

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	17.01.2019	<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b> <b><u>AT CAMP COUR ABBOTTABAD</u></b> Service Appeal No. 709/2018</p> <p style="text-align: center;">Date of Institution ... 24.05.2018 Date of Decision ... 17.01.2019</p> <p>Muhammad Shoaib Khan, Assistant Food Controller (PRC), Havelian Abbottabad.</p> <p style="text-align: right;"><b>Appellant</b></p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> <li>1. The Secretary to Government of Khyber Pakhtunkhwa Food Department.</li> <li>2. The Director Food Department Khyber Pakhtunkhwa Peshawar.</li> <li>3. Azhar Parvez Food Grain Inspector, DFC office, Abbottabad.</li> </ol> <p style="text-align: right;"><b>Respondents</b></p> <p><b>Mr. Muhammad Hamid Mughal-----Member (J)</b> <b>Mr. Hussain Shah-----Member (E)</b></p> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p><b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> - Appellant with counsel and Mr. Muhammad Bilal learned Deputy District Attorney for official respondents present. Learned counsel for respondent No 3 present.</p> <p>2. The appellant has filed the present service appeal against order dated 03.05.2018 whereby he was transferred from the office of District Food Controller Abbottabad to the office of District Food Controller Batagram and in his place private respondent No.3</p>

(Food Grain Inspector) was posted as Assistant Food Controller Abbottabad on OPS basis. The appellant is also aggrieved against the order dated 22.05.2018 through which his departmental appeal against the original impugned order was regretted/filed.

3. Arguments heard. File perused.

4. The appellant was posted as AFC Abbottabad vide order dated 23.02.2017 however before completion of his normal tenure of two (02) years at Abbottabad, he was transferred out and posted at District Batagram while in his place a Food Grain Inspector was appointed as AFC on OPS basis.

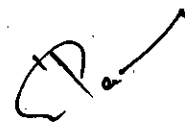
5. No specific reason much less compelling reason find any mention in the impugned orders or in the para wise comments of the respondents for the premature transfer of the appellant to a relatively smaller district and posting of a junior officer as AFC on OPS basis in the Divisional Headquarter.

6. It is also settled proposition that the appointment on OPS basis to a higher grade does not have any sanction of law.

7. As a sequel to above, this Tribunal is constrained to accept the present service appeal. Consequently the present service appeal is allowed and the impugned orders are set aside. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)  
Member



(Muhammad Hamid Mughal)  
Member  
Camp Court Abbottabad

ANNOUNCED  
17.01.2019

20.12.2018


Counsel for the petitioner, Mr. Usman Ghani, District Attorney alongwith Mr. Imtiaz Ahmad, AD for official respondents and private respondent no.3 with counsel present. Written reply on behalf of private respondent no.3 submitted. Learned counsel for the petitioner invited attention to order sheet dated 18.10.2018, whereby respondents were directed to release the salary of the appellant. He also informed that respondents were adamant by denying salary to the appellant, despite directions of this Tribunal referred to above. They are again directed to immediately release the salary of the appellant and provide compliance report on 17.01.2019 before S.B at camp court, Abbottabad. In the meanwhile the restraint order shall continue till the date fixed.



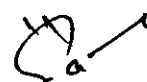
Member  
Camp Court A/Abad

17.01.2019

Appellant with counsel and Mr. Muhammad Bilal learned Deputy District Attorney for official respondents present. Learned counsel for private respondent No.3 present. Vide separate judgment of today of this Tribunal placed on file, the present service appeal is allowed and the impugned orders are set aside. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)  
Member



(Muhammad Hamid Mughal)  
Member


Camp Court Abbottabad

ANNOUNCED  
17.01.2019

A- No. 709/2018  
M. Shoaib Khan vs Govt


18.10.2018

Appellant alongwith his counsel present. Mr. Imtiaz Ahmad, AD alongwith Mr. Usman Ghani, District Attorney for official respondents No. 1 & 2 and private respondent No. 3 alongwith his counsel present. Learned counsel for private respondent No. 3 requested for adjournment to file written reply. Adjournment granted. Learned counsel for the appellant also stated at the bar that the respondent department has stopped the salary of the appellant despite the fact that the appellant has not relinquished the charge and also performing his duty regularly so far and this court has already granted status quo order. Therefore, respondent department is directed to release the salary of the appellant. To come up for written reply/comments on behalf of private respondent No. 3 14.11.2018 before S.B at camp court, Abbottabad. In the meanwhile the restraint order shall continue till the date fixed.

  
Member  
Camp Court, A/Abad

14.11.2018

Appellant in person and private respondent no 3 also present . Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 20.12.2018 at camp court Abbottabad.

  
Reader  
A/Abad

20.07.2018

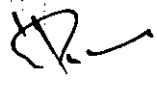
Muhammad Shoaib, appellant in person alongwith his counsel Mr. Rizwanullah, Advocate present. Mr. Imtiaz Muhammad Khan, Division Assistant Director Food (Hazara) on behalf of official respondents No. 1 & 2 alongwith Mr. Usman Ghani, District Attorney present. Private respondent No. 3 Azhar Pervaiz in person alongwith his counsel Mr. Kamran Gul, Advocate present.

On previous date private respondent No. 3 was directed to submit comments but learned counsel for respondent No. 3 requested for adjournment being engaged today. Granted. To come up for comments of respondent No. 3 on 17.09.2018 before S.B at Camp Court, Abbottabad. In the meanwhile status-quo be maintained till the date fixed.

  
Chairman  
Camp Court, A/Abad

17.09.2018

Appellant in person present. Mr. Imtiaz Muhammad Khan, A.D for the official respondents present. Private respondent No. 3 in person present. Written reply not submitted. To come up for written reply/comments on 18.10.2018 before S.B at camp court, Abbottabad.

  
Member  
Camp court, A/Abad

709/2018

16.07.2018

Appellant Muhammad Shoaib Khan in person present. Mr. Imtiaz Muhammad Khan, Divisional Assistant Director Food, Hazara on behalf of respondents No. 1 and 2 alongwith Mr. Usman Ghani, District Attorney present and submitted written reply on behalf of respondents No. 1 & 2. Copy handed over to appellant. Private respondent No. 3, Azhar Parvaiz in person present and made a request for short adjournment to submit comments. Granted but as a last chance. To come up for written reply/comments of respondent No. 3 on 20.07.2018 before the S.B at camp court, Abbottabad. Respondent No. 3 is directed to provide copy of comments and replication to the appellant. In the meanwhile status quo shall be maintained till the date fixed.




Chairman  
Camp Court, A/Abad

A- No. 709/2018  
M. Shoaib Khan vs Govt

28.06.2018

Appellant Muhammad Shoaib in person alongwith counsel Mr. Rizwanullah, Advocate present. Respondent No. 3 Azhar Pervaiz in person alongwith Kamran Gul, Advocate present. Mr. Imtiaz Muhammad Khan, Divisional Assistant Director Food alongwith Mr. Ziaullah, Deputy District Attorney for the official respondents present.

After hearing short arguments on the interim stay, this Tribunal reached the conclusion that any decision in one way or the other <sup>and</sup> in the absence of comments/reply, it will not be advisable to decide the fate of the stay application. This Tribunal is conscious of the stay <sup>in</sup> application, <sup>has</sup> proposed to fix the case at Peshawar, however, after consulting the high ups by the above named representative of the official respondents, he made a request for two weeks to submit comments which is allowed, <sup>and</sup> <sup>h</sup> Case to come up for comments/ reply and replication on 16.07.2018. The respondents are however, directed to provide copy of comments and replication to the appellant within time. In the meanwhile, to avoid future complications, status quo shall be maintained till the date fixed.

  
Chairman  
Camp court, A/Abad

709/2018

28.05.2018

Counsel for respondent No. 3 Mr. Kamran Gul, Advocate submitted an application for early hearing instead of 28.06.2018. Application is allowed. Case to come up for written reply/comments on main appeal as well as reply/arguments on stay application on 07.06.2018 at Principal Seat at Peshawar. Notice be issued to appellant, his counsel and official respondents for the date fixed.

