

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

CM No. _____ of 2021

In

Service Appeal No: 11925 of 2020

Gulzar Khan

Versus

Government of Khyber Pakhtunkhwa & Others

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Applicant

Said Gul S/O Emroz

Reg No. 2953

Through,

Syed Sardar Hussain

Adv. Supreme Court

Dated: ___/___/2021

30/11

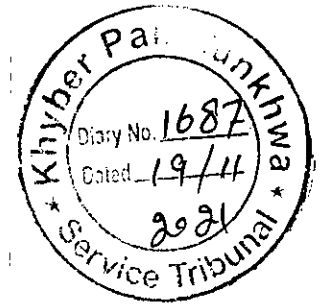
BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

1

CM No. _____ of 2021

In

Service Appeal No: 11925 of 2020



Gulzar Khan

Versus

Put up to the court with relevant appeal.

Government of Khyber Pakhtunkhwa & Others

23/11/2021

Daughter

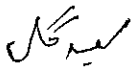
IMPLEADMENT OF APPLICANT AS RESPONDENT IN THE ABOVE TITLE APPEAL.

RESPECTFULLY SHEWETH;

1. That the above title appeal is pending adjudication before this honorable tribunal and is fixed for hearing on 30.11.2021.
2. That the retirement of Gulzar, DSP, was due on 18.07.2019 after completing 37 years tenure as per notification bearing No. 936(1)/2016 dated 22.07.2016 (**Annex – A**) of Federal Levies Force read with amended service rules 2013 schedule III & IV, and Rule 17 (**Annex – B**) as per section 9 (2) of Khyber Pakhtunkhwa Levies Force Act, 2019 (**Annex – C**).
3. That according to the amendment till the absorption in the police the appellant / levies force shall be governed by their existing terms and conditions of service i.e. Federal Levies Force (Amended) Service Rules, 2013.
4. That the appellant was not retired on due date because of the interim relief dated 15.07.2019 in writ petition No. 3563 – P / 2019 which was referred to the competent authority i.e. Secretary Home & Tribal Affairs Department KPK, to treat the petition as departmental appeal.
5. That the competent authority and Secretary Home & Tribal Affairs Department vide his order dated 06.10.2020 dismissed the appeal of the appellant. (copy of which is attached herewith as Annex D)
6. That the appellant filed appeal in this honorable tribunal wherein the order dated 06.10.2020 of the competent authority and Secretary Home and Tribal Affairs has been suspended.

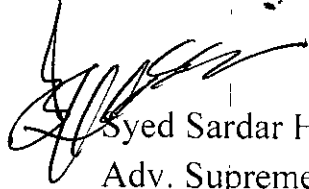
- 7. That very strangely a person whose retirement is due on 18.07.2019 is still serving under the shelter of this honorable tribunal order of suspension.
- 8. That according to seniority the appellant Said Gul name appeared at Serial No. 2 while due to the above stated facts the appellant name has not been mentioned in the seniority list.
- 9. That due to appeal filed by the appellant, the applicant is seriously affected and his service has been damaged due to the appellant false and fake contents of appeal wherein the appellant tried to mislead this honorable tribunal. (copy of Seniority list and notification of 2019 is attached herewith)
- 10. That for just and proper decision of the case it is necessary to implead the applicant as party in appeal as respondent and for complete justice an opportunity of hearing and filing of comments may be allowed to the applicant.

It is, therefore, prayed that on acceptance of this application the applicant may be arrayed as respondent in the appeal, as respondent in sack of fair play and justice.

Applicant 
Said Gul S/O Emroz

Reg No. 2953

Through,


Syed Sardar Hussain
Adv. Supreme Court

Dated: ___/___/2021

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No: _____ of 2021

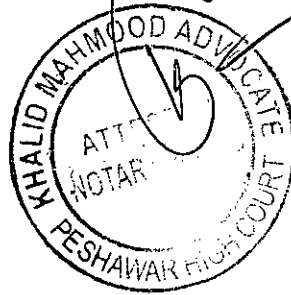
~~_____~~
Gulzar Khan.

Versus

Government of Khyber Pakhtunkhwa & Others

AFFIDAVIT

I, Do hereby solemnly affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this honorable court.



DEPONENT

Said Gul *CBM*

CNIC: 21107-252642-5

MOB: 0301-5826033

REGISTERED No. M - 302
L-7646

The Gazette of Pakistan



EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, OCTOBER 4, 2016

PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

MINISTRY OF STATES AND FRONTIER REGIONS.

NOTIFICATION

Islamabad, the 22nd July, 2016

S.R.O. 936(D)/2016.—The Competent Authority has been pleased to approve the recommendations of the Anomaly Committee constituted under Rule-24 of Federal Levies Force (Amended) Service Rules 2013 dated 8th April, 2013 and to further amend schedule-III & IV, Section B of Rule 4(2) and Rule 17(1) as under.

Rule-2(1)

(b) Deputy Secretary Law & Order of Law & Order Department, FATA Secretariat shall be the Commandant in respect of the FATA Secretariat Levies Force as designated vide, Rule-2(1) (b) S.R.O Statutory Notifications dated 5th December 2013.

(2979)

[3709(2016)/Ex. Gaz.]

Price : Rs. 2.00

5.12.2013

So (Levies) HD/FCW/12/12/2013
1-1/2013/Vol.1 12.12.2013
F.10(5)-LK/2006
di 5.12.2013



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 15TH FEBRUARY, 2013.

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar the 4th February 2013

SERVICE RULES FOR FEDERAL LEVIES FORCE IN PATA

In exercise of the powers conferred by Section 9 of the PATA Levies Force Regulation, 2012 the Provincial Government of Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

1. **Short title and commencement.**- (1) These rules may be called Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013.

(2) They shall come into force at once.

2. **Definitions.**-(1) In these Rules, unless the context otherwise require, the following expressions shall have the meaning hereby respectively assigned to them, namely:-

- (a) "Appointing Authority" means the appointing authority specified in rule-4.
- (b) "Commandant" means Commandant of the Force, who shall be the Deputy Commissioner in their respective jurisdiction.
- (c) "Deputy Commandant (Operation)" means an Assistant Commissioner or any officer of the District designated as such by the provincial government who shall be Deputy Commandant (Operation) of the Force in PATA, to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed; and who shall be responsible to the Commandant for operational matters of the Force in PATA.
- (d) "Deputy Commandant (Administration)" means Deputy Commandant (Administration) of the Force, who shall be an officer of the provincial government or any officer of the District designated as such by the provincial government to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed and who shall be responsible to the Commandant for administration and establishment matters of the Force in PATA.
- (e) "Government" means the Government of Khyber Pakhtunkhwa.
- (f) "Home Department" means Provincial Home & Tribal Affairs Department.
- (g) "Initial recruitment" means appointment made other than by promotion or by transfer;
- (h) "Schedule" means the Schedule appended to these rules;

- (i) "Selection or Promotion Committee" means a Committee for recruitment or as the case may be, promotion of Force personnel as notified by the Government;
- (j) "Service" means the levies service;

(2) The expression used but not defined herein shall have the same meanings as are assigned to them under the PATA Levies Force Regulation 2012.

3. **Composition and eligibility of the Force.** - (1) The Force shall comprise of the posts specified in Schedule-I and such other posts as may be determined by the Government from time to time

(2) Recruitment to the Force shall be made in accordance with the requirement specified in Schedule-I. No person shall be appointed unless he fulfills the following conditions:-

- (a) The candidate shall be a citizen of Pakistan and bonafide resident of the respective district of Khyber Pakhtunkhwa.
- (b) 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.
- (c) Medical Superintendent of the respective district headquarter hospital shall issue a certificate of medical fitness to the candidate.
- (d) Recruitment to all ranks of the Force shall be made from amongst those persons having a minimum height of 5'-7" and chest measurement of 34"-35 ½" with an age of not less than eighteen years and not more than twenty-five years on the last date of submission of application;
- (e) No person (except those who are already in Government Service) shall be appointed to the Force unless he produces a certificate of character from the Principal of Academic Institution last attended or a certificate of character from two gazetted officers from respective districts, not being his relative and who are well acquainted with his character; and
- (f) No person who is married to foreign national shall be eligible for appointment in the Force, unless allowed by the Government, in writing.

4. **Appointing Authority.** - (1) Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar. Whereas promotion to the rank of Subedar Major and above, the authority shall rests with the provincial government.

(2) Appointment to the post shall be made in accordance with the provisions contained in Schedule-I read with Rule-3 of these rules.

(3) Appointment either through initial recruitment or by promotion shall be made through duly constituted Selection/promotion Committees.

Provided that in case of raising of force in a new district, the Commandant shall have the authority to recruit ex-servicemen above the rank of sepoy on contract basis for a period of one year extendable for a further period of one year but not exceeding three years in total, with prior approval of the government

It is further provided that the ex-serviceman so appointed on contract shall not be more than forty five years of age.

5. **Probation.** - Persons appointed to posts by initial recruitment, promotion or transfer shall remain on probation for a period of one year extendable by a further period of one year. If no order is issued on the expiry of the first year of probation 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 extended period, the probation shall be deemed to have been terminated.

6. **Training.** - (1) All newly recruited personnel of the Force shall undergo six months pre-service training before being assigned duties of the rank for which they selected. Initially, the Appointing Authority shall arrange for appropriate training till a proper Levies Training Center is established.

(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 & ward etc. Proper training syllabus and modules shall be developed through mutual consultation with local law enforcing agencies by the Home Department.

