

ATTESTED

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REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLERS (BS-14) IN THE FOOD DIRECTORATE
KHYBER PAKHTUNKHWA, PESHAWAR AS IT STOOD ON 31-10-2016.

No.	2	3	4	5	6	7	8	9	10
	Name of Govt Servant	Qualification	Date of birth	Domicile	Date of entry in to Govt service	Date of appointment to the post of FGV Cane Inspector	Date of appointment to the present post	Method of recruitment	Date of superannuation
1.	Mr. Muhammad Naved	BA /LLB	13.01.1957	Mansehra	18.05.1978	01.02.2006	22-04-2016	By Promotion	12.01.2017
2.	Mr. Taj Bar Khan	B.A.	16.07.1957	Dir Lower	23.06.1982	01.01.1997	14-12-2009	Already appointed as DFC /S&EO/RC (BS-16) on acting charge basis w.e.f 23-12-2015	15.07.2017
3.	Mr. Aman Ullah	F.A.	15.06.1957	M.Agency	22.06.1982	25.03.1998	14-12-2009	By Promotion	14.06.2017
4.	Mr. Fazli Bari	B.A.	02.02.1961	Chitral	22.06.1982	30.08.2000	14-12-2009	By Promotion	01.02.2021
5.	Muhammad Zubair	B.A.	01.02.1970	Swat	09.05.1993	30.08.2000	06-04-2010	By Promotion	31.01.2030
6.	Mr. Mehmood-ur-Rahman	C.Com.	02.11.1969	Kohat	09.05.1993	30.08.2000	06-04-2010	By Promotion	01.11.2029
7.	Mr. Salah-ud-Din	B.A.	25.11.1972	Peshawar	09.05.1993	30.08.2000	06-04-2010	By Promotion	24.11.2032
8.	Muhammad Arshad	B.A.	15.09.1967	Charsadda	09.05.1993	30.11.2000	06-04-2010	By Promotion	14.09.2027
9.	Syed Wazir Shah	M.A.	08.06.1959	Mansehra	09.05.1993	30.11.2000	06-04-2010	By initial recruitment	07.06.2019
10.	Mr. Aftab Umar Khan	MA	04-08-1985	Mohamad Agency	19-05-2010		19-05-2010	By Promotion	03-08-2045
11.	Muhammad Tariq	B.Sc	01.03.1970	Peshawar	09.05.1993	17.06.2005	21-10-2011	By Promotion	28.02.2030
12.	Mr. Anwar Qyum	B.A.	11.07.1970	Mansehra	09.05.1993	20-12-2003	06-04-2010	By Promotion	10.07.2030
13.	Mr. Abdul Hafeez	B.A.	07.03.1969	Mansehra	09.05.1993	20-12-2003	21-10-2011	By Promotion	05.07.2029
14.	Mr. Arshad Hussain	B.A.	01.01.1970	Chitral	09.05.1993	20-12-2003	04-10-2011	By Promotion	31.12.2030
15.	Mr. Ali Akshar Khan	B.A.	28.02.1972	Mardan	09.05.1993	20-12-2003	18-02-2012	By Promotion	27.02.2032
16.	Mr. Shabir Ahmad Khan	LLB	30.04.1966	FK Peshawar	09.05.1993	20-12-2003	18-02-2012	By Promotion	29.04.2026
17.	Mr. Said Nawaz	B.Com	20.03.1972	Chitral	09.05.1993	20-12-2003	18-02-2012	By Promotion	19.03.2032
18.	Mr. Jamshed Khan Afridi	B.A	20.06.1972	K/Agency	09.05.1993	20-12-2003	21.05.2012	By Promotion	19.06.2032
19.	Mr. Sohail Habib	Matric	14.02.1968	Bannu	09.05.1993	20-12-2003	21.05.2012	By Promotion	13.02.2028
20.	Mr. Sheraz Anwar	F.A	05.02.1974	Mansehra	09.05.1993	20-12-2003	21.05.2012	By Promotion	04.02.2034
21.	Mr. Muhammad Azam	B.B.A	22.11.1988	S. Wazirstan Agency	07.08.2015	-	07.08.2015	By initial recruitment	21.11.2048
22.	Mr. Tausif Iqbal	M.B.A	01.10.1987	Karak	07.08.2015	-	07.08.2015	By initial recruitment	30.09.2047
23.	Muhammad Shakeel	M.B.A	10.04.1984	Abbottabad.	07.08.2015	-	07.08.2015	By initial recruitment	09.04.2044
24.	Miss Uzma Kanwal	M.A	03.12.1990	Abbottabad.	07.08.2015	-	07.08.2015	By initial recruitment	02.12.2050
25.	Mr. Zafar Alam Riza	M.A	03.01.1987	Chitral	07.08.2015	-	07.08.2015	By initial recruitment	02.01.2047
26.	Mr. Shujaat Hussain Shah	M.Sc	10.04.1987	Mansehra	07.08.2015	-	07.08.2015	By initial recruitment	09.04.2047
27.	Mr. Hafeez-ur Rehman	B.A	18.04.1984	Dir Lower	07.08.2015	-	07.08.2015	By initial recruitment	17.04.2044
28.	Mr. Adnan Khan	M.A	27.06.1989	Peshawar	07.08.2015	-	07.08.2015	By initial recruitment	26.06.2049
29.	Mr. Muhammad Akbar	BA	05.12.1962	Peshawar	01.03.1982	25.08.2004	22-04-2016	By Promotion	04.12.2022
30.	Mr. Muhammad Salim Iqbal	D.Com	15.07.1969	Peshawar	04.08.1990	25.08.2004	22-04-2016	By Promotion	14.07.2029
31.	Mr. Muhammad Salim	M.A Pol: Science	18.04.1965	Nowshera	14.07.1993	17.06.2005	22-04-2016	By Promotion	17.04.2025
					14.07.1993	17.06.2005	22-04-2016	By Promotion	31.12.2027

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33.										
34.	Mr. Muhammad Khalid	FA	02.05.1973	Peshawar	04.03.2006	04-03-2006	22-04-2016		By Promotion	01.05.2033
35.	Mr. Usman Khan	B.A	01-01-1975	Dir	03-11-2008	03-11-2008	22-04-2016		By Promotion	31.12.2035
36.	Mr. Muhammad Shoaib	F.A	11.04.1966	Mansehra	04.07.1993	05-11-2008	22-04-2016		By Promotion	10.04.2026
37.	Mr. Amjid Khan	Matric	05.01.1975	Malakand	15.08.1993	05-11-2008	22-04-2016		By Promotion	04.01.2035
38.	Mr. Mohammad Zubair	M.A	21.09.1970	Mardan	16.08.1993	12-01-2009	22-04-2016		By Promotion	20.09.2030
39.	Mr. Saif Ali Shah	B.Sc	03.03.1969	Kohat	19.08.1993	12-01-2009	22-04-2016		By Promotion	02.03.2029
40.	Mr. Gul Zareen Shah	M.A	15.04.1957	Bannu	24.10.1994	13-08-2009	22-04-2016		By Promotion	14.04.2017
41.	Syed Wasim Shah	F.Sc	15.02.1987	Kohat	13-08-2009	26-12-2009	22-04-2016		By Promotion	14-02-2047
42.	Mr. Rashid Saeed	B.A	02.08.1968	Bannu	22.05.1995	26-12-2009	04-08-2016		By Promotion	14.03.2034
43.	Mr. Aman Khan	F.Sc	25.03.1977	Mardan	02.05.1995	26-12-2009	04-08-2016		By Promotion	01.08.2028
44.	Mr. Ashfaq Khan	B.A	01.03.1966	Chitral	03.05.1995	26-12-2009	04-08-2016		By Promotion	24.03.2037
45.	Mr. Riaz Ahmad	B.A	01.05.1977	M/Agency	06.08.1995	26-12-2009	04-08-2016		By Promotion	28.02.2026
46.	Mr. Ateeq-ur Rehman	B.A	01.06.1963	K/Agency					By Promotion	30.04.2037
47.	Mr. Angoor Shah	M.A							By Promotion	31.05.2023

M. Asif
 ASSISTANT DIRECTOR FOOD (E)

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ATTESTED

Present: Abdul Hamced Dogar, C.J., Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan and Ch. Ejaz Yousaf, JJ

GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and others----Petitioners

Versus

SAMEENA PARVEEN and others----Respondents

Criminal Petitions Nos.71-L and 72-L, Civil Petitions 215-L, 216-L, 217-L, 218-L, 224-L to 236-L of 2006, decided on 29th April, 2008.

(On appeal from the judgment, dated 29-1-2008 of the Lahore High Court, Lahore passed in Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008).

Civil service---

----Administration of justice---If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum---All citizens are equal before law and entitled to equal protection of law as per Art.25 of the Constitution.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 and Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 fol.

Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867 ref.

Ms. Afshan Ghazanfar, A.A.-G., Punjab and Rana Abdul Qayyum, D.S. (Education) Punjab for Petitioners.

S.M. Tayyab, Senior Advocate Supreme Court for Respondents (in Cr.Ps. Nos.71-L, 72-L and C.P.224-L of 2008).

Nemo for other Respondents.

ORDER

*1 Part of Cr. P. No. 71-L & 72-L
Taimur Akhtar
Rana Abdul Qayyum
Hijab*

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REQUESTED

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ABDUL HAMEED DOGAR, C.J.---Through this order we intend to dispose of above captioned petitions filed against common judgment, dated 29-1-2008 passed by learned Judge in Chambers of Lahore High Court, Lahore whereby Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008 filed by respondents were allowed and the impugned orders passed by petitioner/authority were set aside.

2. Briefly, stated facts giving rise to the filing of instant petitions are that respondents were appointed as PTC Teachers during the year 1995/1996 after completion of all legal requirements and they joined their respective place of posting. After sometime, their appointments were cancelled being bogus vide order No.277/E-1, dated 3-4-1998. This order was assailed before learned Lahore High Court, Lahore and same was declared to be without lawful authority in the case reported as Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867. The relevant paragraph is reproduced as under:--

"Consequently the petitioners are declared to be in service and the action of the Headmasters/Incharge of the Schools stopping the petitioners from performance of their duties as PTC Teachers on the basis of the above said impugned order, is declared to be without lawful authority. It is, however, clarified that the department is at liberty to proceed against petitioners, if so desired, on individual basis under the relevant law and under the Punjab Civil Servant (Efficiency and Discipline) Rules, 1975."

In view of above judgment, the respondents were absolved of the charges of bogus appointments. But later on once again the services of respondents were terminated vide order, dated 3-8-2005, which order was challenged before learned Lahore High Court, Lahore through Writ Petition No.16864 of 2005. The said writ petition was allowed vide judgment, dated 11-12-2006 and the impugned order, was declared as illegal and without lawful authority. Similarly, one of the teachers namely Mst. Naseem Akhtar assailed the order, dated 3-8-2005 before Punjab Service Tribunal, Lahore through Appeal No.903 of 2006 which was also allowed vide judgment, dated 4-9-2006. The said judgment was maintained by this Court in Civil Petition No.1960-L of 2006 vide judgment, dated 2-11-2006. On 26-9-2007 once again the services of respondents were terminated. Feeling aggrieved they filed above mentioned petitions before the learned Lahore High Court, Lahore which were allowed vide impugned judgment as stated above.

3. It is mainly contended by learned A.A.-G. Punjab appearing on behalf of petitioners that the jurisdiction of the learned High Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 in matters involving determination of terms and conditions of civil servants. She further contended that the appointments of the respondents were bogus and fake as they were never selected by the competent authority, therefore the orders of dismissal passed by departmental authority were in accordance with law, which did not call for any interference by this Court.

4. On the other hand, Mr. S. M. Tayyub, learned Senior Advocate Supreme Court appearing on behalf of some of the respondents supported the impugned judgment and contended that appointments of respondents had taken place in accordance with rules and prescribed procedure. They submitted their applications in pursuance of advertisement of the posts of PTC Teachers. They passed the required test and were appointed by the competent authority. According to him, the respondents were in service for about 9-10 years and during this period no objection was raised, and subsequently on vague allegations they were dismissed from service. He further contended that cases of respondents were at par with Mst. Naseem Akhtar which was decided by this Court in Civil Petition No. 1960-L of 2006 vide judgment, dated 2-11-2006.

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

6. In this view of the matter, we are of the view that no ground for interference in the impugned judgment is made out. Accordingly, the petitions being devoid of force are dismissed and leave to appeal refused.

M.B.A./G-13/SC

Petitions dismiss

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Amir H

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2017

Noor Khan (AFC BPS-14) S/o Gulfam Khan
R/o Village Abdara, Ghari Taj Muhammad, P/o University
of Peshawar, Tehsil & District Peshawar

....Appellant

VERSUS

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

.....Respondents

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ORDER
DATED 06.04.2017 VIDE OFFICE LETTER
NO.1256/PF-NOOR KHAN AFC, WHEREIN
THE APPELLANT HAS NOT BEEN PLACED IN
THE TOP FOUR (04) OF THE REVISED
SENIORITY LIST OF ASSISTANT FOOD
CONTROLLERS STOOD ON 31.10.2016
KEEPING IN VIEW THE PREVIOUS SENIORITY
LIST OF FOOD GRAIN INSPECTOR IN THE
YEAR 2004 OF THE FOOD DEPARTMENT AS
FOR THE NEEDFUL THE APPELLANT'S

ATTESTED

Appellant Deposited
Security & Process Fee

24/4/17

(70)

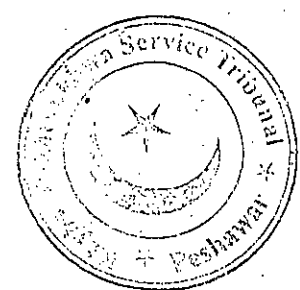
ATTESTED
TAIMUR HAIDER KHAN
Advocate High Court
Attested

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 349/2017

Date of Institution ... 13.04.2017

Date of Decision ... 08.02.2018



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

VERSUS

1. Director Food, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

MR. TAIMUR HAIDER KHAN, ... For appellant
Advocate

MR. MUHAMMAD JAN, ... For respondents
Deputy District Attorney

ATTESTED

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN.- Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was declared surplus from Government Printing & Press
Department and was adjusted in the Food Department in the year, 2004 in BPS-06.



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Advocate High Court
Attested

He was appointed in his original department in BPS-07. He was then promoted as Assistant Food Controller in the year, 2016. One Muhammad Naveed who was also declared surplus from the office of Deputy Commissioner, Mansehra and was adjusted in the Food Department in the year, 2006 in BPS-06 from BPS-07, was placed at the bottom of the seniority list of BPS-06 like the appellant. The said Muhammad Naveed was also promoted as Assistant Food Controller in the year, 2016. Muhammad Naveed had knocked the door of different courts for placing him in his correct seniority position and finally this Tribunal vide judgment dated 15.08.2016 in service appeal No. 831/2015 decided the appeal in his favour directing the department to place him at the top of the seniority list of BPS-06 in the year, 2006 when he was adjusted. Thereafter a revised seniority list was issued in pursuance of the judgment of this Tribunal. The appellant then feeling himself at par with the said Muhammad Naveed, filed a departmental appeal on 27.3.2017 which was rejected on 06.04.2017 and thereafter he filed the present service appeal on 13.04.2017

ARGUMENTS.

3. The learned counsel for the appellant argued that the case of the appellant is of seniority and stood at the same footings as that of Muhammad Naveed and in view of judgment reported as 1999-SCMR-1, similarly placed employees should have been treated similarly. That if the benefit of the judgment of Naveed's case was extended to the appellant, then the appellant would rank even senior to said Muhammad Naveed as the appellant was adjusted in the year, 2004 and Muhammad Naveed was adjusted in the year, 2006. The learned counsel for the

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Advocate High Court
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TAMUR HAIDER KHAN
Advocate High Court
Attested

appellant further argued that there was no need of even filing of departmental appeal by the appellant or to come to this Tribunal as it was the duty of the department to have extended the benefit of the judgment of Naveed's case to all the similarly placed employees.

