior approval of the Cabinet and on the recommendation of the Provincial Police Officer, hereby orders absorption of the following members of Levies Force of Bajaur Tribal District in the Khyber Pakhtunkhwa Police with effect from the date of the initial appointment of the said members:

S#	Name	Perantage	Previous Rank	Rank in which absorbed
1.	Niamat Ullah	Abdur Rahim	Sub (13)	Sub: Insp: 14
2.	Said Gul	Amroz	Sub (13)	Sub: Insp: 14
3.	Sher Bahadar	Buzarg Jamhir	Sub (13)	Sub: Insp: 14
4.	Hayat Khan	Zarif Khan	Sub (13)	Sub: Insp: 14
5.	Bakht Munir	Murtaza Khan	Sub (13)	ASI - 11
6.	Sultan Zeb	Noor Din	Sub (13)	Sub: Insp: 14
7.	Muhammad Dostan	Gul Faroosh	Sub (13)	Sub: Insp: 14
8.	Abdul Aziz	Yar Muhammad	Sub (13)	Sub: Insp: 14
9.	Mumbar Khan	Gul Rahim	Sub (13)	Sub: Insp: 14
10.	Khan Zada	Bahadar Khan	Sub (13)	Sub: Insp: 14
11.	Qabil Shah	Jafar Khan	Sub (13)	Sub: Insp: 14
12.	Sohail	Wazir Ahmad	Sub (13)	Sub: Insp: 14
13.	Zar Shahad	Alim Said	Sub (13)	Sub: Insp: 14
14.	Sheraz ud Din	Shandi	Sub (13)	Sub: Insp: 14
15.	Sultan Zeb	Muhammad	Sub (13)	Sub: Insp: 14
16.	Ibrahim	Gran	Sub (13)	Sub: Insp: 14

S#	Name	Percentage	Previous Rank	Rank in which absorbed
17.	Zarif Khan	Sabir Khan	Sub (13)	Sub: Insp: 14
18.	Jan Muhammad	Taza Gul	Sub (13)	Sub: Insp: 14
19.	Hamidullah	Gul Shali	Sub (13)	Sub: Insp: 14
20.	Fazal Rahman	Said Habib Jan	Sub (13)	Sub: Insp: 14
21.	Khanzada	Talib Jan	Sub (13)	Sub: Insp: 14
22.	Bacha Rehman	Muhammad Hakim	N/Sub (11)	ASI -11
23.	Anwar Hakim	Fazal Hakim	N/Sub (11)	ASI -11
24.	Abdul Jabar	Umar Said	N/Sub (11)	ASI -11
25.	Masoom	Hakim Khan	N/Sub (11)	ASI -11
26.	Bacha Khan	Abdur Rahman	N/Sub (11)	ASI -11
27.	Niaz Rahman	Gul Rahman	N/Sub (11)	ASI -11
28.	Tomas Khan	Pasand Khan	N/Sub (11)	ASI -11
29.	Muhammad Hayan	Muhammad Gulab	N/Sub (11)	ASI -11
30.	Taza Khan	Gul Mula	N/Sub (11)	ASI -11
31.	Noor Muhammad	Mir Zaman	N/Sub (11)	ASI -11
32.	Shahid	Alif Jan	N/Sub (11)	ASI -11
33.	Shah Zameen	Said Ahmad Jan	N/Sub (11)	ASI -11
34.	Abdur Rahman	Abdul Wahid	N/Sub (11)	ASI -11
35.	Abdul Wahab	Khan Zarin	N/Sub (11)	ASI -11
36.	Rashid Ahmad	Ubaidullah	N/Sub (11)	ASI -11
37.	Amir Rahman	Alif Khan	N/Sub (11)	ASI -11
38.	Niaz Muhammad	Saidul Mahmud	N/Sub (11)	ASI -11
39.	Honar Khan	Rahmat Khan	N/Sub (11)	ASI -11
40.	Sher Ghani	Khair Gul	N/Sub (11)	ASI -11
41.	Muhammad Khan	Muhammad Zarin	N/Sub (11)	ASI -11
42.	Khan Badshah	Abdul Habib	N/Sub (11)	ASI -11
43.	Noor Hakeem	Fazal Rahim	N/Sub (11)	ASI -11
44.	Sadbar	Toor Khan	N/Sub (11)	ASI -11
45.	Said Muhammad	Khan Muhammad	N/Sub (11)	ASI -11
46.	Dawlat Khan	Dawai Khan	N/Sub (11)	ASI -11
47.	Muhammad	Jalandar Shah	N/Sub (11)	ASI -11

