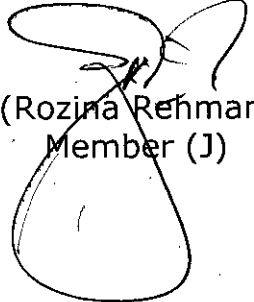



ORDER  
17.05.2022

Nemo for the appellant. Mr. Noor Zaman Khattak, District Attorney for the present.

The appeal in hand was called on for hearing after various intervals, however none appeared on behalf of the appellant till the closing time, therefore, the appeal in hand stands dismissed in default. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
17.05.2022

  
(Rozina Rehman)  
Member (J)

  
(Salah-ud-Din)  
Member (J)

25.04.2022

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Appellant stated at the bar that other service appeals of similar nature are pending adjudication before this Tribunal and require to be disposed of by same bench, therefore, the appeal may be adjourned so as to enable him to do the needful for the same. Adjourned. To come up for arguments on 17.05.2022 before the D.B.



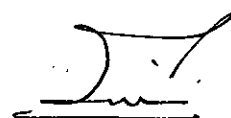
(Rozina Rehman)  
Member (J)



(Salah-Ud-Din)  
Member (J)

19.11.2021

Appellant alongwith his counsel present. Mr. Sajjad Ahmed, Junior Clerk alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present and sought time for submission of reply/comments. Last opportunity given. To come up for submission of reply/comments before the S.B on 10.01.2022.



(Salah-Ud-Din)  
Member (J)

10.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Sajjad Ahmed, Junior Clerk for respondents present.

Reply/comments on behalf of respondents are still awaited. Representative of respondents sought time for submission of reply/comments. Another last opportunity is granted to respondents to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 25.04.2022.




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

05.04.2021

Nemo for appellant..

Security and process fee not deposit. Notice be issued to appellant to deposit security and process fee. To come up on 12.07.2021 before S.B.

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

12.07.2021

Counsel for the appellant present and submitted an application for extension of time to deposit security and process fee. Appellant is required to deposit security and process fee within 03 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 through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 19.11.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

12/7/21

  
Chairman

11.01.2021

Mr. Zia-ud-Din Khan, Advocate, for appellant is present.

The arguments of the learned counsel representing appellant circumambulated around the factum that by virtue of introduction of certain amendments in the relevant rules on the one hand and a policy of bias and favouritism on the other resulted into infringement of his right to promotion and his premature retirement due to reduction into the age limit of three categories of services i.e Subedar Major, Subedar and Naib Subedar by keeping at bay the rest of respondents at bay, bringing the matter into the notice of Federal Service Tribunal. Later on he exhausted his departmental remedy which did not yield positively hence, the present service appeal.

The point so agitated at the bar needs consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 05.04.2021 before S.B.

(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

11.01.2021

Mr. Zia-ud-Din Khan, Advocate, for appellant is present.

AG for respondents present

arguments on behalf of

learned Additional Advocate General

contact the respondent and facilitate

respondents to come up with



02.07.2021 before S.B.

(Signature)  
MEMBER (JUDICIAL)

FORM OF ORDER SHEET

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

Case No.- 15289 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/11/2020	<p>The appeal of Mr. Jan Alam resubmitted today by Mr. Ziauddin 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>11/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHYUNKHWA PESHAWAR

Service Appeal No. \_\_\_\_\_-P/2020

Jan Alam

VERSUS

Secretary Home KPK

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4	Copy of Retirement Order 14/06/2017 along with Suspension Order Dated 07/11/2018	<u>B</u>	13 - 14
5	Copy of impugned Office Order dated 03/11/2020 along with FST disposal order 10/11/2020	<u>C</u>	15 - 18
6	Copy of Suspension Orders dated 15/10/2020	<u>D</u>	19 - 22
7	Wakalat-Nama		23

Dated: 27/11/2020

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-1 Hayatabad Township Peshawar City, Khyber Pakhtunkhwa Province the Islamic Republic of Pakistan.

Cell. No. 0345-9110368/0303-5893180

E-mail: Ziakhan\_12@yahoo.com

(2)

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHYUNKHWA PESHAWAR

Service Appeal No. 15289 -P/2020

Khyber Pakhtunkhwa  
Service Tribunal

Jan Alam Ex-Naib Subedar Regimental No. 2636 Bajawar Levies,  
Khar Sub-Division District Bajawar Khyber Pakhtunkhwa.

Diary No. 15781

Dated 30-11-2020

[Appellant]

VERSUS

- 1) The Secretary Home & Tribal Affairs Department Peshawar, Central Civil Secretariat Peshawar Khyber Pakhtunkhwa.
- 2) The Inspector General of Police Khyber Pakhtunkhwa, 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]

.....

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUDGNEED OFFICE ORDER DATED 06/10/2020 WHEREBY THE DEPARTMENTAL APPEAL BEARING NO. CS (F)/L & K/4-LEVY/APPEAL /2548-52, DATED 03/11/2020 OF THE APPELLANT REGARDING HIS DEPARTMENTAL PROMOTION HAS BEEN DISMISSED.**

*Respectfully Sheweth;*

Filed to-day

**BRIEF FACTS**

Registrar

30/11/2020

- 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 to the post of L/Naik & N/Subedar keeping in view his exceptional and gleaming service record.

Re-submitted to-day  
and filed.

Registrar

30/11/2020

- 2) It is pertinent to mention here that the Respondents made alterations/amendments in the '**Federal Levies Force (Services) Rules 2012**' frequently 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 (4)/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  
bias, favoritism and nepotism promoted 'juniors' to the next higher  
cadre/post of 'Subedar' while the present appellant has been declared  
'retired premature' in reference to the 'Federal Levies Force (Amended)  
Rules 2013' with their malafide intention. It is also important to  
mention here that the other N/Subedar's who have been promoted to  
the next higher cadre of Subedar were placed junior to the appellant in  
the 'Final Seniority List'.

{Copy of Departmental Appeal along with Final List of Seniority  
annexed Annexure- A}

- 4) The Appellant is entitled for his due promotion against the post of  
'Subedar' but unfortunately, the respondents promoted his juniors and  
the appellant has been left at his own fate. Consequently, the appellant  
finally defy the same illegal and unlawful promotion order of the  
respondents before the worthy 'Federal Service Tribunal', wherein the  
worthy FST suspended the order of the 'Respondent No (4)/the  
Deputy Commissioner Bajawar' regarding the 'premature retirement' of  
the appellant dated 14/06/2017.

