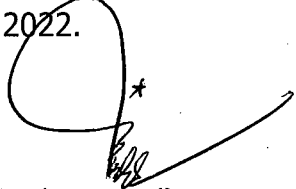


02.09.2022

Mr. Arbab Saiful Kamal, Advocate learned counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 17.10.2022.


(Mian Muhammad)
Member (E)

17.10.2022

Junior to counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Nabi Gul, AD and Muhammad Shafecq, Assistant for respondents present.

Written reply on behalf of respondents not submitted. Representative of the respondent department seeks time for submission of written reply. Adjourned. To come up for written reply on 21.11.2022 before S.B.


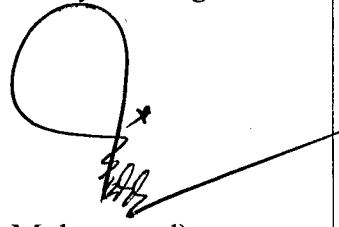

(Fareeha Paul)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1138/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/07/2022	<p>The appeal of Mr. Inam Ullah resubmitted today by Mr. Saadullah Khan Marwat Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 22.07.2022. Parcha peshi is given to the appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>
22.07.2022		<p>Learned counsel for the appellant present and requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for preliminary hearing on 02.09.2022 before S.B.</p> <p> (Mian Muhammad) Member (E)</p>

2021 S C M R 1151

[Supreme Court of Pakistan]

Present: Gulzar Ahmed, C.J., Ijaz ul Ahsan and Sayyed Mazahar Ali Akbar Naqvi, JJ
SECRETARY (M-V) FEDERAL BOARD OF REVENUE, ISLAMABAD---Appellant

Versus

ZEENAT BANGASH and others---Respondents

Civil Appeal No. 1989 of 2019, decided on 29th April, 2021.

(On appeal against the judgment dated 11.10.2018 passed by the Federal Service Tribunal, Islamabad in Appeal No. 407(L)CS/2016)

(a) Civil service---

---Deputation allowance, entitlement to---Officer of Postal Group working on deputation in Federal Board of Revenue---Held, that pursuant to a judgment of the Federal Service Tribunal passed in Appeals Nos. 39 and 40(R)CS/2003, which was upheld by the Supreme Court vide order dated 21-09-2005 passed in Civil Petitions Nos. 519 and 524/2004, all officers/officials of ministries, divisions etc, who had been transferred and posted on deputation basis were held entitled to deputation allowance vide Office Memorandum No. F.5(8)R-2/2007 dated 04-07-2007---Service Tribunal had rightly observed that according to paragraph 'ii' of the said Office Memorandum, old cases of transfers/postings on deputation basis were granted deputation allowance, and that on the basis of said Office Memorandum deputation allowance was allowed and disbursed to all the civil servants either old or fresh and no distinction was made between those, inducted in Office Management Group or otherwise---Appeal was dismissed.

(b) Civil service---

---Deputation allowance, entitlement to---Limitation---Officer of Postal Group (respondent) working on deputation in Federal Board of Revenue---Respondent worked in Federal Board of Revenue on deputation from the year 1994 to 2001 but he was not given deputation allowance---Contention of Federal Board of Revenue that the respondent was repatriated to his parent department in the year 2001 but filed his departmental appeal on 08-06-2015 which was clearly barred by limitation---Held, that present matter being a financial matter (as it related to deputation allowance), limitation would not have any adverse implication on respondent's claim---Service Tribunal had rightly held that respondent was entitled to the deputation allowance---Appeal was dismissed.

M.D. Shahzad Feroz, Advocate Supreme Court for Appellant.

Respondent No. 1 in person.

Date of hearing: 29th April, 2021.

JUDGMENT

SAYYED MAZAHAR ALI AKBAR NAQVI, J.---Through this appeal by leave of the Court under Article 212(3) of the Constitution of Islamic Republic of Pakistan, 1973, the appellant has assailed the judgment dated 11.10.2018 passed by the Federal Service Tribunal, Islamabad, whereby the Service Appeal filed by the respondent No. 1 was accepted and he was held entitled to deputation allowance.

2. Briefly stated the facts of the matter are that the respondent No. 1 being officer of Postal Group remained working in Federal Board of Revenue on deputation from the year 1994 to 2001 but he was not given deputation allowance. After his repatriation to his parent department, he on 27.11.2012 approached the Federal Board of Revenue for grant of deputation allowance on the basis of judgment of the Federal Service Tribunal, which was upheld by this Court and also on the basis of discrimination that the same was extended to other employees with similar circumstances. However, the request of the respondent was turned down by the department vide order dated 12.05.2015 on the ground that pursuant to Office Memorandum No. F3(8)R.2/2007 dated 01.07.2007 deputation allowance is only admissible to fresh cases and it is not meant for old cases, therefore, it could not be given retrospective effect. The respondent then filed appeal before the Appellate Authority i.e. Secretary Finance Division, which was

referred to the Establishment Division vide letter dated 01.02.2016 but it was never decided. The respondent, thereafter, filed appeal before the Federal Service Tribunal, which has been allowed vide impugned judgment. Hence, this appeal with leave of the Court.

3. Learned counsel for the appellant inter alia contended that the respondent was repatriated to his parent department in the year 2001 and he filed departmental appeal on 08.06.2015 which was clearly barred by limitation; that the office memorandum of 2007 clearly states that deputation allowance is admissible to only fresh cases and it has no retrospective effect.

4. On the other hand, the respondent No. 1, who appeared in person defended the impugned judgment by stating that several of his colleagues were granted deputation allowance whereas he was ignored, which act is grossly arbitrary, illegal, unlawful and against the principle of natural justice.

5. We have heard learned counsel for the appellant and respondent in person and have gone through the available record.

6. We have noted that vide Office Memorandum dated 02.04.1999 the deputation allowance was made admissible only to the cases of foreign service of Pakistan and the cases of other deputationists of ministries, divisions etc were excluded. However, pursuant to a judgment of the Federal Service Tribunal passed in Appeals Nos. 39 and 40(R)CS/2003, which was upheld by this Court vide order dated 21.09.2005 passed in Civil Petitions Nos. 519 and 524/2004, all officers/officials of ministries, divisions etc, who have been transferred and posted on deputation basis were held entitled to deputation allowance vide Office Memorandum No. F.5(8)R-2/2007 dated 04.07.2007. Therefore, the only question which remains to be clarified is whether the said office memorandum has retrospective effect or is it only meant for "fresh cases". The learned Service Tribunal took into consideration the Office Memorandum dated 02.04.1999 which was further elaborated by Office Memorandum dated 04.07.2007 and while observing that according to paragraph 'ii' of the Office Memorandum dated 04.07.2007, the old cases of transfers/postings on deputation basis were granted deputation allowance held that "there is no denying the fact that on the basis of O.M. of the Finance Division dated 4th of July, 2007, deputation allowance was allowed and disbursed to all the civil servants either old or fresh and no distinction was made between those, inducted in OMG or otherwise. It could not be acceptable even otherwise on the touchstone of rule of consistency i.e. that one set of civil servants posted on deputation or under section 10 is allowed deputation allowance retrospectively and others are deprived of that", which otherwise would be in defiance of Article 25 of the Constitution of Islamic Republic of Pakistan. When we confronted learned counsel for the appellant with this aspect of the matter, he could not give any plausible answer. So far as the question raised by learned counsel for the appellant that the claim of the respondent was barred by laches as he was repatriated to his parent department in the year 2001 and he filed departmental appeal on 08.06.2015 is concerned, suffice it is to state that being a financial matter, limitation will not have any adverse implication on respondent's claim.

7. For what has been discussed above, we are of the candid view that the learned Service Tribunal has passed a well reasoned judgment to which no exception can be taken. This appeal having no merit is accordingly dismissed.

MWA/S-25/SC

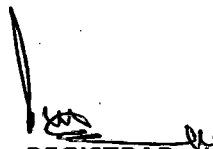
Appeal dismissed.

The appeal of Mr. Inamullah Naib Qasid Social Welfare and Special Education department received today i.e. on 07.07.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal may be attested.
- 4- Page no. 42 of the appeal is illegible which may be replaced by legible/better one.
- 5- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2191 /S.T,

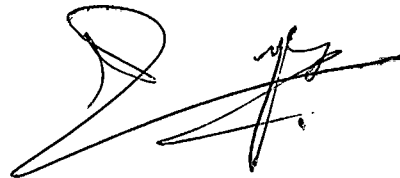
Dt. 13/07 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat
Adv. High Court Pesh.

