

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

**Appeal No. 11921/2020**

Kamin Bacha.....Petitioner.

**Versus**

Government of KPK through Secretary Home & Tribal Affairs & Others

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

**Service Appeal No.11921/2020**

Kamin Bacha.....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 & limitation.

**ON FACTS:**

1. Needs no comments.
2. Pertains to record of ex Commandant Khassadar Bajaur, hence need no comments.
3. Incorrect. The performance of the appellant was not up to the mark, therefore on completion of required service under Khassadar rules, he was got retired from service.
4. Pertain to the record hence need no comments.
5. Pertain to the record hence need no comments.
6. Incorrect, after 25<sup>th</sup> Constitutional amendment, the absorption process of Khassadars in the Police of Khyber Pakhtunkhwa has not got finality, as article 13(2)(a) of Khyber Pakhtunkhwa Khassadar Force Act 2019 (Khyber Pakhtunkhwa Act No. XXXIV of 2019 dated 16.09.2019) explains as follow "*the existing terms and conditions of Service of the Khassadar Force unless amended through a substitute rule or instrument*".  
**(Copy of the Act is annexed as Annexure A).**
7. Incorrect, in order to streamline and regulate the function, terms and condition of Khassadar Force deployed in Ex FATA, Khyber Pakhtunkhwa Khassadar 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 Khassadar rules are still operative to the extent of the appellant as he is not absorbed in the Police of Khyber Pakhtunkhwa, as per article 12(2)(a) of Khyber Pakhtunkhwa Khassadar Force (Transition) ordinance No. II of 2019.  
**(Copy of the Ordinance is annexed as Annexure B)**
8. Incorrect as discussed above that the working plan has not been finalized and is in pipeline to the extent of the appellant and other Khassadar officials.

9. 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.

10. As explain in Para 6.

11. Pertains to the record, hence, need no comments.

12. In compliance with directions of honorable High Court, departmental appeal of appellant was considered by the committee of Home Department and dismissed with cogent reasons vide order No. CS(F)/L&K/4-Levy/Appeal/3254-56 dated 06.10.2020.

**(Copy attached as Annexure C)**

13. In response of this para it is submitted that verified lists of Levies/Khassadar by the Scrutiny Committee including the appellant at S# 01 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)**

14. 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 Khassadars of Federally administered tribal areas (FATA).

15. Incorrect. The respondent No. 01 dismissed his departmental appeal vide order dated 06.10.2020 in light of Section 9(2)(a) of the Khyber Pakhtunkhwa Khassadar Force Act 2019 that all Khassadar personnel will be governed under the Service Rules for Khassadar in FATA (Amendment) till their absorption in Khyber Pakhtunkhwa Police.

16. 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:**

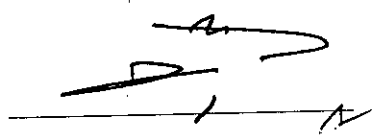
- A. Incorrect no violation of the fundamental rights of the appellant has been committed.
- B. Incorrect, all the acts/orders passed by the respondents are in legal capacity and no illegality has been committed.
- C. Incorrect, the appellant has got no legal cover under the existing policy/rules to continue his service, as the Khassadar rules are still exist and not repealed to the extent of the appellant, which is evident from Section 13(2)(a) of Khyber Pakhtunkhwa Khassadar Force Act 2019 (Khyber Pakhtunkhwa Act No. XXXIV of 2019 dated 16.09.2019).
- D. Incorrect. Ineligible for service but temporary performing duty in compliance with order of honorable 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 appellant 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 appellant 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.

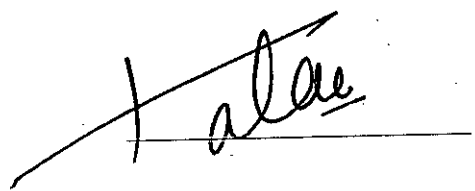
**PRAYERS:-**

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.



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




Respondent No. 3  
Regional Police Officer, Malakand.

  
Regional Police Officer,  
Malakand Region,  
Saidu Sharif, 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

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

**Appeal No. 11921/2020**

Kamin Bacha.....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

5



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
BAJAUR TRIBAL DISTRICT.

NO. 2747 /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. 11921/2020 titled as Kamin Bacha Vs Government of KPK through Secretary Home & Tribal Affairs and others.

DISTRICT POLICE OFFICER,  
BAJAUR AT KHAR.

