




Form-A
FORM OF ORDER SHEET

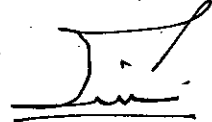
Court of _____
Case No. 6565 /2021

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	17/06/2021	<p>The present appellants initially went in Writ Petition before the Hon'ble Peshawar High Court and the Hon'ble High Court vide its order dated 08.06.2021 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/08/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	09.08.2021	<p>Nemo for the appellants.</p> <p>Notices be issued to appellants/counsel. To come up for preliminary hearing on 06.10.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

06.10.2021

Nemo for the appellant.

Notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for preliminary hearing before the S.B on 02.12.2021.



(SALAH-UD-DIN)
MEMBER (JUDICIAL)


Noted

15/10/21

02.12.2021

None for the appellant present.

Notices be issued to the appellant and his counsel. To come up for preliminary hearing on 07.02.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER (E)

07.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 18.04.2022 before S.B for the same.

9
Reader

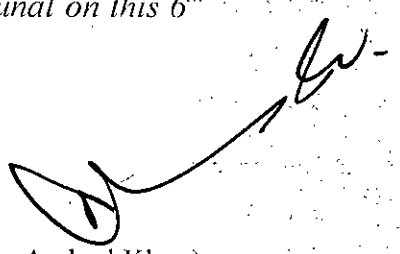
6th September, 2022

1. None present for the appellant. Mr. Muhammad Adcel Butt, Addl: AG alongwith Mr. Imran Akbar, Assistant for respondents present.

2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the instant appeal is dismissed in default.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 6th day of September, 2022.*

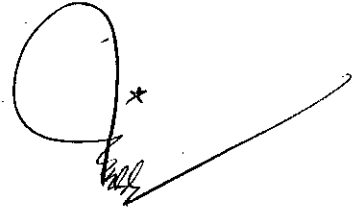



(Kalim Arshad Khan)
Chairman

18.04.2022

Nemo for the parties present.

As the case was previously adjourned on the strength of Reader note, therefore, fresh notice be issued to the parties. Adjourned. To come up for preliminary hearing on 05.07.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

5th July, 2022

Appellant in person present.

Appellant seeks adjournment as his counsel was busy before the Peshawar High Court, Peshawar. To come up for preliminary hearing on 06.09.2022 before S.B.



(Kalim Arshad Khan)
Chairman



The
PESHAWAR HIGH COURT
Peshawar

Ph: No. 091-9210149-58

No. 37374 (1)/1602/2021/WP-MN

Dated. 16-June-2021

From

**Deputy Registrar (J),
Peshawar High Court,
Peshawar.**

To

✓
The Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Subject: Writ Petitions W.P 2016/2020 Title: Faiz Muhammad VS Government of KPK



I am directed to send herewith the titled case in original alongwith all annexures and copy of order of this Honble Court dated 08.06.2021 for compliance.

[Signature]
16-6-21
Deputy Registrar (J)

Encl: As above.

(3)

PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
08.06.2021	<p data-bbox="505 493 829 530"><u>WP No. 2016-P of 2020</u></p> <p data-bbox="505 568 1268 650">Present: Mr. Javed Iqbal Gulbella, advocate, for the petitioners.</p> <p data-bbox="688 692 1268 775">Sardar Ali Raza, AAG, for the respondents.</p> <p data-bbox="873 817 976 842">*****</p> <p data-bbox="505 892 1268 1016"><u>QAISER RASHID KHAN, CJ.</u>- The petitioners, Faiz Muhammad and others have prayed as under;</p> <p data-bbox="505 1091 1268 1290">On acceptance of the instant writ petition an appropriate writ may graciously be issued by;</p> <ul data-bbox="607 1365 1268 2113" style="list-style-type: none">(i) Declaring the petitioners as being entitled for the Special/Secretariat allowance on the same footing as extended to other employees of Civil Secretariat Khyber Pakhtunkhwa.(ii) To declare its debridement from the petitioners as a sheer act of discrimination, illegal and void and to sanction & extend the same to the petitioners with effect from the date when sanctioned and extended to the other employees of Civil Secretariat i.e. 01.02.2009 with all back benefits;(iii) To declare the non-payment of Special Secretariat Allowance & non-sanctioning of the same as illegal and void.

2. The relief sought by the petitioners through the present petition pertains to the terms and conditions of their service and in view of the explicit bar, envisaged in Article 212 (2) of the Constitution of the Islamic Republic of Pakistan, 1973, this court while exercising writ jurisdiction cannot enter into the said territory. When confronted, the learned counsel for the petitioners frankly concedes the legal position but nonetheless requests that this petition may be treated as an appeal and sent to the learned Khyber Pakhtunkhwa Service Tribunal for its disposal.

3. Accordingly, we while disposing of this writ petition treat it as an appeal and send it to the learned Khyber Pakhtunkhwa Service Tribunal for disposal in accordance with law and a copy of thereof be retained for record.

Announced
08.06.2021



CHIEF JUSTICE

JUDGE

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

In C.M. 2214/P/2020

IN

W.P # 2016 / 2020

Faiz Muhammad & Others

Versus

Government of Khyber Pakhtunkhwa and others

INDEX

S#	Description	Annexure	Pages
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2	Affidavit		4

Petitioners

Through

Javed Iqbal Gulbela

&

Saghir Iqbal Gulbela

**Advocates, High Court
Peshawar**

Dated: 21/11/2020

FILED TODAY

Deputy Registrar

21 NOV 2020

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

In C.M. 2214 P/2020

IN

W.P # 2016 / 2020

Faiz Muhammad & Others

Versus

Government of Khyber Pakhtunkhwa and others

**APPLICATION FOR IMPLEADMENT OF
PETITIONERS NAMELY**

1. Khalid Hameed S/o Nasar Ullah Khan
2. Ziar Khan S/o Sardar Khan
3. Inam Ullah S/o Nazeer
4. Noor Ul Aziz S/o Muhammad Aziz Ur Rehman
5. Qaisar Khan S/o Bakht Roshan
6. Zia Ur REhman S/o Said Nawaz Khan
7. Imran Khan S/o Fida Hussain
8. Hamayun Khan S/o Saeed khan
9. Hidayat UllaH s/O Nasar uLlah khan
10. Muhammad Ayub S/o Zarin Khan
11. Abd Ur Rehman S/o Afazal Khan
12. Asad Umair S/o Hakim Ullah
13. Muhammad Tariq S/o Sahibzada
14. Duad Sadozai S/o Amjid Khan
15. Waseem Ullah S/o Ihsan uLlah
16. Muhammad Ismail S/o mangal Khan
17. Nabi Ullah S/o awal Khan
18. Zulfiqar S/o Jaffar Khan
19. Amanzeb S/o Abdul Hakem
20. Akhtar Hussain S/o Muhamad Hassan
21. Abd Ul Waheed S/o Abdullah Jan
22. Shoaib Jalal S/o Jalal ud din

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Deputy Registrar

21 NOV 2020

23. Tariq Aziz S/o Nazar Alam
24. Aftikhar Khan S/o Muhammad Aslam
25. Adil Iqbal S/o Sardar Iqbal
26. Kholid khan S/o Haji Khazad Gul
27. Roidad Khan S/o Zafar Ali
28. Farid Ahmad S/o Israil khan
29. Waqaszeb S/o Raham Zeb
30. Muhammad Ismail S/o Muhammad Kareem
31. IJAZ Khan S/o Ajab Khan
32. Shfiq khan S/o Gulab Sher
33. Riaz S/o Essa Khan
34. Sahib Ullah
35. Bahar Khan s/o Muhammad Aslam
36. Torsam Khan S/o Azam Khan
37. Taimur khan S/o Bakhish khan
38. Waheed Ullah S/o Shahid Ullah
39. Shahid S/o Sultan Muhammad
40. Faiz Ur rehman S/o Habib Ur Rehman
41. Farooq Khan s/o Safdar khan
42. Sajjad S/o Sarfaraz Khan
43. Maqsodo S/o Taj Nabi
44. Mukhtiyar S/o Bakhshish Khan
45. Muhammad Uzair S/o Abdulhanan
46. Shahzad S/o Hussain khan
47. Gohar Ali S/o Said Ullah
48. Mujahid S/o Mukhtiyar Ahmad
49. Muhammad Ibrar S/o Muhammad Iqbal All
Residence of Commissioner Office Peshawar
Division on Panel of Petitioner's in Writ Petition
No . 2016/2020

FILED TODAY


Deputy Registrar

21 NOV 2020

Respectfully Sheweth:

1. That the captioned case is pending adjudication before this August Court and is fixed for 16-12-2020.

2. That the Petitioner's herein, having the same interest and same cause of action as that of the Petitioners of the captioned case and are sailing in the same boat.
3. That thus the impleadment of the Petitioners, herein, on the captioned case is indispensable.
4. That there is no legal bar on the impleadment of the Petitioners on the panel of the Petitioners in captioned writ petition No.2016/2020.

It is, therefore, humbly prayed that on acceptance of the instant application, the applicants/Petitioners may kindly be impleaded on panel of Petitioners in the captioned writ petition in the best interest of justice.

Petitioners

Through

Javed Iqbal Gulbela
&

Saghir Iqbal Gulbela

Advocates, High Court
Peshawar.

Dated: 21/11/2020

FILED TODAY

Deputy Registrar

21 NOV 2020

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

In C.M. 2214 P / 2020

IN

W.P # 2016 / 2020

Faiz Muhammad & Others

Versus

Government of Khyber Pakhtunkhwa and others.

AFFIDAVIT

I, **Tariq Aziz S/o Nazir Alam R/o Swati Gate Near Bilal Masjid Umeedabad No. 2, Peshawar, being Attorney** do hereby solemnly affirm and declare that all the contents of the accompanied application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

WA

DEPONENT

CNIC No.17301-8876440-1

0313-9289225

IDENTIFIED BY:

Javed Iqbal Gulbela

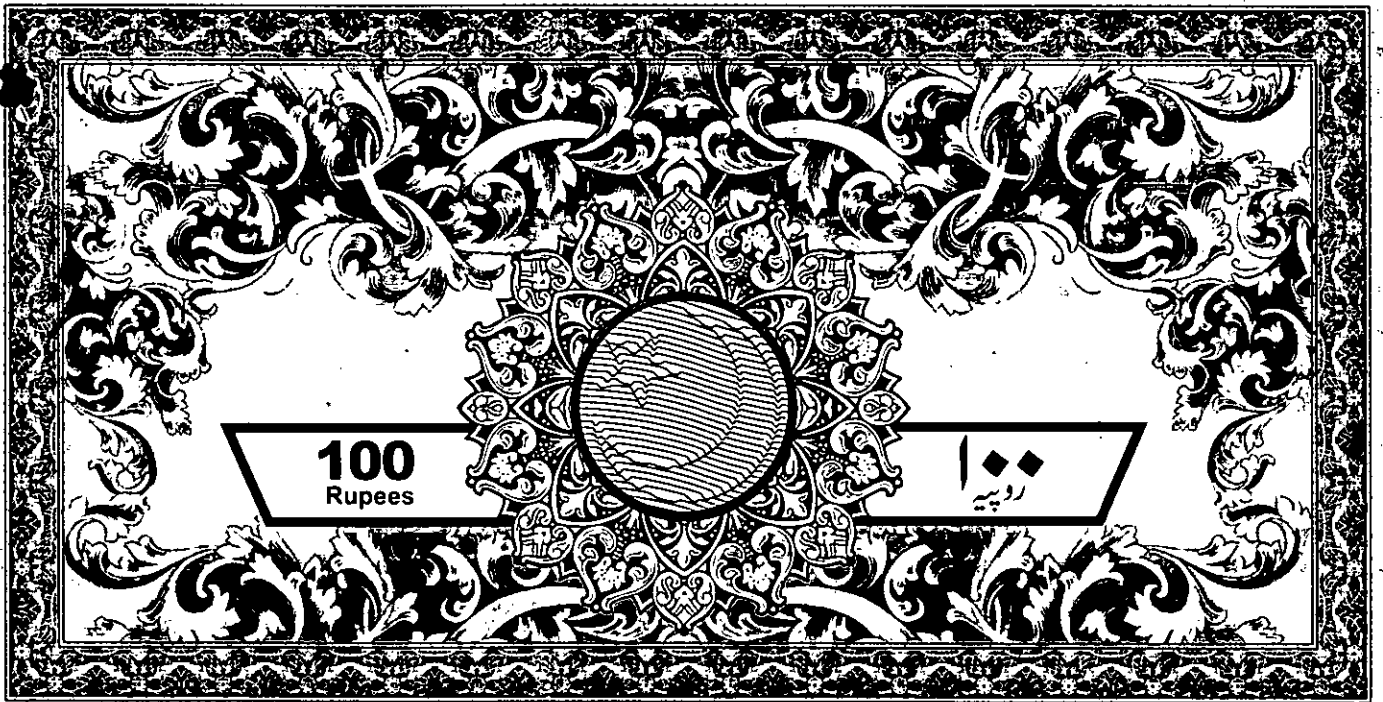
**Javed Iqbal Gulbela
Advocate High Court
Peshawar.**

FILED TODAY

Deputy Registrar

21 NOV 2020

13796
verified that the above contents of the affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.
affirmation before me on this 21 day of Nov 20
at Nazir Alam Tariq Aziz Peshawar
who was identified by Javed Iqbal Gulbela
Who is personally known to me
<i>Javed Iqbal Gulbela</i> 21/11/2020 Peshawar Peshawar



مختیار نامہ خاص برائے پیروی مقدمہ

مختیار نامہ خالد حمید و عزیزہ ولد نصر اللہ (دعویٰ) کے لئے
 درپیش وقت بقای حیات و حواس اترار کر کے لکھ دیتے ہیں کہ سن اختیار
 دہندہ کا مقدمہ زیر تجویز از بر ساعت ہے جس میں سن مقرران بوجہ معروضات سے اصالتاً عدالت حضور میں آنے سے قاصر ہیں اسلئے اپنی جانب سے
 طارق عزیزینہ ولد نظر عالم سکند مکمل شمس ایسا سوم کو اختیار
 دیتے ہیں کہ وہ دوسری جانب سے عدالت میں حاضری دے، وکیل مقرر کرے، شہادت منجانب اختیار دہندگان قلمبند کرے، راضی نامہ کرے، جواب
 روٹی داخل کرے، فہرست گواہان پیش کرے، مقدمہ میں اپیل از جمع پیش نہج تاہا یکورٹ داخل کرے، نظر ثانی کرے، ہم اختیار دہندگان کو جملہ ساختہ و
 پرداختہ منظور قبول ہوگا اور جملہ کارروائی در مقدمہ منجانب اختیار دہندگان قبول و منظور ہے۔ المرقوم: 21-11-2020

لہذا مختیار نامہ خاص برائے پیروی مقدمہ لکھ دیا تاکہ سندر ہے اور بوقت ضرورت کام آئے۔

ATTESTED AND VERIFIED
 UNIMARITAL WITNESSES

ABDUL TAUF KHAN
 C. M.
 NOTARY PUBLIC
 DISTRICT COURT CASABANDRA PAKISTAN

اختیار دہندہ عزیزہ

شناختی کارڈ نمبر: 17301-3420933-5

Chalid

اختیار گر ہندہ

FILED TODAY

Deputy Registrar

21 NOV 2020

شناختی کارڈ نمبر: 17301-8875640-1

گواہ شد محمد رضا

دستخط: محمد رضا

نام: محمد رضا

ولدیت: سید عالم خان

سکند: کلیمنٹ پورہ

شناختی کارڈ نمبر: 173011444121-7

گواہ شد محمد رضا

دستخط: محمد رضا

نام: محمد رضا

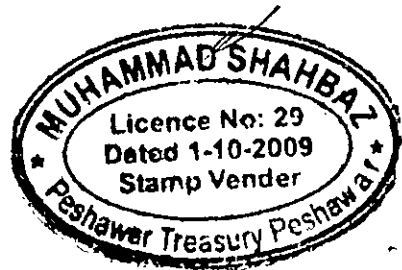
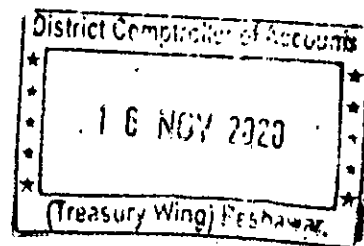
ولدیت: محمد رضا

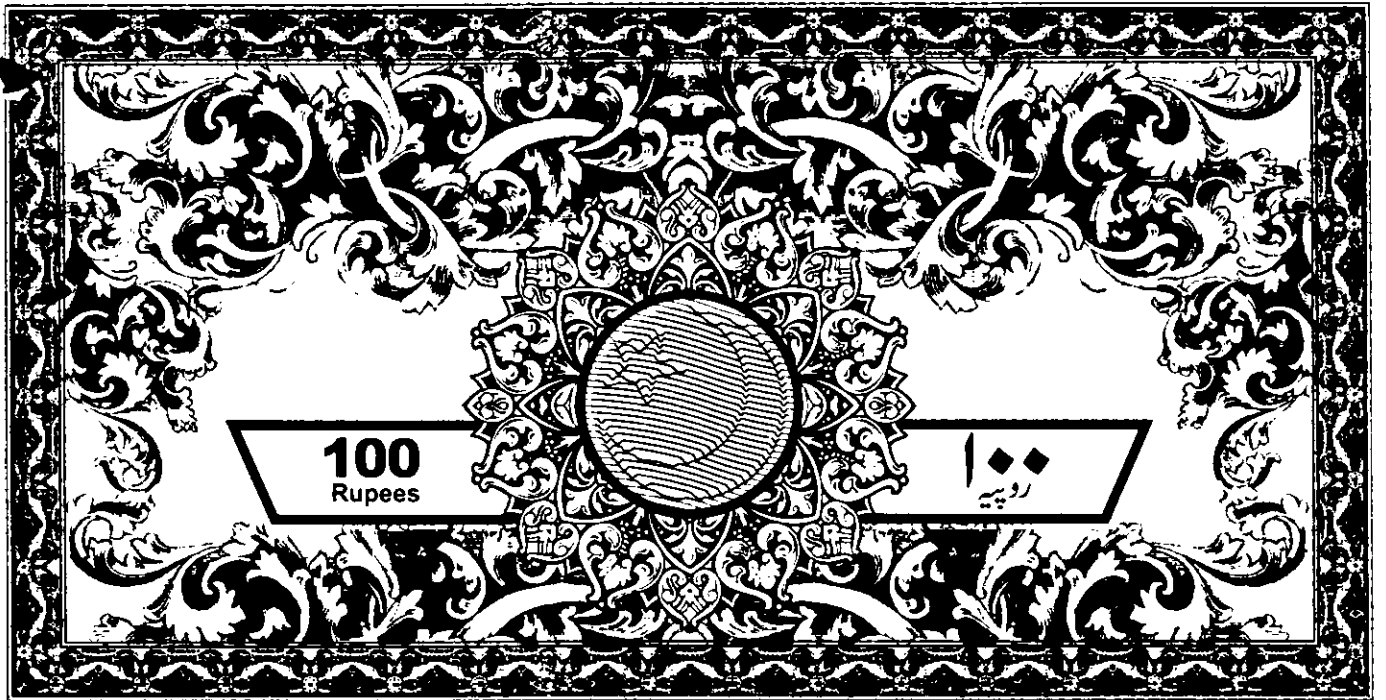
سکند: کلیمنٹ پورہ

شناختی کارڈ نمبر: 173011444121-7

خالد محمد احمد نواز اللہ خان ایچ آر منسٹر، جاتی کونسل

20-11-2020





Pariq
 (13) محمد طارق ولد صاحبزادہ
Daud

(14) داؤد سدوزئی ولد امجد خان
Daud

(15) وسیم اللہ ولد احسان اللہ

Imam
 (16) محمد اسماعیل ولد منگل خان

Nabi
 (17) نبی اللہ ولد اسلم خان
 دو الفقار بیلغ خود

(18) ذوالفقار ولد جعفر خان

Amaz
 (19) امان زیب ولد عبدالحمید

AKB
 (20) اختر حسین ولد محمد حسین

(21) عبدالوحید ولد عبداللہ خان

Shoaib
 (22) شعیب جلیل ولد جلیل الدین

Adil
 (23) افتخار خان ولد محمد اسلم

(24) عادل اقبال

Chahid
 (25) خالد خان

R. M. Khan
 (26) رویداد خان

F. M. Khan
 (27) فرید احمد ولد ازرا بیگل خان

M. M. Khan
 (28) وقاص زیب ولد رحمان زیب

M. M. Khan
 (29) محمد اسماعیل ولد فضل کریم

Chahid
 (1) خالد حمید ولد نصر اللہ

Ziari Khan
 (2) زیار خان

Inamullah
 (3) انعام اللہ ولد نظیر

Noor ul Haq
 (4) نور العزیز ولد محمد عزیز الرحمن

Qasim
 (5) قسیم خان ولد حفصہ روشن

Zulfiqar
 (6) ضیاء الرحمن ولد سید نواز خان

M. M. Khan
 (7) عمران خان ولد قدا حسین

M. M. Khan
 (8) مہتابون خان

Haidat
 (9) ہدایت اللہ ولد نصر اللہ

M. M. Khan
 (10) محمد ایوب ولد ذرین خان

M. M. Khan
 (11) عبد الرحمن ولد افضل خان

Asad Khan
 (12) اسد عمیر ولد حامد اللہ

ATTESTED AND VERIFIED
 IN MY PRESENCE

ABDUL RAUF KHAN
 C M
 NOTARY PUBLIC
 DISTRICT COURTS PESHAWAR PAKISTAN

FILED TODAY

Deputy Registrar

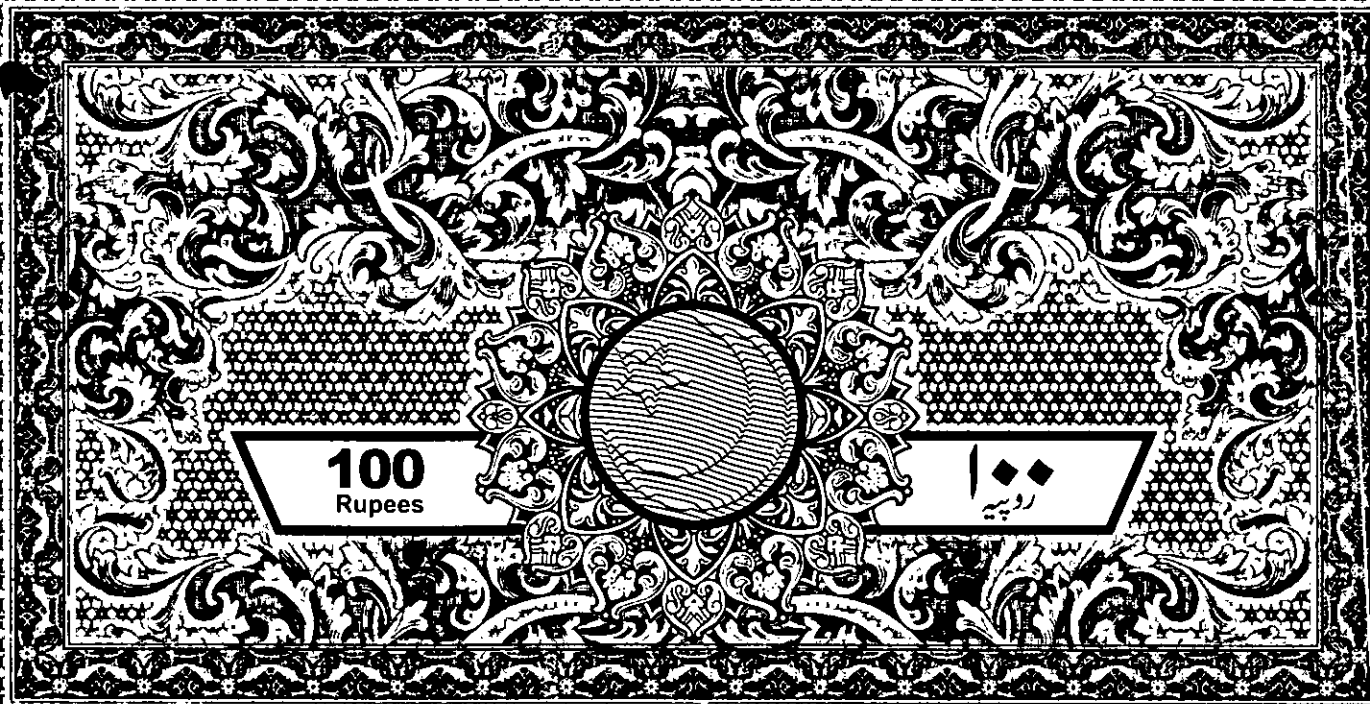
21 NOV 2020

فائل محمد در شواہد کفان رکنہ

20-11-2020

District Comptroller of Accounts
16 NOV 2020
(Treasury Wing) Peshawar.

