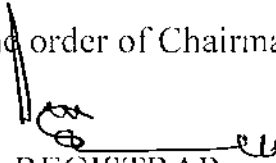


FORM OF ORDER SHEET

Court of _____

Case No.- 322/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/02/2023	<p>The appeal of Mr. Muhammad Riaz presented today by Mr. Aimal Khan Barkandi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____, Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

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

Service Appeal No. 322 /2023

Mohammad Riaz Appellant

Versus

Govt. of KP through Chief Secretary & others.... Respondents

INDEX

S. No.	Description of documents	Annexure	Page
1.	Memo of appeal		1-8
2.	Stay application		9-10
3.	Addresses of parties		11
4.	Copy of the appointment order and salary slip	A-B	12-13
5.	Copy of the Regulation, 2012 and Rules, 2013	C	14-31
6.	Copy of the KP Levies Force Act, 2019	D	32-35
7.	Copy of the Rules, 2019	E	36-40
8.	Copy of the Notification dated 22.03.2021	F	41-42
9.	Copy of the Notification dated 21.10.2021	G	43-44
10.	Copy of the judgment dated 29.11.2022	H	45-72
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Appellant
Mohammad Riaz

Through

Aimal Khan Barkandi
Advocate High Court,
Peshawar

&

Imad Khan
Advocate, Peshawar

Dated: 13.02.2023

(1)

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

Service Appeal No. 322 /2023

Mohammad Riaz s/o Gul Faqir,
Head Constable, Dir Levies, District Dir Upper
..... Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
2. Home and Tribal Affairs Department, Khyber Pakhtunkhwa through Secretary, Civil Secretariat, Peshawar
3. Inspector General of Police (IGP), Khyber Pakhtunkhwa, Peshawar
4. Deputy Commissioner/ Commandant Dir Levies, District Dir Upper
5. District Police Officer (DPO), Dir Upper

..... Respondents

Service Appeal u/s 4 of the KP Service Tribunals Act, 1974 against the Notifications dated 22.03.2021 and 21.10.2021 of respondent No.2 whereby the retirement criteria of the appellant has been formulated in disregard of the provisions of the the Civil Servants Act, 1973.

PRAYER

On acceptance of this appeal, the impugned Notifications dated 22.03.2021 and 21.10.2021 of respondent No.2 may kindly be declared as illegal, void ab-initio and ineffective upon the rights of the appellant with a direction to the respondents to treat the retirement criteria of the appellant as per provisions of the Civil Servants Act, 1973.

Respectfully submitted;

1. That the appellant belongs to district Dir Upper who was appointed as Levy Sepoy in the Federal Levy Dir Upper by respondent No.4 in the year 2012 and since then the appellant is performing his duty with honesty. (Copy of the appointment order and salary slip is annex "A & B")
2. That the terms and conditions of the appellant service were dealt under the PATA Levies Force Regulation, 2012 and PATA Federal Levies Force Service (Amended) Rules, 2013 before the 25th Constitutional Amendment.

The retirement criteria for Sepoy (BS-5) in Schedule-III of the Rules, 2013 is given as "20 years service or 42 years age whichever is earlier". (Copy of the Regulation, 2012 and Rules, 2013 is annexure "C & C-1")

- 3. That the Federally Administered Tribal Areas (FATA) and Provincially Administered Tribal Areas (PATA) were merged into the Khyber Pakhtunkhwa Province on the promulgation of 25th Constitutional Amendment Act, 2018. The government enacted Khyber Pakhtunkhwa Levies Force Act, 2019 which provides Section 9 about absorption of the Levies Force in the Police of Khyber Pakhtunkhwa which is reproduced here;

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

(2) Until their absorption in the Police, the members of the Levies Force shall be governed by their existing terms and

(4)

*conditions of service under the Federal
Levies Force (Amended) Service Rules,
2013.*

(Copy of the KP Levies Force Act, 2019 is Annexure "D")

4. That the Government of KP notified Levies Force (Absorption in the Khyber Pakhtunkhwa Police) Rules, 2019 with the insertion of Rule 3 about absorption of the Levies Force into the Khyber Pakhtunkhwa Police permanently. With this development, the Regulations 2012 and 2013 and other past laws & rules relating to the Levies Force ceased to exist and were repealed impliedly (Copy of the Rules, 2019 is Annexure "E")

5. That despite absorption of the Levies Force into the Khyber Pakhtunkhwa Police, respondent No.2 issued Notification dated 22.03.2021 amending the criteria of retirement of Levies Force now Police as per Rule 17 of the Regulation, 2013 which is illegal because Regulation, 2013 has ceased to be effective after Rules, 2019 *ibid.* As per the impugned Notification the retirement criteria of a Sepoy (BS-05) is given as "Twenty Five years service or

(5)

Forty Two years of age which whichever is earlier"

(Copy of the Notification dated 22.03.2021 is annex "F")

6. That another Notification dated 21.10.2021 was passed by respondent No.2 further amending the already repealed Federal Service Rules, 2013. Through this Notification, the retirement criteria of Sepoy is mentioned as "Thirty five years of service or forty five years whichever is earlier" (Copy of the Notification dated 21.10.2021 is annex "G")

7. That in garb of the impugned Notifications above, the appellant would have to retire at the age of 45 years or serving for 25 years whichever is earlier. These Notifications are unlawful as the appellant has acquired the status of a civil servant and is required to be treated under the Civil Servants Act, 1973.

8. That these Notification *ibid* were challenged in the hon'ble Peshawar High Court in various writ petitions which were dismissed vide judgment dated 29.11.2022 by declaring the status of the appellant of a civil servant

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and as such it was observed that the matter pertains to the jurisdiction of the Service Tribunal. (Copy of the judgment dated 29.11.2022 is annex "H")

9. That the appellant filed representation (Annexure "I") to respondent No.1 against the impugned Notifications but were not decided within the time frame, hence, the appellant is filing this service appeal in the hon'ble Tribunal on the following grounds;

GROUND

- A. That the impugned Notifications dated 22.03.2021 and 21.10.2021 of respondent No.2 are illegal and void ab-initio, therefore, are not liable to be set aside.
- B. That as the appellant has been absorbed into the regular Police and given the status of a civil servant, hence, the respondents are bound to trust the appellant under the Civil Servants Act, 1973 and the retirement criteria shall be considered accordingly.

- C. That the Regulations 2012 and 2013 does not hold the field and therefore not to be acted upon. The laws and regulations relating to the PATA have been repealed after the 25th Constitutional Amendment.

- D. That the respondents have issued the Notifications without having any legal backing which are against the provisions of the Constitution, 1973. These Notifications are affecting the legal rights of the appellant.

- E. That the appellant has been treated discriminately in comparison to the other civil servants of the Khyber Pakhtunkhwa Province.

- F. That the respondent has not yet decided the representation in accordance with the law and rules which is unlawful.

- G. That the appellant has been condemned unheard. No opportunity of personal hearing has been provided to the appellant, which is against the natural justice.

- H. That the impugned Notifications so promulgated are not legally justifiable and are liable to set at naught.

It is, therefore, prayed that on acceptance of this appeal, the impugned Notifications dated 22.03.2021 and 21.10.2021 of respondent No.2 may kindly be declared as illegal, void ab-initio and ineffective upon the rights of the appellant with a direction to the respondents to treat the appellant as per provisions of the Civil Servants Act, 1973.

Any other relief deemed just and proper in the circumstances of the case may also be granted in favor of the appellant.

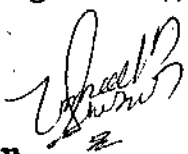
Appellant
Mohammad Riaz

Through



Aimal Khan Barkandi
Advocate High Court,
Peshawar

&



Imad Khan
Advocate, Peshawar

VERIFICATION

I, do hereby verify that the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble Tribunal.



Handwritten signature and date: 13-2-23

Deponent

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

Service Appeal No. _____/2023

Mohammad Riaz Appellant

Versus

Govt. of KP through Chief Secretary & others.... Respondents

***Application for suspension of operation
of impugned Notifications dated
22.03.2021 & 21.10.2021 till final
decision of titled petition.***

RESPECTFULLY SUBMITTED;

1. That the above titled appeal is being filed before this hon'ble Tribunal alongwith instant application.
2. That the grounds of main appeal may kindly also be considered as integral part and parcel of this application.
3. That the appellant is having a good prima-facie case in his favour and is also sanguine about its success.
4. That balance of convenience also lies in favour of suspension of impugned notifications.
5. That if the operation of impugned notifications are not suspended, the very purpose of titled appeal will become infructuous and the appellant will suffer great loss.\

6. That the hon'ble Tribunal has already suspended operation of the impugned Notifications in another cases, hence, the applicant needs same treatment.

It is, therefore, prayed that on acceptance of this application, the operation of the impugned Notifications dated 22.03.2021 and 21.10.2021 may graciously be suspended till final decision of the accompanying appeal.

