


FORM OF ORDER SHEET

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

Case No.- 57/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	5/1/2023	<p>The instant appeal presented today by Dr. Adnan Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on _____. Parcha Peshi is given to appellant/counsel.</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. 57 of 2023

Bacha Khan .....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa and another

.....Respondents

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Appellant  
Bacha Khan  
Identified by counsels

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

Umar Sadiq Advocate High Court

Office: Adnan Law Associates,  
Opposite Shuhada Park College Colony,  
Saidu Sharif, Swat.  
Cell No. 0346-9415233

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

**CHECK LIST**

Case titled <u>Bacha Khan Vs Govt. of Khyber Pakhtunkhwa &amp; others</u>			
S.#	CONTENTS	YES	NO
1	This appeal has been presented by <u>Mr. Umar Sadiq Advocate</u>		
2	Whether Counsel/ Appellant/ Respondent/ Deponent have signed the requisite documents?	YES	
3	Whether appeal is within time?	YES	
4	Whether the enactment under which the appeal is filed mentioned?	YES	
5	Whether the enactment under which the appeal is filed is correct?	YES	
6	Whether affidavit is appended?	YES	
7	Whether affidavit is duly attested by competent Oath Commissioner?	YES	
8	Whether appeal/annexures are property paged?	YES	
9	Whether certificate regarding filing any earlier appeal on the subject furnished?	YES	
10	Whether annexures are legible?	YES	
11	Whether annexure are attested?	YES	
12	Whether copies of annexures are readable/clear?	YES	
13	Whether copy of appeal is delivered to AG/GAC	YES	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	YES	
15	Whether numbers of referred cases given are correct?	YES	
16	Whether appeal contains cutting/overwriting??		No
17	Whether list of books has been provided at the end of the appeal?		No
18	Whether case relate to this court?	YES	
19	Whether requisite number of spare copies attached?	YES	
20	Whether complete spare copy is filed in separate file cover?	YES	
21	Whether addresses of parties given are complete?	YES	
22	Whether index filed?	YES	
23	Whether index is correct?	YES	
24	Whether Security and Process Fee deposited? On _____		No
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	YES	
26	Whether copies of comments/reply/rejoinder submitted? On _____	YES	
27	Whether copies of comments/reply/rejoinders provided to opposite party? On _____	YES	

It is certified that the formalities/documentations as required in the above table have been fulfilled.

Name: Umar Sadiq Advocate

Signature 

Dated: 21/11/2023

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

**Service Appeal No. 57 of 2023**

Bacha Khan S/o Shah Jehan R/o Haji Abad Saidu Sharif, District Swat [Sepoy No.562736].

.....Appellant

**VERSUS**

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

.....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, which were non-statutory.
- 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 "B").
- 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 "C").
- 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 "D").
- 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 "E").

- 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 "F").
- 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 "G").
- 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 "H").
- 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 "I").
- 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,

- C) That after the 25<sup>th</sup> 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 25<sup>th</sup> Constitutional amendment and subsequent orders.
- D) 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   
Bacha Khan  
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   
Bacha Khan



(7)

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

Service Appeal No. \_\_\_\_\_ of 2023

Bacha Khan .....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa and another

.....Respondents

**AFFIDAVIT**

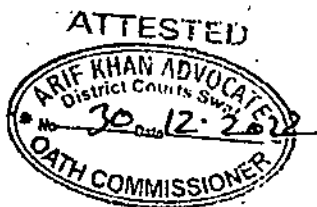
I, Bacha Khan (Appellant), do hereby solemnly affirm and declare that the contents of the above titled Appeal are true and correct to the best of my knowledge and belief. Furthermore, no such like appeal has earlier been filed before this Hon'able Tribunal or elsewhere on this subject matter

DEPONENT

*Bacha Khan*

Bacha Khan

*[Signature]*



8

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

**Service Appeal No. \_\_\_\_\_ of 2023**

Bacha Khan ..... *Appellant*

**VERSUS**

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


**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Bacha Khan S/o Shah Jehan R/o Haji Abad Saidu Sharif, District Swat [Sepoy No.562736].  
(NIC#15602-6789288-7) (Cell# )

**RESPONDENTS:**

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

Appellant 

Bacha Khan  
Identified by counsels



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

& 

Umar Sadiq Advocate High Court

(9) Anna 'A'

**OFFICE OF THE DISTRICT COORDINATION OFFICER SWAT/  
COMMANDANT SWAT LEVIES.**

No 24243 /DCO/CSL

Dated the 15/12 /2010.

