


19.07.2022

Proper Bench is not available, therefore, case is adjourned to 20.10.2022 for the same as before.

  
Reader

20<sup>th</sup> Oct., 2022 Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 19.12.2022 before D.B.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

11.01.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Addl. AG. alongwith Mr. Tariq Umer DSP (Legal) for respondents No. 2 present and submitted reply/comments which is placed on file.

Reply/comments on behalf of respondent No. 3 are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondent No. 3 to furnish reply/comments on or before next date, failing which the right of respondent No. 3 to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 28.04.2022.

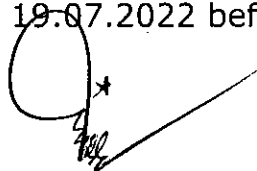


(Atiq-Ur-Rehman Wazir)  
Member (E)

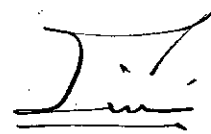
28.04.2022

Appellant in person present. Mr. Noor Zaman, District Attorney for the respondents present.

Respondents No. 1 & 3 have failed to submit their written reply/comments even today. Vide pervious order dated 11.01.2022 it was directed that the respondents shall positively submit reply/comments on the next date failing which their right for submission of reply/comments shall be deemed as struck off. The right of submission of written reply/comments of respondents No. 1 & 3 thus stands struck off. To come up for arguments on 19.07.2022 before the D.B.



(Mian Muhammad)  
Member (E)




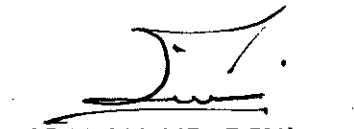
(Salah-ud-Din)  
Member (J)

16.09.2021

Mr. Zahanat Ullah, Advocate, for the appellant present. Security and process fees have not been deposited by the appellant, therefore, the appellant is directed to deposit the same within three days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments before the D.B on 12.10.2021.

Appellant Deposited  
Security & Process Fee

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


  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

12.10.2021

Appellant present through counsel.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Reply on behalf of respondents was not submitted. Learned A.A.G made a request for adjournment in order to submit reply/comments. Last opportunity is granted with direction to submit the same within 10 days in office. To come up for arguments on 11.01.2022 before D.B.

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

  
(Rozina Rehman)  
Member (J)

20.08.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant states that service appeals involving common questions of law and facts have already been admitted for full hearing in Service Appeals No. 1323/2019 and No. 1406 /2019 and requested that instant appeal may also be clubbed with the same. This appeal is admitted for full hearing subject to all just and legal objections, including that of limitation to be determined during full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 16.09.2021 before the D.B and clubbed with the aforementioned service appeals.

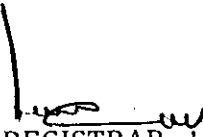

  
Chairman

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case-No.- 6645 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/06/2021	<p>The appeal of Mr. Ashiq Hussain resubmitted today by Mr. Zahanatullah Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Ashiq Hussain s/o Qadam Ali Ex-employee of Federal Levy Force Kurram Agency received today i.e. on 15.06.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of office order dated 09.09.1992 (Annexure-B) mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Annexure-C of the appeal is illegible which may be replaced by legible/better one.
- ③- Departmental appeal having no date be dated.
- 4- Annexure-G of the appeal is missing.

No. 1015 /S.T,

Dt. 16/06/2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Zahanatullah Adv.Pesh.

- 1- Dated 09-09-1992 was clerical mistake, which is rectified/correct now. The office order date is actually 8/9/1992 and not 09-09-1992. Both are now corrected and the annexure-B is already placed on file.
- 2- Better copy of annexure-C is now attached.
- 3- These appeals were filed without date and no limitations since against the petitioners as they have earlier filed a writ petition.
- 4- Annex-G is attached now.

Objections Removed and  
Re-Submitted

Zeh  
30/6/2021

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

Appeal. No. \_\_\_\_\_/2021

Ashiq Hussain.....(Appellant)

**VERSUS**

Provincial Government through Chief Secretary, Civil Secretariat Peshawar, KPK. and others .....(Respondents)


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<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
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3.	Copies of the Office Order and Seniority List	A & B	9-14
4.	Copies of the departmental appeals	C	15-16
5.	Copy of the comments filed by the respondents	D	17-40
6.	Copy of the judgment dated 15/01/2019	E	41-43
7.	Copy of the Notification dated 23/04/2013	F	44-46
8.	Wakalat Nama		47

  
Appellant

Through

Dated: 11/06/2021

  
**Zahanat Ullah**  
Advocate High Court,  
Peshawar.  
Cell No. 0315-0266166

Note: Similar nature cases of the colleagues of the applicant is filed before this Honourable Tribunal on 5/7/2021.

(1)

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

Appeal. No. \_\_\_\_\_/2021

Ashiq Hussain S/o Qadam Ali

Ex-employee of Federal Levy Force, Kurram  
Agency.....(Appellant)

**V E R S U S**

1. Provincial Government through Chief Secretary, Civil Secretariat Peshawar, KPK.
2. Inspector General of Police Khyber Pakhtunkhwa, Police Lines Peshawar.
3. Deputy Commissioner Kurram Agency.  
.....(Respondents)

**APPEAL UNDER SECTION 4 OF CIVIL  
SERVICE TRIBUNAL ACT 1974.**

**Prayer:**

*On acceptance of this Appeal, the respondents may kindly be directed to give proforma promotion with all back benefits to the appellant as per the office order No.2290-94/Acctt: dated 23/04/1992 and as per the seniority list dated 09/12/1996 prepared by the respondent No.3. **OR** to give proforma promotion to the appellant vide letter No.CS(F)/N/4-Levies/Concept Paper/825 dated 23/04/2013 issued by the then FATA Secretariat Narcotic section.*



**Respectfully Sheweth:**

The Brief facts of the case are:-

1. That the appellant was enlisted as Sepoy/ Solder Clerk in the Office of the Political Agent (Now Deputy Commissioner), Kurram Agency/Respondent No.3.
2. That since his appointment, the appellant has served at different places as Sepoy/ Clerk under the control of respondent No. 3 to the entire satisfaction of their superiors. (Copies of posting orders are attached as annexure "A").
3. That as per the policy framed vide office order No. 60845-89/Acct: dated 09/09/1992, any vacancy in the post of Junior Clerks arising in the establishment of Political Agent (Now Deputy Commissioner), district Kurram Office will be filled out of the Sepoy/ Clerk paid out of the Benevolent Fund on the basis of respective seniority i.e. the senior most of the each list will be taken in the PAs establishment having due regard to their length of service and inter-se. in the light of the said policy number of Sepoy/ Clerks who were junior to the

while the appellant were discriminated. (Copies of the Office Order and Seniority List is attached as annexure "B" & "C").

4. That the appellant and his other colleagues moved several joint applications/ departmental appeals regarding his seniority on different occasions but the respondents turn deaf ear to the requests of the appellant. (Copies of the departmental appeals are attached as annexure "D").

5. That thereafter the petitioner along with his colleagues filed a writ petition No.4311-P/2017 in the Peshawar High Court, Peshawar for the redressal of his grievances, wherein comments were called from the respondents and the same were submitted by them. (Copy of the comments filed by the respondents is attached as annexure "E").

6. That on the date of hearing of the above mentioned writ petition, it was observed that the Honorable Peshawar High Court has passed another judgment dated 01/03/2018 in writ petition No.345-P/2017 titled "Gul Munir Vs Govt. of Pakistan through secretary" wherein all the employees of levy force were declared civil servants. Consequently the

appellant was directed to approach the Federal service tribunal, so the writ petition of the appellant was sent in original to the Federal Service Tribunal at Islamabad. (Copy of the judgment dated 15/01/2019 is attached as annexure "F").

7. That when the appellant appeared before the Federal Service Tribunal, the Federal Service Tribunal in its order dated 23/05/2019 observed that a notification No.LEGIS1(14)2012-Volume II dated 12/03/2019 whereby the Federal Levy Force regulation 2012 has been repealed through KPK Ordinance No.1 of 2019 according to which the Federal levies and Khasadar force stand provincialized, so the appeal of the appellant was returned for seeking remedy at appropriate forum, hence the present service appeal on the following grounds:

**GROUND:**

- A. That the act of the respondents is against the law, rules and norms of natural justice, hence not tenable in the eyes of law.
- B. That if the respondents consider that the appellant is not a soldier clerk then they are bound to give

proforma promotion to the appellant on the basis of notification/letter No.CS(F)/N/4-Levies/Concept Paper/825 dated 23/04/2013 issued by the then FATA Secretariat Narcotic section wherein 2500 sanctioned posts were created for all agencies and all the agencies gave promotion to their Levies Force except the then Kurran agency officials/authorities who did not promoted the appellant along with his other colleagues.(Copy of the Notification dated 23/04/2013 is attached as annexure "G").

