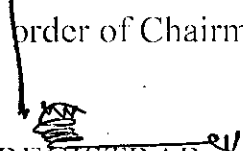


FORM OF ORDER SHEET

Court of _____

Case No.- 1916 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/12/2022	<p>The instant appeal presented today by Dr. Adnan Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR (CAMP COURT AT SWAT)**

Service Appeal No. 1916 of 2022

Muhammad SalimAppellant

VERSUS

Government of Khyber Pakhtunkhwa and another

.....Respondents

INDEX

S. No.	Description	Annexure	Pages No.
1.	Memo of Service Appeal with Certificate		1-6
2.	Condonation application with affidavit		7-9
3.	Dispensation Application with affidavit		10-12
4.	Affidavit in appeal -		13
5.	Addresses of parties		14
6.	Copy of Appointment Order	A	15
7.	Copy of judgment passed in C.P No.1181 of 2012	B	16-18
8.	Copy of relevant text of Service Rules notified in February 2013	C	19-22
9.	Copy of amended Rules notified in December 2013	D	23-24
10.	Copy of amendments notified in July 2020	E	25-26
11.	Copy of amended Rules notified in March 2021	F	27-30
12.	Copy of representation	G	31-34-34.A
13.	Copy of retirement order	H	35-37
14.	Copy of amended Levies Rules notified on 21-10-2021	I	38-39
15.	Copy of memo of second representation	J	40-40A
16.	Copy of comments	K	41-62
17.	Copy of Act of Provincial Assembly	L	63
18.	Copy of judgment dated 23-11-2022	M	64-69
19.	Copy of order dated 29-11-2022	N	70-97
20.	Copy of KP Levies Force Act, 2019 and subsequent orders	O	98-102
21.	Wakalatnama		103

Appellant through Counsel



& Umar Sadiq Advocate High Court



Dr. Adnan Khan Barrister-at-Law,
Advocate Supreme Court of Pakistan.
Office: Adnan Law Associates,
Opposite Shuhada Park College Colony,
Saidu Sharif, Swat.
Cell No. 0346-9415233

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR (CAMP COURT AT SWAT)**

Service Appeal No. 1916 of 2022

Muhammad Salim s/o Muhammad Gul r/o Batkhela, District
Malakand No. 4377 [Naik]

.....Appellant

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat at Peshawar.
- 2) Government of Khyber Pakhtunkhwa through Secretary Home
& Tribal Affairs Department, Civil Secretariat at Peshawar.
- 3) Commandant Malakand Levies/Deputy Commissioner Malakand
at Batkhela

.....Respondents

**APPEAL UNDER SECTION 4 OF
THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974.**

PRAYER:

On acceptance of this Appeal, **Notifications No. SO(Police-II)HD/MKD/Levies/Misc./2020 dated 22-03-2021 & No.SO(Police-II)HD/1-3/Federal Levies 2021 dated 21-10-2021** and subsequent retirement orders issued by respondent No.2 may be declared as illegal and the same be set aside. Consequently, the appellant may be held entitled to complete his service till attaining 60 years age in light of Notification dated 14-07-2020.

Alternatively, the impugned notifications may be declared to be ineffective upon the rights of the appellant and he may be allowed to complete his service till attaining 60 years of age.

Respectfully Sheweth:

- 1) That the appellant has been serving as regular member of Levies Force having a considerable length of service at his credit (Copy of Appointment Order is Annexure "A").
- 2) That services of the appellant were initially regulated under the Federal Levies Force Rules, 1962. The said Rules had no legal protection and as such, were declared to be non-statutory by the august Supreme Court in a judgment passed in C.P No.1181 of 2012 (Copy of judgment passed in C.P No.1181 of 2012 is Annexure "B").
- 3) That subsequently, the Governor Khyber Pakhtunkhwa, under the omitted Article 247(4) of the Constitution promulgated the PATA Levies Force Regulations, 2012. Consequently, the Provincial Government framed Service Rules for the Levies Force in 2013 (Copy of relevant text of Service Rules notified in February 2013 is Annexure "C").
- 4) That Schedule-III of the above mentioned Rules, which provided for length of service towards retirement had certain anomalies. Hence, the said Rules were amended in December 2013 and the above stated anomalies were removed to a larger extent (Copy of amended Rules notified in December 2013 are Annexure "D").
- 5) That the relevant Rules were further amended in July 2020. Regarding the length of service towards retirement, Rule 17 was amended to the effect that all Levies personnel shall retire from service on attaining the age of superannuation i.e Sixty Years. Furthermore, Schedule-III which provided for certain length of service, was deleted by virtue of the amendment (Copy of amendments notified in July 2020 are Annexure "E").
- 6) That the rules were further amended on 23-03-2021. Rule 17, which provided for retirement on reaching superannuation was again omitted and Schedule-III was revived with certain amendments. Consequently, the junior rank officials like the present appellant would retire after performing certain years of service or on reaching certain age. For instance Hawaldar would

retire on reaching 31 years of service or 51 years of age, Naik 29 years of service or 48 years of age, L/Naik 27 year of service or 45 years of age and Sepoy 25 years of service or 42 years of age, whichever is earlier (Copy of amended Rules notified in March 2021 are Annexure "F").

- 7) That the above mentioned Rules being extremely detrimental to him, the appellant filed representation before the concerned quarters for redressal of his grievances. The same has not been responded to as yet (Copy of representation is Annexure "G").
- 8) That the appellant alongwith other similarly placed personnel of the Levies Force got retired from service on reaching certain age/completion of certain length of service as prescribed by the above mentioned Rules (Copy of retirement order is attached as Annexure "H").
- 9) That the appellant along with other similarly placed persons invoked the Constitutional Jurisdiction of the Hon'ble Peshawar High Court by way of filing various constitutional Petitions, challenging vires of the above mentioned rules.
- 10) That during the pendency of the said petitions, the Provincial Government made further amendments in the Federal Levies Rules on 21-10-2021, whereby retirement age in respect of lower ranked members of the Force was enhanced by a few years (Copy of amended Levies Rules notified on 21-10-2021 are Annexure "I").
- 11) That the appellant filed another representation against the above mentioned further amendments in the relevant rules, which was never responded to. (Copy of memo of second representation is Annexure "J").
- 12) That against the above mentioned Rules framed by the Provincial Government, the appellant alongwith other similarly placed persons filed various other constitutional petitions (W.P No.469-M/2021, W.P No.470-M/2021, W.P No.337-M/2021, W.P No.338-M/2021, W.P No.333-M/2021 and W.P No.335-M/2021)

before the Hon'ble Peshawar High Court. However, because of jurisdictional issues, the matter was referred to a larger Bench.

- 13) That the respondents were put on notice by the Hon'ble High. In response, the concerned respondents filed their requisite comments (Copy of comments is Annexure "K").
- 14) That in order to give benefit of the recently amended rules to those already retired from service pursuant to the Rules notified on 22-03-2021, the Provincial Assembly passed an Act whereby certain employees already retired from service were reinstated into service (Copy of Act of Provincial Assembly is Annexure "L").
- 15) That in light of the above mentioned Act, the appellant along with other similarly placed employees of the levies force filed a constitutional petition (WP No. 1281-M/2022) before the Hon'ble Peshawar High Court Mingora Bench to the extent of their re-instatement in light of the Provincial Assembly's Act. The petition was allowed by the Hon'ble High Court vide judgment dated 23-11-2022 whereby the respondents were directed to re-instate the then petitioners. It is worth mentioning that vires of the impugned rules were not challenged in the said petition, which are being impugned through the instant appeal (Copy of judgment dated 23-11-2022 is Annexure "M").
- 16) That a larger Bench of the Hon'ble Peshawar High Court heard the connected petitions on 29-11-2022. Consequently, the Hon'ble High Court decided that personnel of the levies force are civil servants and their employment matters would be dealt with by this Hon'ble Tribunal (Copy of order dated 29-11-2022 is Annexure "N").
- 17) That being aggrieved with the impugned notifications and subsequent retirement order, the instant appeal is being filed before this Hon'ble Tribunal, *inter alia*, on the following grounds:

GROUND:

- A) That the impugned act of amending the relevant Service Rules to the detriment of the appellant and subsequent retirement is

illegal and un-Constitutional. Hence, the same acts are liable to be declared as such.

- B) That it is a settled law that service rules cannot be amended to the detriment of public sector employees. Even, if they are so amended, the same having prospective effect cannot be applied against the existing employees
- C) That after the 25th Constitutional amendment, the new Constitutional regime demanded streamlining of the erstwhile Tribal Areas with the rest of the Province. So much so, Levies personnel serving in erstwhile FATA and Khasadar Force were accommodated to a larger extent where the Provincial Assembly passed an Act aimed at streamlining the service structure of Ex. FATA Levies Force. The Act not only provides uniform retirement age i.e 60 years for the whole Force but rather enjoins upon the Provincial Government to take steps towards absorption of the said Levies and Khasadars in regular police. Regrettably, the appellant have been treated in violation of the Constitutional spirit particularly after the 25th Constitutional amendment and subsequent orders. (Copy of KP Levies Force Act, 2019 and subsequent orders are Annexure "B").
- D) That the revived Schedule-III of the impugned amended Rules and further amendment made in the same is self-contradictory and discriminatory as well. The said Schedule prescribed 60 years of age or certain maximum length of service for high ranking officials' i.e Subedar Major, Subedar and Naib Subedar. Regrettably, the appellant being in lower rank has been treated discriminatorily for the reason that he has not been allowed to serve till 60 years of age.
- E) That further grounds, with leave of this Hon'ble Tribunal, would be raised at the time of oral submissions.

It is, therefore, humbly prayed that on acceptance of this appeal,

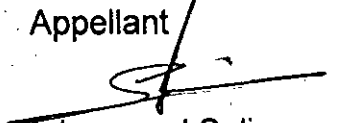
- (i) The impugned Notifications No. SO(Police-II)HD/MKD/Levies/Misc./2020 & No. SO (Police-II)HD/1-3/Federal Levies 2021 dated 21-10-2021

and subsequent retirement order issued by respondent No. 2 be declared as illegal, the same may be set aside. Consequently, the appellant may be held entitled to complete his service till attaining 60 years of age in light with Notification dated 14-07-2020.

Alternatively, the impugned notifications may be declared to be ineffective upon the rights of the appellant and the appellant be allowed to complete his service till attaining 60 years of age.

- ii) Any other remedy though may not specifically prayed for, but which circumstances of the case would demand in the interests of justice, may also be granted.

Appellant


Muhammad Salim
Identified by counsels


Dr. Adnan Khan Barrister-at-Law,
Advocate Supreme Court of Pakistan.

& 
Umar Sadiq Advocate High Court

CERTIFICATE:

Certified that no such like appeal has earlier been filed before this Hon'ble Tribunal on the subject matter.

Appellant


Muhammad Salim

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR (CAMP COURT AT SWAT)

Service Appeal No. _____ of 2022

Muhammad Salim *Applicant/Appellant*

VERSUS

Government of Khyber Pakhtunkhwa and another
..... *Respondents*

APPLICATION FOR CONDONATION OF DELAY IN
FILING SERVICE APPEAL.

Respectfully Sheweth:

- 1) That the accompanying appeal is being filed before this Hon'ble Tribunal, which is apparently filed after the prescribed thirty days limitation period.
- 2) That the appellant was agitating his remedies in good faith before an esteemed forum, which was later on declared as wrong forum by the apex Court.
- 3) That being so, the delay occasioned as such cannot be used to the detriment of the applicant.
- 4) That it is in the interests of justice that disputes are adjudicated upon merits rather on the technicalities.

It is, therefore, humbly prayed that on acceptance this application, any delay in

(8)

filing the instant appeal be condoned in
the interests of justice.

Appellant/Applicant
Through Counsels



Dr. Adnan Khan Barrister-at-Law,
Advocate Supreme Court of Pakistan.

&



Umar Sadiq Advocate
High Court

CERTIFICATE:

Certified that no such like application has earlier been filed
before this Hon'ble Tribunal on the subject matter.

Applicant/Appellant



Muhammad Salim

(9)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR (CAMP COURT AT SWAT)**

Service Appeal No. _____ of 2022

Muhammad Salim Applicant/Appellant

VERSUS

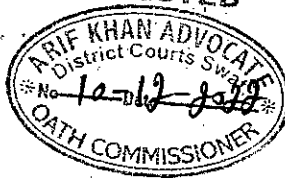
Government of Khyber Pakhtunkhwa and another

..... Respondents

AFFIDAVIT

I, **Muhammad Salim** (Applicant), do hereby solemnly affirm and declare that the contents of the above titled application are true and correct to the best of my knowledge and belief. Furthermore, no such like application has earlier been filed before this Hon'ble Tribunal or elsewhere on this subject matter

ATTESTED



DEPONENT

Muhammad Salim

(10)

PESHAWAR (CAMP COURT AT SWAT)
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. _____ of 2022

Applicant: Muhammad Salim

Government of Khyber Pakhtunkhwa and another
 Respondents

APPLICATION FOR DISMISSAL WITH FILING OF
COMMENTS

Case No. 2022/...

- 1) That the accompanying appeal is being filed before this Hon'ble Tribunal.
- 2) That initially, the applicant had approached the Hon'ble Peshawar High Court along with other similarly placed persons through various Constitutional Petitions with the same facts, grounds and relief as prayed in the instant appeal.
- 3) That before the Hon'ble High Court, the concerned respondents had filed their para wise comments which have been enclosed alongwith the memo of appeal.
- 4) That the said comments are sufficient for the just disposal of the main appeal. Likewise, in cases where vices of law is challenged, customarily comments are not called for.
- 5) That the matter has already been lingered on and further time will be consumed to the detriment of the

(71)

applicant/appellant, if comments are called from the respondents in the instant appeal.

It is, therefore, humbly prayed that on acceptance this application, the requirement of filing comments be dispensed with and the appeal in hand may be decided in light of already filed comments before the Hon'ble High Court.

Appellant/Applicant
Through Counsels



Dr. Adnan Khan Barrister-at-Law,
Advocate Supreme Court of Pakistan.

&

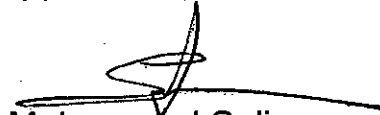


Umar Sadiq Advocate
High Court

CERTIFICATE:

Certified that no such like application has earlier been filed before this Hon'ble Tribunal on the subject matter.

Applicant/Appellant



Muhammad Salim

(12)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR (CAMP COURT AT SWAT)

Service Appeal No. _____ of 2022

Muhammad Salir, *Applicant/Appellant*

VERSUS

Government of Khyber Pakhtunkhwa and another
..... *Respondents*

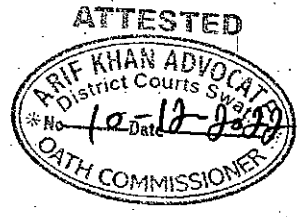
AFFIDAVIT

I, **Muhammad Salim** (Applicant), do hereby solemnly affirm and declare that the contents of the above titled application are true and correct to the best of my knowledge and belief. Furthermore, no such like application has earlier been filed before this Hon'ble Tribunal or elsewhere on this subject matter

DEPONENT

[Signature]

[Signature]
Muhammad Salim



(13)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR (CAMP COURT AT SWAT)**

Service Appeal No. _____ of 2022

Muhammad SalimAppellant

VERSUS

Government of Khyber Pakhtunkhwa and another
.....Respondents

AFFIDAVIT

I, **Muhammad Salim** (Appellant), do hereby solemnly affirm and declare that the contents of the above titled Appeal are true and correct to the best of my knowledge and belief. Furthermore, no such like appeal has earlier been filed before this Hon'able Tribunal or elsewhere on this subject matter.

DEPONENT



Muhammad Salim
s/o Muhammad Gul
NIC#15402-2994568-1

(14)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR (CAMP COURT AT SWAT)**

Service Appeal No. _____ of 2022

Muhammad Salim,Appellant

VERSUS

Government of Khyber Pakhtunkhwa and another

.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Salim s/o Muhammad Gul r/o Batkhela, District
Malakand No. 4377 [Naik]
(NIC#15402-2994568-1) (Cell#)

RESPONDENTS:

- 1) Government of Khyber through Secretary Home & Tribal Affairs
Department, Civil Secretariat at Peshawar.
- 2) Commandant Malakand Levies/Deputy Commissioner
Malakand at Batkhela.

