


21.03.2023


Appellant alongwith his counsel present.

Fazal Shah Mohmand, Additional Advocate General for the respondents present.

SCANNED
KPST
Peshawar

Being not prepared, learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 06.04.2023 before D.B. Parcha Peshi given to the parties.


(Muhammad Akbar Khan)
Member (E)


(Rozina Rehman)
Member (J)

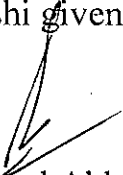
06.04.2023


Appellant alongwith his counsel present.

Asad Ali, learned Assistant Advocate General for respondents present.

SCANNED
KPST
Peshawar

Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 04.05.2023 before D.B. Parcha Peshi given to the parties.


(Muhammad Akbar Khan)
Member (E)


(Rozina Rehman)
Member (J)


10.11.2022


Counsel for the appellant present.

Mr. Kabir Ullah Khattak, learned Additional Advocate General alongwith Riaz Inspector for the respondents present.

Former made a request for adjournment that he has not prepared the brief. Adjourned. To come up for arguments on 09.01.2023 before the D.B.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

09.01.2023

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General alongwith Sharifullah, Litigation Assistant for the respondents present.

Learned Member Executive (Miss Fareeha Paul) left the court at 12.00 Noon in order to attend a meeting in the Law Department, Government of Khyber Pakhtunkhwa, therefore, this case is adjourned to 21.03.2023 for arguments before the D.B.


SCANNED
KPST
Peshawar


(ROZINA REHMAN)
Member (J)

01.09.2022

Junior of learned counsel for the appellant present.
Mr. Naseer Ud Din Shah, Assistant Advocate General for
the respondents present.


Learned Member (Judicial) Mrs. Rozina Rehman is
on leave, therefore, arguments could not be heard.
Adjourned. To come up for arguments on 19.10.2022
before the D.B.


(Salah-Ud-Din)
Member(J)

19th Oct., 2022

Junior to counsel for the appellant present. Mr. Kabirullah
Khattak, Addl. AG alongwith Ijaz Ahmad, Assistant for the
respondents present.

Request for adjournment was made on behalf of learned
counsel for the appellant due to his engagement in Honourable
Peshawar High Court today. Last opportunity is granted To come
up for arguments on 10.11.2022 before the D.B.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

12.04.2022

Junior to counsel for the appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

Reply on behalf of respondents is still awaited. Learned AAG requested for time to submit reply/comments. Granted but on the payment of cost of Rs.5000/- to be paid by the respondents. To come up for reply/comments on 30.06.2022 before S.B.



(Rozina Rehman)
Member (J)

30.06.2022

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional AG alongwith Sajjad Khan, Assistant for respondents present.

Written reply/comments on behalf of respondents submitted which is placed on file. A copy of the same is handed over to the learned counsel of the appellant. Cost of Rs. 5000/- is paid to counsel for the appellant, copy of receipt is attached. Learned counsel for the appellant is directed to deposit security and process fee within 3 working days. Thereafter, notices be issued to respondents for submission of written reply/comments. To come up for rejoinder/arguments on 01.09.2022 before D.B.

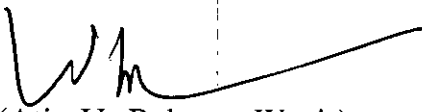


(Fareeha Paul)
Member (E)

31.01.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel But, Addl. AG for respondents present.

Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 14.02.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)

14.02.2022

Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 12.04.2022. for the same as before.


Reader

Abdullah Jan, 14546/2020

23.09.2021 Counsel for the appellant present. Learned counsel for the appellant submitted amended service appeal, as per directions of the court recorded in order sheet dated 23.06.2021. Preliminary arguments heard.

Learned counsel for the appellant contended that in the light of Federal Service Tribunal judgement dated 26.09.2018 and Peshawar High Court directions in C.M No. 163-M/2020 ~~in~~ writ petition No. 210-S/2020 the service appeal in hand is of similarly placed person and identical in nature. The service Tribunal has already admitted service appeal No. 11923/2020 titled Aman Ullah S/O Bacha Khan-vs- Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department and others and service appeal No. 11919/2020 titled Muhammad Jan S/O Bakht Pur Jan-vs- Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department and others.

Points raised need consideration. The appeal is provisionally admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 31.01.2022 before the D.B.


(Mian Muhammad)
Member(E)

16.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 23.06.2021 before S.B.


Reader

23.06.2021

Counsel for the appellant present.

Learned counsel after arguing the appeal at some length, when confronted with the point whether order dated 09.06.2017 has been challenged by the appellants or its copy is available on file; he produced photocopy of the said order from the possession of the appellant for placing on file. When further asked whether he will advise the appellant for amendment of appeal to challenge the order dated 09.06.2017, whereby the appellant was retired, he requested that he may be allowed the amendment of the appeal to impugn order dated 09.06.2017. Request is accorded. Amended appeal be filed within 10 days positively, failing which consequence shall follow. To come up for preliminary hearing on 23.09.2021 before S.B.

SCANNED
KPST
Peshawar



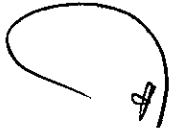

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 14549 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/11/2020	<p>The appeal of Mr. Abdullah Jan resubmitted today by Mr. Zia-ud-Din Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	01.01.2021	<p>Appellant present through counsel.</p> <p>Let pre-admission notice be issued to respondents for reply. To come up for reply and preliminary arguments on 16.03.2021 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

The appeal of Mr. Abdullah Jan Ex-Naib Subedar Regimental No. 2515 Bajawar levies received today i.e. on 11.11.2020 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

Copy of departmental appeal against the impugned order is not attached with the appeal which may be placed on it.

No. 3820 /S.T,

Dt. 12/11 /2020.

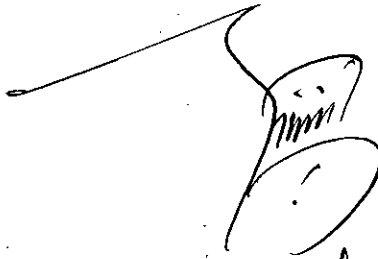

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zia-ud-Din Khan Adv. Pesh.

R/Sir,

Case has been re-submitted
after removal of the necessary
collection.

Thanking you



20/11/2020

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHYUNKHWA PESHAWAR

Service Appeal No. 14546-P/2020

Abdullah Jan

VERSUS

Secretary Home KPK

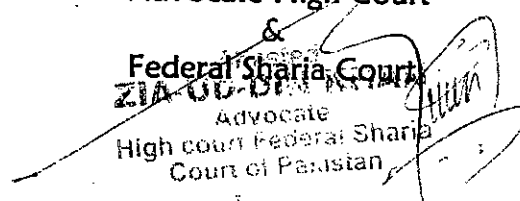
INDEX

S. No	Description of Documents	Annex	Pages
1	Amended Service Appeal		2 - 7
2	Affidavit		8
3	Copy of Promotion Order dated 30/12/2009 along with List of Seniority	<u>A</u>	9 - 11
4	Copy of Promotion Order dated 20/03/2017 along with Departmental Appeal	<u>B</u>	12 - 13
5	Copy of 'Office Order dated 20/03/2017'	<u>C</u>	14 - 15
6	Copy of FST Suspension Order Dated 26/09/2018	<u>D</u>	16 - 17
7	Copy of Review Application dated 03/11/2020	<u>E</u>	18-19
8	Copy of Office Order dated 06/10/2020	<u>F</u>	20 - 20
9	Copy of Suspension Order dated 15/10/2020	<u>G</u>	21 - 24
10	Wakalat-Nama		25

Dated: 20/09/2021

Appellant

Through

Zia-Ud-Din Khan
Advocate High Court


Federal Sharia Court
ZIA-UD-DIN KHAN
Advocate
High court Federal Sharia
Court of Pakistan

Office: INSAF LAW CHAMBER Flat No. 34-B, Super Market Phase-I Hayatabad
Township Peshawar City, Khyber Pakhtunkhwa Province the Islamic Republic
of Pakistan.

Cell. No. 0345-9110368/0303-5893180

E-mail: Ziakhan_12@yahoo.com

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHYUNKHWA PESHAWAR

Service Appeal No. 14546-P/2020

Abdullah Jan Ex-Naib Subedar Regimental No. 2515 Bajawar Levies,
Khar Sub-Division District Bajawar Khyber Pakhtunkhwa.

[Appellant]

VERSUS

- 1) The Secretary Home & Tribal Affairs Department Peshawar, Central Civil Secretariat Peshawar Khyber Pakhtunkhwa.
- 2) The Inspector General of Police Khyber Pakhyunkhwa, Central Police Lines Peshawar.
- 3) The District Police Officer (DPO) Bajawar at Civil Officers Colony Khar District Bajawar Khyber Pakhtunkhwa.
- 4) The Deputy Commissioner Bajawar at Civil Officers Colony Khar District Bajawar Khyber Pakhtunkhwa.

[Respondents]

.....
AMENDED APPEAL

UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUDGNE OFFICE ORDER DATED 06/10/2020 WHEREBY THE DEPARTMENTAL APPEAL BEARING NO. CS (F)/L&K/4-LEVY/APPEAL /2336-38 OF THE APPELLANT REGARDING HIS DEPARTMENTAL PROMOTION HAS BEEN DISMISSED.

Respectfully Sheweth;

BRIEF FACTS

- 1) That the Appellant is a respectable Law-abiding citizen of Pakistan and belongs to a respectable family. As per version of the appellant he was initially appointed against the post/vacancy of 'Sepahi' in the respondents department in 1985 under the then repealed Laws wherein the appellant performed his services with zeal and zest to the entire satisfaction of his superiors. While, it is worth mentioning that the appellant has been promoted from time to time and on 30/12/2009, he was promoted to the post of N/Subedar keeping in view his excellent and gleaming service record.

{Copy of Promotion Order dated 30/12/2009 along with List of Seniority annexed Annexure- A}

- 2) It is pertinent to mention here that the Respondents made alterations/amendments in the 'Federal Levies Force (Services) Rules 2012' repeatedly and in this regard the respondents further amended the above mentioned Rules through 'Notification /SRO. 936 (1)/2016 dated 04/10/2016'. Accordingly 'Schedule-IV' of the said Rules has been amended only to the extent of tenure of three categories of 'Subedar Major, Subedar & Naib Subedar' by reducing their service tenure and left the remaining unamended which was gross discrimination against the present appellant.
- 3) It is further supplemented that Respondent No (3)/the Deputy Commissioner Bajawar was legally bound to promote the present appellant to the next higher post of 'Subedar' which was due since the year 2016. But unfortunately, the respondent through policy of sheer discrimination, favoritism and nepotism promoted 'Mr. Said Gul & Sher Bahadur' who were 'juniors' but despite that they were promoted to the next higher cadre/post of 'Subedar' through vide order dated 20/03/2017 and the appellant has been declared 'retired premature' in reference to the 'Federal Levies Force (Amended) Rules 2013' with their malafide intention. While it is also important to mention here that the above naming promoted employees were placed at 'S. No. 5 & 6' respectively in the 'Final Seniority List'.

{Copy of Promotion Order dated 20/03/2017 along with Departmental Appeal annexed Annexure- B}

- 4) That the 'Respondent No (4)/the Deputy Commissioner Bajawar' through impugned 'Office Order dated 20/03/2017' issued 'Premature Retirement' of the appellant from service instead of promotion to the next high cadre. The premature order of retirement of the appellant from service is unlawful and against the Law, hence liable to be set-aside and the appellant shall be reinstated with all back benefits.

{Copy of impugned 'Office Order dated 20/03/2017' annexure- C}

- 5) The Appellant is entitled for his due promotion against the post of 'Subedar' but unfortunately, the respondents promoted his juniors and the appellant finally challenge the same illegal and unlawful order before the worthy 'Federal Service Tribunal'. The worthy FST suspended the order of Respondent No (3)/the Deputy Commissioner Bajawar regarding 'premature retirement' of the appellant.

{Copy of FST Suspension Order Dated 26/09/2018 annexure- D}

- 6) That the present Appellant was 'senior' to those who were earlier promoted by the respondents through their illegal approach and the same is crystal clear from the 'Final Seniority List' issued dated 31/12/2015.
- 7) It is further averred that the Appellant also submitted 'Review Application' before the Respondent No (1)/the Home Secretary Khyber Pakhtunkhwa against the impugned office order on dated 03/11/2020. But unfortunately, the same haven't been considered till date.