{Copy of Retirement Order 14/06/2017 along with Suspension Order  
Dated 07/11/2018 annexure- B}

- 5) It is further averred 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 by the Respondent No (4)/the Deputy Commissioner Bajawar  
dated 31/12/2015.
- 6) That the rejection of the 'Departmental Appeal' of the appellant by the  
Respondent No (1)/the Home Secretary Khyber Pakhtunkhwa is not  
only illegal, biased, unlawful and un-authoritative but very astonishing

as well. It is very much clear from the order/judgment of the worthy Federal Service Tribunal that the appellant had the fundamental right of promotion to the next higher rank of Subedar. But unfortunately, due to incompetent, inefficient and non-professionalism of the respondents, the appellant haven't been considered till date.

- 7) That the act of the Respondents 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'.

- 8) It is pertinent to mention here that more than 'Eight Years' are still remaining in completion of the appellant age of superannuation. Hence, 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 S**

- A) That the impugned 'Office Order' issued by the 'Respondent No (1)/the Home Secretary Khyber Pakhtunkhwa' against the appellant whereby the 'Departmental Appeal' 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 impugned Office Order dated 03/11/2020 along with FST disposal order 10/11/2020 annexed Annexure- C}

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

(6)

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- D}

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 JUDGE' 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 Appeal in hand;

i) The impugned 'Office Order dated 03/11/2020' of the 'Respondent No (1)/the Home Secretary Khyber Pakhtunkhwa' may kindly be Set-aside and the respondents be strictly directed to allow the

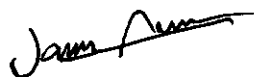
appellant to resume his duty/service to complete his statutory period of 'Sixty years' to meet the ends of justice.

- ii) The impugned 'Office Order dated 03/11/2020' of the 'Respondent No (1)/the Home Secretary Khyber Pakhtunkhwa' regarding the premature retirement of the appellant 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 Bajawar Levies.
- iii) 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.
- iv) 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 03/11/2020 of the 'Respondent No (1)/the Home Secretary Khyber Pakhtunkhwa' shall be suspended till the final disposal of the instant appeal.

Dated: 27/11/2020

  
 Appellant  
 Through  
 Zia-Ud-Din Khan  
 Advocate High Court  
 &  
 Federal Sharia Court  
**ZIA-UD-DIN KHAN**  
 Advocate  
 High court Federal Sharia  
 Court of Pakistan

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHYUNKHWA PESHAWAR

Service Appeal No. \_\_\_\_\_ -P/2020

Jan Alam

VERSUS

Secretary Home KPK

Affidavit

I, Jan Alam Ex-Naib Subedar Regimental No. 2636 Bajawar Levies, Khar Sub-Division District Bajawar Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of this 'Service Appeal' are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal/Court.

*Jan Alam*

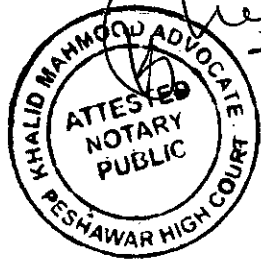
DEPONENT

Identified by

Oath Commissioner/

Notary Public

*Jan Alam*  
20/11/20



Annex-'A' (9-17)

9

بخدمت جناب سیکرٹری لاء اینڈ آرڈر فاٹا سیکرٹریٹ

عنوان: درخواست برائے پروموشن

جناب عالی!

مودبانہ گزارش ہے سائل نے 7.8.1985 اور 5.8.1985 کو لیویز فورس جوائن کیا شروع دن سے یہی سائل نے نہایت ددیانداری اور ایمانداری سے فرائض سرانجام دے رہا ہے۔ سائل کی ایمانداری کو دیکھ کر اعلیٰ افسران نے سائل کی شخصیت نائب صوبیدار پر موٹ کیا اور اب بھی نائب صوبیدار پوسٹ پر ڈیوٹی سرانجام دے رہے ہیں۔ یہ کہ سیکرٹریٹ نے 4.10.2016 کو نوٹیفیکیشن نمبر SRO.936(1)/2016 جاری کیا جس کے تحت مندرجہ ذیل کیٹیگریز میں ترمیم کیا گیا۔

۱۔ صوبیدار میجر ۲۔ صوبیدار ۳۔ نائب صوبیدار

یہ کہ بمورخہ 4.10.2016 سے سائل بطور صوبیدار پوسٹ کیلئے حق دار تھا لیکن تا حال سائل کو پروموشن نہ کیا گیا۔ کیونکہ مندرجہ بالا نوٹیفیکیشن کو پشاور ہائی کورٹ میٹروپولیٹن میں چیلنج کیا جانے لگا۔ جو کہ فاضل عدالت نے ریٹ پٹیشن (Stay Order) خارج کر کے احکامات جاری کر دیں۔ نقل حکم عدالت 23.5.2017 لف ہے۔ یہ کہ فاضل عدالت کے فیصلہ آنے کے بعد بھی سائل کو نہ پروموشن کیا جا رہا ہے اور نہ ہی ان بندوں کو ریٹائر کیا جا رہا ہے جو کہ صوبیدار کے پوسٹ پر پہلے سے کام کر رہے ہیں۔

یہ کہ سائل 30.5.2017 کو ریٹائر ہو رہے ہیں اور سائل کو اپنی پروموشن سے محروم کیا جا رہا ہے جو کہ سراسر ظلم اور زیادتی ہے۔ آپ صاحبان سے درخواست کی جاتی ہے کہ جن صوبیدار/صوبیدار میجر/نائب صوبیدار کی (Stay Order) خارج کیا جا چکا ہے ان کو فارغ کر کے ہماری پروموشن کی احکامات جاری فرمائیں۔

العارضو مننا

مناسب خان نائب صوبیدار رجسٹر نمبر: 2650

جہان عام نائب صوبیدار رجسٹر نمبر: 2636

بمورخہ: 30-05-2017

ATTESTED

wp2581-17-Manasib-khan-vs-secty-SAFRON-full

کرمت صاحب PA صاحب باجوڑ کی

عنوان: درخواست برائے پرورش صوبیدری باجوڑ لیون

ضابطہ عالی کے تحت تیار ہے جس میں ذیل باجوڑ لیون صوبیدران کو درجہ 29 ویں  
2017 کے نوکری سے ریٹائرڈ ہونے والے تھے۔  
صادر ہوا۔

