


FORM OF ORDER SHEET

Court of _____

Appeal No. 1472/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/09/2024	<p>The appeal of Mr. Umar Wahid presented today by Mr. Muhammad Amin Ayub Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 27.09.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

**BEFORE THE HONORABLE SERVICE TRIBUNAL KPK
PESHAWAR**

Service Appeal No: 1472 2024

Umar Wahid (Appellant)

VERSUS

Government KPK etc..... (Respondents)

**Application for fixation the titled appeal at principle seat
Peshawar.**

Respectfully Sheweth:

1. That the titled service appeal petition has been submitted which is yet to be fixed.
2. That as a matter of fact maximum respondents are in Peshawar and it would be inconvenience of appellant to fix the appeal at Peshawar. Morove as well as per rule of this Hon'ble Tribunal the appeal may be fix as per convenience of the parties.

It is therefore humbly prayed that on of acceptance of this application the titled service appeal may kindly be fix for hearing at principle seat Peshawar.

Through

Appellant


M Amin Ayub

Advocate, High Court
Peshawar

Dated:19/09/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1472/2024

Umar Wahid..... Appellant

Versus

The Govt. of KPK and others Respondents

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Through

Appellant

Muhammad Amin Ayub

&

Muhammad Faqir Khan
Advocates, High Court
4-B, Nimra Plaza
Faqir Abad, Peshawar
0313-9040434.

dated 18/7/24

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1472/2024

Umar Wahid,
S/o Munta Khan,
Ex-Subedar, Malakand,
Levies No.3800.....**Appellant**

VERSUS

1. **The Govt. of Khyber Pakhtunkhwa**
through Secretary,
Civil Secretariat, Peshawar.
2. **The Secretary Home Department,**
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
3. **The Deputy Commissioner/Commandant,**
District Malakand at Bathhela.
4. **Sami-Ullah**
S/o Saeed Gul, Subedar Major,
Malakand Levies, Levies Headquarter Malakand.....**Respondents**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 26.04.2022 WHEREBY RESPONDENT NO.4 HAS BEEN PROMOTED TO THE RANK OF SUBEDAR MAJOR (BPS-16) ON REGULAR BASIS AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL BUT THE SAME WAS NOT RESPONDED WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned Notification dated 26.04.2022 may kindly be set aside and appellant be promoted to the rank of Subedar Major (BPS-16) (as proforma promotion) with effect from due date with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. **That** appellant being citizen of Pakistan having all the fundamental rights which have been incorporated in the body of the Constitution of Islamic Republic of Pakistan, 1973, and is supposed to be treated in the accordance with and rules.
2. **That** appellant possesses the FA Certificate from the recognized Institution. He joined the Levy Force way back in the year of 1988. On the basis of exemplary service appellant was offered promotion to the rank of Lance Naik on 01.07.2006, Naik on 14.07.2009, Havaldar on 18.01.2010, Naib Subedar on 19.04.2016 and lastly got promoted to the rank of Subedar (BPS-14) on 25.06.2020. Needless to add here that throughout his career appellant has never ever been gone through the departmental proceedings and rendered meritorious service.
3. **That** thereafter, appellant was enlisted into the Seniority List of Subedar's (BPS-14) (*Annex:-A*) and became eligible for promotion to the rank of Subedar Major (BPS-16). By means of Notification dated 22.03.2021 (*Annex:-B*) Service Rules were amended for the entire Levy Force, likewise, the criteria for the promotion to the rank of Subedar Major (BPS-16) was also altered which speaks that "*On the basis of Seniority-cum-fitness from amongst the Subedars having Intermediate Qualification*".
4. **That** as a matter of fact some posts of Subedars Major (BPS-16) were lying vacant, which were to be filled by way of promotion form amongst the Sundars. Department promoted Mr. Sami Ullah (Subedar)/Respondent No.4 on Acting Charge Basis by virtue of Notification dated 25.06.2021 because he was lacking the requisite qualification/length of service for the subject promotion. Later on, Departmental Promotion Committee meeting was held on 19.04.2022 whereby Respondent No.4 was unlawfully and illegally promoted to the rank of Subedar Major (BPS-16) on regular basis vide impugned promotion Notification dated 26.04.2022 (*Annex:-C*).
5. **That** under the law the members of the DPC were required to adhere to the criteria/promotion rules i.e. *Intermediate Qualification*. Moreover, in such a situation it was/is the bounded duty of the DPC to consider the other employees for the subject promotion as well because consideration for promotion is vested

right of every civil servant but to no avail. Seniority list will further reveal that appellant albeit was placed at Serial No.2 while Subedar at Serial No.1 namely Muhammad Ikram was shown to be illiterate therefore, he was not eligible to be promoted to the subject rank.

6. **That** later on, somehow appellant found out that Respondent No.4 did not have FA qualification. This fact is also visible from the SSC (*Annex:-D*) which will reveal that Respondent No.4 did his Matric in (General Group) and legally a aspirant could not be allowed to get DAE Diploma (*Annex:-E*) which is for (Science Group) students, therefore, appellant instantly submitted a written Complaint on 09.05.2022 (*Annex:-F*) which was consequently forwarded to the Director (Certification) National Vocational and Teaching Training Commission (NAV TTC), Islamabad on 21.06.2023, likewise, letter dated 24.09.2020 (*Annex:-G*) for verification, which was replied by virtue of letter dated 22.06.2023 (*Annex:-H*) on the following terms:-

2. *"It is pertinent to mention here that the aforementioned institute i.e. Pakistan Technical & Education Council Islamabad is not listed in the notification titled "valid & Approved Certificate Bodies/Qualification Awarding Bodies in the field of Technical & Vocational Training" issued by NAV TTC Vide F.No 2(11)/2011/certificate/65 dated 24.09.2020 (copy attached). Hence, it is not a valid Qualification Awarding Body and tis issued certificate/diploma is invalid"*

3. *Submitted for your information and further necessary action.*

Similarly, letter dated 03.05.2024 (*Annex:-I*) of the same authority which indicates the fake certification in the field of Technical & Vocational Education & Training in Pakistan. Appellant thereafter, ventilated series of applications (*Annex:-J*) to the concerned quarter for proper inquiry.

7. **That** thereafter, a comprehensive inquiry/trial into the matter was carried out by the Respondent No.2, thereon notices were issued to appellant alongside Mr. Samiullah Respondent No.4 for appearance and arguments. Finally complaint came for hearing on 11.09.2023 (*Annex:-K*) and adjudicated on the following terms which is herein below for ease to reference:-

"On 22.06.2023, NAV TTC, Islamabad informed that Diploma issued by the PT&EC to Mr. Samiullah was not included in the registered institution list with them. Therefore, the Diploma is invalid. List of approved technical organization has also been

enclosed by the NAVTTC wherein Pakistan Technical and Educational Council were not found.

Keeping in view the ambiguity and dual statement by the NAVTTC Islamabad and Pakistan Technical Educational Council Peshawar, officers/staff of Home Department were deputed to visit the institution and physically verify the diploma certificate and above mentioned institution.

On 6.7.23 concerned officers submitted their detailed report with the conclusion that there was big question mark on the existence of the body of Pakistan Technical & Educational Council Islamabad, as nothing had been found or provided to establish its legal existence.

Derive from above position; the case is simple in nature Respondent Sami Ullah did not get NOC for diploma at that time. As informed by the representative of DC Malakand, no entry in his service book was made till yet. No extra ordinary leave 3 years had been granted to him while 3 years regular classes were impossible without leave. Last but not the least, he did matriculation in 1989 in Arts while obtained the DAE in the year 2006, after a gap of 16 years approximately in the subject of applied mathematics, applied physics and applied chemistry which is beyond comprehension.

8. That it was culminated by the inquiry/trial that appeal of Umar Wahid is admitted. It is hereby ordered that fresh Departmental Promotion Committee (DPC) meeting may be convened and promotion may be made in light of qualification and valid documents". Appellant was hopeful that his grievance would be redressed and promotion Notification dated 26.04.2022 would be withdrawn but to no avail. Moreover, the copy of the inquiry was also transmitted to Respondent No.3 on 18.09.2023 (Annex:-L) for necessary action, reminder as well on 23.10.2023(Annex:-M).
9. That Respondents failed to pass an appropriate order upon the inquiry ibid and in the meanwhile Respondent No.4 invoked the jurisdiction of the Hon'ble Peshawar High Court, Mingora Bench in Writ Petition No. 3775/2023, besides, seeking and interim relief whereby Respondents were directed not to pass final order upon the inquiry/judgment against him vide Order dated 01.09.2023 (Annex:-N).
10. That during that period appellant alongwith others were being disgruntled of the premature retirement rules knocked the door of the this Hon'ble Tribunal by way of filling Service Appeals which were clubbed together and adjudicated upon by means of consolidated judgment dated 24.08.2023 (Annex:-O) and remitted back the matter to Respondents. Whereafter, appellant got premature

retired from service as is evident of the Office Order dated 06.06.2024 (*Annex:- P*).

11. That appellant being mortally discontented of the impugned promotion Notification dated 26.04.2022 preferred Departmental Appeal on 13.06.2024 (*Annex:-Q*) but the same was not replied within the statutory period, hence the instant Service Appeal inter-alia on the following grounds:-

Grounds:

- A. That Department has not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused to conduct a fresh DPC by considering appellant for promotion to the rank of Subedar Major (BPS-16), which is unjust, unfair and hence not sustainable in the eye of law.
- B. That appellant was eligible, having requisite qualification but was unlawfully not promoted to the subject rank which caused financial loss to appellant on the one hand and damaged his career progression on the other. The unlawful omission on the part of the Respondents cannot be justified under any canons of law, justice and fair play. Reliance is placed on Judgment 2013 PLC (CS) 786, 1985 SCMR 1158, 2000 PLC (CS) 697, 2021 PLC (CS) 362:

2013 PLC (CS) 786 Supreme Court

—Ante-dated promotion—Promotion with effect from date of availability of vacancy — Civil servant (petitioner) was inducted in BS-17 and was subsequently given various assignments in BS-18 on current charge basis —Grievance of civil servant was that he should have been considered for promotion with effect from the date when the post in BS-18 fell vacant — Service Tribunal dismissed appeal filed by civil servant — Validity — Civil servant was inducted into service in BS-17 — Subsequently he was promoted to BS-18 on current-charge basis, however by that time he was eligible and qualified to be promoted to BS-18 and even vacancies were available—Petition for leave to appeal to Supreme Court was converted into appeal and allowed, and competent authority was directed to consider civil servant for promotion to BS-18 with effect from the date when the vacancy occurred, provided he was qualified to be considered for the same.

1985 SCMR 1158

—Seniority—Quota fixed for direct recruitment and promotion in filling vacancy in higher posts—Direct recruits and promotees—Joint seniority list—Promotees to be considered for promotion with effect from dates when vacancies in their quota became available—Joint seniority list of officers directly recruited and those promoted to be issued according to Rules. [p. 1159] A

2021 PLC (CS) 362

—S. 7(2), proviso—Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974, R. 8(2), Explanation—Batch of 'promotees'—Seniority—Scope—Where civil servants were selected for promotion in a "batch" or as a "group of persons" then the date of promotion of all the persons in the batch or the group shall be the date when anyone of them was first promoted to the post and they shall retain their inter se seniority—Word "batch" used in S. 7 of Punjab Civil Servants Act, 1974 ('the Act') had been interchangeably used as "group of persons" in R. 8 of Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974—Promotees in the same grade, when considered and recommended for promotion for the next grade in the same Departmental Promotion Committee (DPC) passed for a "batch" or "group of persons" and therefore as would be considered to have been promoted from the date when the first amongst the batch was promoted and would also retain their inter se seniority of the lower post.

2000 PLC (CS) 697

—Rr.13.18 & 13.20—Punjab Service Tribunals Act (IX of 1974), S.4—Constitution of Pakistan (1973), Art.4—Anti-dated promotion/confirmation—Entitlement—Civil servant despite being senior was ignored whereas juniors to him were granted anti-dated confirmation/promotion—Service record of junior officers was not better than the civil servant and Authority had not given any valid reason or justification to give the civil servant a different treatment except that powers under Rr.13.18 & 13.20 of Punjab Police Rules, 1934 were discretionary and that Authority in his discretion did not find it fit case to permit period of officiating service to be counted towards period of probation—Powers of exercising discretion vesting in Authority, must be bounded by rules of equity, fairplay and justice and could not be exercised arbitrarily and capriciously—Failure to treat all like persons in like situations without any reasonable distinction would tantamount to discrimination which was not allowed by law and discrimination in like situation would offend against Art. 4 of the Constitution of Pakistan (1973) and also would be violative of principles of Sharia.

- C. That almost all the formalities regarding the promotion have been fulfilled since long but still the Respondents were reluctant to hold the meeting of Departmental Promotion Committee, which was/is not tenable under the law. As submitted hereinabove that the qualification of FA of Mr. Samiullah was found to be bogus/faked by the inquiry/trial therefore, he was not eligible to be promoted to the rank of Subedar Major. It is expounded that to the shake the authenticity of the documents is the duty of the department that whether the incumbent who produces the Certificate/Degree is valid or otherwise, however, it was appellant who invited the attention towards the same. Thus appellant was illegally deprived from his lawful right of promotion against the subject rank. Had the case of the appellant been considered for promotion in due time then he would definitely been promoted but utter discrimination has been meted out

towards the appellant which is not sustainable in the eye of law. Reference is made to 1991 SCMR 1040, 2018 PLC (CS) Note 86, 2004 PLC (CS) 1234 and 2003 PLD Peshawar 27.

1991 SCMR 1040

—Art. 25(1)—All citizens are equal before law and entitled to equal protection of law—State, however, is not prohibited to treat its citizens on the basis of a reasonable classification —Reasonable classification—Basis or criterion for classification as to avert violation of Art. 25(1).

2018 PLC (CS) Note 86 (Peshawar)

Equal protection of law means that no person of or class of person shall be denied the same protection of law which is enjoyed by other person or other class of persons in like circumstances. Similarly, reasonable classification amongst different groups of persons is admissible; however, to justify the validity of a classification, it must be shown that it is based on reasonable distinction or that it is on reasonable basis or rest on real or substantial difference of distinction. [para 9 of the judgment]

2004 PLC (CS) 1234 (Peshawar)

—Arts. 25 & 199—Constitutional petition—Police Order (22 of 2002), Arts. 7 & 8—Civil Service—Discrimination—Persons in comparable situation, must be treated alike, thus differently treating them would be direct discrimination—Discrimination can arise only through application of different rules to comparable situations of the application of the same rules to different situations—Eventually, the separation of the two units from one another would not be a step justified in law and would be against the spirit and commandants of the provisions of Police Order, 2002 as well as the Constitution.

2003 PLD Peshawar 27

—"Discrimination"—Connotation—Discrimination occurs only when two or more persons, who are similarly placed, in similar situation and in similar ambient circumstances, are treated differently.

- D. That order dated 11.09.2023 which has been passed by the concerned quarter after furnishing proper opportunity of audience to the parties, left no room to any confusion that the promotion Notification dated 26.04.2022 of Respondent No.4 was void-ab-initio. Therefore, it has now been settled legal principle that depriving of a civil servant from his promotion amounts to major punishment.
- E. That as per the direction of the Hon'ble Peshawar High Court, Mingora Bench passed in Writ Petition No. 587-M/2012 (*Annex:-R*) as well as nature of duties of the post of Subedar Major being the second highest rank in the Levies Force, therefore, a qualified and experienced persons are to be promoted to it whereas Respondent No.4 was lacking such credentials, therefore, he was unlawfully

promoted to the rank of Subedar Major (BPS-16). It is absolutely necessary to add here that in ordinary manner whenever a civil servant wants to improve his qualification then he seeks proper NOC from the Department and after getting the same he is allowed to the same and that too entry in this respect is reflected in the Service Book. In this purview of the matter no such procedure has been adopted by the Respondent No.4.

- F. That appellant was entitled to promotion in all respect but he was deliberately not promoted and in quite similar circumstances other employees were promoted while appellant was willfully ignored for ulterior motives which are against the fundamental rights of the appellant. Reliance is placed on 2021 SCMR 1266, 2017 PLC (CS) 1292, 2009 PLC (CS) 229, the relevant Paras are reproduced herein below for ready reference:-

2022 SCMR 448

“(g) Civil service— —Antedated promotion—Departmental Promotion Committee (DPC)—Delay in holding DPC meeting—Effect—Where the meeting of DPC scheduled to be held is postponed or adjourned without announcing any future date or not convened within reasonable period to the prejudice of an officer/employee, the competent authority in order to foster justice may grant antedated promotion to the higher post bearing in mind the eligibility and fitness in the DPC so that such officer/employee may not be subjected to a lower position in his/her seniority list or become victim of unwarranted delay in holding DPC by the competent authority.”

