

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.

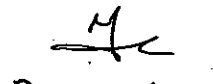
09.06.2022

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


Reader

8-8-2022


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



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 Tent case to come up?

For the same on Dated 12-1-22

&
Reader

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)

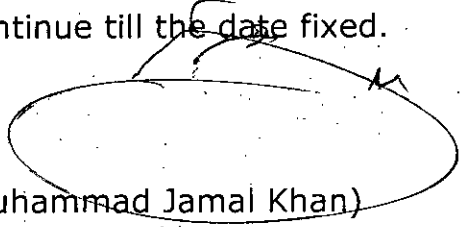


Chairman

22.02.2021

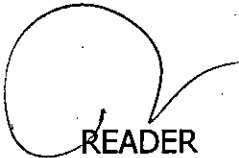
Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sajjad Ahmad, Legal Clerk, for the respondents are also present.

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.

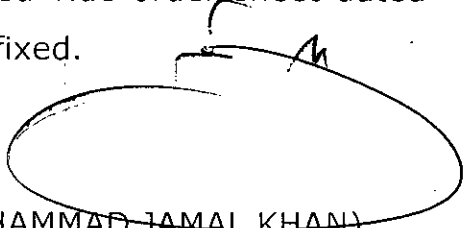
Respondents have furnished reply/comments. The appeal is entrusted to D.B for arguments on 30.11.2021. The restraint order dated 15.10.2020 shall remain operative till the date fixed.


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.

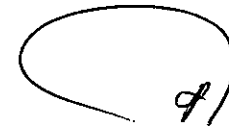

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

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.

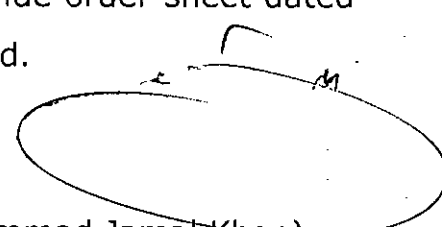
Appellant Deposited
Security & Process Fee


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.- 11923 /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>
2-	14-10-2020	<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>

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Aman Ullah

Versus

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

INDEX OF DOCUMENT

S. No	Description of Documents	Annexure	Page No.
1.	Memo of Service of Appeal		1-6
2.	Application for interim Relief		7
3.	Affidavit & Addresses of Parties		8-9
4.	Copy of promotion notification	A	10-11
5.	Copy of the Khyber Pakhtunkhwa Levies Force (transition) Ordinance, 2019	B	12-16
6.	Copies of CM directive dated 04-04-2019 and office order of Respondent No.2	C & D	17-18
7.	Copy of office order dated 29-05-2019 of Respondent No 2	E	19
8.	Copies of the appointment order dated 02/05/2019 and salary slip	F & G	20-21
9.	Copy of grounds of Writ Petition	H	22-30
10.	Copy of Khyber Pakhtunkhwa Levies Force Act, 2019	I	31-35
11.	Copy of the Levies Force (Absorption in Khyber Pakhtunkhwa Police) Rules, 2019	J	36-40
12.	Copy of Order and Judgment dated 06/2/2020	K	41-42
13.	Copy of Absorption notification	L	43-46
14.	Copy of Notification dated 14/07/2020	M	47
15.	Copy of impugned order dated 6/10/2020	N	48
16.	Power of Attorney & Waklatnama		49-52

آمان اﻟﻠﻪ

Appellant

Through

M. Ashfaq Khan Akhunkhail
&

Mujeeb Ullah Khan
Advocates,

Khalid & Law Associates

46-C, 2nd Floor Cantonment Plaza,
Peshawar Cantt

Email: Ashfaqkhan182@gmail.com

Cell No.0333-8522332

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Aman Ullah S/O Bacha Khan
SHO Police Station Nawagi, District Bbajaur, merged Tribal District
Bajaur Erstwhile FATA
.....Appellant

Versus

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

..... Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER DATED 06/10/2020 WHEREBY
DEPARTMENTAL APPEAL BEARING NO. CS(F)/L&K/4-
LEVY/APPEAL/2342-44OF THE APPELLANT HAS BEEN
DISMISSED

PRAYER

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 28/05/2019 against the settled norms and rules, the Appellant compelled to invoke the jurisdiction of this Hon'ble Tribunal because Appellant has no other remedy available except to file the instant appeal

BRIEF FACTS OF THE CASE

1. That the addresses of the parties has correctly been given in the heading of the appeal, which is sufficient for service of summons and notice or any other process that might be required by this Hon'ble Court from time to time
2. That Appellant has been appointed as Sepoy in Bajaur Levis erstwhile FATA Agency on regular basis with effect from 29/05/1984.
3. That the Appellant is performing his duty honestly, diligently, devotedly and the entire satisfaction of his superiors since inception of service. Above all the Appellant has unblemished service record.
4. That Appellant was promoted to the rank of Subidar Major vide office order dated 28/08/2014.

Copies of Notification are annexed as annexure A

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

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

7. That the Worthy Chief Minister, Khyber Pakhtunkhwa vide directive no. SO-VI/CMS/2019/2987-89 dated 04-04-2019 desired to merge all the Levis 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 C & D)**

3

8. That the Respondent No.2 (IGP) has re designated the ranks including the post held by the Appellant as Sub-Inspector (BPS-14) 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 E)
9. That on 02/05/2019, Respondent No. 4 (DPO Bajaur) on the recommendation Respondent No. 3 (Sub Divisional Police Officer) appointed the Appellant as SHO police station Nawagai, District Bajaur in the best interest of the Police Department. It is worth to mention here that the Appellant being member of the Police Force is drawing the salaries from the provincial Government. **Copies of the appointment order dated 02/05/2019 and salary slip are annexed as annexure F & G**
10. That inspite of crystal clear legal position couples with directives of the Worthy Chief Minister, the Respondents due to malafide intention and discriminatory treatment were going to compulsory/pre-mature retirement of the Appellant on 16/07/2019 under the Federal Levies Force Service Rules, which has been repealed by the Khyber Pakhtunkhwa Levies Force (Transition) Ordinance, 2019. Hence, the Appellant filed writ petition no. 4057/2019 before the Hon'ble Peshawar High Court, Peshawar and the same was clubbed with other connected writ petitions.
(Copy of Writ Petition is annexed as annexure H)
11. That during pendency of the aforementioned Writ Petition of the Appellant, the Khyber Pakhtunkhwa Provincial Assembly passed a bill which was approved and published in official gazette on 16-09-2019 as Act of the provincial legislature of the Khyber Pakhtunkhwa.
(Copy of Khyber Pakhtunkhwa Levies Force Act, 2019 is annexed as annexure I)
12. That thereafter the Government of Khyber Pakhtunkhwa was pleased to frame Rule for the Levies Force **"the Levies Force (Absorption in Khyber Pakhtunkhwa Police) Rules, 2019"** and the same was notified on 24th September, 2020.
(Copy of the Rules dated 24-09-2019 is annexed as j)

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

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

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

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

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

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

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

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

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

GROUND OF APPEAL:

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

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

(6)

- J. That the Appellant has been absorbed in the Khyber Pakhtunkhwa police from the very promulgation of the aforementioned Transition Ordinance, 2019 and even the competent authority
- K. That competent authority has re designated the ranks including the post held by the Appellant as Sub-Inspector vide office order dated 29-05-2019 couple with office order dated 02/5/2019, 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

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BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

CM No. /2020

In

Service Appeal No. /2020

Aman Ullah

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.