4. On the other hand, the learned Deputy District Attorney argued that two other employees who were adjusted through the same order whereby the appellant was adjusted on 25.08.2004 also approached this Tribunal after the judgment of the said Naveed's case and this Tribunal vide judgment dated 24.11.2017 extended the benefit of the said Naveed's case to those two other employees (Muhammad Akbar and Muhammad Saleem Iqbal). That in the said judgment this Tribunal added that while extending the benefits of judgment of Muhammad Naveed all those direct recruits as AFCs prior to the promotion of those two persons should be placed senior to those two appellants. He next contended that as per the said judgment, the department issued a revised seniority list and placed those two persons and the present appellant at S.Nos. 22 to 24 by placing the direct recruits senior to these three persons. He next contended that the case of the appellant was more similar to those two subsequent named persons then the case of Naveed, therefore, he was rightly placed junior to direct recruits. He added that the reason for this placement of junior position to direct recruits was non-impleadment of direct recruits appeals filed by those two persons.

ATTESTED

CONCLUSION.

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

5. It is an admitted position that the appellant was adjusted in the year, 2004 under the surplus pool policy from BPS-07 to BPS-06. He should have been placed

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TAIMUR HANIF KHAN
Advocate High Court
Attested

at the top of the seniority list of BPS-06 at that time. This aspect of the matter had already been discussed by this Tribunal in the judgment of Muhammad Naveed delivered on 15.08.2016. In that very judgment this Tribunal did not place any condition of placing the said Muhammad Naveed junior to direct recruits and as such he was placed at the due position above the direct recruits. In the later judgment of this Tribunal delivered on 24.11.2017 the same judgment was followed with alteration that the direct recruits should be placed senior to those two appellants.

6. Now this Tribunal is to follow one of the two judgments. It appears that the philosophy behind the earlier judgment was based on the principle that had Naveed been placed at the top of the seniority list of BPS-06 in the year, 2006 then he would have been promoted prior to the direct recruits that is why the Tribunal did not put this condition of placing the said Naved Junior to direct recruits. In the subsequent judgment this aspect seems to have been ignored and the direct recruits who were promoted in the year, 2015 were given seniority over the appellants who were promoted in the year, 2016. It appears that this Tribunal in subsequent judgment had overlooked this aspect of the matter that had the appellants in those appeals been given correct seniority in the year, 2006 then they would have been promoted prior to the direct recruits. Secondly when this Tribunal in the subsequent judgment was to extend the benefit of Naveed's case to those appellants then no restriction could have been imposed on those two appellants which restriction was not imposed on Muhammad Naveed. The result was that the benefit of the judgment of Naveed was not extended fully to those two appellants. The objection of the learned Deputy District Attorney regarding non-impleadment of direct recruits is

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TAMMUR HAIDER KHAN
Advocate High Court
Attested

ATTESTED

untenable because in Naveed's case none of the direct recruits was arrayed as party and the Tribunal granted the relief to said Muhammad Naveed. This Tribunal in a case entitled "*Naeem Akhtar Versus the Chief Secretary Government of Khyber Pakhtunkhwa Peshawar and others*" in service appeal No. 394/2013 decided on 11.1.2018 had elaborately discussed the issue of non-impleadment of necessary party in ante-dated promotion case and had decided that when a right of promotion accrued to a civil servant prior to the induction of direct recruits then it was not necessary to implead the direct recruits as party to the appeal. On the basis of the same principle the right of seniority accrued to the present appellant in the year, 2004 prior to the recruitment of direct recruitees in the year, 2016 as such they were not necessary party in Naveed's appeal, appeals of Muhammad Akbar and Muhammad Saleem Iqbal or in the present appeal.

7. As a sequel to the above discussion, this Tribunal would follow the first judgment of Naveed and would dispose of the appeal in the terms as that of appeal of Naveed dated 15.08.2016. Parties are left to bear their own costs. File be consigned to the record room.

(NIAZ MUHAMMAD KHAN)
CHAIRMAN

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

ANNOUNCED
06.02.2018

Date of Presentation of Application 13-2-20
Number of ... 2000
Copying ... 12
Urgent ...
Total ... 12
Name of ...
Date of ... 14-2-20

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Peshawar

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29.11.2017

Counsel for the appellant and Addl: AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 08.02.2018 before D.B.



FAIMUR HAIDER KHAN
Advocate High Court
Attested


Member

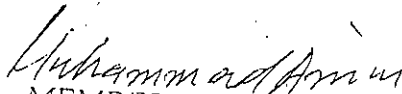

Chairman

ATTESTED

08.02.2018

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Latif Khan, Superintendent for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.


MEMBER


CHAIRMAN

ANNOUNCED
08.02.2018

To

The Director,
Food Khyber Pakhtunkhwa,
Peshawar.

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As per
K

Subject:- DEPARTMENTAL APPEAL /REVIEW IN RESPECT OF REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLER "AS THE APPELLANT BEING ON THE SAME FOOTING WITH MUHAMMAD NAVEED AFC OFFICIAL OF DFC MANSHERA MAY ALSO BE PLACED IN THE SENIORITY LIST OF 31.10.2016 KEEPING IN VIEW, THE MENTIONED JUDGMENT IN APPEAL NO.831/2015 DATED 15.8.2016 OF THE HON'BLE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR AS CONSPICUOUSLY THE APPELLANT TOO WAS INDUCTED VIA SURPLUS IN YOUR DEPARTMENT IN THE YEAR 25.8.2004 FOR THE BEST AND ADMINISTRATION OF JUSTICE AND FAIR PLAY, KEEPING IN VIEW ARTICLE 25 OF THE CONSTITUTION OF PAKISTAN 1973 WITH SPECIAL RELIANCE ON THE APEX COURT (SUPREME COURT JUDGMENT 2009 SCMR 1).

PRAYER IN APPEAL

BY acceptance of this appeal on the basis of expounded subject and facts the appellant may kindly be placed in the Top-3 of the seniority list as per the judgment dated 15.08.2016 in appeal No.831/2015 of Hon'ble Khyber Pakhtunkhwa service tribunal for the best administration of justice and fair play.

Respected Sir,

I very humbly submit the following few lines for your kind and sympathetic consideration:-

1 That I was initially appointed as a Mono-operator (BPS-7) in the Department of Stationary and printing vide order dated 20.4.1995 that ever since my appointment I had performed my duties assigned to me with zeal and devotion and there was no complaint whatsoever regarding my performance.

2 That after adjustment in the Food Department I was placed as Food Grain Inspector (BPS-06).

That according to notification dated 8.6.2001 issued by the Establishment and Administration of the provisional Govt: Policy for declaring the Govt: Servant 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) the original policy issued vide notification dated 08.06.2001.

M. Naveed
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2 nd word of the
3/2/2016
ATTESTED

Sub Para-(d) added to Para (6).

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- (d) In case of adjustment against post lower than his 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 and becoming junior to his juniors”
- 4 That after the adjustment in the Food Department the undersigned was placed at the bottom of the seniority list.
- 5 That in the year 2006 exactly on the same footing of Muhammad Naveed the appellant via surplus basis has inducted in the Food Department as Food Grain Inspector in (BPS-06) the presently hold the position of (Assistant Food Controller (BPS-14).
- 6 That as mentioned in the subject vide judgment dated 15.08.2016 of Hon'ble Chairman Khyber PakhtunKhwa Service Tribunal, Peshawar case of Muhammad Naveed AFC office of DFC Mansehra vide appeal No 831/2015, the appellant is having exactly the same case and such proprietary demand as per Article 25 of the constitution of Islamic republic of Pakistan 1973 (2009 SCMR 1) the appellant may also be placed in the top-3 of the seniority list of Assistant Food Controller in the revised seniority list dated 31.10.2016.
- 7 That it is indispensable to mention here that as per your good self seniority list, the appellant had been appointed on 20.4.1995 as mentioned in the previous seniority list dated 20.9. 2004 and according to touchstone of the surplus policy mentioned in the said judgment the appellant may be placed according to law. Moreover astonishingly even my name has not been mentioned in the impugned seniority list dated 31.10.2016.
- 8 That similarly I have never been intimated regarding revised seniority list of Assistant Food Controllers as it was stood on 31.10.2016 and hence just after information, I am going to place forth my instant application for the need full.


ATTESTED

GROUND OF DEPARTMENTAL APPEAL.

- A That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B That I have at my credit unblemished and spotless service career during the entire service, I have never given any chance of complaint regarding my performance. The seniority of the undersigned has been affected a lot and shall be given his due seniority.

78

- C That the case of the undersigned is complete misapplication of law as against the surplus policy issued by the Govt: of Khyber Pakhtunkhwa Establishment and Administration Department dated 08.06.2001, later on amended dated 15.02.2006. The whole proceedings conducted are thus void ab-initio.
- D That I have a spotless and long service career, show ever the same has not been considered while disturbing/affecting my seniority.
- E That any other point may be raised at the time of personal hearing if required for the best assistance of your honour. It is therefore most humbly prayed that by acceptance of this Departmental Appeal/Review on the basis of expounded subject and facts the appellant may kindly be placed in the top-3 of the seniority list vide order dated 31.10.2016 as per judgment dated 15.8.2016 in Appeal No.831/2015 of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, for the best administration of justice and fair play.

Yours Obediently,

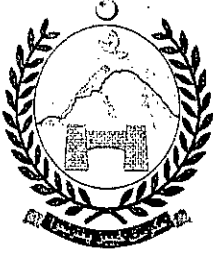
Dated 27/3/2017.



NOOR KHAN,
Assistant Food Controller,
(BPS-14) Food Directorate,
Khyber Pakhtunkhwa, Peshawar.



ATTESTED



(79)
GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE, OF FOOD
PESHAWAR.

No 1256 /PF-Noor Khan AFC
Dated Peshawar, the 06/04/2017

To

Mr. Noor Khan, AFC
Food Directorate Peshawar.

Subject: - DEPARTMENTAL APPEAL / REVIEW IN RESPECT OF REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLER "AS THE APPELLANT BEING ON THE SAME FOOTING WITH MUHAMMAD NAVEED AFC OFFICIAL OF DFC MANSEHRA MAY ALSO BE PLACED IN THE SENIORITY LIST OF 31-10-2016 KEEPING IN VIEW, THE MENTIONED JUDGMENT IN APPEAL NO. 831/2015 DATED 15-08-2016 OF THE HON'BLE CHAIRMAN KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR AS CONSPICUOUSLY THE APPELLANT TOO WAS INDUCTED VIA SURPLUS IN YOUR DEPARTMENT IN THE YEAR 25-08-2004 FOR THE BEST AND ADMINISTRATION OF JUSTICE AND FAIRY PLAY. KEEPING IN VIEW ARTICLE 25 OF THE CONSTITUTION OF PAKISTAN 1973 WITH SPECIAL RELIANCE ON THE APEX COURT (SUPREME COURT JUDGMENT 2009 SCMR 1)

Reference your appeal dated 27-03-2017 against the revised seniority List of Assistant Food Controllers as it stood on 30-10-2016 on the subject noted above.

2 Mr. Muhammad Naveed Ex-Rationing Controller Peshawar ^{had} filed an appeal No.831/2015 in the Khyber Pakhtunkhwa Service Tribunal against his seniority position in the Seniority List ever since his adjustment as Foodgrain Inspectors in Food Department Khyber Pakhtunkhwa in light of Surplus Policy dated 08-06-2001 and 15-02-2006.

3 On acceptance of his appeal, in compliance of Judgement dated 15-08-2016 of Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad, the Seniority List of Assistant Food Controller as it stood on 31-10-2016, was revised and circulated, vide Food Directorate letter No.5578/ET-716 dated 07-11-2016.

4 In view of the position explained above, your appeal against the seniority list of Assistant Food Controllers as it stood on 30-10-2016 issued in light of Judgment dated 15-08-2016 in favour of Mr. Muhammad Naveed Ex-AFC cannot be acceded to.

ATTESTED
[Handwritten signature]

[Handwritten signature]
DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR. *[Handwritten initials]*

80

1

"I"
Amended

IN THE SUPREME COURT OF PAKISTAN
(Appellate jurisdiction)

C.P.L.A. NO. /2018

1. *Syed Wazir Shah, AFC, Office of District Food Controller, District Battagram*
2. *Aftab Umar Khan, AFC, Office of Rationing Controller District Peshawar.*
3. *Muhammad Tariq AFC, Office of District Food Controller, District Haripur.*
4. *Ansar Qayyum AFC, Office of District Food Controller, District Mansehra.*
5. *Abdul Hafeez AFC, Office of District Food Controller, District Charsadda.*
6. *Aiman Khan, AFC, Office of District Food Controller, District Tank.*
7. *Arshad Hussain AFC, Office of District Food Controller, District Chitral.*
8. *Ali Asghar Khan AFC Office of District Food Controller, District Nowshera.*
9. *Shabir Ahmad Khan AFC, Office of District Food Controller, District Nowshera.*
10. *Said Nawaz AFC, Office of District Food Controller, District Chitral.*
11. *Jamshed Khan Afridi AFC, Office of District Food Controller, District Peshawar.*

ATTESTED



- 12. *Sohail Habib AFC, Office of District Food Controller, District Swabi.*
- 13. *Sheraz Anwar AFC, Office of District Food Controller, District Swat.*
- 14. *Muhammad Azam AFC, Office of District Food Controller, District Bunir.*
- 15. *Tausif Iqbal AFC Office of District Food Controller, District Lakki Marwat..*
- 16. *Muhammad Shakeel AFC, Office of District Food Controller, District Kohistan.*
- 17. *Miss Uzma Kanwal AFC, Office of District Food Controller, District Abbottabad.*
- 18. *Zafar Alam Riza AFC, Office of District Food Controller, District Chitral.*
- 19. *Shujaat Hussain Shah, AFC, Office of District Food Controller, District Batagram.*
- 20. *Hafeez-ur-Kehman AFC, Office of District Food Controller, District Peshawar.*
- 21. *Adnan Khan, AFC, Office of District Food Controller, District Mardan.....* ... (Petitioners)

VERSUS.

- 1. *Noor Khan (AFC BPS-14) s/o Gulfam Khan R/o Village Abdara, Ghari Taj Muhammad P.O. University of Peshawar, Tehsil and District Peshawar.*
- 2. *Muhammad Akbar AFC, Office of District Food Controller, District Mardan.*
- 3. *Muhammad Saleem Iqbal AFC, Office of Rationing Controller, Peshawar.*

ATTESTED

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(2016-2017)

E

D.C.

(DFC 815-17 No2)

4.

Muhammad Naveed (now Retired) AFC,
Office of Rationing Controller, Peshawar.

5. Director Food, Khyber Pakhtunkhwa,
Peshawar.

6. Secretary to Government of Khyber
Pakhtunkhwa, Food Department, Peshawar.

7. Secretary to Government of Khyber
Pakhtunkhwa, Establishment Department,
Peshawar.....

.(Respondents)

CIVIL PETITION UNDER ARTICLE
212(3) OF THE CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN,
1973 AGAINST THE JUDGMENT DATED
08.02.2018 OF HON'BLE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR PASSED IN SERVICE
APPEAL NO.349 OF 2017

RESPECTFULLY SHEWETH

I The points of law which arises for determination
by this August Court are as under:-

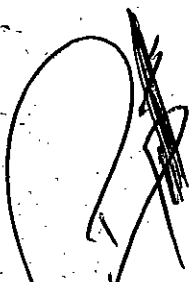
A. Whether the learned Khyber Pakhtunkhwa Service
Tribunal in his impugned judgment has laid down law
which is not in consonance with the known norms of
administration of civil justice especially in the matter
in hand?