  
Chairman

**07.06.2018**

Counsel for the appellant and Addl. AG for official respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 28.06.2018 before S.B at Camp Court Abbottabad. In the meanwhile status-quo be maintained till the date fixed i.e. 28.06.2018 to the extent of appellant and private respondent.

  
Member



24.05.2018

Appellant with counsel present. Preliminary arguments heard. It was contended by the learned counsel for the appellant that the appellant was serving as Assistant Food Collector in Haripur and from there he was transferred to the post of Assistant Food Controller Abbottabad vide order dated 23.02.2017, however, private respondent No. 3 namely Mr. Azhar Pervaz, Food Grain Inspector who was serving in lower grade than the appellant prevail upon the competent authority and the appellant was transferred from the office of District Food Controller Abbottabad to the office of District Food Controller Battagram vide order dated 03.05.2018 and private respondent No. 3 was transferred from the District Food Controller Office Abbottabad to the post of appellant in his own pay and scale vide same order. It was further contended that the appellant filed departmental appeal on 03.05.2018 which was rejected on 22.05.2018 hence, the present service appeal within time. It was further contended that the impugned order was passed without completing the normal tenure as per transfer posting policy therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel or the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter notice be issued to the respondents for written reply/comments for 28.06.2018 before S.B at Camp Court Abbottabad. It was further contended by learned counsel for the appellant that the appellant has not relinquished the charge so far and requested for grant of status-quo order. Notice of stay application be also issued to the respondents for the date fixed. In the meanwhile status-quo be maintained till the date fixed. *To the extent of appellant.*


Appellant Deposited  
Security & Process Fee

  
(Muhammad Amin Khan Kundi)  
Member

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_

Case No. 709/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24/05/2018	<p>The appeal of Mr. Muhammad Shoab Khan presented today by Mr. Rizwanullah Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	24/05/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/05/18.</u></p> <p style="text-align: right;">MEMBER</p>

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 709 /2018

1. Muhammad Shoaib Khan, Assistant Food Controller (PRC), Havelian Abbottabad.

**APPELLANT**

**VERSUS**

1. The Secretary to Government of Khyber Pakhtunkhwa Food Department, Peshawar & etc

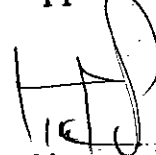
**RESPONDENTS**

**I N D E X**

S.No	Particulars	Annexure	Pages #
1	Service Appeal	-	1-6
2	Affidavit	-	7
3	Copy of transfer order dated 23-02-2017	A	8
4	Copy of transfer order dated 03-05-2018	B	9
5	Copy of departmental appeal 05-05-2018	C	10
6	Copy of rejection order dated 22-05-2018	D	11
7	Copy of letter of Establishment Department.	E	12-13
8	Application for stay with affidavit	-	14-15
9	Wakalatnama	-	-

Through

Appellant



**Rizwanullah**  
M.A. LL.B

Advocate High Court, Peshawar

Dated: 24-05-2018

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 709 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 961

Dated 24-5-2018

1. Muhammad Shoaib Khan, Assistant Food Controller (PRC), Havelian  
Abbottabad.

**APPELLANT**

**VERSUS**

1. The Secretary to Government of Khyber Pakhtunkhwa Food Department,  
Peshawar.
2. The Director Food Department Khyber Pakhtunkhwa Peshawar.
3. Azhar Pervaz Food Grain Inspector, DFC office, Abbottabad

**RESPONDENTS**

Filed to  
Registrar  
24/5/18

**APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
PRE-MATURE AND POLITICALLY  
MOTIVATED TRANSFER ORDER NO.  
2098 DATED 03-05-2018 PASSED BY  
THE DIRECTOR FOOD, KHYBER  
PAKHTUNKHWA (RESPONDENT NO 2)  
AGAINST WHICH A DEPARTMENTAL  
APPEAL WAS FILED WITH THE  
RESPONDENT NO.1 ON 05-05-2018 BUT  
THE SAME WAS REJECTED ON  
22-05-2018.**

**Prayer in Appeal**

By accepting this appeal, the impugned orders dated 03-05-2018 & 22-05-2018 to the extent of appellant may very graciously be set aside being politically motivated, pre-mature and passed in utter violation of posting/transfer policy of the Government of Khyber Pakhtunkhwa as well as law laid down by august Supreme Court of Pakistan in various judgments.

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

**Respectfully Sheweth,**

**Short facts giving rise to the present appeal are as under:-**

1. That the appellant joined the Food Department as Foodgrain Supervisor in the year 1993 and then rose up to the post of Assistant Food controller (BPS-14) on account of his dedication, devotion and commitment to his job. He has 25 years unblemished service record to his credit.
  2. That the appellant was transferred from the post of Assistant Food Controller Haripur to Abbottabad vide order dated 23-02-2017 passed by the Director Food Khyber Pakhtunkhwa (Respondent No.2). He assumed the charge accordingly.
- (Copy of transfer order is appended as Annex-A)
3. That the appellant was performing his duty with great zeal, zest and devotion but one Azhar Pervaz (respondent No. 3) who was serving in lower grade as Foodgrain Inspector (B-9), prevailed over the Competent Authority through unfair means and succeeded to dislodge the appellant from the post of Assistant Food Controller, Abbottabad

to Battagram without completing his lawful tenure prescribed under the posting and *Transfer Policy, 2009* vide order dated 03-05-2018.

(Copy of transfer order is appended as Annex-B).

4. That the appellant felt aggrieved, filed a departmental appeal with the respondent No.1 on 05-05-2018 praying therein that the impugned order dated 03-05-2018 may graciously be set aside on the grounds mention herein. But the same was rejected on 22-05-2018.

(Copy of departmental appeal and rejection order are appended as Annex-C & D respectively).

5. That the appellant now files this service appeal before this Hon'ble Tribunal inter-alia on the following grounds:

### **GROUND OF APPEAL**

- A. That respondents have not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973**. Therefore, the impugned orders are against the spirit of administration of justice.
- B. That the Competent Authority was under statutory obligation to have retained the appellant at Abbottabad till completion of his tenure as per Posting and Transfer Policy of Government of Khyber Pakhtunkhwa as well as law laid down by august Supreme Court of Pakistan in case reported in **PLD-2013-SC-195 (citation-h)**. The relevant citation is reproduced herein for facility of reference:

**PLD-2013-SC-195( citation-h)**

**Civil Servants Act (LXXI of 1973)---**

**---Ss. 4 & 10---Constitution of Pakistan, Art. 184(3)---Tenure, posting and transfer of civil servants---Principles--- When the ordinary tenure for a posting had been specified in the law or rules made thereunder, such tenure must be respected and could not be varied, except for compelling reasons, which should be recorded in writing and were judicially reviewable--Transfers of civil servants by political figures which were capricious and were based on considerations not in the public interest were not legally sustainable.**

Therefore, the impugned orders in respect of transfer of the appellant are not sustainable in the eye of law.

**C.** That the Establishment Department of Khyber Pakhtunkhwa vide letter No.SOR.VI(E&AD)1-4/2005/Vol-II dated 27-2-2013 directed all the Secretaries of the respective Departments in Province for strict implementation of the aforesaid dictum of august Supreme Court of Pakistan.

(Copy of letter is appended as Annex-E).

**D.** That it is well settled law that the decision of august Supreme Court of Pakistan is binding on each and every organ of the state by virtue of Article 189 & 190 of the Constitution of Islamic Republic of Pakistan, 1973. Reliance can be placed on the judgment of apex court reported in 1996-SCMR-284 (citation-c). The relevant citation is mentioned below:

1996-SCMR-284  
(citation-c)

---Arts. 189 & 190---Decision of Supreme Court---Binding, effect of--Extent--Law declared by Supreme Court would bind all Courts, Tribunals and bureaucratic set-up in Pakistan.

But the respondent No.1 & 2 have blatantly violated the above dictum of august Supreme Court of Pakistan by passing the impugned orders.