Sir,

Re-submitted after removing ~~the~~ objections.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. 1138/2022

Inam Ullah

versus

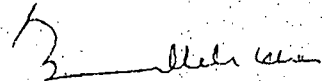
Secretary & Others

I N D E X

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-6
2.	Transfer of Centers	"A"	7-8
3.	Notification dated 31-01-2018	"A/1"	9-16
4.	FST judgment dated 18-07-2017	"B"	17-23
5.	Supreme Court Judgment dated 17-01-2018	"B/1"	24-31
6.	Impugned order dated 03-10-2018	"C"	32-33
7.	Writ Petition No. 5664/18	"D"	34-35
8.	Comments	"D/1"	36-39
9.	Notification dated 25-11-19	"E"	40
10.	Minutes of the Meeting dated 29-07-2020	"F"	41-43
11.	HC Judgment dated 16-02-2022	"G"	44-46
10.	Representation dated 10-03-2022	"H"	47-51

Appellant

Through



Saadullah Khan Marwat
Advocate
21-A, Nasir Mansion,
Shoba Bazaar, Peshawar

Dated 04-07-2022

Ph: 0300-5872676

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____ / 2022

Khyber Pakhtunkhwa
Service Tribunal

Discy No. 665

Dated 07-07-2022

Inam Ullah S/O Pushad
Naib Qasid, Social Welfare and
Special Education, Directorate,
KP, Opposite to Islamia College,
University Road, Peshawar,
Anti-grated Social Welfare
Centre Peshawar

Appellant

VERSUS

1. Secretary, Govt. of KP, Zakat,
Usher, Social Welfare, Special
Education & Women
Empowerment Department,
Peshawar.
2. Chief Secretary, Govt. of KP,
Peshawar.
3. Secretary, Govt. of KP,
Finance Department,
Peshawar.
4. Director, Social Welfare and
Special Education, Directorate,
KP, Opposite to Islamia College,
University Road, Peshawar.

Respondents

Filed to-day
Registrar
7/7/2022

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE NOTIFICATION NO. NO. SO-VI(SWD)/ 1-21 / I. D. E / 2016-17 / 336-6 DATED 03-10-2018 OF THE SECRETARY, GOVT. OF KP, ZAKAT, USHER, SOCIAL WELFARE, SPECIAL EDUCATION & WOMEN EMPOWERMENT DEPARTMENT, PESHAWAR STOPPED THE HEALTH PROFESSIONAL ALLOWANCE AND NOTIFICATION NO. FD (SOSR-II) 8-7 / 2019-53 DATED 25-11-2019 OF THE SECRETARY FINANCE DEPARTMENT WHEREBY HEALTH ALLOWANCE @ OF ONE RUNNING BASIC PAY WAS ALLOWED TO DEVOLVED EMPLOYEES WORKING IN THE SPECIAL EDUCATION INSTITUTIONS FROM THE DATE OF THEIR DEVOLUTION TO PROVINCIAL GOVERNMENT OF KP AND THE SAME WAS NOT EXTENDED TO THE APPELLANT DESPITE THE FACT THAT APPELLANT IS ALSO A DEVOLVED EMPLOYEE AND GIVE SAME DUTIES LIKE EMPLOYEES OF SPECIAL EDUCATION.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respected Sir:

1. That In the year 2007, appellant was appointed as Naib Qasid (Class-IV) in the defunct Directorate of Social Welfare under the Ministry of Social Welfare and Special Education, Islamabad.
2. That pursuant to the Constitution (Eighteen Amendment) Act, 2010 (Act No X of 2010) various Special Education and Social Welfare Centers Ministry of Social Welfare and Special Education Islamabad were transferred to Social Welfare and Special Education Department and Women Empowerment Govt. of KP. The appellant was also transferred initially on deputation basis and later on permanently transferred to the Province of KP on his existing terms and conditions of service and accordingly the Govt. of KP, Directorate of Social Welfare and Special Education and

Women Empowerment vide Notification dated 31-01-2018, absorbed the appellant in the provincial civil service. (Copies as annex "A" & "A/1")

3. That while serving the Federal Govt. the colleagues of appellant serving in Directorate of Special Education were allowed Health Professional Allowance as the task and role assigned to the colleagues of appellant was not less than the professionals of Health Department. Subsequently, the allowance were stopped which was called in question by the colleagues of the appellant before the Federal Service Tribunal and were allowed vide consolidated judgment dated 18-07-2017, 11-01-2016 and 05-01-2015, taking support of the ordinance VI 2011 namely "career structure for Health Personnel, Scheme Ordinance 2011" wherein definition of Health Personnel has been given and also the incumbents qualified / eligible for receiving the health allowance has been mentioned clearly. The Federal Govt. being aggrieved of the judgments ibid, filed CPLA before the August Supreme Court of Pakistan which upheld the judgments of Federal Service Tribunal. (Copies as annex "B" & "B/1")
4. That the appellant was in receipt of Health professional allowance.
5. That it is pertinent to add that the Govt. of KP vide Notification dated 23-02-2017 and 15-04-2016 also allowed Health Professional allowance on various rates to the Doctors, Paramedics and Nursing Staff of Health Department.
6. That vide impugned letter dated 03-10-2018, R. No 01 stopped the Health Professional allowance to the appellant in utter violation of the law and rules. Appellant agitated the matter before R. No. 02 but no positive result. (Copy as Annex "C")
7. That the appellant being aggrieved from the impugned letter dated 03-10-2018 filed Writ Petition before the Hon'ble Peshawar High Court, Peshawar in W.P. No. 5664-P/2018 whereby comments were filed wherein the respondents out rightly denied the right of appellant regarding the Health Professional allowance. (Copies as annex "D" & "D/1")

8. That during the pendency of the Writ Petition, the respondent issued notification dated 25-11-2019, wherein Health Allowance @ of one running pay was allowed to devolved employees working in the Special Education Institutions from the date of their devolution to Provincial Govt. of KP and also mentioning that the allowance will be admissible only to the employees of Special Education Institutions in KP, devolved under 18th Constitutional amendment. (Copy as annex "E")
 9. That on the issuance of Notification dated 25-11-2019, the colleagues of appellant serving on Special Education side withdrew from the W.P as their grievance was redressed by the respondents by issuing the Notification but at the same time, the appellant was discriminated as the appellant was also a devolved employee and serving in the same Directorate i.e. Directorate of Social Welfare, Social Education and Women Empowerment KP, the Administrative Secretary of both wings is the same, a good number of institutions of Social Welfare are also giving services of the same nature as that of Special Education, both are serving under the same roof, both are inter transferable, so both are at par with each other.
 10. That vide minutes of the meeting dated 29-07-2020, issued vide covering letter dated 19-08-2020, the respondents took a decision that the department will move a summary to Finance Department to allow one running basic pay as Health Allowance to all the employees of Special Education and Directorate of Social Welfare, Special Education and women empowerment on the analogy of previous Notification issued by Finance Department but till date, no action on the same. (Copies as annex "F")
 11. That the Writ Petition came up for hearing on 16-02-2022, whereby the same was dismissed on the ground of jurisdiction being one of terms and conditions of service and not on merits. (Copy as annex "G")
-

12. That on 10-03-2022, appellant filed representation before Secretary, Govt. of KP, Finance Department Peshawar / R. No. 03 which met dead response till date. (Copy as annex "H")
13. That the respondents has refused the claim of appellant through their comments, so the same can safely be considered as final order for the purpose of appeal in the Hon'ble Tribunal.

Hence, this appeal, inter alia on the following grounds:

GROUND S.

- a. That the respondents has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Articles of the Constitutions and unlawfully issued the impugned letter and refused to continue the Health Allowance to the appellant which is unjust unfair and hence not sustainable in the eyes of law.
 - b. That the matter has already been clarified by the Hon'ble Supreme Court in its judgments by declaring that whoever false within the definition of "Health Personal" has a right to receive the said allowance, the duties of appellant is not different from the duties of colleagues of appellant serving on Special Education side, so also has a right to receive the Health Allowance from the date from which appellant was devolved to the provincial Govt.
 - c. That a good number of Institutions on Social Welfare site works on Health site just like that of Special Education, moreover the appellant is also a devolved employee from the Federal Govt. so Notification dated 25-11-2019 allowing Health Allowance to employees of Special Education from the date of devolution is also applicable to the appellant.
 - d. That the appellant was in receipt of the allowance so stopping it and later on allowing to only devolved employees of Special Education is clear cut discrimination on the part of respondents. Besides para No. 12 of the Supreme Court Judgment gives support to the contention of appellant wherein the Supreme Court allowed the said allowance to allied Institutions / centre's, NCRDP (PCRDP) at Provincial level a centre of Social Welfare so the appellant has the right to receive the allowance.
-

- e. That by not allowing the Health Allowance to appellant being also a devolved employee is against the spirit of Constitution as both are serving under one Directorate, the Administrative Secretary of both the wings is the same, both are inter-transferable and even now the appellant is serving in Special Education Complex, Mardan since 2020.
- f. That allowing the Health Allowance to devolved employees of Special Education depriving the appellant from the same being also devolved employees of Social Welfare is violation of the provision of the constitutions.

It is, therefore, most humbly prayed that the impugned letter dated 03-10-2018 be set aside, by allowing the appellant Health Allowance since the date of devolution to Provincial Govt. and benefits of Notification dated 25-11-2019 be also extended to appellant being devolved employee in the interest of justice.

Inam Ullah
Appellant

Through

Saadullah Khan Marwat
Saadullah Khan Marwat

Arbab Saiful Kamal
Arbab Saiful Kamal

Amjad Nawaz
Amjad Nawaz

Advocates

Dated: 04-07-2022

AFFIDAVIT

I, **Inam Ullah**, Naib Qasid, Social Welfare and Special Education, Directorate, KP, Opposite to Islamia College, University Road, Peshawar, Anti-grated Social Welfare Centre Peshawar (Appellant), do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief.

Inam Ullah
DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal.