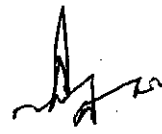
- C. That the respondents violated their own rules and promoted Junior Sepoy/Clerks by ignoring and discriminating the appellant, which is clear cut violation of the rules, policy and even against the fundamental rights of the appellant guaranteed by the Constitution of Islamic Republic of Pakistan.
- D. That as per the policy framed vide office order No. 60845-89/Acct: dated 09/09/1992, any vacancy in the post of Junior Clerks arising in the establishment of Political Agent (Now Deputy Commissioner), district Kurram Office will be filled out of the Sepoy/ Clerk paid out of the Benevolent Fund on the basis of respective seniority i.e. the senior most of the each list will be taken in the PAs

establishment having due regard to their length of service and inter-se. in the light of the said policy number of Seopy/ Clerks who were junior to the appellant were promoted to the post of Junior Clerk while the appellant were discriminated.

- E. That the appellant has now been retired but he has been deprived of his promotion.
- F. That the appellant has been discriminated.
- G. That any other ground specifically not mentioned in this appeal will be argued at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this Appeal, the respondents may kindly be directed to give proforma promotion with all back benefits to the appellant as per the office order No.2290-94/Acctt: dated 23/04/1992 and as per the seniority list dated 09/12/1996 prepared by the respondent No.3 **OR** to give proforma promotion to the appellant vide letter No.CS(F)/N/4-Levies/Concept Paper/825 dated 23/04/2013 issued by the then FATA Secretariat Narcotic section.

(7)



Appellant

Through



Dated: 11/06/2021

**Zahanat Ullah**  
Advocate High Court,  
Peshawar.

**CERTIFICATE:**

It is certified by no such like appeal has early  
been filed by the petitioner in this Hon'ble Court.



**ADVOCATE**

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

Appeal No. \_\_\_\_\_/2021

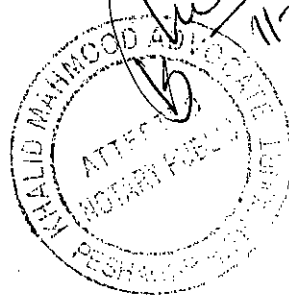
Ashiq Hussain .....(Appellant)

**VERSUS**

Provincial Government through Chief Secretary, Civil  
Secretariat Peshawar, KPK and others.....(Respondents)

**AFFIDAVIT**

I, Ashiq Hussain s/o Qadam Ali, Ex-employees of Federal Levy Force, Kurram Agency, do hereby solemnly affirm and declare on oath that the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



**DEPONENT**

CNIC: 21303-8061464-9

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

Appeal No. \_\_\_\_\_/2021

Ashiq Hussain .....(Appellant)

**V E R S U S**

Provincial Government through Chief Secretary, Civil Secretariat  
Peshawar, KPK and others.....(Respondents)

**APPLICATION FOR CONDONATION OF DELAY**

**Respectfully Sheweth:**

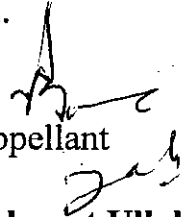
1. That the above title appeal has been filed by the appellant and no date of hearing has yet been fixed.
2. That the appellant was employee of Federal Levy Force and his service was governed by the Federal Levies Force regulations, 2012.
3. That initially the appellant has filed a writ petition in the Honorable Peshawar High Court, Peshawar (being a proper forum) in the year 2017 for the redressal of his grievances.
4. That on dated 15/01/2019 wherein the appellant was directed to approach to the Federal Service Tribunal and his writ petition was sent in original to the same.
5. That on dated 23/05/2019, the Federal Service Tribunal directed the appellant to approach the KPK Service Tribunal as the deferral Levies Force Regulations, 2012 has been repealed through Khyber Pakhtunkhwa Ordinance No.1 of 2019 according to which the Federal Levies and Khassadar Forces stand provincialized.



6. That the appellant initially approached to the Honorable Peshawar High Court wherein the case of the similarly placed employees/colleagues of the appellant was decided but later on another judgment was passed in writ petition No.354-P/2017 wherein the Federal Levies Force employees were declared civil servants, so in light of that judgment the appellant was directed to approach the Federal Service Tribunal and thereafter due to merger of FATA, the Federal Levies Force and Khassadar Forces stands provincialized, consequently the appellant was again directed by the Federal Service Tribunal to this Honorable Tribunal. So the delay caused by filing the instant appeal was due to the above mentioned reasons.
7. That due to the COVID-19 pandemic, the appellant was unable to travel and he had no chance to submit his appeal.
8. That the appellant is a poor person and he was unable to meet the expenses of filing of the present appeal.
9. That a precious interest of appellant is involved with the matter concerned and if this Hon'ble Court/Tribunal does not entertain the present appeal, the appellant will suffer irreparable loss.

It is, therefore, most humbly prayed that on acceptance of this application of condonation, the delay, if any, in filing the above noted may kindly be condoned in the interest of justice in the instant appeal.

Through

  
Appellant

**Zahanat Ullah**  
Advocate, High Court  
Peshawar

Date: 11/06/2021

A board consisting of Assistant Political Agent, Upper Kurram, Assistant Political Agent, Lower Kurram Satta and the Office Superintendent is hereby constituted to Scrutinise all the cases of appointments, promotions etc. After clearance, the Board would submit recommendations to the appointing authority for orders.

sd/-  
Political Agent, Kurram

No 2290-94 /Acctt: Dated Parashinar the 23-4- /1992

Copy to the:-

- 1- Assistant Political Agent, Kurram
- 2- Assistant Political Agent, Satta
- 3- Superintendent P.A's Office.
- 4- Accountant P.A's Office Kurram.
- 5- Head Clerk Levy Office Kurram

They should put up immediately all such pending cases before the board and fix a date for the meeting convenient to the members.

*[Signature]*  
for Political Agent, Kurram

24  
 25.11.92  
 24.11.92  
 2/12  
 24/11

اندر  
تاریخ  
24/11  
موجود

ATTESTED

*[Signature]*

(10)

OFFICE OF THE POLITICAL AGENT, KURRAM.

OFFICE ORDER.

No. 6084 /Acctt: As decided by the selection Board on 16.8.1992, any vacancy in the post of junior clerks arising in the Establishment of the Political Agent, Kurram office will be filled up out of the Sepoy clerks and the clerks paid out of Benevolent Fund on the basis of their respective seniority i.e the senior most on each list will be taken in The PA's Establishment having due regard to their length of service and Intex-Se.

Such sepoy clerks/Benevolent Fund clerks when selected for the PA's Establishment will be placed junior most in the list of seniority of the existing seniority list of junior clerks/Daftries, of the Political Agent's Establishment.

sd: \_\_\_\_\_  
Political Agent, Kurram

No. 6085-89 /Acctt:

Dt: 8/9 /1992.

Copy forwarded to the:-

1. Asstt: Political Agent, Upper Kurram.
2. Asstt: Political Agent, Lower Kurram Sadka.
3. Asstt: Political Agent, (FR) Sadka.
4. Superintendent/Accountant PA's Office Barachinar.
5. Head clerk Levy office.

*hmm*  
Political Agent, Kurram.

4

ATTACHED

*[Handwritten signature]*

A meeting of the Board constituted vide Political Agent, Kurram  
Order No: 2290-94/Acctt: dated 23-4-1992 was held to-day the 26th August,  
1992. The following attended:--

1. Asstt: Political Agent, Upper Kurram.
2. Asstt: Political Agent, Lower Kurram.
3. Asstt: Political Agent (FR) Sudda.
4. Superintendent P.A's Office.

(11)

According to the decision of the Board one Senior Levy Sepoy  
namely Mr. Rashid Ali graduate has to be promoted as Junior clerk vide  
Jin Ali Junior Clerk levy office who will be promoted as Senior clerk  
in place of Mr. Maqsood Ali Senior clerk retired from service on 20-2-1992  
after noon.

It was further decided that any vacancy in the post of  
Junior clerk arising in the Establishment of the Political Agent, Kurram  
Office will be filled up out of the Sepoy clerks and the clerks paid  
out of the Benevolent Fund on the basis of their respective seniority  
in each of the said cadres i.e. the senior most on each list will be taken  
in the P.A's Extt: having due regard to their length of Service  
inter-Se. Such Sepoy clerks/Benevolent Fund clerks when selected for  
the P.A's Extt: will be placed Junior most in the list of seniority of the  
existing Junior clerks of the Political Agent's Establishment. The Board  
recommended the above accordingly.