MUHAMMAD SHAHBAZ
Licence No: 29
Dated 1-10-2009
Stamp Vender
Peshawar Treasury Peshawar



100 Rupees

۱۰۰ روپیہ



- 39- فیض الرحمن ولد حبیب الرحمن نامہ
- 40- فاروق خان ولد صفدر خان
- 41- سجاد ولد سرفراز خان
- 42- مقصود ولد تاج بی
- 43- حفیظ ولد حفیظ خان
- 44- محمد عزیز ولد عبدالمحمن
- 45- شہزاد ولد حسین خان
- 46- گوپر علی ولد سید اللہ
- 47- مجاہد ولد حفیظ احمد
- 48- محمد ابرار ولد محمد اقبال

- 30- اعجاز خان ولد شفیع خان
- 31- شفیع خان ولد گلزار بٹ
- 32- ریاض ولد عیسیٰ خان
- 33- صاحب اللہ
- 34- بہار علی ولد محمد اسلم
- 35- طور سم خان ولد اعظم خان
- 36- تیمور خان ولد محبت خان
- 37- وحید اللہ ولد شاہد اللہ
- 38- شاہد خان

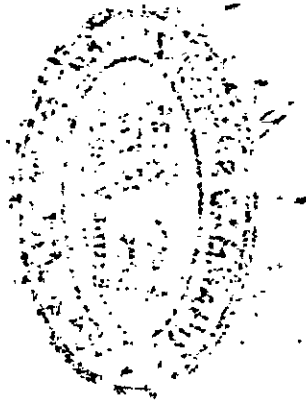
TESTED AND VERIFIED

ABDUL RAUF KHAN
C.M. ADVOCATE HIGH COURT
NOTARY PUBLIC
DIST. COURTS PESHAWAR KPK PAKISTAN

FILED TODAY

Deputy Registrar

21 NOV 2020



کا محمد علی خان کو ایف ڈی ۱۱۴۲

20-11-2020

District Comptroller of Accounts
16 NOV 2020
(Treasury Wing) Peshawar

Account No: 342
TREASURY WING
PESHAWAR

MUHAMMAD SHAHBAZ
Licence No: 29
Dated 1-10-2009
Stamp Vender
Peshawar Treasury



Writ Br <phc.writbranch@gmail.com>

WP No. 2016/2020 For submission of comments.

message

Writ Br <phc.writbranch@gmail.com>

Thu, Oct 22, 2020 at 9:13 AM



To: AG <hamza.ayaz1974@gmail.com>, DAG <dagphc161@gmail.com>, psotochiefsecretary <psotochiefsecretary@gmail.com>, cskpk2017 <cskpk2017@gmail.com>, anwarkhanbanvi <anwarkhanbanvi@gmail.com>, Establishment Department <estdkpk@gmail.com>, solit1 finance <solit1fd@gmail.com>, smbr@kp.gov.pk, ullahsaad250@gmail.com

*Dear Mr. Madam,***اَلسَّلَامُ عَلَيْكُمْ .****URGENT COURT MATTER**

Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.

please acknowledge receipt of this Email.

WRI BRANCH (NOTICE SECTION)PESHAWAR HIGH COURT, PESHAWAR**2 attachments**

-  wp-2016 of 2020 (20.10.2020).pdf
23K
-  WP2016-2020 Faiz Mohammd VS Govt KP Full PG 61.pdf
2172K



OFFICE OF ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No 7088-98 IAG

dated 29-06-2020

Address: High Court Building, Peshawar.
Tel. No.091-9210119

Exchange No 9213833
Fax No. 091-9210270

To

1. The Government of Khyber Pakhtunkhwa, through Chief Secretary at Civil Secretariat, Peshawar.
2. The Secretary Establishment, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar, Civil Secretariat, Peshawar.
4. The Board of Revenue Khyber Pakhtunkhwa through Senior Member Board of Revenue.

Subject: WP NO.2016/2020 FAIZ MUHAMMAD VS GOVT; OF KHYBER PAKHTUNKHWA ETC.

The captioned case came up for hearing on **23/06/2020**, before the Hon'ble Peshawar High Court, Peshawar. The Hon'ble High Court was gracious enough to adjourn the case with the directions that above named respondents should file **comments** by annexing all relevant record in the instant case within a week time positively.

It is, therefore, desired that the Hon'ble Court's direction be complied before the date fixed.

(Syed Qaiser Ali Shah)
Additional Advocate General,
Khyber Pakhtunkhwa,
Peshawar

Endst: No. 7092 /AG,

Copy is forwarded to the Additional Registrar (Judicial) Peshawar High Court, Peshawar.

Additional Advocate General
Khyber Pakhtunkhwa,
Peshawar

SCANNED

22/7/20

Wp No. 2016/2020 For submission of comments.

1 message

Writ Br <phc.writbranch@gmail.com>

Wed, Jun 24, 2020 at 1:12 PM

To: AG <hamza.ayaz1974@gmail.com>, DAG <dagphc161@gmail.com>, psotochiefsecretary <psotochiefsecretary@gmail.com>, cskpk2017 <cskpk2017@gmail.com>, anwarkhanbanvi <anwarkhanbanvi@gmail.com>, Establishment Department <estdkpk@gmail.com>, solit1 finance <solit1fd@gmail.com>, smbr@kp.gov.pk

Dear Sir/ Madam,

السَّلَامُ عَلَيْكُمْ ،

URGENT COURT MATTER


Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.

please acknowledge receipt of this Email.

WRIT BRANCH (NOTICE SECTION)

PESHAWAR HIGH COURT, PESHAWAR

2 attachments

 WP2016-2020-23-6.pdf
23K

 WP2016-2020 Faiz Mohammd VS Govt KP Full PG 61.pdf
2172K



Writ Br <phc.writbranch@gmail.com>

Wp No. 2016/2020 For submission of comments.

1 message

Writ Br <phc.writbranch@gmail.com>

Fri, Apr 24, 2020 at 3:50 PM

To: AG <hamza.ayaz1974@gmail.com>, DAG <dagphc161@gmail.com>, psotochiefsecretary <psotochiefsecretary@gmail.com>, cskpk2017 <cskpk2017@gmail.com>, anwarkhanbanvi <anwarkhanbanvi@gmail.com>, Establishment Department <estdkpk@gmail.com>, solit1 finance <solit1fd@gmail.com>, smbr@kp.gov.pk, faisal khan <fk801279@gmail.com>

Dear Sir/Madam,

السَّلَامُ عَلَيْكُمْ

URGENT COURT MATTER

Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.

please acknowledge receipt of this Email.

WRIT BRANCH (NOTICE SECTION)
PESHAWAR HIGH COURT, PESHAWAR

2 attachments

wp.2016.2020..pdf
27K

WP2016-2020 Faiz Mohammad VS Govt KP Full PG 61.pdf
2172K

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

CHECK LIST

1.	Case Title	Fair Muhammad Sathvs Gat 2 k-p-u-eu	
2.	Case is duly signed.	Yes	No
3.	The law under which the case is preferred has been mentioned.	Yes	No
4.	Approved file cover is used.	Yes	No
5.	Affidavit is duly attested and appended.	Yes	No
6.	Case and annexures are properly paged and numbered according to index.	Yes	No
7.	Copies of annexures are legible and attested. If not, then better copies duly attested have annexed.	Yes	No
8.	Certified copies of all requisite documents have been filed.	Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	Yes	No
10.	Case is within time.	Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes	No
12.	Court fee in shape of stamp paper is affixed. [For writ Rs. 500, for other as required]	Yes	No
13.	Power of attorney is in proper form.	Yes	No
14.	Memo of addressed filed.	Yes	No
15.	List of books mentioned in the petition.	Yes	No
16.	The requisite number of spare copies attached [Writ petition-3, civil appeal (SB-2) Civil Revision (SB-1, DB-2)]	Yes	No
17.	Case (Revision/ Appeal/petition etc) is filed on a prescribed form.	Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes	No

It is certified that formalities/documentation as required in column 2 to 18 above, have been fulfilled.

Name:- Javed Iqbal Ghalib

Signature:- [Signature]
 Dated:- _____

FOR OFFICE USE ONLY

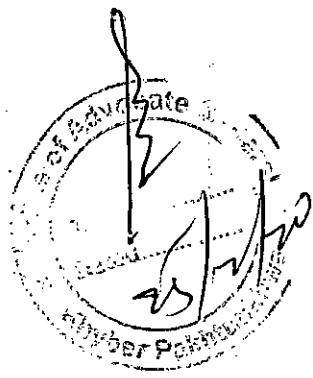
Case:- _____
 Case received on _____
 Complete in all respect: Yes/ No, (if No, the grounds) _____
 Date in court:- _____

Signature _____
 (Reader)

Date:- _____

Countersigned:- _____
 (Deputy Registrar)

Tip Computer Center-4th LdF
 Peshawar High Court, Peshawar



**IN THE PESHAWAR HIGH COURT, PESHAWAR
OPENING SHEET FOR WRIT BRANCH**

Date of Filing 24/02/2020

District: Peshawar.

Case Type: Writ Petition

Nature of Original Proceeding:

Category Code are given at	5	0	7	0	9
----------------------------	---	---	---	---	---

(Categories & Sub categories

sheet)

The back of the opening

Review/ Contempt of Court in respect of:
Writ of:

Heabus Corpus		Prohibition	<input checked="" type="checkbox"/>	Mandamus	<input checked="" type="checkbox"/>	Quo Warranto		Certiorari	
---------------	--	-------------	-------------------------------------	----------	-------------------------------------	--------------	--	------------	--

If Certiorari:

Forum	Date	(I)nterlocutory/ (F)inal Order	Case Pertains to
			<input type="checkbox"/>
			SB
			DB <input checked="" type="checkbox"/>

Petitioner Name	Faiz Muhammad Special Attorney Shahid Hussain
Mobile No.	0300-9596319
Address	DC Office Peshawar
CNIC No.	17301-1301379-5
Email Address	NIL

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Deputy Registrar

25 FEB 2020

Counsel for Petitioner(s)	Javed Iqbal Gulbela
Mobile No.	0345-9405501
Address	9-A Al-Nimra Centre Qazi Plaza Government College Chowk Peshawar.
CNIC No.	17301-1496065-7
Email Address	Javedigbalgulbela1980@gmail.com

Respondents	Govt. of Khyber Pakhtunkhwa and Others
Address	Govt. of Khyber Pakhtunkhwa

Original Order/Action/Inaction Complained of: Petition Under Art-199 Of Constitution Of The Islamic Republic Of Pakistan 1973

Prayer: *It is, therefore, most humbly prayed that on acceptance of the instant writ petition on appropriate writ may graciously be issued by,*

- Declaring the petitioners as being entitled for the Special/ Secretariat allowance on the same footing as extended to other employees of Civil Secretariat Khyber Pakhtunkhwa.*
- To Declare its deprivation from the Petitioners as a sheer act of discrimination, illegal & void & to sanction & extend the same to the petitioners w.e.f the same date when sanctioned & extended to the other employees of Civil Secretariat i.e 01-02-2008 with all back benefits.*
- To declare the non-payment of Special Secretariat Allowance & non-sanctioning of the same as illegal & void.*

Any other relief not specifically asked for, may also graciously be extended in favor of the petitioners in the circumstance of the case.

Law/Rules/governing the original proceedings/action/Inaction, Constitution of Islamic Republic of Pakistan 1973

Signature

Note: Any suggestion to improve the proforma will be appreciated.

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Deputy Registrar

12 MAR 2020

BEFORE THE HONBLE PESHAWAR HIGH COURT
PESHAWAR

In Re W.P. 2016-P/2020

Faiz Muhammad & Others

Versus

Govt. of Khyber Pakhtunkhwa and Others

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5	Copies of the judgment dated 02.10.1997 in writ petition# 362 of 1992.	"B"	27-28
6	Copy of letter dated 19/05/1998	"C"	29
7	Copies of Letter dated 24.05.1999 & 03.06.1999 & 07-06-1999.	"D & F"	30-32
8	Copy of the Notification No:FD (SOSR.II) 8-53/2008 Dated 06.02.2008.	"G"	33-34
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25 FEB 2020

Date: 24/02/2020

Through Petitioners

Javed Iqbal Gulbela
Advocate, High Court
Peshawar.

off Add: 9-10A Al-Nimrah Centre, Govt College Chowk Peshawar

①

BEFORE THE HONBLE PESHAWAR HIGH COURT
PESHAWAR

In Re W.P. 267 /2020

1. Faiz Muhammad
2. Zafeer Ullah
3. Shahid Hussain
4. Obaid Ullah
5. Zardad Khan
6. Masood Ahmad
7. Kabir Khan
8. Saif-ur-Rahman
9. Muhammad Saeed
10. Ferooz Khan
11. Shah Muhammad
12. Shah Muhammad
13. Shahid Ali
14. Shahid Pervez
15. Arsalan Ahmad
16. Fayaz Ali
17. Pervez Khan
18. Hayat Khan
19. Muhammad Sohail
20. Liaqat Ali
21. Muhammad Wasim Khan
22. Muhammad Farooq
23. Naveed Ahmad
24. Muhammad Sadiq
25. Roohul Amin
26. Mehrab Din
27. Sayyar Ahmad
28. Fayaz Muhammad
29. Jehangir Khan
30. Iftikhar Ahmad
31. SaqibKhan
32. Khalid Khan
33. Ijaz Ahmad
34. Abdul Shakoor
35. Saif Ullah
36. Fazl-e-Malik
37. Farooq Arif
38. Zia-ul-Haq

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(2)

39. Tahir Abbas
40. Mazhar Ali
41. Muhammad Adnan
42. Asadullah
43. Noman Khan
44. Muhammad Saeed
45. Ghazi-ur-Rahman
46. Jehangir Masih
47. Ghani-ur-Rahman
48. Zamir Gul
49. M.Masood
50. S.Sardar Ali Shah
51. Muhammad Yasir
52. Raza Khan
53. M.Amjad
54. Said amin Shah
55. Adil
56. Raees Khan
57. Muhammad Saeed
58. Daniyal Mushtaq
59. M.Ehtisham Ul Haq
60. Muhammad Nisar
61. Imtiaz Ahmad
62. Sajid Khan
63. Lehaz Khan
64. Farid Ahmad
65. Amanullah
66. Aurangzeb
67. Nafeesa Iqbal
68. Hasib-ur-Rahman
69. Muhammad Naseem Gul
70. Imran
71. Arif Jan
72. Syed Kifayat Shah
73. Muhammad Ismail
74. Muhammad Asif
75. Sawab Gul
76. Atta-ur-Rahman
77. Asif Bashir
78. Rashid Khan
79. Yahya Maqsood
80. Intikhab Alam
81. Muhammad Asim
82. Faheemullah

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(13)

83. Muhammad Arif
84. Fawad Ali
85. Ibrar
86. Sumair Masud
87. Haroon Khan
88. Muhammad Ahmad Mobeen
89. Inayat Khan
90. Shahzad Farhad
91. Hanifullah
92. Waqas Noor
93. Waqar Mehmood
94. Muhammad Noor
95. Iftikhar-ul-Haq
96. Fida hussain
97. Hamza Saleh
98. Fahim Hussain
99. Ashiq Hussain
100. Habib-ur-Rahman
101. Gul Habib
102. Ali Akbar
103. Sajjad Khan
104. Junaid Ali
105. Adil
106. Arsalan Ali Khan
107. Baber
108. Safdar Khan
109. Hamid Khan
110. Hazrat Ali
111. M. Bilal
112. Mufti Hammad
113. Shahzad
114. Naik Amal Dad
115. Gultaz
116. Hasnain Ali
117. Azam Khan
118. Hameed Khan
119. Younas Khan
120. Samin Jan
121. Abdus Salam
122. Ajmal Khan
123. Muhammad Sadiq
124. Tufail
125. Ashfaq Ahmad
126. Arshad Ali

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(4)

127. Sher Ali Khan
128. Muhammad Ibrahim
129. Fahim Jan
130. Muhammad Sharafat
131. Waseem Ghani
132. Shah Hussain
133. Salman
134. Muhammad Nawaz
135. Rasool Khan
136. Muhammad Ashfaq
137. Wakeel Khan
138. Muhammad Nafees
139. Muhammad Jibran
140. Kifayat Ali
141. Faisal Sarfaraz Khan
142. Nisar Ali
143. Akhtar Hussain
144. Hazrat Hilal
145. Zameen Khan
146. Abdul Nazir
147. Shahid Khan
148. Muhammad Zubair
149. Muhammad Mushtaq
150. Sajjadullah
151. Kamran
152. Khurram Mahmood
153. Kashif Azhar
154. Waqas Ahmad
155. Imran Khan (disabled)
156. Fazal Dad
157. Zahoor Ali Shah
158. Bashir Hussain
159. Abbas
160. Sajjad Khan
161. Izharullah
162. Abdur Rauf
163. Yasir Khan
164. Karamat Shah
165. Farhat Khan
166. Muhammad Aftab
167. Sefatullah
168. Aziz-ur-Rahman
169. Bashir Gul
170. Raza Khan

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3

171. Rehmat Ali
172. Abdul Qadir
173. Ghazi Khan
174. Imran Khan
175. Zahid usman
176. Bakhtiar Khan
177. Aurangzeb
178. Muhammad Zakir Khan Afridi
179. Shaukat Khan Mali
180. Amjad Khan Mali
181. Shakeel Emaneul
182. Pitras Jan
183. Humair Amjad
184. Faraz
185. Wajid Hussain
186. Shahzad
187. Zahid Siddique
188. Attiqu Akram
189. Roshan Lal
190. Muhammad Arif
191. Riaz Khan
192. Abdul Jamil
193. Qaiser Khan

All residents of Deputy Commissioner Peshawar office at Deputy Commissioner Peshawar near Judicial complex Peshawar.
----- (Petitioner)

VERSUS

1. Govt of the Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat Khyber Pakhtunkhwa Peshawar
2. Secretary Finance Govt of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil secretariat Peshawar.
4. Board of Revenue Khyber Pakhtunkhwa through Senior Member Board of Revenue.

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25 FEB 2020

----- (Respondents).

**PETITION UNDER ART-199 OF
CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN 1973**

(6)

Respectfully Sheweth,

1. That all the petitioners are highly qualified, peace loving and law abiding citizens of Islamic Republic of Pakistan and hails from respectable families of District Peshawar.
2. That all the petitioners are serving as Assistants, Computer Operators, Stenographers, Senior, Junior Clerks etc & are posted at Deputy Commissioner Peshawar's Office.
3. That in fact all the petitioners got inducted into service after going through the mandatorily required tests and interviews & after being subject to the rigors and ordeals of selection process via Public Service Commission as well as via Departmental Selection Committee, in some cases, years back.
4. That after being getting on to the rolls of this highly prestigious department, the petitioners had thoroughly been pragmatic, devoted, sincere & punctual members of the department, who never left any stone unturned in performance of their duties.

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5. That the grievance, the solace of which the petitioners are seeking from this August Court is that after being getting on to the rolls of this highly prestigious & essential department, the Petitioners are persistently & on constant basis made subject to formidable & inevitable discrimination. In fact, inspite of being civil servants & inspite of doing the same job as their brothers and sisters are doing in Civil Secretariat Peshawar & delivering the same services as of the above, but even then are highly discriminated when it comes to the fruition attached to their offices, in the form of different allowances etc. The deprivation of the Petitioners from Special Secretariat allowance's is one of them.

6. That the petitioners are not paid & extended the Secretariat allowances inspite of the stark & hard fact that the same is extended to all their brothers & sisters serving in Civil Secretariat as well as Public Service Commission Khyber Pakhtunkhwa. (Copies of Pay Slips are annexed as Annexure).

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7. That before going to vent out spleen upon the unfettered discrimination meted out to the petitioners it would be appropriate to mention here that initially when the relief of Secretariat allowance was extended to the employees / Civil Servants working in Civil Secretariat commenced, the same was sought by the Civil Servants / employees of other departments as well and thus numerous Writ Petitions were moved. This series of Constitutional Petitions were solely and exclusively based upon the notion of discrimination. This Secretariat Allowance was re-named with personal Allowance vide office Memorandum No. FD (PRC)1-1/94 dated 30-06-1994 while revising Basic Pay Scales. (Copy of the office Memo Dated 30-06-1994 is annexed as Annexure "A").

8. That all the aforementioned Writ Petitions were clubbed together and were decided vide a consolidated Judgment Dated 2.10.1997. The Writ Petition submitted by the predecessor in office of the petitioners i.e Writ Petition # 604/1995 was one of them. (Copies of the judgment Dated 2-10-1997 in writ petition

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362 of 1992 is annexed as annexure "B").

9. That thus the subject allowance was declared to be extended to all the petitioners and their departments without any discrimination.

10. That in pursuance to the Reverend Judgment Dated 02-07-1997 of this August Court the Secretariat/ Personal Allowance of the Predecessor in office or rather employees/ Civil Servants of the Deputy Commissioner Peshawar Office was Sanctioned w.e.f 01-07-1987 vide office letter No # FD (SR.V) 2-143/98/V.VI, Dated 19-05-1998 of Finance Department. (Copy of Letter Dated 19-05-1998 is annexed as Annexure "C")

11. That in pursuance to Letter, Mentioned above, an amount of Rs-8700,000/- was Sanctioned to the employees of DC Peshawar's Office vide Letter Dated 24-05-1999 Later-on the same was released & disbursed. (Copies of Letter Dated 24-05-1999, 03-06-1999 & 07-06-1999 are annexed as Annexure "D" to "F" Respectively).

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12. That this was not whole heartedly welcomed and appreciated by the respondent departments and as a result discontinued the payment, in the year 2000 A-D, which had been ordered by this August Court and had been commenced in the light of the aforementioned judgment, not only to the petitioners of the aforementioned Writ Petitions but as well to the predecessor in office of the petitioners but just in order to bluff and beguiled this Hon'ble Court. As this Secretariat allowance which had been withheld from all the Civil Servants, throughout the then North West Frontier Province as a camouflage, was again restored to the civil servants / employees of Civil Secretariat only vide notification FD (SOSR-II) 8-53/2008 Dated 06-02-2008 while the petitioners were simply ignored, and thus great injustice and sheer discrimination were carried upon the petitioners. (Copy of the Notification No:FD (SOSR.II) 8-53/2008 Dated 06-02-2008 is annexed as Annexure "G")

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13. That it were only the petitioners who were dealt with such mercilessly as since 2008, all the civil servants / employees working in civil secretariat, PSC and other

attached office are regularly receiving the subject secretariat allowance, which was Enhanced to 20% vide Letter Dated 03-03-2008 has now been enhanced to 30% vide Letter Dated 27-04-2011 and expected to be extended to 50% in nigh future (Copy of Letter Dated 03-03-2008 and 27-04-2011 are annexed as Annexure "H" and "I" Respectively).

14. That besides the above the same relief is sanctioned & extended to Public Service Commission employees under a different headings but is denied to the petitioners, which speak volume of the discrimination on part of the Respondents.

15. That because of the anomaly and sheer discrimination, the petitioners raised their slogans & voiced at different forums at different intervals, but all their hues & cries proved echo in wilderness, ended in fiasco, having futile result & nothing at the end.

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16. That at last after being exhausted & having no other adequate remedy available elsewhere, being a classic case of sheer discrimination, the petitioners approach this August Court for

recognition, acknowledgement & enforcement of their fundamental rights & for sanction & release of the Secretariat allowances w.e.f the same date, when extended & restored to Civil Servants & employees of Civil Secretariat Government of Khyber Pakhtunkhwa, with arrears, upon the following grounds, inter-alia:-

GROUND:

- A. That there exist no other expedient-cum-expeditious and adequate remedy available to the Petitioners, hence the instant petition under the extraordinary jurisdiction of this August court.
- B. That the Petitioners are naturally born bonafide citizen of the Islamic Republic of Pakistan and are fully and equally, on equality basis, entitled to all basic and fundamental rights as enshrined in the fundamental law of the land, interpreted, guaranteed and enforced by the law of the land and discrimination alongwith unfettered exercise of discriminatory powers by an authority or office is always been deplored, deprecated and depreciated by the superior Courts of the land.

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Deputy Registrar
25 FEB 2020

c. That under the mandate of Article 4 of the Constitution no one can be treated otherwise than in accordance with law, while Article 25 postulates that alike are to be treated alike. But here the case is volta-facie & totally different yardstick is taken to treat the Petitioners.

D. That discrimination in any form is highly abominable & bête-noire & is always checked down in derisorous manner by Superior Court of the land. The reasons beyond checking it down & chucking it away is to encourage equality & equal treatment & to remove any sense of discrimination.

E. That all the brothers and sisters of the petitioners working in Civil Secretariat are doing the same job in their particular capacities as superintendence, private secretaries, assistance, stenographers, senior and junior clerks and all other Class-IV employees, as the petitioners are performing the office of the Deputy Commissioner, Peshawar, but even then, discriminated without any rim or reason.

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F. That it is also pertinent to mention here that as per the Dictum laid down by the Apex

(13)

Court in PLD 1993 Supreme Court 375 No distinction is drawn between the petitioners and employees of civil secretariat.

- G. That from every angle, the petitioners are entitled for equal treatment in respect of the subject Secretariat allowance w.e.f the same date, when the same was sanctioned & released to the employees & Civil Servant of Civil Secretariat Government of Khyber Pakhtunkhwa with all arrears & their deprivation from the same is highly discriminatory, illegal and unwarranted.
- H. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant writ petition on appropriate writ may graciously be issued by,

- i. Declaring the petitioners as being entitled for the Special/ Secretariat allowance on the same footing as extended to other employees of Civil Secretariat Khyber Pakhtunkhwa.*
- ii. To Declare its deprivation from the Petitioners as a sheer act of discrimination, illegal & void & to sanction & extend the same to the petitioners w.e.f the same date when sanctioned &*

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25 FEB 2020

extended to the other employees of Civil Secretariat i.e 01-02-2008 with all back benefits.

iii. To declare the non-payment of Special Secretariat Allowance & non-sanctioning of the same as illegal & void.

iv. Any other relief not specifically asked for, may also graciously be extended in favor of the petitioners in the circumstance of the case.