B. Whether the judgment dated 08.02.2018 of the
Hon'ble Khyber Pakhtunkhwa Service Tribunal

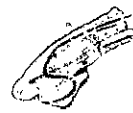
ATTESTED

Peshawar passed in Service Appeal No.349 of 2017 is not against law, facts and record of the case, hence untenable?

- C. Whether the views/findings of the Hon'ble Service Tribunal are not suffering from misconstruing the case in hand?
- D. Whether the impugned judgment of the Hon'ble Service Tribunal is not perverse, against the law and rules?
- E. Whether the Hon'ble Service Tribunal, while passing the judgment on 15.08.2016 in appeal No.831/2015 has not failed to apply its mind judicially and misinterpreted the Sub-para (d) added to Para-6 of Surplus Pool Policy 2001?
- F. Whether the basic surplus pool policy was not introduced in the year 2001, while the amendment made thereon, was in the year 2006, which cannot be applied with retrospective effect?
- G. Whether in all the appeals No.831/2015, 7/2017, 8/2017 and 349/2017, all the petitioners have not been impleaded and thus their seniority was affected and caused miscarriage of law?
- H. Whether the respondent No.1 an ex-cadre employee being employee of ministerial cadre in his department was not adjusted in Food Department in Executive


ATTESTED

(84)

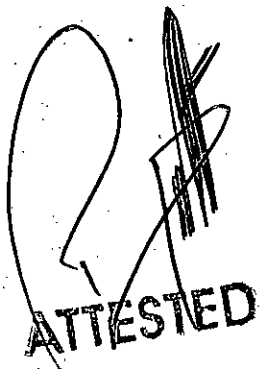


Cadre, which is contrary to Sub-Para (c) to Para-6 of Surplus Pool Policy 2001?

- I. Whether Hon'ble Service Tribunal has miserably failed to apply its judicial mind with regard to the dictum already laid down in the judgment dated 24.11.2017 passed in Service Appeal No.7/2017 and 8/2017?
- J. Whether the petitioners have been condemned unheard by not impleading them in all the service appeals mentioned above and thus no opportunity to be heard in person has been provided?
- K. Whether the Hon'ble Service Tribunal while passing the judgment dated 08.02.2018 passed in Appeal No.349/2017 has ignored the settled principles of seniority between the promotes viz-a-viz direct recruitees of the Public Service Commission?
- L. Whether errors of law and facts are not apparent on face of the record of the present case?
- M. Points raised are important law points of great public importance.

The facts of the case is as under:-

1. That the Respondent No.1 to 3 who were working as "Mono Operator" (BPS-07) in Govt. of NWFP (now Khyber Pakhtunkhwa), printing and stationary department were rendered surplus by the respective department and were adjusted as Food Grain


ATTESTED



Inspector (BPS-6 in the Food Department. Likewise respondent No.4 Ex-Senior Clerk (BPS-7) of the District Coordination Officer, Mansehra, was also rendered surplus, and was adjusted as Food Grain Inspector (BPS-6) in the Food Department NWFP (Now Khyber Pakhtunkhwa).

2. That the surplus pool policy for declaring Government Servants as surplus and their subsequent absorption/adjustment was introduced by the Govt. of NWFP (now Khyber Pakhtunkhwa), Establishment and Administration Department (Regulation Wing) Peshawar on 08.06.2001. This service surplus pool policy issued on 08.06.2001, was subsequently reviewed on 15.02.2006, with immediate effect, by the Provincial Government where under the following sub-paras were added to the relevant Paras No.5 and 6 of the policy, which are as under:-

i) Sub-Para (C) (V) added to Para No.5.

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

ii) Sub-Para (D) added to Para No.6

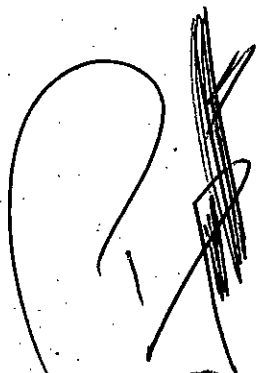
(d) In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again and becoming junior to his juniors.

ATTESTED

3. That according to Sub-Para (c) to Para 6 of surplus pool policy pertaining to fixation of seniority, respondents No.1 to 4 were adjusted and properly placed at the bottom of the final seniority list of the Food Grain Inspector BPS-6 in the Food Department as stood on 25.08.2004.

4. That the Service Rules prescribed for Recruitment and Appointment to various posts in food Deptt: are regulated under the North West Frontier Province (KPK) Food Deptt: (Recruitment and Appointment) Rules 1981. The method of recruitment for the post of Assistant Food Controller is as under:-
 - a) 75% by promotion on the basis of seniority cum fitness from amongst FGIs and Cane Inspector with at least 5 years service as such and
 - b) 25% by initial recruitment.

5. That on availability of Ten (10) posts on 01-09-2013, reserved for recruitment of Assistant Food controller (BS-14) against 25% Quota by initial recruitment, respondent No.5 sent requisition before the KPK Public Service Commission. On the recommendation of KPK Public Service commission respondent No.5 appointed ten (10) Assistant Food Controller (BS-14) on 26.02.2015 who were placed in seniority list before respondent No.1 to 4 as they were promoted later to direct selectees.



ATTESTED



6. That Respondent No.4 (Muhammad Naveed Surplus Employee) after exhausting departmental remedies, filed a Service Appeal No.831/2015 before Khyber Pakhtunkhwa Service Tribunal seeking seniority by placing him at Serial No.1 of the Seniority List maintained in the Food Department for BS-06. The Hon'ble Service Tribunal while accepting his appeal to this effect that respondent No.4 was entitled to be placed at the Top of Seniority List at the relevant time after the clarification of surplus pool policy as he was adjusted against a post lower than his original scale.

7. That likewise Respondent No.2 and 3 (Muhammad Akbar and Muhammad Saleem Iqbal both surplus Pool Employees), also filed Service Appeal bearing No.7/2017 and 8/2017 respectively before the KPK Service Tribunal for seeking relief. Both the appeals were accepted in terms of the judgment passed in the appeal bearing No.831/2015 (Muhammad Naveed case) and Hon'ble Tribunal further directed that respondent No.2 and 3 (appellants in service appeal No.7 & 8/2017), shall still stand junior to all those persons who have been inducted as Assistant Food Controller (BS-14) by initial recruitment prior to the promotion of respondent No.2 and 3 as Assistant Food Controller on regular basis and thus seniority of the direct recruits viz a viz respondent No.2 and 3 (promotes) in the impugned seniority list shall not be disturbed.

~~ATTESTED~~

88




8. That Respondent No.1 (Noor Khan AFC BS-14) filed a Service Appeal No.349/2017 before the KPK Service Tribunal on 13.04.2017 for seeking seniority on the basis of Service Tribunal Judgment dated 15.04.2016 in Appeal No.831/2015 (Muhammad Naveed case). This appeal was disposed off in the terms as that of appeal of Muhammad Naveed dated 15.08.2016.

9. That in all the service appeals before the KPK Service Tribunal filed by the respondents No.1 to 4 bearing No.349/2017, 07/2017, 08/2017 and 931/2015 respectively, the petitioners have not been impleaded in all these appeals and the seniority between the promotes viz-a-viz selectees of Public Service Commission has drastically been violated and therefore, the fundamental rights of the petitioners have been snatched by not adopting the settled principles of seniority and caused miscarriage of law.

10. That the impugned orders passed in all the Service Appeals have been passed without adopting the due process of law and the petitioners were not afforded an opportunity of being heard in person and by this way their seniority rights have been adversely affected.

11. That the respondents surreptitiously for their ulterior motives violated the principles of *audi alteram partem*.

12. That the petitioners were not dealt with in accordance with law which is against the provisions of Article 4 of the constitution of Islamic Republic of Pakistan, 1973.


ATTESTED

(89)

13. That the petitioner seriously aggrieved against the judgments and orders of the Khyber Pakhtunkhwa Service Tribunal Peshawar dated 08.02.2018 passed in Service Appeal No.349/2017 respectfully pray for leave to appeal to this august Court on the grounds/law points mentioned in Part-I of this petition.

It is, therefore, prayed that leave to appeal may graciously be granted against the judgment and order of the learned Khyber Pakhtunkhwa Service Tribunal Peshawar dated 08.02.2018 passed in Service Appeal No.349 of 2017.

Drawn and Filed by

(HAJI MUHAMMAD ZAHIR SHAH)
ADVOCATE-ON-RECORD

CERTIFICATE

Certified that no such petition has earlier filed by the Petitioners in this August Court against the impugned judgment of the Khyber Pakhtunkhwa Service Tribunal Peshawar.

Advocate-on-Record.


ATTESTED

(90)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. _____/2018

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

-----PETITIONERS

VERSUS

Noor Khan (AFC BPS-14) S/o Gulfam Khan R/o Village Abdara, Ghari Taj Muhammad P/o University of Peshawar Tehsil & District Peshawar

RESPONDENT

CIVIL PETITION FOR LEAVE TO APPEAL UNDER ARTICLES 212(3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 AGAINST THE IMPUGNED JUDGMENT/ ORDER OF LEARNED KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR DATED 08/02/2018 IN SERVICE APPEAL NO.349/2017

ATTESTED

RESPECTFULLY SHEWETH

The substantial questions of law of general public importance and grounds, inter alia, which falls for determination of this august Court are as under:-

1. Whether the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar suffers from material illegality, factually incorrect and require interference by this august Court?
2. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has properly and legally exercised its jurisdiction in the matter in hand?



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3. Whether the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar is in utter violation of section 8 of the civil Servant act r/w rule 17 of Appointment, Promotion and Transfer Rules, 1989?
4. Whether the claim of respondent is in utter disregard of surplus pool policy as the respondent was adjusted under the surplus pool policy in the Food Department in 2004 wherein only protection was given to his salary and not to seniority?
5. Whether the respondent was much later on promoted to the post of AFC on the regular seniority list which was circulated properly among all the employees?
6. Whether the respondent had remained silent on his seniority since 2004 till 2016 and now legally debarred from agitating the cause of 2004 in 2016?
7. Whether the appeal of respondent regarding the seniority of 2004 is barred by time and not maintainable in the eyes of law?
8. Whether the respondent is entitled for the benefits of mentioned judgment as there are numerous employees who had not been impleaded in the case of Muhamamd Naveed Khan?
9. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has properly construed the record and material in its true perspective?
10. Whether the impugned judgment and order is very much vague and does not disclose the actual dispute or having any discussion on the question / point involved in the matter?

FACTS

II- Facts relevant to the above points of law, inter alia, are as under:-

ATTESTED



(92)

1. That the respondent was initially the employee of Khyber Pakhtunkhwa Printing and Press Department in BPS-07 and was declared surplus.
2. That the respondent was adjusted in the Food Department as Food Grain Inspector in BPS-6 under the surplus pool policy wherein only protection has been given to his salary.
3. That the respondent post of Food Grain Inspector was up-graded from time to time and lastly the respondent was in BPS-09 as Food Grain Inspector.
4. That in the year 2015 some disciplinary proceedings were initiated against the respondent wherein the respondent was suspended and an enquiry was initiated against him and on the conclusion of enquiry and personal hearing the respondent was awarded minor penalty of censure on 22/8/2016 and later on was promoted to the post of AFC in BPS-14.
5. That the seniority from 2016 was challenged by one Muhammad Naveed whose appeal was accepted by the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and ordered to revise the seniority from 2016.
6. That the respondent did not challenge the seniority of 2004 till the filing of the instant appeal and after the revision of seniority list from 2016 the respondent filed departmental appeal which was rejected.
7. That the respondent then filed service appeal No. 349/2017 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar wherein comments was called from the petitioners which were filed accordingly.
8. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar accepted and allowed the service appeal of respondent vide judgment and order dated 8/2/2017.

ATTESTED

9. That the petitioners being aggrieved from the impugned judgment/order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 08/02/2018 in Service Appeal No.349/2017 prefer this CPLA before this august Court.
10. That the petitioners seek leave to appeal against the impugned judgment and order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 08/02/2018 in Service Appeal No.349/2017.

It is, therefore, prayed that on acceptance of this petition, leave to appeal against the impugned judgment and order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 08/02/2018 in Service Appeal No.349/2017 may graciously be granted.

(Mian Saadullah Jandoli)
Advocate-on-Record
Supreme Court of Pakistan
For Government

NOTE:

Learned Advocate General, KPK/ Addl. AG /State Counsel shall appear at the time of hearing of this petition.

ADDRESS

Office of the Advocate General, KPK, High Court Building, Peshawar. (Telephone No.091-9210119, Fax No.091-9210270)

CERTIFICATE Certified that no such petition has earlier been filed by Petitioners/ Government against the impugned judgment mentioned above.

Advocate-On-Record


ATTESTED

94

"I"
Ameer

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

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

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

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

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

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

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

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

Date of hearing: 29.6.2018

ORDER

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

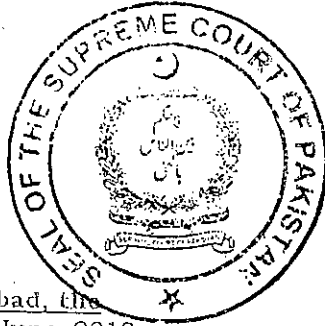
ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

ATTESTED

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



Sd/= Mian Saqib Nisar, CJ
Sd/= Faisal Arab, J
Sd/= Munib Akhtar

Certified to be True Copy

Court Associate
Supreme Court of Pakistan
Islamabad

Islamabad, the
29th of June, 2018
Wazir Nasser

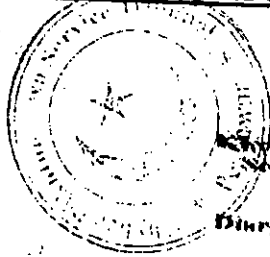
11/7/18

GR No: 16124/18
 Date of Presentation: 30-06-18
 No of Words: 600
 No of Folios: 6
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 Court Fee Stamps: 8.72
 Date of Completion of Copy: 11/7/18
 Date of delivery of Copy: 11/7/18
 Compared by/Prepared by: [Signature]
 Received by: [Signature]

ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR



Service Appeal No. 7 /2017

Sl. No. 06

Dated 03-01-2017

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

....Appellant

VERSUS

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

.....Respondents

TAMUR HAIDER KHAN
Advocate High Court
Attested

ATTESTED

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

Filed to-day

Registrar

3/1/2017

Submitted to-day
and filed.

Registrar

5/1/2017

(97)

97



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 07

Service Appeal No. 8 /2017

Dated 03-07-2017

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

....Appellant

VERSUS

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

.....Respondents

TAIMUR MAIDER KHAN
Advocate (High Court)
Attested

Filed to-day
Registrar
3/11/2017

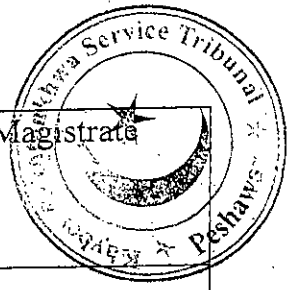
Re-submitted to -day
and filed.

