BEFORE THE COURT OF KHYBER-PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

#### E.P.No. 43/2023

#### IN REFERENCE APPEAL NO: 1038-P/2015

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Dr. Muhammad Iqbal, Director Livestock Research and Development Khyber Pakhtunkhwa, Peshawar.....Petitioner

#### Versus

# Government of Khyber Pakhtunkhwa through Chief Secretary, and other Respondents.

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Applicant/Petitione	
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Inayat Ur-Rahman Khat	
Advocate High-Court Pesha	iwar III -

Dated:

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# BEFORE THE COURT OF KHYBER-PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

## Rejoinder / Replication in E.P No: 43/2023

### In service Appeal No: 1038-P/2015

## Dr. Muhammad Iqbal, Director Livestock Research and Development Khyber Pakhtunkhwa, Peshawar.....Petitioner.

## Versus

- 1. Government of Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat Peshawar.
- 2. Government of Khyber-Pakhtunkhwa through Secretary Establishment at Civil Secretariat Peshawar.
- 3. Government of Khyber Pakhtunkhwa through Secretary Livestock, Fisheries and Cooperative Department Ex-Fata Secretariat Peshawar.
- 4. Director General (Research) Livestock and Daily Development Department, Khyber Pakhtunkhwa, Bacha Khan Chowk, Peshawar.

## **Respectfully Sheweth;**

## **PRELIMINARY OBJECTIONS:**

- 1) The comments furnished by the respondents are not correct as scribed. The Honorable Khyber-Pakhtunkhwa Service Tribunal has partially decided the case in favor of the applicant / petitioner and directed for grant of emoluments at a high rate, if any for the period he worked on a post in BPS-19 against own pay scale.
- 2) Comments furnished by the respondents are not correct as scribed. The petition is made for the implementation of the decision of the Khyber-Pakhtunkhwa Service Tribunal for grant of emoluments at a high rate.
- 3) Comment furnished by the respondents are not correct as scribed. The petition is maintainable in its present form in light of Supreme Court decisions.

- 4) Comment furnished by respondents are not correct as scribed. The instant implementation petition is filed in light of the decision of the Khyber-Pakhtunkhwa service Tribunal for implementation.
- 5) Comment furnished by respondents are not correct as scribed. The petition is not barred by law and limitation.
- 6) Comment furnished by respondents is not correct. The Honorable Tribunal has jurisdiction to adjudicate upon the matter.

## **Respectfully Sheweth;**

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- 1) Admitted by respondents.
- 2) Not Correct. The right of the petitioner / appellant regarding the receipt of emoluments at a higher rate, if any for the petitioner period the petitioner worked on a post in BPS-19 against own pay scale was preserved/kept intact / saved by Honorable Khyber-Pakhtunkhwa Service Tribunal in light of the Judgments of Honorable Supreme Court of Pakistan as reported 1978 SCMR, 289, 1986 SCMR, 991,2006 SCMR 1938, 2004 PLC (C.S)624.

In light of the above Judgments of the Apex Court, the petitioner is entitle regarding the receipt of emoluments at a high rate for the period, he worked in BPS-19 against own pay scale, including the salary at a higher rate, revised salary (Pay & Allowances) at a higher rate, increment in BPS-19 & other consequential benefits.

3) Not Correct. Already explained in Para 2 above. Moreover, the petitioner also approached to the Department for awarding back financial benefits / emoluments, which were not responded in light of the existing policy & the petitioner knocked the door of this Honorable Court, who ordered the respondents to grant the emoluments to the petitioner, so they are committing the contempt of court.

it is further added that the petitioner was posted as Principle Research Officer / Director Planning (BPS-19) in own pay scale at Directorate of Livestock Research & Development, NWFP, Peshawar against vacant post in the public interest with immediate effect vide notification No.SO(L&DD)AD-2 (61)/2009/PF dated 29-04-2009 (Annex-1) and charge assumption was accordingly made on 30-04-2009 (Annex-2). The petitioner along with 07 other BPS-18 officers were promoted against the posts of Principle Research Officer / Director (BS-19) on regular basis with immediate effect vide notification No.SO(L&DD)-E-1(361)/2009/KC dated

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28-07-2009 and also requested to Director Veterinary Research Institute NWFP, Peshawar to submit proposal / adjustment of the newly promoted officers (Annex- $\underline{3}$ ).

