

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 822/2020

Asghar.....Appellant

Versus

SCANNED
KPST
Peshawar

Government of KP and others.....Respondents

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 822/2020

Asghar.....Appellant

Versus

Govt. of KPK through Chief Secretary, Civil Secretariat Peshawar and others... Respondents

PARAWISE COMMENTS BY RESPONDENT NO. 1, 2, 3 & 4.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- I. That the honorable Tribunal has no jurisdiction to entertain the present appeal.
- II. That the appellant has no locus standi to file the present appeal.
- III. That the appellant has not come to this Honorable Tribunal with clean hands.
- IV. That the appeal is not maintainable in its present form.
- V. That the appellant has suppressed and concealed the materials facts from this Honorable Tribunal.
- VI. That the appeal is barred by law and limitation.
- VII. That the appeal is bad for mis joinder and non joinder of necessary parties.

ON FACTS:

1. The appellant along with other being members of discipline force deliberately absented their selves from their lawful duty and to that the then Political Agent issued notices to them for duty but in vain. In the year 2007-10 the insurgency spread in the district and the appellant left the law and order at the mercy of miscreants therefore he was rightly removed/dismissed from service.
2. Correct.
3. Correct.
4. Correct, however, the order dated 08.12.2015 is silent about back benefits; therefore another order in compliance with directions of honorable court was issued on 11.12.2015 wherein decision regarding back benefits was made **(Both orders attached as Annexure A & B)**
5. Correct to the finding of enquiry committee. The rest of the para needs explanation to the effect that he was reinstated into his previous service by the Competent Authority/then Political Agent/Commandant Levy/Khassadar Force Bajaur pursuant to the recommendations of enquiry committee with immediate effect at the bottom of seniority as the appellant remained far from his service for a long period.

6. This para needs explanations to the effect that order of the Federal of Service Tribunal as well Supreme Court of Pakistan dated 20.10.2015 has been fully complied with.
7. Correct.
8. Incorrect. The appellant was provided an opportunity of personal hearing on 20.10.2020 as per judgment of Federal Service Tribunal Islamabad.
9. The appellant along with others approached this honorable Tribunal with un sound grounds.

ON GROUNDS:

- A. Incorrect. The appellant was treated in accordance with rules and policy.
- B. Incorrect. As earlier stated that respondents filed CPLA before the honorable Supreme Court of Pakistan against the judgment dated 11.05.2015 of Federal Service Tribunal Islamabad which came up to final adjudication on 20.10.2015 wherein directed the respondents to hold an enquiry as per law and proceed to take appropriate action after issuance notices to the appellants. The question of back benefits of the appellants shall be depended upon the enquiry conducted and the result thereof; hence, appellant was reinstated into his service upon the recommendations of enquiry by the competent authority i.e. Political Agent/Commandant Levy/Khassadar Force.
- C. Incorrect. As per above para.
- D. Incorrect. All the orders of respondents are within the jurisdictions based on equity however, each & every case has its own merits and facts.
- E. Incorrect. The appellant was dealt in accordance with law/rules and no violation of the constitution has been committed.
- F. Incorrect. All the orders passed by the respondent are based on equity and every case has its own merits and facts.
- G. Incorrect. As earlier stated that the appellant was afforded opportunity of personal hearing and dismissed his departmental appeal with cogent reason vide order dated 23.11.2022. The respondents can't think about variance from the settled principles of law and natural justice.
- H. Incorrect. The respondents exercised the discretion fairly and in a structured manner as prescribed by the law/rules.
- I. Incorrect. The appellant was treated as per laid down procedure and law.
- J. Incorrect. The impugned order has been passed according to law.
- K. Incorrect. All the orders passed by the respondents are legal and lawful.

- L. Incorrect. The appellant has been dealt in accordance/provision of law/rules.
- M. That the respondents also seek leave of this honorable Tribunal to rely on additional grounds at the time of arguments/hearing.

PRAYERS:

Keeping in view the facts and law, It is therefore humbly prayed, that the appeal may kindly be dismissed with costs, please.

Respondent No. 1
Chief Secretary, Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

5/7/2022 ✓
Secretary Home

Respondent No. 2
Secretary Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa, Peshawar.

5/7/2022
Home Secretary,
Khyber Pakhtunkhwa

Respondent No. 3
Deputy Commissioner,
District Bajaur.

