


06.10.2022

Junior to counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate general respondents present.

Junior to counsel for the appellant made a request for adjournment on the ground that senior counsel is not available today. Adjourned. To come up for arguments on 07.12.2022 before D.B.



(Mian Muhammad)
Member (I)



(Kalim Arshad Khan)
Chairman

7th Dec. 2022

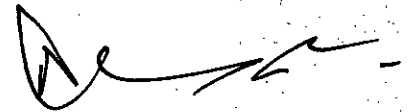
Nemo for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Khalid Aziz, ASO for the respondents present.

02. Called several times, till rising of the court but nobody turned up on behalf of the appellant. The appeal is, therefore, dismissed in default. Consign.

03. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 7th day of December, 2022.*



(Farzeha Paul)
Member(E)



(Rozina Rehman)
Member(J)

SCANNED
KPST
Peshawar

8-3-22

Due to Retirement of the Hon,ble
Chairman the case is adjourned to
29-6-22

Yasir
Reader

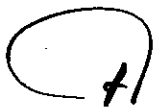
29.06.2022

Nemo for the appellant. Mr. Masood- Khan, Litigation Officer alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Para-wise comments on behalf of respondents No. 1, 2, 3, 5 & 6 submitted, which are placed on file.

Previous date was changed on Reader Note; therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for submission of rejoinder, if any, as well as arguments on 06.10.2022 before the D.B.

Noted
M
28/7/22



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

12.07.2021


Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

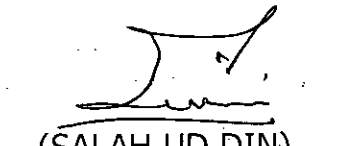

Chairman

Stipulated period passed reply not submitted.

17.09.2021 Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

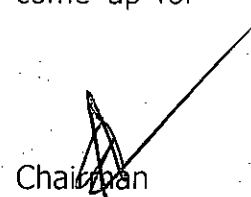
Appellant requested for adjournment on the ground that his counsel is not available today due to some domestic engagement. Adjourned. To come up for arguments before the D.B on 21.12.2021.


(ATIQU UR REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH UD DIN)
MEMBER (JUDICIAL)

21.12.2021 None present on behalf of the appellant. Mr. Naseeb Khan, S.O for respondent No. 3 alongwith Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

The respondents have not furnished reply/comments. Learned AAG seeks further time to contact the respondents. Let the respondents be afforded with last opportunity with the warning that in case they fail to submit the written reply/comments on or before next date, their right for reply/comments shall be deemed as struck off by virtue of this order. Case to come up for arguments on 08.03.2022 before the D.B.


Chairman

08.02.2021

Appellant in person present.

A request was made for adjournment as his counsel is not available and was stated to be indisposed; adjourned. To come up for preliminary hearing on 27.05.2021 before S.B.



(Rozina Rehman)
Member (J)

27.05.2021

Appellant present in person. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections available to the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is required to submit the file with a report of non-compliance. File to come up for arguments on 17.09.2021 before the D.B.

Appellant Deposited
Security & Process Fee



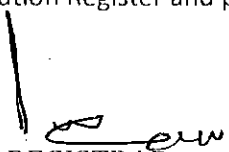

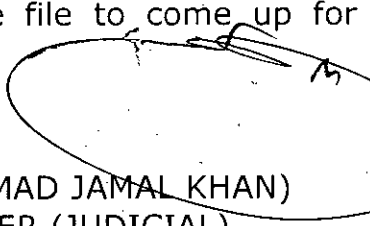
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 12446 /2020 20


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/10/2020	<p>The appeal of Mr. Abdul Qayyum resubmitted today by Mr. Munfat Ali Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/11/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
27.11.2020		<p>Neither appellant nor anyone else representing him has appeared despite having been called time and again, therefore, appellant as well as his respective counsel be noticed for 08.02.2021 on which date file to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

The appeal of M. Abdul Qayum PSHT GPS Khatkally District Nowshera received today i.e. on 07.10.2020 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

1- Page nos. 14, 24 and 28 of the appeal are illegible which may be replaced by legible/better one.

No. 2871 /S.T.

Dt. 08/10 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Munfat Ali Adv. Pesh.

Dear, sir

Better copies of all above mentioned
pages are provided and thus objections
are removed

(111)

20-10-2020
Munfat Ali
Adv.
20/10
20

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 12446/2020

Abdul Qayum PSHT Govt Primary School KhatKally District
Nowshera **Appellant**

VERSUS

Govt of KPK Peshawar etc

..... **Respondents**

Index

S.No.	Description of documents	Annexure	Pages
1.	Memo of Appeal		1-5
2.	Service card and CNIC	A-A1	6-7
3.	M.S Degree and NOC	B-B1	8-9
4.	Government of Pakistan Notification for M. Phil allowances No. 3 (6) Imp/2016-336	C	10
5.	KPK Finance Department Notification No. FD/SO (SR-II)/8-14/2016 dated 14.07.2016	D	11
6.	KPK E&SE Department Notification for M. Phil allowance No. FD/SO (SR-II)/2016/8-14/15-16 dated 14.10.2016	E	12
	Finance Department Notification No. FD/SO (SR-II) dated 14.10.2016 F	F	13
8.	Higher Education Commission Notification	G	14
9.	University of Computer Emerging Peshawar Notification	H	15
10.	Writ Petition No. 4328-P/2018	I	16-19
11.	Writ Petition No. 2446-P/2018	J	20-23
12.	Govt of KPK Higher Education Department Notification for the grant of M.S allowance	K	24
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14.	Department Appeal	M	28
15.	Letter of DEO (Male) Nowshera	N	29
16.	Letter of SDEO (Male) Nowshera	O	30
17.	Vakalat Nama		31

Dated 07/10/2020

Appellant
Through
Munfat
Advocate,
High Court Peshawar
Cell

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 12446 /2020

Abdul Qayum PSHT Govt. Primary School KhatKally District
Nowshera **Appellant**

Khyber Pakhtukhwa
Service Tribunal

Diary No. 11323

Dated 07/10/2020

VERSUS

- 1- The Govt of KPK through Chief Secretary Civil Secretariat Peshawar.
- 2- The Secretary E&SE Department KPK Peshawar.
- 3- The Secretary to the Finance Department Peshawar.
- 4- The Accountant General KPK Peshawar.
- 5- The Director E&SE Department KPK Peshawar.
- 6- The D.E.O Male (Male) District Nowshera..... **Respondents**

Filed to-day

[Signature]
Registrar
07/10/2020

Re-submitted to-day
and filed.

[Signature]
Registrar
20/10/2020

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE IN ACTION OF THE RESPONDENTS BY ILLEGAL AND UNLAWFULLY NOT ALLOWING THE APPELLANT TO DRAW MS/M.PHIL ALLOWANCE OF RS. 2500 PER MONTH AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN THE STATUTORY PERIOD OF 90 DAYS.

Prayer;

That on acceptance of this service appeal the Respondent may kindly be directed to allow the appellant to draw M.S/M.Phil allowance of RS. 2500 per month as is admissible F0056 to other employees of the Department with all back benefits any other remedy with the august Tribunal deem fit

Respectfully Sheweth;

On Facts:-

- 1. That appellant is serving in E&SE Department since 02.12.1992, presently serving as SPHT, at Government Primary School Khat Kally Nowshera quite efficiently and upto the entire satisfaction of the superior, the service card and CNIC is attached as Annexure A and A1.*
- 2. That the appellant got MS Degree from Northern University Nowshera in the year 2013 after getting no objection certificate from District Education Officer (Male) Nowshera, M.s Degree of the appellant is attached as Annexure B. And no objection certificate is attached as annexure B1. Government of Pakistan Finance Division (Regulations Wing) granted, to all those Govt employees who acquires/possess the degree of M.Phil recognized by HEC shall be allowed M.Phil allowance at rate of 25% of the existing amount of the P.HD allowance (i.e Rs. 2500/- per month) with effect from 1st July 2016 vide office memorandum No.3 (6) Imp /2016-366, which is attached as Annexure-C.*
- 3. That the Government of KPK Finance Department (Regulations Wing) vide its Notification No. FD/SO (SR-II) / 8-14/2016 dated Peshawar the 14.07.2016 also allowed the grant of M.Phil allowance to all those employees having M.Phil degree of Rs. 2500/- per month w.e.f 01.07.2016 the notification is attached as Annexure D.*

4. That the Government of KPK Finance Department (Regulation Wing) vide Notification No. FD/SO (SR-II)/8-14/15-16 dated Peshawar the 14.10.2016 allowed the grant M.Phil allowance only to those employees who acquired/posses the M.Phil degree and excluded those employees who acquired/posses other qualification equilant to M.Phil degree as M.S Degree. The notification as attached as Annexure-E.
5. That the Government of KPK E&SE Department vide its notification No. SO (B&A) 1-6/Budget/Release dated Peshawar, the 19.07.2016 also granted M.Phil allowance of Rs.250 per month to those employees having M.Phil degree. The notification is attached as Annexure F.
6. That HEC of Pakistan vide its notification No. 8-61/HEC/A&A/2016 dated December 1, 2016 equated MS (education) degree equilant to M.Phil degree the notification is attached as Annexure G.
7. That the National University of Computer and Emerging Science Peshawar Campus vide its notification No. Pwr/Acad/201/1 dated 18.08.2016 also equivated all M.S Degree equivalent to the old times M.Phil degrees awarded by the Public Sector Universities in Pakistan, because both M.Phil degree. the notification is attached as Annexure H.
8. That in a Writ Petition No. 4328-P/2018. dated 20.06.2019 the August Peshawar High Court Judicial Department allowed the M.Phil allowance of 2500/ per month to employees who possess the M.S and M.Sc (Hons) degree in their credit. The Judgment of the August Peshawar High Court is attached as Annexure I.
9. That another Writ Petition No. 2446-P/2018 dated 24.09.2019 titled Zaheer Alam and 41 others. The August Peshawar High Court by Honourable Justice Roohul Amin Khan also allowed the grant of M. Phil allowance of Rs. 2500/ to those employees who possess M.S Degree in their credit. The Judgment of August Peshawar High Court is Annexure-J.