- E.** That the appellant was transferred without completing his lawful tenure and that a lower grade official (respondent No. 4) was also posted in his place on OPS basis which clearly indicates that this action of the Competent Authority was fallacious, malicious and politically motivated. This was obviously done to accommodate his blue eyed chap. Besides, the august Supreme Court through various judgments has also discouraged such practice of appointment on OPS basis as it did not have any sanction of law. Therefore, the impugned orders are against the spirit of administration of justice.
- F.** That the impugned orders were the result of malafide action and colorable exercise of powers by the respondent No. 1 & 2 who did not apply their independent mind regarding the issue of short tenure of appellant at the disputed place. Thus, the impugned orders are not tenable in law.
- J.** That the impugned orders are against law, facts of the case and norms of natural justice. Therefore, the same are not tenable under the law.
- K.** That the respondents have passed the impugned orders in mechanical manner and the same are perfunctory as well as non-speaking and also against the basic principle of administration of justice. Thus, these orders are not warranted under the law.



L. That the impugned orders are based on conjectures and surmises. Hence, the same are against the legal norms of justice.

M. That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

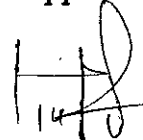
In view of the above narrated facts and grounds, it is, therefore, humbly prayed that the impugned orders dated 03-05-2018 & 22-05-2018 to the extent of appellant may very graciously be set aside being politically motivated, pre-mature and passed in utter violation of posting/transfer policy of the Government of Khyber Pakhtunkhwa as well as law laid down by august Supreme Court of Pakistan in various judgments.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.



Appellant

Through



Rizwanullah

M.A. LL.B

Advocate High Court, Peshawar

Dated: 24-05-2018

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2018

1. Muhammad Shoaib Khan, Assistant Food Controller (PRC), Havelian Abbottabad.

**APPELLANT**

**VERSUS**

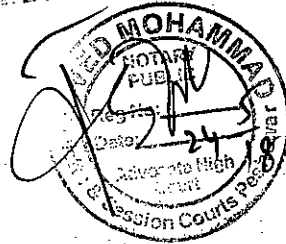
1. The Secretary to Government of Khyber Pakhtunkhwa Food Department, Peshawar  
& etc

**RESPONDENTS**

**AFFIDAVIT**

I, Muhammad Shoaib Khan, Assistant Food Controller (PRC), Havelian Abbottabad, do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

**ATTESTED**



**DEPONENT**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF FOOD  
PESHAWAR

No. 657 /PF  
Dated Peshawar, the 23 / February-2017

Annex - A (8)

OFFICE ORDER.

The following postings / transfers of District Food Controllers / Assistant Food Controllers are hereby ordered with immediate effect in the public interest.

S. No	Name of Officer / Official	From	To
1)	Mr. Amanullah DFC	DFC Dir Upper	DFC Nowshera.
2)	Mr. Kifayat Khan DFC	DFC Nowshera	Statistical Officer Food Directorate, Peshawar
3)	Mr. Muhammad Zubair AFC	AFC Swat	DFC Dir Upper (in his own pay & scale)
4)	Mr. Sheraz Anwar AFC	AFC Haripur	AFC Swat
5)	Mr. Muhammad Tariq AFC	AFC Abbottabad	AFC Haripur vice No.06
6)	Mr. Muhammad Shoaib AFC	AFC Haripur	AFC Abbottabad vice No.05

DIRECTOR FOOD 23.02.17  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Endorsement No & Date Even  
Copy for information to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. PS to Minister Food Khyber Pakhtunkhwa, Peshawar
3. PS to Secretary Food Khyber Pakhtunkhwa, Peshawar
4. The District Accounts Officers, Dir Upper, Swat, Haripur, Nowshera and Abbottabad.
5. The Assistant Directors Food Peshawar, Malakand and Hazara Division
6. The District Food Controllers Dir Upper, Swat, Haripur, Nowshera and Abbottabad.
7. Officers / Officials concerned/ Personal File.

Attested

Appreciated

DIRECTOR FOOD  
KHYBER PAKHTUNKHWA  
PESHAWAR



FOOD DIRECTORATE  
KHYBER PAKHTUN KHWA  
PESHAWAR

No. 2098 / ET-378

Dated 03/05/2018

Annex-B (9)



**OFFICE ORDER**

The following postings / transfers of Assistant Food Controllers and Foodgrain Inspectors are hereby ordered with immediate effect in the public interest

S.NO	Name of official	From	TO
1.	Mr. Sheraz Anwar AFC	DFC Office Swat	DFC Office Haripur
2.	Mr. Muhammad Tariq AFC	DFC Office Haripur	DFC Office Swat
3.	Mr. Muhammad Shoaib AFC	DFC Office Abbottabad	DFC Office Battagram
4.	Mr. Sohail Habib AFC	DFC Office Swabi	DFC Office Shangla
5.	Mr. Ishfaq Khan AFC	DFC Office Dir Lower	DFC Office Swabi
6.	Mr. Muhammad Salim Iqbal AFC	Food Directorate, Peshawar.	DFC Office Dir Upper
7.	Mr. Numan Amir AFC	DFC Office Dir Upper	Food Directorate, Peshawar
8.	Mr. Azhar Pervaiz FGI	DFC Office Abbottabad	Posted as AFC Abbottabad in his own pay & scale
9.	Mr. Qaisar Khan FGI	DFC Office Dir Lower	Posted as AFC Dir Lower in his own pay & scale
10.	Mr. Saqib Mir FGI	DFC Office Kohistan	DFC Office Abbottabad vice No.08

**DIRECTOR FOOD  
KHYBER PAKHTUN KHWA,  
PESHAWAR.**

**Endorstt: Even No & Dates**

Copy for information to:-

- 1 PS to Minister Food Government Khyber Pakhtunkhwa, Peshawar.
- 2 PS to Secretary Food Khyber Pakhtunkhwa, Peshawar
- 3 The Accountant General Khyber Pakhtunkhwa Peshawar.
- 4 The District Accounts Officers Swat, Haripur, Abbottabad, Swabi, Dir Lower, Shangla, Dir Upper, Abbottabad and Kohistan
- 5 The Assistant Directors Food Peshawar, Malakand and Hazara Divisions.
- 6 The District Food Controllers Swat, Haripur, Abbottabad, Swabi, Dir Lower, Shangla, Dir Upper, Abbottabad and Kohistan
- 7 Officials concerned.
- 8 Personal Files

**DIRECTOR FOOD  
KHYBER PAKHTUN KHWA,  
PESHAWAR**

بخدمت جناب سیکرٹری فوڈ صاحب، محکمہ خوراک خیبر پختونخواہ، پشاور

بوساطت: ڈائریکٹر فوڈ صاحب خیبر پختونخواہ، پشاور

### عنوان: اپیل

جناب عالی!

گزارش ہیکہ سائل بحیثیت اسٹنٹ فوڈ کنٹرولر PRC حویلیاں میں تعینات تھا۔ اور تقریباً 13 ماہ بعد سائل کو بحوالہ فوڈ ڈائریکٹوریٹ آرڈر نمبر 2098/ET-378 بتاریخ 03-05-2018 کو حویلیاں سے تبدیل کر کے بگرام لگا دیا گیا، اور میری جگہ ایک لوہر گریڈ کا انسپکٹر کی تعیناتی PRC حویلیاں کر دی گئی۔ جو کہ گورنمنٹ قانون کے مطابق اس کا مستحق نہیں ہے۔