INTERIM RELIEF:

By way of interim relief, the respondents be restrained from taking any adverse action against the petitioners, till the final disposal of the instant constitutional petition.

Petitioners

Through

Javed Iqbal Gulbela

&

Saghir Iqbal Gulbela

Advocates, High Court

Peshawar.

Date: 24/02/2020

NOTE:-

No such like petition for the same Petitioners upon the same subject matter has earlier been filed before this Hon'ble Court and the instant case pertains to the Hon'ble Double Bench of this Hon'ble court.

List of Books:

1. Constitution of Pakistan, 1973.
2. Case laws and any other books as per need.

Advocate.

Advocate

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(15)

BEFORE THE HONBLE PESHAWAR HIGH COURT
PESHAWAR

In Re W.P 2968 /2020

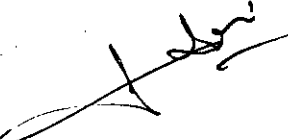
Faiz Muhammad & Others

Versus

Govt. of Khyber Pakhtunkhwa and Others

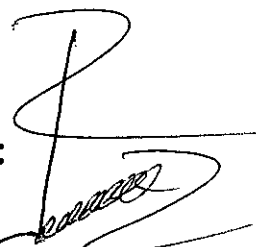
AFFIDAVIT

I, Shahid Hussain S/o Sardar Muhammad, *Petitioner and special attorney for Petitioners*, do hereby solemnly affirm and declare that all the contents of the **accompanied petition** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.



DEPONENT
CNIC: 17301-1301379-5
Cell#0300-9596319

IDENTIFIED BY:



JAVED IQBAL GULBELA
Advocate High Court
Peshawar.

FILED TODAY
Deputy Registrar
25 FEB 2020

No. 23228
Certified that the above was verified on solemnly affirmation before me in office, this 24 day of Feb 2020 by Shahid Hussain s/o Sardar Muhammad Peshawar who was identified by Javed Iqbal
Who is personally known to me:
Javed Iqbal Oath Commissioner Peshawar High Court, Peshawar.

BEFORE THE HONBLE PESHAWAR HIGH COURT

PESHAWAR

In Re W.P. 2061/2020

Faiz Muhammad & Others

Versus

Govt. of Khyber Pakhtunkhwa and Others

ADDRESSES OF PARTIES

PETITIONERS:

1. Faiz Muhammad
2. Zafeer Ullah
3. Shahid Hussain
4. Obaid Ullah
5. Zardad Khan
6. Masood Ahmad
7. Kabir Khan
8. Saif-ur-Rahman
9. Muhammad Saeed
10. Ferooz Khan
11. Shah Muhammad
12. Shah Muhammad
13. Shahid Ali
14. Shahid Pervez
15. Arsalan Ahmad
16. Fayaz Ali
17. Pervez Khan
18. Hayat Khan
19. Muhammad Sohail
20. Liaqat Ali
21. Muhammad Wasim Khan
22. Muhammad Farooq
23. Naveed Ahmad
24. Muhammad Sadiq
25. Roohul Amin
26. Mehrab Din
27. Sayyar Ahmad
28. Fayaz Muhammad
29. Jehangir Khan
30. Iftikhar Ahmad
31. Saqib Khan
32. Khalid Khan
33. Ijaz Ahmad
34. Abdul Shakoor
35. Saif Ullah
36. Fazl-e-Malik
37. Farooq Arif
38. Zia-ul-Haq
39. Tahir Abbas
40. Mazhar Ali
41. Muhammad Adnan
42. Asadullah
43. Noman Khan
44. Muhammad Saeed
45. Ghazi-ur-Rahman
46. Jehangir Masih
47. Ghani-ur-Rahman

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48. Zamir Gul
49. M.Masood
50. S.Sardar Ali Shah
51. Muhammad Yasir
52. Raza Khan
53. M.Amjad
54. Said amin Shah
55. Adil
56. Raees Khan
57. Muhammad Saeed
58. Daniyal Mushtaq
59. M.Ehtisham Ul Haq
60. Muhammad Nisar
61. Imtiaz Ahmad
62. Sajid Khan
63. Lehaz Khan
64. Farid Ahmad
65. Amanullah
66. Aurangzeb
67. Nafeesa Iqbal
68. Hasib-ur-Rahman
69. Muhammad Naseem Gul
70. Imran
71. Arif Jan
72. Syed Kifayat Shah
73. Muhammad Ismail
74. Muhammad Asif
75. Sawab Gul
76. Atta-ur-Rahman
77. Asif Bashir
78. Rashid Khan
79. Yahya Maqsood
80. Intikhab Alam
81. Muhammad Asim
82. Faheemullah
83. Muhammad Arif
84. Fawad Ali
85. Ibrar
86. Sumair Masud
87. Haroon Khan
88. Muhammad Ahmad Mobeen
89. Inayat Khan
90. Shahzad Farhad
91. Hanifullah
92. Waqas Noor
93. Waqar Mehmood
94. Muhammad Noor
95. Iftikhar-ul-Haq
96. Fida hussain
97. Hamza Saleh
98. Fahim Hussain
99. Ashiq Hussain
100. Habib-ur-Rahman
101. Gul Habib
102. Ali Akbar
103. Sajjad Khan
104. Junaid Ali
105. Adil
106. Arsalan Ali Khan
107. Baber
108. Safdar Khan
109. Hamid Khan
110. Hazrat Ali
111. M. Bilal
112. Mufti Hammad

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25 FEB 2020

113. Shahzad
114. Naik Amal Dad
115. Gultaz
116. Hasnain Ali
117. Azam Khan
118. Hameed Khan
119. Younas Khan
120. Samin Jan
121. Abdus Salam
122. Ajmal Khan
123. Muhammad Sadiq
124. Tufail
125. Ashfaq Ahmad
126. Arshad Ali
127. Sher Ali Khan
128. Muhammad Ibrahim
129. Fahim Jan
130. Muhammad Sharafat
131. Waseem Ghani
132. Shah Hussain
133. Salman
134. Muhammad Nawaz
135. Rasool Khan
136. Muhammad Ashfaq
137. Wakeel Khan
138. Muhammad Nafees
139. Muhammad Jibran
140. Kifayat Ali
141. Faisal Sarfaraz Khan
142. Nisar Ali
143. Akhtar Hussain
144. Hazrat Hilal
145. Zameen Khan
146. Abdul Nazir
147. Shahid Khan
148. Muhammad Zubair
149. Muhammad Mushtaq
150. Sajjadullah
151. Kamran
152. Khurram Mahmood
153. Kashif Azhar
154. Waqas Ahmad
155. Imran Khan (disabled)
156. Fazal Dad
157. Zahoor Ali Shah
158. Bashir Hussain
159. Abbas
160. Sajjad Khan
161. Izharullah
162. Abdur Rauf
163. Yasir Khan
164. Karamat Shah
165. Farhat Khan
166. Muhammad Aftab
167. Sefatullah
168. Aziz-ur-Rahman
169. Bashir Gul
170. Raza Khan
171. Rehmat Ali
172. Abdul Qadir
173. Ghazi Khan
174. Imran Khan
175. Zahid usman
176. Bakhtiar Khan
177. Aurangzeb

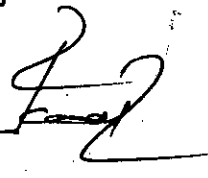
FILED TODAY
Deputy Registrar
25 FEB 2020

- 178. Muhammad Zakir Khan Afridi
- 179. Shaukat Khan Mali
- 180. Amjad Khan Mali
- 181. Shakeel Emaneul
- 182. Pitras Jan
- 183. Humair Amjad
- 184. Faraz
- 185. Wajid Hussain
- 186. Shahzad
- 187. Zahid Siddique
- 188. Attiqu Akram
- 189. Roshan Lal
- 190. Muhammad Arif
- 191. Riaz Khan
- 192. Abdul Jamil
- Qaiser Khan

RESPONDENTS

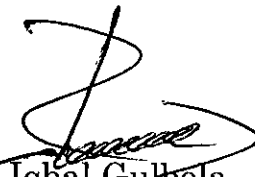
All residents of D.C office Peshawar at Deputy Commissioner office Peshawar, near Judicial Complex, Peshawar.

1. Govt of the Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat Khyber Pakhtunkhwa Peshawar
2. Secretary Finance Govt of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil secretariat Peshawar.
4. Board of Revenue Khyber Pakhtunkhwa Through Senior Member Board Of Revenue.



Petitioners

Through


 Javed Iqbal Gubbela
 Advocates, High Court
 Peshawar

Date: 24/02/2020

FILED TODAY
 Deputy Registrar
 25 FEB 2020

(21)

Am-A
1994

GOVERNMENT OF NWFP,
FINANCE DEPARTMENT.
(REGULATION WING)

No.FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

OFFICE MEMORANDUM

Subject: REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS 1-22) OF THE PROVINCIAL GOVERNMENT (1994)

The Governor, NWFP, has been pleased to sanction the revision of Basic Pay Scales for civil employees of the Provincial Government in BPS 1 to 22 as detailed in the following paragraphs:-

2- **Basic Pay Scales.** The details of the existing and revised pay scales are given in the Schedule attached to this O.M. The revised pay scales shall replace existing pay scales, 1991, in respect of those employees who give option for these pay scales, in terms of para 6(a) and shall be effective from 1st June, 1994.

3- **Initial Fixation of Pay.** The initial fixation of pay of the employees who have been in government service since/before 1st June, 1994, shall be made with effect from 1.6.1994 as below:-

- i) Employees in BPS-1 to 16.-- By allowing an increase at the rate of 35% on the basic pay actually drawn on 31.5.1994. The pay of the employees will be fixed at the stage equal to or if there be no stage, at the stage next above.
- ii) Employees in BPS-17 and above.----- Initial fixation of pay shall be made by allowing 35% increase on the basic pay actually drawn on 31.5.1994, in the following two phases :-
 - a) 20% of the increase shall be allowed with effect from 1.6.1994 by fixing pay in the relevant pay scale at the stage equal to or if there be no stage, at the stage next above.

JAVED IORAL Gul Bela
Daudzan Law Chamber
Advocate High Court Peshawar
Mob. 0345-9405501

22

- b) The remaining 15% increase shall be allowed on and from 1.6.1994 by refixing pay in the relevant pay scale on 1.6.1994 by allowing 35% increase over basic pay actually drawn on 31.5.1994. The new pay so fixed will be drawn from 1.6.1995 without any arrears.
- iii) The annual increment shall continue to be admissible, subject to the existing conditions, on the 1st of December each year.
- iv) Ad-hoc increases allowed as detailed below shall cease to be admissible from 1.6.1994:-
 - a) Ad-hoc relief of Rs 100/- P.M. sanctioned vide Finance Department's letter No.FD(PRC)1-3/89 dated 14.9.1992.
 - b) Additional ad-hoc relief of Rs 100/- P.M. sanctioned vide letter No. FD(PRC)1-3/89 dated 30.08.1993.
 - c) Additional ad-hoc relief of Rs 50/- P.M. sanctioned vide letter No. FD(PRC)1-3/89 dated 3.5.1994.

4- **Fixation of Pay.** In cases of promotion from lower to higher posts/scales, before introduction of these scales, pay of the employee concerned in the revised scale may be fixed and so enhanced that it would not be less than the pay that would have been admissible to him if his promotion to the higher post/ scale had taken place after the introduction of these scales.

5- **Allowances.**

- i) Secretariat Allowance and other similar Allowances based on Secretariat allowance.

With the introduction of new scales of pay, the Secretariat Allowance admissible to employees working in the Secretariats and provisionally extended to the employees of other offices/ organizations or similar allowance given on the analogy of the Secretariat Allowance to the employees of the Public Service Commission and Peshawar High Court is abolished with effect from 1.6.1994 and the amount actually drawn as such on 31.5.1994 will be converted into Personal Allowance. Those drawing such allowance on provisional basis will

(23)

draw the same amount as Provisional Personal Allowance. Such Personal Allowance/Provisional Personal Allowance in the case of employees in BPS-17 to 22 shall be reduced by the amount of annual increments by which the employee's pay may be increased after 1.6.1994, and shall cease as soon as his pay is increased by an amount equal to or more than his Personal Allowance. Those in BPS 1-16 will be exempted from this adjustment to the extent that their Personal Allowance/Provisional Personal Allowance will not be reduced/adjusted.

- ii) Other Allowances, Special Pay etc.--- Special pays and other allowances including House Rent Allowance will be maintained at the level of the amount actually drawn/admissible on 31st May, 1994.

OPTION

- a) All existing employees are given option either to draw the existing pay scales plus Secretariat Allowance and other similar allowances based on Secretariat Allowance like Special Allowance to the employees of Peshawar High Court and Public Service Commission Allowance etc. or the new pay scales plus Personal Allowance/Provisional Personal Allowance in the manner as at 5(i) above. Option to retain existing scale with the said Allowance must, however, be given in writing by the employees concerned to the audit office/Drawing and Disbursing Officer concerned by 15th July, 1994. Option once exercised shall be final.
- b) An existing employee who does not exercise and communicate such option within the prescribed time limit, shall be deemed to have opted to be governed by the new scales & abolition of Secretariat Allowance etc.

7- Pension and Retirement Benefits.

In case of employees retiring from 1.6.1994 onwards in BPS-17 to 22, pension will be recalculated on 1.6.1995 on the basis of pay prefixed with 35% increase in the pay in the second phase. New pension will, however, be admissible from 1.6.1995 without arrears.

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8- The following relief to the widows, dependents, retarded and incapacitated children and invalid pensioners shall be allowed with effect from 1st June, 1994:-

- a) Restoration of commuted value/gratuity portion of families pension on completion of required period.
- b) Grant of family pension to dependent disabled/retarded children for life without any age limit.
- c) Elimination of second medical board for the invalidated pensioners for eligibility of commutation.

9- Government servants who have retired on or after 1.6.1993, till the introduction of revised pay scales i.e. 1.6.1994, be allowed pension/commutation on the basis of basic pay that would have been admissible to them, had the pay revision been effected on the date of their retirement, discounted by 12%.

10- All existing rules and orders on the subject shall be deemed to have been modified to the extent indicated above.

(TASEER JAMAL ALIZAI)
DEPUTY SECRETARY (REGULATION)

Endst No.FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

- 1. All Administrative Secretaries, Government of NWFP.
- 2. The Senior Member Board of Revenue, NWFP., Peshawar.
- 3. The Secretary to Governor, NWFP, Peshawar.
- 4. The Secretary to Chief Minister, NWFP, Peshawar.
- 5. The Secretary, Provincial Assembly, NWFP, Peshawar.
- 6. All Heads of Attached Departments in NWFP.
- 7. All Commissioners/Deputy Commissioners/Political Agents/
District & Session Judges in NWFP.
- 8. The Registrar, Peshawar High Court, Peshawar.
- 9. The Secretary, Public Service Commission, NWFP, Peshawar.
- 10. The Registrar, Services Tribunal, NWFP, Peshawar.
- 11. The Secretary, Board of Revenue, NWFP, Peshawar.

JAVED IQBAL, Gul Beha
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9425591

(TASEER JAMAL ALIZAI)
DEPUTY SECRETARY (REGULATION)

25

Endst No.FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

1. All Autonomous & Semi Autonomous Bodies in NWFP.
2. The Secretary Finance Department, Government of the Punjab, Sindh and Balochistan, Lahore, Karachi & Quetta.
3. The Secretary Finance Department, Azad Government of the State of Jammu and Kashmir, Muzaffarabad.

Shakir Ullah
(SHAKIR ULLAH)
SECTION OFFICER
(PAY REVISION CELL)

Endst No.FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

1. The Accountant General, NWFP, Peshawar.
2. All District/Agency Accounts Officers in NWFP.
3. The Treasury Officer, Peshawar.
4. The Private Secretary to Finance Minister, NWFP.
5. The PS to Secretary, PAs to Additional Secretaries/ Deputy Secretaries in Finance Department.
6. All Section/Budget Officers in Finance Department, NWFP.
7. The Director, Local Fund Audit, NWFP, Peshawar.

Shakir Ullah
(SHAKIR ULLAH)
SECTION OFFICER
(PAY REVISION CELL)

Habib/*

JAVED IQBAL Gul Bela
Daudza Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

(26)

GOVERNMENT OF NWFP,
FINANCE DEPARTMENT.

SCHEDULE
EXISTING AND REVISED PAY SCALES

BPS No:	Existing Pay Scales 1-6-1991	(Stages)	Revised Pay Scales 1-6-1994	(Stages)
B-1	920—26—1310	(15)	1245—35—1770	(15)
B-2	945—32—1425	(15)	1275—44—1935	(15)
B-3	975—37—1530	(15)	1320—50—2070	(15)
B-4	1005—43—1650	(15)	1360—58—2230	(15)
B-5	1035—49—1770	(15)	1400—66—2390	(15)
B-6	1065—54—1875	(15)	1440—73—2535	(15)
B-7	1095—60—1995	(15)	1480—81—2695	(15)
B-8	1140—65—2115	(15)	1540—88—2860	(15)
B-9	1185—72—2265	(15)	1605—97—3060	(15)
B-10	1230—79—2415	(15)	1660—107—3265	(15)
B-11	1275—86—2565	(15)	1725—116—3465	(15)
B-12	1355—96—2795	(15)	1830—130—3780	(15)
B-13	1440—107—3045	(15)	1950—144—4110	(15)
B-14	1530—119—3315	(15)	2065—161—4480	(15)
B-15	1620—131—3585	(15)	2190—177—4845	(15)
B-16	1875—146—4065	(15)	2535—197—5490	(15)
B-17	2870—215—5450	(12)	3880—290—7360	(12)
B-18	3765—271—6475	(10)	5085—366—8745	(10)
B-19	5740—285—8590	(10)	7750—385—11600	(10)
B-20	6810—325—10060	(10)	9195—440—13595	(10)
B-21	7535—405—11585	(10)	10190—545—15640	(10)
B-22	8075—450—12575	(10)	10900—610—17000	(10)

JAVED IQBAL Gul Beta
Daudza Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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Judgment Sheet.

IN THE PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT.

Writ Petition No. 362 of 1992

JUDGMENT.

Date of hearing 2-10-99

Petitioners

Appellant (Said Alauddin et al) P. No. K. P. Saad, Advocate

Respondents (Genl. D. N. W. P. et al) P. No. Liaqat Ahmad Khan, A.A.P. Mr. Shahzad Akbar, D.A.P. & Mr. Qaid M. Idris Khan, Advocate

MIAN MUHAMMAD AJMAL, J. = Through this judgment in

- W.P.No.362/92, we propose to dispose of W.P.No.419/92,
- W.P.No.1102/92, W.P.No.131/94, W.P.No.282/94, W.P.No.348/94,
- W.P.No.465/94, W.P.No.730/94, W.P.No.963/94, W.P.No.984/94,
- W.P.No.1072/94, W.P.No.3/95, W.P.No.146/95, W.P.No.196/95,
- W.P.No.257/95, W.P.No.507/95, W.P.No.787/95, W.P.No.948/95,
- W.P.No.1119/95, W.P.No.1132/95, W.P.No.21/96, W.P.No.604/96,
- W.P.No.760/96, W.P.No.7/96 and W.P.No.1232/97; as common question of facts and law are involved in all these writ petitions.

2. The petitioners in all the writ petitions have prayed for the grant of 20% Special/Secretariat Allowance on the ground that this allowance has been granted to the employees of various departments and they are also entitled to the same benefit.

JAVED IOBAI
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-940550P

Learned counsel for the petitioners while relying on the judgment of the Supreme Court of Pakistan reported in PLD 1993 SC 375, the unreported judgment dated 13.3.99

BETTER COPY NO 27.

Judgment sheet

IN THE PESHAWAR HIGH COURT PESHAWAR

JUDICIAL DEPARTMENT

Writ Petition No. 362 /2018

JUDGMENT

Date of hearing.....2-10-1997.....

Petitioner...(Gul Alam Khan)

Respondents (Govt of N.W.F.P)

MIAN MUHAMMAD AJMAL, J.:- Through this judgment in W.P.No.362 /92, we propose to dispose of W.P.No.419/92, W.P.No. 1102/92, W.P.No. 131/94, W.P.No.282/94, W.P.No.348/94, W.P.No.465/94, W.P.No. ___/94, W.P.No. 963/94, W.P.No.984/94, W.P.No. 1012/94, W.P. 3 /95, W.P.No. 146/95, W.P.No. 196/95, W.P.No. 257/95, W.P.No. ___/95, W.P.No.787/95, W.P.No.948/95, W.P.No. 1119/95, W.P.No. ___/95, W.P.No. 21/96, W.P.No.604/96, W.P.No.760/96, W.P.No. ___/96 and W.P.No1232/97, as common Question of facts and law are involved in all these writ petitions.

2. The petitioners in all the writ petitions have prayed for the grant of 20% Special/Secretariat Allowance on the ground that this allowance has been granted to the employees of various departments and they are also on titled to the same benefit.

3. Learned counsel for the petitioners while relying on the judgment of the Supreme Court of Pakistan reported in PLD 1993 SC 375, the unreported judgment dated _____

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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delivered in CP-151-P of 1993 and judgments dated 15.5.1997 in CP-184-P/96, CP-288-P/96, CP-292-P/96, CP-305-P/96, CP-306-P/96, CP-307-P/96 and CP-322Q of 1995, submitted that such allowance has been allowed to the employees of various departments and thus the petitioners are also entitled to the same allowance.

4. Learned AAG appearing on the other side could not controvert the assertions of the learned counsel for the petitioners.

5. After hearing the arguments of the learned counsel for the parties and going through the above quoted judgments of the apex court of the country, we are of

the opinion that the petitioners' cases are similar to those who have already been allowed 20% Special/Secretariat allowance in view of the aforesaid judgments of the August Supreme Court of Pakistan. Consequently, these writ-petitions are allowed and the petitioners are held entitled to the Special/Secretariat Allowance accordingly. No order as to costs.

As
Date of receipt
No. of
C. P. No.
Date of
Total
Date of

JAVED IQBAL Gul Bata
Daudza Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

ANNOUNCED.

DT. 2.10.1997.

JUDGE

JUDGE

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Delivered in CP-151-P of 1993 and judgment dated 15-05-1997 in CP-184-P/96, CP-288-P/96, CP-292-P/96, CP-305-P/96, CP-306-P/96, CP-307-P/96 and CP—32—Q of 1995, submitted that such allowance has been allowed to the employees of various departments and thus the petitioners are also entitled to the same allowance .

4. After hearing the arguments of the learned counsel for the parties and going through the above quoted judgments of the apex-court of the country, we are of the opinion that the petitioners cases are similar to those who have already been allowed 20% Special/Secretariat allowance in view of the aforesaid judgments of the August Supreme Court of Pakistan. Consequently, there writ-petitiones are allowed and the petitioners are held entitled to the Special/Secretariat Allowance accordingly. No order as to costs.

JUDGE

ANNOUNCED.

DATE 02-10-1997.

JUDGE

JAVED IQBAL Gul Bafa
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

TO BE SUBSTITUTED FOR LETTER BEARING THE SAME NUMBER & DATE

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

NO. FD(SR.V)2-142/98/V.VI,
Dated Peshawar. 19-5-1998

(29)

Am-c

To

The Secretary,
Board of Revenue,
Peshawar.

Subject:- GRANT OF SECRETARIAT ALLOWANCE

I am directed to refer to the subject noted above and to state that in pursuance to the Peshawar High Court Peshawar judgement dated 2-10-1997 in writ petition No.604/96, the Government of NWFP, in the Finance Department is pleased to sanction the payment of Secretariat/Personal Allowance to the employees of Deputy Commissioner Office, Peshawar with effect from 1st July, 1987 subject to the following conditions:

- 1) The arrears payable to the employees for the period after 31-5-1994 shall however, be subject to the condition as laid-down in para-5(1) of this Department's Circular letter NO.FD(PRC)1-1/94/ dated 30-6-1994.
- 2) The amount payable shall be provided in the Budget Estimates for the year, 1998-99.

In view of the above audit copy may be prepared and got authenticated through respective Budget Officer in the Finance Department.

(SYED NISAR ALI SHAH)
SECTION OFFICER(SR.V)

Enclat. of even Number & Date

Copy of the above is forwarded to :-

- 1) The Accountant General NWFP, Peshawar.
- 2) The Budget Officer-XI, Govt. of NWFP, Finance Department, Peshawar. *16/6/98*

(SYED NISAR ALI SHAH)
SECTION OFFICER(XI.V)

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
M.C. 0345-3405591

(10)

BETTER COPY NO.29

TO BE SUBSTITUTED FOR LETTER BEARING THE SAME NUMBER & DATA
GOVERNMENT OF NWFP
FINANCE DEPARTMENT

NO.FD(SR.V) 2-143/98/V.VL,
Dated Peshawar 19-05-1998

To

The Secretary,
Board of Revenue,
Peshawar.