{Copy of Review Application dated 03/11/2020 annexed annexure- E}

- 8) That the act of the Respondent to bypass the core and fundamental right of promotion of the appellant as well as his 'premature retirement' from service as mentioned in the above Para's is not only based on their malafide intention but the same is also against the Principles of Natural Justice. Reliance could be made on the judgment of the Hon'ble Supreme Court of Pakistan in the Constitution Petition No. 24 of 2012 and Civil Petition No. 773-P of 2018, wherein it was held that;

'All are equal before the law and are entitled without any discrimination to equal protection of law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the constitution or by law'.

- 9) Therefore, keeping in view the above stated facts, the appellant being aggrieved of the unlawful acts of the respondents, and finding no other alternate remedy/option but to approach this Hon'ble Tribunal/Court through the appeal in hand on the following grounds inter alia:-

GROUND

- A) That the impugned 'Office Order' issued by the 'Respondent No (1)/the Home Secretary KPK' against the appellant whereby the 'Departmental Appellant' of the appellant has been dismissed is not only against the Law, Rules and norms but also void-abinitio and against the Principles of Natural Justice. While, it is established Law that any notification or governmental policy could not take effect retrospectively. Reliance could be placed on the judgment of the Hon'ble Supreme Court of Pakistan '2007 PLC (CS) 229'.

{Copy of Office Order dated 06/10/2020 annexed annexure- F}

B) That the Appellant has been condemned unheard and has not been treated in accordance with Law. Reliance could be made on the judgment of the Hon'ble Lahore High Court in the case title Muhammad Riaz Vs MS, Service Hospital Lahore (2016 PLC (C.S 296) wherein it has been clearly stated that;

'Whenever any discretion was given to an authority it had to be exercised not arbitrarily, but honestly, justly and fairly in consonance with the spirit of law after application of judicious mind and for substantial reasons--- Discretion had to be exercised with due care and caution keeping in mind the principles of natural justice, fair trial and transparency'.

C) That the Appellant is a well qualified and experience candidate, hence eligible for regular promotion according to his gleaming service record. It is pertinent to mention here that the impugned office order of the respondents has been passed with retrospective effect which is not permissible under the law hence, liable to be set-aside. While, the Hon'ble Supreme Court of Pakistan in '1996 SCMR (201)' laid down the dictum that penalty cannot be passed retrospectively as no executive order retrospective effect. Hence, the order of the respondents is absolutely violated the spirit of Law as well as the dictum laid by the Hon'ble Supreme Court of Pakistan in the above mentioned judgment. Similarly reliance could be made on the judgment of the Hon'ble Peshawar High Court in the case of Ms. Shakeela Versus University of Peshawar through Vice Chancellor, wherein it was clearly stated that;

'In genuine cases, the High Court cannot fold-up its hand sealing the fate of an aggrieved student leaving him at the mercy of the people who indulge in reckless dispensation of duties---Bar against re-checking of papers cannot be taken as a stumbling block nor it can operate an absolute one in the way of High Court when seized with such a matter in its Constitutional Jurisdiction nor the Authorities can be permitted to clad itself with the barring rule after committing wrong and causing injustice to a student by putting her over his academic career in jeopardy'.

D) It is pertinent to mention here that the Principal Bench of the Hon'ble Peshawar High Court has earlier granted relief to similar employees on dated 07/12/2016 and the present appellant has the fundamental right to be treated at par keeping in view 'Article 25' of the 1973 Constitution of the Islamic Republic of Pakistan. While, there are plethora of judgments of the Superior judiciary wherein the 'question of Law' has been decided

once, the benefit of that will be extended to all those who had similar point of contention. Hence, the impugned office order has no value in the eyes of Law, therefore shall be declared null and void keeping in view the judgment of the Hon'ble Supreme Court of Pakistan reported as 'PLD 1975 SC 678' it has been clearly stated regarding the well-known principle of interpretation of statutes that;

'A statute should be interpreted in a manner which suppresses the mischief and advance the remedy. It is also supported by the observations made in that mere technicalities unless offering any insurmountable hurdle should not be allowed to defeat the ends of justice and the logic of words should yield to the logic of realities'.

E) That the Hon'ble Tribunal/Court had earlier suspended the operations of the impugned office order in similar nature service appeals which are pending therein. Hence, keeping in view the above stated facts, the impugned office order of the respondent shall also be suspended in the present appeal to fulfill the ends of justice.

{Copy of Suspension Orders dated 15/10/2020 annexed annexure- G}

F) That the impugned offices order of the Respondents regarding the dismissal of the appellant departmental appeal as well as the earlier order of premature retirement amounts to penalty of 'compulsory Retirement' from service which cannot be imposed on the appellant without any proper 'Show-Cause' and personal hearing. Hence, keeping in view the service record of the appellant on his credit and the impugned office order of the respondents is 'Coram non Judice' are liable to be Set-aside as the same is not sustainable under the law.

G) That the Appellant shall be allowed to add any other ground(s) at the time of arguments.

PRAYER IN APPEAL

On acceptance of the Amended Appeal in hand;

i) The impugned 'Office Order dated 06/10/2020 of the 'Respondent No (1)/the Home Secretary KPK' may kindly be Set-aside and the respondents be strictly directed to allow the appellant to resume his duty/service to complete his statutory period of 'Sixty years' to meet the ends of justice.

- ii) The impugned 'Office Order dated 06/10/2020' of the 'Respondent No (1)/the Home Secretary KPK' regarding the Appellant premature retirement from service is against the Law, hence liable to be set-aside and the appellant shall be promoted to the next higher cadre/post of 'Subedar' as per available Rules at par with other similar employees of the Bajawar Levies.
- iii) The impugned 'Office Order dated 20/03/2017' of the 'Respondent No (4)/the Deputy Commissioner Bajawar' regarding the premature retirement from service of the appellant is unlawful and against the Law, hence liable to be set-aside and the appellant shall be promoted to the next higher cadre/post of 'Subedar' as per available Rules at par with other similar employees of the Bajawar Levies.
- iv) The impugned office order shall be declared null and void as the same is illegal, unlawful, unauthorized, void-ab-initio, without any lawful justification and due to the misrepresentation of the respondents ineffective upon the valuable rights of the appellant and nullity in the eyes of Law. Hence, the appellant shall be promoted with all consequential benefits.
- v) Any other relief deems proper in the circumstances of this case may also be granted in favor of the appellant.

INTERIM RELIEF

That the Appellant has a Good Prima Facie case and the operation of the impugned Office Order dated 06/10/2020 of the Respondent No (1) & 'Office Order dated 20/03/2017' of Respondent No (4) shall be suspended and the appellant shall be allowed to resume his duty.

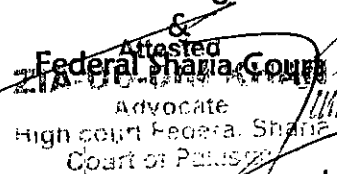
Dated: 20/09/2021


Appellant

Through

Zia-Ud-Din Khan
Advocate High Court

&
Attested
Zia-Ud-Din Khan
Advocate
High court Federal Shari'ah
Court of Pakistan



BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHYUNKHWA PESHAWAR

Service Appeal No. 14546-P/2020

Abdullah Jan

VERSUS

Secretary Home KPK

Affidavit

I, Abdullah Jan Ex-Naib Subedar Regimental No. 2515 Bajawar Levies, Khar Sub-Division District Bajawar Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of this 'Amended Service Appeal' are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court/Tribunal.

AT

DEPONENT

ATTESTED

Identified by
Oath Commissioner/
Notary Public



Annex 'A' (9-11)

9

OFFICE OF THE POLITICAL AGENT/COMMANDANT BAJAUR LEVIES

OFFICE ORDER

No. 3043 /B.L. Dated Khar the 30 /12/2009

In pursuance of the minutes of the meeting of promotion committee held on 16-12-2009 the following promotion are hereby ordered with immediate effect.

S No.	Designation	Name	Regt.No	Promoted as
1.	Havildar	Gul Munir	2491	N/Subedar
2.	Havildar	Abdullah Jan	2515	N/Subedar
3.	Naik	Kashar Khan	2788	Havildar
4.	Naik	Zarif Khan	2792	Havildar
5.	Naik	Mumtaz	2798	Havildar
6.	L/Naik	Wahid Jan	3289	Naik Havildar
7.	L/Naik	Zafar Khan	3308	Naik Havildar
8.	L/Naik	Muhammad Zamin	3312	Naik Havildar
9.	L/Naik	Tariq	3316	Naik Havildar
10.	L/Naik	Wazir Muhammad	3318	Naik Havildar
11.	Sepoy	Abdul Saif	3644	L/Naik
12.	Sepoy	Azizullah	3826	L/Naik
13.	Sepoy	Muhammad Jan	3827	L/Naik
14.	Sepoy	Fazal Raziq	3829	L/Naik
15.	Sepoy	Abdul Hayat	3830	L/Naik
16.	Sepoy	Shukat	3831	L/Naik
17.	Sepoy	Shad Muhammad	3835	L/Naik

The existing seniority of the above personnel will remain intact.

POLITICAL AGENT/COMMANDANT
BAJAUR LEVIES

No. 3044-47 /B.L.

dated Khar the 30 /12/2009

Copy forwarded to:-

- 1- The Asstt Political Agent Khar.
- 2- The Asstt Political Agent Nawagai.
- 3- Subedar Major BAJAUR Levies.
- 4- Nazir BAJAUR Levies.

POLITICAL AGENT/COMMANDANT
BAJAUR LEVIES

Supervisor
Federal Service Bureau
Islamabad

OFFICE OF THE POLITICAL AGENT/COMMANDANT BAJAUR LEVIES

OFFICE ORDER

No. 3043 /BJ.

Dated Khar the 30 /12/2009

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3	Naik	Kashar Khan	2788	Havildar
4	Naik	Zarif Khan	2792	Havildar
5	Naik	Mumtaz	2798	Havildar
6	L/Naik	Wahid Jan	3289	Naik Havildar
7	L/Naik	Zafar Khan	3308	Naik Havildar
8	L/Naik	Muhammad Zamin	3312	Naik Havildar
9	L/Naik	Tariq	3316	Naik Havildar
10	L/Naik	Wazir Muhammad	3318	Naik Havildar
11	Sepoy	Abdul Rauf	3644	L/Naik
12	Sepoy	Azizullah	3826	L/Naik
13	Sepoy	Muhammad Jan	3827	L/Naik
14	Sepoy	Fazal Raziq	3829	L/Naik
15	Sepoy	Abdul Hayat	3830	L/Naik
16	Sepoy	Shaukat	3831	L/Naik
17	Sepoy	Shad Muhammad	3835	L/Naik

The existing seniority of the above personnel will remain intact

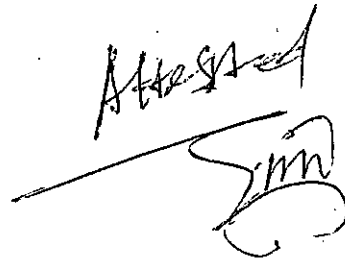
POLITICAL AGENT/COMMANDANT
BAJAUR LEVIES

3044-74/BJ.

Dated Khar the 30 /12/2009

Copy forwarded to:-

- 1- The Asstt: Political Agent Khar
- 2- The Asstt: Political Agent Nawagai
- 3- Subedar Major Bajaur Levels
- 4- Nazar Bajaur Levels.



POLITICAL AGENT/COMMANDANT
BAJAUR LEVIES

(10)

(12)

OFFICE OF THE POLITICAL AGENT/COMMANDANT, BAJAJUR LEVIES.
 SENIORITY LIST OF BAJAJUR LEVIES.
 FINAL SENIORITY LIST OF N/SUBEDAR MAJOR TO L/NAIKS OF BAJAJUR LEVIES AS STOOD ON 31-12-2015.

