13th June, 2022 Clerk of counsel for the appellant present.

Counsel are on strike. To come up for preliminary hearing on 23.06.2022 before S.B.

(Kalim Arshad Khan)
Chairman

23rd June, 2022 Learned counsel for the appellant present.

Let pre-admission notice be issued to the other side for reply and arguments. To come up for reply/preliminary hearing on 16.08.2022 before S.B.

(Kalim Arshad Khan)
Chairman

16.08.2022 Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Reply/comments on behalf of respondents not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of reply/comments. Adjourned. To come up for reply/comments as well as preliminary hearing on 13.10.2022 before S.B.

(Mian Muhammad)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of .....

Case No ..... /2022

S No	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10/05/2022	The appeal presented today by Mr. Mir Zaman Safi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2	24-5-22	This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on 25-5-22. Notices be issued to appellant and his counsel for the date fixed. CHAIRMAN
	25.05.2022	Learned counsel for the appellant present and requested for adjournment to further prepare the brief. Adjourned. To come up for preliminary hearing on 16.06.2022 before S.B. (Mian Muhammad) Member (E)

BEFORE KHYBER PKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: Mustafa Naeem vs Special Edu: Deptt.

S.#	Contents	Yes	No
1.	This appeal has been presented by: Mir Zaman Safi	✓	
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	✓	
3.	Whether Appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent oath commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to A.G/D.A.G?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cuttings/overwriting?		✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether Security and Process Fee deposited? on	✓	
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on		
26.	Whether copies of comments/reply/rejoinder submitted? on		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Mir Zaman Safi Adv:

Signature: M. Zaman

Dated: 26.4.2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 738 /2022

MUSTAFA NAEEM VS SPECIAL EDUCATION DEPTT:

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12.	Wakalat nama	.....	36.

Sir,
Spare copies will be submitted after admission of appeal.

APPELLANT

THROUGH:

MIR ZAMAN SAFI
ADVOCATE
Office: Room No. 6-E, 5th Floor,
Rahim Medical Centre, Hashtnagri,
Peshawar.
Cell: 0333-9991564

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 738 **/2022**

Mr. Mustafa Naeem, **Brail Teacher,**
Govt: Institute for blind, D.I. Khan.

.....**APPELLANT**

VERSUS

1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
3- The Secretary Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa, Peshawar.
4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5- The Director of Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR THE GRANT OF HEALTH ALLOWANCE IN LIGHT OF THE JUDGMENT OF THE SUPREME COURT OF PAKISTAN AND NOTIFICATION DATED 25.11.2019 SIMILARLY TO ALL OTHER EMPLOYEES OF THE SPECIAL EDUCATION DEPARTMENT WITH EFFECT FROM THE DATE OF DEVOLUTION TO THE PROVINCIAL GOVERNMENT i.e. JANUARY, 2012 AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to grant/allow professional allowance to the appellant in light of the judgment of Apex Court and Notification dated 25.11.2019 from the date of devolution under the 18th Constitutional Amendment to the Provincial Government i.e. w.e.f January, 2012. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

1- That the appellant is serving in the respondent Department as Brail Teacher quite efficiently and up to the entire satisfaction of his superiors.

2- That the Institutions of Special Education were working under the control of Federal Government and after the Provincial Government enacted Khyber Pakhtunkhwa, Civil Servant (Amendment) Act, 1973 where under Section 11(b) of the Act ibid, devolved employees of the Federal Government were declared Civil Servants of the Khyber Pakhtunkhwa Province before the commencement of 18th Constitutional (Amendment

Act, 2010) for all intents and purposes. That in this respect Notification dated 01.04.2011 has been issued by the Ministry of Social Welfare & Special Education whereby employees of the Social Welfare and Special Education have been transferred to the Province of Khyber Pakhtunkhwa. Copy of the Notification dated 01.04.2011 is attached as annexure..... **A.**

3- That colleagues of the appellant serving in the Directorate of Special Education Islamabad were allowed Health Allowance as the task and role assigned to the colleagues of the appellant was not less than the professionals of Health Department. That it is pertinent to mention that subsequently the Health Allowance which was allowed to the employees of Special Education illegally stopped authorities against which colleagues of the appellant filed service appeals before the Federal Service Tribunal, Islamabad and the same were allowed vide consolidated judgment 05.10.2015, 11.01.2016 and 18.07.2017 and the employees of Special Education declared entitle for receiving the Health Allowance. Copy of the judgment is attached as annexure.....**B.**

4- That the Federal Government feeling aggrieved from the judgment of the Federal Service Tribunal filed CPLA before the Hon'ble Supreme Court of Pakistan which had been dismissed vide its judgment dated 17.01.2018 with the view that "***In the circumstances, we do not find any error or defect in the impugned judgments of the learned Federal Service Tribunal dated 05.10.2015, 11.01.2016 and 18.07.2017. Consequently, these appeals are dismissed and the entitlement of employees of the DGSE, allied institutions/centers, NCRD and NTD to receive the Health Allowance is affirmed***". Copies of the judgment, compliance letters are attached as annexure.....**C & D.**

5- That the Provincial Government also approved Health Allowance at the rate of one running basic pay to the devolved employees working in the Special Education Institutions from the date of their devolution to the Provincial Government. That it is also pertinent to mention here that colleagues of the appellant serving in the different Special Education Institutions receiving the Health Allowance. Copies of the Salary Slips are attached as annexure.....**E.**

6- That the Government of Khyber Pakhtunkhwa Finance Division illegally stopped Health Allowance of some of the employees of Special Education Institutions against which colleagues of appellant filed writ petition No.4301/2018 (Nazeer Shah Vs Govt: of Khyber Pakhtunkhwa) alongwith some other connected writ petitions before the Peshawar High Court, Peshawar, whereby the Hon'ble Peshawar High Court issued directions vide order sheet dated 19.09.2018 to the respondents, Health Allowance shall not be deducted from the petitioners. Copy of the order of Peshawar High Court is attached as annexure.....**F.**

7- That in light of the directions of Peshawar High Court, Peshawar, the Social Wlefare, Special Education & Women Empowerment Department move a summary to the Worthy Chief Minister of Khyber Pakhtunkhwa for approval and the same has been placed before the Provincial Cabinet for appropriate order. That the provincial Cabinet approved Health

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO._____/2022

MUSTAFA NAEEM VS SPECIAL EDUCATION DEPTT:

AFFIDAVIT

I **Mir Zaman Safi, Advocate High Court, Peshawar** on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

MIR ZAMAN SAFI,
Advocate
High Court, Peshawar

A-6

TO BE PUBLISHED IN THE NEXT ISSUE
OF GAZETTE OF PAKISTAN PART-I

No.F. 11-19/2011-Coord (PI)
GOVERNMENT OF PAKISTAN
MINISTRY OF Social Welfare & Special Education

...