7. **Resignation.** - No member of the Force 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.

8. **Seniority and promotion.** - (1) Promotion shall be strictly on seniority cum fitness basis as well as on the required length of service as specified in Schedule-I.

(2) The service of a personnel by initial recruitment, promotion or transfer may be dispensed with or reverted if, in the opinion of the competent authority his work and conduct is not satisfactory during probation period or due to abolishment of posts, as the case may be.

Provided that in case of dispensing with their service or reversion the concerned authority shall record cogent reasons for such action in writing.

(3) The seniority list of the Force shall be maintained at district level. Commandant shall be responsible for maintaining the seniority list of the force and shall notify annually.

9. **Transfer during service.** - Every member of the service shall be liable to serve anywhere within PATA with the prior approval of the Commissioner Malakand Division.

10. **Punishment.** - After satisfying himself regarding punishable acts (as referred in Schedule-II) through a charge duly framed in writing, necessary punishments specified in Schedule-IV may be awarded by the respective authority.

Provided that punishment so awarded shall be duly incorporated in service rolls / service dossier accordingly.

11. **Appeal.** - If any personnel of the force is aggrieved by any order issued under these rules, within thirty days of communication to him of such order, may prefer an appeal to the competent authority.

Provided that no appeal shall lie against the punishments specified at S.No. (1) and (2) of Schedule-IV.

12. **Awards and commendations.** - (1) Force personnel may be given special award and commendation certificate for devotion to duty, demonstration of gallantry and such achievement in the performance of duty, in the manners as prescribed by the Commandant, and shall be made part of the service rolls / service dossier.

(2) Force personnel, if embraces martyrdom in the discharge of his duty, will be given proper Guard of Honour at the time of burial.

13. **Service Record.** - Proper service rolls / service dossiers of all Force Personnel shall be maintained in Levy Office of each district. Annual reports of all Havaldars and Junior Commissioned Officers (JCOs) will also be maintained for the purpose of promotion.

14. **Uniform.** - The levy personal shall attire black shalwar qamees with brown chappli, white socks, black barrette cap and black belt whereas the JCOs will wear brown belt during duty hours.

15. **Leave.** - (1) Leave may be granted depending on the exigencies and at the discretion of the Commandant. All leave of ten days or above, will be considered as long leave and shall be granted on the recommendations of Subedar Major by the Commandant.

(2) Casual leave may be allowed upto three days by Subedar Major. Casual leave upto six days may be granted by the Deputy Commandant to be notified by the Commandant, on the recommendation of the concerned JCO.

(3) Medical leave shall be granted by the Commandant on the production of medical certificate from the medical superintendent concerned.

16. **Salary.**-The Force personnel shall be entitled to receive pay and allowances as per their pay scales notified by the Federal Government from time to time.

17. **Retirement.**-All Levy personnel shall retire as per Schedule III and on a pension on which a gratuity shall be granted.

18. **Conduct.**-The conduct of Force personnel shall be regulated by the rules and instructions issued by the Government from time to time.

19. **Gratuity and pension.**-All Force personnel will be entitled to pension as per prevailing Government rates.

20. **Compensation.**- (1) The family of Force personnel shall be granted death compensation in case the Force Personnel embraces martyrdom during discharge of his duty as per rates prescribed by the Government.

(2) Force personnel shall be granted compensation in case of sustaining fatal injuries or death during the discharge of his duty. If he is declared incapacitated for further services due to such fatality, he shall be entitled to gratuity and pension as per Federal Government Rules.

(3) 5% quota shall be reserved for sons and wards of martyred in initial recruitment of Force personnel.

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

21. **Funds.**-Force personnel shall be governed by the provision of general provident funds, gratuity funds and group insurance as prescribed for other employees of the Federal Government.

22. **Health care.**-Medical facilities for the Force personnel and their families shall be provided in Government hospitals and dispensaries at par with other employees of the Federal Government.

23. **Monitoring and evaluation.**- (1) Commandant or Deputy Commandant of the Force shall maintain a suitable number of levy posts in their respective jurisdiction and shall assign suitable number of Force personnel at each of such levy post. In case of establishment of new levy post within the jurisdiction, it shall require prior approval of the government.

(2) There shall be levy line in each district, which shall have all necessary facilities including parade ground, barracks, quarter guards, koth/armoury etc.

(3) Duty Register showing the duties assigned to each Force personnel on day to day basis shall be maintained in each levy post /Levy Station/Levy Lines by a levy Munim.

(4) Naib Subedar shall be responsible for carrying out the work assigned to Force personnel whose duties shall be entered in advance in the duty register.

(5) Registers including *roznamchas* as prescribed by the Commandant shall be maintained in every levy post/Station/Lines.

(6) 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 the posts/stations and satisfy themselves that Force Personnel are carrying out their assigned duties. A note regarding absence from the post or from the place of duty of any Force personnel without leave shall

24. An Anomaly Committee duly constituted/notified vide Home and Tribal Affairs Department, Khyber Pakhtunkhwa Notification No. SO(Police)/HD/12-19/2012 dated 11th December, 2012 shall consider and remove such anomalies from time to time referred to the competent authority.

25. **Repeal.**-Any rules, orders or instructions enforce in respect of the PATA Levies Force, immediately before the commencement of these rules shall stand repealed in so far as these rules, orders or instructions are inconsistent with the rules.

Secretary
Home & Tribal Affairs Department
Government of Khyber Pakhtunkhwa

SCHEDULE - I
See rules 4(2) and 8

A. Uniformed Force

S.#	Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1.	Subedar Major (BS-16)	03 years service as Subedar	100%		
2.	Subedar (BS-13)	03 years service as Naib Subedar	100%		
3.	Naib Subedar (BS-11)	03 years service as Havaladar	100%		
4.	Havaladar (BS-8)	03 years service as Naik	100%		
5.	Naik (BS-7)	03 years service as Lance Naik	100%		
6.	L/Naik (BS-6)	03 years service as Sepoy	100%		
7.	Sepoy (BS-5)			100%	Middle pass preferably Matric
8.	Head Armourer BPS-05	05 years service as Assistant Armourer	100%		
9.	Assistant Armourer BPS-01			100%	Certificate of Armourer

B. Ministerial staff

10.	Assistant (BS-14)	KPO/ Computer Operator/ Senior clerk/Junior Clerk (i) Minimum 5 years service as KPO/ Computer Operator; (ii) 5 years service as Senior Clerk; (iii) 7 years service as Junior Clerk	50%	50%	B.A. or equivalent for direct recruitment and by promotion seniority-cum-fitness from amongst KPO/ Computer Operator/ Senior clerk/ Junior Clerk on the basis of their date of entry into service.
11.	KPO / Computer Operator BPS-12			100%	Intermediate with one year diploma in IT from a recognized institute
12.	Senior Clerk (BS-9)	5 years service as Junior Clerk	100%		
13.	Junior Clerk (BS-7)		10% from lower staff with Matric	90%	Matric with a typing speed of 30 words per minutes / preferably computer literate
14.	Behishti (BS-5)			100%	Literate
15.	Driver (BS-4)			100%	Driving License / Driving Experience
16.	Pesh Imam BPS-02			100%	Moulvi/Fazil
17.	Tracker (BS-2)	5 years service in BS-1	10%	90%	Primary Pass
18.	Naib Qasid			100%	Literate

SCHEDULE - II
(see Rule 10)

Grounds of penalty

The concerned authority may impose one or more penalties, where a personnel of the 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 leave, 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. loses, 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 piquet, 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, picquet, 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.

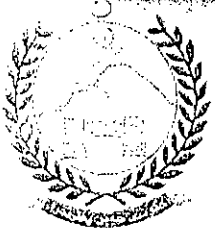
SCHEDULE - III

See Rule 17

S.#	Post/Rank	Length of service / Age
1	Subedar Major (BS-16)	38 years service or 03 years service as Subedar Major or 60 years age whichever is earlier
2	Subedar (BS-13)	35 years service or 03 years service as Subedar or 57 years age whichever is earlier
3	Naib Subedar (BS-11)	32 years service or 03 years service as Naib Subedar or 54 years age whichever is earlier
4	Havaldar (BS-8)	29 years service or 03 years service as Havaldar or 51 years age whichever is earlier
5	Naik (BS-7)	26 years service or 03 years service as Naik or 48 years age whichever is earlier
6	L/Naik (BS-6)	23 years service or 03 years service as L/Naik or 45 years age whichever is earlier
7	Sepoy (BS-5)	20 years service or 42 years age whichever is earlier

SCHEDULE -IV
See Rule 10

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



NOTIFICATION

No. So (Levies) HD/FLW/1-1/2013/Vol. 1. The competent authority has been pleased to approve further amendments in Schedule-I of Rule-4(2) and Schedule-III of Rules-17 under Para-10 of the Regulation for PATA Levies Force, 2012 & Rule-24 of the Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013 as under:-

Rule-4(2) Schedule-I

SCHEDULE-I
See Rule 4 (2)

A. Uniformed Force

S.No	Post/ Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1	Subedar Major (BS-16)	One year service as Subedr	100%		
2	Subedar (BS-13)	One year service as Naib Subedar	100%		
3	Naib Subedar (BS-11)	One year service as Hawaldar	100%		
4	Hawaldar (BS-8)	One year service as Naik	100%		
5	Naik (BS-7)	One year service as Lance Naik	100%		
6	Lance Naik (BS-6)	Five years' service as Sepoy	100%		
7	Sepoy (BS-5)			100%	Middle pass preferably Matric
8	Head Armorer (BPS-5)	Five years' service as Assistant Armorer	100%		Middle pass preferably Matric with Certificate of Armorer
9	Assistant Armorer (BPS-1)			100%	Middle pass preferably Matric with Certificate of Armorer

Rule-17 (Retirement) (1) All uniform levy personnel shall retire as per Schedule-III or they may opt for retirement after completion of 25 years of regular service and no extension in service beyond retirement shall be granted.