1. Assistant Political Agent, Upper Kurram.

2. Asstt: Political Agent, Lower Kurram.

3. Asstt: Political Agent (FR) Sudda.

4. Superintendent P.A's Office.

Approved.

*[Signature]*  
26/8/92

ATTESTED

*[Signature]*

(Better Copy)

A meeting of the Board constituted vide Political Agent, Kurram order No. 2290-94/Acct: dated 23/04/1992 was held today the 26<sup>th</sup> August, 1992. The following attended:

1. Asstt: Political Agent Upper Kurram.
2. Asstt: Political Agent, Lower Kurram.
3. Asstt: Political Agent (FR) Sadda.
4. Superintendent P.A's Office.

According to the decision of the Board one senior Levy Sepoy namely Mr. Rashid Ali graduate has to be promoted as Junior Clerk vide Jan Ali Junior Clerk Levy Office who will be promoted as Senior Clerk in place of Mr. Maqsood Ali Senior Clerk retired from serviced on 20/02/1992 after noon.

It was further decided that any vacancy in the post of Junior clerks arising in the Establishment of the Political Agent, Kurram Office will be filled up out of the Sepoy clerks and the clerks paid out of the Benevolent Fund on the basis of their respective seniority in each of the said cadres i.e. the senior most on each list will be taken in the PA's Estt: having due regard to their length of Service inter-se. such Sepoy clerks/ Benevolent Fund clerks when selected for the P.A's Estt: will be placed junior most in the list of seniority of the existing junior clerks of the Political Agent's Establishment. The Board recommended the above accordingly.

1. Asstt: Political Agent Upper Kurram.
2. Asstt: Political Agent, Lower Kurram.
3. Asstt: Political Agent (FR) Sadda.
4. Superintendent.

ATTESTED



No. 907  
Dated 17.12.1

ORDER

The following postings/ transfers amongst the ministeria is hereby ordered in the interest of public with immediate effect

S.No.	From	To
1.	Mr. Shaukat Ali Shah CC to APA UK.	CC to A.P.A.L
2.	Mr. Inayat Hussain CC to APAL.K.Sadda	P.M.Mali Killi
3.	Mr. S.Siraj Hussain P.M.Mali Killi.	P.M. to PNT 11
4.	Mr. Gulab Hussain PM to PNT 11 ✓	Despatcher Eng record office.
5.	Mr. S.Hussain Jan. English Recordkeeper	P.M.Gido.
6.	Mr. Rashid Ali PM Gido ✓	P.M.Kherakhola
7.	Mr. Hussain Shah PM Kherakhola	P.M.Badama.
8.	Mr. Anwar Ali P-M.Roza.	Asstt.Acctt.P.A office.
9.	Mr. S.Ashiq Hussain Asstt.Accountant ✓	P.M.Roza
10.	Mr. Mehtab Ali Receipt Clerk English record.	P.M.Darra.
11.	Mr. Ashiq Hussain P.M.Darra	Moharar to PNT
12.	Mr. S. Mehdi Shah Tele Operator A.P.A.U.K.Office.	English Record
13.	Mr. Muntaz Hussain Asstt. to Reader to APALUK	Telephone operator with APAUK.
14.	Mr. Iqbal Hussain Asstt.VRC	Moharar to TAR
15.	Mr. S. Habib Hussain working with TM as Moharar	Report to his original post Asstt.Wasil Bull Asstt.V.R.K.
16.	Mr. Mushtaq Hussain waiting for posting.	Levy office,
17.	Mr. Mohd Tariq RM Reader to APALK	Accountant P.A
18.	Mr. S.Raza Hussain Moharar to PNT 1	Agency Nazar.
19.	Mr. S.Hamid Ali Shah Accountant	Reader to APA
20.	Mr. Muntaz Khan Agency Nazar	Ration Clerk.
21.	Mr. Hashim Khan Reader to APAUK.	Levy office.
22.	Mr. Imran Ali P.M.Badama.	

No. 908-13  
Dated 17.12.1996.

Copies to:-

1. A.P.A. Upper Kurram, Parachinar.
2. A.P.A. Lower Kurram, Sadda.
3. Supdt. P.A.'s office, Parachinar.
4. Accountant -do-
5. Head Clerk Kurram Levy, Parachinar.
6. Officials concerned.

ATTACHED

Sd/-  
Political Agent, Kurram, Para.

Political Agent, Kurram, Para.

9.12.96  
10.12.96  
2/12

Political Agent, Kullu: nm

ATTESTED

16.3.1986	B.A.	16	1. J. J. Mohammed Alam
25.1.1961	B.A.	2	2. Amjad Ali
30.11.1991	B.A.	3	3. Islam Khan
10.8.1992	B.A.	4	4. Mohammed Anwar
24.8.1992	Matric	5	5. Jabbar Noor
5.9.1992	B.A.	6	6. Abdur Raut
30.3.1961	B.A.	7	7. Mohammed Jamil

SENIORITY LIST OF BENEVOLENT FUND CLERKS

1.1.1987	B.Sc	5	5. Ashiq Hussain s/o S. Badeshah
1.1.1987	B.Sc	10	10. Muehtaq Hussain s/o Mohammad Ali
1.10.1987	Matric	11	11. Zahir Shah s/o Mahmood Jan
1.8.1988	F.A	12	12. Mehtab Hussain s/o Nawab Ali
1.11.1989	F.A.	13	13. Mir Rehman s/o Gul Akbar
15.1.1990	B.A.	14	14. Mahboob Malik s/o Abdul Malik
2.11.1991	B.A.	15	15. Nunawar Hussain s/o Shah Wajid
15.3.1991	B.A.	16	16. S. Raza Hussain s/o S. Sardar Hussain
1.3.1992	Matric	17	17. Mohammed Noor s/o Ghau Din
12.11.1992	Matric	18	18. Bilal Hussain s/o Nazeer Ali
2.9.1991	Matric	19	19. Sabir Hussain s/o Dost Mohd
1.3.1986	F.A	6	6. Gulzar Hussain s/o Mohammed Hussain
1.5.1986	F.A	7	7. Dawood Shah s/o Badeshah Khan
30.1.1962	F.A	8	8. Ghulam Sakhi s/o Yousof Ali
1.3.1986	B.A.	5	5. Mohammed Anwar s/o Hagsood Ali
20-2-1986	Matric	4	4. Imtiaz Ali s/o Saif Ali
1-2-1985	Matric	3	3. Ashiq Hussain s/o Qadam Ali
1-3-1984	B.A.	2	2. Mr. Iqbal Ali s/o Nazeer Ali
12-3-1962	B.A.	1	1. Mr. Gulam Hussain s/o Ali Mohammad

1.5.1986 Audited by the Board  
Dt: 27.5.92  
case for appointment will be considered on the retirement of Ali Khan

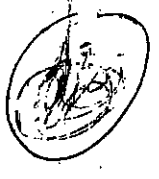
20-2-1986 relief and posted from B.F. on 10-8-1992.

S.No: Name / Father Name. Qualification Date of Birth. Date of A appointment.

SENIORITY LIST OF SENIOR CLERKS

Annex. B

Approved: [Signature] / [Signature]



Annex C

خواست برادر لظرفانی بر حکم نامہ عالی کو  
 بابت ریگور کی دستوریوں سے متعلقہ امور جو ان کی فوری  
 میں 65 سالوں سے ریگور میں رہ رہے ہیں ان کے لیے  
 ریگور اور ان کے ساتھ ریگور کی تعمیراتی کاموں کی اجازت

Heb.  
 Discales  
 3/3  
 جناب عالی

میں نے اس کے ساتھ ساتھ ریگور کی فوری دستوریوں  
 ریگور کی فوری دستوریوں کے ساتھ ساتھ ریگور کی فوری  
 کی اجازت سے متعلقہ امور جو ان کی فوری  
 میں 65 سالوں سے ریگور میں رہ رہے ہیں ان کے لیے  
 ریگور اور ان کے ساتھ ریگور کی تعمیراتی کاموں کی اجازت

میں نے اس کے ساتھ ساتھ ریگور کی فوری دستوریوں  
 ریگور کی فوری دستوریوں کے ساتھ ساتھ ریگور کی فوری  
 کی اجازت سے متعلقہ امور جو ان کی فوری

میں نے اس کے ساتھ ساتھ ریگور کی فوری دستوریوں  
 ریگور کی فوری دستوریوں کے ساتھ ساتھ ریگور کی فوری

میں نے اس کے ساتھ ساتھ ریگور کی فوری دستوریوں  
 ریگور کی فوری دستوریوں کے ساتھ ساتھ ریگور کی فوری

