

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service appeal No. 258/2023

Shah Tamrez Khan s/o Said Afzal Khan, Sepoy/Constable, Dir Levies, District Dir Upper

.....(Appellant)

Versus

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

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Raza Ullah



**Superintendent DC Office
Upper Dir
MOB# 03065748800**

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

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Khyber Pakhtunkhwa
Service Tribunal

Service appeal No. 258/2023

Diary No. 6448

Shah Tamrez Khan s/o Said Afzal Khan, Sepoy/Constable, Dir Levies, District Dir Upper

Date 13/07/23
(Appellant)

Versus

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

.....(Respondents)

AFFIDAVIT

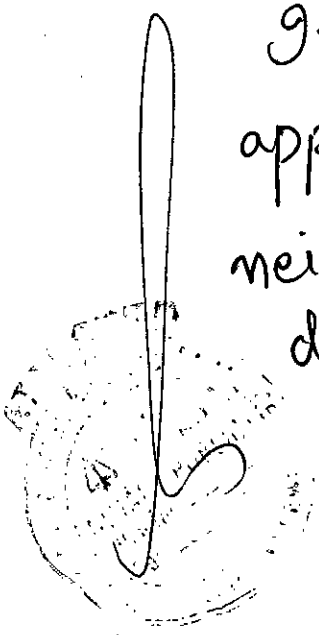
I, Raza Ullah Superintendent, office of the Deputy Commissioner/Commandant Dir Levies District Dir Upper, do hereby solemnly affirm and declare on oath that the contents of the accompanying Para wise Comments on behalf of Respondent No. 01. 02 & 03 are true and correct to the best of my knowledge and behalf that nothing has been concealed from this Honorable Court.



Deponent
CNIC 15702-2500720-3
MOB# 03065748800

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defence has been struck off / cost.

RZA



BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

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Service appeal No. 258/2023

Shah Tamrez s/o Said Afzal Khan, Sepoy/Constable, Dir Levies, District Dir Upper..(Appellant)

Versus

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar.
- 2) The Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa Peshawar.
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- 4) The Deputy Commissioner/Commandant Dir Levies District Dir Upper.
- 5) The District Police Officer, Dir Upper(Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ISSUANCE OF THE IMPUGNED NOTIFICATIONS DATED 22-03-2021 AND 21-10-2021 AND AGAINST THE OFFICE ORDER DATED 16-04-2021 WHEREBY THE APPELLANT HAS BEEN PREMATURELY RETIRED FROM SERVICE AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

JOINT PARA -WISE COMMENTS ON BEHALF OF RESPONDENT NO.2 & 4.

PRELIMINARY OBJECTIONS:

- 1) That the petition is not maintainable in its present form.
- 2) That the petitioner has got no locus stand to file the instant petition.
- 3) That the petition is not maintainable due to Mis-Joinder and Non-Joinder of necessary parties.
- 4) That the petitioner does not come to the Court with clean hands.
- 5) That the petitioner concealed the material fact from the Honorable Court.

RESPECTFULLY SHEWETH

ON FACTS

1. **Correct** to the extent of posting.
2. **Correct.** Pertain to record.
3. **Incorrect.** After 25th Constitutional amendment 2018 both PATA and FATA were merged in the province of Khyber Pakhtunkhwa and forces of tribal areas were also merged in the regular police of the province however, in Malakand Division Levies Force is still regulated by Levy Rules 2013 (amended) and Deputy Commissioner is the Commandant of Levies Force (copy of Notification of the Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department dated 12-03-2019).
4. **Incorrect.** As explained at para No. 03 above that in Malakand Division Levy Force is still regulated by the Levy Force Service Rules 2013 (amended).
5. **Incorrect.** The Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar being competent authority amend the Levies Force Service Rules 2013 during the year 2021 vide Notification dated 22-03-2021, so far as the question of absorption of the Levies Force in regular police of the province is concerned the same has already been explained in para No. 03 and 04 above.
6. **Incorrect.** As explained at para No. 05 above that the Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar being competent authority amend the Levies Force Service Rules 2013 again during the year 2021 vide Notification dated 21-10-2021, and as already explained at para 03 and 04 above that in Malakand Division Levies Force

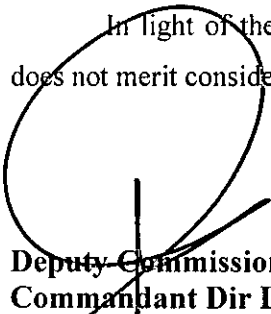
has not been absorbed in regular police of the province and the same is still regulated by Levies Force Service Rules 2013 (amended).