عدالت ہائی کورٹ دارالقضا سے آیت بیفہ سے گورڈر  
آجفاج ہے۔ جس کا پورا درخواست کیا تو کافی ہے۔  
صادر ہوا۔ پرورش صوبیدری ہمارا حق ہے۔

اگدر آپ صاحبان میرا بی بی رکتہ بی بی و اپنا حق  
پرورش دینے کا حکم صادر فرمائی جائے۔

31-05-2017

عینہ نواز شاہ پتو

Supdt UBI

2636 صوبیدر جامعہ عالم رحمان

ایمان خاں

2650 منہ  
مناسبات خان

Pravin  
as per form

31/5/17


Attested  
[Signature]

ATTESTED  
[Signature]



OFFICE OF THE POLITICAL AGENT/COMMANDANT, BAJAUR LEVIES.  
SENIORITY LIST OF BAJAUR LEVIES.  
FINAL SENIORITY LIST OF N/SUBEDAR MAJOR TO L/NAIKS OF BAJAUR 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 Niamat 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	20-06-2007	20-05-2009	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	19-07-2007	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	18-09-2009	28-08-2014
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	29-08-2007	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	31-01-2008	15-03-2010	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

Attested as Annexure  
  
Superintendent  
Federal Service Tribunal  
Islamabad

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

No 559 /BL DT=25.5.2016

Copy forwarded to all Concerned for information.

POLITICAL AGENT, BAJAUR

Dated Khar The /05/2016.

POLITICAL AGENT, BAJAUR

Attested as Annexure

Superintendent  
Federal Service Tribunal  
Islamabad

OFFICE OF THE  
POLITICAL AGENT, BAJAUR.

No. 88 /BL

Dated Khar The 14/06/2017

OFFICE ORDER:

In pursuance of Rules No. 17(Retirement) of Federal Levy Force (Amended) Service Rules 2013, the following N/Subedars (BPS-11) of Bajaur Levy Force are hereby retired from their services on completion of 07-years Rank Tenure as N/Subedar, w.e.f 30.05.2017(A.N), with full pension benefits admissible to them under the rules.

1. N/Subedar Jan Alam
2. N/Subedar Munasib Khan

Regt: No. 2636  
Regt No. 2650

POLITICAL AGENT/ COMMANDANT,  
BAJAUR LEVIES.

No. 89 - 96 /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.

Attested  
**ZIA-UD-DIN KHAN**  
Advocate  
High Court Federal Shari'a  
Court of Pakistan

For information and necessary action.

POLITICAL AGENT/ COMMANDANT,  
BAJAUR LEVIES.



14

**OFFICE OF THE  
DEPUTY COMMISSIONER, BAJAUR.**

No. 1431/BL

Dated Khar The 07/10/2018

**OFFICE ORDER.**

In pursuance of the Federal Service Tribunal Islamabad corrigendum order dated 17.10.2018 in appeal No. 742 to 744 (P)CS/2018, with MP No. 850 to 852/2018, retirement order of the following N/Subedars dated 14.06.2017 is hereby held in-abeyance subject to the final decision in the said appeals. ✓

1. N/Subedar Jan Alam Regt: No. 2636. ✓
2. N/Subedar Munasib Khan Regt: No. 2650 ✓

DEPUTY COMMISSIONER, BAJAUR,  
TRIBAL DISTRICT. 36

No. 1432-40/BL

Copy forwarded to:-

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

Attested  
**ZIA-UD-DIN KHAN**  
Advocate  
High court Federal Shajia  
Court of Pakistan

For information and necessary action.

DEPUTY COMMISSIONER, BAJAUR  
TRIBAL DISTRICT. 36



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

No. CS(F)/L&K/4-Levy/Appeal/ 2548-52

Dated: 03.11.2020

ORDER.

1. Whereas, appellant Jan Alam Khan was appointed against post of Sepoy on 05.08.1985 in Bajaur Tribal District and lastly promoted to the rank of Naib Subedar (BS-11) on 31.05.2010. In pursuance of Rule-17 of Federal Levy Force (Amended) Service Rules 2013 amended vide SRO No 936(I)/2016 dated 20.10.2016, appellant was retired from service vide Political Agent/Commandant Bajaur Levies Force vide office order No.88/BL dated 14.06.2017 w.e.f 30.05.2017 on completion of rank tenure of 07-years as Naib Subedar.
2. And whereas, appellant had challenged SRO. 936(I)/2016 in Peshawar High Court (Mingora Bench) in writ petition No.280-M/2017, which was dismissed vide judgment dated 23.05.2017. Appellant filed the instant appeal before Hon'ble Federal Service Tribunal and requested to set aside the impugned order of Political Agent Bajaur dated 14.06.2017 by reinstating his service with all back Benefits.
3. And whereas, appellant was called for hearing before the Committee on 20.10.2020 and was heard in person, the record of the case perused.
4. And whereas, Federal Service Tribunal vide judgment dated 04.12.2019 remanded Appeals/Misc. Petitions/Review petitions to the Competent Authority to treat it as Departmental Appeals and decide afresh after giving the appellant opportunity of personal hearing.
5. And whereas, after merger of erstwhile FATA with Khyber Pakhtunkhwa the Home & Tribal Affairs, Department, Khyber Pakhtunkhwa has been entrusted with the affairs of the Levies & Khassadars.
6. And whereas, appellant argued that he was lastly promoted to the rank of N/Subedar on 31.05.2010 and under SRO No 936(I)/2016, his services were curtailed and had been retired prematurely. Appellant further contended that he had not been promoted to next rank despite the fact that vacancy was available.
7. And whereas, appellant was Federal Levy Force personnel of Bajaur Tribal district and his services were governed under Federal Levy Force (Amended) Service Rules 2013. By virtue of Clause-10 of Levy Regulation 2012 the Federal Government after realizing the despair and agony of personnel of Levy Force in Erstwhile FATA, bring amendments vide SRO 936(I)/2016 in the best interest of the Force Personnel. The following three tiers of retirement criterion reintroduce as per SRO stated above:

*Assessed*  
*[Signature]*

Subedar Major: 37 years' service or 03 Years as Subedar Major or 60 Years of Age whichever is earlier.