Subject:- GRANT OF SECRETARIAT ALLOWANCE

I am directed to refer to the subject noted above and to state that in pursuance to Peshawar High Court Peshawar judgment dated 02-10-1997 in writ petition No. 604/96, the Government of NWFP, in the Finance Department in pleased to sanction the payment of Secretariat/Personal Allowance to the employees of Deputy Commissioner Officer, Peshawar with effect from 1st July, 1987 subject to the following conditions:

- 1) The arrears payable to the employees for the period after 31-05-1994 shall however, be subject to the condition as laid-down in para-5 (1) of this Department's Circular letter No.FD (PRC) 1—1/94/ dated 30-06-1994.
- 2) The amount payable shall to provided in the Budget Estimation for the year, 1998-99.

In view of the above audit copy may be prepared and got Authenticated through respective Budget Officer in the Finance Department.

(SYED NISAR ALI SHAH)
SECTION OFFICER(SR.V)

Endat..of even.Number.&.Date

Copy of the above 10 farwarded to :-

- 1) The Accountant General NWFP, Peshawar.
- 2) The Budget Officer-XI, Govt; of NWFP,
Finance Department, Peshawar

(SYED NISAR ALI SHAH)

JAVED IQBAL / Gul B... SECTION OFFICER (SR.V)
Daudzai Law Chamber
Advocate High Court Peshawar
MOB 0345-9435501

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Am D

The Secretary,
Board of Revenue, NWFP Peshawar.

Subject: - GRANT OF SECRETARIAT/PERSONAL ALLOWANCE IN RESPECT OF EMPLOYEES OF DEPUTY COMMISSIONER'S OFFICE PESHAWAR

Memo:

Kindly refer to the subject noted above.

2- Finance Department agrees to the grant of Additional Funds and incurrence of an expenditure amounting to Rs.8,700,000/- (Rupees Eighty seven lac only) under object "02925-Secretariat Allowance/Personal Allowance to the employees of Deputy Commissioner's office Peshawar.

3- It may also be pointed out that the Administrative Department as well as Deputy Commissioner Peshawar are to ensure the disbursement of arrears of Secretariat/Personal Allowance payable to the employees of D.C.Peshawar, in satisfaction of Court Decree strictly in accordance with the Finance Department's letter No.FD(SR-11)2-143/87 dated 15-7-198 and Para-5(1) of Finance Department's office memo: No.FD(PRC)1-1/94 dated 30-6-1994.

4- In order to cover the above extra expenditure, Finance Department further agrees to the following re-appropriation of funds within the Revised Budget Grant 1998-99: -

From (-)
6-0000-General Administration
01000-Organs of State
01801-Divisional and District Admn:

To (+)
6-0000-General Administration
01000-Organs of State
01801-Divisional and District Admn:(D.C.Peshawar)
02925-Secretariat/Personal Allowance

59900-Other Lumpsum provision at the disposal of Finance Department for unforeseen requirements
Total 8,700,000

Total 8,700,000

5- The expenditure involved is debitable to the functional cum object classification "6-0000-General Administration-01000-Organs of State-01801-Divisional and District Administration(Deputy Commissioner Peshawar District) during current financial year 1998-99.

6- The Administrative Department is requested to submit utilization/disbursement report of the funds as well as actual expenditure with documentary proof made in this respect.

(HABIB GUL)
Budget Officer-XI

Endst:No. and Date as above

- 1- Copy forwarded for information and necessary action to t
- 2- Accountant General, NWFP Peshawar.
- 3- Deputy Commissioner Peshawar District.
- 3- Section Officer(Litigation), Finance Excise and Taxation Department, Peshawar.

(HABIB GUL)
Budget Officer-XI

AC
OFFICE OF THE DEPUTY COMMISSIONER
PESHAWAR

JAVED IQBAL Gul Bela
Daudza Law Chamber
Ayatollah High Court Peshawar
Mob: 9345-9405501

Dairy No 2878
Dated 25/5/99

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(31)

No. 3258 /H Dated Peshawar the 3-6 /1999.

From:

The Deputy Commissioner,
Peshawar.

To :

The Accountant General,
N.W.F.P. Peshawar.

Subject:-

GRANT OF SECRETARIAT/PERSONAL
ALLOWANCE IN RESPECT OF EMPLOYEES
OF DEPUTY COMMISSIONER'S OFFICE,
PESHAWAR.

Memo:

Enclosed please find herewith a photo copy of budget sanction bearing No.1/8/BXI/FD/98-99/Vol-IV dated 24.5.99 (grant of Additional Funds and incurrence of expenditure amounting to Rs.8,700,000/- (Rs.Eighty Seven Lacs only) to the employees of this office. (Copy thereof already endorsed to you) in the light of court order passed by Peshawar High Court, Peshawar. It is requested that the subject ~~anear~~ bills of Rs.8,700,000/- may please be admitted for pre-audit purpose on priority basis so that the payment could be made to the employees in time accordingly.

2
Deputy Commissioner,
Peshawar.

6/2/6
15
2/6/99

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob 0345-3405501

(2)

No. 3329 /H

(32)
Dated 7-6 /1999. *Am-R*

From :- The Deputy Commissioner,
Peshawar.

To The Accountant General,
N.W.F.P. Peshawar.

Subject :- GRANT OF SECRETARIAT/PERSONAL ALLOWANCE
IN RESPECT OF EMPLOYEES OF DEPUTY COMMISSIONER'S
OFFICE, PESHAWAR.

Memo:

Reference this office memo No. 3258/H dated
3.6.99 on the subject noted above.

Bills have been admitted on the counter of
your office on 3.6.99 and are lying in Pay Roll 3 section.

It is brought into your notice that a contempt of
court application is pending on the subject matter in
Peshawar High Court, Peshawar which is fixed for 15.6.99, and the
August Court has ordered for making the payment to the employees
of this office within 15 days. The subject bills may be passed on
top priority basis that the orders of the learned court may be
complied with and the payment is made to the employees well in time.

[Signature]
D.N.O.

for Deputy Commissioner,
Peshawar.

[Signature]
JAVED IQBAL Gul Bela
Daudzar Lay Chamber
Advocate High Court Peshawar
MOB. 3345-2405561

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GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.FD(SOSR.II)8-53/2008
Dated Peshawar the 06/02/2008

To
All Administrative Secretaries
To Government of NWFP.

Subject:- GRANT OF UTILITY ALLOWANCE @ 10% OF BASIC PAY TO N.W.F.P
CIVIL SECRETARIAT EMPLOYEES(BPS-1-22).

Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority has been pleased to approve Utility Allowance @ 10% of Basic pay to the Officers and Officials (BPS-1-22) of the N.W.F.P Civil Secretariat, Chief Minister's Secretariat and Governor's House/Secretariat NWFP w.e.f. 1st February, 2008 subject to the following conditions/clarifications:-

- i) The said allowance will be admissible to those who are working in the offices of the above mentioned Secretariats and will also be admissible during the period of leave and L.P.R and to employees of Civil Secretariat N.W.F.P who are on deputation outside these Secretariats.
- ii) The said allowance would not be admissible during Extra Ordinary Leave.
- iii) The said allowance would not be treated as part of emoluments for the purpose of calculation of Pension/gratuity and recovery of House Rent.

2. The Government servants working in Governor's Secretariat NWFP, already drawing the subsidy for Gas and Electricity will be required to exercise their option (within one month of the issue of this letter) either to draw the Utility Allowance @ 10% of Basic Pay or continue to draw the subsidy for Gas and Electricity sanctioned vide No.FD(SR-V)2-163/91 dated 24/2/1994. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Utility Allowance.

3. The Government servants working in Chief Minister's Secretariat NWFP and already drawing the subsidy for Gas and Electricity will be required to exercise their option either to draw the Utility Allowance at 10% of Basic Pay or continue to draw the subsidy for Gas and Electricity sanctioned vide Finance Department letter No.SOG(S&GAD)15(77)88-89 dated 14/6/1989. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Utility Allowance.

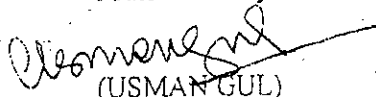
JAVED IQBAL Gul Bela
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Advocate High Court Peshawar
MOB: 0345-9405501

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4. The Government Servants deputed from other departments (including Judiciary) who do not belong to Secretariat Services but are working in the secretariat will be allowed to draw the Utility Allowance @ 10% of basic pay.

Yours faithfully,


(USMAN GUL)
ADDITIONAL SECRETARY(REG)

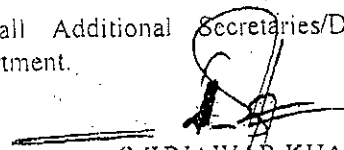
Endst: No. & date even.

Copy is forwarded to the Accountant General, NWFP, Peshawar


(SAJJAD AHMAD)
DEPUTY SECRETARY(R.I)

Endst: No. & date even.

Copy is forwarded for information to all Additional Secretaries/Deputy Secretaries/Section Officers/Budget Officers in Finance Department.


(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

THE HONORABLE CHIEF JUSTICE
IN CHARGE
OF THE HONORABLE HIGH COURT
PESHAWAR

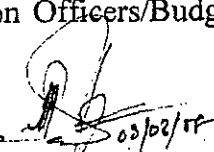
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Endst: No. & date even.

Copy is forwarded for information and necessary action to:-

- 1) Secretary to Governor NWFP, Peshawar.
- 2) Principal Secretary to Chief Minister, NWFP, Peshawar.
- 3) All Additional Secretaries/Deputy Secretaries/Section Officers/Budget Officers in Finance Department.


03/02/18
(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

Endst: & date even.

Copy forwarded to :-

- 1) All District Coordination Officers in NWFP.
- 2) All District Account Officers, NWFP.


03/02/18
(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

JAVED IQBAL Gul Bela
Daudza Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

(35)
CORRIGENDUM.

Am-2
GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.FD(SOSR.II)8-7/2002/Vol-IV
Dated Peshawar the 03/3/2008

To

All Administrative Secretaries
To Government of NWFP.

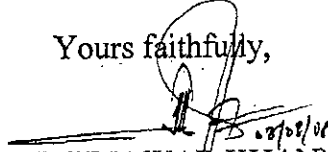
Subject:- GRANT OF SPECIAL ALLOWANCE @ 20% OF BASIC PAY TO
N.W.F.P CIVIL SECRETARIAT EMPLOYEES(BPS-1-22).

Dear Sir,

I am directed to refer to this Department's letter of even number dated 06/02/2008 on the subject noted above and to state that para 1(i) and para 4 of the said letter may be substituted as under:-

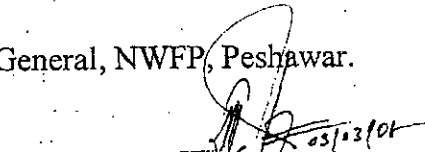
- Para 1(i)** The said allowance will be admissible to all those who are on deputation to Civil Secretariat and will also be admissible during the period of leave and L.P.R and to employees of Civil Secretariat NWFP who are posted outside Civil Secretariat.
- Para 4** The Government servants deputed from other departments who do not belong to Secretariat services but are working in the Secretariat are eligible for Special Allowance @ 20% of their basic pay.

Yours faithfully,



(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

Endst: No. & date even.

Copy is forwarded to the Accountant General, NWFP, Peshawar.


(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

P.T.O


JAVED IQBAL Gul Beta
Daudzai Law Chamber
Advocate High Court Peshawar
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**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(Regulation Wing)**

Dated Peshawar, April 27, 2011

NOTIFICATION

No.FD(SOSR-II)8-7/2011. Governor, Khyber Pakhtunkhwa Province has been pleased to approve, with effect from 07-04-2011 and until further orders, *Increase* in the rate of *Special Allowance*, sanctioned vide this Department letter No.FD(SOSR-II)8-7/2002/Vol.IV dated 06-02-2008, and subsequently amended vide letter of even number dated 03-03-2008, from the existing 20% of the Basic Pay to *30% of the Basic Pay*.

2- Special Allowance shall cease to be admissible to the civil servant with effect from the date when, consequent upon his transfer to a post outside Civil Secretariat, Chief Minister's Secretariat or Governor's House Secretariat, he relinquishes the charge of the post held by him in any of these Secretariats.

3- The admissibility of Special Allowance shall continue to be subject to the conditions prescribed in Finance Department letters referred to in Para-1 above, or conditions which may be prescribed by the Government from time to time.


Secretary to Government of
Khyber Pakhtunkhwa
Finance Department

Endst: No. & date even.

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

1. All Administrative Secretaries of Khyber Pakhtunkhwa Province.
2. Accountant General Khyber Pakhtunkhwa, Province.
3. Secretary to Governor, Khyber Pakhtunkhwa Province.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa Province.
5. Director FMIU, Finance Department, Khyber Pakhtunkhwa Province.

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Daudzai Law Chamber
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Mob) 0345-9405501


(WAZIR MUHAMMAD AFGAR)
Section Officer (SR.II)

P.L.D. 1993 Supreme Court 375

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Present. Nasim Hasan Shah, Shafiur Rahman, Saad Saood Jan
Abdul Shakurul Salant and Ajnial Mian, JJ

Civil Appeal No.78 of 1991

GOVERNMENT OF THE PUNJAB through Secretary,
Finance Department, Lahore --- Appellant

,versus

MUBARIK ALI KHAN and 8 others --- Respondents

(On appeal from the judgment of Lahore High Court, Lahore dated 5-5-1991 passed in Intra-Court Appeal No.189 of 1989).

Civil Petition for Leave to Appeal No.52 of 1W2

PROVINCE OF BALOCHISTAN through
Secretary Finance, Quetta--Petitioner

,versus

JAVED IQBAL, REGISTRAR and 17 others--Respondents

(On appeal from the judgment of High Court of Balochistan, Quetta dated 12-9-1991 passed in Constitution Petition No.148 of 1990).

Civil Petition for Leave to Appeal No.26-P of 1992

GOVERNMENT OF N.-W.F.P. through
Secretary, Finance Department, Peshawar --- Petitioner

versus

BASHIR MUHAMMAD and 10 others--Respondents

(On appeal from the order -of Pe ' shawar High Court dated 23-12-1991 passed in Writ Petition No. 2029/91 and C.M. 2094/91 and Order dated 12-1-1992 passed in Writ Petition No.2029/91 and C.M.2094/91).

Civil Appeal No. 78' of 1991, Civil Petitions for Leave to Appeal Nos.52 and 26-P of 1992, decided on 30th March, 1993'.

(a) Constitution of Pakistan (1973)---

--- Arts. 185(3), 212(3) & 199 --- Leave to appeal was granted to Provincial Government to examine whether the question of grant of 20% of the pay as Secretariat Allowance to the employees of Lahore High Court Establishment in a Constitutional petition was in accord with law notwithstanding? the provisions of Art. 212(3) of the Constitution excluding jurisdiction of the High Court in such matters and there being proper classification available for distinguishing the case of the High Court Establishment from those of the Secretariat employees.

(b) Constitution of Pakistan (1973)---

--- Art. 260---"Service of Pakistan"---Dermiton --- Employees of the High Court establishment would fall within the definition of service of Pakistan and have been taken to be employed in connection with the affairs of a Province.

Definition of "service of Pakistan" itself divides those included into it into two broad categories i.e. one of those employed in connection with the affairs of the Federation and the other of those employed in connection with the affairs of a Province. Applying this definition, the employees of the High Court establishment would fall within the definition of service of Pakistan and have been taken to be employed in connection with the affairs of a Province.

JAVED IQBAL GUPTA
Daud Zar Law Chamber
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Mob: 0345-9405501

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(c) Constitution of Pakistan (1973)---

---Arts. 240 & 208 --- Legislature had not been given any role to determine the terms and conditions in the matter of the officers and servants employed in the establishment of the Supreme Court of Pakistan and the High Court which would include their remuneration also --- Such an exclusionary role was attributed to the requirement of maintaining the independence of judiciary.

Supreme Court Employees Welfare Association v. Union of India and others AIR 1990 SC 334 ref.

(d) High Court Establishment (Appointment and Conditions of Service) Rules---

---- Rr. 17 & 22 --- Pay and Allowances of High Court Establishment --- No separate dispensation with the approval of the Governor having taken place in respect of pay and allowances, residuary R.22 would be attracted.

(e) Civil service ---

----- Secretariat Allowance --- High Court Establishment-- -In the absence of any reason forthcoming on the record after the enforcement of the unified Pay Scales to all categories of employees, reversion to old categories would be discriminatory and in the matter of pension and pay no such discrimination can, take place.

IA. Sharwani and others v. Government of Pakistan through Secretary, Finance Division and others 1991 SCMR 1041 ref.

(f) Constitution of Pakistan (1973)---

---- Arts. 199 & 212 --- Civil service --- Constitutional jurisdiction of High Court --? Factual question of equivalence of duties, responsibilities, confidentialities etc. is ordinarily not a fit subject for adjudication by the High Court but has to be determined initially by a full-fledged exercise to be undertaken by the National Pay Commission, as such.

(g) Civil service....

---- Secretariat Allowance --- High Court employees --- Employees of Federal Shariat Court and the Supreme Court of Pakistan having been allowed Secretariat Allowance and High Court employees performing almost identical functions as do the employees of the said Courts, High Court employees could not be discriminated against --- Necessary provision of Secretariat/Personal Allowance had to be made in respect of such employees as was made in the case of Federal Shariat Court and the Supreme Court employees.

Ch. Muhammad Abdus Saleem, Advocate instructed by Ch. Muhammad Aslam, Advocate-on-Record for Appellant (in CA. No.78 of 1991) and for Petitioner (in C.P.L.A. No.52 of 1992).

Hamid Saeed Malik, Additional Advocate-General and Haji MA. Qayyum. Mazhar, Advocate-on-Record for Petitioner (in C.P.L.A. No.26-P of 1992).

Dr. Abdul Basit, Advocate for Respondents Nos. 1 to 8 (in CA. No.78 of 1991). Faqir Muhammad Khokhar,, Deputy Attorney-General and Ch. Muhammad Aslam. Chatha, Advocate-on-Record for Respondent No.9 (in CA.No.78 of 1991).

Muhammad Aslam Chishti Advocate and SA.M. Quadri, Advocate? on-Record for Respondents Nos. 1 to 8 (in C.P.L.A. No.52 of 1992). Mian Shakirullah Jan, Advocate-on-Record for Respondents Nos. 1 to 10 (in C.P.L.A.No.26-P of 1992).

Date of hearing: 29th June, 1992.

JUDGMENT

SHAFIUR RAHMAN, J.---This judgment will dispose of one appeal (No. 78 of 1991) filed by the Government of the Punjab and two petitions for leave to appeal (Nos.52 of 1992 and 26-P of 1992) riled by the Provinces of Balocbistan and N.-W.F.P. respectively.

Leave to appeal was granted to the Government: of the Punjab to examine whether the question of grant of 20% of the Pay as Secretariat Allowance to the employees of the Lahore High Court establishment in a Constitution Petition was

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Daudzai Law Chamber
Advocate High Court Peshawar
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in accord with law notwithstanding the provisions of Article 212 (3) of the Constitution excluding the jurisdiction of the High Court in such matters and there being proper classification available for distinguishing the case of the High Court establishment from those of the Secretariat employees.

2. From 1-7-1988, the Government of Pakistan granted vide Office Memorandum No. F. 1 (32)-IMP-11/88, dated 1st July, 1988) 20% of basic pay to the employees serving in the Federal Secretariat, President's Secretariat, Prime Minister's Secretariat, National Assembly Secretariat, Senate Secretariat and the Central Board of Revenue, known as 'Secretariat Allowance. The Government of the Punjab issued an Office Memorandum (No.FD.PG2-1/88) on the 8th August, 1988 in the following terms, granting/allowing the Secretariat Allowance to its own employees in terms as hereunder:--

"I am directed to refer to the subject noted above and to say that the Governor of the Punjab has been pleased to decide that Secretariat Allowance @ 20% of basic pay to all employees in Punjab Government Secretariat, Governor's Secretariat, Chief Minister's Secretariat and Punjab Provincial Assembly Secretariat shall be granted with effect from 1-7-1988.

(2)???? All officers/officials, working in the Secretariat, as described in para. 1, who are already in receipt of any Special Pay/Allowance (except the categories of Private Secretaries/Personal Assistants to Governor, Chief Minister, Ministers, Chief, Secretary, Chairman, R&D Board, Additional Chief Secretary, Secretaries and Additional Secretaries will also be allowed to exercise their option to draw Secretariat Allowance mentioned above. or to 'continue drawing their existing Special Pay/Allowance.

(3)???? All Officers/officials deputed from other services/departments to work in the Secretariat, as described in para. 1 and who are getting Special Pay/Allowance will be similarly allowed to exercise their option to draw Secretariat Allowance @ 20% of their basic pay or to continue to draw their existing Special Pay/Allowance, if any.

(4)???? As mentioned in paras. 2 and 3 above, option either to retain Special Pay/Allowance, Governor's Secretariat Allowance/Chief Minister's Secretariat Allowance or to receive the Secretariat Allowance may be exercised by employees in writing and communicated to the Audit Office through administrative department on the form at Annex. A by September 8, 1988. A Government servant who fails to exercise option within the prescribed period shall be deemed to have opted for the Secretariat Allowance."

3?????? The Federal Government as well as the Provincial Government made additions to the category of employees who were treated as Secretariat employees for the purposes of this Allowance. The Federal Government included amongst the beneficiaries the employees of the Pakistan Television and the employees of the Pakistan Broadcasting Corporation besides Central Board of Revenue. The Provincial Government enlarged the category of the recipients of this allowance by including the employees of the Provincial Board of Revenue.

4. The grant of this allowance to the Secretariat employees to the exclusion of others generated a lot of dissatisfaction and claims both from amongst the Federal Government employees and the Provincial Government employees who were denied such an Allowance. Such dissatisfaction and claims had three visible effects.

Firstly, the Federal Government itself revised the policy of grant of Secretariat Allowance and made the Allowance already granted a part of the pay as 'Personal Allowance' of the officers/officials in receipt of it and only limited it to the actual service in the Secretariat or in the other departments treated as Secretariat. This will be clear from the Finance Division's Office Memorandum No. F.7(15)-R.13/88(Pt) dated 1-2-1990, as hereunder:--

"Subject: DISCONTINUANCE OF SECRETARIAT ALLOWANCE FOR THE NEW INCUMBENTS

In suppression of this Division's Office Memoranda of even number, dated the 18th December and 26th December, 1989 the undersigned is directed to say that the Federal Government has decided that 20% Secretariat Allowance admissible under this Division's O.M. No.F.1 (32)-Imp. 11/88, dated the 1st July, 1988 and subsequent amendments made thereto will not be admissible to the new incumbents to, the Secretariat, CBR, PTV and PBC etc. with effect from 11-12-1989. However, the existing recipients of the Secretariat Allowance have been allowed to retain it as 'personal Allowance' subject to the following conditions:--

(i)????? The amount of Secretariat Allowance being drawn by the existing recipients as on 10-12-1989 would be frozen.

(ii)????? It will be subject to income-tax and House Rent recovery.

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It will be admissible during leave and entire period of leave preparatory to retirement except during extraordinary leave.

(iv)?? It would not be 'admissible during the period of suspension, and

(v) It will not remain admissible to the recipients on their transfer from? the Secretariat, CBR, PTV and PBC etc." it was modified' by another Office Memorandum dated 21-8-1991, as hereunder:--

"Subject: GRANT OF SECRETARIAT/PERSONAL ALLOWANCE

In partial modification of this Division's Circular O.M. No.F. 7 (15) R.13/88 (Pt), dated the 1st February, 1990, the undersigned is directed to state that the Federal Government has decided that with effect from 1st June, 1991 the Personal Allowance (in lieu of formerly allowed Secretariat Allowance) will be admissible at the rate of 20% of pay to the following:--

(i) officials already drawing this allowance as a Personal Allowance in accordance with this Division O.M. No.F.7(15) R.13/88(Pt), dated 1st February, 1990.

(ii)???? Officials who have already drawn Secretariat or Personal Allowance in lieu and have been/ are reposted to Secretariat.

(iii)??? Officers transferred from Provincial Government who would have been eligible for this allowance in the Provincial Secretariats."

These two hold the field today.

This action of the Federal Government of allowing/granting, of extending and of discontinuing the Secretariat Allowance attracted at one stage the attention of the Wafaqi Mohtasib (Ombudsman) also as reported in the Frontier Post dated 1-11-1992, as hereunder:--

"The Ombudsman further said that he had 70 complaints involving 84 persons who have protested about the discrimination and have sought his intervention.

The Mohtasib while tracing the history of the Secretariat allowance opined that an element of injustice was created righty at the time when the ' Secretariat allowance was sanctioned on the July 1, 1988. The Mohtasib said that discriminatory nature of the allowance is apparent from the fact that right in 1988 the allowance was also given to the employees of the Central Board of Revenue, which is clearly an attached department and employees of Pakistan Television Corporation and Pakistan Broadcasting Corporation, which are autonomous Corporations and have nothing to do with the Secretariat.

A further discriminatory element was introduced when at the time of stopping the allowance with effect from December 11, 1989, the Government servants who were getting the allowance under the provincial governments were allowed to draw it again in the Federal Government, the Mohtasib observed."

The second feature of the grant of such an allowance was that a large number of employees, Provincial and Federal, belonging to Departments not treated as Secretariat approached the Courts or the Service Tribunals for grant of similar relief for one reason or the other. Apart from the case before us of the employees of the High Courts of Punjab, N.-W.F.P. and Balochistan, the employees of the Punjab Public Service Commission (1992 SCMR 1847), Federal Shariat Court (1992 SCMR 1852), Attorney-General's office (CPIA 1118-L/91), Advocate-General's office (W.P. No. 9111/91) and Central Board of Film Censors (1991 SCMR 12t8) also approached either the Service Tribunal or the High Court for grant of such an allowance.

