

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 558/2013

Date of Institution: 22.03.2013

Iftikhar Ahmad, Shop Assistant GATTC Gul Bahar Peshawar

Versus

The Secretary Education (E&SE) Khyber Pakhtunkhwa Peshawar and three others.

**ORDER**

20.05.2022

Mr. Noor Muhammad Khattak Advocate, for the appellant present.  
Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.


The appellant has filed the instant service appeal with prayer that respondents may be directed to grant graded/running pay of Shop Assistant to the appellant from the date of his appointment till date and onwards with all consequential benefits.

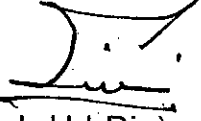
Learned counsel for the appellant stated at the bar that Notification dated 30.03.2009 of the Provincial Government is not applicable to the appellant, therefore, the appellant wants to withdraw the instant service appeal with permission to file a fresh one. In this respect, he submitted written application which is placed on file.

In light of the above, the appeal in hand stands dismissed as withdrawn, however the appellant would be at liberty to file a fresh appeal. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**

20.05.2022

  
(Rozina Rehman)  
Member (Judicial)

  
(Salah-Ud-Din)  
Member (Judicial)

04.03.2022

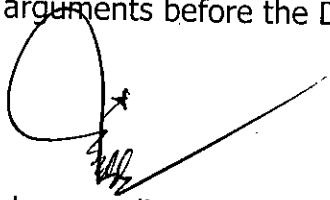
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 11.04.2022 for the same as before.


  
Reader.

11.04.2022

Appellant alongwith clerk of learned counsel for the appellant present. Naseer Ud Din Shah, Asst: AG for respondents present.

Appellant sought adjournment on the ground that his learned counsel is busy in other bench of this Tribunal. Adjourned. To come up for arguments before the D.B on 20.05.2022.

  
(Mian Muhammad)  
Member(E)


  
(Salah Ud Din)  
Member(J)


02.08.2021

Counsel for the appellant present.

Mr. Riaz Ahmed Painakheil, Assistant Advocate General for respondents present.

Former made a request for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 09.12.2021 before D.B.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

09.12.2021

Mr. Khanzad Gul, Associate of the learned senior counsel for the appellant and Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Learned senior counsel for the appellant is not in attendance to argue the appeal due to his engagement before the Hon'ble Peshawar High Court, Peshawar. Adjourned to 11.01.2022 for arguments before the D.B. Learned counsel for the appellant shall ensure his present to argue the case on the date fixed.


  
(Salah-ud-Din)  
Member(J)

  
Chairman

11.01.2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for respondents present.

Counsel for the appellant sought adjournment in order to further prepare the brief. Request accorded. To come up for arguments on 04.03.2022 before the D.B.

  
(Atiq-ur-Rehman Wazir)  
Member(E)

  
Chairman

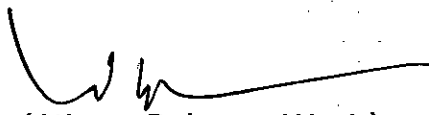
30.03.2021


Appellant present through counsel.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment as he has not prepared the brief.

Adjourned to 25/06/2021 for arguments, before D.B.


  
(Atiq ur Rehman Wazir)  
Member (E)

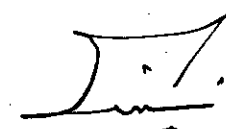
  
(Rozina Rehman)  
Member (J)

25.06.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

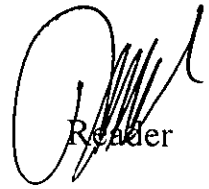
Learned counsel for the appellant pointed out that an application for impleadment of Director Curriculum and Teacher Education Khyber Pakhtunkhwa at Abbottabad has been submitted by the appellant, therefore, arguments on same may be heard. Copy of impleadment application is handed over to learned Additional Advocate, who stated that time may be granted to him for submission of reply on impleadment application. Adjourned. To come up for reply on impleadment application as well as arguments on the same on 02.08.2021.

  
(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

30.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 06.08.2020 before D.B.



Reader

06.08.2020

Due to summer vacation case to come up for the same on 26.10.2020 before D.B.




Reader

26.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 28.12.2020 for hearing before the D.B.



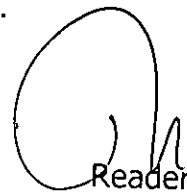
(Atiq-ur-Rehman Wazir)  
Member



Chairman

23.12.2020

Due to summer vacation, case is adjourned to 30.03.2021 for the same as before.



Reader

16.01.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 28.02.2020 before D.B. Appellant be put to notice for the date fixed.

  
Member

  
Member

28.02.2020

Junior to counsel for the appellant present Mr. Kabirullah Khattak learned Addl. AG for the respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel for the appellant is not available today. Adjourn. To come up for further proceedings/arguments on 13.03.2020 before D.B.

  
Member

  
Member

13.03.2020

Appellant in person present. Mr. Zia Ullah learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not available. Adjourn. To come up for arguments on 30.04.2020 before D.B.


  
Member

  
Member

11.09.2019

Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Being an old case of the year 2013, adjourned by way of last chance. To come up for arguments on 31.10.2019 before D.B.

  
Member

  
Member

31.10.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Again last opportunity is granted. Adjourn. To come up for arguments on 09.12.2019 before D.B.

  
Member

  
Member

09.12.2019

Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 16.01.2020 before D.B.

