19.05.2021

Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 29.09.2021.

29.09.2021

Counsel for the petitioner and Mr. Muhammad Riaz Khan Paindakhel, Asstt AG alongwith Shaukat Zaman, Assistant for the respondents present.

This order is meant to dispose of Execution Petition No. 193/2017 filed on 19.10.2017, which pertains to execution of judgment at credit of the petitioner passed on 15.08.2016 in Service Appeal No. 831/2015. According to the facts noted in the judgment, the appeal was filed, seeking seniority by the appellant for placing him at S.No. 1 of the seniority list maintained by the Food Department for BPS- 06. The facts giving rise to the appeal were that the appellant (present petitioner) 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 was adjusted in Food Department in BPS-06 vide office order dated 26.01.2006. The fact in issue was 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. The petitioner in pursuit of his claim for the correct seniority invoked the extraordinary jurisdiction of Hon'ble Peshawar High Court by filing Writ Petition and also reached to the August Supreme Court of Pakistan but ultimately he came to this Tribunal with the afore-noted

service appeal. While deciding his appeal, it was held in the operative part that depriving the appellant from seniority may not be in accordance with mandate of service structure/law. The appellant was held 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 was accepted in the above terms.

It is an admitted position on part of the petitioner that after the judgment of the Tribunal, Food Department circulated seniority list of Assistant Food Controller as it stood on 31.10.2016 and in this seniority, list the petitioner was placed at the top of seniority list at S.No. 1; however, he treated the same as paper work and nothing substantial done by the Food Department as reflected from the revised list dated 31.10.2016. As far as the operative part of the judgment is concerned, it was only meant for correction of seniority list for placing the name of petitioner at S.No. 1 in the seniority list of the incumbents of the posts of BPS-06 in the Food Department and as admitted by the petitioner that the judgment was implemented to this extent. According to manifestation of Paras 12 and 13 of the Execution Petition, the petitioner was holding the post of BPS-16 at the time of his retirement but he was expecting his promotion in BPS-17 and on account of said expectation he is chasing the department with this Execution Petition with the plea that the benefit of seniority granted by this Tribunal have been willfully denied by the respondents and they have committed

contempt of court and are liable to be punished due to nonimplementation of the judgment. The expectation of the petitioner is quite wrong. He was in BPS-06 when he got the relief through the judgment of this Tribunal for correction of his seniority in BS-06 as per his prayer not including the relief for consequential promotion. Obviously, the benefit of revised seniority list was extended to the petitioner when he admittedly retired in BPS-16 and not in BPS-06. The extension of the scope of judgment of this Tribunal on wrong expectation of the petitioner is not doable. Therefore, this Execution Petition is dismissed. File be consigned to the record room.

Camp Court, A/Abad

19.05.2021

Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 29.09.2021.

Reader

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29.09.2021

Counsel for the petitioner and Mr. Muhammad Riaz' Khan Paindakhel, Asstt AG alongwith Shaukat Zaman, Assistant for the respondents present.

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While deciding his appeal it was held in the operative part that depriving the appellant from seniority may not be in accordance with mandate of service structure/law. The muld 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 was accepted in the above terms.

It is an admitted position on part of the petitioner that after the judgment of the Tribunal, Food Department circulated seniority list of Assistant Food Controller as it stood on 31.10.2016 and in this seniority list the petitioner was placed at the top of seniority list at S.No. 1_4° however, he treated the same as paper work and nothing substantial done by the Food Department as reflected from the revised list dated 31.10.2016. As far as the operative part of the judgment is concerned, it was only meant for correction of seniority list for placing the name of petitioner at S.No. 1 in the seniority list of the incumbents of the posts of BPS-06 in the Food Department and as admitted by the petitioner that the judgment was implemented to this extent. According to manifestation of Paras 12 and 13 of the Execution Petition, the petitioner was holding the post of BPS-16 at the time of his retirement but he was expected his promotion in BPS-17 and on account of said expectation he has suit the With the plea department with this Execution Petition that the benefit of seniority granted by this Tribunal have been willfully denied by the respondents and they have committed contempt of

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. JA LY HIL:

Chairman Camp Court, A/Abad

E-P. NU-193/2017

14.12.2021

Due to Covid-19, case is adjourned to 15.03.2021 for the

same as before.

Reader

15.03.2021

Petitioner with counsel present.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Imtiaz Muhammad Khan alongwith Divisional Assistant Director for respondents present.

Respondents are directed to consider the case of petitioner for his grievances, if his case falls within prevailing Service Rules. To come up for further proceedings on /9/5 /2021 before S.B at Camp Court, Abbottabad.

(Atiq ur Rehman Wazir) Member (E) Camp Court, A/Abad 23.01.2020

Petitioner in person present. Mr. Ziaullah, DDA for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings on 19.02.2020 before S.B at camp court Abbottabad.

ember Camp Court A/Abad

19-2-20

Due to covid ,19 case to come up for the same on 15/4/20 at camp court abbottabad.

?eader

Due to summer vacation case to come up for the same on 1/910 / 2020 at camp court abbottabad.

19.10.2020

Petitioner in person present.

Usman Ghani learned District Attorney alongwith Shaukat Zaman Assistant for respondents present.

Lawyers are on general strike, therefore, the case is adjourned. To come up for objection petition as well as arguments on implementation report on 14.12.2020 before S.B at Camp Court, Abbottabad.

(Rozina Rehman) Member (J) Camp Court, A/Abad 21.10.2019

Petitioner in person present. Mr. Usman Ghani District Attorney present. Mr. Shaukat Zaman, Assistant for the respondents present. Counsel for the petitioner is not present due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for arguments on 20.11.2019 before S.B at Camp Court, Abbottabad.

èmher Camp court, A/Abad

20.11.2019

Counsel for the petitioner present. Mr. Usman Ghani, District Attorney alongwith Mr. Shokat Zaman, Assistant for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for further proceedings on 18.12.2019 before S.B at Camp Court, Abbottabad.

Camp Court Abbottabad

18.12.2019

Counsel for the petitioner and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Shoukat Zaman, Assistant for the respondents present. Representative of the department has already submitted implementation report dated 04.10.2018. The same is already placed on record. Learned counsel for the petitioner expressed objection on the implementation report. Case to come up for objection petition and arguments on the implementation report on 23.01.2020 before S.B at Camp Court Abbottabad.

(Muhammad Ámin Khan Kundi) Member Camp Court Abbottabad 11.07.2019

Petitioner in person and Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Shoukat Zaman, Assistant for the respondents present. Representative of the department stated that implementation report is in process and requested for time. Adjourned to 21.082019 for implementation report before S.B at Camp Court Abbottabad.

(Muhammad Amin Khan Kundi) Member Camp Court Abbottabad Petitioner with Aslam Khan Tanoli Advocate present.

21.08.2019

Mr. Mr. Muhammad Bilal, DDA alongwith Shaukat Zaman Assistant present. The petitioner prayed for antedation of his promotion however perusal of the judgment dated 15.08.2016 in service appeal bearing No.831/2015 under implementation would show that the petitioner was granted relief to the effect that his name be placed at the top of seniority list at the relevant time after the clarification of policy. Adjournment requested. Adjourn. To come up for arguments on 17.09.2019 before S.B at Camp Court, Abbottabad.

Member

Camp Court A/Abad

17.09.2019

Petitioner in person and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Shoukat Zaman, Assistant for the respondents present. Petitioner seeks adjournment. Adjourned to 21.10.2019 for arguments before S.B at Camp Court Abbottabad.

(Muhammad Amin Khan Kundi) Member Camp Court Abbottabad

20.03.2019

C

Petitioner in person present. Due to general strike of the bar, learned counsel for the petitioner not in attendance. Shaukat Zaman Assistant representative of the respondent department present. Adjourn. To come up for further proceedings on 15.04.2019 before S.B at Camp Court A/Abad.

15.04.2019

Petitioner in person present. Mr. Muhammad Bilal, DDA alongwith Mr. Imtiaz Muhammad Khan, Assistant Director Food for respondents present. Petitioner seeks adjournment as his counsel is not available today. Case to come up for further proceedings on 18.06.2019 before SB at camp court Abbottabad.

> (Ahmad Hassan) Member

Member Camp Court A/Abad.

18.06.2019

Camp Court A/Abad Petitioner in person and Mr. Muhammad Bilal, DDA alongwith Mr. Shoukat Zaman, Assistant for respondents present. Petitioner seeks adjournment as his counsel is not available today. Adjourned. Case to come up for further proceedings on 11.07.2019 before S.B at camp court Abbottabad.

(Ahmad Hassan) Member Camp Court A/Abad

19.12.2018

Petitioner in person present. Mr. Imtiaz Khan, AD alongwith Mr. Usman Ghani, District Attorney for respondents present. Representative of the respondents submitted minutes of DPC which is placed on file. Case to come up for further proceedings/arguments on 16.01.2019 before S.B at camp court, Abbottabad.

Member Camp Court, A/Abad

16.01.2019

14.55

petitioner in person and Mr. Muhammad Bilal learned Deputy District Attorney alongwith Mr. Shoukat Zaman Assistant fort the respondents present. Petitioner request for adjournment. Adjourn. To come up for further proceeding on 20.02.2019 before. Before S.B at Camp Court Abbottabad.

Member

Camp Court Abbottabad

20.02.2019

Petitioner alongwith his counsel present. Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present and requested for adjournment. Adjourned to 20.03.2019 for further proceedings S.B at Camp Court Abbottabad.

(Muhammad nin Khan Kundi) Member Camp Court Abbottabad

028.08.2018

Petitioner in person and Shoukat Zaman AD for the respondents present. Due to summer vacations, the case is adjourned. To come up for the same on 19.09.2018 at camp court Abbottabad.

18.09.2018

Petitioner in person present. Syed Manzoor Hussain Shah, Superintendent alongwith Mr. Usman Ghani, District Attorney for the respondents present. Representative of the respondents seeks time to submit implementation report. 12.11.2018 before S.B at cap court, Abbottabad.

Reader

Member Camp court, A/Abad

.12.11.2018

Due to retirement of the Hob'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 15.01.2019 at camp court Abbottabad.

ALASA

27.06.2018

Petitioner Muhammad Naveed Khan in person present. Mr. Imtiaz Muhammad Khan, Divisional Asstt: Director Food alongwith Mr. Usman Ghani, District Attorney for respondents present.

The above named representative produced the minutes of the meeting wherein advice from the Law Department has been sought, however, the petitioner produced letters of the Law Department wherein Secretary Food was clearly asked to consider the request of the petitioner in light of judgment of this Tribunal. Similarly, request for filing CPLA in the august Supreme Supreme Court was also responded by the Law Department vide letter dated 17.10.2016 wherein it was clearly conveyed that the case was not fit for filing CPLA. In short, seeking second advice on the same subject already responded by the Law Department is nothing but clear manifestation of malafide on the part of the respondents.

This Tribunal in the circumstances of the case, when the petitioner is seeking fruit of judgment of this Tribunal, is compelled to take coercive measure against the respondents as sufficient last chances have been given to the respondents but all went in air. As such, very last chance is given to the respondents to implement the order of this Tribunal in letter and spirit and produce the implementation report on 28.08.2018 before S.B at camp court Abbottabad. In case of failure on any ground, Secretary Food shall personally attend this Tribunal and explain his position as to why the order of this Tribunal has not been implemented despite of numerous directions given to them in the past .

> Chairman Camp court, A/Abad

19.02.2018

Petitioner present. Mr. Kabirullah Khattak, Addl. AG alongwith Imtiaz Muhammad DIDF for the respondents present. Representative of the department apprises this Tribunal that the D.P.C is fixed for 21.02.2018 and thereafter they would submit implementation report. To come up for implementation report on 19.03.2018 before the S.B camp court, A/Abad.

Camp Court, A/Abad

19.03.2018

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Mr.Imtiaz Muhammad Khan, Divisional Assistant Director Food, Hazara for the respondents present. Representative of the respondents submitted copy of a letter where under the issue of promotion of the appelnt is under consideration and the department has sought clarification from the Establish Department. To come up for implementation report on 18.04.2015 before S.B at camp court, Abbottabad.

Camp court, A/Abad

18.64.2018

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Arshad Farooq, Assistant and Imtiaz Muhammad Khan, Divisional Asstt. Director for the respondents present. Representative of the respondents seeks adjournment. Last opportunity is granted. To come up for implementation report on 27.06.2018 before the S.B at camp court, Abbottabad.

Chairman

Camp court, A/Abad

20:12.2017

Petitioner in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Imtiaz Muhammad Khani, Division Assistant Director Food for the respondents also present. Implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 15.01.2018 before S.B at Camp Court Abbottabad.

(Muhammad Amin Khan Kundi) Member (Judicial) Camp Court Abbottabad

Petitioner in person and Mr. Usman Ghani, District, Attorney alongwith Imtiaz Muhammad Khan, Divisional Assistant Director for the respondents present. Reply of respondents No.5 & 6 submitted. Copy handed over to petitioner. To come up for further proceedings/arguments on 18.01.2018 before S.B at camp court, Abbottabad.

hairman Camp court, A/Abad.

18.01.2018

15.1.2018

Counsel for the Petitioner and Mr. Usman Ghani, District Attorney for respondents present. Learned counsel for the petitioner argued that judgment of this Tribunal dated 15.08.2016 has not been implemented by the respondents in its true letter and spirit. Through revised seniority list issued by respondent no.6 on 07.11.2016 though the name of the appellant has been placed at the top of the said seniority list but not from the due date. Learned **u** District Attorney when confronted on this point was unable to give a satisfactory reply.

Respondents are directed to produce revised implementation report on or before the next date of hearing. To come up for further proceedings on 19.02.2018 before S.B at camp court Abbottabad.

(Ahmad Hassan) Member (E) Camp Court Abbottabad

FORM OF ORDER SHEET

Execution Petition No. 193/2017 S.No. Date of order Order or other proceedings with signature of Judge Proceedings 1 2 3 19.10.2017 The Execution Petition of Mr. Muhammad Naveed submitted to-· 1 day by Malik Muhammad Asif Advocate, may be entered in the relevant 限制度 Register and put up to the Court for proper order please. 19/10/12-REGISTRAR This Execution Petition be put up before Touring S. Bench at 24-10-2017 2-A.Abad on 20 -11 - 2012 20.11.2017 Petitioner in person and Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report on 20.12.2017 before S.B at camp court A/abad. Member Camp court, Abbottabad.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP **COURT ABBOTTABAD** Execution Petition No. 193/2017

Muhammad NaveedPetitioner

VERSUS

Akhtar Hussain Shah and others ... Respondents

PETITION FOR CONTEMPT OF COURT

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	D (111100015		

Dated 14.10.2017

Through

Muhammad NaveedPetitioner M MALIK MUHAMMAD ASIF,

Advocate Supreme Court, Of Pakistan.

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Khyber F

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP COURT ABBOTTABAD Execution Petition No. 193/2017

. 1

Muhammad Naveed son of Fazal Dad resident of village Bajna, Tehsil and District MansehraPetitioner

VERSUS

- 1. Akhtar Hussain Shah, Secretary Govt. of Khyber Pakhtunkhwa Establishment and Administration Department, Regulation Wing, Peshawar Civil Secretariat (previous).
- 2. Arshad Majeed, Secretary Government of Khyber Pakhtunkhwa Department Regulation Wing, Peshawar Civil Secretariat (present).
- 3. Abdul Ahad section Officer, Government of Khyber Pakhtunkhwa Establishment Regulation Wing-II, Civil Secretariat, Peshawar.
- Asmatullah Khan Gandapur Director/Secretary, Govt. of Khyber Pakhtunkhwa Food department, Food Directorate near Haji Camp Bus Stand Main G.T Road Peshawar (previous).
- 5. Muhammad Akbar Khan, Secretary Food Government of Khyber Pakhtunkhwa Food Directorate near Haji Camp Bus Stand, G.T Road, Peshawar (present).
- 6. Nisar Ahmed Khan, Director Food Government of Khyber Pakhtunkhwa Food Directorate near Haji Camp Bus Stand, G.T Road, Peshawar (present).......Respondents.

PETITION FOR CONTEMPT OF COURTUNDERSECTION3AND5OFCONTEMPT OF COURT ORDINANCE,2003AGAINSTTHERESPONDENTSFORNON-COMPLIANCEOFJUDGMENT DATED15.08.2016PASSEDBYTHISHONOURABLECOURTAPPEAL NO.831/2015.

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Respectfully Sheweth!

Application is submitted as under: -

- That, petitioner was serving as Senior Clerk (BPS-07) in the office of Deputy Commissioner, Mansehra and he was declared surplus in the year 2001 and later on adjusted in food department in BPS-06 vide office order dated 26.01.2006.
- 2. That, petitioner was to be placed at the top of seniority list in BPs-06 but he was placed at the bottom of seniority list. So petitioner filed writ petition and thereafter civil petition was filed before august Supreme Court of Pakistan which was decided on 25.05.2015 with the direction to the respondents to treat the civil petition as departmental appeal and decide the same which was turned

down and thereafter petitioner filed appeal No.831/2015 before the Service Tribunal which was allowed and petitioner was in terms of verified surplus pool policy, was directed to be placed at the top of seniority list of the cadre in which he was adjusted against lower post BPs-06 from 15.02.2006.

Con Spaces

(Copy of the judgment dated 15.08.2016 in service appeal No.831/2015 as annexure "A").

3. That, after the judgment of this Honourable Court, food department revised issued seniority list of Assistant Food Controller as it stood on 31.10.2016 and in this seniority list petitioner was placed at the top of the seniority list at serial No.1 but it was only paper work and nothing substantial was done by the food department as it reflects from the revised list dated 31.10.2016.

(Copy of the revised list dated 31.10.2016 is annexed as annexure "B").

4. That, as per judgment of this court dated 15.08.2016, actual seniority

was not given to petitioner. Seniority was to be reckoned from 15.02.2006 in the revised seniority list but employee at serial No.2 was shown as D.F.C (BPS-16) from 23.12.2015 whereas petitioner was promoted to this cadre from 24.04.2016. If not before from 23.12.2015 but petitioner promotion in BPS-16 as D.F.C should have been given from the date 16.05.2012. Infact, it was mockery of the judgment of this court and willful non-compliance which derives petitioner from his lawful declared right.

Carl Bartha Charles Shines

5. That, when petitioner found that judgment of this Honourable Court dated 15.08.2016 is not implemented in its spirit so he submitted written application to the Secretary of food department on 15.02.2017 for implementation of the judgment of this court and relevant detail was given in the application.

(Copy of application was attached as annexure "C").

6. That, the food department after receiving application dated 15.02.2017 initiated proceedings and sought advise from the law department as well as from the establishment and administration department was consulted but before it law department for further appeal. But the law department refused for filing further appeal and also sought action in the light of decision of court in the application of petitioner.

> (Copy of Letter to Secretary Law Department from food department No.3947 dated 28.02.2017 is attached as annexure "D").

7. That, law department also directed to food department through letter dated 06.03.2017 about the relevant time of initial adjustment in food department and food department also decided the application of the petitioner in the light of judgment of this court about his seniority position.

(Copy of this letter is attached as annexure "E").

9. That, thereafter food department engaged into correspondence internally with high-ups and detail position of the service of the petitioner in the light of judgment of this court was formulated and calculated and also decided to seek advise from the Establishment division. (Copy of the letter No.1191 dated 17.04.2017 is attached as annexure "F"). In this letter promotion of petitioner as Assistant food Controller was decided to take place from 26.06.2006 and promotion as food controller with effect from 16.05.2012.

 That, letter mentioned in preceding para was sent to Secretary Establishment for advise from food department to Secretary Establishment division through letter No.5173 dated 18.04.2017.

(Copy of this letter is attached as annexure "G").

11. That, establishment Division directed to food department through its letter dated 05.04.2017 that already in the revise list petitioner was placed on top of seniority and granted scale BS-16 in this way the establishment division adopted mockrial attitude towards the decision of this court dated 15.02.2016. (Copy of the letter issued by establishment division addressed to food department is attached as annexure "H").

16. 18 6 18 19

R. B. Stewart

12. That, petitioner is gaining the cadre of food controller BPS-16 in the year 2012 according to the seniority granted by this Honourable Court and cadre of Assistant Director food BPS-17 in the early months of 2016 and on retirement he is getting benefit of pension of this cadre whereas benefit of pension have been given to him of BPS-16. In this respect, departmental promotion committee's findings about promotion of petitioner are quiet wrong.

(Copy of Letter No.72 dated 05.01.2017 is attached as annexure "I").

That, in the meantime, petitioner has 13. been retired from 13.01.2017 and his benefits of seniority granted by this court have been willfully denied by the respondents and they have committed contempt of court of judgment date 15.02.2016 of this Honourable Court and as such liable to be punished as required by law and bound for implementation of judgment in its true spirit.

.PRAYER ..

It is, therefore, prayed that respondents may kindly be punished for committing willful contempt and strict action may also kindly be taken for implementation of judgment dated 15.08.2016 and pension right of petitioner may also be revised accordingly.

Dated 14.10.2017

Muhammad NaveedPetitioner

Through

MALIK MUHAMMAD ASIF, Advocate Supreme Court, Of Pakistan.

