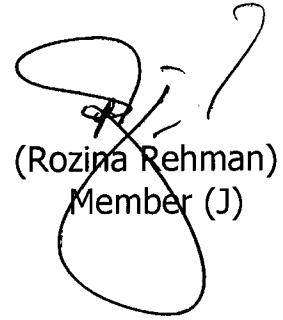


14.04.2021

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 07.07.2022 before S.B.

Rs-900/-
App. Security and
Process Fee
Auff with
15/4/22


(Rozina Rehman)
Member (J)

07th July, 2022

Clerk to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mahir Assistant for the respondents present.

Learned AAG seeks further time to submit reply. Last opportunity is granted. To come up for reply/comments on 12.09.2022 before S.B.

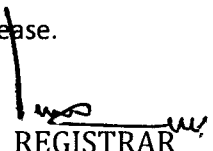

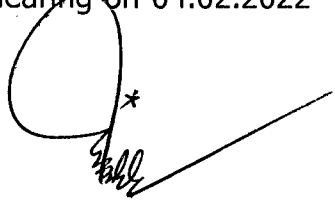
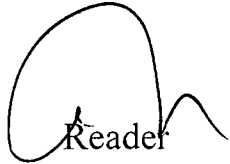


(Kalim Arshad Khan)
Chairman

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 7635/2021 _____

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 21/10/2021 | <p>The appeal of Mr. Hafeez-ur-Rehman resubmitted today by Mr.Abdul Hameed Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | | <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>09/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 09.12.2021 | <p>Junior of learned counsel for the appellant present and requested for adjournment on the ground that learned senior counsel for the appellant is busy in the august Peshawar High Court, Peshawar and cannot attend this Tribunal today. Request is acceded to. To come up for preliminary hearing on 04.02.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p> |
| | 04.02.2022 | <p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 14.04.2022 for the same as before.</p> <p style="text-align: right;"> Reader</p> |

The appeal of Mr. Hafeez Ur Rehman, Assistant Food Controller (BPS-16), R/O House No. 2, Street No. 1, Sector K-2, Phase-3, Hayatabad, Peshawar received today i.e. on 14.10.2021 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

1. Check list is not attached with the appeal.
2. Certificate be given to the effect that the appellat has not been filed any service appeal earlier on the subject matter before this Tribunal.
3. Affidavit attached is not attested by Oath Commissioner.

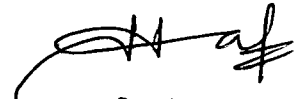
No. 2067 /S.T,

Dt. 14/10 /2021


REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Abdul Hameed Adv. Pesh.

Resubmitted after doing the needful.


21.10.2021

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. 7635/2021

HAFEEZ UR REHMAN, AFC, FOOD DEPARTMENT PESHAWAR.....**APPELLANT**

Versus

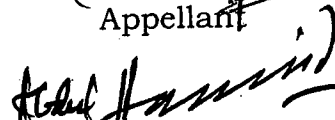
GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY KP
PESHAWAR AND OTHERS.....**RESPONDENTS**

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Appellant

Through


(ABDUL HAMEED)

Advocate Peshawar

Dated: 14.10.2021

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. 7635 /2021

HAFEEZ UR REHMAN, ASSISTANT FOOD CONTROLLER (BPS-16) R/O
HOUSE NO.2, STREET NO.1, SECTOR K-2, PHASE-3, HAYATABAD,
PESHAWAR

.....**APPELLANT**

VERSUS

1. GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY KP, PESHAWAR
2. SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA, ESTABLISHMENT DEPARTMENT, PESHAWAR
3. SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA, FOOD DEPARTMENT, PESHAWAR
4. DIRECTOR FOOD, KHYBER PAKHTUNKHWA, PESHAWAR
5. MUHAMMAD AKBAR, ASSISTANT FOOD CONTROLLER, STORAGE & ENFORCEMENT OFFICE, PRC, PESHAWAR
6. SALEEM IQBAL, ASSISTANT FOOD CONTROLLER C/O DIRECTORATE FOOD PESHAWAR
7. NOOR KHAN, ASSISTANT FOOD CONTROLLER, STORAGE & ENFORCEMENT OFFICE, NRC, AZAKHEL, NOWSHERA

.....**RESPONDENTS**

Appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against a revised seniority list of Assistant Food Controller, duly circulated by Government of KP, Directorate of Food Peshawar vide letter no.3683/ET-716 dated 26.8.2021 vide which a representation/review petition dated 03.09.2021 preferred by the appellant to Respondent No.4, has been rejected by letter no 4150/PF-884 dated 24.09.2021.

PRAYER:

On acceptance of this appeal, the impugned letter dated 24.09.2021, issued by Respondent No.4 may kindly be set aside and Respondent No.4 may kindly be directed to review the impugned seniority list of AFC issued on 26.8.2021 and direct to restore the final seniority list of Assistant Food Controller BPS-16 issued by Food Directorate KP on 17.01.2018, and maintain status quo till final decision of this appeal. Any other relief deemed appropriate in the circumstances of

the case, not specifically asked for, may also be granted to the appellant

RESPECTFULLY SHEWETH:

Brief facts giving rise to this appeal are as under:

1. That the appellant was recruited as Assistant Food controller through KP Public Service Commission and after due process, the appellant joined the post of AFC on 07.08.2015 in Food Department. **(Copy of Appointment order dated 07.08.2015 is attached as Annexure A)**
 2. That the service of appellant is governed under Service Rules titled "Khyber Pakhtunkhwa Food Department (Recruitment and Appointment) Rules 1981". The Service rules for appointment to various posts in Food Department and the method of recruitment specifically laid down for Executive Establishment/staff in Food Department is as follows
 - i. **Assistant Food Controller**
 - a. 25% by initial recruitment, and
 - b. 75% by promotion on the basis of seniority cum fitness from amongst FGIs and Cane Inspector with at least 05 Years service as such
 - ii. **FGI/Cane Inspector**
 - a. 75% by promotion on the basis of seniority cum fitness from amongst FGS with at least 03 Years service as such
 - b. 25% by initial recruitment
- (Copy of KP Food Department (Recruitment and Appointment) Rule 1981 are attached as annexure B)**
3. That Govt of KP Establishment & Administration Department (Regulation Wing) vide circular letter dated 08.06.2001 introduced a policy for declaring government servants as surplus and their subsequent absorption/adjustment. This surplus pool policy was subsequently amended by letter No.SOR.VI(E&AD)/5-1/2005 dated 15.02.2006 with immediate effect. **(Copy of original surplus pool policy dated 08.06.2001 and amended surplus pool policy dated 15.2.2006 is attached as Annexure C&D respectively)**
 4. That the Food Department vide office order no.17599/ET-542/SPA dated 25.08.2004, in pursuance of Surplus pool policy inducted Muhammad Akbar, Muhammad Saleem Iqbal & Noor khan (herein as Respondent No.5,

6 & 7) surplus pool employees of Government of KP Printing & Stationery Department as Food Grain Inspector BPS-6 on 25.8.2004, and the pay of these surplus pool officials was protected in BPS-07 as per terms of the surplus pool policy. **(Copy of adjustment order dated 25.8.2004 is attached as annexure E).**

5. That in the Final seniority list of Food Grain inspector in the food Department as stood on 25.8.2004, the Respondents No.5, 6 & 7 (surplus pool employees) were placed in the seniority of Food Grain Inspector in the proper place appearing at serial no.46, 47 & 48 respectively and also the seniority position of these Surplus Pool Employees was maintained throughout by the Department in the subsequent seniority lists issued from time to time. These surplus pool employees had never challenged their seniority merely on this ground that prior to their induction in Food Department as Food Grain Inspector, they exercised an option that they are ready and willing to join FGI BPS-06 and also accepted the seniority to be placed at the bottom of seniority list of FGI (BPS-06) as per terms of surplus pool policy, 2001. **(Copy of seniority list of FGI dated 25.8.2004 is attached as annexure F)**
6. That it is to be mentioned here that vide Notification No.SOF (Food Deptt) 1-12/08/131 dated 12.02.2008, the existing post of Food Grain Inspector (BPS-06) was upgraded from BPS-06 to BPS-07 on 12.2.2008 which was further upgraded from BPS-7 to BPS-9 on 30.12.2013. **(Copy of notification dated 12.2.2008 and order dated 30.12.2013 are attached as annexure G&H).**
7. That by efflux of time, Respondent No.5 & 6 (surplus pool employees) were promoted from the post of FGI to the post of AFC on regular basis against 75% quota reserved for promotion by an order dated 22.4.2016, while Respondent No.7 (surplus pool employee) was later promoted to the post of AFC on 28.11.2016 on regular basis. Respondent No.5, 6 & 7 had never challenged their seniority before any forum earlier and remained silent throughout their career service in Food Department. **(Copy of office orders dated 22.4.2016 & 28.11.2016 are attached as Annexure I&J)**
8. That during the year 2018, Respondent No.4 (Director Food) vide letter no.279/ET-716 dated 17.01.2018, circulated Final seniority list of AFC as stood on 17.1.2018, whereby the appellant (selectee) was appearing at serial no.20 while the Surplus Pool employees i.e Respondent No.5, 6 & 7 (promotees) were appearing at Serial no.22, 23 & 24 respectively. This seniority of direct recruits vis-à-vis promotees as maintained by Department was not challenged by Respondent No.5, 6 & 7 (promotees) within the stipulated period and thus it attained finality in the eye of law. **(Copy of seniority list of AFC dated 17.01.2018 is attached as annexure K)**
9. That the appellant deems it proper to refer to a judgment dated 15.08.2016 in Appeal No.831/15 (Naveed's case) on which edifice of the present case

has been built and that this Surplus pool employee working as ex senior clerk (BPS-7) in DCO office, Mansehra, was inducted as FGI in Food Department after exercising an option to join Food Grain Inspector BPS-6 on his will and consent on 26.01.2006, while his pay being drawn by him in BPS-7 in parent department was protected as per terms of the surplus pool policy dated 8.6.2001 and he was placed at the bottom of seniority list of FGI (BPS-6) as per terms of policy 2001. **(copy of induction order dated 26.1.2006 is attached as annexure L)**

10. That vide circular letter dated 15.2.2006 issued by Govt(of KP Establishment Department (Regulation Wing), the competent authority amended the surplus pool policy by adding para-d added to para-6 of the policy ibid, where under it was mentioned as under:-

Sub para-(d) added to para (6)

(d) in case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again & becoming junior to his juniors.

(Copy amended surplus pool policy dated 15.2.2006 is already attached as Annexure-D)

11. That after amendments made on 15.02.2006 in Surplus pool policy, Mr. Naveed filed a WP No.23-A of 2014 before Peshawar High Court, Abbottabad Bench praying for seniority on the basis of amended surplus pool policy dated 15.2.2006. However this writ petition was dismissed on 24.9.2014 on the grounds mentioned below.

“The petitioner was adjusted on 26.1.2006 whereas the amendment has been brought about on 15.2.2006 and the order dated 26.1.2006 has been implemented and seniority list has been prepared, thus, if the amendment policy dated 15.2.2006 is given retrospective effect, then the same would adversely affect other employees, not before us, and Pandora box would open and that too after more than eight years.

Since the amended policy dated 15.2.2006 is having no retrospective affect, nor it was the intention of the legislature, otherwise it would have mentioned the same. Moreover, the post against which the petitioner was inducted, was upgraded to BPS-7 w.e.f February 2008, and subsequently upgraded to BPS-9 w.e.f 31.12.2013, along with pay protection in BPS-7 at the time of adjustment.”

(Copy of judgment dated 24.9.2014 passed in wp no.23-A of 2014 is attached as Annexure-M)

12. That thereafter Mr. Naveed filed Service Appeal No.831/2015 before learned Tribunal which was decided on 15.8.2016 in his favour, directing the Respondents that the appellant (Naveed) is entitled to be placed at the top of seniority list of FGI (BPS-6) at the relevant time. It is clarified that “Naveed” in the instant Service Appeal No.831/2015 had made official respondents only as party, while the incumbent FGIs (BPS-6) working in the department had not been made Respondents and thus it is settled principle of law that such judgment is not binding upon other employees, who are not party in that appeal & such judgment is to be treated as

"judgment in personam". (Copy of the judgment dated 15.8.2016 passed in service appeal no.831.2015 is attached as annexure N)

- 13. That Respondent No.5, 6 & 7 (all three Surplus pool employees) having been inducted as FGIs BPS-6 in Food Department had never agitated their seniority as FGI and remained silent till 2016. Upon their promotion from the post of FGI to the post of AFC on 22.4.2016 and 28.11.2016 respectively against 75% quota reserved for promotion, the Final seniority list of AFCs maintained by the department on 17.1.2018 was issued & circulated, where these promotees were properly placed at serial no.22,23 & 24 respectively. **(Copy of seniority list of AFCs dated 17.1.2018 is already attached as annexure K)**

- 14. That thereafter Respondent no.5 & 6 (Muhammad Akbar and Muhammad Saleem Iqbal) filed Service Appeals no 7 & 8 of 2017 before learned KP Service Tribunal, seeking seniority from retrospective date. Their appeals were disposed of on 24.11.2017 with directions to the Respondents/department that appellants in Service Appeal no.7 & 8 of 2017 shall still stand junior to all those persons who have been recruited as Assistant Food Controller by initial recruitment through Public Service Commission, prior to the promotion of appellants as Assistant Food Controller on regular basis and thus seniority of the direct recruits vis-à-vis appellants (promotees) in the impugned seniority list shall not be disturbed. **(Copy of judgment dated 24.11.2017 passed in service appeal no 7&8 of 2017 is attached as annexure O)**

- 15. That Respondent no.7 (Noor khan) also filed service 349/2017 before the learned tribunal, seeking seniority as AFC, with retrospective date which was accepted on 8.2.2018. Since in the instant appeal Respondent no.7 had impleaded the official respondents only as party while the affected employees (incumbent AFCs) were not impleaded as party, therefore, the affected employees challenged the same before the Apex court of Pakistan by filing a CPLA No.1676 of 2018 and consequently by an order dated 29.6.2018, the judgment dated 8.2.2018, was set aside by the apex court of Pakistan and the case was remanded to the learned tribunal to implead all those who would be affected by the decision of the tribunal and pass a fresh decision after giving them an opportunity of hearing. **(Copy of order dated 29.6.2018 passed in CPLA No.1676 of 2018 is attached as annexure P)**

- 16. That after remand service appeal no.349/2017, filed by respondent no.7 (Noor khan) was placed before a larger Bench and was finally heard on 15.7.2021. After hearing the arguments of the parties, the learned Tribunal accepted the appeal of respondent no.7 (Noor khan) by an order dated 15.7.2021. **(copy of judgment/order dated 15.7.2021 passed in service appeal no.349/2017 is attached as annexure Q)**

- 17. That in pursuance of the judgment dated 15.7.2021, passed in service appeal no.349/2017, Respondent No.4 (Director Food) issued a wrong and incorrect revised seniority list which was circulated by a letter no.3683/ET-716 dated 26.08.2021, wherein Respondents No. 5, 6 & 7 have been placed at the top of the seniority list in violation of rules and also in violation of this Tribunal judgment dated 24.11.2017 in Appeal No.

