


FORM OF ORDER SHEET

Court of _____

Appeal No. 1389/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29-Aug-24	<p>The appeal of Mr. MST SALMA presented today by Mr. Amjad Ali Mardan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 20-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman  REGISTRAR</p>

قسم کاغذی خواہ سروس ٹریسنگ میاں

25

Appellant 2024

مورخہ: 26/8/2024

بنام حکومت پاکستان، سیکرٹری انٹرنل سروس

مقدمہ: سروس سلیکشن
دعویٰ: Service appeal

باجعہ تھریں (آئندہ)

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے بیرونی رجوع دہی وکل کاروائی متعلق

ایڈووکیٹ
انجمنہ

آن تمام کیلئے امجد علی ایڈووکیٹ، سپریم کورٹ آف پاکستان

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریرات و فیصلہ

برخلاف دیے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصولی چیک درپسہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر

دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیرونی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیرونی کرنے کا

اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو کسی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو فرچہ و جانہ

اترائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام درہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ بیرونی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سنڈر ہے

2024

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الدعویٰ: 26

Accepted

Amjad Ali
ADVOCATE
SUPREME COURT

تمام کے لیے منظور ہے

Muhammad Talha Khan
Advocate
High Court

BC 105506 امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان، ایڈووکیٹ کورس، مردان
0321-9882434 0321-9870175
Email: amjadaliadvsc@yahoo.com
CNIC: 16101-3470297-3

(Appellant)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1389 /2024

Mst Salma (Assistant BPS-16 at Consumer Court Mardan) W/O Muhammad Sareer Azam R/O Karwan Road Mohallah Islam Bagh Mardan
..... **Appellant**

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Industries, Commerce and Technical Education Department KP, Civil Secretariat, Peshawar and others **Respondents**

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Talha
Appellant
Through

Amjad Ali
Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

Amjad Ali
ADVOCATE
SUPREME COURT

Talha
& Muhammad Talha Khan (Mardan)
Advocate
High Court

Muhammad Talha Khan
Advocate
High Court

Dated: 28.08.2024

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

1

Service Appeal No. 1389 /2024

Mst Salma (Assistant BPS-16 at Consumer Court
Mardan) W/O Muhammad Sareer Azam R/O
Karwan Road Mohallah Islam Bagh Mardan

..... **Appellant**

VERSUS

1. Govt of Khyber Pakhtunkhwa through Secretary
Industries, Commerce and Technical Education
Department KP, Civil Secretariat, Peshawar
2. Secretary Finance, Govt of Khyber
Pakhtunkhwa, Civil Secretariat, Peshawar
3. Budget Officer-VIII, Finance Department, Govt
of Khyber Pakhtunkhwa, Civil Secretariat
Peshawar
4. Accountant General, Khyber Pakhtunkhwa, 10th
Fort Road, Peshawar Cantt, Peshawar
5. Accounts Officer (HAD), Accountant General KP
Office, 10th Fort Road, Peshawar Cantt,
Peshawar
6. District Accounts Officer Mardan, at District
Comptroller of Accounts Office, opposite District
Courts Mardan
7. Audit Officer Inspection, District Accounts Office
Mardan at District Comptroller of Accounts
Office, opposite District Courts Mardan

..... **Respondents**

(2)

Appeal under Section 4 of Service Tribunal Act 1974 against original order dated 08.04.2019 passed by respondent no 3 whereafter appellant filed departmental appeal dated 23.09.2020 which remained un-responded and therefore appellant filed writ petition no 4635-P/2020 against the said order wherein an interim order dated 08.06.2021 to the effect that respondents are restrained from the recovery of the amount already received by the appellant and vide judgment dated 23.11.2022 respondents were directed to pass a speaking order positively within a month, however, the respondents filed a review petition No 180-P/2022 which too was disposed of on 09.03.2023 in the terms that respondents themselves assured the Honorable Peshawar High Court Peshawar that appeal / representation is to be placed before Secretary Industry KP and thereafter, upon departmental appeal dated 23.09.2020, respondent no 5 passed order dated 31.07.2024 wherein

recovery of judicial and utility allowance is restarted vide audit para drafted by respondent no 7 which are illegal against law and facts, non-speaking, without lawful authority, coram non-judice, arbitrary, whimsical and of no legal effect.

