

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR

SA No.422 / 2024

Fazal Rehman s/o Fateh Rehman R/o Matkai Malakand Agency (Reg No.5058)

.....Appellant

-----Versus-----

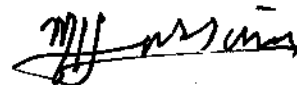
1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat at Peshawar.
2. Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar.
3. Commandant Malakand Levies/Deputy Commissioner, Malakand.

.....Respondents

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Deponent



Muhammad Hussain (Superintendent)
Office of DC/Commandant Malakand
Levies
CNIC:-15402-5773871-9

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
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3. Commandant Malakand Levies/Deputy Commissioner, Malakand.

.....Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974.

PARA WISE COMMENTS ON BEHALF OF RESPONDENT No.2 & 3

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15107

Dated 21/8/24

PRELIMINARY OBJECTION:-

1. The appellant has got no cause of action or locus standi to submit the instant appeal.
2. The appeal is not maintainable in its present form.
3. The appellant has not come with clean hands to this Honorable Court.
4. Due to mis-joinder/non-joinder of necessary party, the instant appeal is liable to be dismissed.
5. The appeal is barred by time and law.

Respectfully Sheweth:

Facts:-

1. It is correct. The appellant was appointed as Sepoy on 05-05-2007 in Malakand Levies and retired as Sepoy on 11-04-2023 as per amended levy rules dated 21-10-2021.
2. It is correct. Malakand Levies was initially regulated under FIC rules notified in 1962.
3. It is correct. On promulgation of PATA Levies Force Regulation 2012. The Provincial Government framed PATA Federal Levies Force (Amended) Rules 2013 and anomaly were removed to larger extent.
4. It is correct. The 2013 rules, schedule-III were further amended and anomaly were removed to larger extent as below:-

SCHEDULE-III

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

5. It is correct to the extent that before 14-07-2020 the levy rules 2013 also amended on 25-08-2016 vide Notification No. SO(Levies)HD/FLW/1-1/2013/Vol-I and further amended vide Notification issued by the Home & TA's Department, Khyber Pakhtunkhwa, Peshawar on 16-07-2020:-

"That all Levies Personnel shall retire from service on attaining then age of superannuation i.e. sixty (60) years or they may opt for retirement after completion of twenty five (25) years regular service"

- 6. It is incorrect. The Levy Rules was further Amended through approval of Cabinet of Khyber Pakhtunkhwa vide Notification issued by the Home & TA's Department, Khyber Pakhtunkhwa, Peshawar on 22-03-2021.
- 7. It is partially correct. The Peshawar High Court, Mingora Bench, Dar-ul-Qaza, Swat referred the Writ Petition No.732-M/2021, No.1187-M/2021, No.1206-M/2021, No.1207-M/2021, No.34- M/2022 & No.1252- M/2021 to the larger bench of Peshawar High Court vide judgment dated: 18-01-2022. The Peshawar High Court Peshawar (Larger Bench at principal seat) through single judgment dated: 29-11-2022 dismissed all the connected 33-Writ Petitions No.337-M/2021, No.406-M/2021, No.503-M/2021, No.514-M/2021, No.518-M/2021, No.450-M/2021, No.601-M/2021, No.681-M/2021, No.632-M/2021, No.919-M/2021, No.968-M/2021, No.980-M/2021, No.1221-M/2021, No.1222-M/2021, No.1252-M/2021, No.2210-M/2021, No.2210-P/2021, No.2913-P/2021, No.5092-P/2021, No.5423-P/2021 and No.5424-P/2021 likewise Writ Petitions No.333-M/2021, No.334-M/2021, No.335-M/2021, No.338-M/2021, No.345-M/2021, No.1026-M/2021, No.1035-M/2021, No.1187-M/2021, No.1206- M/2021, No.1207- M/2021, No.34-M/2022 No.212 No.1206- M/2021, No.1207- M/2021, No.34- M/2022 and No.993 P/2022 including COCs No.38- M/2021, No.436-P/2022 and the petitioners were directed to seek legal remedy from the Honorable Service Tribunal. (Copy enclosed as annexure-A)
- 8. It is correct. The Levy Rules was further Amended on the recommendation of anomaly committee vide Notification issued by the Home & TA's Department, Khyber Pakhtunkhwa, Peshawar on 21-10-2021 and service from Sepoy to Havildar were enhanced and 3-years tenure was removed.

SCHEDULE - III

S.No	Name of Post/Rank	Length of Service/Age
1.	Subedar Major (BS-16)	37-Years Service or 03-Years Service as Subedar Major or 60-Years age whichever is earlier.
2.	Subedar (BS-14)	35-Years Service or 05-Years Service as Subedar or 60-Years age whichever is earlier.
3.	Naib Subedar (BS-11)	33-Years Service or 07-Years Service as Naib Subedar or 60-Years age whichever is earlier.
4.	Havildar (BS-09)	31-Years Service or 51-Years age whichever is earlier.
5.	Naik (BS-08)	29-Years Service or 49-Years age whichever is earlier.
6.	Lance Naik (BS-08)	27-Years Service or 47-Years age whichever is earlier.
7.	Sepoy (BS-07)	25-Years Service or 45-Years age whichever is earlier.

- 9. It is correct. The Honorable Peshawar High Court, Peshawar dismissed all the Writ Petitions including COCs and the petitioners were directed to seek legal remedy from the Honorable Service Tribunal (Copy enclosed as annexure-B). The operating part of the judgment is reproduced as follow:

"The status of petitioners has been declared as that of Civil Servant and the matter in question revolves around the terms and conditions of their service which does fall outside the jurisdiction of this court given the barring provision of Article 212 of the Constitution and as such Instant petitions are dismissed being not maintainable. However, the petitioner may approach the worthy Service Tribunal for the redressal of their grievances if so advised"

10. It is correct. The Khyber Pakhtunkhwa Service Tribunal Peshawar through judgment dated: 24-08-2023 disposed off the Service Appeal No. 1916/2022 titled Muhammad Salim & Others vs. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar & Others, that they would approach the proper forum for giving effect to/implementation of provisions of section-II of the Act of 2021 and in case their grievances are not addressed in accordance with the terms of the Act, they would recourse to further legal remedies available to them.

11. It is correct. On the recommendations of anomaly committee amendment in levy rules was made on 21-10-2021. Sequel to this at Para No.07 the minutes of anomaly committee regarding retrospective effect for beneficiary (those levy personnel already retired from service upon 03-years service tenure pursuant to the Rules notified on 22-03-2021) of new amendment 21-10-2021.

It is pertinent to mention here that both the last amendment 21-10-2021 and PATA Levy Force (Amended) Act, 2021 approved by the cabinet of Khyber Pakhtunkhwa through executive summary dated 31-08-2021 for cabinet under same instrument.

In pursuance of further amendment in Levy Rules 21-10-2021 and Act 2021, total 135 including Appellant at S.No: 41 and paid salary/arrears/back benefits vide pay slip & source attached as annexure-C out of 250 Levy Personnel were reinstated into service who have not been crossed the upper age/service limit prescribed in schedule-III of amended rules 21-10-2021 and the remaining 115 levy personnel were not reinstated into service as they have already crossed their age/service as per Levy Rules 21-10-2021. (Copy of reinstatement order enclosed as annexure-D).

12. It is partially correct to the extent that the appellant was retired from service on completion of 45-years age as per amended Levy Rules 21-10-2021 on dated: 27/08/2023 As regard to suspension of the levy rules 21-10-2021 was in appeal of one Naib Subedar Mohtamim Khan of Malakand Levies and was only for the extent of the appellant (Mohtamim Khan) and not for the rest of others (Copy enclosed as annexure-E)

13. It is incorrect. As per Amended Levy Rules para-No.11, proper forum/authority for filing application regarding service rules is Secretary, Home & TA's Department, Khyber Pakhtunkhwa, Peshawar (Copy of Levy Rules 2013 is enclosed as annexure-F) while the applicant had filed application before the DC/Commandant Malakand Levies which was sent to Secretary, Home & TA's Department, Khyber Pakhtunkhwa, Peshawar through Commissioner Malakand Davison at Saidu Sharif Swat vide this office letter No.6860/LC dated 01-09-2023. Hence, action taken by this office as per law/rules. (annexure-G).

14. It is incorrect. This office has sought guidance/legal advice regarding implementation of the judgment passed in service appeal No.1916/2023 dated: 24-08-2023 vide letter No.7018/LC dated: 08-09-2023 from Home Department Peshawar(Copy enclosed as annexure-H).

In response to this letter, a meeting was held in Home & TA's Department, Khyber Pakhtunkhwa, Peshawar on 26-09-2023 under the chairmanship of Special Secretary-I, Home & TA's Department, Khyber Pakhtunkhwa, Peshawar with the concerned Departments i-e Establishment Department Government of Khyber Pakhtunkhwa, Finance Department, Law Department and all Deputy Commissioners and minutes were recorded and circulated (enclosed as annexure-I), wherein the following decisions are made:-

- a. To examine the cases of all those Levies Personnel retired under the PATA Federal Levies Force Service (Amended) Rules 2013 as amended on 22-03-2021 in light of Schedule-III of the PATA Levies Force (Amended) Act 2021 effective from 30-11-2021 and reinstate them in the service in compliance with both orders of Honorable Courts after checking their eligibility under the Amended Act-2021. Similarly the cases of those already reinstated in compliance with court order may be examined under the PATA Federal Service Rules, 2013 as amended on 21-10-2021 and retire them under the said amended rules.

- b. The Deputy Commissioners concerned to carefully prepare and send cases for creation of supernumerary posts for reinstatement and adjustment of the

Levies retired under the previous rules in compliance with Court orders, if they do not have vacant posts for their reinstatement"

Subsequently, a scrutiny committee was notified vide this office order No.8093/LC dated 13-10-2023 (Copy enclosed as **annexure-J**) to examine complete details pertaining to age and service length of each individual/Levy Personnel and the proposed date of retirement as per rules. In this regard, a meeting of the scrutiny committee was held under the chairmanship of AC/Deputy Commandant (Operation) Malakand Levies on **13-10-2023**. The details regarding service and proposed retirement of conditionally 72-reinstated Levies personnel of different ranks in compliance with the directions mentioned at para (a) above of Home & TA's Department, Khyber Pakhtunkhwa, Peshawar were worked out as per record duly signed by all members of scrutiny committee (Copy enclosed as **annexure-K**).

Hence, the subsequent reinstatement order dated 06-12-2021 of the appellant in light of minutes of the meeting of Home Department and Levy Rules 21-10-2021 stand valid by the Peshawar High Court Swat vide Judgement dated: 18-01-2022 which is reproduced below and enclosed as **annexure-L**:

"Claim of the petitioner is basically based upon earlier amendment to the rules brought about by same Authority on 14-07-2020. His right of retirement of superannuation has not been guaranteed by any primary law enacted by compact legislation. With bringing of amendment on 14-07-2020 in the rules, same Authority cannot be deemed divested from further amendment the rules, the age of superannuation or retirement may well be changed by an authority who has initially provided same".

15. No Comments.

16. No Comments.

Grounds:

A. It is incorrect. As explained at para-14 above.

B. It is incorrect. It is mandate of the Provincial Government to amend rules.

C. It is partially correct to the extent that the Honorable Peshawar High Court declared the appellants as civil servants for the sake of disposal of cases by the Honorable Service Tribunal. Furthermore, Pakistan Army, Frontier Constabulary are civil servants having their own Rules. Thus civil servant is basically for the terms and conditions of the appellant.

D. It is incorrect. As per Para-B above.

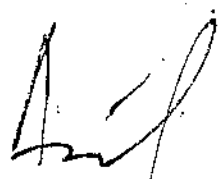
E. It is incorrect. The Levies Force of Tribal Districts were absorbed into Khyber Pakhtunkhwa Police. However the Force of Malakand Levies is not included in the said Act, 2019 (Copy enclosed as **Annexure-M**) and not absorbed into Khyber Pakhtunkhwa Police. Only Seven (7) agencies of Tribal district the Erstwhile FATA, Levy Force have been merged in Khyber Pakhtunkhwa Police. This Act relates to Districts of Erstwhile FATA Levies Force. Furthermore, Deputy Commissioner Malakand is still the Commandant of Malakand Levies Force.

F. The respondents seek leave to raise additional grounds at the time of arguments.

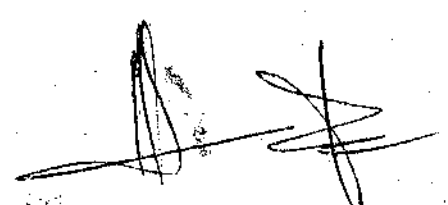
Pray:-

In view of above, it is humbly prayed that the appeal of the appellant may kindly be dismissed being devoid of merit on ground realities.

(Abid Majeed)
Additional Chief Secretary
Home & Tribal Affairs Department,
Peshawar
Respondent No.02


Additional Chief Secretary
Home & Tribal Affairs Department
Peshawar

(Shahid Khan)
DC/Commandant Malakand Levies
Respondent No.03


Depute Commissioner /
Commandant
Malakand Levies

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR JUDICIAL COMPLEX (OLD),
KHYBER ROAD, PESHAWAR**

SA No.422/2024

Fazal Rehman s/o Fateh Rehman R/o Matkani Malakand Agency (Reg
No.5058)

.....Appellant

Versus

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2. Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar.
3. Commandant Malakand Levies/Deputy Commissioner, Malakand.

.....Respondents

AFFIDAVIT

I, Mr. Shahid Khan, DC/Commandant Malakand Levies, do hereby solemnly affirm and declare on oath that the contents of the accompanying Reply on behalf of the Respondent No.3 and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court please. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/ Cost.

ATTESTED



Muhammad Hussain

Muhammad Hussain (Superintendent)
Office of DC/Commandant Malakand Levies
CNIC:-15402-5773871-9

DEPONENT

[Signature]
Deputy Commissioned
Commandant
Malakand Levies Malakand

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR

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2. Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar.
3. Commandant Malakand Levies/Deputy Commissioner, Malakand.


.....Respondents

AUTHORITY:

Mr. M. HUSSAIN, Superintendent (BPS-17) DC/Commandant Office Malakand Levies is hereby authorized to attend the *Service Tribunal, Khyber Pakhtunkhwa Peshawar & Swat* and submit Comments/reply regarding subject case on behalf of the undersigned.