  
Member

  
Member

22.04.2019

Appeal received from august Supreme Court of Pakistan vide order dated 11.03.2019 in Civil Appeal No. 628/2019 out of Civil Petition No. 263-P/2017. Assigned to D.B for final hearing and disposal for 29-05-19. Notices to parties be issued for the date fixed before the D.B.

  
Chairman

29.05.2019

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 12.07.2019 before D.B.

  
Member

  
Member

12.07.2019

Mr. Noor Muhammad Khattak, Advocate submitted power of attorney on behalf of the appellant. Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 11.09.2019 before D.B.

  
Member

  
Member



Ph: 9220581  
Fax:9220406

**REGISTERED**

No. C.A.628/2019-SCJ (Imp.)

**SUPREME COURT OF PAKISTAN**

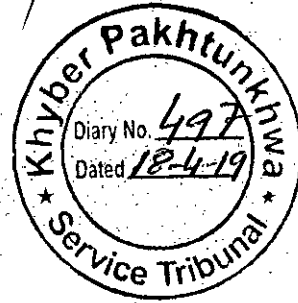
Islamabad, dated 10/04/, 2019.

From

The Registrar,  
Supreme Court of Pakistan,  
**Islamabad.**

To

The Registrar,  
KPK. Service Tribunal,  
**Peshawar.**



**Subject: CIVIL APPEAL NO. 628 OF 2019.**

**Out of**

**CIVIL PETITION NO. 263-P OF 2017.**

Secretary, Elementary & Secondary Education, Khyber  
Pakhtunkhwa, Peshawar and others.

**VERSUS**

Iftikhar Ahmed.

On appeal from the Judgment/Order of the K.P.K. Service  
Tribunal, Peshawar dated 07.04.2017, in Appeal No.558/2013.

Dear Sir,

I am directed to forward herewith a certified copy of the Order  
of this Court dated 11.03.2019, converting into appeal the above cited civil  
petition and allowing the same, in the terms stated therein, is enclosed for  
further necessary action.

I am also to invite your attention to the directions of the Court  
contained in the enclosed Order for immediate compliance.

Please acknowledge receipt of this letter along with its  
enclosure immediately.

Encl: Order:

Yours faithfully

ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

33/19

**PRESENT:**  
**MR. JUSTICE UMAR ATA BANDIAL**  
**MR. JUSTICE MUNIB AKHTAR**

9 **Civil Petition No.263-P of 2017.**  
(On appeal from the judgment/order dated  
07.04.2017 of the KP Service Tribunal,  
Peshawar passed in SA 558/2013).

***Secretary Elementary and Secondary Education Khyber  
Pakhtunkhwa, Peshawar and others*** Petitioner(s)


**Versus**

<b><i>Iftikhar Ahmed</i></b>	Respondent(s)
For the petitioner(s)	Mr. Qasim Wadood, Addl. AG
For the respondent(s)	Mr. Asif Yousafzai, ASC
Date of hearing	11.03.2019

**ORDER**

**UMAR ATA BANDIAL, J.—** The learned PST has by the impugned judgment dated 07.04.2017 granted the respondent the benefit of notification dated 30.03.2009 issued by the Finance Department (Regulation Wing) of the Provincial Government. By this notification annual increments have been allowed to untrained teachers from the date of their regular appointment. The respondent is not an untrained teacher but is a Shop Assistant in a Government Teachers Training Center. That center is a workshop imparting training in Mechanical, Agricultural and Electrical Education to Teachers who then instruct in these subjects at Technical schools and centers. The case of the respondent is that

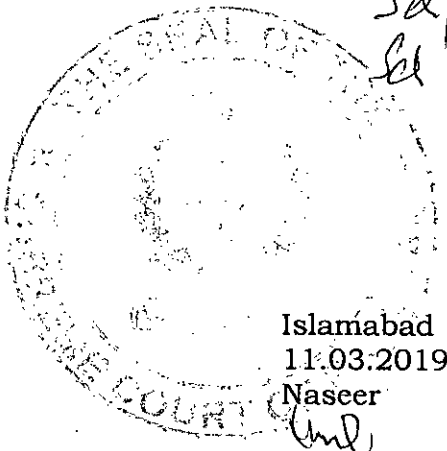


**ATTESTED**  
  
Court Associate  
Supreme Court of Pakistan  
Islamabad

he has not been given any annual increments since his initial appointment. This claim is reflected in paragraph 3 of his service appeal where he claims graded/running pay as a Shop Assistant. In their parawise comments, the petitioners have admitted that the respondent has not been given graded pay against the post of Shop Assistant ever since he was appointed on 17.7.1986. The right of the respondent to receive annual increments does not stem from the notification dated 30.03.2009. Such entitlement should be available in the law for which the learned Tribunal must make the requisite inquiry. In this respect the terms of the appointment letter of the respondent may also be helpful.

2. Accordingly, we find that the impugned judgment is based on a decision by the Provincial Government which does not apply to the respondent. In the circumstances therefore, the impugned judgment is set aside and the matter is remanded to the learned PST for fresh consideration in accordance with the applicable law.

3. Consequently, this petition is converted into appeal and the same is allowed in the terms noted above.



Islamabad  
11.03.2019  
Naseer  
2/4/19

Sd/ \_\_\_\_\_ 5  
Sd/ \_\_\_\_\_ 5

**Certified to be True Copy**  
*[Signature]* 8/4/2019  
**Court Associate**  
**Supreme Court of Pakistan**  
**Islamabad**

Not approved for reporting

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 785 /ST

Dated 19-4- /2019

To,

The Registrar,  
Supreme Court of Pakistan,  
Islamabad.