5/7/2022
DEPUTY COMMISSIONER
Bajaur Tribal District

Respondent No. 4
District Police Officer,
Bajaur at Khar.

District Police Officer
Bajaur at Khar.

P-04

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 824 to 834/20

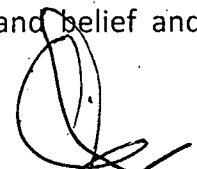
Imran & others.....Appellant

Versus

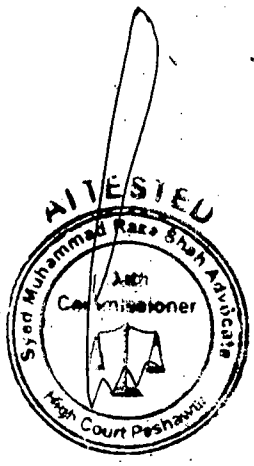
Govt. of KP through Chief Secretary Civil Secretariat Peshawar and others.....Respondents

AFFIDAVIT

I Sajjad Ahmad, Assistant Litigation District Police Office Bajaur CNIC No. 21103-3168120-1do hereby affirm and declare that the contents of the accompanying comments/written reply is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


Deponent

10 AUG 2022





P-05

**OFFICE OF THE
DISTRICT POLICE OFFICER
BAJAUR TRIBAL DISTRICT.**

NO. 2064 /Litigation

Dated 29 / 06 /2022.

AUTHORITY:

Mr. Sajjad Ahamd, Assistant Litigation, District Police Office Bajaur is hereby authorized to submit written reply/comments in Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 821/2020 to 834/20 titled as Imran and others Vs Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar & others.


**DISTRICT POLICE OFFICER,
BAJAUR AT KHAR.**

OFFICE OF THE
POLITICAL AGENT, BAJAUR.

No. 1638/BL

Dated Khar The 08/12/2015.

OFFICE ORDER.

In pursuance of the Supreme Court of Pakistan judgment dated 20/10/2015 and Federal Service Tribunal Islamabad judgment dated 11/05/2015, passed in service appeals titled Ajmal & other (total 242 personnel) VS SAFRON & others, the following Levies/Khassadars of Bajaur Levies/Khassadars Force are hereby re-instated in service with immediate effect in the public interest:-

S#	Name Designation	Regt. No.
1.	Sepoy Ajmal	4303
2.	Sepoy Amir Zada	4305
3.	Sepoy Nazir Zada	5043
4.	Khassadar Hamidullah	4263
5.	Khassadar Rehanud Din	5216
6.	Khassadar Abdul Mujeeb	3466
7.	Sepoy Zarawar	3621
8.	Khassadar Niaz Muhammad	5208
9.	Sepoy Abdur Rashid	5766
10.	Sepoy Khalilur Rahman	5358
11.	Sepoy Nawshad	4201
12.	Sepoy Nawab Khan	4701
13.	Sepoy Mukamil Shah	4192
14.	Khassadar Waqif Khan	5283
15.	Sepoy Sher Muhammad	4708
16.	Sepoy Abdullah	3413
17.	Khassadar Bashirulah	4250
18.	Sepoy Abdul Subhan	3415
19.	Sepoy Jamshid Khan	4196
20.	Sepoy Abdul Qayoum	4296
21.	Sepoy Javid	4228
22.	Khassadar Hayatur Rahman	3459
23.	Sepoy Sher Badshah	5196
24.	Sepoy Ghulam Younas	4642
25.	Sepoy Asghar Khan	4336
26.	Sepoy Imam Sharif	3912
27.	Sepoy Fazal Wahid	4185
28.	Sepoy Niamatullah	4524
29.	Sepoy Attaullah	4529
30.	Sepoy Sartaj	5105
31.	Sepoy Kalimullah	5134
32.	Sepoy Taj Wali	4874
33.	Sepoy Akhtar Wali	4621
34.	Sepoy Roohullah	5106
35.	Sepoy Liaqat Ali	4714
36.	Sepoy Zarawar	4233
37.	Sepoy Fazal Manan	4000
38.	Khassadar Muhammad Karim	4534
39.	Khassadar Niaz Wali	4355

