

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 617/ 2024


Manzoor Hussain Private Secretary (BPS17) Advocate General's Office Khyber
Pakhtunkhwa, Peshawar. **Appellant**

Versus

Secretary Finance Department, Government of Khyber Pakhtunkhwa Peshawar and
others. **Respondents**

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Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa

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Versus

Secretary Finance Department, Government of Khyber Pakhtunkhwa Peshawar
and others. **Respondents**

**REPLY / PARAWSIE COMMENTS ON BEHALF OF RESPONDENTS NO. 2 AND 3 IN
SERVICE APPEAL NO. 622/2024**

RESPECTFULLY SHEWETH:-

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 14016

PRELIMINARY OBJECTIONS

Date 05/07/24

1. That the appellant has no cause of action to file the instant Appeal before this Honorable Tribunal.
2. That the Appeal of the appellant is not maintainable, hence liable to be dismissed.
3. That the Appeal is badly time barred, hence not tenable.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant has concealed material facts from this Honorable Tribunal, hence the Appeal in hand is liable to be dismissed.
6. That the appellant has estopped by his own conduct to file this Appeal

FACTS.

1. Para No. 1 pertains to record hence needs no comments.
2. Para No. 2 is correct to the extent that employees of Advocate General's office Khyber Pakhtunkhwa are recipients of 20% Judicial Allowance and 10% Utility Allowance as per Finance Department Notification No. FD (SOSR-II) 8-43/ 2009 dated 25/07/2009. These two (02) allowances were sanctioned to employees of this office on the analogy of two (02) allowances, namely, utility allowance and secretariat allowance which were paid to employees of the Civil Secretariat, Peshawar.


3. Para No. 3 is correct to the extent that the Finance Department, Government Khyber Pakhtunkhwa has increased Secretariat Performance Allowance from 50% to 100% vide Notification No. SO (SR-IV)/ 4-1/2023 Secretariat Performance Allowance dated 11-07-2023 only to the Secretariat Employees, leaving other employees of attached departments of Khyber Pakhtunkhwa. This allowance is also being paid to the employees who are working in Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa as well as employees of Provincial Assembly.
4. Para No. 4 is correct to the extent that employees of the Counter Terrorism Department has been allowed the Counter Terrorism Allowance @ at the rate of one running basic pay as per revised Basic Pay Scales -2022 vide Notification dated 17-01-2023 of Finance Department Government of Khyber Pakhtunkhwa.
5. Para No. 5 is correct to the extent that the appellant as well as other employees of Advocate General office Khyber Pakhtunkhwa are still recipients of Judicial and Utility Allowances at old rates, i.e. 20% and 10% respectively.
6. Para No. 6 regarding representation of employees of Advocate General's office is correct and needs no comments.
7. Para No. 7 needs no comments.
8. Para No. 8 is correct to the extent that Finance Department Government of Khyber Pakhtunkhwa has regretted request of Law Department for increase of Judicial Allowance as well as Utility Allowances to employees of Advocate General office, Khyber Pakhtunkhwa vide an official letter addressed to Law Department bearing No. SOSR-IV/FD/1-6/2021/Law Deptt: dated 01-02-2024 due to financial crunch.
9. Para No. 9 needs no comments.

Grounds:-

- A. Para No. A that no violation / discrimination has been made by the Advocate General office as well as Law Department with regard to enhancement of Judicial and Utility Allowances to the appellant, but Finance Department Government of Khyber Pakhtunkhwa has regretted the said enhancement in Judicial Allowance and Utility Allowance vide letter No. SOSR-IV/FD/1-6/2021/Law Deptt: dated 01-02-2024 due to financial crunch.
- B. That Para B is incorrect, the appellant is treated in accordance with law and rules on the part of Advocate General office as well as Law Department.
- C. Para C is incorrect, hence needs no comments.
- D. Para D is incorrect already explained / given in Para-A of Grounds.

- E. Para E the appellant has been treated in accordance with law and no discrimination has been done to the appellant.
- F. Para F pertains to record needs no comments.
- G. Para G pertains to record needs no comments.
- H. Para H needs no comments.
- I. Para I correct to the extent that Advocate General's post is Constitutional as appointed under Article 140 of the Constitution of Islamic Republic of Pakistan 1973 while employees of Advocate General are having status of Civil Servants.
- J. Para J does not relate to the answering respondents. Furthermore, the Finance Department Government of Khyber Pakhtunkhwa has regretted request of Law Department for increase of Judicial Allowance as well as Utility Allowances to employees of Advocate General office, Khyber Pakhtunkhwa vide an official letter addressed to Law Department bearing No. SOSR/FD/1-6/2021/Law Deptt dated 01-02-2024 due to financial crunches.
- K. That further this Hon` able Tribunal will be assisted during time of arguments.

