

Ph: 9220581.

REGISTERED/AD

C. P.No.389-P/2021-SCJ

Supreme Court of Pakistan

Islamabad, the 20th November, 2023

From

The Registrar
Supreme Court of Pakistan
Islamabad.

To

The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar C/o Assistant Registrar(Peshawar).

Khyber Pakhtunkhwa
Service Tribunal

Case No. 9597

Date 29/11/23

Subject:- **CIVIL PETITION NOS. 389-P OF 2021.**

Govt. of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar and others

...Petitioner(s)

VERSUS

Muhammad Arshad

...Respondent(s)

(on appeal from the judgment of the Khyber
Pakhtunkhwa Service Tribunal, Peshawar dated
09.06.2021 passed in Service Appeal No.1132/2019)

Dear Sir,

I am directed to enclose herewith a certified copy of the
order dated **08.11.2023** passed in the above cited Civil Petition for
information and necessary action.

Kindly acknowledge receipt of this letter along with its
enclosure.

Yours faithfully



Encl:- As Above

(NOOR MUSTAFA SHAH)
ASSISTANT REGISTRAR (CIVIL-II)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mrs. Justice Ayesha A. Malik
Mr. Justice Syed Hasan Azhar Rizvi

Civil Petition No.389-P of 2021

Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar and others. ...Petitioner(s)

Versus

Muhammad Arshad, Additional Secretary, Inter-
Provincial Coordination Department at Mian
Rashid Hussain Shaheed Memorial Block, Civil
Secretariat, Peshawar. ...Respondent(s)

For the Petitioner(s) : Mr. Sultan Mazhar Sher Khan,
Additional Advocate General,
Khyber Pakhtunkhwa

Respondent(s) : N.R.

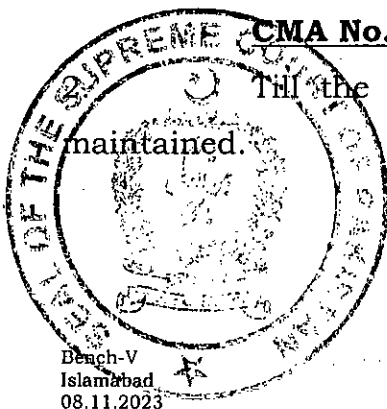
Date of Hearing : 08.11.2023

ORDER

Learned Additional Advocate General, Khyber Pakhtunkhwa submits that the interpretation given by the Khyber Pakhtunkhwa Service Tribunal, Peshawar (**the Tribunal**) with respect of the second proviso of Section 10 of the Khyber Pakhtunkhwa Civil Servants Acts, 1973 is contrary to the understanding of the said section as the Respondent was OSD in his own cadre and was not posted outside his cadre, hence the second proviso of Section 10 *ibid* was not applicable. He further submits that the departmental representation of the Respondent was barred by time, which fact was not considered by the Tribunal. Even otherwise, the Additional Advocate General submits that this is a policy decision, wherein the notification which has been struck down essentially states that the civil servants who are OSD and not working are not entitled to an executive allowance, which is given to officers working against scheduled posts of Establishment and Administration Department. Issue notice to the Respondent.

CMA No.649-P of 2021:

Till the next date of hearing, *status quo* is directed to be maintained.



Sd/- 45
sd/- 45

CERTIFIED TO BE TRUE COPY

Senior Court Associate
Supreme Court of Pakistan
Islamabad