40.	Sepoy Azizur Rahman	4918
41.	Sepoy Khalista Rahman	5140
42.	Sepoy Ihsanullah	4954
43.	Khassadar Said Ahmad	3450
44.	Khassadar Zaffar Khan	3449
45.	Sepoy Khalid	4026
46.	Muhammad Asif	
47.	Khassadar Zaffar	3453
48.	Khassadar Yar Muhammad	4352
49.	Khassadar Ghulam Yousof	3451
50.	Sepoy Walayat	4831
51.	Sepoy Alamgir	4830
52.	Khassadar Lal Zaman	3803
53.	Sepoy Nizamud Din	5074
54.	Sepoy Nisar Khan	5077
55.	Sepoy Roohul Amin	5073
56.	Said Shah Ali	
57.	Khassadar Muhammad Imran	5093
58.	Sepoy Zahir Shah	4522
59.	Khassadar Abdur Rahim	3812
60.	Khassadar Jan Muhammad	3692
61.	Khassadar Muhammad Ayaz	3535
62.	Sepoy Marnoor Khan	4554
63.	Khassadar Hasan Khan	4569
64.	Sepoy Rofat	4222
65.	Khassadar Muhammad Younas	4539
66.	Sepoy Jamshid	4561
67.	Sepoy Muzamin	4384
68.	Sepoy Azim Jan	4670
69.	Sepoy Shah Nawaz	4650
70.	Sepoy Muhammad Hayat	4295
71.	Sepoy Liaqat Ali	4274
72.	Sepoy Saida Khan	3966
73.	Khassadar Bakhti	3407
74.	Sepoy Asmat Khan	4623
75.	Sepoy Imran	4775
76.	Khassadar Habibullah	4571
77.	Khassadar Maroof	3694
78.	Khassadar Fazal Mula	3538
79.	Sepoy Jamal Nasar	4867
80.	Khassadar Amira Khan	3406
81.	Sepoy Lugman	4959
82.	Sepoy Sher Muhammad	4708
83.	Sepoy Muhammad Aslam	4290
84.	Khassadar Zarin	4354
85.	Khassadar Abetar Rauf	4346
86.	Sepoy Muhammad Sahib	4917
87.	Sepoy Hayat Khan	4872
88.	Sepoy Alam Zeb	3984
89.	Khassadar Muhammad Noor	3771
90.	Khassadar Khan Wali	3730
91.	Sepoy Sabitullah	4021
92.	Sepoy Said Aziz	4876
93.	Sepoy Farman	4630
94.	Khassadar Jehangir Hayat	3745
95.	Khassadar Noor Rahman	3562
96.	Khassadar Ibrahim	3479
97.	Khassadar Noorullah	3723
98.	Khassadar Sanullah	5619
99.	Khassadar Gul Qasim	3506
100.	Sepoy Munasib	5909
101.	Khassadar Muhammad Kalam	3780

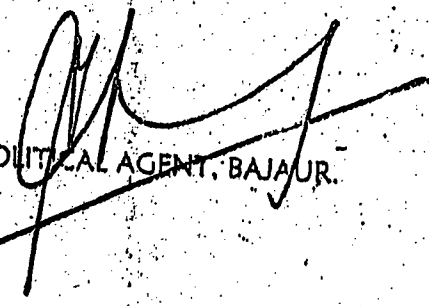
102.	Sepoy Dilawar Khan	4774
103.	Sepoy Ahmad Yousuf	4854
104.	Khassadar Shafiullah	4664
105.	Sepoy Habibiullah	4333
106.	Khassadar Musafar Khan	3437
107.	Sepoy Ismail	4557
108.	Sepoy Falzullah	4366
109.	Sepoy Mansoor Ahmad	6217
110.	Sepoy Shah Khalid	6196
111.	Sepoy Inayatullah	4456
112.	Sepoy Sahib Zada	4468
113.	Sepoy Fazal Rahman	3589
114.	Sepoy Chinar	4453
115.	Sepoy Bakhtawar	5042
116.	Sepoy Abdul Wakil	6489
117.	Khassadar Muhammad Zubir	3756
118.	Sepoy Subhanullah	4454
119.	Khassadar Khan Alam	5443
120.	Sepoy Khaista Gul	4449
121.	Khassadar Asad Khan	4535
122.	Sepoy Ejaz Ali	4012
123.	Khassadar Masum Khan	3505
124.	Rafiq	5109
125.	Khassadar Muhibullah	5085
126.	Sepoy Noor Zada	5916
127.	Sepoy Shamsur Rahman	4615
128.	Sepoy Saeedullah	4279
129.	Khassadar Zarin Said	3504
130.	Khassadar Ghulam Qadar	5578
131.	Khassadar Azizullah	4357
132.	Khassadar Hayat Zalmo	4203
133.	Zahidullah	
134.	Sepoy Imran Khan	4616
135.	Khassadar Abid	3481
136.	Sepoy Rahmat Din Jan	4645
137.	Sepoy Muhammad Zada	5373
138.	Khassadar Anwar Zeb	5219
139.	Khassadar Muhammad Nazir	4265
140.	Sepoy Badshah Munir	4368
141.	Sepoy Alam Zeb	4371
142.	Khassadar Shoab	5265
143.	Khassadar Tahir	5210
144.	Sepoy Sharifullah	4388
145.	Khassadar Obaidullah	4246
146.	Sepoy Musharaf	4370
147.	Sepoy Abdul Wadood	4006
148.	Sepoy Najeebullah	5222
149.	Khassadar Muhsin Khan	5574
150.	Sepoy Jehangir Khan	5141
151.	Sepoy Ajab Noor	5917
152.	Sepoy Bacha Rahman	5187
153.	Khassadar Hanifur Rahman	5256
154.	Sepoy Sajjad Ahmad	5228
155.	Sepoy Rizwanullah	5642
156.	Khassadar Muzfar Khan	4205
157.	Khassadar Anangir	4199
158.	Sepoy Linqal Ali	4707
159.	Khassadar Saicl Zaria	4698
160.	Sepoy Muhammad Idress	4924
161.	Sepoy Riiaz Khan	4688
162.	Sepoy Fazal Rahman	4328
163.	Sepoy Hayatullah	4772

