

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Benish Naseem
Service Appeal No.619/2024

Appellant

1. Secretary to Govt: Finance Department Khyber Pakhtunkhwa, Peshawar.

Respondent No. 01

INDEX

S#.	Subject	Annexure	Page No.
01	Parawise Comments	-----	01-02
02	Affidavit	-----	03
03	Judicial Allowance Notification	Annexure-1	04-05
04	Authority Letter	-----	06

[Handwritten Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

S.A. No. 619/2024

Benish Naseem Stenographer(BPS-14) Advocate General's Office, Peshawar & 09 others

..... Appellants

VERSUS

Govt. of Khyber Pakhtunkhwa Secretary Finance & 02 others

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 14005

Dated 05/07/24

..... Respondents

**COMMENTS ON BEHALF OF RESPONDENT NO.1
(SECRETARY FINANCE DEPARTMENT)**

PRELIMINARY OBJECTIONS

1. That the appellant has got no locus standi/cause of action to file the instant appeal.
2. That the appellant has not come to this court with clean hands.
3. That the appellant is stopped by the conduct to file the instant appeal.
4. That the appeal is not based on facts and is unjustified.
5. That the appellant is legally bound to disclose the real facts before the court.
6. That the appeal has been filed to entangle the department into unnecessarily litigation and to waste the precious time of the Honorable Court.
7. That the appeal is bad for miss-joinder and non-joinder of the necessary parties.

ON FACTS

1. No comments, pertains to record.
2. Correct to the extent that Provincial Govt. vide Notification dated 25.07.2009 sanctioned 20% Judicial Allowance & 10% Utility Allowance of the basic pay to the staff working in the Advocate General's Office Khyber Pakhtunkhwa. Notification is annexed as **Annex-A**.
3. Correct.
4. Correct.
5. Incorrect. Furthermore, the Allowance (s) has/have been granted to the employees on the basis of their job description and nature of responsibilities. The employees do not claim to have any identical role and responsibilities as compared to other cadres.
6. Pertains to record, hence no comments.
7. Pertains to record, hence no comments.
8. Correct. Due to financial crunch, the demand was not entertained.
9. Pertains to record of this Honorable Tribunal.
10. The appellant has got no cause of action to file instant appeal.


GROUND

- A.** As per fundamental rules every provincial government is authorized to fix pay and allowances of each cadre post as per their job nature and each provincial government will determine pay and allowances admissible to a specific cadre or else. Hence, notification of Punjab Government (Caretaker) does not have bounding effect on our province.

- B. Terms and conditions of civil/government servants are dealt under article 241 of the constitution of Pakistan, 1973 and rules made their under including regulations of pays and allowances of each cadre.
- C. Being government servant upon entry into government service appellant agreed to certain terms and conditions of the service and by the virtue of his agreement with the government the appellant is bound to agree with the decisions of the provincial government. Hence, no fundamental rights of the appellant have been violated.
- D. The request of the appellant to increase his pay and allowances may not be treated as fundamental rights but should be considered as in accordance with his terms and conditions of government service as admissible under the rules.
- E. To ensure social and economic justice unified pay scale are applicable to the applicant. Hence, no exploitation is committed.
- F. The applicants are performing their duties as per cadre specific job description as devised by provincial government.
- G. Pertains to record, no comments.
- H. No comments.
- I. As per Criteria of vacation department
- J. As replied above.
- K. The respondents seek leave to raise additional grounds at the time of arguments.

PRAYER

It is therefore most humbly prayed that in view of the above explanation, the instant service appeal, May kindly be dismissed as the appellant is not entitled for the above mentioned allowance as the Allowance (s) has/have been granted to the employees on the basis of their job description and nature of responsibilities. The employees do not claim to have any identical role and responsibilities as compared to other cadres.


Amer Sultan Tareen
Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department,
Respondent No. 1

31

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Benish Naseem
Service Appeal No. 619/2024

Versus

The Secretary to Govt: Finance Department Khyber Pakhtunkhwa, Peshawar.

Reply /Parawise Comments on Behalf of Respondent No 01.

AFFIDVAIT

I, Amer Sultan Tareen Secretary to Govt. of Khyber Pakhtunkhwa Finance Department do hereby solemnly affirm and declare on oath that the contents of Service Appeal No. 619/2024 on behalf of Respondents is true and correct to the best of my knowledge and belief and that nothing has been concealed from the Honorable Tribunal.

it is further stated on oath that the answering respondents have neither been placed ex-parte nor their defence struck off/lost.

[Signature]
Deponent



05 JUL 2024

363
2009 Jul 24
TO BE SUBSTITUTED FOR THE LETTER BEARING THE SAME NO. & DATE.

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.FD(SOSR.II)8-43/2009
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

Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO.FD(SOSR-II)8-43/2009
Dated Peshawar the 08/09/20

To

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

Subject: - **GRANT OF JUDICIAL ALLOWANCE @ 20% AND UTILITY
ALLOWANCE @ 10% OF BASIC PAY TO THE ADVOCATE
GENERAL OFFICE STAFF KHYBER PAKHTUNKHWA.**

Dear Sir,

I am directed to refer to this department letter of even number dated
25-07-2009 on the subject noted above and to state that the competent authority
has been pleased to approve the inclusion of the following staff working in the
Advocate General's office, Khyber Pakhtunkhwa for drawal of Judicial Allowance
@ 20% and Utility Allowance @ 10% of basic pay.

1. Computer Operator
2. Sr. Scale Stenographers
3. Stenotypist
4. Library Assistant
5. Mali

Yours faithfully,

(WAZIR MUHAMMAD AFGAR)
SECTION OFFICER SR-II

Endst: No & date even.

Copy is forwarded for information and necessary action to:-

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

Section Officer (LI-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

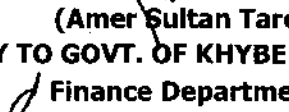
SECTION OFFICER SR-II



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

AUTHORITY LETTER.

Mr. Hashmatullah, Superintendent (Litigation-II) Section, Finance Department is hereby authorized to submit Affidavit to the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 619/2024 titled as "**Benish Naseem versus Government of Khyber Pakhtunkhwa and others**" on behalf of Secretary Finance Government of Khyber Pakhtunkhwa.


(Amer Sultan Tareen)
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA,
Finance Department