

# THE HIGH COURT OF SINDH, KARACHI

Present:

*Justice Mohammad Karim Khan Agha*  
*Justice Adnan-ul-Karim Memon*

## **CP No.D-5254 of 2021**

[Muhammad Iqbal and others v Province of Sindh and others]

Petitioners: Through M/s Muhammad Talha Abbasi and Faizan Hussain Memon advocates

Respondents: Through Mr. Ali Safdar Deepar Assistant Advocate General Sindh

Date of hearing: 14.05.2025

Date of decision: 21.05.2025

## **JUDGEMENT**

**Mohammad Karim Khan Agha, J.**— The petitioners seek directions to the respondents to allow them annual increment in Special Allowance w.e.f 2007 at par with the increment granted to other similarly placed officers with arrears.

2. Succinctly the relevant facts of the case are that petitioners, all of whom are Additional Prosecutor Generals (APG's) of Sindh, are seeking non-practicing allowance at par with the other similarly placed law officers like officers of Advocate General Sindh and Law Department, Government of Sindh. According to the petitioners, presently a fixed amount of Rs.75,000/- per month is being given to the petitioners, which was fixed in the year 2007, whereas keeping in view the inflation, it requires to be enhanced reasonably as has been done in the case of Prosecutor General and Officers of Advocate General Sindh as well as officers of Law Department from time to time. It is further contended that a summary has been floated in compliance of the order dated 17.01.2022, whereby vide order dated 01.02.2022, only Rs.15000/- have been enhanced as special allowance/ non-practicing allowance to the Additional Prosecutor Generals, which increase is totally discriminatory as compared to the non-practicing allowance being given to the similarly placed officers, hence the petitioners have no other alternate remedy have invoked the constitutional jurisdiction of this Court in order to have their non practicing allowance enhanced.

3. The basic argument of the petitioners is that they in effect perform the same work as law officers working at the office of the Advocate General Sindh and as such are entitled to the same non practicing allowance as they are entitled to equal treatment under the law. On the other handed learned AAG has argued that the petitioners case is on an entirely different footing as although they might

be law officers they are in effect civil servants who are governed by service rules which gives them a degree of security of tenure and are also entitles them to pensions when they retire whereas law officers working in the Advocate General's office serve at the pleasure of the Government of Sindh and as such have no security of tenure, have no defined service structure and are not eligible to receive a pension and as such they cannot be treated in the same way as the petitioners in terms of their amount of non practicing allowance and this being the case the petition should be dismissed.

4. We have heard learned counsel for the parties, perused the relevant record and considered the case law cited at the bar.

5. In order to give some context to the issue at hand we need to consider that up until 2006 there was no special legal department in Sindh dealing with criminal legal issues. All litigation concerning the Government of Sindh (GOS), both civil and criminal, was handled by the office of the Advocate General Sindh who is appointed under Article 140 of the Constitution. Law officers working under the Advocate General were appointed by the competent Authority initially being the Governor of the Province but more lately being the Chief Minister. The Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Ordinance was first promulgated in 2006 (which later became the Criminal Prosecution Service (Constitution, Functions and Powers) Act 2009 as amended from time to time and which was later modified in terms of method, qualifications for conditions of appointment vide Notification dated 28.11.2016 which essentially bi-furcated the work of the Advocate General's office into two parts. Namely criminal matters and non criminal matters. The criminal matters were dealt with by the newly established Prosecutor General's Office and its staff whereas the non criminal matters were dealt with by the Advocate General's office and its staff. Hence two different and separate offices were carved out of the Advocate General's office; one to deal with criminal matters on the one hand and non criminal matters on the other each having its own specialized staff and organizational structure. It is at this juncture that matters in terms of pay/salary, conditions and terms of service became more complicated.