Appellant
Mohammad Riaz

Through

Aimal Khan Barkandi
Advocate High Court,
Peshawar

&

Imad Khan
Advocate, Peshawar

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble Tribunal.



13-2-23

Deponent

(11)

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

Service Appeal No. _____/2023

Mohammad Riaz Appellant

Versus

Govt. of KP through Chief Secretary & others.... Respondents.

ADDRESSES OF PARTIES

APPELLANT

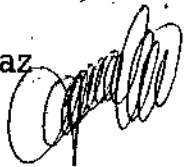
Mohammad Riaz s/o Gul Faqir,
Head Constable, Dir Levies, District Dir Upper

RESPONDENTS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
2. Home and Tribal Affairs Department, Khyber Pakhtunkhwa through Secretary, Civil Secretariat, Peshawar
3. Inspector General of Police (IGP), Khyber Pakhtunkhwa, Peshawar
4. Deputy Commissioner/ Commandant Dir Levies, District Dir Upper
5. District Police Officer (DPO), Dir Upper

Appellant
Mohammad Riaz

Through


Aimal Khan Barkandi
Advocate High Court,
Peshawar

amir
A

12

OFFICE OF THE DISTRICT COORDINATION OFFICER DISTRICT DIR UPPER

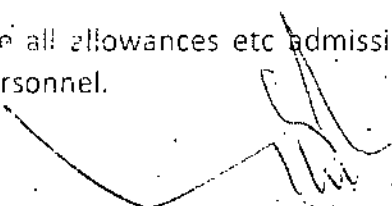
No: _____/DCO/LHC/Appointment/Dated Upper Dir the ___/02/2012.

OFFICE ORDER.

The following candidates are hereby recruited as Levy sepoy's in Federal Levy Dir Upper in BPS-5 (Rs. 5400-260-13200) plus usual allowances on temporary basis on the given terms and conditions.

S.#	Name of Official	F. Name	Resident of
1	Ghani Rahman	Abdur Rahman	Dir Upper
2	Muhammad Riaz	Gul Faqir	Village Nehar Gah, Upper


- The appointees shall provide Health and age certificate from Medical Superintendent DHQ Hospital Upper Dir.
- The appointees shall be on probation for a period of one year.
- The appointees shall be governed by such rules and regulation/policy, which may be issued/prescribed by the Government from time to time for the category of Dir Levies Federal.
- In case of resignation from service, the appointees shall have to give advance notice for one month; otherwise one month pay shall be deposited in to Government treasury by them.
- The appointees shall take over charge and submit arrival report within 15 days; positively otherwise his appointment shall be deemed cancelled automatically.
- They shall be entitled to receive all allowances etc admissible to the category of Dir Levies Federal personnel.


Commandant Dir Levies
DISTRICT COORDINATION OFFICER
DIR UPPER

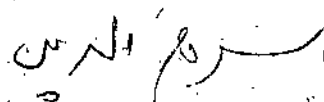
Even No, & Dated:

Copy forwarded to :

- The District Accounts Officer Dir Upper.
- Official concerned for compliance.


Commandant Dir Levies
DISTRICT COORDINATION OFFICER
DIR UPPER





Annex
"B"

13

Dir Upper

S#: 1

P Sec:001 Month:November 2022
DP4240 -Inspector Dir Upper (Levie
INSPECTOR DIR UPPER (LEVI

Pers #: 00657595 Buckle:
Name: MUHAMMAD RIAZ
HEAD CONSTABLE
CNIC No.1570195750083
GPF Interest Applied
07 Active Temporary

NTN:
GPF #:
Old #:

DP4240 -

PAYS AND ALLOWANCES:

0001-Basic Pay	24,500.00
1001-House Rent Allowance 45%	2,384.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
1547-Ration Allowance	681.00
1567-Washing Allowance	150.00
1646-Constabulary R Allowance	300.00
1902-Special Incentive Allowance	775.00
1923-UAA-OTHER 20%(1-15)	1,000.00
Gross Pay and Allowances	48,824.00

DEDUCTIONS:

GPF Balance 146,083.00	Subrc: 1,010.00
3530-Police wel:Fud BS-1 to 18	490.00
3534-R. Ben & Death Comp Fresh	450.00

Total Deductions

1,950.00

46,874.00

D.O.B: 02.02.1988 GPF Quota: 228

02.02.1988 MCB BANK LIMITED

MCB DIR DISTRICT DIR

10 Years 09 Months 019 Days

(Handwritten signature)

Annex
"C"

14

**THE PROVINCIALLY ADMINISTERED TRIBAL AREAS
LEVIES FORCE REGULATION, 2012.**

(KHYBER PAKHTUNKHWA REG. NO. 1 OF 2012)

CONTENTS

PREAMBLE

SECTIONS

1. Short title, application and commencement.
2. Definitions.
3. Power to constitute and maintain by the Force and its functions.
4. Powers and duties of officers and members of the Force.
5. Liabilities of officers and members of the Force.
6. Indemnity.
7. Delegation of powers by the Provincial Government.
8. Delegation of powers by Commandant.
9. Power to make rules.
10. Power to issue instructions.

RECEIVED

**THE PROVINCIALY ADMINISTERED TRIBAL AREAS
LEVIES FORCE REGULATION, 2012.**

(KHYBER PAKHTUNKHWA REG. NO. I OF 2012)

[29th August, 2012]

A

REGULATION

*to constitute and regulate Levies Force in the
Provincially Administered Tribal Areas.*

WHEREAS it is expedient to constitute and regulate service matters of the Provincially Administered Tribal Areas Levies Force, for the purposes hereinafter appearing;

AND WHEREAS, the function has been entrusted to the Federal Government by the Provincial Government of Khyber Pakhtunkhwa under Article 147 of the constitution of Islamic Republic of Pakistan;

NOW, THEREFORE, in exercise of the powers conferred by clause (4) of Article 247 of the Constitution of the Islamic Republic of Pakistan, the Governor of the Province of Khyber Pakhtunkhwa, with the prior approval of the President of the Islamic Republic of Pakistan, is pleased to make and promulgate the following Regulation, namely:

1. Short title, application and commencement.---(1) This Regulation may be called the Provincially Administered Tribal Areas Levies Force Regulation, 2012.

(2) It shall apply to all the levies personnel in such areas of Provincially Administered Tribal Areas, Khyber Pakhtunkhwa as specified in the Schedule.

(3) It shall come into force at once.

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

- (a) "Commandant" means Commandant of the Force, who shall be District Coordination Officer of District in his respective jurisdiction;
- (b) "competent authority" means competent authority of the Force, who shall be Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa for the Force in PATA;
- (c) "Deputy Commandant (Administration)" means Deputy Commandant (Administration) of the Force, who shall be an officer of Federal or Provincial civil service or any officer of the District designated as such officer by the

REGISTERED

Provincial Government to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed and who shall be responsible to the Commandant for administration and establishment matter of the Force in PATA.

- (d) "Deputy Commandant (Operations)" means an Assistant Coordination Officer or any officer of the District designated as such officer by the Provincial Government who shall be Deputy Commandant (Operation) of the Force in PATA, to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed;
- (e) "Force" means the Force constituted and maintained under section 3 and shall include similar Force of the Federal Government services whereof are borrowed and utilized for operation in PATA;
- (f) "instructions" mean instructions issued under this Regulation;
- (g) "PATA" means Provincially Administered Tribal Areas as specified in the Schedule;
- (h) "prescribed" means prescribed by rules and instructions under this Regulation; and
- (i) "rules" means rules made under this Regulation.

3. Power to constitute and maintain by the Force and its functions.---(1)
The Federal Government may in consultation with Government of Khyber Pakhtunkhwa constitute and maintain a force for performing the following functions, namely:-

- (a) ensuring security of roads in PATA;
- (b) ensuring security and manning of piquets;
- (c) guarding Government institutions and installations;
- (d) ensuring security of jail guards and arrested criminals;
- (e) generally maintaining law and order and providing mobile escort to very important persons;
- (f) anti-smuggling activities;
- (g) destruction of illicit crops;
- (h) serving of summons or procedures;
- (i) policing, investigation and prosecution in certain areas as notified by the Provincial Government;

ATTESTED

- (j) raid and ambush; and
- (k) such other functions as the Provincial 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 in PATA shall be guided in accordance with this Regulation and the rules made thereunder.

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

(4) The Secretary, Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa shall be the competent authority of the Force in PATA.

(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:

Provided that terms and condition of service of the persons of other forces including Federal Levies Force borrowed shall not be varied to their disadvantage.

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

(8) The Director shall coordinate at the Federal level and shall be responsible for budgetary and procurement, matter of the Force and shall exercise such powers and perform such function, as may be prescribed.

(9) 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 made thereunder and such orders and instructions as may be made or issued by the Provincial Government.

(10) The Commandant shall exercise his powers and perform his function under the general supervision and directions of the Provincial Government, and where services of the Federal levies Force are borrowed such power of general supervision and directions shall vest in the Federal Government.

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;

16/11/2010

- (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 equipments 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.

