


FORM OF ORDER SHEET

Court of _____

Appeal No. 1447/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05-Sep-24	<p>The appeal of Mr. Samandar Khan today by Mr. Muhammad Arif Jan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 25-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. 1447/2024

Samandar Khan..... Appellant

VERSUS

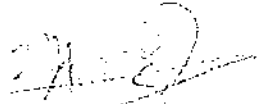
Govt. of KP and Others..... Respondents

I N D E X

S#	Description of documents.	Annexure	Pages
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2.	Memo of Appeal.		1-4
3.	Affidavit.		5
4.	Addresses of the parties		6
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8.	Copies of departmental appeal and order dated 12.08.2024	D & E	18-19A
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Appellant

Through


Muhammad Arif Jan

Advocate High Court

Office No-212, New Qatar Hotel,
Sikandar Town, G.T Road,
Peshawar

Cell: 0333-2212213

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. 1447/2024

SAMANDAR KHAN Assistant Director (IT) (BS-17) Excise, Taxation
& Narcotics Control Department (Employee of Establishment Department
Khyber Pakhtunkhwa)

..... Appellant

VERSUS

1. **The Govt. of Khyber Pakhtunkhwa**, through Chief Secretary
Khyber Pakhtunkhwa, Peshawar.
2. **Chief Secretary**,
Khyber Pakhtunkhwa, Civil Secretariats Peshawar.
3. **Secretary Finance**,
Govt. of Khyber Pakhtunkhwa, Civil Secretariats Peshawar.

..... Respondents

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

Respectfully Sheweth;

Appellant very humbly pleads to invoke the jurisdiction
of this Honorable Tribunal, as follow;

Facts leading to this appeal:

1. That the appellant was initially appointed as Junior
Assistant (BPS-7) in Pakistan Atomic Energy
Commission IRNUM Hospital, Peshawar and
rendered service from 1-5-1984 to 22-5-1989 (05
years and 22 days) then the appellant was appointed
as Key Punch Operator/Data Entry Operator BPS-10
in the Finance Department through proper channel
and submitted arrival report on 23-5-1989 (F/N) at
Finance Department Government of Khyber
Pakhtunkhwa. It is worth mentioning here that before
joining in Provincial Service Finance Department on

23-5-1989, the last Pay Certificate (LPC) issued by IRNUM Hospital, Peshawar was Rs. 905/- PM + 25.00 PM Index pay. However, on the new appointment as, pay protection was not given and pay was fixed as Rs. 870/- PM (initial pay of BPS-10) which was less than the previous pay.

(Copies of appointment order and other necessary documents are attached as ANNEX-A).

2. That the Govt. of Khyber Pakhtunkhwa in Finance Department (respondent No-3) vide Finance Department circular No. FD (SR-I)12-1/2011 dated 04-6-2011, allowed the benefits of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Services and accordingly, the appellant being entitled for grant of pay protection/fixation of pay submitted an application on 23.01.2024 for the same benefits from the dated of appointment in Civil Secretariat. It is to be added here that the Pay, which was drawing in the IRNUM Hospital i.e. Rs.905/- + Rs. 25.00 PM as when the appellant was relieved from duty in the IRNUM Peshawar on 22/5/1989 (AN) for joining new post in Finance Department (Civil Secretariat) on 23-5-1989 (F/N) through proper channel without any break in service.

(Copies of policy, 2011, application along with other documents are attached as ANNEX-B).

3. That respondent No-3 regret the request of the appellant vide letter dated 10.06.2024 on the ground that the appellant had joined the new service prior to issuance/effectiveness of pay protection policy dated 04.06.2011.

(Copy of order dated 10.06.2024 is attached as ANNEX-C).

4. That the appellant being aggrieved filed departmental representation before respondent No-2 on 11.07.2024 which was filed on 12.08.2024 by respondent No-3.

(Copies of departmental representation and order dated 12.08.2024 are attached as ANNEX-D & E).

