


22.11.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come for arguments before the D.B. on 18.01.2023.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member(E)


  
(Kalim Arshad Khan)  
Chairman

25.11.2021

Junior to counsel for the appellant present.

Mr. Javed Ullah, Assistant Advocate General alongwith Mr. Farman Shah, Senior Auditor for respondents present.

Learned Member Executive (Mr. Atiq-ur-Rehman Wazir), is on leave, therefore, case is adjourned. To come up for arguments on 16.03.2022 before D.B.

  
(Rozina Rehman)  
Member (J)

16.03.2022

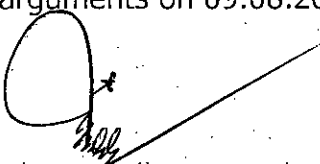
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 03.6.2022. for the same as before.

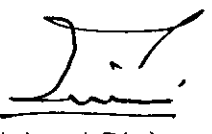
  
Reader.

03.06.2022

Notices were not issued due to non-availability of postal tickets.


Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 2, 3 & 5 present. None present for respondents No. 1 & 4, therefore, notice be issued to them through registered post and to come up for arguments on 09.08.2022 before D.B.

  
(Mian Muhammad)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

9-8-2022

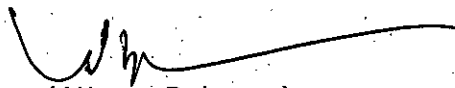
Due to the Public holiday the case is adjourned to 22-11-2022

  
Reader

22.03.2021

Counsel for the appellant and Asif Masood, DDA alongwith Hanif Khan, AAO for respondents No. 2, 3 and 5 present. Nemo for respondents No. 1 & 4.

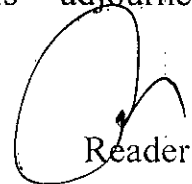
Mr. Zartaj Anwar, Advocate states that he is no longer a Legal Advisor of respondents No. 1 & 4, who are represented by some other counsel. Let respondents No. 1 & 4 be issued notices for 22.04.2021. On next date arguments shall be positively addressed on behalf of all the parties.

  
(Atiq-ur-Rehman)  
Member(E)

  
Chairman

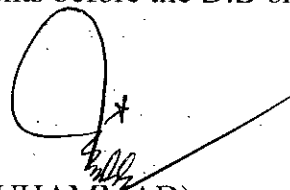
22.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 23.08.2021 for the same as before.

  
Reader

23.08.2021

Mr. Tanveer Menhas, Advocate, counsel for the appellant present. Mr. Muhammad Rashid, DDA for official respondents No. 2,3 and 5 alongwith Mr. Farman Shah, Senior Auditor present. None present for respondents No. 1 and 4, therefore, notice be issued to them and to come up for arguments before the D.B on 25.11.2021.

  
(MIAN MUHAMMAD)  
Member(E)

  
(SALAH-UD-DIN)  
Member(J)


01.09.2020

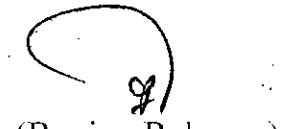
Counsel for appellant present.

Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Sajid Superintendent for respondents No.1 to 3 & 5 present. Subhan Ullah Litigation Assistant representative of respondent No.4 also present.

Representative of respondent No.4 requested for adjournment as counsel for the said respondent is busy before Hon'ble Peshawar High Court.

Adjourned to 01.10.2020 for arguments before D.B

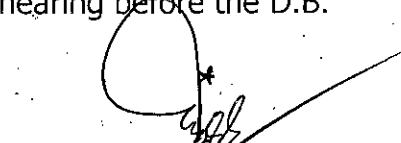
  
(Attiq ur Rehman)  
Member (E)

  
(Rozina Rehman)  
Member (J)

01.10.2020

Counsel for the appellant, Mr. Muhammad Riaz Paindakhel, Asstt. AG alongwith Sajid Superintendent and Subhanullah, Litigation Assistant for respondents present.

Former requests for adjournment in order to further prepare the brief. The matter is adjourned to 21.12.2020 for hearing before the D.B.

  
(Mian Muhammad)  
Member (Executive)

  
Chairman

21.12.2020

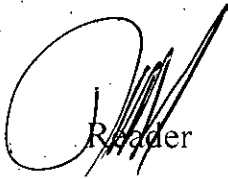
Junior to counsel for the appellant present. Addl: AG for respondents present.

Due to pandemic of Covid-19, the case is adjourned to 22.03.2021 for the same.

  
Reader

17.04.2020

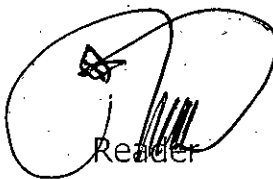
Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.07.2020 before D.B.



Reader

17.07.2020

Due to COVID-19, the case is adjourned for the same on 24.07.2020 before D.B.



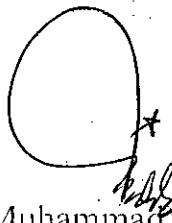
Reader

24.07.2020

Counsel for appellant present.

Mr. Zia Ullah learned Deputy District Attorney for respondents #.1 to 3 & 5 present. Nemo for respondent #.4.

Notice be issued to respondent #.4, his representative and Legal Advisor, for 01.09.2020, for arguments before D.B.



(Mian Muhammad)  
Member (E)



(Rozina Rehman)  
Member (J)

06.02.2020

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Arguments of learned counsel for the appellant and learned AAG heard. Legal Advisor of official respondents No.1 & 4 not available. Adjourn. To come up for further arguments on 10.02.2020 before D.B. Notice be issued to Mr. Zartaj Anwar Legal Advisor of respondents No.1 & 4, for the date fixed.



Member



Member

10.02.2020

Counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant AG for respondents No. 2, 3 & 5 and clerk to counsel for respondents No. 1 & 4 present. Clerk to counsel for respondents No. 1 & 4 requested for adjournment on the ground that learned counsel for the appellant is busy in the Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 11.03.2020 for arguments before D.B.



(Hussain Shah)

Member



(M. Amin Khan Kundi)

Member

11.03.2020

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Sajid Superintendent (for respondents No.2, 3 & 5) present. None present on behalf of respondents No.1 & 4. Notice be issued to respondents No.1 & 4 and their Legal Advisor. Last opportunity is granted to the said respondents. Adjourn. To come up for arguments on 17.04.2020 before D.B.



Member



Member

19.09.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney present. No one present on behalf of respondents No.1 & 4. Notice be issued to respondents No.1 & 4 as well as their Legal Advisor for 25.10.2019. Adjourn. To come up for arguments on the date fixed before D.B.

  
Member

  
Member

25.10.2019

Appellant with counsel present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith M/S. Shairbaz Section Officer, Sajid Superintendent for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.12.2019 before D.B

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

09.12.2019

Clerk to counsel for the appellant present. Addl: AG alongwith Mr. Sajid, Supdt and Mr. Subhanullah, Assistant for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the Bar. Adjourned. To come up for arguments on 06.02.2020 before D.B.

  
Member

  
Member

03.07.2019 Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Hazrat Shah Superintendent on behalf of the respondent No. 3 and Sajid Superintendent on behalf of the respondent No. 2 present. On previous order sheet the Hon'ble Chairman of this Tribunal directed that the case will be decided on the available record if the respondents department fail to submit their written reply on the next date. Representatives of the respondent department again seeks time to furnish written reply/comments hence proceeded ex-parte. In the view of the order sheets dated 29.05.2019. Adjourned. To come up for rejoinder/arguments on 12.09.2019 before D.B.

  
Member

12.09.2019 Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith M/S Muhammad Shafi Senior Clerk for respondent No.2 Zaki Ullah Senior Auditor for respondent No. 5 present. None present on behalf of the respondent No. 1 & 4. Notice be issued to Mr. Zartaj Anwar legal Advisor of the respondents No. 1 & 4 to attend the court on the next date of hearing. Adjourned. To come up for arguments on 19.09.2019 before D.B.

(Hussain Shah)  
Member

  
(M Hamid Mughal)  
Member



15.04.2019

Learned counsel for the appellant present. Written reply on behalf of respondents No.2 & 3 is still awaited. Rehmat Khan Superintendent representative of the respondent No.2 present and seeks time to furnish written reply/comments. Hazrat Shah Superintendent representative of respondent No.3 absent. He be summoned with the direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 29.05.2019 before S.B

  
Member

29.05.2019

Counsel for the appellant and Addl. AG alongwith Sajid Khan, Asstt. for the respondents present.

The respondents No. 2 and 3 are yet to submit written reply/comments. Last opportunity is extended to the said respondents for the needful on the next date. The matter will be proceeded on available record irrespective of submission of written reply by respondents No. 2 and 3.

Adjourned to 03.07.2019 before S.B.

  
Chairman

**Service Appeal No. 356/2018**

**13.12.2018**

Counsel for the appellant present. Mr. Subhanullah, Assistant on behalf of respondents No. 1 & 4, Mr. Hazrat Shah, Superintendent for respondent No. 3 and Mr. Zakiullah, Senior Auditor alongwith Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents No. 1, 4 and 5 submitted. Learned Additional AG requested for adjournment for filing of written reply on behalf of respondents No. 2 & 3. Last opportunity is granted. Adjourned. To come up for written reply/comments on behalf of respondents No. 2 & 3 on 22.01.2019 before S.B.

  
**Muhammad Amin Khan Kundi**  
**Member**

**22.01.2019**

No one present on behalf of appellant. Hazrat Shah Superintendent representative of respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 11.03.2019 before S.B.

  
Member

**11.03.2019**

Learned counsel for the appellant present. Written reply on behalf of respondents No.2 & 3 still awaited. Mr. Sohail Assistant representative of respondent No.2 and Hazrat Shah Superintendent representative of respondent No.3 be summoned with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 15.04.2019 before S.B

  
Member

27.08.2018

Counsel for the appellant Mr. Zar Taj Anwar, Advocate present and submitted his Vakalat Nama. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Subhanullah, Assistant (Litigation) for the respondents present and made a request for adjournment. Granted. To come up for written reply/comments on 18.10.2018 before S.B.

  
(Ahmad Hassan)  
Member

18.10.2018

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Subhan Ullah Assistant for the respondents present. Representative of the respondents seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 04.12.2018 before S.B.

  
Member

04.12.2018

Counsel for the appellant and Mr. Subhanullah, Assistant, representative of respondents No. 1 & 4 alongwith Addl. AG for the respondents present.

Representative of respondents No. 1 & 4 states that comments have been prepared but are yet to be signed by the concerned officials, therefore, requests for adjournment. Adjourned to 13.12.2018 before S.B.

  
Chairman

Service Appeal No. 356/2018

06.07.2018

Counsel for the appellant Abni Amin present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Health Department as Senior Demonstrator. It was further contended that the appellant was retired from service on 05.03.2015 however, it was ordered by the Finance Department that allowances with effect from 04.03.2014 to 15.03.2015 total amounting to Rs. 443797/- may be recovered from the pension of the appellant on the ground that the appellant was not entitled for the same during his service on the basis of different notifications. It was further contended that the appellant filed writ petition against the impugned order however, worthy High Court vide judgment/order dated 05.09.2017 converted the writ petition into departmental appeal and directed the respondent-department to decide the same within stipulated period however, the respondent-department has not decided the same hence, the present service appeal. It was further contended that since the recovery of the aforesaid amount was ordered to be made from the appellant on the basis of notifications and the same notification has been declared as null and void by the worthy Peshawar High Court therefore, the impugned order of recovery of the aforesaid amount is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter, notice be issued to the respondents for written reply/comments for 27.08.2018 before S.B.

Appellant Deposited  
Security & Process Fee



(Muhammad Amin Khan Kundi)  
Member

18.04.2018

Counsel for the appellant present and seeks adjournment.  
To come up for preliminary hearing on 09.05.2018 before S.B.

  
(Ahmad Hassan)  
Member

09.05.2018




The Tribunal is non functional due to retirement of the  
Honorable Chairman. Therefore, the case is adjourned. To come up for  
the same on 06.07.2018 before S.B.

  
Reader

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_

Case No. 356/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12/03/2018	<p>The appeal of Dr. Ibni Amin resubmitted today by Mr. Tanveer Minhas Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 12/3/18</p>
2-	13/03/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/03/18.</u></p> <p style="text-align: right;"> MEMBER</p>
27.03.2018		<p>No one present on behalf of the appellant. Adjourn. To come up for preliminary hearing on 18.04.2018 before S.B</p> <p style="text-align: right;"> Member</p>

The appeal of Dr. Abin Ameen Retired Senior Demonstrator KMC received today i.e. on 02.03.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Memorandum of appeal be got signed by the appellant.
- 3- Heading of the appeal is incomplete which may be completed.
- 4- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 486 /S.T,

Dt. 6/3 /2018

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Tanveer Minhas Adv. Swabi

R/Sir

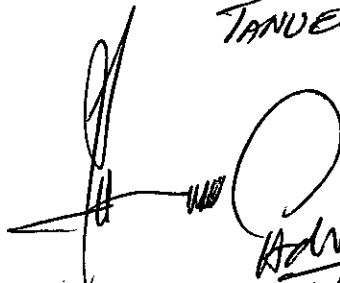
It is re submitted to day  
after removing the objections raised  
by the concerned members.

Dated  
12/3/2018.

Minhas

counsel for Appellant

TANVEER MINHAS ADV

  
Adv  
12/3/18

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

**Peshawar**

Service Appeal No 356 /2018

Dr. Abni Amin (Retired Senior Demonstrator KMC .KMU Peshawar) R/O House No.21 Main Street Rahat Abad Peshawar.

.....(Petitioner)

**VERSUS**

Audit Officer KTM/KMC/RCD Peshawar and others

.....(Respondents)

=====

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S.No	Description of Documents	Annex	Pages
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3.	Addresses of the parties		9
4.	Copy of letter No PN-Pen-1/1-13/2015-16/141-42 dated 17.11.2015	A	10-11
5.	Copy of letter No Audit /569/15/DF/KTH dated 29/04/2015	B	12
6.	Copy of application	C	13
7.	Copy of Writ Petition and order dated 05.09.2017	D	14-24
8.	Copy of W.P No 1673 P /2012 with order dated 16.05.2013	E	25-36
9.	Copy of judgment in WP No 654A/2012	F	37-45
10.	Copy of appeal to secretary Health KPK		46
11.	Wakalatnama		

Petitioner

Through

Dated: /02/2018

**TANVEER MINHAS**

Advocate, High Court

Office: at Judicial Complex Swabi

Shahmansoor

Cell: 03149898651



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

**Peshawar**

Service Appeal No \_\_\_\_\_/2018

Dr. Abni Amin (Retired Senior Demonstrator KMC .KMU  
Peshawar) R/O House No.21 Main Street Rahat Abad  
Peshawar.

.....(Petitioner)

**V E R S U S**

1. Audit Officer KTM/KMC/RCD Peshawar.
2. Secretary to Govt: KPK Finance Department Peshawar.
3. Govt:of KPK through Secretary to Govt KPK Health  
Department , Peshawar Secretariat Peshawar.
4. Chief Executive K.T.H/ K.M.U / K.C.D, Peshawar.
5. The Accountant General KPK, Peshawar.

.....(Respondents)

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SERVICE APPEAL UNDER SECTION 4 KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 .

---

**Respected Sir,**

**Respectfully Sheweth:**

1. That the petitioner was the employee of respondent No. 4. And has got retired on 05.03.2015 on superannuation.
2. That the petitioner was initially appointed by respondent No.4 as Medical Officer in BPS-17 on 13.11.1983, and promoted to BPS-18 on 17.02.1991 and similarly to BPS-19 on 26.02.2006.
3. That the petitioner served the health department and has got retired on 05.03.2015 in BPS -19 on superannuation.
4. That as per procedure of retirement the petitioner remained on LPR from 04.03.2014 till retirement on 05.03.2015.
5. That the respondents concerned worked out his pensionary benefits etc as sum of Rs 24,66,116/-.

**{Copy of letter No PN-Pen-1/1-13/2015-16/141-42 dated 17.11.2015 is annexed as annexure "A" }**

6. That instead of the total sum Rs 24,66,116.00/- the petitioner has been paid Rs 20,22,319.00/- and a sum of Rs 4,43,797/- was deducted from the total amount on account of pay and allowances vide letter No. Audit/

569/15/DF/KIH dated 29/04/2015 issued by respondent No.1.

**{Copy of letter No Audit /569/15/DF/KTH dated 29/04/2015 is annexed as annexure "B"}**

7. That the petitioner filed an application along with copy of judgment in W.P No 1673-P/ 2012 passed on 16/05/2013 to respondent No.5, in consequences of the letter No- Audit /569/15/DF/ KTH dated 29/04/2015 issued by respondent No.1, that the amount mentioned in the subject letters may not be deducted as in view of the said judgment dated 16/05/2013 in WP No 1973-P/2012 , is illegal, but no warm shoulder has been given by the respondent No.5 and the same has been thrown in basket of waste.

**{Copy of application is annexure "C" }**

8. That the petitioner has submitted writ petition No.1856-P/2016 on 03.05.2016 before the Peshawar High Court Peshawar for the purpose to challenge the order of respondent No.1 issued vide letter NO Audit/ 569/15/DF/KTH dated 29.04.2015.

9. That the writ petition NO.1856-P /2016 of the petitioner has been disposed of by the Honourable Bench of August Peshawar High Court Peshawar vide its order dated 05.09.2017 with the direction to approach the health

department of Khyber Pakhtunkhwa through departmental appeal.

**(Copy of Writ Petition and order dated 05.09.2017 is attached as annexure " D")**

10. That in light of the directions of the Honourable Bench of August Peshawar High Court Peshawar the petitioner prefers the instant departmental appeal in order to seek his remedy against the illegal , illogical and wrong order for the deduction of amount Rs:443797/- issued by respondent No.1 vide letter No. Audit/569/15/Df/KTH, inter alia, the following ground.

**GROUND:**

- A. That the directions of deducting amount Rs 443797/- on the account of pay and allowance for a period of LPR from 04.03.2014 to 05.03.2015 issued vide letter No Audit/569/15/DF/KTH dated 29/04/2015 is without jurisdiction and of no legal authority , is without effect and is liable to be set at naught And the petitioner is entitled for the payment of amount Rs 443797/- so deducted recovered.
- B. That the petitioner has been treated discriminately as compared to the employees of other departments of the Govt: of KPK , as no such deduction is ever been made from the employees on LPR on account of pay and allowances.

