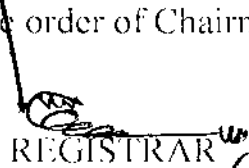


FORM OF ORDER SHEET

Court of _____

Case No.- 356/2023

S.No	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/02/2023	<p>The appeal of Mr. Niamatullah presented today by Mr. Bilal Ahmad Kakaizai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 356 / 2023.

NIAMAT ULLAH Vs **Government of Khyber Pakhtunkhwa etc.**

I N D E X

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Wakalat Nama		

Through:


Appellant

BILAL AHMAD KAKAIZAI

(Advocate, Supreme Court of Pakistan)

213, Sunehri Masjid Road,

Peshawar Cantt.

0300-9020098.

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 356 / 2023.

NIAMAT ULLAH, Senior Clerk (BS-14),
Directorate of Labour, 3rd Floor, FC Trust Building,
Sunehri Masjid Road Peshawar Cantt.

..... Appellant.

Versus

1. **GOVERNMENT OF KHYBER PAKHTUNKHWA,**
Through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. **SECRETARY FINANCE,**
Government of Khyber Pakhtunkhwa,
Finance Department, Civil Secretariat, Peshawar.
3. **SECRETARY LAW,**
Government of Khyber Pakhtunkhwa,

5. **DIRECTOR LABOUR,**
Directorate of Labour, 3rd Floor, FC Trust Building,
Sunehri Masjid Road Peshawar Cantt.

..... Respondents

**APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1973 AGAINST
ORDER DATED 30-12-2022, COMMUNICATED TO THE APPELLANT ON
25-01-2023, THROUGH RESPONDENT NO. 5, WHEREBY APPEAL FOR THE
GRANT OF ALLOWANCE ON THE ANALOGY / PATTERN OF SECRETARIAT
PERFORMANCE ALLOWANCE HAS BEEN REGRETTEED**

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

ON FACTS:

1. That the appellant along with co-employees instituted a Writ Petition bearing No. 875-P/2021, against notification No. FD(SOSR-II)8-7/2011 dated 27-04-2021 and Notification No. FD(SORSR-II)8-7/2019 dated 27-11-2019 for the grant of an Allowance on the analogy / pattern of the 'Secretariat Performance Allowance', which was disposed of by the Hon'ble Peshawar High Court, Peshawar on 13-05-2022 with the direction to the Respondents to decide the Appellant's Representation with a Speaking Order and the Appellant was advised to approach the proper forum, if feel aggrieved, copies of the Notifications dated 27-04-2011 & 27-11-2019 and Order / Judgment in Writ Petition No. 875-P/2021 dated 13-05-2022 are attached as Annexure-A
2. That, in another Writ Petition No. 202-P / 2022 vide Order / Judgment dated 15.03.2022 the Honorable Peshawar High Court, Peshawar (filed by Officers of BS-17 and above of the Directorate of Labour Khyber Pakhtunkhwa) dismissed the Petition being not maintainable due to bar contained in the Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, copy of the Order / Judgment in Writ Petition No. 202-P / 2022 dated 15.03.2022 is attached as Annexure B.
3. That, as per the direction of the Honorable Peshawar High Court, Peshawar the Departmental Appeal / Representation of the Appellant was regretted vide Order dated 30.12.2022 by the Respondent No. 2 communicated to the Appellant through Respondent No.5 vide DL/Admn/5/5/1069-75 dated 25-01-2023.
Copies of the Departmental Appeal / Representation, Impugned Appellate Order dated 30-12-2022 along with Covering Letter and letter dated 25-01-2023 are attached as Annexure C.

GROUND:

- A. That, Appellant is a Civil Servant and serving as Senior Clerk (BS-14) in the Directorate of Labour, Khyber Pakhtunkhwa which is an attached Department of the Labour Department, Khyber Pakhtunkhwa and is as efficient and punctual in his duties as the employees of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
- B. That, recently on 07.07.2021 an Allowance in the name and style of Executive Allowance has also been introduced for the PAS / PCS and PMS serving under the Government of Khyber Pakhtunkhwa irrespective of the fact that they are working against the scheduled posts or not at the rate of 150% of running basic pay scale per month w.e.f. 01.07.2021, copy of the Notification dated 07.07.2021 is attached as Annexure D.
- C. That, the Provincial Government of Khyber Pakhtunkhwa, arbitrarily without devising / formulating any merit / performance-based criterion for reward incentives, extended unilaterally, monetary benefits in the shape of Secretariat Performance Allowance as per their choice and to selected employees / departments. While the appellant's department has been ignored for unknown reasons.
- D. That, being a classic case of sheer discrimination, the appellant approached this Honorable Tribunal for adequate remedy under its appellate jurisdiction for recognition, acknowledgment and enforcement of the appellants right for grant of an allowance on the same analogy / pattern of Secretariat Performance Allowance.
- E. That, as an employee of the Attached Department, the Appellant bears more load of work than the employees of the Secretariat. The employees of the Directorate of Labour like employees of other directorates in the province constitute the backbone of the Provincial Government.

