31st March, 2022

Mr. Asif Khan, Advocate for appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Riaz Khan, Superintendent and Sajid Superintendent for the respondents present.

Learned counsel for the appellant submitted an application for impleadment of legal heirs of the appellant. Application is allowed. Legal heirs of the appellant mentioned in the application be impleaded as appellants in the appeal and entry be made in the heading of appeal as well as in the relevant register.

After arguing the matter at length, learned counsel for the appellant and learned Addl. Advocate General agreed that the matter might be remitted to the respondent department to decide it in a month specifically in the light of letter No. KC/FD/(SOSR-II)4-111/2018, dated 30.01.2009. Disposed of accordingly. Consign.

Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 31st day of March, 2022.

(MIAN MUHAMMAD) Member (E) (KALIM ARSHAD KHAN) Chairman



|-10-21

DB is on Tour case to come up For the same on Dated. 27-1-22

Reader

27.01.2022

Faizan Jehangir son of appellant on behalf of appellant present. Mr. Muhammad Riaz Khan Paindakheil Assistant Advocate General for respondents present.

Son of the appellant requested for adjournment on the ground that learned counsel for appellant is not available today. Adjourned. To come up for arguments on 31.03.2022 before D.B.

(Rozina Rehman) Member (J) (Salah-Ud-Din) Member (J) 11.01.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Due to COVID-19, the case is adjourned for the same on 15.04.2021 before D.B.

READER

15.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 09.08.2021 for the same as before.

\_Reader

09.08.2021

Faizan Jehangir son of appellant present in person.

Kabir Ullah Khattak learned Additional Advocate General alongwith Naseem Khan S.O for respondents present.

Former informed the Tribunal about the death of his father i.e. appellant. He requests for adjournment in order to submit list of legal heirs of the appellant alongwith an application for impleadment of legal heirs; request is allowed. To come up for further proceedings on 01.10.2021 before D.B.

(Rozina Rėhman) Member (J) Chairmar

08.06.2020 Bench is incomplete as learned Member (J) is on leave, therefore, the case is adjourned. To come up for the same on 19.08.2020 before D.B.

19.08.2020 Due to summer vacations, the case is adjourned to 21.10.2020 for the same.

Reader

21.10.2020 Junior to counsel for the appellant and Zara Tajwar,

DDA for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 11.01.2021 for hearing before the D.B.

(Mian Muhammad)

Member

Chairman

15.01.2020 Appellant in person present. Zar Muhammad Assistant representative of the respondent department present. Due to general strike of the Bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for arguments on 24.02.2020 before D.B.

Member

Member

24.02.2020

Appellant with counsel present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Saijd Superintendent and Zar Muhammad Assistant present. Adjournment requested. Adjourn. To come up for arguments on 25.03.2020 before D.B.

Member

Member (

25.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 08.06.2020 before D.B.

Keader

present. Asst: AG person in Appellant 31.10.2019 respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned. To come up for arguments on 15.11.2019 before D.B.

> (Ahmad Hassan) Member

M A — (M. Amin Khan Kundi)

15.11.2019

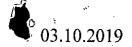
Appellant with counsel present. Mr. Zia Ullah learned DDA present. Learned counsel for the appellant was confronted with the order sheet dated 03.10.219, for further assistance. Learned counsel for the appellant seeks adjournment for proper assistance in the light of order sheet dated 03.10.2019. Adjourn. To come up for arguments on 16.12.2019 before D.B

Member

16.12.2019

Appellant present. Mr. Muhammad Jan learned Deputy District Attorney present. Appellant submitted copy of Notification No. FD(SOSR-II)8-7/2011 dated 27.04.2011 and copy of Notification No. FD(SOSR-II)8-7/2019 dated 27.11.2019 and seeks adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court Peshawar. Adjourn. To come up for arguments on 15.01.2020 before D.B.

Member



### Appellant in person present.

In the present service appeal the relevant portion of the preayer of the appeal is reproduced as under:

"and the respondents may kindly be ordered to calculate 20% Special Allowance (being changed name of Secretariat allowance or whichever name respondents want to give) towards pension from the date of retirement".

Employees of the many of the government departmental are in receipt of their particular Special Allowances. However the appellant has not been able to demonstrate that such Special Allowance of the employees of the other departments are countable towards pensionary benefits.

In support of his case, the appellant relied upon the unreported judgment dated 05.04.2007 of the Apex Court in Civil Miscellaneous appeal No.2683 of 2006, which case does not pertain to the Special Allowance or Secretariat Allowance rather the same is related to Personal Allowance.

Learned counsel for the appellant is not available to render further assistance to this Tribunal. Adjourn. To come up for further arguments on 31.10.2019 before D.B

Member

Member



Appellant with counsel and Mr. Zia Ullah learned Deputy District Attorney alongwith Sohail Assistant present. Arguments heard. To come up for order on 13.09.2019 before D.B.

Member

Member

13.09.2019

Appellant in person present. Asst: AG for respondents present. Order could not be announced due to non-availability of the concerned D.B. Case to come up for order on 26.09.2019 before D.B.

Member

Member

26.09.2019

Appellant in person present. Mr. Ziaullah, DDA alongwith Mr. Sajik, Supdt for respondents present. Order could not be announced due to non-availability of the concerned D.B. Case to come up for order on 03.10.2019 before D.B.

Member,

30.04.2019

Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney present. Partial arguments heard. Learned Deputy District Attorney seeks adjournment for further arguments. Adjourn. To come up for further arguments on 15.05.2019 before D.B.

Member

Member

15.05.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Muhammad Shamim, S.O for the respondents present.

Due to demise of his father, learned Member of the Bench (Mr. Hussain Shah) is on leave. Adjourned to 08.07.2019 for further proceedings before the D.B.

Chairman

08.07.2019

Appellant in person and Mr. M. Jan, DDA for respondents present. Appellant seeks adjournment as his counsel is not available today. The case pertains to the year 2015, therefore, last opportunity granted for arguments. Adjourned. Case to come up for arguments on 28.08.2019 before D.B.

/ Member Member

19.12.2018. Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 07.02.2019 before D.B.

(Hussain Shah) Member

(Muhammad Amin Kundi) Member

07.02.2019

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Saleem, Superintendent for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 26.03.2019 for arguments before D.B-I.

(AHMAD HASSAN) MEMBER

(MUHAMMAD AMIN KHAN KUNDI) MEMBER

26.03.2019

Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Saleem Superintendent for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 31.05.2019 before D.B

(Hussain Shah) Member (Muhammad Amin Khan khudi) Member 01.08.2018

Appellant absent. Learned counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 24.09.2018 before D.B.

(Ahmad Hassan) Member (E)

(Muhammad Hamid Mughal) Member (J)

24.09.2018

Appellant in person present. Mr. Muhammad Saleem, Supdt alongwith Mr. Muhammad Jan, DDA for respondents present. Appellant made a request for adjournment. Granted. Case to come up for arguments on 31.10.2018 before D.B.

(Ahmad Hassan) Member (M. Amin Khan Kundi) Member

31.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 19.12.2018.

REALER

Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for \* adjournment. Learned counsel for the appellant is directed to provide member copy of the present appeal. Adjourn. To come up for arguments on 13.04.2018 before D.B

(Muhammad Amin Kundi) Member

(Muhammad Hamid Mughal) Member:

13.04.2018

Counsel for the appellant and Asst: AG for respondents present. counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 26.06.2018 before D.B.

(Ahmad Hassan) Member

(M. Hamid Mughal) Member -

26.06.2018

Appellant in person and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Appellant submitted some documents which are placed on file and seeks adjournment as his counsel is not available. Adjourned. To come up for arguments on 01.08.2018 before D.B.

(Muhammad Amin Kundi) Member

(Muhammad Hamid Mughal) Member

21,11,2017

Learned counsel for the appellant present and Mr. Muhammad Jan, DDA for the respondents present. The case is to be heard by a bench which has already heardy To come up for further proceedings on 14.12.2017 before the same D.B.

(Gul Zeb Khān) Member

(Muhammad Hamid Mughal) Member

14.12.2017

Junior counsel for the appellant and Addl. AG for the respondents present. Senior counsel for the appellant was stated to be busy before the august Supreme Court of Pakistan. Adjourned. To be placed before the Bench comprising of the members who have partially heard the case. To come up for further arguments on 07.02.2018.

Member

Chairman

07.02.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District. Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.03.2018 before D.B.

(Gul Zeb Khan) MEMBER

(Muhammad Hamid Mughal) MEMBER 3/8/2017

Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Appellant seeks adjournment. To come up for arguments on 29/8/2017 before DB.

(GUL ZEB KHAN MEMBER (MUHAMMAD HAMID MUGHAL) MEMBER

29.08.2017

Appellant alongwith counsel and Mr. Kabeerullah Khattak, Asstt. AG for the respondents present. Arguments partly heard. After hearing the appeal at some length this Tribunal raised the issue of ratio settled in I.A Sherwani's case reported as 1991-SCMR-1041. In the said judgment it was held that the issue of pensioner who have been denied the benefits of some increases does not fall within the jurisdiction of this Tribunal. The learned counsel for the appellant seeks time to assist the court on this point. To come up for further arguments before this D.B on 10.10.2017.

Member

Chairman

10.10.2017

Counsel for the appellant and Addl AG for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for further arguments on 212.11.2013 before the D.B already heard the case partly on 29.08.2017.

Member

26.04.2017

Counsel for the petitioner present and Addl: AG for the respondents present. Learned counsel for the petitioner requested for adjournment. Request accepted. To come up for reply and arguments on application on 29.05.2017 before S.B.

(Ahmad Hassan) Member

29.05.2017

Counsel for the petitioner and Addl. AG for the respondents present. Learned counsel for the petitioner requested for adjournment. Request accepted. To come up for reply and arguments on application on 04.07.2017 before S.B.

(AHMAD HASSAN) MEMBER

.04.07.2017

Appellant with counsel present. Learned counsel for the appellant argued that no similar nature of appeal was pending before the Supreme Court of Pakistan, hence on acceptance of this application the appeal be restored. Request accepted. The appeal is restored and fixed before D.B for final hearing on 03.08.2017.

(Ahmad Hassan) Member

### FORM OF ORDER SHEET

Court	of	 		
,		\$ 25% 3 to 480,000	:	
Misc. a	pplication No	53 /2017		

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27/03/2017	The application for survival of appeal No.598/2015 submit through Muhammad Asif Adverses
		by Mr. Jehangir Pervez through Muhammad Asif Advocate rentered in the relevant Register and put up to the Court for proper
		please.
2-	28-3-2017	REGISTRAR -
		This application be put up before S. Bench on 28-03-2017
	A 1 1 2 2 2 3 1	
	100000	CHAIRMAN
,		
	28.03. <b>201</b> 7	Counsel for the petitioner present and submitted
		an application for restoration of appeal adjourned sine-die
		on 20.1.2017. Notice of application be issued to the
		respondents. To come up for reply and arguments on
t		application on 26.04.2017 before S.B
		Charman
•		
		<b>基础处理</b>

28.10.2016

Counsel for the appellant and Additional AG for respondents present. Learned counsel for the appellant requested for adjournment.

Request accepted. To come up for arguments on 20.1.17 before D.B.

(ABDUL LATIF) **MEMBER** 

(PIR BAK) HSH SHAH) MEMBER

20.01.2017

Counsel for appellant and Mr. Muhammad Jan, GP for respondents present. Learned counsel for appellant requested for adjournment as the same matter is pending before apex Supreme Court of Pakistan and it would be in the interest of justice that this appeal may be adjourned till decision verdict of apex Supreme Court of Pakistan on the same issue. He also requested that instant appeal may be adjourned sine-die and as soon as the verdict of apex Supreme Court of Pakistan is issued the instant service appeal would be recovered by way of application by the appellant. Request is accepted. The appeal in hand stands adjourned sine-die...

> (AHMAD HASSAN) **MEMBER**

(ASHFAQUE TAJ) MEMBER

26.04.2017

Appellant in person present and Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 29.05.2017 before D.B.

> (Ahmad Hassan) Member

Appellant in person and Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 3.3.2016 before S.B.

Charman

Appellant in person and Mr. Sultan Shah, Assistant alongwith Assistant AG for respondents present. Para-wise comments by respondents No. 2 and 3 submitted. The learned Assistant AG relies on the same on behalf of respondent No. 1. The appeal is assigned to D.B for rejoinder and final hearing for 24.6.2016.

Chairman

Appellant in person and Addl: AG for respondents present. Rejoinder submitted. To come up for arguments on 28.10.2016.

Member

Malson

09.06.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving in the Civil Secretariat when retired from service as S.O on 01.12.2008. That the special allowance attached with the Secretariat Service was not considered in the pensionary benefits of the appellant and hence the appellant preferred departmental appeal on 11.06.2013 which was rejected on 18.06.2013 where-after the appellant preferred Writ Petition on 09.07.2013 which was dismissed vide judgement dated 22.04.2015 wherein august Peshawar High Court observed that the matter pertains to the terms and conditions of service and hence the service appeal on 21.05.2015.

That the appellant is entitled to the pensionary benefits by adding the benefits of special allowance attached with the Secretariat service.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 01.09.2015 before S.B.

Chairmar

01.09.2015

Appellant with counsel, M/S Sultan Shah, Assistant and Irshad Muhammad, SO alongwith Assistant A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 23.11.2015 before S.B.

Chail

# Form- A FORM OF ORDER SHEET

Court of		
		598/2015
Case No	·	

ē.	Case No	598/2015
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03.06.2015	The appeal of Mr. Jehangir Pervaiz resubmitted today by Mr. Muhammad Asif Advocate, may be entered in the Institution
2	5-6-15	register and put up to the Worthy Chairman for proper order.  REGISTRAR  This case is entrusted to S. Bench for preliminary hearing to be put up thereon
	-	CHAMMAN

The joint appeal of M/S Jehangir Parvez, Mir Ahmad, Abdur Rashid, Hafizur Rehman, Akhtar Muhammad, Gul Muhammad, Ehsan Elahi, Fida Muhammad, Atlas Khan, shah Sawar, Muhammad Yaqub, Mushtaq Ahmad, Muhammad Jamil, Abdul Jalil, Muhammad Zaman, Muhammad Idrees, Rasul Shah, Muhammad Naqeeb, Afzal Shah, Abdus Samad and Sajjad Ahmad received to-day i.e. on 21.05.2015 is incomplete on the following score which is returned to their counsel for completion and resubmission within 15 days.

- 1- Law under which appeal is filed is wrong.
- 2- Appeal may be got signed by the appellants.
- , 3- Addresses of appellants are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
  - 4- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
  - 5- Annexures of the appeal may be attested.
  - 6- Copy of Judgment of Supreme Court of Pakistan mentioned in para-e of the grounds of appeal is not attached with the appeal which may be placed on it.
- , 7- Copies of departmental appeals of appellants No. 2 to 21 are not attached with the appeal which may be placed on it.
  - 8- Appeal rules 1986 requires that every affected civil servant shall prefer the appeal separately/individually, therefore the appeal of the above named appellants may be filed separately/individually.
  - 9- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent in each case may also be submitted.

<u>/ / /</u>S.T,

REGISTRAR **SERVICE TRIBUNAL** KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Muhammad Asif Adv. Pesh.

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### BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

S.A..No. /2015

Jehangir Parvez		
Versus		
Govt. of Khyber Pakhtunkhwa		
through Chief Secretary others	Respondents	

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Appellant

Through

Muhammad Asif

Advocate, Peshawar

Off:

214 Syed Ahmad Ali Building near Taj Autos, Sunehri Masjid

Road, Peshawar Cantt. Cell: 0302-8885187

Dated: .06.2015

### (1)

### <u>BEFORE THE CHAIRMAN SERVICE TRIBUNAL.</u> <u>KHYBER PAKHTUNKHWA, PESHAWAR</u>

s.a..No. 598 /2015

A.W. P. Province
Service   Libunel
Diary No.
Gardal-J-XOIS
The second secon

Jehangir Parvez (Rtd) Section Officer

R/o House No.B/7, Kamran Street, Chairman Town, Ijazabad

Road Gulbahar No.4, Peshawar......Appellant

#### Versus

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Secretary Finance, Finance Department, Civil Secretariat, Peshawar.

APPEAL UNDER SECTION 4 OF THE N.W.F.P. SERVICES TRIBUNAL ACT, 1974
AGAINST THE ORDER/ DECISION OF THE RESPONDENTS DATED 18.06.2013
WHEREBY DEPARTMENTAL APPEAL
FILED BY THE APPELLANT WAS REJECTED.



#### Respectfully Sheweth;

Appellant submits as under:

- nd liled.
- That appellant was the employee of Govt. of KPK and was posted in Civil Secretariat, Peshawar and served on different posts and retired on 01.12.2008 as Section Officer.
- That appellants retired from service after attaining the age of superannuation.

2

3) That during the service the Govt. of KPK use to announce several benefits in pay for its employees and every time was given fresh name for example Personal Allowance and some time it was called Civil Secretariat Allowance.

Company the Company of the

- 4) That the Secretariat allowance which was given to an employee during service was counted towards pension at the time of retirement.
- 5) That when appellant and others were retired, the special allowance (being changed name of Secretariat Allowance) was not counted towards pension.
- 6) That appellant filed representation to respondent No.1 which has not been accepted on 11.06.2013. (Copy of the order is Annexure "A").
- 7) That aggrieved with appellant and some other affectees filed a writ petition in the hon'ble Peshawar High Court, Peshawar in which comments were called. (Photocopy of the writ petition is Annexure "B").
- 8) That respondents filed the comments and the appellant and others filed the rejoinder. (Copy of comments with Annexures as well as rejoinder with annexures are attached as Annexure "C and D").
- 9) That after hearing the arguments from both sides the writ petition was dismissed being not maintainable due to express bar of entertaining writ petition in view of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. (Copy of the decision is Annexure E").
- 10) That aggrieved with, appellant has come before this Hon'ble Tribunal on the following grounds amongst the others in this appeal having no other remedy.

#### **GROUNDS:**

a. That the order of Respondents dated 18.06.2013 is against law and facts. Hence untenable in the eyes of law. (Copy of the letter is Annexure "F").