Subedar: 35 years' service or 05 Years as Subedar or 60 Years of Age whichever is earlier.

Naib Subedar: 33 years' service or 07 Years as Naib Subedar or 60 Years of Age whichever is earlier.

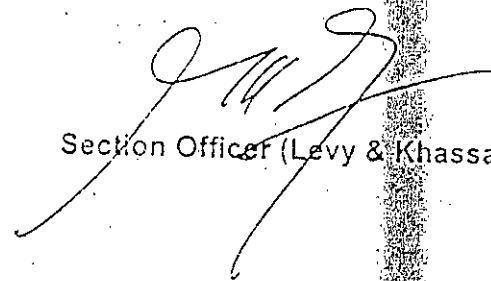
8. And whereas, at the time of retirement of appellant there was no vacant post of Subedar BS-13 in Bajaur Levy Force hence he could not promote.

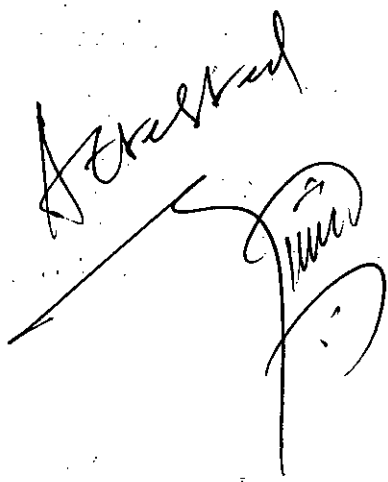
9. Now therefore, the appellant has completed service tenure of 07 years as Naib Subedar on 30.05.2017 under Rule-17 of Federal Levy Force (Amended) Service Rules 2013 Amended vide SRO 936(I)/2016, hence found no illegality in the order dated 14.06.2017 issued by Political Agent Bajaur, therefore upheld and the appeal is dismissed.

Secretary  
to Government of Khyber Pakhtunkhwa  
Home & Tribal Affairs Department

Endst. No. & date even.  
CC to:

1. Registrar, Federal Service Tribunal, 47-Attaturk Avenue, Sector G-5/2, Islamabad.
2. Deputy Commissioner, Bajaur Tribal District.
3. District Police Officer, Bajaur Tribal District.
4. Deputy Secretary (Judicial), Home & TAs Department, Khyber Pakhtunkhwa

  
Section Officer (Levy & Khassadars)



(17)

IN THE FEDERAL SERVICE TRIBUNAL, 47-ATTATURK AVENUE,  
SECTOR. G-5/2, ISLAMABAD.

\*\*\*\*\*

D. No. 5884

Dated 12 NOV 2020

Subject:- ORDER PASSED IN MISC. PETITION NO. 557/2020 IN  
APPEAL NO. 744(P)CS-2018 FILED BY MR. JAN ALAM KHAN VS  
SAFRON ETC.

A certified copy of the order passed by this Honourable Tribunal in the Misc. Petition noted in the subject is sent herewith for your information/compliance.

By Order

  
REGISTRAR

To,

1. Mr. Jan Alam Khan S/o Mashoq Khan, R/o Mir Afzal Khan Labour Colony Asar Khan S/o Mashoq Khan, Quarter No.07, District Mardan, Khyber Pakhtunkhwa.
2. The Secretary, State & Frontier Region (SAFRON), Islamabad.
3. The Secretary, Law & Order, Governor's Secretariat, Peshawar.
4. The Political Agent/Commandant, Bajaur Levies, Bajaur Agency at Khar.
5. The Secretary, Establishment Division, Government of Pakistan, Islamabad.
6. The Solicitor, Law & Justice Division, Islamabad.

**Federal Service Tribunal, Islamabad.**

MPs No. 557/2020

In

Appeal No. 744(P)CS/2018

Jan Alam Khan Vs SAFRON

10.11.2020 BEFORE: **Mr. Muhammad Jahangir Mir, and  
Mr. Muhammad Humayun, Members.**

PRESENT: Mr. Misbah Ullah Khan, Advocate for the  
petitioner/appellant  
Syed Muhammad Raza, Learned Assistant Attorney  
General, for the respondents with Sajjad Ahmad, Legal  
Clerk, District DPO, Bajour as DRs.

\*\*\*\*\*

**ORDER**

**Muhammad Jahangir Mir, Member:**

The departmental representative has submitted a copy of the order dated 03.11.2020 stating therein that matter of the petitioner/appellant has been decided and dismissed by the competent authority. The judgment of this Tribunal has since been implemented, a copy of the same has been provided to the petitioner/appellant in the court today.

However, petitioner/appellant is reserving the right to challenge the said order, before the competent legal forum.

Therefore, the instant MP No. 557/2020 is disposed of accordingly.

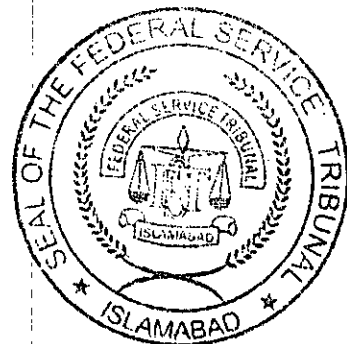
Parties be informed.

Sd/-  
MEMBER

Sd/-  
MEMBER

CERTIFIED TRUE COPY

Registrar  
Federal Service Tribunal  
Islamabad

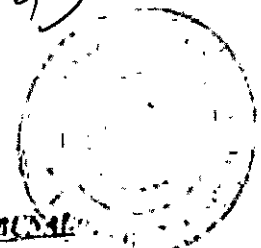




Annex-D' (19-22)

19

(1)



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Khyber Pakhtunkhwa Service Tribunal

Service Appeal No. 1/923/2020

Case No. 11407

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

Dated 12/10/2020

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 VS 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 06/10/2020 WHEREBY DEPARTMENTAL APPEAL BEARING NO. CSI/1.&K/4-LEVI/APPEAL/2342-410F THE APPELLANT HAS BEEN DISMISSED

PRAYER

Filed to my 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.

