

21<sup>st</sup> Nov, 2022

Lawyers on general strike today.

To come up for arguments on 18.01.2023 before D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)  
Member (E)

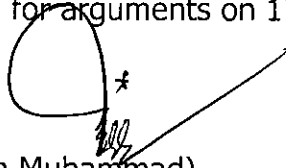


(Kalim Arshad Khan)  
Chairman

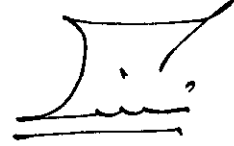
14.09.2022

Mr. Arbab Saiful Kamal, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 17.10.2022 before D.B.



(Mian Muhammad)  
Member (E)

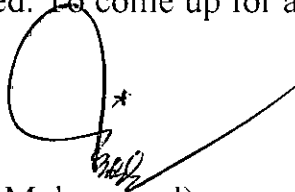


(Salah-Ud-Din)  
Member (J)

17.10.2022

Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 21.11.2022 before the D.B.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

29-3-2022

Proper DB not available - the case is adjourned to come up for the same as before on 6-7-2022

*Ali*  
Reader

06.07.2022

Learned counsel for the appellant present. Mr. Muhammad Sajjad, Litigation Officer alongwith Mr. Muhammad Riaz Khan, Paindakheil, Assistant Advocate General for the respondents present.

Learned counsel for the appellant submitted rejoinder, copy of which handed over to learned Assistant Advocate General. Adjourned. To come up for arguments on 14.09.2022 before the D.B.

(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

Ms. ... District Attorney for the respondents present.

Learned counsel for the respondents ...

(...)  
...

(...)  
...

P.S

28.07.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.

  
Chairman

12.11.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG alongwith Zar Wali, SI (Legal) and Muhammad Saged Litigation Officer for the respondents present.

Written reply/comments of the respondents are still awaited. Last opportunity is granted to the respondents for submission of written reply/comments on or before the date fixed. Case to come up on 15.12.2021 before the S.B.

  
Chairman

15.12.2021

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Zaman, Reader for respondents present.

Written reply/comments on behalf of respondents submitted which is placed on file. A copy of the same is also handed over to the appellant. To come up for arguments on 29.03.2022 before D.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

25.03.2021

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days.

Appellant Deposited  
Security & Process Fee

Thereafter, notice be issued to the respondents for submission of reply/comments. To come up for written reply/comments on

28/6 /2021 before S.B.

  
(Rozina Rehman)  
Member (J)

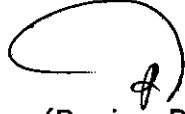
28.06.2021

Counsel for appellant present.

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

The respondents have not submitted written reply. The respondents are required to submit written reply/comments in office within 10 days positively. If the written reply/comments are not submitted in office within stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 12.11.2021 before D.B.

*Stipulated period has passed and reply has not been submitted*




  
(Rozina Rehman)  
Member(J)

Form- A

FORM OF ORDER SHEET

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

Case No.- 16433 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/12/2020	<p>The appeal of Mr. Muhammad Ishaq resubmitted today by Mr. Saadullah Khan Marwat 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-	15.02.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/02/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 25.03.2021.</p> <p style="text-align: right;"> Reader</p>

The appeal of Mr. Muhammad Ishaq son of Ayaz Khan Ex-Sepoy Levies Lakki Marwat received today by i.e. on 04.12.2020 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Memorandum of appeal is unsigned which may be got signed.
- 2- Annexures of the appeal may be flagged.
- 3- Annexures of the appeal may be attested.
- 4- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 5- Copy of order dated 19.03.2016 mentioned in para-5 of the memo of appeal is not attached with the appeal which may be placed on it.
- 6- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 7- Seven more copies/sets of the appeal along with the annexures i.e. complete in all respect may also be submitted with the appeal.

No. 3994 /S.T,

Dt. 04/12/2020

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

*hw,*

*Re-submitted after completions.*

*pl.*

*hw*

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

S.A. No. \_\_\_\_\_/2020

Muhammad Ishaq

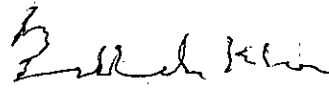
versus

D.C & Others

**I N D E X**

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	FIR dated 27-09-2015	"A"	5
3.	Show Cause Notice	"B"	6
4.	Booking Personnel's for legal action, 19-3-16	"C"	7
5.	Office order of termination dated 14-06-2016	"D"	8
6.	Merger Notification dated 16-09-2019	"E"	9-13
7.	Judgment of ASJ dated 24-06-2020	"F"	14-30
8.	Departmental appeal dated 17-08-2020	"G"	31
9.	Opinion of Inspector Legal dated 14-09-2020	"H"	32
10.	Subsequent opinion dated 21-09-2020	"I"	33
11.	Remission of case to R. No. 03 dated 06-11-20	"J"	34

Through Appellant

  
Saadullah Khan Marwat  
Advocate  
21-A, Nasir Mansion,  
Shoba Bazaar, Peshawar  
Ph: 0300-5872676

Dated 04-12-2020



**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. \_\_\_\_\_ /2020

Muhammad Ishaq  
S/O Ayaz Khan,  
R/o Sargara Muhammad Khan,  
Tajori Lakki Marwat,  
Ex-Sepoy Levies Lakki Marwat ..... Appellant

**Khyber Pakhtunkhwa  
Service Tribunal**  
Diary No. 16/24  
Dated 4/12/2020

**VERSUS**

1. Deputy Commissioner Lakki Marwat /  
Commandant Levies.
2. District Police Officer,  
Lakki Marwat.
3. Regional Police Officer,  
Bannu Region Bannu.
4. Provincial Police Officer,  
KP, Peshawar.
5. Secretary, Govt. of KP,  
Home and Tribal Affairs  
Department, Peshawar ..... Respondents

⊠<=>⊠<=>⊠<=>⊠<=>⊠

**Filed to-day**  
*[Signature]*  
**Registrar**  
4/12/2020

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974**  
**AGAINST OFFICE ORDER NO. 263 DATED 14-06-**  
**2016 OF R. NO. 01 WHEREBY APPELLANT WAS**  
**TERMINATED FROM SERVICE AND DEPARTMENTAL**  
**APPEAL DATED 17-08-2020 OF APPELLANT MET**  
**DEAD RESPONSE TILL DATE OR OFFICE ORDER NO.**  
**5996 / LEGAL DATED 06-11-2020 OF R. NO. 03 WHO**  
**REMITTED THE CASE TO R. NO. 04 FOR DECISION**  
**WHO FAILED TO DECIDE THE REPRESENTATION:**

⊠<=>⊠<=>⊠<=>⊠<=>⊠

**Respectfully Sheweth;**

1. That appellant was initially appointed as Sepoy on 17-08-2010 in Federal Levis Force in the then FR Lakki Marwat.
2. That appellant was serving the department to the best of his ability and to the entire satisfaction of the superiors and no complaint, whatsoever, was advanced against him either from the department or from the General Public.
3. That unfortunately FIR No. 279 dated 27-09-2015 u/s 302/324/34 PPC, Police Station Tajori Lakki Marwat was registered wherein whole Family of the appellant was implicated in the so called offence. (Copy as Annex "A")
4. That due to the fear and torture of the local police, appellant went from the scene, however Deputy Commandant Levis issued Show Cause Notice to him as well as to other Sepoys etc. (Copy as Annex "B")
5. That on 19-03-2016, subsequent letter was issued by Subedar Major wherein it was recommended that the personnel mentioned therein be booked for legal proceedings. (Copies as annex "C")
6. That on 14-06-2016, without conducting regular enquiry into the matter, appellant along with others were terminated from service by R. No. 01. (Copy as Annex "D")
7. That appellant surrender before the local police on 14-12-2018 and then trial into the matter was initiated by ASJ-II Lakki Marwat. Evidence in pro & contra was recorded.
8. That in the meanwhile, on 16-09-2019, the Government of KP issued Notification known as "the Khyber Pakhtunkhwa Levis Force Act, 2019 (KP Act No. XXXV of 2019) wherein due to merger of the FATA Areas into Settle Area and the Levis Force was made under control of KP Police Act 2017 (KP Act No. II of 2017)". (Copy as annex "E")

9. That as stated earlier, evidence in the criminal case was finalized and after its conclusion, appellant was acquitted from the baseless charges vide judgment dated 24-06-2020. (Copy as annex "F")
10. That on 17-08-2020, after acquittal from the baseless charges, appellant submitted departmental appeal before R. No. 03 which was processed in the department. (Copy as annex "G")
11. That on 14-09-2020, Inspector Legal tendered opinion that the matter regarding reinstatement of appellant in service, such power rested with the competent authority to reinstate appellant in service without back benefits or to file the same. (Copy as annex "H")
12. That in letter dated 21-09-2020, R. No. 02 re-iterated the stance in letter dated 14-09-2020 and the case was remitted to R. No. 03 for guidance. (Copy as annex "I")
13. That on 06-11-2020, R. No. 04 remitted the matter to R. No. 03 as per contents mentioned therein and the impugned order dated 14-06-2016 was received on 20-07-2020 from the office as the same was not remitted to appellant. (Copy as annex "J")

Hence this appeal, Inter Alia, on the following grounds;

### **GROUND S**

- a. That frivolous FIR was registered against appellant by implicating therein his whole family for the commission of the offence.
- b. That as per the contention of the department, Show Cause Notice was issued to appellant but the same was not replied due to none service upon him.
- c. That without any regular enquiry services of appellant were terminated, being mandatory.
- d. That first appellant was the employee of Federal Levis Force but due to Merger of the FATA Area into Settle the Levis Force was put under the command and control of Police Department as per Notification dated 16-09-2019.

- e. That appellant was acquitted from the baseless charges by competent court of law, so he was liable for reinstatement in service.
- f. That after acquittal from the baseless charges, appellant submitted departmental appeal before Regional Police Officer, Bannu Region Bannu but no proper heed was paid to the same due to change in the administration and one authority put the burden on the shoulder of other authority.
- g. That the matter was not dealt as per the mandate of law, while order of termination from service was not only against the settled law but was based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, orders 14-06-2016 of R. No. 01 be set aside and appellant be reinstated in service with all back benefits.