- F. That, Appellant is governed by the Civil Servants Act and is at par with the employees serving in the Secretariat or elsewhere in any other Government Department of the province.
- G. That, Appellant is hit by inflation and price hike in the same manner as employees elsewhere (who had already been granted allowance(s) with different nomenclature and rates). Under the mandate of Article 4 of the Constitution of Pakistan, no one can be treated otherwise than in accordance with law, while Article 25 postulates that alike are to be treated alike but the case of the Appellant has been dealt in differently as different yardstick has been used to treat the Appellant.
- H. That, besides the Finance Department, Government of Khyber Pakhtunkhwa, it has also been the duty of the Law Department, Government of Khyber Pakhtunkhwa to look into and to avoid every single case of discrimination which violates the principles of equality / justice in the province among Civil Servants covered under the same law.
- I. That, from every angle, the Appellant is entitled for equal treatment in respect of monetary benefits / incentives.
- J. That, pay, perks, pension and allowances are continuous & recurring cause of action, hence could be agitated at any stage before the proper forum.
- K. That no proper compensation management system is in place. Designing, planning, and managing compensation system is considered to be a complex process which requires accuracy and precision and if not carried out properly may lead to employees' dissatisfaction. A good compensation management system will be incentive providing, adequate, equitable, balanced, cost effective, secure, and acceptable to the employees. Employees need to be equitably rewarded, both competitively within their respective departments internally and at inter departmental level too.
- L. That the current model of compensation management in the province is unsustainable, not based on facts, violative of the

principles of justice / equity, and arbitrary in nature. It does not cater to the challenges which the world of work faces in the 21st century. To most government employees of the attached departments (covered under the same law as those of the government employees of the Civil Secretariat Khyber Pakhtunkhwa) their *pay package(s)* cannot be described more properly than the words attributed to Sir Winston Churchill while describing Russia when he said that, "*it was a riddle wrapped in a mystery inside an enigma*".

- M. That, the existing compensation system's criterion is based on *abstractions* without having a sound *criterion* for pay determination. It is not known as to which elements / components / indicators are clustered together to constitute this very criterion. Besides, it is also not clear as to whether we have a single criterion for the purpose of pay / allowances determination for all government organizations in the province or multiple criteria for employees of a single organization covered under the same law.
- N. That, the Provincial Government of Khyber Pakhtunkhwa has failed to compensate its employees fairly. Organizational justice theorists argue that fairness, at its core, has four dimensions:
1. Distributive justice.
 2. Procedural justice.
 3. Interactional justice.
 4. Informational justice.

Distributive justice is the perceived fairness of the actual outcome. When we talk about equity and fairness of salary/pay increases we are talking about distributive justice. Distributive justice answers the question, "*Did I receive what I should have received?*" When we talk about intentional discrimination in pay, we are typically discussing distributive justice: whether the money was distributed among the employees equitably, given the compensation policies and practices.

Procedural justice is the perceived fairness of the policies and procedures used to arrive at the actual outcomes. Procedural justice includes the criteria used to determine salary/pay increases.

Procedural justice answers the question, "*Was what I received determined fairly?*" When we talk about unintentional discrimination in pay, we're typically discussing procedural justice: whether the rules we use to distribute money affect different groups of employees differently.

Interactional justice is the perceived fairness of the treatment received in the application of the actual outcome. It refers to the "warm fuzzy" or "cold prickly" feeling we get based on the way the outcome is presented to us. Interactional justice answers the question, "*Was I treated with politeness, dignity, and respect?*"

Informational justice is the perceived fairness or adequacy of the information provided regarding the actual outcome. In the realm of compensation, this idea is frequently referred to as *transparency*. Without informational justice, there can be no overall fairness. An organization's compensation decisions could be internally equitable, based on objective and well-defined factors, and communicated with the utmost courtesy and respect. However, if the only communication is "*your salary/pay increase is Rs. X or Y%*" and no supporting information is provided, the decision may be interpreted as unfair.

Even if employees disagree with the actual outcome and/or the policies and procedures used to arrive at it, they are more likely to perceive decisions as fair if they understand how those decisions were made.

- O. That, the appellant is a Senior Clerk (BS-14) of the Directorate of Labour, Khyber Pakhtunkhwa and, therefore, pray for an allowance on the analogy / pattern of the 'Secretariat Performance Allowance' since 01-07-2020 or earlier, which was granted to all employees of the Civil Secretariat Peshawar.