Islamabad, the 1st April 2011

NOTIFICATION

On reorganization of Federal Secretariat in pursuance of Constitution (Eighteenth Amendment) Act, 2010 (Act No.X of 2010) the following Centres under the Ministry of Social Welfare & Special Education are transferred to the Social Welfare & Special Education Department Government of Khyber Pakhtoon Khawa.

1. Special Education Centre for Mentally Retarded Children, D.I. Khan
2. Special Education Centre for Hearing Impaired Children, Swat
3. National Special Education Complex Mardan
4. Vocational Training Centre, for Disabled Person, Mardan
5. Special Education Centre for Visually Handicapped Children, Kohat
6. National Special Education Complex (PHC, MRC, VHC & HIC) Peshawar
7. Hostel Facilities National Special Education Complex Peshawar
8. Vocational Training Centre for Disabled Person Peshawar
9. Special Education Centre for Visually Handicapped Children Charsada
10. Special Education Centre for Physical Handicapped Children, Abbottabad

(Muhammad Altaf)
Section Officer (Admn)

The Manager,
Printing Corporation Pakistan Press,
Islamabad.

CC:-

1. Secretary, Inter Provincial Coordination Division, Islamabad.
2. Secretary, Finance Division, Islamabad.
3. Secretary, Cabinet Division, Islamabad.
4. Secretary, Establishment Division, Islamabad.
5. Chief Secretary, Government of KPK Peshawar.
6. Mr. M. Faraz Khan, Director General M S Wing Establishment Division, Islamabad
7. Mr. Muhammad Shahid Siddiqui, Director General, M.S Wing, Establishment Division, Islamabad.
8. Secretary, Social Welfare & Special Education Department Government of KPK, Peshawar
9. Concerned Centre
10. Office Copy.

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Judgment Sheet

B-7

In the Federal Service Tribunal, Islamabad

Appeals No.565 to 573, 757 to 793, 894 to 918, 918-A, 919 to 943, 998 to 1045, 1108 to 1179, 1224 to 1243, 1265 to 1325, 2327 to 2350, 2352 to 2368&2368-A, 2369 to 2443, 2446 to 2484 & 2487 to 2501, 2508 to 2520(R)CS/2016 with M.Ps.

Nusrat Tahir and others

Versus

Secretary, Capital Administration & Development Division, Secretary, Finance Division and AGPR, Islamabad.

Date of Institution : 04.04.2016, etc.
Date of hearing : 17.07.2017
Date of Judgment : 18.07.2017

Before: Syed Rafique Hussain Shah, and
Syed Muhammad Hamid, Members.

Present: Mr. Muhammad Anwar Mughal, Advocate for the appellants.

Syed Zil-e-Husnain Kazmi, Assistant Attorney General for the respondents with M/s Arshad Anjum, Assistant Director, CA & DD, Naveed Akhter, Section Officer, Finance Division, Azhar Nadeem Awan, Assistant Accounts Officer and Muhammad Jabbar, Senior Auditor, AGPR as D.Rs.

JUDGMENT

SYED RAFIQUE HUSSAIN SHAH, MEMBER:- With this judgment we shall decide the above titled appeals. The facts giving rise to the present appeals are that the Prime Minister of Pakistan approved payment of Health Allowance to the institutions providing Health Services in the year 2012 and the Finance Division issued notification No.2(13)R-2/2011-777 dated 06.02.2012 for grant of Health Allowance, equal to one basic pay of running salary to the health personnel in the employment of Federal Government in BPS Scheme w.e.f. 01.01.2012, in addition to the existing pay and allowances in BPS scheme. Health allowance had been paid to the contemporaries of the appellants in other Government Hospitals including PIMS, Federal Govt. Polyclinic, CDA, ICT, Pakistan Railways and Federal Government Services Hospital, Islamabad, etc. but it was discontinued to the present appellants vide impugned orders dated 08.08.2014, 21.03.2016

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Federal Service Tribunal
Islamabad

and 25.03.2016. The Secretary, Capital Administration & Development Division (CA&DD) vide letter dated 06.08.2012 allowed Health Allowance to 24 personnel of Directorate General of Special Education (DGSE) and the AGPR, Islamabad started paying the said Allowance to these personnel with effect from 01.01.2012. Due to discriminative action of Secretary CA&DD the employees of DGSE started agitating the matter with him who vide letter dated 13.03.2013 allowed Health Allowance to all the employees of 16 institutions of DGSE and allied education centres, etc. in view of functions and the services being rendered by them in providing Health Services to the disabled and special children with effect from 01.01.2012 and the AGPR accordingly started paying the said allowance to them. The AGPR vide letter dated 08.08.2014 informed the Director General, DGSE that Finance Division had not provided budget allocation for the year 2014-2015 for the said Allowance, hence, the payment of said Allowance be stopped by submitting the computer changes through concerned DDOs. Subsequently the Finance Division allocated budget for the said Allowance but the CA&DD parked the budget and later on allocated the same to some other organization. Being aggrieved of stoppage of the said Allowance vide letter dated 08.08.2014 the affected employees filed Writ Petition No.3784/2014, 3858/2014 and 4007/2014 which were disposed of by the Hon'ble Islamabad High Court, Islamabad vide order dated 17.09.2015 in the following manner: -

> xxx
>
> xxx xxx
>
> "4. In the light of the above, the instant petition alongwith the connected petitions are converted into representations deemed to be pending before the learned Secretary CADD. The learned Secretary CADD shall afford an opportunity of hearing to an authorized representative of the petitioners and, thereafter pass a speaking order. It is expected that the Secretary shall, inter alia, take into consideration:
>
> a) the affidavit dated 26.3.2015 filed by the Secretary Finance, during the proceedings before this Court;
>
> b) the fact that in some cases the Health Allowance was paid to the employees by the AGPR pursuant to the approval given by the CADD;
>
> c) The request made by and on behalf of the petitioners that in the circumstances recovery of the Health Allowance would cause immense hardship; and
>
> d) The fact that the petitioners are employees of different departments and entities under the

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Federal Service Tribunal
Islamabad

(9)

administrative control of CADD and, therefore, the entitlement or eligibility shall be taken into consideration in the light of status of each department or entity separately.

5. In order to meet the ends of justice, it would be appropriate that recovery of the Health Allowance already paid to the employees is recovered after a speaking order has been passed by the learned Secretary. It is expected that the Secretary CADD shall pass a speaking order preferably within 90-days."

xxx xxx xxx

The Secretary CA&DD after perusing the record and affording the opportunity of hearing to the authorized representatives of the petitioners (now appellants) on 14.03.2016 passed the order dated 21.03.2016 and declared the CA&DD's letter dated 13.03.2016 allowing Health Allowance to the DGSE employees unlawful, against the rules, void ab initio and directed the AGPR to recover the said Allowance from their salaries in easy installments.