Subject:- CIVIL APPEAL NO. 628 OF 2019

OUT OF

CIVIL PETITION NOS.263-P OF 2017

Dear Sir,

I am directed to acknowledge the receipt of your letter No. C.A  
628/2019 -SCJ dated 110/04/2019 alongwith its enclosure.

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR.

Iftikhar Ahmad vs Govt

558/2013

07.04.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG for respondents present.

The appellant has preferred the instant service appeal praying therein for grant of graded pay/running pay of Shop Assistant from the date of regular appointment till date and onwards.

Arguments of learned counsel for the parties heard and record perused.

According to notification dated Peshawar the 30<sup>th</sup> March, 2009 the Provincial Government has allowed the benefit of annual increments to the untrained teachers from the date of their regular appointments without any claim of arrears.

We, therefore, direct that in the light of afore-stated notification the appellant be allowed the benefit of annual increments as untrained teacher with effect from the date of regular appointment and as allowed to other similarly placed employee. The appeal is accepted in the above terms. File be consigned to the record room.

 Member  Chairman

ANNOUNCED  
07.04.2017

07.04.17

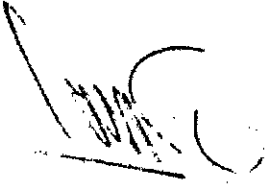
558/2013

07.12.2016 Counsel for appellant and Mr. Ziaullah, GP for the respondents present. One of the Member (Judicial) Mr. Muhammad Aamir Nazir is on casual leave therefore, the Bench is incomplete, hence adjourned. To come up for arguments on 7.4.17 before D.B.

  
(ASHFAQUE TAJ)  
MEMBER

19.02.2016

Clerk of counsel for the appellant and Mr. Muhammad Jan, GP with Javed Ahmad, Supdt. for the respondents present. Counsel for the appellant is not available. Case to come up for arguments on 3.6.2016

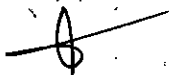


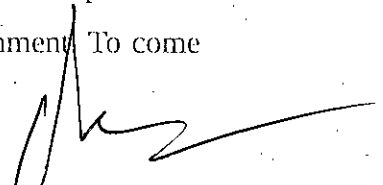
  
MEMBER

  
MEMBER

03.06.2016


Counsel for the appellant and Assistant AG for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 7.9.2016.

  
Member

  
Member

07.09.2016

Counsel for the appellant and Mr. Hameed ur Rehman, AD (Litigation) alongwith Usman Ghani Sr GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 7.12.16

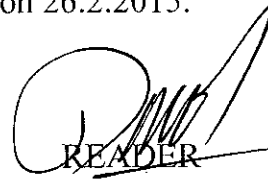
Member 

  
Member

558/13

9.12.2014

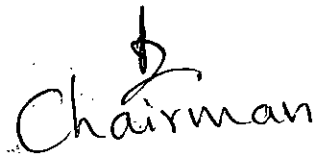
Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. The Tribunal is incomplete. To come up for the same on 26.2.2015.

  
READER

26.02.2015

Counsel for the appellant, M/S Khurshid Khan, SO for respondent No. 1 and Mosam Khan, AD for respondent No. 2 alongwith Addl: A.G for all respondents present. Written reply on behalf of respondent No. 3 also submitted. The appeal is assigned to D.B for rejoinder and final hearing for 4.9.2015.

~~Chairman~~

  
Chairman

04.09.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Rejoinder on behalf of the appellant submitted. To come up for arguments on

19.2.2016

  
Member

  
Member



24.1.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Mosam Khan, AD for the respondents No. 1 and 2 present and requested for time. Fresh notices be issued to respondents No. 3 and 4. To come up for written reply on 25.3.2014.

MEMBER

MEMBER

25.3.2014.

Counsel for the appellant and AAG with Muhammad Irshad, Supdt. Khursheed Khan, SO and Sajjad Rashid, AD for the respondents No. 1 to 3 present and requested for time. Fresh notice to him. To come up for written reply on 3.6.2014.

MEMBER

03.6.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Khaista Rahman, ADO for the respondents No. 1, 2 and 4 present and reply filed. Copy handed over to the learned counsel for the appellant. Mr. Muhammad Irshad, Supdt. for respondent No. 3 present and requested for time. To come up for written reply of respondent No. 3 on 11.09.2014.

MEMBER

MEMBER

11.09.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Mosam Khan, AD, Hammad Ahmad, Assistant and Khaista Rahman, ADO for the respondents present. The learned Member (Judicial) is not working due to a recent order of the Hon'ble Peshawar High Court affecting his status as District & Sessions Judge. To come up as before on 09.12.2014.

MEMBER

Appeal No. 538/2013.  
Mr. J. Talwar Ahmed

6.

04.10.2013


Counsel for the appellant present and heard on preliminary.

Contended that the appellant has not been treated in accordance with law/rules. The appellant has been working on fixed pay for the last 26 years and according to the Supreme Court's judgment, if a person is made to work against a post then he would be entitled to all remunerations attached to that post. He filed departmental appellant which has not been responded within the statutory period of 90 days, hence the present appeal on 22.03.2013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections/limitation. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 24.12.2013 for submission of written reply.

