

558/2016

06.09.2017

Counsel for the appellant and Mr. Muhammad Zubair, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today in appeal No.75/2012, entitled "Shahabud Din Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others", similar nature appeals have been returned to the appellants, this appeal is also returned to the appellant for approaching the proper forum, if so advised, with all just factual and legal exceptions. Parties are left to bear their own costs. File be consigned to the record room.

Member

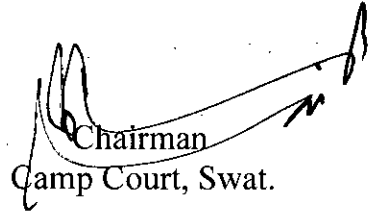


ANNOUNCED

06.09.2017

Chairman

Camp Court, Swat.



09.08.2017


Appellant in person and Mr. Muhammad Zubair, District Attorney for the respondents present. To come up for preliminary hearing alongwith connected appeals before the D.B on 06.09.2017 at camp court Swat.

Member

Chairman
Camp court, Swat

05.01.2017

Appellant present in person. Seeks adjourned as learned counsel for the appellant is stated busy before the Hon'ble Peshawar High Court, Peshawar. Adjourned for preliminary hearing including arguments on the point of jurisdiction to 09.02.2017 before S.B at camp court, Swat.


Chairman
Camp court, Swat


09.02.2017

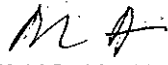
Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing including point of jurisdiction alongwith connected appeal on 05.04.2017 before the **D.B** at camp court, Swat.


Chairman
Camp Court, Swat.

05.04.2017


Appellant in person present and requested for adjournment on the ground that his counsel is not available. Adjourned. To come up for preliminary hearing including point of jurisdiction alongwith connected Service Appeal on 09.08.2017 before D.B at Camp Court Swat.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat.

08.09.2016

Appellant present in person. Seeks adjournment as his counsel is stated busy before the Peshawar High Court, Swat Bench. Adjourned for preliminary hearing to 06.10.2016 before S.B at camp court, Swat.


Chairman
Camp Court, Swat.

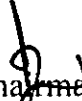
06.10.2016

Learned counsel for the appellant present. Seeks adjourned as he intends to prepare on the point of jurisdiction of this Tribunal. To come up for preliminary hearing on 08.12.2016 at camp court, Swat.


Chairman
Camp Court, Swat

08.12.2016

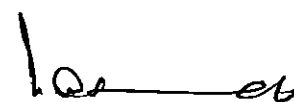


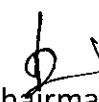
Learned counsel for the appellant seeks further adjournment to prepare arguments on the point of jurisdiction of this Tribunal. Adjourned for preliminary hearing to 05.01.2017 at camp court, Swat.


Chairman
Camp court. Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 558/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/05/2016	<p>The appeal of Mr. Atta-ur-Rehman resubmitted today by Mr. Syed Abdul Haq 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	2B-5-16	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>03.06.2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	08.06.2016	<p>Agent of counsel for the appellant present. Requested for adjournment, Adjourned for preliminary hearing to 03.08.2016 before S.B at camp court, Swat.</p> <p style="text-align: right;"> CHAIRMAN Camp Court, Swat.</p>
	03.08.2016	<p>Appellant in person present. Seeks adjournment as his counsel is not present. Adjourned for preliminary hearing to 08.09.2016 before S.B at camp court, Swat.</p> <p style="text-align: right;"> Chairman Camp court, Swat</p>

The joint appeal of Mr. Ikramullah and Attaur Rehman Sepoy at Dir Levies at Khungay received to-day i.e. on 11.05.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be got signed by the appellants.
- 2- Annexures of the appeal may be attested.
- 3- Affidavit may be got attested by the Oath Commissioner.
- 4- Annexures of the appeal may be flagged.
- 5- Approved file cover is not used.
- 6- Sub-rule-2 of rule-3 of appeal rules 1986 requires that every affected civil servant shall prefer the appeal separately; therefore the appeal of the above named appellants may be filed separately/individually.
- 7- Copies of order dated 22.11.1999 and 23.11.1999 are incomplete which may be completed.
- 8- Three copies/sets of the appeal along with annexures i.e. compete in all respect for Tribunal and one for each respondent in each appeal may also be submitted.

No. 749 /S.T,

Dt. 11/5 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Abdul Haq Adv. Swat.

Six,

*Resubmitted after
doing the need full*



BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

APPEAL No. 558 -M of 2016

A.W.P Province
Service Tribunal
Dary No 460
Date 11-5-2016

Attaur Rahman (Appellant)

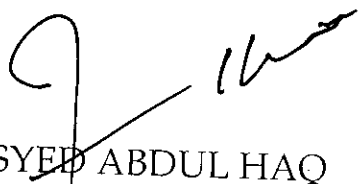
VERSUS

Deputy Commissioner and others..... (Respondents)

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Appellant
Through Counsel


SYED ABDUL HAQ
Advocate, High Court

Bar Room Mingora Bench DarulQaza
Swat. Cell No: 033-9546154

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BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Appeal No 558 -M of 2016

Attaur Rahman son of Ahmad Shukar Rahman
Resident of Kandaro, Tehsil Khal, District Dir Lower, posted
at Dir Levies at Khungay as Sepoy.

.....Appellant

VERSUS

1. Deputy Commissioner / Commandant Dir Levies District,
Dir Upper.
2. Secretary to Govt. of KPK Home & Tribal Affairs
Department at Peshawar.
3. The Assistant Commissioner Sheringal Dir Upper.

.....Respondents

SERVICE APPEAL UNDER SECTION 4, OF
THE KPK SERVICE TRIBUNAL ACT, 1974,
AGAINST THE ORDER DATED 12-04-2016,
WHEREBY APPEAL FILED BY THE
APPELLANT WAS DISMISSED BY THE
RESPONDENT NO. 2, WHEREBY THE
WITHHOLDING OF TWO ANNUAL

as submitted to-
and filed.

Registrar

01/05/16.

INCREMENTS WERE IMPOSED UPON THE APPELLANT.

PRAYER IN APPEAL

On acceptance of this appeal penalty by with holding two annual increments imposed upon the appellant vide order dated 12-04-2016 may kindly be set aside.

Any other relief which are proper in the instant circumstances of the may also be granted.

Respectfully Sheweth,

- 1) That the appellant was appointed as Sepoy in Dir Levies vide appointment order dated 22-11-1999. (Copy of appointment dated 22-11-1999 is attached as annexure "A") *Page No. 14-23.*
- 2) That the appellant in first round filed a Service Appeal No. 510/2006 before the KPK Service Tribunal, Peshawar, where the Service Tribunal dismissed the above titled appeal due to lack of jurisdiction and directed the appellant to approached the competent forum and hold

that the appellant was not a civil servant as at that time no rules / regulation were in field regarding the matter of Dir Levies Provincial. (Copy of the order dated 16-07-2007 is attached) *Page No. 24-30.*

- 3) That after the appellant filed a writ petition No. 1855 of 2007 before the Honorable High Court Peshawar regarding their promotion according to Seniority and also challenged alleged seniority list dated 10-03-2006. (Copy of list is attached) *seniority list 31-33.*

- 4) That after the respondents filed comments in writ petition above No. 1855 of 2007. (Copy of comments is attached) *Page no. 34-37.*

- 5) That after Honorable Court Peshawar Mingora Bench / Darul Qaza passed an order dated 02-11-2011, where the respondent No. 1 in response of Court call categorically admitted that the appellants / petitioners would be considered for promotion in accordance in law, rules and seniority cum fitness. (Copy of order dated 02-11-2011 is attached) *Page no. 38-40.*

- 6) That the appellant filed an implementation application for the order passed by the Honorable Peshawar High Court in November, 2014. (Copy of application is attached) *Page no. 40-44.*
- 7) That the matter in shape of implementation application is pending before the High Court meanwhile the appellant filed an application in the office of the Director General Ihtisaab Commission KPK at Peshawar. (Copy of application is attached) *Page No. 45-47.*
- 8) That on strength of application an inquiry was launch, wherein inquiry officer Assistant Commissioner / SDM Sheringal without providing any opportunity to appellant recommended minor penalty by withholding two annual increments in absence of appellants. (Copy of inquiry report dated 28-12-2015 is attached) *Page No. 48-50.*
- 9) That the respondent No. 1 on the alleged recommendation of the inquiry officer with hold two annual increments vide impugned order dated 26-01-2016 (Copy of order dated 26-01-2016 is attached as annexure "B") *Page No. 51-52.*

10) That feeling aggrieved the appellants filed a departmental appeal before the Respondent No. 2, who dismissed the appeal vide order dated 12-04-2016. (Copy of order is attached) P-53-57.

11) That extremely aggrieved from the order, the appellants have no other remedy except to file instant appeal before this Honorable Court on the following grounds.

GROUND:-

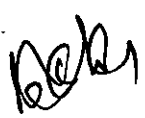
- a. That the order of respondent No. 2 as well as respondent No. 1 are illegal, against the rules & regulation and exercised their power not vested to them.
- b. That the respondent No. 1 has filed comments in writ petition No. 1855 of 2007 before Peshawar High Court where he clearly admitted that the promotion on the basis of alleged seniority list dated 10-03-2006, is temporary one and it is only from the purpose of command and control, and the seniority list be revised after the formation of rules, so, the respondent No. 1 repeatedly change their stance so, he has not allowed to accommodate their own blue eyed.

- c. That the alleged seniority list is not in field and no one can be benefited from such like alleged temporary seniority list, after the formation of Provincial Levies Rules, 2015. (Copy of provincial rules Dir Levies is attached may be considered of this appeal).
- d. That the stance adopted by the respondents, that the respondents where they are promoted namely 1) Ibadullah 2) Zahid Khan are senior than appellants are totally wrong, against the record, as it is clear that the alleged temporary seniority list is no more in field, so, no one can be deprived from their legal rights.
- e. That the respondent No. 1 passed an order against the scope of alleged inquiry on ulterior motives, and no one be compelled to asked for the redressal of his grievances.

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- f. That the Act of respondents are basically amounts to contempt where they violated the order passed by the Honorable Peshawar High Court in writ petition No. 1855 of 2007.
- g. That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

Therefore in view of the above submissions, it is most humbly prayed that on acceptance of this appeal penalty by withholding two annual increments imposed upon the appellant vide order dated 12-04-2016 may kindly be set aside. Any other relief which are proper in the instant circumstances of the may also be granted.


Appellant
Through Counsel


SYED ABDUL HAQ
Advocate, High Court

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BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

APPEAL No _____ -M of 2016

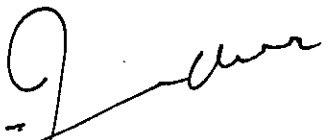
Attaur Rahman (Appellant)

VERSUS

Deputy Commissioner and others..... (Respondents)

CERTIFICATE:

(As per directions of my client) No such like Appeal earlier
has been filed by the appellants on the subject matter before this
Honorable Court.


ADVOCATE

9

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

APPEAL No _____ -M of 2016

Attaur Rahman (Appellant)

VERSUS

Deputy Commissioner and others..... (Respondents)

ADDRESSES OF THE PARTIES

APPELLANTS

Attaur Rahman son of Ahmad Shukar Rahman

Resident of Kandaro, Tehsil Khal, District Dir Lower, posted
at Dir Levies at Khungay as Sepoy..

NIC No: 15705-7362986-9

Cell No: 0333-9540416

RESPONDENTS

1. Deputy Commissioner / Commandant Dir Levies District
Dir Upper.
2. Secretary to Govt. of KPK Home & Tribal Affairs
Department at Peshawar.
3. The Assistant Commissioner Sheringal Dir Upper.

Appellant
Through Counsel



SYED ABDUL HAQ
Advocate, High Court

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

APPEAL No _____-M of 2016

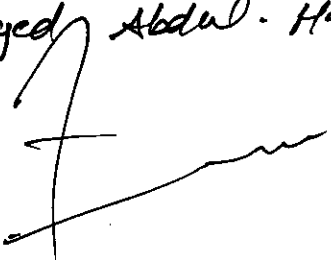
Attaur Rahman (Appellant)

VERSUS

Deputy Commissioner and others..... (Respondents)

AFFIDAVIT

I, Attaur Rahman son of Ahmad Shukar Rahman
Resident of Kandaro, Tehsil Khal, District Dir Lower, do
hereby solemnly affirm and declare on oath that the contents
of the above titled Appeal is true and correct to the best of
my knowledge and belief.

Identified by
Syedy Abdul. Haq Adv



DEPONENT

ATTACHED

NASIR JEHAN ADVOCATE
OATH
COMMISSIONER
No. 616
Date: 21/5/16
Dist: Court: Timergara Dir (L)

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

APPEAL No _____-M of 2016

Attaur Rahman (Appellant)

VERSUS

Deputy Commissioner and others..... (Respondents)

APPLICATION FOR SUSPENSION THE
IMPUGNED ORDERS PASSED BY THE
RESPONDENTS NO. 1 & 2 REGARDING THE
WITHHOLDING TWO ANNUAL INCREMENTS
TILL THE FINAL DISPOSAL OF THE INSTANT
SERVICE APPEAL.

Respectfully Sheweth:-

1. That the appellant / applicant being filed the instant service appeal in this Honorable court, where in no date is fixed so far.
2. That the appellant / applicant has a strong prima facie case and hopeful about the successes of the instant appeal.

3. That the balance of conveyance lies in favor of appellant / applicant and if the impugned order regarding the withholding two annual increments were not stayed the appellant / applicant would suffer.
4. That the appellant / applicant is innocent and no misconduct has been committed the only sine of appellant is to ask for their rights, so the order passed by the respondents are totally illegal, against the norms of justice and no legal effect.
5. That above mentioned service appeal may be consider integral part of this application / petition.