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Respected Sir,

Appellant humbly submits as under:

- 1) That vide order dated 28.11.2014, appellant is posted at Consumer Protection Court Mardan and working as Assistant BPS-16 as evident from monthly salary statement (**Copy of posting order and monthly salary statement is Annex "A"**)
- 2) That the Consumer Court has been established under KP Consumers Protection Act 1997.
- 3) That the National Judicial Policy Making Committee (NJPMC) in its meeting held on 10.02.2007 under the Chairmanship of the Hon'ble Chief Justice of Pakistan NJPHC approved judicial allowance to subordinate Courts Staff to the extent of 20% of running basic pay and utility allowances to the extent of 10% of running basic pay, but not less than Rs.1000/- to the staff in BPS-1 to BPS-16.
- 4) That aforementioned decision of NJPMC was adopted by Govt. of NWFP, now KP and the above allowances were granted to Judicial

Officer as well as Staff of Subordinate Courts vide 2 notifications.

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- 5) That the above facility is provided to staff of Attorney General.
- 6) That the allowances were granted to the Advocate General KP Office as well.
- 7) That Lahore High Court in WP No.1484/2008 granted the same relief to employees of Federal Service Tribunal on the strength of decision of Attorney General.
- 8) That Hon'ble Peshawar High Court granted allowance vide judgment dated 18.09.2012 to employees of District Judiciary in District Peshawar, Mardan and all Districts of KP.
- 9) That Hon'ble Peshawar High Court, Peshawar granted the allowances to para-legal staff of Provincial Anti-Corruption Court, KP Service Tribunal, Labour Court.
- 10) That as a result of the writ petition No. 4141-P/2016, respondents granted the allowances and in presence of AAG vide order dated 10.04.2018 of Hon'ble Peshawar High Court, Peshawar as the purpose was achieved.
- 11) That in the year 2019, respondents stopped the payment of utility/ judicial allowance and started recovery from appellant vide order dated 08.04.2019 passed by respondent no 3, which is illegal, against law and facts. **(Copy of impugned order of recovery dated 08.04.2019 is Annex "B")**

- 12) That Judge Consumer Court addressed letter dated 17.04.2019 to Budget Officer, but in vain.
- 13) That the appellant filed departmental appeal dated 23.09.2020 to the Secretary Law/Industries, but in vain. **(Copy of departmental appeal to Secretary Law/ Industry dated 23.09.2020 is Annex "C")**
- 14) That appellant filed W.P No 4635-P/2020 before the Honorable Peshawar High Court Peshawar wherein vide order dated 08.06.2021, the Honorable Peshawar High Court Peshawar restrained the respondents from recovery of the amount already received by the petitioners
- 15) That vide judgment dated 23.11.2022, the Honorable Peshawar High Court Peshawar dispose of the writ petition in the following terms:

"Such being the case, we dispose of the instant petition in terms of directing the respondent No. 1 to decide the departmental appeal/representation of the petitioners in accordance with law through a speaking order positively within a month, after the receipt of the judgment of this Court. Thereafter, the petitioners may have recourse for the redressal of their grievance before the proper forum, if so advised."

- 16) That respondents filed review petition before the Honorable Peshawar High Court Peshawar which is disposed of vide order dated 09.03.2023 in the following terms:

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"2. The learned AAG, at the very outset, states that the same has been done administratively and presently, the appeal / representation of the petitioners is placed before the Secretary Industries KPK for its decision in accordance with law. We understand that there is no occasion for the Advocate General's Office to file review petition in such like matters.

3. Accordingly, this petition stands disposed of."

- 17) That respondent no 5 issued letter dated 31.07.2024 wherein staff of Consumer Court Mardan is held dis-entitled to judicial allowance and utility allowance which is illegal against law and facts (**Copy of the impugned letter dated 31.07.2024 is Annex "D"**)
- 18) That in pursuance of letter dated 31.07.2024, respondent no 7 vide audit para started recovery of the said allowances from the appellant which is illegal against law and facts (**Copy of the impugned audit para is Annex "E"**)
- 19) That finding no other efficacious remedy, appellant approaches this hon'ble Tribunal on following grounds:-

GROUND:

- A) Because admittedly judicial allowance, utility allowance is granted on the basis of judicial work as per notifications, judgments referred above.

