

BEFORE THE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 11927/2020

Sattar..... *Appellant*

Versus

Government of KPK through Secretary Home & Tribal Affairs & Others

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.11927/2020

Sattar.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa & others.....**Respondents.**

PARA-WISE REPLY BY RESPONDENT NO. 01 to 05

Respectfully Sheweth:

Preliminary Objections:-

- I. That this honorable Tribunal has no jurisdiction to entertain the present appeal of the appellant.
- II. That the appellant has no locus standi to file the present appeal.
- III. That the appellant has not come to this august Tribunal with clean hands.
- IV. That the present service appeal is not maintainable in its present form.
- V. That the appellant has suppressed and concealed the material facts from this Honorable Tribunal.
- VI. That this service appeal is barred by law & limitations.

ON FACTS:

1. Needs no comments.
2. Pertains to record of ex Commandant Bajaur Levy, hence need no comments.
3. Incorrect. The performance of appellant was not up to the mark, therefore on completion of required service under Levy Rules he was got retired.
4. Pertains to the record hence need no comments.
5. Incorrect, after 25th Constitutional amendment, the absorption process of Levy in the Police of Khyber Pakhtunkhwa has not got finality, as article 9(2) of Khyber Pakhtunkhwa Levies Force Act 2019 (Khyber Pakhtunkhwa Act No. XXXV of 2019 dated 16.09.2019) explains as follow "*until their absorption in Police, the member of Levies Force shall be governed by their existing terms and conditions of service under the Federal Levies Force (Amended) Service Rules 2013*".
(Copy of the Act is annexed as Annexure A).
6. Incorrect, in order to streamline and regulate the function, terms and condition of Levies Force deployed in Ex FATA, Khyber Pakhtunkhwa Levies Force (Transition) ordinance 2019 has been passed by the provincial Assembly. It is worth mentioning here that the absorption process have not got finality and the old Levies rules are still operative to the extent of appellant as he is not absorbed in the Police of Khyber Pakhtunkhwa, as per article 9(2) of Khyber Pakhtunkhwa Levies Force (Transition) ordinance No. III of 2019.
(Copy of the Ordinance is annexed as Annexure B)
7. Incorrect as discussed above that the working plan has not been finalized and is in pipeline to the extent of appellant and other levy officials.
8. Incorrect, hence denied. The respondent No. 02 (IGP) re designates the post of Levy & Khassadar Forces only for the purpose of their induction/absorption in Khyber

Pakhtunkhwa Police; however, the appellant was not eligible for absorption and is liable to be retired from his service as per aforementioned Act & Ordinance of 2019.

- 9. Incorrect, neither malafide intension involved in the whole process, nor any discriminatory treatment was given to the appellant. As already discussed, that as per Section 9(2) of Khyber Pakhtunkhwa Levies Force Act 2019 & Levies Force (Transition) Ordinance 2019 that until their absorption in the Police of Khyber Pakhtunkhwa, the members of Levies Force shall be governed by their existing terms and condition of service under the Federal Levies Force (Amended) Service Rules 2013.
- 10. As per Para 5 of the facts.
- 11. Pertains to the record, hence, need no comments.
- 12. The appellant was not retired on his due date of retirement as he was granted with interim relief by the Peshawar High Court, Peshawar, hence, it is in the discretion of the Competent Authority to post him anywhere in the District.
- 13. In compliance with directions of honorable High Court, departmental appeal of the appellant was considered by the committee of Home Department and dismissed with cogent reasons vide order No. CS(F)/L&K/4-Levy/Appeal 2330-32 dated 06.10.2020.
(Copy attached as Annexure C)
- 14. In response of para 14 it is submitted that verified lists of Levies/Khassadar by the Scrutiny Committee including the appellant at S# 02 of the Subedar Major was sent for absorption in the Police of Khyber Pakhtunkhwa, however, the Respondent No. 1 i.e. Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa vide his letter dated 18.12.2019 addressed to DIG (Hqrs), Central Police Office, Peshawar wherein raised general shortcomings/observations that in most of the lists the incumbents are required to be retired from service under the then Levy/Khassadar rules, but they are still in service with further directions that rectify and submit correct information to the department within a week time.
(Copy of list and observations of Respondent No. 1 attached as Annexure D & E)
- 15. No comments in response of this Para as the Notification dated 14.07.2020 is the amendments in respect of Levy Force of provincially administrated tribal area (PATA) and not relates to the ex Levy of Federally administered tribal areas (FATA).
- 16. Incorrect. The respondent No. 01 dismissed his departmental appeal vide order dated 06.10.2020 in light of Section 15(2) of the Khyber Pakhtunkhwa Levies Force Act 2019 that all Levies personnel will be governed under Federal Levy Force (Amended) Service Rules-2013 till their absorption in Khyber Pakhtunkhwa Police.
- 17. Incorrect, the appellant has got no cause of action to file the instant service appeal and wrongly invoked the jurisdiction of this honorable Tribunal through unsound grounds.