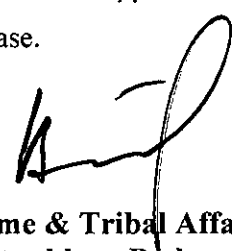
7. **Incorrect.** The appellant will be retired from service as per Rule 17 Schedule-III of the Levy Force Service Rules 2013 (amended) and as per amended Notification dated 21-10-2021 of the Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar i.e on attaining 45 years of age. As far as the question of Civil Servants and age of superannuation i.e 60 years is concerned the same has already been explained at Para 3, 4, 5 and 6 above. It is pertinent to mentioned here that Levies has been declared Force vide Khyber Pakhtunkhwa Act No. III of 2019.
8. **Incorrect.** No departmental appeal/application has been filled by the appellants before the respondent.
9. **No comments.**
10. **Correct** to the extent that colleagues of the appellant who have got retired in light of the Notification dated 22-03-2021 and 21-10-2021 have filled a writ petition in the Peshawar High Court Peshawar but the honorable court has dismissed the said writ petition vide judgment dated 29-11-2022.
11. **No comments.**


ON GROUNDS.

- a. **Incorrect.** As explain earlier the Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar being competent authority may make necessary amendments in Levy Service Rules after fulfillment of legal/codal formalities.
- b. **Incorrect.** The appellants have been treated as per law and standing Levy Service Rules 2013 and the respondents have not made any violation nor even think to do so.
- c. **In correct.** As explained at para No. 03 above.
- d. **Incorrect.** As explained at para b above.
- e. **Incorrect.** As explained at Para No. 07 above, so far as the question of writ petition 528-M/2016 is concerned the said judgment of Peshawar High Court Mingora Bench Dar-ul-Qaza Swat was challenged in the august Supreme Court of Pakistan and the honorable court has decided the same by set a siding the judgment of Peshawar High Court Mingora Bench Dar-ul-QazaSwat.
- f. **Incorrect.** As explained at paraNo. b above that the appellant have been treated as per law and standing Levy Service Rules 2013 and the respondents have not made any violation nor even think to do so.
- g. **Incorrect.** As explained at 3, 5, 6 7 above.
- h. **No comments.**

In light of the facts explained above, it is humbly prayed that the appeal filed by the appellant does not merit consideration, may kindly be dismissed with cost please.


Deputy Commissioner/
Commandant Dir Levies
Dir Upper/Respondent 04
**DC/Commandant
Dir Levies**


Secretary Home & Tribal Affairs Department
Khyber Pakhtunkhwa Peshawar
Respondent No. 02
Home Secretary,
Khyber Pakhtunkhwa


Chief Secretary
Government of Khyber Pakhtunkhwa
Respondent No. 01



OFFICE OF THE
DEPUTY COMMISSIONER/COMMANDANT DIR
LEVIES UPPER DIR



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No: 10131 /DC/Dir(U)/LHC

Dated Dir the 11/07/2023

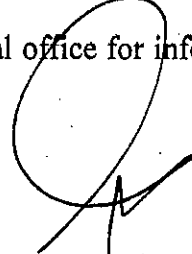
AUTHORITY LETTER

Mr. Raza Ullah Superintendent Dir Levies office of the Deputy Commissioner/Commandant Levies Dir Upper is hereby authorized to attend Provincial Service Tribunal Khyber Pakhtunkhwa to submit joint parawise comments in service appeals No. 257, 258 and 259 of 2023 titled as Muhammad Usman Ghani & others versus Government of Khyber Pakhtunkhwa through Chief Secretary & others.


Commandant Dir Levies/
Deputy Commissioner
Dir Upper.

Even No & Date.

Copy forwarded to Mr. Raza Ullah Superintendent local office for information & necessary action.


Commandant Dir Levies/
Deputy Commissioner
Dir Upper.