The third consequence of the grant of this allowance and the denial of it to others was that the other authorities competent to grant it, for example, the Chief Justice of the Federal Shariat Court vide order dated 13-7-1988 and the Chief Justice of Supreme Court of Pakistan vide Notification dated 17-2-1993 granted it in respect of their employees w.e.f. 1-7-1988.

C.A. 78/91:

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Daudzai Law Chamber
Advocate High Court Peshawar
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5. In this background of events, eight employees of the Lahore High Court filed a Constitution Petition (Writ Petition No. 1624 of 1989) claiming that they be treated as Secretariat employees and granted the Secretariat Allowance made available to the employees of the Provincial Secretariat. This petition was seriously contested. At first, the High Court allowed a number of opportunities to the parties to amicably settle the matter. It did not succeed. A second attempt thereafter was made in the light of exercise undertaken for amicably settling the matter by demonstrating the equivalence of the duties and the responsibilities of the two categories of employees.

Preliminary objection to the competence of the Constitution Petition in view of Article 212 of the Constitution was brushed aside by reference to the decision of the same Court in Manzoor Hussain and 37 others v. Province of the Punjab (1989 PLC (CS) 42) followed by refusal to grant leave in the same vide Civil Petition for Leave to Appeal No. 1027 of 1988 and dismissal of the Civil Review Petition No. 6-R of 1989 arising out of it on 8-10-1989.

???????????????? It was held on the strength of Article 208 of the Constitution that the employees of the High Court were not civil servants. It was further held that employees and servants of the High Court were similarly situated and working in similar circumstances as those working in the Secretariat of the Punjab Government and other institutions to which the notification allowing Secretariat Allowance has been made applicable. The Court placed reliance on D.S. Nakara and others v. Union of India (AIR 1983 SC 130), considered the discrimination established and directed the Government of the Punjab to make available all the benefits under the Memorandum dated 8-8-1988 to the employees of the High Court w.e.f. 1-7-1988. The arrears were ordered to be paid within three weeks.

6. An Intra-Court appeal was filed by the Government of the Punjab which did not succeed. It was held that the disputed allowance was not confined to the Secretariat employees but had also been made available to the Provincial Assembly Secretariat and the Board of Revenue.

7. Rule 22 of the High Court Establishment (Appointment and Conditions of Service) Rules invoked by the learned Judges, while seized of the matter was held to provide the basis for grant of such an allowance to the High Court employees as well on the reasoning as hereunder:--

"Under this rule the allowances admissible to all the civil servants generally under the relevant rules are admissible to the employees of the Establishment of the High Court though there are no rules with the nomenclature 'Civil Service Rules (Punjab)' as used in Rule 22. The intention is, however, implicit that whatever allowances etc. are admissible to the civil servants would automatically be allowed to the members of Establishment of High Court. The question arises whether the members of the High Court Establishment could claim any allowance which has not been granted to all the civil servants generally but to some of them as a class working in the Secretariat. In our view the respondents would be justified in claiming such an allowance as a matter of right as per force of said Rule 22 if the class of employees in the Government Secretariat to whom such an allowance was allowed was similarly placed as regards the nature of duties and the functions which they perform." -

The appeal Bench undertook detailed scrutiny of the charts of the duties and affirmed the finding of the learned Judge in chambers with regard to the equivalence. The appeal Bench concluded as hereunder:--

"For this additional reason we are constrained to hold that the denial to the respondents of the allowance in question is not only highly arbitrary but the denial of their right to get the allowance under Rule. 22 of the High Court Establishment (Appointment -and Conditions of Service) Rules, is also violative of Article 25 of the Constitution which guarantees equal protection of law to all the citizens and we uphold the view taken by the learned Single Judge."

CA. 26-P/92:

8. Ten employees of the High Court of Peshawar by a Constitution Petition (No. 2029 of 1991) claimed the Secretariat Allowance at the rate of 20% which had been granted by the Government of North-West Frontier Province (N.-W.F.P.) from an earlier date i.e., from July, 1987. Heavy reliance was placed for making out a claim for the grant of such an Allowance on the judgment of the Lahore High Court in Writ Petition referred to. An application for interim order claiming such an Allowance came up for consideration of the Peshawar High Court on 23-12-1991 in the presence of the Additional Advocate-General and was disposed of with the following order:--

"The respondents are directed to pay the 20% allowance to the employees of the Peshawar High Court regularly with the monthly pay, from the 1st January 1992 till the final disposal of the writ petition. The question of arrears will be considered on the next date of hearing."

This order was modified on 12-11-1992, as hereunder:--

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Advocate High Court Peshawar
Mob: 0345-9495501

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The order dated 23-12-1991 passed by this Court is modified to the extent that the employees of the Peshawar High Court are entitled to receive 20% allowance with their monthly pay from 1st of January, 1992 payable on 1st of February, 1992, regularly, till the final disposal of the writ petition. So far as the question of arrears is concerned, the learned counsel for the petitioners is not pressing it at the moment, therefore, it will be decided at the time, of final disposal of the writ petition.

On the request of the learned Advocate-General let the main writ petition, be fixed for final hearing within two months."

The proceedings were at this stage in the High Court when this petition for leave to appeal was filed and was ordered to come up with Civil Appeal No. 78 of 1991.

C.P. 52 of 1992: ~

9. Seventeen employees of the establishment of the High Court of Balochistan filed a Constitution Petition (No. 148 of 1990) claiming in circumstances similar to those pointed out in the above two matters. The amount of the Secretariat Allowance which had been made available to the employees in the Balochistan Secretariat, Governor's Secretariat, Chief Minister's Secretariat and Balochistan Provincial Assembly Secretariat vide notification dated 4th of September, 1988.

There was another Constitution Petition filed by the drivers who claimed the enhanced overtime Allowance made available to the Governor's and Chief Minister's establishment drivers.

10. The High Court of Balochistan examined the claim of the employee of the High Court for the Secretariat Allowance in the light of the decision given by the Lahore High Court and decided the matter as hereunder-

"Indeed the refusal of Government of Balochistan to extend the benefits of Notification C. P. 148/90 Notification F. No. 1(32) IMP. 11/88, dated 1st July, 1988 and Notification No.FD(R) 11-28/88 3454-3484 dated 4th September, 1988. C.P. 105/90, Notification No.SGA (SC B&A) 2-14/87, dated 4th February, 1989 to the employees of High Court of Balochistan infringes the provisions of Article 25 of the Constitution of Pakistan.

In such view of the fact we accept the petition and direct the Government of Balochistan to make 'available all benefits of Notification F. No. 1(32)AMP. 11/88 dated 1st July 1988 and Notification FD (R) 11-28/88/3454-3484, dated 4th September, 1988 to the employees of High Court of Balochistan; in C.P. No. 148 of 1990 with effect from 1st July 1988 and benefits of Notification No.SGA (SC B&A) 2-14/87, dated the 4th February, 1989 to the petitioners-drivers in C.P. No. 105/90 with effect from 23rd January, 1989. The arrears of the allowances be also paid to the petitioners within a period of one month. A copy of this judgment be sent to the Accountant-General Balochistan at Quetta."

Petition for leave to appeal was filed against this decision. It has also come up for hearing alongwith the other matters.

11. This petition is shown to be barred by 93 days. The explanation given for the condonation of delay is as hereunder and it does not appear to us to be satisfactory:--

"The judgment was drawn later on and announced on 12-9-1991. The copy of this judgment was received by the Finance Department.

(2)???? That the deponent sent the case to Law Department for advice as to whether the case should be taken to Supreme Court or not. The advice was received back on 12-12-1991.

(3)???? That immediately the deponent under the orders of Finance Secretary contacted all the 12 Advocates-on-Record of Quetta, one after the other to file the civil petition for special leave to appeal in Supreme Court. Each of the Advocates-on-Record kept the case for two or three days and ultimately refused to file the case in the matter related to High Court employees. The Additional Advocate-General was also reluctant to draw the case and advised verbally against the filing of civil petition for special leave to appeal.

(4)???? That ultimately the Finance Secretary through deponent has to request the Finance Secretary, Government of Punjab in order to file present petition through their counsel. Hence this petition is being riled within few days."

However, as the question is being dealt with on its own merits also, the decision will follow the other matters properly initiated in this Court.

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Daudza Law Chamber
Advocate High Court Peshawar
Mob: 9345-9455501

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12. The view taken by the Lahore High Court that the employees of the High Court are not civil servants is based on the decision given by a Division Bench in the case of Manzoor Hussain and 37 others (supra) who were serving as Private Secretaries in the Lahore High Court and had by a Constitution Petition claimed up-gradation of their post from BPS-16 to 17 w.e.f. 1-7-1983 on the basis of a Memorandum of the Government of the Punjab, dated 18th of March, 1986. A similar objection with regard to the jurisdiction was taken. It was indeed rejected and the employees of the High Court Establishment were held to be not civil servants. The reasoning given appears as hereunder:--

"The expression 'civil servant' has been defined in section 2 (b) of the Punjab Civil Servants Act (VIII of 1974). According to this definition, a civil servant means a person who is a member of a civil service of the -Province or who holds a civil post in connection with the affairs of the Province. The Punjab Civil Servants Act (VIII of 1974) has been enacted to regulate the appointment to, and the terms and conditions of service in respect of the service of the Province of the Punjab. This law has been enacted pursuant to Article 240 of the Constitution of Islamic Republic of Pakistan, which empowers the Provincial Legislature to make law to determine the conditions regarding appointment and other terms and conditions of service in case of services of the province. It is, however, noteworthy that the law thus to be made by the Provincial Legislature is subject to the Constitution as provided in the opening words of Article 240 supra. Article 208 ibid speaks of officers and servants of the Supreme Court and of a High Court. This Article empowers a High Court to make rules providing for the appointment by the Court of officers and servants of the Court and for their terms and conditions of employment. Such rules are, of course, to be made with the approval of the Governor concerned. In case of this High Court, such rules have already been framed in the form of the High Court Establishment (Appointment and Conditions of Service) Rules.

Prospects of promotion and upgradation of a post have never been considered a term and condition of service for which the, Service Tribunal has exclusive jurisdiction. In this behalf reference may be made to the case of Dr. Ehsan-ul-Haq v. The Province of Punjab and others (1980 SCMR 972).

In the light of the above discussion, it is concluded that the petitioners, being officers and servants of the High Court, do **not fall** within ambit of expression 'civil servant' as occurring in section 2(b) of the Punjab Civil Servants Act (VIII of 1974) and, therefore, according to their terms and conditions of service, the jurisdiction of the High Court is not excluded."

This judgment did come up to this Court, twice; once by means of a petition for leave to appeal and next by way of Civil Review Petition No. 6-R/1989 alongwith other connected matters (C.R.P. 34-R and 35-R of 1989 and C.P.L.As. Nos.10 and 11 of 1989) but at no stage this question was attended to directly or indirectly. The petitions for leave to appeal as well as the review petitions arising out of them were disposed of on the question of limitation, and not considered on merits at all. The view taken by the High Court that the employees of the Provincial High Courts are not civil servants for the purpose of Civil Servants Act and the Service Tribunals Act is correct.

13. In the Constitution of Pakistan, 1973 "service of Pakistan" has been defined in Article 260, as hereunder:---

" 'Service of Pakistan' means any service, post or office in connection with the affairs of the Federation or of a Province, and includes an All-Pakistan Service, service in the Armed Forces and any other service declared to be a service of Pakistan by or under Act of Majlis-e-Shoora (Parliament) or of a Provincial Assembly, but does not include service as Speaker, Deputy Speaker, Chairman, Deputy Chairman, Prime Minister, Federal Minister, Minister of State, Chief Minister, Provincial Minister, Attorney-General, Advocate-General, Parliamentary Secretary or Chairman or member of a Law Commission, Chairman or member of the Council of Islamic Ideology, Special Assistant to the Prime Minister, Advisor to the Prime Minister, Special Assistant to a Chief Minister, Advisor to a Chief Minister or member of a House or a Provincial Assembly."

This definition of "service of Pakistan" itself divides those included into it into two broad categories i.e., one of those employed in connection with the affairs of the Federation and the other of those employed in connection with the affairs of a Province. Applying this definition, the employees of the High Court establishment would fall within the definition of service of Pakistan and have been taken to be employed in connection with the affairs of a province.

Article 240 of the 1973 Constitution reads as hereunder:--

"240. Appointments to service of Pakistan and conditions of service.--?Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined---

(a)???? in the case of the services of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Services, by or under Act of Majlis-e-Shoora (Parliament); and

(b)???????????? in the case of the services of a Province and posts in connection with the affairs of a Province, by or

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Daudzai Law Chamber
Advocate High Court Peshawar
MCB: 0345-9495591

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under Act of the Provincial Assembly.

Explanation.--In this Article, 'All-Pakistan Service' means a service common to the Federation and the Provinces, which was in existence immediately before the commencing day or which may be created by Act of Majlis-e-Shoora (Parliament)."

Article 208 of the 1973 Constitution provides as hereunder:-

"208. Officers and servants of Courts.--The Supreme Court and the Federal Shariat Court, with the approval of the President and a High Court, with the approval of the Governor concerned, may make rules providing for the appointment by the Court of officers and servants of the Court and for their terms and conditions of employment."

14.????????? In -the 1962 Constitution, Article 127 dealt similarly with the same subject, as hereunder:--

"127. Officers and servants of Courts.--(1) In this Article, 'Court' means the Supreme Court or a High Court.

(2)???? A Court may (with the approval of the President in the case of the Supreme Court, and of the Governor in the case of a High Court) make Rules providing for the appointment by the Court of officers and servants of the Court and for their terms and conditions of employment."

The comparable provision in the Indian Constitution is Article 146 and it reads as hereunder:--

"146. Officers and servants and the enenses of the Supreme Court.--(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2)???? Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or Officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3)???? The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the **Consolidated Fund of India**, and any fees or other moneys taken by the Court shall form part of that Fund."

15. In the context of the Constitutional provisions reproduced above, it is clear that in the matter of the officers and servants employed in the establishment of the Supreme Court of Pakistan and the High Courts the legislature had not been given any role to determine the terms and conditions of the employees which of course would include their remuneration also. Such an 'exclusionary role was attributed to the requirement of maintaining the independence of judiciary in the case of Supreme Court Employees' Welfare Association v. Union of India and others (AIR 1990 SC 334). In exercise of this or its predecessor pro-vision both the Supreme Court and the High Courts have framed Rules. Rules 17 and 22 of these Rules in respect of the High Court are as hereunder:--

"17.?? Members of the High Court Establishment shall be entitled to pay (including Special pay) and allowances as fixed by the Chief Justice, from time to time, with the approval of the Governor to these rules.

22????? In respect of salaries, allowances, leave or pension; the members of the establishment shall be governed by the Civil Service Rules (Punjab) as amended from time to time."

16. It is admitted that under Rule 17, no separate dispensation with the approval of the Governor has taken place in respect of pay and allowances. For D this reason the residuary Rule 22 gets attracted.

17.? A survey of the Pay Scales for the last fifty years on the sub-continent establishes for certain that for a long time in the past the Secretariat staff had preferential pay scales over other departments and offices of the Government. In India this practice still continues* as would be apparent from the following decisions of the Indian Supreme Court:--

(1)???? Umesh Chandra Gupta and others v Oil and Natural Gas Commission and others AIR 1989 SC 29;

(2)???? V. Markendeya and others v. State of Andhra Pradesh and others AIR 1989 SC 1308; and

(3)???? Federation of All India Customs and Central Excise Stenographers (Recognised) and others v. Union of India and others AIR 1988 SC 1291.

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18.???? In Pakistan, however, the admitted position is that this distinction between the Secretariate staff en bloc and others was abolished when National Pay Scales were introduced in 1972. From 1977 classification was made and established criteria for allowances notified as hereunder:--

- (i) Geographical Allowances.--Compensation according to the geographical hardship, of the employees e.g. Kashmir Compensatory Allowance, Northern Area allowance, Hill? Allowance, Hard Area allowance, Special Area Compensatory Allowance and? agency. allowance
- (ii)???? Qualification Allowances.--G ranted in recognition to academic ability? specific qualifications and skill of the employees e.g. Ph. D.). Allowance, Computer Allowance, N.D.C. Allowance and Language Allowance.
- (iii)??? Service Allowances.--These are attached with the specific services in n recognition to the type and color? of service and requirements of their? assignment e.g. allowances attached to the Army personnel like? disturbance allowance, Kit allowance etc. Superior Judiciary Office~e Allowance, admissible to the Judiciary, Railways Running Allowance, ~, admissible only in Railways Services, Non-Practice Allowance allowed d to the Doctors only, Aviation Allowance meant for Aviation services,s, Secretariat Allowance payable to Secretariat employees.
- (iv)??? Hazard Allowances.--These arc meant to compensate for the hazards Is of the job encountered by the employees e.g. Nuclear Power Generation Allowance, Danger Money Allowance, Bomb Disposal ~ Allowance, Heat Allowance, Spray Allowance etc.
- (v)???? Allowances according to the nature of .--Shift Allowance, Research h Allowance, Design Allowance, Project Allowance, Technical Allowance, Instructional Allowance, Night Duty Allowance and d Anesthesia Allowance.
- (vi)?? Compensatory Allowances.:-To compensate the expenses required to o be incurred by the employees e.g. House Rent Allowance, Conveyance ~e Allowance, Washing Allowance, Uniform Allowance, Entertainment it Allowance, Education Allowance, etc.
- (vii) Costs of Living Allowances.--Foreign Allowance paid in Foreign n Missions, which varies from Mission to Mission according to the costs? of living prevailing at those places.
- (viii) Allowances specific to the Houses of Head of the S(alc and thee Governments .--Prime Minister's House Allowance, President's House Allowance, Governor's House Allowance etc., where special allowance is admissible in addition to the subsidies provided in the utilities like e water, fuel, electricity and furnishings, etc."

There were certain posts and certain officers who were compensated separately. Non-Secretariat officers appointed Deputy Secretary were allowed Special Pay of Rs.400 w.e.f. 1-7-1983. It was extended in 1985 to make it 20% to Deputy Secretaries and equivalent in Federal Secretariat including President/Prime Minister/National Assembly and Senate Secretariats with effect from 1-11-1985. In 1987, recommendations were made by the National Pay Commission but the Government did not accept it and fro7e 20% Special Allowance of existing Deputy Secretaries and equivalent in secretariats and for future this allowance was allowed at a fixed rate of Rs.300 p.m. with effect from 1-7-1987. All this is culled out from the material provided by the Government of ' Pakistan in Government of Pakistan through Secretary, Ministry of Finance, Islamabad v. M.I. Cheema and others (Civil Appeal No.16 of 1992, decided on 29-6-1992) 1992 SCMR 1852, where a specific direction was given to the following effect on the day leave was granted in the case:--

"The Advocate-General, Punjab and the Deputy Attorney-General for Pakistan should be called upon to file a self-contained exhaustive note supported by all the official instructions that have issued during the last fifty years, if not more, with regard to the Secretariat and non? Secretariat Scales of Pay from time to time, within one month, to be available to the parties before hearing of the appeals."

19. In spite of the direction given no material has been placed before this Court or was placed before any of the High Courts showing any reason whatsoever for the re- emergence of categories of Secretariat and non ?Secretariate employees and for assimilating certain non-Secretariat Offices as Secretariat Offices for the purpose of this Allowance. In the absence of any reason forthcoming on the record after the enforcement of the Unified Pay E Scales to all categories of employees, such a reversion to old categories would appear to be discriminatory.

20.- The legal question that in the matter of pension and pay no such discrimination can take place has been answered by this Court in IA. Sharwani ?and others v. Government of Pakistan through Secretary, Finance Division and others (1991 SCMR 1041). The factual question of equivalence of the duties, responsibilities, confidentialitiess etc. is ordinarily not a fit subject for adjudication by the High Court but has to be determined initially by a full- 6 fledged exercise to be undertaken by the National Pay Commission, as such. For the employees of the High Court the position is far better. The employees of the Federal Shariat Court and the Supreme Court of Pakistan have been allowed such an Allowance. The High Court employees perform almost identical functions as do the employees of these two other Courts perform. The employees of all the three Courts have been dealt with constitutionally by the H same provision reproduced above. In the circumstances, the High Court's employees cannot be discriminated against. The necessary provision of Secretariat/Personal Allowance had to be made in respect of such employees as was made in the case of the Federal Shariat Court and the Supreme Court, employees.

21. In the circumstances, no case is made out for our interference in the impugned judgments/orders of the High

JAVED IOBAL Gul Bela

Daudza Law Chamber

Advocate High Court Peshawar 12/18/2019, 11:56 AM

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BEFORE THE HONBLE PESHAWAR HIGH COURT
PESHAWAR

In Re W.P _____/2020

Faiz Muhammad & Others

Versus

Govt. of Khyber Pakhtunkhwa and Others

NOTICE

To,

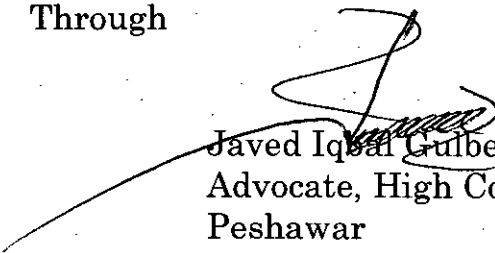
1. Govt of the Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat Khyber Pakhtunkhwa Peshawar
2. Secretary Finance Govt of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil secretariat Peshawar.
4. Board of Revenue Khyber Pakhtunkhwa through Senior Member Board of Revenue.

SUBJECT:- NOTICE FOR FILING WRIT PETITION

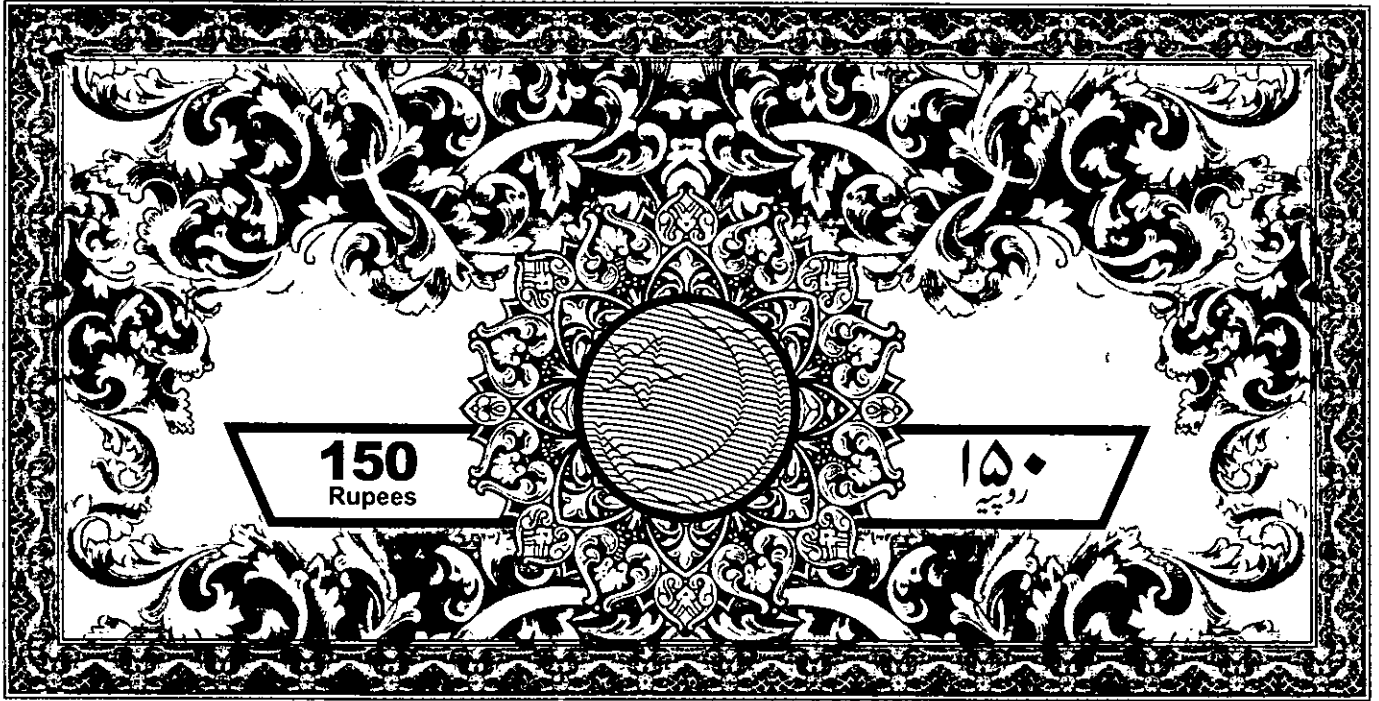
Please take notice that I am filing Writ Petition before the Hon'ble Peshawar High Court Peshawar.