Appellant

Through

  
Saadullah Khan Marwat

  
Miss Rubina Naz

  
Arbab Saiful Kamal

  
Amjad Nawaz

Dated: 04-12-2020

Advocates

مدعی 7 027 0249027-11201  
0246 2106946

ابتدائی اطلاعی رپورٹ

نمبر پختونخوا قادم نمبر ۳

کوتل (فائیکل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شمارہ زبردقہ ۱۵۲ مجموعہ ضابطہ نوعداری

قطع ہنگامی مروت

تاریخ وقوع وقوعہ 27 15 9 وقت 30 14 بجے

تاریخ رپورٹ

(279)

تاریخ وقت رپورٹ 27 15 9 وقت 15-50 بجے	جائیدگان 27 15 9 وقت 10-16 بجے
نام و نسبت اطلاع دہندہ مستثنیت شمالیہ میروولڈ بادشاہ خان سکیم سربراہ مخدوم محمد خان نمبر 44/44 سال	مقام وقوعہ 324/34
مقام و نسبت جرم (مدونہ) حال اگر کچھ لیا گیا ہو	مقام وقوعہ 324/34
بمقام واقعہ فاصلہ تھانہ سے اور دست آراضہ اراضہ ہوی و جامع سربراہ مخدوم محمد خان جانب شمالی بھابھا محلہ چوک کلوٹھریا تھانہ	مقام وقوعہ 324/34
نام و نسبت ملزمان سخمہ میروولڈ بادشاہ خان لیوان بادشاہ خان مخدوم محمد خان اور بازاری برادری اللہ دوسٹ میروولڈ میروولڈ میروولڈ	مقام وقوعہ 324/34
کارروائی و تفتیش کے متعلق کوئی اگر اطلاع درج کرنے میں توقف ہو یا ہوا تو یہ بیان کرنا	مقام وقوعہ 324/34
تھانہ سے روانگی کی تاریخ و وقت	مقام وقوعہ 324/34

ابتدائی اطلاع کے درج کردہ اس وقت مستثنیت صدر دفتر کا تہذیبیہ مقصد سے پانچواں نمبر پر مذکورہ واقعہ کا راجہ لاہور پولیس تھانہ میں مقیم رہتا ہے۔ اطلاع دہندہ نے 27 15 9 بجے 10-16 بجے سران بادشاہ خان اراضہ خود واقعہ میں آکر سربراہ مخدوم محمد خان کے مکان پر پہنچا اور وہاں پر ایک شخص کو قتل کر کے اس کے ساتھ ساتھ ایک شخص کو زخمی کر دیا۔ اطلاع دہندہ نے اس واقعہ کے متعلق پولیس تھانہ میں اطلاع دی اور پولیس تھانہ کے افسران نے اس واقعہ کے متعلق تحقیقات شروع کر دیں۔ اطلاع دہندہ نے اس واقعہ کے متعلق پولیس تھانہ میں اطلاع دی اور پولیس تھانہ کے افسران نے اس واقعہ کے متعلق تحقیقات شروع کر دیں۔ اطلاع دہندہ نے اس واقعہ کے متعلق پولیس تھانہ میں اطلاع دی اور پولیس تھانہ کے افسران نے اس واقعہ کے متعلق تحقیقات شروع کر دیں۔

محمد  
15/9/15

6  
 7  
 4  
 شوکار کولس بر جلد الفیورس الفیوری

در دفتر حساب دینی مستر / عالی حضرت لوی فورس بجای دیو

عمر شمار	نام و نام خانوادگی	شماره
1	محمد الله ولد پیر جان	سیاهی
2	عمر جان محمد ولد عبد الحمید	"
3	رشید عباس ولد عبد السلام علی	"
4	شاه زینہ لوزین دختر محل السلام	لیدی سرچہ
5	فدا الله ولد فدا علی	سیاهی
6	لطیف جان ولد محمد جان	"
7	زین الله ولد علی الرحمن	"
8	اسلام ولد خواجہ 171	صوالا
9	المراد علی ولد علی بادشاہ	سیاهی
10	محمد اسحاق ولد محمد انوار	سیاهی

مجموع سند رقم بالا لوی فورس الفیورس علی محمد دراز علی علی محمد صاحب دیو  
 بار بار بدو لوی فورس کتب کئے گئے۔ بعد ازاں کتب کوئی پر حال نہ ہو سکتے  
 کفر بدو لوی فورس انصار و شہداء و مطلع بنا جائے کہ تم لوی فورس انصار  
 اندر پڑھانے لوم (کتاب) کوئی پر حال ہو جائے۔ روح کفارے صلا  
 لوی فورس روکنے کے وقت مال لوی فورس میں لوان صاحبک حسین بدو لوی فورس  
 لکی ہو سکتی ہے

دینی مستر / عالی حضرت لوی فورس

صباح عالی  
 اولاً: کتاب "تذکرہ شہداء" کے بارے میں  
 پتہ پتہ جاننے کے لئے طلبہ کو مطلع کیا جائے۔  
 اور اس کے بارے میں دلچسپی رکھنے والے

- کافی غور سے لیا جائے
1. حضرت شہداء شہزاد
  2. شہزاد محمد
  3. شہزاد محمد علی
  4. شہزاد محمد علی
  5. شہزاد محمد
  6. شہزاد محمد علی
  7. شہزاد محمد علی
  8. شہزاد محمد علی
  9. شہزاد محمد علی
  10. شہزاد محمد علی

کتاب "تذکرہ شہداء" کے بارے میں  
 طلبہ کو مطلع کیا جائے۔

محمد علی

ALC



OFFICE OF THE  
DEPUTY COMMISSIONER/COMMANDANT FEDERAL LEVY FORCE  
LAKKI MARWAT (KHYBER-PAKHTUNKHWA) Ph#0969-538330-31. Fax #: 538333  
email: delakkimarwat@hotmail.com facebook: www.facebook.com/delakkimarwat

No. 263

Dated: 14/6/2016

**OFFICE ORDER**

In exercise the power conferred upon me under section 10<sup>th</sup> schedule II & III of Federal Levy Force regulation 2012 read with Federal Levy Force regulation amended 2013 and after fulfillment of all codal formalities, the following levy personnel's of Federal Levy Force FR Lakki is hereby terminated from service with immediate effect.

S.N	Name	Father Name	Designation	Address
1.	Infan Majeed	Abdul Majeed	Sepoy	Sargra Muhammad Khan
2.	Zainullah	Ghani Rehman	Sepoy	Ghaza Khel
3.	Rashid Abbas	Ghulam Ali	Sepoy	Peshawar
4.	Muhammad Ishaq	Muhammad Avaz	Sepoy	Sargra Muhammad Khan
5.	Ibrahim	Gul Bad Shah	Sepoy	Dara Pezu
6.	Shazia Nourin	Fazal Karim	Lady Searcher	Dabgari Peshawar
7.	Muhammad Aslam	Khawaja Ahmad	Havildar	Hussain Khel

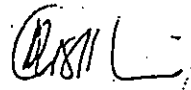
  
(MUHAMMAD BAKHTIAR KHAN)  
Deputy Commissioner/  
Political Agent FR Lakki

Endst: No. 263 /FR Levy

Dated: /06/2016

Copy forwarded to:

1. The Deputy Secretary Law & Order L&O Deptt FATA Sectt Peshawar.
2. The Section Officer (Budget) S&LK Government of Pakistan SAFRON Division Islamabad
3. The Assistant Political Agent FR-Lakki
4. The District Account Officer Lakki Marwat
5. The Subedar Major Federal Levy Force Lakki Marwat
6. All official concerned

  
Deputy Commissioner/  
Political Agent FR Lakki



E

9

16-9-19

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII  
GAZETTE

## KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 16<sup>th</sup> SEPTEMBER, 2019.

### PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

#### NOTIFICATION

Dated Peshawar, the 16th September, 2019.

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

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

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

AN  
ACT

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

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

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

- (m) "rules" mean rules made under this Act; and
- (n) "Schedule" means the Schedule appended to this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

**SCHEDULE**  
[see section-1(3)]

**Part-A**

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

**Part-B**

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

**BY ORDER OF MR. SPEAKER**  
**PROVINCIAL ASSEMBLY OF KHYBER**  
**PAKHTUNKHWA.**

(AMJAD ALI)  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa

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**IN THE COURT OF MIRZA MUHAMMAD KASHIF  
ADDL. SESSIONS JUDGE-II, LAKKI MARWAT.**

Sessions Case No.....55/SC of 2019  
Date of original institution.....16-06-2019  
Date of decision.....24-06-2020

**The State through:**

Shaista Mir s/o Bad Shah Khan r/o Sargara-Muhammad Khan  
Tehsil & District Lakki Marwat.....(Complainant)

**VERSUS**

Ishaq s/o Ayaz Khan r/o Sargara Muhammad Khan Tehsil and  
District Lakki Marwat. ....(Accused facing trial)

**And**

1-Sakhta Mir, 2-Ayaz Khan sons of Bad Shah Khan and 3-  
Hidayatullah s/o Sakhtar Mir r/o Sargara Muhammad Khan Tehsil  
and District Lakki Marwat. ....(Accused already acquitted)

Case FIR No. 279 Dated: 27-09-2015 U/S 302/324/34 PPC  
of PS Tajori District Lakki Marwat.

**JUDGMENT:**

1- The accused namely Ishaq s/o Ayaz Khan r/o Sargara  
Muhammad Khan District Lakki Marwat, faced the trial in above  
captioned case.

2- Brief facts of the prosecution case as per contents of  
the FIR are that on 27-09-2015 at 15:50 hours complainant Shaista  
Mir in injured condition lodged FIR in PS Tajori, alleging therein  
that on the crucial day he along with his sons Salah ud Din and  
Irfan were present on the spot, when at about 14:30 hours accused  
Sakhta Mir, Ayaz Khan, Ishaq and Hidayatullah emerged on the  
crime scene duly armed with Kalashnikovs and made fire upon  
complainant party with intention of their murders. His sons escaped  
unhurt luckily however from the firing of accused Ishaq

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complainant got hit and sustained injuries. After the occurrence accused flee away. Previous land dispute between the parties served as motive for the occurrence, hence the FIR ibid. Later on complainant Shaista Mir succumbed to the injuries and section 302 PPC was added in the FIR.

3- After registration of FIR necessary investigation was initiated in the case. On completion of investigation, prosecution submitted complete challan on 10-10-2015 against all the four accused namely Sakhta Mir, Ayaz Khan, Ishaq and Hidayatullah for proceedings u/s 512 Cr.P.C being absconders. After the arrest of accused Sakhta Mir, Ayaz Khan and Hidayatullah prosecution submitted supplementary challans against them for trial. The case was received to the court of learned Addl: Sessions Judge-III Lakki Marwat for trial against the arrested accused. Trial against the arrested accused was initiated, prosecution witnesses were recorded and ultimately after conclusion of trial all the three accused Sakhta Mir, Ayaz Khan and Hidayatullah were acquitted of the charges leveled against them by giving them benefit of doubt by Mr. Nasir Kamal the then learned ASJ-III Lakki Marwat vide judgment dated 26-05-2018 while accused Muhammad Ishaq was declared as P.O, perpetual Non Bailable Warrants of Arrest were ordered to be issued against him and concerned quarter was directed to enter his name in the register of P.Os.