ON GROUNDS:

- A. Incorrect no violation of the fundamental rights of the appellant has been committed.
- B. Incorrect, all the acts/orders passed by the respondents are in legal capacity and no illegality has been committed.
- C. Incorrect, the appellant has got no legal cover under the existing policy/rules to continue his service, as the Levies rules are still exist and not repealed to the extent of appellant, which is evident from Section 9(2) of Khyber Pakhtunkhwa Levies Force Act 2019 (Khyber Pakhtunkhwa Act No. XXXV of 2019 dated 16.09.2019).
- D. Incorrect. Ineligible for service but temporary performing duty in compliance with order of this Tribunal.
- E. Incorrect. Each and every case has its own facts & circumstances. The nature of the present appeal is separate and involves terms and conditions.
- F. The appellant was not retired on his due date of retirement as he was granted with interim relief by the Peshawar High Court, Peshawar and thereafter by Honorable

Khyber Pakhtunkhwa Service Tribunal, Peshawar vide order dated 15.10.2020, hence; serving and getting his salaries.

- G. Incorrect, all the action/orders issued by the respondents are in legal and lawful capacity.
- H. Incorrect, the matter involves policy/rules already adopted for disposal by the government and even then not repealed by other rules, which are explained in Ordinances passed by KP Assembly. The respondents can't think about variance from the settled principles of law and dictum of superior court.
- I. Incorrect, no violation of the stated act has been committed by respondents and the acts orders are based on justice, facts and reasonable in light of prevailing policy.
- J. Incorrect hence denied. The appelland cannot be absorbed in the Police of Khyber Pakhtunkhwa from the promulgation of the aforementioned Act/Ordinance of 2019.
- K. Incorrect, hence denied. The respondent No. 02 (IGP) re designates the post of Levy & Khassadar Forces only for the purpose of their induction/absorption in Khyber Pakhtunkhwa Police; however, the appelland was not eligible for absorption and liable to be retired from his service as per aforementioned Act & Ordinance of 2019.
- L. Incorrect, the whole processes are based on natural Justice and within the Jurisdiction of the authority.
- M. The respondents also seek leave of this honorable Tribunal to rely on additional grounds at the time of arguments/hearing.

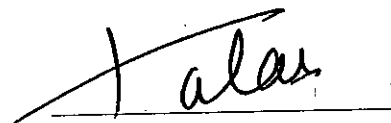
PRAYERS:-

Keeping in view the facts and law, it is therefore humbly prayed; that the appeal is devoid of legal force may kindly be dismissed with cost, please.

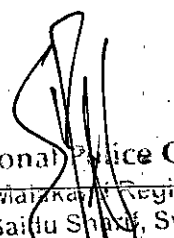
Respondent No. 1
Secretary Home & Tribal Affairs Department,
KPK, Peshawar.


Home Secretary,
Khyber Pakhtunkhwa

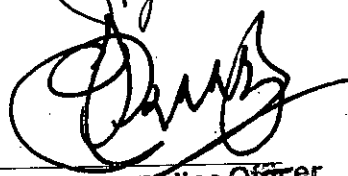
Respondent No. 2
Inspector General of Police, KPK
Peshawar.




Respondent No. 3
Regional Police Officer, Malakand.


Regional Police Officer,
Malakand Region,
Saidu Shingai, Swat.

Respondent No. 4
District Police Officer,
Bajaur at Khar.


District Police Officer
Bajaur

Respondent No. 5
District Commissioner,
Bajaur Tribal District.


DEPUTY COMMISSIONER
Bajaur Tribal District

04

BEFORE THE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 11927/2020

Sattar.....Petitioner.

Versus

Government of KPK through Secretary Home & Tribal Affairs & Others

AFFIDAVIT

I, Shahzada Kaukab Farooq, District Police Officer/Commandant Ex Levy/Khassadars Bajaur CNIC No. 17301-7324266-9 do hereby affirm and declare on oath that the contents of the accompanying comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



Deponent

05



OFFICE OF THE
DISTRICT POLICE OFFICER,
BAJAUR TRIBAL DISTRICT.

NO. 2753 /Legal

Dated 25 / 06 /2021.