Appellant



Muhammad Salim
Identified by Counsel



Dr. Adnan Khan Barrister-at-Law,
Advocate Supreme Court of Pakistan.



Umar Sadiq Advocate High Court.

ORDER.

Amur "A"

(15)

Mr. Muhammad Saleem son of Haji Muhammad Gul resident of village Barkhela, Malakand Agency is heraby appointed as Sepoy in Malakand Levies in BPS No. 1 @ Rs. 1245-35-1770' subject to his medical fitness.

AMMM

Political Agent, Malakand.

No. 986 /XVII/18 (LC) dated Malakand the 9/2 /1995.

Copy forwarded to the Subedar Major, Malakand Levies, Malakand for information and necessary action.

Political Agent, Malakand.

No-4377

Sep. Mhd. Saleem

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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

AMJAD ALI
Advocate
SUPREME COURT

16

Amr
B

PRESENT:
MR. JUSTICE EJAZ AFZAL KHAN
MR. JUSTICE IJAZ AHMED CHAUDHRY

CIVIL PETITION NO. 1181 OF 2012

(On appeal from the judgment dated
28.6.2012 in W.P. No. 263/2012 passed
by the Peshawar High Court, Mingora
Bench)

Subedar Gul Roz Khan

.... Petitioner

Versus

Govt. of Pakistan through Secy. M/o SAFRON, Islamabad

.... Respondents

For the Petitioner

Mr. Ejaz Anwar, ASC

For Respondents No. 5

Mr. Amjad Ali, ASC

For Official Respondents

Syed Irshad Hussain Shah,
Addl. AG KPK

Date of hearing

02.10.2012

JUDGMENT

EJAZ AFZAL KHAN, J. This petition for leave to appeal has arisen out of the judgment dated 28.6.2012 of the learned Division Bench of the Peshawar High Court, Mingora Bench, whereby Writ Petition filed by the petitioner was dismissed.

2. Learned counsel appearing on behalf of the petitioner contended when the High Court in its judgment dated 13.06.2012 rendered in the case of Muhammad Idrees vs.

ATTESTED

Supd. Intendant
Supreme Court of Pakistan
ISLAMABAD

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Government of Pakistan & others held that the employees of Malakand and Dir Levies are civil servants in terms of Act XXXI of 1973 while in the case in hand held that they are not even the employees of statutory body, the petitioner would be left high and dry without any remedy. The learned counsel next contended that if at all the employees of the Levies were neither civil servants nor employee of a statutory body the learned Division Bench had no power and jurisdiction to comment on the nature of the service or viability of the grievance, therefore, the impugned judgment merits an outright reversal.

17

3. As against that learned Additional Advocate General, KPK appearing on behalf of the official respondents contended that employees of Malakand and Dir Levies are neither civil servants nor are they employees of a statutory body, therefore, writ against any order causing grievance thereto in any form is not amenable to the constitutional jurisdiction of the High Court. Learned counsel appearing on behalf of respondent No.5 also reiterated the same stance.

4. A perusal of the relevant material on the record and notifications issued in this behalf would unmistakably indicate that employees of Malakand and Dir Levies are not civil servants. The aforesaid material and notifications also transpire with alike clarity, that they are not employees of a statutory body either. When so, the High Court could not have commented on the nature of the service or viability of the grievance thus raised by such employees before it. It was a case of dismissal of petition fair and simple. No comments one way or the other were called for. We, therefore, convert this petition into appeal and allow it

ATTESTED

Supintendent
Supreme Court of Pakistan
ISLAMABAD

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in the terms mentioned above by modifying the impugned judgment. We have been told that petitioner has already filed an appeal on 3.5.2012 which is pending before respondent No.2. We would thus desire that it be disposed of within one month without being influenced by any element from above or any other



Per. J. J. Iqbal Khan, J.
Per. J. J. Muhammad Akhtar, J.

Certified to be True Copy

Superintendent
Supreme Court of Pakistan
ISLAMABAD

NOT APPROVED FOR REPORTING

2/10/12

Case No.	10262/11
Case No. for Reference	2-10-12
No. of Pages	900
No. of Copies	9
Amount of Fee	5.00
Amount of Stamp	5.00
Amount of Transport	10.00
Amount of Insurance	
Amount of Postage	
Amount of Stationery	
Amount of Miscellaneous	
Amount of Total	20.00
Amount Paid	
Amount Due	
Signature	[Signature]
Date	2/10/12
Designation	Superintendent

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KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 15TH FEBRUARY, 2013.

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

NOTIFICATION

Peshawar the 4th February 2013

SERVICE RULES FOR FEDERAL LEVIES FORCE IN PATA

In exercise of the powers conferred by Section 9 of the PATA Levies Force Regulation, 2012, The Provincial Government of Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

1. **Short title and commencement-** (1) These rules may be called **Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013**.

(2) They shall come into force at once.

2. **Definitions-** (1) In these Rules, unless the context otherwise require, the following expressions shall have the meaning hereby respectively assigned to them, namely:-

(a) "Appointing Authority" means the appointing authority specified in rule-4;

(b) "Commandant" means Commandant of the Force, who shall be the Deputy Commissioner in their respective jurisdiction;

(c) "Deputy Commandant (Operation)" means an Assistant Commissioner or any officer of the District designated as such by the provincial government who shall be Deputy Commandant (Operation) of the Force in PATA, to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed; and who shall be responsible to the Commandant for operational matters of the Force in PATA.

(d) "Deputy Commandant (Administration)" means Deputy Commandant (Administration) of the Force, who shall be an officer of the provincial government or any officer of the District designated as such by the provincial government to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed and who shall be responsible to the Commandant for administration and establishment matters of the Force in PATA.

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

(f) "Home Department" means Provincial Home & Tribal Affairs Department;

(g) "Initial recruitment" means appointment made other than by promotion or transfer;

(h) "Schedule" means the Schedule appended to these rules;

Signature
DC
12/03/13

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SCHEDULE -III
See Rule 17

S.#	Post/Rank	Length of service / Age
1	Subedar Major (BS-16)	38 years service or 03 years service as Subedar Major or 60 years age whichever is earlier ✓
2	Subedar (BS-13)	35 years service or 03 years service as Subedar or 57 years age whichever is earlier ✓
3	NalibSubedar (BS-11)	32 years service or 03 years service as NalibSubedar or 54 years age whichever is earlier ✓
4	Havaldar (BS-8)	29 years service or 03 years service as Havaldar or 51 years age whichever is earlier ✓
5	Nalk (BS-7)	26 years service or 03 years service as Nalk or 48 years age whichever is earlier ✓
6	L/Nalk (BS-6)	23 years service or 03 years service as L/Nalk or 45 years age whichever is earlier ✓
7	Sabby (BS-5)	20 years service or 42 years age whichever is earlier ✓

CERTIFIED TO BE TRUE COPY

(21)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar the 4th February 2013

SERVICE RULES FOR FEDERAL LEVIES FORCE IN PATA

In exercise of the power conferred by Section 9 of the PATA Levies Force Regulation 2012, the Provincially Government of Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

1. **Short title and commencement:-** (1) These rules may be called Provincially Administrated Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013.

(2) They shall come into force at once.

2. **Definition:-** (1) In these Rules, unless the context otherwise require, the following expression shall have the meaning hereby respectively assigned to them, namely:-

- (a) "Appointing Authority" means the appointing authority specified in rule-4;
- (b) "Commandant" means Commandant of the Force, who shall be the Deputy Commissioner in their respective jurisdiction;
- (c) "Deputy Commandant (Operation)" means as Assistant Commissioner or any officer of the District designated as such by the provincial government who shall be Deputy Commandant (Operation) of the Force in PATA, to exercise in his respective jurisdiction such power and perform such functions as may be prescribed; and who shall be responsible to the Commandant for operational matters of the Force in PATA.
- (d) "Deputy Commandant (Administration)" means Deputy Commandant (Administration) of the Force, who shall be an officer of the provincial government or any officer of the District designated as such by the provincial government to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed and who shall be responsible to the Commandant in administration and establishment matters of the Force in PATA.
- (e) "Government" means the Government of Khyber Pakhtunkhwa;
- (f) "Home Department" means Provincial Home & Tribal Affairs Department;
- (g) "Initial recruitment" means appointment made other than by promotion or by transfer;
- (h) "Schedule" means the Schedule appended to these rules'

CERTIFIED
BE TRUE COPY

SCHEDULE-III
See Rule 17

22

S.#	Post/Rank	Length of service/Age
1	Subedar Major (BS-16)	38 years service or 03 years service as Subedar Major or 60 years age whichever is earlier
2	Subedar (BS-13)	35 years service or 03 years service as Subedar or 57 years age whichever is earlier
3	Naib Subedar (BS-11)	32 years service or 03 years service as Niab Subedar or 54 years age whichever is earlier
4	Havaldar (BS-8)	29 years service or 03 years service as Havaldar or 51 years age whichever is earlier
5	Naik (BS-7)	26 years service or 03 years service as Naik or 48 years age whichever is earlier
6	L/Naik (BS-6)	23 years service or 03 years service as L/Naik or 45 years age whichever is earlier
7	Sepoy (BS-5)	20 years service or 42 years age whichever is earlier

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BE TRUE COPY

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"D"

NOTIFICATION

No. Sol (Levy) HD/FLW/14/2015/A/61. The competent authority has been pleased to further amendments in Schedule-I of Rule-4(2) and Schedule-III of Rules-17 under Part II Regulation for PATA Levy Force, 2012 & Rule-24 of the Provincially Administered Areas (PATA) Federal Levy Force Service (Amended) Rules, 2013 as under:-

Rule-4(2) Schedule-I

SCHEDULE-I
See Rule 4 (2)

S.No	Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
	Uniformed Force				
	Subedar Major (SS-1)	One year service as Subedr.	100%		
	Subedar (SS-13)	One year service as Naib Subedar	100%		
	Naib Subedar (BS-11)	One year service as Hawaldar	100%		
	Hawaldar (BS-8)	One year service as Nalk	100%		
	Nalk (BS-7)	One year service as Lance Nalk	100%		
	Lance Nalk (BS-6)	Five year service as Sepoy	100%		
	Sepoy (BS-5)			100%	Middle Matric
	Head Armorer (BPS-5)	Five years service as Assistant Armorer	100%		Middle Matric of Armo
	Assistant Armorer (BPS-1)			100%	Middle Matric of Armo

Rule-17 (Retirement): (1) All uniform levy personnel shall retire as per Schedule-III or opt for retirement after completion of 25 years of regular service and no extension beyond retirement shall be granted.

SCHEDULE-III
Rule-17 (Retirement)

S.No.	Post/Rank	Length of service / age for retirement.
	Subedar Major (BS-10)	37 years' service or 60 years of age whichever is earlie
	Subedar (BS-13)	35 years' service or 60 years of age whichever earlie
	Naib Subedar (BS-11)	33 years' service or 60 years of age whichever earlie
	Hawaldar (BS-8)	31 years' service or 60 years of age whichever earlie
	Nalk (BS-7)	29 years' service or 60 years of age whichever earlie
	Lance Nalk (BS-6)	27 years' service or 60 years of age whichever earlie
	Sepoy (BS-5)	25 years' service or 60 years of age whichever earlie

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Government of Kyber Pakhtunkhwa,
Home & Tribal Affairs Department
Dated Peshawar the 12th December, 2013

NOTIFICATION

No. SO(Levies)HD/FLW/1-1/2013/Vol.1. The Competent authority has been pleased to order further amendments in Schedule-I of Rule-4(2) and Schedule-III of Rules-17 under Para of the Regulation for PATA Levies Force, 2012 & Rule-24 of the Provincially Administered Area (PATA) Federal Levies Force Service (Amended) Rules, 2013 as under:-
Rule-4(2) Schedule -I

SCHEDULE-I
See Rule 4(2)

Uniformed Force

S.No	Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1.	Subedar Major (BS-16)	One year service as Subedar	100%		
2.	Subedar (BS-13)	One year service as Naib Subedar	100%		
3.	Naib Subedar (BS-11)	One year service as Hawaldar	100%		
4.	Hawaldar (BS-8)	One year service as Naik	100%		
5.	Naik (BS-7)	One year service as Lance Naik	100%		
6.	Lance Naik (BS-6)	One year service as Sepoy	100%		
7.	Sepoy (BS-5)			100%	Middle Pass/Matric
8.	Head Armorer (BS-5)	One year service as Assistant Armorer	100%		Middle Pass/Matric
9.	Assistant Armorer (BS-1)			100%	Middle Pass/Matric

Rule-17 (Retirement): (1) All uniform levy personnel shall retire as per Schedule-III or opt for retirement after completion of 25 years of regular service and no extension beyond retirement shall be granted.

SCHEDULE -III
Rule -17 (Retirement)

S.No	Post/Rank	Length of service/age for retirement
1.	Subedar Major (BS-16)	37 years' of service or 60 years of age whichever is earlier
2.	Subedar (BS-13)	35 years' of service or 60 years of age whichever is earlier
3.	Naib Subedar (BS-11)	33 years' of service or 60 years of age whichever is earlier
4.	Hawaldar (BS-8)	31 years' of service or 60 years of age whichever is earlier
5.	Naik (BS-7)	29 years' of service or 60 years of age whichever is earlier
6.	Lance Naik (BS-6)	28 years' of service or 60 years of age whichever is earlier
7.	Sepoy (BS-5)	25 years' of service or 60 years of age whichever is earlier

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(25)
Annex
E

Amendments

14-07-2020

In the said rules:-

- (a) For rule 17, the following shall be substituted, namely:
 "17. Retirement.— All Levies Personnel shall retire from service on attaining their age of superannuation i.e. sixty (60) years or they may opt for retirement after completion of twenty-five (25) years regular service; and
- (b) Schedule-III shall be deleted.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HOME DEPARTMENT

Copy forwarded to the:-

1. Principal Secretary to Government's Secretariat, Khyber Pakhtunkhwa, Peshawar.
 2. Principal Secretary to Chief Minister's Secretariat Khyber Pakhtunkhwa, Peshawar.
 3. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
 4. Registrar Peshawar High Court, Peshawar.
 5. All Commissioners, Khyber Pakhtunkhwa.
 6. All Deputy Commissioners, Khyber Pakhtunkhwa.
 7. Provincial Election Commissioner, Khyber Pakhtunkhwa.
 8. Provincial Police Officer, Khyber Pakhtunkhwa.
 9. All Heads of Ancestral Departments in Khyber Pakhtunkhwa.
 10. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
 11. Accountant General of Khyber Pakhtunkhwa.
 12. Director Information Khyber Pakhtunkhwa, Peshawar.
 13. The Manager Government Printing & Stationery Department, Khyber Pakhtunkhwa.
- It is requested to publish the above amendments in the official gazette of Khyber Pakhtunkhwa and supply 50 Copies (Printed) of the same to the Home Department.

Section of

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BETTER COPY
HOME DEPARTMENT
NOTIFICATION
Dated Peshawar the 14-07-2020

26

No. SO (Police-IDHD/1-3: In exercise of the power conferred by Section 9 of the Provincially Administered Tribal Areas Levies Force Regulation 2012, the Government of the Khyber Pakhtunkhwa is pleased to direct that in the Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013, the following further amendments shall be made, namely:

Amendments

In the said rules:-

a) Fro rule 17, the following shall be substituted, namely:


“17, Retirement.--- All Levies Personal shall retire from service on attaining then age of superannuation i.e sixty (60) years or they may opt for retirement after completion of twenty-five (25) years regular service, and

b) Schedule-III shall be deleted.

SECRETARY TO
GOVT: OF KHYBER PAKHTUNKHWA
HOME DEPARTMENT

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

NOTIFICATION

Postwar, dated the 22-1-2021

No. 803 Police (H) DMKOL/Levy (Rt) (17/20)

In exercise of the powers conferred by Section 8 of the PATA Levy Force Regulation, 2012, the Provincial Government of Khyber Pakhtunkhwa is pleased to direct that in the PATA Federal Levy Force Service (Amended) Rules, 2013, the following further amendments shall be made, namely:-

Amendments

In the said rules:-

1. In Rule 4, sub-rule (1), the following shall be substituted, namely:
(i) Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar.

Provided that the appointing authority for purpose of promotion to the posts of Subedar Major and Superintendents shall be Secretary, Home Department.

2. For Rule 17, the following shall be substituted, namely:

"17. Retirement: All Levy personnel shall retire as per Schedule-III and no extension in service after retirement shall be granted."