Petitioners

Through


Javed Iqbal Gulbela
Advocate, High Court
Peshawar

Date: 24/02/2020



SPECIAL POWER OF ATTORNEY

Faiz Muhammad & Others V/s Government of KPK & Others

By virtue of this Special Power of Attorney We Zafeer Ullah and others, do hereby solemnly affirm and declare on oath that, I hereby constitute, nominate, appoint and authorize through this deed Mr. **Shahid Hussain S/o Sardar Muhammad Afzal R/o Qissa Khwani, House No.127, Mohallah Dhaki Hameed Khan, Peshawar**, as our special attorney and authorize him to do as under in our name and on our behalf and under his own signatures:-

- 1) To appoint any advocate or attorney to conduct the above noted case in the court of law.
- 2) To file plaint, written statement, application and other documents in the court of law
- 3) To give/record whether oral or in writing any statement on my behalf.
- 4) To withdraw any money deposited in the court or any other document/ documents from the court on our behalf and on receiving any money to issue valid receipts in discharge of obligation on our behalf.
- 5) My attorney is further authorized to withdraw or execute compromise with the opposite party if may desired.
- 6) He is also authorized to file appeal, revision, writ petition or review in higher court till the august Supreme Court of Pakistan, judgments and decree from the concerned office/offices on payment of requisite fee if any.

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25 FEB 2020

He is also authorized to file executions of any order, judgment and decree passed by the court of law and to get attested copies or any order/ decree filed against us in future.

Our said attorney is also authorized to do whatever is necessary in the above noted suit, and to fulfill any legal requirements or to sign any surety bonds as per order of the court of law on our behalf for the end of justice.

9) He is also authorized to pursue any case on our behalf and defend us in any legal proceedings if filed against us in future by anyone.

10) He is also authorized to do all the other acts, deeds and things which are not specifically mentioned here but which shall be needed to be done legally and in good faith in accordance with the circumstances of the cases.

EXECUTANTS
Faiz Muhammad

ATTORNEY HOLDER
Shahid Hussain

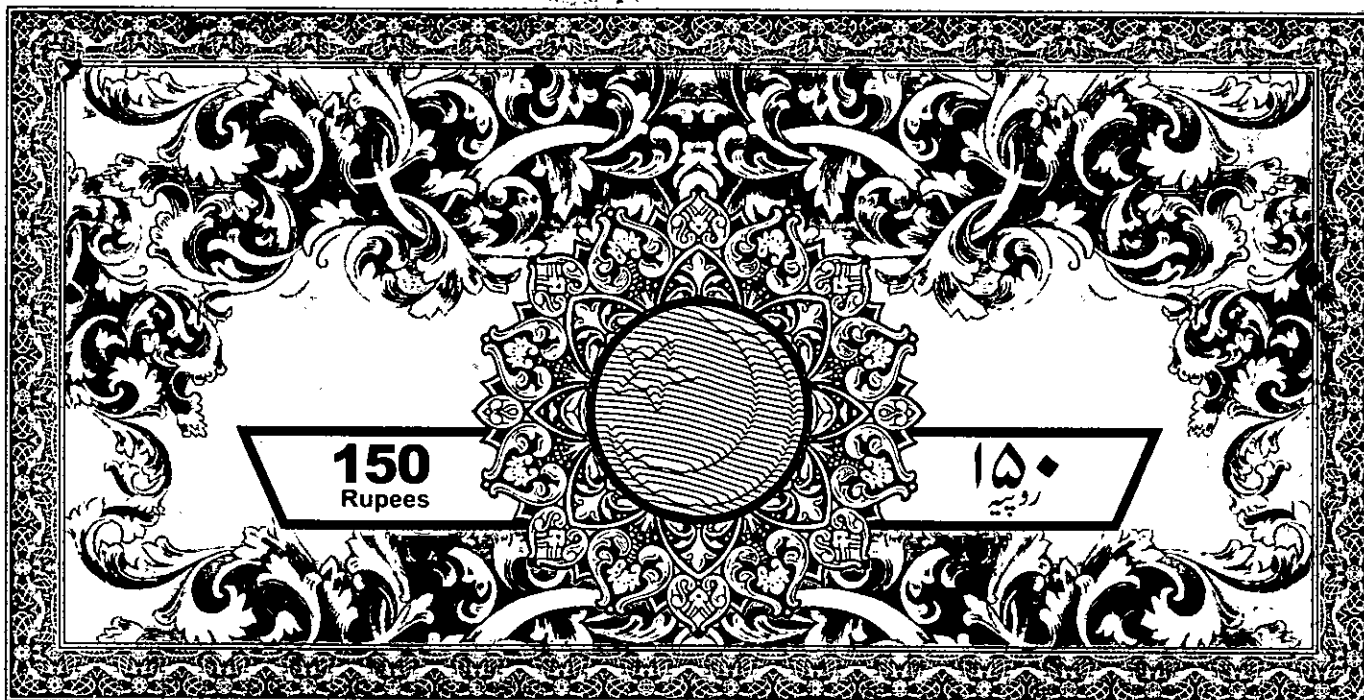
WITNESSES

WITNESS NO.1 Afaq Hussain
Name: _____
CNIC: 17201-6140642-9

WITNESS NO.2 _____
Name: Nyas pirzada
CNIC: 17201-6300674-1

1. Faiz Muhammad
2. Zafeer Ullah
3. Shahid Hussain
4. Obaid Ullah
5. Zardad Khan
6. Masood Ahmad
7. Kabir Khan
8. Saif-ur-Rahman
9. Muhammad Saeed
10. Ferooz Khan
11. Shah Muhammad
12. Shah Muhammad
13. Shahid Ali
14. Shahid Pervez
15. Arsalan Ahmad
16. Fayaz Ali
17. Pervez Khan
18. Hayat Khan
19. Muhammad Sohail
20. Haqat Ali
21. Muhammad Wasim Khan
22. Muhammad Farooq
23. Naveed Ahmad
24. Muhammad Sadiq
25. Noohul Amin
26. Mehrab Din
27. Sayyar Ahmad
28. Fayaz Muhammad
29. Jehangir Khan
30. Iftikhar Ahmad
31. Saqib Khan
32. Khalid Khan
33. Jaz Ahmad
34. Abdul Shakoor
35. Saif Ullah
36. Fazl-e-Malik
37. Farooq Arif
38. Zia-ul-Haq
39. Tahir Abbas
40. Mazhar Ali
41. Muhammad Adnan
42. Asadullah
43. Noman Khan
44. Muhammad Saeed

45. Ghazi-ur-Rahman
46. Jehangir Masih
47. Ghani-ur-Rahman
48. Zamir Gul
49. M.Masood
50. S.Sardar Ali Shah
51. Muhammad Yasir
52. Raza Khan
53. M.Amjad
54. Said amin Shah
55. Adil
56. Raees Khan
57. Muhammad Saeed
58. Daniyal Mushtaq
59. M.Ehtisham Ul Haq
60. Muhammad Nisar
61. Imtiaz Ahmad
62. Sajid Khan
63. Lehaz Khan
64. Farid Ahmad
65. Amanullah
66. Aurangzeb
67. Nafeesa Iqbal
68. Hasib-ur-Rahman
69. Muhammad Naseem Gul
70. Imran
71. Arif Jan
72. Syed Kifayat Shah
73. Muhammad Ismail
74. Muhammad Asif
75. Sawab Gul
76. Atta-ur-Rahman
77. Asif Bashir
78. Rashid Khan
79. Yahya Maqsood
80. Intikhab Alam
81. Muhammad Asim
82. Faheemullah



83. Muhammad Arif	119. Sher Ali Khan
84. Fawad Ali	120. Muhammad Ibrahim
85. Ibrar	121. Fahim Jan
86. Sumair Masud	122. Muhammad Sharafat
87. Haroon Khan	123. Waseem Ghani
88. Muhammad Ahmad Mobeen	124. Shah Hussain
89. Inayat Khan	125. Salman
90. Shahzad Farhad	126. Muhammad Nawaz
91. Hanifullah	127. Rasool Khan
92. Waqas Noor	128. Muhammad Ashfaq
93. Waqar Mehmood	129. Wakeel Khan
94. Muhammad Noor	130. Muhammad Nafees
95. Iftikhar-ul-Haq	131. Muhammad Jibran
96. Fida Hussain	132. Kifayat Ali
97. Hamza Saleh	133. Faisal Sarfaraz Khan
98. Fahim Hussain	134. Nisar Ali
99. Ashiq Hussain	135. Akhtar Hussain
100. Habib-ur-Rahman	136. Hazrat Hilal
101. Gul Habib	137. Zameen Khan
102. Ali Akbar	138. Abdul Nazir
103. Sajjad Khan	139. Shahid Khan
104. Junaid Ali	140. Muhammad Zubair
105. Adil	141. Muhammad Mushtaq
106. Arsalan Ali Khan	142. Sajjadullah
107. Baber	143. Kamran
108. Safdar Khan	144. Khurram Mahmood
109. Hamid Khan	145. Kashif Azhar
110. Hazrat Ali	146. Waqas Ahmad
111. M. Bilal	147. Imran Khan.
112. Mufti Hammad	(disabled)
113. Shahzad	148. Fazal Dad
114. Naik Amal Dad	149. Zahoor Ali Shah
115. Gultaz	150. Bashir Hussain
116. Hasnain Ali	151. Abbas
117. Azam Khan	152. Sajjad Khan
118. Hameed Khan	153. Izharullah

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Izharullah

154. Younas Khan

155. Samin Jan

156. Abdus Salam

157. Ajmal Khan

158. Muhammad Sadiq

159. Tufail

160. Ashfaq Ahmad

161. Arshad Ali

171. Rehmat Ali

172. Abdul Qadir

173. Ghazi Khan

174. Imran Khan

175. Zahid usman

176. Bakhtiar Khan

177. Aurangzeb

178. Muhammad Zakir Khan Afridi

179. Shaukat Khan Mali

180. Amjad Khan Mali

181. Shakeel Emaneul

182. Pitras Jan

183. Humair Amjad

184. Faraz

185. Wajid Hussain

186. Shahzad

187. Zahid Siddique

188. Attiqu Akram

189. Roshan Lal

190. Muhammad Arif

191. Riaz Khan

192. Abdul Jamil

193. Qaiser Khan

162. Abdur Rauf

163. Yasir Khan

164. Karamat Shah

165. Farhat Khan

166. Muhammad Aftab

167. Saifullah

168. Aziz-ur-Rahman

169. Bashir Gul

170. Raza Khan

21/2/2020

13 FEB 2020

Handwritten signature

Younas Khan
Samin Jan
Abdus Salam
Ajmal Khan
Muhammad Sadiq
Tufail
Ashfaq Ahmad
Arshad Ali

Rehmat Ali
Abdul Qadir
Ghazi Khan
Imran Khan
Zahid usman
Bakhtiar Khan
Aurangzeb
Muhammad Zakir Khan Afridi
Shaukat Khan Mali
Amjad Khan Mali
Shakeel Emaneul
Pitras Jan
Humair Amjad
Faraz
Wajid Hussain
Shahzad
Zahid Siddique
Attiqu Akram
Roshan Lal
Muhammad Arif
Riaz Khan
Abdul Jamil
Qaiser Khan

Abdur Rauf
Yasir Khan
Karamat Shah
Farhat Khan
Muhammad Aftab
Saifullah
Aziz-ur-Rahman
Bashir Gul
Raza Khan

وکالت نامہ

بعدالت: _____
 حضور: _____ بنام _____
 منجانب: _____ دعویٰ _____
 تاریخ: _____

الہ
 رازق
 زلف
 لہر
 الہ

باعت تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی
 بمقام _____ کیلئے جاویداقبال گل بیلہ ایڈووکیٹ ہائی کورٹ کوہاں شریک
 مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص رو بروعدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل
 صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من مظهر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے
 کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر
 مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر
 مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر
 من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی
 صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کوکل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور
 صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و
 تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل
 کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور
 بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتہائی یا ترقی یا گرفتاری قبل اجراء ڈگری بھی موصوف
 کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا
 اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ
 مقرر کریں اور ایسے مشیر قانون کے ہر امر وہی اور ویسے ہی اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کو حاصل
 ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو
 پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت
 میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند رہے۔
 مورخہ _____ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

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FILED TODAY
 Deputy Registrar
 25 FEB 2020

COC # 10-7924
 Cell # 0345-9405501
 CNIC # 17301-1498105-2

IN THE PESHAWAR HIGH COURT, PESHAWAR.
OBJECTION SLIP

No. 38064

Faiz Muhammad V/S Govt of KPK

11 Copies of annexures are not attested.


READER


Returned with above mentioned objections for removal to be re-submitted on or before _____

23 November 2020


Deputy Registrar/ Incharge
Peshawar High Court, Peshawa

R. Sw

The Joint Perwise Comments is hereby re-submitted after removal of objection


26-11-20

Faisal Khan
BOR



By

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Faiz MuhammadPetitioner

VERSUS

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

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26 NOV 2020

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Deputy Registrar
23 NOV 2020

23-11-20
W.P Copy Received
For A.G.


Assistant Secretary (Lit-I)
Board of Revenue KPK

1

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

W.P.No. 2016-P/2020

Mr. Faiz Muhammad

Petitioner

Versus

- 1) Chief Secretary Government of Khyber Pakhtunkhwa.
- 2) Secretary Finance Department, Khyber Pakhtunkhwa.
- 3) Secretary Establishment Department, Khyber Pakhtunkhwa.
- 4) Senior Member Board of Revenue, Revenue & Estate Department

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 4.

Respectfully Sheweth:-

Preliminary Objections.

- a) That the petitioner has got no cause of action/ locus standi to file the instant writ petition against the respondents.
- b) That the petitioner has presented the facts in manipulated form which disentitles him for any relief whatsoever.
- c) That the petitioner has not come to this Honorable Court with clean hands.
- d) That the petitioner is estopped by his own conduct.
- e) That the petition is bad for mis/non-joinder of necessary parties.

FACTS

1. Pertains to record, hence needs no comments.
2. Pertains to record, hence no comments.
3. Pertains to record, hence no comments.
4. Pertains to record, hence no comments.
5. Incorrect. The petitioners have misconceived and erred both in facts and law. The Allowance/ Allowances sanctioned by Provincial Government cannot be claimed as of right, but is subject to law, rules and policy. As per the policy of Provincial Government, Special Allowance is only permissible to the employees of Civil Secretariat working against sanctioned posts of Establishment and Administration Department. Moreover there is a lot of distinction between the job duties of the Civil Servants working in the Secretariat & those who are working in the attached departments/ districts offices.

In this regard a high level committee was constituted in compliance of Judgment & Order of PHC in writ petition No. 87/2010 & other petition decided on 26-05-2011 regarding special Allowance & utility Allowance claimed by various employees of different attached departments. The said committee after examining all relevant material and analysis of two different categories of employees receiving these benefits and the ones, who are not, finds them placed differently in different

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23 NOV 2020

circumstances. The employees at the Secretariat perform functions and duties which are more demanding and burdensome with responsibilities with heavier accountability vis-a-vis those serving in attached departments. Different job positions at Secretariat thus require special benefits to make them more attractive and thus retain functionaries at these positions. This Committee therefore holds that there exists clear distinction between the duties and functions of those who have been granted allowances and those who have been excluded and thus employees working at the attached Departments are not entitled for such special and utility allowances. Report of the high level committee is annexed vide **(Annex-I)**.

6. As replied vide Para-5 above.
7. Correct to the extent that Secretariat Allowance was renamed as personal allowance. However, personal allowance was abolished in Para 5 (I) of the Pay Revision notification dated 30-06-1994 **(Annex-II)**, it is explicitly mentioned that, with the introduction of new scales of pay, the Secretariat Allowance admissible to the employees working in the Secretariat and provisionally extended to the employees of other officers/ organizations or similar allowance given on the analogy of the Secretariat Allowance to the employees of the KPPSC and Peshawar High Court is abolished w.e.f 01.06.1994 **(Annex-III)**.
8. Correct to the extent of record.
9. As explained in Para-7, the subject allowance so sanctioned was subject to condition of Para 5(i) of this department circular No.FD(PRC)1-1/94 dated: 30.06.1994 (Annex-A). Furthermore Under option (b) it is stated that an existing employee who does not exercise and communicate such option whether the prescribed time limit, shall be deemed to have opted to be governed by the new scales & abolition of Secretariat Allowance etc.
10. As explained above in Para:9.
11. Correct to the extent of record.
12. The Secretariat Allowance was rescinded by the ordinance of the Provincial Government which is self-explanatory in itself **(Annex-IV)**. Then the Special Allowance was sanctioned vide Finance Department letter No.FD(SOSR-II)/8-53/2008 dated 06-02-2008 after approval of Competent Authority so no rule of Law has been violated at all.
13. Correct. However, as per policy of Provincial Government the Special Allowance is only admissible to the officers and officials (BPS: 1-22) of NWFP Civil Secretariat, CM Secretariat and Governor House/ Secretariat **(Annex-V)**.
14. No Comments.
15. As replied vide Para-14 above.
16. As replied vide Para-14 above.

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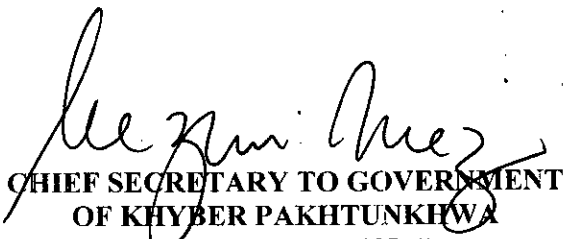
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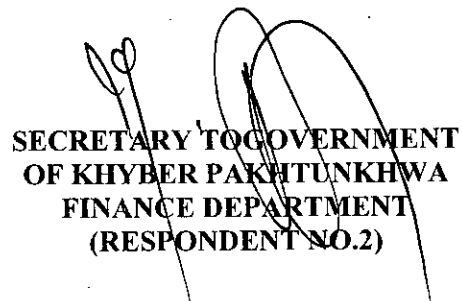
Grounds.

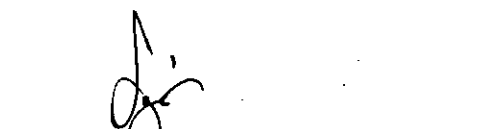
- A. No Comments.
- B. Incorrect. Nothing discriminatory has been carried out by respondents.
- C. As explained in Para: 5 of the facts.
- D. As explained in Para: 5 of the facts.
- E. Incorrect. The job responsibilities/ duties of the employees at Civil Secretariat and at attached departments / line departments are miles apart, and are not comparable by a one yard stick. The demand of petitioners is in total violation of policy of provincial government and beyond comprehension of law.
- F. No comments.
- G. As explained in Para-5 of the facts.
- H. The petition in hand being based on twisted/ distorted facts, other grounds be denied accordingly.

Prayer:-

In view of the above explanation, it is therefore most humbly prayed that the instant petition being devoid of merit may very graciously be dismissed with cost.


**CHIEF SECRETARY TO GOVERNMENT
 OF KHYBER PAKHTUNKHWA
 (RESPONDENT NO.1)**


**SECRETARY TO GOVERNMENT
 OF KHYBER PAKHTUNKHWA
 FINANCE DEPARTMENT
 (RESPONDENT NO.2)**


**SECRETARY TO GOVERNMENT
 OF KHYBER PAKHTUNKHWA
 ESTABLISHMENT DEPARTMENT
 (RESPONDENT NO.3)**


**SENIOR MEMBER BOARD OF REVENUE
 REVENUE & ESTATE DEPARTMENT
 (RESPONDENT NO.4)**

FILED TODAY

Deputy Registrar

23 NOV 2020

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 2016-P/2020

Faiz MuhammadPetitioner

VERSUS

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

AFFIDAVIT

I, Mr. Iftikhar Ahmad Superintendent (Lit-I) Board of Revenue, KPK, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Para-wise Comments** submitted on behalf of Respondent No. 1 to 4 are true and correct to the best of my knowledge and belief and that nothing has concealed from this Honorable Court.

DEPONENT

C.N.I.C.NO/17304-1352025-3

17301 13520 25-3

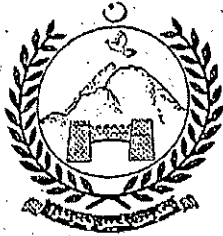
0333-9231862

Identified by

Advocate General
Khyber Pakhtunkhwa.

FILED TODAY
Deputy Registrar
23 NOV 2020

No: 13027
Certified that the above was verified on solemnly
affirmation before me in office, this 23
day of Nov 2020 by Iftikhar Ahmad
s/o Supdt Peshawar
who was identified to me by A.G.
Who is personally known to me
Oath Commissioner
Peshawar 23/11/2020



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(Regulation Wing)

Dated Peshawar, April 27, 2011

NOTIFICATION

No.FD(SOSR-II)8-7/2011. Governor, Khyber Pakhtunkhwa Province has been pleased to approve, with effect from *07-04-2011* and until further orders, *Increase* in the rate of *Special Allowance*, sanctioned vide this Department letter No.FD(SOSR-II)8-7/2002/Vol.IV dated 06-02-2008, and subsequently amended vide letter of even number dated 03-03-2008, from the existing 20% of the Basic Pay to *30% of the Basic Pay*.

2- Special Allowance shall cease to be admissible to the civil servant with effect from the date when, consequent upon his transfer to a post outside Civil Secretariat, Chief Minister's Secretariat or Governor's House Secretariat, he relinquishes the charge of the post held by him in any of these Secretariats.

3- The admissibility of Special Allowance shall continue to be subject to the conditions prescribed in Finance Department letters referred to in Para-1 above, or conditions which may be prescribed by the Government from time to time.

Attested
Sept 16, 11

Secretary to Government of
Khyber Pakhtunkhwa
Finance Department

Endst: No. & date even.

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

1. All Administrative Secretaries of Khyber Pakhtunkhwa Province.
2. Accountant General Khyber Pakhtunkhwa, Province.
3. Secretary to Governor, Khyber Pakhtunkhwa Province.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa Province.
5. Director FMIU, Finance Department, Khyber Pakhtunkhwa Province.

(WAZIR MUHAMMAD AFGAI
Section Officer (SR.II))

Report of the High Level Committee

Subject: Judgment/Directions of Peshawar High Court Peshawar in Connection with Writ petition Filed by Certain Employees of Attached Department for Allowing Special Allowance And utility Allowance On The Analogy of Secretariat Employees.

Constituted in furtherance of Judgment and Order of Peshawar High Court in W.P. 87 of 2010 and other Petitions dated 26.05.2011 in respect of Special Allowance and Utility Allowance claimed by various employees of different attached Departments

1. A high level Committee comprising of BS 21 and BS 20 Senior Government functionaries was constituted under the Chairmanship of Additional Chief Secretary (BS - 22) and accordingly notified vide Notification No. FD(SOSR-II)8-7/2011 dated 02/07/2011 (Annex-A) in terms of the aforesaid Judgment and Order of a worthy Divisional Bench of Peshawar High Court dated 26.05.2011 where a period of Six months was fixed (Annex-B) with following terms of reference:

- (i) The Committee will examine the difference between the duties and functions of those Government employees who have been granted Special Allowance @ 20% and Utility Allowance @ 10% of the basic pay and those who have not been extended these facilities.
- (ii) The Committee will finalize its report/recommendations within three months period, commencing from the date of issuance of this Notification.

2. The Committee, after its constitution and notification, convened its meeting on 11.07.2011 and deliberated the matter referred thereto thoroughly in light of the Judgment of the Peshawar High Court. Proceedings of the meeting were duly minuted (Annex-C) and it was decided in larger interest of justice and fair play to co-opt a few more high level officials from the attached departments. It was also decided that the Committee may also require different attached Departments to provide them with the respective roster of duties, job

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descriptions and details of working hours of employees working therein for comparison with those who are the beneficiaries of the two Allowances. Committee also directed Secretary Finance to apprise Committee about status of different allowances, being given to various groups, cadres or categories of Government Servants. Chair also asked the Establishment Department to analyze and monitor trends of retention and posting out of employees from Secretariat.

The Governor Secretariat and Chief Minister Secretariat, being the recipients of the two Allowances alongside Civil Secretariat Employees were also requested to apprise the Committee in writing about their roles and longer working hours, if any.

3. After co-opting a number of senior functionaries from different Attached Departments (List Annex-D) and receiving required information from various quarters, Committee accordingly reconvened its proceedings on 15.11.2011. A marathon session of meticulous consideration of the material gathered so far and protracted deliberations/consultations ensued.

4. The Committee, before proceeding further, unanimously acknowledged the legal position that it is a well-established prerogative of the "Executive" to incentivize any given set of its employees by way of special pay/allowances, if such preference is based on intelligent differentia and is arising out of a situation where either (a) the employees are tasked with specially arduous nature of duties or (b) where there are specific additions to work or responsibilities of a group or class of employees. Committee is also cognizant of Rule 9(25) of the Fundamental Rules, which fortifies this preposition, while defining the "Special Pay". The concept finds further strength when seen in context of the provisions related to "Compensatory Allowances", so dealt with under Rule 44 of the Fundamental Rules read with Rule 17 of the Subsidiary Rules. While taking stock of different notifications dealing with different allowances, admissible to various classes or

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categories of government servants, as compiled by the Finance Department, the Committee is of the considered opinion that Governments of the day have been incentivizing different cadres or categories of Government functionaries by way of allowance for a variety of reasons such as (a) to promote a particular discipline of knowledge, (b) to boost morale of its employees in different exacting positions, (c) to ensure improvements in quality of work, (d) to create attraction for incumbency in different less advantageous positions, (e) to promote higher education, (f) to promote various best practices and to discourage corruption, (g) to improve governance and (h) to compensate employees with arduous duties or extended responsibilities etc. The Committee took into consideration a whole bunch of different allowance(s) granting notifications (Annex - E) with assistance of the Finance Department to judge the intrinsic rational of these notifications. After examining these Notifications and various judgments of the Superior Judiciary, cited in the Peshawar High Court's Judgment, the Committee finds its view reaffirmed that it is within the powers of the Government to provide additional monetary benefits by way of special pays or allowances to any given set of employees in preference and exclusion to others, if any of the afore-listed considerations are attracted to the circumstances of such preferred employees.