SCHEDULE-III
Rule-17 (Retirement)

S.No	Post/ Rank	Length of service / age for retirement.
1	Subedar Major (BS-16)	37 years' service or 60 years of age whichever is earlier
2	Subedar (BS-13)	35 years' service or 60 years of age whichever earlier
3	Naib Subedar (BS-11)	33 years' service or 60 years of age whichever earlier
4	Hawaldar (BS-8)	31 years' service or 60 years of age whichever earlier
5	Naik (BS-7)	29 years' service or 60 years of age whichever earlier
6	Lance Naik (BS-6)	27 years' service or 60 years of age whichever earlier
7	Sepoy (BS-5)	25 years' service or 60 years of age whichever earlier

PTC

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

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Ends No. & dated of even

Copy of the above is forwarded for information and further necessary action to:-

- 1 The Secretary to Government of Pakistan, Ministry of SAFRON, Islamabad with reference to his Notification No.F.10 (5)-LK/2006 dated 05-12-2013
- 2 The Commissioner, Malakand Division, Malakand
- 3 The Deputy Commissioner/Commandant, Malakand Levies, Malakand.
- 4 The Deputy Commissioner/Commandant Levies, Chitral.
- 5 The Deputy Commissioner/Commandant Levies, Dir Upper
- 6 The Deputy Commissioner/Commandant Levies, Dir Lower
- 7 The Deputy Commissioner/Commandant Levies, Swat.
- 8 PS to Secretary to Governor to Khyber Pakhtunkhwa
- 9 PS to Chief Secretary, Khyber Pakhtunkhwa.
- 10 PS to A.C.S (FATA) Secretariat Peshawar.
- 11 PS to Secretary Home & Tribal Affairs Department.
- 12 The Manager Government Printing Press, Peshawar for publication in the official gazette Peshawar as an extra ordinary copy


Section Officer (Levies)



76482

NOTIFICATION

NO. SO (LEVIES) / HD / TAW / 1 - 1 / 2013 / Vol-1 In partial modification of the Department Notification of even No. dated 12.12.2013, the Competent Authority has been pleased to approve the recommendations of the Advisory Committee of its meeting held on 28.02.2014 in the Ministry of SAFRON Islamabad, that amendments made in the PATA Levies Force (Amended) Service Rules 2013 shall be effective from 4th February, 2013


HOME SECRETARY

Endst. No. SO (Levies) HD / 1 - 1 / 2013 / Vol-1

Dated 17th March, 2014

Copy forwarded to the:-

1. Secretary Ministry of SAFRON, Government of Pakistan, Islamabad.
2. AGPR, Khyber Pakhtunkhwa sub office Peshawar
3. Commissioner Malakand Division at Saidu Sharif Swat
4. The Deputy Commissioner Chitral, Upper Dir, Lower Dir, Malakand & Swat *(They are directed to inform all the affectees through special messenger).*
5. District Account Officer, Chitral, Upper Dir, Lower Dir, Malakand & Swat.
6. PS to Secretary to Governor Khyber Pakhtunkhwa
7. PS to Chief Secretary Khyber Pakhtunkhwa
8. Section Officer (Budget) Home Department.
9. Section Officer (Courts) Home Department.
10. PS to Secretary Home, Khyber Pakhtunkhwa.


SECTION OFFICER (LEVIES)

FEDERAL LEVIES FORCE (AMENDED) SERVICE RULES, 2013**NOTIFICATION**

[Gazette of Pakistan, Extraordinary, Part – II, 18th June, 2013]

S.R.O. 580 (I)/2013, dated 8.4.2013.— In exercise of powers conferred by Section 10 of the Federal Levies Force Regulation, 2002 the Federal Government is pleased to make the following rules, namely;-

1. **Short title and commencement.**—(1) These rules may be called Federal Levies Force (Amended) Service Rules, 2013.

(2) They shall come into force at once.

2. **Definitions.**—(1) In these Rules, unless the context otherwise require, the following expressions shall have the meanings hereby respectively assigned to them, namely:--

(a) "Appointing Authority" means the appointing authority specified in Rule 4;

(b) "Commandant" means Commandant of the Forces, who shall be Political Agent of the Agency or, as the case may be, Deputy Commissioner for FRs in their respective jurisdiction;

- (c) "Director-General" means an officer appointed as such by the Federal Government, to exercise such powers and functions as may be prescribed;
- (d) "Director" means an officer appointed as such by the FATA Secretariat who shall have practical experience of civil administration in tribal areas and who shall exercise such powers and functions as may be prescribed;
- (e) "Deputy Commandant (Operations)" means an Assistant Political Agent of a Sub-Division or an Agency or FR or any officer of the District designated as such officer by the Provincial Government, who shall be Deputy Commandant (Operations) of the Force in their respective jurisdiction to exercise such powers and functions as may be prescribed; and
- (f) "Deputy Commandant (Administration)" means an officer of Federal or Provincial civil service or any officer of the District designated as such officer by the Provincial Government in their respective jurisdiction to exercise such powers and functions as may be prescribed and who shall be responsible to the Commandant for administrative and establishment matters of the Force;
- (g) "FR" means Frontier Regions;
- (h) "Government" means the Federal Government;
- (i) "initial recruitment" means appointment made other than by promotion or by transfer from other services;
- (j) "Schedule" means the Schedule appended to these rules;

(k) "Selection or Promotion Committee" means a Committee for recruitment or as the case may be, promotion of Force personnel as notified by the Government;

(l) "service" means the Levies Service;

(2) The expression used but not defined herein shall have the same meanings as are assigned to them under the Federal Levies Force Regulation, 2012.

3. Composition and eligibility of the Force.—(1) The Force shall comprise of the posts specified in Schedule-I and such other posts as may be determined by the Government from time to time.

(2) Recruitment to the Force shall be made in accordance with the requirement specified in Schedule-I. The following conditions shall also be fulfilled, namely:—

(a) A candidate for appointment shall be a citizen of Pakistan and *bona-fide* resident of the respective district, agency or Frontier Region, as the case may be;

(b) 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;

(c) Medical Superintendent of the respective District Headquarter Hospital or Agency Headquarters Hospital shall issue a certificate of medical fitness of the candidate;

(d) Recruitment to all ranks of the Force shall be made from amongst those persons having a minimum height 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;

(e) No person (except those who are already in Government Service) shall be appointed to the Force unless he produces a certificate of character from the Principal or Academic Officer of the academic institution last attended and also a certificate of character from two gazetted officers from respective districts not being his relative and who are well acquainted with his character; and

(f) No person who is married to a foreign national shall be eligible for appointment in the Force, unless allowed by the Government, in writing.

4. Appointing authority.—(1) Commandant shall be the appointing authority for initial recruitment or promotion of the Force personnel.

(2) Appointment to the post shall be made in accordance with the provision contained in Schedule-I read with Rule-3 of these rules.

(3) Appointment either through initial recruitment or by promotion shall be made through duly constituted Selection/Promotion Committees:

Provided that in case of raising of force in a new District, the Commandant shall have the authority to recruit ex-servicemen above the rank, of Sepoy on contract basis for a period of one year extendable for a further period of one year but not exceeding three years in total, with prior approval of the Federal Government;

It is further provided that the ex-servicemen so appointed on contract shall not be more than forty five years of age.

5. Probation.—(1) Persons appointed to posts by initial recruitment, promotion or transfer shall remain on probation for a period of one year extendable by a further period of one year. If no order is issued on the expiry of the first year of probation 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 extended period, the probation shall be deemed to have been terminated.

6. Training.—(1) All newly recruited personnel of the 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 till a proper Levies Training Centre is established.

(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 & ward etc. Proper training syllabus and modules shall be developed through mutual consultation with local law enforcing agencies by the Commandant.

7. Resignation.—No member of the Force 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.

8. Seniority and promotion.—(1) Promotion shall be strictly on seniority cum fitness basis as well as on the required length of service as specified in Schedule-I.

(2) The service of personnel by initial recruitment, promotion or transfer may be dispensed with or reverted if, in the opinion of the Competent Authority, his work and conduct is not satisfactory during probation period or due to abolishment of posts, as the case may be:

Provided that in case of dispensing with their service or reversion, the concerned authority shall record cogent reasons for such action in writing.

(3) The seniority list of the Force shall be maintained at Agency/FR/District level. Commandant shall be responsible for maintaining the seniority list of the force and shall notify annually.

9. Transfer during service.—Every member of the Force shall be liable to serve anywhere in their respective District, Agency or Frontier Region. An officer of the force may be transferred to any other District, Agency or Frontier Region in the public interest.

10. Punishment.—After satisfying himself regarding punishable act (as referred to in Schedule-II) through a charge duly framed in writing necessary punishment specified in Schedule-III shall be awarded by the respective authority:

Provided that punishment so awarded shall be duly incorporated in service roll/dossier accordingly.

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

Provided that no appeal shall be lie against the punishments specified at S. No. (1) and (2) of Schedule-III.