10. In pursuance of the Judgment passed by August Peshawar High Court 2018 No. 244-P/2018 and its Judgment date 24.09.2019 the Government of KPK vide its notification No. SO (CE&/MS)/1-3/2015/376 dated Peshawar, the 28-11-2019 allowed to the employee the higher education Department KPK the grant of M Phil allowance of Rs. 2500/month to all those who possess MS degree in the right of above mentioned judgement of the August Peshawar High Court. The notification is attached is annexure K.
11. That the judgements of the August Peshawar High Court is widely published in press and Daily Mushrik and also on internet (e-News Paper) the cutting of daily Mashriq is attached is annexure *K*
12. *That the appellant preferred a departmental appeal to DEO (Male) Nowshera for grant of M. Phil allowance as per judgments of August Peshawar High Court on 24-10-2016 copy of departmental appeal is attached as *M**
13. That the DEO (Male) Nowshera forwarded he Departmental appeal of the appellant vide his memorandum No. 826/DEO (M) Nowshera dated 29.10.2016. to the DEO Director E&SE Peshawar which is still un-answered. which *is attached as annexure N.*
14. *That SDEO (M) Nowshera also forwarded the payroll of the appellant for the grant of M.Phil allowance but in vain which is attached as annexure *M**

GROUND:

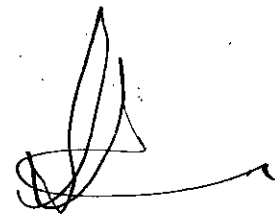
- A. *That the inaction of the respondents regarding non provision of M. Phil allowance is illegal against the law, facts, norms of natural justice.*

- B. That the appellant have not been treated by respondents department in accordance with law and rules on the subject noted Above and as such the respondents violated Article 4 and 25 of the Constitution of the Islamic Republic of Pakistan 1973.
- C. That the action and inaction of the respondents is without any legal authority discriminatory, and in clear violation of fundamental rights dully conferred by the constitution and is liable to be corrected.
- D. That the appellant has the vested right of equal treatment before the law and the act of the respondents to deprive the appellant from the MS / M. Phil allowance is unconstitutional and clear violation of fundamental rights.
- E. That according to article 38 of the constitution of the state is bound to reduce disparity in the income and earning of individual including person in the service of the federation. therefore in the light of said Article the appellant is fully entitled for the grant of MS/M. Phil allowance.
- F. That the appellant seeks permission of the Honorable Tribunal to raise any other Grounds are available at the time of arguments.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated 7/10/2020

Appellant



Abdul Qayyum PFHT
GPS Khat Kally District
Nowhera

Through



Munfat Ali Khan Yosufzai
Advocate

A-6

GOVERNMENT OF KHYBER PAKHTUNKHWA
SECRETARY & SECRETARY GENERAL DEPARTMENT

SERVICE IDENTITY CARD

Name: **Abdul Gaiyum Khan** S.D.E.O.
 Father's Name: **Mur Rehman** P. & S. Officer (M)
 Designation: **PSHT** BPS 15
 Present Place of Duty: **GPS Khat Kasbi** District: **Nowshera**
 Issuing Authority: **[Signature]**

PERSONAL ID CARD
00138556



GOVERNMENT OF KHYBER PAKHTUNKHWA
SECRETARY & SECRETARY GENERAL DEPARTMENT

NIC : **17201-1-583405-7**

Date of Birth : **30-11-1973**

Cell : **0345-0324247**

Address : **Moh Bataki / Khoshgi Bala NSR**

Head Mistress
G.G.H.S. Palosa Pal
Newsheera

A-1-7

PAKISTAN National Identity Card

Abdul Qayyum Khan

Father Name
Mir Rehman



Gender M	Country of Stay Pakistan
Identity Number 17201-1583405-7	Date of Birth 30.11.1973
Date of Issue 04.09.2013	Date of Expiry 04.09.2020

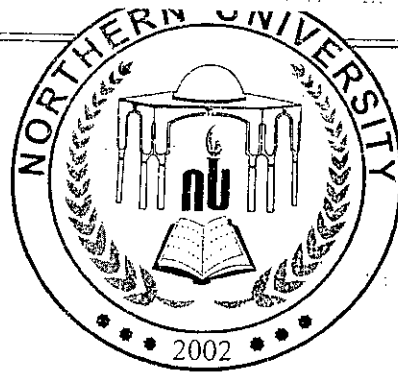
Holder's Signature

19573

17201-1583405-7
 101981022380
 138-92-232218



گورنمنٹ ہائر سیکنڈری اسکول، پالوسا پال، نوشہرا



B-8

Northern University

has conferred on
Abdul Qayyum Khan

the Degree of
MS Education

and all the rights and privileges thereto appertaining.

In Witness Whereof, this degree duly signed has
been issued and the seal of the University affixed.

Awarded on this Twentieth Day of August 2013

at Nowshera, Khyber Pakhtunkhwa, Pakistan.

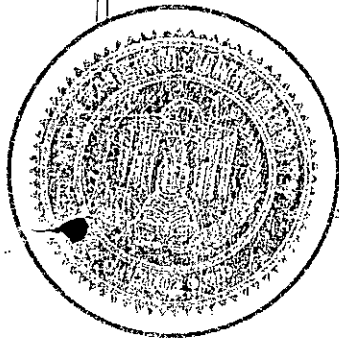
ACCEPTED

VERIFIED & ATTESTED
NORTHERN UNIVERSITY
Nowshera, Khyber Pakhtunkhwa

18-7-2016

Degree# 1809

Reg# 113-NUN-0471

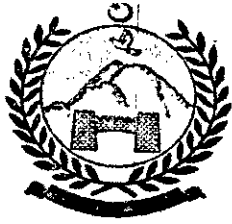


President

Vice-President

Rector

Registrar



DISTRICT EDUCATION OFFICER
(MALE)
NOWSHERA


(Office Phone#0923-9220228, Fax#0923-9220228)

No. 9c.3 /DEO (M) NSR/EA-S/NOC/Dated

Nowshera 01/3/2015

NO OBJECTION CERTIFICATE

The competent authority is pleased to grant NOC in respect of
Mr. Abdul Qayyum SPST GPS Hoti Khel No.5 Nowshera Kalan for 'P.hD
(Education)' in Northern University Nowshera.


District Education Officer (Male)
Nowshera

NO OBJECTION CERTIFICATE





GOVERNMENT OF PAKISTAN
FINANCE DIVISION
(Regulations Wing)
FBC Building, Near State Bank of Pakistan

C 10

F.No.3(6)Imp/2016- 336

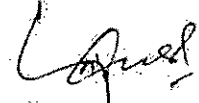
Islamabad, the 1st July, 2016

OFFICE MEMORANDUM

Subject:- GRANT OF M. PHIL ALLOWANCE @ Rs.2,500/- PER MONTH

The President has been pleased to decide that, all those who acquires/possesses the degree of M. Phil recognized by the H.E.C. shall be allowed M. Phil Allowance @ 25% of the existing amount of Ph.D Allowance (i.e. Rs.2,500/- per month) with effect from 1st July, 2016 subject to the following conditions:

- M. Phil Allowance will not be admissible to those who are getting Ph.D Allowance @ Rs.10,000/- per month;
- M. Phil Allowance will not be admissible to those who have already got the benefit of advance increments possessing on/acquiring M. Phil degree prior to 01-12-2001 under Finance Division's O.M.No.F.1/1/Imp/83, dated 18-08-1983.


(Faisal Nadeem)
Accounts Officer (Imp)

ALL MINISTRIES/DIVISIONS/DEPARTMENTS

Web Administrator, Finance Division, Islamabad (for uploading at Finance Division's website i.e. www.finance.gov.pk)

(P.T.O)

ATTACHED



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SO(SR-II)/8-14/2016
Dated Peshawar the: 14/07/2016

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Principal Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All Commissioners in Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Chairman, Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa.

Subject: **GRANT OF M.PHIL ALLOWANCE @ RS.2,500/- PER MONTH**

Dear Sir,

The Competent Authority, is pleased to decide that, all those who acquires/possesses the degree of M.Phil recognized by the H.E.C. shall be allowed M.Phil allowance @ 25% of the existing amount of Ph.d Allowance (i.e. Rs.2,500 per month) with effect from 01/07/2016 subject to the following conditions:-

- a) M.Phil allowance will not be admissible to those who are getting Ph.D allowance @ Rs.10,000/- per month.
- b) M.Phil allowance will not be admissible to those who have already got the benefit of advance increments possessing on / acquiring M.Phil degree prior to 01/12/2001 under Finance Department circular letter No.FD(SR-I)/1-67/82 dated 24/08/1983.

