

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE UMAR ATA BANDIAL, HCJ

MR. JUSTICE IJAZ UL AHSAN

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CIVIL PETITION NO. 2944 OF 2019**

(On appeal against the judgment dated 24.04.2019  
passed by the Islamabad High Court, Islamabad in  
Writ Petition No. 3805/2012)

Abdul Rehman and others

... Petitioners

**Versus**

Secretary, Ministry of Communication etc

... Respondents

For the Petitioners: Syed Asghar Hussain Sabzwari, ASC  
Mr. Mehmood A. Sheikh, AOR

For the Respondents: N.R.

Date of Hearing: 18.08.2022

**JUDGMENT**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J.-** Through this petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners have called in question the judgment dated 24.04.2019 passed by the learned Islamabad High Court, whereby the writ petition filed by the petitioners, praying that they may be treated at par with the other regular employees of the respondent department and given special allowances, was dismissed.

2. Briefly stated the facts of the matter are that the petitioners performed their duties in the National Highways and Motorways Police (NH&MP) as deputationists on different posts at different intervals. Beside other allowances, an allowance equal to one month's pay was admissible to the regular employees of the NH&MP but the petitioners were deprived of the said allowance. In June, 2001, the fixed daily allowance for those

performing operational duties was revised/enhanced but the petitioners were again not given the relief. Although, with effect from 1<sup>st</sup> of July, 2004, the daily allowance of the petitioners was increased but the petitioners wanted the same to be made applicable from back date i.e. June 2001. This led to their filing of Writ Petition Nos. 1989/2007 & 1446/2008 before the Islamabad High Court, which were disposed of on 22.07.2008 & 06.04.2009 with the direction that the petitioners shall file a representation and the respondents will dispose it of in accordance with law. When this could not be done, the petitioners filed Criminal Original Nos. 39-W & 40-W/2012 before the Islamabad High Court wherein a direction was issued to the respondents to record the submissions of the petitioners and pass a speaking order on their representation. However, ultimately the request of the petitioners was turned down by the respondent No. 2 i.e. Ministry of Finance vide order dated 30.04.2012. Being dissatisfied with the decision of the representation, the petitioners filed Writ Petition No. 3805/2012 before the Islamabad High Court but the same has been dismissed vide impugned order dated 24.04.2019. Hence, this petition seeking leave to appeal.

3. Learned counsel for the petitioners contended that vide order dated 13.10.1997, the Prime Minister had accorded approval to a summary whereby the employees of the newly created National Highway and Motorways Police were given special allowance equal to one extra pay on a monthly basis but the Ministry of Finance while rejecting the representation of the petitioners vide order dated 30.04.2012 did not take into consideration this aspect of the matter. He contended that this deviation is not only unlawful but is ultra vires the Constitution. Contends that there is no distinction between the regular and deputationist employees and both these categories cannot be treated differently. Lastly contends that the impugned judgment passed by the learned High Court is against the well settled principles of law, therefore, the same may be set at naught.

4. We have heard learned counsel for the petitioners at some length and have perused the record with his able assistance.

It is an admitted fact that the petitioners are not the regular employees of the National Highway & Motorways Police and they only served as deputationists on different posts at different intervals. So far as the officials transferred to National Highway and Motorway Police on deputation basis are concerned, their terms and conditions have been settled vide office memorandum dated 05.08.1997. On our specific query, learned counsel for the petitioners admitted that at the time of their deputation, the petitioners were duly informed about the terms and conditions of service being deputationist but they never raised any objection at that time. Although in the said office memorandum, the officials on deputation have been held entitled to several allowances but it is nowhere mentioned that the special allowance of one month's pay will also be admissible to them. The learned High Court has rightly observed that both the categories of regular and deputationist employees are distinct and the petitioners do not enjoy the status of regular employees. The main stay of the arguments of learned counsel for the petitioners was in the order dated 13.10.1997 passed by the Prime Minister wherein he had accorded approval of one extra pay on a monthly basis to the officials of motorway police but he failed to take notice of the fact that the same was meant for regular employees only, whose terms and conditions are governed under separate package. Even otherwise, we have noticed that the order dated 30.04.2012 of the Ministry of Finance clearly mentions that in a summary dated 09.05.2008 submitted by Ministry of Communications, the Prime Minister had not approved the demand of the petitioners for payment of special allowance equivalent to regular employees of Motorway Police because they are already enjoying extra benefits such as (i) one step promotion as compared to their parent department, (ii) deputation allowance @ 20% and (iii) special allowance @ 20% of the basic pay. We have been informed that the petitioners have been reverted back to their parent department long ago and they are now performing duties in their parent department. Learned counsel for the

petitioners could not point out any reason on the basis of which such extra burden on public exchequer could be justified when already the petitioners were enjoying extra benefits as compared to regular employees. Neither any legal right was available with the petitioners to claim such benefits nor the question of infringement of any vested right of the petitioners had arisen. In these circumstances, no case for interference is made out. The impugned judgment is well reasoned, proceeds on correct principles of law on the subject and does not require any interference by this Court. This petition having no merit is accordingly dismissed and leave to appeal is refused.

CHIEF JUSTICE

JUDGE

JUDGE

Islamabad, the  
18<sup>th</sup> of August, 2022  
Approved For Reporting  
**Khurram**