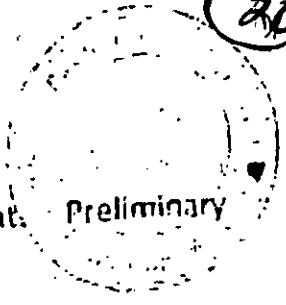
Respectfully Submitted as under,

Certified to be true copy  
[Signature]  
Khyber Pakhtunkhwa Service Tribunal

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

20



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)

Certificate to be filled copy

*[Signature]*  
Registrar  
Services Tribunal  
Patna

Date of Receipt of Case 15/10/20  
 Number of Pages 200  
 Copy of Case 10/  
 Expense 4/5  
 Total 14/  
 Date of Completion of Case 15/10/20  
 Date of Delivery of Case 15/10/20

13.10.2020

Appellant along with Counsel present, Preliminary arguments heard.

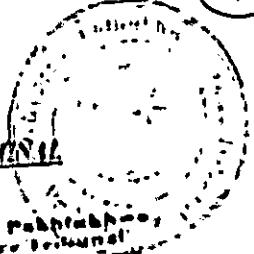
Points raised need consideration. Appeal is admitted to regular hearing, subject to all just exceptions. The appellant is directed to deposit security and process fee within ten (10) days. Thereafter notice be issued to the respondents for submission of written reply/comments on 03/11/2020 before S. B along with the appeal. There is application for suspension of the operation of impugned order dated 06.10.2020. The operation of the impugned order dated 06.10.2020 is suspended till the date fixed. Notice of the said application be also given to the respondents.

MEMBER (E)

1

21

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL



Khyber Pakhtunkhwa  
Service Tribunal

Case No. 11402

Dated 13/10/2020

Service Appeal No.....2020

Muhammad Jan S/O Sher Azam Khan

Presently posted as Subidar/Police Sub Inspector (BPS-14) erstwhile  
Bajour Levies/ 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, Mulukand
- 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&N/4-  
LEVY/APPEAL/2348-50 OF THE APPELLANT HAS BEEN  
DISMISSED

PRAYER

*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.*

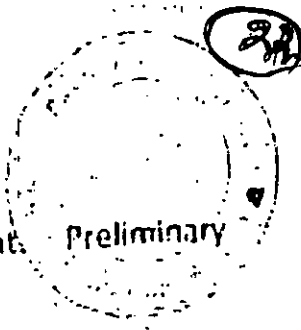
Filed by  
 Registrar  
 13/10/20

Certified to be correct copy  
 [Signature]

Respectfully Submitted as under,

Having been aggrieved from the impugned order dated 6/10/2020 of Respondent No.1 in respect of forcible retirement of Appellant on 17/07/2019 against the settled norms and rules, the Appellant compelled to invoke the jurisdiction of this Hon'ble Tribunal because

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]*  
Registrar  
Service Tribunal  
Patna




Date of Receipt of copy	15/10/21
Number of Pages	200
Copy of ...	10/
Copy of ...	11/5
Total	111
Date of Completion of ...	15/10/21
Date of Delivery of ...	15/10/21

13.10.2020

Appellant along with Counsel present, Preliminary 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 along with the appeal. There is application for suspension of the operation of impugned order dated 06.10.2020. The operation of the impugned order dated 06.10.2020 is suspended till the date fixed. Notice of the said application be also given to the respondents.

MEMBER (E)

42072 ایڈویکیٹ: ضیاء الدین خان بار کونسل ایسوسی ایشن نمبر: 8c-10-9856 رابطہ نمبر: 893180/0368/9110368/0346	  
<b>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</b>	

بعدالت جناب: سپریم کورٹ آف پاکستان، چیف جسٹس، پشاور

منجانب: <b>جان عالم</b> بنام <b>سپریم کورٹ آف پاکستان</b>	دعویٰ: علت نمبر: مورخہ: <b>27 نومبر 2020ء</b> جرم: تھانہ:
<b>باعث تحریر آگہ</b>	

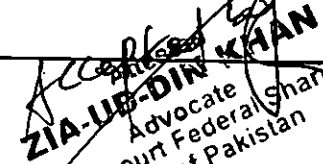
جان عالم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ درجہ اولیٰ درجہ کے لیے **ضیاء الدین خان** اور **ان کی ماں** کو وکیل مقرر کیا گیا ہے۔

قرآن 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 برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق و زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف 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 داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائے 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 یکریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: **27 نومبر 2020ء**

