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SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Munib Akhtar
Mr. Justice Shahid Waheed
Ms. Justice Musarrat Hilali

(A.P.R.)

CIVIL APPEAL NO.894 OF 2015

[On appeal against the judgment dated 24.04.2015 passed by the Peshawar High Court, Peshawar, in Writ Petition No.2095-P of 2008]

*Secretary Finance, Government of Khyber
Pakhtunkhwa, Peshawar and another*

...Appellant(s)

VERSUS

Syed Jehangir Shah and others

...Respondent(s)

For the Appellant(s) : Mr. Zahid Yousaf Qureshi, ASC

For the Respondent(s) : Mr. Muhammad Asif Yousafzai, ASC

Date of Hearing : 29.11.2023

J U D G M E N T

Musarrat Hilali, J.— Through this appeal, the Appellant-Department has assailed the judgment dated 23.04.2015 passed by the Peshawar High Court, Peshawar, in Writ Petition No.2095-P of 2008, by which the Respondents were granted special allowance and utility allowance.

2. Brief facts of the case are that the Respondents while serving in the Solicitor Office, Law Department, Peshawar had been receiving special allowance @ 20% and utility allowance @ 10% of their basic pay from February, 2008 but such allowances were discontinued from July, 2008 on the ground that the employees of the Solicitor Office are not part of the Civil Secretariat, therefore, they are not entitled for such allowances and recovery of the paid allowances was started. Feeling aggrieved, the

Respondents filed a Writ Petition before the High Court, which was allowed vide the impugned judgment.

3. Heard. Record perused.

4. Let us have a look at the record which shows that in the year 1995 the Solicitor office was made part of the Law Department of NWFP Civil Secretariat (**'the Civil Secretariat'**) through a Notification dated 26.07.1995 which was issued in pursuance of a Summary approved by the then Chief Minister, NWFP. In February 2008, Finance Department, Government of NWFP (**'the Government'**) issued two letters, one granting special allowance @ 20% and the other granting 10% utility allowance to the officers and officials of the Civil Secretariat, Chief Minister's Secretariat and Governor's House/Secretariat, with effect from 1st February, 2008. By way of an amendment, the Government through Finance Department's letter dated 03.03.2008, also extended applicability of special allowance to all those employees who were (i) on deputation to Civil Secretariat (ii) the employees of Civil Secretariat who were posted outside Civil Secretariat and (iii) the government servants deputed from other departments who do not belong to Secretariat Service but were working in the Secretariat. The above allowances were also drawn by the Respondents but later payment of such allowances was discontinued on the ground that the employees of the Solicitor office were not part of the Civil Secretariat, therefore, not entitled for such allowances. The Government kept on denying said monetary benefit to the Respondents on one pretext or the other, which was ultimately granted by the High Court in Writ Petition No.2095-P of 2008. The High Court, while allowing the writ

petition held that as per Article 25 of the Constitution all citizens are equal before the law and are entitled to equal protection of law but the State is not prohibited to treat its citizens on the basis of a reasonable classification and by referring the case of **I.A.Sherwani** observed that the classification so made by the Government qua granting of said two allowances to specified employees while denying the same to other employees who are also posted inside the walled premises of the Civil Secretariat, cannot be termed as reasonable and amounts to offend the principle of equity before the law. The High Court noted that the office of the Solicitor having a separate entity in the Law Department is situated within the premises of the Civil Secretariat, therefore, the employees of the Solicitor office are similarly placed and are entitled to the grant of special allowance and utility allowance. The learned counsel for the Appellant could not point out any illegality or perversity in the impugned judgment, which is maintained. Resultantly, this appeal is dismissed.

ISLAMABAD

29.11.2023

APPROVED FOR REPORTING

Hashmi