	N/Subedar						
1.	N/Subedar Bakht Zada	2487	06-11-1984	02-08-2000			
2.	N/Subedar Gul Munir	2491	24-12-1984	20-04-2001	16-4-2005	19-07-2007	18-09-2009
3.	N/Subedar Abullah Jan	2515	18-01-1985	20-04-2001	16-4-2005	19-07-2007	30-12-2009
4.	N/Subedar Nlmat Ullah	2739	11-02-1986	05-12-2001	16-04-2005	19-07-2007	30-12-2009
5.	N/Subedar Said Gul	2953	29-02-1987	04-01-2002	06-12-2005	31-01-2008	31-05-2010
6.	N/Subedar Sher Bahadar	2631	02-08-1985	12-04-2003	30-05-2006	31-01-2008	31-05-2010
7.	N/Subedar Jan Alam	2636	05-08-1985	12-04-2003	30-05-2006	20-03-2008	31-05-2010
8.	N/Subedar Shahbuddin	2645	05-08-1985	12-04-2003	30-05-2006	20-03-2008	31-05-2010
9.	N/Subedar Zigravar	2647	06-08-1985	12-04-2003	30-05-2006	20-03-2008	31-05-2010
10.	N/Subedar Manasib	2650	07-08-1985	12-04-2003	30-05-2006	02-06-2008	31-05-2010
11.	N/Subedar Hayat Khan	2651	31-08-1985	12-04-2003	30-05-2006	02-06-2008	31-05-2010
12.	N/Subedar Bakht Munir	2655	31-08-1985	12-04-2003	30-05-2006	27-02-2009	19-11-2012
13.	N/Subedar Sultan Zeb	2659	31-08-1985	12-04-2003	30-05-2006	27-02-2009	19-11-2012
14.	N/Subedar Muhammad Dostan	2660	31-08-1985	12-04-2003	30-05-2006	27-02-2009	19-11-2012
15.	N/Subedar Abdul Aziz	2689	17-12-1985	12-04-2003	30-05-2006	27-02-2009	19-11-2012
16.	N/Subedar Mumbar Khan	2690	17-12-1985	30-07-2003	30-05-2006	27-02-2009	19-11-2012
17.	N/Subedar Khan Zada	2700	17-12-1985	30-07-2007	20-06-2007	20-05-2009	19-11-2012
18.	N/Subedar Qabil Shah	2710	17-12-1985	30-07-2007	20-06-2007	20-05-2009	19-11-2012
19.	N/Subedar Sohail	2731	06-02-1986	06-09-2003	19-07-2007	20-05-2009	19-11-2012
20.	N/Subedar Zarshad	2714	21-12-1985	06-09-2003	19-07-2007	20-05-2009	19-11-2012
21.	N/Subedar Sheraz-ud-Din	2732	06-02-1986	06-09-2003	19-07-2007	18-09-2009	28-08-2014
22.	N/Subedar Sultan Zeb	2736	10-02-1986	12-02-2004	19-07-2007	18-09-2009	28-08-2014
23.	N/Subedar Ibrahim	2785	09-08-1986	14-06-2004	19-07-2007	18-09-2009	28-08-2014
24.	N/Subedar Zarif	2792	25-08-1986	14-06-2004	29-08-2007	18-09-2009	28-08-2014
25.	N/Subedar Jan Muhamad	2808	31-08-1986	31-08-2004	29-08-2007	30-12-2009	28-08-2014
26.	N/Subedar Hamid Ullah	2815	02-09-1986	27-08-2004	31-01-2008	15-03-2010	28-08-2014
27.	N/Subedar Fazli Rahman	2839	15-11-1986	08-11-2004	31-01-2008	15-03-2010	28-08-2014
28.	N/Subedar Khan Zada	2875	13-01-1987	01-03-2005	31-01-2008	15-03-2010	28-08-2014
29.	N/Subedar Bacha Rahman	2973	04-03-1987	06-04-2005	31-01-2008	15-03-2010	28-08-2014
30.	N/Subedar Anwar Hakim	2994	14-04-1987	03-05-2005	31-01-2008	15-03-2010	28-08-2014
31.	N/Subedar Abdul Jabbar	2999	22-04-1987	03-05-2005	31-01-2008	15-03-2010	28-08-2014

Attached as Annexure.

 Superintendent
 Federal Service Tribunal
 Islamabad

H/c

11

73

32.	N/Subedar Masoom	3000	23-04-1987	03-05-2005	31-01-2008	15-03-2010	28-08-2014
33.	N/Subedar Bacha Khan	3013	05-05-1987	07-05-2005	31-01-2008	15-03-2010	28-08-2014
34.	N/Subedar Niaz Rahman	3019	07-06-1987	30-06-2005	31-01-2008	15-03-2010	28-08-2014
35.	N/Subedar Tawas Khan	3029	08-07-1987	28-07-2005	20-03-2008	15-03-2010	28-08-2014
36.	N/Subedar Muhd Hayan	3031	08-07-1987	28-07-2005	20-03-2008	15-03-2010	28-08-2014
37.	N/Subedar Taza Khan	3033	08-07-1987	28-07-2005	20-03-2008	15-03-2010	28-08-2014
38.	N/Subedar Neer Muhammad	3043	22-07-1987	28-07-2005	02-06-2008	15-03-2010	28-08-2014

559 BL DT=25.5.2016

Copy forwarded to all Concerned for information.

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[Faint stamp]

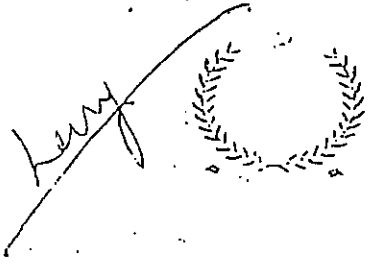
POLITICAL AGENT BAJAUR
Dated Khar The 03/03/2016

POLITICAL AGENT BAJAUR

[Handwritten signature]

Annex- 'B'

(12)



OFFICE OF THE
POLITICAL AGENT, BAJAUR.

No. 397 /BL

Dated Khar The 20/03/2017

OFFICE ORDER.

Consequent upon the recommendation of the Departmental Promotion Committee in its meeting held on 21/02/2017, the following N/Subedars (BPS-11) of Bajaur Levies are hereby promoted as Subedar (BPS-13) on regular basis against the vacant posts in Bajaur levies with immediate effect:-

1. Naib Subedar Said Gul Regt:No. 2953
2. Naib Subedar Sher Bahadar Regt:No. 3631.

POLITICAL AGENT/
COMMANDANT BAJAUR LEVIES.

No. 398-05/BL

Copy is forwarded to:

1. The Deputy Secretary, Representative, SAFRON Division Islamabad.
2. The Section Officer (L & K) Law & Order Department, FATA Secretariat Peshawar.
3. The Assistant Political Agent, Khar.
4. The Assistant Political Agent, Nawagai.
5. The Agency Accounts Officer, Bajaur.
6. The Commander 1-Wing, 2-Wing and 3-Wing, Bajaur Levies.
7. Nazir, Bajaur Levies.
8. Personal Concerned for compliance.

POLITICAL AGENT/
COMMANDANT BAJAUR LEVIES.

9-6-17

Handwritten signature and stamp of the Political Agent, Bajaur Levies.

گدردت صباب پور لکھنؤ ایجنٹ ہا۔ / گڈ ڈزٹ باجوڑ ہونر
عنوان :- درخواست محمد دراندہ اپیل برائے پروموشن

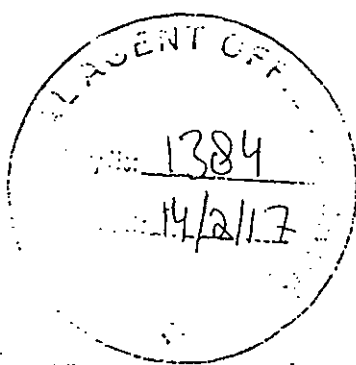
صباب عالی :-
خود بیان گزارش ہے کہ بندہ باجوڑ ہونر گڈت نائب بندہ
ایمانداد اور دیانت داری کے ساتھ رہنا کوشی سرکاری مردے
رہا ہے۔ بندہ کجا ہنوز راج سے مولا ہوا ہے کہ باجوڑ ہونر
سے چند مہینہ دران کے پروموشن فالس پڑی ہے۔ گڈ بندہ
نائب مہینہ در ہے۔ چونکہ بندہ کے پروموشن کے سٹرٹل
پر ہے۔ اور مہینہ در کے پروموشن کے حقدار ہے۔
گڈ ایضا صاحبان مہربانی کر کے بندہ کو نائب مہینہ در سے
پروموشن کرنے کے لئے مہینہ در بنانے کے لئے افکات مہاجر
فرما کر شکور فرمادیں جائے۔

بندہ مگر عبرتاً و دعاً و بیجا

الکاتالوہ ارمات مہینہ در
باجوڑ ہونر
10/2/2017

Supdt (CB)

Procur
as per law



PARB

15/2/17

Waziri
15/2/17
157/2017

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OFFICE OF THE
POLITICAL AGENT, BAJAUR.No. 49 /BLDated Khar The 9/08/2017OFFICE ORDER.

In pursuance of Rules No. 17(Retirement) of Federal Levies Force (Amended) Service Rules 2013, N/Subedar Abdullah Jan(BPS-11) Regt: No. 2515 of Bajaur Levy Force is hereby retired from service on completion of 07-years Rank Tenure as N/Subedar, w.e.f 29.12.2016(A.N), with full pension benefits admissible to him under the rules.

POLITICAL AGENT/ COMMANDANT,
BAJAUR LEVIES.

No. 50-57 /BL

Copy forwarded to:-

1. The Section Officer (L&E) SAFRON, Division Islamabad.
2. The Assistant Political Agent, Khar.
3. The Assistant political Agent, Nawagai.
4. The Section Officer (L&K) Law & Order Department FATA, Secretariat Peshawar.
5. The Agency Account's Office, Bajaur.
6. The Commander 1-Wing, 2-Wing and 3-Wing, Bajaur Levies.
7. Nazer Bajaur Levies.
8. Personal concerned.

For information and necessary action.

POLITICAL AGENT/ COMMANDANT,
BAJAUR LEVIES.

Attested & Signature

Superintendent
Federal Services Tribunal
Islamabad

BETTER COPY

(Annex-C) (14)

**OFFICE OF THE
PLOITICAL AGENT BAJAUR**

Dated Khar the 09/03/2017

No. 49 / BL

OFFICE ORDER:

In pursuance of Rules No. 17 (retirement) of Federal Levies Force (amended) Service Rules; 2013. N/Subedar Andullah Jan (BPS-11) Regt: No. 2515 of Bajaur Levy Force is hereby retired from Service on completion of 07 years 'Rank Tenure' as N/Subedar w. e. f 29/12/2016 (A. N) with full pension benefits admissible to him under the rules.

**PLOITICAL AGENT/COMMANDANT
BAJAUR LEVIES**

No. 50-57/BL

Copy forwarded to:-

1. The Section Officer (LK&D) SAFRON Division Islamabad.
2. The Assistant Political Agent Khar.
3. The Assistant Political Ager. Nawagai.
4. The Section Officer (L&K) Law & Order Department FATA Secretariat Peshawar.
5. The agency accounts Officer Bajaur.
6. The Commandant 1-Wing, 2-Wing and 3-wing Bajaur Levies.
7. The Nazar Bajaur Levies.
8. Personal concerned.

For information and necessary action.

**PLOITICAL AGENT/COMMANDANT
BAJAUR LEVIES**

Order Sheet

IN THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD

Appeal No. 781(P)CS/2017 with MP No. 1446/2017

Abdullah Jan.....Vs.....SAFRON

14.06.2017 BEFORE: Dr. Nazir Saeed and
Raja Hasan Abbas, Members

PRESENT: Mr. Misbah Ullah Khan, Advocate for the appellant.
Nemo for the respondents.

The learned counsel for the appellant has filed MP No. 1446/2017 with the request that the respondents be restrained from passing any adverse order till the final decision of the appeal. A copy of the MP be sent to the respondents for submission of their reply. However, we are issuing direction to the respondents to put up the case of the appellant before the next DPC for consideration of promotion but the order of promotion shall be subject to final decision of this appeal. A copy of this order be sent to the respondents for compliance.

Adjourned to 27.07.2017.