2. In this backdrop, the appellants filed the instant appeals with the following prayer: -

"It is, therefore, most respectfully prayed that the appellant being entitled to Health Allowance being covered under category of Health Personnel, the said order dated 21.03.2016 by respondent No.1 may therefore, be set aside and it be declared that the action of respondent No.1 in withdrawing the said allowance and recovery thereof from the salaries of appellants, is malafide, illegal, violative of principles of locus poenitentiae, unfair, unjust, unreasonable, arbitrary, fanciful and capricious and that are entitled to receive the same, from the date it has been withdrawn and stopped from payment."

3. The learned counsel for the appellants argued that the appellants being Federal government Servants under Article 240 of Constitution of the Islamic Republic of Pakistan, 1973 and covered under Section 2 (b) of Civil Servants Act, 1973 were entitled to all pay and allowances prescribed by Federal Government for its employees. Further stated that financial directive contained in Ministry of Finance O.M. No.2(13)R-2/2011 dated 06.02.2012 was unambiguous and clearly stipulated admissibility of Health Allowance to all health personnel in employment of Federal Government in BPS Scheme but despite the said notification of the Finance Division, the appellants were deprived of the

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Federal Service Tribunal
Islamabad

said benefits. In support of his version, the learned counsel for the appellants referred to the judgments of FST dated 05.10.2015, 11.01.2016, 18.05.2016 and 14.12.2016 passed in Appeals No.224(R)CS/22015, 867 to 872(R)CS/2013, 1176 to 1187, 1189 to 1251(R)CS/2015 & 381 to 405(R)CS/2016 and prayed for the same relief. The learned counsel vehemently argued that the respondent-Finance Division was blowing hot and cold in the same breath as, on the one hand, it had admitted the claim of the appellants in para 5 of their parawise comments filed in the Hon'ble Islamabad High Court, Islamabad while, on the other hand, they declined the same claim vide order dated 21.03.2016. He contended that the benefit once granted and acted upon had created a vested right which could not be withdrawn unilaterally, in violation of principle of natural justice. The learned counsel for the appellant lastly argued that impugned orders were void ab initio, coram-non-judice and having no sanctity of law as withdrawal / stoppage of salary amounted to punishment which could not be awarded without adopting the due process of law provided under the Government Servants (Efficiency and Discipline) Rules, 1973.

4. The appeals were resisted by the respondents. It was stated that the said allowance was not admissible to the appellants as they did not fall under the definition of health personnel because health personnel meant a person who held a post in any institute or organization delivering services in the health sector and included in Schedule-I. It was further submitted that the Health Allowance was allowed provisionally to the appellants by the AGPR on the basis of CADD Division's letter dated 06.08.2012 but subsequently that Division sent a reference to the Finance Division to seek its concurrence for admissibility of Health Allowance which regretted the same on 14.03.2013 on the ground that they were involved in the process of education, training and rehabilitation of disabled children and persons with disabilities and, hence, could not be declared as health personnel to become entitled for the said allowance. The CADD on 13.03.2013 in its communication to AGPR conveyed sanction of the Health Allowance to DGSE employees without concurrence of the Finance Division and the AGPR made provisional payment to the appellants, which was subsequently discontinued after verification of entitlement in order to prevent the misuse of this allowance by non-entitled personnel. It was submitted by respondent No.2 that health allowance was granted with the

ATTESTED

approval of the Prime Minister, through a summary, specifically moved for three Federal Government Hospitals i.e. Pakistan Institute of Medical Sciences, F.G. Polyclinic and National Institute of Rehabilitation Medicine. The Directorate General of Special Education & Social Welfare, being an educational body, dealt with the process of education, training and rehabilitation of disabled children and persons with disabilities, which was carried out by a multi-professional team including teachers, professionals, doctors, administrators, ministerial and supportive / ancillary staff did not fall within the ambit of health organization and could not be declared as 'health personnel' to get the said allowance. The respondent No.3 i.e. AGPR in its parawise comments submitted that the identical cases titled Dr. Farkh F. Lodhi, etc. vs Secretary Finance were still pending before the Hon'ble Supreme Court of Pakistan.

5. We heard the learned counsel for the parties and perused the record.

6. The health allowance equal to one basic pay of running salary was granted to the health personnel in the employment of Federal Government, in BPS Scheme, with effect from 01.01.2012. It was made admissible to non-clinical cadres. In reply to a query raised by AGPR vide letter No.TM/18-64/CSHP/HPS/2011-12/186, dated 12.03.2012, the Regulations Wing of the Finance Division vide U.O. No.F.2(13)R-2/2012-172 dated 27.03.2012 furnished definition of the health personnel by stating that 'health personnel' meant a persons who held a post in any institute or organization delivering services in the health sector and included in Schedule-I, but did not include person who was on deputation to the Federal Government from any Province or other authority and who was on contract, or on work charged basis or who was paid from contingencies. The appellants are neither deputationists from any Province or other authority nor have been engaged on contract or on work charged basis. They are also not being paid from contingencies. On the contrary, they are civil servants under section 2 (b) of the Civil Servants Act, 1973 and are delivering services to the disabled children / persons. The beneficiaries / appellants comprised of Academic and Administrative Cadres. According to the definition furnished by the Finance Division vide their u.o. dated 27.03.2012 the appellants are entitled to health allowance. In paras-6 & 7 under Facts of parawise comments filed before the Hon'ble Islamabad High

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Federal Service Tribunal
Islamabad

Court, Islamabad on behalf of Secretary Finance Division in Writ Petition No.4007/2014, it was categorically admitted that in April, 2014 Ministry of CADD again submitted NIS / BOs containing a provision of Rs.100 million as HPA 'for DGSE for financial year 2014-15', however, DFA refused to endorse the NIS / BOs and forcefully deducted an amount of Rs.92.542 million of HPA, leaving Rs.7.458 million for the petitioners (now appellants) i.e. 24 employees who belonged to medical profession and came under the criteria of entitlement of HPA, as per DFA (CADD) understanding. D.O. letter dated 09.05.2014 was issued by FA's Organization to AGPR for stoppage of HPA to non-entitled employees and it was duty of AGPR to take action on the said letter and decide entitlement. It was prayed that the petition was an administrative issue with CADD & DGSE, therefore, the Finance Division be excluded from the list of respondents. Now the Finance Division has come up with different stand. It is not allowed to approbate and reprobate. No logical reply has been submitted by the respondents for depriving the appellants of their legitimate rights. A large number of employees of the Federal Government, similarly placed, are getting the said advantage. Why, then, the appellants be deprived, is not clear from what has been written in the comments before the Hon'ble Islamabad High Court, Islamabad and the Federal Service Tribunal. This seems to be discriminatory treatment offending Article 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. Further, the appellants have been directed by respondent No.1 to refund the paid amount which is against the principle of locus poenitentiae because the Hon'ble Supreme Court of Pakistan has consistently held that the benefit once granted and acted upon created a vested right which could not be withdrawn unilaterally, in violation of natural justice. It is an established law that benefits received by a civil servant, even under erroneous order passed by the competent authority without any fault on the part of civil servant could not be recovered even if the beneficial order was subsequently withdrawn or rectified. We are fortified to take this view in the light of the judgment of Hon'ble Supreme Court of Pakistan reported in PLD 1992 SC 207. Hence, to this extent, the impugned orders are not legally sustainable and liable to be set aside.