4- Subsequently after the arrest of accused Muhammad Ishaq prosecution submitted separate supplementary challan against him for trial. Thereafter, on 15-02-2019, instant case file was received by the court of Hon'ble Sessions Judge Lakki Marwat from the court of learned Magistrate Lakki Marwat which was further entrusted to the court of learned ASJ-III Lakki Marwat which was later on transferred to the court of learned ASJ-I Lakki Marwat. Accused Ishaq being in custody was summoned through Zamima Bay, who was produced before the court in custody. relevant copies were handed over to him u/s 265-C Cr.P.C and thereafter, on 27-05-2019 formal charge was framed against him for the alleged offence to which he pleaded not guilty and claimed

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trial, thereafter, prosecution was asked to adduce their evidence. Prosecution in order to prove its charge against the accused facing trial Ishaq had examined as many eight (08) witnesses in toto, with the following brief gist:-

(i) PW-1 Afsar Khan DFC deposed that he was entrusted with warrants u/s 204 Cr.P.C issued against the accused Ishaq Ex. PW 1/1. He searched the accused in his village and in the surrounding area but could not trace him out. The whereabouts of accused was also not known. He had gone into hiding and avoiding his lawful arrest. Thereafter, he was also entrusted with proclamation u/s 87 Cr.P.C issued against the accused which he returned after due execution in accordance with law. The proclamation along with reports are Ex. PW 1/2. Thereafter, case was transferred to this court.

(ii) PW-2 Dr. Kifayatullah deposed that on 27-09-2015 at 04.45 pm, injured Shaista Mir s/o Bad Shah Khan aged about 43 years caste Bitani, r/o Sarga Muhammad Khan brought by constable Sher Nawaz FC No.192 was medically examined by him and found the following:-

1. Entry wound about 1x1 cm on right and lateral side of thigh.
2. Exit wound about 2x2 cm on left antero lateral lower abdomen just above inguinal line.

The medical report of the injured is EX PW 2/1. His endorsement upon the injury sheet is Ex PW 2/2. After medical examination injured was referred to DHQ hospital, Bannu for further treatment and expert opinion.

Nature of injury ..... later on

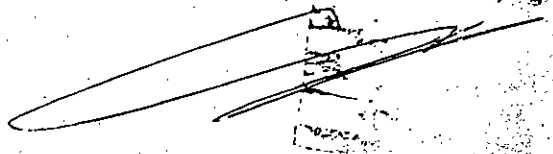
Probable duration of injury ..... Nil.

Kind of weapon used ..... firearm injury.

The medico legal report along with injury sheet was handed over to the same constable.

On 28-9-2015 at 3.45 am, the dead body of deceased Shaista Mir s/o Bad Shah Khan (in the PM report, father of the deceased has inadvertently been mentioned as Shaista Khan) r/o

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village Sargara Muhammad Khan Betani brought by constable Sher Nawaz FC No.192, identified by Bahadar Munir s/o Shah Jehan and Abdullah s/o Bahadar Khan. He examined the dead body at 04.00 am and found the following:

External examination:

Condition of subject:

Stout body, wearing shalwar Qamis and Bunyan.

PML present, RM developed (in progress)

Wounds:

- 1. Entry wound about 1x1 cm on right and lateral side of thigh.
- 2. Exit wound about 2x2 cm on left antero lateral lower abdomen just above inguinal line.

Internal examination.

Cranium and spinal cord....Healthy

Abdomen

Abdominal walls, peritoneum, large intestine, bladder, organs of generation were injured, rest of the organs were healthy.

Muscle, bones and joints.

Relates muscles, bones and joints were injured.

Opinion

In his opinion the deceased got firearm injury in lower abdomen, causing injury of large vessels leading to massive hemorrhage shock and death.

Probable time between injury and death .... Within ten hours.

Time between death and PM.....03 to 09 hours.

After PM examination, he handed over the dead body of deceased along with PM documents, shalwar, qamis of the deceased to the local police. The PM report, consists of six sheets, including pictorial is Ex PM. His endorsement on the inquest report of the deceased is Ex PM/1.

(iii) PW-3 Saleem Khan S.I deposed that on completion of investigation by LBI staff, he had submitted complete challan in the case against all the accused u/s 512 CrPC which is Ex PW 3/1. After the arrest of accused Sakhta Mir, he had submitted supplementary challan against him which is Ex PW 3/2.

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(iv) PW-4 Saif ur Rehman ASI deposed that on 27-9-2015 Shaista Mir s/o Bad Shah Khan r/o village Sargarha Muhammad Khan was brought in injured condition in private vehicle and he reported the matter to him regarding the occurrence at 15.50 hours, the report of the complainant was reduced into writing in shape of FIR upon his dictation which is already Ex PA, content of the report was read over and explained to the complainant, who admitted it correct and thumb impressed the same as token of its correctness. He then prepared injury sheet of the injured Shaista Mir which is Ex PW 4/1 and referred him to the doctor under the escort of constable Sher Nawaz No.192/FC. After registration of case, copy of the FIR was handed over to the IBI staff for investigation. On 28-9-2015 at 03.30 hours, the dead body of Shaista Mir, the then injured was brought to P.S and it was stated that the then injured Shaista Mir succumbed to injuries on the way to Peshawar. He made entry in the daily diary at Serial No.41 dated 28-9-2015 of P.S Tajori, copy of which is available on file and the same is already Ex PW 4/2. He then prepared the inquest report already Ex PW 4/3 of the deceased Shaista Mir and the dead body for PM examination, under the care of constable Sher Nawaz FC No.192.

(v) PW-5 Sher Nawaz FC No. 192 deposed that he had escorted the injured Shaista Mir handed over him by Saif ur Rehman ASI in P.S Tajori along with injury sheet with the direction to produce him before the doctor in RHC Tajori for examination. After examination by the doctor, the doctor handed over him MLC along with injury sheet which he produced him before the I.O and later on injured succumbed to injuries and his dead body was brought to RHC Tajori. Thereafter he accompanied Saif ur Rehman ASI, where he prepared his inquest report of the deceased and handed over him along with dead body of Shaista Mir, which he produced before the doctor for PM examination. After PM examination, the doctor handed over him the PM documents along with qamis, shalwar and dead body of the deceased. He handed over the dead body of deceased to the Legal heirs while PM

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documents along with garments of the deceased produced to the I.O. The injury sheet already Ex PW 4/1 as well as inquest report, already Ex PW 4/3. His statement was recorded by the I.O u/s 161 CrPC.

(vi) PW-6 Badar Munir s/o Shah Jahan deposed that deceased Shaista Mir s/o Bad Shah Khan r/o Sargarh Muhammadiad Khan Tajori was his cousin. He identified the dead body of the deceased before the local police and before the doctor at the time of PM examination in hospital. The inquest report and PM documents of the deceased correctly bears his signature. His statement was recorded by the I.O.

(vii) PW-7 Irfanullah s/o Shaista Mir, who is the eyewitness of the occurrence has almost narrated the same facts as set up by complainant/deceased in his FIR Ex. PA, the contents of which have already been discussed in preceding para of the judgment, therefore, to avoid repetition such portion of his statement is also not reproduced here. He further deposed that after the occurrence they proceeded to the P.S in a private Datsun to P.S Tajori and at P.S his father Shasta Mir reported the matter to the police, which was reduced into writing, read over to him and he thumb impressed the same. After report, his father the then injured was referred to Civil Hospital Tajori along with the constable. After registration of the case, he was present on the spot with the I.O along with Salah ud Din PW and upon our pointation the I.O prepared site plan, which is correct. During spot inspection, the I.O took into possession two crime empties of 7.62 bore freshly fired from the place of accused Ayaz Khan and two crime empties of 7.62 bore freshly fired from the place of accused Ishaq and sealed the case properties separately into parcel No.1 and 2, respectively vide recovery memo in his presence. The recovery memo correctly bears his signature and that of other marginal witness and the I.O. The I.O also took into possession one Qamis, shalwar coloured light brown blood stained of his father deceased Shaista Mir as dispatched by the doctor and produced by constable on the spot vide recovery memo in his presence. His statement was also

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recorded by the I.O u/s-161 Cr.P.C. The motive of the offence was the dispute over landed property. His father was initially injured and then died to the injuries sustained. He along with his brother Salah ud Din has witnessed the occurrence and he charged the accused for the commission of offence.

(viii) PW-8 Mutabar Khan who is the I.O of the case deposed that after the registration of the case, he was entrusted with the investigation of the present case. He proceeded to the spot and there during the spot inspection in presence of witnesses he secured two crime empties 7.62 bore from the place of accused Ayaz Khan, similarly he also secured two freshly fired empties of 7.62 bore from the place of accused Ishaq and sealed the empties secured from the places of both the accused into separate parcel respectively parcel #1 and parcel #2 vide recovery memo Ex.PW 6/1. The empties secured from the place of accused Ayaz Khan and from the place of accused Ishaq are already Ex.P-1 and Ex.P-2 respectively within the recovery memo already Ex.PW 6/1. During the spot inspection he also prepared the site plan upon the pointation of eye witnesses Salah ud Din and Irfan Ullah and the same is already Ex.PW 6/2. During spot inspection he had captured the photographs of the empties from the places of both the accused, which are Ex.PW 6/5 and Ex.PW 6/6. He had placed the case property before the Muharrir of the PS along with application for its transmission to FSL and their reports. He also conducted the house search of accused but neither found accused nor any incriminating material. On the next day the then injured got expired to the injuries and in this respect he issued information memo, which is already Ex.PW 6/3. He had also took into possession one Qamis and Shalwar light brown blood stained brought by the constable Sher Nawaz from the hospital as handed over to him by the doctor. He prepared recovery memo in this respect by sealing the above mentioned garments into parcel #3 and the recovery memo is Ex.PW 6/4 and that of other marginal witnesses. He had recorded the statements of PWs under 161 Cr.P.C. He had also prepared the list of Legal Heirs of the deceased Shaista Mir, the

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Sub-Divisional Officer  
District of Sahiwal  
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same is already Ex.PW 6/7. He had applied for the issuance of warrant against the accused Sakhta Mir, Ayaz Khan, Ishaq, Hidayat Ullah vide his application already Ex.PW 6/8 and thereafter for proclamation vide his application already Ex.PW 6/9. After admission of Sakhta Mir to Interim bail before arrest, he had issued his formal card of arrest, however on the next dates the BBA was turned down and he admitted the accused to custody. He had interrogated and recorded the statement of accused after the grant of custody. Thereafter accused was remanded to the Judicial Lockup. The FSL Report of case property parcel No. 1 and 2 was received in due course and he placed on file the report, which is already Ex.PW 6/10. After completion of investigation he put the case file to the then SHO for submission of complete challan.

