



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 272

Date: 26/09/23

OFFICE OF THE
DEPUTY COMMISSIONER/
COMMANDANT SWAT LEVIES SWAT

No.....272...../DC/CSL

Dated the.....06/09...../2023

To,

- 1) The Section Officer (Litigation-II),
Home & TAs Deptt: Govt: of Khyber Pakhtunkhwa, Peshawar.
- 2) The Section Officer (L&K)
Home & TAs Deptt: Govt: of Khyber Pakhtunkhwa, Peshawar.

Subject:

APPLICATION OF SWAT LEVIES PERSONNEL FOR RE-INSTATEMENT
IN THE LIGHT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR ORDER DATED 24/08/2023.

Memo:

Please refer to the subject cited above.

Brief in the matter is, that vide Notification No.SO(Police-II)HD/MKD/Levies/Misc./2020 dated 22/03/2021 amendments in Rule-17 (retirement) Schedule-III of the PATA Federal Levies Force Service (Amended) Rules, 2013, introduced, wherein at S.No.07 for Sepoy rank length of service/age was fixed "twenty five years service or forty two years of age, whichever is earlier" (Annex-A). As a result vide Order No.128/DC/CSL dated 20/04/2021 (Annex-B), 30 Nos. of Swat Levies personnels were retired. Then vide another Notification No.SO(Police-II)HD/1-3/Federal Levies-2021 dated 21/10/2021 (Annex-C) further amendments introduced at S.No.07 for Sepoy rank and length of service/age fixed as "twenty five years or forty five years of age, whichever is earlier." In continuation through PATA Levies Force (Amendment) Act, 2021, Section-11 was inserted (Annex-D), with contents abstracted as under:

"11. Re-instatement of levies personnel --- All levies personnel, who have been retired from the Force, with effect from 22.03.2021, till the commencement of the Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021, shall be reinstated in the Force, as regular employees, with effect from their respective dates of retirement and they shall be deemed as never retired from the Force."

In light of mentioned amendment in Schedule-III vide notification dated 21/10/2021 followed by amended Act, 2021 and insertion of Section-11, 26 x Swat Levies Personnel were re-instated vide Order No.378/DC/CSL dated 07/12/2021 (Annex-E).

Over and above, when the stipulated effective period of the amended Act, 2021 and Section-11 ended i.e from 22/03/2021 to 30/11/2021, 08 x Swat Levies Personnel were retired by extending the effect of amendments in Schedule-III notification dated 21/10/2021, S.No.07, Sepoy rank 45-years of service length.

In the meanwhile, the retired 08 x Swat Levies Personnel plus 11 x Others have filed writ petitions before PHC-Mingora Bench, which were converted into appeals No.55/2023 to 73/2023 (Annex-F) before the Khyber Pakhtunkhwa Service Tribunal Peshawar for regular hearing. The appellants have prayed in their appeals that notifications dated 22/03/2021 & dated 21/10/2021 and subsequent retirement orders may be declared illegal and appellants may be held entitled to complete his service till attaining 60-years of age in the light of earlier Notification No.SO(Police-II)HD/1-3/ dated 14/07/2020 (Annex-G).


The Khyber Pakhtunkhwa Service Tribunal has disposed-off all the connected appeals including that of Swat Levies Force Personnel on 24/08/2023 (Annex-H) and giving meaning to Para-04, emphasized that in view of the provisions of newly added Section-11 of the Act, 2021 and stipulated time period therein i.e from 22/03/2021 till 30/11/2021, when both impugned notifications dated 22/03/2021 & 21/10/2021 were no more effective, the retired levies personnels were reinstated as regular employees and were deemed to have never retired from the force.

In the above scenario, this office stands with stance that after the stipulated time period of Section-11 amended Act, 2021 i.e from 22/03/2021 till 30/11/2021, the notification No.SO(Police-II)HD/1-3/Federal Levies 2021 dated 21/10/2021, remained infield and accordingly 08 x personnel of Swat Levies Force were retired (Annex-I), however the applicants are taking plea in their application (Annex-J), that with the order of Khyber Pakhtunkhwa Service Tribunal Peshawar on 24/08/2023, both amended notifications are no more infield, hence they may be treated under the Notification No.SO(Police-II)HD/1-3/ dated 14/07/2020 i.e extending their service length/age upto 60-years and be re-instated alongwith payments of arrears.

Keeping in view all of the above, this office may be advised on the following points:

- 1) Whether Notification No.SO(Police-II)HD/1-3/Federal Levies 2021 dated 21/10/2021 remained infield after the stipulated time period of amended Act, 2021, Section-11 i.e from 22/03/2021 till 30/11/2021.
- 2) The applicants/Swat Levies Personnel were retired after 30/11/2021 under the provision of Notification No.SO(Police-II)HD/1-3/Federal Levies 2021 dated 21/10/2021, S.No.07, rank Sepoy, age 45-years.
- 3) Contrary to the above, if the Notification No.SO(Police-II)HD/MKD/Levies/Misc./2020 dated 22/03/2021 and Notification No.SO(Police-II)HD/1-3/Federal Levies 2021 dated 21/10/2021 are no more infield, and Notification No.SO (Police-II)HD/1-3/ dated 14/07/2020 is operative i.e twenty-five (25) years regular service or sixty (60) years of age, then approval may be granted to re-instate the applicants/effectees.
- 4) In case of approval to the re-instatement, further it has to be cleared, that they may be granted arrears from the date of their respective retirement till date of re-instatement or otherwise, please.

Encls: (19 Pages per attached index).


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COMMANDANT SWAT LEVIES SWAT
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Endst: No. & Date even.

Copy forwarded to:-

- 1) The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
- 2) The PS to Secretary, Home & TAs Deptt: Peshawar.
For information w/r to the above, please.
- 3) The applicant concerned, for information w/r to the above.


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