Through Appellant

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



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Aman Ullah

Versus

Government of Khyber Pakhtunkhwa & Others

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

AFFIDAVIT

I, Aman Ullah S/O Bacha Khan, SHO Police Station Nawagi, District Bbajaur, merged Tribal District Bajaur Erstwhile FATA, do hereby solemnly affirm and declare on oath that the contents of accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

آمان ullah

Deponent

Identified By

M. Ashfaq Khan Akhunkhail

Advocate,

High Court, Peshawar

9

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No...../2020

Aman Ullah

Versus

Government of Khyber Pakhtunkhwa & Others

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

ADDRESSES OF PARTIES

Petitioners:

Aman Ullah S/O Bacha Khan
SHO Police Station Nawagi, District Bbajaur, merged Tribal District
Bajaur Erstwhile FATA

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

امان ullah
Appellant

Through

M. Ashfaq Khan Akhunkhail

&

Mujeeb Ullah Khan

Advocates,

High Court, Peshawar

Annexure

(A)

(10)

OFFICE OF THE POLITICAL AGENT/ COMMANDANT BAJAUR LEVIES.

No. 774 /BL

Dated Khar the 30 /08/2014

OFFICE ORDER.

Consequent upon the recommendations of the Departmental Promotion Committee in its meeting held on 30-06-2014, the following personnel of Bajaur Levies are hereby promoted to the rank as noted against their names:-

S.No.	Names & Designation	From	To
1.	N/Subedar Arzamin Regt:No.2248	N/Subedar	Subedar
2.	N/Subedar Gultan Regt:No.2249	N/Subedar	Subedar
3.	N/Subedar Badshah Khan Regt:No.2279	N/Subedar	Subedar
4.	N/Subedar Abdullah Jan Regt:No.2283	N/Subedar	Subedar
5.	N/Subedar Izzat Khan Regt:No.2287	N/Subedar	Subedar
6.	N/Subedar Nazir Jan Regt:No.2296	N/Subedar	Subedar
7.	N/Subedar Lal Zamin Regt:No.2329	N/Subedar	Subedar
8. ✓	N/Subedar Amanullah Regt:No.2430	N/Subedar	Subedar
9. ✓	N/Subedar Munir Zada Regt:No.2436	N/Subedar	Subedar
10.	N/Subedar Mohammad Jan Regt:No.2439	N/Subedar	Subedar
11.	Havildar Zarshad Regt:No.2714	Havildar	N/Subedar
12.	Havildar Sherazuddin Regt:No.2732	Havildar	N/Subedar
13.	Havildar Sultan Zeb Regt:No.2736	Havildar	N/Subedar
14.	Havildar Ibrahim Regt:No.2785	Havildar	N/Subedar
15.	Havildar Zarif Regt:No.2792	Havildar	N/Subedar
16.	Havildar Jan Mohammad Regt:No.2808	Havildar	N/Subedar
17.	Havildar Hamidullah Regt:No.2815	Havildar	N/Subedar
18.	Havildar Fazli Rahman Regt:No.2839	Havildar	N/Subedar
19.	Havildar Khan Zada Regt:No.2875	Havildar	N/Subedar
20.	Havildar Bacha Rahman Regt:No.2973	Havildar	N/Subedar
21.	Havildar Mohib Regt:No.2988	Havildar	N/Subedar

17

22.	Havaldar Anwar Hakeem Regt:No.2994	Havildar	N/Subedar
23.	Havaldar Abdul Jabbar Regt: No.2999	Havildar	N/Subedar
24.	Havaldar Masoom Regt:No.3000	Havildar	N/Subedar
25.	Havaldar Bacha Khan Regt:No.3013	Havildar	N/Subedar
26.	Havaldar Niaz Rahman Regt:No.3019	Havildar	N/Subedar
27.	Havaldar Tawas Khan Regt:No.3029	Havildar	N/Subedar
28.	Havaldar Mohammad Hayan Regt:No.3031	Havildar	N/Subedar
29.	Havaldar Taza Khan Regt:No.3033	Havildar	N/Subedar
30.	Havaldar Noor Mohammad Regt: No.3043	Havildar	N/Subedar

The committee also regularized/ confirmed the service of the following N/Subedars on acting charge basis as they have completed the prescribed length of one year service as Havaldar.

1. N/Subedar Hayat Khan Regt:No.2651.
2. N/Subedar Bakhmunir Regt:No.2655
3. N/Subedar Sultan Zeb Regt:No.2659
4. N/Subedar Mohammad Dostan Regt:No.2660
5. N/Subedar Abdul Aziz Regt:No.2689
6. N/Subedar Mumber Khan Regt:No.2690
7. N/Subedar Khan Zada Regt:No.2700
8. N/Subedar Qabil Shah Regt:No.2710
9. N/Subedar Sohail Regt:No.2731

No. 795-801 /BL.

POLITICAL AGENT/COMMANDANT,
BAJAUR LEVIES.

Copy forwarded to:-

1. Section Officer Narcotics Law & Order Department FATA Secretariat, Peshawar.
2. The Assistant Political Agent, Khar.
3. The Superintendent PA's Office, Bajaur.
4. The Subedar Major, Bajaur Levies.
5. Agency Accounts Officer Bajaur, at Khar
6. Nazar Bajaur Levies.
7. Officials concerned.

For information and necessary action.

POLITICAL AGENT/COMMANDANT,
BAJAUR LEVIES.

12

ORDINANCE

provision for the maintenance of Khyber Pakhtunkhwa Levies Force and its transition to Khyber Pakhtunkhwa Police

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

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

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

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

NOW THEREFORE, it is hereby enacted as follows:

I. Short Title, Extent and Commencement

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

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

(3) It shall come into force at once.

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ORDINANCE

*Provide for the maintenance of Khyber Pakhtunkhwa Levies force and to enable its
Transition to Khyber Pakhtunkhwa Police*

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

Whereas upon the merger of the federally administered tribal areas with the province of Khyber Pakhtunkhwa through the 25th constitutional amendment, it is necessary to bring the federal levies force governed by the Federal Levies force regulation, 2012 under the control of the government of Khyber Pakhtunkhwa and to rename it as the Khyber Pakhtunkhwa levies force;

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

AND WHEREAS it is necessary to provide legal cover to the transition of the Khyber levies force in line with the current law and order and security imperatives in the area of its jurisdiction.