5. That the appellant being dis-satisfied and aggrieved, thus approaches this Hon'ble Tribunal on the following amongst other grounds;

GROUND S;

- a. That the impugned act, commission and omission of respondents of non-grant of pay protection/pay fixation and further necessary correction (**hereinafter impugned**) are patently illegal, unlawful, of no legal effect, against the existing law, rules and regulation governing the subject matter, hence the respondents be direct to extent all consequential/due benefits of pay protection/pay fixation to the appellant without any further delay, reason and justification.
- b. That the case of the appellant is duly covered under the said policy, because the service rendered prior to the provincial government service are of the semi-autonomous body and the entity has adopted, the government pay scale in to-to for which the appellant applied through proper channel. Needs to point out that in similar nature case of Mr. Irshad Muhammad Ex-Deputy Secretary Finance Department Peshawar, this Hon'ble Tribunal has considered his request in service appeal No-773/2022 decided on 14.09.2022 and Finance Department has complied and decided his case accordingly. Since it is Principle of Good Governance that "If the Service Tribunal or Supreme Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of civil servant who litigated, but also of other civil servant who may have not taken any legal proceedings in such a case, the dictates and rule of good governance demand that the benefit of such judgment by service Tribunal/Supreme Court be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach the Service Tribunal of any other forum" but in the present case, the appellant has not only been discriminated but also deprived and ignored without any reason and justification.
- c. That the impugned order passed by respondent No-3 on the subject matter is outcome of hastily given. The condition precedent and procedural safeguard provided under the law insure rule of law having been thrown to the wolves, hence the impugned order, acts, commission and omission are not sustainable in the eyes of law, thus liable to be set aside.

(4)

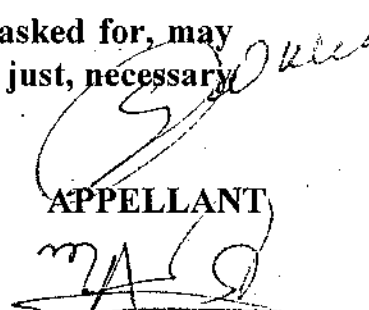
- d. That being recurring cause of action, the appellant time and again approached to the respondents concerned but every time the appellant was assured for the grant of perks and privileges of the issue in hand but of no avail.
- e. That the Finance Department of Khyber Pakhtunkhwa followed the judgment in the case of Mr. Mian Farooq Iqbal decided by the august Supreme Court of Pakistan in CP No-1308/2019 wherein allowed arrears from the date of appointment in Provincial government. It is to be added that the appellant being a similar placed person the benefits of arrears of pay allowed to Mr. Mian Farooq Iqbal, from the date of appointment in Government Service cannot be denied to the appellant and failure is to be amounts to discrimination, however the same has not been extended/paid till date to the appellant, thus invites consideration of this Hon'ble Tribunal.
- f. That any other ground which has not been mentioned may also be permitted to raise at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of the instant appeal, the respondents may graciously be directed to allow the benefits of pay protection/fixation of pay to the appellant being entitled with all consequential due back benefits effecting from 23.05.1989 (date of appointment) without any further delay, reason and justification.

Any other relief not specifically asked for, may also be grant to the appellant if appear just, necessary and appropriate.

APPELLANT

Through


Muhammad Arif Jan
Advocate, Peshawar

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2024

Samandar Khan..... Appellant

VERSUS

Govt. of KP and Others..... Respondents

AFFIDAVIT

I, **SAMANDAR KHAN** Assistant Director (IT) (BS-17) Excise, Taxation & Narcotics Control Department (Employee of Establishment Department Khyber Pakhtunkhwa) do hereby affirm and declare on oath that the contents of accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.