FEDERAL SERVICE TRIBUNAL	
ISLAMABAD	
Application No.	1319/2017
Dated at appeal	14.6.2017
No of Copies	11
Copying fee	1
Urgency fee	2
Total fee	3
Prepared on	15.6.2017
Date of del.	15.6.2017
Checked by	Dr. Nazir Saeed
<small>(Checked please sign)</small>	
Signatures	<i>Dr. Nazir Saeed</i>

ATTESTED
[Signature]
Superintendent
Federal Service Tribunal
Islamabad

sd
MEMBER

sd
MEMBER



Amer

'D' (16/17) (18)

Order Sheet

Federal Service Tribunal, Islamabad.

Appeal No. 742 to 744(P)CS/2018, with MP No. 850 to 852/2018

Abdullah Jan & others Vs. SAFRON

26.09.2018 BEFORE: Mr. Sikander Ismail Khan, and
Mr. Manzoor Ali Khan, Members

PRESENT: Mr. Misbah Ullah Khan, Advocate along with
the appellants
Nemo for respondents

None appeared on behalf of the respondents
Nevertheless respondent No. 3 filed pre-admission
comments on MP No. 850/2018. Copy of the pre-admission
comments from respondents No. 1 & 3 and pre-admission
comments on MP No. 850/2018 are provided to the learned
counsel for the appellant in the court today.

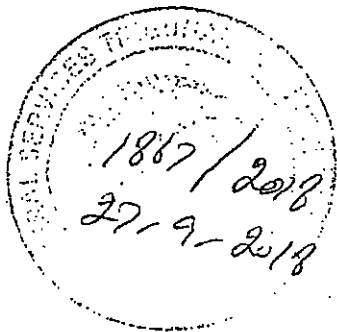
In the interest of justice last and final notice be issued to
the respondent No. 2 to ensure the presence of their counsel
alongwith the pre-admission comments on the next date of
hearing, failing which the case will be decided on the basis of
available record.

Meanwhile, learned counsel for the appellant prayed
that the impugned order may be suspended as requested in
MP No. 850/2018. Considering the request made by the
learned counsel for the appellant in MP No. 850/2018, we
suspend the impugned order dated 09.06.2017 till the final
decision in the said appeals.

To come up on 29.10.2018. A copy of this order be sent
to the parties.

ATTESTED

Assistant
Federal Service Tribunal
Islamabad



Attested
Sim
D

Sd/-
MEMBER

Sd/-
MEMBER



(17)

2

**OFFICE OF THE
DEPUTY COMMISSIONER, BAJAUR**

No. 1421/BL

Dated Khar The 07/10/2018

OFFICE ORDER.

In pursuance of the Federal Service Tribunal Islamabad order dated 26.09.2018 in appeal No. 742 to 744 (P)CS/2018, with MP No. 850 to 852/2018, retirement order of N/Subedar Abdullah Jan Regt: No. 2515 dated 09.06.2017 is hereby held in-abeyance till the final decision in the said appeals.


DEPUTY COMMISSIONER, BAJAUR,
TRIBAL DISTRICT. 3/

No. 1422-30/BL

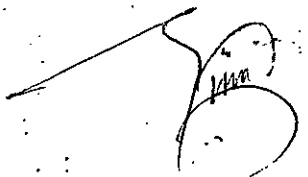
Copy forwarded to:-

1. The Registrar Federal Service Tribunal Islamabad.
2. The Section Officer (L&B) SAFRON Division, Islamabad.
3. The Section Officer (L&K) FATA Secretariat Peshawar.
4. Assistant Commissioner Khar.
5. Assistant Commissioner Nawagai.
6. District Accounts officer Bajaur.
7. Subedar Majors/Commander 1,2 and 3-Wing.
8. Levy Nazir.
9. Personnel concerned

For information and necessary action.


DEPUTY COMMISSIONER, BAJAUR
TRIBAL DISTRICT. 3/

Attested



بخدمت جناب سیکرٹری داخلہ خیبر پختونخوا ایشاور

محکمانہ اپیل برائے نظر ثانی حکم نامہ از محررہ 06/10/2020

جناب عالی :- سائل حسب ذیل عرض رساں ہے۔

1- یہ کہ سائل کا تعلق ضلع باجوڑ سے ہے اور وہ باجوڑ لیویز میں بطور نائب صوبیدار تعینات تھے اور انہیں مورخہ 09/06/2017 کو جبری طور پر ملازمت سے سبکدوش کر دیا گیا۔

2- یہ کہ سائل نے قبل از وقت سبکدوشی فیڈرل سرورسز ٹریبونل اسلام آباد میں اپیل دائر کی اور معزز ٹریبونل نے PA کا حکم محررہ 09/07/2017 کو کالعدم قرار دیتے ہوئے فیصلہ سائل کے حق میں دیدیا۔

3- یہ کہ ٹریبونل نے حتمی فیصلہ صادر فرمایا تھا۔ تاہم بعد ازاں مذکورہ فیصلے کے تناظر میں سائل کو عملدرآمد کیلئے صاحبان کے پاس بھیج دیا گیا تھا۔ جو کہ مورخہ 06/10/2020 کو آپ صاحبان نے خارج کر دیا۔

4- یہ کہ مذکورہ حکم نامہ از محررہ 06/10/2020 سے سائل کے بنیادی حقوق کو غصب کیا

گیا ہے۔

Attended


لہذا استدعا کی جاتی ہے کہ مذکورہ بالا حکم نامہ از محررہ 06/10/2020 پر نظر ثانی کرتے ہوئے سائل کو قانون کے مطابق انصاف فراہم کیا جائے۔

المرقوم 03/11/2020

رضی

سائل سے
عبداللہ جان

نائب صوبیدار (2515) باجوڑ لیویز

رابطہ نمبر 0304-9056156

Attested





Annex - E

20

Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
(Levy & Khassadars Wing)

No.CS(F)/L&K/4-Levy/Appeal/ 2336-38
Dated:06.10.2020

ORDER.

1. Whereas petitioner/ appellant Abdullah Jan was appointed in Bajaur Levy on 29.08.1982 and was retired on 09.06.2017 with effect from 29.12.2016 on completion of 07-years rank tenure as Naib Subedar.

2. And whereas petitioner/ appellant filed 02 number appeals i.e. No.781(P)CS/2017 with MP and No.742(P)CS)2018 dated 26.05.2017 and 18.04.2018, respectively, before the hon'ble Federal Service Tribunal. The same were in process in Home & TAs Department but the petitioner/ appellant did not wait for decision and impleaded in the WP No.3563-P/2019. Peshawar high Court vide order dated 06.02.2020 referred WP No.3563-P/2019 with the direction to the Secretary Home & TAs Department to consider the same as Departmental Appeal and decide it under the law.

3. And whereas, the petitioner/ appellant was granted opportunity of personal hearing on 26.08.2020.

4. And whereas, perusal of the record revealed that the petitioner/ appellant was retired on 09.06.2017 w.e.f 29.02.2016 on completing his rank tenure of 7-years as Naib Subedar per SRO-2016 of Federal Levy Force (Amended) Service Rules-2013, hence, his writ petition and appeals No.781(P)CS/2017 with MP and No.742(P)CS-2018 filed in the hon'ble Federal Service Tribunal are dismissed.

-sd-

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst. No. & date even.

CC to:

1. Registrar, Peshawar High Court, Peshawar
2. District Police Officer, Bajaur Tribal District
3. Deputy Secretary (Judicial), Home & TAs Department, Khyber Pakhtunkhwa

[Signature]
Section Officer (Levy & Khassadars)

m
[Signature]
[Signature]

Annex - (9) (21-9-24)

(21)

(1)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 11923/2020

Entry No. 11105

Aman Ullah S/O Bacha Khan
SHO Police Station Nawagai, District Bajaur, merged Tribal District
Bajaur Erstwhile FATA

Dated 06/10/2020

Appellant

Versus

- 1) Government of Khyber Pakhtunkhwa through the Secretary, Home & Tribal Affairs Department Islamabad
- 2) Inspector General Police, Khyber Pakhtunkhwa,
- 3) Regional Police Officer, Malakand
- 4) District Police Officer Bajaur Tribal District
- 5) District Commissioner Bajaur Tribal District

Respondents

APPEAL US 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 06/10/2020 WHEREBY DEPARTMENTAL APPEAL BEARING NO. CS/ETL&K/4-LEIYAPPEAL/2342-40 OF THE APPELLANT HAS BEEN DISMISSED

PRAYER

Filed to Day Registrar

On acceptance of this service appeal, the impugned order may kindly be set aside and Respondents may graciously be directed to allow the Appellant to complete his sixty years statutory service to meet the ends of justice.

Any other relief which this Hon'ble Tribunal deems appropriate in law, equity, and justice may also be granted to the appellant in the best interest of justice.

Certified to be true copy
[Signature]

Respectfully Submitted as under,

Having been aggrieved from the impugned order dated 06/10/2020 Respondent No.1 in respect of forcible retirement of Appellant on 28/05/2019 against the settled norms and rules, the Appellant compelled to invoke the jurisdiction of this Hon'ble Tribunal because Appellant has no other remedy available except to file the instant appeal

10.2020

Appellant alongwith counsel present arguments heard.

Preliminary

(22) (19)

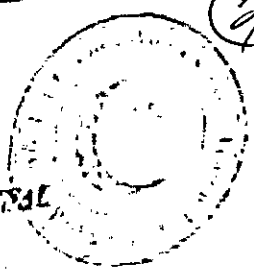
Points raised need consideration. Appeal is admitted to regular hearing. Subject to all just exceptions. The appellant is directed to deposit security and process fee within ten (10) days, thereafter notice be issued to the respondents for submission of written reply/comments on 03.11.2020 before S.B alongwith the appeal. there is an application for suspension of the operation of impugned order dated 06.10.2020. The operation of impugned order dated 06.10.2020 is suspended till the date fixed. Notice of the said application be also given to the respondents.

[Signature]
Member (E)

Certificate to receive copy

[Signature]
Kishore Kumar
Service Through
Postmaster

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Copy sent to	4/c
Total	11/c
Date of Completion of work	15/10/20
Date of Delivery of Copy	15/10/20



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 11319 / 2020

Case No. 11408

Muhammad Jan S/O Bakht Per Jan

Date 13/10/2020

Presently posted as Naib Subidar/ Assistant Sub Inspector (BPS-14)
erstwhile Bajour Khasandar/ Khyber Pakhtunkhwa Police District
Bajaur

.....Appellant

Versus

- 1) Government of Khyber Pakhtunkhwa through the Secretary, Home & Tribal Affairs Department Islamabad
- 2) Inspector General Police, Khyber Pakhtunkhwa.
- 3) Regional Police Officer, Malakand
- 4) District Police Officer Bajaur Tribal District
- 5) District Commissioner Bajaur Tribal District

..... Respondents

APPEAL US 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 06/10/2020 WHEREBY DEPARTMENTAL APPEAL BEARING NO. CS(F)/L&K/4-LEVI/APPEAL/2357-59 OF THE APPELLANT HAS BEEN DISMISSED

PRAYER

Filed to
Registrar

On acceptance of this service appeal, the impugned order may kindly be set aside and Respondents may graciously be directed to allow the Appellants to complete his sixty years statutory service to meet the ends of justice.

Any other relief which this Hon'ble Tribunal deems appropriate in law, equity, and justice may also be granted to the appellant in the best interest of justice.

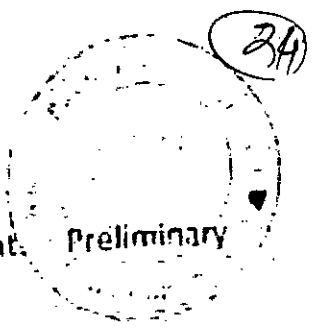
Respectfully Submitted as under,

Having been aggrieved from the impugned order dated 6/10/2020 of

Signature
Khyber Pakhtunkhwa
Service Tribunal
Bajaur

10.2020

Appellant alongwith counsel present arguments heard.






