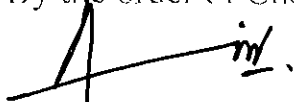


FORM OF ORDER SHEET

Court of _____

Appeal No. 1526/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/07/2023	The appeal of Mr. Muhammad Shakil resubmitted today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 27-07-2023
		By the order of Chairman  REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1528 /2023

MUHAMMAD SHAKEEL VS SPECIAL EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal.	1- 4.
2.	Affidavit	5.
3.	Appointment order	A	6.
4.	Apex Court Judgment	B	7- 14.
5.	Notification dated 21.06.2017	C	15.
6.	Pay slips	D	16- 17.
7.	Notification dated 25.11.2019	E	18.
8.	Order/judgment	F	19.
9.	Impugned appellate order	G	20.
10.	Wakalat Nama	21.

APPELLANT

THROUGH: 

**MIR ZAMAN SAFI,
ADVOCATE**

Room No. 6-E, 5th Floor,
Rahim Medical Centre,
Hashtnagri, Peshawar
0333-9991564

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1526 /2023

Mr. Muhammad Shakeel, Ken Supervisor (BPS-16),
Govt: School for the blind, Abbottabad,.....**APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director of Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 31.05.2023 COMMUNICATED TO THE APPELLANT DURING PENDENCY OF THE COC PETITION WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FOR THE GRANT OF HEALTH ALLOWANCE HAS BEEN REGRETTEED.

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 31.05.2023 may very kindly be set aside and the respondents may please be directed to allow/grant health allowance to the appellant in light of Notification dated 25.11.2019 and judgment of the Apex Court w.e.f January, 2012 with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant is the employee of respondent Department and is serving as Ken Supervisor (BPS-16) quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure.....**A.**
- 2- That the Federal Government Finance Department issued Notification for Special Health Allowance for the employees of Special Education

who were working under the control of Federal Government and after the Provincial Government enacted Khyber Pakhtunkhwa, Civil Servant (Amendment) Act, 1973 where under Section 11(b) of the Act *ibid*, devolved employees of the Federal Government were declared Civil Servants of the Khyber Pakhtunkhwa Province before the commencement of 18th Constitutional (Amendment Act, 2010) for all intents and purposes.

- 3- That some candidates feeling aggrieved from the illegal stoppage of Health Allowance That it is pertinent to mention that subsequently the Health Allowance filed service appeals before the Federal Service Tribunal, Islamabad and the same were allowed vide consolidated judgments dated 05.10.2015, 11.01.2016 and 18.07.2017 against which the Federation of Pakistan through Secretary Capital Administration etc. filed CPLA before the Hon'ble Supreme Court of Pakistan which was dismissed by the Apex Court on 17.11.2018. Copy of the Apex Court judgment is attached as annexure.....**B.**
- 4- That it is pertinent to mention that through Notification dated 21.06.2017 one Mr. Rashid Ullah Shah was also awarded with Health Allowance on the basis of above mentioned judgment. Copies of the Notification and pay slips are attached as annexure.....**C & D.**
- 5- That it is worth mentioning here that regulation wing of Finance Department, Government of Khyber Pakhtunkhwa through Notification dated 25.11.2019 stated that *"It has been pleased to approve Health Allowance at the rate of one running basic pay to the devolved employees working in the Special Education Institutions from the date of devolution to Provincial Government of Khyber Pakhtunkhwa"*. Copy of the Notification is attached as annexure.....**E.**
- 6- That being similar employees of the Special Education Department the appellant and his other colleagues filed writ petition No.68-A/2019 before the Hon'ble Peshawar High Court, Abbottabad Bench which was converted into departmental appeal vide order/judgment dated 27.10.2022 and sent to the respondent No.1 with the directions to decide the same in accordance with law which has been rejected by the appellate authority vide order dated 31.05.2023 during pendency of COC Petition before the Peshawar High Court, Abbottabad Bench. Copies of the order/judgment dated 27.10.2022 and impugned appellate order dated 31.05.2023 are attached as annexure.....**F & G.**
- 7- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned appellate order dated 31.05.2023 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.

- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That health allowance is granted to the devolved employees of the respondent department and some other employees, the appellant has the legitimate right of Health Allowance, thus the act of the respondent department by not allowing the same to the appellant is discriminatory in nature and the case of the appellant come within the ambit of Article-25 and 38(e) of the Constitution of Islamic Republic of Pakistan, 1973..
- D- That the respondents acted in arbitrary and malafide manner while not allowing the Health Allowance inspite of clear directions of the Hon'ble Supreme Court of Pakistan and Notification dated 25.11.2019 of the Finance Department.
- E- That the same subject matter came under consideration before the Federal Service Tribunal and after thorough probe, the service appeal was accepted and was confirmed by the Apex Court meaning thereby the subject matter was finalized.
- F- That as per verdict of the Apex Court when any relief is extended to similarly paced persons; the same shall also be extended to those who are not even litigants in the case.
- G- That the petitioners seeks permission of this Honorable Court to raise any other grounds available at the time of arguments.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

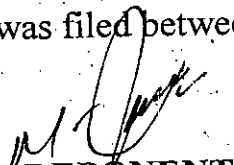
MUHAMMAD SHAKEEL

THROUGH: 

**MIR ZAMAN SAFI
ADVOCATE**

CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.


DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2022

MUHAMMAD SHAKEEL VS SPECIAL EDUCATION DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


MIR ZAMAN SAFI,
Advocate
High Court, Peshawar

No. 13-16

Dated Abbottabad the 15/05/08

A-6

OFFICE ORDER:-

On the recommendation of Departmental Selection Committee, the following are hereby appointed as per category wise given against each.

Auxiliary Worker:

S. No	Name	Appointment	BPS	Date
1.	Muhammad Asif Khan S/O Dadan Khan	Auxiliary Worker DO Officer	06	10-05-2008

Blind Worker:

S. No	Name	Appointment	BPS	Date
1.	Muhammad Shakeel S/O Kala Khan	Blind Worker Blind Institute	06	10-05-2008
2.	Muhammad Sajjad S/O Muhammad Riaz	Blind Worker Blind Institute	06	10-05-2008

Dispenser:-

S. No	Name	Appointment	BPS	Date
1.	Mumtaz Bashir S/O Bashir -Ul- Haq	Dispenser Blind Institute	05	10-05-2008

Driver:


S. No	Name	Appointment	BPS	Date
1.	Muhammad Nazir S/O Ghulam Jilani	Driver Welfare Home	04	10-05-2008

Workshop Attendant:

S. No	Name	Appointment	BPS	Date
1.	Shah Nawaz S/O Muhammad Riaz	Workshop Attendant Blind Institute	02	10-05-2008

Chowkidar:

S. No	Name	Appointment	BPS	Date
1.	Muhammad Shafique S/O Muhammad Farid	Chowkidar DO Officer	02	10-05-2008
2.	Abid Hussain S/O Muhamniad Ramazan	Chowkidar Welfare Home	02	10-05-2008
3.	Shoaib Muhammad Abbasi S/O Muhammad Munsif Khan Abbasi	Chowkidar Dar-ul-Aman	02	10-05-2008


District Coordination Officer
Abbottabad



Muhammad Attique ur Rehman
etc.

(in C.A.811/2016)

B-7

...Respondents(s)

For the Appellant(s)
(in all cases)

Mr. Sajid Ilyas Bhatti, DAG
Syed Rifaqat Hussain Shah, AOR
Ms. Saadia Kanwal, S.O Fin.
Mr. Abid Hussain Channa, S.O Fin.
Mr. Sajid Javed, Asstt. Legal Fin.
Mr. Abdul Razzaq, AAO MEG
Rawalpindi

For the Respondent(s)

In-person

For the Respondent(s)
(in C.A.216/16)

Mr. Muhammad Ilyas Lodhi, ASC
Malik Itaát Hussain Awan, ASC

Amicus Curiae:

Mr. Muhammad Makhdoom Ali
Khan, Sr. ASC
Mr. Sikandar Bashir Mohmand, ASC

Date of Hearing

17.01.2018.