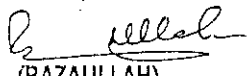
SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: FD (SOSR-II)/8-14/2016,

Dated Peshawar the 14th July, 2016

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Secretaries to Government of Punjab, Sindh and Balochistan, Finance Department.
3. All Heads of Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa.


(RAZAULLAH)
Additional Secretary (Reg:)


ATTESTED

P.T.O

①

12

Endst: No & Date even.

A copy for information is forwarded to:-

1. The Director General, Provincial Disaster Management Authority, Khyber Pakhtunkhwa.
2. The Director, Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. The Director, FMIU, Finance Department.
5. The District Comptrollers of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and D.I. Khan.
6. All the *District* /Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
7. The Treasury Officer, Peshawar.
8. All the Section Officers/Budget Officers in Finance Department.
9. P.S to Minister for Finance Khyber Pakhtunkhwa.
10. P.S to Chief Secretary, Khyber Pakhtunkhwa.
11. P.S to Secretary Finance Khyber Pakhtunkhwa.
12. HR Finance Department (Assistant Director Web).
13. Section Officer (Reg.5) Govt: of Pakistan, Finance Division, (Regulation Wing) with reference to his O.M No.F.4(2)-Reg.5/2006 dated 01/07/2016 for information and record.


(MOAZZAM KHAN)
Section Officer (SR-II)

SO (B&R)




GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

(A)

E-12

~~11~~

No. SO (B&A)1-6/Budget/Releases

Dated Peshawar, the 19.07.2016

To

- i. The Director,
E&SE Peshawar.
- ii. The Director,
DCIE Abbottabad
- iii. The Director,
PITE, Peshawar.
- iv. All the BISEs Khyber Pakhtunkhwa.
- v. The Section Officer (General),
Elementary & Secondary Education Department.

ADDG
19/7/16

Subject: - GRANT OF M.PHIL ALLOWANCE & RS. 2,500/- PER MONTH.

I am directed to refer to the subject cited above and to enclose herewith Finance Department letter No. FD/SO(SR-IF)/8-14/2016 dated 14.07.2016, for further necessary actions.

Encl: As above.

(NOOR ALAM KHAN WAZIR) 19/7/16
DEPUTY SECRETARY-I/SO (BUDGET)

Endst of even No & date:

Copy for information to the:-

1. PS to Secretary Elementary & Secondary Education Department.
2. PS to Special Secretary (Development) Elementary & Secondary Education Department.
3. PA to Additional Secretary (Establishment) Elementary & Secondary Education Department.
4. Master File.

DEPUTY SECRETARY-I/SO (BUDGET)

DR(M)

4

25/7/16

129/1
25/7/16

ATTACHED



F-13
B-12
D-12

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

NO. FD/SO(SR-II)/8-14/15-16
Dated Peshawar the: 14/10/2016

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Principal Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All Commissioners in Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Chairman, Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa.

SUBJECT:
Dear Sir,

GRANT OF M. PHIL ALLOWANCE@ RS.2,500/- PER MONTH.

I am directed to refer to this Department letter of even number dated 14.07.2016 and to state that the M. Phil Allowance is admissible only to those employees who possess/acquires the degree of M. Phil recognized by the HEC and there is no provision about admissibility of such allowance for other qualification equivalent to the M. Phil degree.

[Handwritten signature]

[Handwritten signature]
NASRULLAH KHAN
Additional Secretary (Reg:)

Endst: FD (SOSR-II)/8-14/2016,

Dated Peshawar the 14th October, 2016

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All Heads of Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa.

[Handwritten signature]
SARDAR PERVAIZ KHAN
Deputy Secretary (Reg-I)

P.T.O

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SolBah
ATTACHED

HIGHER EDUCATION COMMISSION

H-9 ISLAMABAD, PAKISTAN Website <http://www.nec.gov.pk>

G-14

Farrukh Raza

Deputy Director A& A

No. 8-61/IC/A&A/2016

December 1st, 2016

Mr. Bakhtiar Ahmad

S/o Jalat Khan

Government Higher Secondary School No 1

Peshawar

Mob 0311-9157047

Subject: Equivalence of Master of Science (Education) degree awarded Northern University, Nowshera.

Dear Sir

With reference to your application dated October 24, 2016 on the subject cited above informed that Northern University, Nowshera is a chartered university in private sector.

The Higher Education Commission recognizes Master of Science (Education) degree held by you from Northern University, Nowshera after 16-year schooling as equivalent corresponding Master's degree in the relevant field involving 17-year of Schooling but M.Phil. However, you may be considered for admission into PhD programs the admission university

It may also be noted that admission in a university for further education and determination suitability in relation to job requirement rest with the concerned university and employee agency respectively and this Commission has no role in such issues.

Yours Faithfully

Farrukh Raza

Deputy Director

Accreditation & Attestation





HIGHER EDUCATION COMMISSION

H-9, ISLAMABAD, PAKISTAN, Website: <http://www.hec.gov.pk>

G-14

Farrukh Raza

Deputy Director (A&A)

No.8-61/HEC/A&A/2016

December 1, 2016

Mr. Bakhtiar Ahmad,
S/o Jalat Khan,
Government Higher Secondary School No 1,
Peshawar City,
Mob: 0311-9157047

Subject: - Equivalence of Master of Science (Education) degree awarded by Northern University, Nowshera.

Dear Sir,


With reference to your application dated October 24, 2016 on the subject cited above, it is informed that Northern University, Nowshera is a chartered university in private sector. The Higher Education Commission recognizes Master of Science (Education) degree held by you from Northern University, Nowshera after 'M.Ed/16-year schooling' as equivalent to corresponding Master's degree in the relevant field involving 17-year of schooling, but NOT M. Phil. However, you may be considered for admission into Ph.D programme in the admitting university.

It may also be noted that admission in a university for further education and determination of suitability in relation to job requirement rest with the concerned university and employing agency, respectively and this Commission has no role in such issues.

Yours faithfully,

Farrukh Raza
Deputy Director
Accreditation & Attestation

ATTACHED

H-15


Pwr/Acad/201/1
August 18, 2016


To Whom it may Concerned

All MS degrees (MS Computer Science, MS Mathematics, MS Telecom Engineering, and MS Electrical Engineering) are eighteen year degrees which are equivalent to the old-time M.Phil degrees awarded by the public-sector universities in Pakistan.

The MS Mathematics degree awarded by the National University of Computer & Emerging Sciences (NUCES) has an entry requirement of a degree in Mathematics after sixteen years of education. For the award of MS degree, a student must have:

- a. Passed courses totaling at least 30 credit hours, including four major courses.
- b. Obtained a CGPA of at least 2.5.

All such degrees that have an entry requirement of sixteen years of education and span over a period of 1.5 to 2 years are equivalent to the old-time M.Phil degrees.


Dr. Hamid Khan
Head of S & II Department

ATTACHED

9-16

Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR,
JUDICIAL DEPARTMENT.

Writ Petition No. 4328-P/2018

Mohammad Adeel Qureshi etc. vs. The Province of Khyber
Pakhtunkhwa through Chief Secretary Civil Secretariat
Peshawar and four others.

JUDGMENT

Date of hearing.....20.6.2019.....

Petitioner(s) by:- Syed Bilal Jan Bacha, Advocate.

Respondent (s) by:- Mr. Arshad Ahmad, Advocate.

ROOH-UL-AMIN KHAN, J:- As per averments in
the writ petition, the petitioners are serving the
respondents' department as Senior Research Officers
(BPS-18), Research Officers BPS-17, Assistant Director
Planning BPS-17 and Assistant Director Outreach BPS-17
respectively and are posted in different District of Khyber
Pakhtunkhwa having M.Sc (Hons) and MS degrees in their
credit and the same have been held equivalent to M.Phil
degree for the purpose of job, promotion and financial
benefits by the Higher Education Commission. The
Government of Khyber Pakhtunkhwa vide notification No.
FD/SO (SR-II)/3-14 2016 dated 17.4.2016 granted M.Phil
allowance to its employees holding M.Phil degree w.e.f.
1.7.2016 at the rate and subject to the conditions mentioned

Arshad Ahmad

ATTACHED

therein. Subsequently, respondent No.1-3 vide notification dated 14.10.2016 discontinued the said allowance. Feeling aggrieved with the same, the other similarly placed employee approached this Court in WP No. 2243-P/2017, which was allowed, but the same was refused to the present petitioners. Hence the instant writ petition.

