

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 430/24

Ahmad Khan Programmer (BPS-17) Advocate General's Office Khyber
Pakhtunkhwa, Peshawar. Appellant

Versus

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

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(ARSHAD AZAM)

Assistant Advocate General,
Khyber Pakhtunkhwa
Service Tribunal Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15423

Dated 04.09.24

Service Appeal No. 430/ 2024

Ahmad Khan Programmer (BPS-17) Advocate General's Office Khyber
Pakhtunkhwa, Peshawar.

..... Appellant

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. 430/2024**

RESPECTFULLY SHEWETH:-


PRELIMINARY OBJECTIONS

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 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

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Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar

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 have 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 Advocate General is correct and needs no comments. ✓
- 7. Para No. 7 is correct to 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. ✓
- 8. Para No. 8 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 enhancement of Judicial Allowance to the appellant, but Finance Department Government of Khyber Pakhtunkhwa has regretted the said enhancement in Judicial Allowance and Utility Allowance.
- B. Para B. that post of the Advocate General is Constitutional who is appointed under Article 140 of the Constitution of Islamic Republic of Pakistan 1973 and being a person qualified to be appointed a Judge of the High Court, to be the Advocate General for the Province, the Advocate General is entitled for perks and privileges as admissible to a Judge of High Court.

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Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar

- C. Pertains to record needs no comments being matters related to the Province of Sindh.
- D. That Para D is incorrect; that the appellant having status of civil servant while employees who are working in District Judiciary and High Court come under the umbrella of judiciary which are different entities from each other in terms and conditions of service.
- E. That Para E is incorrect; the appellant is treated in accordance with law and rules on the part of Advocate General office as well as Law Department.
- F. Para F is incorrect hence denied. No violation / discrimination has been made by the Advocate General office as well as Law Department with regard enhancement of Judicial Allowance to the appellant, but Finance Department Government of Khyber Pakhtunkhwa has regretted the said enhancement in Judicial Allowance and Utility Allowance.
- G. Para G is incorrect already explained / given in Para-A of Grounds.
- H. Para H the appellant has been treated in accordance with law and no discrimination has been done to the appellant.
- 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 pertains to record needs no comments.
- K. Para K needs no comments.
- L. Para L needs no comments.
- M. Para M relates to Finance Department (Respondents No. 1), hence needs no comments.
- N. 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 - 3

Shah Faizal Ullmankhel


 Secretary to Govt. of Khyber Pakhtunkhwa
 Law, Parliamentary Affairs & HRs Deptt.

Respondent - 02.

Akhtar Saeed Turak

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 430/2024

Ahmad Khan

.....Petitioner

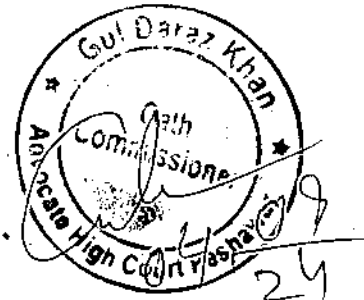
VERSUS

Government of Khyber Pakhtunkhwa & others

..... Respondents

AFFIDAVIT

I, Shah Faisal Utmankhel, Advocate General, Khyber Pakhtunkhwa do hereby solemnly affirm and declare on oath that the contents of the accompanying **reply/ para wise comments in the subject service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

CNIC #

17301-1413534-5

Mob #

0333-9228336

5

OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 8208 /AG

Dated Peshawar, the 04-09-2024

Address: High Court Building, Peshawar
Tel No. 091-9210119

Exchange: 091-9213833
Fax No. 091-9210270

AUTHORITY LETTER

Mr. Arshad Azam, Assistant Advocate General, Khyber Pakhtunkhwa, Services Tribunal is hereby nominated/authorized to submit para wise comments/reply in Khyber Pakhtunkhwa Services Tribunal, Peshawar on behalf of the worthy Advocate General, Khyber Pakhtunkhwa in **Service Appeal No. 430/2024** tiled **Ahmad Khan versus Government of Khyber Pakhtunkhwa & others.**



**ADVOCATE GENERAL
KHYBER PAKHTUNKHWA
PESHAWAR**

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

4102
27/12/09

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.FD(SOSR.II)8-43/2009
Dated Peshawar the 25/7/2009

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.

ATTESTED

[Handwritten Signature]

Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar

[Handwritten Signature]
SECTION OFFICER (SR.II) 31/8



**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:

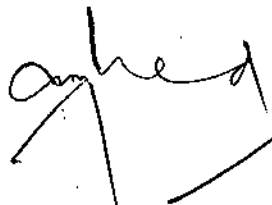
Copy is forwarded for information & necessary action to:

- 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

ATTESTED


(YAR MUHAMMAD) 11/07/2023
Section Officer (SR-IV)


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/1-10/Counter Terrorism Allowance (CTA)/2023: In supersession of this 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, @ 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 at 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:-

- Accountant General, Khyber Pakhtunkhwa.
- The Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- Secretary to Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.
- The Director FMIU, Finance Department with the request to upload the same on website.
- The Director, Staff Training Institute (STI) E&A Department.
- 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.
- PSO to Chief Secretary Khyber Pakhtunkhwa.
- PS to Secretary to Government of Khyber Pakhtunkhwa Finance Department.
- PS to Special Secretary (A & R), Finance Department.
- PS to Special Secretary (Budget), Finance Department.
- PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
- Master File.

(YAR MUHAMMAD)
SECTION OFFICER (SR-IV)

ATTEST

Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar



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6-2
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Department of Law

**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,

(Signature)
(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

(Signature)
Senior Administrative Officer
Advocate General Office
Khyber Pakhtunkhwa Peshawar

PA to Deputy Secretary (Coord/HR)
Dispatch No: 1019
Dated: 6/2/24

Aslh)

P
6/2/24

DS (I)
pwp
6.2.24

SO 89A