**ORDER**

As per recommendations of the Departmental Selection Committee, the District Coordination Officer/Commandant Swat Levies has been pleased to notify the appointment of the following candidates as Sepoy and others in BPS-05 plus usual allowances against the vacant post with immediate effect as they are fulfilled the criteria:-

S/No	Name & F/Name	Date of Birth	Height	Chest	Qualification	Address	Designation
1	Yahir Khan s/o Ayub Khan	10/3/1986	5-8	37x40	B.A	Mohallah Kater, Vill, Islampur, P/O Saidu Sharif, Teh: Babozai, Distt Swat	Sepoy
2	Wali Akbar s/o Jafar ✓	15/2/1978	5-6 ½	34x37	10 <sup>th</sup>	Mohallah: Potohar, Vill: Islampur, P/O: Sakdu Sharif, Teh: Babozai, Distt Swat	Sepoy
3	Karim Khan s/o Muhammad Ismail ✓	1/4/1980	5-7 ½	38x40	B.A	Mohallah: Mian Jo Khel, Vill: Islampur, P/O: Sakdu Sharif, Teh: Babozai, Distt Swat	Sepoy
4	Abdul Waleeb s/o Yaf Gul ✓	10/4/1980	5-8	32x34	10 <sup>th</sup>	Vill: Spal, Bandai, P/O: Saidu Sharif, Teh: Babozai, Distt Swat	Sepoy
5	Akhar Ali s/o Muhammad Porvesh	1-4-1984	5-7	33x35	10 <sup>th</sup>	Vill: Gogdara, P/O: Tariq Abad, Teh: Babozai, Distt Swat	Sepoy
6*	Amir Zeb s/o Mian Gul ✓	3-4-1980	5-5	30x38	FSc	Vill Islampur, P/O Saidu Sharif, Teh Babozai, Distt Swat	Sepoy
7	Zameer Khan s/o Sher Ali Khan ✓	1-1-1989	5-7 ½	32x34	10 <sup>th</sup>	Vill. Rahman Abad, P/O: Rahman Abad, Teh Babozai, Distt Swat	Sepoy
8	Wasceem Sajjad s/o Muhammad Ayub Khan ✓	13/3/1991	5-7 ½	33x35	P.A	Mohallah: Bagh Taj Chowk, Vill: Mingora, P/O: Mingora, Teh: Babozai, Distt Swat	Sepoy
9	Muhammad Nawaz s/o Shah Desuan ✓	21/7/1979	6-1	40x41	10 <sup>th</sup>	Mohallah: Zor Cham, Vill: Saidu Sharif, P/O: Saidu Sharif, Teh: Babozai, Distt Swat	Sepoy
10*	Atta Ullah s/o Jamullah ✓	19/4/1978	5-5 ½	36x38	10 <sup>th</sup>	Vill: Saidu Sharif, P/O: Saidu Sharif, Teh. Babozai, Distt Swat	Sepoy
11*	Faisal s/o Sardar Ali ✓	1/4/1990	5-5 ½	32x34	10 <sup>th</sup>	Mohallah: Khalq Abad Taj Chowk, Mingora, P/O: Mingora, Teh: Babozai, Distt Swat	Sepoy
12	Sher Rafiq s/o Sher Ali ✓	1/1/1991	5-10	34x36	10 <sup>th</sup>	Mohallah Gujar Tanga, Vill. Islampur, P/O: Saidu Sharif, Teh: Babozai, Distt Swat	Sepoy
13	Izhar Ali s/o Sharif Khan ✓	7/1/1992	5-10	35x38	10 <sup>th</sup>	Mohallah: Dumat Khel, Vill: Qambar, P/O: Rahman Abad, Teh: Babozai, Distt Swat	Sepoy
14	Sami Ullah s/o Khoista Muhammad ✓	15/3/1985	5-6	33x35	10 <sup>th</sup>	Mohallah: Usman Khel, Vill: Mingora, P/O: Mingora, Teh: Babozai, Distt Swat	Sepoy
15*	Ibrar Ahmad s/o Ibrahim ✓	10/4/1992	5-5 ½	33x36	10 <sup>th</sup>	Mohallah: Usman Khel, Vill: Mingora, P/O: Mingora, Teh: Babozai, Distt Swat	Sepoy
16	Rafi Ullah s/o Inqilab Amin ✓	20/3/1990	5-9 ½	33x35	FA	Mohallah: Usman Abad, Vill: Mingora, P/O: Mingora, Teh: Babozai, Distt Swat	Sepoy
17*	Tariq Aziz s/o Bukht Rawan ✓	10/4/1991	5-5	34x37	FA	Mohallah: Khuna Cham, Vill Saidu Sharif, P/O: Saidu Sharif, Teh: Babozai, Distt Swat	Sepoy
18	Usman Ali s/o Muhammad Iqbal ✓	3/4/1978	5-8 ½	33x36	10 <sup>th</sup>	Vill: Shahin Abad, P/O: Saidu Sharif, Teh: Babozai, Distt Swat	Sepoy
19	Ghufran Ullah s/o Ismail Khan ✓	20/3/1986	5-9 ½	36x38	FA	Vill: Kandao Shokhdara, P/O: Mata, Teh: Mata, Distt Swat	Sepoy
20*	Bacha Khan s/o Shah Jehan ✓	15/8/1976	5-5 ½	37x39	10 <sup>th</sup>	Mohallah: Makan Bagh, Vill: Mingora, P/O: Mingora, Teh: Babozai, Distt Swat	Dikobi
21*	Sami Ullah s/o Syed Akbar Khan ✓	1/1/1986	5-5 ½	34x36	10 <sup>th</sup>	Mohallah: Malkan, Vill. Manglor, P/O: Mingora, Teh: Babozai, Distt Swat	Barber