Saadullah Khan Marwat
ADVOCATE

٨ ٥

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

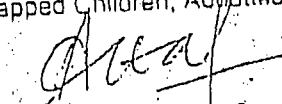
No.F. 11-19/2011-Coord (PI)
GOVERNMENT OF PAKISTAN
MINISTRY OF Social Welfare & Special Education

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 Asif)
Section Officer (Admin)

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. Feroz 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


INTERESTED

dy no. 2045
Date-14/4

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

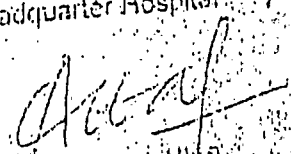
No. 11 192011-Coord (P)
GOVERNMENT OF PAKISTAN
MINISTRY OF Social Welfare & Special Education

Islamabad, 11th March 2011

NOTIFICATION

On re-organisation of Federal Government in accordance of Consolidation (Eighteenth Amendment) Act, 2010 (Act No. 1 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 Khwa:

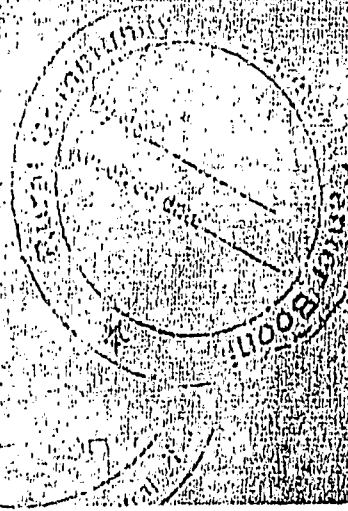
1. Integrated Social Development Centre, Peshawar
2. Social Services Medical Centre District Headquarter Hospital Chitral
3. Rural Community Development Centre Booni, District Chitral
4. Community Development Centre, Chakdara (Dir Lower)
5. Social Services (Medical Centre) Tehsil Headquarter Hospital Chakdara (Dir Lower)


Muhammad Ali
Section Officer (Admin)

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. Feroz 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.
9. Concerned Centre.
10. Office Copy.



8

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

No.11-10/2011 Goord (Pt)
**GOVERNMENT OF PAKISTAN
MINISTRY OF SOCIAL WELFARE & SPECIAL EDUCATION.**

Islamabad, the 1st April 2015.

NOTIFICATION

On reorganization of Federal Secretariat in pursuance of Constitution, (Eighteen Amendment) Act, 2010 (Act No. X of 2010) the following Centers under the Ministry of Social Welfare & Special Education are transferred to the Social Welfare & Special Education Department Government of Khyber Pakhtunkhwa:-

1. Integrated Social Development Centre, Peshawar.
2. Social Services Medical Centre District Headquarters Hospital Chitral.
3. Rural Community Development Centre Booni, District Chitral.
4. Community Development Centre, Chakdara (Dir Lower).
5. Social Services Medical Centre, Tehsil Headquarters Hospital Chakdara, (Dir Lower).

Sd/-

(Muhammad Altaf)
Section Officer (Admin)

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. Feroz Khan, Director General M.S Wing, Establishment Division, Islamabad.
7. Mr. M. Shahid Siddiqui, Director General M.S Wing, Establishment Division, Islamabad.
8. Secretary, Social Welfare & Special Education Department, Government of KPK.
9. Concerned Centre.
10. Office Copy.

Dated Peshawar the 31/01/2018

NOTIFICATION

No. DI/Absorption/Dev-Emp/DSW/ 3331-40 In pursuance of Section II-B of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 1973, (Khyber Pakhtunkhwa Act No. XVIII of 1973) the following devolved employees of the Federal Government holding various posts in Federal Government entities, on regular basis before the commencement of the 18th constitutional (amendment) Act 2010 (Act No. X of 2010) shall be deemed to be civil servants of the Province for all intents and purposes under the Act ibid. 000

S.#	Name	Designation	BPS
1	Mr. Nasir Khan Lodhi	Admin Officer	16
2	Mr. Muhammad Rauf	- do -	16
3	Mr. Daud Khan	S/S Stenographer	16
4	Mr. Noor Wahid	Office Assistant	16
5	Mr. Rehmat Ullah	- do -	16
6	Mr. Hidayat Ullah	- do -	16
7	Mr. Abid Ali Shah	- do -	16
8	Mr. Javed Iqbal Naseem	- do -	16
9	Mr. Munir Khan	- do -	16
10	Mr. Ishtiaq Ahmad	- do -	16
11	Mr. Muhammad Munir	- do -	16
12	Mr. Muhammad Sharif	- do -	16
13	Mr. Majid Ali Shah	- do -	16
14	Mr. Muhsin Ali	Computer Operator	16
15	Mr. Tehmasab Khalid	- do -	16
16	Mr. Wajid Maqsood	- do -	16
17	Mr. Jawad Ali	- do -	16
18	Mr. Adnan Ali	- do -	16
19	Mr. Muhammad Asif	- do -	16
20	Mrs. Amina Shafiq	- do -	16
21	Mr. Khalid Mehmood	- do -	16
22	Mr. Rambail Khan	J/Scale Stenographer	14
23	Mr. Sardar Ullah Shah	- do -	14
24	Mr. Hayat Zada	- do -	14
25	Mr. Fazal Wahab	- do -	14
26	Mr. Asif Iqbal	- do -	14
27	Mr. Naimat Ullah	- do -	14
28	Mr. Fazal Rehman	- do -	14

29	Mr. Khan Rehman	- do -	14
30	Mr. Ahmad Ali	- do -	14
31	Mr. Salah Ud Din	- do -	14
32	Mr. Muhammad Faizan	- do -	14
33	Mr. Khalid Khan	Senior Clerk	14
34	Mr. Gul Sher	- do -	14
35	Mr. Ajab Khan	- do -	14
36	Mr. Jafar Shah	- do -	14
37	Mr. Habib Ullah	- do -	14
38	Mr. M. Afzal Khan	- do -	14
39	Mr. Muhammad Nauman	- do -	14
40	Mr. Nizam-Ud-Din	- do -	14
41	Mr. Zawar Ali	- do -	14
42	Mr. Sher Azim	- do -	14
43	Mr. Said Alam	Junior Clerk	11
44	Mr. Furqan Jamil	- do -	11
45	Mr. Haroon Rashid	- do -	11
46	Mr. Imran Khan	- do -	11
47	Mr. Muhammad Ayaz	- do -	11
48	Mr. Siraj Ud Din	- do -	11
49	Mr. M. Saeed Khan	- do -	11
50	Mr. Imran Khan	- do -	11
51	Mrs. Seema Anjum	Nursery Teacher	15
52	Mrs. Hina Rehman	- do -	15
53	Mr. Kamal Yousaf	Music Teacher	15
54	Mr. M. Iqbal Khan	Junior Instructor	15
55	Mr. Anjad Ali	- do -	15
56	Mr. Tanveer Ahmed	- do -	15
57	Mrs. Farwa Rubab	- do -	15
58	Mr. Kamran Yousafzai	J. Computer Instructor	15
59	Mr. Mehmood Alam	- do -	15
60	Mr. Rahmat Nabi	- do -	15
61	Mr. Zulfiqar Wazir	- do -	15
62	Mr. Muhammad Younas	- do -	15
63	Mr. Rizwan Qayum	- do -	15
64	Ms. Amina Mushtaq	Vocational Instructor	15
65	Mrs. Anwar Sabih	- do -	15
66	Mrs. Shagufta Nusren	- do -	15
67	Mrs. Shabana Tabassum	- do -	15
68	Mrs. Nasreen Begum	Vocational Teacher	12
69	Mrs. Talat Gul Farin	- do -	12
70	Mrs. Shazia Parveen	- do -	12
71	Mr. Muhammad Siddique	- do -	12
72	Mr. Wajid Ali	- do -	12

73	Mrs. Nazia Parveen	- do -	12
74	Mrs. Sabra Gul	- do -	12
75	Mrs. Robeena Mughal	- do -	12
76	Mr. Amjad Hussain	- do -	12
77	Mr. Qamar Nazir	- do -	12
78	Mrs. Amraiz Begum	- do -	12
79	Mrs. Yasmin	- do -	12
80	Mrs. Felmeeda Syed	- do -	12
81	Mrs. Shaheen Begum	- do -	12
82	Mrs. Fakhri	- do -	12
83	Ms. Faryal Afridi	- do -	12
84	Ms. Waheeda Gul	- do -	12
85	Mrs. Nuzhat Rehman	- do -	12
86	Mr. Wali Marjan	Workshop Technician	12
87	Mr. Asif Khan	- do -	12
88	Mrs. Riffat Jabeen	- do -	12
89	Mr. Irfan Ullah	Brail Teacher	12
90	Mr. Abdul Hai	- do -	12
91	Mr. Habib Ullah	- do -	12
92	Mr. Muhammad Ishaq	- do -	12
93	Mrs. Uzma Naeem	- do -	12
94	Mr. Asif Mehmood	- do -	12
95	Mr. Tauheed Ali Raza	- do -	12
96	Mrs. Zarbeena	- do -	12
97	Mr. Tajammul Hussain	- do -	12
98	Mr. Rafi Ullah	Qari	10
99	Mr. Masoud Jan	PTI	10
100	Mr. Muhammad Nauman	- do -	10
101	Mrs. Feroza Bibi	Voc Training Instructor	08
102	Mr. Zahid Ali	- do -	08
103	Mr. Sultan Wali Khan	- do -	08
104	Mrs. Nasima Zulfiqar Ali	- do -	08
105	Mrs. Shazia Bibi	- do -	08
106	Mrs. Sumayya	- do -	08
107	Mr. Alamgir Khan	- do -	08
108	Mrs. Nasira Bibi	LHV	09
109	Mrs. Nasreen	- do -	09
110	Mrs. Bibi Rani	- do -	09
111	Mrs. Eulbul Jamal	Adult Literacy Worker	08
112	Mrs. Farida Bibi	- do -	08
113	Mr. Yousaf Ali Khan	- do -	08
114	Mr. Ali Zeb Khan	Recreation Youth Worker	07
115	Mr. Sharif Khan	- do -	07
116	Mr. Mir Afzal Khan	- do -	07