Muhammad Hussain (Superintendent)
Office of DC/Commandant Malakand Levies
CNIC:-15402-5773871-9
Superintendent
Malakand Levies Malakand



Deputy Commissioner
Commandant
Malakand Levies Malakand
DC/Commandant
Malakand Levies Malakand

Annexure II

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Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR.
(JUDICIAL DEPARTMENT)

W.P.No.367-M/2021 with LR,
CM Nos.1053/2021 & 1183/2022.

JUDGMENT

Date of hearing — 29.11.2022.
Barrister Dr.Adnan for petitioners.
Mr.Saqib Raza, A.A.G for the respondents.

S M ATTIQUE SHAH, J:- Through this single judgment, we shall also decide the connected writ petitions bearing Nos.337-M/2021, 406-M/2021, 503-M/2021, 514-M/2021, 518-M/2021, 450-M/2021, 601-M/2021, 681- M/2021, 632- M/2021, 919-M/2021, 968- M/2021, 980- M/2021, 1221-M/2021, 1222-M/2021, 1252-M/2021, 2210-P/2021, 2913-P/2021, 5092-P/2021, 5423-P/2021, and 5424-P/2021 as adjudication of a common question of law and fact is involved in all the petitions wherein the petitioners have challenged the vires of notification No. SO. (Police-II) HD/ MKD/Levies/Misc/2020 dated 22.03.2021 whereby on the basis of impugned office order bearing No.128/DC/CSL dated

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Secretary
Peshawar High Court

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EXAMINER
Peshawar High Court

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20.04.2021, they have been retired from service with further prayer that they be reinstated into service from the date of their retirement i.e. 20.04.2021 with all back benefits. In alternative, they have prayed that the respondents be directed to treat them at par with erstwhile Federal Levies of Federally Administrated Tribal Area (FATA) and; absorb them in police and; grant them full pensionary benefits.

2. Likewise in W.P.Nos.333-M/2021, 334-M/2021, 335-M/2021, 338-M/2021, 345-M/2021, 1026-M/2021, 1035-M/2021, 1187-M/2021, 1206-M/2021, 1207-M/2021, 34-M/2022, 212-M/202 and 993-P/2022 the petitioners have made the following prayer:

"On acceptance of this writ petition, the impugned Notification SO (Police-II) HD/ MKD/Levies/ Misc/2020 is against law and the fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973, may be declared illegal void ab initio and of no legal effects on the rights of the petitioners."

SP

Attested
[Signature]
S. M. Khan
S. M. Khan
S. M. Khan

ATTESTED
EXAMINER
Peshawar High Court

Similarly, in COC Nos.38-M/2021 In W.P.No.367-M/2021 and COC No.436-P/2022 In W.P.No.1335-P/2022 petitioners seek initiation of contempt of court proceedings against the respondents for violating the order of this court dated 21.04.2021 passed in W.P.No.367-M/2021.

3. Brief facts of the case(s) are that the petitioners were appointed in the "Swat Levies Force" as Sepoys etc. and presently terms and conditions of their services are regulated by "Provincially Administrated Tribal Areas Levies Force Regulation 2012" whereunder besides PATA Levies Force Rules, 2012, PATA Levies Force Service (Amended) Rules 2013 were also framed. Rule 17 of the Amended Rules 2013, deals with the retirement of personnel of the force, which was amended vide notification dated 12.12.2013 in the manner that "All the personnel shall retire as per Schedule-III and no extension in service beyond retirement shall be granted". On 14.07.2020, vide Notification No.SO

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[Signature]
 Superintendent
 Malakand District Jail

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 EXAMINER**
 Peshawar High Court

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(Police-II)HD/1-3, rule 17 was further amended by deleting schedule-IV as "All uniformed force shall retire from service on attaining the age of superannuation i.e. Sixty (60) years or they may opt for retirement after completion of twenty-five (25) years regular service". Thereafter once again through certain modifications rule, 17 was amended by giving life to the deleted schedule-III of the rules 2013 as under:-

"Retirement: All levy personnel shall retire as per Schedule-III and no extension in service after retirement shall be granted."

4. Being aggrieved from the ibid amendment, the petitioners have filed the instant petitions.
5. Pursuant to the directions of this court respondents have filed their parawise comments, wherein issuance of the desired writs has been opposed.
6. Learned counsel representing the petitioners vehemently argued that the

Attested
[Signature]
Captain M. M. Khan
Maharaj Lal Singh Mahalkhand

ATTESTED
EXAMINER
Peshawar High Court

Impugned Notification is arbitrary, perverse, illegal, issued without lawful authority and *mala fide* intention just to deprive the petitioners of their vested rights accrued in their favour hence violative of their fundamental rights guaranteed under the Constitution and thus not sustainable in the eye of law. That though the impugned Notification was issued under the regulation 2012. However, after the 25th Constitutional amendment, the said regulation does not hold field, therefore, the impugned Notification is liable to be set aside.

7. Conversely, worthy AAG representing the respondents opposed the arguments so advanced by learned counsel representing the petitioners at the bar while arguing that after the 25th amendment the Provincial Assembly passed the continuation of laws Act No.111 of 2019 through which the laws applicable to erstwhile PATA were allowed to continue including "Provincial Administered Tribal Areas Levies Force Regulation, 2012" -and;

Attested
Signature
Makrand Levis Makrand

ATTESTED
EXAMINER
Peshawar High Court



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therefore, the Impugned Notification was issued per law which does not require any interference by this court in its writ jurisdiction under Article 199 of the Constitution. Further, petitioners are Civil Servants, and; matter in question revolves around the terms and conditions of their service which is the exclusive domain of the Service Tribunal as such the jurisdiction of this court is barred given the explicit provision of Article 212, of the Constitution.

8. Heard. Record perused.

9. Before discussing merits of the case we deem it appropriate to discuss the background of the matter in hand to properly comprehend the issue involved therein. It is worth mentioning that earlier the services of the Levies Force were dealt with under the "Frontier Irregular Corps (FIC) rules, 1962 which was substituted by the "Provincial Administered Tribal Areas Levies Force Regulation, 2012" (regulation) and under the said regulation "PATA Levies

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Attested

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 Superintendent
 Malakand Levies Militia Band

ATTESTED
EXAMINER
 Peshawar High Court

Force (service) Rules, 2012* were framed for Provincial Levies Force. While separate service rules were also framed thereunder for PATA Federal Levies Force performing duties in "PATA" known as "PATA Federal Levies Force Service (Amended) Rules 2013. Rule 17 of the ibid. rules deals with the retirement of the Levies personnel which was amended from time to time. However, petitioners have become aggrieved from the impugned Notification vide which the petitioners' retirement age was altered which is challenged by them through instant petitions.

10. The main contention of the petitioners is that after 25th amendment the regulation has lost its efficacy and sanctity and has become redundant, therefore, the impugned amendment under the said regulation is illegal being void ab initio. It is worth mentioning that after the 25th amendment in 2018, both FATA & PATA were merged in the province of Khyber Pakhtunkhwa and Federal Levies Force

Attested
[Signature]

Superintendent
Malakand Levies Militaria

ATTESTED
EXAMINER
Peshawar High Court

working in FATA was merged into the regular police of the province. Albeit, in Malakand Division, Levies Force is still regulated by "PATA Federal Levies Force Service (Amended) Rules 2013 in view of the Khyber Pakhtunkhwa Act No 111 of 2019 through which the laws prevalent in erstwhile PATA at the time of 25th amendment were allowed to continue including regulation 2012 which still holds the field and as such the same is a valid instrument. Therefore, impugned Notification was issued by the respondents with lawful authority.

11. Moving toward the status of the petitioners it is worth mentioning that earlier this court while deciding W.P No 528-M/2016 (Ikramullah's case) determined the status of personnel of the Provincial Levies Force as that of civil servants in the following terms:-

"19. The Provincial Levies Force ("Force") was granted statutory cover through Khyber Pakhtunkhwa Regulation No.1 of

Attested
[Signature]
General Manager
Malakand Levies Malakand

[Signature]
**ATTESTED
EXAMINER
Peshawar High Court**

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2014 ("Regulation"). Paragraph No.3 of the Regulation envisages for constitution and establishment of the Force and its functions. For ease reference paragraph Nos. 3 and 4 of the Regulation are reproduced as under:-

3. Power to constitute and maintain by the Force and its functions.— (1) Government may constitute and maintain a Force for performing the following functions, namely:

- (a) ensuring security of roads in PATA;
- (b) ensuring security and manning of piquet;
- (c) guarding Government institutions and installations;
- (d) ensuring security of jails and arrested criminals;
- (e) generally maintaining law and order providing mobile escort to VIPs;
- (f) anti-smuggling activities especially timber smuggling;
- (g) destruction of illicit crops;
- (h) serving of summons or procedures;
- (i) raid and ambush; and
- (j) such other functions as Government may, by notification in the official Gazette, require the Force to perform.

(2) In discharge of their functions, officers and staff of the Force shall

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EXAMINER
Peshawar High Court

be guided in accordance with this Regulation and the rules.

(3) The head of the Force shall be Commandant in his respective jurisdiction.

(4) Secretary to Government, Home and Tribal Affairs Department shall be the competent authority of the Force.

(5) The Force shall consist of such ranks and number of officers and members and shall be constituted in such manner as may be prescribed by rules.

(6) The officers and members of the Force shall receive such pay, pension, allowances and other remunerations and shall enjoy such leave and other privileges as may be prescribed by rules.

(7) The officers and members of the Force shall wear such uniform as may be prescribed by rules or instructions.

(8) The administration of the Force shall vest in the Commandant in his jurisdiction, who shall administer it in accordance with the provisions of this Regulation, rules and instructions.

(9) The Commandant shall exercise his powers and perform his functions under the general supervision and directions of Government.

Attested
 Signature
 Secretary to Government
 Home and Tribal Affairs Department

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4. Powers and duties of officers and members of the Force.—An officer or member of the Force shall-

- (a) take effective measures for ensuring security of assigned jurisdiction and for safeguarding against acts of unlawful interference;
- (b) prevent unauthorized persons and vehicles from access to the territorial jurisdiction;
- (c) take effective measures for preventing sabotage, placement of car bombs, letter bombs, dangerous article and carriage of arms and ammunition into the restricted area;
- (d) use such arms and ammunition and equipment as may be authorized by the Commandant or an officer authorized by him;
- (e) search and arrest without warrant any person who he suspects of endangering or attempting to endanger or having endangered the safety of an installation and may use such force as may be necessary in the discharge of his aforesaid duties; and
- (f) perform such other legal functions as the competent authority may require him to perform.

20. The close perusal of the Regulation would clearly show that the Force is receiving its salary from the Provincial

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 Superintendent
 Malakand Levies Malakand

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 EXAMINER
 Peshawar High Court

Exchequer and performs the policing service in the erstwhile PATA.

21. Having said this, we would now refer to the crucial issue as to whether the employees of the Force can be termed as a civil servants and as such they cannot maintain a constitutional petition before this Court for enforcement of the terms & conditions of their service.

22. The connotation 'civil servant' is defined and explained in respect to the Province of Khyber Pakhtunkhwa, in the Civil Servants Act, 1973 ("Act, 1973"). For ease reference, we would refer to Section 2 (b) of Act, 1973, which reads as under:-

"2. Definitions.—(1) In this act, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

- (a)
- (b) "civil servant" means a person who is a member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include—

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[Signature]
 Examiners
 Malakand Lower Malakand

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EXAMINER
 Peshawar High Court

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- (i) a person who is on deputation to the Province from the Federation or any other Province or other authority;
- (ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or
- (iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workmen's Compensation Act, 1923 (Act VIII of 1923)".

23. The perusal of the definition would show that a member of a civil service of the Province or who holds a civil post in connection with the affairs of the Province is civil servant. All Pakistan Services are explained in Article 260 of the Constitution, which reads as under:-

"260.

(1).....

"service of Pakistan" means any service, post or office in connection with the affairs of the Federation or of a Province, and includes an All-Pakistan Service, service in the Armed Forces and any other service declared to be a service of Pakistan by or under Act of [Majlis-e-Shoora

Handwritten initials 'SP' in a large, stylized font.

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MS
 Superintendent
 Majlis-e-Shoora

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EXAMINER
 Peshawar High Court

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(Parliament)) or of a Provincial Assembly, but does not include service as Speaker, Deputy Speaker, Chairman, Deputy Chairman, Prime Minister, Federal Minister, Minister of State, Chief Minister, Provincial Minister, [Attorney-General], [Advocate-General], [Parliament Secretary] or [Chairman or member of a Law Commission, Chairman or member of the Council of Islamic Ideology, Special Assistant to the Prime Minister, Adviser to the Prime Minister, Special Assistant to a Chief Minister, Adviser to a Chief Minister] or member of a House or a Provincial Assembly;

Whereas Article 240 of the Constitution envisages that-

"240. Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined -

- (a)
- (b) In the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

Explanation.- In this Article, "All-Pakistan Service" means a service common to the Federation and the Provinces, which was in existence immediately before the commencing

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 Superior Court
 Malakand Division, Peshawar

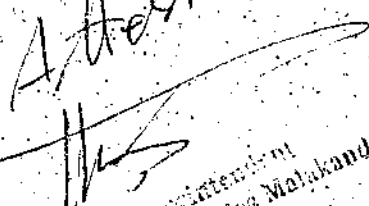
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 EXAMINER**
 Peshawar High Court

day or which may be created by Act of [Majlis-e-Shoora (Parliament)].

24. The Phrase "performing in connection with the affairs of Federation or for present matter Province" was elaborately explained in the case of Salahuddin and 2 others vs. Frontier Sugar Mills & Distillery Ltd., Tokht Bhal and 10 others (PLD 1975 Supreme Court 244).

In the said judgment, the Apex Court has held:

"Now, what is meant by the phrase 'performing functions in connection with the affairs of the Federation or a Province'. It is clear that the reference is to governmental or State functions, involving, in one form or another, an element of exercise of public power. The functions may be the traditional police functions of the State, involving the maintenance of law and order and other regulatory activities; or they may comprise functions pertaining to economic development, social welfare, education, public utility service and other State enterprises of an industrial or commercial nature. Ordinarily, these functions would be performed by persons or agencies directly appointed, controlled and financed by the State, i.e., by the

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Superintendent
 Malakand Levies, Malakand

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 EXAMINER
 Peshawar High Court

Federal Government or a Provincial Government.