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Accordingly, the Director General (Research) L&DD NWFP submitted proposal for posting / adjustment of the newly posted officers vide dated 04-08-2009 and the competent authority issued posting notification of 08 newly promoted officers including the petitioner vide notification No.SO(L&DD)AD-E-1(381)2009/Vol:II dated 14-10-2009 in the best interest of the public Service with immediate effect till further orders (<u>Annex-4</u>). The petitioner taken over the charge of Principal Research Officer (BS-19) Centre of Animal Nutrition, Directorate of Livestock Research & Development Peshawar vide dated 15-10-2009 (<u>Annex-5</u>). Moreover, the petitioner has provided the emoluments including the Salaries (Pay & Allowances) and increments of BS-18, which is clear from the enclosed documents supported with monthly salary Slips, w.e.f 30-04-2009 to 14-10-2009 (<u>Annex-06</u>).

4) The respondents are legally bound to implement the order of the Khyber-Pakhtunkhwa Service Tribunal and to provide the emoluments including salaries, revised Salaries (pay and allowances), increment and other consequential benefits in BPS-19, w.e.f 30-04-2009 to 14-10-2009. It is further added that the Director General (Research) Livestock and Dairy Development Department Khyber-Pakhtunkhwa submitted the judgment of Khyber-Pakhtunkhwa Service Tribunal dated 14-01-2021 to the Government of Khyber-Pakhtunkhwa Agriculture, Livestock, Fisheries and Cooperative Department Peshawar for information and record vide letter No. DG(Res)L&DD/litigation (95)/CC/2016/693 dated 22-01-2021 (Annex-7) and the Section Officer (Litigation) Government of Khyber-Pakhtunkhwa Agriculture Livestock & Cooperative Department Department Khyber-Pakhtunkhwa Peshawar for necessary action / strict compliance vide letter No. (Lit)AD/3-47/2016 dated 29-01-2021 (Annex-8).

It is further to clarify that the respondents in its reply to the Khyber-Pakhtunkhwa Service Tribunal in service appeal No. 1038-P/2015 has never opposed the back benefits of the petitioner in light of the existing policy, nor sent the case to the Law Department for its suitability for filing the CPLA in the apex Court against the Khyber-Pakhtunkhwa Service Tribunal decision arrived on 14-01-2021 and as such accepted the partial decision arrived in favor of the petitioner.

- 5) <u>Incorrect</u> In light of the explanation in pre paras, the petitioner / appellant is entitle to the emoluments / benefits including salaries , revised pays & allowances, increment and other consequential benefits of higher post / high rate w.e.f from 30-04-2009 to 14-10-2009 and later on, which the respondents cannot regret.
- 6) The applicant seeks permission to forward further point with a prior permission of this Honorable Tribunal.

It is therefore, most humbly prayed that respondents may kindly be directed / ordered to implement the order of this Honorable Service Tribunal in its true spirit.

Applicant? Petitioner Through Inayat UR-Rehman Khattak Advocate High Court. /

## BEFORE THE COURT OF SERVICE TRIBUNAL, KHYBER-PAKHTUNKHWA, PESHAWAR

## E.P.NO: 43/2023 In Reference Appeal No. 1038-P/2015

**Dr. Muhammad Iqbal**, Director Livestock Research & Khyber Pakhtunkhwa, Peshawar... **Applicant/Petitioner** 

## VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar & others..... **Respondents** 

## **AFFIDAVIT**

1, **Dr. Muhammad Iqbal** S/o Lal Sahib Khan R/o Director Livestock Research & Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the **accompanying Application for Implementation** are true and correct to the best of knowledge and belief and nothing has been concealed from this Hon'ble Court.

**IDENTIFIED**/BY: DEPONENT **Inayat Ur Rehman** CNIC: 17301-7217860-1 Cell No: 0300-9001679 Advocate High Court,

Peshawar

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## GOVERIMENT OF NWFP AGRICULTURE, LIVESTOCK & COOP: DEPTT

Daled Peshawar the April 29/2009

# NOTIFICATION.

No.SO(L&DD)AD-2(61)/2009/PF The Competent Authority is pleased to Ira: sfer Dr.Muhammad Iqbal, Senior Research Officer (3S-18), Centre of Dairy Technology, Livestock Research and Development Station, Surezai Peshawa and post him as Ringipal Research Officer/Director Planning (BPS-19)(Headquarter) in his own pay scale at Directorate of Livestock Research & Development, NWFP Peshawar against vacant post, in the public interest with immediate effect.

#### Sd/-SECRETARY AGRICULTURE

Endst: No. & Date even.

Copy to:

- Accountant General NWFP Peshawar. 1. 2.
- Director Livestock Research & Development NWFP Peshawar w/r to his letter No.DLR&[ 359] dated 25.02.2009. Officer concerned. ł. .
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- PS to Minister Livestock and Cooperative Department. 5,

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PS to Secretary Agriculture, Livestock and Cooperative Department. 6. Master filo.

## (DR:MIR AHMAD KHAN) SECTION OFFICER (L#DD)

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## DIRECTORATE OF ...

## LIVESTOCK RESEARCH AND DEVELOPMENT NWFP, PESHAWAR

## No.DLR&D/PRO(AN)/

#### Dated Peshawar, the 15/10/2009

[0]

The Director, Livestock Research & Development, NWFP, Peshawar,

#### Subject CHARGE ASSUMPTION REPORT

Pleass relet to (lovenument of N.W.F.P., Agriculture, Livestock and Cooperative Department Notification No.SO(L&DD)AD-E-1((381)/2009/Vol:II dated 14.10.2009.

Enclosed please find herewith four copies of charge assumption report in respect of Dr. Muhammad Iqbal, Principal Research Officer (Animal Nutrition) for further necessary action, plapse.

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OFFICER PRINCIPAL RESEARCH 18 (DICMUHAWMAD IQBAL)

NNIn 18/10/00

# CHARGE ASSUMPTION REPORT

In pursuance of Government of N.W.F.P., Agriculture, Livestock and Cooperative Department Notification No.SO(L&DD)AD-E-1((381)/2009/Vol:II dated 14.10.2009, I Dr. Muhammad Iqbal, Principal Research Officer (in my own pay scale) have assumed the charge of the post of Principal Research Officer (BS-19) on regular basis at Center of Animal Nutrition, Directorate of Livestock Research and Development NWFP, Peshawar today on 15.10.2009 (Fore Noon).

HAMMAD IQBAL) PRINCIPAL RESEARCH OFFICER

## DIRECTORATEOF LIVESTOCK RESEARCH AND DEVELOPMENT NWFP, PESHAWAR 2025

NO.DLLR&D/ То

Dated Peshawar the 2/10/2009.

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The Secretary,

Government of NWFP.

Agriculture Livestock & Cooperation Department Peshawar.

Subject:

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## CHARGE ASSUMPTION REPORT

Please refer to the Government of NWFP, Agriculture Livestock & Cooperation Department, Peshawar, Notification No.SO(L&DD)AD-E-I(381)/2009/Vol:II dated 14.10.2009, on the subject cited above.

The following officers have submitted their charge assumption reports are send herewith in duplicate for information and further necessary action please.

S.No.	Name of Officer	Post	Station
1.	Dr. Sajjad Ahmad	PRO /Station Director	Livestock Research and Development Station Surezai.
2.	DR. Ahmad Naveed	PRO/Director planning &development	Livestock Research and development NWFP, Peshawar
3	Dr. Muhammad Iqbal	PRO/ (Animal Nutrition)	Livestock Research and Development ,NWFP, Peshawar.

Enclosed: As Above.

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HAMMAD) *HECTOR* Dated Peshawar the %/10/2009

2096-29 Endst:No.DLR&D/Estt:/

Copy of the above is forwarded for information to:-

Accountant General, NWFP, Peshawar.

Station Director, Livestock Research and development, Station, Surezai.

- Personal file of the officer concerned
- Officer concerned File.

(DR. FIDA ИMAD) ECTOR

P Sec:010 Honth: June 2009

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ADM: M-16

BRIEF FACTS OF SALARY IN RESPECT OF DR.MUHAMMAD IQBAL SINCE APRIL 2009 TO NOV 2009 ALONGWITH ENCLOSURES

TRAMENT OF PAKISTAN

AG NUCL SYSTEM

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S.No	Salary Month & Year	Basic Pay (Rs)	Allowances (Rs)	Gross Pay and all Allowances (Rs)	Deduction (Rs)	Net Pay (Rs)	Enclosure	Remarks
01	April 2009	25930	7350	33280	9333	23947	Annex-1	-
02	May 2009	25930	7350	33280	8704	24576	Annex-2	
03	June 2009	25930	7350	33280	5891	27389	Annex-3	
04	July 2009	25930	11239	37169	6027	31142	Annex-4	Ad-hoc Relief- was Introduced In June, 2009
05	August 2009	25930	11239	37169	6027	31142	Annex-5	
06	September 2009	25930	11239	37169	6026	31143	Annex-6	
07	October 2009	25930	11239	37169	6026	31143	Annex-7	
08	November 2009	25930	11239	37169	6026	31143	Annex-8	·.