ATTESTED



خدمت جناب پولیٹیکل ایجنٹ صاحب ہمدرد کورم

درخواست ہمدرد نظر ثانی بر حکم ہائی کورٹ بابت ریکوری

و پروموشن ریٹائرڈ نوجوانان کرم لیوی فورسز میں 65

جوان کو پروموشن دیدی۔ باقماندہ جوان پروموشن کو درکنار الٹا

ریکوری کی جارہی ہے با اجازت ایپل

جناب عالی! گزارش ہے کہ ریٹائرڈ جوانان کرم لیوی فورسز نے بابت پروموشن

و ریکوری ایپل دائر کی۔ فیصلہ ہو کر عام ریٹائرڈ افراد کو پروموشن و  
پینشن کی افکات ہمدرد ہوئے۔

اب حسب حکم ہائی کورٹ ہمارے ساتھ یہ نہ العافی ہوئی

کہ زہیم کو پروموشن دے دی اور نہ ہی ریکوری معاف ہوئی۔ اب حکم

خزانہ صرف پیشتر کو Accept کر رہی ہے۔ جبکہ ہم کو نظر انداز کر کے

ریکوری کی جارہی ہے۔ نیز اگر سینیاڈی و مردس کی بنیاد پر دیکھا جائے تو  
ہم سب سینئر اور پروموشن کے حق دار ہیں۔

لینا بالا فکائن کے پینشن نظر ہمارے حال پر دم زحاکر پروموشن

اور ساتھ ہی ریکوری نہ کی جائے۔ لہذا دیگر ایپل کی اجازت بخشی جائے

گلزار حسین۔ عاشق حسین سو لبرٹلک میتاب حسین۔

مشاق حسین۔

کرم لیوی فورسز

پنجاب ہائیڈرو پوائنٹل اینڈ پبلسٹیٹی صاحب کرم ایجنسی

16

عنوان :- درخواست برآمداری فرمانے سائلان لیوی فورس کرم ایجنسی

جناب عالی :- سائنس حسب ذیل عرض رسالہ ہے۔

- ۱۔ یہ کہ سائلان لیوی فورس کرم ایجنسی کے اہلکاران جو کہ مختلف عہدوں پر اپنے فرائض منصبی سرانجام دے رہے ہیں۔
  - ۲۔ یہ کہ بذریعہ آرڈر نمبر CS(F)/N/4-Levies/Concept Paper/825 مورخہ 23 April 2013 کو قائم کیا گیا ہے۔
  - ۳۔ یہ کہ برطانیہ قوانین موجودہ فزری کو بروموشن دینا ضروری تھا لیکن ابھی تک سائلان کو کوئی بروموشن یا اس قانون پر کوئی عمل درآمد نہیں ہو رہا جس کی وجہ سے مختلف عہدوں پر تعینات اہلکاران کی حق تلفی ہو رہی ہے، مزید یہ کہ سائلان کو قانون مطابق نقصان بھی اٹھانا پڑا ہے۔
  - ۴۔ یہ کہ سائلان کی برطانیہ سفارتی اسٹ پر بروموشن دینا نہایت ضروری ہے۔
- لہذا استدعا ہے کہ برطانوی درخواست ہذا مذکورہ بالا آرڈر پر سن اور سن قانون کی مطابق عمل کیا جا کر سائلان کو بروموشن دیا جا کر شکور فرمائیں۔

العارض مورخہ 15/1/15

سائلان لیوی فورس، کرم ایجنسی

کاپی برائے اطلاع ایوان ضروری کارروائی :-

- ۱۔ پبلسٹیٹی اینڈ پبلسٹیٹی کرم ایجنسی۔
- ۲۔ اسٹنٹ پبلسٹیٹی اینڈ پبلسٹیٹی کرم ایجنسی۔
- ۳۔ اسٹنٹ پبلسٹیٹی اینڈ پبلسٹیٹی کرم ایجنسی۔
- ۴۔ لاء اینڈ آرڈر، ٹانامیکسٹریٹ۔
- ۵۔ پبلسٹیٹی کرم ایجنسی اور پبلسٹیٹی کرم ایجنسی۔
- ۶۔ لیوی آفس، چارہ کرم ایجنسی۔
- ۷۔ سٹیڈ اور کرم ایجنسی۔

ATTESTED  
Raj  
Admit

Annex D (7)

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P. No. 4311-P/2017

APP. No. 392 (P) S/2019

Ashiq Hussain.....(Petitioners)

**VERSUS**

Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar and others.....(Respondents)

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7.	Copies of the departmental appeals	D	22-24
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Petitioners

Through

Dated: 23/10/2017

**Zahanat Ullah**  
Advocate High Court,  
Peshawar.  
Cell No. 0315-0266166

SCANNED

RE-FILED TODAY  
Deputy Registrar  
27 OCT. 2017

FILED TODAY  
Deputy Registrar  
24 OCT 2017



IN THE PESHAWAR HIGH COURT, PESHAWAR.  
OPENING SHEET FOR WRIT BRANCH

Date of Filing: 23/10/2017  
District: Kurram Agency

18

22

Case Type: Writ Petition

Nature of Original Proceeding:

Category Code: 50735

Review/Contempt of Court in respect of:

Writ of:

Heabus Corpus	Prohibition	Mandamus	✓	Quo Warranto	Certiorari
------------------	-------------	----------	---	-----------------	------------

If Certiorari:

Forum	Date	(I)nterlocutory/ (F)inal Order

Case Pertains to  
SB  
DB ✓

Petitioner Name	Ashiq Hussain and others
Mobile No.	03000526300
Address	Ex-employees of Federal Levy Force, Kurram Agency
CNIC No.	17301-8688236-1
Email Address	N/A

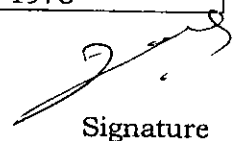
Counsel for Petitioner (s)	<b>Zahanat Ullah</b> Advocate High Court, Peshawar.
Mobile No.	0315-0266166
Address	Village Masho Khel, Teh: & Distt: Peshawar
CNIC No.	17301-1526303-3
Email Address	advocatezahanat@gmail.com

Respondents	ASC FATA and others
Address	Fata Secretariat, Peshawar.

Original Order/Action/Inaction Complained of:  
*Give proforma promotions with all back benefits to the petiotners*

*Prayer*  
*On acceptance of this Writ Petition, the respondents may kindly be directed:*  
*A. To give proforma promotions with all back benefits to the petiotners (retired) as per the Office Order No. 2290-94/Acctt: dated 23/04/1992 and as per the Seniority List prepared by the respondent No. 3.*  
*B. To declare null and void the recovery order dated 09/02/2015 of the respondent No. 2 being illegal and the respondents may further be directed to release the pension of the petitioners along with interest.*

Law/Rules/Governing the Original Proceedings/action/inaction  
Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 ✓

  
Signature

23/10/2017

19

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P. No. 4311-P/2017

APP. No. 392(P)CS/19/23

Presented by Post  
May be registered

1. Ashiq Hussain S/o Qadam Ali
2. Gulzar Hussain S/o Muhammad Hussain
3. Mushtaq Hussain S/o Muhammad Ali
4. Mehtab Ali S/o Nawab Ali
5. Niaz Hussain S/o Dost Muhammad
6. Maqsood Khan S/o Janat Mir
7. Sarwar Ali S/o Safdar Ali

Registrar

26/04/2019

26 APR 2019

All Ex-employees of Federal Levy Force, Kurram Agency.....(Petitioners)

**VERSUS**

1. Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar.
2. Secretary Law and Order FATA, FATA Levy Force, FATA Secretariat, Warsak Road, Peshawar.
3. Political Agent Kurram Agency.
4. Assistant Political Agent, Kurram Agency.
5. Section Officer (L&K) FATA, FATA Secretariat, Warsak Road, Peshawar.
6. Agency Account Officer, Kurram Agency.
7. Secretary SAFRON Division, Pak Secretariat Islamabad.....(Respondents)

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A

**WRIT PETITION UNDER ARTICLE 199**

**OF THE CONSTITUTION OF ISLAMIC**

**REPUBLIC OF PAKISTAN, 1973.**

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Deputy Registrar

24 OCT 2017

**Prayer:**

20

On acceptance of this Writ Petition, the respondents may kindly be directed:

- A. To give proforma promotions with all back benefits to the petitioners (retired) as per the Office Order No. 2290-94/Acctt: dated 23/04/1992 and as per the Seniority List prepared by the respondent No. 3.
- B. To declare null and void the recovery order dated 09/02/2015 of the respondent No. 2 being illegal and the respondents may further be directed to release the pension of the petitioners along with interest.

**Respectfully Sheweth:**

The Brief facts of the case are:-

1. That the petitioners were enlisted as Sepoy/ Solder Clerk in the Office of the Political Agent, Kurram Agency/ Respondent No. 3.
2. That sine their appointments, the petitioners have served at different places as Sepoy/ Clerk under the

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control of respondent No. 3 to the entire satisfaction of their superiors. (Copies of posting orders are attached as annexure "A").

3. That as per the policy framed vide office order No. 60845-89/Acct: dated 09/09/1992, any vacancy in the post of Junior Clerks arising in the establishment of Political Agent, Kurram Agency Office will be filled out of the Sepoy/ Clerk paid out of the Benevolent Fund on the basis of respective seniority i.e. the senior most of the each list will be taken in the PAs establishment having due regard to their length of service and inter-se. in the light of the said policy number of Sepoy/ Clerks who were junior to the petitioners were promoted to the post of Junior Clerk while the petitioners were discriminated. (Copies of the Office Order and Seniority List is attached as annexure "B" & "C").
4. That the petitioners moved several applications/ departmental appeals regarding their seniority on different occasions but the respondents turn deaf ear to the requests of the petitioners. (Copies of the

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departmental appeals are attached as annexure "D").

*do*

5. That in the year 2013 when the law and order situation in the Kurram Agency including other parts of the country were tense due to Talibanization and anti state elements the petitioners performed their duties valiantly and fearlessly.
  
6. That it is pertinent to mention here that in the Kurram Agency the Law and order situation was tense enough and for the said reason the petitioners who had attained the age of superannuation were not retired and were directed by the respondents to continue their duties till the appointment of new Sepoy/Clerks, consequently the petitioners perform their duties even after reaching the age of superannuation, and were paid for the same as well.
  
7. That now when the petitioners were retired, the respondent No. 2/ Secretary Law and Order issued letter/ circulation dated 09/12/2015 demanding

6/11/2015  
Secretary  
Law and Order  
F-10, Islamabad



the petitioners to payback the salaries paid to them for the duties they performed with the implied consent of the respondents in the volatile phase of law and order situation. (Copy of circular dated 09/12/2015 is attached as annexure "E").

ET

8. That it is important to mention here that some colleagues of the petitioners challenged the said illegal recoveries and their promotions in this Hon'ble Court vide Writ Petition No. 4485-P/2015, which was allowed by this Hon'ble Court and the respondents were directed not to demand the salaries/ payments paid to the petitioners beyond their length of service, moreover, the respondents were further directed given one step promotion/ proforma promotion to all the petitioners will all back benefits.

9. That the petitioners moved applications to the respondents to deal the petitioners like their other colleagues, who's Writ was allowed by this Hon'ble Court vide Writ Petition 4485-P/2015, but they refused to do so. (Copy of Writ Petition No. 4485-

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( ) ( ) (24)

P/2015 and order dated 19/05/2016 is attached as annexure "F").

- A
10. That feeling aggrieved from the above said acts/ conduct of the respondents, while having no other adequate efficacious remedy, the petitioners approaches this Hon'ble Court for redressal of their grievances, inter-alia on the following grounds:

**GROUND:**

- A. That the act of the respondents is against the law, rules and norms of natural justice, hence not tenable in the eyes of law.
- B. That the respondents violated their own rules and promoted Junior Sepoy/Clerks by ignoring and discriminating the petitioners, which is clear cut violation of the rules, policy and even against the fundamental rights of the petitioners guaranteed by the Constitution of Islamic Republic of Pakistan.
- C. That the demand of arrears in respect of salaries from the petitioners for which they have rendered

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23/05/2016

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their services/ sacrifices during the bad law and order situation is illegal and against norms of natural justice.

D. That the act of the respondent No. 3 by not giving back benefits and releasing pension is also illegal and against the law and facts.

E. That the petitioners have not been paid their pensionary benefits since their retirement. Consequently the petitioners along with their families are facing huge financial problems. The same pensions need to be paid along with the interest to the petitioner.

F. That any other ground specifically not mentioned in this Writ Petition may kindly be allowed at the time of arguments.

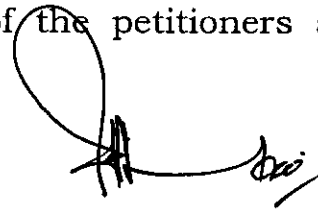
It is, therefore, most humbly prayed that on acceptance of this Writ Petition, the respondents may kindly be directed:

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24 OCT 2017

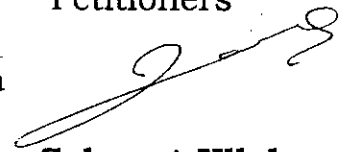
A. To give proforma promotions with all back benefits to the petiotners (retired) as per the Office Order No. 2290-94/Acctt: dated 23/04/1992 and as per the Seniority List prepared by the respondent No. 3.

B. To declare null and void the recovery order dated 09/02/2015 of the respondent No. 2 being illegal and the respondents may further be directed to release the pension of the petitioners along with interest.



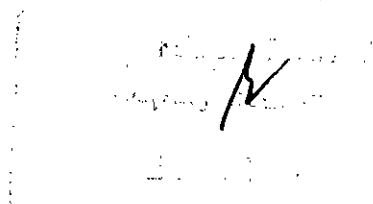
Petitioners

Through



**Zahanat Ullah**  
Advocate High Court,  
Peshawar.

Dated: 23/10/2017



**CERTIFICATE:**

It is certified by no such like Writ Petition has early been filed by the petitioner in this Hon'ble Court. Further stated that being Writ Petition on the score that since there is no adequate and alternate remedy is available or previously avail or approach lower forum, thus this case may fixed before the Worthy Division Bench (D.B) of this Hon'ble Court.

  
**ADVOCATE**

**LIST OF BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law books according to need.

  
**ADVOCATE**

**FILED TODAY**  
Deputy Registrar

24 OCT 2017

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**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P. No. 4311-1/2017

*32*

Ashiq Hussain.....(Petitioners)

**VERSUS**

Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar and others.....(Respondents)

**AFFIDAVIT**

I, Ashiq Hussain S/o Qadam Ali, Ex-employees of Federal Levy Force, Kurram Agency (Attorney of petitioners) do hereby solemnly affirm and declare on oath that the contents of the **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

*[Signature]*

**DEPONENT**

CNIC: 21303-8061464-9

**Identified by:**

*[Signature]*  
**Zahanat Ullah**  
Advocate High Court  
Peshawar.

7861

Subscribed and sworn to before me on this 12<sup>th</sup> day of Oct 2017 at Kurram Agency FATA

Ashiq Hussain  
Kurram Agency  
FATA

*[Signature]*  
Oath Commissioner  
Peshawar High Court, Peshawar

23/10/17

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23 OCT 2017

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 4311 / 2017

Ashiq Hussain.....(Petitioners)

**V E R S U S**

Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar and others.....(Respondents)

**ADDRESSES OF THE PARTIES**

**PETITIONERS:**

1. Ashiq Hussain S/o Qadam Ali
2. Gulzar Hussain S/o Muhammad Hussain
3. Mushtaq Hussain S/o Muhammad Ali
4. Mehtab Ali S/o Nawab Ali
5. Niaz Hussain S/o Dost Muhammad
6. Maqsood Khan S/o Janat Mir
7. Sarwar Ali S/o Safdar Ali

All Ex-employees of Federal Levy Force, Kurram Agency.

**RESPONDENTS:**

1. Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar.
2. Secretary Law and Order FATA, FATA Levy Force, FATA Secretariat, Warsak Road, Peshawar.
3. Political Agent Kurram Agency.

4. Assistant Political Agent, Kurram Agency.
5. Section Officer (L&K) FATA, FATA Secretariat, Warsak Road, Peshawar.
6. Agency Account Officer, Kurram Agency.
7. Secretary SAFRON Division, Pak Secretariat Islamabad.

Petitioners

Through

Dated: 23/10/2017

**Zahanat Ullah**  
Advocate High Court,  
Peshawar.

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Deputy Registrar

24 OCT 2017



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BEFORE THE HONOURABLE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. 4311-P / 2017.

Ashiq Hussain.....Petitioner

Vs

Additional Chief Secretary & others.....Respondents.

Para wise comments for & on behalf  
of Respondent No.3 & 4.

Respectfully Sheweeth:

Preliminary Objections:

- a. That the Federal Levy Rules has been promulgated in the year 2012 and appellate authority i-e Secretary Law & Order FATA Secretariat has been established for redressal of grievance of levy personal & officials.
- b. The Petitioner has not come to the Court with clean hands.

ON FACTS:

- 1. In reply to Para No.1, it is humbly submitted that the instant Para is wrong and misleading. Levy Force was raised and established in Kurram Agency in the year 1981. After the establishment of Kurram Levy Force in Kurram Agency, some educated persons also applied for recruitment in Levy Force as Sepoy. Some of the highly qualified Levy Force Sepoy already recruited as Levy Sepoy were entrusted with the duties of Soldier Clerks to perform office duties which were ordered by the then Commandant/Political Agent Kurram Agency vide different office Orders. It is important to mention here, that they were basically recruited as Levy Sepoy in B.P.S-5.
- 2. In reply to Para 2, it is respectfully submitted that some of the Levy Sepoy were entrusted with the responsibilities to perform duties as

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P. 6

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Soldier Clerks as per need of office of Political Agent/Commandant Kurram Agency.

3. In reply to the instant Para, it is respectfully submitted that all the Petitioners got retired from service long before and never agitated that their right of promotion has been curtailed and that they have been discriminated. Now in the year 2018 i-e after a lapse of almost four years of their retirement, are asking for their promotion which is not tenable in the eye of law.

4. In reply to Para 4, it is humbly submitted that the instant Para is incorrect. If the Petitioners appeals were not decided by the respondents then they should have approached the proper remedy at that particular time and not at this belated stage.

5 & 6. In reply to the instant Paras, it is respectfully submitted that in the year 2013, unprecedented law and order situation prevailed in Kurram Agency in the shape of militancy/terrorism and sectarian clashes. A large number of Levy Personal who were about to retire on attaining the age of superannuation were asked by the political authorities to continue their duties even beyond their retirement to maintain sufficient strength of Levy Force which was direly needed in the wake of worst Law & order situation. All those Levy personal were regularly paid their salaries. When the law & order situation in the agency became normal, all the levy personal who performed their duties beyond the age of superannuation were retired and their pension cases were processed and the FATA Secretariat was asked to give ex-post facto sanction of payments of salaries. In the meantime some of the Levy Personal filed a W.P.No.4485-P/2015 before this Honourable Court and that Writ Petition was accepted by this Honourable Court vide Order dated.19.05.2016 in the following terms:

"This being the position, it is but settled principle of Law that once payments are received by a person for services rendered, without any misrepresentation or fraud by him, the same should not be recovered. As far as the other grievances of the Petitioners are concerned,

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the directions embodied in the decisions of the Appellate Authority dated.29.05.2015 should be strictly and promptly complied with. In addition thereto, it should also be pointed out that all those Petitioners, whose pensions have been withheld because of the Impugned inaction of the respondents, should be released forthwith, but surely in accordance with Law."

Thereafter C.O.C.No.365-P/2016 in W.P.No.4485-P/2015 was filed before this Honourable Court which was disposed of by this Honourable Court on 14.12.2017 as payments to all the Petitioners in those Writ Petitions were made and the remaining 6 employees cases for payment of pension was in process who were directed to appear before the Agency Accounts Officer Kurram Agency to verify their antecedents for due payment.

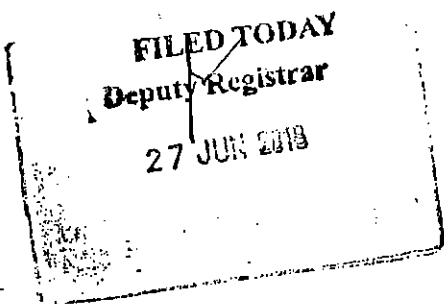
7. In reply to the instant Para, it is respectfully submitted that the letter dated.09.12.2015 was prior to the decision of this Honourable Court in W.P.No.4485-P/2015 and after the decision of this Honourable Court no such letter or demand to payback the salaries has ever been made by the respondents.

8 & 9. In reply to Paras, it is respectfully submitted that detailed reply to the instant Para has already been given in the preceding Paras.

GROUND:

A. In reply to the instant Para it is humbly submitted that once the decision of this Honourable Court came in W.P.No.4485-P/2015, the letter dated.09.12.2015 has lost its value and that is the reason no such letter has ever been written again as all the pension cases of those Levy personal who performed their duties beyond the age of superannuation were settled and their pension amount was paid to them.

B. In reply to the instant Para it is humbly submitted that all the promotions were made in accordance with Law & Rules.



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~~P. 10~~

...A...

C. In reply to Para C, it is respectfully submitted that after the decision of this Honourable Court in W.P.No.4485-P/2015, no demand for payment of arrears has ever been made by the respondents.

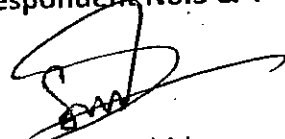
D. In reply to Para D, it is humbly submitted that detailed reply to the instant Para has already been given in the preceding Paras.

E. In reply to Para E, it is respectfully submitted that detailed reply to the instant Para has already been given in the preceding Paras.

It is therefore humbly prayed that in the light of above stated submissions, the instant Petition being devoid of any merits may kindly be dismissed.

through

Respondent No.3 & 4

  
Sikandar Rashid,  
Advocate, Supreme  
Court of Pakistan.

FILED TODAY  
Deputy Registrar  
27 JUN 2010

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~~P/10~~

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT, PESHAWAR**

In Re: W.P.No. 4311-P / 2017.

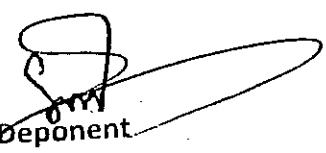
Asmiq Hussain.....Petitioner

Vs

ACS, FATA & others.....Respondents.

**AFFIDAVIT**

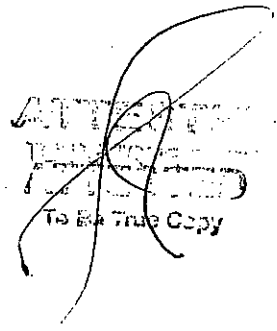
I, Sikandar Rashid, Legal Advisor to Political Agent, Kurram Agency do hereby solemnly affirm and declare on oath that the contents of these comments are true and correct to the best of my knowledge and belief and nothing material has been concealed from this Honourable Court.

  
Deponent

C.N.I.C.No.17301-2325709-1

Subscribed at 1708  
on this 27<sup>th</sup> day of June 18  
at Legal Advisor  
Sikandar Rashid  
Legal Advisor  
27/6/18

**FILED TODAY**  
Deputy Registrar  
27 JUN 2018

  
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P. ~~0~~

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

In W.P No. 4311-P/2017

Mr. Ashiq Hussain s/o Qadam Ali Caste, Duperzai Resident of Village Shakh Upper Kurram Agency & others of Kurram Agency ----- Petitioners

Versus

Federation of Pakistan & Others ----- Respondents

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2.	Affidavit	4

Respondents No 1, 2 & 5

*[Signature]*  
Deputy Secretary Levy & Khassadar  
Law & Order Department  
FATA Secretariat

Branch

*[Signature]*  
09/07

FILED TODAY  
Deputy Registrar  
09 JUL 2018

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JUL 2018

getting their salaries from the budget  
were also basically Levy Sepoy getting their salary in BPS 5 as Levy Sepoy from the budget  
of Levy Force Change of Cadre From Levy Force to clerical staff of Political Agent Kurram  
Agency has been now declared as illegal and void by the Honorable Supreme Court of

37

~~PO~~

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

In W.P Nos. 4311-P/2017

Mr. Ashiq Hussain s/o Qadam Ali Caste, Duperzai Resident of Village Shakh Upper Kurram Agency & others of Kurram Agency ----- Petitioners

Versus

Federation of Pakistan & Others----- Respondents

**Reply on behalf of Respondent No.1 Additional Chief Secretary (FATA), Respondent No. 2 (Secretary Law & Order) FATA and Respondent No. 5 Section Officer (Levy & Khassadar) FATA.**

**RESPECTFULLY SHEWTH:**

The answering respondents most respectfully submit the following

**PRELIMINARY OBJECTIONS:**

- a. After the promulgation of Levy Force Regulation 2010, amended 2013, called Federal Levy Regulation 2012, rule were also framed in Levy Force Regulation and a proper remedy for the aggrieved Levy personnel has been provided in the regulation/ rules mentioned above. The petitioners have been provided proper remedy under the law for their grievances if any and as such the question of maintainability of the petition/ jurisdiction is of much importance and the approaches of the petitioners to this Honourable court under Article-199 of the Constitution of Islamic Republic of Pakistan 1973 have a big question mark.
- b. That the petitioners have not come to this Honorable court with clean hands.

**FACTS:**

The contents of Para-1 are misconceived and based on wrong information. Levy Force was raised and established in Kurram Agency in the year 1981. After the establishment of Levy Force in Kurram Agency, some educated persons also applied for recruitment in Levy Force as Sepoy. Recruitment order of some of the Sepoys is annex "A" Some of the highly qualified Levy Force Sepoy already recruited as Levy Sepoy were entrusted with the duties of soldier clerks to perform office duties which were ordered by the then commandant/ Political Agent Kurram Agency vide different office orders. It is important to mention here that they were basically recruited as Levy Sepoy in BPS-5 and their promotion in Levy Force was as such:-

From Levy Sepoy to Lance Naik

From Lance Naik in Havaldar

From Havaldar to Naib Subedar

From Naib Subedar to subedar and Major.

Annual budget of Levy Force was prepared by SAFRON and Levy Force personnel were getting their salaries from that specific budget sanctioned for Levy Force. The Levy Clerk were also basically Levy Sepoy getting their salary in BPS 5 as Levy Sepoy from the budget of Levy Force Change of Cadre From Levy Force to clerical staff of Political Agent Kurram Agency has been now declared as illegal and void by the Honorable Supreme Court of Pakistan Islamabad in C.P. No. 71 of 2011 decided in 12.6.2013.

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Deputy Registrar  
09 JUL 2018

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The Ministerial Staff working under the control of Political Agent Kurram Agency are getting their salaries from the sanctioned budget for Ministerial Staff and their chain of promotion is also specifically mentioned in the record.

**Para wise Comments:**

1. Correct to the extent that some of the Petitioners have served in the office of Political Agent Kurram Agency. Most of the petitioners have been properly trained as Levy Sepoy after initial recruitment. Some of the Levy Sepoys were entrusted with the responsibilities to perform duties as Soldier Clerks as per need of office of the political Agent/ commandant Kurram Agency. As for as initial training as Levy Sepoy is concerned majority have gone through.
2. Correct. They served to the entire satisfaction of their superiors.
3. Incorrect. All Junior Clerks mentioned in the said para except Bilal Hussain at S.No 8 was adjusted as Junior Clerk in the Ministerial staff of Political Agent Kurram Agency before promulgation of Levy Force Rules in 2013. Promotion of Bilal Hussain as Junior Clerk in the office of Political Agent Kurram Agency is subjudice in the Honourable apex court of Pakistan where as the adjustment of Hashim Ali as Junior Clerk has since been withdrawn vide office order No. 234-38/ Kurram Levy/ Dated 23.2.2016 as per directive issued by the appellate authority (Secretary Law & Order FATA Secretariat) vide letter No. CS(F)/M/4/Levy/concept paper/311-16/ dated 15.12.2015, Annex "B" as change of cadre of uniform force is violation of Federal Levy Force Rules (Amended 2013).
4. Incorrect.
5. The facts are that in the year 2013, unprecedented law and order situation along with internal tribal sectarian issues further aggravated by the menace of militancy/ terrorism prevailed in Kurram Agency in last few years. In such like sensitive law and order situation recruitment against levy Posts could not be made. A large number of Levy Personnel are retired which constrained the Political Administration Kurram Agency not to retire the Levy Personnel to maintain sufficient strength of Levy which was direly needed in the wake of worst Law and order situation arising out of law enforcing agencies operation in adjoining agencies as well as in central Kurram coupled with intra sectarian cleavage created in the 2013 general elections. In wake of the above, service of 126 levy personnel including petitioners who were due to retirement were retained beyond their due dates of retirement. As they had performed their duties beyond their dates of retirement, their salaries were paid regularly as they were performing their duties to the satisfaction of administration. When law and order situation subsided the pension cases of the afore said levy personnel (including petitioners) were submitted to Agency Accounts Officer Kurram Agency which were returned with the remarks to recover the amount of salaries paid to Levy Force personnel, beyond their dates of retirements. The pension cases submitted to Agency Accounts Officer are pending final decision. Political Administration Kurram Agency has taken up the pension cases of those persons with FATA Secretariat and has requested Ex-post facto Sanction of payments of salaries made to retired Levy Personnel who were retained by the Political Administration Kurram Agency for the reasons detailed above and their cases are under process in the office of the Secretary

7/7 TODAY  
Deputy-Registrar

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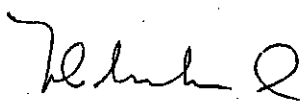
6. As already submitted, the petitioners were due to for retirement at the time when their services were retained for the reasons detailed above.
7. Reply already submitted above.
8. Correct. But as is very clear from his own statement that they have thoroughly performed their duties as soldier clerks in offices/ check posts as Moharrirs and no promotion had been granted to soldier clerk till yet as promotion is being granted to those sepoy who performs active rifle duties day and night. If promotion granted to the petitioners, it will open a new Pandoras Box and all retired solder clerks will demand for their promotion.
9. Detailed reply already submitted in Para-8 Above.
10. No comments.

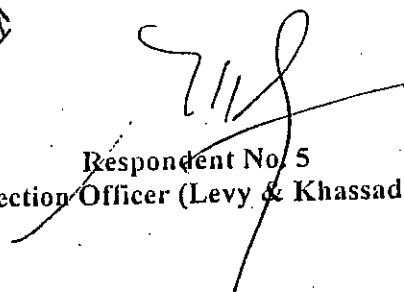
## Grounds:

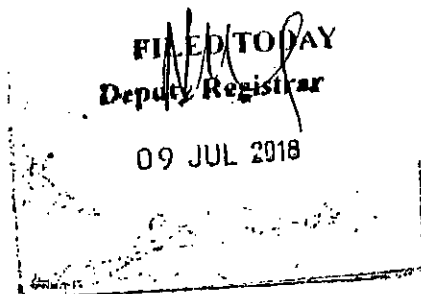
- A. The contents of Para are mis-conceived and not admitted.
  - B. Detailed reply already submitted in Para-8 Above.
  - C. Detailed reply already submitted in para-5 above.
  - D. Proper answered has been submitted above.
- A. No comments

In the light of the submissions made above it is most respectfully prayed that the writ petition having no legal grounds may very kindly be dismissed.

  
Respondent No. 1  
Additional Chief Secretary FATA)

  
Respondent No. 2  
Secretary Law & Order

  
Respondent No. 5  
Section Officer (Levy & Khassadar)



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2015	-do-	-d-
JCS/2015	-do-	-d-
JCS/2015	-do-	-d-
	-do-	-d-
	-do-	-d-
	-do-	-d-

**BEFORE THE PESHAWAR COURT**

In W.P Nos. 4311-P/2017

Mr. Ashiq Hussain s/o Qadam Ali Caste, Duperzai Resident of Village Shakh Upper Kurram Agency & others of Kurram Agency ----- *Petitioners*

*Versus*

Federation of Pakistan & Others----- *Respondents*

**AFFIDAVIT**

I, Mr. Miraj Muhammad Deputy Secretary (Levy & Khassadar) FATA Secretariat, Peshawar do hereby solemnly affirms and declared that parawise comments submitted by Respondent No. 1, 2 & 5 is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

*Miraj Muhammad*  
*Miraj Muhammad*  
*Deputy Secretary Levy & Khassadar)*  
*Law & Order Department*  
*FATA Secretariat*

2641  
I declare that the above contents are verified on solemnly  
affirmation of the truth of this  
day of July 18 Miraj Muhammad  
Dep Sec Peshawar  
2017  
and is personally signed by me:  
*Miraj Muhammad*  
9/7/18

**FILED TODAY**  
**Deputy Registrar**  
*Miraj Muhammad*  
**09 JUL 2018**

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*Miraj Muhammad*

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Amex E

## PESHAWAR HIGH COURT, PESHAWAR

## ORDER SHEET

Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
15.01.2019	<p><u>W.P No.4311-P/2017.</u></p> <p>Present: Mr. Zahanatullah, Advocate, for the petitioners.</p> <p>Mr. Sikandar Rashid, for the respondents.</p> <p>*****</p> <p><u>MUSARRAT HILALI J.-</u> Through this single judgment, we propose to decide connected Writ Petition bearing No. 302-P/2018 (Khaezullah Khan etc Vs. Chief Secretary FATA etc), as both the matters have common questions of law and facts involved therein.</p> <p>2. Petitioners in both the petitions have sought similar prayer that they may be given proforma promotion with all back benefits by declaring the recovery order dated 09.02.2015 of respondent No.2 as null and void. They have also prayed that the respondents may be directed to release the pension of the petitioners</p>

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	<p>alongwith interest.</p> <p>Arguments heard and appended record gone through.</p> <p>3. This Court in its judgment rendered in W.P.No. 354-p/2017 titled "Gul Munir .Vs. The Govt. of Pakistan through Secretary, Ministry of States and Frontier Regions (SAFRON), Islamabad &amp; others" decided on 01.03.2018 had declared that all employees of Levy Force are civil servants, in light of the judgment of the Apex Court, rendered in Civil Appeal Nos. 521/2015, 2387/ 2388, 2552, 2553 of 2016 and others decided on 29.01.2018.</p> <p>4. When learned counsel for the petitioners was confronted with the above situation, he stated at the bar that the instant Writ Petition may be treated as Appeal and be sent to the Services Tribunal for decision in accordance with law.</p> <p>5. The office is directed to send the original file to Federal Service Tribunal by retaining a</p>
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ATTACHED  
TO ORIGINAL COPY

photocopy of memo of Petition for the purpose of record.