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

(2) Every officer and member of the Force shall be liable to serve wherever his required to serve by the competent authority.

6. Indemnity.---No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Regulation or the rules or instructions made thereunder.

7. Delegation of powers by the Provincial Government.---The Provincial Government may, by notification in the official Gazette, delegate all or any of its powers under this Regulation to the Commandant or such other person as it may deem fit.

8. Delegation of powers by Commandant.---The Commandant may, by notification in the official Gazette and with prior approval in writing of the Provincial Government, delegate all or any of his powers, to any officer or authority subordinate to him, for the efficient functioning of the Force:

Provided that where services of Federal Levies Force are borrowed, the Commandant may exercise his power under this section with prior approval in writing of the Federal Government.

9. Power to make rules.---The Provincial Government may, by notification in the official Gazette, make rules for the following purposes, namely:

- (a) regulating the functions and powers of officers and members of the Force;

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- (b) regulating the classes and grades of, and the remuneration and rewards to be paid to officers and members of the Force and their conditions of service, including remunerations and rewards to be paid to officers and members of the Federal Levies Force when their services are borrowed by the Provincial Government;
- (c) for efficiency and discipline in the Force and punishment;
- (d) to provide for appeal; and
- (e) generally for the purpose of carrying into effect the provisions of this Regulation.

10. Power to issue instructions.---The Provincial Government may, by notification in the official Gazette, issue instructions from time to time consistent with this Regulation and the rules made thereunder for carrying out the purpose of this Regulation and in relation to the Federal Levies Force such instructions shall be issued in consultation with the Federal Government.

W. G. L. D.

SCHEDULE

See sub-section (2) of section 1

LIST OF PROVINCIALY ADMINISTERED TRIBAL AREAS (PATA)

S.No.	Districts.
1.	2.
1.	Malakand
2.	Dir lower
3.	Dir Upper
4.	Chitral
5.	Shangla
6.	Buner
7.	Swat

Peshawar,
dated the
9th August, 2012

BARRISTER SYED MASOOD KAUSAR
Governor of the Khyber Pakhtunkhwa

1/8
MAASOOD

Annex
C-1

21

EXTRAORDINARY
GOVERNMENT



REGISTERED NO- III

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 15TH FEBRUARY, 2013.

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar the 4th February 2013

SERVICE RULES FOR FEDERAL LEVIES FORCE IN PATA

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

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

(2) They shall come into force at once.

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

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

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

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

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

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

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

EXTRAORDINARY
GOVERNMENT

REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority
PESHAWAR, FRIDAY, 15TH FEBRUARY 2013.

GOVERNMENT OF KHYBER PAKHUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar the 4th February 2013
SERVICE RULES FOR FEDERAL LEVIES FORCE IN PATA

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

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

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

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

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

- (i) "Selection or Promotion Committee" means a Committee for recruitment or in the case may be, promotion of Force personnel as notified by the Government;
- (j) "Service" means the levies service;

(2) The expression used but not defined hereby shall have the same meanings as are assigned to them under the PATA Levies Force Regulation-2012.

3. Composition and eligibility of the Force. - (1) The Force shall comprise of the posts specified in Schedule-I and such other posts as may be determined by the Government from time to time.

(2) Recruitment to the Force shall be made in accordance with the requirement specified in Schedule-I. No person shall be appointed unless he fulfills the following conditions:-

- (a) The candidate shall be a citizen of Pakistan and, bonafide resident of the respective district of Khyber Pakhtunkhwa.
- (b) The candidate shall be, in good mental and bodily health and free from physical defect, which likely to interfere in the efficient discharge of his duties.
- (c) Medical Superintendent of the respective district headquarter hospital shall issue a certificate of medical fitness to the candidate.
- (d) Recruitment to all ranks of the Force shall be made from amongst those persons having a minimum height of 5'7" and chest measurement of 34"-35" with an age of not less than eighteen years and not more than twenty-five years on the last date of submission of application.
- (e) No person (except those who are already in Government Service) shall be appointed to the Force unless he produces a certificate of character from the Principal of Academic Institution last attended or a certificate of character from two gazetted officers from respective districts, not being his relative and who are well acquainted with his character, and
- (f) No person who is married to foreign national shall be eligible for appointment in the Force, unless allowed by the Government in writing.

4. Appointing Authority. - (1) Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar. Whereas promotion to the rank of Subedar Major and above, the authority shall rests with the provincial government.

(2) Appointment to the post shall be made in accordance with the provisions contained in Schedule-I read with Rule-3 of these rules.

(3) Appointment either through initial recruitment or by promotion shall be made through duly constituted Selection/promotion Committees.

Provided that in case of raising of force in a new district, the Commandant shall have the authority to recruit ex-servicemen above the rank of sepoy on contract basis for a period of one year extendable for a further period of one year but not exceeding three years in total, with prior approval of the government.

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644 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 15th FEBRUARY, 2013

(i). "Selection or Promotion Committee" means a Committee for recruitment or as the case may be, promotion of Force personnel as notified by the Government;

(i) "Service" means the levies service..

(2) The expression used but not defined herein shall have the same meanings as are assigned to them under the PATA Levies Force Regulation 2012,

3. Composition and eligibility of the Force: (1) The Force shall comprise of the posts specified in Schedule-land such other posts as may be determined by the Government from time to time.

(2) Recruitment to the Force shall be made in accordance with the requirement specified in Schedule-1. No person shall be appointed unless he fulfills the following conditions:-

(a) The candidate shall be a citizen of Pakistan and bonafide resident of the respective district of Khyber Pakhtunkhwa,

(b) The candidate shall be, in good mental and bodily health and free from physical defect, which likely to interfere in the efficient discharged of his duties.

(c) Medical Superintendent of the respective district headquarter hospital shall issue a certificate of medical fitness to the candidate,

(d) Recruitment to all ranks of the Force shall be made from amongst those persons having a minimum height of 5-7 and chest measurement of 34-35 1/2" with an age of not less than eighteen years and not more than twenty-five years on the last date of submission of application;

(e) No person (except those who are already in Government Service) shall be appointed to the Force unless he produces a certificate of character from the Principal of Academic Institution last attended or a certificate of character from two gazetted officers from respective districts, not being his relative and who are well acquainted with his character and

(f) (No person who is married to foreign national shall be eligible for appointment in the Force, unless allowed by the Governments writing.

4. Appointing Authority. (1) Commandant: shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar Whereas promotion to the rank of Subedar Major and above, the authority shall rests with the provincial government.

(2) Appointment to the post shall be made in accordance with the provisions contained in Schedule-I read with Rule-3 of these rules

(3) Appointment either through initial recruitment or by promotion shall be made through duly constituted, Selection/promotion Committees.

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**BETTER COPY OF THE PAGE NO. 644
644 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE,
EXTRAORDINARY, 15th FEBRUARY, 2013**

- (i) "Selection or Promotion Committee" means a Committee for recruitment or as the case may be, promotion of Force personnel as notified by the Government;
- (j) "Service" means the levies service.

(2) The expression used but not defined herein shall have the same meanings as are assigned to them under the PATA Levies Force Regulation 2012,

3. **Composition and eligibility of the Force.**- (1) The Force shall comprise of the posts specified in Schedule-I and such other posts as may be determined by the Government from time to time.

(2) Recruitment to the Force shall be made in accordance with the requirement specified in Schedule-I. No person shall be appointed unless he fulfills the following conditions:-

- (a) The candidate shall be a citizen of Pakistan and bonafide resident of the respective district of Khyber Pakhtunkhwa.
- (b) The candidate shall be, in good mental and bodily health and free from physical defect, which likely to interfere in the efficient discharge of his duties.
- (c) Medical Superintendent of the respective district headquarter hospital shall issue a certificate of medical fitness to the candidate.
- (d) Recruitment to all ranks of the Force shall be made from amongst those persons having a minimum height of 5'-7" and chest measurement of 34"-35 1/2" with an age of not less than eighteen years and not more than twenty-five years on the last date of submission of application;
- (e) No person (except those who are already in Government Service) shall be appointed to the Force unless he produces a certificate of character from the Principal of Academic Institution last attended or a certificate of character from two gazetted officers from respective districts, not being his relative and who are well acquainted with his character; and
- (f) No person who is married to foreign national shall be eligible for appointment in the Force, unless allowed by the Government in writing.

4. **Appointing Authority.**- (1) Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar. Whereas promotion to the rank of Subedar Major and above, the authority shall rest with the provincial government.

(2) Appointment to the post shall be made in accordance with the provisions contained in Schedule-I read with Rule-3 of these rules.

(3) Appointment either through initial recruitment or by promotion shall be made through duly constituted Selection/promotion Committees.

Provided that in case of raising of force in a new district, the Commandant shall have the authority to recruit ex-servicemen above the rank of sepoy on contract basis for a period of one year extendable for a further period of one year but not exceeding three years in total, with prior approval of the government.