117	Mrs. Hameeda Bibi	- do -	07
118	Mr. Mukhtar Khan	- do -	07
119	Mr. Balcht Amir Shah	Driver	07
120	Mr. Aslam Perwaiz	- do -	07
121	Mr. Sher Umer	- do -	07
122	Mr. Muhammad Riaz	- do -	07
123	Mr. Ameer Muhammad	- do -	07
124	Mr. Ahmad Noor	- do -	07
125	Mr. Naveed Ahmad	- do -	07
126	Mr. Naveed Muhammad	- do -	07
127	Mr. Abdul Sami	- do -	07
128	Mr. Muhammad Bashir	- do -	07
129	Mr. Adnan	- do -	07
130	Mr. Wilayat Ali	- do -	07
131	Mr. Himayat Ullah	- do -	07
132	Mr. Muhammad Sulman	- do -	07
133	Mr. Muhammad Ramzan	- do -	07
134	Mr. Rehman Ullah	- do -	07
135	Mr. Aown Abbas	- do -	07
136	Mr. Sikandar Khan	- do -	07
137	Mr. Khalid	- do -	07
138	Mr. Ahmad Bilal	- do -	07
139	Mr. Maqsood Ahmad Baig	- do -	07
140	Mr. Karim Panah	Attendant	05
141	Mr. Ahmad Ali	- do -	05
142	Mr. Siraj Ahmad	- do -	05
143	Mr. Syed Ali Khan	- do -	05
144	Mr. Waqas Hussain	- do -	05
145	Mr. Sajjad Ahmad	- do -	05
146	Mr. Shabbir Ali	- do -	05
147	Mr. Asfandiar	- do -	05
148	Mr. Shah Jehan	- do -	05
149	Mr. Naik Amal Khan	- do -	05
150	Mr. Shah Nawaz	- do -	05
151	Mr. Irfanullah	- do -	05
152	Mr. Zahid Ali	- do -	05
153	Mr. Farhan Ali	- do -	05
154	Mr. Asad Mehmood	- do -	05
155	Mr. Ismail Khan	- do -	05
156	Mr. Siraj Ahmad	- do -	05
157	Mr. Malik Riaz	- do -	05
158	Mr. Shakir Ullah	- do -	05
159	Muhammad Safeer	- do -	05
160	Mr. Abdul Wanab	- do -	05

161	Mr. Johar Ali	- do -	05
162	S. Amjad Ali Shah	- do -	05
163	Mr. Siraj Khan	- do -	05
164	Mr. Muhammad Wisal	- do -	05
165	Mr. Misal Khan	- do -	05
166	Mr. Tariq Zada	- do -	05
167	Mr. Zahid Shah	- do -	05
168	Mr. Sajjad Ali	- do -	05
169	Mr. Muhammad Ishaq	- do -	05
170	Mr. Akhtar Ali	- do -	05
171	Mr. Muhammad Daud	- do -	05
172	Mr. Askar Khan	- do -	05
173	Mr. Waheed Jan	- do -	05
174	Mr. Asmat Gul	- do -	05
175	Mr. Iftikhar Khan	- do -	05
176	Mr. Waqas Rashid	- do -	05
177	Mr. Lal Muhammad	- do -	05
178	Mr. Hanif Khan	- do -	05
179	Mr. Pir Madar	- do -	05
180	Mr. Hazrat Bilal	- do -	05
181	Mr. Nawab Zada	- do -	05
182	Mr. Rahman Ali	- do -	05
183	Mr. Fazal Amin	- do -	05
184	Mr. Humair Inayat Malik	- do -	05
185	Mst. Mahajireen Bibi	Ayn	05
186	Mrs. Tahira Naqvi	- do -	05
187	Mrs. Azra Bukhari	- do -	05
188	Mrs. Ulfat Begum	- do -	05
189	Mrs. Shagufta	- do -	05
190	Mrs. Jameela Khatun	- do -	05
191	Mrs. Ambareen Ismail	- do -	05
192	Mrs. Rehana Bibi	- do -	05
193	Mst. Naheeda Bibi	- do -	05
194	Mr. Sohail Ahmad	Naib Qasid	04
195	Mr. Sardar Ali	- do -	04
196	Mr. Faiz-Ur-Rahman	- do -	04
197	Mr. Liaqat Ali	- do -	04
198	Mr. Farhud Ali Shah	- do -	04
199	Mr. Nadar Khan	- do -	04
200	Mr. Asifullah	- do -	04
201	Mr. Inamullah	- do -	04
202	Mr. Muhammad Ghaloor	- do -	04
203	Mr. Mukhtar Shah	- do -	04
204	Mr. Amjad Hussain	- do -	04

205	Mr. Zia Ullah	- do -	04
206	Mr. Bakht Zamin	- do -	04
207	Mr. Mir Shah Jehan	- do -	04
208	Mr. Muhammad Shakeel	- do -	04
209	Mr. Tahir	- do -	04
210	Mr. Shaukat Hussain	- do -	04
211	Mr. Najam Khan	- do -	04
212	Mr. Zahir Ullah	- do -	04
213	Mr. Bakht Zaman	- do -	04
214	Mr. Shakri Muhammad	- do -	04
215	Mr. Khush Qadam	- do -	04
216	Mr. Fazle Maqala	Chowkidar	04
217	Mr. Muhammad Ikram	- do -	04
218	Mr. Khan Zaib	- do -	04
219	Mr. Zafar Ali	- do -	04
220	Mr. Said Azam	- do -	04
221	Mr. Nizam Wali	- do -	04
222	Mr. Bashir	- do -	04
223	Mr. Ibad Ullah	- do -	04
224	Mr. Adnan	- do -	04
225	Mr. Muhammad Bilal	- do -	04
226	Mr. Muzafar Shah	- do -	04
227	Mr. Sajid Ahmad	- do -	04
228	Mr. Muhammad Hafeez	- do -	04
229	Mr. Ikram Ali	- do -	04
230	Mr. Shahid Hussain	- do -	04
231	Mr. Muhammad Nawaz	- do -	04
232	Mr. Sad Bad Shah	- do -	04
233	Mr. Muhammad Zafar	- do -	04
234	Mr. Gulab Khan	- do -	04
235	Mr. Faisal Khan	- do -	04
236	Mr. Muhammad Abbas	- do -	04
237	Mr. Nisar Ali	- do -	04
238	Mr. Hayat Khan	- do -	04
239	Mr. Tauti Muhammad	- do -	04
240	Mr. Muhammad Azam	- do -	04
241	Mr. Farid Ullah Jan	- do -	04
242	Mr. Murad Ullah	Mali	04
243	Mr. Akbar Ali	- do -	04
244	Mr. Musafir Gul	- do -	04
245	Mr. Lal Bahadar	- do -	04
246	Mr. Faizan Akhtar	- do -	04
247	Mr. Subbar Khan	- do -	04
248	Mr. Gul Muhammad	- do -	04

249	Mr. Shah Jehan	- do -	04
250	Mr. Imran Ali	- do -	04
251	Mr. Zafar Hussain	- do -	04
252	Mr. Muhammad Shafiq	- do -	04
253	Mr. Fazal Rabi	- do -	04
254	Mr. Shah Nawaz	Sanitary Worker	04
255	Mr. Javed Iqbal	- do -	04
256	Mr. Riaz Ahmad	- do -	04
257	Mr. Ikram Ullah	- do -	04
258	Mr. Sajid Ullah	- do -	04
259	Mr. Wasif Ali Rauf	- do -	04
260	Mr. Ayaz	- do -	04
261	Mst. Fazilat Bibi	- do -	04
262	Mr. Danial Masih	- do -	04
263	Ms. Maryam Salim	- do -	04
264	Mst. Nahced Begum	- do -	04
265	Mr. Siddique Ali	- do -	04
266	Mr. Amjad Ali	- do -	04
267	Mr. Rahid Ali	- do -	04
268	Mr. Muhammad Irshad	- do -	04
269	Mr. Iqbal Hussain	- do -	04
270	Mr. Haji Ahmad	- do -	04
271	Mr. Arshad Ali	- do -	04
272	Mr. Raza Muhammad	- do -	04
273	Mr. Suhail	- do -	04
274	Mr. Seyad Ali	- do -	04
275	Mr. Saleem Khan	- do -	04
276	Mr. Kamran Khan	- do -	04
277	Mr. Abid Jan	- do -	04
278	Mr. Abbas Ali	- do -	04
279	Mr. Javed Hashim	- do -	04
280	Mr. Fazal Khaliq	- do -	04
281	Mr. Tariq Masih	- do -	04
282	Mst. Hasina Bibi	Dai / Midwife	04
283	Mst. Sharafat Nisa	- do -	04
284	Mr. Hameed Gul	Cook	05
285	Mr. Javed Ali	- do -	04
286	Syed Fawad Ali	- do -	04
287	Mr. Nāsir Pervaiz	Cook Helper	04
288	Mr. Hafiz Ur Rahman	Hostel Bearer	05
289	Mr. Hazrat Ali	- do -	05
290	Mr. Asad Ali	- do -	05
291	Mr. Waseem Arshad	- do -	05

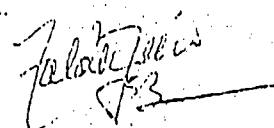
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-Sd-
DIRECTOR
Social welfare, Special Education &
Women Empowerment Department
Khyber Pakhtunkhwa

Endst No. and Date even:

Copy forwarded for information and necessary action to the:

1. The Section Officer-VI Social Welfare, SE & WE Department Khyber Pakhtunkhwa.
2. Secretary to Govt of KP Establishment Department Khyber Pakhtunkhwa.
3. Secretary to Govt of KP Finance Department Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
5. PSO to Chief Secretary Khyber Pakhtunkhwa.
6. Accountant General Khyber Pakhtunkhwa.
7. Director Information Khyber Pakhtunkhwa.
8. All In-charges of Devolved Institutions Khyber Pakhtunkhwa.
9. PA to Director Social Welfare, SE & WE Khyber Pakhtunkhwa.