5- After recording the statements of above-mentioned PWs, the prosecution, closed its evidence and in this respect the signatures of learned Dy: PP for the State and learned counsel for complainant were obtained. On 17-03-2020 the accused facing trial namely Ishaq Khan was examined under section 342 Cr.P.C wherein he pleaded his innocence; however he neither wished to be examined on oath nor to produce evidence in their defence.

6- Learned Dy: PP for the State argued that accused facing trial is directly charged in the promptly lodged report by the complainant/deceased Shaista Mir for making effective firing upon him with Kalashnikovs, which resulted his death later on and also for making ineffective firing upon his sons Salah ud Din and Irfan but they were enough lucky to escape unhurt, leaving no scope for misidentification of the accused facing trial on the spot instead of real culprits, as the occurrence took place at broad day light and parties are well known to each other, being co villagers, that accused facing trial is specifically charged for committing the Qatl-i-Amd of deceased Shaista Mir, the complainant version is also supported by PWs Salah ud Din and Irfan, that motive, medico legal reports and recoveries support the prosecution case, that accused facing trial remained absconder for sufficient time without any plausible explanation or justification which corroborates his

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Director of  
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enough to hold guilty and also strengthened by the willful absconsion of the accused, that prosecution has proved their charges against the accused beyond shadow of any reasonable doubt, hence the accused deserve conviction and normal penalty of death.

7- On the other hand learned defense counsel emphasized for acquittal of the accused facing trial on the grounds that accused facing trial is innocent and falsely has been charged on account of previous motive with mala fide intention, the accused facing trial along with others have been attributed general role of firing and no specific role has been given to any of the accused, that all the four accused belong to same family have been charged by throwing wide net, that there is no independent witness with the prosecution to support their stance, that there is sufficient unexplained delay in lodging the FIR which further create dents in the prosecution case, that ocular account and site plan also do not support prosecution case. That co-accused have already been acquitted in the case by the court of learned ASJ-III Lakki Marwat by giving them benefit of doubt, hence upon rule of consistency and relying upon same set of evidence, the accused facing trial needs to be acquitted, that nothing incriminating has been recovered either from the direct possession of the accused facing trial or on their pointation, there is nothing on record to support the prosecution case, that the recoveries are fake and there are material discrepancies in prosecution evidence and the prosecution has failed to prove the charges against the accused facing trial, hence seeks the acquittal of the accused facing trial.

8- Arguments heard and file perused.

9- According to the FIR, the complainant the then injured was working in his landed property at eventful moment (1430 hours) when accused facing trail along with other acquitted co-accused, who were armed with sophisticated weapons i.e. Kalashnikovs came there and opened fire with intent to kill them. Complainant received injury from the fire shot of the accused facing trail while the firing of acquitted co accused proved

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Lakki Marwat

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ineffective. The companions of the complainant/his sons Salah ud Din and Irfan escaped unhurt luckily. The occurrence was witnessed by the surviving eye witnesses. After the occurrence, accused fled away. A private datsun was arranged to escort/shift injured to the PS. After registration of FIR and preparation of injury sheet by ASI Saif ur Rehman (PW4), the injured was sent to hospital under escort of constable Sher Nawaz (PW5) for treatment. Doctor Kifayat Ullah on duty medical officer (PW2) attended the injured at 0445 hours. After the medical examination the injured was further referred to DHQ Bannu for further treatment and expert opinion. However, on the way, the injured complainant succumbed the injuries and expired. The dead body was then produced to the doctor Kifayat Ullah later on 0345 hours 28/09/2015, who conducted its autopsy. Per contents of FIR, dispute over landed property served as motive of the occurrence. The complainant charged all accused for occurrence with specification and attribution of his injury to the accused facing trail. On the same day IO visited the spot and prepared site plan (ExpPW6/2) at the instance of the eyewitnesses Salah ud Din and Irfan Ullah (PW7). He collected four crime empties of 7.62 mm bore from the nearby places of accused facing trail Ishaq and acquitted co-accused Ayaz Khan two each respectively. It is worth mentioning that instant FIR carries the presumption of dying declaration in the instant case which was reduced by the PW4 from the mouth of the then injured complainant who later succumbed to the injuries on the way from Bannu to Peshawar for medical treatment. It is also worth observation that none of the eyewitness is rider of FIR therefore, the scrutiny of evidence of the eyewitnesses requires high standards in recording conviction of the accused facing trail, especially in the peculiar circumstances of the present case where in earlier round of trail all other accused except the accused facing trail had been acquitted from the charges while extending benefit of doubts. The prosecution case revolves around the statement of Irfan eyewitness, who was examined as PW-7. For all intents and purposes the presence of eyewitness on the spot at the time of occurrence would

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Signature of  
Inspector of Police  
Bannu

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be judged before assigning any credence to his testimony. PW Irfan is sole produced eyewitness of the occurrence therefore, in the backdrop of story, it is very important to adjudge his credibility and truthfulness as he not only escaped unhurt in fire shots but also there is nothing on record to suggest that he even received slight wound/injury/scratch/laceration.

10- Per judgment of august Peshawar High court published into 2016 P.Cr.LJ Note 15, FIR being a memorandum of the evidence given by a witness before an officer, authorized by law was to be presumed as genuine: and any statement with regard to the facts narrated were to be presumed as true when such statement was duly taken. FIR is a public document maintained in the public office which is always written on the report of complainant by the competent officer/official of the police station, who not only would sign it himself but obtain the signature of complainant as well and is written on a prescribed form. Such document could be proved by producing its author while its contents were presumed to be correct and true. Statement or evidence given before an authorized officer was relevant for the purpose of proving the truth of facts stated in the FIR, where the complainant is dead. Statement of deceased complainant made before prosecution witnesses and recorded in FIR would be presumed to be true being duly taken by an authorized officer. So far the version in FIR is concerned; it was duty of the prosecution to establish it in the evidence through corroboratory and confidence inspiring testimony.

11- The reported time of occurrence per FIR is 1430 hours but the eyewitness Irfan deposed it as 1420 hours in 161 Statement and statement in previous trial. He claimed that they would have reached to the place of occurrence at 1425 hours. The timings given by the sole produced and relied eyewitness mismatch with the contents of FIR and even his statement recorded in earlier round of trail so much so with his statement under section 161 Cr.PC. The medical officer also was not in position to opine with certainty about the probable timings. According to the eyewitness, the accused Ishaq first opened the fire, hitting his deceased father.

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the then injured, followed by the indiscriminate ineffective firing by the acquitted co-accused. It is worth observation that this statement is actually improvement from original stance of FIR and the evidence recorded in earlier trial of acquitted co-accused even. Eyewitness categorically denied his earlier statement by deposing that it is incorrectly recorded in earlier statement that they raised hue and cry on the spot which attracted many people to the place of occurrence. He categorically stated that after the occurrence almost whole village came to the spot, out of which he remember Abdullah and Bahadur Munir who accompanied his injured father to the PS. Bahadur Munir (PW6) negated the eyewitness by admitting that he was not present with the complainant on first visit when they proceeded to PS.

12- So far the manner and crime spot is concerned; it is bounden duty of prosecution to establish without reasonable doubt. According to the contents of FIR, the crime scene is the landed property of complainant where they were busy in work. As the eyewitness is the survivor of the incident therefore, Site plan Ex PW6/2 needs verification and validation from other corroboratory evidences. Admittedly no blood was secured from the place of occurrence though the medical officer opined in cross examination that the blood vessel of the injured was damaged and he was bleeding profusely with massive hemorrhage. The IO during spot inspection only secured four crime empties of 7.62 mm bore. It is worth mentioning that according to the contents of FIR the place of occurrence is landed property but deceased the then injured has been shown in water channel. The eyewitness improved his stance during the evidence by stating that actually the work was carried in the water channel. It is also worth mentioning that neither the tool of work i.e. spade was collected by IO nor any work done has been shown in the site plan or even seconded by IO in investigation or statement in the court. The place of occurrence becomes highly dubious in such circumstances. It further creates doubts in prosecution story when evaluated in juxtaposition with the medical aspect of the injured. The seal and seat of single injury on the body

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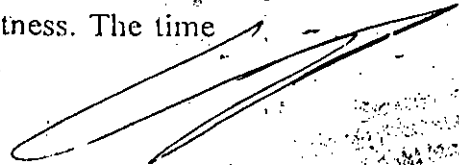
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of deceased is in direction of below upward with entry wound (1x1cm) at lateral side of right thigh having exit (2x2cm) at anterior lateral aspect of lower abdomen just above the inguinal line. The accused facing trail is marked at place 4 which is face to face position in between accused and deceased. The seat and size of injury does not corresponds the charge against the accused facing trail. The presence of both the eyewitnesses is highly doubtful at the spot. PW Salahud din has neither been produced in this trial nor he bother to depose against the alleged murderers of his father in earlier trail against the acquitted co accused. Only PW Irfan faced witness box in both the trails. He tend to make improvements in establishing his presence at the spot but in this struggle and effort he created further dents and doubts in prosecution version. The sole produced eyewitness failed to account the crime scene. It is also observed that during earlier trail eyewitness uttered that after occurrence they go back to their house. He negated his earlier version by improving that he did not go back to home but took his father to PS. "FALSUS IN UNO, FALSUS IN OMNIBUS"

According to the landmark judgment of august Supreme court of Pakistan published into PLD 2019 SC 527 it is held that truth was foundation of justice and justice was the core and bedrock of a civilized society and thus any compromise on truth amounted to a compromise on a society's future as a just, fair and civilized society. august Supreme court directed that the rule of "FALSUS UNO FASUS OMNIBUS" shall henceforth be an integral part of the country's jurisprudence in criminal cases and the same shall be given effect to, followed and applied by all the courts in the country in its letter and spirit, and that the witness found by a court to have resorted to a deliberate falsehood on a material aspect shall without any latitude invariably be proceeded against for committing perjury. Similarly, it is also settled principle of criminal justice that improvements and contradictions in the statement of prosecution witness in order to strengthen the case could not be relied upon. Improvements once found to be deliberate and dishonest would cast doubt on veracity of such witness. The time

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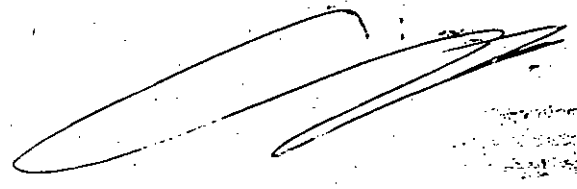