Registrar
5/11/2017

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

ATTESTED
Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Sr. No/	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	24.11.2017	<p align="center">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</p> <p align="center">Service Appeal No. 07/2017</p> <p align="center">Date of Institution ----03.01.2017 Date of Decision ----24.11.2017</p> <p>Muhammad Akbar (Assistant Food Controller, Mardan) S/O Muhammad Ismail R/O G.T Road, Chamkani, Tehsil & District, Peshawar. Appellant</p> <p align="center">VERSUS</p> <p>1. Director Food, Khyber Pakhtunkhwa, Peshawar. 2. Secretary to Government of Khyber Pakhtunkhwa, Peshawar. 3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar...Respondents</p> <p align="center">JUDGMENT</p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for the appellant-present. Learned District Attorney for the respondents present.</p> <p>2. This single/common judgment shall also dispose of appeal bearing No. 08/2017 entitled Muhammad Saleem Iqbal versus Director Food Khyber Pakhtunkhwa and others being identical in nature having arisen out from the same law and facts.</p> <p>3. Appellants have filed the appeals under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents and made impugned the seniority list of Assistant Food Controllers as it stood on 31.10.2016.</p> <p>4. Learned counsel for the appellants argued that the appellants</p>

[Signature]
TAMMUR HAIDER KHAN
 Advocate High Court
 Attested

[Signature]
 24.11.2017

ATTESTED
[Signature]
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

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

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

6. Arguments heard. File perused.

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

awin

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ATTESTED

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(17)

(100)

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

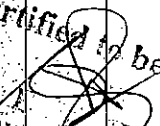

(MUHAMMAD HAMID MUGHAL)
MEMBER


(GUL ZEB KHAN)
MEMBER

ANNOUNCED

24/11/2017

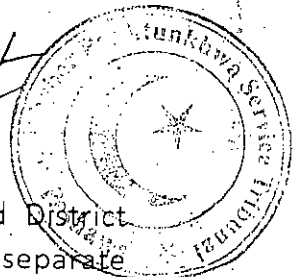
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Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

1011

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Appeal No. 08/2017
M. Suleem Iqbal vs Govt



24.11.2017

TAIMUR HAIDER KHAN
Advocate High Court
Attested

ATTESTED

Learned Counsel for the appellant and learned District Attorney for the respondents present. Vide separate judgment of this Tribunal of today placed on file of appeal bearing No. 7/2017 entitled Muhammad Akbar Versus Director Food Khyber Pakhtunkhwa, Peshawar and others, the present appeal is also accepted in terms of judgment passed in the service appeal bearing No. 831/2015. However the appellants shall still stand junior to all those persons who have been inducted as Assistant Food Controllers (BS-14) by initial recruitment prior to the promotion of appellant as Assistant Food Controllers on regular basis and thus seniority of the direct recruits vis a vis appellants (Promotees) in the impugned seniority list shall not be disturbed. Parties are left to bear their own costs. File be consigned to the record room.

(GUL ZEB KHAN)

MEMBER

ANNOUNCED

24.11.2017

(MUHAMMAD HAMID MUGHAL)

MEMBER

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	29-11-17
Number of Words	800
Copying Fee	6
Urgent	6
Total	6
Name of Counsel	
Date of Filing of Application	14-12-17
Date of Delivery of Copy	14-12-17

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102

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GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

NO.500/1-3/DPC/PkK/2018/133
Date of Issue: the 03-09-2018

TO: secretary@pk.gov.pk fooddepartment@pk.gov.pk director@pk.gov.pk

03-09-2018

- 1. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Establishment Department,
Peshawar.
- 2. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Finance Department,
Peshawar.
- 3. The Director Food,
Khyber Pakhtunkhwa,
Peshawar.

27-08-2018

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

Dear Sir,

I am directed to refer 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 27.08.2018, duly signed, for information and necessary action, please.

Your's faithfully,

SECTION OFFICER (GENERAL)

Encl: As above.

C.C. to:-

PA to Secretary Food Khyber Pakhtunkhwa.

ATTESTED

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MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 27-08-2018 AT 11:00 AM IN THE OFFICE OF THE SECRETARY FOOD, KHYBER PAKHTUN 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 AM. The members attended the meeting:-

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

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 Co (BS-14) with effect from 15-08-2006 and as District Food Controller / Storage & Enforcement Officer / Ration Controller, Peshawar (BS-16) with effect from 16-05-2012 as per advice of Law Department in light of decision dated 18-01-2016.

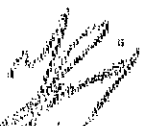
3 Muhammad Naveed Khan Ex-Rationing Controller (BS-16) was adjusted in Para Dines in one step lower scale as Foodgrain Inspector (BS-06) from the surplus pool of DCO Mandorah on 15-08-2006 and accordingly he was placed at the bottom of seniority list pertaining to the relevant case as per instructions in vogue at that time. Later on the officer claimed seniority at the top of seniority list to Service Tribunal, Peshawar as per revised surplus pool policy issued by Government on 15-08-2009. Tribunal accepted the appeal in its judgment dated 15-08-2016 (and accordingly the officer (serving as A) on the line of judgment) was placed at the top of the Seniority List and consequently he was appointed DFO/SAO/RC (BS-16).


4 After retirement, the officer claimed seniority with retrospective effect through an appeal to the Service Tribunal, Camp Court Abbottabad vide Execution Petition No.193/2017. The case was put 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 15-08-2006 and District Food Controller / Storage & Enforcement Officer / Ration Controller, Peshawar with effect from 16-05-2012 as per advice of the Law Department in light of Court decision dated 18-01-2016.

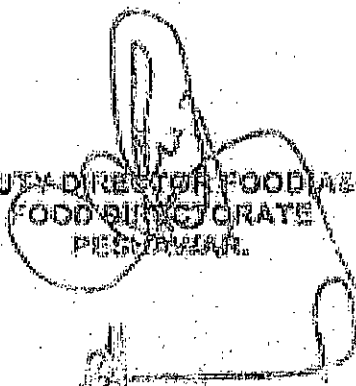
5 The Departmental Promotion Committee examined the case in its earlier meeting dated 20-08-2018 and recommended that the Law Department may also be approached again for advice for consideration of the case. The Law Department advice that implementation of Judgment passed in serv. appeal No.831/2015 dated 15-08-2016 filed 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 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 Khyber Pakhtunkhwa examined the case and recommended promotion of Mr. Mohammed Nawaz from present Mr. Assistant Food Controller (BS-11) with effect from 15-07-2013 and as District Food Controller / Storage Enforcement Officer (Retailing Controller, Peshawar (BS-15) with effect from 15-07-2013. It may be observed that seniority position of Mr. Basir Ahmed Ex-DFC in seniority list of AFC as it stood on 05-03-2013 on seniority list of DFC/ S&EO IPC as at it stood on 30-04-2014 to implement the judgment of Service Tribunal dated 18-03-2013.

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


SUPERINTENDENT,
GOVERNMENT OF KHYBER
PAKHTUNKHWA
FINANCE DEPARTMENT
PESHAWAR

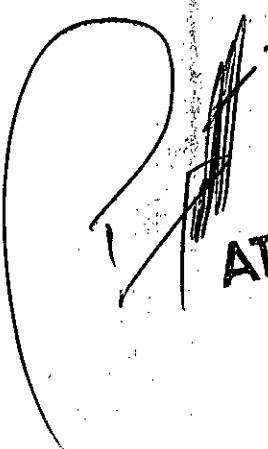

SECTION OFFICER (M-III)
GOVERNMENT OF KHYBER
PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
PESHAWAR


DEPUTY DIRECTOR FOOD (A20)
FOOD DIRECTORATE
PESHAWAR.

DEPUTY SECRETARY FOOD,
FOOD DEPARTMENT KHYBER
PAKHTUNKHWA


SECRETARY FOOD,
KHYBER PAKHTUNKHWA
PESHAWAR.

CHIR


ATTESTED

Service Rules

(105)

Annexure
"L"

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

NOTIFICATION

Dated Peshawar, the 24-05-1981

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

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

1 (1) These rules may be called the North West Frontier Province Food Department (Recruitment and Appointment) Rules, 1981

(2) They shall come into force at once.

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

ATTESTED

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

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

Dated 24/05/1981

A copy is forwarded for information to:-

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

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

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

SCHEDULE-42

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

ATTENDED
Farman Hader Khan
Head of
Revenue High Court

1961


Tamim Haider Khan
Advocate High Court
ATTESTED

(60)

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

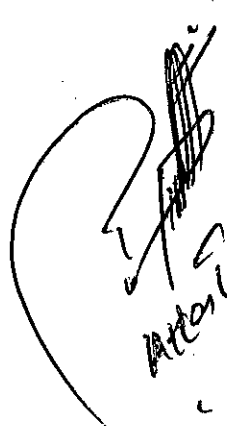
11	FGI / Cane Inspector	Intermediate from a recognized Board		18 years to 25 years.	a) 75 % by promotion on the basis of seniority cum fitness from amongst FGS, and Cane Inspector with at least 03 Years service as such and b) 25 % by initial recruitment.
12	Entries under Column No 02 to 06 of S.No.12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

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ATTENDED
 Tamman A. ...
 Advocate
 High Court

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

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ATTESTED
Attestee
Taimur Haidar Khan
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 349 /2017

Noor KhanAppellant

VERSUS

Director Food, Khyber Pakhtunkhwa,
Peshawar and others.....Respondents

INDEX

S.No.	Description of documents.	Annexure	Dated
1.	Memo of appeal with affidavit.		1-8
2.	Copy of employment documentation	A	9-23
3.	Copy of the office order/ adjusted as Inspector in Food Department and Govt; Policy of Surplus	B	24-31
4.	Copy of the Govt. Notification	C	32-36
5.	Copy of departmental appeal alongwith regretted order of respondent	D	37-40
6.	Copies of Appeal No.831/2015, alongwith judgment dated 15.08.2106 of this Hon'ble Tribunal	E	41-54
7.	Copy of judgment 2009 SCMR-1	F	55-57
8.	Copies of order dated 11.01.2017	G	58-61
9.	Wakalatnama		62

Appellant

Through

Taimur Haider Khan
Advocate High Court

Chamber
Taimur Law Associates
Office No. 37, Malik Tower,
Pajagi Road, Peshawar
Cell: 0346-9192561

Dated: 10-4-2017

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 349 /2017

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 379

Dated 13-4-2017

Noor Khan (AFC BPS-14) S/o Gulfam Khan
R/o Village Abdara, Ghari Taj Muhammad, P/o University
of Peshawar, Tehsil & District Peshawar

....Appellant

VERSUS

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

.....Respondents

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ORDER
DATED 06.04.2017 VIDE OFFICE LETTER
NO.1256/PF-NOOR KHAN AFC, WHEREIN
THE APPELLANT HAS NOT BEEN PLACED IN
THE TOP FOUR (04) OF THE REVISED
SENIORITY LIST OF ASSISTANT FOOD
CONTROLLERS STOOD ON 31.10.2016
KEEPING IN VIEW THE PREVIOUS SENIORITY
LIST OF FOOD GRAIN INSPECTOR IN THE
YEAR 2004 OF THE FOOD DEPARTMENT AS
FOR THE NEEDFUL THE APPELLANT'S

Filed to-day

Registrar

13/4/17

DEPARTMENTAL APPEAL DATED 27.03.2017, AFTER INTIMATION OF THE MENTIONED SENIORITY LIST DATED 31.10.2016, WAS NOT ACCEPTED VIDE IMPUGNED ORDER DATED 06.04.2017 OF THE RESPONDENTS DESPITE THE FACT BEING ON THE SAME FOOTING WITH MUHAMMAD NAVEED (AFC), WHO ALSO ADJUSTED IN THE FOOD DEPARTMENT IN THE YEAR 2004 AS PER GOVERNMENT OF KHYBER PAKHTUNKHWA SURPLUS POLICY, KEEPING IN VIEW THIS HON'BLE SERVICE TRIBUNAL JUDGMENT DATED 15.08.2016 IN APPEAL NO.831/2015 VIDES TITLE "MUHAMMAD NAVEED VS. GOVT. OF KP THROUGH SECRETARY ESTABLISHMENT AND ADMINISTRATION DEPARTMENT, PESHAWAR & OTHERS"

PRAYER:

It is, therefore, most humbly prayed that by acceptance of instant appeal on the basis of expounded subject, facts and circumstances the impugned order dated 06.04.2017 of the respondent may kindly be set-aside and the appellant may kindly be placed in the top four of the mentioned Seniority List of Assistant Food Controller with retrospective benefit for the best administration of

**Justice and fair play keeping in view
the apex Court judgment "2009 SCMR
Paga-1"**

Respectfully Submitted:-

- 1) That appellant is a law abiding citizen of Pakistan and permanent resident of Khyber Pakhtunkhwa. In the year 1995 appointed as **"Mono operator"** in Government of NWFP/ Khyber Pakhtunkhwa Printing and Stationary Department and presently holds the post of Assistant Food Controller (BPS-14) in District **Peshawar**. **(Copy of employment documentation is annexed as Annexure "A")**
- 2) That during the entire long more than 21 years of service, remained upto the mark being soft and sobered gentleman ever tried best with his sedulous hard working to keep the moral of the department high, ever obedient to the high-ups and having unblemished service carrier, which shows his dutifulness; That due to demise of appellant's mother the appellant leave application was not properly served due to which departmental action was taken against him, but later on after the profound inquiry the respondent department has dignifiedly reinstated the appellant vide Office Order No.4499/PF-1055 dated 22.08.2016 and now presently serving as Assistant Food Controller in Food Department.

- 3) That in the year 2004 vide office order No.17500/ET-542/SPA dated Peshawar 25.08.2014, the appellant vide surplus Pool letter No.SOCPOOL(E&AD)/1-14/99 was adjusted in food department NWFP/Khyber Pakhtunkhwa, Peshawar as Food Grained Inspector (BS-6). **(Copy of the office order/ adjusted as Inspector in Food Department and Govt; Policy of Surplus are attached as Annexure "B")**
- 4) That respondent No.1 vide impugned office order dated 17.11.2016 No.5578-ET-716, has issued revised seniority list of Assistant Food Controllers (BS-14) in the directive of Food KPK, Peshawar, wherein the appellant was not placed on the top-four of the seniority list, despite the fact that the appellant is on same footing with Mr. Muhammad Naveed and as mentioned in the subject, the appellant had adjusted via surplus pool in Food Department in the year 2004. Moreover, the coherent facts regarding the final seniority list of Food Grain Inspector in Food Department vide letter dated 25.08.2004, wherein, the position of the appellant is clearly mentioned, but mendaciously the same fact has not been mentioned by the respondent in the impugned seniority list of Assistant Food Controller dated 31.10.2016. **(Copy of the Govt. Notification, impugned revised seniority list 2016 and previous seniority list of 2004 are annexed as Annexure "C")**
- 5) That for the needful, legal and lawful rights the appellant has no other remedy, but placed forth

Departmental Appeal, but unfortunately the same was regretted by the respondent vide impugned office order No.1256/PF-Noor Khan AFC dated 06.04.2017. **(Copy of departmental appeal alongwith regretted order of respondent are attached as annexed as Annexure "D")**

- 6) That as mentioned in the subject one Mr. Muhammad Naveed Assistant Food Controller being on Serial No.1 of the revised list of the Food Department dated 31.10.2016 was also adjusted in the year 2006 as Food Grain Inspector, and this Hon'ble Tribunal vide its judgment/ order dated 15.08.2016 in Appeal No.831/2015 has admitted his appeal and now the appellant too on the same footing was required to be placed in the top-three of the said seniority list, but mendaciously he has not been considered for the same position by favoring the blue eyes. **(Copies of Appeal No.831/2015, alongwith judgment dated 15.08.2106 of this Hon'ble Tribunal is annexed as Annexure "E")**
- 7) That in this regard the apex Court of Pakistan vide its judgment 2009 SCMR-1, by giving special reliance on Article 25 of the Constitution of Pakistan, 1973, that similar nature of Litigants has to be considered for the same relief. **(Copy of judgment 2009 SCMR-1 is attached as Annexure "F")**
- 8) That law demands that **JUSTICE MAY NOT ONLY BE DONE BUT IT SHOULD MANIFESTLY BE SEEMS TO BE**

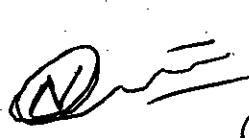
DONE, and if the instant appeal for the needful is not allowed the appellant will not only suffer irreparable losses, but his fundamental right will also be infringed.

