

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 108/2016

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Inayat Khan S/O Amin Jan, Ex-SET GHS, Chora Jamrud, Khyber Agency.  
.... (Appellant)

VERSUS

1. Additional Chief Secretary Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
2. Directorate of Education new Tribal Districts, Warsak Road, Peshawar.
3. District Account Officer, District Khyber.

.... (Respondents)

Mr. Muhammad Anwar  
Advocate ... For appellant

Mr. Muhammad Jan  
District Attorney ... For respondents

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Date of Institution.....28.01.2016  
Date of Hearing.....31.07.2023  
Date of Decision.....31.07.2023

JUDGMENT

**RASHIDA BANO, MEMBER (J):** The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“On acceptance of this appeal, the Adhoc relief allowances which have not yet been included in the Basic Pay Scale of the appellant, may please be included in Basic Pay Scale of the appellant on 14.05.2010 and thereafter revised pension may please be issued to the appellant with all back benefits.”**



2. Brief facts of the case, as given in the memorandum of appeal are, that appellant was appointed as Primary School Teacher. During service he improved his qualification and was promoted to the post of SET at GHS Chora Jamrud, Khyber Agency. The appellant retired from service on attaining the age of superannuation on 14.05.2010. The Government of Pakistan Finance Division Regulation Wing issued office memorandum dated 04.07.2011, whereby through revised basic pay scale, allowances and pension of civil servant and all the Adhoc relief allowances granted up to 01.07.2009 were merged in the Basic Pay Scale of 2008. The appellant filed departmental appeal on 05.10.2015 for grant of such relief which was not responded, hence the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that despite clear cut directions of Finance Department respondents were not complying with the direction and in action of the respondents is unlawful and violative of all norms of justice. He, therefore, requested for acceptance of instant service appeal.

5. The learned District Attorney contended that the appellant had been treated in accordance with law and rules. He further contended that the appellant retired on 14.05.2010 and was allowed 15% increase in pension as admissible to him vide para-12 of the notification dated 04.07.2011. He argued that appellant has got all benefits as admissible to him under the rules, he, therefore, requested for dismissal of the instant service appeal



6. Perusal of record reveals that appellant contended that he is entitled for inclusion of adhoc relief allowances granted till 01.07.2009 having been merged in Basic Pay Scale 2008 and for issuing of revised pension with all back benefits. Record reveals that the appellant retired on 14.05.2010 vide notification dated 28.04.2010. Appellant had drawn his last pay in the month of April 2010, which is evident from his last pay certificate annexed with the appeal. He relied notification of Finance Division (Regulation Wing) dated 04.07.2011 in accordance with which revision of Basic Pay Scales 2011 replaced Basic Pay Scales 2008 w.e.f 01.07.2011. According to the notification allowances granted upto 01.07.2009 shall stand discontinued w.e.f 01.07.2011 having been merged in Basic Pay Scale 2008, so as to introduce Basic Pay Scale 2011. Para 1 of the same is about pay of existing employees who was in service on 30.06.2011 shall be fixed in Basic Pay Scale 2011 on point to point basis at the stage of corresponding to that occupied by him/her above the minimum of basic pay scale 2008. In the said notification cutoff date for eligibility to the revised Basic Pay Scale 2011 was given as 30.06.2011.


7. Admittedly appellant had retired on 14.05.2010, much before 30.06.2011. So question of merger of adhoc relief allowance granted up to 01.07.2009 in the pay of appellant would not arise because on 30.06.2011 appellant was a pensioner and clause 12 of the said notification deals with revision of pension in accordance with which all the pensioners of Federal Government have been allowed increase in the pension at the rate of 15% and 20% with regard to their date of retirement, pensioner who retired on or after 01.07.2002, of retirement at the rate of 15% while pensioners who retired on or before 30.06.2022 at the rate of 20% of the net pension.




8. Respondents also in their reply stated that appellant is given 15% increase in pension in accordance with the para 12 of the notification dated 04.07.2011. Appellant also admitted the said fact of 15% increase in his pension but he claims that he is entitled for all the adhoc allowances which were merged in revised Basic Pay Scales of 2011. So in accordance with notification dated 04.07.2011 appellant is not entitled for adhoc allowances which were merged in the Basic Pay Scale 2011, because at the time of promulgation of notification he was a pensioner and not a serving employee whose pay scale was revised. Appellant failed to produce any other law on the basis of which he is entitled for merged adhoc allowances in his pay for the calculation of his pension.

9. As a sequel to above discussion, we dismiss the appeal being devoid of merits. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31<sup>st</sup> day of July, 2023.*

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)