Therefore it is humbly requested that the subject service appeal is not maintainable hence may kindly be dismissed.


Advocate General
Khyber Pakhtunkhwa
(Respondent No. 3)

SHAH FAISAL UTMANKHEL


Secretary to Govt. of Khyber Pakhtunkhwa
Law, Parliamentary Affairs & HRs Deptt.
(Respondent No.2)

AKHTAR SAEED TURK.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 617/ 2024

Manzoor Hussain Private Secretary (BPS17) Advocate General's Office Khyber
Pakhtunkhwa, Peshawar. **Appellant**

Versus

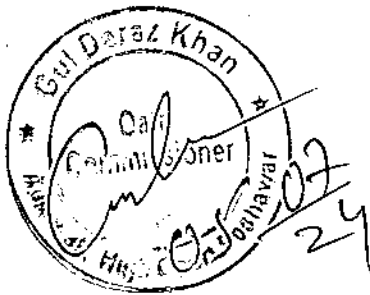
Secretary Finance Department, Government of Khyber Pakhtunkhwa Peshawar and
others. **Respondents**

AFFIDAVIT

I Arshad Azam, Assistant Advocate General, Khyber Pakhtunkhwa Service Tribunal Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying reply/parawise comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal. *It is further stated on oath that in this appeal, the answering respondent has neither been placed ex-parte nor their defence has been struck off/cost.*

Arshad Azam

Arshad Azam,
Assistant Advocate General,
Khyber Pakhtunkhwa Service Tribunal
Peshawar



(5)

TO BE SUBSTITUTED FOR THE LETTER BEARING THE SAME NO. & DATE.

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.FD(SOSR.II)8-13/2009
Dated Peshawar the 25/7/2009

4102
27/8/09

To

The Secretary to Government of NWFP,
Law, Parliamentary Affairs & Human Rights Department.

Subject:- GRANT OF JUDICIAL ALLOWANCE @ 20% AND
UTILITY ALLOWANCE @ 10% OF BASIC PAY TO THE
ADVOCATE GENERAL'S OFFICE STAFF NWFP.

Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority has been pleased to approve Judicial Allowance @ 20% and Utility Allowance @ 10% of basic pay to the staff working in the Advocate General's office NWFP i.e. Librarians, Superintendents, Private Secretaries, Stenographers, Data Processing Supervisor, Assistants, Senior Clerks, Junior Clerks, Daftari Drivers, Naib Qasids, Farash, Chowkidars and Sweepers with immediate effect.


Yours faithfully.

(RAEES KHAN)
SECTION OFFICER (SR.II)

Endst: No. & date even.

Copy is forwarded for information and necessary action to:-

- 1) Accountant General, NWFP, Peshawar.
- 2) Advocate General, NWFP, Peshawar.
- 3) Budget Officer-II, Finance Department.

m.  SECTION OFFICER (SR.II) 31/8

ATTESTED


Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar



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

Dated Peshawar the 11th July, 2023

NOTIFICATION:

No.FD (SOSR-IV)/4-1/2023/Secretariat Performance Allowance: In partial modification of this Department's Notification No. FD (SOSR-II) 8-7/2019 dated 27.11.2019; Government of Khyber Pakhtunkhwa has been pleased to enhance/revise Special/Secretariat Performance Allowance from 50% to 100% of the Basic Pay per month to the Officers/Officials of Provincial Civil Secretariat Khyber Pakhtunkhwa, who are already in receipt of the said allowance @ 50%, with effect from 01.07.2023. However, the aforementioned Increase will not be applicable to all those who are drawing Scheduled Posts Allowance/Technical Allowance/Planning Allowance/Health Professional Allowance or any other allowance having high quantum of financial benefits.

2. Other terms & conditions will remain the same as notified from time to time.

Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department

Endst No. & Date Even:

Copy is forwarded for information & necessary action to:

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- The Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- 3- The Principal Secretary to Governor Khyber Pakhtunkhwa.
- 4- All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
- 5- The Director FMIU, Finance Department.
- 6- The Director, Staff Training Institute (STI) E&A Department.
- 7- PSO to Chief Secretary Khyber Pakhtunkhwa.
- 8- All Section Officers/Budget Officers in Finance Department Khyber Pakhtunkhwa.
- 9- PS to Minister Finance Khyber Pakhtunkhwa.
- 10- PS to Secretary to Government of Khyber Pakhtunkhwa Finance Department.
- 11- PS to Special Secretary (A & R), Finance Department.
- 12- PS to Special Secretary (Budget), Finance Department.
- 13- PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
- 14- Master File.