2. Undisputedly all the petitioners are equipped with the M.Sc (Hons) and M.S degrees, but the moot question in the instant case is that as to whether the M.Sc (Hons) & MS degrees are equivalent to the M.Phil Degree or not. It is clear than crystal in the notification dated 213.5.2017 issued by the Higher Education Commission; the relevant portion of which is reproduced below for convenience:-

S#	Degree Title	Description
I.	a. M.Phil degrees (with thesis) b. MS degree (with theses)	Both are equal degrees, awarded after 24 credit hours course work+06 credit house theses. There is no difference except nomenclature.
II	a. M.Phil degree by course work b. MS degree by course work	Both are equal degrees, awarded after 30 credit hours course work. There is no difference except nomenclature
III	<u>Equivalent degrees of others disciplines like Engineering, Agriculture, Law, MBA etc.</u>	<u>In these disciplines, degrees are not awarded with MS/M.Phil title while these degrees are equated to 18 years of Schooling.</u>

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3. From the above quoted office memorandum issued by Government of Pakistan Finance Division, the M.Phil allowance is granted to those only who acquire/possess the degree of M.Phil recognized by the Higher Education Commission. However, in view of the above mentioned clarification, all those who possessing M.Phil or MS degrees (18 years of schooling) should be eligible to draw the said allowance and the degrees of M.Sc (Hons) and MS have been termed equal to M.Phil degree.

4. The question of equivalency of the degree in M.S (Hons) and M.S has already been set at naught by this Court in WP No. 2243-P/2017 titled Farist Ullah ..vs..Province of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar and others and the relief sought was granted to the petitioner.

5. When the Higher Education Commission has already declared the M.Sc (Hons) and M.S degrees equivalent to the M.Phil degree, then the respondents department has no authority to refuse the grant of subject allowance to the petitioners, most particularly when the similarly placed employees has already been extended the said benefit by this Court in WP No. 2243-P/2017.

6. For what has been discussed hereinabove, this writ petition is admitted and allowed with directions to the respondents to allow the subject allowance to the

Amir Khan

ADMITTED

49

petitioners as was granted to the similarly placed employee
of WP No. 2243-P.2017.

Announced on;
20th of June, 2019

Judith Sam
JUDGE

AA
JUDGE

(DB)

Mr. Justice Rooh-Ul-Amin Khan & Hon'ble Mr. Justice Syed Afzar Shah

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ATTESTED

1

J-20

IN THE PESHAWAR HIGH COURT,
PESHAWAR,
(Judicial Department)

Writ Petition No.2446-P/2018

Zaheer Alam and 41 others.

Petitioner (s)

VERSUS

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

Respondent (s)

For Petitioners :-
For Respondents :-

Mr. Arif Hussain Tanoli, Advocate.
Mr. Arshad Ahmad, AAG.

Date of hearing:

24.09.2019

JUDGMENT

ROOH-UL-AMIN KHAN, J:- By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners, who are serving as lecturers in the respondents' department seeks issuance of the following writ:-

"To direct the respondents to grant M.Phil allowance to the petitioners from the date it has been granted to other lecturers/officials placed in the same position.

To grant any other relief which this Hon'ble Court deems appropriate in the circumstances of the case."

1. As per averments in the writ petition, petitioners were appointed as lecturers in education department. In

ATTESTED

For the Court

addition to the requisite qualification for the post of lecturer, the petitioners have additional qualification i.e. Management Science (MS) degree in their credit, which is equal to M.Phil vide notification dated 23.-05.2017 of the Higher Education Commission. The Government of Khyber Pakhtunkhwa vide notification No.FD/SO (SP-II)/8-14/2016 dated 14.07.2016, granted allowance to the employees having M.Phil degrees in their credit, but the said allowance has been refused to the petitioners on the ground that they are not possessing M.Phil degrees. Grievance of the petitioners is that as MS degree has been held equal to P.Phil by the Higher Education Commission, therefore, refusal of the respondents being violative of the aforesaid notification be declared as illegal, unlawful and without lawful authority. In support of their grievance the petitioners have placed reliance on the judgment dated 20.06.2019, rendered by this Court in WP No.4328-P/2018 as well as the judgment relied upon by this Court in the judgment (supra) dated 20.06.2019.

3. When summoned, the respondents appeared and contested the writ petition by filing their para-wise comments.

4. Having heard the arguments of learned counsel for the parties, we, after going through the judgment (supra) are of the considered view that controversy involved in the instant case has already been exhaustively

Justice Sanyal

ATM

dealt with by this Court in the judgment (supra), operative part of which is reproduced below:-

22

"Undisputedly all the petitioners are equipped with the M.Sc (Hons) and M.S degrees, but the moot question in the instant case is that as to whether the M.Sc (Hons) & MS degrees are equivalent to the M.Phil Degree or not. It is clear than crystal in the notification dated 213.5.2017 issued by the Higher Education Commission, the relevant portion of which is reproduced below for convenience:-

	Degree Title	Description
	a. M.Phil degree (with thesis) b. MS degree (with theses)	Both are equal degrees, awarded after 24 credit hours course work+06 credit hours theses. There is no difference except nomenclature.
	a. M.Phil degree by course work b. MS degree by course work	Both are equal degrees, awarded after 30 credit hours course work. There is no difference except nomenclature.
	Equivalent degrees of others disciplines like Engineering, Agriculture, Law, MBA etc.	In these disciplines, degrees are not awarded with M.Sc/M.Phil title while these degrees are equated to 18 years of schooling.

From the above quoted office memorandum issued by Government of Pakistan Finance Division, the M.Phil allowance is granted to those only who acquire/possess the degree of M.Phil recognized by the Higher Education Commission. However, in view of the above mentioned clarification, all those who possessing M.Phil or MS degrees (18 years of schooling) should be eligible to draw the said allowance and the degrees of M.Sc (Hons) and MS have been termed equal to M.Phil degree.

The question of equivalency of the degree in M.S (Hons) and M.S has already been set at naught by this Court in WP No. 2243-P/2017 titled Farust Ullah vs. Province of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar and others and the relief sought was granted to the petitioner.

When the Higher Education Commission has already declared the M.Sc (Hons) and M.S degrees equivalent to the M.Phil degree, then the respondents department has no authority to refuse the grant of subject allowance to the petitioners, most particularly when the similarly placed

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NOTIFIED

employees has already been extended the said benefit by this Court in WP No. 2243-P/2017.

23

For what has been discussed hereinabove, this writ petition is admitted and allowed with directions to the respondents to allow the subject allowance to the petitioners as was granted to the similarly placed employee of WP No. 2243-P/2017.

5. Accordingly, this writ petition is disposed of in the terms that the case of the petitioners is transmitted to the Secretary Higher Education/respondent No.3, who shall place it before the Secretary Finance Government of Khyber Pakhtunkhwa/respondent No.3 for consideration strictly on the analogy and principle enunciated in the judgments (supra) rendered in WP No. 2243-P/2017 and WP No.4328-P/2018, respectively.

Announced:
24.09.2019
JUDGE

Rooh ul Amin
JUDGE

JUDGE

DB of Hon'ble Mr. Justice Rooh ul Amin Khan; and
Mr. Justice Iftikhar Ibrahim

ACCEPTED

BETTER COPY

GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES
AND LIBRARIES DEPARTMENT

No. SO(CE&MS)/1-3/2015/376

Dated Peshawar the 28/11/2019.

To

The Secretary to Govt: of Khyber Pakhtunkhwa.

Finance Department.

K-14

Subject: ADMISSIBILITY OF MS/M.PHIL ALLOWANCE.

Dear Sir,

I am directed to refer to the subject noted above and the submit that

1. The subject allowance was denied to the employees of Higher Education Department holding MS Degree on the plea that MS was not equivalent to MPhil. Consequently, the aggrieved employees filed writ petition No. 244-P/2018 in the Peshawar High court paying for the admissibility of the subject allowance. In its judgment passed on 24/09/2019, the august court direct as under:

“Accordingly, this writ petition is disposed of in the terms that case of the petitioner is transmitted to the secretary Higher Education respondent No. 3 who shall place is before the Secretary Finance Government of Khyber Pakhtunkhwa /Respondent No. 3 for consideration strictly on the analogy and principle connected in the judgment (supra) rendered in W.P No. 2243-P/2017 and W.P No. 4328-P/2018, respectively”

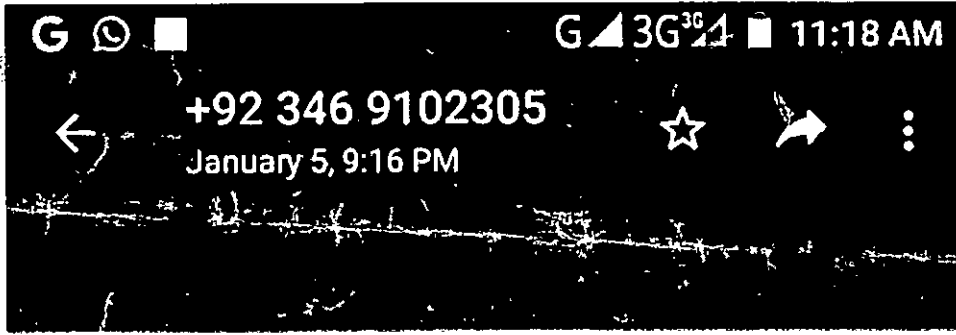
2. previously, the August court in its judgment in Writ petitions No. 2243-P/2017 dated 07/02/2018 (annexure-I) and writ petition No. 4328 dated 20/06/2019 (Annexure-II) directed the competent authority to grant MS allowance to the petitioners on the ground of equivalence of MS to M.Phil.

3. it is, therefore, requested that in compliant of the judgment of Peshawar High court, M/Phil allowance may kindly be granted to the employees of HED holding MS degree.

(IBAD ULLAH)

SECTION OFFICER (CE&MS)





IK-24
G-14



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES
AND LIBRARIES DEPARTMENT

No. SO(CE&MS)/1-3/2015/376
Dated Peshawar the 27/11/2019.

To
The Secretary to Govt of Khyber Pakhtunkhwa,
Finance Department.

Subject - ADMISSIBILITY OF MS/M.PHIL ALLOWANCE
Dear Sir,

I am directed to refer to the subject noted above and to submit that

1- The subject allowance was denied to the employees of Higher Education Department holding MS Degree on the plea that MS was not equivalent to M.Phil. Consequently, the aggrieved employees filed writ petition No.244-P/2018 in the Peshawar High Court praying for the admissibility of the subject allowance. In its judgment passed on 24-09-2019, the august court directed as under:-

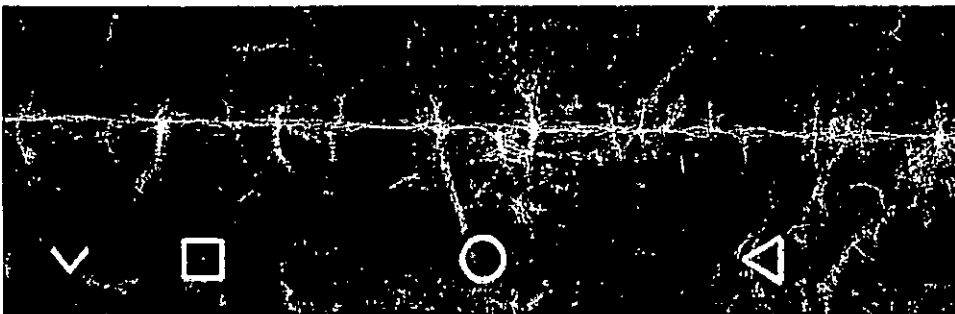
"Accordingly, this writ petition is disposed of in the terms that the case of the petitioners is transmitted to the Secretary Higher Education respondent No.03 who shall place it before the Secretary Finance Government of Khyber Pakhtunkhwa respondent No.3 for consideration strictly on the analogy and principle enunciated in the judgment (supra) rendered in WP No.2243-P/2017 and WP No.4328-P/2018, respectively"

2- Previously, the august court in its judgment in writ petitions No. 2243-P/2017 dated 07-02-2018 (Annexure-I) and writ petition No.4328 dated 20-06-2019 (Annexure-II) directed the competent authority to grant MS allowance to the petitioners on the ground of equivalence of MS to M.Phil.

3- It is, therefore, requested that in compliance to the judgment of Peshawar High Court, M.Phil allowance may kindly be granted to the employees of HED holding MS degree.


(IBAD ULLAH)
SECTION OFFICER (CE&MS)

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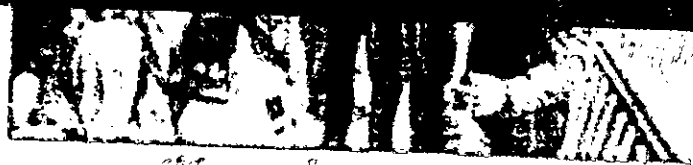


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گورنر خیر خواہانہ کمیٹی خیرین ہیرا آئی

پشاور میں روزانہ کا پانچ بجے کوٹہ کے لوگوں کو آواز دینے کے لیے گورنر خیر خواہانہ کمیٹی نے ایک ایسی کمیٹی تشکیل دی ہے جس کے تحت ہر روز ایک نیا نیا پروگرام پیش کیا جائے گا۔



گورنر خیر خواہانہ کمیٹی کے اجلاس میں شرکت کرنے والے افراد کی تصویر

پنجتون ایس ایف کی ایکشن کمیٹی تشکیل دے دی گئی

مشیر ذریعہ کئی کے خیرین ہیرا آئی

پشاور میں روزانہ کا پانچ بجے کوٹہ کے لوگوں کو آواز دینے کے لیے گورنر خیر خواہانہ کمیٹی نے ایک ایسی کمیٹی تشکیل دی ہے جس کے تحت ہر روز ایک نیا نیا پروگرام پیش کیا جائے گا۔

پشاور میں روزانہ کا پانچ بجے کوٹہ کے لوگوں کو آواز دینے کے لیے گورنر خیر خواہانہ کمیٹی نے ایک ایسی کمیٹی تشکیل دی ہے جس کے تحت ہر روز ایک نیا نیا پروگرام پیش کیا جائے گا۔



گورنر خیر خواہانہ کمیٹی کے اجلاس میں شرکت کرنے والے افراد کی تصویر

تخت فصرتی میں گیدڑ نے 10 افراد کو کاٹ لیا

پشاور میں ایک بازار میں گیدڑ نے 10 افراد کو کاٹ لیا۔ پولیس نے موقع پر پہنچ کر گیدڑ کو مار ڈالا۔

جاری رہی پشاور کی فصرتی ترقیاتی

پشاور میں جاری رہی فصرتی ترقیاتی کاموں کی کارروائی۔

ایم ایس پی پشوری پشاور پریچرنگ کو بیورو قائم کرنے کے لیے درخواست

پشاور پولیس ایس ایف کے پشوری پشاور پریچرنگ کو بیورو قائم کرنے کی درخواست جاری

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کا اہدم تنظیم کیلئے فنڈنگ کے طرمان کی عبوری ضمانت

طرمان کی عبوری ضمانت کے لیے فنڈنگ کی درخواست

پشاور میں روزانہ کا پانچ بجے کوٹہ کے لوگوں کو آواز دینے کے لیے گورنر خیر خواہانہ کمیٹی نے ایک ایسی کمیٹی تشکیل دی ہے جس کے تحت ہر روز ایک نیا نیا پروگرام پیش کیا جائے گا۔

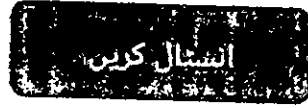
پشاور میں روزانہ کا پانچ بجے کوٹہ کے لوگوں کو آواز دینے کے لیے گورنر خیر خواہانہ کمیٹی نے ایک ایسی کمیٹی تشکیل دی ہے جس کے تحت ہر روز ایک نیا نیا پروگرام پیش کیا جائے گا۔

پشاور میں روزانہ کا پانچ بجے کوٹہ کے لوگوں کو آواز دینے کے لیے گورنر خیر خواہانہ کمیٹی نے ایک ایسی کمیٹی تشکیل دی ہے جس کے تحت ہر روز ایک نیا نیا پروگرام پیش کیا جائے گا۔

پشاور میں روزانہ کا پانچ بجے کوٹہ کے لوگوں کو آواز دینے کے لیے گورنر خیر خواہانہ کمیٹی نے ایک ایسی کمیٹی تشکیل دی ہے جس کے تحت ہر روز ایک نیا نیا پروگرام پیش کیا جائے گا۔

ایم ایس ڈگری ہولڈرز لیگچرز کو ایم فل الاٹمنٹ جسٹس کے احکامات
پشاور ہائی کورٹ نے لیچرز کی پیش رفت سے روک دیا، کس نگر خزانہ کو ارسال کرنے کی ہدایات جاری

27



پشاور (جنرل رپورٹر) پشاور ہائی کورٹ کے جسٹس روح الامین اور جسٹس اشتیاق ابراہیم پر مشتمل دور کئی بیچ نے ایم ایس کی ڈگری رکھنے والے لیچرز کو ایم فل الاٹمنٹ ادا کرنے کے احکامات جاری کر دیئے ہیں اور اس حوالے سے محکمہ خزانہ کو کیس ارسال کرنے کی بھی ہدایات دی ہیں۔ عدالت عالیہ کے فاضل بیچ نے امجد حسن تنولی ایڈووکیٹ کی وساطت سے دائر ظہیر عالم سمیت 42 لیچرز کی رٹ کی سماعت کی، اس موقع پر عدالت کو بتایا گیا کہ درخواست گزار ایم ایس کی ڈگری ہولڈر ہیں اور صوبے کے مختلف کالجوں میں تعینات ہیں اور ان کی ڈگری ایم فل کے برابر ہے تاہم ایم فل کرنے والے ڈگری ہولڈروں کو تو ایم فل الاٹمنٹ ادا کیا جاتا ہے تاہم ایم ایس کرنے والے لیچرز اس الاٹمنٹ سے محروم ہیں لہذا درخواست گزاروں کو بھی مذکورہ الاٹمنٹ ادا کرنے کے احکامات جاری کئے جائیں کیونکہ درخواست گزار قبل ازیں خیبر پختونخوا حکومت سے بھی رابطہ کر چکے ہیں لیکن صوبائی حکومت مذکورہ الاٹمنٹ ادا کرنے سے انکاری ہیں جبکہ ہائیر ایجوکیشن کمیشن بھی اس ڈگری کو ایم فل کے برابر قرار دے چکی

AT (M) 758

BETTER COPY

To

Subject: Sanction for MS/M.Phil Allowance

M-28

Dear Sir,

It is stated that I am serving in section department 1992 and presently moving IPS Khan Kalli as a PSHT (BPS-15).

