

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">D. Amir</p>	14.12.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 594/2014</p> <p style="text-align: center;">Date of Institution 28.04.2014 Date of Decision 14.12.2017</p> <p>Manzoor Ahmad Ex-PST Primary School Teacher, Government Primary School Soganday, (Kotha) Tehsil Topi, District Swabi.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. Government of Khyber Pakhtunkhwa, Department of Elementary & Secondary Education through its Secretary 2. Government of Khyber Pakhtunkhwa, Department of Finance, through its Secretary 3. Government of Khyber Pakhtunkhwa Department of Law, Justice and Parliamentary Affairs, through its Secretary 4. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar. 5. Accountant General, Khyber Pakhtunkhwa, Peshawar. <p style="text-align: right;">Respondents</p> <p><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Appellant present. Learned Deputy District Attorney for the respondents present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents and prayed for the grant of one premature increment on move-over from BS-7 to BS-8 on 01.12.1997 and one premature increment on move-over from BS-8 to BS-9 on 01.12.1999 and arrears of</p>

premature increments since then.

3. Appellant argued that upon reaching the maximum of his national pay scale he was twice allowed move-over in the next higher national pay scales. Further argued that upon move-over from BS-7 to BS-8 on 01.12.1997 he was not given one premature increment of BS-8 and that his pay in the BS-7 was 2695 P.M which was fixed in BS-8 as 2772 P.M thus the increase in pay was less than one increment of BS-8. Similarly argued that upon move over from BS-8 to BS-9 on 01.12.1999 he was also not given one premature increment of BS-9 as his pay in BS-8 was 2860 P.M which was fixed in the next scale of BS-9 as 2866 P.M and this increase in pay was also less than one increment of BS-9. Further argued that the appellant is entitled to premature increment and arrears thereof in accordance with formula laid down in rule 10(1) (i) of Khyber Pakhtunkhwa Civil Services Pay Fixation Rules 1978.

4. As against that learned Deputy District Attorney while opposing the present appeal argued that the next higher pay scale was not granted to the appellant as a result of his promotion rather the next higher pay scales were allowed on the ground that the appellant reached the maximum of national pay scale. Further argued that the pay of the appellant was rightly fixed in the next higher scale in accordance with Rule 8 of Khyber Pakhtunkhwa Civil Services pay fixation rules 1978. Further argued that Rule 10 (1) (i) of Khyber Pakhtunkhwa Civil Services Pay Fixation Rules 1978 is not attracted to the case of the appellant.

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5. Arguments heard. File perused

6. In the present case the appellant demands fixation of his pay in accordance with Rule 10 (1)(i) of Khyber Pakhtunkhwa Civil Services Pay Fixation Rules. On the other hand according to the respondent department Rule 8(1) of the Khyber Pakhtunkhwa Civil Services Pay Fixation Rules 1978 is applicable to the case of the appellant. Rule (8) (1), Rule (9) and Rule 10 (1)(i) of Khyber Pakhtunkhwa Civil Services Pay Fixation Rules 1978 are reproduced below for ready reference:

Rule 8 "Admissibility of next higher Revised National Pay

Scale-- (1): A civil servant holding post in the Revised National Pay Scales 1 to 15, who has reached the maximum of a Revised National Pay Scale shall be allowed the next higher Revised National Pay Scale with effect from the 1st day of December, of the year in which he completes one year of such service at the said maximum as counts for increment under these rules, subject to the condition that there is no adverse entry in the Annual Confidential Reports of the civil servant in the Revised National Pay Scale 4 to 15 for the last four years. If this condition is not fulfilled, he shall wait at the said maximum till he has earned in succession four Annual Confidential Reports without any adverse entry and his move over to the next higher Revised National Pay Scale shall take effect from the 1st day of December of the year, following the year for which he earns the fourth such annual confidential report.

Rule 9: Fixation of pay on promotion. When a civil servant is

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allowed to draw pay in the next higher Revised National Pay Scale under rule 8 or his post having been upgraded, his pay in the higher scale shall be fixed at a stage next above his pay in the lower scale.

Rule 10: Fixation of pay on promotion--- (1). subject to the provisions of Rule 11:


- (i) *Where a civil servant is promoted from a lower to a higher post in Revised National Pay Scales 2 to 19 where the stage in the Revised National Pay Scale of the higher post, next above the pay of the civil servant concerned in the pay scale of the lower post gives a pay increase equal to or less than a full increment of the pay scale of the higher post, the initial pay in the Revised National Pay Scale of the higher post shall be fixed after allowing a premature increment in the Revised National Pay Scale of the higher post;*

Perusal of Rule 8 (1), Rule 9 and Rule 10 (1) (i) *ibid* would show that Rule 8 (1) and Rule 9 would be applicable when a Civil servant has reached the maximum of a revised national pay scale and Rule 10 (1) (i) *ibid* would be applicable in case a civil servant is promoted from a lower to a higher post. Hence in case of appellant Rule 8 and 9 *ibid* shall be applicable. Rule 9 *ibid* clearly envisages that when a civil servant is allowed to draw pay in the next higher Revised National Pay Scale under Rule 8 or his post having been upgraded, his pay in the higher scale shall be fixed at a stage next above his pay in the lower scale. Appellant remained unable to substantiate that Rule 10 (1) (i) is applicable to his case.

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In the light of above discussion the present appeal being devoid of any substance is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
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<p style="text-align: center;">14.12.2017</p>		<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 594/2014</p> <p style="text-align: center;">Date of Institution 28.04.2014 Date of Decision 14.12.2017</p> <p>Manzoor Ahmad Ex-PST Primary School Teacher, Government Primary School Soganday, (Kotha) Tehsil Topi, District Swabi.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. Government of Khyber Pakhtunkhwa, Department of Elementary & Secondary Education through its Secretary 2. Government of Khyber Pakhtunkhwa, Department of Finance, through its Secretary 3. Government of Khyber Pakhtunkhwa Department of Law, Justice and Parliamentary Affairs, through its Secretary 4. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar. 5. Accountant General, Khyber Pakhtunkhwa, Peshawar. <p style="text-align: right;">Respondents</p> <p><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Appellant present. Learned Deputy District Attorney for the respondents present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents and prayed for the grant of one premature increment on move-over from BS-7 to BS-8 on 01.12.1997 and one premature increment on move-over from BS-8 to BS-9 on 01.12.1999 and arrears of</p>

premature increments since then.

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4. As against that learned Deputy District Attorney while opposing the present appeal argued that the next higher pay scale was not granted to the appellant as a result of his promotion rather the next higher pay scales were allowed on the ground that the appellant reached the maximum of national pay scale. Further argued that the pay of the appellant was rightly fixed in the next higher scale in accordance with Rule 8 of Khyber Pakhtunkhwa Civil Services pay fixation rules 1978. Further argued that Rule 10 (1) (i) of Khyber Pakhtunkhwa Civil Services Pay Fixation Rules 1978 is not attracted to the case of the appellant.

Dr. Amin

5. Arguments heard. File perused

6. In the present case the appellant demands fixation of his pay in accordance with Rule 10 (1)(i) of Khyber Pakhtunkhwa Civil Services Pay Fixation Rules. On the other hand according to the respondent department Rule 8(1) of the Khyber Pakhtunkhwa Civil Services Pay Fixation Rules 1978 is applicable to the case of the appellant. Rule (8) (1), Rule (9) and Rule 10 (1)(i) of Khyber Pakhtunkhwa Civil Services Pay Fixation Rules 1978 are reproduced below for ready reference:

Rule 8 "Admissibility of next higher Revised National Pay Scale-- (1): A civil servant holding post in the Revised National Pay Scales 1 to 15, who has reached the maximum of a Revised National Pay Scale shall be allowed the next higher Revised National Pay Scale with effect from the 1st day of December, of the year in which he completes one year of such service at the said maximum as counts for increment under these rules, subject to the condition that there is no adverse entry in the Annual Confidential Reports of the civil servant in the Revised National Pay Scale 4 to 15 for the last four years. If this condition is not fulfilled, he shall wait at the said maximum till he has earned in succession four Annual Confidential Reports without any adverse entry and his move over to the next higher Revised National Pay Scale shall take effect from the 1st day of December of the year, following the year for which he earns the fourth such annual confidential report.

Rule 9: Fixation of pay on promotion. When a civil servant is

allowed to draw pay in the next higher Revised National Pay Scale under rule 8 or his post having been upgraded, his pay in the higher scale shall be fixed at a stage next above his pay in the lower scale.

Rule 10: Fixation of pay on promotion--- (1). subject to the provisions of Rule 11:

- (i) Where a civil servant is promoted from a lower to a higher post in Revised National Pay Scales 2 to 19 where the stage in the Revised National Pay Scale of the higher post, next above the pay of the civil servant concerned in the pay scale of the lower post gives a pay increase equal to or less than a full increment of the pay scale of the higher post, the initial pay in the Revised National Pay Scale of the higher post shall be fixed after allowing a premature increment in the Revised National Pay Scale of the higher post;


Perusal of Rule 8 (1), Rule 9 and Rule 10 (1) (i) ibid would show that Rule 8 (1) and Rule 9 would be applicable when a Civil servant has reached the maximum of a revised national pay scale and Rule 10 (1) (i) ibid would be applicable in case a civil servant is promoted from a lower to a higher post. Hence in case of appellant Rule 8 and 9 ibid shall be applicable. Rule 9 ibid clearly envisages that when a civil servant is allowed to draw pay in the next higher Revised National Pay Scale under Rule 8 or his post having been upgraded, his pay in the higher scale shall be fixed at a stage next above his pay in the lower scale. Appellant remained unable to substantiate that Rule 10 (1) (i) is applicable to his case.


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		<p>In the light of above discussion the present appeal being devoid of any substance is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.</p>
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22.11.2017


♥ Counsel for the appellant present. Mr. Zia Ullah, Deputy District Attorney alongwith Mr. Zaki Ullah, Senior Auditor for the respondents present. Arguments heard. To come up for order on 07.12.2017 before D.B.



(Gul Zeb Khan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

07.12.2017

♥ Appellant in person present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Due to non-availability of concerned D.B order could not be announced. Adjourned. To come up for order on 14.12.2017 before D.B.

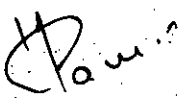

(Ahmad Hassan)
Member (E)


(Muhammad Amin Khan Kundi)
Member (J)

14.12.2017,

~~Learned counsel for the~~ Appellant present. Mr. Zia Ullah, Learned Deputy District - Attorney for the respondents present. Vide our separate judgment of today placed on file the present appeal being devoid of any substance is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

594/2014

18.01.2017

Appellant in person, Mr. Hameed-ur-Rehman, AD (lit.) and Mr. Zakiullah, Senior Auditor alongwith Mr. Muhammad Jan, GP for respondents present. Learned GP requested for adjournment as he intends to bring on record some rules which would be beneficial for decision. Request is accepted. Adjourned. To come up for arguments on 23.05.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER

23.05.2017

Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Record vide previous order dated 18.01.2017 was not produced by the respondents. The respondents are once again directed to produce the record on or before the next date of hearing. To come up for record and arguments 24.08.2017 before D.B.



(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

24.08.2017

Appellant in person and Asst:AG alongwith Mr. Abdur Rehman, SDEO and Mr. Zakiullah, Senior Auditor for respondents present. Appellant submitted copy of daily diary and dispatch dated 18.01.2014, which was handed over to the representative of the respondents for verification. To come up for verification and arguments on 22.11.2017 before D.B.


(Gul Zeb Khan)
Member


(Ahmad Hassan)
Member

19.07.2016

Appellant in person and Mr. Zakiullah, Senior Auditor alongwith Additional AG for the respondents present. Due to shortage of time arguments could not be heard. To come up for arguments on

~~13-10-16~~ before D.B.

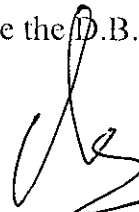

MEMBER



MEMBER

13.10.2016

Appellant in person and Mr. Hameedur Rahman, AD alongwith Addl. AG for the respondents present. Learned Addl. AG requested for adjournment as other service appeals of the appellant effecting the merits of the instant service appeal are also subjudice before this Tribunal. To be heard alongwith the said service appeals on 14.11.2016 before the D.B.

Member.




Chairman

14.11.2016

Appellant in person and Hameedur Rahman, AD and Zakiullah, Senior Auditor alongwith Assistant AG for respondents present. Mr. Muhammad Aamir Nazir, learned Member (Judicial) is on leave, therefore arguments could not be heard. To come up for final hearing on 18.01.2017 before the D.B.


Chairman

10.11.2015

Appellant in person, M/S Khurshid Khan, SO, Irshad Muhammad, SO, Hameed-ur-Rehman, AD (lit.) and Ansar Ahmed, AAO alongwith Addl: A.G for respondents present. Written reply by respondents No. 2 and 5 submitted while request was made on behalf of respondents No. 1, 3 and 4. Last opportunity granted. To come up for written reply/comments on behalf of respondents No. 1, 3 and 4 on 22.12.2015 before S.B.


Chairman

22.12.2015

Appellant in person, M/S Khurshid Khan, SO, Fazal-e-Ahad, Assistant, Hameed-ur-Rehman, AD (lit.) and Ansar Ahmed, AAO alongwith Addl: A.G for respondents present. Para-wise comments on behalf of respondents No. 1, 3 and 4 also submitted. The appeal is assigned to D:B for rejoinder and final hearing for 5.4.2016.


Chairman

05.04.2016

Appellant in person and Mr. Ansar Ahmad, AAO alongwith Mr. Usman Ghani, Sr.GP for respondents present. Rejoinder on behalf of the appellant submitted which is placed on file. To come up for arguments on 19.07.2016.


Member

7, 26.02.2015

Appellant deposited
process fees security

Appellant in person present. Argued that he is serving as Head Master at Govt: Primary School, Sawabi in BPS-15. That it was in the year 1997 when he was given revision in pay from BPS-7 to BPS-8 and then BPS-8 to BPS-9 in the year 1999 but the financial benefits in the shape of pre-mature increments were not granted to him and thus the appellant is deprived of financial benefits including arrears. That he preferred departmental appeal on 05.01.2014 which was not responded within the statutory period and hence the instant appeal on 28.04.2014.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 08.06.2015 before S.B.


Chairman

8 08.06.2015

Appellant in person, M/S Khurshid Khan, SO, for respondent No. 1, Irshad Muhammad, SO for respondent No. 2, Javed Ahmed, Supdt. for respondent No. 4 and Ansar Ahmad, AAO for respondent No. 5 alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 24.8.2015.


