

**FINAL SENIORITY LIST OF ASSISTANT FOOD CONTROLLERS (BS-14) IN THE FOOD DIRECTORATE KHYBER PAKHTUNKHWA,  
PESHAWAR AS IT STOOD ON 17-01-2018**

1	2	3	4	5	6	7	8	9	10
S.No.	Name of Govt Servant	Qualification	Date of birth	Domicile	Date of entry in to Govt service	Date of appointment to the post of FGI/ Cane Inspector	Date of appointment to the present post	Method of recruitment	Date of superannuation
1.	Syed Wazir Shah	M.A.	08.06.1959	Mansehra	09.05.1993	30.11.2000	06-04-2010	By Promotion	07.06.2019
2.	Mr. Aftab Umar Khan	MA	04-08-1985	Mohmand Agency	19-05-2010	-	19-05-2010	By initial recruitment	03-08-2045
3.	Muhammad Tariq	B.Sc	01.03.1970	Peshawar	09.05.1993	17.06.2005	21-10-2011	By Promotion	28.02.2030
4.	Mr. Ansar Qayum	B.A	11.07.1970	Mansehra	09.05.1993	20-12-2003	06-04-2010	By Promotion	10.07.2030
5.	Mr. Abdul Hafeez	M.A	07.07.1969	Charsadda.	09.05.1993	20.12.2003	21-10-2010	By Promotion	06.07.2029
6.	Mr. Aman Khan	F.Sc	02.08.1968	Bannu	09.05.1993	05-11-2008	04-08-2016	By Promotion	01.08.2028
7.	Mr. Arshad Hussain	B.A	01.01.1970	Chitral	09.05.1993	20.12.2003	04-10-2011	By Promotion	31.12.2030
8.	Mr. Ali Asghar Khan	B.A	28.02.1972	Mardan	09.05.1993	20.12.2003	04-10-2011	By Promotion	27.02.2032
9.	Mr. Shabir Ahmad Khan	LLB	30.04.1966	FR Peshawar	09.05.1993	20.12.2003	18-02-2012	By Promotion	29.04.2026
10.	Mr. Said Nawaz	B.Com	20.03.1972	Chitral	09.05.1993	20.12.2003	18-02-2012	By Promotion	19.03.2032
11.	Mr. Jamshed Khan Afridi	B.A	20.06.1972	K/Agency	09.05.1993	20.12.2003	18-02-2012	By Promotion	19.06.2032
12.	Mr. Sohail Habib	Matric	14.02.1968	Bannu	09.05.1993	20.12.2003	21.05.2012	By Promotion	13.02.2028
13.	Mr. Sheraz Anwar	F.A	05.02.1974	Mansehra	09.05.1993	20.12.2003	21.05.2012	By Promotion	04.02.2034
14.	Mr. Muhammad Azam	B.B.A	22.11.1988	S. Wazirstan Agency	07.08.2015	07.08.2015	07.08.2015	By initial recruitment	21.11.2048
15.	Mr. Tausif Iqbal	M.B.A	01.10.1987	Karak	07.08.2015	07.08.2015	07.08.2015	By initial recruitment	30.09.2047
16.	Muhammad Shakeel	M.B.A	10.04.1984	Abbottabad.	07.08.2015	07.08.2015	07.08.2015	By initial recruitment	09.04.2044
17.	Miss Uzma Kanwal	M.A	03.12.1990	Abbottabad.	07.08.2015	07.08.2015	07.08.2015	By initial recruitment	02.12.2050
18.	Mr. Zafar Alam Riza	M.A	03.01.1987	Chitral	07.08.2015	07.08.2015	07.08.2015	By initial recruitment	02.01.2047
19.	Mr. Shujaat Hussain Shah	M.Sc	10.04.1987	Mansehra	07.08.2015	07.08.2015	07.08.2015	By initial recruitment	09.04.2047
20.	Mr. Hafeez-ur Rehman	B.A	18.04.1984	Dir Lower	07.08.2015	07.08.2015	07.08.2015	By initial recruitment	17.04.2044
21.	Mr. Adnan Khan	M.A	27.06.1989	Peshawar	07.08.2015	07.08.2015	07.08.2015	By initial recruitment	26.06.2049
22.	Mr. Muhammad Akbar	BA	05.12.1962	Peshawar	01.03.1982	25.08.2004	22-04-2016	By Promotion	04.12.2022
23.	Mr. Muhammad Salim Iqbal	D.Com	15.07.1969	Peshawar	04.08.1990	25.08.2004	22-04-2016	By Promotion	14.07.2029
24.	Mr. Noor Khan	F.A	12-09-1968	Peshawar	20-04-1995	25-08-2004	28-11-2016	By Promotion	11-09-2028
25.	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
26.	Mr. Gulab Gul	MA Pol: Science	01.02.1967	Karak	14.07.1993	17.06.2005	22-04-2016	By Promotion	31.12.2027
27.	Mr. Muhammad Khalid	FA	02.05.1973	Peshawar	04.03.2006	04-03-2006	22-04-2016	By Promotion	01.05.2033
28.	Mr. Usman Khan	B.A	01-01-1975	Dir	03-11-2008	03-11-2008	22-04-2016	By Promotion	31.12.2035
29.	Mr. Muhammad Shoaib	F.A	11.04.1966	Mansehra	04.07.1993	05-11-2008	22-04-2016	By Promotion	10.04.2026
30.	Mr. Amjid Khan	Matric	05.01.1975	Malakand	15.08.1993	05-11-2008	22-04-2016	By Promotion	04.01.2035
31.	Mr. Mohammad Zubair	M.A	21.09.1970	Mardan	16.08.1993	12-01-2009	22-04-2016	By Promotion	20.09.2030
32.	Mr. Saif Ali Shah	B.Sc	03.03.1969	Kohat	19.08.1993	12-01-2009	22-04-2016	By Promotion	02.03.2029
33.	Mr. Aurangzeb Khan	F.A	12-05-1971	Bannu	27-04-1997	12-01-2009	28-11-2016	By Promotion	11-05-2031

36.	Mr. Attaullah	Metric	02-04-1976	Dir Lower	22-05-1995	26-12-2009	28-11-2016	By Promotion	01-04-2036
37.	Mr. Ashfaq Khan	B.A	25.03.1977	Mardan	22.05.1995	26-12-2009	04-08-2016	By Promotion	24.03.2037
38.	Mr. Riaz Ahmad	M.A	01.03.1966	Chitral	02.05.1995	26-12-2009	04-08-2016	By Promotion	28.02.2026
39.	Mr. Ateeq-ur Rehman	B.A	01.05.1977	M/Agency	03.05.1995	26-12-2009	04-08-2016	By Promotion	30.04.2037
40.	Mr. Angoor Shah	M.A	01.06.1963	K/Agency	06.08.1995	26-12-2009	04-08-2016	By Promotion	31.05.2023
41.	Mr. Qazi Bilal	F.A	15-04-1969	Abbottabad	06-08-1995	26-12-2009	28-11-2016	By Promotion	14-04-2029
42.	Mr. Lal Bacha	B.A	09.04.1989	Mardan	06-12-2016		06-12-2016	By initial recruitment	08.04.2049
43.	Mr. Fakhar Zaman	F.A	22.04.1971	S.Waziristan	03.08.1992	26-12-2009	10-01-2017	By Promotion	21.04.2031
44.	Mr. Rehmat Wali	F.A	10.06.1963	Chitral	16.12.1981	26-12-2009	23-05-2017	By Promotion	09.06.2023
45.	Mr. Ghulam Rasool	Matric	10-04-1963	Chitral	23.04.1983	26-12-2009	23-05-2017	By Promotion	09-04.2023
46.	Mohammad Zahir Shah	F.A	10.12.1965	Chitral	01.09.1985	06-04-2010	23-05-2017	By Promotion	11.04.2019
47.	Mr. Wajid Ali	Matric	18.02.1981	Nowshera	08.05.2004	06-04-2010	23-05-2017	By Promotion	17.02.2041
48.	Mohammad Yousaf Khan	D.Com	07-04-1984	FR Bannu	16-04-2010	16-04-2010	19-09-2017	By Promotion	06-04-2044
49.	Mr. Amir Khalid	B.A	26-03-1970	Mansehra	15-01-2009	14-05-2010	19-09-2017	By Promotion	25-11-2030
50.	Mr. Umair Ali	BA	15-11-1987	Charsadda	13-05-2010	14-05-2010	19-09-2017	By Promotion	14-11-2047
51.	Mr. Numan Amir	BA	25-12-1983	Peshawar	13-05-2010	14-05-2010	19-09-2017	By Promotion	24-12-2043
52.	Mr. Shoukat Ali	F.A	04.04.1977	Mansehra	08.05.2004	20-10-2010	10-10-2017	By Promotion	03.04.2037

  
 ASSISTANT DIRECTOR FOOD (E)  
 KHYBER PAKHTUNKHWA  
 PESHAWAR

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No 340 /ST

Dated 13 /02/2018

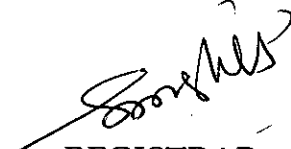
To

The Director Food,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: **ORDER/JUDGEMENT IN APPEAL NO. 349/2017, MR. NOOR KHAN.**

I am directed to forward herewith a certified copy of Judgment/Order dated 08/02/2018 passed by this Tribunal on the above subject for strict compliance.

**Encl: As above**

  
**REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.**

*OLU*

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

**Appeal No.349/2017**

**Noor Khan (AFC)**

**Versus**

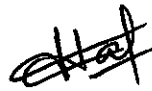
**Director Food KPK & Others**

**INDEX**

<b><u>S.No.</u></b>	<b><u>Description of Documents</u></b>	<b><u>Annexure</u></b>	<b><u>Pages</u></b>
1.	Application for impleadment		1-2
2.	Affidavit		03
3.	List of petitioners to be made Respondents	A	4-6
4.	Copy of grounds/concise statement of C.P No.264-P/2018	B	7-10
5.	Copy of grounds/concise statement of C.P No.1676/2018	B/1	11-20
6.	Copy of order dated 29/06/2018, passed in CPLA No.264-P/2018 & 1676/2018	C	21-22
7.	Wakalatnama		

**PESHAWAR**

**25-09-2018**



**Petitioners**

**Through**

  
**(ABDUL HAMEED)**

**Advocate Peshawar**

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

**Appeal No.349/2017**

*NOOR KHAN (AFC BPS-14)*

.....PETITIONER

**VERSUS**

*DIRECTOR FOOD, KHYBER PAKHTUNKHWA PESHAWAR AND  
OTHERS*

.....RESPONDENTS

**APPLICATION FOR IMPEADING THE PETITIONERS AS  
RESPONDENTS NO.4 TO 27 (LIST ATTACHED AS ANNEXURE  
"A")IN THE ABOVE TITLED APPEAL IN COMPLIANCE WITH  
THE ORDER DATED 29-06-2018 OF THE SUPREME COURT OF  
PAKISTAN PASSED IN C.P NO.264-P AND 1676 OF 2018.**

Respectfully Sheweth:

The petitioners submit as under:

1. That the above titled appeal after remand by the Supreme Court of Pakistan is pending adjudication before this Hon'ble Tribunal and is fixed on 25-09-2018.
2. That the judgment dated 08-02-2018 of the KPK Service Tribunal, Peshawar passed in **Appeal No.349/2017** was challenged by the Food Department and the petitioners by filing the following CPLAs before Apex Court of Pakistan.
  - a). *KP Director Food (in C.P No.264-P/2018)*
  - b). *Syed Wazir Shah and 20 others (in C.P No.1676/2018)*

(Copy of the grounds/concise statement of petitions are attached as  
Annexure "B,B/1")

②

3. That the above Petitions were heard by the Hon'ble Supreme Court of Pakistan at Islamabad on 29-06-2018 and were converted into appeals and allowed, the impugned judgment dated 08-02-2018 in Appeal No.349/2017 of this Tribunal was set aside and the matter was remanded to this Tribunal directing it to implead all those employees who were affected by the decision of the Tribunal and a fresh decision be passed after giving them an opportunity of hearing.

(Copy of the order dated 29-06-2018 passed in C.P No.264-P and 1676 of 2018 is attached as annexure C)

4. That since the controversial issue involved in the above titled appeal relates to determination of seniority between the surplus pool employees and regular employees of KP Food Department, therefore the petitioners at Annexure "A" seek impleadment to be arrayed as Respondents No.4 to 27 in the above titled appeal.

It is, therefore, most humbly prayed that on acceptance of this application, the petitioners (AFCs) as mentioned at annexure "A" may kindly be allowed to be impleaded and be arrayed as respondents 4 to 27 in the instant appeal.



Petitioners

Dated 25-09-2018

Through



(Abdul Hameed)

Advocate, Peshawar.