S#	Name	Percentage	Previous Rank	Rank in which absorbed
1938	Farhat Ullah	Guli Rehman	Sepoy (05)	Constable-07
1939	Asghar Khan	Rehmat	Sepoy (05)	Constable-07
1940	Ali Rehman	Khaista Khan	Sepoy (05)	Constable-07
1941	Hayaud Din	Toor Khan	Sepoy (05)	Constable-07
1942	Inayat Ur Rehman	Khan Said	Sepoy (05)	Constable-07
1943	Luqman	Abdul Jabar	Sepoy (05)	Constable-07
1944	M. Raheem	Shiam Ur Rehman	Sepoy (05)	Constable-07
1945	Shah Hussain	Rahim Shah	Sepoy (05)	Constable-07
1946	Ismail	Mohammad Gul	Sepoy (05)	Constable-07
1947	Abdul Latif	Abdul Ahamad Jan	Sepoy (05)	Constable-07
1948	Shah Hussain	Mukhtiar Khan	Sepoy (05)	Constable-07
1949	Tahir Rehman	Inayat Rehman	Sepoy (05)	Constable-07
1950	Ramzan	Jan Bacha	Sepoy (05)	Constable-07
1951	Liaqat	Abdullah	Sepoy (05)	Constable-07
1952	Gul Zamin Khan	Nawshad	Sepoy (05)	Constable-07
1953	Said Ur Rehman	Sabir Khan	Sepoy (05)	Constable-07
1954	M. Jorees	Obaid Ullah	Sepoy (05)	Constable-07
1955	Gul Zada	Mohammad Zahir Shah	Sepoy (05)	Constable-07
1956	Siraj Ul Haq	Bazarg	Sepoy (05)	Constable-07
1957	Said Wali	Noor Khan	Sepoy (05)	Constable-07
1958	Zahid Ullah	Guli Rehman	Sepoy (05)	Constable-07
1959	Abdul Salam	Asim Khan	Sepoy (05)	Constable-07
1960	Muddeeri Khan	Mohammad Sadiq	Sepoy (06)	Constable-07
1961	Imran Khan	Chamdi Khan	Sepoy (05)	Constable-07
1962	Habib Ullah	Sher Ali	Sepoy (05)	Constable-07
1963	Mukamil Khan	Zoorad Din	Sepoy (05)	Constable-07
1964	Arab Khan	Mian Gul	Sepoy (05)	Constable-07
1965	Nisar Khan	Bakhtawar Khan	Sepoy (05)	Constable-07
1966	Dawalat Khan	Itbar Said	Sepoy (05)	Constable-07

2. The above absorption shall be subject to the following terms and conditions:

- (i) Their services shall be governed under the Khyber Pakhtunkhwa Police Act, 2017 and the rules made thereunder.
- (ii) A member shall not be entitled for absorption, if he has resigned from Levies Force Service or has been terminated from the Service (b) on account of misconduct, inefficiency or any other grounds or he has been retired from Service under the Federal Levies Force (Amended) Service Rules 2013, before commencement of the Khyber Pakhtunkhwa Levies Force Act, 2019 (Khyber Pakhtunkhwa Act No. XXXV of 2019).
- (iii) Their services shall be considered regular and they shall be eligible for pension and deduction of General Provident fund in terms of the Khyber Pakhtunkhwa Civil Servant Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).
- (iv) Their seniority shall be determined in accordance with rule 6 of the Levies Force (Absorption in Khyber Pakhtunkhwa Police) Rules 2019.
- (v) They shall undergo training as provided in rule 5 of Levies Force (Absorption in Khyber Pakhtunkhwa Police) Rules 2019.

Approved by the Secretary, Government of the Khyber Pakhtunkhwa, Home and Tribal Affairs Department.

No. & date even.

CC to:

- 1. Inspector General of Police, Khyber Pakhtunkhwa
- 2. Accountant General Khyber Pakhtunkhwa
- 3. Regional Police Officer, Mulakand
- 4. District Police Officer Bajaur Tribal District
- 5. District Commissioner Bajaur Tribal District
- 6. PS to Chief Secretary Government of Khyber Pakhtunkhwa
- 7. PS to Secretary, Home & TAs Department, Khyber Pakhtunkhwa
- 8. PS to Special Secretary-II, Home & TAs Department, Khyber Pakhtunkhwa
- 9. PS to Secretary, Establishment Department, Khyber Pakhtunkhwa
- 10. Manager Printing Press for notifying the same in the official gazette
- 11. Office record file.