C. That the petitioner is entitled for the receipt of amount Rs 443797/- as allowances and pay for the period of LPR, as unanimous view has been held by the August Peshawar High Court Peshawar in various judgments, that employees of the Govt. of KPK are entitled to received the said allowances and pay even in period of LPR, leave and vacations. Therefore the deduction of said amount Rs 443797/- on account of pay and allowances for the period of LPR is not warranted by the law and rules, hence the directions of respondents No.1 to this effect vide letter mentioned above is against the law, rules and letter and spirit of judgments passed by the August Court in this connection, therefore liable to be set aside.

D. That previously in writ petition No 654-N2012 and subsequent W.P No 2021/2012 and W.P No. 1673-P/2012 all the letters issued by the respondents in connection of not extending the allowances to the employees of health department for the period of leaves, vacations, and LPR, have been unanimously declared illegal and against the law and the benefits of allowances, have been extended to the employees of health departments for the period of leaves, vacations and LPR. Therefore in view of the above mentioned judgments the petitioner is entitled to receive the allowances for the period of LPR. And the directions of respondent No.1 in connection of deduction and thereby deduction of amount Rs.433797/- from the petitioner is against the law and principles laid down in the cited judgments. **{Copy of W.P No 1673 P /2012 is annexed as annexure "E" whereas copy of judgment in WP No 654A/2012 is annexure "F" }**

- E. That as per section 21 of the General Clauses Act, 1897 any act or order or notification if made by a competent authority confer any right to any person and it takes effect that it cannot be rescinded or amended or withdrawn thereafter to the detriment of the owner of the right.
- F. That as per principle of locus poe a tentiae if an order or decision has been carried into effect then repenting and going back on such decision is without jurisdiction.
- G. That the pay and allowances are the right of employees. And deduction of the pay and allowances for the period of LPR is not only unreasonable and not a good gesture by the competent authority towards its employees but also illegal and against the law and principles laid down in the judgments cited above.
- H. That it is an established principle that any monetary advantages if granted to any civil servants accrued him such right and withdrawal of it is violation of principle of law and natural justice.
- I. That any other grounds, if available to the petitioner, be urged with the permission of this August Tribunal at the time of hearing of the case.

**It is therefore most humbly prayed that  
notification/letter No: Audit/569/15/ DF/ KTH  
dated 29.04.2015 issued by respondent No.1 for**

the deduction of amount Rs 4437797/- on account of pay and allowance for period of LPR, may kindly be set aside declaring it without jurisdiction and directions kindly be issued to the respondents to pay to the petitioner Rs 443797 /- amount so deducted on account of pay and allowances for the period of LPR.

Petitioner  
Dr. Ibni Amin

Through

Dated: 17/02/2018

**TANVEER MINHAS**  
Advocate, High Court  
At Judicial Complex Swabi

**TANVEER MINHAS**  
Advocate High  
0314-985

*Handwritten signature and initials*  
27/2

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
**Peshawar**

Service Appeal No \_\_\_\_\_/2018

Dr. Abni Amin (Retired Senior Demonstrator KMC .KML  
Peshawar) R/O House No.21 Main Street Rahat Abad  
Peshawar.

.....(Petitioner)

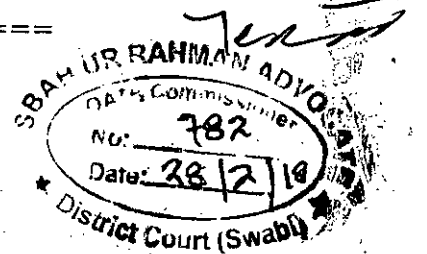
**V E R S U S**

Audit Officer KTM/KMC/RCD Peshawar and others

.....(Respondents)

=====

**AFFIDAVIT**



I, **ARSHID BILAL** son of **ABDUL MATEEN** (Special Attorney  
**R/O Shahmansoor Tehsil & District Swabi**) do hereby solemnly  
affirm and declare that the contents of the **Service Appeal** are true  
and correct to the best of my knowledge and belief and nothing has  
been concealed from this Hon'ble Tribunal.

Identified by

Tanveer Minhas Advocate  
High Court  
At Judicial Complex Swabi

Deponent

**ARSHID BILAL**

CNIC NO





BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

**Peshawar**

Service Appeal No \_\_\_\_\_/2018

Dr. Abni Amin (Retired Senior Demonstrator KMC .KMU  
Peshawar) R/O House No.21 Main Street Rahat Abad  
Peshawar.

.....(Petitioner)

**V E R S U S**

Audit Officer KTM/KMC/RCD Peshawar and others

.....(Respondents)

=====

**ADDRESSES OF PARTIES**

**PETITIONER:**

Dr. Abni Amin (Retired Senior Demonstrator KMC .KMU Peshawar) R/O  
House No.21 Main Street Rahat Abad Peshawar.

**RESPONDENTS:**

1. Audit Officer KTM/KMC/RCD Peshawar.
2. Secretary to Govt: KPK Finance Department Peshawar.
3. Govt:of KPK through Secretary to Govt KPK Health Department  
Peshawar Secretariat Peshawar.
4. Chief Executive K.T.H/ K.M.U / K.C.D, Peshawar.
5. The Accountant General KPK, Peshawar.

Petitioner

Through

Dated: 27/02/2018

**TANVEER MINHAS**  
Advocate, High Court  
At Judicial Complex Swab

High Court  
23986

OFFICE OF THE  
ACCOUNTANTS GENERAL  
KHYBER PAKHTUNKHWA, PESHAWAR.

10

No. PH- Gen-I/1-13/2015-16/11-4

Dated 17-11-2015

The Drawing & Disbursing Officer,  
SECTION OFFICER (E-V), HEALTH DEPARTMENT  
GOVT. OF KHYBER PAKHTUNKHWA, PESHAWAR.

Answer  
A  
page - 1

SUB:- SEALED COMMUTATION AUTHORITY IN R/O  
DR. IBNI AMIN S/O ABDUL MATEEN

Please refer to your letter No. NO.SOH(E-V)2-515/2015DR.IBNEAMIN  
Dated 12.10 2015 forwarding there in pension case in respect  
of above named officer / official.

You are hereby authorized to submit a bill for Rs.2466116.00  
(Rupees: TWO MILLION FOUR HUNDRED SIXTY-SIX THOUSAND ONE HUNDRED SIXTEEN)  
at the counter of this office for issuance of cross cheque in favour  
of Mr. Mrs. Miss. Mst. Dr. Ibni Amin s/o Abdul Mateen (Per.No :  
60502011 )  
FIG.NO 173013599947 on account of Commutation of pension.

Bank Name :  
A/c No :

The amount involved in charged / other than charged  
and debit to the Federal Govt. under the following head  
of accounts:-

01 - General Administration.	A04 - Transfer payment.
0112 - Fiscal administration.	A041 - Pensionary benefits.
011210 - Pension.	A04102 - Computed value of pension.
	A04103 - Gratuity value of pension.

Withheld amount:

Amount Payable:	2,466,116.00
Amount With Held:	0.00
Amount Paid:	<u>2,466,116.00</u>

Recoveries RECOVERY OF PAYABLE: RS.443787/- U/HEAD 002986.

Note:- This authority letter may please be attached with the bill in original  
along with the Office order/notification of retirement. Vendor No, Name of Bank  
and A/c No of payee may also be recorded on the bill.

Remarks:-

ACCOUNTS OFFICER (PENSION)

Copy for information to :-

Mr. Mrs. Mst. Miss. Dr. Ibni Amin s/o Abdul Mateen  
H.No.S-40, University Campus  
Peshawar. 03339159239

ACCOUNTS OFFICER (PENSION)

17/11/2015

BETTER COPY OF PAGE NO 9

OFFICE OF THE  
ACCOUNTANT GENERAL  
KHYBER PAKHUNKHWA , PESHAWAR

PN- Pen-I/I-13/2015/16/141-42

Dated 17.11.2015

To

THE DRAWING & DISBURSING OFFICER,  
SECTION OFFICER (E-V), HEALTH DEPARTMENT  
GOVT: OF KHYBER PAKHTUNKHWA, PESHAWAR

Subject: SEALED COMMUTATION AUTHORITY IN R/O  
Dr, IBNI AMIN S/O ABDUL MATEEN

Please refer to your letter No. NO SOH( E-V) 2-515/ 2015 DR.  
IBNEAMIN dated 12.10.2015 forwarding there in pension case in  
respect of above named officer/ official .

2. You are hereby authorized to submit a bill for Rs 2466116.00  
(Rupees : TWO MILLION FOUR HUNDRED SIXTY THOUSAND  
ONE HUNDRED SIXTEEN) at the counter of this office for  
issuance of cross cheque in favour of Mr Mrs Miss Mst Dr Ibni  
Amin S/O Abdul Mateen Per No : 00502951)  
NIC No 1730135999042 on account of Commutation of pension .

Bank Name:

A/C No

3. The amount involved in charged / other than charged and debitale  
to the Federal Govt: under the following head of accounts:-

01 -	-General Administration	A04	- Transfer payment
0112	-Fiscal administration	A041	- Pensionary benefits.
011210	- Pension	A04102	- Commuted value of pension
		A04103	- Gratuity value of pension .

**Withheld amount:**

Amount Payable :	2,466,116.00
Amount with Held:	0.00
Amount Paid :	2,466,116.00

Recoveries Recovery of pay and allw : Rs 443797 /- U/Head C02866

Note :- This authority letter may please be attached with the bill in  
original along with the office order/ notification of retirement: Vendor  
No, Name of Bank and A/C No of payee may also be recorded on the  
bill.

Accounts Officer (Pension)

Copy of information to :

Mr, Mrs, Mst Miss Dr. Ibni Amin S/c Abdul Mateen  
HNo S 40 , University Campus  
Pashawar 03339159289



13

Amesare  
C  
page - 1

To

Accountant General,  
Accountant General Office,  
Peshawar.


Through: Proper channel

Sir,

I am retired on 5-3-2015 from the post of Demonstrator BPS-19, Pathology department Khyber Medical College Peshawar after attaining the age of superannuation. I applied to your office through proper channel for commutation, pension and GF fund. My case is still not finalized because of the following reasons:

1. That I was on LPR and deduction of allowances be made from my commutation. Sir, Peshawar High Court through decision W.P.No 1673 P/ dt.2012 (annexed here with) gives me the right that such allowances may not be deducted from my pay during LPR as I am considered on duty during that period. (Ref. para F. of the same decision and I was party to it, reference my serial No. 106, annexed).
2. That I was on deputation for two years to Sheikh Zayed Hospital Lahore as trainee medical officer (Notification attached here with). No scholarship or pay was offered to me by the Hospital, rather I was considered on duty and I was drawing my pay from my own post in KMC. It has come to my knowledge that your office tends to deduct money from my commutation because of the reasons stated above. It is requested that whatever is my right or the right given to me by Peshawar High Court, be given to me along with my six months pension ( from March to date and onwards) without any further delay and oblige.

Thanks.

Yours  
Dr. Ibrul Amin  6.8.2015  
Ex-Demonstrator,  
Pathology Department,  
Khyber Medical College  
Peshawar.

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BEFORE THE PESHAWAR HIGH COURT  
PESHAWAR

WRIT PETITION NO 1856 P OF 2016

Dr. Abni Amin (Retired Senior Demonstrator KMC/MS  
Peshawar) R/O House No-21 Main Street Rahat abad  
, Peshawar .



-----  
{Petitioner }

**VERSUS**

1. Audit officer KTH/KMC/ RCD Peshawar.
2. Secretary to Govt: KPK, Finance Department  
Peshawar .
3. Govt: of KPK through Secretary to Govt KPK Health  
Department, Peshawar Secretariat Peshawar.
4. Chief Executive K.T.H/ K.M.U/ K.C.D, Peshawar.
5. The Accountant General KPK, Peshawar.

-----  
{ Respondents }

-----  
WRIT PETITION UNDER ARTICLE 199, OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN  
READ WITH ARTICLE 4 OF THE CONSTITUTION AND  
SECTION 21 OF THE GENERAL CLAUSES ACT, 1897 .  
-----

**Respectfully Sheweth ;**

1. That the petitioner was the employee of respondent No.4 .And  
has got retired on 05.03.2015 on superannuation .
2. That the petitioner was initially appointed by respondent No.4  
as Medical Officer in BPS -17 on 13-11-1983, and promoted to  
BPS -18 on 17.02.1991 and similarly to BPS-19 on  
26.02.2006.

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03 MAY 2016

WP1856P2016-GROUNDS

ATTESTED  
EXAMINER  
Peshawar High Court  
13 OCT 2017

3. That the petitioner served the health department and has got retired on 05.03.2015 in BPS -19 on superannuation.

4. That as per procedure of retirement the petitioner remained on LPR from 04.03.2014 till retirement on 05.03.2015.

5. That the respondents concerned worked out his pensionary benefits etc as sum of Rs 24,66,116/-.

**{Copy of letter No PN-Pen-1/I-13/2015-16/141-42 dated 17.11.2015 is annexed as annexure "A" }**

6. That instead of the total sum Rs 24,66,116.00/- The petitioner has been paid Rs 2022319.00/- and a sum of Rs 443797/- was deducted from the total amount on account of pay and allowances vide letter No. Audit/ 569/15/DF/KTH dated 29/04/2015 issued by respondent No.1.

**{Copy of letter No Audit /569/15/DF/KTH dated 29/04/2015 is annexed as annexure "B" }**

7. That the petitioner filed an application along with copy of judgment in W.P No 1673-P/ 2012 passed on 16/05/2013 to respondent No.5, in consequences of the letter No- Audit/ 569/15/DF/ KTH dated 29/04/2015 issued by respondent No.1, that the amount mentioned in the subject letters may not be deducted as in view of the said judgment dated 16/05/2013 in WP No 1973P/2012 , is illegal, but no warm shoulder has been given by the respondent No.5 and the same has been thrown in basket of waste.

**{Copy of application is annexure "C" }**

8. That the petitioner being aggrieved and having no other adequate remedy available so far, hence this writ petition is preferred before the August Court on the following grounds:

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EXAMINER  
Peshawar High Court

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WP1856P2016-GROUNDS

②      ①6

GROUNDS:-

- A. That the directions of deducting amount Rs 443797/- on the account of pay and allowance for a period of LPR from 04.03.2014 to 05.03.2015 issued vide letter No Audit/569/15/DF/KTH dated 29/04/2015 is without jurisdiction and of no legal authority, is without effect and is liable to be set at naught. And the petitioner is entitled for the payment of amount Rs 443797/- so deducted / recovered.
- B. That the petitioner has been treated discriminately as compared to the employees of other departments of the Govt: of KPK, as no such deduction is ever been made from the employees on LPR on account of pay and allowances.
- C. That the petitioner is entitled for the receipt of amount Rs 443797/- as allowances and pay for the period of LPR as unanimous view has been held by the August Peshawar High Court Peshawar in various judgments, that employees of the Govt: of KPK are entitled to received the said allowances and pay even in period of LPR, leaves and vacations. Therefore the deduction of said amount Rs 443797/- on account of pay and allowances for the period of LPR is not warranted by the law and rules, hence the directions of respondents No.1 to this effect vide letter mentioned above is against the law, rules and letter and spirit of judgments passed by the August Court in this connection, therefore liable to be set aside.
- D. That previously in writ petition No 654-A/2012 and subsequent W.P No 2021/2012 and W.P No. 1673-P/2012 all the letters issued by he respondents in connection of not extending the allowances to the employees of health department for the period of leaves, vacations, and LPR, have been unanimously declared illegal and against the law and the benefits of

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WP1856P2016-GROUNDS

ATTESTED  
EXAMINER  
Peshawar High Court

13 OCT 2017



(17)

allowances, have been extended to the employees of health departments for the period of leaves, vacations and LPR. Therefore in view of the above mentioned judgments the petitioner is entitled to receive the allowances for the period of LPR. And the directions of respondent No.1 in connection of deduction and thereby deduction of amount Rs.433797/- from the petitioner is against the law and principles laid down in the cited judgments.

**{Copy of W.P No 1673 P /2012 is annexed as annexure "D" whereas copy of judgment in WP No 654A/2012 is annexure "E" }**

- E. That as per section 21 of the General Clauses Act, 1897 any act or order or notification if made by a competent authority confer any right to any person and it takes effect that it can not be rescinded or amended or withdrawn thereafter to the detriment of the owner of the right.
- F. That as per principle of locus poeaitentiae if an order or decision has been carried into effect then repenting and going back on such decision is without jurisdiction.
- G. That the pay and allowances are the right of employees. And deduction of the pay and allowances for the period of LPR is not only unreasonable and not a good gesture by the competent authority towards its employees but also illegal and against the law and principles laid down in the judgments cited above.
- H. That it is an established principle that any monetary advantages if granted to any civil servants accrued him such right and withdrawal of it is violation of principle of law and natural justice.
- I. That any other grounds, if available to the petitioner, be urged with the permission of this August Court at the time of hearing of the case.

WP1856P2016-GROUNDS

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Peshawar High Court  
13 OCT 2017

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It is therefore humbly prayed that notification / letter No: Audit/569/15/DF/KTH dated 29/04/2015 issued by respondent No.1 for the deduction of amount Rs 443797/- on account of pay and allowance for period of LPR, may kindly be set aside declaring it without jurisdiction and writ may kindly be issued directing the respondents to pay to the petitioner Rs 443797 /- amount so deducted on account of pay and allowances for the period of LPR and any other relief which the Honourable Court may deem fit in the circumstances and obliged.

Dated : 20 /04/2016

Petitioner  
Dr. Ibni Amin

Through :-

TANVEER MINHAS  
Advocate High Court  
at Judicial Complex Swabi

*Tanveer Advocate*  
28/4/16  
TANVEER MINHAS  
Advocate High Court  
Swabi Judicial Complex

**CERTIFICATE**

*Certified that as per instruction of client no such like constitutional petition has earlier been filed by the petitioners in this Honourable Court .*

FILED TODAY

Deputy Registrar

03 MAY 2016

TANVEER MINHAS  
Advocate High Court  
at Judicial Complex Swabi

*Tanveer Advocate*  
28/4/17  
TANVEER MINHAS  
Swabi  
**ATTESTED**  
EXAMINER  
Peshawar High Court  
13 OCT 2017

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**LIST OF BOOKS**

- A. Constitution of Islamic Republic of Pakistan.
- B. General Clauses Act 1897.
- C. Case Law.