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

NOW THEREFORE, it is hereby enacted as follows:

1. Short title, extent and commencement

(1) This Ordinance may be called the Khyber Pakhtunkhwa levies force Transition Ordinance, 2019.

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

(3) It shall come into force at once.

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Definitions

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

- (a) "Ordinance" means the Khyber Pakhtunkhwa Levies Force (Amendment) Ordinance, 2019;
- (b) "Code" means the Code of Criminal Procedure, 1973 of Khyber Pakhtunkhwa;
- (c) "Commandant" means Commandant of the Khyber Pakhtunkhwa Levies Force;
- (d) "Department" means the Home & Tribal Affairs Department of the Government of Khyber Pakhtunkhwa;
- (e) "District Police Officer" means the head of police of a District as defined under section 21 of the Khyber Pakhtunkhwa Police Ordinance, 2017;
- (f) "Director General" means the Director General of the Khyber Pakhtunkhwa Levies Force;
- (g) "Force" means the Khyber Pakhtunkhwa Levies Force;
- (h) "Government" means the Government of Khyber Pakhtunkhwa;
- (i) "Provincial Police Officer" means the Provincial Police Officer of Khyber Pakhtunkhwa Police;
- (j) "Police" means the Khyber Pakhtunkhwa Police;
- (k) "Public Agency" means any department or attached department of the Government, public authority, commissioner or autonomous body set up under any legislative instrument, or public sector company or body corporate, owned, controlled or financed by the Government;
- (l) "Prescribed" means prescribed under the Rules under this Ordinance;
- (m) "Rules" means rules framed under this Ordinance;
- (n) Regional Police Officer means the head of police in a region constituted under section 14 (1) of the Khyber Pakhtunkhwa Police Act, 2017.

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

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Definitions

In this Ordinance unless there is anything repugnant in this subject to

- a) "Ordinance" means the Khyber Pakhtunkhwa levies force Transition Ordinance, 2019.
- b) "Code" means the code of criminal procedure, 1898 Ordinance 1899.
- c) "Commandant" means commandant of the Khyber pakhtunkhwa Force.
- d) "Department" means the Home & Tribal Affairs department of the government of Khyber Pakhtunkhwa.
- ✓ e) "District Police Officer" means the head of police of a district under section 21 of the Khyber Pakhtunkhwa Police Ordinance, 2017
- ✓ f) "District Police Officer" means the Director General of the Khyber Pakhtunkhwa Levies force;
- g) "Force" Means the Khyber Pakhtunkhwa Levies Force.
- ✓ h) "Government" means the government of Khyber Pakhtunkhwa.
- ✓ i) "Provincial Police Officer" Means the provincial Police Officer of Khyber Pakhtunkhwa Police;
- ✓ j) "Police" Means the Khyber pakhtunkhwa Police;
- k) "Public Agency" means any department or attached department of the government, public authority, commission or autonomous body set up under any legislative instrument or public sector company or body, corporate, owned controlled or financed by the government.
- l) "Prescribed" means prescribed under the rules under this Ordinance.
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3. Power to maintain Khyber Pakhtunkhwa Levies force.

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

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Constitution of the Force.

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

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

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

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

5. Appointments / Recruitments in the Force

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

6. Superintendence and Administration of the Force

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

7. Duties and Functions of the Force

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

8. Powers of the Force

Notwithstanding anything contained in any other law for the time being in force, the Force shall have all the powers conferred on Police by the Code of Criminal Procedure, 1998 as

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4. Constitution of the force.

The force shall consist of a Director General and Deputy General to be appointed by the government in consultation with the provincial police officer of Khyber Pakhtunkhwa Police, and such number of other officers/officials as may be prescribed including but not limited to the commandant;

Provided that the director general, DDGs and the commandant shall be officers of the Khyber Pakhtunkhwa Police;

Provided further that the District Police officer shall be assigned the additional charge of the position of the commandant levies force in the same district;

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

5. Appointments/recruitments in the force.

Recruitments/appointments in the service shall be made subject to the rules as prescribed by the government.

6. Superintendence and administration of the force

- 1. the superintendence over the force shall vest in the government
- 2. The supervision and administration of the force shall vest in the director general.
- 3. The operational control of the force shall vest in the commandant.

7. Duties and functions of the force.

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

8. Powers of the force.

Notwithstanding anything contained in any other law for the time being in force, the force shall have all the powers conferred on police by the code of criminal procedure, 1898 as

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

9. Liabilities of officers and members of the Force

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

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

10. Constitution of Selection and Promotion Committees

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

11. Postings, Transfers and Distribution of the Force

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

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

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

12. Absorption

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

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

13. Assistance and Support to Government Functionaries

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

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

- 9. Liabilities of officers and members of the force.
 - (1) it shall be the duty of every officer and member of the force to promptly obey and execute all lawful orders and instructions issued to him by the commandant or any other officer authorized by him in this behalf to issue such orders and instructions.
 - (2) The force shall be an essential service and every member of the force shall be liable to serve whenever he is required to serve by the director general.

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 The government shall notify selection and promotion committees for recruitment and promotion of employees of the force.

- 11. Postings, transfers and distribution of the force
 - 1. The commandant shall be competent to post and transfer members of the force within the district.
 - 2. The Director general shall be competent to post and transfer members of the force from one district to another in the province.
 - 3. The DDG shall be competent to post and transfer members of the force from one district to another within the region.

bp ✓

12. Absorption
 Notwithstanding anything contained in any other law for the time being in force, the force may be absorbed in Khyber Pakhtunkhwa police subject to the procedure as prescribed.
 Until their absorption in the Khyber Pakhtunkhwa police, the members of the force shall be governed by their existing terms and conditions of service under the federal services force (Service) Rules, 2012.

13. Assistance and support to government functionaries.
 The commandant shall provide assistance and support to the district administration and heads of all public agencies in the district, required for performing their official duties.

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14. Power to make Rules

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

15. Ordinance to override other laws

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

16. Indemnity

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

17. Removal of Difficulties

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

18. Repeal

The Federal Levies Force Regulation, 2012 is hereby repealed.

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Annexure

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CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA.

No.SO-VI/CMS/2019
Dated Peshawar the. 04-04-2019

To: The Chief Secretary,
Govt of Khyber Pakhtunkhwa.

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

Dear Sir,

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

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

Yours faithfully,

sd

Section Officer-VI

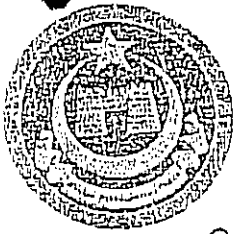
Copy forwarded for information:-

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.