- P. That, by issuing the impugned speaking order the authority has travelled beyond its powers.
- Q. That, the Impugned Order is illegal, malafide, without jurisdiction and void ab-initio as it has been made without lawful authority, hence unsustainable.
- R. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

PRAYER:

It is therefore prayed that on acceptance of the instant appeal:

While setting aside the Impugned Order, the Appellant be held entitled for an allowance on the same analogy / pattern as that of "Secretariat Performance Allowance" or, if not possible, then the same 'Secretariat Performance Allowance' may kindly be extended on the same footing as had already been extended to the selected employees since 01-07-2020 because the appellant along with co-employees (officials posted in the Directorate of Labour Khyber Pakhtunkhwa) are also Civil Servants and covered under the same Law.

- II. Deprivation of the Appellant from the aforementioned monetary benefits / incentives may please be declared as a sheer act of discrimination, illegal and void and to sanction a like allowance to the Appellant as well.
- III. Any other relief, not specifically asked for, may also be extended graciously in favour of the Appellant in circumstances of the case.

Through:

Appellant

BILAL AHMAD KAKAIZAI

(Advocate, Supreme Court of Pakistan)

213, Sunehri Masjid Road,

Peshawar Cantt.

0300-9020098.

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____ / 2023.

NIAMAT ULLAH

Vs. Government of Khyber Pakhtunkhwa etc.

AFFIDAVIT

I, NIAMAT ULLAH, Senior Clerk (BS-14), Directorate of Labour, 3rd Floor, FC Trust Building, Sunehri Masjid Road Peshawar Cantt, do hereby on oath affirm and declare that the contents of Service Appeal are true and correct and nothing has been kept secret from this Honourable Court.


Deponent

Identified by: -


BILAL AHMAD KAKAIZAI
(Advocate, Supreme Court of Pakistan)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____ / 2023.

NIAMAT ULLAH Vs **Government of Khyber Pakhtunkhwa etc.**

ADDRESSES OF PARTIES.

APPELLANT:

NIAMAT ULLAH, Senior Clerk (BS-14), Directorate of Labour, 3rd Floor,
FC Trust Building, Sunehri Masjid Road Peshawar Cantt.

RESPONDENTS

1. **Government of Khyber Pakhtunkhwa**, Through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. **Secretary Finance**, Government of Khyber Pakhtunkhwa, Finance
Department, Civil Secretariat, Peshawar.
3. **Secretary Law**, Government of Khyber Pakhtunkhwa, Law
Department, Civil Secretariat, Peshawar.
4. **Secretary Labour**, Government of Khyber Pakhtunkhwa, Labour
Department, Civil Secretariat, Peshawar.
5. **DIRECTOR LABOUR**, Directorate of Labour, 3rd Floor, FC Trust
Building, Sunehri Masjid Road Peshawar Cantt.

Through:


Appellant

BILAL AHMAD KAKAIZAI

(Advocate, Supreme Court of Pakistan)

213, Sunehri Masjid Road,
Peshawar Cantt.

0300-9020098



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(Regulation Wing)

Dated Peshawar, April 27, 2011

NOTIFICATION

No. FD(SOSR-II)8-7/2011. Governor, Khyber Pakhtunkhwa Province has been pleased to approve, with effect from 07-04-2011 and until further orders, Increase in the rate of Special Allowance, sanctioned vide this Department letter No. FD(SOSR-II)8-7/2002/Vol. IV dated 06-02-2008, and subsequently amended vide letter of even number dated 03-03-2008, from the existing 20% of the Basic Pay to 30% of the Basic Pay.

2. Special Allowance shall cease to be admissible to the civil servant with effect from the date when, consequent upon his transfer to a post outside Civil Secretariat, Chief Minister's Secretariat or Governor's House Secretariat, he relinquishes the charge of the post held by him in any of these Secretariats.

3. The admissibility of Special Allowance shall continue to be subject to the conditions prescribed in Finance Department letters referred to in Para-1 above, or conditions which may be prescribed by the Government from time to time.

Secretary to Government of
Khyber Pakhtunkhwa
Finance Department

Ends: No. & date even.

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

1. All Administrative Secretaries of Khyber Pakhtunkhwa Province.
2. Accountant General Khyber Pakhtunkhwa, Province.
3. Secretary to Governor, Khyber Pakhtunkhwa Province.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa Province.
5. Director FMIU, Finance Department, Khyber Pakhtunkhwa Province.

