



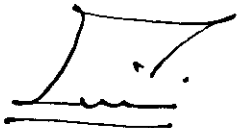
Learned counsel for the appellant present.  
Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was serving as Naib Subedar (BPS-11) in Levies Force, Malakand and as per schedule IV of Federal Levies Force (Amended) Service Rules, 2013, the prescribed length of service for retirement was 32 years service or 03 years service as Naib Subedar or 54 years of age whichever is earlier. He next argued that after the 25<sup>th</sup> Constitutional Amendment, through Act namely Khyber Pakhtunkhwa Levies Force Act, 2019, the levies personnel were absorbed in the Khyber Pakhtunkhwa Police Department and vide Notification dated 29.05.2020 rank of the appellant was re-designated as Assistant Sub-Inspector (BPS-11). He further argued that vide impugned Notification dated 22.03.2022 in Schedule III, length of service/age for retirement has been prescribed as 30 years service or seven years service as Naib Subedar or sixty years age whichever is earlier; that the appellant has now attained the status of Civil Servant and under Section 3 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the prescribed age for retirement of a civil servant is sixty years, while as per pay roll the date of birth of the appellant is 09.12.1970 and is entitled to serve till 08.12.2030. The appellant filed departmental appeal on 04.03.2023, which was not responded, therefore, the appellant filed Writ Petition No. 1375-M/2022 before the

Honble Peshawar High Court, in which the Hon'ble High Court granted status-quo order on 07.12.2022, however the said writ petition was dismissed as withdrawn vide order dated 07.06.2023.

Points raised need consideration, hence the appeal in hand is admitted to regular hearing subject to all legal and valid objections. The appellant is directed to deposit security fee within 10 days. Respondents be summoned through TCS, the expenses of which shall be deposited by the appellant within three days. To come up for submission of written reply/comments on 17.07.2023 before the S.B. Parcha Peshi given to learned counsel for the appellant.

Alongwith memorandum of appeal, the appellant has also filed an application for suspension of the impugned Notification dated 22.03.2022 and restraining the respondents from retiring the appellant from his service, till the final decision of the instant appeal. Notice of the said application also be issued to the respondents for the date fixed. In the meanwhile, operation of impugned order dated 22.03.2022 shall remain suspended to the extent of appellant till the date fixed, if not already acted upon.

  
(Salah-Ud-Din)  
Member (J)