Annexure H

EXTRAORDINARY  
GOVERNMENTREGISTERED NO. PIII  
GAZETTE**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, MONDAY, 16<sup>th</sup> SEPTEMBER, 2019.PROVINCIAL ASSEMBLY SECRETARIAT  
KHYBER PAKHTUNKHWA**NOTIFICATION**

Dated Peshawar, the 16th September, 2019.

No. PA/Khyber Pakhtunkhwa/Bills-67/2019/7004.— The Khyber Pakhtunkhwa Khasadar Force Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 12<sup>th</sup> September, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 12<sup>th</sup> September, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA KHASADAR FORCE ACT, 2019.  
(KHYBER PAKHTUNKHWA ACT NO. XXXIV OF 2019)

Section - 11  
- 14 -

(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 regulate and maintain the Khasadar Force previously working in the erstwhile Federally Administered Tribal Areas and now in the merged districts of the Province of the Khyber Pakhtunkhwa.

WHEREAS after Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018), the erstwhile Federally Administered Tribal Areas were merged in the Province of the Khyber Pakhtunkhwa, and the special provisions for the governance system in the said areas were omitted through said amendment, leading to the extension of the executive authority of the Province of the Khyber Pakhtunkhwa to the said areas;

AND WHEREAS the Khasadar Force, which was established in the erstwhile Federally Administered Tribal Areas through Executive Orders and instructions, for management of the said areas within the framework of territorial and collective responsibility, has now lost their legal status for working in the merged districts and sub-divisions;

(7)

(22)

AND WHEREAS it is in public interest to allow the Khasadar Force to continue their functions for better public order, peace and security in the merged districts and sub-divisions and to achieve the objectives, it is expedient to give legal status to the Khasadar Force in the merged districts and sub-divisions, and to revisit their 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 Khasadar Force Act, 2019.

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

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

(4) It shall come into force at once.

2. Definitions.--In this Act, unless the context otherwise requires,-

(a) "Commandant" means the District Police Officer, as defined in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017);

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

(c) "District Administration" means the Deputy Commissioner, Additional Deputy Commissioner, Assistant Commissioner, Additional Assistant Commissioner and their subordinate staff in the district;

(d) "District Police Officer" means Head of the Police, under section 21 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017);

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

(f) "Khasadar Force" means the Khasadar Force, constituted through executive orders, for the erstwhile Federally Administered Tribal Areas and now re-constituted and maintained by Government under section 3 of this Act;

(g) "prescribed" means prescribed by rules;

(h) "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;

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



(2) Subject to the decision of the Department, a sufficient number of members of the Force shall be placed at the disposal of the District Administration for performing its legally mandated functions.

8. **Liability of Khasadar Force.**---It shall be the duty of every member of the Khasadar Force to obey and execute all lawful orders and instructions issued to him by the Commandant.

9. **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.

10. **Power to make rules.**---Government may make rules for carrying out the purposes of this Act.

11. **Act to override other laws.**---The provisions of this Act shall have overriding effect, notwithstanding anything contained in any other law, on the subject, for the time being in force.

12. **Actions taken in good faith.**---No suit, prosecution or other legal proceedings shall lie against Government, any authority exercising powers under this Act or any member of the Khasadar Force for anything done in good faith under this Act or any rule made thereunder or matters specified in pursuance of this Act.

**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).

13. **Removal of difficulty.**---(1) 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.

(2) Save as otherwise specifically provided, nothing in this Act, or any repeal effected thereby shall affect or be deemed to affect-

- (a) the existing terms and conditions of service of the Khasadar Force unless amended through a substitute rule or instrument;
- (b) the validity of anything done, action taken, investigations or proceedings commenced, orders issued, appointments made, directions given, proceedings taken or instruments executed or issued, under or in pursuance of any rule or regulatory instrument repealed or amended by this Act and any such thing, action, investigation, proceeding, order, appointment, direction or instrument, suit, right or claims shall, if in force at the time of commencement of this Act and not inconsistent with any of the provisions of this Act, shall continue to be in force, and have effect as if it were respectively done, taken, commenced, issued, made, directed, given, executed or issued under this Act; and
- (c) anything done, action taken, rule made or notification or orders issued under the Khyber Pakhtunkhwa Khasadar Force Ordinance, 2019 (Khyber Pakhtunkhwa Ord. No. IV of 2019) shall be deemed valid and the same shall not be called in question in any Court of law.

