

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.

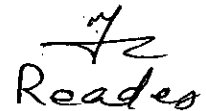
09.06.2022

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

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.

Former made a request for adjournment as he has not prepared the brief. Adjourned. 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


Reza

12.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepared the brief. Adjourned. To come up for arguments before the D.B on 14.03.2022. The restraint order dated 15.10.2020 shall remain operative till the date fixed.



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

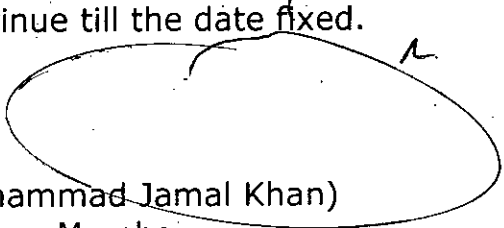


Chairman

22.02.2021

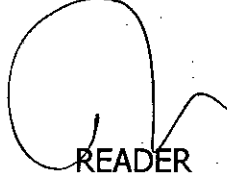
Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sajjad Ahmad, Legal Clerk, for the respondents are also present.

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.

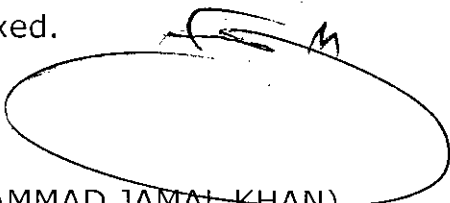
Respondents have furnished reply/comments. The appeal is entrusted to D.B for arguments on 30.11.2021. The restraint order dated 15.10.2020 shall remain operative till the date fixed.


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.

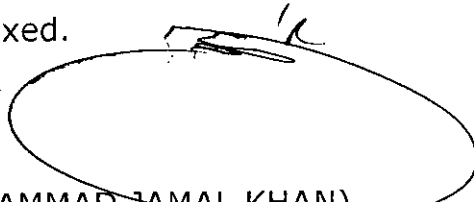
Adjourned to 22.02.2021 on which date file to come up for written reply/comments before S.B. The restraint order already granted vide order sheet dated 15.10.2020 shall continue till the date fixed.


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.

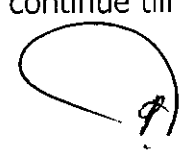

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

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

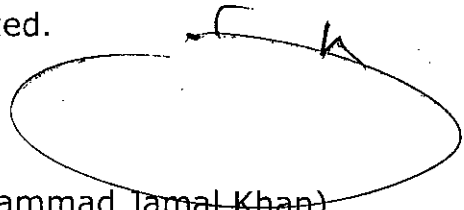


Member (E)

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.



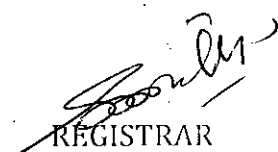

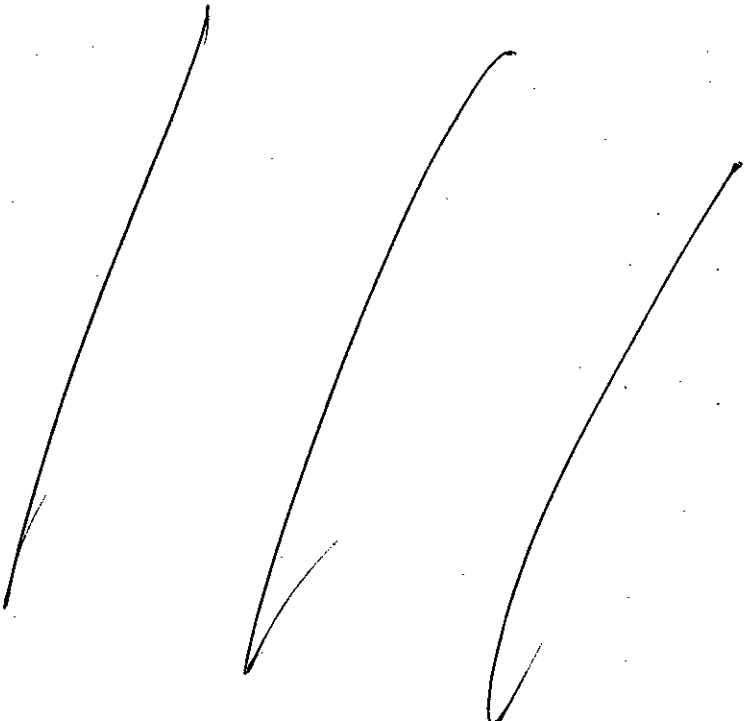
(Muhammad Jamal Khan)
Member (Judicial)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 91921 /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;"></p>
2-	14.10.20	

*Kamunbacha
v/s
Court of App & Other
for Appellants*

2017 P L C (C.S.) Note 47

[Peshawar High Court]

Before Waqar Ahmad Seth and Rooh-ul-Amin Khan, JJ

ABDUL JABBAR

Versus

FEDERATION OF PAKISTAN through Secretary and 5 others

Writ Petitions Nos.1251-P, 1382, 1659, 1385 of 2015 and COC No.240-P in W.P. No.1930-P of 2014, decided on 30th June, 2015.

(a) Civil service---

---Premature retirement of an employee---Scope---Petitioners being employees in Khassadar Force were retired before the age of superannuation---Validity---Retirement age of Subedar Major, Subedar and Naib Subedar was 55 years or on completion of 30 years service whichever was earlier---Said period of retirement could not be reduced or withdrawn---None of the petitioners-employees had attained the age of superannuation i.e. 55 years or completed 30 years service but respondents-department had retired them---Benefit of completing the service tenure was to be extended to the petitioners-employees---Retirement of any employee before reaching age of superannuation would amount to major punishment without any fault on his part which would affect post retirement benefits---Rule of Service of Khyber Khassadar Force, 1950 had provided that no extension in the tenure of employee should be granted but it did not mean that on completion of given tenure the employee would be retired---Department might promote employee to the next higher post/position or might assign him the likewise duties in his pay and scale---Petitioners-employees had considerable length of service on their credit and they were required to complete entire service---Impugned order for premature retirement was result of misinterpretation and deviation from Rule of Service of Khyber Khassadar Force, 1950---Impugned order was set aside and respondents-department was directed to allow the petitioners-employees to complete their service tenure till attaining the age of superannuation---Intervening period between termination and joining of service should be treated as leave without pay---Constitutional petitions were allowed in circumstances. [Paras. 3, 4, 5 & 6 of the judgment]

(b) Civil service---

---Retirement of any employee before reaching age of superannuation would amount to major punishment without any fault on his part which would affect post retirement benefits. [Para. 3 of the judgment]

(c) Interpretation of statutes---

---Rules---While interpreting the Rules made by the competent authority it was to be read by giving words used by the Rules making authority its ordinary, plain, simple and grammatical meaning---Meaning which might render any provision ineffective had to be avoided---Unambiguous language used in the Rules should not be construed in a manner to defeat its object---Addition or subtraction in the words used by the Rules making authority would not be desirable---No redundancy could be attributed to any provision of statute unless it did not fit in the whole scheme of the same---Provision of the statute should be construed and interpreted in such a way that another provision of the same statute dovetail in each other could remain well-knit integrated and workable peace of legislature.

[Paras. 3 & 4 of the judgment]

Amin ur Rehman Khan for Petitioner.

Iqbal Ahmad Durrani for Respondents.

Date of hearing: 30th June, 2015.

JUDGMENT

ROOH-UL-AMIN KHAN, J.--- Through this single judgment, we intend to dispose of this petition as well as connected Writ Petitions No.1382-P/2015 (Fazal Dad v. Federation of Pakistan and others), No.1659/2015 (Yaseen Khan v. Federation of Pakistan and others), No.1385/2015 (Muslim Khan v. Federation of Pakistan and others) and COC No.240-P/2014 in W.P. No.1930-P/2014 (Said Khan v. Federation of Pakistan and others), as all involve common question of law and fact and in all these writ petitions, petitioners namely Abdul Jabbar, Fazal Dad, Yaseen Khan, Muslim Khan and Said Khan respectively have asked for the issuance of an appropriate writ for declaration to the effect that the acts/orders of the respondent, whereby they have been retired from the service much prior to their actual dates and have also been refused promotion and have not been treated in accordance with law, are nullity in the eye of law and of no effect whatsoever. The petitioners had earlier filed Writ Petitions Nos.2868/2010, 1956-P, 3039-P, 3054-P/2012, 1930-P, 2351-P, 2472-P, 2588-P, 2589-P, 2883-P, 3090-P/2014 and 57-P/2015 before this court wherein the Secretary (Law and Order) FATA Secretariat was directed to decide the cases within one month according to relevant rules. The appellate Authority/Secretary Law and Order vide order dated 15.4.2015 dismissed the appeals. Hence these petitions.

2. Having heard the learned counsel for the parties, perusal of record would reveal that the petitioners being employee of the respondent department have brought a grievance to the effect that they have been retired from their service prematurely, much prior from actual date of retirement, by misinterpreting the terms and conditions governed under rules sanctioned by the governor of the province in the year 1950. According to rule *ibid* the enlistment in the service shall ordinarily be made from rank of Khassadar and shall be subsequently promoted to the higher rank on the basis of seniority, efficiency, personal merit and political consideration. Rule-3 of the Rules *ibid* provide that Khassadar and non-commission officer (L/Naiks, Naiks and Hawaldar including

Pay Hawaldar) will be retired on attaining age of 50 years or on completion of 25 years service whichever is earlier. Likewise, under rule-4, the Jamadar and Subidar will be retired on attaining age of 55 years or on completion of 30 years service whichever is earlier, however, in rule-5 it was added that promotion to the post of Jamadar and Subidar will be only for 5 years and 3 years respectively, except in special case in which the local administration may permit a Subidar to exceed the limit. Rule-5 ibid further provides that they are not liable to retire earlier in accordance with the provisions of Rule-(4). On the same analogy the tenure of office of Subidar Major was kept limited up to 5 years, subject to provision that the local administration may exceed the period in special cases.

3. A glance over the aforesaid rules would make it abundantly clear that Rules-3 and 4 provide the age of superannuation for all Khassadar/non-commission officer and Jamadar/Subidar as 50 and 55 years respectively, while rule-5 provide specific period for rendering service against the post of Jamadar and Subidar i.e. 5 years and 3 years respectively. Rules-4 and 5 shall be read independently from each other, wherein the former provides a term of retirement of the employees serving in the rank of Jamadar and Subidar while the latter stipulates a specific period of posting against the post of Jamadar and Subidar, which has got no nexus with the retirement of the employees in the above mentioned rank. The respondent department in general, while the Appellate Authority i.e. Secretary (Law and Order) FATA in particular has misinterpreted the rules 4 and 5, by amalgamating it. Rule-4 cater the length of service for retirement of employee, according to which the Jamadar and Subidar will retire from the service either at the age of 55 years or completion of 30 years service whichever is earlier. The above quoted period shall not be reduced or withdrawn by taking shelter of Rule-5 which is meant for posting against the post of Subidar and Jamadar for a specific 3 years and 5 years respectively. In the case in hand, none of the petitioners has attained the age of superannuation i.e. 55 years or completed 30 years service but the respondent department have prematurely retired them by misinterpreting the provision of Rule-5. While interpreting the Rules made by the competent authority, it is to be read by giving words used by the Rules making authority its ordinary, plain, simple and grammatical meaning; the meaning which may render any position of it, ineffective has to be avoided as it would be against the settled principles of interpretation. The unambiguous language used in the Rules should not be construed in manner to defeat its object and deprive an employee of his legal vested right. Addition or subtraction in the words used by the Rule making authority is not considered desirable while interpreting the Rules, as assignment of different meanings may defeat the object for which the Rules are enacted.

Under Rule 4 of the Rules ibid, the benefit of completing the service tenure is to be extended to the petitioners and they may not be deprived of the fruits of Rule 4. The retirement of any employee before reaching age of superannuation would amount to major punishment without any fault on the part of employee, which shall definitely effect their post retirement benefits.