Member.

7.

04.10.2013

This case be put before the Final Bench  for further proceedings.

Chairman

24.12.2013.

Clerk to counsel for the appellant present. Security and process fee have not been deposited. Request made for further time to deposit the same. Security and process fee be deposited within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply on 24.1.2014.

  
MEMBER

*Appellant deposited  
process fee & security  
of Rs. 2000/- Bank Receipt  
attached with file*

3.

14.5.2013

Counsel for the appellant present and requested for adjournment. Case adjourned to 13.6.2013 for preliminary hearing.

  
Member.

4.

13.6.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 5.8.2013.

  
Reader

5.

05.08.2013



Counsel for the appellant present and requested for adjournment. Case is adjourned. To come up for preliminary hearing on 04.10.2013.

  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 558/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/03/2013	<p>The appeal of Mr. Iftikhar Ahmad presented today by Mr. M. Asif Yousafzai Advocate 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	3-4-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>14-5-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 558 /2013.

Iftikhar Ahmed.

VS


Education Deptt: etc.

**INDEX.**

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5-	Appeal.	D	7
6-	S.C judgment.	E	8 - 10
7-	S.T judgment.	F	11 - 13
8-	Vakalat nama	---	14.

APPELLANT

THROUGH;



M.ASIF YOUSAFZAI

ADVOCATE.

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 558 /2013.

G.W.F. Peshawar  
22/3/13

Iftikhar Ahmed, Shop Asstt:

GATTC Gul Bahar Peshawar.....Appellant.

VERSUS

- 1- The Secretary Education (E&SE) KPK Peshawar.
- 2- The Director Education (E&SE) KPK Peshawar.
- 3- The Secretary Finance Deptt: KPK Peshawar.
- 4- The Distt: Education Officer (male) (E&SE) Peshawar.

.....Respondents.

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 FOR GRANTING GRADED/RUNNING PAY OF SHOP ASSTT: POST FROM THE DATE OF APPOINTMENT AND AGAINST NOT TAKING ANY ACTION ON THE APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD.**

22/3/13

**PRAYER:**

That on acceptance of this appeal the respondents may be directed to grant graded/running pay of Shop Asstt: post from the date of appointment till date and onwards with all back and consequential benefits. Any other remedy which this august tribunal deems fit that may also be awarded in favour of appellant.

**R.SHEWETH.**

- 1- That the appellant was appointed as Shop Asstt: in BPS-06 by the competent authority vide order dated. 17.7.1986. The appellant since then has been continuously performing his duties as such upto the entire satisfaction of his superior. Copy of the order is attached as Annexure – A.
- 2- That the appellant has the qualifications of SSC and FA and also has more than 26 years service at his credit with good record through out. Copies of certificates are attached as Annexure – B&C.
- 3- That the appellant has never been granted graded/running pay of Shop Asstt: post since his appointment despite having more than 26 years service with devotion due to which the appellant has been continuously suffering from financial loss which will ultimately result in loss in pensionary benefits being fixed pay employees.
- 4- That the appellant filed departmental appeal for his claim and waited for ninety days but o reply has been received to him so far. Hence the present appeal on the following ground amongst the others. Copy of appeal is attached as Annexure – D.

**GROUND:**

- A- That not granting graded/running pay to appellant from the date of appointment and not taking any action on the appeal of appellant within statutory period is against the law, facts, norms of justice and material on record, therefore not tenable.
- B- That the appellant is legally entitled to the running pay of Shop Asstt: post as according to the Supreme Court of Pakistan pay is no more bounty of the state.
- C- That the appellant has been fully discharging duty as Shop Asstt: since his appointment and as such the appellant is entitled to full pay benefits of that post.

B 5

241294

Roll No. 2756

BOARD OF Intermediate And Secondary Education  
Peshawar N.W.F.P. Pakistan



Secondary School Certificate Examination  
SESSION 1978 (ANNUAL)

This is to certify that Frankar Ahmad  
son of Shah Muhammad  
and a resident of Peshawar District  
has passed the **SECONDARY SCHOOL CERTIFICATE EXAMINATION** of  
the Board of Intermediate and Secondary Education, Peshawar held in April, 1978  
as a private candidate He/She obtained 03 Marks out of 250,000,1000  
and has been placed in Grade D Representing Fair

The Candidate passed in the following Subjects :

- |              |                     |            |
|--------------|---------------------|------------|
| 1. English   | 4. Pakistan Studies | 7. Pashto. |
| 2. Urdu      | 5. General Science  |            |
| 3. Islamiyat | 6. Islamic Studies  |            |

Date of birth according to admission form is Fifteenth September  
one thousand nine hundred and Fifty nine ( 19-9-1950 )

[Signature]  
Asstt. Secretary

7th August 1978.

[Signature]  
SECRETARY  
[Signature]

[Signature] This certificate is issued without alteration or erasure.

TESTED  
[Signature]



028284

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Roll No. 1356

C (6)

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan

PROVISIONAL CERTIFICATE  
INTERMEDIATE EXAMINATION

Session 1982 Annual/Supplementary

Humanities Group

THIS IS TO CERTIFY THAT Asif Khan Khan  
Son/Daughter of Faiz Mohammad Khan  
and a candidate of Peshawar Dard  
Registered No. 201-M/E-78 has passed the INTERMEDIATE EXAMINATION of the  
Board of Intermediate & Secondary Education, Peshawar held in May 19 82  
as a Regular/Private candidate. He/She obtained 400 Marks out of 1000 and  
has been placed in Grade ( D ) Representing Fair

The Examination was taken as a-whole/in parts.