③

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Appeal No.349/2017

**NOOR KHAN (AFC)      VS      DIRECTOR FOOD, KPK**

**AFFIDAVIT**

I, Hafeez-ur-Rehman (AFC), office of District Food Controller, Peshawar, being one of the petitioner vide S.No.19, do hereby solemnly affirm and declare that the contents of the accompanied application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*[Handwritten Signature]*

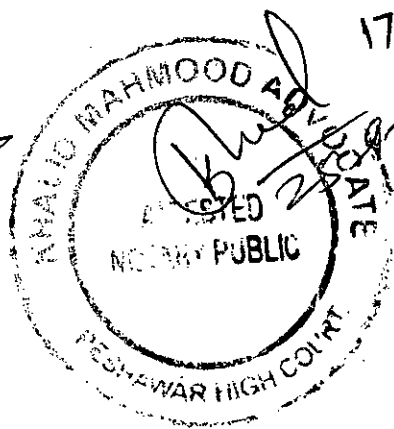
Deponent

17301-0744903-9

Identified by

*[Handwritten Signature]*

(Abdul Hameed)  
Advocate Peshawar



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Annex: "A" v

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO.349/2017

***Noor Khan (Afc) Vs Director Food, Kpk***

**THE FOLLOWING PETITIONERS (AFCs) REQUEST TO BE  
IMPLEADED AS RESPONDENTS NO.4 TO 27 IN ABOVE  
TITLED APPEAL.**

Respected Sir

The names and addresses of the petitioners seek impleadment to be arrayed as Respondents No.4 to 27 in the above appeal are as under:

1. *Mr. SYED WAZIR SHAH, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT BATTAGRAM.*
2. *Mr. AFTAB UMAR KHAN, AFC, OFFICE OF RATIONING CONTROLLER, DISTRICT PESHAWAR.*
3. *Mr. MUHAMMAD TARIQ, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT HARIPUR.*
4. *Mr. ANSAR QAYYUM, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT MANSEHRA.*
5. *Mr. ABDUL HAFEEZ, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT CHARSADEA.*
6. *Mr. ARSHAD HUSSAIN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT CHITRAL.*



5

7. Mr. ALI ASGHAR KHAN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT NOWSHERA.
8. Mr. SHABIR AHMAD KHAN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT NOWSHERA.
9. Mr. SAID NAWAZ, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT CHITRAL.
10. Mr. JAMSHAD KHAN AFRIDI, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT PESHAWAR.
11. Mr. SOHAIL HABIB, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT SWABI.
12. Mr. SHERAZ ANWAR, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT SWAT.
13. Mr. MUHAMMAD AZAM, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT BUNER.
14. Mr. TAUSIF IQBAL, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT LAKKI MARWAT.
15. Mr. MUHAMMAD SHAKEEL, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT KOHISTAN.
16. MISS UZMA KANWAL, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT ABBOTTABAD.
17. Mr. ZAFAR ALAM RIZA, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT CHITRAL.
18. Mr. SHUJAAT HUSSAIN SHAH, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT BATTAGRAM.
19. Mr. HAFEEZ UR REHMAN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT PESHAWAR.

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20. Mr. ADNAN KHAN, AFC, OFFICE OF DISTRICT FOOD  
CONTROLLER, DISTRICT MARDAN.

21. Mr. AMAN KHAN, AFC, OFFICE OF DISTRICT FOOD  
CONTROLLER, DISTRICT TANK.

22. Mr. MUHAMMAD AKBAR, AFC, OFFICE OF DISTRICT  
FOOD CONTROLLER, DISTRICT MARDAN.

23. Mr. MUHAMMAD SALEEM IQBAL, AFC, OFFICE OF  
DISTRICT FOOD CONTROLLER, DISTRICT DIR. UPPER.

24. MR. MUHAMMAD NAVEED (NOW RETIRED) S/O FAZAL  
DAD, RESIDENT OF VILLAGE BAJNA, TEHSIL AND  
DISTRICT MANSEHRA.



For Petitioners

25-09-2018

Through

  
(Abdul Hameed)

Advocate, Peshawar.

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Annex. B

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. 264 - P /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

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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- 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, <sup>1973</sup> 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:-

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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.

(4)

(10)

(10)

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



II

Annex: B/1

IN THE SUPREME COURT OF PAKISTAN

(Appellate jurisdiction)

C.P.L.A. NO. 1676 /2018

1. Syed Wazir Shah, AFC, Office of District Food Controller, District Battagram 6-7-2010
2. Aftab Umar Khan, AFC, Office of Rationing Controller District Peshawar. 19-5-2010 selective
3. Muhammad Tariq AFC, Office of District Food Controller, District Haripur. 2010-2011
4. Ansar Qayyum AFC, Office of District Food Controller, District Mansehra. 8-4-2010
5. Abdul Hafeez AFC, Office of District Food Controller, District Charsadda. 21-10-2010
6. Aman Khan, AFC, Office of District Food Controller, District Tank.
7. Arshad Hussain AFC, Office of District Food Controller, District Chitral. 4-10-2011
8. Ali Asghar Khan AFC Office of District Food Controller, District Nowshera. 4-10-2011
9. Shabir Ahmad Khan AFC, Office of District Food Controller, District Nowshera. 18-2-2012
10. Said Nawaz AFC, Office of District Food Controller, District Chitral. 18-2-2012
11. Jamshed Khan Afridi AFC, Office of District Food Controller, District Peshawar. 18-2-2012



- 12. Sohail Habib AFC, Office of District Food Controller, District Swabi. 21-5-2012
- 13. Sheraz Anwar AFC, Office of District Food Controller, District Swat. 21-5-2012
- 14. Muhammad Azam AFC, Office of District Food Controller, District Bunir. 7-8-2015 Selects
- 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-Rehman 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. 28-11-2016
- 2. Muhammad Akbar AFC, Office of District Food Controller, District Mardan. 24-4-2016
- 3. Muhammad Saleem Iqbal AFC, Office of Rationing Controller, Peshawar. 24-4-2016





13

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24-4-2016

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

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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

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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

(14)

(15)

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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 promoted viz-a-viz direct recruits 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



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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.



(17)



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.

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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.

- (19) 9
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.



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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.



IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

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

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

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

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

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

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


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

Date of hearing: 29.6.2018

ORDER

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

**ATTESTED**



Court Associate  
Supreme Court of Pakistan  
Islamabad

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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/-, HCJ

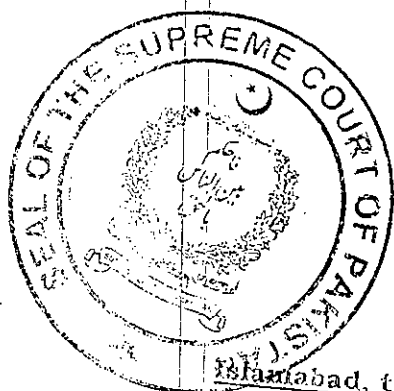
Sd/-, J

Sd/-, J

Certified to be True Copy

*[Handwritten Signature]*

Court Associate  
Supreme Court of Pakistan  
Islamabad



Islamabad, the  
29th of June, 2018  
Wahid Waheed

17716

405-P/18

CR No: \_\_\_\_\_ Civil/Criminal

Date of Presentation: 2.7.18

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وکالت نامہ  
حیدر مختار خواہ کسروں ٹریڈنگ انٹرنیشنل لٹڈ

بعدالت جناب  
نور خان  
مخانب  
سید وزیر شاہ  
دعوے یا جرم  
اپریل 2017/349  
باعت تحریر آنک

مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدی برائے قاضی یا بمقام  
عبدالحمید ایڈووکیٹ سہیل شریف ٹریڈنگ انٹرنیشنل (Asc) لٹڈ  
ایڈووکیٹ ہائی کورٹ۔ ہیریم کورٹ۔ ممبر ڈسٹرکٹ بار آئی سی ایشن

کے لئے کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا اور بروقت  
پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پت مظہر حاضر نہ ہوا اور مقدمہ میری  
غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب  
موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے  
اور مقدمہ کچہری کے علاوہ کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان  
پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا معائنہ کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں  
گے۔ مجھے کل ساختہ پر داخہ صاحب مثل کرد ہذا از خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ درخواست  
اجراء ڈگری و نظر ثانی اپیل و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کروانے اور ہر قسم کاروبار  
وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثاثنیٰ و رضی نامہ بر غلاف کرنے اقبال دعویٰ دینے کا بھی  
اختیار ہوگا اور بصورت جانے ہیر و نجات از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا منظرہ درخواست حکم امتناعی یا قرتی یا  
گرفتاری قبل از گرفتاری و اجراء ڈگری صاحب موصوف کو نشر طوائف علیحدہ معائنہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت  
صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل یا ہیر مشرک اپنے  
بجائے یا اپنے ہر مقرر کریں اور ایسے قانون کو بھی ہر امر میں اوی اور ایسے ہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو  
حاصل ہیں اور دوران مقدمہ جو کچھ ہر جاننا تو پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ  
پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں۔ اور ایسی صورت میں میرا کوئی مطالبہ  
کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ کر دیا ہے کہ سند ہے مورخہ 25 ماہ ستمبر 2018

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted  
Advocate Asc  
0343-9025029

العبد  
S. Wajid Sheikh  
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BC No: [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]

وکالت نامہ



KPK Service Tribunal, Peshawar بعدالت جناب  
AFC لورخان نام ڈائریکٹر فوڈ و فٹوہ  
منجانب منشی علی احمد AFC دعویٰ یا جرم No. 349/2017  
باعث تحریر آئیکہ

مندرجہ بالا عنوان میں ایڈووکیٹ کے واسطے سے دائر کی درخواست پر عدالت عالیہ پشاور نے فیصلہ دیا ہے کہ اس کے لئے کوہستان (Asst) لٹور  
ایڈووکیٹ ہائی کورٹ۔ سپریم کورٹ۔ ممبر ڈسٹرکٹ بار ایسوسی ایشن

کے لئے کوہستان ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا اور بروقت  
پکارے جانے مقدمہ مکمل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پت منظر حاضر نہ ہوا اور مقدمہ میری  
غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب  
موصوف صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا پیچھے یا بروڈ تعطیل پشوری کرنے کے ذمہ دار نہ ہوں گے  
اور مقدمہ پشوری کے علاوہ کسی اور جگہ سماعت ہونے یا بروڈ تعطیل یا پشوری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان  
پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔  
مجھے کل ساختہ پرداختہ صاحب مثل کردہ ذات از خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ درخواست  
اجراء ڈگری و نظر ثانی اپیل و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کروانے اور ہر قسم کاروبار  
وصول کرنے اور سید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر عائشہ و راضی نامہ برخلاف کرنے اقبال دعویٰ دینے کا بھی  
اختیار ہوگا اور بصورت جانے پیر و نجات از پشوری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتہائی یا قریبی یا  
گرفتاری قبل از گرفتاری و اجراء ڈگری صاحب موصوف کو شرط ادائیگی علیحدہ مختانہ پشوری کا اختیار ہوگا۔ اور بصورت ضرورت  
صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے کسی جزوی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل یا پیر سٹر کو اپنے  
جگہ یا اپنے ہمراہ مقرر کریں اور ایسے قانون کو بھی ہر امر میں ادبی اور ویسے ہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو  
حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ  
پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پشوری نہ کریں۔ اور ایسی صورت میں میرا کوئی مطالبہ  
کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ کر دیا ہے کہ سند ہے مورخہ 25 ستمبر 2018  
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

د العبد د العبد د العبد

shuja Ali Shuja  
(21)

Attest  
Accepted  
Attorney Supreme Court of Pakistan (Asst) Pesh.  
03143-9025029

کورٹ فیس

وکالت نامہ

KPK SERVICE TRIBUNAL PESHAWAR بعدالت

عنوان: لورخان AFC بنام ڈائریکٹر فوڈ وغیرہ

مخبر: محمد شکیل AFC، امان خان AFC، شہیر احمد AFC، محمد طارق AFC، سہیل حبیب (AFC)

نوعیت مقدمہ: اپیل نمبر 349/2017

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دی کل کارروائی متعلقہ آں مقام  
عبدالحمید ایڈووکیٹ سپریم کورٹ آف پاکستان (ASC)

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل  
صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری  
کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت  
ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی  
بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا  
ساختہ پر داختمہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے  
مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا  
حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں  
کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست برآمد  
استجارت ناش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔  
لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 25/9/2018

بمقام: لہور

Attested &

محمد شکیل وکیل ضریف (18)

دقاس فونڈیشن پبھری (ایبٹ آباد)

Advocate Supreme Court of Pakistan (ASC) Peshawar: AFC Kohistan

Cell 0343-9025029

(24) M. Aman Khan (AFC)

M. Tariq

(11) Shebir Ahmad (AFC)

(6) Muhammad Tariq (AFC)

(14)

(23) Sohail Habib (AFC)

(23) Adnan Khan (AFC)