4. We have gone through the order of the Appellate Authority dated 8.4.2015 wherein completion of 5 years service against the post of Naib Subidar has unnecessarily stretched to defeat its object and elongated in violation of Rule-4, which clearly

provides the age of retirement. If the interpretation rendered by appellate authority is approved or recognized, it shall make the Rule 4 as redundant, which has never remained the intention of Legislature or Rule making authority. It is settled law that the redundancy could not be attributed to any provision of statute, unless it did not fit in the whole scheme of statute. The principle of harmonious construction requires that the provision of statute should be construed and interpreted in such a way that another provision of the same statute dovetail in each other in such a way that the entire statute remain a well-knit, integrated and workable peace of legislature. At this juncture we would like to emphasize that Rule 5 is not inserted in the Rules, 1950 for rendering the Rule-4 as redundant. Both the rules independently described different terms and conditions of service of employee and none of the rule have got overriding effect of the other rules, as the former regulate the course and manner of retirement, while the latter prescribe tenure for service against the post of Subidar and Jamadar. The learned counsel for respondent contended that after issuance of Khasadar Service Rules/Procedure 2006, further amended by 2011, all the previous rules and procedure made by different political agents in their respective agencies, F.R., including Rules of Service for Khyber Khassadars, -1950 stand repealed and at present the services of petitioners are regulated by Khasadar Force Rules, 2006 amended in 2011. Despite our persistent queries the learned counsel for respondent failed to produce any gazetted Notified Rules, whereby the rules of service in Khyber Khasadar Force, 1950 has been repealed. However, he produced a blueprint issued from Civil Secretariat, FATA Peshawar, by quoting and citing it as service rules for Khassadar in FATA, exactly is verbatim transcription of the Rules of Service of Khassadar Force, 1950. According to the above mentioned draft, the retirement age of Subidar Major, Subidar and Naib Subidar shall be 55 years or on completion of 30 years service, whichever is earlier. Similarly, the specific tenure of posting has been fixed for the incumbent, holding the rank of junior commission officer as under:-

- (i) Subidar Major 5 years.
- (ii) Subidar 5 years.
- (iii) Naib Subidar 5 years.

No doubt the so called drafted rules provides that no extension in the afore mentioned tenure shall be granted under any circumstances, however it does not mean that on completion of the given tenure, the employee shall be shown the door of exit, rather the department may promote him to the next higher post/rank/position or may assign him the likewise duties in his pay and scale, because according to the above referred, alleged rules, the Subidar Major, Subidar and Naib Subidar shall retire on attaining the age of 55 years or on completion of 30 years service, whichever is earlier.

5. For what has been discussed, it is clear than crystal that the petitioners have been appointed under the "Rule of Service of Khyber Khassadar Force, 1950", which is still holding the field and their services are governed under the same rule which provide that the Jamadar and Sobidar will retire from service on attaining the age of 55 years or on completion of 30 years service whichever is earlier. They have considerable length of service on their credit and required to complete the entire spell of service as

provided by the rules. The order of premature retirement is the result of misinterpretation and deviation from the existing rules of service for Khyber Khassadar Force, 1950, thus the same being erroneous in nature and based on self made hypothesis is liable to be set aside.

6. In wake of the above, the instant Writ Petition as well the connected Writ Petitions mentioned in para-1 are allowed. The order of premature retirement of petitioner is set aside with direction to the respondent to allow the petitioners to complete their services tenure till attaining the age of superannuation, strictly in accordance with Rule-4 *ibid*. However, the intervening period between the termination and joining of service shall be treated as leave without pay. Likewise, the services of Said Khan son of Habibur Rehman Resident of Khyber Agency shall be treated at par with the other petitioners. The COC-P/240-P/2015 (Said Khan v. Federation) is disposed of in above terms.

ZC/340/P Order accordingly.

- 2020 S C M R 90

[Supreme Court of Pakistan]

Present: Umar Ata Bandial and Yahya Afridi, JJ

CHAIRMAN, FEDERAL BOARD OF REVENUE, ISLAMABAD and another---Appellants

Versus

Mrs. NAUREEN AHMED TARAR and others---Respondents

Civil Appeals Nos. 1219 to 1222 of 2015 and Civil Appeals Nos. 248 to 251 of 2018, decided on 20th February, 2019.

(On appeal from the judgment/order dated 30.07.2015 passed by Federal Service Tribunal, Islamabad in Appeals Nos. 460(R)CS to 461(R)CS of 2013)

(a) Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990---

---Rr. 6(2) & 7(4) [as amended on 28-04-2001]---Inter-se seniority amongst probationers after Final Passing Out Examination---Legitimate expectancy, principle of---Scope---Amendment to service rules during an ongoing probationary course affecting substantive right of the probationers---Through an amendment dated 28-04-2001 in the Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990, ('the Rules') the number of attempts availed by a probationer to clear the specialized training examinations was added as one of the criteria for determining seniority---Constitutionality---Seniority in service was a valuable right and probationers had a legitimate expectancy that the probationary service law prevalent at the time when they entered their probation shall remain in force until their confirmation---Principle of legitimate expectancy aimed at enforcing fairness and preventing arbitrariness---Ranking of passing probationers on the basis of the number of their attempts made to clear the prescribed examinations imposed a penal liability through loss of seniority---Change in law by the amendment in the Rules, caused adverse consequences for the probationers---Such consequences infringed the legitimate expectancy of the serving probationers by altering the legal dispensation under which firstly, their service rights were determined for the future and secondly, for the rules under which the probationers commenced their probationary training---Though procedural in content, the amendment affected a substantive right of the probationers, namely, their seniority in the batch and in this respect by altering an accrued status, the said amendment had retrospective effect---Resultantly it was burdensome to implement the amendment upon the probationers who had already entered their probationary period prior to the enforcement of the said amendment---Additionally one of the examinations envisaged in the Rules, namely, the Specialized Training Programme (STP), could not be held---Such failure made the categorization of the total result on the basis of number of examination attempts to be irrational and lopsided---Circumstances of incomplete examinations to test the probationers and the enforcement of the disputed amendment to an ongoing probationary course, had resulted in harsh and untenable consequences both in law and fact---Supreme Court held that Rules in their (unamended) form as at the commencement of the probationary period in July, 1998 shall remain applicable for reckoning the seniority of the probationers on the completion of their probation, and the Federal Government needed to apply its mind to remove the salient anomalies highlighted by the Service Tribunal that existed in the application and implementation of the Rules.

(b) Civil service---

---Legitimate expectancy, principle of---Scope---Advantage or benefit derived from a competent legal dispensation, departmental practice or established procedure that had been extended to and enjoyed by a person may legitimately be expected to remain available unless notice or

opportunity to defend or adjust his position was given to that person.

Regarding pensionary benefits of the Judges of Superior Courts PLD 2013 SC 29; Al-Jehad Trust v. Federation of Pakistan PLD 1996 SC 324 and Union of India v. Hindustan Development Corporation AIR 1994 SC 988 ref.

Hafiz S.A. Rehman, Senior Advocate Supreme Court for Appellants (in C.As. 1219 - 1220 of 2015 and C.As. 248-251 of 2018).

Mahmood Ahmed Qazi, Advocate Supreme Court for Appellants (in C.As. 1221-1222 of 2015).

Respondent No. 1 in person (in C.As. 1219 and 1221 of 2015).

Ch. Abdul Sattar, Advocate Supreme Court for Respondents Nos. 20-21 (in C.As. 1219 and 1220 of 2015).

Ex parte for Respondents Nos. 3, 5, 7, 13, 17-19, 22 and 23 (in C.As. 1219-1220 of 2015).

Rana Asif Saeed, Advocate Supreme Court for Respondent No.1 (in C.As. 1220 and 1222 of 2015).

Mehmood Ahmed Qazi, Advocate Supreme Court for Respondents Nos. 2, 4, 6, 8-12, 14-16 (in C.As. 1219-1220 of 2015).

Ch. Abdul Sattar, Advocate Supreme Court for Respondents Nos.11 and 12 (in C.A. 1221 of 2015).

Ex parte for Respondents Nos. 2-10 and 13 (in C.A. 1222 of 2015).

Ch. Abdul Sattar, Advocate Supreme Court for Respondents Nos. 10 and 11 (in C.A. 1222 of 2015).

Ex parte for Respondents Nos. 2-9 and 12-14 (in C.A. 1222 of 2015).

M. Shoaib Shaheen, Advocate Supreme Court for Respondent No. 1 (in C.As. 248-251 of 2018).

Kh. M. Farooq, Senior Advocate Supreme Court and Syed Rifaqat Hussain Shah, Advocate-on-Record for Respondents Nos.7-8 (in C.As. 248-250 of 2018).

Kh. M. Farooq, Senior Advocate Supreme Court and Syed Rifaqat Hussain Shah, Advocate-on-Record for Respondents Nos. 5 and 6 (in C.A. 251 of 2018).

Date of hearing: 20th February, 2019.

ORDER

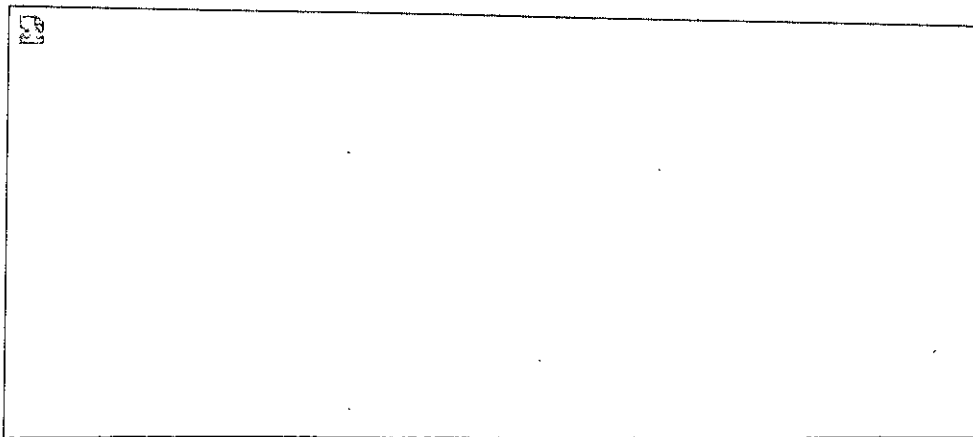
UMAR ATA BANDIAL, J.---C.M.As. NOS.1560 AND 1562 OF 2019. These Misc. Applications for setting aside ex-parte order dated 10.12.2012 passed against the respondents mentioned therein are allowed. The respondents may join these proceedings subject to all just and legal exceptions.

2. CIVIL APPEALS NOS.1219 TO 1222 OF 2015. Leave was granted in these appeals vide order dated 23.11.2015 in the following terms:

"We have read the relevant rules. The question whether determination of seniority could in any way be linked with the passing of exams in first, second and third attempt or it is their qualification simpliciter, which matters in this behalf. The points raised require consideration. We, therefore, grant leave in these cases."

3. The dispute between the parties concerns the seniority of probationers qualifying in the 25th Common Group who have been placed in the Customs and Excise Group. Their terms and conditions of service as probationers is laid down in Section 6 of the Civil Servants Act, 1973

anomalies that are apparent in the final seniority list dated 21.12.2012, a copy thereof is placed herein below:



("Act"). Section 25 of the Act empowers the competent authority to frame rules for carrying out the purposes of the Act. The Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990 (1990 Rules) were framed by the competent authority, inter alia, for regulating the fixation of the seniority among probationers after their Final Passing Out Examination ("FPOE"). At the time when the initial appointment of the members of 25th Common Group was notified on 11.07.1998, the 1990 Rules as originally framed were still in vogue. However, during the period of probation of the 25th Common Group commencing in July, 1998 and ending on 13.08.2003, these rules underwent amendment on 28.04.2001. A substantial change in the method of reckoning seniority was introduced by the amendment. This was done by including the number of attempts availed by a probationer to clear the three specialized training examinations as one of the criteria for determining seniority. The relevant amendment was made in sub-Rule (2) of Rule 6 of the 1990 Rules which is reproduced below:

- (2) A probationer who does not qualify in the Final Passing Out Examination shall:
 - (a) lose his one increment if he fails in the first attempt.
 - (b) be relegated in seniority to the bottom of his batch if he fails in the second attempt; and
 - (c) be discharged from the service under clause (a) of subsection (2) of section 6 of the Civil Servant Act, 1973, if he fails in the third attempt?

4. Prior thereto the seniority of the probationers at the end of successful passing of their training examinations was provided in Rule 7(4):

7. Seniority.

- (4) For the purpose of determining the inter-se seniority of the probationers who commence their training with initial training programme the marks obtained by a probationer in the competitive examination of the Commission or his notional marks, as the case may be, shall be added to the marks obtained by him in the initial training programme, specialized training programme and the marks obtained by qualifying the Final Passing Out Examination in his first attempt.

