

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-5691 of 2019

(*Sharjeel Akhtar & others 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: 06.05.2025

Malik Naeem Iqbal advocate for the petitioner along with Muhammad Saleem Khaskheli and Mr. Muhammad Talha Abbasi advocate.

Mr. Ali Safdar Depar Assistant Advocate General

ORDER

Adnan-ul-Karim Memon, J: The Petitioners request this Court to order the Respondents to extend the benefit of revision in Judicial Allowance and utility allowance at par with the employees of the Establishment of Sindh High Court, and failure thereof is illegal and discriminatory.

2. Permanent employees of the District Judiciary Sindh (including Anti-Terrorism Courts) are petitioning for the same Judicial and Utility Allowances as the staff of the Sindh High Court Establishment receiving.

3. The counsel for the petitioners contended that the petitioners face discrimination despite being under the High Court's administrative control and performing similar duties. The Petitioners pointed out a 2008 Chief Justice order granting these allowances (20% Judicial and 10% Utility of basic pay), which the Sindh Government initially followed until 2011. He submitted that the subsequent government freeze on percentage-based allowances may not apply because the Chief Justice of this court sanctioned them. He further highlighted that later government revisions to Utility Allowance (2012, 2017) and similar allowances in other provinces and within the Sindh High Court and Service Tribunal were not extended to them. Asserting the Chief Justice's authority over their allowances, he claimed that this denial of equal benefits violated Article 25 of the Constitution. He cited court precedents supporting parity between the High Court and subordinate judiciary staff and sought a court declaration of discrimination and an order for the Respondents to grant them revised Judicial and Utility Allowances with back pay, matching the Sindh High Court Establishment. He prayed to allow the petition.

4. The learned Assistant Advocate General (AAG) argued that although the Petitioners work in the District Judiciary under the High Court's supervision, their demand for equal allowances requires a detailed comparison of their appointment rules, responsibilities, hierarchy, and service policies with those of the Sindh High Court Establishment. The

AAG pointed out that the Sindh Judicial Staff Service Rules, formulated by the Chief Justice, govern the District Judiciary's service, with the government setting pay and allowances. Citing Civil Service Regulations that do not mention "Judicial Allowance," the AAG submitted that this was introduced by the Supreme and High Courts for their staff. The AAG suggested the High Court Registrar could provide more clarity on the issue. Additionally, the AAG informed the court about similar successful petitions, against which the government has sought leave to appeal in the Supreme Court, emphasizing concerns about the substantial financial implications of immediate payments without budgetary allocation and the principle that courts should not interfere with government policy on employee compensation. Furthermore, the learned AAG clarified that the Sindh High Court Establishment received the claimed allowances based on High Court directives. In contrast, the subordinate judiciary's Utility Allowance is frozen at 10% (since 2011), and Judicial Allowance is provided at fixed rates to specific judicial officers. The AAG also highlighted the existing Special Judicial Allowance for the subordinate judiciary (equivalent to one initial basic pay plus 50% of the current basic pay according to BPS 2017), suggesting they are already a well-compensated group. The AAG concluded by stating that granting the Petitioners' request would incur an annual cost exceeding Rs. 1.5 billion, significantly straining the government's finances, and therefore urged the court to dismiss the petition due to these financial limitations.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. District Judiciary employees demand the same revised Judicial and Utility Allowances as the Sindh High Court Establishment, citing shared administrative control and similar functions, invoking constitutional equality. While both receive a "Special Judicial Allowance," the core issue is parity in the original Judicial (20%/fixed rate) and Utility (10%/frozen) Allowances. The High Court directly controls its establishment's allowances under the 2006 Rules, with the Chief Justice having special allowance authority. Conversely, the District Judiciary's allowances are government-determined under the Sindh Judicial Staff Service Rules 1992, a key argument of AAG against parity. The High Court previously directed the inclusion of Special Judicial Allowance in its employees' pensions, contested by the government advocating uniform pension rules. The AAG also cites a potential PKR 1.5 billion annual cost for granting the District Judiciary's demand. The Sindh High Court's grant of Special Judicial Allowance to its staff in the Amanullah Khan Yousufzai case (PLD 2011 Karachi 451) is under Supreme Court appeal, potentially impacting its relevance.

7. This Court recognizes similar work, responsibilities, and standing between High Court establishment and district judiciary employees, despite different tiers, as both contribute to provincial justice administration. The High Court's administrative control under Article 203 of the constitution supports equal treatment under the "rule of parity." This applies to pay scales (equal pay for equivalent grades), standardized allowances (Judicial and Utility, with High Court percentage revisions extending to the district judiciary), other benefits (medical, housing, etc.), and pension benefits (if allowances are pensionable for High Court employees, the same should apply to the district judiciary). The rule of parity mandates equal treatment for similarly situated groups without discrimination in terms of Article 25 of the Constitution. The Government of Sindh is under its obligation to treat the employees of entire judiciary equally, so far as their perks and privileges are concerned without discrimination.

8. This petition is disposed of with the aforementioned directions; the respondents No. 1 to 4 are directed to act accordingly and the case of the petitioners shall be treated at par with the employees of Sindh High Court Establishment, subject to the outcome of the petitions pending before the Supreme Court on the subject issue.

JUDGE

Head of the Cost. Benches