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- B) Because appellant is also performing judicial duties like the staff of District & Sessions Court, Service Tribunal, Labour Court, Anti-Corruption Court.
- C) Because as per letter dated 21.06.2021 issued by Accounts Officer Directorate of Industries & Commerce KP, the nature of job of the staff of Consumer Court is judicial and they observe the office timing, working days calendar issued by the Peshawar High Court
- D) Because as per letter dated 22nd June 2021, the Section Officer (litigation) of the Industries, Commerce and Technical Education Department KP has forwarded/referred the letter dated 21st June 2021
- E) Because appellant are also entitled for continuance of the same allowance as granted to other subordinate staff of other Courts in province and even in Pakistan.
- F) Because as per 2024 SCMR 538 also reported in 2024 PLC (CS) 830, employees of Solicitor Office working in Civil Secretariat are held entitled to reception of special allowance and utility allowance
- G) Because as per 2011 PLC (CS) 1373, the staff of the High Court of Sindh is held entitled for judicial and utility allowance from the date of National Judicial Policy
- H) Because as per 2023 PLC (CS) 457, superior judicial allowance is even allowed to Provincial Ombudsman (Mohtasib)

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- 4
- 8
- I) Because as per 2019 PLC (CS) 238, employees of Provincial Criminal Prosecution Services are held entitled for the benefit of judicial allowance on the analogy of its reception by the staff of office of Advocate General
 - J) Because as per 2016 GBLR 37, employees of Banking Court and Custom Courts are held entitled to Special Judicial Allowance/Judicial Allowance
 - K) Because as per 2016 PLC (CS) 1, the Honorable Sindh High Court directed the Government to re-calculate pension after giving effect to judicial allowance and start the future payment accordingly and arrears be also paid
 - L) Because as per PLD 2019 Islamabad 591, the employees of Federal Shariat Court are held entitled for increase in utility allowance etc
 - M) Because the staff of the Consumer Court functions under the instructions of the Honorable Peshawar High Court wherein instructions regarding duty hours, vacations, uniform, institution of cases, scanning of court record etc are issued to the staff of Consumer Court
 - N) Because appellant is not dealt as per law, violating Article 4 of Constitution of Pakistan, 1973.
 - O) Because appellant is discriminated, infringing Article 25/27 of the Constitution of Islamic Republic of Pakistan, 1973.
 - P) Because Article 3 of the Constitution embodied to eliminate all sort of exploitations.

- Q) Because as per PLD 1992 SC 207 1981 SCMR 523, PLD 1969 SC 407, 2010 PLC (CS) 1178 allowance once received by a civil servant, under a bonafide belief, can't be recovered as per principle of locus pointentiae
- R) Because respondents are estopped from denying the judicial allowance as well as utility allowance already granted & received by the appellant.
- S) Because as per 1996 SCMR 1185 and 2009 SCMR 1, if a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum. All citizens are equal before the law and entitled to equal protection of law as per Article 25 of the Constitution
- T) Because pay and pension is a recurring cause of action and no limitation runs in such like matters.
- U) Because impugned orders are without lawful authority.
- V) Because appellant requests for raising other grounds at the time of arguments.

PRAYER:

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It is, therefore, humbly prayed that, on acceptance of this appeal:-

- i. The impugned original order dated 08.04.2019 passed by respondent no 3 & appellate order dated 31.07.2024 passed by respondent no 5 and audit para on the basis of the same drafted by respondent no 7 & stoppage / deduction / recovery of judicial allowance and utility allowance in the pay of the appellant may please be declared as illegal, without lawful authority, arbitrary, coram non-judice, whimsical and of no legal effect and consequently, may please be set-aside.
- ii. Appellant may please be treated at par with other employees of Courts, Tribunals, subordinate legal staff and para-legal staff of all Courts in matter of judicial allowances and utility allowances by declaring appellant entitled to reception of judicial as well as utility allowance w.e.f date of posting at Consumer Court.
- iii. Any other relief deemed fit in the circumstances of the case may also be granted.