کورٹ فیس

# وکالت نامہ

KPK Service Tribunal Peshawar بعدالت

عنوان: لٹورخاں (AFC) بنام KP Director Food etc

منجانب: (AFC) Uzma Kanwal

نوعیت مقدمہ: اپیل نمبر 349/2017

## باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آل مقام  
شاہدہ عذرا محمد ایڈووکیٹ سبزم کورٹ آف پاکستان (AFC) اور  
کوڈ کیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل  
صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری  
کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت  
ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی  
بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا  
ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے  
مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا  
حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں  
کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد  
استجارت ناش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔  
لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقام: 25/09/2018

بمقام:

وٹاس فونوٹیشن پچہری (ایبٹ آباد)

Accepted

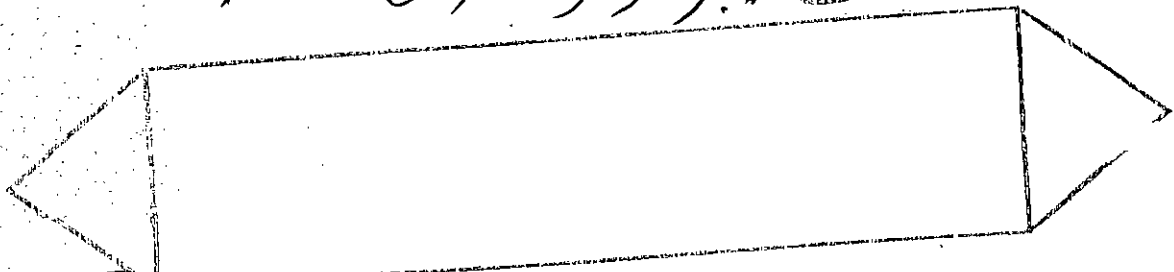
Atkater v

Advocate Supreme Court of Pakistan (AFC) 10343-9025029

AFC - Abbottabad

(19)

بعد المثلت خیر بخشو کسرو کس ٹرائیونل پاکستان



2018 مئی 6 AFC

مورخہ 25-9-2018

اسعد اسلمی 349/2017 دعویٰ جرم

اللورخان AFC بنام طارق اسلمی و طارق اسلمی

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پر ای و جوائنٹ وکل کارروائی متعلق  
 آن مقام لٹاور کیلئے عبدالحمد اسلمی کے حکم کو ردی یا کمان  
 مسترد کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار دیا گیا۔ نیز اس  
 دلیل صاحب کو رائی نامہ کرنے و اقرار ثلث و فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور  
 لیسورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 درمیں پر دستخط کرانے کا اختیار ہونا۔ نیز صورت عدم بیروی یا ڈگری یا طرفہ یا اپیل کی برآمدگی اور نسوئی  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیروی کرنے کا اختیار ہوگا۔ از لیسورت ضرورت مقدمہ مندر کر  
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو کبھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ  
 پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔  
 کوئی تاجر پیشی مقام دور پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ بیروی  
 ملکا و کس میں لہذا اذالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم 25 ماہ ستمبر 2018

Jafar  
 Zakia Alam Riza (AFC)  
 Ali Asghar Khan (AFC)  
 Ali Shad Hussain (AFC)  
 Said Nawaz (AFC)  
 Abdul Hafeez (AFC)

مقام  
 Hosts accepted  
 Advocate Supreme Court  
 Pakistan (ASC) Tesham  
 0343-9025029  
 Tausif Iqbal (AFC)

بعد المراجعة ختم و خواتم و اہل بیت

اعظم خان AFC (4)

سجابت! حفیظ الرحمن AFC (1)

تقدیم خان AFC (2)

انصاری AFC (3)

2018 AFC (4)

پناہ خان (4) درجہ

مورخہ 25-9-2018

اسلام آباد 3/9/2018  
مقدمہ  
دعویٰ  
جرم

لوہ خان AFC

بہم کارڈ و حرج و مرج  
الٹا اور دھوکا

باعث خرابی آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
آلین مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار و کارڈ (ASC)  
ذیل صاحب کو راشی نامہ کرنے و تقرر ثالث و فیصلہ بر حلاف دینے جواب دہی اور اقبال دعویٰ اور  
لہجوریت ڈگری کرنے اجراء اور مہولی چیک ور و پیسہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا طرفہ یا اپیل کی برادری اور مشورتی  
ہیز و اثر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از لہجوریت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا اور صاحب مقرر شدہ کو کسی دہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرداختہ منظور و قبول ہوگا و در ان مقدمہ میں جو خرچہ ہر جانشہ التوائے مقدمہ کے سبب سے ہوگا  
کوئی تاریخ پیشی مقام دور پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی  
مذکورہ کے سبب سے لہجوریت و ثالث نامہ لکھ دیا کہ سند ہے۔

25 ستمبر 2018

المرقوم

نادر کے لئے منظور ہے

(22) Hafeez-ur-Rahman (AFC)  
H/Rahman

(13) Farisaid Khan  
AFC

(5) Aftab Umar Khan  
(AFC)

Muhammad Azam (AFC)

(16)

Atesta & accepted  
Ahmed Azam  
Ahmed Azam Custodian  
Ahmed Azam  
Pakistan (AFC) 0343-9025029



# وکالت نامہ

KPK Service Tribunal Peshawar بعدالت جناب

مخانب شہباز الزفرانی AFC

KP Director Food etc

(AFC) لورخان

دعویٰ یا جرم Appeal No. 349/2017 باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی مقام اور  
عبدالحمید ایڈووکیٹ سیر ایڈووکیٹ بدیں شرط وکیل مقرر کیا۔ کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص  
رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی  
پیشی پر مظہر حاضر نہ ہوا۔ اور حاضری کی وجہ سے کسی وجہ پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ  
ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقرر اوقات سے پہلے یا بروز  
تعطیل پیروی کرنے کے مجاز نہ ہونگے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز پکھری کے اوقات  
کے آگیا یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے رابطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے  
بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب  
موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق  
کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے  
کا ہر قسم کا بیان دینے اور سپروٹا لشی و راضی نامہ و فیصلہ برخلاف کرنے اقبال دعوے کا اختیار ہوگا۔ اور بصورت اپیل و  
برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتماعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو  
بشرط ادا سنگی علیحدہ پیروی مختار نامہ کر نیکا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا ایئر سٹر  
کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہونگے جیسے صاحب  
موصوف کو۔ پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ  
کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سندر ہے مضمون  
مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

مورخہ: 2018ء

25/9/18

العبد العبد العبد

Accepted &  
Hakul  
Advocate Supreme Court  
Peshawar  
0343-9025029

Shereez Anwar

# وکالت نامہ

KPIR Service Tribunal Peshawar

بعدالت جناب

Ansar Qayyum AFC

منجانب

ڈائریکٹر فوڈ خیر کھیتو خزانہ اور دیگرہ

AFC لورخان

عقلم لیاور

Appeal No. 349/2017

دعویٰ یا جرم

عبدالحمید ایڈوکیٹ سپریم کورٹ آف پاکستان  
لیا اور (ASC)

مندرجہ بالا عنوان میں اپنی طرف سے بیرونی وجوہات دی بنام

کو۔ بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے پر وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا اگر کسی پیشی پر منظر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف بڑ گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ کچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل بیرونی کرنے کے ناجائز ہوں گے۔ اگر مقدمہ مقام کچہری کے کسی اور جگہ سماعت ہونے پر بروز کچہری کے اوقات کے آگے یا پیچھے ہونے پر منظر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے کہ مجھے کل سماج پر داختم صاحب مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز روپیہ وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد تاشی و راضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادا کی علیحدہ بیرونی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے ہمراہ مقررہ کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیرونی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ یہ سندر ہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

25 مورخہ 25/11/18

Attested and accepted  
Kedul  
Advocate Supreme Court of Pakistan Asc Psh.  
03 43-19025029

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**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

**Appeal No.349/2017**

**Noor Khan (AFC)**

**Versus**

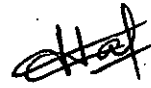
**Director Food KPK & Others**

**INDEX**

<b><u>S.No.</u></b>	<b><u>Description of Documents</u></b>	<b><u>Annexure</u></b>	<b><u>Pages</u></b>
1.	Application for impleadment		1-2
2.	Affidavit		03
3.	List of petitioners to be made Respondents	A	4-6
4.	Copy of grounds/concise statement of C.P No.264-P/2018	B	7-10
5.	Copy of grounds/concise statement of C.P No.1676/2018	B/1	11-20
6.	Copy of order dated 29/06/2018, passed in CPLA No.264-P/2018 & 1676/2018	C	21-22
7.	Wakalatnama		

**PESHAWAR**

**25-09-2018**



**Petitioners**

**Through**



**(ABDUL HAMEED)**

**Advocate Peshawar**

①

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

**Appeal No.349/2017**

*NOOR KHAN (AFC BPS-14)*

.....PETITIONER

**VERSUS**

*DIRECTOR FOOD, KHYBER PAKHTUNKHWA PESHAWAR AND  
OTHERS*

.....RESPONDENTS

**APPLICATION FOR IMPEADING THE PETITIONERS AS  
RESPONDENTS NO.4 TO 27 (LIST ATTACHED AS ANNEXURE  
“A”)IN THE ABOVE TITLED APPEAL IN COMPLIANCE WITH  
THE ORDER DATED 29-06-2018 OF THE SUPREME COURT OF  
PAKISTAN PASSED IN C.P NO.264-P AND 1676 OF 2018.**

*Respectfully Sheweth:*

The petitioners submit as under:

1. That the above titled appeal after remand by the Supreme Court of Pakistan is pending adjudication before this Hon’ble Tribunal and is fixed on 25-09-2018.
2. That the judgment dated 08-02-2018 of the KPK Service Tribunal, Peshawar passed in **Appeal No.349/2017** was challenged by the Food Department and the petitioners by filing the following CPLAs before Apex Court of Pakistan.
  - a). *KP Director Food (in C.P No.264-P/2018)*
  - b). *Syed Wazir Shah and 20 others (in C.P No.1676/2018)*

*(Copy of the grounds/concise statement of petitions are attached as  
annexure “B,B/1”)*

②

3. That the above Petitions were heard by the Hon'ble Supreme Court of Pakistan at Islamabad on 29-06-2018 and were converted into appeals and allowed, the impugned judgment dated 08-02-2018 in Appeal No.349/2017 of this Tribunal was set aside and the matter was remanded to this Tribunal directing it to implead all those employees who were affected by the decision of the Tribunal and a fresh decision be passed after giving them an opportunity of hearing.  
(Copy of the order dated 29-06-2018 passed in C.P No.264-P and 1676 of 2018 is attached as annexure C)

4. That since the controversial issue involved in the above titled appeal relates to determination of seniority between the surplus pool employees and regular employees of KP Food Department, therefore the petitioners at Annexure "A" seek impleadment to be arrayed as Respondents No.4 to 27 in the above titled appeal.

It is, therefore, most humbly prayed that on acceptance of this application, the petitioners (AFCs) as mentioned at annexure "A" may kindly be allowed to be impleaded and be arrayed as respondents 4 to 27 in the instant appeal.



Petitioners

Dated 25-09-2018

Through



(Abdul Hameed)

Advocate, Peshawar.

③

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**


Appeal No.349/2017

**NOOR KHAN (AFC) VS DIRECTOR FOOD, KPK**

**AFFIDAVIT**

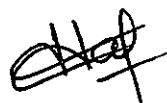
I, Hafeez-ur-Rehman (AFC), office of District Food Controller, Peshawar, being one of the petitioner vide S.No.19, do hereby solemnly affirm and declare that the contents of the accompanied application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by



(Abdul Hameed)

Advocate Peshawar



Deponent

17301-0744903-9

④

Annex: "A"

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO.349/2017

*Noor Khan (Afc) Vs Director Food, Kpk*

**THE FOLLOWING PETITIONERS (AFCs) REQUEST TO BE  
IMPLEADED AS RESPONDENTS NO.4 TO 27 IN ABOVE  
TITLED APPEAL.**

Respected Sir

The names and addresses of the petitioners seek impleadment to be arrayed as Respondents No.4 to 27 in the above appeal are as under:

1. *Mr. SYED WAZIR SHAH, AFC, OFFICE OF DISTRICT  
FOOD CONTROLLER, DISTRICT BATTAGRAM.*
2. *Mr. AFTAB UMAR KHAN, AFC, OFFICE OF RATIONING  
CONTROLLER, DISTRICT PESHAWAR.*
3. *Mr. MUHAMMAD TARIQ, AFC, OFFICE OF DISTRICT  
FOOD CONTROLLER, DISTRICT HARIPUR.*
4. *Mr. ANSAR QAYYUM, AFC, OFFICE OF DISTRICT FOOD  
CONTROLLER, DISTRICT MANSEHRA.*
5. *Mr. ABDUL HAFEEZ, AFC, OFFICE OF DISTRICT FOOD  
CONTROLLER, DISTRICT CHARSADEA.*
6. *Mr. ARSHAD HUSSAIN, AFC, OFFICE OF DISTRICT  
FOOD CONTROLLER, DISTRICT CHITRAL.*

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7. Mr. ALI ASGHAR KHAN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT NOWSHERA.
8. Mr. SHABIR AHMAD KHAN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT NOWSHERA.
9. Mr. SAID NAWAZ, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT CHITRAL.
10. Mr. JAMSHAD KHAN AFRIDI, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT PESHAWAR.
11. Mr. SOHAIL HABIB, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT SWABI.
12. Mr. SHERAZ ANWAR, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT SWAT.
13. Mr. MUHAMMAD AZAM, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT BUNER.
14. Mr. TAUSIF IQBAL, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT LAKKI MARWAT.
15. Mr. MUHAMMAD SHAKEEL, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT KOHISTAN.
16. MISS UZMA KANWAL, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT ABBOTTABAD.
17. Mr. ZAFAR ALAM RIZA, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT CHITRAL.
18. Mr. SHUJAAT HUSSAIN SHAH, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT BATTAGRAM.
19. Mr. HAFEEZ UR REHMAN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT PESHAWAR.