مقام: **پشاور**

  
**ZIA-UD-DIN KHAN**  
 Advocate  
 High Court Federal Shariat Court of Pakistan

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

A/A 3

**Judgement Sheet**  
**IN THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD**

BEFORE : **Qazi Khalid Ali, Chairman and**  
: **Raja Hasan Abbas, Member**

S. No.	Appeals No.	Appellants	Date of Institution
1.	87(P)CS/2019	Mr. Sher Gulab, Ex-Sepoy, S/o Bacha Syed, R/o Shandai Morh, Shandai, P.O. Khar, Tehsil Khar, District Bajaur	18.01.2019
2.	88(P)CS/2019	Najeeb Ullah, Ex-Sepoy, S/o Shina R/o Bara Laghary, P.O. Tarkho, Tehsil Mamund, District Bajaur	18.01.2019
3.	89(P)CS/2019	Saleem, Ex-Sepoy, S/o Saeed ur Rehman, R/o Meena Mamund P.o. Tarkho, Tehsil Mamond, District Bajaur Agency	18.01.2019
4.	1118(P)CS/2017	Bacha Muhammad, Ex-Sepoy S/o Gul Muhammad, R/o Gang, P.O. Khar, Tehsil Khar, District Bajaur Agency.	18.10.2017
5.	1221(P)CS/2017	Muhammad Yar, Ex-Sepoy, R/o P.O. Raghagan, Odigerum, Salarzai, District Bajaur Agency.	06.12.2017
6.	862(P)CS/2018	Shireen, Havaladar, S/o Painsa Khan R/o Pashat P.O. Khar, Tehsil Salarzai, District Bajaur Agency.	15.05.2018
7.	85(P)CS/2019	Saur Khan, Ex-Sepoy, S/o Chamini Khan, R/o Mano Dherai, P.O. Gharday Tehsil Utman Khel, District Bajaur Agency.	18.01.2019
8.	86(P)CS/2019	Jamal ud Din, Ex-Sepoy, S/o Manawar, R/o Odigram, P.O. Raghgan, Tehsil Salarzai, District Bajaur Agency.	18.01.2019
9.	93(P)CS/2019	Ummer Rehman S/o Wali Muhammad, Ex-Khasadar, R/o Lagha Post Office Annayat Kalay, Tehsil Memond, District Bajaur Agency.	07.02.2019
10.	94(P)CS/2019	Mudeer Khan S/o Muhammad Noor, Ex-Sepoy R/o Lagha Post Office Annayat Kalay, Tehsil Memond, District Bajaur Agency.	07.02.2019
11.	95(P)CS/2019	Abdul Azim Jan, Ex-Khasadar, Reg # 3700, Bajour Levies	07.02.2019
12.	264(P)CS/2019	Hayyat Khan S/o Mian Gul Jan Ex-Khasadar, R/o Gaga Post Office Teshil Mamond, District Bajaur Agency.	21.03.2019
13.	1008(P)CS/2018	Baz Muhammad, Ex-Sepoy, S/o Sher Muhammad R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
14.	1010(P)CS/2018	Muhammad Khan, Ex-Sepoy, S/o Muhammad Ahaz, R/o Tarkho P.O. Khar, Tehsil Barang, Ex-Sepoy, District Bajaur Agency. District Bajaur Agency.	08.06.2018
15.	1011(P)CS/2018	Fos Khan, Ex-Sepoy, S/o Ahwan, R/o Kat Kot P.O. Tarkho Tehsil Barang, District Bajaur Agency.	08.06.2018
16.	1019(P)CS/2018	Abdul Rehman, Ex-Sepoy, S/o Nadir Khan, R/o Bati Khar, District Bajaur Agency.	08.06.2018
17.	1022(P)CS/2018	Muhammad, Ex-Sepoy, S/o Murad Gul R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018

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		Mano Dheri, P.O. Gardai, Tehsil Utman Khel, merged District Bajaur Agency	
39.	781(P)CS/2017 with MP	Abdullah Jan, Naib Subedar, R/o Reedo Shah Gai, Yusuf Abad, P.O. Khar, Raado Shah Ghai, Tehsil Khar, District Bajaur Agency	26.05.2017
40.	742(P)CS/2018	Abdullah Jan, Ex-Naib Subedar, S/o Bakhtiar, Reedo Shah Gai, Yusuf Abad, P.O. Khar Raado Shah Ghai, Tehsil Khar, District Bajaur Agency	18.04.2018
41.	743(P)CS/2018	Munasib Khan, Ex-Naib Subedar, R/o Mir Afzal Labour Colony C/o Asar Khan S/o Mashoq Khan, Quarter No. 10, District Mardan	18.04.2018
42.	744(P)CS/2018	Jan Alam, Ex-Naib Subedar, R/o Mir Afzal Labour Colony C/o Asar Khan S/o Mashoq Khan Quarter No. 10, District Mardan	18.04.2018
43.	1441(P)CS/2018	Rehmat Gul, Ex-Subedar Major, S/o Hameed Gul R/o P/o Khar Shah Narai, Tehsil Khar District Bajaur Agency	19.10.2018
44.	527(P)CS/2016	Naeem Khan, Ex-Sepoy, S/o Akbar Khan R/o Muharram Ghundai, P.O. Khar, Tehsil Khar, District Bajaur Agency	11.08.2016
45.	546(P)CS/2016	Mohammad Younas, Ex-Sepoy, R/o Mohallah Eid Gah, Tehsil Khar, District Bajaur Agency	26.08.2016
46.	857(P)CS/2018	Muhammad Shah, Ex-Sepoy, S/o Noor Zamin, R/o Ghar Shamoza Barkalay, P.o Qalangai Sher Batai, Tehsil Barang, District Bajaur Agency	11.05.2018
47.	858(P)CS/2018	Saeed Gul, Ex-Sepoy S/o Ajab Gul, R/o Sher Batai, P.O. Qalangai, Tehsil Barang, District Bajaur Agency	11.05.2018
48.	974(P)CS/2018	Muhammad, Ex-Sepoy, S/o Itbar Gul, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency	25.05.2018
49.	975(P)CS/2018	Abdul Haq, Ex-Sepoy, S/o Rofat Khan R/o Muslim Bagh, P.O. Inayat Kalay, District Bajaur Agency.	25.05.2018
50.	976(P)CS/2018	Wahced Ullah, Ex-Sepoy, S/o Gul Nazir, R/o Shah Saray P. O. Pashat Salarzai, District Bajaur Agency.	25.05.2018
51.	980(P)CS/2018	Muhammad Jamshed, Ex-Sepoy, S/o Muhammad Shah, R/o Garodi, P.O. Gazafi, District Bajaur Agency.	25.05.2018
52.	1409(P)CS/2018	M. Farooq, Ex-Sepoy, R/o ladaee Tarkho, Tehsil Mamond, District Bajour Agency	28.09.2018
53.	1410(P)CS/2018	Shah Hussain, Ex-Sepoy, Reg # 5155, District Bajour Agency	28.09.2018
54.	1411(P)CS/2018	Ikram S/o Syed Ahmad, Ex-Sepoy, R/o Ladaee Tarkho, Tehsil Mamond District Bajour Agency	28.09.2018
55.	1412(P)CS/2018	Abdullah Ex-Sepoy, R/o Village Shanki, Tehsil Khar, District Bajour Agency	28.09.2018
56.	1431(P)CS/2018	Shahzad ur Rehman, Ex-Assistant/Reader, S/o Haji Rehmat Karim R/o Moh. Kass, P.O. Dir, Dit Town, Tehsil Dir, Upper Dir.	09.10.2018
57.	1503(P)CS/2018	Laiq Rehman, Ex-Levy Sepoy, R/o Village Kot Tehsil Batkhela District Malakand	14.11.2018
58.	877(P)CS/2017	Feroz S/o Muhammad Shah, Ex-Sepoy R/o Hilal Khail Charmang, Tehsil Nawagai,	21.06.2017