Salim,
Appellant
Through

Amjad Ali
Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

Amjad Ali
ADVOCATE
SUPREME COURT

Muhammad Talha Khan
& Muhammad Talha Khan (Mardan)
Advocate
High Court

Muhammad Talha Khan
Advocate
High Court

Dated: 28.08.2024

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

11

Service Appeal No. _____/2024

Mst Salma (Assistant BPS-16 at Consumer Court
Mardan) W/O Muhammad Sareer Azam R/O
Karwan Road Mohallah Islam Bagh Mardan
..... **Appellant**

VERSUS

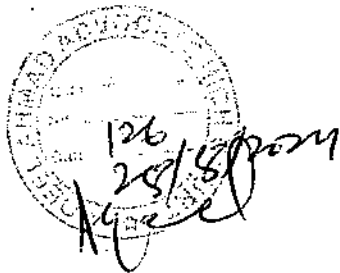
Govt of Khyber Pakhtunkhwa through Secretary
Industries, Commerce and Technical Education
Department KP, Civil Secretariat, Peshawar and
others **Respondents**

AFFIDAVIT

I, **Mst Salma (Assistant BPS-16 at
Consumer Court Mardan) W/O Muhammad
Sareer Azam R/O Karwan Road Mohallah
Islam Bagh Mardan (appellant)** do hereby
solemnly affirm and declare that all the contents
of this **service appeal** are true and correct to
the best of my knowledge and belief and nothing
has been concealed from this Tribunal.

Deponent

Salma



**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

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C.M No. _____/2024

IN

Service Appeal No. _____/2024

Mst Salma (Assistant BPS-16 at Consumer Court
Mardan) W/O Muhammad Sareer Azam R/O
Karwan Road Mohallah Islam Bagh Mardan
..... **Appellant**

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary
Industries, Commerce and Technical Education
Department KP, Civil Secretariat, Peshawar and
others **Respondents**

**Application for restraining
respondents from recovery of
judicial and utility allowance till
decision of the instant service
appeal.**

Respected Sir,

Applicant humbly submits as under:

1. That the aforementioned appeal has been filed today.
2. That the impugned orders passed by respondents are illegal order, in violation of the notifications and judgments referred in the service appeal as well as in violation of Article 3, 4, 25 and 27 of the Constitution of Pakistan 1973 and therefore the impugned orders are illegal order and not tenable in the eye of law.
3. That appellant/applicant has a strong prima facie case and is sanguine about its success.
4. That balance of convenience lies in favour of the appellant/applicant.

- 5. That there shall be irreparable loss to the appellant/applicant if the impugned orders are not suspended and respondents are not restrained from recovery of judicial and utility allowance.
- 6. That contents of the service appeal may please be treated as integral part of this application.

It is therefore humbly requested that respondents may please be restrained from recovery of judicial and utility allowance till decision of the instant service appeal.

Salma
Appellant
 Through *Amjad Ali*
Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

Amjad Ali
 ADVOCATE
 SUPREME COURT

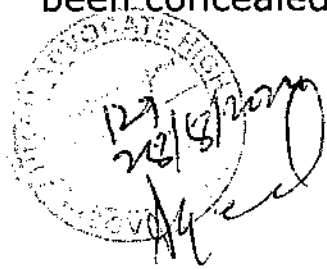
Talha Khan
 & **Muhammad Talha Khan (Mardan)**
Advocate
High Court

Muhammad Talha Khan
 Advocate
 High Court

Dated: 28.08.2024

AFFIDAVIT

I, **Mst Salma (Assistant BPS-16 at Consumer Court Mardan) W/O Muhammad Sareer Azam R/O Karwan Road Mohallah Islam Bagh Mardan (appellant)** do hereby solemnly affirm and declare that all the contents of this **application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal.



Deponent *Salma*

**DIRECTORATE OF
INDUSTRIES AND COMMERCE,
KHYBER PAKHTUNKHWA, PESHAWAR.**

Annex **A**
14

ORDER

The Posting / transfer of the following officials are hereby ordered with immediate effect :-