25. Admittedly, as evident from the bare reading of paragraph-3 & 4 of the Regulation, the present petitioners are performing policing service in the erstwhile tribal area, however, their terms and conditions are being regulating through Regulation No.1 of 2014 and after the omission of Article 247 from the Constitution; through a provincial statute i.e. the Khyber Continuation of Laws in the Erstwhile Provincially Administered Tribal Areas Act, 2018 (Khyber Pakhtunkhwa Act No. III of 2019), the operation of Regulation No.1 of 2014 was continued. Thus, the essential criteria for being a civil servant is that the person holding the post must perform his functions in connection with the affairs of Federation/Province and the terms and conditions of his service should be determined by or under the Act of Parliament/Provincial Assembly. The Apex Court in the case of Federation of Pakistan through Secretary, Ministry of Interior (Interior Division), Islamabad and 2 others vs. RO-

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 Superintendent
 Malakand Levies Malakand

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 Peshawar High Court

177 Ex-DSR Muhammad Nazir
(1998 SCMR 1081), while dealing with the case of an employee of Pakistan Rangers has observed that:

"7....Perusal of these rules clearly shows that they are all embracing, and therefore, under the amendment of section 1 of the Pakistan Rangers Ordinance, these rules would prevail over the Rules of 1973. The Pakistan Rangers Ordinance was promulgated to constitute a force called the Pakistan Rangers for the protection of and maintenance of order in the border areas. Since with regard to the status of the members of the force the Pakistan Rangers Ordinance is silent, therefore, it can be safely said that the employees of the Pakistan Rangers will be deemed to be civil servants as they are performing duties in connection with affairs of the Federation and hence under the Service Tribunals Act, 1973, an appeal by a member of the Pakistan Rangers regarding a matter relating to terms and conditions of his service is competent before the Federal Service Tribunal..."

28. Similarly, in the case of Commandant Frontier Constabulary, Khyber Pakhtunkhwa, Peshawar and

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Superintendent
Malakand Division Malakand

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EXAMINER
Peshawar High Court

others vs. Gul Raqib Khan and others (2018 SCMR 903), the Hon'ble Apex Court has elaborately examined service structure of the employees of Frontier Constabulary, which is established under Frontier Constabulary Act (Act-XIII) of 1915. Relevant paragraphs of the said judgment are reproduced as under:-

"8. Three broad tests for establishing the status and character of a civil servant emerge from the Constitutional mandate of the foregoing Articles. Firstly, under Article 240(a) of the Constitution, appointments to and the terms and conditions of service of the persons in the "service of Pakistan" are determined by or under Act of Parliament. Secondly, by virtue of Article 260 of the Constitution, 'service of Pakistan' means any service, post or office in connection with the affairs of the Federation. Thirdly, under Article 212(1) (a) of the Constitution, the exclusive jurisdiction to adjudicate disputes relating to the terms and conditions of persons, who are in the service of Pakistan vests in an Administrative Tribunal, namely, the Federal Service Tribunal. These tests are mentioned in the Muhammed Mubeen-us-Salam case

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ibid (at pp. 686-689 of the law report). The definition of the term 'civil servant' in the Act adopts the Constitutional criteria given in Article 260 noted above to reiterate that a person who, inter alia, holds a civil post "in connection with the affairs of the Federation" including any such post connected with defence, to be a civil servant. The larger Bench has in this respect taken the logical step to incorporate the requirements under Article 240 (a) and 260 of the Constitution as the definitional criteria of the term "civil servant" (at p. 682 of the law report).

7. Having noticed the qualifying criteria of a civil servant under the law, it is appropriate now to examine the factual matrix of the present controversy. The FC was established by the NWFP Constabulary Act, (Act-XIII) of 1915 ("Constabulary Act"). Section 3 of the Constabulary Act empowers the Federal Government to maintain the FC as a force "for the better protection and administration of the external frontiers of Pakistan within the limits of or adjoining North-West Frontier or any part thereof". Section 3-A of the Constabulary Act authorises the Federal Government to employ the FC outside the limits of or adjoining the North-West Frontier Province in other parts of Pakistan for

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8. It will be observed that the matter of terms and conditions of service of the respondent-employees of the FC, are in the first place regulated by the Constabulary Act and elaborated pursuant thereto by the FC Rules. The provisions made by the Constabulary Rules are in furtherance of and in exercise of the power conferred by the Constabulary Act. Therefore, the terms and conditions of service of the employees of the FC are prescribed

FC
the better protection and administration of those parts. Section 5(1) of the Act vests the Federal Government with power to appoint the Commandant and other persons including the District Constabulary Officers or Assistant Constabulary Officers of the force in one or more districts. Section 6 delegates to the Commandant and District Constabulary Officer the power to appoint subordinate officers in the manner prescribed by Rules made under the Act. The Federal Government exercised its power conferred by Section 21 of the Constabulary Act, to frame the NVFP Constabulary Rules, 1958 (Constabulary Rules), in order to provide the terms and conditions of service of the officers and men in the

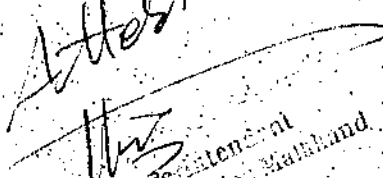
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In the Act and the Rules. The test laid down in Article 240(a) of the Constitution requires that the appointment to and the terms and conditions of service of posts in connection with the affairs of the Federation and of a service of Pakistan shall be determined "by or under an Act of Parliament. The expression "by or under" in Article 240(a) of the Constitution authorizes the terms and conditions of service of a civil servant to be provided both by statute or by statutory rules. The provision made in the Constabulary Act and the Constabulary Rules, therefore, satisfy the Article 240(a) test. The judgment in the Muhammed Mubeen-us-Salam case *ibid* endorses this point of view.

"86... The terms and conditions of service of those employees, however, are required to be specified under Article 240 of the Constitution by or under Act of the Parliament. Thus, the conclusion would be that only those persons, who are in the service of Pakistan, as discussed hereinabove, and if their terms and conditions are governed either by a statute or statutory rules, in terms of Article 240 of the Constitution, can seek remedy before the Service Tribunals."

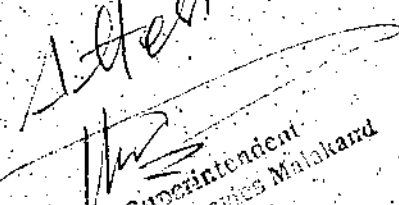
27. Similarly, this Court in the case of Gul Munir vs. The

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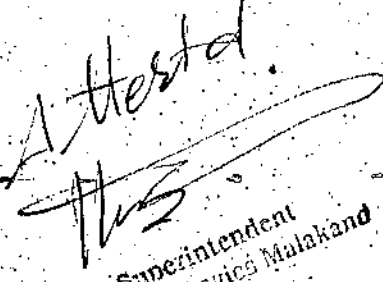
Government of Pakistan through Secretary, Ministry of States and Frontier Regions (SAFRON), Islamabad and others (2019 PLC (C.S) 645), on the basis of law laid down by the Apex Court in Commandant, Frontier Constabulary Khyber Pakhtunkhwa, Peshawar's case (2018 SCMR 903), while dealing with the case of Federal Levies Force, which was established through Federal Levies Force Regulation, 2012 having the same structure of service for its employees/force as provided in Regulation No. 1 of 2014 has held that employees of the Federal Levies Force whose terms and conditions of service are governed under Federal Levies Force Regulation, 2012 are civil servants. Keeping in view the above, the Force established under Regulation No. 1 of 2014 qualifies the criteria of being civil servant in view of its composition, functions and duties as per law laid down by the Apex Court in the cases of Federation of Pakistan through Secretary, Ministry of Interior (Interior Division), Islamabad and 2 others

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 Superintendent
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vs. RO-177 Ex-DSR Muhammad Nazir (1998 SCMR 1081) and Commandant, Frontier Constabulary, Khyber Pakhtunkhwa, Peshawar and others vs. Gul Raqib Khan and others (2018 SCMR 903), thus, the preliminary objection raised by the learned counsels for the respondents is sustained and accordingly, the present petitions in view of clear bar contained in Article 212 of the Constitution are not maintainable. The present petitioners may agitate their grievances before the Provincial Services Tribunal. However, prior to this judgment, the status of present petitioners being a civil servant was not determined and in the similar cases, the Apex Court in Gul Raqib Khan's case (2018 SCMR 903) has held that:

"11. It follows from the dicta laid down above that the protection of the border areas is a sovereign function belonging to and performed by the Federation. The same duty is performed equally in the present case by the FC not only on the frontiers of KPK Province but also by maintaining order in other parts of Pakistan. For discharging such functions, the

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 Superintendent
 Malakand Levies Malakand

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 EXAMINER

services rendered by the FC, have direct nexus with the affairs of the Federation. Therefore, the reasons given in the *Muhammed Nazir case* (supra) fully apply here as well and we hold that the employees of FC are civil servants. Insofar as the question of competent remedy in respect of service disputes of FC men is concerned, we hold that in a matter relating to the terms and conditions of service of the respondent-employees of the FC, an appeal before the Federal Service Tribunal is available to them as the exclusive remedy under the law. Accordingly, this remedy may be availed by them within the statutory period of limitation commencing from the date of issuance of certified copy of this judgment. All these appeals filed by the appellant-Commandant, FC are accordingly allowed in above terms".

When case of the petitioners (PATA Federal Levies Force) was examined in juxtaposition with the Provincial Levies Force and *ibid* judgment, we observed that service of both the forces is governed under the rules so framed under the provisions of "Provincial Administered Tribal Areas Levies Force Regulation,

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EXAMINER
 Peshawar High Court

2012. Therefore, we believe that the status of petitioners is that of civil servants for all practical and material purposes, and as such, the matter of terms and conditions of their service squarely falls outside the ambit of writ jurisdiction of this court given the explicit bar contained in Article 212 of the Constitution. As earlier discussed service rules of the petitioners (PATA Federal Levies Force) and Provincial Levies Force both were framed under the provisions of "Provincial Administered Tribal Areas Levies Force Regulation, 2012" and through the *ibid* judgment, the personnel of Provincial Levies Force were declared as Civil Servants after exhaustively discussing the matter of Levies Force performing their duties in PATA. Therefore, on the same premise, we have no hesitation to hold that the petitioners are Civil Servants as their service fulfills the entire criteria of Civil Servants so provided by the law. Learned counsel representing the petitioners could

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Superintendent
Malakand Levies Malakand

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EXAMINER
District Judge Malakand

not distinguish the status of petitioners (PATA Federal Levies Force) vis a vis Provincial Levy Force in any manner. Both forces are performing their functions in the same area for the same object and purpose, and both are being maintained through the provincial exchequer. Therefore, the matters arising out of the terms and conditions of service of the petitioners are only amenable to the jurisdiction of the Service Tribunal in terms of Article 212 of the Constitution.

So far as the contention of petitioners that they have challenged the vires of the impugned Notification and as such the same are not amenable to the jurisdiction of the Service Tribunal is concerned, suffice it to state that it has long been settled that Service Tribunal has ample jurisdiction to deal with the issue of vires of the law and rules framed thereunder. 2015 SCMR 253 NATIONAL ASSEMBLY SECRETARIAT through Secretary V. MANZOOR AHMAD and others.

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 Superintendent
 Malakand Levies Malakand

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 EXAMINER

Therefore, the contention so agitated at the bar is misconceived and as such repelled.

In view thereof, the status of petitioners has been declared as that of Civil Servants and the matter in question revolves around the terms and; conditions of their service which does fall outside the jurisdiction of this court given the barring provision of Article 212 of the Constitution and as such instant petitions are dismissed; being not maintainable. However, the petitioners may approach the worthy Service Tribunal for the redressal of their grievance if so advised. Albeit, earlier the status of petitioners being civil servants was not determined, therefore, the petitioners may avail the remedy of appeal within the statutory period of limitation commencing from the date of issuance of the certified copy of this judgment in terms of the judgment of august apex court in *Gul Raqib Khan's case 2018 SCMR 903*.

COC Nps.38-M/2021 in
W.P.No.367-M/2021 and; COC No.436-

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EXAMINER
Peshawar High Court

Supreme Court of India
New Delhi

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17 DEC 2022
HON'BLE JUSTICE LALAN KHATTA
HON'BLE JUSTICE S M ATTOR SHARMA
HON'BLE JUSTICE SYED ASHAD ALI

Announced
DL29/11/2022

JUDGE
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JUDGE

dismissed for having become infructuous.

P/2022 in W.P.No.1335-P/2022 are

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Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR.

(JUDICIAL DEPARTMENT)

W.P.No.367-M/2021 with I.R,
CM Nos.1053/2021 & 1183/2022.

JUDGMENT

Date of hearing — 29.11.2022.

Barrister Dr.Adnan for petitioners.

Mr.Saqib Raza, A.A.G for the respondents.

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S M ATTIQUE SHAH, J:- Through this single judgment, we shall also decide the connected writ petitions bearing Nos.337-M/2021, 406-M/2021, 503-M/2021, 514-M/2021, 518-M/2021, 450-M/2021, 601-M/2021, 681-M/2021, 632-M/2021, 919-M/2021, 968-M/2021, 980-M/2021, 1221-M/2021, 1222-M/2021, 1252-M/2021, 2210-P/2021, 2913-P/2021, 5092-P/2021, 5423-P/2021, and 5424-P/2021 as adjudication of a common question of law and fact is involved in all the petitions wherein the petitioners have challenged the vires of notification No. SO (Police-II) HD/MKD/Levies/Misc/2020 dated 22.03.2021 whereby on the basis of impugned office order bearing No.128/DC/CSL dated

Attached
Superintendent
Malakand Levies Malakand

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EXAMINER
Peshawar High Court

Therefore, the contention so agitated at the bar is misconceived and as such repelled.

In view thereof, the status of petitioners has been declared as that of Civil Servants and the matter in question revolves around the terms and conditions of their service which does fall outside the jurisdiction of this court given the barring provision of Article 212 of the Constitution and as such instant petitions are dismissed; being not maintainable. However, the petitioners may approach the worthy Service Tribunal for the redressal of their grievance if so advised. Albeit, earlier the status of petitioners being civil servants was not determined, therefore, the petitioners may avail the remedy of appeal within the statutory period of limitation commencing from the date of issuance of the certified copy of this judgment in terms of the judgment of august apex court in *Gul Raqib Khan's case 2018 SCMR 903*.