JUDGMENT

UMAR ATA BANDIAL, J.— By leave of this Court granted on 23.02.2016, 01.4.2016 and 12.12.2017 in the several connected appeals before us, the appellant Federal Government challenges the judgments delivered on common questions of fact and law by the learned Federal Service Tribunal on 05.10.2015, 11.01.2016 and 18.07.2017. The judgments impugned in the connected appeals declare the respondent employees of different institutions functioning under the Directorate General of Special Education ("DGSE") to be entitled to payment of Health Allowance granted by the Federal Government vide its Office Memoranda dated 04.02.2012 and 06.2.2012. These Memoranda are issued by the Finance Division (Regulations Wing) Government of Pakistan pursuant to approval granted by the Prime Minister under the Rules of Business, 1973. It would be useful to reproduce the two

Senior Court Associate
Supreme Court of Pakistan

memoranda containing the terms and conditions for the grant of

Health Allowance to eligible persons:

*Government of Pakistan
Finance Division
(Regulations Wing)

F.No.2(13)R-2/2011

Islamabad, the 04th Feb, 2012

8

OFFICE MEMORANDUM

Subject: GRANT OF ADHOC ALLOWANCE EQUAL TO ONE BASIC PAY AT THE INITIAL OF THE SCALE TO THE HEALTH PERSONNEL IN BPS SCHEME.

The undersigned is directed to say that the Ordinance No.VI of 2011 that sanctioned the Career Structure for Health Personnel Scheme (CSHP) has lapsed on 26.12.2011. Accordingly, CSHP is no longer in the field and all health personnel have consequently reverted to the BPS scheme. In order to compensate health personnel for the loss of benefits sought under CSHP while preserving their status as Civil Servants, it has been decided by the Federal Government to grant adhoc allowance equal to one basic pay at the initial of the scale to the health personnel in the employment of Federal Government, in BPS scheme, with effect from 1st January, 2012. This will be in addition to their existing pay/allowances in BPS Scheme.

2. This Division's OM No.2(13)R-2/2011-698 dated 17th November, 2011 may be treated as withdrawn w.e.f. 26.12.2011.

Sd/--
(M. Munir Sadiq)
Deputy Secretary (R-1)

*Government of Pakistan
Finance Division
(Regulations Wing)

F.No.2(13)R-2/2011-777

Islamabad, the 06th February, 2012

OFFICE MEMORANDUM

Subject: GRANT OF ADHOC ALLOWANCE EQUAL TO ONE BASIC PAY OF RUNNING SALARY TO THE HEALTH PERSONNEL IN BPS SCHEME.

In continuation of Finance, Division's O.M. No.F.2(13)R-2/2011, dated 4.2.2012, it has been decided by the Federal Government to grant benefit of one basic pay of running salary as Health Allowance to the health personnel in the employment of Federal Government, in BPS scheme, with effect from 1st January, 2012. This will be in addition to their existing allowances in BPS Scheme. Also grant of stipend amounting to Rs.50,000 per month to the postgraduate residents and Rs.24,000 per month for House Officers respectively w.e.f. 1.7.2011 will continue.

Sd/--
(Manzoor Ali Khan)
Sr. Joint Secretary (Regulations)

(emphasis supplied)

2. Learned Deputy Attorney General has contended that the Health Allowance granted by the Federal Government is available to health personnel in the employment of the Federal Government in the BPS scheme at three hospitals established in

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

(9)


Islamabad, namely, Pakistan Institute of Medical Sciences ("PIMS"), Federal Government Polyclinic ("FGP") and National Institution of Rehabilitation Medicines ("NIRM"). The employees at these hospitals do not have a career structure in place after the Career Structure for Health Personnel Scheme Ordinance, 2011 ("Ordinance") lapsed on 26.1.2011. The Health Allowance was accordingly granted by the Federal Government as a form of compensation. It is clear from the two memoranda dated 04.2.2012 and 06.2.2012 reproduced above that the Health Allowance is granted to "health personnel". However, the composition of the category of employees that are eligible for the benefit has not been provided therein. The respondents who are several hundred in number are unrepresented by counsel. In view of the fact that a large number of employees are affected by the instant controversy, the Court has sought assistance from Mr. Muhammad Makhdoom Ali Khan, Sr. ASC and Mr. Sikandar Bashir Mohmand, ASC as amicus curiae in the matter. Mr. Sikandar Bashir Mohmand, ASC made able submissions before the Court that highlighted important facts and documents on record which simplified the controversy appreciably.