5. The additional criterion of the number of attempts availed by a probationer for fixing his seniority in the batch was implemented in the present case by the provisional seniority list issued on 03.06.2008. The same criteria were adopted again for arriving at the final seniority list issued on 21.12.2012 by the appellant-department. These seniority lists were challenged by respondent No.1 in appeals before the departmental authority and thereafter before the learned Service Tribunal. The Tribunal held in favour of the respondents on the ground that the amendment in the Rules had been applied retrospectively. More particularly, the private respondents in the present list are all members of the Customs and Excise Group from the 25th Common. They were promoted to BS-18 by FBR on regular basis vide notification dated 13.08.2003. Therefore, it is contented that the 1990 Rules which deal with probationers had ceased to apply to them. Consequently, the two seniority notifications referred to above had been wrongly framed. It may be pointed out that the promotion notification dated 13.08.2003 was based solely on the result of the first CSS exam notified by Federal Public Service Commission and made no reference to the results secured by the probationers in the subsequent examinations held during their probationary training to assess their merit and capability.

6. Before us, the only dispute is whether the amendment made on 28.04.2001 in the 1990 Rules ("2001 amendment") reproduced above applies to the present case or not? The respondent No.1, who has addressed the Court in-person, however, went further to claim that the 1990 Rules should not be applied to determine inter se seniority of the batch mates. Instead the result of the CSS examination should be treated as the basis of seniority of the probationers as already done by notification dated 13.08.2003 pursuant to which the batch as a whole was promoted to BS-18.

7. We have heard the learned counsel for the parties. Just to give an idea of the several

"To qualify as a subject for judicial review the decision must have consequences which affect some person ... either (a) by altering rights or obligations of that person which are enforceable by or against him in private law or (b) by depriving him of some benefit or advantage which either (i) he has in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there has been given an opportunity to comment or ... advancing reasons for contending that they should not be withdrawn."

9. This rule of fairness and non-arbitrariness is recognised in our jurisprudence to mean that an advantage or benefit derived from a competent legal dispensation, departmental practice or established procedure that has been extended to and enjoyed by a person may legitimately be expected to remain available unless notice or opportunity to defend or adjust his position is given to that person. Discussion on the subject is available in *Regarding pensionary benefits of the Judges of Superior Courts* (PLD 2013 SC 29 at p.1008) and *Al-Jehad Trust v. Federation of Pakistan* (PLD 1996 SC 324). A useful discourse is also made in *Union of India vs. Hindustan Development Corporation* (AIR 1994 SC 988).

10. There is no doubt that the ranking of passing probationers on the basis of the number of their attempts made to clear the prescribed examinations imposes a penal liability through loss of seniority. The change in law by the 2001 amendment therefore causes adverse consequences for the probationers. These consequences infringe the legitimate expectancy of the serving probationers by altering the legal dispensation under which firstly, their service rights are determined for the future and secondly, for changing the rules under which private respondents commenced their probationary training. Though procedural in content, the 2001 amendment affected a substantive right of the probationers, namely, their seniority in the batch and in this respect by altering an accrued status, the said amendment had retrospective effect. Resultantly it is burdensome to implement the 2001 amendment upon the probationers who had already entered their probationary period prior to the enforcement of the said amendment.

11. There is also the additional fact that one of the examinations envisaged in the 1990 Rules, namely, the STP, could not be held. This failure makes the categorization of the total result on the basis of number of examination attempts to be irrational and lopsided. The existing circumstances of incomplete examinations to test the probationers and the enforcement of the disputed 2001 amendment to an ongoing probationary course, have resulted in harsh and untenable consequences both in law and fact. This in itself provides justification to exclude the 2001 amendment from application in the present case. However, it cannot mean, as opined by the learned Tribunal, that the 1990 Rules should as a whole cease to apply to determine the inter se seniority of probationers on the eve of their confirmation. The 1990 Rules are specially framed to deal with service terms and conditions of probationers. Their application is necessary for determining the rights and ranking of probationers at the time of their confirmation. Therefore, these Rules being a special law cannot be excluded from operation. However, on the principle of legitimate expectation and for the fact of the failure by the administrative authorities to complete the examination process envisaged in the 1990 Rules, it is harsh and unfair to implement amended Rule 6 of the 2001 amendment in its totality.

12. As a result, we hold that the 1990 Rules in their (unamended) form as at the commencement of the probationary period in July, 1998 shall remain applicable for reckoning the seniority of the private respondents on the completion of their probation in BS-17. The judgment of the learned Service Tribunal is accordingly modified to the foregoing extent. The observations made by the learned Service Tribunal about the workability of the 1990 Rules post the 2001 amendment are endorsed and for this purpose, the Federal Government needs to apply its mind to remove the salient anomalies highlighted by the learned Tribunal that exist in the application and implementation of the said rules. These appeals are partially allowed in above terms.

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Kamin Bacha

Versus

Government of Khyber Pakhtunkhwa & Others

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA BEFORE

INDEX OF DOCUMENT

S. No	Description of Documents	Annexure	Page No
1.	Memo of Service of Appeal		1-6
2.	Application for interim Relief		7
3.	Affidavit & Addresses of Parties		8-9
4.	Copy of appointment order dated 25/4/1996	A	10-14
5.	Copy of promotion notification	B	15
6.	Copy of Grounds of Writ petition	C	16-22
7.	Copy of the Khyber Pakhtunkhwa Khasadar Force (Maintenance, Regulation and protection of service)(transition) Ordinance, 2019	D	23-27
8.	Copies of CM directive dated 04-04-2019 and office order of Respondent No.2	E & F	28-29
9.	Copy of office order dated 29-05-2019 of Respondent No 2	G	30
10.	Copy of Khyber Pakhtunkhwa Khasadar Force Act, 2019	H	31-35
11.	Copy of the Khasadar Force (Absorption in Khyber Pakhtunkhwa Police) Rules, 2019	I	36-39
12.	Copy of Order and Judgment dated 06/2/2020	J	40-41
13.	Copy of Absorption notification	K	42-45
14.	Copy of Notification dated 14/07/2020	L	46
15.	Copy of impugned order dated 6/10/2020	M	
16.	Waklatnama		

M. Ashfaq Khan
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. 11921...../2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11407

Dated 13/10/2020

Kamin Bacha S/O Bahadar Khan

Presently posted as Subidar/ Sub Inspector (BPS-14) erstwhile Bajour
Khasadar/ Khyber Pakhtunkhwa Police District Bajaur

.....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/2354-56 OF THE APPELLANT HAS BEEN
DISMISSED

PRAYER

Filed to-day
Registrar

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 25/01/2017 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 Khasadar erstwhile FATA Agency on regular basis with effect from 25/04/1996.

Copy of appointment order dated 25/4/2020 is annexed as annexure A

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 Subedar vide office Order dated 26/01/2012.

Copies of Notification are annexed as annexure B

5. That the Respondents were bent upon to retire the Appellant from their service on the pretext that five years service at the existing post of the Appellant is going to be competed on 25/1/2017. Thereafter the Appellant filed Writ Petition bearing No. 216/2017 coupled with interim relief before the Hon'ble Peshawar High Court.

Copy of Grounds of Writ petition are annexed as annexure C

6. That during pendency of the aforementioned writ petition, the erstwhile Federal Administered Tribal Areas (hereinafter referred as FATA) have been merged in the Province of the Khyber Pakhtunkhwa after the Constitution (twenty fifth amendment) Act, 2018, and the Khasadar Force, working in the said areas have lost their legal status for working in the merged Districts and sub divisions.
7. That in order to give legal status to the Khasadar 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 Khasadar Force (Maintenance, Regulation and protection of service)(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 Khasadar Force (Maintenance, Regulation and protection of service)(transition) Ordinance, 2019 is annexed as annexure D)

8. 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 E & F)**
9. 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 G)**
10. That the Appellant is performing his duties under the aforementioned ordinance, 2019, however, 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 Khasadar Force Act, 2019 is annexed as annexure H)**
11. That thereafter the Government of Khyber Pakhtunkhwa was pleased to framed Rule for the Levies Force **“the Khasadar 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 I)**
12. 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*

with 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 J)

13. 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 K)**
14. 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 L)

15. 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 M)**
16. 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 Khasadar (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

6

- 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

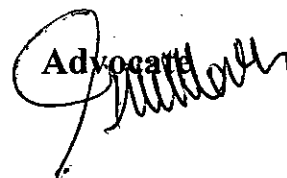
M.Ashfaq Khan Akhunkhail

&


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

7

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

C M No./2020

In

Service Appeal No...../2020

Kamin Bacha

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 CASE**

Respectful 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.


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

8

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Kamin Bacha

Versus

Government of Khyber Pakhtunkhwa & Others

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA BEFORE

AFFIDAVIT

I, Kamin Bacha S/O Bahadar Khan Presently posted as Subidar/ Sub Inspector (BPS-14) erstwhile Bajour Khasadar/ Khyber Pakhtunkhwa Police District Bajaur, 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.

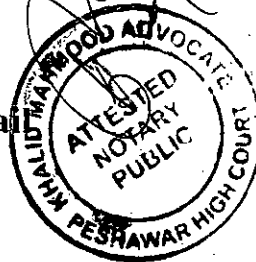
Deponent

Identified By

M. Ashfaq Khan Akhunkhail

Advocate

High Court, Peshawar



9

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Kamin Bacha

Versus

Government of Khyber Pakhtunkhwa & Others

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA BEFORE

ADDRESSES OF PARTIES

Petitioners:

Kamin Bacha S/O Bahadar Khan

Presently posted as Subidar/ Sub Inspector (BPS-14) erstwhile Bajour
Khasadar/ Khyber Pakhtunkhwa Police District Bajaur

Respondents

- 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

Annexure A

(16)

OFFICE OF THE POLITICAL AGENT/COMMANDANT, BAJAUR LEVIES.

O R D E R

NO. 1182 /S/37.Dated Khar the, 25/4/1996.

The following persons are hereby recruited as
Khasadars in BPS-1(1245-35-1770) on purely temporary basis:-

S.No.	NAME WITH PARENTAGE	HOME ADDRESS
1.	Amir son of Hakim Khan.	Khar.
2.	Said son of Lal Mohammad.	Khar.
3.	Bakhtawar Jan son of Mohd Jan.	Haji Lawang Teh:Khar.
4.	Meraj Khan son of Sher Mohd.	Hayatai Teh:Utmankhel.
5.	Rehan son of Gul Faraz Khan.	Nazakai Teh:Salarzai.
6.	Azizul Haq son of Habibul Hassan.	Mullah Killi Teh:Khar.
7.	Asmatullah Jan S/O Masaud Jan.	Chingai Utmankhel.
8.	Shamshul Haq S/O Haji Abdul Halim.	Kausar Tehsil Khar.
9.	Wali Mohammad S/O Taj Mohammad	Mandal, Tehsil Salarzai.
10.	Said Ahmad Jan S/O Bacha Khan.	Muslim Bagh Teh: Khar.
11.	Gul Zada S/O Chamnai.	Hayatai, Teh:Utmankhel.
12.	Kamin Bacha S/O Bahadar Khan.	Mano Dehrai "
13.	Mohammad Jan S/O Bakht Pur Jan,	Ali Jan Tehsil Khar.
14.	Ibrahim S/O Muzafar Khan.	Ghakhi Tehsil Salarzai.
15.	Fazal Rehman S/O Bakht Rawan.	Qazafi Tehsil Utmankhel.
16.	Hazrat Tariq S/O Gul Zeb Khan.	Arang, " "
17.	Lutfur Rehman S/O Mohd Yousaf.	Loesam Tehsil Khar.
18.	Umer Bacha S/O Jan Bacha.	Palang "
19.	Jangir S/O Bismillah Jan,	Shah Nari " "
20.	Javeed S/O Mian Zahir Shah.	Loesam " "
21.	Sardar Mohammad S/O Haji Abdul Qadar.	Danqool Tehsil Salarzai
22.	Masud Jan S/O Bakht Munir.	Loesam Tehsil Khar.
23.	Ziarat Khan S/O Mohammad Jan.	Pashat Tehsil Salarzai.
24.	Noor Rehman S/O Said Mohammad.	Derakai "
25.	Ramzan S/O Wazir Ahmad Jan.	Khar Tehsil Khar.
26.	Sardar S/O Anwar Khan.	Muslim Bagh Teh: Khar.