AFFIDAVIT.

I, Muhammad Naveed son of Fazal Dad resident of village Bajna, Tehsil and District Mansehra, Petitioner, do hereby solemnly affirm and declare on oath that the contents of the foregoing petition for contempt of court are true and correct and nothing has been concealed from this Honourable Court.

Dated 14.10.2017 ATTESTE Muhammad Naveed (DEPONENT) 1.69.20 HA. 18/2015/ NOTAR

MANSEHR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP COURT ABBOTTABAD

Muhammad NaveedPetitioner

VERSUS

Akhtar Hussain Shah and others ... Respondents

PETITION FOR CONTEMPT OF COURT

CORRECT ADDRESSES OF THE PARTIES

<u>PETITIONER</u>

Muhammad Naveed son of Fazal Dad resident of village Bajna, Tehsil and District Mansehra.

RESPONDENTS

- 1. Akhtar Hussain Shah, Secretary Govt. of Khyber Pakhtunkhwa Establishment and Administration Department, Regulation Wing, Peshawar Civil Secretariat (previous).
- 2. Arshad Majeed, Secretary Government of Khyber Pakhtunkhwa Department Regulation Wing, Peshawar Civil Secretariat (present).
- 3. Abdul Ahad section Officer, Government of Khyber Pakhtunkhwa Establishment Regulation Wing-II, Civil Secretariat, Peshawar.
- 4. Asmatullah Khan Gandapur Director/Secretary, Govt. of Khyber Pakhtunkhwa Food department, Food Directorate near Haji Camp Bus Stand Main G.T Road Peshawar (previous).
- 5. Muhammad Akbar Khan, Secretary Food Government of Khyber Pakhtunkhwa Food Directorate near Haji Camp Bus Stand, G.T Road, Peshawar (present).
- 6. Nisar Ahmed Khan, Director Food Government of Khyber Pakhtunkhwa Food Directorate near Haji Camp Bus Stand, G.T Road, Peshawar (present.

Dated 14.10.2017

ile Do uhammad Naveed

.....Petitioner

Through

MALIK MUHAMMAD ASIF, Advocate Supreme Court, Of Pakistan.

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

Appeal No. 831/2015

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

F. Provisi

Khvb_a

Versus

2)

· 1)

Government of Khyber Pakhtunkhwa through Secretary Establishment and Administration Department, Peshawar Director Food, Khyber Pakhtunkhwa

Peshawar......Respondents

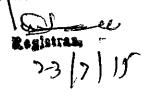


APPEAL UNDER SECTION 4 OF NWFP PAKHTUNKHWA KHYBER (NOW SERVIICE TRIBUNAL ACT 1974) QUA NOT DECIDING DEPARTMENTAL APPEAL NO. 1253/ET DATED 14.04.2015 AND DECIDING THE OF INSTEAD DEPARTMENTAL APPEAL LETTER NO. 2468/PF-1125 DATED 13.05.2015 WAS SENT TO APPELLANT WITH REFERENCE DATEL DECISION PREVIOUS то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

Respected Sir,

lee Tribunal, Peshawar

ke-submitted to-day



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

- That, in year 2001, upon enforcement of devaluation plan, the petitioner was declared surplus.
- That, later-on petitioner was adjusted in Food Department of K.P.K. in BPS-6 vide order No. 1054/ET dated 26.01.2006.

(Copy of order is annexed as Annexure "A").

That, vide Notification No. SOR-I (ES/AD)1-(ES/AD)1-200/98 on 08.06.2001 and gave policy for absorption/adjustment of Government Servant declared as surplus.

4)

5)

6)

7)

(Copy of Notification is annexed as Annexure "B")

That, according to absorption Notification it was mentioned that if an adjustment is made in the lower grade then his original scale he shall be placed on the top of seniority list.

That, it is well settled principle that beneficial statute/rules/Notification are to be read retrospectively and in light of this, Notification has retrospect effect.

That, petitioner was not met with in accordance with law and benefit of

ATTES thwa ounal. Peshawar

Notification No. SOR-1(E&D)1-200/98 was not extended to him which is a clear violation of law and rules and constitution of Islamic Republic of Pakistan.

(Copy of order dated 05.05.2009 is annexed as Annexure "BB").

8) That, feeling aggrieved petitioner filed writ petition No. 494-A/2012 in which Advocate General admitted to redress the grievances of petitioner.

(Copy of judgment is annexed as Annexure "C").

- **9)** That, when grievance was not redressed petitioner against filed a writ petition No. 23-A/14.
- 10) That, decision of writ petition No. 23-A/14 was assailed by petitioner in Supreme Court which decided the petition on 25.03.2015 and directed petitioner to file departmental appeal.

(Copy of order is annexed as Annexure "D").

11) That, appellant had filed departmental appeal on the basis of judgment of Supreme Court dated 25.03.2015 but same was not entertained and properly adjudicated by the department and previous history of the case with reference to previous

ATTESTEI csHawar

correspondence letter and previous judgment dated 05.05.2010 was intimated to appoint through letter No. 2468/PF-1125 dated 13.05.2015. However departmental appeal could not be decided accordingly within the sopecified therefore, present time Service Tribunal appeal arises.

(Copy of order is annexed as Annexure "E").

That being aggrieved of order of respondent No. 02 petitioner seeks indulgence of this Honourable Tribunal on following grounds: -

GROUNDS: -

- a) That, decision of departmental appeal of petitioner is perverse, against law and basic.
- **b)** That, notification of 2001 is applicable to petitioner case.
- That, Notification No. VI(ES/AD)/ c) 5-1/2005 dated 15,02.2006 of 2006 is the part and parcel of notification/policy 2001 original and provides for remedial manner for situation as faced bv the petitioner.

ATTES Khyber Pakhtunkhwa Service Tribunal, Peshawar

- d) That, refusal of respondent to give seniority to petitioner amounts to violation of legal and constitutional rights of petitioner.
- e) That petition is well within time.
- f) That, other points shall be agitated at the time of arguments.

It is, therefore, humbly prayed that upon acceptance of instant petition may kindly be given benefits in light of Notification of 2006 read with Notification of 2001 and any other relief which this court deem appropriate.

Dated 26.06.2015

Muhammad Naveed

(Petitioner)

Through: -

Date of R

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Bate of Comp.

Dote of Delivery

MALIK MUHAMMAD ASIF Advocate Supreme Court of Pakistan (Mansehra) &

TARIO KHAN

Advocate High Court District Courts, Mansehra

VERIFICATION

I, MUHAMMAD NAVEED SON OF FAZAL DAD, RESIDENT VILLAGE BAJNA, OF TEHSIL AND DISTRICT MANSEHRA DO HEREBY VERIFY THAT THE CONTENTS OF FORE-GOING APPEAL ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE TRIBUNAL.

Certified (ture copy Vice Tribunal Satura kliva Peshawar

MUHAMMAD NAVEED (DEPONENT)

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Jo.	Date of	Order or other proceedings with signature of Judge or Magistrate and
eed	Order or proceedings.	that of parties where necessary.
	proceedings.	
1	2	3 * /Bunglad
		BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
		CAMP COURT ABBOTTABAD
	•	APPEAL NO. 831/2015
		Mr. Muhammad Naveed Versus Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department. Peshawar and another.
		JUDGMENT
	15.08.2016	MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-
		Appellant with counsel and Mr. Muhammad Siddique, Senior
		Government Pleader for respondents present.
	۲ ۰	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
	1	seniority by placing him at S.No. 1 of the seniority list maintained by
		the Food Department for BPS-06.
А	TAC	3. Brief facts giving rise to the present appeal are that the appellant
ESTE		was serving as Senior Clerk (BPS-07) in the office of Deputy
F.	A	Commissioner, Mansehra and was declared surplus in the year, 2001
Khybt Servic Pe	AMINER I JOKIN	and later-on adjusted in Food Department in BPS-06 vide office order
	cshawar	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
	· ·	

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.

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We have heard arguments of learned counsel for the parties and

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perused the record.

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Peshawar

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.

"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."

A careful perusal of para-6 of the policy letter dated 08.06.2001 8. would suggest that in case of adjustment of a surplus employee against corresponding post in basic pay scale different with 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

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.

24/M. Azin Khan Afrids Chaisman

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FOOD DIRECTORATE KHYBER PAKHTUNKHWA, PESHAWAR No. <u>CC 775</u> /ET-716 Dated 77/11/2016

TO:

1. All Officers/ Officials in Food Directorate, Peshawar.

MARS

- 2. All Assistant Directors Food at Divisional level in Food Department Khyber Pakhtunkhwa
- 3. All District Food Controllers in Khyber Pakhtunkhwa
- 4. The Storage & Enforcement Officers, NRC Azakhel & PRC Peshawar
- 5. The Rationing Controller Peshawar.

Subject:-

- <u>REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLER AS</u> <u>IT STOOD ON 31.10.2016.</u>

Memo:-

In compliance of Judgement of Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad announced on 15-08-2016 in case of Appeal No.831/2015 regarding acceptance of Seniority Appeal of Mr. Muhammad Naveed AFC Office of DFC Mansehra, the Seniority List of Assistant Food Controller as it stood on 31-10-2016, is revised and enclosed herewith for circulation amongst your concerned staff. Please acknowledge receipt.

2 Variation if any, in the list be pointed out within stipulated period of one week of the receipt of the Seniority list, otherwise it will be presumed that you have no objection to the seniority position as contained in the list and it shall be treated as final and undisputed.

DIRECTOR FOOD KHYBER PAKHTUNKH PESHAWAR 1 a - - - 1 f - 1 fr

Endorsement No and Even date

Copy for information to

- 1. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to Appeal No. 831/2015.
- 2. The Section Officer Food Government of Khyber Pakhtunkhwa Food Department Peshawar for information.
- 3. Mr. Muhammad Naveed AFC Office of District Food Controller, Mansehra.

DIRECTOR F **KHYBER PAKHTUNKH** PESHAWAR. 3 A 11.20

ET-716 (Circulation of Seniority List of Assistant Food Controller dated 31-10-2016doc.doc

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	<u>REVI</u>	SED SEMIOR	ITY LIST O	FASSICHAR	7 	1 D		<u>IE FOOD DIRECT</u> 2016.	
м.,		KH	YBER PAKU	TASSIS I AN	<u>T FOOD COP</u> <u>PESHAWAR</u>	TROTIED	2 (D.c		~
j. —	12	·		LIUNKHWA	PESHAWAR	ASTRON	<u>2 IBS-14)</u> IN TH	TE FOOD DIRE	
S.No.	Name of Govt	3	4			<u>AS11510</u>	0D ON 31-10-	2016	ORATE
	Servant	Qualification	Date of birth		6				_
				Domicile	Date of entry	17 in to 10	8		
	Mr. Muhammad Nave	d BA/LLB			Govt service		intment Date of	9	10
2.+2.++	Mr. Taj Bar Khan	B.A.	13.01.1957	Mansehra		to the post of Cane Inspect	appointment	Method of recruitment	Date of
		D.A.	16.07.1957	Dir Lower	18.05.1978	01.02.2	10 the present	post	superannuat
	M. A.				23.06.1982	01.01.1997	22-04-2010	By Promotion	
3 1	Mr. Aman Ullah	F.A.	1000				14-12-2009	All'eady appointed	
4@ N	Mr. Fazli Bari	B.A.	15.06.1957	M.Agency					1
SES N	Muhammad Zubair		02.02.1961	Chitral	22.06.1982	25.03.1998		charge basis w.e.f 23-12	acting
10.00 IV	Mr. Mehmood-ur-Rahman Mr. Salah-ud-Din	1 C.Com.	01.02.1970	Swat	22.06.1982	30.08.2000	14-12-2009	By Promotion	
8.≋ M	Iuhammd Arshad	B.A.	02.11.1969	Kohat	09.05.1993	30.08.2000	14-12-2009	By Promotion	14.06.2017
NOR SY	yed Wazir Shah	B.A	25.11.1972 15.09.1967	Peshawar	09.05.1993 09.05.1993	30.08.2000	06-04-2010	By Promotion	01.02.2021
	r. Aftab Umar Khan	M.A.	08.06.1959	Charsadda	09.05.1993	30.08.2000	06-04-2010	By Promotion	31.01.2030
11. Mi	uhammad Tariq	MA	04-08-1985	Mansehra	09.05.1993	30.11.2000	06-04-2010	By Promotion	01.11.2029
#12. Mr	r. Ansar Qayum	B.Sc	01 02 100	Mohmand Agency	19-05-2010	30.11.2000	06-04-2010	By Promotion	24.11.2032
	. Abdul Hafeez	B.A	1107107	Peshawar	09.05.1993		19-05-2010	By Promotion	14.09.2027
14. Mr	r. Arshad Hussain	M.A	070710	Mansehra	09.05.1993	17.06.2005	21-10-2011	By initial recruitment	07.06.2019
15. Mr	Ali Asghar Khan	B.A	01 01 1000	Charsadda.	09.05.1993	20-12-2003	06-04-2010	By Promotion	
	Shehin Al	B.A	28 02 105	Chitral	09.05.1993	20.12.2003	21-10-2010	By Promotion	28.02.2030
	Shabir Ahmad Khan	LLB	20.04	Mardan	09.05.1993	20.12.2003	04-10-2011	By Promotion	10.07.2030
	Said Nawaz	B.Com	30.04.1966	FR Peshawar	09.05.1993	20.12.2003	04-10-2011	By Promotion	06.07.2029
	Jamshed Khan Afridi		20.03.19/2	Chitral	09.05.1993	20.12.2003	18-02-2012	By Promotion	31.12.2030
0. Mr	Sohail Habib	I B.C.	20.06.1972	/Agency	09.05.1993	20.12.2003	18-02-2012	By Promotion	27.02.2032
v. Mr.	Sheraz Anwar	T A	<u>14</u> .02.1968 F	lannu	. 09.05.1993	20.12.2003	18-02-2012	By Promotion	29.04.2026
1. Mr. M	Muhammad Azam	- D D	05.02.1974 N	fansehra	09.05.1993	20.12.2003	18-02-2012	By Promotion	19.03.2032
2. Mr. T	Louis CT J	B.B.A			09.05.1993	20.12.2003	21.05.2012	By Promotion	19.06.2032
. Muha	ammad Shakeel	M.B.A	01 10 100	Wazirstan Agency	07.08.2015		21.05.2012	By Promotion	13.02.2028
. Mise I	Uzma Kanwal		10.04	arak	07.08.2015		07.08.2015	By initial	04.02.2034
Mr Z	ozina Kanwal		12.10.11	bottabad.	07.08.2015		07.08.2015	By initial recruitment	21.11.2048
A.M. Z.O	afar Alam Riza	M.A 0	2 01 10	bottabad.	07.08.2015	-	07.08.2015	By initial recruitment	30.09.2047
	hujaat Hussain Shah	M/ So	5.01.1987 Ch	itral	07.08.2015	-	07.08.2015	By initial recruitment	09.04.2044
Mr. Ha	afeez-ur Rehman	DA	0.04.1987 Ma	nsehra	07.08.2015		07.08.2015	By initial recruitment	03.04.2044
Mr. Ad	dnan Khan	B.4 A	5.04.1984 Dir	Lower	07.08.2015		07.08.2015	By initial recruitment	02.12.2050
Mr. Mu	uhammad Alah	M.A 27	.06.1989 Pes	hawar	07.08.2015		07.08.2015	By initial recruitment	02.01.2047
Mr. Mul	hammad Q_L	BA 05	10.00	liawar	07.08.2015		07.08.2015	By initial recruitment	09.04.2047
Mr Mu	shaw in the second s	J.Com 15	07.10	hawar	01.03.1982	-	07.08.2015	By initial	17.04.2044
Mr. Gul		A.A.Pol: Science 18	04.10	lawar	04.08.1990	25.08.2004	22-04-2016	By initial recruitment	26.06.2049
Int. Out	ab Gui M	1A D 1 0	00 10 (1	/shera	14.07.1993	25.08.2004	22-04-2016	By Promotion	04.12.2022
		VI.	02.1967 Kara		14.07.1993	17.06.2005	22-04-2016	By Promotion	14.07.2022
					14.07.1993	17.06.2005	22.01.2016	By Promotion	14.07.2029
		1					22-04-2016	Ry Promet	17.04.2025
				Icting charge have	with immediate effect.				31.12.2027

31 E.								
33.							· · · · · · · · · · · · · · · · · · ·	
34. Mr. Muhammad Khalid	FA.	.02.05.1973	Peshawar	04.03.2006	04-03-2006	22-04-2016	Dr. D.	
35. Mr. Usman Khan	B.A	01-01-1975	Dir	03-11-2008	03-11-2008	22-04-2016	By Promotion	01.05.2033
36. Mr. Muhammad Shoaib	F.A	11.04.1966	Mansehra	04.07.1993	05-11-2008	22-04-2016	By Promotion	31.12.2035
37. Mr. Amjid Khan	Matric	05.01.1975	Malakand	15.08.1993	05-11-2008	22-04-2016	By Promotion By Promotion	10.04.2026
38. Mr. Mohammad Zubair 39. Mr. Saif Ali Shah	M.A	21.09.1970	Mardan	16.08.1993	12-01-2009	22-04-2016	By Promotion	04.01.2035
40. Mr .Gul Zareen Shah	B.Sc		Kohat	19.08.1993	12-01-2009	22-04-2016	By Promotion	20.09.2030 02.03.2029
41. Syed Wasim Shah	M.A F.Sc	<u>.15.04.1957</u> <u>15-02-1987</u>	Bannu	24.10.1994	12-01-2009	22-04-2016	By Promotion	14.04.2017
42. Mr. Rashid Saeed	B.A	15.03.1974	Kohat DIKhan	13-08-2009	13-08-2009	22-04-2016	By Promotion	14-02-2047
43. Mr. Aman Khan	F.Sc	02.08.1968	Bannu	<u>22.05.1995</u> 09.05.1993	26-12-2009	22-04-2016	By Promotion	14.03.2034
44. Mr. Ashfaq Khan	BA	25.03.1977	Mardan	22.05.1995	05-11-2008	04-08-2016	By Promotion	01.08.2028
45. Mr. Riaz Ahmad	M.A	01.03.1966	Chitral	02.05.1995	26-12-2009 26-12-2009	04-08-2016	By Promotion	24.03.2037
46 Mr. Ateeq-ur Rehman	B.A.	01.05.1977	M/Agency	03.05.1995	26-12-2009	04-08-2016	By Promotion	28.02.2026 30.04.2027 31.05.202
47 Mr. Angoor Shah	M.A	01.06.1963	K/Agency	06.08.1995	26-12-2009	04-08-2016	By Promotion	30.04.207
19 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		1				04-08-2010	By Promotion	31.05.202

ASSISTANT DIRECTOR FOOD (E)

The Secretary to Govt of Khyber Pakthunkhwa. Food Department.

Subject:-

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER.

mex

Dear Sir,

With due respect it is stated that the undersigned was working in office of DC Mansehra in Senior Clerk (BPS-7). In the year, 2001, the undersigned was declared surplus. On 26.1.2006, the undersigned was adjusted in the lower Scale as FGI (BPS-6) in Food Department. In accordance with surplus pool policy, it was required to place the undersigned on top of the seniority list of FGI (BPS-06) as stood on 26.1.2006, however, the undersigned was awarded the seniority at the bottom of FGI.

2. The Hon'ble Courts was gracious enough to allow the undersigned the correct seniority position vide judgment dated 15.08.2016. The seniority of the undersigned has to be reckoned from 26.1.2006 below the name of Syed Asif Ali Shah AFC and above the name of Bashir Ahmad FGI (Reference is invited to Seniority list of AFC as stood on 31.8.2006 (Copy enclosed).

З. The Department has not implemented the aforementioned judgment in its true sense. The undersigned was promoted as AFC on 22.4,2016 and subsequently was appointed on acting charge as DFC (BPS-16) on 4.1.2017 whereas on fixation of seniority, the undersigned was entitled for promotion as AFC on 15.6.2006 i.e the date my erstwhile jugior Mr Bashir Ahmad was promoted as AFC and as DFG (BPS-16) on 16.5.2012 i.e the date of from the date of my erstwhile junior Mr Bashir Ahmad wgs promoted.

2. As per Hon'ble Supreme Court ruling the promotion is always made from the date of occurrence of vacancy. (Copies of the judgments are enclosed)

It is, therefore, requested that the undersigned may be promoted with all 3. consequential benefits as AFC w.e.f. 15.6.2006 and as DFC w.e.f 16.5.2012 from the dates my erstwhile juniors were promoted .

vhile jur. Emcl: (10) Debmen 15/02/17/

Your faithfully,

(Muhammad Naveed Khan), **Ex- DFC Food Department** Khyber Pakhtunkhwa

n 2 1

GOVERNMENT OF / KHYBER PAKHTUNKHWA FOOD DEPARTMENT

NO.SOG/7-4/14-15/P.X/ 3947. Dated Pesh: the 28-02-2017

Yours faithfully,

SECTION OFFICER (GENERAL

RUELEAN Put ul

367

Government of Khyber Pakhtunkhwa, Law Department.

ų.,

Supject:

Dear Sir,

Encl: As above.