3. It transpires that an Office Memorandum dated 27.03.2012 by the Finance Division (Regulations Wing) clarifies that the term "health personnel" used in the above mentioned memoranda bears the meaning given to that expression in Section 2(b) of the Ordinance. This definition refers to the contents of Schedule-I to the Ordinance which specifies the service providers who qualify as health personnel. A perusal of Schedule-I shows that five categories of service providers are

classified as health personnel, namely: Doctors, Allied, Nurses, Paramedics and Support. The services specified under the categories of Paramedics and Support include Teachers, Audiovisual Operators, Technicians, Librarians, etc.

4. The administrative Ministry for the health institutions of the Federal Government at Islamabad is the Ministry of Capital Administration and Development Division ("CADD"). It is an admitted fact that vide order dated 13.03.2013 the Ministry of CADD granted the Health Allowance to the employees of the DGSE and its allied special education centers/ institutions including National Trust for the Disabled ("NTD") and the National Council for Rehabilitation of Disabled Persons ("NCRDP"). The respondents were thereby acknowledged as beneficiaries of the said grant and were paid the Health Allowance with effect from 01.1.2012 until 27.10.2014, when the Finance Division informed the Accountant General Pakistan Revenue ("AGPR") that only health personnel working in Federal Government hospitals and clinics were qualified to receive the Health Allowance. The AGPR correspondingly instructed the DGSE to stop payment of the said allowance to its employees as no budget allocation for the said emolument had been made in the financial year 2014-15.

5. The discontinuation of their Health Allowance was taken to the Islamabad High Court by some of the respondents. Vide order dated 17.9.2015 the learned High Court referred the dispute to the Secretary CADD for passing a speaking order thereon; and till then restrained recovery of past payments of the Health Allowance from the affected employees of DGSE and allied centers. The Secretary CADD heard the parties and by


~~APPEALS~~
Senior Court Associate
Supreme Court of Pakistan
Islamabad

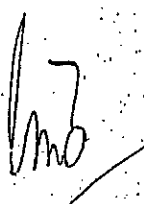

order dated 21.3.2016 rejected the entitlement of the respondents to receive the said allowance. The principal ground of his decision is that employees of the DGSE were engaged in the process of education, training and rehabilitation of disabled children and therefore did not fall within the ambit of a health organization. The respondents successfully challenged the said order before the learned Federal Service Tribunal which has, *inter alia*, by the impugned judgment dated 18.07.2017 declared that the respondents are entitled to the grant of Health Allowance.

6. Learned Deputy Attorney General has contended that after the lapse of the Ordinance that had provided a career structure for the doctors, nurses and paramedics working in PIMS, FGP and NIRM, the Health Allowance was granted by the Federal Government as compensation to the said health personnel. He was, however, unable to show any contemporaneous direction issued by the Ministry of CADD or the Ministry of Finance that restricted the grant of the Health Allowance to the claimed employees of the three hospitals specified by him. As already noted above, the definition of health personnel provided in the Ministry of Finance Office Memorandum dated 27.3.2012 is wide in scope and therefore unhelpful to his plea.

7. We have examined the definition of "health personnel" adopted by said memorandum dated 27.3.2012 from Section 2(b) of the Ordinance which is to the following effect:

"b) "health personnel" means a person who holds a post in any institute or organization delivering services in the health sector and included in Schedule-1, but does not include:

- i) a person who is on deputation to the Federal Government from any Province or other authority;



Senior Court Associate
Supreme Court of Pakistan
Islamabad

ii) a person who is employed on contract, or on work charged basis or who is paid from contingencies."

8. It is noted that the foregoing definition of health personnel covers persons holding posts in any institute or organization who are delivering services in the health sector that are included in Schedule-I to the Ordinance. Learned Deputy Attorney General was unable to distinguish the respondents, who are employees of the DGSE and allied institutions/centers, NCRDP and NTD, from the paramedic and support staff positions that qualify as health personnel according to Schedule-I to the Ordinance. It is not denied by the appellant that education, training and rehabilitation of disabled persons are services provided in the health sector. These services fall within the terms of Schedule-I to the Ordinance and therefore the providers thereof qualify as health personnel.

