

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Mr. Muhammad Ishaq
Service Appeal No. 355/2023

Appellant

Secretary to Govt. of Khyber Pakhtunkhwa Finance Department and
others.

Respondents

INDEX

S#	Subject	Annexure	Page No.
01	Para-wise comments	-----	01-02
02	Affidivit	-----	03
03	Appointment Lower Grade to Higher Post Notification dated 17.08.2012	Annex-I	04-05
04	Appointment Lower Grade to Higher Post Notification dated 01.01.2013	Annex-II	06-07
05	Pay roll	Annex-III	08

D

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,

PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal
Se.

Service Appeal No.355/2023

Mr. Muhammad Ishaq, Retired Accounts Officer (OPS)
Abshar Colony No 2 Warsak Road Peshawar.

Case No. 8207
Date No. 10/10/23

Dated 10/10/23
11/23

..... Appellant

VERSUS

1. Secretary to Government Finance Department KPK Peshawar.
2. Secretary to Government Establishment Department KPK Peshawar.
3. Deputy Commissioner Karak.
4. District accounts office Karak.

..... Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENT

NO. 1 TO 2

Preliminary objections.

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the appellant has not come to this honorable tribunal with clean hands therefore, the appeal is liable to be dismissed.
3. That the appeal is badly time barred.
4. That the instant appeal is not maintainable in the eye of law.
5. That the appellant concealed the material facts and kept this honorable tribunal in dark.
6. That the appeal is bad for misjoinder and non-joinder of necessary parties.
7. That the appellant has not complied with mandatory provisions of relevant rules.

PARAWISE REPLY ON FACTS.

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Pertains to record.
5. Pertains to record.
6. Incorrect. The appellant has not been adjusted against the vacant post of Accounts Officer (BS-17) at office of the Deputy Commissioner, Karak but was posted there on deputation basis as per policy. Moreover, according to higher post benefit policy (**Annex-I & II**), those who are

2

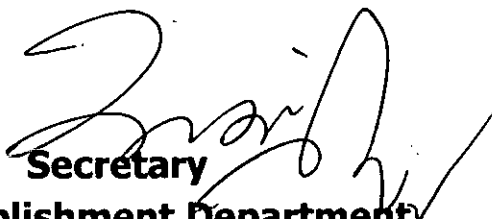
on deputation are not entitled for grant of higher post benefits as dual benefits are inadmissible.

7. No comments.
8. Incorrect. The appellant has been treated as per law, rules & policy and as per deputation policy of the provincial government, he had regularly been received the benefits of deputation allowance as evident from his monthly salary slip (**Annexure-III**).
9. Incorrect. Neither such appeal has been preferred by the appellant nor received in the office of appellate authority as evident from the documents annexed with the instant appeal that date upon his application is recorded as 27.07.2014 while date upon Registry is recorded as 22nd October, 2022 which is contradictory, falsification and clearly shows his mala-fide intentions.
10. Incorrect. The appellant has filed this appeal just for wastage of precious time of this honorable Tribunal with misleading materials as explained above, devoid of facts.

GROUND.

- A. Incorrect. The appellant has been treated in accordance with law/policy of the Provincial Government and he had enjoyed the benefits of deputation allowance as admissible and attached with his posting.
- B. As per Para-A above.
- C. Incorrect. The appellant had been treated in accordance with law/policy and he had enjoyed the perks & privileges attached with his posting as per policy.
- D. Incorrect. The appellant has willingly not disclosed the true picture of the matter as he had enjoyed benefits from the same as extra remuneration as Deputation Allowance as per policy.
- E. That the respondents seek to advance other documentary proofs during course of proceedings.

In view above, it is, therefore, most humbly prayed for that the appeal, being devoid of merit, may kindly be dismissed with cost as the appellant has twisted the true picture of matter for his own benefits.


Secretary
Establishment Department
Respondent No. 2


Secretary
Finance Department.
✓ Respondent No. 1

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

**Mr. Muhammad Ishaq
Service Appeal No. 355/2023**

Versus

Secretary to Govt. of Khyber Pakhtunkhwa Finance Department and others.

**Reply /Parawise Comments on Behalf of Secretary Finance Govt. of
Khyber Pakhtunkhwa Respondent No.01.**

AFFIDIVAIT

I, Naseeb Khan Section Officer, Govt.of Khyber Pakhtunkhwa Finance Department do hereby solemnly affirm and declare on oath that the contents of Application in Service Appeal No.355/2023 on behalf of Secretary to Govt. of Khyber Pakhtunkhwa Finance Department is true and correct to the best of my knowledge and belief and that nothing has been concealed from the Honourable Tribunal.The case is still subjudice in the court of law.

It is further stated on oath that in this appeal the answering respondents have either been placed ex-parte and their defence has been struck off.

Naseeb Khan

Deponent





GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Annex 2 (3)
(4)

NO. FD (PRC) 1-1/2012
Dated Peshawar the: 17-08-2012

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All District Coordination Officers in Khyber Pakhtunkhwa.
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
9. The Registrar, Peshawar High Court, Peshawar.
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
11. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: APPOINTMENT OF AN OFFICER OF LOWER GRADE TO A POST OF HIGHER GRADE AND GRANT OF PAY OF THE HIGHER POST.