Advocate  
TANVEER MIRHAS  
Advocate High Court  
Swabi Judicial Complex  
2014

ATTESTED  
EXAMINER  
Peshawar High Court  
13 OCT 2017

FILED TODAY  
Deputy Registrar  
03 MAY 2016

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BEFORE THE PESHAWAR HIGH COURT  
PESHAWAR

WRIT PETITION NO 1856 P OF 2016

Dr. ~~Abni~~ Amin ----- {Petitioner }

VERSUS

Audit officer KTH/KMC/ RCD Peshawar and others  
----- {Respondents}

=====

AFFIDAVIT

**I, Arshad Bilal Advocate S/O Abdul Mateen (Special attorney for petitioner), do hereby solemnly declare and affirm on oath that contents of the Civil Revision Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable court.**

Deponent 

Arshad Bilal Advocate

CNIC No 16202-1910643-1

Identified by :-

 **TANVEER MINHAS**  
Advocate High Court  
at Judicial Complex Swabi

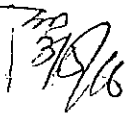
**TANVEER MINHAS**  
Advocate High Court  
Swabi Judicial Complex

**TESTE**  
EXAMINER  
Peshawar High Cou

13 OCT 2017

FILED TODAY  
Deputy Registrar  
03 MAY 2016

17916  
I have verified that the above was verified on solemn affirmation before me in office, this 2nd day of May 2016 by Arshad Bilal s/o Abdul Mateen who was identified by Tanveer Minhas who is personally known to me:



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BEFORE THE PESHAWAR HIGH COURT  
PESHAWAR

WRIT PETITION NO 1856 P OF 2016

Dr. Abni Amin ----- {Petitioner }

**VERSUS**

Audit officer KTH/KMC/ RCD Peshawar and others  
----- {Respondents}

=====

**CORRECT ADDRESSES OF THE PARTIES**

**ADDRESSES OF THE PETITIONER**

Dr. Abni Amin (Retired Senior Demonstrator KMC/KMU  
Peshawar) R/O House No-21 Main Street Rahat abad  
, Peshawar .

**ADDRESSES OF THE RESPONDENTS**

1. Audit officer KTH/KMC/ RCD Peshawar.
2. Secretary to Govt: KPK, Finance Department  
Peshawar.
3. Govt: of KPK through Secretary to Govt KPK Health  
Department, Peshawar Secretariat Peshawar.
4. Chief Executive K.T.H/ K.M.U/ K.C.D, Peshawar.
5. The Accountant General KPK, Peshawar.

**ATTESTED**  
EXAMINER  
Peshawar High Court  
13 OCT 2017

FILED TODAY

Deputy Registrar

03 MAY 2016

Dated : 20 /04/2016

Petitioner  
Dr. Abni Amin

Through :-

Through :-  
TANVEER MINHAS  
Advocate High Court  
at Judicial Complex Swabi

TANVEER MINHAS  
Advocate High Court  
Swabi Judicial Complex

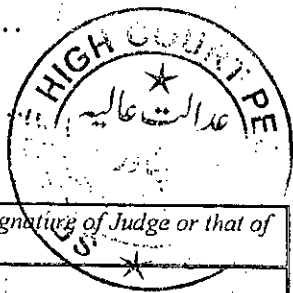
WP1856P2016-GROUNDS

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**PESHAWAR HIGH COURT PESHAWAR**  
**FORM "A"**  
**FORM OF ORDER SHEET**

Court of.....

Case No.....



Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2	3
	05.9.2017	<p><b>WP No. 1856-P/2016.</b></p> <p>Present:</p> <p>Mr. Tanveer Minhas, Advocate for petitioner.</p> <p>Mr. Muhammad Suhail Khan, AAG, for Provincial Government.</p> <p>Mr. Zartaj Anwar, Advocate, for respondents No. 1 and 4.</p> <p>*****</p> <p><b>ROOH-UL-AMIN KHAN, J:-</b> Through instant petition under Article-199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has prayed for setting aside the notification/letter No. Audit/569/15/DF/KTH dated 29.4.2015, whereby an amount of Rs. 443797/- on account of pay and allowance for the period of LPR has been deducted with further prayer for repayment of the said amount.</p>

*Rooh-ul-Amin Khan*

**ATTESTED**  
**EXAMINER**  
**Peshawar High Court**  
**13 OCT 2017**

	<i>Prokes am</i>	<p>2. At the very outset, when the learned counsel for petitioner was confronted with the proposition that under section 19 of the Civil Servants Act, 1973, the matter pertains to pension which falls in terms and condition of the service and the jurisdiction of this Court to entertain such controversy under Article-199 of the Constitution of Islamic Republic of Pakistan, 1973, is exclusively barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, he could not wriggle out of the situation, however, requested that this Court has already decided numerous writ petitions whereby similar cases have been remitted to the concerned Secretaries for decision strictly in accordance with the judgment rendered by this Court on 22.6.2017 in WP No. 3394-P/2016 titled Amir Zeb vs. District Account Officer Nowshera etc.</p> <p>3. In view of the above, this writ</p>
--	------------------	---

**ATTESTED**  
EXAMINER  
Punjab High Court  
13 OCT 2017

petition is transmitted to the Secretary to Govt. Khyber Pakhtunkhwa Health Department, Peshawar ( respondent No.3) with the directions to treat the same as departmental appeal and decide the same strictly in accordance with the Civil Servants Pension Rules 1963 and in light of the guidelines laid down by this Court the supra judgement.

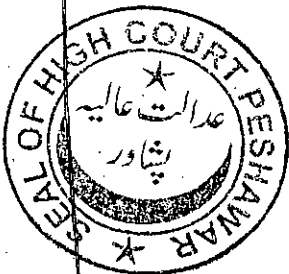
Announced on;  
05<sup>th</sup> of September, 2017

*[Handwritten signature]*

JUDGE

*[Handwritten signature]*

JUDGE



No. 8027  
 Date of Presentation of Application 09/09/17  
 No of Pages 16  
 Copying fee 100/-  
 Urgent Fee 100/-  
 Total 200/-  
 Date of Preparation of Copy 13/10/17  
 Date Given For Delivery 13/10/17  
 Date of Delivery of Copy 13/10/17  
 Received by [Signature]

CERTIFIED TO BE TRUE COPY

Examiner, Peshawar High Court, Peshawar  
 Authorized Under Article 87 of  
 The Courts (Shahadat) Order 1984

13 OCT 2017

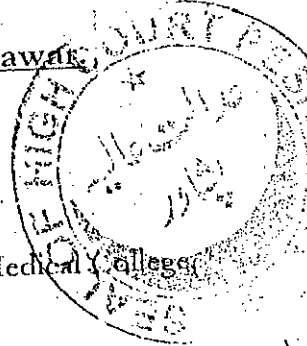
*[Handwritten signature]*



Before the Peshawar High Court, Peshawar.

W.P.N. 673/2012

C.N. /2012



1. Dr. Qaisar Inayat, Associate Professor Khyber Medical College, Peshawar.
2. Professor Dr. Liaqat Ali,
3. Professor Dr Riaz Nasim,
4. Professor Dr. Ejaz Hassan Khan,
5. Professor Dr Farida Nasir,
6. Professor Dr. Zahid Hussain Khalil,
7. Professor Dr. Jamshid Ali,
8. Professor Dr Jehanzeb Khan,
9. Professor Dr. Ghulam Sarwar,
10. Professor Dr Mudassir Ahmad Khan
11. Professor Dr. Bushra Iftikhar,
12. Professor -Dr. Gulshan Nahed,
13. Professor Dr. Professor Saateh Arif,
14. Professor Nargis Parveen.
15. Dr. Ghulam Jilani, Associate Professor
- 16.-Dr. Shamim Alam, Associate Professor
- 17.Dr. Mohammad Tahir Khan, Associate Professor
18. Dr. Iftikhar-ud-Din Niazi, Associate Professor
19. Dr. Ranim Bangash, Associate Professor

*Ammedur*  
(E)

*Ammedur*  
page -

*17/12/13*

ATTESTED  
EXC. CLERK  
Peshawar High Court

- 20. Dr. Muhammad Javed, Associate Professor
- 21. Dr. Ahmad Rafiq, Associate Professor
- 22. Dr. Hakim Khan Afridi, Associate Professor
- 23. Dr. Hamid Ali, Assistant Professor
- 24. Dr. Zahid Shah, Assistant Professor
- 25. Dr. S Farhat Abbas, Assistant Professor
- 26. Dr. Shafiqur Rehman, Assistant Professor
- 27. Dr. Anjum Humayun Assistant Professor
- 28. Dr. Naila Hamid Assistant Professor
- 29. Dr. Zahoor Ahmad, Assistant Professor
- 30. Dr. Ubaid ur Rehman Assistant Professor
- 31. Dr. Mushtaq Ahmad, Assistant Professor
- 32. Dr. Sadat Ullah Khan, Assistant Professor
- 33. Dr. Abid Shah, Assistant Professor
- 34. Dr. Khanzada Khan Assistant Professor
- 35. Dr. Shahina Mumtaz, Assistant Professor
- 36. Dr. Nisar Ahmad, Assistant Professor
- 37. Dr. Muhammad Riaz ud Din Assistant Professor
- 38. Dr. Inaam Ullah Assistant Professor
- 39. Dr. Shahida Tasneem, Assistant Professor
- 40. Dr. Naila Ismail, Assistant Professor
- 41. Dr. Rubina Gul Assistant Professor
- 42. Dr. Hamid Hussain Assistant Professor

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[Signature]

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43. Dr. Muhammad Naeem Assistant Professor
44. Dr. Zia ur Rehman Assistant Professor
45. Dr. Muhammad Yousaf, Assistant Professor
46. Dr. Mohammad Rashi, Lecturer/Demonstrator
47. Dr. Said Mohammad Lecturer/Demonstrator
48. Dr. Ajmal Khan Lecturer/Demonstrator
49. Dr. Adil Zarif Lecturer/Demonstrator
50. Dr. Abdul Hamid Marwat Lecturer/Demonstrator
51. Dr. Mohammad Ikram Lecturer/Demonstrator
52. Dr. Manila Shabnam Khattak Lecturer/Demonstrator
53. Dr. Abdus Samad Khan Lecturer/Demonstrator
54. Dr. Sadaf Ambarin Lecturer/Demonstrator
55. Dr. Shabnum Amir Lecturer/Demonstrator
56. Dr. Asif Kamal Lecturer/Demonstrator
57. Dr. Shazia Iftikhar Lecturer/Demonstrator
58. Dr. Tahira Mehreen Lecturer/Demonstrator
59. Dr. Imran Khan Lecturer/Demonstrator
60. Dr. Shehla Khatoon Lecturer/Demonstrator
61. Dr. Falak Naz Lecturer/Demonstrator
62. Dr. Umme Sarwat Lecturer/Demonstrator
63. Dr. Salah-ud-Din Lecturer/Demonstrator
64. Dr. Saleem Abbas Lecturer/Demonstrator
65. Dr. Aslam Khan Mohammad Lecturer/Demonstrator

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11/11/2017

ATTESTED  
EXAMINER  
Peshawar High Court

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66. Dr. Hina Salman Lecturer/Demonstrator
67. Dr. Muhammad Asghar Lecturer/Demonstrator
68. Dr. Sajjad Muhammad Lecturer/Demonstrator
69. Dr. Tehmina Rashid Lecturer/Demonstrator
70. Dr. Shahnawaz Lecturer/Demonstrator
71. Dr. Sadaf Durrani Lecturer/Demonstrator
72. Dr. Yasmin Akhtar Lecturer/Demonstrator
73. Dr. Sobia Ali Lecturer/Demonstrator
74. Dr. Kalsoom Tariq Lecturer/Demonstrator
75. Dr. Obaid ullah Lecturer/Demonstrator
76. Dr. M. Afzal Khan Lecturer/Demonstrator
77. Dr. Naseem Alam Lecturer/Demonstrator
78. Dr. Falak Naz Lecturer/Demonstrator
79. Dr. Tahira Perveen Lecturer/Demonstrator
80. Dr. Shams Suleman Lecturer/Demonstrator
81. Dr. Tayaba Basharat Lecturer/Demonstrator
82. Dr. Shandana Aamir Lecturer/Demonstrator
83. Dr. Erum Jehan Lecturer/Demonstrator
84. Dr. Arshia Munir Lecturer/Demonstrator
85. Dr. Tariq Mehfooz Lecturer/Demonstrator
86. Dr. Muhammad Amjad Lecturer/Demonstrator
87. Dr. Sardar Raheel Alam Lecturer/Demonstrator
88. Dr. Asghar Khan Lecturer/Demonstrator

ATTESTED  
EXAMINER  
Peshawar High Court

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89. Dr. Hayat Muhammad Lecturer/Demonstrator
90. Dr. Yasmin Orakzai Lecturer/Demonstrator
91. Dr. Sahibdad Khan Lecturer/Demonstrator
92. Dr. Shahida Naveed Lecturer/Demonstrator
93. Dr. Naveed Alam Lecturer/Demonstrator
94. Dr. Faqir ullah Lecturer/Demonstrator
95. Dr. Muhammad Aslam Lecturer/Demonstrator
96. Dr. M. Arshid Hussain Lecturer/Demonstrator
97. Dr. Iftikhar Ahmad Lecturer/Demonstrator
98. Dr. Mohammad Khalid Lecturer/Demonstrator
99. Dr. Muhammad Kamran Lecturer/Demonstrator
100. Dr. Obaid Ullah Lecturer/Demonstrator
101. Dr. Waseem Anwar Lecturer/Demonstrator
102. Dr. Farida Mujahid Lecturer/Demonstrator
103. Dr. Muhammad Ismail Lecturer/Demonstrator
104. Dr. Anwar Ul Haq Lecturer/Demonstrator
105. Dr. Emra Muntaz Lecturer/Demonstrator
106. Dr. Ibne Amin Lecturer/Demonstrator
107. Dr. Pervez Mohammad Lecturer/Demonstrator
108. Dr. Aurang Zeb Lecturer/Demonstrator
109. Dr. Saima Nadeem Lecturer/Demonstrator
110. Dr. Sayed Luqman Shoaib Lecturer/Demonstrator
111. Dr. Irfan Ullah Lecturer/Demonstrator

APPROVED  
EXAMINER  
Peshawar High School

ANTHONY MONTAGNA  
01 JUN 2012

112. Dr. Haroon ur Rasheed Lecturer/Demonstrator

113. Dr. Purdil Khan Lecturer/Demonstrator

114. Dr. Muhammad Idrees Lecturer/Demonstrator

115. Dr. Haroon ur Rasheed Lecturer/Demonstrator.

(All Posted at Khyber Medical College, Peshawar).

116. Dr. Shahtaj Khan

117. Dr. Fazle Raziq

118. Dr. Ashraf Khan

119. Dr. Agha Ali Shah

120. Dr. Shahtaj Khan.

(All Posted at Post-Graduate Medical Institute,  
Hayatabad Medical Complex, Peshawar).

121. Dr. Manzar Anwar

122. Dr. Zia ur Rehman Qureshi

123. Dr. Najma Khatoon

124. Dr. Muhammad Saleem

125. Dr. Dilabaz

126. Dr. Jameel Kifayat uliah

127. Dr. Imdad Ullah

128. Dr. Shazia Makhdoom.

(All posted at Khyber College of Dentistry Peshawar)

Versus

Deputy Registrar

01 JUN 2012

ATTESTED  
EXAMINER  
Peshawar High Court

page-10

- 1. Govt: of KPK, through Secretary to Govt: of KPK Health Department, Peshawar Secretariat Peshawar.
  - 2. Secretary to Govt: of KPK, Finance Department.
  - 3. Chief Executive K.T.H/Khyber Medical College, K.C.D. Peshawar.
  - 4. The Accountant General KPK, Peshawar.
  - 5. Dean PGMI Hayatabad Medical Complex, Peshawar.
- .....Respondents.

Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan read with Article 4 of the Constitution and Section 21 of the General Clauses Act, 1897.

Respectfully Sheweth:

- 1. That the Petitioners are the employees of the Respondents no 3 and 5 being an autonomous bodies and are under the general supervision of the Respondents no 1.
- 2. That the Respondents no 2 being the Competent Authority through notification FD (SOS-R11) 8-18999/vol.I and FD (PRC) 5-3/2002 approved the Special Allowance to Basic Sciences Teachers and other such allowance to the Petitioners with following rate w.e.f. 01.06.2007 and 1.7.2008:

ATTESTED  
 EXAMINER  
 Peshawar High Court

is without jurisdiction, of no legal authority, is without legal effect and is liable to be set aside.

B. That the Petitioners are treated discriminately as compared to the secretariat employees of the Government of KPK who are granted 20% special allowance without any condition of time or leave etc. (Annexure-G).

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C. That as per Section 21 of the General Clauses Act, 1897 any act or order or notification if made by a Competent Authority confer any right to any person and it takes effect then it cannot be rescinded or amended or withdrawn thereafter to the detriment of the owner of the right.

D. That as per Principle of Locus poenitentiae if an order or decision has been carried into effect then repenting and going back on such decision is without jurisdiction.

E. That as per proposed summary and notification of the Finance Department for the granting of above mentioned allowances, there is no mention of the term leave etc that these allowances are not admissible in vacation, leave and LPR.

F. That as per FR 82 (b) vacation counts a duty. It is pertinent to mention that the Petitioners (teaching staff of the medical Colleges) have neither demanded for such vacation nor are out of the institution during such vacation. The vacations are in real sense availed of the students and not of the teachers. The teaching faculty is used to be involved in examination, administration work or research etc.

G. That the allowances are for the whole month and deduction from it for a fraction of month is unreasonable and not a good gesture of the Competent Authority towards its employees.

ATTESTED  
EXAMINER  
Public Service Commission



(35)

H. That the Apex Court of Pakistan has held that the power of rescinding any order of the Competent Authority ceased till a decisive step is taken and the order has got finality. (PLD 1959 WP Kar 105, PLD 1969 SC 407, PLD 1993 Kar 360, 1994 SCMR 249, 2002 PLC (SC) 1332. Ref

Page - 4

I. That it is an established principle that any monetary advantages if granted to any civil servants accrued him such right and withdrawal of it is violation of principle of Law and natural justice.

J. That the allowances are an incentive to the teaching staff of the Public Medical Colleges to stop the brain drain towards the private medical colleges who are offering handsome salaries to such staff.

K. That as per F.R 87 (5) the term pay includes special pay whether attached to a post or personal to a particular Government Servants.