The govt. of Pakistan finance division regulation wing No. F.No. 3(6)/mp/2016-336 Islamabad. The 1st July 2016 as announced grant of M.Phil allow at in rate of 2500 P/M. so, it is requested that I have passed education from north University Nowshera and equally to M/Phil may be accorded in this regard please.

Yours

Abdul Qayum

PSHT GPS

Khahkali

1.



To

The DEO (M)

M-28

11-25/10/16
23/10/16

Nowshera

MS/1

Subject: Sanction for M.Phil Allowance

18

It is stated that I am serving in section Deptt Sec 1992 and presently working as PS Khattkalli - as a PSHI (BPS-15).

The Govt of Pakistan Finance Division Requisitioning No F-NO3(G)MP/2016-336 Islamabad, the 1st July 2016 as announced grant of Mphil allowance at the rate of 2500 P/M. It is requested that I have passed Educatn Frm North Unity Nowsha and ^{equal to M.Phil} and same may be accorded in this regard please.

3471 24-10-2016 Joint's

ed 19/10/2016

Abdul Qayyum
PSHI GPS
Khattkalli
NSR

10/10/16 (S.D.O. (M))

W N/A Please

AT (M) TED

11/10/2016



OFFICE OF THE
DISTRICT EDUCATION OFFICER(MALE) NOWSHERA
(Office Phoce#0923-9220228, Fax#0923-9220228)

No. 826 /DEO (M) NSR Dated NSR 24/10/2016

To,

The Director (E&SE) Department
Khyber Pakhtunkhwa Peshawar

H/29

MS/

Subject:- APPLICATION FOR THE GRANT OF M-PHIL ALLOWANCE

Memo

I am refer to the subject noted above and to enclose please find herewith Application along with M-Phil degree in respect of the fallowing officer/official for the grant of M-Phil Allowance for further necessary action.

S/NO	Name And Designation	School	Subject
1	Abdul Qayum(PSHT)	GPS Khatti Killi	M-Phil Allowance
2	Ayaz Ullah (SCT)	GHS Pabbi	do

District Education Officer
(Male)Nowshera

Endos No 827-28 /B&A.O M-Phil Dated 24/10/2016

Copy to the

1. - Head master GPS Khat Killi (NSR)
2. Principal GHS Pabbi (NSR)

ATTACHED

District Education Officer
(Male)Nowshera

AR-6010

0 - 30

8



PAYROLL SYSTEM
AMENDMENT FORM
SINGLE EMPLOYEE ENTRY

Form: PAY02

Date _____

Page No. _____

OFFICE OF THE SDEO (M) News Press.

FOR THE MONTH OF 8/20/16

0-30

DDO Code N R 6 0 1 0 Description - do -

Personnel Number 0 0 1 3 8 5 8 6 Employee Name Abdul Qayyum

National ID Card No 12201-3589405-1

Grade (Pay Scale Group) 1 5 PSHI

Salary Status Start Stop

GENERAL DATA CHANGE			CHANGE IN PAYMENTS / DEDUCTIONS						Effective Date	Remarks	
Info Type	Field ID	New Contents	Wage Type	Amount				Paisa			Adj
				Rupees							
		M. Phil Allow	2	5	0	0	1/2			Notification Govt Finance Division (R100) copy attached.	
		Adj. M. Phil Allow	2	5	0	0	1/2				

SDEO (M)
NSR
Prepared By J.

Audited Checked By _____

Entered Verified By _____

VAKALAT NAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

_____ OF 2020

(APPELLANT)

ABDULQAYYUM _____

(PLAINTIFF)

(PETITIONER)

VERSUS

(RESPONDENT)

Education Department _____

(DEFENDANT)

I/We **ABDUL QAYYUM** _____ do hereby appoint and constitute **MUNFAT ALI YOUSAFZAI, Advocate, Peshawar** to appear, plead, act, comprise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage /appoint any other Advocate Counsel on my/our cost. I /we authorize he said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated 7/1/20 /2020

CLIENT

ACCEPTED

MUNFAT ALI YOUSAFZAI
ADVOCATE HIGH COURT
Peshawar

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal NO. 12446/2020

Abdul Qayum VS Education

INDEX

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1.	Para wise Comments	_____	01-04
2.	Affidavit	_____	05
3	Finance division OM dated 4/1/2017	'A'	06
4	Finance division notification dated 17/10/2017	'B'	07
5	Judgment of Supreme Court of Pakistan	'C'	08

M
for
Deponent
Masood Khan,
Litigation officer
DEO (M), Nowshera
0311-9533533

2-2135/21

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE

TRIBUNAL PESHAWAR.

Service Appeal NO. 12446/2020

Abdul Qayum VS Education

Para wise Comments On Behalf Of Respondents; NO. 1, 2, 3, 5 & 6.

Respectfully Sheweth:

Respondents humbly submit as under.

Preliminary objections:

- 1) The present appeal is badly time barred.
- 2) That the appellant has no cause of action/locus standi to file the instant appeal.
- 3) That the appellant is estopped by his own conduct, by deed and by law to file the instant appeal.
- 4) That the instant appeal is not maintainable in its present form.
- 5) That the present appeal is bad for non-joinder and mis-joinder of necessary and proper parties.
- 6) That this Hon'ble Tribunal lacks jurisdiction to adjudicate upon the matter.

REPLY ON FACTS:-

- 1) Para -01 Pertains to record.

2) Para -02 is correct, subject to the explanation that the M.Phil allowance notification as mentioned is specified just and only for the M.Phil degree and it is not admissible to the other equivalent to M.Phil degrees such as MS as it has been duly clarified by the OFFICE MEMORENDUM F.No.3(6)imp/2016 dated 4th January 2017 the relevant para 2 is reproduced as " other degree or qualification having HEC equivalency or not, is not admissible for the allowance". Similarly Finance division in there reply to HEC dated 17/10/2017 regarding M.Phil allowance of equivalent degrees clearly mentioned that dealing of such financial matters is legally the allocated business of Finance Division and at present M.Phil allowance is not admissible to any degree other than M.Phil as the appellant has MS degree so he is not entitled for M.Phil allowance.

(copies of Finance division OM dated 4/1/2017 and 17/10/2017 are attached as annexure 'A' and 'B' respectively)

- 3) Para -03 is correct with the explanation that M.Phil allowance is not admissible to its other equivalent degrees.
- 4) Para-04 is correct. The appellant is also excluded via mentioned notification dated 14/10/2016 as he has MS degree.

- 5) Para-05 is correct. The mentioned notification is only for M.Phil degree not for its equivalent degrees as appellant has MS degree so he is not entitled.
- 6) Para-06 has no concern with M.Phil allowance it is just for admission to PhD purpose.
- 7) Para-7 is not relevant it is a private university notification for their admission etc purposes.
- 8) Para 8 is correct with the explanation that all such judgments of Peshawar high court are set aside by the supreme court of Pakistan in civil appeal No 188 -193 of 2020 and it has been clearly mentioned in that judgment that M. Phil allowance is not admissible to other degrees having equivalency to M. Phil.

(Judgment of Supreme Court is annexed as annexure "C")

- 9) Detail reply is given in Para 8.
- 10) Para-10 is incorrect; the mentioned annexure is just a letter of HEC to Finance.
- 11) Detail reply is given in Para 8.
- 12) The departmental appeals mentioned in Para 12 is badly time barred.
- 13) Reply given in Para 12.
- 14) Para-14 pertains to record.

REPLY ON GROUNDS:

A. Ground -A is incorrect. M.Phil allowance is specifically just for M.Phil degree, its equivalent are

not admissible for such allowance as clearly mentioned in Finance dept. notification dated 14/7/17 and Finance Division OM dated 4/1/17 and 17/10/17 so the act of the respondents is just according to law and rules.

- B. Ground -B is incorrect, as explained above.
- C. Ground -C is incorrect, as explained above.
- D. Ground -D is incorrect, as explained above.
- E. Ground -E is incorrect, as explained above.
- F. Respondents may also be permitted to raise other grounds during the arguments.

It is therefore most humbly prayed that the instant appeal being meritless may kindly be dismissed.

RESPONDANTS:

- ~~RESPONDANTS~~
- 2. The Secretary E & SE, KPK
FOR Respondents NO. 01 & 02
 - 3. The Secretary Finance, KPK
Respondent No. 03
 - 5. The Director E&SE, KPK
Respondent No. 05
 - 6. The DEO (M) Nowshera
Respondent No. 06

BEFORE THE KHYBER PAKHTUNKHAWA

SERVICETRIBUNAL PESHAWAR

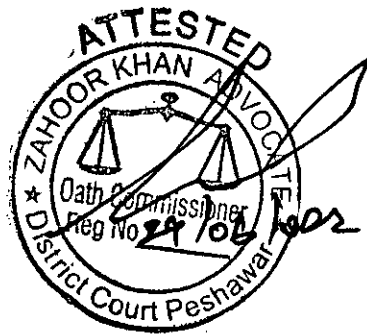
Service Appeal NO. 2446/2020

Abdul Qayum VS Education

AFFIDAVITE

I, Masood Khan Litigation Officer, office of The District Education Officer (M) Nowshera, do solemnly affirm and declare on oath that the contents of Par wise comments on behalf of respondents are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.