Prepared by M  
Checked by [Signature]  
Date of Issue 8/2/82

[Signature]  
Asstt. Secretary (Certs)  
Secondary  
Education, Peshawar.

ERTSIND

د حضور جناب شان والا سکریٹری ایجوکیشن (E.S.E) صاحب

ضبطہ خطوں خواہ بشمار

(7)

اپیل برائے گریڈڈ بے شاپ اسٹنٹ پورٹ

جناب عالی! اپیل ہذا میں عرض ہے کہ سائل مورفہ 17-7-1986 کو بطور شاپ اسٹنٹ سکین بیک میں بھرتی ہوا اور تاحال سائل فکسڈ بے بہرہ کام کر رہا ہے سائل کو تاحال گریڈڈ بے نہیں دی گئی ہے

حال یہی میں حکومت نے تمام آن ٹرنڈ اسٹنڈ کو آن ٹرنڈ عرصے کا سالانہ انٹرمینٹ بھی سپریم کورٹ کے فیصلے کی روشنی میں دیا ہے جبکہ سائل کو این فوائڈ سے محروم رکھا گیا ہے جو کہ سراسر ناانصافی ہے کیونکہ سائل عرصہ 26 سال سے گریڈڈ بے سے محروم ہے جو کہ بالآخر پنشن میں کمی کا باعث بنے گی جو کہ سائل کے لئے ناقابل تلافی نقصان ہے

سائل چونکہ 26 سائل سے اپنی ڈیوٹی نبھاتے خوش اسلوبی اور ایمانداری سے ادا کر رہا ہے اور سائل کا سروس ریکارڈ بھی اچھا ہے

لہذا آج سے اپیل کیجانی ہے کہ سائل کو شاپ اسٹنٹ پورٹ کا گریڈڈ بے از تاریخ تقرری سے دی جائے تاکہ سائل مزید مالی نقصان سے محفوظ رہے

فوز میں ہوگی

المرقوم 17-12-2012

سائل

Shop Assst. افتخار الہی

G.A.T.C. گلبرہ

بشمار

ATTESTED

✓

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 558/2013

Date of Institution: 22.03.2013

Iftikhar Ahmad, Shop Assistant GATTC Gul Bahar Peshawar

Versus

The Secretary Education (E&SE) Khyber Pakhtunkhwa Peshawar and three others.

**ORDER**

20.05.2022

Mr. Noor Muhammad Khattak Advocate, for the appellant present.  
Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

The appellant has filed the instant service appeal with prayer that respondents may be directed to grant graded/running pay of Shop Assistant to the appellant from the date of his appointment till date and onwards with all consequential benefits.

Learned counsel for the appellant stated at the bar that Notification dated 30.03.2009 of the Provincial Government is not applicable to the appellant, therefore, the appellant wants to withdraw the instant service appeal with permission to file a fresh one. In this respect, he submitted written application which is placed on file.

In light of the above, the appeal in hand stands dismissed as withdrawn, *however the appellant would be at liberty* with the permission to file a fresh appeal. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**

20.05.2022

(Rozina Rehman)  
Member (Judicial)

(Salah-Ud-Din)  
Member (Judicial)

F  
=

(8)

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE SALEEM AKHTAR  
MR. JUSTICE FAZAL ILAHI KHAN

CIVIL PETITION NO. 288-P OF 1993

(On appeal from the judgment of the Service  
Tribunal, NWFP, Peshawar dated 18.10.1993  
passed in Appeal No. 90 of 1993).

The NWFP Government through  
Secretary Education, Peshawar  
and others

... Petitioners

Versus

Muhammad Qavi Khan

... Respondent

For the petitioners

Mr. Shahzad Akbar, ASC  
Mr. H.M.A. Qayyum Mazhar, AOR

Respondent

Not represented

Date of hearing

18-9-1994

O R D E R

SALEEM AKHTAR, J.- The petitioners seek leave

to appeal against the judgment of the NWFP Service Tribunal  
Peshawar, whereby appeal filed by the respondent was allowed  
and the order of the Deputy District Education Officer  
(Male) Secondary Swat was set aside.

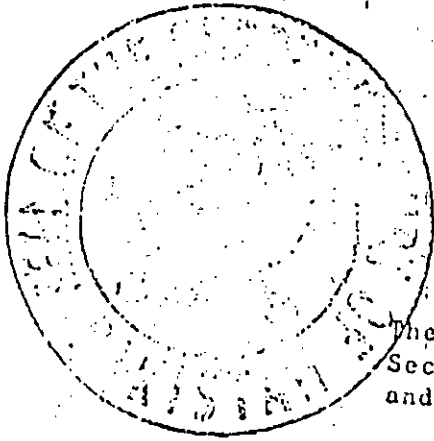
2. The brief facts are that the respondent was

appointed as S.E.T Teacher on 1-10-1983. He completed

10 years service as S.E.T but as his services were not

regularised against the post of S.E.T, he preferred a

**ATTESTED**



**ATTESTED**

*Muhammad Akhtar*

Secretary  
Peshawar Bench

departmental appeal which was rejected on 4-3-1993. The petitioners pleaded that the respondent had joined the service as S.E.T Teacher on fixed pay and had sought regularisation against S.E.T post which required the qualification of B.Sc/B.A and B.Ed and as the appellant had not acquired the qualification of B.Ed. his services could not be regularised against the post of S.E.T. The learned Tribunal allowed the appeal in the following manner :-