L. That identical Writ Petitions no 817/2012, 103m/2012 and 22/2012 are filed in the Peshawar High Court Bench of D.I.Khan, Mingora and Bannu and stay order preventing the Respondent from recovery has been granted to the Petitioners..... (Annexure H).

Prayer: It is therefore humbly prayed that notification no FD (SOSR-11) 8-18/2008 dated 1.12.2009, NO FD (SOSR-11) 8-18/2009 dated 06.10.2009, NO FD (SOSR-11) 8-18/2009 dated 10.12.2009, No FD (SOSR-11) 8-18/2010 dated 13.03.2010, No FD (SOSR-11) 8-18/2009 dated 25.08.2011 be setaside declaring it without jurisdiction and that Notification NO FD (PRC) 5-3/2002 dated 01.06.2007 shall remain intact and Writ may be issued directing the Respondents to pay the special allowances and other allowances, without any interruption even during leave, vacation and LPR.

FILED TODAY  
Deputy Registrar  
01 JUN 2012

ATTESTED  
EXAMINER  
Peshawar High Court

(34)

Judgment Sheet

IN THE PESHAWAR HIGH COURT,  
PESHAWAR

JUDICIAL DEPARTMENT

...W.P....No...1673....Of.....2012.

JUDGMENT

Date of hearing..... 16.05.2013

Appellant (Dr. Qaiser Inayat etc.) By Nazeer Ahmad Advocate.

Respondent (Govt.) By Ubaid Razaq A.A.G.

Annexure  
D  
Page - 19

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MALIK MANZOOR HUSSAIN, J:- Through this single judgment, we intend to dispose of titled writ petition as well as connected W.P.No.2011/2012, as common questions of fact and law are involved in both the petitions.

2: Precisely the facts, in brief, are that the petitioners are employees of Khyber Teaching Hospital/Khyber Medical College, Hayatabad Medical Complex and Khyber College of Dentistry, Peshawar. That vide notification dated 20.2.2008, Finance Department (Regulation Wing), approved the Special Allowance to Basic Science Teachers of Khyber Medical College, Peshawar, Ayub Medical College, Abbottabad and Post Graduate Medical Institutes, Peshawar, at the rates given in the notification. That through notification dated 1.12.2009, the said allowances were made not admissible during the

ATTESTED

EXAMINER  
Peshawar High Court

LPR

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period of leave, leave preparatory to retirement, as well as, during winter and summer vacations. This notification was further clarified through notification dated 6.10.2009 to the effect that Non-practicing Allowances, Teaching Allowances and Special Allowances to Basic Science Teachers would not be admissible during period of leave and LPRs. It was further clarified through office order dated 10.12.2009, that the amount drawn before the date of clarification may not be recovered. The matter does not end, but another office order was issued on 13.3.2012, wherein certain restrictions were made regarding special allowances excluding casual leave, training period of attending courses/studies and deputation period. Lastly, the notification dated 25.8.2011 was issued whereby, the amount drawn before date of clarification letter dated 10.12.2009 was directed not to be recovered. The petitioners have challenged all the notifications right from 20.2.2008 up till 25.8.2011 being illegal, against norm of justice, in disregard of section 21 of General Clauses Act, inter alia, other legal grounds.

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3. At the very outset, the learned counsel for the petitioners draw the attention of this Court to a judgment delivered in W.P.No.654-A of 2012 dated

ATTESTED  
 EXAMINER  
 Peshwar High Court

30.4.2013 passed by this Court, wherein, the same notifications were challenged by the employees of Ayub Medical College, with the prayer of same relief.

The learned counsel for the petitioner also informed this Court that the said judgment has been implemented in its letter and spirit by the respondents and the same was confirmed by respondents, representative. So under the circumstances, this petition, as well as the connected petition bearing No.2021/2012 are entitled to be treated alike in terms of above mentioned judgment.

4. We have gone through the judgment passed in W.P.No.654-A/2012 and in the light of same, no issue remained unresolved.

In view of the ratio decidendi of the above referred judgment, this petition as well as the connected writ petition is disposed of in terms of judgment passed in W.P.No.654-A of 2012, dated 30.4.2013. Order accordingly.

*Sgt Waseer Ahmad Sethi*  
*Sgt Malik Manzoor Hussain*

Announced  
Dt.16/5/2013.

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Examiner  
Peshawar High Court Peshawar  
Authorized Under Article 87 of  
the Constitution of Pakistan Order 1997

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*113*

*Page*

(37)

BEFORE THE PESHAWAR HIGH COURT,  
ABBOTTABAD BENCH.

W.P.No. 37 of 2012

1. Dr. Muhammadiad Salim Wazir Associate Professor, AMC
2. Dr. Muhammad Ashfaq Professor, AMC
3. Dr. Alangir Lecturer, AMC
4. Dr. Syed Majid Hussain Shah Lecturer, AMC
5. Dr. Nadia Munir Lecturer, AMC
6. Dr. Ayesha Bibi Lecturer, AMC
7. Dr. Bilal Zaman Babar Lecturer, AMC
8. Dr. Fouzia Tabbasum Lecturer, AMC
9. Dr. Abdul Wahid Professor, AMC
10. Dr. Abdur Rehman Lecturer, Dentistry, AMC
11. Dr. Siraj-UI-Mulk Lecturer, Physiology, AMC
12. Dr. Mansoor Ahmad Lecturer, Physiology, AMC
13. Dr. Nuzhat Raza Assistant Professor, Physiology, AMC
14. Dr. Shazia Bibi Lecturer, Physiology, AMC
15. Dr. Saima Bibi Lecturer, Physiology, AMC
16. Dr. Alvina Raja Assistant Professor, AMC
17. Dr. Nighat Seema Assistant Professor, AMC
18. Dr. Iflikhar Assistant Professor, AMC
19. Dr. Salma Lecturer, AMC
20. Dr. Phool Bibi Lecturer, AMC
21. Dr. Delawar Khan Professor, AMC
22. Dr. Quratulain Lecturer, AMC
23. Dr. Musarrat Bukhari Assistant Professor, AMC
24. Dr. Kulsom Jehanzeb Lecturer, AMC

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37  
Amendure  
(F)

AYUB MEDICAL COLLEGE  
PESHAWAR  
ABBOTTABAD BENCH  
ESTABLISHED UNDER GOVT. ORDER NO. 1133 OF 1973

- 25. Dr. Noaman Siddiqui Lecturer, AMC
- 26. Dr. Naeem Afzal Professor, AMC
- 27. Dr. Rubina Faisal Lecturer, AMC
- 28. Dr. Yawar Rizvi Professor, AMC
- 29. Dr. Sadaf Anwar Qureshi Lecturer, AMC
- 30. Dr. Asif Shah Lecturer, AMC
- 31. Dr. Ambreen Khurshid Haider Lecturer, AMC
- 32. Dr. Sadaf Yousaf Lecturer, AMC
- 33. Dr. Naheed Qureshi Lecturer, AMC
- 34. Dr. Omair Khan Lecturer, Forensic Medicine, AMC
- 35. Dr. Surayya Israr Lecturer, AMC
- 36. Dr. Ayesha Naureen Assistant Professor, Biochemistry, AMC
- 37. Dr. Robina Shaheen Assistant Professor, Anatomy, AMC
- 38. Dr. Nasim Ayyaz Lecturer, Anatomy, AMC
- 39. Dr. Syed Raza Ali Shah Lecturer, AMC
- 40. Dr. S.M Ghous Lecturer, AMC
- 41. Dr. Inam-Ur-Rehman, Forensic Medicine, AMC
- 42. Dr. Sadia Habiba Lecturer, Forensic Medicine, AMC
- 43. Dr. Chaman Gul Lecturer, Biochemistry, AMC
- 44. Dr. Zahid Irfan Lecturer, Biochemistry, AMC
- 45. Dr. Ruhila Hanif Associate Professor, AMC
- 46. Dr. Shahid Usman Lecturer, Dentistry, AMC
- 47. Dr. Zainab Nazneen Lecturer, Community Medicine, AMC
- 48. Dr. Humaira Imtiaz Lecturer, Anatomy, AMC
- 49. Dr. Fatima Shirin Lecturer, Anatomy, AMC
- 50. Dr. Sumaira Javed Lecturer, Anatomy, AMC

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Additional Registrar  
Federal High Court  
Abbottabad

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06.05.13  
Jeshwanth Singh  
Additional Bench  
Abbottabad

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page 1  
MK

51. Dr. Sarwat Abbasi Lecturer, Biochemistry, AMC
52. Dr. Fouzia Jehangir Lecturer, Pathology, AMC
53. Dr. Noreen Sultan Professor, Biochemistry, AMC
54. Dr. Muhammad Awais Lecturer, AMC
55. Dr. Hamid Arnan Lecturer, AMC
56. Dr. Saad Mufti Lecturer, AMC
57. Dr. Tameer Iqbal, A/P, Ayub Medical College, Abbottabad.
58. Dr. Ashfaq Ahmed Assistant Professor, Community Medicine, All posted at Ayub Medical Institution/Complex (AMC), Abbottabad.

...PETITIONERS

## VERSUS

1. The Chief Secretary, Government of Khyber Pakhtun Khwa, Civil Secretariat Peshawar.
2. The Secretary to Government of Khyber Pakhtun Khwa, Health Department, Civil Secretariat Peshawar.
3. The Secretary to Government of Khyber Pakhtun Khwa, Finance Department, Civil Secretariat Peshawar.
4. The Secretary to Government of Khyber Pakhtun Khwa, Planning & Development Department, Civil Secretariat Peshawar.
5. The Director General, Health Services, Khyber Pakhtun Khwa, Peshawar.
6. The Accountant General, Khyber Pakhtun Khwa, Peshawar.
7. The Principal, Ayub Medical College Abbottabad.
8. The Chief Executive, Ayub Medical Complex Abbottabad.
9. The District Accounts Officer, Abbottabad.
10. The Accounts Officer, Ayub Medical Complex Abbottabad.

...RESPONDENTS

Verified to be True Copy  
 Peshawar High Court  
 Abbottabad Bench  
 Additional District Judge Peshawar

FILED TODAY

Registrar  
 Additional High Court  
 Peshawar (19)

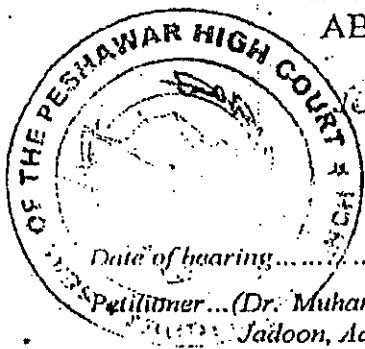
WRIT PETITION UNDER ARTICLE 189 OF THE  
 CONSTITUTION OF THE ISLAMIC REPUBLIC  
 OF PAKISTAN, 1973.

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Judgment Sheet

IN THE PESHAWAR HIGH COURT,  
ABBOTTABAD BENCH



JUDICIAL DEPARTMENT

WP No. 654-A of 2012

JUDGMENT

Date of hearing..... 30/04/2013.....

Petitioner...(Dr. Muhammad Salim Wazir etc) by Mr. Faqir ur Rahman  
Jadoon, Advocate.....

Respondent...(The Chief Secretary, Govt. of Khyber Pakhtunkhwa etc) by  
Mr. Muhammad Nawaz Khan, AAG.....

\*\*\*

YAHYA AFRIDI, J:- Dr. Muhammad Salim Wazir

and fifty-seven others petitioners seek the constitutional jurisdiction of this Court, praying that;

*"Under the above circumstances, it is, therefore, very humbly prayed that on acceptance of the instant writ petition, the impugned notifications/letters/orders of stoppage of Special Allowance during vacations may very graciously be declared illegal, against the recent law/rules as well as ineffective upon the rights of the petitioners with costs throughout. Any other relief, which this august Court deems appropriate, may also very graciously, be granted."*

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26.5.13  
Examiner  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Section 20 of the  
Peshawar High Court Act, 1973

2. In essence, the grievances of the petitioners is that the competent authority in view of the nature of the job of the petitioners, approved/granted Special Allowance to

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*'Basic Science Teachers'* posted at different Medical Colleges of Khyber Pakhtunkhwa, vide Notification No.FD(SOSR-II)8-18/99/VOL-II dated 20.02.2008, with effect from 01/07/2008; that subsequently the said Allowance was made admissible with effect from 1.06.2007 instead of 01.07.2008; that on raising objections by the petitioners qua non-entitlement/non-payment of the Special Allowance to the petitioners during vacations, respondent No.3, Secretary Finance issued Notification No. FD(SOSR-II)8-18/2009 dated 25.08.2011 for recovery of Special Allowance from the petitioners during leave, LPR, winter and summer vacations. Hence, the instant petition.

3. AAG present in Court accepted notice of this petition.

4. The valuable arguments of the learned counsel for the petitioner and AAG heard and record perused.

5. The apex Court in its authoritative judgment delivered in case "Pakistan V. Muhammad Hinayatullah Farukhi" (PLD 1969 SC 467) and thereafter consistently followed and recently in "Chief Secretary, Government of Sindh and another Vs. Sher Muhammad Makhdoom and 2 others" (PLD 1991 Supreme Court 973), has held that:-

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 Appellate Bench  
 Arbitration Bench  
 Arbitration Bench

Q

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3

" It is apparent that restrictions imposed in para -4 of the revenue department's Notification mentioned above, pertain to the appointment as Mukhtiarkar and in the cases under consideration will have no bearing for the reason that respondents were granted exemptions in accordance with circulars, requirements of which have duly fulfilled by them and not only that but exemptions were implemented and they received necessary training, as such valuable rights had accrued to them which could not be interfered with. In this context, reference can be made to section 20 of General Clauses Act and guidelines laid down in the case of Pakistan V Muhammad Hamatullah Farukhi (PLD 1969 Supreme Court 407), in which it is held that principle of locus poenitentiae is available to the Government or relevant authorities" and further authority which is competent to make order has power to undo it, but such order cannot be withdrawn or rescinded once it has taken legal effect and created certain rights in favour of any individual".

(emphasis provided )

In view of the ratio ' decidendi' of the aforementioned judgments, it is by now settled that in case any benefit has accrued to person, without his committing any fraud or misrepresentation, the same can not be withdrawn or recalled .

6. Before parting with the judgment, this Court wants to reiterate that the present judgment should in no way be interpreted to advance the case of any person, not a party before us.

7. Accordingly, for the reasons stated hereinabove, this Court directs that;

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Better Copy of Page No 33

- I. The recovery of the Special Allowance already rendered to the petitioners should not be recovered from them unless the Secretary, Government of Khyber Pakhtunkhwa, Health Department, Peshawar finds that the said petitioners had obtained the said relief on the basis of fraud, or misrepresentation.
  - II. The said decision of the worthy Secretary shall be in writing with reasons for the same.
  - III. The needful exercise be carried out within a period of thirty days, if not earlier, from the date of receipt of this order.
8. This petition is disposed of in the above terms.

SD Judges

Announced  
Dt 30.04.2013

Ammed  
G. ① page-47

BEFORE THE SECRETARY HEALTH DEPARTMENT

**Khyber Pakhtunkhwa**

Service Appeal No \_\_\_\_\_/2017

Dr. Abni Amin (Retired Senior Demonstrator KMC .KMU  
Peshawar) R/O House No.21 Main Street Rahat Abad  
Peshawar.

.....(Petitioner)

**V E R S U S**

1. Audit Officer KTM/KMC/RCD Peshawar.
2. Secretary to Govt: KPK Finance Department Peshawar.
3. Govt:of KPK through Secretary to Govt KPK Health  
Department , Peshawar Secretariat Peshawar.
4. Chief Executive K.T.H/ K.M.U / K.C.D, Peshawar.
5. The Accountant General KPK, Peshawar.

.....(Respondents)

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DEPARTMENTAL APPEAL UNDER SECTION 4  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT 1974 .

---

**Respected Sir,**

**Respectfully Sheweth:**

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(2)

1. That the petitioner was the employee of respondent No.4. And has got retired on 05.03.2015 on superannuation.
2. That the petitioner was initially appointed by respondent No.4 as Medical Officer in BPS-17 on 13.11.1983, and promoted to BPS-18 on 17.02.1991 and similarly to BPS-19 on 26.02.2006.
3. That the petitioner served the health department and has got retired on 05.03.2015 in BPS -19 on superannuation.
4. That as per procedure of retirement the petitioner remained on LPR from 04.03.2014 till retirement on 05.03.2015.
5. That the respondents concerned worked out his pensionary benefits etc as sum of Rs 24,66,116/-.

**{Copy of letter No PN-Pen-1/1-16/2015-16/141-42 dated 17.11.2015 is annexed as annexure "A" }**

6. That instead of the total sum Rs 24,66,116.00/- .The petitioner has been paid Rs 20,22,319.00/- and a sum of Rs 4,43,797/- was deducted from the total amount on account of pay and allowances vide letter No. Audit/

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569/15/DF/KIH dated 29/04/2015 issued by respondent No.1.

**{Copy of letter No Audit /569/15/DF/KTH dated 29/04/2015 is annexed as annexure "B"}**

7. That the petitioner filed an application along with copy of judgment in W.P No 1673-P/ 2012 passed on 16/05/2013 to respondent No.5, in consequences of the letter No- Audit/ 569/15/DF/ KTH dated 29/04/2015 issued by respondent No.1, that the amount mentioned in the subject letters may not be deducted as in view of the said judgment dated 16/05/2013 in WP No 1973-P/2012, is illegal, but no warm shoulder has been given by the respondent No.5 and the same has been thrown in basket of waste.

**{Copy of application is annexure "C" }**

8. That the petitioner has submitted writ petition No.1856-P/2016 on 03.05.2016 before the Peshawar High Court Peshawar for the purpose to challenge the order of respondent No.1 issued vide letter NO Audit/ 569/15/DF/KTH dated 29.04.2015.

9. That the writ petition NO.1856-P /2016 of the petitioner has been disposed of by the Honourable Bench of August Peshawar High Court Peshawar vide its order dated 05.09.2017 with the direction to approach the health

department of Khyber Pakhtunkhwa through departmental appeal .

**(Copy of Writ Petition and order dated 05.09.2017 is attached as annexure " D")**

10. That in light of the directions of the Honourable Bench of August Peshawar High Court Peshawar the petitioner prefers the instant departmental appeal in order to seek his remedy against the illegal , illogical and wrong order for the deduction of amount Rs.443797/- issued by respondent No:1 vide letter No: Audit/569/15/Df/KTH, inter alia, the following ground.