7. We would like to make an emphasis on the judgments of the Tribunal in Appeals No.224(R)CS/2015 and 381 to 405(R)CS/2016 dated

ATTESTED

Federal Service Tribunal
Islamabad

(9)

(13)

05.10.2015 and 14.12.2016 wherein the controversy relating to Health Allowance has already been resolved. When confronted with the said fact, the respondents have failed to deny the fact. As such, the action of the respondents appears to be inconsistent in the light of the aforementioned judgments on account of Article 25 of the Constitution which guarantees equal rights and equal protection of law for every citizen. To ensure uniformity, rule of consistency must be applied while considering the case of the appellants. Since the Hon'ble Apex Court vide its judgment in the case reported as 1996 SCMR 1185 has already held that "rule of good governance demands that the benefits of the said decision be extended to other civil servants also, who may not be parties to the litigation, instead of compelling them to approach the Tribunal or any other legal forum. Hence, the claim of the appellants is required to be decided on the same analogy / principle as framed in the cases of Dr. Farrukh Fiaz Lodhi and others by the Tribunal vide its judgment dated 05.10.2015, 11.01.2016 and 14.12.2016.

8. Foregoing in view and following the rule of consistency, the impugned orders dated 21.03.2016 and 25.03.2016 are set aside with direction to the respondents to continue the Health Allowance already granted to the appellants since 2012, and to refund all deduction made in compliance with the impugned orders within a period of one month from the date the copy of this judgment is received in their office. Since the main appeals have been accepted, Misc. Petitions are also accepted.

9. Judgment to apply all the titled appeals mutatis mutandis.

10. There shall be no order as to costs.

11. Parties shall be informed accordingly.

Sd-
MEMBER

Sd-
MEMBER

ISLAMABAD
18.07.2017

Saeed

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Federal Service Tribunal
Islamabad

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05.10.2015 and 14.12.2016 wherein the controversy relating to Health Allowance has already been resolved. When confronted with the said fact, the respondents have failed to deny the fact. As such, the action of the respondents appears to be inconsistent in the light of the aforementioned judgments on account of Article 25 of the Constitution which guarantees equal rights and equal protection of law for every citizen. To ensure uniformity, rule of consistency must be applied while considering the case of the appellants. Since the Hon'ble Apex Court vide its judgment in the case reported as 1996 SCMR 1185 has already held that "rule of good governance demands that the benefits of the said decision be extended to other civil servants also, who may not be parties to the litigation, instead of compelling them to approach the tribunal of any other legal forum. Hence, the claim of the appellants is required to be decided on the same analogy/principle as framed in the cases of Dr. Farrukh Faiz Lodhi and others by the Tribunal vide its judgment dated 05.10.2015, 11.01.2016 and 14.12.2016.

8. Forgoing in view and following the rule of consistency, the impugned orders dated 21.03.2016 and 25.03.2016 are set aside with direction to the respondents to continue the Health Allowance already granted to the appellants since 2012, and to refund all deduction made in compliance with the impugned orders within a period of one month from the date of copy of this judgment is received in their office, Since the main appeal have be accepted Misc. Petition are also accepted.

9. Judgment to apply all the titled mutatis mutandis.
10. There shall be no order as to costs.
11. Parties shall be informed accordingly.

ISLAMABAD
18.07.2017

AT

C-19

Muhammad Attique ur Rehman etc. (in C.A.811/2016)

...Respondents(s)

For the Appellant(s) (in all cases)	Mr. Sajid Ilyas Bhatti, DAG Syed Rifaqat Hussain Shah, AOR Ms. Saadia Kanwal, S.O Fin. Mr. Abid Hussain Channa, S.O Fin. Mr. Sajid Javed, Asstt. Legal Fin. Mr. Abdul Razzaq, AAO MEG Rawalpindi
For the Respondent(s)	In-person
For the Respondent(s) (in C.A.216/16)	Mr. Muhammad Ilyas Lodhi, ASC Malik Itaat Hussain Awan, ASC
Amicus Curiae:	Mr. Muhammad Makhdoom Ali Khan, Sr. ASC Mr. Sikandar Bashir Mohmand, ASC
Date of Hearing	17.01.2018.

JUDGMENT

UMAR ATA BANDIAL, J.— By leave of this Court granted on 23.02.2016, 01.4.2016 and 12.12.2017 in the several connected appeals before us, the appellant Federal Government challenges the judgments delivered on common questions of fact and law by the learned Federal Service Tribunal on 05.10.2015, 11.01.2016 and 18.07.2017. The judgments impugned in the connected appeals declare the respondent employees of different institutions functioning under the Directorate General of Special Education **("DGSE")** to be entitled to payment of Health Allowance granted by the Federal Government vide its Office Memoranda dated 04.02.2012 and 06.2.2012. These Memoranda are issued by the Finance Division (Regulations Wing) Government of Pakistan pursuant to approval granted by the Prime Minister under the Rules of Business, 1973. It would be useful to reproduce the two

ATTESTED
Senior Court Associate
Supreme Court of Pakistan
Islamabad

memoranda containing the terms and conditions for the grant of Health Allowance to eligible persons:

(15)

"Government of Pakistan
Finance Division
(Regulations Wing)

F.No.2(13)R-2/2011 Islamabad, the 04th Feb,2012

OFFICE MEMORANDUM

Subject: GRANT OF ADHOC ALLOWANCE EQUAL TO ONE BASIC PAY AT THE INITIAL OF THE SCALE TO THE HEALTH PERSONNEL IN BPS SCHEME.

The undersigned is directed to say that the Ordinance No.VI of 2011 that sanctioned the Career Structure for Health Personnel Scheme (CSHP) has lapsed on 26.12.2011. Accordingly, CSHP is no longer in the field and all health personnel have consequently reverted to the BPS scheme. In order to compensate health personnel for the loss of benefits sought under CSHP while preserving their status as Civil Servants, it has been decided by the Federal Government to grant adhoc allowance equal to one basic pay at the initial of the scale to the health personnel in the employment of Federal Government, in BPS scheme, with effect from 1st January, 2012. This will be in addition to their existing pay/allowances in BPS Scheme.

