

**BEFORE THE KHYBER PAKHTUNKHAWA SERVICES TRIBUNAL
CAMP AT ABBOTTABAD**

Service Appeal No.58/2024

Qazi Mujahid.....Appellant.


V/S

Government of Khyber Pakhtunkhwa through
Secretary Finance Peshawar and others.....Respondents.

(Para wise reply on behalf of Respondent No. 5 & 7)

INDEX

S.NO.	PARTICULAR.	ANNEXURE.	PAGE.
1.	Reply	-----	1-2
2.	Affidavit	-----	3
3.	Finance Dept: Peshawar letter dated: 02.02.2009	A	4
4.	Finance Dept: Peshawar letter dated: 11 .08.2021	B	5
5.	Home & Tribal Affair Dept: Peshawar Letter dated: 17.10.2023	C	6
6.	Finance Dep: Peshawar letter dated: 20.04.2022	D	7


Deponent

P-1

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Preliminary Objections:-

**Khyber Pakhtunkhwa
Service Tribunal**

- 1) That the Appellant has no cause of action.
- 2) That the Appellant has no locus standi.
- 3) That the Appellant has not come to this Court with clean hands.
- 4) That the Appeal in hand having no merits hence liable to be dismissed.
- 5) That the Appeal of the Appellant is barred by Law/rules.
- 6) That the Appellant has not complied with Section 79, 80 CPC.
- 7) That the instant Appeal is time barred.

Diary No. 16221
Date: 01-10-24

Respectfully Sheweth:-

- 1) Relates to Record however, liable to be proved by the Appellant.
- 2) Relates to Record however, liable to be proved by the Appellant.
- 3) Relates to Respondent No. 1 hence, no comments.
- 4) That in light of Finance Department Peshawar Notification No. KC/FD(SOSR-II) 8-43/2009, dated: 02.02.2009 (Annex-A) the appellant is getting Special Prosecution Allowance @ 100% of the Basic Pay in his salary. Hence, Special Allowance 2021 is not admissible to the appellant as clearly mentioned in para (i) of the Finance Department Peshawar Notification No. FD(SOSR-II)2-5/2021-22/Special Allowance, dated: 11.08.2021 read with Govt: of KP Home & Tribal Affairs department letter No. DP/ADF/Budget/12822, dated: 17.10.2023 (Annex- B, C).

“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)”.

- 5) That the letter dated: 17.10.2023 issued by the Respondent No. 6 is correct and under the rules; hence, gets finality.

Grounds:-

- a). Relate to Respondent No. 6; hence, no comments.
- b). That Finance Department Peshawar letter No. SO(SR-IV) FD/1-24/2021/AG KP, dated: 20.04.2022 (Annex-D) is very much clear and states,

“That prosecution Officers are in receipt of Special Allowance, therefore, the officers are not entitled for the Special Allowance 2021”
- c). Relates to Respondent No. 1, 2, 3 & 6 hence, no comments.
- d). No comments.
- e). No comments.


Keeping in view the above mentioned facts it is, therefore, humbly prayed that the appeal in hand having no merits may be dismissed with cost.



**DISTRICT ACCOUNTS OFFICER
HARIPUR**

Mohammad Ishaq

Respno. 7



**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

Naseerud-Din Sarwar

Resp. 5

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(Para wise reply on behalf of Respondent No. 5 & 7)

AFFIDAVIT

We do hereby solemnly affirms & declare that the reply submitted on behalf of Respondent No. 5 & 7 is true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.

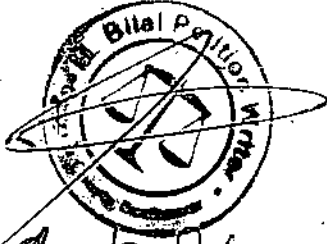
it is further stated on oath that in this appeal the answering respondents have neither been placed in default nor their defense struck off / cost.

DISTRICT ACCOUNTS OFFICER
HARIPUR

Ishfaq Mohammad

Nabeed Din Sarwar
ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

Nabeed Din Sarwar



2-10-24

115 P-4

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.KC/FD(SOSR.II)8-43/2009
Dated Peshawar the 02/02/2009

To

The Secretary to Government of NWFP,
Home & T.As Department.

Subject:- GRANT OF SPECIAL ALLOWANCE TO PROSECUTORS.