14. Repeal.--- the Khyber Pakhtunkhwa Khasadar Force Ordinance, 2019 (KP Ord. No. IV of 2019) is hereby repealed.

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

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII  
G A Z E T T E

## **KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, TUESDAY, 12<sup>TH</sup> MARCH, 2019.

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

### **NOTIFICATION**

Dated Peshawar, the 12<sup>th</sup> March, 2019.

**No. LEGIS: 1(4) 2019-Vol.**— The following Ordinance by the Governor of the Khyber Pakhtunkhwa is hereby published for general information:

**(KHYBER PAKHTUNKHWA ORD. NO. II OF 2019)**

### **AN ORDINANCE**

*to regulate and maintain the Khasadar Force previously working in the erstwhile Federally Administered Tribal Areas and now in the merged districts of the Province of the Khyber Pakhtunkhwa.*

**WHEREAS** after Constitution (Twenty Fifth) (Amendment) Act, 2018 (Act No. XXXVII of 2018) the erstwhile Federally Administered Tribal Areas were merged in the Province of Khyber Pakhtunkhwa and the special provisions for the governance system in the said areas were omitted through said amendment, leading to the extension of the executive authority of the Province of the Khyber Pakhtunkhwa to the said areas;

**AND WHEREAS** the Khasadar Force, which was established in the erstwhile Federally Administered Tribal Areas through Executive Orders and instructions, for management of the said areas within the framework of territorial and collective responsibility, has now been lost their legal status, for working in the merged districts and sub-divisions;

AND WHEREAS it is in public interest to allow the Khasadar Force to continue their functions for better public order, peace and security in the merged districts and sub-divisions; and to achieve the objectives, it is expedient to give legal status to the Khasadar Force in the merged districts and sub-divisions, and to revisit their 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 the Khyber Pakhtunkhwa is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of the 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 Khasadar Force (Maintenance, Regulation and Protection of Service) (Transition) Ordinance, 2019.

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

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

(4) It shall come into force at once.

2. **Definitions.**— In this Ordinance, unless the context otherwise requires,—

(a) "Commandant" means the District Police Officer, as defined in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Ordinance No. II of 2017);

(b) "District Administration" means the Deputy Commissioner, Additional Deputy Commissioner, Assistant Commissioner, Additional Assistant Commissioner and their subordinate staff in the district;

(c) "District Police Officer" means Head of the Police, under section 21 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017);

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

(e) "Khasadar Force" means the Khasadar Force constituted, through executive orders, for the erstwhile Federally Administered Tribal Areas and now re-constituted and maintained by Government under section 3 of this Ordinance;

- (f) "prescribed" means prescribed by rules;
- (g) "public agency" means any department of Government, its 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; and
- (h) "rules" means rules made under this Ordinance.

**3. Re-constitution, regulation and maintenance of the Khasadar Force.**—(1) On promulgation of this Ordinance, the Khasadar Force, shall be reconstituted, regulated and maintained by Government in accordance with the provisions of this Ordinance and shall be known as the Khyber Pakhtunkhwa Khasadar Force, consisting of all existing strength of its members.

(2) The Khasadar Force shall be organized in senior ranks and junior ranks officers and officials.

(3) The senior rank officer shall consist of Commandant, who shall be District Police Officer, having additional charge of the Commandant in the District, while the junior ranks shall consist of the following:

- (a) Subedar Major;
- (b) Subedar;
- (c) Naib Subedar;
- (d) Havaldar; and
- (e) Khasadar.

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

(2) The general administration and operational control of the Khasadar Force shall vest with the Commandant in the District.

**5. Method of recruitment.**—(1) Subject to other provisions of this Ordinance, recruitment in the Khasadar Force shall be made, in the prescribed manner:

Provided that initial recruitment shall be made only in the rank of Khasadar Force:

Provided further that Government shall specify committee for recruitment and promotion in the Khasadar Force:

Provided also that members of the Khasadar Force may be absorbed in the Khyber Pakhtunkhwa Police in accordance with prescribed procedure.

(2) The Commandant shall be authority for posting and transfer of members of the Khasadar Force within the district.

6. **Powers and duties of the Khasadar Force.**---(1) Notwithstanding anything contained, in any other law for the time being in force, the Khasadar 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 Khasadar Force shall perform such institutional or organization functions and duties as are provided in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017).

7. **Liability of Khasadar Force.**---It shall be the duty of every member of the Khasadar Force to obey and execute all lawful orders and instructions, issued to him by the Commandant.

8. **Power to make rules.**---Government may make rules for carrying out the purposes of this Ordinance.