It is, therefore, humbly prayed, that on acceptance this petition / applicant the above mentioned orders may kindly be suspended till the final disposal of the instant service appeal.

Date: __/__/016

Appellant through
Through


SYED ABDUL HAQ
Advocate High Court

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

APPEAL No _____-M of 2016

Attaur Rahman (Appellant)

VERSUS

Deputy Commissioner and others..... (Respondents)

AFFIDAVIT

I, Attaur Rahman son of Ahmad Shukar Rahman Resident of Kandaro, Tehsil Khal, District Dir Lower, do hereby solemnly affirm and declare on oath that the contents of the accompany application is true and correct to the best of my knowledge and belief.

[Signature]
Deponent



(14)

OFFICE OF THE DEPUTY COMMISSIONER, DIR, TIMERGARA.

No. 290 /A/10/P (LHC), Dated Timergara the 22/11/1999.

OFFICE ORDER.

As approved by the competent authority ^{and} conveyed by the Section Officer (Spl. II), Government of NWFP, Home and Tribal Affairs Department, Peshawar vide his letter No. 2/5-SOS-II/HD/99/ Vol: 36, dated 20.10.1999, the following persons of Wari Sub Division are hereby recruited as Sepoys ^{in 8 posts} in Dir Levies against 200 additional posts sanctioned for Sultan Khel and Pinda Khel Tribes vide Home and Tribal Affairs Department NWFP, Peshawar letter No. SOB(HD)19-3-CM, dated 28.5.1998, subject to the production of Health and Age Certificates from the Civil Surgeon Dir at Timergara. They will produce surety bond to the effect that they will neither cultivate poppy on their lands nor will lease out to any other person for such like purpose. In case of violation of the bond, they will besides dismissal from the service will also be liable to pay Rs.50,000/- as penalty to the Government.

- 1. ✓ Mr. Ayamud Din S/O Mohammad Rasool Khan R/O Dcwaé Tehsil Khal District Upper Dir.
- 2. ✓ Mr. Said Akbar S/O Fateh Rehman R/O Adokai Tehsil Khal District Upper Dir.
- 3. ✓ Mr. Hamidullah S/O Hamim Roze Khan R/O Jahdherai Tehsil Khal District Upper Dir.
- 4. ✓ Mr. Shafiullah S/O Gul Zarin Khan R/O Adokai Tehsil Khal District Upper Dir.
- 5. ✗ Mr. Azizullah S/O Hussainud Din R/O Luqman Banda Tehsil Khal District Upper Dir.
- 6. ✓ Mr. Ikramullah S/O Habibullah R/O Luqman Banda Tehsil Khal District Upper Dir.
- 7. ✓ Mr. Abdul Haris S/O Mohammad Azam Khan R/O Galkor Kohai Tehsil Khal District Upper Dir.
- 8. ✓ Mr. Lal Bahadar S/O Mian Bahadar R/O Kamar Tal Tehsil Khal District Upper Dir.
- 9. ✓ Mr. Shafiqur Rehman S/O Saifur Rehman R/O Khal Ba Kali Tehsil Khal District Upper Dir.
- 10. ✓ Mr. Ataur Rehman S/O Ahmad Shakar Rehman R/O Khal Kandaro Tehsil Khal District Upper Dir.
- 11. ✓ Mr. Mohammad Nadim Khan S/O Mohammad Wasim Khan R/O Khal Kandaro Tehsil Khal District Upper Dir.
- 12. ✓ Mr. Hamidullah S/O Mohammad Sabir R/O Mira Tehsil Khal District Upper Dir.
- 13. ✗ Mr. Maqsood Ahmad S/O Mohammad Aslam Jan R/O Zoor Mandi Tehsil Khal District Upper Dir.
- 14. ✗ Mr. Habibur Rehman S/O Haroon Khan R/O Banda Bala Tehsil Khal District Upper Dir.

مستقر



- (15)
15. Mr. Sayed Amjad Ali Shah S/O Badshah Umar R/O Mansoor Banda Tehsil Khal District Upper Dir.
16. X Mr. Abdur Rauf S/O Mohammad Sharif Khan R/O Mansoor Abad Tehsil Khal District Upper Dir.
17. Mr. Shah Zarin Khan S/O Nazim Khan R/O Toormang Tehsil Khal District Upper Dir.
18. Mr. Miftahud Din S/O Ahmad Din R/O Toormang, Tehsil Khal Upper Dir.
19. Mr. Mohammad Zeb S/O Gul Zamin R/O Raza Gram Tehsil Khal Upper Dir.
20. Mr. Jehan Bakht Zeb S/O Badshah Hazrat R/O Razagram Tehsil Khal upper Dir.
21. Mr. Gulab Zarin S/O Badshah Zarin R/O Raza Gram Tehsil Khal Upper Dir.
22. Mr. Zahid Rashid S/O Siraj Mohammad R/O Ashac Banda Tehsil Khal upper Dir.
23. Mr. Sher Zaman S/O Kashmalai R/O Siagawni Teshil Khal upper Dir.
24. Mr. Amir Nawaz Khan S/O Amir Sultan R/O Shikawli Tehsil Khal Upper Dir.
25. Mr. Zahir Shah S/O Lawar Khan R/O Seer Teh:Khal Upper Dir.
26. Mr. Shah Islam S/O Sahib Ali Khan R/O Gawni Bala Tehsil Khal Upper Dir.
27. Mr. Aurang Zeb S/O Zahir Khan R/O Jughrai Teh:Khal Upper Dir.
28. Mr. Ihsanullah S/O Dava Khan R/O Tango Kandaw Tehsil Khal Upper Dir.
29. Mr. Pervez Khan S/O Said Mohammad Khan R/O Walo Tangai Tehsil Khal Upper Dir.
30. Mr. Noor Zada S/O Afzal Khan R/O Akhagram Tehsil Khal, Upper Dir.
31. Mr. Ali Akbar Khan S/O Said Akbar Khan R/O Corkan Tehsil Khal, Upper Dir.
32. X Mr. Javed Miadad S/O Saja Mohammad R/O Duryal Tehsil Wari Upper Dir.
33. Mr. Mohammad Iskam S/O Shah Zarin Khan R/O Duryal Tehsil Khal Upper Dir.
34. Mr. Shamsul Islam S/O Khair Mohammad R/O Duryal Tehsil Khal Upper Dir.
35. ✓ Mr. Khalid Khan S/O Qalandar Khan R/O Shinkari Tehsil Wari Upper Dir.
36. ✓ Mr. Baidar Khan S/O Toor Bacha R/O Zako Tehsil Wari.
37. Mr. Mohammad Rashid S/O Taj Mohammad Khan R/O Darokai Tehsil Khal.
38. Mr. Jan Faroosh S/O Dilbar Khan R/O Darokai Teh:Khal.
39. Mr. Mohammad Anwar Khan S/O Sar Zamin Khan R/O Butan Tehsil Khal.

41. ✓ Mr. Fazal Wahid S/O Badshah Mohammad Khan R/O Tatogram Tehsil Wari.
42. ✓ Mr. Ibrahim Khan S/O Sher Bahadar Khan R/O Banda Fayeen Tehsil Wari.
43. ✓ Mr. Kalimullah S/O Gul Halim R/O Wari Fayeen Tehsil Wari.
44. ✓ Mr. Ziaur Rehman S/O Q. Abdur Rehman R/O Wari Eehsil Wari.
45. ✓ Mr. Sirajud Din S/O Wadat Khan R/O Wari Fayeen Tehsil Wari.
46. ✓ Mr. Syed Sajad Ali S/O Noor Mohammad R/O Kakad Tehsil Wari.
47. Mr. Wali Khan S/O Khan Rehman R/O Kakad Tehsil Wari.
48. ✓ Mr. Khan Sher S/O Bacha Khan R/O Daskor Fayeen Tehsil Wari.
49. Mr. Shah Faisal Khan S/O Khan Badshah R/O Wari Bala Tehsil Wari.
50. ✓ Mr. Fazal Sub Han S/O Khuna Gul R/O Garai Tehsil Wari.
51. Mr. Abdul Haq S/O Gul Halim R/O Garai Tehsil Wari.
52. ✓ Mr. Wahid Zaman S/O Abdur Rahman R/O Akun Banda Teh: Wari
53. ✓ Mr. Alam Zeb Khan S/O Shah Wazir Khan R/O Daskore Bala Tehsil Wari.
54. Mr. Raz Mohammad S/O Gul Yousaf Khan R/O Jatgram Tehsil Wari.
55. ✓ Mr. Umar Zeb S/O Nowsherawan R/O Jatgram Tehsil Wari.
56. Mr. Ajmal Khan S/O Saz Mohammad Khan R/O Jatgram Teh: War
57. ✓ Mr. Sher Rawan S/O Gul Bar R/O Dogram Tehsil Wari.
58. Mr. Shahzada Khan S/O Gula Khan R/O Kagano Khawar Teh: Wa
59. ✓ Mr. Mohammad Wahab S/O Abdul Wahab R/O Moha Tango Teh: Wa
60. ✓ Mr. Shahid Ahmad S/O Mohammad R/O Moha Kass Teh: Wari.
61. ✓ Mr. Bacha Rahman S/O Umar Rahim R/O Usorai Teh: Wari.
62. ✓ Mr. Sarwar Khan S/O Gul Nadar R/O Qasim Abad Teh: Wari.
63. ✓ Mr. Mohammad Khan S/O Mohammad Tsmail R/O Dislowar Tehsi. Wari.
64. ✓ Mr. Jan Mohammad S/O Abdul Mula R/O Jughabanj Teh; Wari
65. ✓ Mr. Ikramullah S/O Noor Rahman R/O Beshmai Teh; Wari.
66. ✓ Mr. Ismail Khan S/O Amir Said R/O Beshomai Teh: Wari.
67. ✓ Mr. Saeed Mohammad S/O Abdur Rashid R/O Jai Kadi Khel Tehsil Wari.
68. ✓ Mr. Rizwanullah S/O Abdur Rashid R/O Jai Kadi Khel.
69. ✓ Mr. Rahat Zeb Khan S/O Zoor Talab Khan R/O Godha Teh: War.
70. ✓ Mr. Amirullah S/O Umara Khan R/O Godha Teh: Wari.
71. ✓ Mr. Fazal Mohammad S/O Mukaram Khan R/O Metrora Teh: Wari.

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73. Mr. Yarmula Khan S/O Talashai R/O Kharposai Tehsil Khal.
74. Mr. Hayatullah S/O Mohammad Jan R/O Mosai Thsil Khal.
75. Mr. Umar Ali Khan S/O Sharifullah Khan R/O Mosai Tehsil Khal.
76. Mr. Laiq Zada S/O Gul Zada R/O Berarai Tehsil Wari.
77. Mr. Zerullah S/O Spin R/O Pashta Tehsil Wari.
78. Mr. Aqal Zada S/O Gul Zada R/O Brarai Tehsil Wari.
79. Mr. Mohammad Yahya S/O Mukhtiarullah R/O Chapar Khawar Tehsil Wari.
80. Mr. Sherin Zada S/O Gojar Khan R/O Chapar Tehsil Wari.
81. Mr. Said Mohammad S/O Abdul Ghani R/O Nasir Abad Tehsil Wari.
82. Mr. Niaz Bahadar S/O Khaista Khan R/O Nasir Abad Tehsil Wari.
83. Mr. Mohammad Nawaz S/O Sher Zada R/O Jalawr Tehsil Wari
84. Mr. Aziz Ahmad S/O Rozamin Khan R/O Jalawr Tehsil Wari.
85. Mr. Aminur Rehman S/O Shaibar Khan R/O Sarkai Tehsil Wari.
86. Mr. Yar Zamin Khan S/O Sarbiland Khan R/O Malak Abad Tehsil Khal.
87. Mr. Mohammad Ayub S/O Mohammad Ghani R/O Umakor Tehsil Wari.
88. Mr. Mohammad Saeed Khan S/O Mohammad Sher Khan R/O Mano Tehsil Wari.
89. Mr. Saadshah Wazir S/O Shah Wazir Khan R/O Jabugai Tehsil Khal.
90. Mr. Khair Mohammad S/O Asil Mohammad R/O Amralai Bala Tehsil Wari.
91. Mr. Rehmanullah S/O Talimullah R/O Charkom Teh: Wari.
92. Mr. Haroon Khan S/O Ayanullah Khan R/O Charkom Tehsil Wari.
93. Mr. Mohammad Zubair S/O Said Akbar Khan R/O Serhai Tehsil Wari.
94. Mr. Mohammad Wali S/O Mohammad Dar Khan R/O Serhai Tehsil Wari.
95. Mr. Noorul Haq S/O Sultajbar Khan R/O Kass Banda Tehsil Wari.
96. Mr. Bakht Subhan S/O Bahadar R/O Kass Banda Teh: Wari.
97. Mr. Said Zar S/O Talizar R/O Molvi Tehsil Wari.
98. Mr. Bakht Shahzer S/O Said Umar R/O Shagai Tehsil Wari.
99. Mr. Iqbal Hussain S/O Mohammad Shauheed R/O Pataw Tehsil Wari.
100. Mr. Ahmadullah S/O Habibullah R/O Pataw Tehsil Wari.
101. Mr. Fazil Khan S/O Shah Zamin R/O Sheratkal Tehsil Wari
102. Mr. Sher Zada S/O Sultanbar Khan R/O Sheratkal Tehsil