ATTESTED

✓ 27.	Abdullah Jan S/O Gul Amin Jan.	Inzarai Tehsil Khar.
✓ 28.	Mahmood Jan S/O Muheed Gul	Inzarai " "
✓ 29.	Nisar Mohammad S/O Yad Din.	Inzarai " "
✓ 30.	Abdul Wahab S/O Abdul Haq.	Inzarai " "
✓ 31.	Taj Ghani S/O Gul Hameed.	Inzarai " "
✓ 32.	Ghulam Nabi S/O Abdul Khaliq.	Loesam " "
✓ 33.	Amira Khan S/O Atta Khan.	Loesam " "
✓ 34.	Bakhtai S/O Bacha.	Loesam " "
✓ 35.	Asal Khan S/O Saifur Rehman.	Pashat Tehsil Salarzai.
✓ 36.	Tawas Khan S/O Juma Din.	Mandal " "
✓ 37.	Umar Mohammad S/O Abdullah Khan.	Gatkai " "
✓ 38.	Islam Khan S/O Sarbiland.	Dandokai " "
✓ 39.	Ilias Khan S/O Bakht Jamal.	Lakayan " "
✓ 40.	Abdullah Khan S/O Mohammad Rehman.	Batwar " "
✓ 41.	Mohammad Rahim S/O Said Bacha.	Gatkai " "
✓ 42.	Abdul Subhan S/O Rehman Jan.	Kadok " "
✓ 43.	Sher S/O Said Habib Jan.	Bagh Arang Teh: Utmankhel.
✓ 44.	Sahib Zali Jan S/O Bakht Ali Jan.	Chorai Arang " "
✓ 45.	Gul Rasool Khan S/O Said Mohammad.	Arang " "
✓ 46.	Hidayatullah S/O Kabal Khan.	Ziarat Arang " "
✓ 47.	Zamin Khan S/O Mohammad Zaman Khan.	Porai Shah " "
✓ 48.	Awrang Zeb S/O Tawab Malik.	Bado Arang " "
✓ 49.	Gulab Rehman S/O Abdul Wahid.	Hayatal Tehsil Utmankhel.
✓ 50.	Umer Mohammad S/O Yar Mohammad.	Gardai " "
✓ 51.	Sakhi Rehman S/O Malook.	Bado Arang " "
✓ 52.	Abdur Rehman Khan S/O Fazal Mohd:	Mazdak Arang Teh: " "
✓ 53.	Shahid Hussain S/O Gul Mohammad.	Bandagai " "
✓ 54.	Liaqat Ali S/O Khaista Gul.	Bandagai " "
✓ 55.	Sher Wali Khan S/O Gul Hakim Khan.	Mano Dehrai " "
✓ 56.	Mohammad Nawaz Khan S/O Abdul Qadar.	Mir Khan Arang " "
✓ 57.	Mohammad Ibrahim S/O Mahmood Jan.	Mir Khan " "
✓ 58.	Mohammad Jamil S/O Mohd Dost Khan.	Fajigram " "
✓ 59.	Zardad Khan S/O Sher Zamin.	Matako Guli Bagh " "
✓ 60.	Nehar Khan S/O Khan Zada.	Hayati Matashah " "

ATTESTED

12

P/..3..

NAWAGAI SUB DIVISION

- 61. Shahebud Din S/O Malang.
- 62. Mohammad Arif S/O Mohammad Khan.
- 63. Gul Bostan S/O Zardool.
- 64. Musafar Khan S/O Faujoon.
- 65. Saiban Gul S/O Said Amir Gul.
- 66. Fazal Rahman S/O Abdul Hasib.
- 67. Fazlai S/O Hazrat Hassan.
- 68. Khan Gul S/O Azad Gul.
- 69. Rahmanullah S/O Haji Asil.
- 70. Shafiur Rahman S/O Mashoor.
- 71. Lal Zamen S/O Abdul Ghaffar Khan.
- 72. Sairtaj S/O Haji Azam.
- 73. Khan Bacha S/O Shah Jehan.
- 74. Shahkirullah S/O Haji Noor Mohd.
- 75. Rahman Wali S/O Sakhi Gul.
- 76. Abdul Jalal S/O Haji Feroz.
- 77. Mohammad Amin S/O Gul Amin.
- 78. Ajmir S/O Gul.
- 79. Zafar Khan S/O Gul Baz Khen.
- 80. Said Ahmad S/O Noor Khan.
- 81. Ghulam Yousaf S/O Amanullah.
- 82. Amir Nawaz S/O Kamin.
- 83. Zafar Khan S/O Jamdali.
- 84. Ghausur Rahman S/O Gul Rahman.
- 85. Nasar Ali S/O Ghulam Nabi Khan.
- 86. Mohibullah S/O Lal Pacha.
- 87. Rashid S/O Shah Zad Noor.
- 88. Roohullah S/O Mohammad Rafiq.
- 89. Azizullah S/O Mohammad Lal.
- 90. Yousaf Jamal S/O Khaista Pacha.
- 91. Tariq S/O Hazrat Hassan.
- 92. Hayatur Rahman S/O Abdul Halim.
- 93. Zafar S/O Haji Rahman Gul.
- 94. Walayat Khan S/O Abdur Rahman.

Kamar	Tehsil Mamund.	5
Zagai,	" "	
Zagai,	" "	
Gabarai,	" "	
Lar Khalozo	" "	
Gabarai,	" "	
Gabarai,	" "	
Kitkot,	" "	
Bar Chamarkand		
Bar Chamarkand		
Nawa Charmang Teh:Nawagai.		
Hasham	" " "	
Kohi	" " "	
Kohi	" " "	
Chinar	" " "	
Chinar	" " "	
Chinar	" " "	
Chinar	" " "	
Chinar	" " "	
Rai	" " "	
Rai	" " "	
Saida Shah	" "	
Sor Killi Hilal Khel.		
Manogai Charmang Teh:Nawagai		
Kotki	" "	
Halki	" "	
Mainz Kamangara		
Kharai	" "	
Sharif Khana	" "	
Halki Charmang	" "	
Gud Khel Tehsil Nawagai.		
Nawagai	" "	
Manogai	" "	
Ghaljo Jowar	" "	

ATTESTE

✓ 95. Gulistan S/O Asar Jan.	Gadamar Charshamozai Barang
✓ 96. Nek Mullah Khan S/O Tajmullah Khan.	Sharbatai Tehsil Barang.
✓ 97. Salik Khan S/O Yar Mullah.	Targhaw " "
✓ 98. Mohammad Ayaz S/O Ghani.	Bar Safari " "
✓ 99. Sahib Zarin S/O Mohammad Yaseen.	Kohi " "
✓ 100. Abdul Mujib S/O Akbar Said.	Sharbatai " "
✓ 101. Habibul Azim S/O Gul Karam.	Kohi, " "
✓ 102. Rashid Khan S/O Feroz Khan.	Kohi Sar " "
✓ 103. Rahmanud Din S/O Khan Shah.	Kohi, " "
✓ 104. Said Ghani S/O Painda Gul.	Takht, " "
✓ 105. Mohammad Tahir S/O Khanzad Gul.	Mordara, " "
✓ 106. Fazal Malik S/O Ghulam Hussain.	Mordara, " "
✓ 107. Amir Nawab S/O Gul Sawab.	Mordara " "
✓ 108. Akhtar Gul S/O Zoor Din.	Dambara, " "
✓ 109. Mashouq S/O Mohammad Ayeen.	Kamadara, " "
✓ 110. Zahir Shah S/O Gul Rahman.	Kamadara, " "
✓ 111. Khaista Mohammad S/O Hazrat Gul.	Kamadara, " "
✓ 112. Lal Mohammad S/O Haji Teghun.	Kamadara, " "
✓ 113. Nek Amal Khan S/O Khan Wazir.	Mata, " "
✓ 114. Dilbar Khan S/O Gultar Khan.	Maimol, " "
✓ 115. Mohammad Hakim S/O Anmir.	Anjokai " "
✓ 116. Qayem Shah S/O Haji Gujor.	Sarlara, " "
✓ 117. Amir Said S/O Amir Hassan Khan.	Tar, " "
✓ 118. Alamzer S/O Mir Hassan.	Tar, " "
✓ 119. Fazal Bacha S/O Afridai.	Anjokai, " "
✓ 120. Badam S/O Haji Khaista.	Amankot, " "
✓ 121. Pervez S/O Sharif.	Manai Mandal. " "
✓ 122. Khaista Rehman S/O Munasib Khan.	Manai Mandal. " "

The appointment will be subject to the condition that:-


1. He will perform regular duty in accordance with Khassadar Service Rules.
2. He will produce health and age certificate from the Agency Surgeon, Bajaur.
3. National Identity Card of his own.
4. His service is liable to termination without assigning any notice.

ATTESTED

POLITICAL AGENT/COMMANDANT,
BAJAUR LEVIES

APPROVED TO COPY

No. 1183-87 / 15/37.

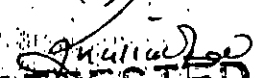
(14) 
Dated Khar the 25/4/1996.

Copy forwarded to the:-

1. APA- Khar.
2. APA- Nawagai.
3. Subedar Major, Bajaur Levies.
4. Cashier Bajaur Levies.
5. Superintendent, PAs Office Bajaur for necessary action.


POLITICAL AGENT BAJAUR.


ATTESTED TO BE
TRUE COPY

(3)

ATTESTED

Annexure B (15)

OFFICE OF THE POLITICAL AGENT/COMMANDANT BAJAUR LEVIES.

OFFICE ORDER.

No. 66 /B.L

Dated Khar the 26/01/2012.

In pursuance of the recommendations of Departmental Promotion Committee of Khassadars in its meeting held on 10-01-2012, the following Khassadars are hereby promoted to the rank as noted against them:-

- ✓01. Naib Subedar Kamin Bacha Regt: No.3388 promoted to the post of Subedar (BPS-5).
- ✓02. Havildar Muhammad Jan Regt: No.3379 promoted to the post of Naib Subedar (BPS-4).
- ✓03. Havildar Hazrat Tariq Regt: No.3392 promoted to the post of Naib Subedar (BPS-4).
- 04. Naik Muhammad Jamil Regt: No.3431 promoted to the post of Havildar.
- 05. Naik Shakirullah Regt: No.3444 promoted to the post of Havildar.
- 06. L/Naik Khaista Muhammad Regt: No. 3509 promoted to the post of Naik.
- 07. L/Naik Alam Zeb Regt: No. 3511 promoted to the post of Naik.
- 08. Khassadar Said Ahmad Regt: No.3386 promoted to the post of L/Naik.

POLITICAL AGENT/
COMMANDANT BAJAUR LEVIES.

27-31
No. /B.L

Dated Khar the 26/01/2012.

Copy forwarded to:-

- 01. The Asstt: Political Agent, Khar.
- 02. The Asstt: Political Agent, Nawagai.
- 03. Subedar, Major Bajaur Levies.
- 04. Nazir, Bajaur Levies.
- 05. Officials concerned.

For information & necessary action.

POLITICAL AGENT/
COMMANDANT BAJAUR LEVIES.

ATTENDED TO
TRUE COPY

ATTESTED

Annexure C (16)

**BEFORE THE HONORABLE PESHAWAR HIGH COURT
PESHAWAR**

Writ Petition No. 216 P / 2017

Kamin Bacha and others

VERSUS

The Secretary SAFRON Islamabad and others

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

INDEX

S/NO	DESCRIPTION OF DOCUMENTS	DATE	ANNEX	PAGES
1.	Writ petition with affidavit	-	-	1-9
2.	Memo of addresses	-	-	10
3.	Appointment letters of petitioners	25.04.1996	A	11-15
4.	Promotion orders of the petitioners	26.01.2012	B	16
5.	Judgment passed by this Honourable Court		C & D	17-23
6.	Service Rule		E	24-27
7.	Court Fee Stamps			28
8.	Vakalatnama and Notice filing	-	-	29-29-A

Petitioners

Through:-
RE-FILED TODAY
Deputy Registrar
17 JAN 2017

FILED TODAY
Deputy Registrar
18 JAN 2017

MISBAH ULLAH KHAN
ADVOCATE SUPREME COURT
OFFICE NO.3, 2ND FLOOR
GINZA CENTER
BLUEAREA, ISLAMABAD
AMAAD NASIR KUNDI
Advocate High Court

MUHAMMAD RAFIQ KHATAK
Advocate High Court

ATTESTED TO BE
TRUE COPY

(17)

**BEFORE THE HONOURABLE PESHAWAR HIGH
PESHAWAR**

Writ Petition No. 216

date of death of fati
not effect the merit of

1. Kamin Bacha son of Bahadar Khan, Subedar, Bajaur Levies, Bajaur Agency.
2. Muhammad Jan son of Bakht Pur Jan, Naib Subedar, Bajaur Levies, Bajaur Agency
3. Hazrat Tariq son of Gul Zeb Khan, Naib Subedar, Bajaur Levies, Bajaur Agency.