2. This Division's OM No.2(13)R-2/2011-698 dated 17th November, 2011 may be treated as withdrawn w.e.f. 26.12.2011.

Sd/--
(M. Munir Sadiq)
Deputy Secretary (R-I)"

***

"Government of Pakistan
Finance Division
(Regulations Wing)

F.No.2(13)R-2/2011-777 Islamabad, the 06th February,2012

OFFICE MEMORANDUM

Subject: GRANT OF ADHOC ALLOWANCE EQUAL TO ONE BASIC PAY OF RUNNING SALARY TO THE HEALTH PERSONNEL IN BPS SCHEME.

In continuation of Finance, Division's O.M. No.F.2(13)R-2/2011, dated 4.2.2012, it has been decided by the Federal Government to grant benefit of one basic pay of running salary as Health Allowance to the health personnel in the employment of Federal Government, in BPS scheme, with effect from 1st January, 2012. This will be in addition to their existing allowances in BPS Scheme. Also grant of stipend amounting to Rs.50,000 per month to the postgraduate residents and Rs.24,000 per month for House Officers respectively w.e.f. 1.7.2011 will continue.

Sd/--
(Manzoor Ali Khan)
Sr. Joint Secretary (Regulations)"

(emphasis supplied)

2. Learned Deputy Attorney General has contended that the Health Allowance granted by the Federal Government is available to health personnel in the employment of the Federal Government in the BPS scheme at three hospitals established in

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Senior Court Associate
Supreme Court of Pakistan
Islamabad

Islamabad, namely, Pakistan Institute of Medical Sciences **("PIMS")**, Federal Government Polyclinic **("FGP")** and National Institution of Rehabilitation Medicines **("NIRM")**. The employees at these hospitals do not have a career structure in place after the Career Structure for Health Personnel Scheme Ordinance, 2011 **("Ordinance")** lapsed on 26.1.2011. The Health Allowance was accordingly granted by the Federal Government as a form of compensation. It is clear from the two memoranda dated 04.2.2012 and 06.2.2012 reproduced above that the Health Allowance is granted to "health personnel". However, the composition of the category of employees that are eligible for the benefit has not been provided therein. The respondents who are several hundred in number are unrepresented by counsel. In view of the fact that a large number of employees are affected by the instant controversy, the Court has sought assistance from Mr. Muhammad Makhdoom Ali Khan, Sr. ASC and Mr. Sikandar Bashir Mohmand, ASC as amicus curiae in the matter. Mr. Sikandar Bashir Mohmand, ASC made able submissions before the Court that highlighted important facts and documents on record which simplified the controversy appreciably.

3. It transpires that an Office Memorandum dated 27.03.2012 by the Finance Division (Regulations Wing) clarifies that the term "health personnel" used in the above mentioned memoranda bears the meaning given to that expression in Section 2(b) of the Ordinance. This definition refers to the contents of Schedule-I to the Ordinance which specifies the service providers who qualify as health personnel. A perusal of Schedule-I shows that five categories of service providers are

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Supreme Court of Pakistan
Islamabad

classified as health personnel, namely: Doctors, Allied, Nurses, Paramedics and Support. The services specified under the categories of Paramedics and Support include Teachers, Audiovisual Operators, Technicians, Librarians, etc.

17

4. The administrative Ministry for the health institutions of the Federal Government at Islamabad is the Ministry of Capital Administration and Development Division **("CADD")**. It is an admitted fact that vide order dated 13.03.2013 the Ministry of CADD granted the Health Allowance to the employees of the DGSE and its allied special education centers/ institutions including National Trust for the Disabled **("NTD")** and the National Council for Rehabilitation of Disabled Persons **("NCRDP")**. The respondents were thereby acknowledged as beneficiaries of the said grant and were paid the Health Allowance with effect from 01.1.2012 until 27.10.2014, when the Finance Division informed the Accountant General Pakistan Revenue **("AGPR")** that only health personnel working in Federal Government hospitals and clinics were qualified to receive the Health Allowance. The AGPR correspondingly instructed the DGSE to stop payment of the said allowance to its employees as no budget allocation for the said emolument had been made in the financial year 2014-15.

5. The discontinuation of their Health Allowance was taken to the Islamabad High Court by some of the respondents. Vide order dated 17.9.2015 the learned High Court referred the dispute to the Secretary CADD for passing a speaking order thereon; and till then restrained recovery of past payments of the Health Allowance from the affected employees of DGSE and allied centers. The Secretary CADD heard the parties and by

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Islamabad

order dated 21.3.2016 rejected the entitlement of the respondents to receive the said allowance. The principal ground of his decision is that employees of the DGSE were engaged in the process of education, training and rehabilitation of disabled children and therefore did not fall within the ambit of a health organization. The respondents successfully challenged the said order before the learned Federal Service Tribunal which has, *inter alia*, by the impugned judgment dated 18.07.2017 declared that the respondents are entitled to the grant of Health Allowance.

6. Learned Deputy Attorney General has contended that after the lapse of the Ordinance that had provided a career structure for the doctors, nurses and paramedics working in PIMS, FGP and NIRM, the Health Allowance was granted by the Federal Government as compensation to the said health personnel. He was, however, unable to show any contemporaneous direction issued by the Ministry of CADD or the Ministry of Finance that restricted the grant of the Health Allowance to the claimed employees of the three hospitals specified by him. As already noted above, the definition of health personnel provided in the Ministry of Finance Office Memorandum dated 27.3.2012 is wide in scope and therefore unhelpful to his plea.

7. We have examined the definition of "health personnel" adopted by said memorandum dated 27.3.2012 from Section 2(b) of the Ordinance which is to the following effect:

> "b) "health personnel" means a person who holds a post in any institute or organization delivering services in the health sector and included in Schedule-I, but does not include:
> i) a person who is on deputation to the Federal Government from any Province or other authority;

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Islamabad

ii) a person who is employed on contract, or on work charged basis or who is paid from contingencies."

(19)

8. It is noted that the foregoing definition of health personnel covers persons holding posts in any institute or organization who are delivering services in the health sector that are included in Schedule-I to the Ordinance. Learned Deputy Attorney General was unable to distinguish the respondents, who are employees of the DGSE and allied institutions/centers, NCRDP and NTD, from the paramedic and support staff positions that qualify as health personnel according to Schedule-I to the Ordinance. It is not denied by the appellant that education, training and rehabilitation of disabled persons are services provided in the health sector. These services fall within the terms of Schedule-I to the Ordinance and therefore the providers thereof qualify as health personnel.