- b. That the Respondents failed to appreciate the fact that Secretariat allowance (even by changed name) was counted towards pension on the basis of Supreme Court decision but in the case of appellant, respondents have refused to count the Secretariat/ Special Allowance towards pension.
- c. That Provincial Govt. vide letter No.FD(SR-II)2-143/87 dated 15.07.1987 (Copy of letter is Annexure "G") had sanctioned the Secretariat Allowance to Govt. servants working in the Secretariat @ 20% of Basic Pay including the Govt. Servants working in Governor's Secretariat and C.M. Secretariat. Later on it was converted into Personal Allowance vide letter No.FD (PRC)1-1/94 dated 30.06.1994 (Copy of letter is Annexure "H") and after some time it was discontinued vide letter No.FD(PRC)1-1/2001 dated 27.10.2001. (Copy of letter is Annexure "I").
- d. That Supreme Court of Pakistan vide Civil Appeal No.2683/2006 has observed that the Govt. since 1988 has been converting from time to time the Secretariat Allowance into Personal Allowance leaving some gape during it was not treated so. This is nothing but sheer discrimination because through notification some were allowed the benefits and others were not. The discrimination in violation of provision Article 25 of the Constitution of Islamic Republic of Pakistan.
- e. That in the judgment, the Supreme Court ordered the counting of Secretariat Allowance/ Personal Allowance towards pension. (Copy of judgment is Annexure "J").
- f. That in the light of Supreme Court's decision the Federal Govt. and Provincial Govt. allowed the counting of Secretariat Allowance/Personal Allowance into emoluments for pension vide letter No.F.13(4) Reg-6/2007 dated 11.02.2008 and Provincial Govt. vide letters No.KC/FD (SOSR-II) 4-111/2008 dated 20.08.2008 and dated 30.01.2009. (Annexure "K, L and M")

- g. That after a few years a summary to the Chief Minister was moved for sanctioning of 20% Special Allowance categorical indicating that proposed Special Allowance would be in lieu of Secretariat Allowance. The Chief Minister has approved the said proposal. (Copy of summary is Annexure "N").
- h. That after approval, while issuing the orders vide letter No.FD(SOSR-II) 8-7/2002/ Vol.IV dated 06.02.2008 (Annexure "O") a condition was imposed that the said Special Allowance will not be treated as part of emoluments for calculation of pension/gratuity etc.
- i. That the condition imposed was not mentioned in the summary nor it was approved by the Chief Minister, but intentionally imposed without any authority and illegally to deprive off the pensioners from the benefit for which they would have been entitled in light of Supreme Court's decision.
- j. That it was requested to the Chief Secretary vide application dated 26.07.2011 for issuance of clarification for counting of 20% Special Allowance towards pension. (Copies of application is Annexure "P").
- k. That many requests/ reminders were made, but the case was twisted as per detail given below:-
  - (a) Finance Department vide letter No.FD(SOSR-II) 8-7/2012 dated 15.10.2012 was of the view that the decision of Supreme Court in the case of Mr.Muhammad Ramzan was on humanitarian grounds to extend possible financial assistants to the deceased Ramzan's family and it not seems precedent for others. (Copy of letter is Annexure "Q").
  - (b) In reference to the Finance Department's views, the appellants submitted an application dated 18.12.2012 (Copy of application is Annexure "R") that if the decision was only for one and on humanitarian grounds, why the Federal and Provincial Govt.

(5)

extended that for all others vide letters .KC/FD(SOSR-II) 4-111/2008 dated 20.08.2008 and dated 30.01.2009. (Copies already attached as Annexure "L and M").

- (c) That even on reminders and on appellant's request to know the reasons for not accepting the request is our basic right, the Finance Department vide letter No.FD(SOSR-II)8-7/2012 dated 18.06.2013 has simply regretted to accede our request without quoting reasons. (Copy of letter already attached as Annexure "F").
- 1. That the respondents failed to appreciate the real point involved in the case in its true perspective. Hence have arrived at incorrect conclusion.
- m. That under the law respondents were bound to reply with reasons but have simply replied:

"Finance Department regrets its inability to accede to the request of the officer concerned"

n. That the decision of the respondents is perversant and against the settled principle of law and justice and as such is liable to be set aside.

It is, therefore, requested that on accepting of this appeal, the decision of respondents dated 06.02.2008 and dated 18.06.2013 to the extent of not counting special allowance and emoluments for pension/ gratuity may kindly be declared as null and void, ineffective upon the rights of the appellant and the respondents may kindly be ordered to calculate 20% Special Allowance (being changed name of Secretariat Allowance or whichever name respondents wants to give) towards pension from the date of retirement.

Any other relief which this Hon'ble Tribunal deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted.

Through M

Muhammad Asif

Advocate, Peshawar

Off:

214 Syed Ahmad Ali Building Near Taj Autos, Sunehri Masjid Road, Peshawar Cantt.

Cell: 0302-8885187

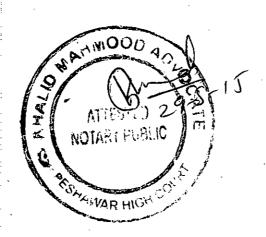
Off: 091-5279292

# <u>BEFORE THE CHAIRMAN SERVICE TRIBUNAL,</u> <u>KHYBER PAKHTUNKHWA, PESHAWAR</u>

S.ANo/2015	
Jehangir Parvez	Appellant
Versus	·
Govt. of Khyber Pakhtunkhwa	
through Chief Secretary others	Respondents

#### **AFFIDAVIT**

I, Jehangir Parvez (Rtd) Section Officer R/o House No.B/7, Kamran Street, Chairman Town, Ijazabad Road Gulbahar No.4, Peshawar, do hereby affirm and declare on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble Tribunal.



Hehouen.
Deponent



# BEFORE THE CHAIRMAN SERVICE TRIBUNAL. KHYBER PAKHTUNKHWA, PESHAWAR

S.ANo	/2015	
Jehangir Parvez		Appellant
	Versus	
Govt. of Khyber I	Pakhtunkhwa	
through Chief Sec	cretary others	Respondents
F	ADDRESSES OF THE I	PARTIES

#### **APPELLANT**:

Jehangir Parvez (Rtd) Section Officer R/o House No.B/7, Kamran Street, Chairman Town, Ijazabad Road

#### **RESPONDENTS:**

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Secretary Finance, Finance Department, Civil Secretariat, Peshawar.
- 3) Secretary Establishment (Admn: & Estt: Deptt), Civil Secretariat, Peshawar

Appellant

Through

Muhammad Asif Advocate, Peshawar





S.ANo/2015	
Jehangir Parvez	Appellant
Versus	
Govt. of Khyber Pakhtunkhwa through Chief Secretary others	Respondents

#### APPLICATION FOR CONDONATION OF DELAY

#### Respectfully Sheweth;

Applicants submit as under:-

- 1) That the above noted appeal has been filed in this hon'ble Tribunal.
- 2) That prima facie applicant has a good case in his favour.
- 3) That in fact applicant along with others filed a writ petition in the hon'ble High Court in which comments were called and later on rejoinder was filed.
- 4) That on 22.04.2015 after hearing the arguments the writ petition was dismissed due to lack of jurisdiction and the concluding para is as under:-
  - Departmental Authority in respect of any of the Terms and Conditions of his/ her service may prefer an appeal under section 4 of the KPK, Service Tribunal Act, 1974, after filing Departmental Appeal/ representation within thirty days, but after the expiry of 90 days mandatory period. Due to express bar of entertaining writ petitions in view of Article 212 of the Constitution of Islamic Republic of Pakistan 1973, this Court is barred to entertain any writ in respect of terms and conditions of any Civil Servant directly.
  - In vie of the above, the instant writ petition being not maintainable is hereby dismissed.

- 5) That applicant is pursuing the case properly and thus now after dismissing the writ petition has filed appeal before this hon'ble Tribunal.
- 6) That if there is some delay in filing the appeal before this hon'ble Tribunal on the reason mentioned above which requires to be condoned because the same is not willful.
- 7) That in case the time is not condoned and the appeal is not decided on merit applicant would suffer an irreparable loss. Affidavit is given to this effect.
- 8) That balance of convenience is also in favour of the applicant.

It is, therefore, requested that on acceptance of this application, the time may kindly be condoned and the appeal may kindly be decided on merit.

Applicant

Though

Advocate, Peshawar.



## <u>BEFORE THE CHAIRMAN SERVICE TRIBUNAL,</u> <u>KHYBER PAKHTUNKHWA, PESHAWAR</u>

S.ANo/2015	
Jehangir Parvez	Appellant
Versus	
Govt. of Khyber Pakhtunkhwa	
through Chief Secretary others	Respondents

#### **AFFIDAVIT**

I, Jehangir Parvez (Rtd) Section Officer R/o House No.B/7, Kamran Street, Chairman Town, Ijazabad Road Gulbahar No.4, Peshawar (petitioner No.1), do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble Tribunal.

The state of the s

Deponent

Homozeine -Ps M:

The Secretary to Govt: of Khyber Pakhtunkhwa/Finance Department.

Peshawar.

Subject:

Counting Of Special Allowance Towards Emoluments For Pension

Dear Sir,

I am to invite your attention to our application dated 18-12-2012 on the subject noted above (copy enclosed) and to state that till date the response from Finance Department is awaited.

It is therefore, requested to kindly consider our request or convey the reasons to we may get a remedy from the court of law.

Dated 11-06-2013

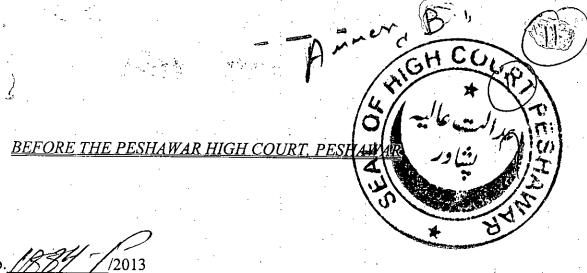
Yours Faithfully,

(Jehangir Pervez)

Ex-Section Officer House No.7/B Kamran St. Chairman Town Gulbahar No.4 Peshawar.

On behalf of applicants 0321-9189120

Miles for Contraction of the Con



- 1) Jehangir Parvez (Rtd) Section Officer R/o House No.B/7, Kamran Street, Chairman Town, Ijazabad Road Gulbahar No.4, Peshawar.
- 2) Mir Ahmad R/O Shaikh Abad, near Shaikh Junaid Baba, Peshawar.
- 3) Abdur Rashid, R/o Civil Quarter, Peshawar.
- 4) Hafizur Rehman, R/O inside Sarki Gate, Peshawar.
- 5) Akhtar Muhammad, R/O Mohmand Agency
- 6) Gul Muhammad, R/o Civil Quarters, Peshawar.
- 7) Ehsan Elahi, R/O Canal Road, Gulbahar, Peshawar.
- 8) Fida Muhammad, R/O Civil Quarter, Peshawar.
- 9) Atlas Khan, R/O Village Kaga Wala, Peshawar.
- $\cdot 10)$ Shah Sawar R/O Charsadda
- 11) Muhammad Yaqoob R/O Civil Quarters, Peshawar

......Section Officers

- Mushtaq Ahmad, R/O Lakki Dheri Road, Gulbahar, Peshawar. 12)
- 13) Muhammad Jamil R/O Kakshal, Peshawar.
- 14) Abdul Jalil, R/o Hussain Abad, Gulbahar, Peshawar.
- 15) Muhammad Zaman, Gulbahar No.1, Peshawar.
- 16) Muhammad Adrees, R/O Kakshal, Peshawar.
- 17) Rasul Shah, R/O 86B Civil Quarters, Peshawar.
- 18) Muhammad Naqeeb, R/O Village Pakha Ghulam, District Peshawar.
- 19) Afzal Shah, R/O Mansehra
- 20) Abdus Samad R/O Nishtar Abad, Peshawar R/o Mansehra.....Deputy Secretaries.

21) Sajjad Ahmad, R/o Mansehra, Additional Secretary

**PETITIONERS** 



#### Versus

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Secretary Finance, Finance Department, Civil Secretariat, Peshawar.
- 3) Secretary Establishment (Admn: & Estt: Deptt), Civil Secretariat,

  Peshawar RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

#### Respectfully Sheweth;

Petitioners submit as under:

- 1) That petitioners were the employees of Govt. of KPK and were posted in Civil Secretariat, Peshawar and served on different posts.
- 2) That petitioners retired from service after attaining the age of superannuation.
- That during the service the Govt. of KPK use to announce several benefits in pay for its employees and every time was given fresh name for example Personal Allowance and some time it was called Civil Secretariat Allowance.
- 4) That the Secretariat allowance which was given to an employee during service was counted towards pension at the time of retirement.
- 5) That when petitioners were retired, the special allowance (being changed name of Secretariat Allowance) was not counted towards pension.
- 6) That petitioners as well as petitioner No.1 filed representation to respondent No.1 which has not been accepted on 11.06.2013. (Copy of the order is Annexure "A").

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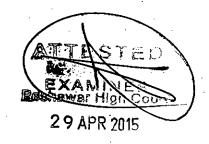


7) That aggrieved with, petitioners have come before this Hon'ble Court on the following grounds amongst the others in this Constitutional Petition having no other remedy.

### **GROUNDS:**

- a. That the order of Respondents dated 18.06.2013 is against law and facts. Hence untenable in the eyes of law.
- b. That the Respondents failed to appreciate the fact that Secretariat allowance even by changed name) was counted towards pension on the basis of Supreme Court decision but in the case of petitioners, respondents have refused to count the Secretariat/ Special Allowance towards pension.
- c. That Provincial Govt. vide letter No.FD(SR-II)2-143/87 dated 15.07.1987 had sanctioned the Secretariat Allowance to Govt. servants working in the Secretariat @ 20% of Basic Pay including the Govt. Servants working in Governor's Secretariat and C.M. Secretariat. Later on it was converted into Personal Allowance vide letter No.FD(PRC)1-1/94 dated 30.06.1994 and after some time it was discontinued vide letter No.FD(PRC)1-1/2001 dated 27.10.2001.
- d. That Supreme Court of Pakistan vide Civil Appeal No.2683/2006 has observed that the Govt. since 1988 has been converting from time to time the Secretariat Allowance into Personal Allowance leaving some gape during it was not treated so. This is nothing but sheer discrimination because through notification some were allowed the benefits and others were not. The discrimination in violation of provision Article 25 of the Constitution.
- e. That in the judgment, the Supreme Court ordered the counting of Secretariat Allowance/ Personal Allowance towards pension.







- f. That in the light of Supreme Court's decision the Federal Govt. and Provincial Govt. allowed the counting of Secretariat Allowance/Personal Allowance into emoluments for pension vide letter No.F.13(4) Reg-6/2007 dated 11.02.2008 and Provincial Govt. vide letters No.KC/FD(SOSR-II) 4-111/2008 dated 20.08.2008 and dated 30.01.2009. (Annexure "G and H")
- g. That after a few years a summary to the Chief Minister was moved for sanctioning of 20% Special Allowance categorical indicating that proposed Special Allowance would be in lieu of Secretariat Allowance. The Chief Minister has approved the said proposal.
- h. That after approval, while issuing the orders vide letter No.FD(SOSR-II) 8-7/2002/ Vol.IV dated 06.02.2008 (Annexure "I") a condition was imposed that the said Special Allowance will not be treated as part of emoluments for calculation of pension/gratuity etc.
- i. That the condition imposed was not mentioned in the summary nor it was approved by the Chief Minister, but intentionally imposed without any authority and illegally to deprive off the pensioners from the benefit for which they would have been entitled in light of Supreme Court's decision.
- j. That it was requested to the Chief Secretary vide application dated 26.07.2011 for issuance of clarification for counting of 20% Special Allowance towards pension.
- k. That many requests/ reminders were made, but the case was twisted as per detail given below:-
  - (a) Finance Department vide letter No.FD(SOSR-II) 8-7/2012 dated 15.10.2012 was of the view that the decision of Supreme Court in the case of Mr.Muhammad Ramzan was on humanitarian grounds to extend possible financial assistants to the deceased Ramzan's family and it not seems precedent for others.

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- (b) In reference to the Finance Department's views, the petitioners submitted an application dated 18.12.2012 that if the decision was only for one and on humanitarian grounds, why the Federal and Provincial Govt. extended that for all others vide letters .KC/FD(SOSR-II) 4-111/2008 dated 20.08.2008 and dated 30.01.2009.
- (c) That even on reminders and on our request that to know the reasons for not accepting the request is our basic right, the Finance Department vide letter No.FD(SOSR-II)8-7/2012 dated 18.06.2013 has simply regretted to accede our request without quoting reasons.
- 1. That the respondents failed to appreciate the real point involved in the case in its true perspective. Hence have arrived at incorrect conclusion.
- m. That under the law respondents were bound to reply with reasons but have simply replied:

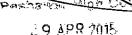
"Finance Department regrets its inability to accede to the request of the officer concerned"

n. That the decision of the respondents is perversant and against the settled principle of law and justice and as such is liable to be set aside.

It is, therefore, requested that on accepting of this writ petition, the decision of respondents dated 06.02.2008 and dated 18.06.2013 to the extent of not counting towards emoluments for pension/ gratuity may kindly be declared as null and void, ineffective upon the rights of the petitioners and the respondents may kindly be ordered to calculate 20% Special Allowance )being changed name of Secretariat Allowance or whichever name respondents wants to give) towards pension from the date of retirement.

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Any other relief which this Hon'ble Court deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted.

Petitioners

Through

Muhammad Asif

Advocate, Peshawar

### **CERTIFICATE:**

Certified as per information furnished by my client that no such like writ petition has earlier been filed before this Hon'ble Court.

## **LIST OF BOOKS:**

1) Constitution of Islamic Republic of Pakistan, 1973.

2) Any other law book as per need.

Ma Advocate 7

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ATTESTED EXAMINED 29 APR 2015

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# BEFORE THE PESHAWAR HIGH COURT PESHAWAR

# WRIT PETITION NO. 1884-P/2013

Jehangir Pervez		Petitioner
	Vs	
GOVT: OF KHYBER PAKHTU	JNKHWAOTHERS	Respondents

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	08-2009	В	5
4	Letter dated 20-10-2009 Finance Department Khyber		
	Pakhtunkhwa	C	6
5	Letter dated 31-01-2012 Finance Department Khyber		
1	Pakhtunkhwa	D	7-8
.6	Letter dated 06-02-2008 Finance Department Khyber		
	Pakhtunkhwa		

ATTENTED ATTED

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### BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No.1884-P/2013

Jehangir Pervez

The Secretary to Govt: of Khyber Pakhtunkhwa, Finance Deptt: &

### PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO

Preliminary Objections.

- The petition is time barred. 1)
- That the petitioners have not come to this court with clean hands. 2)
- That the petitioners have got no cause of action to file this Write petition. 3)
- That the petitioners have concealed material facts from this Hon'ble court. 4)
- That the petition is bad for non-joinder and mis-joinder of necessary parties. 5)
- That as per Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, Service Tribunal Khyber Pakhtunkhwa is the proper forum for hearing service matters.

### ON FACTS.

- Pertains to record hence needs no comments. 1)
- Pertains to record hence needs no comments. 2)
- In reply to Para 3 it is submitted that salary or pay always comprise of basic pay and 3) allowance etc.
- Incorrect the Special Allowance @ 20% of pay has been sanctioned vide letter dated 4) 06/02/2008 with clear condition that "the said allowance would not be treated as a part of emoluments for the purpose of calculation of pension / gratuity in recovery of House Rent".
- As explained in Para-4 above. 5)
- Correct to the extent that representation of respondent No.1 was not accepted due 6) to non-admissibility of the claim under the rules.
- That petitioners do not fall within the definition of aggrieved persons as provided in 7) Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

### **GROUNDS.**

c)

- As explained in Para-4 of the facts. a)
- As explained in Para-4 of the facts. b)

no effect on the existing rolley.

- In pursuance of Judgment of the Supreme court of Pakistan, the Govt: of Pakistan Finance Division Islamabad vide O.M. dated 08/08/2009 (Flag-A) E Ddecided to restore the amount of the Secretariat / personal allowance to those civil servant / retired civil servant in BPS-17/22 whose Secretariat Allowance / personal allowance was adjusted in annual increment during 01/06/1994 to 30/11/2001 i.e. till the date of discontinuation of Secretariat / personal allowance since the Federal Government restored the Secretariat / Personal Allowance, this Provincial Government had also adopted the above mentioned Federal Government's Finance Division O.M vide this Department letter dated
- 20/10/2009 (Flag-B). Incorrect. The petitioner's claim for equal treatment with regard to grant of d) Special Allowance is not tenable. Hence neither petitioner's right has been negated nor Article 25 of the Constitution violated by the respondents. The treatment is based on intelligible differentia.
  - Finance Department has already allowed the inclusion of Secretariat Allowance/Personal Allowance in the emoluments reckonable towards pension vide this department letters No. KC/FD(SOSR-II)4-111/2008 dated 20-08-2008 and 30-01-2009), in pursuance of judgment dated 05-04-2007 passed by Supreme Court of Pakistan in Civil miscellaneous Petition No. 2683 of 2006. Since the judgment was announced prior to the sanction of the said allowance and this particular allowance / circular dated 06/02/2008 was issued later on as such there app

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- f) As explained in Para-e above.
- g) As explained in Para-4 of the facts.
- h) As explained in Para-4 of the facts.
- ) It is correct to the extent that condition is not mentioned in the Summary, however finance Department has elaborated the same in the relevant Notification dated 06/02/2008 (Flag-D)
- j) Finance Department has already clarified in light of this Department letter dated 31/01/2012 (Flag-C) that the Special Allowance has been granted to Secretariat employees with the condition at Para 1 (iii) of the this Department circular 06/02/2008 i.e. "the said allowance would not be treated as part of emolument for the purpose of the calculation of pension/ gratuity and recovery of house rent".
- k) a) As explained in Para-C of the grounds.
  - b) As explained in Para-C of the grounds.
  - c) As explained in Para-C of the grounds.
- L) As explained in Para-e of the grounds.
- M) As explained in Para-e of the grounds.
- N) As explained in Para-e of the grounds.

In view of the above explanation, it is humbly prayed that the instant petition being devoid of merits may please be dismissed with cost.

Secretary to Govt Khyber Pakhtunkhwa Finance Department

Respondent No AO2

Finance Deptt:

EXAC NER Peshawar Algh Cour

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### <u>BEFORE THE PESHAWAR HIGH COURT PESHAWAR</u>



W.P.NO.1884-P/013

Jehangir Pervaz ......Petitioners.

VERSUS

Govt: of Khyber Pakhtunkhwa, Finance Deptt & others.....Respondents

### AFFIDAVIT

I Amanatullah Qureshi, section Officer (Lit-I) Government of Khyber Pakhtunkhwa Finance Department do hereby solemnly affirm and declare on oath that the contents of Para-wise comments on behalf of respondent No. 2 are true and correct to the best of my belief and that nothing has been concealed from the Honorable Court.

SECTION OFFICER (Lit-I)
Finance Department
Khyber Pakhtunkhwa

Identified by

Advocate General

Khyber Pakhtunkhwa Peshawar.

No. 4.26-

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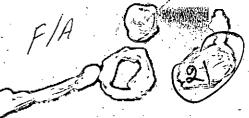
Who is personally known to me:

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Government of Pakistan Finance Division (Regulations Wing)



No. 13(4)-Reg.6/2007

Islamabad, the 8th August, 2009

### OFFICE MEMORANDUM

Subject:-

PAYMENT OF SECRETARIAT ALLOWANCE/PERSONAL ALLOWANCE ADJUSTED IN ANNUAL INCREMENTS **DURING 1994-2001.** 

The undersigned is directed to refer to para 5 (i) of Finance Division's O.M. No. F. 1(2)-Imp/94(i) e ited 15th June, 1994 (copy enclosed) on the above subject and to state that in pursuance of the Judgement dated 25.05.2009 passed by the Supreme Court of Pakistan in Civil Petitions NO. 4 to 9 of 2007, it has been decided to restore the amounts of the Secretariat/Personal Allowance of those civil servants/retired civil servants in BPS 17-2 whose Secretariat Allowance/Personal Allowance was adjusted in annual increments during 01.06.1994 to 30.11.2001 i.e. till the date of discontinuation of Secretariat Allowance Allowance/Personal Allowance vide Finance Division's O.M. No. 1(5)-Imp/2001 dated 04.09.: 001.

> Secy: Finance NW Dairy No.

(Nayyar Nadeem) Section Officer (Reg.6)

All Ministries/Divisions

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Prime Minister a occertainat (internal), Islamabad. 4.

Prime Minister's Secretariat(Public), Islamabad. 5, National Assembly Secretariat, Islamabad.

6. Senate Secretariat, Islamabad. 7.

Election Commission of Pakistan, Islamabad. 8:

Supreme Court of Pakistan, Islamabad. 9. 10.

Federal Shariat Court, Islamabad.

AGPR, Islamabad/Lahore/Peshawar/Karachi/Quetta. 11. Pakistan Mint, Lahore.

12.

Auditor General of Pakistan, Islamabad. 13.

Federal Public Service Commission, F-5/1, Agha Khan Road, Islamabad. 14. 15.

Cost Accounts Organization, Islamabad. 16. 17.

Military Accountant General, Rawalpindi.

Central Directorate of National Savings, Islamabad. 18.

Chief Accounts Officer, M/O Foreign Affairs, Islamabad. 19. 20.

Financial Adviser and Chief Accounts Officer, Pakistan Railways, Lahore. Ministries/Divisions etc and all officers of Finance Division. Advisors attached

21. Secretariat Training Institute, Islamabad. 22

Federal Tax Ombudsman's Secretariat, Islamabad. 23, 24.

DG Post Offices, Islamabad.

Office of the Chief Commissioner, Islamabad. 25.

Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Islamabad. 26. Pakistan Atomic Energy Commission, Islamabad.

27.

All Chief Secretaries/Finance Secretaries of the Government of Punjab/ Sindh/ NWFP/Baluchistan & Azad State of Jammu & Kashmir. 28.

Directorate General of Inspection & Training, Customs & Central Excise, 8th Floor, New Custom House, Karachi.

29.

National Re-Construction Bureau, Prime Minister's Secretariat, Islamabad. 30: National Accountability Bureau, Islamabad.

31. Intelligence Bureau, Islamabad. 32.

Member (Finance), KRL, P.O.Box.No.1384, Islamabad. 33. Controller General of Accounts, Islamabad.

(Nayyar Nadeem) Section Officer (Reg.6)



# GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO FD(SOSR-II)8-7/2002 Dated Peshawar the ... 31/1/2012

To

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

Subject: -

COUNTING OF SPECIAL ALLOWANCE TOWARDS PENSION.

Dear Sir,

I am directed to refer to the remarks of Chief Secretary; Khyber Pakhtunkhwa recorded on joint application of retired Section Officers, Deputy Secretaries and Private Secretaries of Civil Secretariat bearing Diary No. PS/CS Khyber Pakhtunkhwa Diary No. 8217 dated 26-07-2011 (page-30/C) on the subject noted above (copy enclosed) and to say that the existing special allowance has been granted to secretariat employees with the condition at Para-1 (iii) of this department circulars dated 06-02-2008 i.e. "the said allowance would not be treated as part of emoluments for the purpose of calculation of pension/gratuity and recovery of House Rent".

Keeping in view the above condition, the said allowance could not be treated as a part of emolument reckonable towards pension.

Yours faithfully,

T.

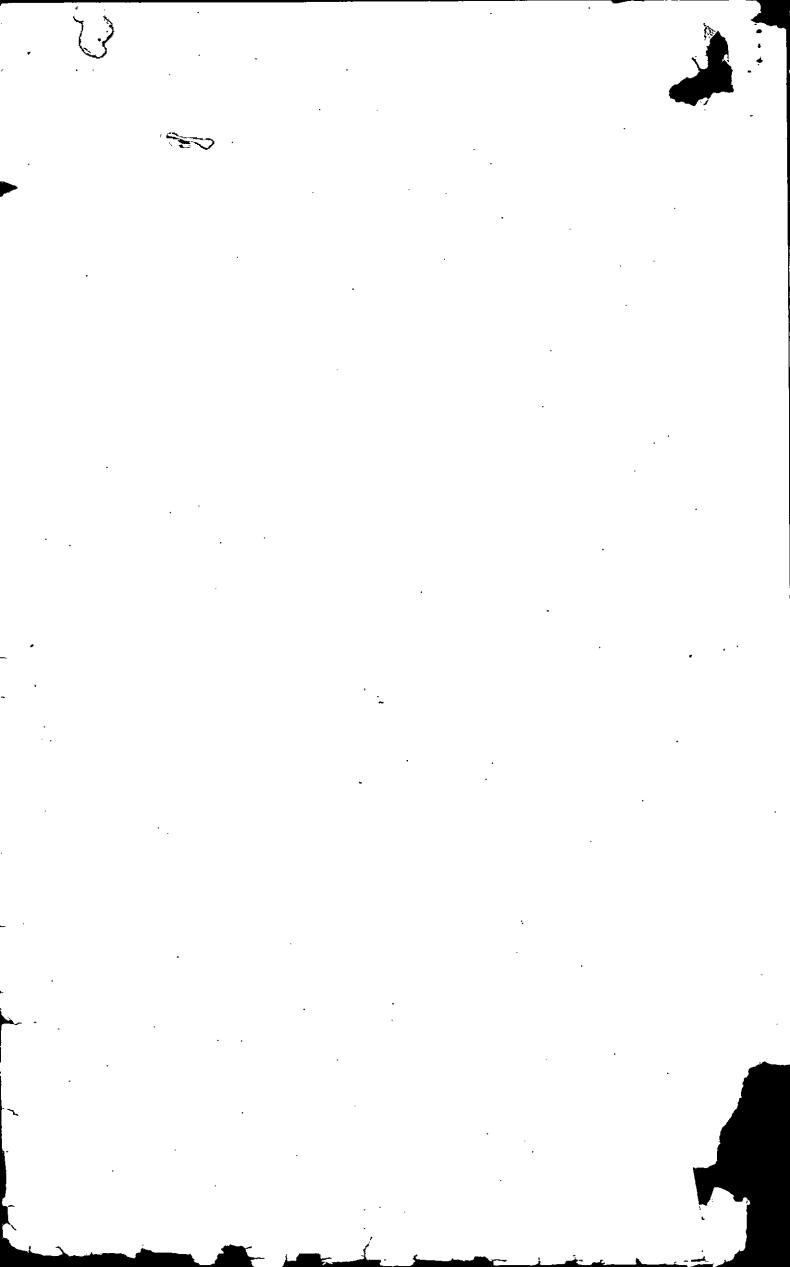
WAZIR MUHAMMAD AFGAI SECTION OFFICER (SR.II)

. .

. .

SECTION OF

1/2



GOVERNMENT OF NWFP FINANCE DEPARTMEN (REGULATION WING) NO.FD(SOSR II)8-7/2002/Vol-IV Dated Peshawar the 06/02/2008

All Administrative Secretaries To Government of NWFP.

Subject:-

GRANT OF SPECIAL ALLOWANCE @ 20% OF BASIC PAY TO N.W.F.P.

Dear Sir,

I am directed to refer to the subject noted above and to state the the Competent Authority has been pleased to approve Special Allowance @ 20% of Basic pay to the Officers and Officials (BPS-1-22) of the N.W.F.P. Civil Secretariat, Chief Minister's Secretaria and Governor's Ilouse/Secretariat NWFP w.e.f. Ist February, 2008 subject o the following conditions/clarifications:-

- The said allowance will be admissible to all those who are vorking in the offices of the above mentioned secretariats and will also be admissible during the period of leave and L.P.R and to employees of Civil Secretariat NWFP who are on deputation outside these Secretariats.
- ii) The said allowance would not be admissible during Extra Cidinary Leave.
- The said allowance would not be treated as part of enotuments for the purpose of calculation of Pension/gratuity and recovery of Fouse Rent.
- The Government servants working in Governor's Secretar at NWFP, already drawing Governor's House/Secretariat Allowance will be required to exercise heir option (within continue to draw Governor's House/Secretariat Allowance already sanctioned vide No. FD(SOSR-stipulated period, shall be deemed to have opted for the Special Allowance.
- The Government servants working in Chief Minister's Secretar at NWFP, already drawing Chief Minister's Secretariat Allowance will be required to exercise their option (within one month of the issue of this letter) either to draw the Special Allowance @ 20% of Basic Pay or continue to draw Chief Minister's Secretariat Allowance already sanctioned vic : No.FD(SR-V)2-163/91 dated 20/2/1994. A Government servant, who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.
- The Government Servants deputed from other departments who do not belong to Secretariat Services but are working in the secretariat will be required to exercise their option either to draw the Special Allowance @ 20% or to continue to draw the deputation allowance.

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The Government Secretariat who are the recipient of Judicial Allowance, will be required to exercise their option either to draw the Special Allowance @ 20% or to continue to draw the Judicial Allowance within stipulated period i.e one month of the issue of this letter. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.

Yours faithfully,

(USMAN GUL)
ADDITIONAL SECRETARY(REG)

Endst: No. & date even.

Copy is forwarded to the Accountant General, NWFP, Peshawan

(SALIAD AHMAD) DEPUTY SECRETARY(R.I)

Endst: No. & date even.

Copy is forwarded for information to all Additional Secretaries/Deputy

(MUNAWAR KHAN) SECTION OFFICER(SR II)

Marilio HEORY

SECTION OFFICER (Lit-I)
Finance Department
Khyber Pakhtunkhwa

Annex

### REFORE THE PESHAWAR HIGH COURT, PESHAWAR

In re:

W.P.No.1884/2013

Jehangir Pervaiz etc.....Petitioners

Versus

# REJOINDER ON BEHALF OF THE PETITIONER IN AS UNDER

## Respectfully Sheweth

Rejoinder on behalf of petitioners is as under:-

# PRELIMINARY OBJECTIONS

- 1) The writ petition is well within time.
- 2) The writ petition has been filed with clean hands.
- 3) As the respondents have refused to accept the claim of the petitioner, therefore, petitioners have a cause of action to file the writ petition.
- 4) The petitioners have not concealed material facts from this Hon'ble Court.
  - All the necessary parties have been impleaded in the array of respondents.
- 6) Service Tribunal has got no power to award special allowance, while the Hon'ble High Court under Article 199 of the Constitution of Pakistan has the power to direct

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the respondents for awarding the special allowance to the petitioners.

### **ON FACTS**

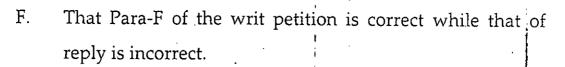
- 1-2. That Paras No.1 & 2 of writ petition are correct hence, have written "No comments"
- 3. That Para No.3 of the comments is not proper reply of the writ petition, while Para No.3 of the writ petition is correct.
- 4-5 That Paras No.4 & 5 of the writ petition are correct while that of comments filed by respondents are incorrect.
- 6. That Para No.6 of the writ petition has been admitted correct.
- 7. That Para No.7 of the writ petition is correct, while that of comments are incorrect.

### **GROUNDS**

- A-B That Paras A& B of the writ petition are correct while that of comments filed by respondents are incorrect.
- C. That reply to Para-C does not relate to Para-C of the writ petition while the writ petition is correct.
- D. That Para D of the writ petition is correct, while that of comments are incorrect.
- E. That Para-E of the comments are correct to the extent that the Finance Department has already allowed the inclusion of Secretariat allowance/ personal allowance in the emoluments towards person while rest of the para is incorrect.

deputy Registrat

03 JUN 2014



- G-H. That Paras G & H of the writ petition are correct while that of the comments filed by respondents are incorrect.
- I. That Para-I of the writ petition has been admitted correct while the rest of para is incorrect. The Finance Department has no authority under the law to impose conditions, furthermore Finance Department has no authority to change the proposal approved by the Chief Executive otherwise the Chief Executive permission is necessary.
- J. That Para-J of the writ petition is correct, while that of comments incorrect.
- K. That Para K of the writ petition is correct while that of comments filed by respondents is incorrect.
- L-N That Para L & N of the writ petition are correct while that of comments filed by respondents are incorrect.

It is, therefore, requested that on acceptance of this rejoinder the writ petition may kindly be accepted with costs.

Petitioner

Through

rough

Muhammad Asif

Supreme Court of Pakistan

Off: Sayed Ahmad Ali Buildings '
Near Taj Autos, Sonehri

Muasjid Road Peshawar Cantt.

Cell: 0302-8885187

Deputy Registrar

03 JUN 2014

EXAM.



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JUDGMENT SHEET

PESHAWAR HIGH COURT, PESHAWAR,

JUDICIAL DEPARTMENT)

Writ Petition No.1884 of 2013.

Jehangir Parvez & others......Vs....Govt: of KPK etc

JUDGMENT.

Date of hearing 22-04-2015

Appellant/Petitioner by Nuhammad Nsix Aleeseale.

Lab Navor Ichan VAME. Respondent 124

WAQAR AHMAD SETH,J:-The petitioners

through the instant constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973 have approached this Court for the following relief:-

> "It is, therefore, requested that on accepting of this writ petition, the decision of respondents dated 06/02/2008 and dated 18/06/2008 to the extent of not counting towards emoluments pension/gratuity may kindly be declared as null and ineffective upon the ritghts of the petitioiners and the respondents

> > 29 APR 2015



be ordered to calculate 20% Special Allowance (being changed name of Secretariate Alloweance or whichever name respondents want to give) towards pension from the date of retirement.

Any other relief which this Hon'ble Court deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted".

2- Briefly facts of the case as depicted in the instant writ petition are that the petitioners were the employees of Government of KPK and were posted in Civil Secretariat, Peshawar and served on different posts and now they are retired from service after attaining the age of superannuation; that the Secretariat Allowance which was given to an employee during service was counted towards pension at the time of retirement but when the petitioners were retired, the said allowance was not counted towards pension. The representation filed by them has not been accepted, hence having no other remedy available to them, the petitioners

have knocked the door of this Court.



29 APR 2015



- 3- Respondent No.2 furnished comments wherein besides other legal and factual objections, an objection quathe maintainability of the instant writ petition under Article 212 of the Constitution of Islamic Republic of Pakistan 1973 has also been raised.
- 4- We have heard the learned counsel for the parties and have also gone through the material available on file.
- 4- It is an admitted fact that petitioners were the employees of Government of Khyber Pakhtunkhwa, posted in Civil Secretariat, Peshawar on different posts and now they have retired from service on attaining the age of superannuation and now their claim is that after their retirement from service, special allowance (Secretariat Allowance) was not counted towards their pension and to this effect their repsentations were not accepted by the respondents, thus the issue in dispute relates to terms and conditions of service and the better course for the petitioners is to approach the proper forum i.e. Khyber Pakhtunkhwa

þ.

Service Tribunal.





Any Civil Servant aggrieved of any order, made by a 5-Departmental Authority in respect of any of the Terms and Conditions of his/her service may prefer an appeal under section 4 of the KPK, Service Tribunal Act, 1974, after filing Departmental Appeal/representation within thirty days, but after the expiry of 90 days mandatory period. Due to express bar of entertaining writ petitions in view of Article 212 of the Constitution of Islamic Republic of Pakistan 1973, this Court

is barred to entertain any writ in respect of Terms and Conditions of any Civil Servant directly.

In view of the above, the instant writ petition being not

maintainable is hereby dismissed..

ANNOUNCED.
Dated: 22/04/2015. Soll Wager Ahmail solh.

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### GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO.FD(SOSR-II)8-7/2012 Dated Peshawar the 18/06/2013

Ťο,

Mr.Jehangir Pervez, Ex-Section Officer, House No.7(B), Kamran Street, Chairman Town Ejazabad, Gulbahar No.04 Peshawar.

Subject:-

COUNTING OF SPECIAL ALLOWANCE TOWARDS EMOULMENTS FOR PENSION.

Dear Sir,

I am directed to refer your letter No. Nil dated 11/06/2013 on the subject noted above and state that Finance Department regrets its inability to accede to the request of the officer concerned.

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

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TO BE
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GOVERNMENT OF NWFP FINANCE DEPARTMENT

### No.FD(SR-II)2-143/87

Secretary to Government of NWFP Finance Department.

All Administrative Secretaries to Government of N.W.F.P.

GRANT OF SECRETARIAT ALLOWANCE TO THE EMPLOYEES

Sir,

I am directed to refer to the subject noted above and to say that grant of Secretariat Allowance to the Government Servants working in the Secretariat has been under consideration of the Provincial Government for some time. It has now been decided to grant Secretariat Allowance @ 20% of basic pay to all Government servants working in the Secretariat including Governor's Secretariat, Chief Minister's Secretariat, the Provincial Assembly Secretariat and the Board of Revenue Secretariat, excepting the following categories of employees:

- all the Deputy Secretaries, Additional Secretaries and Chief of Section working in the N.W.F.P. Secretariat who are already receiving Special Allowance at the rate of 20% of their pay in lieu of Special Pay w.e.f 18-3-1986, be given option either to receive the Special Allowance in terms of Federal Government O.M.No.F.1/7/IMP-II/87 dated 1-7-1987 or the Secretariat Allowance at 20% of their basic pay. The Deputy Secretaries/Additional Secretaries and . Chief of Sections who have exercised their option for the special pay which was allowed to them prior to 18th March, 1986 may, also be given option to draw the Secretariat Allowance at the rate of 20% of their pay or to retain the Special Pay at the rate of Rs. 275/- & Rs. 250/-p.m as was admissible to them prior to 15-7-1987.
- the Government Servants working in the Governor's Secretariat who are already drawing the 'Governor's House Allowance' at the following rates :-

Rs. 50/-p.m. Grade 1-2 Rs. 100/-p.m.

Grade 3-6 Grade 7-9 Rs.150/-p.m.

iii) Rs. 250/-p.m... Grade 10 & above

may, however, be allowed to exercise their option either to draw the Secretariat Allowance at 20% of pay or to continue to draw the 'Governor's House Allowance' at the above mentioned rates.

Contd:

the Government Servants/Staff working in the Chief Minister's House, who are already drawing the (Chief Minister's Secretariat Allowance) w.e.f 1-7-1986 at the following rates !-

> BPS 1-4 ii)

Rs. 50/-p.m. Rs. 100/-p.m.

BPS 5-10 BPS 11-16 BPS 17-18 iii) iv)

Rs. 150/-p.m. Rs. 220/-p.m.

Secretary/Deputy Secretary. - Secretary Rs. 250/-p.m.

vi) Secretary to C.M.

Rs. 250/-p.m.

may also be allowed to exercise option to draw the Secretariat Allowance at 20% of the basic pay or to continue to draw the Chief Minister's Secretariat Allowance at the above mentioned rates.

- d) the Section Officers deputed from other Services/Departments(who do not belong to the Secretariat Service) to work in the Secretariat against the 1/3rd quota, and who are already getting special pay at the rate of Rs.220/-p.m. may also be allowed to exercise their option either to draw Secretariat Allowance at 20% of their basic pay or to continue to draw the special pay at the above quoted rate.
- all other officers/officials working in the Secretariat who are already in receipt of special pay (except Superintendents and Budget Examiners working in the Budget Sections of Finance Department and the Stenographers attached with them and those drawing Cypher Allowance) may also be allowed to exercise their option to draw Secretariat Allowance or to continue drawing the Special Pay.

As provided in Para 1 above, option either to receive Special Pay/Special Allowance/Governor's Secretariat Allowance/Chief Minister's Secretariat Allowance or to receive the Secretariat Allowance may be exercised by Government Servants receiving special pay or the aforesaid allowances in writing and communicated to the Audit Office on the form at Annexure And before the 31st of July, 1987. A Government Servant who fails to exercise option within the prescribed period, shall be deemed to have opted for the Secretariat Allowance.

These orders shall take effect from the Ist of July. 1987.

Your obedient servant.

(Mir Laig Shah), Additional Finance Secretary-I Government of N. W. F. P.

Endst: No. & date as above.

Peshawar.

A copy is forwarded to the Accountant General, NWFP,

(Mian Sahib Jan) Deputy Secretary (Regulations)

Contd:

(35)

Endst: No. FD(SR-II) 2-143/87. Dated Peshawar, the 15th July,1987.

A copy is forwarded for information to :-

- 1.3. The Secretary to Government of Punjab, Finance Department, Lahore.
- 2. The Secretary to Government of Sind, Finance Department, Karachi.
- 3. The Secretary to Government of Baluchistan, Finance Department, Quetta.
- 4. The Secretary to Government of Azad Kashmir, Finance Department, Muzaffar Abad.

(Mian Sahib Jan)
Deputy Secretary (Regulations)

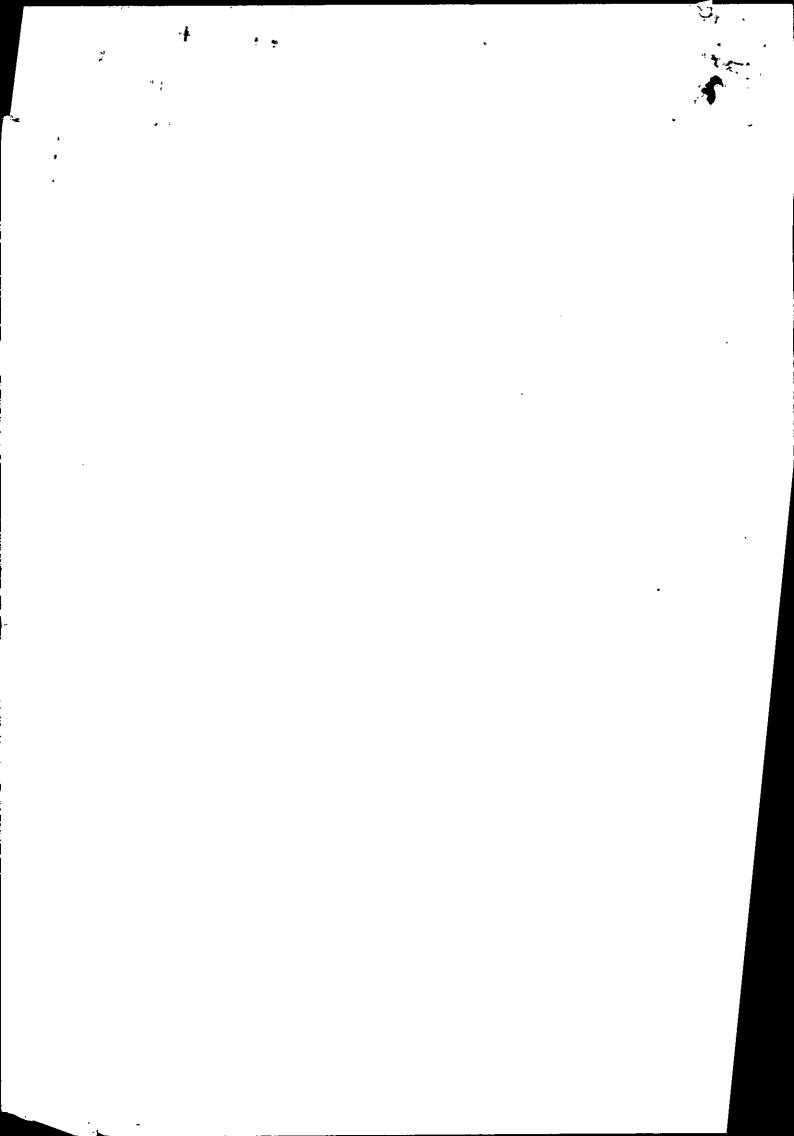
Endst: No. FD(SR-II)2-143/87. Dated Peshawar, the 15th July, 1987.

A copy is forwarded for information to all Additional Secretaries/Deputy Secretaries/Section Officers/Budget Officers in the Finance Department, Government of N.W.F.P.

(Fazl-e-Maula) Section Officer (SR-II)

\*SAJJAD\*

ATTESTED ATTESTED TRUE COPY



GOVERNMENT OF NWFP, FINANCE DEPARTMENT (REGULATION WING)  $\sum_{i=1}^{n} \frac{1}{2^{i}} \sum_{i=1}^{n} \frac{1}{2^{i}} \sum_{i$ 

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Peshawan the 30th June: 1994

### OFFICE MEMORANDUM

SUBJECT REV SIDN OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS 1-22) OF THE PROVINCIAL GOVERNMENT (1994

The Governor NWFP, has been pleased to sanction the evision of Basic Pay Scales for civil employees of the Provincial Government in BPS 1 co22 as detailed in the following paragraphs:

Basic Pay Scales. The details of the existing and revised pay scales are given the Schedule attached to this O.M. The revised pay scales shall replace existing pay scales, 1991, in respect of those employees who give option for these pay scales erms of para 6(a) and shall be effective from 1st June, 1994.

nitial Fixation of Pay. The initial fixation of pay of the employees who have been covernment service since/before 1st June, 1994, shall be made with effect from

Employees in BPS-1 to 16.— By allowing an increase at the rate of 35% on the basic pay actually drawn on 31.5.1994. The pay of the employees will be ixed at the stage equal to or if there be no stage, at the stage next above.

Employees in BPS-17 and above.--- Initial fixation of pay shall be made by allowing 35% increase on the basic pay actually drawn on 315 1994 in the following two phases:-

a) 20% of the increase shall be allowed with effect from 16.1994 by fxing pay in the relevant pay scale at the stage equal to or if there be no stage, at the stage next above.

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- b) The remaining 15% increase shall be allowed on and from 1.6 1953
  by refixing pay in the relevant pay scale on 116 1984 by allowing 35% increase over basic pay actually drawn on 31.5 1994. The new pay so fixed will be drawn from 1.6 1995 without any arrears.
- ii) The annua increment shall continue to be admissible subject to the existing conditions on the 1st of December each year.
- IV) Ad-hoc increases allowed as detailed below shall cease to be admissible from
  - Ad hoc relief of Rs 100/- P.M. sanctioned vide Finance Departments etter No.FD(PRC) 1 3/89 dated 14 9 1992
  - b) Additional ad-hoc relief of Rs 100/- P.M. sanctioned vide letter No FD(PRC)1-3/89 dated 30.08.1993.
  - c) Additional ad-hoc relief of Rs 50/- P.M. sanctioned Vide letter No. FD(PRC)1-3/89 gated 3.5.1994

Fixation of Pay In cases of promotion from lower to higher posts/scales before introduction of these scales, pay of the employee concerned in the revised scale may be fixed and so enhanced that it would not be less than the pay that would have been accomplisable to him it his promotion to the higher post/ scale had taken place after the introduction of these scales.

### Allowances

Secretariat Allowance and other similar Allowances based for Secretariat allowance.

With the introduction of new scales of pay the Secretariat Allowance admissible to employees working in the Secretariat Sand provisionally extended to the employees of other offices/ organizations or similar allowance given on the analogy of the Secretariat Allowance to the employees of the Public Service Commission and Peshawar Figure Court is applicated with effect from 1.6.1994 and the amount actually graying as such on 31.5.1994 will be converted into Personal Allowance. Those drawing such allowance on provisional passis will

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amount as Previsional Personal Allowance Personal Allowance/Provisional Personal Allowance in the case of employees in BPS-17 to 22 shall be reduced by the amount of annual inchements by which the employee's pay may be increased and shall cease as soon as his pay is increased by BPS/1-6 Will be exempted from this adjustment to the extend that their Personal Allowance Will not be reduced adjusted. ual to/or more than his Personal Allowance. Those in

Other Allowances, Special Pay etc. Special pays land of allowances including House Rent Allowance will be maintained a amount actually drawn/admissible on silst May

All existing employees are given option either to draw the existing pay scales plus Secretariat Allowance and other similar allowances based on Secretariat Allowance like Special Allowance to the employees of Peshawar High Court and Public Service Commission Allowance etc. or the new pay scales plus Personal Allowance. emplovees Allowance Provisiona Allowance etc. or the new pay scales plus Personal Allowance/Provisional Personal Allowance in the manner as at 5(i) above; Option to retain existing scale with the said Allowance must however be given in writing by the employees concerned to the audit office/Drawing and Disbursing Officer concerned by 15th July 1994. Option once exercised shall be final.

An existing employee who does not exercise and communicate stopped within the prescribed time limit, shall be deemed to hat opted to be governed by the new scales & abolition of Segretal Allowance and communicate states.

on and Retirement Benefits.

byees retiring from 1.6.1994 onwards in BHS In case of er pension will be recalculated on 1 6:1995 on the basis of pay refixed with 35% in the second phas New pension will, however, be admissible from

- in a jollowing relief to the widows, dependents, retarded and incade hidren and invalid pensioners shall be allowed with effect from 1st June 1994
  - Restoration of commuted value/gratuity portion of familie a)||
  - of family b) ion to dependent disabled/retarded childred
  - mination of second medical board for the invalidated pensione 'c)
- who have retired on or after 1.6.1993, e. 1.6.1994, be allowed pension/commutation pay that would have been admissible to them, had the pay effected on the gate of their feticement, discounted by 12%.

existing rules and orders on the subject shall be deemed to have

( TASEER JAMAL ALIZAI ) DEPUTY SECRETARY (REGULATION)

Heshawar the 30th June, 1994

- All Administrative Secretaries, Government of NWFP.
  The Secretary to Governor NWFP, Peshawar.
  The Secretary to Chief Minister, NWFP, Peshawar.
  The Secretary Provincial Assembly, NWFP, Peshawar.
  All Heads of Attached Departments in NWFP, Peshawar.
  All Commissioners/Deputy Commissioners/Political Agents/
  District & Session Judges in NWFP.
  The Registrar, Peshawar High Court, Peshawar.
  The Secretary, Public Service Commission, NWFP, Peshawar.

- - The Secretary, Public Service Commission, NWFP, Peshawar. The Registrar, Services Tribunal, NWFP, Peshawar. The Secretary, Board of Reverue, NWFP, Peshawar.

( TASEER/JAMAL ALIZAI ) DÉPUTY SECRETARY (REGULATION

Peshawar, the 30th & Semi Autonomous Bodies in NWFP The Secretary Finance Department, (Balochistan Lanore Karachi & Quetta. Department, Government of the Puniable e Secretary Finance Department, Azad Government of the State of (SHAKIH ULLAH)
SECTION OFFICER
(PAY REVISION CELL Peshawar, the 30th June The Accountant General, NWFP, Peshawar.

All District/Agency Accounts Officers in NWFP.

Tine Treasury Officer Peshawar.

The Brivate Secretary to Finance Minister, NWFP. 3. The HS to Secretary PAs to Additional Secretaries/ Deputy Secretaries 5. Section/Budge Officers in Finance Department, NWFP. 6. SHAKIR ULLAH SECTION OFFICER PAY REVISION CEL SECTION Habib/

# SCHEDULE ID REVISED PAY SCALES

ŀ			1	II in Ir IN	WARE DEP
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# GOVERNMENT OF N.W.F.P. FINANCE DEPARTMENT

No. FD(PRC)1-1/2001 Dated Peshawar the, October 27, 2001.

From:-

The Secretary to Government of NWFP, Finance Department.

·To

- 1. All Administrative Secretaries to Government of NWFP.
- 2. The Senior Member Board of Revenue, NWFP.
- 3. The Secretary to Governor NWFP, Peshawar.
- 4. The Secretary, Provincial Assembly, NWFP.
- 5. All Heads of Attached Departments NWFP.
- 6. All District Coordination Officers/Political Agents/ District and
- Sessions Judges NWFP.
- 7. The Registrar, Peshawar High Court, Peshawar.
- 8. The Chairman, NWFP, Public Service Commission.
- 9. The Chairman, NWFP, Service Tribunal, Peshawar.
- 10. The Secretary Board of Revenue, NWFP, Peshawar.

Subject:-

REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS 1 - 22) OF THE N.W.F.P. GOVERNMENT (2001).