Chairman

9 24.08.2015

Appellant in person, M/S Javed Ahmed, Supdt. for respondent No. 4 and Ansar Ahmed, AAO for respondent No. 5 alongwith Addl: A.G for all respondents present. Written statement by respondent No. 5 submitted. Last opportunity granted to remaining respondents No. 1, 2, 3 and 4 for submission of written reply. To come up for written reply/comments on behalf of remaining respondents No. 1, 2, 3 and 4 on 10.11.2015 before S.B.


Chairman

3.

23.06.2014

Appellant in person present and requested for adjournment.

Request accepted. To come up for preliminary hearing on 11.08.2014.

Member

4.

11.08.2014

Appellant in person present and requested for adjournment.

Request accepted. To come up for preliminary hearing on 15.10.2014.

Member

5.

15.10.2014

Appellant in person present. Preliminary arguments partly heard. The matter required further clarification, therefore, pre-admission notice be issued to the AAG/GP to assist the Tribunal. To come up for preliminary hearing on 23.12.2014.

Member

6.

Reader Note:

23.12.2014

Appellant in person and Mr. Kabirullah Khattak, Asst. Advocate General for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 26.02.2015 for the same.



Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 594 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/04/2014	<p>The appeal of Mr. Manzoor Ahmad presented today by him, may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	7-5-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>23-6-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 594 of 2014.


Manzoor Ahmad

V/S Secretary of (E&SE) Deptt; to KPK Govt;

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5.	Copy of letter dated 18-4-1992	B	13
6.	Copy of Departmental Appeal dated 5-1-2014	C	14-17

Dated: 28-4-14


Manzoor Ahmad
(Appellant in Person)
M.A. Political Science LLB
Mobile: 0345-9503142

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 594 / of 2014.

Manzoor Ahmad PST
Primary School Teacher,
Government Primary School Soganday, (Kotha)
Tehsil Topi, District Swabi. Appellant.

Versus

1. Government of Khyber Pakhtunkhwa,
Department of Elementary & Secondary Education,
Through its Secretary.
2. Government of Khyber Pakhtunkhwa,
Department of Finance,
Through its Secretary.
3. Government of Khyber Pakhtunkhwa,
Department of Law, Justice and Parliamentary Affairs,
Through its Secretary.
4. Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa,
Peshawar.
5. Accountant General,
Khyber Pakhtunkhwa,
Peshawar. Respondents

Stamp:
631
28/4/2014

u/s-4 of KPK S. Tribunal Act,
**APPEAL FOR GRANT OF ONE
PREMATURE INCREMENT ON
MOVE-OVER FROM BPS-7 TO BPS-8
ON 1-12-1997 AND ONE
PREMATURE INCREMENT ON
MOVE-OVER FROM BPS-8 TO BPS-9
ON 1-12-1999 AND ARREARS OF
PREMATURE INCREMENTS SINCE
THEN.**

The Appellant respectfully submits as under,

FACTS LEADING TO APPEAL

- 1) That on 1-12-2010 the entries in the Service Book of the appellant were revised due to award of Annual increments/Running pay from the date of appointment.

(Photocopy of the Service Book bearing entry is attached at Annexure-"A").

Stamp:
28/4/14

- 2) That due to re-fixation, the appellant has been given Move-over from BPS-7 to BPS-8 on 1-12-1997 but has not been given one premature increment of BPS-8. His pay in the BPS-7 was Rs. 2695/- PM which was fixed in the next scale of BPS-8 which was Rs. 2772/- PM. The increase in pay was less than one increment of BPS-8.
- 3) That the appellant has been given Move-over from BPS-8 to BPS-9 on 1-12-1999 but he was not given one premature increment of BPS-9. His pay in BPS-8 was Rs. 2860/- PM which was fixed in the next scale of BPS-9 which was Rs. 2866/- PM. The increase in pay was less than one increment of BPS-9.
- 4) That the Respondent No. 1 and 4 have not acted upon a letter of the Office of the Accountant General (PR) sub-office Peshawar G.T.K (F) / T-40/Vol-VM/91-92/2378 dated 18-4-1992, that **"Promotion is not only promotion from a lower post to higher post but also from lower pay scale to higher pay scale by whatsoever means it may be"**.

(Photocopy of the letter dated 18-4-1992 is attached at Annexure-"B").

- 5) That the authority granting Move-over from BPS-7 to BPS-8 and then from BPS-8 to BPS-9 has not followed Rule 8 of The N.W.F.P. Civil Services Pay Fixation Rules, 1978 and therefore, there are no Move-overs sanctions for both the Move-overs on the record of the appellant and this fact has been pinpointed in the departmental appeal but the Respondents No. 1 & 4 totally failed in resolving this matter at the departmental level intentionally.
- 6) That it was necessary for the Respondent No. 1 & 4 to fix the pay of the appellant according to Rule 10 (1) (i) which says, " 10 Fixation of pay on promotion: (1) Subject to the provisions of rule 11
 - (i) where a civil servant is promoted from a lower to a higher post in Revised National Pay Scales 2 to 19 where the stage in the Revised National Pay Scale of the higher post, next above the pay of the civil servant concerned in the pay scale of the lower post gives a pay increase equal to or less than a full increment of the pay scale of the higher post the initial pay in the Revised National Pay Scale of the higher post shall be fixed after allowing a premature increment in the Revised National Pay Scale of the higher post"
6. That on 5-1-2014, the appellant submitted the Departmental Appeal to Respondent No. 4 for the premature increment on each move-over but the respondent No. 4 did not inform the appellant about any action taken on his appeal. Hence there was no other alternative but to submit the instant Service Appeal before this Tribunal.

(Photocopy of the Departmental Appeal dated 5-1-2014 is attached at Annexure-"C").

ON GROUNDS:

1. That the Respondent No. 1 and 4 have violated Fundamental Rule 24, which says that "An increment shall ordinarily be drawn as a matter of course unless it is withheld". The actual point is that where the annual increment of the appellant went for the years 1997 and 1999 when his conduct was good and work was satisfactory? At least six months service is required for the accrual of the annual increment under the Pay Fixation Rules but in the instant case the appellant has rendered 1 year service but was deprived of the annual increment. Promotion was given but the increase in pay was not equal to even one increment of the upper scale.
2. That the appellant needed to be promoted on the basis of a prescribed condition of " Four ACRs" in the pay fixation rule 8 but the Respondent No. 1 and 4 did not treat it as a promotion and did not award one premature increment on each move-over as is admissible under the Pay Fixation Rules 1978 in such like promotion. On the question of "**Prescribed Condition**", the following Court's Judgment (Irshad-ur-Rehman v. Govt; of Pakistan, 1993 PLC (C.S) 39) is relevant. In this Judgment, it was held that *when there were mandatory conditions that a candidate must have qualified in written examination as also in viva voce test for appointment to specified post and the respondent having failed to satisfy the mandatory condition, his appointment was not warranted, while petitioner having qualified in that mandatory test was entitled to a appointment to that post. Department had no jurisdiction to deviate from the same and evolve its own formula for recruitment. Any deviation from the condition prescribed, to the detriment of one or some of the candidates would render the act of Department as violative of Art. 25 of the Constitution which lays down that all citizens are equal before law and are entitled to equal protection of law*".
3. That the Respondent No. 1 and 4 have either knowingly or unknowingly not only violated the rules but also the Constitution of the Islamic Republic of Pakistan.
4. That it is worth to be noted for the judgment in this appeal that Selection grade is not supported by any rule nor in selection grade the post of the employee is changed or given higher responsibility but when selection grade is given the scale is changed from the lower pay scale to higher pay scale, he is given one premature increment of the higher pay scale. A Court's authority is relevant on the point, **2001 SCMR 252**. According to this selection grade was not a promotion in strict sense of the word though the same had overtones of promotion in view of the financial benefit involved. Expression "selection grade" was confined to revision of basic pay scale and did not find mention in S. 8 of Civil Servants Act, 1973 and Civil Servants (Seniority) Rules, 1993 under which seniority list of civil servants was required to be prepared with reference to a service, cadre, or post and not grade". While Move-over is supported by rule 8 of the pay fixation rules but still is not regarded as promotion.
5. That the Respondents No. 1 and 4 have not acted upon a letter of the Office of the Accountant General (PR) sub-office Peshawar G.T.K (F) / T-

40/Vol-VM/91-92/2378 dated 18-4-1992, that "Promotion is not only promotion from a lower post to higher post but also from lower pay scale to higher pay scale by whatsoever means it may be".

6. That the Respondent No. 3 and 5 have never apprised the rest of the respondents about the legal position on a matter. The letter of the respondent No. 5 is lying in his office for the last 22 years but he never bothered to guide the departments.
7. That the Respondents No. 1 and 4 have not properly acted upon the Fundamental Rule 9 (23).
8. That the Respondents No. 1 and 4 have acted against an authority from Lahore High Court in Writ Petition No. 223 of 1992.
9. That the Respondents No. 1 and 4 have acted against an authority 1984 PLC 1620, Pakistan Railways versus Fazalur Rehman and others.
10. That the Respondents No. 1 and 4 have acted against an authority from the Supreme Court 1991 SCMR 696 Government of Punjab Versus Muhammad Awais Shahid.
11. That the Respondents No. 1 and 4 have acted against an authority from the Supreme Court PLD 1993 S.C 187 Mr. Abdul Mateen & two others versus NWFP through Chief Secretary.
12. That the Respondents No. 1 and 4 have acted against an authority from the Wafaqi Mohtasib (Ombudsman's Secretariat Islamabad) Case No. Reg. H/16183/97-202 Date of Registration 15-8-1997. In this case, the appellant has been given one premature increment on his "Move-over" from lower pay scale to higher pay scale by the Ombudsman, relying on the Judgments of the Superior Courts.
13. That there are three kinds/concepts of Promotion depending on three kinds/concepts of criteria. (a) Promotion from one post to another involving the assumption of duties and responsibilities of greater importance than those attaching to the post from which a person is promoted. (F.R. 22 & F.R. 30). (b) Promotion from lower pay scale to the higher pay scale on the basis of certain percentage of posts of the total posts in the seniority list maintained for a certain cadre of posts. For example, 33 percent posts of the total posts of PSTs were in BPS-10 which was called Selection Grade while the rest of 66 percent of posts were in BPS-7 prior to 1-12-2001. (c) Promotion from lower pay scale to higher pay scale on reaching to the maximum of a certain pay scale. This promotion is given to the civil servants from BPS-4 to BPS-15 on the basis of Rule 8 of The NWFP Civil Services Pay Revision Rules, 1978 subject to the condition that there is no adverse entry in the Annual Confidential Reports of the civil servant in Revised National Pay Scale 4 to 15 for the last four years. (This kind of promotion is termed as 'Move-over' by the respondents and are not willing to bring it in the above (b) category for the reasons best known to them and the point of discussion of the appellant is this 'Move-over' and tries to prove it that it is also 'Promotion' but for the sake of financial benefit).

14. That F.R. 27 says, "An authority may grant a premature increment to a Government servant on a time-scale of pay if it has power to create a post in the same cadre on the same scale of pay".
15. That Letter No. 145-A/3-23, from Auditor, Government Sanctions says, "The expression "scale of pay" represents the maximum of the scale which is to be taken into account for determining the authority competent to sanction increments rather than the stage of it".
16. That in 1922 when the Fundamental Rules were framed, the British framers were clear in their minds about such situations that a civil servant would reach to the maximum of a scale and then there would be no alternative but to fix his pay in the next higher scale which would give less benefit to such person on fixing his pay in the next higher scale. In order to obviate any eventuality of financial loss to such a civil servant whose pay reaches to the maximum and whose pay is re-fixed in the next higher scale, they drafted F.R. 27 and that is why on 3-1-1924, the Auditor General said "In drafting the F. Rules it was clearly recognised that F.R. 27 would enable initial rates of pay to be fixed otherwise than in manner enunciated in F.R. 22". There was no condition/stipulation of 4 ACRs or anything else at that time in the Fundamental Rules but the next higher scale was available without any condition to every civil servant whose pay reached to the maximum. "On 22nd May 1928, the Governor General was also clear in his mind when he said that the Government are not prepared to state the reasons for their action under any of the Fundamental Rules when the said rules themselves contain no such conditions or stipulation."
17. That there is no concept of "Move-over" in the Fundamental Rules but in the NWFP Civil Services Pay Fixation Rules, 1978 in shape of Rule 8 when a condition of 4 ACRs has been declared / prescribed mandatory for receiving the next higher grade called "Move-over". What was unconditional before independence has been made conditional after independence i.e. "next higher scale". **The appellant does not lament the condition / stipulation of 4 good ACRs but laments the denial of premature increment in move-over by the respondents.** Despite no rule has prevented specifically the respondents from giving the premature increment on fixing the pay of the deserved person in the next higher pay scale, the respondents have prevented themselves in the absence of any rule rather Fundamental Rules 9 (23) and 27 have empowered the respondents to save the civil servants from financial loss when he is already in service and doing work to the satisfaction of the respondents.
18. That a financial benefit in shape of "move-over" which was available to the civil servants in the British regime has been subjected to the condition of 4 ACRs since the promulgation of the NWFP Pay Fixation Rules 1978 in Pakistan and even in these rules it has not been stated that no premature increment shall be given in such fixation in case of move-over but still the civil servants have been deprived. The respondents treated "move-over" from one scale to another scale as an unimportant matter even supported by rule 8 of pay fixation rules while selection grade not supported any rule was given preference to "move-over". The respondents played with

the salaries of thousands of civil servants who were totally helpless knowing nothing how to prevent the "degeneration" of their salaries by successive "move-overs". It is beyond the comprehension of the appellant that from which source the respondents came to the conclusion that no premature increment is admissible in move-over. There is no provision in the pay fixation rules that in move-over a civil should not be given premature increment but despite this silence of rules on the subject, the respondents assumed more power illegally and the civil servants including appellant has been deprived of the premature increment which as available to them prior to the "Move-over Policy" of the respondents.

19. That it is another discussion that whether in the absence of any rule, an accrued right can be curtailed by the self-invented policy? **The appellant is of the view that what is not explicitly forbidden, is permissible.** Interpretation of rule or a statute cannot be left to the sweet will of the respondents because they define a concept discriminately which create more hardships than betterment. No rule allow them to treat "Selection Grade" as "Promotion" nor any rule forbid them to treat "move-over" as "Promotion" but in the former case they have given premature increment in giving higher pay scale while in the latter case they have denied the premature increment.

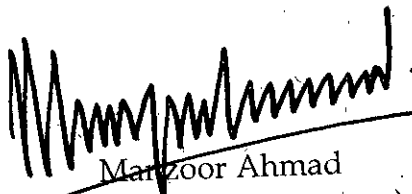
20. That actually, the appellant has attacked the discriminatory approach and duality in the minds of the respondents regarding "Promotion". The respondents are of the view that premature increment is admissible to a civil servant when he is promoted from a post of lower pay scale to a post of higher pay scale but they find no rebuttal to the argument that both in "Selection Grade" and "move-over" the post of the civil servant does not change but only the Pay Scale changes for better. The superior Courts have clarified the dilemma of the respondents but they are repeating the same error again and again. It is not guilt/crime or mistake of the civil servant whose pay reaches to the maximum of a certain pay scale that the respondents compel him to produce 4 good ACRs, keep him on waiting for 12 months for next higher scale instead of six months without any financial benefit. No consider this fact that where the annual increment of the civil servant has gone for that year? Rules do not contemplate loss to any civil servant but contemplate benefit. Article 4 of the Constitution reminds that respondents that everyone should be treated according to the law otherwise it is violation of the Constitution. Neither the Federal nor the Provincial Assemblies have made the admissibility of the premature increment in "move-over" as illegal rather the Federal Ombudsman has clearly ordered for allowing premature increment on move-over from lower pay scale to higher pay scale relying on numerous Judgments of the Superior Courts but despite in the presence of these Judgments the respondents have deprived the civil servants of their right.

7

Prayer:-

It is, therefore, prayed that the appeal of the appellant may please accepted and the respondents may please be directed to grant one premature increment on move-over of the appellant from BPS- 7 to BPS-8 on 1-12-1997 and one premature increment on move-over from BPS-8 to BPS-9 on 1-12-1999 and arrears thereof may please be given in light of the Pay Fixation Rules and Superior Court's Judgment.

Dated: 28 / 4 / 14 /



Manzoor Ahmad
(Appellant in person)
M.A. Political Science LLB
Mobile: 03459503142.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

8

Appeal No. _____ of 2014.

Manzoor Ahmad

V/S Secretary of (E&SE) Deptt; to KPK Govt;

AFFIDAVIT IN SUPPORT OF SERVICE APPEAL

I, Manzoor Ahmad son of Amir Jalal resident of Village Marghuz, District Swabi do hereby state on oath that the contents of the accompanying Service Appeal are correct to the best of my knowledge and belief and nothing has been concealed from this honourable Tribunal.

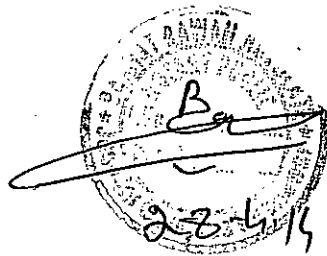
Peshawar.

DEPONENT: 

CNIC# 16202-1032282-5

Dated: 28-4-14

ATTESTED



(9)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. _____ of 2014.

Manzoor Ahmad V/S Secretary of (E&SE) Deptt; to KPK Govt;

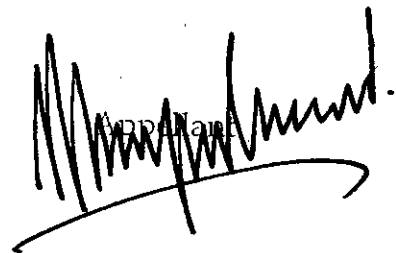
MEMO OF THE ADDRESSES OF PARTIES

A); ADDRESS OF APPELLANT

Manzoor Ahmad
Primary School Teacher,
Government Primary School Soganday (Kotha).
Tehsil Topi District Swabi.

B): ADDRESSES OF RESPONDENTS

- 1) Government of Khyber Pakhtunkhwa,
Department of Elementary & Secondary Education,
Through its Secretary, Peshawar.
- 2) Government of Khyber Pakhtunkhwa,
Department of Finance,
Through its Secretary, Peshawar.
- 3) Government of Khyber Pakhtunkhwa,
Department of Law, Justice and Parliamentary Affairs,
Through its Secretary, Peshawar.
- 4) Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa,
Peshawar.
- 5) Accountant General,
Khyber Pakhtunkhwa,
Peshawar.



Annexure - (A)

18

1	2	3	4	5	6	7	8	9
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state— (i) substantive appointment or (ii) whether service courts for pension under rule 3.20 of C.S.R. (Pb.) volume II	Pay in substantive post	Additional pay for officiating	Other emoluments falling under the term "pay"	Date of appointment	Signature of Government servant	natural signature of officer or attest Officer's signature
درجہ ملازم	عارضی مستقل تائم مقام	اگر عارضی ہے تو کی ووٹوں کے مطابق پیشن کا مستحق ہے	عمدہ خواہ بطور عارضی ملازمت	زائد تنخواہ بطور تائم مقام	باسولہ تنخواہ دیگر ملازمت	تاریخ تقریری	دستخط سرکاری ملازم	
S.No. 3	Sub/off	Rd	RS. P.	RS. P.		1/12/89		
Uka			8385/pm					
		BPS-7 Rs. 750-31-1470						
Pay on	23.5.88	Rd	750/pm			30-11-88		
	1.12.88	Rd	781/pm			30-11-89		
	1.12.89	Rd	817/pm			30-11-90		
	1.12.90	Rd	843/pm			31-5-91		Pay Scale Revised
		BPS-7 Rs. 1095-60-1995						
	1.6.91	Rd	1095/pm			30-11-91		
	1.12.91	Rd	1395/pm			1-4-92		2nd Adv. in Rs. 300/-
	2-4-92	Rd	1695/pm			30-11-92		Adv. in Rs. 300/-
	1-12-92	Rd	1755/pm			30-11-93		
	1-12-93	Rd	1815/pm			31-5-94		Pay Scale Revised
		BPS-7 Rs. 1480-81-2695						
	1-6-94	Rd	2152/pm			30-11-94		Adv. in Rs. 300/-
	1-12-94	Rd	2533/pm			30-11-95		
	1-12-95	Rd	2614/pm			30-11-96		
	1-12-96	Rd	2685/pm			30-11-97		Move Over to BPS-8
		BPS-8 Rs. 1560-89-2860						
	1-12-97	Rd	2772/pm			30-11-98		Adv. in Rs. 300/-
	1-12-98	Rd	2860/pm			30-11-99		Move Over to BPS-9
		BPS-9 Rs. 1605-97-3060						
	1-12-99	Rd	2866/pm			30-11-2000		Adv. in Rs. 300/-
	1-12-2000	Rd	2963/pm			30-11-2001		
	1-12-2001	Rd	3060/pm			1-12-2001		Pay Fixed in BPS-7

Attached
mm

10	11	12	13		14	15	
Date of termination or appointment	Reason of termination (such as promotion, transfer dismissal etc)	Signature of the Head of the office of other Attesting Officer	Nature and duration of leave taken	Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government		Signature of the head of the office or other Attesting officer	Reference to any recorded punishment, or censure or reward or praised of the Government servant
Date of termination or appointment	Reason of termination (such as promotion, transfer dismissal etc)	Signature of the Head of the office of other Attesting Officer	Nature and duration of leave taken	Period	Govt. to which debitable	Signature of the head of the office or other Attesting officer	Reference to any recorded punishment, or censure or reward or praised of the Government servant
1-12-2001	وجوبت انتقال ملازمت	[Signature]	[Signature]	[Signature]	[Signature]	[Signature]	[Signature]
BPS-7 Rs. 2220 - 120-5820				30-11-2002	A/Gover	[Signature]	[Signature]
1-12-2002				30-11-2003	[Signature]	[Signature]	[Signature]
1-12-2003				30-11-2004	[Signature]	[Signature]	[Signature]
1-12-2004				31-6-2005	Pay Scale Revised	[Signature]	[Signature]
BPS-7 Rs. 2555 - 140 - 6755				30-11-2005	A/Gover	[Signature]	[Signature]
1-12-2005				30-11-2006	[Signature]	[Signature]	[Signature]
1-12-2006				30-6-2007	Pay Scale Revised	[Signature]	[Signature]
BPS-7 Rs. 2940 - 160 - 7740				30-11-2007	A/Gover	[Signature]	[Signature]
1-7-2007				1-12-2007	Awarded BPS-12	[Signature]	[Signature]
1-12-2007				30-6-2008	Pay Scale Revised	[Signature]	[Signature]
BPS-12 Rs. 3630 - 260 - 11430				30-11-2008	A/Gover	[Signature]	[Signature]
1-7-2008				30-11-2009	[Signature]	[Signature]	[Signature]
1-12-2008				30-11-2010	[Signature]	[Signature]	[Signature]
1-12-2009				30-11-2010	[Signature]	[Signature]	[Signature]
1-12-2010				[Signature]	[Signature]	[Signature]	[Signature]

Attested
[Signature]

Service Verified with the office record

[Signature]
DEPUTY SECRETARY (M)
To

DEPUTY SECRETARY (M)
To

Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the Head of the office or other Attesting Officer	LEAVE		Signature of the head of the office or other Attesting officer	Reference to any recorded punishment, or censure, or reward or praised of the Government servant
			Nature and duration of leave taken	Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) to which leave salary is debitible to another Government		
			Period	Govt. to which debitible		
تاریخ تعمیر روز	لاہوت انتقال یا برطرف	رہنما انسر جان	رضت کی تاریخ و مہینہ	چار ماہ تک کی رضت تینے اوسط سہ ماہ کا تعین گورنمنٹ سے رقم ادا ہوگی	دستخط انسر جان	سزا یا جزا یا غیرت کارکردگی کا ریکارڈ
				Service verified 20-12-11 1-12-2009 to 30-11-2010 from the office. Received		
				DEPUTY DISTRICT OFFICER (Elem. & Sec) Education, Faisalabad		
				cc 1/11		
				Diff of pay due for 1-12-09 to 31-12-10 on account of untimely family		
				12/12/11		

Attested
MM

Annexure-B

(13)

No. 171 -Reg. I//11/C/85 KM
DEPARTMENT OF THE
AUDITOR-GENERAL OF PAKISTAN,
GULBERG—III, LAHORE

Dated: 01-04-1992.

To

1. All Accountant Generals.
2. All Director-General/Directors of Audit etc.

Subject: FIXATION OF PAY ON REVISION OF PAY SCALE.

Government of Pakistan Finance Division O.M. No. F. 1 (12) Im-11/91 dated 19-6-91 and F. 1 (12) IM, -11/91, dated 19-8-91 on the above subject refer.

As provided in para 4(i) of the above cited Finance Division.....promotion from a lower to a higher post/scale before the introduction of these scales, the pay of the senior employees in the same scale may be fixed and so enhanced that it would not be less than the pay that would have been admissible to him if his promotion to the higher post/pay scale had been taken place after the introduction of revised pay scale.....1-6-1991. A doubt has been felt in certain quarters whether the aforesaid provision will be applicable in the Selection grade.....also. **The matter has been duly considered and it has been decided that the word "promotion" used in this context will include not only promotion from a lower post to higher post but also from lower pay scale to higher pay scale by whatsoever means it may be.** All such cases submitted to the Accounts/Audit officers by the respective Ministries/Divisions/Department/offices along with the statement showing.....fixation of pay under the above provision would be beneficial may be dealt with accordingly.

All concerned in your department as well as Ministries /Divisions/Department/offices falling in your Audit jurisdiction may be apprised of the above position through circular letter under.....

Please acknowledge receipt.....

.....Sd/.....

(Shakeel ahmad)

D. Director-General (Inspection).

OFFICE OF THE ACCOUNTANT GENERAL (PR) SUB-OFFICE PESHAWAR.
G.T.K (F)/T-40/VOL-VM/91-92/2378 dated 18-4-1992.

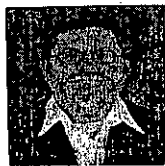
Copy forwarded for necessary action to:-

1. All the D.A.Os / A.A.Os in NWFP.
2.GAD Section, special Section.....

Accounts officer (PR)

Sub office Peshawar.

Attested
MMM



Annexure-2

(12)

Manzoor Ahmad

M.A. Political Science.

B.Sc.; L.L.B. (Pesh.)

Mobile: 0345-9503142.

Email: manzoorahmadjalalmb@gmail.com.

To

The Director of Elementary and Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject: Appeal for grant of one premature increment on Move-over from BPS-7 to BPS-8 on 1-12-1997 and one premature increment on Move-over from BPS-8 to BPS-9 on 1-12-1999.

Through Proper Channel,

Respected Sir,

The appellant submits Departmental Appeal on the following facts and grounds.

- 1) That the entries in the Service Book of the appellant were revised on 1-12-2010 in favour of Annual increments/Running pay from the date of appointment.
- 2) Upon the date of re-fixation, the appellant has been given Move-over from BPS-7 to BPS-8 on 1-12-1997 but has not been given one premature increment of BPS-8. His pay in the BPS-7 was Rs. 2695/- PM which was fixed in the next scale of BPS-8 which was Rs. 2772/- PM. The increase in pay was less than one increment of BPS-8.
- 3) That the appellant has been given Move-over from BPS-8 to BPS-9 on 1-12-1999 but he was not given one premature increment of BPS-9. His pay in BPS-8 was Rs. 2860/- PM which was fixed in the next scale of BPS-9 which was Rs. 2866/- PM. The increase in pay was less than one increment of BPS-9.
- 4) That the authority granting Move-over from BPS-7 to BPS-8 and then from BPS-8 to BPS-9 has not followed Rule 8 of The N.W.F.P. Civil

Attested

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Services Pay Fixation Rules, 1978 and therefore, there are no Move-overs sanctions for both the Move-overs on the record of the appellant.

- 5) That Rule 8 has been reproduced for prompt perusal which says, "Admissibility of next higher Revised National Pay Scale—(1) A civil servant holding post in the Revised National Pay Scales 1 to 15, who has reached the maximum of a Revised National Pay Scale shall be allowed the next higher Revised National Pay Scale with effect from the 1st day of December of the year in which he completes one year of such service at the said maximum as counts for increment under these rules, subject to the condition that there is no adverse entry in the Annual Confidential Reports of the civil servant in Revised National Pay Scale 4 to 15 for the last four years. If this condition is not fulfilled, he shall wait at the said maximum till he has earned in succession four Annual Confidential Reports without any adverse entry and his move-over to next higher Revised National Pay Scale shall take effect from the 1st day of December of the year following the year for which he earns the fourth such Annual Confidential Report". Thus both the move-overs of the appellant have no legality. Both the move-overs have been given in violation of the Rule 8 which needed to be corrected for further proceedings in the Court of Law in case the department shows inability to grant premature increments in both the move-overs.
- 6) That it was necessary for the Education Department to fix the pay of the appellant according to Rule 10 (1) (i) which says, " 10 Fixation of pay on promotion: (1) Subject to the provisions of rule 11
- (i) where a civil servant is promoted from a lower to a higher post in Revised National Pay Scales 2 to 19 where the stage in the Revised National Pay Scale of the higher post, next above the pay of the civil servant concerned in the pay scale of the lower post gives a pay increase equal to or less than a full increment of the pay scale of the higher post the initial pay in the Revised National Pay Scale of the higher post shall be fixed after allowing a premature increment in the Revised National Pay Scale of the higher post".

Thus, it shows that the departmental authorities have badly ignored the pay fixation rules and thus have inflicted heavy loss on the appellant due wrong pay fixation.

Attested

Mmm

- 7) That the departmental authorities have violated Fundamental Rule 24, which says that "An increment shall ordinarily be drawn as a matter of course unless it is withheld". The point is that where the annual increment of the appellant went for that year when his conduct was good and work was satisfactory?

- 8) That the appellant needed to be promoted on the basis of a prescribed condition of " Four ACRs" in the pay fixation rule 8 but the Government's concerned departments did not treat it as a promotion and did not award one premature increment on each move-over as is admissible under the Pay Fixation Rules 1978 in such like promotion. On the question of "**Prescribed Condition**", the following Court's Judgment (Irshad-ur-Rehman v. Govt; of Pakistan, 1993 PLC (C.S) 39) is relevant. In this Judgment, it was held that *when there were mandatory conditions that a candidate must have qualified in written examination as also in viva voce test for appointment to specified post and the respondent having failed to satisfy the mandatory condition, his appointment was not warranted, while petitioner having qualified in that mandatory test was entitled to a appointment to that post. Department had no jurisdiction to deviate from the same and evolve its own formula for recruitment. Any deviation from the condition prescribed, to the detriment of one or some of the candidates would render the act of Department as violative of Art. 25 of the Constitution which lays down that all citizens are equal before law and are entitled to equal protection of law*".

- 9) That it is very astonishing that Selection grade is not supported by any rule nor in selection grade the post of the employee is changed or given higher responsibility but when selection grade is given the scale is changed from the lower pay scale to higher pay scale, he is given one premature increment of the higher pay scale. A Court's authority is relevant on the point, 2001 SCMR 252. According to this selection grade was not a promotion in strict sense of the word though the same had overtones of promotion in view of the financial benefit involved. Expression "selection grade" was confined to revision of basic pay scale and did not find mention in S. 8 of Civil Servants Act, 1973 and Civil Servants (Seniority) Rules, 1993 under which seniority list of civil servants was required to be prepared with reference to a service, cadre, or post and not grade". While Move-over is supported by rule 8 of the pay fixation rules but still is not regarded as promotion.

- 10) That the departmental authorities have not properly acted upon the Fundamental Rule 9 (23).

Attested
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- 11) That the departmental authorities have not acted upon a letter of the Office of the Accountant General (PR) sub-office Peshawar G.T.K (I) / T-40/Vol-VM/91-92/2378 dated 18-4-1992, that "Promotion is not only promotion from a lower post to higher post but also from lower pay scale to higher pay scale by whatsoever means it may be".
- 12) That the departmental authorities have acted against an authority from Lahore High Court in Writ Petition No. 223 of 1992.
- 13) That the departmental authorities have acted against an authority 1984 PL.C 1620, Pakistan Railways versus Fazalur Rehman and others.
- 14) That the departmental authorities have acted against an authority from the Supreme Court 1991 SCMR 696 Government of Punjab Versus Muhammad Awais Shahid.
- 15) That the departmental authorities have acted against an authority from the Supreme Court PLD 1993.S.C 187 Mr. Abdul Mateen & two others versus NWFP through Chief Secretary.
- 16) That the departmental authorities have acted against an authority from the Wafaqi Mohtasib (Ombudsman's Secretariat Islamabad) Case No. Reg. H/16183/97-202 Date of Registration 15-8-1997.

Prayer:-

It is, therefore, prayed that the appeal of the appellant may please accepted and Move-over sanctions for both the move-overs may please be given and then on re-fixation of pay one premature increment for each move-over and its arrears thereof may please be given in light of the Pay Fixation Rules and Superior Court's Judgment.

DATED:-5-1-2014.

Yours Obediently,

Manzoor Ahmad PST
M.A. Political Science LLB
GPS Soganday, Tehsil Topi, District Swabi.
Mobile: 03459503142.

Attested
M. Man

The first contention of the learned counsel that the respondents were not promoted but only placed in higher Grades, than those enjoyed by them previous to 1st May, 1979 has no force. After the instructions of change in nomenclature of service and abolition of classes, status of officials is signified by Grades. It cannot, therefore, be said that the persons placed in the higher Grades were not promoted."

6. Then, there is a judgement of ^{the learned} Supreme Court ^{of Pakistan} in the case of Government of the Punjab versus Muhammad Awas Shahid etc. 1991 S C M R 696 wherein Mr. Justice Shafiqur Rahman, held that "under the existing rules consistently practised that wherever there is a change of grade or post for the better, there is an element of selection involved that it is promotion and it is not earned automatically, but under an Order of the competent authority to be passed after due consideration on the comparative suitability and the entitlement of those incompetent (probably incompetent)." Move-over is always granted by the authority competent to do so. In the case of Mr. Abdul Mateen and two others vs NWFP through Chief Secretary (PLD 1993 S.C. 187 at page 190) ~~where~~ Mr. Justice Muhammad Afzal Zullah, Chief Justice of Pakistan observed that the learned Counsel for the appellant argued that "change of grade to higher pay scale does not amount to promotion. He wanted to rely on some circulars in this behalf. However, when a recent judgement of this Court contrary to his submission was pointed out to him he could not pursue the point any further".

7. In view of the above, it is quite clear that when the complainant was allowed to go from lower grade to higher grade that amounted to promotion for entailing a premature increment. It is, therefore, recommended that the dues of the complainant be calculated accordingly and paid to him within a month.

8. Compliance to be reported soon thereafter

(JUSTICE (RTD) ABDUL SHAKURUL SALAM)
(MEMBER)

DATED: 26-5-1998

Before the Service Tribunal Khyber Pakhtunkhwa Peshawar

Appeal No.594/2014.

Manzoor Ahmad.....Petitioner.

V/S

Government of Khyber Pakhtunkhwa, Department of Elementary
& Secondary Education, through its Secretary, and others.....Respondents.

(Para wise reply on behalf of respondent No. 2 & 5.

Preliminary Objections.

- 1) That the appellant has no cause of action.
- 2) That the appellant has no locus standi.
- 3) That the appeal in hand is not maintainable.
- 4) That the appeal is time barred.
- 5) That the appellant has not come to this court with clean hands.
- 6) All types of Increments are not allowed after the promulgation of cessation of payment of arrears on Increment Act, 2012, Khyber Pakhtunkhwa.

Respectfully Sheweth:-

- 1:- Proved by record hence no comments.
- 2:- Correct that Premature Increment by giving Move-over is not admissible under the rules. (Annex. A)
- 3:- Correct, that Premature Increment by giving Move-over is not admissible under the rules.
- 4:- Incorrect. That the letter of the AGPR Sub Office Peshawar No.GTK (F) T-40/Vol-VM/91-92/2378, dated 18.04.1992, is totally irrelevant with the case of the appellant and is concerned with the Federal Government employees only. The contents of the above letter do not show the admissibility of Pre-mature Increment on Move-over.


- 5). Correct, That proper sanction for both the Move-over from competent authority is must. Otherwise the appellant should be reverted to his lower post under the rules.
- 6:- Relates to respondent No.1 & 4. Hence no comments.
- 7:- Relates to respondent No.4. Hence no comments.


GROUND:-

- 1). Incorrect, that Premature Increment by giving Move-over is not admissible. Besides, proper sanction for Move-over from competent authority is must under the rules. And promulgation of an Act 2012 KPK disallowed all type of payment of Arrears in respect of Increments.
- 2). Relates to respondent No.1 & 4 hence no comments.
- 3). Relates to respondent No.1 & 4, hence no comments.
- 4). Relates to respondent No.1 & 4, hence no comments.
- 5). Incorrect, As mentioned in Para 4 above.
- 6). That respondent No.5 is bound to follow the rules and instruction issued by the Provincial Government of Khyber Pakhtunkhwa. Hence, not violated any rules or Law.
- 7). Relates to respondent No.1 & 4, hence no comments.
- 8). Relates to respondent No.1 & 4, hence no comments.
- 9). Relates to respondent No.1 & 4, hence no comments.
- 10). Relates to respondent No.1 & 4, hence no comments.
- 11). Relates to respondent No.1 & 4, hence no comments.
- 12). Relates to respondent No.1 & 4, hence no comments.

- 13). Incorrect. As mentioned in Para 1 above of the Grounds.
- 14). Incorrect. After the Promulgation of an Act 2012 (KPK) all type of *Arrears on* Increment are disallowed.
- 15). Incorrect. Any letter issued by Auditor General of Pakistan Islamabad is applicable on Federal Government Employees only.
- 16). As mentioned in Para 15 above of the Grounds. However relates to respondent No. 1 & 4. Hence no comments.
- 17). As mentioned in Para 14 above of the Grounds.
- 18). Incorrect. *As per details mentioned in above paras.*
- 19). Relate to respondent No.1 & 4, hence no comments.
- 20). Relate to respondent No.1 & 4, hence no comments.

Keeping in view the above mentioned facts, it is therefore, humbly prayed that the appeal in hand not maintainable, having no merit may be dismissed with cost.


SECRETARY
Govt: of Khyber Pakhtunkhwa
Finance Deptt:
50 (lit II)


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

Before the Service Tribunal Khyber Pakhtunkhwa Peshawar

Appeal No.594/2014.

Manzoor Ahmad.....Petitioner.

V/S

Government of Khyber Pakhtunkhwa, Department of Elementary
& Secondary Education, through its Secretary, and others.....Respondents.

(Para wise reply on behalf of respondent No. 5)

Preliminary Objections.

- 1) That the appellant has no cause of action.
- 2) That the appellant has no locus standi.
- 3) That the appeal in hand is not maintainable.
- 4) That the appeal is time barred.
- 5) That the appellant has not come to this court with clean hands.
- 6) All types of Increments are not allowed after the promulgation of cessation of payment of arrears on Increment Act, 2012, Khyber Pakhtunkhwa.

Respectfully Sheweth:-

- 1:- Proved by record hence no comments.
- 2:- Correct that Premature Increment by giving Move-over is not admissible under the rules.
- 3:- Correct, that Premature Increment by giving Move-over is not admissible under the rules.
- 4:- Incorrect. That the letter of the AGPR Sub Office Peshawar No.GTK (F) T-40/Vol-VM/91-92/2378, dated 18.04.1992, is totally irrelevant with the case of the appellant and is concerned with the Federal Government employees only. The contents of the above letter do not show the admissibility of Pre-mature Increment on Move-over.


- 5). Correct, That proper sanction for both the Move-over from competent authority is must. Otherwise the appellant should be reverted to his lower post under the rules.
- 6:- Relates to respondent No.1 & 4. Hence no comments.
- 7:- Relates to respondent No.4. Hence no comments.

GROUNDS:-

- 1). Incorrect, that Premature Increment by giving Move-over is not admissible. Besides, proper sanction for Move-over from competent authority is must under the rules. And promulgation of an Act 2012 KPK disallowed all type of payment of Arrears in respect of Increments.
- 2). Relates to respondent No.1 & 2, hence no comments.
- 3). Relates to respondent No.1 & 4, hence no comments.
- 4). Relates to respondent No.1 & 4, hence no comments.
- 5). Incorrect, As mentioned in Para 4 above.
- 6). That respondent No.5 is bound to follow the rules and instruction issued by the Provincial Government of Khyber Pakhtunkhwa. Hence, not violated any rules or Law.
- 7). Relates to respondent No.1 & 4, hence no comments.
- 8). Relates to respondent No.1 & 4, hence no comments.
- 9). Relates to respondent No.1 & 4, hence no comments.
- 10). Relates to respondent No.1 & 4, hence no comments.
- 11). Relates to respondent No.1 & 4, hence no comments.
- 12). Relates to respondent No.1 & 4, hence no comments.

- 13). Incorrect. As mentioned in Para 1 above of the Grounds.
- 14). Incorrect. After the Promulgation of an Act 2012 (KPK) all type of Increment are disallowed.
- 15). Incorrect. Any letter issued by Auditor General of Pakistan Islamabad is applicable on Federal Government Employees only.
- 16). As mentioned in Para 15 above of the Grounds. However relates to respondent No. 1 & 4. Hence no comments.
- 17). As mentioned in Para 14 above of the Grounds.
- 18). Incorrect, After the Promulgation of an Act 2012 (KPK) all type of Increment are dismissed.
- 19). Relate to respondent No.1 & 4, hence no comments.
- 20). Relate to respondent No.1 & 4, hence no comments.

Keeping in view the above mentioned facts, it is therefore, humbly prayed that the appeal in hand not maintainable, having no merit may be dismissed with cost.


**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**



55/C

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (SR-1)2-123/2012
Dated Peshawar the: 18-06-2012

To:

The Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.

Subject: -

THE KHYBER PAKHTUNKHWA CESSATION OF PAYMENT OF
ARREARS ON ADVANCE INCREMENTS ON HIGHER EDUCATIONAL
QUALIFICATION ACT, 2012 (KHYBER PAKHTUNKHWA).

Dear Sir,

I am directed to refer to the subject noted above and to enclose
herewith a copy of the Act 2012 duly approved by the competent authority for favour
of further necessary action please.

Handwritten signature

Yours Faithfully,

(SHAUKAT ULLAH)
Section Officer (SR-1)

OFFICE OF THE ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA PESHAWAR
NO.H-24/Master/Education /2011-12/ 17/8 Dated. 20/06.2012

Copy for information and compliance to:

1. All DCA's/DAO's/AAO's in Khyber Pakhtunkhwa 31
2. All Pay Rolls Section local. 10
3. HR (lab)

Handwritten signature and stamp

Handwritten signature
Accounts Officer (SR-1)
Khyber Pakhtunkhwa PESHAWAR.

Handwritten initials and date
22/6/12



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 15TH MAY, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 15th May, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/20711.—The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 8th May, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 11th May, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA CESSATION OF PAYMENT OF ARREARS ON ADVANCE INCREMENTS ON HIGHER EDUCATIONAL QUALIFICATION ACT, 2012.

(KHYBER PAKHTUNKHWA ACT NO. IX OF 2012)

*(first published after having received the assent of the Governor of the Khyber
Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa
(Extraordinary), dated the 15th May, 2012).*

**AN
ACT**

*to cease the payment of arrears accrued on account of advance increments on
higher educational qualification.*

WHEREAS advance increments have been granted to certain Provincial Government employees on the basis of acquiring or possessing higher educational qualification over and above the prescribe educational qualification from time to time;

AND WHEREAS the Provincial Government vide Notification No. (PRC) 1/2001, dated 27.10.2001, had already discontinued the scheme of advance increments on higher educational qualification;

AND WHEREAS due to financial constraints, it is not possible for Provincial Government to pay the claimed and unclaimed arrears accrued from the said increments;

It is hereby enacted as follows:-

1. **Short title, application and commencement.**— (1) This Act may be called the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012.

(2) It shall apply to all the employees of the Provincial Government, who were entitled to received advance increments on higher educational qualification.