"In this case the admitted facts are that the appellant has not obtained the Degree of B.Ed which is pre-requisite for the post of SET, therefore, his services cannot be regularised against the SET post. However, since his appointment in Education Department the appellant is working as SET for the last 10 years, therefore, he is entitled to the graded pay from the date of his departmental appeal. The Tribunal while partially accepting the appeal directs that the appellant shall be allowed only the pay and scale of SET post from when he joined the Education Department and he shall also be paid the arrears in the said scale from the date of institution of his departmental appeal. The services of the appellant as SET cannot be regularized in the given circumstances. Parties are left to bear their own costs and file be consigned to the record."

ATTESTED  
*Edward Allen*  
 Registrar  
 Education Department

ATTESTED  
*[Signature]*

3. Mr. Shahzad Akbar, learned counsel for the petitioner vehemently contended that as the respondent had not acquired the requisite qualification, he was not entitled to the regularisation of his post nor could pay be given fixed under Pay Scale No.15, which is the regular scale for SET post. From the arguments and the facts, it seems that the respondent is given fixed pay for the last 10 years, although he is performing duties of SET Teacher's post. In such circumstances, in view of the case reported as Federation of Pakistan Vs. Shahzada Shahpur Jan and others (1986 S.C.M.R 991), the petitioner could not be deprived of the scale of SET post. The observations made by the Tribunal do not suffer from any illegality. In any event no legal question of general importance has been raised.

Leave is refused.

*W/ Balwan Akhtar J.*  
*W/ Fazal Elahi Khan J.*

Subscribed to be  
*M. Iqbal Khan*  
 Director  
 Supreme Court of Pakistan  
 Branch Registry Peshawar

Peshawar  
18-9-94

Not Approved for reporting.

ATTESTED  
*[Signature]*

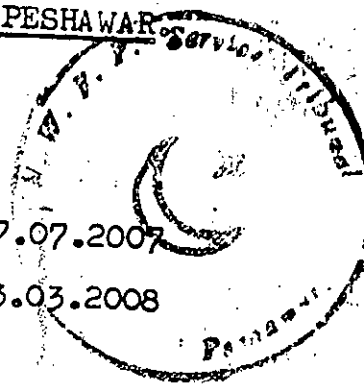
BEFORE THE N.W.F.P. SERVICE TRIBUNAL, PESHAWAR

F (W)

APPEAL NO. 828/2007

Date of institution ... 27.07.2007

Date of decision ... 13.03.2008



- S.C. order  
- granted

Khalid Mohammad, A.T,  
R/O Shah Mansoor, Swabi.

.. (Appellant)

VERSUS

1. The D.C.O, Swabi.
2. The E.D.O (S&L), Swabi.
3. The Secretary Finance, NWFP,  
Peshawar.

.. (Respondents)

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974  
FOR GRANT OF GRADED PAY AND OTHER ATTACHED BENEFITS  
OF A.T. POST FROM THE DATE OF APPOINTMENT.

Mr. Muhammad Asif Yousafzai,  
Advocate.

.. For appellant

Mr. Tahir Iqbal,  
Addl: Govt. Pleader.

For respondents

Mr. Justice (R) Salim Khan,  
Mr. Sultan Mehmood Khattak.

Chairman  
Member

ATTESTED  
EXAMINER  
NWFP SERVICE TRIBUNAL  
Peshawar

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN: Through the

present appeal, the appellant contended that he was appointed as A.T on 24.9.1985 in BPS-9, but in fixed scale, that the appellant passed SSC, F.A, B.A, M.A &

13/3/08

ATTESTED

Sanad-ul-Faragh and he also worked for more than 30 years. The appellant submitted that graded pay and other attached benefits of the post of A.T since his appointment were not given to him, that the appellant submitted departmental appeal, but with no reply. Hence the present appeal.

2. The respondents contested the appeal on various legal and factual grounds, including the ground that, though the appellant had passed M.A Islamiyat and Sanad-ul-Faragh, but he was not qualified for the post according to rules prescribed for the same. We heard the arguments and perused the record.

3. The learned counsel for the appellant produced the copy of Detailed Marks Certificate for B.A in the name of Khalid Mohammad, but neither signature appears on the same properly nor it is attested. The learned counsel, however, referred to the relevant rules for the post mentioned in letter No. 5882-5959 dated 26.01.88 of the Deputy Director(Schools) for D.E(S)NWFP, Peshawar. The learned counsel for the appellant straight away accepted that the appellant had not acquired the required qualification for the post, though he has been working against the said post practically for more than 30 years. He referred to the judgment of the August Supreme Court of Pakistan in C.Rs No. 204 and 205 of 1991 as well as the judgment in C.P No.288-F of 1993, and contended that

ATTESTED  
DEPUTY DIRECTOR  
SCHOOLS  
PESHAWAR

ATTESTED



the incumbent of a post was always entitled to the salary, allowances and other benefits of the post which he was holding.

4. The AGP contended that the appellant has no relevant qualification and he is not entitled to the graded pay of the post.