CTC  
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TERMS AND CONDITIONS

(10)

1. Their recruitment will be subject to the verification of antecedents of the applicant from the concerned agencies and provision of Medical fitness Certificate.
2. The appointees will be allowed to resign from the service one month prior notice and in case of resignation without notice, two months Pay/allowances if any shall be forfeited in favour of Government.
3. Their services can be terminated at any time in case their performance is found unsatisfactory.
4. The appointees should join duties within one week of the issue of this order.
5. \*Condonation in Height in r/o the candidates appeared at S.No. 6,10,11, 15,17,20 and 21 has already been granted by SAFRAN Islamabad, vide Notification No. F-4(5)-LK 2008 Government of Pakistan States & Frontier Region Division dated 26-01-2010.

No. 24244-45/DCO/CSL

Copy forwarded to:-

- 1- District Accounts Officer, Swat.
- 2- Officials concerned.

  
DISTRICT COORDINATION OFFICER/  
COMMANDANT SWAT LEVIES

  
DISTRICT COORDINATION OFFICER/  
COMMANDANT SWAT LEVIES

C.F.C  
/

GOVERNMENT OF 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 8 of the PATA Levies Force Regulation, 2003, 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 **Service Rules (Amended Rules) 2013** for the Federal Levies Force in PATA.

(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 officer of the District designated as such by the provincial government who shall be the 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 Commissioner (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 administrative 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;

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*Handwritten:* Ann B, 11

*Handwritten:* T.C.T.C.

(12)

SCHEDULE -III  
See Rule 17

Sl. No.	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-15)	35 years service or 03 years service as Subedar or 57 years age whichever is earlier
3	NabSubedar (BS-11)	32 years service or 03 years service as NabSubedar or 54 years age whichever is earlier
4	Havildar (BS-8)	29 years service or 03 years service as Havildar 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

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(13)

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

**NOTIFICATION**

Peshawar the 4<sup>th</sup> 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'
- C.T.C  
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SCHEDULE-III  
See Rule 17

12

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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 Naib 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

LTC  
/



Notification  
 Dated Peshawar the 12th December, 2015

A.C  
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**NOTIFICATION**

No. SO/Secy/HD/PLW/14/2015 Vol. 1. The competent authority has been pleased to make further amendments in Schedule-I of Rule-4(2) and Schedule-III of Rules-17 under Part II of the Regulation for PATA Levy Force, 2012 & Rule-24 of the Provincially Administered Areas (PATA) Federal Levy Force Service (Amended) Rules, 2013 as under:-

**SCHEDULE-I**  
 See Rule 4(2)

S.No	Uniformed Force Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
	Subedar Major (BS-10)	One year service as Subedar	100%		
	Subedar (BS-10)	One year service as Naib Subedar	100%		
	Naib Subedar (BS-11)	One year service as HAWALDAR	100%		
	HAWALDAR (BS-8)	One year service as Naik	100%		
	Naik (BS-7)	One year service as Lance Naik	100%		
	Lance Naik (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**

Post/Rank	Length of service / age for retirement
Subedar Major (BS-10)	17 years' service or 60 years of age whichever is earlier
Subedar (BS-10)	15 years' service or 60 years of age whichever is earlier
Naib Subedar (BS-11)	13 years' service or 60 years of age whichever is earlier
HAWALDAR (BS-8)	11 years' service or 60 years of age whichever is earlier
Naik (BS-7)	9 years' service or 60 years of age whichever is earlier
Lance Naik (BS-6)	7 years' service or 60 years of age whichever is earlier
Sepoy (BS-5)	5 years' service or 60 years of age whichever is earlier

C.T.C

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

**NOTIFICATION**

SO(Levies)HD/FLW/1-1/2013/Vol.1. The Competent authority has been pleased to order the 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 (ATA) Federal Levies Force Service (Amended) Rules, 2013 as under:-

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**SCHEDULE-I**  
See Rule 4(2)

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 Armourer (BS-5)	One year service as Assistant Armourer	100%		Middle Pass/Matric
9.	Assistant Armourer (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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**Amendments**

14-07-2000

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 GOVERNMENT  
KHYBER PAKHTUNKHWA  
HONORARY DEPARTMENT

Copy forwarded to the:-

1. Principal Secretary to Government, Swat, 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 Constituent Departments in Khyber Pakhtunkhwa.
  10. FSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
  11. Assistant 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 appropriate Government Gazette of Khyber Pakhtunkhwa and supply 50 Copies (Printed) of the same to the undersigned.

