

AAG  
Copy

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

C.M No. \_\_\_\_\_ of 2023

In Service Appeal No. 1935 of 2022

Umar Rahman..... *Appellant/Applicant*

VERSUS

Government of Khyber Pakhtunkhwa & others

..... *Respondents*

**INDEX**

S. No.	Description	Annexure	Pages No.
1.	Civil Miscellaneous Application with certificate & <b>AFFIDAVIT.</b>		1-4
2.	Copies of notifications with <i>Better Copy</i>	A	5-10
3.	Copies of orders	B	11-14
4.	Wakalatnama		15

Appellant/Applicant *Umar Rahman*  
Through Counsel

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

**BEFORE THE HON'BLE SERVICE TRIBUNAL,  
KHYBER PAKHTUNKHWA, PESHAWAR**

C.M No. \_\_\_\_\_ of 2023

In Service Appeal No. \_\_\_\_\_ of 2022

Umar Rahman S/o Habib ur Rahman R/o Wartair, Tehsil,  
Dargai District Malakand. [Hawaldar No.4282]

..... *Appellant/Applicant*

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 Malakand Levies/Deputy Commissioner, District Malakand at Batkhela.

.....*Respondents*

**APPLICATION FOR SUSPENSION OF 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;**

**Respectfully Sheweth:**

- 1) That the above titled appeal is sub judice before this Hon'ble Tribunal which is yet to be admitted for regular hearing.
- 2) That the main lis pertains to the legality and constitutionality of various amendments, made in the Federal Levies Rules vide Notifications 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 (Copies of notifications are attached as Annexure "A").

- 3) That initially the instant matter was sub judice before the Hon'ble Peshawar High Court through various constitutional petitions, however, because of jurisdictional grounds, the matter was remitted to this Hon'ble Tribunal.
- 4) That during the course of proceedings before the Hon'ble High Court, operation of both the notifications had been kept in suspension vide orders dated 11-11-2021 and 13-07-2022 (Copies of orders are attached as Annexure "B").
- 5) That as the matter has finally landed in this Hon'ble Tribunal in continuation of the previous proceedings, the impugned notification ought to be kept in suspension till the decision of the main appeal.
- 6) That the matter will get complicated further if the impugned notifications are not suspended, initially for the reason that the respondents are all set to fill up the post vacated by the appellant and other similarly placed personnel at the garb of the impugned notifications. Secondly, the appellant and many others have been ordered to be re-instated by the Hon'ble Peshawar High Court, Mingora Bench in another petition and if the impugned Rules are not suspended, the respondents may order denovo retirement of the appellant after his re-instatement in light of the Hon'ble High Court's judgment.
- 7) That even otherwise, the impugned Rules fall foul of the constitutional amendments, the same are extremely harsh and by way of the same, retirement age has been lowered down retrospectively.
- 8) That it is in the interests of justice that things are kept intact (as the impugned Rules have been kept in suspension by the

Hon'ble High Court) till the final decision of the main appeal.

It is, therefore, humbly prayed that on acceptance of this application, operation of the impugned amendments issued vide Notifications 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, be kept in suspension till the final decision of the appeal.

Appellant/Applicant



Umar Rahman  
Through Counsel



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

CERTIFICATE:

It is certified that no such like application has earlier been filed before this Hon'ble Tribunal on the cited subject.

Appellant/Applicant



Umar Rahman  
Through Counsel



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

4

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

C.M No. \_\_\_\_\_ of 2023

In Service Appeal No. 1935 of 2022

Umar Rahman..... *Appellant/Applicant*

VERSUS

Government of Khyber Pakhtunkhwa & others

..... *Respondents*

AFFIDAVIT

I, Umar Rahman (appellant/applicant), do hereby affirm and declare that all contents of this application are true and correct to the best of my knowledge and nothing has been kept concealed from this Hon'ble Tribunal.

DEPONENT



Umar Rahman





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

**NOTIFICATION**

Peshawar, dated the 22-3-2022

No. SDP/Police-BHD/MKD/Loyas/MINE/2020 In exercise of the powers conferred by Section-8 of the PATA Loyas Force Regulation, 2012, the Provincial Government of Khyber Pakhtunkhwa is pleased to direct that in the PATA Federal Loyas 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-II and no extension in service after retirement shall be granted."

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

"Schedule-II  
(see rule 17)

S. No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
1	Subedar Major (05-16)	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 (09-13)	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 Two Years Service or Five Years Service as Subedar or Sixty years of age whichever is earlier
3	Naib Subedar (05-11)	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 Headclerks.	Thirty Three Years Service or Seven Years Service as Naib Subedar or Sixty Years of age whichever is earlier

6819 1202 461 ZZ

FRX NO: 091261081

FROM CRPK HD HE

C.T.C  
k

(E)