COC Nos.38-M/2021 In
W.P.No.367-M/2021 and; COC No.436-

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Superintendent
Malakandi Lenies Malakandi

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EXAMINER
Peshawar High Court

P/2022 in W.P.No.1335-P/2022 are dismissed for having become infructuous.

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Announced.
Dt.29/11/2022.

HON'BLE MR.JUSTICE LAL JAN KHATTAK,
HON'BLE MR.JUSTICE S M ATTIQUE SHAH &
HON'BLE MR.JUSTICE SYED ARSHAD ALI

(As above Court Services)

ENTRUSTED TO BE TRUE COPY
[Signature]
17 DEC 2022

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Date of Possession of Application *17-12-22*
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17-12-22
17-12-22
سید رفیق علی

Attested
[Signature]
Superintendent
Malakand Lodges Malakand


Reference attached

Sir,

It is submitted that, Source-II regarding active of pay/salary of those levies personnel prepared who had been retired from service wef 22-3-2021 as per amended Levy Rules 2021, now re-instated into service as per letter of Home & A,s Department Govt: of Khyber Pakhtunkhwa, Peshawar No. SO(Police-II)/HD/1-/2020/MKD/Levies dated 02/12/2021 and subsequent order of DC/Commandant Malakand Levies order dated 06/12/2021.

In order to active pay of levy personnel source-II prepared and submitted for signature, please.

L/Supdt:

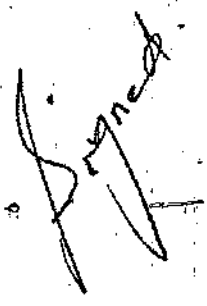

SM.MKB
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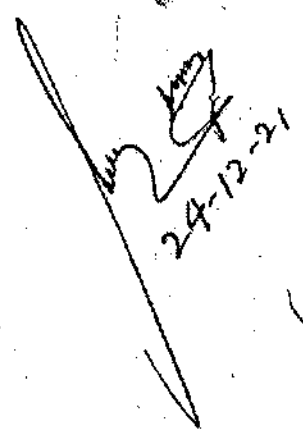
R/Sir,

Submitted for sig: please.

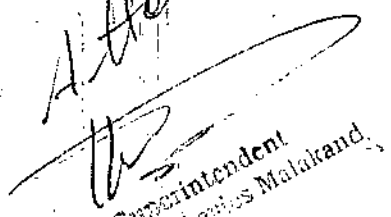

Supdt
24/12/2021

R/DC


Signed


24-12-21

Supdt

Attested

Superintendent
Malakand Levies Malakand

PAYROLL SYSTEM
 AMENDMENT FORM
 MULTIPLE EMPLOYEE ENTRY

PAYROLL 03

4/0

OFFICE OF THE DC/COMMANDANT MALAKAND LEVIES MALAKAND

FOR THE MONTH 1/2022

ODO CODE MD-4294
 Personal-No. 357917

Rgt No
 NAME

8058 Bepcy
 Fazli Rehman
 Salary Start Stop
 Status

GRADE(BPS) 7

GENERAL DATA CHANGE 13

Info Type	Field ID	How Contents	Wage Type	Amount		Effective Date	Remarks
					Adj		
15	77	B/Pay Adjustment	5801	138720	P	01/01/2022	Amount of pay and allowances and 1/1/21
15	77	IIRA -do-	5002	19059	P		to 31/12/2021 (2-10000)
15	77	CA (20%) 2011 -do-	5011	17388	P		dated on 01/01/21
15	77	MI/Allow -do-	5012	13500	P		
15	77	Compen Allow 20% -do-	5102	8000	P		
15	77	Ration Allowc -do-	5054	8129	P		
15	77	Washing Allowc -do-	5070	1350	P		
15	77	Constb; Allow -do-	5078	2700	P		
15	77	Risk Allow; Police -do-	5879	45114	P		
15	77	Spl; R/Allow -do-	5891	27000	P		
15	77	Spl; Incentive oil -do-		8975	P		
15	77	Fixed Daily Allow -do-	5045	24570	P		
15	77	A/A 10% (2016) -do-	5975	11133	P		
15	77	A/A 10% (2017) -do-	5990	15442	P		
15	77	A/A 10% (2018) -do-	5322	15442	P		
15	77	A/A 10% (2018) -do-	5336	15442	P		
15	77	A/A 10% (2021) -do-		10315	P		
			Total	377279			
55	55	G.P.Fund	8508	9090	D		Deduction of G.P.Fund etc
55	55	Police Wel; Fund	3530	3843	D		
55	55	R.Ben & D. Compen	3534	3078	D		
55	55	G.P.Fund	6505	0	D		
55	55	I.Tax	3809	0	D		
			Total	16011			
			G.Total	361268			

Subedar Major
 Malakand Levies Malakand

DC/Commandant
 Malakand Levies Malakand

DAO MKD

Attested
 Superintendent
 Malakand Levies Malakand

**PAYROLL SYSTEM
AMENDMENT FORM
MULTIPLE EMPLOYEE ENTRY**

PAYROLL 02

41

OFFICE OF THE DC/COMMANDANT MALAKAND LEVIES MALAKAND

FOR THE MONTH 1/2022

DDO CODE MD-4294
 Personal-No. 357917
 GRADE(BPS) 7

Rgt.No 5058 constable
 NAME Fazal Rehman
 Salary Start Stop
 Status

P.Code#80899966

GENERAL DATA CHANGE 13

Info Type	Field ID	New Contents	Wage Type	Amount		Effective Date	Remarks
					Adj		
3	78	Active		Active		01/01/2022	Re-instated into service, vide DC/CO MKD
1	30	Grade		7			Levies order Endst: No.
1	8	Scale		7			dated 08/12/2021.
1	53	Basic Pay	1	17700			
14	76	HRA	1000	2383			
14	76	CA (20%) 2011.	1210	1932			
14	76	M/Allow:	1300	1500			
14	76	Compen Allow:20%	1911	1000			
14	76	Ration Allowc:	1547	681			
14	76	Washing Allowc:	1567	150			
14	76	Constb: Allow	1646	300			
14	76	Risk Allow: Police	1901	5754			
14	76	Spl: R/Allow:	1933	3000			
14	76	Spl: Incentive allowa	1902	775			
14	76	Fixed Daily Allow:	2168	2730			
14	76	A/A 10% (2016)	2211	1237			
14	76	A/A 10% (2017)	2224	1770			
14	76	A/A 10% (2018)	2247	1770			
14	76	A/A 10% (2019)	2264	1770			
14	76	A/A 10% (2021)	2309	1770			
			Total	46222			
55	55	G.P.Fund	3007	1010			
55	55	Police Wel: Fund	3530	342			
55	55	R.Ben & D. Compen	3534	450			
55	55	G.P.Fund	6505	0			
55	55	I.Tax	3609	0			
			Total	1802			
			Net Pay	44420			

Subedar Major
Malakand Levies Malakand

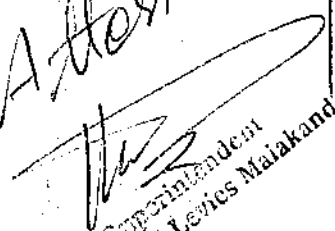
DC/Commandant
Malakand levies Malakand

DAO MKD

Attested
 Superintendent
 Malakand Levies Malakand

42

ARREAR OF PAY AND ALLOWANCES OF MALAKAND LEVIES Sopy							
S.No.	From	To	months	Due	Drawn	Difference	Total
1	01/04/2021	30/11/2021	8	1709	0	1709	13672
2	01/12/2021	31/12/2021	1	1770	0	1770	1770
Total							13672
MRA							
1	01/04/2021	30/06/2021	3	1589	0	1589	4767
2	01/07/2021	31/12/2021	6	2382	0	2382	14292
Total							19059
MA							
1	01/04/2021	31/12/2021	9	1932	0	1932	17388
Total							17388
LMA							
1	01/04/2021	31/12/2021	9	1500	0	1500	13500
Total							13500
LWA							
1	01/04/2021	31/12/2021	9	1000	0	1000	9000
Total							9000
VWA							
1	01/04/2021	31/12/2021	9	150	0	150	1350
Total							1350
Ration All							
1	01/04/2021	31/12/2021	9	681	0	681	6129
Total							6129
Consp All							
1	01/04/2021	31/12/2021	9	300	0	300	2700
Total							2700
Spl Incentive							
1	01/04/2021	31/12/2021	9	775	0	775	6975
Total							6975
Risk All							
1	01/04/2021	30/06/2021	3	3530	0	3530	10593
2	01/07/2021	31/12/2021	6	5754	0	5754	34524
Total							45114
Spl R/All							
1	01/04/2021	31/12/2021	9	3000	0	3000	27000
Total							27000
Fixed D All							
1	01/04/2021	31/12/2021	9	2730	0	2730	24570
Total							24570
A/A 10% (2015)							
1	01/04/2021	31/12/2021	9	1237	0	1237	11133
Total							11133
A/A 10% (2017)							
1	01/04/2021	30/11/2021	8	1709	0	1709	13672
2	01/12/2021	31/12/2021	1	1770	0	1770	1770
Total							15442
A/A 10% (2016)							
1	01/04/2021	30/11/2021	8	1709	0	1709	13672
2	01/12/2021	31/12/2021	1	1770	0	1770	1770
Total							15442
A/A 10% (2019)							
1	01/04/2021	30/11/2021	8	1709	0	1709	13672
2	01/12/2021	31/12/2021	1	1770	0	1770	1770
Total							15442
A/A 10% (2021)							
1	01/07/2021	30/11/2021	5	1709	0	1709	8545
2	01/12/2021	31/12/2021	1	1770	0	1770	1770
Total							10315
G.Total							377279

Attestd

 Superintendent
 Malakand Levies Malakand

Amra, D.

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OFFICE OF THE DC MALAKAND/
COMMANDANT MALAKAND LEVIES

NO. 9142 JLC
DATED MALAKAND THE 06/12/2021
Phone: 0932-452080 Fax: 0932-450557

OFFICE ORDER

In pursuance of the Notification No.PA/Khyber Pakhtunkhwa/BIII-192/2021/8586 dated 30-11-2021 issued by the Secretary Provincial Assembly Khyber Pakhtunkhwa Peshawar and communicated through Section Officer (Police-II), Home & TA's Department, Khyber Pakhtunkhwa, Peshawar vide letter No.SO(Police-II)/HD/1-3/2020/MKD/Levies dated 02-12-2021, the following Levy officials of Malakand Levies, who have been retired in light of Notification No.SO(Police-II)/HD/MKD/Levies/Misc/2020 dated 22-03-2021, are hereby re-instated into service w.e.f. 22-03-2021 in the larger interest of the general public:-

S.No	Regt; No	Designation	Name of Re-instated Levy Personnel
1.	4515	Sepoy	Fazil Rahman
2.	4527	Sepoy	Junaid Ahmad
3.	4528	Sepoy	Hazrat Iqbal
4.	4534	Sepoy	Akhtar Khan
5.	4535	Sepoy	Iltaf Hussain
6.	4536	Sepoy	Shah Hussain
7.	4538	Sepoy	Zakir Ud Din
8.	4539	Sepoy	Niaz Ali
9.	4540	Sepoy	Fazla Hussain
10.	4541	Sepoy	Akhtar Munair
11.	4542	Sepoy	Khalid Khan
12.	4543	Sepoy	Muhammad Ihsan
13.	4560	Sepoy	Shahfi Khalq
14.	4561	Sepoy	Gul Nasib
15.	4564	Sepoy	Sadiq Ahmad
16.	4566	Sepoy	Amir Nawab
17.	4568	Sepoy	Taj Wali
18.	4569	Sepoy	Muhammad Islam
19.	4570	Sepoy	Amir Afzal Khan

Amir Afzal
Superintendent
Malakand Levies Malakand

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20.	4576	Sepoy	Nazar Hussain
21.	4578	Sepoy	Muhammad Imran
22.	4580	Sepoy	Perviz Shakil
23.	4581	Sepoy	Akmol Muhammad
24.	4585	Sepoy	Shahid Akbar
25.	4586	Sepoy	Zia ur Rahman
26.	4593	Sepoy	Muhammad Attab
27.	4597	Sepoy	Gul Muhammad
28.	4599	Sepoy	Sultan Sher
29.	4600	Sepoy	Nehar Gul
30.	4601	Sepoy	Wazir Zada
31.	4603	Sepoy	Saadat Gul
32.	4607	Sepoy	Daulat Khan
33.	4618	Sepoy	Muhammad Fayaz
34.	4627	Sepoy	Sharif Khan
35.	4789	Sepoy	Zia ur Rhaman
36.	4801	Sepoy	Abdul Ghafor Shah
37.	4807	Sepoy	Said Akbar
38.	4986	Sepoy	Khayal Badshah
39.	5029	Sepoy	Amir Shad
40.	5041	Sepoy	Zafar Khan
41.	5058	Sepoy	Fazal Rehman
42.	5102	Sepoy	Sajad Khan
43.	5104	Sepoy	Omer Rehman
44.	5105	Sepoy	Raziq Khan
45.	5108	Sepoy	Nasim Ullah
46.	5109	Sepoy	Amjad Ali
47.	5258	Sepoy	Saeed Ullah Khan
48.	5259	Sepoy	Ihsan Ullah
49.	5261	Sepoy	Bakht Zalb
50.	5280	Sepoy	Muhammad Hussain
51.	5326	Sepoy	Naushorawan
52.	5390	Sepoy	Sowar Khan
53.	5414	Sepoy	Nazbeen Khan

Attested
Superintendent
Malakand Lokes Malakand

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54.	5481	Sepoy	Muhammad Humyan
55.	5472	Sepoy	Sajjad Iqbal
56.	5400	Sepoy	Noor Muhammad
57.	5503	Sepoy	Sarfaraz Khan
58.	5505	Sepoy	Noor Khussaid
59.	5674	Sepoy	Asghar Ali
60.	5897	Sepoy	Fazal Mehmood
61.	5928	Sepoy	Muhammad Farooq
62.	5927	Sepoy	Sartaj Muhammad

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

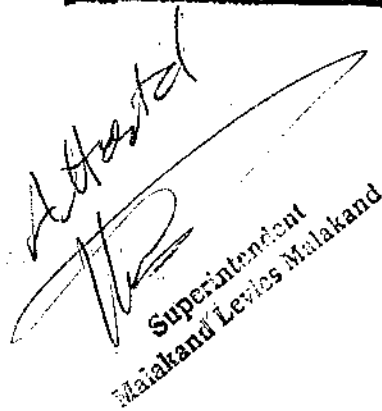
NO. 9143-49/LC

Copy with forwarded to the:-

1. Commissioner, Malakand Division at Saidu Sharif, Swat.
 2. PS to Home Khyber Pakhtunkhwa, Peshawar.
 3. PS to Special Secretary (II) Home Khyber Pakhtunkhwa.
 4. PA to Additional Secretary Home, Khyber Pakhtunkhwa.
 5. PA to Deputy Secretary Home, Khyber Pakhtunkhwa.
- For Information, please.
6. Section Officer (Police-II), Home & TA's Department Khyber Pakhtunkhwa Peshawar for information with reference to his letter referred above.
 7. District Account Officer, Malakand.
 8. Assistant Commissioner, Batkhela & Dargai.
 9. Additional Assistant Commissioner Batkhela & Dargai.
 10. Subedar Major Malakand Levies.
 11. Official Concerned.

For information & necessary action.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

Attested

Superintendent
Malakand Levies Malakand



OFFICE OF THE DC MALAKANDI
COMMANDANT MALAKAND LEVIES

NO. 9118 JLC
DATED MALAKAND THE 06/12/2021
Phone: 0932-452060 Fax: 0932-450557

OFFICE ORDER

In pursuance of the Notification No.PA/Khyber Pakhtunkhwa/Dill-102/2021/8586 dated 30-11-2021 issued by the Secretary Provincial Assembly Khyber Pakhtunkhwa Peshawar and communicated through Section Officer (Police-II), Home & TA's Department, Khyber Pakhtunkhwa, Peshawar vide letter No.SO(Police-II)/HD/1-3/2020/MKD/Levies dated 02-12-2021, the following Levy officials of Malakand Levies, who have been retired in light of Notification No.SO(Police-II)/HD/MKD/Levies/Misc/2020 dated 22-03-2021, are hereby re-instated into service w.e.f. 22-03-2021 in the larger interest of the general public:-

S.No	Regt. No	Designation	Name of Re-Instated Levy Personnel
1.	4221	Havildar	Habib-ur-Rehman
2.	4228	Havildar	Haji Rehman
3.	4229	Havildar	Bakhil Zaman
4.	4235	Havildar	Muhammad Nawab
5.	4238	Havildar	Ghani Rehman
6.	4241	Havildar	Fazal Akbar
7.	4243	Havildar	Sultan Muhammad
8.	4246	Havildar	Ismail Khan
9.	4247	Havildar	Akram Shah
10.	4256	Havildar	Hazrat Ullah
11.	4259	Havildar	Ayub Khan
12.	4260	Havildar	Sajid Ali
13.	4266	Havildar	Ajab Khan
14.	4267	Havildar	Tahir Room
15.	4268	Havildar	Gul Rehman
16.	4277	Havildar	Hazrat Karim
17.	4278	Havildar	Milan Jan
18.	4279	Havildar	Amir Zeb
19.	4288	Havildar	Muhammad Gulab

For information & necessary action.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

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Attested
[Signature]
Superintendent
Malakand Levies Malakand

20.	4301	Havildar	Fazal Raziq
21.	4302	Havildar	Ihsan-ul-Haq
22.	4303	Havildar	Shakeel Ahmad

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

NO. 9119-29/LC

Copy with forwarded to the:-

1. Commissioner, Malakand Division at Saidu Sharif, Swat.
2. PS to Home Khyber Pakhtunkhwa, Peshawar.
3. PS to Special Secretary (II) Home Khyber Pakhtunkhwa.
4. PA to Additional Secretary Home, Khyber Pakhtunkhwa.
5. PA to Deputy Secretary Home, Khyber Pakhtunkhwa.

For information, please.

6. Section Officer (Police-II), Home & TA's Department Khyber Pakhtunkhwa, Peshawar for information with reference to his letter referred above.
7. District Account Officer, Malakand.
8. Assistant Commissioners Bakhela & Dargai.
9. Additional Assistant Commissioners, Bakhela & Dargai.
10. Subedar Major Malakand Levies.
11. Official Concerned.

For information & necessary action.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

For information & necessary action.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

Attested
[Signature]

Superintendent
Malakand Levies Malakand



OFFICE OF THE DC MALAKAND/
COMMANDANT MALAKAND LEVIES

NO. 9126 JLC
DATED MALAKAND THE 06/12/2021
Phone: 0032-462000 Fax: 0032-450657

OFFICE ORDER

In pursuance of the Notification No.PA/Khyber Pakhtunkhwa/Bill-192/2021/8588 dated 30-11-2021 issued by the Secretary Provincial Assembly Khyber Pakhtunkhwa Peshawar and communicated through Section Officer (Police-II), Home & TA's Department, Khyber Pakhtunkhwa, Peshawar vide letter No.SO(Police-II)/HD/1-3/2020/MKD/Levies dated 02-12-2021, the following Levy officials of Malakand Levies, who have been retired in light of Notification No.SO(Police-II)/HD/MKD/Levies/Misc/2020 dated 22-03-2021, are hereby re-instated into service w.e.f. 22-03-2021 in the larger interest of the general public:-

S.No	Regt. No	Designation	Name of Re-instated Levy Personnel
1.	4330	Naik	Essa Khan
2.	4334	Naik	Zakir Ullah
3.	4341	Naik	Shah Room Khan
4.	4346	Naik	Mufl Mehmoed
5.	4347	Naik	Said Zamir
6.	4350	Naik	Muslim Khan
7.	4358	Naik	Muhtasham Milan
8.	4357	Naik	Mukamil Khan
9.	4359	Naik	Shams-ul-Arifeen
10.	4361	Naik	Aziz-ur-Rehman
11.	4363	Naik	Riaz Muhammad
12.	4364	Naik	Farman Ud Din
13.	4368	Naik	Hussain Khan
14.	4369	Naik	Amani Mulk

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

NO. 9127 - 35 JLC

Copy with forwarded to the:-

1. Commissioner, Malakand Division at Saidu Sharif, Swat.
2. PS to Home Khyber Pakhtunkhwa, Peshawar.
3. PS to Special Secretary (II) Home Khyber Pakhtunkhwa.
4. PA to Additional Secretary Home, Khyber Pakhtunkhwa.
5. PA to Deputy Secretary Home, Khyber Pakhtunkhwa.

For information, please.

6. Section Officer (Police-II), Home & TA's Department Khyber Pakhtunkhwa Peshawar for information with reference to his letter referred above.
7. District Account Officer, Malakand.
8. Assistant Commissioners Bakhela & Dargal.
9. Additional Assistant Commissioners, Bakhela & Dargal.
10. Subedar Major Malakand Levies.
11. Official Concerned.

For information & necessary action.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

Attest
Superintendent
Malakand Levies Malakand

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OFFICE OF THE DC MALAKAND/
COMMANDANT MALAKAND LEVIES

NO. 6625-24 JLC
DATED MALAKAND THE 17/6/2022
Phone: 0932-452000 Fax: 0932-450557

NOTIFICATION

In Pursuance of Home Department Notification No.SO(Police-II)HD/2-1/MKD/DPC/Levies dated 08-06-2022, and upon the recommendation of the Departmental Promotion Committee meeting held on 17-06-2022, the following Levy-personnel are hereby re-instated and promoted to their next higher rank from the date noted against each on the basis of qualification/seniority-cum-fitness:-

S.N	No & Name of Levy Personnel	Date of Re-Instatement	Promoted From	Promote d To	Date of Promotion
1.	No.4224 Saif-ur Rehman	24-07-2021	Naib Subedar	Subedar	17-06-2022
2.	No.4409 Jamil Ahmad	27-10-21	Naik	Havildar	17-06-2022
3.	No.4423 Ikram Khan	08-05-2021	Naik	Havildar	17-06-2022

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

NO. 6625-24 JLC

Copy forwarded to the:-

1. Secretary, Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar for information, please.
 2. District Accounts Officer, Malakand.
 3. Subedar Major Malakand Levies.
 4. Official concerned.
- For information and necessary action.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

Attested

Superintendent
Malakand Levies Malakand

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Supreme Court
Lahore, Pakistan

[Handwritten signature]

Certified to be true copy
Khyber Pakhtunkhwa
Government
27/7/23

(PAREKHAN, Member (B))

already acted upon. Parcha Peshi given to the appellant.

04. As to the application for suspension of the operation of impugned notifications dated 22.03.2021 and 21.10.2021, it is directed that the operation of the impugned notifications shall stand suspended till next date to the extent of appellant, if not already acted upon.

03. Instant appeal is admitted for full hearing, subject to all just and legal objections by the other side. The appellant is directed to deposit security fee within 03 days. The respondents be summoned through TCS for submission of reply/comments within 15 days positively. The expenses of TCS shall be borne by the appellant.

02. Through this appeal, the appellant has impugned notifications dated 22.03.2021 and 21.10.2021. It was brought in to the notice of this bench that the said notifications have already been suspended vide order dated 07.03.2023 in Service Appeal No. 1935/2022, filed "Umar Rahman Vs. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar etc.", learned counsel for the appellant further informed that similar nature service appeal No. 168/2013 filed "Aqal Zada Vs. the Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar etc." was fixed for order on 24.08.2023.

01. Learned counsel for the appellant present and heard

27th July, 2023

Service Appeal No. 1538/2023

Mikhtanin vs Govt



[Handwritten notes and initials]

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII

GAZETTE

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;

Attestal

 Commissioner
 Malakand Levies Malakand

- (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 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 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.

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.

Attest
[Signature]
Superintendent
Malakand District
Malakand

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.

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 probationary service.

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.

Attested
Superintendent
Malakand Levies Malakand

(2) Casual leave may be allowed upto three days by Subedar Major. Casual leave up to 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 III and no extension in service beyond retirement shall be granted.

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

18. 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 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, benevolent 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 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 their 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 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 individual on day-to-day basis shall be maintained in each levy post /Levy Station/Levy Lines by a levy Muhaarir.

(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 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 (Operations) by incharge of the post/station within twenty four

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24. An Anomaly Committee duly constituted/notified vide Home and Tribal Affairs Department, Khyber Pakhtunkhwa Notification No.S0(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

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Superintendent
Malakand Levies Malakand

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SCHEDULE - I
See rules 4(2) and 8

A. Uniformed Force

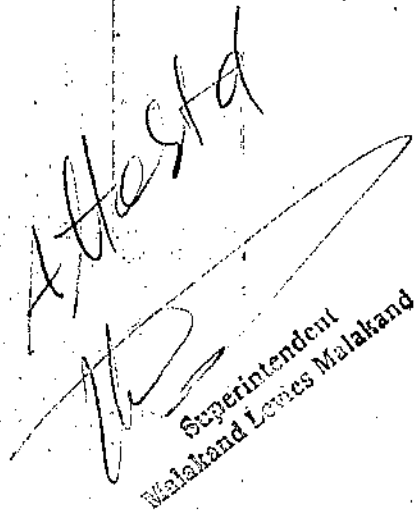
S.#	Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1.	Subedar Major (BS-16)	03 years service as Subedar	100%		
2.	Subedar (BS-13)	03 years service as Naib Subedar	100%		

Subedar
[Signature]
Superintendent
Malakand Levies Malakand

	(BS-11)		100%		
4.	Havaldar (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 BPS-01			100%	Literate
19.	Sweeper (BS-1)			100%	Literate

Attestd

 Superintendent
 Malakand Levies Malakand

SCHEDULE - II
(see Rule 10)

Grounds of penalty

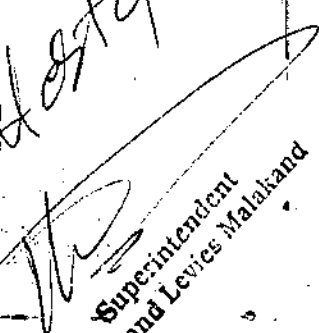
The concerned authority may impose one or more penalties, where a personnel of the Force, in the opinion of the authority:-

- 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 picket, fortress, post or guard which is committed to his charge or which is his duty to defend;
- i. is engaged in propagation of sectarian, parochial, anti-state views and controversies;
- j. is engaged or is reasonably suspected of being engaged to excite, cause or conspire to cause or joins in any mutiny, or being present at any mutiny and does not use his utmost endeavor to suppress it;
- k. attempts collective bargaining, conspiring or attempting to call off duty or take procession to press for the demands; or
- l. is guilty of omission and commission under the law and rules.
- m. deserts the service.
- n. Being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or
- o. Without authority, leaves his commanding officer, or his post or party, to go in search of plunder; or
- p. Quits his guard, picket, party or patrol without being regularly relieved or without leave; or
- q. Uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or without authority breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind; or
- r. Internally causes or spreads a false alarm or rumour during action or in post, camp, lines, or quarters.


Superintendent
Malakand Levies Malakand

SCHEDULE -III
See Rule 17

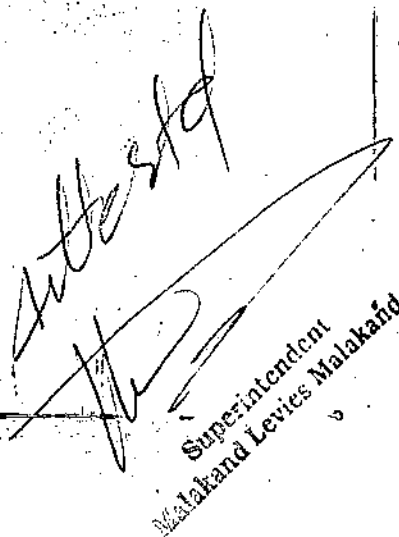
S.#	Post/Rank	Length of service / Age
1	Subedar Major (BS-16)	38 years service or 03 years service as Subedar Major or 60 years age whichever is earlier
2	Subedar (BS-13)	35 years service or 03 years service as Subedar or 57 years age whichever is earlier
3	NalbSubedar (BS-11)	32 years service or 03 years service as NalbSubedar 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

Attested

Superintendent
Malakand Levis Malakand

SCHEDULE - IV
See Rule 10

S.#	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 on 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-

Printed and published by the Manager,
Sizy. & Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

Substantiated


Superintendent
Malakand Levies Malakand



Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department
Dated Peshawar the 12th December, 2013

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.

Attested
Superintendent
Band Levies Force

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(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.

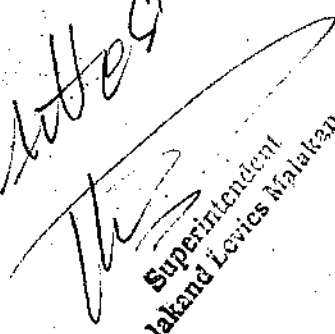
Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

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)

Attested

Superintendent
Malakand Levies Malakand



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT



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NOTIFICATION

NO. SO(LEVIES)/HD/FLW/1-1/2013/Vol-1 In partial modification of this Department Notification of even No. dated 12.12.2013, the Competent Authority has been pleased to approve the recommendations of the Anomaly 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.

Attested
[Signature]
Superintendent
Malakand Levies Malakand

[Signature]
SECTION OFFICER (LEVIES)



COMMANDANT MALAKAND LEVIES

NO. 6860/LC

DATED MALAKAND THE 01/09/2023

Phone: 0932-452080 Fax: 0932-450557

To,

The Commissioner,
Malakand Division at Sajdu Sharif,
Swat.

Subject:- REQUEST FOR CONVENING MEETING

R/Sir,

Reference to verbal communication in presence of Deputy Commissioners Dir Upper and Dir Lower with your good self dated 28-08-2023, it is submitted for the information of worthy Commissioner, Malakand Division that 73-Levy Personnel along with others of different ranks of Malakand Levies were retired from service in light of Amended Levy Rules received from Home & TA's Department, Khyber Pakhtunkhwa, Peshawar with effect from 22-03-2021.

Aggrieved from the above, the retired Levy Personnel of different categories approach Peshawar High Court, Mingora Bench, Dar-ul-Qaza, Swat and filed Writ Petition No.1283-M/2022 tiled Muhammad Salim and others followed by COC No.102-M/2022 and the Honorable Court vide Judgment dated 23-11-2022 reinstated the above mentioned Levy Personnel in light of Section-11 of Act 2021.

In light of above COC, this office conditionally reinstated the above mentioned Levy Personnel subject to the final decision of the pending CPLA filed before the August Supreme Court of Pakistan against the Judgment of Peshawar High Court, Mingora Bench, Dar-ul-Qaza, Swat by this office and also proposed 73-super numerary posts to Home & TA's Department, Khyber Pakhtunkhwa, Peshawar department as there were few posts available with this office to accommodate the said Levy Personnel vide this office letter No.4260/LC dated 23-05-2023. The Home & TA's Department, Khyber Pakhtunkhwa, Peshawar sought legal advice from Advocate General, Khyber Pakhtunkhwa Peshawar regarding the above issue. The legal advice of the Advocate General Khyber Pakhtunkhwa Peshawar communicated to this office through Law, Parliamentary and Human Right Department, Peshawar and subsequently Home & TA's Department, Khyber

Attestd
[Signature]
Superintendent
Malakand Levies Malakand

2023 (Copy enclosed).

The conditionally reinstated Levy Personnel among others have also approach the Honorable Khyber Pakhtunkhwa, Service Tribunal Peshawar vide appeal No.1935 of 2022 tiled Umar Rehman and others and the Honorable Service Tribunal passed Judgment dated 24-08-2023 (Copy enclosed).

In view of above, it is therefore requested that Secretary, Home & TA's Department, Khyber Pakhtunkhwa, Peshawar may kindly be approached for convening a meeting to be attended by high ups of Law Department, Finance Department and Establishment Department as well Deputy Commissioner, Dir Upper and Dir Lower feasibly after 11-09-2023, please.

No. 6861-62
/LC

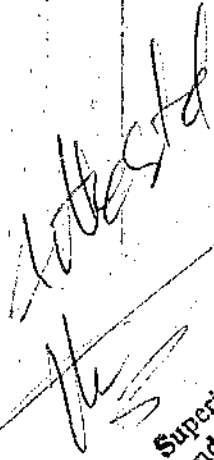

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

Copy forwarded to the:-

1. Deputy Commissioner/Commandant Dir Upper Levies.
2. Deputy Commissioner/Commandant Dir Lower Levies.

For information, please


DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND


Superintendent
Malakand Levies Malakand

Amir "H"

NO. 7018 /LC
DATED MALAKAND THE 08/19 /2023
Phone:0932-452080 Fax:0932-452105

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(6)

To.

The Special Secretary,
Home & TA's Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- IMPLEMENTATION OF THE JUDGMENT PASSED BY THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR IN SERVICE APPEAL NO. 1916/2023 TITLED MUHAMMAD SALIM AND OTHERS V/S GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY AND OTHERS.

R/Sir,

Reference to the subject cited and the enclosed copy of the judgment passed by the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar in the subject service appeal.

It is submitted that the appellants in the subject service appeal belonging to district Malakand are approaching this office for implementation of the judgment passed by the Honorable Service Tribunal Peshawar on 24-08-2023 in the ~~referenced~~ service appeal by re-instating them and assigning them duties. This office is seeking guidance regarding the status of the Provincially Administrative Tribal Areas Levies Force (Amendment) Act, 2021 and amendments made in the PATA Federal Levies Force Service Rules, 2013 vide Notification No. SO(Police-II)/HD/1-3/FEDERAL_LEVIES 20221 dated: 22-03-2021 and Notification No. SO(Police-II)/HD/1-3/2020/MKQ/LEVIES dated: 21-10-2021 (Copies enclosed as Annexure-A, B & C for ready reference) or any other rules which the force can be governed. Furthermore, this office may be guided/advised regarding the rules applicable after the subject judgment, please.



DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

NO. 7019-22 /LC

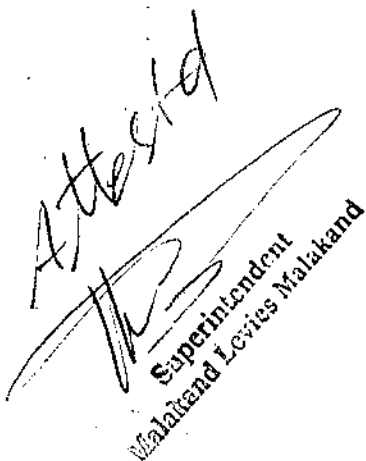
Copy forwarded to the:

1. Commissioner Malakand Division Saidu Sharif Swat.
2. Deputy Secretary (L&K) Home & TA's Department, Peshawar.
3. Section Officer (L&K) Home & TA's Department, Peshawar.
4. Section Officer (Litigation-II) Home & TA's Department, Peshawar.

For information Please.



DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

Attested

Superintendent
Malakand Levies Malakand

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No. SO(L&K/HD/Malakand/227-40
Dated Peshawar the 05-10-2023

To

1. The Secretary, Finance Department, Govt of Khyber Pakhtunkhwa
2. Secretary, Establishment Department, Govt of Khyber Pakhtunkhwa
3. Secretary, Law Department Govt of Khyber Pakhtunkhwa
4. All Deputy Commissioners/Commandant Levy Force

Subject:

MINUTES OF THE MEETING ON DECISION OF SERVICE TRIBUNAL
DATED 24.8.2023 IN SERVICE APPEAL NO.162/2023 TITLED
MUHAMMAD JAMAL AND OTHERS VS GOVT

Dear Sir,

In connation of this office letter No. even dated 18.09.2023 on the subject noted above, I am directed to enclose herewith minutes of the meeting held on 26.9.2023 in Home & TAs Department Peshawar for information/necessary action, please.

Yours sincerely,

(Signature)
(Niaz-Muhammad)
Section Officer (L & K)

Copy to:

1. PS to Secretary, Home & TAs Department, Peshawar Khyber Pakhtunkhwa.
2. PS to Special Secretary-I, Home & TAs Department
3. PA to Additional Secretary (Police/L&K), Home & TAs Department

(Signature)
Section Officer (L & K)

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(Signature)
Superintendent
Malakand Levies Malakand

69 (13)

**NO. 162/2023, TITLED MOHAMMAD JAMAL AND OTHERS VS,
GOVERNMENT OF KHYBER PAKHTUNKHWA**

The meeting was started with the recitation of verses from the Holy Quran.

At the outset, the Chair welcomed the participants and apprised them that the meeting was held pursuant to the requests of the Deputy Commissioners to this department regarding the recent Order of the Khyber Pakhtunkhwa Service Tribunal in respect of the reinstatement of levies personnel into the service.

List of participants attached.

After opening remarks by the worthy Special Secretary-I Khyber Pakhtunkhwa Home and Tribal affairs Department, he was briefed on the Levies Force functioning in different districts of Khyber Pakhtunkhwa regulating under PATA Federal Levies Force Service (Amended) Rules, 2013 amended from time to time. The last two amendments were brought on 22-03-2021 and 21-10-2021 vide Notifications No. SO(POLICE-II)HD/MKD/1-3/LEVIES/Misc./2020 and SO(POLICE-II)HD/1-3/FEDERAL LEVIES 2021 of Kyber Pakhtunkhwa Home and Tribal affairs Department respectively. Both Notifications No. SO(POLICE-II)HD/MKD/1-3/LEVIES/Misc./2020 and SO(POLICE-II)HD/1-3/FEDERAL LEVIES 2021 of Kyber Pakhtunkhwa Home and Tribal affairs Department have laid down the criteria for retirement of the Federal Levies Force.

Moreover, it was briefed that Section-11 of the PATA Levies Force (Amendment) Act-2021 was brought on 30-11-2021 to reinstate all levies Personnel retired from 22-03-2021 till the commencement of the Act. Section-11 is reproduced here.

Re-Instatement of the levies personnel. — All levies personnel, who have been retired from the Force with effect from 22-03-2021, till the commencement of the Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021 shall be reinstated in the Force as regular employees, with effect from their respective dates of retirement and they shall be deemed as never retired from the Force.

After briefing to the Chair, the forum was opened for discussion to deliberate on reinstatement of levies personnel under Section-11 of the Act in light of the Judgment of the Honourable Peshawar High Court, Mingora Bench in writ petitions no. 1281-M/2022 and 1283-M/2022 dated: 23-11-2022, legal opinion of the Advocate General, Khyber Pakhtunkhwa on Malakand Levies dated: 17-08-2023 and Order of Honourable Khyber Pakhtunkhwa Service Tribunal in appeal No. 162/2023 dated: 24-08-2023.

The Judgment of the Honourable Peshawar High Court, Mingora Bench in writ petitions No. 1281-M/2022 and 1283-M/2022 was discussed. The following paras of the Judgment are reproduced here:

Page 1 of 1

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there is no dispute amongst the parties that the present petitioners have got retired on 25-03-2021 as by then those petitioners who were sepoy have attained the age of 42 years and those petitioners who were Lance Naik, Naik, and Havaldar have completed three years of service as Lance Naik, Naik and Havaldar, therefore, by operation of the Federal Levies Services (Amended) rules, 2013 RAW notification dated: 21-10-2021, the aforesaid criteria has been provided for the retirement of different categories of the employees of Levies Force.*

And para 07 of the Honourable High Court Judgment reproduced here,

"Accordingly, both these connected writ petitions bearing No. 1281-M of 2022 and 1283-M of 2022 are allowed and the petitioners are reinstated in service of the Levies Force with effect from the date of their retirement and it shall be deemed that they have never been retired and consequently the respondents are directed to issue formal orders of their reinstatement in service in light of Section 11 of the Act of 2021. Order accordingly."

The forum discussed legal opinion solicited on Malakand Levies from Advocate General, Khyber Pakhtunkhwa, regarding the reinstatement of retired Levies personnel. Some part of the opinion reproduced here;

"It is worth mentioning that after the 25th Constitutional Amendment in 2018 both FATA and PATA were merged in the Province of Khyber Pakhtunkhwa and the Federal Levies Force working in FATA was merged into the regular Police Force of the Province, however, Levies force in Malakand Division is still regulated by PATA Federal Levies Force Service (Amended) Rules, 2013 in view of the Khyber Pakhtunkhwa Act No. 111 of 2019 through which the laws prevalent in erstwhile PATA at the time of 25th Constitutional Amendment were allowed to continue including PATA Levies Force Regulation, 2012. It is pertinent to mention here that PATA Federal Levies Service Rules, 2013 were amended from time to time and the last amendment was brought on 21-10-2021, therefore all those personnel who are conditionally reinstated in compliance of the Judgment of the Honourable Peshawar High Court, Mingora Bench shall be governed under the PATA Federal Levies Force Service (Amended), 2013 as amended lastly on 21-10-2021."

The Order of the Khyber Pakhtunkhwa Service Tribunal was also discussed by the forum.

The para of the Order reproduced here;

"When confronted with the provisions of the newly added section 11 of the Act of 2021, whereby, all Levies personnel, who had retired from the Force w.e.f 22-03-2021 till the commencement of the Act, i.e. 30-11-2021, were reinstated as regular employees w.e.f. from respective dates of retirement and were deemed to have never retired from the Force. The learned counsel was very fair to say that there was nothing more to be resolved by this Tribunal in these appeals, so as the agreement of other learned counsels as well as appellants present before the

Page 2 of 3

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Malakand Levies Malakand

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THEY have commented that even the provisions of the Act were not complied with implemented by the respondents. They say they would approach the proper forum for giving effect to implementation of the provisions of Section 11 of the Act of 2021 and in case their grievances are not addressed in accordance with the terms of the Act, they would recourse to further legal remedies available to them. Disposed of in the above terms."

Following the detailed deliberations on the above points, the forum arrived to the conclusion that;

The Judgment of the Honorable Peshawar High Court, Mingora Bench had reinstated the levies personnel and had directed the respondents to issue their formal orders of reinstatement into the Service.

Both the Judgment of Honorable Peshawar High Court Mingora Bench as well as Khyber Pakhtunkhwa Service Tribunal were examined in detail. Whereas the Judgment of the Honorable Peshawar High Court Mingora Bench carries clear order with regard to reinstatement of the appellants, the Judgment of Khyber Pakhtunkhwa Service Tribunal is advisory in nature and does not direct the Government for reinstatement of the appellants. Rather it asks for compliance of our own amendment Act passed on 30-11-2021.

Moreover, Advocate General, Khyber Pakhtunkhwa in his legal opinion had categorically stated that all those Personnel who are conditionally reinstated into the service in compliance with the Judgment of the Honorable Peshawar High Court Mingora Bench shall be governed under the PATA Federal Levies Service Rules, 2013 as amended on 21-10-2021.

After detailed deliberations and threadbare discussion, the following decisions were taken by the forum:

1. To examine the cases of all those Levies Personnel retired under the PATA Federal Levies Force Service (Amended) Rules 2013 as amended on 22-3-2021 in light of Schedule-III of the PATA Levies Force (Amended) Act 2021 effective from 30-11-2021 and reinstate them in the service in compliance with both orders of Honorable Courts after checking their eligibility under the amended Act-2021. Similarly the cases of those already reinstated in compliance with court order may be examined under the FATA Federal Service Rules, 2013 as amended on 21-10-2021 and retire them under the said amended rules.
2. The Deputy Commissioners concerned to carefully prepare and send case for creation of supernumerary posts for reinstatement and adjustment of the levies retired under the previous rules in compliance with court orders, if they do not have vacant posts for their reinstatement.

Meeting ended with the vote of thanks from and to the chair.

Attested
Jagadeh
Suppet.

Page 3 of 3

Attested
Superintendent
Malakand Levies Malakand

Superintendent
Levy's Malakand

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CS CopyScanner

- Copy forwarded to:-
1. The Additional Chief Secretary, Government of Mysore Pakunkhwa,
 2. Home & TA, Department Paslawar,
 3. The Commissioner Malakand Division, at Baldu Shant Sual,
 4. The Section Officer (L&F), Home & TA's Department Paslawar for information with reference to the letter referred to above.
 5. AC/Deputy Commandant Malakand Levy's (Ops) Bolkheh.
 6. Superintendent Malakand Levy's.
 7. Subedar Major Malakand Levy's.
 8. Incharge Establishment Branch Malakand Levy's.
 9. For information and necessary action, please.

DIRECTOR GENERAL
MALAKAND LEVY'S MALAKAND

NO. 8094-8100

1. To examine the cases of all those Levy's Personnel retired under the PATY Federal Levy's Force Service (Amended) Rules, 2013 as amended on 22-03-2021 in light of Schedule III of the PATY Levy's Force (Amended) Act, 2021 effective from 30-11-2021.
2. To propose reinstatement of Levy Personnel in compliance with both orders of Hon'ble Courts after checking their eligibility under the Amended Act-2021.
3. To propose the cases of those already related Levy's personnel who service in compliance with Court order may be examined under the PATY Federal Service Rules, 2013 as amended on 21-10-2021 and also propose their retirement under the said amended rules.
4. To carefully prepare/propose case for creation of superannuity posts for reinstatement and adjustment of the Levy's retired under the previous rules in compliance with Court order, if no vacant posts exist for their reinstatement.

Terms of Reference (TOR):-

1. AC/Deputy Commandant Malakand Levy's (Ops) Bolkheh.....in chat
2. Superintendent Malakand Levy's.
3. Subedar Major Malakand Levy's.
4. Incharge Establishment Branch Malakand Levy's.

In pursuance of order dated 11-10-2023 of the Honorable Paslawar High Court Daru Gwal in O.M 1081-M/2023 in Writ Petition No.1283-M/2023 filed by Muhammad Salim & Others and minutes of the meeting held under the chairmanship of Special Secretary Home & Tribal Affairs Department Paslawar circulated vide letter bearing No.50(L&F)/HD/Malakand/227-40 dated 05-10-2023, the following scrutiny committee is hereby notified for reinstatement/retirement of Levy's personnel as per Rules within 02-days positively as next date of hearing is fixed on 18-01-2023.

OFFICE ORDER

NO. 8094-8100
DATED MALAKAND THE 13/10/2023
Phone: 0832-452080 Fax: 0832-450257



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Amir K
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Age/Service Length of 72-Conditionally reinstated Levies personnel of Malakand Levies as per amended Levies Service Rules 21-10-2021(schedule-III)																
NO	Petition Wise S.No	Regr. No.	Name of Levies personnel	Date of Appointment	Date of Birth	1st promotion (L/NAIK)	2nd promotion (NAIK)	Last promotion (HAWILDA R)	Formula (30-11-2021 Minus DOA/DOB)	Thier Position as per Criteria Laid Down In Rules on 21-10-2021						Status as per Notification of 21-10-2021
										Age Limit 51-Years			Service Length 31-Years			
										Years	Months	Days	Years	Months	Days	
1		4222	Muhammad Zeb	21/07/1991	21/07/1964	04/03/2009	18/01/2010	16/02/2013	30/11/2021	57	4	8	30	4	9	Completed the requisite age i.e. 51-Years
2	71	4237	Kawab Sher	15/12/1991	15/12/1966	07/12/2009	18/01/2010	06/02/2015	30/11/2021	54	11	15	29	11	15	Completed the requisite age i.e. 51-Years
3	57	4239	Muhammad Sajid	24/12/1991	24/12/1969	14/07/2009	02/01/2010	10/04/2018	30/11/2021	51	11	6	29	11	6	Completed the requisite age i.e. 51-Years
4	52	4251	Shah Muhammad	03/04/1992	03/04/1963	12/01/2009	11/10/2010	19/10/2017	30/11/2021	53	7	22	28	7	22	Completed the requisite age i.e. 51-Years
5	5	4253	Hussan Deyar	08/05/1992	08/05/1970	18/01/2010	21/06/2011	18/10/2017	30/11/2021	51	5	24	29	5	24	Completed the requisite age i.e. 51-Years
6	4	4252	Omer Rehman	23/07/1992	23/07/1965	16/01/2010	02/10/2012	18/10/2017	30/11/2021	53	4	7	29	4	7	Completed the requisite age i.e. 51-Years
7	3	4253	Zahr Shah	11/08/1992	11/08/1967	16/01/2010	06/11/2012	13/07/2018	30/11/2021	54	3	19	28	3	19	Completed the requisite age i.e. 51-Years
8	59	4300	Rehmat Ullah	25/10/1992	25/10/1970	15/01/2010	09/04/2012	13/07/2018	30/11/2021	51	1	6	29	1	5	Completed the requisite age i.e. 51-Years
9	69	4302	Insan-ud-Haq	25/10/1992	25/10/1970	16/01/2010	20/09/2012	13/07/2018	30/11/2021	51	1	4	29	1	4	Completed the requisite age i.e. 51-Years
10	42	4304	Noor Raza	01/11/1992	01/11/1969	16/01/2010	16/02/2013	13/07/2018	30/11/2021	54	0	29	28	0	29	Completed the requisite age i.e. 51-Years
11	23	4314	Shah Dad	15/11/1992	15/11/1969	18/01/2010	25/04/2015	20/09/2019	30/11/2021	52	0	15	29	0	15	Completed the requisite age i.e. 51-Years
12	6	4319	Shah Faizim	17/12/1992	17/12/1965	16/01/2010	10/04/2015	26/02/2020	30/11/2021	52	11	13	28	11	13	Completed the requisite age i.e. 51-Years
13	72	4323	Mans Raza	20/12/1992	20/12/1970	18/01/2010	19/04/2016	28/04/2020	30/11/2021	50	11	10	28	11	10	Completed the requisite age on 19-12-2021
14	2	4324	Noor Haq	20/01/1993	20/01/1969	18/01/2010	05/03/2016	25/06/2020	30/11/2021	52	10	10	28	10	10	Completed the requisite age i.e. 51-Years

NAik BPS-08																
NO	Petition Wise S.No	Regr. No.	Name of Levies personnel	Date of Appointment	Date of Birth	1st promotion (L/NAIK)	Last promotion (NAIK)	Formula (30-11-2021 Minus DOA/DOB)	Thier Position as per Criteria Laid Down In Rules on 21-10-2021						Status as per Notification of 21-10-2021	
									Age Limit 49-Years			Service Length 29-Years				
									Years	Months	Days	Years	Months	Days		
15	8	4325	Sabbir Ak	21/01/1993	21/01/1972	15/01/2012	13/07/2018	-	30/11/2021	49	10	9	28	10	9	Completed the requisite age i.e. 49-Years
16	65	4331	Gul Rehman	11/02/1993	11/02/1971	12/01/2010	19/10/2017	-	30/11/2021	50	9	18	28	9	19	Completed the requisite age i.e. 49-Years
17	7	4338	Arif Nawaz	13/03/1993	13/03/1971	18/01/2010	19/10/2017	-	30/11/2021	50	8	17	28	8	17	Completed the requisite age i.e. 49-Years
18	67	4342	Omara Jan	10/05/1993	10/05/1969	18/01/2010	19/10/2017	-	30/11/2021	52	6	29	28	6	29	Completed the requisite age i.e. 49-Years
19	61	4343	Said Amjad	01/05/1993	01/05/1970	18/01/2010	19/10/2017	-	30/11/2021	51	6	29	28	6	29	Completed the requisite age i.e. 49-Years
20	51	4353	Sahar Khan	04/11/1993	04/11/1971	19/05/2010	19/10/2017	-	30/11/2021	50	0	26	28	0	26	Completed the requisite age i.e. 49-Years
21	26	4370	Fazal Gul	11/04/1994	11/04/1971	21/05/2011	13/07/2018	-	30/11/2021	50	7	19	27	7	19	Completed the requisite age i.e. 49-Years
22	38	4374	Sardar Ak	22/02/1994	22/02/1969	07/12/2011	13/07/2018	-	30/11/2021	52	3	8	27	3	8	Completed the requisite age i.e. 49-Years
23	1	4377	Muhammad Salam	15/02/1994	15/02/1968	21/07/2011	13/07/2018	-	30/11/2021	53	9	12	26	9	12	Completed the requisite age i.e. 49-Years
24	48	4378	Rahim Gul	20/02/1994	20/02/1972	09/01/2011	13/07/2018	-	30/11/2021	49	9	10	26	9	10	Completed the requisite age i.e. 49-Years
25	70	4382	Saimi Ullah	12/03/1994	12/03/1972	13/11/2011	13/07/2018	-	30/11/2021	49	8	18	26	8	18	Completed the requisite age i.e. 49-Years
26	15	4391	Muhammad Khan	24/01/1994	24/01/1970	04/12/2012	20/03/2019	-	30/11/2021	51	4	26	26	4	26	Completed the requisite age i.e. 49-Years
27	43	4390	Said Jamal	02/01/1994	02/01/1970	20/03/2012	20/03/2018	-	30/11/2021	51	4	28	26	4	28	Completed the requisite age i.e. 49-Years

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Petition Case S.No	Reg. No.	Name of Levies personnel	Date of Appointment	Date of Birth	Promotion (LNAUK)	Formula (30-11-2021 Minus DOA/DOB)	Thier Position as per Criteria Laid Down In Rules on 21-10-2021						Status as per Notification of 21-10-21	
							Age Limit 47-Years			Service Length 27-Years				
							Years	Months	Days	Years	Months	Days		
39	4394	Muhammad Kale	19/07/1995	19/07/1971	06/01/2012	26/02/2020	30/11/2021	50	4	11	26	4	11	Completed the requisite age i.e. 49-Years
27	4400	Wazir Ullah	04/09/1995	04/09/1970	08/12/2012	-	30/11/2021	51	2	26	26	2	26	Completed the requisite age i.e. 47-Years
25	4405	Riaz Ullah	24/09/1995	24/09/1970	22/09/2012	-	30/11/2021	51	2	26	26	2	26	Completed the requisite age i.e. 47-Years
25	4407	Rahman Zamir	16/10/1995	16/10/1971	16/02/2013	-	30/11/2021	50	1	6	26	2	6	Completed the requisite age i.e. 47-Years
8	4413	Samar Shah	21/09/1995	21/09/1966	16/02/2013	-	30/11/2021	55	2	14	26	1	14	Completed the requisite age i.e. 47-Years
13	4414	Fazal Mehmood	26/11/1995	26/11/1974	16/02/2013	-	30/11/2021	47	0	9	26	2	9	Completed the requisite age i.e. 47-Years
11	4423	Bahar Zaman	07/02/1995	07/02/1972	06/02/2015	-	30/11/2021	49	9	4	26	0	4	Completed the requisite age i.e. 47-Years
12	4423	Iqbal Hussain	05/03/1995	05/03/1974	19/04/2018	-	30/11/2021	47	8	23	25	8	23	Completed the requisite age i.e. 47-Years
47	4427	Umer Ghani	05/04/1995	05/04/1973	05/10/2016	-	30/11/2021	48	7	25	25	8	25	Completed the requisite age i.e. 47-Years
37	4443	Mahmood-Rahman	01/02/1997	01/02/1974	19/10/2017	-	30/11/2021	47	9	22	25	7	22	Completed the requisite age i.e. 47-Years
66	4452	Aziz Ur Rehman	01/02/1997	01/02/1974	19/10/2017	-	30/11/2021	47	9	29	24	9	29	Completed the requisite age i.e. 47-Years
35	4457	Noor Zaid	16/02/1997	16/02/1974	19/10/2017	-	30/11/2021	47	9	29	24	9	29	Completed the requisite age i.e. 47-Years
47	4471	Iqbal Hussain	27/03/1997	27/03/1974	19/10/2017	-	30/11/2021	47	8	14	24	9	14	Completed the requisite age i.e. 47-Years
60	4477	Mohd Ismail	14/02/1998	14/02/1974	13/07/2018	-	30/11/2021	47	8	3	24	8	3	Completed the requisite age i.e. 47-Years
50	4485	Ikhtisar Rabb	15/05/1998	03/02/1973	13/07/2018	-	30/11/2021	49	9	16	23	9	16	Completed the requisite age i.e. 47-Years
19	4482	Khaleel Usman	03/07/1998	02/03/1972	13/07/2018	-	30/11/2021	49	3	27	23	6	15	Completed the requisite age i.e. 47-Years
45	4493	Eastur Ahmad	21/07/1998	01/01/1972	13/07/2018	-	30/11/2021	49	10	29	23	4	27	Completed the requisite age i.e. 47-Years
28	4495	Mohd Rabb	23/07/1998	07/01/1973	13/07/2018	-	30/11/2021	48	10	23	23	4	9	Completed the requisite age i.e. 47-Years
44	4495	Iqbal Khan	21/07/1998	01/01/1954	25/01/2019	-	30/11/2021	57	10	29	23	4	7	Completed the requisite age i.e. 47-Years
39	4495	Umer Gul	21/07/1998	01/01/1953	25/01/2019	-	30/11/2021	58	10	29	23	4	9	Completed the requisite age i.e. 47-Years
42	4499	Mohd Saad	22/07/1998	23/07/1973	25/01/2019	-	30/11/2021	48	4	2	23	4	2	Completed the requisite age i.e. 47-Years
24	4503	Fazal Mahm	04/02/1998	01/01/1972	04/03/2019	-	30/11/2021	49	10	29	23	3	26	Completed the requisite age i.e. 47-Years
14	4510	Muhammad Zahur	09/08/1998	13/03/1974	28/04/2020	-	30/11/2021	47	8	17	23	3	22	Completed the requisite age i.e. 47-Years