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20. Mr. ADNAN KHAN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT MARDAN.

21. Mr. AMAN KHAN, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT TANK.

22. Mr. MUHAMMAD AKBAR, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT MARDAN.

23. Mr. MUHAMMAD SALEEM IQBAL, AFC, OFFICE OF DISTRICT FOOD CONTROLLER, DISTRICT DIR. UPPER.

24. MR. MUHAMMAD NAVEED (NOW RETIRED) S/O FAZAL DAD, RESIDENT OF VILLAGE BAJNA, TEHSIL AND DISTRICT MANSEHRA.



For Petitioners

25-04-2018

Through

  
(Abdul Hameed)

Advocate, Peshawar.

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Annex B

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. 264 - P /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

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?

(7)

(8)

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, <sup>1973</sup> 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:-

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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 filling 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.

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

(3)

II

Annex: B/1

IN THE SUPREME COURT OF PAKISTAN*(Appellate jurisdiction)*C.P.L.A. NO. 1676 /2018

1. Syed Wazir Shah, AFC, Office of District Food Controller, District Battagram 6-4-2010
2. Aftab Umar Khan, AFC, Office of Rationing Controller District Peshawar. 19-5-2010 selected
3. Muhammad Tariq AFC, Office of District Food Controller, District Haripur. 20-10-2011
4. Ansar Qayyum AFC, Office of District Food Controller, District Mansehra. 6-4-2010
5. Abdul Hafeez AFC, Office of District Food Controller, District Charsadda. 21-10-2010
6. Aman Khan, AFC, Office of District Food Controller, District Tank. -
7. Arshad Hussain AFC, Office of District Food Controller, District Chitral. 4-10-2011
8. Ali Asghar Khan AFC Office of District Food Controller, District Nowshera. 4-10-2011
9. Shabir Ahmad Khan AFC, Office of District Food Controller, District Nowshera. 18-2-2012
10. Said Nawaz AFC, Office of District Food Controller, District Chitral. 18-2-2012
11. Jamshed Khan Afridi AFC, Office of District Food Controller, District Peshawar. 18-2-2012

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12. Sohail Habib AFC, Office of District Food Controller, District Swabi. 21-5-2012
13. Sheraz Anwar AFC, Office of District Food Controller, District Swat. 21-5-2012
14. Muhammad Azam AFC, Office of District Food Controller, District Bunir. 7-8-2015 Select
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-Rehman 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. 28-11-2016
2. Muhammad Akbar AFC, Office of District Food Controller, District Mardan. 24-4-2016
3. Muhammad Saleem Iqbal AFC, Office of Rationing Controller, Peshawar. 24-4-2016

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24-4-2016

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



(15)

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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 promotees viz-a-viz direct recruits 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

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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.



(17)



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.



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.

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.

○ (20) 10

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-a 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.

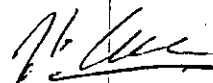
Drawn and Filed by



(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.



IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

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

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

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

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

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

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


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

Date of hearing: 29.6.2018

ORDER

MIAN SAQIB NISAR, 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

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Civil Petitions No.264-P and 1676 of 2018

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

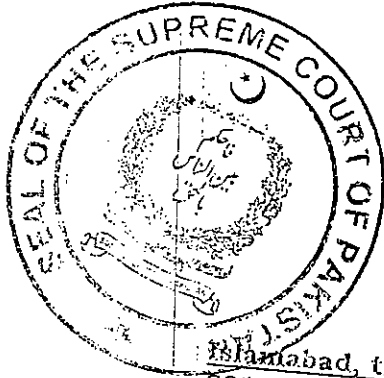
Sd/-, H.C.J.

Sd/-, J

Sd/-, J

Certified to be True Copy

Court Associate  
Supreme Court of Pakistan  
Islamabad



Islamabad, the  
29<sup>th</sup> of June, 2018

WALAH MUSEE

17916

405-P/18

CR No: \_\_\_\_\_ Civil/Criminal

Date of Presentation: 2.7.18

No of Words: \_\_\_\_\_

No of Folios: 2

Requisition Fee Rs: 500

Copy Fee in: 3.2

Court Fee Stamps: 8.2

Date of Completion of Copy: 11/7/18

Date of delivery of Copy: 17/7/18

Compared by/Prepared by: 6

Received by: \_\_\_\_\_



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 1943/ST

Dated 27 / 9 / 2018


To

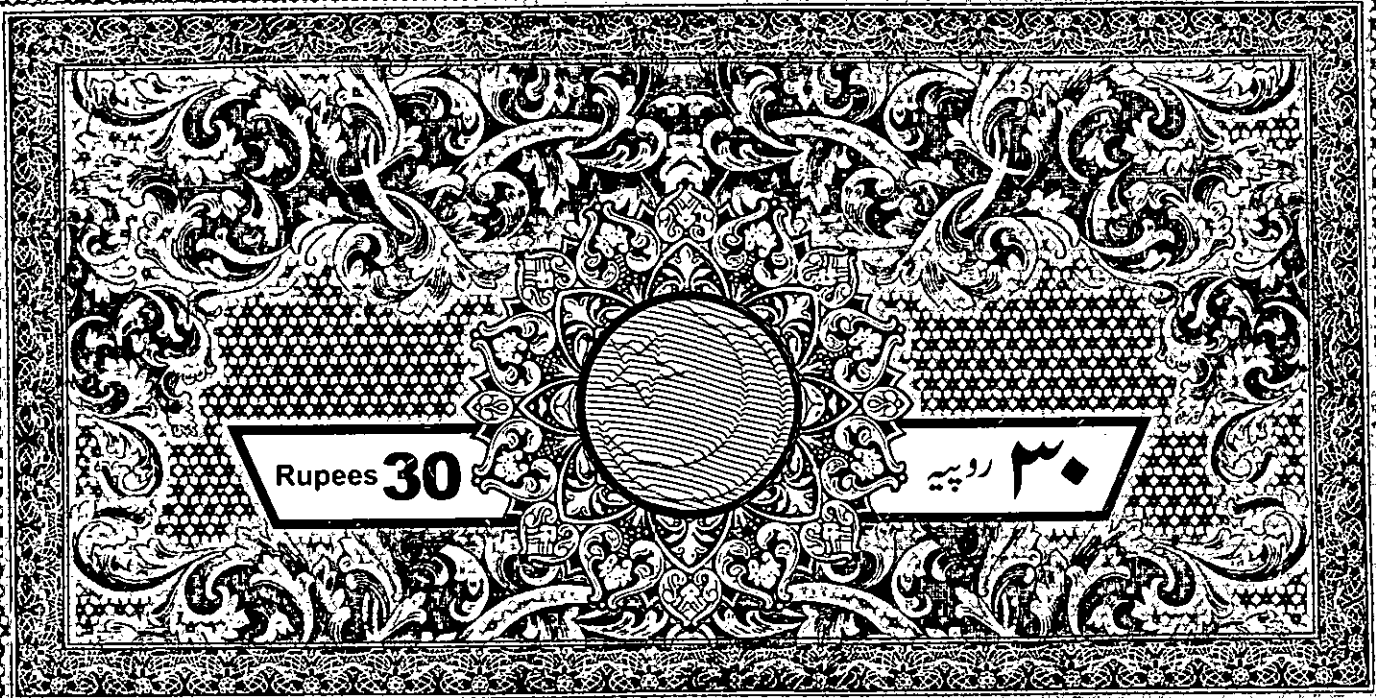
1. The Secretary Food Deptt.,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: - **ORDER IN APPEAL NO. 349/2017, MR. NOOR KHAN.**

I am directed to forward herewith a certified copy of order dated 25 .09.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.



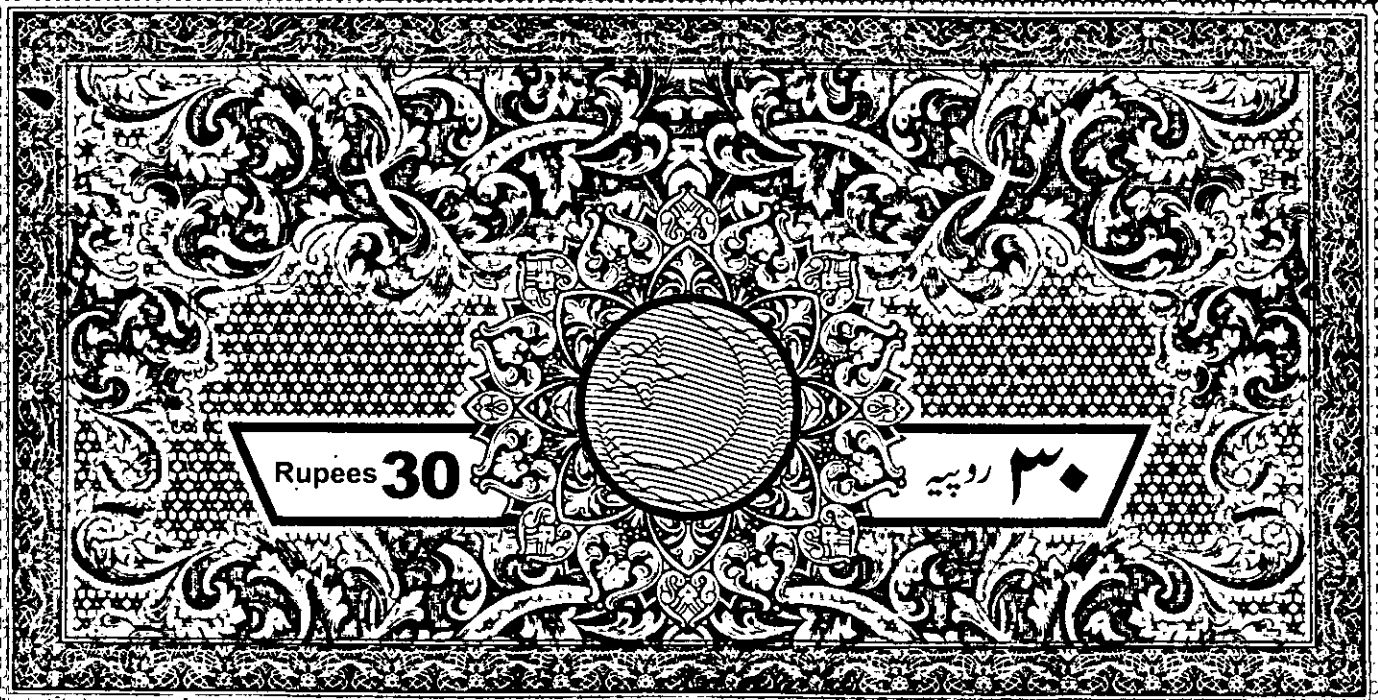
**BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR**

Appeal No.349/2017

Noor Khan (Afc) .....V/S..... Director Food KPK etc

**SPECIAL POWER OF ATTORNEY**

By this Special Power of Attorney, We, (1) Syed Wazir Shah AFC, office of District Food Controller District Batagram (2) Aftab Umar Khan AFC, office of District Rationing Controller District Peshawa: (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) Arshad Hussain AFC, office of District Food Controller District Chitral (7) Ali Asghar Khan AFC, office of District Food Controller District Nowshera (8) Shabir Ahmad Khan AFC, office of District Food Controller, District Nowshera (9) Said Nawaz AFC, office of District Food Controller District Chitral (10) Jamshaid Khan Afridi AFC, office of District Food Controller District Peshawar (11) Sohail Habib AFC, office of District Food Controller District Swabi (12) Sheraz Anwar AFC, office of District Food Controller District Swat (13) Muhammad Azam AFC, office of District Food Controller District Buner (14) Tausif Iqbal AFC, office of District Food Controller District Lakki Marwat (15) Muhammad Shakeel AFC, office of District Food Controller District Kohistan (16) Miss.Uzma Kanwal AFC, office of District Food Controller District Abbottabad



## EXECUTANTS

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(3) Muhammad Tariq  
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(5) Abdul Hafeez  
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CNIC No. 15201-0561738-5

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(8) Shabir Ahmad Khan  
CNIC No. \_\_\_\_\_

(9) Said Nawaz  
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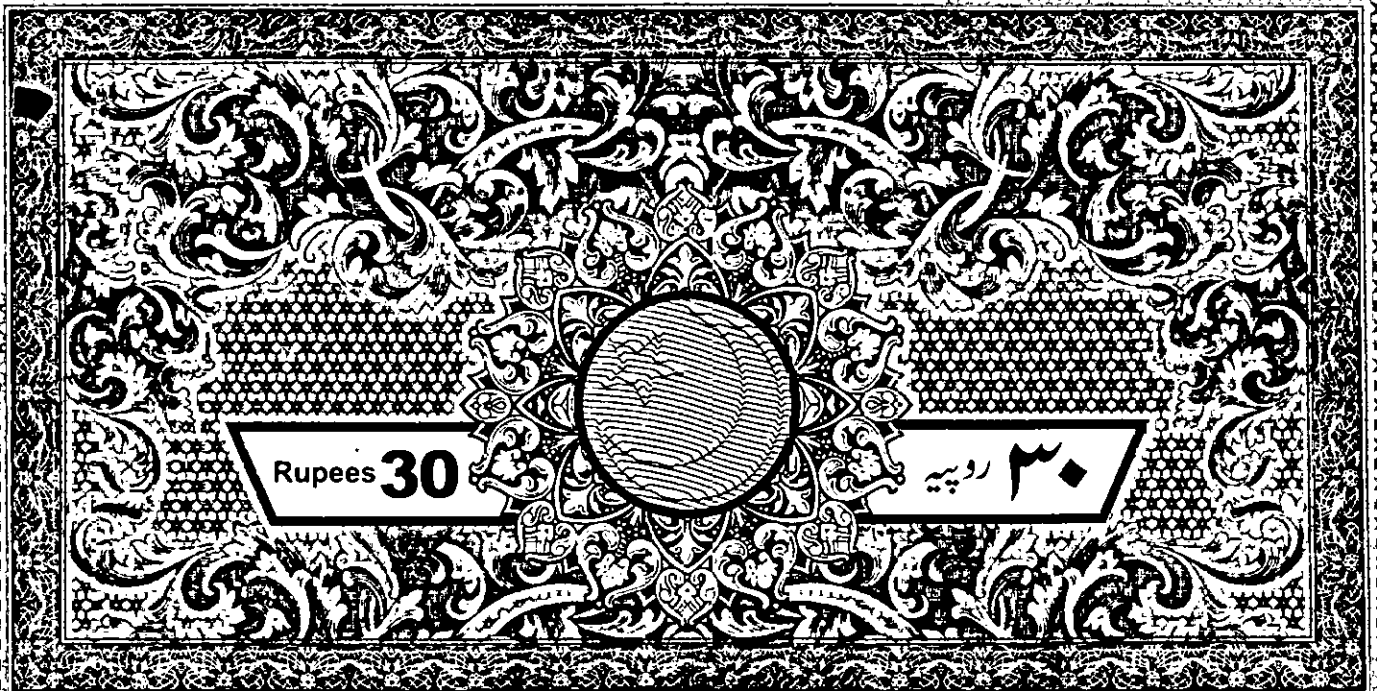
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Rupees **30**

۳۰ روپیہ

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(15) Muhammad Shakeel  
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Accepted by:

*Haf*

Mr. Hafeez-ur-Rehman  
CNIC No. 17301-0744903-9

AFC, office of storage & enforcement  
officer, District Peshawar.

WITNESSES:

*Mujeeb*

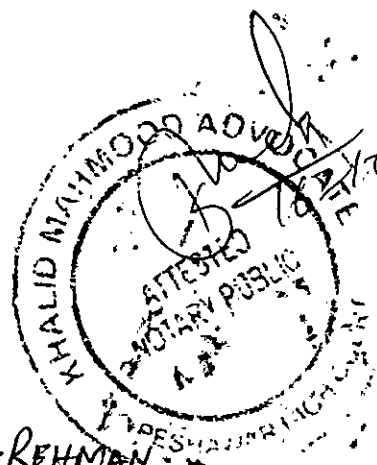
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**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**  
**Appeal No. 349/2017**

Noor Khan (AFC, BS-14) S/O Gulfam Khan  
R/O village Abdara Ghari Taj Muhammad  
P/O University of Peshawar Tehsil and District  
Peshawar.....**Petitioner**

Versus

1. Secretary to Government,  
Khyber Pakhtunkhwa  
Food Department, Near Hajji Camp,  
G.T. Road, Peshawar.
2. Director Food, Khyber Pakhtunkhwa,  
Near Hajji Camp, G.T. Road, Peshawar..... **Respondents**

**REPLY ON AMENDMENT APPEAL NO. 349/2017 ON BEHALF OF RESPONDENTS.**

**RESPECTFULLY SHEWETH.**

**Preliminary Objections**

1. The appeal is not maintainable but highly ambiguous and confusing in all respects.
2. The appeal is badly time bared.
3. That the appellant is estopped to the present writ petition.
4. That the appellant has not come to this Honorable Court with confess fully and clean hands, evidence facts have been concealed from this Honorable Court. Hence the appellant is not entitled to the relief prayed for.
5. The plea of the appellant is based on malafide and ultra-vires.

**Facts.**

1. Mr. Noor Khan Mono Operator BPS-07 was declared surplus from Khyber Pakhtunkhwa printing and stationery department Peshawar and adjusted in BPS-06 as Food grain Inspector vide office order No. 17500/ET-542-SPA dated 25-08-2004 but his pay was protected in BPS-07 as per policy vide circular No. SOR-1 (EXAD) 1-200/98 dated 08-06-2001.
2. The appellant referred a revised policy which was notified on 15-02-2006. So the plea of the appellant is not according to the law, rules and regulations.
3. The plea of the appellant was identical to the case of Muhammad Akbar and Muhammad Saleem Iqbal.
4. The plea of the appellant is retrospective but not identical to the case of Muhammad Naveed. It is constitutionally objectionable to create a new obligation. Because every statute as a general rule is deemed to be prospective.
5. The plea of the appellant was not on the same footing and stance but has depicted a clear picture at para No. 02.
6. As expounded above..
7. As per clear policy instructions contained in the Government of Khyber Pakhtunkhwa letter No. SOR-1(EXAD) 1-200 dated 08-06-2001. The official was adjusted in the Food Department on 25-08-2004 and placed at the bottom of the seniority list 2004 according to the rules while the order of Establishment and Administration Department is effective from 15-02-2006. Therefore, his request could not be maintained and the department has not violated any rules by Fixing the seniority case of the official.
8. As explained above.
9. The apex Court set-aside the impugned judgment and the matter was referred/remanded to the learned tribunal to implead all those who would be affected by the decision of the Khyber Pakhtunkhwa service tribunal. It created a fresh

decision after giving an opportunity of hearing to appellant, which is seemingly a conflict between two judgments of the learned tribunal itself. The case was referred to the Chairman Khyber Pakhtunkhwa service tribunal to constitute a large bench to resolve the conflict only in question to fulfill all the statutory functions.

10. As explained above.

11. As explained above.

12. As explained above.

13. As explained above.


14. The appellant was rightly placed at the bottom of the seniority list 2004 according to the statute prospectively while the plea and claim of the appellant with retrospective effect is against the rules.

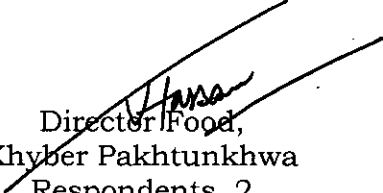
15. As explained above.

16. The amendment policy of 2006 cannot supersede the regular law regarding post-dated seniority and every law makes an action, done before the passing of the law. So his request could not be accepted.

It is therefore, humbly prayed that the appeal of the appellant may kindly be dismissed with cost.

**RESPONDENTS**

  
Secretary Food,  
Food Department  
Respondents. 1

  
Director Food,  
Khyber Pakhtunkhwa  
Respondents. 2



To,

The Director Food, NWFP,  
Peshawar.

Subject: AMENDMENT IN THE SURPLUS POOL POLICY

R/Sr,

Respectfully it is submitted that I was considered surplus from Deputy Commissioner office Manshara, 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/FF-542/SPA dated 26/07/2006. 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 (c) is narrated below.

Sub para (d) added to para (c)

"(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



Mr. Muhammad Naveed  
Foodgrain Inspector  
IFC Office Mardan

Attchd  
Ding Adv  
Ding

(29)

(27)

335

31

38



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

**Noor khan (AFC)**

**Versus**

**The Director Food Khyber Pakhtunkhwa and others**

**INDEX**

S.NO.	DESCRIPTION	ANNEXURE	PAGES
1.	Parawise comments on behalf of respondents No.4-24 along with Affidavit		1-12
2.	Copy of adjustment order dated 25-08-2004 of appellant (Noor Khan), copy of Surplus Pool Policy dated 08-06-2001 and copy of Final seniority list of FGi (B-6) of Food Department as stood on 25-08-2004.	A,B,C	13-19
3.	Copy of adjustment order dated 26.01.2006 and copy of Revised Surplus Pool policy letter dated 15-02-2006.	D,E	20-21
4.	Copy of order/judgment dated 17-01-2013 in Writ Petition No.494/2012.	F	22-23
5.	Copy of judgment dated 24-09-2014 in Writ Petition No.23-A/2014.	G	24-26
6.	Copy of order dated 25-03-2015 by SC in CP No.2336/2014.	H	27-28
7.	Copy of judgment dated 15-08-2016 in Service Appeal No.831/15.	I	29-33
8.	Copy of seniority list of AFC (BPs-14) as stood on 31-10-2016.	J	34-35
9.	Copy of judgment dated 13-06-2007 in Service Appeal No.858/2006.	K	36-38
10.	Copy of the combined judgments dated 24-11-2017 in Service Appeals No.7/2017 & 8/2017.	L	39-43
11.	Copy of judgment dated 08-02-2018 in Service Appeal No.349/2017	M	44-48
12.	Copy of order dated 29-06-2018 by Supreme Court in CP No.264-P & CP No.1676 of 2018.	N	49-64
13.	Copy of rejection order dated 06.04.2017 by Appellant Authority.	O	65
14.	Copy of KP Food Department (Recruitment & Appointment) Rules 1981.	P	66-70
15.	Copy of promotion order dated 28.11.2016 in respect of Noor Khan (appellant) & the order dated 07.08.2015 in respect of Direct selectees AFC (BPs-14).	Q,R	71-72

*H/Rahman*

Hafeez ur Rehman  
(Respondents No.4-24)

Through

*Abdul Hameed*  
Abdul Hameed  
(Advocate, Peshawar)

dated: 21.05.2019

**BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.**

**Amended Appeal No.349/2017**

**Noor Khan, (AFC) (BPs-14)**

**.....Appellant**

**Versus**

**Director Food, KP, Peshawar & others...**

**.....Respondents**

**REPLY ON BEHALF OF PRIVATE RESPONDENTS  
NO.4 TO 24**

Respectfully Sheweth

**PRELIMINARY SUBMISSIONS:**

Despite the fact that the Judgment/Order dated 08.02.2018 of this Hon'ble Tribunal, passed in Appeal No.349/2017 was set aside by the Apex Court of Pakistan by an order dated 29.06.2018 and thereafter the case was remanded to this Hon'ble Tribunal to be heard afresh after impleading the necessary parties. After an order dated 25.09.2018 of this Hon'ble Tribunal, the appellant has submitted an amended appeal which is highly ambiguous & confusing in all respects, hence it is deemed appropriate to highlight and clarify the factual controversy involved in the instant amended appeal as under:-

1. That the appellant along with two similarly placed employees, namely (Muhammad Akbar, Muhammad Saleem Iqbal) all working as "**Mono operator**" (BPs-7) in KP, Printing and Stationary Department, were rendered surplus and were adjusted in KP, Food Department as Food Grain Inspector in (BPs-6) and according to the Surplus Pool Policy issued by Government of KP, Establishment & Administration Department (Regulation Wing) through circular letter dated

08.06.2001, and as contained therein in Para 6 of clause (b)(c) of this policy, these Surplus Pool Employees after their adjustment in Food Department as Food Grain Inspector (FGi) (BPs-6), were placed at the bottom of the seniority list of Food Grain Inspector (FGi) as stood on 25.08.2004 as per policy.