S. No.	Name & Designation	From	To
1.	Mr. Attab Alam, Senior Clerk (BPS-14)	Office of IDO, Peshawar	Consumer Court Peshawar
2.	Mohammad Safdar, Senior Clerk (BPS-14)	Office of IDO, D.I.Khan	Office of IDO D.I.Khan
3.	Mr. Shahid Amin Senior Clerk (BPS-14)	Hqtrs Office, Peshawar	Office of IDO Haripur
4.	Mr. Asad Rauf Senior Clerk (BPS-14)	Hqtrs Office, Peshawar	Office of IDO Swat
5.	Miss. Sahma, Senior Clerk (BPS-14)	Office of IDO, Mardan	Consume Court, Mardan
6.	Mr. Saad Rauf, Senior Clerk (BPS-14)	Consumer Court, Peshawar	Office of IDO, Haripur
7.	Mr. Latifullah, Junior Clerk (BPS-11)	Office of IDO, Charsadda	Office of AD, CPC, Nowshera
8.	Mr. Nazim Shah, Junior Clerk (BPS-11)	Office of IDO, Kohat	Office of AD, CPC, Kohat
9.	Mr. Gulzar Hussain, Junior Clerk (BPS-11)	Office of AD, CPC, Mardan	Office of IDO, Mardan
10.	Mr. Ahmad Nawaz, Junior Clerk (BPS-11)	Hqtrs Office, Peshawar	Hqtrs Office, Peshawar, Registration Section
11.	Mr. Roshullah, Junior Clerk (BPS-11)	Hqtrs Office, Peshawar	Hqtrs Office Peshawar CIB Section
12.	Mr. Irfan Aziz, Junior Clerk (BPS-11)	Hqtrs Office, Peshawar	Hqtrs Office Peshawar Accounts Section
13.	Mohammad Naeem, Junior Clerk (BPS-11)	Office of IDO, Swat	Office of IDO, Haripur
14.	Mr. Adnan Anjum, Junior Clerk (BPS-11)	Office of IDO, Noshera	Office of IDO, Abbottabad
15.	Mohammad Zubair, Junior Clerk (BPS-11)	Hqtrs Office, Peshawar	Office of IDO, D.I.Khan
16.	Mr. Tariq Mahmood, Senior Clerk (BPS-14)	CIB Section	Registration Section

Sd/- Director IC,
Khyber Pakhtunkhwa

Endst: No. 6275-6301/1/33-DI-Admn

Date: 28/11/2014

Copy of the above is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The District Accounts Officer, D.I.Khan, Haripur, Swat, Mardan, Charsadda, Ismaili, Kohat & Abbottabad.
3. The Chief Inspector of Boilers, Hqtrs Office, Peshawar.
4. The Assistant Director CPC, Peshawar, D.I.Khan, Haripur, Mardan, Nowshera, Kohat & Abbottabad.
5. The Assistant Director, Registration, Hqtrs Office, Peshawar.
6. The Consumer Court, Peshawar & Mardan.
7. The Accounts Officer, Hqtrs Office, Peshawar.
8. The Industrial Development Officer, Swat, Charsadda & Mardan.
9. The officials concerned.
10. The Personal File of the officials concerned.


(Asad Rauf) Asad Rauf
Administrative Officer,
Hqtrs Office Peshawar

Government of Khyber Pakhtunkhwa
District Accounts Office Mardan
Monthly Salary Statement (June-2024)

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Personal Information of Miss SALMA d/w/s of INAYAT UR REHMAN

Personnel Number: 00652176 CNIC: 1610187339196 NTN:
 Date of Birth: 03.03.1992 Entry into Govt. Service: 25.10.2011 Length of Service: 12 Years 08 Months 007 Days

Employment Category: Active Permanent

Designation: ASSISTANT 80003384-GOVERNMENT OF KHYBER PAKH

DDO Code: MR4727-Consumer Protection Court, Mardan

Payroll Section: 002 GPF Section: 004 Cash Center:

GPF A/C No: 652176 Interest Applied: Yes **GPF Balance:** 177,258.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 16 Pay Stage: 8

Wage type		Amount	Wage type		Amount
0001	Basic Pay	46,150.00	1001	House Rent Allowance 45%	4,091.00
1210	Convey Allowance 2005	5,000.00	1584	Judicial Allowance	9,000.00
1874	Utility Allowance 2007	12,000.00	1974	Medical Allowance 2011	1,500.00
2148	15% Adhoc Relief All-2013	431.00	2199	Adhoc Relief Allow @10%	298.00
2315	Special Allowance 2021	3,500.00	2341	Dispr. Red All 15% 2022KP	4,204.00
2347	Adhoc Rel Al 15% 22(PS17)	4,204.00	2378	Adhoc Relief All 2023 35%	15,361.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-4,960.00	3501	Benevolent Fund	-1,500.00
3609	Income Tax	-1,168.00	4004	R. Benefits & Death Comp:	-650.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	380,000.00	-11,000.00	369,000.00

Deductions - Income Tax

Payable: 13,739.18 Recovered till June-2024: 13,740.00 Exempted: 0.82- Recoverable: 0.00

Gross Pay (Rs.): 105,739.00 Deductions: (Rs.): -19,278.00 Net Pay: (Rs.): 86,461.00

Payee Name: SALMA

Account Number: 02197901538303

Bank Details: HABIB BANK LIMITED, 220219 BANK ROAD, MARDAN. BANK ROAD, MARDAN., MARDAN

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: MARDAN

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email:

U.S.I IMMEDIATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

NO. BOVIII/FD/1-8(B)/2017-2018
Dated Peshawar the, 08.04.2019

To,

The Section Officer (B&A)
Industries Department.