Petitioners

VERSUS

1. The Secretary SAFRON Islamabad.
2. The Secretary Law & Order, Governor's Secretariat Peshawar.
3. The Political Agent / Commandant Bajaur Levies, Bajaur Agency at Khar.

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 No.3 in respect of the forcible retirement on 25-01-2017, 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 petitioners have been appointed as Khassadar in Bajaur Khassadar Force in BPS-1 on regular basis w.e.f 25.04.1996 vide office order No. 1182/S/37 dated 25.04.1996

FILED TODAY
Deputy Registrar
18 JAN 2017

ATTESTED TO BE
TRUE COPY

2

18

(Annex- A). Since their inception in the service they had been performing their 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 subsequently, the petitioner No.1 was promoted as Naib Subedar w.e.f. 12.07.2010 by superseding the post of Havaladar, whereas the petitioners No.2 and 3 were promoted as Havaladar w.e.f. 12.07.2010 and thereafter, the petitioner No.1 was further promoted as Subedar (BPS-5) w.e.f. 26.01.2012 i.e. after performance of less than two years service as Naib Subedar vide office order dated 26-01-2012 (Annex-B). It is pertinent to mention here that under the Service Rules for Khassadars in FATA and promotion policy, five years service is mandatory for the promotion of Naib Subedar to Subedar, but this very rule has been overlooked by the respondents and the petitioners have been promoted to next grades just after service of less than two years.
3. That now under the garb said irregular promotions, the respondents are bent upon to retire the petitioners from their services on the pretext that five years service at the existing posts of the petitioners is going to be completed on 25-01-2017
4. That under the service rules for Khassadars (retirement), Subedars and Naib Subedars shall be retired on attaining the age of 55 years OR on completion of 30 years of service OR on completion of tenure of rank. However, it is imperative to point out here that in a landmark judgment passed by this Honourable Court, this dictum has been laid down that it is not necessary that on completion of tenure of rank the Khassadars should be retired they can be promoted, but the respondents are adamant to retire the petitioners in sheer violation of the dictum laid down by this Honourable Court.
5. 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: -

GROUND

- A. That the impugned act of the department is arbitrary, illegal, unlawful and void ab-initio having no legal effects against the rights of the petitioners;

FILED TODAY
Deputy Registrar
17 JAN 2017

8
NOTED TO BE
COPY

- B. That the petitioners had 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 12-02-2015 and 07-12-2013 (Annex-C &D). Hence the petitioners are 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 petitioners as well.
- D. That the petitioners have performed their duties as regular employees 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. A reference is made to the judgment of august Supreme Court of Pakistan in 2005 SCMR 100.
- 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 petitioner's 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.

FILED TODAY
Deputy Registrar
17 JAN 2017

ATTORNEY GENERAL
TRUE COPY

- H. That the impugned act is against the fundamental rights garneted 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 petitioner 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.

FILED TODAY
 Deputy Registrar
 17 JAN 2017

TESTED TO BE
 TRUE COPY

(B)

(21)

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 petitioner has no alternate, efficacious and speedy remedy available except the instant constitutional petition.

PRAYER

It is therefore respectfully prayed that by acceptance of the instant petition with costs the respondents may kindly be directed to allow the petitioners to complete his 55 years statutory service to meet the ends of justice.

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

FILED TODAY
Deputy Registrar
17 JAN 2017

TESTED TO
THU: 6029

① 22

Interim Relief:

It is therefore prayed that during pendency of the above said petition, as an interim relief, the respondents be restrained from taking adverse action of retiring the petitioner till final disposal of the writ petition.

[Signature]
Petitioners

Through:-

[Signature]
MISBAH ULLAH KHAN
ADVOCATE SUPREME COURT
OFFICE NO.3, 2ND FLOOR
GINZA CENTER
BLUEAREA, ISLAMABAD

[Signature]
AMAAD NASIR KUNDI
Advocate High Court

[Signature]
MUHAMMAD RAFIQ KHATAK
Advocate High Court

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.

[Signature]
MISBAH ULLAH KHAN
ADVOCATE SUPREME COURT

FILED TODAY

Deputy Registrar

17 JAN 2017

[Signature]
TESTED TO BE TRUE COPY

Annexure D

(23)

Annexure (D) (15)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 12TH MARCH, 2019.

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT.**

NOTIFICATION

Dated Peshawar, the 12th March, 2019.

No. LEGIS: 1(4) 2019-Vol.— The following Ordinance by the Governor of the Khyber Pakhtunkhwa is hereby published for general information:

(KHYBER PAKHTUNKHWA ORD. NO.-II OF 2019)

**AN
ORDINANCE**

to regulate and maintain the Khasadar Force previously working in the erstwhile Federally Administered Tribal Areas and now in the merged districts of the Province of the Khyber Pakhtunkhwa.

WHEREAS after Constitution (Twenty Fifth) (Amendment) Act, 2018 (Act No. XXXVII of 2018) the erstwhile Federally Administered Tribal Areas were merged in the Province of Khyber Pakhtunkhwa and the special provisions for the governance system in the said areas were omitted through said amendment, leading to the extension of the executive authority of the Province of the Khyber Pakhtunkhwa to the said areas;

AND WHEREAS the Khasadar Force, which was established in the erstwhile Federally Administered Tribal Areas through Executive Orders and instructions, for management of the said areas within the framework of territorial and collective responsibility, has now been lost their legal status, for working in the merged districts and sub-divisions:

ATTESTED TO BE
TRUE COPY

24

4

AND WHEREAS it is in public interest to allow the Khasadar Force to continue their functions for better public order, peace and security in the merged districts and sub-divisions; and to achieve the objectives, it is expedient to give legal status to the Khasadar Force in the merged districts and sub-divisions, and to revisit their institutional structure and functional assignment for effective discipline, better performance and optimal utility;

AND WHEREAS the Provincial Assembly is not in session and the Governor of the Khyber Pakhtunkhwa is satisfied that circumstances exist which render it necessary to take immediate action:

NOW, THEREFORE, in exercise of the powers conferred by Clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of the Khyber Pakhtunkhwa is pleased to make and promulgate the following Ordinance:

1. Short title, application, extent and commencement,---(1) This Ordinance may be called the Khyber Pakhtunkhwa Khasadar Force (Maintenance, Regulation and Protection of Service) (Transition) Ordinance, 2019.

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

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

(4) It shall come into force at once.

2. Definitions.--- In this Ordinance, unless the context otherwise requires:-

(a) "Commandant" means the District Police Officer, as defined in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Ordinance No. II of 2017);

(b) "District Administration" means the Deputy Commissioner, Additional Deputy Commissioner, Assistant Commissioner, Additional Assistant Commissioner and their subordinate staff in the district;

(c) "District Police Officer" means Head of the Police, under section 21 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017);

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

(e) "Khasadar Force" means the Khasadar Force constituted, through executive orders, for the erstwhile Federally Administered Tribal Areas and now re-constituted and maintained by Government under section 3 of this Ordinance;

TESTED TO GOVT



KHYBER PAKHTUNKHWA GOVT: GAZETTE, EXTRAORDINARY, 12th MARCH, 2019 104

- (f) "prescribed" means prescribed by rules;
- (g) "public agency" means any department of Government, or attached department, public authority, commission or autonomous body set up under any statutory instrument or public sector company or body corporate, owned, controlled or financed by Government; and
- (h) "rules" means rules made under this Ordinance.

3. Re-constitution, regulation and maintenance of the Khasadar Force.—(1) On promulgation of this Ordinance, the Khasadar Force shall be reconstituted, regulated and maintained by Government in accordance with the provisions of this Ordinance and shall be known as the Khyber Pakhtunkhwa Khasadar Force, consisting of all existing strength of its members.

(2) The Khasadar Force shall be organized in senior ranks and junior ranks officers and officials.

(3) The senior rank officer shall consist of Commandant, who shall be District Police Officer, having additional charge of the Commandant in the District, while the junior ranks shall consist of the following:

- (a) Subedar Major;
- (b) Subedar;
- (c) Naib Subedar;
- (d) Havaldar; and
- (e) Khasadar.

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

(2) The general administration and operational control of the Khasadar Force shall vest with the Commandant in the District.

5. Method of recruitment.—(1) Subject to other provisions of this Ordinance, recruitment in the Khasadar Force shall be made, in the prescribed manner:

Provided that initial recruitment shall be made only in the rank of Khasadar Force:

Provided further that Government shall specify committee for recruitment and promotion in the Khasadar Force:

Provided also that members of the Khasadar Force may be absorbed in the Khyber Pakhtunkhwa Police in accordance with prescribed procedure.

ATTESTED TO BE
TRUE COPY

26

16

(2) The Commandant shall be authority for posting and transfer of members of the Khasadar Force within the district.

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

(2) Without prejudice to the generality of the forgoing policing powers under sub-section (1), the Khasadar Force shall perform such institutional or organization functions and duties as are provided in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017).

7. **Liability of Khasadar Force.**---It shall be the duty of every member of the Khasadar Force to obey and execute all lawful orders and instructions, issued to him by the Commandant.

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

9. **Ordinance to override other laws.**---The provisions of this Ordinance shall have overriding effect, notwithstanding anything contained in any other law, on the subject, for the time being in force.

10. **Actions taken in good faith.**---No suit, prosecution, or other legal proceedings shall lie against the Government, any authority exercising powers under this Ordinance or any member of the Khasadar Force for anything done in good faith under this Ordinance or any rule made there under or matters specified in pursuance of this Ordinance.

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).

11. **Removal of difficulty.**---The Home and Tribal Affairs Department of Government may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Ordinance.

12. **Repeal and saving.**---(1) Soon after the commencement of this Ordinance, all provisions of the circulars, rules, standing orders and regulatory instruments, relating to the Khasadar Force, inconsistent with the provisions of this Ordinance, shall stand revoked to the extent of inconsistency.

(2) Save as otherwise specifically provided, nothing in this Ordinance, or any repeal effected thereby shall affect or be deemed to affect:

TESTED TO BE
TRUE COPY

27

17

KHYBER PAKHTUNKHWA GOVT: GAZETTE, EXTRAORDINARY, 12th MARCH, 2019 106

- (a) the existing terms and conditions of service in the Khasadar Force unless amended through a substitute rule or instrument; and
- (b) the validity of anything done, action taken, investigation or proceedings commenced, orders issued, appointments made, direction given, proceedings taken or instrument executed or issued, under or in pursuance of any rule or regulatory instrument repealed or amended by this Ordinance and any such thing, action, investigation, proceedings, orders, appointment, direction, proceedings or instrument suits, right or claims shall, if in force at the commencement of this Ordinance and not inconsistent with any of the provisions of this Ordinance, continue to be in force, and have effect as if it were respectively done, taken, commenced, issued, made, directed, given, executed, or issued under this Ordinance.


12/3/19

Peshawar,
Dated the
11th March, 2019.

SHAH FARMAN
Governor of the Khyber Pakhtunkhwa

ZAKA ULLAH KHATTAK
Secretary to
Government of the Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and
Human Rights Department.

Printed and published by the Manager,
State, Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.


REGISTERED
GOVT

28

Annexure E

28

Better copy

BETTER COPY

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,

sd
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.

sd
ATTESTED
ATTESTED

sd
Section Officer-VI

ATTESTED TO
14/04/2019

Annexure F

(29)

(H)

~~Annexure F~~

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

dated 9/10/2019

No. 51

IP/AIG/IE

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.

ATTESTED
TO BE TRUE COPY


TESTED TO BE
TRUE COPY

Annexure G

30
29

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 inunction/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 even:-

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.

ATTESTED
TO BE TRUE COPY

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

Annexure H



31

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-67/2019/7004.— The Khyber Pakhtunkhwa Khasadar 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 KHASADAR FORCE ACT, 2019.
(KHYBER PAKHTUNKHWA ACT NO. XXXIV 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 regulate and maintain the Khasadar Force previously working in the erstwhile Federally Administered Tribal Areas and now in the merged districts of the Province of the Khyber Pakhtunkhwa.

WHEREAS after Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018), the erstwhile Federally Administered Tribal Areas were merged in the Province of the Khyber Pakhtunkhwa, and the special provisions for the governance system in the said areas were omitted through said amendment, leading to the extension of the executive authority of the Province of the Khyber Pakhtunkhwa to the said areas;

AND WHEREAS the Khasadar Force, which was established in the erstwhile Federally Administered Tribal Areas through Executive Orders and instructions for management of the said areas within the framework of territorial and collective responsibility, has now lost their legal status for working in the merged districts and sub-divisions;

203

TESTED TO BE
TRUE COPY

(PP)

(32)

AND WHEREAS it is in public interest to allow the Khasadar Force to continue their functions for better public order, peace and security in the merged districts and sub-divisions and to achieve the objectives, it is expedient to give legal status to the Khasadar Force in the merged districts and sub-divisions, and to revisit their 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 Khasadar Force Act, 2019.