12. Awards and commendations.—(1) Force personnel may be given special award and commendation certificate for devotion to duty, demonstration of gallantry and such achievement in the performance of duty, in the manners as prescribed by the Commandant, and Shall be made part of the service rolls/service dossier.

(2) Force personnel, if embraces martyrdom in the discharge of his duty, will be given proper Guard of Honour at the time of burial.

13. Service Record.—Proper service rolls/service dossiers of all Force Personnel shall be maintained in Levy Office of each District or Agency or Frontier Region. Annual Reports of all Havaldars and Junior Commissioned Officers (JCOs) will also be maintained for the purpose of promotion.

14. Uniform.—The levy personal shall attire black *shalwar qamees* with brown *chappli*, white socks, black *barrete* cap and black belt whereas the JCOs will wear brown belt during duty hours.

15. Leave.—(1) Leave may be granted depending on the exigencies and at the discretion of the Commandant. All leave of ten days or above, will be considered as long leave and shall be granted on the recommendations of Subedar Major by the Commandant.

(2) Casual leave may be allowed upto three days by the Subedar Major. Casual leave upto nine days may be granted by the Deputy Commandant (to be notified by the Commandant) on the recommendation of the concerned JCO.

(3) Medical leave shall be granted by the Commandant on the production of medical certificate from the Medical Superintendent concerned.

16. Salary.—The Force personnel shall be entitled to receive pay and allowances as per their pay scales notified by the Federal Government from time to time.

17. Retirement.—All levy personnel shall retire as per Schedule-IV and no extension in service beyond retirement shall be granted.

18. Conduct.—The conduct of Force personnel shall be regulated by these rules or instructions issued by Federal Government from time to time.

19. Gratuity and pension.—All Force personnel will be entitled to pension as per prevailing Federal Government rules.

20. Compensation.—(1) The family of Force personnel shall be granted death compensation in case the Force Personnel embraces martyrdom during discharge of his duty as per rates prescribed by the Federal Government.

(2) Force personnel 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 gratuity and pension as per Federal Government Rules.

(3) 5% quota shall be reserved for sons and wards of martyred in initial recruitment of Force personnel:

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

21. Funds.—(1) Force personnel shall be governed by the provision of general provident funds, benevolent funds and group insurance as prescribed for other employees of the Federal Government.

(2) A special welfare funds for Force personnel shall be created by the Government at Federal level with monthly contribution from all Force personnel at the rate as prescribed by the Commandant, which shall be utilized for the general welfare of Force personnel and their families.

22. Health care.—Medical facilities for the Force personnel and their families shall be catered for at Government hospitals and dispensaries at par with other employees of the Federal Government.

23. Monitoring and evaluation.—(1) Commandant or Deputy Commandant of the Force shall set up suitable number of levy posts in the respective jurisdiction and shall assign suitable number of Force personnel at each of such levy post. In case of establishment of Levies Station within their jurisdiction shall require prior approval of the Federal Government.

(2) There shall be levy line in each District, Agency or Frontier Region which shall have all necessary facilities including parade ground, barracks, quarter guards, koth/armory etc.

(3) Duty register showing the duties assigned to each individual on day to day basis shall be maintained in each levy post/Levy Station/Levy Lines by a Muharrir.

(4) Naib Subedar shall be responsible for carrying out the work assigned to Force personnel whose duties shall be entered in advance with written entry in the duty register.

(5) Registers including roznamchas as prescribed by the Commandant shall be maintained in every post/Station/Lines.

(6) Commandant, Deputy Commandant or any other officer of the District Administration shall in the course of their tours in their jurisdiction, may inspect levy duty register and roznamchas of Levy Posts/Stations and satisfy themselves that Force Personnel are carrying out their assigned duties. A note regarding absence from the post or from the place of duty of any Force personnel without

leave shall invariably be recorded by inspecting officers in the duty register. Such entry shall be communicated to the Commandant and Deputy Commandant (Operation) by in-charge of the Post/Station within twenty four hours for appropriate action.

24. Anomalies.—An Anomaly Committee duly constituted/notified shall be set up in the States & Frontier Regions Division and remove such anomalies from time to time referred to the competent authority.

25. Repeal.—Any rules, orders or instructions enforce in respect of the Federal Levies Force, immediately before the commencement of these rules shall stand repealed in so far as those rules, orders or instructions are inconsistent with the rules:

SCHEDULE-I

see Rule 4(2)

A. Uniformed Force

S. No.	Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1.	Subedar Major (BS-16)	Three years service as Subedar	100%	—	—
2.	Subedar (BS-13)	Three years service as Naib	100%	—	—

		Subedar			
3.	Naib Subedar (BS-11)	Three years service as Havaldar	100%	—	—
4.	Havaldar (BS- 8)	Three years service as Naik	100%	—	—
5.	Naik (BS-7)	Three years service as Lance Naik	100%	—	—
6.	L/Natk (BS-6)	Three years service as Sepoy	100%	—	—
7.	Sepoy (BS-5)	—	—	100%	Middle pass preferably Matric
8.	Head Armourer BPS-5	5 years service as Assistant Armourer	100%	—	Middle pass preferably Matric with Certificate of Armourer
9.	Assistant Armmourer BPS-1	—	—	100%	Middle pass preferably Matric with Certificate of Armourer

B. Ministerial Staff

S. No.	Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
10.	Assistant (BS-	KPO/Computer	50%	50%	B.A. or equivalent for

	14)	Operator/Senior Clerk/Junior Clerk (i) Minimum five years service as KPO/Computer (ii) Five years service as Senior Clerk (iii) Seven years service as Junior Clerk			direct recruitment and by promotion seniority- Cum-fitness from amongst KPO/Computer Operator/Senior Clerk/Junior clerk on the basis of their date of entry in to service
11.	KPO/Computer Operator (BPS-12)	—	—	100%	Intermediate with one year diploma in IT from a recognized institute
12.	Senior Clerk (BS-9)	Five years service as Junior Clerk	100%	—	F.A. or equivalent(Preferably know Typing/Computer)
13.	Junior Clerk (BS-7)	—	10% from lower staff with Matric	90%	Matric with a typing speed of 30 w.p.m./preferably Computer literate
14	Behishti (BS-5)	—	—	100%	Literate.
15.	Driver (BS-5)	—	—	100%	Driving License/ Driving Experience
16.	Pesh Imam	—	—	100%	Moulvi Fazil

	(BS-2)				
17.	Tracker (BS-2)	5 years service in BS-1	10%	90%	Primary Pass
18.	Naib Qasid (02)	—	—	100%	—
19.	Sweeper (BS-2)	—	—	100%	Literate

SCHEDULE-II

(see Rule 10)

Grounds of Penalty

The concerned authority may impose one or more penalties where a personnel of the 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 as corrupt;
- (d) is guilty of any violation of duty;
- (e) losses, misplaces or causes harm to a weapon through insubordinate or lack of maintenance;

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- (f) is insubordinate to his superiors;
- (g) is convicted of a criminal offense;
- (h) is guilty of cowardice, or abandons any piquet, 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) attempt collective bargaining, conspiring or attempting to call off duty or take procession to press for the demands, or is guilty of omission and commission under the law and rules;
- (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, leave his commanding officer, or his post or party, to go in search of plunder; or
- (p) Quits his guard, piquet, party or patrol without being regularly relieved or without leave; or

- (q) User criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp of quarters, for plunder, or plunders, destroys, or damages any property of any kind; or
- (r) Internally causes or spreads of false alarm or rumor during action or in post, camp, lines, or quarters.

SCHEDULE-III

(see Rules 10)

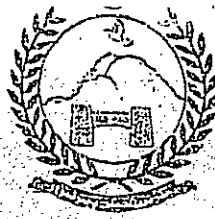
Punishment and Competent Authority

S. No.	Punishment	Subedar Major & Subedar	Naib Subedar or Havuldar	Naik or Lance Naik	Sepoy
1.	Extra Drill not exceeding fifteen days fatigue or other duties	—	—	Subedar	Naib Subedar
2.	Confinement to quarter guard upto fifteen days	Commandant	Deputy Commandant	Deputy Commandant	Subedar Major
3.	Censure	-do-	-do-	-do-	-do-
4.	Forfeiture of approved service upto two years	-do-	Commandant	Commandant	Commandant

5.	Stoppage of increment not exceeding one month's pay	-do-	-do-	-do-	-do-
6.	Fine to any amount not exceeding one month's pay	-do-	-do-	•do-	-do-
7.	Withholding of promotion for one year or less	-do-	-do-	-do-	-do-
8.	Reduction from substantive rank to a low rank or reduction in pay	-do-	-do-	-do-	-do-
9.	Dismissal or removal from service or compulsory retirement	-do-	-do-	-do-	-do-

SCHEDULE-IV*(see Rules 17)*

S. No.	Post / Rank	Length of Service
1.	Subedar Major (BS – 16)	38 Years of service or 03 years service as Subedar Major or 60 years of age whichever is earlier.
2	Subedar (BS – 13)	35 years service or 03 years service as Subedar or 57 years of age whichever is earlier
3.	Naib Subedar (BS – 11)	32 years of service or 03 years as Naib Subedar or 54 years of age whichever is earlier
4.	Havaldar (BS – 8)	29 years service or 03 years service as Havaldar or 51 years of age whichever is earlier
5.	Naik (BS – 7)	26 years service or 03 years service as Naik or 48 years of age whichever is earlier
6.	L/Naik (BS – 6)	23 years service or 03 years service as L/Naik or 45 years of age whichever is earlier
7.	Sepoy (BS – 5)	20 years service or 42 years age whichever is earlier



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KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 16th SEPTEMBER, 2019.

**PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA**

NOTIFICATION

Dated Peshawar, the 16th September, 2019.

No. PA/Khyber Pakhtunkhwa/Bills-68/2019/7010.— The Khyber Pakhtunkhwa Levies Force Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 12th September, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 12th September, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA LEVIES FORCE ACT, 2019.
(KHYBER PAKHTUNKHWA ACT NO. XXXV OF 2019)**

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 16th September, 2019).*

AN
ACT

*to provide for the maintenance of Khyber Pakhtunkhwa
Levies Force and to enable its transition
to Khyber Pakhtunkhwa Police.*

WHEREAS after Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018), the erstwhile Federally Administered Tribal Areas have been merged in the Province of the Khyber Pakhtunkhwa, and Federal Levies Force, established under the Federal Levies Force Regulation, 2012, working in the said areas, has lost its legal status for working in the merged districts and sub-divisions:

AND WHEREAS it is in the best public interest to allow the Federal Levies Force to continue its functions in the merged districts and sub-divisions and to regulate and maintain it under the administrative control of the Government of Khyber Pakhtunkhwa;

AND WHEREAS to achieve the objectives it is expedient to give legal status to the Federal Levies Force in the merged districts and sub-divisions and to re-visit its institutional structure and functional assignment for effective discipline, better performance and optimal utility;

It is hereby enacted as follows:

1. Short title, application, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Levies Force Act, 2019.

(2) It shall apply to all the members of Levies Force.

(3) It shall extend to the districts and sub-divisions of the Province of Khyber Pakhtunkhwa as provided in the Schedule.

(4) It shall come into force at once.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,-

(a) "Code" means the Code of Criminal Procedure, 1898 (Act of V of 1898);

(b) "Commandant" means the Commandant of the Levies Force;

(c) "Department" means the Home and Tribal Affairs Department of the Government of Khyber Pakhtunkhwa;

(d) "Deputy Director General" means the Deputy Director General of the Levies Force;

(e) "Director General" means the Director General of the Levies Force;

(f) "Government" means the Government of the Khyber Pakhtunkhwa;

(g) "Levies Force" means the Federal Levies Force, established under the repealed regulation and re-constituted, regulated and maintained under this Act;

(h) "Police" means the Khyber Pakhtunkhwa Police;

(i) "prescribed" means prescribed by rules;

(j) "Provincial Police Officer" means the Provincial Police Officer of Khyber Pakhtunkhwa Police;

(k) "public agency" means any department of Government, attached department, public authority, commission or autonomous body, setup under any statutory instrument, or public sector company or body corporate, owned, controlled or financed by Government;

(l) "repealed regulation" means the Federal Levies Force Regulation, 2012, repealed under section 15 of this Act;

(m) "rules" mean rules made under this Act; and

(n) "Schedule" means the Schedule appended to this Act.

3. Reconstitution and maintenance of Levies Force.--(1) On commencement of this Act, the Levies Force shall be re-constituted and maintained by Government in accordance with the provisions of this Act and shall be known as the Khyber Pakhtunkhwa Levies Force, consisting of-

- (a) the Director General;
- (b) the Deputy Director General;
- (c) the Commandant; and
- (d) all existing strength of members of the Levies Force working in the merged districts and sub-divisions, as specified in the Schedule.

(2) The Director General, Deputy Director General and the Commandant shall be the officers of the Police.

(3) The District Police Officer shall be assigned the additional charge of the Commandant in the same district.

(4) The Regional Police Officer shall be assigned the additional charge of the Deputy Director General in their Police Region.

(5) The Deputy Director General, who shall be appointed by Government, in consultation with the Provincial Police Officer, in such manner and on such terms and conditions as may be prescribed.

Explanation: For the purpose of this section, Regional Police Officer and District Police Officer shall have the same meanings as are given to them, respectively, in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017).

4. Superintendence, administration and control of the Levies Force.--(1) The overall power of superintendence of the Levies Force shall vest in Government.

(2) The general administration and operational control of the Levies Force shall vest with the Director General to be exercised by him either directly or through the Commandant in the district.

5. Powers and duties of the Levies Force.--(1) Notwithstanding anything contained, in any other law for the time being in force, the Levies Force shall have the parallel policing powers as are assigned to the Police under the Code.

(2) Without prejudice to the generality of the foregoing policing powers under sub-section (1), the Levies Force shall perform such institutional or organizational functions and duties as provided under the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017).

6. Liabilities of officers and members of the Levies Force.--(1) It shall be the duty of every member of the Levies Force to obey and execute all lawful orders and instructions, issued to him by the Commandant or any other officer authorized by him in this behalf to issue such orders and instructions.

- (2) The Levies Force shall be an essential service and every member thereof shall be liable to serve whenever he is required to serve by the Director General.
7. **Constitution of Selection and Promotion Committees.**---Government shall notify the Selection and Promotion Committees for recruitment and promotion of employees of the Levies Force.
8. **Postings, transfers and distribution of the Levies Force.**---(1) The Commandant shall be competent to post and transfer members of the Levies Force within the district.
- (2) The Director General shall be competent to post and transfer members of the Levies Force from one district to another.
- (3) Subject to the decision of the Department, a sufficient number of members of the Levies Force shall be placed at the disposal of the District Administration in performing its legally mandated functions.
9. **Absorption.**---(1) Notwithstanding anything contained in any other law for the time being in force, the members of the Levies Force may be absorbed in the Police, subject to the procedure as may be determined by Government.
- (2) Until their absorption in the Police, the members of the Levies Force shall be governed by their existing terms and conditions of service under the Federal Levies Force (Amended) Service Rules, 2013.
10. **Assistance and support to Government functionaries.**---On the requisition of the District Administration, the Commandant shall provide assistance and support to the District Administration and Heads of all public agencies in the District, required for performing their official duties.
11. **Power to make rules.**---Government may make rules for carrying out the purposes of this Act.
12. **Act to override other laws.**---The provisions of this Act shall be in force notwithstanding anything repugnant or contrary contained in any other law for the time being in force.
13. **Indemnity.**---Except as otherwise expressly provided in this Act, no suit, prosecution or other legal proceedings shall lie against any member of the Levies Force, Government or any other authority for anything which is done in good faith or intended to be done under this Act or the rules.
- Explanation:** The phrase "good faith" shall have the same meaning as given to it in section 52 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).
14. **Removal of difficulties.**---If any difficulty arises in giving effect to any of the provisions of this Act, the Department may notify a committee to take a decision not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.
15. **Repeal and savings.**---(1) The Federal Levies Force Regulation, 2012 and the Khyber Pakhtunkhwa Levies Force Ordinance, 2019 (Khyber Pakhtunkhwa Ordinance No. III of 2019) are hereby repealed.

(2) Notwithstanding the repeal of the Federal Levies Force Regulation, 2012, under sub-section (1), the Federal Levies Force (Amended) Service Rules, 2013 shall continue to remain in force and the terms and conditions of service of all the members of the Levies Force shall be governed thereunder until new rules are made under this Act.

(3) Anything done, action taken, rule made or notification or orders issued under the Khyber Pakhtunkhwa Levies Force Ordinance, 2019 (Khyber Pakhtunkhwa Ord. No. III of 2019), and the Federal Levies Force Regulation, 2012, shall be deemed valid and the same shall not be called in question in any Court of law.

SCHEDULE
[see section-1(3)]

Part-A

S.No.	District.
1.	Bajaur.
2.	Mohmand.
3.	Khyber.
4.	Orakzai.
5.	Kurram.
6.	South-Waziristan.
7.	North-Waziristan.

Part-B

S.No.	Sub-Division.
1.	Hasan Khel in district Peshawar.
2.	Darra Adam Khel in district Kohat.
3.	Bettani in district Lakki Marwat.
4.	Wazir in district Bannu.
5.	Jandola in district Tank.
6.	Darazinda in district Dera Ismail Khan.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMJAD ALI)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa

Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Department may notify a committee to take a decision not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty. -

15. Repeal and savings--- (1) The Federal Levies Force Regulation, 2012 and the Khyber Pakhtunkhwa Levies Force (Transition) Ordinance, 2019 (Khyber Pakhtunkhwa Ordinance No. 1 of 2019) promulgated on 12.03.2019 are hereby repealed.

(2) Notwithstanding the repeal of the Federal Levies Force Regulation, 2012, under sub-section(1), the Federal Levies Force (Amended) Service Rules, 2013 shall continue to remain in force and the terms and conditions of service of all the members of the Levies Force shall be governed thereunder until new rules are made under this Ordinance.

(3) Anything done, action taken, rule made or notification or orders issued under the Khyber Pakhtunkhwa Levies Force (Transition) Ordinance, 2019 (Khyber Pakhtunkhwa Ord. No. 1 of 2019) shall be deemed valid and the same shall not be called in question in any Court of law.

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

No.CS(F)/L&K/4-Levy/Appeal/ 2330-32

Dated:06.10.2020

ORDER.