DEPUTY DIRECTOR
(ISDC)

Social welfare, Special Education &
Women Empowerment Department
Khyber Pakhtunkhwa



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**JUDGMENT SHEET
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-Husunin Kazimi, 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 Account Officer and Muhammad Jabbar, Senior Auditor, AGPR 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 appellant other Government Hospitals including PIMS, Federal Govt. Polyclinic, CDA, IS T. Pakistan Railways and Federal Government Services Hospital, Islamabad, but it was discontinued to the present appellants vide impugned orders dated 08.08.2014. 21.03.2016

and 25.03.2010. The Secretary, Capital Administration & Development Division (CADD) 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 01.01.2013. Due to discriminative action of Secretary CA&DD the employees of DGSE started agitating the matter with him who vide letter dated 13.03.2014 allowed Health Allowance to all the employees of 16 institutions of DGSE and allied education centers, 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 05.03.2014 the affected employees filed Writ Petition No.3784/2014, 3358/2014 and 1007/201 which were disposed of by the Hon'ble Islamabad High Court, Islamabad vide order dated 17.09.2015 in the following manner: -

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"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

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.

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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."

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 Servant 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.20(13) R-2/2011 dated 00:02:2013 was unambiguous and clearly stipulated admissibility of Health Allowance to all health personnel in employment of Federal Government in BDS Scheme but despite the said notification of the Finance Division, the appellants were deprived of the

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(1)CS/22015, 867 to 872(R) CS/2013, 1176 to 1187, 1189 to 1251(R) CS/2015 & 381 16 405(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 paras 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 process of law provided under the Government Servants (Efficiency and Discipline) Rules, 1973.

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-1. 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 CA&DD on 12.03.2013 in its communication to AGPR conveyed sanction of the Health Allowance to DGSE employees without concurrence of the Finance Division and the subsequently discontinued after verification of element 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

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 sand allowance. The respondent No.3 i.e. AGPR in its paras 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/IS-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 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 Schedule-1, 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 (5) of the Civil Servants Act, 1973 and are delivering services to the disabled children / personnel. 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 paras comments filed before the Hon'ble Islamabad High

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 / DOS containing a provision of Rs.100 million as HPA for DGSE for financial year 2011-15, 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 but 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, ales, the appellants be deprived, is not clear from what has been write the comments before the Hon'ble Islamabad High Court, Islamabad 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. to refund the paid amount which is against the principle of locus poententie 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 a 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 make this view in the light of the judgment of Hon ble Supreme Court of Pakistan in PLD 1992 SC 207. Hence, to this extent, the meal orders are not legally sustainable and liable to be set aside.

7. We would like to make au emphasis on the judgments of the Tribunal in Appeals No.221(R)CS/2015 and 281 to 405(R)CS/2016 dated

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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 1155 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 Faiz 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 a 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.

MEMBER

MEMBER

ISLAMABAD
18.07.2017

B/1 24

Muhammad Attique ur Rehman
etc.

(in C.A.811/2016)

For the Appellant(s)
in all cases)

Mr. Sajid Ilyas Blatti, DAG Syed Rifaqat
Hussain Shah, AOR Ms. Sundia Kanwal, S.O
Fin. Mr. Abid Hussain Channa, S/O Fin. Mir.
Sajid Javed, Asstt. Legal lin. Mr Abdul Razzaq,
MO MEG Rawalpindi

For the Respondent(s)

In-person

For the Respondent(s)
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 05.10.2016, 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

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

"Government of Pakistan
Finance Division
(Regulations Wing)

F.No.2(13)R-2/2011

Islamabad, the 04th Feb,2012

OFFICE MEMORANDUM

Subject:

GRANT OR 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

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(not visible) 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/ allowance on BPS Scheme.

2. This Divisions 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)

F.No.2(13)R-2/2011

Islamabad, the 06th Feb,2012

OFFICE MEMORANDUM

Subject:

GRANT OR ADHOC ALLOWANCE EQUAL TO ONE BASIC PAY AT THE SALARY TO THE HEALTH PERSONNEL IN BPS SCHEME.

In continuation of Finance, Division's O.M. No.F.2(13)R-2/2011, dated 1.2.2012, it has been decided by the Federal Government in great benefit of basic pay of running salary as Health Allowance to the health personnel in the employment of Federal Government, in UPS scheme, with effect from 1 January, 2012. This will be in addition to their existing allowances 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

Islamabad, namely, Pakistan Institute of Medical Sciences ("PIMS"), Federal Government Polytechnic ("FGP") and National Institution of Rehabilitation Medicines ("NURM"). 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 an amicus curiae in the matter. Mr. Sikandar Bashir Mohmand, ASC made able submissions before the Court that highlighted important facts and document appreciably 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-1 to the Ordinance which specifies the service providers who qualify as health personnel. A perusal of Schedule-1 shows that five categories of service providers are

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

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 ("NERDI"). 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 DCSE and allied centers. The Secretary CADD heard the parties and by

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, FOP and NIRM, the Health Allowance was granted by the Federal Government as compensation to the said health personnel. He was, however, unable 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 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-), but does not include:

- i) a person who is on deputation to the Federal Government from any Province or other authority:

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

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- 1 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 -1 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 18.3.2013 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 carried DAG). For that reason the Finance

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To Pakistan, through the secretary Ministry of Finance Muhammad Hirayatullah Farukhi (PLD 1969 SC 407) and The Engineer in Chief Branch VS Jalalud Din (PLD) 1952. 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.

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 DS, Allied institutions/centers, NCRDP and NTD to receive the Health Allowance is affirmed.

Sd/- Mian Saqib Nisar, HCJ

Sd/o Umar Ata Bandial J

Sd/- Ijaz ul Ahsan J

Islam abad

17.01.2018

Naseer

Not Approved for reporting

MOST IMMEDIATE

CONFIDENTIAL



GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION &
WOMEN EMPOWERMENT DEPARTMENT

No. SO-VI(SWD)/1-21/T.D.E./3016-17/10/18

Dated Peshawar the 03rd October, 2018. / 336-6

To,

All the District Officers Social Welfare,
Khyber Pakhtunkhwa, Peshawar.

Subject: - STOPPAGE OF UNAUTHORIZED/UNLAWFUL HEALTH PROFESSIONAL ALLOWANCE TO THE EMPLOYEES OF SOCIAL WELFARE DEPARTMENT

1. I am directed to refer to the subject noted above and to state that devolved employees holding various positions in Federal Government entitles against regular positions before the commencement of 18th Constitutional (Amendment) Act, 2010 (Act No. X of 2010) were deemed to be "Civil Servants" of the Khyber Pakhtunkhwa Province for all intents and purposes under Section 11B of the Khyber Pakhtunkhwa Civil Servant (Amendment) Act 1973. (Khyber Pakhtunkhwa Act No. XVIII of 1973). Notification to this effect was issued by the Social Welfare Department vide No. SO-VI/SWD/1-21/2017-18/757-68 dated 12.01.2018 and circulated amongst all concerned.

2. It has come into the notice of Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department that quite a number of devolved employees are still drawing unauthorized/unlawful "Health Professional Allowance" in connivance with their respective District Offices Social Welfare/District Account Offices without prior approval of the competent authority and in absence of rules/regulations. This practice is a gross violation of Khyber Pakhtunkhwa Delegation of Financial Power Rules, 2018 and may lead to serious audit objections in future.

3. The Competent Authority has taken serious notice of the issue and directed to ask you to provide following information/record:-

- (i) Total number of devolved employees drawing "Health Professional Allowance" in your respective District;

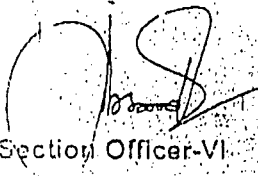
(Continued .. Overleaf)

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(ii) Salary slips of devolved employees drawing "Health Professional Allowance" duly attested by the concerned District Officer Social Welfare/District Accounts Officer;

(iii) Amount drawn so far by devolved employees under "Health Professional Allowance" with dates.

4. I am further directed to ask you to take up the case with your respective District Account Office for stoppage of unauthorized/unlawful "Health Professional Allowance" to devolved employees henceforth and a compliance report along with the above-mentioned information/record be submitted to this office within three (03) days positively; failing which, strict disciplinary action will be taken against the defaulters under Government of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.


Section Officer-VI

ENDST: EVEN NO. & DATE:

Copy forwarded to the:-

(i) The Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa with the request to furnish his report in the subject matter urgently to this office.

(ii) PS to Secretary to Government of Khyber Pakhtunkhwa, Finance Department for information and further necessary action.