DEPONENT

(6)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2024

Samandar Khan..... Appellant

VERSUS

Govt. of KP and Others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

SAMANDAR KHAN Assistant Director (IT) (BS-17) Excise,
Taxation & Narcotics Control Department (Employee of
Establishment Department Khyber Pakhtunkhwa)

RESPONDENTS:

1. **The Govt. of Khyber Pakhtunkhwa**, through Chief Secretary
Khyber Pakhtunkhwa, Peshawar.
2. **Chief Secretary**,
Khyber Pakhtunkhwa, Civil Secretariats Peshawar.
3. **Secretary Finance**,
Govt. of Khyber Pakhtunkhwa, Civil Secretariats Peshawar.

Appellant

Through


Muhammad Arif Jan

Advocate High Court

7A

Better Copy

GOVERNMENT OF N.W.F.P
FINANCE DEPARTMENT

ORDER

Mr. SamandarKhna S/o Said Umar Khan,
Village and P.O AzaKhelBala, Nowshera.

is hereby appointed as Key Punch Operator in the Basic Scale of Rs.870-42-1710 (B-10) with usual allowances as admissible under the rules, in the Electronic data processing Cell against an existing vacancy, w.e.f. 23.05.1989 in relaxation of ban on the following terms and conditions;

2. His employment in the Electronic data processing cell is purely temporary and his services are liable to be terminated without assigning any reason

4. He will be governed by the NWFP Govt. Servants (Efficiency and Discipline) Rules, 1989, 1973 and Govt. Servant (Conduct) Rules, 1987 and any other Rules/Instructions which may be issued by the Government from time to time.

5. In case he wishes to resign at any time, 14 days' notice will be necessary or in lieu thereof 14 days' pay may be forfeited.

6. He shall produce a medical certificate of fitness from Medical Superintendent Civil Hospital, Peshawar before reporting himself for duty in the Electronic Data Processing Cell as required under the Rules. In case he is already in Government Servant and had produced the required certificates at the time of his first appointment. He is not required to produce it, provided he has applied for the job in the EDPC through proper channel.

7. He will be governed by such rules and orders relating to leave, travelling allowance, medical attendance, pay etc. as may issue by government for the category of government servants to which he will belong.

Secretary to Government of NWFP

Finance department

17-05-1989

Copy to.

1. The Accountant General NWFP, Peshawar.
2. The programmer Electronic Data Processing Cell.
3. P.A to Director Electronic Data Processing Cell.
4. Mr. Samandar Khan Key Punch Operator Finance department, Govt. of NWFP.
5. The Billing Clerk, Govt. of NWFP, Finance department.
6. The personal file of the official.

CK



- sd -

ZAIN ULLAH KHAN
Section Officer (Admin)



Planer-44 (2)

PAKISTAN ATOMIC ENERGY COMMISSION
INSTITUTE OF RADIOTHERAPY & NUCLEAR MEDICINE (IRNUM)
UNIVERSITY CAMPUS
PESHAWAR.

IRNUM, PESHAWAR
1242

Reg. No. PF/196

Date 17-5-1989.

OFFICE MEMORANDUM

Subject:- EMPLOYMENT OF MR. SAMANDAR KHAN

The undersigned is directed to refer to Finance Department (EDPC) letter No. EDPC(FD)/1-2/88 dated 13th May, 1989 regarding the selection of Mr. Samandar Khan of this Institute as Key Punch Operator and he is relieved off his duties with immediate effect to report for duty at your department.

ADMINISTRATIVE OFFICER
IRNUM - PESHAWAR.

Director,
Electronics Data Processing Cell,
Finance Department,
Civil Secretariat,
Govt. of N. F.P., Peshawar.

CC: 1. Mr. Samandar Khan,
Jr. Asstt. (Adm) IRNUM, Pesh.

2. Accounts Officer,
IRNUM, Peshawar.

CTC

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072

SECTION OFFICER (ADM)
(SYED TOBAT SHAH)

[Handwritten signature]

Copy forwarded to Mr. Samandar Khan, Finance De
Operator, Electronic Data Processing Cell, Finance De
for information.