9. **Ordinance to override other laws.**---The provisions of this Ordinance shall have overriding effect, notwithstanding anything contained in any other law, on the subject, for the time being in force.

10. **Actions taken in good faith.**---No suit, prosecution, or other legal proceedings shall lie against the Government, any authority exercising powers under this Ordinance or any member of the Khasadar Force for anything done in good faith under this Ordinance or any rule made there under or matters specified in pursuance of this Ordinance.

**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).

11. **Removal of difficulty.**---The Home and Tribal Affairs Department of Government may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Ordinance.

12. **Repeal and saving.**---(1) Soon after the commencement of this Ordinance, all provisions of the circulars, rules, standing orders and regulatory instruments, relating to the Khasadar Force, inconsistent with the provisions of this Ordinance, shall stand revoked to the extent of inconsistency.

(2) Save as otherwise specifically provided, nothing in this Ordinance, or any repeal effected thereby shall affect or be deemed to affect:

- (a) the existing terms and conditions of service in the Khasadar Force unless amended through a substitute rule or instrument; and
- (b) the validity of anything done, action taken, investigation or proceedings commenced, orders issued, appointments made, direction given, proceedings taken or instrument executed or issued, under or in pursuance of any rule or regulatory instrument repealed or amended by this Ordinance and any such thing, action, investigation, proceedings, orders, appointment, direction, proceedings or instrument suits, right or claims shall, if in force at the commencement of this Ordinance and not inconsistent with any of the provisions of this Ordinance, continue to be in force, and have effect as if it were respectively done, taken, commenced, issued, made, directed, given, executed, or issued under this Ordinance.

Peshawar,  
Dated the  
11<sup>th</sup> March, 2019.

**SHAH FARMAN**  
Governor of the Khyber Pakhtunkhwa

**ZAKA ULLAH KHATTAK**  
Secretary to  
Government of the Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs and  
Human Rights Department.



Annexure 'L'  
15

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

No.CS(F)/L&K/4-Levy/Appeal/ 2354-58

Dated:06.10.2020

**ORDER.**

1. Whereas, petitioner/ appellant Kamin Bacha was appointed in Bajaur Khasadars on 25.04.1996, promoted as Subedar on 26.01.2012 and is due for retirement on 25.01.2017 on completion of 5 years' rank tenure as Subedar under Service Rules for Khasadars in FATA (Amended) 2011. The petitioner/ appellant filed Writ Petition No.216-P/2017 before the hon'ble Peshawar High Court.
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 it in accordance with the law.
3. And whereas, the petitioner/ appellant was afforded opportunity of personal hearing on 26.08.2020.
4. And whereas, in light of rule-13(2)"a" of the Khyber Pakhtunkhwa Khasadars Force Act, 2019 all Khasadars personnel will be governed under the Service Rules for Khassadars in FATA (Amendment) issued vide No. CS(F)/N/4-Khassadars/1039-40 dated 09.08.2011 till their absorption in Khyber Pakhtunkhwa Police.
5. And whereas, Section-7(ii)(iii) of Service Rules for Khasadars (Amended) 2011 provides that subedar shall be retired on attaining age of 55 years' or completion of 30 years' service or on completion of rank tenure of 5 years, whichever is earlier.
6. And whereas, per ibid rules, the petitioner/ appellant has completed rank tenure of 5 years as Subedar and is due for retirement w.e.f 25.01.2017.
7. Now, therefore, in view of the rules position as explained above, the instant appeal is dismissed.

-sd-

Secretary to Government of Khyber Pakhtunkhwa  
Home & Tribal Affairs Department

cc'd  
20/10/19  
26  
12.10.2020

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

DISTRICT POLICE OFFICER  
BAJAUR TRIBAL DISTRICT

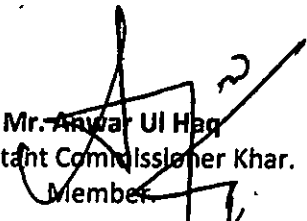
12-10-2020


Section Officer (Levy & Khassadars)




**SCRUTINY COMMITTEE CERTIFICATE.**

In compliance with CPO, Khyber Pakhtunkhwa, Peshawar, directions vide Memo: No. 40708-29/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.