ATTESTED
ATTESTED

sd

Section Officer-VI



Annexure D (18)
OFFICE OF THE INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA,
CENTRAL POLICE OFFICE, PESHAWAR

dated 9/04/2019

No. 51 IPAL/IG/E

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


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

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

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

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

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


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

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

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NOTIFICATION

DIRECTOR GENERAL OF POLICE
CENTRAL POLICE OFFICE
KHYBER PAKHTUNKHWA
PESHAWAR

Dated Peshawar the 29/05/2019

The Officer, Khyber Pakhtunkhwa is pleased to
and Khushdar Forces for the purpose of their
Police with immediate effect:

- 1. Head Constable (DPS-07)
- 1. Constable A-1 (DPS-07)
- 1. Constable B-1 (DPS-07)
- 1. Head Constable (DPS-09)
- 1. Assistant Sub Inspector (DPS-11)
- 1. Sub Inspector (DPS-14)
- 1. Inspector (DPS-16)

Sd/-
MULHAMMAD NAEEM KHAN D. P.S.I
Inspector General of Police
Khyber Pakhtunkhwa
Peshawar

ASAD TOBAK OCHISI
M.C.Z. Establishment
Inspector General of Police
Khyber Pakhtunkhwa, Peshawar

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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 injuction/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.	Hawaladar	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.

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



Annexure

F

(20)

OFFICE OF THE
DISTRICT POLICE OFFICER,
BAJAUR AT KHAR.

No. 254-99 PA/EB dated 2/05/2019

OFFICE ORDER:-

The following officials of this District Police will look-after the Police Stations as SHOs, till further orders.

S#	Name	Father Name	Designation	Police Station
1.	Munir Zada	Gul Amin	SHO	Khar
2✓	Amah Ullah No.	Bacha Khan	SHO	Navagai

District Police Officer,
Bajaur at Khar.

Copy forwarded to the:-

1. Regional Police Officer, Malakand at Saidu Sharif Swat.
2. PSO to Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. P.A to Deputy Inspector General of Police Operations, Khyber Pakhtunkhwa.
4. P.A to Deputy Inspector General of Police CTD, Khyber Pakhtunkhwa.
5. P.A to Deputy Inspector General of Police Special Branch, Khyber Pakhtunkhwa, Peshawar.
6. Official Concerned for compliance.

District Police Officer,
Bajaur at Khar.

HEB
for w/a

Ku
05/5/2019

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Annexure 3:G (21)

IT Payabl IT Payable 5,477.85 Deducted 5,949.00
GPF Bala GPF Balance 180,880.00 Subrc:
3501-Benevolent Fund 800.00

Total D Total Deductions 6,713.00

63,678.00 63,678.00

D.O.B LFP Quota:

01.07.1964 HABIB BANK LIMITED KHAR, BAJAUR AGENCY.

37 Year 37 Years 06 Months 014 Days 79010619

Bajaur at Khar

S#:7 S#:8 P.Sec:001 Month:January 2020

BJ4024 -Inspector Bajaur (Levies)

Pers #: 0 Pers #: 00464686 Buckle: 2430 INSPECTOR BAJAUR (LEVIES)

Name: / Name: AMAN ULLAH NTN:

SUB SUB INSPECTOR GPF #: IV/PA/CSS/1298

CNIC No. CNIC No.1198910828400 Old #:

GPF Intel GPF Interest Applied

14 A 14 Active Temporary

BJ4024

1933-Special Risk Allowance 4,500.00

Gross P Gross Pay and Allowances 65,673.00

PAYS ANI PAYS AND ALLOWANCES:

0001-Ba: 2148-15% Adhoc Relief All-2013 423.00

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% 2,249.00

DEDUCTI DEDUCTIONS:

IT Payabl IT Payable 4,133.75 Deducted 4,096.00

GPF Bala GPF Balance 149,993.00 Subrc:

3501-Benevolent Fund 600.00

BEFORE THE PESHAWAR HIGH COURT PESHAWARWrit Petition No. 4057 P / 2019

Munir Zada SHO and another

VERSUS

The Government of Khyber Pakhtunkhwa, through its Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar and 05 others

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

Sr.No.	Description Of Documents	Date	Annex	Pages
1.	Opening sheet.	-	-	-
2.	Urgent form	-	-	-
3.	Writ Petition.	-	-	-
4.	Affidavit	-	-	-
5.	Addressed of parties	-	-	-
6.	Stay orders of this court	15-07-2019 24-01-2017	A & A1	-
7.	PHC judgment	30-06-2015	B	-
8.	Livies Service Rule, 2016	4-10-2016	C	-
9.	Office order as SHO	02-05-2019	D	-
10.	Khyber Pakhtunkhwa Transition Ordinance 2019	-	E	-
11.	Office order in respect of Re-designation	29-05-2019	F	-
12.	office order	09-04-2019	G	-
13.	Notice to Respondents	-	-	-
14.	Court Fee Stamps	-	-	-
15.	Vakalatnama	-	-	-

Through:-
Dated: 17/07/2019**MISBAH ULLAH KHAN**

Advocate Supreme Court

Office No.3, 2nd Floor

Ginza Center

Blue Area, Islamabad

0333-5426971

Email address: advmsisbahkhan@gmail.com**AMAAD NASIR KUNDI**

Advocate High Court, Islamabad

Cell No: 0346-7865039

Email address: amaadkundi786@gmail.com

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BEFORE THE HONOURABLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. _____ P/2019

1. Munir Zada S/o Gul Amin, SHO of Police Station Khar, at District Bajuar merged Tribal District erstwhile FATA.
2. Aman Ullah S/o Bacha Khan, SHO of Police Station Nawagai at District Bajuar, merged Tribal District Bajuar erstwhile FATA.

... *Petitioners*

V E R S U S

1. The Government of Khyber Pakhtunkhwa, through its Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar.
2. The Inspector General of Police, (IGP) Peshawar. KPK.
3. The Deputy Inspector General of Police (DIG), Saidu Sharif District Swat.
4. The Government of Khyber Pakhtunkhwa, through its Chief Secretary, Civil Secretariat, Peshawar.
5. The District Police Officer (DPO) merged Tribal District Bajuar erstwhile FATA Agency at Khar.
6. The Deputy Commissioner (DC) of merged Tribal District, Bajuar.