*(Copy of adjustment order dated 25-08-2004 of appellant (Noor Khan), copy of Surplus Pool Policy dated 08-06-2001 and copy of Final seniority list of FGi (B-6) of Food Department as stood on 25-08-2004 are attached as Annex A,B&C)*

2. That likewise, another Surplus Pool employee namely, Mr. Muhammad Naveed, working as Senior Clerk (BPs-7) in the office of District Coordination Officer, Mansehra, was rendered surplus and was adjusted in KP Food Department on 26.01.2006 as Food Grain Inspector FGi (BPs-6). It is to be mentioned that after his adjustment as FGi (BPs-06) on 26.01.2006, the Government of KP, Establishment & Administration Department (*Regulation Wing*) vide circular letter dated 15.02.2006, this Surplus Pool Policy dated 08.06.2001, was reviewed by the KP Government on 15.02.2006 and it was decided by the competent Authority to add sub-para (d) to Para 6 of the policy dated 08.06.2001 which is reproduced as follows:

**(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.**  
*(Copy of adjustment order dated 26.01.2006 and copy of Revised Surplus Pool policy letter dated 15-02-2006 is attached as Annex D & E)*

3. That one, Muhammad Naveed being a Surplus Pool Employee of DCO's office, Mansehra, was adjusted in KP Food Department as Food Grain Inspector (FGi) (BPs-6) on

26.01.2006 but was placed at the bottom of FGi (BPs-6) seniority list, therefore he challenged this Revised Surplus Pool policy before Peshawar High Court, Abbottabad Bench, through Writ Petition No.494/2012, seeking his seniority on the basis of the revised policy issued by E&A Department on 15.02.2006, praying for its retrospective effect from 08.06.2001. This Writ Petition was disposed of by the Hon'ble Peshawar High Court, Abbottabad Bench, on 17.01.2013, wherein directions were issued to the Respondents to consider his grievance and decide the same in accordance with law, within a period of sixty days. But the same was not responded to by the Department within the stipulated period. *( Copy of order/judgment dated 17-01-2013 passed in WP No.494/2012 is attached as Annex "F")*

4. That, thereafter, Mr. Muhammad Naveed, filed another Writ Petition No.23-A/2014 before the Peshawar High Court, Abbottabad Bench, seeking seniority on the plea that the subject Notification dated 15.02.2006 (Revised Surplus Pool Policy) being issued in continuity of earlier Notification dated 08.06.2001 would take effect from the date of original Notification being its part and parcel and extending benefits to the employees, rather having retrospective effect than prospectively. This Writ Petition was dismissed by the Hon'ble Peshawar High Court, Abbottabad Bench on 24.09.2014 and the operative Paras 5 & 6 of this judgment dated 24.09.2014 are reproduced as under.

**5. The petitioner was adjusted on 26.1.2006 whereas the amendment has been brought about on 15.02.2006 and the order dated 26.1.2006 has been implemented and seniority list has been prepared, thus, if the amendment policy dated 15.2.2006 is given retrospective effect then the same would adversely affect on other employees, not before us, and pendor box would open and that too after more than eight years. The case cited by the learned counsel for the petitioner either pertains to fiscal**

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

6. Since the amended policy dated 15.2.2006 is having no retrospective effect nor it was the intention of the legislature otherwise it would have mentioned the same. Moreover, the post against which the petitioner was appointed was upgraded to BPs-7 w.e.f February, 2008 and subsequently upgraded to BPs-9 w.e.f 31.12.2013 along with pay protection in BPs-7 at the time of adjustment. (Copy of judgment dated 24-09-2014, passed in Writ Petition No.23-A/2014 is attached as Annex "G")

5. That this judgment dated 24-09-2014 of the Peshawar High Court, Abbottabad Bench, passed in Writ Petition No.23-A/2014 was challenged by Muhammad Naveed before the Supreme Court of Pakistan by filing a civil petition No.2336/2014. This petition was disposed of on 25.03.2015 and the petitioner was allowed to file departmental appeal/representation before the competent authority. In case any adverse order is passed against him, then he may approach the KP Service Tribunal. *(Copy of order dated 25-03-2015 of SC passed in CP No.2336/2014 is attached as Annex "H")*

6. That after exhausting all his departmental remedies, Muhammad Naveed (Surplus Pool Employee) filed a Service Appeal No.831/2015, before this Hon'ble Service Tribunal, seeking benefits in light of the Revised Surplus Pool Policy vide letter dated 15.02.2006, read with circular letter dated 08.06.2001, i.e Original Surplus Pool Policy. This Hon'ble tribunal while accepting his appeal, had ordered that the appellant was entitled to be placed at the top of seniority list at the relevant time after the clarification of this policy on 15.02.2006 as he was adjusted against a post lower than his original

scale.

*(Copy of judgment dated 15-08-2016, passed in Appeal No.831/15 is attached as Annex "I")*

7. That it is pertinent to mention that in the Service Appeal No.831/15, decided on 15.08.2016, filed by Muhammad Naveed all the Respondents were official Respondents, and no affected persons/employees of Food Department were made parties thereon, hence this Judgment was not challenged before the Supreme Court of Pakistan by any affected employee of Food Department Government of KP and thus this judgment attained its finality. Furthermore, while implementing this Judgment, the department has committed errors and mistakenly interpreted this judgment dated 15.08.2016 wrongly passed in Appeal No.831/2015 because the appellant was placed on the top of seniority list of Assistant Food Controller-(AFC)-(BPs-14) as stood on 31.10.2016, for which he was not entitled, as at the time of filing Appeal No.831/2015, Muhammad Naveed was working as FGi (BPs-06), rather he should have been placed at the top of the seniority list of FGi (B-6) of his cadre at that time, which was his original cadre after his adjustment as Food Grain Inspector (FGi) (BPs-6) on 26.01.2006 in KP, Food Department.  
*(Copy of seniority list of AFC (BPs-14) as stood on 31-10-2016 is attached as Annex "J")*

8. That, it is submitted that another identical case of a Surplus Pool Employee, namely Muhammad Zafarullah khan, who was initially working as Hostel Superintendent (BPs-9) in Education Department, but was rendered surplus and thereafter, on his willingness, was adjusted in Food Department as Assistant Food Controller (AFC) (BPs-8) w.e.f 29-04-2005. After the amendments made in the Surplus Pool Policy on 15-02-2006, he filed a Service Appeal No.858/2006 before this Hon'ble Tribunal, taking

this plea that he should be placed at the top of seniority list of AFC because he was holding the post of BPs-9 in his parent Department but was placed at the bottom of the seniority list of AFC in the Food Department. His appeal was dismissed by this Hon'ble tribunal holding as under:

**“the claim of the appellant is not bonafide. He was adjusted wayback on 29-04-2005 as Assistant Food Controller (BPs-8). Amendments in the Surplus Pool Policy were made on 15-02-2006, which have no retrospective application, as such the appellant cannot claim the benefits of said amendments in the Surplus Pool Policy on which his claim is based.”**

**(Copy of judgment dated 13-06-2007, passed in Appeal No.858/2006 is attached as Annex “K”)**

9. That after the amendments made in the Surplus Pool Policy on 15-02-2006, two other identical Surplus Pool Employees, namely Muhammad Akbar & Muhammad Saleem Iqbal, ex-employees of Printing & Stationary Department, Government of KP, working in BPs-7, having been rendered surplus, were later on adjusted in Food Department as Food Grain Inspectors (BPs-6) on 25.08.2004, and placed at the bottom of seniority list of Food Grain Inspectors (FGi) (BPs-6), as maintained by KP Food department on 25-08-2004 and they then filed Service Appeals No. 7/2017 & 8/2017, seeking seniority to be placed on top of the seniority list of AFC (BPs-14) on the basis of the precedent of Muhammad Naveed's case as narrated in Para-7 above. Both these appeals were dismissed by this Hon'ble Tribunal holding therein that both the appellants (promotees) shall still stand junior to all those persons/employees (selectees) who have been earlier inducted as Assistant Food Controller (BPs-14) by initial recruitment through Public Service

Commission (PSC) on 07.08.2015, i.e prior to the promotion of the appellants as Assistant Food Controller (BPs-14) who were promoted to the post of AFC (BPs-14) on 22.04.2016 on regular basis and thus the seniority of the direct recruitees vis-à-vis the appellants (promotees) in the impugned seniority list dated 31-10-2016 shall not be disturbed.

***(Copy of the combined judgments dated 24-11-2017 passed in Appeal No.7/2017 & 8/2017 is attached as Annex "L")***

10. That the present appellant, Mr. Noor khan, an ex- Surplus Pool employee of Government of KP, Printing & Stationary Department, working as "Mono Operator" in BPs-7 was adjusted as Food Grain Inspector (BPs-6) in the KP Food Department on 25.08.2004, and was, placed at the bottom of seniority list of FGi (BPs-6) as stood on 25.08.2004, according to the Surplus Pool Policy dated 08.06.2001.

11. that after revision/amendments made in the Surplus Pool Policy on 15.02.2006, the appellant (Noor khan) made an appeal/representation to the appellate authority in Food Department, seeking seniority to be placed at top four of the AFC's (BPs-14) seniority list as stood on 31.10.2016 but his appeal was rejected, thereafter he filed an appeal No.349/17 before this Hon'ble Service Tribunal, seeking seniority to be placed at the top four of seniority list of Assistant Food Controller (AFC) (BPs-14), maintained on 31.10.2016. However his this appeal was accepted by this Hon'ble Tribunal on 08.02.2018 and was disposed of in the terms as that of the appeal of Naveed's case dated 15-08-2016, passed in Appeal No.831/2015.

**(Copy of judgment dated 08-02-2018 passed in Appeal No.349/2017 is attached as Annex "M")**



12. That this judgment dated 08-02-2018 of this Hon'ble Service Tribunal passed in Service Appeal No.349 of 2017, was challenged by Government of KP Food Department and other affected Assistant Food Controllers (BPs-14), before the Supreme Court of Pakistan by filing CPLAs No.264-P/2018 and CPLA No.1676/2018 respectively. The Hon'ble Supreme Court of Pakistan by an order dated 29.06.2018 has set aside the impugned judgment dated 08.02.2018 passed in Appeal No.349/2017 and the matter was remanded to this Hon'ble tribunal to implead all those who would be affected by the decision of the Tribunal and pass a fresh decision in this behalf. Hence this amended appeal after orders of this Hon'ble Tribunal. **(Copy of order dated 29-06-2018, passed in CP No.264-P & CP No.1676 of 2018 is attached as Annex "N")**.

#### **PRELIMINARY OBJECTIONS:**

1. That this amended appeal is not maintainable and is liable to be dismissed in limine because the appellant has deliberately violated the orders dated 25.09.2018 of this Hon'ble Tribunal & ignored to implead the necessary parties to be made as Respondents.
2. That this amended appeal is not sustainable in law and is not maintainable as the appellant has not only altered its character but also changed his cause of action by taking a different plea seeking seniority at serial No.17 of the seniority list of District Food Controller (DFC) (BPs-17) dated 17.08.2018 instead of his seniority in Assistant Food Controller (AFC) (BPs-14) as stood on 31.10.2016, vide his original appeal in this behalf.
3. That this appeal is bad for non-joinder and mis-joinder of necessary parties.
4. That the appellant has not come to this Hon'ble Tribunal with clean hands, rather he has suppressed the material

facts for his ulterior motives and has presented a totally changed and different amended appeal, which is not maintainable in law and facts.

5. That the appellant is estopped by his own conduct to file this amended appeal in its present form.

### **ON FACTS**

1. Para-1 of the appeal needs no comments.
2. Para-2 of the appeal needs no comments.
3. Incorrect & denied. It is submitted that the appellant as well as others similarly placed Surplus Pool Employees who after being adjusted as Food Grain Inspector (FGi) (BPs-6) in Food Department, Government of KP on 25.08.2004, were then placed at the bottom of seniority list of FGi as stood on 25.08.2004 as per Surplus Pool Policy dated 08.06.2001. This policy was revised on 15.02.2006 after adjustment of above Surplus Pool Employees and nothing was mentioned therein regarding its applicability with retrospective effect.
4. Incorrect and denied. Contents of this para No.4 are based on presumptions, assumptions and hence misconceived. As per Surplus Pool Policy 2001, the appellant was rightly adjusted in Final Seniority of FGi (BPs-06) as stood on 25.08.2004.
5. In reply to para-5 of this appeal, it is submitted that although Muhammad Naveed's case, (*a Surplus Pool Employee*) vide his Appeal No.831/2015, decided on 15.08.2016 by this Hon'ble Tribunal, it was laid down therein that as per terms of Revised Surplus Pool Policy issued on 15.02.2006, the appellant (*Muhammad Naveed*) be placed at the top of Seniority list of FGi (BPs-6) at that time, yet this judgment was misinterpreted and misconstrued by the Respondent/Department and

promoted to the post of AFC (BPs-14) on 22.04.2016 and after judgment dated 15.08.2016 he should have been placed at the bottom of the direct Recruittees AFC (BPs-14) who joined AFC posts on 07.08.2015 in Food Department. This judgment dated 15.08.2016 was not challenged by Food Department KP before the Supreme Court of Pakistan & thus it attained finality and was implemented by the Respondents/Department wrongly and unlawfully against the Court's orders at that time.