NO. E&A (FD) PF/89-90.

Dated Peshi the 22/7/71

SECTION OFFICER (ADM)
(SYED TOBAT SHAH)
FINANCE DEPARTMENT.

Department.

Operator in this Department may be furnished to this
of Mr. Samandar Khan served under you and now Key Punch
It is requested that Service Book and LPO

2-

dated 22/5/1989 on the subject noted above.
Reference your office Memo NO. PF/190,

Memor

EMPLOYMENT OF MR. SAMANDAR KHAN AS KEY
PUNCH OPERATOR.

SUBJECT:

The Administrator,
The Admin Peshawar.

To

Dated Peshi the 22-7-1989.

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

NO. E&A (FD) PF/89-90.

[Handwritten signature]

(9)

B. J.

The details for the income tax recovered in this bill are given in the details of the current year and noted on the reverse.

He is entitled to joining time for _____
 from _____ to _____
 from _____ to _____

He has been paid leave salary as detailed below, deducting _____
 have been made as noted on the reverse.

Recoveries are to be made from the pay of the Government _____
 as detailed on the reverse.

He made over charge of the office of the _____
 of _____

1. OFFICE No. 55/- 28 Fund Adv. Rs: Nil 3: SWP. Rs. 1.00 4: L.I. Rs. 17/-
 5: W.A. Rs. Nil 6: C.I. Rs. Nil 7: Income Tax Rs. Nil 8: H. Stamp Rs. 0.40
 9: H.A. Rs. Nil 10: Misc. Rs. Nil

RETIREMENTS.

Rs. 905.00	Pay
Rs. 25.00	Pay Insurance
Rs. 407.00	House Rent Allowance
Rs. 76.00	Conveyance Allowance
Rs. _____	L.C.A.
Rs. _____	Balance & Allowance
Rs. _____	Security Allowance
Rs. _____	H.P.A.
Rs. _____	Dusting Allowance
Rs. _____	Washing Allowance
Rs. _____	Gr.A.
Rs. _____	Qualification Allowance
Total:-	Rs. 1,413.00

He has been paid upto _____
 82-5-1989 at the following rates

Date: 18-07-1989

(10)

UNIVERSITY AND HIGHER EDUCATION (INDIA)
 UNIVERSITY OFFICE, DELHI

Prakash

DETAIL OF RECOVERIES.

Nature of recovery	i	ii
Amount	Rs. i	ii
To be recovered	i	ii

Month	Pay	GP/CPF Deduct.	SWF	FEBF	FLIF	GAI	I. Tax.	k. Stamp:	HRA HRS
July:88	874	55	1/=	17/=	-	-	-	0.40	-
Aug:88	874	55	1/=	17/=	-	-	-	0.40	-
Sep:88	874	55	1/=	17/=	-	-	-	0.40	-
Oct:88	874	55	1/=	17/=	-	-	-	0.40	-
Nov:88	874	55	1/=	17/=	-	-	-	0.40	-
Dec:88	905	55	1/=	17/=	-	-	-	0.40	-
Jan:89	905	55	1/=	17/=	-	-	-	0.40	-
Feb:89	905	55	1/=	17/=	-	-	-	0.40	-
Mar:89	905	55	1/=	17/=	-	-	-	0.40	-
Apr:89	905	55	1/=	17/=	-	-	-	0.40	-
May:89	905	55	1/=	17/=	-	-	-	0.40	-

He has availed medical ceiling of Rs. _____ upto _____ for the financial:

He has re-imbursed Medical Charges (Rs. 86/= P.M. upto 22-05-1989

(GHULAM HUSSAIN)
Accounts Officer, IRNUM,
PESHAWAR.