- 9) That as per the mentioned Government Policy regarding surplus employees, that if the adjustment is made in the lower grade then his original scale/ grade, then one should be placed on the top of the seniority list, keeping view the settled principle, that beneficial status/ Rules/ Notification are to be read retrospectively.
- 10) That by not allowing the departmental appeal of the appellant by not placing him in the top three of the seniority list is not only against the law, policy and also against the fundamental rights of the appellant.
- 11) That it is indispensable to bring into the kind knowledge of this Hon'ble Tribunal that exactly on same footing, the Appeal Nos.7 and 8 of 2017 are also pending adjudication before this Hon'ble Tribunal and which have been admitted by this Hon'ble Tribunal vide order dated 11.01.2017. **(Copy of orders dated 11.01.2017 are annexed as Annexure "G")**
- 12) That the mentioned facts may kindly be considered as Grounds for the instant service appeal.
- 13) That any other point not specifically mention may be raised at the time of arguments for the best Assistant of this Hon'ble Court.

PRAYER

It is, therefore, most humbly prayed that by acceptance of instant appeal on the basis of expounded subject, facts and circumstances the impugned order dated 06.04.2017 of the respondent may kindly be set-aside and the appellant may kindly be placed in the top four (04) of the mentioned Seniority List of Assistant Food Controller with retrospective benefit for the best administration of Justice and fair play keeping in view the apex Court judgment "2009 SCMR Page-1"

Any other relief deemed appropriate in the circumstances of the case may kindly also be granted in favour of appellant.


Appellant


Through

10-4-2017

Taimur Haider Khan
Advocate High Court

Muhammad Iqbal Khan

Nusrat Shaheen

&

Uzam Wali
Advocates, Peshawar

**BEFORE THE HONORABLE KHYBER PAKHTUNKHAWA
SERVICE TRIBUNAL, PESHAWAR**

Appeal No. _____/2017

Noor Khan (Assistant Food Controller)

.....**Appellant**

Versus

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

.....**Respondents**

AFFIDAVIT

I, Noor Khan (A.F.C Food Department) son of Gul Fham Khan r/o Village Abdara, Garhi Taj Muhammad, Post Office, Peshawar University, Tehsil and District Peshawar, do hereby solemnly affirm and declares on oath that the contents of accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal and the subject appeal has been first time filed before this Honorable Tribunal.

IDENTIFIED BY:

Taimur Haider Khan
Advocate, High Court


Deponent

CNIC#17301-2589902-1

17 0 APR 2017
ATTESTED





Card No. 50093243

National Identity Card No. 17301-2589902-1

Mark of Identification

Holder's Signature


 نام: سید 17301-2589902-1
 پتہ: محلہ تان محمد خان باوٹھی روڈ، پورہ
 ڈاکٹر پشاور کے سرکاری ہسپتال، تحصیل و ضلع پشاور
 جنس: مرد
 تاریخ: 30/09/2018
 تاریخ: 12/10/2004
 کارڈ کارڈ ہونے پر فوری طور پر منسلک ہونا


13799025090

19

IDENTITY CARD.
FOOD DEPARTMENT,
N.W. F.P.



NAME *Noor Khan*
FATHER'S NAME *GULL FAN Khan*
DESIGNATION *Assistant Food Controller*

Attested

*Tamin
Haidi Khan
Advocate
High Court*

Signature of
Assistant Director
Food Dept.
Office Secy
Hydr. Pakha
Peshawar



*Attested
Tamin Haidi Khan
Advocate High Court*



حکومت پاکستان

قومی شناختی کارڈ
17301-2589902-1



نام: نور خان
پتہ: ...
دفعہ: ...

12/09/1968

Attested

دستور دستور

SERVICE BOOK

10

*Adjusted
Taimin Handu 10/10
Advise High Court*

Handwritten scribble

OF

~~XXXXXXXXXXXXXXXXXXXX~~

Noor Khan

*Adjusted in the E&A report
as a DFC*

Y. No. 1750773

ONLINE PERSONAL NO. - 00093243 -

Syed AD

47

Price : Rs. 12.60

(For use in Police Department only)

Hrs:-

- 1.
- 2.
- 3.

Handwritten signature and notes:
 Taimur Haider
 Advocate High Court

(11)

Verification Roll No. _____ dated _____ received back.

Left Thumb-Impression

Qualifications	Date	Qualifications	Date
English		First Arts	
Pushto		B.L. or B.A.	
Urdu		Pleadership Examination	
Plan-Drawing		Training School Final Examination	
Finger Print		Other Qualifications:—	
Drill Instructing		<i>Passed the Matric Examination from Peshawar Board and obtained 381 in the supplementary exam 1989.</i>	
Court Duties			
Reserve Duties			

MANAGER
 Stationery & Printing Deptt
 Govt: of NWFP Peshawar

Passed the F.A. Examination in supp session 1997 and obtained marks 436 out of 1100. from Peshawar Board.

*o.m.e.
 declared dt 25/1/88*

MANAGER
 Stationery & Printing Deptt
 Govt: of NWFP Peshawar

Note: The entries in this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

12

1. Name: Abdur Khan

2. Race: Afghan

3. Residence: H.No. AB Mahallah Taj Mohammed Khan Badschahi Road P.O. University Tehsil



4. Father's name and residence: Guljam Khan



5. Date of birth by Christian era as nearly as can be ascertained: 12-9-1968


6. Exact height by measurement: 5-9

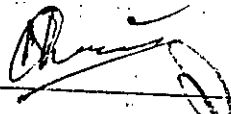
7. Personal marks for Identification

8. Left hand thumb and Finger impression of (Non-Gazetted) Officer. 

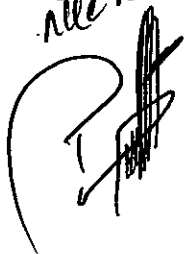
Little Finger  Ring Finger 

Middle Finger  Fore Finger 

Thumb 

9. Signature of Government Servant 

10. Signature and Designation of the Head of the Office, or other Attesting Officer. MANAGER
28 of 1968
MANAGER
Dictionary & Print Press
Dr. A.L. Pashman

Attested


Date

ion

ation

d 381

supp

436 rd.

Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive Post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant
1480-c-71	o-71	-	1480-w	-	-	20-4-95	[Signature]
1480-c-81-2695	Temp	-	1561-w	-	-	1-12-95	[Signature]
do	do	-	1642-w	-	-	1-12-96	[Signature]
do	do	-	1723-w	-	-	1-12-97	[Signature]
do	do	-	1885-w	-	-	25-1-98	[Signature]
do	do	-	1966-w	-	-	1-12-98	[Signature]
do	do	-	2147-w	-	-	1-12-99	[Signature]
do	do	-	2128-w	-	-	1-12-2000	[Signature]
do	do	-	2128-w	-	-	6-6-2000	[Signature]
do	do	-	2209-w	-	-	1-12-2001	[Signature]

[Handwritten signature]
[Handwritten text]

Signature and
 Name of the holder
 of the office or other
 officer in
 charge of
 units 1 to 8

15

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government
Meno operator (B-7) (As 2222-120-5800) Part		-	3300-0	-	✓ 12	12 2001	(RN)
do	do	-	3420-	-	-	12 2002	(RN)
-	-	-	3420-	-	-	16 ⁷ 2003	(RN)
do	do	-	3540-	-	-	12 2003	(RN)
3309/7							

[Signature]
attested

Signature of Government
Date of Appointment
Column 1
[Handwritten notes and signatures in margin]

16

8 Signature of Government	9 Signature of the head of office or other officer in charge of 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to an recorded punishment or censure, or reward or praise of the Government Serv	
					Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government			
						Period			Government to which debitable
	<i>[Signature]</i>	30-11-2002	Annual leave	<i>[Signature]</i>					
	<i>[Signature]</i>	30-11-2003	Adjusted as DEO against the vacant post (own time scale) B/S - 2002-2003	<i>[Signature]</i>					
			Vide o/o No. E+A/AD-3(43)/2002 dt 29.4.2003.				SERVICE VERIFIED FROM 1-12-97 TO 30-11-98		
	<i>[Signature]</i>	15-7-2003	Mrs. NODU Khan (M.O) referred as supply post 1009/15-7-2003 vide order No. E+A/AD(Indm)3(43) 2003-2004 dt 15-7-2003.	<i>[Signature]</i>					
	<i>[Signature]</i>	30-11-2003	Annual leave	<i>[Signature]</i>					
							SERVICE VERIFIED FROM 1-12-97 TO 30-11-98		
							SERVICE VERIFIED FROM 1-12-97 TO 30-11-98		
							SERVICE VERIFIED FROM 1-12-97 TO 30-11-98		

Stationery & Printing Department Govt. of Punjab P.O.

SERVICE VERIFIED FROM 1-12-97 TO 30-11-98

SERVICE VERIFIED FROM 1-12-97 TO 30-11-98

SERVICE VERIFIED FROM 1-12-97 TO 30-11-98

[Handwritten signature]

Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of officiating officer of Government 9 Signature of Assistant Commissioner
<p>BPS 6 (216-116-5660) Food Grain Inspector</p>			<p>3590/-</p>			<p>19/06</p>	<p><i>[Signature]</i></p>
<p>158506 (216-116-5660)</p>			<p>3700/-</p>			<p>12/2006</p>	<p><i>[Signature]</i></p>
<p><i>[Signature]</i> 10/06/06</p>							

DEPARTMENT GENERAL
 OFFICE OF THE ACCOUNTS OFFICER
 WITH RESPONSIBILITY FOR PAY FIXATION
 NWFP, PESHAWAR
 216-116-5660
 110-5660
 11-1-2002
 Accounts Officer
 Pay Fixation NWFP, Peshawar

19

8	10	11	12	13 Leave		14	15
Signature of the head of the office or other attesting officer	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Period	Government to which debitable		
<p>Signature of the head of the office or other attesting officer</p>							<p>20</p>
<p><i>Signature</i></p>						<p><i>Signature</i> Government Stationery & Printing Department, W.F.P. Peshawar</p>	
<p><i>Signature</i></p>						<p>SERVICE VERIFIED FROM 11-7-2003 TO 31-8-2004</p>	
<p><i>Signature</i></p>		<p>30/11/2004 Annual Increment <i>Signature</i> W.F.P. Peshawar.</p>				<p><i>Signature</i> From 01-09-2004 to 30-11-2004 from the Office of the Pay Rolls. <i>Signature</i> W.F.P. Peshawar.</p>	

Ms Noor Khan (Mona Operates) BPS-7 *Signature*
Govt: Stationery and Printing Dept: NWFP Peshawar
is hereby offered as *Food Grain Operate (BPS-6)*
in Food Dept and posted in Food Directorate
NWFP Peshawar vide office order no. 17500/PT-542/S.P.W
dated 25-8-2004.

Adjusted as FG 1 in
BPS-6 in the Food Directorate
NWFP Peshawar vide
Director Food Office order
No. 17500/PT-542/PA
dt. 25-8-2004.

Signature
Master
Tamer Hardi
ndw...
Signature

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government Secretary	9 Signature of the officer in charge of the office attesting of columns 1 to 8
			Rs. 4235 P.M.			1 ⁰² / ₂₀₀₉		
	Temp.							
			Rs. 4360 P.M.			1 ¹² / ₂₀₀₅		
			Rs. 4360 P.M.			1 ¹² / ₂₀₀₆		
			Rs. 5180			1 ⁷ / ₀₇		
			Rs. 5325			1 ¹² / ₀₇		
			Rs. 5340			12 ² / ₀₈		

(21)

8 Signature and of the ment Servant	10 Date of of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
					Period		
		Pay scale revised Govt of NWFP, Finance Deptt. 2005 Notification No. FD (P.R.) 11-1 2005 dt. 9-7-2005.					(22)
	30/11/05	Annual Increment.				Service verified from 1-12-2004 to 30-11-2005 from office copies of Rolls.	
	30/11/06	Annual Increment.				Service verified from 1-12-2005 to 30-11-2006 from office copies of Rolls.	
	30-11-07	Annual Increment				Service verified from 01-12-05 to 30/11/2006 from office copies of Pay Rolls.	
	1-12/08/131	Approved vide of Deptt. No SO (P.R.) FD/7-13/2005 dt 27/9/06 & Govt Deptt. No SO (P.R.) FD/10/13/06 dt 17/02/08 (dt 17/10/06)				Service verified from 1-12-06 To 8-3-2007 from office copies of Pay Rolls.	

M. Farooq

M. Farooq

M. Farooq
Assistant Accounts Officer
Food Department NWFP
Peshawar

M. Farooq
Assistant Accounts Officer
Food & Entertainment Office
M.F.R. Centre, Peshawar

M. Farooq
Assistant Accounts Officer
M.F.R. Centre, Peshawar

M. Farooq
Assistant Accounts Officer
M.F.R. Centre, Peshawar



FOOD DIRECTORATE,
KHYBER PAKHTUNKHWA,
PESHAWAR.

No 4499 /PF-1055

Dated 22 /08/2016

23

OFFICE ORDER

In pursuance of this Directorate's Office Order No.2040/PF dated 15-04-2016, Mr. Noor Khan Assistant Food Controller Office of District Food Controller, Dargai (now Food Directorate, Peshawar) is hereby re-instated into service with effect ^{from} the date of suspension.

2 The period of suspension spent by the official is hereby considered as a period of duties.

3 The absence period of 11 days of the official concerned with effect from 15-02-2016 to 25-02-2016 is hereby sanctioned as earned leave.

Bmat
DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR 19-08-16

Endorsement No & date Even

Copy is forwarded to

1. The Accountant General Khyber Pakhtunkhwa Peshawar
2. The District Accounts Officer, Malakand.
3. The Assistant Director Food Malakand Division at Saidu Sharif Swat.
4. The District Food Controller, Malakand at Dargai.
5. The Pay Bill Assistant, Food Directorate, Peshawar.
6. Officials concerned / Personal File

Bmat
DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR 19-08-16

OFFICE ORDER

June 3rd
11/11/2004
FOOD DIRECTORATE NWFP
PESHAWAR

No. 17500 /ET-542/SPA Dated Peshawar, the 25 /August/2004.

In pursuance to the Surplus Pool letter No.SOS.Pool (E&AD)1-14/99 dated 26.06.2004 and Government of NWFP, Printing & Stationery Department memo No.6847/dated 30.06.2004 the following staff of the Government of NWFP, Printing & Stationery Department already rendered surplus by respective Department, is here by adjusted as Food Grain Inspectors (BS-06) in the Food Department and posted in Food Directorate NWFP, Peshawar against the existing vacancies of Food Grain Inspector (BS-06) with effect from the date of reliving from their respective office.

S.No.	Name of Official	Designation /Department	Adjusted as
1	Mr. Muhammad Akbar	Senior Clerk (BS-07) Government of NWFP, Printing & Stationery Department, Peshawar	Food Grain Inspector (BS-06) in Food Directorate, against the vacant post
2.	Mr. Muhammad Saleem Iqbal.	Mono Operator (BS-07) Government of NWFP, Printing & Stationery Department, Peshawar	Food Grain Inspector (BS-06) in Food Directorate, against the vacant post
3.	Mr. Noor Khan	Mono Operator (BS-07) Government of NWFP, Printing & Stationery Department, Peshawar	Food Grain Inspector (BS-06) in Food Directorate, against the vacant post

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

No. 17501-8 /ET-542/SPA Dated Peshawar, the 25 /August/2004.

