

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Mr. Israr Shah & Others ----- (Appellant)

Versus

Government of Khyber Pakhtunkhwa

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3242

Dated 30-1-2023

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DEPONENT

CNIC No.17101-0377128-9

Cell# 0346-9148582

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 955-1059 of 2022

Mr. Israr Shah & others (Appellant)

Versus

Government of Khyber Pakhtunkhwa

AFFIDAVIT

I Syed Nabi Gul, Superintendent (Lit), Directorate of Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of the accompanying reply/comment are true and correct to the best of my knowledge and belief and that nothing has been concealed therein from this Hon'ble Tribunal.



DEPONENT

CNIC No.17101-0377128-9

Cell# 03469148582

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 955 - 1059 / 2022

Israr Shah & Others.....Appellants

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Social Welfare, Special Education & Women Empowerment Department Peshawar.
2. Director, Social Welfare, Special Education & Women Empowerment Department Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
4. Govt. of Khyber Pakhtunkhwa through Secretary Finance Department Peshawar.
5. Accountant General Khyber Pakhtunkhwa, Peshawar..... **Respondents**

Respectfully Sheweth:

PARA-WISE COMMENT ON BEHALF OF RESPONDENTS

PRE-LIMINARY OBJECTIONS:

1. The appellant has got no cause of action to file this service appeal.
2. That the appeal is not maintainable in its present form.
3. That the appellant has no locus standi or cause of action to file the present service appeal.
4. The appeal is badly time bared. Therefore, the appeal is not maintainable.
5. That the Health Professional Allowance was granted / allowed by the Federal Govt. only to the employees of Directorate General of Special Education, Govt of Pakistan Islamabad and its allied Institutions in pursuance of the judgment of the Federal Services Tribunal. The petitioners were neither devolved employees of the Directorate General of Special Education, Govt. of Pakistan Islamabad nor they have been appointed by the Federal Govt in the Directorate General of Special Education Govt. of Pakistan, Islamabad and its allied institutes, therefore the said allowance is not admissible to the appellants.
6. The said allowance was also allowed by Provincial Govt. to the devolved employees of Directorate General of Special Education, Govt. of Pakistan devolved under the 18th constitutional amendment, therefore, the appeal is not maintainable.

FACTS:

1. Pertain to record.
2. Correct. The petitioner himself admitted that he was appointed by the Provincial Govt of Khyber Pakhtunkhwa on 10.08.1987 while the said allowance is only admissible to the

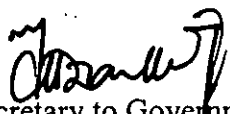
employees of Directorate General of Special Education and its allied institutions devolved under the 18th constitutional amendment hence is not entitled.

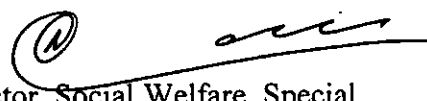
3. As per record, the department does not have any record of such appeal.
4. Incorrect, hence denied. Factual position has been explained in the preceding paras.


GROUND


- A. Incorrect, hence denied. The Respondents are law abiding civil servants and respect the Constitution of Islamic Republic of Pakistan & did not violate any article of the Constitution of Islamic Republic of Pakistan. Moreover, as per Notification of the Finance Department the appellants are not eligible for the said relief.
- B. Incorrect, hence denied. The factual position has been explained in the preceding para.
- C. Correct only to the extent of judgments of various Honorable Courts passed in respect of employees of Federal Govt devolved to provincial govt. under the 18th Constitutional amendment.
- D. Incorrect, hence denied. The factual position has been explained in the preceding paras.

In the view of above factual position it is humbly prayed that the appeal being devoid of any merit may graciously be dismissed with cost.


Secretary to Government of Khyber
Pakhtunkhwa, Social Welfare, Special
Education & Women Empowerment
Department
(Respondent No. 1)


Director, Social Welfare, Special
Education and Women Empowerment,
Govt. of Khyber Pakhtunkhwa
(Respondent No. 2)


Government of Khyber Pakhtunkhwa
through Chief Secretary, Peshawar
(Respondent No. 3)


Secretary to Govt. of Khyber
Pakhtunkhwa, Finance Department
(Respondent No. 4)
Secretary Finance
Govt. of Khyber Pakhtunkhwa
Finance Department