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY 15th
FEBRUARY, 2013 645

Training. (1) All newly recruited personnel of the Force shall undergo six months pre-service training before being assigned duties of the rank for which they selected. Initially, the Appointing Authority shall arrange for appropriate training till a proper Levies Training Center is established.

(2) The pre-service training mentioned in sub-rule (1) may contain training on basic laws, investigation techniques, mob control, basic intelligence, arrest and detention procedure, jail duties, drill, weapons training, field craft, bomb disposal, counter assault, traffic control, raids, watch & ward etc. Proper training syllabus and modules shall be developed through mutual consultation with local law enforcing agencies by the Home Department.

Resignation. No member of the Force shall resign before the expiry of the first three months of his recruitment or he shall deposit an amount equal to his three months pay in lieu of his three months essential service.

Seniority and promotion.- (1) Promotion shall be strictly on seniority cum-fitness basis as well as on the required length of service as specified in Schedule-1.

(2) The service of a personnel by initial recruitment promotion may be dispensed with or reverted if, in the opinion of the competent authority his work and conduct is not satisfactory during probation period abolition of posts, as the case may be.

Provided that in case of dispensing with their service or authority shall record cogent reasons for such action in writing.

(3) The seniority list of the Force shall be maintained at district level Commandant shall be responsible for maintaining the seniority list of the and shall notify annually.

Transfer during service. Every member of the service shall be serve anywhere within PATA with the prior approval of the Commissioner Malakand Division.

10. Punishment. After satisfying himself regarding punishable referred in Schedule-111 through a charge duly framed in writing, punishments specified in Schedule-IV may be awarded by the authority.

Provided that punishment so awarded shall be duly incorporated service rolls/service dossier accordingly.

11 Appeal.- If any personnel of the force is aggrieved by any order issued under these rules, within thirty days of communication to him of such order may prefer an appeal to the competent authority.

Provided that no appeal shall lie against the punishments specified S.No. (1) and (2) of Schedule-IV.

12. Awards and (1) Force personnel may be given special award and commendation certificate for devotion to duty, demonstration of gallantry and such achievement in the performance of In the manner as prescribed by the Commandant, and shall be made part of the service rolls/ service dossier.

(2) Force personnel, If embraces martyrdom in the discharge of his duty, will be given proper Guard of Honour at the time of burial.

13. Service Record. Proper service rolls / service dossiers of all Force Personnel shall be maintained in Levy Office of each district. Annual reports of all Havaldars and Junior Commissioned Officers (JCOs) will also be maintained for the purpose of promotion.

BETTER COPY OF THE PAGE NO. 30
KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY,
15th FEBRUARY, 2013 645

Training. - (1) All newly recruited personnel of the Force shall undergo six months pre-service training before being assigned duties of the rank for which they selected. Initially, the Appointing Authority shall arrange for appropriate training till a proper Levies Training Center is established.

(2) The pre-service training mentioned in sub-rule (1) may contain training on basic laws, investigation techniques, mob control, basic intelligence, arrest and detention procedure, jail duties, drill, weapons training, field craft, bomb disposal, counter assault, traffic control, raids, watch & ward etc. Proper training syllabus and modules shall be developed through mutual consultation with local law enforcing agencies by the Home Department.

Resignation.-No member of the Force shall resign before the expiry of the first three months of his recruitment or he shall deposit an amount equal to his three months pay in lieu of his three months essential service.

Seniority and promotion.- (1) Promotion shall be strictly on seniority cum fitness basis as well as on the required length of service as specified in Schedule-I.

(2) The service of a personnel by initial recruitment, promotion or transfer may be dispensed with or reverted if, in the opinion of the competent authority his work and conduct is not satisfactory during probation period or due to abolishment of posts, as the case may be.

Provided that in case of dispensing with their service or reversion the concerned authority shall record cogent reasons for such action in writing.

(3) The seniority list of the Force shall be maintained at district level. Commandant shall be responsible for maintaining the seniority list of the force and shall notify annually.

Transfer during service. - Every member of the service shall be liable to serve anywhere within PATA with the prior approval of the Commissioner Malakand Division.

10. Punishment. -After satisfying himself regarding punishable acts (as referred in Schedule-11) through a charge duly framed in writing, necessary punishments specified in Schedule-IV may be awarded by the respective authority.

Provided that punishment so awarded shall be duly incorporated in service rolls / service dossier accordingly.

11. Appeal. - If any personnel of the force is aggrieved by any order issued under these rules, within thirty days of communication to him of such order may prefer an appeal to the competent authority.

Provided that no appeal shall lie against the punishments specified at S.No. (1) and (2) of Schedule-IV.

12. Awards and commendations. - (1) Force personnel may be given special award and commendation certificate for devotion to duty, demonstration of gallantry and such achievement in the performance of duty, in the manners as prescribed by the Commandant, and shall be made part of the service rolls / service dossier.

(2) Force personnel, if embraces martyrdom in the discharge of his duty, will be given proper Guard of Honour at the time of burial.

13. Service Record. -Proper service rolls / service dossiers of all Force Personnel shall be maintained in Levy Office of each district. Annual reports of all Havaldars and Junior Commissioned Officers (JCOs) will also be maintained for the purpose of promotion.

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646 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE EXTRAORDINARY, 15th FEBRUARY, 2013

(2) Casual leave may be allowed upto three days by Subedar Major. Casual leave up to nine days may be granted by the Deputy Commandant (to be notified by the Commandant) on the recommendation of the concerned JCO

(3) Medical leave shall be granted by the Commandant on the production of medical certificate from the medical superintendent concerned:

16. Salary. The Force personnel shall be entitled to receive pay and allowances as per their pay-scales notified by the Federal Government from time to time.

17. Retirement.-All Levy personnel shall retire as per Schedule III and extension in service beyond retirement shall be granted.

18. Conduct. The conduct of Force personnel shall be regulated by rules and instructions issued by Government from time to time:

19. Gratuity and pension:-All Force personnel will be entitled to pension as per prevailing Federal Government rules."

20. Compensation - (1) The family of Force personnel shall be granted death compensation in case the Force Personnel embraces martyrdom during discharge of his duty as per rates prescribed by the Federal Government

(2) Force personnel shall be granted compensation in case of sustaining fatal injury or injuries during the discharge of his duty. If he is declared incapacitated for further services due to such fatality, he shall be entitled to gratuity and pension as per Federal Government Rules.

(3) 5% quota shall be reserved for sons and wards of martyred in initial recruitment of Force personnel

Provided that in case of permanently incapacitated personnel of the force during the course of duty, preference shall be given to the sons and wards of such incapacitated Force Personnel in general recruitment

21. Funds. Force personnel shall be governed by the provision of general provident funds, benevolent funds and group insurance as prescribed for other employees of the Federal Government.

22. Health Cure.-Medical facilities for the Force personnel and their families shall be catered for at Government hospitals and dispensaries at par with other employees of the Federal Government.

23. Monitoring and evaluation.- (1) Commandant or Deputy Commandant of the Force shall set up suitable number of levy posts in their respective jurisdiction and shall assign suitable number of Force personnel at each of such levy post. In case of establishment of Levies Station within their jurisdiction shall require prior approval of the government.

(2) There shall be levy line in each district, which shall have all necessary employees of the Federal Government facilities including parade ground, barracks, quarter guards, Koth/armoury etc.

(3) Duty Register showing the duties assigned to each individual on day-to-day basis shall be maintained in each levy post/Levy Station/Levy Lines by a levy Muharir.

(4) Naib Subedar shall be responsible for carrying out the work assigned to Force personnel whose duties shall be entered in advance in the duty register.

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 15th FEBRUARY, 2013. 647

An Anomaly Committee duly constituted/notified vide Home and Tribal Affairs Department, Khyber Pakhtunkhwa Notification No. SO(Police)/HD/12-19/2012 dated 11th December, 2012 shall consider and refer such anomalies from time to time referred to the competent authority.

Reginal. Any rules, orders or instructions enforce in respect of the PATA Levies Force, immediately after the commencement of these rules shall stand repealed in so far as these rules, orders or instructions inconsistent with the rules.

Secretary
Home & Tribal Affairs Department
Government of Khyber Pakhtunkhwa

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY.
15th FEBRUARY, 2013

An Anomaly Committee duly constituted/notified vide Home and Tribal Affairs Department, Khyber Pakhtunkhwa Notification No:SO(Police)/HD/12-19/2012 dated 11th December, 2012 shall consider and remove such anomalies from time to time referred to the competent authority."

25. Repeal.-Any rules, orders or instructions enforce in respect of the PATA Levies Force, immediately before the commencement of these rules shall stand repealed in so far as these rules, orders or instructions are inconsistent with the rules.

Secretary
Home & Tribal Affairs Department
Government of Khyber Pakhtunkhwa

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SCHEDULE - I
See rules 4(2) and 8

A. Uniformed Force

The Postings Revision vide page 10

S.#	Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1.	Subedar Major (BS-16)	03 years service as Subedar	100%		
2.	Subedar (BS-15)	03 years service as Naib Subedar	100%		
3.	Naib Subedar (BS-11)	03 years service as Havaldar	100%		
4.	Havaldar (BS-8)	03 years service as Naik	100%		
5.	Naik (BS-7)	03 years service as Lance Naik	100%		
6.	L/Naik (BS-6)	03 years service as Sepoy	100%		
7.	Sepoy (BS-5)			100%	Matric pass preferably Matric
8.	Head Armourer BPS-06	05 years service as Assistant Armourer	100%		
9.	Assistant Armourer BPS-01			100%	Certificate of Armourer

B. Ministerial staff

10.	Assistant (BS-14)	KPO / Computer Operator / Senior clerk / Junior Clerk (i) Minimum 5 years service as KPO / Computer Operator; (ii) 5 years service as Senior Clerk; (iii) 7 years service as Junior Clerk	50%	50%	B.A. or equivalent for direct recruitment and by promotion seniority cum fitness from amongst KPO/Computer Operator/Senior Clerk/Junior Clerk on the basis of their date of entry into service.
11.	KPO / Computer Operator BPS-12			100%	Intermediate with one year diploma in from a recognized Institute
12.	Senior Clerk (BS-9)	5 years service as Junior Clerk	100%		
13.	Junior Clerk (BS-7)		10% from lower staff with Matric	90%	Matric with 4 typing speed of 30 words per minutes / preferably computer literate

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY.**15th FEBRUARY, 2013**Schedule-I
See Rules 4(2) and 8**A. Uniformed Force**

S No	Post/ Rank	Eligibility for Promotion	Promotion Quota	District Quota	Qualification
1.	Subedar Major (BS-16)	3 years service as Subedar	100%		
2.	Subedar BS-13	3 years services as Naib Subedar	100%		
3.	Naib Subedar BS-11	03 years service as Hawavaldar	100%		
4.	Havaldar BS-8	03 years service as Naik	100%		
5.	Naik BS-7	03 years service as Lance Naik	100%		
6.	L/ Naik BS-8	3 years service as sepoy	100%		
7.	Sepoy BS-05			100%	Middle Pass Preferably Matric
8.	Head Armourer BPS-06	5 years service as Assistant Armourer	100%		
9.	Assistant Armourer BPS-01			100%	Certificate of Armourer

B. Ministerial Staff

10.	Assistant BS-14	KPO/ Computer Operator/ Senior Clerk/ Junior Clerk (i) Minimum 5 years service as KPO/ Computer Operation (ii) 6 years service as Senior Clerk (iii) 7 years services Junior Clerk	50%	50%	BA or equivalent for direct recruitment and by promotion Seniority cum fitness from amongst KPO/ Computer operator/ senior Clerk / Junior Clerk of the basis of their date of entry into service
11.	KPIO/ Computer Operator BPS-12			100%	Intermediate with one year diploma in from recognized institute
12.	Senior Clerk BS-8	5 years service as Junior Clerk	100%		
13.	Junior Clerk BS-7		10% from lower staff with matric	90%	Matric with a typing speed of 30 words per minutes / preferably computer literate
14.	Bahishti			100%	

SCHEDULE - II
(see Rule 10)

Grounds of penalty

The concerned authority may impose one or more penalties, where a personnel of the Force, in the opinion of the authority; -

- a. Is inefficient or has ceased to be efficient;
- b. Is guilty of misconduct, like unauthorized absence from leave, breach of order, disobedience, unruly behavior, passing on official secrets to unauthorized persons, etc;
- c. Is corrupt, or may reasonably be considered corrupt;
- d. Is guilty of any violation of duty;
- e. Losses, misplaces or causes harm to a weapon through negligence or lack of maintenance;
- f. Is insubordinate to his superiors;
- g. Is convicted of a criminal offence;
- h. Is guilty of cowardice, or abandons any picquet, fortress, post or guard which is committed to his charge or which is his duty to defend;
- i. Is engaged in propagation of sectarian, parochial, anti-state views and controversies;
- j. Is engaged or is reasonably suspected of being engaged to excite, cause or conspire to cause or joins in any mutiny, or being present at any mutiny and does not use his utmost endeavor to suppress it;
- k. Attempts collective bargaining, conspiring or attempting to call off duty or take procession to press for the demands; or
- l. Is guilty of omission and commission under the law and rules.
- m. Deserts the service.
- n. Being a sentry, sleeps upon his post or quits it without being regularly relieved, or without leave; or
- o. Without authority, leaves his commanding officer, or his post or party, to go in search of plunder; or
- p. Quits his guard, picquet, party or patrol without being regularly relieved or without leave; or
- q. Uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or without authority breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind; or
- r. Intentionally causes or spreads a false alarm or rumour during action or in post, camp, lines, or quarters.

SCHEDULE- II

(see Rule 10)

Grounds of penalty

The concerned authority may impose one or more penalties, where a personnel of the Force, in the opinion of the authority:-

- a. Is inefficient or has ceased to be efficient;
- b. is guilty of misconduct, like unauthorized absence from leave, breach of order, disobedience, unruly behavior, passing on official secrets to unauthorized persons, etc,
- c. Is corrupt, or may reasonably be considered corrupt;
- d. is guilty of any violation of duty...
- e. loses, misplaces or causes him to a weapon through negligence or lack of maintenance
- f. Is insubordinate to his superiors,
- g. is convicted of a criminal offence;
- h. Is guilty of cowardice, or abandons any picket, fortress, post or guard which is committed to his charge or which is his duty to defend
- i. Is engaged in propagation of sectarian, parochial, anti-state views and controversies
- j. is engaged or is reasonably suspected of being engaged to excite, cause or conspire to cause or joins in any mutiny, or being present at any mutiny and does not use his utmost -endeavor to suppress it;
- k. attempts collective bargaining, conspiring or attempting to call off duty or take procession to press for the demands; or
- l. Is guilty of omission and commission under the law and rules.
- m. deserts the service.
- n. Being a sentry, sleeps upon his post or quits it without being regularly relieved, without leave; or
- o. Without authority, leaves his commanding officer, or his post or party, to go in search of plunder or
- p. Quits his guard, picket, party or patrol without being regularly relieved or
- q. Uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or without authority breaks into any house as any other place for plunder, or plunders, destroys, or damages any property of any kind, or
- r. Intentionally causes or spreads a false alarm or rumor during action or in post, camp, lines, or quarters.

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650 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 15th FEBRUARY, 2013

SCHEDULE - III
See Rule 17

S.#	Post/Rank	Length of service / Age
1	Subedar/Major (BS-16)	38 years service or 03 years service as Subedar/Major or 50 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	Nalk (BS-7)	26 years service or 03 years service as Nalk or 48 years age whichever is earlier
6	L/Nalk (BS-6)	23 years service or 03 years service as L/Nalk or 45 years age whichever is earlier
7	Sepoy (BS-5)	20 years service or 42 years age whichever is earlier

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 16th FEBRUARY, 2013
SCHEDULE- III
(see Rule 17)

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

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SCHEDULE -IV
See Rule 10

S. No.	Punishment	Subedar Major and Subedar	Naib Subedar or Havildar	Malkorhancu Naib Subedar	Seppy Naib Subedar
1.	Extra Duty not exceeding fifteen days (alligyo or eihar dallas).			Subedar	Naib Subedar
2.	Confinement to quarter guard upto fifteen days.	Commandant	Deputy Commandant	Deputy Commandant	Subedar Major
3.	Censure	-do-	-do-	-do-	-do-
4.	Forfeiture of approved service upto two years	-do-	-do-	-do-	-do-
5.	Stoppage of increment not exceeding one month's pay	-do-	-do-	-do-	-do-
6.	Fine to any amount not exceeding one month's pay	-do-	-do-	-do-	-do-
7.	Withholding of promotion for one year or less.	-do-	-do-	-do-	-do-
8.	Reduction from substantive rank to a lower rank or reduction in pay.	-do-	-do-	-do-	-do-
9.	Dismissal or removal from service or compulsory retirement.	-do-	-do-	-do-	-do-

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 15th FEBRUARY, 2013

SCHEDULE- IV

(see Rule 10)

S #	Punishment	Subedar Major and Subedar	Naib Subedar or Havaldar	Naik or Lance Naik	Sepoy
1.	Extra Drill not exceeding fifteen days fatigue or other duties			Subedar	Naib Subedar
2.	Confinement is quarter guard upto nineteen days	Commandant	Deputy Commandant	Deputy Commandant	Subedar Major
3.	Censure	do	Do	Do	do
4.	Forfeiture of approved service upto two years	do	Do	Do	do
5.	Stoppage of increment exceeding one months pay	do	Do	Do	do
6.	Fine to any amount not exceeding one months pay	do	Do	Do	do
7.	Withholding of promotion for one year or less.	do	Do	Do	do
8.	Reduction from substantive rank to a lower rank or reduction in pay	do	Do	Do	do
9.	Dismissal or removal from service or compulsory retirement	do	Do	Do	do

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(2) All non-uniform personnel shall retire from service on attaining the age of superannuation i.e., 60 years or they may opt for the retirement after completion of 25 years of regular service and no extension in service beyond retirement shall be granted.