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of occurrence in FIR is 1430 hours though 1420 claimed by eyewitness but even then the FIR was lodged at 1550 hours. Apparently, there is delay of about 01 hour and 20 minutes which has neither been explained by the eyewitness nor there is anything on record to justify such huge delay. In such state of affairs when the prosecution is unable to justify the delay in FIR, the question of deliberation and consultation cannot be ruled out. So as the improvements in earlier trial and further improvements in present trial without any excuse and justification discredit the testimony of interested witness who failed to establish his presence at crime scene. It is strange that eyewitness while in his entire deposition did not state and charge attempt at his or life of other eyewitness but uttered and attribute the firing at deceased only. Four crime empties were recovered from the spot. Though handling and transmission of recovered empties through safe hands to FSL is not established but even then the report of FSL regarding empties ExPW6/10 suggests that these were fired by different 7.62 mm bore weapons. Neither the record pertaining to the safe custody and safe transit of crime empties is brought on record nor were the handling witnesses recorded by IO or even produced by the prosecution. It is worth holding that not only the evidence of the eyewitness Salahud din is withheld by the prosecution but the scribe of FIR and witnesses handling recoveries. PW4 in conflict of his earlier stance deposed that FIR was reduced into writing upon his dictation though in earlier trial he claimed it in his own hands. It is very much strange that even such improvement would not benefit the prosecution as when asked to name the scribe of FIR again failed and stated that he does not remember the name of moharrir who drafted the FIR. It is established fact that neither said scribe of FIR is mentioned in calendar of witnesses nor was produced even. Being dying declaration the scribe of FIR was best person to verify the contents.

13- The motive always plays pivotal role in criminal cases. It is duty of prosecution to establish motive. once alleged. The failure to prove the motive would simply affect the prosecution

24/6/2020  
ATTORNEY



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case. According to the prosecution, the motive of the offence was the dispute over landed property. Except mere fanciful articulation of motive in FIR, the prosecution badly failed to surface any record or even verbal deposition to substantiate it. So far as recovery of blood stained garments and autopsy report of the deceased is concerned, these are only corroborative and confirmatory pieces of evidence, which in the absence of direct evidence would not be sufficient to prove the guilt of the accused. As per the dictum of the apex Court, corroborative evidence is meant to test the veracity of ocular evidence, thus corroborative and ocular testimony is to be read together and not in isolation. It is an established canon of appreciation that direct evidence from primary source always has precedence over corroborative pieces of evidence, but when primary evidence is shaky, corroboration, how strong it may be, cannot repair its cracks. The doctor PW2 examined the deceased twice. Once when he was brought in injured condition and secondly when he was dead. At initial he was examined and referred to DHQ Bannu for further treatment and expert opinion. He did not issued any MLC at first instance of examination rather he deposed that MLC and garments were handed over to the Sher Nawaz PW5 on next day morning i.e. 28/09/2015. Sher Nawaz in negation of doctor claimed that he received MLC and injury sheet and produced to IO at spot at 1630 hours. When the doctor had not yet delivered the MLC to him how he could produce to the IO at the spot at 1630. Per statement of eyewitness the IO reached the crime scene at 0515 pm, how he can collect the undelivered MLC from the hands of Sher Nawaz at 0430 pm on 27/09/2015. It is very crucial fact that doctor delivered MLC on 28/09/2015. Such claim of IO and Sher Nawaz are not only contradictory but also denied by the eyewitness who allegedly was present during spot inspection.

24/6/2020

14- No doubt proceedings under section 512 Cr.P.C were initiated against the accused facing trial; however he denied abscondence in statement under section 342 Cr.P.C. he denied his absconscion by deposing to be at abroad though did not produce any proof of his claim. It is well settled that abscondence alone

ATTESTED

Examiner to  
District & Sessions  
Jalalpur

(20)

cannot be a substitute of real evidence. It has been observed by the apex Court that abscondence by itself would be of no avail to prosecution in absence of any other evidence against the absconding accused. Mere abscondence of accused would not be enough to sustain his conviction. It is by now well settled law that where other evidence is not sufficient to record conviction, then mere abscondence of an accused cannot be taken into consideration for such purpose. Moreover, disappearance of accused person named in murder case is natural irrespective of the fact as to whether he is rightly or wrongly named. Nothing incriminating could be recovered from possession of accused after his arrest and being in custody of police, the accused did not confess before court.

15- The series of allied circumstances negate the mode and manner of occurrence described in the report. The presence of the Pw Irfan who poses to be eyewitness becomes highly doubtful coupled with other serious contradictions materially affecting the prosecution case. In view of scrutiny, the statement of the PW Irfan is found to be patently full of dishonest improvements, which discredit his testimony. When the eye witness of the occurrence, who is giving its ocular account, has failed to account for the improvements and unlikely twists and dents noted in his statement and the broken sequence of events, the guilt of the accused becomes highly improbable. Looking into all these facts brought on the record, I do not see that the prosecution has proved the charge of firing on deceased against the accused. Recording conviction on the basis of given set of evidence is likely to cause gross miscarriage of justice and would not be judicious in the attending circumstances.

16- The crux of the above mentioned discussion is that, no doubt the misfortunate occurrence has taken place but not according to the mode and manner as advanced by the prosecution and the prosecution has miserably failed to bring home the guilt of accused through cogent and confidence inspiring evidence beyond shadow of any reasonable doubt. The prosecution evidence is full

24/6/2020

**TESTI**  
[Signature]  
[Stamp]

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of material contradictions and discrepancies. It is by now well settled law that if there is a single circumstance which create doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused, but here in the case, doubts are floating on the surface of record and according to golden principle of benefit of doubt one substantial doubt would be enough for acquittal of the accused. Conviction must be based on unimpeachable evidence and certainty of guilt and any doubt arising in the prosecution case, must be resolved in favour of the accused.

Hence in light of above while extending the benefit of doubt, the accused facing trial namely Muhammad Ishaq is hereby acquitted from the charges leveled against him. He is produced in custody, be released forthwith, if not required in any other case. Release warrant be issued accordingly.

Case property be kept intact till the expiry of period provided for an appeal / revision and thereafter be dealt as per law.

File of this court be consigned to the record room after its necessary completion and compilation.

Announced.  
24-06-2020

(Mirza Muhammad Kashif) 24/6/20  
Addl: Sessions Judge-II,  
Lakki Marwat.

CERTIFICATE:

Certified that this judgment comprising seventeen (17) pages. Each page has been checked, corrected and signed by me wherever it was necessary.

3383

Addl: Sessions Judge-II,  
Lakki Marwat.

17

ATTESTED

Ref:

Examiner to  
District & Session Judge  
Lakki Marwat

29-6-2020  
sam

گزارت صائب - 19 دہائیوں میں

No 2721/EC  
dt 17/8/20

عنوان کا بیان کرنے کے لئے اس میں

Atto / datta

علاقہ کے لئے درخواستیں

For comments  
along with so  
record and  
enquiry of  
meas

1 - تاریخ میں 17/8/20 سے لے کر میں کہتی ہوں

2 - یہاں پر 27/8/2015 کو سٹیٹس فی آرڈر نمبر 279

کا ذکر

3 - یہاں پر سٹیٹس میں کیا گیا ہے اب تک

میں یہاں سے سٹیٹس میں برصغیر

Handwritten signature

R.P.O Bannu Region

4 - یہاں سٹیٹس میں کوئی تبدیلی نہیں کی گئی

5 - اس کے علاوہ سٹیٹس میں کوئی تبدیلی نہیں کی گئی  
6 - یہاں پر سٹیٹس میں کوئی تبدیلی نہیں کی گئی  
7 - یہاں پر سٹیٹس میں کوئی تبدیلی نہیں کی گئی  
17-8-2020

8 - یہاں پر سٹیٹس میں کوئی تبدیلی نہیں کی گئی  
9884158-0346

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14-9-20

It is submitted that Ex Levy Sepoy Muhammad Ishaq of FRP Lakki Marwat submitted an application to this office for reinstatement into service, which was endorsed to DPO Lakki Marwat for comments.

The DPO Lakki Marwat vide Memo No.5518/EC dated 24.08.2020 submitted comments, wherein it has been stated that the said sepoy had been terminated on 14.06.2016 on the charges of absence from official duty without permission of the competent authority by Deputy Commissioner, Lakki Marwat after completion of all codal formalities.

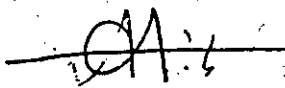
The instant case was marked to the undersigned for legal opinion.

Brief Facts of the instant case are that the appellant was appointed as Sepoy on 17.08.2010 in Federal Levy Force FR Lakki Marwat by Deputy Commissioner Lakki Marwat. On 27.09.2015, he was charged in a criminal case vide FIR No.279 dated 27.09.2015 u/s 302/324/34 PPC PS Tajori District Lakki Marwat titled Shaista Mir Versus Ishaq. Motive of the offense was property dispute among the parties. On completion of investigation, challan was submitted on 10.10.2015. 512 Cr.P.C proceedings was initiated against the accused namely Sheik Amir Khan, Ayaz Khan, Ishaq and Hidayat Ullah. Meanwhile three accused namely Sheikh Amir, Ayaz Khan and Hidayat Ullah were arrested and they were acquitted after trial vide judgment dated 26.05.2018 while accused Muhammad Ishaq was declared as PO. Perpetual nonbailable warrant of arrest were ordered to be issued against him. Later on, in 2019, accused Muhammad Ishaq was appeared before the police. After conclusion of trial, the appellant was acquitted from the charges vide judgment dated 24.06.2020.

It is pertinent to mention that during his absconding period, departmental proceedings were initiated against him and the appellant was terminated from service vide DC office order No.263 dated 14.06.2016.

**LEGAL OPINION:**

The appellant was charged in a criminal case on 27.09.2015. Departmental proceedings were initiated by the DC Lakki Marwat and was terminated on 14.06.2020. Appeal shall lie to the competent authority within 30 days but during that time the appellant was declared as a PO and he did not surrender himself before the land laws specified for crime. Later on, he was surrendered himself in 2019 after a lapse of 3/4 years and was acquitted from the charges on 24.06.2020 by the court of Addl. Sessions Judge No.II Lakki Marwat. The appeal is badly time barred, however, it is the power of the competent authority to reinstate the appellant without back benefit or to file the appeal.