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER.

am directed to enclose herewith an appeal of Mr. Muhammad Naveed Khan, on the subject noted above (Annex-A) and to say that appellant nerewin was previously working as Senior Clerk (BS-07) in the office of Deputy Commissioner, Mansehra. In the year, 2001, he was declared surplus and ujusted in the Food Department as Foodgrain Inspector (BS-06) on 2601 2006, as per Surplus Pool Policy. The official preferred an appeal before the Service Tribunal, Peshawar on the plea that he was to be placed at the top althe seniority list in accordance with Surplus Pool Policy as he had been adjusted in a lower scale. The Court decided the case in his favour vide uggement dated 15.08.2016 (Annex-B). The Scrutiny Committee of Law Department did not find the case fit for filing an appeal in the Supreme Court Pakistant (Annex-C). The official was, therefore placed at the top of the removity list of Assistant Food Controller (as he was then Assistant Food Controller) in pursuance of Court's judgement, as referred to above. Consequently, he was appointed against the post of District Food Controller/S&EO on acting charge basis with immediate effect vide order dated 2010 (Annex-D) on the recommendation of the DPC. Meanwhile the micial got retired from service w.e.f 12.01.2017.

Law Department is therefore requested to examine the instant appeal in the light of the Court's aforementioned decisions and subsequent action taken by this department and to advise whether the appeal of Mr. Muhammad Naveed Khan, Ex-DFC is tenable or otherwise please.

(isody (E) . Director Food, Khyber Pakhtunkhwa. PS to Secretary Food, Khyber Pakhtunkhwa.



GOVERNMENT OF KHYBER PAKHTUNKHWA LAW. PARLIAMENTARY AFFAIRS & HUMAN RIGHTS DEPARTMENT No. SO(OP-I)/LD/5-6/2012-VOL-IV 255 DATED: PESH: THE 20 MARCH, 2017

Τo

The Secretary to Govt of Khyber Pakhtunkhwa, Food **Department**.

Subject:

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER.

Dear Sir,

put l

Yours Faithfully,

Endst: of even No. & date. Copy forwarded to the P.S to Secretary Law, Department.

Section Officer (Opinion-I)



GOVERNMENT OF KIFYBER PAKHTUNKHWA, DIRECTORATE OF FOOD PESHAWAR

> No____/PF-1125-II Dated_<u>17</u>/April, 2017

The Section Officer General Government of Khyber Pakhtunkhwa, Food Department Peshawar.

Subject:-

above,

To

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER

Reference your letter No.SOF/8-1/2016/4069 dated 16-03-2017, on the subject noted

Muhammad Naveed Ex-Senior Clerk (BS-07) of District Coordination Officer Mansehra (Surplus Pool of DCO Mansehra) was adjusted as Foodgrain Inspector (BS-06) vide Office Order issued No.1054/ET-542-SPA dated 26-01-2006. The post was upgraded to BS-07 with effect from 02-2008 and further upgraded to (BS-09) with effect from 31-12-2013 in the Food Department Khyber Pakhtunkhwa Peshawar. His pay was protected in (BS-07) according to Policy contained in E&AD Department circulated No. SOR-I(E&AD)1-200/98 dated 08-06-2001 (Annex-I). The policy in vogue at the time of adjustment he was 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. In the mean time the Provincial Government of Khyber Pakhtunkhwa issued revised the Surplus Policy dated 08-06-2001 vide Notification No. SOR-IV (R&AD) Deptt/5-1/2205 dated 15-02-2006 (Annex-II)

3 Against his adjustment and placing at the bottom of Seniority List of Foodgrain Inspectors on appeal to the Khyber Pakhtunkhwa Service Tribunal, and as per judgement dated 15-08-2016 of Para-8 which is reproduced below:-

"A careful perusal of para-6 of the policy letter dated 08-06-2001 would suggest that in case of adjustment of a surplus employees 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 nowhere mentioned in the said circular that an employee is to be placed that 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 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 not worthy that an employee otherwise junior to appellant but if adjusted against a lower post after the amended policy letter dated 15-02-2006 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

PF-1125-II (Muhammad Naveed AFC) dated 10-04-2017

seniority list at the <u>relevant time</u> after the clarification of policy as he was adjusted against a post lower than his original scale. (Annex-III)

As per Court decision, the Seniority List of AFC as it stood on 31-10-2016 was revised and accordingly circulated amongst the concerned AFCs (Annex-IV). To allow his relevant time / original place of seniority position i.e. in seniority list of AFC's as it stood on 16-06-2007 (Annex-V). After placement of Mr. Syed Asif Ali Shah (Already appointed as Assistant Director Food (BS-17), His case for appointment as DFC/S&EO/RC (BS-16) on acting charge basis with other officials was placed before the DPC, the Committee examined the working paper and recommends him for appointment to the post of DFC / S&EO / RC (BS-16) on acting charge basis being Court decision (Annex-VI). To place his seniority at the relevant time further case for promotion/ appointment to the post of Assistant Director Food (BS-17) on acting charge basis was placed before the Committee. A copy of Minutes of DPC is placed at (Annex-VII). On attaining the age of superannuation of 60 years age Mr. Muhammad Naveed Rationing Controller, Peshawar was retired from service on 12-01-2017. To allow the financial benefit to the exofficer, case was sent to the Law Department Khyber Pakhtunkhwa (Annex-VII). The Law Department advice that "thus the relevant time was , his initial adjustment in Food Department from surplus pooled. The Food Department may decide his appeal accordingly"(Annex-IX) the following period as relevant time of promotion has been work out from different time froms seniority list of AFCs and DFCs.

i) Promotion as Assistant Food Controller with effect from 26-06-2006 (Annex-X)

 Promotion / Appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller, Peshawar with effect from 16-05-2012 (Annex-X)

5 In view of the position explained above, the Establishment Department Khyber Pakhtunkhwa may kindly be approached for seeking necessary advice regarding his seniority position at relevant time, in different pay scale as mentioned above in favour of ex-officer concerned please.

/ DIRECTOR FOOD KHYBER PAKHTUN KHWA PESHAWAR.

Endorsement No & Date Even

Copy for information to Mr. Muhammad Naveed Ex- Rationing Controller Peshawar with reference to his application dated17-02-2017.

DIRECTOR KHYBER PAKHTUN KHWA PESHAWAR.



To.

GOVERNMENT OF KHYBER PAKHTUNKHWA FOOD DEPARTMENT

NO.SOF/8-1/2016/ 5/7-3 Dated Pesh: the 18-04-2017

The Secretary, Government of Khyber Pakhtunkhwa, Establishment Department.

Annex C.

Subject:- ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DITRICT FOOD CONTROLLER.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of Director Food Khyber Pakhtunkhwa self-explanatory letter No. 1191/PF-1125-II dated 17-04-2017 alongwith its enclosures for advice, please.

Encl: As above.

<u>CC:-</u>

Yours faithfully,

SECTION OFFICEN ICENERAL

Director Food, Khyber Pakhtunkhwa w/r to his letter as referred to above.
 PS to Secretary Food, Khyber Pakhtunkhwa.

DAKHTUNKHW I: DEPARTMENT ON WING)

SC (3) Food Departminist SOR-III (E&AD) 3-2/2013 (Vol-III) Dated Peshawar the May 04, 2017

The Secretary to Govt. of Khyber Pakhtunkhwa, **Food Department**

Nar. Date OS-N E O

Subject: -

То

ANTI-DATION OF PROMOTICS: AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER

Dear Sir,

I am directed to refer to Food Department letter NO. SOF/8-1/2016/5173 dated 18.04.2017 on the captioned subject and to say that as per decision of Service Tribunal, the official was granted seniority on top of the seniority list and subsequently promoted/appointed to higher pay scales BS-16 accordingly. Thus, Service Tribunal's Judgment appears to have been implemented in the instant case.

Yours faithfully

SECTION OFFICER (R-III) Phone No.9211793



GOVERNMENT OF KHYBER PAKHTUNKHWA, DIRECTOR OF FOOD, PESHAWAR No______/G-275-DPC Dated <u>#\$_/a1/2017</u>

- **n n** <

To

The Section Officer General Government of Khyber Pakhtunkhwa Food Department Peshawar.

Subject :

APPOINTMENT OF_ MR. MUHAMMAD NAVEED RATIONING CONTROLLER PESHAWAR (BS-16) TO THE POST OF ASSISTANT DIRECTOR FOOD (BS-17) ON ACTING CHARGE BASIS PER AS COURT DECISION FOOD DIRECTORATE KHYBER PAKTHUNKWHA.

Memo:-

As per Court decision 05 sets of Working Papers for appointment of Mr. Muhammad Naveed Rationing Controller Peshawar (BS-16) to the post of Assistant Director Food (BS-17) on acting charge basis in Food Directorate Peshawar for fixation of date of DPC and placing before the Departmental Promotion Committee Khyber Pakhtunkhwa, Peshawar for consideration, as ∞ the officer concerned will be retired from service on 12-01-2016 (A.N) on attaining the age of superannuation of 60 years please.

DEPUTY DIRECTOR FOOD (E) KHYBER PAKHTUNKHWA PESHAWAR.

Endorsement No. & Even date Copy for information to:-

- 1) PS to Secretary Food Khyber Pakhtunkhwa.
- 2) Mr. Muhammad Naveed Rationing Controller, Peshawar.

DEPUTY DIRECTOR FOOD (E) KHYBER PAKHTUNKHWA PESHAWAR.

Working paper letter for Promotion of DFC to the post of ADF (BS-17) dated 04-01-2017 doc

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 11-01-2017 AT 11:00 PM IN THE OFFICE OF THE SECRETARY-CUM-DIRECTOR FOOD, KHYBER PAKHTUNKHWA, PESHAWAR.

A meeting of the Departmental Promotion Committee was held under the chairmanship of Secretary-cum-Director

Food, Khyber Pakhte	unkhwa, Peshawar in his office on 11-01-2017 at 11:00 hours. The follo	wing attended the meeting:
(i)	Mr. Maqbool Khan Khattak Deputy Secretary (R-11) Establishment Department Khyber Pakhtunkhwa	Member .
(ii)	Mr. Askar Khan Deputy Secretary Food, Food Department Khyber Pakhtunkhwa	Member
<i>(iii)</i>	Mr. Mushing Abmad	Member

Section Officer (FR) Finance Department Khyber Pakhtunkhwa

2. As per Court's decision, the cases of Mr. Muhammad Naveed, AFC (already appointed as District Food Controller /Storage & Enforcement Officer / Rationing Controller, Peshawar (BS-16) on acting charge basis for further appointment to the post of Assistant Director Food (BS-17) on acting charge basis in Food Department, as explained in the working paper, was discussed by the Departmental Promotion Committee at length. The Committee made the following observations/ recommendations:-

S.No	Name of Official	Current post and place of posting	Observation (s) / Recommendation (s)
l	Mr. Muhammad Navced AFC (Already appointed as DFC/S&EO/RC (BS- 16) on acting charge basis).	Rationing Controller Peshawar (BS-16)	 In the light of Court's decision, the Department has already restored the seniority of Mr. Muhammad Naveed, AFC, and revised seniority of AFCs (as it stood on 30-10-2016) has been issued accordingly. On the basis of revised Seniority List of AFCs, the DPC in its meeting held on 23-12-2016 recommended him for appointment to the next higher scale (BS-16) on acting charge basis. On the recommendation of the DPC, he has been appointed as DFC/ S&EO / RC (BS- 16) on acting charge basis on 04-01-2017
			2) There is no provision in the Rules for appointment on acting charge basis for an officer/ official who is already appointed on acting charge basis which is yet to be regularized & has not completed the requisite length of service required for promotion to the next higher scale. Therefore, Appointments, Promotions and Transfers Rules, 1989 do not allow the instant case of promotion (to BS-17) before regular promotion & followed by completion of the requisite length of service in the present pay scale (BS-16).
		-	 As per record No. Junior officer to him has been promoted to the post of Assistant Director Food (BS-17)
	. ·		 Food Department has already implemented the decision of the Court in this behalf, as per rules.

The meeting ended with a vote of thanks from & to the chair.

m h DEPUTY SECRETARY FOOD, FOOD DEPARTMENT KHYBER PAKHTUNKHWA

SECTION OFFICER (FR) FINANCE DEPARTMENT KHYBER PAKHTUNKHWA

DEPUTY SECRETARY (R-II) 4 ESTABLISHMENT DEPARTMENT KHYBER PAKHTUNKHWA

WORKING PAPEI

APPOINTMENT OF DISTRICT FOOD CONTROLLERS / STORAGE & ENFORCEMENT OFFICER /RATIONING CONTROLLER (BS-16) AS ASSISTANT DIRECTOR FOOD (BS-17) ON /ACTING CHARGE BASIS

There are 12 sanctioned posts of Assistant Director Food (BS-17), in Food Department Khyber Pakhtunkhwa. (Annex-I), out of which 02 posts of Assistant Director Food (BS-17) have fallen vacang due to the reasons noted against each (Annex-II)

- 1) Mr. Fida Muhammad ADF D.I.Khan retired on 21-02-2014
- 2) Mr. Mehboob Alam Balooch ADF D.I.Khan retired on 14-11-2016

In terms of S. No. 04 recruitment / appointment Rules 1981 (Annex-III), the following method of recruitment has been prescribed for the Assistant Director Food (BS-17):-

7

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

By transfer of an officer already employed in any Department of Government other than b. the Food Department.

The details of Assistant Director Food (BS-17) promoted /appointed on regular /acting charge 3. basis are given at (Annex-IV). Muhammad Naveed Ex-Senior Clerk (BS-07) of District Coordination Officer Mansehra (Surplus Pool of DCO Mansehra) was adjusted as Foodgrain Inspector (BS-06) vide Office Order issued No.1054/ET-542-SPA dated 26-01-2006 (Annex-V) the post of Foodgrain Inspector BS 166) was upgraded to BS-07 with effect from February-2008. Further the post of FGI was upgraded to (BS\$09) with effect from 31-12-2013 in the Food Department Khyber Pakhtunkhwa Peshawar On a lightment in Food Department he was placed at the bottom of the seniority list of Foodgrain Inspector / Carle inspector (BS-06) as per instruction contained in Government of Khyber Pakhtunkhwa letter No. SOR-I(E&AD)1-200/98 dated 08-06-2001(Annex-VI) After adjustment in Food Department he submitted an Appeal for the due Seniority, with the plea that he may be placed at the top of the Seniority List of Toddgrain Inspector/ Cane Inspector due to adjustment from BS-07 to BS-06 in light of instruction of Establishment Department letter No. SOR-IV (E&AD)/5-1/ dated 15-02-2006 (Annex-VII). The request of Mr. Muhammad Naveed FGI for his placement at the top of the Seniority List was not considered by the Department. Against the said decision, Mr. Muhaumad Naveed AFC filed an appeal for grant of Seniority in Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad. The Court has decided that:-

> "Therefore depriving the appellant from seniority may not be 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 that 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"

Copy of Judgement dated 15-08-2016 is placed at (Annex-VIII).

As per Court decision, the Seniority List of AFC as it stood on 31-10-2016 was revised and accordingly circulated amongst the concerned AFCs (Annex-IX). To allow his original place of seniority position i.e. in seniority list of AFC as it stood on 16-06-2007 (Annez-X) after placement of Mr. Syed Asif Ali Shah now DFC (Already appointed as Assistant Director Food (BS-17), on acting charge basis, therefore his case for appointment as DFC/S&EO/RC (BS-16) on acting charge basis with other officials was placed before the DPC, the Committee examined the working papers and recommendathim for appointment to the post of DFC / S&EO / RC (BS-16) being Court decision (Annex-XI). otion of DFC to Gr. non-of ADF (35-17) duted, 52-01-2016.dot



It is certified that:

Working Paper in: Promotion of DFC to the post of ADP (BS-17) dated. 02-01-2016.de

e.

- . Mr. Muhammad Naveed AFC (already appointed as DFC on acting charge basis) have not completed 07 years prescribed length of service as required under the rules,
- b. No Departmental / Professional Examination have been prescribed for the post.
- c. It is certified that no Departmental / Judicial / Anti-Corruption NAB case is pending against Mr. Muhammad Naveed AFC already appointed as District Food Controller already appointed as DFC/ S&EO /RC (BS-16) on acting charge basis
- d. It is further certified that Mr. Muhammad Naveed AFC already appointed as DFC / S&EO /RC (BS-16) has not entered into plea bargain with NAB Annex-XII.
 - No adverse entry has been recorded in the ACRs of the above Officer.

5 Attested copies of the synopses from the PERs along with complete and updated original CR³ Dossiers and Service Bio Data of the above officer is placed at Annex-XIII.

5 The Departmental Promotion Committee of Food Department Khyber Pakhtunkhwa is requested to determine the suitability of Mr. Muhammad Naveed AFC already appointed as DFC (BS-16) on acting charge basis to the post of Assistant Director Food (BS-17) on acting charge basis with immediate effect in Food Department Khyber Pakhtunkhwa, as per Court decision.

DEPU

وكالت نامه بعدالت جناب سرمر ومحتر في كل مسروس المريون مد 06113 دعوى ماجرم باعث تحريراً نكبه مندرجہ بالاعنوان میں اپنی طرف سے بیردی دجوابد ہی بہقام مرم میں ہے مر^م م<u>احر</u> 419 (10 = + 1/ 10 G CI b بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پرخود یابذ رابعہ مختیار خاص رد بروعدالت حاضر ہوتار ہوں گا۔اور بونت یکارے جانے وكيل صاحب موصوف كواطلاع دي كرحاضر كرول كا_اكركس بيشى يرمظهر حاضر نه وااور غير حاضري كى وجد ي كسي طور يرمقد مه میر بے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ، وں گے۔ نیز دکیل صاحب موصوف صدر مقام کچہر ک کے علاوہ کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا بروز تقطیل بیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام کچہری کے سی اور جگہ اعت ہونے پر یا بروز کچہری کے اوقات کے آگے یا پیچیے ہونے پر مظہر کوکوئی نقصان پہنچاتو ذمہ داریا اس کے داسطے سمی معادضہ ادا کرنے ،مختیار نامہ داپس کرنے کے ہی ساحب موصوف ذمہ دار نہ ہوں گے۔ بچھے کل ساختہ یرداخته صاحب مثل کرده ذات خود منظور وقبول ہوگا۔ادر صاحب موجوف کو عرضی دعوی اور درخواست اجرائے ڈگری دنظر ثانی ا پیل نگرانی دائر کرنے، نیز ہوشم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا ادر کی تکم یا ڈ گری کئے اچراء کرانے اور ہر فتم کا روپید دصول کرنے اور رسید دینے اور داخل کرانے کا ہوشم بیان دینے اور سپر د ثالثی دراضی نامہ و فیصلہ برخلاف کرنے و ا قبال دٌوى كا اختيار ہوگا اور بصورت ايل و برآ مدگى مقدمہ يامنسوخى ذُكّرى يكطر فه درخواست يحكم امتناعى يا ذكرى قبل از فيصله اجرائے ڈکری بھی صاحب موسوف کو بشرط ادائیٹی علیحدہ پیردی تنتیار نا ، کرنے کامجاز ، وکاادر بصورت منبرورت اپیل ادرا نیل ک ے داسطے سی دوسر ے دکیل یا بیر سٹر کو بجائے اپنے ہمراہ مقرر کریں ادر ایسے مشیر قانونی کو بھی اس امر میں دہی اختیارات حاصل ، ہوں کے جیسے صاحب موصوف کو، پوری فیس تاریخ بیشی سے پہلے ادانہ کروں گا تو صاحب موصوف کو پوراا ختیار ہوگا کہ مقدمہ ک بیردی نہ کریں ادرایس حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔لہذا مختیار نامدلکھ دیا ہے کہ سندر ہے۔ مضمون مختیار نامة ن لیا بے ادرا تھی طرح سمجھ لیا ہے ادر منظور ہے۔ الــــعـــد Allested and appopter Aderin Tarry Illians Adv HLC

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD E.P. NO.193/2017

Muhammad Naveed S/O Fazil Dad, R/O village Bajna, Tehsil and District Mansehra.

Versus

- Mr, Akhtrar Hussain Shah, Secretary Establishment & Administration Department, Regulation Wing, Peshawar Civil Secretariat, (Previous).
- 2 Mr. Arshad Majeed, Secretary Government of Khyber Pakhtunkhwa, Department Regulation Wing, Peshawar Civil Secretariat, (Present).
- 3 Abdul Ahad Section Officer, Government of Khyber Pakhtunkhwa, Establishment Regulation Wing-II, Civil Secretariat Peshawar.
- 4 Mr. Asmatullah Khan Gandapur, Director/Secretary Government of Khyber Pakhtunkhwa, Food Department, , Food Directorate near Haji Camp Bus Stand Main G.T Road Peshawar (Previous).
- 5 Muhammad Akbar Khan, Secretary Food Government of Khyber Pakhtunkhwa, Food Department, , Food Directorate near Haji Camp Bus Stand Main G.T Road Peshawar (Previous).
- 6 Mr. Nisar Ahmed, Director Food Government of Khyber Pakhtunkhwa, Food Directorate near Haji Camp Bus Stand, G.T Road Peshawar.

