

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Aftab Ahmed Gorar
Mr. Justice Adnan-ul-Karim Memon

C.P. No. D-4497 of 2018

Muntazir Mehdi &
Muhammad Iqbal
Petitioners through

: Petitioner No.1 present in person.

Respondents
Through

: Mr. Ali Safdar Depar, AAG a/w Mengraj Mal, R.E (Legal), Finance Department, Government of Sindh and Syed Dilawar Hussain, Assistant Accounts officer CAA-V Section, Accountant General Office Sindh.

Date of hearing
& order

: **01.03.2022**

ORDER

The petitioners who are serving as Deputy Prosecutor Generals in the prosecution department Government of Sindh contend that they are holding the LLM Degree and have claimed LLM degree allowance through this petition based on equality.

Petitioner No.1 present in person contends that this Court is competent to entertain the instant petition, inter alia, on the ground that the M.Phil allowance/Special allowance for LLM degree holders was given specifically to the employees of other departments of Government of Sindh including public Sector Universities, vide notification dated 19.09.2016 issued by the Finance Department, Government of Sindh; and, such allowance could have been extended to the holders of the LLM Degree as per ratio of the notification dated 19.09.2016 discussed supra in the Criminal Prosecution Department, Government of Sindh, for the reason that the concerned Notification did provide for the relief to the employees of Judicial Officers serving in the judiciary/Law Department/Prosecution Branch and also the cadre officers (APUG/PAS/PSS/ex-PCS) holding LLM degree with effect from 24.10.2013 and the petitioners are entitled to the revision of the aforesaid allowance ; that the Government of Sindh has granted such relief as per the policy of Federal Government by ignoring the Prosecution department in its revision. An excerpt of the notification dated 19.9.2016 issued by the Finance Department, Government of Sindh, is reproduced as under:-

“SUBJECT: SPECIAL ALLOWANCE FOR LL.M. DEGREE HOLDERS

In continuation of this department's Policy Circular No.FD (SR-III)5/7-92, dated 12.03.1996 and with the approval of the Competent Authority (i.e. Chief Minister, Sindh), Government of Sindh has been pleased to enhance the Special Allowance from Rs.750/- to Rs.5000/- p.m. to the Judicial Officers serving in the Judiciary / Law Department / Prosecution Branch and also the Cadre Officers

(APUG/PAS/PSS/ex-PCS) holding LL.M Degree with effect from 24th October 2013.”

Petitioner further submitted that direction may be issued to the Finance Department, Government of Sindh, to enhance LL.M/M. Phil allowance from Rs.5000/- per month to Rs.12500/- per month from the date of acquiring LL.M degree as per ratio in the notification discussed supra, which is recognized by the Government of Pakistan, National and Provincial basis, which needs to be implemented across the board.

The main controversy involved in this petition relates to the enhancement of Special Allowance for LL.M degree holders from Rs.5000/- to Rs.25000/- per month in terms of the notification dated 08.02.2018 issued by the Universities and Boards, Department Government of Sindh, through which an allowance @ Rs.2500/- per month was granted to the employees of Public Sector Universities, who held Ph.D. degrees. The said notification was acted upon by the Finance Department, Government of Sindh, in the case of Muhammad Afzal Soomro in C.P.D. No. 2835 of 2011 vide order dated 24.10.2013.

The petitioners have prayed that they may also be granted the LL.M/M. Phil allowance because they held qualifications that were equivalent to M.Phil, these included petitioners having LL.M degrees. We have noticed that this Court allowed the aforesaid petition in the following terms vide order dated 24.10.2013:

“Learned A.A.G has filed statement, copy has been supplied to the petitioner appeared in person. In view of the Notification date 10.04.2013 issued by the University of Sindh, Jamshoro the learned AAC submits that the allowance shall be paid accordingly and after this statement the petitioner is satisfied. The petition is disposed of alongwith the listed applications.”

Mr. Ali Safdar Depar, learned Assistant Advocate General Sindh, submits that the Government of Sindh has taken policy decisions to enhance the Ph.D. Allowance only for the faculty members of Public Sector Universities in Sindh, the benefit of the same cannot be claimed by LL.M/M. Phil Degree holders as their right; that the demand of enhancement in LL.M/M.Phil Allowance by the petitioners is not their fundamental right. He partially admitted that by adopting Finance Division, Government of Pakistan's Office Memorandum, Government of Sindh allowed Ph.D. Allowance @ Rs.10,000/- per month to all Ph.D. degree holders and M.Phil Allowance @ Rs.2,500/- per month to all M.Phil. degree holders with effect from 01.09.2015 and 16.01.2017 respectively, whereas Government of Sindh enhanced Special Allowance for LL.M degree holders from Rs.750/- per month to Rs.5,000/- per month to the Judicial Officers and Administrative Cadre officers (APUG/PAS/PSS/ex-PCS) holding LL.M degree with effect from 24.10.2013; that the CP No.D-2835/2011 was disposed of vide order dated 24.10.2013 but it was not decided on merit and no principle of law was settled, hence reliance on that order ought not to be placed.

Assistant Accounts officer of the office Deputy Accountant General Sindh, present in Court has submitted that the petitioner has already been drawing Special Allowance @ Rs.5000/- for the degree of LL.M as admissible in the light of Finance Department,

Government of Sindh vide Notification dated 19.09.2016 and if the said allowance is revised/enhanced by the Finance Department, Government of Sindh, this office is determined to facilitate the petitioners.

We have heard petitioner No.1 who is present in person and learned Assistant Advocate General, Sindh, and perused the material available on record.

The question of granting incentives to officers and staff who acquire higher qualifications has also engaged our attention. Universities and Boards Department Government of Sindh have suggested a scheme for giving such incentives in the context of the need for updating the skills of the employees of Public Sector Universities for the more efficient discharge of their duties in these days when modernization and adoption of advanced technology are being undertaken in different fields of Public Sector Universities working.

Prima-facie the case of the petitioners is akin to the case decided by this Court in the case of Muhammad Afzal Soomro as discussed supra and in line with the case of I. A Sherwani and others vs. Government of Pakistan, **1991 SCMR 1081**, therefore the interest of justice would best be met if the grant of postgraduate/LLM degree allowance be enhanced and the benefit of the same be given to the employees/petitioners of Prosecution Department, Government of Sindh, for the simple reason that the intent and purpose of the Competent Authority in granting the incentive through the notification dated 8.2.2018 issued by the Universities and Boards Department Government of Sindh through which an allowance @ Rs.2500/- per month was granted to the employees who held Ph.D. degrees in Public Sector Universities, is clear and unambiguous, therefore, we deem it appropriate to direct the Finance Secretary Sindh to look into the matter of the petitioners in the light of aforesaid notification and dicta laid down by the Hon'ble Supreme Court of Pakistan in the aforesaid case and enforce the notification dated 08.02.2018 issued by the Universities and Boards Department Government of Sindh in the case of petitioners and such incentive should be given to the petitioners/employees who have acquired better qualifications/LLM degree that are useful for their work and contribute to their efficiency. An excerpt of notification dated 8.2.2018 is reproduced as under:-

**“GOVERNMENT OF SINDH
UNIVERSITIES & BOARDS DEPARTMENT
46-D, Clifton, Block-1, Karachi
Dated: 08th February, 2018**

NOTIFICATION

No.SO(U)/U&B/Ph.D-Allow/2018: In pursuance of the decisions taken in the meeting held under the chairmanship of the Chief Minister, Sindh, on 31-01-2018, Government of Sindh is pleased to enhance the rate of Ph.D Allowance from Rs.10,000 to Rs.25,000 to all Ph.D faculty members of public Sector universities, with immediate effect.”

From the foregoing discussion, we have also taken note of that Finance Department, Government of Sindh, vide notification dated 26.1.2017 issued the policy

decision about grant of M.Phil. allowance @ Rs.2500/- per month with the understanding that all those acquired/possessed the degree of M.Phil recognized by Higher Education Commission will be allowed M.Phil allowance @ 25% of the existing amount of Ph.D. allowance @ i.e. Rs.2,500/- per month, which is in line with the policy Circular dated 19.8.2016. Prima facie, there will no harm if the revision of such allowance be made in the best interest of working of Prosecution Department, Government of Sindh and its employees, therefore, we are of the considered view the respondent Finance Department shall endeavor in this regard and come with the positive approach as discussed supra. The aforesaid exercise shall be undertaken by the Finance Department, Government of Sindh, two weeks from today.

These are the reasons for our short order dated 01.03.2022, whereby we have allowed the instant petition.

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Nadir*