1. Whereas petitioner/ appellant Sattar was appointed in Bajaur Levy on 19.07.1982, promoted to the post of Subedar Major w.e.f 06.07.2017 and due for retirement on 18.07.2019 on completion of 37-year service. The petitioner/ appellant filed Writ Petition No.3563-P/2019 before the honorable Peshawar High Court Peshawar and obtained stay order on 15.07.2019.
2. And whereas the Honorable Peshawar High Court, Peshawar referred the case to the Secretary to Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department to treat the same as Departmental Appeal and decide the same in accordance with the law.
3. And whereas, the petitioner/ appellant was afforded opportunity of personal hearing on 26.08.2020.
4. And whereas, rule-15(2) of the Khyber Pakhtunkhwa Levies Force Act, 2019 provides that all the Levies personnel will be governed under Federal Levy Force (Amended) Service Rules-2013 till their absorption in Khyber Pakhtunkhwa Police and per SRO 936(I)/2016 of the ibid rules, the petitioner/ appellant has completed service tenure of 37 years on 18.07.2019 and is due for retirement w.e.f 18.07.2019.
5. Now, therefore, in view of the rules position explained above, the instant appeal is dismissed.

-sd-

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst. No. & date even.

CC to:

1. Registrar, Peshawar High Court, Peshawar
2. District Police Officer, Bajaur Tribal District
3. Deputy Secretary (Judicial), Home & TAs Department, Khyber Pakhtunkhwa

Suddt
Dr. N. A. Khan

Section Officer (Levy & Khassadars)

Heelt
For n19

DISTRICT POLICE OFFICER
BAJAUR TRIBAL DISTRICT

12.10.2020

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12.10.2020

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT.

Annexure

(M)

NOTIFICATION

Annex - E

Peshawar dated the: 10/9/2020

No.SO(Police)HD/SMY 2019 Merged Area/161-71 In pursuance of the provisions contained in section 9 of the Khyber Pakhtunkhwa Levies Force Act, 2019, (Khyber Pakhtunkhwa Act No.XXXV.of 2019) read with rule 3 of the Levies Force (Absorption in the Khyber Pakhtunkhwa Police), Rules, 2019; the Home and Tribal Affairs Department, with the prior approval of the Cabinet and on the recommendation of the Provincial Police Officer, hereby orders absorption of the following members of Levies Force of Bajaur Tribal District in the Khyber Pakhtunkhwa Police with effect from the date of the initial appointment of the said members:

S#	Name	Peraninge	Previous Rank	Rank in which absorbed
1.	Niamat Ullah	Abdur Rahim	Sub (13)	Sub: Insp: 14
2.	Said Gul	Amroz	Sub (13)	Sub: Insp: 14
3.	Sher Bahadar	Buzarg Janahir	Sub (13)	Sub: Insp: 14
4.	Hayat Khan	Zarif Khan	Sub (13)	Sub: Insp: 14
5.	Bakht Munir	Murtaza Khan	Sub (13)	ASI - 11
6.	Sultan Zeb	Noor Din	Sub (13)	Sub: Insp: 14
7.	Muhammad Dostan	Gul Faroosh	Sub (13)	Sub: Insp: 14
8.	Abdul Aziz	Yar Muhammad	Sub (13)	Sub: Insp: 14
9.	Mumbar Khan	Gul Rahim	Sub (13)	Sub: Insp: 14
10.	Khan Zada	Bahadar Khan	Sub (13)	Sub: Insp: 14
11.	Qabil Shah	Jafar Khan	Sub (13)	Sub: Insp: 14
12.	Sohail	Wazir Alamed	Sub (13)	Sub: Insp: 14
13.	Zar Shahad	Alim Said	Sub (13)	Sub: Insp: 14
14.	Sheraz ud Din	Shandi	Sub (13)	Sub: Insp: 14
15.	Sultan Zeb	Muhammad	Sub (13)	Sub: Insp: 14
16.	Ibrahim	Gran	Sub (13)	Sub: Insp: 14

#	Name	Parentage	Previous Rank	Rank in which absorbed
17	Zarif Khan	Sabir Khan	Sub (13)	Sub: Insp: 14
18	Muhammad Jan	Taze Gul	Sub (13)	Sub: Insp: 14
19	Hamidullah	Gul Shall	Sub (13)	Sub: Insp: 14
20	Fazal Rahmani	Said Habib Jan	Sub (13)	Sub: Insp: 14
21	Khanzada	Talib Jan	Sub (13)	Sub: Insp: 14
22	Bachir Rehman	Muhammad Hakim	N/Sub (11)	ASI-11
23	Anwar Hakim	Fazal Hakim	N/Sub (11)	ASI-11
24	Abdul Jabar	Umar Said	N/Sub (11)	ASI-11
25	Masoom	Hakim Khan	N/Sub (11)	ASI-11
26	Bachia Khan	Abdur Rahman	N/Sub (11)	ASI-11
27	Niaz Rahman	Gul Rahman	N/Sub (11)	ASI-11
28	Tovas Khan	Pasand Khan	N/Sub (11)	ASI-11
29	Muhammad Hayan	Muhammad Gulab	N/Sub (11)	ASI-11
30	Tazal Khan	Gul Mula	N/Sub (11)	ASI-11
31	Muhammad Noor	Mir Zaman	N/Sub (11)	ASI-11
32	Shahid	Alif Jan	N/Sub (11)	ASI-11
33	Shah Zamcen	Said Ahmad Jan	N/Sub (11)	ASI-11
34	Abdur Rahman	Abdul Wahid	N/Sub (11)	ASI-11
35	Abdul Wahab	Khan Zarn	N/Sub (11)	ASI-11
36	Rashid Ahmad	Ubaidullah	N/Sub (11)	ASI-11
37	Amir Rahman	Alif Khan	N/Sub (11)	ASI-11
38	Niaz Muhammad	Saidul Mollmed	N/Sub (11)	ASI-11
39	Honar Khan	Rahmat Khan	N/Sub (11)	ASI-11
40	Shir Omani	Khair Gul	N/Sub (11)	ASI-11
41	Muhammad Khan	Muhammad Zarin	N/Sub (11)	ASI-11
42	Khan Badshah	Abdul Habib	N/Sub (11)	ASI-11
43	Noor Hakeem	Fazal Rahim	N/Sub (11)	ASI-11
44	Sadbar	Toor Khan	N/Sub (11)	ASI-11
45	Muhammad Said	Khan Muhammad	N/Sub (11)	ASI-11
46	Dawal Khan	Dawal Khan	N/Sub (11)	ASI-11
47	Muhammad	Jalandar Shah	N/Sub (11)	ASI-11

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SN	Name	Percentage	Previous Rank	Rank in Merit
1938	Farhat Ullah	Gul Rehman	Sepoy (05)	Constable 07
1939	Asghar Khan	Rehmat	Sepoy (05)	Constable 07
1940	Ali Rehman	Khaista Khan	Sepoy (05)	Constable 07
1941	Hayat Din	Toor Khan	Sepoy (05)	Constable 07
1942	Inayat Ur Rehman	Khan Said	Sepoy (05)	Constable 07
1943	Ludman	Abdul Jabar	Sepoy (05)	Constable 07
1944	M. Raheem	Sham Ur Rehman	Sepoy (05)	Constable 07
1945	Shah Hussain	Rahim Shah	Sepoy (05)	Constable 07
1946	Ismail	Mohammad Gul	Sepoy (05)	Constable 07
1947	Abdul Latif	Abdul Ahamad Jan	Sepoy (05)	Constable 07
1948	Shah Hussain	Mukhtiar Khan	Sepoy (05)	Constable 07
1949	Tahir Rehman	Inayat Rehman	Sepoy (05)	Constable 07
1950	Ragzan	Jan Bacha	Sepoy (05)	Constable 07
1951	Liaqat	Abdullah	Sepoy (05)	Constable 07
1952	Gul Zamin Khan	Nawshad	Sepoy (05)	Constable 07
1953	Said Ur Rehman	Sabir Khan	Sepoy (05)	Constable 07
1954	M. Idrees	Obaid Ullah	Sepoy (05)	Constable 07
1955	Gul Zada	Mohammad Zahir Shah	Sepoy (05)	Constable 07
1956	Siraj Ul Haq	Bazarg	Sepoy (05)	Constable 07
1957	Said Wali	Noor Khan	Sepoy (05)	Constable 07
1958	Zahid Ullah	Gul Rehman	Sepoy (05)	Constable 07
1959	Abdul Salam	Asim Khan	Sepoy (05)	Constable 07
1960	Muddeeri Khan	Mohammad Sadiq	Sepoy (05)	Constable 07
1961	Imran Khan	Chamoi Khan	Sepoy (05)	Constable 07
1962	Habib Ullah	Sher	Sepoy (05)	Constable 07
1963	Mukamil Khan	Zoora Din	Sepoy (05)	Constable 07
1964	Arab Khan	Mion Gul	Sepoy (05)	Constable 07
1965	Nisari Khan	Bakhtawar Khan	Sepoy (05)	Constable 07
1966	Dawat Khan	Itbar Said	Sepoy (05)	Constable 07

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2. The above absorption shall be subject to the following conditions:

- (i) Their services shall be governed under the Khyber Pakhtunkhwa Police Act, 2017 and the rules made thereunder.
- (ii) A member shall not be entitled for absorption if he has resigned from Levy's Force Service or has been terminated from the Service on account of misconduct, inefficiency or any other ground or has been retired from Service under the Federal Levy Force (Amended) Service Rules 2013, before commencement of the Khyber Pakhtunkhwa Police Force Act, 2019 (Khyber Pakhtunkhwa Act No. XXXV of 2019).
- (iii) Their services shall be considered regular and they shall be eligible for pension and deduction of General Provident fund in terms of the Khyber Pakhtunkhwa Civil Servant Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).
- (iv) Their seniority shall be determined in accordance with rule 6 of the Levy Force (Absorption in Khyber Pakhtunkhwa Police) Rules 2019.
- (v) They shall undergo training as provided in rule 5 of the Levy Force (Absorption in Khyber Pakhtunkhwa Police) Rules 2019.