164.	Sepoy Anwarud Din	1009
165.	Khassadar Fateh Muhammad	4722
166.	Sepoy Hayatullah	1051
167.	Sepoy Zaffar Ali Khan	3862
168.	Sepoy Mustamir Khan	5920
169.	Khassadar Khaista Jan	4665
170.	Sepoy Rahman Yousaf	4212
171.	Sepoy Nasir Ali Khan	4072
172.	Sepoy Attaullah	4193
173.	Sepoy Ashfaq	4912
174.	Sepoy Imran	1836
175.	Sepoy Noor Hakim	4677
176.	Sepoy Muhammad Israr	4951
177.	Khassadar Said Ghani	3470
178.	Sepoy Said Habib Jan	4322
179.	Sepoy Taj Mir	4631
180.	Sepoy Rafiud Din	4682
181.	Sepoy Mutabar	4843
182.	Sepoy Zahid Hussain	4667
183.	Sepoy Muhammad Ayoub	5806
184.	Sepoy Baharud Din	5112
185.	Sepoy Sajjad Ahmad	5296
186.	Khassadar Fazal Muhammad	3512
187.	Sepoy Hussain Shah	3628
188.	Khassadar Bahadar	4197
189.	Sepoy Bacha Rahim	4710
190.	Sepoy Fazal Subhan	4515
191.	Sepoy Fareedullah	5764
192.	Sepoy Nadir Shah	4011
193.	Sepoy Rahmanullah	4016
194.	Khassadar Gul Badshah	3804
195.	Sepoy Ihsanullah	4415
196.	Sepoy Tila Muhammad	4508
197.	Israr Khan	
198.	Sepoy Abdur Rahim	5883
199.	Sepoy Wali Khan	4147
200.	Sepoy Umar Ayoub	4614
201.	Khassadar Shakirullah	4347
202.	Sepoy Fazal Karim	4008
203.	Khassadar Khan Sher	4356
204.	Khassadar Shamroz Khan	4348
205.	Sepoy Riaz Wali	4528
206.	Khassadar Rahman Wali	3445
207.	Sepoy Ihsanud Din	5057
208.	Khassadar Muhammad Iqbal	3541
209.	Sepoy Safdar Khan	5176
210.	Sepoy Imran	4769
211.	Sepoy Hidayatullah	3872
212.	Sepoy Fareedullah	4084
213.	Sepoy Fazal Subhan	4083
214.	Khassadar Rahmat Gul	3781
215.	Khassadar Abdur Rauf	3782
216.	Sepoy Roohullah	3639
217.	Khassadar Amin Qadir	5282
218.	Khassadar Rahim Gul	3477
219.	Khassadar Qadir Khan	4155
220.	Khassadar Said Nawab	5278
221.	Khassadar Jalalud Din	3784
222.	Sepoy Imran Khan	4311
223.	Khassadar Sahib Zada	5291
224.	Sepoy Idrees	4924
225.	Sepoy Taj Muhammad	5075