AUTHORITY:

Mr. Sajjad Ahmad, Legal Clerk, of this office is hereby authorized to submit para wise comments/Reply in Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 11927/2020 titled as Sattar Vs Government of KPK through Secretary Home & Tribal Affairs and others.


DISTRICT POLICE OFFICER,
BAJAUR AT KHAR

Annexure 'A'

Annexure

I

(1)

06

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

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;

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(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. II 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 forgoing policing powers under subsection (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. II 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.

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(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.	Kurrum.
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

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ORDINARY
GOVERNMENT

REGISTERED NO. PHT 142

GAZETTE



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 13TH JUNE, 2019.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA,
LAW, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT.

NOTIFICATION

Dated Peshawar, the 13TH June, 2019.

No. LEGIS: 1(14) 2012-Vol-II. The following Ordinance by the Govern
of the Khyber Pakhtunkhwa is hereby published for general information:

*This Ordinance may be called the Khyber Pakhtunkhwa
Levies Force Ordinance, 2019.*

(Khyber Pakhtunkhwa Ordinance No. III of 2019)

**AN
ORDINANCE**

*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
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;

AND WHEREAS the Provincial Assembly is not in session and the Governor of Khyber Pakhtunkhwa is satisfied that circumstances exist which render it necessary to take immediate action:

NOW, THEREFORE, in exercise of the power conferred by Clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of Khyber Pakhtunkhwa is pleased to make and promulgate the following Ordinance:

1. Short title, application, extent and commencement.—(1) This Ordinance may be called the Khyber Pakhtunkhwa Levies Force Ordinance, 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 Ordinance, 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 Ordinance;
- (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 set up under any statutory instrument or public sector company or body corporate, owned, controlled or financed by Government.

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- (l) "repealed regulation" means the Federal Levies Force Regulation, 2012, repealed under section 15 of this Ordinance;
- (m) "rules" mean rules made under this Ordinance; and
- (n) "Schedule" means the Schedule appended to this Ordinance.

3. **Reconstitution and maintenance of Levies Force.**---(1) On promulgation of this Ordinance, the Levies Force shall be re-constituted and maintained by Government in accordance with the provisions of this Ordinance 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.

(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 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. II 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 forgoing 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. II 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 Ordinance.

12. **Ordinance to override other laws.**---The provisions of this Ordinance 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 Ordinance, no suit, prosecution or other legal proceeding 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 Ordinance 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).

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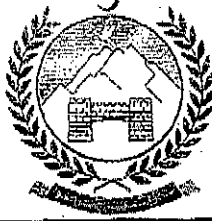
KHYBER PAKHTUNKHWA GOVT; GAZETTE, EXTRAORDINARY, 13th JUNE, 2019 218

14. 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.



Annexure C

PL 14

10/10/20

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

Suptd

for n/a action

Section Officer (Levy & Khassadars)

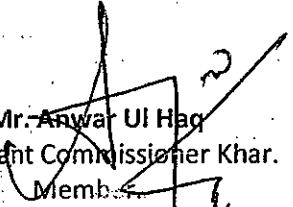
DISTRICT POLICE OFFICER
BAJAUR TRIBAL DISTRICT

12.10.2020


12.10.2020

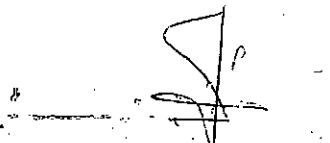
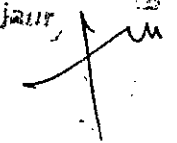
SCRUTINY COMMITTEE CERTIFICATE.

In compliance with CPO, Khyber Pakhtunkhwa, Peshawar, directions vide Memo: No. 0708-29/PMD/OPS, dated 12/11/2019 the lists as per Annexure A, Summary as Annexure B prepared from the relevant Service Record duly signed by the District Scrutiny Committee i.e. District Police Officer, Assistant Commissioner Khar, and District Accounts Officer, Bajaur.


Mr. Anwar Ul Haq
Assistant Commissioner Khar.
Member.

*only physically
verified*
ASSISTANT COMMISSIONER
KHAR

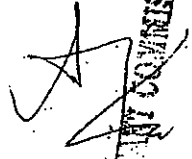

Maqsood Jan
District Accounts Officer,
Member.
District Accounts Officer
Bajaur at Khar.