DIRECTOR FOOD NWFP
PESHAWAR

Copy forwarded to the:-

1. PS to Minister Food for information of the Minister Food, Government of NWFP Peshawar.
2. PS to Secretary Food for information of the Secretary Food, Government of NWFP, Peshawar.
3. The Accountant General, NWFP, Peshawar.
4. The Controller, Government of NWFP, Printing & Stationery Department for information with reference to his memo: No.6847, dated 30th June 2004 with the request to provide the service bio-data/Personal Files/Services Books/Original Deceleration of Assets/ACRs, etc of the above officials.
5. The Section Officer Surplus Pool, with reference to his memo No.SOS.Pool (E&AD) 1-14/99, dated 26th June 2004.
6. The Section Officer Food, Government of NWFP, Food Department with reference to his No.SOF(Food Deptt:.)1-16/2002/5747, dated 6th July 2004 & No.SOF(Food Deptt:.)1-16/2002/5975, dated 9th August 2004.
7. The Budget Assistant/Pay Bill Assistant/Nazir/Record Clerk, of Food Directorate NWFP, Peshawar.
8. The Officials concerned/personal file.

DIRECTOR FOOD NWFP
PESHAWAR



ANN "B"
FOOD DIRECTORATE NWFP
PESHAWAR

No. 1054 /ET-542/SPA. (25)

Dated 26 /01/2006.

OFFICE ORDER

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

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

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

SD/-
DIRECTOR FOOD, NWFP,
PESHAWAR

Dated 26 /01/2006.

No. 1055-67 /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, NWFP, Peshawar for information with reference to his letter No. SOS. POOL (E&AD)1-14/99 dated 24-08-2005
4. The District Coordination Officer, Mansehra.
5. The District Accounts Officer, Mansehra & Mardan.
6. The District Coordination Officer, Mansehra for information. He is requested to provide a Personal File, ACRs/Assets of Mr. Muhammad Naveed Ex-Senior Clerk (BS-07) for record please.
7. PA to Director Food, for information of the Director Food, NWFP, Peshawar.
8. The Section Officer Food, Government of NWFP, Food Department Peshawar
9. The Budget Officer/Pay Bill Assistant/Nazir, Food Directorate, NWFP, Peshawar.
10. The District Food Controller, Mardan
11. Mr. Muhammad Naveed for information and necessary action. He is directed to produce all documents related with his service from his parents Department for record of this Department.
12. ET-378/Personnel File.

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

Attested
Sang Adh

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

NO.SOR-1(E&AD)1-200/98

DATED: Peshawar, The 8TH June, 2001.

Annex - B

(26)

To:

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

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.

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

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

2. **CREATION OF SURPLUS POOL.**

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

3. **IMPLEMENTATION/MOITORING CELL.**

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

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

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

Consequent upon the abolition of a post in a particular cadre of a department, the junior most 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 draw of pay and allowances and also for consideration for subsequent adjustment

Altaf
Chairman
Deputy Secy

g

(27)

PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES.

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

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

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

OR

✓ (ii) To opt for readjustment/absorption against a future vacancy of his status/ BPS which may not necessarily be in his original cadre/ department.

b. Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of 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 be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.

c. Adjustment shall be made on vacant posts pertaining to initial recruitment quota from those in the surplus pool in the following manner:-

(i) In case of occurring of vacancies in their corresponding posts in any Government ~~.....~~ Département/ Organization, the senior most employee in the surplus pool should be adjusted first.

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

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

(iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the 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 preceding 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.

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

A. S. Adh

- 3
- (f) 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.
- (g) Unless the surplus employees in class IV are fully adjusted/absorbed against their respective graded posts in various Government Department/ Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs.2000/- per month for contractual appointed should be restricted to the above extent.

6. FIXATION OF SENIORITY

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

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

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

8. 7. COMPETENT AUTHORITY TO NOTIFY/ ORDER ADJUSTMENT/ABSORPTION.

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

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

Yours Obedient Servant

(MUHAMMAD HAMAYUN)
ADDITIONAL SECRETARY (REGULATION)

3. Please circulate this clarification amongst all concerned for their information and guidance.

Attended
Khan
Parry Adv

M. A. P. P.

28

Yours Faithfully,

(ABDUL JALIL)
SECTION OFFICER (O & M)

29

O&M)

Endst of Even No. & Date.

Copy forwarded to the:-

1. All Additional Secretaries in Estt: & Admn: Department.
2. All Deputy Secretaries in Estt: & Admn: Department.
3. All Section Officer in Estt: & Admn: Department.

SECTION OFFICER (O & M)

(O&M)

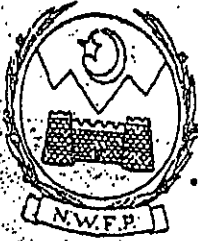
[Handwritten signatures and notes]
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all the copy
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all the copy

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

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

Annexure B

30



To

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

Subject: AMENDMENT IN THE SURPLUS POOL POLICY.

Dear Sir,

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

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

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

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

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

Yours faithfully,

(MUHAMMAD HAMAYUN) 15-2-06
SPECIAL SECRETARY (REGULATIONS)

Endst No. & Date even.

Copy forwarded to:

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

Handwritten notes and signatures:
Muzeeb
Raza
Raza Adh

To,

The Director Food, NWFP,
Peshawar.

31

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 I was placed at the seniority list of Foodgrains Inspector i.e. at the bottom.

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 his 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.

Yours Obediently,

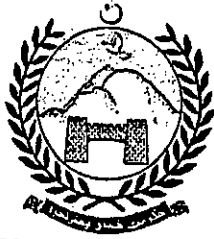
Dated: 31-3-06

M. Naveed

Mr. Muhammad Naveed
Foodgrain Inspector
DFC Office Mardan

*Attest
Tajir Ali
Dane*

*Noted
R*



FOOD DIRECTORATE
KHYBER PAKHTUNKHWA,
PESHAWAR

No. SC-78 /ET-716

Dated 7/11/2016

AMMURE
22/11

32

TO:-

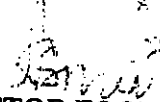
1. All Officers/ Officials in Food Directorate, Peshawar.
2. All Assistant Directors Food at Divisional level in Food Department Khyber Pakhtunkhwa
3. All District Food Controllers in Khyber Pakhtunkhwa
4. The Storage & Enforcement Officers, NRC Azakhel & PRC Peshawar
5. The Rationing Controller Peshawar.

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

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 PAKHTUNKHWA
PESHAWAR

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 FOOD
KHYBER PAKHTUNKHWA
PESHAWAR.



**REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLERS (BS-14) IN THE FOOD DIRECTORATE
KHYBER PAKHTUNKHWA, PESHAWAR AS IT STOOD ON 31-10-2016.**

No.	2 Name of Govt Servant	3 Qualification	4 Date of birth	5 Domicile	6 Date of entry in to Govt service	7 Date of appointment to the post of FGI/ Cane Inspector	8 Date of appointment to the present post	9 Method of recruitment	10 Date of superannuation
1.	Mr. Muhammad Naved	BA /LLB	13.01.1957	Mansehra	18.05.1978	01.02.2006	22-04-2016	By Promotion	12.01.2017 ✓
2.	Mr. Taj Bar Khan	B.A.	16.07.1957	Dir Lower	23.06.1982	01.01.1997	14-12-2009	Already appointed as DFC /S&EO/RC (BS-16) on acting charge basis w.e.f 23-12-2015	15.07.2017 ✓
3.	Mr. Aman Ullah	F.A.	15.06.1957	M.Agency	22.06.1982	25.03.1998	14-12-2009	By Promotion	14.06.2017 ✓
4.	Mr. Fazli Bari	B.A.	02.02.1961	Chitral	22.06.1982	30.08.2000	14-12-2009	By Promotion	01.02.2021
5.	Muhammad Zubair	B.A.	01.02.1970	Swat	09.05.1993	30.08.2000	06-04-2010	By Promotion	31.01.2030
6.	Mr. Mehmood-ur-Rahman	C.Com.	02.11.1969	Kohat	09.05.1993	30.08.2000	06-04-2010	By Promotion	01.11.2029
7.	Mr. Salah-ud-Din	B.A.	25.11.1972	Peshawar	09.05.1993	30.11.2000	06-04-2010	By Promotion	24.11.2032
8.	Mr. Arshad Hussain	B.A.	15.09.1967	Charsadda	09.05.1993	30.11.2000	06-04-2010	By Promotion	14.09.2027
9.	Muhammd Arshad	B.A.	08.06.1959	Mansehra	09.05.1993	30.11.2000	06-04-2010	By Promotion	07.06.2019
10.	Syed Wazir Shah	M.A.	04-08-1985	Mohmand Agency	19-05-2010	-	19-05-2010	By initial recruitment	03-08-2045
11.	Mr. Aftab Umar Khan	MA	01.03.1970	Peshawar	09.05.1993	17.06.2005	21-10-2011	By Promotion	28.02.2030
12.	Muhammad Tariq	B.Sc	11.07.1970	Mansehra	09.05.1993	20-12-2003	06-04-2010	By Promotion	10.07.2030
13.	Mr. Anwar Gayum	BA	07.07.1969	Charsadda	09.05.1993	20.12.2003	21-10-2010	By Promotion	05.12.2029
14.	Mr. Abdul Rafeez	MA	01.01.1970	Chitral	09.05.1993	20.12.2003	04-10-2011	By Promotion	31.12.2030
15.	Mr. Arshad Hussain	BA	29.02.1972	Mansehra	09.05.1993	20.12.2003	04-10-2011	By Promotion	27.02.2032
16.	Mr. Ali Asghar Khan	BA	30.04.1966	PK Peshawar	09.05.1993	20.12.2003	18-02-2012	By Promotion	29.04.2025
17.	Mr. Shabir Ahmad Khan	LLB	20.03.1972	Chitral	09.05.1993	20.12.2003	18-02-2012	By Promotion	19.03.2032
18.	Mr. Said Nawaz	B.Com	20.03.1972	Chitral	09.05.1993	20.12.2003	18-02-2012	By Promotion	19.06.2032
19.	Mr. Jamshed Khan Afridi	B.A	20.06.1972	K/Agency	09.05.1993	20.12.2003	21.05.2012	By Promotion	13.02.2028
20.	Mr. Sohail Habib	Matric	14.02.1968	Bannu	09.05.1993	20.12.2003	21.05.2012	By Promotion	04.02.2034
21.	Mr. Sheraz Anwar	F.A	05.02.1974	Mansehra	09.05.1993	20.12.2003	07.08.2015	By initial recruitment	21.11.2048
22.	Mr. Muhammad Azam	B.B.A	22.11.1988	S. Waziristan Agency	07.08.2015	-	07.08.2015	By initial recruitment	30.09.2047
23.	Mr. Muhammad Shakeel	M.B.A	01.10.1987	Karak	07.08.2015	-	07.08.2015	By initial recruitment	09.04.2044
24.	Mr. Tausif Iqbal	M.B.A	10.04.1984	Abbottabad.	07.08.2015	-	07.08.2015	By initial recruitment	02.12.2050
25.	Muhammad Shakeel	M.B.A	03.12.1990	Abbottabad.	07.08.2015	-	07.08.2015	By initial recruitment	02.01.2047
26.	Miss Uzma Kanwal	M.A	03.01.1987	Chitral	07.08.2015	-	07.08.2015	By initial recruitment	09.04.2047
27.	Mr. Zafar Alam Riza	M.A	10.04.1987	Mansehra	07.08.2015	-	07.08.2015	By initial recruitment	17.04.2044
28.	Mr. Shujaat Hussain Shah	M.Sc	18.04.1984	Dir Lower	07.08.2015	-	07.08.2015	By initial recruitment	26.06.2049
29.	Mr. Hafeez-ur Rehman	B.A	27.06.1989	Peshawar	07.08.2015	-	07.08.2015	By initial recruitment	04.12.2022
30.	Mr. Adnan Khan	M.A	05.12.1962	Peshawar	01.03.1982	25.08.2004	22-04-2016	By Promotion	14.07.2029
31.	Mr. Muhammad Akbar	BA	15.07.1969	Peshawar	04.08.1990	25.08.2004	22-04-2016	By Promotion	17.04.2025
32.	Mr. Muhammad Salim Iqbal	D.Com	18.04.1965	Nowshera	14.07.1993	17.06.2005	22-04-2016	By Promotion	31.12.2027
33.	Mr. Muhammad Salim	M.A Pol: Science	18.04.1965	Nowshera	14.07.1993	17.06.2005	22-04-2016	By Promotion	31.12.2027

33

Tammur Ayesha Beg
 Tammur Haidar
 Nawaz Safi 1496 Govt.

30

33.					04.03.2006	04-03-2006	22-04-2016	By Promotion	01.05.2033
34.	Mr. Muhammad Khalid	FA	02.05.1973	Peshawar	03-11-2008	03-11-2008	22-04-2016	By Promotion	31.12.2035
35.	Mr. Usman Khan	B.A	01-01-1975	Dir	04.07.1993	05-11-2008	22-04-2016	By Promotion	10.04.2026
36.	Mr. Muhammad Shoaib	F.A	11.04.1966	Mansehra	15.08.1993	05-11-2008	22-04-2016	By Promotion	04.01.2035
37.	Mr. Amjid Khan	Matric	05.01.1975	Malakand	16.08.1993	12-01-2009	22-04-2016	By Promotion	20.09.2030
38.	Mr. Mohammad Zubair	M.A	21.09.1970	Mardan	19.08.1993	12-01-2009	22-04-2016	By Promotion	02.03.2029
39.	Mr. Saif Ali Shah	B.Sc	03.03.1969	Kohat	24.10.1994	12-01-2009	22-04-2016	By Promotion	14.04.2017
40.	Mr. Gul Zareen Shah	M.A	15.04.1957	Bannu	13-08-2009	13-08-2009	22-04-2016	By Promotion	14-02-2047
41.	Syed Wasim Shah	F.Sc	15-02-1987	Kohat	22.05.1995	26-12-2009	22-04-2016	By Promotion	14.03.2034
42.	Mr. Rashid Saeed	B.A	15.03.1974	DIKhan	09.05.1993	05-11-2008	04-08-2016	By Promotion	01.08.2028
43.	Mr. Aman Khan	F.Sc	02.08.1968	Bannu	22.05.1995	26-12-2009	04-08-2016	By Promotion	24.03.2037
44.	Mr. Ashfaq Khan	B.A	25.03.1977	Mardan	02.05.1995	26-12-2009	04-08-2016	By Promotion	28.02.2026
45.	Mr. Riaz Ahmad	M.A	01.03.1966	Chitral	03.05.1995	26-12-2009	04-08-2016	By Promotion	30.04.2037
46.	Mr. Ateeq-ur Rehman	B.A	01.05.1977	M/Agency	06.08.1995	26-12-2009	04-08-2016	By Promotion	31.05.2023
47.	Mr. Angoor Shah	M.A	01.06.1963	K/Agency					

M. Saib
 ASSISTANT DIRECTOR FOOD (E)

34

M. Saib
 M. Saib
 M. Saib
 M. Saib

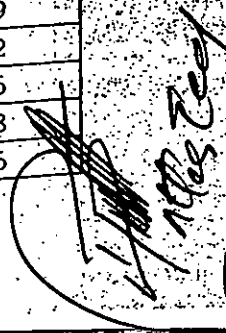
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FINAL SENIORITY LIST OF FOODGRAIN INSPECTOR IN THE FOOD DEPARTMENT AS STOOD ON 25.08.2004