REPLY TO THE COC E.P NO. 193/2017 .

RESPECTFULLY SHEWETH,

Muhammad Naveed Ex-Senior Clerk (BS-07) of District Coordination Officer Mansehra (Surplus Pool of DCO Mansehra) was adjusted as Foodgrain Inspector (BS-06) vide Office Order issued No.1054/ET-542-SPA dated 26-01-2006. The post was upgraded to BS-07 with effect from 02-2008 and further upgraded to (BS-09) with effect from 31-12-2013 in the Food Department Khyber Pakhtunkhwa Peshawar. His pay was protected in (BS-07) according to Policy contained in E&AD Department circulated No. SOR-I(E&AD)1-200/98 dated 08-06-2001 (Annex-I). According to the policy in vogue at the time of adjustment, he was 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. In the mean time the Provincial Government of Khyber Pakhtunkhwa issued revised Surplus Policy dated 08-06-2001 vide Notification No. SOR-IV (R&AD) Deptt/5-1/2205 dated 15-02-2006 (Annex-II)

3 Against his adjustment and placing at the bottom of Seniority List of Foodgrain Inspectors, on appeal to the Khyber Pakhtunkhwa Service Tribunal, the Khyber Pakhtunkhwa Service Tribunal gave its judgement dated 15-08-2016 of Para-8 which is reproduced below:-

"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, he was to be placed at the bottom of the seniority. It is nowhere 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 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 not worthy that an employee otherwise junior to appellant but if adjusted against a lower post, after the amended policy letter dated 15-02-2006, and placed 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

Para Wise Comments (Muhammad Naveed) dated 05-01-2018.doc

Respondents

Petitioner



clarification of policy as he was adjusted against a post lower than his original scale. (Annex-III)

As per Court decision, the Seniority List of AFC as it stood on 31-10-2016 was revised and accordingly circulated amongst the concerned AFCs (Annex-IV), in order to allow him relevant time / original place of seniority position i.e. in seniority list of AFC's as it stood on 16-06-2007 (Annex-V). After placement of Mr. Syed Asif Ali Shah (Already appointed as Assistant Director Food (BS-17), His case for appointment as DFC/S&EO/RC (BS-16) on acting charge basis with other officials was placed before the DPC. The Committee examined the working paper and recommended him for appointment to the post of DFC / S&EO / RC (BS-16) on acting charge basis, in view of Court decision (Annex-VI). To place his seniority at the relevant time further case for promotion/ appointment to the post of Assistant Director Food (BS-17) on acting charge basis was placed before the Committee. (A copy of Minutes of DPC is placed at Annex-VII). On attaining the age of superannuation of 60 years Mr. Muhammad Naveed Rationing Controller, Peshawar was retired from service on 12-01-2017. To allow the financial benefit to the ex-officer, case was sent to the Law Department Khyber Pakhtunkhwa (Annex-VIII). The Law Department advice that "thus the relevant time was , his initial adjustment in Food Department from surplus pool. The Food Department may decide his appeal accordingly"(Annex-IX) the following period as relevant time of promotion has been worked out from different time from seniority list of AFCs and DFCs.

Promotion as Assistant Food Controller with effect from 26-06-2006 (Annex-X)

i) iii)

Para Wise Comments ('Muhammad Naveed) dated 05-01-2018.doc

Promotion / Appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller, Peshawar with effect from 16-05-2012 (Annex-XI)

5 The Establishment Department Khyber Pakhtunkhwa also advised that as per decision of Service Tribunal, the official was granted seniority and was placed on top of the seniority list and subsequently promoted / appointed to higher pay scales BS-16 accordingly. Thus, Service Tribunal's judgment appears to have been implemented in the instant case. Copy of letter No. SOR-III (E&AD)3-2/2013 (Vol-III) dated 04-05-2017 is placed at **(Annex-XII)**

RESPONDENTS

Muhammad Akbar Khan, Secretary to Government of Khyber Pakhtunkhwa Food Department, Peshawar **Respondent No.05**

Mr. Nisar Ahmed, Director to Government of Khyber Pakhtunkhwa Food Department, Peshawar Respondent No.06



4

FOOD DIRECTORATE NWFP PESHAWAR No. 10.54 /ET-542/SPA Dated 26 /01/2006.

OFFICE ORDER

Annex - I

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

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)

10.55-67 No

/ET-542/SPA Copy is forwarded to: -

- 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, NWPP, Peshawar for information with reference 4. The District Coordination Officer, Mansehra. 5. The District Accounts Officer, Manschra & Mardan.

- 6. The District Coordination Officer. Mansehra for information He is requested to provide a Personal File, ACRs/Assets of Mr.Muhammad Naveed Ex-Senior Clerk (BS-07) for record 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.
- 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 12. ET-378/Personnel File.

Wishwood 20"

SD/-DIRECTOR FOOD, NWFP,

PESHAWAR

/01/2006.

ASSISTANT DIRECTOR FOOD, NWFP,(E) PESHAWAR.

x10,494-NMENT OF N.W.F.P ESTABLISHMENT & ADMINISTRATION DEPARTMENT (REGULATON WING)

於O.SOR-1(E&AD)1-200/98

DATED: Peshawar, The 8TH June,2001.

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5

6.

7. 8.

<u>6</u>

11.

- All Administrative Secretaries in NWFP. The Secretary to Governor, NWFP.
- All Commissioners in NWFP.
- All Fleads of Altached Departments in NWFP.
- All Heads of Autonomous/Semi Autonomous Bodies in NWFP.
- The Registrar, Peshawar High Court, Peshawar.
- All Districts & Sessions Judges in NWFP.
- All Deputy Commissioners/Political Agents in NWFP.
- The Secretary, NWFP Public Service Commission, Peshawar, 10°
 - The Director Anti Corruption Establishment, Peshawar.
 - The Registrar, NWFP, Service Tribunal, Peshawar.

SUBJECT:

POLICY FOR DECLARING GOVERNMENT SERVANTS AS SURPLUS AND THEIR SUBSEQUENT ABSORPTION/ADJUSTMENT

I am directed to refer to the subject noted above and to 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.

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.

CREATION OF SURPLUS POOL

There will be a surplus pools cell in the E&AD. After abolition Oof 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.

2.

IMPLEMENTATION/MOITORING CELL.

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

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

CRITERIA FOR DECLARING Å GOVERNMENT SERVANT 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 employees 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

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:-

а.

Before transferring an employee to the surplus pool, he should be given option by concerned department.

- (i)
- To proceed on retirement with normal retiring benefits under the existing rules,
- (ii)

(i)

(ii)

(iii)

(iv)

To opt for readjustment/absorption against a future vacancy of his status/ BPE which may not necessarily be in his original cadre/ department.

Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of Provincial Government. Those who for absorption/re-adjustment, a category-wise seniority list would 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 e 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 use shall rank sonior and shall be adjusted first. Adjustment shall be made on vacant posts pertaining to initial recruitment quota from those in the surplus pool in the following manner:-

In case of occurring of vacancies in their corresponding posts in any Government *converse*. Department/ Organization, the senior most employee in the surplus pool should be adjusted first.

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

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

OR

(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.

(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.

(c) Surplus Staff should be adjusted preferably in their home District(s). It not possible, then within the same Division, if staff is adjusted away from their District of Donicile in the first instance then on availability of post they should be considered for adjustment near to their home station.

To facilitate the adjustment of Surplus Staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of 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.

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.

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:-

In case a surplus employee could be adjusted in the respective cadre of his parent (a)department he shall regain his original seniority in that cadre. In case, liowever, he is adjusted in his respective cadre but in a department other (h) than his parent department, he shall be placed at the bottom of the seniority list of

In case of his adjustment against a post in corresponding basic pay scale with, (c) different designation/ nomenclature of the post, either in his parent department or 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 facility' right of adjustment/absorption and would be required to opt for pre-mature retirement

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

COMPETENT AUTHORITY TO NOTHY/ ORDER ADJUSTMENT/ABSORPTION.

After the transfer of services of surplus employee to a Department for edjustment/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 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

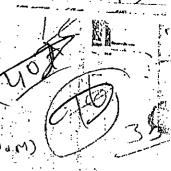
(MUHAMMAD HAMAYUN) ADDITIOANL SECRETARY (REGULATION)

N.S.

Please circulate this clarification amongst all concerned for their information and

Yours Faithfully,

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(ABDUL JALIL) SECTION OFFICER (O。M)

Ends: of Even No.& Date.

Copy forwarded to the:-

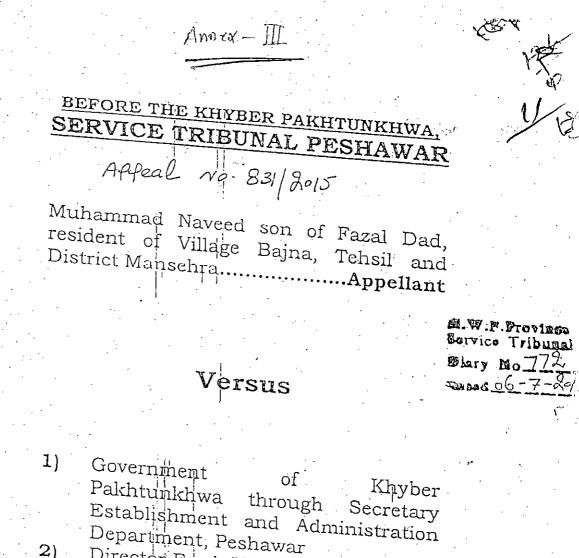
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Ali Additional Secretaries in Eslt: & Admn: Department. All Deputy Secretaries in Eslt: & Admn Department. All Section Officer in Eslt: & Admn: Department. ١.

(6歳前)

Q&LA ,

SECTION OFFICER (Os m)



APPEAL UNDER SECTION 4 OF NWFP(NOWKHYBERPAKHTUNKHWASERVIICETRIBUNALACT 1974)OUANOTDECIDINGDECIDINGDEPARTMENTALNO.1253/ETDATED14.04.2015INSTEAD| OFDECIDINGTHEDEPARTMENTALAPPEALLETTERNO.2468/PF-1125DATEDSENTTOAPPELLANTWITHREFERENCETOPREVIOUSDECISIONDATED05.05.2010.

Respected Sir,

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That, petitioner was appointed is District Administration and was serving in BPS-7 in Deputy Commissioner, Office Mansehra. ___/DFC/Mdn Dated Mardan the <u>3</u> / 03/2006 The Director Food, NWFP, Peshawar.

SUB:- <u>AMENDMENT IN THE SURPLUS POOL POLICY</u> Memo:

No 6.20

Enclose please find herewith an application of Mr. Muhammad Naveed Khan Foodgrains Inspector of this office is forwarded in original for further necessary action please.

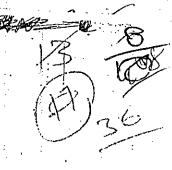
AbduMat District Food Controller Mardan

Through UMS ND: 737 dated 31-3-2006 Poet Strice Mandan.

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GOVERNMENT OF NWFP Anned . ESTABLISHMENT & ADMN: DEPARTMENT (REGULATION WING)

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



All Administrative Secretaries to GovL of NWFP,

The Secretary to Governor, NWFP.

2.

3.

4.

6.

The Secretary to Chief Minister, NWFP.

All District Coordination Officers/Political Agents in NWFP. 5.

The Registrar, Peshawar High Court Peshawar.

The Registrar, NWFP Service Tribunal Peshawar. 7. All Head of Atlached Departments.

8.,

The Secretary, NWFP Public Service Commission. 9 The Secretary, Board of Revenue NWFP Peshawar.

10. 11.

All Heads of Autonomous/Semi-Autonomous Bodies in NWFP. The Director Anti-Corruption Establishment NWFP Peshawar.

Subject: AMENDMENT IN THE SURPLUS POOL POLICY.

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

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

In case an employee already adjusted against a lower post is C(v) declared surplus again, he shall regain his original pay scale. (ii) Sub para-(d) added to para (6)

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

Yours faithfully

Endsl. No. & Dale even.

(i)

(MUHAMMAD HAMAYUN) SPECIAL SECRETARY (REGULATIONS)

Copy forwarded to:

(d)-

- .1 The Accountant General, NWFP, Peshawar. Private Secretary to Governor, NWFP, Peshawar. 2. 3. Private Secretary to Chief Minister, NWFP, Peshawar. 4.1
 - All District & Agency Account Officers.

The Director Food, NWFP, Postawar,

Subject: AMENDMENT IN THE SURPLUS POOL POLICY

R/Sir,

Respectfully it is submitted that I was considered surplus from Deputy Commissioner office Mansehra. Where I was posted as Senior Clerk getting my pay in BPS-7.

My posting to Food Department NWFP was ordered in BPS-06 vide office order No.1054/ET-542/SPA dated 26.01.2006. On my Posting to Food Department T was placed at the seniority list of Foodgrains Inspector i.e. at the battom.

Recently the Govt: of NWFP, Establishment and Administration Department (Regulation Wing) vide their letter No.SOR-VI (E&AD) /5-1, /2005 dated 15.2.2006 vide sub para -2:- has been pleased to revise the surplus pool policy. An abstract of sub para (d) added to para-6 is narrated below:-

Sub para (d) added to para (6)

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

In the light of the above facts and new/ revised policy of the Provincial. Government it is earnestly requested to kindly consider my case with due favour on merit basis and I may kindly be placed at the top of the seniority list and obliged:

Thanks.

Do Tell: 31-3-06

Yours Obediently,

Mr. Muhammad Naveed Foodgrain Inspector DFC Office Mardan

Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNA CAMP COURT ABBOTTABAD APPEAL NO. 831/2015

Mr. Muhammad Naveed Versus Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department, Peshawar and another.

JUDGMENT

15.08.2016

e of

proceedings.

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Order or

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

Appellant with counsel and Mr. Muhammad Siddique, Senior Government Pleader for respondents present.

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.

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 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 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.

We have heard arguments of learned counsel for the parties and

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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.

"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."

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

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.

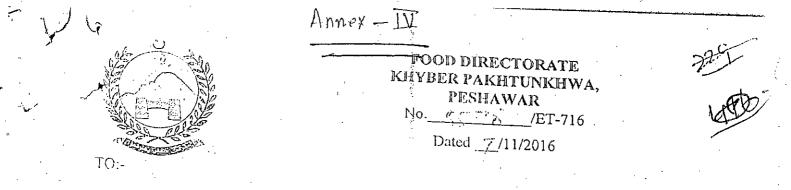
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Humaniced St. M. Azim Khan Africhi 15.08.2016 St. M. Azim Khan Africhi Chairman

St- Abdul Latit 1 Non All

22-08-16

-m-22-08-16 22-08-16



- 1. All Officers/ Officials in Food Directorate, Peshawar.
- 2. All Assistant Directors Food at Divisional level in Food Department Khyber
- 3. All District Food Controllers in Khyber Pakhtunkhwa
- 4. The Storage & Enforcement Officers, NRC Azakhel & PRC Peshawar
- 5. The Rationing Controller Peshawar.

Subject:-

Memo:-

REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLER AS IT STOOD ON 31.10.2016.

In compliance of Judgement of Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad announced on 15-08-2016 in case of Appeal No.831/2015 regarding acceptance of Seniority Appeal of Mr. Muhammad Naveed AFC Office of DFC Mansehra, the Seniority List of Assistant Food Controller as it stood on 31-10-2016, is revised and enclosed herewith for circulation amongst your concerned staff. Please acknowledge receipt.

Variation if any, in the list be pointed out within stipulated period of one week of the receipt of the Seniority list, otherwise it will be presumed that you have no objection to the seniority position as contained in the list and it shall be treated as final and undisputed.

Endorsement No and Even date

- Copy for information to
- 1. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to Appeal
- 2. The Section Officer Food Government of Khyber Pakhtunkhwa Food Department
- 3. Mr. Muhammad Naveed AFC Office of District Food Controller, Manschra.

DIRECTOR FOOD KHYBER PAKHTUNKHWA PESHAWAR.

DIRECTOR FOOD KHYBER PAKHTUNKHWA

PESHAWAR

Charles States

1.1-716 (Circulation of Seniority List of Assistant Food Controller dated 31-10-2016doc.doc

ABVISED SEMIORITY LIST OF ASSISTANT FOOD CONTROLLERS (33-14) IN THE FOOD DIRECTORATE KHYDER FAKHTUNKHWA, PESHAWAR AS IT STOOD ON 31-10-2010.

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5.5	. 3.	Mr. Aman Ullah			<u> </u>	1			Already appointed as DF.	15.07.2017
1.1	4	Mr. Fazli Bari	F.A.	15.06.1957	M.Agency	22.06121	·		/S&EO/RC (BS-15) on activ	
	\$	Muhammad Zubair	<u>B.A.</u>	02.02.1961	Chitter	22.06.1982	25.03.1998		Charge basis w.e.(23-12-2)	13 · · · · · · ·
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	<u> </u>	Mr. Mehmood-ur-Rahma	an C.Com.	02.11.1969		09.05.1993	30.08.2000	14-12-2009	By Prometion	14.06.2017
	<u>4 7 7 - </u>	IMr. Salah-ud-Din	B.A.			09.05.1993		06-04-2010	Bi Deer	01.02.2021
新建筑	8.	Muhammd Arshad		25.11.1972	Peshawar	09.05.1993	30.08.2000	06-04-2010	By Prometion	31.01.2030
		Syed Wazir Shah	<u> </u>	15.09.196	Charsadda		30.08.2000	06-04-2010	By Promotion	01.11.2029
	· . j0.	Mr. Aftab Umar Khan	M.A.	08.06.1959	Mansehra	09.05.1993	30.11.2000	06-04-2010	By Prometion	24.11.2032
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<u></u>	12.	Mr. Ansar Qayum	B.A		Peshewar	09.05.1993	17.06.2005	19-05-2010	By initial recruitment	07.05.2019
1-11-	13.	Mr. Abdul Hafeez	M.A	11.07.1970	Mansehra	09.05.1993		21-10-2011	Build recruitment	03-08-2045
	- 14.	Mr. Arshad Hussain		07.07.1969	Charsedda.		20-12-2003	06-04-2010	By Promotion	28.02.2030
	15.	Mr. Ali Asghar Khan	B.A	01.01.1970	Chitral	09.05.1993	20.12.2003	21-10-2010	By Promotion	10.07.2030
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		Mr. Shabir Ahmad Khan	LLB ·		Mardan	09.05.1993	20.12.2003	04-10-2011		121:10.2029
	17. 11	Mr. Said Nawaz		30.04.1966	FR Peshawar	09.05.1993		. 04-10-2011	D D	31.12.2030
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	20. N	Ir. Sheraz Anwar	F.A	14.02.1968	Bannu	09.05.1993		18-02-2012	Der Deserver	19.03.2032
2	21. N	fr. Muhammad Azam		05.02.1974	Mansehra		20.12.2003	21.05.2012		19.06.2032
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		. Hateez-ur Rehman	B.A		Mansehra	07.08.2015		07.00.2013	By initial recruitment 10	2.01.2047
28.	Mr.	Adnan Khan		18.04.1984	Dir Lower	07.08.2015		01.03.2015	Den trata	2.01.204/
. 29.	M-	Muhammad Akbar	M.A	0	Peshawar			07.08.2015		9.04.2047
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siunammad Shnaib	F.A		03-11-2008	03-11-2008	11-04-2010	By Promotion	
57. Mr. Amjid Khan		11.04.1966 Mansehra	04.07.1993		111-04-2015		01.05.2033
38. Mr. Mohammad Zubair	Madree M.A	05.01.1975 Malakand	15.08.1993	05-11-2008	121-04-2010	By Promotion	31.12.2035
Mr .Saif Ali Shah		21.09.1970 Mardan	16.08.1993	05-11-2008	22-04-2015	By Promotion	10.04.2026
40. Mr. Gul Zareen Shah	B.Sc	03.03.1969 Kohat	19.08.1993	12-01-2009	22-04-2012	By Promotion	04.01.2035
41. Syed Wasim Shah	M.A	.15.04.1957 Bannu		12-01-2009	22-04-2010	By Promotion	20.09.2030
42. Mr. Rashid Saeed	F.Sc	15-02-1987 Kohat	24.10.1994	12-01-2009	22-04-2015	By Promotion	02.03.2029
43. Mr. Aman Khan	B.A	15.03.1974 DIKhan	13-08-2009	13-08-2009	22-04-2016	By Promotion	14.04.2017
44. Mr. Ashfaq Khan	F.Sc	02.08.1968 Bannu	22.05.1995	26-12-2009	22-04-2016	By Promotion	14-02-2047
45. Mr. Riaz Ahmad	B.A		09.05.1993	05-11-2008		By Promotion	
46 Mr. At	M.A		22.05.1995	26 12:2000	04-08-2016	By Promotion	14.03.2034
Mr. Ateeq-ur Rehman	B.A		02.05.1995	25 12 2000	04-08-2016	By Promotion	01.08.2028
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ASSISTANT DIRECTOR FOOD (E)