2021 SCMR 1266

“—Pro forma promotion—Respondent, who was otherwise eligible for promotion, was not promoted by the Departmental Promotion Committee (DPC), as it adjourned its meeting to a later date, by which time the respondent had retired—Held, that respondent had completed the requisite years of service provided by the promotion rules and the relevant official had also certified that there was no impediment in grant of promotion to him—Departmental Promotion Committee (DPC) for considering promotion was held on 19-06-2017 but was adjourned on the pretext that fresh option of officials forgoing their promotion be obtained—After adjourning of the meeting by DPC, the next meeting took place on 19-10-2017, but in the meantime, the respondent had retired from service on 21-06-2017—Due to the department's own non-vigilance and the DPC being insensitive to the employees who were on the verge of retirement, the department could not simply brush aside the case of an employee by merely saying that he had retired—Once the case of respondent had matured for promotion while in service and was placed before the DPC before his retirement, it was incumbent upon the DPC to fairly, justly and honestly consider his case and then pass an order of granting promotion and in case it did not grant promotion, to give reasons for the same—Impugned judgment of

the Tribunal, directing the department to consider the case of promotion of respondent, did not suffer from any illegality—Appeal was dismissed.”

2017 PLC (CS) 1292 (Supreme Court)

“—Para. 242—Naib-tehsildar, appointment of—Respondent who was serving as Kanungo was not considered for promotion as Naib-tehsildar as the Departmental Promotion Committee had already reserved name of one of his senior colleagues for promotion as Naib-tehsildar—Legality—Seat of Naib-tehsildar had been illegally reserved by the Departmental Promotion Committee for a senior colleague of respondent, which clearly showed mala fide and favouritism on the part of the competent authority—Service Tribunal had rightly observed that the only reason for which the respondent could not be considered for promotion was that one of the five available posts of Naib-tehsildar had been reserved for his senior colleague; that said colleague was not recommended for promotion on account of pendency of an inquiry against him and so it was the respondent who could have been considered for promotion being the next in seniority—Besides senior colleague of respondent was working against an ex-cadre post out of district, as such was not working in his parent department, therefore, he being posted out of the district was ineligible for promotion—Service Tribunal had rightly given directions to consider respondent for antedated promotion of Naib-tehsildar with effect from the date when the vacancy of Naib-tehsildar had been reserved for his senior-colleague—Appeal was dismissed accordingly.”

2009 PLC (CS) 229

“—S. 9—Promotion—If service benefits had actually accrued to an employee, but for one reason or the other such benefits could not be awarded to him, then irrespective of the fact whether he had retired from service or not, the department concerned would still have to consider his case for such promotion and to allow him/his benefits of such promotion, even after his retirement.”

G. That as per Section-9 read with Rule-7(3) of the Khyber Pakhtuynkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 which states that:-

Section-9 KP civil servant Act, 1973

“A civil servant possessing such minimum qualification as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for departmental promotion in the service or cadre to which he belongs, may either be a selection post or non-selection post.

Rule-7(3) of APT, 1989

“Persons possessing such qualification and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered for promotion or transfer, as the case may be”

The word *Selection* itself provides that seniority of a civil servant shall not be a determining factor for promotion rather seniority-cum-fitness. The August Court in reported verdict 2022 PLC (CS) 610 has laid down a principle that:-

*"Promotion—Eligibility and fitness—Factors to be considered—
-Eligibility itself is not the benchmark for promotion, rather the
most vital yardstick is fitness, which can be judged from the
service record which includes ACRs, qualification etc"*

H. That appellant was discriminated because in quite identical circumstances by means of Notification dated 28.11.2018 one Mr. Faridullah the employee of the same Department was got promoted to the rank of Subedar Major (BPS-16) by giving preference over Mr. Amir Nawab Subedar although he was senior to him but was lacking the requisite qualifications. Thus, appellant is entitled to be treated in accordance with law and Article-25 of the Constitution of Islamic Republic of Pakistan, 1973.

I. That Article-3 of the Constitution, 1973 provides that *"the State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle from each according to his ability to each according to his work*. Similarly, Article-2A of the Constitution narrates as follows:-

"The principles and provisions set out in the objectives Resolution reproduced in the annex are hereby made substantive part of the Constitution and shall have effect accordingly."

Therefore, under the law Respondent Institution was supposed to treat appellant in accordance with law, rules and practices as set forth in the Constitution.

J. That appellant was entitled to promotion in all respect but firstly his case was deliberately delayed and secondly the findings of the order/judgment dated 11.09.2023 are not being complied with, which is against the fundamental rights of the appellant.

K. That albeit promotion is not a vested right of a civil servant but consideration for promotion is a vested right whenever he fulfills the entire ingredient for the subject promotion. The above inquiry/trial dated 11.09.2023 and correspondence dated 18.09.2023 and 23.10.2023 of the Department clearly transpires that appellant was eligible for promotion to the subject rank that is why his complaint was accepted against the qualification of Mr. Sami Ullah but

to the utter bewilderment his case is not being considered in light of the findings.


- L. That further submitted the delay if any may kindly be condoned because appellant had submitted a complaint against Mr. Samiullah in respect of his qualification which took long time and ultimately decided in favour of appellant on 11.09.2023. Moreover, Mr. Sami Ullah filed Writ Petition No. 3775-M/2023 and got interim relief vide order sheet dated 01.09.2023.
- M. That appellant would like to offer some other additional grounds during the course of arguments when the stance of the Respondents is known to the appellant. Moreover, under the rules had appellant been promoted timely to the rank of the Subedar Major (BPS-16) then he would have been entitled to complete his three years mandatory service, therefore, appellant also reserve the right of further employment.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant


Muhammad Amin Ayub
Advocate, High Court

&


Muhammad Tariq Khan
Advocate, High Court

Dated: 18 /09/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2024

Umar Wahid..... Appellant

Versus

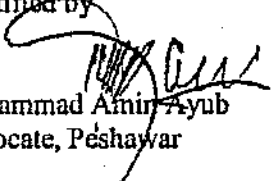
The Govt. of KPK and others Respondents

Affidavit

I, Umar Wahid S/o Munta Khan, Ex-Subedar (BPS-14), do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.

Deponent

Identified by


Muhammad Amin Ayub
Advocate, Peshawar

A
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2024

Umar Wahid..... Appellant

Versus

The Govt. of KPK and others Respondents

Application for condonation of delay (if any) in filing the instant Service Appeal.

Respectfully Sheweth,

1. That the titled appeal is being filed in this Hon'ble Tribunal which is yet to be fixed for hearing.
2. That Respondent No.4 by means of impugned promotion Notification dated 26.04.2022 promoted against the rank of Subedar Major BPS-16 on the basis of fake Diploma. Later on appellant found out that the Diploma on basis of which he got promoted is fake, therefore, he instantly moved a complaint on 09.05.2022 followed by series of applications. Consequently, Respondent No.2 was pleased to hold inquiry/trial by issuing notice to Respondent No.4 who appeared.
3. That after proper hearing of appellant and Respondent No.4 complaint of the appellant was allowed on 11.09.2023 by directing the concerned quarter to hold a fresh DPC in light of qualification and valid documents followed by reminders. Respondent No.4 filed Writ Petition No. 3775-M/2023 against the inquiry and sought interim relief which was granted to him on 01.09.2023, which is pending adjudication before the Hon'ble High Court. Appellant also submitted a detail reply in the Writ Petition
4. That appellant vigilantly pursued the instant matter but could not submit the service appeal owing to above circumstances. Moreover, it has been held time and again by the Apex Court that the question of limitation in cases of promotion is not admissible even otherwise, it is mixed question of facts and law and it should not be made a hurdle where the claim of the claimant is based upon legal footings and where there is clear apprehension that if the said relief was not granted to him, it will adversely affect the service career of an employee.
5. That valuable rights of the appellant are involved in the instant case and it is highly in the interest of justice to condone the delay otherwise the appellant will be put to dire troubles.
6. That it has become a settled legal principle that technicalities including limitation are to be avoided for the safe administration of justice.

It is, therefore, humbly prayed that the delay (if any) caused in filing the instant appeal may graciously be condoned.

Through

Applicant/Appellant


Muhammad Amin Ayub
AHC

Dated: 18 /09/2024

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2024

Umar Wahid..... Appellant

Versus


The Govt. of KPK and others Respondents

Affidavit

I, Umar Wahid, Ex-Subedar, do hereby solemnly affirm and declare on oath that the contents of this Application are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.

Deponent

Identified by


M. Muneer Akhbar
Khatib-e-Riswan
ABC

47	4434	Syed Abul Khaliq	PA	4	5-3"	30"-33"	08/03/1958	07/05/1978	23/04/2018	31/01/2022	11/06/2022	-	-	-	-	-	-	46	8	3	28	10	4	-	-	-
48	4439	Mohd Ibrahim	Metric	-	-	-	04/03/1958	09/03/1974	16/03/2018	30/03/2022	17/06/2022	-	-	-	-	-	-	48	6	1	26	8	1	-	-	-
49	4430	Mohd Fayal	Metric	-	-	-	12/03/1956	17/05/1975	18/10/2017	31/01/2022	17/06/2022	-	-	-	-	-	-	47	7	24	28	7	26	-	-	-
50	4432	Husein Ahmad	Metric	-	-	-	17/03/1956	14/04/1978	18/10/2017	31/01/2022	05/08/2022	-	-	-	-	-	-	47	8	27	28	3	18	-	-	-
51	4433	Habib ulah	Metric	-	-	-	26/03/1956	10/02/1973	18/10/2017	31/01/2022	05/08/2022	-	-	-	-	-	-	47	11	0	29	3	13	-	-	-
52	4436	Amir Badshah	Metric	-	-	-	21/03/1957	01/02/1976	18/10/2017	31/01/2022	05/08/2022	-	-	-	-	-	-	46	11	8	25	11	9	-	-	-
53	-	Vacant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

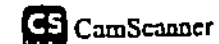
S.No	R.No	Name	Qualif.	Height	Chest	Date of Enlistment	DOB	U/Jan	Med	Retirement									
										On Age 45-Years	On Service 25-Years								
									Years	Months	Days	Years	Months	Days					
1	4438	Umair Zamin	-	5-8"	30"-31"	01/02/1997	01/02/1978	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
2	4447	Said Amin Bash	Metric	5-8"	31"-36"	01/02/1997	01/02/1979	18/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
3	4444	Muhammad Ahmed	-	5-10"	32"-34"	04/02/1997	04/02/1979	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
4	4445	Sidi Mohd	Metric	5-5"	31"-33"	01/02/1997	05/02/1979	10/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
5	4449	Wali Hussain	Metric	5-3"	30"-32"	01/02/1997	01/02/1978	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
6	4450	Hussain Gul	Metric	5-5"	33"-33"	01/02/1997	01/02/1978	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
7	4453	Sandur Hussain	-	5-8"	34"-36"	01/02/1997	01/02/1979	18/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
8	4454	Rahim Zub	Metric	5-7"	33"-35"	01/02/1997	01/02/1979	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
9	4455	Nashir ulah	-	5-10"	30"-32"	01/02/1997	01/02/1978	18/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
10	4456	Arifad Ali	Metric	5-8"	31"-33"	16/02/1997	16/02/1977	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
11	4459	Zar Ali	Metric	5-6"	32"-34"	18/02/1997	18/02/1978	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
12	4461	Amir Zub	Privvy	5-3"	31"-33"	01/02/1997	01/02/1978	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
13	4463	Zahir Shah	Metric	5-7"	32"-34"	03/03/1997	03/03/1978	18/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
14	4464	Ghous Khan	BA	5-6"	33"-35"	03/03/1997	03/03/1978	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
15	4465	Abdur Rahman	Privvy	5-3"	30"-32"	03/03/1997	03/03/1977	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
16	4468	Amir Gul	Metric	5-8"	33"-35"	07/03/1997	07/03/1978	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
17	4469	Fazal Ghaffar	Metric	5-6"	30"-32"	11/03/1997	11/03/1978	19/10/2017	31/01/2022	-	-	-	-	-	-	-	-	-	-
18	4474	Ghuas Zada	Metric	5-5"	33"-35"	20/03/1997	20/03/1977	13/01/2018	31/01/2022	-	-	-	-	-	-	-	-	-	-
19	4475	Mohd Ishag	Metric	5-10"	33"-35"	09/11/1997	09/11/1976	15/01/2018	31/01/2022	-	-	-	-	-	-	-	-	-	-
20	4479	Sandur Hussain	-	5-6"	33"-35"	13/04/1998	05/02/1980	15/01/2018	31/01/2022	-	-	-	-	-	-	-	-	-	-
21	4481	Fyza Khan	-	5-4"	33"-37"	12/05/1998	12/05/1978	13/01/2018	31/01/2022	-	-	-	-	-	-	-	-	-	-
22	4484	Nisar Zada	MA	5-6"	32"-34"	15/05/1998	15/05/1977	13/01/2018	31/01/2022	-	-	-	-	-	-	-	-	-	-
23	4485	Fahd Khan	Metric	5-7"	32"-34"	15/07/1998	01/01/1975	15/01/2018	31/01/2022	-	-	-	-	-	-	-	-	-	-
24	4491	Said ur Rahman	Metric	5-8"	30"-32"	04/07/1998	15/03/1980	13/01/2018	31/01/2022	-	-	-	-	-	-	-	-	-	-
25	4494	Zahid Mohd	Metric	5-6"	34"-36"	23/07/1998	01/01/1978	13/01/2018	31/01/2022	-	-	-	-	-	-	-	-	-	-
26	4501	Kamran Haid	Metric	5-8"	30"-32"	01/08/1998	01/01/1980	04/03/2019	31/01/2022	-	-	-	-	-	-	-	-	-	-
27	4502	Mohd Ayaz	Metric	5-5"	29"-31"	01/08/1998	09/10/1978	04/03/2019	31/01/2022	-	-	-	-	-	-	-	-	-	-
28	4504	Mohd Iqbal	Metric	5-8"	32"-34"	01/08/1998	04/01/1978	04/03/2019	31/01/2022	-	-	-	-	-	-	-	-	-	-
29	4505	Inam ur Rahman	Metric	5-8"	31"-33"	03/08/1998	10/03/1979	20/09/2019	31/01/2022	-	-	-	-	-	-	-	-	-	-
30	4506	Miraj ul Haq	Metric	5-6"	32"-34"	03/08/1998	02/04/1979	20/09/2019	31/01/2022	-	-	-	-	-	-	-	-	-	-
31	4508	Hussain Khan	Metric	5-4"	31"-33"	03/08/1998	04/01/1975	26/02/2020	03/01/2022	-	-	-	-	-	-	-	-	-	-
32	4509	Zib ulah	BA	5-6"	33"-34"	07/09/1998	03/02/1978	28/04/2020	31/01/2022	-	-	-	-	-	-	-	-	-	-
33	4511	Ali Rahman	Metric	5-11"	34"-36"	07/09/1998	14/09/1979	25/05/2020	31/01/2022	-	-	-	-	-	-	-	-	-	-
34	4512	Zab Ali	Metric	5-7"	33"-35"	12/09/1998	01/02/1978	25/05/2020	31/01/2022	-	-	-	-	-	-	-	-	-	-
35	4513	Bera Wadan	Metric	5-5"	32"-34"	15/09/1998	25/02/1978	25/05/2020	31/01/2022	-	-	-	-	-	-	-	-	-	-
36	4514	Fazal Wahab	Metric	5-5"	33"-34"	15/09/1998	23/02/1978	25/05/2020	31/01/2022	-	-	-	-	-	-	-	-	-	-
37	4515	Fazal Rahman	Metric	5-8"	32"-34"	18/09/1998	06/02/1978	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-
38	4516	Iqbal	Metric	5-8"	32"-34"	15/09/1998	06/02/1978	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-
39	4520	Inam ulah	BA	5-6"	32"-34"	09/10/1998	10/04/1979	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-
40	4523	Razi Khan	Metric	5-7"	32"-34"	16/10/1998	03/04/1979	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-
41	4525	Jawid Khan	-	5-6"	32"-34"	30/11/1999	11/03/1981	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-
42	4527	Jawid Ahmad	FA	5-7"	33"-35"	19/02/1999	08/03/1979	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-
43	4528	Hazrat Iqbal	Metric	5-6"	33"-35"	18/02/1999	01/03/1979	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-
44	4534	Ahmed Khan	Metric	5-8"	32"-34"	12/03/1999	24/04/1977	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-
45	4535	Iqbal Hussain	FA	5-6"	32"-34"	13/03/1999	04/09/1977	31/01/2022	17/06/2022	-	-	-	-	-	-	-	-	-	-

46	4326	Shah Hussain	Metric		5-4"	33"-35"	12/03/1999	07/05/1977	31/01/2022	17/08/2022										
47	4336	Zahir Uddin	Metric		5-4"	33"-35"	12/03/1999	09/10/1977	31/01/2022	17/08/2022										
48	4339	Musa Ali	BA		5-4"	33"-35"	12/03/1999	15/08/1978	31/01/2022	17/08/2022										
49	4340	Faiz Hussain	Metric		5-4"	33"-35"	12/03/1999	08/01/1979	31/01/2022	17/08/2022										
50	4341	Ahmar Munir	Metric	C	5-4"	33"-35"	12/03/1999	01/03/1978	31/01/2022	17/08/2022										
51	4342	Rhaid Khan	FA		5-11"	31"-33"	13/03/1999	13/03/1978	31/01/2022	17/08/2022										
52	4343	Mahd Hassan	FA	D	5-4"	32"-34"	13/03/1999	13/03/1978	31/01/2022	17/08/2022										
53	4344	Mahd Manzoor	Metric		5-4"	33"-35"	12/03/1999	01/04/1978	31/01/2022	17/08/2022										
54	4345	Roop Zamin Khan	FA		5-7"	33"-35"	13/03/1999	10/04/1978	31/01/2022	17/08/2022										
55	4357	Mahd Hussain	Metric		5-4"	31"-33"	05/08/1998	05/08/1980	23/12/2018	05/08/2022										
56	4348	Ahmad Shah	Metric		5-7"	33"-35"	12/03/1999	10/04/1978	31/01/2022	05/08/2022										
57	4347	Fahd Hussain	Metric		5-4"	33"-35"	12/03/1999	15/07/1979	31/01/2022	05/08/2022										