226.	Khassadar Riaz	5557
227.	Khassadar Fazal Wadood	5446
228.	Sepoy Khan Zeb	5040
229.	Sepoy Rahat Muhammad	5090
230.	Khassadar Iqbal	4661
231.	Sepoy Kamal Habib	3646
232.	Sepoy Sajjad Ali	4845
233.	Khassadar Ali Rahman	3691
234.	Sepoy Muhammad Ejaz	3313
235.	Khassadar Noor Muhammad	3531
236.	Sepoy Muhammad	4209
237.	Khassadar Khaista Muhammad	5634
238.	Khassadar Ayoub Khan	4349
239.	Sepoy Abdur Rashid	5172
240.	Khassadar Dostl Rahman	3750
241.	Sepoy Amanullah	4705
242.	Sepoy Abdül Akbar Khan	4163

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As ordered by the Apex Court, the question of back benefits of these personnel shall be decided in accordance with the instruction contained at S.No.155 Vol-II of civil Establishment code (Estacode, 207 editions) and 2010 SCMR-II by the committee to be constituted for the purpose.

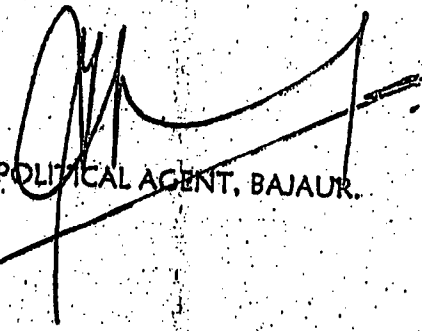

POLITICAL AGENT, BAJAUR.

No. 1639-47 /BL

Copy forwarded to:-

1. The Secretary SAFRON Division Islamabad.
2. The Registrar, Federal Service Tribunal, 47-Attaturk Avenue Sector, G-5/2, Islamabad.
3. The Secretary Home & Tribal Department, Peshawar.
4. The Secretary Establishment Division, Govt. of Pakistan, Islamabad.
5. The Secretary Law & Order Department FATA Secretariat, Peshawar.
6. The Commissioner Malakand Division, Saidu Sharif, Swat.
7. The Assistant Political Agent's Khar & Nawagal.
8. The Agency Accounts Office, Bajaur.
9. The Subedar Major 2-wing & 3-wing Bajaur Levies.

For Information.


POLITICAL AGENT, BAJAUR.



(Annex-B)

OFFICE OF THE
POLITICAL AGENT, BAJAUR.

No. 1677/BL

Dated Khar The 11/12/2015.

OFFICE ORDER.

In continuation of this office order No. 1638/BL dated 08/12/2015 regarding re-instatement of 242 Levies/Khassadars personnel of Bajaur Levies/Khassadars Force.

Re-instatement of the personnel is only for the purpose conducting of proper inquiry against the officials as per directives of the honorable Supreme Court of Pakistan in its judgment dated 20/10/2015 passed in civil petitions No. CP.1653, 1884 to 2069, 2100 to 2149, 2328 to 2332/15 titled Additional Chief Secretary FATA Peshawar VS Ajmal Khan & 241 others.

Till finalization of the inquiry none of them will be entitled for any financial or other benefits including back benefits.


POLITICAL AGENT, BAJAUR.

No. 1678-86/BL

Copy forwarded to:-

- ✓ 1. The Secretary SAFRON Division Islamabad.
- ✓ 2. The Registrar, Federal Service Tribunal, 47-Attaturk Avenue Sector, G-5/2, Islamabad.
- ✓ 3. The Secretary Home & Tribal Department, Peshawar.
- ✓ 4. The Secretary Establishment Division, Govt. of Pakistan, Islamabad.
- ✓ 5. The Secretary Law & Order Department FATA Secretariat, Peshawar.
- ✓ 6. The Commissioner Malakand Division, Saidu Sharif, Swat.
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8. The Agency Accounts Office, Bajaur.
9. The Subedar Major 2-wing & 3-wing Bajaur Levies.

For information.


POLITICAL AGENT, BAJAUR.