


20.06.2023

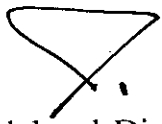
Mr. Kamran Khan, Advocate for the appellant present.
Mr. Arshad Kamal, Section Officer (Litigation), Mr. Khaliq-ur-Rehman, Superintendent and Mr. Hashmatullah, Superintendent alongwith Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

File to come up alongwith connected Service Appeal No. 495/2021 titled "Muhammad Younas Versus Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar and 05 others", on 12.10.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar

Naeem Amin


(Fareeha Paul)
Member (E)

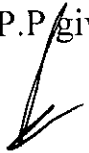

(Salah-ud-Din)
Member (J)


12.10.2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Khaleeq Ur Rehman, Superintendent for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 26.01.2024 before D.B. P.P given to parties.

SCANNED
KPST
Peshawar


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)

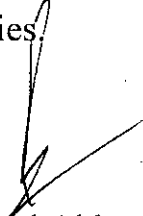
KaleemUllah


20.03.2023

Appellant present through counsel.

Fazal Shah Mohmand, learned Additional Advocate General for respondents present.

File to come up alongwith connected Service Appeal No.495/2021 titled "Muhammad Younas Vs. Government of Khyber Pakhtunkhwa" on 06.06.2023 before D.B. Parcha Peshi given to the parties.


(Muhammad Akbar Khan)
Member (E)



(Rozina Rehman)
Member (J)

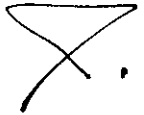
06.06.2023

Junior of learned counsel for the appellant present.

Mr. Arshad Kamal, Section Officer (Litigation) alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

File to come up alongwith connected Service Appeal No. 495/2021 titled "Muhammad Younas Versus the Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar and 05others", on 20.06.2023 before the D.B. Parcha Peshi given to the parties.

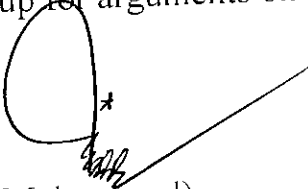

(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

01.11.2022

Mr. Umer Farooq, Advocate, junior of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Bannu Bench. Adjourned. To come up for arguments on 21.12.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

21st Dec, 2022

Junior of learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

Junior of learned counsel for the appellant seeks adjournment on the ground that learned senior counsel for the appellant is busy in the august Peshawar High Court, Peshawar. To come up for arguments on 20.03.2023 before the D.B.


(Salah Ud Din)
Member (Judicial)



(Kalim Arshad Khan)
Chairman

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BY
PESHAWAR

10.05.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment in order to assist the Tribunal. Last opportunity is granted. To come up for arguments before the D.B on 23.05.2022.



(Fareeha Paul)
Member (E)


Chairman

23rd May, 2022

Counsel for the appellant present. Mr. Naseer ud Din Shah, Assistant Advocate General for the respondents present.

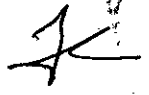
Learned counsel for the appellant seeks adjournment in order to properly assist the court. Adjourned. To come up for argument on 01.08.2022 before the DB.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

1-8-2022

proper DB not available the case is adjourned to 1-11-2022


Reades

29-9-21

DB is on Tour case to come up?
For the same on Dated. 25-11-21

Reader

25.11.2021

Counsel for the appellant present.

Mr. Kabirulah Khattak, Additional Advocate General
alongwith Mr. Sajid Superintendent for respondents present.

Learned Member Executive (Mr. Atiq-ur-Rehman Wazir), is
on leave, therefore, case is adjourned. To come up for arguments
on 17.03.2022 before D.B.



(Rozina Rehman)
Member (J)

17.03.2022

Due to retirement of the Worthy Chairman, the
Tribunal is defunct, therefore, case is adjourned to
27.03.2022 for the same as before.



Reader.

21.03.2022

Due to retirement of the Worthy Chairman, the
Tribunal is defunct, therefore, case is adjourned to
10.05.2022 for the same as before.



Reader.

27.09.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General, along with Zar Muhammad Assistant for respondents present.

Reply of the respondents No.1 to 3 has already been submitted. The appellant through the instant service appeal, has impugned the letters dated 03.02.2020 and 01.10.2020. According to copy of the letter available on file as "Annexure-E", the letters dated 14.01.2020 and 29.01.2020 on the subject of STI 30% Allowance addressed to the Secretary to Government of Khyber Pakhtunkhwa, Establishment Department (respondent No.2) were withdrawn by the Finance Department (respondent No.3). Similarly, according to the copy of the letter dated 06.02.2020 available on file as "Annexure-F" addressed to the Accountant General, Khyber Pakhtunkhwa, it was required to stop forthwith the payment of 30% Special Allowance in pursuance to the letter dated 03.02.2020 and recovery of paid amount was also directed. The said letter was issued from the office of respondent No.2. In view of both the impugned letters, the respondents No.4 to 6 do not happen to be a proper or necessary party for the reason that even if the appellant succeeds in getting the relief as prayed for, they will no more be required for implementation of the judgment. According to Subsection-(2) of Section-7 of the Service Tribunal Act, 1974, the Tribunal has got the powers of a Civil Court as are vested in such under the Code of Civil Procedure, 1908. Sub Rule(2) of Rule-10 of order No.1 C.P.C confers enabling power upon the Civil Court that it may at any stage of the proceedings, either upon or without application of either party order that name of any party improperly rejoined, be struck out.

In view of the foregoing discussion related to the impugned letters that the respondents No.4 to 6 are neither necessary nor proper parties in the matter of adjudication of present appeal, it is deemed fit to direct for deletion of their names from the panel of respondents. Office is directed to do the needful accordingly. To come up for arguments on 29.09.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

04.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 22.06.2021 for the same as before.


Reader

22.06.2021

Junior to counsel for the appellant and Naheed Gul, Assistant for respondents No. 1 to 3 and Mr. Kabirullah Khattak, Addl. AG for the respondents present.




Respondents No. 1 to 3 have submitted reply/comments. Learned AAG requests for time to furnish reply/comments on behalf of the remaining respondents. Learned AAG is required to contact respondents for submission of written 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 27.07.2021 before the D.B.


Chairman

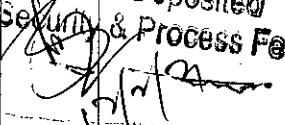
FORM OF ORDER SHEET

Court of _____

Case No.- 804 /2021 21

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/01/2021	<p>The appeal resubmitted 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>
2-	08.02.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/02/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Appellant present through counsel. Preliminary arguments heard. File perused.</p> <p>Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 04.05.2021 before S.B.</p> <p>In the meanwhile, operation of the impugned notification dated 01.10.2020 stands suspended till further orders.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

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BY
PESHAWAR


Appellant Deposited
Security & Process Fee


The appeal presented today i.e. on 15/01/2021 by Mr. Noor Muhammad Khattak Advocate is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Addresses of respondent no. 4 & 5 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Annexures-I & J of the appeal are illegible which may be replaced by legible/better one.

No. 109 /S.T,


Dt. 18/01 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note.

Resubmitted After Compliance


27/1/2021

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

APPEAL NO. 804 /2021
ABDUL WALI VS CHIEF SECRETARY & OTHERS

INDEX

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3.	Copy of notification dated 01/11/2019	A	6- 7
4.	Copy of Letter & pay slips	B&C	8- 10
5.	Copy of the minutes	D	11
6.	Copies of the impugned letters dated 03/02/2020 & 06/02/2020.	E&F	12- 13
7	Memo of writ petition & Judgment dated 03/03/2020	G&H	14- 15
8	Copy of second impugned letter dated 01/10/2020	I	16
9	Departmental appeal	J	17
10.	Vakalat nama,	18

APPELLANT

THROUGH:

NOOR MUHMMAD KHATTAK
ADVOCATE

Flat no 4, Upper Floor,
Juma khan plaza near FATA secretariat,
Warsak road, Peshawar
0302-8578851

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

APPEAL NO. _____/2021

Mr. Abdul Wali, Driver (BPS-06),
Establishment department, Civil Secretariat Peshawar.

..... **APPELLANT**

VERSUS

- 1- The Government Of Khyber Pakhtunkhwa Through Chief Secretary Civil Secretariat Peshawar.
- 2- The Secretary Establishment & Administration Department Khyber pakhtunkhwa, civil secretariat peshawar.
- 3- The secretary finance department Khyber pakhtunkhwa civil secretariat Peshawar
- 4- The provincial cabinet & ministerial committee through its chairman, civil secretariat peshwar.
- 5- The grievances redressal committee through its chairman, civil secreteriate Peshawar.
- 6- Director STI Establishment & Administration Department, Khyber Pakhtunkhwa Peshawar.

.....**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKWA SERVICE TRIBUNAL ACT 1974 AGAINST
THE IMPUGNED LETTERS DATED 03/02/2020 and
01/10/2020 WHEREBY PAYMENT OF 30% (NOW
INCEREASED TO 50%) SECRETERIAT ALLOWANCE
ALREADY ADMISSIBLE TO APPELLANT WAS STOPPED
AND RECOVERY OF THE SAME WAS ORDERED W.E
FROM 30/07/2018 AND AGAINST NOT TAKING ACTION
ON DEPARTMENTAL APPEAL OF APPELLANT WITHIN
STATUTORY PERIOD OF NINTY DAYS.**

PRAYER:

That on acceptance of this appeal the impugned letters dated 03/02/2020 and 01/10/2020 may kindly be set aside and the respondents may please be directed to restore 30% (now 50%) secretariat allowance to appellant with all back benefits being secretariat employee. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That appellant was initially appointed in the project "office automation system pilots for 5 department" in the establishment department STI civil secretariat under DDO8089 Peshawar against the post Assistant director-II BPS-17.
- 2- That the government of KP promulgated Act No.X of 2018 whereby employees of about 58 project were regularized both the directorate level and secretariat level. The appellant services were also regularized in the above mentioned project of secretariat vide notification dated 1/11/2019 w.e.f 07/03/2018. Copy of notification is attached as annexureA.
- 3- That during service the appellant was granted 30% (now 50%) special/secretariat allowance duly approved on 14/01/2020 which is also a proof that the appellant was secretariat employee for all intents and purpose. copies of the letters and pay slips are attached as annexure.....B&C.
- 4- That a strike was held by the union of the secretariat employees and to minimize the cause/pressure of strike the cabinet took an abrupt decision vide agenda item no.8 (additional) dated 15/05/2019 not an actual agenda wherein it was decided to place the petitioners at directorate level/formations without considering that they were already merged in the secretariat strength and posts were also created by the finance department at secretariat level. Copy of the minutes is attached as annexure.....D.
- 5- That in light of the said minutes dated 15/05/2019 the respondents vide impugned letter dated 03/02/2020 withdrawn the letter dated 14.01.2020 whereby 30% secretariat allowance has been allowed to the appellant. Copies of the impugned letter dated 03.02.2020 and letter dated 06/02/2020 are attached as annexure E&F.
- 6- That feeling aggrieved the appellant along with other colleagues invoked the jurisdiction of Peshawar high court in writ petition no.1692-p/2020 which was disposed of vide judgment dated 03.03.2020 with observations " **in view of the above, this writ petition stand disposed of in terms that respondent no.1 shall treat it as the petitioners' representation and decide the same at his end in accordance with law and rules on the subject within a period of one month positively**". Memo of writ petition and judgment dated 03.03.2020 are

attached as
annexure.....G&H.

- 7- That instead of deciding the representation of the appellant in light of aforementioned high court judgment the respondents astonishingly issued the impugned letter dated 01/10/2020 whereby recovery was ordered of 30% secretariat allowance from appellant. Copy of second impugned letter dated 1/10/2020 is attached as annexure.....I.
- 8- That feeling aggrieved the appellant filed departmental appeal before respondents but the same has not been responded within statutory period of ninety days. Copy of departmental appeal is attached as annexure.....J.
- 9- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds.

GROUND:

- A- That the cabinet decision communicated vide memo dated 15/05/2019 and impugned letters dated 03/02/2020 and 01/10/2020 are against the law, facts, material on record and violation of service rights of appellant, therefore not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent Department 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 appellant along with other colleagues were already fully merged in the secretariat, their DDO code was entrusted to the secretary establishment department and finance department and even they were regularized in the STI establishment Deptt: civil secretariat which was fully acted upon, therefore now the status of the appellant can't be changed upon the whims of union of secretariat employees under the principle of locus ponitentiae.
- D- That the impugned decision and impugned letters dated 03/02/2020 and 01/10/2020 are discriminatory because the planning cell employees have been excluded from the decision and only the rights of the petitioners are affected.
- E- That it was the demand of fair play to at least give hearing or prior notice or option to appellant before making any decision adversely affecting the service rights of the

appellant. But in present case the appellant has been unheard through out.

F- That no regular inquiry has been conducted in the matter before imposing major penalty which is mandatory under the rules.

G- That the posts of the appellant is still available on the secretariat side and have not been abolished therefore the appellant without his option can,t be given a different status or varied their status unilaterally.

H- That the impugned decision of the cabinet is not free, fair and transparent decision, rather made to happy the union, therefore the same is liable to be set aside.

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

Dated: 12.01.2021

APPELLANT


Abdul Wali

THROUGH:


NOOR MUHAMMAD KHATTAK


SHAHZULLAH YOUSAFZAI

&


**KAMRAN KHAN
ADVOCATES**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL No. _____/2021

ABDUL WALI VS CHIEF SECRETARY & OTHERS

APPLICATION FOR SUSPENSION OF OPERATION OF
THE IMPUGNED NOTIFICATION DATED 01.10.2020 TO
THE EXTENT OF THE APPLICANT TILL THE DISPOSAL OF
THE ABOVE MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned letters/notifications dated 03.02.2020 and 01/10/2020 whereby 30% (now 50%) secretariat allowance already admissible to appellant was stopped and recovery of the already paid 30% secretariat allowance was ordered w.e.f 30/07/2018.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned letters/notifications dated 03.02.2020 and 01/10/2020 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned Letter/Notification dated 01.10.2020 to the extent of appellant may very kindly be suspended till the disposal of the above mentioned service appeal.

Dated: 12.01.2021

APPLICANT


ABDUL WALI

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

A-①

⑥

NOTIFICATION

Dated Peshawar, the NOVEMBER 01, 2019

No. SOE-V(E&AD)/5-09/2009: In light of the decision of Provincial Cabinet in its meeting held on 09-05-2019 as well as recommendations of Ministerial Committee, the following employees of the project "Office Automation System Pilots for 05 Departments (Reg Act)" temporarily regularized in Staff Training Institute vide this Department Notification of even No. dated 30-04-2019, are hereby regularized permanently in Staff Training Institute under DDO code PR-8089 w.e.f the date of promulgation of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 i.e 07-03-2018:-

S#	Name	Designation with BPS
1.	Muhammad Bilal Khattak	Deputy Director IT/ Manager IT (BS-18)
2.	Syed Rehman Mashwani	Programmer / Assistant Director IT (BS-17)
3.	Mian Haseeb Uddin	Trainer (BS-16)
4.	Muhammad Hamid	Assistant Manager IT (BS-16)
5.	Khalid Khan	Assistant Manager IT (BS-16)
6.	Tariq Kamal	Assistant Manager IT (BS-16)
7.	Muhammad Usman Khan	Assistant Manager IT (BS-16)
8.	Muhammad Younas	Assistant Manager IT (BS-16)
9.	Syed Muhammad Abdullah	Network Engineer (BS-16)
10.	Muhammad Adil	Network Engineer (BS-16)
11.	Muhammad Asim Ali	Assistant Programmer (BS-16)
12.	Faizan Abbas	Assistant (BS-16)
13.	Noman	Computer Operator (BS-16)
14.	Mushtaq Hussain	Computer Operator (BS-16)
15.	Rehmat Hadi	Computer Operator (BS-16)
16.	Jamal Ahmad	Computer Operator (BS-16)
17.	Fawad Nazir	Computer Operator (BS-16)
18.	Shakir Ullah	Computer Operator (BS-16)
19.	Ijaz Hussain	Computer Operator (BS-16)
20.	Muhammad Junaid Khan	Computer Operator (BS-16)
21.	Sajjad Hussain	Computer Operator (BS-16)
22.	Aman Gul	Computer Operator (BS-16)
23.	Muhammad Ramzan	Computer Operator (BS-16)
24.	Faran Kamal	Computer Operator (BS-16)
25.	Usman Khan	Computer Operator (BS-16)
26.	Muhammad Asad Khan	Computer Operator (BS-16)

P.T.O

ATTESTED

ATTESTED

9/3

7

27.	Fawad Ahmad	Computer Operator (BS-16)
28.	Abdul Wali Khan	Driver (BS-06)
29.	Muhammad Taifullah	Naib Qasid (BS-03)

SECRETARY ESTABLISHMENT
GOVT: OF KHYBER PAKHTUNKHWA

Endstt: No. & Date Even.

Copy forwarded to the following for information:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Director, Staff Training Institute, Administration Department.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. Section Officer (Budget & Dev), Administration Department.
6. Section Officer (O&M), Establishment Department.
7. PS to Secretary, Finance Department.
8. PS to Secretary, Establishment Department.
9. PS to Secretary, Administration Department.
10. PS to Secretary, ST&IT Department.
11. PA to Deputy Secretary (Estt), Establishment Department.
12. Officers / Officials concerned.

SECTION OFFICER (E-V)

ATTESTED

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

B-①⑧

NO.FD/SOSR-II/8-7/2019/41
Dated Peshawar the 14.01.2020

To
The Section Officer (III) ✓
Chief Minister Secretariat
Khyber Pakhtunkhwa.

Subject:- STI 30% ALLOWANCE.

P-31c

I am directed to refer to your letter No. SO.III/CMS/2-1/2018/Finance Department dated 01-01-2020 on the subject noted above and to state that Special Allowance @ 30% is admissible to the staff of E-Office, employees of staff training institutes, Establishment Department.

SECTION OFFICER (SR.II)

Copy forwarded for information:-

1. PS to Secretary to Government of Khyber Pakhtunkhwa Establishment Department, for further necessary action.
2. PS to Director Staff Training Institute Peshawar, for further necessary action.
3. Accountant General Khyber Pakhtunkhwa, for further necessary action.
4. Master File.

SECTION OFFICER (SR.II)

Recd
14/1/2020

ATTESTED

ATTESTED



CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA

No. SO-III/CMS/6-1/2018/General /416
Dated Peshawar the January 16, 2020

To

The Secretary to,
Government of Khyber Pakhtunkhwa,
Establishment Department.

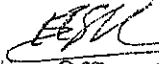
Subject:- STI 30% ALLOWANCE

Dear Sir,

I am directed to forward herewith a copy of letter No.FD/SOSR-II/
8-7/2019/41 dated 14.01.2020 on the subject noted above, received from Finance
Department for further necessary action as per rules/policy, please.

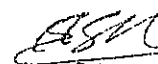
Yours faithfully,

Endst: Even No. & Date


Section Officer-III

Copy for information is forwarded to the

1. PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. PS to Special Secretary, Chief Minister's Secretariat.
3. Assistant Director (IT), Chief Minister's Secretariat.


Section Officer-III

ATTENDED

ATTESTED

AG KP Peshawar

P Sec:005 Month:December 2020
PR8089 -Office Automation System,
OFFICE AUTOMATION SYSTEM

1
ers #: 00779298 Buckle:
ame: ABDUL WALI KHAN
DRIVER

NTN:
GPF #:
Old #:

CF(10)

NIC No. 1730166108027
GPF Interest Applied
06 Active Temporary

PR8089

EARNINGS AND ALLOWANCES:

0001-Basic Pay	12,300.00
1001-House Rent Allowance 45%	2,316.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
1567-Washing Allowance	150.00
1580-Overtime Allowance	2,000.00
2211-Adhoc Relief All 2016 10%	1,031.00
2224-Adhoc Relief All 2017 10%	1,230.00
2247-Adhoc Relief All 2018 10%	1,230.00
Gross Pay and Allowances	31,069.00

DEDUCTIONS:

GPF Balance 20,007.00	Subrc:	950.00
3501-Benevolent Fund		600.00
4004-R. Benefits & Death Comp		450.00

Total Deductions 2,000.00
29,069.00

D.O.B
01.07.1983
04 Years 06 Months 015 Days

LFP Quidia
HABIB METROPOLITAN BKaybor Bazaar
20610-714-119799

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT

[CABINET WING]

No. SOC(E&AD)9-15/2019

Dated Peshawar the 14th May, 2019.

W/Sr. HEAD

4571

15-5-19

To,

The Secretary to Govt. of Khyber Pakhtunkhwa
Establishment Department

D-11

**SUBJECT: DECISION OF MEETING OF THE PROVINCIAL CABINET
DATED 09.05.2019.**

Dear Sir,

I am directed to forward herewith the following decision of the meeting of the Provincial Cabinet held on 09.05.2019 under the chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

ADDITIONAL ITEM NO. 03

SETTLEMENT OF ANOMALIES ARISING OUT IN THE WAKE OF PROMULGATION OF THE KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2018

Decision of the Cabinet:

The Cabinet approved recommendations of the Ministerial Committee as under:-

- i) With regard to contingent/fixd pay/daily wages staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018* without adopting codal formalities under Project Policy. It was agreed that those contingent employees, 35 in number, (31 in P&D and 4 in Home Department) may be given one time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases, rather a special dispensation to the contingent paid employees vide order of Peshawar High Court decision given in the Writ Petition No. 6553-P/2018 dated 12.03.2019.
- ii) A Grievances Redressal Committee headed by Establishment Department consisting of representatives from Finance, Law and concerned administrative departments may be constituted. The Grievances Redressal Committee would report to the same ministerial committee.
- iii) All the positions created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 shall be created/placed at the strength of attached formations of respective administrative departments except the positions of Planning Cells.

Implementing Department: Establishment

2 I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business, 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

ATTESTED

Yours faithfully,

(TAL MUHAMMAD)
SECTION OFFICER (CABINET)

ENDST. NO. & DATE EVEN.

Copy to:-

1. P.S to Secretary Administration Department.
2. PA to Deputy Secretary (Cabinet) Administration Department

(TAL MUHAMMAD)
SECTION OFFICER (CABINET)

SO (O/M)

9/20
PS 1575

ATTESTED

BETTER COPY OF PAGE NO: _____

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(CABINET WING)

NO. SOC (E&AD)9-15/2019

Dated Peshawar the 14th MAY 2019

TO

The Secretary Government of Khyber Pakhtunkhwa,
Establishment Department.

Subject: **DECISION OF MEETING OF THE PROVINCIAL CABINET
DATED 09-05-2019**

Dear Sir,

I am directed to forward herewith the following decision of the meeting of the Provincial Cabinet held on 09-05-2019 under the Chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

ADDITIONAL ITEM NO. 08

SETTLEMENT OF ANOMALIES AMOUNT ARISING OUT IN THE WAKE OF PROMULGATION OF EH KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES), ACT 2018

Decision of the Cabinet:

The Cabinet approved recommendation of the Ministerial Committee as under:

- i) With regard to contingent/fixed pay/daily wage staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018 without adopting codal formalities under Project Policy, it was agreed that those contingent employees 35 in number, 31 in P&D and 4 in Home Department) may be given one time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases, rather a special dispensation to the contingent paid employees vide order of Peshawar High Court decision given in the writ petition no. 6553-P/2018 dated 12.03.2019.
- ii) A Grievances Redressal Committee headed by Establishment Department consisting of representatives from Finance, Law and concerned administrative departments may be constituted. The Grievance Redressal Committee would report to the same ministerial committee.
- iii) All the position created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018 shall be created/placed at the strength of attached formations of respective administrative Departments except the positions of Planning Cells.

Implementing Department: Establishment

2. I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours Faithfully,
(Taj Muhammad)
Section Officer (Cabinet)

ATTACHED
to be the copy
Advocate

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

2-10

E-12

NO.FD/SOSR-II/8-7/2019/41
Dated Peshawar the 03.02.2020

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department.

Subject:- STI 30% ALLOWANCE.

I am directed to refer to the subject noted above and to state that the subject letters of even number dated 14.01.2020 & 29.01.2020 (Copy enclosed for ready reference) may be treated as withdrawn.

Yours faithfully,

SECTION OFFICER (SR.II)

Encl: As above

Copy forwarded to:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director (STI), Establishment Department, Khyber Pakhtunkhwa.
3. PS to Secretary, Finance Department, Khyber Pakhtunkhwa.
4. PS to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
5. Section Officer (Admn), Staff Training Institute, Khyber Pakhtunkhwa with reference to your letter No. DD(STI)/E&AD/2019-20/112 dated 24.01.2020.
6. Section Officer-III, Chief Minister's Secretariat, Khyber Pakhtunkhwa with reference to your letter No. SO-III/CMS/2-1/2018/Finance Department dated 01.01.2020.
7. Section Officer O&M, Establishment Department, Khyber Pakhtunkhwa.
8. Budget Officer-IV, Finance Department, Khyber Pakhtunkhwa.
9. PA to Additional Secretary (Reg.), Finance Department, Khyber Pakhtunkhwa.
10. Master File.

SECTION OFFICER (SR.II)

ATTESTED

to be true copy
Advocate

ATTESTED



Govt. of Khyber Pakhtunkhwa
 Establishment & Administration Department
 Staff Training Institute
 Benevolent Fund Building near Jinnah Bakers, Peshawar Cantt.
 P.O. Box 11702 & Fax No. 0213718

Ⓢ
 F-13

No. SO/ADM (STI)-ESAD/1019/20/76
 Dated: February 06, 2020

Accountant General,
 Khyber Pakhtunkhwa.

Subject: STOPPAGE OF 30% SPECIAL ALLOWANCE UNDER PR CODE 808.

Dear Sir,

I am directed to refer to the Finance Department letter No. FD/SOSR-118-7/2019-21 dated 01-02-2020 (copy enclosed for ready reference) and to state that the 30% Special Allowance paid to the Employees of PR-808 may kindly be stopped forthwith and the paid out amount may also be recovered in lump-sum with immediate effect.

Yours Faithfully,

[Signature]
 6/12/20

(SECTION OFFICER) ADMN.
 STAFF TRAINING INSTITUTE

- 1 PS to Secretary, Establishment Department, Khyber Pakhtunkhwa
- 1 CC to Secretary, Finance Department, Khyber Pakhtunkhwa with reference to subject above and copy for record of every number as quoted above.
- 1 Section Officer, Chief Minister's Secretariat, Khyber Pakhtunkhwa.
- 1 Section Officer, Govt. Establishment Department, Khyber Pakhtunkhwa.
- 1 Under Officer, Finance Department, Khyber Pakhtunkhwa.
- 1 PS to Administration Secretary (Reg.) Finance Department, Khyber Pakhtunkhwa.

ATTESTED
 to be true copy
[Signature]
 6/12/20

[Signature]
 6/12/20

(SECTION OFFICER) ADMN.
 STAFF TRAINING INSTITUTE

ATTESTED

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
Staff Training Institute,
Benevolent Fund Building near Jans Bakers, Peshawar Cantt:

No. SO (AD) (STI)/E&AD 2 (i) 2019-20/76
Dated: February 06, 2020

TO
Accountant General
Khyber Pakhtunkhwa
Subject: **STOPPAGE OF 30% SPECIAL ALLOWANCE UNDER PR
CODE 8089.**

Dear Sir,

I am directed to refer to the Finance Department letter no. FD/SOSR-II/8-9/2019-41 dated 03-02-2020 (Copy enclosed for ready reference) and to state that the 30% Special Allowance paid to the Employees of PR-8089 may kindly be stopped forthwith and the paid out amount may also be recovered in lump-sum with immediate effect.

YOURS FAITHFULLY

SECTION OFFICER ADMIN
STAFF TRAINING INSTITUTE

1. PS TO Secretary Establishment & Administration Department Khyber Pakhtunkhwa
2. PS to Secretary Finance Department, Khyber Pakhtunkhwa with reference to the Finance Department letter of even number as quoted above.
3. Section Officer-III, Chief Minister's Secretariat, Khyber Pakhtunkhwa.
4. Section Officer, O&M, Establishment Department Khyber Pakhtunkhwa
5. Budget Officer-IV Finance Department, Khyber Pakhtunkhwa.
6. PA to Additional Secretary (Reg: Finance Department), Khyber Pakhtunkhwa
7. Master File

ATTESTED

to be true copy
4/10/2020

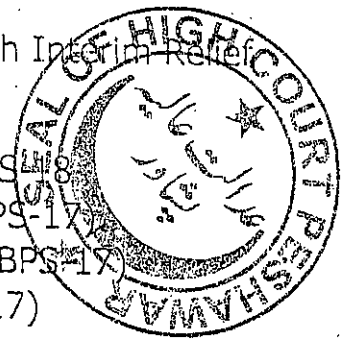
ATTESTED

C-1

G-14

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. _____ -P/2020 with Interim Relief



1. Mr. Bilal Khattak, Deputy Director-II (E-Office) BPS-18
2. Mr. Rehman Mashwani, Assistant Director-I T, (BPS-17)
3. Mr. Muhammad Usman Khan, Assistant Director (BPS-17)
4. Mr. Muhammad Younas, Assistant Director (BPS-17)
5. Mr. Khalid Khan, Assistant Director (BPS-17)
6. Mr. Muhammad Hamid, Assistant Director (BPS-17)
7. Mr. Tariq Kamal, Assistant Director (BPS-17)
8. Mr. Muhammad Adil, Assistant Director (BPS-17)
9. Mr. Muhammad Asim, Assistant Programmer
10. Mr. Ijaz Hussain, Computer Operator (BPS-16)
11. Mr. Mushtaq Hussain, Computer Operator (BPS-16)
12. Mr. Faizan Abbas, Administrative Officer (BPS-16)
13. Mr. Shakir Ullah, Computer Operator (BPS-16)
14. Mr. Usman Khan, Computer Operator (BPS-16)
15. Mr. Aman Gul, Computer Operator (BPS-16)
16. Mr. Ramzan, Computer Operator (BPS-16)
17. Mr. Taifullah, Naib Qasid (BPS-04)
18. Mr. Abdul Wali, Driver (BPS-06)

All employees of staff training institute, Establishment Department, Civil secretariat, Peshawar.

..... PETITIONERS

VERSUS

- 1- GOVERNMENT OF KHYBER PAKHTUNKHWA, Through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2- The Secretary Establishment Department, Civil Secretariat, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 4- The Provincial Cabinet & Ministerial Committee through its Chairman, Civil Secretariat, Peshawar.
- 5- The Grievances Redressal Committee through its Chairman, Civil Secretariat, Peshawar.

..... RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP TO DATE

Respectfully Sheweth:

FACTS:

ATTESTED

EXAMINER
Peshawar High Court

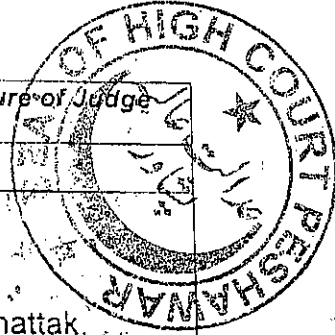
Brief facts giving raise to the instant writ petition are as under:

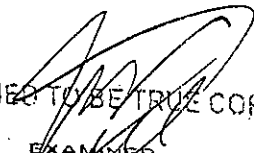
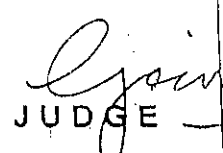

ATTESTED

PESHAWAR HIGH COURT, PESHAWAR

H-100 15

ORDER SHEET



Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
03.03.2020	<p><u>W.P No.1692-P/2020 with I.R.</u></p> <p>Present: Mr. Noor Muhammad Khattak, Advocate, for the petitioners.</p> <p>*****</p> <p><u>LAL JAN KHATTAK, J.-</u> On second thought, learned counsel for the petitioners stated at the bar that he would not press this writ petition anymore and would be satisfied, if this petition is treated as representation and sent to the respondent No.1 for its decision in accordance with law, to which, Mr. Arshad Ahmad, the learned Addl. A.G, who was present in Court in some other cases got no objection.</p> <p>2. In view of the above, this writ petition stands disposed of in terms that the respondent No.1 shall treat it as the petitioners' representation and decide the same at his end in accordance with law and rules on the subject within a period of one month positively.</p> <p style="text-align: center;">  CERTIFIED TO BE TRUE COPY EXAMINER Peshawar High Court, Peshawar Authorised Under Article 8.7 of The Qanun-e-Shahadat Order 1984 04 MAR 2020 </p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;">  JUDGE </p>

(D.B)(Hon'ble Mr. Justice Lal Jan Khattak & Hon'ble Mr. Justice S.M.Attique Shah)
A.All

ATTESTED

ESTABLISHMENT & ADMINISTRATION DEPARTMENT
BENEVOLENT FUND BUILDING NEAR JAN BAKERS, PESHAWAR CANTT
Ph: 091-9211529 & 091-9213716

No. DO(ST)E&AD/1(8)(2)2013-21

Date: 01st October 2020

To
 The Accountant General,
 Khyber Pakhtunkhwa Peshawar

Subject: - **STOPPAGE OF 30% SECRETARIAT PERFORMANCE ALLOWANCE.**

R/Sir,

I am directed to refer to Finance Department letter No. FD/BO.IV/2-14/2020-21 dated 14.09.2020 on the subject noted above and to state that as per Finance Department instructions 30% special allowance is admissible to only Secretariat Departments.

The Employees of office Automation System Plots for 05 Departments (E-Office) are withdrawing the 30% allowance are not entitled, therefore it is requested that payment to the staff of E-Office PR8089 on account of 30% Secretariat Allowance may kindly be stopped forthwith and recovery in the regard may be made from below listed employees.

Name	Designation	Personal No	Recovery of July & August 2020 50%	Recovery of w.e.f 03-07-2018 to 30-08-2020 @ 30%	Total
Muhammad Younas	Assistant Director	454008	52455	255108	307563
Muhammad Hamid	Assistant Director	779182	45555	255108	307563
Tariq Kamal	Assistant Director	77998	45555	255108	307563
Muhammad Adil	Assistant Director	779237	45555	255108	307563
Khalid Khan	Assistant Director	779292	45555	255108	307563
Muhammad Usman	Assistant Director	835848	45555	255108	307563
Muhammad Ramzan	Comp Operator	829373	32925	158844	191769
Muhammad Asim Ali	Assistant Programmer	829375	37485	171612	209097
Usman Khan	Comp Operator	715183	32926	158844	191769
Faizan Abbass	Admn Officer	797728	32926	158844	191769
Asad Khan	Comp Officer	587104	32926	158844	191769
Taif Ullah	Driver	741291	15585	87276	102861

The Secretary to Govt of Khyber Pakhtunkhwa
Administration Department

Subject: DEPARTMENTAL APPEAL AGAINST THE ADMISSIBILITY OF
30% OR 50% ALLOWANCE TO E-OFFICE EMPLOYEE.

Dear Sir,

Reference to your letter No. SOB (AD) / 15(88)/STI/2019 on dated 24.09.2020 (Attached) the subject noted above, it is stated that office Automation System pilot for 5 Departments (E-office) regularized in 2018 in STI Establishment Department. The nature of work of e-office is one of the important component of digital Pakistan.

Finance department was admissible 30% or 50% special allowance / secretariat allowance to the undersign appellants, on dated 14.01.2020 e-Office, PR (8089) notification No. FD/SOSR-II/8-7/2019/41 but after few days on dated 03.02.2020 No. FD/SOSR-II/8-7/2019/41 treated as withdrawn without any justified reason. After withdraw notification Peshawar High Court decide the same case in favor of e-office employee (PR-8089) but finance department still pending the same decision about 50% special allowance / secretariat allowance.

Now in the light of above discussion kindly set aside and extended 50% Secretariat Performance allowance to the below mention appellant with back benefits or forwarded the application to the finance department for further necessary action as per decision.

Sd/-

Mr Abdul wali
Driver (E-office)
PR 8089, P. No 00779298
STI. Establishment Department

~~ALTERED~~

Mr. Abdul Wali
DRIVER (E-OFFICE)
PR.8089, P.NO.0039298
STI, Establishment Department

2/10/2020

application to the finance department for further necessary action as per decision.

performance allowance to the below mention appellant with back benefits or forwarded the

Now in the light of above discussion kindly set aside and extended 50% Secretariat

pending the same decision about 50% special allowance/secretariat allowance.

Court decide the same case in favor of e-Office employee (PR-8089) but finance department still

remains as withdrawn without any justified reason. After withdraw notification Peshawar High

ED/SOSR-11/8-7/2019/41 but after few days on dated 03/02/2020 No. FD/SOSR-11/8-7/2019/41

allowance to the undersign appellants, on dated 14/1/2020 e-Office, PR (8089) notification No.

Finance department was admissible 30% or 50% special allowance/secretariat

departments. e-Office is one of the important component of digital Pakistan.

of e-office is an initiative towards the paperless environment in secretariat and all government

departments (e-Office) regularized in 2018 in STI Establishment Department. The nature of work

attached) the subject noted above, it is stated that Office Automation System pilot for 5

Reference to you letter no SOB (AD) 15(88)/STI/2019 on dated 24/09/2020

Dear Sir,

Subject: Departmental Appeal against the admissibility of 30% or 50% allowance to e-Office employee.

547

Administration Department
Govt of Khyber Pakhtunkhwa

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2021

Abdul wali

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Chief Secretary Govt

(RESPONDENT)
(DEFENDANT)

I/We Abdul wali

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. ____/____/2021

Wali

CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK

MIR ZAMAN SAFI

AFRASIAB KHAN WAZIR
&

HAIDER ALI
ADVOCATES

OFFICE:

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

BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 504/2021

Mr. Abdul Wali **Appellant**

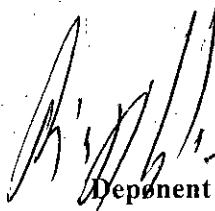
VERSUS

Chief Secretary, Khyber Pakhtunkhwa & Others **Respondents**

INDEX

Sr. No:	Description of Documents	Annex	Pages
1	Joint Parawise Comments		2-3
2.	Writ Petition filed in the PHC, Peshawar.	I	4-8
3.	Order Sheet dated 03.03.2020	II	9
4.	This department letter wherein representation of the petitioners of the above mentioned writ petition is regretted being not covered under the rules.	III	10

Dated: **15.06.2021**


Deponent
CNIC No: 17301-6272682-3
Mobile: 0345-5285465

21/

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

APPEAL NO. 504/2021

Mr. Abdul Wali,
Driver (BPS-06), Staff Training Institute.....**Appellant**

VS

Chief Secretary, Khyber Pakhtunkhwa & Others.....**Respondents**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1-3

PRELIMINARY OBJECTIONS:

1. That the Appellant has got no locus standi / cause of action to file the instant Appeal.
2. That the Appellant has not come to this Hon'ble Tribunal with clean hands. Hence, disentitled to any relief whatsoever.
3. That no discrimination / injustice has been done to anyone.
4. That the Appeal is not based on facts and is unjustified.
5. That the Appellant is estopped by his conduct to file the instant Appeal.
6. That the writ petition is already adjudicated upon Peshawar High Court vide Judgment dated 03.03.2020 and is thus hit by the principle of resjudicata.

ON FACTS.

1. Pertains to record, hence, no comments.
2. Pertains to record, hence, no comments.
3. Pertains to record, hence, no comments.
4. Pertains to record, hence, no comments.
5. Pertains to record, hence, no comments.
6. Correct. Earlier Eighteen (18) employees of Staff Training Institute filed a Writ Petition No. 1692-P/2020 titled Mr. Bilal Khattak etc Vs Govt. of Khyber Pakhtunkhwa in Peshawar High Court, Peshawar with the prayer to declare the decision of the Cabinet communicated vide memo dated 14.05.2019 and letter of Finance Department dated 03.02.2020 regarding Secretariat Allowance as illegal, unlawful and direct the respondents to restore the status of the petitioners as of Secretariat level (**Annex-I**). The august court disposed of the petition and directed the Provincial Govt. to treat the petition as petitioners' representation and decided the same at its end in accordance with law and rules within a period of one month positively (**Annex-II**). Consequently, the same was thoroughly examined and regretted on the grounds being not covered under the rules (**Annex-III**). It is pertinent to mention that services of the appellant and others were regularized in Staff Training Institute against the newly created posts under a separate DDO Code PR-8028 titled "IT Professionals Training Centre (Reg. Act) 2018." As the appellant has already agitated the matter in Peshawar High Court, where, relief was not granted, they have no right to file the appeal in Services Tribunal.
7. Pertains to record, hence no comments.
8. Pertains to record, hence no comments.
9. No comments.

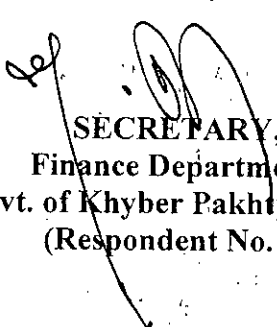
ON GROUNDS:


- A. Incorrect, hence denied. All the recruitments in Civil Secretariat are made through Khyber Pakhtunkhwa Public Service Commission after observing the prescribed recruitment procedure / policy and no contract employee can be adjusted in the Civil Secretariat for the purpose of regularization. Consequently in order to avoid future legal complications and save the rights of the employees of Civil Secretariat,

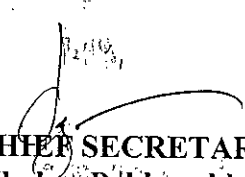
Provincial Cabinet in its meeting held on 09.05.2019 decided that all the positions created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 shall be created / placed at the strength of attached formations of respective administrative departments except the positions of planning cadre. This decision of the competent forum is neither against the law nor violates any service right of the appellant. The appellant and others are using their regularization in STI as an attempt to enter into the service of Civil Secretariat without any competition.

- B. As explained at "A" above.
- C. Incorrect. Appellant and others were project employees and their services were regularized in Staff Training Institute, an attached formation of Establishment & Administration Department not an administrative unit of Civil Secretariat. Therefore, they are employees of Staff Training Institute having no relation whatsoever with the centralized I.T cadre of Civil Secretariat, supervised by Establishment Department but they are using their regularization in STI as an attempt to enter into the service of Civil Secretariat without any competition.
- D. Pertains to record, hence, no comments.
- E. As explained at "C" above.
- F. Incorrect. No penalty whatsoever was imposed upon the appellant.
- G. As explained at "C" above.
- H. As explained at "A" above.

In view of the above submissions, the instant appeal, being devoid of any merit, may please be dismissed with cost.


SECRETARY,
Finance Department,
Govt. of Khyber Pakhtunkhwa.
(Respondent No. 3)


SECRETARY,
Establishment Department,
Govt. of Khyber Pakhtunkhwa.
(Respondent No. 2)


CHIEF SECRETARY,
Khyber Pakhtunkhwa
(Respondent No. 1)

.....

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. _____ -P/2020 with Interim Relief

1. Mr. Bilal Khattak, Deputy Director-II, (E-Office) BPS-18
2. Mr. Rehman Mashwani, Assistant Director-I T, (BPS-17).
3. Mr. Muhammad Usman Khan, Assistant Director (BPS-17)
4. Mr. Muhammad Younas, Assistant Director (BPS-17)
5. Mr. Khalid Khan, Assistant Director (BPS-17)
6. Mr. Muhammad Hamid, Assistant Director (BPS-17)
7. Mr. Tariq Kamal, Assistant Director (BPS-17)
8. Mr. Muhammad Adil, Assistant Director (BPS-17)
9. Mr. Muhammad Asim, Assistant Programmer
10. Mr. Ijaz Hussain, Computer Operator (BPS-16)
11. Mr. Mushtaq Hussain, Computer Operator (BPS-16)
12. Mr. Faizan Abbas, Administrative Officer (BPS-16)
13. Mr. Shakir Ullah, Computer Operator (BPS-16)
14. Mr. Usman Khan, Computer Operator (BPS-16)
15. Mr. Aman Gul, Computer Operator (BPS-16)
16. Mr. Ramzan, Computer Operator (BPS-16)
17. Mr. Taifullah, Naib Qasid (BPS-04)
18. Mr. Abdul-Wali, Driver (BPS-06)

All employees of staff training institute, Establishment Department, Civil secretariat, Peshawar.

PETITIONERS**VERSUS**

- 1- GOVERNMENT OF KHYBER PAKHTUNKHWA, Through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2- The Secretary Establishment Department, Civil Secretariat, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 4- The Provincial Cabinet & Ministerial Committee through its Chairman, Civil Secretariat, Peshawar.
- 5- The Grievances Redressal Committee through its Chairman, Civil Secretariat, Peshawar.

RESPONDENTS

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973 AS AMENDED UP TO DATE**

Respectfully Sheweth:**FACTS:**

Brief facts giving raise to the instant writ petition are as under:

- 1- That, petitioners are the Law abiding Citizen of Pakistan and have every legal and constitutional Right duly protected under the Law of the land.
- 2- That the petitioners were initially appointed in a project "Office automation system pilots for 5 Departments" in the Establishment Department Civil Secretariat Peshawar against the posts noted against their names in the heading of writ petition.
- 3- That the Govt. of KP promulgated Act No.X of 2018 whereby employees of about 58 projects were regularized both the Directorate level and Secretariat level. The petitioners services were also regularized in light of the said project vide Notification dated 1.11.2019 w.e.f. 7.3.2018. Copy of the Notification is attached as Annexure **A.**
- 4- That during service the petitioners were granted 30% special/secretariat Allowance duly approved on 14.1.2020 which is also a proof that the petitioners were secretariat level employees for all intents and purposes. Copies of the letters and pay slips are attached as Annexure **B & C.**
- 5- That the recently a strike was held by the union of the Secretariat employees and to minimize the cause/pressure of strike, the cabinet took an abrupt decision vide agenda item no. 8 (Additional) dated 15.5.2019 not in actual agenda wherein it was decided to place the petitioners at Directorate level/ formations without considering that they were already merged in the Secretariat strength and posts were also created by the Finance Department at Secretariat level. Copy of the minutes is attached as Annexure **D.**
- 6- That in light of the said minutes dated 15.5.2019 the respondents vide impugned letter dated 3.2.2020 withdrawn the letter dated 14.1.2020 whereby 30% Secretariat allowance has been allowed to the petitioners. Copies of the impugned letter dated 3.2.2020 and letter dated 6.2.2020 are attached as annexure **E & F.**
- 7- That, against the illegal and unwarranted abrupt decision against the secured rights of the petitioners, the petitioners have no other remedy, therefore, come in writ jurisdiction on the following grounds amongst the others:

GROUND:

- A- That, the cabinet decision communicated vide memo dated 15.05.2019 and impugned letter dated 3.2.2020 are against the Law, facts material on record, and in violation of service

rights of the petitioners, therefore, not tenable and liable to be set-aside.

- B-** That the petitioners were already fully merged in the Secretariat, their DDO Code was entrusted to the Secretary Establishment Department and Finance Department and even they were regularized in the STI Establishment Deptt: Civil Secretariat which was fully acted upon, therefore, now the status of the petitioners cannot be changed upon the whims of union of secretariat employees under the Principal of Locus Poenitentiae.
- C-** That the petitioners were happy with merged in Secretariat and they never made any grievance to the concerned committee, but despite that the whole action attributed to the committees concerned and without any notice to the petitioners. This proves malafide on the part of the Cabinet and concerned deptts: who acted as per whims of the union of Secretariat employees and it was not an independent mind used decision.
- D-** That the impugned decision and withdrawal letter dated 3.2.2020 are also a discriminatory because the Planning Cell employees have been excluded from the decision and only the rights of the petitioners are affected.
- E-** That it was the demand of fair play to at least give hearing or prior notice or option to the petitioners before making any decision adversely affecting the service rights of the petitioners. But in present case the petitioners have been condemned unheard through out.
- F-** That as the other legal fora cannot legally issue writs, therefore the present writ petition is fully entertainable in this august Court.
- G-** That the posts of the petitioners are still available on the secretariat side and have not been abolished, therefore, the petitioners without their option cannot be given a different status or varied their status unilaterally.
- H-** That the impugned decision of the Cabinet is not free, fair and transparent decision, rather made to happy the union, therefore the same is liable to be set aside.
- I-** That this august Court in similar writ petition have granted interim relief while suspending the operation of impugned minutes/decision dated 15.5.2019 and impugned letter dated 3.2.2020. Copies of the memo of writ petition and order sheets are attached as annexure **G.**

J- That the petitioners seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that on acceptance of this writ petition the august court may be please to:

- 1. DECLARE, the impugned decision of the Cabinet communicated vide memo dated 14.05.2019 and impugned letter dated 3.2.2020 as illegal, unlawful, against the principal of Locus Poenitentiae, fair play, and not made with independent mind being based on the wish and whims of the Union of Secretariat employees as well as against the spirit of Article-4, 9, 25 and 38 (e) of the Constitution of Pakistan, 1973, therefore, liable to be set-aside.
- 2. DECLARE, all the resultant actions of changing the status of petitioners from Secretariat level as ineffective upon the accrued rights of the petitioners.
- 3. DIRECT, the respondents to restore the status of petitioners as of Secretariat level employees as merged in Secretariat level for all intents and purpose in the year 2018 after the promulgation of Regularization Act No. X, 2018.
- 4. Any other remedy deems appropriate that may also be awarded in favour of petitioners.

INTERIM RELIEF:

That, keeping in view the facts and circumstances of the case, the operations of the impugned decision of the cabinet communicated vide memo dated 14.05.2019 and withdrawal of 30% Special pay allowance through impugned letter dated 3.2.2020 may be suspended till the disposal of the main writ petition, otherwise, the writ petition of the petitioner would become anfractuous.

Dated: 20.2.2020

Petitioners

Bilal

BILAL KHATTAK & OTHERS

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE,
HIGH COURT PESHAWAR

VERIFICATION:

-It is verified that no other such like writ petition has earlier been filed between the parties.

[Signature]
DEPONENT

LIST OF BOOKS:

- 1- Constitution of Pakistan.
- 2- Services Law Books
- 3- Any other Case law as per need.

[Signature]
DEPONENT

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET

Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
03.03.2020	<p><u>W.P No.1692-P/2020 with I.R.</u></p> <p>Present: Mr. Noor Muhammad Khattak, Advocate, for the petitioners.</p> <p>*****</p> <p><u>LAL JAN KHATTAK, J.-</u> On second thought, learned counsel for the petitioners stated at the bar that he would not press this writ petition anymore and would be satisfied, if this petition is treated as representation and sent to the respondent No.1 for its decision in accordance with law, to which, Mr. Arshad Ahmad, the learned Addl. A.G, who was present in Court in some other cases got no objection .</p> <p>2. In view of the above, this writ petition stands disposed of in terms that the respondent No.1 shall treat it as the petitioners' representation and decide the same at his end in accordance with law and rules on the subject within a period of one month positively.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>

(D.B)(Hon'ble Mr. Justice Lal Jan Khattak & Hon'ble Mr. Justice S.M.Attique Shah)
A.All



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
 (Establishment Wing)

PH# 091-9213457 FAX# 091-9210447 Email: sectionofficerv@gmail.com

No. SOE-V(E&AD)/5-09/2007

Dated Peshawar, the APRIL 22, 2020

To

2-5478
 ✓ The Section Officer (Litigation-I),
 Establishment Department.

SUBJECT: W.P NO 1692-P/2020 MR. BILAL KHATTAK ETC VS GOVT. OF KHYBER PAKHTUNKHWA AND OTHERS.

I am directed to refer to your letter No. SO(Lit-I)E&AD/2-5478/2020, dated 11.03.2020 on the subject noted above and to state that representation of the petitioners of the subject writ petition is regretted being not covered under the rules.

Encls: As above.

Zaid Shamir
 22/04/2020
 SECTION OFFICER (E-V)

Endstt: No. & Date Even.

Copy forwarded to the:-

1. PA to Deputy Secretary (Estt), Establishment Department.
2. Master file.

SECTION OFFICER (E-V)