یہ کہ سائل بال بچوں کے ساتھ ضلع ایبٹ آباد میں رہائش پذیر تھا۔ اور سائل کے بچے ایبٹ آباد میں زیر تعلیم تھے۔ وہ اس آرڈر کی وجہ سے متاثر ہوئے۔ کیونکہ بگرام ضلع ایک پہاڑی علاقہ ہے۔ وہاں پر بچوں کو دوبارہ سکولوں میں داخل کروانے سے تعلیم متاثر ہونے کا خدشہ ہے۔ چونکہ میں حویلیاں کی پوسٹنگ سے پہلے بگرام ضلع میں کافی عرصہ تک تعینات رہا اور اس طرح میں نے اپنے پہاڑی علاقہ کا Tenure پورا کیا ہوا ہے۔ اب دوبارہ تعیناتی میرے ساتھ زیادتی ہے۔ اور یہ کہ گورنمنٹ کے مجوزہ قانون کے مطابق کوئی لوہر گریڈ آفیشل اپر گریڈ کی پوسٹ پر تعیناتی نہیں ہو سکتی۔ مگر مجوزہ قانون کو بالائے طاق رکھ کر ایک لوہر گریڈ آفیشل کو اپر گریڈ کی پوسٹ پر تعینات کیا گیا اور میرے حقوق کو سلب کیا گیا۔ اور اس طرح ٹرانسفر آرڈر میں گورنمنٹ کے مجوزہ Tenure پالیسی کو مد نظر نہیں رکھا گیا اور مجھے میرا Tenure میچور ہونے کے بغیر یہاں سے تبدیل کر کے بگرام لگایا گیا اور یہ آرڈر سیاسی بنیاد پر کیا گیا۔

لہذا آپ جناب سے پرزور گزارش کرتا ہوں کہ گورنمنٹ کی پوسٹنگ ٹرانسفر پالیسی کو مد نظر رکھتے ہوئے میرے آرڈر کو کینسل کیا جائے اور مجھے PRC حویلیاں میں چھوڑا جائے اور ڈائریکٹر فوڈ اور DFC ایبٹ آباد کو ہدایات جاری کی جائیں کہ میری تعیناتی کو اپیل کا فیصلہ ہونے تک جوں کا توں چھوڑا جائے۔

(العرفی): 05-05-2018

عارض

3/5/18  
محمد شعیب خان

اسٹنٹ فوڈ کنٹرولر PRC حویلیاں ایبٹ آباد



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FOOD DEPARTMENT

Annex-D

11

NO.SOG/1-2/2017-18/ 545  
Dated Pesh: the 22-05-2018

091-9225373

fooddepartmentkpk@gmail.com

@fooddepartmentkpk

@foodsecretariat

To

The Director Food,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject: - APPEAL REGARDING CANCELLATION OF HIS TRANSFER  
FROM ABBOTTABAD TO BATTAGRAM.

Dear Sir,

I am directed to refer to your letter No. 3340/PF-848 dated 16-05-2018 on the subject noted above and to state that the appeal of Mr. Muhammad Shoab Khan, Assistant Food Controller does not contain any substantial ground worth consideration/entertainable. The same is therefore regretted/filed.

Yours faithfully,

Dated 22-5-2018

SECTION OFFICER (GENERAL)

No 2446 / PF

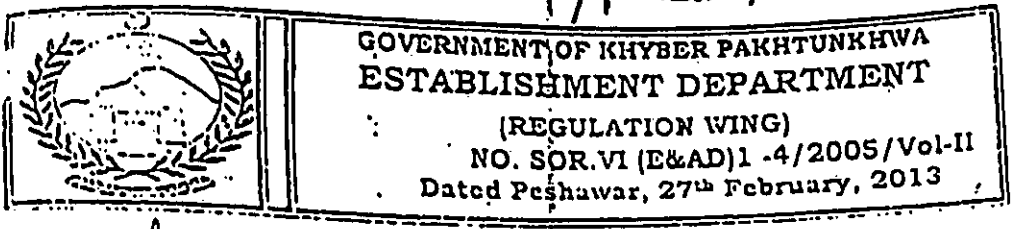
Copy forwarded to Muhammad Shoab (AFC)  
as to his appeal dated 5/5/2018.

Attested  
to  
Appellant

22/5/18  
Assistant Director Food,  
Food Director,  
Khyber Pakhtunkhwa,  
Peshawar

Amira E

12



Director  
 Secretary  
 Peshawar

*Handwritten signature/initials*

1. The Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.

Subject: CONSTITUTION PETITION NO.23 OF 2012 OUT OF SUO MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL SERVANTS REGISTERED UNDER ARTICLE 184 (3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.)

Sir,  
I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of Law with regard to protection and conduct of civil servants.

- (i) **Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons; which should be recorded in writing and are judicially reviewable.

Attest  
*Handwritten signature*  
14/3  
Adv

- (iii) **Illegal Orders:** Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors, which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- (iv) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

2. ~~I am, therefore, directed to request you to note the above principles of law for strict compliance.~~

Yours faithfully,

*najam*  
(NAJ-MJS-SAHAR)  
SECTION OFFICER (REG-VI)

*Ali Ahmad*  
*Ali*

Encl: as above.

A copy is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar, Peshawar High Court, Peshwar.
6. The Secretary Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl: Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

*najam*  
SECTION OFFICER (REG-VI)



**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2018

1. Muhammad Shoaib Khan, Assistant Food Controller (PRC), Havelian Abbottabad.

**APPELLANT**

**VERSUS**

1. The Secretary to Government of Khyber Pakhtunkhwa Food Department, Peshawar & etc

**RESPONDENTS**

**APPLICATION FOR SUSPENDING  
THE OPERATION OF THE  
IMPUGNED ORDERS DATED  
03-05-2018 & 22-05-2018 TO THE  
EXTENT OF APPELLANT PASSED  
BY THE RESPONDENT NO. 1 & 2  
TILL THE DISPOSAL OF MAIN  
APPEAL.**

**Respectfully Sheweth:-**

1. That the appellant has filed service appeal along with this application in which no date has been fixed so far.
2. That the facts enumerated and grounds taken in the body of service appeal may kindly be considered as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.

- 3. That the impugned orders were passed on the basis of political interference, favoritism / nepotism and also in utter violation of Posting & Transfer Policy as well as law laid down by august Supreme Court of Pakistan in case reported in **PLD-2013-SC-195**.
- 4. That the appellant was transferred without completing his lawful tenure and that a lower grade official (respondent No. 4) was also posted in his place on OPS basis which clearly indicates that this action of the Competent Authority was fallacious, malicious and politically motivated. This was obviously done to accommodate his blue eyed chap. Besides, the august Supreme Court through various judgments has also discouraged such practice of appointment on OPS basis as it did not have any sanction of law. Therefore, the impugned orders are against the spirit of administration of justice.
- 5. That in case the operation of the impugned order is not suspended, the very purpose of appeal would be defeated and it would become infructuous as well.

It is, therefore, humbly prayed that the impugned orders dated 03-05-2018 & 22-05-2018 passed by the respondent No. 1 & 2 to the extent of appellant may graciously be suspended till the disposal of main appeal.

Appellant/Applicant

Through

Dated: 24-05-2018



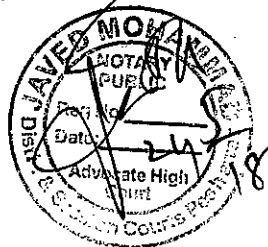
**Rizwanullah**  
M.A. LL.B

Advocate High Court, Peshawar

**AFFIDAVIT**

I, Muhammad Shoaib Khan, Assistant Food Controller (PRC), Havelian Abbottabad, do hereby solemnly affirm and declare that the contents of the accompanied Stay Application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

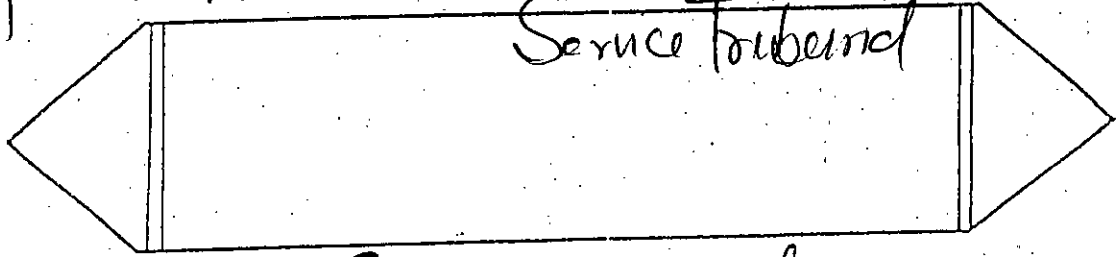
ATTESTED




DEPONENT

Before the Honorable Chairman KPK بعد الت KPK

Service Tribunal



2 مخائب  
بنام

Service Appeal

Muhammad Shoab Khan

VS.