(3) It shall come into force at once and shall be deemed to have taken effect on and from 1st day of December, 2001.

2. **Cessation of payment of arrears on advance increments on higher educational qualification.**—(1) Notwithstanding anything contained in any decision, judgment and order of any Tribunal or Court including High Court or Supreme Court of Pakistan, for the purpose of any claim for payment of arrears on account of advance increments on higher educational qualification sanctioned in pursuance of any order, letter, office memoranda, notification, instructions and other instruments issued before 1.12.2001, such orders, letters, office memoranda, notifications, instructions and other instruments shall be deemed to be non-existent, ceased or revoked and no further claim whatsoever on the basis of these instruments shall be entertained and all cases in respect of such claims pending in any Court or Tribunal including High Court and Supreme Court of Pakistan shall stand abated.

(2) Any order made, instruction issued, decision, judgment or order of any Court or Tribunal including a High Court or the Supreme Court, implemented immediately before the commencement of this Act, shall be deemed to have been validly made, issued and implemented by the date of commencement of this Act, and any amount already paid there-under on account of advance increments or arrears thereof shall be deemed to have been validly paid and shall not be recoverable from the recipient Government employees.

3. **Removal of difficulties.**— If any difficult arises, in giving effect to the provisions of this Act, the Provincial Government may make such orders as it may deem just and equitable.

4. **Repeal.**- The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Ordinance, 2012 (Khyber Pakhtunkhwa Ordinance NO. I of 2012), is hereby repealed.

BY ORDER OF MR. SPEAKER

**PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA**

(AMANULLAH)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 594 /2014

Manzoor Ahmad PST GPS Soganday (Kotha), District Swabi.Appellant

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.Respondents

PARAWISE COMMENTS ON & FOR BEHALF OF RESPONDENTS 1-4.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/ locus standi.
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal in the instant service appeal.
- 4 That the instant service appeal is based on malafide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 5 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 7 That the instant Service Appeal is against the prevailing law & rules.
- 8 That the Appellant has been treated as per law, rules & Policy.
- 9 That the instant appeal is not maintainable in its present form.
- 10 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 11 That the instant Service Appeal is barred by law.
- 12 That the Appellant is not competent to file the instant appeal against the Respondents.

ON FACTS.

- 1 That Para-I needs no comments being pertains to the Service record of the appellant.
- 2 That Para-2 is incorrect & denied. The appellant has been granted move -over from BPS-7 to 8 dated 01-12-1997 but is not entitled for the grant of one premature increment in BPS-8 on the grounds that two service benefits in the same scale & post at the same time cannot be granted to the appellant under the relevant rules & policy.


- 3 That Para-3 is correct to the extent that the appellant has availed the benefits of move over from BPS-8 to 9, on 01-12-1999 whereas rest of para needs no comments of being irrelevant in the given circumstances.
- 4 That Para-4 is incorrect & misleading. The appellant has been treated as per law, rules & policy by the Respondents in the instant case. Hence the plea of the appellant in this para is against the law, facts & policy.
- 5 That Para-5 is also incorrect & denied. The appellant has been treated as per law & Financial rules the instant case & the referred letter does not applicable upon the case of the appellant in the given circumstances of the case. Hence is liable to be rejected.
- 6 That Para-6 is also incorrect & misleading. The appellant has been promoted in accordance with the law, rules & policy. Similarly his pay & allowances have also been fixed in accordance with the relevant financial rules. Therefore, the referred rules are not applicable upon the case of the appellant in the wake of the above made submissions.
- 7 That Para-7 is incorrect & denied. No departmental appeal has been filed by the appellant nor any such record is available till date. However, the Respondents No: 1-4 further submit on the following grounds inter alia:-

ON GROUNDS.

- 1 Incorrect not admitted. The Respondents have acted as per law , rules & procedure and have not violated any kind of fundamental rights of the appellant in the instant case. Hence this ground is also liable to be rejected.
- 2 Incorrect & not admitted. The appellant is not entitled for the promotion & one pre-mature increment. Therefore, the referred citation of case law is not applicable upon the case of the appellant of being different in nature.
- 3 Incorrect & denied. Detailed reply has been given in the foregoing Paras. Hence no further comments.
- 4 Incorrect & denied. The scheme of selection grade has been discontinued by the Govt: of Khyber Pakhtunkhwa, vide Notification No: FD(PRC) 1-1/ 2001 dated 27-10-2001 issued by the Govt: of Khyber Pakhtunkhwa, Finance Department. (copy of the same is Annexure-A).
- 5 Incorrect & denied. Hence needs no further comments.
- 6 Incorrect & denied. Detailed reply has been given in the above Paras.
- 7 Incorrect & denied. The Department acts on legal grounds. No illegality, intentionally, has ever been caused by the Respondents.
- 8 Incorrect & denied. Every case has its own nature & parameter & the cited rulings is not applicable upon the case of the appellant.
- 9 Incorrect being false, needs no comments.
- 10 Incorrect & denied. The said judgment is not applicable upon the case of the appellant.
- 11 Incorrect & denied. As above.
- 12 Incorrect & denied . The Respondents have acted as per rules & policy in the present case.


- 13 Incorrect & denied. Detailed reply of this Para has been given in the foregoing Paras.
- 14-19 Incorrect, hence denied. The Respondents have acted in accordance with law, no irregularity, discrimination, whatsoever has been committed by the Respondents.
- 20 Incorrect. Hence denied. The Respondents have acted as per law, rules & policy, having no question of discrimination towards the appellant. Hence the stand of the appellant in this Para is also liable to be dismissed. However the Respondents seek leave of this Honorable Tribunal to submit additional grounds & case law at the time of arguments.

In view of the above made submissions, it is requested that This Honorable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favour of the Respondent Department.

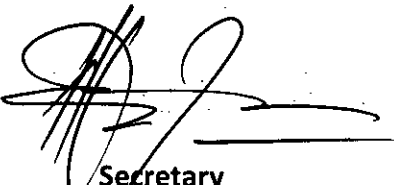

Director
11/12/2018

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 4)

Secretary
(Finance) Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 2)


Secretary

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 1)


Secretary

Law Department Govt: of Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3)

AFFIDAVIT

I, Kh. Rehman, Asstt: Director (Litigation-II) E&SE Department KPK Peshawar do hereby solemnly affirm and declare that the contents of the instant Parawise Comments are true & correct to the best of my knowledge & belief.



Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 594 / of 2014.

Manzoor Ahmad

Appellant.

Versus

The Government of Khyber Pakhtunkhwa, Department of Elementary & Secondary Education,
through its Secretary and Others.....

Respondents.

REJOINDER ON BEHALF OF THE APPELLANT.

Respectfully Sheweth:-

Preliminary Objections on the replies of the Respondents:

- 1) That the respondents have not properly replied paras of the appeal, their denial is evasive, not specific, ambiguous and hence not admitted in such form.
- 2) That the Respondents 1, 3 and 4 have committed the offence of contempt of the ruling in an authority 1984 PLC 1620, Pakistan Railways versus Fazalur Rehman & others by saying it incorrect and false.
- 3) That the appellant had cited to the Respondent No. 4 Superior Courts authorities like (1984 PLC 1620), (1991 SCMR 696), (PLD 1993 S.C 187), (Wafaqi Mohtasib case No. Reg. H/16183/97-202 dated 15-8-1997) but he did not bother to take into consideration the Judgments rather ignored the Judgments at Departmental level and did not respond regarding their relevancy or irrelevancy.
- 4) That all the respondents then ignored the authorities of the Superior Courts before this Tribunal while replying the paras of the instant appeal of the appellant. The appellant has cited the authorities in his memo appeal for the ready reference and facilitation of the respondents but the respondents failed in conceiving the similarity of the facts mentioned in the authorities and in the appeal of the appellant and denied the admissibility of premature increment which has been allowed by the Wafaqi Mohtasib in light of the Judgments of the Superior Courts.
- 5) That all the respondents have failed to act on the Articles 4, 24, 25, 189 and 190 of the Constitution of the Islamic Republic of Pakistan and are liable to proceeded for the contempt of rulings of the Superior Court.
- 6) That the respondents 1 and 4 have failed in replying para-5 of the appeal and denied the para in contravention of the reality.

- 7) That the respondents have misconceived the facts and also the legal position in the instant appeal and thus have prevaricated replies to the various paras.
- 8) That the respondents 1, 3 and 4 did not specifically reply from para-14 to para-19 but instead jointly replied and denied all of them.
- 9) That the reply of the respondents No. 3 & 5 to para-6 of the appeal is also misleading. The respondents 3 & 5 have not only kept the other respondents in the dark but also have not clarified the legal position in this Tribunal about the appeal and its contents.

Matters of law or inferences from the law if pleaded in the plaint need not be traversed because O. 8 R. 3 applies to facts only. But if such allegation of law is not admitted, the defendant may take an objection in point of law.

- 10) That the respondents despite knowing every fact and law denied almost every para of the appeal especially those paras in which the appellant has relied on the rulings of the Superior Courts. This is nothing but to deny the Judgments delivered on the facts mentioned in the instant appeal. This is clear cut admission of every fact when the respondent evasively deny a fact.

ON FACTS:-

- 1) That the para-1 needs no comments.
- 2) That the para-2 is answered thus that the respondents have not clarified the two service benefits sought by the appellant and also their denial to the appellant.
- 3) That the para-3 is answered thus that the respondents have not clarified their denial in light of any authority from the Superior Courts nor law.
- 4) That the para-4 is answered thus that the respondent No. 2 & 5 have wrongly stated that the letter is related to Federal Government employees. They both have tried to put mud on the definition of the word "Promotion" which the appellant has highlighted in the letter of Accountant General (PR) letter dated 18-4-1992. It was necessary for the respondent No. 2 & 5 to clarify the meaning of "By whatsoever means it may be" but they related the whole letter to the Federal Government employees as if the Federal and Provincial employees are serving under different definitions of "Promotion".
- 5) That the para-5 of the reply is answered thus that different respondents have replied this para-5 of the appeal differently. Respondents No. 2 & 5 have admitted the para-5 of the appeal while the respondent No. 1, 2 & 4 have denied & declared it incorrect. The respondent No. 1, 2, & 4 have falsely stated that the appellant has been treated as per law & financial rules which is evident from the record. They have not cited any rule.

- 6) That the para-6 of the reply is answered thus that the respondents have avoided clarifying their answer in light of the prevalent rules.
- 7) That the para-7 of the reply is answered thus that the respondents have denied the departmental appeal of the appellant without bothering to search their offices.

ON GROUNDS:-

- 1) That the para-1 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents.
- 2) That the para-2 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents.
- 3) That the para-3 of the grounds is answered thus that the respondents have violated Articles 4, 24, 25, 189 and 190 of the Constitution of the Islamic Republic of Pakistan.
- 4) That the para-4 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. The appellant has not sought from the respondents Selection Grade for which they have given clarification.
- 5) That the para-5 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents.
- 6) That the para-6 of the grounds is answered thus that the respondent No. 3 & 5 have not properly answered the para and have not clarified the factual position whether they have properly discharged their duty of informing the other respondents or not? Even before this Tribunal they did not guide the rest of the respondents about the legal questions/matters relating to their Departments.
- 7) That the para-7 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. The F.R. 9(23) says, PERSONAL PAY means additional pay granted to a Government servant—
 - (a) to save him from a loss of substantive pay in respect of a permanent post other than a tenure post due to a revision of pay or to any reduction of such substantive pay otherwise than as a disciplinary measure or
 - (b) in exception circumstances, on other personal considerations.

Government decision:- In supersession of all previous orders on the subject of all previous orders on the subject it has been decided that all cases in which it is proposed to grant personal pay under Fundamental Rule 9 (23) (b) may be referred to the Ministry of Finance through the Administrative Department concerned. No case will be entertained which is not of an entirely exceptional character and in submitting cases for the grant of personal pay this should be carefully borne in mind.

(G.I., F.D. letters No. F./14-XXII-Ex. II, dated the 28th September 1936 and No. F. 16 (14)-Ex. I/38, dated the 16th August 1938.)

No rule of law from the outset i.e. from pre-independence of Pakistan era contemplates any loss to any civil servant. It is regrettably stated that the concept of good governance has degenerated to a greater extent which needs special attention for the proper working of the government departments.

- 8) That the para-8 needs no comments.
- 9) That the para-9 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. The appellant quotes from the authority 1984 PLC 1620 (Lahore High Court) Pakistan Railways VS Fazalur Rehman and others thus,

(a) Payment of Wages Act (IV of 1936)--

-- Ss. 15 & 17 and Provisional Constitution Order (I of 1981), Art. 9—Promotion-Railway employee-Placed in higher Grade Cannot be said to have not been Promoted-Plea of Railway that employees not promoted but only placed in higher Grade not entitled to claim benefit of fixation of pay in higher Grade according to principles prescribed by Notification, dated 22nd June, 1972 for fixation of pay on promotion to higher Grade-**Rejected**-Order of Authority/Appellate Court under S. 15 or S. 17 of Payment of Wages Act, 1936 allowing application claiming payment of illegal deduction of wages as admissible on being placed in higher Grade challenged in Constitutional Petition—Impugned order upheld by High Court.

The learned Judge Mr. Justice Manzoor Hussain Sial says in para-4 of this Judgment thus "I have considered the contentions raised by learned counsel for the petitioners but find myself unable to agree with him. For proper appreciation of the first contention of the learned counsel the relevant para. (H) of the Notification, dated 22nd June, 1972 is reproduced hereunder:-

"(H) In cases of promotion from a lower to a higher post, where the stage in the National Scales of the higher post noted above the substantive in the National scales of the lower post gives a pay increase equal to or less than, a full increment, the initial pay in the National Pay Scales pertaining to the higher post will be fixed after allowing a premature increment in the National Pay Scales of the higher post. The existing rules/orders regarding grant of minimum pay increases on promotion shall treated as withdrawn."

The first contention of the learned counsel that the respondents were not promoted but only placed in higher Grades, that those enjoyed by them previous to 1st May, 1979 has not force. After the instructions of change in nomenclature of service and abolition of classes, status of officials is signified by Grades. It

cannot, therefore be said that the person be placed in the higher Grades were not promoted. Moreover, the petitioner had been himself interpreting the provisions as contained in para. (H) of the Notification to allow benefit to the incumbents, as is evident from the documents Exh. P. 2 to Exh. P/5 (Annexures 'G', 'H' and 'J'), respectively.

The learned Judge in para-6 of the Judgment says that the contesting respondents were entitled to the amounts claimed which were rightly allowed by the respondents Nos. 19 and 20.