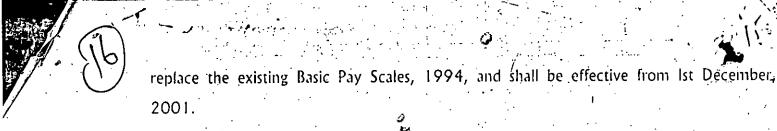
Sir,

I am directed to state that the Governor of the NWFP has been pleased to sanction, with effect from December 1, 2001, a scheme of the Basic Pay Scales, Allowances and Pensions, 2001 for the Givil employees of the Government of NWFP in BPS 1 to BPS 22 as detailed below:-

## PART I - BASIC PAY SCALES AND ALLIED MATTERS.

2. <u>BASIC PAY SCALES:</u> The existing Basic Pay Scales and the revised Basic Pay Scales are shown in Annexure-I to this letter. The revised basic pay scales shall

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2001:-

3. <u>DISCONTINUATION OF ALLOWANCES</u>:- The following allowances shall/cease to be payable on introduction of the revised pay scales with effect from 01-12-

i. ... Cost of Living Allowance to BPS 1 to BPS 22 @ 7% of basic pay.

ii. Adhoc relief of Rs. 300/-p.m. and Rs. 100/- p.m. to BPS 1 to BPS 16 (inclusive of BPS-17 by virtue of Move Over).

Secretariat Allowance/Personal Allowance if any/Adhoc Relief as recompense for Secretariat/Personal Allowance.

4. <u>SPECIAL ADDITIONAL ALLOWANCE</u>:- Special Additional Allowance sanctioned vide Finance Department's letter No. FD(PRC)1-1/99 dated 26-7-1999 shall be frozen at the level drawn as on date of issue of this letter:

5. <u>INITIAL FIXATION OF PAY</u>:- Pay of the employees in Government service on 30-11-2001 shall be fixed at the stage in the revised pay scales which is as many stages above the minimum—as the stage occupied by him above the minimum of the 1994 Basic Pay-Scale.

6. <u>PAY FIXATION ON PROMOTION</u>: The existing provisions regulating the fixation of pay in case of promotion from lower to a higher post shall continue to apply.

7. <u>SELECTION GRADE AND MOVE OVER</u>: selection Grade in the scheme of Basic Pay Scales and Move Over scheme shall stand discontinued w.e.f the date of issue of this letter.

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## 8.

# PAY FIXATION OF EMPLOYEES IN SELECTION GRADE AND THOSE WHO HAVE MOVED OVER TO HIGHER SCALE.

Pay of an existing employee drawing pay by move over shall be fixed with reference to the pay scale of the post for the time being held by him. In case the employee was drawing pay in Selection Grade, his pay will be fixed in the Selection Grade pay scale. The stage of fixation will be arrived at after allowing increments on notional basis in the original scale of the post or the Selection Grade, in 1994 Basic Pay Scales, upto the point of existing pay. Pay of the employees will then be fixed at the relevant stage in the

## **EXAMPLE** I

revised pay scales 2001.

Assistant, BPS-11 Selection Grade, BPS 15, Move over BPS 16 and in receipt of Pay of Rs. 5490/- Pay will be fixed in BPS-15 i.e Selection Grade pay scale at Rs. 8320/- as under:

	Stage 15	Stage 16	Stage .17	Stage 18	. Stage 19. :
1994 Scale	4845	5022	5199	5376	5553
2001 Scale	7260	7525	7790	8055	8320

## EXEMPLE II

Pay fixation of an employee inBPS-11 who has moved over to BPS-14 and is in receipt of basic pay of Rs.4480/- will be fixed after allowing notional increments inBPS-11 of 1994 Basic Pay Scales upto the stage of basic pay drawn. Pay in revised BPS-11 will be fixed at the corresponding stage of Rs. 6790/- as under:-

BPS-11	Stage 15	Stage 16	Stage 17	Stage 18	Stage 19	Stage 20	Stage 21	Stage 22	Stage 23	Stage 24
1994 Pay Scale	3465	3581·	3697	38 i 3	3929	4045	4164	4277	4393	4509
2001 Pay Scale	5215	5390	5565	5740	5915	6090	6265	6440	6615	6790

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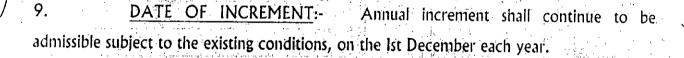


## EXAMPLE- III

Pay Fixation of an employee in BPS-5 who has moved over toBPS-11 and is in receipt of basic pay of Rs. 3465/- will be fixed after allowing notional increments in BPS-5 of 1994 BPS upto the stage of basic pay drawn. Since basic pay of Rs. 3465/- is beyond the 30 stages in notional BPS-5, (1994 BPS), and resultantly more than the 30 stages of BPS-2001, therefore, his pay will be fixed at the notional 32<sup>nd</sup> stage i.e. at Rs.5300/-. The difference of Rs. 200/- Rs.5300 – 5100) will be personal to him as under:-

	Stage- 30	Stage - 31	Stage – 32
BPS-5 1994	3380	3446	3512
BPS-5 2001	5100	5200	5300

In such cases future increments upto a maximum of 3 years wil also be allowed as personal to such employees.



- 10. <u>SPECIAL PAYS/ALLOWANCES FOR OFFICES</u>:- The Special Pays/ Allowances sanctioned to offices as percentage of pay shall be discontinued on the introduction of revised pay scales w.e.f 1-12-2001 and adjusted in future increments.
- ADVANCE INCREMENTS: The existing scheme of advance increments is discontinued w.e.f. 1-12-2001. A fresh scheme, if any, will be introduced in due course.





# PART II ALLOWANCES.

12. <u>Conveyance Allowance</u>: The rates of existing Conveyance Allowance and Motorcycle/Motorcar maintenance allowance presently fixed with reference to pay drawn shall be increased and related to Basic Pay Scales as follows:-

S.No.	EXISTING	
	Government servants drawing pay in BPS-16 (Gazetted) and above and maintaining motorcar not registered for commercial purpose. Rs. 355/-P.M.	REVISED  BPS-16 (Gazetted) and above Rs.620/-P.M.
ii.	month and above other than those at (i) above Rs. 193/- P.M.	Rs.340/- P.M.
	Government servants drawing pay of Rs. 1688/- per month and above but less than Rs. 3240/- P.M. and maintaining Motorcycle/Scooter. Rs. 130/- P.M.	Motorcycle/Scooter
iv.	\/\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	Rs.230/- P.M. BPS 1-10 Rs.170/- P.M.

13. <u>DISCONTINUATION OF RESEARCH ALLOWANCE</u>:- Research allowance will be discontinued w.e.f. 01-12-2001.

14. <u>DAILY ALLOWANCE</u>:- Daily Allowance rates presently fixed with reference to pay drawn shall be increased and related to Basic Pay Scales as under:-

The same of the sa		eares as diffiel:-
BPS	SPECIAL RATES PER DAY (RS.)	ORDINARY RATES PER DAY (RS.)
1 - 4	110	80
5 - 11	120	100
12 - 16	200	180
17 - 18	350	320
19 - 20	450	400
21 - 22	550	450 *
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- 15. <u>MEDICAL ALLOWANCE</u>: Medical allowance to employees in BPS 1-16 shall be increased from Rs. 90/- PM to Rs. 160/- P.M.
- 16. COMPUTER ALLOWANCE: The Computer Allowance shall be increased subject to the existing conditions of admissibility as under:

EXISTING RATE	REVISED RATE
Rs. 500/- P.M.	Rs. 750/- P.M.
Rs. 1000/- P.M.	Rs. 1500/- P.M.

17. <u>SPECIAL PAYS/ALLOWANCES</u>:- All the Special pay and Allowances admissible on certain posts as percentage of pay are revised subject to the following limits:-

<u> </u>	EXISTING	REVISED
a)	Special Pays/Allowances sanctioned @ 20% and above of pay.	On existing rates subject to a maximum of Rs. 2000/- P.M.
b)	Special Pays/Allowances sanctioned @ 10% - 19% of pay	On existing rates subject to a maximum of Rs. 1500/- P.M.
c)	Special pays/Allowances sanctioned @ 5% - 9% of pay.	On existing rates subject to a maximum of Rs. 1000/- P.M.

# PART - III PENSION AND COMMUTATION

- 18. <u>PENSION</u>: The Government has made the following reforms in pension/commutation scheme w.e.f. 1-12-2001 in respect of civil pensioners of Provincial Government:
  - a) Commutation Table shall be replaced by the new commutation Table at Annexure-II to this letter.
  - b) Commutation upto 40% of gross pension shall be admissible at the option of the pensioner.





- c) The additional benefit of 2% 10% for extra years of service after completion of 30 years of qualifying service in respect of civil pensioners shall be discontinued.
- d). The increase in pension @ 20% 25% to Civil Pensioners allowed vide this Department's letter No. SOSR.III(FE&TD)4-111/81 dated 27-7-1999 shall be discontinued.
- e) The benefit of restoration of surrendered portion of pension in lieu of commutation/gratuity shall be withdrawn.
- f) In future, the increase in pension to the pensioners shall be allowed on net pension instead of gross pension.
- g) All the pensioners shall be allowed an increase in net pension (inclusive of dearness increases allowed in the past) as follows:

Increase in net Pension

15%

i) Pensioners who retired prior to the introduction of 1991 basic pay scales.

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- ii) Pensioners who retired prior to the 10% introduction of 1994 Basic Pay scales but on or after the introduction of 1991 pay scales.
- iii) Pensioners who retired on or after the introduction of 1994 basic pay scales and upto the date of introduction of revised basic pay scales i.e. 1-12-2001.
- OPTION: (a) All the existing civil employees (BPS 1 to 22) of the Provincial Government shall within 30 days from the date of issue of this letter, exercise an option in writing, addressed to the Audit office concerned in the case of employees in BPS 16 and above and to the DDO concerned in the case of employees in BPS 15 and below, either to draw pay in the existing Basic Pay Scales of 1994 or in the Revised Basic Pay Scales and Pension/commutation scheme 2001 as specified in this letter. Option once exercised shall be final.

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- W. 3
- (b) An existing employee as aforesaid, who does not exercise and communicate such an option within the prescribed time limit, shall be deemed to have opted to be governed by the Revised Basic Pay Scales, Pension and Commutation Scheme, 2001.
- 20. The government servant who retire w.e.f. 1-7-2001 shall be given the benefit of revised pay scales on presumptive basis discounted by 5% increase in Pension if availed, subject to the condition that all those who may like to avail this benefit should opt for the entire package i.e. revised scheme of Basic Pay Scales as contained in Part-I and revised package of pension as contained in Part-III of this letter.
- 21. The Autonomous/Semi Autonomous Bodies will have the option to adopt this pay package provided they have adopted in totality the Basic Pay Scale Scheme/Pension scheme and if their resources so permit as no additional grant will be provided by the Provincial Government. It will not be applicable to those employees of Bank of Khyber and Public Sectors Corporations and those employees who are governed by the Industrial Relations Ordinance 1969 and/or whose financial terms of service are settled through Collective Bargaining Agents. In case of Autonomous/Semi autonomous Bodies where employees are allowed different pay scales/allowances, the revision of the existing pay scales of their employees shall not be made without consultation of the Finance Department.
- All existing rules/orders on the subject shall be deemed to have been modified to the extent indicated above. All existing rules/orders not so modified shall continue in force under this scheme.
- 23. <u>ANOMALIES</u>:- An anomalies Committee in Finance Department comprising Additional Finance Secretary, Additional Secretary (Regulation) Establishment





(3)

Department and Deputy Secretary (Regulation), Finance Department shall be set up to resolve the anomalies, if any, arising out of implementation of new package.

Yours obediently.

(HAFIZ MATIULLAH)
Additional Secretary (Reg./Admin)

Endst. No. FD(PRC) 1-1/2001

Dated Peshawar the, October 27, 2001.

- 1. All Autonomous & Semi Autonomous Bodies in NWFP
- 2. The Secretary Finance Department, Government of the Punjab, Sindh and Balochistan, Lahore, Karachi & Quetta.
- 3. The Secretary Finance Department, Azad Government of the State of Jammu and Kashmir, Muzaffarabad.

(ABDUL LATIF)
Section Officer (SR-I)

## Endst. No. FD(PRC) 1-1/2001

Dated Peshawar the, October 27, 2001.

- 1. The H.Qs 11 Corps Peshawar 👑 🗆
- 2. The Accountant General, NWFP, Peshawar.
- 3. All district/Agency Accounts Officers in NWFP.
- 4. The Treasury Officer, Peshawar.
- 5. The Private Secretary to Finance Minister, NWFP.
- 6. The P.S to Secretary, PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
- 7. All Section/Budget Officers in Finance Department, NWFP
- 8. The Director, Local Fund Audit, NWFP, Peshawar.

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TO BE

(ABDUL LATIF)
Section Officer (SR-I)

# ANNEXURE-1 TO FINANCE DEPARTMENT'S LETTER NO. FD(PRC)1-1/2001 DATED THE OCTOBER 27, 2001

# EXISTING AND REVISED PAY SCALES.

{	PAY SCALES OF 1994 (CIVIL)						SED PAY	SCALES	2001 (0	IVIL)
	C l -	<b>N4:</b> -	1	Name:	·			ı · .		· · · · · · · · · · · · · · · · · · ·
	<u>Scale</u>	Min	<u>Incr</u>	<u>Max</u>	Stags	<u>Scale</u>	<u>Min</u>	<u>Incr</u>	Max	Stags
	<u>]</u>	1245	35	1770	15	1	1870	55	3520	30
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	5	1400	66	2390	15 🗟	5	2100	100	5100	. 30
	.6	.1440 .	73	2535	15	6	2160	110	5460	<b>30</b> /
	7	14,80	81	2695	15	7	2220	.120.	5820	30
	8	1540	88	. 2860	. 15	8	2310	130	6210	30
	.9	1605	97	3060	15	9 :-	2410	145	6760	30 <sup>-</sup>
	10	1660	107.	3265	.15	10	2490	160	7290	30
	11	1725	116	3465	-15	11.	2590	175	7840	. 30
	12	1,830	130	3780	15	12	27.45	, 195	8595	30
Ī	13	1950	144	4110	15	13	2925	215	9375	30
	14	2065	161	4480	15	14	3100	240	10300	. 30
Ī	15	2190	177	4845	15	1.5	3285	265	11235	30
	16	2535	197	5490	115 243 July 11	16	3805	295	12655	30
	17	3880	290	7360	12	17	-6210,	.465	15510	20
	18	5085	366	8745	. 10	18	8135	585	19835	20
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Hamida Khatoon w/o late Mr. Muhammad Ramzan, Ex-Private Secretary, Ministry of Food & Agriculture.

2. In this regard, Office of the Controller General of Accounts is requested to furnish financial

impact to this Division on priority basis.

You're faithfully,
Sd/(Khadim Hussain)
Section Officer (Reg-6)

## IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Sardar Muhammad Raza Khan.

Mr. Justice CH. Ijaz Ahmed.

Mr. Justice Hamid Ali Mirza.

## CIVIL MACISEELLANIOUS APPEAL No 2683 OF 2006

(On appeal from this Court's Order dated 14.10.2004 passed in Civil Petition No.904). Hameeda Khatoon widow of Late Muhammad Ramzan Private Sectary (Retd), resident of House No.355/C. Street No. 30, G-6/2, Islamabad.

Versus

The Secretary to the Government of Pakistan, Ministry of Finance and other. .....Resp

.....Respondents

For the Appellant:

Present-in-person.

For the Respondents:

Raja Muhammad Irshad, Deputy Attorney General

for Pakistan.

Date of Hiring:

05.04.2007.

#### **ORDER**

SARDAR MUHAMMAD RAZA J- Hameeda Khatoon, widow of Muhammad Ramzan Khan, respondent in Civil Petition #941 of 2004 challenges the refusal of Government to count his personal allowance of 20% towards pensioner benefits.

- 2. Muhammad Ramzan, while holding the post of P.S. to Additional Secretary, Ministry of Food, Agriculture and Live Stock, died on 18.02.1994. During service, he was receiving Secretariat Allowance to the extent of 20% of basic pay vide Notification No.F.1 (32)-lmp.II/88, dated 01.07.1988. Subsequently, vide Notification No.F.7 (15)-R-13/88(PT) dated 01.02.1990, the aforesaid allowance was converted into personal allowance that remained in force from 01.02.1990 to 17.09.1993 and 16.06.1994 to 20.05.1996.
- 3. Umpteen number of civil servants restored to the Service Tribunal and their personal allowance was directed to be counted towards pension. Such decree of the Federal Service Tribunal was upheld by this Court, in the case of Secretary to Government of Pakistan Ministry of Finance and other v. Muhammad Hussain Shah and others. This settled the matter once for all with the verdict that the personal allowance is to be counted towards pension. Muhammad Ramzan, the deceased husband of Hameeda Khatoon was respondent in one of the Civil Petitions # 941 of 2004 and hence the personal allowance admittedly received by him is bound to be counted forwards pension.

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- 4. Learned Deputy Attorney General while referring to the reference of the Finance Department, contended that the personal allowance of Muhammad Ramzan was not counted towards pension because he died during interregnum on 18.02.1994 when, according to the dates already mentioned, the allowance received was not declared to be personal allowance. The argument is not plausible because vide judgment dated in Civil Petition # 941 of 2004, the decree in favour of Muhammad Ramzan has become final and the Government has not challenged such judgment through any subsequent review.
- 5. Moreover, the Government since 1988 has been converting from time to time the secretariat allowance into personal allowance leaving some gap during which it was not treated so. This is nothing but sheer discrimination because through notification some persons were allowed the benefit and others were not. The discrimination is violative of the provisions of Article 25 of Constitution.
- 6. The application is accepted and it is directed that the allowance/personal allowance received by Muhammad Ramzan (CP # 941 of 2004) shall be counted towards pension as held by this Court in the judgment mentioned above. Even otherwise, in view of our judgment reported as 1996 SCMR 1185, the Government was supposed to have conducted itself uniformity, even if there was no verdict in favour of Muhammad Ramzan, which otherwise was in field.

Office of the
Accountant General
Pakistan Revenues, Sub Office, Peshawar
Ph # 091-921127

No.TM (F)/T-15/Gen/2007-08/899

Dated 12.02.2008

Forwarded to all DAO's/AAO's Pension (F), all Pay Roll Section, and Admn (F) for compliance please.

Sd/-x x x
ABDUL WAKIL
ASSISTANT ACCOUNT OFFICER
TM (F) Section.

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Government of Pakistan Finance Division (Regulations Wing) .. No. F. 13(4)-Reg 6/2007 Islamabad, the 11th February, 2008. To, Controller General of Accounts, CGA Complex, G-5/2, Islamabad. Subject:-PERSON AL ALLOWANCE FOR THE PURPOSE Dear Sir, I am directed to refer to Fin ince Division's O.M. No. F. 1(32)-Imp-II/SS dated Ist July, 1988 on the above subject and to state that in pursuance of Judgement dated 05.04.2007 passed by Supreme Court of Pakistan in civil miscellaneous petition No. 2683 of 2006 it has been decided to allow the inclusion of Secretariat Allowardce/Personal Pay/Personal Allowance in the emoinments reckonable towards gension to all those civil servants who retired 01.07.1988 23.05.1996 Secretariat Allowance/Personal Pay/Personal Allowa ce.

Yours faithfully

(KHADIM HUSSAIN) Section Officer (Reg. ()

Copy for information/necessary action to Accountant Central Pakistan Revenue, G-8/4, Islamabad.

> (KILADEM TUSSAIN) Section Officer (Reg.6)

Anne seure

GOVERNMENT OF NWFP FINANCE DEPARTMENT (REGULATION WING) NO.KC/FD(SOSR.II)4-111/2008 Dated Peshawar the 20/8/2008

То

The Accountant General, NWFP, Peshawar.

Subject:-

COMPUTING PERSONAL ALLOWANCE/SECRETARIAT ALLOWANCE FOR THE PURPOSE OF PENSIONABLE EMOLUMENTS.

I am directed to refer to the subject noted above and to say that in pursuance of judgment dated 05/4/2007 passed by Supreme Court of Pakistan in civil miscellaneous Petition No.2683 of 2006, it has been decided to allow the inclusion of Secretariat Allowance/Personal Pay/Personal Allowance in the emoluments reckonable towards pension to all those civil servants who retired between 01/7/1988 to 23/5/1996 while receiving Secretariat Allowance/Personal Pay/Personal Allowance.

(MUNAWAR KHAN) SECTION OFFICER(SR.II)

Endst: No. & date even.

Copy is forwarded for information and necessary action to:-

- Section Officer (Reg-6) Government of Pakistan, Finance Division (Regulation) Wing) Islamabad with reference to his O.M. No.F.13(4)Reg.6/2007 dated 11/2/2008.
- 2) Zonal Office National Bank of Pakistan, 8, The Mall Peshawar Cantt. For circulation amongst all concerned branches.

ATTESTED

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(3) Wells

(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

## BEFORE THE CHAIRMAN SERVICES TRIBUNAL, PESHAWAR

S.A.No.598/2015

Jehangir Parvez .......V/S .......Govt. of KP and others

## <u>INDEX</u>

S.No.	Description of documents.	Annexure	Pages.
1.	Application for impleadment with affidavit.		1
·.2.	Copy of death registration certificate		2 ·
3.	NADRA certificate. /wak		3

31/3/22

Appellants

Through

Muhammad Asif Advocate, Peshawar.

## BEFORE THE CHAIRMAN SERVICES TRIBUNAL, PESHAWAR

S.A.No.598/2015

Jehangir Parvez .......V/S......Govt. of KP and others

APPLICATION FOR IMPLEADING THE LEGAL HEIRS OF APPELLANT IN THE ARRAY OF APPELLANTS.

Respectfully Sheweth;

- 1) That the above noted appeal is pending in this hon'ble court.
- 2) That the appellant Jehangir Parvez has expired on 30.04.2020. (Copy of Death Certificate is attached).
- 3) That the following are the legal heirs of deceased Jehangir Parvez.
  - i) Affan Jehangir
  - ii) Faizan Jehangir, sons
  - iii) Mst. Wajeeha Jehangir, daughter
  - iv) Mst.Shagufta Yasmeen, widow All residents of House No.B-7, Kamran Street, Chairman Town, Ijaz Abad Road, Gulbahar No.4, Peshawar. (NADRA certificate is attached).

It is, therefore, requested that on acceptance of this application, the legal heirs may kindly be impleaded in the array of appellants.

Appellants

Through

Muhammad Asif

Advocate, Peshawar.

## **AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of the Application are true and correct to the best of my knowledge and belief to the best of my knowledge and belief and nothing has been concealed from this

Hon'ble Court.

Deponent



# Government of knyber pakhtunkhwa اندراج وفات سسر فيكلب



Death Registration Certificate

Form No: W11180586 دفتر اندراج: يونين كونسل شامين مسلم فاون 1

OLD/M REG #: في کے کوائف **Deceased Person's Details** جهانكم يرويزاعوان JEHANGIR PARVIZ AWAN Name: : rt باكتاني Nationality: Pakistani شاختی کار ڈئمبر: 17301-1433336-1 CNIC No: 17301-1433336-1 02-December-1948 Daté of Birth: 02-December-1948 Gender: Sickness Period: مدت علالت: Date of Death: 30-April-2020 30-April-2020 تاريخ دفات: Date of Burial/Last rite: 30-April-2020 تاریخ تد فیرد آخری رسومات: 30-April-2020 Place of Death: مالٹ وفات : HOME Nature of Death: Reason of Death: Natural ومروفات : Buried/Last rite at: REHMAN BABA جكر تد فين آخرى دسومات : د ممان با با Parental Information عطار محر والدكأنام : ATAA'MUHAMMAD Father's Name: شافتى كارد تمبر: CNIC No: دالدوكا نام : نسن آرا Mother's Name: **HUSSAN ARA** شاختى كار دُنمسر: CNIC No: Address gulbahar no 4 , Mohalla chairman town kamranistreet, City گلبار نمر 4 ، محله چرین Address: PESHAWAR PESHAWAR Tehsil: ルウ District: PESHAWAR Applicant's Details فخلفته بالتمين SHAGUFTA YASMIN Name: شناختی کار ڈئمبر: 17301-1306703-2 CNIC No : 17301-1306703-2

تع فین ایم تری دسوسات کننده کی معلوسات سی Information of Burlal/Last rite by

Name:

ASIF IQBAL

Relation with Deceased: HUSBAND

CNIC No: Relation with Deceased: NEPHEW

17301-1377258-9

Entry Date:

03-June-2020

Issue Date :

03-June-2020

**Entry Status:** 

Normal

Additional Information:

This Certificate can be verified at https://crms.nadra:gov.pk/verify





ا مغدادّال

17301-1377258-9

03-June-2020

03-June-2020

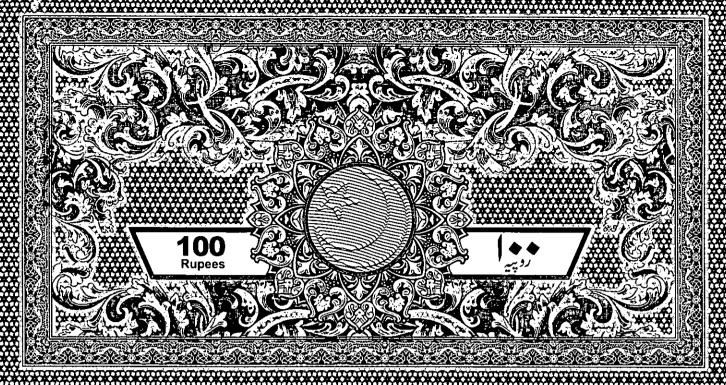
اندراج اسٹینس : نارمل

شناختى كارد نمير:

نارع اجرار

امناني معلومات:





# بعدالت جناب خيبر يختونخوا سروس ٹريبونل يشاور

## مختيار نامه خاص بابت پيروي مقدمه

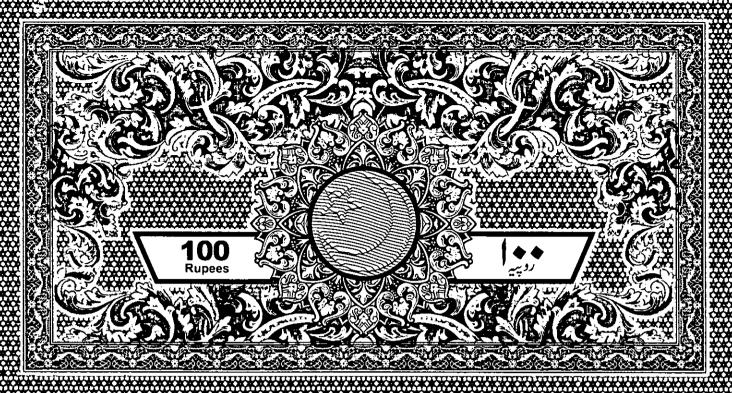
ب نام حکومت خیبر پختونخوا

جهانگير پرويزمتوفي

بعنوان :ـ

مایانکہ 1 مساۃ شگفتہ یاسین (بیوہ )۔ 2۔عفان جہانگیر ۔ 3۔فیضان جہانگیر (پران) ۔ 4۔مساۃ وجیہہ جہانگیر (دختر) جہانگیر پرویز (مرحم) ساکنان چیئر مین ٹاؤن گلبہار نمبر 4 مکان نمبر 7 - 8 کامران سٹریٹ پیٹاور بذریعیۃ کرین بذامامقران ہیں کہ مقدمہ بعنوان بالا میں مامقران ہیں اور پیٹاور بذریعیۃ کرین بذامامقران ہیں کہ مقدمہ بعنوان بالا میں ایبلانٹس بوجہ پردہ شینی اور بعداز دفات متونی جہانگیر مامقران کی حیثیت 'اپیلانٹس' کی ہیں اور اپیل بعنوان بالا میں اپیلانٹس بوجہ پردہ شینی اور ایل مصروفیات ودگر معاملات زندگی عدالت حضور میں خود حاضر ہوکر مقدمہ عنوان بالاکی بیروی کرنے سے قاصر ہیں بدیں فرجہ مامقران نے اپنی جانب سے فیضان جہانگیر ولد جہانگیر پرویز (اپیلانٹ نمبر 3) کومختار خاص نامزد کر کے اختیار ویہ مامقران نے اپنی جانہ کاروائی جانب سے مامقران کی غیر موجودگی میں ایپل بعنوان بالا میں جملہ کارروائی میں ایپل بعنوان بالا میں جملہ کارروائی بیزات خودو برد شخط خود مرانجام ایو ہے ، درخواست گزارے ،نقولات مقدمہ عاصل کرے ، تائیدور دیدو تصدین کرے ،

3 110.01



عرضی دعوئی، جواب دعوئی وا قبال دعوئی وغیرہ پیش کرے، اجراء داخل کرے، قم وصول کرے، خالث مقرر کرے، داخلی نامہ کرے، بیان دیوے، بیانات جع /ریکارڈ کرواے، راضی نأمہ پیش کرے، گواہان پیش کرے، ابطور گواہ مامقران پیش ہوکر شہادت دیوے، ابیل کرے، نگرانی کرے، نظر ثانی کرے، فطر ثانی کرے، وکیل یا بیرسٹر مقرر کرے معدالت ابتدائی سے سپریم کورٹ آف پاکستان تک جملہ کارروائی کرے، غرض میہ کہ جن جگہوں / عدالتوں میں مامقران کی ذات و دستخطوں کی ضرورت پڑے نختیار خاص موصوف کو جملہ ساختہ پر داختہ شل کردہ کہ ذات و خاص کے مامقران بیش خود قبول و منظور ہونے کے لہذا مختیار نامہ خاص رو بروے گواہان عاشیہ سندا تحریر شد۔

الرقوم 09/08/2021

. شاختی کارڈنمبر 3-88585 <u>7</u>285-17301

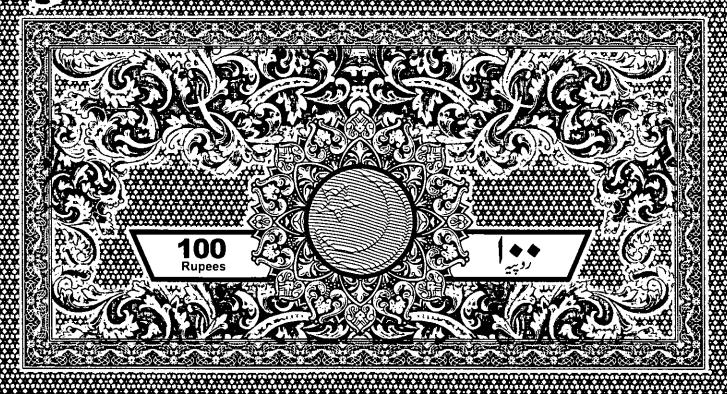
شاختى كارد نمبر2-1306703-17301

3\_مساة وجيهه جهائكير ( دختر ) جهائكير پرويز (مرحوم )

شاختى كاردْ نمبر 6-30527 [90] 1739 ما 1739

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21/10/020 25/6 جسانگیر لیرویرونسر. بنا کوارنس باعث تحرمرا نكه مقدمه مندرج بعنوان بالامين الني طرف سي واسطير بيروي وجواب داى وكل كالمواكي متعلقا آن مقام كر كا ورب كلي الله وكساطة وكيل صاحب كوراضى نامه كرنے وتقرر فالت وقيم كي برحانك ديئے جواب دہى اورا قبال دعوى اور بسورت ومرى كرف اجراءاورصولى جيك ورويسارع طي وعوى اوردرخواست برسم ك تقديق زرایں پرد تخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگر کی میکیطیر فدیمیلز پیل کی برا مدگی ادر منسوخی نیز دائر کرنے اپیل مکرانی ونظر ثانی دبیروی کرنے کا اختیار موگا۔ از بصورت ضرورت مقد کھ مذکور ككل ياجزوى كاردائى بكوابط اوروكيل يامخارتا لأفى كواسيخ بمراه يااسيخ بحائ تقرركا اختيار موكا \_اورصاحب مقررشده كويكي واي كبرا منكوره بااختيار استرجافال مول كاوراس كاساخت برواخة منظور قبول موكار دوران مقدمه مين جوخر چدد مرجانه التواي مقدمه محسيب سے وہوگا ب کوئی تاریخ بیثی مقام دوره پر ہویا حدے باہر ہوتو دیل صاحب پابند ہوں سے۔ کہ پیروکی مرکور کریں ۔ لہداد کالت نام کھندیا کہ سندر ہے،۔ بمقام كي أن أ کے لئے منظور ہے۔

091-527-9292 6302.8885787 6332-8885587

Anneseure -M. 43

GOVERNMENT OF NWFP FINANCE DEPARTMENT (REGULATION WING) NO.KC/FD(SOSR.II)4-11/2008 Dated Peshawar the 30/01/2009

To

The Accountant General, NWFP, Peshawar.

Subject:-

COMPUTING PERSONAL ALLOWANCE/SECRETARIAT ALLOWANCE FOR THE PURPOSE OF PENSIONABLE EMOLUMENTS.

Dear Sir.

In continuation of this Department's letter of even number dated 20/8/2008 on the subject noted above, it has been decided to allow the inclusion of Secretariat Allowance/Personal Pay/Personal Allowance in the emoluments reckonable towards pension to all those civil servants who were receiving that allowance immediately before their retirement, subject to the amount, drawn by them at the time of retirement.

Yours faithfully,

(MUNAWAR KHAN) SECTION OFFICER(SR.II)

Endst: No. & date even.

Pakistan, 8, The Mall Peshawar Cantt. For circulation amongst all concerned branches.

(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

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GOVERNMENT OF NWFP FINANC DEPARTMENT

### SUMMARY FOR CHIEF MINISTER N.W.F.P.

Subject: -

GRANT OF 20% SPECIAL ALLOWANCE IN LIEU OF SECRETARIAT ALLOWANCE AND 10% UTILITY ALLOWANCE FOR EMPLOYEES OF THE CIVIL SECRRETARIT NWEP.

On the agenda submitted by N.W.F.P. Secretariat Employees Coordination Council, the Chief Minister has been pleased to record the following remarks:-

### "Please examine/comments".

- 2. The Chief Minister's Secretariat letter dated 8/12/2007 containing the above direction of the Chief Minister is placed at Annex-A.
- 3. 20% Secretariat Allowance was sanctioned for officers/officials (BPS 1-22) in NWFRP Secretariat/Chief Minister's Secretariat/Governor's Secretariat vide letter No. FD(SR-II)2-143/87 dated 15.7.1987 (Annexure-B). Subsequently this allowance was converted into Personal Allowance and later on it was discontinued on the introduction of Revised Basic Pay Scheme 2001 and as a result, salary of officers/officials who were the recipients of Secretariat Allowance was reduced by an amount equal to that of Secretariat Allowance. The amount of Secretariat Allowance Allowance/Personal Allowance was neither adjusted in the pay of Secretariat employees nor they compensated in any other way. However all the benefits including Secretariat Allowance for employees of Chief Executive Secretariat/President House/President Secretariat has been restored with changed nomenclature of "Special Allowance" (Annex-C).
- 4: Further, 20% judicial allowance has been granted to officers/officials Judiciary (Annexure-D) and Rs.1000/- p.m has been granted to the employees of Balochistan Government as Utility Allowance (Annexure-E).

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granted to the employees of Balochistan Government as Utility Allowance (Annexure-E).

- Besides the Governor's House Allowance/Governor's Secretariat Allowance is admissible to the staff working in the Governor's House/Governor's Secretariat N.W.F.P since last many years which has recently been enhanced vide Finance Department's letter dated 8/12/2007 (Annexure-F).
- Now Utility Allowance has also been granted to the staff of Sindh High Court, Balochistan High Court and Provincial Assembly Secretariat's Balochistan (Annexure-G, H and I).
- Finance Department Government of NWFP is of the view that grant of 20% Special Allowance in theu of 20% Secretariat Allowance is a figure demand on the following grounds:
  - The nature of work in Civil Secretariat is totally different from that of other sub-ordinate offices in the Province. Secretariat works as brain of the Province. Being arduous nature of work, normally the staff sit after office hours and, some time late till evening.
  - ii) All the policy making work is processed, examined and notified by the Civil Secretariat.
  - The employees working in the Secretariat premises hails from all nook and corners of the Province. They are living in the capital Peshawar alongwith their families with meager source of income. They are also victim of the "Rawaj" to entertain their relatives coming from other districts for health care. Education and shopping etc.
  - v) Previously the Secretariat service was considered superior service and the employees were allowed extra financial benefits.
- 8. The economic hardship prevailing in the Country has also hit the Civil Servants of this Province. To provide relief, the Government of Sindh, Balochistan and Punjab have taken following measures:-

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- a) All the Secretaries to Punjab Government have now been entitled to reimburse utility bills like electricity, gas, water etc upto maximum ofRs.30,000/-p.m
- b) All the employees of Balochistan Secretariat BPS-1 to 15 are getting Rs.1000/- (utility allowance) for gas and electricity w.e.f. 1/12/2001 (Annexure-E).
- c) The staff of Sindh High Court has been granted utility allowance Equivalent to 10% of the Basic Pay w.e.f. 21.2.2007 (Annex-G).
- d) Officers of the Assembly Secretariat and MPA Hostel of Balochistan Government are getting utility allowance as under (Annexure-I):-

Grade of Govt. Servants.	<u>Gas.</u>	Electricity.
B-16	800/-	800/-
B-17	900/-	900/-
B-18	1000/-	1000/-
B-19	1200/-	1200/-
B-20	1500/-	1500/-

- 9. Keeping in view the benefit provided by other sister Governments to their employees it will be appropriate to give Utility Allowance @ of 10% of Basic pay to the NWFP Secretariat employees to reduce their financial burden.
- 10. Total financial implications, worked out as per total number of employees @ 20% Special Allowance and 10% Utility Allowance of the basic pay (worked out on mean basis) is Rs.75.644 million per annum (Annexure-J).
- 11. The Chief Minister NWFP is requested to kindly consider the said demand of the NWFP Secretariat Employees Coordination Council favourably and approve restoration of 20% Special Allowance in lieu of 20% Secretariat Allowance and 10% Utility Allowance for employees of the Civil Secretariat NWFP.

Sd/-(ABDU; KHALIQ) SECRETARY FINANCE

#### Minister Financer, N.W.F.P.

Proposed in para 11 ante is supported.

Sd/-Minister for Finance Planning & Development Govt. Of NWFP 08/1/08

## Chief Secretary, NWFP.

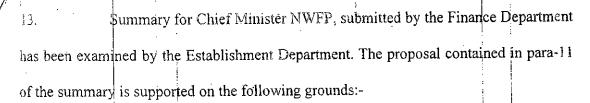
12. For immediate comments of pay & Allowances the established principle has always been one of party between sis. provinces.

Sd/-(Chief Secretary) Govt. of N.W.F.P. 09/1/08

**Secretary Estab:** 

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- The Government of Pakistan Finance Division, Islamabad has allowed Secretariat Allowance in favour of all the employees of the President Secretarial (Public & Personnel) as well as Chief Executive Secretariat with changed nomenclature as "Special Allowance "@ 20% of pay Annex-C).
- Finance Department Govt. of NWFP has allowed 20% Judicial Allowance .i. o officers/ officials of Judiciary (Annex-D).
- The Govt. of Baluchistan has granted utility allowance for their Secretariat iii. employees in (BS-1 to 15) (Annex-E).
- Utility Allowance has also been granted to staff of the Sindh High Court, iv. Baluchistan High Court as well as Provincial Assembly Secretariat of Baluchistan vide (Annex-G, H & I) respectively.
- All Secretaries to the Govt. of Punjab are entitled to re-imburse utility bills e. electricity, gas & water upto Rs.30, 000/- p.m vide para-8 (a) of the summary. ;
- Besides the above, Finance Department Govt. of NWFP has recently νi. enhanced Governor's House Allowance/ Governor's Allowance for all staff working in the Governor's House/ Governor's Secretariat NWFP upto a maximum of Rs.3000 per month (Annex-F).

Secretary Establishmen January 15, 2008

tar√, NWFP

(b) Allowance or Special Allowance

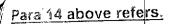
(b) Allowance or Special Sworks in

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Lave been given Seath allowanks Convent / Report Las their offer denne ? allottonent of 50% gnot in Regi model Town Privale feel (56 markso) Please put up with must die thy drupt and Jan 2008 latent their Ley Local Good 15701101 (Chief Secretary) TOBE TRUE COPY



So far as the allotment of a 50% quota in Regi Model Town (Private Sector) to the Employees of the Civil Secretariat, N.W.F.P is concerned, the Administration Department, NWFP has already negotiated the matter vide letter dated 08/01/2008 (Flag-K) with the CD&MD and as a result of that, the CD&MD has finally agreed to provide 50% plots from the general public quota for Secretariat Service Employees.

The Administration Department is actively pursuing the case 1 . with the concerned quarter as well as with the High Ups to meet the demand of the Civil Secretariat Employees Association. Hence in-view of the availability of plots as stated by the CD&MD, this department supports the proposal to provide plots to these deserving employees.

However, it would be appropriate that 20 plots of One Kanal 4 / each may also be placed at the disposal of Secretary, LG for allotment to the Officers in B-17 and above of this department being the Administrative Department of CD&MD.

( DR. HAMMAD UWATS AGHA SECRETARY, LG&RDD, N.W.F.P

THIEF SECRETARY, N.W.F.P.

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contained in para 11 ( for reasons given in para 13 i) - (vi)) and para 16 anti read with onli are enforted o Comoisting of Rey Ecreto lis humant, tery Administration and Chairman, Pertt Employees Coordination Council should supervise allowment to tenetariali emplyces m Mansparent and pen mainer. Chief Thurster 1901/08. pare la formere, reg: alloffnet j. Plots in Regilation, I have my reservations. May use usguithy descen weth Say Ad, Say L.G., and DG CD & MD present also. Aware Socy Aden / Frey Adas / D & COM CHIEF MINISTER NWFP(Chief Secretary) Govt. of NWFF

Anneze-C

GOVERNMENT OF NWFF FINANCE DEPARTMENT (REGULATION WING) NO.FD(SOSR.II)8-7/2002/Vol-IV Dated Peshawar the 06/02/2008

SB

All Administrative Secretaries To Government of NWFP.

Subject:-

GRANT OF SPECIAL ALLOWANCE @ 20% OF BASIC PAY TO N.W.F.P. CIVIL SECRETARIAT EMPLOYEES(BPS-1-22).

Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority has been pleased to approve Special Allowance @ 20% of Basic pay to the Officers and Officials (BPS-1-22) of the N.W.F.P Civil Secretariat, Chief Minister's Secretariat and Governor's House/Secretariat NWFP w.e.f. Ist February, 2008 subject to the following conditions/clarifications:-

- The said allowance will be admissible to all those who are working in the offices of the above mentioned secretariats and will also be admissible during the period of leave and L.P.R and to employees of Civil Secretariat NWFP who are on deputation outside these Secretariats.
- ii) The said allowance would not be admissible during Extra Ordinary Leave.
- iii) The said allowance would not be treated as part of emoluments for the purpose of calculation of Pension/gratuity and recovery of House Rent.
- The Government servants working in Governor's Secretariat NWFP, already drawing Governor's House/Secretariat Allowance will be required to exercise their option (within one month of the issue of this letter) either to draw the Special Allowance @ 20% of Basic Pay or continue to draw Governor's House/Secretariat Allowance already sanctioned vide No. FD(SCSR-II)8-9/99 dated 8/12/2007. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.
- The Government servants working in Chief Minister's Secretariat NWFP, already drawing Chief Minister's Secretariat Allowance will be required to exercise their option (within one month of the issue of this letter) either to draw the Special Allowance @ 20% of Basic Pay or continue to draw Chief Minister's Secretariat Allowance already sanctioned vide No.FD(SR-V)2-163/91 dated 20/2/1994. A Government servant, who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.
- 4. The Government Servants deputed from other departments who do not belong to Secretariat Services but are working in the secretariat will be required to exercise their option either to draw the Special Allowance @ 20% or to continue to draw the deputation allowance.

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5. The Government Servants (belong to judiciary) deputed to work in the Law or any. other Department in the Civil Secretariat who are the recipient of Judicial Allowance, will be required to exercise their option either to draw the Special Allowance @ 20% or to cominue to draw the Judicial Allowance within stipulated period i.e one month of the issue of this letter. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.

Yours faithfully,

ADDITIONAL SECRETARY (REG)

Endst: No. & date even.

Copy is forwarded to the Accountant General, NWFP, Peshawar,

DEPUTY SECRETARY(R.I)

Endst: No. & date even.

is forwarded for information to all Additional Secretaries/Deputy Secretaries/Section Officers/Budget Officers in Finance Department.

(MUNAWAR KHAN)

SECTION OFFICER(SR.II)

The Chief Secretary. Govt. of Khyber Pakhtunkhwa, Peshawar.

PSIC.S Khyber Pakhtunkhwa Diony Na 8217 WC examile Diary No. EARL DEAL

Subject:

## COUNTING OF SPECIAL ALLOWANCE TOWARDS PENSION

The Provincial Govt. vide letter No. FD (SR-II) 2-143/87 dated 15/07/1987 (Annex-I) sanctioned the Secretariat Allowance to the Govt. Servants working in the Secretariat @ 20% of basic pay including the Govt. Servants working in Governor's Secretariat and Chief Minister's Secretariat. Later on it was converted in to Personal Allowance and after some time it was discounted.

The Supreme Court of Pakistan vide Civil Appeal No. 2683 of 2006, has observed that the Govt. since 1988 has been converting from time to time the Secretariat Allowance in to Personal Allowance leaving some gap during which it was not treated so. This is nothing but sheer discrimination because through notifications some persons were allowed the benefits and others were not. The discrimination is violation of the provision of Article 25 of the Constitution.

In the judgment, the Supreme Court ordered the counting of Secretariat Allowance / Personal Allowance towards pension. The Supreme Court by referring the case also observed that the Govt. was supposed to have conducted itself in uniformity even it there was no verdict in favor of Mr. Muhammad Ramzan which otherwise was in field (Annex-II).

After a few years, the Provincial Govt. again sanctioned an allowance to the Govt. servants working in the Secretariat. Governor's Secretariat and Chief Minister's Secretariat vide letter No. FD (SOSR-II) 8-7/2002/Vol-IV dated 06/02/2008 (Annex-III). The concept of this allowance was the same and admissible to the same Government Servants, with same rate, however the name of allowance was slightly changed (i.e. now it has been given the name of Special Allowance) which in light of the judgment of Apex Court, would have no meaning.

In the light of verdict of Supreme Court, the Govt. should conduct itself in uniformity, therefore it is requested to kindly issue clarifications that the present Special Allowance admissible @ 20% of pay to the Secretariat employees is countable towards pension, so we the retiring Govt. servants may not face any hardship.

(ATLAS KHAN) Section Officer,

Local Govt. Deptt.

(ABDUR RASHID)

Section Officer,

Agriculture Deptt.

Section Officer,

Local Govt. Deptt.

etton Officer.

ection Officer,

Industries Department

SYEDBAOÙR SHAĤ) Deputy Secretary,

Deputy Secretary,

Industries Department

Secretary Finance

Chyber Fallitunkhy

Section Officer, Industries Department





## GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT REGULATION WING)

NO.FD(SOSR-II)8-7/2012 Peshawar the 15/10/2012

To,

The Secretary,

Government of Khyber Pakhtunkhwa,

Establishment Department.

Subject:-

COUNTING OF SPECIAL ALLOWANE TOWARDS EMOULMENTS FOR

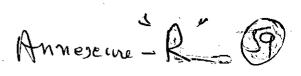
Dear Sir,

am directed refer. your letter No.SORVI/E&ED/Gen; Finance/2011 dated, 24th September 2012 & to say in your office kind letter attention of Finance Department has been diverted towards heirs of late Muhammad Ramadan Private Secretary of Federal Government who got justice from apex Supreme Court of Pakistan when it ordered that Secretariat/Special Allowance which deceased was availing in his life be included in his pensionary benefits. Such decision was purely ordered on humanitarian grounds to extend all póssible Financial Assistance with deceased family & it does not seems to be precedent for others to capitalize from such magnanimous offers meted out with late Muhammad Ramadan family.

Yours faithfully,

(Rizwanullah Abdali) S ECTION OFFICER (SR.II)

D:\ Letters-II



To

The Secretary, Government of the Khyber Pakhtunkhwa, Finance Department.

# SUBJECT: COUNTING OF SPECIAL ALLOWANCE TOWARDS EMOLUMENTS FOR PENSION.

Dear Sir.

We had submitted a joint application on the above subject to the Chief Secretary which was sent to Finance Department (Copy enclosed). In Finance Department instead of examining the issue properly, simply informed the Establishment Department vide letter No. FD (SOSR-II) / 8-7/ 2002 Dated 31/01/2012 that according to the wordings of Finance Department letter No. FD (SOSR-II) /8-7/ 2002/ Vol-IV Dated 06/02/2008, "the said allowance would not be treated as part of emoluments for pension" (Copy enclosed).

- 2. We had submitted another application dated 11/05/2012, justifying our request on various points (Copy enclosed). However instead of examining it properly the matter was twisted vide letter no. FD (SOSR-II) / 8-7/2012 Dated 15/10/2012, that the Supreme Court's decision in the case of late Mr. Muhammad Ramzan was on humanitarian grounds. Now our questions are that:
  - (i) The Supreme Court's decision has no indication that the said order was on humanitarian ground.
  - (ii) If a decision is announced on humanitarian grounds it covers the request of only that person, whereas on the basis of such decision, the Federal Government has issued circular for counting of Secretariat Allowance (Renamed as Personal Allowance) towards pension vide letter No. F.13(4)Reg-6/2007 dated 11-2-2008 (Copy enclosed) and it was adopted by the Provincial Government vide letter No. KC/FD(SOSRII)4-111/2008, dt: 30-1-2009 (Copies enclosed). Which means that the decision was not on humanitarian grounds for specific person, On the basis of advice of Finance Department, the Establishment Department has simply informed about not acceptance of our appeal vide letter No. SOSR VI (E&AD) General / 2012 dated: 02/11/2012(Copy enclosed).
- 3. We are feeling that the Government Department compelling us to get a remedy from the Court, therefore we have requested the Establishment Department for reasons regarding not acceptance of our appeal vide application dated 19/11/2012 (Copy enclosed). Where upon the Establishment Department vide letter No. SOR VI (E&AD) General / 2012 dated 29/11/2012 has stated that the matter is in the domain of Finance Department. (Copy enclosed). Therefore we should approach to Finance Department.

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- 4. In view of the above, we submit:-
  - (i) According to Supreme Court's decision Secretariat Allowance (which ever the name may be given to it) will be countable towards pension.
  - (ii) While submitting the Summary to the Chief Minister for sanctioning of 20% Special Allowance for Secretariat employees, it was categorically indicated that the said proposed Special Allowance would be in lieu of Secretariat Allowance. Therefore in the light of Supreme Court's decision the Secretariat Allowance, renamed as Special Allowance (which ever the name would be) will be countable towards emoluments of pension.
  - (iii) Whereas while issuing the letter for grant of Special Allowance, a condition "not counting towards the emoluments for pension" was imposed which was not mentioned in the summary and not approved by the competent authority but was also against the Court's decision?
  - (iv) We are retired poor employees of the Secretariat and not acceptance of our request and compelling us to go to the Court is an intension to waste the time and putting us in Financial Loss. Whereas there are clear decision of Supreme Court, that the cases have the same nature already decided by the Court should be settled and the applicants may not be compelled to go to the Court.
- In view of the above, we humbly request to kindly consider our request and in case it is not entertainable, informed us the grounds/rules in this regards (as we have the right to know the reasons and not convening the reasons would mean the violation of human rights) so either we will satisfy ourselves or get a remedy from the Court.

Thanks!

Dated: 18th December, 2012

Yours Obediently,

(Jehangir Pervez)

Ex-Section Officer, House No. 7(B), Kamran Street, Chairman Town, Ejazabad Road, Gulbahar No. 4, Peshawar. On behalf of all applicants Cell. 03219189120

# <u>BEFORE THE CHAIRMAN SERVICE TRIBUNAL,</u> <u>KHYBER PAKHTUNKHWA, PESHAWAR</u>

S.A	No/2015
•	mad de la seconda de la second
1)	Jehangir Parvez (Rtd) Section Officer
	R/o House No.B/7, Kamran Street, Chairman Town, Ijazabad Road
	Gulbahar No.4, Peshawar.
2)	Mir Ahmad R/O Shaikh Abad, near Shaikh Junaid Baba, Peshawar.
3)	Abdur Rashid, R/o Civil Quarter, Peshawar.
4)	Hafizur Rehman, R/O inside Sarki Gate, Peshawar.
5)	Akhtar Muhammad, R/O Mohmand Agency
6)	Gul Muhammad, R/o Civil Quarters, Peshawar.
7)	Ehsan Elahi, R/O Canal Road, Gulbahar, Peshawar.
8)	Fida Muhammad, R/O Civil Quarter, Peshawar.
9)	Atlas Khan, R/O Village Kaga Wala, Peshawar.
10)	Shah Sawar R/O Charsadda
11)	Muhammad Yaqoob R/O Civil Quarters, Peshawar
	Section Officers
12)	Mushtaq Ahmad, R/O Lakki Dheri Road, Gulbahar, Peshawar.
13)	Muhammad Jamil R/O Kakshal, Peshawar.
14)	Abdul Jalil, R/o Hussain Abad, Gulbahar, Peshawar.
15)	Muhammad Zaman, Gulbahar No.1, Peshawar.
16)	Muhammad Adrees, R/O Kakshal, Peshawar.
J(Z)	Rasul Shah, R/O 86B Civil Quarters, Peshawar.
18)	Muhammad Naqeeb, R/O Village Pakha Ghulam, District Peshawar.
19)	Afzal Shah, R/O Mansehra
20)	Abdus Samad R/O Nishtar Abad, Peshawar R/o
•	MansehraDeputy Secretaries.
21)	Sajjad Ahmad, R/o Mansehra, Additional Secretary Appellants

Versus

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR,

Service Appeal No. 598/2015 Mr. Jehangir Pervez, Section Officer (Rtd.)

Appellant

### "VERSUS

- 1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3. The Secretary Establishment (Administration & Estt: Department), Khyber Pakhtunkhwa, Peshawar.

Respondents

### **JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

## Respectfully Sheweth,

## **Preliminary Objections:**

- 1. That the appeal is time barred.
- 2. That the appellant has not come to this Tribunal with clean hands.
- 3. That the appellant has got no cause of action locus-standi to file instant Service Appeal.
- 4. That the appellant has concealed material facts from this Honorable Tribunal.
- 5. That the Appeal is bad for non-joinder and mis-joinder of necessary parties.

## FACTS.

- 1) Pertains to record, hence need no comments.
- 2) Pertains to record, hence need no comments.
- 3) In reply to Para-3 it is submitted that salary or pay always comprise of basic pay and Allowance etc.
- 4) Incorrect. The Special Allowance @ 20% of pay has been sanctioned vide letter dated 06.02.2008 with clear condition that "the said allowance would not be treated as a part of emoluments for the purpose of calculation of pension/gratuity and recovery of House Rent".
- 5) As explained in Para-4 above.
- 6) Correct to the extent that representation of the Appellant was not accepted due to non-admissibility of the claim under the rules.
- 7) Incorrect. The appellant do not fall within the definition of aggrieved persons as provided in Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.
- 8) Pertains to record, hence subject to proof.
- 9) Pertains to court record, hence subject to proof.
- 10) Incorrect. Appellant is not an aggrieved person and he is not entitled for the benefit claimed for.

## **GROUNDS.**

- a) As explained in Para-4 of the facts.
- b) As explained in Para-4 of the facts.
- c) In pursuance of judgement of the Supreme Court of Pakistan, the Govt: of Pakistan Finance Division Islamabad vide O.M. dated 08/08/2009 (Annexure-A) decided to restore the amount of the Secretariat/personal allowance to those civil servant/retired civil servant in BPS-17/22 whose Secretariat Allowance/personal allowance was adjusted in annual increment during 01/06/1994 to30/11/2001 i.e. till the date of discontinuation of Secretariat/personal allowance. This Provincial Government had also adopted the above mentioned Federal Government's Finance Division O.M vide this Department letter dated 20/10/2009(Annexure-B).

## Page-(2)

d) Incorrect. The Appellant's claim for equal treatment with regard to grant of Special Allowance is not tenable. Hence neither Appellant's right has been negated nor Article 25 of the Constitution violated by the respondents. The treatment is based on intelligible differentia.

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- e) Finance Department has already allowed the inclusion of Secretariat Allowance/Personal Allowance in the emoluments reckonable towards pension vide this department letters No.KC/FD(SOSR-II)4-111/2008 dated 20.08.2008 and 30-01-2009), in pursuance of judgement dated 05.04.2007 passed by Supreme Court of Pakistan in Civil/Miscellaneous Petition No.2683 of 2006. Since the judgement was announced prior to the sanction of the said allowance and this particular allowance/circular dated 06/-2/2008 was issued later on as such there appears no effect on the existing policy.
- f) As explained in Para-e above.
- g) As explained in Para-4 of the Facts.
- h) As explained in Para-4 of the Facts.
- i) It is correct to the extent that condition was not mentioned in the Summary, however, Finance Department has elaborated the same in the relevant Notification dated 06/02/2008(Annexure-C).
- i) Incorrect. Finance Department has already clarified in light of this Department letter dated 31.01.2012 (Annexure-D) that the Special Allowance has been granted to Secretariat Employees with the condition at Para-1 (iii) of this Department Circular dated 06/02/2008 i.e. "the said allowance would not be treated as part of emolument for the purpose of the calculation of pension/gratuity and recovery of house rent".
- k) a) As explained in Para-C of the grounds.
  - b) As explained in Para-C of the grounds.
  - c) As explained in Para-C of the grounds.
- l) As explained in Para-e of the grounds.
- m) As explained in Para-e of the grounds.
- n) As explained in Para-e of the grounds.

In view of the above explanation, it is humbly prayed that the instant Appeal being devoid of merits may please be dismissed with cost.

Secretary to

Khyber Pakhtunkhwa, Establishment Department Respondent No.03

Chief Secretary Govt: of Khyber Pakhtunkhwa, Respondent No.01 Secretary to Govt: of Khyber Pakhtunkhwa, Finance Department,

weller

Respondent No.02

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 598/2015

Mr. Jehangir Pervez, Section Officer (Rtd.)

Appellant

## **VERSUS**

- 1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3. The Secretary Establishment (Administration & Estt: Department), Khyber Pakhtunkhwa, Peshawar.

Respondents

## **AFFIDAVIT**

I Irshad Muhammad, Section Officer(Litigation-II) do hereby solemnly affirm and declare that the contents of the accompanying Joint Parawise Comments submitted by above mentioned Respondents are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

DEPONENT
SECTION OFFICER(LIT-II)
Govt. of Khyber of Pakhtunkhwa
FINANCE DEPARTMENT

Identified by

Advocate General Khyber Pakhtunkhwa Peshawar. Government of Pakistan Finance Division (Regulations Wing)

\*\*\*\*\*

No. 13(4)-Reg.6/2007

Islamabad, the 8th August, 2009

# OFFICE MEMORANDUM

Subject:-PAYMENT OF SECRETARIAT ALLOWANCE/PERSONAL ALLOWANCE ADJUSTED IN ANNUAL INCREMENTS DURING 1994-2001.

The undersigned is directed to refer to para 5 (i) of Finance Division's O.M. No. F. 1(2)-Imp/94(i) cated 15th June, 1994 (copy enclosed) on the above subject and to state that in pursuance of the Judgement dated 25.05.2009 passed by the Supreme Court of Pakistan in Civil Petitions NO. 4 to 9 of 2007, it has been decided to restore the amounts of the Secretariat/Personal Allowance of those civil servants/retired civil servants in BPS 17-22 whose Secretariat Allowance/Personal Allowance was adjusted in annual increments during 01.06.1994 to 30.11.2001 i.e. till the date of discontinuation of Secretariat Allowance Allowance/Personal Allowance vide Finance Division's O.M. No. 1(5)-Imp/2001 dated 04.09.: 001.

> Secy: Finance N Daury No. 13 Pale...

(Nayyar Nadeem) Section Officer (Reg.6)

All Ministries/Divisions

e (sign)

Kinyber Pendikunkhwa

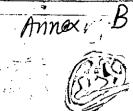
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- 1. President's S 2.
- President's S 3. 4.
  - Prime Minister a Occidentian (internal), Islamabad. mabad
- Prime Minister's Secretariat(Public), Islamabad. 5. National Assembly Secretariat, Islamabad.
- 6. Senate Secretariat, Islamabad. 7.
- Election Commission of Pakistan, Islamabad. 8. Supreme Court of Pakistan, Islamabad. 9.
- Federal Shariat Court, Islamabad, 10. 11.
- AGPR, Islamabad/Lahore/Peshawar/Karachi/Quetta. Pakistan Mint, Lahore.
- 12.
- Auditor General of Pakistan, Islamabad. 13. 14.
- Federal Public Service Commission, F-5/1, Agha Khan Road, Islamabad. 15.
- Cost Accounts Organization, Islamabad.
- 16. 17.
- Military Accountant General, Rawalpindi. 18.
- Central Directorate of National Savings, Islamabad. 19.
- Chief Accounts Officer, M/O Foreign Affairs, Islamabad. 20.
- Financial Adviser and Chief Accounts Officer, Pakistan Railways, Lahore.
- Ministries/Divisions etc and all officers of Finance Division. 21. Secretariat Training Institute, Islamabad. Advisors attached 22. 23.
- Federal Tax Ombudsman's Secretariat, Islamabad. 24.

- Office of the Chief Commissioner, Islamabad. 25. 26.
- Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Islamabad. Pakistan Atomic Energy Commission, Islamabad. 27.
- All Chief Secretaries/Finance Secretaries of the Government of Punjab/ Sindh/ NWFP/Baluchistan & Azad State of Jammu & Kashmir. 28.
- Directorate General of Inspection & Training, Customs & Central Excise, 8th Floor, New Custom House, Karachi. 29. 30.
- National Re-Construction Bureau, Prime Minister's Secretariat, Islamabad. National Accountability Bureau, Islamabad. 31.
- Intelligence Bureau, Islamabad. 32.
- 33,
- Member (Finance), KRL, P.O.Box.No.1384, Islamabad. Controller General of Accounts, Islamabad.

(Nayyar Nadeem) Section Officer (Reg.6)

MB



GOVERNMENT OF NWFP FINANCE DEPARTMENT (REGULATION WING) NO.FD(SOSR.II)8-7/2009 Dated Peshawar the 20/10/2009

To

- 1. All the Administrative Secretaries to Government of NWFP.
- 2. The Senior Member Board of Revenue, NWFP, Peshawar.
- 3. The Secretary to Governor, NWFP, Peshawar.
- 4. The Principal Secretary to Chief Minister, NWFP, Peshawar.
- 5. The Secretary, Provincial Assembly, NWFP, Peshawar.
- 6. All Heads of Attached Departments in NWFP.
- 7. The Registrar, Peshawar High Court, Peshawar.
- 8. All Zila Nazims/District Coordination Officers/Political Agents/District & Session Judges/Executive District Officers in NWFP.
- 9. The Registrar, NWFP Service Tribunal, Peshawar.
- 10. The Registrar, NWFP Public Service Commission, Peshawar.
- 11. The Secretary, Board of Revenue, NWFP, Peshawar.

Subject:-

PAYMENT OF SECRETARIAT ALLOWANCE/PERSONAL ALLOWANCE ADJUSTED IN ANNUAL INCREMENTS DURING 1994-2001.

Dear Sir.

I am directed to refer to para 5 (i) of this—Department's Office Memorandum No.FD(PRC)1-1/94 dated 30/6/1994 on the subject noted above and to state that in pursuance of Finance Division O.M No.13(4)-Reg.6/2007 dated 8/8/2009 and Judgment dated 25/5/2009 passed by the Supreme Court of Pakistan in Civil Petition No.4 to 9 of 2007, it has been decided to restore the amounts of the Secretariat/Personal Allowance of those civil servants/retired civil servants in BPS-17-22 whose Secretariat Allowance/Personal Allowance was adjusted in annual increments during 01/6/1994 to 30/11/2001 i.e. till the date of discontinuation of Secretariat Allowance/Personal Allowance vide Finance Department's circular No.FD(PRC)/1-1/2001 dated 27/10/2001.

Yours faithfully,

(MASCOD AHMAD)

Additional Secretary (Reg.I)

Endst: No. & date even.

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

- 1. All Autonomous/Semi Autonomous Bodies in NWFP.
- 2. Secretary to Government of Punjab, Finance Department, Labore.
- 3. Secretary to Government of Sindh, Finance Department, Karachi.

4. Secretary to Government of Balochistan, Finance Department, Quetta.

(GHAZANFAR ALI) (PEG.I)

P.T.O

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## Endst: No. & date even.

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

1. Accountant General, NWFP, Peshawar.

- 2. District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and D.I. Khan.
- 2. Senior District Accounts Officers, Nowshera, Swabi, Charsadda, Hacipur, Mansehra and Dir (Lower).
- 4. All District/Agency Accounts Officers in NWFP.

5. Treasury Officers, Peshawar.

6. P.S to Minister for Finance NWFP, Peshawar.

7. P.S to Chief Secretary, NWFP, Peshawar.

8. P.S to Additional Chief Secretary, NWFP, Peshawar.

9. Director, FMIU, Finance Department.

- 10. P.S to Finance Secretary NWFP, Peshawar.
- 11. P.A to all Additional Secretaries/Deputy Secretaries in Finance Department.
- 12. Director, Local Fund Audit Department, NWFP, Peshawar.
- 13. All the Section Officers/Budget Officers in Finance Department.
- 14. Section Officer (Reg-6) Government of Pakistan, Finance Division, Islamabad with reference to his O.M No.F.13(4)-R.6/2007 dated 8/8/2009.

15. Zonal Office, National Bank of Pakistan, 8 the Mall Peshawar Cantt. For circulation amongst all concerned branches Peshawar, D.I. Khan, Abbottabad, Mardan and Bannu.

(WAZIR MUHAMMAD AFGAR): SECTION OFFICER (SR.II) Ph.# 091-9213007

Brit

GOVERNMENT OF NWFP FINANCE DEPARTMENT (REGULATION WING) NO.FD(SOSR.II)8-7/2002/Vol-IV Dated Peshawar the 06/02/2008



All Administrative Secretaries To Government of NWFP.

Subject:-

GRANT OF SPECIAL ALLOWANCE @ 20% CIVIL SECRETARIAT EMPLOYEES (BPS-1-22).

Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority has been pleased to approve Special Allowance @ 20% of Basic pay to the Officers and Officials (BPS-1-22) of the N.W.F.P Civil Secretariat, Chief Minister's Secretaria and Governor's House/Secretariat NWFP conditions/clarifications:subject following

- The said allowance will be admissible to all those who are working in the i) offices of the above mentioned secretariats and will also be admissible during the period of leave and L.P.R and to employees of Civil Secretariat NWFP ii)
- The said allowance would not be admissible during Extra Ordinary Leave.
- The said allowance would not be treated as part of erroluments for the purpose of calculation of Pension/gratuity and recovery of House Rent.
- The Government servants working in Governor's Secretar it NWFP, already drawing Governor's House/Secretariat Allowance will be required to exercise heir option (within one month of the issue of this letter) either to draw the Special Alebwance @ 20% of Basic Pay or continue to draw Governor's House/Secretariat Allowance already sanctioned vide No. FD(SOSR-11)8-9/99 dated 8/12/2007. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance. 3. .
- The Government servants working in Chief Minister's Secretar at NWFP, already. drawing Chief Minister's Secretariat Allowance will be required to exercise their option (within one month of the issue of this letter) either to draw the Special Allowance @ 20% of Basic Pay or continue to draw Chief Minister's Secretarial Allowance already sanctioned vice No.FD(SR-V)2-163/91 dated 20/2/1994. A Government servant, who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.
- The Government Servants deputed from other departments who do not belong to Secretariat Services but are working in the secretariat will be required to exercise their option either to draw the Special Allowance @ 20% or to continue to draw the deputation allowance.

TRUE COPY



The Government Servants (belong to judiciary) deputed to work in the Law or any other Department in the Capit Secretariat who are the recipient of Judicial Allowance, will be required to exercise their option either to draw the Special Allowance @ 20% or to continue to draw the Judicial Allowance within stipulated period i.e one month of the issue of this letter. A Government servant who fails to exercise option within the stipulated period, shall be deemed to have opted for the Special Allowance.

Yours faithfully,

(USMAN GUL)
ADDITIONAL SECRETARY(REG)

Endst: No. & date even.

Copy is forwarded to the Accommuni Cieneral, NWFP, Peshawan

(SAHAD AHMAD) DEPUTY SECRETARY(R.D)

Endst: No. & date even

Copy is forwarded to information to all Additional Secretaries/Deputy

(MUNAWAR KHAN) SECTION OFFICER(SR II)

Married Russian

SECTION OFFICER (Lit-I)
Finance Department
Khyber Pakkinushhwa





# GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO.FD(SOSR-II)8-7/2002 Dated Peshawar the .. 31/1/2012

То

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

Subject: -

COUNTING OF SPECIAL ALLOWANCE TOWARDS PENSION.

Dear Sir,

I am directed to refer to the remarks of Chief Secretary; Khyber Pakhtunkhwa recorded on joint application of retired Section Officers, Deputy Secretaries and Private Secretaries of Civil Secretariat bearing Diary No. PS/CS Khyber Pakhtunkhwa Diary No. 8217 dated 26-07-2011 (page-30/C) on the subject noted above (copy enclosed) and to say that the existing special allowance has been granted to secretariat employees with the condition at Para-1 (iii) of this department circulars dated 06-02-2008 i.e. "the said allowance would not be treated as part of emoluments for the purpose of calculation of pension/gratuity and recovery of House Rent".

Keeping in view the above condition, the said allowance could not be treated as a part of emolument reckonable towards pension.

Yours faithfully,

.

WAZIR MZJAMMAD AFGAR) SECTION OFFICER (SR.II)

1/2

SECTION OF TOTAL

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In re:

S.A.No.598/2015

Jehangir Pervez

Versus

Chief Secretary

# **REJOINDER ON BEHALF OF THE APPELLANT**

# Respectfully Sheweth

Rejoinder on behalf of appellant is as under:-

# **PRELIMINARY OBJECTIONS**

- 1) The appeal is well within time.
- 2) That the appellant has come to the Tribunal with clean hands.
- 3) As the respondents have refused to accept the claim of the appellant, therefore, appellant has a cause of action as well as locus standi to file the appeal.
- 4) The appellant has neither concealed material fats nor any such fact has been pointed out by the respondents.

5) That all the necessary parties have been impleaded in the appeal while respondents have not pointed out any such party.

# **ON FACTS**

- 1-2. That Paras No.1 & 2 of the Appeal are correct. hence, have written "No comments"
- 3. That Para No.3 of the comments is not properly reply of the Appeal, while Para No.3 of the Appeal is correct.
- 4-5 That Paras No.4 & 5 of the comments are incorrect, while that of appeal are correct.
- 6. That Para No.6 of the appeal has been admitted correct.
- 7. That Para No.7 of the reply is incorrect, while that of Appeal is correct.
- 8. That Para-8 of the Appeal is correct, while this fact has been admitted, therefore, have written subject to proof.
- 9. That Para-9 of the Appeal is correct, while this fact has been admitted, therefore, have written subject to proof.
- 10. That Para-10 of the appeal is correct, while that of comments is incorrect.

# **GROUNDS**

C ... 4

- A-B That Paras A& B of the Appeal are correct while that of comments filed by respondents are incorrect.
- C. That reply to Para-C does not relate to Para-C of the Appeal while the Para-C of appeal is correct.
- D. That Para D of the Appeal is correct, while that of comments is incorrect.
- E. That Para-E of the comments is correct to the extent that the Finance Department has already allowed the inclusion of Secretariat allowance/ personal allowance in the emoluments towards pension while rest of the para is incorrect and that of Appeal is correct.
- F. That Para-F of the reply is incorrect, while that of Appeal is correct. Detail reply is given in Para-E.
- G-H. That Paras G & H of the Appeal are correct while that of the reply are incorrect.
- I. That Para-I of the Appeal has been admitted correct while the rest of para is incorrect. The Finance Department has no authority under the law to impose conditions, furthermore Finance Department has no authority to change the proposal approved by the Chief Executive otherwise the Chief Executive permission is necessary.

- J-K. That Para-J & K of the reply are incorrect, while that of Appeal are correct.
- L-M That Para L to M of the reply are incorrect while that of Appeal are correct. Detail reply has been given in Para-E of the rejoinder.

It is, therefore, requested that on acceptance of this rejoinder the appeal may kindly be accepted with costs.  $\circ$ 

Appellant

Through

Muhammad Asif

Supreme Court of Pakistan

Off: Sayed Ahmad Ali Buildings Near Taj Autos, Sonehri Muasjid Road Peshawar

Cantt.

Cell: 0302-8885187 Ph: 091-5279292

AFFIDAVIT

I, Jehangir Parvaiz Awan S/o Atta Muhammad R/o Chariman Town, Gulbahar No.4, House No.B-7, Kamran Street, Peshawar (Appellant), do hereby affirm and declare on oath that the contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and to that has been concealed from this Hon'ble Court

WAR-HIG

Deponent

# BEFORE THE CHAIRMAN SERVICES TRIBUNAL, PESHAWAR

Mariar Pakhtukhwa Maria vice Tribunai	
Dang No. 532	
27-2-	.)-

C.M.No. <u>\$3</u> //2017

IN

S.A.No.598/2015

Jehangir Pervez ......V/S...... Govt. of KPK and others

APPLICATION FOR RESTORATION OF APPEAL NO.598/2015 ADJOURNED SINE DIE ON 20.01.2017 FOR DECISION ON MERIT.

put up to the court

Respectfully Sheweth,

Applicant submits as under:-

27/3/17.

- 1) That the above noted appeal was fixed for 20.01.2017.
- 2) That on the said date counsel for appellant requested for adjournment as the same matter is pending before the Hon'ble Apex Supreme Court of Pakistan.
- That on inquiry appellant came to know that on such matter no appeal is pending before Hon'ble Apex Supreme Court of Pakistan and the appeal pending in the apex Supreme Court of Pakistan is on another point.

It is, therefore, requested that on acceptance of this application, the appeal may kindly be restored and may kindly be decided on merits.

Appellant

Through

Muhammad Asif

Advocate.

Supreme Court of Pakistan

Off: 214 Syed Ahmad Ali Building near Taj Autos, Sunehri Masjid

Road, Peshawar Cantt. Cell: 0302-8885187

Off: 091-5279292

# **AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Depenent