


15.08.2023

1. Nemo for appellant. Mr. Fazal Shah Mohmand learned Additional Advocate General for the respondents present.

2. Due to summer vacations D.B is not available, therefore, case is adjourned. Notice be issued to appellant and his counsel for the date fixed. To come up for arguments on 27.11.2023 before D.B. P.P given to parties.

SCANNED
KPBT
Peshawar

KaleemUllah


(Rashida Bano)
Member (J)

24th April, 2023

24th April has been declared as public holiday on account of Eid-Ul-Fitr, therefore, the case is adjourned. To come up for the same on 05.07.2023.



Reader

5th July, 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

2. Learned counsel for the appellant stated that similar nature case Appeal No.8140/2020 titled "Akhtar Zaman Vs. Government of Khyber Pakhtunkhwa" has been fixed for 15.08.2023, therefore, this case may also be clubbed with that appeal. Request is acceded to. To come up for arguments alongwith Appeal No.8140/2020, on 15.08.2023 before D.B.

P.P given to the parties.



(Rashida Bano)
Member (J)



(Kalim Arshad Khan)
Chairman

Adnan Shah

SCANNED
KPST
Peshawar

08:09.2022

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 17.11.2022 before D.B.

(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member(J)

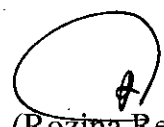
17.11.2022

Appellant present in person.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 11.01.2023 for arguments before D.B.


(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)


11.01.2023

Junior to counsel for the appellant present.

Muhammad Adeel Butt learned Additional Advocate General for the respondents present.

Former made a request for adjournment on the ground that senior counsel for the appellant is busy in Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 24.04.2023 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

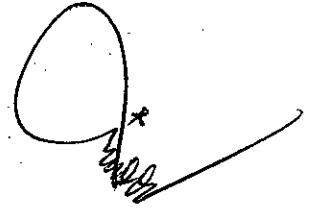
SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

24.03.2022

Counsel for the appellant present. Mr. Kabirullah Khattak,
Addl: AG for respondents present.

Learned AAG requested for adjournment on the ground that the Service Tribunal had been dysfunctional since 03.02.2022 and the respondents are not in knowledge that the Service Tribunal is functional again. The request is based on facts, is therefore, acceded to. Let last opportunity be afforded to the respondents to submit their parawise comments/reply. Adjourned. To come up for written reply/comments on 22.06.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

22nd June, 2022

Counsel for the appellant present and Mr. Naseerud Din Shah, Asstt. A.G for the respondents present.


Respondents have not submitted reply/comments despite last chance, therefore, their right to submit reply stands struck off. To come up for arguments on 08.09.2022 before the D.B.



(Kalim Arshad Khan)
Chairman

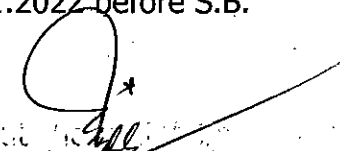
P.S

28.07.2021 Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.


Chairman

30.11.2021 Clerk of learned for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Hashir, Senior Auditor for respondents present.

Written reply/comments on behalf of respondents No. 1 to 4 and 6 not submitted. Learned AAG seeks further time to contact the respondents for submission of written reply/comments. Request is acceded to but as a last chance. Adjourned. To come up for written reply/comments on 25.01.2022 before S.B.


28.07.2021 Learned Addl. A.G. be reminded about the omission and for submission of Reply/comments within extended time of 10 days.
(MIAN MUHAMMAD)
MEMBER (E)

Chairman

25.01.2022 Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned Additional Advocate General seeks further time to contact the respondents for submission of reply/comments. Another last opportunity is granted. To come up for reply/comments before the S.B on 24.03.2022.

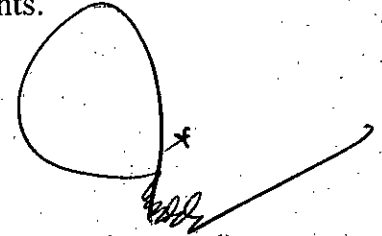

(Atiq-Ur-Rehman Wazir)
Member (E)

11.03.2021

Junior to counsel for the appellant present. Addl: AG for respondent present.

Written reply on behalf of respondents No. 1 to 4 and 6 not submitted. Learned AAG seeks time to contact the respondents for submission of written reply/comments.

Adjourned to 20.05.2021 before S.B.



(Mian Muhammad)
Member (E)

20.05.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.07.2021 for the same as before.



Reader

07.07.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the official respondents present. Written reply of respondent No. 5 has already been placed on file.

Learned AAG seeks further time to submit reply/comments. He is required to contact the respondents and submit reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 30.11.2021 before the D.B.

*Stipulated period has
Passed.
Reply has not been
submitted.*



Chairman

05.10.2020

Counsel for the appellant present.

Submitted an application for permission to deposit security and process fee as required on 05.08.2020. Application placed on file.

Appellant is required to deposit Security and process fee within three working days from today. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 26.11.2020 before S.B.

Appellant Deposited
Security & Process Fee

08/10/20


Chairman

26.11.2020

Learned counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Saleem Sajid, Superintendent, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department seeks further time for submission of written reply/comments. Time given. File to come up for written reply/comments on 18.01.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

18.01.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General present. Zaki Ullah Senior Auditor representative of respondent No.5 present.

Written reply of respondent No.5 was submitted. Learned A.A.G made a request for time to furnish reply on behalf of respondents No.1 to 4 & 6; granted. To come up for written reply/comments on 11.03.2021 before S.B.


(Rozina Rehman)
Member (J)

05.08.2020

Mr. Noor Muhammad Khattak, Advocate for appellant is present.

The question for resolution put forth by the learned counsel representing appellant is that Special Allowance at the rate of 20% of the basic pay has already been allowed to all Secretariat Employees and by virtue of notification dated 27.04.2011 the special allowance has been increased from 20% to 30%, this special allowance at the rate of 20% being categorized as Judicial Allowance has been allowed to the staff of the sub-ordinate judiciary vide order dated 10.12.2012 this special judicial allowance is even admissible to the members and staff of Peshawar High Court and to this effect notifications dated 27.07.2010 and dated 06.03.2013 have been issued. Some of the employees of Federal Government assailed the inaction of the Federal Government in the Islamabad High Court by way of Writ Petition No. 1212 of 2013 and by virtue of judgment dated 28.06.2013 the august Islamabad High Court held that all the Federal Employees are allowed Special Allowance at the rate of 20% with effect from the date the employees are working in the Federal Ministry/Division. This very allowance has been allowed as a Health Professional Allowance to the Doctors of the Health Department vide notification dated 07.01.2016 and to the employees of Medical Teaching Institute vide notification dated 23.02.2017 and to other doctors whereas this very allowance has been denied to Senior Certified Teachers which is discriminatory.

The question, so agitated requires proper resolution in the light of law and rules, therefore, the appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments. File to come up for written reply/comments on 05.10.2020 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER


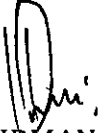
SCANNED
PESHAWAR

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6132 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/06/2020	<p>The appeal of Mr. Sikandar Khan presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/08/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. **6132**/2020

SIKANDAR KHAN

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Notifications	A & B	4- 5.
3	Notifications	C & D	6- 7.
4	Judgment	E	8- 9.
5	Notifications	F, G & H	10- 12.
6	Departmental appeal	I	13.
7	Vakalat nama	14.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

APPEAL NO. 6132/2020

Mr. Sikandar Khan, Senior Certified Teacher (BPS-16),
Govt: Shaheed Usama Zafar CMHSS No.2, Peshawar City.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 5- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 6- The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACTION OF THE RESPONDENTS BY NOT GRANTING SPECIAL/ PROFESSIONAL ALLOWANCE AT THE RATE OF 30% OF THE BASIC PAY TO THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to grant special/ professional allowance at the rate of 30% of the basic pay to the appellant w-e-f 06-02-2008 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 appellant is serving in the Elementary & Secondary Education Department i.e. respondent Department as Senior Certified Teacher (BPS-16) quite efficiently and up to the entire satisfaction of his superiors.
- 2- That special allowance at the rate of 20% of the basic pay is admissible to all the Secretariat employees and to this effect a Notification dated 27-04-2011 was issued wherein the special allowance has been increase from 20% to 30%, similarly the same allowance i.e. special allowance at the rate of 20% in the name and style of Judicial allowance has been allowed to the staff of the

subordinate judiciary vide order dated 10-12-2012. Copies of the Notification dated 27-04-2011 and notification dated 10-12-2012 are attached as annexure **A & B.**

3- That it is important to mention here that the same special judicial allowance is admissible to the members/ staff of the Peshawar High Court Establishment and to this effect a notification dated 27-07-2010 and 06-03-2013 have been issued. Copy of the notification dated 27-07-2010 and 06-03-2013 are attached as annexure..... **C & D.**

4- That some of the employees of the Federal Government had challenged the action of the Federal government by not granting the special allowance to all the Federal employees before the Islamabad High Court, Islamabad in writ petition No. 1212/2013 and the Islamabad High Court, Islamabad vide its judgment dated 18-06-2013 had held that "**all the Federal Government employees are held entitled to special allowance at the rate of 20% w-e-f the dated the employees working in the Federal Ministries/Divisions have been allowed.**". Copy of the order/judgment dated 18-06-2013 is attached as annexure..... **E.**

5- That it is pertinent to mention here that the special allowance in the name and style of "Health Professional Allowance" to the Doctors of health department is admissible vide notification dated 07-01-2016, to the employees of Medical Teaching Institutes (MTI) vide notification dated 23-02-2017 and to the civil servant doctors working in the Medical Teaching Institutes vide notification dated 23-10-2017. Copies of the notification dated 07-01-2016, dated 23-02-2017 and dated 23-10-2017 are attached as annexure..... **F,G &H.**

6- That appellant, feeling aggrieved from the discriminatory action of the respondents and by not extending the said allowance to the teaching cadres of the respondent Department including the appellant, preferred departmental appeal/ representation before the respondents, but no response has been given till the expiry of the statutory period of ninety days. Copy of the Departmental appeal is attached as annexure **I.**

GROUND:

A- That the action and inaction of the respondents by not granting the special/ professional allowance to the employees of the education department including the appellant is illegal, against the law, facts, norms of natural justice.

B- That the appellant have 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 the action of the respondents is without any legal authority, discriminatory and in clear violation of fundamental rights duly conferred by the Constitution and is liable to be declared as null and void.
- D- That as the action and inaction of the respondents is illegal, unconstitutional, without any legal authority and not only discriminatory but is also the result of mala fide on the part of respondents.
- E- That appellant has the vested right of equal treatment before law and the act of the respondents to deprive the petitioners from the special allowance is unconstitutional and clear violation of fundamental rights.
- F- That according to Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 the state is bound to reduce disparity in the income and earning of individuals including persons in the services of the federation, therefore in light of the said Article the appellant fully entitle for the grant of special/ professional allowance at the rate of 30% w-e-f 06-02-2008.
- G- That the appellant 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.

Dated: 12.6.2020

APPELLANT

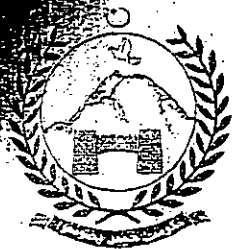

SIKANDAR KHAN

THROUGH:


NOOR MOHAMUD KHATTAK

KAMRAN KHAN


**MIR ZAMAN SAFI
ADVOCATES**



A-4

GOVERNMENT OF KHYBER PAK. TUNKHWA
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.


ATTESTED

Secretary to Government of
Khyber Pakhtunkhwa
Finance Department

Endst: 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.


(WAZIR, MUHAMMAD AFGAR)



UFA

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

B-5

Dated Peshawar the 10/12/2012

NOTIFICATION

No.FD(SOSR-II)8-43/2012. The Chief Minister, Khyber Pakhtunkhwa has been pleased to approve enhancement in the rate and ceiling of Judicial and Utility Allowance sanctioned vide Finance Department letters No.FD(SOSR-II)/8-53 dated 19/02/2008 to the staff (BPS-01 to BPS-16) of subordinate Judiciary with effect from 18/09/2012, until further orders, at the rates noted against each:-

S.#	ALLOWANCE	EXISTING	Proposed package
1)	i) Judicial Allowance BPS-01 to BPS-06	(20% of the Running Pay)	Rs.2,800/-
	ii) Utility Allowance BPS-01 to BPS-06	(10% of running pay but not less than Rs.1,000/-)	Rs. 2,100/-
2)	i) Judicial Allowance BPS-07 to BPS-16	(20% of the Running Pay)	Rs. 4,200/-
	ii) Utility Allowance BPS-07 to BPS-16	(10% of running pay but not less than Rs.1,000/-)	Rs.2,800/-

2. The above allowance shall be admissible subject to the following conditions:-
- 1) Will be admissible only during their period of posting against the sanctioned posts at subordinate courts.
 - 2) Will be admissible during leave except extra ordinary leave.
 - 3) Shall not be treated as part of emoluments for the purpose of calculation of pension and recovery of House Rent etc.
 - 4) Shall not be admissible to the employees posted/cepuetec outside subordinate courts.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No. & date even.

- Copy is forwarded for information and necessary action to the:-
1. Secretary to Govt: of Khyber Pakhtunkhwa, Law & Preliminary Affair Department.
 2. Registrar Peshawar High Court, Peshawar.
 3. Accountant General Khyber Pakhtunkhwa.
 4. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
 5. All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
 6. The Director, FMIU, Finance Department.
 7. The Treasury Officer, Peshawar.
 8. All the Senior District Accounts Officers, Khyber Pakhtunkhwa.
 9. All the District & Agency Accounts Officers, Khyber Pakhtunkhwa.
 10. Budget Officers-II, Finance Department, Khyber Pakhtunkhwa, Peshawar.

ATTESTED

(WAZIR MUHAMMAD AFGAR)
SECRETARY (SR II)

J.A.

Ame III

306

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

(6)

Dated Peshawar the 2nd July, 2010

NOTIFICATION.

No.FD(SOSR-IM8-43/2010. In pursuance of the judgment of Peshawar High Court, Peshawar, announced on 06/7/2010 in Writ Petition No.1098/2010 titled "Muhammad Sher Shah and others v/s Government of Khyber Pakhtunkhwa and other", and without prejudice or detriment to, or compromising on, or vitiating the claim, interests and administrative authority of this Provincial Government, inter-alia including its right to prefer an appeal before Supreme Court of Pakistan, the Government of Khyber Pakhtunkhwa has been pleased to sanction w.e.f.1/7/2010, **Special Judicial Allowance** to all the Judicial Officers of the District Judiciary, including those working on ex-cadre posts, and to the members of the Establishment of Peshawar High Court Peshawar, equal to one initial basic pay in their respective pay scale, plus 50% of running basic pay, with arrears of only one initial basic pay from 1st July 2009.

2. The arrears of one initial basic pay, from 1st July, 2009 to 30th June, 2010, shall be paid in two equal installments. First installment shall be paid along with salary for the month of August 2010, in the first week of September, 2010, and the second installment shall be paid along with the salary for the month of December 2010, in the 1st week of January, 2011.

3. The Ad-hoc Allowance-2010, sanctioned vide Finance Department, Government of Khyber Pakhtunkhwa Province letter No.FD(PRC)1-1/2010 dated 15/7/2010, shall not be admissible to the recipients of the above mentioned Special Judicial Allowance.

Secretary to Government of Khyber Pakhtunkhwa
Finance Department.

Endst. No. & date even.

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

- 1) Registrar Peshawar High Court Peshawar.
- 2) Accountant General, Khyber Pakhtunkhwa.
- 3) District Comptroller of Accounts, Peshawar, Mardun, Kohat, Bannu, Abbottabad, Swat and D.I. Khan.
- 4) Senior District Accounts Officers, Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir (Lower).
- 5) All the District Accounts Officers in Khyber Pakhtunkhwa.
- 6) Treasury Officers, Peshawar.
- 7) Director, FMIU, Finance Department.
- 8) Budget Officer-II Finance Department.
- 9) Section Officer (Litigation-I) Finance Department.

ATTESTED

(SHAUKATULLAH)
SECTION OFFICER (SR.II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 06/03/2013

NOTIFICATION

No.FD(SOSR-II)/8-43/2013: In pursuance of the Peshawar High Court, Peshawar, Judgment dated 10th January 2013, passed in C.O.C.No.103-P/2012, in Writ Petition No.1098/2010, and without prejudice or detriment to or compromising or violating on the rights and interests of the Provincial Government to assail the aforesaid judgment by filing a Civil Petition for Leave to Appeal (CPLA) in the Supreme Court of Pakistan against the aforementioned judgment of the Peshawar High Court, Peshawar, the Competent Authority has been pleased to decide that the provision, regarding freezing of allowances as contained in Para-9 of the Pay Revision 2011 issued vide circular letter No.FD(PRC)/1-1/2011, dated 14th July 2011, shall not be applicable to the **Special Judicial Allowance** granted to the members of Peshawar High Court Establishment as well as Judicial officers of the District judiciary of the Province vide Notification No.FD/(SOSR-II)/8-43/2010, dated 27th July 2010, subject to the final judgement of the Supreme Court of Pakistan in the CPLA, being filed by the Provincial Government in this regard.

2. This order shall have to take effect from 1st day of July 2011.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No. & date even.

Copy is forwarded for information and necessary action to the:

1. Registrar Peshawar High Court, Peshawar.
2. Accountant General Khyber Pakhtunkhwa.
3. District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and D.I. Khan.
4. Senior District Accounts Officers, Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir (Lower).
5. All the District Accounts Officers in Khyber Pakhtunkhwa.
6. The Director, FMIU, Finance Department.
7. The Treasury Officer, Peshawar.
8. Budget Officer-II, Finance Department, Khyber Pakhtunkhwa.
9. Section Officer (Lit-I), Finance Department, Khyber Pakhtunkhwa.
10. Section Officer (SR-I), Finance Department, Khyber Pakhtunkhwa.

ATTESTED

(WAZIR MUHAMMAD AFGAR)
SECTION OFFICER (SR.II)

E- (8)

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO.1212/2013

PARVEZ IQBAL, ETC.

**APPELLANT
PETITIONER**

VERSUS

FEDERATION OF PAKISTAN, ETC.

**RESPONDENTS
DEFENDANT**

Appeal/revision against the decree or order (as the case may be) of

SERIAL NO. OF ORDER OF PROCEEDINGS	DATE OR ORDER OF PROCEEDINGS	Order with signatures of judge, and that of parties or counsel, where necessary.
1	2	

18.06.2013 M/s Asad Hussain, Ghalib, Matloob Hussain Malik, Ghulam Mehboob Khokhar, Malik Javid Iqbal Wains, M.S Jamal, Syed Nasir Ahmed Shah, Rai Muhammad Nawaz Kharral, Ali Nawaz Kharral, Shireen Imran, Shafqat Abbas Tamar and G.M Chandhry, Advocates for petitioners.
Mr. Tariq Mehmood Jehangiri, learned DAG.
Mr. Sajjad Mehmood Butt, legal Advisor, Finance Division.
M/s Zafar Hassan Addl. Secretary and Muhammad Hanif, Joint Secretary, Finance Division.

Through this single short order, for the reasons to be recorded later on, **Writ Petition Nos.996, 1073, 1102, 1104, 1107, 1109, 1110, 1262, 1315, 1320, 1502, 1513, 1531, 1782, 1872, 2010, 2364, 2365, 2366, 2469, 2557 and 2571 of 2013** are being disposed of

2. Petitioner invoked the constitutional jurisdiction of this court by way of filing instant writ petition with the following prayer:-

"It is therefore, respectfully prayed that in view of the above mentioned circumstances/facts, this Hon'ble Court may graciously be pleased to declare and pass and order as under:-

- a) The petitioners along with other employees of Department of Communications Security, Cabinet Division Pak Sectt. Islamabad are entitled and eligible for the same all benefits i.e. salary, facility, allowance, special allowance and retiring benefits etc. which are already extended to the employees

ATTESTED

A

9

of other neighbouring departments in similar pay scale.

- b) To pass an order whereby directing to the respondents to pay the 20% special allowance w.e.f March, 2013 to the petitioners and other employees of the department of Communication Security, Cabinet Division, Islamabad.
- c) To grant any other equitable relief (s) which this Honourable Court may fit in the special circumstances of the case.
- Any other relief which this honourable court may deem fit proper be also granted.

3. After going through the pleadings of the parties and hearing the learned counsels, all the above mentioned writ petitions are allowed to the following effect:-

"The grant of special allowance @ 20% to the employees working in the Federal Ministries/Divisions and withholding of same from Federal Government employees of other Secretariats, Departments, and Statutory Bodies where Government Scales are applicable is discriminatory in nature as such offensive to the constitutionally guaranteed rights of those employees. All the Federal Government Employees are, therefore, held entitled to Special Allowance @ 20% w.e.f the date the employees working in the Federal Ministries/Divisions have been allowed."

**(SHAUKAT AZIZ SIDDIQUI)
JUDGE**

Waqar Ahmed

ATTESTED

4



F-10
Annex-11

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 07/01/2016

NOTIFICATION

No.FD(SOSR-II)8-18/2016. In continuation of this Department Notification of even number dated 06/08/2011, the Provincial Cabinet of Khyber Pakhtunkhwa has been pleased to accord approval to the incentive for doctor (All the following cadres) excluding those working in MTIs on the basis of territory (Districts declared as Category A, B & C) / unattractive / attractive specialties and enhanced the Health Professional Allowance as under to ensure presence of doctors at all levels of health facilities, which is mandatory for the provision of minimum health services to the people of Khyber Pakhtunkhwa w.e.f. 01/01/2016:-

Cadre	Existing rates of HPA	Districts					
		Category-A		Category-B		Category-C	
Districts Specialists, Non-attractive specialties (radiology, Pathology, Anaesthesia)	Rs.10,000/-	Rs.80,000/-		Rs.100,000/-		Rs.140,000/-	
Districts Specialists, Attractive specialties	Rs.10,000/-	Rs.60,000/-		Rs.80,000/-		Rs.100,000/-	
Health Managers	Rs.15,000/- (BPS-17) Rs.10,000/- (BFS-18 & above)	Rs.56,000/-		Rs.76,000/-		Rs.96,000/-	
Medical officer / Dental surgeon	Rs.15,000/- (BPS-17) Rs.10,000/- (BPS-18 & above)	Urban	Rural	Urban	Rural	Urban	Rural
		42,000	52,000	62,000	72,000	82,000	92,000

The categorization of districts on the basis of hard to reach area, geographic terrain, security situation and lack of development and infrastructure shall be as under:-

Districts Category-A

- | | |
|-------------|---------------|
| 1. Peshawar | 2. Abbottabad |
|-------------|---------------|

Districts Category-B

- | | | |
|-------------|---------------------|--------------|
| 3. Nowshera | 7. Bannu | 11. Haripur |
| 4. Swat | 8. Charsadda | 12. Mansehra |
| 5. Kohat | 9. Dera Ismail Khan | 13. Malakand |
| 6. Mardan | 10. Dir Lower | 14. Swabi |

Districts Category-C

- | | | |
|---------------|------------------|-------------|
| 15. Buner | 19. Hangu | 23. Shangla |
| 16. Battagram | 20. Karak | 24. Tank |
| 17. Chitral | 21. Kohistan | 25. Torghar |
| 18. Dir Upper | 22. Lakki Marwat | |

The districts are internally further segregated into urban and rural settings for

The above enhanced Health Professional Allowance will be admissible subject to the following conditions:

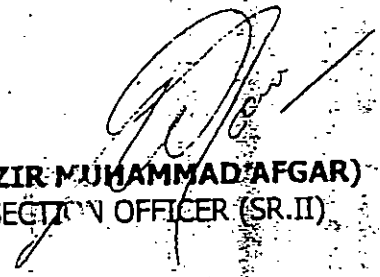
- i. The existing allowances for doctors (Anaesthesia allowance in district hospital hard & hardest. Special package / Incentives at Civil Hospital garī Habibullah Mansehra, incentives allowance to Gynaecologist and lady doctors at Districts Batagram Kohistan, Hangu, Tank, Buner, Dir Upper, Dir Lower, Shangla and Chitral) shall be discontinued except Non-practicing Allowance.
- ii. Will be admissible only during their period of posting against the sanctioned posts at Health Department.
- iii. Will not be admissible during earned leave, study leave & extraordinary leave except casual leave.
- iv. Shall not be treated as part of emoluments for the purpose of calculation of pension and recovery of House Rent etc.
- v. Shall not be admissible to the employees posted/deputed outside the Health Department.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No. & date even.

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

1. Secretary to Government of Khyber Pakhtunkhwa, Health Department.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Director FMIU, Finance Department.
4. The Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
5. The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and D.I. Khan.
6. The All the *District* Accounts Officers in Khyber Pakhtunkhwa.
7. The Treasury Officer, Peshawar.
8. Budget Officer-VI, Finance Department.


(WAZIR MUHAMMAD AFGAR)
SECTION OFFICER (SR.II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 23/02/2017

NOTIFICATION

No.FD(SOSR-II)8-18/2017 In continuation of this Department Notification of even number dated 06/08/2011 and 07/01/2016, the Governor of Khyber Pakhtunkhwa has been pleased to extend the incentive package regarding enhancement of Health Professional Allowance for the following cadre of doctors working as institutional employees in Medical Teaching Institutions (MTIs) in Khyber Pakhtunkhwa excluding civil servants as per the rates noted against each w.e.f. 01/01/2017.

Cadre	Existing rates of HPA Per Month	Enhance rates of Health Professional Allowance Per Month
Faculty Doctors /Clinical & Non-clinical (Institutional employees only)		
i) Professor, Associate Professor, Assistant Professor and Senior Register	Rs.10,000/-	Rs.60,000/-
ii) Demonstrators & Lecturers	Rs.15,000/- (BPS-17) Rs.10,000/- (BPS-18 & above)	Rs.42,000/-
Districts Specialists (Institutional employees only)		
Non-attractive specialties (radiology, Pathology, Anaesthesia)	Rs.10,000/-	Rs.80,000/-
Attractive specialties	Rs.10,000/-	Rs.60,000/-
Medical Officers, Dental Surgeons, Junior Registrar & Assistant Anaesthetists etc (Institutional employees only)	Rs.15,000/- (BPS-17) Rs.10,000/- (BPS-18 & above)	Rs.42,000/-

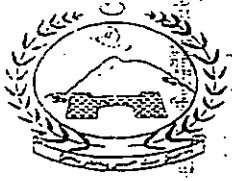
The above enhanced Health Professional Allowance will be admissible subject to the following conditions:

- Will be admissible only during their period of posting against the sanctioned posts in concerned MTIs.
- Will not be admissible during earned leave, study leave & extra-ordinary leave & maternity leave except casual leave.
- Shall not be treated as part of emoluments for the purpose of calculation of pension and recovery of House Rent etc.
- Shall not be admissible to the employees posted outside MTIs and Health Department.

TESTED
4

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

P.T.O.



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 23/10/2017

NOTIFICATION

No.FD(SOSR-II)8-18/2017. In pursuance of Peshawar High Court Peshawar Order dated 01/06/2017, passed in Writ Petition No.2721-P/2016 and, in partial modification of this Department Notification of even No. dated 23/02/2017, the Governor, Khyber Pakhtunkhwa is pleased to extend the incentive package with respect to enhancement of Health Professional Allowance to **civil servant Doctors** working in Medical Teaching Institutes (MTIs) in Khyber Pakhtunkhwa, as per rates and conditions prescribed in the aforementioned Notification, subject to availability of funds during the current financial year 2017-18 and until further orders.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No. & date even.

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

- 1) Secretary to Government of Khyber Pakhtunkhwa, Health Department.
- 2) The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3) Chairman of all Board of Governors, Medical Teaching Institutions in Khyber Pakhtunkhwa.
- 4) Medical / Hospitals Director, Medical Teaching Institutions in Khyber Pakhtunkhwa.
- 5) Director FMIU, Finance Department.
- 6) The Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
- 7) The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
- 8) The District Comptroller of Accounts, Peshawar, Mardan, Bannu, Abbottabad, D.I. Khan.
- 9) The District Accounts Officer, Nowshera, Khyber Pakhtunkhwa.
- 10) Budget Officer-VI, Finance Department
- 11) Section Officer (Litigation-I) Finance Department.

TESTED

(MURAM KHAN)
SECTION OFFICER (SR.II)

To,

The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.

I-13

Subject: DEPARTMENTAL APPEAL FOR THE GRANT OF SPECIAL/PROFESSIONAL ALLOWANCE AT THE RATE OF 30% OF THE BASIC PAY TO THE APPELLANT


RESPECTED SIR,

With due respect it is stated that I am the employee of your good self Department and is serving as Head Master (BPS-17) quite efficiently and upto the entire satisfaction of my superiors. That special allowance at the rate of 20% of the basic pay is admissible to all the Secretariat employees and to this effect a Notification dated 27.04.2011 was issued wherein the special allowance has been increase from 20% to 30%, similarly the same allowance I.e. special allowance at the rate of 20% in the name and style of Judicial allowance has been allowed to the staff of the subordinate Judiciary vide order dated 10.12.2012. That the same special judicial allowance is admissible to the member/staff of the Peshawar High Court Establishment and to this effect a Notification dated 27.07.2010 and 06.03.2013 have been issued. That some of the employees of the Federal Government had challenged the action of the Federal Government by not granting the special allowance to all the Federal employees before the Islamabad High Court, Islamabad in writ petition No.1212/2013 and the same Court held in its judgment dated 18.06.2013 that " all the Federal Government employees are held entitled to special allowance at the rate of 20% w.e.f. the date the employees working in the Federal Ministries/divisions have been allowed". The special allowance in the name and style of " Health Professional Allowance" to the doctors of Health Department is admissible vide notification dated 07.01.2016, to the employees of Medical Teaching Institutes (MTI) vide Notification dated 23.02.2017 and to the civil servant doctors working in the Medical Teaching Institutes vide Notification dated 23.10.2017.

Sir, the inaction of concerned authorities by not extending the professional allowance to the teaching cadre is discriminatory; therefore, employees of the Education Department are also entitle for the grant of professional allowance.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the professional/special allowance may be granted in my favor. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 12.3.2020

APPLICANT

SIKANDAR KHAN
SCT (BPS-16),
GCMHSS NO.2, PESHAWAR

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No.6132/2020.

Mr. Sikandar Khan.....Appellant.

VERSUS

The Chief Secretary Khyber Pakhtunkhwa, and others.....Respondents

(Reply on Behalf of Respondent No. 05)

Respectfully Sheweth:-

Para No. 01 to 06:-

Being an Administrative matter, the issue relates to other Respondents. And they are in a better position to redress the grievances of the Appellant. Besides, the Appellant has raised no grievances against Respondent No.05.

Keeping in view the above mentioned facts, it is therefore humbly prayed that the Appellant may be directed to approach his administrative department for the satisfaction of his grievances and the appeal in hand having no merits may be dismissed with cost.

For


**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Sikandar Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We *Sikandar Khan*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2020

Sikandar Khan

CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

MIR ZAMAN SAFI

&

AFRASIAB KHAN WAZIR
ADVOCATES

OFFICE:
Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141