- 10) That the para-10 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. The appellant quotes from the authority **1991 SCMR 696** Government of the Punjab through Secretary Services, Punjab, Lahore and 4 others, VS Muhammad Awais Shahid and 4 others thus,

(a) Constitution of Pakistan (1973)--

--Art. 212(3)—Leave to appeal was granted in order to examine the correctness of the view taken by the Service Tribunal with regard to the grant of enhanced scale of pay in the basic scales of pay to officers who had the fixed percentage of posts of the same category in the higher scale of pay.

(b) Punjab Civil Servants (Change in Nomenclature of Services of Abolition of Clauses) Rules, 1974—

--R. 2(e)—Change of grade or scale of pay for the better would amount to promotion.

(c) Punjab Civil Servants Pay Revision Rules, 1973—

--R. 9—Change of scale is promotion.

(d) Punjab Civil Servants Pay Revision Rules, 1977—

--R. 8(3)—Rule is a substantive rule and would have no retrospective application.

(e) Civil Service—

---Change of grade or post---Effect---Whenever there is a change of grade or post for the better, there is an element of selection involved that is portion and it is not earned automatically, but under an order of the competent Authority to be passed after the consideration on the comparative suitability and the entitlement of those incumbents.

- 11) That the para-9 of the grounds is answered thus that the respondents have not taken supports of any rule or law in their rebuttal but have answered the para generally and denied the contents. The appellant quotes from the authority **PLD 1993 Supreme Court 187** Abdul Matin Khan and 2 others VS N.W.F.P through Chief Secretary and 2 others thus,

(a) Civil Service—Promotion—Change, of grade to higher Pay scale amounts, to promotion.

Government of the Punjab v. Muhammad Awais Shahid 1991 SCMR 696 ref.

In this Judgment Chief Justice Mr. Justice Muhammad Afzal Zullah says that the learned counsel for the appellant in Appeal No. 183-P of 1990 tried to argue that the change of grade to a higher pay scale does not amount to promotion. He wanted to rely on some circular in this behalf. However, when a recent judgment of this Court contrary to his submission was pointed out to him he could not pursue the point any further. It is Government of the Punjab v. Muhammad Awais Shahid 1991 SCMR 696.

- 12) That the para-12 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. The appellant quotes from the authority from the Wafaqi Mohtasib (Ombudsman's Secretariat Islamabad) Case No. Reg. H/16183/97-202 Date of Registration 15-8-1997. In this authority Justice (Rtd) Abdul Shakur ul Salam Ombudsman says in his decision dated 26-5-1998 under the Subject: DELAY IN GRANT OF PREMATURE INCREMENT ON HIS GETTING MOVE-OVER thus

The complainant was "brought to the next higher grade", commonly called, granted "move over". He was not allowed premature increment. Hence, the complaint.

2. He relies on the Findings in the case of Mirza Muhammad Rafiq. Facts are identical except that the complainant is a gazetted officer in the Postal Department whereas the complainants in the afore-mentioned cases were non-gazetted officers belonging to the Railways.
3. Mr. Mehboob Elahi, Joint Secretary (Regulations), Finance Division has appeared, and submitted that a person who is "brought from the next higher National Scale" or what is commonly called granted "move-over" is not entitled to a premature increment. Premature increment is only allowed when there is a promotion from a lower grade post to a higher grade post.
4. The argument is no doubt specious but there are hurdles in the way. Vide letter of the Accountant General Pakistan Revenue No. 1-73/vol-XXVII/2341-C, dated 5-5-1992, it has been reported "that it has been decided by the Auditor General's office that the word 'promotion' used in this context will include not only promotion from a lower post to a higher post but also grant of higher pay scale by whatsoever means it may be".
5. Then, there are judgments delivered by Mr. Justice Manzoor Hussain Sial, as a Judge of the Lahore High Court in Writ Petition No. 223 of 1992 in which it was observed that "there is abundant authority now available which is to this effect that change of grade from lower to higher in the pay scale amounted to promotion of the employee" and number of decisions were referred to. There is another judgment by the Learned Judge reported in 1984 PLC 1620 Pakistan Railways versus Fazalur

Rehman and others wherein it was observed that "it was contented (by the Counsel for the Railways) that they (employees) were not promoted to higher post but were placed in higher grade". The Learned Judge observed as follow:

"For proper appreciation of the first contention of the learned counsel the relevant para. (H) of the Notification, dated 22nd June, 1972 is reproduced hereunder:-

"(H) In cases of promotion from a lower to a higher post, where the stage in the National Scales of the higher post noted above the substantive in the National scales of the lower post gives a pay increase equal to or less than, a full increment, the initial pay in the National Pay Scales pertaining to the higher post will be fixed after allowing a premature increment in the National Pay Scales of the higher post. The existing rules/orders regarding grant of minimum pay increases on promotion shall treated as withdrawn."

The first contention of the learned counsel that the respondents were not promoted but only placed in higher Grades, that those enjoyed by them previous to 1st May, 1979 has not force. After the instructions of change in nomenclature of service and abolition of classes, status of officials is signified by Grades. It cannot, therefore be said that the person be placed in the higher Grades were not promoted."

6. Then, there is a judgment of the Learned Supreme Court of Pakistan in the case of Government of the Punjab versus Muhammad Awais Shahid etc. 1991 SCMR 696 wherein Mr. Justice Shafiur Rahman, held that "under the existing rules consistently practiced that wherever there is a change of grade or post for the better, there is an element of selection involved that it is promotion and it is not earned automatically, but under an order of the competent authority to be passed after due consideration on the comparative suitability and the entitlement of those incompetent (probably in competition)." "Move-over" is always granted by the authority competent to do so. In the case of Mr. Abdul Mateen and two others vs NWFP through Chief Secretary (PLD 1993 S.C. 187 at page 190) Mr. Justice Muhammad Afzal Zullah, Chief Justice of Pakistan observed that the learned Counsel for the appellant argued that "change of grade to higher pay scale does not amount to promotion. He wanted to rely on some circulars in this behalf. However, when a recent judgment of this Court contrary to his submission was pointed out to him he could not pursue the point any further."
7. In view of the above, it is quite clear that when the complainant was allowed to go from lower grade to higher grade that amount to promotion for entailing a premature increment. It is, therefore, recommended that the dues of the complainant be calculated accordingly and paid to him within a month.
8. Compliance to be reported soon thereafter _____

(JUSTICE (RTD) ABDUL SHAKURUL SALAM)

DATED: 26-5-1998.

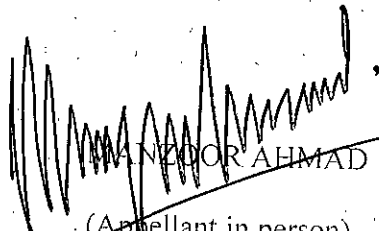
- 13) That the para-13 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. Accordingly the answer of the appellant is same as the para-13 of the appeal of the appellant.
- 14) That the para-14 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents while the respondents No. 2 & 5 have submitted an irrelevant Act 2012 (KPK) to the instant appeal which does not supports their denial of the Premature Increment on Move-over and have tried to hijack the discussion in a direction. The respondents No. 1,3 & 4 have just beaten about the bush and have not supported their denial by any rule or law.
- 15) That the respondents No. 2 & 5 have inserted a new issue totally different from the issues in the appeal and have excluded the employees of the Provincial Government from the operation of the letter of the Auditor General of Pakistan. It is means that the Federal Government employees are treated by one kind of definition of "Promotion" while the Provincial Government employees are treated by another kind of definition of "Promotion". It is nothing but repudiation of the definition of "Promotion" in all laws, executive circulars and judicial rulings. They are liable to be proceeded under the law for their repudiation. The rest of the respondents have not replied specifically to this para-15.
- 16) That the para-16 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. Accordingly the answer of the appellant is same as the para-16 of the appeal of the appellant.
- 17) That the para-17 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. Accordingly the answer of the appellant is same as the para-17 of the appeal of the appellant.
- 18) That the para-18 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. Accordingly the answer of the appellant is same as the para-18 of the appeal of the appellant.
- 19) That the para-19 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and denied the contents. Accordingly the answer of the appellant is same as the para-19 of the appeal of the appellant.
- 20) That the para-20 of the grounds is answered thus that the respondents have not taken support of any rule or law in their rebuttal but have answered the para generally and

denied the contents. Accordingly the answer of the appellant is same as the para-20 of the appeal of the appellant.

Prayer:-

It is, therefore, prayed that the appeal of the appellant may please be accepted and the respondents may please be directed to grant one premature increment on move-over of the appellant from BPS- 7 to BPS-8 on 1-12-1997 and one premature increment on move-over from BPS-8 to BPS-9 on 1-12-1999 and arrears thereof may please be given in light of the Pay Fixation Rules and Superior Courts' Judgments.

Dated: 5 / 4 / 2016 /


MANZOOR AHMAD
(Appellant in person)
M.A. Political Science LLB
Mobile: 0345-9503142

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR
Service Appeal No. 594 / of 2014.

ManzoorAhmad.....Appellant.

Versus

Government of Khyber Pakhtunkhwa & Others.....Respondents.

AFFIDAVIT IN SUPPORT OF REJOINER.

I, Manzoor Ahmad son of Amir Jalal resident of Village Marghuz, District Swabi do hereby state on oath that the contents of the accompanying Rejoinder are correct to the best of my knowledge and belief and nothing has been concealed from this honourable Tribunal.

Peshawar.



DEFENDENT.

(Manzoor Ahmad)

Dated: 5-4-2016 /

CNIC # 16202-103228-5

Written Arguments On Behalf of the Appellant Manzoor Ahmad in person.

Subject: Appeal U/S 4 of the KPK Service Tribunal Act, 1974 for grant of premature increment on Move-over from BPS-7 to BPS-8 on 1-12-1997 and one premature increment on Move-over from BPS-8 to BPS-9 on 1-12-1999 and arrears of premature increments since then.

Respected Sir,

I have the honour to submit the written arguments in Appeal No. 594 of 2014. The arguments are directed against the denial of the Respondents of the premature increments on two move-overs mentioned above. The Respondents ignored the Departmental Appeal of the appellant for the premature increments and their arrears and for the solution of the problem in light of the **Judgments of the Supreme Court of Pakistan, Lahore High Court, Findings of Wafaqi Mohtasib (Ombudsman) Islamabad, Letter of Auditor-General of Pakistan dated 01-04-1992 and Fundamental Rules.** The arguments have been based on the following facts, grounds, legal references and provisions.

FACTS AND GROUNDS LEADING TO THE INSTANT ARGUMENTS:

- 1) That on 1-12-2010, the entries in the Service Book of the appellant were revised due to the award of 4 annual increments for the untrained service and so the pay was re-fixed since 23-5-1988.

(Copy of service book bearing the entry has been attached on page 10 as Annexure 'A' to the Service Appeal)
- 2) That due to re-fixation, the appellant has been given Move-over from BPS-7 to BPS-8 on 1-12-1997. His pay in the BPS-7 was Rs. 2695/- PM which was fixed in the next scale of BPS-8 which was Rs. 2772/- PM. The increase in pay was Rs. 77 which was less than one increment of BPS-8. The appellant was entitled to one premature increment of BPS-8 but the respondents did not give him it.
- 3) That the appellant has been given Move-over from BPS-8 to BPS-9 on 1-12-1999. His pay in the BPS-8 was Rs. 2860/- PM which was fixed in the next scale of BPS-9 which was Rs. 2866/- PM. The increase in pay was less than one increment of BPS-9. The increase in pay, was Rs. 6 which was less than one increment of BPS-9. The appellant was entitled to one premature increment of BPS-9 but the respondents did not give him it.
- 4) That the Respondent No. 5 has endorsed a letter No. 171-Reg. I/11/C/85 KM from the Department of the Auditor-General of Pakistan, Gulberg—III, Lahore Dated: 01-04-1992 vide the Office of the Accountant General (PR) Sub-office Peshawar. G.T.K (F)/T-40/VOL-VM/91/2378 Dated: 18-04-1992. The Auditor-General of Pakistan has defined the word "Promotion" in the said letter. According to his letter, "The matter has been duly considered and it has been decided that the word "Promotion" used in this context will include not only promotion from a lower post to higher post but also from lower pay scale to higher pay scale by whatsoever means it may be". The words "whatsoever means it may be" have special significance in relation to the instant case of Move-over.

(Copy of letter of the Respondent No. 5 has been attached on page 13 as Annexure 'B' to the Service Appeal)

- 5) That on 05-01-2014, the appellant submitted the Departmental Appeal to Respondent No. 4 for the premature increment on each move-over but the respondent NO. 4 did not inform the appellant about any action taken on his appeal. Hence there was no other alternative but to submit the instant Service Appeal before this Tribunal.

(Copy of the Departmental Appeal has been attached on page 14 as Annexure 'C' to the Service Appeal)

It is a unique phenomenon that no one ask the Departmental Authority that why it failed in 90 days to decide the Departmental Appeal either in one way or another and adopted silence despite having authority to decide the same but it has been made obligatory for the aggrieved Civil Servant to make a departmental appeal to the appellate whether the authority may look to it or not. It is totally unreasonable concept to make an appeal either to the same authority whose order has aggrieved the person or to the upper authority that ultimately joins a as party in the Service Appeal before the Court/Tribunal. What does the Supreme Court of Pakistan say about the Departmental Appeal in (2015 SCMR 456)?

(u) Civil Servants Act (LXXI of 1973)---

---S. 22--- Service Tribunals Act (LXX of 1973), S. 4(1)(a)--- Constitution of Pakistan, Arts. 4, 9, 10A, 25, 184(3) & 188---Review petition--- Civil service---Expeditious remedy from the Service Tribunal, hindrance to--- Civil servant could not approach the Service Tribunal unless he exhausted the remedy of departmental appeal/representation under S. 22 of the Civil Servants Act, 1973---Section 4(1)(a) of the Service Tribunals Act, 1973, provided that a civil servant could approach the Service Tribunal, subject to his exhausting remedy under S. 22 of the Civil Servants Act, 1973, after lapse of 90 days from the date on which such appeal/application was so preferred--- Civil Servant aggrieved by an order of the department had to file a representation or appeal within 30 days of passing of such order and if the said authority did not decide his appeal/representation within 90 days, he could prefer an appeal before the Tribunal, after lapse of time as contained under S.4(1)(a) of the Service Tribunals Act, 1973---Supreme Court observed that provisions of S. 22 of the Civil Servants Act, 1973 and S. 4 of the Service Tribunals Act, 1973, were required to be re-examined after insertion of Art. 10A in the Constitution, as it restricted a civil servant from seeking expeditious remedy from the Service Tribunal which was constituted under the command of the Constitution; that after the promulgation of Art. 10-A of the Constitution, it was imperative to re-examine the existing law which apparently barred the filing of appeal in the Service Tribunal before the passage of mandatory 90 days, but practically for 120 days; that in certain situations a civil servant may face wrath and vendetta of his superiors, if he refused to carry out their illegal orders, and in such a situation, his representation etc. to the concerned authority to seek redressal of the wrong committed against him may be ignored or outright rejected by the authorities under political influence or for ulterior motives, leaving him with no option but to wait for mandatory period of 120 days to enable him to file an appeal etc. before the Service Tribunal; that in view of such problems faced by the civil servants due to lengthy process of filing appeal in the Tribunal and

availing of relief, it was imperative to provide an efficacious and expeditious alternate remedy to civil servants by way of allowing them to approach the Service Tribunal, Federal or Provincial, without waiting for a period of 90 days, as contained under S.4(1)(a) of the Service Tribunals Act, 1973 by preferring an appeal against the orders; that at touchstone of Art. 10-A of the Constitution, the issues that were required to be answered were whether S. 4(1)(a) of the Service Tribunals Act, 1973, restricting a civil servant from filing appeal to the Tribunal after lapse of 90 days was violative of the spirit and command of Art. 10-A of the Constitution, and whether time frame provided by S. 4 of the Service Tribunals Act, 1973 debarring an aggrieved civil servant to approach the Service Tribunal amounted to denial of the relief to him in terms of Arts. 4, 9 & 25 of the Constitution---Supreme Court further observed that it was necessary to take up said issues in its suo motu jurisdiction under Art. 184(3) of the Constitution in a separate proceeding--- Review petition was dismissed accordingly.