Pir Shahab Ali Shah
District Police Officer,
Chairman.
District Police Officer
Bajaur,



DATA OF BAJAUR LEVIES FORCE

16

S#	Personnel No	Reg: No	Name	Perantage	Rank with BPS	Date of Birth	Date of Appointment	D.O. Last Prom;	CNIC No.	Equivalence of Rank in BPS Police	Remarks
1	464664	2208	Gul Zar Khan	Mahibullah	SM (16)	01.07.1964	19.07.1982	06.07.2017	2110446544501	Insp: 16	
2	464665	2217	Abdu Satar	Talib	SM (16)	19.07.1964	19.07.1982	06.07.2017	2110421664699	Insp: 16	
1	464686	2430	Amanullah	Bach Khan	Sub (13)	1966	29.05.1984	28.08.2014	2110383934427	Sub: Insp: 14	
2	464687	2436	Munir Zada	Gul Amin	Sub (13)	1966	17.07.1984	28.08.2014	2110717157235	Sub: Insp: 14	
3	464688	2439	Muhammad Jan	Sher Azam	Sub (13)	19.07.1966	19.07.1984	28.08.2014	2110658613279	Sub: Insp: 14	
4	464690	2451	Dilawar Khan	Zarawar	Sub (13)	06.08.1964	06.08.1984	01.01.2015	2110692739401	Sub: Insp: 14	
5	461667	2739	Niamat Ullah	Abdul Rahim	Sub (13)	11.02.1968	11.02.1986	03.03.2017	2110717103237	Sub: Insp: 14	
6	460759	2953	Said Gul	Amroz	Sub (13)	28.02.1966	28.02.1987	20.03.2017	2110725264125	Sub: Insp: 14	
7	461910	2631	Sher Bahadar	Buzarg Jamhir	Sub (13)	02.08.1965	02.08.1985	20.03.2017	2110254579721	Sub: Insp: 14	
8	461920	2451	Hayat Khan	Zarif Khan	Sub (13)	31.08.1967	31.08.1985	06.07.2017	2110358408577	Sub: Insp: 14	
9	461922	2655	Bakht Munir	Murtaza Khan	Sub (13)	31.08.1967	31.08.1985	06.07.2017	2110318017795	Sub: Insp: 14	
10	461923	2659	Sultan Zeb	Noor Din	Sub (13)	31.08.1966	31.08.1985	06.07.2017	2110323063709	Sub: Insp: 14	
11	461924	2660	Muhammad Dostan	Gul Faroosh	Sub (13)	31.08.1967	31/08/1985	06.07.2017	2110322949981	Sub: Insp: 14	
12	461930	2689	Abdul Aziz	Yar Muhammad	Sub (13)	17.12.1967	17.12.1985	06.07.2017	2110717137469	Sub: Insp: 14	
13	461901	2690	Mumbar Khan	Gul Rahim	Sub (13)	17.12.1963	17/12/1985	06.07.2017	2110721844853	Sub: Insp: 14	
14	461639	2700	Khan Zada	Bahadar Khan	Sub (13)	17.12.1967	17.12.1985	06.07.2017	2110321046225	Sub: Insp: 14	
15	461649	2710	Qabil Shah	Jafar Khan	Sub (13)	17.12.1967	17.12.1985	06.07.2017	2110322966407	Sub: Insp: 14	
16	461658	2731	Sohail	Wazir Ahmad	Sub (13)	06.02.1968	06.02.1986	06.07.2017	2110322950369	Sub: Insp: 14	
17	461654	2714	Zar Shahad	Alim Said	Sub (13)	21.12.1966	21.12.1985	06.07.2017	2110714788267	Sub: Insp: 14	
18	461661	2732	Sheraz ud Din	Shandi	Sub (13)	06.02.1968	06.12.1986	06.11.2017	2110373453853	Sub: Insp: 14	
19	461663	2736	Sultan Zeb	Muhammad	Sub (13)	10.02.1968	10.02.1986	06.11.2017	2110717118139	Sub: Insp: 14	
20	461680	2785	Ibrahim	Gran	Sub (13)	09.08.1968	09.08.1986	27.07.2018	2110376479411	Sub: Insp: 14	
21	461684	2792	Zarif Khan	Sabir Khan	Sub (13)	25.08.1968	25.08.1986	27.07.2018	2110771471727	Sub: Insp: 14	
22	516765	2808	Jan Muhammad	Taza Gul	Sub (13)	31.08.1966	31.08.1986	27.07.2018	2110622609519	Sub: Insp: 14	


 DISTRICT COMMISSIONER
 BAJAUR


 District Accounts Officer
 Bajaur at Khar.