5. As already mentioned, it is an admitted fact that the appellant does not hold the prescribed qualification for the post. But, in the light of the above judgments and the principle of law enunciated by the said judgments, the appellant is entitled to the pay, allowances and other benefits of the post against which he has been working as A.T, and is still working as such. In the light of the above, we accept the present appeal, and direct the respondents to allow the graded pay, allowances and other benefits of the post of A.T to the appellant from the date the rules mentioned above were prescribed. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
13.03.2008

sd/- Justice U.S. Selim Khan  
Chairman  
sd/- Justice Mahmood  
Member Khattak

Handwritten signature and stamp on the left side of the page.

Date of presentation of application 13-5-08  
Number of copies 100  
Copying fee 8-00  
Stamp 2-00  
Total 10-00  
Name of ...  
Date of court ... 13-5-08  
Date of filing ... 13-5-08

ATTESTED



# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Iqbal Ahmed

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Educational Dept.

(Respondent)  
(Defendant)

I/We Iqbal Ahmed (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Iqbal Ahmed

( CLIENT )

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate

**M. ASIF YOUSAFZAI**

Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

**ATTESTED**

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

SERVICE APPEAL No: 558/2013.

**Iftikhar Ahmad Shop Assistant GATTC Gul Bahar Peshawar. -----Applicant**

**VERSUS**

Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar  
& others -----Respondents

**PARAWISE COMMENTS/REPLY FOR AND ON BEHALF OF THE RESPONDENTS**

**No: 1, 2 & 4.**

**Respectfully Sheweth:-**

**Preliminary objections**

- 1 The appellant has no cause of action/locus standi.
- 2 That the appellant has not come to this Hon! able Tribunal with clean hands.
- 3 The appellant has concealed the material facts from this Hon! able Tribunal, hence liable to be dismissed.
- 4 That the instant appeal is based on malafide intentions .
- 5 That the instant appeal is not maintainable in its present form.
- 6 That the instant appeal is badly time barred.
- 7 That the appellant is not entitled for the grant of graded pay.
- 8 That the appellant is estopped by his own conduct to file the instant appeal.
- 9 That the present appeal is against the relevant policy.

**ON FACTS**


- 1 That Para 1 pertains to record, hence needs no comments.
- 2 That para-2 is also pertains to record, hence needs no comments.
- 3 That Para 3 is correct to extent that the appellant has not been granted graded pay against the post of Shop Assistant , as he was appointed vide order dated 17/07/1986 Para -4 of the terms & conditions of the said order wherein he has been appointed on temporary base.
- 4 That Para-4 is incorrect & denied, hence needs no comments.

**GROUND**

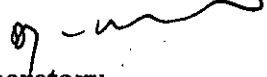
- A That ground A is incorrect & denied, hence needs no comments.

- B That ground B is also incorrect & misleading, the appellant is not entitled for the grant of graded pay against the above said post in the light of his appointment order dated 17/7/1986, issued by the competent authority.
- C That Ground-C is relates to the record, hence needs no comments.
- D That ground-D needs no comments.
- E That ground E is also misleading, every case & issue has its own nature & status, where is the present case is different to that as referred by the appellant in his Service Appeal.
- F That ground F is also incorrect & misleading, needs no comments.
- G That ground G is incorrect. The appellant has been treated in accordance with Law & Rules by the respondents having no violation of Law & Rules in the present case.
- H That ground H is legal, however the respondents seek leave of this Hon' able Tribunal to advance Additional case Law & record in the time of arguments

**In view of the above submission, it is requested that this Hon' able Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the respondent Department.**

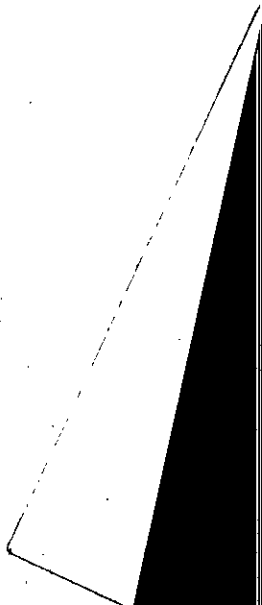
  
**Director**  
E&SE Khyber Pakhtunkhwa,  
Peshawar.

  
**District Education Officer,**  
(Male) District Peshawar.

  
**Secretary**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.

0, 6, 4, 4

0



**BEFORE THE KHYBER PAKHTUNKHWA,  
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 558/2013

Iftikhar Ahmad

VS

Education Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-9) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Endorsed by department, which means that para 1 of the appeal is correct.
- 2 Endorsed by department, which means that para 3 of the appeal is correct.
- 3 Admitted correct by the respondents, which means para 3 of the appeal is correct.
- 4 Incorrect. The appellant has right to file departmental appeal for his claim, therefore he filed departmental appeal for his claim, but no reply has been received by the appellant after the lapse of statutory period.