Section 10

APPROVED TO  
PRINTING COPY

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

18

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) For rule 17, the following shall be substituted, namely:

"17. Retirement.— All Levies Personal 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:-

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

**NOTIFICATION**

Published on 27-12-2013

**REGISTRATION OF MEMBERS OF THE PATA**

In exercise of the powers conferred by Section-8 of the PATA (Khyber Pakhtunkhwa) Rules, 2013, the Government of Khyber Pakhtunkhwa is pleased to direct that in the PATA Federal Wide Form-Guide (General) Rules, 2013, the following further amendments shall be made, namely:-

**Amendments**

- In the said rules:-  
1. Section-4, sub-rule (3), the heading shall be amended, namely:-  
"3. Commission shall be the appointing authority for initial recruitment and promotion in the rank of Subedar."  
Provided that the appointing authority for purpose of promotion in the post of Subedar Major and Superintendents shall be Secretary, Home Department."
- For Para 77, the heading shall be amended, namely:-  
"77. Minimums in pay scales shall be as per Schedule-11 and on entering in service shall be as follows:-"
- For Schedule-11, the heading shall be amended, namely:-  
"Schedule-11  
(Part 17)

S. No.	Name of the Post / Rank	Qualification / Provision	Length of Service / Age
1	Subedar Major (20-24)	On the part of Eligibility: Graduate having completed the minimum 10 years' experience.	They shall have 10 or more years of service or 25 years of age whichever is less.
2	Subedar (20-18)	By promotion, on the basis of Seniority Cum Fitness in the following order: (a) Pay Band (20-18) from Pay Band (20-18) having minimum 10 years' experience. (b) Pay Band (20-18) from Pay Band (20-18) having minimum 10 years' experience. (c) Pay Band (20-18) from Pay Band (20-18) having minimum 10 years' experience.	They shall have 10 or more years of service or 25 years of age whichever is less.
3	Subedar (20-17)	By promotion, on the basis of Seniority Cum Fitness in the following order: (a) Pay Band (20-17) from Pay Band (20-17) having minimum 10 years' experience. (b) Pay Band (20-17) from Pay Band (20-17) having minimum 10 years' experience. (c) Pay Band (20-17) from Pay Band (20-17) having minimum 10 years' experience.	They shall have 10 or more years of service or 25 years of age whichever is less.

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NOTIFICATION 27/12/13

27/12/2013 12:14

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C.No.	Name of the P.W.D. Officer	Qualification for Promotion	Length of Service / Age
1	Prasad (P.W.D.)		Thirty One years service of P.W.D. up to 30th June 1954. Age 35 years.
2	Prasad (P.W.D.)		Twenty One years service of P.W.D. up to 30th June 1954. Age 30 years.
3	Prasad (P.W.D.)		Twenty One years service of P.W.D. up to 30th June 1954. Age 30 years.
4	Prasad (P.W.D.)		Twenty One years service of P.W.D. up to 30th June 1954. Age 30 years.

**SECRETARY TO  
GOVERNMENT OF MIZORAM PANCHAYAT,  
HOME & TRIBAL AFFAIRS DEPARTMENT**

**Copies forwarded to:-**

1. Principal Secretary to the Government, Mizoram Panchayat.
  2. Principal Secretary to the Chief Minister, Mizoram Panchayat.
  3. All Administrative Secretaries to Government of Mizoram Panchayat.
  4. Secretary, Mizoram High Court, Aizawl.
  5. All Commissioners, Mizoram Panchayat.
  6. All Deputy Commissioners, Mizoram Panchayat.
  7. Principal Police Officer, Mizoram Panchayat.
  8. All Heads of Attached Departments in Mizoram Panchayat.
  9. P.W.D. to the Chief Secretary, Mizoram Panchayat.
  10. Assistant General, Mizoram Panchayat.
  11. Director, Information, Mizoram Panchayat.
  12. The Mizoram Department of P.W.D. & Industry Department, Mizoram Panchayat.
- It is requested to please the Chief Minister in the Extra Ordinary Gazette of Mizoram Panchayat and copy of the same to be sent to the Home Department.

Section Officer (P.W.D.)

C.T.C.  
CERTIFIED TO  
[Signature]

Better Copy

To be substituted notification of even No & date.