Dear Sir,

In pursuance to the Finance Division's Office Memorandum No.F.8(4)R-2/97-1204/09 dated 24-02-2009, the Government of Khyber Pakhtunkhwa has decided that pay of the higher post will be admissible to civil servants during the period of appointment on higher post subject to the following conditions:-

- i. The officer has been appointed on the higher post by the authority competent to make appointment on that post.
- ii. The officer is fully qualified in every respect to be appointed to that higher post.
- iii. The officer discharges all the duties and responsibilities of the higher post independently and severed all connections with his lower post.
- iv. The pay of the higher post will be fixed presumptively w.e.f the date the officer assumes charge of the higher post and it will include the increments of the pay scale of the higher post for the period of higher post appointment on that post. In such cases premature increment shall not be admissible. However, the officer will be entitled to the arrears of pay and allowances from the date he assumes the charge of the higher post.
- v. On relinquishment of charge of the higher post or on transfer or on regular promotion to that higher post, the pay will be re-fixed with reference to original scale of pay of the post, held by the officer and increments carried (if any) on higher post will count for increments in his original scale as per provisions of FR-26.

C/S
G-21/18
AS
C.P. Order No. 6927
Dated 28/8/12
IPC Deptt, Peshawar.

Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

(cont'd....P/2)

vi. The pay of the higher post shall not be accounted for the calculation of emoluments towards the pension.

vii. The Pay of the higher post will be given only with the concurrence of Finance Department.

2. All Administrative Departments are advised that only those cases may be referred to Finance Department which are covered under sub-para-(i) to (iii) of para-1 above and pay of the concerned officers may be fixed / re-fixed in terms of sub-para (iv) to (vi) of para-1 above after obtaining prior concurrence of the Finance Department

3. The above orders will be admissible w.e.f 16-12-2009.

Yours Faithfully,

(ROOH ULLAH)

Add: Secretary (Regulation)

Endst: No .FD(PRC) 1-1 /2012,

Dated Peshawar the 17th August, 2012

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Secretaries to Government of Punjab, Sindh & Balochistan, Finance Department.
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

(MASOOD KHAN)

Deputy Secretary (Reg-II)

Endst: No & Date even.

A copy for information is forwarded to:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar
4. The Director, FMIU, Finance Department.
5. The Treasury Officer, Peshawar.
6. All the Senior District Accounts Officers, Khyber Pakhtunkhwa.
7. All the District & Agency Accounts Officers, Khyber Pakhtunkhwa.
8. All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
9. The Private Secretary to Minister Finance, Khyber Pakhtunkhwa.
10. The Private Secretary to Secretary / P.As to Special Secretary, Additional Secretaries / Deputy Secretaries in Finance Department.

Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

(SHAUKAT ULLAH)
Section Officer (SR-1)



Amir 12 (6)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (PRC) 1-1/2012
Dated Peshawar the: 01-01-2013

To:

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All District Coordination Officers in Khyber Pakhtunkhwa.
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
9. The Registrar, Peshawar High Court, Peshawar
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa
11. The Chairman, Services Tribunal, Khyber Pakhtunkhwa
12. All Divisional Commissioners in Khyber Pakhtunkhwa.

Subject: APPOINTMENT OF AN OFFICER OF LOWER GRADE TO A POST OF HIGHER GRADE AND GRANT OF PAY OF THE HIGHER POST.

Dear Sir,

In continuation of this Department's circular letter of even number dated 17-08-2012 on the subject noted above and to state that certain Departments have approached this Department for the grant of benefits of higher post to the incumbent appointed from a lower post, but while examining the cases a question has arisen as how to ascertain / examine the eligibility under the conditions of para-i(ii) of this Department's circular letter No.FD (PRC) 1-1/2012 dated 17-08-2012.

2. The case has been examined in consultation with Finance Division, Islamabad and clarification with regard to para-i(ii) of the Finance Department's circular letter No.FD (PRC) 1-1/2012 dated 17-08-2012 is as under:-

"in cases of officers who are appointed to higher post by the competent authority and who discharge the duties of a higher post in their service / cadre, they would be allowed pay of the higher post only if they fulfill the prescribed conditions of promotion to the higher post as laid down in the Recruitment Rules and satisfactory completion of mandatory training (where so prescribed)".

3. I am therefore, directed to request that before forwarding any case to the Finance Department the above provision should invariably be examined by the concerned department and the following documents / information should also be furnished to this Department for proper disposal of the cases on merit:-

- i. Approval of the competent authority & notification.
- ii. Charge assumption report of higher post.
- iii. Charge relinquishment report of lower post.
- iv. Service statement duly attested by Accountant General / DDO etc.

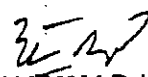
[Signature]
Section Officer (Lit-II)
Finance Department
Govt: of Khyber Pakhtunkhwa

2012/01/01

[Signature]

- v. Completion certificate of mandatory training, where required.
- vi. Seniority list duly attested by concerned Administrative Department.
- vii. Specific conditions / requirements if any which necessitated the appointment of officer / official on higher post.
- viii. Reference of Recruitment Rules or copy of relevant recruitment rules applicable to the higher pay scale / post.

Yours Faithfully,



(MUHAMMAD IMTIAZ AYUB)
Additional Secretary (Regulation)

Endst: No .FD (PRC) 1-1 /2012,

Dated Peshawar the 1st Jan, 2013

A Copy is forwarded for information to the:-


- 1 Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Secretaries to Government of Punjab, Sindh & Balochistan, Finance Department.
- 3 All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa.

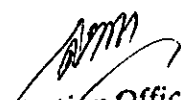

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: No & Date even.

A copy for information is forwarded to:-

- 1 The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
- 2 All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
4. The Director, FMIU, Finance Department
5. The Treasury Officer, Peshawar
- 6 All the District & Agency Accounts Officers, Khyber Pakhtunkhwa / FATA.
- 7 All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 8 The Private Secretary to Minister Finance, Khyber Pakhtunkhwa:
- 9 The Private Secretary to Secretary / P.As to Special Secretary, Additional Secretaries / Deputy Secretaries in Finance Department.


(SHAUKAT ULLAH)
Section Officer (SR-1)


Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

Annex III

Karrak

P Sec: 001 Month: December 2017
KK6222 - Deputy Commissioner Karak
DEPUTY COMMISSIONER KARAK
NTN:
GPF #: IUGAKK27
Old #:

H: 00476944 M. S. Buckle
MUHAMMAD ISHAQ
ACCOUNTS OFFICER
CNIC No. 1420229976449
GPF Interest Applied
16 Active Temporary
PAYS AND ALLOWANCES:
00- Basic Pay
01- House Rent Allowance
02- Convey Allowance 2005
03- Deputation Allowance
04- Spl. Comp. Allowance
05- Medical Allow (15%) (16-22)
06- Audit/ Accts. Allowance
07- 15% Adhoc Relief All-2013
08- Adhoc Relief Allow E10Z
Gross Pay and Allowances
DEDUCTIONS:
09- IT Payable 39,392.64 Deducted 23,141.00
10- GPF Balance 612,344.00
11- Benefits & Death Comp:
12- N.D.P.

KK6222
-53,870.00
1,818.00
5,000.00
8,552.00
3,757.00
2,546.00
10,774.00
1,280.00
866.00
223,005.00
TAX: (3609) 6,566.00
Subrc: 3,340.00
1,089.00
31,921.00

Total Deductions 42,916.00
180,089.00

D.O.B 10.03.1958
31 Years 09 Months 017 Days

LFP Quota: 4
NATIONAL BANK OF PAKKARAK CITY
9982-1

Karrak

SH: 2
H: 00476944 M. S. Buckle
MUHAMMAD ISHAQ
ACCOUNTS OFFICER
CNIC No. 1420229976449
GPF Interest Applied
16 Active Temporary

PAYS AND ALLOWANCES:
2211-Adhoc Relief All 2016 10Z
2224-Adhoc Relief All 2017 10Z
5002-Adjusted House Rent
5012-Adjusted Medical All
5014-Adjusted Deputation All-2001
5058-Adjusted Comp. Allowance
5909-Adjusted 15% Adhoc Allowance
5950-Adjusted Adhoc Relief All-2014
5964-Adjusted Adhoc Relief All 2015
Gross Pay and Allowances

DEDUCTIONS:
IT Payable 39,392.64 Deducted 23,141.00
GPF Balance 612,344.00
Subrc:

Total Deductions

D.O.B 10.03.1958
31 Years 09 Months 017 Days

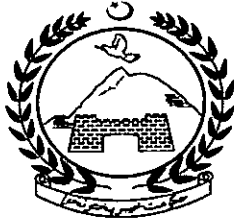
LFP Quota: 4
NATIONAL BANK OF PAKKARAK CITY
9982-1

Karrak
SH: 3
H: 00476944 M. S. Buckle
MUHAMMAD ISHAQ
ACCOUNTS OFFICER
CNIC No. 1420229976449
GPF Interest Applied
16 Active Temporary
PAYS AND ALLOWANCES:
5975-Adjusted Adhoc Relief All 2016
5990-Adjusted Adhoc Relief All 2017
5901-Adjusted Basic Pay

P Sec: 001 Month: December 2017
KK6222 - Deputy Commissioner Karak
DEPUTY COMMISSIONER KARAK
NTN:
GPF #: IUGAKK27
Old #:

KK6222
85.00
760.00
30,210.00

Section Officer (A-1)
Finance Department
Govt. of Khyber Pakhtunkhwa



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

MOST IMMEDIATE
COURT MATTER

AUTHORITY LETTER.

Mr. Naseeb Khan Section Officer(BS-17) Litigation-II Section, Finance Department is authorized to attend the Service Tribunal Khyber Pakhtunkhwa Peshawar, Service Appeal No.355/2023 in case titled Muhammad Ishaq versus Government of Khyber Pakhtunkhwa on behalf of Secretary Finance Government of Khyber Pakhtunkhwa.

Secretary to Government Khyber Pakhtunkhwa

✓ Finance Department