Points raised need consideration. Appeal is admitted to regular hearing. Subject to all just exceptions. The appellant is directed to deposit security and process fee within ten (10) days, thereafter notice be issued to the respondents for submission of written reply comments on 03.11.2020 before S.B alongwith the appeal. there is an application for suspension of the operation of impugned order dated 06.10.2020. The operation of impugned order dated 06.10.2020 is suspended till the date fixed. Notice of the said application be also given to the respondents.

[Signature]
Member (E)

Certified to be true copy
[Signature]
High Court of Madhya Pradesh
Services Tribunal
Lucknow

Date of Receipt of Copy _____ 15/10/20
Number of Pages _____ 200
Copy of _____ 10/10
Pages _____ 11/10
Total _____ 11/10
Date of Completion of _____ 15/10/20
Date of Delivery of Copy _____ 15/10/20

فیت 50	40344			
ایڈوکیٹ: ضیاء الدین خان		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: Be-10-9856				
رابطہ نمبر: 0345-9110368				

بعدالت جناب: جسٹس حسین علی صاحبہ، چیف جسٹس، سروس ۲۰۰۸، سپریم کورٹ، پشاور

منجانب:	دعویٰ:
عبداللہ خان	
بنام	علت نمبر:
سکسٹر سپر ۵۰ حافلہ وغیرہ	
	مورخہ:
	جرم:
	تھانہ:

بابت تحریر آگے

عبداللہ خان

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ مقدمہ میں ضیاء الدین خان کیلئے کیے جانے والے فیصلے کے خلاف اپنی آواز

آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: کہ نوح صبر ۹۵۶۵

المقام: پشاور

نوٹ: اس وکالت نامہ کی فونو کاپی قابل قبول ہوگی۔

Accepted by
ZIA-UD-DIN KHAN
Advocate
High Court Federal Sharia
Court of Pakistan

۵/۱۱/۲۰۲۰

31/01/22

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHYUNKHWA PESHAWAR

C. M. No. _____ -P/2021

In

Service Appeal No. 14546-P/2020

Abdullah Jan

VERSUS

Secretary Home KPK



Put up to the court with relevant appeal.

[Handwritten signature]

23/11/21 APPLICATION FOR EARLY HEARING IN THE ABOVE TITLE CASE

Reader

Respectfully Sheweth;

- 1) That the above titled case has been fixed for hearing dated 31/01/2022 before this Hon'ble Court.
- 2) That the fundamental rights of the applicant/appellant are involved in the above title case and fixation of an early hearing of the title case is most urgent.

It is therefore, most humbly prayed that the above title case may kindly be fixed for an early hearing on the above stated grounds.

Dated: 19/11/2021

Applicant
Through
Zia-Ud-Din Khan
Advocate High Court
&
Federal Sharia Court

[Handwritten signature]

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHYUNKHWA PESHAWAR

C. M. No. _____ -P/2021

In

Service Appeal No. 1454-P/2020

Abdullah Jan

VERSUS

Secretary Home KPK

APPLICATION FOR GRANT OF STAY TO THE EXTENT OF SUSPENSION OF THE OPERATION OF THE IMUNGNEED 'OFFICE ORDER DATED 06/10/2020' & 'OFFICE ORDER DATED 20/03/2017' AND THE APPELLANT SHALL BE ALLOWED TO RESUME HIS DUTY TILL THE FINAL DISPOSAL OF THE INSTANT APPEAL.

Respectfully Sheweth:

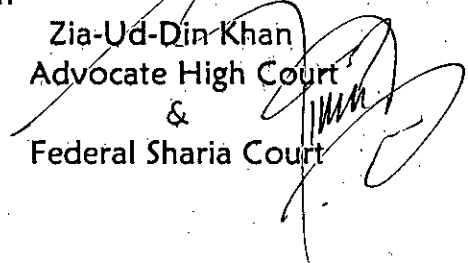
- 1) That the instant Appeal is pending adjudication before this Hon'ble Court/Tribunal which is fixed for hearing dated 31/01/2022.
- 2) That the Hon'ble Court/Tribunal had earlier granted stay to similar nature employees who have been annexed with main appeal. But despite the fact that the present appellant has been deprived of the same relief.
- 3) That the Appellant had the privileged to be allowed to resume his duty as per principles of natural justice and equity and shall be treated at par with other similar nature employee. While, it is also pertinent to mention here that the appellant had earlier hoisted his plea for 'Grant of Stay/Interim Relief' before the Hon'ble Court/Tribunal in the main case. But unfortunately, the Hon'ble Court/Tribunal refused the same.

It is therefore, most humbly prayed that on acceptance of the application in hand and keeping in view the above mentioned facts

the 'Interim Relief' may kindly be granted in the above title case till the final disposal of the instant case.

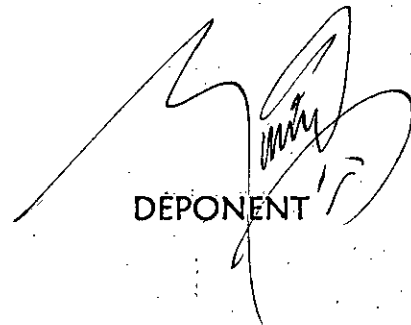
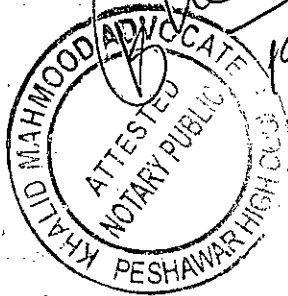
Dated: 19/11/2021

Applicant/Appellant
Through
Zia-Ud-Din Khan
Advocate High Court
&
Federal Sharia Court



Affidavit

Verified on oath that the contents of the 'Application' are true and correct to the best of my knowledge and belief and that nothing has been concealed from the Hon'ble Court.



DEPONENT

OFFICE OF THE
POLITICAL AGENT, BAJAUR.

No. 49/BL

Dated Khar. The 09/06/2017

OFFICE ORDER.

In pursuance of Rules No. 17(Retirement) of Federal Levies Force (Amended) Service Rules 2013, N/Subedar Abdullah Jan(BPS-11) Regt: No. 2515 of Bajaur Levy Force is hereby retired from service on completion of 07-years Rank Tenure as N/Subedar, w.e.f 29.12.2016(A.N), with full pension benefits admissible to him under the rules.

POLITICAL AGENT/ COMMANDANT,
BAJAUR LEVIES.

No. 50-57/BL.

Copy forwarded to:-

1. The Section Officer (Lk&B) SAFRON, Division Islamabad.
2. The Assistant Political Agent, Khar.
3. The Assistant political Agent, Nawagai.
4. The Section Officer (L&K) Law & Order Department FATA, Secretariat Peshawar.
5. The Agency Account's Office, Bajaur.
6. The Commander 1-Wing, 2-Wing and 3-Wing, Bajaur Levies.
7. Nazar Bajaur Levies.
8. Personal concerned.

For information and necessary action.

POLITICAL AGENT/ COMMANDANT,
BAJAUR LEVIES.

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, ISLAMABAD.

Service Appeal No. 14549/2020

Abdullah Jan.....Appellant

Versus

Government of KPK through Secretary Home & Tribal Affairs Department KP and others.....Respondents

INDEX

S.No.	Description of documents	Annexure	Page No.
1.	Statement of Respondent No. 01, 02, 03 & 04	-	01-02
2.	Affidavit	-	03
3.	Authority Letter	-	04
4.	Copy of Notification dated 22.07.2016	A	05-06
5.	Copy of order dated 01.11.2016	B	07
6.	Copy of Judgment dated 23.05.2017	C	08-30
7.	Copy of order dated 07.11.2018	D	31
8.	Copy of order dated 06.10.2020	E	32

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.14549/2020

Abdullah Jan.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa & others.....Respondents.

PARA-WISE COMMENTS BY RESPONDENT NO. 01 to 04.

Respectfully Sheweth:

Preliminary Objections:-

- I. That this honorable Tribunal has no jurisdiction to entertain the present appeal of the appellant.
- II. That the appellant has no locus standi to file the present appeal.
- III. That the appellant has not come to this august Tribunal with clean hands.
- IV. That the present service appeal is not maintainable in its present form.
- V. That the appellant has suppressed and concealed the material facts from this Honorable Tribunal.
- VI. That this service appeal is barred by law & limitations.

ON FACTS:

- 1. Pertain to the service record of the appellant served in Bajaur under the control of the then Political Agent/Commandant Bajaur; hence need no comments.
- 2. Incorrect. In order to ensure availability of fair promotion chances to all ranks, Schedule-IV was further amended on 22.07.2016 by the then Competent Authority i.e. Secretary SAFRON, introducing fixed service tenure for the post of Subedar Major, Subedar and Naib Subedar, thus a way has been paved for promotion to lower rank staff including Havildar, Naik, Lance Naik and Sepoy.
(Copy of Notification dated 22.07.2016 attached as Annexure A)
- 3. Incorrect. The appellant alongwith others filed petition before Peshawar High Court, Mingora Bench Dar Ul Qaza Swat wherein the honorable Court suspended the operation of Schedule-III & IV of the said notification to the extent of the petitioner vide order dated 01.11.2016; hence, the promotion of the appellant alongwith others were deferred till the final decision in the instant case which was dismissed vide judgment dated 23.05.2017, therefore, the appellant was retired from his service on 09.06.2017 with effect from 29.12.2016 by the then Political Agent/Commandant Levy Bajaur.
(Copy of the order and judgment dated 01.11.2016 & 23.05.2017 of Peshawar High Court Mingora Bench Dar Ul Qaza Swat attached as Annexure B & C)
- 4. As per para 03 above. The Federal Service Tribunal, Islamabad suspended the order of Respondent No. 04 pursuance to which the retirement order of the appellant was held in abeyance till the final decision in his instant appeal vide this office order dated 07.11.2018.
(Copy of the order dated 07.11.2018 attached as Annexure D)
- 5. Incorrect. As per para 03 above.

6. Incorrect. As per directions of the Federal Service Tribunal, Islamabad and Peshawar High Court, Peshawar, the departmental appeal of the appellant was considered by the committee of Home Department and dismissed with cogent reasons vide order No. CS(F)/L&K/4-Levy/Appeal/2336-38 dated 06.10.2020; however, it is pertinent to mention that the annexed review application is addressed to the Secretary Interior, KPK Peshawar which is not the relevant authority.

(Copy of order dated 06.10.2020 attached as Annexure E).

7. Incorrect, neither the respondents bypassed of the fundamental rights nor malafide intentions involved. The whole processes are based on facts, rules and natural Justice and according to law.

8. Incorrect, the appellant has got no cause of action to file the instant service appeal and wrongly invoked the jurisdiction of this Tribunal through unsound grounds.

ON GROUNDS:

A. Incorrect. No violation of the fundamental rights of the appellant has been committed; however every case has its own merits and facts.

B. Incorrect. As discussed above, the appellant was afforded an opportunity of personal hearing as per directions of Federal Service Tribunal, Islamabad and Peshawar High Court, Peshawar.

C. Incorrect. The appellant was got retired from his service as per further amended Federal Levy Service Rules, 2013 under S.R.O 936(I)/2016 dated 22.07.2016 Schedule III & IV. The appellant was not retired on his due date of retirement as he was granted with interim relief by the Peshawar High Court, Mingora Bench Dar Ul Qaza Swat; therefore, the appellant was retired from his service on 09.06.2017 with effect from 29.02.2016.

(Copy of the Notification dated 22.07.2016 already attached as Annexure A)

D. Incorrect. Each and every case has its own facts & circumstances. The nature of the present appeal is separate and involves terms and conditions.

E. Incorrect. Each and every case has its own facts & circumstances. The nature of the present appeal is separate and involves service terms and conditions.

F. Incorrect. As per Para C of the grounds.

G. The respondents also seek leave of this honorable Tribunal to rely on additional grounds at the time of arguments/hearing.

PRAYERS:-

Keeping in view the facts and law, it is therefore humbly prayed; that the appeal may kindly be dismissed with cost, please.

Respondent No. 1

Secretary Home & Tribal Affairs Department,
KPK, Peshawar.

J. J. 8/2/2022

Home Secretary,
Khyber Pakhtunkhwa

Respondent No. 2

Inspector General of Police, KPK
Peshawar.

[Handwritten signature]

Respondent No. 3

District Police Officer, Bajaur.