Secretary Food Department etc  
باعث خیر آئندہ

موزعہ  
مقدمہ  
دعویٰ  
جزم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
آن مقام Peshawar کے لیے Peshawar Advocate

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
دیکل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی 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 یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2018

6

ماہ

23

المرقوم

Attested & accepted

کے لئے منظور ہے۔

Peshawar

بمقام

14/11/18  
Adv

23/5/2018

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

**Appeal No. 709**

Muhammad Shoaib Khan Assistant Food Controller  
(PRC) Hayelian Abbottabad.

**Appellant**

*Plau file*  
*16.2.2018*  
**Versus**

1 The Secretary Food Government of Khyber  
Pakhtunkhwa,  
Food Department Peshawar.

**Respondent**

2 The Director Food, Khyber Pakhtunkhwa, Food  
Department Peshawar

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS**

**NO. 01 TO 02**

**Respectfully Sheweth**

**Preliminary objections.**

1. That the appeal is not maintainable as it is not in proper form.
2. That the appellant is estopped to file the present Appeal.
3. That the appellant has got no cause of action against the respondents.
4. That the issue invoked in present appeal is purely administrative and needs to be dealt with as such.
5. That the appellant has not come to the court with clean hands. Material facts have been concealed from this Honourable Court. Thus, the appellant is not entitled to the relief prayed for
6. That the appellant has got no locus standi to prefer the appeal against respondents.
7. That the appellant is neither aggrieved person nor does he has locus standi to file the instant Appeal.

**ON FACTS:**

1. On the recommendation of Departmental Selection Committee and in pursuance to the acceptance of appointment offer, Mr. Muhammad Shoaib was appointed as Foodgrain Supervisor (BS-05) and posted in the Office of District Food Controller, Swat vide Food Directorate Office Order No.12635/G-275 dated 29-06-1993 .On the recommendation of Departmental Promotion Committee he was promoted to the post of Foodgrain Inspector / Cane Inspector (BS-07) vide Office Order No.28828-37/G-275-DPC dated 05-11-2008 and then further promoted as Assistant Food Controller, vide Office Order No.2288-A/G-275-DPC dated 22-04-2016 and transferred and posted in the Office of District Food Controller Haripur vide Order No. 2466/ET-678 dated 03-05-2016. (**Annex-A**)
2. Mr. Muhammad Shoaib Assistant Food Controller, Office of District Food Controller, Haripur was transferred and posted in the Office of District Food Controller, Abbottabad with other officials vide Food Directorate Office Order No. 657/PF dated 23-02-2017.
3. Mr. Muhammad Shoaib Khan Assistant Food Controller has submitted an appeal dated 05-05-2018 received to Food Directorate Peshawar on 09-05-2018, that he has been transferred from PRC Havailian / DFC office Abbottabad to DFC office Battagram vide Food Directorate Office order No.2098/ET-378 dated 03-05-2018 and a lower grade official i.e. Foodgrain Inspector posted against the post of AFC which is violation of the rules. In this connection it is stated that transfer and posting of Mr. Muhammad Shoaib AFC with other officials have been made in the interest of public. As the postings / transfers is part and parcel of service of each officer / official. It is therefore, requested that the appeal for cancellation of transfer order of Mr. Muhammad Shoaib AFC from PRC Havailian to DFC Office Battagram may be regretted with the direction to report for duty in

DFC office Battagram without further loss of time as per Food Directorate letter no.2472/PF-848 dated 24-05-2018 (**Annex-B**). On examining the appeal, the appellate authority rejected the appeal on the ground that Mr. Muhammad Shoaib AFC does not contain any substantial ground worth consideration / entertainable. The same is therefore regretted /filed vide Government of Khyber Pakhtunkhwa Food Department letter No.SOG/1-2/2017-18/545 dated 22-05-2018 (**Annex-C**).

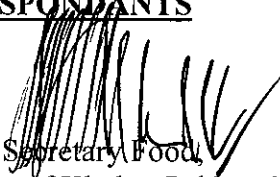
4. As per reply given at Para-3 of the facts above.
5. No Comments.

**GROUNDS.**

- A. As per reply given at Para-03 of the facts.
- B. As per reply given at Para-03 of the facts.
- C. As per reply given at Para-03 of the facts.
- D. As per reply given at Para-03 of the facts.
- E. As per reply given at Para-03 of the facts
- F. As per reply given at Para-03 of the facts.
- J. As per reply given at Para-03 of the facts.
- K. As per reply given at Para-03 of the facts.
- L. As per reply given at Para-03 of the facts.
- M. The respondents may be allowed to raise additional grounds at the time of arguments.

The appeal having no legal footing may, therefore, be dismissed with cost please.

**RESPONDANTS**

  
Secretary Food,

Government of Khyber Pakhtunkhwa,  
Food Department, Peshawar

  
Director Food,

Government of Khyber Pakhtunkhwa,  
Food Department, Peshawar

# Annex - A

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16

OFFICE ORDER.

FOOD DIRECTORATE N.W.F.P.,  
PESHAWAR.

No. 12625 /G/275,

Dated Peshawar, the 29 /06/1993.

On the recommendation of the Departmental Selection Committee and in pursuance of the Appointment Offers, the following candidates are hereby appointed as Foodgrains Supervisors and posted in the office as noted against each:-

S.No.	Name & Adress of the appointee.	Posting.
1.	Mr. Sheraz Anwar Khan S/O Haji Mohammad Anwar Khan, Village, Ghari Habib-Ullah, District, Mansehra.	P.R. Centre, Havelian, District, Abbottabad.
2.	Mr. Mohammad Shoaib S/O Mohammad Ayub Khan, Village and P.O. Baffa, Moh: Khawaja Khel Bala Teh: and Distt: Mansehra.	Office of the Distt: Food Controller, Swat.

2/- The appointees will be on probation for a period of three months and in case their work is not found satisfactory, their services will be dispensed forth-with.

3/- They should submit their arrival reports to the concerned District Food Controllers, Abbottabad/Swat by 10.7.1993.

*(Signature)*  
(ISHTIAR AHMAD KHAN)  
DIRECTOR FOOD, NWFP,  
PESHAWAR.

No. 12626-34 /G/275,

Dated Peshawar, the 29 /06/1993.

Copy forwarded to:-

1. The District Accounts Officers, Abbottabad and Swat.
2. The District Food Controllers, Abbottabad and Swat. On receipt of Arrival Reports from the above candidates, they may be referred to the Medical Superintendent for Medical Examination and also intimate their arrival reports to this Directorate immediately.
3. Candidates as per detail given above for information and necessary action. They should produce their original documents to their respective officers at the time of arrival reports.
4. Copies for P/Files.

*(Signature)*  
DIRECTOR FOOD, NWFP,  
PESHAWAR.

action  
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Elbow  
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FOOD DIRECTORATE  
KHYBER PAKHTUNKHWA,  
PESHAWAR

No. 2288-A /G-275-DPC

Dated 22 / 04 / 2016

17  
240

**OFFICE ORDER.**

On the recommendation of the Departmental Promotion Committee in its meeting held on 22-04-2016, the competent authority is please to promote the following Foodgrain Inspectors /Cane Inspector to the post of Assistant Food Controller ((BS-14) on regular basis with immediate effect.

S. No	Name of Official with present designation	Promoted as
1)	Muhammad Akbar FGI Presently working as AFC Mardan on acting charge basis	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
2)	Mr. Muhammad Salim Iqbal FGI Presently working as AFC S&EO NRC Azakhel on acting charge basis	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
3)	Mr. Muhammad Salim FGI Presently working as AFC Haripur on acting charge basis	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
4)	Mr. Gulab Gul FGI Presently working as AFC Kohat on acting charge basis	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
5)	Mr. Muhammad Naved FGI Presently working as AFC Shangla on acting charge basis	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
6)	Muhammad Khalid FGI Presently working as AFC RC Peshawar on acting charge basis	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
7)	Mr. Usman Khan Cane Inspector. Food Directorate, Peshawar	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
8)	Muhammad Shoaib FGI. Presently working as AFC Haripur in his own pay & scale	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
9)	Mr. Amjid Khan FGI Presently working as AFC Swat in his own pay & scale	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
10)	Mohammad Zubair FGI Bunair	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
11)	Mr. Saif Ali Shah FGI Kohat	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
12)	Mr. Gul Zareen Shahi FGI Bannu	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
13)	Syed Wasim Shah FGI Kohat	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.
14)	Mr. Rashid Saeed FGI D.I.Khan	Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.