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5. The Committee, after examining the general rationale for allowances, examined the parameters of Special and Utility Allowances, granted to the employees of three Secretariats in preference to employees of the attached Departments. It was also brought to the notice of the Committee that while Committee was seized with instant deliberations, the Provincial Government has modified the regime of Allowances and rather than two separate allowances, have since been notified as grant of a "Special Allowance" @ 30% of basic pay to the employees working at Civil Secretariat, Governor's Secretariat and C.M. Secretariat with some added rationalizations vide Notification No. FD(SOSR-II)8-7/2011 dated 27-04-2011. (Annex-E). While examining the job descriptions

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provided by various Secretariat Departments and the Attached Departments, the Committee find itself in agreement with the comments of the Establishment Department which advocate a clear distinction between the statutory role of a "Department" vis-à-vis an "Attached Department" based on the definition provided in Rule 2(h) of the Khyber Pakhtunkhwa Rules of Business, 1985, defining a "Department" to mean a self-contained administrative unit in the Secretariat, responsible for the conduct of business of Government in a distinct and specified sphere and declared as such by the Government (underlining added for emphasis). While read with Rule 5 of the Rules of Business *ibid*, framing of the policy is the responsibility of the Minister Incharge and it is the responsibility of the Secretary of the Department to assist the Minister in formulation of the policy and its implementation, whereas the attached departments are tasked to implement the law and policies so made and duly sanctioned by the provincial government. With this discussion at hind sight, the Committee finds itself in unison with Establishment Department, who has categorized different levels of governance, reproduced hereunder for facility of reference and to acknowledge their significance to the instant discussion:

- a. Strategic level: i.e. Cabinet. Being collectively responsible to Provincial Legislature, all vital policies of administrative, economic and strategic significance emanate from the Cabinet decisions as well as directive of Governor and Chief Minister.

- b. Tactical level:

Secretariat: Since Chief Secretary, Khyber Pakhtunkhwa and Administrative Secretaries are responsible to Cabinet and their respective Departments to them, thus indirectly responsible to the Cabinet as well, the Secretariat of the Provincial Government provides policy and strategic input to the Cabinet. Therefore all policies originate from the Secretariat. For this purpose, all the

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research work and other application of mental faculties at the higher level is done at the secretariat which calls for painstaking effort to ensure quality and quantity of work.

c. Implementation level:

Attached Departments: Policies framed in the Secretariat are passed on to Attached Departments in the shape of "ready-made" protocols of action or tools for implementation, with no direct responsibility to the Cabinet.

6. While juxtaposing and weighing the duties for finding semblances and similarities in functions and responsibilities of those provided with the Allowances and those, for whom such benefits does not stand extended, this Committee could not lightly brush aside the fact that three "Secretariats" being the policy pinnacles of the Government, serve as nerve center for tactical decision making for the "Executive". With Secretaries along with their Departments (Comprising of Secretariat staff) remaining responsible to their Ministers, who collectively as cabinet in their turn is responsible to legislature, there is necessitated a profound sense of accountability in the employees working in the Secretariat, making the Secretariat positions more exacting and directly responsible. While the nomenclature of the posts in different "Departments" of the Secretariat may sound semantically akin to those in the "Attached Departments", this Committee clearly sees merits in the rationale that the Secretariat Positions, as envisaged in the Rules of Business are arduously demanding in terms of responsibilities as they require more fastidious and painstaking observance of different affairs, direct answerability, pedantic protocols and excruciating decision making with minimal liaison with public. Another very important aspect, that came time and again, to the notice of this Committee, was the fact that in all the three Secretariats, because of closer

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proximity to the strategic level of governance and because of direct liaison with actual decision makers i.e. the Governor, Chief Minister and the Ministers Incharge of various line ministries, the employees are required to observe relatively longer working hours, as more often than not, they are required to remain available on their positions beyond normal duty hours. In fact, the comments furnished by the Governor and Chief Minister Secretariats respectively, it has been reported that late sittings till evening is a matter of routine in the two Secretariats because of day long engagements and extended working hours of the worthy Governor and Chief Minister respectively. The Committee was provided with a number of Notifications and Intra Office Memos of various Departments in the Civil Secretariat as well, where the staff working in different Departments has been instructed to stay and remain available till the sitting of the Minister, till the session of the Provincial Assembly (which usually go till late in the evening) or during days of Provincial Budget, preparation of ADP or in the matter of different other emergencies, burdening the employees posted at Civil Secretariat every now and then with additional duties and extended working hours as matter of routine. While being fully appreciative of the dedication of employees at attached Departments as well, this Committee has observed that the practice of late sittings or extended working hours is virtually inexistent at the attached Departments as they perform their implementation responsibilities, mostly within the normal office hours. No attached Department, in its comments provided to this Committee, has claimed any additional workload on account of longer working hours, whereas the practice of late sitting is a regular feature when one works at any of the three Secretariats. While making a fair estimate of the workload based on discussions with co-opted members and observing the pattern of tasking, this Committee feels that employees working at thee Secretariats are required to perform different secretariat responsibilities over any given period of one month which are at least 25% to 30% more burdensome when compared to those who work in different

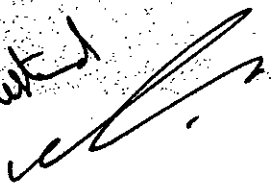
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attached Departments or field formations with similar nomenclatures. Just to narrate an example, any of the Stenographers/Steno-typists, attached with administrative Secretaries have usually 40 to 50 documents per day to compose, while those at the attached Departments are usually tasked to compose 25 to 30 pages per day on a busy working day. Similarly record keeping and handling of files, maintaining DAK registers and correspondence and other secretariat support at Secretariat level is more painstaking and onerous on any given day, when compared with these activities at the implementation level attached Departments. Another important aspect that came under consideration of the Committee was that at attached Departments, as explained at some length above, are positions, primarily related to field duties or on-ground implementation activities whereas at Secretariat there are no parallel positions, so in essence, nature of responsibilities of the two groups are not alike or similar at all, as far as these implementation level positions are concerned such as in Directorates or field offices. Employees in such positions, although have been, petitioners in many of the Writ Petitions seeking two allowances, but have no comparison at all with those working at Secretariats and cannot be regarded as "placed in similar conditions".

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7. After a thorough examination of list of responsibilities of different Secretariat positions, so listed in Khyber Pakhtunkhwa Manual of Secretariat Instructions, 2008 and comparing them with job descriptions of positions at different attached Departments, and especially taking into account the prevalent practices in different departments and their respective attached Departments, this Committee has observed that while working in support of Governor, Chief Minister and the Cabinet, the three Secretariat employees are mostly required to perform activities that need painstaking research, punctilious observation of codal formalities and comparatively more hard work to ensure quality and quantity of work. More often than not, employees at Secretariats, due to their

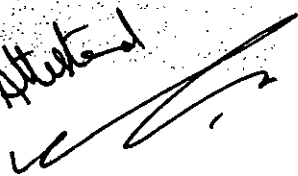
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unceasing responsibilities to assist political bosses even during odd or beyond usual working hours and because of enhanced quantum of work, are ordered to sit much beyond usual working hours. These extended accountability and arduous aspect of serving at secretariat positions, if not made little more rewarding, would make these position far less attractive thus would make retention of good officers at these policy echelons extremely difficult. In comparison to these arduous conditions, the employees posted in smaller and more dependently attached departments and semi-autonomous wings are performing limited functions in far less-demanding environs thus treating the two distinct classes similarly would serve injustice rather than justice.

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8. While respecting the point of views of different co-opted members from the attached Departments favoring a similar treatment for their subordinates too, the Committee also remained cognizant of the fact that despite these two paltry percentile based allowances, the positions at Secretariat with no direct public liaison are generally conceived as more taxing and grueling by the government functionaries and they try to opt for positions outside three secretariats. Establishment Department confirmed that a large number of officers posted at different Secretariat positions have either shown tendencies or expressed desires to post themselves out to different less demanding administrative positions outside secretariats. In such circumstances, giving no added benefits for secretariat postings will render the Secretariat virtually empty and devoid of good officers at important tactical positions.

9. It may also be added that the Committee was requested by different Head of Attached Departments to consider favorably for the attached Department employees and extend similar benefits to them too on compassionate grounds alone, if not otherwise admissible, but it may be worth considering that presently

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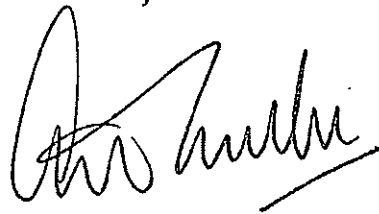
the beneficiaries of the two allowances are not more than three thousands who are rightfully receiving these benefits against given positions whereas it is extended across the board to hundreds of thousands of employees, the benefits will have financial implications worth Billions of rupees annually with recurring liability. A hefty portion of the Budget (almost Rs. 86 Billion per annum) goes to salaries alone making this non-developmental expenditure already unbearable. Any further increase towards universal application of allowances will prod the Provincial Government to a state of quandary, with no wherewithal to meet even its day to day expenditures, leaving absolutely no room for development at all. Even otherwise, concept of special pay necessitate payment against arduous on additional responsibilities and thus a backbreaking payment without attending circumstances will make the same, absolutely without any plausible rational on justification.

10. This Committee, after examining all the relevant material and bearing in mind all the attending circumstances, facts and figures and especially after making thorough analysis of two different categories of employees (ones, who are receiving these benefits and the ones, who are not), finds them placed differently in different circumstances. This Committee, is therefore of the considered opinion, that it was within the prerogative of the Provincial Government to incentivize more exacting and arduous secretariat positions to ensure retention of better officers and employees at the tactical secretariat level. The employees at the Secretariat perform functions and duties which are more demanding and burdensome with responsibilities with heavier accountability vis-à-vis those serving in attached Departments. Different job positions at Secretariat thus require special benefits to make them more attractive and thus retain functionaries at these positions. This Committee therefore holds that there exists clear distinction between the duties and functions of those who have been granted allowances and those who have been excluded and thus employees

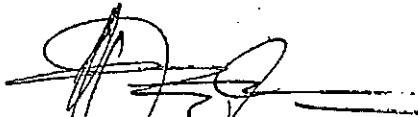
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working at the attached Departments are not entitled for such special and utility allowances. Before parting with this determination, the Committee however recommends that in case, any particular attached wing or field formation still feels that it has similar conditions of work, akin to that of Secretariat with similarly demanding accountability and longer working hours and matching workload, it may send its case separately to the Finance Department, with all supporting material and evidence through proper channel for consideration, purely on merit for grant of such special pay/allowance. This Committee expresses its gratitude to all concerned for supporting and assisting this Committee to arrive at an informed and just determination.



(MR. ATTA ULLAH KHAN)
Additional Chief Secretary, Khyber Pakhtunkhwa
(Chairman)



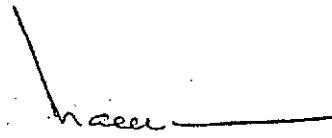
(MR. MUHAMMAD ARIFEEN)
Secretary to Govt. of Khyber Pakhtunkhwa
Establishment Department (Member)



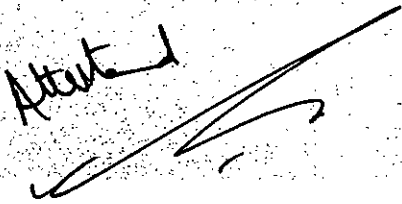
(MR. HIFZ-UR-REHMAN)
Secretary to Govt. of Khyber Pakhtunkhwa
Administration Department (Member)



(SYED AMIRUDDIN)
Secretary to Govt. of Khyber Pakhtunkhwa
Law and Preliminary Affairs Department
(Member)



(SAHIBZADA SAEED AHMAD)
Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department (Secretary)



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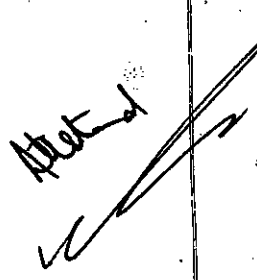
PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3
	<p style="text-align: center;">ORDER 14.02.2012</p>	<p style="text-align: center;"><u>Writ Petition No.547/2011</u></p> <p>Present: Mr. Muhammad Asif Yousafzai, Adv., for Tariq Jan etc., petitioners.</p> <p>Mr. Zahid Yousaf Qureshi, Addl. AG, for the respondents.</p> <p style="text-align: center;">*****</p> <p><u>ATTAULLAH KHAN, J.</u>-Petitioners, through the instant petition, have asked for the issuance of an appropriate writ declaring that the notifications dated 06.02.2008 regarding 20% Special Allowance and 10% Utility Allowance to the employees of Civil Secretariat, Chief Minister and Governor's Secretariats, being nullity in the eye of law are of no effect whatever. They have also asked for the issuance of an appropriate writ directing the respondents to grant them the same benefits by treating them at par with the other employees of other Secretariats under the principles of equity.</p> <p>2. We have gone through the available record</p>

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carefully and considered the submissions made by the learned counsel for the petitioners.

3. The learned counsel for the petitioners at the very outset requested that he would be satisfied if this Court treats the instant petition as a representation and sends it to the concerned authority for disposal in accordance with law in light of the judgment of this Court rendered in Writ Petition No.87 of 2010 decided on 26.05.2011. In this view of the matter, we while disposing of this writ petition, treat it as a representation and direct the office to send it to the Chief Secretary, KPK. Peshawar for decision in accordance with law, rules, policy, merit and in light of the judgment dated 26.05.2011 of this Court, mentioned above, within a month. This writ petition, thus, stands disposed of in the above terms.

Announced.
14. 02. 2012

[Signature]
JUDGE

[Signature]
JUDGE

*Office
14/2*

*Office
14/2*

MR. [Signature]

[Signature]
addl. Registrar
18/2

Attest
[Signature]

(Fayaz)

18



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

REPORT FOR CHIEF SECRETARY

Secretary Finance
Khyber Pakhtunkhwa
Diary No. 1525
Date 04/07/12

SUBJECT: JUDGMENT/DIRECTIONS OF PESHAWAR HIGH COURT
PESHAWAR IN CONNECTION WITH WRIT PETITIONS
FILED BY CERTAIN EMPLOYEES OF ATTACHED
DEPARTMENTS FOR ALLOWING SPECIAL ALLOWANCE
AND UTILITY ALLOWANCE ON THE ANALOGY OF
SECRETARIAT EMPLOYEES

The employees of certain attached Departments had demanded the facility of Special Allowance @ 20% and Utility allowance @ 10% of the basic pay at par with employees working in Civil Secretariat, CM Secretariat and Governor's House.

2. However, Finance Department regretted the same on solid grounds.

3. Consequently, the employees of attached departments filed writ petitions in Peshawar High Court which were disposed of on 26.05.2011 and the Honorable court directed the Govt. of Khyber Pakhtunkhwa to constitute a committee of senior officers of BPS-20&21 to examine the difference between the duties and functions of both the employees of the above secretariats and those of attached departments and submit recommendations within six months time.

4. The Provincial Government accordingly constituted a committee consisting of the following officers (Annex-A):

- | | |
|---|-----------|
| 1. Additional Chief Secretary, Khyber Pakhtunkhwa | Chairman |
| 2. Secretary Finance Department | Secretary |
| 3. Secretary Establishment Department | Member |
| 4. Secretary Law & Parliamentary Affairs Deptt: | Member |
| 5. Secretary Administration Department | Member |

5. The high level Committee, after making thorough analysis of two different categories of employees, (ones, who are receiving these benefits and the ones, who are not), finds them placed differently in different circumstances. This Committee was, therefore, of the considered opinion that the employees at the Secretariat perform such functions and duties which are more demanding and burdensome with responsibilities with heavier accountability vis-à-vis those serving in attached

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Department and held that there exists clear distinction between the duties and functions of those who have been granted allowances and those who have been excluded and thus employees working at the attached Departments are not entitled for such special and utility allowances.

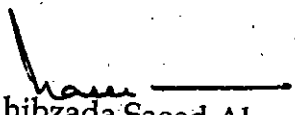
6. In view of the above, it is, therefore, suggested that the representation submitted before the Chief Secretary, Khyber Pakhtunkhwa in pursuance of court order dated 14.02.2012 passed in Writ Petition No.547/2011 may be rejected in light of the report of the concerned committee.

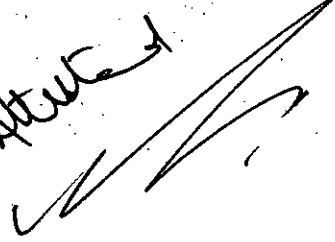
Secretary Finance
Khyber Pakhtunkhwa

Diary No. 1525

Date 04/5/12

Chief Secretary


(Sahibzada Saeed Ahmad)
Secretary Finance
04-05-12

Attended




GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 02/7/2011

NOTIFICATION

No.FD(SOSR-II)8-7/2011. In pursuance to the directions of Peshawar High Court Peshawar, contained in the judgment dated 26/05/2011, the Competent Authority has been pleased to constitute a committee, consisting of the following Officers:-

- | | | |
|----|---|-----------|
| 1) | Additional Chief Secretary
Planning & Development Department. | Chairman |
| 2) | Secretary to Government of Khyber Pakhtunkhwa,
Finance Department. | Secretary |
| 3) | Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department. | Member |
| 4) | Secretary to Government of Khyber Pakhtunkhwa,
Law and Parliamentary Affairs Department. | Member |
| 5) | Secretary to Government of Khyber Pakhtunkhwa,
Administration Department. | Member |

2.

Terms of Reference.

- (i) The Committee will examine the difference between the duties and functions of those Government employees who have been granted Special Allowance @ 20% and Utility Allowance @ 10% of basic pay and those who have not been extended these facilities.
- (ii) The Committee will finalize its report/recommendations within three months period, commencing from the date of issuance of this Notification.

Secretary to Government of Khyber Pakhtunkhwa
Finance Department

Endst: No. & date even.

Copy is forwarded to:-

- 1) Additional Chief Secretary to Government of Khyber Pakhtunkhwa, Planning and Development Department.
- 2) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
- 3) Secretary to Government of Khyber Pakhtunkhwa, Law and Parliamentary Affairs Department.
- 4) Secretary to Government of Khyber Pakhtunkhwa, Administration Department.

(WAZIR MUHAMMAD AFGAR)
SECTION OFFICER (SR.II)

REMINDER-II



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

No.FD(SOSR-II)8-7/2011
Dated Peshawar the 26/09/2011

To

1. The Director, Agriculture Research Department, Peshawar.
- ✓ 2. The Director, Elementary and Secondary Education Department, Peshawar.
3. The Chief Engineer, C&W Department, Peshawar.
- ✓ 4. Director General, Industries, Commerce & Labour Department, Peshawar.
- ✓ 5. Director General, Mines & Minerals, Peshawar.
6. Director General, Health Services, Peshawar.
7. Director General, Transport Department, Peshawar.
8. Director General, Livestock and Dairy Development Department, Peshawar.
9. Director, Food Department, Peshawar.
10. Superintending Engineer, Irrigation Department, Warsak Road, Peshawar.

Subject:- JUDGMENT/DIRECTIONS OF PESHAWAR HIGH COURT PESHAWAR IN CONNECTION WITH WRIT PETITIONS FILED BY CERTAIN EMPLOYEES OF ATTACHED DEPARTMENT FOR ALLOWING SPECIAL ALLOWANCE AND UTILITY ALLOWANCE ON THE ANALOGY OF SECRETARIAT EMPLOYEES.

Dear Sir,

p-65 p-71/2
I am directed to refer to this department letter of even number dated 20-08-2011 & 27/08/2011 on the subject noted above and to state that the requisite information are still awaited which may be expiated at the earliest please.

Yours faithfully,

Wazir Muhammad AFGAR
(WAZIR MUHAMMAD AFGAR)
SECTION OFFICER (SR.II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(Regulation Wing)

No. KC/FD (SOSR-II)/8-7/2010
Dated Peshawar the, 10-05-2012

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To

The Additional Registrar, (J)
Peshawar High Court,
Peshawar

Subject: **COC NO. 90-P/2012 IN WRIT PETITION NO. 350/2010**
Dear Sir,

I am directed to refer to the subject note above and to say that in pursuance to the judgment of Peshawar High Court Peshawar dated 26/5/2011 a high level committee was constituted by the Government consisting of the following senior officers vide Notification No. FD(SOSR-II)8-7/2011 Dated 02-07-2011:

- | | |
|--|----------|
| 1. Addl: Chief Secretary (BPS-22) | Chairman |
| 2. Secretary Finance Department (BPS-21) | Member |
| 3. Secretary Establishment Department (BPS-21) | Member |
| 4. Secretary Law & Parliamentary Affairs Deptt. (BPS-21) | Member |
| 5. Secretary Administration Department (BPS-20) | Member |

2. The Committee held numerous meetings and thoroughly deliberated on the issue regarding "the difference between the duties and functions of those Government employees who have been granted Special Allowance @ 20% and Utility Allowance @ 10% of the basic pay and those who have not been extended these facilities".

3. Report of the Committee duly signed by the members is enclosed for perusal.

4. I am further directed to assure the honorable Court that Finance Department has always implemented the directions of the honorable Court and would do so in future as well.

Yours Faithfully,

(SHAUKAT ULLAH)
Section Officer (SR-II)

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GOVERNMENT OF NWFP,
FINANCE DEPARTMENT,
(REGULATION WING)

No.FD(PRC)1-1/94,

Peshawar, the 30th June, 1994.

OFFICE MEMORANDUM

Subject: REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS 1-22) OF THE PROVINCIAL GOVERNMENT (1994)

The Governor, NWFP, has been pleased to sanction the revision of Basic Pay Scales for civil employees of the Provincial Government in BPS 1 to 22 as detailed in the following paragraphs:-

2- **Basic Pay Scales.** The details of the existing and revised pay scales are given in the Schedule attached to this O.M. The revised pay scales shall replace existing pay scales, 1991, in respect of those employees who give option for these pay scales, in terms of para 6(a) and shall be effective from 1st June, 1994.

3- **Initial Fixation of Pay.** The initial fixation of pay of the employees who have been in government service since/before 1st June, 1994, shall be made with effect from 1.6.1994 as below:-

- i) Employees in BPS-1 to 16. -- By allowing an increase at the rate of 35% on the basic pay actually drawn on 31.5.1994. The pay of the employees will be fixed at the stage equal to or if there be no stage, at the stage next above.
- ii) Employees in BPS-17 and above.---- Initial fixation of pay shall be made by allowing 35% increase on the basic pay actually drawn on 31.5.1994, in the following two phases :-
 - a) 20% of the increase shall be allowed with effect from 1.6.1994 by fixing pay in the relevant pay scale at the stage equal to or if there be no stage, at the stage next above.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Phone: 0345-9405501

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- b) The remaining 15% increase shall be allowed on and from 1.6.1994 by refixing pay in the relevant pay scale on 1.6.1994 by allowing 35% increase over basic pay actually drawn on 31.5.1994. The net pay so fixed will be drawn from 1.6.1995 without any arrears.
- iii) The annual increment shall continue to be admissible, subject to the existing conditions, on the 1st of December each year.
- iv) Ad-hoc increases allowed as detailed below shall cease to be admissible from 1.6.1994:-
 - a) Ad-hoc relief of Rs 100/- P.M. sanctioned vide Finance Department's letter No.FD(PRC)1-3/89 dated 14.9.1992.
 - b) Additional ad-hoc relief of Rs 100/- P.M. sanctioned vide letter No. FD(PRC)1-3/89 dated 30.08.1993.
 - c) Additional ad-hoc relief of Rs 50/- P.M. sanctioned vide letter No. FD(PRC)1-3/89 dated 3.5.1994.

4- **Fixation of Pay.** In cases of promotion from lower to higher posts/scales, before introduction of these scales, pay of the employee concerned in the revised scale may be fixed and so enhanced that it would not be less than the pay that would have been admissible to him if his promotion to the higher post/ scale had taken place after the introduction of these scales.

5- **Allowances.**

- i) Secretariat Allowance and other similar Allowances based on Secretariat allowance.

With the introduction of new scales of pay, the Secretariat Allowance admissible to employees working in the Secretariats and provisionally extended to the employees of other offices/ organizations or similar allowance given on the analogy of the Secretariat Allowance to the employees of the Public Service Commission and Peshawar High Court is abolished with effect from 1.6.1994 and the amount actually drawn as such on 31.5.1994 will be converted into Personal Allowance. Those drawing such allowance on provisional basis will

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 Daudzai Law Chamber
 Advocate High Court Peshawar
 Mob) 0345-9405501

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draw the same amount as Provisional Personal Allowance. Such Personal Allowance/Provisional Personal Allowance in the case of employees in BPS-17 to 22 shall be reduced by the amount of annual increments by which the employee's pay may be increased after 1.6.1994, and shall cease as soon as his pay is increased by an amount equal to/or more than his Personal Allowance. Those in BPS 1-16 will be exempted from this adjustment to the extent that their Personal Allowance/Provisional Personal Allowance will not be reduced/adjusted.