6. Before proceeding further however we would like to point out that we are not examining any aspect of the terms and conditions service of advocates working in the Attorney General's office since in essence the crux of this petition concerns the amount of non practicing allowance paid to the APG's and the law officers working in the Advocate General's office since the lawyers working in the Attorney General's office are distinctive as they are not paid non practicing allowances as they are permitted under the law to do private legal practice in the courts in addition to conducting work on behalf of the Federation. Likewise law

officers in the National Accountability Bureau are not a useful comparison as these law officers have been appointed under the National Accountability Ordinance 1999 and are subject to their own terms and conditions of service as laid down in that Statute and their own service rules. Instead we are confining our selves in determining whether it is discriminatory to pay an APG a lower non practicing allowance to that of a law officer working in the Advocate General's office as in essence they were born from the same mother being the office of the Advocate General.

7. A non practicing allowance means what it says. Namely, if you work for the office of the Prosecutor General or the Advocate General because you can only confine your legal practice to either office to which you are a part of and are prohibited from doing any private legal practice you are compensated for this fact by being paid a non practicing allowance.

8. The APG's working for the Prosecutor General's office seek the same non practicing allowance as that being paid to an **Assistant** Advocate General. At first sight this seems entirely reasonable as they are both doing legal work for the Government albeit one dealing with criminal matters and the other dealing with non criminal matters and as such since they are doing the same of work for the Government of Sindh albeit of a different nature and both ultimately are under the Law Department of the Government of Sindh and it is the Government of Sindh which is responsible for paying them and from whom they seek instructions and they should both be paid the same non practicing allowance as to do otherwise would be discriminatory and in violation of Article 25 of the Constitution.

9. We, however, need to consider this aspect in a much deeper and more holistic manner as in effect APG's working for the Prosecutor General's office and advocates working for the Advocate General's office have different qualifications and modes of appointment and terms and conditions of service.

10. For example, under the Sindh Law officer (conditions of Service) Rules 1940 an Assistant Advocate General under Section 3 D can be appointed by the Chief Minister from amongst any lawyer providing that he has not less than 5 years standing as a lawyer of the High Court. He serves during the pleasure of the Government and in effect has no security of tenure and is not entitled to any pension even if he reaches superannuation. They might be public servants but they are not civil servants. The rule of serving at pleasure was in respect of lawyers serving in the Advocate General's office was affirmed by a Divisional Bench of this court when dealing with the termination of a number of law officers from the Advocate General's office in CPD.No.6954/2020 etc dated 13.08.2021 where it was held as under;

**“11. The learned counsel for the petitioners argued that the petitioners were appointed as Additional Advocate General Sindh and Assistant Advocate General Sindh for a minimum period of three years and as such their post was a tenure post that could not have been prematurely terminated save following the applicable laws and procedure. It may be noted that for the post of Additional Advocate General neither the tenure is provided in Rules, 1940 nor in the amendment made through a notification dated 09.04.2018. As per rule 4(3) of the Sindh Law officers (conditions of Service) Rules, 1940, the tenure of Assistant to the Advocate General, a Government pleader or public Prosecutor is three years in the first instance and thereafter during the pleasure of the government. Whereas Rule 4(1) provides that all law officers hold office during the pleasure of the government. But one thing is strikingly clear, the provisions of rule 4 (3) are subject to rule 4 (1) as is obvious from its language 'Subject to the other provisions contained in this rule, a person appointed as Assistant to the Advocate-General,.....' pleaders. The term of 3 years appearing in rule 4 (3) is dependent on the rule (1) which makes the pleasure of government a foremost consideration for continuing services of the petitioners. The doctrine of pleasure of government has its origin in the common law of England. The term was used first regarding the tenure of a civil or public servant appointed by the Crown and had the right to hold office at the pleasure of the Crown and until the Crown deems it necessary to. The source of pleasure doctrine is that it is a historical rule of common law that a public servant under the British Crown had no fixed tenure but held his/her position at the absolute discretion of the Crown. The pleasure doctrine is not based upon any special prerogative of the Crown but is based on public policy and is in the public interest and for the public good. The public is extremely interested in the efficiency and integrity of the civil servants and therefore, public policy and public good demand that the civil servants who are insufficient, dishonest, or corrupt or have become a security risk should not continue in the service. The Doctrine of Pleasure, which has been recognized in Article 140 of the Constitution of Pakistan wherein the post of the Advocate General, etc. is held to be at the pleasure of government terminable at its will, is not alien to dictates of the law.”**

11. On the other hand under the Sindh Prosecutors (Appointment and Conditions of Service) Rules 2006 as modified in terms of method, qualifications for conditions of appointment vide Notification dated 28.11.2016 provides as under for a much rigorous method of appointment. The aforesaid Notification is set out below for ease of reference;

Extraordinary



Registered No.M324

## THE SINDH GOVERNMENT GAZETTE

Published by Authority

KARACHI MONDAY NOVEMBER 28, 2016

### PART-I

Government of Sindh  
Law Department

Notification

No.S.Reg: 1(8)2016/224

Karachi, dated the 28<sup>th</sup> November, 2016.

No.S.REG: 1(8)2016:- In pursuance of rule 3 of the Sindh Criminal Prosecutors (Appointment and Conditions of Service) Rules, 2006 read with sub-rule (2) of 3 of the Sindh Civil Servants Appointment, Promotion and Transfer) Rules, 1974, and in pursuance of the decisions of the Hon'ble Supreme Court in CrI. Org. 89/2011 and Civil Revision Petition No.194/2013, and in supersession of all notifications issued in this behalf, and in consultation with the Services, General Administration and Coordination Department, Government of Sindh, the method, qualifications and other conditions for appointment in respect of the posts in the Criminal Prosecution Service Wing, Law Department, Government of Sindh, mentioned in column 2 of the table below shall be as laid down in columns 3, 4 and 5 thereof:-

Table

S.NO.	NAME OF POST WITH BS	METHOD OF APPOINTMENT	QUALIFICATION AND EXPERIENCE FOR INITIAL APPOINTMENT	AGE LIMITED MIN-MAX
1.	2.	3.	4.	5.
<u>OFFICE OF THE PROSECUTOR GENERAL SINDH</u>				
1.	Additional Prosecutors General (BS-19)	(i) Fifty percent by initial appointment <b>through the Sindh Public Service Commission;</b> and  (ii) <b>fifty percent by promotion from amongst the Deputy Prosecutors General (BS-18), having at least twelve years' service as such in BS-17 and above or seven years' Service in case of initial appointment in BS-18, on seniority-cum-fitness basis, or</b>	Law Graduate from a recognized University having at least <b>ten years standing at the Bar and not less than eight years as an Advocate of High Court;</b> provided that the length of standing at Bar would be reduced by two years, in case the candidate holds Barrister or Post Graduate degree in Law	32-----38

12. It is quite apparent that the procedure to be appointed as an APG is far more stringent and rigorous than that of being appointed to the Advocate General's office to serve at the pleasure of the Government where an Assistant Advocate General only requires not less than 5 years experience as a practicing

advocate whereas to be appointed as a APG a candidate has to be selected by the Sindh Public Service Commission where he has to undergo, exams and tests and compete with many other aspiring candidates. Having a minimum number of years of High Court practice alone is insufficient to be appointed as an APG.

13. In addition under The Sindh Criminal Prosecution Service (Constitution, Powers and Functions) Act 2009 as amended from time to time section 14 sets out the terms and conditions of service of an APG as under;

***“Terms and conditions of service.- Subject to the provision of this Act and the rules, members of the Service, including the staff, shall be appointed and governed under the Sindh Civil Servants’ Act, 1973 (Sindh Act No.14 of 1973) and rules made thereunder.***

14. The fact that APG’s are civil servants is fortified by the following Notification dated 09.06.2009 concerning the appointment of assistant prosecutor generals which is set out below for ease of reference

*“GOVERNMENT OF SINDH  
LAW DEPARTMENT  
(CRIMINAL PROSECUTION SERVICE)  
Karachi dated the 19<sup>th</sup> June, 2009*

#### **NOTIFICATION**

No.SO(G)CPS/3-48/07: **On the recommendation of the Sindh Public Service Commission and with the approval of the Competent Authority**, on acceptance of the offer, the following persons are appointed as Assistant Prosecutor General (BS-17), Assistant District Public Prosecutors (BS-17) and Assistant Directors (Monitoring, Implementation and Evaluation) (BS-17), in the Criminal Prosecution Service, **on regular basis, on the terms and conditions regulated by the Sindh Civil Servants Act, 1973 and the Rules framed there under:-**

#### **ASSISTANT PROSECUTORS GENERAL (BS-17)**

Sr.	Name	Father’s Name
1.	Mr. Ali Haider Salim Shaikh	Mohammad Salimuddin Chisti
2.	.....	
3.	.....(bold added)	

Likewise the offer of appointment as Assistant Prosecutors General (BS-17) dated 17.05.2008 which is reproduced below for ease of reference:

*“NO.SO(G)CPSD/3-48/2008/409  
GOVERNMENT OF SINDH  
LAW DEPARTMENT  
(CRIMINAL PROSECUTION SERVICE  
DEPARTMENT)  
Karachi dated the 17<sup>th</sup> May, 2008*

To,

Muhammad Iqbal Awan,  
S/o. Muhammad Boota Awan,

SUBJECT: OFFER OF APPOINTMENT AS ASSISTANT PROSECUTOR  
GENERAL (BPS-17)

*On your selection by Sindh Public Service Commission you are hereby offered a post of Assistant Prosecutor General (BS-17) in Criminal Prosecution Service Department, on the following terms and conditions:-*

- (i) *Your appointment will be subject to certificate of your physical fitness by the Medical Board and verification of your character and antecedents.*
- (ii) *You will be on probation for the period of 02 years with effect from the date of joining, extendable by order either before or after its termination by further period not exceeding to two years, provided that if no order has been made by the day of following the termination of either of aforementioned probationary periods, the appointment shall be deemed to be held until further orders.*
- (iii) *You will be governed by the Sindh Civil Servants Rules, 1973-75, as amended from time to time and the instructions in force relating to the service, the Sindh Civil Services Act, 1973, and the rules made there-under and Sindh Criminal Prosecution Service (Constitution, Functions & Powers) Ordinance, 2006.*
- (iv) *Your seniority will be counted in the cadre of Assistant Prosecutor General, in Criminal Prosecution Service Department, from the date of your regular appointment.*

2. *If you accept the offer on the above terms and conditions, please communicate your acceptance to the undersigned within 14 days of the receipt of this letter, failing which this offer shall stand cancelled. Also please fill in the attached Performa (in triplicate) and return to the undersigned alongwith your acceptance of offer.(Bold added)*

*Sd/-*  
*(ABDUL MAJEED MEMON)*  
*SECTION OFFICER (GENERAL)”*

15. Like wise the 2016 Notification as referred to above provided in material part as under;

“In pursuance of rule 3 of the Sindh Criminal Prosecutors (Appointment and Conditions of Service) Rules, 2006 read with sub-rule (2) of 3 of the Sindh Civil Servants Appointment, Promotion and Transfer) Rules, 1974, and in pursuance of the decisions of the Hon'ble Supreme Court in CrI. Org. 89/2011 and Civil Revision Petition No.194/2013, and in supersession of all notifications issued in this behalf, and in consultation with the Services, General Administration and Coordination Department, Government of Sindh, the method, qualifications and other conditions for appointment in respect of the posts in the Criminal Prosecution Service

Wing, Law Department, Government of Sindh, mentioned in column 2 of the table below shall be as laid down in columns 3, 4 and 5 thereof:-

16. Section 14 makes the APG's Civil Servants who are governed by the Sindh Civil Servant's Act, 1973 (Sindh Act No.14 of 1973) and rules made there under and as such they have a measure of job security and cannot be removed on the pleasure of the Government without notice like a law officer in the Advocate General's office.

17. In essence, APG's unlike lawyers in the Advocate General's office are a part of a structured cadre with career opportunities, protected employment rights, who even have the right to be paid a pension depending on their length of qualifying service and are thus distinct from the lawyers who work in the Advocate General's office. To compare the two is like comparing apples with oranges.

18. As mentioned earlier the crux of the APG's grievances are that they are being paid a lower non practicing allowance than those advocates working in the Advocate General's office which is discriminatory however as again mentioned earlier we cannot look at this single aspect in isolation but rather holistically when comparing the financial packages and other employee rights of the APG's and advocates of the Advocate general's office which we shall attempt to do by setting out below a pay slip of an Assistant Advocate General and that of an APG by way of comparative analysis.

**19. Pay slip of an Assistant Advocate General**

**Government of Sindh  
Accountant General Sind, Karachi  
Monthly Salary Statement (April-2025)**

**Personal Information of XXXXXXXX**

Personnel Number: 10788277      CNIC: 4200076468899      NTN:  
Date of Birth: 29.08.1974      Entry into Govt. Service: 01.11.2013      Length of  
Service: 11 Years 06 Months 001 Days

**Employment Category: Regular / Contract**

Designation: **ASSTT: ADVOCATE GENERAL**      40000017-Law, Parl Aff & H.Rights

DDO Code: KQ0352-ADVOCTATE GENERAL KARACHI

Payroll Section: 005      GPF Section: 006      Cash Center:

GPF A/C No:      Interest applied: No      **GPF Balance: 0.00**

Vendor Number: 300786678- XXXXXXX **MCB**.A/C 0048462481003165

**Pay and Allowances:**      Pay scale: BPS For - 2016      Pay Scale Type: Civil      BPS: 20      Pay Stage: 0

Wage type		Amount	Wage type		Amount
0033	Fixed Basic Pay	<b>104,000.00</b>	1769	House Rent (General) Allow	60,000.00
1869	None Practice All (Adv	325,000.00			



	Gen)				
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**Deductions - General**

Wage type		Amount	Wage type		Amount
3609	Income Tax	-109,900.00			

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance
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**Deductions - Income Tax**

Payable: 1,318,799.65 Recovered till April-2025: 1,099,000.00 Exempted: 0.11-

Recoverable:219,799.76

**Gross Pay (Rs.): 489,000.00      Deductions: (Rs.): -109,900.00      Net Pay: (Rs.):**

**379,100.00**

Payee Name: XXXXXXXX

Account Number: A/C 0048462481003165

Bank Details: MCB BANK LIMITED, 240003 ZAIBUNISA STREET ZAIBUNISA STREET, KARACHI

**Leaves:**            Opening Balance:            Aailed:            Earned:            Balance:

Permanent Address:

City: KARACHI

Domicile: SN - Sindh

Housing Status: No

Official Temp. Address:

City:

Email:

**20. Pay Slip of Additional Prosecutor General.**

**Government of Sindh**

Accountant General Sind, Karachi

**Monthly Salary Statement (April-2025)**

**Personal Information of XXXX**

Personal Number 10503292 CNIC: 42301 126642797

NTN:

Date of Birth: 02.12.1968 Entry into Govt. Service: 30.09.2008 Length of

Service: 16 Years 07 Months 002 Day

**Employment Category: Active Permanent**

Designation: **ADDL: PROSECUTOR GENERAL**

40000017-Law, Parl

Aff & H. Rights D

DDO Code: KQ0392-PROSECUTOR GENERAL C.P.S.D. KARACHI

Payroll Section: 005 GPF Section: 006 Cash Centre:

GPF/A/C No.SGA – 38827 Interest Applied: Yes GPF Balance: 1,264,692.00

Vendor Number: 30283998-XXXX A/C

**Pay and Allowances:** Pay scale: BPS For -2022 Pay Scale Type: Civil  
BPS-19 Pay Stage: 7

Wage Type		Amount	Wage Type		Amount
0001	Basic Pay	<b>119,550.00</b>	1001	House Rent Allowance 45%	13,284.00
1518	Entertainment Allowance	500.00	1546	Qualification Allowance	5,000.00
1875	Special Allowance 20%	90,000.00	1947	Medical Allow 15% (16-22)	1,986.00
2347	Adhoc Rel Al 15% (PS-17)	10,712.00	2350	Differential Allw (16-22)	22,637.00
2379	Adhoc Rel All 2023 30%	33,147.00	2396	Adhoc Rel All 2024 22%	26,301.00

**Deduction – General**

Wage Type		Amount	Wage Type		Amount
3019	GPF Subscription	-10,660.00	3506	Benevolent Fund Sind -19	-1,793.00
3508	Group Insurance Sindh	-1,625.00	3609	Income Tax	-52,768.00

**Deductions – Loans and Advances**

Loan	Description	Principal Amount	Deduction	Balance
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**Deduction Income Tax**

Payable: 624,930.00 Recoverable till April-2025: 519,395.00 Exempted: 0.18- Recoverable : 105,535.58

**Gross Pay (Rs.) 323,117.00 Deductions Rs.) -66,846.00**

**Net Pay: (Rs.) 256,271.00**

Payee Name: XXXXX Account Number:2041004180986005

Bank Details: NATIONAL BANK OF PAKISTAN, 232041, SINDH HIGH COURT BUILDING SINDH HIGH COURT

**Leaves:** Opening Balance: Aailed: Earned:  
Balance:

Permanent Address:

City: KARACHI

Domicile: SN Sindh

Housing Status: No

Official

Temp. Address

City:

Email.

21. By comparing the two pay slips it can be seen that whilst the APG gets a higher basic pay/salary the Assistant Advocate General gets a higher non practicing allowance than the APG. Whilst the APG receives six types of separate allowances the Assistant Advocate General only gets three.

22. Admittedly, the Assistant Advocate General receives a higher net pay than the APG but on the other hand the APG has greater job security as he is governed by Civil Servant rules 1973, he receives an annual pay increase and also receives a pension when he superannuates so he has these advantages in lieu of an overall lower non practicing allowance which all must be given some value and weight which which are not available to a lawyer from the Advocate General's office

who has no defined career structure and literally works at the pleasure on the Government on a “hire and fire” basis.

23. For the reasons mentioned above we find the cases of **Abdul Haleem Siddiqui V Federation of Pakistan** (2019 PLC (CS) 238 and **Province of Sindh V Prosecutor General** in Civil Petition 727-k dated 08.12.2011 (unreported) as relied upon by the petitioners as distinguishable based on the particular facts and circumstances of the case and taking a holistic view of the same rather than considering the aspect of a lower non practicing allowance in isolation.

24. If we were to find that the APG’s were entitled to the same non practicing allowance as the lawyers of the Advocate General’s office then there would be no end to it. As the lawyers of the advocate general’s office would then claim the same 6 allowances (as opposed to three which they were receiving) which the APG’s were getting including a higher salary and even claim for security of tenure and pensions.

25. As such based on the criteria as laid down in the case of **I.A.Sherwani V Government of Pakistan (1991 SCMR 1041)** which held as under:

*26. From the above cited cases the following principles of law are deducible:-*

*(i) that equal protection of law does not envisage that every citizen is to be treated alike in all circumstances, but it contemplates that persons similarly situated or similarly placed are to be treated alike;*

*(ii) that reasonable classification is permissible but it must be founded on reasonable distinction or reasonable basis;*

*(iii) that different laws can validly be enacted for different sexes, persons in different age groups, persons having different financial standings, and persons accused of heinous crimes;*

*(iv) that no standard of universal application to test reasonableness of a classification can be laid down as what may be reasonable classification in a particular set of circumstances, may be unreasonable in the other set of circumstances;*

*(v) that a law applying to one person or one class of persons may be constitutionally valid if there is sufficient basis or reason for it, but a classification which is arbitrary and is not founded on any rational basis is no classification as to warrant its exclusion from the mischief of Article 25;*

*(vi) that equal protection of law means that all persons equally placed be treated alike both in privileges conferred and liabilities imposed;*

*(vii) that in order to make a classification reasonable, it should be based--*

***(a) on an intelligible differentia which distinguishes persons or things that are grouped together from those who have been left out;***

***(b) that the differentia must have rational nexus to the object sought to be achieved by such classification.***

27. The learned Attorney-General has also referred in extenso certain passages from V.N. Shukla's Constitution of India, 7th Edition. Suffice to refer a passage wherein the learned author has inferred following principles as to classification with reference to various judgments of the Indian Supreme Court on Article 14 of the Indian Constitution:-

*"(a) A law may be constitutional even though it relates to a single individual if, on account of some special circumstances, or reasons applicable to him and not applicable to others, that single individual may be treated as a class by himself.*

***(b) There is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles. The person, therefore, who pleads that Article 14 (corresponding to Art. 25 of Pakistan Constitution) has been violated, must make out that not only has he been treated differently from others but he has been so treated from persons similarly circumstanced without any reasonable basis and such differential treatment has been unjustifiably made. However, it is extremely hazardous to decide the question of the constitutional validity of a provision on the basis of the supposed existence of facts by raising a presumption. Presumptions are resorted to when the matter does not admit of direct proof or when there is some practical difficulty to produce evidence to prove a particular fact.***

*(c) It must be presumed that the Legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience, and that its discriminations are based on adequate grounds.*

*(d) The Legislature is free to recognise the degrees of harm and may confine its restriction to those cases where the need is deemed to be the clearest.*

*(e) In order to sustain the presumption of constitutionality, the Court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation.*

*(f) While good faith and knowledge of the existing conditions on the part of the Legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the Court on which the classification may reasonably be regarded as based, the presumption of the constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and unknown reasons for subjecting certain individuals or corporations to hostile or discriminating legislation.*

*(g) A classification need not be scientifically perfect or logically complete.*

*(h) The validity of a rule has to be judged by assessing its overall effect and not by picking up exceptional cases. What the Court has to see is*

*whether the classification made is a just one taking all aspects into consideration."***(bold added)**

26. Considering the overall benefits and employment conditions, we conclude that the petitioner APGs have not been subjected to discrimination compared to the advocates in the Advocate General's office due to a lower non-practicing allowance. We certainly acknowledge the dedicated tireless work of the advocates in the Prosecutor General's office, who have consistently provided valuable assistance in our criminal case decisions. However, the determination of their basic pay, non-practicing allowances, other benefits, pensions, and job security rests ultimately with the government's policy decisions, taking into account any budgetary limitations.

27. For the reasons mentioned above, this petition is disposed of along with any pending applications with understanding that the APGs are receiving the non-practicing allowance less comparable to the lawyers of Advocate General's office, however, it is for the Government of Sindh to make a policy decision if it deems it appropriate to avoid such disparity between the two wings of the law offices of the Government of Sindh in non-practicing allowance keeping in view all the relevant factors of each office including without limitation terms and conditions of service.

28. Before, however, parting with this Judgment in appreciation of the hard work done by the Office of the Prosecution General and its staff who often have to deal with traumatic cases and cases which may even lead to life threats to them and their family we would strongly recommend that the Government of Sindh increase their non practicing allowance by a further amount so that the disparity between the APG's and advocates working in the Advocate Generals office is closer to one of parity. A gesture which we consider not only to be deserving and merited but would also serve to increase morale amongst the prosecutors serving in the APG's office and encourage good candidates to join the prosecution service which would only serve to strengthen that service.

29. A copy of this order shall be sent immediately to the Chief Secretary, Secretary Finance and Secretary law for information/action if deemed appropriate.

HEAD OF CONST. BENCHES

JUDGE