**GROUND:**

- A. That the directions of deducting amount Rs 443797/- on the account of pay and allowance for a period of LPR from 04.03.2014 to 05.03.2015 issued vide letter No Audit/569/15/DF/KTH dated 29/04/2015 is without jurisdiction and of no legal authority , is without effect and is liable to be set at naught And the petitioner is entitled for the payment of amount Rs 443797/- so deducted / recovered.
- B. That the petitioner has been treated discriminately as compared to the employees of other departments of the Govt: of KPK , as no such deduction is ever been made from the employees on LPR on account of pay and allowances.

C. That the petitioner is entitled for the receipt of amount Rs 443797/- as allowances and pay for the period of LPR as unanimous view has been held by the August Peshawar High Court Peshawar in various judgments, that employees of the Govt: of KPK are entitled to received the said allowances and pay even in period of LPR, leaves and vacations. Therefore the deduction of said amount Rs 443797/- on account of pay and allowances for the period of LPR is not warranted by the law and rules, hence the directions of respondents No.1 to this effect vide letter mentioned above is against the law, rules and letter and spirit of judgments passed by the August Court in this connection ,therefore liable to be set aside.

D. That previously in writ petition No 654-N2012 and subsequent W.P-No-2021/2012 and W.P No. 1673-P/2012 all the letters issued by the respondents in connection of not extending the allowances to the employees of health department for the period of leaves , vacations, and LPR, have been unanimously declared illegal and against the law and the benefits of allowances, have been extended to the employees of health departments for the period of leaves, vacations and LPR. Therefore in view of the above mentioned judgments the petitioner is entitled to receive the allowances for the period of LPR. And the directions of respondent No.1 in connection of deduction and thereby deduction of amount Rs.433797/- from the petitioner is against the law and principles laid down in the cited judgments . **{Copy of W.P No 1673 P/2012 is annexed as annexure "E" whereas copy of judgment in WP No 654A/2012 is annexure "F" }**



- E. That as per section 21 of the General Clauses Act, 1897 any act or order or notification if made by a competent authority confer any right to any person and it takes effect that it cannot be rescinded or amended or withdrawn thereafter to the detriment of the owner of the right.
- F. That as per principle of locus poeaitentiae if an order or decision has been carried into effect then repenting and going back on such decision is without jurisdiction.
- G. That the pay and allowances are the right of employees .And deduction of the pay and allowances for the period of LPR is not only unreasonable and not a good gesture by the competent authority towards its employees but also illegal and against the law and principles laid down in the judgments cited above.
- H. That it is an established principle that any monetary advantages if granted to any civil servants accrued him such right and withdrawal of it is violation of principle of law and natural justice.
- I. That any other grounds, if available to the petitioner, be urged with the permission of this August Tribunal at the time of hearing of the case.

**It is therefore most humbly prayed that  
notification/letter No: Audit/569/15/ DF/ KTH  
dated 29.04.2015 issued by respondent No.1 for**

(7)

Page 54

the deduction of amount Rs 443797/- on account of pay and allowance for period of LPR, may kindly be set aside declaring it without jurisdiction and directions kindly be issued to the respondents to pay to the petitioner Rs 443797 /- amount so deducted on account of pay and allowances for the period of LPR.

Petitioner  
Dr. Ibri Amin

Through

Dated: 30/10/2017

*Advocate 30/10*  
**TANVEER MINHAS**  
Advocate, High Court  
At Judicial Complex Swabi.

**CERTIFICATE:**

Certified on instructions of my client that petitioner has not previously moved this August Court or any other competent forum by filling Service Appeal under Section 4 Khyber Pakhtunkhwa Service Tribunal Act 1974.

*Advocate 30/10*  
**ADVOCATE**

**LIST OF BOOKS:**

1. Khyber Pakhtunkhwa Service Tribunal Act 1974.
2. Constitution of Islamic Republic of Pakistan, 1973
3. Any other law or policy book.
4. Case Law as per need.

*Advocate 30/10*  
**ADVOCATE**

8

BEFORE THE SECRETARY HEALTH DEPARTMENT

**Khyber Pakhtunkhwa**

Service Appeal No \_\_\_\_\_/2017

Dr. Abni Amin (Retired Senior Demonstrator KMC .KMU  
Peshawar) R/O House No.21 Main Street Rahat Abad  
Peshawar.

.....(Petitioner)

**V E R S U S**

Audit Officer KTM/KMC/RCD Peshawar and others

.....(Respondents)

=====

**AFFIDAVIT**

I, **ARSHID BILAL** son of **ABDUL MATEEN (Special Attorney )**  
**R/O Shahmansoor Tehsil & District Swabi**, do hereby solemnly  
affirm and declare that the contents of the **Service Appeal** are true  
and correct to the best of my knowledge and belief and nothing has  
been concealed from this Hon'ble Tribunal.

Identified by

Tanveer Minhas Advocate

High Court  
At Judicial Complex Swabi

Deponent

**ARSHID BILAL**

CNIC NO

9

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BEFORE THE SECRETARY HEALTH DEPARTMENT

**Khyber Pakhtunkhwa**

Service Appeal No \_\_\_\_\_/2017

Dr. Abni Amin (Retired Senior Demonstrator KMC .KMU Peshawar) R/O House No.21 Main Street Rahat Abad Peshawar.

.....(Petitioner)

**VERSUS**

Audit Officer KTM/KMC/RCD Peshawar and others

.....(Respondents)

=====

**ADDRESSES OF PARTIES**

**PETITIONER:**

Dr. Abni Amin (Retired Senior Demonstrator KMC .KMU Peshawar) R/O House No.21 Main Street Rahat Abad Peshawar.

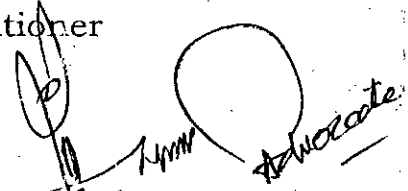
**RESPONDENTS:**

1. Audit Officer KTM/KMC/RCD Peshawar.
2. Secretary to Govt: KPK Finance Department Peshawar.
3. Govt:of KPK through Secretary to Govt KPK Health Department , Peshawar Secretariat Peshawar.
4. Chief Executive K.T.H/ K.M.U / K.C.D, Peshawar.
5. The Accountant General KPK, Peshawar.

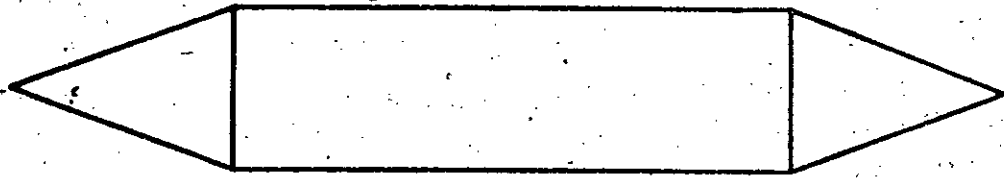
Petitioner

Through

Dated:32/10/2017

  
**TANVEER MINHAS**  
 Advocate, High Court  
 At Judicial Complex Swabi.

خواب جمع ص  
بعدالت ہر وہی ٹریڈ جوئی کا



موردہ 2/3/2018 20، منجانب اسلڈ  
مقدمہ ڈاکٹر ابن امین بنام آرڈر آف پیس RTI وغیرہ  
دہی  
جم

## باعث تحریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکھ  
کارروائی متعلقہ آن مقام لکھنؤ کے لئے توہین نہیں آرڈر آرڈر کے اسرار میں  
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز وکیل  
صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے، جواب دہی اور اقبال دعویٰ  
اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ، عرض دعویٰ اور درخواست ہر قسم کی تصدیق  
زیر اس پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور  
منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ  
مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنی بجائے نقرر کا  
اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے۔ اور اس کا  
ساختہ پرواخذہ منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہوگا  
اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بتایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔  
اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی مذکور  
کریں۔ لہذا کالت نامہ لکھ دیا کہ سندر ہے۔

الرقوم 2018

Attested & accepted

لکھنؤ کے لئے منظور ہے۔

Handwritten signature

Handwritten signature and date 13/11/18

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

Appeal No. 356 of 20 18

Dir. of Govt. Services Appellant/Petitioner

Versus

Head of Office KTA/KMC/KCD Peshawar Respondent

Respondent No. I

Notice to: —

Head of Office KTA/KMC/KCD

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....19th Day of.....July.....20 18

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.:

Appeal No. 356 of 2018,

Dr. Iqbal Anwar Appellant/Petitioner

Versus

Audit office KPTM/KMC/KCD/HSE/CO Respondent

Respondent No. 7

Notice to:

Secretary to Govt. of K.P.K. Finance Deptt  
Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 07-8-2018 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 12/7/18

Day of July 2018

16/7/18

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

Appeal No. 356 of 2018

*[Signature]*  
20-7-18

Dr. Ghous Amin Appellant/Petitioner

Versus

Audit office KTM/KM/PCD Peshawar Respondent

Respondent No. 2

Notice to:

Exec of KPK Health Dept Peshawar  
KPK Health Dept Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 15-07-2018 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. .... dated .....

Given under my hand and the seal of this Court, at Peshawar this 10/7

Day of July 2018

*[Signature]*  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.



**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

Appeal No. 356 of 20 18.

Dr. Ghani Arif Appellant/Petitioner

Andis Office K.T.H/K.M.R / P.C.D. Peshawar Respondent

Respondent No. 1

Notice to: Chief Executive K.T.H/K.M.R / P.C.D. Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 21-8-2018 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. .... dated.....

Given under my hand and the seal of this Court, at Peshawar this 18th .....

Day of July 20 18.

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

Appeal No. 356 of 2018

Dr. Javed Anwar Appellant/Petitioner

Versus

Audit Office K.P.S.K. Peshawar Respondent

Respondent No. 5

Notice to:

Adv. Javed Anwar  
Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 27.07.2018 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you via office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 27th Day of July 2018

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

# بجالت جناب

KPK سپروائس ڈیپارٹمنٹ لیسٹنر

Respondent's No. 1 and 4  
2018

Dr. Ibni Amin نام Audit Officer NATI, KTH  
Peshawar and others

AP No. 356/118

## باعث تحریر نامہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکھ کر  
کارروائی متعلقہ آن مقام کے لئے *Letter of Answer/Advice* کے  
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوت کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز  
دیکس صاحب کو کرنے راضی نامہ و تقررات و فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور  
بصورت دگری کرنے ابراء اور دسولی چیک در پیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرا ہی پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا دگری یکطرفہ یا اپیل کی برآمدگی اور منوعی  
نیز دائر کرنے اپیل ٹکرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور دیکس یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جلد مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ  
محافظہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب سے ہوگا۔  
اسکے مستحق دیکس صاحب موصوت ہوں گے۔ نیز بقایا و خرچہ کی ذمہ داری کرنے کا بھی اختیار ہوگا۔ اگر  
کوئی تاریخ پیش مقام دورہ پر ہو یا حد سے باہر ہو تو دیکس صاحب پابند نہ ہوں گے۔ کہ پیروی

08

27

المترجم

مذکورہ رکیز۔ لہذا نکات نامہ لکھ دیا کہ سند ہے۔

Peshawar  
بمقام  
Admitted

Audit Officer NATI, KTH Peshawar

**Before the Khyber Pakhtunkhwa Service Tribunal  
Peshawar**

**Appeal No.356/2018**

Dr. Ibne Amin.....Petitioner

V/S

Audit officer KTM/KMC/RCD Peshawar & Others.....Respondents

**(Reply on Behalf of Respondent No. 5)**

**INDEX**

S.NO.	PARTICULAR.	ANNEXURE.	PAGE.
1.	Para Wise Reply	-----	1
2.	Seal Payment Authority		2
3.	LPC issued by Respondent No.1	<del>Annexure</del>	3

(1)

**Before the Khyber Pakhtunkhwa Service Tribunal**  
**Peshawar**  
**Appeal No.356-P/2018**

Dr. Abni Amin (Retired).....Appellant

V/S

Audit Officer KTM/KMC/RCD Peshawar & others.....Respondents

**( Reply on Behalf of Respondent No. 5)**

**Preliminary Objection:-**

1. That the Appellant has no cause of action.
2. That the Appellant has no locus standi.
3. That the Appeal in hand is time barred.
4. That the instant Appeal is not maintainable liable to be dismissed.

**Respectfully Sheweth-**

Para 1 to 10

The Appellant was the employee of KMC, Peshawar and has retired on 05/03/2015 upon superannuation. In this regard Respondent No.1 submitted the pension papers along with LPC showing there in recovery of sum of Rs.443797/- on Account of Pay & Allowances w.e.f 04/03/2014 to 05/03/ duly signed by Audit Officer KTH/KMC/KCD.

Based on the documents provided by Respondent No.1, Respondent No.5 issued sealed commutation authority Amounting to Rs.2,466,116/- showing there in Recovery of pay & Allowances of Rs.443797/- and subsequently recovered the said amount as per rules and instructions issued by the Government of Khyber Pakhtunkhwa.

Keeping in view the above, it is prayed that the appellant is required to approach respondent No.1 for the satisfaction of his grievance and the appeal in hand having no merits may be dismissed with cost.

  
**ACCOUNTANT GENERAL**  
**KHYBER PAKHTUNKHWA**



**DIRECTORATE OF FINANCE**  
**KMC/KCD/KHYBER TEACHING HOSPITAL PESHAWAR**

No. Audit 569/13/ADPK III

Dated: 29/04/2015

**LAST PAY CERTIFICATE**

No. 99990580245

GP Fund A/c No. JM013583

Last Pay Certificate of **Dr. Ibne Amin** (BPS-19 Demonstrator Khyber Medical College Peshawar, proceeding on Retirement from the Govt. Service

He has been paid up to 05/04/2015 at the following rates:

B Pay	P.P	CA	DPA	LEV	TDI	Tech	Spl	Ad. LD	Ad. LG	DPA	Ad. LG	Ad. LG	Ad. LG	Total
63000	4800	5200	4000	5716	500	2000	14000	19055	5716	10000	13360	10170	6780	164297

DEDUCTION		G.I.E		HRA 5%		P.F. Tax		Ad. LG		Total
G.P.F	B.P	G.I.E	HRA 5%	P.F. Tax	Ad. LG	Total				17167
3760	250	403	3310	8000	1000	44				

1. Recoveries are to be made from the pay of the Govt. servant as detailed given below:

**DETAILS OF RECOVERIES**

S.No	Name of Recovery	Amount	Recovered	Balance	Instalments	Rate
	G.P.F					

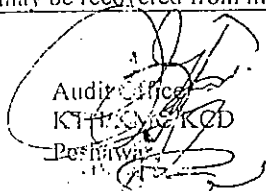
*Amexuse*  
*(B)*  
*Page*

**SERVICE STATEMENT**

Prior to 01.09.2002 He was under the audit control of A.G K.P.K Peshawar.

Period	B Pay	P.P	CA	ALLOWANCES																Total			
				SAA	DPA	Tech	SRA	Ad	Dear	Ent	Spl	A.9	MA	A10	A11	DPA	A12	A13					
1.7.2002	7995		670	1550	500	2000																22105	
1.12.2002	10000		650	1550	500	2000																22750	
1.7.2003	18050		620	1550	500	2000	2712															25462	
1.12.2003	18665		620	1550	500	2000	2800															26135	
1.7.2004	18677		620	1550	500	2000	2800	2800														28935	
1.12.2004	19250		620	1550	500	2000	2833	2833														29606	
1.7.2005	23180		1240	1550	500	2000	2833	2833														33246	
(Revised)																							
1.12.2005	23633		1240	1550	500	2000	2833	2833														33921	
1.7.2006	23855		1240	1550	500	2000	2833	2558	1428													37349	
1.7.2006	24110		1240	1550	700	2000	2833	2833	3619	500												39515	
(BPS 19)																							
1.12.2006	24935		1240	1550	700	2000	2833	2833	3725	500												40326	
1.7.2007	28250		1240	1550	700	2000	2833	2833	3725	500												43741	
(Revised)																							
1.12.2007	29550		1240	1550	700	2000	2833	2833	3725	500												44851	
1.7.2008	35200		2480	1550	700	2000	2833	2833	3725	500												51031	
(Revised)																							
1.12.2008	36170		2480	1550	3000	2000	2833	2833	3725	500	10000											65201	
1.7.2009	36170		2480	1550	3000	2000	2833	2833	3725	500	10000	2426										70627	
1.12.2009	37140		2480	1550	3000	2000	2833	2833	3725	500	10000	2426										71742	
1.7.2010	37140		2480	1550	3000	2000	2833	2833	3725	500	10000	2426	5571	5571	18570							95283	
1.12.2010	38110		2480	1550	3000	2000	2833	2833	3725	500	10000	2426	5716	5716	19055							97628	
1.7.2011	61400		2480		3000	2000				500	10000		5716	19055	5716								110867
(Revised)																							
1.12.2011	70966		2480		3000	2000				500	10000		5716	19055	5716	10000							177467
1.7.2012	81000		2480		3000	2000				500	10000		5716	19055	5716	10000	12600						139067
1.12.2012	67000	1000	3000		3000	2000				500	10000		5716	19055	5716	10000	12920						143507
1.7.2013	63000	1000	3000		3000	2000				500	10000		5716	19055	5716	10000	12920	7000					153197
1.12.2013	85000	3500	5000		3000	2000				500	10000		5716	19055	5716	10000	13240	9930					155357
1.7.2014	65000	3500	5000		3000	2000				500	10000		5716	19055	5716	10000	13240	9930	6620				161977
1.12.2014	63000	4800	5000		3000	2000				500	10000		5716	19055	5716	10000	13560	10170	6780				164297

Remarks: Retired from Govt. Service vide Govt. of Khyber Pakhtunkhwa Health Department Notification No.SOH(E-V) 2-515/2015 dated 2/04/2015  
Note: A sum of Rs.448797/- on a/c of pay & allowance w.e.f 4.3.2014 to 5.3.2015 may be recovered from his pension.

  
 Auditor  
 KTH/KCD  
 Peshawar  
 29/4/15

5

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

In the matter of:  
Service Appeal No. 356/2018

Dr. Ibni Amin (Retired Senior Demonstrator KMC/KMU Peshawar)  
R/O House No. 21 Main Street Rahat Abad Peshawar.

(Appellant)

**V E R S U S**

Audit Officer KTH/KMC/KCD Peshawar and others.

(Respondents)

**I N D E X**

S No	Description of Documents	Annexure	Page No
1	Comments <i>with Affidavit</i>		1-4
2	Other relevant documents		5-12
	<del>XXXXXXXXXX</del>		

Respondents no 1 and 4

Through



**Zartaj Anwar**  
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

In the matter of:-  
Service Appeal No. 356/2018

Dr. Ibni Amin (Retired Senior Demonstrator KMC/KMU Peshawar)  
R/O House No. 21 Main Street Rahat Abad Peshawar.

(Appellant)

V E R S U S

Audit Officer KTH/KMC/KCD Peshawar and others.

(Respondents)

**PARA WISE COMMENTS ON BEHALF OF  
THE RESPONDENTS No 1 & 4**

**Preliminary Objections:-**

1. That the Appellant has not come to this Hon;able Tribunal with clean hands and try to mislead this Hon;able Tribunal with incorrect facts.
2. That the Appellant has no locus standi against the replying respondents.
3. That the appeal is not maintainable in its present form.
4. That the appeal is bad for mis joinder of cause of action and non joinder of parties.
5. That the appellant has not come to the Tribunal with clean hand.
6. The Appeal in hand is false, frivolous and filed with malafide intention, therefore, the petition in hand is required to be dismissed with special cost.

**ON FACTS**



1. Contents need no reply.
2. Contents need no reply.
3. Contents need no reply.
4. Contents need no reply.
5. Contents need no reply.
6. Contents misleading and incorrect. The Appellant proceeded on LPR w.e.f. 4.3.2014 to 5.3.2015 he had drawn NPA, Teaching Allowance, Special Allowance. According to Govt of NWFP Finance Department (Regulation Wing) No. FD(SOSR-II) 8-18/2009 dated 10.12.2009 and letter No. FD(SOSR-II)8-18/2008 dated Peshawar the 01.12.2009. "Non practicing allowance, Teaching Allowance and Special Allowance to Basic Science Teachers are not admissible to Civil Servants during the period of leave and LPR as well as during winter and summer vacation as per clarification issued vide this department letter of even number dated 6.10.2009.

Over payment on this account was made to the doctor amounting to Rs. 443797/- and was intimated to Accountant General Khyber Pakhtunkhwa in the last pay certificate. Therefore, Accountant General Office has recovered the amount from his pension.

7. Contents incorrect. It is the responsibility of the controlling officer to recover the Govt dues therefore the amount is rightly recovered from the Appellant.
8. Contents need no reply.
9. Contents need no reply.
10. Contents need no reply.

**GROUNDS:**

- A. Contents misconceived. The doctor concern was not entitled for the said allowance and according to the Govt instruction, Govt dues were rightly recovered.
- B. Contents misconceived and incorrect. No discrimination has been made with the doctor and this institute has proceeded according to Govt instruction.
- C. Contents misconceived and incorrect. The doctor concerned has been over paid the amount and is rightly recovered from his salary.
- D. The letter is not applicable on the Appellant.
- E. Contents need no comments.
- F. Contents need no comments.
- G. Contents incorrect. The doctor concern was not entitled for the said allowance and only the amount of these allowances had been recovered.
- H. Contents incorrect. Dues can be recovered at any stage when detected.
- I. Contents incorrect. The appellant can not agitate any other ground not taken in the appeal.

It is, therefore, prayed that on acceptance of this para-wise Reply / comments the appeal in hand be dismissed with costs.

Respondents no 1 and 4

Through



**Zartaj Anwar**  
Advocate, Peshawar

4

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

In the matter of:  
Service Appeal No. 356/2018

Dr. Ibni Amin (Retired Senior Demonstrator KMC/KMU Peshawar)  
R/O House No. 21, Main Street Rahat Abad Peshawar.

(Appellant)

V E R S U S

Audit Officer KTH/KMC/KCD Peshawar and others.

(Respondents)

**AFFIDAVIT**

I, do hereby solemnly affirm on oath that, the contents of the annexed comments are true and correct to the best of my knowledge and belief nothing has been concealed or kept secret from this Honourable Court.

  
Deponent



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

5

NO.FD(SOSR-II)8-18/2009  
Dated Peshawar the 25/8 /2011

To

The Secretary to Government of Khyber Pakhtunkhwa  
Health Department,  
Peshawar.

Subject:

PAYMENT OF SPECIAL ALLOWANCE DURING LEAVE LPR,  
WINTER/SUMMER VACATION.

Dear Sir,

I am directed to refer to your office letter No.SO(B)HD/1-48/2008-09/Allow dated 09-07-2011 on the subject noted above and to state that the last sentence of this department's letter of even number dated 10-12-2009 i.e. "However the amount drawn before the date of clarification may not be recovered" may be treated as deleted, meaning thereby that the amount so drawn during leave LPR and vacation is to be recovered without exception of any case.


Yours Faithfully,


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

Endst: No.& date even.

Copy is forwarded for information and necessary action to the:

1. The Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Chief Executive, KTH/KMC/KCD Peshawar with reference to his letter No.CE/KTH/Account/2009/126/09dated 24-10-2009.

  
ATTESTED BE TRUE  
Copy of Original

  
Audit Officer  
KTH/KMC/KCD  
Peshawar.

28/9/11  
ATTESTED  




GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

6

NO.FD(SOSR-II)8-18/2009  
Dated Peshawar the 25/08/2011

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Health Department,  
Peshawar.

Subject: -

PAYMENT OF SPECIAL ALLOWANCE DURING  
LEAVE LPR, WINTER/SUMMER VACATION.

Dear Sir,

I am directed to refer to your office letter No. SO(B)HD/1-48/2008-09/Allow: dated 09-07-2011 on the subject noted above and to state that the last sentence of this department's letter of even number dated 10-12-2009 i.e. "However the amount drawn before the date of clarification may not be recovered" may be treated as *deleted*, meaning thereby that the amount so drawn during leave, LPR and vacation is to be recovered without exception of any case.

Yours faithfully,

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

Endst: No. & date even.

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

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Chief Executive, KTH/KMC/KCD Peshawar with reference to his letter NO. CE/KTH/Account/2009/126/09 dated 24-10-2009.

to be  
done  
by  
DF

Office KTH  
No. \_\_\_\_\_  
Date \_\_\_\_\_

SECTION OFFICER (SR.II)  
ATTESTED BE TRUE  
Copy of original

ATTESTED

WP1856P2011-01

7

GOVERNMENT OF NWFP  
FINANCE DEPARTMENT  
(REGULATION WING)  
NO.FD(SOSR.II)8-18/2010

Dated Peshawar the 13<sup>th</sup> of March, 2010

70  
79

- To
- 1) The Secretary to Government of NWFP, Health Department.
  - 2) Accountant General, NWFP, Peshawar.

Subject: ADMISSIBILITY OF SPECIAL ALLOWANCE SANCTIONED FOR TEACHERS OF BASIC MEDICAL SCIENCES OF THE MEDICAL COLLEGES OF NWFP.

Dear Sir,

I am directed to state that the Provincial Government has sanctioned a Special Allowance for those teachers of various Medical Colleges of NWFP who teach basic medical sciences, which is paid at specified rates, depending on the designation and Basic Pay Scale of the teachers.

2 The question of admissibility of this allowance has been under-consideration in Finance Department and it has been decided that the Special Allowance will not be admissible:-

- a) during leave, including LPR, but excluding casual leave.
- b) during the period, the teacher attends a course of instruction or training, or pursues studies, irrespective of whether he is granted leave for the purpose or treated as on duty.
- c) during the period of his deputation, whether within or outside the country.

3 The Allowance is not to be treated as part of emoluments for the purposes of calculation of pension, or recovery of House Rent, if official accommodation is provided.

ATTESTED BE TRUE  
Copy of Original

Yours faithfully,

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

Encls: No. & date even.

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

1. Principals of all Medical Colleges in NWFP.
2. District Comptroller of Accounts Mardan, Abbottabad, Bannu, Swat and D.I.Khan.
3. Budget Officer-VI, Finance Department.
4. Director, FMIU, Finance Department.

*(Signature)*  
SECTION OFFICER (SR.II)

WP1856P2016-COMMENTS

ATTESTED

*(Signature)*

37 30  
GOVERNMENT OF NWFP  
FINANCE DEPARTMENT  
(REGULATION WING)  
NO.FD(SOSR.II)8-18/2009  
Dated Peshawar the 10/12/2009

To  
The Secretary to Government of NWFP  
Health Department.

Subject: PAYMENT OF ARREAR.

Dear Sir

I am directed to refer your letter No.SOB/HID/1-1/2006-07/KMC dated 24/10/2009 and Chief Executive KTH/KMC/KCD letter No.CE/KTH/Account/2009/126/09 dated 24/10/2009 (copy enclosed) on the subject noted above and to state that the Non-practicing Allowance, Teaching Allowance and Special Allowance to Basic Science Teachers are not admissible to civil servants during the period of leave and L.P.R as per clarification issued vide this Department's letter of even number dated 6/10/2009. However the amount drawn before the date of clarification may not be recovered.

Yours faithfully,

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

Endst: No. & date even.

- Copy is forwarded for information and necessary action to the:-
- 1) The Accountant General, NWFP, Peshawar.
  - 2) Chief Executive, KTH/KMC/KCD Peshawar with reference to his letter referred to above for information and necessary action.

ATTESTED TO BE TRUE  
Copy of Original

SECTION OFFICER (SR.II)

ATTESTED

GOVERNMENT OF NWFP  
FINANCE DEPARTMENT  
(REGULATION WING)  
NO.FD(SCSR.II)8-18/2008  
Dated Peshawar the 01/12/2009

(8)

To

The Secretary to Government of NWFP,  
Health Department.

Subject:- SANCTION OF SPECIAL ALLOWANCE FOR BASIC  
SCIENCE TEACHERS OF KHYBER MEDICAL COLLEGE  
PESHAWAR, AYUB MEDICAL COLLEGE ABBOTTABAD  
AND POSTGRADUATE MEDICAL INSTITUTE  
PESHAWAR.

Dear Sir

I am directed to refer to your letter No. SoE/HD/1-48/2008-09/Allowance dated 24/10/2009 and this Department letter of even number dated 20/2/2008 on the subject noted above it is stated that the Competent Authority has been pleased to approve the Special Allowance to Basic Medical Science Teachers of Postgraduate Medical Institute Peshawar with effect from 01/6/2007 instead of 01/7/2008 provided that the said allowance is not admissible during the period of ~~leave~~ ~~leave preparatory to retirement~~ as well as during winter and summer vacations.

Yours faithfully,

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

Endst: No. & date even.

Copy is forwarded to the:-

- 1) Accountant General, NWFP, Peshawar.
- 2) Budget Officer-VI, Finance Department

ATTESTED & TRUE  
Copy of Original

SECTION OFFICER (SR.II)

1/12/09  
WP1856P2016-COMMENTS

ATTESTED



(10)

GOVERNMENT OF NWFP  
FINANCE DEPARTMENT  
(REGULATION WING)  
NO.FD(SOSR.II)8-18/2009  
DATED PESHAWAR THE 06/10/2009

To

The Secretary to Government of NWFP,  
Health Department.

Subject: PAYMENT OF SPECIAL ALLOWANCES DURING  
LEAVE/L.P.R/SUMMER VACATION.

Dear Sir,

I am directed to refer to your letter No.SOB/HD/1-48/2008-09/KMC dated: 09/9/2009 on the subject noted above and to state that a question has been raised as to whether Special Allowance to Basic Science Teachers of Khyber Medical College Peshawar, Ayub Medical College Abbottabad and Postgraduate Medical Institute Peshawar admissible during the period leave.

2. In continuation of this Department's letter NO.FD(SOSR.II)8-18/99/Vol-II dated: 05/3/2008 and No.KC/FD(SOSR-II)8-18/08 dated: 15/10/2008, it is clarified that Non-practicing Allowance, Teaching Allowance, and Special Allowance to Basic Science Teachers are not admissible to civil servants during the period of leave and leave preparatory to retirement.

Yours faithfully,

Sd/--

(WAZIR MUHAMMAD)

SECTION OFFICER (SR.II)

AFGAR)

Endst: No.CE/KTH/Audit/2009-10/

Dated: 09/10/2009

Principal KMC/KCD are requested to follow the above clarification and those have drawn the amount may be recovered from them.

*[Signature]*  
ATTESTED BE TRUE  
Copy of Original

*[Signature]*  
AUDIT OFFICER  
KTH/KMC/KCD  
PESHAWAR  
o/c

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WP1856P2016-COMMENTS

ATTESTED  
*[Signature]*

**DIRECTORATE OF FINANCE**  
KMC/KCD/KHYBER TEACHING HOSPITAL PESHAWAR

No: Audit/569/15/DF/KTH

Dated: 29/04/2015

**LAST PAY CERTIFICATE**

P.No.99990580245

GP Fund A/c No..JM013588

Last Pay Certificate of **Dr. Ibne Amin** (BPS-19 Demonstrator, Khyber Medical College Peshawar, proceeding on Retirement from the Govt. Service. He has been paid up to 05/03/2015 at the following rates:-

B.Pay	PP	CA	NPA	MA	ENT	Tech	Spl	Ad:10	Ad:11	HPA	Ad:12	Ad:13	Ad:15	Total
63000	4800	5000	4000	5716	500	2000	14000	19055	5716	10000	13560	10170	6780	164297

DEDUCTION							
G.P.F	B.F	G.Jns	HRA 5%	E.Tax	Prof.Tax	Adl.GI	Total
3760	230	403	3310	8400	1000	44	17167

1. Recoveries are to be made from the pay of the Govt. servant as detailed given below:-

**DETAILS OF RECOVERIES**

S.No	Nature of Recovery	Amount	Recovered	Balance	Instalments	Rate
1	G.P.F	Nil	Nil			

**SERVICE STATEMENT**

Prior to 01.09.2002 He was under the audit control of A.G K.P.K Peshawar.

Period	ALLOWANCES																			Total	
	B Pay	P.P	CA	SA	NPA	Tech	SHA	Ad	Dear	Ent	Spl	A:9	MA	A:10	A:11	HPA	A:12	A:13			
1.9.2002	17425		626	1550	500	2000														22165	
1.12.2002	18030		620	1550	500	2000														22750	
1.7.2003	18089		620	1550	500	2000	2712													25462	
1.12.2003	18665		620	1550	500	2000	2800													26135	
1.7.2004	18665		620	1550	500	2000	2800	2800												28935	
1.12.2004	19250		620	1550	500	2000	2888	2888												29690	
1.7.2005 (Revised)	22180		1240	1550	500	2000	2595	2888												33240	
1.12.2005	22855		1240	1550	500	2000	2688	2888												33921	
1.7.2006	22855		1240	1550	500	2000	2688	2888	3428											37345	
26.9.2006 (BPS-19)	24130		1230	1550	700	2000	2688	2688	3619	500										35515	
1.12.2006	24833		1240	1550	700	2000	2688	2688	3725	500										40270	
1.7.2007 (Revised)	28250		1230	1550	700	2000	2688	2688	3725	500										43741	
1.12.2007	29160		1230	1550	700	2000	2688	2688	3725	500										44851	
1.7.2008 (Revised)	35209		2430	1550	700	2000	2688	2688	3725	500										51931	
1.12.2008	36170		2430	1550	700	2000	2688	2688	3725	500										62201	
1.7.2009	36170		2430	1550	700	2000	2688	2688	3725	500				5426						70027	
1.12.2009	37140		2430	1550	700	2000	2688	2688	3725	500				5571						71742	
1.7.2010	37140		2430	1550	700	2000	2688	2688	3725	500				5571	5571	1550				95887	
1.12.2010	38110		2430	1550	700	2000	2688	2688	3725	500				5716	5716	19055				97625	
1.7.2011 (Revised)	61400		2480		700	2000				500				5716	19055	5716				11026	
1.12.2011	63000		2480		700	2000				500				5716	19055	5716	10000			12742	
1.7.2012	63000		2480		700	2000				500				5716	19055	5716	10000	12600		13920	
1.12.2012	63000	1160	5000		700	2000				500				5716	19055	5716	10000	12920		16140	
1.7.2013	63000	1160	5000		700	2000				500				5716	19055	5716	10000	12920	5000	25240	
1.12.2013	63000	1200	5000		700	2000				500				5716	19055	5716	10000	13240	9030	35270	
1.7.2014	63000	1200	5000		700	2000				500				5716	19055	5716	10000	13240	9030	6620	16140
1.12.2014	63000	1200	5000		700	2000				500				5716	19055	5716	10000	13560	10170	6780	16140

Remarks: Retired from Govt. Service Vide Govt. of Khyber Pakhtunkhwa Health Department Notification No.SOI/HC-VI 2-515/2015 dated 2/04/2015

Note: A Sum of Rs.443797/- on a/c of pay & allowance w.e.f 4.3.2014 to 5.3.2015 may be recovered from his pension

**ATTESTED BE TRUE**  
Copy of Original

**ATTESTED**

Detail /statement showing the over payment in pay. CA, NPA, Spl All, Teaching All and Ent. All w.e.f 4-3-2014 to 5-3-2015 in respect of Dr. Iqbal Amin, Demonstrator BPS-19 Department of Pathology KMC Peshawar

(12.1)  
(19)

W.e.f	Pay	Due	Drawn	Difference	Amount
6-3-2015 31-3-2015	to Pay	26500	164297	137797/-	137797/-
7-3-2014 5-3-2015	to CA		5000	5000x12	60000/-
7-3-2014 5-3-2015	to NPA		4000	4000x12	48000/-
7-3-2014 5-3-2015	to Ent All		500	500x12	6000/-
7-3-2014 5-3-2015	to Teach All		2000	2000x12	24000/-
7-3-2014 5-3-2015	to Spl All		14000	14000x12	168000/-
				Total	443797/-

Note: The above mentioned amount to be recovered from the above officer, as mentioned in the CPC submitted for approval please.

A.O 29/4/15

Supdt. 29/4/15  
Account Secy  
KMC Peshawar

DDO (KMC)

Principal (KMC)

4/15 MC  
Asghar 29/4/15

ATTACHED

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

No.

Appeal No. 356 of 2018

Dr. Abrar Amin (Postal Services Department) Appellant/Petitioner  
15 MC 12/11/12 Peshawar versus  
Assistant Officer HTM/RCD Peshawar Respondent

Respondent No. 2

Notice to: - Mr. Sohail Assistant Finance Dept Peshawar  
to go to court for hearing

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 15/07/19 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. .... dated .....

Given under my hand and the seal of this Court, at Peshawar this 25/7/19

Day of Monday, 2018

Secretary Finance  
Khyber Pakhtunkhwa  
Distt 27/3/19  
Date .....

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

Appeal No. 55 of 20 18

*In. Ahmad Amirul Raza Demonstrator*  
Appellant/Petitioner  
*Versus*  
*KMC KMIT, Peshawar*  
Respondent  
*Product Officer 157 M/Kate/19/10/2018*  
Respondent No. 3

Notice to: —

*Mr. Harisat Shah 24/10/18 through  
15/15 Health Dept Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 29-5-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. .... dated .....

Given under my hand and the seal of this Court, at Peshawar this 23/05

Day of Monday 20 19

*[Handwritten signature]*

*[Handwritten signature]*  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

No.

356

Appeal No. .... of 20 18.

*Mr. Amir Amin / Mr. Senior Demanding Officer*  
Appellant/Petitioner

*Audit office / K. P. M. / L. M. C. / L. C. D. / Mr. G. S. C.*  
Respondent

Representative of the Respondent No. ....

Notice to:

*Mr. Amir Amin / Mr. Senior Demanding Officer*  
*Secretary / Mr. G. S. C.*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on ..... at **8.00 A.M.** If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing **4 copies** of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20 18.

*[Signature]*  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

356  
Appeal No..... of 20/18  
Dr. Abni Amin  
Appellant/Petitioner

Versus  
Govt of KP & others  
Respondent

Respondent No.....

Notice to: —

Audit Officers, KMC / KTM,  
RCD of Peshawar


WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....25/10/2018.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....2.....

Day of.....October.....2018

  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

Appeal No. 356 of 20/8

Dr. Anam Arain Appellant/Petitioner

Versus

Govt of KP & Others Respondent

Respondent No. 4

Notice to: Chief Executive, KTH/KMU,  
KCD, Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 25/07/2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner, you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. .... dated.....

Given under my hand and the seal of this Court, at Peshawar this 2 .....

Day of October 20 19

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.



**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

No.

Appeal No. 356 of 2018  
Dr. Abrar Amin Appellant/Petitioner

Govt of KP & Others Respondent

Respondent No. 2

Notice to:

Secretary (Finance),  
Civil Secretariat, Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 25/10/2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of October 2019

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

No.

D13

Appeal No.....356..... of 20 18

.....Dr. Admi Amin.....Appellant/Petitioner

Versus

.....Audit Office K.T.M./K.M.U. K.P.L.P. Pesh. Respondent

Respondent No.....4.....

Notice to: -

Chief Executive K.T.M./K.M.U.  
K.C.D. K.P.L.P. Peshawar.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....28/11.....

Day of.....July.....20 20

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

DB

No.

Appeal No. 356 of 2018.

Dr. Abni Amin Appellant/Petitioner

Versus

Audit officer KTM/KMC/RCD Pesh. Respondent

Respondent No. 1

Notice

Audit officer KTM/KMC/RCD Peshawar.

WI.

Province AS an appeal/petition under the provision of the Khyber Pakhtunkhwa the above c&c Tribunal Act, 1974, has been presented/registered for consideration, in hereby infor the petitioner in this Court and notice has been ordered to issue. You are on.....22/2021 that the said appeal/petition is fixed for hearing before the Tribunal appellat/petit.....at 8.00 A.M. If you wish to urge anything against the the case may be you are at liberty to do so on the date fixed, or any other day to which Advocate, duly suponed either in person or by authorised representative or by any this Court at least d by your power of Attorney. You are, therefore, required to file in alongwith any other days before the date of hearing 4 copies of written statement default of your appeaments upon which you rely. Please also take notice that in appeal/petition will be on the date fixed and in the manner aforementioned, the and decided in your absence.

Notice of any alter.

given to you by registered in the date fixed for hearing of this appeal/petition will be address. If you fail to furnish You should inform the Registrar of any change in your address given in the appeal/p address your address contained in this notice which the notice posted to this address by will be deemed to be your correct address, and further this appeal/petition. cred post will be deemed sufficient for the purpose of

Copy of appeal is attached.

of appeal has already been sent to you vide this office Notice No.....

Given under my hand and the sc dated.....

Day of..... this Court, at Peshawar this 30th .....2021.

Khy Registrar, Khtunkhwa Service Tribunal Peshawar.

- Note: 1. The hours of attendance in the court are the same that of the High Court. 2. Always quote Case No. While making any correspondence.

and Gazetted Holidays.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

DB

No.

Appeal No. 356 of 2021.

Dr. Abni Amin Appellant/Petitioner

Versus

Audit officer, KTM/KMC/Red Pesh. Respondent

Respondent No. 4

Notice to:

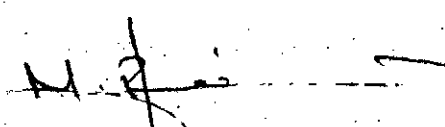
Chief Executive K.T.H / K.M.U / K.C.D  
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 22/4/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

~~Copy of appeal is attached.~~ Copy of appeal has already been sent to you vide this office Notice No. .... dated .....

Given under my hand and the seal of this Court, at Peshawar this 30<sup>th</sup> Day of March 20 21

  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

Before the Peshawar High Court, Peshawar.

W.P.N. 1673/P 2012

C.M. \_\_\_\_\_/2012



1. Dr. Qaisar Inayat, Associate Professor Khyber Medical College, Peshawar.
2. Professor Dr. Liaqat Ali,
3. Professor Dr Riaz Nasim,
4. Professor Dr. Ejaz Hassan Khan,
5. Professor Dr Farida Nasir,
6. Professor Dr. Zahid Hussain Khalil,
7. Professor Dr. Jamshid Ali,
8. Professor Dr Jehanzeb Khan,
9. Professor Dr. Ghulam Sarwar,
10. Professor Dr Mudassir Ahmad Khan
11. Professor Dr. Bushra Iftikhar,
12. Professor -Dr. Gulshan Naheed,
13. Professor Dr. Professor Saatea Arif,
14. Professor Nargis Parveen.
15. Dr. Ghulam Jilani, Associate Professor
- 16.-Dr. Shamim Alam, Associate Professor
17. Dr. Mohammad Tahir Khan, Associate Professor
18. Dr. Iftikhar-ud-Din Niazi, Associate Professor
19. Dr. Rahim Bangash, Associate Professor

9h  
1762/13

FILED TODAY  
Deputy Registrar  
01 JUN 2012

**ATTESTED**  
EXAMINER  
Peshawar High Court  
10 JAN 2019

20. Dr. Muhammad Javed, Associate Professor
21. Dr. Ahmad Rafiq, Associate Professor
22. Dr. Hakim Khan Afridi, Associate Professor
23. Dr. Hamid Ali, Assistant Professor
24. Dr. Zahid Shah, Assistant Professor
25. Dr. S Farhat Abbas, Assistant Professor
26. Dr. Shafiqur Rehman, Assistant Professor
27. Dr. Anjum Humayun Assistant Professor
28. Dr. Naila Hamid Assistant Professor
29. Dr. Zahoor Ahmad, Assistant Professor
30. Dr. Ubaid ur Rehman Assistant Professor
31. Dr. Mushtaq Ahmad, Assistant Professor
32. Dr. Sadat Ullah Khan, Assistant Professor
33. Dr. Abid Shah, Assistant Professor
34. Dr. Khanzada Khan Assistant Professor
35. Dr. Shahina Mumtaz, Assistant Professor
36. Dr. Nisar Ahmad, Assistant Professor
37. Dr. Muhammad Riaz ud Din Assistant Professor
38. Dr. Inaam Ullah Assistant Professor
39. Dr. Shahida Tasneem, Assistant Professor
40. Dr. Naila Ismail, Assistant Professor
41. Dr. Rubina Gul Assistant Professor
42. Dr. Hamid Hussain Assistant Professor

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01 JUN 2012

ATTESTED  
EXAMINER  
Peshawar High Court  
10 JAN 2019

- 43. Dr. Muhammad Naeem Assistant Professor
- 44. Dr. Zia ur Rehman Assistant Professor
- 45. Dr. Muhammad Yousaf, Assistant Professor
- 46. Dr. Mohammad Rashi , Lecturer/Demonstrator
- 47. Dr. Said Mohammad Lecturer/Demonstrator
- 48. Dr. Ajmal Khan Lecturer/Demonstrator
- 49. Dr. Adil Zarif Lecturer/Demonstrator
- 50. Dr. Abdul Hamid Marwat Lecturer/Demonstrator
- 51. Dr. Mohammad Ikram Lecturer/Demonstrator
- 52. Dr. Manila Shabnam Khattak Lecturer/Demonstrator
- 53. Dr. Abdus Samad Khan Lecturer/Demonstrator
- 54. Dr. Sadaf Ambarin Lecturer/Demonstrator
- 55. Dr. Shabnum Amir Lecturer/Demonstrator
- 56. Dr. Asif Kamal Lecturer/Demonstrator
- 57. Dr. Shazia Iftikhar Lecturer/Demonstrator
- 58. Dr. Tahira Mehreen Lecturer/Demonstrator
- 59. Dr. Imran Khan Lecturer/Demonstrator
- 60. Dr. Shehla Khatoon Lecturer/Demonstrator
- 61. Dr. Falak Naz Lecturer/Demonstrator
- 62. Dr. Umme Sarwat Lecturer/Demonstrator
- 63. Dr. Salah-ud-Din Lecturer/Demonstrator
- 64. Dr. Saleem Abbas Lecturer/Demonstrator
- 65. Dr. Aslam Khan Mohammand Lecturer/Demonstrator

**FILED TODAY**  
Deputy Registrar  
01 JUN 2012

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EXAMINER  
Peshawar High Court  
10 JAN 2019

66. Dr. Hina Salman Lecturer/Demonstrator
67. Dr. Muhammad Asghar Lecturer/Demonstrator
68. Dr. Sajjad Muhammad Lecturer/Demonstrator
69. Dr. Tehmina Rashid Lecturer/Demonstrator
70. Dr. Shahnawaz Lecturer/Demonstrator
71. Dr. Sadaf Durrani Lecturer/Demonstrator
72. Dr. Yasmin Akhtar Lecturer/Demonstrator
73. Dr. Sobia Ali Lecturer/Demonstrator
74. Dr. Kalsoom Tariq Lecturer/Demonstrator
75. Dr. Obaid ullah Lecturer/Demonstrator
76. Dr. M. Afzal Khan Lecturer/Demonstrator
77. Dr. Naseem Alam Lecturer/Demonstrator
78. Dr. Falak Naz Lecturer/Demonstrator
79. Dr. Tahira Perveen Lecturer/Demonstrator
80. Dr. Shams Suleman Lecturer/Demonstrator
81. Dr. Tayaba Basharat Lecturer/Demonstrator
82. Dr. Shandana Aamir Lecturer/Demonstrator
83. Dr. Erum Jehan Lecturer/Demonstrator
84. Dr. Arshia Munir Lecturer/Demonstrator
85. Dr. Tariq Mehfooz Lecturer/Demonstrator
86. Dr. Muhammad Amjad Lecturer/Demonstrator
87. Dr. Sardar Raheel Alam Lecturer/Demonstrator
88. Dr. Asghar Khan Lecturer/Demonstrator

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EXAMINER  
Peshawar High Court  
10 JAN 2019



- 89. Dr. Hayat Muhammad Lecturer/Demonstrator
- 90. Dr. Yasmin Orakzai Lecturer/Demonstrator
- 91. Dr. Sahibdad Khan Lecturer/Demonstrator
- 92. Dr. Shahida Naveed Lecturer/Demonstrator
- 93. Dr. Naveed Alam Lecturer/Demonstrator
- 94. Dr. Faqir ullah Lecturer/Demonstrator
- 95. Dr. Muhammad Aslam Lecturer/Demonstrator
- 96. Dr. M. Arshid Hussain Lecturer/Demonstrator
- 97. Dr. Iftikhar Ahmad Lecturer/Demonstrator
- 98. Dr. Mohammad Khalid Lecturer/Demonstrator
- 99. Dr. Muhammad Kamran Lecturer/Demonstrator
- 100. Dr. Obaid Ullah Lecturer/Demonstrator
- 101. Dr. Waseem Anwar Lecturer/Demonstrator
- 102. Dr. Farida Mujahid Lecturer/Demonstrator
- 103. Dr. Muhammad Ismail Lecturer/Demonstrator
- 104. Dr. Anwar Ul Haq Lecturer/Demonstrator
- 105. Dr. Emma Mumtaz Lecturer/Demonstrator
- 106. Dr. Ibne Amin Lecturer/Demonstrator
- 107. Dr. Pervez Mohammad Lecturer/Demonstrator
- 108. Dr. Aurang Zeb Lecturer/Demonstrator
- 109. Dr. Saima Nadeem Lecturer/Demonstrator
- 110. Dr. Sayed Luqman Shoaib Lecturer/Demonstrator
- 111. Dr. Irfan Ullah Lecturer/Demonstrator

**FILED TODAY**  
 Deputy Registrar  
 01 JUN 2012

**ATTESTED**  
 EXAMINER  
 Peshawar High Court  
 10 JAN 2019

- 112. Dr. Haroon ur Rasheed Lecturer/Demonstrator
- 113. Dr. Purdil Khan Lecturer/Demonstrator
- 114. Dr. Muhammad Idrees Lecturer/Demonstrator
- 115. Dr. Haroon ur Rasheed Lecturer/Demonstrator.

(All Posted at Khyber Medical College, Peshawar).

- 116. Dr. Shahtaj Khan
- 117. Dr. Fazle Raziq
- 118. Dr. Ashraf Khan
- 119. Dr. Agha Ali Shah
- 120. Dr. Shahtaj Khan.

(All Posted at Post-Graduate Medical Institute,  
Hayatabad Medical Complex, Peshawar).

- 121. Dr. Manzar Anwar
- 122. Dr. Zia ur Rehman Qureshi
- 123. Dr. Najma Khatoon
- 124. Dr. Muhammad Saleem
- 125. Dr. Dilabaz
- 126. Dr. Jameel Kifayat ullah
- 127. Dr. Imdad Ullah
- 128. Dr. Shazia Makhdoom.

(All posted at Khyber College of Dentistry Peshawar)

Versus

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 Deputy Registrar  
 01 JUN 2012

ATTESTED  
 EXAMINER  
 Peshawar High Court  
 10 JAN 2019

1. Govt: of KPK, through Secretary to Govt: of KPK Health Department, Peshawar Secretariat Peshawar.
  2. Secretary to Govt: of KPK, Finance Department.
  3. Chief Executive K.T.H/Khyber Medical College, K.C.D. Peshawar.
  4. The Accountant General KPK, Peshawar.
  5. Dean PGMI Hayatabad Medical Complex, Peshawar.
- ..... Respondents.

Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan read with Article 4 of the Constitution and Section 21 of the General Clauses Act, 1897.

Respectfully Sheweth:

1. That the Petitioners are the employees of the Respondents no 3 and 5 being an autonomous bodies and are under the general supervision of the Respondents no 1.
2. That the Respondents no 2 being the Competent Authority through notification FD (SOS-R11) 8-18999/vol:I and FD (PRC) 5-3/2002 approved the Special Allowance to Basic Sciences Teachers and other such allowance to the Petitioners with following rate w.e.f. 01.06.2007 and 1.7.2008.

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 Deputy Registrar  
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ATTESTED  
 EXAMINER  
 Peshawar High Court  
 10 JAN 2019

Designation	Service teaching allowance
1. Professor (BPS-20)	Rs. 50, 000/-
2. Associate Professor BPS-19	Rs. 40, 000/-
3. Assistant Professor BPS-18	RS. 30, 000/-
4. Lecturer/Demonstrator	Rs. 10, 000/--(Annexure-A).

3. That the Petitioners are receiving the said allowances regularly as being approved accordingly and as a vested right and is an incentive for the teachers working in public sector medical colleges.
4. That a notification no FD (SOS R-11) 8-18/2008 dated Peshawar the 01/12/2009 was issued to the Secretary to Government of KPK Health Department (Respondent no 1) by Respondent no 2 approving the Special allowance for Basic Medical Science Teachers of Post graduate Medical Institute Peshawar w.e.f 01.06.2007 instead of 01.07.2008 with the proviso that the said allowance is not admissible during the period of leave, leave preparatory to retirement as well as during winter and summer vacations..... (Annexure-B).
5. That the Respondent no 2 issued another letter no FD (SOSR-11) 8-18/2009 dated 06.10.2009 to Respondent no 1 informing him that non-practicing allowance, Teaching allowance and Special allowance is inadmissible to the Petitioners during the period of leave and leave preparatory to retirement..... (Annexure-C).
6. That the same Respondent however in continuation of the above letter through another letter dated 10.12.2009 stated that the amount withdrawn before the date of clarification may not be recovered..... (Annexure-D).

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 Deputy Registrar  
 01 JUN 2012

**ATTESTED**  
 EXAMINER  
 Peshawar High Court  
 10 JAN 2019

- 7. That the Respondent no 2 through another letter dated 13.03.2010 wrote to the Respondent no 1 and no 4 that the provincial Government has sanctioned the above mentioned special allowance for those teachers of Medical Colleges of KPK, who teach basic medical sciences, which is paid at specified rate but the question of admissibility has been under consideration and that it has been decided that the special allowance will not be admissible, during leave, including LPR, during training or pursuit of studies etc... (Annexure-E).
- 8. That through another letter dated 25.08.2011 the Respondent no 2 modifying the letter dated 10.12.2009 directed the Petitioners to repay the amount previously received during leave etc..... (Annexure-F).
- 9. That the Petitioners appealed to the Respondents that the allowances once granted had got finality and is now the vested right of the Petitioners consequent thereof neither the amount so paid be recovered from the petitioners nor the allowance be withdrawn in any circumstance, but of no avail.

Being aggrieved and no adequate alternate remedy available so far, hence this Writ Petition is preferred on the following grounds:

**Grounds:**

- A. That FD (SOSR-11) 8-18/2008 dated 1.12.2009, NO FD (SOSR-11) 8-18/2009 dated 06.10.2009, NO FD (SOSR-11) 8-18/2009 dated 10.12.2009, No FD (SOSR-11) 8-18/2010 dated 13.03.2010, No FD (SOSR-11) 8-18/2009 dated 25.08.2011 of the Respondents attaching any condition or time to the payment of special allowance, or any other allowance with the leave etc or any order for the recovery of any amount so paid

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ATTESTED  
 EXAMINER  
 Peshawar High Court  
 10 JAN 2019

is without jurisdiction, of no legal authority, is without legal effect and is liable to be set aside.