9. Accordingly, not only do the respondents fall within the category of persons who are, in terms of Finance Division Memoranda dated 06.2.2012 and 27.3.2012, eligible for grant of the Health Allowance but their entitlement has in fact been admitted by both the Ministry of CADD and Ministry of Finance. In this respect the aforementioned letter dated 13.3.2013 issued by the Ministry of CADD is referred. Also the affidavit of the Secretary Finance, Government of Pakistan filed in the Islamabad High Court pursuant to that Court's order dated 20.3.2015 passed in Writ Petition No. 4007 of 2014, specifically records that the proposal approved by the Prime Minister vide Summary dated 25.1.2012 did not restrict admissibility of the Health Allowance to the personnel of the three hospitals (identified by the learned DAG). For that reason the Finance

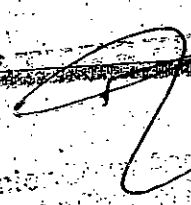
Senior Court (Sindh)
Supreme Court of Pakistan
Islamabad

Division Memoranda dated 04.2.2012 and 6.2.2012 made the allowance available to all health personnel employed by the Federal Government in the BPS Scheme.

10. As a result, the said allowance was paid to the health personnel of the DGSE and its allied institutions until 27.10.2014 when the Finance Division instructed the AGPR to confine the grant of the allowance to employees of Federal Government hospitals and clinics. This instruction represents merely a change of opinion which is not occasioned by an amendment in the terms of eligibility for the Health Allowance. Therefore, as the Memoranda dated 04.2.2012, 06.2.2012 and 27.3.2012 issued by the Finance Division, Government of Pakistan still hold the field in their original terms, there is no merit in the objection by the learned DAG to the entitlement of the respondents to claim and receive the Health Allowance.

11. As a secondary and also tenuous argument, learned Deputy Attorney General contended that the Health Allowance is granted under executive fiat without any statutory backing therefore the same can be withdrawn by the Federal Government at any time. That is clearly a flawed contention. It is admitted that grant of the Health Allowance and the terms of eligibility to receive the same were determined by the competent authority, Ministry of Finance in accordance with Rules of Business of the Federal Government. The original terms of the said lawful grant still hold the field. These were acted upon and payment of the Health Allowance to the respondents has conferred a vested right upon them. In such circumstances, the executive is barred by the rule of *locus poenitentiae* from unilaterally rescinding and retrieving the benefit availed by its recipients. Reference is made

38


Senior Counsel
Supreme Court
Islamabad

to Pakistan, through the Secretary, Ministry of Finance vs.

Muhammad Himayatullah Farukhi (PLD 1969 SC 407) and

The Engineer-in-Chief Branch vs. Jalaluddin (PLD 1992 SC

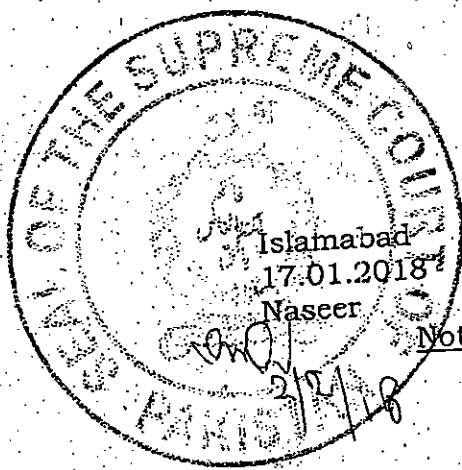
207). Therefore without a change of the terms of eligibility for the Health Allowance even the prospective exclusion of the respondents from receipt of the benefit shall constitute arbitrary and unlawful action.

12. In the circumstances, we do not find any error or defect in the impugned judgments of the learned Federal Service Tribunal dated 05.10.2015, 11.1.2016 and 18.7.2017. Consequently, these appeals are dismissed and the entitlement of employees of the DGSE, allied institutions/centers, NCRDP and NTD to receive the Health Allowance is affirmed.

Sd/- Mian Saqib Nisar, CJ
Sd/- Umar Ata Bandial, J
Sd/- Ijaz ul Ahsan, J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad



Not approved for reporting.

CASE NO. 8158/2022 Civil/Criminal
Date of Presentation: 20.4.22
No of Words: 5100
No of Pages: 51
Registration Fee: 5
Copy Fee Int: 31.62
Court Fee Int: 36.62
Date of Completion of Court: 21/4/22
Date of Delivery of Copy: 26/4/2022
Compared by/Prepared by: [Signature]
Received by: [Signature]

11015C
-15-

GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
AND WOMEN EMPOWERMENT DEPARTMENT

Dated: Peshawar the 21st June, 2017.

NOTIFICATION:

No. SO-VI/SW/D/6-73/KC/2943-S/

Mr. Rashidullah Shah, Senior Teacher (IPS-17) Special Education Complex Hayatabad, Peshawar is hereby transferred and posted as Principal, Government School for Deaf Children, Bannu against the vacant post in the public interest with immediate effect.

-sd-

Secretary to Govt. of Khyber Pakhtunkhwa
Zakat, Ushr, Social Welfare, Special Education &
Women Empowerment Department

Encls. No. and Date even:

Copy forwarded for information and necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director Social Welfare, Khyber Pakhtunkhwa.
3. District Officer, Social Welfare Peshawar.
4. District Officer, Social Welfare Bannu.
5. District Account officer, Bannu.
6. PS to Special Assistant to Chief Minister for Transport & Mass Transit, Khyber Pakhtunkhwa w/r to his letter No. PS/SA/10 CM/TRANSP/T-6/Soc:Welfare/2014 dated 15.03.2017.
7. Officer concerned.
8. PS to Secretary SW, SE, WE/D, Khyber Pakhtunkhwa.
9. Personal Files.

Section Officer-VI

DISTRICT OFFICER
SOCIAL WELFARE
BANNU

ETA
Ranor

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
AND WOMAN EMPOWERMENT DEPARTMENT

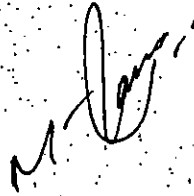
Dated: Peshawar the 21st June, 2017

NOTIFICATION:

No.SO-VI/SW12/6 -73/KC.2943-51 Mr. Rashidullah Shah Senior Teacher BPS-17
Special Education Complex, Hayatabad, Peshawar is hereby transferred and
posted as Principal, Government School for Deaf Children, Bannu against the vacant
post in the public interest with immediate effect

-sd-

Secretary to Govt: Of Khyber Pakhtunkhwa
Zakat, Ushr, Social Welfare, Special Education
Women Empowerment Department



"D-16- (50)

P Sec:001 Month:July 2018
BU6151 -Special Edu: School for De
SPECIAL EDUCATION CENTRE

S#:8479

Bannu

Pers #: 00522536 Buckle:
Name: RASHID ULLAH SHAH
PRINCIPAL
CNIC No.1110135030711
GPF Interest Applied
17 Active Permanent

NTN:
GPF #: 522536
Old #:

BU6151

PAYS AND ALLOWANCES:

- 0001-Basic Pay
- 1000-House Rent Allowance
- 1210-Convey Allowance 2005
- 1550-Special Allowance
- 1947-Medical Allow 15% (16-22)
- 1985-Health Professional Allow
- 2148-15% Adhoc Relief All-2013
- 2199-Adhoc Relief Allow @10%
- 2211-Adhoc Relief All 2016 10%

48,770.00
4,433.00
5,000.00
2,118.00
1,985.00
48,770.00
1,100.00
750.00
3,895.00
351,610.00

Gross Pay and Allowances
DEDUCTIONS:
IT Payable 26,763.66 Deducted 2,434.00
GPF Balance 226,865.00
3501-Benevolent Fund
4004-R. Benefits & Death Comp:

TAX: (3609) 2,434.00
Subrc: 4,270.00
800.00
2,136.00

Total Deductions

9,640.00
341,970.00

D.O.B 25.04.1980
08 Years 03 Months 030 Days

LFP Quota:
NATIONAL BANK OF PAKHAYATABAD BRANCH
2722-8

S#:8480

Bannu

Pers #: 00522536 Buckle:
Name: RASHID ULLAH SHAH
PRINCIPAL
CNIC No.1110135030711
GPF Interest Applied
17 Active Permanent

P Sec:001 Month:July 2018
BU6151 -Special Edu: School for De
SPECIAL EDUCATION CENTRE

NTN:
GPF #: 522536
Old #:

BU6151

- 2224-Adhoc Relief All 2017 10%
- 2247-Adhoc Relief All 2018 10%
- 5920-Adj Health Prof. Allow

4,877.00
4,877.00
225,035.00

Gross Pay and Allowances
DEDUCTIONS:
IT Payable 26,763.66 Deducted 2,434.00
GPF Balance 226,865.00

Subrc:

351,610.00

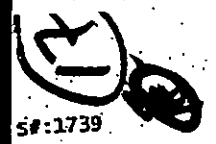
Total Deductions

9,640.00
341,970.00

D.O.B 25.04.1980
08 Years 03 Months 030 Days

LFP Quota:
NATIONAL BANK OF PAKHAYATABAD BRANCH
2722-8

Handwritten signature and initials



S#:1739

Bannu

P Sec:001 Month:September 2022
BU5317 - Special Education School
SPECIAL EDUCATION CENTRE

Bannu
S#:1740

Pers #: 00175744
Name: GUL ZARIF KHAN
AGR951-1139P196
Old #: 18
Buckle: GUL ZARIF KHAN
MANAGER

P Sec:001 Month:September 2022
BU5317 - Special Education School
SPECIAL EDUCATION CENTRE

NTN: BU5317
GPF #: AGR951-1139P196

Pers #: 00175744
Name: GUL ZARIF KHAN
MANAGER
CNIC No. 15585114400
GPF Interest Applied
18 Active Temporary

Buckle: GUL ZARIF KHAN
MANAGER
NTN: BU5317
GPF #: AGR951-1139P196
Old #: 18
CNIC No. 15585114400
GPF Interest Applied

18 Active Temporary

2341-Dispr. Red At 15% 2022KP
2347-Adhoc Rel At 15% 22(PS17)

BU5317
16,515.00
16,515.00

PAYS AND ALLOWANCES:

0001-Basic Pay	142,080.00
0046-Personal Pay(Maxim Grade)	21,300.00
1001-House Rent Allowance 45%	8,715.00
1210-Convey Allowance 2005	5,000.00
1550-Special Allowance	15,978.00
1947-Medical Allow 15% (16-22)	4,869.00
2148-15% Adhoc Relief At-2013	2,350.00
2199-Adhoc Relief Allow 010%	1,575.00
2315-Special Allowance 2021	7,670.00
Gross Pay and Allowances	242,561.00
DEDUCTIONS:	
IT Payable	22,262.00
GPF Balance	200,358.18
6502-NCAR Loan Principal Insta	96,646.00
6505-GPF Loan Principal Instal	184,892.00
3501-Benevolent Fund	1,500.00
4004-R. Benefits & Death Comp.	1,350.00
6174-CN Flood Relief Fund17-22	33,959.00
TAX:(3609)	5,360.00
Subrc:	3,334.00
	5,000.00
	1,500.00
	1,350.00
	33,959.00
Deducted	66,788.00

Total Deductions

72,765.00

169,796.00

D.O.B
02.10.1963
26 Years 06 Months 021 Days

LFP Quota:
THE BANK OF KHYBER University Shopping P
3024-7

Gross Pay and Allowances

IT Payable 280,358.18
GPF Balance 298,691.08
Deducted 66,788.00
Subrc:

Total Deductions

242,561.00

72,765.00

169,796.00

D.O.B
26 Years 06 Months 021 Days

LFP Quota:
02.10.1963

THE BANK OF KHYBER University Shopping P
3024-7

E-18



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 25-11-2019

NOTIFICATION

- 53

No.FD(SOSR-II)B-7/2019. In pursuance of the Supreme Court of Pakistan Civil Appeal No.817/2016 titled "Muhammad Alique-Ur-Rehman & Others v/s Federal Government of Pakistan through Secretary Capital Administration etc," the Government of Khyber Pakhtunkhwa (Provincial Cabinet) has been pleased to approve Health Allowance at the rate of one running basic pay to the devolved employees working in the Special Education Institutions from the date of their devolution to Provincial Govt of Khyber Pakhtunkhwa.

2. The above said allowance will be admissible only to the employees of Special Education Institutions of Khyber Pakhtunkhwa devolved under 18th Constitutional Amendment.

Secretary to Govt of Khyber Pakhtunkhwa
Finance Department

Encl: No. & Date Even.

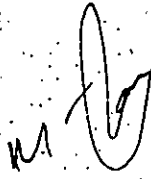
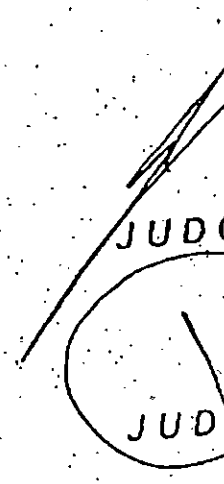
Copy is forwarded for information and necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. Secretary to Social Welfare, Special Education & Women Empowerment Deptt.
5. Director, FMIU, Finance Department, Khyber Pakhtunkhwa.
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. PS to Secretary, Finance Department, Khyber Pakhtunkhwa.
8. PS to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
9. PA to Additional Secretary (Regulation), Finance Department.
10. Master File.

SECTION OFFICER (SR-II)
FINANCE DEPARTMENT

F-19

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.
FORM OF ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
27.10.2022	<u>WP No. 68-A/2019</u>
	Present: Muhammad Arshad Khan Tanoli, Advocate, for the petitioners. Mr. Sajid Rehman Khan, AAG for the respondents. ***
	<u>WIQAR AHMAD, J.</u> - Learned counsel for petitioner after arguing the case for a while stated that this writ petition be converted into departmental appeal and sent to respondent No. 1 for decision according to law. In view of the circumstances, we accordingly convert this petition into departmental appeal, which shall be placed before the worthy Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar for decision according to law.
	<div style="text-align: center;">  </div> <div style="text-align: right;">  <p>JUDGE</p> <p>JUDGE</p> </div>

G-20

Subject: DEPARTMENTAL APPEAL IN

- I. W.P. NO. 68-A/2019 TITLED MUHAMMAD ADIL VS GOVERNMENT OF KHYBER PAKHTUNKHWA.
- II. W.P. NO. 202-A/2021 TITLED MUHAMMAD YOUNUS VS GOVERNMENT OF KHYBER PAKHTUNKHWA.
- III. W.P. NO. 618-A/2022 TITLED SYEDA ROZINA MAZHAR VS GOVERNMENT OF KHYBER PAKHTUNKHWA.

I am directed to refer to your letter No. DSW/LI/1-331/320-21 dated 28-12-2022 and order sheets dated 27-10-2022 of Peshawar High Court Abbottabad Bench for placing the subject cases before the Worthy Chief Secretary Khyber Pakhtunkhwa for its decision according to law.

In this regard this department moved a comprehensive note vide tracking Id ZUSWEMWE-18-90-00241 dated 24-02-2023 to the Worthy Chief Secretary Khyber Pakhtunkhwa for taking its decision whether the Petitioners in the subject cases are entitled for drawing Health Professional Allowance in light of the Finance Department Notification No. FD (SOSR-II) 8-7/2019 dated 25-11-2019 or otherwise.

The Worthy Chief Secretary Khyber Pakhtunkhwa while examining the case in detail decided that as the aforesaid Notification of Finance Department is just for the employees devolved from Director General of Special Education therefore, all the Petitioners in the subject cases except the following three (03) are not entitled for Health Professional Allowance.

1. Furqan Jamil, Junior Clerk
2. Hafecz Ur Rahman, Cook
3. Sarfaraz, Driver

It is therefore, requested to inform the concerned Petitioners accordingly, please.

Sd/—
Section Officer (LI)

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION &
WOMEN EMPOWERMENT, OPPOSITE ISLAMIA COLLEGE JAMRUD
ROAD, PESHAWAR

No. Encls. No. DSW/LI/1-331/1480-86
Dated Peshawar the 31/05/2023

Copy to:-

1. PS to Secretary (SW, SE & WE) Khyber Pakhtunkhwa
2. Section Officer-LI, Social Welfare Department Peshawar w/r to his office letter quoted above
3. PA to Director, Social Welfare Spl. Edu & WE Khyber Pakhtunkhwa