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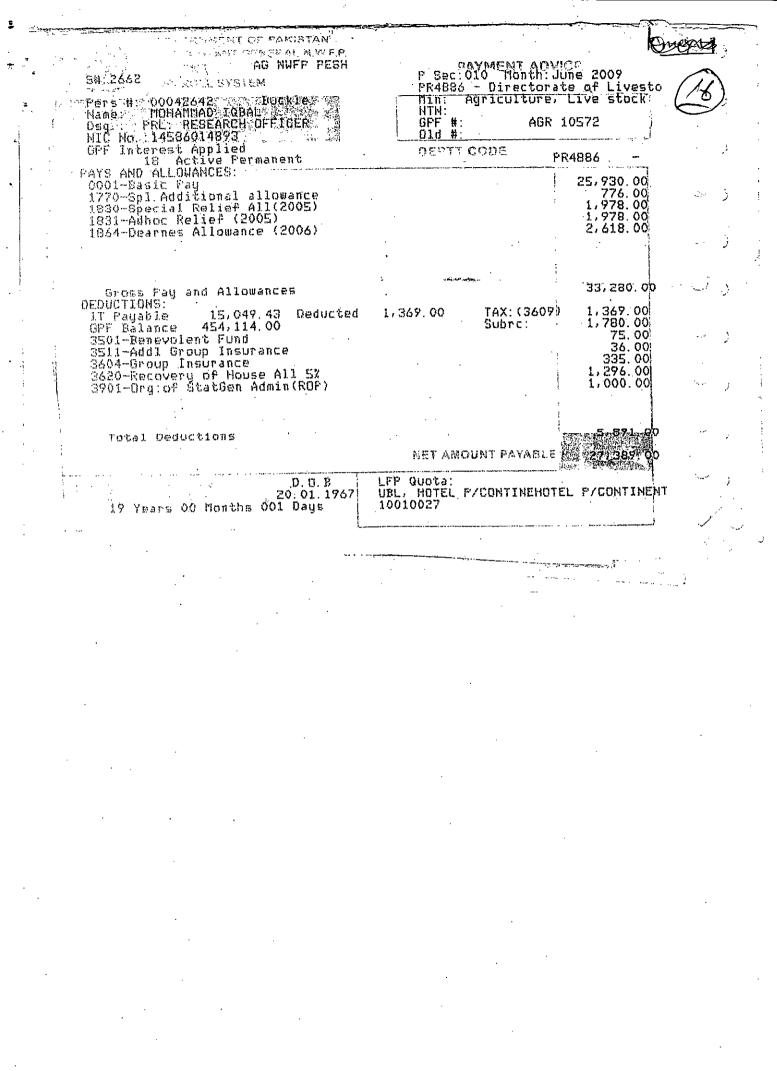
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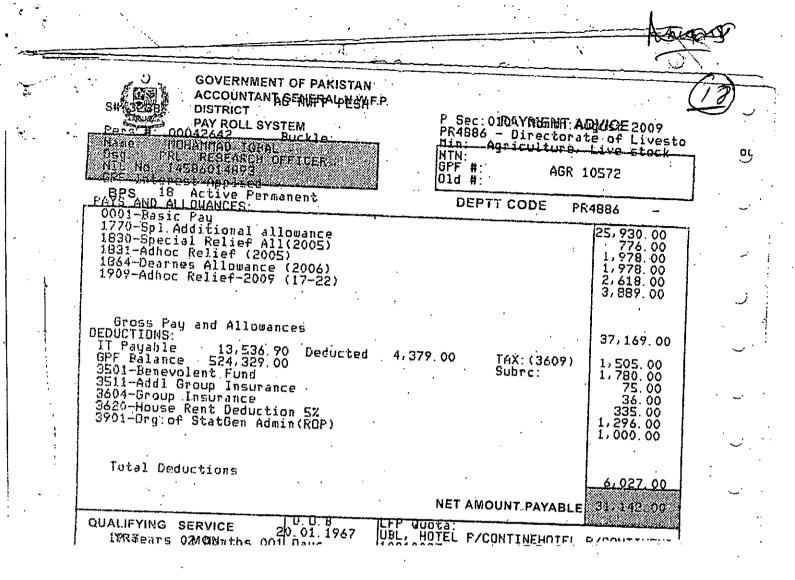
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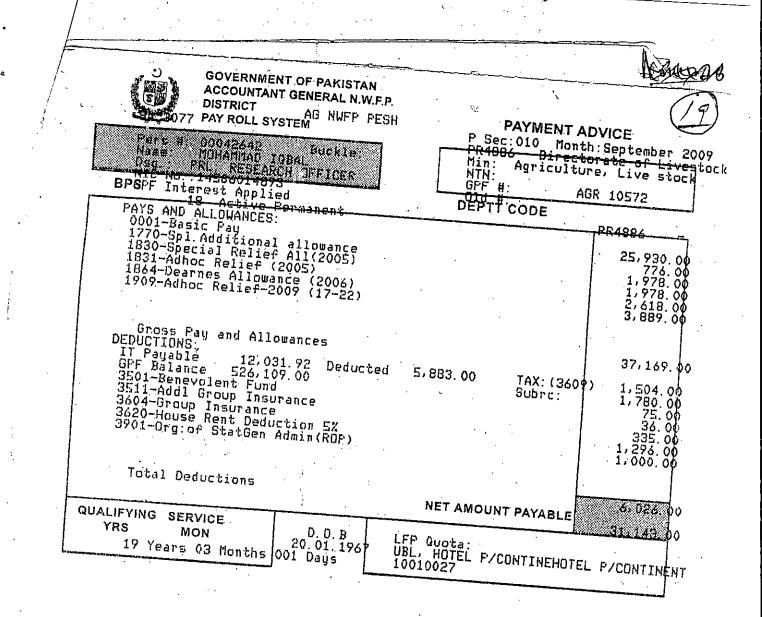