Subject:- EXCESS EXPENDITURE THAN REVISED ESTIMATES 2018-19.

I am directed to refer to the subject noted above and to state that as per attached statement, the offices of consumer courts have made excess expenditure than revised estimate 2018-19 under the object utility allowance and judicial allowances, which needs clarification.

It is, therefore, requested to send a copy of notification of Provincial Government where under the Judicial Allowance and utility allowance is permissible to the staff of consumer protection courts. If notification in this regard has not been issued, then the allowances may be discontinued and the amount drawn by the staff of consumer courts may be recovered and the same may be deposited in govt. treasury under intimation to this department on top priority basis, please.

Encl: as above.

ACCY. OFFICER
Office of Accounts & Control
Khyber Pakhtunkhwa Peshawar

(KHAN BAHADUR)
BUDGET OFFICER-VIII

ASIA

Aux (C)
(17)

To,

Secretary Law and Parliamentary Affairs/ Secretary Industries
Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar.

Subject: *Departmental Appeal for declaring the impugned order of withdraw/deduction at the rate of Rs.6000/- per month mentioned in pay slips for the month of August 2020 are illegal, without lawful authority and of no legal effect may please be set aside. And further the appellant may please be treated at par with other employees of Courts, subordinate legal staff and para-legal staff of all Courts in matter of judicial allowances and utility allowances.*

Sir:

Appellants humbly submits as under:-

- 1) That appellants are employees in Consumer Courts, Mardan.
- 2) That the Consumer Court has been established as per Consumer Protection Act.
- 3) That the National Judicial Policy Making Committee (NJPMC) in its meeting held on 10.02.2007 under the Chairmanship of the Hon'ble Chief Justice of Pakistan NJPHC approved the judicial allowance to subordinate Courts Staff to the extent of 20% of running basis pay and utility allowances to the extent of 10% of running basic pay, but not less than Rs.1000/- to the staff in BPS-1 to BPS-16.
- 4) That aforementioned decision of NJPMC was adopted by Govt. of NWFP, now KP and the above allowances were granted to Judicial Officer as well as Staff of Subordinate Courts vide 2 notifications.

- 18
- 103
- 5) That the above facility is provided to staff of Attorney General.
 - 6) That the allowances were granted to the Advocate General KP Office as well.
 - 7) That Lahore High Court in WP No.1484/2008 granted the same relief to employees of Federal Service Tribunal on the strength of decision of Attorney General.
 - 8) That hon'ble Peshawar High Court granted allowance vide judgment dated vide to employees of District Judiciary in District Peshawar, Mardan and all Districts of KP.
 - 9) That Hon'ble Peshawar High Court, Peshawar granted the allowances to para-legal staff of Provincial Anti-Corruption Court, KP Service Tribunal, Labour Court.
 - 10) That petitioner filed WP No.4141-P/2016 and as a result of the writ petition, respondents granted the allowances to appellants and in presence of AAG vide order dated 10.04.2018 of Hon'ble Peshawar High Court, Peshawar as the purpose was achieved.
 - 11) That respondents vide order dated June in pay slips for the month of August stopped the payment of utility/ judicial allowance and started recovery from appellants, which is illegal, against law and facts.
 - 12) That Judge Consumer Court addressed letter dated 17-4-2019 to Budget Officer, but in vain.
 - 13) That finding no other efficacious remedy, appellants approaches before your honor on following grounds:-

GROUND:

- 14
- A) Because admittedly judicial allowance, utility allowance is granted on the basis of judicial work as per notifications, judgments referred above.
- B) Because appellants are also performing judicial duties like the staff of District & Sessions Court, Service Tribunal, Labour Court, Anti-Corruption Court.
- C) Because appellants are also entitled for continuance of the same allowance as granted to other subordinate staff of other Courts in province and even in Pakistan.
- D) Because appellants are not dealt as per law, violating Article 4 of Constitution of Pakistan, 1973.
- E) Because appellants are discriminated, unfirming Article 25/27 of the Constitution of Islamic Republic of Pakistan, 1973.
- F) Because Article 3 of the Constitution embedded to eliminate all sort of exploitations.
- G) Because s. per PLD 1992 SC nil, allowance once granted, can't be withdrawn.
- H) Because impugned orders are without lawful authority.
- I) Because appellants requests for raising other grounds at the time of arguments.