103. Mr. Kifayatullah S/O Shah Sultan R/O Panjora Tehsil Wari.
104. Mr. Habibur Rehman S/O Ghulam Ahad R/O Katigam Tehsil Wari.
105. Mr. Mozamil Khan S/O Bezaad Khan R/O Jehangiro Tehsil Wari.
106. Mr. Aurang Zaib S/O Bahadar R/O Jehangiro Badalal Tehsil Wari.
107. Mr. Badshahi Milk S/O Baz Khel R/O Badalal Tehsil Wari.
108. Mr. Wakil Zada S/O Mohammad Sharif Khan R/O Rambial Nahag Dara Tehsil Wari.
109. Mr. Khawaja Hussain S/O Ghulam Hussain R/O Rambial Tehsil Wari.
110. Mr. Gulzarwan S/O Nasib Rawan R/O Sundal Tehsil Wari.
111. Mr. Bacha Halim Said S/O Khaista Rehman R/O Sundal Tehsil Wari.
112. Mr. Amir Hamza Khan S/O Hashtamand Khan R/O Matar Tehsil Wari.
113. Mr. Taib Zada S/O Mohammad Zada R/O Bakani Teh. Wari.
114. Mr. Javed Rehman S/O Abdul Wahid R/O Bandai Payeen Tehsil Wari.
115. Mr. Shah Nazar Khan S/O Zahir Shah R/O Bandai Tehsil Wari.
116. Mr. Jehan Zada S/O Swal Faqir R/O Shukan Tehsil Wari.
117. Mr. Mohammad Shuaib S/O Mohammad Amin R/O Dabono Tehsil Wari.
118. Mr. Badshah Munir S/O Masoom Jan R/O Ari Manzai Tehsil Wari.
119. Mr. Rahmin Zada S/O Wasli Khan R/O Ghuz Banda Tehsil Wari.
120. Mr. Mian Sahib Zada S/O Mohammad Amin R/O Kar Pat Tehsil Wari.
121. Mr. Shahabud Din S/O Chandan R/O Kar Pat Tehsil Wari.
122. Mr. Haider Ali S/O Shamand Roze R/O Mandai Kadero Tehsil Wari.
123. Mr. Meraj Khan S/O Gul Asar Khan R/O Bedamai Tehsil Wari.
124. Mr. Gul Zaman S/O Sham Sher R/O Kohan Tehsil Wari.
125. Mr. Gul Azim Khan S/O Shah Rasool Khan R/O Kashmirai Tehsil Wari.
126. Mr. Sher Akbar Khan S/O Gul Akbar R/O Shal Can Tehsil Wari.
127. Mr. Aftab Khan S/O Sazan Khar R/O Gal Kore Tehsil Wari.
128. Mr. Amanullah Khan S/O Amir Badshah R/O Gal Kore Tehsil Wari.

129. Mr. Farmanullah S/O Fazal Karim R/O Gal Kore Tehsil Wari.
130. Mr. Sultan Zaib S/O Saf Khan R/O Sham Gah Tehsil Wari.
131. Mr. Ihsanullah S/O Mohammad Jamil R/O Sankore Tangi Tehsil Wari.
132. Mr. Naeemullah S/O Mohammad Jamil R/O Sankore Tangi Tehsil Wari.
133. Mr. Lal Zamin S/O Jan Bahadar R/O Shalgah Tehsil Wari.

Deputy Commissioner,
Dir, Timergara.

No 791-94

Copy forwarded to the :-

1. Commissioner, Malakand Division Saidu Sharif.
2. P.S to Chief Secretary, NWFP, Peshawar.
3. P.S to Home Secretary, NWFP, Peshawar.
4. Section Officer (Spl:II) Govt. of NWFP, Home and TAS Department, Peshawar.

For information with reference to Section Officer (Spl:II) Govt. of NWFP Home & TAS Department, Peshawar Memo: No.2/5-SOSII/HD/99/Vol-36 dated 20.10.1999.

Deputy Commissioner,
Dir, Timergara.

No 795-96

Copy forwarded to the :-

1. District Accounts Officer, Dir at Timergara.
2. Assistant Commissioner, Wari for information. He is directed to inform the individual concerned to attend this office for completion of the required formalities.

Deputy Commissioner,
Dir, Timergara.

OFFICE OF THE DEPUTY COMMISSIONER, DIR. TIMERGARA.

No 797

(LHC), Dated Timergara the 22/11/1999.

OFFICE ORDER.

As approved by the competent authority/conveyed by the Section Officer(Spl:II) Home and Tribal Affairs Department, Govt. of N.W.F.P, Peshawar vide his letter No.2/5/SOS-II/ID/59/Vol-36, dated 20.10.1999, the following persons of Timergara Sub-Division are hereby recruited as Sepoys in Dir Levies against 200 additional posts sanctioned for Sultan Khel and Painda Khel Tribes vide Home and Tribal Affairs Department, Govt. of NWFP letter No.SOB(ID)19-3/CM, dated 28.5.1998 subject to the production of Health and Age Certificates from the Civil Surgeon Dir at Timergara. They will produce surety bonds to the effect that they will neither cultivate poppy on their lands nor will lease/out to any other person for such like purpose. In case of violation of the bond, they besides dismissal from the service will also be liable to pay Rs.50,000/- as penalty to the Government :-

P-132-1
Removed

1. Mr. Mukamil Shah S/O Saeedur Rehman R/O Tarnaw Asban Tehsil Adenzai District Lower Dir.
2. Mr. Mohammad Alam S/O Shah Zada R/O Shahalam Baba Asbanr Tehsil Adenzai.
3. Mr. Sultanat Khan S/O Akbar Khan R/O Bambolai Asbanr R. Tehsil Adenzai.
4. Mr. Jan Farvez S/O Bakht Zaman R/O Bambolai Bala Tehsil Adenzai.
5. Mr. Mohammad Yar S/O Khaista Khan R/O Anbanr Tehsil Adenzai.
6. Mr. Hayat Khan S/O Umar Khan R/O Asbanr Tehsil Adenzai.
7. Mr. Shahabud Din S/O Umar Badshah R/O Churija Tehsil Adenzai.
8. Mr. Nisar Mohammad S/O Ajbar Khan R/O But Gilla Tehsil Adenzai.
9. Mr. Mohammad Hussain S/O Mohammed Jan R/O Shorshing Tehsil Adenzai.
10. Mr. Wazir S/O Amir Nawas R/O Shorshing Tehsil Adenzai.
11. Mr. Mahidullah Khan S/O Malik Jan R/O Matore Tehsil Adenzai.
12. Mr. Zamir Khan S/O Amir Bostan R/O Matore Tehsil Adenzai.
13. Mr. Sher Zalam Khan S/O Malang R/O Sakhawoona Tehsil Adenzai.
14. Mr. Mohammad Zaman S/O Qasim Khan R/O ... Tehsil Adenzai.

(2)

- * 15. Mr. Wahidur Rehman S/O Chaffar R/O Nawagai Tehsil Adenzai.
- 16. Mr. Rahim Khan S/O Fazal Khitab R/O Utala Tehsil Adenzai.

Deputy Commissioner,
Dir, Timergara.

No 798-801

Copy forwarded to the :-

- 1. Commissioner, Malakand Division Saidu Sharif,
- 2. P.S to Chief Secretary, NWFP, Peshawar.
- 3. P.S to Home Secretary, NWFP, Peshawar.
- 4. Section Officer(Spl:II) Govt. of NWFP, Home and TAs Department, Peshawar.

For information with reference to Section Officer(Spl:II) Govt. of NWFP Home and TAs Department Peshawar Memo. No.2/5-SOSII/HD/99/Vol-36, dated 20.10.1999.

Deputy Commissioner,
Dir, Timergara.

No 802-04

Copy forwarded to the :-

- 1. District Accounts Officer, Dir at Timergara.
- 2. Assistant Commissioner, Timergara for information He is directed to inform the individual concerned to attend this office for completion of the required formalities.
- 3. Subedar Major, Dir Levies at Chakdara.

Deputy Commissioner,
Dir, Timergara.



OFFICE OF THE DEPUTY COMMISSIONER, DIR, TIMERGARA.

No 804 /A/10(LHC), Dated Timergara the 23/11/1999.

OFFICE ORDER.

The following persons are hereby appointed as Sepoys in Dir Levies against the vacant posts in the time scale No.(I) 1245-35-1770 plus usual allowances as admissible under the rules subject to the production of Health and Age Certificates from the Civil Surgeon Dir at Timergara. They will produce surety bonds to the effect that they will neither cultivate poppy on their lands nor will lease it out to any other person for such like purposes. In case of violation of the bond, they besides dismissal from service will also be liable to pay Rs.50,000/- as penalty to the Government.

- 1. Mr. Zafar Khan S/O Misal Khan R/O Danail Tehsil Dir District Upper Dir.
- 2. Mr. Hakim Khan S/O Habib Khan R/O Danail Tehsil Dir District Upper Dir.
- 3. Mr. Samiullah S/O Mohammad Shaqroze R/O Batal Tehsil Dir.
- 4. Mr. Sher Ghani S/O Channai R/O Shumai Tehsil Dir.
- 5. Mr. Ali Sher S/O Said Ghazi R/O Samkot Tehsil Dir.
- x 6. Mr. Shah Khalid S/O Saiful Haq R/O Palam Tehsil Dir.
- x 7. Mr. Sher Zada S/O Mohammad Jan R/O Palam Tehsil Dir.
- 8. Mr. Zahid Khan S/O Umar Zeb R/O Barkand Tehsil Dir.
- 9. Mr. Mohammad Zahir Shah S/O Itbar Khan R/O Barkand Tehsil Dir.
- 10. Mr. Naurang S/O Rahamdad Khan R/O Usherai Tehsil Dir.
- 11. Mr. Shah Rafiud Din S/O Mohammad Din R/O Galkore Teh: Dir.
- 12. Mr. Iftikhar Ali S/O Mohammad Sher R/O Almas Tehsil Dir.
- 13. Mr. Gul Mohammad S/O Noor Faraz Khan R/O Ali Gasar Tehsil Dir.
- 14. Mr. Ashraf Khan S/O Sabir Khan R/O Tarpatar Tehsil Dir.
- 15. Mr. Jehan Zada S/O Bakht Zarin R/O Tarpatar Tehsil Dir.
- 16. Mr. Fazal Wahid S/O Gul Mohammad R/O Almas Tehsil Dir.
- 17. Mr. Bakht Dilawar Khan S/O Badrud Din R/O Almas Tehsil Dir.
- 18. Mr. Wahid Mohammad S/O Haji Mohammad R/O Jabar Tehsil Dir.
- 19. Mr. Sherin Zada S/O Toti Rehman R/O Dam Jabar Tehsil Dir.
- 20. Mr. Asil Rawan S/O Gul Bahadar R/O Nishan Banda Tehsil Dir.
- 21. Mr. Bahadar Sher S/O Gul Sultan R/O Jabar Tehsil Dir.

Handwritten notes and signatures on the left margin:

- جوان
- 24
- Responsible
- 7-149
- Handwritten signature

22. Mr. Aziz Subhan S/O Mohammad Jan R/O Gandigar Tehsil Dir.
23. Mr. Mohammad Salam S/O Mohammad Anwar R/O Cardigar Tehsil Dir.
24. Mr. Sultan Rehman S/O Amir Rehman R/O Katan Payeen Tehsil Dir.
25. Mr. Naik Mohammad S/O Mohammad Hanif R/O Katan Payeen Tehsil Dir.
26. Mr. Samiullah S/O Mohammad Shuaib R/O Darora Tehsil Dir.
27. Mr. Nasirullah S/O Mohammad Zaman Khan R/O Darora Tehsil Dir.
28. Mr. Niaz Mohammad S/O Fazal Mohammad R/O Darora Tehsil Dir.
29. Mohammad Ikram S/O Shah Nasim R/O Darora Tehsil Dir.
30. Mr. Mohammad Nabi S/O Mohammad Ghulam R/O Tirbat Tehsil Dir.
31. Mr. Fathullah S/O Abdul Baqi R/O Tirbat Tehsil Dir.
32. Mr. Tajbar Khan S/O Mubarak Khan R/O Amlook Nar Tehsil Dir.
33. Mr. Ataullah S/O Mohammad Sharbar Mula R/O Amlook Nar Tehsil Dir.
34. Mr. Badshah Yousaf S/O Gul Yousaf R/O Tale Tehsil Dir.
35. Mr. Khaista Rehman S/O Gul R/O Bibiyawan Tehsil Dir.
36. Mr. Said Rehman S/O Chulam Haznat R/O Mano Banda Tehsil Dir.

Deputy Commissioner,
Dir. Timergara.

No 810-13

Copy forwarded to the :-

1. Commissioner, Malakand Division Saidu Sherif.
2. P.S to Chief Secretary, NWFP, Peshawar.
3. P.S to Home Secretary, NWFP, Peshawar.
4. Section Officer (Spl: II) Govt. of NWFP, Home and TAs Department, Peshawar.

For information with reference to Section Officer (Spl: II) Govt. of NWFP, Home & TAs Department, Peshawar Memo: No. 2/5-SOSII/HD/99/Vol-36, dated 20.10.1999.

Deputy Commissioner,
Dir. Timergara.

No 814-16

Copy forwarded to the :-

1. District Accounts Officer, Dir at Timergara.
2. Assistant Commissioner, Dir for information. He is directed to inform the individual concerned to attend this office for completion of the required formalities.
3. Subedar Major Dir Levies.

1 (24)

P. S. Service

14 08 07

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No.510/2006

Date of Institution... 17.7.2006
Date of Decision... 16.7.2007

Attaur Rehman S/O Ahmad Shakar Rahman,
Sepoy, Dir Levies.

(Appellant)

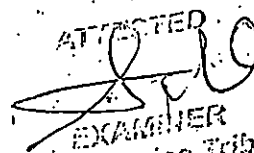
VERSUS

1. The District Coordination Officer, District Dir Upper.
2. The Secretary, Govt. of NWFP, Home & Tribal Affairs Deptt. Peshawar.
3. Mr. Shah Rafiuddin, Lance Naik, Dir Levies and 14 others..... (Respondents).