24

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

*[Handwritten signatures and stamps]*

S. No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
4	Hawaldar (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	Nalk (BS-07)		Twenty Nine years service or Three years service as Nalk or Forty Eight years of age, whichever is earlier.
6	L/Nalk (BS-06)		Twenty Seven years service or Three years service as L/Nalk or Forty Five years of age, whichever is earlier.
7	Sapoy (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 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)

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خدمت جناب وزیر اعلیٰ صاحب خیبر پختونخواہ پشاور (23)

عنوان: درخواست بمراد صدور بحال کرنے لیویز سروس روٹز 2016 منسوخ کرنے ترمیم 22-03-2021

NO.SOIPolice-II)HD/MKD/Levies/Mise./2021

جناب عالی

گزارش ہے کہ ساکنان سوات لیویز میں بحیثیت سپاہی ضلع سوات میں مختلف پوسٹ وگاڑا اپنی ڈیوٹیاں سرانجام دے رہے۔ یہ کہ محکمہ اینڈ ٹرائبل افیئر ڈیپارٹمنٹ پشاور کے نوٹیفیکیشن مورخہ 22/03/2021 کے شیڈول 3 کے مطابق، اکثر ایسے سپاہان بھی ریٹائرڈ ہو رہے ہیں۔ جن کے کل سروس 10/12 سال بنتی ہے۔ اس طرح لانس نائیک بھی 18/20 سال پر ریٹائرڈ ہو رہے ہیں۔ جبکہ نائیک 21/22 سال میں اور حوالداران بھی 25 سال سے قبل ریٹائرڈ ہو رہے ہیں۔ یہ کہ مذکورہ نوٹیفیکیشن کے مطابق حوالدار کی سکیل 9 سے 8 لانس نائیک کی 7 سے 6 اور سپاہی کی سکیل 7 سے 5 میں تنزیل کی گئی ہے۔ جو کہ سراسر زیادتی پر مبنی ہے اور آئین و قانون کے منافی ہے۔ یہ کہ سائل کو غیر قانونی طور پر ریٹائرڈ کیا ہے۔ یہ کہ مذکورہ نوٹیفیکیشن کے مطابق ریٹائرمنٹ کی صورت میں ریٹائرڈ ہونے والے ملازمین کو پنشن و دیگر مراعات کی وصولی میں قانونی پیچیدگیاں اور مشکلات نمایاں طور پر عیاں ہے۔

یہ امر بھی قابل غور ہے۔ کہ کم عمر اور تعلیم یافتہ سپاہی لانس نائیک اور حوالدار کو ریٹائرڈ کیا جا رہے ہیں۔ تو دوسری طرف عمر رسیدہ اور کم تعلیم یافتہ اہلکاران کو مذہب مہلت دی جا رہی ہیں۔

لہذا درجہ بالا حقائق کو مد نظر رکھتے ہوئے نوٹیفیکیشن 2016 کو اپنی اصل روح کے مطابق بحال کرنے اور نوٹیفیکیشن بحریہ، 22/03/2021 کو منسوخ کرنے کے احکامات صادر فرما کر سائل کو بحال کرنے کا حکم صادر فرمایا جائے۔

تاحیات دعا گورینگے

المرقوم، 02/04/2021

العارض

نام باجا خان

والدیت شاہ جہاں

رجسٹر نمبر 562736

دستخط Shah

CERTIFIED TO  
BE TRUE COPY



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**OFFICE OF THE  
DEPUTY COMMISSIONER/  
COMMANDANT SWAT LEVIES SWAT**

No.....128...../DC/CSL

Dated the...20/04.../2021


**ORDER [Retirement]**

In pursuance of Service Rules Schedule-III amended Notification No.SO(Police-II)HD/MKD/Levies/Misc./2020 dated 22/03/2021, issued by Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department Peshawar, the following Swat Levies Force Personnel, who have already completed the requisite service/rank tenure/rank age as noted against each are hereby stands retired from Service w.e.f 22/03/2021 (A/N), with allowed financial benefits under the rules/policy in vogue.