..... *Respondents*

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

Respectfully Sheweth: -

Having been aggrieved by the verbal order of respondent in respect of the forcible / premature retirement on 17-07-2019 on completion of tenure rank service i-e 35 years under the Federal Levies Rules, 2016 which has been repealed by the KPK Levies Force Transition Ordinance, 2019 but they are still serving as SHO

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and no such pre-mature/compulsory retirement office order has been issued, thus, the petitioners are in apprehension of such unavoidable catastrophe. The said act of the respondents is 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

NOTE: The instant matter relates with the WP No. 3563-P/2019 titled as Sattar and another Vs. Government of KPK and WP No. 216-P/2017 titled Kamin Bacha Vs Secretary SAFRON as common question of law has been involved wherein this Honorable Court has granted status quo and restrained the respondents from taking any adverse action against the petitioner vide court order dated 15-07-2019 & 24-01-2017 are enclosed as (ANNEX-A & A1).

1. Crux of the matter in hand is that the petitioner No.1 has been appointed as Sepoy in Bajaur Levy erstwhile FATA Agency on regular basis w.e.f. 17-07-1984 whereas petitioner No. 02 was appointed on 29-05-1984 and lastly both the petitioners were promoted to the post of Subedar w.e.f. 28-08-2014. The petitioner No. 2 has also been enjoying the same service like petitioner No.2. Since his inception in the service he has been performing his duties honestly, diligently, devotedly and to the entire satisfaction of his superiors and his service record has all along been neat and clean.
2. That under the service rules for Levy 2013 Subedar shall be retired on attaining the age of 60 years OR on completion of 35 years of service and later on the said rules was amended in the year of 2016 and under the new rule Subedar shall be retired on attaining the age of 60 years OR on completion of 35 years of service OR on completion of tenure of 5 years as Subedar. 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 Naib Subedar and Subedar should be retired they can be promoted, but the respondents are adamant to retire the petitioner in sheer violation of the dictum laid down by this Honourable Court vide judgment dated 30-06-2015 passed in WP No. 1251-P/2015 (Annex-B) whereas copy of

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the Service Rule is (Annex-C). Relevant table is reproduced as under:-

S.No.	Post/Rank	For	to be read as
1.	Subedar Major	37 years service or 60 years of age whichever is earlier.	37 years service or 03 years service as Subedar Major or 60 years of age whichever is earlier.
2.	Subedar BPS-13	35 years service or 60 years of age whichever is earlier.	35 years service or 05 years service as Subedar or 60 years of age which is earlier.
3.	Naib Subedar BPS-11	33 years of service or 60 years of age whichever is earlier.	33 years of service or 07 years service as Naib Subedar or 60 years of age whichever is earlier.

3. That the DPO Bajaur herein respondent has been issued office order No.254/-59 PA/EB dated 02-05-2019 (Annex-D) wherein the petitioners have been assigned the duties on look after basis against the post of SHO (BPS-14). It is pertinent to mention here that they are merged into Khyber Pakhtunkhwa Police by the transition ordinance 2019 mentioned below.
4. That the Levies Force has been merged into the Khyber Pakhtunkhwa Police by the "Khyber Pakhtunkhwa Ordinance of 2019" hereinafter called LEVIES FORCE TRANSITION ORDINANCE 2019 vide copy of Levies Force Ordinance is attached herewith as annexure "E". It is pertinent to mention here that the force are absorbed in the KPK, Police and for this reference section 12 of the said ordinance is very much obvious. It is further pertinent to mention here that the Levies Force Regulation, 2012 is hereby repealed as per section 18 of the said ordinance.
5. That IGP hereinafter called respondent No. 02 has re-designated the following ranks including the post held by the petitioners lastly as Subedar vide office order dated 29-05-2019 (Annex-F) which removes the analogy that they are the employees of KPK, Police and all the rules are applicable to them of KPK, Police.

R/S

6. That by the office order No.581/PA/AIG/E dated 09-04-2019 (A copy of office order attached as (Annex -G) issued by on the instruction of Inspector General of Police, KPK wherein all employees of Levies Force and Khasadar were absorbed in Khyber Pakhtunkhwa Police. Needless to observe that Hon'ble Chief Minister directive No.SO-V/CMS/2019/3987-89 dated 04-04-2019 wherein it has been desired to merge all the Levies and Khasadar Force of the merged areas into Khyber Pakhtunkhwa Police within six months but till now, no progress has been made out by the respondent department. In para No.3 of the said letter it has been stated that "*in working out vacancies (new posts) the principles / rules / laws governing absorption must be kept in mind with regard grant of equivalent ranks and pay (salary) protection*".
7. That the respondent due to malafide intention, and discriminatory treatment, are going to compulsory / premature retire the petitioners on 17-07-2019 under the Federal Levies Force Rules on completion of tenure rank i-e 35 years of service but still they are serving and no such pre-mature/compulsory retirement order has been issued but the petitioners are in apprehension of such inevitable situation. Needless to observe that the said levies rules had been repealed by the KPK Levies Force Transition Ordinance 2019 *ibid*. Suffice it to say, that petitioner no. 02 is also serving as SHO and he is verbally retired on 29-05-2019 on completion of tenure rank but no such pre-mature or compulsory retirement order has been passed.
8. That the respondents are bound to allow the petitioners to continue their service on attaining the age of superannuation i.e. 60 years of age under the law and rules. Recently, the Provincial Assembly of Government of KPK has enhanced upto 63 years of age instead of 60.

9. 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 S

- A. That the impugned act/verbal impugned order in respect of compulsory-premature retirement from service of the department is arbitrary, illegal, unlawful and void ab-initio having no legal effects against the rights of the petitioners;
- B. That the petitioners have a legitimate expectancy to continue their services, hence the impugned omission / act of the department is liable to be set aside in view of the doctrine of legitimate expectancy.
- C. That this Honourable Court has already granted the relief to the similar employees in its landmark judgment dated 30-06-2015 and 07-12-2016. Hence the petitioner is also entitled for same relief in view of Article 25 of the Constitution of Islamic Republic of Pakistan 1973. It is significant to mention here that in view of the judgments of the August Supreme Court of Pakistan reported in "1996 SCMR 1185" & "2002 SCMR 71 & 82", the petitioners are also legally entitled to the benefits of the judgment of this Honourable Court cited supra as once a question of law is decided by this Honourable Court, the benefit of the same may also be extended to the non litigants herein petitioners as well.
- D. That the petitioners have performed their duties as regular employee and no difference could be created amongst the employees who are performing their duties equally and with responsibilities. Therefore, the petitioners cannot be left at the mercy of the respondents without protecting their valuable rights.
- E. That the act of the respondent department is also violative to the Article 4 and 25 of the constitution of Islamic Republic of Pakistan, 1973 as the petitioners have been treated with discrimination. Moreover, the respondent is legally bound to remove discrimination and disparity while granting the benefits as some of the employees have been granted the similar benefit where as the petitioners have been ignored, hence the act of the respondent is also violative to Article 27,37 and 38 of the constitution of Islamic Republic of Pakistan, 1973.