TO

Copy to:-

- 1: Accounts Officer (Fund and Pension) PAEC HQ P.O 1114, Islamabad.
- 2: Accounts Officer (General) _____ do _____
- 3: Director Establishment _____ do _____
- 4: Administrative Officer IRNUM Peshawar.
- 5: Mr. Samander Khan Junior Assistant (Ex) IRNUM Peshawar.
- 6: _____
- 7: Office Copy:

CTC

2

(GHULAM HUSSAIN)
Accounts Officer, IRNUM,
PESHAWAR.



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

12

Amex 'B'

11310
07/6/11

NO. FD (SR-1) 12-1/2011
Dated Peshawar the: 4th June, 2011

TO:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of Mr. Sajjad Rashid and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa. CTC
7. P.S to Secretary Finance.
8. PA to Spt. Secretary Finance.

13

To
The Section Officer (Admn)
Excise, Taxation & Narcotics Control Department
Khyber Pakhtunkhwa Peshawar.

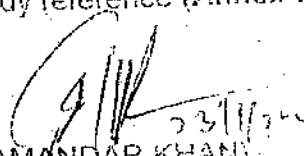
Subject:- REQUEST FOR FIXATION/PROTECTION OF PAY.

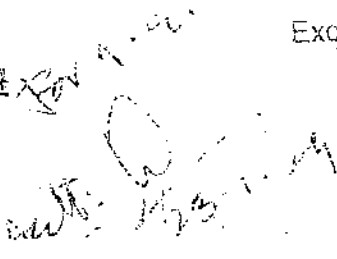
Sir,
With great reverence it is submitted that before joining in Provincial Service Finance Department on 23-5-1989. I had rendered service at Pakistan A. Energy Commission IRNUM Hospital, Peshawar from 1-5-1984 to 22-5-1989 (05 and 22 days) as Junior Assistant (BPS-7). Upon my arrival submitted on 23-5-1989 (F/N) at Finance Department Government of Khyber Pakhtunkhwa. My pay was fixed on initial of BPS-10 instead of pay drawn at IRNUM Hospital, Peshawar.


2. In 2011 the Finance Department has chalked out a policy vide Finance Department circular NO FD(SR-1)12-1/2011 dated 02-6-2011 (Annex-I) where protection of pay has been granted to all such government official who prior to the provincial government service have rendered service in any autonomous body provided that the corresponding body adopted the pay scale in Toto and in employees applied through proper channel.

3. The case of the undersigned is duly covered under the said policy because the service rendered prior to the provincial government service are of the autonomous body and the entity has adopted the government pay scale in Toto and the undersigned applied through proper channel.

4. In view of the above, pay protection may kindly be granted to the undersigned in light of Finance Department Notification No. FD(SR-1)12-1/2011 dated 02-6-2011 and approach the office of the Accountant General Khyber Pakhtunkhwa for fixation of pay alongwith calculation of arrears (All relevant documents about **Service Books in original** are hereby attached for ready reference (Annex-II)).


(SAMANDAR KHAN)
Assistant Director (IT) (BS-17)
Excise, Taxation & Narcotics Control Dept

Dated:- 23-1-2024


CTL




GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT

NO.SO(Admn)/E&T/1-82/2023
Dated Peshawar, the 31.05.2023

14

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department.

Subject:-

GENERAL CLARIFICATION REGARDING ENTITLEMENT OF PAY PROTECTION.

Dear sir,

I am directed to refer to your department's Notification No. FD(SR-1)12-1/2011 dated 04.06.2011 (copy enclosed) and to enclose herewith an application along with its relevant enclosures in r/o Mr. Samandar Khan, Assistant Director (IT) (BS-17) of this department for advice as to whether the above named officer is entitled for Pay Protection or otherwise, please.

Yours faithfully,

S. Shehryar Ahmad
(SHEHRYAR AHMAD)
SECTION OFFICE (ADMN)

Encl: As Above

Endst: No. & date Even.

