

**IN THE HIGH COURT OF SINDH, KARACHI**  
**C.P. No.D-42 of 2013**

**Present**

**Mr. Justice, Irfan Saadat Khan.**

**Mr. Justice, Adnan-ul-Karim Memon.**

Syed Zulfiqar Shah & others.....Petitioners

Versus

The State & Others.....Respondents

**Date of hearing: 24.09.2018**

Mr. Nadeem Anwar Shaikh, advocate for the petitioners.

Mr. Muhammad Ismail Shaheedi petitioner in C.P No.D-30/2013.

Mr.Abdul Khalil, advocate for DMC Central.

Mr. Sarwar Ali, advocate for DMC Korangi.

Mirza Saleem Akhtar Baig, advocate for DMC South.

Mr. Ahmed Zameer, advocate for DMC West.

Mr. Shoukat Shaikh, DMC Malir.

Mr. Iqbal Khurram advocate for KMC.

Barrister Shahriyar Mehar AAG, Sindh.

\*\*\*\*\*

**ORDER**

**IRFAN SAADAT KHAN, J:** A letter dated 01.01.2013 was addressed by the Sajan Union, KMC Karachi to the Hon'ble Chief Justice. This letter was thereafter converted into a petition by the then Hon'ble Chief Justice vide order dated 01.01.2013. Thereafter the matter proceeded on a number of times at different intervals and different orders were passed. However, one of the controversy remained in the instant petition is that as to who is responsible for paying fire risk allowance and pension to the employees of KMC whether the Government of Sindh or the KMC, since in the matter of payment of salary to the genuine employees, observations have already been made in the order dated 28.6.2016. The matter remained a moot point and both the Government of Sindh as well as KMC shifted the burden for payment of pension, fire risk allowance and other emoluments to the fire fighters and other employees on each other. Thereafter when the matter proceeded on

15.5.2018 a focal person from the office of the Chief Secretary, Sindh submitted that the payment of the fire risk allowance and pension etc. is the responsibility of the KMC and not that of the Government of Sindh. Thereafter the counsel for the KMC as well as Government of Sindh i.e. Assistant Advocate General, Sindh were put on notice to explain the court as to who is the proper authority for paying the aforesaid amounts to those persons. It is noted that certain interim arrangements were also made with regard to the payments being made to those persons, but the issue remained controversial between the Government of Sindh and the KMC with regard to the payment of the amounts to the fire fighters as well as other employees of KMC.

Today, the matter has been heard at length and we appreciate the efforts of Mr. Iqbal Khurram, advocate for KMC in digging out the issue by placing before us certain quite old documents. He has placed before us some Resolutions pertaining to the year 1959, some notifications pertaining to the years 1970, 1976 and 1981, which have been perused and taken on record. From these documents, it is clear that it is the KMC who has to pay fire risk allowance etc. For the sake of brevity, we reproduce herein below the relevant extracts of those documents mentioned above.

**“NOTIFICATION**  
**Karachi, the 6<sup>th</sup> February 1976**

(a) *“fire brigade staff” means the staff engaged in firefighting services of the Municipality.*

4. *Out of the 12 hours duty, eight hours shall be normal duty hours and the remaining four hours shall be treated as Overtime duty for which overtime allowance at the rate of fifty percent of pay of the fire brigade staff shall be payable;*

*Provided that where gazetted holidays or Sundays are not allowed to be availed, overtime allowance for full twelve hours on such gazetted holidays and Sundays, shall be paid at the double rate of the pay of the fire brigade staff concerned.*

5. (1) *The Overtime allowance shall be paid every month.*

*Karachi, the 14<sup>th</sup> September, 1981*

**NOTIFICATION**

*(Sind Government – Gazette Extraordinary Part I Page 692)*

- (a) *“fire brigade staff” means the staff engaged in firefighting services of the Municipal Committee.*

**KARACHI MUNICIPAL CORPORATION**

*Extract from the proceedings of the Finance Committee of the Karachi Municipal Corporation held on the \_\_\_\_\_*

*Resolution No.741 dated 14.9.59 of the Municipal Commissioner exercising the powers of the Corporation. “The Corporation is pleased to accord their sanction:-*

- (a) *That the present roster of 12 hours active duty will be the same as usual (according to the Corporation’s Resolution No.540 dated 19.2.53 and Government’s sanction NO.4/9/54/L.S.G., dated 4.8.55). In consideration of 4 hours over and above 8 hours active duty the Corporation is pleased to sanction overtime allowance at the rate of the wages (which the Fire Brigade employees shall normally be entitled to for the said 4 hours), inclusive of dearness allowance and Karachi Compensatory Allowance.*

*The calculation basis for the purpose of overtime allowance will be 8 hours shift.*

*The payment of this overtime allowance will take effect from 31.8.1959.*

- (b) *That the roster of 12 hours ‘On Call’ duty will continue and ‘On Call’ duty allowance and overtime allowance during ‘ON Call’ will also be the same as usual according to the Corporation’s Resolution No.540 dated 19.2.53 and Government’s sanction No.4/9/54/L.S.G., dated 4.8.55.*

**ORDER**

*Sd/-12/9  
Municipal Commissioner*

***“The Commissioner,  
Karachi Division,  
Karachi.***

*No.SOIV(LG)/KMC-11-4-70.*

*Dated Lahore, the 8<sup>th</sup> April, 1979.*

***Subject:- DEMANDS OF THE STAFF OF K.M.C. FIRE BRIGADE***

*Reference your memo No.4(170)/69, dated the 22<sup>nd</sup> Jan, 1970, on the subject noted above.*

2. *The Government of West Pakistan is pleased to accept your recommendations contained in your letter referred to above and to accord sanction as under:-*

- 1) *Increase in the overtime allowance is the staff the Fire Brigade Department, the additional amount involved in this respect will be Rs.88030/- per month.*
- 2) *Payable the pay in lieu of gazette holidays and Sundays to the staff of the Fire Brigade of KMC. The additional expenses involved in this respect will be Rs.88030/-*

*The pay and allowances referred to above are sanctioned subject to the condition that if and when the extra staff is sanctioned and recruited on account of double shift, the above referred concession will be revised and the staff which will now receive extra pay and allowance will willingly forgo the part of it.*

*SD/- Muhammad Hashim*

*Section Officer IV (LQ)*

*No. even. Dated even.*

*Copy to Chairman, KMC for information and necessary action with reference to correspondence resting with his memo No..1597/AG/70, dated 26.3.1979.*

*SD/- Section Officer IV(LQ)”*

**SUBJECT:- OVERTIME ALLOWANCE TO FIRE BRIGADE STAFF**

*Additional Municipal Commissioner's Note No.L.W.O./113/31 (a)/59.  
Dated 26-9-59, reading as under:-*

*The Corporation vide their Resolution No.741, dated 4.8.59, accorded their sanction for the following to the Fire Brigade Staff.*

*(a) That the present roster of 12 hours active duty will be the same usual (according to the Corporation's Resolution No.540 dated 19.2.53 and Government's sanction NO.4/9/54/L.S.G., dated 4.8.55). In consideration of 4 hours over and above 8 hours active duty the Corporation is pleased to sanction overtime allowance at the rate of the wages (which the Fire Brigade employees shall normally be entitled to for the said 4 hours), inclusive of dearness allowance and Karachi Compensatory Allowance.*

*The calculation basis for the purpose of overtime allowance will be 8 hours shift.*

*The payment of this overtime allowance will take effect from 31.8.1959.*

*(b) That the roster of 12 hours 'On Call' duty will continue and 'On Call' duty allowance and overtime allowance during 'ON Call' will also be the same as usual according to the Corporation's Resolution No.540 dated 19.2.53 and Government's sanction No.4/9/54/L.S.G., dated 4.8.55.*

*Public Objection as required under sanction 253 of the Municipal Act were invited but no objection has been received. The Corporation is therefore requested to finally accord their sanction for overtime allowance to Fire Brigade Staff as passed in their Resolution No.741, dated 16.9.59.*

*Resolution No.759.*

*Dated 5-10-59, of the Municipal*

*Commissioner exercising the powers of the Corporation.*

*“That the Corporation is pleased to sanction the following overtime Allowance to the Fire Brigade Staff subject to the sanction of the Government.*

*(a) That the present roster of 12 hours active duty will be the same as usual according to the Corporation's Resolution No.540 dated 19.2.53 and Government's sanction NO.4/9/54/L.S.G., dated 4.8.55). In consideration of 4 hours over and above hours active duty the Corporation is pleased to sanction overtime allowance at the rate of the wages (which the Fire Brigade employees shall normally be entitled to for the said 4 hours), inclusive of dearness allowance and Karachi Compensatory Allowance.*

*The calculation basis for the purpose of overtime allowance will be 8 hours shift.*

*The payment of this overtime allowance will take effect from 31.8.1959.*

*(b) That the roster of 12 hours 'ON CALL' duty will continue and 'ON CALL' duty allowance and overtime allowance during 'ON Call' will also be the*

*same as usual according to the Corporation's Resolution No.540 dated 19.2.53 and Government's sanction No.4/9/54/L.S.G., dated 4.8.55.*

*Sd/-  
MUNICIPAL COMMISSIONER*

We have noticed that this Court vide order dated 20.02.2013 directed the parties to resolve the issue of salary, pension and retirement benefits of the employees of KMC and resultantly the Finance Department, Government of Sindh released an amount of Rs.500.00 million to KMC on 16.7.2013 towards the salaries of KMC staff in pursuance of the order passed by this Court, however later on petitioners' union raised the issue of firefighting allowance/pension to the fire fighters, which is the only issue to be resolved through these proceedings. During the course of arguments, learned counsel for the Petitioners' union has invited our attention to the order 03.04.2017 and argued that the issue of distribution of Rs.500.00 million to KMC in terms of order dated 07.3.2013 was required to be paid to KMC but after revival of KDA Rs.200.00 million has been allocated to the KDA under the directions of the Secretary, Local Government Department whether the said act of the Secretary, Local Government was in accordance with law or not would be decided when the same would be objected by the concerned authorities. Be that as it may, since this is a policy decision of the competent authority, therefore, we refrain ourselves to dilate upon this issue for the simple reason that both the departments i.e. KMC & KDA are autonomous bodies of the Ministry of Sindh Local Government and it is for them to decide the aforesaid issue for betterment of the genuine employees of both the departments.

From the above, it is now a matter of record that the fire fighters are the employees of the KMC and not that of the Government of Sindh, hence we under the circumstances hereby observe that the responsibility and the duty to make payment of the salary, pension & fire risk allowance etc. to its genuine employees is to be borne by the KMC. Mr. Iqbal Khurram however stated that since KMC is not having substantial funds, hence it would be very difficult for them to pay these amounts to those persons. We, in this regard, direct the KMC Authorities to take up this matter with the Competent Authority/Chief Secretary, Government of Sindh for a proper and sympathetic consideration/arrangement so that these fire fighters and other genuine employees of the KMC may not suffer on account of shortage of funds.

We however, expect from the Chief Secretary, Sindh, Secretary, Local Government Department and the Secretary, Finance Department, Sindh that they alongwith the representative of KMC would devise a method through a high-powered committee so that the grievance of the fire fighters /genuine employees of the KMC would be redressed for all times to come and this exercise would be completed within a period of [90] days' from the date of receipt of this order.

With these directions, we dispose of this petition alongwith all the listed and pending application(s). Let a copy of this order be transmitted to the Chief Secretary Sindh, the Finance Secretary, Sindh, Secretary Local Bodies Sindh and the Mayor Karachi for information and compliance.

**JUDGE**

**JUDGE**