- B. That the Petitioners are treated discriminately as compared to the secretariat employees of the Government of KPK who are granted 20% special allowance without any condition of time or leave etc..... (Annexure-G).
- C. That as per Section 21 of the General Clauses Act, 1897 any act or order or notification if made by a Competent Authority confer any right to any person and it takes effect then it cannot be rescinded or amended or withdrawn thereafter to the detriment of the owner of the right.
- D. That as per Principle of Locus poenitentiae if an order or decision has been carried into effect then repenting and going back on such decision is without jurisdiction.
- E. That as per proposed summary and notification of the Finance Department for the granting of above mentioned allowances, there is no mention of the term leave etc that these allowances are not admissible in vacation, leave and LPR.
- F. That as per FR 82 (b) vacation counts a duty. It is pertinent to mention that the Petitioners (teaching staff of the medical Colleges) have neither demanded for such vacation nor are out of the institution during such vacation. The vacations are in real sense availed of the students and not of the teachers. The teaching faculty is used to be involved in examination, administration work or research etc.
- G. That the allowances are for the whole month and deduction from it for a fraction of month is unreasonable and not a good gesture of the Competent Authority towards its employees.

**FILED TODAY**  
 Deputy Registrar  
 01 JUN 2012

**ATTESTED**  
 EXAMINER  
 Peshawar High Court  
 10 JAN 2019

H. That the Apex Court of Pakistan has held that the power of rescinding any order of the Competent Authority ceased till a decisive step is taken and the order has got finality. (PLD 1959 WP Kar 105, PLD 1969 SC 407, PLD 1993 Kar 360, 1994 SCMR 249, 2002 PLC (SC) 1332. Ref.

I. That it is an established principle that any monetary advantages if granted to any civil servants accrued him such right and withdrawal of it is violation of principle of Law and natural justice.

J. That the allowances are an incentive to the teaching staff of the Public Medical Colleges to stop the brain drain towards the private medical colleges who are offering handsome salaries to such staff.

K. That as per F.R 87 (5) the term pay includes special pay whether attached to a post or personal to a particular Government Servants.

L. That identical Writ Petitions no 817/2012, 103m/2012 and 22/2012 are filed in the Peshawar High Court Bench of D.I.Khan, Mingora and Bannu and stay order preventing the Respondent from recovery has been granted to the Petitioners..... (Annexure H).

Prayer: It is therefore humbly prayed that notification no FD (SOSR-11) 8-18/2008 dated 1.12.2009, NO FD (SOSR-11) 8-18/2009 dated 06.10.2009, NO FD (SOSR-11) 8-18/2009 dated 10.12.2009, No FD (SOSR-11) 8-18/2010 dated 13.03.2010, No FD (SOSR-11) 8-18/2009 dated 25.08.2011 be setaside declaring it without jurisdiction and that Notification NO FD (PRC) 5-3/2002 dated 01.06.2007 shall remain intact and Writ may be issued directing the Respondents to pay the special allowances and other allowances, without any interruption even during leave, vacation and LPR.

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Deputy Registrar  
01 JUN 2012

**ATTESTED**  
EXAMINER  
Peshawar High Court  
10 JAN 2019

Any other relief which this Honourable Court may deem fit in the circumstances.

**Interim Relief:** The Petitioners have a prima facie case and the Respondents be directed not to recover the amount drawn before from the Petitioners till the final decision of this Writ Petition.

*[Signature]*  
Petitioners

Through

*[Signature]*  
Nazir Ahmad  
Advocate, Peshawar.

**Certificate**

Certified that the petitioner has not Filed any Writ Petition in respect of The same subject matter before this Honourable court earlier.

*[Signature]*  
Advocate

**Books Recommended**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. F.R and S.R
3. Case law per need.

**ATTESTED**  
EXAMINER  
Peshawar High Court  
10 JAN 2019

FILED TODAY  
*[Signature]*  
Deputy Registrar  
01 JUN 2012



Before the Peshawar High Court, Peshawar.

W.P No 623 P 2012

C.M \_\_\_\_\_/2012

Dr. Qaiser Inayat and Others versus Govt: of KPK and others.

**Affidavit**

I Dr. Qaiser Inayat, Associate Professor Khyber Medical College and an attorney of the Petitioners declare on oath that the contents of this Writ Petition are correct to the best of my knowledge and belief and nothing has been concealed from this Hounrable Court.

No: 12024.....  
 Certified that the above was verified on solemnly  
 affirmation before me in office, this.....1st.....  
 day of.....May..... 200 by.....Dr. Qaiser Inayat.....  
 s/o.....Muzaffar Ullah..... s/o.....Peshawar.....  
 who was identified by.....Muzaffar Ullah.....  
 Who is personally known to me:  
1/6/2012  
 Oath Commissioner  
 Peshawar High Court, Peshawar

Qaiser Inayat  
Deponent

17301-1232661-7

Identified by  
Muzaffar Ullah  
1/6/2012

FILED DUJAY  
Deputy Registrar  
01 JUN 2012

ATTESTED  
EXAMINER  
Peshawar High Court  
10 JAN 2019

28

Before the Peshawar High Court, Peshawar.

W.P No 1623 P 2012

C.M. \_\_\_\_\_/2012

Dr. Qaiser Inayat and Others versus Govt: of KPK and others.

**ADDRESSES OF PARTIES**

**Petitioners:-**

1. Dr. Qaisar Inayat, Associate Professor Khyber Medical College,  
Peshawar.
2. Professor Dr. Liaqat Ali,
3. Professor Dr Riaz Nasim,
4. Professor Dr. Ejaz Hassan Khan,
5. Professor Dr Farida Nasir,
6. Professor Dr. Zahid Hussain Khalil,
7. Professor Dr. Jamshid Ali,
8. Professor Dr Jehanzeb Khan,
9. Professor Dr. Ghulam Sarwar,
10. Professor Dr Mudassir Ahmad Khan
11. Professor Dr. Bushra Iftikhar,
12. Professor -Dr. Gulshan Naheed,
13. Professor Dr. Professor Saatea Arif,

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14. Professor Nargis Parveen.
15. Dr. Ghulam Jillani, Associate Professor
16. Dr. Shamim Alam, Associate Professor
17. Dr. Mohammad Tahir Khan, Associate Professor
18. Dr. Iftikhar-ud-Din Niazi, Associate Professor
19. Dr. Rahim Bangash, Associate Professor
20. Dr. Muhammad Javed, Associate Professor
21. Dr. Ahmad Rafiq, Associate Professor
22. Dr. Hakim Khan Afridi, Associate Professor
23. Dr. Hamid Ali, Assistant Professor
24. Dr. Zahid Shah, Assistant Professor
25. Dr. S Farhat Abbas, Assistant Professor
26. Dr. Shafiqur Rehman, Assistant Professor
27. Dr. Anjum Humayun Assistant Professor
28. Dr. Naila Hamid Assistant Professor
29. Dr. Zahoor Ahmad, Assistant Professor
30. Dr. Ubaid ur Rehman Assistant Professor
31. Dr. Mushtaq Ahmad, Assistant Professor
32. Dr. Sadat Ullah Khan, Assistant Professor
33. Dr. Abid Shah, Assistant Professor
34. Dr. Khanzada Khan Assistant Professor
35. Dr. Shahina Mumtaz, Assistant Professor
36. Dr. Nisar Ahmad, Assistant Professor
37. Dr. Muhammad Riaz ud Din Assistant Professor

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- 38. Dr. Inaam Ullah Assistant Professor
- 39. Dr. Shahida Tasneem, Assistant Professor
- 40. Dr. Naila Ismail, Assistant Professor
- 41. Dr. Rubina Gul Assistant Professor
- 42. Dr. Hamid Hussain Assistant Professor
- 43. Dr. Muhammad Naeem Assistant Professor
- 44. Dr. Zia ur Rehman Assistant Professor
- 45. Dr. Muhammad Yousaf, Assistant Professor
- 46. Dr. Mohammad Rashi , Lecturer/Demonstrator
- 47. Dr. Said Mohammad Lecturer/Demonstrator
- 48. Dr. Ajmal Khan Lecturer/Demonstrator
- 49. Dr. Adil Zarif Lecturer/Demonstrator
- 50. Dr. Abdul Hamid Marwat Lecturer/Demonstrator
- 51. Dr. Mohammad Ikram Lecturer/Demonstrator
- 52. Dr. Manila Shabnam Khattak Lecturer/Demonstrator
- 53. Dr. Abdus Samad Khan Lecturer/Demonstrator
- 54. Dr. Sadaf Ambarin Lecturer/Demonstrator
- 55. Dr. Shabnum Amir Lecturer/Demonstrator
- 56. Dr. Asif Kamal Lecturer/Demonstrator
- 57. Dr. Shazia Iftikhar Lecturer/Demonstrator
- 58. Dr. Tahira Mehreen Lecturer/Demonstrator
- 59. Dr. Imran Khan Lecturer/Demonstrator
- 60. Dr. Shehla Khatoon Lecturer/Demonstrator
- 61. Dr. Falak Naz Lecturer/Demonstrator

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62. Dr. Umme Sarwat Lecturer/Demonstrator  
 63. Dr. Salah-ud-Din Lecturer/Demonstrator  
 64. Dr. Saleem Abbas Lecturer/Demonstrator  
 65. Dr. Aslam Khan Mohammand Lecturer/Demonstrator  
 66. Dr. Hina Salman Lecturer/Demonstrator  
 67. Dr. Muhammad Asghar Lecturer/Demonstrator  
 68. Dr. Sajjad Muhammad Lecturer/Demonstrator  
 69. Dr. Tehmina Rashid Lecturer/Demonstrator  
 70. Dr. Shahnawaz Lecturer/Demonstrator  
 71. Dr. Sadaf Durrani Lecturer/Demonstrator  
 72. Dr. Yasmin Akhtar Lecturer/Demonstrator  
 73. Dr. Sobia Ali Lecturer/Demonstrator  
 74. Dr. Kalsoom Tariq Lecturer/Demonstrator  
 75. Dr. Obaid ullah Lecturer/Demonstrator  
 76. Dr. M. Afzal Khan Lecturer/Demonstrator  
 77. Dr. Naseem Alam Lecturer/Demonstrator  
 78. Dr. Falak Naz Lecturer/Demonstrator  
 79. Dr. Tahira Perveen Lecturer/Demonstrator  
 80. Dr. Shams Suleman Lecturer/Demonstrator  
 81. Dr. Tayaba Basharat Lecturer/Demonstrator  
 82. Dr. Shandana Aamir Lecturer/Demonstrator  
 83. Dr. Erum Jehan Lecturer/Demonstrator  
 84. Dr. Arshia Munir Lecturer/Demonstrator  
 85. Dr. Tariq Mehfooz Lecturer/Demonstrator

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Peshawar High Court

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86. Dr. Muhammad Amjad Lecturer/Demonstrator
87. Dr. Sardar Raheel Alam Lecturer/Demonstrator
88. Dr. Asghar Khan Lecturer/Demonstrator
89. Dr. Hayat Muhammad Lecturer/Demonstrator
90. Dr. Yasmin Orakzai Lecturer/Demonstrator
91. Dr. Sahibdad Khan Lecturer/Demonstrator
92. Dr. Shahida Naveed Lecturer/Demonstrator
93. Dr. Naveed Alam Lecturer/Demonstrator
94. Dr. Faqir ullah Lecturer/Demonstrator
95. Dr. Muhammad Aslam Lecturer/Demonstrator
96. Dr. M. Arshid Hussain Lecturer/Demonstrator
97. Dr. Iftikhar Ahmad Lecturer/Demonstrator
98. Dr. Mohammad Khalid Lecturer/Demonstrator
99. Dr. Muhammad Kamran Lecturer/Demonstrator
100. Dr. Obaid Ullah Lecturer/Demonstrator
101. Dr. Waseem Anwar Lecturer/Demonstrator
102. Dr. Farida Mujahid Lecturer/Demonstrator
103. Dr. Muhammad Ismail Lecturer/Demonstrator
104. Dr. Anwar Ul Haq Lecturer/Demonstrator
105. Dr. Emma Mumtaz Lecturer/Demonstrator
106. Dr. Ibne Amin Lecturer/Demonstrator
107. Dr. Pervez Mohammad Lecturer/Demonstrator
108. Dr. Aurang Zeb Lecturer/Demonstrator
109. Dr. Saima Nadeem Lecturer/Demonstrator

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Peshawar High Court  
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110. Dr. Sayed Luqman Shoaib Lecturer/Demonstrator  
111. Dr. Irfan Ullah Lecturer/Demonstrator  
112. Dr. Haroon ur Rasheed Lecturer/Demonstrator  
113. Dr. Purdil Khan Lecturer/Demonstrator  
114. Dr. Muhammad Idrees Lecturer/Demonstrator  
115. Dr. Haroon ur Rasheed Lecturer/Demonstrator.

(All Posted at Khyber Medical College, Peshawar).

116. Dr. Shahtaj Khan  
117. Dr. Fazle Raziq  
118. Dr. Ashraf Khan  
119. Dr. Agha Ali Shah  
120. Dr. Shahtaj Khan.

(All Posted at Post-Graduate Medical Institute,  
Hayatabad Medical Complex, Peshawar).

121. Dr. Manzar Anwar  
122. Dr. Zia ur Rehman Qureshi  
123. Dr. Najma Khatoon  
124. Dr. Muhammad Saleem  
125. Dr. Dilabaz  
126. Dr. Jameel Kifayat ullah  
127. Dr. Imdad Ullah  
128. Dr. Shazia Makhdoom.

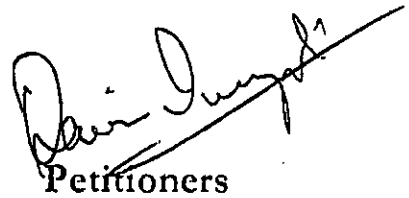
(All posted at Khyber College of Dentistry Peshawar)

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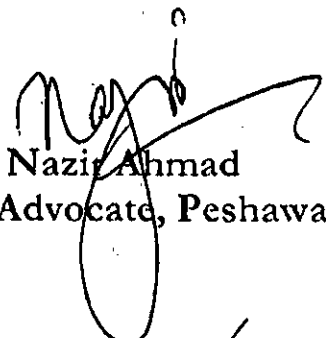
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Peshawar High Court  
20 JAN 2019

Respondents:-

1. Govt: of KPK, through Secretary to Govt: of KPK Health Department, Peshawar Secretariat Peshawar.
2. Secretary to Govt: of KPK, Finance Department.
3. Chief Executive K.T.H/Khyber Medical College, K.C.D. Peshawar.
4. The Accountant General KPK, Peshawar.
5. Dean PGMI Hayatabad Medical Complex, Peshawar.

  
Petitioners


Through

  
Nazir Ahmad  
Advocate, Peshawar.

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EXAMINER  
Peshawar High Court

10 JAN 2019

  
03 JUN 2012



1  
Judgment Sheet

IN THE PESHAWAR HIGH COURT  
PESHAWAR

JUDICIAL DEPARTMENT

...W.P....No...1673....Of.....2012.



JUDGMENT

Date of hearing..... 16.05.2013 .....

Appellant (Dr. Qaisa x Inayat etc.) By Muzeeb Ahmad Advocate  
Respondent (Govt) By Ubaid Razaq A.A.G.

MALIK MANZOOR HUSSAIN, J:- Through this single judgment, we intend to dispose of titled writ petition as well as connected W.P.No.2021/2012, as common questions of fact and law are involved in both the petitions.

2. Precisely the facts, in brief, are that the petitioners are employees of Khyber Teaching Hospital/Khyber Medical College, Hayatabad Medical Complex and Khyber College of Dentistry, Peshawar. That vide notification dated 20.2.2008, Finance Department (Regulation Wing), approved the Special Allowance to Basic Science Teachers of Khyber Medical College, Peshawar, Ayub Medical College, Abbottabad and Post Graduate Medical Institutes, Peshawar, at the rates given in the notification. That through notification dated 1.12.2009, the said allowances were made not admissible during the

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period of leave, leave preparatory to retirement, as well as, during winter and summer vacations. This notification was further clarified through notification dated 6.10.2009 to the effect that Non-practicing Allowances, Teaching Allowances and Special Allowances to Basic Science Teachers would not be admissible during period of leave and LPRs. It was further clarified through office order dated 10.12.2009, that the amount drawn before the date of clarification may not be recovered. The matter does not end, but another office order was issued on 13.3.2012, wherein certain restrictions were made regarding special allowances excluding casual leave, training period of attending courses/studies and deputation period. Lastly, the notification dated 25.8.2011 was issued whereby, the amount drawn before date of clarification letter dated 10.12.2009 was directed not to be recovered. The petitioners have challenged all the notifications right from 20.2.2008 up till 25.8.2011 being illegal, against norm of justice, in disregard of section 21 of General Clauses Act, inter alia, other legal grounds.

3. At the very outset, the learned counsel for the petitioners draw the attention of this Court to a judgment delivered in W.P.No.654-A of 2012 dated

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30.4.2013 passed by this Court, wherein, the same notifications were challenged by the employees of Ayub Medical College, with the prayer of same relief. The learned counsel for the petitioner also informed this Court that the said judgment has been implemented in its letter and spirit by the respondents and the same was confirmed by respondents, representative. So under the circumstances, this petition as well as the connected petition bearing No.2021/2012 are entitled to be treated alike in terms of above mentioned judgment.

4. We have gone through the judgment passed in W.P.No.654-A/2012 and in the light of same, no issue remained unresolved.

In view of the ratio decidendi of the above referred judgment, this petition as well as the connected writ petition is disposed of in terms of judgment passed in W.P.No.654-A of 2012, dated 30.4.2013. Order accordingly.

*Handwritten signature: M. Malik Manzoor Hussain*

*Handwritten signature*  
JUDGE

*Handwritten signature*  
JUDGE

Announced.  
Dt.16/5/2013.

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EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8.7 of  
The Qanun-e-Shahadat Order 1984

10 JAN 2019

*Handwritten notes:*  
1/6/13  
5/6/13

No. 18467  
Date of Presentation of Application 13/12/12  
No of Pages 4  
Copying Fee .....  
Urgent Fee .....  
Total 267  
Date of Preparation of Copy 10/1/13  
Date of Delivery of Copy 10/1/13  
Received by [Signature]

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EXAMINER  
Headmaster, High School, Lower  
Annamalai University, Madurai 625 019  
The Government of India, New Delhi

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