  
Inspector Legal Bannu

14-9-2020



From: The Regional Police Officer,  
Bannu Region, Bannu

To: The Provincial Police Officer,  
Khyber Pakhtunkhwa Peshawar

No. 3258 /EC, dated Bannu, the 22/09/2020

Subject: APPLICATION OF EX-LEVY SEPOY MUHAMMAD ISHAQ

Memo:

It is submitted that Ex-Levy Sepoy Muhammad Ishaq of FR Lakki Marwat submitted an application to this office, requesting therein for reinstatement into service, which was endorsed to DPO Lakki Marwat for comments. The DPO Lakki Marwat vide Memo: No.5518 dated 24.08.2020 submitted comments, wherein, it has been stated that the said sepoy had been terminated by Deputy Commissioner Lakki Marwat on 14.06.2016 on the charges of absence from official duty without permission of the competent authority (order of Deputy Commissioner Lakki Marwat is enclosed).

Brief facts of the instant case are that the applicant was appointment as sepoy on 17.08.2020 in Federal levy force, FR Lakki Marwat by Deputy Commissioner Lakki Marwat. On 27.09.2015, he was charged in a criminal case vide FIR No.279 dated 27.09.2015 u/s 302/324/34PPC PS Tajori district Lakki Marwat. Motive of the offence was property dispute among the parties. On completion of investigation, challan was submitted on 10.10.2015. 512CrPC proceedings were initiated against the accused namely Sheikh Amir Khan, Ayaz Khan, Ishaq and Hidayat Ullah. Meanwhile, the 03 accused were arrested and acquitted after trial vide judgment dated 26.5.2018, while the accused Muhammad Ishaq was declared as P.O. Perpetual non bailable warrant of arrest were ordered to be issued against him. Later on, in 2019, accused Muhammad Ishaq appeared before the police. After conclusion of trial, the appellant was acquitted from the charges vide judgment dated 24.06.2020 (copy is enclosed).

It is submitted for favor of kind information that in case of being badly time barred, his appeal will be filed/rejected and in case of being acquittal of the court vide court judgment dated 24.06.2020, his appeal will be accepted and the official concerned will be reinstated into service, but before reinstatement into service, this office may kindly be guided that which type of due/legal proceedings are necessary to be adopted, for the official concerned has been terminated by Deputy Commissioner Lakki Marwat before the absorption of levy force into police force please.

*Amal Khan*  
(AWAL KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu

*21.9.20*

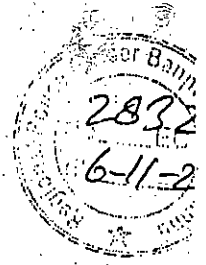
RPO Bannu





6-11-20

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar.



No. 5946 / Legal dated the 6 / 11 / 2020

To: The Regional Police Officer,  
Bannu.

Subject: APPLICATION OF EX-LEVY SEPOY MUHAMMAD ISHAQ.

Memo:-

Please refer to your office Letter No. 3258/ EC, dated 22.09.2020 on subject noted above.

Ex-Levy Sepoy was terminated by the Deputy Commissioner, Lakki Marw on 14.06.2016 on criminal charges, his appeal was rejected, now on acquittal from criminal charges. from the concerned court he submitted application for reinstatement, he was terminated before absorption, when neither he was part of Police Department nor absorbed hence, his application cannot be considered, if he would have been part of Police Department then he would have been treated in accordance with Police Rules, 16.3.

The Competent Authority has recorded the following remarks:-  
"Let, the Court decides the matter."

Fe  
md  
Amid  
05/11

md  
AIG/LEGAL  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
13.10.2020

No. 3862 / EC,  
dt 06/11 / 20

DPo/Bannu for info & action  
w/v to his Memo: No. 5518/EC, dt: 24/8/20.  
The official concerned he informed accordingly by md  
Amid  
For W/Po-Bannu

بعد الت جتای سرسٹریٹ ہسٹریٹل صوبہ سندھ پشاور

متجانب ایڈوائس

محمد اسحاقی

دعویٰ اپیل

باعتبار شکر یہ ایٹیکہ

مقررہ سندھ جج عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی مستعلقہ آن مقام پشاور  
کیسٹم اسٹینڈ انڈسٹریز کے خلاف ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب  
موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے دہنی نامہ و تقرر ثالث و ایٹیکہ برصاف  
دینے جواب دہی اور اقبال دعویٰ اور لہجہ شدہ ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست  
ہر قسم کی تقدیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز بہتر شدہ عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی  
اور مستحقہ نیز دائر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ بنا کر  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مشاور قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا  
اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پروا منتہ منظور  
قبول ہوگا اور دوران مقدمہ میں جو خرچہ و تر جانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب  
موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درود  
پر ہو یا عدت سے باہر ہو تو وکیل صاحب یا بند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

۰۲-۱۲-۲۰ المرقوم

التعبید

التعبید

التعبید

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ارباب سید اکمال  
ایڈووکیٹ

محمد اسحاقی  
سیدہ انیس خان مرقدت  
ایڈووکیٹ

محمد نواز  
ایڈووکیٹ

محمد نواز  
ایڈووکیٹ

محمد نواز

**“B”**

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

S.B

No.

Appeal No. 16433 of 20 20

Muhammad Ishaq Appellant/Petitioner

Versus

D. C. Lakki Maswat Respondent

Respondent No. 1

Recd

Notice to: —

Deputy Commissioner Lakki Maswat  
Commandant Levies

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 28/6/2021 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 19th

Day of May 20 21

  
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.**

*S.B*

No.

Appeal No. *16433* of 20 *20*

*Muhammad Ishaq* Appellant/Petitioner

Versus

*Dt - Lakki Marwat* Respondent

Respondent No. *2*

*Recd*

Notice to: —

*Distt. Police Officer Lakki Marwat*

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 *28/6/2021* 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.

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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 *19/6/21*

Day of *May* 20 *21*

*[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.

S.B

No.

Appeal No. 16433 of 20 20

Muhammad Ishaq Appellant/Petitioner

Versus

D. C. Lakki Marwat Respondent

Recd

Respondent No. 3

Notice to: —

Regional Police Officer Bannu  
Region Bannu.

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 28/6/2021 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.

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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 19/6

Day of May 20 21

[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.** S.B

No.

Appeal No..... 16433 ..... of 20 20

Muhammad Ishaq ..... Appellant/Petitioner

Versus

D.C. Lakshmi Marwat ..... Respondent

Respondent No. 4 .....

Notice to: —

Provincial Police Officer KPK  
Peshawar.

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..... 28/6/2021 ..... 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.

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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 19th .....

Day of..... May ..... 20 21

[Signature]

[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.

S.B

No.

Appeal No..... 16433 ..... of 20 20

Muhammad Ishaq ..... Appellant/Petitioner

Versus

D. G. Lakki Marwat ..... Respondent

Respondent No..... 5 .....

Notice to: —

Secretary Govt. of KPK Home and  
Tribal Affairs Deptt. Peshawar.

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..... 22/6/2021..... 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..... 19/5/21.....

Day of..... May 21

Handwritten signature and date: 27/5/21

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 SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No.16433/20

Muhammad Ishaq s/o Ayaz Khan r/o Sargara Muhammad Khan

Tajori Lakki Marwat Ex-Sepoy Levies Lakki Marwat

..... (Petitioner)

**VERSUS**

1. Deputy Commissioner Lakki Marwat / Commandant Levies
2. District Police Officer Lakki Marwat.
3. Regional Police Officer Bannu Region, Bannu.
4. Provincial Police Officer KPK Peshawar.
5. Secretary Government of KPK, Home & Tribal Affairs Department Peshawar.

..... (Respondents)

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5.	Notification 10-02-2020	C	10-12
6.	Levy Force Act-2019. Notification 16 <sup>th</sup> September-2019.	D & E	13-16 & 17-21

  
Deponent *Si / Leged*



01

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No.16433/20

Muhammad Ishaq s/o Ayaz Khan r/o Sargara Muhammad Khan

Tajori Lakki Marwat Ex-Sepoy Levies Lakki Marwat

..... (Petitioner)

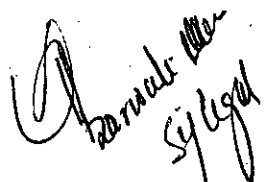
**VERSUS**

1. Deputy Commissioner Lakki Marwat / Commandant Levies
2. District Police Officer Lakki Marwat.
3. Regional Police Officer Bannu Region, Bannu.
4. Provincial Police Officer KPK Peshawar.
5. Secretary Government of KPK, Home & Tribal Affairs Department Peshawar.

..... (Respondents)

**AFFIDAVIT**

I, Mr. Zar Wali Khan SI Legal Representative for Respondents do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable court.

  
DEPONENT

Identified by

Addl: Advocate General Office  
~~Service Tribunal~~  
Peshawar.

**ATTESTED**



129

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No.16433/2020

Muhammad Ishaq s/o Ayaz Khan r/o Sargara Muhammad Khan  
Tajori Lakki Marwat Ex-Sepoy Levies Lakki Marwat

..... (Petitioner)

**VERSUS**

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4. Provincial Police Officer KPK Peshawar.
5. Secretary Government of KPK, Home & Tribal Affairs Department Peshawar.

..... (Respondents)

Para wise comments on behalf of Respondents is as under: -

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS**

1. That the petitioner has no cause of action.
2. That the petition is not maintainable under the law.
3. That the instant petition is barred by law.
4. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
5. That appeal is badly time barred.