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- F. That the impugned verbal order of petitioners' retirement from services, amounts to penalty of compulsory retirement from service which could not be imposed on the petitioner without a show cause notice and personal hearing.
- G. That the impugned act is violative to the principle of natural justice fair play equity and also a worst example of colourable exercise of authority.
- H. That the impugned act is against the fundamental rights guaranteed under the constitution of Islamic Republic of Pakistan 1973.
- I. That the impugned omission/ inaction/ delay on the part of respondents regarding retiring them from service amounts to depriving the petitioners of the means of livelihood (in shape of benefits attached to the higher post and higher status) without hearing them, which is against the Constitutional Obligation imposed on the State and its Agencies regarding promotion of social justice.
- J. That the petitioners are being denied the legitimate right to continue their services, which is an attempt to deprive the petitioner from their valuable legal right.
- K. That the petitioners have not been dealt with in accordance with law, which itself is violation of provisions of Article 4 of the Constitution of Islamic Republic of Pakistan. The expression "law" as employed in the said Article is positively of wider import, which also includes the duty of every public functionary to act in the given matter justly, fairly and in accordance with the principles of natural justice.
- L. That it is an axiomatic that the matters relating to terms and conditions of service should always be examined and decided objectively, rationally and without any prejudice so that fair, reasonable and judicious conclusions / decisions being free from any unfair inclination or bias could be emerged. Justice verily should not only be done but also seen to be done. In any case, the available facts and underlined references suffice to indicate that the impugned action of the respondents is at an absolute variance from the settled principles of law and justice and dictum laid down by this Honourable Court. The discretion is not being exercised fairly, justly and reasonably. Reference is made to the judgment of the august Supreme Court of Pakistan reported in "1995 SCMR 650".
- M. That the impugned acts and omission on part of the respective authorities are in express violation of section 24-A of the General

Clause Act, 1987, which provides that an authority vested with any power is bound to exercise the same justly, fairly, reasonably and for the advancement of the purpose being vested therein.

N. That the constitutional system of the Islamic Republic of Pakistan attaches far most importance in the administration of matters relating to the appointment and retirement. Refusal thereto is against all norms of service, justice, equity, good conscious and fair play. It negates the principle of legitimate expectancy, where a citizen has been deprived off from his vested right without any fault on his part. It is not only discriminatory but also against the Article 37 & 38 of the Constitution of the Islamic Republic of Pakistan, 1973, where it has been envisaged that the State is bound to promote social Justice and economic well being of the people. Particularly, under clause (e) of Article 35 it has been made obligatory to the state to reduce disparity in the income and earning of individuals including persons in various classes of the service of Pakistan by providing equal opportunities to all for their career advancement. The Government has ample power to act in aid to justice to remove iniquitous treatment meted out to the petitioners.

O. That the action of the respondents is a worst example of colorable exercise of powers by the authority and is also against the principle of natural justice, fair play and equity.

P. That the petitioners have no alternate, efficacious and speedy remedy available except the instant constitutional petition.

PRAYER

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

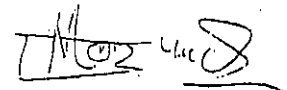
Any other relief, which this Honourable Tribunal deems fit and appropriate, may also be granted.

Interim Relief;


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

RG-

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Petitioners

Through:-


MISBAH ULLAH KHAN

Advocate Supreme Court
Office No.3, 2nd Floor
Ginza Center
Blue Area, Islamabad
0333-5426971

Email address: advmisbahkhan@gmail.com


AMAAD NASIR KUNDI

Advocate High Court, Islamabad

Cell No: 0346-7865039

Email address: amaadkundi786@gmail.com

List of Books

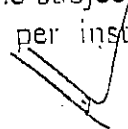
1. Constitution, 1973
2. Reference Books

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.


MISBAH ULLAH KHAN

Advocate Supreme Court

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 16th SEPTEMBER, 2019.

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 16th September, 2019.

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

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

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

AN
ACT

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

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

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

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

It is hereby enacted as follows:

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

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

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

(4) It shall come into force at once.

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

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

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

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

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

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

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

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

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

(i) "prescribed" means prescribed by rules;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SCHEDULE
[see section-1(3)]

Part-A

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

Part-B

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

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMJAD ALI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Annexure (I)

36

NOTIFICATION

Peshawar, dated the 24th September, 2019.

No. SO(Police-II)/HD/SM/17/2019:- In exercise of the powers conferred by section 14 of the Khyber Pakhtunkhwa Levies Force Act, 2019 (Khyber Pakhtunkhwa Act. No. XXXV of 2019), read with sub-section (1) of section 9 thereof, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

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

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

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

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

2. Definitions.--(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 Levies Force into the Police, in accordance with these rules;

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

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(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.

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

1

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

2

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

3

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

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

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

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

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

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

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

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

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

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

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

A

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

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

Encls No & date even:

Copy of the above is forwarded for information to the:

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

Section Officer (Police-II)

Ph: 091-9210503

Fax: 091-9210201

Annexure K

(41)


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. 4057-P/2019 with IR</u></p> <p><u>Present:</u> 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 style="text-align: center;">===</p> <p><u>WAOAR AHMAD SETH, CJ.-</u> 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 verbal impugned order dated 17.07.2019 regarding compulsory/premature retirement from service may graciously be set aside, quashed, declared illegal and without lawful authority and the respondents-department may kindly be directed to allow the petitioners in order to complete his 60 years statutory service to meet the ends of justice".</i></p> <p>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,</p>

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

3. Writ Petition stand disposed of accordingly.


Chief Justice


Judge

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

Annexure



L

NOTIFICATION

43

Peshawar dated the, 10/2/2020

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

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

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

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

(46)

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

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

Secretary
 Government of the Khyber Pakhtunkhwa
 Home and Tribal Affairs Department

No. & date even.

CC to:

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

Section Officer (Levies & Khasadar)



Annexure

(M)

(47)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME DEPARTMENT

NOTIFICATION

Dated Peshawar the 14/07/2020

No. SOX/Police-III/10-1-32 In exercise of the powers conferred by Section 9 of the Provincially Administered Tribal Areas Levies Force Regulation 2012, the Government of the Khyber Pakhtunkhwa is pleased to direct that in the Provincially Administered Tribal Areas (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 Personnel 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 Government's Secretariat, Khyber Pakhtunkhwa, Peshawar
2. Principal Secretary to Chief Minister's Secretariat, Khyber Pakhtunkhwa, Peshawar
3. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
4. Registrar, Peshawar High Court, Peshawar.
5. All Commissioners, Khyber Pakhtunkhwa.
6. All Deputy Commissioners, Khyber Pakhtunkhwa.
7. Provincial Election Commissioner, Khyber Pakhtunkhwa.
8. Provincial Police Officer, Khyber Pakhtunkhwa
9. All Heads of Attached Department in Khyber Pakhtunkhwa
10. PSD to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
11. Accountant General of Khyber Pakhtunkhwa.
12. Director Information Khyber Pakhtunkhwa, Peshawar.
13. The Manager Government Printing & Stationery Department, Khyber Pakhtunkhwa. He is requested to publish the above Notification in the 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