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Ends No. & dated of even.

Copy of the above is forwarded for information and further necessary action to:-

- 1 The Secretary to Government of Pakistan, Ministry of SAFRON, Islamabad with reference to his Notification No.F.10 (5)-LK/2006 dated 05-12-2013.
- 2 The Commissioner, Malakand Division, Malakand.
- 3 The Deputy Commissioner/Commandant, Malakand Levies, Malakand.
- 4 The Deputy Commissioner/Commandant Levies, Chitral.
- 5 The Deputy Commissioner/Commandant Levies, Dir Upper.
- 6 The Deputy Commissioner/Commandant Levies, Dir Lower.
- 7 The Deputy Commissioner/Commandant Levies, Swat.
- 8 PS to Secretary to Governor to Khyber Pakhtunkhwa.
- 9 PS to Chief Secretary, Khyber Pakhtunkhwa.
- 10 PS to A.C.S (FATA) Secretariat Peshawar.
- 11 PS to Secretary Home & Tribal Affairs Department.
- 12 The Manager Government Printing Press, Peshawar for publication in the official gazette Peshawar as an extra ordinary copy.

[Signature]
Section Officer (Levies)

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2) All non-uniform personnel shall retire from service on attaining the age of superannuation i.e. 60 years or they may opt for the retirement after completion of 25 years of regular service and-no extension In service beyond retirement shall be granted.

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department,

Ends No. & dated of even..

Copy of the above is forwarded for Information and further necessary-action to:-

1. The Secretary to Government of Pakistan, Ministry of SAFRON, Islamabad with reference-to-his Notification No.F.10 (5)-LK/2006-dated 05-12-2013.
2. The Commissioner, Malakand Division, Malakand.
3. The Deputy Commissioner/Commandant, Malakand Levies, Malakand
4. The Deputy Commissioner/Commandant Levies, Chitral.
5. The Deputy Commissioner/Commandant Levies, Dlr-Upper.
6. The Deputy Commissioned Commandant Levies, Dir Lower.
7. The Deputy Commissioner/Commandant Levies, Swat.
8. PS to Secretary to Governor to Khyber Pakhtunkhwa.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to ACS (FATA) Secretariat Peshawar.
11. PS to Secretary Home & Tribal Affairs Department.
12. The Manager Government Printing Press, Peshawar for publication In the official gazettee Peshawar as an extra ordinary copy.

Section Office (Levies)

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

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

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

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

SCHEDULE
[see section-1(3)]

Part-A

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

Part-B

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

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

(AMJAD ALI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

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

NOTIFICATION

Peshawar, dated the 24th / 09 / 2019.

No. SO (Police - II) / HD / SMV / 2419 in exercise
of the powers conferred by Section 11 of the Khyber Pakhtunkhwa Levies Force
Ordinance 2019 (Khyber Pakhtunkhwa Ord. No. III of 2019), read with sub-
section (1) of Section 9 thereof, the Government of Khyber Pakhtunkhwa is pleased
to make the following Rules, namely:-

**The Levies Force (Absorption in the
Khyber Pakhtunkhwa Police) Rules 2019.**

1. Short title, Application and commencement. — (1) These Rules may
be called the Levies Force (Absorption in the Khyber Pakhtunkhwa Police)
Rules, 2019.
- (2) These rules shall apply to all members of the Levies Force.
- (3) These rules shall come into force at once.
2. Definitions. — (1) In these rules, unless there is anything repugnant in the
subject or context, the following expressions shall have the meaning hereby
respectively assigned to them, that is to say:-
 - a) Absorption means the process of permanent induction of the members of
the Levies Force into Police in accordance with these rules;
 - b) Ordinance means the Khyber Pakhtunkhwa Levies Force Ordinance
2019 (Khyber Pakhtunkhwa Ordinance No. III of 2019; and

GOVERNMENT OF THE KHYBER PAKHTUNKHWA HOME
AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated the 24th /09/2019

No.SO(Police-II)/HD/SMY/2419:- In exercise of the powers conferred by Section 11 of the Khyber Pakhtunkhwa Levies Force Ordinance 2019 (Khyber Pakhtunkhwa Ord. No.III of 2019), read with sub-section (1) of Section 9 thereof, the Government of Khyber Pakhtunkhwa is pleased to make the following Rules, namely:-

The Levies Force (Absorption in the
Khyber Pakhtunkhwa Police) Rules, 2019.

1. Short title, Application and commencement--- (1) These Rules may be called the Levies Force (Absorption in the Khyber Pakhtunkhwa Police) Rules, 2019.

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

(3) These rules shall come into force at once.

2. Definitions---(1) In these rules, unless there is anything repugnant in the subject of context, the following expressions shall have the meaning hereby respectively assigned to them, that is to say:-

a) Absorption means the process of permanent induction of the members the Levies Force Into Police in accordance with these rules;

b) Ordinance means the Khyber Pakhtunkhwa Levies Force Ordinance 2019 (Khyber Pakhtunkhwa Ordinance No. III of 2019; and

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c) Schedule means the Schedule appended to these Rules.

(2) Words and expressions used, but not defined in these rules shall have the same meanings as are respectively assigned to them in the Ordinance.

3. Absorption. — The members of the Levies Force shall be permanently absorbed into the Khyber Pakhtunkhwa Police, against vacancies to be newly created in the Police Department for the purpose in the following manner:-

- i. A scrutiny Committee headed by the Commandant and having one member each from the District Administration and District Account Officer of the District concerned shall prepare lists of all members of Levies Force after personal appearance and scrutiny of record for the submission to Provincial Police Officer.
- ii. The lists submitted to the Provincial Police Officer under sub-rule-I after proper sifting, shall be forwarded to Home and Tribal Affairs Department of the Government with the recommendations for permanent absorption of members of the Levies Force in Police into the respective ranks or cadres as per schedule appended to these Rules; and
- iii. Home and Tribal Affairs department, after receiving the lists of all members of Levies Force, shall issue notification of absorption of Levies Force into Police after approval of the Cabinet.

4. Remuneration or Incentives. — The Levies Force, after absorption into the Police shall be entitled to the same benefits, remuneration and other incentives as are enjoyed by other members of the Police.

5. Training. — Special training modules shall be designed by the Training Wing of the Police Department for imparting requisite Police training so that the members of the Levies Force are fully sensitized with all Police functions.

c) **Schedule** means the Schedule appended to these Rules.

(2) **Words and expressions** used, but not defined in these rules shall have the same meanings as are respectively assigned to them in the Ordinance.

3. Absorption.---The members of the Levies Force shall be permanently absorbed into the Khyber Pakhtunkhwa Police, against vacancies to be newly created in the Police Department for the purpose in the following manner:-

i. A scrutiny Committee headed by the Commandant and having one member each from the District Administration and District Account Officer of the District concerned shall prepare lists of all members of Levies Force after personal appearance and scrutiny of record for the submission to Provincial Police Officer.

ii. The lists submitted to the Provincial Police Officer under sub-rule-1 after proper sifting, shall be forwarded to Home and Tribal Affairs Department of the Government with the recommendations for permanent absorption of members of the Levies Force in Police into the respective ranks or cadres as per schedule appended to these Rules; and

iii. Home and Tribal Affairs department, after receiving the lists of all members of Levies Force, shall issue notification of absorption of Levies Force into Police after approval of the Cabinet.

4. Remuneration or Incentives.---The Levies Force, after absorption into the Police shall be entitled to the same benefits, remuneration and incentives as are enjoyed by other members of the Police.

5. Training.---Special training modules shall be designed by the Training Wing of the Police Department for imparting requisite Police training so that the members of the Levies Force are fully sensitized with all Police functions.

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not been repealed... and shall be continued in the same manner as if the Laws and Rules have (b) Shall not affect any investigation, legal proceedings in any Court of Law

under the repealed rules, orders and instructions: any right, privilege, obligation or liability acquired, accrued or incurred determined and made in accordance with law. The repeal shall not affect detained and orders made shall be deemed to have been done. (a) Affecting the seniority and promotion, all promotions done, seniority

including the Federal Levies Force (Service) Rules under sub-rule (1) (ii) Notwithstanding the repeal of all the Rules, orders or instructions

rules. repealed in so far those rules, orders or instructions are inconsistent with the immediately before the commencement of these rules shall be deemed as Federal Levies Force Service Rules, in force in respect of the Levies Force.