Copy is forwarded for information to the:-

1. P.S to Secretary Excise, Taxation & Narcotics Control Department, Khyber Pakhtunkhwa.
2. Master File

S. Shehryar Ahmad
SECTION OFFICE (ADMN)

CTC

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GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

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Finance Department Civil Secretariat Peshawar

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

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

twitter.com/GoKPPD

NO. FD(SOSR-1)12-4/2022/Mr.Irshad Muhammad
Dated Peshawar the: 02-02-2023

To

The Accountant General, Khyber Pakhtunkhwa
Peshawar.

Subject: - SANCTION OF PAY PROTECTION

Dear Sir,

I am directed to refer to this Department's substituted letter of even number dated 29.04.2021 on the subject noted above and to state that in pursuance of Khyber Pakhtunkhwa Service Tribunal's judgment in Service Appeal No.773/2022 dated 14.09.2022 and minutes of the Scrutiny Committee meeting held on 23.11.2022 at Law Department, this Department agrees to accord sanction of pay protection to the Officer concerned w.e.f 20.02.1991 (with arrears) when he was appointed as Assistant (BS-11) in Civil Secretariat, Peshawar excluding the amount already received on account of pay protection w.e.f 01.07.2011 to 31.08.2021 in light of Finance Department's earlier letter dated 29.04.2021.

Your's faithfully,


SECTION OFFICER (SR-1)

Copy forwarded for information and necessary action to:-

1. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. Assistant Solicitor (Lit), Law Department w/r to his letter No.SOL/Law/9-9(04)/Finance/2022/5889-93/WE dated 27.12.2022.
3. Section Officer (Admn), Finance Department.
4. Section Officer (Lit-II), Finance Department alongwith his original file.
5. Mr. Irshad Muhammad, Ex- Deputy Secretary, Finance Department w/r to his application dated nil, appellant in S.A.No.773/2022.
6. Master file.

SECTION OFFICER (SR-1)

CTC

9

To be substituted for the same No. & date



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

(16)

Finance Department Civil Secretariat Peshawar <http://www.finance.gkp.pk> [facebook.com/GoKPPD](https://www.facebook.com/GoKPPD) twitter.com/GoKPPD

NO.FD(SOSR-1)12-4/2020
Dated Peshawar the: 29-04-2021

To:

The Accountant General, Khyber Pakhtunkhwa,
Peshawar.


Subject: - SANCTION OF PAY PROTECTION.

Dear Sir,

I am directed to refer to the subject noted above and to convey approval / sanction to the grant of pay protection in respect of Mr. Irshad Muhammad, Section Officer, Finance Department Civil Secretariat, Peshawar with regard to his previous service rendered as Senior Clerk (BPS-07) in the University of Engineering & Technology, Peshawar under the provision of this Department's policy letter No.FD (SR-1)12-1/2011 dated 04-06-2011 (copy enclosed).

2. Moreover, his last pay of Senior Clerk (BPS-07) may please be protected with effect from the date of appointment i.e. 20-02-1991 as Assistant (BS-11), in the Civil Secretariat, Peshawar on the analogy of Mian Farooq Iqbal's case as the same was decided by the august Supreme Court of Pakistan vide judgement in CP No.1308/2019 dated 27-11-2019 for pay protection w.e.f 10-07-1989 i.e. prior to the issuance of pay protection policy. Hence, arrears in this case will not be admissible prior to 04-06-2011.

Your's faithfully,


(REHMAT KHAN)
SECTION OFFICER(SR-1)

CTC

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Annex 'C' Annex XV
17

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

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

facebook.com/GoKPFDD

twitter.com/GoKPFDD

No.FD(SOSR-1)12-4/2024/Mr.Samandar Khan

Dated Peshawar the: 10-06-2024

To

The Secretary to Government of Khyber Pakhtunkhwa
Excise, Taxation & Narcotics Control Department

Subject: - GENERAL CLARIFICATION REGARDING ENTITLEMENT OF
PAY PROTECTION

Dear Sir,

I am directed to refer to your Department's letter No.SO(Admn)E&T/1-82/2023/4719-21 dated 31.05.2024 on the subject noted above and to state that Finance Department regrets its inability to accede to the request on the ground that the official concerned had joined his new service prior to issuance/effectiveness of pay protection policy date 06.04.2011 (copy enclosed), please.