Total Sanctioned Posts	54
Held	48
Vacant	6

S.No	Name of Govt. Servant	Qualification	Date of Birth	Domicile	Date of entry into Govt. Service	Date of appointment to the Present Post	Method of Recruitment	Date of Superannuating
1	Pir Hashmat Ali Shah	B.Sc.	15.08.1951	S. Waziristan	03.10.1974	09.06.1982	By promotion	14.08.2011
2	Jamil Tariq	B.A.	01.05.1949	Abbottabad	19.06.1973	08.06.1982	By promotion	30.04.2009
3	Muhammad Younis	Matric	01.04.1947	Abbottabad	05.12.1968	03.11.1982	By promotion	31.03.2007
4	Muhammad Ayaz	Matric	15.08.1946	Chitral	13.11.1974	08.05.1983	By promotion	14.08.2006
5	Bashir Ahmed	Matric	04.02.1955	Chitral	01.06.1977	14.03.1985	By promotion	03.02.2015
6	Manzoor Ahmed	F.A.	10.03.1950	Peshawar	07.07.1973	26.03.1985	By promotion	09.03.2010
7	Obaid Ur Rehman	F.A.	13.04.1953	Mardan	31.03.1975	23.03.1985	By promotion	12.04.2013
8	Salim Shah	F.A.	04.11.1949	Kohat	30.04.1975	05.04.1985	By promotion	13.03.2009
9	Amir Nawab	F.A.	08.04.1954	Malakand	01.04.1979	20.03.1985	By promotion	07.04.2014
10	Muhammad Saeed	Matric	10.05.1949	Abbottabad	28.05.1973	21.06.1993	By promotion	09.05.2009
11	Ajab Khan	M.Sc.	13.08.1955	Swat	03.04.1979	17.06.1993	By promotion	12.08.2015
12	Din Muhammad Gul	Matric	18.02.1954	Kohat	22.10.1974	01.08.1994	By promotion	12.08.2015
13	Raja Ifukhar Ahmed	F.A.	30.05.1954	Abbottabad	01.07.1982	17.11.1994	By promotion	17.02.2014
14	Nazakat Hussain Shah	Matric	14.01.1955	Mansehra	01.03.1975	17.05.1995	By promotion	29.05.2014
15	Hasham Khan	B.A.	18.10.1971	M. Agency	03.03.1996	03.03.1996	By initial recruitment	13.01.2015
16	Sher Fayaz	M.A.	02.01.1969	Chitral	12.02.1996	12.02.1996	By initial recruitment	17.10.2031
17	Adil Badshah	B.Sc.	15.04.1972	Karak	25.02.1996	25.02.1996	By initial recruitment	01.01.2029
18	Shad Muhammad	M.Sc.	25.05.1966	Mansehra	11.02.1996	11.02.1996	By initial recruitment	14.04.2032
19	Sangullob	M.A.	15.11.1948	Bannu	20.08.1976	20.08.1976	By initial recruitment	24.05.2026
20	Khan Zada Khan	F.Sc.	15.03.1956	Bannu	25.10.1980	25.10.1980	By initial recruitment	14.11.2008
								14.03.2016

35


 Farman Haidi
 Advocat. High Court


32

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Final Seniority

21	Kifayat Khan	B.A.	01.11.1959	Peshawar	20.02.1986	20.08.1986	By initial recruitment	31.10.2019
22	Aurangzab	F.A.	18.01.1957	M.Agency	26.06.1982	01.06.1995	By promotion	17.01.2017
23	Muhammad Nawab	B.Sc.	16.10.1958	FR Peshawar	22.07.1982	23.12.1996	By promotion	15.10.2018
24	Sher Afzal	F.A.	02.04.1960	FR Bannu	30.06.1982	23.12.1996	By promotion	01.04.2020
25	Taj Bar Khan	F.A.	16.07.1957	Dir	23.06.1982	01.01.1997	By promotion	15.07.2017
26	Abbaas Khan	F.A.	06.05.1952	DIKhan	01.10.1973	23.05.1998	By promotion	05.05.2012
27	Iqbal Hussain Afridi	B.A.	05.09.1962	K.Agency	01.07.1982	25.03.1998	By promotion	04.09.2022
28	Aman Ullah	F.A.	15.06.1957	M.Agency	01.07.1982	25.03.1998	By promotion	14.06.2017
29	Fazli Bari	B.A.	02.02.1961	Chitral	27.08.1981	30.08.2000	By promotion	01.02.2021
30	Muhammad Zubair	B.A.	01.02.1970	Swat	18.05.1993	30.08.2000	By promotion	31.01.2030
31	Mehmood-ur-Rahman	C.Com.	02.11.1969	Kohat	10.05.1993	30.08.2000	By promotion	01.11.2029
32	Salah-ud-Din	B.A.	25.11.1972	Peshawar	12.05.1993	30.08.2000	By promotion	24.11.2032
33	Sardar Khan	B.A.	05.01.1955	FR.Bannu	10.05.1993	30.11.2000	By promotion	04.01.2015
34	Muhammad Arshad	B.A.	15.09.1967	Charsadda	10.05.1993	30.11.2000	By promotion	14.09.2027
35	Syed Wazir Shah	M.A.	08.06.1959	Mansehra	10.05.1993	30.11.2000	By promotion	07.06.2019
36	Abdul Hafecz	M.A.	07.07.1969	Charsadda	13.05.1993	20.12.2003	By promotion	06.07.2029
37	Ansar Qayum	B.A.	11.07.1970	Mansehra	13.05.1993	20.12.2003	By promotion	10.07.2030
38	Arshad Hussain	B.A.	01.01.1970	Chitral	11.05.1993	20.12.2003	By promotion	31.12.2029
39	Ali Asghar Khan	B.A.	28.02.1972	Mardan	10.05.1993	20.12.2003	By promotion	27.02.2032
40	Zamarud Khan	Matric	14.03.1955	Abbottabad	19.07.1979	20.12.2003	By promotion	13.03.2015
41	Shabir Ahmad Khan	LLB	30.04.1966	FR Peshawar	12.05.1993	20.12.2003	By promotion	29.04.2026
42	Said Nawaz	B.Com	20.03.1972	Chitral	12.05.1993	20.12.2003	By promotion	19.03.2032
43	Jamshed Khan Afridi	B.A.	20.06.1972	Khyber Agen	10.05.1993	20.12.2003	By promotion	19.06.2032
44	Sohail Habib	Matric	14.02.1968	Bannu	10.05.1993	20.12.2003	By promotion	13.02.2028
45	Sheraz Anwar	F.A.	05.02.1974	Mansehra	03.07.1993	20.12.2003	By promotion	04.02.2034
46	Muhammad Akbar	B.A.	05.12.1962	Peshawar	01.03.1982	25.08.2004	By initial recruitment / adjusted from Surplus Pool	04.12.2022
47	Muhammad Salim Iqbal	D.Com	15.07.1969	Peshawar	01.08.1990	25.08.2004	By initial recruitment / adjusted from Surplus Pool	14.07.2029
48	Noor Khan	F.A.	12.09.1968	Peshawar	20.04.1995	25.08.2004	By initial recruitment / adjusted from Surplus Pool	11.09.2028

36


 After Reg
 Tamim Hudaib
 Nawaz Khan
 Law

To

The Director,
Food Khyber Pakhtunkhwa,
Peshawar.

Amended
D

37

Subject:- DEPARTMENTAL APPEAL /REVIEW IN RESPECT OF REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLER "AS THE APPELLANT BEING ON THE SAME FOOTING WITH MUHAMMAD NAVEED AFC OFFICIAL OF DFC MANSHERA MAY ALSO BE PLACED IN THE SENIORITY LIST OF 31.10.2016 KEEPING IN VIEW, THE MENTIONED JUDGMENT IN APPEAL NO.831/2015 DATED 15.8.2016 OF THE HON'BLE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR AS CONSPICUOUSLY THE APPELLANT TOO WAS INDUCTED VIA SURPLUS IN YOUR DEPARTMENT IN THE YEAR 25.8.2004 FOR THE BEST AND ADMINISTRATION OF JUSTICE AND FAIR PLAY, KEEPING IN VIEW ARTICLE 25 OF THE CONSTITUTION OF PAKISTAN 1973 WITH SPECIAL RELIANCE ON THE APEX COURT (SUPREME COURT JUDGMENT 2009 SCMR 1).

PRAYER IN APPEAL

BY acceptance of this appeal on the basis of expounded subject and facts the appellant may kindly be placed in the Top-3 of the seniority list as per the judgment dated 15.08.2016 in appeal No.831/2015 of Hon'ble Khyber Pakhtunkhwa service tribunal for the best administration of justice and fair play.

Respected Sir,

I very humbly submit the following few lines for your kind and sympathetic consideration:-

1 That I was initially appointed as a Mono-operator (BPS-7) in the Department of Stationary and printing vide order dated 20.4.1995 that ever since my appointment I had performed my duties assigned to me with zeal and devotion and there was no complaint whatsoever regarding my performance.

2 That after adjustment in the Food Department I was placed as Food Grain Inspector (BPS-06).

3 That according to notification dated 8.6.2001 issued by the Establishment and Administration of the provisional Govt: Policy for declaring the Govt: Servant 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) the original policy issued vide notification dated 08.06.2001.

Handwritten notes and signatures:
1. A large signature on the left side.
2. A signature above the first point.
3. A signature above the second point.
4. A signature above the third point.
5. The number '3' written next to the third point.


Sub Para-(d) added to Para (6).

- (d) In case of adjustment against post lower than his 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 and becoming junior to his juniors”
- 4 That after the adjustment in the Food Department the undersigned was placed at the bottom of the seniority list.
- 5 That in the year 2006 exactly on the same footing of Muhammad Naveed the appellant via surplus basis has inducted in the Food Department as Food Grain Inspector in (BPS-06) the presently hold the position of (Assistant Food Controller (BPS-14).
- 6 That as mentioned in the subject vide judgment dated 15.08.2016 of Hon’ble Chairman Khyber Pakhtunkhwa Service Tribunal, Peshawar case of Muhammad Naveed AFC office of DFC Mansehra vide appeal No 831/2015, the appellant is having exactly the same case and such proprietary demand as per Article 25 of the constitution of Islamic republic of Pakistan 1973 (2009 SCMR 1) the appellant may also be placed in the top-3 of the seniority list of Assistant Food Controller in the revised seniority list dated 31.10.2016.
- 7 That it is indispensible to mention here that as per your good self seniority list, the appellant had been appointed on 20.4.1995 as mentioned in the previous seniority list dated 20.9. 2004 and according to touchstone of the surplus policy mentioned in the said judgment the appellant may be placed according to law. Moreover astonishingly even my name has not been mentioned in the impugned seniority list dated 31.10.2016.
- 8 That similarly I have never been intimated regarding revised seniority list of Assistant Food Controllers as it was stood on 31.10.2016 and hence just after information, I am going to place forth my instant application for the need full.

GROUNDS OF DEPARTMENTAL APPEAL.

- A That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B That I have at my credit unblemished and spotless service career during the entire service, I have never given any chance of complaint regarding my performance. The seniority of the undersigned has been affected a lot and shall be given his due seniority.

*Muhammad Naveed
 nava@ic High Court*



- C That the case of the undersigned is complete misapplication of law as against the surplus policy issued by the Govt: of Khyber Pakhtunkhwa Establishment and Administration Department dated 08.06.2001, later on amended dated 15.02.2006. The whole proceedings conducted are thus void ab-initio.
- D That I have a spotless and long service career, show ever the same has not been considered while disturbing/affecting my seniority.
- E That any other point may be raised at the time of personal hearing if required for the best assistance of your honour. It is therefore most humbly prayed that by acceptance of this Departmental Appeal/Review on the basis of expounded subject and facts the appellant may kindly be placed in the top-3 of the seniority list vide order dated 31.10.2016 as per judgment dated 15.8.2016 in Appeal No.831/2015 of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, for the best administration of justice and fair play.

Dated 27/3/2017.

Yours Obediently,



NOOR KHAN,
Assistant Food Controller,
(BPS-14) Food Directorate,
Khyber Pakhtunkhwa, Peshawar.

Handwritten notes:
 Nitaz
 Tamir Haidi
 Adre e e Hq
 (The text is written in a circular scribble around a signature)



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE, OF FOOD
PESHAWAR.

40

No. 1256 /PF-Noor Khan AFC
Dated Peshawar, the 06/04/2017

To

Mr. Noor Khan, AFC
Food Directorate Peshawar.

Subject: - DEPARTMENTAL APPEAL / REVIEW IN RESPECT OF REVISED SENIORITY LIST OF ASSISTANT FOOD CONTROLLER "AS THE APPELLANT BEING ON THE SAME FOOTING WITH MUHAMMAD NAVEED AFC OFFICIAL OF DFC MANSEHRA MAY ALSO BE PLACED IN THE SENIORITY LIST OF 31-10-2016 KEEPING IN VIEW, THE MENTIONED JUDGMENT IN APPEAL NO. 831/2015 DATED 15-08-2016 OF THE HON'BLE CHAIRMAN KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR AS CONSPICUOUSLY THE APPELLANT TOO WAS INDUCTED VIA SURPLUS IN YOUR DEPARTMENT IN THE YEAR 25-08-2004 FOR THE BEST AND ADMINISTRATION OF JUSTICE AND FAIRY PLAY. KEEPING IN VIEW ARTICLE 25 OF THE CONSTITUTION OF PAKISTAN 1973 WITH SPECIAL RELIANCE ON THE APEX COURT (SUPREME COURT JUDGMENT 2009 SCMR 1)

Reference your appeal dated 27-03-2017 against the revised seniority List of Assistant Food Controllers as it stood on 30-10-2016 on the subject noted above.

2 Mr. Muhammad Naveed Ex-Rationing Controller Peshawar ^{had} filed an appeal No.831/2015 in the Khyber Pakhtunkhwa Service Tribunal against his seniority position in the Seniority List ever since his adjustment as Foodgrain Inspectors in Food Department Khyber Pakhtunkhwa in light of Surplus Policy dated 08-06- 2001 and 15-02-2006.

3 On acceptance of his appeal, in compliance of Judgement dated 15-08-2016 of Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad, the Seniority List of Assistant Food Controller as it stood on 31-10-2016, was revised and circulated, vide Food Directorate letter No.5578/ET-716 dated 07-11-2016.

4 In view of the position explained above, your appeal against the seniority list of Assistant Food Controllers as it stood on 30-10-2016 issued in light of Judgment dated 15-08-2016 in favour of Mr. Muhammad Naveed Ex-AFC cannot be acceded to.

*Respectfully
Taimur Haidar Khan
Advocate High Court*

[Signature]
DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR. *04.*

Amr E

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

Appeal No. 831/2015

Muhammad Naveed.....Appellant

Versus

Government of Khyber Pakhtunkhwa
through Secretary Establishment and
Administration Department, Peshawar
etc.....Respondents

APPEAL

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Sr.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
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2.	Correct addresses of the parties.	-	6
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4.	Copy of order dated 26.01.2001.	"A"	8
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Dated 26.06.2015

Muhammad Naveed
(Petitioner)

Through: -

Malik Muhammad Asif
MALIK MUHAMMAD ASIF
Advocate Supreme Court of
Pakistan (Mansehra)

*Tamam Haddi Aur
Nawazgi Khyber*

*Mr. Asif
Rafiq*

(Handwritten mark)

(Handwritten mark)

(41)

(L) (2)

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

Appeal no. 831/2015



42

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

N.W.F. Province
Service Tribunal
Diary No. 172
Dated 06-7-2015

Versus

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

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

Filed to-Genl
6/7/15

Respected Sir,

re-submitted to-day
and filed.

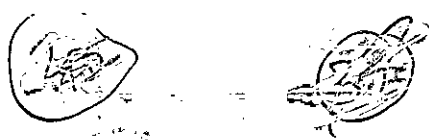
- 1) That, petitioner was appointed is District Administration and was serving in BPS-7 in Deputy Commissioner, Office Mansehra.

Registries

23/7/15

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

[Handwritten signature]



43

2) That, in year 2001, upon enforcement of devaluation plan, the petitioner was declared surplus.

3) 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").

4) 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.

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

5) 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.

6) 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.

7)

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

Handwritten signature and notes:
T. K. S. Roy
Pamir Haidin 10/10
Narayan 11/9/2001

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.