7 & 8 of 2017, vide which, inter alia, the seniority of the appellant as well as other similarly placed employees was drastically affected. **(Copy of the seniority list of AFC dated 26.8.2021 is attached as annexure R)**

- 18. That against this seniority list dated 26.08.2021, the appellant, being aggrieved made a representation/review petition dated 03.09.2021 before Respondent No.4 (Director Food), praying thereof, that the impugned seniority list be reviewed as it has adversely affected the seniority rights of the appellant as well as other similarly placed incumbent AFCs. However, vide letter dated 24.9.2021, issued by Respondent No.4, the departmental appeal/representation/review petition of the appellant was rejected. **(Copy of review petition dated 3.9.2021 and rejection order dated 24.9.2021 are attached as annexure S&T)**

Hence this appeal, inter alia on the following grounds

GROUND

- A. That the impugned order dated 24.9.2021, issued by Respondent No.4, is illegal, unlawful, having been issued without lawful manner and thus is untenable in law and is liable to be set aside.
- B. That Respondent no.4 has implemented the judgment/order dated 15.7.2021 wrongly and erroneously, and failed to appreciate the legal and factual controversy involved in the instant case and has arrived at wrong and incorrect conclusion by issuing this revised seniority list of AFCs dated 26.08.2021, which occasioned grave miscarriage of justice.
- C. That the impugned seniority list dated 26.8.2021, is against law, facts and material available on record and needs interference by this august Tribunal.
- D. That respondent no.4 is not entitled under the law to give benefits of seniority to Respondent No.5,6 & 7 on the basis of the judgment titled **“Hameed Akhtar Niazi versus The Secretary Establishment Division, Government of Pakistan and others” (1996 SCMR 1185)** with retrospective date, on the basis of a judgment/order dated 15.08.2016 passed in Service Appeal No.831/2015, rendered by this learned Service Tribunal (Naveed’s Case) where the appellant and other similarly placed affected employees (AFCs) were not impleaded as party in that case. Reliance is placed on Supreme Court judgments reported as 1988 SCMR 620, 1996 SCMR 1145, 1992 SCMR 1652 and PLD 2001 SC 340.
- E. That the revised seniority list of AFCs dated 26.8.2021, as circulated by Respondent No.4, is not maintainable in law and has wrongly and erroneously interpreted the judgment dated 15.7.2021, rendered in appeal no.349/2017, as this judgment would operate prospectively and not retrospectively, adversely affecting the rights already accrued to the appellant, who was recruited by KPPSC on 07.08.2015 i.e prior to the promotion of Respondents no.5, 6 & 7 on 22.4.2016 & 28.11.2016

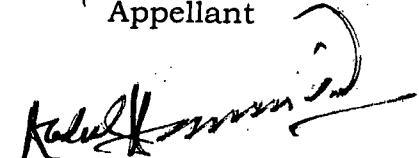
respectively. Reliance is placed on Supreme Court judgments reported as 2006 SCMR 1163 and 2009 PLC (CS) 574 (Supreme court of Pakistan).

- F. That the appellant seeks leave of this Hon'ble Tribunal to advance further arguments at the time of final hearing of this appeal.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned seniority list of AFCs dated 26.08.2021, may kindly be declared as illegal, unlawful having been issued without lawful authority in utter violation of law and rules and the Respondents may kindly be directed to restore the Final seniority list of AFCs dated 17.1.2018 by maintaining status-quo till final decision of this appeal.


Appellant

Through


(ABDUL HAMEED)
Advocate Peshawar

Dated: 14.10.2021

VERIFICATION:

Verified on oath on 14th October 2021 and declare that the contents of this appeal are true and correct to the best of my knowledge.


Deponent

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. _____/2021

HAFEEZ UR REHMAN, ASSISTANT FOOD CONTROLLER, FOOD
DEPARTMENT, PESHAWAR

.....**PETITIONER/APPELLANT**

Versus

GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF
SECRETARY KP PESHAWAR AND OTHERS

.....**RESPONDENTS**

**APPLICATION FOR SUSPENSION OF IMPUGNED SENIORITY LIST OF
AFCS ISSUED ON 26.8.2021 AND TO MAINTAIN STATUS QUO TILL
FINAL DISPOSAL OF ABOVE NOTED APPEAL.**

RESPECTFULLY SHEWETH


1. That the petitioner/appellant has filed the above titled appeal before this learned Tribunal, in which no date has yet been fixed.
2. That in the instant appeal the petitioner/appellant has raised important questions of law of public importance, which are needed to be interpreted and determined by this learned tribunal.
3. That the department/Respondent no.4, while issuing Revised seniority list of AFCs issued on 26.8.2021, has adopted a novel way, due to which the seniority of direct recruits vis-à-vis promotees has been drastically affected.
4. That Respondent no.4 has violated the settled principles of seniority and thus has caused miscarriage of justice.
5. That petitioner/appellant has not been dealt with in accordance with law as guaranteed by Article 4 of the constitution of Islamic Republic of Pakistan, 1973.
6. That in case the operation of the impugned seniority list is not suspended then in that case the petitioner/appellant will have to bear irreparable loss and the very purpose of this appeal would frustrate.

7. That the balance of convenience lies in favour of the petitioner/appellant.

It is, therefore, respectfully prayed that on acceptance of this application, the operation of the impugned seniority list of AFCs issued on 26.08.2021, may kindly be suspended and status quo be maintained till the final disposal of the above appeal.


Petitioner/Appellant

Through


(Abdul Hameed)
Advocate Peshawar

AFFIDAVIT

I, Hafeez ur Rehman, Assistant Food Controller, Food Department Peshawar, do hereby declare on oath and affirm that the contents of the accompanied application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Deponent

CNIC:17301-0744903-9



Annex - A

FOOD DIRECTORATE,
KHYBER PAKHTUNKHWA
PESHAWAR
No. 3936 /AC-240-PSC-AFC-2015
Dated 07/08/2015

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54

APPOINTMENT ORDER

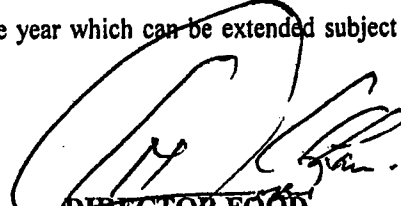
Consequent upon the acceptance of appointment Offer bearing No. 3377/AC-240-PSC dated 26-06-2015, and in pursuance to the Government of Khyber Pakhtunkhwa, Establishment & Administration Department Circular letter bearing No. SOSR-III/FD/12-1/2005 dated 27-02-2013, on the recommendation of the Khyber Pakhtunkhwa Public Service Commission, the below mentioned recommendees are hereby appointed as Assistant Food Controller (BS-14) against temporary posts in Food Department Khyber Pakhtunkhwa on the terms and conditions laid down in their appointment offer referred to above..

| S.No | Name with Father, Name/ Permanent Home Address newly AFCs | On appointment as AFC posted as |
|------|--|---|
| 1. | Miss Uzma Kanwal D/O Tasadduq Hussain Shah R/O Kaghan colony, Rehman Street Al-Imran Gate, Mandian, Abbottabad | On appointment as Assistant Food Controller (BS-14), she is posted in the Office of DFC Mansehra against the vacant post of AFC with immediate effect. |
| 2. | Mr. Zafar Alam Riza S/O Noor Gulab R/O Village Kuejinali Booni Tehsil Mastuj District Chitral. | On appointment as Assistant Food Controller (BS-14), he is posted in the office of DFC Chitral against the vacant post of AFC with immediate effect. |
| 3. | Mr. Tusif Iqbal S/O Khurshid Iqbal R/O House No.5 Street No.1 Faisal Town Nasir Bagh Road Peshawar. | On appointment as Assistant Food Controller (BS-14), he is posted in Food Directorate, Peshawar against the vacant post of AFC with immediate effect. |
| 4. | Mr. Muhammad Shakeel S/O Muhammad Siddique R/O C.B-56 PMA Kakul Road Abbottabad. | On appointment as Assistant Food Controller (BS-14), he is posted in the office of DFC Kohistan against the vacant post of AFC with immediate effect. |
| 5. | Mr. Muhammad Azam Khan S/O Saeedur Rehman R/O House No.F-25 FG Colony Shami Road Peshawar. | On appointment as Assistant Food Controller (BS-14), he is posted in Food Directorate, Peshawar against the vacant post of AFC with immediate effect. |
| 6. | Mr. Adnan Khan S/O Muhammad Yunas R/O Street No.8-B Hazrat Ali Hujra Malik Ilyas Pahari Pura Haji Camp Peshawar. | On appointment as Assistant Food Controller (BS-14), he is posted in Food Directorate, Peshawar against the vacant post of AFC with immediate effect. |
| 7. | Mr. Hafeez ur Rehman S/O Abdul Hameed R/O Village Laghari Union Council Beshigram Tehsil Lal Qilla, District Lower Dir | On appointment as Assistant Food Controller (BS-14), he is posted in the office of Storage & Enforcement Officer PRC Peshawar against the vacant post of AFC with immediate effect. |
| 8. | Mr. Zeshan Ali Shah S/O Mirsar Ali Shah R/O Kotka Naimat Shah Post Office Koti Sadat Surani Bannu | On appointment as Assistant Food Controller (BS-14), he is posted in Food Directorate, Peshawar against the vacant post of AFC with immediate effect. |
| 9. | Mr. Shujaat Hussain Shah S/O Syed Zia-ud Din Shah R/O Village Bai Bala Post Office Chattar Plain Tehsil & District Mansehra. | On appointment as Assistant Food Controller (BS-14), he is posted in the office of DFC Battagram with immediate effect. |
| 10. | Mr. Kashif ur Reman S/O Dr. Mumtaz Khan R/O House No.487/C Collage Street Bannu | On appointment as Assistant Food Controller (BS-14), he is posted in the office of DFC Bannu against the vacant post of AFC with immediate effect. |

(The Serial Chronological Appointment Order will not confer any right of seniority Inter se-merit etc)

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

Attest
Adv.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

Annex - B

(11)

Ann: (P/A) 2)

(7)

**GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
SERVICES AND GENERAL ADMINISTRATION DEPARTMENT**

NOTIFICATION

Dated Peshawar, the 24-05-1981

NO.SOR-II(S&GAD)2-18/79, dated 24-05-1981, In exercise of the powers conferred by section 26 of the North West Frontier Province Civil Servant Act 1973 (NWFP Act No. XVIII of 1973) and in super session of all previous rules on the subject in this behalf, the Governor of the North West Frontier Province is please to make the following rules, namely.

**THE NORTH WEST FRONTIER PROVINCE FOOD
DEPARTMENT (RECRUITMENT AND APPOINTMENT)
RULES 1981**

- 1 (1) These rules may be called the North West Frontier Province Food Department (Recruitment and Appointment) Rules, 1981.
- (2) They shall come into force at once.

- 2 The method of recruitment, minimum qualification, age limit and other matters related thereto for the posts specified in column-2 of the schedule annexed shall be such as given in column-3 to 06 of the said schedule.

Sd/-

Secretary to Government of
North West Frontier Province
Services and General Administration
Department

Endst No. SOR-II(S&GAD)2-18/79

Dated 24/05/1981

A copy is forwarded for information to:-

- 1 All Administrative Secretaries to Government of NWFP,
- 2 Director of Food, NWFP Peshawar.
- 3 Manager, Government Printing Press, Peshawar for Publication in the Government Gazettee. He is requested to supply 50 copies of the Gazettee Notification to the S&GAD and Law Department
- 4 Section Officer (R-I), S&GAD, Government of NWFP,

*Attested
Abdul Halim*

Sd/-

(Abdul Halim)
(Section Officer Regulation-II).