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	-		i	· · · ·	Service	to the post	to the presen		Joupennation
					•	of FGI/Cane	post		1
1	Gul Andaz	6 .4	15.12.1950	i Bannu	07.05.1973	Inspector	· · · · · · · · · · · · · · · · · · ·	•••	
	Salim Iqba!	B.A	30.10.1952		10.08.1973	07.05.1973	14.03.1935	By Premotion	14.12.2010
<u>j 3</u>	Jamshed Ashiraf Baig	F.\	26.07.1952	Peshawar	01.04.1972	15.12.1973	12.10.1995	By Premotion	29.10.2012
4	Fida Muhammad	MATRIC	2202.1954			01.04.1975	23.12.1996	By Premolion	25.07.2012
5	Imtiaz Mohammad Khan	MSC	31.03.1972	Battagra,	22.08.1972	23.08.1975	12.10.1995	. By Promotion	21.02.2014
6	Rashid Jamal	BALLB	07.03.1969	Peshawar	23.11.1995		23.11.1995	By initial recruitment	30.03.2032
.7	Nazir Rehman	MA	05.04.1970	FR Bannu	26.11.1995		26.11.1995	By initial recruitment	06.03.2029
8	Syed Fazle Manan	FA	02.09.1948	i Bajor	16.11.1995	- :@:	16.11.1995	By initial recruitment	0404.2030
9	Sanaullah Khan	MATRIC	15.11.1948	Bannu	29.9.1975	29.09.1975	01.12.1996	By Promotion	01.09.2008
10	Syed Igbal Hussain Shah	BA	250.8.1958	Mansehra '	19.08.1976	19.08.1976	17.06.2005	By Promotion	14.11.2008
11	Sarfaraz Khan	BA	04.01.1952	Abbaottabad	28.04.1977	28.04.1977.1	23.12.1996	By Promotion	24.08.2018
12	Jan Nisar Khan	FA	28.04.1951	Peshawar	06.06.1977		07.02.1998	By Promotion	03.01.2012
13	Abdur Rashid	FA	010.6.1953	Mansehra	13.06.1977	13.06.1977	07.02.1993 ;	By Premotion	27.04.2011
14	Mohammad Anwar	MATRIC	04.04.1953.	Peshawar	02.05.1973		<u>1.09.2000</u>	By Promotion	31.05.2013
15	Ihsan Ali	FA	15.01.1951	Mardan	03.05.1973		5.03.1998	By Promotion	03.04.2013
16	Javed Sultan	METRIC	13.01.1956	Bannú	03.05.1973		7.02.1998	By Promotion	14.01.2011
17	Asfandyar Khan	METRIC	17.04.1953	Mardan	15.07.1975		<u>0.08.2000</u>	By Promotion.	12.01.2016
18	Amanullah Khan Afidi	BA	05.08.1949	Khyber	03.05.1973		2.09.2006	By Promotion	16.04.2013
19	Haji Faridullah Khan	FA	28.12.1947	l Peshawar	05.05.1973		0.08.2000	By Promotion	04.08.2009
20	Khanzada Khan	FAC	05.03.1956		19.05.1973		.08.2000 E	By Promotion	27.12.2007.
21	Amanullah Khan Mohmand	FA	09.01.1949	Bannu Peshawar	02.11.1980		.12.2002 16	y Promotion	04.03.2016
22	Syed Afsar Ali Shah	METRIC	130.3.1949		03.05.1973	07.04198123 17	UG 2005 · Jo	y Promotion	08.01.2009
23	Qazi Fida Ur Rehman		05.02.1943	Mansehra	01.10.1974	08.061982#3 31	07 2002 15	y Promotion	12.03.2009
24	Mohammad Iqbal		11.04.1960	Bannu	22.06.1982	22.06.1992 31	07.2003 B		04.02.2023.
25	Faridullah Khan Afridi			Malakand	23.06.1962	23.00.1202.00 31.	07.2003 B		10.04,2030
26	Mohammad Munir Khan			D.I.Khan	26.06.1982	20.00300024301.21	17 2002		14.10.2018
		<u> </u>	2403.1832	Abbottabad	19.04.1972	08:06:4982:44 20			
	·								23.05.2012

SEMICRITY LIST OF ASSAULTING DOD CONTOLLERS IN FOOD DEPARTMENT AS A DECK ON 18-06 2002

Seniority List of AFC as stood on 16-06-2007

2000-

<u> </u>	Ashier Bang.			Noha:	101 <u>6 65</u>				5.
	Pir Hashmat Ar Biab	(7 1) ([*]	1 33 1951	S Waz islan	1.03 10 1974	0.061382		Sy - romodot	
1.58	Mohammad Taradila	음수	01.10.1983	r eshawar	03.01.1986	······································	2010-1-1-	3y Promotion:	42-201
1 30	Khan Inwas All						01.07.2075	By Promotion	0 30 0 (<u>202</u> 3
. 31	Syed Asif Ali Spah	BALLB	13.03 1983	/ Peshawar	30.07.2005		1 20 30 00000-		
32	Mr.Shewaz Taria	BALLB	1 11.01.1988	Peshawa	30.07.2005		1 29.34.2005	By initial recruitment	17.03.2043
33	Amjad Ali	<u> BA</u>	12.11.1981	Abbottabad	30.07.2005		30.07.2005	By initial recruitment	10.01.2048
34	/ Manzcor Ahmaj	I FA	01.01,1975	Charsadaa	04.03.2006		1.30.07.2005	By initial recruitment	11.11.2041
35	Obaid ur Rehman	FABCOM	10.03.1950	Peshawa	07.07.1973	26.03.1985	23.05.2003	By initial recruitment	31.12.2034
36	Bashir Ahmad	METRIC	13.04.1953	Mardan	27.03.1975		23.05.2003	By Promotion.	09.03.2010
37	Vacant	IMETRIC	04.02.1955	Chitral	01.06.1977	14.03.1985	23.05.2003	By Promotion	12.04.2013
38	Vacant	 		<u>-</u>				By Promotion.	03.02.2015
39	Vacant			· · · · · · · · · · · · · · · · · · ·				<u> </u>	·

- ·

50 or stood on 16-06-2007



1

2.

3

FOOD DIRECTORATE NWEP PESHAWAR - 85 JET/710

100012006 Dated

All District Food Controllers in NWFP. The Storage & Enforcement Officer, Peshawar & Azakhel. The Rationing Controller, Peshawar,

Subject :

计图片

SEMIORITY LIST OF ASSISTANT FOOD CONTROLLERS/APEAL FOR SENIORITY. Memo :

In pursuance of the decision taken by the Competent Authority on, recommendations of seniority committee headed by Deputy Director Accounts, Food. Directorate, NWEP Peshawar, in appeal cases of Mr.Sanaultah khan Mr.Mohammarl lipst and Mr. Muhammad Zatamilah Khan Assistant Lood Controllers, the seniority list of Assistant Food Controller has been revised and is accordingly circulated for your information. Please, acknowledge its receipt, and circulate it among the Assistant Food / Controllers working under your Administrative control.

2 Variation, if any, in the list be pointed out within two weeks time of the receipt of the seniority list, otherwise it will be presumed that the concerned Assistant Food controllers working under your control have no objection to their seniority position as contained in the list and it shall be treated as final and undisputed.

1: ef 15. E.No /ET

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DATE

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DIRECTOR FOOD, NWFP 🕼 PESHAWAI

Dated 06 0%/2006

A copy is forwarded to :

1. The Section Officer Food, for information and necessary action please. 2. The Deputy Director Accounts, Food Directorate, Peshawar, for information and necessary action with reference to the meeting of seniority Committee dated 11.8.2006:

3. The Assistant Director Food (Coordination), Food Directorate, Peshawar, for morination and necessary action please

The Regional Audit Officer, Food Directorate; Peshawar, for information and necessary action please.

5. Appellants concerned for information and necessary action.

CTOR FOOD, NWFP: DIRE PESHAWAR.

SENIORITY LIDT OF ASSISTANT FOOD CONTROLLERS IN FOOD DEPARTMENT AS STOOD

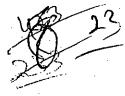
	Total sand	liened posts	40	i	N FOOD DEPARTMENT	<u> </u>	8.2006	hat of AFC-07-09-200
	Held							
₹	Vacant		35	·				
· · · · · · · · · · · · · · · · · · ·			5					
S.No. Name of Govt:	Some to Day						: :	
	Servant Qualific.	ation Date of birth	Domicite	- Case of i			· · ·	
		1.		a ce or enay	Date of appointment	0		
				into govt	the post of FGI/Cane	1 -416-01	Method 57	Date of
1 Gul Andaaz	B.A	15.12.1950		service		-resument		
	B.A	30.10.1952	Bannu	37.05.1973	<u>Inspector</u> 07.05.1973	the present no	st	superannuat
3 Jamshed Ashraf Baig	F.A		Peshawar	10.08.1972	16 12 4673	14.03.1985	By promotion	
4 Fide Muhammad	Matric	26.07.1952	Peshawar	21.04.1975	10.12 1973	. 12.10.1995	By promotion	14.12.2010
5 Mazir Rehman	131.0	22.02.1954	Marisehra	22.08.1972	01.04.1975	23.12.1996	By promotion	29.13 2012
6 Emtiaz Muhammad Kha	n MS.C	05.04.1970	FR Sannu	5.11.199f	23.08 1975	12.10.1995	By promotion	. 25 07.2012
7 Reshid Jamal	B.A.L.L.B .	31.03.1972	Battagram	23.11.1995		18.11.1995	By promotion	21 0 2014
6 Syed Fazle Manan		07.03.1969	Peshawar			23.11.1995	By initial recuirment	04.C- 2030
9 Sanaulah Khan	F.A	02.09 1943	Saior			26.11.1995	By initial recultment	30.03 2032
10 Syed Iqtal Hussain Sha	Matric	15.11.1948	Bannu	29.09.1975	29.09.1975	01.12.1995	By initial recultatent	06.03.2029
11 Seriarez Khan			Mansehra	13.08.1975	19.03.1976	17 66 9395	By promotion	01.02.2008
12 Jan Niser Khan	6.A		Abboltabad	23.04.1977	23.04.1977	17.05.2005	By promotion	14.11.2008
13 1-odur Rashki	F.A		Peshawar	C6.06.1977	06.06 1977	23.12.1996	By promotion	24.05.2018
14 Lichenmed Anwar	F.A		lansehra	3.05.1977	13.06.1577	07.02.1998	By promotion	
15 Losan All	Matric		eshawar	02.05.1973	01.06 1918	07.02.1998	By promotion	03.01.2012
	F.A	15.04 405		03.06.1973	15.05.1973	01.09.2000 ·	By promotion	27.0+2011
	Matric	12 64 45 65	lardan ((3.05.197.3	18 10.1975	25.03.1998	By promotion	31.05 2013
	Matric		annu	15.07.1975	24.01.1953	07.02.1998	By promotion	03.04 2015
<u></u>	B.A		ardan	03.05.1973	20.03 1932		By prometion	4.01 2011
	F.A		nyber	C5.05.1973	22.03.1950	20.05.2000	By promiction	12.01.2016
	IFS.C		shawar	15 05.1973	01.05 1950		By promision	16.04 2013
21 Lamanullan Khan	F.A		กกม	02.11.1980			By promation	04.03 2009
22 - Mia Khan		69.01.1549 Pe	shawar	03.05.1973	02.11.193	· · · · · · · · · · · · · · · · · · ·	by promotion	27.12.2007
23 S. sd Afsar All Shah	Matric	19.04.19-1. IM3	rdan	2205.1973	07.04.1001		By prometion	:4.03.2016
	F.A	13.03.1945 [Mia	nsehra	01.10 1974	01.03.103		y prometion	08.01.2009
in " Hashmat Ali Shah		24.05.1952 Abr	ottabad	15.04.1972	09 08.1915		y promotion	13.04.2007
28 Wishfaq Epingash		15.08.1951 IS.W	/azinstan	0310.1974	08.06.1982	20.40.000	y promotion	12.03.2359
27 jūezi Fideur Rehman	F.A	03.04.1950 Koh	at		C9.C5.1992	Contraction and the second sec	/ promotion	23.05 2012
28 Michaminat Iqbal	B.A	05.02.1953 Ban		G1.10.1974 .	12.05.1922		r prometien	14.03.2011
29 Farid ullah Khan Afridi -	B.A			22 06.1982	22.05.1982		premotion	02.04.2010
30 Wohammat Zafarullah	FA			23.65.1982	23.06.1932	31.07.2003 By	promotion	04.02.2023
31 Jawad Ali	8.A	01.10.1953 DIKh		26.06.1982	- 26:06:1952	31.07.2003 By	promotion	-10.04.2020;
	BALLB	18.03.1983 Pesh		03.51.1986	· · · · · · · · · · · · · · · · · · ·	2012.2003 By	prometon	- 14.10.2018
	SALL8	/· 0.316	<u> </u>	0 97.2005		29.04.2005	nitial recruitment	30.00 5272
	Mairio	31.00 1000		1.68.2005			nitial recruitment	30.09.2323
	FAS.Com			1.66.1977	14.03.1985	G1.08 2005 3VI	nibel recruitment	\$7.03.2543
35 Marzoor Armed	[F.A]	13 64.1953 Marda	10 2	7.03 1975	24.03.1925			10.01.2041
······································		10.03.1950 Pesha	wer I O	7.07.1973	25.03.1985	4 T C U C		03.02.2015
			the second se		20,00,1000		eneren .	12 04 2113 10
	· · · · · · · · · · · · · · · · · · ·	والمستحد المراجع والمشارعة المشارع الرابت المستر وترسان				loy o	omotion 1	09.03 2010

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ERNMENT OF KHYBER PAKHTUNKHWA DIRECTORATE OF FOOD PESHAWAR No, 2 /G-275-DPC



Dated Peshawar, the 2017 / January-2017

OFFICE ORDER.

2

On the recommendation of the Departmental Promotion Committee in its meeting held on 23-12-2017, the competent authority is pleased to promote/ appoint the following Assistant Food Controller (BS-14) to the post of District Food Controller / Storage & Enforcement Officer / Rationing Controller (BS-16) on regular / acting charge basis with immediate effect.

On promotion/ appointment to the next higher scale, the following postings/transfers of District Food Controllers, Storage & Enforcement Officer and Rationing Controller Peshawar are hereby ordered with immediate effect in the public interest.

S. No 1).	Name of Officer / Officials with present designation Mr. Muhammad Naveed	posting	Promoted/ posted as
		DFC Office Mansehra	On appointment to the post of DFC / S&EO/ RC (BS-16) on acting charge basis with immediate effect, he is transferred and posted as Rationing Controller, Peshawar.
2)	Mr. Tajbar Khan AFC (Already appointed as DFC /S&EO/ RC (BS-16) on acting charge basis)	S&EO PRC Peshawar,	On promotion to the post of DFC / S&EO/ RC (BS-16) on regular basis with immediate effect, he will continue as Storage & Enforcement Officer PRC Peshawar.
3)	Mr. Amanullah AFC	Presently working against the post of DFC Dir Upper in his own pay & scale.	On appointment to the post of DFC / S&EO/ RC (BS-16) on acting charge basis with immediate effect, he will continue as DFC Dir Upper.

Note:- [1

They shall be on probation period for a period of one year which can be extended subject

DIRECTOR FOOD KHYBER PAKTHUNKHWA PESHAWAR.

Endorsement No & Date Even Copy for information to:-

- 1. PS to. Minister Food Khyber Pakhtunkhwa, Peshawar
- PS to Secretary Food Khyber Pakhtunkhwa, Peshawar 2.
- The Accountant General, Khyber Pakhtunkhwa, Peshawar. 3.
- The District Accounts Officers, Manschra, Dir Upper and Haripur. 4.
- 5.
- The Manager, National Bank of Pakistan Dir Upper, Mansehra, Abbottabad and Haripur The Assistant Directors Food Peshawar, Malakand and Hazara Divisions 6.
- 7.
- The Treasury Officers, Peshawar, Dir Upper, Manschra, Abbottabad and Haripur. The District Food Controllers Mansehra and Dir Upper. Κ.
- 9. The Storage & Enforcement Officer PRC Peshawar.
- 10. The Rationing Controller, Peshawar.
- 11. Officers concerned/ Personal File.

DFC and 63-01-2017 do

DIRECTOR KHYBER PAKTHUNK PESHAWAR

04.01.15

PES	HAV	γA	R.	

A meeting of the Departmental Promotion Committee was held under the chairmanship of Secretary 1963 Khyber Pakhtunkhwa, Peshawar in his office on 23-12-2016 at 03:00 P.M. The following members attended the income

(i)	Mr. Askar Khan Deputy Secretary Food	Member
	Food Department Khyber Pakhtunkhwa	
(ii)	Mr. Rashid Jamal	Mombau
•••	Deputy Director Food (A&C) Food Directorate, Peshawar	Member
•		
(iii)	Mr. Moazam Khan	Member
	Section Officer (R-11) Finance Department Khyber Pakhtunkhwa.	·
(iv)	Mr. Muhammad Salim Shah	
	Section Officer (R-III)	Member
	Establishment Department Khyber Pakhtunkhwa.	

The case for promotion of 01 (One) Assistant Food Controller (already appointed as District Food Controller (BS-16) on acting charge basis) on regular basis and appointment of 02 (two) Assistant Food Controllers (BS- 10 ± 0 the post of District Food Controller (BS-16) on acting charge basis in Food Department, as included / explained in the working papers of the Departmental Promotion Committee, were discussed by the Committee at length. The committee made the following recommendations:-

3.80	Name of Official	Place of posting	Pagommondad
	Mr. Muhammad Naveed Assistant Food Controller (BS-14)	District Food Controller Office Manschra	Recommended as Recommended for appointment as District Food Controller / Storage & Enforcement Officer / Rationing Controller (BS-16) on acting charge basis with immediate effect as per decision of Khyber Pakhtunkhwa Service Tribunal dated 15-08-2016.
	Mr. Tajbar Khan Assistant Food Controller (Already appointed as DFC/S&EO/RC (BS-16) on acting charge basis).	Storage & Enforcement Officer, PRC Peshawar.	Recommended for promotion to the post of District Food Controller/ Storage & Enforcement Officer/Rationing Controller (BS- 16) on regular basis with immediate effect.
	Mr. Amanullah Assistant Food Controller (135-14)	Presently working as DFC Dir Upper in his own pay & scale.	Recommended for appointment as District Food Controller / Storage & Enforcement Officer / Rationing Controller (BS-16) on acting charge basis with immediate effect.

The meeting ended with a vote of thanks from & to the chair.

DEPUTY SECRETARY FOOD. FOOD DEPARTMENT KHYBER PAKHTU<u>NK</u>HWA

SFCTION OFFICER (R-II) HEANCEDEPARTMENT

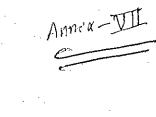
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DEPUTY DIRECTOR FOOD (A&C) FOOD DIRECTORATE, PESHAWAR

SECTION OFFICER (R-111) ESTABLISHMENT DEPARTMENT KHYBER PAKHTUNKHWA.

SECRETARY KHYBER PAKHFUNKHWA 23.12.16 DESHAWAR PESHAWAR.

section the promotes of AFC to DFC david (st. 15.05)



GOVERNMENT OF KHYBER PAKHTUNKHWA FOOD DEPARTMENT

NO.SOF/1-3/DPC/Vol.XI/ 3688 -Dated Pesh: the 09-01-2017

- 1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
- 2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department, Peshawar.

Subject:- MEETING OF DEPARTMENTAL PROMOTION COMMITTEE.

I am directed to refer to the subject noted above and to state that the meeting of the Departmental Promotion Committee of Food Department to be held under the chairmanship of Secretary Food Khyber Pakhtunkhwa in his office on 11^{th} January 2017 at 11:00AM.

02. Agenda of the meeting will be as under:-

Promotion of Muhammad Naveed DFC/ S&EO/ RC (BPS-16) on acting charge basis against the post of Assistant Director (BPS-17), in the light of court's decision dated 15-08-2016.

ADE

03. You are, therefore, requested kindly to depute a well-conversant representative of your Department to attend the above-cited meeting on the scheduled date and time. Working papers are enclosed, please.

Encl: as above.

То

Yours faithfully,

SECTION OFFICER (GENERAL)

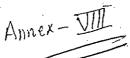
C.C:-

P. 15 P. W. C.

- 1. P.S to Secretary Food Khyber Pakhtunkhwa.
- 2. P.A to Deputy Secretary Food, Khyber Pakhtunkhwa.
- 3. P.A to Director Food Khyber Pakhtunkhwa.