District Police Officer
Bajaur

Respondent No. 4

Deputy Commissioner Bajaur.

[Handwritten signature]

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 14549/2020

Abdullah Jan.....Appellant

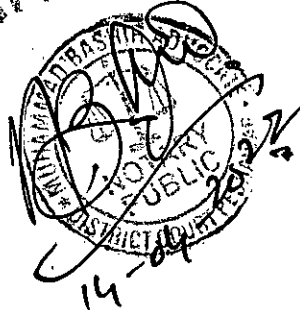
Versus

Government of KPK through Secretary Home & Tribal Affairs & Others.....Respondents

AFFIDAVIT

I, Sajjad Ahmad, Clerk Litigation Section, District Police Office Bajaur CNIC No. 21103-3168120-1 do hereby affirm and declare on oath that the contents of the accompanying comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

ATTESTED



Deponent



04

**OFFICE OF THE
DISTRICT POLICE OFFICER
BAJAUR TRIBAL DISTRICT.**

NO. 1118 /Litigation

Dated 13 / 04 /2022.

AUTHORITY:

Mr. Sajjad Ahamd, Clerk, Litigation Section of this office is hereby authorized to submit written reply/comments in Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 14549/2020 titled as Abdullah Jan Vs Government of Khyber Pakhtunkhwa through Secretary Home & TAS Department, Peshawar & other.


**DISTRICT POLICE OFFICER,
BAJAUR AT KHAR.**

05

45

REGISTERED No. M - 302
L-7646

The Gazette of Pakistan



EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, OCTOBER 4, 2016

PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

MINISTRY OF STATES AND FRONTIER REGIONS

NOTIFICATION

Islamabad, the 22nd July, 2016

S.R.O. 936(I)/2016.—The Competent Authority has been pleased to approve the recommendations of the Anomaly Committee constituted under **Rule-24** of Federal Levies Force (Amended) Service Rules 2013 dated 8th April, 2013 and to further amend schedule-III & IV, Section B of Rule 4(2) and Rule 17(1) as under.

Rule-2(1)

(b) Deputy Secretary Law & Order of Law & Order Department, FATA Secretariat shall be the Commandant in respect of the FATA Secretariat Levies Force as designated vide, **Rule-2(1) (b) S.R.O Statutory Notifications** dated 5th December 2013.

(2979)

[3709(2016)/Ex. Gaz.]

Price : Rs. 2.00

Rule- 17 Retirement

Condonation of any over stay exceeding the prescribed length of service or Age limit shall be allowed on case to case basis with due approval of the competent authority i.e. Secretary SAFRON, in this regard full financial implications shall be worked out and sent to SAFRON Division, and subsequent approval by Finance Division if the over stay was not the fault of the concerned Levy personnel.

Rule- 19

1. The services of Federal Levy force rendered before 2010 in case of FATA and before 2012 in case of PATA, Khyber Pakhtunkhwa/Settled Districts shall be counted as pensionable.

2. Federal Government Employee, Civil Pension Rule will be applicable for all Federal Levy Force Serving in FATA/PATA/Settled Districts of Khyber Pakhtunkhwa.

SCHEDULE III & IV

S. No.	Post/Rank.	For	To be read as
1.	Subedar Major (BS-16)	37 years service or 60 years of age whichever is earlier.	37 years service or 03 years service as Subedar Major or 60 years of age whichever is earlier.
2.	Subedar (BS-13)	35 years service or 60 years of age whichever is earlier.	35 years or 05 years service as Subedar or 60 years of age whichever is earlier.
3.	Naib Subedar (BS-11)	33 years service or 60 years of age whichever is earlier.	33 years service or 07 years service as Naib Subedar or 60 years of age whichever is earlier.

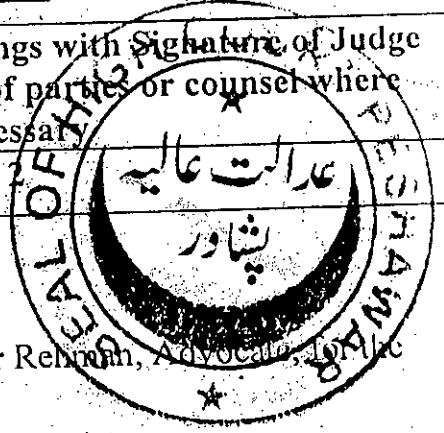
[No.F.10(5)-LK/2005-Pt.]

MUHAMMAD SHEHZAD ARBAB,
Secretary SAFRON.

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET

Date of Order or Proceedings	Order or others Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	
01-11-2016.	<p>WP No.4039-P/2016.</p> <p>Present: Mr. Khalid ur Rehman, Advocate, petitioners.</p> <p>*****</p> <p>The subject matter is pending adjudication by this Court in 'Dar-ul-Qaza' Swat, in writ petition No.500-M/2016. This petition be also sent to Dar-ul-Qaza Swat. Parties are directed to appear before Dar-ul-Qaza Swat on <u>22.11.2016.</u></p> <p><u>Interim relief</u></p> <p>Notice to the respondents for the date fixed. Till then operation schedule-III and IV of the minutes dated 21.07.2016 to the extent of petitioner be kept suspended.</p>



*Sub-BL
Dram
on 11/11/16*

*Swat Valley Afidi - J
Swat Qasr Rashed Khan*

INDEX
PAGE

REGISTRAR GENERAL OFFICE
Dairy No: 9583
Dated: 9/11/16

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorized Under Article 47 of
The Constitution of Pakistan Order 1983

02 NOV 2016

*Neel
22/11/2016*

Gulab Khan.SG/

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 4039-P /2016

1. Mr. Rehmat Gul
Subedar Major No.2783, Bajur Levies, Bajaur Agency
2. Mr. Fazli Rahim
Subedar, No.2324, Bajur Levies, Bajaur Agency
3. Mr. Muhammad Hussain
Subedar No.2565, Bajur Levies, Bajaur Agency
4. Mr. Muhammad Shah
Subedar No.2571, Bajur Levies, Bajaur Agency.
5. Mr. Shah Wali
Subedar No.2162, Bajur Levies, Bajaur Agency
6. Mr. Tor Khan
Subedar No.2646, Bajur Levies, Bajaur Agency.
7. Mr. Muhammad Rehman
Subedar No.2803, Bajur Levies, Bajaur Agency.
8. Mr. Sardar Khan
Subedar No. 2561, Bajur Levies, Bajaur Agency
9. Mr. Salam
Subedar No. 2190, Bajur Levies, Bajaur Agency.
10. Mr. Bakht Zada
Naib Subedar No.2487, Bajur Levies, Bajaur Agency
11. Mr. Abdullah Jan
Naib Subedar No.2515, Bajur Levies, Bajaur Agency.....Petitioners

Versus

1. The Govt. of Pakistan
through Secretary
Ministry of States and Frontier Regions
(SAFRON), Islamabad
2. The Additional Chief Secretary (FATA)
FATA Secretariat, Warsak Road, Peshawar.
3. The Deputy Secretary
Law & Order, FATA Secretariat,
Warsak Road, Peshawar.
4. The Commandant/Political Agent
Bajaur Levies, Bajaur Agency at Khar.....Respondents



Heard
Seen
PA (B)

FILED TODAY
Deputy Registrar
26 OCT 2016

09
(10)

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

W.P No. 4039-P/2016

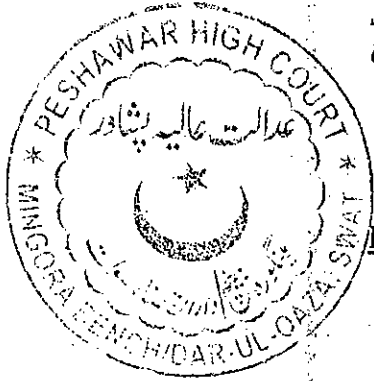
Rehmat Gul and 10 others

(Petitioners)

Versus

*The Government of Pakistan through Secretary Ministry of
States and Frontier Regions (SAFRON), Islamabad and 3
others*

(Respondents)



Present:

Khalid Rehman, Advocate for the petitioners.

*Mr. Hussain Ali, Deputy Attorney
General for the Federal Government.*

*Mr. Sabir Shah, Additional Advocate
General for the Provincial Government.*

Date of hearing: 03.05.2017

Date of announcement: 23.05.2017

JUDGMENT

MUSARRAT HILALI, J.- Vide our detailed
judgment in the connected W.P No. 529-M/
2016, the writ petition in hand is dismissed.

Announced
23.05.2017

Sd. Musarat Hilali
Sd. Abdul Shakoor J

Certified to be true copy

EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Quota-e-Shahadat Order 1984

TajamulPS*

At 27/6

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH / DARUL QAZA



W.P No. 529 of 2016

1. Subedar Major Maqbool Ali Khan son of Muzaffar Ali Khan resident of Jang Bazar Chitral District Chitral.
2. Subedar Sardar Hussain son of Nasrât ud Din resident of Janjaret Koh Drosh Tehsil and District Chitral.
3. Naseerullah Khan Son of Musharraf Khan Resident of Bakar abad Tehsil and District Chitral.

.....Petitioners

VERSUS

1. Government of Pakistan through Secretary SAFRON Civil Secretariat Islamabad.
2. Government of Khyber Pakhtoonkhwa through Secretary Home and Tribal Affairs, Civil Secretariat Peshawar.
3. Deputy Commissioner/ Commandant Chitral Levies, Chitral.

.....Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF
THE ISLAMIC REPUBLIC OF PAKIS TAN, 1973.

Respectfully Submitted:

1. That the petitioners are the residents of Chitral and are serving in Chitral Levies Force as regular employees.
2. That the Levies Force is the component of Federal Levies Force and has been governed and regulated by Provincially Administered Tribal Areas(PATA) Levies Force, 2012 and Provincially Administered Tribal Areas Levies Force Service (Amended) Rules, 2013.

05 SEP 2016

That prior to that, vide notification dated 13.09.2012, Respondent No.2 had promulgated Provincially Administered Tribal Areas (PATA) Levies Force Service Rules, 2012 vide which all the previous rules were repealed and vide Rule.16 of the said rules, the retirement age of all the levies personals was

H
⑤

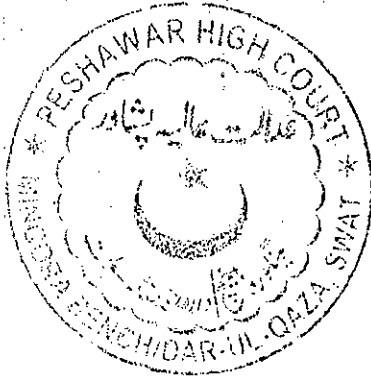
**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

W.P No. 529-M/2016

Subedar Major Maqbool Ali Khan and 2 others
(Petitioners)

Versus

*The Government of Pakistan through Secretary SAFRON
Civil Secretariat Islamabad and 2 others*
(Respondents)



Present:

*M/S Amir Gulab Khan and Rahimullah, Advocates
for the petitioners.*

*Mr. Hussain Ali, Deputy Attorney
General for the Federal Government.*

*Mr. Sabir Shah, Additional Advocate
General for the Provincial Government.*

W.P No. 593-M/2016

Bakht Jehan Mian
(Petitioner)

Versus

*The Government of Pakistan through Secretary SAFRON
Civil Secretariat Islamabad and 2 others*
(Respondents)

Present:

Mr. Sajjad Anwar., Advocate for the petitioner.

*Mr. Hussain Ali, Deputy Attorney
General for the Federal Government.*

*Mr. Sabir Shah, Additional Advocate
General for the Provincial Government.*

21
[Signature]

W.P No. 4039-P/2016

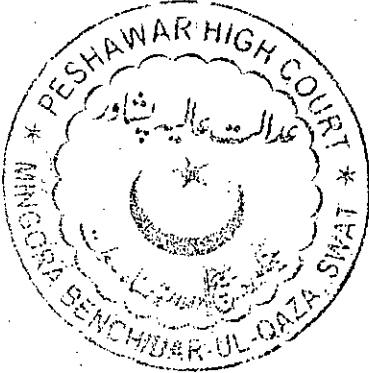
Rehmat Gul and 10 others

(Petitioners)

Versus

The Government of Pakistan through Secretary Ministry of States and Frontier Regions (SAFRON), Islamabad and 3 others

(Respondents)



Present:

Khalid Rehman, Advocate for the petitioners.