247. Before parting with this judgment, we have noticed that a civil servant cannot approach the Service Tribunal unless he exhausts the remedy of departmental appeal/representation under section 22 of the Sindh Civil Servants Act, 1973. Section 4(i)(a) of the Sindh Service Tribunals Act, 1973, provides that a Civil Servant can approach the Tribunal, subject to his exhausting remedy under section 22 of the Sindh Civil Servants Act, after lapse of 90 days from the date on which such appeal/application was so preferred. In other words, a Civil Servant aggrieved by an order of the department has to file a representation or Appeal within 30 days of passing of such order and if the said authority does not decide his appeal/representation within 90 days, he can prefer an appeal before the Tribunal, after lapse of time as contained under section 4(a) of the Sindh Service Tribunals Act. These provisions of section 22 of the Sindh Civil Servants Act and section 4 of the Sindh Service Tribunals Act require to be re-examined after insertion of Article 10A in the Constitution, as it restricts a Civil Servant from seeking expeditious remedy from the Tribunal which is constituted under the command of the Constitution.

248. We have also examined the service laws of other Provinces and the Federation and find that they have similar provisions in their service laws, as contained in Sindh Service laws. The provisions of section 22 of the Sindh Civil Servants Act and the Section 4 of the Sindh Service Tribunals Act, restrict a Civil Servant to get efficacious and expeditious remedy against the order of the department till the expiry of almost 120 days. After the promulgation of Article 10-A, we find it imperative to re-examine the existing law which apparently bars the filing of appeal in the Service Tribunal before the passage of mandatory 90 days, but practically for 120 days. The law also needs to be looked afresh, because writ jurisdiction in the matters relating to terms and conditions of service against the executive by the aggrieved Civil Servant is barred under Article 212 of the Constitution.

249. Moreover, this Court has also time and again emphasized upon reinforcement of good governance and strict observance of rules by the public functionaries. In the case of Syed Mehmood Akhter Naqvi v. Federation of Pakistan (PLD 2013 SC 195), this Court has clearly reiterated the settled principles of good governance by stating that the public functionaries are not obliged to follow illegal orders of higher authorities. The principle has since been reiterated in order to enforce good governance and adherence to rule of law in public service.

250. However, a situation could and does arise, in which a civil servant may face wrath and vendetta of his superiors, if he refuses to carry out the illegal orders. In such a situation, he has the only right or option to make a representation etc to the concerned authority to seek redress of the wrong committed against him, but in many such cases his representation may be ignored or outright rejected by the authorities under the political influence or for ulterior motives. In that

case, an aggrieved Civil Servant is left with no option but to wait for mandatory 120 days, enabling him to file an appeal etc. before the Tribunal. However, in the intervening period, an aggrieved Civil Servant faces uncompensable hardship and damage to his career, name and reputation.

251. As a result of existing disadvantages, cumbersome and prolonged processes of seeking remedies and relief from the administration or Service Tribunal, the honest, efficient and law-abiding Civil Servants are frequently left with a helpless situation of facing victimization at the hands of the administration and political executive, which tremendously affect their morale, motivation, character and even their prospects touching the pinnacle of career by the dint of honesty, efficiency and diligence.

252. In view of the aforesaid problems faced by the Civil Servants due to lengthy process of filing appeal in the Tribunal and availing of relief, it is imperative to provide an efficacious and expeditious alternate remedy to the Civil Servants by way of allowing them to approach the Service Tribunal, Federal or Provincial, **without waiting for a period of 90 days, as contained under section 4(i)(a) of the Service Tribunals Act, by preferring an Appeal against the orders.** Therefore, we are of the view that following issues are required to be answered at the touchstone of Article 10-A of the Constitution:--

(1) Whether section 4(i)(a) of the Service Tribunals Act, restricting a Civil Servant from filing appeal to the Tribunal after lapse of 90 days is violative of the spirit and command of Article 10-A of the Constitution.

(2) Whether time frame provided by Section 4 of the Service Tribunals Act, debarring an aggrieved Civil Servant to approach the Service Tribunal amounts to denial of the relief to him in terms of Articles 4, 9 and 25 of the Constitution.

253. We, therefore, for the aforesaid reasons, feel it necessary to take up these issues in suo motu jurisdiction under Article 184(3) of the Constitution, in separate proceedings as the issues, inter alia, are of public importance and have far reaching effects on the service structure of the Civil Servants in the Federation and the Provinces.

254. This judgment shall also be sent to the Chief Justices of all the High Courts through Registrars for their information, perusal and circulation amongst all the Hon'ble Judges. This judgment shall also be sent to the Chief Secretaries of all the Provinces as well as the Secretary, Establishment Division, Government of Pakistan, Islamabad, with the direction that they shall streamline the civil service structure in light of the principles laid down in this judgment. In addition, the office shall also send copies of this judgment to the Chairmen of the Federal Service Tribunal, Islamabad and the Sindh Service Tribunal, Karachi, through their Registrars, for information and compliance.

Introduction of Move-over:

Before starting proper arguments on "Move-over", it is better to give a few words in introduction of it. When the pay of the civil servant reaches to the maximum of his pay scale of the post by the addition of the successive periodical increments and then comes a stage where there is no other alternative but to change the pay scale for the incumbent of the post and he is given next higher scale of pay. As in the instant case, the pay of the Appellant reached to the maximum of the BPS-7 on 1-12-1996. The scale of pay for BPS-7 was BPS-7 RS. 1480-81-2695. On 1-12-1997, he was given new scale of pay i.e. BPS-8 Rs. 1540-88-2860. Similarly, on 1-12-1998, the pay of the appellant reached to the maximum of the BPS-8, he was given new scale of pay i.e. BPS-9 Rs. 1605-97-2860.

ON GROUNDS:

- 1) The case of the appellant is not for the move-over from lower pay scale to higher pay scale because the respondents have already given to him to move-overs while re-fixing his pay from 23-5-1988 to 1-12-2010 but for granting premature increment on each move-over. The appellant shall try his best to clarify the admissibility of premature increment, in light of the Rules and Judgments of the Superior Courts, on each change of scale for the better i.e. when the competent authority grants a civil servant every new scale of pay, the premature increment shall be invariably given.
- 2) The Fundamental Rule 19: The fixation of pay is within the competence of a local Government, provided that, except in the case of personal pay granted in the circumstances defined in Rule 9 (23) (a), the pay of a Government servant shall not be so increased as to exceed the pay sanctioned for his post without the sanction of an authority competent to create a post in the same cadre on a rate of pay equal to his pay when increased.

Auditor General's decision dated the 20th November 1923: The rule does not give a Local Government power to grant pay in excess of what is permissible under other rules in the Fundamental Rules. Thus it does not enable a local Government to grant an initial pay higher than what is permissible under Fundamental Rule 22. But once an initial pay is fixed under Fundamental Rule 22, Fundamental Rule 27 enables an authority mentioned therein to grant advance increment immediately. Thus in fact, Fundamental Rules 22 and 27 read together enable an authority mentioned in Fundamental Rule 27 to fix initial pay in excess of the amount permissible by Fundamental Rule 22 only.

- 3) Fundamental Rule 22 (a) (ii): When appointment to the new post does not involve such assumption, he will draw as initial pay the stage of the timescale which is equal to his substantive pay in respect of the old post, or, if there is no such stage the stage next below that pay PLUS personal pay equal to the difference, and in either case will continue to draw that pay until such time as he would have received an increment in the time-scale of the old post or for the period after which an increment is earned in the time-scale of the new post, whichever is less. But if the minimum pay of the time-scale of the new post is higher than his substantive pay in respect of the old post, he will draw that minimum as initial pay.
- 4) Fundamental Rule 23: The holder of a post, the pay of which is changed, shall be treated as if he were transferred to a new post on the new pay; provided that he may at his option retain his old pay until the date on which he has earned his next or any subsequent increment on the old scale, or until he vacates his post or ceases to draw pay on that time-scale. The option once exercised is final.
- 5) According to the Fundamental Rule 24, "An increment shall ordinarily be drawn as a matter of course unless it is withheld". The point of contention is that the appellant was deprived of the annual increments both for the years 1997 and 1999 on the pretext that the appellant has been given move-overs. The rule says that increment shall be drawn as a matter of course unless it is withheld meaning thereby that the increment is withheld when the conduct of the civil servant is not good and work is not satisfactory. According to the Pay Fixation Rules, 1978, Rule 7, at least six months service is required for the accrual of the annual increment but in the instant case the appellant has rendered 2 years service but was deprived of the annual increments for 2 years. Financial Promotion was given but the increase in pay was not

equal to even one increment of the upper scale! The aim of the financial rules is not to inflict financial loss to a civil servant in the re-fixation of pay due to any kind of promotion. The appellant gets the support of an Authority of the Court which is suitable in the instant case because the aim is to interpret the financial rules to the advantage of the civil servant. "That Fixation of pay on promotion—Protection.—Foreman of WAPDA in pay scale of Rs. 750-75-1,500 and when drawing pay @ Rs. 1,500 p.m. was promoted as Junior Engineer in the pay scale of Rs. 500-50-1,000/50-1,250. In the matter of fixation of his pay in the higher post the formula that Personal pay plus basic was not to exceed the maximum of this pay scale of the new post was pressed on the basis of Fundamental Rule 22 but the official suffered a loss in the fixation of his pay. On his appeal the Service Tribunal held, he was drawing the maximum of this scale of Rs. 1,500 p.m. when he was promoted as Assistant Engineer (Grade 17). Even though the appellant was promoted to higher grade and had to shoulder greater responsibilities the pay scale available to him was 500-50-1,000/50-1,250. Even the maximum of his scale was lower by Rs. 250 than his maximum scale of the Foreman. The appellant, therefore, claimed that he had a legitimate right to be placed in Grade 18 as per F.R. 22(a)(i). However, as laid down of (J)(i) of the National Scales of Pay and Allied Matters, (page 319 of Estacode). "An employee who will be adjusted in, or whose basic pay scale is national Scale 16, will be allowed to move over only up to and including National Scale 17." From this quotation it is clear that the appellant cannot be allowed to skip scale 17 and go over to scale 18. For such contingencies the award of personal pay fundamental Rule 9(23) is relevant. This Rule has broad meaning and wide application, the underlying spirit being to save a Government servant from financial loss. If the personal pay plus the basic pay is not to exceed the maximum of the scale of the new post then we have defeated the very purpose of the rule, namely to save a Government servant from loss of pay. In fact this narrow and unjust interpretation whereby we wish to inflict the punishment of basic pay plus personal pay not to exceed the maximum of the scale is not supported by any rules. We hold, therefore, that the basic pay plus personal pay could very well exceed the maximum of the scale if by so doing we save a Government servant from financial loss. We shall, therefore, treat personal pay as an independent entity over and above the scale of pay for that is the only benign way a benign rule can be interpreted and not as has been done in our files by strangling attachment to rules wrongly inferred or interpreted to grave detriment of the appellant. (1982 PLC (CS) 356).

- 6) Fundamental Rule 27: An authority may grant a premature increment to a Government servant on a time-scale of pay if it has power to create a post in the same cadre on the same scale of pay.

Auditor General's decisions dated 3rd January 1924: (1) In drafting the Fundamental Rules it was clearly recognised that Fundamental Rule 27 would enable initial rates of pay, to be fixed otherwise than in the manner enunciated in Fundamental Rule 22.

- (2) The expression "scale of pay" represents the maximum of the scale which is to be taken into account for determining the authority competent to sanction increments rather than the stage of it.
- (3) When the Auditor General sanctions advance increments in future, he will definitely state if it is intended that a full year's benefit should be given, whenever this is not stated in an order, the recipient must serve for a full year on the new rate before he can earn another increment.

- 7) Fundamental Rule 28: The authority which orders the transfer of a Government servant as a penalty from a higher to a lower grade or post may allow him to draw any pay, not exceeding the maximum of the lower grade or post, which it may think proper.
- 8) Fundamental Rule 37: Personal Pay.—Except when the authority sanction it orders otherwise, personal pay shall be reduced by any amounts by which the recipient's pay may be increased, and shall cease as soon as his pay is increased by an amount equal to his personal pay.
- 9) That **Admissibility of next higher Revised National Pay Scale:** According to the Rule 8 (1) A civil servant holding post in the Revised National pay Scales 1 to 15, who has reached the maximum of a Revised national Pay Scale shall be allowed the next higher Revised national pay scale with effect from the 1st day of December of the year in which he completes one year of such service at the said maximum **as counts for increment under these rules,** subject to the condition that there is no adverse entry in the Annual Confidential Reports of the civil servant in Revised National Pay Scale 4 to 15 for the last four years. If this condition is not fulfilled, he shall wait at the said maximum till he has earned in succession four Annual Confidential Reports without any adverse entry and his move over to the next higher Revised National Pay Scale shall take effect from the 1st day of December of the year, following the year for which he earns the fourth such annual confidential report.
- 10) That **Fixation of pay on promotion:** Rule 10 (1) (i) Subject to the provision of rule 11- Where a civil servant is promoted from a lower to a higher post in Revised National Pay Scales 2 to 19 where the stage in the Revised national pay Scale of the higher post, next above the pay of the civil servant concerned in the pay scale of the lower post, gives a pay increase equal to or less than a full increment of the pay scale of the higher post, the initial pay in the Revised National Pay Scale of the higher post shall be fixed after allowing a premature increment in the Revised National pay Scale of the higher post;
- Rule 10 (1) (iii) prescribes that where a lower and a higher pay scale have been prescribed for the same post, the pay on promotion from the lower to the higher scale upto National Pay Scale 19 shall be fixed in the manner given in clause (i) above.
- 11) That Selection grade was not supported by any rule nor in selection grade the post of the employee was changed or given higher responsibility but when selection grade was given the scale was changed from the lower pay scale to higher pay scale, he was given one premature increment of the higher pay scale. A Court's authority is relevant on the point, **2001 SCMR 252**. According to this selection grade was not a promotion in strict sense of the word though the same had overtones of promotion in view of the financial benefit involved. Expression "selection grade" was confined to revision of basic pay scale and did not find mention in Section 8 of Civil Servants Act, 1973 and Civil Servants (Seniority) Rules, 1993 under which seniority list of civil servants was required to be prepared with reference to a service, cadre, or post and not grade". On comparing and contrasting this authority with the concept of Move-over and the denial of the respondents of premature increment on each move-over give rise many questions which needs the keen consideration of this Tribunal.
- (i) Selection Grade is not supported by any rule while Move-over is supported by Rule 8 of the Pay Fixation Rules, 1978.