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

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

*only physically  
verified*  
ASSISTANT COMMISSIONER  
KHAR

## DATA OF BAJAUR KHANDADARS FORCE

(17)

S#	Personnel No	Reg: No.	Name	F/Name	Rank with BPS	Date of Birth	Date of Appointment	D.O.Last Pro:	CNIC No.	Equivalence of Rank in BPS Police	Remarks
1	460556	3382	Kameen Bacha	Bahadar Khan	Sub (05)	01.05.1974	01.05.1996	26.01.2012	2110732596947	Sub: Insp -14	
2	460557	3389	Muhd: Jan	Bakht Poor	N/Sub(04)	01.05.1972	01.05.1996	26.01.2012	2110323016613	ASI-11	
3	460560	3392	Hazrat Tariq	Gul Zeb Khan	N/Sub(04)	01.05.1977	01.05.1996	26.01.2012	2110772401179	ASI-11	
4	460406	3427	Liaqat	Khista Gul	Havi (02)	01.05.1978	01.05.1996	12.07.2010	2110744268591	H/Constibal-09	
5	460409	3429	Muhd: Nawaz	Abdul Qadar	Havi (02)	01.05.1976	01.05.1996	12.07.2010	2110797453419	H/Constibal-09	
6	460410	3431	Muhd: Jameel	Mohd Dost Khan	Havi (02)	01.05.1978	01.05.1996	26.01.2012	2110717140337	H/Constibal-09	
7	460418	3444	Shakir Ullah	Nor Mohammad	Havi (02)	01.05.1971	01.05.1996	26.01.2012	2110519962805	H/Constibal-09	
8	460434	3464	Muhd: Ayaz	Ghani	Naik(02)	01.05.1978	01.05.1996	12.07.2010	2110717119403	Constibal -B-1-07	
9	460453	3486	Zahir Shah	Gul Rahman	Naik(02)	01.05.1978	01.05.1996	12.07.2010	2110421547367	Constibal -B-1-07	
10	460457	3489	Dilbar	Gultan	Naik(02)	01.05.1972	01.05.1996	12.07.2010	2110221894003	Constibal -B-1-07	
11	460461	3491	Amir Said ✓	Amir Hassan	Naik(02)	01.05.1968	01.05.1996	12.07.2010	2110209149655	Constibal -B-1-07	
12	460996	3509	Khasita Muhd:	Hazrat Gul	Naik(02)	01.05.1978	01.05.1996	26.01.2012	2110253241039	Constibal -B-1-07	
13	461000	3511	Alamzer	Mir Hassan	Naik(02)	01.05.1978	01.05.1996	26.01.2012	2110299114213	Constibal -B-1-07	
14	461036	3543	Bashir Khan	Sher Zaman Khan	L/Naik(02)	01.05.1971	01.05.1996	12.07.2010	2110794595873	Constibal -A-1-07	
15	460745	3653	Mutazer	Hazir	L/Naik(02)	06.11.1971	06.11.1996	12.07.2010	2110322929737	Constibal -A-1-07	
16	460748	3654	Sher Alam	Abdul Amin	L/Naik(02)	06.11.1976	06.11.1996	12.07.2010	2110336837879	Constibal -A-1-07	
17	460750	3655	Kifayat Ullah	Umara Jan	L/Naik(02)	06.11.1978	06.11.1996	12.07.2010	2110363055219	Constibal -A-1-07	
18	460753	3656	Muhd: Javed	Khan Saeed	L/Naik(02)	06.11.1978	06.11.1996	12.07.2010	2110324329495	Constibal -A-1-07	
19	460760	3660	Sadhar Khan	Mamoor	L/Naik(02)	06.11.1978	06.11.1996	12.07.2010	2110768044697	Constibal -A-1-07	
20	460767	3665	Bacha Muhd:	Bacha Khan	L/Naik(02)	06.11.1978	06.11.1996	12.07.2010	2110717135393	Constibal -A-1-07	
21	460773	3670	Zafar Khan	Rahat Khan	L/Naik(02)	06.11.1978	06.11.1996	12.07.2010	211078443603	Constibal -A-1-07	
22	460779	3672	Muhd: Hayat	Noor Ahmad	L/Naik(02)	06.11.1978	06.11.1996	12.07.2010	1530394602625	Constibal -A-1-07	

ASSISTANT COMMISSIONER  
KCHAR

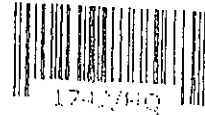
District Accounts Officer  
Bajaur at Khar.



(1)  
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 levy/Khassadars rules, but they are still in service. — *we have took note of present*

viii. In most cases, employees are verified over and above the sanctioned strength. *Red line*

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 Absorption*

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. *Evazi? District court*

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. *After court decision*

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 are present in this section, including a large signature in the center and several smaller ones on the right side.]*