SERVICE APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED SENIORITY LIST DATED 10.03.2006 AND SUBSEQUENT PROMOTION ORDER DATED 22.03.2006 MADE BY RESPONDENT NO.1 IN VIOLATION OF LAW AND RULES THEREBY APPELLANT AND OTHERS WERE ADVERSELY AFFECTED AND UNLAWFULLY RELEGATED TO JUNIOR POSITION IN ORDER TO DEPRIVE THEM FROM PROMOTION TO THE POST AND RANK OF LANCE NAIK AGAINST WHICH HE FILED DEPARTMENTAL APPEAL ON 04.04.2006 WHICH HAS NOT BEEN DISPOSED OFF WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:-

On acceptance of this service appeal, the impugned seniority list dated 10.03.2006 and subsequent promotion order dated 22.03.2006 of respondents No. 3 to 17 may kindly be set aside and respondent No.1 may graciously be further directed to determine the seniority of the appellant and others as per the appointment order and then to consider him and others on the basis thereof for promotion to the post and rank of Lance Naik.

ATTESTED

EXAMINER
NWFP Service Tribunal
Peshawar.



MR. ASHRAF ALI, Advocate
MR. USMAN GHANI, AGP,
MR. MUHAMMAD TAIF KHAN, Adv.

For appellant
For respondents
No. 1 and 2.
For respondents
No. 3 to 17.

MR. MUHAMMAD UMAR AFRIDI,
MR. ADALAT KHAN KHATTAK,

MEMBER
MEMBER.

ORDER

MUHAMMAD UMAR AFRIDI, MEMBER:- This appeal has been filed by Atta-ur-Rehman, Sepoy, Dir Levies, under section-4 of the NWFP Service Tribunals Act, 1974 against the seniority list dated 10.03.2006 and subsequent promotion order dated 22.03.2006 made by respondent No.1.

2. Brief facts of the case are that the Provincial Government had created and sanctioned two hundred (200) posts of Levies Sepoys in BPS-1 in Dir Levies on Provincial Side to make recruitment of the persons of Sultan Khel and Painsa Khel Tribes in connection with a package regarding eradication of Poppy cultivation.

3. Therefore, appellant and others were appointed as Levies Sepoys in BPS-1, after observing codal formalities, vide Deputy Commissioner, Dir Timergara order dated 22.11.1999. Appellant's name was at S.No.10 of the appointment order. In pursuance of his appointment order the appellant submitted his joining report with medical fitness certificate from the competent authority.

In the meanwhile the respondent No.1 had prepared a seniority list dated 10.3.2006. The appellant was placed at S.No. 143 thereof without legal justification.

ATTORNEY
EXAMINER
NWFP Service Tribunal
Peshawar

5. Similarly by another order dated 22.3.2006, respondents No. 3 to 17, who were junior to the appellant in the order dated 22.11.1999 were made senior to him by promoting them to the post and rank of Lance Naik.

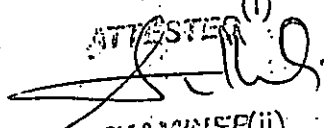
6. The appellant being aggrieved of the aforesaid impugned seniority list and subsequent promotion order of junior Sepoys i.e. respondents No. 3 to 17, filed a departmental appeal before respondent No.2 but the same was not disposed of within statutory period of 90 days, hence the present appeal.

7. After receipt of the appeal, pre-admission notices were issued to the respondents for filing their written replies. Respondents No. 1 and 2 filed their joint written reply. Respondents No. 3 to 17 also filed their joint written reply through their counsel and contested the appeal.

8. Preliminary arguments heard and record perused.

9. The counsel for the appellant while arguing the case referred to Section-2(b) of the NWFP Civil Servants Act, 1973. Under the said Section Civil Servant had been defined as under:-

"Civil Servant" means a person who is a member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include

ATTESTER (i)

EXAMINER (ii)
NWFP Service Tribunal
Peshawar.

(i) a person who is on deputation to the Province from the Federation or any other Province or other authority;

(ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or

(iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934); or the Workman's Compensation Act, 1923 (Act VIII of 1923).

The counsel for the appellant argued that the appellant did not belong to any of the above mentioned categories such as "2(b)(i), 2(b)(ii) or 2(b)(iii) and was only a civil servant. The recruitment of the appellant was made by the Government of NWFP. The appellant and his other colleagues were under the Home Department which was headed by a civil servant.

10. It was pointed out by the learned counsel for the appellant that like other civil servants G.P.Fund and Benevolent Fund deductions were also made from the salaries of the appellant and his other colleagues. The provincial government could depute them anywhere in the province in public interest. As they were provincial employees, therefore, no separate rules had been framed for them. They were to be governed by the rules framed under the civil servants Act, 1973. The fate of these employees had to be decided by the provincial government under section-26 of NWFP Civil Servants Act, 1973. So far rules had not been framed for governing their affairs. To an observation made by the Tribunal, the learned counsel stated that it was not clear as to whether the Levy Personnel were entitled to pension or otherwise. However, G.P.Fund, Benevolent Fund and Group Insurance were being deducted regularly from their monthly salaries like other civil servant, as evident from the pay roll of Mr. Sher Zaman, placed on the file.

11. The learned counsel for the appellant contended that the appellant and his other colleagues were civil servants because their salaries were being drawn from the Provincial Ex-chequer like other civil servants. They were under the direct control of District Coordination Officer Dir (Upper) and Home Secretary who were both civil servants. Both Home Department and the office of District Coordination Officer, Dir (Upper) were neither autonomous bodies nor semi-autonomous organizations. These were Government Departments and hence their employees were civil servants. These posts had been sanctioned by the provincial government and were

ATTESTED
[Signature]
EXAMINER
NWFP Service Tribunal
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(28)

civil servants. The salaries of levies personnel were being drawn from Provincial Ex-chequer. The learned counsel for the appellant made reliance on 1994-PLC(C.S)-684.

12. The representative of the Home Department (Muhammad Ismail Section Officer), on the other hand, stated that Levies were created to compensate the local elders of the Tribes for their cooperation with the Government. The Levies were not governed by the NWFP Civil Servants Act, 1973, rather they were governed by the local traditions, customs or the orders passed by the District Coordination Officer. He further stated that Levies were an irregular force. In the present case, the posts of Levies were created when the Sultan Khel and Painda Khel Tribes voluntarily stopped poppy cultivation. The Government in response to the cooperation of these two tribes offered them jobs in the Levies so that they could have an alternate source of income.

13. The A.G.P. besides relying on the arguments advanced by the representative of respondent No.2, also argued that the levies were not civil servants as their appointments were subject to the condition that they would voluntarily destroy poppy crops. The Chief Minister NWFP appreciating their cooperation in eradication of poppy announced two hundred (200) posts of Levies so as to enable the youth of the two tribes to have an alternate source of income. The learned AGP pointed out that the nature of duties of levies was to assist the police. It was further stated that a civil servant could be transferred throughout the province whereas these Levies were restricted to this particular district of Dir (Upper). The learned A.G.P. also argued that the Tribunal had no jurisdiction to entertain the present appeal as the appellant was not a civil servant and that the Tribunal had only to deal with the terms and conditions of service of the civil servants as defined under the NWFP Civil Servants Act of

ATTESTED

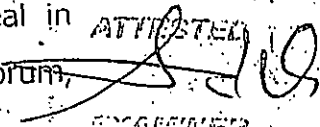
EXAMINER

Service Tribunal

Peshawar

1973. Under the aforementioned Act, different cadres like PCS Executive, PCS Secretariat, Provincial Health Service, Provincial Agriculture service, Provincial Engineering service and Provincial Excise and Taxation service etc. were created. There was no mention of Levy Force nor was it created under the Act. Similarly, specific rules had been framed regarding the method of recruitment and appointment of the civil servants which did not cover the Levy Force. The learned A.G.P and representative of the Home Department requested for dismissal of the appeal on the above grounds.

14. The Tribunal after having heard the arguments of both sides and having perused the available record, tends to agree with the arguments advanced by the representative and the learned A.G.P that the appellant belongs to an irregular force and that different provincial cadres have been created under the NWFP Civil Servants Act, 1973. Similarly specific procedure has to be adopted while making the recruitment and appointment of these cadres. No cadre like Levies has been created under the said Act. The Tribunal, therefore, agrees with the representative of the Home Department and the learned A.G.P that the appellant is not a civil servant. Therefore, this Tribunal has no jurisdiction to entertain his case under section-4 of the NWFP Service Tribunal Act, 1974. Under the circumstances, the appellant has made out no case for interference of the Tribunal. The Tribunal therefore, dismisses the appeal in limine. The appellant, however, may approach the competent forum, if desires so.

ATTESTED

 EXAMINER
 NWFP Service Tribunal
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15. This order shall also dispose of the other eleven (11) connected appeals bearing appeal No. 511/2006, Parvez Khan, Appeal No. 512/2006, Abdul Hafiz, Appeal No. 513/2006, Miftah-ud-Din, Appeal No. 514/2006, Ayam-ud-Din, Appeal No. 515/2006, Hamidullah, Appeal No. 516/2006, Ikramullah, Appeal No. 517/2006,

30



Habib-ur-Rehman, Appeal No. 518/2006, Gulab Zarin, Appeal No. 519/2006, Muhammad Nadim Khan, Appeal No. 520/2006, Aziz Ullah, and Appeal No. 521/2006, Jehan Bakht Zeb, in the same manner as involved. No order as to costs. File be consigned to the record.

ANNOUNCED
16.7.2007

M. Umar Afridi
(MUHAMMAD UMAR AFRIDI)
MEMBER

Adalat
(ADALAT KHAN KHATTAK)
MEMBER

[Signature]
CHIEF CLERK
COURT OF SESSIONS
FEROZKOT

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Number of words	2800
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Total	1600
Date of copyist	15/7/07
Date of completion of copy	15/7/07
Date of delivery of copy	8/9/07

SENIORITY LIST OF DIR LEVY (PROVINCIAL)

S.No	NAME	Date of Birth	Academic Marks 75%	Test Marks 25%	Total Marks
1	Shah Rafiuddin	11/3/1976	65	20	85
2	Lal Bahadar	16/06/1980	65	15	80
3	Mahid Ullah	10/2/1980	60	17	77
4	Zafar Khan	1/1/1974	55	20	75
5	Shah Faisal	6/6/1976	55	20	75
6	Fazal Wahid	4/5/1978	55	20	75
7	Farman Ullah	24/02/1980	55	20	75
8	Shah Zalmi	14/04/81	55	20	75
9	Naseer Ullah	1/7/1979	55	20	75
10	Samiullah	2/5/1975	50	19	74
11	Shahab uddin	1975	55	23	73
12	Amir Hamza	20/03/76	50	17	72
13	Shehzad Khan	3/2/1979	55	22	72
14	Sultan Zaib	1/6/1979	50	17	72
15	Khan Sher	16/03/75	50	22	72
16	Amir Nawaz	3/1/1977	55	21	71
17	Khaista Rehman	6/2/1973	50	16	71
18	Fazli Subhan	3/1/1975	55	20	70
19	Aman Ullah	3/1/1976	50	15	70
20	Wahid Zama	1/1/1978	55	20	70
21	Badshah Halim Said	5/3/1969	50	15	70
22	Nisar Mohammad	15/08/79	50	19	69
23	Siraj uddin	3/4/1979	50	19	69
24	Ali Sher	1/4/1973	45	18.5	68.5
25	Rahm Khan	4/3/1974	50	22	67
26	Rahman Ullah	1/1/1978	45	17	67
27	Said Mohammad	15/1/78	45	22	67
28	Mohammad Hussain	4/4/1980	50	22	67
29	Ibrahim Khan	15/03/75	45	17	67
30	Wahid Ur Rehman	18/05/76	50	21	66
31	Mohd Yar	11/2/1979	50	16	66
32	Sultanat Khan	18/06/81	50	16	66
33	Gulzar Rawan	8/4/1975	45	16	66
34	Aziz Ullah	2/6/1979	45	20	65
35	Mohd Alam	5/4/1969	50	20	65
36	Said Akbar	20/08/79	50	15	65
37	Samiullah	4/3/1980	50	15	65
38	Mohd Shoaib	12/6/1980	50	15	65
39	Fazil Khan	13/05/75	45	19	64
40	Sher Zulam	1/6/1975	45	19	64
41	Alam Zaib	20/04/78	45	19	64
42	Bahadar Sher	1/8/1978	45	19	64
43	Shah Khalid	1/5/1980	45	19	64
44	Aurang Zeb	12/7/1977	45	19	64
45	Khair Mohammad	12/3/1978	45	18	63
46	Ala Dad	16/01/79	45	18	63
47	Sherin Zada	4/2/1980	50	13	63
48	Mian Sahib Zada	13/2/74	45	17	62
49	Jan Mohammad	4/9/1975	45	17	62
50	Ibad Ullah	12/2/1976	50	12	62
51	Zahid Khan	1/1/1977	45	17	62
52	Mohd Jamil	5/2/1977	45	17	62
53	Habib ur Rehman	4/4/1978	45	17	62
54	Hayat Khan	12/4/1980	45	17	62
55	Abdur Razaq	7/6/1974	45	16	61
56	Mohd Salam	20/01/75	45	16	61
57	Aqal Zada	15/03/76	45	16	61
58	Haroon Khan	24/04/77	45	16	61
59	Gul Azim	4/5/1980	45	16	61
60	Ayam uddin	1/2/1973	45	15	60
61	Ihsan Ullah	1/3/1975	45	15	60
62	Yar Zamin	12/4/75	45	15	60
63	Baramosh Khan	1975	40	20	60
64	Sher Ghani	1/4/76	45	15	60
65	Asil Rawan	10/5/78	45	15	60
66	Nourang	3/8/81	45	15	60
67	Bakht Shah Zeer	20/2/77	40	19	59
68	Ihsan Ullah	11/8/1977	45	14	59
69	Kifayat Ullah	1/7/1980	45	14	59
70	Liaq Zada	6/3/1979	45	13.5	58.5