6. In reply to Para-6 of the appeal, it is clarified that the appellant (Noor Khan being a Surplus Pool Employee) was inducted in Food department as Food Grain Inspector (BPs-6) on 25.8.2004 and as per Surplus Pool Policy vide circular letter dated 08.06.2001, his pay was protected in BPs-7 but his seniority was fixed at the bottom of seniority list of FGi (BPs-6) as stood on 25.08.2004. His departmental appeal seeking seniority as AFC (BPs-14) was baseless and meritless hence was rightly rejected on 06.04.2017 by Department. **(Copy of rejection order dated 06.04.2017 is attached as Annex "O").**
7. No comments, this para relates to a judicial verdict/judgment passed by the Supreme Court of Pakistan.
8. Incorrect and denied. The judgment dated 08.02.2018, passed in Appeal No.349/2017 filed by the appellant (Noor Khan) was set aside by the Apex Court of Pakistan and the case was remanded to this Hon'ble Tribunal to implead all affected parties for a fresh decision by this Hon'ble Tribunal.
9. No comments, being facts of the Judgment of Supreme Court of Pakistan are discussed in this para.
10. Contents of this para are incorrect, misleading and misconceived, hence denied.

11. Contents of para-11 of the appeal are irrelevant, unwarranted in law, having no nexus with this appeal, hence denied.
12. Contents of para-12 are incorrect, misleading and misconceived, hence denied.
13. Contents of para-13 are incorrect, misleading and misconceived, hence denied.
14. Incorrect and denied. As laid down in the KP Food Department Recruitment/Appointment Rules 1981, the Respondents/Department have acted strictly in accordance with law/rules 1981. The appellant was earlier involved in a Departmental proceedings initiated against him and after he was cleared from the alleged charges, then he was promoted to the post of AFC (BPs-14) on 28.11.2016 against 75% quota strictly in order of seniority maintained in FGi Cadre. **(Copy of KP Food Department (Recruitment & Appointment) Rules 1981 is attached as Annex "P" )**
15. Incorrect and denied. All the actions taken by Respondents/Department were strictly in accordance with law/Rules 1981. Since the appellant was promoted to the post of AFC (BPs-14) on 28.11.2016, therefore, his seniority in AFC (BPs-14) seniority list as it stood on 31.10.2016 was fixed later than all those AFCs (BPs-14) who were recruited directly against 25% quota, through KP Public Service Commission and they also joined as AFC (BPs-14) in Food Department on 07.08.2015 i.e before promotion of the appellant (Noor Khan). **(Copy of promotion order dated 28.11.2016 in respect of Noor Khan (aplleant) & the order dated 07.08.2015 in respect of Direct selectees AFC (BPs-14) attached as Annex Q & R)**
16. No comments.

It is, therefore, most humbly prayed that the instant amended appeal, being devoid of facts and meritless may graciously be dismissed with costs, please.

H/Rahman

**Private Respondents No.4-24**

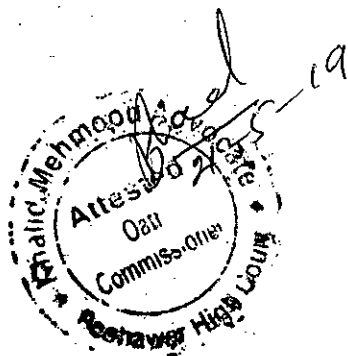
**Through**

  
(ABDUL HAMEED)

**Advocate Peshawar**

**AFFIDAVIT**

I, Hafeez ur Rehman, AFC, office of District Food Controller, Peshawar, Respondent No.22 (special attorney for Respondent No.4 to 24) do hereby declare and solemnly affirm that the parawise comments on behalf of Respondents No.4 to 24 are true and correct as per record, to the best of my knowledge and belief and nothing has been concealed from this hon'ble Tribunal.



H/Rahman

**Deponent**  
**CNIC: 17301-0744903-9**

BETTER COPY

Annex: "A"

13

FOOD DIRECTORATE NWFP,  
PESHAWAR

OFFICE ORDER

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 & Stationary Department memo No.6847/dated 30.06.2004 the following staff of the Government of NWFP, Printing & Stationary 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. N O	Name of Official	Designation/ Department	Adjusted as
1.	Muhammad Akbar khan	Senior Clerk (BS-07) Government of NWFP, Printing & Stationary 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 & Stationary 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 & Stationary 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 8<sup>th</sup> June 2001

DIRECTOR FOOD NWFP  
PESHAWAR

No. 17501-8/ET-542/SPA

Dated Peshawar the 25/August/2004.

Copy is forwarded to:-

1. PS to Minister Food for information of the Minister Food, Government of NWFP, Peshawar
2. PS to Secretary Food for information of Secretary Food, Government of NWFP
3. The Account General, NWFP, Peshawar.
4. The Controller Government of Printing & Stationery Department for information with reference to his memo no 6847 dated 30<sup>th</sup> June 2004 with the request to provide the service bio data /Personal File /Service Book/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 26<sup>th</sup> June 2004.
6. The Section Officer Food Government of NWFP, Food Department with reference to his No. SOF (Food Deptt)1-16/20025747 dated 6<sup>th</sup> July 2004 and No. SOF (Food Deptt)1-16/2002/5975 dated 9<sup>th</sup> August 2004.
7. The Budget Assistant /Pay Bill Assistant/Nazir, record clerk of Food Directorate, NWFP, Peshawar.
8. The Official concerned /personal file.

ATTESTED

*Q. Khan Adv.*

DIRECTOR FOOD NWFP,  
PESHAWAR

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

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

DATED: Peshawar, The 8<sup>TH</sup> June, 2001.

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.

Annex: "B"  
14

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 drawl 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 drawl of pay and allowances and also for consideration for subsequent adjustment

*Altaf*  
*Director*  
*Tamwar Hader*  
*Adnan*  
*Adnan*

ATTESTED

ATTESTED

*Adnan*  
*Adnan*

(15)

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 Department/ Organization, the senior most employee in the surplus pool should be adjusted first.
- (ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.
- (iii) If an employee 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.

ATTESTED

*[Signature]*

*[Signature]*

*[Signature]*

ATTESTED

*[Signature]*

*[Signature]*



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

*included*

- (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 <sup>he</sup> does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority.

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

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

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

Yours Obedient Servant

(MUHAMMAD HAMAYUN)  
ADDITIOANL SECRETARY (REGULATION)

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

*Attested*  
*Khan*  
*Pooraj Adv*

*[Handwritten signature]*

**ATTESTED**  
*[Signature]*

**ATTESTED**

17

Yours Faithfully,

( ABDUL JALIL )  
SECTION OFFICER (O.M.)

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)

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 ATTESTED  
*[Handwritten signature]*

ATTESTED  
*[Handwritten signature]*  
 Adv.

Annex: 'C'  
18

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

Total Sanctioned Posts	54
Held	48
Vacant	6

S.No	Name of Govt. Servant	Qualification	Date of Brith	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	17.02.2014
13	Raja Ifukhar Ahmed	F.A.	30.05.1954	Abbottabad	01.07.1982	17.11.1994	By promotion	29.05.2014
14	Nazakat Hussain Shah	Matric	14.01.1955	Mansehra	01.03.1975	17.05.1995	By promotion	13.01.2015
15	Hasham Khan	B.A.	18.10.1971	M.Agency	03.03.1996	03.03.1996	By initial recruitment	17.10.2031
16	Sher Fayaz	M.A.	02.01.1969	Chitral	12.02.1996	12.02.1996	By initial recruitment	01.01.2029
17	Adil Badshah	B.Sc.	15.04.1972	Karak	25.02.1996	25.02.1996	By initial recruitment	14.04.2032
18	Shad Muhammad	M.Sc.	25.05.1966	Mansehra	11.02.1996	11.02.1996	By initial recruitment	24.05.2026
19	Sanaullah	M.A.	15.11.1948	Bannu	20.08.1976	20.08.1976	By initial recruitment	14.11.2008
20	Khan Zada Khan	F.Sc	15.03.1956	Bannu	25.10.1980	25.10.1980	By initial recruitment	14.03.2016

ATTESTED

*(Signature)*  
A.W.

19

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

Final Selection

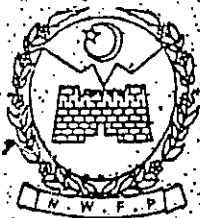
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ATTESTED





Annex: D  
FOOD DIRECTORATE NWFP  
PESHAWAR

No. 1054 /ET-542/SPA

Dated 26 /01/2006

### OFFICE ORDER

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

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

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

ATTESTED

ATTESTED

ASSISTANT DIRECTOR FOOD, NWFP, (E)  
PESHAWAR.

Attested  
Dangl Adul

Judgment Sheet

IN THE PESHAWAR HIGH COURT,  
ABBOTTABAD BENCH.  
JUDICIAL DEPARTMENT.

AWP No.494-A of 2012

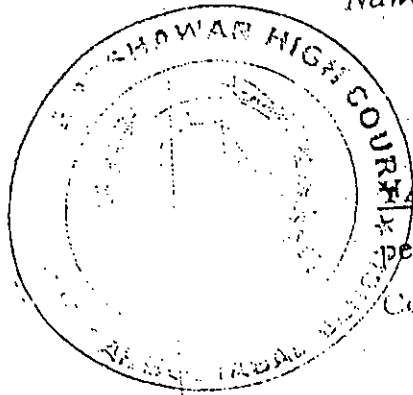
JUDGMENT

Date of hearing.....17/01/2013.....

Petitioner(s)....(Muhammad Naveed) by Mr. Khan Afzal, Advocate .....

Respondent(s)....(Government of KPK and others) by Mr. Muhammad Nawaz Khan Swati, AAG. ....

\*\*\*



**SAHIA AFRIDI, J:**

Muhammad Naveed,

petitioner seeks the constitutional jurisdiction of this Court, praying that;

"On acceptance of the writ petition, this honourable Court may kindly be please to direct the respondent to act in the matter according to the law and clarify whether Notification No.SOR-VI(E&AD)/5-1/2005 dated 15.02.2006 being continuation of Notification No.SOR-1(E&AD)1-E&AD/1-2000/98 dated 08.06.2001, have retrospective effect from 08.06.2001, as principle held in page-2005 para-5, 1992 SCMR 1652, 1997 SCMR 1244, writ petition No.748/09 decided on 30.09.2009, writ petition No.705 of 2006 decided on 13.10.2009.

Any other relief which this honourable Court seems fit also granted to petitioner."

**ATTESTED**

*Handwritten signature*  
Adv.

Certified to be True Copy  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Section 17(1) of the High Courts (General) Act, 1956

2. In essence, the grievance of the petitioner is that the revised policy of the Government enumerated in Notification of 15<sup>th</sup> February, 2006 has not been

given effect to, which has adversely affected the rights of the present petitioner.

3. AAG present in Court, stated that the Government is preparing to consider the grievances of the petitioner.

4. Accordingly, we direct respondent No.1 to consider the grievance of the petitioner and decide the same, in accordance with law, within a period of sixty days, if not earlier, from the date of receipt of this order.

In case, the grievance of the petitioner is not positively considered, he may be intimated in writing the reasons so rendered therefor.

5. This petition is disposed of in the above terms.

Announced  
17.01.2013.

**ATTESTED**  
*[Signature]*  
Adv.

*Sd/- Judge*

Noted to be True Copy  
21.1.13  
[Signature]

PESHAWAR HIGH COURT ABBOTTABAD BENCH

Annex: G

JUDICIAL DEPARTMENT

JUDGMENT SHEET

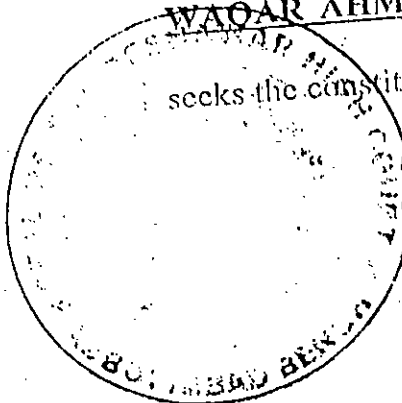
W.P.No.23-A of 2014

24

Date of hearing 24.09.2014

Petitioner Muhammad Naveed by Syed Sajja  
Hallam Chah, Adv.

Respondents \_\_\_\_\_



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

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

**ATTESTED**  
*Adv.*

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

Certified to be True Copy  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 25 of Ord.



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

3- Arguments heard and record perused.

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

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

**ATTESTED**  
*Adm:*

case law cited by the learned counsel for the petitioner either  
Certified to be True Copy  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 75 Act 1973

and any on technical ground of lack of jurisdiction and he must be provided a chance to avail a remedy before the appropriate forum.

3. Accordingly, this petition is disposed of and the petitioner is allowed to file departmental appeal/representation before the departmental authority, competent to entertain/hear it and the delay, so caused and the concession made by the respondent department may be considered favourable to the petitioner because of the previous orders of the High Court and in case any adverse order is passed against him, he may, if so advised, approach the Service Tribunal.