8 12

**SERVICE RULES FOR APPOINTMENT TO VARIOUS POSTS IN FOOD DEPARTMENT
KHYBER PAKHTUNKHWA**

SCHEDULE-42

| S.N o | Nomenclature of Post | Minimum qualification for appointment by initial recruitment | Minimum qualification for appoint by promotion. | Age Limit | Method of Recruitment |
|---|-------------------------------|---|--|-----------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | Director Food | | | | a) By selection on merit with due regard to seniority from amongst the Deputy Directors with at least 12 years service in Grade-17 and Grade-18; or b) By transfer of an officer already employed in any Department of Government other than the Food Department. |
| 2 | Deputy Director | | | | a) By selection on merit with particular reference to fitness for higher responsibilities from amongst Assistant Directors Food, with at least five years service in Grade-17; out of which at least two years mandatory service in Food Directorate or b) by transfer of an officer already employed in any Department of Government other than the Food |
| Entries in the Shedule-42 against serial No.2, in column 6, in clause (a), after the word happen and figure "Grade-17", the words "the words "out of which at least two years service in Food Directorate is mandatory" is inserted as amended vide Notification of Government of Khyber Pakhtunkhwa Food Department No. SOF(Food Deptt)1-12/2010/388 dated 10-11-2010, | | | | | |
| 3 | Deputy Director (Accounts) | | | | a) By selection on merit with particular reference to fitness for higher responsibilities from amongst Assistant Accounts Officer with at least 5 years service in Grade-17; or b) by transfer on deputation from the office of the Audit Department for a specified period in accordance with the terms as may be specified. |

Handwritten signatures and initials

(9) (13)

| | | | | | |
|----|---|--|--|----------------------|--|
| 4 | Assistant Director Food | | | | <ul style="list-style-type: none"> a) By selection on merit with particular reference to fitness for higher responsibilities from amongst District Food Controller Rationing Controller and S&EO, with at least seven years service as such; or b) By transfer of an officer already employed in any Department of Government other than the Food Department. |
| 5 | Assistant Accounts Officer (BPS-17) | | | | <ul style="list-style-type: none"> a) By selection on merit with particular reference to fitness for higher responsibilities from amongst Assistant Accounts Officers in Grade-16 & Statistical Officers with at least 3 years service as such; or b) By transfer on deputation from the office of the Audit Department for the specified period in accordance with the terms as may be specified. |
| 6 | Regional Audit Officer | | | | <ul style="list-style-type: none"> a) By transfer on deputation from the office of the Audit Department for the specified period in accordance with the terms as may be specified; or b) By promotion on the basis of seniority-cum-fitness from amongst Superintendents / Accountants who have passed the S.A.S. Examinations. |
| 7 | Assistant Accounts Officer (BPS-16) | B Com from a Recognized University of SAS qualified | | 20 Years to-25 years | <ul style="list-style-type: none"> a) Twenty Five percent by initial recruitment b) Seventy Five percent by selection on merit with particular reference to fitness for higher responsibilities from amongst Superintendent & Accountants or by transfer on deputation from the office of the Audit Department for the specified period in accordance with the terms as may be specified. |
| 8 | Statistical Officer | Bachelor's Degree with Statistics as one of the subjects from a recognized University. | | 20 Years to 25 years | <ul style="list-style-type: none"> a) By selection on Merit with particular reference to fitness for higher responsibilities from amongst Superintends /Accountants, or b) By initial recruitment. |
| 9 | DFC/S&EOs/RC | Degree from a recognized University | | 20 Years to 25 years | <ul style="list-style-type: none"> a) 25% by initial recruitment, and b) 75% by Selection on merit with particular reference to fitness for higher responsibilities from amongst AFCs with at least 05 years Service as such |
| 10 | Executive Establishment Assistant Food Controller | Degree from a recognized University | | 20 Years to 25 years | <ul style="list-style-type: none"> a) 75 % by promotion on the basis of seniority cum fitness from amongst FGIs and Cane Inspector with at least 05 Years service as such and b) 25 % by initial recruitment. |

Handwritten signatures and initials

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14

| | | | | | |
|----|---|--|--|-----------------------|--|
| 11 | FGI/ Cane Inspector | Intermediate from a recognized Board | | 18 years to 25 years. | a) 75 % by promotion on the basis of seniority cum fitness from amongst FGS, and Cane Inspector with at least 03 Years service as such and b) 25 % by initial recruitment. |
| 12 | Entries under Column No 02 to 06 of S.No.12 deleted vide notification No.O-ET/SOF/P-II dated 05-05-1996 | | | | |
| 13 | Food grain Supervisor | Matriculation or equivalent qualification from a recognized Board | | 18 years to 25 years | By Initial recruitment |
| 14 | Ministerial Estt: Superintendent Accountant | | | | By promotion on the basis of Seniority-cum fitness from amongst Senior Auditors, Assistant (including Assistant of Cane Control Organization Stenographer and Head Clerk with at least five years as such. |
| 15 | Senior Auditor | | | | By Promotion on the basis of Seniority cum fitness from amongst the Junior Auditors and Senior Clerks with at least 05 years experience in Accounts work. |
| 16 | Assistant /Head Clerk | Degree from a recognized University | | 18 years to 25 years | a) 25% by initial recruitment or b) 75% by promotion on the basis of seniority cum-fitness from amongst Junior Auditors and Senior Clerks with at least 05 years experience in Accounts work. |
| 17 | Cane Assistant | Degree from a recognized University | | 18 years to 25 years | By initial recruitment. |
| 18 | Junior Auditor | | | | By Promotion on the basis of seniority cum fitness from amongst the Junior Clerks with at least two years experience in accounts works. |
| 19 | Senior Clerk | | | | By Promotion on the basis of seniority cum-fitness from amongst the Junior Clerks with at least two years service are as such. |
| 20 | Junior Clerk | Matriculation or equivalent qualification from a recognized Board. | | 18 Years to 25 Years | By initial recruitment. |
| 21 | Stenographer | i) Matriculation or equivalent qualification from a recognized Board and ii) A speed of 100 words per minute in shorthand and 40 words per minute in typing | | 18 Years to 25 Years | a) By Promotion on the basis of seniority cum fitness from amongst the steno typist or b) By initial recruitment, if no suitable Steno typist available |
| 22 | Steno typist | i) Matriculation or equivalent qualification from a recognized Board and ii) A speed of 80 words per minute in shorthand and 35 words per minute in typing | | 18 Years to 25 Years | By initial recruitment |

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-4-

| | | | | |
|----|------------|------------------|----------------------|---|
| | Drivers | | 25 years to 45 years | By initial recruitment from amongst persons who are in possession of a valid driving License. |
| | Daftari | Middle Slandered | 25 years to 45 years | a) By Promotion on the basis of seniority cum-fitness from amongst Naib Qasid or b) By initial recruitment if no suitable Naib Qasids available. |
| 25 | Naib Qasid | | 18 Years to 40 Years | By initial recruitment |
| 26 | Chowkidar | | 18 Years to 40 Years | By initial recruitment |
| 27 | Mali | | 18 Years to 40 years | By initial recruitment |
| 28 | Sweeper | | 18 Years to 40 years | By initial recruitment |

Atash
am
for

[Signature]
Assistant Director Food (Estt)
Food Directorate, Peshawar
Peshawar

Acc'd
11/16
D.C.
20/12/01

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(REGULATION WING)

NO. SOR-I(E&AD)I-200/98,
Dated Peshawar the 8th June /2001

To

- 1) All Administrative Secretaries in NWFP.
- 2) The Secretary to Governor, N.W.F.P.
- 3) All Commissioners in N.W.F.P.
- 4) All Heads of Attached Department in N.W.F.P.
- 5) All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
- 6) The Registrar, Peshawar High Court, Peshawar.
- 7) All Districts & Session Judges in NWFP.
- 8) All Deputy Commissioners/Political Agents in NWFP.
- 9) The Secretary, NWFP Public Service Commission, Peshawar.
- 10) The Director, Anti-Corruption Establishment, Peshawar.
- 11) The Registrar, NWFP Service Tribunal, Peshawar.

20/12/01
19/16/01

SUBJECT: POLICY FOR DECLARING GOVERNMENT SERVANT AS SURPLUS AND THEIR SUBSEQUENT ABSORPTION/ADJUSTMENT

Sir,

I am directed to refer to the subject noted above and say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc;

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL.

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL.

For the purpose of coordination and to ensure proper and expeditious adjustment / absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- | | |
|--|-----------|
| a. Additional Secretary (Establishment) E&AD | Chairman. |
| b. Deputy Secretary LG& RD Department. | Member. |
| c. Deputy Secretary Finance Department. | Member. |
| d. Deputy Secretary (Establishment) E&AD. | Secretary |

Attested
Abd
Adm

4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment

5. PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES.

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department
- (i) to proceed on retirement with normal retiring benefits under the existing rules:

OR

- (ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/department.
- (b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the Surplus Pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustment shall be on seniority-cum-fitness basis. For this purpose the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.
- (c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner: -

✓ (i) In case of occurrence of vacancies in their corresponding posts in Government Department/Organization, the senior most employee in the surplus pool should be adjusted first

/// (ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.

(iii) If an employee possess the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.

(iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Department he shall remain in the surplus pool till the availability of a post in the post department.

(b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately proceeding his appointment to a lower post shall remain protected.

Checked
Admin

(18) 64

- (d) If no suitable person is available in the surplus pool to be adjusted against the vacant/revived post, such a post would be filled up by initial recruitment in the prescribed manner after getting clearance from the E&AD.
- (e) Surplus staff should be adjusted preferably in their home District(s). If not possible, then within the same Division, if staff is adjusted away from their District of Domicile in the first instance then on availability of post they should be considered for adjustment near their home station.
- (f) To facilitate adjustment of surplus staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of a suitable surplus employee against the said post.
- (g) Unless the surplus employees in Class-IV are fully adjusted/absorbed against their respective graded posts in various Government Department/Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs. 2000/- per month for contractual appointed should be restricted to the above extent.

6

FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Department will be determined according to the following principles:-

- (a) In case a surplus employee could be adjusted in the respective cadre of his parent department he shall regain his original seniority in that cadre.
- (b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.
- (c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent department or in any other department, he will be placed at the bottom of seniority list.

NOTE:-

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the faculty/right of adjustment/absorption and would be required to opt for premature retirement from Government service.

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority


7.

COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

Yours Obedient Servant


(MUHAMMAD HAMYUN)
8.6.2001
AL SECRETARY (REGULATION)



19

Endst even No. & date

Copy forwarded to the:-

1. COS HQ, 11 Corps, Peshawar Cantt.
2. HQ PMCS C/O HQ Engineer 11 Corps, Peshawar Cantt.
3. All Adml/Deputy Secretaries in (Establishment) E&AD.
4. Deputy Secretary (Admn) E&AD.
5. Director, STI, Benevolent Fund Building, Peshawar.
6. The Accountant General, NWFP, Peshawar.
7. Deputy Secretary Benevolent Fund Cell, E&AD.
8. All District Accounts Officers in NWFP.



(GHULAM JILANI ASIF)
DEPUTY SECRETARY (REG-1)

Endst: even No. & date

Copy forwarded to:-

1. All Section Officers in (Establishment) E&AD.
2. All Section Officer in General Administration E&AD.
3. The Estate Officer, E&AD.
4. PS to Chief Secretary, NWFP.
5. PS to Secretary (Establishment) E&AD.
6. PS to Secretary (General Administration) E&AD.
7. Librarian, E&AD.



SECTION OFFICER (REG-1)

Annex-D

GOVERNMENT
ESTABLISHMENT & A
(REGULATION WING)

NO. SOR.VI (E&AD)/5-1/2005
Dated Peshawar, the 15th February 2006.



1. All Administrative Secretaries to Govt. of NWFP.
2. The Secretary to Governor, NWFP.
3. The Secretary to Chief Minister, NWFP.
4. All District Coordination Officers/Political Agents in NWFP.
5. The Registrar, Peshawar High Court Peshawar.
6. The Registrar, NWFP Service Tribunal Peshawar.
7. All Head of Attached Departments.
8. The Secretary, NWFP Public Service Commission.
9. The Secretary, Board of Revenue NWFP Peshawar.
10. All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
11. The Director Anti-Corruption Establishment NWFP Peshawar.

Subject: AMENDMENT IN THE SURPLUS POOL POLICY.

Dear Sir,

I am directed to refer to the subject cited above and to state that Surplus Pool Policy circulated vide letter No. No.SOR-1(E&AD)1-200/98, dated 8th June 2001 has been reviewed. It has been decided by the competent authority to add following sub paras to the relevant paras of the policy: -

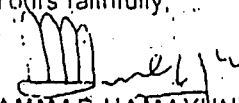
(i) Sub para (c) (v) added to para-5

C(v) In case an employee already adjusted against a lower post is declared surplus again, he shall regain his original pay scale.

(ii) Sub para-(d) added to para (6)

(d) in case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again & becoming junior to his juniors.

Yours faithfully,


(MUHAMMAD HAMAYUN) 15.2.06
SPECIAL SECRETARY (REGULATIONS)

Encl No. & Date even.

Copy forwarded to.

1. The Accountant General, NWFP, Peshawar.
2. Private Secretary to Governor, NWFP, Peshawar.
3. Private Secretary to Chief Minister, NWFP, Peshawar.
4. All District & Agency Account Officers.

M. H. Hamayun
15/2/06

21

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- 5. Private Secretary to Chief Secretary NWFP, Peshawar.
- 6. Private Secretary to Senior Minister NWFP.
- 7. Private Secretaries to all the Provincial Ministers NWFP.

Mussain Shah
 (Mussain Shah)
 Deputy Secretary (Reg-I)

Post No & date over

Copy forwarded to

- All Additional/ Deputy Secretaries in Establishment and Administration Department NWFP, Peshawar.
- Director, Staff Training Institute, Benevolent Fund Building Peshawar.
- All Section Officers/Estate Officer Establishment and Administration Department.
- Private Secretary to Secretary Establishment Department.
- Assistant Secretary Benevolent Fund, Establishment & Administration Department.
- Librarian Establishment & Administration Department.