- (ii) Selection Grade is considered as promotion by the Respondents because during the re-fixation of pay of the Selection Graded Civil Servant the pay is re-fixed according to the Rule 10(1)(i) of the Pay Fixation Rules, 1978 and one premature increment is granted if the increase in the pay is less than one increment of the higher pay scale while Move-over is not considered as the promotion like the Selection Grade and the Civil Servant is not granted one premature increment on acquisition of higher scale.
- (iii) If in the Move-over, the Civil Servant is not given post of higher responsibilities, the same can be said equally for the Selection Grade in which also only the pay scale is increased along with a premature increment while in the Move-over only the next higher scale without the benefit of premature increment is given.
- (iv) Selection Grade was given to a Civil Servant without any Condition/Stipulation of ACRs etc while for granting the Move-over there is a proper procedure and condition of good ACRs which procedure is often is adopted for the promotion of the civil servants from the lower pay scale posts to the higher pay scale posts involving assumption of responsibilities.
- (v) Whether it is not anomalous official conduct and character of the Respondents that a procedure which is meant for the promotion of the civil servants from the lower posts to the higher posts be applied on the Civil Servant eligible for the Move-over to the next higher pay scale but at least the benefit of premature increment attached to that concept be denied to the civil servants eligible for the move-over?

12) That the Up-gradation of post/Civil Servant also attracted the attention of the respondents and the appellant since 1-10-2007 when the appellant was upgraded from BPS-7 to BPS-12. The upgraded teachers were entitled to one premature increment from the date of their up-gradation but the Respondents were not willing to pay them the premature increment while fixing their salaries in the upgraded scale in the year 2007 and delay the matter till the year 2014. Thus the controversy entangled the teachers and respondents till 30-5-2014 when the respondent No. 2 admitted/accepted one premature increment on up-gradation to BPS-12 vide No. FD (SO SR-1) 2-123/2014 30-5-2014. The appellant has challenged the Notification on the ground that it has denied the arrears of one premature increment since 1-10-2007 to 30-5-2014 before this Tribunal vide Service Appeal No. 1062 of 2015. According to the Respondent No. 2, the Notification has been issued in pursuance of Government of Pakistan Finance Division O.M. NO. 11(4)R-2/2011-1153/2013 dated 31-05-2013 but the Respondent No. 2 has not fully complied the referred Notification of the Government of Pakistan which is clear from perusal of the referred letter. The question in the letter was: If yes what would be the criterion of admissibility for grant of premature increment and arrears on up-gradation? The answer was: Where the stage in BPS of higher (up-graded) post next above the pay admissible in BPS of lower (pre-up-gradation) post, gives the increase in pay equal to or less than a full increment of higher BPS, the initial pay in the BPS of the higher (up-graded) post will be fixed after allowing a premature increment in BPS of higher post. The letter is silent in relation to the arrears of the premature increment but the respondent No. 2 on his own wrote in the impugned Notification which he claims to have been issued in pursuance of the letter of Government of Pakistan that "The pay of the concerned employee shall be fixed in accordance with premature and he

shall not be entitled to any arrear in this behalf". There is another letter of the Government of Pakistan Finance Division dated 18-9-2015 which allow for the arrears of proforma promotion and up-gradation. It can be safely said that the Respondent No. 2 has deceived the civil servants in the Impugned Circular dated 30-05-2014.

What does the Supreme Court of Pakistan say about the concept of up-gradation has been explained in the Civil Appeal No. 308 of 2014 Government of Pakistan M/o Railways, through its Secretary, etc **VERSUS** Jamshed Hussain Cheema & others

6. Leave to appeal was granted in this case, inter alia, to examine whether the private respondents, being civil servants, could have invoked the writ jurisdiction of the High Court as regards their grievance, which according to learned ASC for the appellants, related to terms and conditions of their service. Today, when the learned ASC for the appellants was confronted with the ratio of judgment in the case of **Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456)**, relating to concept of up-gradation of posts, he candidly did not dispute the legal position that up-gradation to higher scale is not equivalent to promotion and no concept of up-gradation, as one of the terms and conditions of service, was provided under the Civil Servants Act, 1973. Therefore, for any grievance with reference to up-gradation, remedy was not available to the respondents before the Service Tribunal. However, he forcefully argued that up-gradation of scales was purely a policy decision, which was to be taken by the competent authority with the approval of the Government and in this regard the decision of the competent authority regarding up-gradation of different employees of the appellants was final and it could not be interfered with by the Court, as has been done in the instant case by both the Courts below.

13) The clarification of the concept of the move-over whether it amounts to financial promotion in light of the Superior Courts' Judgments.

- (a) Mr. Justice Manzoor Hussain Sial, as a Judge of the Lahore High Court in Writ Petition No. 223 of 1992 in which it was observed that "there is abundant authority now available which is to this effect that change of grade from lower to higher in the pay scale amounted to promotion of the employee" and number of decisions were referred to.
- (b) There is another authority from the Lahore High Court 1984 PLC 1620, Pakistan Railways Vs Fazalur Rehman and others which clarifies the concept of move-over thus:

(a) Payment of Wages Act (IV of 1936)--

--Ss. 15 & 17 and Provisional Constitution Order (1 of 1981), Art. 9— Promotion—Railways employee-Placed in higher grade cannot be said to have not been Promoted-Plea of Railways that employees not promoted but only placed in higher Grade not entitled to claim benefit of fixation of pay in higher Grade according to principles prescribed by Notification, dated 22nd June, 1972 for fixation of pay on promotion to higher Grade-Rejected-Order of Authority/Appellate Court under S. 15 or S. 17 of payment of Wages Act, 1936 allowing application claiming payment of illegal deduction of wages as admissible on being placed in

higher Grade challenged in Constitution Petition—Impugned order upheld by High Court.

The learned Judge Mr. Justice Manzoor Hussain Sial says in para-4 of this Judgment thus “I have considered the contentions raised by learned counsel for the petitioners but find my unable to agree with him. For proper appreciation of the first contention of the learned counsel the relevant para. (H) of the Notification, dated 22nd June, 1972 is reproduced hereunder:-

“(H) in cases of promotion from a lower to a higher post, where the stage in the National Scales of the higher post noted above the substantive in the National scales of the lower post gives a pay increase equal to or less than, a full increment, the initial pay in the National Pay Scales pertaining to the higher post will be fixed after allowing a premature increment in the National Pay Scales of the higher post. The existing rules/orders regarding grant of minimum pay increases on promotion shall be treated as withdrawn.”

The first contention of the learned counsel that the respondents were not promoted but only placed in higher Grades, that those enjoyed by them previous to 1st May, 1979 has not force. After the instructions of change in nomenclature of service and abolition of classes, status of officials is signified by Grades. It cannot, therefore, be said that the person be placed in the higher Grades were not promoted. Moreover, the petitioner had been himself interpreting the provisions as contained in para. (H) of the Notification to allow benefit to the incumbents, as is evident from the documents Exh. P. 2 to Exh. P/5 (Annexures “G”, “H” and “J”), respectively.

The learned Judge in para-6 of the Judgment says that the contesting respondents were entitled to the amounts claimed which were rightly allowed by the respondents Nos. 19 and 20.

- (c) There is an authority from the Supreme Court of Pakistan, 1991 SCMR 696 Government of the Punjab through Secretary Services, Punjab, Lahore and 4 others Vs Muhammad Awais Shahid and 4 others thus,

(a) Constitution of Pakistan (1973)--

--Art. 212(3)—Leave to appeal was granted in order to examine the correctness of the view taken by the Service Tribunal with regard to the grant of enhanced scale of pay in the basic scales of pay to officers who had the fixed percentage of posts of the same category in the higher scale of pay.

(b) Punjab Civil Servants (Change in Nomenclature of services of Abolition of classes) Rules, 1974—

--R. 2(e)—Change of grade or scale of pay for the better would amount to promotion.

(c) Punjab Civil Servants Pay Revision Rules, 1973--

--R. 9—Change of scale is promotion.

(d) Punjab Civil Servants pay Revision Rules, 1977--

--R. 8.(3)—Rule is a substantive rule and would have no retrospective application.

(e) Civil Service--

--Change of grade or post—Effect—Whenever there is a change of grade or post for the better, there is an element of selection involved that is promotion and it is not earned automatically, but under an order of the competent Authority to be passed after the consideration on the comparative suitability and the entitled of those incumbents.

- (d) There is an authority from the Supreme Court of Pakistan, **1993 Supreme Court 187 Abdul Matin Khan and 2 others Vs N.W.F.P. through Chief Secretary and 2 others** thus,

(a) Civil Service—Promotion –Change, of grade to higher Pay scale amounts, to promotion.

Government of the Punjab v. Muhammad Awais Shahid 1991 SCMR 696 ref.

In this Judgment Chief Justice Mr. Justice Muhammad Afzal Zullah says that the learned counsel for the appellant in Appeal No. 183-P of 1990 tried to argue that the change of grade to a higher pay scale does not amount to promotion. He wanted to rely on some circular in this behalf. However, when a recent judgment of this Court contrary to his submission was pointed out to him he could not pursue the point any further. It is **Government of the Punjab v. Muhammad Awais Shahid 1991 SCMR 696.**

- (e) The appellant relies on the Findings from the Wafaqi Mohtasib (Ombudsman's) Secretariat Islamabad) Case No. reg. H/6/83/97-202 Date of Registration 15-8-1997. In this authority Justice (Rtd) Abdul Shakurul Salam Ombudsman says in his decision dated 26-5-1998 under the Subject: DELAY IN GRANT OF PREMATURE INCREMENT ON HIS GETTING MOVE-OVER thus.

The complainant was “brought to the next higher grade”, commonly called, granted “move-over”. He was not allowed premature increment. Hence, the complaint.

2. He relies on the Findings in the case of Mirza Muhammad Rafiq. Facts are identical except that the complainant is a gazetted officer in the Postal Department whereas the complainants in the afore-mentioned cases were non-gazetted officers belonging to the Railways.

3. Mr. Mehboob Elahi, Joint Secretary (Regulation), Finance Division has appeared, and submitted that a person who is "brought from the next higher National Scale" or what is commonly called granted "move-over" is not entitled to a premature increment. Premature increment is only allowed when there is a promotion from a lower grade post to a higher grade post.
4. The argument is not doubt specious but there are hurdles in the way. Vide letter of the Accountant General Pakistan Revenue No. 1-73/vol-XXVII/2341-C, dated 5-5-1992, it has been reported "that it has been decided by the Auditor General's office that the word 'promotion' used in this context will include not only promotion from a lower post to a higher post but also grant of higher pay scale by whatsoever means it may be".
5. Then, there are Judgments delivered by Mr. Justice Manzoor Hussain Sial, as a Judge of the Lahore High Court in Writ Petition No. 223 of 1992 in which it was observed that "there is abundant authority now available which is to this effect that change of grade from lower to higher in the pay scale amounted to promotion of the employee" and number of decisions were referred to. There is another judgment by the Learned Judge reported in 1984 PLC 1620 Pakistan Railways versus Fazalur Rehman and others wherein it was observed that "it was contended (by the Counsel for the Railways) that they (employees) were not promoted to higher post but were placed in higher grade". The Learned Judge observed as follow:

"For proper appreciation of the first contention of the learned counsel the relevant para. (H) of the Notification, dated 22nd June, 1972 is reproduced hereunder:-

"(H) in cases of promotion from a lower to a higher post, where the stage in the National Scales of the higher post noted above the substantive in the National Scales of the lower post gives a pay increase equal to or less than, a full increment, the initial pay in the National Pay Scales pertaining to the higher post will be fixed after allowing a premature increment in the National Pay Scales of the higher post. The existing rules/order regarding grant of minimum pay increases on promotion shall treated as withdrawn."

The first contention of the learned counsel that the respondents were not promoted but only placed in higher Grades, that those enjoyed by them previous to 1st May, 1979 has not force. After the instructions of change in nomenclature of service and abolition of classes, status of officials is signified by Grades. It cannot, therefore, be said that the person be placed in the higher Grades were not promoted."

6. Then, there is a judgment of the Learned Supreme Court of Pakistan in the case of Government of the Punjab versus Muhammad Awais Shahid etc. 1991 SCMR 696 wherein Mr. Justice Shafiur Rahman, held that "under the existing rules consistently practiced that wherever

there is a change of grade or post for the better, there is an element of selection involved that it is promotion and it is not earned automatically, but under an order of the competent authority to be passed after due consideration on the comparative suitability and the entitlement of those incompetent (probably in competition)." "Move-over" is always granted by the authority competent to do so. In the case of Mr. Abdul Mateen and two others vs NWFP through Chief Secretary (PLD 1993 s.c. 187 at pay 190) Mr. Justice Muhammad Afzal Zullah, Chief Justice of Pakistan observed that the learned Counsel for the appellant argued that "change of grade to higher pay scale does not amount to promotion. He wanted to rely on some circulars in this behalf. However, when a recent judgment of this Court contrary to his submission was pointed out to him he could not pursue the point any further".

7. In view of the above, it is quite clear that when the complainant was allowed to go from lower grade to higher grade that amount to promotion for entailing a premature increment. It is, therefore, recommended that the dues of the complainant be calculated accordingly and paid to him within a month.
8. Compliance to be reported soon thereafter _____

(JUSTICE (RTD) ABDUL SHAKURUL
SALAM)

DATED: 26-5-1998.

Prayer:-

It is, therefore, prayed that the appeal of the appellant may please be accepted and the respondents may please be directed to grant one premature increment on move-over of the appellant from BPS- 7 to BPS- 8 on 1-12-1997 and one premature increment on move-over from BPS-8 to BPS- 9 on 1-12-1999 and arrears thereof may please be given in light of the Rules and Superior Courts' Judgments.

Dated: 22-11-2017


Appellant in Person 22-11-2017.

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