S.No	R.No	Name	Qualif.	Height	Chest	Date of Enlistment	DOB	L/No	Retirement												
									On Age 47-Years			On Service 37-Years			Days	Days	Days				
									Years	Months	Days	Years	Months	Days							
1	4549	Umair Ali	FA	5-10"	32"-34"	12/03/1999	12/12/1978	31/01/2022													
2	4550	Zahid Hussain	Metric	5-7"	32"-34"	12/03/1999	05/01/1980	31/01/2022													
3	4551	Said ul Iqbal	Metric	D	5-7"	32"-34"	12/03/1999	10/02/1980	31/01/2022												
4	4552	Said Latif		5-7"	32"-34"	12/03/1999	04/06/1980	31/01/2022													
5	4554	Mahd Ghulam	Metric		5-8"	34"-36"	12/03/1999	16/02/1981	31/01/2022												
6	4560	Shahid Khaliq	Metric		5-11"	34"-36"	01/08/1999	02/02/1977	31/01/2022												
7	4561	Gul Harsh		5-9"	33"-35"	01/05/1999	04/01/1979	31/01/2022													
8	4562	Azghar Khan	Metric	D	5-9"	34"-36"	01/05/1999	03/03/1980	31/01/2022												
9	4564	Sadiq Ahmad	Metric	D	5-4"	32"-34"	11/08/1999	05/03/1979	31/01/2022												
10	4565	Shah Khalid	Metric		5-4"	32"-34"	11/03/1999	12/01/1980	31/01/2022												
11	4566	Amir Nawaz	Metric		5-9"	33"-35"	11/06/1999	04/02/1977	31/01/2022												
12	4567	Imtiaz Ahmad	Metric		5-0"	33"-35"	11/02/1999	25/07/1978	31/01/2022												
13	4568	Faiz Wajid	Metric		5-4"	32"-34"	11/08/1999	17/10/1977	31/01/2022												
14	4569	Mahd Islam	FA	D	5-7"	32"-34"	11/05/1999	22/02/1978	31/01/2022												
15	4571	Umair Jabbar	Metric		5-9"	31"-33"	13/08/1999	26/02/1980	31/01/2022												
16	4572	Amir Said	FA		5-11"	32"-34"	07/09/1999	06/07/1980	31/01/2022												
17	4574	Raza Khan	Metric		5-6"	28"-30"	09/03/1999	07/02/1981	31/01/2022												
18	4575	Faisal Nadim	Metric	D	5-6"	33"-35"	11/09/1999	11/09/1978	31/01/2022												
19	4576	Hazrat Hussain	Metric	D	5-8"	36"-38"	11/09/1999	04/01/1977	31/01/2022												
20	4577	Satish Ali	Metric		5-8"	36"-38"	11/09/1999	16/03/1982	31/01/2022												
21	4578	Mahd Imran	Metric		5-8"	34"-36"	13/05/1999	20/03/1978	31/01/2022												
22	4579	Falak Naz	Metric	E	5-8"	30"-32"	11/09/1999	16/03/1982	31/01/2022												
23	4580	Pervez Shahid	FA		5-3"	31"-33"	11/09/1999	11/09/1978	31/01/2022												
24	4581	Akmal Majeed	Primary		5-4"	34"-36"	13/09/1999	01/04/1977	31/01/2022												
25	4582	Imran Khan	B,TECH		-	-	01/09/1999	?????	31/01/2022												
26	4583	Shahid Akber	Metric	D	5-6"	32"-34"	09/02/2000	03/03/1978	31/01/2022												
27	4585	Zia ur Rahman	FA		5-4"	32"-34"	09/02/2000	03/04/1978	31/01/2022												
28	4586	Mahd Zahid	Metric		5-7"	32"-34"	09/02/2000	12/04/1981	31/01/2022												
29	4589	Astanzayaz	BA		5-7"	32"-34"	09/02/2000	13/04/1982	31/01/2022												
30	4593	Mahd Arab	Metric	C			14/02/2000	12/03/1979	31/01/2022												
31	4594	Imran Muzd	Metric		5-7"	33"-35"	16/02/2000	15/02/1980	31/01/2022												
32	4595	Shereez Khan	Metric		5-6"	32"-34"	20/02/2000	25/03/1979	31/01/2022												
33	4597	Gul Mahd	Metric		5-4"	32"-34"	28/02/2000	05/01/1978	31/01/2022												
34	4599	Saban Sher	Metric		5-8"	31"-33"	01/03/2000	02/06/1977	31/01/2022												
35	4600	Mahd Gul			5-6"	32"-34"	01/03/2000	27/01/1979	31/01/2022												
36	4601	Wasim Zada	Metric		5-8"	32"-34"	01/03/2000	21/02/1978	31/01/2022												
37	4603	Saadi Gol	Primary		5-6"	32"-34"	06/04/2000	06/04/1977	31/01/2022												
38	4605	Rashid Khan	Metric		5-10"	34"-36"	09/04/2000	06/04/1980	31/01/2022												
39	4607	Dadas Khan	FA		5-7"	32"-34"	23/07/2000	22/07/1978	31/01/2022												
40	4609	Gul Faraz	BA		5-9"	33"-35"	24/07/2000	01/03/1980	31/01/2022												

41	4811	Abdul Wahab	BA	5-3	31-34	06/12/2000	08/12/1978	31/01/2022	-	-	-	-	-	-	43	1	2	23	4	4	-	-	-
42	4812	Imran Khan	Metric	5-3	31-33	11/08/2000	11/08/1982	31/01/2022	-	-	-	-	-	-	40	4	30	22	4	4	-	-	-
43	4813	Roshid Mahmud	-	5-10	34-36	04/08/2000	11/02/1983	31/01/2022	-	-	-	-	-	-	39	10	30	22	8	8	-	-	-
44	4815	Ferd Khan	FA	5-7	32-34	11/08/2000	15/04/1979	31/01/2022	-	-	-	-	-	-	43	8	28	22	4	4	-	-	-
45	4818	Sani Gul	Metric	5-7	31-33	11/08/2000	17/08/1982	31/01/2022	-	-	-	-	-	-	40	4	30	22	4	4	-	-	-
46	4819	Mohd Fayaz	Metric	5-6	30-32	25/8/2000	09/01/1978	31/01/2022	-	-	-	-	-	-	45	0	1	23	4	4	-	-	-
47	4819	Shahab ud din	FA	5-4	30-32	28/8/2000	28/08/1982	31/01/2022	-	-	-	-	-	-	40	4	12	22	4	4	-	-	-
48	4820	Muram Usman	FA	5-8	28-30	30/8/2000	30/08/1982	31/01/2022	-	-	-	-	-	-	40	4	11	22	4	4	-	-	-
49	4821	Mohd Saifan	Metric	5-7	31-33	04/10/2000	27/12/1980	31/01/2022	-	-	-	-	-	-	43	0	14	22	3	8	-	-	-
50	4822	Wajid Ali	BS	5-6	30-32	27/10/2000	27/10/1982	31/01/2022	-	-	-	-	-	-	45	2	14	22	2	18	-	-	-
51	4824	Haseeb Ali	Metric	5-4	30-32	07/11/2000	07/11/1982	31/01/2022	-	-	-	-	-	-	40	2	3	22	2	3	-	-	-
52	4825	Fazal Vajid	BA	5-9	30-32	01/12/2000	01-Dec	31/01/2022	-	-	-	-	-	-	40	1	9	22	1	8	-	-	-
53	4827	Shari Khan	-	5-3	31-34	05/03/2001	04/03/1978	31/01/2022	-	-	-	-	-	-	42	10	6	21	10	2	-	-	-
54	4828	Aaseen Shaukat	-	5-0	32-34	07/06/2001	01/01/1982	31/01/2022	-	-	-	-	-	-	41	0	9	21	7	2	-	-	-
55	4832	Zahid	FA	5-4	32-33	08/06/2001	04/04/1983	31/01/2022	-	-	-	-	-	-	38	9	6	21	7	4	-	-	-
56	4834	Shibani Ali	FA	5-11	-	17/8/2005	20/3/1984	31/01/2022	-	-	-	-	-	-	34	9	21	17	6	24	-	-	-
57	4835	Fazal Ghani	Metric	5-4	30	18/8/2005	18/08/1982	31/01/2022	-	-	-	-	-	-	40	0	23	17	6	23	-	-	-
58	4837	Said Wali	Metric	5-4	30	20/8/2005	05/03/1982	31/01/2022	-	-	-	-	-	-	40	10	8	17	6	21	-	-	-
59	4838	Azad Khan	BA	5-7	33	21/8/2005	21/08/1980	31/01/2022	-	-	-	-	-	-	42	8	20	17	8	20	-	-	-
60	4839	Mohd Itacem	D Com	5-6	33-38	15/8/2005	21/11/1982	31/01/2022	-	-	-	-	-	-	40	11	20	17	8	28	-	-	-
61	4840	Sana ulah	BA	5-6	33-35	15/8/2005	08/03/1988	31/01/2022	-	-	-	-	-	-	38	10	2	17	4	28	-	-	-
62	4841	Abdul Karim	MA	5-6	34-35	15/8/2005	10/04/1981	31/01/2022	-	-	-	-	-	-	41	0	0	17	4	28	-	-	-
63	4842	Mohd Imran	BA	5-7	34-35	15/8/2005	04/11/1982	31/01/2022	-	-	-	-	-	-	39	9	20	17	4	28	-	-	-
64	4843	Abdul Kamran	Metric	5-7	33-38	15/8/2005	12/03/1983	31/01/2022	-	-	-	-	-	-	37	10	7	17	4	28	-	-	-
65	4845	Ferman Zahir	FA	5-6	30-32	15/8/2005	03/02/1985	17/08/2022	-	-	-	-	-	-	38	11	7	17	4	28	-	-	-
66	4847	Yasir Ali	BA	5-7	32-34	15/8/2005	03/02/1984	17/08/2022	-	-	-	-	-	-	39	10	19	17	4	28	-	-	-
67	4848	Faisal Said	Metric	5-6	33-34	15/8/2005	22/7/1983	17/08/2022	-	-	-	-	-	-	39	11	21	17	4	28	-	-	-
68	4849	Khalid Zaman	BA	5-5	33-38	15/8/2005	29/11/1983	17/08/2022	-	-	-	-	-	-	38	8	9	17	4	28	-	-	-
69	4852	Fareemah	MA	5-8	-	15/8/2005	01/04/1984	17/08/2022	-	-	-	-	-	-	40	8	20	17	4	28	-	-	-
70	4853	Ahmad Ahmad	Metric	5-6	34-37	15/8/2005	12/04/1982	17/08/2022	-	-	-	-	-	-	39	9	7	17	4	28	-	-	-
71	4854	Saim ulah	MA	5-7	33-38	15/8/2005	03/04/1983	17/08/2022	-	-	-	-	-	-	37	10	0	17	4	28	-	-	-
72	4857	Hayat ud din	FA	5-5	34-35	15/8/2005	15/03/1985	17/08/2022	-	-	-	-	-	-	38	11	29	17	4	25	-	-	-
73	4858	Mushtaq Ahmad	BA	5-4	34-36	15/8/2005	12/01/1986	17/08/2022	-	-	-	-	-	-	40	8	21	17	4	25	-	-	-
74	4860	Habib Rahman	BA	5-4	34-35	15/8/2005	20/04/1982	17/08/2022	-	-	-	-	-	-	36	9	30	17	4	25	-	-	-
75	4861	Rabid Ahmad	Metric	5-9	33-34	15/8/2005	11/03/1984	17/08/2022	-	-	-	-	-	-	41	10	0	17	4	25	-	-	-
76	4862	Khalid Khan	BA	5-5	33-34	15/8/2005	10/03/1981	17/08/2022	-	-	-	-	-	-	37	0	9	17	4	25	-	-	-
77	4863	Mohd Tufail	BA	5-9	34-36	15/8/2005	01/01/1986	17/08/2022	-	-	-	-	-	-	39	11	7	17	4	25	-	-	-
78	4864	Fazal Karim	Metric	5-8	33-35	15/8/2005	03/02/1983	17/08/2022	-	-	-	-	-	-	38	10	27	17	4	23	-	-	-
79	4868	Inayat Shah	Metric	5-5	32-33	15/8/2005	14/7/1994	17/08/2022	-	-	-	-	-	-	36	10	1	17	4	25	-	-	-
80	4869	Hira ul Hussain	FA	5-10	33-38	15/8/2005	09/03/1985	17/08/2022	-	-	-	-	-	-	41	10	0	17	4	25	-	-	-
81	4867	Jawid Iqbal	Metric	5-8	34-36	15/8/2005	16/03/1981	17/08/2022	-	-	-	-	-	-	40	9	29	17	4	25	-	-	-
82	4868	Ahmad Ali	Metric	5-7	31-33	15/8/2005	12/03/1982	17/08/2022	-	-	-	-	-	-	37	1	9	17	4	25	-	-	-
83	4869	Raza Ul muhk	Metric	5-7	31-33	15/8/2005	07/12/1985	05/06/2022	-	-	-	-	-	-	36	11	1	17	4	23	-	-	-
84	4870	Zahoor Ahmad	FA	5-6	34-35	15/8/2005	08/02/1995	05/06/2022	-	-	-	-	-	-	36	9	28	17	4	23	-	-	-
85	4873	Hussain Bahadar	FA	5-5	33-35	15/8/2005	13/03/1984	05/06/2022	-	-	-	-	-	-	36	9	28	17	4	23	-	-	-

S.No	R.No	Name	Curliff	Height	Chest	Date of Enlistment	DOB	Retirement															
								On Age 46 Years			On Service 25 Years												
								Years	Months	Days	Years	Months	Days										
1	4570	Amir Asad Khan	-	5-6	31-33	01/07/1989	10/03/1979	-	-	-	43	10	0	23	8	9	-	-	-	-	-	-	-
2	4574	Usman Rahman	Metric	5-8	34-35	18/8/2005	12/04/1982	-	-	-	40	8	29	17	4	23	-	-	-	-	-	-	-
3	4877	Inam ul haq	BA	5-7	32-34	15/8/2005	05/02/1985	-	-	-	37	11	8	17	4	26	-	-	-	-	-	-	-
4	4878	Zahoor Ahmad	FA	5-7	31-33	15/8/2005	12/02/1983	-	-	-	37	10	29	17	4	26	-	-	-	-	-	-	-
5	4880	Amer Zahir	Metric	5-7	33-36	15/8/2005	01/04/1982	-	-	-	40	9	8	17	4	23	-	-	-	-	-	-	-
6	4881	Ayub Khan	Metric	5-6	34-35	15/8/2005	05/03/1988	-	-	-	36	10	5	17	4	23	-	-	-	-	-	-	-



- (a) "Appointing Authority" means the appointing authority specified in rule-4;
- (b) "Commandant" means Commandant of the Force, who shall be the Deputy Commandant in their respective jurisdiction;
- (c) "Deputy Commandant (Regional)" means an Assistant Commandant or any officer of the District designated as such by the provincial government who shall be Deputy Commandant (Regional) 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 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;

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

(2) They shall come into force at once.

3. Short title and commencement: (1) These rules may be called Provincial Administration (Tribal Areas PATA) Federal Law Enforcement Rules, 2013.

(2) In exercise of the powers conferred by Section 5 of the PATA Law Enforcement Regulations, 2012 the Provincial Government of Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

SERVICE RULES FOR FEDERAL LEVELS FORCE IN PATA

Published on the 4th February 2013

NOTIFICATION

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

PESHAWAR, FRIDAY, 15TH FEBRUARY, 2013.

Published by Authority
KHYBER PAKHTUNKHWA



REGISTERED-NG-R11
GAZETTE

EXTRAORDINARY
GOVERNMENT

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(f) "Selection or Promotion Commission" means a Commission for recruitment or promotion case may be, promotion of force personnel as notified by the Government.

(g) "Service" means the law's service.

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

3. Composition and eligibility of the Force. - (1) The Force shall comprise of the posts specified in Schedule 1 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 requirements specified in Schedule 4. 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 headquarters 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 thirty 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 a school or institution last attended or a certificate of character from two gazetted officers from respective districts, not being his relatives and who are well acquainted with his character, and

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

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

(2) Appointment to the post shall be made in accordance with the provisions contained in Schedule 1 read with Rule 3 of these rules.

(3) Appointment other than through initial recruitment or promotion shall be made through duly constituted Selection/Promotion Commission.

Provided that in case of taking of force in a new district, the Commandant shall have the authority to recruit or recommend above the rank of Subedar 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 recruitment on contract shall not be more than thirty five years of age.