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72	Zeer Ullah	11/4/1974	45	13	58
72	Mohd Anwar	4/11/1975	45	13	58
73	Mohd Ayub	1/3/1978	45	13	58
74	Tajbar Khan	6/4/1978	40	18	58
75	Sher Akbar Khan	30/4/78	45	13	58
76	Fida Mohammad	1/7/1979	45	13	58
77	Niaz Mohammad	1/1/80	40	18	58
78	Jan Farosh	15/1/80	40	18	58
79	Sultan Rehman	9/9/1975	40	17	57
80	Habib ur Rehman	1976	40	17	57
81	Zameer Khan	6/3/77	40	17	57
82	Mohd Ikram	1/6/1977	40	17	57
83	Mian Noor Said	6/7/1979	40	17	57
84	Said Rehman	4/4/1980	40	17	57
85	Hakim Khan	1/3/1973	40	16	56
86	Sher Zada	15/3/1973	40	16	56
87	Ikram Ullah	1/7/1978	40	16	56
88	Iqbal Hussain	18/4/80	40	16	56
89	Hayat Ullah	15/11/80	40	16	56
90	Zar Mahmood	25/3/74	55	0	55
91	Miftahu Din	10/2/1977	45	10	55
92	Islam Zada	1/3/1978	40	15	55
93	Jan Pervaiz	10/4/1979	40	15	55
94	Sikandar Khan	27/12/79	40	15	55
95	Shafuallah	1/3/1980	40	15	55
96	Shah buddin	20/9/74	40	14	54
97	Zahir Shah	3/4/1976	40	14	54
98	Ashraf Khan	15/3/79	45	9	54
99	Niaz Bahadar	1/7/1979	40	14	54
100	Pervaiz Khan	16/4/74	40	13	53
101	Abdul Haq	1/1/1975	45	8	58
102	Baidar Khan	18/3/76	40	13	53
103	Wazir-Khan	3/3/1979	40	13	53
104	Amir Ullah	7/3/1976	40	12	52
105	Ali Akbar	12/2/1978	40	12	52
106	Mohd Zaman	1/1/1977	40	11	51
107	Mohd Zubair	15/2/77	40	11	51
108	Maqsood Ahmad	4/1/1975	45	5	50
109	Mohd Rasheed	14/2/1975	40	10	50
110	Ismail	1974	35	14	49
111	Mohd Zaman	22/8/71	45	0	40
112	Fazal Wahid	7/6/1976	50	0	55
113	Rekhmin Zada	1/7/1978	50	0	50
114	Niaz Mohammad	8/1/1979	50	0	50
115	Naeem Ullah	18/3/74	45	0	50
116	Aurang Zeb	15/6/75	45	0	45
117	Sher Zaman	22/4/77	45	0	45
118	Badshah Wazir	25/1/78	45	0	45
119	Mohd Saeed	2/1/1979	45	0	45
120	Shams Islam	3/1/1979	45	0	45
121	Mohd Nawaz	28/2/79	45	0	45
122	Ikram Ullah	12/8/1979	45	0	45
123	Jan Bakht Zeb	8/3/1980	45	0	45
124	Noor Zada	3/4/1980	45	0	45
125	Mohd Nadeem	12/4/1980	45	0	45
126	Abdul Hafiz	12/9/1980	45	0	45
127	Shahid Ahmad	3/3/1970	40	0	40
128	Sherin Zada	3/5/1972	40	0	40
129	Ahmad Ullah	15/6/74	40	0	40
130	Hamid Ullah	15/6/74	40	0	40
130	Manzoor Ahmad	2/2/1975	40	0	40
132	Miraj Khan	1/1/1976	40	0	40
133	Badshah Yousaf	3/2/1976	40	0	40
134	Mohammad Khan	14/2/76	40	0	40
135	Saeed Mohammad	18/2/76	40	0	40
136	Mohd Zada	25/4/76	40	0	40
137	Abdul Qayum	25/5/76	40	0	40
138	Gulab Zarin	12/12/1976	40	0	40
139	Aurang Zeb	2/2/1977	40	0	40
140	Aziz Ahmad	10/2/1977	40	0	40
141	Tayab Zada	3/3/1978	40	0	40
142	Hamid Ullah	6/4/1978	40	0	40
143	Attaur Rehman	25/5/78	40	0	40

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144	Yar Mula Khan	15/9/78	40	0	40
145	Jan Zada	2/4/1979	40	0	40
146	Wakeel Zada	27/4/79	40	0	40
147	Lal Zamin	14/7/79	40	0	40
148	Nimat Khan	2/4/1980	40	0	40
149	Khwaja Hussain	5/5/1980	40	0	40
150	Shah Nazar Khan	12/6/1980	40	0	40
151	Aurang Zeb	3/8/81	40	0	40
152	Akhtar Said	5/4/1982	40	0	40
153	Mohammad Wali	6/4/1982	40	0	40


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BEFORE THE PESHAWAR HIGH COURT.

34

Writ Petition No. 1855/2007

Attaur Rehman s/o Ahmad Shakar Rehman

Versus

District Coordination Officer District Dir Upper.

PRELIMINARY OBJECTION:

- 1) That the petitioner has no cause of action.
- 2) That the petition is time barred.
- 3) That writ petition is not maintainable in its present form.

PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO.1 ARE AS UNDER:-

- 1) No comments.
- 2) In the absence of Appointment & Promotion Rules for Dir Levy (Provincial), the Levy Command faced difficulties to fill by promotion the vacant position of Lance Naiks, Naiks & Havaldars, therefore, a committee comprising DCO / Commandant, Subedar & Levy Head Clerk, recommended promotions in the force on the basis of following criteria to overcome the problem of command and control of the force:-

- a) Age
- b) Qualification
- c) Test

- 3) No comments

GROUNDS.

- a. In absence of Appointment & Promotion Rules for Dir Levy (Provincial) regular promotions, on the basis of seniority cum fitness were / are not possible to be done, therefore, as explained in Para-2 above, only to fill the vacume of command & control, temporary promotions, on the basis of criteria laid by the committee, have been made. No violation of rules and law has been made.
- b. As explained in Para-2 of facts & (a) of grounds above.
- c. As explained in Para-2 of facts & (a) of grounds above.
- d. The seniority list has been prepared on the basis of test, qualification & age to overcome the command & control problem of the force. The seniority list prepared on the recommendation of the Promotion Committee for Dir Levy (Provincial) will be revised after the formation of Rules.

In the light of above, it is humbly prayed that the writ petition may be rejected / dismissed with costs.

FILED

Deputy Registrar

11 JUL 2009

DISTRICT COORDINATION OFFICER
UPPER DIR (RESPONDENT NO.1)



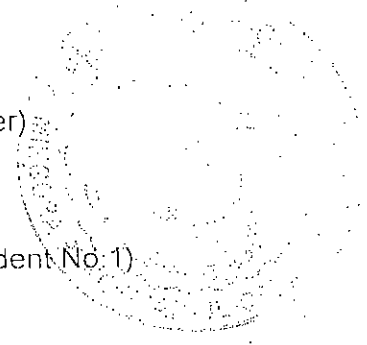
BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No.1855/2007

Attaur Rehman s/o Ahmad Shakar Rehman (Petitioner)

Versus

District Coordination Officer District Dir Upper (Respondent No.1)



AFFIDAVIT

I Noor Ali Jan Accounts Officer DCO Upper Dir (BPS-17) do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments submitted by Respondent No.01 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

[Handwritten signature]

DEPONENT
15304-4249626-5

Identified by
[Handwritten signature]
Additional Accounts
General
11/7/09

9122

July 9, 2009
Noor Ali Jan
Accounts Officer Dir
Administrative General

Oath Commissioner
Peshawar High Court, Peshawar

11/7/09

[Faint handwritten notes and stamps at the bottom left corner.]

Before the Peshawar High Court, Peshawar

Writ Petition No. 1855/2007

Attaur Rehman s/o Ahmad Shakir Rehman & Others.....Petitioners

VS.

Secretary to Govt. of Khyber Pakhtunkhwa, Home & T.As Department...Respondent

Preliminary Objections:

1. That the Petitioners have no cause of action.
2. That the Petition is time barred.
3. That Writ Petition is not maintainable in its present form.

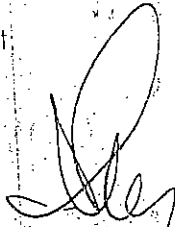
Para-wise Comments on Behalf of Respondent No. 2 are as under: -

1. No comments as the para pertains to record.
2. Incorrect. Actually in the absence of Appointment and Promotion Rules for Dir Levies (Provincial), the Commandant/DCO (Respondent No. 1) constituted a promotion committee. The Committee prepared a temporary seniority list on the criteria of test, qualification and age in order to fill up the vacuum and solve the problem of the command and control of the force in Upper Dir.
3. As stated above in Para-2.

Grounds:

- a. Incorrect. No violation of the Rules and law has been made because the seniority list has been prepared on the above-mentioned criteria temporarily, and all efforts were made to ensure fair dealing.
- b. As explained in Para-2.
- c. No comments.
- d. No comments.

In light of the above, it is humbly prayed that writ petition being time barred and without merits may be dismissed with cost.



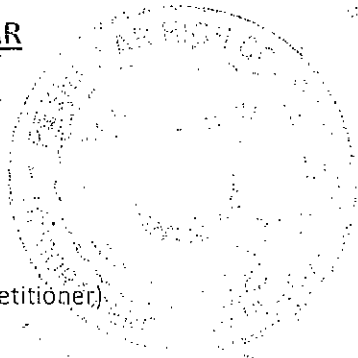
Home Secretary
Khyber Pakhtunkhwa
Respondent No. 2

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



W.P.No. 1855/2007

Atta-ur-Rehman & OTHERS

(Petitioner)

VERSUS

GOVT: of Khyber Pakhtunkhwa & Others

(Respondents)

AFFIDAVIT

I Mr, Javed Ali, Section Officer (Judicial), office of the Secretary Home & T.As, Department, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the parwise comments submitted by respondent No.2 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Court.

[Signature]
DEPONENT

MC-16102-3377608-1

Identified by

[Signature]
ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR

1362

[Signature]
S.O. Judicial
Javed Ali
Peshawar
AC

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#4/8/2014

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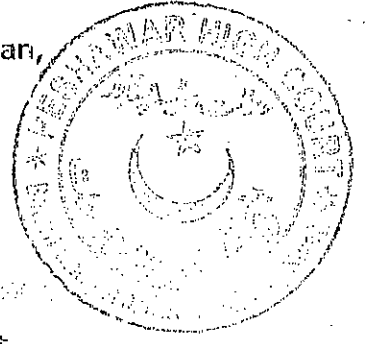
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IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 1855 /2007

1. Attaur Rehman son of Ahmad Shakar Rahman, Sepoy, Dir Levies.
2. Muhammad Nadeem Khan son of Muhammad Waseem, Sepoy, Dir Levies.
3. Abdul Hafiz son of Muhammad Azam Khan, Sepoy, Dir Levies.
4. Gulab Zarin son of Badshah Zarin, Sepoy, Dir Levies.
5. Aziz Ullah Sepoy, Dir Levies.
6. Ikram Ullah son of Habib Ullah
7. Jehan Bakht Zeb son of Badshah Hazrat
8. Miftah-ud-Din son of Ahmad Din
9. Hamidullah son of Muhammad Sabir
10. Ayam-ud-Din son of Muhammad Rasool Khan
11. Parvez Khan son of Said Muhammad Khan Sepoy, Dir Levies.....



Petitioners

Versus

1. District Co-Ordination Officer, District Upper Dir.
2. Secretary to Government of N.W.F.P, Home & Tribal Affairs Department, Peshawar.
3. Mr. Shah Rafi-ud-Din, Lance Naik, Sepoy, Dir Levies.
4. Mr. Lal Bahadar, Lance Naik Sepoy, Dir Levies.
5. Mr. Mohed Ullah, Lance Naik Sepoy, Dir Levies.
6. Mr. Zafar Khan, Lance Naik Sepoy, Dir Levies.
7. Mr. Shah Faisal, Lance Naik Sepoy, Dir Levies.
8. Mr. Fazal Wahid, Lance Naik Sepoy, Dir Levies.

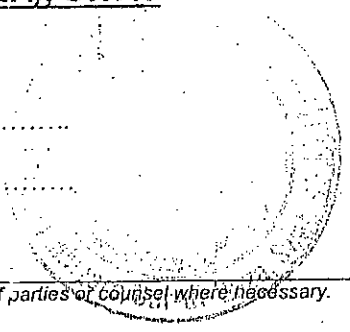
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 20-04-2007

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No..... of.....



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or Counsel where necessary.
1	2
02.11.2011.	<p><u>WP No.1855/2007</u></p> <p>Present Mr. Muhammad Amin Khattak Lachi advocate for petitioners. Mr. Ghulam Muhammad Khan DCO/respondent No.1 alongwith Mr. Ikram Ullah Khan AAG. Mr. Muhammad Yar Khan advocate for respondents No.3 to 17.</p> <p><u>MIAN FASIH-UL-MULK, J.</u> On 05.10.2011, learned counsel for petitioners stated that "there are still some vacancies available with the respondent No.1 and petitioners, if they so like, can be accommodated against those vacancies. Learned AAG stated that if any vacancies are available, the petitioners can be accommodated on pure humanitarian grounds provided respondent No.1 is called and in that way the matter can amicably be resolved".</p> <p>Respondent No.1 in response to court notice undertakes that there are no vacancies available at the moment, however, as and when such vacancies fall vacant, the petitioners would be considered for promotion in accordance with law / rules and seniority cum fitness.</p>

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Learned counsel for the petitioners is satisfied with the above-said undertaking / statement of respondent No.1.