S.#	Name & Father Name	Designation	Date of Appointment	D.O.B	Length of Service	Age / Rank Tenure on (22/03/2021)	Retirement Reasons
01.	Muhammad Gheffar S/O Taj Hira]	Ex-Army Naik	18/05/2010	05/01/1966	10-Y / 10-M / 04-D	55-Y / 02-M / 17-D (Age)	Rank Age 48- years completed
02.	Nowsher S/O Hunar	Ex-Army Naik	18/05/2010	15/08/1970	10-Y / 10-M / 04-D	50-Y / 09-M / 07-D (Age)	Rank Age 48- years completed
03.	Umar Bakht S/O Swail	L/Naik	18/05/2010	12/03/1979	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
04.	Muhammad Yasir S/O Hazrat Umar	L/Naik	18/05/2010	17/05/1979	10-Y / 10-M / 04-D	03-Y / 08-M / 06-D (Rank)	Rank Tenure 03- years completed
05.	Akhtar Munir S/O Umar Hayat	L/Naik	18/05/2010	04/01/1980	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
06.	Israr Uddin S/O Noor ul Ahad	L/Naik	18/05/2010	17/01/1980	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
07.	Muhammad Ismail S/O Gulshan	L/Naik	18/05/2010	01/04/1980	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
08.	Waqar Habib S/O Habib Ahmad	L/Naik	18/05/2010	01/04/1980	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
09.	Irfan S/O Shah Jehan	L/Naik	18/05/2010	09/10/1980	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
10	Sajjad Ali S/O Jouhar	L/Naik	18/05/2010	01/01/1981	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
11	Saida Hussain S/O Mian Said Umar	L/Naik	18/05/2010	03/02/1981	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
12	Muhammad Dier S/O Sajjad Khan	L/Naik	18/05/2010	10/02/1981	10-Y / 10-M / 04-D	03-Y / 08-M / 05-D (Rank)	Rank Tenure 03- years completed
13	Inayatullah S/O Abdulah	Ex-Army L/Naik	18/05/2010	04/11/1971	10-Y / 10-M / 04-D	49-Y / 04-M / 18-D (Age)	Rank Age 45- years completed
14	Sardar Hussain S/O Hamid Gul	Sepoy	10/06/2010	11/05/1977	10-Y / 09-M / 12-D	43-Y / 10-M / 11-D (Age)	Rank Age 42- years completed
15	Amir Rehman S/O Muhd: Sherin	Sepoy	10/06/2010	20/04/1978	10-Y / 09-M / 12-D	42-Y / 11-M / 02-D (Age)	Rank Age 42- years completed
16	Parvez Ahmad S/O Taj Muhd: Khan	Sepoy	25/06/2010	06/02/1978	10-Y / 08-M / 25-D	43-Y / 01-M / 18-D (Age)	Rank Age 42- years completed
17	Shah Hussain S/O Fazal Haleem	Sepoy	25/06/2010	07/06/1978	10-Y / 08-M / 25-D	42-Y / 09-M / 15-D (Age)	Rank Age 42- years completed
18	Mukhtiar Ali Shah S/O Akbar Ali	Sepoy	25/06/2010	10/02/1978	10-Y / 08-M / 25-D	42-Y / 01-M / 12-D (Age)	Rank Age 42- years completed
19	Sajjad Ahmad S/O Farid Gul	Sepoy/Tailor	25/06/2010	13/01/1977	10-Y / 08-M / 25-D	44-Y / 02-M / 09-D (Age)	Rank Age 42- years completed
20	Muhammad Naseem S/O Muhd: Iqbal	Sepoy/Gardner	25/06/2010	25/12/1977	10-Y / 08-M / 25-D	43-Y / 02-M / 25-D (Age)	Rank Age 42- years completed
21	Samiullah S/O Mian Gul Bostan	Sepoy/Cook	25/06/2010	01/01/1978	10-Y / 08-M / 25-D	43-Y / 02-M / 21-D (Age)	Rank Age 42- years completed
22	Muhammad Rasool Khan S/O Muhd: Uzair	Sepoy/Carpenter	25/06/2010	09/03/1978	10-Y / 08-M / 25-D	43-Y / 00-M / 13-D (Age)	Rank Age 42- years completed

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S.N	Name & Father Name	Designation	Date of Appointment	D.O.B	Length of Service	Age / Rank Tenure on (22/03/2021)	Retirement Reasons
23	Umar Zada S/O Ahsala Khan	Sepoy/Mason	25/06/2010	12/03/1978	10-Y / 08-M / 28-D	43-Y / 00-M / 10-D (Age)	Rank Age 42- years completed
24	Rahmat Ali S/O Ali Rehman	Sepoy/Tailor	25/06/2010	03/04/1978	10-Y / 08-M / 25-D	42-Y / 11-M / 19-D (Age)	Rank Age 42- years completed
25	Mian Umar Khan S/O Juma Khan	Sepoy/Carpenter	25/06/2010	10/04/1978	10-Y / 08-M / 25-D	43-Y / 00-M / 12-D (Age)	Rank Age 42- years completed
26	Bacha Khan S/O Shah Jehan	Sepoy/Dhobi	15/12/2010	15/08/1978	10-Y / 03-M / 07-D	44-Y / 07-M / 07-D (Age)	Rank Age 42- years completed
27	Wali Akbar S/O Jafar	Sepoy	15/12/2010	15/02/1978	10-Y / 03-M / 07-D	43-Y / 01-M / 07-D (Age)	Rank Age 42- years completed
28	Uaman Ali S/O Muht. Iqbal	Sepoy	15/12/2010	03/04/1978	10-Y / 03-M / 07-D	42-Y / 11-M / 10-D (Age)	Rank Age 42- years completed
29	Atis Ullah S/O Janudah	Sepoy	15/12/2010	18/04/1978	10-Y / 03-M / 07-D	42-Y / 11-M / 03-D (Age)	Rank Age 42- years completed
30	Tariq Mehmood S/O Shah Dawran	Sepoy	22/03/2012	04/03/1978	09-Y / 00-M / 00-D	42-Y / 00-M / 18-D (Age)	Rank Age 42- years completed

  
 DEPUTY COMMISSIONER/  
 COMMANDANT SWAT LEVIES SWAT  
 Phone & Fax: 0946-9240439

Encl: No. & Date even.

Copy forwarded to:-

- 1- The Commissioner, Malakand Division at Saidu Sharif Swat.
- 2- The PS to Secretary Home & TAs Deptt: Peshawar.
- 3- The Section Officer (Police-II) Home & TAs Deptt: Peshawar.
- 4- The Section Officer (Budget) Home & TAs Deptt: Peshawar.
- 5- All the Assistant Commissioners in District Swat.  
For information w/r. to the above, please.
- 6- The District Comptroller of Accounts Swat, for information w/r. to the above and necessary action, please.
- 7- The Subedar Major Swat Levies Force, for information w/r. to the above and further direction for necessary action as well as collections of Swat Levies Service Cards, weapons, kit items and other related accessories if any issued to the above individuals with proper handing/taking.
- 8- The above Swat Levies Personnel, for information w/r. to the above and compliance.

  
 DEPUTY COMMISSIONER/  
 COMMANDANT SWAT LEVIES SWAT  
 Phone & Fax: 0946-9240439

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME AND TRIBAL AFFAIRS DEPARTMENT

**NOTIFICATION**

Peshawar, dated the 21-10-2021

NO. SO(POLICE-II)HD/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. SO(Police-II)HD/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-16)	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	Naib Subedar (BS-11)	Thirty Three Years of Service or Seven Years' service as Naib Subedar or Sixty Years of age whichever is earlier.
4	Howaldar (BS-09)	Thirty one years of service or fifty one year of age whichever is earlier.
5	Naik (BS-08)	Twenty nine years of service or forty nine years age whichever is earlier.
6	L/Naik (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.No	Post/ Rank	Eligibility for Promotion	Promotion Quota	Direct Quota	Qualification
1	Subedar Major (BS-16)	02 years' service as Subedar Or Total 21 years of service	100%		
2	Subedar (BS-14)	02 years' service as Naib Subedar Or Total 19 years of service	100%		
3	Naib Subedar (BS-11)	04 years' service as Howaldar Or Total 17 years of service	100%		
4	Howaldar (BS-09)	05 years' service as Naik Or Total 13 years of service	100%		
5	Naik (BS-08)	03 years' service as Lance Naik Or Total 08 years of service			
6	L/Naik (BS-08)	05 years' service as Sepoy			
7	Sepoy (BS-07)			100%	SSC
8	Head Armorer (BS-5)	05 years' service as Assistant Armorer	100%		SSC Qualification with certificate of Armorer
9	Assistant Armorer (BS-1)			100%	SSC Qualification with certificate of Armorer

SECRETARY TO  
GOVERNMENT OF KHYBER PAKHTUNKHWA,

27

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)

21/10/2021

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خدمت جناب سیکرٹری صاحب ہوم اینڈ ٹرانسپورٹ فیڈرل ایجنسی خیر پختونخواہ پشاور

عنوان: اپیل/انگریزی جاری شدہ سروس رولز نمبر 2021 NO.SO(POLICE-II)HD1-3/Federal Levies

21-10-2021 جاری شدہ دفتر مجاریہ جناب موصوف سیکرٹری ہوم اینڈ ٹرانسپورٹ فیڈرل ایجنسی۔

جناب عالی۔

سائل ذیل عرض رساں ہیں۔

کہ سائل سوات لیویز میں بحیثیت سپاہی مختلف عہدوں پر تعیناتی ڈیوٹیاں سر انجام دے رہے۔

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

یہ کہ جناب موصوف کے دفتر سے سوات لیویز کے لیے محکمہ کے جانب سے مورخہ 21-10-2021 سروس رولز برائے عمل درآمد کمانڈنٹ سوات لیویز کو نوٹیفیکیشن بھجوایا گیا ہے۔

یہ کہ مذکورہ سروس رولز کے تحت جناب کمانڈنٹ سوات لیویز نے سائل کو ریٹائرڈ کیا ہے۔

یہ کہ سروس رولز جلد بازی میں تیار ہو چکے ہیں جس کے اندر ظاہری طور پر بے شمار خامیاں ہیں۔

یہ کہ سروس رولز مذکورہ سے خامیاں دور کرنے اور درست کرنے کی اشد ضرورت ہے۔

یہ کہ سروس رولز مذکورہ پر نظر ثانی نہ کرنے کی صورت میں سائل کی حق تلفی کے ساتھ ساتھ دیگر ملازمین کو بھی ملازمت اور ریٹائرمنٹ کے مسائل پیدا ہونگے۔

یہ کہ سروس رولز پر نظر ثانی کرنے اور درست ہونے کی صورت میں سائل ملازمت پر بحال ہونے کی صیح حقداران ہیں۔

اس لیے بذریعہ درخواست استدعا کی جاتی ہے۔ کہ آپ صاحبان مہربانی فرما کر مذکورہ بالا سروس رولز نظر ثانی/انگریزی کر کے سائل سوات لیویز کو بحال کرنے کے احکامات صادر فرما کر مشکور فرمائیں۔

المرقوم، 29/10/2021

العارض

نام ماہجان

والدیت شاہ صاحب

رجسٹر نمبر 562736

دستخط MAHJAN

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Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR.