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125.	<u>RP No.99/2019</u> <u>776(P)CS/2017</u>	Tilla Muhammad, R. No. 4508, Sepoy, Bajaur levies, Bajaour Agency Khar.	28.06.2019
126.	<u>RP No.100/2019</u> <u>777(P)CS/2017</u>	Abdul Rahim, R. No. 5883, Sepoy, Bajaur levies, Bajaour Agency Khar, R/o P.O. Loe Same Sharif Khan Tehsil Nawagai, District Bajour Agency.	28.06.2019
127.	<u>RP No.101/2019</u> <u>778(P)CS/2017</u>	Rohul Amin, R. No.4293, Sepoy, Bajaur levies, Bajaour Agency Khar, R/o P.O. Loe Same Sharif Khan Tehsil Nawagai, District Bajour Agency.	28.06.2019

Date of Hearing	:	28.11.2019
Date of Judgement	:	04.12.2019

---VS---

**RESPONDENTS**

1. **The Secretary, SAFRON, Islamabad.**
2. **The Additional Chief Secretary, FATA Civil Secretariat (FATA), Warsak Road, Peshawar.**
3. **The Political Agent/Commandant/Deputy Commissioner Bajaur Levies, District Bajaur at Khar.**
4. **Mr. Farced Ullah, Subedar Major (BS-16), Malakand Levies at Malakand.**
5. **Mr. Muhammad Hussain, N/Subedar, Reg. No.3164, posted in the office of Political agent/commandant/Deputy Commissioner, Bajaur Levies, District Bajaur at Khar.**

**PRESENT**

Mr. Misbahullah Khan, Rana Samreen Akhtar, Noor Muhammad Khattak, Sardar Saleem Akhtar and Amaad Nasir Kundi, Advocates for the Appellants.  
Ch. Ishtiaq Meherban, Deputy Attorney General for the Federation, Mr. Siraj Haider, Legal Coordinator, M/o SAFRON, Mr. Nisar Khan, Asstt. Accounts Officer, District Accounts Office, Malakand and Mr. Sajjad Ahmad, Litigation Clerk, Deputy Commissioner's Office, Bajaur as DRs and Mian Gulzar Hussain, Advocate for Respondent No.4

**JUDGEMENT**

**RAJA HASAN ABBAS, MEMBER:-**

These appeals and petitions can be categorized into appeals, implementation petitions and review petitions.

2. Appellants are ex-employees of Federal Levies Force. The Competent authority imposed major penalty of dismissal from service in most of the cases on charge of misconduct, whereas in some other cases they were retired. Aggrieved by these orders instant appeals were filed before Federal Service Tribunal which are pending decision. Notices were issued to the respondents i.e. M/o SAFRON, FATA Secretariat through Additional Chief Secretary, FATA and the concerned Political Agent/Commandant.

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Comments/objections were received partially and in most of the cases notices were being issued for submission of the same. In the meantime, Federal Government through 25<sup>th</sup> Constitutional Amendment Act passed in May, 2018 paved the way for merger of FATA in the province of Khyber Pakhtunkhwa. As a result thereof Government of KPK issued Ordinance I of 2019 (later passed as an Act), in order to allow Federal Levies Force to continue their functions and to regulate and maintain them under the administrative control of Government of KPK. The force was renamed as Khyber Pakhtunkhwa Levies Force under Section 3 of the Act, comprising the Director General, the Deputy Director General, Commandant and all existing strength of members of the Levies Force, working in the merged Districts and Sub-divisions. Above mentioned Officers would be the Officers from Police. Section 9 of the Act provided for absorption of the members of Federal Levies in the Police. Section 9 (2) stipulates that "until their absorption in the police, the members of the Levies Force shall be governed by their existing terms and conditions of service under Federal Levies Force (Service) Rules, 2012.

3. It is important to refer to a letter from M/o SAFRON dated 24<sup>th</sup> April, 2019 addressed to Secretary Home & Tribal Area Department, Government of KPK on the subject pertaining to service matters regarding Levies/Khassadars, admitted in Federal Service Tribunal, Islamabad. It is imperative to reproduce para 2-3 of the letter:-

*"2. It is stated that consequent to the 25<sup>th</sup> Constitutional Amendment, the erstwhile PATA and FATA have been merged into the province of Khyber Pakhtunkhwa. Furthermore, on 12<sup>th</sup> March, 2019 the Government of Khyber Pakhtunkhwa has promulgated two Ordinances whereby the Federal Levy Force and Khassadar Force, stand provincialized. We had already written to the concerned Registrars of Courts and Service Tribunals to delete the name of Secretary, SAFRON from the array of respondents.*

*3. It is requested that these alongwith future appeals in connection to the Federal Levy Force and Khassadar Force, may now be addressed at your end while ensuring that reports/comments are submitted to Honorable Federal Service Tribunal, Islamabad on the scheduled date of hearings.*

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Another Memorandum from M/o SAFRON dated 18<sup>th</sup> March, 2019 addressed to Chief Secretary, KPK, Advocate General, KPK and Additional Chief Secretary, Merged Areas Secretariat states as under:-

*"Now, therefore all the administrative, legal and ancillary matters, including service appeals, promotions and litigation in respect of both the forces i.e. Levies Force and Khasadar Force have been transferred to the Government of Khyber Pakhtunkhwa and its relevant forums from 12<sup>th</sup> March, 2019, the date of the issuance of above said Ordinance.*

*It is clarified that Ministry of States and Frontier Regions (SAFRON) has ceased to be the controlling authority in respect of Levies Force and Khasadar Force working in erstwhile FATA & PATA. All concerned commandants and others Forums may kindly be informed accordingly".*

4. It was in this back drop that we had issued Notices to the learned Attorney General for Pakistan in accordance with Orders 27 Rule 1 of CPC to assist the Tribunal with regard to the point of jurisdiction as well s 25<sup>th</sup> Constitutional Amendment including interpretation of Levies Amendment Rules, 2013. After hearing the learned Deputy Attorney General and counsels of the appellants on 30.07.2019 a detailed order was passed. Relevant portion is reproduced:-

*"7. We have carefully considered the arguments. Notwithstanding, the submissions made by the learned counsels, fact of the matter is that Government of Pakistan Ministry of States and Frontier region has made a formal request for their deletion from the list of the respondents in all these appeals with a further request that these matters may now be addressed to Secretary, Home and Tribal Areas Department, Government of Khyber Pakhtunkhwa.*

*8. By operation of the Ordinance supra and 25<sup>th</sup> Constitutional Amendment, employees of the Federal Levies and Khasadar Force have become provincial Government employees. In several implementation petitions, which are pending at the moment before the Tribunal, provincial Home and Tribal Area Department have been issued notices of appearance, however, they have shown very lukewarm response. This is despite the fact that notices were served through Chief Secretary, KPK. We are cognizant of the fact that Constitutional and legal provisions allow continuation of proceedings before the Tribunal, however, we are concerned*

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about the practical aspects of the issue. Since the petitioners have become provincial Government employees, no proceedings can move unless the respondent Provincial Government discharges its legal responsibilities.