Petition Case S.No	Reg. No.	Name of Levies personnel	Date of Appointment	Date of Birth	Formula (30-11-2021 Minus DOA/DOB)	Thier Position as per Criteria Laid Down In Rules on 21-10-2021						Status as per Notification of 21-10-21
						Age Limit 45-Years			Service Length 25-Years			
						Years	Months	Days	Years	Months	Days	
41	4517	Said Alam	15/02/1998	14/02/1978	30/11/2021	45	9	16	23	3	15	Completed the requisite age i.e. 45-Years
18	4518	Sardar Ak	15/02/1998	18/02/1975	30/11/2021	46	3	11	23	3	15	Completed the requisite age i.e. 45-Years
55	4529	Hafiz Rahman	12/03/1998	15/03/1974	30/11/2021	47	8	11	22	8	18	Completed the requisite age i.e. 45-Years
31	4531	Wahid Shah	12/03/1998	02/02/1975	30/11/2021	46	9	28	22	8	17	Completed the requisite age i.e. 45-Years

Approved
Muzamil

No	Name	Date of Birth	Grade	Length of Service	Date of Retirement	Remarks
34	Saidur Ghani	12/03/1934	SI/1	48	30/11/2021	Completed the requisite age i.e. 45-Yrs
35	Amjad AS	12/03/1939	2002/1576	9	30/11/2021	Completed the requisite age i.e. 45-Yrs
36	Lata Akram	01/03/1939	01/01/1978	45	30/11/2021	Completed the requisite age i.e. 45-Yrs
37	Masid Iftodon	09/02/2003	02/01/1915	46	30/11/2021	Completed the requisite age i.e. 45-Yrs
38	Lal Iftak	09/02/2003	01/03/1976	48	30/11/2021	Completed the requisite age i.e. 45-Yrs
39	Bashir Akbar	26/02/2003	03/03/1974	47	30/11/2021	Completed the requisite age i.e. 45-Yrs
40	Syed Hussain	01/03/2003	26/04/1975	48	30/11/2021	Completed the requisite age i.e. 45-Yrs
41	Mehd Khalid	24/03/2003	30/02/1973	49	30/11/2021	Completed the requisite age i.e. 45-Yrs
42	Imdad Ullah	11/03/2003	03/03/1975	46	30/11/2021	Completed the requisite age i.e. 45-Yrs
43	Mujayid Badarsh	01/11/2003	15/03/1975	46	30/11/2021	Completed the requisite age i.e. 45-Yrs
44	Muhammad Maitha	27/07/2003	08/04/1973	48	30/11/2021	Completed the requisite age i.e. 45-Yrs
45	Bank Nadeem	09/03/2007	02/02/1976	45	30/11/2021	Completed the requisite age i.e. 45-Yrs
46	Shahid Usman Khan	05/10/2008	06/10/1977	44	30/11/2021	Completed the requisite age i.e. 45-Yrs
47	Sawar Khan	25/02/2009	01/07/1977	44	30/11/2021	Completed the requisite age i.e. 45-Yrs
48	Imdad Akram	16/03/2009	08/02/1975	43	30/11/2021	Completed the requisite age i.e. 45-Yrs
49	Fazal Muhammad	24/02/2010	01/02/1977	44	30/11/2021	Completed the requisite age i.e. 45-Yrs
50	Muhammad Farooq	20/05/2010	18/04/1977	44	30/11/2021	Completed the requisite age i.e. 45-Yrs
51	Muhammad Zaid	01/03/1998	30/05/1972	49	30/11/2021	Completed the requisite age i.e. 45-Yrs

The scrutiny committee members reached to the conclusion after thoroughly checking record of the Levies Personnel that each Individual Levy Personnel has completed/reached the upper age limit as per provided by the Rules 31-10-2021. Hence, rest of the above have left age to relocate them. This service under the said rules. Scrutiny committee record checked that levies personnel may be retransferred with effect from 22-02-2022 on commencement of PATA Levies Froze (extended) Ad.2021 with all financial benefits and to be retired under the extended Levies Rules 21-10-2021.

Signature
 Superintendent
 Malakand Levies

Signature
 Subedar Kishor
 Malakand Levies

Signature
 Incharge Establishment
 Malakand Levies

(CHAIRMAN, SCRUTINY COMMITTEE)
 AC/DEPUTY COMMANDANT MALAKAND LEVIES

Handwritten numbers: 74 and 20

Signature
 Superintendent
 Malakand Levies

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

FORM OF ORDER SHEET

Court of
 Case No. of

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
18-01-2022	<p><u>Interim Relief (N) with W.P No. 732-M/2021,</u> <u>Interim Relief (N) with W.P No. 1187-M/2021,</u> <u>Interim Relief (N) in W.P No. 1206-M/2021,</u> <u>Interim Relief (N) in W.P No. 1207-M/2021,</u> <u>Interim Relief (N) in W.P No. 34-M/2022 &</u> <u>Interim Relief (N) in W.P No. 1252-M/2021</u></p> <p>Present: M/S Barrister Dr. Adnan Khan, Sabir Shah and Zia-ur-Rahman Utmankhel, Advocates for the petitioners.</p> <p>Mr. Razauddin Khan, A.A.G for the respondents.</p> <p>*****</p> <p>Arguments on interim relief as prayed for in the writ petitions were heard. It is noticeable at the outset that as per the existing Rules notified on 21.10.2021, the tenure of three years had been provided for holding the post of Subedar Major, which period has already expired on 27.11.2021, in case of the petitioner in W.P No. 732-M/2021. Petitioner in the instant writ petition has though impugned amendments in the Rules notified on 22.03.2021 but he has not impugned the latest Rules that were notified on 21.10.2021. Claim of the petitioner is basically based upon earlier amendments to the Rules brought about by same authority on</p>

Attested
 Back
 Supdt.

Attested
 Superintendent
 Malakand Leones Malakand

(D-3)

FORMER MR. JUSTICE IHTIASH KHAN
 FORMER MR. JUSTICE MURAD AHMAD

Amir Khan (L)

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has not been guaranteed by any primary law enacted by competent legislation. With bringing of amendments on 14.07.2020 in the Rules, same authority cannot be deemed divested from further amending the Rules. The age of superannuation or retirement may well be changed by an authority who has initially provided same. Even otherwise, petitioner had entered service on same terms and conditions which are now available in the recently amended Rules. Petitioner could not establish a prima facie case of violation of any law or Rules applicable to him.

2. W.P No. 1252-M/2021 has been filed by various personnel of levies force, which included Sepoys, Carpenters, Mason, Cook, Tailors, Dhobi and Painter. All these petitioners have been apprehending their retirement on reaching the age the respective ages of retirement in the prevalent Rules. They have raised a number of objections to the prevalent Rules in their writ petition but unless and until the prevalent Rules are declared ultra-vires, null and void for any reason, they do not have a prima facie case for staying operation of the Rules and

A. C. [Signature]

[Signature]
 Superintendent
 Malakand Levies Malakand

(D.B)

HON'BLE MR. JUSTICE HMTIAC IBRAHIM
 HON'BLE MR. JUSTICE USQAR AHMAD

Superintendent
 Malakand Levies Malakand

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increasing their age of retirement.

3. In W.P Nos. 1187-M/2021, 1206-M/2021, 1207-M/2021 and 34-M/2022, petitioners are partly aggrieved of interim orders of this Court passed in W.P. No. 2210-P/2021 and W.P. No. 732-M/2021, whereby further appointments in all the levies force had been ordered to be stopped. To said extent, their writ petitions are not at all maintainable but they have also been seeking a restraining order against their retirement and have raised grievances against the impugned Rules as well, which are holding the field at the moment. An ad-interim injunction in one case cannot be challenged by filing a separate writ petition. So far as grievances of the petitioners arising from the prevalent Rules are concerned, such grievances may be heard by the larger Bench finally but at the moment, they were not found having a prima facie case for suspending operation of the Rules and extending their age of retirement. In case, where vires of the law or Rules are challenged, then interim relief cannot be granted. Reliance in this respect may be placed on judgments of the Hon'ble Supreme Court of Pakistan given in the case of Federation of Pakistan vs. Aitzaz Ahsan and

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Superintendent
Malakand Levies Malakand

(D.R)

HON'BLE MR. JUSTICE IHTIYAS UDDIN
HON'BLE MR. JUSTICE WIGAR AHMAD

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larger Bench for consideration of the questions involved therein, which cases have already been pending before larger Bench of this Court constituted at the Principal Seat. The question of jurisdiction in the instant cases also requires consideration of the larger Bench. Office is directed to send these connected cases to the Principal Seat for placing same before Hon'ble the Chief Justice for appropriate orders in respect of its fixation before the larger Bench constituted for determining the status of levies personnel and the forum available to them.

JUDGE
JUDGE

Accepted
Jade
and
Supdt's
20/11/2012
President
Malabar Levies Malakand

OFFICE OF THE CHIEF JUSTICE
MALABAR LEVIES MALAKAND

and the case of Aijaz Ali Khan Jatoi vs. Liaquat Ali Khan Tatoi reported as 1993 SCMR 2350.

4. In light of what has been discussed above, petitioners could not establish a prima facie case for grant of the interim relief. The ad-interim injunction granted in W.P No. 732-M/2021 vide order dated 24.11.2021 as well as the ad-interim injunction granted in W.P No. 1252-M/2021 vide order dated 11.01.2022, in W.P No. 1187-M/2021 vide order dated 08.12.2021, in W.P No. 1206-M/2021 vide order dated 15.12.2021, in W.P No. 1207-M/2021 vide order dated 15.12.2021 and in W.P No. 34-M/2022 vide order dated 30.12.2021, are hereby recalled.

5. This Court vide its judgment dated 24.03.2021 rendered in the case of Ikramullah and another vs. Deputy Commissioner/Commandant Dir Levies Provincial District Dir Upper and others (W.P No. 528-M/2016) had held that levies personnel had been civil-servants and as such jurisdiction of this Court was barred. On said issue, this Court vide order dated 30.06.2021 passed in W.P No. 367-M/2021 had requested for constitution of a

Attested

Jehadi
Supatt
Representative
Mawabana Levies Malakana

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

Amex (M)
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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;

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[Signature]
Superintendent
Malakand Levies Malakand

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;

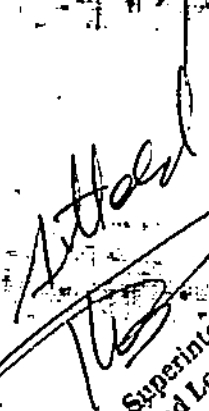
(h) "Police" means the Khyber Pakhtunkhwa Police;

(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;


Superintendent
Malakand Levies Malakand

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

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

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).

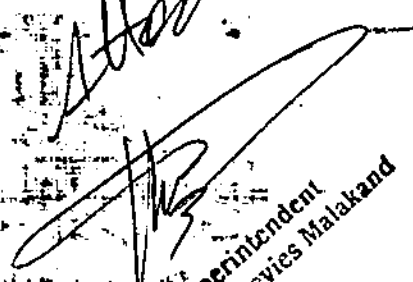
4. Superintendence, administration and control of the Levies Force.—(1) The overall power of superintendence of the Levies Force shall vest in Government.

(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.

Attest

Superintendent
Malakand Levies Malakand

(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.

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Superintendent
Malakand Levies Malakand

(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

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

Attest
[Signature]
Superintendent
Malakand Levies Malakand



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

homedepartmentlegalcell@gmail.com

Phone No. 091-9213709, Fax No. 091-9210201

No.SO (Lit-II)/HD/(62/024)/SA-(422/2024)/ Fazal Rehman

Dated Peshawar the 11th June, 2024

To

The Deputy Commissioner,
Malakand/Commandant Levies.

Subject:- SA-422/2024-FAZAL REHMAN VS GOVT OF KPK.

Dear Sir,

I am directed to refer to subject noted above and to enclose herewith a copy of Notices dated 04.06.2024 received from Registrar Khyber Pakhtunkhwa, Service Tribunal Peshawar with regards to submission of the JPWC well in time long before next hearing schedule on 01-07-2024.

2- I am, therefore, to request to prepare the JPWC before next hearing and to depute a well conversant officer alongwith entire relevant record of the case to attend the Khyber Pakhtunkhwa Service Tribunal thereof progress of each hearing may also be shared with this section for taking further course of action.

3- Being court matter may be treated as 'Most Urgent' please.

Section Officer (Litigation-II)

Encls: As above

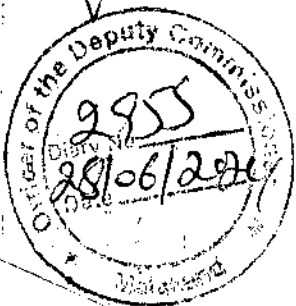
Endst No. & Date Even

Copy of the above is forwarded to the: -

- 1- Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar
- 2- Additional Secretary (Judicial), Home Department
- 3- Deputy Secretary (Litigation), Home Department
- 4- PS to Additional Chief Secretary Home, Khyber Pakhtunkhwa.
- 5- Master File

Section Officer (Litigation-II)

Litigation / supd levies
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CS&PD-2/664-RST-30,000 Forms-1-11-2022/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Case No. 9969 of 29.05.2024
Appeal No. 427 of 2024
Fazal Rehman Appellant/Petitioner
Versus
DS (L&T) Through Chief Secy Pesh Respondent
Respondent No. 2

31/05/24
Notice to: Govt of KPK Through Secy: Home & Tribal Affairs civil secretariat Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 4-6-24 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 22

Day of May 20 24

For Reply of Camp Court Secret

For n/a Solicitor-II 31/6/24

[Signature]

[Signature] Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Note: 1) The hours of appearance before the Tribunal are the same that of the High Court except Sunday and Gazetted Holidays. 2) Always quote Case No. & Date in my correspondence.

**BEFORE THE JUDICIAL OFFICER PAKHTUNKHWA SERVICE
TRIBUNAL AT BAWAR (CAMP COURT AT SWAT)**

Service Appeal No. 177 of 2024

Fazal Rahman Appellant

VERSUS

Government of Khyber Pakhtunkhwa and another
..... Respondents

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Appellant

Fazal Rahman
Fazal Rahman

Plaintiff / Counsel

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