

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-7606 of 2017

(*Khurram Faizan v Province of Sindh & others*)

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| Date | Order with signature of Judge |
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Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul_Karim Memon

Date of hearing and Order: 27.05.2025

M/s. Muhammad Aibak Ali Shah and Nadir Rajput
advocate for the petitioner.

Mr. Ali Safdar Depar Assistant Advocate General

along with Dr. Liaquat Ali Abro and

Nadeem Qurshi Law officers, Law department, Government of Sindh

ORDER

Adnan-ul-Karim Memon, J: The petitioner requests this court to:

1. Affirm the legality and continued validity of the notification dated January 22, 1999, issued by respondent No. 5, granting two advance increments for an LL.B. degree. The petitioner asserts the Chief Justice of the Sindh High Court has the authority to issue such orders, and the executive's denial is contemptuous.
2. Declare the petitioner and all other employees of the Subordinate Judiciary, entitled to these two advance LL.B. increments as per the January 22, 1999, notification.
3. Order respondents No. 2 and 4 to immediately pay the two advance LL.B. increments, along with all accumulated arrears, to the petitioner and other eligible employees of the Subordinate Judiciary, effective from their respective LL.B. exam passing dates.
4. Declare the petitioner, and all other employees of the District Judiciary, Karachi-West, entitled to an LL.M. Allowance of Rs. 5,000/- per month (50% of the Ph.D. Allowance), consistent with practices in other provinces.
5. Declare the notification dated September 19, 2016, which deprives the petitioner of the LL.M. Allowance, illegal, unlawful, and malicious. The petitioner argues this notification is discriminatory, issued in bad faith, and violates Articles 25 and 38 of the Constitution of Pakistan 1973.
6. Direct respondents No. 1 and 2 to issue a new notification for the LL.M. Allowance for the petitioner and all other eligible employees of the Subordinate Judiciary, effective from their LL.M. exam passing dates, and to pay all accrued arrears.
7. Set aside the order of removal from service, deeming it illegal, unwanted, and uncalled for. The petitioner further requests reinstatement to service with continuity and all consequential/back benefits, as he has been unlawfully unemployed since 2009.

2. The petitioner, a BPS-15 Stenographer at the District and Sessions Court, Karachi West, holds multiple degrees, including a B.Com, LL.B., and LL.M. He claims the respondents have unjustly withheld his rightful service benefits based on his higher qualification. Specifically, after completing his LL.B. in 2015, he requested two advance increments. This request was based on a 1996 Supreme

Court judgment and a January 22, 1999, Sindh High Court notification that explicitly granted these increments to subordinate judiciary staff with LL.B. degrees, effective December 1, 1998. However, respondent No. 2 denied his request in 2014, citing a 2001 discontinuation of advance increments.

3. The petitioner's counsel argued that respondent No. 2's 2001 discontinuation of advance increments did not apply to LL.B. increments, as these were based on separate, unchallenged Supreme Court and High Court orders specific to the subordinate judiciary. The counsel emphasized the Chief Justice of this Court's authority to grant such benefits, citing a fully complied-with 2017 notification. Furthermore, respondent No. 3 had previously granted LL.B. increments to the Advocate General Sindh's staff, overriding respondent No. 2's advice. The petitioner's counsel asserted that the respondents' refusal was contemptuous and an illegal denial of a vested right. Regarding the LL.M. Allowance, the petitioner, after obtaining his LL.M. in 2017, applied for a Special LL.M. Allowance of Rs. 5,000/- per month. This was denied because it was not sanctioned for ministerial staff. The counsel contended that the September 19, 2016, notification, which increased the LL.M. Allowance, maliciously used the term "Officers," leading the Accountant General of Sindh to deny the benefit to "Officials" (BPS-1 to BPS-16). The petitioner's counsel highlighted that Judges, Law Officers, and Prosecutors have already received this allowance, and similar M.Phil. and Ph.D. allowances are granted universally across Sindh and other provinces. He argued that denying the LL.M. allowance to officials of the District Judiciary is discriminatory, illegal, and violates constitutional Articles on equality and social justice, emphasizing the need for fair treatment and pay rationalization consistent with other provinces. The counsel also submitted that the financial burden of pursuing higher legal education is due to the scarcity of Ph.D. scholars in law. He prayed to allow this petition.

4. The learned Assistant Advocate General (AAG) contended that the advance increments for LL.B. degrees were discontinued by the Finance Department, Government of Sindh, effective December 1, 2001, as per their letter dated February 24, 2014 (FD(SR-1)3(3)/2014). Furthermore, the AAG stated that only officers serving in the Judiciary, Law Department, Prosecution Department, and cadre officers (APUG/PAS/PSS/Ex-PCS) were/are entitled to the LL.M. Degree special allowance. This is in accordance with the Finance Department, Government of Sindh's letter dated September 19, 2016 (FD(SR-III)5-6/2016). He prayed for dismissal of the 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. Commenting upon the AAG's argument that district judiciary staff, like stenographers, are not "officers" and thus ineligible for higher qualification increments: While provincial Civil Servants Acts and High Court rules typically categorize stenographers as ministerial staff rather than "officers" (a term generally reserved for those in BPS-16 and above, with decision-making or judicial authority), this distinction shouldn't preclude them from benefits. Despite their supportive role, it is unjust to deny district judiciary staff the benefits of higher qualifications if other employee categories receive them. Discriminating against stenographers based on their "staff" designation versus "officer" status would violate Article 25 of the Constitution, which prohibits discrimination. If they meet the criteria for such benefits, they should be allowed.

7. The petitioner is requesting several declarations from this court; that LL.B. increments are legal and apply to him and all subordinate judiciary employees, with immediate arrears. He also wants confirmation of his right to an LL.M. allowance of Rs. 5,000/-, as per the September 19, 2016, notification, complete with arrears. This request comes with the general understanding that advance increments for higher qualifications were largely stopped on December 1, 2001. However, an LL.M. allowance, consistent with the September 19, 2016, notification for the Criminal Prosecution Department, Government of Sindh, should have been extended to LL.M. degree holders. Besides 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. This notification specifically provided relief to judicial officers, Law Department, Prosecution Branch, and cadre officers (APUG/PAS/PSS/ex-PCS) with LL.M. degrees, effective October 24, 2013. An excerpt from the September 19, 2016, notification from the Finance Department, Government of Sindh, reads:

“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 Page 2 of 4 (APUG/PAS/PSS/ex-PCS) holding LL.M Degree with effect from 24th October 2013.”

8. The question of granting incentives to officers and staff who acquired 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.

9. The petitioners' case appears to be similar to that of Muhammad Afzal Soomro, previously decided by this Court, and aligns with I. A Sherwani and others vs. Government of Pakistan, **1991 SCMR 1081**. Therefore, in the interest of justice, the postgraduate/LL.M. degree allowance and its benefits should be extended to the employees of the District Judiciary. The purpose behind granting this incentive is evident from the **February 8, 2018, notification** issued by the Universities and Boards Department, Government of Sindh, which provided a monthly allowance of Rs. 2500/- to Ph.D. degree holders in Public Sector Universities. Consequently, we direct the Finance Secretary, Sindh and Chief Secretary Sindh to examine the petitioners' case considering this notification and the dicta laid down by the Supreme Court of Pakistan in the aforementioned case and make a policy decision on the same.

10. The instant petition stands disposed of in the above terms.

JUDGE

Head of the Const. Benches