SUPERINTENDENT
SO(Lit-I), Finance Deptt
Civil Secretariat KPK

(WAZIR) MUHAMMAD AFGAN
Section Officer (SR.II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Annexure B

Dated Peshawar the 27/11/2018

NOTIFICATION

No.FD(SOSR-II)8-7/2019. In partial modification of this department letter No.FD/SO (SR-II)8-7/2011 dated 27.04.2011, the Government of Khyber Pakhtunkhwa has been pleased to extend the Special / Secretariat Allowance from 30% to 50% w.e.f.01.07.2020 or earlier in case sufficient resources are available with Finance Department and to redesignate the same as "Secretariat Performance Allowance". However, the aforementioned increase will not be applicable to all those who are drawing Scheduled Posts Allowance/Technical Allowance/Planning Allowance/Health Professional Allowance or any other allowance having high quantum of financial benefits.

Secretary to Govt of Khyber Pakhtunkhwa
Finance Department

Endst: No. & Date Even.

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

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. All Administrative Secretaries, Khyber Pakhtunkhwa.
5. Director, FMIU, Finance Department, Khyber Pakhtunkhwa.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Minister Finance, Khyber Pakhtunkhwa.
8. PS to Secretary, Finance Department, Khyber Pakhtunkhwa.
9. PS to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
10. PA to Additional Secretary (Regulation), Finance Department.

SECTION OFFICER (SR-II)
FINANCE DEPARTMENT

Attested by

SUPERINTENDENT
SO(Lit-II), Finance Deptt
Civil Secretariat KPK

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s)
13.05.2022	<p>W.P. No. 875-P/2021</p> <p>Present: Mr. Zakir Hayat, Advocate, for the petitioners. Mr. Aatif Ali Khan, AAG, for the official respondents.</p> <p>*****</p> <p>IJAZ ANWAR, J. After arguing the case at certain length, learned counsel for the petitioners stated that petitioners will be satisfied if their representation for grant of Secretariat Performance Allowance pending before the competent authority is decided departmentally.</p> <p>2. In view of the above, we dispose of this writ petition and direct the respondents to decide the departmental representation of the petitioners in accordance with law with a speaking order. Thereafter, if petitioners find themselves aggrieved, they may approach the proper forum, if they are so advised.</p> <p>Announced Dt: 13.05.2022</p> <p>AWARDED TO BE TRIED BY</p> <p>13 MAY 2022</p>
1	2

JUDGE

JUDGE

(Mukhammadullah) (DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Syed Arshad Ali
 28.8.22
 28.8.22
 28.8.22

13

B

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IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].

Writ Petition No.202-P/2022

Abdur Rehman and ten others,
Employees BPS.17 & above),
Directorate of Labour Khyber Pakhtunkhwa,
Peshawar.

Petitioner (s)

VERSUS

Government of Khyber Pakhtunkhwa,
Through Chief Secretary, Peshawar and others.

Respondent (s)

For Petitioner (s) :- Mr. Zakir Hayat, Advocate.
For Respondent (s) :- Nemo (case in motion).
Date of hearing: 15.03.2022

JUDGMENT

ROOH-UL-AMIN KHAN, J:- By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Abdur Rehman and ten others, the petitioners, serving as Officers BPS.17 and above, in the Directorate of Labour Department, Khyber Pakhtunkhwa, seek issuance of an appropriate writ to the effect that respondents/Provincial Government be directed to grant them Executive Allowance at the rate of 150% of the running basic pay w.e.f. 01.07.2021.

2. In essence grievance of the petitioners is that initially, monetary benefit in the shape of Executive Allowance, Planning Performance Allowance @ 1.5 on initial basic pay 2017 was granted to PAS, PMS & PCS Officers by the Provincial Government/respondents and subsequently the said allowance was

Low level work

ATTESTED
EXAMINER
Peshawar High Court

SCANNED

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enhanced by the Provincial Government from 1.5 to 150% of the running basic pay w.e.f. 01.07.2021 to the aforesaid Officer vide notification dated 07.07.2021. On both the occasions, the petitioners have been deprived from the said allowance by the respondents/Government despite the fact that the petitioners' department i.e. Directorate of Labour is an attached Department of Labour Department Khyber Pakhtunkhwa. For redressal of their grievance, the petitioners approached the worthy Chief Secretary Khyber Pakhtunkhwa. On 13.08.2021, on the presentation of the petitioners a Committee was formed by the Provincial Government vide notification dated 29.07.2021, however, no positive response has so far been received from the said Committee, hence, this writ petition.

3. Learned counsel for the petitioners heard and record perused.
4. Admittedly, petitioners are civil servants and the relief sought by them pertains to the allowance, which surely is part of pay/salary under section 17 of the Civil Servant Act, 1973, thus, falls in terms and condition of their service. Disputes relating to such matters fall within the exclusive jurisdiction of the Service Tribunal while the jurisdiction of the High Court is barred by the express provisions of Article 212 (2) of the Constitution of Islamic Republic of Pakistan, 1973.
5. Accordingly, this petition being not maintainable is hereby dismissed in limine.

