

6<sup>th</sup> Nov. 2023

1. Learned counsel for the appellant present. Mr. Habib Anwar, Additional Advocate General alongwith Dr. Hameed Ur Rehman, SRO for the respondents present.

2. Through this application, the petitioner seeks implementation of order dated 14.01.2021, regarding grant of higher post benefits for the period from 30.04.2009 to 14.10.2009.

3. The prayer made in the main appeal was incorporated in para-2 of the judgment, which reads as under:

*“On acceptance of the instant service appeal, the official respondents may graciously be ordered to issue revised seniority list of Principal Research Officer/Director (BPS-19) in the Directorate General (Research) Livestock & Dairy Development Department Khyber Pakhtunkhwa, Peshawar declaring the appellant as Senior to Private respondents No. 5 to 7 and the appellant be declared entitled for all back financial benefits.”*

4. The appeal of the petitioner was decided vide para-9 of the judgment, which is also reproduced as under:

*“For what has been discussed above, the appeal in hand is meritless and is accordingly dismissed. Before parting with this judgment, we consider it appropriate to note that the right of appellant regarding the receipt of emoluments at a higher rate, if any, for the period he worked on a post in BPS-19 against own pay scale, shall not be affected by any of the contents of instant judgment”*

5. According to the operative part of the judgment, the appeal of the appellant was dismissed. It was, however, noted by the D.B that the right of the appellant regarding receipt of emoluments at a higher rate, if any, for the period he worked on a post in BPS-19 against own pay and scale, would not be affected by any of the contents of the judgment. The learned counsel for the petitioner was confronted with the situation whether the

petitioner had received any emoluments at a higher rate to which he replied that he had not received or had been receiving any emoluments at higher rate for the period, the petitioner worked on a post in BPS-19 against own pay and scale. The learned counsel was further confronted whether any of the contents of the judgment was affecting any of rights of the petitioner, to which learned counsel tried to explain that the department was not granting the emoluments, which the petitioner was entitled for working against a higher post in own pay and scale. As the judgment did not require the respondents to grant anything in addition to the emoluments of the petitioner in his own pay and scale nor did the judgment forbid anybody to withhold any such emoluments, therefore, the learned counsel submits that he would advise his client to make a proper representation to the respondents for grant of the emoluments, which he considers, he was entitled to. Disposed of. Consign.

SCANNED  
KUST  
Peshawar

6. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 6<sup>th</sup> day of November, 2023.*

  
(Kalim Arshad Khan)  
Chairman