9. Accordingly, not only do the respondents fall within the category of persons who are, in terms of Finance Division Memoranda dated 06.2.2012 and 27.3.2012, eligible for grant of the Health Allowance but their entitlement has in fact been admitted by both the Ministry of CADD and Ministry of Finance. In this respect the aforementioned letter dated 13.3.2013 issued by the Ministry of CADD is referred. Also the affidavit of the Secretary Finance, Government of Pakistan filed in the Islamabad High Court pursuant to that Court's order dated 20.3.2015 passed in Writ Petition No. 4007 of 2014, specifically records that the proposal approved by the Prime Minister vide Summary dated 25.1.2012 did not restrict admissibility of the Health Allowance to the personnel of the three hospitals (identified by the learned DAG). For that reason the Finance

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Islamabad

Division Memoranda dated 04.2.2012 and 6.2.2012 made the allowance available to all health personnel employed by the Federal Government in the BPS Scheme.

10. As a result, the said allowance was paid to the health personnel of the DGSE and its allied institutions until 27.10.2014 when the Finance Division instructed the AGPR to confine the grant of the allowance to employees of Federal Government hospitals and clinics. This instruction represents merely a change of opinion which is not occasioned by an amendment in the terms of eligibility for the Health Allowance. Therefore, as the Memoranda dated 04.2.2012, 06.2.2012 and 27.3.2012 issued by the Finance Division, Government of Pakistan still hold the field in their original terms, there is no merit in the objection by the learned DAG to the entitlement of the respondents to claim and receive the Health Allowance.

11. As a secondary and also tenuous argument, learned Deputy Attorney General contended that the Health Allowance is granted under executive fiat without any statutory backing therefore the same can be withdrawn by the Federal Government at any time. That is clearly a flawed contention. It is admitted that grant of the Health Allowance and the terms of eligibility to receive the same were determined by the competent authority, Ministry of Finance in accordance with Rules of Business of the Federal Government. The original terms of the said lawful grant still hold the field. These were acted upon and payment of the Health Allowance to the respondents has conferred a vested right upon them. In such circumstances, the executive is barred by the rule of *locus poenitentiae* from unilaterally rescinding and retrieving the benefit availed by its recipients. Reference is made

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Supreme Court of Pakistan
Islamabad

to **Pakistan, through the Secretary, Ministry of Finance vs. Muhammad Himayatullah Farukhi** (PLD 1969 SC 407) and **The Engineer-in-Chief Branch vs. Jalaluddin** (PLD 1992 SC 207). Therefore without a change of the terms of eligibility for the Health Allowance even the prospective exclusion of the respondents from receipt of the benefit shall constitute arbitrary and unlawful action.

12. In the circumstances, we do not find any error or defect in the impugned judgments of the learned Federal Service Tribunal dated 05.10.2015, 11.1.2016 and 18.7.2017. Consequently, these appeals are dismissed and the entitlement of employees of the DGSE, allied institutions/centers, NCRDP and NTD to receive the Health Allowance is affirmed.

Sd/- Mian Saqib Nisar, CJ
Sd/- Umar Ata Bandial, J
Sd/- Ijaz ul Ahsan, J

SEAL OF THE SUPREME COURT OF PAKISTAN

Islamabad
17.01.2018
Naseer

Not approved for reporting.

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad

CR No: 8158/2022 Civil/Criminal
Date of Presentation: 20.4.22
No of Words: 5100
No of Folios: 51
Requisition Fee Rs: 5
Copy Fee In: 31.62
Court Fee Stamps: 36.62
Date of Completion of Copy: 21/4/22
Date of Delivery of Copy: 26/4/2022
Compared by/Prepared by:
Received by:

D-(22)

Office of the

Accountant General

Khyber Pakhtunkhwa Peshawar

Phone: 091 9211250-53

No.HAD/Allowances/Corresp:/2017-18/**422** Dated:19.04.2018

To

The Branch Officer,
Pay Roll-4 Section.

Subject: **COMPLAINCE OF JUDGMENT DATED 17.1.2018 PASSED IN CIVIL APPEALS NOS 1631-2112/2017,216/2016 & 806-811/2016 BY THE SUPREME COURT OF PAKISTAN.**

I am directed to enclose herewith a copy of A.O(TM) No.TM(F)/T-40/Health Allowance/2017-18/138 dated 05.04.2018 alongwith Honorable Supreme Court Judgment for further compliance under intimation to AGPR Sub Office Peshawar accordingly.

ACCOUNTS OFFICER (HAD)

Please put up on Side 23/4/18

D:\My Document\HAD Section\complaint regard.doc

OFFICE OF THE
ACCOUNTANT GENERAL PAKISTAN REVENUES
Sub Office
PESHAWAR
Ph No:(091-9211278), Fax No:091-9211301

No. TM(F)/T-40/Health. Allow./2017-18/ 138 | Dated: 05 .04.2018

To,

The Accounts Officer (HAD),
Office of the Accountant General,
Khyber Pakhtunkhwa, Peshawar.

Subject: **COMPLIANCE OF JUDGMENT DATED 17.01.2018 PASSED IN CIVIL APPEALS NOS.1631-2112/2017, 216/2016, 1344/2016&806-811/2016 BY THE SUPREME COURT OF PAKISTAN.**

Please find enclosed herewith the Accountant General Pakistan Revenues, Islamabad letter No-TM/18-64/Circular/2017-18 Vol-B-III/589 dated 12.03.2018, along-with its enclosures on the above subject.

The Supreme Court has made the employees of Director General Special Education, its allied institutions/ Centers, NCRDP and NTD entitled for Health Allowance. Hence, the Director General Special Education has been transferred to Province under 18th amendment and become a Provincial subject. It is kindly requested to take the requisite action on the above noted subject judgment under intimation to this office for onward submission of compliance report before the court.

ACCOUNTS OFFICER (TM)
AGPR Sub Office Peshawar

Copy forwarded to Accounts Officer (TM) office of the Accountant General, Pakistan Revenues G-8/4, Islamabad.