Deponent





GOVERNMENT OF PAKISTAN
FINANCE DIVISION
(Regulations Wing)
FBC Building, Near State Bank of Pakistan
...

F.No.3(6)Imp/2016-Vol-II-4

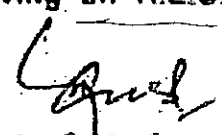
Islamabad, the 4th January, 2017

OFFICE MEMORANDUM

Subject. GRANT OF M. PHIL ALLOWANCE @ RS.2,500/- PER MONTH

The undersigned is directed to refer to Finance Division's O.M.No.F.3(6)Imp/2016-336, dated 01-07-2016 and to state that various quarters have approached Finance Division to enquire whether the M. Phil Allowance as allowed under Finance Division's O.M. referred to above covers those cases also where the employees concerned acquires/possesses an educational qualification equivalent to M.Phil Degree duly recognized by Higher Education Commission(H.E.C). It is clarified that O.M. dated 01-07-2016 has explicitly defined that all those who acquires/possesses the degree of M. Phil recognized by the Higher Education Commission(H.E.C) will be allowed M. Phil Allowance @ 25% of the existing amount of Ph.D Allowance @ (i.e. Rs.2,500/- per month).

2. Other degree or qualification, whether having an H.E.C. equivalence or not, is not admissible for the allowance.


 (Faisal Nadeem)
 Accounts Officer (Imp)

ALL MINISTRIES/DIVISIONS/DEPARTMENTS.

Web Administrator, Finance Division, Islamabad (for uploading at Finance Division's website i.e. www.finance.gov.pk)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SO(SR-II)/8-14/2016
Dated Peshawar the: 14/07/2016

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Principal Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All Commissioners in Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Chairman, Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa.

Subject: **GRANT OF M.PHIL ALLOWANCE @ RS.2,500/- PER MONTH**

Dear Sir,

The Competent Authority, is pleased to decide that, all those who acquires/possesses the degree of M.Phil recognized by the H.E.C. shall be allowed M.Phil allowance @ 25% of the existing amount of Ph.D Allowance (i.e. Rs.2,500 per month) with effect from 01/07/2016 subject to the following conditions:-

- a) M.Phil allowance will not be admissible to those who are getting Ph.D allowance @ Rs.10,000/- per month.
- b) M.Phil allowance will not be admissible to those who have already got the benefit of advance increments possessing on / acquiring M.Phil degree prior to 01/12/2001 under Finance Department circular letter No.FD(SR-I)/1-67/82 dated 24/05/1983.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: FD (SOSR-II)/8-14/2016.

Dated Peshawar the 14th July, 2016

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Secretaries to Government of Punjab, Sindh and Balochistan, Finance Department.
3. All Heads of Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa.


(RAZAULLAH)

Additional Secretary (Reg.)

(7)



GOVERNMENT OF PAKISTAN
FINANCE DIVISION
(Regulations Wing)
FBC Building, Near State Bank of Pakistan
...

F No 3(6)/Imp/2016-Vol-III-673

Islamabad, the 17th October, 2017


From: Mr. Faisal Nadeem,
Accounts Officer (Imp)

To Assistant Director (Quality Assurance Division),
(Ms. Sadia Bukhari),
Higher Education Commission,
Sector H-8,
Islamabad

Subject: GRANT OF M. PHIL ALLOWANCE @ RS.2,500/- PER MONTH

Reference Higher Education Commission's letter No.F 1-1 (NOF)/OAD/2017/HEC/77-325, dated 02-10-2017 on the above noted subject and to say that under CSR-4 Government of Pakistan reserve to themselves the right of changing the rules in these Regulations regarding pay and acting allowance and leave and pension, from time to time at their discretion, and of interpreting their meaning in case of dispute. Moreover, under Rules of Business, framing of rules/policies on financial matters including the financial terms of service matters is the allocated business of Finance Division in terms of Rule-3(3) of Rules of Business, 1973.

2 At present, M. Phil Allowance is not admissible on any degree other than M. Phil as clarified vide our O.M.No.F.3(6)/Imp/2016-Vol-II-4, dated 04-01-2017.


(Faisal Nadeem)
Accounts Officer (Imp)
☎ 051-0245869



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SO(SR-II)/8-14/15-16
Dated Peshawar the: 14/10/2016

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Principal Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All Commissioners in Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Chairman, Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa

SUBJECT: GRANT OF M. PHIL ALLOWANCE@ RS.2,500/- PER MONTH.

Dear Sir,

I am directed to refer to this Department letter of even number dated 14.07.2016 and to state that the M. Phil Allowance is admissible only to those employees who possess/acquires the degree of M. Phil recognized by the HEC and there is no provision about admissibility of such allowance for other qualification equivalent to the M. Phil degree.


NASRULLAH KHAN
Additional Secretary (Reg:)

Endst: FD (SOSR-II)/8-14/2016,

Dated Peshawar the 14th October, 2016.

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All Heads of Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa


SARDAR PERVAIZ KHAN
Deputy Secretary (Reg-I)

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

(8)

PRESENT:

MR. JUSTICE GULZAR AHMED, JICJ
MR. JUSTICE IJAZ UL AHSAN
MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL

CIVIL APPEALS NO.188 TO 193 OF 2020.

(Against the judgments dated 07.09.2018, 20.06.2019, 19.09.2019, 21.11.2019, 30.10.2019 and 24.10.2019 passed by the Peshawar High Court, Peshawar and Peshawar High Court, Abbottabad Bench in Writ Petitions No.2243-P/17, 4328-P/18, 1472-A/18, 4595-P/17, 3952-P/18 and 4397-P/2019).

Province of K.P. through Chief Secretary,
Peshawar and others.

(in CAs. 188, 189, 192 & 193 of 2020)

Government of K.P., Ministry of Finance through Secretary
Finance Department, Peshawar and others.

(in CA.190/2020)

Government of K.P., through Secretary Culture and Museum
Department, Peshawar and others.

(in CA.191/2020)

...Appellant(s)

Versus

Farasatullah.

(in CA.188/2020)

Muhammad Adeel Qureshi and others.

(in CA.189/2020)

Waqif Khan.

(in CA.190/2020)

Mst. Samina Behram and others.

(in CA.191/2020)

Sajid Khan and others.

(in CA.192/2020)

Raheel Ahmad and others.

(in CA.193/2020)

...Respondent(s)

For the Appellant(s):

Mr. Zahid Yousaf Qureshi,
Addl. A. G. KP.
Mian Saadullah Jandoli, AOR
(absent)
Mr. Shafiullah, Deputy Director
(Legal).

Mr. M. Imran, Deputy Director,
Agriculture
Mr. M. Arif, L.O., Archaeology.
Tauheed Iqbal, A.D. and
M. Ilyas Khan (Sr. Statistician)

For the Respondent(s): Mr. Khalid Rehman, ASC.
(in CA.189/20)

Mir Afzal Malik, ASC
(in CA.193/20)

M.Adeel Qureshi, Sajid Khan,
and Ehtasham (all in person)

Nemo (in other cases).

Date of Hearing: 15.07.2020.

JUDGMENT

IJAZ UL AHSAN, J.- Through this single judgment, we propose to decide Civil Appeals No.188, 189, 190, 191, 192 and 193 of 2020 as common questions of law are involved in this matter.

2. Leave to appeal was granted by this Court vide its order dated 02.03.2020 which for ease of reference is reproduced below:

"Learned Additional Advocate General, KP contends that the respondents, who were holding the LLM Degree have claimed M.Phil allowance by filing of a writ petition on the basis of equivalence. He contends that such being the matter relating to the terms and conditions of service, the writ petition filed by the respondents in the Peshawar High Court was patently barred in terms of Article 212 of the Constitution and the High Court was not competent to entertain the writ petition. He further contends that the M.Phil allowance was given specifically to the employees

who possessed M.Phil Degree and such allowance could not have been extended to the holders of the LL.M Degree for the reason that the concerned Notification did not provide for the same and neither did the University Grants Commission nor the Higher Education Commission have any jurisdiction to grant the benefit to the government employees, for that, their jurisdiction is only to the extent of granting equivalence, and even after granting the equivalence, whether the allowance is to be paid or not to be paid to certain employees, only the Government is competent to make policy on that, which policy could not be interfered with by High Court while exercising its writ jurisdiction.

2. The contentions raised by the learned AAG require consideration. Leave to appeal is granted to consider, *inter alia*, the same. The appeal shall be heard on the available record but the parties are allowed to file additional documents within a period of one month. As the matter relates to service, the office is directed to fix the same expeditiously, preferably, after three months."

3. The main controversy involved in these appeals relates to notification dated 14.07.2016 issued by the Secretary, Government of Khyber Pakhtunkhwa Finance Department through which an allowance @ Rs.2500/- per month was granted to the employees who held M.Phil degrees. The said notification was challenged by the Respondents before the Peshawar High Court praying that the Respondents may also be granted the M.Phil allowance because they held qualification which were equivalent to M.Phil, these included employees having LL.M degrees and MS degrees in Agriculture etc. The High Court allowed the petitions and directed the

Appellants to grant M.Phil allowance to all employees who held any degree equivalent to M.Phil i.e. LLM and MS in Agriculture from the date of acquiring such degree. The High Court based its judgment on a letter of the University Grants Commission (UGC) dated 23.08.2000 stating that Master of Law degree was equivalent to M.Phil.