Announced:
15.03.2022

M. Sraaj Afridi CS

Rooh ul Amin
Senior Puisne Judge

JUDGE

**DB of Mr. Justice Rooh ul Amin Khan Hon'ble Senior Puisne Judge; and
Hon'ble Mr. Justice Muhammad Ijaz Khan**

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan Order 198

29 MAR 2022



DIRECTORATE OF LABOUR
KHYBER PAKHTUNKHWA PESHAWAR


Dated: 07/10/2022

No. DL/Admn/37/198-22/ 7709

✓ The Director Labour
Government of Khyber Pakhtunkhwa,
Labour Department.

Subject: - REQUEST FOR GRANT OF ALLOWANCE.

Enclose find herewith representation on the subject noted above
for onward submission to the quarter concerned please.


Nizam Ullah
Senior Clerk
Directorate of Labour
Khyber-Pakhtunkhwa

JL/AD
Part up
AD (A)
S/E
Part up
10/10
10/10/22
7/11/10

832/-
Dated 10-10-2022

(17)

The Secretary Labour
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: REQUEST FOR GRANT OF ALLOWANCE

Sir,

With due reverence, your kind attention is drawn towards the following:

1. That the applicant is presently serving as Senior Clerk and joined government service of Khyber Pakhtunkhwa under the Civil Servants Act and Rules made thereunder.
2. That in the past the Provincial Government of Khyber Pakhtunkhwa, arbitrarily and contrary to the principles of justice and equity, and without devising / formulating any merit / performance based criterion for reward incentives, extended unilaterally, monetary benefits, firstly, in the shape of 'Special/Secretariat Allowance' and then redesignating the same as 'Secretariat Performance Allowance' w.e.f. 01-07-2020 at an enhanced rate of 50% of the Running Basic Pay to those secretariat employees who are not covered under other special incentives / allowances.
3. That the applicant's department has been ignored for unknown reasons.
4. That it is against the Articles pertaining to equality and discrimination by not allowing the same treatment to the applicant as contained in the Constitution of Pakistan.
5. That upon challenging this discrimination by the employees of the Directorate of Labour Khyber Pakhtunkhwa in the Peshawar High Court, Peshawar, the hon'ble High Court graciously disposed of the writ and directed the respondents in the order sheet dated 13-05-2022 of the Writ Petition No. 875-P/2021 (copy enclosed) that departmental representation of the petitioners be decided in accordance with law with a speaking order. Thereafter, if petitioners find themselves aggrieved, they may approach the proper forum, if they are so advised. But so far, no speaking order has been issued in the subject case and is still awaited from the respondents.
6. That pay, perks, pension and allowances are continuous & recurring cause of action, hence could be agitated at any stage before the proper forum.
7. That designing, planning, and managing compensation system is considered to be a complex process which requires accuracy and precision and if not carried out properly may lead to employees' dissatisfaction. It is an organized practice which is important for balancing the work and employee relationship by providing monetary and non-monetary compensation to employees. Compensation includes all form of pay given to the employees which arise from the employment. An ideal compensation philosophy/policy motivates the employees to work harder and with more determination. It also helps an organization to set the standards for job that it is related, realistic, and measurable. Compensation policies should have a sound

Integration with practices of human resource management. A good compensation management system will be incentive providing, adequate, equitable, balanced, cost effective, secure, and acceptable to the employees. Employees need to be equitably rewarded, both competitively within their regional markets as well as internally for the contributions to the organization's success. It is, therefore, imperative that there must be a robust compensation management system in the province with an in-built grievance redressal mechanism.

8. The current model of compensation management in the province is unsustainable, not based on facts, violative of the principles of justice / equity, and arbitrary in nature. It does not cater to the challenges which the world of work faces in the 21st century. To most government employees of the attached departments (covered under the same law as those of the government employees of the Civil Secretariat Khyber Pakhtunkhwa) their **pay package(s)** cannot be described more properly than the words attributed to Sir Winston Churchill while describing Russia when he said that, "**it was a riddle wrapped in a mystery inside an enigma**".

9. The existing compensation system's criterion is based on **abstractions** without having a sound **criterion** for pay determination. It is not known as to which elements / components / indicators are clustered together to constitute this very criterion. Besides, it is also not clear as to whether we have a single criterion for the purpose of pay/allowances determination for all government organizations in the province or multiple criteria for employees of a single organization covered under the same law. An evidence-based criterion devised on the basis of best/standard international human resource management practices must be devised for the purpose of determination of pay/allowances in the province.