(iii) PS to Secretary to Government of Khyber Pakhtunkhwa, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department, Peshawar for information.

/
Section Officer-VI

مسئول علیہان کو نوٹس کرتے ہوئے سائیلان کو انٹرم ریٹیف کی سہولت دی ہے۔

فوری ذمہ داری:

مندرجہ بالا گزارشات کو مد نظر رکھتے ہوئے عدالت حضور سے درخواست ہے کہ مورخہ 03 اکتوبر 2018 کی جاری کردہ چٹھی No. So-VI (SWD) 1-211-D.E کو تصفیہ رٹ پیش ہذا، معطل کیا جائے تاکہ سائیلان کو جاری ایٹھ الاؤنس باقاعدگی سے ملتا رہے۔ دیگر دادرسی جو قرین انصاف ہو بھی عطاء کی جائے۔

سائیلان ذوار علی وغیرہ

بذریعہ
محمد خورشید خان ایڈووکیٹ
سپریم کورٹ آف پاکستان

نہایت کتب آئین پاکستان 1973

ایڈووکیٹ محمد خورشید خان

تصدیق کی جاتی ہے کہ سائیلان نے اس موضوع پر کسی دوسری عدالت یا اس عدالت حضور میں کوئی درخواست نہ دی ہے۔

ایڈووکیٹ محمد خورشید خان

ایان ظلی۔ میں ذوار علی ولد زرتاج خان، سینئر کلرک انی گریڈ سوشل ڈویلپمنٹ سنٹر، پشاور حافظا بیان اور
ہوں کہ جملہ مراتب پیش ہذا میرے علم و یقین کے مطابق درست ہیں اور کوئی امر عدالت حضور
میں نہیں ہے۔

العبد

ذوار علی

شناختی کارڈ نمبر: 5-7302832-101

موبائل نمبر: 0300-5497383

تصدیق کنندہ:

محمد خورشید خان ایڈووکیٹ

سپریم کورٹ آف پاکستان

No. 118/18

Certified that the above was verified on my own
affirmation before me in office this 18th day of
day of Nov 2018 by the undersigned
s/o. Muhammad Khan who was in my presence
who is personally known to me.

18/11/2018
Peshawar High Court, Peshawar

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16 NOV 2018

ATTESTED

REGISTRAR
Peshawar High Court

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BEFORE THE HONOURABLE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 5654-P/2018

Zawar Ali & Other..... (Petitioners)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through chief Secretary Civil Secretariat Peshawar.
2. Secretary Finance, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Accountant General, Khyber Pakhtunkhwa Peshawar.
4. Secretary to Govt. of Khyber Pakhtunkhwa Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Peshawar.
5. Deputy Commissioner Peshawar..... (Respondents)

PARA-WISE COMMENTS/REPLY ON BEHALF OF RESPONDENTS NO. 2 & 4

Respectfully Sheweth:

PRE-LIMINARY OBJECTIONS:

1. The Petitioners has got no cause of action to file present Writ Petition.
2. That the petition is not maintainable in its present form being service matter.
3. That the petitioners/plaintiff has no locus standi or cause of action to file the present writ petition.
4. That the jurisdiction of this Honorable Court is specifically barred by the provisions contained in Article-212 of the constitution.
5. That the petition is bad for mis-joinder and non-joinder of necessary parties.

FACTS:

1. Correct
2. Correct.
3. Correct to the extent that the services of the petitioners were transferred to the Province of Khyber Pakhtunkhwa on deputation basis, later on their

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services were absorbed in the province of Khyber Pakhtunkhwa in the

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4. The relevant facts are that, the Federal Service Tribunal Islamabad on 18-07-2017 and Supreme Court of Pakistan on 17-01-2018, Allowed Health Allowance not Health Professional Allowance to the employees of Directorate General of Special Education (DGSE), with effect from 01-01-2012, and the Accountant General Khyber Pakhtunkhwa released the said allowance under the head of Health Professional Allowance without any consultation with Finance Department with effect from 01-01-2012. Grant of Health Professional Allowance to the employees of Special Education is illegal and unlawful. Fact of the case is that Government of Khyber Pakhtunkhwa, vide notification No. FD(SOSR-II)8-18/2011, dated Peshawar 6th of August, 2011, accorded approval of Health Professional Allowance to the professional doctors in the civil service of the Government of Khyber Pakhtunkhwa, in the manner that doctors in BS-17 (all cadres) would receive the same at the rate of RS 15,000/- P.M. while doctors in BS-18 to BS-20 (all cadres) would receive at the rate of Rs 10,000/- P.M. (Annex-I), while the present petitioners are receiving the said allowance equal to one month running basic pay. On 07-01-2016, in continuation of above referred notification, the Provincial Government of Khyber Pakhtunkhwa, accorded approval to the incentive for doctors excluding MFIs on the basis of territory (Districts declared as Category A, B, C) unattractive/ attractive and enhanced the Health Professional Allowance, category wise, on the basis of hard area, geographic terrain, security situation and lack of development and infrastructure, but applicability was subject to the following conditions:

- i The existing allowance for doctors (Anesthesia allowance in district hospital hard and hardest, Special package/ incentives at Civil Hospital (Gari Habib Ullah Manshehra Incentives allowance to Gynecologist and Lady Doctors all districts Battagram, Kohistan, Hangu, Tank, Buner, Dir Upper, Dir Lower, Shingla, and Chitral) shall be discontinued except non-practicing allowance. Will be admissible only during their period of posting against the sanctioned posts at Health Department.

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- iii. Will not be admissible only during earned leave, study leave and extra ordinary leave except casual leave.
- iv. Shall not be treated as part of emoluments for the purpose of calculation of pension and recovery of House Rent etc.
- v. Shall not be admissible to the employees posted/ deputed outside the Health Department (Annex-II).

Wherein condition No. V is, not admissible to the employees posted/ deputed outside the Health Department. Thereafter, notification issued vide No. FD/SOSR-II 8-18/2017 dated 23-02-2017, by including Institutional Employees (MTIs) with the same condition that HPA shall not be admissible to the employees posted outside MTIs and Health Department (Annex-III), whereas in earlier notification dated 06-08-2011, no such condition was imposed. Similarly on 15-04-2016 vide notification No. FD (SOSR-II) 8-18/2015-16 dated 15-04-2016, HPA was allowed to Paramedic and Nursing staff of Health Department at a flat rate of Rs. 10,000/- per month (Annex-IV). From the above details/ notifications it is crystal clear that HPA is allowed only to employees of Health Department and employees of Special Education are providing Educational Services, not Health Services to Special Persons, hence not entitled for Health Professional Allowance.

5. Correct to the extent that the Accountant General informed the Deputy Commissioner Peshawar after release of HPA along-with arrears. Finance Department was not taken into confidence regarding release of HPA to employees of Special Education. The release was made by AG from one line budget. When it was brought to the knowledge of Finance Department, the Finance Department vide letter No. SO (LII-I)FD/3-2521/2018, dated 01-10-2018 asked the Administrative Department for moving a summary after thorough analysis of the case. Similarly the Administrative Department was also requested for inquiry regarding payment of HPA without prior approval / information of Finance Department.

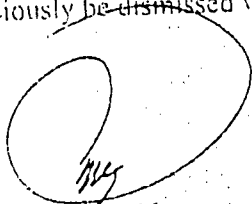
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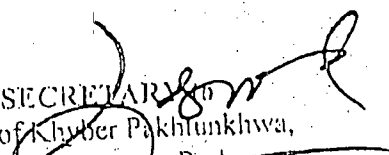
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6. Incorrect. There is no tussle between the two departments. Finance Department is still of the view that HPA WAS granted to the Health Professionals as an incentive to improve the delivery of Health Services in far flung areas of the province. The extension of HPA to employees of Special Education will be against cardinal principle of good Governance and will result in wrong precedents. Similarly, it will be difficult for the Provincial Exchequer to bear the financial implication involved in this regards.
7. Factual position has been explained in the preceding paras.

It is therefore humbly prayed that in view of the submission narrated above the instant petition may graciously be dismissed with cost.



SECRETARY to
Govt. of Khyber Pakhtunkhwa,
Zakat, Ushr, Social Welfare, Special Education &
Women Empowerment Department Peshawar.
(Respondent No. 4)



SECRETARY to
Govt. of Khyber Pakhtunkhwa,
Finance Department Peshawar,
(Respondent No. 2)

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25 JUN 2019.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 25-11-2019

NOTIFICATION

-53

No. FD(SOSR-1118-7/2019). 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 Dept.
- 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

22/11/19

27/11/19

SECTION OFFICER (SR-III)
FINANCE DEPARTMENT

Recd
No. 1730/566-965-2

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
AND WOMEN EMPOWERMENT DEPARTMENT

No. SO-VI/SWD/13-5/2020/29-VI-22
Dated: Peshawar the 19th August, 2020

To

1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department
2. The Director,
Social Welfare, Khyber Pakhtunkhwa

Subject: MINUTES OF THE MEETING REGARDING PROFESSIONAL HEALTH
ALLOWANCE TO THE EMPLOYEES OF SPECIAL EDUCATION
(INSTITUTES) & DIRECTORATE OF SOCIAL WELFARE, SPECIAL
EDUCATION & WOMEN EMPOWERMENT DEPARTMENT

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith
minutes of the subject meeting held on 29.07.2020 for information and necessary action
please

Section Officer- VI

Endst. No. & Date Even

Copy forwarded for information to -

1. PS to Secretary, SW, SE & WED, Khyber Pakhtunkhwa.
2. Master File.

Section Officer- VI

MINUTES OF THE MEETING REGARDING PROFESSIONAL ALLOWANCE TO THE EMPLOYEES OF SPECIAL EDUCATION (INSTITUTES) & DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION & WOMEN EMPOWERMENT DEPARTMENT.