9. It is therefore, imperative and prudent to direct Secretary Ministry of States and Frontier Region to depute an officer not below the rank of J.S to appear and assist the Tribunal in the matter.

10. Chief Secretary KPK Government is required to direct Secretary Home and Tribal Areas Department to depute an officer not below the rank of Additional Secretary (BS-19) to appear in the pending proceedings before the Tribunal.

11. Advocate General KPK is directed to depute a low officer to appear and assist the Tribunal in the matter on the next date".

5. Since then Provincial Government of KPK has been represented twice by learned Assistant Advocate General. He was not present today nor on 18.11.2019. We have not received any written statement on behalf of Government of KPK since 30.07.2019 despite clear direction vide order dated 18.11.2019.

6. Today we have heard learned Counsels of the appellants who are also present in large number. Learned Counsels of the appellants stated that the appellants are poor low paid employees. Since their dismissal in 2007-2008, they have been running from pillar to post for getting justice. The constitutional amendment and subsequent legislation has further complicated matters for them. However, the Tribunal is still vested with the jurisdiction as already determined vide order dated 30.07.2019 and the appeals may be decided on merits of each case.

7. We are conscious of the fact that the appellants are facing hardship on account of prolonged judicial proceedings. It is however, more dismaying that the respective provincial authorities are not paying due attention to these matters, pending before us. There is an attitude of indifference towards these proceedings. We are afraid even if the pending issues are decided on merit, their implementation would be still more complicated as is the case even now. No meaningful proceedings can take place in the absence of a positive response from Government of Khyber Pakhtunkhwa.

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8. We have apprised the learned Counsels of the practical aspects/difficulties and with their consent remand all the pending appeals to the respective competent authority to treat them as pending departmental appeals and decide them afresh after giving the appellants opportunity of personal hearing. These appeals are disposed of in the above terms.

Misc. Petition Nos.320, 321, 2488,2487,2098,2099/2018, 342 to 359/2017, 2144/2016, 352 to 354, 1017, 935 to 937, 934, 938/2017, 2118/2018

in

Appeal No.1106, 1116(P)CS/2017, 591(P)CS/2015, 38(P)CS/2016, 19, 348(P)CS/2014, 1117, 1119, 1120 to 1123, 1125 to 1136(P)CS/2017, 340, 211,304, 312(P)CS/2014, 584, 635, 10, 14, 24, 27(P)CS/2016 & 27(P)CS/2014

Above Misc. Petitions were filed seeking implementation of judgement dated 11.05.2015 and 30.10.2017. Whereas vide order dated 30.10.2017 direction were given for deciding pending departmental appeals, vide judgment dated 11.05.2015 directions were given for reinstatement of the appellants. However, for the question of back benefits it was directed to decide the same in accordance with instructions contained in Sl. No. 155 of ESTACODE (Edition 2007 Volume-II). The Petitioner have been reinstated however, through these petitions the issue of implementation of the order for determination of back benefits was raised. The respondents, despite repeated notices failed to respond and provide the latest status about implementation of the judgement.

10. These petitions are also remanded to the competent authority for implementation in the light of the direction of the Tribunal in Judgements dated 11.05.2015 and order dated 30.10.2017. A compliance report be furnished to the Registrar of the Federal Service Tribunal by first week of February, 2020. The petitions stand disposed of.

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Review Petition Nos.78, 84 to 101/2019in  
Appeal No:711, 720 to 726, 760 to 764, 766 to 768, 776 to 778(P)CS/2017

This brings us to the above titled review petitions which were disposed of vide order dated 20.05.2019.

12. It is contended that the appellants were given to understand that with the promulgation of 25<sup>th</sup> Amendment, Federal Service Tribunal had been divested of jurisdiction. The provincial authorities were not inclined to listen to their grievances and it would be travesty of justice if they are left without any forum to seek justice.

13. Strictly legally speaking the petition could not be entertained because of the limitation of scope of review. However, keeping in view the facts that finer legal aspects of the issues arising out of the merger of tribal areas and their administrative setup in KPK were beyond their comprehension and they might not have got the necessary assistance to pursue their appeals, we are inclined to *accept* these review petitions. As a result thereof the appeals are restored to their original numbers. The directions in para 8 of the judgement would apply mutatis mutandis in these appeals also.

14. ✓ Copies of the orders be sent to Chief Secretary KPK, Secretary, Home KPK, Commandant Levies Force, KPK for ensuring implementation of the judgment and submission of a report within three months to Registrar of the Federal Service Tribunal. Copy of the judgment be also sent to Secretary, M/o SAFRON and Secretary, Establishment Division. ✓

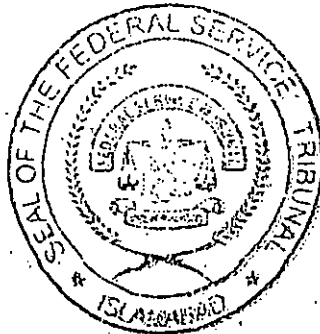
15. No order as to costs. Parties will be informed.

*Sd*  
MEMBER

*Sd*  
CHAIRMAN

\*Gulzar\*  
04.12.2019

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Before the Hon'ble Chairman RPT Service Tribunal  
Jam Alam  
vs  
Secretary Home etc.

Application for allowing the appellants  
to deposit Security / process fee.

Respectfully Sheweth;

- ① That the above titled case is pending adjudicating before the Hon'ble Court / Tribunal, wherein 12/07/2021 has been fixed.
- ② - that the appellants shall be allowed to deposit the Security / process fee.

It is therefore, most humbly prayed that the appellants shall be allowed to deposit the Security / process fee.

Dated: 12/07/2021

Appellant  
Through Zia-ud-din Khan  
Advocate High Court