(JUDICIAL DEPARTMENT)

W.P.No.470-P/2021.

JUDGMENT



Date of hearing -- 29.11.2022.

Barrister Dr.Adnan for the petitioners.

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

=====

**S M ATTIQUE SHAH, J:-** For the reasons recorded in our detailed judgment of even date in W.P.No.367-M/2021 titled "Muhammad Ghafar etc. Vs. Govt: of Khyber Pakhtunkhwa" this writ petition is dismissed.

*[Signature]*  
JUDGE

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JUDGE

*[Signature]*  
JUDGE

**Announced.**  
**Dt.29/11/2022.**

HON'BLE MR.JUSTICE LAL JAN KHATTAK,  
HON'BLE MR.JUSTICE S M ATTIQUE SHAH &  
HON'BLE MR.JUSTICE SYED ARSHAD ALI

(PESHAWAR Court Secretary)

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SEAL OF THE COURT  
PESHAWAR HIGH COURT, PESHAWAR  
19 DEC 2022

19 DEC 2022

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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

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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."***

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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

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Peshawar High Court

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(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

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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 25<sup>th</sup> 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 25<sup>th</sup> 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;



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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*

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*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 25<sup>th</sup> 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 25<sup>th</sup> amendment in 2018, both *FATA & PATA* were merged in the province of *Khyber Pakhtunkhwa* and *Federal Levies Force*

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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 25<sup>th</sup> 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

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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 plquet;
- (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

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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.

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**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

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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—*

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- (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

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(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

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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 Bhai 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

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*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-*

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**177 Ex-DSR Muhammad 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..."*

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

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others vs. Gul Raqlb 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 foregoing 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 Muhammad Mubeen-us-Salam case

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*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

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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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In the Act and the Rules. The test laid down in Article 240(a) of the Constitution requires that the appointment to and the terms and conditions of service of posts in connection with the affairs of the Federation and of a service of Pakistan shall be determined "by or under an Act of Parliament. The expression "by or under" in Article 240(a) of the Constitution authorizes the terms and conditions of service of a civil servant to be provided both by statute or by statutory rules. The provision made in the Constabulary Act and the Constabulary Rules, therefore, satisfy the Article 240(a) test. The judgment in the Muhammad Mubeen-us-Salam case *ibid* endorses this point of view:-

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

27. Similarly, this Court in the case of Gul Munir vs. The

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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

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**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

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*services rendered by the FC have direct nexus with the affairs of the Federation. Therefore, the reasons given in the Muhammad 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,

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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



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not distinguish the status of petitioners (PATA Federal Levies Force) vis a 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 253 NATIONAL ASSEMBLY SECRETARIAT through Sectrary V. MANZOOR AHMAD and others.



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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 Raqlb khan's case 2018 SCMR 903*.

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

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

JUDGE  
JUDGE  
JUDGE

Announced.  
Dt.29/11/2022.

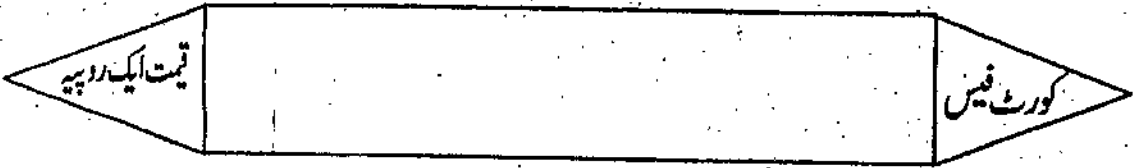
HON'BLE MR JUSTICE LAL JAN KHATTAK,  
HON'BLE MR JUSTICE S M ATTIQUE SHAH &  
HON'BLE MR JUSTICE SYED ARSHAD ALI.

61136 (P-N-2022) Court Secretary

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مورخہ 16 دسمبر 2022ء منجانب سنسٹریٹ  
مقدمہ باچا خان بنام حکومت دسپیر  
دعویٰ جرم

## سروس اہل باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور ٹریبونل کیمپ کورٹ سوات کیلئے بیرسٹر عدنان خان ASC عمر صادق ایڈووکیٹ 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 کو 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 برداشتہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوا یہ 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 16 ماہ دسمبر 2022ء

العبد گ واہ شاہ العبد

کے لئے منظور ہے

بمقام سوات کیمپ کورٹ

Accepted by  
Munir Sadiq Advi

562736

سنسٹریٹ منسٹریٹ پشاور ٹریبونل کیمپ کورٹ سوات