ACCOUNTS OFFICER (TM)
AGPR Sub Office Peshawar

HAD

D:\AO Drive\TM New Data\2014\Shamsul Haq\T-40.doc

DDO : PW6489 Special Education Complex Peshawar — Payroll Section : 004 Payroll 4 — HAYATABAD BRANCH — HAYATABAD BRANCH — Acct.No: 1702-4
Branch Code:231759 HAYATABAD BRANCH — NATIONAL BANK OF PAKISTAN

00310123 MUHAMMAD TARIQ KHAN — CNIC: 1720121212773 — Desig: SENIOR TEACHER (00289381) — Grade: 17 NTH: 7288445-2 — Buckle No.: — Gazetted/Non-Gazetted: G

PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE
0001 Basic Pay	57,970.00	3017 GPF Subscription - Rs	4,270.00-		GPF#: IV-MISC 9653		559,667.00
1001 House Rent Allowance	6,650.00	6501 HBA Loan Principal Ia	3,620.00-		INCOME TAX 17,870.52	2,980.00	14,891.40
1550 Special Allowance	2,710.00	3501 Benevolent Fund	195.00-	House Building Advance 0301	434,000.00	416,300.00	17,700.00
1947 Medical Allow 15% (1	2,540.00	4004 R. Benefits & Death C	2,136.00-				
1985 Health Professional	57,990.00	3609 Income Tax	1,490.00-				
2148 15% Adhoc Relief All	1,280.00						
2199 Adhoc Relief Allow @	906.00						
2211 Adhoc Relief All 201	4,667.00						
2224 Adhoc Relief All 201	5,797.00						
2247 Adhoc Relief All 201	5,797.00						
PAYMENTS	146,307.00	DEDUCTIONS	11,711.00-		NET PAY	134,596.00	01.08.2018 31.08.2018
Branch Code:231759	HAYATABAD BRANCH	NATIONAL BANK OF PAKISTAN	HAYATABAD BRANCH		HAYATABAD BRANCH	Acct.No: 5303-9	

00339379 RIZWAN AHMAD — CNIC: 1120104014277 — Desig: SENIOR TEACHER (00289383) — Grade: 17 NTH: — Buckle No.: — Gazetted/Non-Gazetted: G

PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE
0001 Basic Pay	57,970.00	3017 GPF Subscription - Rs	4,270.00-		GPF#: IV-MISC 9679		497,494.00
1001 House Rent Allowance	6,650.00	6501 HBA Loan Principal Ia	3,400.00-		INCOME TAX 19,602.36	3,268.00	16,334.20
1550 Special Allowance	2,710.00	6505 GPF Loan Principal Ia	6,500.00-	House Building Advance 0301	407,000.00	391,000.00	16,000.00
1947 Medical Allow 15% (1	2,540.00	3501 Benevolent Fund	195.00-	GPF Temp. Advance 0368	234,000.00	214,500.00	19,500.00
1985 Health Professional	57,970.00	4004 R. Benefits & Death C	2,136.00-				
2148 15% Adhoc Relief All	1,280.00	3609 Income Tax	1,634.00-				
2199 Adhoc Relief Allow @	906.00						
2211 Adhoc Relief All 201	4,667.00						
2224 Adhoc Relief All 201	5,797.00						
2247 Adhoc Relief All 201	5,797.00						
PAYMENTS	146,287.00	DEDUCTIONS	18,135.00-		NET PAY	128,152.00	01.08.2018 31.08.2018
Branch Code:080010	GT ROAD BRANCH RAHIM MEDICAL CENTRE KHYBER BANK LIMITED		GT ROAD BRANCH RAHIM MEDICAL CEPESHAWAR			Acct.No: 10899 CD	

00344271 SAIMA HAIDER — CNIC: 1310194308056 — Desig: SPEECH THERAPIST (00289384) — Grade: 17 NTH: — Buckle No.: — Gazetted/Non-Gazetted: G

PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE
0001 Basic Pay	55,670.00	3017 GPF Subscription - Rs	4,270.00-		GPF#: IV-MISC 9688		555,256.00
1001 House Rent Allowance	6,650.00	3501 Benevolent Fund	195.00-		INCOME TAX 30,780.72	5,132.00	25,649.70
1210 Convey Allowance 20	5,000.00	4004 R. Benefits & Death C	2,136.00-				
1550 Special Allowance	2,562.00	3609 Income Tax	2,566.00-				
1947 Medical Allow 15% (1	2,461.00						
1985 Health Professional	57,990.00						
2148 15% Adhoc Relief All	1,220.00						
2199 Adhoc Relief Allow @	867.00						
2211 Adhoc Relief All 201	4,474.00						
2224 Adhoc Relief All 201	5,567.00						
2247 Adhoc Relief All 201	5,567.00						
PAYMENTS	147,968.00	DEDUCTIONS	9,167.00-		NET PAY	138,801.00	01.08.2018 31.08.2018
Branch Code:230488	KAWANSHER AID:	NATIONAL BANK OF PAKISTAN	KAWANSHER AID:		ABBOTABAD	Acct.No: 6056	

00362148 M.TEHMASIB KHALID — CNIC: 3320214097567 — Desig: COMPUTER OPERATOR (00289390) — Grade: 16 NTH: — Buckle No.: — Gazetted/Non-Gazetted: G

PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE

PDA : PW6489 Special Education Complex Peshawar

2199 Adhoc Relief Allow @	750.00
2211 Adhoc Relief All 201	3,895.00
2224 Adhoc Relief All 201	4,877.00
2247 Adhoc Relief All 201	4,877.00

PAYMENTS 123,792.00 DEDUCTIONS 8,020.00- NET PAY 115,772.00 01.08.2018 31.08.2018

Branch Code: 250600 Charsadda Road Eid Gah Peshawar ALLIED BANK LIMITED Charsadda Road Eid Gah PeshawarPeshawar Acct.No: 2630-8

005835 ASFAND ALI CNIC: 1730154090123 Desig: SENIOR TEACHER (80289468) Grade: 17 NTN: Buckle No.: Gazetted/Non-Gazetted: G

PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE
					GPF#: 505835		256,759.00
0001 Basic Pay	48,770.00	3017 GPF Subscription - Rs	4,270.00-		INCOME TAX 13,414.20	2,357.00	11,057.50
1001 House Rent Allowance	6,650.00	5002 Adjustment House Rent	4,433.00-				
1550 Special Allowance	2,118.00	3501 Benevolent Fund	800.00-				
1947 Medical Allow 15% (1	1,985.00	4004 R. Benefits & Death C	2,136.00-				
1985 Health Professional	48,770.00	3609 Income Tax	1,105.00-				
2148 15% Adhoc Relief All	1,100.00						
2199 Adhoc Relief Allow @	750.00						
2211 Adhoc Relief All 201	3,895.00						
2224 Adhoc Relief All 201	4,877.00						
2247 Adhoc Relief All 201	4,877.00						

PAYMENTS 123,792.00 DEDUCTIONS 12,745.00- NET PAY 111,047.00 01.08.2018 31.08.2018

Branch Code: 250309 Gul Bahar Colony Peshawar ALLIED BANK LIMITED Gul Bahar Colony Peshawar Peshawar Acct.No: 2325-8

00522533 ABIDA NOREEN KHATTAK CNIC: 1720189910778 Desig: SENIOR TEACHER (80289314) Grade: 17 NTN: Buckle No.: Gazetted/Non-Gazetted: G

PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE
					GPF#:		224,177.00
0001 Basic Pay	48,770.00	3017 GPF Subscription - Rs	4,270.00-		INCOME TAX 13,392.60	2,233.00	11,159.60
1001 House Rent Allowance	6,650.00	3501 Benevolent Fund	800.00-				
1550 Special Allowance	2,118.00	4004 R. Benefits & Death C	2,136.00-				
1947 Medical Allow 15% (1	1,985.00	3609 Income Tax	1,116.00-				
1985 Health Professional	48,770.00						
2148 15% Adhoc Relief All	1,040.00						
2199 Adhoc Relief Allow @	750.00						
2211 Adhoc Relief All 201	3,895.00						
2224 Adhoc Relief All 201	4,877.00						
2247 Adhoc Relief All 201	4,877.00						

PAYMENTS 123,732.00 DEDUCTIONS 8,322.00- NET PAY 115,410.00 01.08.2018 31.08.2018

Branch Code: 250865 PDA Complex Hayatabad ALLIED BANK LIMITED PDA Complex Hayatabad Peshawar Acct.No: 5574-0

00545877 ADID ALI CNIC: 1720171257689 Desig: SENIOR TEACHER (80289534) Grade: 17 NTN: Buckle No.: Gazetted/Non-Gazetted: G

PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE
					GPF#: 545877		256,759.00
0001 Basic Pay	46,470.00	3017 GPF Subscription - Rs	4,270.00-		INCOME TAX 7,735.08	1,290.00	6,445.50
1001 House Rent Allowance	6,650.00	3501 Benevolent Fund	800.00-				
1550 Special Allowance	1,970.00	4004 R. Benefits & Death C	2,136.00-				
1947 Medical Allow 15% (1	1,846.00	3609 Income Tax	645.00-				
1985 Health Professional	46,470.00						
2148 15% Adhoc Relief All	1,040.00						
2199 Adhoc Relief Allow @	711.00						
2211 Adhoc Relief All 201	3,702.00						
2224 Adhoc Relief All 201	4,647.00						
2247 Adhoc Relief All 201	4,647.00						

PAYMENTS 118,153.00 DEDUCTIONS 7,851.00- NET PAY 110,302.00 01.08.2018 31.08.2018

I-(33)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 25-11-2019

NOTIFICATION - 53

No.FD(SOSR-II)8-7/2019. In pursuance of the Supreme Court of Pakistan Civil Appeal No.811/2016 titled "Muhammad Atique-Ur-Rehman & Others v/s Federal Government of Pakistan through Secretary Capital Administration etc," the Government of Khyber Pakhtunkhwa (Provincial Cabinet) has been pleased to approve Health Allowance at the rate of one running basic pay to the devolved employees working in the Special Education Institutions from the date of their devolution to Provincial Govt of Khyber Pakhtunkhwa.

2. The above said allowance will be admissible only to the employees of Special Education Institutions of Khyber Pakhtunkhwa devolved under 18th Constitutional Amendment.

Secretary to Govt of Khyber Pakhtunkhwa
Finance Department

Endst: No. & Date Even.

Copy is forwarded for information and necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. Secretary to Social Welfare, Special Education & Women Empowerment Deptt.
5. Director, FMIU, Finance Department, Khyber Pakhtunkhwa.
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. PS to Secretary, Finance Department, Khyber Pakhtunkhwa.
8. PS to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
9. PA to Additional Secretary (Regulation), Finance Department.
10. Master File.

SECTION OFFICER (SR-II)
FINANCE DEPARTMENT

ATTESTED

To,

The Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.

Subject: **DEPARTMENTAL APPEAL FOR GRANTING/ALLOWING HEALTH ALLOWANCE TO THE APPLICANT W.E.F. THE DATE OF DEVOLUTION OF THE EMPLOYEES OF SPECIAL EDUCATION INSTITUTIONS TO THE PROVINCIAL GOVERNMENT OF KHYBER PAKHTUNKHWA i.e. JANUARY, 2012.**

Respected Sir,

With due respect it is stated that I am the employee of Special Education Department and is serving as Brail Teacher at the Government Institute for the Blind, Swat, quite efficiency and up to the entire satisfaction of my superiors. That the Provincial Government approved Health Allowance at the rate of one running basic pay to these devolved employees working in the Special Education Institutions from the date of their devolution to the Provincial Government. That the employees of Special Education Institution under the Federal Government were receiving Health Allowance which had been stopped/deducted from their salaries against which those employees preferred service appeals before the Federal Service Tribunal, Islamabad and the same have been allowed in favor of the employees vide judgments dated 05.10.2015, 11.01.2016 and 18.07.2017 and the employees of Special Education Institutions declared entitle for receiving of the health allowance. That the respondent Department feeling aggrieved from the judgments of Federal Service Tribunal, Islamabad filed CPLA No. 811/2016 with title of (**Federal Government of Pakistan through Secretary Capital Administration etc; VS Muhammad Attiq Ur Rehman & others)** before the Hon'ble Supreme Court of Pakistan and the same has been dismissed by the Supreme Court vide its judgment dated 17.01.2018 and entitled the employees of Special Education Institutions for receiving of health allowance. That it is pertinent to mention that the Government of Khyber Pakhtunkhwa Finance Department issued Notification dated 25.11.2019 in implementation of the judgment passed by the Hon'ble Supreme Court of Pakistan in C.P No. 811/2016 and approved Health Allowance to the employees of Special Education Institutions of the Khyber Pakhtunkhwa from the date of their devolution to the Province. That in light of the judgment of Supreme Court and Notification dated 25.11.2019 the applicant time and again requested the authority concerned for the grant of Health Allowance in light of the Principle of Consistency but no reply has been received from the quarter concerned. That the applicant feeling aggrieved from the inaction of the authority concerned by not allowing/granting Health Allowance similarly to the other employees of Special Education Institutions preferred the instant Departmental appeal before your good self for the grant of Health Allowance.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed to grant/allow health allowance as per directions of Hon'ble Supreme Court of Pakistan and Notification dated 25.11.2019 of the Finance Department from the date of devolution to the Provincial Government of Khyber Pakhtunkhwa.

Dated: 19.01.2022.

You're Obediently

Mustafa Naeem, Brail Teacher,
Govt: Institute for blind, D.I. Khan

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

_____ OF 2022

(APPELLANT)
Mustafa Naeem _____ (PLAINTIFF)
(PETITIONER)

VERSUS

(RESPONDENT)
Special Education Department _____ (DEFENDANT)

I/We Mustafa Naeem _____
Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated._____/_____/2022

CLIENT

ACCEPTED
MIR ZAMAN SAFI
ADVOCATE

OFFICE:
Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0333-9991564
0317-9743003