Run / M-AZ

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD -01-2017 AT 11:00 PM IN THE OFFICE OF THE SECRETARY-CUM-DIRECTOR FOOD, KILYBI PAKHTUNKHWA, PESHAWAR, A meeting of the Departmental Promotion Committee was held under the chairmanship of Secretary-cum-Director E604. Khyper Pakhtunkhwa. Peshawar in his office on 11-01-2017 at 11:00 hours. The following attended the meeting: Mr. Maqbool Khan Khatak Deputy Secretary (R-II) Member Establishment Department Ehyber Pakhtunkhwa (ii) Mr. Askar Khan Deputy Secretary Food. Member Food Department Khyber Pakhtunkhwa (iii) Mr. Mushtaq Ahmad Section Officer (FR) Finance Department Khyber Pakhtunkhwa Member As per Court's decision, the cases of Mr. Muhammad Naveed, AFC (already appointed as District Food Controller 2 /Storage & Enforcement Officer / Rationing Controller, Peshawar (BS-16) on acting charge basis for further appointment to the post of Assistant Director Food (BS-17) on acting charge basis in Food Department, as explained in the working paper, was discussed by the Departmental Promotion Committee at length. The Committee made the following observations/ recommendations:-Current DOST Observation (s) / Recommendation (s) and place of posting Mr. Muhammad . Kationing Controller Naveed AFC Peshawar (BS-16) (Already appointed as In the light of Court's decision, the Department has already DFC/S&EO/RC (BS-1)restored the seniority of Mr. Muhammed Naveed, AFC, and 16) on acting charge revised seniority of AFCs (as it stood on 30-10-2016) has basis). been issued accordingly. On the basis of revised Seniority List of AFCs, the DPC in its meeting held on 23-12-2016 recommended him for appointment to the next higher scale (BS-16) on acting charge basis. On the recommendation of the DPC, he has been appointed as DFC/ S&EO / RC (BS-16) on acting charge basis on 04-01-2017 There is no provision in the Rules for appointment on 2) acting charge basis for an officer/ official who is already appointed on acting charge basis which is yet to be regularized & has not completed the requisite length of service required for promotion to the next higher scale. Therefore, Appointments, Promotions and Transfers Rules, 1989 do not allow the instant case of promotion (to BS-17) before regular promotion & followed by completion of the requisite length of service in the present pay scale (BS-16). As per record No. Junior officer to him has been promoted 3) to the post of Assistant Director Food (BS-17) Food Department has already implemented the decision of 41 the Court in this behalf, as per rules. The meeting ended with a vote of thanks from & to the chair. :)-DEPLITY SECRETARY FOOD. SECTION OFFICER (FR) FOOD DEPARTMENT FINANCE DEPARTMENT KRYBER PAKHTUNKHWA KHYBER PAKHTUNKHWA DEPUTY SECRETARY (R-II) ESTABLISHMENT DEPARTMENT KHYBER PAKHTUNKHWA 3 SECRETARY-CUM-DIRECTOR FOOD KHYBER PAKHTUNKHWA PESHAWAR. ច ភេទ consistent DEC in ADE dated 14-01-20



GOVERNMENT OF KHYBER PAKHTUNKWA DIRECTORATE OF FOOD PESHAWAR No <u>765</u>/PF-Mayoh Dated Peshawar the, 03/February-2017

OFFICE ORDER

Consequent upon the appointment of Mr. Muhammad Naveed AFC (BS-14) to the post of DFC/S&EO/RC (BS-16) in the light of judgment of Khyber Pakhtunkhwa, Service Tribunal dated 15-08-2016, this Directorate earlier office order for retirement on attaining the age of superannuation of 60 years as AFC (BS-14) vide No. 4737/PF dated 02-09-2016 is hereby withdrawn.

2. On attaining the age of superannuation (i.e. Sixty Years) Mr. Muhammad Naveed Khan Rationing Controller Peshawar (BS-16) is hereby retired from Government Service with effect from 12-01-2017 (A.N)

DIRECTOR FOOD KHYBER PAKHTUN KHWA PESHAWAR.

Endorsement Even No & Date

A copy is forwarded to:-

- 1. PS to Secretary Food Khyber Pakhtunkhwa.
- 2. The Accountant General Khyber Pakhtunkhwa, Peshawar.
- 3. The Rationing Controller Peshawar.
- 4. Mr. Muhammad Naveed Khan RC Peshawar.
- 5. Personal File.

DIRECTOR FOOD KHYBER PAKHTUN KHWA PESHAWAR. 01.03.17

Office Order for retirement-2017 dated 23-02 2017 the

	Amex-12 2 - 1	
		4
0	GOVERNMENT OF KHYBER PAKHTUNKHWA	
J.	LAW. PARLIAMENTARY AFFAIRS &	
	HUMAN RIGHTS DEPARTMENT	•
· .	*****************	
	No. SO(OP-I)/LD/5-6/2012-VOL-IV	
	DATED: PESH: THE 0 6 MARCH, 2017	· /

To

The Secretary to Govt of Khyber Pakhtunkhwa, Food Department.

Subject:

CT: <u>ANTIDATION OF PROMOTION AS ASSISTANT FOOD</u> CONTROLLER AND DISTRICT FOOD CONTROLLER.

Dear Sir,

Lam directed to refer to your Department's letter No.SOG/7-4/14-15/P.X/3947 dated 28/02/2017 on the subject noted above and to state that the Service Tribunal held 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 lower post than his original scale. Thus the relevant time was, his initial adjustment in Food Department from surplus pooled. The Food Department may decide his appeal accordingly, that whether he was grant top seniority position from the date of his initial adjustment as directed by the Service Tribunal or otherwise.

Yours Faithfully,

Section Officer (Opinion-I)

Endst: of even No. & date.

Copy forwarded to the P.S to Secretary Law, Department.

put

Section Officer (Opinion-I)



Subject:-

Dear Sir

C.C.

Annex – 1X GOVERNMENT OF KHYBER PAKHTUNKHWA FOOD DEPARTMENT

NO.SOG/7-4/14-15/P.X/ 3947. Dated Pesh: the 28-02-2017

Yours faithfully,

SECTION OFFICER (GENERAL

RUE BARA

The Secretary, Government of Khyber Pakhtunkhwa, Law Department.

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER.

I am directed to enclose herewith an appeal of Mr. Muhammad Naveed Khan, on the subject noted above (Annex-A) and to say that appellant herewin was previously working as Senior Clerk (BS-07) in the office of Deputy Commissioner, Mansehra. In the year, 2001, he was declared surplus and adjusted in the Food Department as Foodgrain Inspector (BS-06) on 26.01.2006, as per Surplus Pool Policy. The official preferred an appeal before the Service Tribunal, Peshawar on the plea that he was to be placed at the top withe seniority list in accordance with Surplus Pool Policy as he had been adjusted in a lower scale. The Court decided the case in his favour vide sudgement dated 15.08.2016 (Annex-B). The Scrutiny Committee of Law Department did not find the case fit for filing an appeal in the Supreme Court Pakistant (Annex-C). The official was, therefore placed at the top of the semiority list of Assistant Food Controller (as he was then Assistant Food Controller) in pursuance of Court's judgement, as referred to above. consequently, he was appointed against the post of District Food Controller/S&EO on acting charge basis with immediate effect vide order dated 04.01.2017 (Annex-D) on the recommendation of the DPC. Meanwhile the official got retired from service w.e.f 12.01.2017.

22. Law Department is therefore requested to examine the instant appeal in the light of the Court's aforementioned decisions and subsequent action taken by this department and to advise whether the appeal of Mr. Muhammad Naveed Khan, Ex-DFC is tenable or otherwise please.

-1. Director Food, Khyber Pakhtunkhwa. 2. PS to Secretary Food, Khyber Pakhtunkhwa.

The Secretary to Govt of Khyber Pakthunkhwa, Food Department.

Subject:

Τo,

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLIER.

Dear Sir,

With due respect it is stated that the undersigned was working in office of DC Mansehra in Senior Clerk (BPS-7). In the year, 2001, the undersigned was declared surplus. On 26.1.2006, the undersigned was adjusted in the lower Scale as FGI (BPS-6) in Food Department. In accordance with surplus pool policy, it was required to place the undersigned on top of the ser rity list of FGI (BPS-06) as stood on 26.1.2006, however, the undersigned was awarded the seniority at the bottom of FGI.

The Hon'ble Courts was gracious enough to allow the undersigned the correct 2. seniority position vide judgment dated 15.08.2016. The seniority of the undersigned has to be reckoned from 26.1.2006 below the name of Syed Asif Ali Shah AFC and above the name of Bashir Ahmad FGI (Reference is invited to Seniority list of AFC as stood on 31.8.2006 (Copy enclosed).

З. The Department has not implemented the aforementioned judgment in its true sense. The undersigned was promoted as AFC on 22.4,2016 and subsequently was appointed on acting charge as DFC (BPS-16) on 4.1.2017 whereas on fixation of seniority, the undersigned was entitled for promotion as AFC on 15.6.2006 i.e the date my erstwhile jugior Mr Bashir Ahmad was promoted as AFC and as DFC (BPS-16) on 16.5.2012 i.e the date of from the date of my crstwhile junior Mr Bashir Ahmad w_{g} s promoted.

As per Hon'ble Supreme Court ruling the promotion is always made from the 2. date of occurrence of vacancy. (Copies of the judgments are enclosed)

It is, therefore, requested that the undersigned may be promoted with all З. consequential benefits as AFC w.e.f. 15.6.2006 anyl as DFC w.e.f. 16.5.2012 from the dates my erstehile juniors were promoted .

Encl. (10) Rohmein 15/02/17/

Your faithfully,

Muhammad Naveed Khan), Ex- DFC Food Department Khyber Pakhtunkhwa

high it	•	
	Ammer-X	3237
TO-	FOOD DIRECTORATE NWFP, PESHAWAR No. <u>77-79</u> /ET-716-IV Dated <u>1.5</u> /03/2010	492
. :	 All District Food Controllers in NWFP. The Storage & Enforcement Officers, PRC Peshawar & NRC Azakl The Rationing Controller, Peshawar. 	hel.

SENIORITY LIST OF ASSISTANT FOOD CONTROLLER AS IT STOOD ON Subject-05-03-2010 Merno:-

The Seniority List of Assistant Food Controllers as it stood on 05-03-2010 is enclosed herewith for your information. Please acknowledge receipt and circulate it amongst the concerned staff under your administrative control.

2 Variation if any, in the list be pointed out within stipulated period of two weeks time of the receipt of the Seniority List, otherwise it will be presumed that the concerned Assistant Food Controllers working under your control have no objection to their seniority position as contained in the list and it shall be treated as final and un disputed

DIRECTOR FOOD NWFP, PESHAWAR.

- X X /ET-716-IV Dated Peshawar, the 15/03/2010

Copy is forwarded to:-

- 1. The Section Officer, Food, Food Department NWFP, Peshawar for information. 2. All Deputy Directors Food in Food Directorate, NWFP, Peshawar.
- 3. The Assistant Director Food (Inspection) Food Directorate, NWFP, Peshawar
- 4. The Superintendent (Establishment) & (Inspection), in Food Directorate, NWFP, Peshawar for information and necessary action.

DIRECTOR FOOD NWE PESHAWAR.

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18. Aurangzab	F.A.	18.01.1957	M.Agency	22.06.1982	23.12.1996	14-12-2009	By Promotion	17.01.2017
29. Muhammad Nawab	B.Sc.	16.10.1958		22.06.1982	23.12.1996	14-12-2009	By Promotion	15.10.2018 5-
30.	j		Lakki			14-12-2009	By Promotion	
Mr. Hayat Khan	B.A	01.10.1961	Marwat	26.06.1982	23.12.1996	· · ·		25.03-2021
.1. Sher Afzal	F.A.	02.04.1960	FR Bannu	22.06.1982	23.12.1996	14-12-2009	By Promotion	01:04:2020
32. Taj Bar Khan	F.A.	16.07.1957	Dir	23.06.1982	01.01:1997	14-12-2009	By Promotion	15.07.2017
33. Abbas Khan	F.A.	06.05.1952	DIKhan	01.10.1983	25.03.1998	14-12-2009	By Prometion	05.05.2012
34. Iqbal Hussain Afridi	B.A.	05.09.1962	K.Agency	22.06.1982	25.03.1998	14-12-2009	By Promotion	04.09.2022
35. Aman Ullah	F.A.	15.06.1957	M.Agency	22.06.1982	25.03.1998	14-12-2009	By Promotion	14.05.2017
36. Fazli Bari	B.A.	02.02.1961	Chitra!	22.06.1982	30.08.2000	14-12-2009	By Promotion	01.02.2021
37. Vacant		1/			İ		By initial recruitment	
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ASSISTANTIDIRECTOR FOOD (E) NWFP PESHAWAR

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NOT: FICATION

FOOD DIRECTORATE, KHYEER PAKHTUNKHWA PESHAWAR

No. 3217 _/ET-716

Dated 21 10 12014

In pursuance to Rule-17 of the Khyber Pakhtunkhwa Government Servants (Appointment, Promotion and Transfer) Rules 1989, the competent autority has been pleased to posify the following Final Seniority List of District Food Controller / Storage & Enforcement Officers / Rationing Controller Peshawar (BS-16) in the Food Department as it stood on 30-04-2014.

	\$.No	Name of Officer	Qualification.	Date of Birth.	Domicile	Date of entry into Government service.	Date of appointment to the present post	Method of Recruitment /Appointment	Dite of Superconvation
	l.	Rashij Jamal	B.A /LLB	07.03.1969	Pcshawar	26.11.1995	10-09-2009	SY Premotion	06.03.2:13
	2.	Nezit Rehman,	M.A	05.04.1970	FR Bannu	16.11.1995	10-09-2009	BY Promotion	04.04.2:33
	<u> </u>	Syed Isbal Hussain Shah	BA	25.08.1958	Mansehra	28.04.1977	10-09-2009	BY Promotion	24.08.203
	4.	Qazi Fida Ur Rehman	I B.A	05.02.1963	Bannu	22.06.1982	30-03-2011	By Protection	04.02.20.2
	· 5.	Mohammad Iqbal	(B.A.	11.04.1960	Malakand	23.06.1962	30-03-2011	Sy Promotion	10.04.2013
	6.	Faridullah Khan Afridi	FA	. 15.10.1958	F.R. Peshawar	26.06.1982	30-03-2011	By Protection	14.10.2015
	. 7.	Mohammad Zafarullah Khan	B.A	01.10.1963	D.I.Khan	03.01.1986	12-01-2012	By promotion	30,09.2023
	3.	Jawad Ali	BAILE	18.03.1983	Peshawar	30.07.2005	12-01-2012	By promotion	17.03.2043
		Syed Asif Ali Shah	B.A./LLB	11.01.1988	Peshawar	30.07.2005	12-01-2012	By promotion	10.01.2(-1)
-	10,	Amjad Ali	B.A	01.01.1975	Charsadda	04.03.2006	12-01-2012	By promotion	31.12.2034
. 1	11.	Bashir Ahmrd	Matric	04.02.1955	Chitral	23.05.20(6	16-05-2012	By Promotion	03.02.2015 - 04.
1	}2.	ljáz Mahaood	B.A.	27.05.1987	South Wazirstan Agency	25-10-2013	25-10-2013	By Initial Recruitment	16.05.2047
· [13.	Noor Haya!	M.Sc.(Hon)	23.02.1989	Mohamand Agency	25-10-2013	25-10-2013	By Initial Recruitment	22.02.204
Ĺ	14.	Muhanmad Shahab-ud Din	M.A. (Political Science)	30.12.1987	Charsadda	25-10-2013	25-10-2013	By Initial Recruitment	01.01.204
Ľ	15.	Muhammed Ashfaq	M.A (LR)		Dir lower		25-10-2013	By Initial Recruitment	01.01.2045
. ·		Abu Bat	M.A		Peshawar	25-10-2013		By Initial Recruitment	01.04.204
L	17.	Khan Zaman	M.A	01-04-1976	Karak	25-10-2013		By Initial Recruitmant	30.04.2035

The newly appointee DFCs/ S&EOs/RC (BS-16) of PSC given at Serial No.12 to 17 will not confer any right of Seniority till receiving of proper Merit List from Khyber Pakhunkiwa Public Service Commission. Note

Endorsement No & date eve

Copy is forwarded to:-

1. 2. З. 4.

5.

6.

The Section Officer Food, Government of Khyber Pakhtunkhwa, Food Department Peshawar. All Assistant Directors Food at Divisional level in Food Department Khyber Pakhturkhwa. All District Food Controllers in Khyber Pakhtunkhwa. The Storage & Enforcement Officers PRC Peshawar and NRC Azakhel.

Ammur - XI

- The Rationing Controller Peshawar. Concerned File

DIRECTOR FOOD KHYBER PAKHTUNKHWA PESHAWAR

ASSISTANT DEECFOR FOOD KHYBER PAKHTUNKHWA PESHAWAR

Sd/-

DFC- - 2016.

Annex-XII



GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT & ADMN, DEPARTMENT (REGULATION WING)

nod CapattrNot SOR-III (E&AD) 3-2/2013 (Vol-III) Dated Peshawar the May 04, 2017

The Secretary to Govt. of Khyber Pakhtunkhwa, Food Department

Dear Sir,

Subject: -

То

ANTI-DATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER

I am directed to refer to Food Department letter NO. SOF/8-1/2016/5173 dated 18.04.2017 on the captioned subject and to say (that as per decision of Service Tribunal, the official was granted seniority on top of the seniority list and subsequently promoted/appointed to higher pay scales BS-16 accordingly. Thus, Service Tribunal's Judgment appears to have been implemented in the instant case.)

Yours faithfully

118

05.

05-2012

SECTION OFFICER (R-III) Phone No.9211793



To.

GOVERNMENT OF KHYBER PAKHTUNKHWA FOOD DEPARTMENT

NO.SOF/8-1/2016/ 5/73 Dated Pesh: the 18-04-2017

The Secretary, Government of Khyber Pakhtunkhwa, Establishment Department.

Subject:-

Dear Sir,

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DITRICT FOOD CONTROLLER.

I am directed to refer to the subject noted above and to enclose herewith a copy of Director Food Khyber Pakhtunkhwa self-explanatory letter No. 1191/PF-1125-Il dated 17-04-2017 alongwith its enclosures for advice, please.

Encl: As above.

<u>CC:-</u>

Yours faithfully, SECTION OFFICER (GENERAL)

-1. Director Food, Khyber Pakhtunkhwa w/r to his letter as referred to above. 2. PS to Secretary Food, Khyber Pakhtunkhwa.

F=CA+C) 476 18/4117

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er R/BAM



GOVERNMENT OF KHYBER PAKHTUNKHWA, DIRECTORATE OF FOOD PESHAWAR

1141

Dated <u>17</u> /April, 2017

/PF-1125-II

The Section Officer General Government of Khyber Pakhtunkhwa, Food Department Peshawar.

Subject:-

Memo:-

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER

No

above.

Reference your letter No.SOF/8-1/2016/4069 dated 16-03-2017, on the subject noted

Muhammad Naveed Ex-Senior Clerk (BS-07) of District Coordination Officer Mansehra (Surplus Pool of DCO Mansehra) was adjusted as Foodgrain Inspector (BS-06) vide Office Order issued No.1054/ET-542-SPA dated 26-01-2006. The post was upgraded to BS-07 with effect from 02-2008 and further upgraded to (BS-09) with effect from 31-12-2013 in the Food Department Khyber Pakhtunkhwa Peshawar. His pay was protected in (BS-07) according to Policy contained in E&AD Department circulated No. SOR-I(E&AD)1-200/98 dated 08-06-2001 (Annex-I). The policy in vogue at the time of adjustment he was 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. In the mean time the Provincial Government of Khyber Pakhtunkhwa issued revised the Surplus Policy dated 08-06-2001 vide Notification No. SOR-IV (R&AD) Deptt/5-1/2205 dated 15-02-2006 (Annex-II)

3 Against his adjustment and placing at the bottom of Seniority List of Foodgrain Inspectors on appeal to the Khyber Pakhtunkhwa Service Tribunal, and as per judgement dated 15-08-2016 of Para-8 which is reproduced below:-

"A careful perusal of para-6 of the policy letter dated 08-06-2001 would suggest that in case of adjustment of a surplus employees 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 nowhere mentioned in the said circular that an employee is to be placed that 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 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 not worthy that an employee otherwise junior to appellant but if adjusted against a lower post after the amended policy letter dated 15-02-2006 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

PF-1125-II (Muhammad Naveed AFC) dated 10-04-2017

seniority list at the <u>relevant time</u> after the clarification of policy as he was adjusted against a post lower than his original scale. (Annex-III)

As per Court decision, the Seniority List of AFC as it stood on 31-10-2016 was revised and accordingly circulated amongst the concerned AFCs (Annex-IV). To allow his relevant time / original place of seniority position i.e. in seniority list of AFC's as it stood on 16-06-2007 (Annex-V). After placement of Mr. Syed Asif Ali Shah (Already appointed as Assistant Director Food (BS-17), His case for appointment as DFC/S&EO/RC (BS-16) on acting charge basis with other officials was placed before the DPC, the Committee examined the working paper and recommends him for appointment to the post of DFC / S&EO / RC (BS-16) on acting charge basis being Court decision (Annex-VI). To place his seniority at the relevant time further case for promotion/ appointment to the post of Assistant Director Food (BS-17) on acting charge basis was placed before the Committee. A copy of Minutes of DPC is placed at (Annex-VII). On attaining the age of superannuation of 60 years age Mr. Muhaminad Naveed Rationing Controller, Peshawar was retired from service on 12-01-2017. To allow the financial benefit to the exofficer, case was sent to the Law Department Khyber Pakhtunkhwa (Annex-VIII). The Law Department advice that "thus the relevant time was , his initial adjustment in Food Department from surplus pooled. The Food Department may decide his appeal accordingly"(Annex-IX) the following period as relevant time of promotion has been work out from different time froms seniority list of AFCs and DFCs.

i) Promotion as Assistant Food Controller with effect from 26-06-2006 (Annex-X)

Promotion / Appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller, Peshawar with effect from 16-05-2012 (Annex-X)

5 In view of the position explained above, the Establishment Department Khyber Pakhtunkhwa may kindly be approached for seeking necessary advice regarding his seniority position at relevant time, in different pay scale as mentioned above in favour of ex-officer concerned please.