**OBJECTIONS ON FACTS**

1. Pertains to record.
2. In-correct: In-fact the appellant during his service involved in heinous act, thus charged in criminal case vide FIR No.279 dated 27-09-2015 u/s 302-324/34 PPC Police Station Tajori Lakki Marwat, consequently the appellant was declared absconder as per law and absented himself from duty without any approval or intimation of the authority.
3. In-correct: The petitioner committed the heinous offence / crime and charged under the above case and also absented himself from duty without any information or lawful permission of the competent authority. (Copy of FIR already annexed by appellant as "A")
4. In-correct: After the commission of heinous offence the appellant abscond himself from the crime scene and also absent from duty, accordingly the department issued 1<sup>st</sup> notice on 11-10-2015 with the directions to return to the duty immediately, but he failed to do so. Subsequently second notice was served on 25/11/2015, but with no positive response received. The 3<sup>rd</sup> notice was also served on 26-12-2015, but the appellant didn't comply with the directions of the superiors. Afterward on 31-03-2016 a show cause notice was published in Newspaper "Daily Aaj" dated 31-03-2016 by the Respondent No.1 with directions to the petitioner to join his duty with 15 days, but with no response. Finally the appellant was recommended for removal / termination from service, which was approved by the Respondent No.1 (Deputy Commissioner Lakki /Commandant Levy Force) on 14-06-2016. (Copy of Absence Notices is Annexed as "A, Show Cause Notice daily Aaj as "B")
5. Correct to the extent that after commission of offence under section 302-324/34 PPC Subedar Major recommended the appellant for legal proceedings as per law. (Copy already Annexed by appellant as "C")

- 6. In-correct: The appellatant was called to duty through repeated Notices, but neither he join his duty nor replied to the notices, which clearly indicates that the appellatant had no interest in performance of duty and after fulfilling all legal / codal formalities, the appellatant was terminated from service vide Order No.263/FR Levy dated 14-06-2016 as the department have left with no other option except the one taken. (Copy of Termination order already Annexed by appellatant as 'D')
- 7. Pertains to record, hence need no comments.
- 8. Also pertains to record.
- 9. In-correct the state has already challenged the Judgment of Additional Session II, Lakki Marwat in High Court Bannu Bench, which is still under trial and the acquittal / conviction of the appellatant will be decide by the Honourable High Court.
- 10. That after lapse of more than 04 years the petitioner preferred time barred appeal for re-instatement in service before Respondent No.3, which has no weightage in the eye of law. However there is a Task Force Committee dealing such like case under the Chairmanship of Secretary Home & Tribal Affairs Khyber Pakhtunkhwa, the case of the petitioner maybe transmit to the said committee for consideration.
- 11. That in-fact the appellatant was terminated from Levy force in the year 2016 by Respondent No.1, while at the time of absorption of Levy Force into KPK Police the appellatant remained Ex-official of Levy Force, hence a Notification dated 10-02-2020 pertaining to the absorption of Levies force member into KPK Police was issued subject to the terms & conditions, in which one clause is that "A member shall not be entitled for absorption, If he has resigned from Levies Force Service or has been terminated from the Service ibid on account of misconduct, inefficiency or any other ground or has been retired from service under the Federal Levy Force (Amended) Service Rules 2013 before commencement of KPK Levies Force Act, 2019. (Copy of Notification dated 10-02-2020 is annexed as "C")
- 12. That according to the Notification explained above, the appellatant being terminated from service was not entitled for absorption in KPK Police, hence this para has got no footings.
- 13. That in response to the letter No.3258/EC dated 22-09-2020, Respondent No.4 issued a Memo No.5996/Legal dated 02-11-2020, described therein that the appellatant was terminated before absorption, when neither the appellatant was part of Police Department nor absorbed hence, the appellatant application cannot be considered and with remarks i.e. " let the court decide the matter". However the appeal of the appellatant for re-instatement in service was not considered as department appeal under the rules, as the Respondent No.2, 3 & 4 is not the appellate authority for such like cases, hence the committee for the purpose under the Chairmanship of Secretary Home & Tribal Affairs have already exists, therefore the appeal should be transferred to committee (Special Task Force) for Levy / Khasadar Force.

**OBJECTION ON GROUNDS**

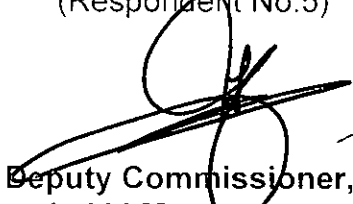
- A. In-correct: The petitioner was charged in murder case and absented himself from duty without any lawful excuse or justification. The petitioner also failed to join his duty, notwithstanding repeated directions of the authority.
- B. In-correct: Several notices were issued to the appellatant by the authority including a Show Cause Notice published in Daily "Ajj" with directions to join duty, but in spite repeated directions the appellatant failed to join his duty as well as his long absence from duty shows his inefficiency / disobedience in line of duty.
- C. In-correct: after fulfilling all legal / codal formalities the appellatant was terminated from service by the competent authority.

- D. In-correct: In-fact as per Levy force Act-2019, Levies Force / Federally Administered Tribal Areas have been merged in the Province of the Khyber Pakhtunkhwa and all rules, orders or instructions including Federal Levies Force service rules & Regulation, 2012 (amended 2013) have also been repealed under the above Levies Force Act. As per Notification dated 24<sup>th</sup> September-2019, Levies Force have been permanently absorbed into the KPK Police in accordance with these rules. Accordingly the Notification dated 10-02-2020 pertaining to the absorption of Levies force member into KPK Police was issued subject to the terms & conditions, in which one clause is that "A member shall not be entitled for absorption, If he has resigned from Levies Force Service or has been terminated from the Service ibid on account of misconduct, inefficiency or any other ground or has been retired from service under the Federal Levy Force (Amended) Service Rules 2013 before commencement of KPK Levies Force Act, 2019. The appellant is Ex-official since 2016 and as per rules / Notification not entitled for absorption in KPK Police Force, hence in the light of these rules / Act the appeal of the appellant is not maintainable under the law. (Photocopy of Levies Force Act-2019, Notification dated 16<sup>th</sup> September-2019 are Annexed as "D & E" )
- E. That after the commencement of above Act, rules & Notifications, the appellant was not entitled for absorption in KPK Police Force.
- F. That as per Levy Force Act / Notification, the appellant being Ex-official was not entitled for absorption in KPK Police Force. The appeal for re-instatement in service before Respondent No.2,3 & 4 is not maintainable as neither Respondents (DPO Lakki, RPO Bannu, PPO KPK) had made any proceedings against the appellant nor any role in removal / termination from service was made, hence as per rules the appeal of the appellant is not admissible.
- G. In-correct: The act of the respondents were passed in accordance with law, rules and policy and based on facts.


**Prayer:**

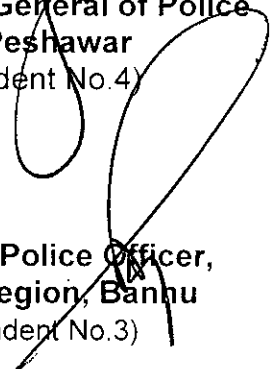
It is humbly requested that the petition is based on wrong footings, therefore the same maybe dismissed with cost, please.

  
 Secretary Home & Tribal Affairs,  
 Department KPK, Peshawar.  
 (Respondent No.5)

  
 Deputy Commissioner,  
 Lakki Marwat  
 (Respondent No.1)

  
 District Police Officer,  
 Lakki Marwat  
 (Respondent No.2)

  
 Inspector General of Police  
 KPK, Peshawar  
 (Respondent No.4)

  
 Regional Police Officer,  
 Bannu Region, Bannu  
 (Respondent No.3)

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No.16433/20

Muhammad Ishaq s/o Ayaz Khan r/o Sargara Muhammad Khan

Tajori Lakki Marwat Ex-Sepoy Levies Lakki Marwat

..... (Petitioner)

**VERSUS**


- 1. Deputy Commissioner Lakki Marwat / Commandant Levies
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- 3. Regional Police Officer Bannu Region, Bannu.
- 4. Provincial Police Officer KPK Peshawar.
- 5. Secretary Government of KPK, Home & Tribal Affairs Department Peshawar.


..... (Respondents)


**AUTHORITY LETTER**

Mr. Zarwali Khan SI/Legal is hereby authorized to appear before the Honourable Service Tribunal Peshawar on behalf of the undersigned in the above cited titled case.


He is also authorized to submit and sign all documents pertaining to the present subject Appeal.

  
 Secretary Home & Tribal Affairs,  
 Department KPK, Peshawar.  
 (Respondent No.5)

  
 Inspector General of Police  
 KPK, Peshawar  
 (Respondent No.4)

  
 Deputy Commissioner,  
 Lakki Marwat  
 (Respondent No.1)

  
 Regional Police Officer,  
 Bannu Region, Bannu  
 (Respondent No.3)

  
 District Police Officer,  
 Lakki Marwat  
 (Respondent No.2)

تونس بابا غیر صاف (اول)

13

تونس بابا در جزایر سید

33

تونس بابا در جزایر سید  
تونس بابا در جزایر سید  
تونس بابا در جزایر سید  
تونس بابا در جزایر سید

تونس بابا در جزایر سید

11/10/2015

A

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توکل و سلم بابت شرفا

(23)

توکل و سلم بابت شرفا  
توکل و سلم بابت شرفا

ب

(43)

توکل و سلم بابت شرفا  
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توکل و سلم بابت شرفا

توکل و سلم بابت شرفا

25/11/2015

توکل سو علم یا بیباکانه <sup>A</sup>

فکر و تفکر در حد آمار و حساب الفکر

53

علم هو علم (توکل سو علم یا بیباکانه) توکل طبعاً است  
مگر نه. کل علم را فایده نیست. در حد آمار و حساب  
فکر و تفکر در حد آمار و حساب است. نه تفکر در حد  
حقوق و قانون. هر دو علم است. هر دو فایده  
ندارد. بیباکانه و بیباکانه هر دو فایده

صوبه و کربلا  
26/12/2015



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www.dailyaaj.com.pk

پشاور ایبٹ آباد اسلام آباد اور کراچی سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشن کل کی ضمانت، آج کا نصب العین

روزنامہ

ایڈیٹر  
عبدالواحد یوسفی

پشاور  
پاکستان

صفحہ 12

جلد 27 جماعت 31 مارچ 2016ء 21 جنوری تا 1437ھ 12 بجے تک ایڈیشن

## شوکار نوٹس

برخلاف لیوی فورس ایف آر کی

از دفتر جناب ذی بی کسٹمرز کمانڈنٹ لیوی فورس کی مرمت

1	سعید اللہ ولد پیر خان	سپاہی
2	عرفان مجید ولد عبد المجید	سپاہی
3	رشید عباس ولد غلام علی	سپاہی
4	شازیہ نورین دختر فضل الکریم	لیڈی ٹیچر
5	ندا احمد ولد ندا علی	سپاہی
6	لطیف خان ولد محبت خان	سپاہی
7	زین اللہ ولد شعیب الرحمن	سپاہی
8	اسلم ولد خواجہ احمد	حوالدار
9	ابراہیم ولد گل بادشاہ	سپاہی
10	محمد اسحاق ولد محمد ایاز	سپاہی

آپ مندرجہ بالا لیوی فورس ایف آر کی عرصہ دراز سے غیر حاضر ہیں باز بار بندر لے نوٹس طلب کیے گئے مگر ابھی تک ڈیوٹی پر حاضر نہ ہوئے لہذا بندر لے شوکار اخباری اشتہار مطلع کیا جاتا ہے کہ آپ لیوی ایپکاران اندر پندرہ یوم (15 یوم) ڈیوٹی پر حاضر ہو جائیں۔ ورنہ آپ کے خلاف لیوی رولز کے تحت قانونی کارروائی عمل میں لائی جائے گی جس میں برخاستگی بھی ہو سکتی ہے۔

