

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT
AT SWAT

APPEAL NO. 379/2023

Saeed Ullah Jan.....Appellant.

V/S

Government of KP through Chief Secretary Peshawar & others.....Respondents

(Para wise reply on behalf of Respondent No. 5)

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Preliminary Objections:-

- 1) That the Appellant has no cause of action and locus standi.
- 2) That the Appellant has not come to this Court with clean hands.
- 3) That the Appellant has concealed material facts from this honorable Court.
- 4) That the instant appeal is badly time barred.
- 5) That the official record of the appellant is pertains to District DIR Lower hence the District Accounts officer Dir Lower is most necessary Party which the appellant has not made as Respondent

Respectfully Sheweth:-


- 1) Relates to Respondent No.6, hence no comments.
- 2) Relates to record however liable to be proved by the Appellant.
- 3) Relates to record however liable to be proved by the Appellant.
- 4) Relates to record however liable to be proved by the Appellant.
- 5) Relates to Respondent No.3 and they are in better position to show the status of the case.
- 6) That the official record of the appellant ~~is~~ pertains to District DIR Lower. Hence District Accounts officer DIR Lower is the necessary Party in the instant case which the appellant has not made as Respondent.

- 7) Correct to the extent that the letter No. 181, dated: 31.01.2023(Annex-A) issued through HAD Section of Respondent No.5 in light of Finance Department (Regulation Wing) letter No (SR-1) 12-1/2011, dated: 04.06.2011(Annex-B) is correct and under the rules and gets finality.

Grounds:-

- A. That Respondent No.5 is bound to follow the rules and instructions issued by the Provincial Government of Khyber Pakhtunkhwa from time to time.
- B. As mentioned in Para "A" above
- C. As mentioned in Para "7" above.
- D. As mentioned in Para "7" above to the extent that the appellant is not entitled for Pay Protection under the rules.
- E. As mentioned in Para "5" above.
- F. As mentioned in Para "5" above.
- G. As mentioned in Para "A" above.
- H. As mentioned in Para "A" above.

Keeping in view the above mentioned facts it is, therefore, humbly prayed that the appeal in hand having no merits may kindly be dismissed with cost.


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

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AFFIDAVIT

I, Yasir Qadeem, Assistant Accounts Officer, Office of the Accountant General
Khyber Pakhtunkhwa Peshawar do hereby solemnly affirms & declare that the contents of
reply submitted on behalf of Respondent No.5 is true and correct to the best of my knowledge
and belief and nothing has been concealed from this honorable Court.

**Advocate General
Khyber Pakhtunkhwa**


Deponent



Office of the
Accountant General

Khyber Pakhtunkhwa Peshawar

Phone: 091 9211250-53

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No.H-24(77)/Dir Lower/ 181
To,

Dated: 31.01.2023

The District Accounts Officer,
Dir Lower at Timergara.

Subject: GUIDANCE FOR PAY PROTECTION IN R/O SAEBD ULLAH JAN ASSOCIATE PROFESSOR (BPS-19).

The undersigned is directed to refer to your office Memo: No.DAO/Dir Lower/Admn:/2022-23/432 dated 17.01.2023 on the subject noted above and to state that the officer concerned does not fall under the purview of Finance Department letter dated 04.06.2011 as the same is effective from 4-6-11, where as the officer has joined the Government service and regularized on 3-3-2003, please.

*Journal
discuss.
7/2*

[Signature]
Accounts Officer
Had (section)

*Mr. Zohaib
discuss
7/2*

:D/Zohaib/DAO Letter 2023.docx

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TRUE COPY

FINANCE DEPARTMENT
(REGULATION WING)

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NO. FD (SR-1) 12-1/2011
Dated Peshawar the: 4th June, 2011

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. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1998-235/2010, dated 08-08-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of *Mr. Sajjad Rashid* and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

Yours Faithfully,


(MASOOD KHAN)
Deputy Secretary (Reg-II)

Ends: of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl: Secretary Finance.


(SHAUKAT ULLAH)
Section Officer (SR-I)