Note:- 1 They shall be on probation period for a period of one year which can be extended subject to their performance as per rules.


2 On promotion to the next higher scale, their postings /transfers will be made later on.

DIRECTOR FOOD  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Endorsement No & Date Even  
A copy is forwarded to:-

1. PS to. Minister Food for information of the Minister Food Government of Khyber Pakhtunkhwa, Peshawar
2. PS to Secretary Food for information of the Secretary Food Government of Khyber Pakhtunkhwa, Peshawar
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. All District Accounts Officers in Khyber Pakhtunkhwa
5. All Agency Accounts Officers in Khyber Pakhtunkhwa

- 24/1
6. All Assistant Directors Food at Divisional level in Food Department Khyber Pakhtunkhwa
  7. All District Food Controllers in Khyber Pakhtunkhwa,
  8. The Storage & Enforcement Officers PRC Peshawar & NRC Azakhel.
  9. The Rationing Controller Peshawar.
  10. The Pay Bill Assistant Food Directorate, Khyber Pakhtunkhwa, Peshawar
  11. Officials concerned/ Personal File.

  
DIRECTOR FOOD  
KHYBER-PAKHTUNKHWA  
PESHAWAR





# FOOD DIRECTORATE KHYBER PAKHTUNKHWA

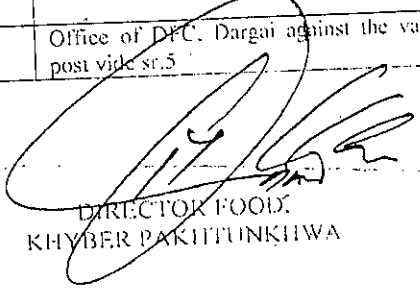
No. 2466/ET-678

Dated 03/05/2016

## OFFICE ORDER

The following posting/transfer of Assistant Food Controllers are hereby ordered with immediate effect, in the public interest.

Sr. No	Name	From	To
1.	Mr. Abdul Hafeez, AFC	Office of S&EO Peshawar	Office of DFC, Charssada
2.	Mr. Ali Asghar, AFC	Office of DFC, Charssada	Office of DFC, Dir Upper against the vacant post.
3.	Mr. Iqbal Hussain, AFC	Office of DFC, Dir Upper	AFC, office of DFC Tank against the vacant post.
4.	Mr. Amjad Ali, AFC (Own pay & scale)	Office of DFC Swat	After promotion adjusted as regular AFC, office of DFC, Dargai.
5.	Mr. Atta ullah Khan, FGI	Office of DFC Dargai	AFC (own pay & scale), Office of DFC, Swat vide sr. No. 4
6.	Mr. Rashid Saeed, FGI	Office of DFC D.I.Khan	After promotion adjusted as regular AFC, office of DFC, D.I.Khan against the vacant post.
7.	Mr. Akbar Khan AFC (Acting Charge)	Office of DFC Mardan	After promotion adjusted as a regular AFC in the Office of DFC Mardan.
8.	Mr. Muhammad Shoaib, AFC (own pay & scale)	Office of DFC Haripur	After promotion adjusted as regular AFC, office of DFC Haripur against the vacant post.
9.	Mr. Zubair, AFC (own pay & scale)	Office of DFC Bunair	After promotion adjusted as regular AFC, office of DFC Bunair against the vacant post.
10.	Mr. Muhammad Salim Iqbal, AFC (Acting charge)	Office of S&EO, Azha Khel	After promotion adjusted as regular AFC, office of S&EO NRC Azha Khel.
11.	Mr. Muhammad Salim, AFC (Acting charge)	Office of DFC, Haripur	After promotion adjusted as regular AFC, office of DFC, Nowshera.
12.	Mr. Gulab Gul, AFC (Acting charge)	Office of DFC Kohat	After promotion adjusted as regular AFC, office of DFC, Kohat.
13.	Mr. Naveed AFC (Acting charge)	Office of DFC Shangla	After promotion adjusted as regular AFC, office of DFC, Shangla.
14.	Mr. Muhammad Khalid AFC (Acting charge)	Office of RC Peshawar	After promotion adjusted as regular AFC, office of RC, Peshawar.
15.	Mr. Usman Cane Inspector	Directorate Peshawar	After promotion adjusted as regular AFC, office of S&EO Peshawar vide Sr. No 1.
16.	Mr. Saif Ali Shah, FGI	Office of DFC Kohat	After promotion adjusted as regular AFC, office of DFC, Kohat against the vacant post.
17.	Mr. Gul Zarin Shah, FGI	Office of DFC, Bannu	After promotion adjusted as regular AFC, office of DFC, Lakki Marwat.
18.	Syed Waseem Shah, FGI	Office of DFC Kohat	After promotion adjusted as regular AFC, office of DFC, Karak against the vacant post.
19.	Mr. Sohail Habib, AFC	Office of DFC Lakki Marwat	Office of DFC Bannu vide Sr. No. 17.
20.	Mr. Noor Khan, AFC (under suspension)	Office of DFC, Dargai,	Report to Food Directorate Peshawar.
21.	Mr. Zaheer Abbas, FGI	Office of DFC Dir Lower	Office of DFC, Dargai against the vacant post vide sr.5

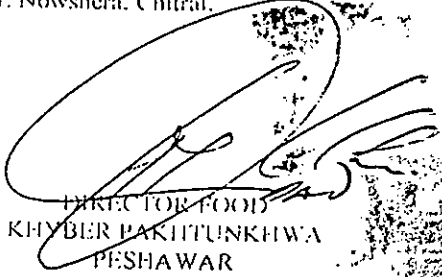
  
DIRECTOR FOOD,  
KHYBER PAKHTUNKHWA

243

Encls. Even No & Date

Copy for information to:-

1. PS to Minister for Food, Khyber Pakhtunkhwa.
2. PS to Secretary Food, Government of Khyber Pakhtunkhwa.
3. The Accountant General, Khyber Pakhtunkhwa.
4. The District Account Officers, Peshawar, Charsadda, Dir Upper, Tank, Swat, Malakand, D.I.Khan, Mardan, Haripur, Bunair, Kohat, Shangla, Bannu, Lakki Marwat, Dir Lower, Nowshera, Chitral.
5. All Assistant Directors Food at Divisional level in Food Department Khyber Pakhtunkhwa.
6. The District Food Controllers, Charsadda, Dir Upper, Tank, Swat, Dargai, D.I.Khan, Mardan, Haripur, Bunair, Kohat, Shangla, Bannu, Lakki Marwat, Dir Lower, Nowshera, Chitral.
7. The S&EO PRC Peshawar and NE, Azakhel.
8. The Rationing Controller, Peshawar.
9. Officials concerned/Personal files.

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA  
PESHAWAR

Annex - B

19



GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF FOOD,  
PESHAWAR

No: 2472 / PF-848

Dated: 24/05/2018

091-9225378

ddirectoratepk@gmail.com

@directoratepk

@fooddirector

To

Mr. Muhammad Shoib  
Assistant Food Controller,  
Under transfer to DFC Battagram


Subject: -

**REPORT REGARDING ILLEGAL AND UN-WARRENTED INTERFERENCE BY  
MR. MUHAMMAD SHOAIB AFC**

Memo

You were transferred from the post of AFC Havelian and posted as AFC Battagram vide this office order No.2098/ET-378 dated 03-05-2018. You were required under the rules to report to duty station by 10-05-2018. As per report of Assistant Director Abbottabad dated 17-05-2018, you have not yet reported to your duty station and still sticking to the office of AFC Godown Abbottabad and interfering in the official responsibilities of the office of AFC Abbottabad. You have also obtained a copy of the order sheet from the court of Civil Judge-V Abbottabad and presenting it as a stay order against this office order which is not the case. Your appeal for cancellation of the transfer order dated 03-05-2018 has already been rejected by the Secretary Food and sent to you.