7. Repeal and savings. — (i) All rules, orders or instructions including the

manner, affect or impair the rights of existing incumbents in the Force. ii. Provided further that the provisions of these Rules shall not in any

retain their inter-se-seniority as in the Levies Force; i. Provided that the officer inducted in one batch upon induction shall

seniority in the Force from the date of such induction; Police, in accordance with the Government orders and instructions shall take

6. Seniority. — Members of the Levies Force, who are absorbed into the

6. Seniority.—Members of the Levies Force; who are absorbed into the Police, in accordance with the Government orders and instructions shall take seniority in the Police from the date of such induction:

i. Provided that the officer inducted in one hatch, upon induction shall retain their inter-se-seniority as in the Levies Force;

ii. Provided further, that the provisions of these Rules shall not in manner, affect or impair the rights of existing incumbents in the Police.

7. Repeal and savings.—(i) All rules; orders or instructions including Federal Levies Force Service Rules, in force in respect of the Levies Force, immediately before the commencement of these rules shall be deemed as repealed in so far those rules, orders of instructions are inconsistent with the rules.

(ii) Notwithstanding the repeal of all the Rules, orders or instructions including the Federal Levies Force (Service) Rules under sub-rule (1).

(a) Affecting the seniority and promotion, all promotions done, seniority determined and orders made shall be deemed to have been done determined and made in accordance with law. The repeal shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed rules, orders and instructions.

(b) Shall not affect any investigation, legal proceedings in any Court of Law and shall be continued in the same manner as if the Laws and Rules have not been repealed.

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- i. **Removing of difficulties.** — (i) If any difficulty arises in giving effect to any provision of these Rules and notification made thereunder, a Technical Committee, comprising of three members of the Police Department, to be notified by the Provincial Police Officer, headed by an Officer of Police who shall not be below the rank of Deputy Inspector General of Police and two other members of Police Department, whose ranks shall not be less than Senior Superintendent of Police, may recommend to Government for giving effects to the provisions of the Rules:
- (ii) Government after considering such recommendations, submitted by the Technical Committee, under Sub-rule-(i), may, by notification, make such orders, not inconsistent with the provisions of the Ordinance or these Rules, as may appear to it to be necessary for the purpose of removing such difficulty.

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1. **Removing of difficulties.**---(i) If any difficulty arises in giving effect to any provision of these Rules and notification made thereunder, a Technical Committee, comprising of three members of the Police Department, to be notified by the Provincial Police Officer, headed by an Officer of Police who shall not be below the rank of Deputy Inspector General of Police and two other members of Police Department, whose ranks shall not be less than Senior Superintendent of Police, may recommend to Government for giving effects to the provisions of the Rules
- (ii) Government after considering such recommendations, submitted by the Technical Committee, under Sub-rule-(i), may, by notification, make such orders, not inconsistent with the provisions of the Ordinance or these Rules, as may appear to it to be necessary for the purpose of removing such difficulty.

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SCHEDULE

[See rule 3]

1.	2.	3.
S. No.	From Rank in Levies	To Rank in Police
1.	Sepoy	Constable (BPS-07)
2.	Lance Naik	Constable A-I (BPS-07)
3.	Naik	Constable B-I (BPS-07)
4.	Hawaldar	Head Constable (BPS-09)
5.	Naib Subedar	Assistant Sub-Inspector (BPS-11)
6.	Subedar	Sub-Inspector (BPS-14)
7.	Subedar Major	Inspector (BPS-16)

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SCHEDULE

[See rule 3]

1.	2.	3.
S.No.	From Rank in Levies	To Rank in Police
1.	Sepoy	Constable (BPS-07)
2.	Lance Naik	Constable A-I (BPS-07)
3.	Naik	Constable B-I (BPS-07)
4.	Hawaldar	Head Constable (BPS-09)
5.	Naib Subedar	Assistant Sub-Inspector (BPS-11)
6.	Subedar	Sub-Inspector (BPS-14)
7.	Subedar Major	Inspector (BPS-16)

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated Up to 22.3.2021

No. SOIPolico-IIIHD/IKKD/Lavies/Misc/2020-21. 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:
(i) Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar.
Provided that the appointing authority for purpose of promotion to the posts of Subedar Major and Superintendents shall be Secretary, Home Department.

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

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

3. For Schedules-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 of Service 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: (i) Fifty Percent (50%) from amongst the Naib Subedars having Intermediate qualification; and (ii) Fifty Percent (50%) from amongst Howaidars.	Thirty Three Years Service or Seven Years Service as Naib Subedar or Sixty Years of age whichever is earlier

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FORM NO. 89/21/0851

FORM NO. 89/21/0851

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

Notification

Peshawar dated the 22-03-2021

No. SO (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.
 - i. Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar
Provided that the appointing authority for purpose of promotion on 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.

S #	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 service or three years service as Subedar Major or Sixty years 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 03 yeas service as Subedar or Sixty years age whichever is earlier.
3.	Naib Subedar (BS-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 Naib Subedars having Secondary School Certificate	Thirty Five years service or 03 yeas service as Subedar or Sixty years age whichever is earlier.

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S. No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age Limit
4	Mawadar (BS-08)		Thirty One years service or Three years service as Mawadar 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	Gapoy (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. Circulation 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.

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Section Officer (Police-II)

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S #	Post/ Rank	Qualification for Promotion	Length of service/ Age
4.	Hawaldar (BS-08),		Thirty One years Service or three years Service as Hawaldar or Fifty one year of age whichever is earlier
5.	Naik (BS-07)		Twenty Nine years Service or three years service as Naik or Fifty one years of age whichever is earlier
6.	L/ Naik BS-06		Twenty Nine years Service or three years service as L/Naik or Fifty one 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. Po 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)

Annex
"G"

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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-14)	Thirty Seven Years of service or Thirteen Years' service as Subedar Major or Thirty Years of age whichever is earlier.
2	Subedar (BS-14)	Thirty Five Years of service or Ten Years' service as Subedar or Thirty years of age whichever is earlier.
3	Naiib Subedar (BS-11)	Thirty Three Years of service or Seven Years' service as Naiib Subedar or Thirty Years of age whichever is earlier.
4	Headwaller (BS-09)	Thirty one year of service or Eighty one year of age whichever is earlier.
5	Head (BS-09)	Twenty nine years of service or Eighty nine years of age whichever is earlier.
6	L/Head (BS-08)	Twenty seven years of service or Eighty seven year of age whichever is earlier.
7	Sepoy (BS-07)	Twenty five years of service or Eighty 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-14)	07 years' service as Subedar Or Total 21 years of service	100%		
2	Subedar (BS-14)	07 years' service as Naiib Subedar Or Total 18 years of service	100%		
3	Naiib Subedar (BS-11)	04 years' service as Headwaller Or Total 17 years of service	100%		
4	Headwaller (BS-09)	05 years' service as Head Or Total 13 years of service	100%		
5	Head (BS-08)	03 years' service as L/Head Or Total 09 years of service			
6	L/Head (BS-08)	03 years' service as Sepoy			
7	Sepoy (BS-07)			100%	ISC
8	Head Armorer (BS-3)	05 years' service as Assistant Armorer	100%		ISC Qualification with certificate of Armorer
9	Assistant Armorer (BS-1)			100%	ISC Qualification with certificate of Armorer

SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

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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 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

S #	Post/ Rank	Length of service/ Age
1.	Subedar Major (BS-16)	Thirty Seven years service or 03 years service as Subedar Major or 60 years age whichever is earlier.
2.	Subedar BS-14	Thirty Five years service or 03 yeas service as Subedar or 57 years age whichever is earlier.
3.	Naib Subedar BS-11	Thirty three years service or 03 years service as Naib Subedar or 54 yeas age whichever is earlier.
4.	Havaldar BS-7	Thirty One years of service or fifty one years of age whichever is earlier
5.	Naik BS-5	Twenty Nine years service or of one yeas service as age whichever fit
6.	L/ Naik BS-5	Twenty Seven years of service or forty seven yeas age whichever is earlier.
7.	Sepoy BS-07	Twenty Five years of service or forty five years of age whichever is earlier

Schedule I

S No	Post/ Rank	Eligibility for Promotion	Promotion Quota	District 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 Subedar or total 19 years of service	100%		
3.	Naib Subedar BS-11	04 years service as Subedar or total 17 years of service	100%		
4.	Havaldar BS-8	05 years service as Subedar or total 13 years of service	100%		
5.	Naik BS-7	03 years service as Subedar or total 08 years of service			
6.	L/ Naik BS-6	02 years service as Subedar			
7.	Sepoy BS-5			100%	SSC
8.	Head Armourer BPS-05	5 years service as Assistant Armourer	100%		SSC Qualification with certificate of Armour
9.	Assistant Armourar BPS-01			100%	SSC Qualification with certificate of Armour

Secretary to
Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

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Copy forwarded to the:-

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

Section Officer (Police-II)

21/10/2024

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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. Po 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)

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Annex
"H"

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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.