Mr. Hussain Ali, Deputy Attorney General for the Federal Government.

Mr. Sabir Shah, Additional Advocate General for the Provincial Government.

W.P No. 280-M/2017

Monasib Khan and one other

(Petitioners)

Versus

Government of Pakistan through Secretary SAFRON Civil Secretariat Islamabad and 3 others

(Respondents)

Present:

Khwaja Salahuddin, Advocate for the petitioners.

Mr. Hussain Ali, Deputy Attorney General for the Federal Government.

Mr. Sabir Shah, Additional Advocate General for the Provincial Government.

W.P No. 281-M/2017

Abdur Rehman

(Petitioner)

Versus

Government of Pakistan through Secretary SAFRON Civil Secretariat Islamabad and 3 others

(Respondents)

Present:

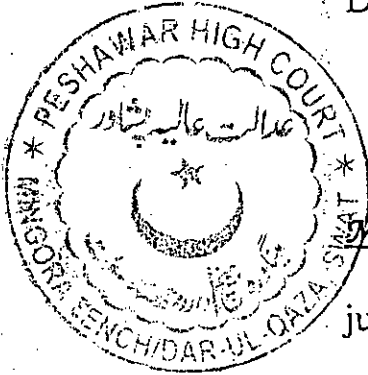
Khwaja Salahuddin, Advocate for the petitioner.

*Mr. Hussain Ali, Deputy Attorney
General for the Federal Government.*

*Mr. Sabir Shah, Additional Advocate
General for the Provincial Government.*

Date of hearing: 03.05.2017

Date of announcement: 23.05.2017



JUDGMENT

MUSARRAT HILALI, J.- Through this single judgment we intend to decide the instant writ petition as well as the connected W.P No. 593-M/2016, W.P No. 4039-P/2016, W.P No. 280-M/2017 and W.P No. 281-M/2017 as identical questions of law and facts are involved in all these petitions.

2. Most of the petitioners in all the writ petitions are Levy employees of various districts of the province of Khyber Pakhtunkhwa whereas some of them belong to Bajaur Agency falling within Federally Administered Tribal Areas (FATA). The petitioners joined the Levies Force as Sepoys. Initially, service of the Force was governed under Dir and Malakand Levies Rules and

Rules of Service for Bajaur Levies both promulgated in 1962. Later on, the Rules of 1962 were repealed and Provincially Administered Tribal Areas (PATA) levies Force Service Rules, 2012 were promulgated for PATA Levies Force vide notification dated 13.09.2012 whereas for FATA Levies Force, the Federal Levies Force (Service) Rules, 2012 were framed and notified vide S.R.O 954(I)/2012 dated 03.08.2012. Under Rule 16 of the *ibid* Rules it was provided that:

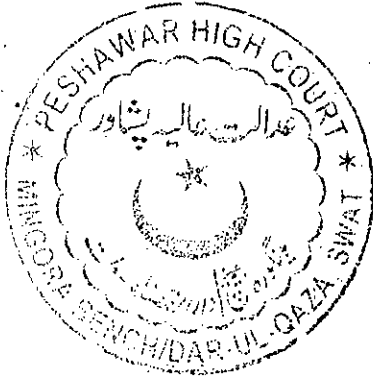
“the Force personnel shall retire from service on attaining the age of superannuation i.e 60 years or he may opt for retirement after 25 years of regular service”.

Thereafter, the Government of Khyber Pakhtunkhwa notified service rules for Levies Force in PATA i.e Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013 vide notification dated 04.02.2013 whereas the Federal Government promulgated Federal Levies Force (Amended) Service Rules, 2013 vide notification S.R.O.580(I)/2013 dated



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08.04.2013. Under Rule 17 of both the mentioned amended rules for PATA and FATA, a new criterion was laid down for retirement of Levies Force under Schedule-III and Schedule-IV for PATA and FATA Levies Force respectively which is reproduced herein below:

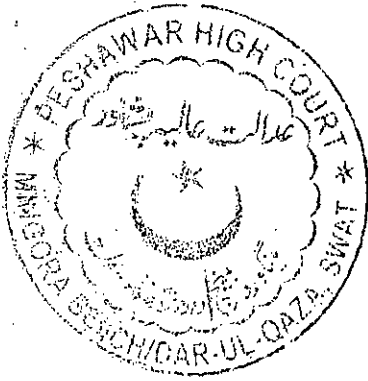


1. Subedar Major: 38 years service or 03 years service as Subedar Major or 60 years age whichever is earlier.
2. Subedar: 35 years service or 03 years service as Subedar or 57 years age whichever is earlier.
3. Naib Subedar: 32 years service or 03 years service as Naib Subedar or 54 years age which ever is earlier.
4. Havaldar: 29 years service or 03 years service as Havaldar or 51 years age whichever is earlier.
5. Naik: 26 years service or 03 years service as Naik or 48 years age.
6. Lance Naik: 23 years service or 03 years service as L/Naik or 45 years age whichever is earlier.
7. Sepoy: 20 years service or 42 years age whichever is earlier.

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3. By means of the subsequent rules, a clog of three years service on the same rank was imposed on the Levies personnel, which according to petitioners, had adversely affected the service career of almost the entire force. Hence, the force members including some of the petitioners filed W.P No. 175-M/2013, W.P No. 141-M/2013 and W.P No. 2124-P/2013 before this Court whereby they challenged the Rules of 2013, however, in the meanwhile the service Rules for PATA Levies Force were once again amended vide notification No. So(Levies)HD/FLW/1-1/2013/ Vol.1 dated 12.12.2013 (Schedule-III) and likewise service rules for FATA Levies Force were amended vide notification No. F.10(5)-LK/2006 dated 05.12.2013 (Schedule-IV). The new criteria for retirement of both Federal and Provincial Levies Force was laid down as under:

1. Subedar Major: 37 years service or 60 years age whichever is earlier.
2. Subedar: 35 years service or 60 years age whichever is earlier.



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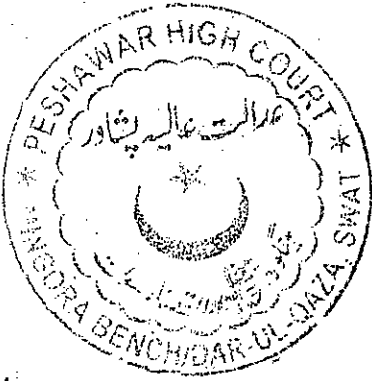
3. Naib Subedar: 33 years service or 60 years age whichever is earlier.
4. Havaldar: 31 years service or 60 years age whichever is earlier.
5. Naik: 29 years service or 60 years age whichever is earlier.
6. Lance Naik: 27 years service or 60 years age whichever is earlier.
7. Sepoy: 25 years service or 60 years age whichever is earlier.



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4. According to assertions of petitioners, the above-mentioned amendment in the rules vide the afore-referred notifications redressed the grievances of the Force personnel and several promotions were made consequent upon the above notifications, hence, the petitioners including other members of the Force withdrew their writ petitions. However, once again the service rules for PATA Levies Force were amended vide notification No. So(Levies)HD/FLW/1-1/2013/Vol.1 dated 25.08.2016 whereas service rules for FATA Levies Force were amended vide notification No. S.R.O.936(I)/2016 dated 04.10.2016. It is noteworthy that the rules were amended only to the extent of Subedar Major, Subedar and

Naib Subedar whereas the criteria for the remaining ranks remained unchanged. The new criteria for retirement of Levies Force vide Schedules-III & IV to the extent of Subedar Major, Subedar and Naib Subedar was set forth as under:



1. Subedar Major: 37 years service or 03 years service as Subedar Major or 60 years age whichever is earlier.
2. Subedar: 35 years service or 05 years service as Subedar or 60 years age whichever is earlier.
3. Naib Subedar: 33 years service or 07 years service as Naib Subedar or 60 years age whichever is earlier.

5. The above amendments in the existing rules have limited the length of service of the petitioners as Subedar Major, Subedar and Naib Subedar, therefore, the petitioners have challenged the same through the instant petition as well as the connected writ petitions which are being decided through this single judgment.

6. Learned counsels for the petitioners, *inter alia*, contended that under

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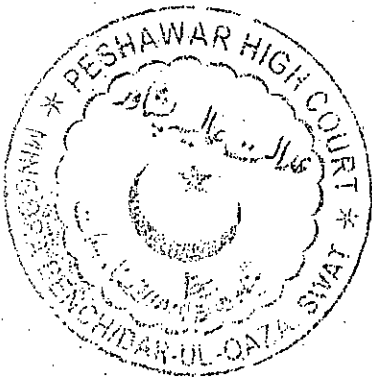
the previous rules, certain rights and privileges had accrued to the petitioners which have been taken away from them vide the impugned amendments in the rules, hence, the same are not applicable to petitioners under Article 264 (c) of the Constitution of the Islamic Republic of Pakistan, 1973. They further contended that in absence of a stipulation to the contrary, any change in law affecting substantive rights will have prospective effect and any insertion and deletion in the service rules cannot operate retrospectively. Learned counsels added that only that law can be given retrospective effect which brings some changes in procedure and no retrospective effect can be given to a substantive law under which certain rights accrue to a person. Learned counsels were of the view that procedure laid down under Section 23 of the General Clauses Act, 1897 has not been followed while making the amendments in the rules and the last amendments so made being in violation of Section 23 of the Act *ibid*, are not legally sustainable. Learned counsels apprehended



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(16)

that the respondents are going to implement the impugned amended Rules retrospectively due to which the petitioners would stand retired retrospectively. Reliance was placed on PLD 2015 SCMR 43, 2005 SCMR 1785, 2013 CLC 839-c, 2012, SCMR 864, 2016 P.Cr.L.J 1302-c, 2016 PLC (CS) 601-f, 2011 PLC (CS) 1623 and 2014 (Peshawar) 210.



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7. As against that learned Deputy Attorney General appearing on behalf of the Federation and learned Additional Advocate General appearing for the Provincial Government while supporting the amendments made in Rules 2016, submitted that the impugned amendments in the rules have been made in the broad interests of the entire force and the rules cannot be held as invalid mere on the ground that the same have adversely effected only a few individuals of the force. They were of the view that the government has full plenary powers to amend or alter any rules with retrospective effect. They placed reliance on 2013 SCMR 314, 2016 SCMR 893, 2015 SCMR 1739, 2005

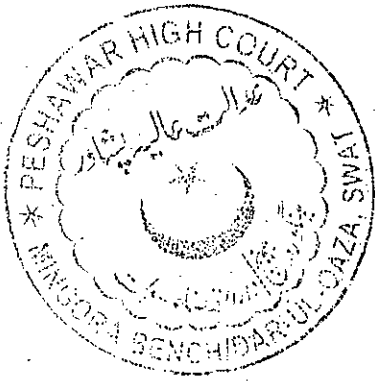
21 (63)

SCMR 186 and PLD 2007 High Court (AJ

&K) I.

8. We have heard arguments of learned counsel for the petitioners and gone through the record in light of their valuable assistance.