ATTESTED

(YAR MUHAMMAD)
Section Officer (SR-IV)

ATTESTED

Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 17th January, 2023

NOTIFICATION

NO. SO (SR-IV)/FD/I-10/Counter Terrorism Allowance (CTA)/2023: In supersession of the Department's letter No. FD(SOSR-II)8-26/2013 dated 21.11.2013 and upon decision of Provincial Cabinet in its meeting held on 03.01.2023, the Government of Khyber Pakhtunkhwa has been pleased to extend the Counter Terrorism Allowance, with immediate effect, at one running basic pay as per revised Basic Pay Scales-2022 to all ranks, cadres and scales of Counter Terrorism Department, Khyber Pakhtunkhwa.

2. The above allowance will be admissible subject to the following conditions:
- It will subject to Income Tax.
 - Admissible only during the period of posting against the sanctioned posts of Counter Terrorism Department.
 - Will not be admissible during any kind of leave except casual leave as well as posting against OSD and leave reserve posts.
 - Will not be treated as part of emoluments for the purpose of calculation of pension/gratuity and recovery of House Rent etc.
 - Will cease to be admissible on posting/transfer of employees outside Counter Terrorism Department.

Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department

Endst: No & date even:

Copy of the above is forwarded to the:-

- 1- Accountant General, Khyber Pakhtunkhwa.
- 2- The Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- 3- Secretary to Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.
- 4- The Director FMIC, Finance Department with the request to upload the same on website.
- 5- The Director, Staff Training Institute (STI) E&A Department.
- 6- The Section Officer (Cabinet), Government of Khyber Pakhtunkhwa Establishment & Administration Department with reference to his letter No- SOC (E&AD) 9-85-2023 dated 16.01.2023
- 7- PSO to Chief Secretary Khyber Pakhtunkhwa.
- 8- PS to Secretary to Government of Khyber Pakhtunkhwa Finance Department.
- 9- PS to Special Secretary (A & R), Finance Department.
- 10- PS to Special Secretary (Budget), Finance Department.
- 11- PAs to Additional Secretaries, Deputy Secretaries in Finance Department.
- 12- Master File

ATTESTED

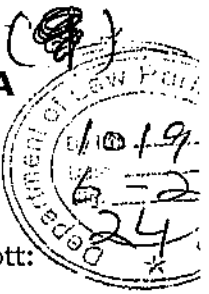
ATTESTED

ANAR MUHAMMAD,
SECTION OFFICER (SR-IV)

Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar



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



NO. SOSR-IV/FD/1-6/2021/Law Deptt:
Dated Peshawar the 01.02.2024

To

The Secretary to Government of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department.

Subject: - **REQUEST FOR INCREASE IN JUDICIAL ALLOWANCE AS WELL AS UTILITY ALLOWANCE FROM 30% TO 100% TO THE EMPLOYEES OF ADVOCATE GENERAL OFFICE KHYBER PAKHTUNKHWA.**

Dear Sir,

I am directed to refer to your Department's letter bearing No. SO (B&A) (LD) 15-2/2023-24/731-33 dated 15.01.2024 on the subject noted above and to state that Government of Khyber Pakhtunkhwa, Finance Department regrets its inability to accede to the subject request of the Administrative Department, due to acute financial crunch facing by the provincial exchequer, please.

Yours faithfully,

(YAR MUHAMMAD)
SECTION OFFICER (SR. IV)
091-9212152

Endst: No & date even

Copy forwarded to: -

1. PA to the Additional Secretary (Regulation) Finance Department.
2. PA to Deputy Secretary (Regulation-I) Finance Department.
3. Master File.

SECTION OFFICER (SR. IV)

ATTESTED

Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar

PA to Deputy Secretary - Coordination
Dispatch No: 1019
Dated: 6/2/24 (a.r.s)

Asl(h)

6/2/24

DS (I)
pmp
6.2.24

SO BPA



OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 04-02 /AG

Dated Peshawar, the 01/01/2024

Address: High Court Building, Peshawar.
Tel. No. 091-9212681

Exchange No 9213833
Fax No. 091-9210270

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department,
Peshawar.