> DIRECTOR FOOD KHYBER PAKHTUN KHWA PESHAWAR.

Endorsement No & Date Even

ii)

Copy for information to Mr. Muhammad Naveed Ex- Rationing Controller Peshawar with reference to his application dated17-02-2017.

DIRECTOR FOOL KHYBER PAKHIUN KHWA PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

<u>No 1313 /ST</u>

Dated 02 /07/2018

The Secretary Food, Govt: of Khyber Pakhtunkhwa, Peshawar.

Subject: ORDER IN EXECUTION PETITION NO.193 /2017, MR. MUHAAMMAD NAVEED.

I am directed to forward herewith a certified copy of Order dated 27/06/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

То

REGISTRAR KHYBER PAKHTÚNKHWA SERVICE TRIBUNAL PESHAWAR.

GOVERNMENT OF KHYBER PARHTUNKHWA FOOD DEPARTMENT

NO.SOO/1-3/DPC/Vol.XI/2018//336 Dated Pesh: the 03-69-2018

1991,9125573 Mile Minochepartmentip/@entail.com

R @looddeastinientha V (Flasdieszecszut

The Secretary,

Gove of Khyber Pakhtunkhwa,

Establishment Department,

Reshawar.

The Secretary,

Govt of Khyber Pakhtunkhwa,

Finance Department, Peshawar

The Director Food;

Khyber Pakhtunkhwa,

Peshawar.

DEPARTMENTAL MINUTES OF THE MEETING OF Subject PROMOTION COMMITTEE HELD ON 27.08.2018

Dear Sir I am directed to relef to the subject noted above and to enclose herewith minutes of the meeting with regard to Three agenda items of the Departmental Promotion Committee held on 27:08.2013, duly signed for

Mormation and necessary action, please.

Encl: As above.

DS to

C.C.to

Your's faithfully.

SECTION OFFICER (GENERAL)

Secretary Rood Knyber Pakhtunkhwa

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 27-08-2018 AT 11:00 AM IN THE OFFICE OF THE SECRETARY FOOD, KHYBER PAKHTUNKHWA, PESHAWAR.

A meeting of the Departmental Promotion Committee was held under the chairmanship of Secretary Food, Khyber Pakhtunkhwa Peshawar in his office on 27-08-2018 at 11:00 A.M. The following members attended the meeting:-

		Member
(i)	Ahmad Kamal Deputy Secretary Food, Khyber Pakhtunkhwa	Member
(ii)	Mr.Riaz-ul Karim Deputy Director Food (A&C) Food Directorate, Peshawar.	Member
(iii)	Mr. Shafi ul Ahmad Section Officer (R-III) Government of Khyber Pakhtunkhwa Establishment Department Peshawar.	
(iv)	Mr. Tariq Mehmood,	Member
	Superintendent, Government of Khyber Pakhtunkhwa Finance Department Peshawar	

2 The Departmental Promotion Committee examined the case for consideration of promotion of Mr. Muhammad Naveed Ex-Rationing Controller, Peshawar from relevant time as Assistant Food Controller (BS-11) with effect from 15-06-2006 and as District Food Controller / Storage & Enforcement Officer /Rationing Controller, Peshawar (BS-16) with effect from 16-05-2012 as per advice of Law Department in light of Court decision dated 18-01-2018.

Muhammad Naveed Khan Ex-Rationing Controller (BS-16) was adjusted in Food Directorate in one step lower scale as Foodgrain Inspector (BS-06) from the surplus pool of DCO Mansehra on 26-01-2006 and accordingly he was placed at the bottom of seniority list pertaining to the relevant case as per policy instructions in vogue at that time. Later on the officer claimed seniority at the top of seniority list through Service Tribunal, Peshawar as per revised surplus pool policy issued by Government on 15-02-2006.The Tribunal accepted the appeal in its judgment dated 15-08-2016 (and accordingly the officer (serving as AFC at the time of judgment) was placed at the top of the Seniority List and consequently he was appointed as DFC/S&EO/RC (BS-16).

4 After retirement, the officer claimed seniority with retrospective effect through an appeal before the Service Tribunal, Camp Court Abbottabad vide Execution Petition No.193/2017. The case was placed before the Departmental Promotion Committee in its meeting held on 30-05-2018 for consideration of promotion of Mr. Muhammad Naveed, Ex-Rationing Controller, Peshawar from relevant time as Assistant Food Controller, with effect from 15-06-2006 and District Food Controller /Storage & Enforcement Officer /Rationing Controller Peshawar with effect from 16-05-2012 as per advice of the Establishment Department in light of Court decision dated 18-01-2018.

5 The Departmental Promotion Committee examined the case in his earlier meeting dated 30-05-3018 and recommended that the Law Department may also be approached again for advice for reexamination of the case. The Law Department advice that implementation of Judgment passed in service appeal No.831/2015 dated 15-08-2016 titled as Mr. Muhammad Naveed versus Government of Khyber Pakhtunkhwa has already attained finality and the same will not be set out as precedent in other cases as it is a judgment in personum not in rem. Hence, in view of the above Administrative Department is advised to implement the judgment in order to avoid contempt of Court proceedings. In light of foregoing, the Departmental Promotion Committee of Food Department Knyber Pathtunkhwa examined the case and recommended promotion of Mr. Muhammad Naveed from relevant time as Assistant Food Controller (BS-11) with effect from 15-08-2006 and as District Food Controller / Storage & Enforcement Officer /Rationing Controller, Peshawar (BS-16) with effect from 16-05-2012 may be considered after seniority position of Mr. Bashir Ahmad Ex-DFC in seniority list of AFC as it stood on 05-03-2010 and seniority list of DFC/ S&EO /RC as at it stood on 30-04-2014 to implement the judgment of Service Tribunal dated 18-01-2018.

I

The meeting ended with a mutual vote of thanks from & to the chair. 7 SECTION OFFICER (R-III) GOVERNMENT OF HHYBER PACHTUNKHWA STABLISHMENT DEPARTMENT SEPERIMTENDENT. GOVERNMENT OF KHYBER PAKHTUNKHWA ESTAB PESHAWÁR FINANCE DEPARTMENT PESHAWAR ODDOURCIGRED DEPUTY-QARE DEPUTY SECRETARY FOOD. FOOD DEPARTMENT KHYBER PAKI SEL KHYBER PAKHTUNKH PESHAWAR

GOVERNMENT OF KHYBER PAKHTUNKHWA FOOD DEPARTMENT

Subject:- MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE DATED 21-02-2018.

A meeting of the Departmental Promotion Committee was held on 21-02-2018 at 11:00 a.m in the office of the Secretary Food, Khyber Pakhtunkhwa for making recommendation to the antedated promotion of Ex-Rationing Controller, Peshawar Mr. Muhammad Naveed (BS-16) to the post of Assistant Director Food (BS-17) in wake of the judgment of the Service Tribunal Peshawa Camp Court Abbottabad in Execution Petition No.193/2017 dated 18-01-2018. The following attended the meeting:

- 1. Mr. Akbar Khan Secretary Food
- Mr. Ahmad Kamal Deputy Secretary Food
- 3. Mr. Nisar Ahmad Director Food
- 4. Mr. Hidayatullah S.O (FR), Finance Dept.
- Mr. Shafi-ul/Ahmad S.O(R-III), Establishment Dept.

Chairman

Member

Member

Member

Member

2. Deputy Secretary Food briefed the committee about the case. Mr.: Muhammad Navced, Ex-DFC/RC(BS-16) was adjusted in Fcod Directorate in one step lower scale as FGI (BS-06) from the surplus pool of DCO Mansehra on 26-01-2006 and accordingly he was placed at the bottom of seniority list pertaining to the relevant cadre as per policy instructions in-vogue that time. The officer herein later claimed seniority at the top of seniority list through Service Tribunal, Peshawar as per revised surplus pool policy issued by government on 15-02=2006. The tribunal accepted the appeal in its judgment date 15-08-2016 and accordingly the officer (serving as AFC at the time of judgment) was placed at the top of the Seniority List and consequently promoted as DFC. After retirement, the officer herein claimed seniority with retrospective effect through an appeal before the Service Tribunal, Camp

GOVERNMEN KHYBER PAKHTU FOOD DEPARTMENT

Subject:- <u>MINUTES OF THE MEETING OF DEPARTMENTAL</u> <u>PROMOTION COMMITTEE DATED 30-05-2018.</u>

A meeting of the Departmental Promotion Crimmittee was held on 30-05-2018 at 11:00 a.m under the chairmanship of Secretary Food in his office for making recommendation to the antedates promotion of Ex-Rationing Controller, Peshawar Mr. Muhammad Naveer 3S-16) to the post of Assistant Director Food (BS-17) in wake of the judgment of the Service Tribunal Peshawar Camp Court Abbottabad in Execution Petition No.193/2017 dated 18-01-2018. The following attended the meeting:

- 1. Mr. Ahmad Kamal
- Deputy Secretary Food
- 2. Mr. Nisar Ahmad Director Food

- 3. Mr. Hidayatullah
- S.O (FR), Finance Dept.
- 4. Mr. Shai.-ul Ahmad S.O(R-III), Establishment Dept.

2. The Deputy Secretary Food briefed the committee about the case. Mr. Muhammad Naveed (Ex-DFC/RC(BS-16) was adjusted in Food Directorate in one step lower scale as FGI (BS-06) from the surplus pool of DCO Mansehra on 26-01-2006 and accordingly he was placed at the bottom of seniority list pertaining to the relevant cadre as per policy instructions invogue at that time. Later on the officer claimed seniority at the top of seniority list through Service Tribunal, Peshawar as per revised surplus pool policy issued by Government on 15-02-2006. The Tribunal accepted the appeal in its judgment dated 15-08-2016 and accordingly the officer (servine as AFC at the time of judgment) was placed at the top of the Seniority List and consequently promoted as DFC. After retirement, the officer claimed seniority with retrospective effect through an appeal before the Service Tribunal, Camp Court Abbottabad vide Execution Petition No. 193/2017.

the case for consideration of promotion

Member

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Member

Member

Member

DFC/Storage & Enforcement Officer/Rationing Contrast, Peshawar with effect from 16.5.2012 as per advice of the Establishment Department in light of Court decision dated 18.01.2018

4. It was brought to the notice of the Committy that there are three cases of same nature in which different decisions have been received from Service Tribunal. Service Appeal No.349/2017 filed by Noor Khan, AFC versus Director Food, Khyber Pakhtunkhwa and others in the Khyber Pakhtunkhwa Service Tribunal for seniority on the basis of judgment in case of Mr. Muhammad Naveed dated 15.8.2016 and has been decided vide judgment dated 08.2.2018. Accordingly the case was placed before the Scrutiny Committee of Law Department for filing CPLA in the Supreme Court of Pakistan and accordingly was found fit for CPLA due to different decision of the Services Tribunal.

5. The Committee after thorough examination of the case decided that the Law Department may be approached again for advice through a detailed reference for re-examination of the case in the : esent scenario when this Department has filed CPLA in the Supreme court of Pakistan, in Noof Khan AFC case or the same grounds.

Meeting ended with a mutual vote of thanks to and from t

chair.

б. :

Mr. Nisar Ahmad Director Food (Member)

Mr. Hidayatuilah S. O (FR), Finance Deptt: (Member)

Mr. Ahmad Kamal Deputy Secretary Food (Member)

Mr. Shafi-ul Ahmad

Mr. Shan-ui Annau (j.) S.O (R-III), Establishment Deptt: (Member)

Mr. Muhań

Secretary Food (Chairman)

GOVERNMENT OF THE KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT. **REGULATION WING**

Dated: 05.12.2017

NOTIFICATION

No.SO(Bolicy)/E&AD/1-16/2017. The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)1-3/2008 dated 28.1.2009, the following amendments shall be made, namely:-

AMENDMENTS

The following words (in italic form) shall be added after the word and dot "PER." appearing in the 3rd line of sub-para (a) of para IV:

The requirement of earning one calendar year report will start from the date the officer joins back and the training period will also be included for completion of the requirement of such PER."

After sub-para (h) of para IV the following sub-para (i) shall be inserted:

the mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:

(i) All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of Court cases.

An officer who gets his seniority restored and becomes senior to already promoted (ii) officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.

In case, the officer expires or retires from service and subsequently, his seniority is (111) restored his case will be considered for proforma promotion alongwith all financial

benefits. Juniors promoted on sub-judice seniority list will be assigned seniority as per final (iv) Court Orders and will be reverted in case there is no vacancy".

Para II (b) shall be substituted as follow:

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing promotion policy. However, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory." min

The clause (i) of sub-para (a) of para V shall be deleted and the next below clause (it 4

shall be re-numbered as (i) and (ii). In sub-para (b) of Para V the word three Si substituted with the word "two".

> Sd/-Secretary to Government of Khyber Pakhtunkhwa Establishment Department

ENDST: NO & EVEN DATE

Copy is forwarded to:-

2

Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development 1. Department.

Additional Chief Secretary (FATA), FATA Secretariat Peshawar.

The Senior Member Board of Revenue, Khyber Pakhtunkhwa. 3.

All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa. 4. 5

The Principal Secretary to Governor, Khyber Pakhtunkhwa.

The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa. 6. 7:

All Divisional Commissioners in Khyber Pakhtunkhwa.

All Heads of Attached Departments in Khyber Pakhtunkhwa. 8.

All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa. 9

All Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA. 10

The Registrar Peshawar High Court, Peshawar 11 ÷21

The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar. ୀ2:

The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar. 13

All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & 14. Administration Department.

(1) 05 (BEENISH IQBAL) SECTION OFFICER (POLICY)



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- Akhtar Hussain Shah, Secretary Govt. of Khyber Pakhtunkhwa Establishment and Administration Department, Regulation Wing, Peshawar Civil Secretariat (previous).
- Arshad Majeed, Secretary Government of Khyber Pakhtunkhwa Department Regulation Wing, Peshawar Civil Secretariat (present).
- Abdul Ahad section Officer, Government of Khyber Pakhtunkhwa Establishment Regulation Wing-II, Civil Secretariat. Peshawar.
- Asmatullah Khan Gandapur Director/Secretary, Govt. of Khyber Pakhtunkhwa Food department, Food Directorate near Haji Camp Bus Stand Main G.T Road Peshawar (previous).
- Muhammad Akbar Khan, Secretary Food Government of Khyber Pakhtunkhwa Food Directorate near Haji Camp Bus Stand, G.T Road, Peshawar (present).

Nisar Ahmed Khan, Director Food Government of Khyber Pakhtunkhwa Food Directorate near Haji Camp Bus Stand, G.T. Road, Peshawar (present)......Respondents.

PETITION FOR CONTEMPT OF COURT OF SECTION 3 AND UNDER CONTEMPT OF COURT ORDINANCE, THE RESPONDENTS AGAINST 2003 NON-COMPLIANCE OF FOR JUDGMENT DATED 15.08.2016 PASSED THIS HONOURABLE COURT IN BY APPEAL NO.831/2015.

18.01.2018

Counsel for the Petitioner and Mr. Usman Ghani, District Attorney for respondents present. Learned counsel for the petitioner argued that judgment of this Tribunal dated 15.08.2016 has not been implemented by the respondents in its true letter and spirit. Through revised seniority list issued by respondent no.5 on 07.11.2016 though the name of the appellant has been placed at the top of the said seniority list but not from the due date. Learned ***** District Attorney when confronted on this point was unable to give a satisfactory reply.

Respondents are directed to produce revised implementation report on or before the next date of hearing. To come up for further proceedings on 19.02.2018 before S.B at camp court Abbottabad.

Certified copy Peshawar BullaL

(Ahmad Hassan) Member (E) Camp Court Abbottabad

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Data of Presentation of A Number of Wessle Copying Fee. Urgent_ Total_ Name of Com Date of Class 1 Date Calman and

19.02.2018

Petitioner present. Mr. Kabirullah Khattak Addi As alongwith Imtiaz Muhammad DIDF for the respondents present. Representative of the department apprises this Tribunal that the D.P.C is fixed for 21.02.2018 and thereafter they would submit implementation report. To come up for implementation report on 19.03.2018 before the S.B camp court, A/Abad.

์ ant Camp Court, A/Abad

Polatunk

19.03.2018

1814.2018

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Mr.Imtiaz Muhammad Khan, Divisional Assistant Director Food, Hazara for the respondents present. Representative of the respondents submitted copy of a letter where under the issue of promotion of the appelnt is under consideration and the department has sought clarification from the Establish Department. To come up for implementation report on 18.04.2018 before S.B at camp court, Abbottabad.

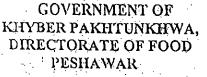
Chairman Camp court, A/Abad

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Arshad Farooq, Assistant and Imtiaz Muhammad Khan, Divisional Asstt. Director for the respondents present. Representative of the respondents seeks adjournment. Last opportunity is granted. To come up for implementation report on 27.06.2018 before the S.B at camp court. Abbottabad.

Certified to be ture copy i hwa occal, Peshawar

Chairman

Camp court, A/Abad



1191 No /PF-1125-II Dated <u>17</u> /April, 2017

The Section Officer General Government of Khyber Pakhtunkhwa, Food Department Peshawar.

Subject:-

above.

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER

Reference your letter No.SOF/8-1/2016/4069 dated 16-03-2017, on the subject noted

² Muhammad Naveed Ex-Senior Clerk (BS-07) of District Coordination Officer Mansehra (Surplus Pool of DCO Mansehra) was adjusted as Foodgrain Inspector (BS-06) vide Office Order issued No.1054/ET-542-SPA dated 26-01-2006. The post was upgraded to BS-07 with effect from 02-2008 and further upgraded to (BS-09) with effect from 31-12-2013 in the Food Department Khyber Pakhtunkhwa Peshawar. His pay was protected in (BS-07) according to Policy contained in E&AD Department circulated No. SOR-I(E&AD)1-200/98 dated 08-06-2001 (Annex-I). The policy in vogue at the time of adjustment he was 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. In the mean time the Provincial Government of Khyber Pakhtunkhwa issued revised the Surplus Policy dated 08-06-2001 vide Notification No. SOR-IV (R&AD) Deptt/5-1/2205 dated 15-02-2006 (Annex-II)

3 Against his adjustment and placing at the bottom of Seniority List of Foodgrain Inspectors on appeal to the Khyber Pakhtunkhwa Service Tribunal, and as per judgement dated 15-08-2016 of Para-8 which is reproduced below:-

"A careful perusal of para-6 of the policy letter dated 08-06-2001 would suggest that in case of adjustment of a surplus employees 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 nowhere mentioned in the said circular that an employee is to be placed that 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 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 not worthy that an employee otherwise junior to appellant but if adjusted against a lower post after the amended policy letter dated 15-02-2006 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 <u>relevant time</u> after the clarification of policy as he was adjusted A against a post lower than his original scale. (Annex-III)

As per Court decision, the Seniority List of AFC as it stood on 31-10-2016 was revised and accordingly circulated amongst the concerned AFCs (Annex-IV). To allow his relevant time / original place of seniority position i.e. in seniority list of AFC's as it stood on 16-06-2007 (Annex-V). After placement of Mr. Syed Asif Ali Shah (Already appointed as Assistant Director Food (BS-17), His case for appointment as DFC/S&EO/RC (BS-16) on acting charge basis with other officials was placed before the DPC, the Committee examined the working paper and recommends him for appointment to the post of DFC / S&EO / RC (BS-16) on acting charge basis being Court decision (Annex-VI). To place his seniority at the relevant time further case for promotion/ appointment to the post of Assistant Director Food (BS-17) on acting charge basis was placed before the Committee. A copy of Minutes of DPC is placed at (Annex-VII). On attaining the age of superannuation of 60 years age Mr. Muhammad Naveed Rationing Controller, Peshawar was retired from service on 12-01-2017. To allow the financial benefit to the exofficen case was sent to the Law Department Khyber Pakhtunkhwa (Annex-VII). The Law Department advice that "thus the relevant time was , his initial adjustment in Food Department from surplus pooled. The Food Department may decide his appeal accordingly"(Annex-IX) the following period as relevant time of promotion has been work out from different time from seniority list of AFCs and DFCs.

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Promotion as Assistant Food Controller with effect from 26-06-2006 (Annex-X)

Promotion / Appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller, Peshawar with effect from 16-05-2012 (Annex-X)

5 In view of the position explained above, the Establishment Department Khyber Pakhtunkhwa may kindly be approached for seeking necessary advice regarding his seniority position at relevant time, in different pay scale as mentioned above in favour of ex-officer concerned please.