*Mushtaq
 Admin
 Adv*

Muhammad Masood
 (Muhammad Masood)
 Section Officer (Reg-VI)

FINAL SENIORITY LIST OF FOODGRAIN INSPECTOR IN THE FOOD EPARTMENT AS STOOD ON 25.08.2004

| | |
|------------------------|----|
| Total Sanctioned Posts | 54 |
| Held | 48 |
| Vacant | 6 |

| S.No | Name of Govt. Servant | Qualification | Date of Birth | Domicile | Date of entry into Govt. Service | Date of appointment to the Present Post | Method of Recruitment Appointment | Date of Superannuating |
|------|-----------------------|---------------|---------------|--------------|----------------------------------|---|-----------------------------------|------------------------|
| 1 | Pir Hashmat Ali Shah | B.Sc. | 15.08.1951 | S.Waziristan | 03.10.1974 | 09.06.1982 | By promotion | 14.08.2011 |
| 2 | Jamil Tariq | B.A. | 01.05.1949 | Abbottabad | 19.06.1973 | 08.06.1982 | By promotion | 30.04.2009 |
| 3 | Muhammad Younis | Matric | 01.04.1947 | Abbottabad | 05.12.1968 | 03.11.1982 | By promotion | 31.03.2007 |
| 4 | Muhammad Ayaz | Matric | 15.08.1946 | Chitral | 13.11.1974 | 08.05.1983 | By promotion | 14.08.2006 |
| 5 | Bashir Ahmed | Matric | 04.02.1955 | Chitral | 01.06.1977 | 14.03.1985 | By promotion | 03.02.2015 |
| 6 | Manzoor Ahnged | F.A. | 10.03.1950 | Peshawar | 07.07.1973 | 26.03.1985 | By promotion | 09.03.2010 |
| 7 | Obaid Ur Rehman | F.A. | 13.04.1953 | Mardan | 31.03.1975 | 23.03.1985 | By promotion | 12.04.2013 |
| 8 | Salim Shah | F.A. | 04.11.1949 | Kohat | 30.04.1975 | 05.04.1985 | By promotion | 13.03.2009 |
| 9 | Amir Nawab | F.A. | 08.04.1954 | Malakand | 01.04.1979 | 20.03.1985 | By promotion | 07.04.2014 |
| 10 | Muhammad Saeed | Matric | 10.05.1949 | Abbottabad | 28.05.1973 | 21.06.1993 | By promotion | 09.05.2009 |
| 11 | Ajab Khan | M.Sc. | 13.08.1955 | Swat | 03.04.1979 | 17.06.1993 | By promotion | 12.08.2015 |
| 12 | Din Muhammad Gul | Matric | 18.02.1954 | Kohat | 22.10.1974 | 01.08.1994 | By promotion | 17.02.2014 |
| 13 | Raja Ifukhar Ahmed | F.A. | 30.05.1954 | Abbottabad | 01.07.1982 | 17.11.1994 | By promotion | 29.05.2014 |
| 14 | Nazakat Hussain Shah | Matric | 14.01.1953 | Mansehra | 01.03.1975 | 17.05.1995 | By promotion | 13.01.2015 |
| 15 | Hasham Khan | B.A. | 18.10.1971 | M. Agency | 03.03.1996 | 03.03.1996 | By initial recruitment | 17.10.2031 |
| 16 | Sher Fayaz | M.A. | 02.01.1969 | Chitral | 12.02.1996 | 12.02.1996 | By initial recruitment | 01.01.2029 |
| 17 | Adil Badshah | B.Sc. | 15.04.1972 | Karak | 25.02.1996 | 25.02.1996 | By initial recruitment | 14.04.2032 |
| 18 | Shad Muhammad | M.Sc. | 25.05.1966 | Mansehra | 11.02.1996 | 11.02.1996 | By initial recruitment | 24.05.2026 |
| 19 | Sanaullah | M.A. | 15.11.1948 | Bannu | 20.08.1976 | 20.08.1976 | By initial recruitment | 14.11.2008 |
| 20 | Khan Zada Khan | F.Sc. | 15.03.1956 | Bannu | 25.10.1980 | 25.10.1980 | By initial recruitment | 14.03.2016 |

Annex-F

204

Final Seniority List
 ATE
 [Signature]

[Signature]
 [Signature]

204

24

M. Khan

| | | | | | | | | |
|----|----------------------|--------|------------|-------------|------------|------------|--|------------|
| 21 | Kifayat Khan | B.A. | 01.11.1959 | Peshawar | 20.02.1986 | 20.08.1986 | | |
| 22 | Aurangzab | F.A. | 18.01.1957 | M. Agency | 26.06.1982 | 01.06.1995 | By initial recruitment | 31.10.2019 |
| 23 | Muhammad Nawab | B.Sc. | 16.10.1958 | FR Peshawar | 22.07.1982 | 23.12.1996 | By promotion | 17.01.2017 |
| 24 | Sher Afzal | F.A. | 02.04.1960 | FR Bannu | 30.06.1982 | 23.12.1996 | By promotion | 15.10.2018 |
| 25 | Taj Bar Khan | F.A. | 15.07.1957 | Dir | 23.06.1982 | 01.01.1997 | By promotion | 01.04.2020 |
| 26 | Abbas Khan | F.A. | 06.05.1952 | DI Khan | 01.10.1973 | 23.05.1998 | By promotion | 15.07.2017 |
| 27 | Iqbal Hussain Afridi | B.A. | 05.09.1962 | K. Agency | 01.07.1982 | 25.03.1998 | By promotion | 05.05.2012 |
| 28 | Aman Ullah | F.A. | 15.06.1957 | M. Agency | 01.07.1982 | 25.03.1998 | By promotion | 04.09.2022 |
| 29 | Fazli Bar | B.A. | 02.02.1961 | Chitral | 27.08.1981 | 30.08.2000 | By promotion | 14.06.2017 |
| 30 | Muhammad Zubair | B.A. | 01.02.1970 | Swat | 18.05.1993 | 30.08.2000 | By promotion | 01.02.2021 |
| 31 | Mehmood-ur-Rahman | C.Com. | 02.11.1969 | Kohat | 10.05.1993 | 30.08.2000 | By promotion | 31.01.2030 |
| 32 | Salah-ud-Din | B.A. | 25.11.1972 | Peshawar | 12.05.1993 | 30.08.2000 | By promotion | 01.11.2029 |
| 33 | Sardar Khan | B.A. | 05.01.1955 | FR Bannu | 10.05.1993 | 30.11.2000 | By promotion | 24.11.2032 |
| 34 | Muhammad Arshad | B.A. | 15.09.1967 | Charsadda | 10.05.1993 | 30.11.2000 | By promotion | 04.01.2015 |
| 35 | Syed Wazir Shah | M.A. | 08.06.1959 | Mansehra | 10.05.1993 | 30.11.2000 | By promotion | 14.09.2027 |
| 36 | Abdul Hafeez | M.A. | 07.07.1969 | Charsadda | 13.05.1993 | 20.12.2003 | By promotion | 07.06.2019 |
| 37 | Ansar Qayum | B.A. | 11.07.1970 | Mansehra | 13.05.1993 | 20.12.2003 | By promotion | 06.07.2029 |
| 38 | Arshad Hussain | B.A. | 01.01.1970 | Chitral | 11.05.1993 | 20.12.2003 | By promotion | 10.07.2030 |
| 39 | Ali Asghar Khan | B.A. | 28.02.1972 | Mardan | 10.05.1993 | 20.12.2003 | By promotion | 31.12.2029 |
| 40 | Zamarud Khan | Matric | 14.03.1955 | Abbottabad | 19.07.1979 | 20.12.2003 | By promotion | 27.02.2032 |
| 41 | Shabir Ahmad Khan | LLB | 30.04.1966 | FR Peshawar | 12.05.1993 | 20.12.2003 | By promotion | 13.03.2015 |
| 42 | Said Nawaz | B.Com | 20.03.1972 | Chitral | 12.05.1993 | 20.12.2003 | By promotion | 29.04.2026 |
| 43 | Jamshed Khan Afridi | B.A. | 20.06.1972 | Khyber Agen | 10.05.1993 | 20.12.2003 | By promotion | 19.03.2032 |
| 44 | Sohail Habib | Matric | 14.02.1968 | Bannu | 10.05.1993 | 20.12.2003 | By promotion | 19.06.2032 |
| 45 | Sheraz Anwar | F.A. | 05.02.1974 | Mansehra | 03.07.1993 | 20.12.2003 | By promotion | 13.02.2028 |
| 46 | Muhammad Akbar | B.A. | 05.12.1962 | Peshawar | 01.03.1982 | 25.08.2004 | By initial recruitment / adjusted from Surplus Pool | 04.12.2022 |
| 47 | Muhammad Salim Iqbal | D.Com | 15.07.1969 | Peshawar | 01.08.1990 | 25.08.2004 | By initial recruitment / adjusted from Surplus Pool | 14.07.2029 |
| 48 | Noor Khan | F.A. | 12.09.1968 | Peshawar | 20.04.1995 | 25.08.2004 | By initial recruitment / adjusted from Surplus Pool | 11.09.2028 |

Final Selection

Attested

ATTESTED

Signature

Annex-5

25



GOVERNMENT OF NWFP,
FOOD DEPARTMENT.

Dated Peshawar, the 12-02-2008

No. SOF (Food Deptt) 1-12/08/131 In pursuance of the Finance Department (Regulation Wing) letter No. SO (FR)/FD/7-13/2005/KC dated 28/09/2006 and subsequent amendments in the NWFP Food Department (Recruitment and Appointment Rules 1981) vide Notification No. SOF(Food Deptt)1-12/2008/128 dated 11/02/2008, the following posts of Food Directorate NWFP are hereby upgraded with immediate effects:-

| S.No | Existing Post | Up-graded post |
|------|-----------------------------------|------------------------------------|
| 1. | Assistant Food Controller (BPS-8) | Assistant Food Controller (BPS-11) |
| 2. | Food Grain Inspector (BPS-6) | Food Grain Inspector (BPS-7) |
| 3. | Supervisor (BPS-5) | Supervisor (BPS-6) |

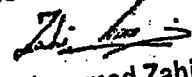
Secretary to Government of NWFP
Food Department

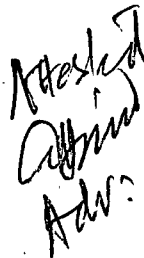
ENDST: NO & DATE AS ABOVE

Copy forwarded to:

1. The Accountant General, NWFP, Peshawar.
2. The Director Food, NWFP, Peshawar.
3. The Budget Officer-VII, Finance Department, Peshawar.
4. The Section Officer (Cabinet), Establishment Department, Peshawar
5. The Section Officer-FR (Regulation Wing) Government of NWFP, Finance Department.

Section Officer (Food)

Attested to be true copy

Haji Muhammad Zahir Shah
Advocate Supreme Court
A.O.R./ Peshawar


Adv.

67-137-4990-achun 27 APR 1999 7

Annex-A

246



GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

Dated: Peshawar, the 30th December, 2013.

ORDER

No. SO(Food) 1-48/1668 /2013.- Sanction is hereby accorded to the upgradation of posts of Assistant Food Controller, Food Grain Inspector and Food Grain Supervisor in the Food Department Khyber Pakhtunkhwa, as under with immediate effect:-

| S.No. | Nomenclature & BPS (Existing) | Nomenclature & BPS (Upgraded) |
|-------|------------------------------------|------------------------------------|
| 1. | Assistant Food Controller (BPS-11) | Assistant Food Controller (BPS-14) |
| 2. | Food Grain Inspector (BPS-07) | Food Grain Inspector (BPS-09) |
| 3. | Food Grain Supervisor (BPS-06) | Food Grain Supervisor (BPS-07) |

SECRETARY FOOD
GOVT. OF KHYBER PAKHTUNKHWA

Endst. No. & Date Even.
Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All District Account Officers in Khyber Pakhtunkhwa.

(Signature)
SECTION OFFICER (FR)
FINANCE DEPARTMENT.

Endst. No. & Date Even.

Copy forwarded for information to:-

1. The Director Food, Khyber Pakhtunkhwa, Peshawar.
2. All Assistant Directors Food Incharge of Administrative Divisions.
3. All District Food Controllers/S&EOs/RC, Peshawar.

Witnessed to be true copy by Section Officer (FR), Government of Khyber Pakhtunkhwa, Finance Department.

(Signature)
Muhammad Zahir Shah
Advocate Supreme Court
A.O.R./ Peshawar

(Signature)
(DAULAT KHAN)
SECTION OFFICER (FOOD)

(Handwritten notes)
Abstract
20/12/13
SKW



Annex-I

27

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. Uaman Khan Cane Inspector Food Directorate, Peshawar | Promoted to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect. |
| 8) | Muhammad Shosib 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 Shah 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.J.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.

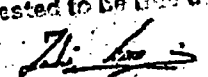
Endorsement No & Date Even
A copy is forwarded to:-

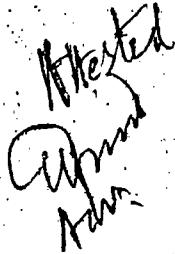
1. PS to Minister Food for information of the Minister Food Government of Khyber Pakhtunkhwa, Peshawar
2. PS to Secretary Food for information of the Secretary Food Government of Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. All District Accounts Officers in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

Office Order for Promotion of FGI to AFC - dated 22/04/2016 etc

Scanned with CamScanner

Attested to be true copy


Haji Muhammad Zahir Shah
Advocate Supreme Court
A.O.R./ Peshawar

Attested




GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF FOOD
PESHAWAR

Annex-J

No. 6226 /G-275-DPC
Dated Peshawar, the 25 / November-2016

13

28

OFFICE ORDER.

On the recommendation of the Departmental Promotion Committee in its meeting held on 17-11-2016, the competent authority is pleased to promote the following Foodgrain Inspectors (BS-09) to the post of Assistant Food Controller (BS-14) on regular basis with immediate effect.

2 On promotion to the next higher scale, the following postings/transfers of Assistant Food Controllers are hereby ordered with immediate effect in the public interest:

| S. No | Name of official with present designation | Present place of posting | Promoted/ posted as |
|-------|--|--|--|
| 1) | Mr. Noor Khan FGI Already appointed as AFC (BS-14) on acting charge basis | DFC Office Bannu | On regular promotion to the post of Assistant Food Controller (BS-14), he will continue as AFC Bannu. |
| 2) | Mr. Aurangzeb Khan Foodgrain Inspector (BS-09) | DFC Office Bannu | On regular promotion to the post of Assistant Food Controller (BS-14), he is transferred and posted as AFC Lakki Marwat. |
| 3) | Mr. Attaullah Foodgrain Inspector (BS-09) | Presently working against the post of AFC Malakand at Dargai in his own pay & scale. | On regular promotion to the post of Assistant Food Controller (BS-14), he is transferred and posted as AFC Malakand at Dargai. |
| 4) | Mr. Qazi Bilal Foodgrain Inspector (BS-09) | DFC Office Haripur | On regular promotion to the post of Assistant Food Controller (BS-14), he is transferred and posted as AFC Haripur. |

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.

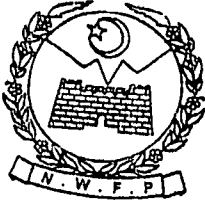
DIRECTOR FOOD
KHYBER PAKHTUNKHWA
PESHAWAR.

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

1. PS to Minister Food Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Food Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The District Accounts Officers, Bannu, Lakki Marwat, Malakand and Haripur.
5. The Assistant Directors Food Bannu, D.I. Khan and Hazara Divisions
6. The District Food Controllers Bannu, Tank, Malakand at Dargai and Haripur.
7. Officials concerned/ Personal File.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA
PESHAWAR

*Attested
Amir
Adani*



Annex-L

31

FOOD DIRECTORATE NWFP
PESHAWAR

No. 1054 /ET-542/SPA

Dated 26 /01/2006.

OFFICE ORDER

Mr. Muhammad Naveed Khan Ex-Senior Clerk (BS-07) of the District Coordination Officer Mansehra (Surplus Pool of DCO Mansehra) is hereby adjusted as Food grain Inspector/Cane Inspector (BS-06) in the Food Department NWFP, Peshawar.

2. Consequent upon his adjustment, Mr. Muhammad Naveed is posted in the Office of District Food Controller, Mardan against the existing vacancy of Food grain Inspector (BS-06) with effect from the date of arrival in the office of District Food Controller, Mardan.

3. Pay drawn by the above official will remain protected in (BS-07) according to Policy contained in Establishment and Administration, Department Circular No.SOR-1 (E&AD) 1-200/98, dated 8th June 2001.

1055-67

No. _____ /ET-542/SPA
Copy is forwarded to: -

SD/-
DIRECTOR FOOD, NWFP,
PESHAWAR

Dated 26 /01/2006.

1. PS to Minister for Food, NWFP, for information of Minister Food, NWFP, Peshawar.
2. PS to Secretary Food for information of Secretary Food, NWFP
3. The Section Officer Surplus Pool, E&AD, NWFP, Peshawar for information with reference to his letter No. SOS. POOL (E&AD)1-14/99 dated 24-08-2005
4. The District Coordination Officer, Mansehra.
5. The District Accounts Officer, Mansehra & Mardan.
6. The District Coordination Officer, Mansehra for information. He is requested to provide Personal File, ACRs/Assets of Mr. Muhammad Naveed Ex-Senior Clerk (BS-07) for record please.
7. PA to Director Food, for information of the Director Food, NWFP, Peshawar.
8. The Section Officer Food, Government of NWFP, Food Department Peshawar.
9. The Budget Officer/Pay Bill Assistant/Nazir, Food Directorate, NWFP, Peshawar.
10. The District Food Controller, Mardan
11. Mr. Muhammad Naveed for information and necessary action. He is directed to produce all documents related with his service from his parents Department for record of this Department.
12. ET-378/Personnel File.

*Attested
Amir
Raza*

Wishwadee Jh
ASSISTANT DIRECTOR FOOD, NWFP, (E)
PESHAWAR.

Annex - M

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PESHAWAR HIGH COURT ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

JUDGMENT SHEET

W.P.No.23-A of 2014

Date of hearing 24.09.2014

Petitioner Muhammad Naveed by Syed Sajja
Haleem Chah, Adv.

Respondents _____

WAQAR AHMED SETH, J. Muhammad Naveed petitioner seeks the constitutional jurisdiction of this Court praying for :-

That on acceptance of this writ petition to direct respondents to act in the manner as provided under the law, that the subject notification being issued in continuity of earlier notification dated 8.6.2001, the subsequently issued notification 15.2.2006 would take effect from the date of original notification being its part and parcel and extending benefit to the employees rather having retrospective effect than prospectively".

2- The brief facts, as per contents of writ petition, are that on the enforcement of devolution plan, 2001 the services of petitioners, who was serving in BPS-7 in the parent department, were placed in surplus pool of District Administration but on enforcement of absorption / adjustment policy dated 8.6.2001 adjusted in BPS-6 in the Food Department KPK vide order dated 26.01.2006. It is also averred in the petition that Surplus

Certified to be true copy
 Examiner
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Sec 25 A of Ord.

Attested
 [Signature]

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Pool Policy circulated through letter dated 8.1.2001 has been reviewed. The petitioner preferred appeals and ultimately filed writ petition No.493-A, which was disposed of by this Court on 17.01.2013. The petitioner submitted order of this Court to the respondents but to no avail, hence, the instant petition.

3- Arguments heard and record perused.

4- Admittedly, the petitioner after rendering surplus was adjusted in the Food Department as Food Grain Inspector (BPS-6) on 26.01.2006 under the prevailing policy No.SOR-I(E&AD/1-200/98 dated 8.6.2001 to which the petitioner never objected. Subsequently, the above referred policy was reviewed and the adjusted employees against a post lower than the original scale were to be placed at the top of seniority list of that cadre. Although nothing is mentioned in the amended / reviewed policy dated 15.2.2006 regarding its applicability either prospective or retrospective in nature.

5- The petitioner was adjusted on 26.1.2006 whereas the amendment has been brought about on 15.02.2006 and the order dated 26.1.2006 has been implemented and seniority list has been prepared, thus, if the amendment policy dated 15.2.2006 is given retrospective effect then the same would adversely effect other employees, not before us, and pendora box would open and that too after more than eight years. The

case law cited by the learned counsel for the petitioner either

Certified to be True Copy
Peshawar Bench
Abbottabad Bench
Authorized Under Sec 75 Act 1973

Attested
Admin

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pertains to fiscal matter or to individual grievance not affecting the rights of others in service matters.

11

6- Since the amended policy dated 15.2.2006 is having no retrospective effect nor it was the intention of the legislation otherwise it would have mentioned the same. Moreover, the post against which the petitioner was appointed was upgraded to BPS-7 w.e.f. February, 2008 and subsequently upgraded to BPS-9 w.e.f. 31.12.2013 alongwith pay protection in BPS-7 at the time of adjustment.

7- In view of the above, the writ petition is dismissed in limine.

Announced.
24.09.2014.

JUDGE

Attested
Adm
Adm

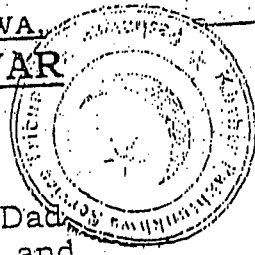
Certified to be True Copy
23/9/14
Examine
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75, Act in Ordina

Annex-N

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal no. 831/2015

Muhammad Naveed son of Fazal Dada
resident of Village Bajna, Tehsil and
District Mansehra.....Appellant



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N.W.F. Province
Service Tribunal
Diary No. 772
Dated 06-7-2015

Versus

- 1) Government of Khyber Pakhtunkhwa through Secretary Establishment and Administration Department, Peshawar
- 2) Director Food, Khyber Pakhtunkhwa Peshawar..... Respondents

APPEAL UNDER SECTION 4 OF NWFP (NOW KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974) QUA NOT DECIDING DEPARTMENTAL APPEAL NO. 1253/ET DATED 14.04.2015 AND INSTEAD OF DECIDING THE DEPARTMENTAL APPEAL LETTER NO. 2468/PF-1125 DATED 13.05.2015 WAS SENT TO APPELLANT WITH REFERENCE TO PREVIOUS DECISION DATED 05.05.2010.

From to-SEP
6/7/15

Respected Sir,

re-submitted to-SEP
and filed.

- 1) That, petitioner was appointed in District Administration and was serving in BPS-7 in Deputy Commissioner, Office Mansehra.

Signature
6/7/15

REGISTERED
Signature
Peshawar

Attested
Approved
Asst.

(45)

(36)

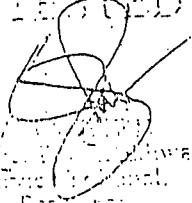
(36)

(5)

(51)

| | |
|---|---|
| Date of Order or proceedings. | Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary. |
| 2 | 3 |
| <p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center"><u>CAMP COURT ABBOTTABAD</u></p> <p align="center">APPEAL NO. 831/2015</p> <p align="center">Mr. Muhammad Naveed Versus Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department, Peshawar and another.</p> <p><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN</u></p> <p>Appellant with counsel and Mr. Muhammad Siddique, Senior Government Pleader for respondents present.</p> <p>2. Mr. Muhammad Naveed son of Fazal Dad hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for seeking seniority by placing him at S.No. 1 of the seniority list maintained by the Food Department for BPS-06.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as Senior Clerk (BPS-07) in the office of Deputy Commissioner, Mansehra and was declared surplus in the year 2001 and later on adjusted in Food Department in BPS-06 vide office order dated 26.01.2006. That the appellant was to be placed at the top of the seniority list in BPS-06 but he was placed at the bottom of the same constraining the appellant to institute Writ Petition No. 494-A/2012</p> | |

15.08.2016

RECEIVED

 Secretary
 Peshawar

*Attested
 Approved
 M.A.*

(46)

(37)

(6)

(37)

(52)

which was disposed of vide judgment dated 17.01.2013 with the directions to respondent No. 1 to decide the grievances of the appellant within a period of 60 days. That the department did not acceded to the request of the appellant constraining the appellant to prefer another Writ Petition No. 23-A/2014 which was dismissed by the hon'ble High Court, Abbottabad Bench vide judgment dated 24.09.2014 where against the appellant preferred Civil Petition No. 2336/2014 before the august Supreme Court of Pakistan which was disposed of on 25.3.2015 with the direction to the respondents to decide the departmental appeal/representation of the appellant by the departmental authority. That vide order dated 13.05.2015 the departmental appeal of the appellant was turned down and hence the instant service appeal.

4. Learned counsel for the appellant argued that as per policy of the provincial government issued vide notification dated 08.06.2001 read with amended policy issued vide notification dated 15.02.2006 the appellant was entitled to enlistment at S.No. 1 of the seniority list as he was serving in BPS-07 while he was adjusted as Food Grain Inspector in BPS-06.

5. Learned Senior Government Pleader argued that the appellant was adjusted as Food Grain Inspector BPS-06 on 26.01.2006 in the light of notification dated 08.06.2001 while the amended policy was issued on 15.02.2006 and as such the appellant was not entitled to claim seniority on the strength of the said notification with retrospective effect. That the appeal is therefore liable to dismissal.

6. We have heard arguments of learned counsel for the parties and

Handwritten signature and stamp of a government official, possibly a Senior Government Pleader, with some illegible text below it.

*Attested
A. Khan
P. Khan*

(47)

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perused the record.

7. According to notification dated 08.06.2001 issued by Establishment and Administration Department of the provincial government policy for declaring government servants as surplus and their subsequent absorption/adjustment was laid down which was further amended vide circular letter dated 15.02.2006 wherein the following sub-para (d) added to para-(6) of the original policy issued vide notification dated 08.06.2001.

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"Sub para-(d) added to para (6)

(d) In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again and becoming junior to his juniors."

8. A careful perusal of para-6 of the policy letter dated 08.06.2001 would suggest that in case of adjustment of a surplus employee against a post in corresponding basic pay scale with different designation/nomenclature of the post, was to be placed at the bottom of the seniority. It is no where mentioned in the said circular that an employee is to be placed at the bottom of the seniority list even if he is adjusted against a post lower than his original scale. The subsequent circular dated 15.02.2006 is in fact a clarification of the policy earlier issued by the provincial government vide letter dated 08.06.2001 with an object to remove the anomaly and as such the appellant cannot be deprived of his right to claim senior position at the top of the seniority list of the cadre in which he was adjusted against a post lower than his original scale. It is note worthy that an employee otherwise junior to appellant but if adjusted against a lower post after the amended policy

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 Kinwa
 [unclear]
 [unclear]

Attested
[Signature]

(48) (50)

(8) (39)

letter dated 15.2.2006 at the top of seniority list would rank senior to appellant. Therefore depriving the appellant from seniority may not be in accordance with mandate of service structure/laws. We therefore hold that the appellant was entitled to be placed at the top of seniority list at the relevant time after the clarification of policy as he was adjusted against a post lower than his original scale. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

(56)

Announced
15-08-2016

sd/-
(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN
Camp Court A. Abad

sd/-
(ABDUL LATIF)
MEMBER

*Muhammad
Azim
Advi*

Certified to be true copy
of the original
by the undersigned
Secretary
Tribunal
Peshawar

| | |
|----------------------------------|----------|
| Date of Presentation of Petition | 29-12-16 |
| Number of Petition | 2000 |
| Number of Pages | 12 |
| Number of Exhibits | 2 |
| Total | 14 |
| Number of Copies | 9 |
| Date of Receipt | 29-12-16 |
| Date of Delivery | 29-12-16 |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Sl. No. 06

Dated 03-01-2017

Service Appeal No. 7 /2017

Muhammad Akbar (Assistant Food Controller, Mardan)
S/o Muhammad Ismail R/o G.T Road, Chamkani,
Tehsil & District, Peshawar

....Appellant

VERSUS

- 1) Director Food, Khyber Pakhtunkhwa, Peshawar.
- 2) Secretary to Government of Khyber Pakhtunkhwa,
Food Department, Peshawar.
- 3) Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department, Peshawar.

.....Respondents

APPEAL U/S 4 OF THE KHYBER
 PAKHTUNKHWA SERVICE TRIBUNAL ACT,
 1974, AGAINST THE IMPUGNED ORDER
 DATED 07.11.2016 VIDE NO.5578/ET-
 716, WHEREIN THE APPELLANT HAS NOT
 BEEN PLACED IN THE TOP THREE (03) OF
 THE REVISED SENIORITY LIST OF
 ASSISTANT FOOD CONTROLLERS STOOD
 ON 31.10.2016 AS FOR THE NEEDFUL THE
 APPELLANT'S DEPARTMENT APPEAL VIDE
 IMPUGNED OFFICE LETTER NO.7051-
 52/PF-1053 DATED 26.12.2016 OF THE
 RESPONDENT ALSO HAS BEEN

[Handwritten signature]
M. Akbar

Filed to-day
Registrar
3/1/2017

submitted to-day
filed.
Registrar
5/1/2017

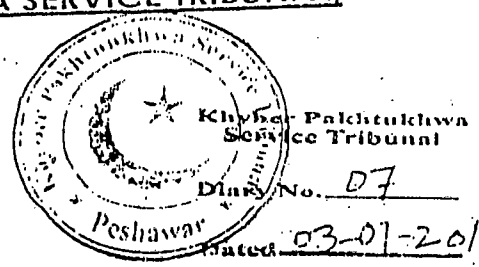
[Handwritten signature]
M. Akbar

(1)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR



Service Appeal No. 8 /2017

Muhammad Saleem Iqbal (Assistant Food Controller,
Azakhel, Nowshera) S/o Jan Muhammad
R/o Saeedabad No.1, Street No.1, Near Noor Mosque,
Pajagi Road, Tehsil & District, Peshawar
....Appellant

VERSUS

- 1) Director Food, Khyber Pakhtunkhwa, Peshawar.
 - 2) Secretary to Government of Khyber Pakhtunkhwa,
Food Department, Peshawar.
 - 3) Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department, Peshawar.
-Respondents

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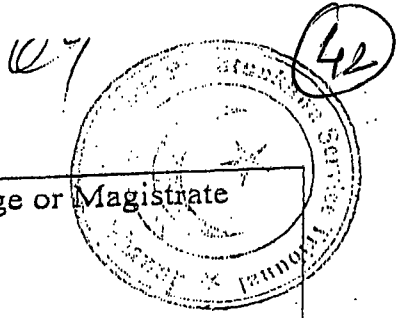
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Examiner
Filed to-day
Registrar
3/1/2017

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ORDER
DATED 07.11.2016 VIDE NO.5578/ET-
716, WHEREIN THE APPELLANT HAS NOT
BEEN PLACED IN THE TOP THREE (03) OF
THE REVISED SENIORITY LIST OF
ASSISTANT FOOD CONTROLLERS STOOD
ON 31.10.2016 AS FOR THE NEEDFUL THE
APPELLANT'S DEPARTMENT APPEAL VIDE
IMPUGNED OFFICE LETTER NO.7051-
52/PF-1053 DATED 26.12.2016 OF THE

[Signature]

Re-submitted to -day
and filed.
Registrar
5/1/2017

[Signature]
Admin
Adv.



| Sr. No/ | Date of order/ proceeding s | Order or other proceedings with signature of Judge or Magistrate |
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| 1 | 24.11.2017 | <p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</p> <p style="text-align: center;">Service Appeal No. 07/2017</p> <p style="text-align: center;">Date of Institution ----03.01.2017 Date of Decision ----24.11.2017</p> <p>Muhammad Akbar (Assistant Food Controller, Mardan) S/O Muhammad Ismail R/O G.T Road, Chamkani, Tehsil & District, Peshawar. Appellant</p> <p style="text-align: center;">VERSUS</p> <ol style="list-style-type: none"> 1. Director Food, Khyber Pakhtunkhwa, Peshawar. 2. Secretary to Government of Khyber Pakhtunkhwa, Peshawar. 3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar... Respondents <p style="text-align: center;">JUDGMENT</p> <p>MUHAMMAD HAMID MUGHAL, MEMBER: - Learned counsel for the appellant present. Learned District Attorney for the respondents present.</p> <p>2. This single/common judgment shall also dispose of appeal bearing No. <u>08/2017</u> entitled Muhammad Saleem Iqbal versus Director Food Khyber Pakhtunkhwa and others being identical in nature having arisen out from the same law and facts.</p> <p>3. Appellants have filed the appeals under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents and made impugned the seniority list of Assistant Food Controllers as it stood on 31.10.2016.</p> <p>4. Learned counsel for the appellants argued that the appellants were senior in the Government of Khyber Pakhtunkhwa Printing</p> |
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(Signature)

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

*Attested by
Muhammad Akbar
S/O*

& Stationary Department in BS-07 and in the year 2004 the appellants were adjusted in the food department as Food Grain Inspectors (BS-06) vide Surplus Pool Letter dated 25.08.2004. Further argued that in pursuance of the amendment in the Surplus Pool Policy circulated by letter No. SOR.VI (E&AD)/5-1/2005 dated 15.02.2006, the appellants became entitled to be placed at the top of seniority list of cadre of Food Grain Inspectors but they were deprived from their right of seniority and in the impugned seniority list the appellants have not been placed at the top three (3) positions. Learned counsel for the appellants argued that this Tribunal has already accepted the identical nature service appeal bearing No. 831/2015 filed by Mr. Muhammad Naveed who was also adjusted as Food Grain Inspector as a result of Surplus Pool Policy. Learned counsel for the appellants while relying upon the judgment of august Supreme Court titled Government of Punjab, through Secretary Education, Civil Secretariat, Lahore and others (Petitioners) Versus Sameen Parveen and others (Respondents) 2009 SMCR 1, stressed that the appellant is also entitled to the same relief granted to Mr. Muhammad Naveed in appeal No. 831/2015.

5. As against that learned District Attorney while opposing the present appeals argued that revised Surplus Pool Policy was notified on 15.02.2006 much after the adjustment of appellant as Food Grain Inspector in the year 2004.

6. Arguments heard. File perused.

7. Law and facts of the present appeals as well as service appeal No. 831/2015 entitled Muhammad Naveed Versus Government of

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Qureshi

Khyber Pakhtunkhwa through Secretary Establishment and Administration Department Peshawar & another are, the same. It is settled proposition of law that if a Tribunal decides a point of law relating to the terms and conditions of a civil servant who litigated, the benefits of said decision would be extended to other similarly placed civil servants who may not be parties to that litigation. Hence the appellant is also entitled to the same relief granted to the appellant Muhammad Naveed by this Tribunal in service appeal No 831/2015. Learned counsel for the appellants however remained unable to demonstrate that the appellant should also have been placed senior to those Assistant Food Controllers who were appointed as such by initial recruitment prior to the promotion of the appellants from the post of Food Grain Inspector to the post of Assistant Food Controller. Consequently the present appeals are also accepted in terms of the judgment passed in the said appeal bearing No. 831/2015. However the appellants shall still stand junior to all those persons who have been inducted as Assistant Food Controllers (BS-14) by initial recruitment prior to the promotion of appellants as Assistant Food Controllers on regular basis and thus seniority of the direct recruits vis a vis appellants (Promotees) in the impugned seniority list shall not be disturbed. Parties are left to bear their own costs. File be consigned to the record room.

Pawin

(MUHAMMAD HAMID MUGHAL)
MEMBER

Gul Zeb Khan
(GUL ZEB KHAN)
MEMBER

ANNOUNCED
24.11.2017

*Attested
Gul Zeb Khan
Adm.*

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Gul Zeb Khan
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT: MR. JUSTICE MIAN SAQIB NISAR, HCJ
MR. JUSTICE FAISAL ARAB
MR. JUSTICE MUNIB AKHTAR

CIVIL PETITIONS NO.264-P AND 1676 OF 2018
(Against the judgment dated 8.2.2018 of the KPK
Service Tribunal, Peshawar passed in
S.A.No.349/2017)

1. Director Food K.P. Peshawar and others Vs. Noor Khan In C.P.264-P/2018
2. Syed Wazir Shah etc. Vs. Noor Khan and others In C.P.1676/2018

For the petitioner(s): Barrister Qasim Wadood, Addl.A.G. KPK
(In C.P.264-P/2018)

Mr. Abdul Hameed, ASC
(In C.P.1676/2018)

For the respondent(s): Mr. M. Ijaz Khan Sabi, ASC
(In C.P.264-P/2018)


Mir Adam Khan, AOR
(In C.P.1676/2018)

Date of hearing: 29.6.2018

ORDER

MIAN SAQIB NISAR, CJ.- The petitioners were a necessary party because they would certainly be affected by the judgment of the learned Tribunal. The learned Tribunal was apprised that they should be made a party and given an opportunity of hearing but this request was unreasonably declined. Therefore, the impugned judgment cannot be sustained as they have been condemned unheard. Resultantly, these petitions are converted into appeals and allowed, the impugned judgment is set aside and the matter is remanded to the learned Tribunal to implead all those who would be affected by the decision of the Tribunal and pass a fresh decision after giving them an opportunity of hearing. As there is seemingly a conflict between two judgments of the learned

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Court Associate
Supreme Court of Pakistan
Islamabad



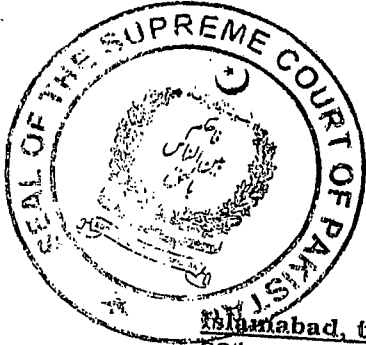
Tribunal itself, therefore, the matter is referred to the Chairman of the learned Tribunal who shall constitute a larger Bench to resolve the conflict.

Sd/-, H.C.J.

Sd/-, J

Sd/-, J

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Islamabad, the 29th of June, 2018

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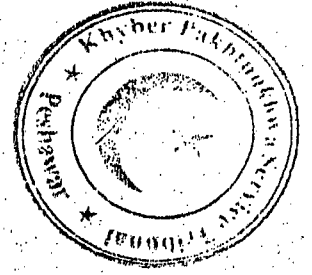
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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 349/2017

Date of Institution ... 13.04.2017

Date of Decision ... 15.07.2021



Noor Khan (AFC BPS-14) son of Gulfam Khan
R/O Village Abdara, Ghari Tajik Muhammad Post Office University
of Peshawar, Tehsil and District, Peshawar.

... (Appellant)

VERSUS

Director Food, Khyber Pakhtunkhwa Peshawar and 37 others.

... (Respondents)

Mr. TAIMUR HAIDER KHAN,
Advocate

--- For appellant.

MR. RIAZ AHMED PAINDAKHEL,
Assistant Advocate General

--- For official respondents.

Mr. ABDUL HAMEED,
Advocate

--- For private respondents.


MR. SALAH-UD-DIN
MS. ROZINA REHMAN
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)
--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Precise facts forming the background of the instant service appeal are that the appellant was serving as Mono Operator (BPS-07) in the Government Printing and Stationary Department Peshawar. In view of Government Surplus Pool Policy 2001, the appellant was adjusted as Food Grain Inspector (BPS-06) in the Food

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Department in the year 2004. The appellant was then promoted as Assistant Food Controller in the year 2016. One Muhammad Naveed, who was serving as Senior Clerk (BPS-07) in the office of Deputy Commissioner Mansehra was also declared surplus and was adjusted in the Food Department in BPS-06 in the year 2006, however like the appellant, he was also placed at the bottom of the seniority list of the officials of BPS-06. The said Muhammad Naveed was also promoted as Assistant Food Controller in the year 2016. In order to gain his proper position in the seniority list, Muhammad Naveed filed Service Appeal bearing No. 831/2015 before this Tribunal, which was allowed vide judgment dated 15.08.2016 and directions were issued to the department to place him at the top of seniority list of BPS-06 in the year 2006, when he was adjusted in the Food Department. In pursuance of the aforementioned judgment, a revised seniority list was issued in the year 2016, wherein Muhammad Naveed was placed at the top of the seniority list. The appellant being adjusted in the same department in the year 2004, claimed seniority on the same yardstick, adopted for giving seniority to Muhammad Naveed, however his departmental appeal was rejected vide order dated 06.04.2017, therefore, he approached this Tribunal through filing of service appeal for redressal of his grievance.

2. It is pertinent to mention herein that the instant appeal was initially allowed by this Tribunal vide judgment dated 08.02.2018, however the same was challenged before august Supreme Court of Pakistan through filing of Civil Petitions No. 264-P and 1676 of 2018, which were allowed vide order dated 29.06.2018. The relevant portion of the order is reproduced as below:-

"Resultantly, these petitions are converted into appeals and allowed, the impugned judgment is set-aside and the matter is remanded to the learned Tribunal to implead all those who would be effected by the decision of the Tribunal and pass a fresh decision after giving them an opportunity of

*Mt. Khatun
Adv.*

hearing. As there is seemingly a conflict between two judgments of the learned Tribunal itself, therefore, the matter is referred to the Chairman of the learned Tribunal who shall constitute a Larger Bench to resolve the conflict".

3. During the post remand proceedings, the appellant submitted amended appeal by impleading private respondents No. 4 to 38, who are employees of Food Department. The official as well as private respondents contested the appeal by way of submitting respective replies.

4. Learned counsel for the appellant has argued that this Tribunal, while deciding the Service Appeal of Muhammad Naveed has held him entitled to the desired seniority position in the seniority list, In light of sub para (d) of para-6 of Surplus Pool Policy 2001; that the judgment passed by this Tribunal in favour of Muhammad Naveed has attained finality and in view of judgment of august Supreme Court of Pakistan, reported as ²⁰⁰⁹ 1999 SCMR 1, the department was required to have treated the appellant at par alongwith the said Muhammad Naveed as well as other similarly placed employees; that Muhammad Naveed was adjusted in the year 2006 while the appellant has been adjusted in the year 2004, therefore, the appellant would have ranked senior even to Muhammad Naveed, in case the department had granted due seniority to the appellant in the year 2006; that in view of numerous rulings of worthy superior courts, the appellant was not even required to file any departmental or service appeal for redressal of his grievance, as it was the duty of the department to have extended the benefits of judgment of Muhammad Naveed's case to all similarly placed employees; that the department has maliciously deprived the appellant of his due seniority for the purpose of extending benefit to its blue eyed employees.

5. Mr. Abdul Hameed, Advocate, representing the private respondents, has argued that the appellant was adjusted in the Food Department in the year 2004 and as per the prevalent Surplus Pool Policy 2001, the appellant was rightly

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placed at the bottom of seniority list of officials of BPS-06; that the appellant is seeking seniority on the basis of amendment made in the Surplus Pool Policy on 15.02.2006, however the said amendment is having no retrospective effect, therefore, the appellant cannot claim seniority on the basis of the said amendment; that the case of the appellant is distinguished from that of Muhammad Naveed and is identical to the case of other employees namely Muhammad Akbar and Muhammad Saleem Iqbal, who alongwith the appellant were adjusted in the year 2004; that in its judgment rendered in the appeals of Muhammad Akbar and Muhammad Saleem Iqbal, this Tribunal has though extended the benefits of Muhammad Naveed case to the said employees, however it was held that they should be placed junior to all those AFCs, who were directly recruited prior to the promotion of Muhammad Akbar and Muhammad Saleem Iqbal; that the department while following the judgment rendered by this Tribunal in the appeals of Muhammad Akbar and Muhammad Saleem Iqbal, had issued seniority list, wherein the appellant as well as the said employees were rightly placed juniors to the direct recruits; that the amended appeal filed by the respondents is in contravention of the remand order passed by the august Supreme Court of Pakistan as the appellant has changed cause of action and has also impleaded certain employees, who are not at all necessary parties in the instant appeal; that the appellant has been treated in accordance with law by placing him at due position in the seniority list, therefore, his appeal is liable to be dismissed.

6. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General, representing the official respondents, adopted the arguments advanced by the learned counsel for private respondents.

7. Arguments heard and record perused.

8. The controversy between the parties is with regard to seniority. In order to appreciate the matter in a proper perspective, para-6 of Surplus Pool Policy issued by the Establishment and Administration Department (Regulation

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Wing) vide Notification dated 08.06.2001, is reproduced as below:-

"06. FIXATION OF SENIORITY

The interse seniority of the surplus employees after their adjustment in the various departments will be determined according to the following principles:-

- (a) *In case a surplus employee could be adjusted in the respective cadre of his parent department, he shall regain his original seniority in that cadre.*
- (b) *In case, however, he is adjusted in his respective cadre but in a department other than his parent department, he shall be placed at the bottom of the seniority list of that cadre.*
- (c) *In case of his adjustment against a post in corresponding basic pay scale with different designation/nomenclature of the post, either in his parent department or any other department, he will be placed at the bottom of the seniority list.*

NOTE:

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the facility/right of adjustment/absorption and would be required to opt for premature retirement from Government service.

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent Authority."

9. A perusal of the above-mentioned reproduced para-6 sub-para (c) of the policy letter dated 08.06.2001 would show that in case of adjustment of a surplus employee against a post in corresponding basic pay scale with different designation/nomenclature of the post, was to be placed at the bottom of seniority list. It is no where mentioned in the said para-6 that an employee is to be placed at the bottom of the

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seniority list even if he is adjusted against a post lower than his original scale. It appears that it was in this backdrop that through subsequent Circular dated 15.02.2006, issued by Establishment and Administration Department (Regulation Wing), sub-para.(d) was added to para-6 of the original policy issued vide Notification dated 08.06.2001. The added sub-para (d) of para-06 is reproduced as below:-

"In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again and becoming junior to his juniors."

10. The subsequent Circular dated 15.02.2006, was actually issued with a view to remove the anomaly, therefore, the appellant could legally claim his seniority on the basis of the same. If it is presumed that the effect of subsequent circular is to be considered prospectively, then an employee otherwise junior to the appellant, if adjusted against a lower post after the issuing of the subsequent circular dated 15.02.2006, would be placed senior to the appellant.

11. An effort was made by the learned Assistant Advocate General as well as learned counsel for private respondents to distinguish the case of Muhammad Naveed from that of the appellant on the ground that Muhammad Naveed was adjusted in the year 2006, therefore, he was given the benefit of subsequent circular issued on 15.02.2006. A perusal of the record would, however, show that the said Muhammad Naveed was adjusted on 26.01.2006, while the subsequent circular was issued on 15.02.2006. It is thus clear that both the appellant as well as Muhammad Naveed were adjusted in the Food Department after the issuance of subsequent Circular dated 15.02.2006 and on this touchstone, Muhammad Naveed case was on the same footing as that of the appellant. The appellant was thus also entitled to the same benefit as granted to Muhammad Naveed by this Service Tribunal in Service Appeal bearing No. 831/2015 decided on 15.08.2016 and the department was required to have placed the appellant at the

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top of seniority list pertaining to the year 2004, in which the appellant was adjusted in the Food Department. August Supreme Court of Pakistan in its judgment reported as 2009 SCMR 1 has graciously held as below:-

"We have considered the arguments of both the parties and have gone through the record and proceedings of the case in minute particulars. The matter has already been decided by this Court in the case of Mst. Naseem Akhtar (supra), and it has been held that the appointment orders of the respondents as PTC Teachers were genuine. It was held by this Court in case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 that if a Tribunal or this Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of a good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum. This view were reiterated by this Court in the case of Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 and it was held that according to Article 25 of the constitution of Islamic Republic of Pakistan, 1973, all citizens are equal before law and entitled to equal protection of law."

12. In the judgment delivered by this Tribunal in the case of Muhammad Naveed, no condition of placing him as junior to direct recruits was imposed, while in the later common judgment, delivered by this Tribunal in the service appeals of Muhammad Akbar and Muhammad Saleem Iqbal, the benefit of Muhammad Naveed's case was though extended to them, however it was directed that the direct recruits should be placed senior to them. It appears that the logic behind the earlier judgment was based on the principles that had Muhammad Naveed been placed at the top of the seniority list


*Muhammad Akbar
Muhammad Saleem Iqbal*

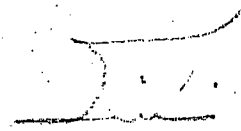
of BPS-06 in the year 2006, then he would have been promoted prior to the direct recruits that is why the Tribunal did not put the condition of placing Muhammad Naveed as junior to the direct recruits. While going through the subsequent judgment, it appears that this Tribunal had overlooked this aspect of the matter that had the appellant Muhammad Akbar and Muhammad Saleem Iqbal were given due seniority in the year 2006, then they would have been promoted prior to the direct recruits, who were appointed through initial recruitment in the year 2015.

13. In its remanding order, august Supreme Court of Pakistan has held that the Tribunal shall implead all those who would be affected by the decision of the Tribunal and shall pass a fresh decision after giving them an opportunity of hearing. The contention of learned counsel for the respondents that unnecessary parties have been impleaded as respondents is, therefore, misconceived and thus not tenable.


14. In light of the above discussion, the appeal in hand is allowed and the respondents are directed to grant seniority to the appellant by considering him at the top of concerned seniority list pertaining to the year 2004, with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

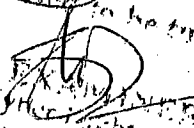
ANNOUNCED
15.07.2021


(ROZINA REHMAN)
MEMBER (JUDICIAL)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

*Muhammad
Adil
Adv.*


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF FOOD,
PESHAWAR

No: 3683 /ET-716

Dated: 26 / 08 / 2021

091-9225378



fooddirectorategpk@gmail.com



@fooddirectorategpk



@fooddirectorateg

NOTIFICATION

In pursuance to the Khyber Pakhtunkhwa Service Tribunal Peshawar decision dated 15-07-2021 in case of Service Appeal No. 349/2017 of Noor Khan AFC Vs Director Food Khyber Pakhtunkhwa Peshawar and the Khyber Pakhtunkhwa Government Servants (Appointment, Promotion and Transfer) Rules 1989, the Seniority List of Assistant Food Controllers (BS-16) in Food Directorate and District Offices of Food Department Khyber Pakhtunkhwa Peshawar is revised on 11-08-2021

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|-------|--------------------------|------------------|---------------|----------------------|----------------------------------|--|---|------------------------|--------------------------------------|
| S.No. | Name of Govt Servant | Qualification | Date of birth | Domicile | Date of entry in to Govt service | Date of appointment to the post of FGI/ Cane Inspector | Date of appointment to the present post | Method of recruitment | Date of superannuation Viz: 60 years |
| 1. | Mr. Muhammad Akbar | BA | 05.12.1962 | Peshawar | 01.03.1982 | 25.08.2004 | 22-04-2016 | By Promotion | 04.12.2022 |
| 2. | Mr. Muhammad Salim Iqbal | D.Com | 15.07.1969 | Peshawar | 04.08.1990 | 25.08.2004 | 22-04-2016 | By Promotion | 14.07.2029 |
| 3. | Mr. Noor Khan | F.A | 12-09-1968 | Peshawar | 20-04-1995 | 25-08-2004 | 28-11-2016 | By Promotion | 11-09-2028 |
| 4. | Iqbal Hussain Afridi | B.A. | 05.09.1962 | K. Agency | 22.06.1982 | 25.03.1998 | 14-12-2009 | By Promotion | 04.09.2022 |
| 5. | Mr. Aftab Umar Khan | MA | 04-08-1985 | Mohmand Agency | 19-05-2010 | - | 19-05-2010 | By initial recruitment | 03-08-2045 |
| 6. | Muhammad Tariq | B.Sc | 01.03.1970 | Peshawar | 09.05.1993 | 17.06.2005 | *21-10-2011 | By Promotion | 28.02.2030 |
| 7. | Mr. Ansar Qayum | B.A | 11.07.1970 | Mansehra | 09.05.1993 | 20-12-2003 | 06-04-2010 | By Promotion | 10.07.2030 |
| 8. | Mr. Abdul Hafeez | M.A | 07.07.1969 | Charsadda. | 09.05.1993 | 20.12.2003 | 21-10-2010 | By Promotion | 06.07.2029 |
| 9. | Mr. Aman Khan | F.Sc | 02.08.1968 | Bannu | 09.05.1993 | 05-11-2008 | *04-08-2016 | By Promotion | 01.08.2028 |
| 10. | Mr. Arshad Hussain | B.A | 01.01.1970 | Chitral | 09.05.1993 | 20.12.2003 | 04-10-2011 | By Promotion | 31.12.2030 |
| 11. | Mr. Ali Asghar Khan | B.A | 28.02.1972 | Mardan | 09.05.1993 | 20.12.2003 | 04-10-2011 | By Promotion | 27.02.2032 |
| 12. | Mr. Shabir Ahmad Khan | LLB | 30.04.1966 | FR Peshawar | 09.05.1993 | 20.12.2003 | 18-02-2012 | By Promotion | 29.04.2026 |
| 13. | Mr. Said Nawaz | B.Com | 20.03.1972 | Chitral | 09.05.1993 | 20.12.2003 | 18-02-2012 | By Promotion | 19.03.2032 |
| 14. | Mr. Jamshed Khan Afridi | B.A | 20.06.1972 | K/Agency | 09.05.1993 | 20.12.2003 | 18-02-2012 | By Promotion | 19.06.2032 |
| 15. | Mr. Sohail Habib | Matric | 14.02.1968 | Bannu | 09.05.1993 | 20.12.2003 | 21.05.2012 | By Promotion | 13.02.2028 |
| 16. | Mr. Sheraz Anwar | F.A | 05.02.1974 | Mansehra | 09.05.1993 | 20.12.2003 | 21.05.2012 | By Promotion | 04.02.2034 |
| 17. | Mr. Muhammad Azam | B.B.A | 22.11.1988 | S. Waziristan Agency | 07.08.2015 | 07.08.2015 | 07.08.2015 | By initial recruitment | 21.11.2048 |
| 18. | Mr. Tausif Iqbal | M.B.A | 01.10.1987 | Karak | 07.08.2015 | 07.08.2015 | 07.08.2015 | By initial recruitment | 30.09.2047 |
| 19. | Muhammad Shakeel | M.B.A | 10.04.1984 | Abbottabad. | 07.08.2015 | 07.08.2015 | 07.08.2015 | By initial recruitment | 09.04.2044 |
| 20. | Miss Uzma Karwal | M.A | 03.12.1990 | Abbottabad. | 07.08.2015 | 07.08.2015 | 07.08.2015 | By initial recruitment | 02.12.2050 |
| 21. | Mr. Zafar Alam Riza | M.A | 03.01.1987 | Chitral | 07.08.2015 | 07.08.2015 | 07.08.2015 | By initial recruitment | 02.01.2047 |
| 22. | Mr. Shujaat Hussain Shah | M.Sc(Honr) | 07.04.1987 | Mansehra | 07.08.2015 | 07.08.2015 | 07.08.2015 | By initial recruitment | 06.04.2047 |
| 23. | Mr. Hafeez-ur Rehman | B.A | 18.04.1984 | Dir Lower | 07.08.2015 | 07.08.2015 | 07.08.2015 | By initial recruitment | 17.04.2044 |
| 24. | Mr. Muhammad Salim | M.A Pol: Science | 18.04.1965 | Nowshera | 14.07.1993 | 17.06.2005 | 22-04-2016 | By Promotion | 17.04.2025 |
| 25. | Mr. Gulab Gul | MA Pol: Science | 01.02.1967 | Karak | 14.07.1993 | 17.06.2005 | 22-04-2016 | By Promotion | 31.01.2027 |

Annex-R

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|-----|-----------------------|-------------------|------------|--------------|------------|------------|--------------|------------------------|------------|
| 26. | Mr. Muhammad Khalid | FA | 02.05.1973 | Peshawar | 04.03.2006 | 04-03-2006 | 22-04-2016 | By Promotion | 01.05.2033 |
| 27. | Mr. Usman Khan | B.A | 01-01-1975 | Dir | 03-11-2008 | 03-11-2008 | 22-04-2016 | By Promotion | 31.12.2035 |
| 28. | Mr. Muhammad Shoaib | F.A | 11.04.1966 | Mansehra | 04.07.1993 | 05-11-2008 | 22-04-2016 | By Promotion | 10.04.2026 |
| 29. | Mr. Amjid Khan | Matric | 05.01.1975 | Malakand | 15.08.1993 | 05-11-2008 | 22-04-2016 | By Promotion | 04.01.2035 |
| 30. | Mr. Mohammad Zubair | M.A | 21.09.1970 | Mardan | 16.08.1993 | 12-01-2009 | 22-04-2016 | By Promotion | 20.09.2030 |
| 31. | Mr. Saif Ali Shah | B.Sc | 03.03.1969 | Kohat | 19.08.1993 | 12-01-2009 | 22-04-2016 | By Promotion | 02.03.2029 |
| 32. | Mr. Aurangzeb Khan | F.A | 12-05-1971 | Bannu | 27-04-1997 | 12-01-2009 | 28-11-2016 | By Promotion | 11-05-2031 |
| 33. | Syed Wasim Shah | F.Sc | 15-02-1987 | Kohat | 13-08-2009 | 13-08-2009 | 22-04-2016 | By Promotion | 14-02-2047 |
| 34. | Mr. Rashid Saeed | B.A | 15.03.1974 | D.I.Khan | 22.05.1995 | 26-12-2009 | 22-04-2016 | By Promotion | 14.03.2034 |
| 35. | Mr. Attaullah | Matric | 02-04-1976 | Dir Lower | 22-05-1995 | 26-12-2009 | *28-11-2016 | By Promotion | 01-04-2036 |
| 36. | Mr. Ashfaq Khan | B.A | 25.03.1977 | Mardan | 22.05.1995 | 26-12-2009 | 04-08-2016 | By Promotion | 24.03.2037 |
| 37. | Mr. Riaz Ahmad | M.A | 01.03.1966 | Chitral | 02.05.1995 | 26-12-2009 | 04-08-2016 | By Promotion | 28.02.2026 |
| 38. | Mr. Ateeq-ur Rehman | B.A | 01.05.1977 | M/Agency | 03.05.1995 | 26-12-2009 | 04-08-2016 | By Promotion | 30.04.2037 |
| 39. | Mr. Qazi Bilal | F.A | 15-04-1969 | Abbottabad | 06-08-1995 | 26-12-2009 | 28-11-2016 | By Promotion | 14-04-2029 |
| 40. | Mr. Lal Bacha | B.A | 09.04.1989 | Mardan | 06-12-2016 | - | 06-12-2016 | By initial recruitment | 08.04.2049 |
| 41. | Mr. Fakhar Zaman | F.A | 22.04.1971 | S.Waziristan | 03.08.1992 | 26-12-2009 | 10-01-2017 | By Promotion | 21.04.2031 |
| 42. | Mr. Rehmat Wali | F.A | 10.06.1963 | Chitral | 16.12.1981 | 26-12-2009 | 23-05-2017 | By Promotion | 09.06.2023 |
| 43. | Mr. Ghulam Rasool | Matric | 10-04-1963 | Chitral | 23.04.1983 | 26-12-2009 | 23-05-2017 | By Promotion | 09-04.2023 |
| 44. | Mohammad Zahir Shah | F.A | 10.12.1965 | Chitral | 01.09.1985 | 06-04-2010 | 23-05-2017 | By Promotion | 09-12-2025 |
| 45. | Mr. Abidullah Jan | Matric | 29.11.1984 | Nowshera | 08.05.2004 | 06-04-2010 | **12-04-2018 | By Promotion | 28.11.2044 |
| 46. | Mr. Wajid Ali | Matric | 18.02.1981 | Nowshera | 08.05.2004 | 06-04-2010 | 23-05-2017 | By Promotion | 17.02.2041 |
| 47. | Mohammad Yousaf Khan | D.Com | 07-04-1984 | FR Bannu | 16-04-2010 | 16-04-2010 | 19-09-2017 | By Promotion | 06-04-2044 |
| 48. | Mr. Aamir Khalid | B.A | 26-03-1970 | Mansehra | 15-01-2009 | 14-05-2010 | 19-09-2017 | By Promotion | 25-03-2030 |
| 49. | Mr. Umair Ali | BA | 15-11-1987 | Charsadda | 13-05-2010 | 14-05-2010 | 19-09-2017 | By Promotion | 14-11-2047 |
| 50. | Mr. Numan Amir | BA | 25-12-1983 | Peshawar | 13-05-2010 | 14-05-2010 | 19-09-2017 | By Promotion | 24-12-2043 |
| 51. | Mr. Shoukat Ali | F.A | 04.04.1977 | Mansehra | 08.05.2004 | 20-10-2010 | 10-10-2017 | By Promotion | 03.04.2037 |
| 52. | Mr. Arif ur Rehman | BS (Hons) Geology | 06-06-1991 | Karak | 01-08-2018 | 01-08-2018 | 01-08-2018 | By initial recruitment | 05-06-2051 |
| 53. | Mr. Saif ur Rehman | MBA | 02-01-1990 | Bannu | 18-03-2019 | - | 18-03-2019 | By initial recruitment | 01-01-2050 |
| 54. | Kamal Ahmad | M.A | 01-02-1994 | Charsadda | 28-05-2021 | - | 28-05-2021 | By initial recruitment | 31-01-2054 |
| 55. | Aashir Emmanuel Javed | B.A | 07-08-1997 | Kohat | 28-05-2021 | - | 28-05-2021 | By initial recruitment | 06-08-2057 |

* Seniority reclaimed by M/s Muhammad Tariq, Aman Khan, Noor Khan, Aurangzeb Khan and Attaullah AFCs. The competent authority approved their appeals for placing them in the original seniority positions. Accordingly final Seniority List of AFC as it stood on 17-01-2018, was circulated vide Food Directorate letter No.282/ET-716 dated 17-01-2018.

** Seniority reclaimed by Mr. Abidullah Jan AFC. The competent authority approved his appeal and ordered placing him in his original seniority position vide letter No.183/ET-Promotion (KC) dated 11-01-2021

DIRECTOR FOOD
KHYBER PAKHTUNKHWA
PESHAWAR

Ahmed
Adar

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Endorsement No & date even

Copy is forwarded to:-

- 1) The Registrar of Khyber Pakhtunkhwa Service Tribunal with reference to the decision dated 15-07-2021 in case of Service Appeal No. 249/2017 of Mr. Noor Khan AFC and others.
- 2) All Officers / Officials in Food Directorate Khyber Pakhtunkhwa, Peshawar.
- 3) All Assistant Directors Food at Divisional level in Food Department Khyber Pakhtunkhwa.
- 4) All District Food Controllers in Khyber Pakhtunkhwa.
- 5) The Storage & Enforcement Officers NRC Azakhel & PRC Peshawar.
- 6) The Rationing Controller Peshawar.
- 7) Officials concerned.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA
PESHAWAR

*Attested
Outward
Adms*

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To
The Director *Food*,
Khyber Pakhtunkhwa,
Peshawar

SUBJECT: DEPARTMENTAL APPEAL/REPRESENTATION/REVIEW PETITION AGAINST REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLERS ISSUED ON 11.08.2021 VIDE NOTIFICATION NO.3683/ET-716 DATED 26.08.2021

Respected Sir,

It is respectfully submitted that:

1. That in pursuance to the KP Service Tribunal judgment/order dated 15.07.2021 passed in Service Appeal No.349/2017 titled "Noor Khan vs Director Food and others", the Directorate Food vide its notification no.3683/ET-716 dated 26.08.2021 has issued a revised seniority list of AFCs on 11.8.2021.
2. That the impugned seniority list is factually and legally incorrect as the normal procedure for circulation of seniority has not been adopted as no tentative seniority list was drawn nor an opportunity of its circulation for a period of 15 days was given.
3. That the impugned seniority list has affected the seniority of AFCs and thus the department has violated Section-8 (4) of KP Civil Servants Act, 1973 read with Rule 17 (1)(a)(b) of KP Civil Servants (Appointment, Promotion & Transfer) Rules 1989.
4. That the department has misread and mis-interpreted the judgment/order dated 24.11.2017 passed in Service Appeals No.7 & 8 of 2017 titled "Muhammad Akbar vs Govt & Muhammad Saleem Iqbal vs Govt" wherein the learned Tribunal while disposing of their appeals had directed the department as under:

"However the appellant shall still stand junior to all those persons who have been inducted as Assistant Food Controller (BS-14) by initial recruitment prior to the promotion of appellants as Assistant Food Controller on regular basis and thus seniority of the direct recruits vis-a-vis appellants (promotees) in the impugned seniority list shall not be disturbed."

Despite clear directions of the learned Tribunal, the department has placed Muhammad Akbar & Muhammad Saleem Iqbal at the top of seniority list in violation of court orders.

5. That it is pointed out that the impugned seniority list was drawn on the basis of Noor Khan case (Service Appeal No.349/2017) decided on 15.7.2021, which has no nexus with Muhammad Akbar & Muhammad Saleem Iqbal, whose case is a "past and closed chapter" in the eye of law and they should be treated as per terms of the judgment/order dated 24.11.2017.
6. That since the impugned seniority list has aggrieved all AFCs and is disputed in the eyes of law, therefore any further proceedings being taken by the department on the basis of this seniority list will be illegal and unlawful as it will adversely affect the seniority rights of the incumbent AFCs.
7. That the impugned seniority list of AFCs has affected the seniority position of the incumbent AFCs and thus being aggrieved prefer this appeal for review of the impugned seniority list.

It is, therefore, most humbly prayed that on acceptance of this representation/appeal the impugned seniority list may kindly be reviewed in the interest of justice. Please.

Thanks

Yours obediently

Haf

Hafeez-ur-Rehman

Assistant Food Controller,
Food Directorate, Peshawar.

Dated:03.09.2021

D. No 4529

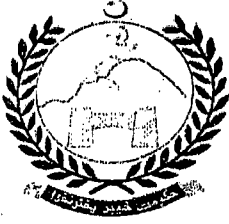
dtc 3-9-21

Muhammad Akbar vs Govt & Muhammad Saleem Iqbal vs Govt

Received
Ahmad
03/9/2021

Annex-T

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GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF FOOD,
PESHAWAR

No: 4150 /PF-884

Dated: 24 /09/2021

☎ 091-9225378 ✉ fooddirectoratekpk@gmail.com 📺 @fooddirectoratekpk 🐦 @fooddirectorate

To

Mr. Hafeez-ur-Rehman
Assistant Food Controller,
Food Directorate, Peshawar.

Subject:-

**DEPARTMENTAL APPEAL / REPRESENTATION / REVIEW PETITION
AGAINST REVISED SENIORITY LIST OF ASSISTANT FOOD
CONTROLLERS ISSUED ON 11-08-2021 VIDE NOTIFICATION NO.3683/ET-
716 DATED 26-08-2021**

Reference your Departmental Appeal dated 03-09-2021 on the subject noted above.

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Para wise reply on appeal is as under:

1. On acceptance of Seniority Appeal No.349/2017 of Noor Khan AFC by the Khyber Pakhtunkhwa Service Tribunal for grant of seniority vide its decision dated 15-07-2021, the seniority list of Assistant Food Controller as it stood on 11-08-2021 was revised and circulated vide Food Directorate letter No. 3683/ET-716 dated 28-08-2021.
2. As per reply given vide para-01 above.
3. As per reply given vide para-01 above.
4. Precise facts forming the background of the instant service appeal is that the Mr. Noor Khan Mono Operators (BS-07) with two his seniors i.e. Mr. Muhammad Akbar Senior Clerk (BS-07) and Muhammad Salim Iqbal Mono Operators (BS-07) of Printing and Stationery Department Peshawar were adjusted as Foodgrain Inspector (BS-06) in the Food Department Khyber Pakhtunkhwa, vide Office Order No.17500/ET-542-SPA dated 25-08-2004. As per policy in vogue at the time of adjustment of the Mr. Noor Khan with other his two seniors clearly embodies that the surplus employees would be placed at the bottom of the Seniority List of Foodgrain Inspector (BS-06) as per instructions contained in Government of Khyber Pakhtunkhwa letter No. SOR-I(E&AD)1-200/98 dated 08-06-2001, whereas the revised Policy, as referred to by the appellant, was notified on 15-02-2006 with immediate effect i.e much after his adjustment on 25-08-2004. Therefore, they were placed at the bottom of the seniority list of FGI and on the basis of seniority -cum fitness they were further promoted to the post of Assistant Food Controller in the year 2016. One Mr. Muhammad Naveed, who was serving as Senior Clerk (BS-07) in the Office of Deputy Commissioner Mansehra was also declared surplus and was adjusted in Food Department in BPS-06 in the year 2006, however, his seniority was placed at the bottom of the seniority list of the Foodgrain Inspectors (BS-06). Muhammad Naveed FGI was also promoted to the post of AFC during the year 2016. In order to gain his proper position in the Seniority List of AFC, Mr. Muhammad Naveed filed Service

Muhammad Naveed
Assistant Food Controller

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Appeal bearing No. 831/2015 before Service Tribunal, which was allowed vide judgement dated 15-08-2016 and he was placed at the top of seniority list of AFC, the same also claimed by Mr. Noor Khan AFC with two his seniors. Accordingly Service Tribunal Khyber Pakhtunkhwa was initially allowed his appeal vide judgment dated 08-02-2018. The same was challenged before august Supreme Court of Pakistan through filing of Civil Petitions No. 264-P and 1676 of 2018, which were allowed vide order dated 29-08-2018. During the post remand proceedings Mr. Noor Khan AFC also submitted amended appeal against the seniority position of Officers / Officials of Food Department in the Khyber Pakhtunkhwa Service Tribunal. The Tribunal passed the following orders:

"In light of the above discussion, the appeal in hand is allowed and the respondents are directed to grant seniority to the appellant by considering him at the top of concerned seniority list pertaining to the 3 year 2004, with all back benefit"

As the seniority positions of M/s. Muhammad Akbar and Muhammad Salim Iqbal Government of Khyber Pakhtunkhwa Printing & Stationery Department Peshawar are concerned, they were also rendered surplus by the respective Department and adjusted as Foodgrain Inspector (BS-06) in the Food Department Khyber Pakhtunkhwa, vide Office Order No.17500/ET-542-SPA dated 25-08-2004 which were seniors from Mr. Noor Khan AFC therefore, have also been placed at top of revised Seniority List of AFC at Serial No.01,02 & 03 as it stood on 11-08-2021.

5. As per reply given vide para-01 to 04 above
6. As per reply given vide para-01 to 04 above
7. As per reply given vide para-01 to 04 above

3 In view of the above your appeal against the top seniority positions of M/s Muhammad Akbar, Muhammad Saleem Iqbal and Noor Khan Assistant Food Controllers in the seniority list of Assistant Food Controllers as stood on 11-08-2021 circulated vide Food Directorate letter No. 3683/ET-716/ dated 26-08-2021 is hereby regretted.


DIRECTOR FOOD
KHYBER PAKHTUN KHWA
PESHAWAR.

Endorsement No. & Date Eleven.

Copy forwarded to

- 1) The Section Officer General, Government of Khyber Pakhtunkhwa Food Department Peshawar.
- 2) PS to Secretary Food Khyber Pakhtunkhwa.
- 3) PF-1287.

*Attested
Outward
Adv.*


DIRECTOR FOOD
KHYBER PAKHTUN KHWA
PESHAWAR.