PID/P.9687/16

GOVERNMENT  
PAKISTAN PUBLIC WORKS

Return Date

Action

Handwritten signature and date 8/8

C  
10

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

**NOTIFICATION**

Peshawar dated the, 10/2/2020

No.SO(Police)HD/SMY 2019 Merged Area/ 194-204 In pursuance of the provisions contained in section 9 of the Khyber Pakhtunkhwa Levies Force Act, 2019 (Khyber Pakhtunkhwa Act No.XXXV of 2019) read with rule 3 of the Levies Force (Absorption in the Khyber Pakhtunkhwa Police) Rules, 2019, the Home and Tribal Affairs Department, with the prior approval of the Cabinet and on the recommendation of the Provincial Police Officer, hereby orders absorption of the following members of Levies Force of Bhattani Sub-Division in the Khyber Pakhtunkhwa Police with effect from the date of the initial appointment of the said members:

S. No.	Name	Father Name	Previous Rank	Rank in which absorbed
1.	Islam Bhadar	Naeem Khan	Subedar Major BPS-16	Inspector BPS-16
2.	Abdul Sattar	Ghulam Muhammad	Subedar BPS-13	Sub-Inspector BPS-14
3.	Kiramattullah	Malkon	Subedar BPS-13	Sub-Inspector BPS-14
4.	Salis Khan	Malik Alif Khan	Naib Subedar BPS-11	Asstt. Sub Inspector BPS-11
5.	Stan Ahmed	Ghoos Mir	Naib Subedar BPS-11	Asstt. Sub Inspector BPS-11
6.	Qasim Khan	Arab Khan	Naib Subedar BPS-11	Asstt. Sub Inspector BPS-11
7.	Ghani Rehman	Amin Khan	Naib Subedar BPS-11	Asstt. Sub Inspector BPS-11
8.	Watan Khan	Haq Nawaz	Naib Subedar BPS-11	Asstt. Sub Inspector BPS-11
9.	Abdul Majeed	Khan Bat	Hawaldar BPS-09	Head Constable BPS-9
10.	Bahadar Khan	Musa Khan	Hawaldar BPS-09	Head Constable BPS-9
11.	Dur Khan	Tangai Khan	Hawaldar BPS-09	Head Constable BPS-9
12.	Gul Janan	Mirabat	Hawaldar BPS-09	Head Constable BPS-9
13.	Hassan Khan	Lal Khan	Hawaldar BPS-09	Head Constable BPS-9
14.	Mohibullah	Rustam Khan	Hawaldar BPS-09	Head Constable BPS-9

S.No	Name	Father Name	Previous Rank	Rank in which absorbed
213.	Noor Jamal	Amal Jan	Sepoy BPS-5	Constable BPS-7
214.	Muhammad Amin	Ghulam Habib	Sepoy BPS-5	Constable BPS-7
215.	Talib Jan	Mir Shahjehan	Sepoy BPS-5	Constable BPS-7
216.	Daud Khan	Ahmed Khan	Sepoy BPS-5	Constable BPS-7
217.	Sharifullah	Raiwdan Khan	Sepoy BPS-5	Constable BPS-7
218.	Jamil Ahmed	Niaz Muhammad	Sepoy BPS-5	Constable BPS-7
219.	Ismail Khan	Angreez Khan	Sepoy BPS-5	Constable BPS-7
220.	Saif Rehman	Ali Marjan	Sepoy BPS-5	Constable BPS-7
221.	Muhammad Karim	Alamgir Khan	Sepoy BPS-5	Constable BPS-7
222.	Muhammad Zaman	Muhammad Ayub	Sepoy BPS-5	Constable BPS-7
223.	Imtiaz	Sakhi Marjan	Sepoy BPS-5	Constable BPS-7
224.	Samia Bibi	Muhammad Arshad	Sepoy BPS-5	Constable BPS-7
225.	Ahmed Saeed	Mushtaq Ahmed	Sepoy BPS-5	Constable BPS-7
226.	Hidayatullah	Saadullah Jan	Sepoy BPS-5	Constable BPS-7
227.	Wilayat Khan	Gillas Khan	Sepoy BPS-5	Constable BPS-7
228.	Fazal Ghani	Alaf Khan	Sepoy BPS-5	Constable BPS-7
229.	Amal Jan	Gula Mir	Sepoy BPS-5	Constable BPS-7
230.	Akhtar Zaman	Umer Khan	Sepoy BPS-5	Constable BPS-7
231.	Javed Iqbal	Saadullah Khan	Sepoy BPS-5	Constable BPS-7

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

- (i) Their services shall be governed under the Khyber Pakhtunkhwa Police Act, 2017 and the rules made thereunder.
- (ii) A member shall not be entitled for absorption, if he has resigned from Levies Force Service or has been terminated from the Service ibid on account of misconduct, inefficiency or any other grounds or has been retired from Service under the Federal Levy Force (Amended) Service Rules 2013, before commencement of the Khyber Pakhtunkhwa Levies Force Act, 2019 (Khyber Pakhtunkhwa Act No. XXXV of 2019).

- " C "
- 12
- (iii) Their services shall be considered regular and they shall be eligible for pension and deduction of General Provident fund in terms of the Khyber Pakhtunkhwa Civil Servant Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).
  - (iv) Their seniority shall be determined in accordance with rule 6 of the Levies Force (Absorption in Khyber Pakhtunkhwa Police) Rules 2019.
  - (v) They shall undergo training as provided in rule 5 of Levies Force (Absorption in Khyber Pakhtunkhwa Police) Rules, 2019.

*S/* Secretary  
to Government of the Khyber Pakhtunkhwa  
Home and Tribal Affairs Department

No. & date even.

CC to:

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

*[Signature]*  
Section Officer (Levies & Khasadars)

D

D

Bill No 68

1/3

A  
Bill

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

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

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

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

It is hereby enacted as follows:

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

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

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

(4) It shall come into force at once.

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

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

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

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

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

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

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

Asstt. Legal Officer  
Govt. of Khyber Pakhtunkhwa  
Law Department

Asstt. Legal Draftor  
Govt. of Khyber Pakhtunkhwa  
Law Department

- (g) "Levies Force" means the Federal Levies Force, established under the repealed regulation and re-constituted, regulated and maintained under this Act;
- (h) "Police" means the Khyber Pakhtunkhwa Police;
- (i) "prescribed" means prescribed by rules;
- (j) "Provincial Police Officer" means the Provincial Police Officer of Khyber Pakhtunkhwa Police;
- (k) "public agency" means any department of Government, attached department, public authority, commission or autonomous body, setup under any statutory instrument, or public sector company or body corporate, owned, controlled or financed by Government;
- (l) "repealed regulation" means the Federal Levies Force Regulation, 2012, repealed under section 15 of this Act;
- (m) "rules" mean rules made under this Act; and
- (n) "Schedule" means the Schedule appended to this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Asst. Legal Officer  
Govt. of Khyber Pakhtunkhwa  
Islamabad

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

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

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

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

**SCHEDULE**

[see section-1(3)]

**Part-A**

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

**Part-B**

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

Asstt. Legal Officer  
Govt. of Khyber Pakhtunkhwa  
Law Department

**STATEMENT OF OBJECTS AND REASONS**

It is desirable to provide for the maintenance of Khyber Pakhtunkhwa Levies Force and to enable its transition to Khyber Pakhtunkhwa Police. Hence, this Bill.

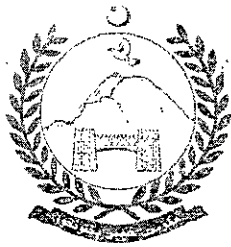
Peshawar,  
dated:  
2019.



**MINISTER-IN-CHARGE.**



EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII  
GAZETTE

## KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 16<sup>th</sup> SEPTEMBER, 2019.

### PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

#### NOTIFICATION

Dated Peshawar, the 16th September, 2019.

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

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

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

AN  
ACT

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

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

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

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

It is hereby enacted as follows:

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

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

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

(4) It shall come into force at once.

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

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

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

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

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

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

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

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

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

(i) "prescribed" means prescribed by rules;

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

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

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

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

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**SCHEDULE**  
[see section-1(3)]

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6.	Darazinda in district Dera Ismail Khan.

**BY ORDER OF MR. SPEAKER**  
PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

(AMJAD ALI)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

S.A No. 16433/2020

Muhammad Ishaq

versus

D. C & Others

**REJOINDER**

**Respectfully Sheweth,**

**Preliminary Objections:**

1. Not correct. Appellant has cause of action as he was terminated from service.
2. Not correct. Petition is maintainable under the law.
3. Not correct. Petition is not barred by law regarding the subject matter, so called involvement in criminal case and merger of FATA into settle.
4. Not correct. All the necessary parties have been impleaded.
5. Not correct. The appeal is not time barred as stated in Para No. 03, above.

**ON FACTS**

1. Needs no comments.
2. The para of the appeal is not replied to its contents regarding appointment as Sepoy in Levies force, Lakki Marwat. The respondents mentioned FIR in criminal case and abscondance. The same was not willful.
3. Not correct. Appellant never committed any offence and his absence, if any, was not willful as stated above.
4. Not correct. And as stated above, appellant never committed any offence and as for as issuance of notices is concerned, none was served/received by appellant. Being FR inhabitant, no Newspapers could be circulated in the area.
5. Not correct. Appellant never involved in any offence.
6. Not correct. No proper enquiry was ever conducted by the department. No statement of anyone was recorded even of the police personnel's as respondents were in knowledge about the criminal case against appellant.

- 7-8. Needs no comments regarding surrender before law and KP Levies force Act, 2019 of Merger FATA into Settle Area.
9. Not correct. The para of the appeal is correct regarding acquittal from the baseless charges.
10. In response to Para No. 10 of the appeal, respondents stated that Committee was constituted to deal with such like cases but the result of the Committee is still awaited.
11. In response to Para No. 11 of the appeal, respondent stated in reply that member shall not be entitled for absorption or has been resigned from the Levy force are terminated etc. but such act (prior to the offence) was prior to the said Notification / matter.
12. Not replied the para of the appeal to its contents by the respondents.
13. As above.


**GRUNDS:**

All the grounds of the appeal are correct, while that of the reply are incorrect and illegal. The same are reaffirmed.

It is, therefore, most humbly requested that the Appeal be accepted as prayed for.

  
Appellant

Through

  
Saadullah Khan Marwat  
Advocate

Dated: 06-07-2022

**AFFIDAVIT**

I Muhammad Ishaq S/O Ayaz Khan R/O Tajori, Lakki Marwat (Appellant) do hereby solemnly affirm and declare that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief.

  
DEPONENT