Encl: as above

Your's faithfully

[Signature]
10/06/24
SECTION OFFICER (SR-1)

CTC

9

To

The Hon'able Chief Secretary,
Khyber Pakhtunkhwa Peshawar.

Annex 'D'
(18)

Subject:-

**DEPARTMENTAL APPEAL AGAINST THE GOVERNMENT OF KPK,
FINANCE DEPARTMENT ORDER NO. FD(SOSR-1)12-4/2024/
MR.SAMANDAR KHAN DATED 10-6-2024 FOR PROTECTION OF PAY.**

R/Sir,

With great reverence it is submitted that before joining in Provincial Service Finance Department on 23-5-1989, I had rendered service at Pakistan Atomic Energy Commission IRNUM Hospital, Peshawar from 1-5-1984 to 22-5-1989 (05 years and 22 days) as Junior Assistant (BPS-7). Upon my arrival submitted on 23-5-1989 (F/N) at Finance Department Government of Khyber Pakhtunkhwa, as per Last Pay Certificate (LPC) issued by IRNUM Hospital, Peshawar (Annex-I) my substantive pay was Rs. 905/- PM + 25.00 PM Index pay. However, on my appointment as Key Punch Operator/Data Entry Operator BPS-10 in the Finance Department, pay protection was not given to me and my pay was fixed as Rs. 870/- PM (initial pay of BPS-10) which was less than my previous pay.

2. In 2011 the Finance Department has chalked out a policy vide Finance Department circular NO FD(SR-I)12-1/2011 dated 02-6-2011 (Annex-II) I stood entitled for protection of my Pay, which I was drawing in the IRNUM Hospital i.e. Rs.905/- + Rs. 25.00 PM as I was relieved from duty in the IRNUM Peshawar on 22/5/1989 (AN) for joining my new post in Finance Department (Civil Secretariat) on 23-5-1989 (FN) without any break in my service (Annex-III). It is to mention here that Pay protection is the right of the undersigned under FR-22(B), (Annex-IV).

3. The case of the undersigned is duly covered under the said policy because the service rendered prior to the provincial government service are of the semi-autonomous body and the entity has adopted the government pay scale in To-to and that the undersigned applied through proper channel. Needs to pointed out that in similar nature case of Mr. Irshad Muhammad Ex-Deputy Secretary Finance Department Peshawar, the court has considered his request in light of Service Tribunal judgment, (Annex-V) and Finance Department has decided his case accordingly. Since it is Principle of Good Governance that "If the Service Tribunal or Supreme Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of civil servant who litigated, but also of other civil servant who may have not taken any legal proceedings in such a case, the dictates and rule of good governance demand that the benefit of such judgement by service Tribunal/Supreme Court be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach the Service Tribunal of any other forum".



4. Furthermore, I have requested vide Annex-VI with the request to approach the A.G office Khyber Pakhtunkhwa for fixation of pay. ET&NC Department forward the request to Finance Department for general clarification regarding entitlement of Pay Protection (Annex-VII). In response, the Finance Department rejected the request (Annex-VIII) on the ground that I joined my new service prior to the issuance/effectiveness of pay protection policy dated 06-4-2011.

5. In view of the above, pay protection may kindly be granted to the undersigned in light of FR-22 (B) as well as Finance Department Notification No. FD(SR-1)12-1/2011 dated 4-6-2011 and direct the Finance Department to re-consider his advice placed at (Annex-VIII) on the analogy of Mr. Irshad Muhammad Ex-Deputy Secretary, Finance Department, Peshawar in judgement of Good Governance reflected in para-3 of proceeding para (underline portion) in consultation with Law Department as interpretation of Good Governance judgment is involved, please



(SAMANDAR KHAN)

Assistant Director (IT) (BS-17)

Excise, Taxation & Narcotics Control Department
Employee of Establishment Department.