**GROUNDS:**

- A) Incorrect. While para A of the appeal is correct.
- B) Incorrect. While para B of the appeal is correct.
- C) Admitted correct by the respondents as service record is lying in the custody of respondent department.
- D) No comments endorsed by the respondents which means that para D of the appeal is correct.
- E) Incorrect. The present case is similar to case of Qavi khan, in which graded pay was granted and which was also upheld by the august Supreme Court of Pakistan. Therefore the appellant is also entitled to same relief.
- F) Incorrect. The ground F of the appeal is correct and not misleading as in case of Aziz Mohammad similar relief was given to a fixed pay employee, therefore the appellant is also entitled to the same treatment under the principles of consistency.
- G) Incorrect. The appellant has not been treated according to law and rules and has been kept deprived from the right of running pay of Shop Asstt: post in arbitrary manner.
- H) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT  
Iftikhar Ahmad

Through:



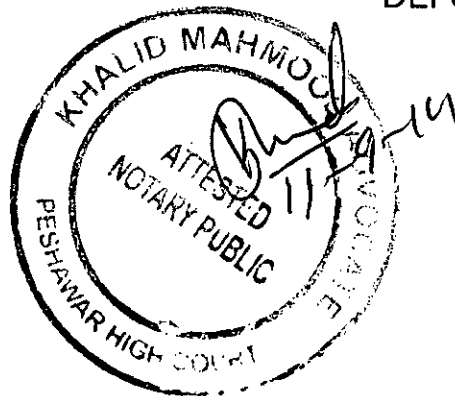
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



DEPONENT





**BEFORE THE KHYBER PAKHTUNKHWA,  
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 558/2013

Iftikhar Ahmad

VS

Education Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

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(1-9) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

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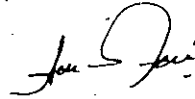
**GROUND:**

- A) Incorrect. While para A of the appeal is correct.
- B) Incorrect. While para B of the appeal is correct.
- C) Admitted correct by the respondents as service record is lying in the custody of respondent department.
- D) No comments endorsed by the respondents which means that para D of the appeal is correct.
- E) Incorrect. The present case is similar to case of Qavi Khan, in which graded pay was granted and which was also upheld by the august Supreme Court of Pakistan. Therefore the appellant is also entitled to same relief.
- F) Incorrect. The ground F of the appeal is correct and not misleading as in case of Aziz Mohammad similar relief was given to a fixed pay employee, therefore the appellant is also entitled to the same treatment under the principles of consistency.
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- H) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT  
Iftikhar Ahmad

Through:

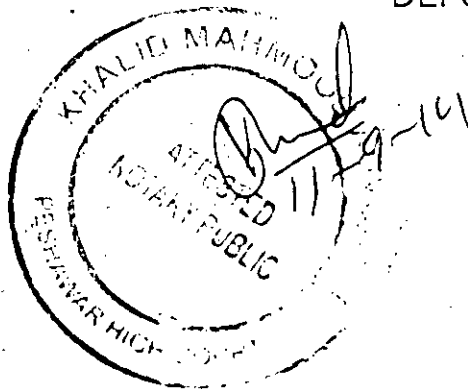


( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

  
DEPONENT



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No.558/2013  
Iftikhar Ahmad (Shop Asstt:)

...

**Appellant**

**VERSUS**

1. Secretary to Govt: of Khyber Pakhtunkhwa, Elementary & Secondary Education Department.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Secretary to Govt: of Khyber Pakhtunkhwa, Finance Department.
4. District Education Officer(Male), Elementary & Secondary Education, Peshawar.

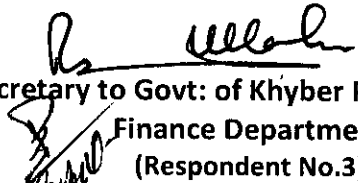
...

**Respondents**

**REPLY ON BEHALF OF SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA,  
FINANCE DEPARTMENT( RESPONDENT NO.3).**

**Respectfully Sheweth,**

26.02.13  
Secretary to Government of Khyber Pakhtunkhwa Finance Department (Respondent No.3) do hereby endorse/relies on the Parawise Comments already filed in the Honorable Service Tribunal by Respondent No.1, 2, & 4 in Service Appeal No.558/2013. The Parawise Comments of Respondent No.1, 2, & 4 may be considered as reply of Respondent No.3 (Secretary Finance) also.

  
Secretary to Govt: of Khyber Pakhtunkhwa  
Finance Department  
(Respondent No.3)

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 746 /ST Dated 13 / 4 / 2017


To

The District Education Officer Male,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 7.4.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

**VAKALATNAMA**

Before the KP Service Tribunal, Peshawar

OF 2019

Iftikhar Ahmad

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Dept.

(RESPONDENT)  
(DEFENDANT)

I/We Iftikhar Ahmad

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 12 / 7 / 2019

  
CLIENT

**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**  
*Shahzad*  
**SHAHZUHALAH YOUSAFZAI**

**MIR ZAMAN SAEI**  
**ADVOCATES**  


OFFICE:  
Flat No.3, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Mobile No.0345-9383141

Before The K.P. Service Tribunal, Peshawar.  
cm. in appeal no. 558/2013  
Jftikhar Ahmad vs Govt. of KP & F.W.

Application for withdrawal of the  
instant appeal with permission to file  
fresh one

---

Respectfully sheweth:

① That the above captured appeal is pending  
adjudication before this Hon'ble Tribunal  
and is fixed for today 20/5/2022.


② That the appellant ~~had~~<sup>is</sup> seeking some sort of  
relief relating to primary benefits under  
the notification dated 20-2-2009 but the same  
is not applicable to the appellant.

③ That now the appellant want seeking his  
remedy through fresh appeal for that reason  
the mentioned appeal may be withdrawn.

It is therefore requested that by  
acceptance of this application the appeal  
no. 558/2013 may please be withdrawn  
with permission to file fresh one.

Applicant 

Through

  
Noor Muhammad Chishti  
A.S.C