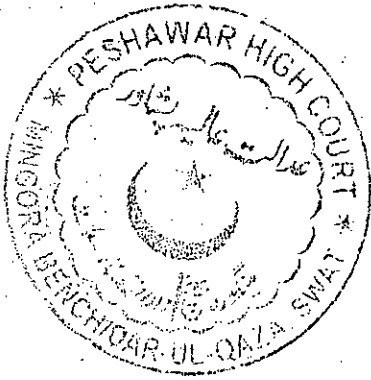
9. In order to appreciate the nature of the controversy posed for our consideration, we may note a few relevant facts. Since its establishment in PATA till 2012, the Levies Force was governed under Dir and Malakand Levies Rules, 1962 also known as Federal Irregular Corps Rules, 1962. The Force has mainly been assigned the task of security in PATA while in some notified areas the Force also conducts investigation in criminal cases. In order to regulate the service of Levies Force in PATA, the Provincially Administered Tribal Areas Levies Force Regulation, 2012 was promulgated on 29.08.2012. Section 9 of the Regulation *ibid* empowers the Provincial Government to frame rules for the purposes, *inter alia*, the conditions of service of Levies Force. For the first time, Provincially



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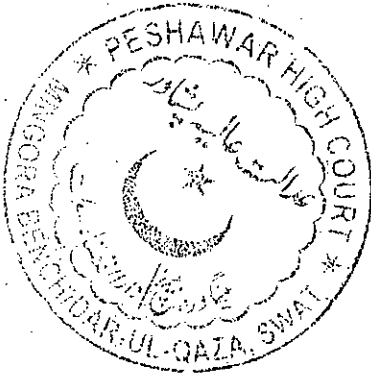
22 (10)

Administered Tribal Areas (PATA) levies Force Service Rules, 2012 were framed under the Regulation promulgated vide notification dated 13.09.2012, as such, the former rules of 1962 were repealed. The main issue which has repeatedly been raised before this Court is with regard to the criteria of retirement of Subedar Major, Subedar and Naib-Subedar laid down in the Rules. Under Section 24 of 2012 Rules an anomaly committee should be set up to consider and correct the anomalies, if any. The first anomaly which was felt in the initial Rules of 2012 was that under Rules 2012 a Subedar Major could hold the said position for unspecified period and there was a minimum chance of promotion of junior members of the Force. Resultantly, a sense of despair and desolation developed amongst majority of the junior members of the Force which prompted the authority to amend the existing Rules of 2012. Hence, the Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013 were promulgated



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vide notification dated 04.02.2013 whereas the Federal Government promulgated Federal Levies Force (Amended) Service Rules, 2013 vide notification S.R.O.580(I)/2013 dated 08.04.2013. Under Rule 17 of both the mentioned amended rules for PATA and FATA, a new criterion was laid down for retirement of Levies Force under Schedule-III and Schedule-IV for PATA and FATA Levies Force respectively which has already been reproduced in the facts of the case.



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10. A bare look at both the criteria i.e before and after the amendment, would reveal that in the pre-amended rules of 2012, every member had the right to continue his service till attaining the age of superannuation i.e 60 years or by giving the option to retire before the age of superannuation but under the amended rules, the option previously given to the Force personnel was withdrawn and a clog of three years for each rank was prescribed before attaining the age of superannuation which was challenged before this Court vide W.P No. 175-M/ 2013, W.P No. 141-M/2013

24 (6)

and W.P No. 2124-P/2013. During the pendency of these writ petitions, once again, the Rules for both PATA and FATA Levies Force were amended vide notification dated 12.12.2013 (Schedule-III) and dated 05.12.2013 (Schedule-IV) respectively wherein the clog of three years service on each rank from top to bottom was removed under the amended Rules. What is frowned upon is that while amending the Rules, no object or reason for the said amendments was given and soon after the amendment the writ petitions pending before this Court were withdrawn. It may be pointed out that the anomaly committee was created to look into the alleged anomalies and make suitable corrections but here the anomaly committee created further anomalies rather than resolving them.

An amendment cannot be made in a manner detrimental to the rights of other employees. The said amendment not only blocked the promotional avenues of the Force personnel but also offended the guaranties enshrined in the Constitution of Islamic



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Republic of Pakistan, 1973 against the discrimination in service. Policies or Rules, the very foundation whereof lies on discrimination, unfairness and inequality obviously will result into despair and agony among the public in general and members of the Force in particular. In the backdrop of the above stated scenario of the Rules, the Anomaly Committee having realized the anomalies and absurdities, further amended the Rules in the year 2016 according to which clog of 3, 5 & 7 years service was prescribed for the ranks of Subedar Major, Subedar and Naib Subedar respectively on the expiry of which they will retire.



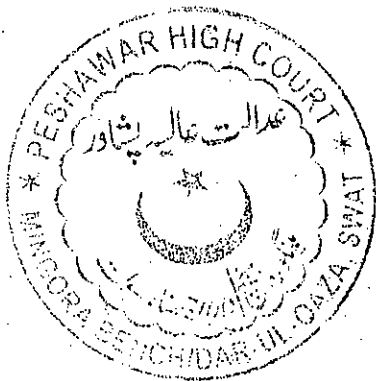
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10. The petitioners herein have not questioned the amended rules on the ground that the same are arbitrary or invalid. Their grievance is that an amendment which affects the accrued rights is presumed to be prospective in operation unless made retrospective either expressly or by necessary intendment.

It is a cardinal principle of construction that every statute prima facie is



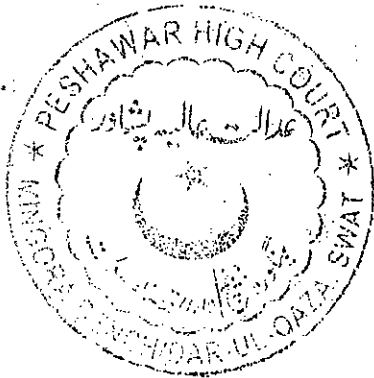
prospective in nature unless it is expressly or by necessary implication made to have retrospective effect, however, where the new law is made to cure an acknowledged evil for the benefit of community as a whole, it is not necessary that express provision be made to make a statute retrospective. It is well settled that if a statute is curative of previous law, retrospective operation is generally intended. After going through the last amendment made in the rules in 2016, this Court came to the conclusion that life was injected to the erstwhile rules and the said rules were brought back to life, hence, the amendment in the rules by necessary implication is retrospective in nature and, therefore, it has to be read in continuation of amendment made in the rules for PATA and FATA Levies Force vide notifications dated 04.02.2013 and 08.04.2013 respectively.



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11. Another contention of learned counsels for the petitioners is that the Rules must be given prospective effect and the same should not be applied retrospectively to the disadvantage of petitioners. Apart from placing reliance on various case laws already noted above, learned

counsels for the petitioners referred to Article 264 of the Constitution of Islamic Republic of Pakistan as well as Section 6 of the General Clauses Act, 1897. For the sake of convenience, Article 264 of the Constitution and Section 6 of the General Clauses Act are reproduced herein below.



264. Effect of repeal of laws. Where a law is repealed, or is deemed to have been repealed, by, under, or by virtue of the Constitution, the repeal shall not, except as otherwise provided in the Constitution,—

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the law or anything duly done or suffered under the law;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.

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Likewise, Section 6 of the General Clauses Act, 1897 lays down that:-

6. Effect of repeal. Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any



enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.



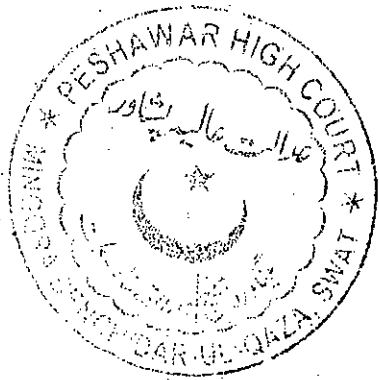
12. The above mentioned article of the Constitution and the provision of the General Clauses Act are of no help to the petitioners as Article 264(c) of the Constitution and Section 6 of the General Clauses Act, 1897 apply to repeal and not to amendment as before us is a case of amendment/ modification in the existing rules. According to the definition given in Oxford dictionary, repeal means to revoke or annul (a law or Act of parliament) whereas "modification" means a change, improvement or refinement. Since, what has been challenged through the instant petitions is "modification"

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in the existing rules, therefore, in our view the law which deals with "repeal" of an Act of the legislature cannot be applied to the present cases wherein the issue raised is related with modification in the existing rules.

13. Facts and circumstances of the cases relied upon by petitioners has no relevance with the present cases on the ground that in determining the nature of the amendment of rules or Act, regard must be had to the substance rather than to the form. The present is the case wherein the petitioners seek continuation of the rules which are person specific and if the desired writ is allowed, the remaining force will remain in wilderness. Even otherwise, enactment of rules and amendments therein is the prerogative of the Government as observed by the august Supreme Court in its judgment titled "Dr. Alyas Qadeer Tahir Vs. Secretary M/O Education Islamabad and others" reported in 2014 SCMR 997. The relevant portion is reproduced herein below.

"For enactment of rules or amendment therein is the prerogative of the Government. It can enact and amend

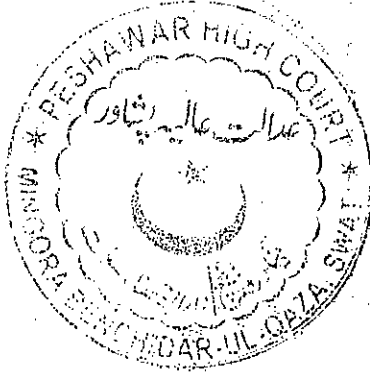


Opinion



the rules according to the needs and exigencies of service. It is not individual but institutional interest or uplift which shapes its service structure”.

14. In light of the forgoing discussion, we see no merits in the writ petition in hand as well as in the connected writ petitions, therefore, the same are hereby dismissed.



Sd. Musarat Hilali-J

Announced
23.05.2017

Sd. Abdul Shakoor
JUDGE

Certified to be true copy



JUDGE

EXAMINER

Peshawar High Court, Minsora/Dar-ul-Qaza, Swat
Authorized under Article 07 of Government of Swat Order 1997

24/8/17

S.No. 4451

Name of Applicant Sd. Musarat Hilali

Date of Presentation of Applicant 24.8.17

Date of Completion of Copies -

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31

OFFICE OF THE
DEPUTY COMMISSIONER, BAJAUR

No. 1421/BL

Dated Khar The 07/10/2018

OFFICE ORDER.

In pursuance of the Federal Service Tribunal Islamabad order dated 26.09.2018 in appeal No. 742 to 744 (P)CS/2018, with MP No. 850 to 852/2018, retirement order of N/Subedar Abdullah Jan Regt: No. 2515 dated 09.06.2017 is hereby held in-abeyance till the final decision in the said appeals.

DEPUTY COMMISSIONER, BAJAUR,
TRIBAL DISTRICT.

No. 1422-30/BL

Copy forwarded to:-

1. The Registrar Federal Service Tribunal Islamabad.
2. The Section Officer (L&B) SAFRON Division, Islamabad.
3. The Section Officer (L&K) FATA Secretariat Peshawar.
4. Assistant Commissioner Khar.
5. Assistant Commissioner Nawagal.
6. District Accounts officer Bajaur.
7. Subedar Majors/Commander 1,2 and 3-Wing.
8. Levy Nazir.
9. Personnel concerned

For information and necessary action.

DEPUTY COMMISSIONER, BAJAUR
TRIBAL DISTRICT.

Accepted



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
(Levy & Khassadars Wing)

32

No.CS(F)/L&K/4-Levy/Appeal/ 2336-38
Dated:06.10.2020

ORDER.

1. Whereas petitioner/ appellant Abdullah Jan was appointed in Bajaur Levy on 29.08.1982 and was retired on 09.06.2017 with effect from 29.12.2016 on completion of 07-years rank tenure as Naib Subedar.
2. And whereas petitioner/ appellant filed 02 number appeals i.e. No.781(P)CS/2017 with MP and No.742(P)CS/2018 dated 26.05.2017 and 18.04.2018, respectively, before the hon'ble Federal Service Tribunal. The same were in process in Home & TAs Department but the petitioner/ appellant did not wait for decision and impleaded in the WP No.3563-P/2019 Peshawar high Court vide order dated 06.02.2020 referred WP No.3563-P/2019 with the direction to the Secretary Home & TAs Department to consider the same as Departmental Appeal and decide it under the law.
3. And whereas, the petitioner/ appellant was granted opportunity of personal hearing on 26.08.2020.
4. And whereas, perusal of the record revealed that the petitioner/ appellant was retired on 09.06.2017 w.e.f 29.02.2016 on completing his rank tenure of 7-years as Naib Subedar per SRO-2016 of Federal Levy Force (Amended) Service Rules-2013, hence, his writ petition and appeals No.781(P)CS/2017 with MP and No.742(P)CS-2018 filed in the hon'ble Federal Service Tribunal are dismissed.

-sd-

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst. No. & date even.

CC to:

1. Registrar, Peshawar High Court, Peshawar
2. District Police Officer, Bajaur Tribal District
3. Deputy Secretary (Judicial), Home & TAs Department, Khyber Pakhtunkhwa

Section Officer (Levy & Khassadars)

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Attested