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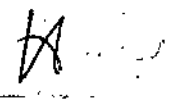
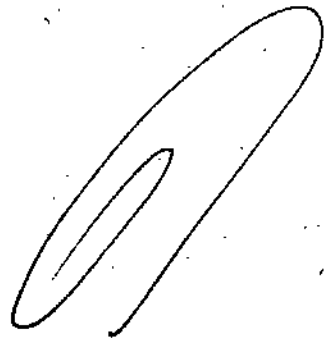
S M ATTIQUE SHAH, J:- Through this single judgment, we shall also decide the connected writ petitions bearing Nos.337-M/2021, 406-M/2021, 503-M/2021, 514-M/2021, 518-M/2021, 450-M/2021, 601-M/2021, 681- M/2021, 632- M/2021, 919-M/2021, 968- M/2021, 980- M/2021, 1221-M/2021, 1222-M/2021, 1252-M/2021, 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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(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 25th Constitutional amendment, the said regulation does not hold field, therefore, the impugned Notification is liable to be set aside.

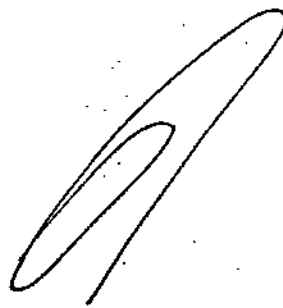
7. Conversely, worthy AAG representing the respondents opposed the arguments so advanced by learned counsel representing the petitioners at the bar while arguing that after the 25th amendment the Provincial Assembly passed the continuation of laws Act No.111 of 2019 through which the laws applicable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

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



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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 25th amendment were allowed to continue including regulation 2012 which still holds the field and as such the same is a valid instrument. Therefore, impugned Notification was issued by the respondents with lawful authority.

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

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

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

(2) In discharge of their functions, officers and staff of the Force shall

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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—

- (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

Federal Government or a Provincial Government".

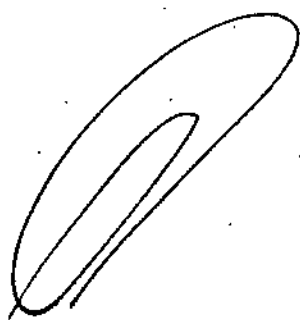
25. Admittedly, as evident from the bare reading of paragraph-3 & 4 of the Regulation, the present petitioners are performing policing service in the erstwhile tribal area, however, their terms and conditions are being regulating through Regulation No.1 of 2014 and after the omission of Article 247 from 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



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

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

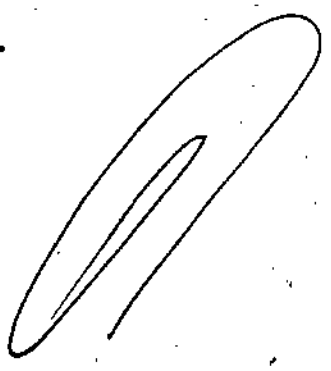
ibid (at pp. 686-689 of the law report). The definition of the term 'civil servant' in the Act adopts the Constitutional criteria given in Article 260 noted above to reiterate that a person who, *inter alia*, holds a civil post "in connection with the affairs of the Federation" including any such post 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



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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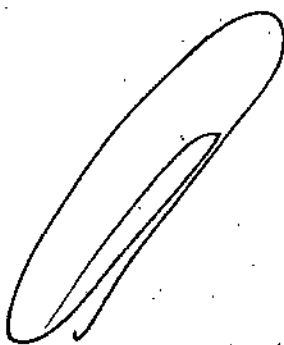
Government of Pakistan through Secretary, Ministry of States and Frontier Regions (SAFRON), Islamabad and others (2019 PLC (C.S) 645), on the basis of law laid down by the Apex Court in Commandant, Frontier Constabulary Khyber Pakhtunkhwa, Peshawar's case (2018 SCMR 903), while dealing with the case 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

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:

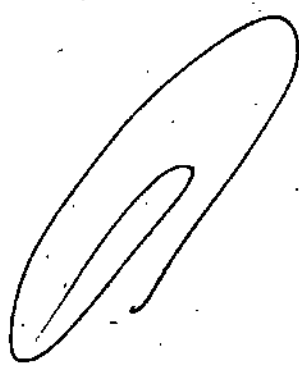
"11. It follows from the dicta laid down above that the protection of the border areas is a sovereign function belonging to and performed by the Federation. The same duty is performed equally in the present case by the FC not only on the frontiers of KPK Province but also by maintaining order in other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

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,




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



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.

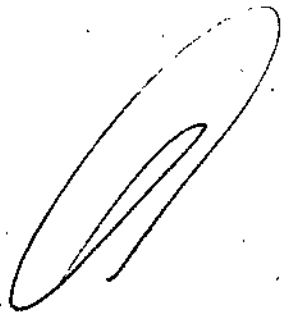
So far as the contention of petitioners that they have challenged the vires of the impugned Notification and as such the same are not amenable to the jurisdiction of the Service Tribunal is concerned, suffice it to state that it has long been settled that Service Tribunal has ample jurisdiction to deal 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.**




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

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

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



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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.

(A.K.KHAN Court Secretary)

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Appeal No: 168/23



310) ... Counsel for the appellant present

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. ... up for written reply comments on 10/02/2023 before S.B. Annexed with the appeal, there is an application restraining the respondents not to retire the applicant on the basis of age of 57 years. The operation of impugned notifications dated 22.03.2021 and 02.02.2021 shall remain suspended, if not acted upon.

(Rozina Rehman)
Member (J)

Certified copy
K. ...
Secretary

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Date of Presentation 31/1/23
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30.01.2023

Counsel for the appellant present.

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal Objections. The appellant is directed to deposit security fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/ comments. To come up for written reply/ comments on 20.02.2023 before S.B. Annexed with the appeal there is an application restraining the respondents not to retire the appellant on the basis of age of 42 years. The operation of impugned notifications dated 22.03.2021 and 21.10.2021 shall remain suspended, if not acted upon earlier.

Rozina Rehman

Member/J

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بخدمت جناب چیف سیکرٹری صاحب خیبر پختونخوا پشاور

درخواست برائے قانونی کارروائی و منسوخ فرمانے غیر قانونی نوٹیفیکیشن محررہ 22/03/2021 و

21/10/2021 جاری کردہ از ہوم اینڈ ٹرائبل ڈیپارٹمنٹ پشاور

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جناب عالی!

گزارش ہے کہ من سائل بطور سپاہی محکمہ دیر لیویز میں سال 2012ء میں تعینات ہوا تاہم بعد میں آئینی ترمیم پر دیر لیویز محکمہ پولیس خیبر پختونخوا میں ضم ہوا اور اسی طرح سائل سول سرونٹ قرار دیا گیا اس کے باوجود محکمہ ہوم اینڈ ٹرائبل ڈیپارٹمنٹ نے من سائل کی ریٹائرمنٹ کی حد سول سرونٹ ایکٹ 1973ء کے برعکس مقرر کی ہے اور نوٹیفیکیشن محررہ 23/03/2021 و 21/10/2021 جاری فرمائی ہے جو کہ غلط اور غیر قانونی ہے من سائل کو برطابق سول سرونٹ 1973ء ریٹائر کیا جائے۔

لہذا استدعا ہے کہ نوٹیفیکیشن مندرجہ بالا غلط و غیر قانونی قرار دیا جا کر منسوخ کیا جائے۔

محمد ریاض فقیر

26/10/2022

محمد ریاض ولد گل فقیر

ساکن نہر گاہ بالا ڈاکخانہ ٹولنڈی تحصیل دیر ضلع اپر دیر

شناختی کارڈ نمبر 3-15701-9575008

رابطہ نمبر 0307-5741411

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Amal Khan Book No. 100

Accepted by
Amal Khan

Accepted by
Amal Khan

2023
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میں نے اس کتاب کو پڑھا اور اس میں
کئی نئی چیزیں سیکھی ہیں۔ اس کتاب
میں لکھی ہوئی چیزیں سب سے زیادہ
میں نے سیکھی ہیں۔ اس کتاب میں
کئی نئی چیزیں لکھی ہیں۔ اس
کتاب میں لکھی ہوئی چیزیں سب
سے زیادہ میں نے سیکھی ہیں۔
اس کتاب میں لکھی ہوئی چیزیں
میں نے سب سے زیادہ سیکھی ہیں۔
اس کتاب میں لکھی ہوئی چیزیں
میں نے سب سے زیادہ سیکھی ہیں۔

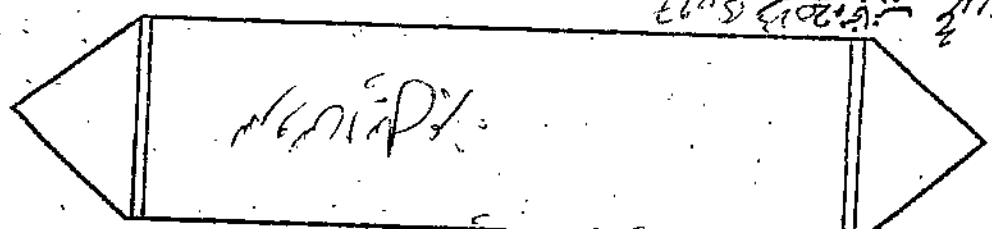
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