

**BEFORE THE KHYBER PAKHTUNKHAWA SERVICES TRIBUNAL
PESHAWAR**

Service Appeal No.1394/2024

Yousaf Khan.....Appellant.

V/S

Government of KP, through Secretary,
Industries, Commerce Peshawar & other..... Respondents.

(Para wise reply on behalf of Respondent No. 4, 5, 6 & 7)

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Deponent

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Preliminary Objections:-

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17679

Dated 06-11-24

- 1) That the Appellant has no cause of action.
- 2) That the Appellant has no locus standi to file instant case.
- 3) That the Appeal in hand having no merits is liable to be dismissed.
- 4) That the Appeal of the Appellant is barred by Law/rules.
- 5) That the Appellant has not complied with section 79, 80 CPC.
- 6) That the Appellant is stopped by their own conduct to file the Appeal in hand.
- 7) That the Appellant has not come to this Court with clean hands.
- 8) That there is no Notification/Orders of the Provincial Government of KP available under which the said allowances are admissible to the staff of the Consumer Protection Court /Appellant.

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) That the said Allowances have been sanctioned by the Government of Khyber Pakhtunkhwa from time to time for the Judges and Staff of Peshawar High Court as well as staff of Subordinate Judiciary and that payment of the said allowances not extended/sanctioned by the Government of Khyber Pakhtunkhwa for the staff of Consumer Courts operating under the auspices of the Industries and Commerce Department. Further, clarification was sought by the Finance Department vide letter dated 08/04/2019 (Annex-A) from the Industries Department regarding their entitlement to such allowances which fortify stance of the Accountant General office.
- 4) Correct, but only for the Judges and staff of Peshawar High Court as well as staff of Subordinate Judiciary.
- 5) Correct, the said allowances have been sanctioned by the Government of KP for the Advocate General staff as well.
- 6) Correct.

- 7) The Government of Khyber Pakhtunkhwa has sanctioned separate allowances for the employees of Service Tribunal.
- 8) Correct, as mentioned in para "3" above.
- 9) Correct, as mentioned in para "3" above.
- 10) Respondent No. 1, 2 & 3 are in better position to show the status of the case; hence, no comments.
- 11) Pursuant to paragraph 3 supra, the said allowances are never lawfully authorized for Consumer Court staff. Notwithstanding, owing to negligence and/or misconstruction of applicable rules, unauthorized payments were mistakenly effected in a few districts. Upon detection, said payments were discontinued, and recovery was started to reclaim overpaid sums and offset consequent financial losses to public exchequer.
- 12) No comments.
- 13) No comments.
- 14) No comments.
- 15) No comments.
- 16) No comments.
- 17) Correct, as mentioned in para "3" above.
- 18) Correct, as mentioned in para "11" above.
- 19) No comments.

Grounds:-

- A. As mentioned in para "3" above the said allowances have never been sanctioned to the petitioner.
- B. No comments.
- C. That office order No. 7192-99/I/70-DI-Admn: dated: 22.09.2020 and para 1 of the letter No. 6999/DIC/B&A/HQ/General/Misc/2019-20 dated: 21.06.2021 (Annex-B & C) issued by Industries & Commerce Department Peshawar are very much clear and states that,

"The staff of the Consumer Protection Court is recruited/posted as per the Service Rules of Directorate of Industries & Commerce. The staff of the Consumer Protection Courts is at the strength of Directorate of Industries & Commerce and the staff of the Directorate is posted in Consumer Protection Courts".
- D. Relates to Respondent No. 1; hence, no comments.
- E. Incorrect, as mentioned in para "3" above.
- F. As mentioned in para "C" above the appellant is not entitled for the said allowances under the rules.
- G. Incorrect as mentioned in para "A" above.
- H. As mentioned in para "C" above.

- I. As mentioned in para "C" above.
- J. As mentioned in para "C" above.
- K. As mentioned in para "C" above.
- L. As mentioned in para "C" above.
- M. As mentioned in para "C" above.
- N. As mentioned in para "C" above.
- O. As mentioned in para "C" above.
- P. As mentioned in para "C" above.
- Q. As mentioned in para "C" above.
- R. That Respondent No. 4 to 7 are bound to follow the rules and instructions issued by the provincial Government of Khyber Pakhtunkhwa from time to time; hence, not violated any rule or law.
- S. As mentioned in para "R" above.
- T. No comments.
- U. As detailed in para "3 and 11" above, the appellant is not entitled to the said allowances therefore, over and above illegal payment is payable to be recovered under the rules.
- V. Correct and under the rules.
- W. Incorrect to the extent that each and every case has its own merits. And that in the instant case the petitioner is not entitled for Judicial and utility allowances as not being sanctioned for the staff of Consumers Court in Khyber Pakhtunkhwa.
- X. No comments.
- Y. Incorrect.
- Z. No comments.

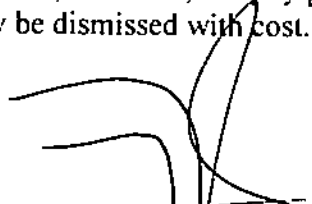
Keeping in view the above mentioned facts it is, therefore, humbly prayed that appeal in hand having no merits may kindly be dismissed with cost.