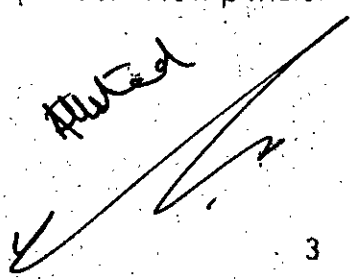
- ii) Other Allowances, Special Pay etc.... Special pays and other allowances including House Rent Allowance will be maintained at the level of the amount actually drawn/admissible on 31st May, 1994.

OPTION

- a) All existing employees are given option either to draw the existing pay scales plus Secretariat Allowance and other similar allowances based on Secretariat Allowance like Special Allowance to the employees of Peshawar High Court and Public Service Commission Allowance etc. or the new pay scales plus Personal Allowance/Provisional Personal Allowance in the manner as at 5(i) above. Option to retain existing scale with the said Allowance must, however, be given in writing by the employees concerned to the audit office/Drawing and Disbursing Officer concerned by 15th July, 1994. Option once exercised shall be final.
- b) An existing employee who does not exercise and communicate such option within the prescribed time limit, shall be deemed to have opted to be governed by the new scales & abolition of Secretariat Allowance etc.

7. Pension and Retirement Benefits.

In case of employees retiring from 1.6.1994 onwards in BPS-17 to 22, pension will be recalculated on 1.6.1995 on the basis of pay fixed with 35% increase in the pay in the second phase. New pension will, however, be admissible from 1.6.1995 without arrears.

Attended


JAVED IQBAL Gul Bela
Daudzal Chw/Chamber
Advocate High Court Peshawar
Mob: 8345-9405501

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8- The following relief to the widows, dependents, retarded and incapacitated children and invalid pensioners shall be allowed with effect from 1st June, 1994:-

- a) Restoration of commuted value/gratuity portion of families pension on completion of required period.
- b) Grant of family pension to dependent disabled/retarded children for life without any age limit.
- c) Elimination of second medical board for the invalidated pensioners for eligibility of commutation.

9- Government servants who have retired on or after 1.6.1993, till the introduction of revised pay scales i.e. 1.6.1994, be allowed pension/commutation on the basis of basic pay that would have been admissible to them, had the pay revision been effected on the date of their retirement, discounted by 12%.

10- All existing rules and orders on the subject shall be deemed to have been modified to the extent indicated above.

(TASEER JAMAL ALIZAI)
DEPUTY SECRETARY (REGULATION)

Endst. No. FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

- 1. All Administrative Secretaries, Government of NWFP.
- 2. The Senior Member Board of Revenue, NWFP., Peshawar.
- 3. The Secretary to Governor, NWFP, Peshawar.
- 4. The Secretary to Chief Minister, NWFP, Peshawar.
- 5. The Secretary, Provincial Assembly, NWFP, Peshawar.
- 6. All Heads of Attached Departments in NWFP.
- 7. All Commissioners/Deputy Commissioners/Political Agents/ District & Session Judges in NWFP.
- 8. The Registrar, Peshawar High Court, Peshawar.
- 9. The Secretary, Public Service Commission, NWFP, Peshawar.
- 10. The Registrar, Services Tribunal, NWFP, Peshawar.
- 11. The Secretary, Board of Revenue, NWFP, Peshawar.

JAVED IQBAL, Gul Bela
Qandari Law Chamber
Advocate High Court Peshawar
Mob: 3345-9495591


Taseer Jamal Alizai
(TASEER JAMAL ALIZAI)
DEPUTY SECRETARY (REGULATION)

Attended

Endst No.FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.


1. All Autonomous & Semi Autonomous Bodies in NWFP.
2. The Secretary Finance Department, Government of the Punjab, Sindh and Balochistan, Lahore, Karachi & Quetta.
3. The Secretary Finance Department, Azad Government of the State of Jammu and Kashmir, Muzaffarabad.


(SHAKIR ULLAH)
SECTION OFFICER
(PAY REVISION CELL)

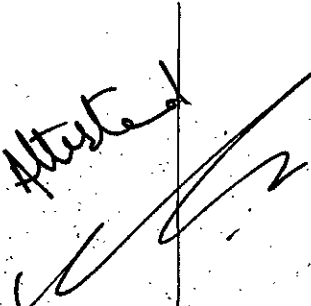
Endst No.FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

1. The Accountant General, NWFP, Peshawar.
2. All District/Agency Accounts Officers in NWFP.
3. The Treasury Officer, Peshawar.
4. The Private Secretary to Finance Minister, NWFP.
5. The PS to Secretary, PAs to Additional Secretaries/ Deputy Secretaries in Finance Department.
6. All Section/Budget Officers in Finance Department, NWFP.
7. The Director, Local Fund Audit, NWFP, Peshawar.


(SHAKIR ULLAH)
SECTION OFFICER
(PAY REVISION CELL)

Habib/



JAVED IQBAL Gul Bela
Dau0251 Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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GOVERNMENT OF NWFP.
FINANCE DEPARTMENT.
(REGULATION WING).

No. FD(PRC)1-1/94,

Peshawar, the 30th June, 1994.

OFFICE MEMORANDUM

Subject: REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS 1-22) OF THE PROVINCIAL GOVERNMENT (1994).

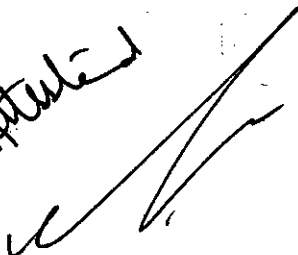
The Governor, NWFP, has been pleased to sanction the revision of Basic Pay Scales for civil employees of the Provincial Government in BPS 1 to 22 as detailed in the following paragraphs:-

2. **Basic Pay Scales.** The details of the existing and revised pay scales are given in the Schedule attached to this O.M. The revised pay scales shall replace existing pay scales, 1991, in respect of those employees who give option for these pay scales, in terms of para 6(a) and shall be effective from 1st June, 1994.

3. **Initial Fixation of Pay.** The initial fixation of pay of the employees who have been in government service since/before 1st June, 1994, shall be made with effect from 1.6.1994 as below:-

- i) Employees in BPS-1 to 16-- By allowing an increase at the rate of 35% on the basic pay actually drawn on 31.5.1994. The pay of the employees will be fixed at the stage equal to or if there be no stage, at the stage next above.
- ii) Employees in BPS-17 and above---- Initial fixation of pay shall be made by allowing 35% increase on the basic pay actually drawn on 31.5.1994, in the following two phases:-
 - a) 20% of the increase shall be allowed with effect from 1.6.1994 by fixing pay in the relevant pay scale at the stage equal to or if there be no stage, at the stage next above.

Attended



- b) The remaining 15% increase shall be allowed on and from 1.6.1994 by refixing pay in the relevant pay scale on 1.6.1994 by allowing 35% increase over basic pay actually drawn on 31.5.1994. The next pay so fixed will be drawn from 1.6.1995 without any arrears.
- iii) The annual increment shall continue to be admissible, subject to the existing conditions, on the 1st of December each year.
- iv) Administration Department-hoc increases allowed as detailed below shall cease to be admissible from 1.6.1994:-
- a) Administration Department-hoc relief of Rs 100/- P.M sanctioned vide Finance Department's letter No. FD(FRC)1-3/89 dated 14.9.1992.
- b) Additional ad-hoc relief of Rs. 100/- P.M. sanctioned vide letter No. FD(PRC)1-3/89 dated 30.08.1993.
- c) Additional Administration Department-hoc relief of Rs 50/- P.M. sanctioned vide letter No. FD(PRC)1-3/89 dated 3.5.1994.

4. **Fixation of Pay.** In cases of promotion from lower to higher posts/scales, before introduction of these scales, pay of the employee concerned in the revised scale may be fixed and so enhanced that it would not be less than the pay that would have been admissible to him if his promotion to the higher post/ scale had taken place after the introduction of these scales.

5. **Allowances.**

- i) Secretariat Allowance and other similar Allowances based on Secretariat allowance.

With the introduction of new scales of pay, the Secretariat Allowance admissible to employees working in the Secretariats and provisionally extended to the employees of other offices / organizations or similar allowance given on the analogy of the Secretariat Allowance to the employees of the Public Service Commission and Peshawar High Court is abolished with effect from 1.6.1994 and the amount actually drawn as such on 31.5.1994 will be converted into Personal Allowance. Those drawing such allowance on provisional basis will

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draw the same amount as Provisional Personal Allowance. Such Personal Allowance/Provisional Personal Allowance in the case of employees in BPS-17 to 22 shall be reduced by the amount of annual increments by which the employees's pay may be increased after 1.6.1994, and shall cease as soon as his pay is increased by an amount equal to/or more than his Personal Allowance. Those in BPS 1-16 will be exempted from this adjustment to the extent that their Personal Allowance/Provisional Personal Allowance will not be reduced/adjusted.


- ii) Other Allowances, Special Pay etc.---- Special pays and other allowances including House Rent Allowance will be maintained at the level of the amount actually drawn/admissible on 31st May, 1994.

OPTION

- a) All existing employees are given option either to draw the existing pay scales plus Secretariat Allowance and other similar allowances based on Secretariat Allowance like Special Allowance to the employees of Peshawar High Court and Public Service Commission Allowance etc. or the new pay scales plus Personal Allowance/Provisional Personal Allowance in the manner as at 5(i) above. Option to retain existing scale with the said Allowance must, however, be given in writing by the employees concerned to the audit office/Drawing and Disbursing Officer concerned by 15th July, 1994. Option once exercised shall be final.
- b) An existing employee who does not exercise and communicate such option within the prescribed time limit, shall be deemed to have opted to be governed by the new scales & abolition of Secretariat Allowance etc.

7. Pension and Retirement Benefits.

In case of employees retiring from 1.6.1994 onwards in BPS-17 to 22 pension will be recalculated on 1.6.1995 on the basis of pay refixed with 35% increase in the pay in the second phase. New pension will, however, be admissible from 1.6.1995 without arrears.

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(31)

8. The following relief to widows, dependents, retarded and incapacitated children and invalid pensioners shall be allowed with effect from 1st June, 1994:-

- a) Restoration of commuted value/gratuity portion of families pension on completion of required period.
- b) Grant of family pension to dependent disabled/retarded children for life without any age limit.
- c) Elimination of second medical board for the invalidated pensioners for eligibility of commutation.

9. Government servants who have retired on or after 1.6.1993, till the introduction of revised pay scales i.e. 1.6.1994, be allowed pension/commutation on the basis of basic pay that would have been admissible to them, had the pay revision be effected on the date of their retirement, discounted by 12%.

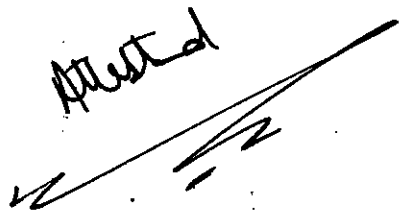
10. All existing rules and orders on the subject shall be deemed to have been modified to the extent indicated above.

(TASEER JAMAL ALIZAI)
DEPUTY SECRETARY (REGULATION)

Enndst No. FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

1. All Administrative Secretaries, Government of NWFP.
2. The Senior Member, Board of Revenue, NWFP, Peshawar.
3. The Secretary to Governor, NWFP, Peshawar.
4. The Secretary to Chief Minister, NWFD, Peshawar.
5. The Secretary, Provincial Assembly, NWFP, Peshawar.
6. All Heads of Attached Departments in NWFP.
7. All Commissioners/Deputy Commissioners/Political Agents/District & Session Judges in NWFP.
8. The Registrar, Peshawar High Court, Peshawar.
9. The Secretary, Public Service Commission, NWFP, Peshawar.
10. The Registrar, Services Tribunal, NWFP, Peshawar.
11. The Secretary, Board of Revenue, NWFP, Peshawar.

Attended


(TASEER JAMAL ALIZAI)
DEPUTY SECRETARY (REGULATION)

(Better Copy)

32

Enndst No. FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

1. All Autonomous & Semi Autonomous Bodies in NWFP.
2. The Secretary Finance Department, Government of the Punjab, Sindh and Balochistan, Lahore, Karachi & Quetta.
3. The Secretary Finance Department, Azad Government of the State of Jammu and Kashmir, Muzaffarabad.

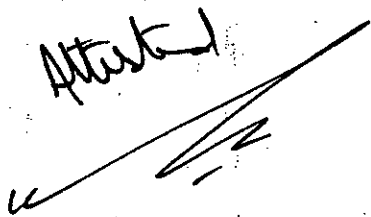
(SHAKIR ULLAH)
SECTION OFFICER
(PAY REVISION CELL)

Enndst No. FD(PRC)1-1/94.

Peshawar, the 30th June, 1994.

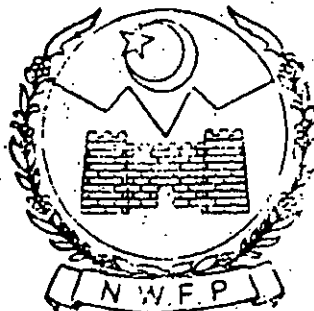
1. The Accountant General, NWFP, Peshawar.
2. All District / Agency Accounts Officers in NWFP.
3. The Treasury Officer, Peshawar.
4. The Private Secretary to Finance Minister, NWFP.
5. The PS to Secretary, PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
6. All Section/Budget Officers in Finance Department, NWFP.
7. The Director, Local Fund Audit, NWFP, Peshawar.

(SHAKIR ULLAH)
SECTION OFFICER
(PAY REVISION CELL)

Attest


EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P. 111

G A Z E T T E

North-West Frontier Province

Published by Authority

PESHAWAR, SATURDAY, 22ND APRIL, 2000.

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE,
LAW DEPARTMENT.

NOTIFICATION.

22nd April, 2000.

No. Legis:I(I)/98/1897-2002.— The following Ordinance by the Governor of the North-West Frontier Province is hereby published for general information:-

**THE NORTH-WEST FRONTIER PROVINCE SECRETARIAT
ALLOWANCE (RESCISSION OF ORDERS Etc.) ORDINANCE, 2000.**

N.W.F.P. ORDINANCE NO. I OF 2000.

AN
ORDINANCE

to provide for rescission of certain orders relating to Secretariat Allowance.

WHEREAS it is expedient to provide for rescission of certain orders relating to Secretariat Allowance granted to certain employees of the Provincial Government and Provincial organizations etc, and to provide for matters connected therewith and incidental thereto;

AND WHEREAS under the provisions contained in Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, the Governor of a province on the instruction of the Chief Executive may issue and promulgate an Ordinance, if the circumstances exist which render it necessary to take immediate action.

AND WHEREAS the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of powers aforesaid, and all other powers enabling him in that behalf, the Governor of the North-West Frontier Province, on the instructions of the Chief Executive, is pleased to make and promulgate the following Ordinance:

1. *Short title and commencement.* (1) This Ordinance may be called the

North-West Frontier Province Secretariat Allowance (Rescission of Orders, etc.) Ordinance, 2000.

(2) It shall come into force at once and shall be deemed to have taken effect on the 15th of July, 1987.

2. *Rescission of certain orders.*— (1) All orders, letters, office memoranda, instructions and other instruments whereby the Secretariat Allowance was granted to certain Provincial Government Employees in the Provincial Secretariat, Governor's Secretariat, Chief Minister's Secretariat, Provincial Assembly Secretariat, other organizations of the Provincial Government and of the Provincial level and the orders, letters, office memoranda, instructions and other instruments amending the aforesaid orders, letters, office memoranda, instructions and other instruments, hereinafter referred to as the orders, converting the Secretariat Allowance into Personal Allowance are hereby rescinded and shall be deemed always to have been so rescinded on the 15th day of July, 1987, and no financial benefit whatsoever, save and except as provided in sub-section (2), shall accrue or deemed to have accrued to become payable thereunder, to the persons employed in the aforesaid Secretariats and other organizations of the Provincial Government or at the Provincial level, notwithstanding any decision of any Court including a High Court and the Supreme Court of Pakistan.

(2) Any order made, instruction issued, decision of any Court including a High Court or the Supreme Court implemented immediately before the commencement of this Ordinance, shall be deemed to have been validly made, issued and implemented and the amount of Secretariat Allowance including Personal Allowance already paid thereunder shall be deemed to have been validly paid and shall not be recoverable from the recipients of such allowances.

3. *Removal of difficulties.*— If any difficulty arises in giving effect to the provisions of this Ordinance, the Provincial Government may make such order as it may deem just and equitable to provide recompense for the benefit of the Provincial Government Servants who were recipients of the Secretariat Allowance or the Personal Allowance.

Peshawar,
dated the
22nd April, 2000.

(LT. GEN. (RET.) MUHAMMAD SHAIQ KHAN)
Governor of the North-West Frontier Province.

SALIM KHAN,
Secretary to Government of North-West Frontier Province,
Law, Parliamentary Affairs & Human Rights Department.

To

All Administrative Secretaries
To Government of NWFP.

Subject:- GRANT OF SPECIAL ALLOWANCE @ 20% OF BASIC PAY TO N.W.F.F CIVIL SECRETARIAT EMPLOYEES(BPS-1-22).

Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority has been pleased to approve Special Allowance @ 20% of Basic pay to the Officers and Officials (BPS-1-22) of the N.W.F.P Civil Secretariat, Chief Minister's Secretariat and Governor's House/Secretariat NWFP w.e.f. 1st February, 2008 subject to the following conditions/clarifications:-

- i) The said allowance will be admissible to all those who are working in the offices of the above mentioned secretariats and will also be admissible during the period of leave and L.P.R and to employees of Civil Secretariat NWFP who are on deputation outside these Secretariats.
- ii) The said allowance would not be admissible during Extra Ordinary Leave.
- iii) The said allowance would not be treated as part of emoluments for the purpose of calculation of Pension/gratuity and recovery of House Rent.

2. The Government servants working in Governor's Secretariat NWFP, already drawing Governor's House/Secretariat Allowance will be required to exercise their option (within one month of the issue of this letter) either to draw the Special Allowance @ 20% of Basic Pay or continue to draw Governor's House/Secretariat Allowance already sanctioned vide No. FD(SOSR.II)8-9/99 dated 8/12/2007. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.

3. The Government servants working in Chief Minister's Secretariat NWFP, already drawing Chief Minister's Secretariat Allowance will be required to exercise their option (within one month of the issue of this letter) either to draw the Special Allowance @ 20% of Basic Pay or continue to draw Chief Minister's Secretariat Allowance already sanctioned vide No.FD(SR-V). 163/91 dated 20/2/1994. A Government servant, who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.

4. The Government Servants deputed from other departments who do not belong Secretariat Services but are working in the secretariat will be required to exercise their option either to draw the Special Allowance @ 20% or to continue to draw the deputation allowance.

*Attended
Suppl let: 1*

5. The Government Servants (belong to judiciary) deputed to work in the Law or any other Department in the Civil Secretariat who are the recipient of Judicial Allowance, will be required to exercise their option either to draw the Special Allowance @ 20% or to continue to draw the Judicial Allowance within stipulated period i.e one month of the issue of this letter. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.

Yours faithfully,


(USMAN GUL)
ADDITIONAL SECRETARY(REG)

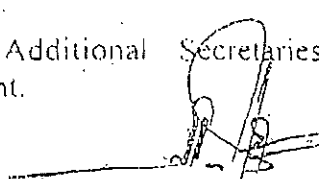
Endst: No. & date even.

Copy is forwarded to the Accountant General, NWFP, Peshawar.


(SAJJAD AHMAD)
DEPUTY SECRETARY(R.I)

Endst: No. & date even.

Copy is forwarded for information to all Additional Secretaries/Deputy Secretaries/Section Officers/Budget Officers in Finance Department.


(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

IN THE PESHAWAR HIGH COURT, PESHAWAR.

OBJECTION SLIP

No: 4182

Faiz Muhammad V/S Chief Secy KP

2 Signature of the Counsel/~~petitioner~~/~~respondents~~/~~deponent~~ is wanted on

Index, Page 5


READER

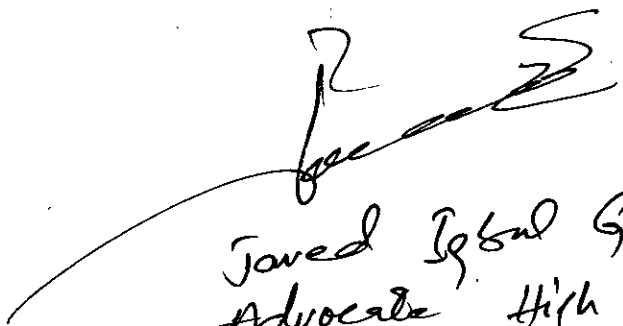
Returned with above mentioned objections for removal to be re-submitted on or before _____

30 January 2021


Deputy Registrar/ Incharge
Peshawar High Court, Peshawa

Respected Sir,

objection removed after necessary
completion.


Javed Iqbal Gulshan
Advocate High Court
Peshawar.

6/2/21



B2

BEFORE THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

In W.P # 2016 /2020

Faiz Mohammad & Others

Versus

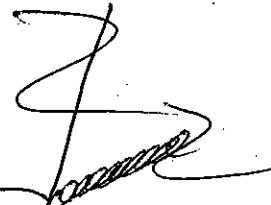
Chief Secretary Khyber Pakhtunkhwa & Others

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2	Affidavit	6

Through

Petitioner


JAVED IQBAL GULBELA
&
SAGHIR IQBAL GULBELA
Advocates High Court
Peshawar

Dated: 09/01/2021

RE-FILED TODAY

Deputy Registrar

06 FEB 2021

FILED TODAY

Deputy Registrar

30 JAN 2021

BEFORE THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

In W.P # 2016/2020

Faiz Mohammad & Others

Versus

Chief Secretary Khyber Pakhtunkhwa & Others

REJOINDER ON BEHALF OF THE
PETITIONER TO THE COMMENTS
FILED BY RESPONDENTS.

Respectfully Sheweth,

Reply to Preliminary objections:-

A to E: All the preliminary objections taken by the Respondents are objections for the sake of objections only without any substance and solid grounds. The Petitioners are having a strong case and firm unjustifiable locus-standi and have rightly approached this Hon'ble Court against the high headedness of the Respondents.

On Facts:-

1. No Comments
2. No Comments.

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30 JAN 2021

3. No Comments.

4. No Comments

5. Para No.5 of the comments is misconceived, hypocritical and manipulated one, hence denied. The nature of job of the petitioners is the same as that of the employees of Civil Secretariat and all are standing on equal footings. Moreover, this Hon'ble Court had already decided this issue as well as of the allowance in question as well, back in the year 1997 vide Judgment rendered in Writ Petition No: 607/1995, dated 02/10/1997, but now in order to have a twist of the events took place, the respondents have maliciously put forth wrong interpretation to the same and in a camouflage manner re-implement and re-sanctioned the same old and previous allowances in another form and now have put-forth lame excuses in this Para, which under the law is not only unwarranted, but as rather a bold contempt

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of the orders and judgment of this August Court. True & detailed scenario is already been detailed out in the Paras of the main petition.

6. Para No.6 of the comment is hypocritical and ambiguous, hence denied.

7. Para No.7 as laid down is hypocritical, misleading and vexatious, hence denied.

This issue has already been resolved by this August Court in its reverend judgment, it rendered in Writ Petition No: 604 of 1995.

8. No Comments.

9. Para 9 is hypocritical and denied. Detail is given in preceding paras as well as in the corresponding paras of the main petition.

10. Misleading, hence denied.

11. No Comments.

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12. Para 12 of the comments is suffice to prove the malafide of the respondents. True & detailed picture is already given in the main petition.

13. Para 13 of the comments is suffice to prove the malafide of the respondents. True & detailed picture is already given in main petition.

14. No Comments.

15. No Comments.

16. No Comments.

On Grounds:-


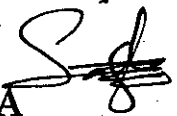
A to H: all the replies put-forth by the Respondents are hypocritical, misconceived and malicious attempt to twist the true picture from this Hon'ble Court and all are thus sternly denied while true & detailed scenario is laid down in the main writ petition.

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*It is, therefore, most humbly prayed
that on acceptance of instant rejoinder, the
writ petition of the petitioners be allowed as
prayed for therein.*

Through

Appellant


JAVED IQBAL GULBELA
&
SAGHIR IQBAL GULBELA 
Advocates High Court
Peshawar

Dated: 09/01/2021

FILED TODAY

Deputy Registrar
30 JAN 2021

BEFORE THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

In W.P # 2016/2020

Faiz Mohammad & Others

Versus

Chief Secretary Khyber Pakhtunkhwa & Others

AFFIDAVIT

I, **Shahid Hussain S/o Sardar Muhammad (Petitioner & Special Attorney for Petitioners)**, do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

Deponent 

CNIC: 17301-1301379-5 ✓

Cell No: 0300-9596319

Identified By:-


Javed Iqbal Gulbela
Advocate High Court
Peshawar

Not: 18467
Certified that the above named Deponent on solemnly
affirmed by me
day 21/01/2021
Signature of Javed Iqbal Gulbela
who was present
Who is present
Shahid Hussain
Javed Iqbal Gulbela
29/01/2021

FILED TODAY

Deputy Registrar

30 JAN 2021