3. For Schedule-III, the following shall be substituted, namely:

"Schedule-III
(see rule 17)

S. No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
	Subedar Major (DS-16)	On the basis of Seniority amongst the Subedars having Intermediate Qualification	Thirty Seven Years or Three Years Service as Subedar Major or Sixty Years of age whichever is earlier
2	Subedar (DS-13)	By promotion, on the basis of Seniority Cum Fitness in the following manner: (i) Fifty Percent (50%) from amongst the Subedars having Intermediate Qualification; and (ii) Fifty Percent (50%) from amongst the Subedars having Secondary School Certificate	Thirty Five Years Service or Five Years Service as Subedar or Sixty years of age whichever is earlier
1	Head Subedar (DS-11)	By promotion, on the basis of Seniority Cum Fitness in the following manner: (i) Fifty Percent (50%) from amongst the Head Subedars having Intermediate Qualification and (ii) Fifty Percent (50%) from amongst Headeders.	Thirty Three Years Service or Seven Years Service as Head Subedar or Sixty Years of age whichever is earlier.

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S.No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
4	Inspector (BS-06)		Thirty One years service or Three years service as Inspector or Fifty One years of age, whichever is earlier.
5	Sub-Inspector (BS-07)		Twenty Five years service or Three years service as Sub-Inspector or Forty Eight years of age, whichever is earlier.
6	Constable (BS-08)		Twenty Seven years service or Three years service as Constable or Forty Five years of age, whichever is earlier.
7	Peon (BS-05)		Twenty Five years service or Forty Two years of age, whichever is earlier.

**SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT**

Copies forwarded to the:-

1. Principal Secretary to the Governor, Khyber Pakhtunkhwa.
 2. Principal Secretary to the Chief Minister, Khyber Pakhtunkhwa.
 3. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
 4. Registrar, Peshawar High Court, Peshawar.
 5. All Commissioners, Khyber Pakhtunkhwa.
 6. All Deputy Commissioners, Khyber Pakhtunkhwa.
 7. Provincial Police Officers, Khyber Pakhtunkhwa.
 8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
 9. PSO to the Chief Secretary, Khyber Pakhtunkhwa.
 10. Accountant General, Khyber Pakhtunkhwa.
 11. Director Information, Khyber Pakhtunkhwa.
 12. The Manager Government Printing & Stationery Department, Khyber Pakhtunkhwa.
- It is requested to publish the above Notification in the Extra Ordinary Gazette of Khyber Pakhtunkhwa and supply 50 copies (Printed) of the same to the Home Department.

Section Officer (Police-II)

SECRETARY TO
GOVERNMENT OF
KHYBER PAKHTUNKHWA

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To be substituted notification of even No & date. (29)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated the 22-3-2021

No. SQ(Police-II)HD/MKD/Levies/Misc./2020:- In exercise of the powers conferred by Section-9 of the PATA Levies Force Regulation, 2012, the Provincial Government of Khyber Pakhtunkhwa is pleased to direct that in the PATA Federal Levies Force Service (Amended) Rules, 2013, the following further amendments shall be made, namely:-

Amendments

In the said rules:-

1. In Rule 4, sub-rule (1), the following shall be substituted, namely:
“(1) Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar:

Provided that the appointing authority for purpose of promotion to the posts of Subedar Major and Superintendents shall be Secretary, Home Department.”

2. For Rule 17, the following shall be substituted namely:

“17. Retirement: All Levy personnel shall retire as per Schedule-III and no extension in service after retirement shall be granted”.

3. For Schedule-III, the following shall be substituted, namely:

“Schedule-III
(see rule 17)

S. No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
1	Subedar Major (BS-16)	On the basis of Seniority-cum-fitness from amongst the Subedars having Intermediate Qualification	Thirty Seven Years or Three Years' Service as Subedar Major or Sixty Years of age whichever is earlier
2	Subedar (BS-13)	By promotion, on the basis of Seniority Cum Fitness in the following manner, namely: (i) Fifty Percent (50%) from amongst the Naib Subedars having intermediate qualification; and (ii) Fifty Percent (50%) from amongst Naib Subedars having Secondary School Certificate	Thirty Five Years service or Five Years service as Subedar or Sixty years of age whichever is earlier
3.	Naib Subedar (BS-11)	By promotion, on the basis of Seniority Cum Fitness in the following manner, namely:	Thirty Three Years' Service or Seven Years' Service as Naib Subedar or Sixty Years

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S. No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
4	Hawaladar (BS-08)	qualification, and (ii) Fifty Percent (50%) from amongst Hawaldars.	Thirty One years service or Three years service as Hawaldar or Fifty One years of age, whichever is earlier.
5	Naik (BS-07)		Twenty Nine years service or Three years service as Naik or Forty Eight years of age, whichever is earlier.
6	L/naik (BS-06)		Twenty Seven years service or Three years service as L/Naik or Forty Five years of age, whichever is earlier.
7	Sepoy (BS-05)		Twenty Five years service or Forty Two years of age, whichever is earlier."

SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT

Copy forwarded to the:-

1. Principal Secretary to the Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to the Chief Minister, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
4. Registrar, Peshawar High Court, Peshawar.
5. All Commissioners, Khyber Pakhtunkhwa.
6. All Deputy Commissioners, Khyber Pakhtunkhwa.
7. Provincial Police Officers, Khyber Pakhtunkhwa.
8. All Heads of Attached Department in Khyber Pakhtunkhwa.
9. PSO to the Chief Secretary, Khyber Pakhtunkhwa.
10. Accountant General, Khyber Pakhtunkhwa.
11. Direction Information, Khyber Pakhtunkhwa.
12. The Manager Government Printing & Stationery Department, Khyber Pakhtunkhwa.

He is requested to publish the above Notification in the Extra Ordinary Gazette of Khyber Pakhtunkhwa and supply 50 copies (Printed) of the same to the Home Department

Section Officer (Police-II)

RECEIVED
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OF
HOME
&
TRIBAL
AFFAIRS

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A
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To

The Chief Minister

KP at Peshawar

Subject: Application for review of the levies rules 2021

Respectfully Sir/Madam

1. That the applicants are the levies personals of Malakand Levies.
2. That the Malakand Levies is established in the year 1895.
3. That the Malakand levy personals are performing their regular duty as police since 1973.
4. That in the year 1962, Levies rules were promulgated., in which the retirement age of different ranks were determined, and the of retirement of Subidar Major, Subidar, Naib Subidar were determined as 30 years of service or 50 years of age, for Lans Naik to Hawaldar 25 years of service or 50 years of age and for constable 18 years of service and 50 years of age whichever comes first. (Rules annexed) ~ K
5. That after the promulgation of the said rules, the mentioned rules were first amended in February, 2013. in which the retirement age of different ranks were determined and rescheduled, the retirement age of Subidar Major were changed to 38 years of service, or 3 years as Subidar Major or 60 years of age, the retirement age Subidar were changed to 35 years of service or 3 years as Subidar or 57 years of age, the retirement age Naik

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Subidar changed to 32 years of service or 3 years as Naik Subidar or 54 years of age. The retirement age of Hawaldar were changed to 29 years of service, 3 years as Hawaldar and 51 years of age. That the service of Naik were changed to 26 years of service, 3 years as Hawaldar and 48 years of age. The retirement age of Las Naik were changed to 23 years of service, 3 years as Hawaldar and 45 years of age. The retirement age of Seopy/constable were changed to 20 years of service, 42 years of age whichever comes first. (Rules attached). "B"

6. That in December, 2013 the service tenure and retirement age was rescheduled for Subidar Major 37 years of service and 60 years of age. Subidar 35 year of service or 60 years of age, for Naib Subidar 33 years of service or 60 years of age, for Hawaldar 31 years of service or 60 years of age, for Naik Hawaldar 29 years of service or 60 years of age, for Las Naik Hawaldar 27 years of service or 60 years of age and for the constable/seopy 25 years of service or 60 years of age which comes first. (Rules annexed). "C"

7. In august, 2016 the service tenure was once again rescheduled in which for the post of Subidar Major 37 years of service, 3 years as Subjdar Major and 60 years of age, For Subidar 35 years of service or 5 years as Subidar or 60 years of age, for Naib Subidar 33 years of service or 7 years as Naib Subidar or 60 years of age which comes first. (Rules annexed). "D"

8. That on 14/07/2020 the schedule of the retirement and service tenure was amended as deleted, the retirement age was fixed as 60 years, or 25 years of service tenure whichever comes first. (copy attached) "E"

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9. That on 22/03/2021 the levy rules were lastly amended, in which for the post of Subidar Major 37 years of service or 3 years as Subjdar Major or 60 years of age, for Subidar 35 year of service, 5 years as Subidar or 60 of age, for Naib Subidar 33 years of service or 7 years as Naib Subidar or 60 years of age, for Hawaldar 31 years of service or 3 years as Hawaldar or 51 years of age, for Naik Hawaldar 29 years of service or 3 years as Naik Hawaldar or 48 years of age, for Las Naik Hawaldar 27 years of service or 3 years as Las Hawaldar or 45 years of age, for constable/Seopy 25 years of service or 42 years of age. (Rules attached). F

10. That in the above mentioned rules of 2021, the ranks of Hawaldar and Seopy are changed two steps down from scale 7 to 5.

11. That against the different amendments some levy personals filed writ petitions before the Hon'able Peshawar high court, which were decided. (Copies attached). G

12. That in the year 2021 some of levy personals filed an application to your Honor, on that application the summery of ten pages were prepared which was approved by the hon'able Chief Minister of KP. (copy attached). H

13. That the final amendments of year 2021 are against the fundamental rights of the applicants, because these amendments are based on discrimination in which the service tenure and age of retirement of Hawaldar to constable were reduced, while the service tenure and age of retirement of other ranks were enhanced.

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14. Those from the implementation of amendments of 2021, 237 levy personals of lower ranks are going to be retired.

15. That for the rank of constable the age of recruitment is minimum 18 years and the age of retirement is 42 years, so it is not possible that someone will serve for 25 years.

16. That levy personals are also serving the country as other forces and be dealt like other forces/police, and their service structure be schedule once for all.

17. That the amendments of 2021 are against the natural justice and fundamental right of the applicants are involved..

Petitioners:

1. HC Saif Ur Rehman Reg. No:4224

2. HC Umar Rehman Reg No.4282

3. Naik Hawaldar Muhtasham Mian Reg. No. 4356

4. Naik Hawaldar Shamsul Arifin Reg. No. 4359

5. Naik Hawaldar Muhammad Saleem Reg. No. 4377

6. Las Hawaldar Zafar Ali Bacha Reg. No. 4415

Dated.29-3-2021

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نمبر شمار	رجسٹر نمبر	ریک	نام	دستخط	نمبر شمار	رجسٹر نمبر	ریک	نام	دستخط
38	4457	لاس ٹائیک	نور زب	[Signature]	1	4222	حوالدار	محمد زب	[Signature]
39	4320	حوالدار	محمد رزاق	[Signature]	2	4237	حوالدار	نواب شیر	[Signature]
40	4471	لاس ٹائیک	اقبال حسین	[Signature]	3	4239	حوالدار	محمد صادق	[Signature]
41	4477	لاس ٹائیک	محمد اسماعیل	[Signature]	4	4251	حوالدار	شاہ محمد	[Signature]
42	4485	لاس ٹائیک	غلام ربی	[Signature]	5	4253	حوالدار	احسان الحق	[Signature]
43	4492	لاس ٹائیک	خالد عثمان	[Signature]	6	4263	حوالدار	حسن دین	[Signature]
44	4493	لاس ٹائیک	بشیر احمد	[Signature]	7	4282	حوالدار	عمر رحمان	[Signature]
45	4495	لاس ٹائیک	محمد نبی	[Signature]	8	4293	حوالدار	ظاہر شاہ	[Signature]
46	4496	لاس ٹائیک	اصل خان	[Signature]	9	4300	حوالدار	رحمت اللہ	[Signature]
47	4498	لاس ٹائیک	عمر گل	[Signature]	10	4304	حوالدار	نور رزاق	[Signature]
48	4499	لاس ٹائیک	محمد صادق	[Signature]	11	4314	حوالدار	شیر داد	[Signature]
49	4503	لاس ٹائیک	فضل طیم	[Signature]	12	4319	حوالدار	شاہ نسیم خان	[Signature]
50	4510	لاس ٹائیک	محمد ظاہر	[Signature]	13	4324	حوالدار	نور الہادی	[Signature]
51	4517	سپاہی	سید عالم	[Signature]	14	4325	ٹائیک	سبز علی خان	[Signature]
52	4518	سپاہی	سردار علی	[Signature]	15	4331	ٹائیک	گل رحمان	[Signature]
53	4529	سپاہی	حامی رحمان	[Signature]	16	4338	ٹائیک	امیر نواز خان	[Signature]
54	4531	سپاہی	واحد شاہ	[Signature]	17	4342	ٹائیک	عمر جان	[Signature]
55	4532	سپاہی	سردار غنی	[Signature]	18	4343	ٹائیک	سید احمد	[Signature]
56	4533	سپاہی	احمد علی	[Signature]	19	4353	ٹائیک	صحت خان	[Signature]
57	4559	سپاہی	لطیف خان	[Signature]	20	4370	ٹائیک	عزیز گل	[Signature]
58	4584	سپاہی	محمد عمران	[Signature]	21	4374	ٹائیک	سردار علی	[Signature]
59	4590	سپاہی	علی فراز	[Signature]	22	4377	ٹائیک	محمد سلیم	[Signature]
60	4596	سپاہی	بشیر محمد	[Signature]	23	4378	ٹائیک	رحیم حق	[Signature]
61	4598	سپاہی	ذولدار شاہ	[Signature]	24	4382	ٹائیک	سبح اللہ	[Signature]
62	4602	سپاہی	ساجد حسین	[Signature]	25	4390	ٹائیک	سید جمال	[Signature]
63	4610	سپاہی	محمد مختیار	[Signature]	26	4391	ٹائیک	میراد خان	[Signature]
64	4613	سپاہی	امداد اللہ	[Signature]	27	4394	ٹائیک	محمد روز	[Signature]
65	4986	سپاہی	خیال بادشاہ	[Signature]	28	4400	ٹائیک	دعوت اللہ اللہ	[Signature]
66	4996	سپاہی	[Signature]	[Signature]	29	4405	لاس ٹائیک	معاذ اللہ	[Signature]
67	5057	سپاہی	بخت نسیم	[Signature]	30	4407	لاس ٹائیک	رحمان زمین	[Signature]
68	5258	سپاہی	سعید اللہ خان	[Signature]	31	4413	لاس ٹائیک	سرور شاہ	[Signature]
69	5396	سپاہی	سوار خان	[Signature]	32	4414	لاس ٹائیک	فضل نور	[Signature]
70	5434	سپاہی	اتیاز عام	[Signature]	33	4420	لاس ٹائیک	بخت زمین	[Signature]
71	5897	سپاہی	فضل محمود	[Signature]	34	4423	لاس ٹائیک	ابرار حسین	[Signature]
72	5926	سپاہی	محمد فاروق	[Signature]	35	4427	لاس ٹائیک	عمر غنی	[Signature]
73	6302	سپاہی	محمد زب	[Signature]	36	4448	لاس ٹائیک	حبیب الرحمن	[Signature]
74	5555	سپاہی	راؤق سلطان	[Signature]	37	4452	لاس ٹائیک	عزیز الرحمن	[Signature]

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Annex

"H"

Page 1 of 3



OFFICE OF THE DC MALAKAND/
COMMANDANT MALAKAND LEVIES

NO. ILC
DATED MALAKAND THE 22/3 2021
Phone: 0932-452080 Fax: 0932-452105

OFFICE ORDER

In pursuance of Notification No.SO(Police-II)/HD/MKD/Levies/Misc/2020 amended Service Rules 2021 Schedule III dated 22-03-2021, issued by Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Peshawar, the following Naik of Malakand Levies, who have already completed the requisite service/tenure/age as noted against each stands retired from service with effect from 22-03-2021 (AN) with full pensionary benefits as per relevant pension rules:-

S.No	Regimental No & Designation	Name	Retirement Reason
1.	4330 Naik	Essa Khan	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
2.	4331 Naik	Gul Rehman	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
3.	4332 Naik	Abdul Karim,	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
4.	4333 Naik	Zarminosh	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
5.	4334 Naik	Zakir Ullah	Completion of the requisite 03-Years Service as Naik
6.	4337 Naik	Mohd Younas	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
7.	4338 Naik	Amir Nawaz Khan	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
8.	4340 Naik	Amir Akbar Khan	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
9.	4341 Naik	Shah Room Khan	Completion of the requisite 03-Years Service as Naik
10.	4342 Naik	Ornera Jan	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
11.	4343 Naik	Said Ahmed	Completion of the both requisite 48-Years of age and 03-Years Service as Naik

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12.	4346 Naik	Mufl Mehmoood	Completion of the requisite 03-Years Service as Naik
13	4347 Naik	Said Zamir	Completion of the requisite 03-Years Service as Naik
14.	4349 Naik	Lal Badshah	Completion of the requisite 03-Years Service as Naik
15	4350 Naik	Muslim Khan	Completion of the requisite 03-Years Service as Naik
16	4352 Naik	Bakhli Said	Completion of the requisite 03-Years Service as Naik
17	4353 Naik	Sohbat Khan	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
18	4355 Naik	Muslim Khan	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
19	4356 Naik	Muhtasham Mian	Completion of the requisite 03-Years Service as Naik
20.	4357 Naik	Mukamil Khan	Completion of the requisite 03-Years Service as Naik
21.	4359 Naik	Shams ul Arifeen	Completion of the requisite 03-Years Service as Naik
22.	4361 Naik	Aziz Ur Rehman	Completion of the requisite 03-Years Service as Naik
23.	4363 Naik	Riaz Muhammad	Completion of the requisite 03-Years Service as Naik
24.	4364 Naik	Farman Ud Din	Completion of the requisite 03-Years Service as Naik
25	4365 Naik	Akbar Khan	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
26	4366 Naik	Ejaz Ur Rahim	Completion of the requisite 03-Years Service as Naik
27.	4367 Naik	Fazal Rehman	Completion of the both requisite 48-Years of age and 03-Years Service as Naik
28	4368 Naik	Hussaln Khan	Completion of the requisite 03-Years Service as Naik
29	4369 Naik	Amani Muik	Completion of the requisite 03-Years Service as Naik
30.	4370 Naik	Aziz Gul	Completion of the requisite 48-Years of age
31.	4374 Naik	Sardar Ali	Completion of the requisite 48-Years of age
32.	4375 Naik	Abdul Jabbar	Completion of the requisite 48-Years of age
33.	4377 Naik	Muhammad Salim	Completion of the requisite 48-Years of age
34.	4378 Naik	Rahim Gul	Completion of the requisite 48-Years of age

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35.	4382 Naik	Sami Ullah	Completion of the requisite 48-Years of age
36.	4325 Naik	Sabzail	Completion of the requisite 48-Years of age
37.	4390 Naik	Said Jamal	Completion of the requisite 48-Years of age
38.	4391 Naik	Murad Khan	Completion of the requisite 48-Years of age
39.	4392 Naik	Badshah Zaman	Completion of the requisite 48-Years of age
40.	4394 Naik	Mohd Rooz	Completion of the requisite 48-Years of age
41.	4397 Naik	Saeed Khan	Completion of the requisite 48-Years of age
42.	4399 Naik	Bakht Moon	Completion of the requisite 48-Years of age
43.	4400 Naik	Wasi ullah	Completion of the requisite 48-Years of age
44.	4401 Naik	Fazal Maula	Completion of the requisite 48-Years of age

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

NO. 2377-81 /LC

Copy with forwarded to the:-

1. Commissioner, Malakand Division at Saidu Sharif, Swat for information, please.
2. Section Officer (Police-II), Home & TA's Department Khyber Pakhtunkhwa Peshawar for information with reference to Notification referred above.
3. District Account Officer, Malakand.
4. Subedar Major Malakand Levies.
5. Official Concerned.

For information & necessary action.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated the 27-10-2021

38

Ann I

NO. SQ(POLICE-IJHD/1-3/FEDERAL LEVIES 2021)- In exercise of the powers conferred by Section-9 of the PATA Levies Force Regulation, 2012, and in continuation of this department notification No. SQ(Police-IJHD/MKD/levies/Misc/2020 dated 22-03-2021, the Provincial Government of Khyber Pakhtunkhwa is pleased to direct that in the PATA Federal Levies Force Service (Amended) Rules, 2013, the following further amendments shall be made, namely:-

SCHEDULE-III

S. No.	Name of the Post / Rank	Length of Service / Age
1	Subedar Major (BS-14)	Thirty Seven Years of service or Three Years' service as Subedar Major or Sixty Years of age whichever is earlier.
2	Subedar (BS-14)	Thirty Five Years of service or Five Years' service as Subedar or Sixty years of age whichever is earlier.
3	Nalb Subedar (BS-11)	Thirty Three Years of Service or Seven Years' service as Nalb Subedar or Sixty Years of age whichever is earlier.
4	Howadar (BS-09)	Thirty one years of service or fifty one year of age whichever is earlier.
5	Nalk (BS-08)	Twenty nine years of service or forty nine years age whichever is earlier.
4	L/Nalk (BS-08)	Twenty seven years of service or forty seven years age whichever is earlier.
7	Sepoy (BS-07)	Twenty five years of service or forty five year of age whichever is earlier.

SCHEDULE-I

S.N	Post/ Rank	Eligibility for Promotion	Promotion Quota	Direct Quota	Qualification
1	Subedar Major (BS-14)	01 year's service as Subedar Or Total 21 years of service	100%		
2	Subedar (BS-14)	02 years' service as Nalb Subedar Or Total 17 years of service	100%		
3	Nalb Subedar (BS-11)	04 years' service as Howadar Or Total 17 years of service	100%		
4	Howadar (BS-09)	05 years' service as Nalk Or Total 13 years of service	100%		
5	Nalk (BS-08)	08 years' service as Lance Nalk Or Total 08 years of service			
6	L/Nalk (BS-08)	08 years' service as Sepoy			
7	Sepoy (BS-07)			100%	SSC
8	Head Armourer (BS-6)	05 years' service as Assistant Armourer	100%		SSC Qualification with certificate of Armourer
9	Assistant Armourer (BS-3)			100%	SSC Qualification with certificate of Armourer

SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT

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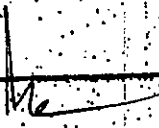
Copy forwarded to the:-

1. Principal Secretary to the Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to the Chief Minister, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
4. Registrar, Peshawar High Court, Peshawar.
5. All Commissioners, Khyber Pakhtunkhwa.
6. All Deputy Commissioners, Khyber Pakhtunkhwa.
7. Provincial Police Officers, Khyber Pakhtunkhwa.
8. All Heads of Attached Department in Khyber Pakhtunkhwa.
9. PSC to the Chief Secretary, Khyber Pakhtunkhwa.
10. Accountant General, Khyber Pakhtunkhwa.
11. Direction Information, Khyber Pakhtunkhwa.
12. The Manger Government Printing & Stationery Department, Khyber Pakhtunkhwa. He is requested to publish the above Notification in the Extra Ordinary Gazette of Khyber Pakhtunkhwa and supply 50 copies (Printed) of the same to the Home Department.


Section Officer (Police-II)

21/10/2024

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(45)

Ans "J"

بجضور جناب سیکرٹری صاحب ہوم اینڈ ٹرائیبل افیئر حیر پختونخواہ بمقام پشاور

اپیل نگرانی برجاری شدہ محکمانہ رولز نمبری so (police11)HD/1-3/ FEDERAL Levies/2021 amended Service Levy Rules2021 Shedule 111 Dated 21-10-2021.

جاری شدہ از مجاز یہ جناب موصوف بیکٹری صاحب ہوم اینڈ ٹرائیبل افیئر۔

جناب عالی؛ ساٹکان زیل عرض رسان ہیں

۱ یہ کہ ساٹکان ملاکنڈ لیویز کے ملازمین ہیں۔ اور مختلف عہدوں پر ملاکنڈ لیویز لیویز میں ڈیوٹی کرتے رہیں۔

۲ یہ کہ ساٹکان کے ملازمت میں عہدوں کے لحاظ سے مختلف مختلف اوقات ملازمت باقی ہیں۔

۳ یہ کہ جناب موصوف کے دفتر سے ملاکنڈ لیویز کے محکمہ کیلئے مورحہ 21-10-2021 کورولز بانمبری بالا جاری ہو کر برائے عمل درآمد DC صاحب / کمانڈنٹ ملاکنڈ لیویز کو بھیجوا گیا۔

۴ یہ کہ جاری شدہ رولز بانمبری بالا اور سابقہ رولز so(police11)HD/MKD/LEIES/MISC/2020

Amended Service Rules 2021 Shedule111 Dated 22-03-2021 کے تحت جناب کمانڈنٹ

صاحب ملاکنڈ لیویز نے بروئے حکم نامے مورحہ 22-03-2021، دیگر مختلف اوقات میں مختلف حکم نامہ کے رو سے ساٹکان کو ملازمت سے ریٹائرڈ کئے گئے۔

۵ یہ کہ رولز مذکورہ جلد بازی میں تیار ہو چکے ہیں۔ جس میں ظاہری طور پر صاف اور بیٹھار حامیاں ہیں۔

۶ یہ کہ رولز مذکورہ سے خامیاں دور کرنے اور درست کرنے کیلئے رولز مذکورہ نظر ثانی کا محتاج ہے۔

۷ یہ کہ رولز مذکورہ پر نظر ثانی نہ کرنے موجودہ خامیاں دور نہ کرنے اور صحیح و درست نہ کرنے سے ساٹکان کی حق تلفی ہوتی ہیں۔

اور پریشانی کی علاوہ مالی نقصان کا سامنا ہے۔ اور اسی طرح آئندہ دیگر ملازمین کو ملازمت اور ریٹائرڈ منٹ میں شوری ہوگی۔

۸ یہ کہ رولز مذکورہ پر نظر ثانی کرے اور درست ہونے کی صورت میں ساٹکان ملازمت پر بحال ہونے کے صحیح حقداران ہیں۔

اسلئے بزرگیہ تحریرے درخواست انگریزی ساٹکان مستدی ہیں۔ کہ رولز مذکورہ پر نظر ثانی کرنے خامیاں دور کرنے صحیح اور

درست حالات میں تیار کرنے اور ساٹکان کو ملازمت پر بحال کرنے اور کمانڈنٹ صاحب ملاکنڈ کے حکم نامے مورحہ

22-03-2021، دیگر مختلف حکم نامے ارڈر منسوح کرنے کے احکامات صادر فرمائے۔ اور دیگر جو قرین انصاف ہو بھی مرحمت

فرمائی جائے۔ مورحہ 25-10-2021



S. Adil

العرفیضے

4492 خالد عثمانی
Officer

4518 سردری علی

4282 سردری محمد
4570 محمد طالب

4559

4377 محمد سلیم

4338 آصف نور خان

4381

سرمد خان

آصف نور خان

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نمبر شمار	رجسٹر نمبر	ریک	نام	دستخط	نمبر شمار	رجسٹر نمبر	ریک	نام	دستخط
38	4457	لاسنائیک	نور زب	[Signature]	1	4222	حوالدار	محمد زب	[Signature]
39	4320	حوالدار	محمد رزاق	[Signature]	2	4237	حوالدار	نواب شیر	[Signature]
40	4471	لاسنائیک	اقبال حسین	[Signature]	3	4239	حوالدار	محمد صادق	[Signature]
41	4477	لاسنائیک	محمد اسماعیل	[Signature]	4	4251	حوالدار	شاہ محمد	[Signature]
42	4485	لاسنائیک	غلام ربی	[Signature]	5	4253	حوالدار	احسان الحق	[Signature]
43	4492	لاسنائیک	خالد عثمان	[Signature]	6	4263	حوالدار	حسن دینار	[Signature]
44	4493	لاسنائیک	بشیر احمد	[Signature]	7	4282	حوالدار	عمر رحمان	[Signature]
45	4495	لاسنائیک	محمد نبی	[Signature]	8	4293	حوالدار	ظاہر شاہ	[Signature]
46	4496	لاسنائیک	اصل خان	[Signature]	9	4300	حوالدار	رحمت اللہ	[Signature]
47	4498	لاسنائیک	عمر گل	[Signature]	10	4304	حوالدار	نور رزاق	[Signature]
48	4499	لاسنائیک	محمد صادق	[Signature]	11	4314	حوالدار	شیر داد	[Signature]
49	4503	لاسنائیک	فضل طیم	[Signature]	12	4319	حوالدار	شاہ نسیم خان	[Signature]
50	4510	لاسنائیک	محمد ظاہر	[Signature]	13	4324	حوالدار	نور الہادی	[Signature]
51	4517	سپاہی	سید عالم	[Signature]	14	4325	نائیک	سبز علی خان	[Signature]
52	4518	سپاہی	سردار علی	[Signature]	15	4331	نائیک	گل رحمان	[Signature]
53	4529	سپاہی	حاجی رحمان	[Signature]	16	4338	نائیک	امیر نواز خان	[Signature]
54	4531	سپاہی	واحد شاہ	[Signature]	17	4342	نائیک	عمر جان	[Signature]
55	4532	سپاہی	سردار غنی	[Signature]	18	4343	نائیک	سید احمد	[Signature]
56	4533	سپاہی	امجد علی	[Signature]	19	4353	نائیک	محبت خان	[Signature]
57	4559	سپاہی	لطیف خان	[Signature]	20	4370	نائیک	عزیز گل	[Signature]
58	4584	سپاہی	محمد عمران	[Signature]	21	4374	نائیک	سردار علی	[Signature]
59	4590	سپاہی	علی نواز	[Signature]	22	4377	نائیک	محمد سلیم	[Signature]
60	4596	سپاہی	بشیر محمد	[Signature]	23	4378	نائیک	رحیم حق	[Signature]
61	4598	سپاہی	دلدار شاہ	[Signature]	24	4382	نائیک	سیح اللہ	[Signature]
62	4602	سپاہی	ساجد حسین	[Signature]	25	4390	نائیک	سید جمال	[Signature]
63	4610	سپاہی	محمد مختیار	[Signature]	26	4391	نائیک	مراد خان	[Signature]
64	4613	سپاہی	امداد اللہ	[Signature]	27	4394	نائیک	محمد روز	[Signature]
65	4986	سپاہی	خیال بادشاہ	[Signature]	28	4400	نائیک	دعج اللہ	[Signature]
66	4996	سپاہی	[Signature]	[Signature]	29	4405	لاسنائیک	معاذ اللہ	[Signature]
67	5057	سپاہی	بخت نسیم	[Signature]	30	4407	لاسنائیک	رحمان زمین	[Signature]
68	5258	سپاہی	سعید اللہ خان	[Signature]	31	4413	لاسنائیک	سرور شاہ	[Signature]
69	5396	سپاہی	سوار خان	[Signature]	32	4414	لاسنائیک	فضل محمود	[Signature]
70	5434	سپاہی	اتیاز عالم	[Signature]	33	4420	لاسنائیک	بخت زمین	[Signature]
71	5897	سپاہی	فضل محمود	[Signature]	34	4423	لاسنائیک	ابرار حسین	[Signature]
72	5926	سپاہی	محمد ذوق	[Signature]	35	4427	لاسنائیک	عمر غنی	[Signature]
73	6302	سپاہی	محمد زب	[Signature]	36	4448	لاسنائیک	حبیب الرحمن	[Signature]
74	5105	سپاہی	راؤ قحطان	[Signature]	37	4452	لاسنائیک	عزیز الرحمن	[Signature]

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BEFORE THE PESHAWAR HIGH COURT, MINGORA BENCH/DAR-UL-QAZA, SWAT

Writ Petition No. 469-M/2021

Fazal Akbar & Others(Petitioner)

-----Versus-----

Government of Khyber Pakhtunkhwa through Secretary Home & TA's Department, Khyber Pakhtunkhwa, Peshawar & OthersRespondents

INDEX

S. No	Description of Documents	Annexure	Page No
1.	Reply/Comments	-	1-2
2.	Affidavit	-	3
3.	Authority	-	4
4.	Chief Minister Approval	A	5-13

Deponent


Hakim Zada
Superintendent

Office of DC/Commandant Malakand Levies
CNIC:-15402-7243517-3

FILED TODAY

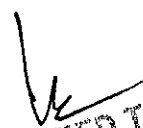
26 MAY 2021

Additional Registrar

Re-Filed Today

03 JUN 2021

Additional Registrar


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(42)

BEFORE THE PESHAWAR HIGH COURT, BENCH AT MINGORA
(DAR-UL-QAZA) SWAT

Writ petition No.469-M/2021

Fazal Akbar s/o Gul Ambar Khan No.4241 r/o Aladhand Tehsil Batkhela District
Malakand (Havildar) and others
(All through Subedar Major, Malakand Levies District Malakand at Levies Line
Malakand Top)

.....Petitioners

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat at Peshawar.
2. The Secretary, Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
3. The Commissioner, Malakand Division at Saidu Sharif, Swat.
4. The Deputy Commissioner/Commandant Malakand Levies at Malakand.

.....Respondents

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

Respectfully Sheweth:-

Reply/Comments on behalf of Respondent No.4 are as under:-

Preliminary Objections:-

- A. The petitioner has got no cause of action or locus standi to submit the instant petition.
- B. The petition is not maintainable in its present form.
- C. The petitioner has not come with clean hands to this Honorable Court.
- D. Due to non-joinder/mis-joinder of necessary party, the petition is liable to be dismissed.

FACTS:-

1. It is correct.
2. It is correct.
3. It is correct.
4. It is correct.
5. It is correct.
6. It is correct.

7. Denied. No representation find before the concerned quarter for grievances/redressal.

FILED TODAY

26 MAY 2021

Additional Registrar

*Case is maintainable
Plz
verified project & accounts
all the relevant documents
forward of the Honorable
Court*

ADDL. Advocate General
Peshawar High Court
Mingora Bench Dar-ul-Qaza, Swat

20/5
2021

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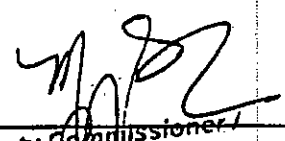
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8. It is correct.
9. Denied. No anomalies highlighted by the Commissioner, Malakand Division at Saidu Sharif, Swat himself but only forwarded the request of the petitions through a letter.
10. It is correct. Deputy Commissioner being Commandant Malakand Levies is bound to obey the orders of Provincial Government/Home & TA's Department, Khyber Pakhtunkhwa, Peshawar.
11. The petitioners have not exhausted their remedies.

GROUNDS:-

- a. Denied. Action taken as per Newly Amended Levy Rules 2021/as per Law.
- b. Amendment in the rules is brought with the positive intention and does not aim to the detriment of public sector employees.
- c. The 25th Constitutional Amendment streamlined the Levy Personnel serving in erstwhile FATA also the Khasadar Force but Malakand Levies are not mentioned in the said Act. So, far Malakand Levies is not absorbed in Khyber Pakhtunkhwa Police.
- d. Denied. The revised Schedule-III is across the board with no contradictory and discriminatory content.
- e. It is incorrect. The Home Department of Khyber Pakhtunkhwa have amended the Schedule-III of Levies after the approval of worthy Chief Minister Khyber Pakhtunkhwa. *Order 'A'*.
- f. Correct to the extent that interim order has passed but nothing is mentioned related to retirement of employees.
- g. Oral submissions will be responded orally on the given day, date and time.

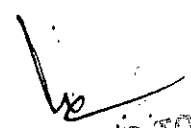
Deputy Commissioner/Commandant Malakand Levies
Respondent No.4


Deputy Commissioner/
Commandant
Malakand Levies

FILED TODAY

26 MAY 2021

Additional Registrar


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BEFORE THE PE

SWAT

Fazal Akhar & Others

Versus

Government of Khyber Pakhtunkhwa through Secretary Home & TA's Department, Khyber Pakhtunkhwa, Peshawar & Others

.....Respondents

AFFIDAVIT

I, Hakim Zada, Superintendent (BPS-17) DC/Commandant Office Malakand Levies do hereby solemnly affirm and declare on oath that the contents of the accompanying Reply on behalf of the Respondent No.4 and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court please.

Deponent

Hakim Zada

Hakim Zada
Superintendent

Office of DC/Commandant Malakand Levies
CNIC:-15402-7243517-3

Identified by

G.

Advocate General
Khyber Pakhtunkhwa, Peshawar

A-331

S.No. 2153
Certified that the above was verified on Solemn
affirmation before me on this 26th day
of May 2021, by Hakim Zada
S/o Sheer Zada Malakand
was identified by Self

Who is personally known to me.
[Signature]
ADL REGISTRAR
Peshawar High Court
Mingora Branch Pit-ul-Qaza, Swat

FILED TODAY

26 MAY 2021

Additional Registrar

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BEFORE THE PESHAWAR HIGH COURT, MINGORA BENCH/DAR-UL-QAZA, SWAT

Writ Petition No. 469-M/2021

Fazal Akbar & Others(Petitioner)

—Versus—

Government of Khyber Pakhtunkhwa through Secretary Home & TA's Department, Khyber Pakhtunkhwa, Peshawar & OthersRespondents

AUTHORITY:

Mr. Hakim Zada, Superintendent (BPS-17) DC/Commandant Office Malakand Levies is hereby authorized to attend the Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat and submit Comments/reply regarding subject case on behalf of the undersigned as Respondent No.4.

Deputy Commissioner/
Commandant
Malakand Levies Malakand

FILED TODAY

26 MAY 2021

Additional Registrar

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Page A

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

SUMMARY FOR CHIEF MINISTER

Subject: - **CHIEF MINISTER DIRECTIVE - RESTORATION OF
SCHEDULE-III OF FEDERAL LEVIES RULES 2013 &
SCHEDULE-IV OF PROVINCIAL LEVIES RULES 2015**

9. The draft notifications at Annex-(VI) & (VII) vetted by Law Department have been examined and found that these notifications serve the purpose of this department.

10. the Honorable Chief Minister Khyber Pakhtunkhwa is requested to accord approval of placing these amendments (Annexure VI & VII) before Provincial cabinet.

SECRETARY HOME

Chief Secretary

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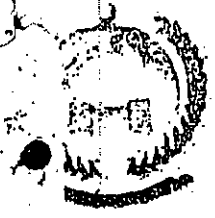
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**Chief Secretary
Govt. of Khyber Pakhtunkhwa**

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**Makim Zada
Superintendent BPS-17
Malakand - 25005 Malakand**

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

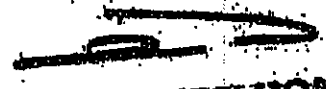
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SUMMARY FOR CHIEF MINISTER

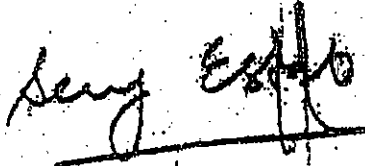
SUBJECT: CHIEF MINISTER DIRECTED REFORMATION OF SCHEDULE III OF FEDERAL LEVIES RULES, 1911 & SCHEDULE IV OF PROVINCIAL LEVIES RULES, 1911.

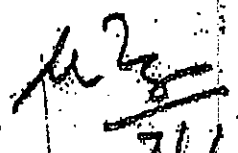
The draft Notifications at Annex (VI) & (VII) vetted by Law Department have been examined and found that these Notifications serve the purpose of this Department.

The Honorable Chief Minister Khyber Pakhtunkhwa is requested to record approval of placing these amendments (Annexure VI & VII) before Provincial Cabinet.

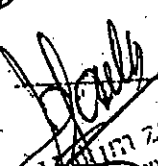

SECRETARY HOME


Chief Secretary:




7/1
Chief Secretary
Govt. of Khyber Pakhtunkhwa

Attest


Safdar Ahmad
Superintendent BPS-1
Malakand Levies Malakand


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CHIEF MINISTER, CHIEF MINISTER

Subject: CHIEF MINISTER DIRECTIVE, RESTORATION OF SCHEDULE II OF FEDERAL LEVIES RULES, 2013 AND SCHEDULE IV OF PROVINCIAL LEVIES RULES, 2014

15. In response to the question at para 14, it is mentioned that the 20th constitutional amendment is based on the integration of erstwhile PATA with the Province of KP. In pursuance of the 20th constitutional amendment, the Provincial Assembly passed the KP Khwasa Rules 2012 (Annex-10) and KP Levies Rules (Annex-11) and Levies Force absorption in KP Police Rules 2012 (Annex-12) followed by Khwasa Force absorption in KP Police Rules 2012 (Annex-13) and Levies force absorption in KP Police Rules (Annex-14) regarding absorption of all levies and Khwasa Personnel working in erstwhile PATA into the main stream KP Police.

16. As far as the Federal Levies rules 2013 and Provincial levies 2014 concerned, there are menial for Levies Force working in PATA areas and some districts under the command of Deputy Commissioner. The Provincial government is competent to amend / change these rules. Schedule-III of the Federal Levies Rules 2013 and schedule IV of Provincial Levies Rules 2014 were deleted with the approval of Provincial Cabinet in response to which personnel of Levies Force 1984, District G and District Malakand showed resentment. On an application for restoration of the above schedules was submitted to the Chief Minister, Khyber Pakhtunkhwa the instant summary was moved for consideration of the cabinet.

17. In light of Para-15-16, the Provincial Cabinet is competent to also governing Levies Force in PATA/Said districts, therefore Para-10 of the summary re-submitted for approval of the Chief Minister, Khyber Pakhtunkhwa, please.

Secretary

Chief Secretary

18. With the endorsement of law deptt (1) plan was provided to para 15-16/3, the para endorsed at para 10 for being considered by Chief Minister.

Attested

[Signature]
Superintendent BPS-1
Malakand L. Malakand

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

SUMMERY FOR CHIEF MINISTER

Subject: - CHIEF MINISTER DIRECTIVE - RESTORATION OF SCHEDULE-III OF FEDERAL LEVIES RULES 2013 & SCHEDULE-IV OF PROVINCIAL LEVIES RULES 2015

15. In response to the observation at para-12/S, it is submitted that the 25th constitutional amendments is focused on the integration of erstwhile FATA with the province of KP. In pursuance 25th constitutional amendments, the provincial assembly passed the KP Khasadar Force Act 2019 (annex-IX) and KP Levies Force 2019 (Annex-X) followed by the Khsadar Force absorption in KP Police Rules 2019 (Annex-XI) and Levy Force absorption in KP Police Rules (Annex-XII) regarding absorption of all Levies and Khasadar personnel enacting in erstwhile FATA into the means stream KP Police.

16. As per as the Federal Levies Rules 2013 and Provincial Levies 2015 are concurred. There are meant for Levies Force working in PATA areas and some settled Districts under the command of Deputy Commissioner. The provincial government is competent to amend/change these rules, schedule-III of Federal Levies Rules 2013 and schedule-IV of Provincial Levies Rules 2014 were deleted with the approval of Provincial cabinet, in response to which personnel of Levies Force is especially District Dir District Malakand showed resentment. On an application for restoration of the above schedules was submitted the Chief Minister Khyber Pakhtunkhwa and the instant summery was moved for consideration of the cabinet.

17. In light of para-15-16/s, the provincial cabinet is competent to alter rules governing Levies Force in PATA/settled Districts, therefore, para-10 of the summery is resubmitted for approval of the Chief Minister Khyber Pakhtunkhwa, please.

Chief Secretary

Alfred
Alfred
Superintendent BP
Malakand Levies/Malakand

-sd-
SECRETARY HOME

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SUMMARY FOR CHIEF MINISTER

SUBJECT: CHIEF MINISTER DIRECTIVE RESTORATION OF SCHEDULE III OF FEDERAL LEVIES RULES, 2013 & SCHEDULE IV OF PROVINCIAL LEVIES RULES 2015 -

Mr. Musawir Khan Ghazi, MPA PK-19, Malakand District was the D.L. Officer, has requested the Chief Minister, Khyber Pakhtunkhwa for restoration of Schedule III and Schedule IV of Federal and Provincial Levies Rules in order to address the grievances of the Levies Force. The Chief Minister, Khyber Pakhtunkhwa has been pleased to record the following directions on the matter (Annex-II):-

Dear Secretary Home
Please resolve the matter


2. Background of the case is that in order to bring them at par with the Provincial Police, Schedule III of PATA Federal Levies Force Service (Amended) Rules, 2013 and Schedule IV of PATA Provincial Levies Force Rules, 2015 were deleted vide Notification No. SO (Police-I) HD/1-3, dated 14-7-2020 (Annex-I) and No. SO (Police-II) HD/1-3(P), dated 14-7-2020 (Annex-II). The deleted Schedule III and Schedule IV of the Federal and Provincial Levies Force Rules are reproduced below:-

FEDERAL LEVIES RULES, 2013

S. No.	Name of the Post / Rank	Length of Service / Age
	Subedar Major (BS-16)	37 Years or 03 Years Service as Subedar Major or 60 Years of age whichever is earlier
	Subedar (BS-13)	35 years service or 05 years service or 50 years of age whichever is earlier
	Naib Subedar (BS-11)	33 years service or 7 years service as Naib Subedar or 60 years of age whichever is earlier

PROVINCIAL LEVIES FORCE RULES, 2015

S. No.	Name of the Post / Rank	Length of Service / Age
	Subedar (BS-13)	35 years service or 60 years of age, whichever is earlier
	Naib Subedar (BS-11)	33 years service or 60 years of age, whichever is earlier
	Hawaladar (BS-8)	31 years service or 60 years of age, whichever is earlier

Attested

 Ghulam Nabi Zada
 Superintendent IFS-1
 Malakand Lt. Malakand


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**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

SUMMARY FOR CHIEF MINISTER

Subject: - **CHIEF MINISTER DIRECTIVE – RESTORATION OF SCHEDULE-III OF FEDERAL LEVIES RULES 2013 & SCHEDULE-IV OF PROVINCIAL LEVIES RULES 2015**

Pir Musawir Khan Ghazi, MPA PK-19. Malakand District vide his DO letter, has requested the Chief Minister, Khyber Pakhtunkhwa for restoration of schedule-III & IV of Federal and Provincial Levies Rules in order to address the grievances of the Levy Force. The Chief Minister, Khyber Pakhtunkhwa has been pleased to record the following direction of the letter (annex-I):-

**Dear Secretary Home
"Please resolve the matter"**

2. Background of the case is that in order to bring them at par with the Provincial Police, schedule-III of PATA Federal Levies Force service (Amended) Rules 2013 and schedule-IV of PATA Provincial Levies Rules, 2015 were deleted vide notification No. SO(Police-II)HD/1-3 dated: 14-07-2020 (annex-II) and No. Police-II/HD/1-3(P), dated: 14-07-2020 (annex-III). The deleted schedule-III & IV of the Federal and Provincial Levies Force Rules are reproduced below:-

FEDERAL LEVIES RULES 2013

SNo.	Name of the Post/Rank	Length of Service/Age
1.	Subedar Major (BS-16)	37 Year or 03 year Service as Subedar Major or 60 year of age whichever is earlier
2.	Subedar (BS13)	35 years service or 05 year service or 50 year of age whichever is earlier
3.	Naib Subedar (BS-11)	33 year service or 07 year service as Naib Subedar or 60 year of age whichever is earlier

PROVINCIAL LEVIES FORCE RULES 2015

SNo.	Name of the Post/Rank	Length of Service/Age
1.	Subedar (BS13)	35 years service or 60 year of age whichever is earlier
2.	Naib Subedar (BS-11)	33 year service or 60 year of age whichever is earlier
3.	Havildar (BS-08)	31 year service or 60 year age whichever is earlier

Attested
Malakand Zada
Superintendent BPS
Malakand Levies Malakand

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

NOTIFICATION
Dated 10th November 2020

No. SO(police-ii)HD/1-3(Federal): In exercise of powers conferred by Section-9 of the PATA Levies Force Regulation 2012. The Provincial Government of Khyber Pakhtunkhwa is pleased to direct the in the PATA Federal Levies FORCE Service (Amended) Rules, 2013 the following further amendment shall be made namely:-

Amendments

In the said rule:-

- (a) In rule 4(1), the following provision shall be added.
Provided that the competent authority for promotion to the post superintend (BS- 17) shall be the secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa
- (b) For Rule-17, the following shall be substituted namely;
17. Retirement All Levy Personnel shall retire as per Schedule-III and no extension in service after retirement shall be granted.

-sd-
Secretary Home Department
Khyber Pakhtunkhwa

FEDERAL LEVIES RULES, 2013
Schedule-III, See Rule-17

S.No	Name of the Post/Rank	Qualification for Promotion	Length of Service/ age
1.	Subedar Major (BS-16)	Seniority-cum-fitness from amongst the Subedars having intermediate Qualification.	37 years or 03 Years Service as Subedar Major or 80 Years of age whichever is
2.	Subedar (BS- 13)	<ul style="list-style-type: none"> 50% of the posts shall be reserved for Promotion on the Seniority-cum-fitness amongst the Naib Subedars having intermediate Qualification 50% of the post shall be reserved for promotion on the basis of Seniority-cum-fitness amongst the Naib Subedar having SSC Qualification. 	35 years service or 05 year service as Subedar or 50 year of age whichever is earlier.
3	Naib Subedar(BS-12)	<ul style="list-style-type: none"> 50% of the posts shall be reserved for promotion Seniority-cum-fitness amongst the Hawaldar having SSC Qualification 50% of the posts shall be reserved for promotion on the seniority-cum-fitness amongst the Hawaldar. 	33 Year service 7 year service as Naib Subedar or 60 year of age whichever is earlier

Attested
[Signature]
Secretary Home Department
Khyber Pakhtunkhwa

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

DATED: 10th November, 2020

(53)

No. SO(Police-II)MDM-3(Federal):- In exercise of the powers conferred by Section-8 of the PATA Levies Force Regulation, 2012, the Provincial Government of Khyber Pakhtunkhwa is pleased to direct that in the PATA Federal Levies Force Service (Amended) Rules, 2013, the following further amendments shall be made, namely:-

Amendments

In the said rules:-

(a) In Rule 4(1), the following proviso shall be added.

Provided that the Competent Authority for promotion to the post of Superintendent (BS-17) shall be the Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa.

(b) For Rule 17, the following shall be substituted namely:

17. Retirement: All Levy personnel shall retire as per Schedule-III and no extension in service after retirement shall be granted.

Secretary Home Department
Khyber Pakhtunkhwa

FEDERAL LEVIES RULES, 2013

Schedule-III, See Rule-17

S. No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
1	Subedar Major (BS-16)	Seniority-cum-fitness from amongst the Subedars having Intermediate Qualification	37 Years or 03 Years Service as Subedar Major or 50 Years of age whichever is earlier
2	Subedar (BS-13)	(i) 50% of the posts shall be reserved for promotion on the Seniority-cum-fitness amongst the Naib Subedars having Intermediate Qualification. (ii) 50% of the posts shall be reserved for promotion on the basis of Seniority-cum-fitness amongst the Naib Subedars having SSC Qualification.	35 years service or 05 years service as Subedar or 50 years of age whichever is earlier
3	Naib Subedar (BS-11)	(i) 50% of the posts shall be reserved for promotion on the Seniority-cum-fitness amongst the Hawaldar having SSC Qualification. (ii) 50% of the posts shall be reserved for promotion on the Seniority-cum-fitness amongst the Hawaldar	33 years service or 5 years service as Naib Subedar or 50 years of age whichever is earlier

Attested
Hafiz Zaheer
Superintendent DPS
Malakand Levies Malakand

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Hafiz Zaheer
Superintendent DPS-1
Malakand Levies Malakand

seniority-cum-fitness amongst the Hawaldar

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

In exercise of the powers conferred by Section 2 of the PATA Levies Force Regulation, 2012, the Provincial Government of Khyber Pakhtunkhwa is pleased to direct that in the Provincial Levies Force Service (Amendment) Rules 2015, the following further amendments shall be made, namely -

Amendments

In the said rules -

(a) In Rule 4(1), the following proviso shall be added.

Provided that, the Competent Authority for promotion to the post of Superintendent (BS-17) shall be the Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa.

(b) For Rule 16(1), the following shall be substituted namely,

16. Retirement (1): All uniformed Force shall retire as per Schedule IV and no extension in service after retirement shall be granted.

Secretary Home Department
Khyber Pakhtunkhwa

PROVINCIAL LEVIES FORCE RULES, 2015
Schedule IV See Rule-16(1)

S. No.	Name of the Post / Rank	Qualification for promotion	Length of Service / Age
1	Subedar (BS-13)	(i) 50% of the post of Subedars shall be reserved for promotion on the Seniority-cum-fitness amongst the Naib Subedars having Intermediate Qualification. (ii) 50% of the post of Subedars shall be reserved for promotion on the Seniority-cum-fitness amongst the Naib Subedars having SSC Qualification.	35 years' service or 60 years of age, whichever is earlier
2	Naib Subedar (BS-11)	(i) 50% of the post of Naib Subedars shall be reserved for promotion on the Seniority-cum-fitness amongst the Hawaldar having SSC Qualification. (ii) 50% of the post of Subedars shall be reserved for promotion on the Seniority-cum-fitness amongst the Hawaldar	33 years' service or 60 year of age, whichever is earlier

u
M. B. Khan
Naib Subedar
Superintendent BPS
Malakand Levies Malakand

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GOVERNMENT OF KHYBER PAKHTUNKHWA INDIAN & TRIBAL AFFAIRS DEPARTMENT

ASSISTANT TO CHIEF MINISTER

CHIEF MINISTER DIRECTIVE - RESTORATION OF SCHE- DU- RE OF FEDERAL LEVIES RULES, 2018 AND SCHEDULE I OF PROVINCIAL LEVIES RULES, 2018

Page is approved

(Signature)

11.12.2018

**CHIEF MINISTER
Khyber Pakhtunkhwa**

12

Attested

(Signature)

Chief Minister's Office
Islamabad BPS-1
Malakand Levies Malakand

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

SUMMARY FOR CHIEF MINISTER

CHIEF MINISTER DIRECTIVE - RESTORATION OF SCHEDULE-
III OF FEDERAL LEVIES RULES 2013 & SCHEDULE-IV OF
PROVINCIAL LEVIES RULES 2015

For approval

[Signature]

11. 6. 2014

CHIEF MINISTER
Khyber Pakhtunkhwa

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[Signature]
H. M. Zada
Superintendent, BPS-7
Malakand Levies Malakand

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Reference to Chief Minister, Khyber Pakhtunkhwa regarding
amendment of Government of Federal Laws Rules, 2010 and Schedule IV of
Government of Federal Laws Rules, 2010 moved by Home & P.A. Department has been
received.

The Honorable Chief Minister, Khyber Pakhtunkhwa, has directed to
submit the matter (Annex-I). The Administrative Department has submitted
the matter for consideration by Law Department (Annex-VI & VII) in order to
ensure the correct interpretation of PATA Federal Laws Force Service (Amended
Rules, 2010) & Schedule IV of PATA Provincial Laws Force Rules, 2010. It is not
clear from the above that the Law Department has reviewed Schedule VI and Schedule IV of the
Federal and Provincial Laws Force Rules, 2010 & 2010. Law Department may
submit the matter to the Government of Federal Laws Rules, 2010 (Constitutional Amendment).

The Honorable Chief Minister, Khyber Pakhtunkhwa, may like to
ensure compliance of the provision of Administrative Department contained in Para
1 of the Summary before the Provincial Cabinet in terms of Rule 19(1)(f) of Khyber
Pakhtunkhwa Government Rules of Business, 1985 (Annex-VIII).

(MUSTAHER ZEB)
Secretary Establishment
January, 25, 2021

~~Chief Minister, Khyber Pakhtunkhwa~~

referred to the
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Chief Sec
Govt. of Khyber

~~Chief Minister, Khyber Pakhtunkhwa~~

Attested

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Hakimzada
Superintendent BNS-1
Mafakari Law's Malakand

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11. Summery for Chief Minister, Khyber Pakhtunkhwa regarding restoration of schedule-III of Federal Levies Rules 2013 and Schedule-IV of provincial Levies Rules 2015 moved by Home & TAs Department has been examined.

12. The Honorable Chief Minister, Khyber Pakhtunkhwa has been directed to resolve the matter (Annex-I). the administrative department has submitted draft notification duly vetted by the Law Department (Annex-V&VI) in order to restore the delete schedule-III of PATA Levies Rules service amended rules 2013 and schedule-IV of PATA Provincial Levies Force Rules 2015. It is not clear that under what Law they are restoring schedule-III & schedule-IV of the Federal and Provincial Levies Force Rules 2013 & 2015. Law Department may examine the instant case in light of 25th Constitutional Amendment.

13. However, Honorable Chief Minister, Khyber Pakhtunkhwa, may like to approve placement of the proposal of administrative department contained in para-10 of the summery before the Provincial cabinet in teams of Rules 19(I)(I) of Khyber Pakhtunkhwa Government Rules of business, 1985 (Annex-VIII).

(M. FAHER ZEB)
Secretary Establishment
January, 25, 2021

Chief Secretary Khyber Pakhtunkhwa

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H.S.

M. Zeb
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Chief Secretary
Govt. of Khyber Pakhtunkhwa

Chief Minister Khyber Pakhtunkhwa

Accepted
Handy
Superintendent, BPS,
Malakand Levies, Malakand.

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S. No.	Name of the Post / Rank	Qualification for promotion	Length of Service / Age
3	Havaldar (BS-8)		31 years' service or 60 years of age, whichever is earlier
4	Naik (BS-7)		29 years' service or 60 years of age, whichever is earlier
5	UNaik (BS-6)		27 years' service or 60 years of age, whichever is earlier
6	Sepoy (BS-5)		25 years' service or 60 years of age, whichever is earlier

Ministerial Staff:-

S. No.	Post / Rank	Minimum qualification for appointment	Age Limit	Method of Recruitment
1	Assistant (BS-16)	At least Second Class Bachelor's Degree from a recognized University	20 to 30 years	<p>a. Seventy-Five percent by promotion, on the basis of Seniority-Cum-Fitness, from amongst Senior Clerks and;</p> <p>b. Twenty-Five percent by initial recruitment from amongst candidate of the district concerned.</p>

Attested

[Signature]
 Superintendent
 Malakand Levies Malakand

[Signature]
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S. No.	Post / Rank	Minimum qualification for appointment	Age Limit	Method of Recruitment
1	Assistant (BS-16)	At least Second Class Bachelors Degree from a recognized University	20 to 30 years	a. Seventy-five percent by promotion, on the basis of Seniority-Cum-Fitness, from amongst Senior Clerks and; b. Twenty-five percent by initial recruitment from amongst candidate of the distinct concerned.

S. No.	Name of the Post / Rank	Qualification for promotion	Length of Service / Age
1	Hawaldar (BS-8)		31 years' service or 60 years of age, whichever is earlier
2	Naik (BS-7)		28 years' service or 60 years of age, whichever is earlier
3	L/Naik (BS-6)		27 years' service or 60 years of age, whichever is earlier
4	Sepoy (BS-5)		25 years' service or 60 years of age, whichever is earlier

Ministerial Staff:-

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

3. In order to honor the direction of the Chief Minister, Khyber Pakhtunkhwa, on the D.O, letter of the MPA, Malakand District and to bring quality to the Force, the previous schedule-III of Federal Levies Rules 2013 and schedule-IV of Provincial Levies Rules 2015 may be restored with the following proposal:-

- a. The post of Subedar Major may be reserved for promoting on seniority cum fitness from amongst the Subedars having intermediate qualification.
- b. 50 % of the post of Subedar should be reserved for promotion on the basis of seniority cum fitness from amongst Naib Subedar having intermediate qualification and 50 % post shall be reserved for promotion on the basis of seniority cum fitness of Naib Subedar having qualification of Matriculation.
- c. 50 % of the post of Naib Subedar shall be reserved for promotion on the basis of seniority cum fitness from Havildars having Matric qualification and 50 % should be reserved for promotion on seniority cum fitness without considering qualification.

4. Based on the above lines, draft schedule-III & IV of Federal Levies Force Rules 2013 and Provincial Levies Force Rules 2015 are placed at (Annex-IV&V).

5. The Honorable Chief Minister, Khyber Pakhtunkhwa, is requested to accord approval for placing the above amendments before Provincial cabinet.

6. Law Department Khyber Pakhtunkhwa may vet the amendment enroute.

Secretary Law Department

--sd--
(IKRAMULLAH KHAN)
SECRETARY HOME

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Shah
Hakim zaid
Superintendent, DPS-17
Malakand Levies Malakand

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Bills (63) *Annex*

**FOR THE EXTRAORDINARY GAZETTE ISSUE OF THE
KHYBER PAKHTUNKHWA**

**PROVINCIAL ASSEMBLY SECRETARIAT KHYBER
PAKHTUNKHWA**

NOTIFICATION

Dated Peshawar, the 30/11/2021

No. PA/Khyber Pakhtunkhwa bills-192/2021/8586 the provincial administration Tribal Areas Levis Force (amendment) bill, 2021 having been passed by the provincial assembly of Khyber Pakhtunkhwa on 22nd November, 2021 is hereby published as an act of the legislature of Khyber Pakhtunkhwa.

**THE PROVINCIALY ADMINISTERED TRIBAL AREAS LEVIS FORCE
(AMENDMENT) ACT, 2021**

(Khyber Pakhtunkhwa act No xxxiv of 2021)

(First published after having received the assent of the Governor of the Khyber
Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa)

(Extraordinary dated the 30/11/2021)

(Here print as in the accompaniment)

SECRETARY

Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above)

A copy of the above notification with the accompaniment is forwarded to the manager Government Stationary and printing Department, Peshawar with the request to publish the same in the extraordinary issue of Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

Proof should be sent to this secretariat before publication.

SECRETARY

Provincial Assembly of Khyber Pakhtunkhwa.

E.No. pa/Khyber Pakhtunkhwa/Bills-192/2021/8537-41 dated 30/11/2021

A copy of the above is forwarded to:

1. The principal secretary to Governor, Khyber Pakhtunkhwa.
2. The secretary to government of Khyber Pakhtunkhwa, law Department.
3. The secretary to Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department.
4. The Director information, Khyber Pakhtunkhwa.
5. The Deputy Director I.T Provincial Assembly of Khyber Pakhtunkhwa for official website.

SECRETARY

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**AN
ACT**

*to amend the Provincially Administered Tribal Areas Levies Force
Regulation, 2012.*

WHEREAS it is expedient to amend the Provincially Administered
Tribal Areas Levies Force Regulation, 2012.

It is hereby enacted by the Provincial Assembly of the Khyber
Pakhtunkhwa as follows:

1. Short title and commencement.—(1) This Act may be called the
Provincially Administered Tribal Areas Levies Force (Amendment) Act,
2021.

(2) It shall come into force with effect from 22.03.2021.

2. Insertion of new section to the Khyber Pakhtunkhwa Regulation
No. I of 2012.—In the Provincially Administered Tribal Areas Levies Force
Regulation, 2012 (Khyber Pakhtunkhwa Regulation No. I of 2012), after
section 10, the following new section shall be added, namely:

"11. Re-instatement of the levies personnel.— All levies
personnel, who have been retired from the Force, with effect from
22.03.2021, till the commencement of the Provincially Administered Tribal
Areas Levies Force (Amendment) Act, 2021, shall be reinstated in the
Force, as regular employees, with effect from their respective dates of
retirement and they shall be deemed as never retired from the Force."

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

(KIFAYATULLAH KHAN AFRIDI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

REGISTERED TO
RECEIVE

Deputy Legislation Officer
Government of Khyber Pakhtunkhwa
Law Department

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

63 B

NO. SP(POLICE-II)/HD/1-3/20/MKD/LEVIES

Dated Peshawar the 02.12.2021

To.

1. All Divisional Commissioner.
2. The Deputy Commissioner/Commandants Levies.
Malakand, Swat, Dir Upper, Lower Dir, Upper Chitral,
Lower Chitral, Hangu, Kohat, Karak, Lakki Marwat & Torghar.

Subject: CHIEF MINISTER DIRECTIVES –RESTORATION OF SCHEDULE-
III OF FEDERAL LEVIES RULES, 2013 AND SCHEDULE –IV OF
PROVINCIAL LEVIES RULES, 2015

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of notification No. PA /Khyber Pakhtunkhwa/Bill- 192/2021 /8586 passed by provincial Assembly dated 30.11.2021 pertaining to reinstatement of levies Official servants under Federal Levies Rules 2013 for information and further necessary action at your end. Please.

Yours faithfully

-Sd-

Section Officer (Police-II)
Ph No. 091-9210503 Fax No. 9210201

Copy forwarded to:-

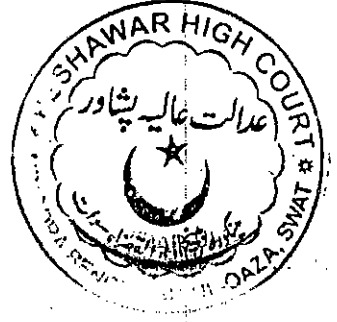
1. PS to Home Secretary, Khyber Pakhtunkhwa.
2. PA to Special Secretary (II) Home, Khyber Pakhtunkhwa.
3. PA to Additional Secretary Home, Khyber Pakhtunkhwa.
4. PA to Deputy Secretary, Home, Khyber Pakhtunkhwa

-Sd-

Section Officer (Police-II)

JUDGMENT SHEET

PESHAWAR HIGH COURT
MINGORA BENCH
(Judicial Department)



1. W.P. No. 1281-M/2022
- &
2. W.P. No. 1283-M/2022

JUDGMENT

Dates of hearing: 23.11.2022

Petitioners: - (Aziz Gul & others) by Barrister Dr. Adnan Khan, ASC.

Respondents (Govt. of KPK & others) by Mr. Raza-ud-Din Khan, Addl.: A.G

MUHAMMAD IJAZ KHAN, J. Through this single judgment, we intend to decide the following two writ petitions, as common questions of law and facts are involved in the same.

(1) W.P. No. 1281-M of 2022
Aziz Gul & others v/s Govt. of KPK & others

(2) W.P. No. 1283-M of 2022
Muhammad Sallm & others v/s Govt. of KPK & others

2. Precisely the grievances of the petitioners are that they were employees of the Levies Force of District Dir lower and were performing their duties as *Sepoy, Lance Naik, Naik* and *Havaldar* when they were retired vide four orders of even dated i.e. 25.03.2021. They further pleaded that after their retirement the provincial assembly has passed an Act with the

Newab (D.B) Hon'ble Mr. Justice Muhammad Naeem Anwar
Hon'ble Mr. Justice Muhammad Ijaz Khan

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name Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021 (herein after referred as "Act of 2021") whereby all the employees of the Levies Force who retired from 22.03.2021 till the commencement of Act i.e. 30.11.2021 shall be re-instated in service, however, the benefit of the aforesaid Act has not been extended to the petitioners, therefore, they have approached to this Court through the instant petitions.

3. Arguments of learned counsel for the petitioners were heard in considerable detail and the record perused with their able assistance, whereas the learned Addl: A.G present in Court also accepts notices of these connected petitions.

4. The main grievance of the learned counsel for the petitioners was that since petitioners have got retired within the bracket period as provided under The Act of 2021, therefore, they are entitled for its benefits. He further submits that in case of the colleagues of the petitioners an identical relief has already been granted, therefore, they are also entitled for the same relief in view of the law laid down by the

Nawab (D.D) Hon'ble Mr. Justice Muhammad Naem Anwer
Hon'ble Mr. Justice Muhammad Ijaz Khan

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Hon'ble Apex Court in cases reported as 1996 SCMR 1185, 2005 SCMR 499 and 2009 SCMR page 1.

5. There is no dispute amongst the parties that the present petitioners have got retired on 25.03.2021 as by then those petitioners who were *sepy* have attained the age of 42 years and those petitioners who were *Lance Naik, Naik, and Havaldar* have completed three years of service as *Lance Naik, Naik and Havaldar*, therefore, by operation of The Federal Levies Services (Amended) Rules 2013 R/W notification dated 21.10.2021, the aforesaid criteria has been provided for the retirement of different categories of the employees of Levies Force.

6. It may be noted that after the retirement of the petitioners, the Provincial Assembly has passed The Act of 2021 which has been made applicable with effect from 22.03.2021 and till the commencement of the Act. Since the said Act has been published in the official gazette on 30.11.2021, therefore, the two crucial dates would be 22.03.2021 i.e. the date of applicability of the Act till 30.11.2021 i.e. the

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Hon'ble Mr. Justice Muhammad Ijaz Khan

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date of commencement of the Act, where new section i.e. section 11 has been inserted after section 10 in The Provincially Administered Tribal Areas Levies Force Regulation, 2012, the same being relevant for the present controversy is reproduced below;-

1. Short title and commencement... (1) This Act may be called the Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021

(2) It shall come into force with effect from 22.03.2021

2. Insertion of new section to the Khyber Pakhtunkhwa regulation No. 1 of 2012.— In the Provincially Administered Tribal Areas Levies Force Regulation, 2012 (Khyber Pakhtunkhwa Regulation No. 1 of 2012), after section 10, the following new section shall be added, namely:

"11. Re-instatement of the levies personnel.— All levies personnel, who have been retired from the Force, with effect from 22.03.2021, till the commencement of the Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021, shall be reinstated in the Force, as regular employees, with effect from their respective dates of retirement and they shall be deemed as never retired from the Force."

The language of the above Act of 2021 is clear in its meaning qua its applicability as well as the class of employees to whom the benefit of the aforesaid Act could be extended. As stated hereinabove that as per section 1 (2) of the aforesaid Act the same was made applicable from 22.03.2021 and up to the

Nawab (D.B) Hon'ble Mr. Justice Muhammad Naeem Anwar
Hon'ble Mr. Justice Muhammad Ijaz Khan

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commencement of the Act which is 30.11.2021.

It further stipulates that all levies personnel who have been retired from the Force with effect from 22.03.2021 till the commencement of The Act 2021 i.e. 30.11.2021 shall be re-instated in the Force as regular employees with effect from their respective dates of retirement and they shall be deemed as never retired from the Force.

The language of the aforesaid Act of 2021 fully attracts and benefits to the case of present petitioners who got retired on 25.03.2021, therefore, the respondents were legally bound to extend the benefit of the aforesaid Act of 2021 to the petitioners.

7. Accordingly, both these connected writ petitions bearing No. 1281-M of 2022 and 1283-M of 2022 are allowed and the petitioners are re-instated in service of the Levies Force with effect from the date of their retirement and it shall be deemed that they have never been retired and consequently the respondents are directed to issue formal orders of their

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 Nawab (D.D) Hon'ble Mr. Justice Muhammad Naeem Anwar
 Hon'ble Mr. Justice Muhammad Ijaz Khan

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69

re-instatement in service in light of section 11 of

The Act of 2021. Order accordingly.

ANNOUNCED

Dr: 23.11.2022

[Signature]
JUDGE

[Signature]
JUDGE

C.No. 8
 Name of Applicant Amjad
 Date of Presentation of Applicant 3.12.22
 Date of Completion of Copies net
 No of Copies 6-p
 Urgent Fee 24/-
 Fee Charged 24/-
 Date of Delivery of Copies 3.12.22

Certified to be true copy

[Signature]
3/12/22

EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 67 of Qanoon-e-Shahadat Order, 1984

[Signature]
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[Handwritten]
28/11/2022

Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR.

(JUDICIAL DEPARTMENT)

W.P.No.367-M/2021 with I.R,
CM Nos.1053/2021 & 1183/2022.

JUDGMENT

Date of hearing — 29.11.2022.

Barrister Dr.Adnan for petitioners.

Mr.Saqib Raza, A.A.G for the respondents.

=====

S M ATTIQUE SHAH, J:- Through this single judgment, we shall also decide the connected writ petitions bearing Nos.337-M/2021, 406-M/2021, 503-M/2021, 514-M/2021, 518-M/2021, 450-M/2021, 601-M/2021, 681-M/2021, 632-M/2021, 919-M/2021, 968-M/2021, 980-M/2021, 1221-M/2021, 1222-M/2021, 1252-M/2021, 2210-P/2021, 2913-P/2021, 5092-P/2021, 5423-P/2021, and 5424-P/2021 as adjudication of a common question of law and fact is involved in all the petitions wherein the petitioners have challenged the vires of notification No. SO (Police-II) HD/ MKD/Levies/Misc/2020 dated 22.03.2021 whereby on the basis of impugned office order bearing No.128/DC/CSL dated

ATTESTED
EXAMINER
Peshawar High Court

20.04.2021, they have been retired from service with further prayer that they be reinstated into service from the date of their retirement i.e. 20.04.2021 with all back benefits. In alternative, they have prayed that the respondents be directed to treat them at par with erstwhile Federal Levies of Federally Administrated Tribal Area (FATA) and; absorb them in police and; grant them full pensionary benefits.

2. Likewise in W.P.Nos.333-M/2021, 334-M/2021, 335-M/2021, 338-M/2021, 345-M/2021, 1026-M/2021, 1035-M/2021, 1187-M/2021, 1206-M/2021, 1207-M/2021, 34-M/2022, 212-M/202 and 993-P/2022 the petitioners have made the following prayer:

"On acceptance of this writ petition, the impugned Notification SO (Police-II) HD/ MKD/Levies/ Misc/2020 is against law and the fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973, may be declared illegal void ab initio and of no legal effects on the rights of the petitioners."

ATTESTED
EXAMINER
Peshawar High Court

(72)

Similarly, in *COC Nos.38-M/2021* in *W.P.No.367-M/2021* and *COC No.436-P/2022* in *W.P.No.1335-P/2022* petitioners seek initiation of contempt of court proceedings against the respondents for violating the order of this court dated 21.04.2021 passed in *W.P.No.367-M/2021*.

3. Brief facts of the case(s) are that the petitioners were appointed in the "Swat Levies Force" as Sepoys etc. and presently terms and conditions of their services are regulated by "Provincially Administrated Tribal Areas Levies Force Regulation 2012" whereunder besides *PATA Levies Force Rules, 2012*, *PATA Levies Force Service (Amended) Rules 2013* were also framed. Rule 17 of the Amended Rules 2013, deals with the retirement of personnel of the force, which was amended vide notification dated 12.12.2013 in the manner that "All the personnel shall retire as per Schedule-III and no extension in service beyond retirement shall be granted". On 14.07.2020, vide Notification No.SO

ATTESTED
EXAMINER
Peshawar High Court

-11

73

(Police-II)HD/1-3, rule 17 was further amended by deleting schedule-IV as **"All uniformed force shall retire from service on attaining the age of superannuation i.e. Sixty (60) years or they may opt for retirement after completion of twenty-five (25) years regular service"**. Thereafter once again through certain modifications rule, 17 was amended by giving life to the deleted schedule-III of the rules 2013 as under:-

"Retirement: All levy personnel shall retire as per Schedule-III and no extension in service after retirement shall be granted."

4. Being aggrieved from the ibid amendment, the petitioners have filed the instant petitions.
5. Pursuant to the directions of this court respondents have filed their parawise comments, wherein issuance of the desired writs has been opposed.
6. Learned counsel representing the petitioners vehemently argued that the

ATTESTED
EXAMINER
Peshawar High Court

impugned Notification is arbitrary, perverse, illegal, issued without lawful authority and *mala fide* intention just to deprive the petitioners of their vested rights accrued in their favour hence violative of their fundamental rights guaranteed under the Constitution and thus not sustainable in the eye of law. That though the impugned Notification was issued under the regulation 2012. However, after the 25th Constitutional amendment, the said regulation does not hold field, therefore, the impugned Notification is liable to be set aside.

7. Conversely, worthy AAG representing the respondents opposed the arguments so advanced by learned counsel representing the petitioners at the bar while arguing that after the 25th amendment the Provincial Assembly passed the continuation of laws Act No.111 of 2019 through which the laws applicable to erstwhile PATA were allowed to continue including "Provincial Administered Tribal Areas Levies Force Regulation, 2012" and;

ATTESTED
EXAMINER
Peshawar High Court




therefore, the impugned Notification was issued per law which does not require any interference by this court in its writ jurisdiction under Article 199 of the Constitution. Further, petitioners are Civil Servants, and; matter in question revolves around the terms and conditions of their service which is the exclusive domain of the Service Tribunal as such the jurisdiction of this court is barred given the explicit provision of Article 212 of the Constitution.

8. Heard. Record perused.

9. Before discussing merits of the case we deem it appropriate to discuss the background of the matter in hand to properly comprehend the issue involved therein. It is worth mentioning that earlier the services of the *Levies Force* were dealt with under the *Frontier Irregular Corps (FIC) rules, 1962* which was substituted by the "*Provincial Administered Tribal Areas Levies Force Regulation, 2012*" (regulation) and under the said regulation "*PATA Levies*



ATTESTED
EXAMINER
Peshawar High Court

76

Force (service) Rules, 2012 were framed for *Provincial Levies Force*. While separate service rules were also framed thereunder for *PATA Federal Levies Force* performing duties in "PATA" known as "*PATA Federal Levies Force Service (Amended) Rules 2013*". Rule 17 of the *ibid* rules deals with the retirement of the *Levies* personnel which was amended from time to time. However, petitioners have become aggrieved from the impugned Notification vide which the petitioners' retirement age was altered which is challenged by them through instant petitions.

10. The main contention of the petitioners is that after 25th amendment the regulation has lost its efficacy and sanctity and has become redundant, therefore, the impugned amendment under the said regulation is illegal being void ab initio. It is worth mentioning that after the 25th amendment in 2018, both *FATA & PATA* were merged in the province of *Khyber Pakhtunkhwa* and *Federal Levies Force*

ATTESTED
EXAMINER
Peshawar High Court



working in FATA was merged into the regular police of the province. Albeit, in Malakand Division, *Levies Force* is still regulated by *"PATA Federal Levies Force Service (Amended) Rules 2013* in view of the Khyber Pakhtunkhwa Act No 111 of 2019 through which the laws prevalent in erstwhile PATA at the time of 25th amendment were allowed to continue including regulation 2012 which still holds the field and as such the same is a valid instrument. Therefore, impugned Notification was issued by the respondents with lawful authority.

11. Moving toward the status of the petitioners it is worth mentioning that earlier this court while deciding *W.P No 528-M/2016 (Ikramullah's case)* determined the status of personnel of the *Provincial Levies Force* as that of civil servants in the following terms:-

"19. The Provincial Levies Force ("Force") was granted statutory cover through Khyber Pakhtunkhwa Regulation No.1 of



ATTESTED
EXAMINER
Peshawar High Court

78

2014 ("Regulation"). Paragraph No.3 of the Regulation envisages for constitution and establishment of the Force and its functions. For ease reference paragraph Nos. 3 and 4 of the Regulation are reproduced as under:-

"3. Power to constitute and maintain by the Force and its functions.— (1) Government may constitute and maintain a Force for performing the following functions, namely:

- (a) ensuring security of roads in PATA;**
 - (b) ensuring security and manning of piquet;**
 - (c) guarding Government institutions and installations;**
 - (d) ensuring security of jails and arrested criminals;**
 - (e) generally maintaining law and order providing mobile escort to VIPs;**
 - (f) anti-smuggling activities especially timber smuggling;**
 - (g) destruction of illicit crops;**
 - (h) serving of summons or procedures;**
 - (i) raid and ambush; and**
 - (j) such other functions as Government may, by notification in the official Gazette, require the Force to perform.**
- (2) In discharge of their functions, officers and staff of the Force shall**

ATTESTED
EXAMINER
Peshawar High Court

111
79

be guided in accordance with this Regulation and the rules.

(3) The head of the Force shall be Commandant in his respective jurisdiction.

(4) Secretary to Government, Home and Tribal Affairs Department shall be the competent authority of the Force.

(5) The Force shall consist of such ranks and number of officers and members and shall be constituted in such manner as may be prescribed by rules.

(6) The officers and members of the Force shall receive such pay, pension, allowances and other remunerations and shall enjoy such leave and other privileges as may be prescribed by rules.

(7) The officers and members of the Force shall wear such uniform as may be prescribed by rules or instructions.

(8) The administration of the Force shall vest in the Commandant in his jurisdiction who shall administer it in accordance with the provisions of this Regulation, rules and instructions.

(9) The Commandant shall exercise his powers and perform his functions under the general supervision and directions of Government.

ATTESTED

80

4. Powers and duties of officers and members of the Force.—An officer or member of the Force shall-

- (a) take effective measures for ensuring security of assigned jurisdiction and for safeguarding against acts of unlawful interference;
- (b) prevent unauthorized persons and vehicles from access to the territorial jurisdiction;
- (c) take effective measures for preventing sabotage, placement of car bombs, letter bombs, dangerous article and carriage of arms and ammunition into the restricted area;
- (d) use such arms and ammunition and equipment as may be authorized by the Commandant or an officer authorized by him;
- (e) search and arrest without warrant any person who he suspects of endangering or attempting to endanger or having endangered the safety of an installation and may use such force as may be necessary in the discharge of his aforesaid duties; and
- (f) perform such other legal functions as the competent authority may require him to perform*.

20. The close perusal of the Regulation would clearly show that the Force is receiving its salary from the Provincial

ATTESTED
EXAMINER
Peshawar High Court

(7/11)
(8)

Exchequer and performs the policing service in the erstwhile PATA.

21. Having said this, we would now refer to the crucial issue as to whether the employees of the Force can be termed as a civil servants and as such they cannot maintain a constitutional petition before this Court for enforcement of the terms & conditions of their service.

22. The connotation 'civil servant' is defined and explained in respect to the Province of Khyber Pakhtunkhwa, in the Civil Servants Act, 1973 ("Act, 1973"). For ease reference, we would refer to Section 2 (b) of Act, 1973, which reads as under:-

"2. Definitions.—(1) In this act, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

- (a)
- (b) *"civil servant" means a person who is a member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include—*

ATTESTED
EXAMINER
Peshawar High Court

82

- (i) a person who is on deputation to the Province from the Federation or any other Province or other authority;
- (ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or
- (iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workman's Compensation Act, 1923 (Act VIII of 1923)".

23. The perusal of the definition would show that a member of a civil service of the Province or who holds a civil post in connection with the affairs of the Province is civil servant. All Pakistan Services are explained in Article 260 of the Constitution, which reads as under:-

"260.
 (1).....

"service of Pakistan" means any service, post or office in connection with the affairs of the Federation or of a Province, and includes an All-Pakistan Service, service in the Armed Forces and any other service declared to be a service of Pakistan by or under Act of [Majlis-e-Shoora

ATTESTED
EXAMINER
 Peshawar High Court

(83)

(Parliament)] or of a Provincial Assembly, but does not include service as Speaker, Deputy Speaker, Chairman, Deputy Chairman, Prime Minister, Federal Minister, Minister of State, Chief Minister, Provincial Minister, [Attorney-General], [Advocate-General],] Parliament Secretary] or [Chairman or member of a Law Commission, Chairman or member of the Council of Islamic Ideology, Special Assistant to the Prime Minister, Adviser to the Prime Minister, Special Assistant to a Chief Minister, Adviser to a Chief Minister] or member of a House or a Provincial Assembly;

Whereas Article 240 of the Constitution envisages that-

"240. Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined -

- (a)
- (b) In the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

Explanation.- In this Article, "All-Pakistan Service" means a service common to the Federation and the Provinces, which was in existence immediately before the commencing

ATTESTED
EXAMINER
Peshawar High Court

day or which may be created by Act of [Majlis-e-Shoora (Parliament)]".

24. The Phrase "performing in connection with the affairs of Federation or for present matter Province" was elaborately explained in the case of Salahuddin and 2 others vs. Frontier Sugar Mills & Distillery Ltd., Tokht Bhal and 10 others (PLD 1975 Supreme Court 244). In the said judgment, the Apex Court has held:

"Now, what is meant by the phrase "performing functions in connection with the affairs of the Federation or a Province". It is clear that the reference is to governmental or State functions, involving, in one form or another, an element of exercise of public power. The functions may be the traditional police functions of the State, involving the maintenance of law and order and other regulatory activities; or they may comprise functions pertaining to economic development, social welfare, education, public utility service and other State enterprises of an industrial or commercial nature. Ordinarily, these functions would be performed by persons or agencies directly appointed, controlled and financed by the State, i.e., by the

ATTESTED
EXAMINER
Peshawar High Court

85

Federal Government or a Provincial Government”.

25. Admittedly, as evident from the bare reading of paragraph-3 & 4 of the Regulation, the present petitioners are performing policing service in the erstwhile tribal area, however, their terms and conditions are being regulating through Regulation No.1 of 2014 and after the omission of Article 247 from the Constitution; through a provincial statute i.e. the Khyber Continuation of Laws in the Erstwhile Provincially Administered Tribal Areas Act, 2018 (Khyber Pakhtunkhwa Act No. III of 2019), the operation of Regulation No.1 of 2014 was continued. Thus, the essential criteria for being a civil servant is that the person holding the post must perform his functions in connection with the affairs of Federation/Province and the terms and conditions of his service should be determined by or under the Act of Parliament/Provincial Assembly. The Apex Court in the case of Federation of Pakistan through Secretary, Ministry of Interior (Interior Division), Islamabad and 2 others vs. RO-

ATTESTED
EXAMINER
Peshawar High Court

86

177. Ex-DSR Muhammed Nazir
(1998 SCMR 1081), while dealing with the case of an employee of Pakistan Rangers has observed that:

"7....Perusal of these rules clearly shows that they are all embracing, and therefore, under the amendment of section 1 of the Pakistan Rangers Ordinance, these rules would prevail over the Rules of 1973. The Pakistan Rangers Ordinance was promulgated to constitute a force called the Pakistan Rangers for the protection of and maintenance of order in the border areas. Since with regard to the status of the members of the force the Pakistan Rangers Ordinance is silent, therefore, it can be safely said that the employees of the Pakistan Rangers will be deemed to be civil servants as they are performing duties in connection with affairs of the Federation and hence under the Service Tribunals Act, 1973, an appeal by a member of the Pakistan Rangers regarding a matter relating to terms and conditions of his service is competent before the Federal Service Tribunal..."

28. Similarly, in the case of **Commandant. Frontier Constabulary. Khyber Pakhtunkhwa. Peshawar and**

ATTESTED
EXAMINER
Peshawar High Court

87

others vs. Gul Raqib Khan and others (2018 SCMR 903), the Hon'ble Apex Court has elaborately examined service structure of the employees of Frontier Constabulary, which is established under Frontier Constabulary Act (Act-XIII) of 1915. Relevant paragraphs of the said judgment are reproduced as under:-

"6. Three broad tests for establishing the status and character of a civil servant emerge from the Constitutional mandate of the afore-going Articles. Firstly, under Article 240(a) of the Constitution, appointments to and the terms and conditions of service of the persons in the 'service of Pakistan' are determined by or under Act of Parliament. Secondly, by virtue of Article 260 of the Constitution, 'service of Pakistan' means any service, post or office in connection with the affairs of the Federation. Thirdly, under Article 212(1) (a) of the Constitution, the exclusive jurisdiction to adjudicate disputes relating to the terms and conditions of persons, who are in the service of Pakistan vests in an Administrative Tribunal, namely, the Federal Service Tribunal. These tests are mentioned in the Muhammed Mubeen-us-Salam case

ATTESTED

88

ibid (at pp. 686-689 of the law report). The definition of the term 'civil servant' in the Act adopts the Constitutional criteria given in Article 260 noted above to reiterate that a person who, *inter alia*, holds a civil post "in connection with the affairs of the Federation" including any such post connected with defence, to be a civil servant. The larger Bench has in this respect taken the logical step to incorporate the requirements under Article 240 (a) and 260 of the Constitution as the definitional criteria of the term "civil servant" (at p. 682 of the law report).

7. Having noticed the qualifying criteria of a civil servant under the law, it is appropriate now to examine the factual matrix of the present controversy. The FC was established by the NWFP Constabulary Act, (Act-XIII) of 1915 ("Constabulary Act"). Section 3 of the Constabulary Act empowers the Federal Government to maintain the FC as a force "for the better protection and administration of the external frontiers of Pakistan within the limits of or adjoining North-West Frontier or any part thereof". Section 3-A of the Constabulary Act authorises the Federal Government to employ the FC outside the limits of or adjoining the North-West Frontier Province in other parts of Pakistan for

ATTESTED
EXAMINER
 Peshawar High Court

(89)

the better protection and administration of those parts. Section 5(1) of the Act *ibid* vests the Federal Government with power to appoint the Commandant and other persons including the District Constabulary Officers or Assistant Constabulary Officers of the force in one or more districts. Section 6 delegates to the Commandant and District Constabulary Officer the power to appoint subordinate officers in the manner prescribed by Rules made under the Act. The Federal Government exercised its power conferred by Section 21 of the Constabulary Act, to frame the NWFP Constabulary Rules, 1958 ("Constabulary Rules"), in order to provide the terms and conditions of service of the officers and men in the FC.

8. It will be observed that the matter of terms and conditions of service of the respondent-employees of the FC, are in the first place regulated by the Constabulary Act and elaborated pursuant thereto by the FC Rules. The provisions made by the Constabulary Rules are in furtherance of and in exercise of the power conferred by the Constabulary Act. Therefore, the terms and conditions of service of the employees of the FC are prescribed

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case of Gul Munir vs. The

27. Similarly, this Court in the

before the Service Tribunals."

of the Constitution, can seek remedy
statutory rules, in terms of Article 240
governed either by a statute or
and if their terms and conditions are
Pakistan, as discussed hereinabove,
persons, who are in the service of
conclusion would be that only those
under Act of the Parliament. Thus, the
Article 240 of the Constitution by or
are required to be specified under
service of those employees, however,
"86.... The terms and conditions of

endorses this point of view:-

Mubeen-us-Salam case ibid

test. The judgment in the Muhammed
therefore, satisfy the Article 240(a)
Act and the Constabulary Rules,
provision made in the Constabulary
statute or by statutory rules. The
a civil servant to be provided both by
the terms and conditions of service of
240(a) of the Constitution authorizes
expression "by or under" in Article
under an Act of Parliament. The
Pakistan shall be determined "by or
Federation and of a service of
connection with the affairs of the
conditions of service of posts in
appointment to and the terms and
Constitution requires that the
down in Article 240(a) of the
in the Act and the Rules. The last laid

90

91

Government of Pakistan through Secretary, Ministry of States and Frontier Regions (SAFRON), Islamabad and others (2019 PLC (C.S) 645), on the basis of law laid down by the Apex Court in Commandant, Frontier Constabulary Khyber Pakhtunkhwa, Peshawar's case (2018 SCMR 903), while dealing with the case of Federal Levies Force, which was established through Federal Levies Force Regulation, 2012 having the same structure of service for its employees/force as provided in Regulation No. 1 of 2014 has held that employees of the Federal Levies Force whose terms and conditions of service are governed under Federal Levies Force Regulation, 2012 are civil servants. Keeping in view the above, the Force established under Regulation No. 1 of 2014 qualifies the criteria of being civil servant in view of its composition, functions and duties as per law laid down by the Apex Court in the cases of Federation of Pakistan through Secretary, Ministry of Interior (Interior Division), Islamabad and 2 others

ATTESTED
EXAMINER

vs. RO-177 Ex-DSR Muhammad Nazir (1998 SCMR 1081) and Commandant, Frontier Constabulary, Khyber Pakhtunkhwa, Peshawar and others vs. Gul Raqib Khan and others (2018 SCMR 903), thus, the preliminary objection raised by the learned counsels for the respondents is sustained and accordingly, the present petitions in view of clear bar contained in Article 212 of the Constitution are not maintainable. The present petitioners may agitate their grievances before the Provincial Services Tribunal. However, prior to this judgment, the status of present petitioners being a civil servant was not determined and in the similar cases, the Apex Court in Gul Raqib Khan's case (2018 SCMR 903) has held that:

"11. It follows from the dicta laid down above that the protection of the border areas is a sovereign function belonging to and performed by the Federation. The same duty is performed equally in the present case by the FC not only on the frontiers of KPK Province but also by maintaining order in other parts of Pakistan. For discharging such functions, the

**ATTESTED
EXAMINER**

93

services rendered by the FC have direct nexus with the affairs of the Federation. Therefore, the reasons given in the *Muhammed Nazir case (supra)* fully apply here as well and we hold that the employees of FC are civil servants. Insofar as the question of competent remedy in respect of service disputes of FC men is concerned, we hold that in a matter relating to the terms and conditions of service of the respondent-employees of the FC, an appeal before the Federal Service Tribunal is available to them as the exclusive remedy under the law. Accordingly, this remedy may be availed by them within the statutory period of limitation commencing from the date of issuance of certified copy of this judgment. All these appeals filed by the appellant-Commandant, FC are according allowed in above terms".

When case of the petitioners (*PATA Federal Levies Force*) was examined in juxtaposition with the *Provincial Levies Force* and *ibid* judgment, we observed that service of both the forces is governed under the rules so framed under the provisions of *"Provincial Administered Tribal Areas Levies Force Regulation,*

ATTESTED
EXAMINER
Peshawar High Court

94

2012". Therefore, we believe that the status of petitioners is that of civil servants for all practical and material purposes, and as such, the matter of terms and conditions of their service squarely falls outside the ambit of writ jurisdiction of this court given the explicit bar contained in Article 212 of the Constitution. As earlier discussed service rules of the petitioners (*PATA Federal Levies Force*) and *Provincial Levies Force* both were framed under the provisions of "*Provincial Administered Tribal Areas Levies Force Regulation, 2012*" and through the *ibid* judgment, the personnel of *Provincial Levies Force* were declared as Civil Servants after exhaustively discussing the matter of *Levies Force* performing their duties in *PATA*. Therefore, on the same premise, we have no hesitation to hold that the petitioners are Civil Servants as their service fulfills the entire criteria of Civil Servants so provided by the law. Learned counsel representing the petitioners could

ATTESTED
EXAMINER
Barabara High Court



95

not distinguish the status of petitioners (PATA Federal Levies Force) vis à vis Provincial Leavy Force in any manner. Both forces are performing their functions in the same area for the same object and; purpose, and both are being maintained through the provincial exchequer. Therefore, the matters arising out of the terms and; conditions of service of the petitioners are only amenable to the jurisdiction of the Service Tribunal in terms of Article 212 of the Constitution.

So far as the contention of petitioners that they have challenged the vires of the impugned Notification and as such the same are not amenable to the jurisdiction of the Service Tribunal is concerned, suffice it to state that it has long been settled that Service Tribunal has ample jurisdiction to deal with the issue of vires of the law and rules framed thereunder. 2015 SCMR 263 NATIONAL ASSEMBLY SECRETARIAT through Sectrary V. MANZOOR AHMAD and others.



ATTESTED
EXAMINER

Therefore, the contention so agitated at the bar is misconceived and as such repelled.

In view thereof, the status of petitioners has been declared as that of Civil Servants and the matter in question revolves around the terms and conditions of their service which does fall outside the jurisdiction of this court given the barring provision of Article 212 of the Constitution and as such instant petitions are dismissed; being not maintainable. However, the petitioners may approach the worthy Service Tribunal for the redressal of their grievance if so advised. Albeit, earlier the status of petitioners being civil servants was not determined, therefore, the petitioners may avail the remedy of appeal within the statutory period of limitation commencing from the date of issuance of the certified copy of this judgment in terms of the judgment of august apex court in *Gul Raqib Khan's case 2018 SCMR 903*.

COC Nos.38-M/2021 in
W.P.No.367-M/2021 and; COC No.436-

ATTESTED
EXAMINER
Peshawar High Court



97

P/2022 in W.P.No.1335-P/2022 are dismissed for having become infructuous.

[Signature]
JUDGE

[Signature]
JUDGE

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JUDGE

Announced.
DL29/11/2022.

HON'BLE MR JUSTICE LAL JAIN KHATTAK,
HON'BLE MR JUSTICE S M ATTQUB SHAH &
HON'BLE MR JUSTICE SYED ARSHAD ALI

(Official Court Seal)

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Date of presentation of Application: 17-12-22
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EXTRAORDINARY
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REGISTERED NO. PIII
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KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 16th SEPTEMBER, 2019.

PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 16th September, 2019.

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

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

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

AN
ACT

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

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

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


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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;


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

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

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

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

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

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

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

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


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

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

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

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

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


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(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.


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102

(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.	Husan 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.

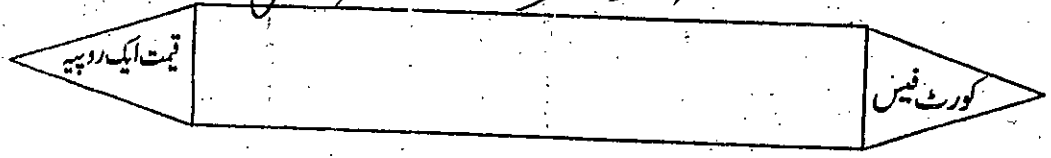
BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMJAD ALI)
Secretary

Provincial Assembly of Khyber Pakhtunkhwa

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بعدالت حسبہ تختہ خواہ سرورسٹریٹ ہینول بساؤر / ملہار کرسٹ سواڑ



مورخہ 3 دسمبر 1928ء منجانب بسٹمنٹرز
 مقدمہ محمد سلیم نامیاد بیام حکومت و ملہارہ
 دعویٰ
 جرم سرورسٹریٹ ہینول باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام مندرجہ سوائے بیسٹمنٹرز اسٹریٹ ہینول / عرصہ ادو کسٹریٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل احتیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے کے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوا ایسے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

المرقوم 3 ماہ دسمبر ۱۹۲۸ء

المعد گواہ شدہ العبد

نامہ وکیل محمد سلیم نامیاد بسٹمنٹرز اسٹریٹ ہینول 4372

بمقام سوائے کسٹریٹ کے لئے منظور ہے
 محمد سلیم نامیاد
 Umair Sadiq Adu