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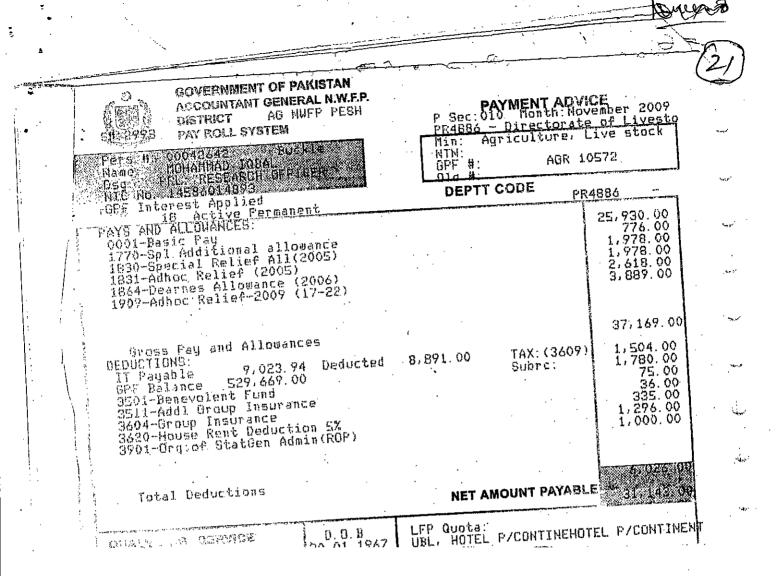
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No. DG(Res)/L&DD/Litigation(95)/CC/2016/60

The Section Officer (Litigation), Government of Khyber Pakhtunkhwa, Agriculture, Livestock, Fisheries & Cooperative Department Peshawar

Subject: -

To,

## <u>SERVICE APPEAL NO. 1038/2015 - TITLED - DR. MOHAMMAD IQBAL</u> GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Kindly refer to the subject noted above.

Enclosed please find herewith copy of Court Judgment dated 14.0.2021, in the subject appeal, received from Khyber Pakhtunkhwa Service Tribunal, Peshawar which is self-explanatory for circulation amongst all the attachments for their information and record please.

Encl: As above.

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Director General (Research)



Most Immediate Court Matter

## GOVERNMENT OF KHYBER PAKHTUNKHWA AGRICULTURE, LIVESTOCK & COOPERATIVE DEPARTMENT Phone-091-9212464, Fax-091-9210033

E-mail Address: agric.litigation@gmail.com

NO. SO(Lit)AD/3-147/2016 Dated Peshawar the January 29, 2021

То

The Director General (Research) Livestock & Dairy Development Khyber Pakhtunkhwa, Peshawar.

Anna- 74

Subject:

JUDGMENT APPEAL NO.1038/2015 - MUHAMMAD IQBAL VS AGRICULTURE.

I am directed to refer to the subject noted above and to forward herewith a copy of Judgment dated 14.01.202 passed by the Khyber Pakhtunkhwa Service bunal, Peshawar, which is self explanatory, for necessary action/strict compliance.

The matter may please be treated is most immediate.

Encl. As above.

Section Officer (Litigation)

Endst. No. & Date Even.

Copy forwarded to:

PS to Secretary Agr:culture, Khyber Pakhtunkhwa, Peshawar.
 Master File.

m hmi-Section Officer (Litigation)

Mt. Sec. 1