No. & Date given
CC to:

- 1. Inspector General of Police, Khyber Pakhtunkhwa
- 2. Accountant General (Khyber Pakhtunkhwa)
- 3. Regional Police Officer, Mulkand
- 4. District Police Officer Bajaur Tribal District
- 5. District Commissioner Bajaur Tribal District
- 6. PS to Chief Secretary Government of Khyber Pakhtunkhwa
- 7. PS to Secretary, Home & TAs Department, Khyber Pakhtunkhwa
- 8. PS to Special Secretary-II, Home & TAs Department, Khyber Pakhtunkhwa
- 9. PS in Secretary, Establishment Department, Khyber Pakhtunkhwa
- 10. Manager Printing Press for notifying the same in the official gazette.
- 11. Office record file.

Section Officer (Service Administration)

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- 1 -

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

W.P No. 529-M/2016

Subedar Major Maqbool Ali Khan and 2 others
(Petitioners)

Versus

The Government of Pakistan through Secretary SAFRON
Civil Secretariat Islamabad and 2 others
(Respondents)

Present:

M/S Amir Gulab Khan and Rahimullah, Advocates
for the petitioners.

Mr. Hussain Ali, Deputy Attorney
General for the Federal Government.

Mr. Sabir Shah, Additional Advocate
General for the Provincial Government.

W.P No. 593-M/2016

Bakht Jehan Mian
(Petitioner)

Versus

The Government of Pakistan through Secretary SAFRON
Civil Secretariat Islamabad and 2 others
(Respondents)

Present:

Mr. Sajjad Anwar., Advocate for the petitioner.

Mr. Hussain Ali, Deputy Attorney
General for the Federal Government.

Mr. Sabir Shah, Additional Advocate
General for the Provincial Government.

W.P No. 4039-P/2016

Rehmat Gul and 10 others

(Petitioners)

Versus

The Government of Pakistan through Secretary Ministry of States and Frontier Regions (SAFRON), Islamabad and 3 others

(Respondents)

Present:

Khalid Rehman, Advocate for the petitioners

Mr. Hussain Ali, Deputy Attorney General for the Federal Government.

Mr. Sabir Shah, Additional Advocate General for the Provincial Government.

W.P No. 280-M/2017

Monasib Khan and one other

(Petitioners)

Versus

Government of Pakistan through Secretary SAFRON Civil Secretariat Islamabad and 3 others

(Respondents)

Present:

Khwaja Salahuddin, Advocate for the petitioners.

Mr. Hussain Ali, Deputy Attorney General for the Federal Government.

Mr. Sabir Shah, Additional Advocate General for the Provincial Government

W.P No. 281-M/2017

Abdur Rehman

(Petitioner)

Versus

Government of Pakistan through Secretary SAFRON Civil Secretariat Islamabad and 3 others

(Respondents)

Arif

Present: *Khwaja Salahuddin, Advocate for the petitioner.*

*Mr. Hussain Ali, Deputy Attorney
General for the Federal Government.*

*Mr. Sabir Shah, Additional Advocate
General for the Provincial Government.*

Date of hearing: 03.05.2017

Date of announcement: 23.05.2017

JUDGMENT

MUSARRAT HILALI, 1- Through this single judgment we intend to decide the instant writ petition as well as the connected W.P No. 593-M/2016, W.P No. 4039-P/2016, W.P No. 280-M/2017 and W.P No. 281-M/2017 as identical questions of law and facts are involved in all these petitions.

2. Most of the petitioners in all the writ petitions are Levy employees of various districts of the province of Khyber Pakhtunkhwa whereas some of them belong to Bajaur Agency falling within Federally Administered Tribal Areas (FATA). The petitioners joined the Levies Force as Sepoys. Initially, service of the Force was governed under Dir and Malakand Levies Rules and

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Rules of Service for Bajaur Levies both promulgated in 1962. Later on, the Rules of 1962 were repealed and Provincially Administered Tribal Areas (PATA) Levies Force Service Rules, 2012 were promulgated for PATA Levies Force vide notification dated 13.09.2012 whereas for FATA Levies Force, the Federal Levies Force (Service) Rules, 2012 were framed and notified vide S.R.O 954(I)/2012 dated 03.08.2012. Under Rule 16 of the *ibid* Rules it was provided that:

“the Force personnel shall retire from service on attaining the age of superannuation i.e 60 years or he may opt for retirement after 25 years of regular service”.

Thereafter, the Government of Khyber Pakhtunkhwa notified service rules for Levies Force in PATA i.e Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013 vide notification dated 04.02.2013 whereas the Federal Government promulgated Federal Levies Force (Amended) Service Rules, 2013 vide notification S.R.O.580(I)/2013 dated

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08.04.2013. Under Rule 17 of both the mentioned amended rules for PATA and FATA, a new criterion was laid down for retirement of Levies Force under Schedule-III and Schedule-IV for PATA and FATA Levies Force respectively which is reproduced herein below:

1. Subedar Major: 38 years service or 03 years service as Subedar Major or 60 years age whichever is earlier.
2. Subedar: 35 years service or 03 years service as Subedar or 57 years age whichever is earlier.
3. Naib Subedar: 32 years service or 03 years service as Naib Subedar or 54 years age which ever is earlier.
4. Havaldar: 29 years service or 03 years service as Havaldar or 51 years age whichever is earlier.
5. Naik: 26 years service or 03 years service as Naik or 48 years age.
6. Lance Naik: 23 years service or 03 years service as L/Naik or 45 years age whichever is earlier.
7. Sepoy: 20 years service or 42 years age whichever is earlier.

Naik

3. By means of the subsequent rules, a clog of three years service on the same rank was imposed on the Levies personnel, which according to petitioners, had adversely affected the service career of almost the entire force. Hence, the force members including some of the petitioners filed W.P No. 175-M/2013, W.P No. 141-M/2013 and W.P No. 2124-P/2013 before this Court whereby they challenged the Rules of 2013, however, in the meanwhile the service Rules for PATA Levies Force were once again amended vide notification No. So(Levies)HD/FLW/1-1/2013/ Vol.1 dated 12.12.2013 (Schedule-III) and likewise service rules for FATA Levies Force were amended vide notification No. F.10(5)-LK/2006 dated 05.12.2013 (Schedule-IV). The new criteria for retirement of both Federal and Provincial Levies Force was laid down as under:

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1. Subedar Major: 37 years service or 60 years age whichever is earlier.
2. Subedar: 35 years service or 60 years age whichever is earlier.

3. Naib Subedar: 33 years service or 60 years age whichever is earlier.
4. Havaldar: 31 years service or 60 years age whichever is earlier.
5. Naik: 29 years service or 60 years age whichever is earlier.
6. Lance Naik: 27 years service or 60 years age whichever is earlier.
7. Sepoy: 25 years service or 60 years age whichever is earlier.

4. According to assertions of petitioners, the above-mentioned amendment in the rules vide the afore-referred notifications redressed the grievances of the Force personnel and several promotions were made consequent upon the above notifications, hence, the petitioners including other members of the Force withdrew their writ petitions. However, once again the service rules for PATA Levies Force were amended vide notification No.So(Levies)HD/FLW/1-1/2013/Vol.1 dated 25.08.2016 whereas service rules for FATA Levies Force were amended vide notification No. S.R.O.936(I)/2016 dated 04.10.2016. It is noteworthy that the rules were amended only to the extent of Subedar Major, Subedar and

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Naib Subedar whereas the criteria for the remaining ranks remained unchanged. The new criteria for retirement of Levies Force vide Schedules-III & IV to the extent of Subedar Major, Subedar and Naib Subedar was set forth as under:

1. Subedar Major: 37 years service or 03 years service as Subedar Major or 60 years age whichever is earlier.
2. Subedar: 35 years service or 05 years service as Subedar or 60 years age whichever is earlier.
3. Naib Subedar: 33 years service or 07 years service as Naib Subedar or 60 years age whichever is earlier.

5. The above amendments in the existing rules have limited the length of service of the petitioners as Subedar Major, Subedar and Naib Subedar, therefore, the petitioners have challenged the same through the instant petition as well as the connected writ petitions which are being decided through this single judgment.

6. Learned counsels for the petitioners, *inter alia*, contended that under

Law

the previous rules; certain rights and privileges had accrued to the petitioners which have been taken away from them vide the impugned amendments in the rules, hence, the same are not applicable to petitioners under Article 264 (c) of the Constitution of the Islamic Republic of Pakistan, 1973. They further contended that in absence of a stipulation to the contrary, any change in law affecting substantive rights will have prospective effect and any insertion and deletion in the service rules cannot operate retrospectively. Learned counsels added that only that law can be given retrospective effect which brings some changes in procedure and no retrospective effect can be given to a substantive law under which certain rights accrue to a person. Learned counsels were of the view that procedure laid down under Section 23 of the General Clauses Act, 1897 has not been followed while making the amendments in the rules and the last amendments so made being in violation of Section 23 of the Act *ibid*, are not legally sustainable. Learned counsels appended

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that the respondents are going to implement the impugned amended Rules retrospectively due to which the petitioners would stand retired retrospectively. Reliance was placed on PLD 2015 SCMR 43, 2005 SCMR 1785, 2013 CLC 839-c, 2012, SCMR 864, 2016 P.Cr.L.J 1302-c, 2016 PLC (CS) 601-f, 2011 PLC (CS) 1623 and 2014 (Peshawar) 210.

7. As against that learned Deputy Attorney General appearing on behalf of the Federation, and learned Additional Advocate General appearing for the Provincial Government while supporting the amendments made in Rules 2016, submitted that the impugned amendments in the rules have been made in the broad interests of the entire force and the rules cannot be held as invalid mere on the ground that the same have adversely effected only a few individuals of the force. They were of the view that the government has full plenary powers to amend or alter any rules with retrospective effect. They placed reliance on 2013 SCMR 314, 2016 SCMR 893, 2015 SCMR 1739, 2005

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SCMR 186 and PLD 2007 High Court (AJ

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8. We have heard arguments of learned counsel for the petitioners and gone through the record in light of their valuable assistance.

9. In order to appreciate the nature of the controversy posed for our consideration, we may note a few relevant facts. Since its establishment in PATA till 2012, the Levies Force was governed under Dir and Malakand Levies Rules, 1962 also known as Federal Irregular Corpse Rules, 1962. The Force has mainly been assigned the task of security in PATA while in some notified areas the Force also conducts investigation in criminal cases. In order to regulate the service of Levies Force in PATA, the Provincially Administered Tribal Areas Levies Force Regulation, 2012 was promulgated on 29.08.2012. Section 9 of the Regulation *ibid* empowers the Provincial Government to frame rules for the purposes, *inter alia*, the conditions of service of Levies Force. For the first time, Provincially

Law

Administered Tribal Areas (PATA). levies Force Service Rules, 2012 were framed under the Regulation promulgated vide notification dated 13.09.2012, as such, the former rules of 1962 were repealed. The main issue which has repeatedly been raised before this Court is with regard to the criteria of retirement of Subedar Major, Subedar and Naib-Subedar laid down in the Rules. Under Section 24 of 2012 Rules an anomaly committee should be set up to consider and correct the anomalies, if any. The first anomaly which was felt in the initial Rules of 2012 was that under Rules 2012 a Subedar Major could hold the said position for unspecified period and there was a minimum chance of promotion of junior members of the Force. Resultantly, a sense of despair and desolation developed amongst majority of the junior members of the Force which prompted the authority to amend the existing Rules of 2012. Hence, the Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013 were promulgated

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vide notification dated 04.02.2013 whereas the Federal Government promulgated Federal Levies Force (Amended) Service Rules, 2013 vide notification S.R.O.580(I)/2013 dated 08.04.2013. Under Rule 17 of both the mentioned amended rules for PATA and FATA, a new criterion was laid down for retirement of Levies Force under Schedule-III and Schedule-IV for PATA and FATA Levies Force respectively which has already been reproduced in the facts of the case.

10. A bare look at both the criteria i.e before and after the amendment, would reveal that in the pre-amended rules of 2012, every member had the right to continue his service till attaining the age of superannuation i.e 60 years or by giving the option to retire before the age of superannuation but under the amended rules, the option previously given to the Force personnel was withdrawn and a clog of three years for each rank was prescribed before attaining the age of superannuation which was challenged before this Court vide W.P No. 175-M/ 2013, W.P No. 141-M/2013

main

and W.P No. 2124-P/2013. During the pendency of these writ petitions, once again, the Rules for both PATA and FATA Levies Force were amended vide notification dated 12.12.2013 (Schedule-III) and dated 05.12.2013 (Schedule-IV) respectively wherein the clog of three years service on each rank from top to bottom was removed under the amended Rules. What is frowned upon is that while amending the Rules, no object or reason for the said amendments was given and soon after the amendment the writ petitions pending before this Court were withdrawn. It may be pointed out that the anomaly committee was created to look into the alleged anomalies and make suitable corrections but here the anomaly committee created further anomalies rather than resolving them.

Law

An amendment cannot be made in a manner detrimental to the rights of other employees. The said amendment not only blocked the promotional avenues of the Force personnel but also offended the guaranties enshrined in the Constitution of Islamic

Republic of Pakistan, 1973 against the discrimination in service. Policies or Rules, the very foundation whereof lies on discrimination, unfairness and inequality obviously will result into despair and agony among the public in general and members of the Force in particular. In the backdrop of the above stated scenario of the Rules, the Anomaly Committee having realized the anomalies and absurdities, further amended the Rules in the year 2016 according to which clog of 3, 5 & 7 years service was prescribed for the ranks of Subedar Major, Subedar and Naib Subedar respectively on the expiry of which they will retire.

10. The petitioners herein have not questioned the amended rules on the ground that the same are arbitrary or invalid. Their grievance is that an amendment which affects the accrued rights is presumed to be prospective in operation unless made retrospective either expressly or by necessary intendment.

It is a cardinal principle of construction that every statute prima facie is

Law

prospective in nature unless it is expressly or by necessary implication made to have retrospective effect, however, where the new law is made to cure an acknowledged evil for the benefit of community as a whole, it is not necessary that express provision be made to make a statute retrospective. It is well settled that if a statute is curative of previous law, retrospective operation is generally intended. After going through the last amendment made in the rules in 2016, this Court came to the conclusion that life was injected to the erstwhile rules and the said rules were brought back to life, hence, the amendment in the rules by necessary implication is retrospective in nature and, therefore, it has to be read in continuation of amendment made in the rules for PATA and FATA Levies Force vide notifications dated 04.02.2013 and 08.04.2013 respectively.

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11. Another contention of learned counsels for the petitioners is that the Rules must be given prospective effect and the same should not be applied retrospectively to the disadvantage of petitioners. Apart from placing reliance on various case laws already noted above, learned

counsels for the petitioners referred to Article 264 of the Constitution of Islamic Republic of Pakistan as well as Section 6 of the General Clauses Act, 1897. For the sake of convenience, Article 264 of the Constitution and Section 6 of the General Clauses Act are reproduced herein below.

264. Effect of repeal of laws. Where a law is repealed, or is deemed to have been repealed, by, under, or by virtue of the Constitution, the repeal shall not, except as otherwise provided in the Constitution,—

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the law or anything duly done or suffered under the law;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.

Law

Likewise, Section 6 of the General Clauses Act, 1897 lays down that:-

6. Effect of repeal. Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any

enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not-

- (a) revive anything not in force or existing at the time which the repeal takes effect; or
 - (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
 - (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
 - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;
- and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

12. The above mentioned article of the Constitution and the provision of the General Clauses Act are of no help to the petitioners as Article 264(c) of the Constitution and Section 6 of the General Clauses Act, 1897 apply to repeal and not to amendment as before us is a case of amendment/ modification in the existing rules. According to the definition given in Oxford dictionary, repeal means to revoke or annul (a law or Act of parliament) whereas "modification" means a change, improvement or refinement. Since, what has been challenged through the instant petitions is "modification"

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in the existing rules, therefore, in our view the law which deals with "repeal" of an Act of the legislature cannot be applied to the present cases wherein the issue raised is related with modification in the existing rules.

13. Facts and circumstances of the cases relied upon by petitioners has no relevance with the present cases on the ground that in determining the nature of the amendment of rules or Act, regard must be had to the substance rather than to the form. The present is the case wherein the petitioners seek continuation of the rules which are person specific and if the desired writ is allowed, the remaining force will remain in wilderness. Even otherwise, enactment of rules and amendments therein is the prerogative of the Government as observed by the august Supreme Court in its judgment titled "Dr. Alyas Qadeer Tahir Vs. Secretary M/O Education Islamabad and others" reported in 2014 SCMR 997. The relevant portion is reproduced herein below.

"For enactment of rules or amendment therein is the prerogative of the Government. It can enact and amend

the rules according to the needs and exigencies of service. It is not individual but institutional interest or uplift which shapes its service structure”.

14. In light of the forgoing discussion, we see no merits in the writ petition in hand as well as in the connected writ petitions, therefore, the same are hereby dismissed.

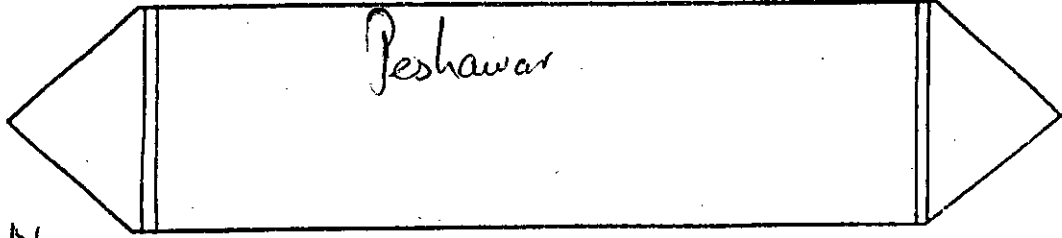
Announced
23.05.2017


JUDGE


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Office
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بعدالت KP-ST



2024ء منجانب سائل
گھل زار بنام حکومت پشاور
فون فون خواہ
و غیر

مدرجہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سید احمد علی کیلئے لنڈن سٹریٹ کے محکم الزمات اقصیٰ حسین ابراہیم
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا اوکالت نامہ لکھد یا کہ سند ہے۔

المرقوم _____ ماہ _____ 20 _____

_____ واہ العہم _____

مقام سید احمد علی کے لئے منظور ہے۔
Attestul & Accepted