6. Accordingly, both the writ petitions are disposed of in the above terms.

JUDGE

JUDGE

Announced  
15.01.2019

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[DB] Hon'ble Justice Musarrat Hali  
Hon'ble Mr. Justice Muhammad Ayub Khan



Order Sheet

Federal Service Tribunal, Islamabad.

Appeal No. 392(P)CS/2019

45

Ashiq Hussain & 6 others Vs Secy. FATA & 5 others

23.05.2019 BEFORE: Mr. Muhammad Jahangir Mir and  
Mr. Muhammad Humayun, Members.

PRESENT: Mr. Ashiq Hussain, appellant in person.

\*\*\*\*\*

ORDER

Muhammad Jahangir Mir, Member:

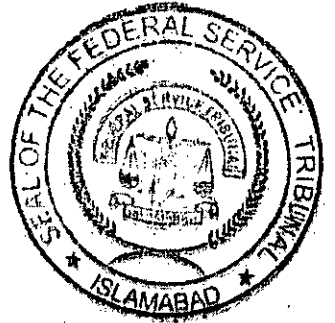
The appeal is at pre-admission stage. It has been observed that a notification No. LEGIS 1(14) 2012-Vol.II dated 12.03.2019, whereby the Federal Levies Force Regulation, 2012 has been repealed through Khyber Pakhtunkhwa Ordinance No. 1 of 2019. According to which the Federal Levies and Khassadar Forces stand provincialized.

In the above circumstances the present appeal is <sup>LL</sup> to be returned <sup>for</sup> seeking remedy at appropriate forum. Therefore, the appeal is disposed of accordingly.

sd-  
MEMBER

sd-  
MEMBER

CERTIFIED TRUE COPY  
Registrar  
Federal Service Tribunal  
Islamabad



① ②

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IN THE FEDERAL SERVICE TRIBUNAL, 47-ATTATURK AVENUE,  
SECTOR. G-5/2, ISLAMABAD.

\*\*\*\*\*

D. No. 5255

Dated 28 MAY 2019

Subject:- ORDER PASSED IN APPEAL NO.392(P)CS-2019 FILED BY  
MR. ASHIQ HUSSAIN & OTHERS VS FATA ETC.

A certified copy of the judgment passed by this Honourable Tribunal in the appeal noted in the subject is sent herewith for your information/compliance.

By Order

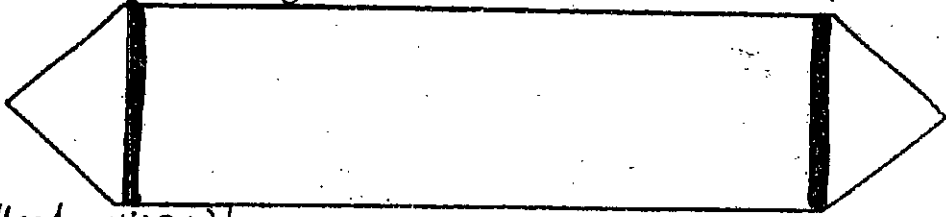
  
REGISTRAR

To,

1. Mr. Ashiq Hussain S/o Qadam Ali,
  2. Mr. Gulzar Hussain S/o Muhammad Hussain
  3. Mr. Mushtaq Hussain S/o Muhammad Ali,
  4. Mr. Mehtab Ali S/o Nawab Ali,
  5. Mr. Niaz Hussain S/o Dost Muhammad
  6. Mr. Maqsood Khan S/o Janat Mir
  7. Mr. Sarwar Ali S/o Safdar Ali
- (All appellants mentioned at Serial No.1 to 7 are Ex-Employees of Federal Levy Force, Kurram Agency).
8. The Secretary, Establishment Division, Government of Pakistan, Islamabad.
  9. The Solicitor, Law & Justice-Division, Islamabad.



# بعدالت صفا سروس ٹریبونل کی



2021ء منجانب                       
 عاشق حسین بنام گورنمنٹ ریلوے

موزخہ  
 مقدمہ  
 دعویٰ  
 جرم  
 -----  
 APPEAL  
 -----

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
 آن مقام                      کیلئے                      زیادتاً                      اور                       
 مقرر 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 ثالثہ فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور 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 نگرانی 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 یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو کسی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
 پروا خستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جہانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

عاشق حسین و لم قدم کلی

المرقوم                      /                      /                      ماہ                      جون                      2021ء

بمقام                      واہ العیوب

کے لئے منظور ہے۔                      سید

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.** *D.B*

No.

Appeal No. *6645* of 20 *21*

*Ashiq Hussain* Appellant/Petitioner

*Govt. of KPK (Chief Secy.)* Respondent

Respondent No. *3*

Notice to: -

*Deputy Commissioner Kurram Agency*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on *12/10/2021* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this *24/10*

Day of *sep* 20 *21*

*Asad Raza*

*[Signature]*  
Registrar

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

6645 21  
Fakir Hussain ..... of 20  
Appellant/Petitioner  
vs. Chief Secy .....  
Respondent

Provincial Respondent No. through chief  
Secretary KPK Peshawar.

an appeal/petition under the provision of the Khyber Pakhtunkhwa Tribunal Act, 1974, has been presented/registered for consideration, in the petitioner in this Court and notice has been ordered to issue. You are that the said appeal/petition is fixed for hearing before the Tribunal at 8.00 A.M. If you wish to urge anything against the date, duly supported by your power of Attorney. You are, therefore, required to file in Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address contained in this notice which the notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide the office Notice No. .... dated. .... 24/5

Given under my hand and the seal of this Court, at Peshawar this .....  
Day of ..... 20

(for Reply)

[Handwritten signature]

[Handwritten signature]

Registrar,  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

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

Service Appeal No 6645/ 2021

Ashiq Hussain..... (Appellant)

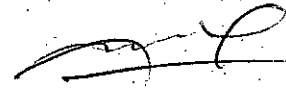
VERSUS

Govt: of KP etc..... (Respondents)

**INDEX**

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Para-wise comments		1-2

Respondent through



**(TARIQ UMAR)**

Inspector/ Legal CPO,  
Peshawar.

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

Service Appeal No 6645/ 2021

Ashiq Hussain ..... (Appellant)

VERSUS

Govt: of KP etc.....(Respondents)

**REPLY BY RESPONDENTS NO. 2**

RESPECTFULLY SHEWETH:

**PRELIMINARY OBJECTIONS:-**

- a) That the appeal is bad for miss-joinder and non-joinder of necessary parties.
- b) That the appeal is not based on facts.
- c) That the appeal is not maintainable in the present form.
- d) That the appeal is badly barred by law & limitation.
- e) That the appellant is estopped to file the appeal by his own conduct.
- f) That the appellant has not come to this Honorable Tribunal with clean hands.
- g) That the appellant has got no cause of action to file instant service appeals.
- h) The answering respondent is not appointing authority of the appellant under the rules.

**FACTS:-**

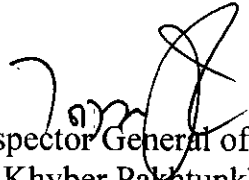
1. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
2. Incorrect. The appellant is Ex- Levy employee and he has not served under the control of answering respondent. Who is neither appointing not dismissal authority under the rules.
3. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
4. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
5. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
6. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
7. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments. Furthermore, the instant service

**GROUND:-**

- A. Incorrect. The act of respondent i.e Ex-Political agent was in accordance with law/ rules and no malafide is existing on the part of answering respondent.
- B. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
- C. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
- D. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
- E. Pertains to record of Ex- Political Agent, Kurram Agency who can better explain the position hence, no comments.
- F. Incorrect. No discrimination has been committed by the answering respondent.
- G. The respondents may also be allowed to raise additional Grounds at the time of hearing of the instant Service Appeal.

**PRAYER:-**

Keeping in view the above stated facts and rules it is humbly prayed that the appeal is not maintainable and devoid of legal force against the answering respondent may kindly be dismissed with costs, please.

  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 2)

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

Service Appeal No 6645/ 2021

Ashiq Hussain..... (Appellant)

VERSUS

Govt: of KP etc..... (Respondents)

**AFFIDAVIT**

I, Tariq Umar Inspector/ Legal CPO, Peshawar do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondent No. 2 is correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.



Respondent through

(TARIQ UMAR)  
Inspector/ Legal CPO,  
Peshawar.