In this view of the matter, this writ petition stands disposed of accordingly.

Certified to be true copy

[Signature]
JUDGE

[Signature]
JUDGE

Peshawar High Court
Authorized under Article 177 of the Constitution of Pakistan Order 1984

[Signature]
JUDGE

3/11/14

S.No. 42
Name of Applicant Abdul Wahid
Presentation of Application 04-1-14
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BEFORE THE PESHAWAR HIGH COURT BENCH
MINGORA / DARUL QAZA SWAT

C.M.No. 882 -M/2014

In

Writ Petition No. 1855 of 2007

Attaur Rehman & 1 other Petitioners

VERSUS

D.C.O and others Respondents

1. Attaur Rahman son of Ahmad Shakar Rahman Sepoy, Dir
Levies, Upper Dir.

2. Ikramullah son of Habibullah Sepoy, Dir Levies, Upper Dir.

..... Petitioners

VERSUS

1. Deputy Commissioner Upper Dir.

2. Secretary to Govt. of KPK Home & Tribal Affairs

Department at Peshawar.

3. Ibadullah Lance Naik, Dir Levies, Upper Dir.

4. Zahid Khan Lance Naik, Dir Levies, Upper Dir.

..... Respondents

(51)

(42)

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APPLICATION FOR IMPLEMENTATION
OF THE JUDGMENT / ORDER OF THIS
HONORABLE COURT DATED 02-11-2011
IN WRIT PETITION NO. 1855 / 2007.

Respectfully Sheweth,

FACTS

- 1) That the petitioners and some of his colleagues in Dir Levies filed a writ petition titled above with a prayer to consider the petitioners for promotions after determining their seniority. (Copy of writ petition is attached as annexure "A")

- 2) That this Honorable Court directed the Respondent No.1 to consider the petitioner for promotion in accordance with law as and when vacancies fall vacant. (Copy of judgment / order dated 02-11-2011 is attached as annexure "B")

- 3) That after the petitioners along with other colleagues filed an application in the office of Respondent No. 1 for seeking promotion on the vacant posts vide dated 24-12-2011. (Copy of application is attached)

- 4) That on the response the concerned authority admitted that two posts of Subidar are lying vacant and furthermore he suggested that the petitioner may be promoted as Lance Naik vide letter / PUC dated 26-12-2011. (Copy of the letter / PUC is attached).
- 5) That the petitioners repeatedly asked for their promotions as per rules / order of the Honorable High Court but they cannot respond.
- 6) That the petitioners got astonished when the concerned authority promoted the private Respondents from the rank of Sepoy as Lance Naik, however the private Respondents are junior than the petitioners. (Copy of the promotion order / letter dated 03-09-2014 is attached as annexure "C")
- 7) That in spite of the fact that the private Respondents are junior than petitioners, but even than the Respondent No.1 promoted them, which is shares violation of law, justice and not tenable.
- 8) That it is escaped from the notice of the concerned authority that seniority be reckoned from the date of initial appointment while considering the seniority of petitioners so, the petitioners are entitled to be promoted to Lance Naik so, on this score alone the order passed by the concerned authority is nullity in the eyes of law.



9) That the order / judgment of this Honorable Court is binding upon the official Respondents and they are bound to act upon the said order, therefore issuing the order of promotion of petitioners to the Rank of Lance Naik as per the length of their service.

10) That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

It is therefore, most humbly prayed that, on acceptance of this application the concerned Respondents may please be directed to implement the above referred judgment / order of this honorable Court thereby issuing the order of promotion as prayed for without any further delay.

Applicants / petitioners

Through Counsel

SYED ABDU HAQ
Advocate, High Court

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در این کتاب

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سازمان اسناد و کتابخانه ملی

(9) - صفحه



کتابخانه

091-5622969 شماره تماس

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(8)

2009- 0333-954046 شماره تماس - 0312-5405424 شماره تماس - 0312-5405424 شماره تماس

03/08/2015 تاریخ ثبت

این سند جهت اطلاع و آگاهی از کلیه جزئیات پرونده و اسناد موجود در پرونده صادر شده است. این سند شامل کلیه اسناد و مدارک موجود در پرونده است. این سند جهت اطلاع و آگاهی از کلیه جزئیات پرونده و اسناد موجود در پرونده صادر شده است.

این سند شامل کلیه اسناد و مدارک موجود در پرونده است. این سند جهت اطلاع و آگاهی از کلیه جزئیات پرونده و اسناد موجود در پرونده صادر شده است. این سند شامل کلیه اسناد و مدارک موجود در پرونده است.

این سند جهت اطلاع و آگاهی از کلیه جزئیات پرونده و اسناد موجود در پرونده صادر شده است. این سند شامل کلیه اسناد و مدارک موجود در پرونده است. این سند جهت اطلاع و آگاهی از کلیه جزئیات پرونده و اسناد موجود در پرونده صادر شده است.

این سند جهت اطلاع و آگاهی از کلیه جزئیات پرونده و اسناد موجود در پرونده صادر شده است. این سند شامل کلیه اسناد و مدارک موجود در پرونده است.

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OFFICE OF THE
ASSISTANT COMMISSIONER/SDM
SHERINGAL.

No. 1346 /ACSDM/Sbr.
Dated: 28 /12/2015.

To: The Commandant/ Deputy Commissioner,
Upper Dir

Subject: OFFICE ORDER.

Memo: Please refer to your good office letter bearing No. 16664-66/DC/LHC/Office
Order dated 09-12-2015 on the subject as captioned above.

On the receipt of the letter under reference both the constables and the Levy
Head Clerk office of the Deputy Commissioner, Dir Upper was summoned to this office on 17-12-
2015. Accordingly their statements were got recorded which are given as follows:

1. Identical Statements of Mr. Atta ur Rehman s/o Ahmad Shakir ur
Rehman & Mr. Ukram Ullah s/o Habib Ullah Khan Levy constables
"Annexure A"

Stated that they have been recruited as levy constables in the year
1999. According to them during that period there was no proper procedures
for maintaining seniority list for promotion to the next rank. During the year
2006 a new criteria was set forth by the then Commandant/District
Coordination Officer, Dir Upper vide which age, qualification and test were
declared as mandatory provision to qualify the same. During the period the
Commandant/District Coordination Officer, Dir Upper arranged test &
interview, but instead of appearing for interview they agitated the issue
before Peshawar High Court Bench Mingora Darulqaza Swat. During the
course of trial the Honorable Peshawar High Court summoned the
commandant/District Coordination Officer, Dir Upper & who updated the
Court of the factual position. The court directed him to consider the case of
the petitioners. The then District Coordination Officer, Dir Upper told the
learned High Court Bench Mingora Darulqaza Swat that their case would be
considered as and when vacancies fall vacant in accordance with law/rules
and seniority cum fitness. Further stated that latteron, they submitted
another application to the District Coordination Officer, Dir Upper on 24-12-
2011, taking the plea to honour the verdict of the court. Again the then
District Coordination Officer, Dir Upper had been pleased to passes his
remarks that "the senior most may be promoted as subedar and others on

LHC/P7
APM
D-Dir
31/12/15

11078
31/12/15

PS
Answer case
h/21

(49)


their turn be promoted to higher ranks" they produce the copy of the note sheet vide "Annexure B"

They submitted that they were left from the promotion by promoting their other counterparts under this compulsion they have to knock at the door of Ehtissab Commission Khyber Pakhtunkhwa Peshawar for seeking remedy. Further stated that they have mentioned the levy constable in their application who had been promoted after termination from service while he was serving abroad. Also his salary was regularly coming in the budgetary book. Themselves stated that now they have knocked at the door of Peshawar High Court Bench Mingora Darulqaza Swat for seeking implementation of the order of the august Peshawar High Court Bench Mingora Darulqaza Swat passed vide its previous order dated 02-11-2011. The date in their case has been fixed for hearing on 19-01-2016.

2. Statement of Mr. Raza Ullah Levy Head Clerk Deputy Commissioner, Office Dir Upper "Annexure C".

The statement of Mr. Raza Ullah levy head clerk office of the Deputy Commissioner, Dir Upper was also got recorded on 17-12-2015 vide annexure "C". According to his statement Dir Levy Provincial was established during the year 1999. At the time when levy provincial was established no rules and regulation was existed to regulate the process of service structure of Dir Levies provincial. Sensing the importance of the situation, the then Commandant Dir Levies set forth criteria under which it was mandatory that the seniority is to be fixed and determined after going through the process of test, qualification and age. He produced the same vide "Annexure D". Further stated that 11 constables of Dir Levies refused to appear in the said test and they preferred a writ petition before Peshawar High Court Bench Mingora Darulqaza Swat challenging the seniority list. As per directives of the court their promotion will be considered strictly in accordance with the established rules and regulations plus seniority cum fitness as and when vacancies fall vacant (copy of the court decision is vide at "Annexure E"). He further stated that the names of the levy constables are place at S. No. 122 and 143 in the seniority list respectively and their case of seniority is still subjudice in the Peshawar High Court Peshawar Bench Mingora Darulqaza Swat and final decision is yet to come. He further stated that the complainants had leveled the same charges against him before the court of NAB and Ehtisab Commission in the past too but in vain. He further stated that the allegations leveled against Constable Amir Nawaz is also baseless and unfounded that he had drawn neither his salary in his absence nor got promotion when he was abroad. He produced a letter from District Account Officer, Dir Upper vide

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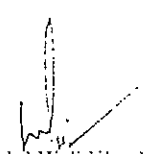
which it has been mentioned that the salary of the official had been paid by this office upto 21-05-2009 to the context of alleged constable. The fact is that the DCO Dir Lower reported to the absence of the defaulting constable from duty. Inquiry was conducted to that very effect by appointing inquiry officer the DOR & E Dir Lower. The inquiry officer after scrutinization the whole state of affairs recommended his findings to award major penalty to the constable concerned. As a sequel to the recommendation of the inquiry officer, the Competent Authority finally terminated the incumbents from service he produced copy of the same vide at "Annexure F".

Findings:

1. Both the levy constables have travelled beyond their constitutional jurisdiction.
2. Their this act falls under the ambit of disobedience.
3. The applicants leveled false allegations against the competent authority coupled with office clerk but could not substantiate their claims.
4. The complainants knocked at the door of improper forum leaving behind the next higher authority.
5. The complainants being a part of the force violated the norms of the force discipline.

From going through the chequered history of the case, it is evident that the applicants exhausted every avenue and knocked at the door of various legal forum but in vain. Now they are flogging the death horse.

Apart from the above, it is worth mentioning that the applicant on one hand have agitated the order of the seniority of officials who were senior to them and on the other hand they have lodged application to the Khyber Pakhtunkhwa Ehtissab Commission. The situation at the most is conflicting as the applicants are required to wait for the final decision of the learned Peshawar High Court Bench Mingora Darulqaza Swat. It is proposed that their this act is against the norms of office discipline which has abundantly proved to hilt. Therefore, it is recommended that they are liable to be given minor penalty by withholding their 02 annual increments in order to discourage their adopted trend in future.


(Abdul Wali Khan)
ASSISTANT COMMISSIONER/SDM
Sheringal



OFFICE OF THE
DEPUTY COMMISSIONER,
DIR UPPER.

(5)

Off: 0944880394 & 880104
Fax: 881130.

No. 1097-1104/DC/LHC/IQ
Dated Dir the 26/1/2016.
Email address dcdirupper@gmail.com

OFFICE ORDER.

Whereas on receipt of letter from Ehtesab Commission vide NO. 07/KP-eC/16/CC, dated, 19.11.2015 submitted by levy sepoy Mr. Ikramullah S/O Habibullah R/O Khail Luqman Banda and Levy Sepoy Atta ur Rehman S/O Ahmad Shakoor R/O Khail Khandaro Dir Lower, Mr. Abdul Wali Khan Assistant Commissioner Sharingal was appointed inquiry Officer for probing into the allegation of complaint by the above named levies constables and submit recommendations.

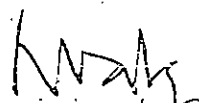
Inquiry Officer Assistant Commissioner Sharingal vide NO. 1346/AC/SDM/Shr., dated, 28.12.2015 submitted inquiry report wherein he has found out that both the levies constables have deviated from the rules, norms, conduct and discipline by not preferring an appeal before the Home Secretary being appellate authority under Provincial levies rules-2015 and by knocking the door of Peshawar High Court Peshawar upon whose directions necessary administrative action was taken by Commandant Dir Upper for preparation of Seniority list of the Provincial Levies and they were found to be junior to those who were promoted to next rank. However not satisfied with the administrative action taken by Commandant Dir Levies both levies constable moved Peshawar High Court Bench Darul Qaza Swat against the order of the Commandant Provincial Levies Dir Upper once again.

Both Levies constables again submitted complaint to Ehtsab Commission against the Commandant Dir Levies without waiting for the decision of High Court. On the receipt of letter from the Ehtesab Commission for inquiry the case was again marked to Assistant Commissioner Sharingal for inquiry who has submitted the instant report, wherein it has been reported that both constables have "travelled beyond their constitutional jurisdiction which comes under the ambit of disobedience, misconduct, and violation of the norms of the discipline force" and proposed minor penalty by withholding two annual increments.

The undersigned after going through the record and misconduct, insubordination of both levies Sepoy is in of the view that instead of minor penalty a punishment of major

(35) (52)


penalty must be imposed and their services be dismissed for exhibiting worst kind of misconduct, indiscipline and show of contempt to the High Court and their superior Officers. However, since the case is subjudice in Darul Qaza Swat, a lenient view is taken till the decision of the Darul Qaza by accepting the recommendations of the Inquiry Officers by withholding two annual increments for the time being and their fate be decided after the decision received from Darul Qaza Swat.