2 In view of the above, you are directed to explain your position with cogent reason within 03 days as to why you have not complied with the order dated 03-05-2018 of this office failing which disciplinary proceedings shall be initiated against you under Efficiency and Discipline Rules 2011.

  
DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR.

Endorsement No & Date Even.

Copy is forwarded to:-

1. The Assistant Director Food Hazara Division at Abbottabad.
2. The District Food Controller, Battagram
3. Personal file..

  
DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR.

Received



24/5/18

Annex - C

20

274



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FOOD DEPARTMENT

NO.SOG/1-2/2017-18/ 545  
Dated Pesh: the 22-05-2018

091-9225373

1.fooddepartmentkp@gmail.com

@fooddepartmentkp @foodsecretariat

To

The Director Food,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject: - APPEAL REGARDING CANCELLATION OF HIS TRANSFER  
FROM ABBOTTABAD TO BATTAGRAM.

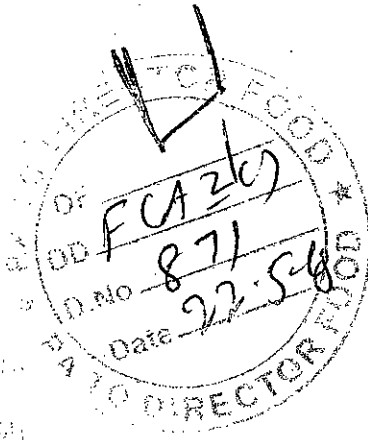
Dear Sir,

I am directed to refer to your letter No. 3340/PF-848 dated 16-05-2018 on the subject noted above and to state that the appeal of Mr. Muhammad Shoaib Khan, Assistant Food Controller does not contain any substantial ground worth consideration/entertainable. The same is therefore regretted/filed.

Yours faithfully,

SECTION OFFICER (GENERAL)

SeydabCE  
22/5/18



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

Service Appeal No. \_\_\_\_\_

Muhammad Shoaib Khan Assistant Food Controller (PRC) Havelian  
 Abbottabad

...APPELLANT

**VERSUS**

The Secretary Food Govt. of Khyber Pakhtunkhwa, Food Department and  
 others.

...RESPONDENTS

**PARAWISE COMMENTS ON BEHALF OF**  
**RESPONDENT NO. 3**

**INDEX**

<i>S. #</i>	<i>Description</i>	<i>Page Nos.</i>	<i>Annexure</i>
1.	Comments alongwith affidavit	1 to 8	

...RESPONDENT NO. 3

Through

Dated: 20/12/2018

**(KAMRAN GUL)**  
 Advocate High Court, Abbottabad



1

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

Service Appeal No. \_\_\_\_\_

Muhammad Shoaib Khan Assistant Food Controller (PRC) Havelian  
Abbottabad

**...APPELLANT**

**VERSUS**

The Secretary Food Govt. of Khyber Pakhtunkhwa, Food Department and  
others.

**...RESPONDENTS**

**SERVICE APPEAL**

**PARAWISE COMMENTS ON BEHALF OF**  
**RESPONDENT NO. 3**

Respectfully Sheweth;-

That the comments on behalf of respondent No. 3 is as  
under;-

**PRELIMINARY OBJECTIONS;-**

1. That the appellant have got no cause of action.

2. That the appellant have got no locus standi.
3. That the present appeal is not maintainable in its proper form.
4. That the appellant has not come to this Honourable Court with clean hands and has suppressed material facts from this Honourable Tribunal. The appellant has relieved the charge as Assistant Food Controller on 10/05/2018 and answering respondent No. 3 assumed the charge as Assistant Food Controller PRC Havelian on 10/05/2018. Hence, the present appeal is liable to be dismissed.
5. That the appellant has estopped by his own conduct to bring the present appeal. (COPIES ANNEXED)
6. That the appeal is bad in law and facts and is liable to be dismissed.
7. That the matter relates to administration and needs to be dealt with as such.

**FACTUAL OBJECTIONS:-**

1. That the para No. 1 is correct to extent of appointment of appellant while rest of the para is needs no comments.
2. Para No. 2 is not relevant to the answering respondent.
3. In reply to para No. 3 it is submitted that respondent—department transferred the appellant as per law/ policy. The answering respondent and the appellant are performing their duties in same cadre (BPS-9) with additional charge of Assistant Food Controller in their own pay and scale. Furthermore, the transfer/posting of answering respondent No. 3 was made in the interest of public as well as department. Rest of the para is incorrect, hence, denied.
4. That the para 4 is not relates to the answering respondent.



**ON GROUNDS:**

- a) Para "a" of the ground of the appeal is incorrect, hence, denied. The department has transferred and posted the appellant as per their rules/ policy.
- b) Para "b" of the appeal needs no reply.
- c) Para "c" needs no comments, hence, subject to proof.
- d) Para "d" needs no comments.
- e) In reply to para "e" it is submitted that the answering respondent and the appellant are performing their duties in same cadre (BPS-9) with additional charge of Assistant Food Controller in their own pay and scale. Furthermore, the transfer/posting of answering respondent No. 3 was made in the interest of public as well as department. Rest of the para is incorrect, hence, denied.

- f) Para "f" of the grounds of appeal is not relates to the answering respondent.
- j) Para "j" of the grounds is incorrect, hence, denied.
- k) Para "k" is not relates to the answering respondent.
- l) Para "l" is incorrect. Hence, denied.
- m) Para "m" needs no reply.

In the wake of above, it is, therefore very humbly prayed that the captioned appeal may kindly be ordered to be dismissed.

...RESPONDENT NO. 3

Through

Dated: 26/12/2018

(KAMRAN GUL)  
Advocate High Court, Abbottabad



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

Service Appeal No. \_\_\_\_\_

Muhammad Shoaib Khan Assistant Food Controller (PRC) Havelian  
 Abbottabad

**...APPELLANT**

**VERSUS**

The Secretary Food Govt. of Khyber Pakhtunkhwa, Food Department and  
 others.

**...RESPONDENTS**

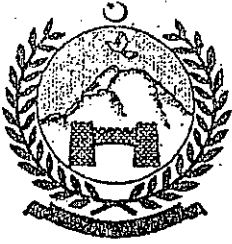
**PARAWISE COMMENTS ON BEHALF OF**  
**RESPONDENT NO. 3**

**AFFIDAVIT**

I, Azhar Pervez Food Gain Inspector DFC Office Abbottabad, do hereby  
 declare on oath that the contents of foregoing comments are true and correct  
 to the best of my knowledge and belief and nothing has been concealed from  
 this Honourable Court.

**DEPONENT**





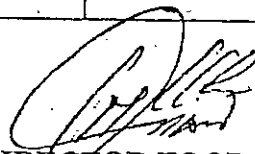
FOOD DIRECTORATE,  
KHYBER PAKHTUNKHWA  
PESHAWAR

No 643 /ET-378  
Dated 16 /01/2013

**OFFICE ORDER.**

In pursuance to the verbal orders of Minister Food Government of Khyber Pakhtunkhwa dated 16-01-2013, the following postings transfers of Assistant Food Controller / Foodgrain Inspector are hereby ordered with immediate effect in the interest of public.

S.No.	Name of Official	From	To
1	Mr. Raja Ifikhar Ahmed AFC	DFC Office Battagram	DFC Office Haripur
2	Muhammad Shoaib Foodgrain Inspector	Presently posted against the post of AFC in his own Pay & Scale in DFC Office Kohistan	Posted against the post of AFC in his own pay & scale in DFC office Battagram

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

**Endorsement Even No & Dates**

A copy is forwarded to:-

- 1 PS to Minister Food for information of the Minister Food Government of Khyber Pakhtunkhwa
- 2 PS to Secretary Food for information of the Secretary Food Government of Khyber Pakhtunkhwa Peshawar.
- 3 The District Accounts Officers Haripur, Kohistan & Battagram.
- 4 The Assistant Director Food Hazara Division at Abbottabad.
- 5 The District Food Controllers Haripur, Kohistan & Battagram.
- 6 Officials concerned/ Personal File.