44

(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

ATTESTED
[Signature]
[Stamp]
Peshawar

[Signature]
Tahir Haider Khan
Advocate High Court

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 time therefore, present 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: -

GROUND: -

- a) That, decision of departmental appeal of petitioner is perverse, against law and basic.
- b) That, notification of 2001 is applicable to petitioner case.
- c) That, Notification No. VI(ES/AD)/5-1/2005 dated 15.02.2006 of 2006 is the part and parcel of original notification/policy 2001 and provides for remedial manner for situation as faced by the petitioner.

ATTESTED

EXAMINED
Khyber P. O. Khwa
Services Tribunal,
Peshawar

(Signature)
Tammun Haddad
Nawaz Haddad

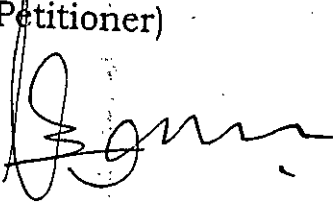
- 78
- 48
- d) That, refusal of respondent to give seniority to petitioner amounts to violation of legal and constitutional rights of petitioner.
- e) That petition is well within time.
- f) That, other points shall be agitated at the time of arguments.


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: -

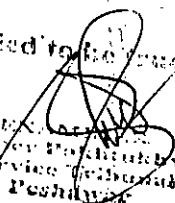

MALIK MUHAMMAD ASIF
Advocate Supreme Court of
Pakistan (Mansehra)
&



TARIQ KHAN
Advocate High Court
District Courts,
Mansehra

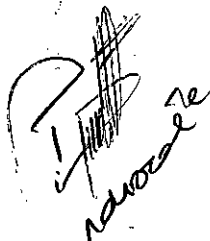
VERIFICATION

I, MUHAMMAD NAVEED SON OF FAZAL DAD, RESIDENT OF VILLAGE BAJNA, 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 to be true copy


Khatim-e-Subudhi
Service Tribunal
Peshawar


MUHAMMAD NAVEED
(DEPONENT)


Naveed

BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL PESHAWAR

(47)

Muhammad Naveed.....Appellant

Versus

Government of Khyber Pakhtunkhwa
through Secretary Establishment and
Administration Department, Peshawar
etc.....Respondents

APPEAL

CORRECT ADDRESSES OF THE PARTIES

Respectfully sheweth!

Correct addresses of the parties are as
under: -

APPELLANT

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

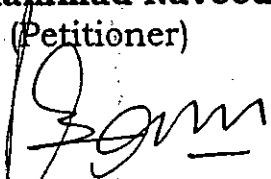
RESPONDENTS

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

Dated 26.06.2015

Muhammad Naveed
(Petitioner)

Through: -


MALIK MUHAMMAD ASIF
Advocate Supreme Court of
Pakistan (Mansehra)

Handwritten notes:
P. J. J. J. J. J.
Taj Muhammad
Naveed

BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL PESHAWAR

(48)

Muhammad Naveed.....Appellant

Versus

Government of Khyber Pakhtunkhwa
through Secretary Establishment and
Administration Department, Peshawar
etc.....Respondents

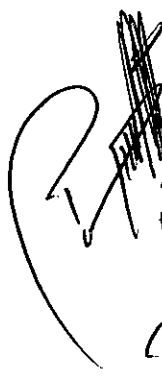
APPEAL

AFFIDAVIT

I, MUHAMMAD NAVEED SON OF FAZAL DAD,
RESIDENT OF VILLAGE BAJNA, TEHSIL AND
DISTRICT MANSEHRA DO HEREBY SOLEMNLY
AFFIRM AND DECLARE ON OATH THAT NO
SUCH SUBJECT MATTER APPEAL HAS EVER
BEEN FILED BEFORE THIS HONOURABLE
TRIBUNAL NOR PENDING NOR DECIDED. THAT
THE CONTENTS OF FORE-GOING AFFIDAVIT
ARE TRUE AND CORRECT TO THE BEST OF MY
KNOWLEDGE AND BELIEF AND NOTHING HAS
BEEN CONCEALED OR SUPPRESSED FROM
THIS HONOURABLE TRIBUNAL.



MUHAMMAD NAVEED
(DEPONENT)


Secretary
Establishment and
Administration Department
Peshawar

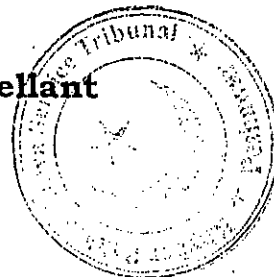
(S) (S)

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

Appeal No-831/2015

(49)

Muhammad Naveed.....Appellant



Versus

Government of Khyber Pakhtunkhwa
through Secretary Establishment and
Administration Department, Peshawar
etc.....Respondents

SERVICE APPEAL

REPLY TO OTHER OBJECTIONS

REPLY TO OBJECTION NO. 4

In this context it is submitted that the appellant during whole proceedings so far has not impleaded any other person nor in the circumstances of the case impleadment of other officials is necessary for appellant.

REPLY TO OBJECTION NO. 5

In this respect it is submitted that the impugned order dated 05.05.2009 is attached in original with the appeal, while rest of the orders/notifications are copies of the original certified.

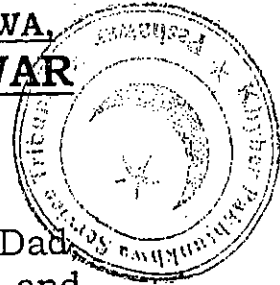
Submitted for further orders please.

MALIK MUHAMMAD ASIF
Advocate Supreme Court of
Pakistan (Mansehra)

ATTACHED

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

Appeal no. 831/2015



50

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

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

Versus

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

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

Filed to-day
6/7/15

Respected Sir,

re-submitted to-day
and filed.

Registrar

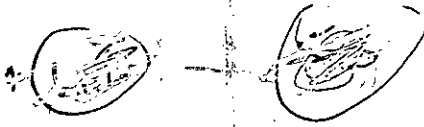
23/7/15

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

ATTESTED

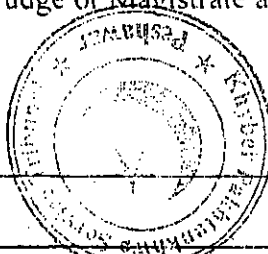
EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

[Handwritten signature]
Advocate
Mansehra



51

No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	15.08.2016	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.</u></p> <p align="center"><u>CAMP COURT ABBOTTABAD</u></p> <p align="center">APPEAL NO. 831/2015</p> <p align="center">Mr. Muhammad Naveed Versus Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department. Peshawar and another.</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Appellant with counsel and Mr. Muhammad Siddique, Senior Government Pleader for respondents present.</p> <p>2. Mr. Muhammad Naveed son of Fazal Dad hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for seeking seniority by placing him at S.No. 1 of the seniority list maintained by the Food Department for BPS-06.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as Senior Clerk (BPS-07) in the office of Deputy Commissioner, Mansehra and was declared surplus in the year, 2001 and later-on adjusted in Food Department in BPS-06 vide office order dated 26.01.2006. That the appellant was to be placed at the top of the seniority list in BPS-06 but he was placed at the bottom of the same constraining the appellant to institute Writ Petition No. 494-A/2012</p>



ATTESTED

[Signature]
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

[Handwritten signature]
 Mr. Muhammad Siddique
 Advocate High Court

(Handwritten marks)

52

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

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

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

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

ATTESTED

EXAMINER
Muzaffar Ahmad
Senior Tribunal,
Peshawar

(Handwritten signature)
Muzaffar Ahmad
Senior Tribunal
Peshawar

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."

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

53

ATTESTED

EXAMINER
K. B. P. Munkhwa
Service Tribunal,
Peshawar

Interested
Tammur Haidar
Advocate High Court

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.

541

File be consigned to the record room.

Announced

15-08-2016

sd/-
(ABDUL LATIF)
MEMBER

sd/-
(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN

Camp Court A. Abad

Certified to be true copy
J. AFRIDI
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application: 29-12-16
Number of Words: 2000
Copying Fee: 12/-
Urgent: 2/-
Total: 14/-
Name of Applicant: [Signature]
Date of Completion: 29-12-16
Date of Delivery of []: 29-12-16

[Signature]
S. Nazir
Member
Camp Court A. Abad

2009 SCMR I
2009 SCMR I
[Supreme Court of Pakistan]

Amir F

55

Present: Abdul Hameed Dogar, C.J., Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan and Ch. Ejaz Yousaf, JJ

GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and others----Petitioners

Versus

SAMEENA PARVEEN and others----Respondents

Uta
MS

Criminal Petitions Nos.71-L and 72-L, Civil Petitions 215-L, 216-L, 217-L, 218-L, 224-L to 236-L of 2006, decided on 29th April, 2008.

(On appeal from the judgment, dated 29-1-2008 of the Lahore High Court, Lahore passed in Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008).

Civil service---

---Administration of justice---If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum---All citizens are equal before law and entitled to equal protection of law as per Art.25 of the Constitution.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 and Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 fol.

Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867 ref.

Ms. Afshan Ghazanfar, A.A.-G., Punjab and Rana Abdul Qayyum, D.S. (Education) Punjab for Petitioners.

S.M. Tayyab, Senior Advocate Supreme Court for Respondents (in Cr.Ps. Nos.71-L, 72-L and C.P.224-L of 2008).

Nemo for other Respondents.

ORDER

Handwritten notes and signatures on the left margin:
1 Per
Tayyab
Chaudhry
Hameed

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ABDUL HAMEED DOGAR, C.J.---Through this order we intend to dispose of above captioned petitions filed against common judgment, dated 29-1-2008 passed by learned Judge in Chambers of Lahore High Court, Lahore whereby Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008 filed by respondents were allowed and the impugned orders passed by petitioner/authority were set aside.

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2. Briefly, stated facts giving rise to the filing of instant petitions are that respondents were appointed as PTC Teachers during the year 1995/1996 after completion of all legal requirements and they joined their respective place of posting. After sometime, their appointments were cancelled being bogus vide order No.277/E-1, dated 3-4-1998. This order was assailed before learned Lahore High Court, Lahore and same was declared to be without lawful authority in the case reported as Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867. The relevant paragraph is reproduced as under:--

"Consequently the petitioners are declared to be in service and the action of the Headmasters/Incharge of the Schools stopping the petitioners from performance of their duties as PTC Teachers on the basis of the above said impugned order, is declared to be without lawful authority. It is, however, clarified that the department is at liberty to proceed against petitioners, if so desired, on individual basis under the relevant law and under the Punjab Civil Servant (Efficiency and Discipline) Rules, 1975."

In view of above judgment, the respondents were absolved of the charges of bogus appointments. But later on once again the services of respondents were terminated vide order, dated 3-8-2005, which order was challenged before learned Lahore High Court, Lahore through Writ Petition No.16864 of 2005. The said writ petition was allowed vide judgment, dated 11-12-2006 and the impugned order, was declared as illegal and without lawful authority. Similarly, one of the teachers namely Mst. Naseem Akhtar assailed the order, dated 3-8-2005 before Punjab Service Tribunal, Lahore through Appeal No.903 of 2006 which was also allowed vide judgment, dated 4-9-2006. The said judgment was maintained by this Court in Civil Petition No.1960-L of 2006 vide judgment, dated 2-11-2006. On 26-9-2007 once again the services of respondents were terminated. Feeling aggrieved they filed above mentioned petitions before the learned Lahore High Court, Lahore which were allowed vide impugned judgment as stated above.

3. It is mainly contended by learned A.A.-G. Punjab appearing on behalf of petitioners that the jurisdiction of the learned High Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 in matters involving determination of terms and conditions of civil servants. She further contended that the appointments of the respondents were bogus and fake as they were never selected by the competent authority, therefore the orders of dismissal passed by departmental authority were in accordance with law, which did not call for any interference by this Court.

4. On the other hand, Mr. S. M. Tayyub, learned Senior Advocate Supreme Court appearing on behalf of some of the respondents supported the impugned judgment and contended that appointments of respondents had taken place in accordance with rules and prescribed procedure. They submitted their applications in pursuance of advertisement of the posts of PTC Teachers. They passed the required test and were appointed by the competent authority. According to him, the respondents were in service for about 9-10 years and during this period no objection was raised, and subsequently on vague allegations they were dismissed from service. He further contended that cases of respondents were at par with Mst. Naseem Akhtar which was decided by this Court in Civil Petition No. 1960-L of 2006 vide judgment, dated 2-11-2006.

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

6. In this view of the matter, we are of the view that no ground for interference in the impugned judgment is made out. Accordingly, the petitions being devoid of force are dismissed and leave to appeal refused.

M.B.A./G-13/SC

Petitions dismissed

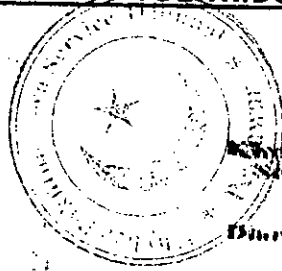
①

Annexure
"G"

58

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR



Service Appeal No. 7 /2017

Case No. 06

Dated 03-01-2017

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

....Appellant

VERSUS

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

.....Respondents

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

[Handwritten signature]
Attest

ATTESTED
[Handwritten signature]

Filed to-day
[Handwritten signature]
Registrar
3/1/2017

Re-submitted to -day
and filed.
[Handwritten signature]
Registrar
5/1/2017

Appeal No. 07/2017
M. Akbar vs Govt



11.01.2017

Learned counsel for the appellant argued that the appellant was serving in BPS- 7 in his parent department and was adjusted from the pool of service employees in 2004 in Food Department as Food Grain Inspector BPS-06 and was thus entitled to be placed at S.No. 1 of the seniority list. That in the revised seniority list issued on 17.11.2016 the appellant was not placed at proper position where-against his departmental appeal dated 18.11.2016 was regretted on 26.12.2016 and hence the instant service appeal on 05.01.2017.

59

That this Tribunal has allowed similar appeal No. 831/2015 vide judgment dated 15.08.2016.

Points urged need consideration. Admit. Subject to deposit of security and process fee notices be issued to the respondents. To come up for written reply/comments on 15.02.2017 before S.B.

Appellant's Counsel
Sd/-

Khushal Patakhel
Service Tribunal
Peshawar

Sd/- Chairman

M. Akbar
Tammw Haddi
Nawaz
Hq. Peshawar

Date of Filing 25-1-17
Number of Pages 800
Cost of Copy
Date of Cont. Fee 25-1-17
Date of Cont. Fee 25-1-17

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60

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 07

Dated 03-07-2017

Service Appeal No. 8 /2017

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

....Appellant

VERSUS

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

.....Respondents

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Filed to-day

Registrar

3/11/2017

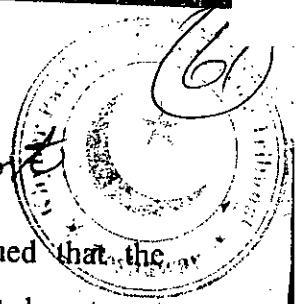
Re-submitted to -day
and filed.

Registrar

5/11/2017

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

Appeal No. 08/2017
M. Saleem / Bal vs Govt



11.01.2017

Learned counsel for the appellant argued that the appellant was serving in BPS- 7 in his parent department and was adjusted from the pool of service employees in 2004 in Food Department as Food Grain Inspector BPS-06 and was thus entitled to be placed at S.No. 2 of the seniority list. That in the revised seniority list issued on 17.11.2016 the appellant was not placed at proper position where-against his departmental appeal dated 18.11.2016 was regretted on 26.12.2016 and hence the instant service appeal on 05.01.2017.

That this Tribunal has allowed similar appeal No. 831/2015 vide judgment dated 15.08.2016.

Points urged need consideration. Admit. Subject to deposit of security and process fee notices be issued to the respondents. To come up for written reply/comments on 15.02.2017 before S.B.

Appellant Deposited Security & Process Fee

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Self- Chairman

Date of Presentation of Appeal 25-1-17

Number of Words 800

Copying Fee 6

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Total 88

Name of Copyist B.M.D.

Date of Completion of Copy 25-1-17

Date of Delivery of Copy 25-1-17