S.No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
4	Inspector (BS-04)		Thirty One years service or Three years service as Inspector or Fifty One years of age, whichever is earlier.
5	Naib (BS-07)		Twenty four years service or Three years service as Naib or Forty Eight years of age, whichever is earlier.
6	Junior (BS-08)		Twenty seven years service or Three years service as Junior or Fifty Three years of age, whichever is earlier.
7	Senior (BS-05)		Twenty four 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 Commissions, Khyber Pakhtunkhwa.
  6. All Deputy Commissions, Khyber Pakhtunkhwa.
  7. Provincial Police Officers, Khyber Pakhtunkhwa.
  8. All Heads of Attached Department in Khyber Pakhtunkhwa.
  9. PSD 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.
- 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)

C.T.C  
↓

CITC

To be substituted notification of even No & date.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshwar, dated the 22-3-2021

No. 50(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 Rule 4, sub-rule (1), the following shall be substituted, namely:
  - 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.
- 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".
- 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 /
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: <ol style="list-style-type: none"> <li>Fifty Percent (50%) from amongst the Subedars having intermediate qualification; and</li> <li>Fifty Percent (50%) from amongst Nalb Subedars having Secondary School Certificate</li> </ol>	Thirty Five Years service as Subedar or Sixty years of age whichever is earlier
3	Nalb Subedar (BS-11)	By promotion, on the basis of Seniority Cum Fitness in the following manner, namely: <ol style="list-style-type: none"> <li>Fifty Percent (50%) from amongst Nalb Subedars having Secondary School Certificate</li> </ol>	Thirty Three Years Service or Seven Years Nalb Service as Subedar or Sixty Years



(7)

Better copy



8

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	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 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)

CTC  
↓



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	Hawaldar (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.
6	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.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 Hawaldar Or Total 17 years of service	100%		
4	Hawaldar (BS-09)	05 years' service as Nalk Or Total 13 years of service	100%		
5	Nalk (BS-08)	03 years' service as Lance Nalk Or Total 08 years of service			
6	L/Nalk (BS-08)	05 years' service as Sepoy			
7	Sepoy (BS-07)			100%	SSC
8	Head Armourer (BS-5)	05 years' service as Assistant Armourer	100%		SSC Qualification with certificate of Armourer
9	Assistant Armourer (BS-1)			100%	SSC Qualification with certificate of Armourer

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

CTC  
↓

Copy forwarded to the:-

27

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.

10

  
Section Officer (Police-II)

21/10/2021

C.F.C

**PESHAWAR HIGH COURT PESHAWAR**  
**ORDER SHEET**



Date of Order or Proceedings

Order of other Proceedings with or without adjournment of either or both of parties or otherwise as may be necessary

11/11/2021

W.P. No. 27-044/2021

Present

Mr. Abdur Rehman Mohmand, Advocate for the petitioners.

Ms. Shakila Bibi Aslam AG on behalf of respondents

.....

Reminder be issued to respondents

No. 2 to 4 & 6 to file their parawise comments, before

the next date of hearing. Adjourned to 30/11/2021.

Interim Relief.

Notice for the date fixed and in the meanwhile

operation of the impugned notification dated

22/03/2021 shall remain suspended

JUDGE

JUDGE

**CERTIFIED TO  
BE TRUE COPY**

PESHAWAR HIGH COURT, PESHAWAR  
FORM OF ORDER SHEET



12

Date of Order or Proceeding	Order or other proceedings with Signature of Judge
13.07.2022.	CM No. 1339-P of 2022 in W.P. No. 1335-P of 2022

Present:-

M/s. Raza Shah and Shahid Qayam  
Khanak, advocates for applicants

Subject: to notice, the impugned  
notification dated 21.10.2021 shall remain suspended.

JUDGE

JUDGE

CERTIFIED TO  
BE TRUE COPY

*Adnan*

BETTER COPY

13

PESHAWAR HIGH COURT PESHAWAR  
ORDER SHEET

Date of Order or Proceedings	Order or other proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
11.11.2021	<p><u>WP No.2210-P/2021</u></p> <p><u>Present:</u> Mr. Abdur Rehman Mohmand, advocate for the petitioners</p> <p>Ms. Shakila Bibi Asstt AG on behalf of respondents .....</p> <p>Reminder be issued to respondents No.2 to 4 &amp; 6 to file their parawise comments, before the next date of hearing Adjourned to 30.11.2021.</p> <p><u>Interim Relief.</u></p> <p>Notice for the date fixed and in the meanwhile operation of the impugned notification dated 22.03.2021 shall remain suspended.</p> <p style="text-align: right;">-sd- JUDGE</p> <p style="text-align: right;">-sd- JUDGE</p> <p style="text-align: right;"><b>CERTIFIED TO BE TRUE COPY</b></p> <p style="text-align: right;"><i>Adman</i></p>

BETTER COPY

174

PESHAWAR HIGH COURT PESHAWAR  
FORM OF ORDER SHEET

Date of Order or Proceedings	Order or other proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
13.07.2022	<p><u>CM No.1339-P of 2022 in WP No.1335-P 2022</u></p> <p><u>Present:</u> M/s Roman Shah and Shahid Qayum Khattak, advocates for the appellants</p> <p>...</p> <p>Subject to notice, the impinged notification dated 21.10.2021 shall remain suspended.</p> <p>-sd- JUDGE</p> <p>-sd- JUDGE</p> <p>CERTIFIED TO BE TRUE COPY <i>[Signature]</i></p>