10. Does the provincial government of Khyber Pakhtunkhwa compensate its employees fairly? Answering this question is not as simple as one might think. There are a variety of ways it could be interpreted. The question could pertain to the policies and procedures used to make compensation decisions. It could be asking about the actual compensation outcomes. Or it could relate to how each employee feels about the compensation decision-making process, his or her actual compensation outcome, what information was communicated about the decision-making process and compensation outcome, and how that information was communicated.

One way to approach the concept of fairness is from an organizational justice perspective. Organizational justice theorists argue that fairness, at its core, has four dimensions:

1. Distributive justice.
2. Procedural justice.
3. Interactional justice.
4. Informational justice.

Distributive justice is the perceived fairness of the actual outcome. When we talk about equity and fairness of salary/pay increases we are talking about distributive justice. Distributive justice answers the question, "**Did I receive what I should have received?**" When we talk about intentional discrimination in pay, we are typically discussing

distributive justice: whether the money was distributed among the employees equitably, given the compensation policies and practices.

Procedural justice is the perceived fairness of the policies and procedures used to arrive at the actual outcomes. Procedural justice includes the criteria used to determine salary/pay increases.

Procedural justice answers the question, "**Was what I received determined fairly?**" When we talk about unintentional discrimination in pay, we're typically discussing procedural justice: whether the rules we use to distribute money affect different groups of employees differently.

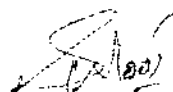
Interactional justice is the perceived fairness of the treatment received in the application of the actual outcome. It refers to the "warm fuzzy" or "cold prickly" feeling we get based on the way the outcome is presented to us. Interactional justice answers the question, "**Was I treated with politeness, dignity, and respect?**"

Informational justice is the perceived fairness or adequacy of the information provided regarding the actual outcome. In the realm of compensation, this idea is frequently referred to as **transparency**. Without informational justice, there can be no overall fairness. An organization's compensation decisions could be internally equitable, based on objective and well-defined factors, and communicated with the utmost courtesy and respect. However, if the only communication is "**your salary/pay increase is Rs. X or Y%**" and **no supporting information is provided, the decision may be interpreted as unfair.**

Even if employees disagree with the actual outcome and/or the policies and procedures used to arrive at it, they are more likely to perceive decisions as fair if they understand how those decisions were made.

Keeping in view of the above it is, therefore, suggested that a complete **overhauling/revision** of the existing compensation model may kindly be initiated so that nobody complains about inequality / discrimination. **The applicant belongs to the clerical staff of the Directorate of Labour, Khyber Pakhtunkhwa (which is a constituent unit of the executive branch of the government) and, therefore, pray for an allowance on the analogy of the 'Secretariat Performance Allowance' at the rate of 50% of the Running Basic Pay, since 01-07-2020 or earlier, which was granted to all clerical staff working in the Civil Secretariat.**

Submitted Please.



Niamat Ullah
Senior Clerk
Directorate of Labour
Khyber-Pakhtunkhwa

20



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Secy: Labr

D. No. 61
Dated 12-01-2023

Peshawar, Dated the 30th December, 2022

SPEAKING ORDER

No. SO (SR-IV)/FD/1-32/Allowance/2022:

WHEREAS, the Provincial Government of Khyber Pakhtunkhwa sanctioned Secretariat Performance Allowance @ 30% & 50 % of the Basic Pay Scales to all the Government Servants working in the Governor/ Civil /Chief Minister's Secretariat (Annex-I).

AND whereas, officers/officials of Directorate of Labor Khyber Pakhtunkhwa submitted appeal to the Competent Authority narrating with the plea that since the Provincial Government sanctioned Executive Allowance/Secretariat Allowance etc to Secretariat employees while they are ignored and could not be benefited.

AND whereas, the petitioners filed WP before Peshawar High Court to the effect that employees of Labor Directorate are deprived from specific/special departmental allowance.

AND whereas, the Peshawar High Court vide Order dated 31-05-2022 directed that the matter may be submitted to the respondents to decide the case as departmental representation of the petitioners in accordance with law through speaking order.

Being employees of the attached formation of Labor Department, they are not entitled for Secretariat Performance Allowance. Hence, the prayer of the petitioner in the WP is devoid of merit, therefore regretted not being worthy of consideration in light of notification ibid Annex-I.

AS/DS/L

(IKRAM ULLAH KHAN)
Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department

Endst: No & date even

Copy forwarded to the: -

1. The Secretary to Government of Khyber Pakhtunkhwa Labor Department
2. The Registrar, Peshawar High Court Peshawar.
3. PS to Special Secretary (R&A) Finance Department.
4. PA to Additional Secretary Finance (Regulation).
5. PA to Deputy Secretary (Reg-I) Finance Department.
6. Master File.