PRAYER

It is, therefore, humbly prayed that, on acceptance of this appeal:-

i. *The impugned order of withdraw/ deduction at the rate of Rs. 6000 /- per month mentioned in pay slips for the month of Aug 2020 is illegal, without lawful authority and of no legal effect may please be set-aside.*

ii. *Appellants may please be treated at par with other employees of Courts, subordinate legal*

staff and para-legal staff of all Courts in matter
of judicial allowances and utility allowances.

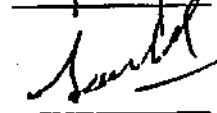
20
(12/8)

Appellants
Employees of Consumer Protection Court, Mardan.

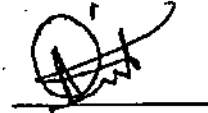
1. Ahmad Raza Shah, Assistant



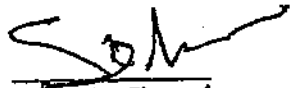
2. Sabir Shah, Assistant



3. Muhammad Arif, Assistant



✓ 4. Mst. Salma, Assistant



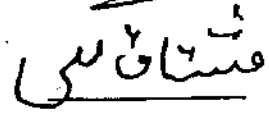
5. Arshad Iqbal, Assistant



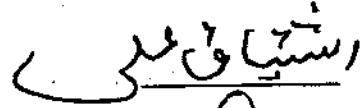
6. Mr. Zulfiqar Ali, Senior Scale Stenographer



7. Mushtaq Ali, Naib Qasid



8. Ishtiaq Ali, Naib Qasid



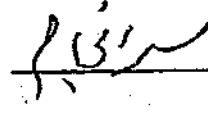
9. Umar Farooq, Naib Qasid



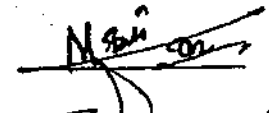
10. Yousaf Khan, Naib Qasid



11. Sarnjam, Chowkidar



12. Muhammad Asim, Driver



13. Shah Mehmood



Date 23/9/2020

Annex (D) 21

Office of the
Accountant General
Khyber Pakhtunkhwa Peshawar
Phone: 091 9211250-53

NO.H-24(78)DAO KOHAT/343-344

Dated: 31.07.2024

To

The District Comptroller of Accounts,
Kohat.

Subject:- GRANT OF JUDICIAL ALLOWANCE AND UTILITY ALLOWANCE.

The undersigned is directed to refer to your letter No.01/DCA/KT/PR-1/2023-24 dated 01.07.2024 on the above noted subject and to state that the said allowance is admissible to Peshawar High Court and its sub-ordinate judiciary only (copy enclosed), and since Consumers Courts are working under the jurisdiction of Industries Department, therefore, the staff of the Consumers Courts are not entitled to the subject allowances, with the exception of judges staff.

ACCOUNTS OFFICER (HAD)

Copy for information and necessary action to all DAO's.

2/8/2024

2/8/24

SPR-1
2/8/24

Ann E
22

Overpayment due to payment of judicial allowance amounting to Rs. 1.152 million

According to the clarification of the Accountant General Khyber Pakhtunkhwa vide letter No. H-24(78)DAO Kohat/343-344 dated 31.07.2024, the Judicial allowance is not admissible to the staff of Consumer Protection Court except the judges of the said courts.

During the certification audit of the District Comptroller of Accounts Mardan for the financial year 2023-24, it was noticed that a sum of Rs. 1.152 million was irregularly paid on account of judicial allowance to the staffs of the Consumers Protection Court Mardan in violation of the above mentioned notification which resulted into overpayment of Rs. 1.152 million.