Annexure N (48)
Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
(Levy & Khassadars Wing)

No.CS(F)/L&K/4-Levy/Appeal/ 2342-44
Dated:06.10.2020

ORDER,

1. Whereas, petitioner/ appellant Aman Ullah was appointed in Bajaur Levy on 29.05.1984, promoted as Subedar on 28.08.2014 and due for retirement on 28.05.2019 on completion of 35-years' service tenure in Federal Levy Force. The petitioner/ appellant was not retired from service and has been granted interim relief in writ petition No.4057-P/2019 by the hon'ble Peshawar High Court on 19.08.2019.
2. And whereas, the Honorable Peshawar High Court, Peshawar referred the case to the Secretary to Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department to treat 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-15(2) of the Khyber Pakhtunkhwa Levies Force Act, all Levies personnel will be governed under Federal Levy Force (Amended) Service Rules-2013 till their absorption in Khyber Pakhtunkhwa Police.
5. And whereas, SRO 936(I)/2016 of the Federal Levy Force (Amended) Service rules-2013 provides that Subedar will be retired on 35 years' service or 5-years' service as Subedar or 60 years of age, whichever is earlier.
6. Now, therefore, in view of the rules position as explained above, the petitioner/ appellant has completed the statutory period of service i.e. 35 years' on 28.05.2019, hence, the instant appeal is dismissed.

-sd-

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst. No. & date even.
CC to:

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

Section Officer (Levy & Khassadars)

بعدالت

Before Honble Service
Tribunal KPK

Appellant
Govt of KPK
بنام Aman Ullah
Other

موزخ
مقدمہ
دعویٰ
بیم

باعث تحریر آنگہ

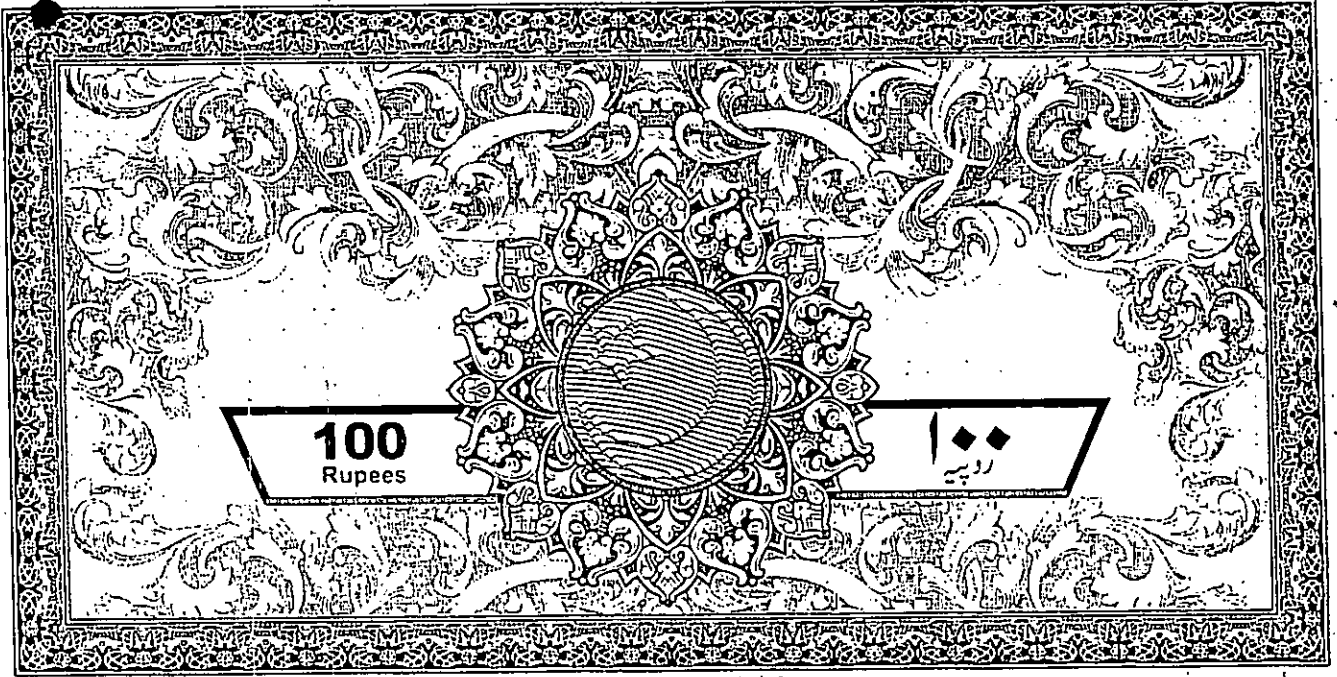
مقدمہ مندرجہ عنون الیہ بالا ایس اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آجی مقام کیلئے

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثباتہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
ضرورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل تقرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی 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 سہاقت
در اخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی منام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ نگہد یا کہ سند ہے۔

المرتوم 12 _____ ماہ 10 _____ 2020

Attested
Accepted
Resmanee
Adv myeeb

امان اللہ ولد صاحب خان



بعدالت جناب سروس ٹریبونل خیبر پختونخواہ پشاور

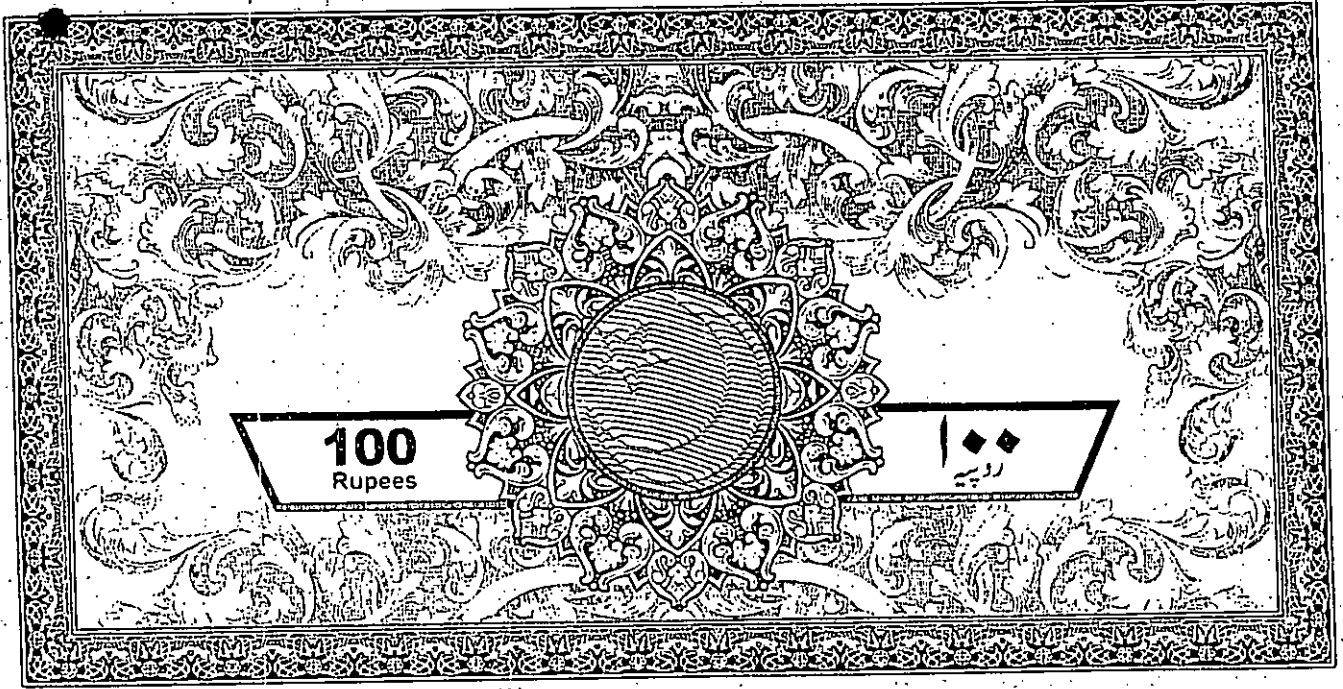
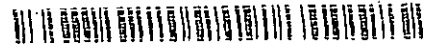
﴿ مختیار نامہ خاص پاپت پیروی مقدمہ ﴾

بعنوان:- امان اللہ ولد باچا خان بنام گورنمنٹ آف خیبر پختونخواہ وغیرہ

منکہ مسمی امان اللہ خان ولد باچا خان سکنہ گاؤں ہجہ تحصیل خار 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 منیر زادہ ولد گل امین ساکن گاؤں حیاتے، تحصیل اتمخیل، 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 تاپیلٹ کورٹ و ریٹرنل کورٹ اور عدالت عالیہ سے لے کر عدالت عظمیٰ سپریم کورٹ آف پاکستان تک بذات خود وہ 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 پیشش دائر کرے، نگرانی کرے، نظر ثانی کرے، وکیل یا ایئر سٹر مقرر کرے، غرض یہ کہ جن جگہوں پر من مقررذات و دستخطوں کی ضرورت پڑے مختیار خاص موصوف کو جملہ ساختہ و پرواختہ مثل کردہ کہ ذات و خاص کے من

محمد جان ولد شیراظم ساکن گاؤں ریدانہ ڈوگانی، ضلع باجوڑ۔
شناختی کارڈ نمبر 9-21106-5861327

ستار ولد غالب ساکن چنار شاہ تحصیل ماہی پور، ضلع باجوڑ۔
شناختی کارڈ نمبر 9-21104-2166469



مقرر قبول و منظور ہونگے۔ لہذا مختیار نامہ خاص رو بروئے گواہان حاشیہ سنداً تحریر شد۔

المرقوم:- 12.10.2020

العبد آمان اللہ

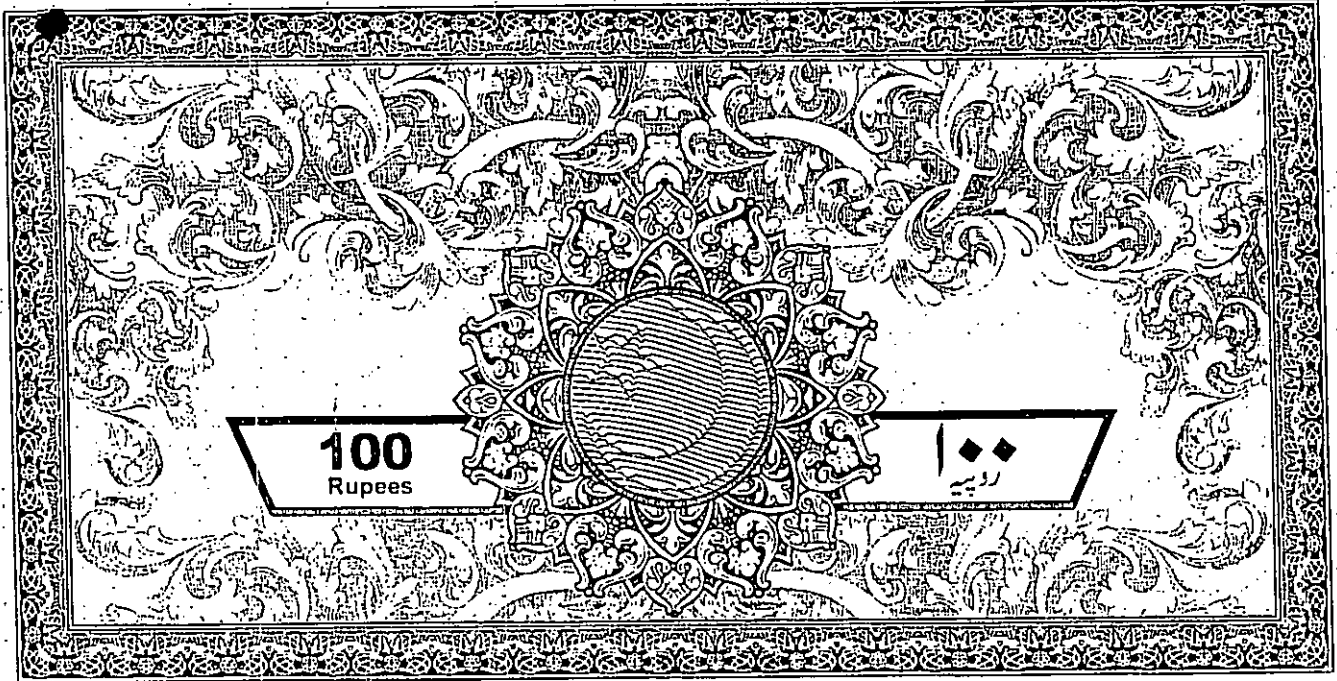
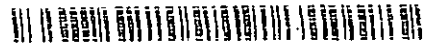
امان اللہ خان ولد باچا خان۔۔۔ (مختیار و ہندہ)

شناختی کارڈ نمبر:- 21103-8393442-7

العبد منیر زادہ

منیر زادہ ولد گل امین۔۔۔۔۔ (مختیار گر ہندہ)

شناختی کارڈ نمبر:- 21107-1715723-5



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

بعنوان:- امان اللہ ولد باچا خان بنام گورنمنٹ آف خیبر پختونخواہ وغیرہ

برائے شمولیت