*SO (B&A) ✓
SO (List)*

*205
13/01/2023*

SECTION OFFICER (SR. IV)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LABOUR DEPARTMENT

No.SO (B&A)/LD/1-1/2022-23/Vol-IV
Dated Peshawar 16.01.2023

(21)

337

To

The Director,
Directorate of Labour, Khyber Pakhtunkhwa.

Subject: **REQUEST FOR GRANT OF ALLOWANCE.**

Sir,

I am directed to refer to your office letter No. DL/Admn/P/File/8373 dated 26.10.2022 & letter No. DL/Admn/P/File/7878 dated 14.10.2022 on the subject noted above and to enclose herewith Finance Department Khyber Pakhtunkhwa Speaking Order No.SO(SR-IV)/FD/1-32/Allowance/2022 dated 30.12.2022 for information and further necessary action.

Encl: As above:-

Yours faithfully,

(Signature)
16/1/2023

(Jamshed Alam)
SECTION OFFICER (B&A)

Endst: No.& Date Even.

Copy forwarded for information to the:-

1. Section Officer (SR.IV), Finance Department Government of Khyber Pakhtunkhwa.
2. PS to Secretary Labour Department, Government of Khyber Pakhtunkhwa.
3. PA to Deputy Secretary Labour Department, Government of Khyber Pakhtunkhwa.

AD(A)/DD(Pesh)/AD(LH)
(Signature)

SECTION OFFICER (B&A)

130
17/1/2023

17/1/23



**DIRECTORATE OF LABOUR
KHYBER PAKHTUNKHWA PESHAWAR**

22

No. DL/Admn/5/5/1069-75

Dated 25/01/2023

1. Mr. Shakeel Ahmed, Deputy Director Labour (BPS-18)
2. Mr. Mr. Irfanullah, Deputy Director Labour (BPS-18)
3. Mst. Saima Rehman, Deputy Director Labour Planning (BPS-18)
4. Mr. Minhasullah, Assistant Director Labour (BPS-17)
5. Mr. Azhar Sahib, Assistant Director Labour (BPS-17)
6. Mr. Sher Afzal, Account Officer (BPS-17)
7. Mr. Tahir Zia, Superintendent (BPS-17)
8. Mr. Jamil Qureshi, Assistant Director Litigation (BPS-17)
9. Mr. Saad ur Rehman, Assistant Director Labour (BPS-17)
10. Mr. Rabim Ullah, Inspector of Factories (Tech) (BPS-17)
11. Mr. Minat Khan, System Supervisor (BPS-17)
12. Miss. Sidra Jabeen, Statistical Officer (BPS-17)
13. Mr. Raza Shah, Inspector W& M,
14. Mr. Majeed Khan, Assistant (BPS-16)
15. Mr. Khurshid Anwar, Assistant (BPS-16)
16. Mr. Muslim Khan, Assistant (BPS-16)
17. Mr. Zaheer Hussain, Assistant (BPS-16)
18. Mr. Abdul Jabbar, Assistant (BPS-16)
19. Mr. Awais Ali Shah, Computer Operator (BPS-16)
20. Mr. Naveed Khan, Stenotypist (BPS-14)
21. Mr. Niamatullah, Senior Clerk (BPS-14)
22. Mr. Saifullah, Senior Clerk (BPS-14)
23. Mr. Shazia Haroon, Senior Clerk (BPS-14)
24. Mr. Khalid Tanoli, Senior Clerk (BPS-14)
25. Mr. Khalid Usman, Junior Clerk (BPS-11)
26. Mr. Yaseenullah, Junior Clerk (BPS-11)
27. Mr. Zakariya Khalid, Labour Inspector (BPS-10)
28. Mr. Shafiq Wazir, Labour Inspector (BPS-10)
29. Mr. Umar Khan, Chowkidar (BPS-03)
30. Mr. Shehroz Abbas, Naib Qasid (BPS-03)

Subject:- REQUEST FOR GRANT OF ALLOWANCE

I am directed to refer to a letter No: SO(B&A)/LD/1-1/2022-23/Vol-IV/337 dated 13.01.2023 received from the Section Officer (B&A), Govt. of Khyber Pakhtunkhwa, Labour Department along with enclosure of Govt. of Khyber Pakhtunkhwa, Finance Department dated 30.12.2022 (Copy Enclosed) in the instant matter for information please.

Encl: As Above.

**Assistant Director Labour
Hqtr: Office, Peshawar**



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

Dated Peshawar the: 07-07-2021

NOTIFICATION

No. FD(SOSR-II)2-5/2021-22 (Executive Allowance) In supersession of this Department Notification No. FD(SOSR-II)8-7/2016-17 dated 02.02.2018 and Notification No. FD(SOSR-II)8-7/2019, dated 25-07-2019, the Government of Khyber Pakhtunkhwa has been pleased to grant the Executive Allowance to all officers of PAS, PCS, PMS serving under the Government of Khyber Pakhtunkhwa irrespective of whether they are posted against scheduled posts or not, at the rate of 150% of Running Basic Pay per Month with effect from 01.07.2021. Furthermore, Executive Allowance at the rate of 150% of Running Basic Pay shall also be admissible to all officers posted against scheduled posts in the province irrespective of their service cadre. However, 20% of the difference between the running basic pay and the initial basic pay will be deducted as part of "pay as you go" pension contribution and shall be deposited under Object Head C02241-Contribution of Pension & Gratuities in Provincial Account-I (Non-Food).

2. The above allowance will be admissible subject to the following conditions:
- It will be subject to Income Tax.
 - It will not be counted towards pension and gratuity.
 - It will not be admissible in any kind of leave (except casual leave) as well as posting against OSD and Leave Reserve Posts.
 - Those Officers who are posted against other posts and are in receipt of cadre allowance other than regular allowances shall only be entitled to one of the allowances, whichever is more beneficial.

Sd/-

Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department

Endst: No. & Date even.

A copy of the above is forwarded for information & necessary action to the:

- The Accountant General, Khyber Pakhtunkhwa.
- The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- The Principal Secretary to Governor, Khyber Pakhtunkhwa.
- All Administrative Secretaries to government of Khyber Pakhtunkhwa.
- All the Divisional Commissioners in Khyber Pakhtunkhwa.
- All Deputy Commissioners in Khyber Pakhtunkhwa.
- All the District Accounts Officers in Khyber Pakhtunkhwa.
- The Director-FMIU, Finance Deptt. with the request to upload the same on FD's Website.
- PSO to Chief Secretary, Khyber Pakhtunkhwa.
- All Section Officers/Budget Officers in Finance Dept. Khyber Pakhtunkhwa.
- The Manager, Government printing Press, Peshawar.
- The Private Secretary to Secretary, Finance Deptt. Khyber Pakhtunkhwa.
- PA to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
- PA to Addl. Secretaries/Deputy Secretaries in Finance Dept., Peshawar.
- Master File.

*attested by
[Signature]*

mm
(Muhammad Ilyas Khattak)
Section Officer (SR: II)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Suit / Appeal / Claim / Petition / Application No. _____

Naimatullah

VERSUS

Government of Khyber Pakhtunkhwa etc

On behalf of _____ **Appellant**

KNOW ALL to whom these presents shall come that I / We, the undersigned, do hereby appoint **MR. BILAL AHMAD KAKAIZAI** (herein after called the Advocate) to be my / our Advocate in above noted case.

He is authorized:-

1. To act, appear and plead in the above-noted case in Court / Tribunal / Authority / Commission etc or in any other Court in which the same may be tried or heard.
2. To sign, file verify and present pleadings, appeals cross objections, written statement, comments or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution / disposal of the said case in all its stages.
3. To file and take back documents, to admit and /or deny the documents of opposite party.
4. To withdraw or compromise the said case with my / our prior approval.
5. To take execution proceedings.
6. To do all other acts and things, which may be necessary to be one for the progress and in the course of prosecution / proceedings of the said case.
7. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so.

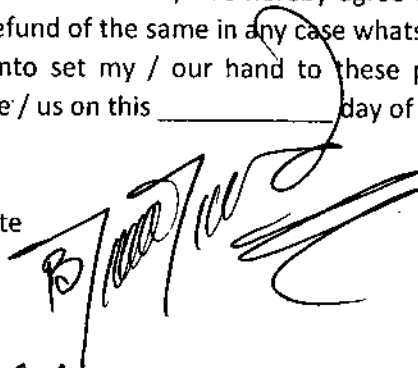
And I / We, the undersigned, do hereby agree to ratify and confirm all acts done by Advocate or his substitute in the matter as my / our own acts, as if done by me / us to all intents and purposes. And I / We undertake that I / we or my / our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I / We undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And I / We undersigned do hereby agree that in event of the whole or part of the fee agreed by me / us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution / proceedings of the said case until the same is paid up. The fee settled is only for the above case and above Court. I / We hereby agree that once the fee is paid. I / we will not be entitled for the refund of the same in any case whatsoever.

I / we do hereunto set my / our hand to these presents the contents of which have been understood by me / us on this _____ day of _____

Accepted Advocate



Client (s):

bc- 11- 1062
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17301-1353033-7