Pers.no.	Name	BPS	Cost Center Description	Amount	Total
766714	YOUSAF KHAN	Grade 03	Consumer Protection Court Mardan	6,000.00	72,000.00
590829	ISHTIAQ ALI	Grade 03	Do	6,000.00	72,000.00
652176	SALMA	Grade 16	Do	9,000.00	108,000.00
127312	MUSHTAQ ALI	Grade 04	Do	6,000.00	72,000.00
129316	MOHAMMAD ARIF	Grade 16	Do	9,000.00	108,000.00
967497	SAJID ALI	Grade 03	Do	6,000.00	72,000.00
967499	FAZAL DAYAN	Grade 04	Do	6,000.00	72,000.00
967502	BAKHT ZADA	Grade 03	Do	6,000.00	72,000.00
967506	MUHAMMAD IRFAN	Grade 04	Do	6,000.00	72,000.00
50511798	SHADMAN KHAN	Grade 16	Do	9,000.00	108,000.00
856304	SAR ANJAM	Grade 03	Do	6,000.00	72,000.00
882105	MUHAMMAD ASIM	Grade 06	Do	6,000.00	72,000.00
910792	UMAR FAROOQ	Grade 03	Do	6,000.00	72,000.00
915466	SHAH MAJMOOD	Grade 14	Do	9,000.00	108,000.00

The matter is brought to the notice for recovery under intimation to audit.

The lapse occurred due to weak internal control.

7512
Audit Officer Inspection

Seen/Disputed
23/8

23

Overpayment due to payment of Utility allowance amounting to Rs. 1.132 million

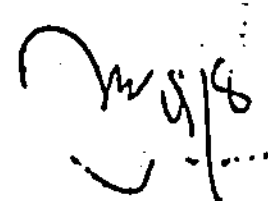
According to the clarification of the Accountant General Khyber Pakhtunkhwa vide letter No 24(78)DAO Kohat/343-344 dated 31.07.2024, the Utility Allowance is not admissible to the of Consumer Protection Court except the judges of the said courts.

During the certification audit of the District Comptroller of Accounts Mardan for the finance year 2023-24, it was noticed that a sum of Rs. 1.320 million was irregularly paid on account utility allowance to the staffs of the Consumers Protection Court Mardan in violation of the above mentioned notification which resulted into overpayment of Rs. 1.320 million.

The matter is brought to the notice for recovery under intimation to audit.

The lapse occurred due to weak internal control.


Audit Officer Inspection

See / document


8/26/24, 11:32 AM

Gmail - CHANGES ALERT - MR4727 Dated 24.08.2024

24

 Gmail

Consumer Protection Court Mardan <consumercourtmr@gmail.com>

CHANGES ALERT - MR4727 Dated 24.08.2024

1 message

Sat, Aug 24, 2024 at 6:19 PM

Employee Services <SERVICES@pifra.gov.pk>
To: CONSUMERCOURTMRD@gmail.com

- 00127312 MUSHTAQ ALI
00127312 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00129316 MOHAMMAD ARIF
00129316 3905 (Justice(ROP)) Monthly deducllon amount changed to PKR 23000.00- w.e.f 01.08.2024 to 31.07.2025
- 00590829 ISHTIAQ ALI
00590829 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00652176 SALMA
00652176 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 21000.00- w.e.f 01.08.2024 to 31.07.2025
- 00766714 YOUSAF KHAN
00766714 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00856304 SAR ANJAM
00856304 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00882105 MUHAMMAD ASIM
00882105 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00910792 UMAR FAROOQ
00910792 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00915466 SHAH MAHMOOD
00915466 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 19000.00- w.e.f 01.08.2024 to 31.07.2025
- 00967497 SAJID ALI
00967497 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00967499 FAZAL DAYAN
00967499 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00967502 BAKHT ZADA
00967502 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 00967506 MUHAMMAD IRFAN
00967506 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 12000.00- w.e.f 01.08.2024 to 31.07.2025
- 50511798 SHADMAN KHAN
50511798 3905 (Justice(ROP)) Monthly deduction amount changed to PKR 23000.00- w.e.f 01.08.2024 to 31.07.2025

ہم ای میل خود کار نظام کے تحت بھیجی جا رہی ہے جس کا مقصد ڈی ڈی اور کو ملازمین کی چینجز سے متعلق ہر وقت مطلع کرنا ہے۔ اگر اس ای میل میں شامل ملازمین کی چینجز میں کوئی غلطی پائی جا رہی ہو، تو جلد از جلد اپنے متعلقہ اکاؤنٹ آفس سے رابطہ کر کے درستگی کروائیں

Kind Regards,
FABS Directorate
<http://www.fabs.gov.pk>

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**Errors & omlissions excepted