 District Police Officer
 Bajaur

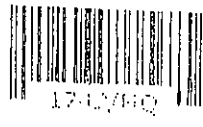
Annex 'B'

580118/ (A)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NO.SO Police HD/SMY/2019 merged Area
Dated: 18.12.2019



To

Deputy Inspector General (HQrs)
Central Police Office,
Khyber Pakhtukhwa

Subject:

LEVIES AND KHASSADAR FORCES ABSORPTION IN THE KHYBER
PAKHTUNKHWA POLICE, PHASE-I

Respected Sir,

I am directed to refer to your letter No. CPO/821/Registrar dated 04-12-2019 on the subject noted above and to state that the information/lists of Levies/Khassadars of NMDs/SDs, provided vide aforementioned letter are examined by the committee in light of Levies Force (Absorption in the Khyber Pakhtunkhwa Police) Rules-2019, Khassadar Force (Absorption in the Khyber Pakhtunkhwa Police) Rules-2019, Federal Levy Force (Amended) Service Rules-2013, Khyber Khassadar Rules-1950 and Service Rules/Standing Instructions for Khassadars of FATA-2011. The following general shortcomings/observations pointed out:

- vi. The Scrutiny Committee has just compiled the lists and have not mentioned about their eligibility or ineligibility in the remarks column.
- vii. In most of the lists the incumbents are required to be retired from service under the then levy/Khassadars rules, but they are still in service. — *we have took note of present position*
- viii. In most cases, employees are verified over and above the sanctioned strength.
- ix. Most of the districts have verified Service Change Khassadar/Substitute Khassadars (Evazi Khasadar) who are not to be absorbed in police because that arrangement cannot work in the regular police force. — *Several types I on desertions of Evazi found in country*
- x. In some districts, court cases/disputed employees are also verified and included in the lists. Their case will be decided after final decision of the court/resolution of the dispute. — *After court decision*

In addition to the above specific observation/deficiencies, pointed out by the committee, each district/sub-division must submit the following certificates, duly signed by all members of the scrutiny committee.

- i. The Scrutiny Committee shall clearly mention against every official of Levy / Khassadar Force as "Eligible and Recommended for absorption" OR "Not eligible and not recommended for absorption" in the remarks column.
- ii. The DPO or the Scrutiny Committee should furnish a certificate that the existing personnel are verified against sanctioned posts in the Budget Book and Schedule for New Expenditure, (SNE).
- iii. Each District should certify that no service change Khassadar/substitute Khassadars (Evazi Khasadar) is recommended for absorption in Police Department because only

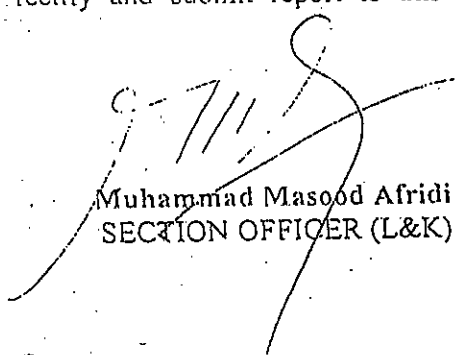
2,

original incumbent of the post will be absorbed. Evazi Khasadars will be separately dealt, subsequently.

iv. The committee should clearly mention that court cases/disputed employees are not included in the list for absorption. Their case will be decided after final decision of the court/resolution of the dispute.

I am further directed to enclose herewith district/sub-division wise observations deficiencies (Report of Committee), with the request to rectify and submit report to this department within a week time, please.

Encl: As Above


Muhammad Masood Afridi
SECTION OFFICER (L&K)

Copy to the:

- 1. Deputy Secretary (L&K), Home & Tribal Affairs Department.
- 2. PS to Secretary, Home & Tribal Affairs Department.
- 3. PS to Special Secretary, Home & Tribal Affairs Department.
- 4. PA-to Additional Secretary (Security), Home & Tribal Affairs Department.

SECTION OFFICER (L&K)

7. BAJAUR TRIBAL DISTRICT

Levy Force

- i. Under provision of Federal Levy service Rules, both the Subadar Majors were required to be retired on 18.07.2019 but they are still serving. Clarification is needed.
- ii. Under provision of the levy rules Subedar at S.No. 1, 2 & 3 of the above notification, were required to be retired on 16.07.2019, 18.07.2019 and 05.08.2019, respectively, but they have been shown in service, which may be clarified.
- iii. CNIC. No. of Lance Naik at serial No 75 is not mentioned.
- iv. The scrutiny committee shall revisit all the lists and make up the deficiencies other than the one pointed out above and resubmit the case duly signed and stamped by all members of the committee.
- v. The Scrutiny Committee shall clearly mention against every official of Levy / Khassadar Force as "Eligible and Recommended for absorption" OR "Not eligible and not recommended for absorption" in the remarks column.

[Handwritten signatures and scribbles]