

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P No.3839-P/2017

JUDGMENT

Date of hearing.....27.02-2018.....

Petitioner: (Muhammad Khurshid Khan, Advocate in person).

Respondents: (Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar) By Mr. Waqar Ahmad Khan, AAG.

QALANDAR ALI KHAN, J.- Through the instant writ petition, Mr. Muhammad Khurshid Khan, Advocate Supreme Court, questioned grant of a person specific perks and privileges equal to a Judge of High Court to the incumbent Advocate General, inter alia, on the grounds that the impugned decision of the Provincial Government was not only proving extra burden on the limited financial resources of the Government; but was also an act of discrimination as allowances and other benefits were not increased in respect of the other Law Officers working in the office of Advocate General, Khyber Pakhtunkhwa. The

learned Advocate referred to various austerity measures of the Provincial Government in the face of financial crisis and paucity of resources in the province; but on the other hand extraordinary perks and privileges were allowed to the incumbent Advocate General, which were equal to a Judge of High Court sans application of age of retirement of a Judge of High Court i.e. 62 years. The learned petitioner, therefore, prayed for cancellation of Notification for grant of enhanced benefits to the incumbent Advocate General, increase in financial benefits to all the Law Officers working in the office of Advocate General and, last but not the least, require the Advocate General, Khyber Pakhtunkhwa, to tender resignation.

2. The writ petition was vehemently resisted by the Advocate General, Khyber Pakhtunkhwa, i.e. respondent No.4 who filed comments wherein besides raising several legal and factual objections, respondent No.4 highlighted his experience and achievements who claimed to be a senior lawyer and senior advocate of

the Supreme Court since long. Respondent No.4 refuted allegations of the petitioner with regard to failure on the part of the Provincial Government to also increase allowances and other perks and privileges of the Law Officers working in the office of Advocate General, Khyber Pakhtunkhwa. Respondent No.4 also pointed out that as compared to the package allowed to him the Government of Sindh had allowed a package of Rs:1800000/- per month to the Advocate General of Sindh vide Notification dated 19.05.2017. It was further pointed out that the issue of application of the retiring age of 62 years of a High Court Judge to the Advocate General, enjoying the same status, had already been settled by the august Supreme Court of Pakistan in the judgment reported in PLD 2011 Supreme Court 7.

3. Arguments of the learned petitioner and learned Additional Advocate General on behalf of the respondents heard, and record as well as relevant provisions of law and rules perused with their valuable assistance.

4. It may be observed, at the very outset that apart from inability on the part of the learned petitioner to substantiate allegations in his writ petition with supporting documents, the learned petitioner was also unable to show his locus-standi or his falling in the category of aggrieved person within the meaning of Article 199 of Constitution of the Islamic Republic of Pakistan, 1973. His other allegations with regard to discrimination and non increase of allowances etc in the case of other Law Officers in the office of Advocate General Khyber Pakhtunkhwa, proved without substance with submission of Notification of the Provincial Government dated 02.02.2015 relating to enhancement of different allowances in favour of the other Law Officers in the office of Advocate General, Khyber Pakhtunkhwa. There can be no two opinions that settlement of the terms and conditions of appointment of the Advocate General of the Province is the prerogative of the Provincial Government; and it is also a matter of common knowledge that terms and conditions are, normally, person specific, keeping in

view his knowledge and experience in the field. The petitioner did not question the knowledge and experience of the incumbent Advocate General, and based his case mainly on the financial constraints of the province in the light of austerity measure adopted by the Provincial Government.

5. As regards application of age limit for a High Court Judge i.e 62 years to the Advocate General, it may suffice to say that the issue has been laid at rest by this Court in the judgment dated 22.10.2013 in W.P No.2566-P/2013 with C.M No.810-P/2013 and Interim Relief; and by the august Supreme Court of Pakistan in the judgment reported as PLD 2011 Supreme Court 7.

6. The learned Additional Advocate General, representing the respondents, referred to a recent judgment of the august apex Court reported as PLD 2017 Supreme Court 121 and argued that after the august apex Court deprecated hiring of private counsel by the Government, the work load and responsibilities of the office of Advocate General have increased manifold, justifying increase in financial benefits to

the Advocate General as well as other Law Officers in
the office of Advocate General.

7. As such, the writ petition, being bereft of merit
and substance, is dismissed, accordingly.

Announced
27-02-2018

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M.Iqbal

*(D.B) Hon'ble Mr. Justice Ikramullah Khan.
Hon'ble Mr. Justice Qalandar Ali Khan.*