The subject meeting was held under the chairmanship of secretary to Government of Khyber Pakhtunkhwa Social Welfare, Special Education & Women Empowerment Department in the committee room on 29-07-2020 at 12 hours. Which was attended by the following.

1. Hafiz Atta-Ul-Muhamin Deputy Secretary (Admin) Social Welfare Department.
2. Rizwan Ullah Khan Deputy Secretary, Social Welfare Department
3. Habib Khan Director, Social Welfare
4. Noor Muhammad Deputy Director, Social welfare
5. Abdul Haq Section Officer (SR-II) Finance Department
6. Savindar Kumar Section Officer-VI, Social Welfare Department

The meeting started with the recitation of Holy Verses. The chair welcomed the participants and apprised about the issue of Health Professional Allowance. It was informed that the employees of Special Education (Devolved) are drawing one running basic pay w.e.f 2010 as Health Professional Allowance approved by the cabinet and notified by the Finance Department vide Notification No. FD(SOSR-II)8-7/2019-53 dated 25-11-2019, whereas the Special Education Employees of Social Welfare, Special Education & Women Empowerment Department (Provincial) & Directorate of Social Welfare, Special Education & Women Empowerment are not getting the said cabinet. Which is clear cut discrimination with the employees of Special Education & Directorate of Social Welfare, Special Education & Women Empowerment.

The Director, Social Welfare, Special Education & Women Empowerment also informed the participants that due to the said allowance majority of the staff are trying and approaching for their posting at the devolved institutes and litigation has been started in the courts by staff of special education and Social welfare for the said allowance. Therefore the same should be allowed to all the employees of Special Education & Directorate of Social Welfare, Special Education & Women Empowerment.

The representative of Finance Department agreed with the chair and point of view of the Director Social Welfare and he also agreed upon that proper

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case (Summary) for provincial cabinet be moved by the Department through Finance Department.

DECISION:

It is unanimously decided that Social Welfare, Special Education & Women Empowerment Department will move a summary through Finance Department to allowed one running Basic Pay as Health Professional Allowance to the employee of Special Education & Directorate of Social welfare, Special Education & Women Empowerment on the analogy of the previous Notification issued by Finance Department.

That meeting ended with a vote for and from the chair.

MINUTES OF THE MEETING REGARDING PROFESSIONAL ALLOWANCE
TO THE EMPLOYEES OF SPECIAL EDUCATION (INSTITUTES) & DIRECTORATE
OF SOCIAL WELFARE, SPECIAL EDUCATION & WOMEN EMPOWERMENT
DEPARTMENT

The subject meeting was held under the chairmanship of Secretary to Government of Khyber Pakhtunkhwa Social Welfare, Special Education & Women Empowerment Department in the committee room on 29.07.2020 at 12 hours which was attended by the following:

- 1. Hafiz Atta-Ul-Munim: Deputy Secretary (Admin) Social Welfare Department
- 2. Rizwan Ullah Khan: Deputy Secretary, Social Welfare Department
- 3. Habib Khan: Director, Social Welfare
- 4. Noor Muhammad: Deputy Director, Social Welfare
- 5. Abdul Haq: Section Officer (SR-II), Finance Department
- 6. Savindar Kumar: Section Officer-VI, Social Welfare Department

The meeting started with the recitation of Holy verses. The chair welcomed the participants and apprised about the issue of Health Professional Allowance. It was informed that the employees of Special Education (Devolved) are drawing one running basic pay w.e.f 2019 as Health Professional Allowance approved by the cabinet and notified by the Finance Department vide Notification No. FD(SOSR-II)8-7/2019-53 dated 25.11.2019 whereas the Special Education Employees of Social Welfare, Special Education & Women Empowerment Department (Provincial) & Directorate of Social Welfare, Special Education & Women Empowerment are not getting the said allowance as the same is allowed only to devolved employees as per decision of the cabinet which is clear cut discrimination with the employees of Special Education & Directorate of Social Welfare, Special Education & Women Empowerment.

The Director, Social Welfare, Special Education & Women Empowerment also informed the participants that due to the said allowance majority of the staff are trying and approaching for their posting at the devolved institutes and litigation has been started in the courts by staff of special education and Social Welfare for the said allowance. Therefore, the same should be allowed to all the employees of Special Education & Directorate of Social Welfare, Special Education & Women Empowerment.

The Representative of Finance Department agreed with the chair and point of view of the Director Social Welfare and he also agreed upon that proper case (Summary) for provincial cabinet be moved by the Department through Finance Department.

DECISION:

It is unanimously decided that Social Welfare, Special Education & Women Empowerment Department will move a Summary through Finance Department to allow one running Basic Pay as Health Professional Allowance to the employees of Special Education & Directorate of Social Welfare, Special Education & Women Empowerment on the analogy of the previous Notification issued by Finance Department.

The meeting ended with a vote for and from the chair.

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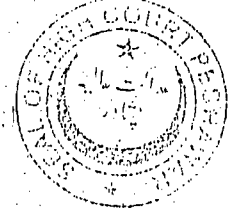
JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

WP No. 5664-P/2018

Zawar Ali and others

Vs

Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and others.



Date of hearing 16.02.2022

Petitioner (by) M/S Saadullah Khan Marwat and Arbab Salful
Kamal Advocates

Respondents (by) Mr. Rab Nawaz Khan, AAG

JUDGMENT

MUSARRAT HILALI J. - Same order as in connected
Writ Petition No. 5452-P/2018 (Majid Ali Shah and
others Vs. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar and others).

Ijaz Anwar
JUDGE

Ijaz Anwar
JUDGE

Announced
16.02.2022

(DB) Hon'ble Justice Musarrat Hilali
Hon'ble Mr. Justice Ijaz Anwar
Hoqor Shah

EXAMINER
Peshawar High Court, Peshawar
Authorised Officer, Section 27 of
the Court Rules, 1973

22 FEB 2022

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**JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT**

WP No. 5452-P/2018 with IR
With CM Nos. 2178-P/2018, No. 624-P/2021
and No. 1881-P/2021

Majid Ali Shah and others

Vs

Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and others.

Date of hearing 16.02.2022

Petitioner (by) M/S Saadullah Khan Marwat and Arbab Salful
Kamal Advocates

Respondents (by) Mr. Rab Nawaz Khan, AAG

JUDGMENT

MUSARRAT HILALI, J. - Through this single judgment,
we propose to decide two connected Writ Petitions
bearing No. 5452-P/2018 (Majid Ali Shah and others Vs.
Government of Khyber Pakhtunkhwa through Chief
Secretary and others) and No. 5664-P/2018 (Zawar Ali
Vs. Government of Khyber Pakhtunkhwa through Chief
Secretary and others), as both the matters have common
questions of law and facts involved therein.

2. Petitioners in both the petitions seek similar prayer
in terms that the impugned letter dated 03.10.2018,

ATTESTED
EXAMINER
Peshawar High Court

whereby the petitioners were refused to continue Health Professional Allowance, may be set aside, and they may be continued the said Allowance with all back benefits.

3. We have heard arguments of learned counsel for the parties and have perused the documents available on the file.

4. Admittedly, the petitioners are civil servants and their grievance relate to the terms and conditions of service, so it exclusively falls within the jurisdiction of the Service Tribunal. Constitutional jurisdiction of this Court is expressly barred under Article 212(2) of the Constitution of Islamic Republic of Pakistan, 1973.

5. In view of the above, this and the connected writ petition are dismissed, being not maintainable.

Saleem
CERTIFIED TO BE TRUE COPY
EXAMINED
22 FEB 2022

Musarrat Hilal
JUDGE
Amjad
JUDGE

Announced
16.02.2022

(DB) Hon'ble Justice Musarrat Hilal
Hon'ble Mr. Justice Ijaz Anwar
Hoor Shah

25770
Date of Presentation of Application 19/2/2022
No of Pages 5-9
Copying fee
Total
Date of Preparation of Copy 22/2/2022
Date of Delivery of copy 22/2/2022
Amjad

"H" 47

To

Secretary, Govt. of KP,
Finance Department,
Peshawar.

APPEAL AGAINST OFFICE NOTIFICATION NO. NO. SO-VI(SWD)/ 1-21 / I. D. E / 2016-17 / 336-6 DATED 03-10-2018 OF THE SECRETARY, GOVT. OF KP, ZAKAT, USHER, SOCIAL WELFARE, SPECIAL EDUCATION & WOMEN EMPOWERMENT DEPARTMENT, PESHAWAR STOPPED THE HEALTH PROFESSIONAL ALLOWANCE AND NOTIFICATION NO. FD (SOSR-II) 8-7 / 2019-53 DATED 25-11-2019 OF THE SECRETARY FINANCE DEPARTMENT WHEREBY HEALTH ALLOWANCE @ OF ONE RUNNING BASIC PAY WAS ALLOWED TO DEVOLVED EMPLOYEES WORKING IN THE SPECIAL EDUCATION INSTITUTIONS FROM THE DATE OF THEIR DEVOLUTION TO PROVINCIAL GOVERNMENT OF KP AND THE SAME WAS NOT EXTENDED TO THE APPELLANT DESPITE THE FACT THAT APPELLANT IS ALSO A DEVOLVED EMPLOYEE AND GIVE SAME DUTIES LIKE EMPLOYEES OF SPECIAL EDUCATION.

