

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, CAMP COURT ABBOTTABAD**

**SERVICE APPEAL NO. 58/2024**

**Qazi Mujahid Assistant Public Prosecutor, Haripur**

**Appellant .....**

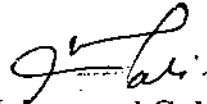
**VERSUS**

**Government of Khyber Pakhtunkhwa through Secretary Finance & Others.**

**Respondents.....**

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**(Muhammad Gulzar Ali)**  
Superintendent  
Directorate of Prosecution  
Khyber Pakhtunkhwa

(1)

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

APPEAL NO. 58/2024

Khyber Pakhtunkhwa  
Service Tribunal

Qazi Mujahid, Assistant Public Prosecutor, Haripur.

Diary No. 15956

Dated 20-09-24

.....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Finance & others.

..... RESPONDENTS

**Para-wise Comments On Behalf Of Respondents No.1 to 4 & 6**

**PRELIMINARY OBJECTIONS:**

1. That the instant Service Appeal is not maintainable in the eyes of law.
2. That the Appellant has got no Cause of Action.
3. That the Appellant has concealed material facts from this Honourable Tribunal.
4. The subject allowance was not made admissible to all those employees who were receiving allowances like teaching, risk allowances etc. The Appellant is already receiving Prosecution allowance, hence the subject allowance cannot be extended to him.
5. That the appeal is barred by law and limitation.

**PARAWISE REPLY:-**

**Respectfully Sheweth,**

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Vide the mentioned Notification (Annex-A) the subject allowance was not made admissible to all those employees who were receiving allowances like teaching, risk allowances etc. the Appellant is already receiving Prosecution allowances, hence the subject allowance cannot be extended to him. The recovery of extra paid amount is a valid process. Moreover, Finance Department has already declined the allowance to Prosecution officers as they are in receipt of special prosecution allowance, vide letter dated 20.04.2022 (Annex-B)
5. The Departmental Representation was rightly rejected for the reasons mentioned at para-4 above.


**GROUND**

- A. Incorrect hence denied. Detailed reply already provided at Para-4 of Para-wise comments.
- B. Pertains to record. However the Appellant is not entitled to the allowance for the reasons reflected at para-4 of para-wise comments.
- C. Unrelated/unnecessary hence denied.

- D. Incorrect.
- E. That the respondent also seek permission to urge further points at the time of arguments.


**PRAYER:**

In light of the above facts and circumstances of the case, the Service Appeal is devoid of any merit and legal substance; therefore, the same may kindly be dismissed with special cost, please.

  
Secretary, Finance,  
Government of Khyber Pakhtunkhwa.

Respondent: 1


Iqbalullah Khan

  
26/8/24

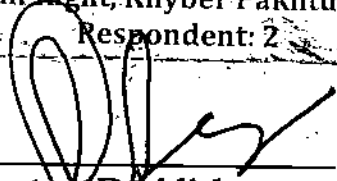
Director General Prosecution,  
Khyber Pakhtunkhwa.

Respondent: 3

Robin Haider Bukhari

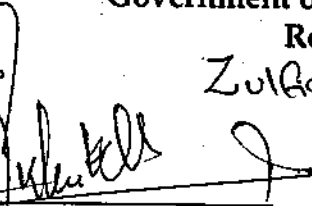
  
Akhter Saeed Tork  
Secretary Law Parliamentary Affairs &  
Human Right, Khyber Pakhtunkhwa

Respondent: 2

  
Secretary Establishment,  
Government of Khyber Pakhtunkhwa.

Respondent: 4

Zulqar Ali Shah

  
Assistant Director Finance,  
Directorate of Prosecution,  
Khyber Pakhtunkhwa.

Respondent: 6

MR. Nowsherwan Khan



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

Dated Peshawar the: 11-08-2021

NOTIFICATION

No. FD(SO SR-II)2-5/2021-22/Special Allow: The Government of Khyber Pakhtunkhwa has been pleased to sanction Special Allowance - 2021 @ 20% of the initial basic pay scales 2017 to the Civil Servants in BPS 17 & above with effect from 01.05.2021 in the best public interest.

The above allowance will be admissible subject to the following conditions:

- i. It will be admissible to those employees in BPS 17 & above who are not entitled for allowances equal to or more than 100% of the basic pay (whether frozen or otherwise)
- ii. It will also not be admissible to those employees who are in receipt of allowances like Teaching Allowance vide No. FD (SO SR-II) 2-5/2021-22/Teaching Allow: dated 07.07.2021, IT Professional Allowance vide No. FD (SO SR-II) 2-5/2021-22/IT Prof Allow: dated 07.07.2021 Risk allowance and Health Professional Allowance, etc.
- iii. It will be subject to Income tax.
- iv. It shall not be treated as part of emoluments for the purpose of calculations of pension/gratuity and calculation of House Rent etc.
- v. It will not be admissible to the Officers/Officials who are on earned leave, extra ordinary leave and study leave except casual leave.
- vi. All Autonomous/Semi-Autonomous/Medical Teaching Institutions/Other Institutions and Authorities under Provincial Govt. shall adopt this notification within their respective organizations with approval of concerned Competent Forum subject to availability of their resources.