Section Officer (Services & Khazana)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME DEPARTMENT

NOTIFICATION

Dated Peshawar the 14/07/2020

No. SOX/Police-11/10/1-32. In exercise of the powers conferred by Section 9 of the Provincially Administered Tribal Areas (Levies Force) Regulation 2012, the Government of the Khyber Pakhtunkhwa is pleased to direct that in the Provincially Administered Tribal Areas (P.A.T.A.) Federal Levies Force Service (Amended) Rules, 2013, the following further amendments shall be made, namely:

Amendments:

In the said rules:-

(a) For rule 17, the following shall be substituted, namely:

"17. Retirement.— All Levies Personal shall retire from service on attaining their age of superannuation (i.e. sixty (60) years or they may opt for retirement after completion of twenty-five (25) years regular service." and

(h) Schedule-III shall be deleted

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HOME DEPARTMENT

Copy forwarded to the:-

1. Principal Secretary to Government's Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. Principal Secretary to Chief Minister's Secretariat, Khyber Pakhtunkhwa, Peshawar.
3. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
4. Registrar, Peshawar High Court, Peshawar.
5. All Commissioners, Khyber Pakhtunkhwa.
6. All Deputy Commissioners, Khyber Pakhtunkhwa.
7. Provincial Election Commission, Khyber Pakhtunkhwa.
8. Provincial Police Officer, Khyber Pakhtunkhwa.
9. All Heads of Attached Department in Khyber Pakhtunkhwa.
10. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
11. Accounts General of Khyber Pakhtunkhwa.
12. Director Information, Khyber Pakhtunkhwa, Peshawar.
13. The Manager Government Printing & Stationery Department, Khyber Pakhtunkhwa. He is requested to publish the above Notification in the Extraordinary Gazette of Khyber Pakhtunkhwa and supply 50 Copies (Printed) of the same to the Home Department.

Section Officer (Police-11)

14/7/2020

Annexure U 45



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
(Levy & Khassadars Wing)

No.CS(F)/L&K/4-Levy/Appeal/ 2330-32
Dated:06.10.2020

ORDER,

1. Whereas petitioner/ appellant Sattar was appointed in Bajaur Levy on 19.07.1982, promoted to the post of Subedar Major w.e.f 06.07.2017 and due for retirement on 18.07.2019 on completion of 37-year service. The petitioner/ appellant filed Writ Petition No.3563-P/2019 before the honorable Peshawar High Court Peshawar and obtained stay order on 15.07.2019.
2. And whereas the Honorable Peshawar High Court, Peshawar referred the case to the Secretary to Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department to treat the same as Departmental Appeal and decide the same in accordance with the law.
3. And whereas, the petitioner/ appellant was afforded opportunity of personal hearing on 26.08.2020.
4. And whereas, rule-15(2) of the Khyber Pakhtunkhwa Levies Force Act, 2019 provides that all the Levies personnel will be governed under Federal Levy Force (Amended) Service Rules-2013 till their absorption in Khyber Pakhtunkhwa Police and per SRO 936(I)/2016 of the ibid rules, the petitioner/ appellant has completed service tenure of 37 years on 18.07.2019 and is due for retirement w.e.f 18.07.2019.
5. Now, therefore, in view of the rules position explained above, the instant appeal is dismissed.

-sd-

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst. No. & date even.

CC to:

1. Registrar, Peshawar High Court, Peshawar
2. District Police Officer, Bajaur Tribal District
3. Deputy Secretary (Judicial), Home & TAs Department, Khyber Pakhtunkhwa

Section Officer (Levy & Khassadars)

بعدالت

Before Honble Service
Tribunal KPK

Appellant

Govt of KPK

2 منتخب

بنام Sattar

& others

موزعہ
مقدمہ
دعویٰ
نمبر

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی نظر میں سے واسطے پیردی اور جواب دہی وکل کاروائی متعلقہ

M. Ashfaq Khan Akunkhail Peshawar

M. Nazeem Ullah

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی نقل کاروائی کا مکمل اختیار ہوگا۔ نیز
ڈیکلرہ صاحب کو راضی نامہ کر کے تقریر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

باعتبارت ڈگری کرنے کے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے کے اپیل ٹرنائی و نظر ثانی پیردی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے نقل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقریر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو ہمیشہ دہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سہولت

در اخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیردی

مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

الرتوم 12 ماہ 10 2020

Attested &

Accepted

Peshawar

M. Nazeem Ullah
Adv. Nazeem Ullah