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

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

(4) It shall come into force at once.

2. **Definitions.**---In this Act, unless the context otherwise requires,--

(a) "Commandant" means the District Police Officer, as defined in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017);

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

(c) "District Administration" means the Deputy Commissioner, Additional Deputy Commissioner, Assistant Commissioner, Additional Assistant Commissioner and their subordinate staff in the district;

(d) "District Police Officer" means Head of the Police, under section 21 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017);

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

(f) "Khasadar Force" means the Khasadar Force, constituted through executive orders, for the erstwhile Federally Administered Tribal Areas and now re-constituted and maintained by Government under section 3 of this Act;

(g) "prescribed" means prescribed by rules;

(h) "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;

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

RESTRICTED TO
THE GOVT.



(1) "Schedule" means Schedule appended to this Act.

2. Re-constitution, regulation and maintenance of the Khasadar Force.—(1) On commencement of this Act, the Khasadar Force shall be re-constituted, regulated and maintained by Government in accordance with the provisions of this Act and shall be known as the Khasadar Force consisting of all existing strength of its members.

(2) The Khasadar Force shall be organized in senior ranks and junior ranks officers and

(3) The senior rank officer shall consist of Commandant, who shall be District Police Officer having additional charge of the Commandant in the district while the junior ranks shall consist of the following

- (a) Subedar Major;
- (b) Subedar;
- (c) Naib Subedar;
- (d) Havildar and
- (e) Khasadar.

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

(2) The general administration and operational control of the Khasadar Force shall vest with the Commandant in the district.

4. Method of recruitment.—Subject to other provisions of this Act, recruitment in the Khasadar Force shall be made in the prescribed manner.

Provided that initial recruitment shall be made only in the rank of Khasadar.

5. Provided further that Government shall constitute a committee for recruitment and promotion of members of the Khasadar Force.

6. Provided also that members of the Khasadar Force may be absorbed in the Khasadar Force in accordance with prescribed procedure.

7. Powers and duties of the Khasadar Force.—(1) Notwithstanding anything contained in any other law for the time being in force, the Khasadar Force shall have all the powers and authority assigned to the police under the Code.

(2) Within provinces as the government of the following police powers in accordance with section 17 of the Khasadar Force shall be given such institutions in organizational terms and powers as are provided in the Khyber Pakhtunkhwa Police Act, 2013 (L.V. No. 18 of 2013).

8. Postings, transfers and distribution of members of the Khasadar Force.—(1) The Commandant shall be the authority for posting and transfer of members of the Khasadar Force and shall

Handwritten signature or mark.

Handwritten text or stamp at the bottom left.

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

8. **Liability of Khasadar Force.**---It shall be the duty of every member of the Khasadar Force to obey and execute all lawful orders and instructions, issued to him by the Commandant.

9. **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.

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

11. **Act to override other laws.**---The provisions of this Act shall have overriding effect, notwithstanding anything contained in any other law, on the subject, for the time being in force.

12. **Actions taken in good faith.**---No suit, prosecution or other legal proceedings shall lie against Government, any authority exercising powers, under this Act or any member of the Khasadar Force for anything done in good faith under this Act or any rule made thereunder or matters specified in pursuance of this Act.

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. XI V of 1860).

13. **Removal of difficulty.**---(1) 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.

(2) Save as otherwise specifically provided, nothing in this Act, or any repeal effected thereby shall affect or be deemed to affect-

- (a) the existing terms and conditions of service of the Khasadar Force unless amended through a substitute rule or instrument;
- (b) the validity of anything done, action taken, investigations or proceedings commenced, orders issued, appointments made, directions given, proceedings taken or instruments executed or issued, under or in pursuance of any rule or regulatory instrument repealed or amended by this Act and any such thing, action, investigation, proceeding, order, appointment, direction, or instrument, suit, right or claims shall, if in force at the time of commencement of this Act and not inconsistent with any of the provisions of this Act, shall continue to be in force, and have effect as if it were, respectively, done, taken, commenced, issued, made, directed, given, executed or issued under this Act, and
- (c) anything done, action taken, rule made or notification or orders issued under the Khyber Pakhtunkhwa Khasadar Force Ordinance, 2019 (Khyber Pakhtunkhwa Ord. No. IV of 2019) shall be deemed valid and the same shall not be called in question in any Court of law.

[Handwritten signature and stamp]
OFFICE OF THE
SECRETARY
KHYBER PAKHTUNKHWA
GOVERNMENT
ISLAMABAD

14. Report--- the K.P. Govt. Pakhtunkhwa Khasrat Pates Ordinance, 2019 (K.P. Ord. No. 14 of 2019) is hereby notified.

SCHEDULE
[see section (3)]

Part-A

S.No.	District
1.	Bajaur
2.	Mohmand
3.	Isfahan
4.	Orakzai
5.	Kunar
6.	South Waziristan
7.	North Waziristan

Part-B

S.No.	Sub-Division
1.	Fazal Khan in district Peshawar
2.	Dara Adam Khan in district Kohat
3.	Bellari in district Lakki Marwat
4.	Wazir in district Bannu
5.	Jandoh 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

Printed and published by the printer
Govt. Press, Khyber Pakhtunkhwa, Peshawar

THAT COPY
SHOULD BE

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated the 24th September, 2019.

No. SO(Police-II)/HD/SMY/2019:- ^{Khasadar Force} In exercise of the powers conferred by section 10 of the Khyber Pakhtunkhwa Khasadar Force Act, 2019 (Khyber Pakhtunkhwa Act. No. XXXIV of 2019), read with section 5 thereof, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

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

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

- (2) These rules shall apply to all members of the Khasadar Force.
- (3) These rules shall come into force at once.

2. Definitions.---(1) 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 Khasadar Force in the Police, in accordance with these rules;
- (b) "Act" means the Khyber Pakhtunkhwa Khasadar Force Act, 2019 (Khyber Pakhtunkhwa Act. No. XXXIV of 2019);
- (c) "Provincial Police Officer" means the head of the Provincial Police, who is appointed under section 15

REGISTERED TO
RUS 60

of the Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017); and

37
29

(d) "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 Khasadar Force shall be permanently absorbed in the Police, against vacancies to be newly created in the Police Department for the purpose, in the following manner:

- (a) A Scrutiny Committee, headed by the Commandant, and having one member each from District Administration and District Account Officer of the district concern, shall prepare the lists of all the members of the Khasadar Force after personal appearance and scrutiny of record for submission to the Provincial Police Officer;
- (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 Khasadar Force in the Police into the respective ranks or cadres as per the Schedule; and
- (c) the Home and Tribal Affairs Department of Government, after receiving the lists of all the members of Khasadar Force, shall issue notification of absorption of the Khasadar Force in the Police after approval of the Cabinet.



APPROVED TO BE
PRINTED AND
ISSUED

4. Remuneration or incentives.---The Khasadar Force after absorption in the Police shall be entitled to the same benefits, remuneration and other incentives as are enjoyed by other members of the Police. (38)

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

6. Seniority.---Members of the Khasadar Force, who are absorbed in 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 Khasadar Force:

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

7. Repeal and savings.---(1) All rules, orders or instructions, including the Federal Khasadar Force Service Rules, in force in respect of the Khasadar 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 rules, orders or instructions, including the Federal Khasadar Force Service Rules, mentioned in 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, orders and instructions;
and

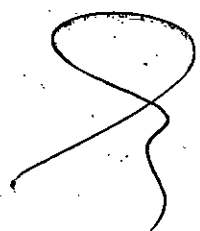
SECRET
1955-56-1

(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.

39

8. Removing of difficulties.---(1) If any difficulty arises in giving effect to any provisions of these rules and notifications made thereunder, a Technical Committee, comprising 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.




TESTED TO BE
3/10/50

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET

Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge.
<u>06/02/2020</u>	<p><u>WP No. 216-P/2017 with IR</u></p> <p>Present: Mr. Misbahullah Khan, Advocate, for the petitioners.</p> <p>M/s Muhammad Taufeeq Qureshi DAG & Umer Farooq, AAG along with Kiramat Shah Programmer on behalf of Deputy Commissioner Malakand.</p> <p>===</p> <p>WAQAR AHMAD SETH, CJ.- Through the instant Writ Petition, petitioners seek issuance of an appropriate writ with the following prayer:-</p> <p><i>"It is therefore respectfully prayed that by acceptance of the instant petition with costs the respondents may kindly be directed to allow the petitioners to complete his 55 years statutory service to meet the ends of justice".</i></p> <p>2. 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 twenty (20) days positively in accordance with law. Till</p>



REGISTERED
PESHAWAR

then, status quo be maintained.

3. Writ Petition stand disposed of accordingly.


Chief Justice


Judge


PRESIDENT
2023/05/07

GOVERNMENT OF THE NORTH WEST FRONTIER PROVINCE
HOME AND TRIBAL AFFAIRS DEPARTMENT.

NOTIFICATION


Annexure

(36)

Peshawar dated the, 10/2/2020

No.SO(Police)HD/SMY 2019 Merged Area/ 172-82 In pursuance of the provisions contained in section 5 of the Khyber Pakhtunkhwa Khasadars Force Act, 2019 (Khyber Pakhtunkhwa Act No.XXXIV of 2019) read with rule 3 of the Khasadar 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 Khasadars 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	Father's Name	Previous Rank	Rank in which absorbed
1.	Liaqat	Khista Gul	Havaldar (02)	H/Constable-09
2.	Muhammad Nawaz	Abdul Qadar	Havaldar (02)	H/Constable-09
3.	Muhammad: Jameel	Mohd Dost Khan	Havaldar (02)	H/Constable-09
4.	Shakir Ullah	Nor Mohammad	Havaldar (02)	H/Constable-09
5.	Muhammad Ayaz	Ghani	Naik (02)	Constable -B-1-07
6.	Zahir Shah	Gul Rahman	Naik (02)	Constable -B-1-07
7.	Dilbar	Gultan	Naik (02)	Constable -B-1-07
8.	Khasita Muhammad	Hazrat Gul	Naik (02)	Constable -B-1-07
9.	Alamzer	Mir Hassan	Naik (02)	Constable -B-1-07
10.	Bashir Khan	Sher Zaman Khan	L/Naik (02)	Constable -A-1-07
11.	Mutazer	Hazir	L/Naik (02)	Constable -A-1-07
12.	Sher Alam	Abdul Amin	L/Naik (02)	Constable -A-1-07
13.	Kifayat Ullah	Umara Jan	L/Naik (02)	Constable -A-1-07
14.	Muhammad Javed	Khan Saeed	L/Naik(02)	Constable -A-1-07
15.	Sadbar Khan	Mamoor	L/Naik (02)	Constable -A-1-07
16.	Bacha Muhammad	Bacha Khan	L/Naik (02)	Constable -A-1-07


 ISSUED TO
 10/2/2020

17.	Zafar Khan	Rahat KHan	L/Naik (02)	Constable -A-1-07
18.	Muhammad Hayat	Noor Ahmad	L/Naik (02)	Constable -A-1-07
19.	Zir Ali Khan	Sabzali	L/Naik (02)	Constable -A-1-07
20.	Said Ahmad Jan	Bacha Khan	L/Naik (02)	Constable -A-1-07
21.	Rehan	Gul Faraz	Khasadar BS-2	Constable -07
22.	Wali Muhammad	Taj Mohammad	Khasadar BS-2	Constable -07
23.	Gul Zada	Chamani	Khasadar BS-2	Constable -07
24.	Bakhti	Bacha	Khasadar BS-2	Constable -07
25.	Tawos	Juma din	Khasadar BS-2	Constable -07
26.	Shaki Rahman	Mlook	Khasadar BS-2	Constable -07
27.	Nihar	Khan Zada	Khasadar BS-2	Constable -07
28.	Gul Bostan	Zardol	Khasadar BS-2	Constable -07
29.	Musafar	Faujuni	Khasadar BS-2	Constable -07
30.	Zafar Khan	Gul Baz Khan	Khasadar BS-2	Constable -07
31.	Said Ahmad	Noor Khan	Khasadar BS-2	Constable -07
32.	Jehangir Hayat	Hayat Khan	Khasadar BS-2	Constable -07
33.	Tariq	Hazrat Hassan	Khasadar BS-2	Constable -07
34.	Fazali Malik	Ghulam Hassan	Khasadar BS-2	Constable -07
35.	Amir Nawab	Gul Sawab	Khasadar BS-2	Constable -07
36.	Majeed Ullah	Subedar	Khasadar BS-2	Constable -07
37.	Imran	Shah Mahmood	Khasadar BS-2	Constable -07
38.	Qaim Shah	Gojar	Khasadar BS-2	Constable -07
39.	Badam	Khaista Haji	Khasadar BS-2	Constable -07
40.	Muhammad Jamal	Muhammad Habib	Khasadar BS-2	Constable -07
41.	Naik Amai	Khan Wazir	Khasadar BS-2	Constable -07
42.	Rohullah	Muhammad Rafiq	Khasadar BS-2	Constable -07
43.	Ghazi	Din Muhammad	Khasadar BS-2	Constable -07
44.	Lal Muhammad		Khasadar BS-2	Constable -07
45.	Fazal Rahman	Abdul Habib	Khasadar BS-2	Constable -07
46.	Malang Zada	Sher Zada	Khasadar BS-2	Constable -07
47.	Zahoor	Rahim Gul	Khasadar BS-2	Constable -07
48.	Saeed Ullah	Abdur Rahim	Khasadar BS-2	Constable -07
49.	Yar Khan	Gul Badshah	Khasadar BS-2	Constable -07
50.	Aziz ur Rahman	Abdur Rashid	Khasadar BS-2	Constable -07

Sl#	Name		(49)	absorbed
417.	Bakht Rawan	Shamsur Rahman	Khasadar BS-2	Constable -07
418.	Ahmad	Abdul Ghafar	Khasadar BS-2	Constable -07
419.	Fazal Maula	Shah Zada	Khasadar BS-2	Constable -07
420.	Hazrat Gul	Sardar Khan	Khasadar BS-2	Constable -07
421.	Rahmatullah	Mian Karim	Khasadar BS-2	Constable -07
422.	Muhammad Wali	Bakhtiar	Khasadar BS-2	Constable -07
423.	Naeemullah	Ghulam Said	Khasadar BS-2	Constable -07
424.	Zahiruddin	Said Zada	Khasadar BS-2	Constable -07
425.	Ajmal	Ziarat Gul	Khasadar BS-2	Constable -07
426.	Umar Hayat	Umar Zada	Khasadar BS-2	Constable -07
427.	Azmat	Said Rahman	Khasadar BS-2	Constable -07
428.	Jannat Gul	Gul Hakim	Khasadar BS-2	Constable -07
429.	Bilal Ahmad	Abdul Aziz	Khasadar BS-2	Constable -07
430.	Muhammad Salim	Rahim Jan	Khasadar BS-2	Constable -07
431.	Khan Wazir	Ghulam Haider	Khasadar BS-2	Constable -07
432.	Amjad	Misal Khan	Khasadar BS-2	Constable -07
433.	Muhammad Ali	Muhammad Zada	Khasadar BS-2	Constable -07
434.	Fazal Muhammad	Umar KHitab	Khasadar BS-2	Constable -07
435.	Inayatur Rahman	Inayat Khan	Khasadar BS-2	Constable -07
436.	Samiur Rahman	Sarzamin Khan	Khasadar BS-2	Constable -07
437.	Imtiaz Ahmad	Abdur Rahman	Khasadar BS-2	Constable -07
438.	Hanifullah	Muhamdul Haq	Khasadar BS-2	Constable -07
439.	Sahibullah	Minan Gul	Khasadar BS-2	Constable -07
440.	Rahim Gul	Sardar Khan	Khasadar BS-2	Constable -07
441.	Muhammad Idress	Abdul Salm	Khasadar BS-2	Constable -07
442.	Azizul Wahab	Fazal Wahab	Khasadar BS-2	Constable -07
443.	Jehangir	Noor Sattar	Khasadar BS-2	Constable -07
444.	Azizullah	Noor Hasham	Khasadar BS-2	Constable -07
445.	Asad Khan	Fazal Rahman	Khasadar BS-2	Constable -07
446.	Habibullah	Islamullah	Khasadar BS-2	Constable -07
447.	Israr Khan	Nawsherawan	Khasadar BS-2	Constable -07
448.	Abdullah	Gul Amin Jan	Khasadar BS-2	Constable -07
449.	Abdul Wahab	Abdul Haq	Khasadar BS-2	Constable -07
450.	Noor Badshah	Lal Badshah	Khasadar BS-2	Constable -07
451.	Bacha Rahman	Sawab Khan	Khasadar BS-2	Constable -07

Handwritten signature/initials on the left margin.


Handwritten signature/initials at the bottom center.

(45)

			Khasadar BS-2	Constable -07
452.	Ziaur Rahman	Khaista Pacha	Khasadar BS-2	Constable -07
453.	Khalid Khan	Gul Rahman	Khasadar BS-2	Constable -07
454.	Khan	Said Karim	Khasadar BS-2	Constable -07
455.	Gul	Hakim Khan	Khasadar BS-2	Constable -07
456.	Ghulam yousaf	Aman Ullah	Khasadar BS-2	Constable -07
457.	Said Ghani	Painda Gul	Khasadar BS-2	Constable -07
458.	Rahim	Muhammad Saeed	Khasadar BS-2	Constable -07
459.	Abid	Aman Ullah	Khasadar BS-2	Constable -07
460.	Zarin Said	Bacha Said	Khasadar BS-2	Constable -07
461.	Gul Qasim	Abdul Malik	Khasadar BS-2	Constable -07
462.	Fazal Bacha	Afradai	Khasadar BS-2	Constable -07
463.	Noor Muhammad	Salih Muhammad	Khasadar BS-2	Constable -07
464.	Ayaz khan	Bakht Munir	Khasadar BS-2	Constable -07
465.	Ali Rahman	Mrsalin	Khasadar BS-2	Constable -07
466.	Jan Muhammad	Gul Farosh	Khasadar BS-2	Constable -07
467.	Noor Ullah	Ibrahim Shah	Khasadar BS-2	Constable -07
468.	Dosti Rahman	Bukhari Shikh	Khasadar BS-2	Constable -07
469.	Rahmat Gul	Alim Gul	Khasadar BS-2	Constable -07
470.	Abdur Rauf	Said	Khasadar BS-2	Constable -07
471.	Jalal U Din	Fazal Karim	Khasadar BS-2	Constable -07
472.	Muhammad kalam	Gul Mula	Khasadar BS-2	Constable -07
473.	Lal Zaman Khan	Gul Zaman Khan	Khasadar BS-2	Constable -07
474.	Gul Bacha	Jehan Zeb	Khasadar BS-2	Constable -07
475.	Qadar	Maroof Khan	Khasadar BS-2	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 Khasadar Force Service or has been terminated from the Service ⁽¹⁾ ibid on account of misconduct, inefficiency or any other grounds or has been retired from Service under the Khyber Khasadars Rules-1950 and Khasadars Service Rules-2011, before commencement of the Khyber Pakhtunkhwa Khasadars Force Act, 2019 (Khyber Pakhtunkhwa Act No. XXXIV of 2019).


 RESIGNED
 11/11/2019



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME DEPARTMENT

NOTIFICATION

Dated Peshawar the 14/07/2020

No. SOXPolice-III(D-1-3). In exercise of the powers conferred by Section 4 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 (PATA) 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

(b) Schedule-III shall be deleted

SECRETARY TO
GOVT OF KHYBER PAKHTUNKHWA
HOME DEPARTMENT

Copy forwarded to the:-

1. Principal Secretary to Governor'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 Commissioner, 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. Accountant General of Khyber Pakhtunkhwa
12. Director Information Khyber Pakhtunkhwa, Peshawar.
13. The Manager Government Printing & Stationary Department, Khyber Pakhtunkhwa. He is requested to publish the above Notification in the extra ordinary Gazette of Khyber Pakhtunkhwa and supply 30 Copies (Printed) of the same to the Home Department.

Section Officer (Police-II)

14/7/2020

[Handwritten signature]
14/7/2020



Annexure M (47)
Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
(Levy & Khassadars Wing)

No. CS(F)/L&K/4-Levy/Appeal/ 2354-56
Dated: 06.10.2020

ORDER.

1. **Whereas**, petitioner/ appellant Kamin Bacha was appointed in Bajaur Khasadars on 25.04.1996, promoted as Subedar on 26.01.2012 and is due for retirement on 25.01.2017 on completion of 5 years' rank tenure as Subedar under Service Rules for Khasadars in FATA (Amended) 2011. The petitioner/ appellant filed Writ Petition No.216-P/2017 before the hon'ble Peshawar High Court.
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 it in accordance with the law.
3. **And whereas**, the petitioner/ appellant was afforded opportunity of personal hearing on 26.08.2020.
4. **And whereas**, in light of rule-13(2)"a" of the Khyber Pakhtunkhwa Khasadars Force Act, 2019 all Khasadars personnel will be governed under the Service Rules for Khassadars in FATA (Amendment) issued vide No. CS(F)/N/4-Khassadars/1039-40 dated 09.08.2011 till their absorption in Khyber Pakhtunkhwa Police.
5. **And whereas**, Section-7(ii)(iii) of Service Rules for Khasadars (Amended) 2011 provides that subedar Shall be retired on attaining age of 55 years' or completion of 30 years' service or on completion of rank tenure of 5 years, whichever is earlier.
6. **And whereas**, per ibid rules, the petitioner/ appellant has completed rank tenure of 5 years as Subedar and is due for retirement w.e.f 25.01.2017.
7. **Now**, therefore, in view of the rules position as 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)


TESTED TO BE
TRUE COPY

A

41,179.00 41,179.00

D.O.B LFP Quota:

01.05.1977 HABIB BANK LIMITED-TIMERGARA, DIR.

26 Year 26 Years 09 Months 001 Days 7900965903

Bajaur at Khar

S#:17 S#:18 P Sec:001 Month:January 2020
 BJA025 -Sub Inspector Bajaur (Khas)
 Pers #:0 Pers #: 00460556 Buckle: 3386 SUB INSPECTOR BAJAUR (KHA)
 Name: I Name: KAMIN BACHA NTN:
 SUB SUB INSPECTOR GPF #:
 CNIC No. CNIC No.2110732596947 Old #:
 GPF Inter: GPF Interest Free
 14 A 14 Active Temporary BJA025 -002

PAYS AND ALLOWANCES:

0001-Ba	2148-15% Adhoc Relief All-2013	633.00
1000-Ho	2168-Fixed Daily Allowance	4,900.00
1210-Co	2199-Adhoc Relief Allow @10%	423.00
1300-Me	2211-Adhoc Relief All 2016 10%	1,405.00
1547-Rat	2224-Adhoc Relief All 2017 10%	1,986.00
1646-Co	2247-Adhoc Relief All 2018 10%	1,986.00
1901-Ris	2264-Adhoc Relief All 2019 10%	1,986.00
1923-UAA	OTHER 20%(1-15)	1,000.00
1933-Special	Risk Allowance	4,500.00

8
 TESTED TO BE
 TRUE COPY

بعدالت

Month
Before Service Tribunal
kpk

Appellants 2 جناب

Govt of

بنام Kamn baeha

موزع
مقدمہ
دعویٰ
پر

باعث تحریر آنگہ

مقدمہ مندرجہ عنہ بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آج کے مقام پر محمد اسحاق خان اٹو کنیل کیلئے محمد سعید اللہ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راجح نامہ کر کے و تقرر حالت ہ فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور
بلا ضرورت ذکر کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل گمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساتھ
و اخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانبہ 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 پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھنا یا کہ سند ہے۔