Dated:- 10-07-2024



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

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Finance Department Govt Secretariat Peshawar | Website: www.finance.gov.pk | Facebook.com/GovPKFD | Twitter.com/govpkfd

No. FD(SOSR-1)12-4/2024/Mr.Samandar Khan
Dated Peshawar the: 12-08-2024

To

Mr Samandar Khan,
Assistant Director (IT) (BS-17),
Excise, Taxation & Narcotics Control Department
Peshawar.

Subject: - DEPARTMENTAL APPEAL AGAINST THE GOVERNMENT
OFK KPK, FINANCE DEPARTMENT ORDER NO.FD(SOSR-
1)12-4/2024/MR. SAMANDAR KHAN DATED 10.06.2024 FOR
PROTECTION OF PAY

I am directed to refer to your Appeal dated 10.07.2024 on the
subject cited above and to state that this Department had already
conveyed its reply vide letter of even number dated 10.06.2024 (copy
enclosed for ready reference) which is self-explanatory upon the issue.
please

Encl as above

[Signature]
SECTION OFFICER (SR-1)

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GOVERNMENT OF KHYBER PAKHTUNKHWA

FINANCE DEPARTMENT

No-FD (SOSR) 12-4/2024/Mr. SamandarKhan

Dated Peshawar the; 12-08-2024

To

Mr. Samandar Khan

Assitant Director (IT) (BS-17),

Excise, Taxation and Narcotics Control Department

Peshawar

**Subject; DEPARTMENTAL APPEAL AGAINST THE
GOVERNMENT OF KPK FINANCE
DEPARTMENT ORDER NO-(FD9SOSR-1)12-
4/2024/MR. SAMANDAR KHAN DATED 10.06.2024
FOR PROTECTION OF PAY.**

I am directed to refer to your Appeal dated 10-07-2024 on the subjected noted above and to state that this department had already conveyed its reply vide letter of even number dated 10-06-2024 (Copy enclosed for ready reference) which is self-explanatory upon the issue please.

Encl as above

SECTION OFFICER (SR-1)

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WAKALATNAMA

IN THE COURT OF KP Service Tribunal Peshawar

Samander Khan

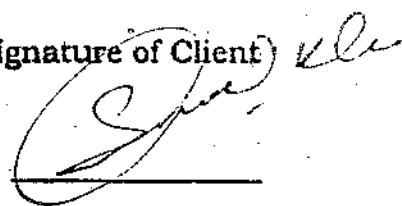
Plaintiff(s)
Petitioner(s)
Complainant(s)

VERSUS


Govt. of KP

Defendant(s)
Respondent(s)
Accused(s)

By this, power-of-attorney I/we the said _____ in the above case, do hereby constitute and appoint **MUHAMMAD ARIF JAN** Advocate as my attorney for me/us in my/our name and on my/our behalf to appear, plead, give statement, verify, administer oath and do all lawful act and things in connection with the said case on my/our behalf or with the execution of any decree or order passed in the case in my/our favour/ against which I/we shall be entitled or permitted to do myself/ourselves, and, in particular, shall be entitled to withdraw or compromise the case or refer it to arbitration or to agree to abide by the special oath of any person and to withdraw and receive documents and money from the Court or the opposite party and to sign proper receipts and discharges for the same and to engage and appoint any other pleader or pay him as his fee irrespective of my/our success or failure in case, provided that, if the case is heard at anyplace other than the usual place of sitting of the Court the pleader shall not bound to attend except on my agreeing to pay him a special fee to be settled between us.

Signature of Client 

Accepted.



Muhammad Arif Jan

Advocate High Court

0333-2212213

Bc No.10-6663

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G.T Road, Sikandar Town,

Peshawar.