Sd/- Umar Ali Baidjal,  
Sd/- Dost Muhammad Khan,

Subordinate Court of Pakistan  
Lahore  
Subordinate Court of Pakistan  
Lahore  
Copied to the Copy

APR 19 1961  
28/3/12

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[Signature]

GR No: 28/3/12  
Date of presentation: 28/3/12  
No. of words: 10  
No. of lines: 10  
No. of pages: 10  
Date of preparation: 28/3/12  
Place of preparation: Lahore  
Name of the petitioner: Umar Ali Baidjal  
Name of the respondent: Dost Muhammad Khan

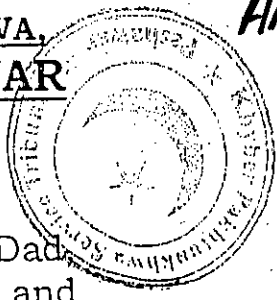


**BEFORE THE KHYBER PAKHTUNKHWA,  
SERVICE TRIBUNAL PESHAWAR**

Annex: "I"

29

Appeal no. 831/2015



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-EDP  
6/7/15

Respected Sir,

re-submitted to-day and filed:

Registered

23/7/15

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

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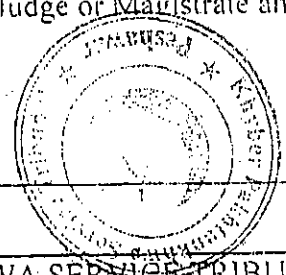
EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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ATTESTED  
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Date of Order or proceedings.

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



2

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

CAMP COURT ABBOTTABAD

APPEAL NO. 831/2015

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

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

15.08.2016

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

2. Mr. Muhammad Naveed son of Fazal Dad hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act. 1974 for seeking seniority by placing him at S.No. 1 of the seniority list maintained by the Food Department for BPS-06.

3. Brief facts giving rise to the present appeal are that the appellant was serving as Senior Clerk (BPS-07) in the office of Deputy Commissioner, Mansehra and was declared surplus in the year, 2001 and later-on adjusted in Food Department in BPS-06 vide office order dated 26.01.2006. That the appellant was to be placed at the top of the seniority list in BPS-06 but he was placed at the bottom of the same constraining the appellant to institute Writ Petition No. 494-A/2012

ATTESTED  
  
Attestation Officer  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Advocate  
Taimur Haidar  
Nawaz Haidar

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Adv:

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**  
 [Signature]  
 District Judge  
 District Court, Peshawar

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 Attorney General  
 Peshawar  
 Advocate  
 High Court

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perused the record.

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

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

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

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

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Tamil Nadu High Court,  
Chennai

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Adv:

*[Signature]*  
Tamil Nadu  
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. File be consigned to the record room.

Announced

15-08-2016

sd/-  
(ABDUL LATIF)  
MEMBER

sd/-  
(MUHAMMAD.AZIM KHAN AFRIDI)  
CHAIRMAN

Camp West A. Abad

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application: 29-12-16  
Number of Wards: 2500  
Copying Fee: 12/-  
Urgent: 2/-  
Total: 14/-  
Name of Applicant: [Signature]  
Date of Complaint: 29-12-16  
Date of Delivery: 29-12-16

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Adv.  
[Signature]  
Advocate  
Fazim Haidar

Annex-34

ATTESTED

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

No.	Name of Govt Servant	Qualification	Date of birth	Domicile	Date of entry in to Govt service	Date of appointment to the post of FGI/ Cane Inspector	Date of appointment to the present post	Method of recruitment	Date of superannuation
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.	Muhammd 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 Promotion	07.06.2019
10.	Mr. Aftab Umar Khan	MA	04-08-1985	Mohmand Agency	19-05-2010	-	19-05-2010	By initial recruitment	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	07.07.1969	Chitral	09.05.1993	20.12.2003	21-10-2011	By Promotion	01.11.2029
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 Asghar Khan	B.A	28.02.1972	Mansehra	09.05.1993	20.12.2003	04-10-2011	By Promotion	27.02.2032
16.	Mr. Shabir Ahmad Khan	LLB	30.04.1966	FR 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	18-02-2012	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. Waziristan 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.	Muhammad Salim Iqbal	D.Com	15.07.1969	Peshawar	04.08.1990	25.08.2004	22-04-2016	By Promotion	14.07.2029
	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

ATTESTED

S. Farooq Abb.



35

33.									
34.	Mr. Muhammad Khalid	FA	02.05.1973	Peshawar	04.03.2006	04-03-2006	22-04-2016	By Promotion	01.05.2013
35.	Mr. Usman Khan	B.A	01-01-1975	Dir	03-11-2008	03-11-2008	22-04-2016	By Promotion	31.12.2015
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	04.01.2015
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	12-01-2009	22-04-2016	By Promotion	14.04.2017
41.	Syed Wasim Shah	F.Sc	15-02-1987	Kohat	13-08-2009	13-08-2009	22-04-2016	By Promotion	14-02-2047
42.	Mr. Rashid Saeed	B.A	15.03.1974	DIKhan	22.05.1995	26-12-2009	22-04-2016	By Promotion	14.03.2034
43.	Mr. Aman Khan	F.Sc	02.08.1968	Bannu	09.05.1993	05-11-2008	04-08-2016	By Promotion	01.08.2028
44.	Mr. Ashfaq Khan	B.A	25.03.1977	Mardan	22.05.1995	26-12-2009	04-08-2016	By Promotion	24.03.2037
45.	Mr. Riaz Ahmad	M.A	01.03.1966	Chitral	02.05.1995	26-12-2009	04-08-2016	By Promotion	28.02.2026
46.	Mr. Ateeq-ur Rehman	B.A	01.05.1977	M/Agency	03.05.1995	26-12-2009	04-08-2016	By Promotion	30.04.2037
47.	Mr. Angoor Shah	M.A	01.06.1963	K/Agency	06.08.1995	26-12-2009	04-08-2016	By Promotion	31.05.2023

Assistant Director Food (E)

ATTESTED

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Ahmad  
Admi

Annex: "K"

36

BEFORE THE HON'BLE SERVICE TRIBUNAL NWFP PESHAWAR.

S.T.A No. 858 2006.



N.W.F. Province  
Service Tribunal

Diary No. 926

Dated 21-9-06

Muhammad Zafrullah Khan,  
Assistant Food Controller,  
Distt: Food Office,  
D. I. Khan.

APPELLANT.

V E R S U S .

1. Secretary Food, Peshawar.
2. Director, Food NWFP Peshawar.
3. Deputy Director Accounts Food Directorate Peshawar.
4. Assistant Director, Food Co-Ordination, Food Directorate Peshawar.
5. Regional Audit Officer, Food Directorate Peshawar.

RESPONDENTS.

re-submitted to-day  
and filed.

M. M. A.  
Registrar

12/10/06

APPEAL AGAINST THE SENIORITY OF THE PETITIONER ISSUED  
BY RESPONDENT NO. 2 VIDE HIS LETTER NO. 1866-85-ET/716  
DATED. 6.9.2006

**ATTESTED**

PRAYER.

ON ACCEPTANCE OF THE INSTANT APPEAL RESPONDENTS MAY  
BE DIRECTED/ORDERED TO PLACE THE APPELLANT ON THE TOP  
OF THE SENIORITY LIST AS PER DIRECTIVES OF THE GOVERNMENT  
OF NWFP.

[Signature]  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**

[Signature]  
ADW?

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13.6.2007

Counsel for the appellant and ACP for respondent department present. Replication not filed. Arguments heard & record perused.

This appeal arises against the seniority of the appellant issued by respondent No.2 vide letter No. 1866-85-ET/716 dated 6.9.2006, with the prayer that on acceptance of this appeal, the respondents be directed to place the appellant on the top of the seniority list as per directives of the Government of NWFP.

It appears that the appellant was serving as Hostel Supdt: (BS-9) initially. On being declared as surplus, he was adjusted in the Food Department as Assistant Food-Controller (BS-8) w.e.f 29.4.05 and assigned S.No. 29 in the joint seniority list. Now, he claims that according to amendment in the surplus pool policy he should be placed at the top of the seniority list as he was holding the post of BS-9 and was adjusted against the post of AFC (BS-8).

The plea of the respondent department is that the appellant was previously serving as Hostel Supdt: (BS-9) and had furnished his willingness for adjustment as Assistant Food-Controller (BS-8). Accordingly the official detailed by surplus pool was adjusted in Food-Department as AFC (BS-8). Soon after his adjustment in the NWFP Food Department, he was placed at S.No. 29 of the joint seniority

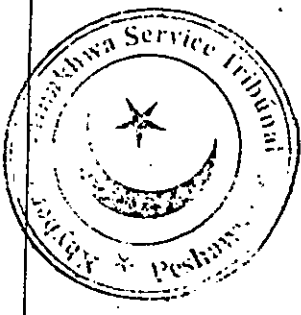
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JUDGE  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Seen  
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Serial No. of Order or Proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3



list issued vide Food Directorate circular letter No. 14577-95/ED-716, dated 15.9.05, which was not objected by the appellant.

The Tribunal holds that the claim of the appellant is not bonafide. He was adjusted way back on 29.4.05 as Assistant Food Controller (BS-8). Amondment in the surplus pool policy was made on 15.2.06 which has no retrospective application. As such the appellant cannot claim the benefit of the said amendment in the surplus pool/on which his claim is based. The instant appeal being merit-less is dismissed, with no order as to costs. File be consigned to the record.

ANNOUNCED  
13.6.2007

*13/6/07*  
(ABDUL SATTAH KHAN)  
CHAIRMAN  
NWFP SERVICE TRIBUNAL  
CAMP COURT D.I. KHAN.

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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(ADALAT KHAN)  
MEMBER

**ATTESTED**

Date of Presentation of Application 29-08-08

Number of Words 1660

Copying Fee 10-00

Urgent 10-00

Total 10-00

Name of Copyist [Signature]

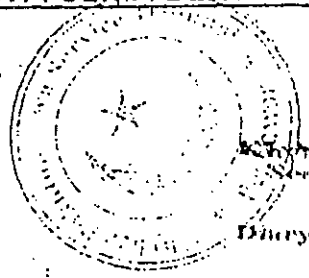
Date of Completion of Copy 04-09-08

Date of Delivery of Copy 04-09-08

Annex: "L"  
39

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR



Service Appeal No. 7 /2017

Diary No. 06  
Dated 03-01-2017

Muhammad Akbar (Assistant Food Controller, Mardan)  
S/o Muhammad ismail R/o G.I 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



ATTESTED

Filed to-day  
Registrar  
3/1/2017

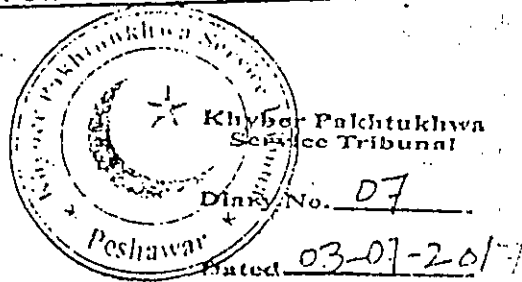
Submitted to-day  
Filed.  
Registrar  
5/1/2017

ATTESTED  
Attendant Adm?

40

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR



Service Appeal No. 8 /2017

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

VERSUS

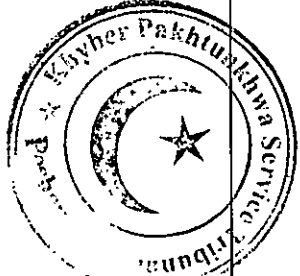
- 1) Director Food, Khyber Pakhtunkhwa, Peshawar.
  - 2) Secretary to Government of Khyber Pakhtunkhwa, Food Department, Peshawar.
  - 3) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
- .....Respondents

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


TESTED  
SECRETARY  
2/11/2017

ATTESTED  
[Signature]

mitted to -day  
SECRETARY  
1/2/17

Sl. No/	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	24.11.2017	<p style="text-align: right;">(41)</p> <p style="text-align: center;"><b>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</b></p> <p style="text-align: center;"><b>Service Appeal No. 07/2017</b></p> <p style="text-align: center;">Date of Institution ----03.01.2017 Date of Decision ----24.11.2017</p> <div style="text-align: right;">  </div> <p>Muhammad Akbar (Assistant Food Controller, Mardan) S/O Muhammad Ismail R/O G.T Road, Chamkani, Tehsil &amp; District, Peshawar. <b>Appellant</b></p> <p style="text-align: center;"><b>VERSUS</b></p> <ol style="list-style-type: none"> <li>1. Director Food, Khyber Pakhtunkhwa, Peshawar.</li> <li>2. Secretary to Government of Khyber Pakhtunkhwa, Peshawar.</li> <li>3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar...<b>Respondents</b></li> </ol> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> - Learned counsel for the appellant present. Learned District Attorney for the respondents present.</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>4. Learned counsel for the appellants argued that the appellants were serving in the Government of Khyber Pakhtunkhwa Printing</li> </ol>

**ATTESTED**

  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar