

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-1802 of 2019

(*Ghulam Hussain Khokhar & another v Province of Sindh & others*)

Date

Order with signature of Judge

Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul_Karim Memon

Date of hearing and Order: 05.05.2025

M/s. Naeem Iqbal and Talha Abbasi advocates for the petitioners

Mr. Ali Safdar Depar, AAG

ORDER

Adnan-ul-Karim Memon, J: The petitioners pray for directives to grant them career enhancement facilities, Judicial/Utility Allowances, and other emoluments equivalent to the Sindh High Court Establishment, and all benefits extended to the Sindh Services Tribunal employees from the date they received them.

2. Regular employees of the Advocate General Sindh's office filed this petition seeking the same service rights, particularly Judicial and Utility Allowances, as employees of the Sindh High Court Establishment.

3. The petitioner's counsel argued that the petitioner's jobs are alike, but prior requests for equal treatment (departmental representation "A" and communications "B") were unsuccessful. They viewed the Finance Department's inquiry into other provinces as a delaying tactic that disregarded provincial independence. The petitioner's counsel claimed unjustified discrimination, submitting similar work and office setups in the High Court premises, assisting the High Court of Sindh in judicial matters as the employees of the High Court are doing, despite unequal benefits. He pointed to this Court's prior observation (in C.P.No.D-4711 of 2018) suggesting parity and argued that the pay and allowance disparity is legally wrong. The counsel also mentioned Balochistan's move to equalize benefits for their Advocate General's office with their Services Tribunal. The petitioner's counsel contended that fairness and justice require equal pay and allowances for similar roles, and the Advocate General's office's location within the High Court indicates its integral connection. The counsel cited a Supreme Court ruling (**PLD 1993 SC 375**) on equal allowances for similarly situated individuals and argued that a prior this Court decision for High Court employees should apply to them, based on Supreme Court precedents (**1996 SCMR 1185, 2005 SCMR 499**). He further relied upon the case of *Amanullah Khan Yousufzai vs. Federation of Pakistan & others*, **PLD 2011 Karachi 451**. He lastly prayed that the petition may be allowed.

4. The learned Assistant Advocate General (AAG) argued against the petition's maintainability. He explained that the petitioners, being civil servants under the Sindh Civil Servants Act of 1973, are in a different employment category than Sindh High Court Establishment employees, whose service is governed by separate rules under Article 208 of the Constitution. The AAG acknowledged the special allowance granted to the petitioners following this Court's directive but pointed out that this was contingent on the Supreme Court's approval, against which the government has filed appeals (CPLA Nos. 1141-K to 1148-K and 1176-K of 2018). He submitted that the Supreme Court's reservations were about creating unfunded financial obligations and interfering with government salary policy. The AAG stressed that judicial allowance is specifically for judicial officers performing judicial duties, unlike the petitioners who provide administrative support. He asserted that civil servants received all applicable financial benefits according to government regulations. He cited the recent dismissal of a similar petition by Official Assignee employees (C.P. No D-3181 of 2010) as a relevant precedent. The AAG maintained that the petitioners have not faced discrimination, as they received benefits consistent with their civil servant status. He affirmed each province's autonomy in making its own financial decisions. He contended that the classification of employees for benefits is based on legal distinctions and reasonable criteria, thus not violating any law. He argued that equality does not require uniform application to individuals in different situations and that the government aims to reduce disparities within its financial limits. Lastly, the AAG reiterated that High Court employees are distinct from civil servants like the petitioners. While standard allowances apply universally, certain allowances are specific to categories or departments, such as the Special Judicial Allowance for the judiciary (the extension of which to the Advocate General's office is under appeal). He highlighted that in similar cases, Criminal Prosecution Service employees only received Special Judicial Allowance, not Utility Allowance. Based on the Supreme Court's observations in the pending appeals, the AAG urged the dismissal of the current petition.

5. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

6. The central question is whether the legal framework distinguishes between employees of the High Court and the Advocate General's office, and consequently, whether both are entitled to the same special judicial allowance.

7. The learned AAG highlighted that Sindh High Court employees are governed by rules under Article 208 of the Constitution, granting the

High Court authority over their service conditions. In contrast, employees of the Advocate General Sindh's office are civil servants under the Sindh Civil Servants Act, subject to government rules. The core function of High Court staff is to support judicial functions directly, involving the administration of justice. The special judicial allowance recognizes the demanding and sensitive nature of these duties and the need for judicial independence. Advocate General's office employees, while in the legal field, perform executive functions related to government legal advice and representation, not the direct exercise of judicial power. Article 208 gives the High Court autonomy in managing its employees' benefits. The Advocate General's office, being a government department, is subject to executive control regarding pay and allowances, considering budgetary constraints and equal pay principles. While petitioners cite past observations suggesting parity, the AAG pointed to the dismissal of a similar petition by Official Assignee employees and pending Supreme Court appeals, indicating the issue of extending the special judicial allowance is not settled and allows for considering the distinctions between the two employee groups.

8. In Registrar, Supreme Court of Pakistan v. Qazi Wali Muhammad (1997 SCMR 141), the Supreme Court reiterated its stance from Government of Punjab v. Mubarik Ali Khan (PLD 1993 SC 375). In Mubarik Ali Khan, case the Court held that High Court employees are not civil servants under the Civil Servants Act because the legislature has no role in determining their terms and conditions, ensuring judicial independence as per the Constitution. The Court in Qazi Wali Muhammad noted this exclusion. Applying this analogy, the Sindh High Court suggests treating High Court establishment employees and the Advocate General's Office employees similarly in terms of their connection to the administration of justice. While Advocate General's Office employees are civil servants (the office being constitutional under Article 140), their function is to assist the High Court. However, this view is tentative, based on the Sindh High Court's earlier decision in Amanullah Khan Yousufzai (allowing judicial allowance to the Advocate General's Office). The Sindh High Court has not differentiated between these two sets of employees while granting the similar relief, unless the Supreme Court overturns the Amanullah Khan Yousufzai decision.

9. The parties stated that in a previous petition (No. 4711/2018) by the same petitioners, the Sindh Finance Department had already revised the Special Judicial Allowance for Judiciary employees (to one initial current basic pay + 50% running basic pay from three times the 2008 basic pay, effective July 1, 2018, as per earlier court orders). The Finance Department had also affirmed that this revision applied to the Advocate

General's office employees, contingent on the Supreme Court's decision in pending appeals, as they were already receiving it. Consequently, this Court, via order dated October 26, 2018, granted the same relief to the Advocate General's office employees and closed that case. Now, the petitioners' situation is similar to the relief granted to the Judiciary employees. Therefore, to prevent discrimination, and without dilating upon the aforesaid proposition, this Court directs the competent authority of the respondents to treat the petitioners equally with the Judiciary employees regarding perks and privileges in terms of the order dated 26.10.2018 passed in C.P No. 4711 of 2018. This directive is subject to the outcome of CPLA Nos. 1141-K to 1148-K and 1176-K of 2018, and the aforementioned action must be completed within three months. This petition is thus disposed of under these terms. A copy of this order shall be provided to the respondents' office for timely compliance.

JUDGE

Head of the Cost. Benches