

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

**S.A NO.1383/2023**

Mushtaq Ahmad..... **Petitioner**

Versus

Govt. of Khyber Pakhtunkhwa & others.....**Respondents**

**INDEX**

<b>S.No</b>	<b>Description of documents</b>	<b>Annexure</b>	<b>Pages</b>
1.	Comments/Reply	-	1-3
2.	House Subsidy letter	1	4
3.	Authority Letter	-	5
4.	Affidavit	-	6

  
**Deponent**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

**APPEAL NO. 1383/2023**

Case No. 8867

Dated 06-11-23

Mushtaq Ahmad

..... Appellant

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary Administration, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Finance, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Director General Health Khyber Pakhtunkhwa.
5. Estate Officer, Govt. of Khyber Pakhtunkhwa, Administration Department, Peshawar.
6. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

..... Respondents

**JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS No. 02, 03 &**

**05**

**PRELIMINARY OBJECTIONS**

1. That the Appellant has neither any locus standi nor cause of action to bring the instant petition before this honorable Tribunal. Therefore, the instant Appeal is liable to be dismissed.
2. That the Appellant has not come to this Honorable Tribunal with clean hands, therefore, the petition is liable to be dismissed on this score alone.
3. That the appeal in hand is incompetent in its present form hence not maintainable.
4. That the Appeal has concealed material facts from this Honorable Tribunal, therefore, this appeal is liable to be dismissed.
5. That the facts alleged by the Appeal are incorrect and very vehemently denied as laid.
6. That the appeal is barred by law and limitation.
7. That this Honorable Tribunal has got no jurisdiction to entertain the present appeal.

## ON FACTS

1. Relates to Appellant profile.
2. Correct. It is submitted that upon perusal of Annexure-C of the appeal it would reveal that the petitioner during his service/posting in district Bannu availed illegal and unauthorized House Subsidy Allowance (HSA). As per Finance Department's policy/letter, House Subsidy Allowance (HSA) is only available for those officers/officials who own their house at Peshawar and Abbotabad and are also posted in Peshawar and Abbotabad (Annex-I).
3. No Comments.
4. Pertains to record.
5. Incorrect, hence denied. As per Policy of the Provincial Government, HSA was allowed only in district Peshawar and Abbotabad while the Petitioner illegally availed this facility , on his transfer from settle area to ex-FATA (now merged area) on 27.09.2017, when he was posted at Agency Head Qaurter Hospital, Parachinsar vide Director's Health Services, FATA, Peshawar, office order dated 06.10.2017. The Petitioner was , later on, pursuant to the Service Tribunal Order/ Judgment dated 30.03.2018, rendered in Servcie Appeal No.35/2018, adjusted/posted against a vacant post of Account Officer (BS-17) only for the purpose of drawal of pay w.e.f his date of arrival, i.e. 27.09.2017 in ex-FATA Directorate of Health Services, vide their order dated 11.04.2018, which is also admitted by the Petitioner in Para-04 of instant appeal. Furthermore, as far as the outstanding bill is concerned, the answering responding No.06 being the dealing formation to clear the financial liability and pay the allowance has returned the pay bill of the appellant available in his appeal vide Page.21-23 with the observation, "*the claim must be accompanied with enhancement order from the competent authority and the house rent must be deducted*" which was to do so by the appellant. Hence, it was purely the responsibility of the appellant to apply for the revised enhancement/restoration order from the Administration Department.
6. Pertains to record.
7. Incorrect.


On Grounds

- A. Incorrect and frivolous presumption, already explained in preceeding paras.
- B. Incorrect, misleading, hence denied.
- C. Incorrect and fabricated based on malafide intention as there is no illegality on part of the Respondents or violation of rules occurred. The Petitioner intention itself is based on malafide intention as he wants that Respondents was supposed to release Housing Subsidy Allowance retrospectively which is against the practice being always enhanced with immediate effect,as and when approved by Competent Authority.The Petitioner was required to pursue his case with Deputy Secretary (Estate), FATA for issuance of enhancement order rather bringing the matter to the court.
- D. Incorrect, hence denied.
- E. Incorrect, hence denied.
- F. Incorrect, hence denied as no fundamental right of the Petitioner has been violated guaranteed under the constitution.
- G. Incorrect, hence denied.
- H. Incorrect, hence denied.
- I. That the respondents also seek permission of this Honorable Tribunal to raise further points at the time of arguments.

It is, therefore, most humbly prayed that the instant Appeal being denial of facts, departure from factual controversy and having no concrete grounds and evidence, therefore may be dismissed with cost.



**Respondent No. 2  
(Secretary Administration)**



**Respondent No. 3  
(Secretary Finance)**



**Respondent No.05  
(Estate Officer)**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

SO(SR-III)/FD/1-27/416/2021  
Dated Peshawar, the 02<sup>nd</sup> July, 2021

PA.DS (Administration Deptt.)

Dairy No. 1958 Dated 05/07/21

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Administration Department,  
Peshawar.

Ps to Secy Admfr  
2021 05/07  
Dairy No. Date:

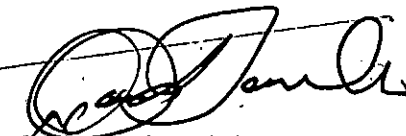
Atten: Estate Officer.

Subject: HOUSING SUBSIDY ALLOWANCE FOR CIVIL SERVANTS WORKING IN  
AUTONOMOUS BODIES.

Dear Sir,

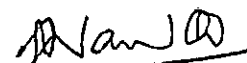
I am directed to refer to your letter No. EO(Admn)R-1/House Subsidy, dated 16<sup>th</sup> June, 2021 on the subject noted above and to state that the Housing Subsidy Policy, 1979 is applicable on those Civil Servants of Khyber Pakhtunkhwa who have their own houses in the municipal limit of District Peshawar / Abbottabad are not provided with Government owned or requisitioned accommodation. All Civil Servants working in any department/organization and owns a house in his own name or that of his/her spouse or dependent children is eligible for the housing subsidy allowance in order to help the residential accommodation problem. There is no such mention in the policy where the Civil Servant is working.

Yours sincerely,



ATTESTED

Superintendent Litigation  
Estate Office  
Administration Department

  
(Niamat Khan)  
Section Officer (SR-III)

1951  
06/02/21



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ADMINISTRATION DEPARTMENT

Dated Peshawar the 03-11-2023

Subject: **AUTHORITY LETTER**

Mr. Muhammad Naveed, Superintendent (Litigation) of Estate Office, Administration Department is hereby authorized to file comments on behalf of the Defendants in the Service Tribunal, Khyber Pakhtunkhwa in Service Appeal No.1383/2023 titled "Mushtaq Ahmad Vs Government of Khyber Pakhtunkhwa & Others".

  
**ESTATE OFFICER**  
**Estate Officer**  
Administration  
Department  
Govt. of Khyber Pakhtunkhwa

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA**

**S.A No.1383/2023**

Mushtaq Ahmad.....**Petitioner**

**VERSUS**

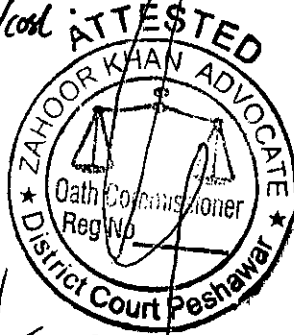
Govt. of Khyber Pakhtunkhwa & others.....**Respondent**

**AFFIDAVIT**

I, Muhammad Naveed, Superintendent, (BPS-17) Estate Office, Administration Department Peshawar do hereby solemnly affirm and declare that the contents of the comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable court. *It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defence has been struck off/cost*

Identified by

Advocate General,  
Khyber Pakhtunkhwa,  
Peshawar



*Muhammad Naveed*

Deponent  
CNIC 17301-2601688-1  
Cell#0346-9195963