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

D. No 16  
7-2-2013.



FOOD DIRECTORATE,  
KHYBER PAKHTUNKHWA  
PESHAWAR

No. 7321 /ET-378-IV

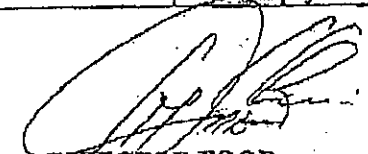
Dated 27/12/2014

**OFFICE ORDER**

The following postings / transfers of District Food Controllers/ Assistant Food Controllers / Foodgrain Inspectors and Foodgrain Supervisors are hereby ordered with immediate effect in the interest of Public.

S.NO	Name of Official	From	To
1	Syed Iqbal Hussain Shah DFC	DFC Haripur	DFC Mansehra
2	Syed Asif Ali Shah	DFC Kohistan	DFC Tank
3	Muhammad Zafrullah Khan DFC	DFC Tank	DFC Turghar
4	Mr. Shehwaz Tariq AFC	AFC Mansehra	Posted as DFC Haripur in his own pay & scale.
5	Ansar Qayum AFC	AFC Kohistan	AFC Battagram
6	Mr. Sheraz Anwar AFC	AFC Haripur	Posted as DFC Kohistan in his own pay & scale
7	Mr. Zamrud Khan AFC	AFC Mansehra also working as DFC Mansehra in addition to his own duties	He will continue as AFC (Godown) Mansehra
8	Muhammad Shoaib FGI	Presently working as AFC Battagram in his own pay & scale	Posted as AFC Haripur in his own pay & scale.
9	Dinar Wali FGI	FGI Haripur	FGI Chitral against the newly converted post from FGS to FGI
10	Amir Khalid Cane Inspector	Presently working against the post of FGI Kohistan	Posted against his original post of Cane Inspector in Food Directorate, Peshawar.
11	Israr Ahmad Khan FGI	FGI Kohistan	FGI Haripur
12	Arslan Shoukat FGS	Presently working against the post of FGI Kohistan in his own pay & scale	Posted as FGI Mansehra in his own pay & scale.
13	Musharaf Jamal FGS	Presently working as FGI Mansehra in his own pay & scale	Posted as FGS Kohistan in his own pay & scale
14	Muhammad Nadeem FGS	FGS Haripur	Posted as FGI Kohistan in his own pay & scale

12/27  
K.S.  
AM

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA  
PESHAWAR

Office Order dated 25-12-2014.doc



FOOD DIRECTORATE,  
KHYBER PAKHTUNKHWA  
PESHAWAR


No. 3693 /ET-378-IV

Dated 13/06/2014

**OFFICE ORDER**

The following postings / transfers of District Food Controllers, Assistant Food Controllers and Foodgrain Inspector are hereby ordered with immediate effect in the interest of Public.

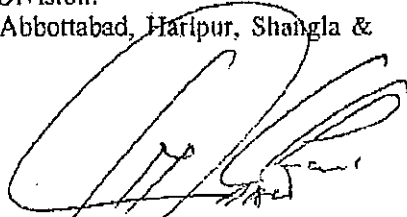
S.NO	Name of Officer/ Official	From	To
1	Syed Iqbal Hussain Shah DFC	Already posted as Assistant Director Food Hazara Division at Abbottabad in his own pay & scale.	He will also hold the additional charge of the post of DFC Manshra till further order.
2	Syed Asif Ali Shah DFC	DFC Tank	DFC Kohistan
3	Muhammad Hayat Khan AFC	Food Directorate, Peshawar.	Posted as DFC Tank in his own pay & scale.
4	Mr. Shad Muhammad AFC	Presently working as DFC Shangla in his own pay & scale	Posted as AFC PRC Haripur.
5	Mr. Sheraz Anwar AFC	Presently working as DFC Kohistan in his own pay & scale	Posted as DFC Shangla in his own pay & scale.
6	Muhammad Shoaib FGI	Presently working as AFC PRC Haripur in his own pay & scale.	Posted as AFC H.Q Haripur in his own pay & scale.

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA  
PESHAWAR

**Endorsement No & Date Even**

Copy is forwarded to

- 1) PS to Minister Food Khyber Pakhtunkhwa with reference to his verbal direction.
- 2) Ps to Secretary Food for information of the Secretary Food Government of Khyber Pakhtunkhwa
- 3) The Accountant General, Khyber Pakhtunkhwa Peshawar.
- 4) The District Accounts Officers, Tank, Manshra, Abbottabad, Haripur, Shangla & Kohistan.
- 5) The Assistant Director Food Hazara & D.I.Klian Division.
- 6) The District Food Controllers Tank, Manshra, Abbottabad, Haripur, Shangla & Kohistan.
- 7) Officers / Officials concerned.
- 8) Personal File.

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA  
PESHAWAR

Order dated 13-06-2014.doc



**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**DIRECTORATE OF FOOD,**  
**PESHAWAR**

No. 299 /PF-848

Dated: 23/11/2018

091-9225378



fooddirectoratekp@gmail.com



@fooddirectoratekp



@fooddirectorate

To

The District Food Controller,  
Abbottabad.

Subject: -  
Memo

**APPLICATION OF MR. SHOAIB KHAN AFC**

Reference your letter No.90-93 ET/69 dated 15-11-2018, on the subject noted above.

2 Mr. Azhar Parvez Foodgrain Inspector posted against the post of AFC Abbottabad (in his own pay & scale) has already drawn his pay and allowances from the post of AFC Abbottabad. Therefore, Mr. Muhammad Shoaib AFC Abbottabad under transfer to DFC Office Battagram is allowed to draw his pay and allowances from the post of AFC Battagram as admissible to him under the rules with effect from 01-05-2018 till final decision of the court.

*[Signature]*  
DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR

**Endorsement No & Date Even.**

Copy is forwarded to:-

1. The Assistant Director Food Hazara Division at Abbottabad.
2. The District Food Controller, Battagram.
3. Mr. Muhammad Shoaib AFC, Office of DFC Battagram.
4. Personal file.

*[Signature]*  
DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR



GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF FOOD,  
PESHAWAR

No: 5030 /PF-848

Dated: 05/11/2018

091-9225378

fooddirectoratepk@gmail.com

@fooddirectoratepk

@fooddirectorate

**OFFICE ORDER**

In compliance of order sheet dated 18-10-2018 announced by the Service Tribunal Khyber Pakhtunkhwa Peshawar in Appeal No.709/2018, Muhammad Shoaib AFC Abbottabad under transfer to DFC Office Battagram is hereby allowed to draw his pay & allowances from the post of Assistant Food Controller, Office of District Food Controller, Battagram as admissible to him under the rules with effect from 01-05-2018 till final decision of Court.

*[Signature]*  
DIRECTOR FOOD,  
KHYBER PAKHTUNKHWA,  
PESHAWAR

**Endorsement No & Date Even**

Copy is forwarded to

- 1) The Registrar Service Tribunal Khyber Pakhtunkhwa with reference to order sheet dated 18-10-2018 announced by the Service Tribunal Khyber Pakhtunkhwa Peshawar in Appeal No.709/2018, Muhammad Shoaib AFC V/S Government.
- 2) The District Accounts Officers Battagram and Abbottabad.
- ✓ 3) The Assistant Director Food Hazara Division.
- 4) The District Food Controllers Abbottabad and Battagram for necessary action.
- 5) Official concerned / Personal files.

*[Signature]*  
DIRECTOR FOOD,  
KHYBER PAKHTUNKHWA,  
PESHAWAR



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 154 /ST

Dated 22 -1-1 2019

To


The Director Food Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 709/2018, MR. MUHAMMAD SHOAIB KHAN.

I am directed to forward herewith a certified copy of Judgement dated 17.01.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.