Secretary to Govt. of Khyber Pakhtunkhwa  
Finance Department

Encls: No. & Date even.

A copy of the above is forwarded for information & necessary action to the:

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 Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
6. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
7. All the Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. The Registrar, Peshawar High Court, Peshawar.
10. All Heads of Attached Departments in Khyber Pakhtunkhwa.
11. All Heads of Autonomous/Semi-Autonomous Bodies, Khyber Pakhtunkhwa.
12. All the District Accounts Officers in Khyber Pakhtunkhwa.
13. The Director-FMIU, Finance Deptt. with the request to upload the same on FD's Website.
14. PSO to Chief Secretary, Khyber Pakhtunkhwa.
15. All Section Officers/Budget Officers in Finance Department, Khyber Pakhtunkhwa.
16. The Manager, Government Printing Press, Peshawar.
17. The Private Secretary to Secretary, Finance Deptt. Khyber Pakhtunkhwa.
18. PA to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
19. PAs to Additional Secretaries/Deputy Secretaries in Finance Department, Peshawar.

AH  
F  
Suptd

(Muhammad Ilyas Khattak)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

Department Civil Secretariat Peshawar      Department Secretariat Peshawar      Department Civil Secretariat Peshawar      Department Civil Secretariat Peshawar

50 (SR-IV) FD/1-24/2021/AG KP

Dated Peshawar the 20-04-2022

The Accounts Officer (HAD),  
Office of the Accountant General Khyber Pakhtunkhwa,  
Peshawar.

Subject: - GRANT OF SPECIAL ALLOWANCE 2021 @ 20% FOR PUBLIC PROSECUTERS.

I am directed to refer to your letter No- 11-24(80)Bannu/Prosecution All/2021-23/1343, dated 17-02-2022 the subject noted above and to state that Para-ii of this Department's Notification dated 11-08-2021 sanctioning Special allowance @ 20% on the Basic Pay Scales 2017 per month clearly provides that "it not will be admissible to those employees who are in receipt of allowances like Teaching allowance, IT allowance, HPA, Risk allowance etc".

Since, Prosecution Officers are in receipt of Special Prosecution Allowance, therefore, the officers are not entitled for the subject allowance.

Yours faithfully,

(MAQSOOD KHAN)  
SECTION OFFICER (SR. IV)

Encl: No & date even

Copy forwarded for information to: -

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

SECTION OFFICER (SR. IV)

Attstl  
J.L.  
Substl:

(3)

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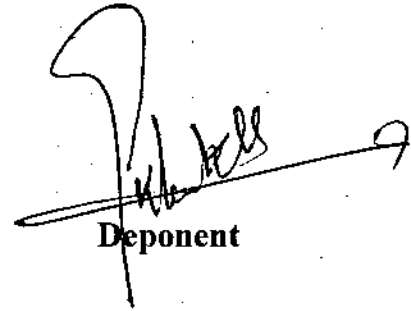
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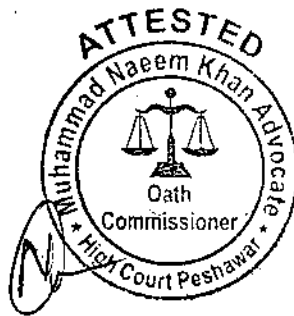
**Government of Khyber Pakhtunkhwa through Secretary Finance & Others.**

**Respondents.....**

**AFFIDAVIT**

I, Nowsherwan Khan, Assistant Director Finance, Directorate of Prosecution, Khyber Pakhtunkhwa (Respondent No. 06), do hereby solemnly affirm and declare on oath that the contents of Service Appeal No. 58/2024, are true and correct to the extent of office record and nothing has been concealed from Service Tribunal Khyber Pakhtunkhwa. It is further stated on oath that, the replying respondents have neither been placed ex-party nor their defense struck off/cost.

  
**Deponent**



**20 SEP 2024**

(B)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, CAMP COURT ABBOTTABAD**

**SERVICE APPEAL NO. 58/2024**

**Qazi Mujahid Assistant Public Prosecutor, Haripur**

**Appellant .....**

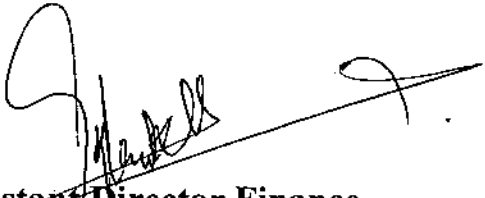
**VERSUS**

**Government of Khyber Pakhtunkhwa through Secretary Finance & Others.**

**Respondents.....**

**AUTHORITY LETTER**

Muhammad Gulzar Ali, Superintendent Legal, Directorate of Prosecution, is hereby authorized to submit Para-wise comments on behalf of Director General Prosecution (Respondent No.03), in Service Appeal No. 58/2024 before the Khyber Pakhtunkhwa Service Tribunal, at Camp Court Abbottabad.

  
**Assistant Director Finance**  
Directorate of Prosecution  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa  
Peshawar.