Provision: 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, the period of probation shall be deemed to have been extended for further one year. If no order is issued on the expiry of the second year, the probation shall be deemed to have been terminated.

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1. Training - (1) All newly recruited personnel of the Force shall undergo the module pre-service training before being assigned duties of the rank for which they are recruited. Initially, the appointing authority shall arrange for appropriate training with a proper Liaison Training Center if established.

(2) The pre-service training mentioned in sub-rule (1) may include training on basic laws, investigation techniques, mob control, basic intelligence, arrest and detention procedures, jail duties, rifle, magazine, hand craft, bomb disposal, counter assault, traffic control, raids, vehicle control, etc. Proper training guides and manuals shall be developed through mutual consultation with local law enforcement agencies by the Home Department.

7. Retention - 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 arrears service.

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

(2) The service of a personnel by inter-appointment, promotion or transfer may be discontinued with or renewed if, in the opinion of the competent authority his work and conduct is not satisfactory during probation period or due to abandonment of post, as the case may be.

(3) Provided that in case of dispensing with their service or revision the concerned authority shall record cogent reasons for each action in writing.

(4) 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 report quarterly.

9. Transfer during service - Every member of the service shall be liable to serve anywhere within PATA with the prior approval of the Commissioning Officer and District.

10. Punishment - After satisfying the need regarding punitive action (as referred in Schedule-1) through a charge sheet framed in writing, necessary punishments specified in Schedule-IV may be awarded by the respective authority.

11. Appeal - If any personnel of the Force is aggrieved by any order passed under these rules, within thirty days of communication to him of such order, may prefer an appeal to the competent authority. Provided that no appeal shall be against the punishments specified at S.No. (1) and (2) of Schedule-V.

12. Awards and commendations - (1) Force personnel may be given special award and commendation for meritorious service to duty, demonstration of gallantry and such achievement in the performance of duty, in the manner as prescribed by the Government, and shall be made part of the service rule / regulation.

(2) Force personnel, if embraces commendation in the discharge of his duty, will be given proper award of honor at the time of burial.

13. Service Record - Proper service rule / service dossier of all Force Personnel shall be maintained in every office of each district. Annual reports of all Inspectors and Junior Commissioned Officers (JCOs) will also be maintained for the purpose of promotion.

14. Uniform - The key personnel shall wear black khaki uniform games with brown cap, white socks, black belt, black cap and black belt whereas the JCOs will wear brown khaki uniform.

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

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-18-

(2) Casual leave may be allowed upto three days by Subordinate Major. Casual leave up to three 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 force personnel shall retire as per schedule (B) and no extension in service beyond retirement shall be granted.

18. Conduct - The conduct of force personnel shall be regulated by these rules as per instructions issued by Government from time to time.

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

20. Compensation - (1) The family of force personnel shall be granted death compensation in case the force personnel embarks on a journey during discharge of his duty as per rules prescribed by the Federal Government.

(2) Force personnel shall be granted compensation in case of suspension from duty or suspension during the discharge of his duty. If he is declared incapacitated for further service due to such injury, he shall be entitled to gratuity and pension as per Federal Government Rules.

(3) Ex gratia shall be reserved for some and wards of martyrs in fulfilment of force personnel.

Provided that in case of permanently incapacitated personnel of the force during the course of duty, certificate shall be given to the sons and wards of such incapacitated force personnel in present form.

21. Family force personnel shall be governed by the provision of General Orders, Departmental Orders and Group Instructions as prescribed for other employees of the Federal Government.

22. Health care - Medical facilities for the force personnel and their families shall be ensured for at least one (1) hospital and dispensary at par with other employees of the Federal Government.

23. Posting and promotion - (1) Commandant or Deputy Commandant of the Force shall not take any number of leave/absence in their respective jurisdiction and shall accept suitable number of force personnel at each leave post. In case of establishment of force station within their jurisdiction shall require prior approval of the Government.

(2) There shall be no leave for any force personnel in each district, which shall have no necessary facilities including para-military, medical, quarter, mess, club, canteen etc.

(3) Duty roster showing the duties assigned to each individual on day-to-day basis shall be maintained in each force post/Law Station/Law Lines by a key officer.

(4) This subject shall be responsible for carrying out the work assigned to force personnel where duties shall be entered in advance in the duty register.

(5) Regiment (including sub-regiments) as prescribed by the Commandant shall be maintained in every force post/Station/Line.

(6) Commandant, Deputy Commandant or any other officer of the District Administration shall in the orders of their force in their jurisdiction, may inspect duty register and muster roll of force post/Station and salary statements 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 message of the post/Station within twenty four hours for appropriate action.

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2013 FEBRUARY 15

[Handwritten Signature]

Secretary
Home & Tribal Affairs Department
Government of Khyber Pakhtunkhwa

- 24. An Advisory Committee duly constituted/ notified vide Home and Tribal Affairs Department, Khyber Pakhtunkhwa Notification No. SO/Police/110/12-18/2012 dated 1st December, 2012 shall consider and transmit such suggestions from time to time referred to the competent authority.
- 25. Repatriation orders, orders of instructions/ notices in respect of the PATA Ladak Force, Unmanned Aerial Vehicle (UAV) and other matters shall be issued/ reported in so far as these rules, orders or instructions are inconsistent with the rules.

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-24-

To be substituted notification of even No & date.

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT**

NOTIFICATION

Peshawar, dated the 22-3-2021

No. SO(Police-II)HD/MKD/Levies/Misc./2020:- 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 direct that in the PATA Federal Levies Force Service (Amended) Rules, 2013, the following further amendments shall be made, namely:-

Amendments

In the said rules:-

1. In Rule 4, sub-rule (1), the following shall be substituted, namely:

"(1) Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar.

Provided that the appointing authority for purpose of promotion to the posts of Subedar Major and Superintendents shall be Secretary, Home Department."

2. For Rule 17, the following shall be substituted namely;

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

3. For Schedule-III, the following shall be substituted, namely:

**"Schedule-III
[see rule 17]"**

S.No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
1	Subedar Major (BS-16)	On the basis of Seniority-cum-fitness from amongst the Subedars having Intermediate Qualification	Thirty Seven Years or Three Years' Service as Subedar Major or Sixty Years of age whichever is earlier
2	Subedar (BS-13)	By promotion, on the basis of Seniority Cum Fitness in the following manner, namely: (i) Fifty Percent (50%) from amongst the Naib Subedars having intermediate qualification; and (ii) Fifty Percent (50%) from amongst Naib Subedars having Secondary School Certificate	Thirty Five Years service or Five Years service as Subedar or Sixty years of age whichever is earlier
3	Naib Subedar (BS-11)	By promotion, on the basis of Seniority Cum Fitness in the following manner, namely: (i) Fifty Percent (50%) from amongst the Hawaldars having intermediate	Thirty Three Years' Service or Seven Years' Service as Naib Subedar or Sixty Years of age whichever is earlier.

S. No.	Name of the Post / Rank	Qualification for Promotion	Length of Service / Age
4	Hawaldar (BS-08)	qualification; and (ii) Fifty Percent (50%) from amongst Hawaldars.	Thirty One years service or Three years service as Hawaldar or Fifty One years of age, whichever is earlier.
5	Naik (BS-07)		Twenty Nine years service or Three years service as Naik or Forty Eight years of age, whichever is earlier.
6	L/Naik (BS-06)		Twenty Seven years service or Three years service as L/Naik or Forty Five years of age, whichever is earlier.
7	Sapoy (BS-05)		Twenty Five years service or Forty Two years of age, whichever is earlier.

*Approved
Javed
Suptd.*

**SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT**

Copy forwarded to the:-

1. Principal Secretary to the Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to the Chief Minister, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
4. Registrar, Peshawar High Court, Peshawar.
5. All Commissioners, Khyber Pakhtunkhwa.
6. All Deputy Commissioners, Khyber Pakhtunkhwa.
7. Provincial Police Officers, Khyber Pakhtunkhwa.
8. All Heads of Attached Department in Khyber Pakhtunkhwa.
9. PSO to the Chief Secretary, Khyber Pakhtunkhwa.
10. Accountant General, Khyber Pakhtunkhwa.
11. Direction Information, Khyber Pakhtunkhwa.
12. The Manger Government Printing & Stationery Department, Khyber Pakhtunkhwa.

He is requested to publish the above Notification in the Extra Ordinary Gazette of Khyber Pakhtunkhwa and supply 50 copies (Printed) of the same to the Home Department.

[Signature]
Section Officer (Police-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated the 26-04-2022

NOTIFICATION

NO. SO(POLICE-II)HD/2-1/MKD/DPC/S.M: Consequent upon the recommendation of the Departmental Promotion Committee (DPC) in its meeting held on 19-04-2022 the competent authority (Secretary Home) is pleased to promote regiment No. 3636 Subedar Sami Ullah of District Malakand Levies to the rank of Subedar Major (BS-16), and post him as Subedar Major Malakand Levies in district Malakand against the vacant post for a period of 03 years in term of Schedule-III of PATA Federal Levies Force Service (Amended) Rules 2021, with immediate effect.

The officer on promotion shall remain on probation for a period of one year as per rule-5 of the Federal Levies Force (Amended) Rules, 2021.

This issues with the approval of the Competent Authority.

SECRETARY HOME
KHYBER PAKHTUNKHWA

Endst. No. & date even.

Copy forwarded to the:-

1. The Commissioner, Malakand Division, Saidu Sharif Swat.
2. The D.C/Commandant Levies, District Malakand.
3. District Accounts Officer, District Malakand.
4. PS to Secretary Home & Tribal Affairs Department.
5. PA to Deputy Secretary Police, Home & TA's Department.
6. Master/Personal file.
7. Official Concerned.

(AETAB ALAM, PMS)
SECTION OFFICER (POLICE-II)

66 No 126687

27

ANNEX D

Board of Intermediate & Secondary Education PESHAWAR

DETAILED MARKS CERTIFICATE Secondary School Certificate Examination (GENERAL GROUP)

Session 19 (Annual/Supplementary)

Name Samiullah

Father's Name Saeed Ali

Roll No. 6068

SUBJECT	Total number of marks allotted	MARKS OBTAINED	
		In figures	In words
1. English	150	63	405 /
2. Urdu	150	66	
3. Islamiyat Comp.	75	40	
4. Pakistan Studies	75	39	
5. Gen. Mathematics	100	58	
6. General Science	100	55	
7. <u>39</u>	100	43	
8. <u>29</u>	100	46	
Total	850	405	<i>four hundred and five</i>

This certificate is issued errors and omissions excepted.

Prepared by _____

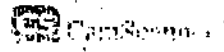
Checked by _____

15 AUG 1989

Date _____ 19 _____

Controller of Examinations
Board of Intermediate & Secondary Education
PESHAWAR

Metro class 11/12



BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan

PROVISIONAL CERTIFICATE
SECONDARY SCHOOL CERTIFICATE EXAMINATION

Session 19-20 Annual/Supplementary

THIS IS TO CERTIFY THAT

Son/Daughter of

and a candidate of

Samjullah

Saeed Gul

Private School

has passed the Secondary School Certificate Examination of the Board of Intermediate & Secondary Education, Peshawar held in 1989 as a Regular/Private candidate. He/She obtained 405 Marks out of 850 and has been placed in Grade (D) Representing

The candidate passed in the following subjects:

- 1. English
- 2. Urdu
- 3. Islamiyat
- 5. G.M.
- 6. G.S.
- 7. G.S.
- 8. G.S.

Internal assessment Grade awarded by the institution concerned is (C)

Date of Birth according to admission form is

One thousand nine hundred and Sixty seven (1967)

Prepared by

Checked by

Date of Preparation 3/15/89

Asstt. Secretary (Certificates)

Roll No: _____
 Register No: 2082-2084

Technical & Education Council

Administrative Building
 Establishment Under Govt. Order No. 1800/Govt. Punjab Pakistan
 www.pteec.com.pk



RAJINDER

Centered that Ministry of Technical Education, Punjab, Pakistan
 Registration No: _____
 PTE-2082-2084

appeared and passed the Trade Proficiency Test in accordance with the requirements of the National Occupational Standards of _____ duration prescribed by the Pakistan Technical & Education Council Government of Punjab.

This Trade is: **DAE CIVIL ENGINEERING**
 The test was conducted by the Pakistan Technical & Education Council in the month of **1st March 2008**
 The test was conducted in the form of: **1) Theory 100 2) Practical 100**
 The examination was taken as a whole of **2nd June 2008**
 And an acknowledgment of this Trade Certificate is issued on the _____

Total Marks	Marks Obtained	Percentage	Grade
3450	2809	81%	A+

This certificate is issued to the candidate who has passed the test in the above mentioned trade and has obtained the marks shown in the table above. The certificate is valid for a period of 10 years from the date of issue. The certificate is issued on the basis of the marks obtained in the test.



Confidential (Exam)

Boys

29- RAJINDER

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اللہ باچہ نے تین سالہ IDAE Civil انجینئرنگ میں کیا ہے جو کہ قانون کے منافی ہے اور اسکے علاوہ جو ادارہ صوبیدار سمجھ اللہ باچہ نے ڈپلومہ میں تحریر اور ظاہر کیا ہے اس کا نام MCA سسٹم آف انجینئرنگ پشاور ہے جو نہ تو ٹیکنیکل کونسل اسلام آباد ہائیر انجینئرنگ سے رجسٹرڈ ہے اور نہ ہی MCA ہائیر انجینئرنگ کیشن سے ملحق اور تصدیق شدہ ہے (نقل ڈپلومہ لف ہے۔)

(۳) یہ کہ ہائیر انجینئرنگ کیشن سے غیر رجسٹرڈ ہونے کے علاوہ طوبیدار سمجھ اللہ باچہ کے پاس کوئی DMC بھی موجود نہ ہے اور نہ ہی مضامین کی تفصیل جس سے اس کے موقف کی تائید و تصدیق ہو سکے اور سب سے بڑھ کر یہ کہ مذکورہ ڈپلومہ لف اے کے برابر بھی نہ ہے کیونکہ Equivalency certificate صرف ہائیر انجینئرنگ کیشن ہی دے سکتا ہے۔

(۶) یہ کہ سابقہ ڈپٹی کمشنر/کمانڈنٹ مالاکنڈ لیویز نے مورخہ 11-04-2022 کو ہوم ڈیپارٹمنٹ پشاور کو ایک جھٹی تحریر کی ہے جس میں صوبیدار سمجھ اللہ باچہ کا تقابلی قابلیت FA ظاہر کیا گیا ہے جو کہ درست نہ ہے کیونکہ صوبیدار سمجھ اللہ کی نہ تو FA کی DMC موجود ہے اور نہ ہی کسی بورڈ یا مجاز ادارہ سے جاری شدہ اور تصدیق شدہ ہے۔ (گاہی ساتھ لف ہے۔)

(۷) یہ کہ صوبیدار سمجھ اللہ باچہ کے پرسنل فائل اور سرورس بک میں کوئی انٹری نہیں ہوئی کیونکہ ہم اسکے نوکری کرتے رہے ہیں۔ صوبیدار سمجھ اللہ باچہ کو نہ تو FA کی تعلیم پر کوئی انٹریمنٹ دی گئی ہے اور نہ ہی یہ تمام چیزیں ریکارڈ سے تصدیق پاتی ہیں۔ اس کے علاوہ جب کوئی بدوران ملازمت مزید تعلیم حاصل کرتا ہے تو اس کے لئے وہ باقاعدہ تحریری اجازت اور NOC لیتا ہے اور سال 2004 میں صوبیدار سمجھ اللہ کو کسی قسم کی NOC نہیں دی گئی ہے اور

نہ ہی وہ تین سال ڈپلومہ کرنے کیلئے پشاور یا اسلام آباد گیا تھا۔ سال 2005 سے لیکر سال 2008 تک سچ اللہ باچہ کی روزنامہ میں حاضری قابل ملاحظہ ہے جس سے درست اندازہ لگایا جاسکتا ہے کہ آیا اس دوران وہ ڈپلومہ کر رہا تھا یا ڈیوٹی پر حاضر تھا۔

مندرجہ بالا حقائق کی روشنی میں نہایت آداب کے ساتھ استدعا کی جاتی ہے کہ سچ اللہ باچہ کے پروموشن کیس، اس کے پرسنل فائل اور جملہ نقلی کوائف کی شفاف تحقیق کرائی جائے اور مندرجہ خواست دہندہ کو انصاف دلائی جائے۔

عزیز

مسائل ناچھ سوہیدار عمر واحد نمبر 3800، مالکنڈ لیویز حال پوسٹ کمانڈر تھانہ پٹی

بخدمت جناب D.C / کمانڈنٹ ملاکنڈ لیویز صاحب بمقام ملاکنڈ

درخواست برادویری فیکیشن / میٹرک سرٹیفیکیٹ ازاں صوبیدار میجر سمیع اللہ ملاکنڈ لیویز ملاکنڈ

جناب عالی!