Respected Sheweth:

1. That In the year 2007, appellant was appointed as Naib Qasid (Class-IV) in the defunct Directorate of Social Welfare under the Ministry of Social Welfare and Special Education, Islamabad.
2. That pursuant to the Constitution (Eighteen Amendment) Act, 2010 (Act No X of 2010) various Special Education and Social Welfare Centers Ministry of Social Welfare and Special Education Islamabad were transferred to Social Welfare and Special Education Department and Women Empowerment Govt. of KP. The appellant was also transferred initially on deputation basis and later on permanently transferred to the Province of KP on his existing terms and conditions of service and accordingly the Govt.

of KP, Directorate of Social Welfare and Special Education and Women Empowerment vide Notification dated 31-01-2018, absorbed the appellant in the provincial civil service.

3. That while serving the Federal Govt. the colleagues of appellant serving in Directorate of Special Education were allowed Health Professional Allowance as the task and role assigned to the colleagues of appellant was not less than the professionals of Health Department. Subsequently, the allowance were stopped which was called in question by the colleagues of the appellant before the Federal Service Tribunal and were allowed vide consolidated judgment dated 18-07-2017, 11-01-2016 and 05-01-2015, taking support of the ordinance VI 2011 namely "career structure for Health Personnel Scheme Ordinance 2011" wherein definition of Health Personnel has been given and also the incumbents qualified / eligible for receiving the health allowance has been mentioned clearly. The Federal Govt. being aggrieved of the judgments ibid, filed CPLA before the August Supreme Court of Pakistan which upheld the judgments of Federal Service Tribunal.
4. That the appellant was in receipt of Health professional allowance.
5. That it is pertinent to add that the Govt. of KP vide Notification dated 23-02-2017 and 15-04-2016 also allowed Health Professional allowance on various rates to the Doctors, Paramedics and Nursing Staff of Health Department.
6. That vide impugned letter dated 03-10-2018, R. No 01 stopped the Health Professional allowance to the appellant in utter violation of the law and rules. Appellant agitated the matter before R. No. 02 but no positive result.
7. That the appellant being aggrieved from the impugned letter dated 03-10-2018 filed Writ Petition before the Hon'ble Peshawar High Court, Peshawar in W.P No. 5664-P/2018 whereby comments were filed wherein the respondents out rightly denied the right of appellant regarding the Health Professional allowance.

8. That during the pendency of the Writ Petition, the respondent issued notification dated 25-11-2019, wherein Health Allowance @ of one running pay was allowed to devolved employees working in the Special Education Institutions from the date of their devolution to Provincial Govt. of KP and also mentioning that the allowance will be admissible only to the employees of Special Education Institutions in KP, devolved under 18th Constitutional amendment.
9. That on the issuance of Notification dated 25-11-2019, the colleagues of appellant serving on Special Education side withdrew from the W.P as their grievance was redressed by the respondents by issuing the Notification but at the same time, the appellant was discriminated as the appellant was also a devolved employee and serving in the same Directorate i.e. Directorate of Social Welfare, Social Education and Women Empowerment KP, the Administrative Secretary of both wings is the same, a good number of institutions of Social Welfare are also giving services of the same nature as that of Special Education, both are serving under the same roof, both are inter transferable, so both are at par with each other.
10. That vide minutes of the meeting dated 29-07-2020, issued vide covering letter dated 19-08-2020, the respondents took a decision that the department will move a summary to Finance Department to allow one running basic pay as Health Allowance to all the employees of Special Education and Directorate of Social Welfare, Special Education and women empowerment on the analogy of previous Notification issued by Finance Department but till date, no action on the same.
11. That the Writ Petition came up for hearing on 16-02-2022, whereby the same was dismissed on the ground of jurisdiction being one of terms and conditions of service and not on merits.

Hence, this appeal, inter alia on the following grounds:

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GROUND S.

- a. That the respondents has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Articles of the Constitutions and unlawfully issued the impugned letter and refused to continue the Health Allowance to the appellant which is unjust unfair and hence not sustainable in the eyes of law.
- b. That the matter has already been clarified by the Hon'ble Supreme Court in its judgments by declaring that whoever falls within the definition of "Health Personal" has a right to receive the said allowance, the duties of appellant is not different from the duties of colleagues of appellant serving on Special Education side, so also has a right to receive the Health Allowance from the date from which appellant was devolved to the provincial Govt.
- c. That a good number of Institutions on Social Welfare side works on Health side just like that of Special Education, moreover the appellant is also a devolved employee from the Federal Govt. so Notification dated 25-11-2019 allowing Health Allowance to employees of Special Education from the date of devolution is also applicable to the appellant.
- d. That the appellant was in receipt of the allowance so stopping it and later on allowing to only devolved employees of Special Education is clear cut discrimination on the part of respondents. Besides para No. 12 of the Supreme Court Judgment gives support to the contention of appellant wherein the Supreme Court allowed the said allowance to allied Institutions / centre's, NCRDP (PCRDP) at Provincial level a centre of Social Welfare so the appellant has the right to receive the allowance.
- e. That by not allowing the Health Allowance to appellant being also a devolved employee is against the spirit of Constitution as both are serving under one Directorate, the Administrative Secretary of both the wings is the same, both are Inter-transferable and even now the appellant is serving in Special Education Complex, Mardan since 2020.

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- f. That allowing the Health Allowance to devolved employees of Special Education depriving the appellant from the same being also devolved employees of Social Welfare is violation of the provision of the constitutions.

It is, therefore, most humbly prayed that the Impugned letter dated 03-10-2018 be set aside, by allowing the appellant Health Allowance since the date of devolution to Provincial Govt. and benefits of Notification dated 25-11-2019 be also extended to appellant being devolved employee in the interest of justice.

Appellant

Inam Ullah

Inam Ullah S/O Pushad
Naib Qasid, Social Welfare and
Special Education, Directorate,
KP, Opposite to Islamia College,
University Road, Peshawar,
Anti-grated Social Welfare
Centre Peshawar

Dated 10-03-2022

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BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

CM. No. _____ /2022

Inam Ullah

versus

Secretary & Others

**APPLICATION FOR ALLOWING HEALTH ALLOWANCE
TO THE APPELLANT TILL FINAL DECISION OF THE
APPEAL:**

Respectfully Sheweth:

1. That applicant filed the subject Appeal before this hon'ble Tribunal today wherein no date of hearing has been fixed.
2. That the applicant is serving in Special Education wherein Health Allowance has been allowed to the employees, so the applicant also has the right to receive the same allowance as per law and rules on the subject.
3. That prima facie case exists, balance of convenience lies in favor of applicant and is hopeful of the success of the appeal.
4. That facts and grounds of the appeal be treated as integral part of this application for grant of Interim relief.

It is, therefore, requested that on acceptance of the application the respondents be directed to allow the Health Allowance to the appellant, so for he is serving the Special Education or till the final decision of the case.

Inam Ullah
Inam

Applicant

Through

Saadullah Khan Marwat

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676

Dated: 04-07-2022

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

C.M.No. _____ /2022

Inam Ullah

versus

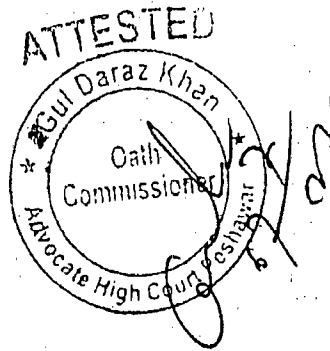
Secretary & Others

AFFIDAVIT

I, Inam Ullah, Applicant, do hereby solemnly affirm and declare that contents of **Application** are true and correct to the best of my knowledge and belief.

Inam Ullah

DEPONENT



یہودی چھاپہ خانہ سروسز ٹریڈنگ کمپنی پرائیویٹ لمیٹڈ لاہور

منجانب ایڈیٹر

انعام اللہ
بشام
تھانکس سوشل ویلفیئر
دعوتی

باسمہ تعالیٰ

میں نے مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی مستعلقہ آن مقام لاہور
کیسٹیں استعانت اٹلس خٹان سروسز سے ایڈویکیٹ، ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب
مذکورہ کو مقدمہ کی نکل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے یا نہیں نامہ و تقریر ثابت، واپس دیا گیا
یہ جواب دہی اور قابل دعویٰ اور لیکچر ڈگری کرنے اجراء اور دعویٰ چیک و رپورٹ اور دعویٰ اور درخواست
پر قسم کا تعین اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری بکطرفہ یا اپیل کی برآمدگی
اور دعویٰ میں تاخیر کرنے اپیل، ٹرانسکرپٹ اور لٹرائی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ منسوخ
کے کل یا جزوی کاروائی سے واپس اور وکیل یا مقرر قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا
اور اس پر مقرر شدہ کریں وہی جواب دہی والا اختیار ہوں گے اور اس کا سائن شدہ پر دستخط منقولہ
قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب
مذکورہ ہوں گے نیز لٹرائی و فرسب کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مستقیم روزہ
پر ہو یا عدسے باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مندرجہ کریں۔
لہذا رکالت نامہ دیکھ دیا کہ سند ہے۔

آرٹو نمبر 22-07-06

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