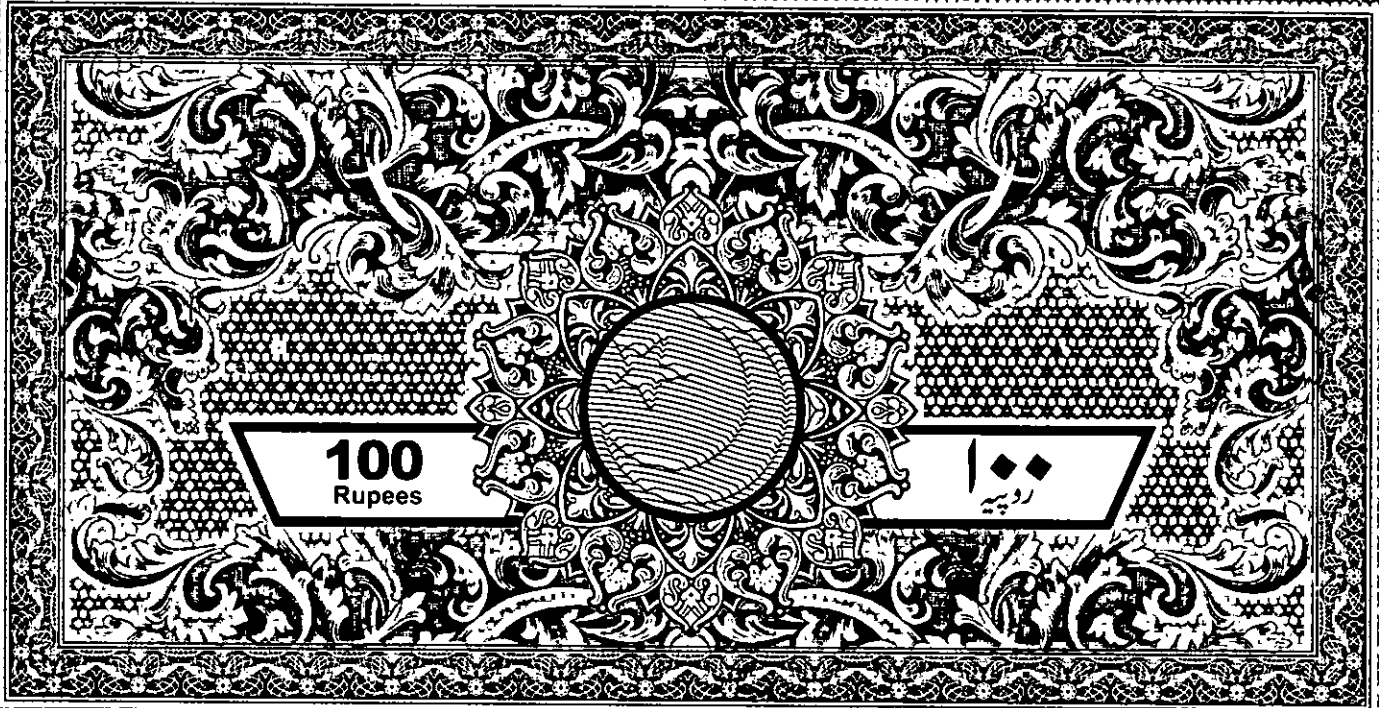
دینا ہوا صلہ ہوا دریاں

المرتوم 12 ماہ 20 20

واہ العی

Attested & Accepted
[Signature]

Reshmaul
[Signature]
Adv. smjeeb



بعدالت جناب سروس ٹریبونل خیبر پختونخواہ پشاور

﴿مختیار نامہ خاص بابت پیروی مقدمہ﴾

بعنوان:- کمین باچا بنام گورنمنٹ آف خیبر پختونخواہ وغیرہ

شمارہ ۵

شمارہ عالمی ساکن چیئرمین، تحصیل ماموند، ضلع باجوڑ

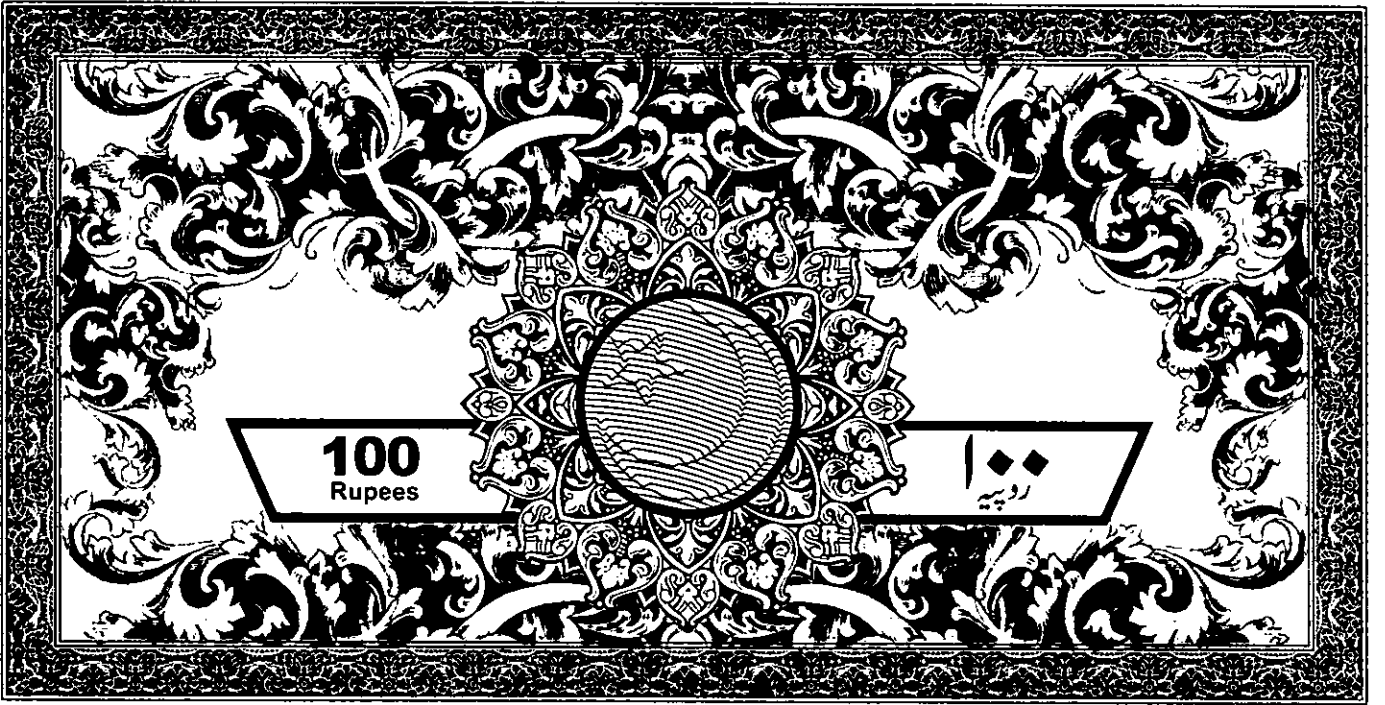
شناختی کارڈ نمبر 9-2166469-21104

شمارہ ۵

شمارہ عالمی ساکن چیئرمین، تحصیل تانک، ضلع باجوڑ

شناختی کارڈ نمبر 5-1715723-21107

منکہ مسمی کمین باچا ولد بہادر خان ساکن گاؤں مانو ڈھیری، تحصیل اتمانخیل ضلع باجوڑ اقرار کر کے لکھ دیتا ہوں کہ میرا ایک مقدمہ بعنوان بالا بعدالت حضور جناب سروس ٹریبونل پشاور دائر کرنا چاہتا ہوں جسکے لئے ہم اصالتاً حاضر نہیں ہو سکتا، لہذا اپنی جانب سے مسمی محمد جان ولد بخت پور جان ساکن علی جان ڈاکخانہ خار، تحصیل خار، ضلع باجوڑ کو اپنی طرف سے مختیار خاص مقرر کر کے اختیار دیتا ہوں کہ مختیار موصوف من اختیار دہندہ مذکورہ کی جانب سے من مقرر کی غیر موجودگی میں مقدمہ بعنوان بالا میں جملہ کاروائی از عدالت حضور/ٹریبونل تا اپیلٹ کورٹ و رویشل کورٹ اور عدالت عالیہ سے لے کر عدالت عظمیٰ سپریم کورٹ آف پاکستان تک بذات خود و بہ دستخط خود سرانجام دیوے، درخواست گزارے، نقولات مقدمات حاصل کرے، تائید و تردید و تصدیق کرے، درخواست/دعویٰ دائر کرے، جواب درخواست/دعویٰ و اقبال دعویٰ وغیرہ پیش کرے، ثالث مقررے کرے، راضی نامہ کرے، راضی نامہ پیش کرے، گواہان پیش کرے، بطور گواہ من مقرر پیش ہو کر شہادت دیوے، اپیل کرے، یا اجازت اپیل یا رٹ پٹیشن دائر کرے، نگرانی کرے، نظر ثانی کرے، وکیل یا ایگزیکٹو مقرر کرے، غرض یہ کہ جن جگہوں پر من مقرر ذات و دستخطوں کی ضرورت پڑے مختیار خاص موصوف کو جملہ ساختہ و پرواختہ



مثل کردہ کہ ذات و خاص کے من مقرر قبول و منظور ہونگے۔ لہذا مختیار نامہ خاص روبروئے گواہان حاشیہ
سنداً تحریر شد۔

المرقوم:- 12.10.2020

العبد کیمین باجوہ

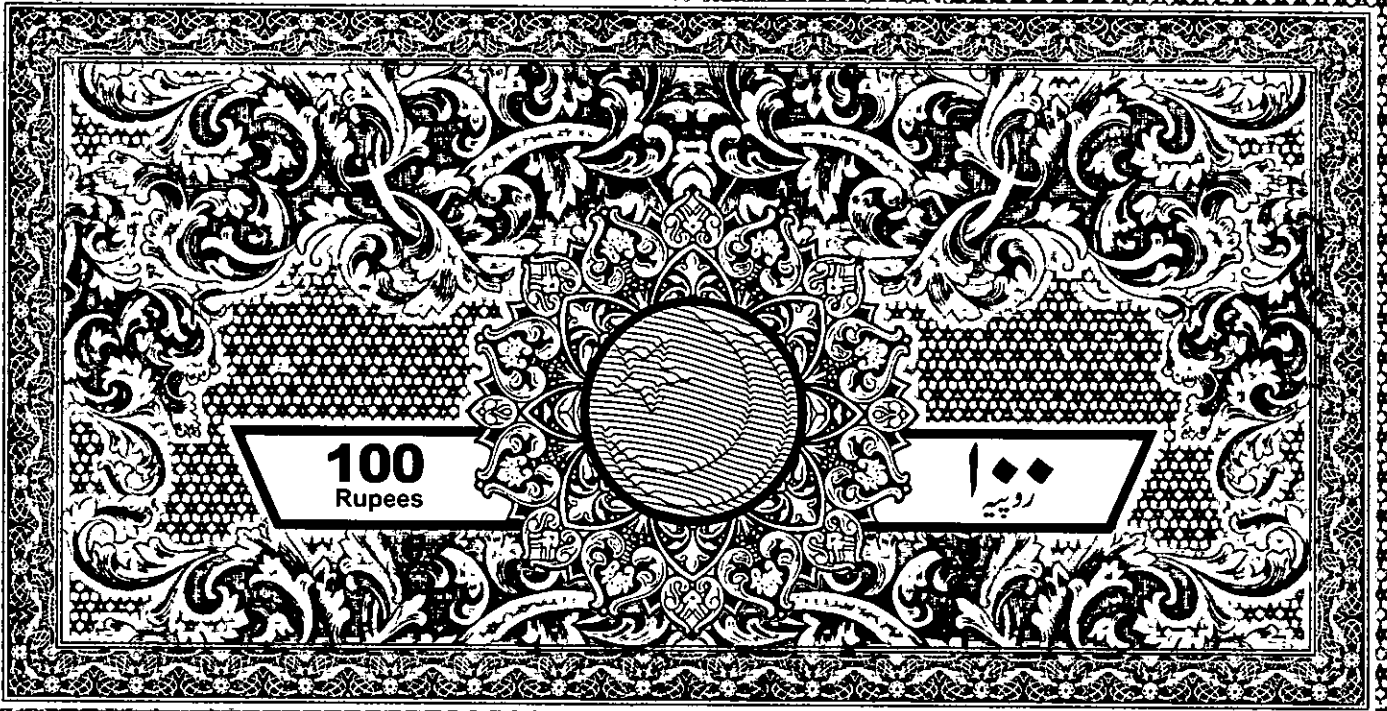
کیمین باجوہ ولد بہادر خان۔۔۔۔۔ (مختیار و ہندہ)

شناختی کارڈ نمبر:- 21107-3259694-7

العبد محمد جان

محمد جان ولد بخت پور جان۔۔۔۔۔ (مختیار گر ہندہ)

شناختی کارڈ نمبر:- 21103-2301661-3



بعدالت جناب سروس ٹریبونل خیبر پختونخواہ پشاور
 ﴿مختیار نامہ خاص بابت پیروی مقدمہ﴾

بعنوان:- کمین باچا نام گورنمنٹ آف خیبر پختونخواہ وغیرہ

برائے شمولیت