

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT ABBOTTABAD

Execution petition NO. 271/2021 out of service appeal No. 723/2018

Munir Hussain

... APPELLANT/DECREE HOLDER

VERSUS

Secretary E&SE, Govt. of Khyber Pakhtunkhwa and others.

...RESPONDENTS

REPLY OF OBJECTION PETITION


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...PETITIONER

Through;

Dated: 30/3 /2023


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan

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REPLY OF OBJECTION PETITION

Respectfully Sheweth;

PRELIMINARY OBJECTIONS:

1. That the objection petition from the respondents is to be set-aside as that is miss-conceived and liable to be dismissed.
2. That the decree holder filed service appeal No. 1084/2016 before this Honourable Tribunal which was dismissed on 11/02/2021 and CPLA against the judgment was also dismissed by the Apex court on 11/02/2021.
3. That the appeal mentioned in Para 2 above which relates to the grant of 20th percent of basic pay on holding of additional charge under notification of

Finance Department dated 07/08/1999. Copy of order is attached as Annexure "A".

4. That service appeal NO. 723/2018 was filed the the appellant/petitioner as per Finance Department regulation wing letter dated 17/08/2012 regarding appointment of an officer of lower grade to a higher post of higher grade and grant of pay of the higher post is attached as Annexure "B".

REPLY OF OBJECTION ON FACTS;

- a. Para "a" of grounds is incorrect.
- b. Para "b" of grounds is incorrect.
- c. Para "c" of grounds is incorrect.
- d. Para "d" of grounds is incorrect and denied. It is further submitted that SA No. 1084/2016 was regarding 10% of basic pay for holding additional charge vide letter dated 07/08/1999 whereas service appeal No. 723/18 was regarding the appointment of an officer of lower grade to appointment on higher grade and grant of pay of higher post vide letter 17/08/2012 Service Appeal No. 1084/2016 and SA No. 723/2018 are absolutely different.

e. Para "e" of objection petition is incorrect and denied.

f. Para "f" of objection petition is incorrect and denied. Detail reply is already given in Para "d" of reply.

g. Para "g" is incorrect and denied. Principle of resjudicate is not applicable because both the judgment are of different nature.

h. Para "h" is incorrect and denied.


i. Para "I" is incorrect and denied. The allegation leveled against the petitioner/appellant are baseless and the appellant/petitioner reserves right to sue the appellant for compensation damages suit in the competent court of law.

In view of the above it is prayed that objection petition of respondent may be set-aside with cost through out.


...PETITIONER

Through;

Dated: 30/3 /2023


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan

Annex A

Dated Peshawar the, August 7, 1999.

From The Secretary to Govt. of NWFP,
Finance, E&T Department, Peshawar.

GMD
/

To

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

SUBJECT:- ENTRUSTMENT OF ADDITIONAL CHARGE AND GRANT OF EXTRA REMUNERATION FOR HOLDING ADDITIONAL CHARGE OF POSTS UNDER FR.49.

Sir,

I am directed to refer to the subject noted above and to say that under para 2(iv) of this Department's letter No. FD(SR.I) 3-19/92 dated 12-8-1997 additional charge/dual charge allowance shall be sanctioned by the Finance Department at a uniform rate of 20% of basic pay subject to a maximum of Rs. 800/-PM. The aforesaid ceiling was fixed about 20 years back and doesn't keep pace with the existing conditions. It has, therefore, been decided that the additional charge/dual charge allowance would be admissible at the rate of 20% of basic pay without any ceiling or limit.

- (2) It has further been decided that in special cases of heavy and sensitive nature of additional charge, more special dispensation can be considered by the Finance Department/Provincial Govt. on case to case basis.

Your obedient servant

(ABDUS SAMAD KHAN)
ADDITIONAL FINANCE SECY-I

ENDST. NO & DATE EVEN.

Copy forwarded for information to :-

1. All the Heads of Autonomous/Semi Autonomous Bodies/Corporations in NWFP, Peshawar.

(MUHAMMAD KHAN)
DEPUTY SECRETARY (REC.)

Contd. on P. 2



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Annex B

NO. FD (PRC) 1-1/2012
Dated Peshawar the: 17-08-2012

To:

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

Subject: APPOINTMENT OF AN OFFICER OF LOWER GRADE TO A POST OF HIGHER GRADE AND GRANT OF PAY OF THE HIGHER POST.

Dear Sir,

In pursuance to the Finance Division's Office Memorandum No.F.8(4)R-2/97-1204/09 dated 24-02-2009, the Government of Khyber Pakhtunkhwa has decided that pay of the higher post will be admissible to civil servants during the period of appointment on higher post subject to the following conditions:-

- i. The officer has been appointed on the higher post by the authority competent to make appointment on that post.
- ii. The officer is fully qualified in every respect to be appointed to that higher post.
- iii. The officer discharges all the duties and responsibilities of the higher post independently and severed all connections with his lower post.
- iv. The pay of the higher post will be fixed presumptively w.e.f the date the officer assumes charge of the higher post and it will include the increments of the pay scale of the higher post for the period of higher post appointment on that post. In such cases premature increment shall not be admissible. However, the officer will be entitled to the arrears of pay and allowances from the date he assumes the charge of the higher post.
- v. On relinquishment of charge of the higher post or on transfer or on regular promotion to that higher post, the pay will be re-fixed with reference to original scale of pay of the post, held by the officer and increments carried (if any) on higher post will count for increments in his original scale as per provisions of FR-26.

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- vi. The pay of the higher post shall not be accounted for the calculation of emoluments towards the pension.
- vii. The Pay of the higher post will be given only with the concurrence of Finance Department.

2. All Administrative Departments are advised that only those cases may be referred to Finance Department which are covered under sub-para (i) to (iii) of para-1 above and pay of the concerned officers may be fixed / re-fixed in terms of sub-para (iv) to (vi) of para-1 above after obtaining prior concurrence of the Finance Department.

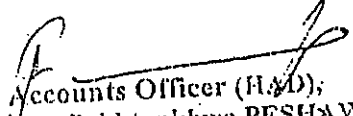
3. The above orders will be admissible w.e.f 16-12-2009.

Yours Faithfully,


(ROOH ULLAH)
Addl: Secretary (Regulation)

OFFICE OF THE ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA PESHAWAR
NO.11-24/Appointment Promotion /2012-13/ 1259 Dated: 12.09.2012


- Copy for information and compliance to:-
1. All DCA's/DAO's/AAO's in Khyber Pakhtunkhwa
 2. All Pay Rolls Section local.
 3. HR (hh)


Accounts Officer (H.A.O.),
Khyber Pakhtunkhwa PESHAWAR.

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1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
4. The Director, FWO, Finance Department.
5. The Treasury Officer, Peshawar.
6. All the Senior District Accounts Officers, Khyber Pakhtunkhwa.
7. All the District & Agency Accounts Officers, Khyber Pakhtunkhwa.
8. All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
9. The Private Secretary to Minister Finance, Khyber Pakhtunkhwa.
10. The Private Secretary to Secretary / IP.As to Special Secretary, Additional Secretaries / Deputy Secretaries in Finance Department.

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(SHAUKAT ULLAH)
Section Officer (SR-1)