Deputy Commissioner/
Commandant Dir Levies,
Upper Dir.

NO. 1077-1104 /DC/LHC/IQ,

Copy forwarded to:-

1. The Commissioner Malakand Division Saidu Sharif Swat.
2. The Registrar Darul Qaza Swat.
3. The Colonel Sardar Ali (Retd) Additional Director Investigation, Ehtesab Commissioner Khyber Pakhtunkhwa Peshawar.
4. The Deputy Commission Dir Lower at Timergara for further necessary action.
5. The Section Officer (Com/Enq) Govt: of Home & T.As Department Khyber Pakhtunkhwa Peshawar.
6. The Section Officer Levies Home and T.As Department Khyber Pakhtunkhwa Peshawar.
7. The District Accounts Officer Dir Upper for necessary action.
- ✓ 8. Mr. Ikramullah and Atta ur Rehman Levies Sepoys Provincial Levies Dir Upper for information.


Deputy Commissioner/
Commandant Dir Levies,
Dir Upper.

understanding

(consider) (تفکر، در نظر گرفتن)

(availability) (دسترسی)

(understanding) (تفکر، در نظر گرفتن)

(13) ...

(12) ...

(11) ...

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14) کہہ سکا اس لئے اس بار سے اسٹار میں بیٹھ
 کہہ رہی دوران اسٹارٹ کے لئے آرڈر جرن
 03/09/2014
 کیا جلی رو سے جو ٹیکسٹ میں رو افراد اس میں سمیان عبد اللہ
 خالد صالح کو اس میں مارنے کے لئے ہر پروٹ کے منتقل
 آرڈر جرن میں 03/09/2014 لکھا ہے۔

15) یہاں اس میں کہہ رہے ہیں کہ ماہی و دریا کی حالتی و بیلا جوڑ
 ہر دو جس میں عدالت کی اور ہا کی کورٹ کے لئے بیلا جوڑ
 درجہ میں implementation حکم عدالت صدر 02/11/2011
 دیکر کیا ہے اس میں عدالت عالیہ کی اور ہا کی کورٹ کے لئے بیلا جوڑ
 بیلا جوڑ کے حکم جرن 11/03/2015 کو جس میں جاری کیا کہ عدالت کو اس میں
 فراہم کیا جاوے گا حکم صدر جرن 11/03/2015 لکھا ہے

16) کہہ لہذا اس میں اسٹارٹ کے لئے عدالت عالیہ کی اور ہا کی کورٹ میں
 ماہی و دریا کے لئے (Response) کیا اور ہا کی کورٹ میں
 عدالت عالیہ کی اور ہا کی کورٹ کے لئے بیلا جوڑ میں زیر سمیان ہے

17) یہاں اس میں اسٹارٹ کے لئے بیلا جوڑ / اگلی سمیان، انکواری اور ماہی و دریا کی
 سے بیلا جوڑ جرن 26/10/2016 جاری کیا ہے کہ بیلا جوڑ ہا کی کورٹ میں
 بیلا جوڑ میں

18) کہہ اس میں اسٹارٹ کے لئے بیلا جوڑ 26/10/2016 عدالت عالیہ کی اور ہا کی کورٹ میں
 بیلا جوڑ میں

19) کہہ اس میں اسٹارٹ کے لئے بیلا جوڑ اس میں اسٹارٹ کے لئے بیلا جوڑ
 کیا ہے، حالانکہ اس میں اسٹارٹ کے لئے بیلا جوڑ اس میں اسٹارٹ کے لئے بیلا جوڑ
 میں اسٹارٹ کے لئے بیلا جوڑ اس میں اسٹارٹ کے لئے بیلا جوڑ

جس بناؤں سے تعلق ہے ان کے بارے میں آڈٹ جاری کیا ہے جو فیصلہ طلب ہے۔
ادراغوں کے بارے میں اصولوں کے قطعاً خلاف ہے۔

جس کے بارے میں آڈٹ 26/01/2016 میں جاری ہوا ہے اور اس کے بعد بھی
دیا ہے کہ صورت ناگہانی مقدمہ زیر سماعت اور عدالت شاہدوں کی رپورٹ
میں گواہ سچ ایڈوائس کے خلاف کارروائی کی جا کر ایڈوائس کو
سروں سے Dismiss کیا جائے گا جو کہ قطعاً غلط اور
خلاف قانون ہے۔

جس کے بارے میں (misconduct) کا غلط آسٹریچ (سچ)
ماہر ایڈوائس کو Two Annual increments کی سزا دی ہے
جو صرف شاہدوں اور بعض استقامی کارروائی کے متعلق ہے
جو کہ آڈٹ 26/01/2016 میں منسوخ ہے۔

بمالات مالدار کے بارے میں آڈٹ 26/01/2016 میں جاری ہے
اس بارے میں جو خلاف قانون - خلاف ضابطہ کارروائی جاری
منسوخ ہو جائے۔

تعمیرات 25/02/2016
اکرم احمد (سیاسی ڈیپارٹمنٹ صوبائی) اور حیدر آباد
تعمیرات پانڈے نیشنل حال درپور
عطاء الرحمن (سیاسی ڈیپارٹمنٹ صوبائی) کے
نندو نیشنل حال فہرہ پور
عطاء الرحمن

نہیں حاصل
حق بیان کرتے ہیں کہ
کرتیساں ہیں
اعداد و حساب
اکرم احمد

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & T.A. DEPARTMENTNo. SO (Levies)/HD/6-97/2016 Ikram & Atta
Dated Peshawar the 20/04/2016.


To,

The Deputy Commissioner /
Commandant Levies,
Dir Upper.Subject: - APPEAL AGAINST DC/COMMANDANT LEVIES DIR
UPPER ORDER NO.1097-1104/DC/LHC/IO DATED 26.01.2016
REGARDING WITHHOLDING OF 02 INCREMENTS.

Sir,

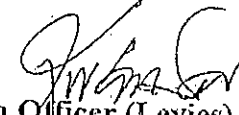
I am directed to refer to your letter No. 4030/DC/LHC/HD dated 25.03.2016 on the subject noted above and to forward herewith a copy of Order dated 12.04.2016 passed by Home Secretary on the departmental appeal of Mr. Ikram Ullah & Atta-ur-Rehman (self-explanatory) for information and further necessary action. The applicants may be informed accordingly.

Yours Faithfully,

Encl as aboveEndst: No as above.
Section Officer (Levies)
Phone 091-9210503

Copy to the:

1. District Accounts Officer, Dir Upper.
2. PS to Home Secretary Khyber Pakhtunkhwa.


Section Officer (Levies)47
12.6

(57) (12)

IN THE COURT OF HOME SECRETARY KHYBER PAKHTUNKHWA
(APPELLATE AUTHORITY)

APPELLANT: IKRAMULLAH & ATTA-UR-REHMAN
V/S
COMMANDANT LEVIES, DIR UPPER

Departmental appeal of Mr. Ikramullah & Atta-ur-Rehman Provincial Levies Sepoys against Order No. 1097-1104/DC/LHC/IQ dated 26.01.2016 issued by DC/Commandant Levies, Dir Upper.

ORDER

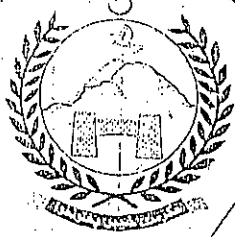
2. Mr. Ikramullah & Atta-ur-Rehman, appellants have lodged appeal before the Home Secretary on 25.02.2016 against the order of DC Dir Upper dated 21.01.2016. The appellants have stated in their appeal that they were appointed in 1999. They filed Writ against seniority in Peshawar High Court in 2007. On notice D.C Dir Upper submitted before the court that there are no vacancies available, however, as and when such vacancies fall vacant, the appellants would be considered for promotion in accordance with law / rules and seniority cum fitness. When juniors to them promoted on 03.09.2014, the appellants approached Peshawar High Court for implementation of its decision dated 02.11.2011 wherein notice was issued to Deputy Commissioner to appraise the court about the progress. The appellants also filed a complaint in the Ehtesab Commission. Deputy Commissioner aggrieved on their complaint, constituted and conducted enquiry against them. On the recommendations of enquiry they were awarded punishment of withholding 02 increments. The appellants have prayed for withdrawal of order regarding withholding of 02-increments.

3. Commandant Levies Dir (U) in his comments stated that the appellants are serving since 1999 while the Provincial Levies rules promulgated in 2015. Their seniority list was issued on the basis of age, test and qualification in 2006 wherein they stand at S.No.122 & 143. Mr. Ibadullah & Zahid Khan other than the appellants had been promoted as L/Naik on the basis of their seniority at S.No.50 & 51. Complaint of appellants reveals violation of the chain of command and amounts to misconduct by polluting the environment of discipline of force. A.C Sheringal was assigned task to conduct inquiry against appellants regarding their misconduct. On the basis of inquiry their 02 increments were withheld.

4. After going through the facts of the case, record on file, the appellants were given opportunity of personal hearing wherein they confessed that they have violated the chain of command by approaching the Ehtesab Commission. There is no reason to interfere with the impugned order dated 26.01.2016. Hence the appeal is rejected and the appellants may be informed accordingly.


(HOME SECRETARY)
KHYBER PAKHTUNKHWA

Announced
Dated 12.04.2016



Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

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F. No: SO (Levies)/HD/PLW in PATA/1-3/2013
Dated: Peshawar the 3rd June. 2015

Attested
Res. Officer
Director

To

The Deputy Commissioner/
Commandant Levies,
Dir Upper.

Subject: SERVICE RULES FOR PROVINCIAL LEVIES FORCE
WORKING IN PATA.

Sir,

I am directed to refer the subject noted above and to forward herewith a gazetted copy of Service Rules for Provincial Levies Force working in PATA for information and further necessary action.

Yours faithfully,

SECTION OFFICER (LEVIES)

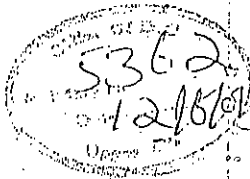
Ph: 091-9210503 Fax No.091-9210201.

Incl: As above.

Endst: No & date of even

Copy forwarded to:

- i) Assistant Legal Drafter-III, Law, Parliamentary Affairs & Human right Department, Govt of Khyber Pakhtunkhwa w/r No.ALD-III/REG:1(6)/2012/8066-68 dated 01.04.2015 alongwith 05 copies of the subject service rules as desired.
- ii) District Accounts Officer, Dir Upper alongwith copy service rules for Provincial Levies working in PATA.
- iii) PS to Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa.



LHC

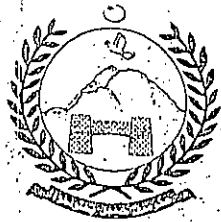
ADC Dir

DC D. W. C.

12/6/15

SECTION OFFICER (LEVIES)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P/III
GAZETTE

59

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 15TH MAY, 2015

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT.

Attested
Asst. Secy
Tribal Affairs
Dir

NOTIFICATION

Peshawar, dated the 14th April, 2015.

No. ALD-III/REG: 1(6)2012/8066-68.—In exercise of the powers conferred by regulation 9 of the Provincially Administered Tribal Areas Provincial Levies Force Regulation, 2014 (Khyber Pakhtunkhwa Regulation No. I of 2014), the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

THE PROvincially ADMINISTERED TRIBAL AREAS
PROVINCIAL LEVIES FORCE RULES, 2015.

1. Short title and commencement.—(1) These rules may be called the Provincially Administered Tribal Areas Provincial Levies Force Rules, 2015.

(2) These rules shall come into force at once.

2. Definition.—(1) In these rules, unless the context otherwise require, the following expressions shall have the meanings hereby respectively assigned to them that is to say,—

- (a) "Appointing Authority" means the Appointing Authority specified in rule 4 of these rules;
- (b) "Department" means the Home and Tribal Affairs Department of the Government;
- (c) "employee" means and includes uniformed Force and non-uniformed Force;
- (d) "Initial recruitment" means appointment made other than by promotion;
- (e) "non-uniformed Force" means and includes those employees of the Force as mentioned in column No. 2 against serial Nos. 7 and 8 of Schedule-1;

- (f) "post" means a post mentioned in Schedule-I;
- (g) "Regulation" means the Provincially Administered Tribal Areas Provincial Force Regulation, 2014 (Khyber Pakhtunkhwa Regulation No. 1 of 2014);
- (h) "Schedule" means a Schedule appended to these rules;
- (i) "service" means the Provincial Levies Service;
- (j) "Selection and Promotion Committee" means a Committee constituted under rule 4, for initial recruitment or promotion, as the case may be; and
- (k) "uniformed Force" means and includes those employees of the Force as mentioned in column No. 2 against serial No. 1 to 6 of Schedule-I.

(2) The expression used but not defined herein shall have the same meanings as are assigned to them under the Regulation.

3. **Method of Appointment.**—Appointment to various posts specified in Schedule-1 shall be made by any of the following method, namely:

- (i) by initial recruitment in accordance with the provisions contained in Schedule-I with the following conditions:
- the candidate shall be a citizen of Pakistan and bonafide resident of the respective district of Khyber Pakhtunkhwa;
 - the candidate shall be, in good mental and bodily health and free from physical defect, which likely to interfere in the efficient discharge of his duties;
 - Medical Superintendent of the respective district headquarter hospital shall issue a certificate of medical fitness to the candidate;
 - the candidate have a minimum height of 5'-7" and chest measurement of 34"-35 1/2" with an age of not less than eighteen years and not more than twenty-five years on the last date of submission of application;
 - no person except those who are already in Government Service shall be appointed to the Levies Force unless he produces a certificate of character from the Head of Academic Institution last attended or a certificate of character from two gazetted officers from the respective districts, not being his relative and who are well acquainted with his character; and

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(f) no person who is married to foreign national shall be eligible for appointment in the Levies Force, unless allowed by the Government, in writing; and:

by promotion in accordance with provisions contained in Schedule-I.

Appointing Authority.—(1) The Commandant shall be the Appointing Authority for initial recruitment and promotion up to the rank of Subedar.

(2) Appointment by initial recruitment or promotion, as the case may be, shall be made on the recommendation of Selection and Promotion Committee, which consists of the following:

- (a) Commandant. Chairman
- (b) representative of the Department. Member
- (c) representative of Commissioner Office. Member

Attested
As per Klu

(3) In case of creation of Force in new district, the Commandant shall have the authority to recruit ex-serviceman above the rank of sepoy on adhoc basis for a period of one year extendable for a further period of one year but not exceeding two years in total, with prior approval of the Government:

Provided further that the ex-serviceman so appointed on adhoc basis shall not be more than forty five years of age.

5. **Probation.**—The employees appointed to posts by initial recruitment or promotion, as the case may be, shall be on probation for one year, extendable by a further period of another one year. If no confirmation order is issued on the expiry of the extended period, the period of probation shall be deemed to have been extended for further one year. If no order is issued on the completion of further extended period, the probation shall be deemed to have been successfully completed.

6. **Training.**—(1) All newly recruited uniformed Force shall undergo six months pre-service training before being assigned duties of the rank for which they are selected. Initially, the Appointing Authority shall arrange for appropriate training.

(2) The pre-service training mentioned in sub-rule (1), may contain training on basic laws, investigation techniques, mob control, basic intelligence, arrest and detention procedure, jail duties, drill, weapons training, field craft, bomb disposal, counter assault, traffic control, raids, watch and ward etc. Proper training syllabus and modules shall be developed through mutual consultation with local law enforcing agencies by the Appointing Authority.

7. **Resignation.**—No employee shall resign before the expiry of the first three months of his recruitment or he shall deposit an amount equal to his three months' pay in lieu of his three months essential service.

for appointment in the Levies Force, unless allowed by the Government, in writing; and

(ii) by promotion in accordance with provisions contained in Schedule-I.

4. **Appointing Authority.**—(1) The Commandant shall be the Appointing Authority for initial recruitment and promotion up to the rank of Subedar.

(2) Appointment by initial recruitment or promotion, as the case may be, shall be made on the recommendation of Selection and Promotion Committee, which consists of the following:

- (a) Commandant. Chairman
- (b) representative of the Department. Member
- (c) representative of Commissioner Office. Member

Attested
Acc. Klu

(3) In case of creation of Force in new district, the Commandant shall have the authority to recruit ex-serviceman above the rank of sepoy on adhoc basis for a period of one year extendable for a further period of one year but not exceeding two years in total, with prior approval of the Government:

Provided further that the ex-serviceman so appointed on adhoc basis shall not be more than forty five years of age.

5. **Probation.**—The employees appointed to posts by initial recruitment or promotion, as the case may be, shall be on probation for one year, extendable by a further period of another one year. If no confirmation order is issued on the expiry of the extended period, the period of probation shall be deemed to have been extended for further one year. If no order is issued on the completion of further extended period, the probation shall be deemed to have been successfully completed.

6. **Training.**—(1) All newly recruited uniformed Force shall undergo six months pre-service training before being assigned duties of the rank for which they are selected. Initially, the Appointing Authority shall arrange for appropriate training

(2) The pre-service training mentioned in sub-rule (1), may contain training on basic laws, investigation techniques, mob control, basic intelligence, arrest and detention procedure, jail duties, drill, weapons training, field craft, bomb disposal, counter assault, traffic control, raids, watch and ward etc. Proper training syllabus and modules shall be developed through mutual consultation with local law enforcing agencies by the Appointing Authority.

7. **Resignation.**—No employee shall resign before the expiry of the first three months of his recruitment or he shall deposit an amount equal to his three months' pay in lieu of his three months essential service.

Provided that punishment so awarded shall be duly incorporated in service rolls or service dossier, as the case may be, accordingly.

15. **Appeal.**—If any employee is aggrieved by any order issued under these rules, such employee may prefer an appeal to the competent authority, within thirty days of communication to him of such order:

Provided that no appeal shall lie against the punishments, as specified at serial No. 1 and 2 of Schedule-III.

16. **Retirement.**—(1) All uniformed Force shall retire as per Schedule-IV and no extension in service after retirement shall be granted.

(2) All non-uniformed Forced shall retire from service on attaining the age of superannuation i.e. 60 years or they may opt from the retirement after completion of 25 years of regular service and no extension in service after retirement shall be granted.

17. **Pension and Gratuity.**—All employees shall be entitled to pension and gratuity as per Government rules.

18. **Compensation.**—(1) The family of employees shall be granted death compensation in case the employees embrace martyrdom during discharge of his duty as per rates prescribed by Government.

(2) An employee shall be granted compensation in case of sustaining fatal injury or injuries during the discharge of his duty. If he is declared incapacitated for further service due to such fatality, he shall be entitled to pension and gratuity as per Government rules.

(3) Where an employee dies during service the Appointing Authority may, subject to availability of the post, appoint one of the children of the deceased if the child attained or on attaining the age prescribed for appointment as Sepoy:

Provided that in case of permanently incapacitated uniformed Force during the course of duty, preference shall be given to the sons and wards of such incapacitated uniformed Force in general recruitment.

19. **Fund.**—An employee shall be governed by the provision of General Provident Fund, Benevolent Funds and Group Insurance, as prescribed for other employees of Government.

20. **Health care.**—Medical facilities for the employees and their families shall be catered for at Government hospitals and dispensaries at par with other employees of Government.

21. **Monitoring and evaluation.**—(1) Duty register showing the duties assigned to uniformed Force on day-to-day basis shall be maintained in each levy post, levy station, levy lines, as the case may be, by a levy Muharir.

Attested
Acc. Kt
15/5/15

- (2) Naib Subedar shall be responsible for carrying out the work assigned to uniformed Force whose duties shall be entered in advance in the duty register.
- (3) Registers including *roznamchas* as prescribed by the Commandant shall be maintained in every levy post, levy station, levy lines, as the case may be.
- (4) Commandant, Deputy Commandant or any other officer of the District Administration shall in the course of their tours in their jurisdiction, may inspect duty register and *roznamchas* of levy posts, levy lines stations, as the case may be, and satisfy themselves that uniform Force are carrying out their assigned duties. A note regarding absence from the post or from the place of duty of any uniformed Force without leave, shall invariably be recorded by inspecting officers in the duty register. Such entry shall be communicated to the Commandant and Deputy Commandant (Operations) by incharge of the levy post levy station, levy lines, as the case may be, within twenty four hours for appropriate action.

Attested

Asst
Tehsildar
Dir

(65)

Schedule - III
(see rules 14 and 15)

S.No.	Punishment.
1.	Extra Drill not exceeding fifteen days fatigue or other duties.
2.	Confinement to quarter guard up to fifteen days.
3.	Censure.
4.	Forfeiture of approved service up to two years.
5.	Stoppage of increment not exceeding one month's pay.
6.	Fine to any amount not exceeding one month's pay.
7.	Withholding of promotion for one year or less.
8.	Reduction from substantive rank to a lower rank or reduction in pay.
9.	Dismissal or removal from service or compulsory retirement.

Attested

Aca KH
Tehsil
Dir

S.No.	Authority.	Rank.	Category of punishment.	Remarks.
1.	Commandant.	All ranks i.e. Sepoy to Subedar.	All punishment mentioned above	
2.	Deputy Commandant.	Sepoy to Subedar.	For punishment mentioned at S.No. 1 to 3 above.	Make recommendation on case to case basis to the Commandant
3.	Subedar.	Sepoy to Havaldar.	-do-	-do-
4.	NaibSubedar.	Sepoy to Naik.	-do-	-do-
5.	Havaldar.	Sepoy to Lance Naik.	-do-	-do-
6.	Naik.	Sepoy.	-do-	-do-

Schedule -IV
(see rule 16)

S. No.	Post/Rank	Length of service / Age
1	Subedar (BS-13)	35 years' service or 60 years of age whichever earlier.
2	Naib Subedar (BS-11)	33 years' service or 60 years of age whichever earlier.
3	Havaldar (BS-8)	31 years' service or 60 years of age whichever earlier.
4	Naik (BS-7)	29 years' service or 60 years of age whichever earlier.
5	L/Naik (BS-6)	27 years' service or 60 years of age whichever earlier.
6	Sepoy (BS-5)	25 years' service or 60 years of age whichever earlier.

Attested

*Asst. Tehsil Dar
Dir*

Secretary to
Home and Tribal Affairs Department,
Government of the Khyber Pakhtunkhwa

Schedule - I
(see rules 2 (e)(k), 3 and 8).

S.No.	Post/ Rank.	Minimum Qualification for appointment by initial recruitment.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Subedar (BS-13).			By promotion, on the basis of seniority-cum-fitness, from amongst Naib Subedars with one year service as such.
2.	Naib Subedar (BS-11).			By promotion, on the basis of seniority-cum-fitness, from amongst Havalgars with one year service as such.
3.	Havalgar (BS-08).			By promotion, on the basis of seniority-cum-fitness, from amongst Naiks with one year service as such.
4.	Naik (BS-07).			By promotion, on the basis of seniority-cum-fitness, from amongst Lance Naiks with one year service as such.
5.	Lance Naik (BS-06).			By promotion, on the basis of seniority-cum-fitness, from amongst Sepoy with five year service as such.
6.	Sepoy (BS-05).	Middle pass preferably Matric.	18 to 25 years.	By initial recruitment.
7.	Junior Clerk (BS-11).	Intermediate in second division from a recognized Board with a typing speed of 30 words per minutes/ preferably computer literate.	18 to 30 years	By initial recruitment
8.	Khateeb (BS-13)	Secondary School Certificate in Second Division from a recognized Board or Shahadat-e-Almia from Wafaq-ul-Madaressa Note: Preferable Sanad in Hafiz-e-Quran, Tajweed&Qirat	18 to 30 years	By initial recruitment <i>Attested</i> <i>As Tehsil Dar</i>

DATE

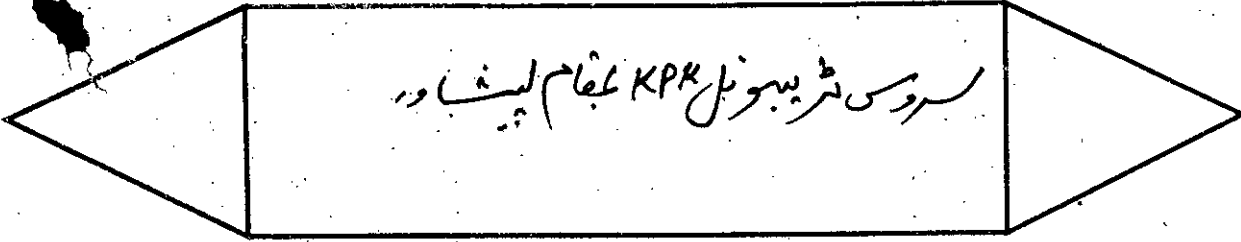
Schedule - II
(see rule 14)

Grounds of penalty

The concerned authority may impose one or more penalties, where a person of the levies force, in the opinion of the authority: -

- (a) is inefficient or has ceased to be efficient;
- (b) is guilty of misconduct, like unauthorized absence from duty, breach of order, disobedience, unruly behavior, passing on official secrets to unauthorized persons, etc;
- (c) is corrupt, or may reasonably be considered corrupt;
- (d) is guilty of any violation of duty;
- (e) losses, misplaces or causes harm to a weapon through negligence or lack of maintenance;
- (f) is insubordinate to his superiors;
- (g) is convicted of a criminal offence;
- (h) is guilty of cowardice, or abandons any picket, fortress, post or guard which is committed to his charge or which is his duty to defend;
- (i) is engaged in propagation of sectarian, parochial, anti-state views and controversies;
- (j) is engaged or is reasonably suspected of being engaged to excite, cause or conspire to cause or joins in any mutiny, or being present at any mutiny and does not use his utmost endeavor to suppress it;
- (k) attempts collective bargaining, conspiring or attempting to call off duty or take procession to press for the demands; or
- (l) is guilty of omission and commission under the law and rules.
- (m) deserts the service.
- (n) Being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or
- (o) Without authority, leaves his commanding officer, or his post or party, to go in search of plunder; or
- (p) Quits his guard, picket, party or patrol without being regularly relieved or without leave; or
- (q) Uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or without authority breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind; or
- (r) Internally causes or spreads a false alarm or rumour during action or in post, camp, lines, or quarters.

Attested
As per
Retention
DIP



مورخہ 24 مئی 2016ء منجانب اپیلانٹ

مقدمہ عطاء الرحمن بنام ڈپٹی کمشنر دیر باک وغیرہ
دعویٰ Service Appeal
جرم زبردفعہ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کارروائی متعلقہ آن مقام سروس ٹریبونل KPK بمقام پشاور کیلئے سید عبدالرحمن ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرا اس پر دستخط کرنیکا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی اور دائر کرنے۔ اپیل نگرانی و نشر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور یہ صورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے۔ اور اس کا ساختہ پرداختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا اختیار حاصل ہوگا۔ اگر کوئی تاریخ پیشی مقام مذکور سے باہر کو وکیل صاحب پابند نہ ہونگے۔ کہ پیروی مقدمہ مذکور کریں۔ لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم 24 مئی 2016ء

گواہ شاہد

Attested and Accepted

Syed Abdul-Haq Adv
0311 095-09579

عطاء الرحمن
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CNic - 15705-7362986-9