گزارش ہے کہ سائل کو معلوم ہوا۔ کہ بدوران بھرتی مسمی سمیع اللہ جماعت ہشتم میں زیر تعلیم تھا۔ کہ بدو
ران تعلیم مسمی سمیع اللہ باچا کے علاوہ ضلع ملاکنڈ کے تمام طلباء کے بورڈ پشاور تھا اور سال 1992ء کو پشاور بورڈ ضلع پشاور سے
ضلع سوات منتقل ہوا۔ اور تقریباً دس سال تک ضلع سوات بورڈ رہا۔ یہ کہ سال 2002ء میں سوات بورڈ سوات سے منتقل ہو
کر چکدرہ بورڈ مقرر ہوا جو کہ اب بھی قائم ہے۔ یہ کہ مسمی سمیع اللہ نے جو سرٹیفیکیٹ میٹرک پاس سروس بک میں شامل کیا۔ ہے وہ
سرٹیفیکیٹ پشاور بورڈ سے جاری کردہ نہ ہے۔ بلکہ سوات بورڈ کا ہے۔ اور حاصل کردہ سرٹیفیکیٹ سائنس مضامین میں پاس کیا
ہے یہ ایش مضامین میں۔ یہ کہ سائل کو مسمی سمیع اللہ کی میٹرک سرٹیفیکیٹ کی نقل اشد ضروری ہے۔

لہذا بذریعہ درخواست معروض ہو کہ آپ صاحبان مہربانی کر کے بوجوہات بالا سمیع اللہ بچہ صوبیدار میجر ملا
کنڈ لیویز کا حاصل کردہ سرٹیفیکیٹ میٹرک کی ویری فیکیشن لازمی ہے۔ ویری فیکیشن کرانے کا حکم صادر فرمائی جائیں۔

اعترقوم
7/2023

مہربانی ہوگی۔
سائل :- صوبیدار عمر واحد ملاکنڈ لیویز

- 1- کاپی برائے اطلائی ہوم سکریٹری صاحب K.P.K پشاور
- 2- کاپی برائے جناب کمشنر صاحب ملاکنڈ ڈویژن بمقام سوات

rec
Name
DT

Supintendent
Malakand Levies Malakand V

Shehzad Raza
11/07/23



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ANNEX "G"

GOVERNMENT OF KHYBER PAKHTUNKHWA
Home & Tribal Affairs Department

No. SO(L&K)/MKD/452-64
Dated Peshawar the 21.06.2023

The Director (Certification)
National Vocational and Technical Training Commission (NAVTC)
Islamabad

Subject:- VERIFICATION OF DIPLOMA

Dear Sir,

I am directed to enclose herewith a complaint lodged by Mr. Umar Wahid, Subedar Levy Force Malakand, along with a photocopy of Diploma bearing Roll No. 5008 in respect of Mr. Sami Ullah Bacha presently working as Subedar Major Levy Force Malakand, issued during the Session 2004 to 2008 with the request to kindly verify the authenticity/validity or otherwise of the said diploma and inform this office accordingly, please.

(Niaz Muhammad)
Section Officer (L & K)

Encl: As above
Endst: No. & date even.

Copy to:

- 1 Deputy Commissioner /Commandant Levy Force, Malakand. With reference to this office letter No. SO(L&K)/Malakand/282-84 dated 17.4.2023.
- 2 PS to Secretary, Home & TAs Department, Peshawar Khyber Pakhtunkhwa.

Section Officer (L & K)



Government of Pakistan
National Vocational and
Technical Training Commission
Plot # 38, Kibber Road, Sector 11-9/4, Islamabad
P: +92-31-4205816, F: 011-4206628, www.navttc.gov.pk



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F.No. 2(11)/2011/certification


Islamabad, 24th September, 2020

**SUBJECT: ACCREDITATION BODIES/QUALIFICATION AWARDDING BODIES IN THE
TECHNICAL & VOCATIONAL TRAINING**

By virtue of the powers conferred upon NAVTTTC by the Parliament through Act No. XV 2011 is the authorized national body for regulating the domain of technical & vocational training and Certification in the country.

It is hereby announced that only the following twelve organizations/ Qualification Awarding Bodies (QABs) are authorized, approved and valid for conducting examinations, assessment and certification in the field of Technical & Vocational Education & Training (TVET). Hence, certificates/diplomas issued by only the following approved organizations shall be considered as valid for any kind of employment within and outside the country or further education:

1. National Vocational and Technical Training Commission (NAVTTTC), Islamabad.
2. National Training Bureau Islamabad (NTB).
3. Punjab Board of Technical Education (PBTE), Lahore.
4. Trade Testing Board (TTB), Lahore.
5. Punjab Vocational Training Council (PVTC) Lahore.
6. Khyber Pakhtunkhwa Board of Technical Education (KP-BTE), Peshawar.
7. Trade Testing Board, (TTB) Peshawar.
8. Sindh, Board of Technical Education (SBTE), Karachi.
9. Trade Testing Board (TTB) Karachi.
10. Baluchistan Trade Testing Board (BTTB) Quetta.
11. Azad Jammu Kashmir Trade Testing Boards (AJKTIB), Muzaffarabad.
12. National University of Technology (NUTECH), Islamabad


24.9.2020
[Muqees Islam]
Director General
(Accreditation, Certification
& International Cooperation)

Distribution:

1. Rector, National University of Technology (NUTECH), Islamabad
2. DG(A&C/OP), MOFA, Islamabad (With the request to verify certificates diploma from these organization)
3. All Chairman BTEs/TTBs (with the request to create awareness amongst the trainees)
4. All DGs of NAVTTTC (with the request to create awareness amongst the trainees and mass circulation)
5. All Heads of TVETAs/PVTC (with the request to display this notification in all the institutes)
6. Director (NSIS) (with the request to upload on the Website of NAVTTTC)



GOVERNMENT OF PAKISTAN
NATIONAL VOCATIONAL AND TECHNICAL TRAINING COMMISSION
Headquarters, Plot No. 38, Kirthar Road, Sector 11-9/4, Islamabad
Phone: +92-51-9206324, Fax: 051-9206638, www.navttc.gov.pk



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ANNEX H

No. 2(11)2011-Certification/291-

Islamabad, 22nd June, 2023

Subject: VERIFICATION OF DIPLOMA.

Please refer to your office letter No. SO(L&K)/MKD/452-54 dated 21.06.2022 regarding the subject cited above, wherein, a diploma of an employee, Mr. Sami Ullah, issued by Pakistan Technical & Education Council Islamabad, has been sent for verification as per the detail given below:

S.#	Name	Father Name	Roll No.	Trade	Session	Date of Issue
01	Sami Ullah	Saeed Gul	5008	DAE Civil Engineering	2003-2006	02 nd June

2. It is pertinent to mention here that the aforementioned institute i.e Pakistan Technical & Education Council Islamabad is not listed in the notification titled "Valid & Approved Certification Bodies / Qualification Awarding Bodies in the field of Technical & Vocational Training" issued by NAVTTC vide F.No. 2(11)/2011/certification/65 dated 24.09.2020 (Copy Attached). Hence, it is not a valid Qualification Awarding Body and its issued certificate / diploma is invalid.

3. Submitted for your information and further necessary action please.

Encl: As above.

Mahboob Khan Jagerani
22-6-2023
Director (Certification),
NAVTTT HQ, Islamabad.

Mr. Niaz Muhammad
Section Officer (L&K);
Home & Tribal Affairs Department,
Khyber Pakhtunkhwa.

Copy for information:

- Deputy Commissioner / Commandant Levy Force, Malakand, Khyber Pakhtunkhwa.
- PS to Secretary, Home & TAs Department, Peshawar, Khyber Pakhtunkhwa.
- PA to Director General, A&C, NAVTTC HQs, Islamabad.



GOVERNMENT OF PAKISTAN
NATIONAL VOCATIONAL AND TECHNICAL TRAINING COMMISSION
Headquarters, Plot # 38, Kirthar Road, Sector H-9/4, Islamabad
P: +92-51-9044355, F: 051-9206638, www.navttc.gov.pk



ANNEX I 37-

No.2(11)2011-Certification(SDC) / 112

Islamabad May 03, 2024

SUBJECT:- BEWARE OF FAKE CERTIFICATION IN THE FIELD OF TECHNICAL & VOCATIONAL EDUCATION & TRAINING (TVET) IN PAKISTAN.

By virtue of the powers conferred upon NAVTTC by the Parliament through Act No XV 2011, subsequent clause 6(d), 6(h) and 7(e), 7(g) NAVTTC is the authorized national body for establishing, regulating and awarding status of "Qualification Awarding Body (QAB)" to any organization in the domain of technical & vocational training, assessment and testing.

2. NAVTTC is working hard to uplift the quality of Technical & Vocational Education & Training (TVET) in Pakistan. Unfortunately, many individuals and unauthorized organizations are deceiving innocent people by claiming false authorization for issuance of diploma & certificates in TVET sector. NAVTTC has initiated strict legal actions against these entities. Hence all citizens, employers and trainees are alerted to beware of these institutions and warned not to interact with them for certification. These entities are enlisted below for public awareness:

1. Board of Technical & Professional Education (<https://btpe.edu.pk/>)
2. Pakistan Montessori Council (<https://montessori.edu.pk/>)
3. Professional Education & Skills Development Council (<https://pesdc.org.pk/>)
4. Education & Skills Development Foundation
5. Skill Development Education Council, Punjab, Pakistan (SDEC) (<https://www.sdec.org.pk/>)
6. National Technical Training Council (<https://nttc.org.pk/>)
7. AGT Institute of Technical & Professional Education Rawalpindi (<https://www.agt.edu.pk/>)
8. Modern Institute of Informatics and Management (The MIIM Islamabad) (<http://miim.edu.pk/>)
09. Professional Education Skill Testing Council
10. Trade Testing Professional Council (<http://tppcpk.org/>)
11. International College of Technical Education (<https://www.icollegeto.com/>)
12. Scholar Education & Technical Council (<http://setcpk.org/>)
13. Professional Skill Education Council (PSEC) (<https://psec.org.pk/>)
14. Professional Educational Skill Testing Council, Pakistan (<https://pestepakistan.com/>)
15. Pakistan Technical Development Corporation.
16. IQ PASS EDUCATION (<https://iqpass.pk/>)
17. National Institute of Modern Languages (<https://nimls.edu.pk/>)

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F. D. R.
30/05/24
03/05/24

Verification
19-10-1952
10-10-1952

50 L.P.K. (M.K.D. 1452-54)

10-10-1952

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To

The Secretary,
Home and Tribal Affairs Department Peshawar.

Subject: Complaint Against Promotion of Subedar Major Sami Ullah of Malakand Levies.

Sir,


With great regards it is stated that I have been serving as Subedar (BPS-14) in Malakand Levies. My education is FA and my service is over 30 years. I have served my best so far and working up to entire satisfaction of my superiors.

It is pertinent to mention that the Home Department on the recommendations the DC Malakand has promoted Subedar Sami Ullah to the rank of Subedar Major and his education is Matric. The requirement for Subedar Major is FA education. He has illegally occupied the post of Subedar Major.

It is requested that an inquiry may be held and verify service record and educational documents of Subedar Major Sami Ullah of Malakand Levies, as he is not possessing the requisite qualification. I am fully eligible for promotion, but I am deprived of my rights to promotion, and he has unlawfully occupied the post of Subedar Major.

Thanks

Your faithfully
Subedar Umar Wahid
Malakand Levies
CNIC NO. 15402-2929744-9
Cell No. 0345-9352488


17/10/2022



GOVERNMENT OF KHYBER PAKHTUNKHWA
Home & Tribal Affairs Department

No. SO(L&K)/HD/Malakand/241-43.

Subedar Umar Wahid, Malakand Levies
VS

1. Deputy Commissioner/Commandant Malakand,
2. Subedar Major Sami Ullah Bacha Malakand Levy Force

ORDER

11.09.2023

The instant appeal was filed by Subedar Umar Wahid Malakand Levy Force under Rule-15 of Levy Force Rules 2015 wherein he stated that Mr. Sami Ullah Bacha was promoted to the Rank of Subedar Major on 26.4.2022 on the basis of fake Diploma of Associate Engineer while he was eligible for the post of Subedar Major, therefore, promotion order of Sami Ullah Bacha may be revisited.

Both the applicant Umar Wahid and respondent Sami Ullah Bacha were present during the hearing. Representative of Deputy Commissioner/Commandant, Malakand Levy Force was also present.

From perusal of the case, it has been transpired that Sami Ullah Bacha was promoted to the rank of Subedar Major Malakand Levy Force on 26.4.2022 by the Home & TAs Department on the recommendations of Departmental Promotion Committee (DPC) in its meeting held on 19.4.2022 for a period of 03 years in terms of Rule-17, Schedule-III of PATA Federal Levies Force Service (Amended) Rules 2021 on the basis of seniority-cum fitness from amongst the Subedar having intermediate qualification. Subedar Umar Wahid lodged complaint that Diploma (DAE) provided by the promoted Subedar Major Sami Ullah Bacha was fake, therefore, he was not fit for promotion. On 21.6.2023, Director (Certifications), National Vocational and Technical Training Commissioner (NAVTTAC) Islamabad was approached for authenticity/validity or otherwise of the said diploma issued to Sami Ullah Bacha. Simultaneously, Deputy Commissioner/Commandant Malakand Levy Force informed that Diploma has already been verified by Pakistan Technical and Educational Council Islamabad, and that Home Department addressed letter to NAVTTC instead of the Pakistan Technical and Educational Council which needs correction.

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On 22.6.2023, NAVTTC, Islamabad informed that Diploma issued by the PT&EC to Mr. Sami Ullah was not included in the registered institution list with them; therefore, the Diploma is invalid. List of approved technical organization has also been enclosed by the NAVTTC wherein Pakistan Technical and Educational Council was not found.

Keeping in view the ambiguity and dual statement by the NAVTTC Islamabad and Pakistan Technical and Educational Council Peshawar, officers/staff of Home Department were deputed to visit the institution and physically verify the diploma, and probe into the matter by carrying out ground verification of the said diploma certificate and above mentioned institution.

On 6.7.2023, concerned officers submitted their detailed report with the conclusion that there was a big question mark on the existence of the body of Pakistan Technical & Education Council Islamabad, as nothing had been found or provided to establish its legal existence.

Applicant Umar Wahid was heard in person and asked to explain his position as per his lodged complaint against the promotion of Sami Ullah Bacha to the rank of Subedar Major on the basis of fake documents. He further stated that he was eligible for promotion when the Departmental Promotion Committee Meeting was held however, he did not get promoted. He was asked to provide evidence that the diploma of Sami Ullah Bacha was fake. He replied that Home & TAs Department has verified the diploma on his complaint from the concerned quarters which is part and parcel of original file.

The respondent Sami Ullah Bacha was also heard in person. He was enquired about his diploma (DAE) and awarding institution. The respondent replied that he had done the diploma from Pakistan Technical and Educational Council Peshawar in the year 2005-07 and the said institution was located in Faqirabad Peshawar. He was then asked that the diploma was of three years and whether he had taken any leave during that academic year. His reply was in negative, and further, he stated that classes were scheduled on Saturday and Sunday. The representative of DC Malakand also confirmed that leave was not granted to Sami Ullah Bacha during the said period as no entry in his service book has been made till date.

M

Derived from above position, the case is simple in nature. Respondent Sami Ullah did not get NOC for diploma at that time. As informed by the representative of DC Malakand, no entry in his service book was made till yet. No extra ordinary leave (3 years) had been granted to him while 3 years regular classes were impossible without leave. Last but not the least, he did matriculation in 1989 in Arts while obtained the DAE in the year 2006, after a gap of 16 years approximately in the subject of applied mathematics, applied physics and applied chemistry which is beyond comprehension.

In light of the available record on file, statement of the appellant, respondent and representative of DC Malakand and report of Section officer (General) and Private Secretary, Home Department dated 6.7.2023; appeal of Umar Wahid is admitted. It is hereby ordered that fresh Departmental Promotion Committee (DPC) meeting may be convened and promotion may be made in light of qualification and valid documents of the incumbents strictly under the relevant rules, however honourable Peshawar High Court has granted interim relief dated 01-09-2023 that no final order shall be passed in the instant case.

11.9.2023


Secretary
Home Department



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Awwali

244-48

GOVERNMENT OF KHYBER PAKHTUNKHWA
Home & Tribal Affairs Department

No. SO(L&K/HD/Malakand/
Dated Peshawar 18.09.2023

To

The Deputy Commissioner/Commandant
Malakand Levies

Subject: **COMPLAINT AGAINST MR.SAMI ULLAH BACHA SUBEDAR MAJOR**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith order bearing No.SO(L&K)/HD/Malakand/241-43 dated 11.09.2023 in the instant case for information / necessary action, please.