4. The learned Additional Advocate General, Khyber Pakhtunkhwa submits that in the first place University Grants Commission and Higher Education Commission do not have the mandate either to interpret notification issued by the various Governments nor to direct or advise the Government to give financial benefits on the basis of equivalence certificates as has been done by it vide its letter dated 23.05.2017. He maintains that the mandate of Higher Education Commission in terms of Section 10 of the Higher Education Commission Ordinance, 2002 is to grant equivalence certificates only for the purposes of determining academic equivalence with reference to two aspects, i.e. pursuing a degree or for getting admission for further education. Further, he maintains that even according to its own position as reflected in its letter dated 24.11.2016 an equivalence certificate issued by the Higher Education Commission does not guarantee admission in a University for further education and determination of suitability in relation to job requirements which decision rests with the concerned University and employing agency and that Commission has no role in such matters. He further maintains that the UGC

does not confer any power in the Higher Education Commission to recommend payment of allowances or other financial benefits. He argues that the learned High Court misdirected itself and misinterpreted not only the law but also its purpose, scope and intent and its reliance on different certificates/letters issued by the Higher Education Commission in granting relief was clearly misplaced.

5. The learned counsel for the Respondents, on the other hands, submits that once the Higher Education Commission grants an equivalence certificate to any qualification/degree, the holder of such qualification/degree automatically becomes entitled to grant of allowances/benefits which have been granted to holders of equivalent degrees/qualifications. It is further argued that the Governments of the Provinces of Punjab, Sindh and Balochistan have issued similar circulars and provided similar allowances and it is only the Government of Khyber Pakhtunkhwa which is refusing to do so. This constitutes discrimination and the High Court is justified in bringing the situation at par with other Provinces.

6. We have heard the learned Additional Advocate General, Khyber Pakhtunkhwa as well as the learned counsel for the Respondents.

7. It is clear and obvious to us that the language of impugned notification dated 14.07.2016 is clear and unambiguous and does not admit of any other interpretation.

For ease of reference, the relevant portion of the notification in question is reproduced below:

"Subject: GRANT OF M.PHIL. ALLOWANCE @ 2,500/- PER MONTH.

Dear Sir,

The Competent Authority, is pleased to decided that, all those who acquires / possesses the degree of M.Phil recognized by the H.E.C. shall be allowed M.Phil allowance @ 25% of the existing amount of Ph.d allowance (@Rs.2,500/- per month) with effect from 01.07.2016 subject to the following conditions:

- a) M.Phil allowance will not be admissible to those who are getting Ph.D allowance @ Rs.10,000/- per month.
- b) M.Phil allowance will not be admissible to those who have already got the benefit of advance increments possessing on / acquiring M.Phil degree prior to 01.12.2001 under Finance Department circular letter No.FD(SR-I)/1-67/82, dated 24.08.1983".

8. A plain reading of the notification makes its abundantly clear:

- 1) The intent of the Competent Authority is to grant M.Phil allowance @ of existing amount of Ph.D allowance @ Rs.2500/- per month;
- 2) The allowance in question is not admissible to those who are already getting Ph.D. allowance @ Rs.10,000/- per month;

- 3) The M.Phil allowance is specifically meant for persons who hold M.Phil degrees which are recognized by the Higher Education Commission;
- 4) It is not expressly or by implication mentioned in the notification in question that the allowance will be payable to all who hold an "M.Phil or equivalent degree".

9. The intent and purpose of the Competent Authority in granting the incentive is clear and unambiguous and there is no room to read something into the notification which is not there. The learned counsel for the Respondents has not been able to convince us that holders of equivalent degrees should also be held entitled to the M.Phil allowance which was clearly not the intention of the notification. We notice that the High Court was called upon to interpret the meaning and scope of the notification however it exceeded its jurisdiction by reading additional words into the notification which under the facts and circumstances of the present case was neither necessary nor required.

10. The learned counsel for the Respondents has heavily relied on a letter dated 23.05.2017 issued by the Higher Education Commission, the relevant portion of the letter is reproduced below:

"4. According to above referred Office Memorandum of Govt. of Pakistan, Finance

Division, the M.Phil allowance is granted to those only who acquire/possess the degree of M.Phil recognized by the HEC. However, in view of the above mentioned clarification, all those who have M.Phil or MS degrees (18 years schooling) should be eligible to draw the allowance @ Rs.2500/- per month".

11. We are at a loss to understand how and under what authority of law has the Higher Education Commission advised that all those who hold M.Phil or MS degrees should be eligible to draw Higher Education Commission allowance @ Rs.2500/- per month. There is neither power nor authority under the Higher Education Ordinance to issue any such letter or clarification as the mandate of Higher Education Commission is limited only to academic matters and determining equivalence for academic reasons.

12. We are therefore of the view that the Peshawar High Court erred in law in relying upon letters issued by the Higher Education Commission/University Grants Commission (defunct) which was clearly beyond its mandate in granting relief to the Respondents.

13. We are also not impressed by the argument advanced by the learned counsel for the Respondents that the notification in question is discriminatory in nature in so far as it does not grant equal financial benefits to holders of equivalent degrees. Further, it is discriminatory because similar allowances have been granted by different Provinces which have been denied to the Respondents. As far as the

first argument is concerned, the same is misconceived. There is intelligible differentia between holders of M.Phil degrees and those who do not hold such degrees. Holders of M.Phil degrees in different disciplines constitute a class by themselves and can be granted incentives without offering similar incentives to holders of equivalence certificates from HEC. To hold otherwise would in effect negate and nullify the very concept of the rule of "intelligible differentia". A class of employees who hold M.Phil degrees have been earmarked for grant of an allowance which has specifically been called and termed as "M.Phil allowance". All those who fulfil the requirement of the notification have been granted the allowance and are entitle for the same. It is not the case of the Respondents that some of them have M.Phil degrees and have been refused or that the employees holding degrees other than M.Phil have been allowed the such allowance. In the absence of the aforementioned situations the argument of discrimination must fail.

14. As far as the second argument in support of discrimination that similar allowances are being offered in other Provinces is concerned, the Respondents have produced some notifications issued by the Governments of Punjab and Government of Sindh to support their contention. However, perusal of the notifications produced before us shows that the language and terminology used in the said notifications is materially and substantially different from the one used in the notification issued by the Government of Khyber

Pakhtunkhwa which is under challenge before us. There being no similarity between the two sets of notifications, the question of discrimination and the arguments in support thereof is misconceived. Even otherwise, if certain actions have been done in a certain Province(s) within the powers available to them under the Constitution, it is not necessary that the same be replicated in all other Provinces. Reference in this regard may usefully be made to S.M.C. No.15 of 2010 and C.M.As. Nos.2689, 3244 of 2010 and CMAs. Nos.5383, 3068 of 2011 (Suo Motu action regarding Regularization of the Contract Employees of Zakat Department as well as appointment of Chairman of Central Zakat Council (2013 SCMR 304) wherein it was held as follows:

"17. As regards the question of discrimination, it may be pointed out that each Province is empowered and entitled to make its own decision regarding the subjects that fall within their respective domain in accordance with their own circumstances. A decision by one Province another regarding the matter cannot be cited as ground for discrimination if another Province does not take the same decision. To hold otherwise would be an intrusion into the provincial economy of the Provinces. Now that the subject of Zakat and Ushr is within the domain of the Provinces, it is up to each Provincial Government to decide the terms and conditions of the petitioner's services".

15. We are therefore in no manner of doubt that the Peshawar High Court incorrectly dealt with the question of treating letters issued by the Higher Education Commission as the very basis for its direction for payment of M.Phil

allowance to other employees whose degrees had been declared equivalent in academic terms to an M.Phil degree. Such interpretation is clearly against the intent, purpose and plain language of the notification which could not have been done and the High Court clearly exceeded its jurisdiction in doing so. Further, having not found any discrimination on any of the grounds asserted by the learned counsel for the Respondents, we are of the view that the judgment of the High Court is not sustainable on that ground either.

16. For the reasons recorded above, these appeals are allowed and the judgments dated 07.02.2018, 20.06.2019, 19.09.2019, 30.10.2019, 24.10.2019 and 21.11.2019 of the Peshawar High Court are accordingly set aside.

17. Above are the reasons of our short order dated 15.07.2020. For ease of reference, the short order is reproduced below:

"We have heard the learned counsel for the parties so also the respondents who have appeared in person. We are informed by Court Associate that all respondents are served. The respondents who have not appeared, are proceeded ex-parte. For reasons to be recorded, these appeals are allowed and the impugned judgments passed by the High Court are set aside."

Chief Justice

Judge

Judge

ISLAMABAD.

15.07.2020.

Zubair/*

'Not Approved For Reporting'

OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA

Email: deomalensr@gmail.com

No: 1011 DEO(M) NSR DATED: 14/5/2022

AUTHORITY LETTER

I District education officer (M) Nowshera do hereby authorize
Mr. MASOOD KHAN, Litigation officer of the District education office
(M) Nowshera to deal with the issues regarding litigation, represent
the office attend the Hon'ble Courts and Tribunal regarding litigation.

District Education Officer Male
Nowshera