Dear Sir,

I am directed to refer to your letter No.SO(Pros.)HD/1-11B/2008/Vol-IV dated 29/01/2009 on the subject noted above and to state that the Competent Authority has been pleased to approve Special Allowance to the Prosecutors at the following rate noted against each with immediate effect:-

S#	Designation.	Special Allowance.
1.	Public Prosecutor.	Rs.10,000/-
2.	Deputy Public Prosecutor.	Rs. 7,500/-
3.	Assistant Prosecutor.	Rs. 5,000/-


Yours faithfully,

(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

Encls: No. & date even.

Copy is forwarded to the:-

- 1) Accountant General, NWFP, Peshawar.
- 2) Budget Officer-III, Finance Department.


(MUNAWAR KHAN)
SECTION OFFICER(SR.II)

Alloted



District Accounts Officer
HARIPUR



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

P-5

Dated Peshawar the: 11-08-2021

NOTIFICATION

No. FD/ISO 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 01.06.2021 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 (SOSR-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 shall not be treated as part of emoluments for the purpose of calculations of pension/gratuity and calculation of House Rent etc.
- iv. It will not be admissible to the Officers/Officials who are on earned leave, extra ordinary leave and study leave except casual leave.
- v. All Autonomous/Semi-Autonomous/Medical Teaching Institutions/Institutions and Authorities under Provincial Government shall be notified within their respective concerned Department.
- vi. It will be subject to income tax.

Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department

Encl: No. & Date given.

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, 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-FMU, Finance Deptt. with the request to upload the same on FTA 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, Peshawar.
19. PA to Additional Secretary/Deputy Secretaries in Finance Department, Peshawar.

(Muhammad Ilyas Khattak)
Section Officer (SR: II)

District Accounts Officer
HARIPUR

[Signature]

[Signature]

(17)

Annex

P-6



**DIRECTORATE OF PROSECUTION
GOVERNMENT OF KHYBER PAKHTUN
HOME & TRIBAL AFFAIRS DEPARTMENT**

No. DP/ADF/Budget/128/22

Dated Peshawar the 17/10/2022

Office Landline #091-9212559

de.prosecution@kp.gov.pk

<https://prosecution.kp.gov.pk/>

<https://www.facebook.com/kpprosecution>

<https://twitter.com/kpprosecution>

To

The District Public Prosecutor,
Haripur.

Subject:

REPRESENTATION AGAINST ORDER OF DISTRICT ACCOUNT OFFICER HARIPUR WHEREBY SPECIAL ALLOWANCE 2021 GIVEN TO UNDERSIGNED WAS STOPPED FROM JUNE 2022 TO TILL DATED & RECOVERY OF THE SAME HAVE BEEN STARTED FROM PROSECUTORS OF DISTRICT HARIPUR.

Dear Sir,

I am directed to refer to your letter No. 2634-35/DDP/HR/23 dated 13-10-2023 on the subject noted above and to state that as per clause(ii) of Finance Department Notification No.SO(SR-II)2-5/2021-22/Special Allow: dated 11-08-2021 all those Civil Servants who are already taking professional allowance etc are not entitle for the special allowance 2021.

Attested

**District Accounts Officer
HARIPUR**

Yours Sincerely

Assistant Director Finance

(Enclosed As above)

Copy forwarded for information to:

- PA to Director General Prosecution, Khyber Pakhtunkhwa.
- Master file.

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Assistant Director Finance

Handwritten notes and signatures at the bottom of the page.



GOVERNMENT OF KHYBER PAKHTUNKHWA

FINANCE DEPARTMENT
(REGULATION WING)

Dy No. 80
26-05-22

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPPD](https://www.facebook.com/GoKPPD)

[twitter.com/GoKPPD](https://www.twitter.com/GoKPPD)

No.SO (SR-IV) FD/1-24/2021/AG KP

Dated Peshawar the 20-04-2022

To

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- H-24(80)Bannu/Prosecution All/2021-22/1343 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)

Alleged

District Accounts Officer
HARIPUR

No. H-24/Allowances/ 19

dated: 10/05/2022

Copy of the above is forwarded for information & necessary action to:-

1. All DAO s in Khyber Pakhtunkhwa.
2. All Pay Roll Sections (Main office)
3. DPO HR (Lab) Main office.

Accounts officer (HAD)