Yours Sincerely,

(Niaz Muhammad)
Section Officer (L&K)

Copy to:

1. PS to Secretary, Home & TAs Department, Peshawar Khyber Pakhtunkhwa.
2. PA to Additional Secretary(P/L&K), Home Department
3. Mr.Sami Ullah Bacha, Malakand Levy Force
4. Mr.Umar Wahid, Malakand Levy Force

Section Officer (L & K)



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GOVERNMENT OF KHYBER PAKHTUNKHWA
Home & Tribal Affairs Department

Ali M

No. SO(L&K/HD/Malakand ~~234-58~~
Dated 23 10.2023

The Deputy Commissioner/Commandant
Malakand Levies

Subject: **COMPLAINT AGAINST MR.SAMI ULLAH BACHA SUBEDAR MAJOR**

Dear Sir,

I am directed to refer to Order issued bearing No.SO(L&K)/HD/Malakand dated 11.09.2023 conveyed vide this office letter No.SO(L&K)/HD/Malakand/244-48 dated 18.09.2023 on the subject noted above and to request to process case for convening fresh Departmental Promotion Committee meeting for promotion of Subedar/Subedar Major Working paper in this regard may be submitted at the earliest, 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

(Signature)
Section Officer (L & K)

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✓ PUNJAB NO

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



W.P.No. 3775-P/2023

Sami Ullah S/o Saeed Gul Regiment No.3638,
Subedar Major Malakand Levies, Levies
Headquarter Malakand.

..... Petitioner

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Secretary Home Department, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
- 3) Deputy Commissioner District Malakand at Bafkheela.
- ✓ 4) Pakistan Technical & Education Council, Islamabad, office 108, Mehar Arcade G-14/4, Islamabad.
- 5) MCA Education System, Peshawar, Faqirabad, Peshawar.
- 6) National Vocational & Technical Training Commission, through Director General, Plot No.38, Kirtar Road, H9-4, Islamabad.
- 7) National Vocational & Technical Training Commission, through Director Certification, Plot No.38, Kirtar Road, H9-4, Islamabad.
- 8) Umar Wahid S/o Muntu-Khan R/o Mohallah Sarsha, Lalo Patai, Bafkheela, District Malakand.

..... Respondents

ATTESTED
EXAMINER
Peshawar High Court

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**WRIT PETITION UNDER ARTICLE
189 OF THE CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN,
1973.**

RESPECTFULLY SHEWETH:

- 1) That the petitioner joined Malakand Levies as a Sepoy and with the passage of time by dint of hard work and commitment to duty was promoted to different higher ranks and ultimately was promoted as Subedar Major vide Notification dated 28.04.2022 for a period of 03 years. It is worth mentioning that this is the highest rank in the service ladder of the petitioner. (Copy of notification dated 28.04.2022 is attached as Annexure "A")
- 2) That promotion of the petitioner to the higher rank was affected after a proper summary was moved and a Departmental Promotion Committee was held after due examination and verification of the qualifications and eligibility and fitness of the petitioner, the promotion order was made.
- 3) That the respondent No.8, who was junior in rank and was not included even in the summary for promotion under the law lodged the complaint dated 17.10.2022 before the respondent No.2 with allegations against his qualification. (Copy of the complaint dated 17.10.2022 is attached as Annexure "B")
- 4) That the complaint was sent to the respondent No.3, and vide a detailed reply/ report the respondent No.3 recommended to respondent No.2 with a request to file

ATTESTED

EXAMINER

(Signature)

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the same being frivolous. (Copy of the reply/ report dated 29.12.2022 is attached as Annexure "C")

- 6) That not yet satisfied, the respondent No.8 continued with the complaints and the respondent No.3 duly verified the diploma certificate issued by respondent No.4 and submitted report to the respondent No.8. (Copy of the verification by respondent No.4 and report of the respondent No.3 is attached as Annexure "D")
- 6) That again the respondent No.8 received the report from respondent No.3 and vide letter dated 21.06.2023 the same verification report was sent to the respondent No.2. (Copy of the letter dated 21.06.2023 alongwith verification is attached as Annexure "E")
- 7) That it is worth mentioning that the petitioner was awarded the Diploma Certificate by respondent No.4, which is equivalent to PA / FSc in the year 2008 under Roll No.5008. (Copy of Diploma Certificate alongwith equivalence certificate are attached as Annexure "F")
- 8) That it is worth mentioning that not only the above complaints, the respondent No.8 also mobilized the Federal Investigation Agency against the petitioner on the same frivolous charges and after due satisfaction the Federal Investigation Agency also closed the enquiry vide order dated 08.03.2023. (Copy of order dated 08.03.2023 is attached as Annexure "G")
- 9) That the respondent No.8 has also filed a WP No.875-M/2023 before this hon'ble Court at Mingroa Bench, which is fixed for hearing on 10.10.2023 with the same allegations and a prayer for initiating yet another inquiry. (Copy of grounds of WP No.875-M/2023 are attached as Annexure "H")

ATTESTED
EXAMINER
Punjab High Court

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- 10) That in the writ petition mentioned above, the respondent No.8 has arrayed respondents No.6 & 7 on the ground that the said respondents have disowned the certificate of the petitioner, therefore, the respondents No.6 & 7 are herein arrayed as respondents.
 - 11) That since assumption of the charge, the petitioner could not even serve the highly responsible duty not for a single day with peace of mind inspite of the fact that the petitioner is holding the very high responsibility of Law & Order under the law in the whole District Malakand.
 - 12) That yet again the petitioner received letter dated 28.08.2023 from respondent No.2 to appear for yet another hearing on the said complaints on 04.04.2023. (Copy of the letter dated 28.08.2023, is attached as Annexure "T")
 - 13) That the petitioner is left with no other adequate and efficacious remedy, but the applicant in Hon'ble Court, inter-alia on the following grounds:

GROUNDS

- a) That the uncalled for incarceration of the petitioner on baseless allegations is against the law and facts.
- b) That the respondents No.6 and 7 are irrelevant in case of the Educational Qualification of the petitioner and the certificate of the petitioner on the face of it clarifies that the same has been issued by respondent No.4, a body created under the law, but the respondent No.8 has prolonged the agony of the petitioner by procuring an irrelevant certificate from the said respondents No.6 & 7.

ATTESTED
EXAMINER
Peshawar High Court

- c) That the impugned notice was uncalled for when the matter was already subjudice before this Hon'ble Court and fixed for 10.10.2023.
- d) That the complaints of respondent No.8 are aimed at harassing the petitioner, only.
- e) That the Educational Credentials of the petitioner have been verified on different occasions till his promotion and even after the complaints were lodged, but the pleas of the petitioner always fall on deaf ears regarding the institution from where the petitioner has got the qualification in question.
- f) That the whole record regarding the Diploma Certificate of the petitioner is available online as well as on the website of respondent No.4, but the petitioner is being unscrupulously incarcerated without any reason.
- g) That the uncalled for notice dated 28.08.2023 is only meant at torturing the petitioner.
- h) That it is worth mentioning that the respondent No.8 under the rules stands retired on 07.07.2023, but due to an interim relief from the hon'ble Service Tribunal Khyber Pakhtunkhwa, the rules were suspended to the extent of his retirement.
- i) That any other grounds would be raised at the time of arguments with due permission of this hon'ble Court.

PRAYER

It is, therefore, humbly prayed that on acceptance of this writ petition, the impugned notice dated 28.08.2023 and any inquiry against

ATTESTED
EXAMINER
Punjab High Court

ATTESTED
EXAMINER
Department High Court

- 1) Constitution of Jamaica Republic, 1973.
- 2) Case law according to need.

LIST OF BOOKS:

Certified that as per information and instructions furnished by my client no such like writ petition has earlier been filed before this Hon'ble Court.

CERTIFICATE:

Petitioner
Through *[Signature]*
Navard Richter
Advocate Supreme Court
&
Maurice Din Chori
Advocate High Court

Dated: 30.08.2023

As an interim relief, the operation of impugned Notice dated 28.08.2023 may graciously be suspended till final decision of filed writ petition.

INTERIM RELIEF

Any other order/ relief deemed proper and appropriate by this Hon'ble Court, in the circumstances of the case, may kindly be passed as well.

It is further prayed that the verifications by respondent No. 4 may kindly be made part and parcel of the record of the case of petitioner, pending in the Department of the petitioner, Service Book and for any future dispensation.

the petitioner may kindly be not-aside being illegal, unjust and a closed chapter.

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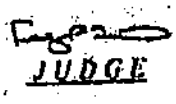
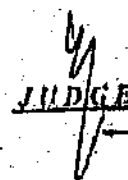
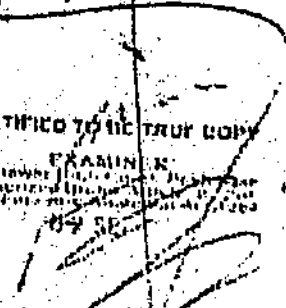
PESHAWAR HIGH COURT

PESHAWAR

FORM 'A'

FORM OF ORDER SHEET



Date of order or proceedings (1)	Order or other proceedings with signature of (2)
01.0.2023	<p><u>W.P. No. 1775-P/2023</u></p> <p>Present:-</p> <p>Mr. Naveed Akhtar Advocate for petitioner.</p> <p>Mr. Hussain Tariq, AAG for official respondents.</p> <p>*****</p> <p>This petition be clubbed with W.P. No. 825-M/2023.</p> <p><u>Interim Relief</u></p> <p>Notice. Meanwhile inquiry against the petitioner shall be proceeded, however, no final order shall be passed.</p> <p style="text-align: right;">7242  JUDGE</p> <p style="text-align: right;">  JUDGE</p>
Date of Presentation of Application: 01-01-2023 No of Pages: 7 Copying to: 28-60 Date of Presentation of Copy: 02-01-2023 Total of: 07-09-2023 LAD	<p style="text-align: center;">CERTIFICATE TO BE TRUE COPY</p> <p style="text-align: center;">EXAMINER</p> <p style="text-align: center;">Authorised Officer, Peshawar High Court</p> <p style="text-align: center;">04 SEP 2023</p> 

Witness (1) Hon'ble Mr. Justice Faraz Sultan & Hon'ble Mr. Justice Khurshid Iqbal

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0

Service Appeal No. 1918/2022 filed by [Name] through [Name], Civil Servant, [Name] effect.

ORDER

24th Aug. 2023 **Kulbir Arora, Chairman:** Through this order, [Name] and all the following connected appeals are being disposed of against the same impugned Notifications, [Name] (I)HD/MKD/Services/Misc.2020 dated 22.03.2021 and [Name] (I)HD-3/FEDERAL. EB/VS 2021 dated 20.10.2021, Nos.1916/2022, 1917/2022, 1918/2022, 1919/2022, 1920/2022, 1921/2022, 1922/2022, 1923/2022, 1924/2022, 1925/2022, 1926/2022, 1927/2022, 1928/2022, 1929/2022, 1930/2022, 1931/2022, 1932/2022, 1933/2022, 1934/2022, 1935/2022, 1936/2022, 1937/2022, 1938/2022, 1939/2022, 1940/2022, 1941/2022, 1942/2022, 1943/2022, 1944/2022, 1945/2022, 1946/2022, 1947/2022, 1948/2022, 1949/2022, 1950/2022, 1951/2022, 1952/2022, 1953/2022, 1954/2022, 1955/2022, 1956/2022, 1957/2022, 1958/2022, 1959/2022, 1960/2022, 1961/2022, 1962/2022, 1963/2022, 1964/2022, 1965/2022, 1966/2022, 1967/2022, 1968/2022, 1969/2022, 1970/2022, 1971/2022, 1972/2022, 1973/2022, 1974/2022, 1975/2022, 1976/2022, 1977/2022, 1978/2022, 1979/2022, 1980/2022, 1981/2022, 1982/2022, 1983/2022, 1984/2022, 1985/2022, 1986/2022, 1987/2022, 1988/2022, 1989/2022, 1990/2022, 1991/2022, 1992/2022, 1993/2022, 1994/2022, 1995/2022, 1996/2022, 1997/2022, 1998/2022, 1999/2022, 2000/2022, 2001/2022, 2002/2022, 2003/2022, 2004/2022, 34/2023, 35/2023, 36/2023, 37/2023, 38/2023, 39/2023, 40/2023, 41/2023, 42/2023, 43/2023, 44/2023, 45/2023, 46/2023, 47/2023.

ATTORNEY

2/1/2023
[Signature]

2. In some of the appeals learned counsel for the appellants are present while some appellants are in person present. District Attorney alongwith M/S Ligar Ali DSP, District

1538/2023	1288/2023	1289/2023	1300/2023	1392/2023	and Service Appeal No.
682/2023	793/2023	870/2023	1175/2023	1258/2023	1259/2023
644/2023	645/2023	646/2023	659/2023	660/2023	661/2023
638/2023	639/2023	640/2023	641/2023	642/2023	643/2023
632/2023	633/2023	634/2023	635/2023	636/2023	637/2023
605/2023	625/2023	626/2023	629/2023	630/2023	631/2023
418/2023	419/2023	607/2023	602/2023	603/2023	604/2023
410/2023	411/2023	412/2023	418/2023	414/2023	415/2023
258/2023	259/2023	315/2023	321/2023	408/2023	409/2023
210/2023	211/2023	212/2023	213/2023	257/2023	257/2023
204/2023	205/2023	206/2023	207/2023	208/2023	209/2023
198/2023	199/2023	200/2023	201/2023	202/2023	203/2023
190/2023	193/2023	194/2023	195/2023	196/2023	197/2023
181/2023	182/2023	183/2023	187/2023	188/2023	189/2023
175/2023	176/2023	177/2023	178/2023	179/2023	180/2023
169/2023	170/2023	171/2023	172/2023	173/2023	174/2023
69/2023	70/2023	71/2023	72/2023	73/2023	74/2023
62/2023	63/2023	64/2023	65/2023	66/2023	67/2023
55/2023	56/2023	57/2023	58/2023	59/2023	60/2023
43/2023	44/2023	45/2023	46/2023	47/2023	48/2023

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Chief Secretary, Government of Khyber Pakhtunkhwa
 Tribal Areas Department, Khyber Pakhtunkhwa

The matter was heard on more than one date and decided because of pendency of a CP No. 8/2023 of the Supreme Court of Pakistan. During the course of the previous dates, Dr. Adnan Khan learned counsel for the appellants had informed the Tribunal that the petitioners who had appealed against the judgment of the Peshawar High Court, in Writ Petition No 963-VI of 2022 dated 29.11.2022, had submitted application for withdrawal of the CP from the august Supreme Court of Pakistan. The august Supreme Court had decided to dismiss the CP as withdrawn on 07.06.2023. Today Mr. Tahir Haidar Advocate/counsel for the appellant in Service Appeal No. 1697/2023 produced copy of an Act of the Provincial Assembly of Khyber Pakhtunkhwa "Provincially Administered Tribal Areas Levies Force (Amendment) Act 2021" in to which a new section, Section-111 was added. The text is reproduced as under:

"11. Reinstatement of the levies personnel — All the 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 from their respective dates of retirement and they shall be deemed as never retired from the Force."



Khyber Pakhtunkhwa
Service Tribunal

Original
Fair copy

(Salih-Ud-Din)
Member (J)

(Kalim Arshad Khan)
Chairman

and seal of the Tribunal on this 24th day of August, 2023.

5. Pronounced in open Court at Peshawar and given under our hands

Consign.

above remit. (Copies of this order be placed in all concerned appeals) recourse to further legal remedies available to them. Disposed of (in the are not addressed in accordance with the terms of the Act they would provisions of Section-11 of the Act of 2021 and in case their approach the proper forum for giving effect to implementation of the complied with/implemented by the respondents. They say they would They, however, contend that even the provisions of the Act would not be violated, both the impugned Notifications no more remained in force. promulgation of the above Act especially insertion of new Section 11. court as well as appellants present before the Tribunal. Decided by this Tribunal in these appeals, so is the agreement of both parties. court was very late to say that there was nothing more to be said and were deemed to have never returned from the Tribunal. They were considered as regular employees with respect to their service. Force v. [2023] 111 the commencement of the Act. the Act of 2021, whereby all lower personnel, who were When compared with the provisions of the new Act.



ANNEX P 57-
OFFICE OF THE DC MALAKAND/
COMMANDANT MALAKAND LEVIES

NO. _____ /LC
DATED MALAKAND THE 06/06/2024
Phone: 0932-452080 Fax: 0932-450557

OFFICE ORDER

In pursuance of letter No.SO(L&K)/HD/2-1/MKD/Levies/Gen/2024 dated 04-06-2024 and Notification No.SO(Police-II)/HD/1-3/Federal Levies 2021 Amended Service Levy Rules 2021 Schedule III dated 21-10-2021, issued by Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Peshawar, No.3800 Subedar Umar Wahid of Malakand Levies, who has completed the requisite 35-Years Service, stands retired from service with effect from 06-07-2023 (AN) with full pensionary benefits as per relevant pension rules.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

NO. 3305-09 /LC

Copy forwarded to the:-

1. Section Officer (Levies & Khasadars), Home & TA's Department Khyber Pakhtunkhwa Peshawar for information with reference to his letter referred above
2. Section Officer (Police-II), Home & TA's Department Khyber Pakhtunkhwa Peshawar for information with reference to Notification referred above.
3. District Account Officer, Malakand.
4. Subedar Major Malakand Levies.
5. Official Concerned.
For information & necessary action.

DC MALAKAND/COMMANDANT
MALAKAND LEVIES MALAKAND

بخدمت جناب سیکریٹری ہوم اینڈ ٹرائیبل آفیسر
صوبہ خیبر پختون خواہ بمقام پشاور

درخواست بمبراد منسوخی حکم نامہ نمبری 09-3305-09 محرمہ 06-06-2024 مجاریہ

ڈپٹی کمشنر/کمانڈنٹ مالا کنڈلیویز بابت ریٹارمنٹ من سائل صوبہ بیدار عمر واحد نمبر 3800 مالا کنڈ
جناب عالی! گذارش حسب ذیل ہے۔

(۱) یہ کہ سائل بطور صوبہ بیدار مالا کنڈ لیویز سرکاری ملازم ہے اور اپنے فرائض سرانجام دے رہا ہے۔
(۲) یہ کہ من سائل صوبہ بیدار عمر واحد مالا کنڈ لیویز کے موجودہ صوبہ بیدار میجر مسیح اللہ باچہ کے ساتھ اس کے تعلیمی
قابلیت اور مذکورہ پوسٹ پر تعینات کی اہلیت کی نسبت تنازعہ پیدا ہو کر اس نسبت من سائل نے ایک تحریری درخواست
/شکایت مورخہ 17-10-2022 کو آپ جناب کو گزاری اور اس کے بعد سائل نے Personal hearing کیلئے ایک درخواست مورخہ 09-05-2023 کو دائر کی۔ نقولات درخواست بائے لف ہیں۔

(۳) یہ کہ سائل کی مذکورہ درخواست پر بمطابق قانون کارروائی شروع ہوئی اور جب مسیح اللہ باچہ صوبہ بیدار
میجر مالا کنڈ لیویز کو نوٹس جاری ہوا تو اس نے معزز عدالت پشاور ہائی کورٹ پشاور میں رٹ پیشین نمبر
3775-P/2023 دائر کی جس میں معزز عدالت عالیہ نے حکم امتناعی جاری کرتے ہوئے حتمی حکم جاری کرنے سے
روک دی گئی۔ یوں درخواست پر بمطابق قانون جاری ہوتے ہوئے بحوالہ تفصیلی حکم محرمہ 11-09-2023 سائل
کی درخواست منظور ہو کر آپ جناب نے اس کی رو سے نئی DPC برائے تقرر صوبہ بیدار میجر مالا کنڈ لیویز منعقد کرنے
اور بمطابق مقررہ تعلیمی اہلیت و مروجہ قواعد عمل میں لانے کا باقاعدہ حکم صادر کیا مگر معزز عدالت عالیہ پشاور
کے حکم امتناعی کی وجہ سے DPC کی کارروائی نہ ہو سکی۔ نقل حکم محرمہ 11-09-2023 لف ہے۔

(۴) یہ کہ معزز عدالت پشاور ہائی کورٹ پشاور میں رٹ پیشین نمبر 3775-P/2023 میں مورخہ
07-05-2024 کو بحث و کلام فریقین سماعت کرنے کے بعد معزز عدالت میٹگورہ بیچ نے مسیح اللہ باچہ صوبہ بیدار
میجر مالا کنڈ لیویز کا رٹ پیشین ڈسپوزاف کیا تاہم بعد ازاں مالا کنڈ لیویز کے اہلکاران کے دیگر رٹ پیشین جو کہ مورخہ

27-02-2024 کو فیصلہ کیے گئے تھے میں معزز عدالت عالیہ نے کچھ قانونی نکات وضاحت طلب قرار دینے ہوئے مذکورہ رٹ پیشکش اور میری رٹ پیشکش نمبر 3775 سال 2023 میں از سر نو بحث سماعت کرنے کیلئے مورہ 26-06-2024 تاریخ مقرر کرتے ہوئے وکلاء فریقین کو نوٹس جاری کرتے ہوئے طلب کیا گیا ہے۔ حالانکہ من سائل کے خلاف دائر کردہ رٹ پیشکش نمبر 3775 سال 2023 اور دیگر سرکاری لیویز اہلکاران کے رٹ پیشکش فیصلہ شدہ مورہ 27-02-2024 کا ایک دوسرے کے ساتھ کوئی واسطہ یا تعلق نہ ہے۔

(۵) یہ کہ مذکورہ رٹ پیشکش میں مالا کنڈ لیویز کے اہلکاران کی ملازمت کی نسبت قواعد اور قانون زیر بحث ہوتے ہوئے تاحال حتمی فیصلہ نہیں کیا گیا ہے مگر اس باوجود ڈپٹی کمشنر/کمانڈنٹ مالا کنڈ لیویز نے اپنے اختیارات سے ناجائز اور غلط فائدہ اٹھاتے ہوئے چند دیگر عناصر بشمول صوبیدار میجر مالا کنڈ سمیع اللہ باچہ مجھے بحوالہ حکم متذکرہ بالا اپنی ملازمت سے ریٹائر کرنے کا حکم صادر کیا ہے جو کہ بالکل غلط، خلاف قانون، مبنی بر بدعتی، خلاف قواعد و ضوابط اور معزز اعلیٰ عدالت ہائے کے فیصلہ جات کے منافی ہے اور آپ جناب کے واضح حکم محررہ 11-09-2023 نسبت منعقد کرنے DPC برائے عہدہ صوبیدار میجر مالا کنڈ لیویز کے پاؤں تلے روندتے ہوئے صادر کر کے اپنے اختیارات سے نہایت تجاوز کیا ہے۔ اسلئے قابل منسوخی ہے۔ حکم محررہ 06-06-2024 ڈی سی مالا کنڈ لف ہذا ہے۔

(۶) یہ کہ دیگر وجوہات بدوران ذاتی شنوائی پیش و بیان کیے جائینگے۔

لہذا استدعا ہے کہ منظور ری درخواست ہذا حکم نامہ نمبری 09-3305-09 محررہ 06-06-2024 جاریہ ڈپٹی کمشنر/کمانڈنٹ مالا کنڈ لیویز بابت ریٹائرمنٹ من سائل صوبیدار عمر واحد نمبر 3800 مالا کنڈ غلط، خلاف قانون، خلاف واقعات اور خلاف قواعد و قانون قرار دی جا کر منسوخ فرمائی جا کر مذکورہ ڈپٹی کمشنر مالا کنڈ اور اس کے ساتھ شامل تمام سہولت کاروں کے خلاف قانونی کارروائی کرنے کا حکم صادر فرمائی جائے نیز دیگر دادرسی جو بھی قرین انصاف ہو مرحمت فرمائی جائے۔

عریضی المرقوم 12-06-2024

سائل عمر واحد صوبیدار مالا کنڈ لیویز نمبر 3800 موبائل فون نمبر 0345-9352488

To

The Secretary,
Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department,
Civil Secretariat, Peshawar.

ANVQ 1-60-
D. No. 753
13/6/24

Subject: Departmental Representation/Appeal against Promotion Order Dated 26.04.2022 whereby Subedar Sami Ullah has been promoted to the rank of Subedar Major (BS-16) on regular.

Respected Sir,

The appellant humbly submits as under:-

1. That appellant being citizen of Pakistan having all the fundamental rights which have been incorporated in the body of the Constitution of Islamic Republic of Pakistan, 1973, and is supposed to be treated in the accordance with and rules. It would not be out of place to mention here that appellant possess the FA Certificate from the recognized Institution.
2. That appellant being eligible in terms of your esteemed force rules was recruited against the post of Sepoy. The day first appellant has never ever been proceeded against departmentally and rendered meritorious service. It is pertinent to aver here that in recognition of serving the force with heart and soul appellant was offered promotion against the next higher ranks and lastly got promoted to the rank of Subedar (BPS-14).
3. That thereafter, appellant was enlisted into the Seniority List of Subedar's (BPS-14) and became eligible for promotion to the rank of Subedar Major (BPS-16). By means of Notification dated 22.03.2021 Service Rules were amended for the entire Levy Force, likewise, the criteria for the promotion to the rank of Subedar Major BPS-16 was also altered which speaks that "On the basis of Seniority-cum-fitness from amongst the Subedars having Intermediate Qualification".
4. That as a matter of fact some posts of Subedars Major were lying vacant, which were to be filled by way of promotion form amongst the Sundars. Department promotion Mr. Sami Ullah (Subedar) on Acting Charge Basis by virtue of Notification dated 25.06.2021 because he was lacking the requisite qualification/length of service for the subject promotion. Later on, Departmental Promotion Committee meeting was held whereby Mr. Subedar Sami Ullah was unlawfully, illegally regularly promoted to the rank of Subedar Major (BPS-16) vide impugned promotion order dated 26.04.2022 (Copy Attached).
5. That it is worthmentiong to contend that under the law the members of the DPC were required to adhere the promotion rules i.e Intermediate Qualification. Moreover, in such situation it was/is the bounded duty of the DPC to consider the others employees as well for the subject promotion because consideration for promotion is vested right of every civil servant.

6. That later appellant found out that Samiullah did not have an FA qualification; therefore, he instantly submitted a written complaint to the concerned quarter on 17.10.2022, which transmitted for necessary action (Copy Attached).
7. That thereafter, a comprehensive inquiry/trial into the matter was carried out by the Worthy Secretary Home Department, thereon notices were issued to appellant alongside Mr. Samiullah for appearance and arguments. Finally complaint came for hearing on 11.09.2023 (Copy Attached) and adjudicated on the following terms which is being reproduced herein below for ease to reference:-

“On 22.06.2023, NAVTTC, Islamabad informed that Diploma issued by the PT&EC to Mr. Samiullah was not included in the registered institution list with them. Therefore, the Diploma is invalid. List of approved technical organization has also been enclosed by the NAVTTC wherein Pakistan Technical and Educational Council were not found.

Keeping in view the ambiguity and dual statement by the NAVTTC Islamabad and Pakistan Technical Educational Council Peshawar, officers/staff of Home Department were deputed to visit the institution and physically verify the diploma certificate and above mentioned institution.

On 6.7.23 concerned officers submitted their detailed report with the conclusion that there was big question mark on the existence of the body of Pakistan Technical & Educational Council Islamabad, as nothing had been found or provided to establish its legal existence.

Derive from above position; the case is simple in nature Respondent Sami Ullah did not get NOC for diploma at that time. As informed by the representative of DC Malakand, no entry in his service book was made till yet. No extra ordinary leave 3 years had been granted to him while 3 years regular classes were impossible without leave. Last but not the least, he did matriculation in 1989 in Arts while obtained the DAE in the year 2006, after a gap of 16 years approximately in the subject of applied mathematics, applied physics and applied chemistry which is beyond comprehension.

8. That it was the conclusion of the inquiry/trial that appeal of Umar Wahid is admitted. It is hereby ordered that fresh Departmental Promotion Committee (DPC) meeting may be convened and promotion may be made in light of qualification and valid documents”. Appellant was hopeful that his grievance would be redressed and promotion order dated 26.04.2022 would be withdrawn but to no avail.
9. That the omission and impugned promotion Notification dated 26.04.2022 on the part of the Department is quite illegal and hence appellant being aggrieved thereof files this Department Representation/Appeal inter-alia on the following grounds:-

GROUNDS:-

- A. That Department has not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused to conduct a fresh DPC by

considering appellant for promotion to the rank of Subedar Major (BPS-16, which is unjust, unfair and hence not sustainable in the eye of law.

- B. That appellant is eligible senior, over and above qualified for promotion to next higher rank but for no valid and justified reasons his case for promotion was/is withheld which has caused financial loss to appellant on the one hand and damaged his career progression on the other. The unlawful omission on the part of the Respondents cannot be justified under any canon of law, justice and fair play.
- C. That almost all the formalities regarding the promotion have been fulfilled since long but still the Department was/is reluctant to hold the meeting of Departmental Promotion Committee, which was/is not tenable under the law. As submitted hereinabove that the qualification of FA of Mr. Samiullah was found to be bogus/faked by the inquiry/trial therefore, he was not eligible to be promoted to the rank of Subedar Major. It is expounded that to the shake the authenticity of the documents is the duty of the department that whether the incumbent who produces the Certificate/Degree is valid or otherwise, however, it was appellant who invited the attention towards the same. Thus appellant was illegally deprived from his lawful right of promotion against the subject rank. Had the case of the appellant been considered for promotion in due time then he would definitely been promoted but utter discrimination has been meted out towards the appellant which is not sustainable in the eye of law.
- D. That order dated 11.09.2023 which has been passed by the concerned quarter after furnishing proper opportunity of audience to the parties, left no room to any confusion that the promotion order dated 26.04.2022 of Mr. Samiullah was void-ab-initio. Therefore, it has now been settled legal principle of law that depriving of a civil servant from his promotion amounts to major punishment.
- E. That as per the direction of the Hon'ble Peshawar High Court, Mingora Bench passed in Writ Petition No. 587-M/2012 as well as nature of duties of the post of Subedar Major being the second highest rank in the Levies Force, a qualified and experienced persons is to be promoted to it whereas Mr. Samiullah was lacking such credentials, therefore, he unlawfully promoted to the rank of Subedar Major (BPS-14).
- F. That as per Section-9 read with Rule-7(3) of the Khyber Pakhtuynkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 which states that:-

Section-9 KP civil servant Act, 1976

"A civil servant possessing such minimum qualification as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for departmental promotion in the service or cadre to which he belongs, may either be a selection post or non-selection post.

Rule-7(3) of APT, 1989

"Persons possessing such qualification and fulfilling such conditions as laid down for the purpose of promotion or transfer to

a post shall be considered for promotion or transfer, as the case may be”

The word Selection itself provides that seniority of a civil servant shall not be a determining factor for promotion rather seniority-cum-fitness. The August Court in reported verdict 2022 PLC (CS) 610 has laid down a principle that:-

“Promotion—Eligibility and fitness—Factors to be considered— Eligibility itself is not the benchmark for promotion, rather the most vital yardstick is fitness, which can be judged from the service record which includes ACRs, qualification etc”

- G. That appellant was discriminated because by means of Notification dated 28.11.2018 one Mr. Faridullah the employee of the same department was got promoted to the rank of Subedar Major (BPS-16) by giving preference over Mr. Amir Nawab Subedar although he was senior to him but was lacking the requisite qualifications. Thus, appellant is entitled to be treated in accordance with law and Article-25 of the Constitution of Islamic Republic of Pakistan, 1973.
- H. That Article-3 of the Constitution, 1973 provides that *“the State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle from each according to his ability to each according to his work.* Similarly, Article-2A of the Constitution narrates as follows:-

“The principles and provisions set out in the objectives Resolution reproduced in the annex are hereby made substantive part of the Constitution and shall have effect accordingly.”

Therefore, under the law Respondent Institution was supposed to treat appellant in accordance with law, rules and practices as set forth in the Constitution.


- I. That appellant was entitled to promotion in all respect but firstly his case was deliberately delayed and secondly the findings of the order/judgment dated 11.09.2023 are not being complied with, which is against the fundamental rights of the appellant.
- J. That albeit promotion is not a vested right of a civil servant but consideration is a vested right whenever he fulfills the entire ingredient for the subject promotion. The above inquiry/trial dated 11.09.2023 and correspondence dated 18.09.2023 and 23.10.2023 of the Department clearly transpires that appellant was eligible for promotion to the subject rank that is why his complaint was accepted against the qualification of Mr. Sami Ullah but to the utter bewilderment his case is not being considered in light of the findings.
- I. In light of the above, it is, therefore, humbly prayed that on acceptance of this Departmental Representation/Appeal, the impugned promotion order dated 26.04.2022 may kindly be set aside, and to act in the matter in accordance with law and rules, and to implement the order/judgment dated 11.09.2023 by conducting fresh Departmental Promotion Committee for the post Subedar Major (BPS-16). And

II. Appellant be promoted to the rank of Subedar Major (BPS-16) with effect from 26.04.2022 with all back benefits.

Note. It is pertinent to add here that appellant would have reserve the right of further service till the date of superannuation i.e 60 years subject to the decision of Hon'ble Peshawar High Court, Mingora Bench, Swat in Writ Petition No. 1200-M/2023 which is pending adjudication as appellant has prematurely been retired from service under the old rules vide office order dated 06.06.2024.

Further submitted the delay if any may kindly be condoned because appellant had submitted a complaint against Mr. Samiullah in respect of his qualification which took long time and ultimately decided in favour of appellant on 11.09.2023, moreover, Mr. Sami Ullah filed Writ Petition No. 3775-M/2023 and got interim relief vide order sheet dated 01.09.2023.

Yours faithfully,


Mr. Umar Wahid,
Ex-Subedar, Malakand,
Levies No. 3800

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BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-OAZA), SWAT

W.P.No. 587-m2012

ANNEX R¹

Subedar Major Muhammad Humayoon Khan
Malakand Levies at Malakand..... Petitioner

Versus

1) Subedar Gul Roz Khan
Malakand Levies at Malakand, KPK

Secretary Home & Tribal Affairs,
Civil Secretariat, Peshawar

2) District Coordination Officer/ Commandant
Levies at Malakand

3) Govt. of Khyber Pakhtunkhwa, Khwa, through
Secretary Home & Tribal Affairs, Civil Secretariat Peshawar

4) Federal Govt. through Secretary Saifron Pak,
Civil Secretariat, Islamabad.

5) Secretary Saifron, Pak, Civil Secretariat, Islamabad



..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth;

Petitioner humbly submits as under:

1. That petitioner is serving as Subedar Major, Malakand Levies and performing his duties efficiently, diligently, and received Commendation Certificates from the authorities and is maintaining good liaison and coordination with the Pak Army in the Malakand Agency.