> DIRECTOR FOOD KHYBER PAKHTUN KHWA PESHAWAR.

Endorsement No & Date Even

Copy for information to Mr. Muhammad Naveed Ex- Rationing Controller Peshawar with reference to his application dated17-02-2017.

DIRECTOR FOOI KHYBER PAKHTUN KHWA PESHAWAR.

The Secretary to Govt of Khyber Pakthunkhwa, Food Department.

Subject:- ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER.

Dear Sir,

With due respect it is stated that the undersigned was working in office of DC Mansehra in Senior Clerk (BPS-7). In the year, 2001, the undersigned was declared surplus. On 26.1.2006, the undersigned was adjusted in the lower Scale as FGI (BPS-6) in Food Department. In accordance with surplus pool policy, it was required to place the undersigned on top of the seniority list of FGI (BPS-06) as stood on 26.1.2006, however, the undersigned was awarded the seniority at the bottom of FGI.

2. The Hon'ble Courts was gracious enough to allow the undersigned the correct seniority position vide judgment dated 15.08.2016. The seniority of the undersigned has to be reckoned from 26.1.2006 below the name of Syed Asif All Shah AFC and above the name of Bashir Ahmad FGi (Reference is invited to Senicrity list of AFC as stood on 31.8.2006 (Copy enclosed).

3. The Department has not implemented the aforementioned judgment in its true sense. The undersigned was promoted as AFC on 22.4,2016 and subsequently was appointed on acting charge as DFC (BPS-16) on 4.1.2017 whereas on fixation of seniority, the undersigned was entitled for promotion as AFC on 15.6.2006 i.e the date my erstwhile junior Mr Bashir Ahmad was promoted as AFC and as DFC (BPS-16) on 16.5.2012 i.e the date of from the date of my erstwhile junior Mr Bashir Ahmad was promoted.

2. As per Hon'ble Supreme Court ruling the promotion is always made from the date of occurrence of vacancy. (Copies of the judgments are enclosed)

3. It is, therefore, requested that the undersigned may be promoted with all consequential benefits as AFC w.e.f. 15.6.2006 and as DFC w.e.f 16.5.2012 from the dates my erstwhile juniors were promoted .

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Encl: (10) 12 pmm 12 pmm 15/02/17/

Your faithfully,

(Muhammad Naveed Khan), Ex- DFC Food Department Khyber Pakhtunkhwa

THE REPORT OF MANY MENTION OF A STATE

WICE APPEAL NO.831/2015 MUHAMMAD NAVEED VS GOVERNMENT

A special meeting of Scrutiny Committee was held on 17-10-2016 at 14:00 is in continuation of the previous meeting dated 07-10-2016 in the office of etary Law Department under his Chairmanship being. Convener of the inv Committee in order to determine the fitness of subject case for filing of ceal in the upper forum. List of participants is annexed

Meeting started with the recitation of few verses from the Holy Quran. The envener welcomed the participants and started the proceedings of the meeting nviting the representative of Food Department to apprise the Committee cut the background of the case who stated that petitioner being an Ex-cloyee (BS-07) of Deputy Commissioner office Mansehra was declared clus in the year 2001 and later on adjusted in Food Department in (BPS-06) 2€ office_order_dated 26-01-2006 as per surplus policy of the Provincial. c /ernment. The petitioner / plaintiff after adjustment then challenged the en ority-list vide petition No.494-A/12 wherein it was decided by the honorable curt that Administrative Department may decide the grievances of the appellant ...nin_a period_of_60_days. The petitioner also filed civil petition_No.2336/14 :=:ore:the August Supreme Court of Pakistan which was disposed of on 25-03-x 215 with direction to the official respondents to decide the departmental appeal the appellant by the departmental authority. On further query from the epresentative of Food Department regarding amendments in the surplus pool colicy against which the representative stated that amendments added in the olicy on 15-02-2006 which has been reproduced herein after for perusal of carticipants;...

"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 rom being rendered surplus again and becoming junior to his juniors".

3. It was also discussed that Section-11(A) of Khyper Pakhtunkhwa Civil Servant Act, 1973 is more clear on the subject as determined by the Services Tribunal in the impugned judgment under reference.

4. Hence in view of above factual and legal position it was decided with consensus that the subject case was an unfit case for filing of appeal in the Supreme Court of Pakistan and it was advised to the Administrative Department to implement the judgment accordingly

(Shakeel Asghar)

7

Deputy Solicitor

GOVERNMENT OF KHYBER PAKHTUNKHWA FOOD DEPARTMENT

NO.SOG/7-4/14-15/P.X/ 3997. Dated Pesh: the 28-02-2017

The Secretary, Government of Khyber Pakhtunkhwa, Law Department.

Subject:-

То

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER.

::

Dear Sir,

I am directed to enclose herewith an appeal of Mr. Muhammad Naveed Khan, on the subject noted above (Annex-A) and to say that appellant herewin was previously working as Senior Clerk (BS-07) in the office of Deputy Commissioner, Mansehra. In the year, 2001, he was declared surplus and adjusted in the Food Department as Foodgrain Inspector (BS-06) on 26.01.2006, as per Surplus Pool Policy. The official preferred an appeal before the Service Tribunal, Peshawar on the plea that he was to be placed at the top of the seniority list in accordance with Surplus Pool Policy as he had been adjusted in a lower scale. The Court decided the case in his favour vide judgement dated 15.08.2016 (Annex-B). The Scrutiny Committee of Law Department did not find the case fit for filing an appeal in the Supreme Court of Pakistant (Annex-C). The official was, therefore placed at the top of the seniority list of Assistant Food Controller (as he was then Assistant Food Controller) in pursuance of Court's judgement, as referred to above. Consequently, he was appointed against the post of District Food Controller/S&EO on acting charge basis with immediate effect vide order dated 04.01.2017 (Annex-D) on the recommendation of the DPC. Meanwhile the official got retired from service w.e.f 12.01.2017.

02. Law Department is therefore requested to examine the instant appeal in the light of the Court's aforementioned decisions and subsequent action taken by this department and to advise whether the appeal of Mr. Muhammad Naveed Khan, Ex-DFC is tenable or otherwise please.

Encl: As above.

Yours faithfully, SECTION OFFICER (GENERAL)

C.C:

1. Director Food, Khyber Pakhtunkhwa.

2. PS to Secretary Food, Khyber Pakhtunkhwa.



GOVERNMENT OF KHYBER PAKHTUNKHWA LAW. PARLIAMENTARY AFFAIRS & HUMAN RIGHTS DEPARTMENT NO. SO(OP-I)/LD/5-6/2012-VOL-IV /8659-60 DATED: PESH: THE 00 MARCH, 2017

То

The Secretary to Govt of Khyber Pakhtunkhwa, Food Department.

Subject:

ANTIDATION OF PROMOTION AS ASSISTANT FOOD CONTROLLER AND DISTRICT FOOD CONTROLLER.

Dear Sir,

I am directed to refer to your Department's letter No.SOG/7-4/14-15/P.X/3947 dated 28/02/2017 on the subject noted above and to state that the Service Tribunal held 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 lower post than his original scale. Thus the relevant time was, his initial adjustment in Food Department from surplus pooled. The Food Department may decide his appeal accordingly, that whether he was grant top seniority position from the date of his initial adjustment as directed by the Service Tribunal or otherwise:

. Yours Faithfully,

Section Officer (Opinion-I)

Endst: of even No. & date. Copy forwarded to the P.S to Secretary Law, Department.

Section Officer (Opinion-I)



GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING)

No. SOR-III (E&AD) 3-12/2014 Dated Peshawar the April 12, 2018

To

The Secretary to Govt of Khyber Pakhtunkhwa, Food Department.

Subject: -

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE DATED 21-02-2018

Dear Sir,

I am directed to refer to Food Department letter NO.SOF/1-3/DPC/Vol.XI/173 dated 05-03-2018 on the subject noted above and to say that the Administrative Department may take further necessary action keeping in view the Judgments of Service Tribunal by placing name of the appellant at top of the seniority list at the relevant time. However, Administrative Department may also apprise this department as to whether the case was earlier referred to scrutiny committee of Law Department for filing CPLA or otherwise.

Yours Faithfully, (SHAFI-UL-AHMAD SECTION OFFICER (R-III)

Phone No.9211793

GOVERNMENT OF THE KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT. REGULATION WING

Dated: 05.12.2017

NOTIFICATION

<u>No.SO(Policy)/E&AD/1-16/2017</u>. The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)1-3/2008 dated 28.1.2009, the following amendments shall be made, namely:-

AMENDMENTS

1. The following words (in italic form) shall be added after the word and dot "PER." appearing in the 3rd line of sub-para (a) of para IV:

"The requirement of earning one calendar year report will start from the date the officer joins back and the training period will also be included for completion of the requirement of such PER."

2. After sub-para (h) of para IV the following sub-para (i) shall be inserted:

"the mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:

- (i) All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of Court cases.
- (ii) An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
- (iii) In case, the officer expires or retires from service and subsequently, his seniority is restored his case will be considered for proforma promotion alongwith all financial benefits.
- (iv) Juniors promoted on sub-judice seniority list will be assigned seniority as per final Court Orders and will be reverted in case there is no vacancy".
- 3. Para II (b) shall be substituted as follow:

"(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing promotion policy. However, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory."

The clause (i) of sub-para (a) of para V shall be deleted and the next below clause (ii)

shall be re-numbered as (i) and (ii). In sub-para (b) of Para V the word three si substituted with the word "two".

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Sd/-

Secretary to Government of Khyber Pakhtunkhwa Establishment Department

ENDST: NO & EVEN DATE Copy is forwarded to:-

1.

- Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Additional Chief Secretary (FATA), FATA Secretariat Peshawar. 2.
- The Senior Member Board of Revenue, Khyber Pakhtunkhwa. 3.
- 4.
 - All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- The Principal Secretary to Governor, Khyber Pakhtunkhwa. 5. 6
- The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa. 7.
- All Divisional Commissioners in Khyber Pakhtunkhwa. 8.
- All Heads of Attached Departments in Khyber Pakhtunkhwa. 9.
- All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa. 10.
- All Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA. The Registrar Peshawar High Court, Peshawar. 11.
- 12.
- The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar. 13.1
- The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar. 14.
 - All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department

05/12/

(BEENÍSH IQBAL) SECTION OFFICER (POLICY)

GOVERNMENT OF KHYBER PARHTUNKHWA FOOD DEPARTMENT 670 NO.SOG/1-3 Dated Pesh: 1. -06-2018 091-9225373 💬 fooddepartmentkok@gmail.com 👘 👔 @fooddepartmerror © @foodsecretariat ്റ്റ The Director Food, Khyber Pakhtunkhwa, Peshawar. Subject:-MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 30.05.2018 REGARDING PROMOTION OF MR. NAVEED EX-RC PESHAWAR. Dear Sir, I am cirected to refer to the subject noted above and to enclose herewith a copy of minutes of DPC meeting held on St-05-2018 regarding promotion of Mr. Muhammad Naveed, Ex-RC Peshawa-, duly signed by all concerned, for further necessary action, please. Years faithfully Encl: as above. SECTION OFFICER (GENERAL) CC to:-P.S to Secretary Food Khyber Pakhtunkhwa.

Member

Member

Member

Member_b

Subject:- MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE DATED 30-05-2018.

A meeting of the Departmental Promotion Committee was held on 30-05-2018 at 11:00 a.m under the chairmanship of Secretary Food in his office for making recommendation to the antedated promotion of Ex-Rationing Controller, Peshawar Mr. Muhammad Naveed BS-16) to the post of Assistant Director Food (BS-17) in wake of the judgment of the Service Tribunal Peshawar Camp Court Abbottabad in Execution Petition No.193/2017 dated 18-01-2018. The following attended the meeting:

- Mr. Ahmad Kamal Deputy Secretary Food
 Mr. Nisar Ahmad Director Food
- 3. Mr. Hidayatullah
- . S.O (FR), Finance Dept,
- 4. Mr. Shai.-ui Ahmad S.O(R-III), Establishment Dept.

2. The Deputy Secretary Food briefed the committee about the case. Mr. Muhammad Naveed (Ex-DFC/RC(BS-16) was adjusted in Food Directorate in one step lower scale as FGI (BS-06) from the surplus pool of DCO Mansehra on 26-01-2006 and accordingly he was blaced at the bottom of seniority list pertaining to the relevant cadre as per policy instructions invogue at that time. Later on the officer claimed seniority at the top of seniority list through Service Tribunal, Peshawar as per revised surplus pool policy issued by Government on 15-02-2006. The Tribunal accepted the appeal in its judgment dated 15-08-2016 and accordingly the officer (serving as AFC at the time of judgment) was placed at the top of the Seniority List and consequently promoted as DFC. After retirement, the officer claimed seniority with retrospective effect through an appeal before the Service Tribunal, Camp Court Abbottabad vide Execution Petition No. 193/2017.

se case for consideration of promotion

DFC/Storage & Enforcement Officer/Rationing Continuer, Peshawar with effect from 16.5.2012 as per advice of the Establishment Department in light of Court decision dated 18.01.2018

4: It was brought to the notice of the Committy that there are three cases of same nature in which different decisions have been received from Service Tribunal. Service Appeal No.349/2017 filed by the Noor Khan, AFC versus Director Food, Khyber Pakhtunkhwa and others in the Khyber Pakhtunkhwa Service Tribunal for seniority on the basis of judgment in case of Mr. Muhammad Naveed dated 15.8.2016 and has been decided vide judgment dated 08.2.2018. Accordingly the case was placed before the Scrutiny Committee of Law Department for filing CPLA in the Supreme Court of Pakistan and accordingly was found fit for CPLA due to different decision of the Services Tribunal.

5. The Committee after thorough examination of the case decided that the Law Department may be approached again for advice through a detailed reference for re-examination of the case in the present scenario when this Department has filed CPLA in the Supreme court of Pakistan, in Noor Khan AFC case on the same grounds.

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

Mr. Nisar Ahmad Director Food (Member)

Mr. Hidayatullah

S. O (FR), Finance Deptt: (Member) Mr. Ahmad Kamal Deputy Secretary Food (Member)

Mr. Shafi-ul Ahmad S.O (R-III), Establishment Deptt: (Member)

Mr. Muham

Secretary Food (Chairman)



GOVERNMENT OF KHYBER PAKHTUNKHWA DIRECTORATE OF FOOD, PESHAWAR

No:29/ PF-1125-11 Dated: 2216 /2018

091-9225378 M fooddirectoratekpk@gmail.com

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@fooddirectorate

The Section Officer General Government of Khyber Pakhtunkhwa, Food Department Peshawar.

Subject:-

Τo

Memo;-

MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 30-05-2018 REGARDING PROMOTION OF CONTROLLER, PESHAWAR. NAVEED EX-RATIONING MR.

Reference your letter No. your letter No.SOG/1-3/DPC/67C dated 11-06-2018, on the subject noted above.

As per recommendation of the Departmental Promotion Committee in its meeting held on 30-05-2018 at 11:00 AM under the Chairmanship of Secretary Food Khyber Pakhtunkhwa, brief history of the case is as under:-

- 1) Muhammad Naveed Khan Senior Clerk (BS-07) of District Coordination Officer Mansehra (Surplus
- Pool of DCO Mansehra) was declared surplus and adjusted as Foodgrain Inspector (BS-06) vide Office Order issued No.1054/ET-542-SPA dated 26-01-2006. His pay was protected in (BS-07) according to Policy contained in E&AD Department circulated No. SOR-E&AD)1-200/98 dated 08-06-2001 (Annex-I). As the time of policy in vogue at the time of adjustment he was 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)1-200/95 pated 08-06-2001. In the mean time the Provincial Government of Khyber Pakhtunkhwa issued resised Surplus Policy dated 08-06-2001 vide Notification No. SOR-IV (R&AD) Deptt/5-1/2205 dated 1202-2006 (Annex-II). The Ex-Officer preferred an appeal before the Khyber Pakhtunkhwa Service Tribunal Reshawar on the plea that he was to be placed at top of Seniority List in accordance with Surplus Pool Policy as he had been adjusted in a lower scale. The Court decided the case in his favour vide Judgment dated 15-08-2016 (Annex-III). The Scrutiny Committee of law Department did not find the case fit for filing an appeal in the Supreme Court of Pakistan (Annex-IV) The official was, therefore placed at the top of the Seniority List of AFC (as he was then AFC) in pursuance of Court's Judgment, as referred to above. Consequently on recommendation of DPC he was appointed against the post of DFC/S&EO. /RC (BS-16) on acting charge basis with immediate effect (Annex-V) His case for further appointment / promotion to the post of Assistant Director Food (BS-17) was placed before the Department Promotion Committee of Food Department Khyber Pakhtunkhwa. The Minutes of DPC is placed at (Annex-VI)
- 2) Against the observation of DPC of Food Department Khyber Pakhtunkhwa in its meeting dated 11-01-2017, the Ex-Officer submitted an application that the department has not applemented the aforementioned judgement in its true sense as he was promoted as AFC on 22-04-2016 and subsequently appointed as a DFC/S&EO/RC (BS-16) on 04-01-2017 whereas he was entitled for promotion as AFC on 15-06-2006 i.e. the date is erstwhile Mr. Bashir Ahmad as AFC and as a DFC on 16-05-2012 (Annex-VII). Accordingly his case was sent to Establishment D

seniority on top of the seniority list and subsequently promoted / accordingly to higher pay scales (BS-16) accordingly. Thus, Service Tribunal's Judgment appears to have been implemented in the instrumcase. (Annex-VIII) Meanwhile the officer got retirement on attaining the age of superannuation of GP years on 12-01-2017. After retirement the filed E.P.No. 193/2017 in the Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad that Food Department did not grant benefits according to the relevant time as per Court decision dated 15-02-2016 which needs implementation of Judgment in its true spirit.

3) In E.P.No.193/2017 of Khyber Service Tribunal order dated 18-01-2018 direction has been given to the Department that:

"Judgment of this Tribunal dated 15-08-2016 has not been implemented by the respondents in its true letter and spirit. Through revised seniority list issued respondent No.06 on 07-11-2016 through the name of the appellant has been placed at the top of the said seniority list but not from the due date. Learness District Attorney when confronted on this point was unable to give a satisfactory reply.

Respondents are directed to produce revised implementation report on or before the next date of hearing. To come up for further proceedings on 19-02-2018 before S.B at camp court Abbottabad". (Annex-IX)

4) As per Judgement his case was further placed before the Department Promotion Committee of Food Department Khyber Pakhtunkhwa with the request to offer their recommendations for promotion from relevant time as Assistant Food Controller with effect from 15-06-2006 and as District Foog Controller / Storage & Enforcement Officer /Rationing Controller. Peshawar with effect from 16-09-2012 as per Court decision dated 18-01-2018. The DPC thoroughly examined the case in light of the relevant rules and recommended that the revised surplus pool policy was issued after the date of adjustment of the said officer in Food Department. Moreover, the revised policy does not mention its applicability with retrospective effect. As such the claim of the officer herein does not cover under the said policy but the Service Tribunal has given relief on the revised surplus pool policy.

5) The committee after due deliberation decided that the case may be referred to Establishment. Department for opinion vis-a-vis retrospective effect of the instant revised surplus pool policy (Autor-A).

6) The Establishment Department advised that the Administrative Department may take further necessary action keeping in view the judgement of Service Tribunal by placing name of the appellant at the top of the seniority list at the relevant time (Annex-XI). In the meantime Service Appeal No.349/2017 filed by Mr. Noor Khan AFC Versus Director Food Khyber Pakhtunkhwa and others in the Khyber Pakhtunkhwa Service Tribunal for seniority on the basis of judgement in case of appeal / judgement of Mr. Muhammad Naveed dated 15-08-2016. The Court examined the Appeal in light of judgement of Mr. Muhammad Naveed dated 15-08-2016 and accordingly decided the Appeal in light of judgement of Mr. Muhammad Naveed dated 08-02-2018 of the Khyber Pakhtunkhwa Service Tribunal in case for seniority. The decision dated 08-02-2018 of the Khyber Pakhtunkhwa Service Tribunal in case of Appeal No.349/2017 filed by Mr. Noor Khan AFC Versus: Director Food Khyber Pakhtunkhwa is placed at (Annex-XII). Against the said decision Food Department forwarded the case to Law Department for advice regarding filing of CPLA, in the Supreme Court of Pakiston T' Scrutiny Committee of law Department found the case fit for CPLA. Copy of Power of Attorney in the Supreme Court Of Pakistan (Appellate Jurisdiction) vide CPEA No.264/2018 is placed at (Annex-XII).

the Supreme Court of Pakistan, in case accordingly.

same grounds, to proceed furth,

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TOR FOOD **KHTUN KHWA** HAWAR.

Endorsement No & Date Even

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- Copy for information to
- The Additional Registrar Khyber Pakhtunkhwa Service Tribunal (1) The Assistant Director Food Hazara Division at Abbottabad.
- 2)
- The Rationing Controller, Peshawar.
 Mr. Muhammad Naveed Ex- Rationing Controller Peshawar.

DIRECTOR FOOD KHYBER PAKHTUN KHWA PESHAWAR

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