## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL <u>PESHAWAR.</u>

Service Appeal No.1668/2022

Mr. Muhammad Yar s/o Bakht Zamin Belt No. 93/2779 r/o Dehri Talash p/o Ziarat Talash Tehsil Timergara, Dir Lower ...... Appellant

Govt: of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa
Civil Secretariat Peshawar

2) Secretariat Peshawar

- 2) Secretary Finance Department, Khyber Pakhtunkhwa Civil Secretariat Peshawar
- 3) The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 4) Regional Police Officer, Malakand at Saidu Sharif Swat.......Respondents.

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(Zahir Shah) SI Legal Dir Lower



# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1668/2022

### **VERSUS**

- 1. Govt: of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar
- 2. Secretary Finance Department, Khyber Pakhtunkhwa Civil Secretariat Peshawar
- 3. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar
- 4. Regional Police Officer, Malakand at Saidu Sharif Swat......Respondents.

### PARA WISE REPLY BY RESPONDENTS NO. 03 AND 04.

Respectfully Sheweth:

### PRELIMINARY OBJECTIONS.

- 1) That the service appeal is not maintainable in its present form
- 2) That the appellant has not come to this honourable Service Tribunal with clean hands.
- 3) That the present appeal is badly barred by law & limitation.
- 4) That the instant appeal is bad for mis-joinder and non-joinder.
- 5) That the appellant has got no cause of action.
- 6) That the appellant has concealed the material facts form this honorable Tribunal.

### ON FACTS.

- 1. Incorrect, the appellant was enlisted as SPO purely on contract basis on fixed pay of Rs.10000/- not 15000/- vide OB No.1094 dated 29-07-2009 (copy of enlistment order is enclosed as Λnnexure "Λ").
- 2. Pertains to the record of august Supreme Court of Pakistan, however the appellant shall dealt strictly in accordance with Khyber Pakhtunkhawa Special Police Officers Regularization of Services Act 2019 where there is no provision exists.

- 3. Incorrect, the appellant was enlisted as SPO purely on contract basis and later on regularized under Section-3 of KP Special Police Officers (Regularization of Services) Act 2019. Every notification is issued with immediate effect. (Copy of Act and notification is enclosed as "B"-"C")
- 4. Incorrect, as already discussed that the appellant was recruited on contract basis and his Services was regularized in the light of KP Special Police Officer (Regularization of Services) Act 2019. Now the appellant service is regular and his plea regarding counting contract service as regular is not justifiable and based on flimsy grounds, liable to be dismissed.

### **GROUNDS.**

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- A. Incorrect, the appellant has been treated in accordance with law and no violation of rules has been committed by the respondents.
- B. Incorrect, the appellant services has been regularized in view of the ibid Act in the very spirit of natural justice.
- C. Correct to the extent that appellant was remained in contract service under the command of respondents and later on regularized however legally, he is not entitled for the benefits being asked for.
- D. Each and every case has its own facts and circumstances. The appellant is not entitled for such entitlement.
- E. Already discussed in preceding paras, no comments.
- F. Incorrect, the appellant was regularized in service as per KP Special Police Officers (Regularization of services) Act 2019 and earlier appellant was recruited purely on contract basis with fixed pay of Rs.10000/-. Therefore he has no legal rights for the purpose.
- G. Needs no comments.
- H. Incorrect, no violation of the law / rules and constitution of Pakistan has been committed by the respondents.
- I. The respondents may also be allowed to adduce additional grounds at the time of argument / hearing.



### PRAYER.

Keeping in view of above submission, the instant appeal, being devoid of merits may graciously be dismissed with costs please.

Inspector General of Police Khyber Pakhtunkhwa Peshawar.

Regional Police Officer, Malakand at Saidu Sharif Swat.

> Regional Police Officer Malakand Region Saldu Sharif Swat.



### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1668/2022

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### **VERSUS**

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- 2. Secretary Finance Department, Khyber Pakhtunkhwa Civil Secretariat Peshawar
- 3. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 4. Regional Police Officer, Malakand at Saidu Sharif Swat......Respondents.

### **POWER OF ATTORNEY**

SI Zahir Shah of Legal Branch Dir Lower is hereby authorized to appear on our behalf before the Honorable Service Tribunal and to pursue the case on each and every date.

He is also authorized to submit the comments in connection with the above Service Appeal.

**Inspector General of Police** Khyber Pakhtunkhwa Peshawar.

Regional Police Officer, Malakand at Saidu Sharif, Swat.

> Regional Police Office: Malakand Region Selou Short Scal



# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1668/2022

### **VERSUS**

- 1. Govt: of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhawa Civil Secretariat Peshawar
- 2. Secretary Finance Department, Khyber Pakhtunkhwa Civil Secretariat Peshawar
- 3. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 4. Regional Police Officer, Malakand at Saidu Sharif Swat.........Respondents.

### AFFIDAVIT.

J Zahir Shah Khan SI Legal District Dir Lower do hereby solemnly affirm and declare on oath, that the contents of the Para wise reply is true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

STED Advocate August 10 A Strict Court Poistrict Court Poistri

(Zahir Shah Khan) SI Legal Dir Lower

Amneauxe (A")
Amnea A
7-9

### ORDER

The following personals are hereby enlisted as Special Police officer on contract basis for a period of 02 years w.e..f 21-07-2009 on monthly fixed salary of Rs 10,000/ In light of Provincial Police Officer NWFP Peshawar Letter no:15392/E-II dated:20-06-2009.17472-79/E-II dated 13-07-09 and Letter No: 17901-6/E-II dated17-07-09:their service will be purely of temporary nature and will be terminated by the Authority without showing any Yeason and notice ..

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(MUMTAZ ZARIM) TSh: QPM District Police Officer, Dir Lower at Timergara.

Copy of above is submitted to the Pay Officer and Establishm

Clerk for further necessary action.

TSH QPM

District Police Officer,





Annexeure (13)

# THE KHYBER PAKHTUNKHWA SPECIAL POLICE OFFICERS (REGULARIZATION OF SERVICES) ACT, 2019

### (KHYBER PAKHTUNKHWA ACT NO. XXXVII OF 2019)

### CONTENTS

### **PREAMBLE**

- 1. Short title, extent and commencement.
- 2. Definitions.
- 3. Regularization of services of Special Police Officers.
- 4. Determination of seniority.
- 5. Scrutiny Committee.
- 6. Overriding effect.
- 7. Removal of difficulties.



# THE KHYBER PAKIITUNKHWA SPECIAL POLICE OFFICERS (REGULARIZATION OF SERVICES) ACT, 2019

#### (KHYBER PAKHTUNKHWA ACT NO. XXXVII OF 2019)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated 8<sup>th</sup> October, 2019).

AN ACT

to provide for the regularization of the services of Special Police Officers appointed on contract basis or fixed pay basis.

WHEREAS it is expedient to provide for the regularization of the services of Special Police Officers, appointed on contract basis or fixed pay basis, from time to time, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:

- **l. Short title, extent and commencement.---**(1) This Act may be called the Khyber Pakhtunkhwa Special Police Officers (Regularization of Services) Act, 2019.
  - (2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.
  - (3) It shall come into the force at once.
- 2. **Definitions.** In this Act unless the context otherwise provides, the following expressions shall have the same meanings as are assigned to them, that is to say-
  - (a) "contract appointment" means appointment of Special Police Officers, made otherwise than in accordance with the prescribed method of recruitment;
  - (b) "Government" means the Government of the Khyber Pakhtunkhwa;
  - (c) "law or rule" means the law or rule, for the time being in force, governing the selection and appointment of Police Force in Khyber Pakhtunkhwa Province;
  - (d) "Police Department" means the Police Department of the Khyber Pakhtunkhwa Province;
  - (e) "post" means a post under Government or in connection with the affairs of Government to be filled in through prescribed method; and

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- (f) "Special Police Officer" means an employee, appointed in Police Department, from time to time, on contract basis or fixed pay basis, under the nomenclature of Special Police Officers or Special Police Force, performing Police or security duties.
- 3. Regularization of services of Special Police Officers.—All the Special Police Officers, appointed on contract basis or fixed pay basis who are holding the post on 1<sup>st</sup> August 2019, shall be regularized with immediate effect, subject to the condition of section 5 of this Act.
- 4. Determination of seniority.---(1) The Special Police Officers, whose services are regularized under this Act, shall rank junior to all other members of the Police Force who are in service on regular basis on the commencement of this Act.
- (2) The inter se seniority of the Special Police Officers, whose services are regularized under this Act, within the same rank, shall be determined on the basis of their continuous officiating service in the rank:

Provided that the date of continuous officiating service in the case of two or more employees is the same, however, the employee older in age shall rank senior to the younger one.

- 5. Scrutiny Committee.---(1) A Scrutiny Committee, headed by the District Police Officer and having one member each from the District Administration and District Account Officer of the District concerned, shall prepare lists of all members of the Special Police Officers, after personal appearance and verification of CNIC's and scrutiny of record of the Special Police Officers for the submission to Provincial Police Officer.
- (2) 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 regularization of members of the Special Police Officers in the Police Department.
- (3) The Home and Tribal Affairs Department of Government, after receiving the lists of all members of Special Police Officers shall issue notification of regularization of Special Police Officers into Police after approval of the Cabinet.
- 6. Overriding effect.---Notwithstanding anything to the contrary contained in any other law or rule, for the time being in force, the provisions of this Act shall have an overriding effect and the provision of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.
- 7. Removal of difficulties.—If any difficulty arises in giving effect to any of the provisions of this Act, Government may issue such order as may appear to it to be necessary for the purpose of removing such difficulty; provided that no such powers shall be exercised after the expiry of one year from the coming into force of this Act.



NOTIFICATION



## Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department Dated Peshawar the April 8th, 2020

Annexcure (C)

No.SO(Budget)/HD/15-29/2016 Vol-D: In pursuance of the provisions contained in Section 3 read with Section 5 of the Khyber Pakhtunkhwa Special Police Officers (Regularization of Services) Act, 2019 (Khyber Pakhtunkhwa Act No.XXVII of 2019) and on the recommendation of Provincial Police Officer, Khyber Pakhtunkhwa and approval of the Provincial Cabinet, the Home and Tribal Affairs Department is pleased to notify herewith regularization of the following Special Police Officers (SPOs) working in District Dir Lower under DDO Code DA4021- Law & Order Dir Lower as Constables (BPS-07) with effect from 01-03-2020:

S.No	Name	Father Name	Belt No.
_ 1	Zubair Shah	Fazal Rahman	1
2	Ayaz Khan	Dawa Khan	2
3 4	Muhammad kamal	Muhammad Ismaeel	3
4	Alarn Zeb	Aziz ur Rahman	4
5	Zakirullah	Dawa Khan 🤫	5
6	Muhammad Amin	Muhammad Arif Khan	6
7	Taj Muhammad	Syed Rahman	7
8	Aurang Zaib	Gul Karam Khan	8
9	Fazal Hussain	Muzamin Khan	9
10	Tajammul Khan	Sher Muhammad Khan	10
11	Bakht Sardar	Sher Muhammad Khan	1 11
12	Thsanullah /	Fazal Rahman	12
13	Gul Zamin Khan	Bakhtawar	13
14	Ikramullah	Gul Khan	14
15	Muhammad Sadig Khan	Muhammad Bostan Khan	15
16	llcramullah	Nadar Khan	16
17	Daulat Khan	Akbar Khan	17
18	Aminullah Khan	Syed Akbar Khan	
19	Anwar Zaib	Muhammad Wazir	18
20	Azizullah	Inayat Khan	19
21 .	Zahir Khan	Mirza Gul	20
22	Laiaq Muhammad	Fazal Hadi	2.1
23	Muhammad Jamil	Mehmood Khan	22
24	Yousaf Khan	Sarzanıin Khan	23
25	Muhammad Wahid	Shaibar Khan	24
26	Deedar Gul	Stana Gul	25
27	Ali Muhammad	Gul Muhammad	26
28	Muhammad Salim	Fazal Malik	27
29	Naeem Ullah	Gul Rahim	28
30	Sher Zaman Khan	Ahmad Khan	29
31	Amjad Khan	Rahim Gul	30
$-\frac{32}{36}$	Muhammad Hasham	Bakht Zamin	31
33	Abdul Farooq Khan	Abdul Wakeel Khan	32
34	Jawad All	Nazir Malik	33
30	Muhammad Ayaz	Noor Haklm	34
- 36	Rohullah	Hamdullah	35
38	Bahadar Zallo	Syed Khan	36
39	Rahim Badshah	Muhammad Rokhan	37
70	Shaukat Ali Khan Naik Zada	Muhammad Habib	38
11 -	Shah Karim	Muhammad Zada	39
42	Aziz Khan	Bacha Muhammad	40
	41 1. 12 12 14 15 15 15 15 15 15 15 15 15 15 15 15 15	Said Muhammad Khan	41

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43	Noor Rahman	Kamin Khan	43
- 44	Ghani Rahman	Ghulam Haidar	44
45	Sher Afzal	Amir Sher Ali Khan	45
- <del>46</del>	Muhammad Hussin	Muhalfuddin	46
47	Salim Zada	Gul Hakim	47
48	Muhammad Rasool	Abdul Sattar	48
49	Ali Khan	Aldar Khan	49
		Khan Sald	50
50	Alam Said	Musleh Uddln	51
51	Naseer uddln	Abdullah Khan	52
52	Shakir Ullah	Mlan Rahlm Shah	53
53	Hussain Shah	Shaibar Khan	54
54	Musafar Khan	Mhammad Khan	55
<u>55</u>	Behram	Khanzada	56
56	Khanzad Gul	Gul Habib Khan	57
57	Niamat Ullah	Ahmad Khan	58
58	Shah Jee Saddam Hussahi	Bakht Zada	59
59		Hazrat Gul	60
60	Qadar Gul Wazir Zada	Muhammad Rafeeg	61
61	Muhammad Ghafoor	Gul Mateen	62
62	Wazir Zada	Hisab Gul	63
63	Amir Muhammad	Abdul Raziq	64
65	Tariq Khan	Flabib ur Rahman	65
66	Fazal Nawab	Fazal Bari	66
67	Gul Karim	Gul Wali	67 68
68	Fazal Karim	Bahre Rawan	69
69	Alam Zeb	Said Fagir	70
70	Ashraf Khan	Taaj Muhammad Khan	71
71	Mansoor Akhtar	Gul Zada	72
72	Imran Khan	Gran Bacha Umar Zada	73
73	Tauheed Ullah	Nasib Gul	74
_ 74	Rahat Gul	Wazir Khan	75
75	Saleem Khan	Gut Mar Din	76 -
<u>76</u> 77	Akhtar Hussain Babo Zaman	Musamin Khan	77
$-\frac{77}{78}$	Sultan	Toor Jan	79
79	Muhammad Shafi	Fazal Khaliq	80
80	Muhammad Zubair	Muhammad Zaman Khan	81
81	Hidayat Ul İslam	Muhammad Darvesh	82
82	Jan Rahman	Khan Muhammad	83
83	Naeem Ullah	Noor Rahim	84
84	Islam Zeb Khan	Sani Gul	85
85	Abdul Kabir	Syed Amin Jan	86
· <u>86</u>	Ghulam Hussain	Muhammad Amin	88
87	Malak Jan	Qasim Jan Munawar Khan	89
88	Ubaidur Rahman	Arif ur Rahman	90
89 90	Shafiq ur Rahman Nasih Bacha	Muhanimad Salih	91
90	Hussain Khan	Zigar Khan	92
97	Muhammad Yar	Bakht Zamin	93
93	Muhammad Younas	Muhanimad Shoaib	94
9/1	Islam Muhammad	Hashtamand Khan	95
95	Hameed Ullah	Bacha Lalq	96
96	Shah Bakht Rawan	Ibadat Shah	97
97	Gul Zar Muhammad Iftikhar	Wall Muhammad	98
99		hakim Gui Saifud Din	99
10	0 Hazrat Gul	Abdur Raziq	100
10		Muhammad Zamin Khan	102
10		Baz Muhammad Khan Bakht Rawan	103
	6 Ghani Muhammad	Noor Mhammad	104
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973	Abd ur Rahman	Aslam Khan	998
774	Sana Ullah	Abdullah	999
975	Muhammad Hamza Nazeer	Nazeer Gul	126
976	Zarak Khan	Gut Umar	194
977	Rovaid Shah	Zulifat Khan	373
978	Nasir Khan	Arab Khan	669
979	Muhammad Rukhsar	Jehangir Khan	786
980	Muhammad Waqas	Amir Gul	962

# Secretary to Govt. of Khyber Pakhtunkhwa Home & Tribal Affairs, Department

# Endst No & date even

Copy forwarded for information to:

1. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.

2. Accountant General, Khyber Pakhtunkhwa, Peshawar.

The Provincial Police Officer, Khyber Pakhtunkhwa.

The Regional Police Officer, Malakand.

5. The District Police Officer, Dir Lower.
6. The District Accounts Officer, Dir Lower.

The District Accounts Officer, Dir Lower.
PS to Home Secretary, Khyber Pakhtunkhwa

SECTION OFFICER (BUDGET)