FILED TODAY

Additional Registrar

29 NOV 2012

- 66 -

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

W.P. No. 587-M/2012

Subedar Major Muhammad Hamayun Khan (Petitioner)

Versus:

Subedar Gul Roz Khan and 5 others (Respondents)

Present: *Barrister Dr. Adnan Khan, Advocate for
the petitioner.*

*M/S Sher Muhammad Khan and
Aziz-ur-Rehman, Advocates
for respondent No. 1.*

*Mr. Subir Shah, Additional Advocate
General for respondents No. 2, 3 & 4.*

*Mian Hussain Ali, Deputy Attorney
General for respondents No. 5 & 6.*



Date of hearing: 26.01.2017

Date of announcement: 14.02.2017

JUDGMENT

MUSSARAT HILALI, 1.- Through this writ petition, the petitioner has prayed this Court for declaring the orders dated 19.10.2012 and 21.11.2012 passed by respondents No.2 & 6 respectively as without lawful authority and jurisdiction and against the service rules for Provincially Administered Tribal Areas (PATA) Levies Force, 2012 with further prayer to restore the order dated 25.04.2012 of the respondent No.3 and the petitioner be

allowed to continue his service till attaining
the age of 60 years.

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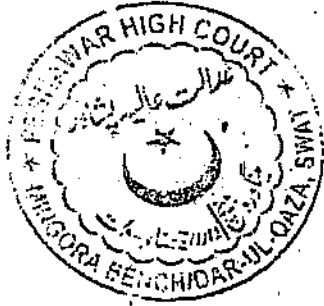
2. Brief facts of the case forming background of the instant writ petition are that petitioner was serving as Subedar Major, Malakand Levies. His service was extended by Commandant Malakand Levies (Respondent No.3) vide order dated 25.04.2012. The relevant para of the order is reproduced herein below for ready reference.

"Since, he has neither completed 30-years service nor attained the age of 50-years, hence in exercise of the powers conferred upon the undersigned vide Para-2 sub-Para (ii) of Malakand Levies Rules, 1962, he is allowed to continue his work as Subedar Major of Malakand Levies with effect from 01.06.2012 to 31.05.2013".

The above order was challenged by respondent No.1 Gul Roz Khan, through a departmental appeal which was accepted by Secretary Home and Tribal Affairs, Civil Secretariat, Peshawar (Respondent No.2) vide order dated 19.10.2012, resultantly the order dated 25.04.2012 of the Commandant Malakand Levies/D.C.O Malakand was set

aside. The concluding Para of the order is as follows:-

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"5: In light of the above facts, the departmental appeal of Subedar Gul Roz Khan of Malakand Levies is accepted and the extension order of Subedar Major Hamayun granted by DCO Malakand dated 25.04.2012 is hereby cancelled and his retirement be notified from 31.05.2012. DPC meeting for the promotion of the appellant be convened within a week time."

Being aggrieved, petitioner filed appeal against the order dated 19.10.2012 before Secretary SAFRON, Civil Secretariat, Islamabad (Respondent No.6) which was dismissed vide order dated 21.11.2012. The relevant para of the order is as under:

"(ii) the case file was perused and arguments were heard. The main argument which is pivotal for just decision of this case is whether on the date of extension (25.04.2012) D.C.O Malakand was empowered or not. It has been proved that once the post of Subedar Major was upgraded from BPS-7 to BPS-16. The D.C.O had no power to promote or to give extension to any officer in BPS-16. An order with no legal authority is null and void in eyes of law".

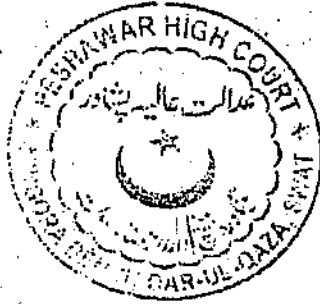
The petitioner, through this petition, has challenged the above concurrent



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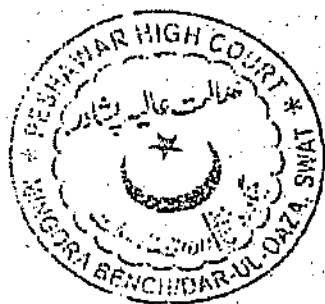
orders i.e dated 19.10.2012 and 21.11.2012 passed by the respondents No.2 and 6, respectively. It is noteworthy that prior to institution of this writ petition, petitioner had filed W.P No. 252/2012 before this Bench wherein he had challenged the request of Chief Coordinator of Prime Minister Secretariat for assignment of charge to Subedar Gul Roz Khan despite that the service of the petitioner had been extended by D.C.O Malakand vide order dated 25.04.2012. The said writ petition was dismissed by this Court vide judgment dated 28.06.2012.

3. Barrister Dr. Adnan Khan Advocate, learned counsel appearing on behalf of petitioner contended that petitioner is the senior most in the Levies Force Malakand and was promoted to the rank of Subedar Major on 01.06.2008 for a period of 4 years under Dir and Malakand Levies Rules, 1962, as such, his tenure of service on the same rank was upto 01.06.2012. Learned counsel further contended that vide order dated 25.04.2012, Comandant Malakand Levies/D.C.O, being



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competent authority, granted one year extension to the petitioner under the Rules *ibid*. Learned counsel was of the view that under the former Rules of 1962, a levy personnel was to be retired on completion of 30-year service or attaining the age of 50 years which was not the case of the petitioner, even on promulgation of Provincially Administered Tribal Areas (PATA) Levies Force (Service) Rules, 2012 (statutory Rules) on 13th September, 2012, the petitioner was below 50 years of age whereas the age of superannuation was fixed as 60 years under the statutory Rules. Learned counsel added that the statutory rules should have been extended to the petitioner especially when his extension order was in the field. Learned counsel was of the view that petitioner was to be retired on 30.05.2013 after expiry of the extension period under Dir and Malakand Levies Rules, 1962, however, the petitioner was retired on 05.11.2012 effective from 31.05.2012 pursuant to order dated 19.10.2012 of Secretary Home, Khyber Pukhtunkhwa.



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while accepting departmental appeal of the respondent Gul Roz Khan. Regarding jurisdiction of this Court, learned counsel argued that being not civil servants, levy officials cannot approach Service Tribunal for redressal of their grievances, as such, they can invoke the extraordinary jurisdiction of the High Court. While summing up his arguments, learned counsel prayed that orders dated 21.11.2012 and 19.10.2012 of Secretary SAFRON and Secretary, Home and Tribal Affairs, KPK be set aside and by giving extension to petitioner on restoration of order dated 25.04.2012 of the D.C.O, Malakand, the petitioner may be permitted to continue service till attaining the age of 60 years. Reliance was placed on *2016 SCMR 2146*, *2015 PLC (C.S) Baluchistan 393*, *PLD 2016 Peshawar 35*.

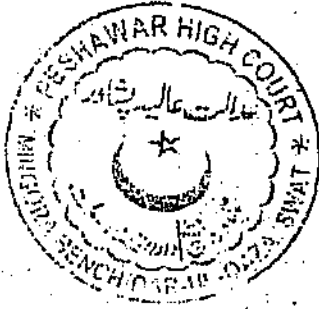
4. Sher Muhammad Khan and Aziz-ur-Rehman, learned counsels appearing on behalf of respondent No.1 Gul Roz Khan, argued that the respondent had already challenged the extension order of the



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petitioner through departmental appeal which was allowed. The said order was challenged by the petitioner before this Court through a writ petition, which was dismissed while the august Supreme Court dismissed the petition of respondent No.1 on the ground of maintainability whereas his departmental appeal was accepted by Secretary Home, Khyber Pakhtunkhwa vide order dated 19.10.2012, consequently, retirement of the petitioner was ordered w.e.f 31.05.2012. Learned counsels concluded that promotion to the higher rank is the right of respondent No.1 which cannot be taken away from him through illegal and invalid orders. Reliance was placed on 2015 SCMR 43, PLD 1969 Supreme Court 187, PLD 2016 Supreme Court 995, 2013 SCMR 314, 2005 SCMR 1785, 2016 SCMR 816, 2016 SCMR 108 and 2015 PTD (Lahore) 2368.

5. Mr. Sabir Shah, learned Additional Advocate General representing the official respondents of the Provincial Government argued that petitioner has



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completed his tenure under the existing Rules, and he was retired in accordance with law. Learned A.A.G. submitted that there is no force in plea of the petitioner for setting aside the impugned order dated 19.10.2012 passed by Secretary Home Department, Khyber Pakhtunkhwa as the same is in accordance with law and the relevant Rules. In support of his arguments, learned A.A.G. placed reliance on 2016 SCMR 69, 2013 PLC (C.S) 1223, 2016 SCMR 2098, PLD 2007 High Court (AJ&K) 01, 2016 SCMR 2146 and 2015 SCMR 739.

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

7. First of all we would like to dispose of C.M No. 1010/2013, C.M No. 340/2014 and C.M No. 385/2015 in the instant writ petition.

Through C.M No. 1010/2013, applicant Subedar Badshah Rehman seeks his



impleadment as petitioner in the instant writ petition. Contention of the applicant is that he has the identical case and is senior most after respondent No.1. He has attached seniority list with his application which shows that respondent No.1 Gul Roz Khan is at Serial No.9 of the list of Subedars whereas the applicant is at Serial No. 5 of the list of Naib Subedars, hence, nine other levy officials are intervening between the respondent No.1 and the applicant which fact negates the contention of the applicant of being senior most after respondent No.1. Therefore, the applicant has no identical case as petitioner, hence, C.M No. 1010/2013 is dismissed.

Through C.M No. 385-M/2015, the applicant Elum Khan seeks his impleadment in the instant writ petition as necessary party. In the seniority list attached by applicant Subedar Badshah Rehnian with his C.M, the applicant Elum Khan is senior to respondent No.1 Gul Roz Khan and his case is identical to respondent No.1, therefore, this C.M is

allowed and the applicant Elum Khan is impleaded as respondent in the writ petition.

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8. The levies force was established in Malakand area during British rule. The levies personnel performed their duties and functions similar to those of police, however, it comes under the administrative control of SAFRON division Government of Pakistan. The Subedar Major is the second highest ranking officer after Deputy Commissioner who is also the commandant.

The facts giving rise to this writ petition lie in a very narrow compass. The petitioner was recruited in Malakand Levies as Sepoy under the Rules of Service for Malakand and Dir Levies 1962. Under Rule 3(i) of the said rules, criteria for length of service was provided as under.

- Rule 3 (i)--- all sepoy will retire after 18 years of service.
- (ii) All non-commissioned officers will retire after 25 years of service,
 - (iii) All other will retire on attaining the age of 50 years or completion of service whichever is earlier.



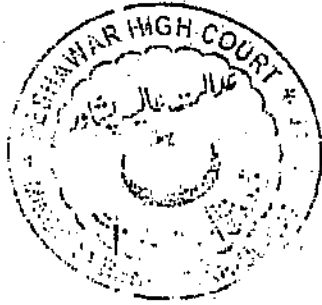
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The case of petitioner is that he was promoted as Subedar Major on 01.06.2008. Under Rule 2 sub-rule (iii), the length of term of Subedar Major was provided as 4 years which was extendable for further one year by local administration. The petitioner completed his term as Subedar Major, however, he was given one year further extension by D.C.O on 25.04.2012. Aggrieved of the order dated 25.04.2012, respondent No.1 (Gul Roz) filed a departmental appeal which was allowed and the order dated 25.04.2012 was set aside by Secretary Home and Tribal Affairs (respondent No.2) vide order dated 19.10.2012. The appeal filed thereagainst was also dismissed by Secretary SAFRON (respondent No.6) on 21.11.2012. Both these orders have been impugned before this Court on the ground that under rule 16 of the new rules promulgated on 13.09.2012, the force personnel shall retire from service on attaining the age of superannuation i.e. 60 years or he may opt for retirement after



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completing 25 years of regular service. The contention of learned counsel for the petitioner is that the new rules were promulgated during the period when he was in service vide order dated 25.04.2012 and thus was entitled to extension in retirement age. The argument of learned counsel for the petitioner has no force in it as the post of Subedar Major has been upgraded from BPS-7 to BPS-16 in 2010 vide notification F.4(5)-LK/2009 dated 20.02.2010 by the Federal Government and thereafter the SAFRON division declared the Secretary Home and Tribal Affairs as Chairman for the promotion of the Subedar to Subedar Major. Under the said rule the D.C.O was neither competent to promote subedar to Subedar Major nor to grant extension to him, hence, the extension order dated 25.04.2012 was made contrary to the rules. Such an order would be treated as nullity whenever, wherever and for whatever purpose it is sought to be used or relied on as a valid order. Thus, for the said illegality committed by D.C.O Malakand, the petitioner cannot be



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Levies Force are not employees of statutory body, therefore, the writ filed by them before the High Court was not maintainable. When confronted with the judgment of the august Supreme Court, learned counsel for the petitioner cited a judgment of the august Supreme Court delivered on 24.08.2016 in case titled "*Muhammad Rafi and another Vs. Federation of Pakistan and others*" (2016 SCMR 2146) wherein it was held that.

"Aggrieved person could invoke the constitutional jurisdiction of the High Court against a public authority if he is satisfied that the act of the authority was violative of the service regulations even if they were non-statutory".

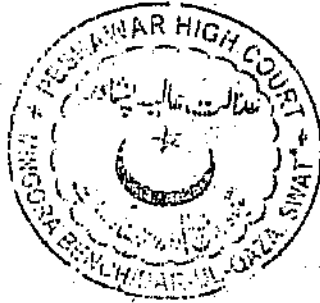
10/3 Under Article 189 of the Constitution of Islamic Republic of Pakistan; any decision of Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all the Courts in Pakistan. Undoubtedly, the judgment of Supreme Court deciding the question of law would be binding.

on similar subsequent cases, however, it does not re-open already decided cases.

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11. Considering the facts mentioned above in its entirety and the proposition of law, this Writ Petition is dismissed on merits as well as on maintainability. At this juncture, this Court feel agonized to note that the rules regulating the service and promotion of levies personnel have been time and again subjected to various amendments and repeals besides, the same do not prescribe any specific qualification for the post of Subedar Major though the same is the second highest rank in the levies force. The repeated changes in the criteria for promotion to the rank of Subedar Major qua the age and tenure of levies personnel have not only created ambiguity but also a sense of insecurity amongst the force relating to their service and promotion in future. Therefore, a clear and uniform policy is required to be made by the Provincial Government in order to remove the existing ambiguity in the present rules as well as to prescribe academic qualification not below



deemed to be in service after 31.05.2012 as
his tenure as Subedar Major has already come
to an end on the said date and, as such, by
operation of law the extended period of
service of the petitioner had expired on
31.05.2012. Now this court cannot issue a writ
of mandamus for treating the petitioner to be
in service at the time of promulgation of new
rules as a writ of the nature prayed for can be
granted only to enforce a legal right of an
aggrieved person and shall not be issued to
perpetuate illegality. The judgments relied
upon by learned counsel for the petitioner
have no relevance to the facts and law in the
instant writ petition.

9. In addition to above, this writ
petition is not maintainable on the ground that
earlier W.P. No. 252/2012 filed by the
petitioner before this Court was dismissed by
this Court on 28.06.2012, however, the said
judgment was allowed by the august Supreme
Court on 02.10.2012. The august Supreme in
its judgment delivered on 02.10.2012, held
that the employees of Malakand and Dir

7.12.17
graduation for the post of Subedar Major. The Provincial Government is directed to make an unequivocal policy of promotion for levies force as early as possible preferably within three months. C.O.C No. 12/2013, C.O.C No. 02.2016, C.M No.560/2015, C.M No. 24/2017 are also dismissed for having become infructuous.

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Sd. Musarat Hilali-J
Sd. Mohammad Ibrahim Khan-J

Announced
14.02.2017

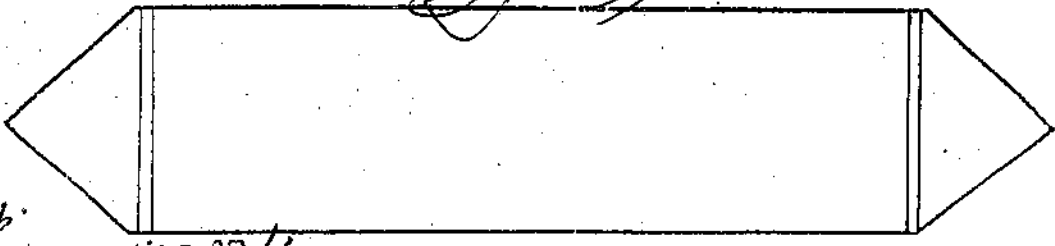
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EXAMINED
Peshawar High Court, Muzaffargarh
Authorized Under Article 87 of Constitution

27/4/17

OK'd
24/4

بعدالت رسد



بنام حکم عدالت
عز و احد

منورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالاس میں اپنی طرف سے واسطے پیرہی و جواب دہی و کل کارروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دینے جو اب دہی اور اقبال دعویٰ اور
بسورت ڈگری کرنے اجراء اور صولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے دہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سدر ہے۔

المرقوم _____ ماہ _____ 20

بمقام _____ کے لئے منظور ہے۔

Accepted by
Mustaf