District Accounts Officer
Mardan

MR. Asad


Audit Officer Inspection
DAO Mardan

MR. Asad


Accounts Officer
(HAD)

Mr. Jahid


Accountant General
Khyber Pakhtunkhwa

MR. Naseeruddin Sarwar

Rep. No. 4

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(Para wise reply on behalf of Respondent No. 4, 5, 6 & 7)


AFFIDAVIT


We do hereby solemnly affirms& declare that the reply submitted on behalf of Respondents No. 4, 5, 6, & 7 is true and correct to the best of our 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 Ex-part nor their defense has been struck off.


District Accounts Officer
Mardan


Accounts Officer
(HAD)


Audit Officer Inspection
DAO Mardan


Accountant General
Khyber Pakhtunkhwa



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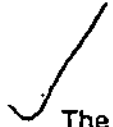
U.S.I. IMMEDIATE



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.

(KHAN BAHADUR)
BUDGET OFFICER-VIII

ACCOUNTS OFFICER
Office of Industries
Khyber Pakhtunkhwa Peshawar

accid
Ym

ASIA

DIRECTORATE OF
INDUSTRIES AND COMMERCE
KHYBER PAKHTUNKHWA, PESHAWAR

Aux (A)

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ORDER

On the recommendation of Departmental Promotion Committee of the Directorate of Industries and Commerce, Khyber Pakhtunkhwa, Peshawar, the following Junior Clerks (BPS-11) are hereby appointed to the post of Senior Clerk (BPS-14) on acting charge basis with immediate effect:-

1.	Mr. Zaid Ullah
2.	Mr. Shah Mahmood
3.	Syed Nasrullah Shah

On their appointment as Senior Clerk (BPS-14) on acting charge basis vide Notification No. 7185-91 dated 22.09.2020, the following transfer/posting is hereby ordered with immediate effect:-

S. No	Name & Designation	From	To
1.	Mr. Zaid Ullah, Senior Clerk (BPS-14) a.c.b.	Hqtrs Office, Peshawar	Hqtrs Office, Peshawar posted against the vacant post of Jr. Scale Stenographer (BPS-13)
2.	Shah Mahmood, Senior Clerk (BPS-14) a.c.b.	Office of I.D.O., Mardan	Consumer Court, Mardan posted against the vacant post of Senior Clerk (BPS-14)
3.	Syed Nasrullah Shah, Senior Clerk (BPS-14) a.c.b.	Consumer Court, Bannu	Consumer Court, Bannu posted against the vacant post of Senior Clerk (BPS-14)

Sd/- Director, IC,
Khyber Pakhtunkhwa.

Endst:No. 7192-99 /1/70-DI-Admn:

Dated: 22/09/2020.

Copy of the above is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Judge Consumer Courts, Bannu & Mardan.
3. The Registrar Consumer Courts Bannu & Mardan.
4. ✓ The District Accounts Officer, Bannu & Mardan. ✓
5. The Accounts Officer Hqtrs Office, Peshawar.
6. The officials concerned.
7. The personal file of the officials concerned.
8. File No. 1/33-DI-Admn.

adil
Jm
Administrative Officer,
Directorate of Industries and Commerce
Khyber Pakhtunkhwa, Peshawar



DIRECTORATE OF
INDUSTRIES AND COMMERCE
KHYBER PAKHTUNKHWA, PESHAWAR

Aux (P)

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No. 6999

DIC/IND&A/HQ/General/Misc/2019-20

Dated. 21/5/2021.

To


The Section Officer (Litigation);
Government of Khyber Pakhtunkhwa,
Industries, Commerce and Technical Education
Department, Peshawar.

Subject: REQUEST TO EXTEND JUDICIAL & UTILITY ALLOWANCE TO
CONSUMER PROTECTION COURTS STAFF IN KHYBER
PAKHTUNKHWA.

I am directed to refer to your letter No. SO(Lit)(IND)5-2/2021/7026 dated 25.05.2021 on the subject cited above and to say that the Consumer Courts are established under section 11 of Consumer Protection Act, 1997 (Amended 2017) in 17-Districts in Khyber Pakhtunkhwa. The Presiding Officers/Judges of Consumer Protection Courts are posted by Peshawar High Court, Peshawar and their further posting orders are issued by Establishment Department Government of Khyber Pakhtunkhwa in Consumer Protection Courts. The staff of the Consumer Protection Courts is recruited/posted as per the Service Rules of Directorate of Industries & Commerce. The staff of the Consumer Protection Courts is at the strength of Directorate of Industries & Commerce and the staff of the Directorate is posted in Consumer Protection Courts and there is no specific/separate staff for Consumer Protection Courts.

Furthermore it is submitted that there is no specific terms and conditions for posting of Consumer Protection Court Judges and staff.

However the nature of job of the staff of Consumer Protection Courts is judicial and they also follow the office timing and working days calendar issued by Peshawar High Court.


Accounts Officer,
Directorate of Industries & Commerce,
Khyber Pakhtunkhwa, Peshawar