Subject: REQUEST FOR INCREASE IN JUDICIAL ALLOWANCE AS WELL AS UTILITY ALLOWANCE FROM 30% TO 100% TO THE EMPLOYEES OF ADVOCATE GENERAL OFFICE, KHYBER PAKHTUNKHWA.

Dear Sir,

I would like to enclose herewith a representation / request (07-pages), dated 30/12/2023 which is self-explanatory of my staff for perusal and favourable consideration / necessary action, please.

The undersigned strongly recommends the representation which may please be forwarded to the concerned quarter for approval *indeed in Accordance with law.*

(AMIR JAVED)
ADVOCATE GENERAL
KHYBER PAKHTUNKHWA

Endst. No. & date even

Copy alongwith representation forwarded to the worthy Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

Amir Javed
ATTESTED

Amir Javed
ADVOCATE GENERAL
KHYBER PAKHTUNKHWA

Amir Javed
Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar

To

The worthy Advocate General,
Khyber Pakhtunkhwa, Peshawar.

Forwarded to Working for consideration in accordance with law (10)
1/1/24

Subject: - REQUEST FOR INCREASE IN JUDICIAL ALLOWANCE AS WELL AS UTILITY ALLOWANCE FROM 30% TO 100% TO THE EMPLOYEES OF ADVOCATE GENERAL OFFICE, KHYBER PAKHTUNKHWA. 30/12/23

Respected Sir,

We, all employees of office of the Advocate General's office, Khyber Pakhtunkhwa, are dropping few lines for your kind perusal and sympathetic consideration.

1. That employees of the Advocate General's office Khyber Pakhtunkhwa were granted/ sanctioned Judicial Allowance @20% and Utility Allowance @10% vide Notification bearing No. FD(SOSR.II)8-43/2009, dated 25/07/2009.
2. That the Government of Khyber Pakhtunkhwa, through Finance Department Notification having No.FD(SOSR-IV)4-1/2023/Secretariat Performance Allowance dated 11/07/2023, increased the Secretariat Performance Allowance from 50% to 100% of the Basic Pay w.e.f 01/07/2023 to all employees working in the Civil Secretariat Khyber Pakhtunkhwa Peshawar. This allowance is also being paid to the employees working in the Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa.
3. That the Government of Khyber Pakhtunkhwa, through Finance Department Notification having No.SO(SR-IV)/FD/1-10/Counter Terrorism Allowance (CTA)/2023 dated 17/01/2023, allowed the Counter Terrorism Allowance @ one running Basic Pay w.e.f 17/01/2023 to all ranks / cadres and scales of the Counter Terrorism Department, Khyber Pakhtunkhwa.
4. That employees of the Advocate General office Khyber Pakhtunkhwa are still not recipients of such like allowance which may develop sense of deprivation in them as their similarly placed counterparts in Civil Secretariat, Counter Terrorism Department, Khyber Pakhtunkhwa and Provincial Ombudsman Secretariat are receiving the above allowances @100% of their running Basic Pay.
5. That we perform identical duties to those of the staff of the Hon'ble Peshawar High Court. They are the custodian of the case files and keep them prepared in all respects for the Hon'ble Judges. Similarly, staff of this office is also custodians of the case files and keep them prepared and ready in all respects for the Law Officers.
6. That staff of this office observes late sitting even after closing hours. As long as the Hon'ble Courts are on, all Law Officers alongwith staff also remains in office. Thus late sitting is one of the characteristics of the staff of this office.
7. That staff of the Advocate General's office, under the umbrella of your benign set-up are performing judicial and executive functions as our Law Officers appear in the Courts and also attend high level meetings in the Secretariat and Standing Committee Meetings of the Provincial Assembly, Khyber Pakhtunkhwa.

ATTESTED

ATTESTED
[Signature]
Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar

8. That apart from above mentioned facts, our staff members are also performing their duties on Saturdays while all the Provincial Government employees observe the said day as gazetted holiday.

9. That proprietary of equity and justice demands that such like allowance may also be sanctioned in favour of the staff of Advocate General's office, KP.

It is, therefore most humbly requested that the concerned authorities may kindly be approached to increase the Judicial Allowance from 20% to 50% and Utility Allowance from 10% to 50% so that both the allowances may come to 100% in order to cope with ever increasing pressures of sky high prices of commodities of daily use.

AP
ATTESTED

Yours obediently,

[Signature]

All employees/staff members

Office of Advocate General, KP (list attached)

Dated: 30/12/2023.

ATTESTED

[Signature]

Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar