



SENATE SECRETARIAT

Report No. 1 of 2018

Report of the Senate Standing Committee on Defence

Regarding the subject matter of Point of Public Importance raised by Senator Farhatullah Babar in the Senate sitting held on 17th November, 2017, regarding "Appointment of ex-cadre officer as head of the Military Land and Cantonment Services Department, due to which the regular cadre officers of the said Service Group never get an opportunity to head the Department"

PRESENTED BY

***Senator Mushahid Hussain Sayed
Chairman SSC on Defence***

SENATE SECRETARIAT

REPORT OF THE SENATE STANDING COMMITTEE ON DEFENCE

I, Senator Mushahid Hussain Sayed, Chairman of Senate Standing Committee on Defence, have the honour to present the report, on behalf of the Committee, on the matter which was referred to the Senate Standing Committee on Defence for consideration and report.

2. The Agenda before the Committee was as follows:-

"Point of Public Importance raised by Senator Farhatullah Babar regarding "Appointment of ex-cadre officer as head of the Military Land and Cantonment Services Department, due to which the regular cadre officers of the said Service Group never get an opportunity to head the Department" in the sitting of the Senate held on 17th November, 2017

3. The composition of the Committee is as under:-

1. Senator Mushahid Hussain Sayed	Chairman
2. Senator Ilyas Ahmad Bilour	Member
3. Senator Hidayat Ullah	Member
4. Senator Atta ur Rehman	Member
5. Senator Col. (R) Syed Tahir Hussain Mashhadi	Member
6. Senator Mir Kabir Ahmed Muhammad Shahi	Member
7. Senator Lt. Gen. (R) Abdul Qayyum	Member
8. Senator Muhammad Javed Abbasi	Member
9. Senator Mrs. Sehar Kamran	Member
10. Senator Farooq H. Naek	Member
11. Senator Mohammad Azam Khan Swati	Member
12. Senator Saleem Mandviwala	Member
13. Minister for Defence	Ex-Officio Member

4. A meeting of the Senate Standing Committee on Defence was held on 15th January, 2018. The following members of the Committee attended the meeting:-

i. Senator Mushahid Hussain Sayed	Chairman
ii. Senator Ilyas Ahmad Bilour	Member
iii. Senator Hidayat Ullah	Member
iv. Senator Col. (R) Syed Tahir Hussain Mashhadi	Member
v. Senator Lt. Gen. (R) Abdul Qayyum	Member
vi. Senator Mrs. Sehar Kamran	Member
vii. Senator Farhatullah Babar	Mover

5. During the session of the Senate held on 17th November, 2017, the Hon'ble Senator Farhatullah Babar raised the point of Public Importance regarding **"appointment of ex-cadre officer as head of the Military Land and Cantonment Services Department, due to**

which the regular cadre officers of the said Service Group never get an opportunity to head the Department". The Hon'ble Chairman Senate had referred the matter to Senate Standing Committee on Cabinet. The Cabinet Secretariat after examining the issue referred the matter to the Senate Standing Committee on Defence which discussed the same in detailed in its meeting held on 15th January, 2018.

6. The Additional Secretary/Acting Secretary, Ministry of Defence apprised the DEFCOM that ML&C, an attached Department of Ministry of Defence, is responsible for management of Defence Lands, acquisition of lands, hiring of accommodations for three Services and Municipal / Development Works in Cantonments. This Department is not purely civil in nature as is evident from its functions, therefore, the post of DG ML&C has since long been filled by a Military Officer. Later in 2014, with an amendment in para - 5 of "Framework of Rules and Procedure applicable to ML&C Group" duly approved by the Prime Minister such appointment has been done by appointing an officer of the rank of a Major General as DG ML&C. The said amendment was notified vide Establishment Division which is as under:-

"Grade 18 and above:- Posts will be filled by promotion or direct recruitment in accordance with the procedure laid down in Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 and other instructions issued from time to time or by horizontal movement of suitably qualified and experienced officer from other Groups. In case of appoint of Director General ML&C, the Prime Minister may appoint any officer of the corresponding rank / grade and having required / special expertise and experience on secondment".

7. Accordingly the current Additional Director General, ML&C is a BS-21 officer from the ML&C cadre and is also attending the Committee meeting.

8. The Additional Secretary, Establishment Division apprised the meeting that in October, 2014 the said summary proposing an amendment to the policy was moved by the Ministry of Defence, directly to the Prime Minister of Pakistan. It is the prerogative of the Prime Minister to amend such policies and the same was done accordingly. The Establishment Division only notified the said decision of the Competent Authority.

9. Senator Farhatullah Babar spoke at length and said that the post of DG MLC is a cadre post of the department and, under the rules, appointment to it can be made only from amongst the officers of the cadre and not from outside. The post has always been held by civilian

officers until General Pervez Musharraf, soon after take over in October 1999, appointed a serving military officer to it, against the law and the rules. Since then eight or nine serving military officers have taken turns one after the other in violation of the rules. This has caused utter disappointment and frustration among civilian officers of the cadre.

10. He cited the following reasons to assert that such appointments are wrong:-

One, the land belongs to the federal government and the Military Lands Department is the custodian of the interests of the land owner. It is the responsibility of the department to ensure that the land is used by the user (in this case the army) for the purpose for which it has been given to it.

A serving military officer represents the military and hence the interests of the land user. By appointing him to the post of custodian of the interests of land owner is a serious conflict of interest.

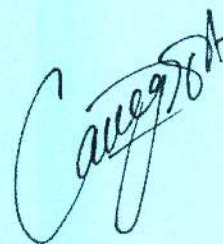
11. In 2008 all irregularities committed in the use of land by the military in the past decades were got condoned through a waiver by the then caretaker Prime Minister. It can be argued that it was made possible because the interests of land owner (namely the federal government) lay in the hands of the land user (The Military).

12. Secondly, the Supreme Court in June 2013 had ruled that non-civil servants could not be appointed on deputation to any cadre of government while declaring appointments to cadre posts without the competitive process by the FPSC as illegal. The DG is a BS 21 civilian cadre post and appointments to it are made by the FPSC through CSS exams. Appointing a serving military officer was a violation of the court orders.

13. In March 1995 a committee was formed by the then Prime Minister which strongly opposed any move to place the department under the charge of serving officers of the Military / Armed forces.

14. In July 2013, the Prime Minister had ordered that that in future the post of Director General ML&C would stand reverted to the civilian cadre.

15. He also referred to the excerpts from the verbatim of Defence Production minister Rana Tanveer in the Senate on May 20, 2014 stating that the post will be filled by civilian officers of the cadre after the expiry of term of the then incumbent DG. A question was raised why that assurance given on the floor of the House had not been honored.



16. The posting of serving military officers since 1999 as Director General Military Lands and Cantonments is an issue of conflict of interest, of violation of the courts orders and of not keeping the Prime Minister fully informed besides demoralizing civilian cadres, he said.

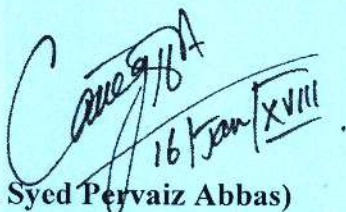
17. Senator Farhatullah Babar reiterated that after continuing with the illegality for over a decade an amendment in rules was made in October 2014 to give a facade of legality to such appointments. It seems that full facts were not brought to the attention of the Prime Minister while seeking approval to the change in the rules and asked the Additional Secretary Establishment whether the summary submitted to the PM contained full facts and circumstances.

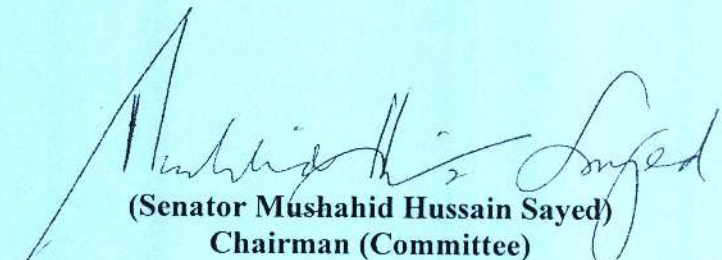
18. Senators Col. (R) Syed Tahir Hussain Mashhadi, Lt. Gen. (R) Abdul Qayyum, Ilyas Ahmed Bilour and Mrs. Sehar Kamran also spoke on the issue and expressed surprise that the Prime Minister was not appropriately informed of the circumstances and the consequences of such decision. No intra-divisional / intra-ministerial consultation was done which should have taken place as a matter of procedure in accordance with the Rules of Procedures of the Federal Government. The decision of the Supreme Court also seems to have been violated. The members of DEFCOM desired to see the original summary which was moved by the Ministry of Defence directly to the Prime Minister of Pakistan in 2014.

19. The Additional Secretary, Establishment Division apprised the Committee that all such summaries fall under the category of "Confidential Documents". The Chairman DEFCOM gave a ruling in accordance with the provisions of Rules 187(i) of the Rules of Procedure and Conduct of Business in the Senate, 2012, and directed the Establishment Division and Ministry of Defence to share the summary, in original, with all the members of the DEFCOM, within a week, latest by 9:00 am on 22nd January, 2018.

20. Both Additional Secretaries, Defence and Establishment Division promised to comply with the ruling of the Chairman DEFCOM.

21. The Chairman DEFCOM & the Senate Standing Committee on Defence adopted this report and approved its laying before the august House.


(Dr. Syed Pervaiz Abbas)
Secretary (Committee)


(Senator Mushahid Hussain Sayed)
Chairman (Committee)