

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**RASHIDA BANO ... MEMBER (Judicial)**

*Service Appeal No.196/2022*

Date of presentation of appeal .....16.02.2022  
Dates of Hearing.....10.07.2024  
Date of Decision.....10.07.2024

**Rafi Ullah Khan, S/O Muzammil Khan R/O P.O Miran Shah Dandy  
Darpakhel Tehsil Miran Shah District North Waziristan.....(Appellant)**

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Food, Khyber Pakhtunkhwa, Civil Secretariat Peshawar
2. **Director Food**, Directorate Food Department Khyber Pakhtunkhwa Peshawar.
3. **District Food Controller** North Waziristan Miransha
4. **Ajmal Shah**, District Food Controller (BPS-16) at Tehsil Head Quarter Bajwar.
5. **Usman Ahmad Saeed**, Assistant Food Controller (BPS-08) at Tehsil Head Quarter District Khyber
6. **Hussain Haider**, Assistant Food Controller (BPS-08) at Tehsil Head Quarter District Kurram.
7. **Asif Khan**, Assistant Food Controller (BPS-08) at Tehsil Head Quarter District Mohmand.
8. **Nasro Min Ullah**, Assistant Food Controller (BPS-08) at Tehsil Head Quarter North Waziristan.
9. **Muhammad Amir**, Assistant Food Controller (BPS-08) at Tehsil Head Quarter South Waziristan.....(**Respondents**)

Present:

Mr. Zartaj Anwar, Advocate.....For appellant.

Mr. Muhammad Jan, District Attorney.....For respondents.

Mr. Fazal Shah Mohmand, Advocate.....For Private respondent No.4.

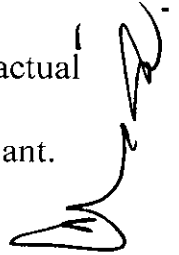
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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST  
THE ORDER 08.11.2021, WHEREBY THE APPELLANT WAS  
PLACED/ADJUSTED IN THE FOOD CELL NORTH**

**WAZIRISTAN AS JUNIOR CLERK, AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL DATED 11.11.2021, WHICH IS NOT YET RESPONDED DESPITE THE LAPSE OF NINETY DAYS OF STATUTORY PERIOD.**

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts gathered from the memo and grounds of appeals are that the appellant was initially appointed as Store Keeper/Junior Clerk in the year 2008 before merger of the FATA in the province of Khyber Pakhtunkhwa, in the administrative control of Agriculture (Ext) North Waziristan Miran Shah; that after merger of FATA into Khyber Pakhtunkhwa, the appellant was transferred to Khyber Pakhtunkhwa Food Department; that the appellant was performing duties as Assistant Food Controller in the respondent department but with designation of the Store Keeper, whereas the post of Store Keeper did not exist; that one colleague namely Ajmal Shah who was also appointed as Junior Clerk, and after the merger of FATA into Khyber Pakhtunkhwa he was adjusted as Computer Operator and now he was adjusted as District Food Controller in the respondent Department whereas the appellant was adjusted as Junior Clerk vide impugned order dated 08.11.2021; that the appellant preferred departmental appeal on 11.11.2021 which was not responded within statutory period of ninety days, hence, the instant service appeals.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.



3. We have heard learned counsel for the appellant, learned District Attorney for official respondents and learned counsel for private respondents No. 4.


4. Through this appeal, the appellant has made the following prayer:

"On acceptance of this appeal the appellant may kindly be adjusted against the post of Assistant Food Controller District North Waziristan Miran Shah, whereas the appellant served the department as a store keeper/Assistant Food Controller since 2008, whereas discriminatory treatment meted out to the appellant by adjusting the appellant as junior clerk and other colleague of the same designation was adjusted as a District Food Controller BPS-16 in District Kurram. Or any other relief which may not specifically asked for may also be awarded in favor of the appellant."

5. The above prayer shows that the appellant seeks adjustment/posting of his own choice whereas admittedly he is a Junior Clerk and is working against the said post at the discretion of the authority. The appellant failed to convince the Tribunal as to how could he challenge the posting order of someone else or to seek posting of his choice, therefore, the appeal being meritless is dismissed. Costs shall follow the event. Consign.

6. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 10<sup>th</sup> day of July, 2024.*

  
KALIM ARSHAD KHAN  
Chairman

  
RASHIDA BANO  
Member (Judicial)