

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate.
1	2	3
	17.03.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.292/2014</p> <p style="text-align: center;">(Muhammad Ismail-vs- Govt: of Khyber Pakhtunkhwa through Secretary Education (E&SE) Civil Secretariat, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Appellant with counsel (Mr. Amjad Ali, Advocate) and Mr. Pir Muhammad, ADO alongwith Mr. Ziaullah, GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against order dated 01.04.2013 passed by respondent No.5 received on 01.11.2013 wherein recovery of Rs. 113220/- at the rate of Rs. 5000/- per month has been started from appellant which is illegal against law and facts and departmental appeal dated 15.11.2013 remained un-responded even after laps of 90 days. He prayed that on acceptance of this appeal, order dated 01.04.2013 may please be set aside and appellants salary may please be restored and recover be declared as illegal and may please be returned.</p> <p>3. Brief facts giving rise to the instant appeal are that the appellant was appointed as PTC Teacher in Waigal Primary School vide order dated 29.10.1986. That the appellant was transferred to GPS Marano vide order dated 24.08.1987. That the appellant was</p>

A-L

ceased from duty purportedly under FR-18 as he failed to attend the duty due to blood feud enmity however there was no order. That appellant after exhausting departmental remedies filed appeal before this Hon'able Tribunal and this Hon'able Tribunal vide judgment dated 26.02.1996 held that FR-18 has been omitted vide notification dated Islamabad 3rd November 1992 and directed for passing an appropriate, valid and legal order. That appellant was reinstated in service vide order dated 22.07.1996 w.e.f 15.08.1996 with the condition that he will not claim pay/seniority for the absence period. That appellant was allowed untrained period increment w.e.f 01.11.1986 vide Finance Department Notification dated 30.03.2009 as per entry available in his service book. That recover of Rs. 113220/- at the rate of Rs. 5000/- per month is ordered from appellant vide order dated 01.04.2013, passed by respondent No.5 received on 01.11.2013 through his own efforts which is illegal, against law and facts. That appellant filed departmental appeal dated 15.11.2013 before respondents No.2 and 3 but remained un-responded, hence the present service appeal.

AT-1.

4. The learned counsel for the appellant argued that orders with regard to recovery of overpayment was not according to law because once the order was passed in favour of the appellant and given effect, it could not be withdrawn as per principle of locus-poenitentiae. He further argued that as per PLD 1992 CS 207 and judgment of this Tribunal in case of Shah Zaman an increment added to the salary though wrongly, could not be recovered adding further that other similarly placed teachers had been granted untrained and advance increments and the appellant was also entitled for such increments. He prayed that on acceptance of this appeal order dated 01.04.2013 may please be set aside and recovery from salary of the appellant may be declared as illegal and may please be returned to the

appellant.

5. The learned Government Pleader resisted the appeal and stated that appellant remained absent for more than five years ceased to be in employment and on the directions of this Tribunal dated 29.02.1996 he was reinstated in service w.e.f the date of his arrival i.e 15.08.1994 with the condition that he would not claim seniority/pay for the period he remained absent till the date of his adjustment against a vacant post on 22.07.1996. He further argued that in terms of Finance Department letter dated 30.09.2009 annual increments were allowed for the untrained teachers from the date of their initial appointment without arrears and the appellant was not justified to claim any benefits of arrears of increments for the period he remained untrained teacher and recoveries of overpayment on account of annual increment was lawful, justified and according to the policy letter of Finance Department. He prayed that the appeal being devoid of any merits may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From perusal of the record, it transpired that the appellant was appointed initially as untrained teacher in the year 1986. The appellant remained absent for more than five years and as such his services were dispensed with to have been ceased in Government service in light of FR-18. The appellant was reinstated in service in pursuance of judgment of this Tribunal dated 26.02.1996 and the period of his absence was treated Extra Ordinary Leave without pay. In the instant case the appellant sought interference of this Tribunal for stoppage of recovery of overpayment which he received on account of annual increment for the untrained period of his service in

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light of Finance Department sanction dated 30.03.2009. From perusal of the record it reveals that the benefit of annual increments was sanctioned vide Finance Department letter dated 30.03.2009 to all those untrained teachers who subsequently got the requisite qualification and successfully completed the prescribed training for the said post but without arrears prior to the date of issuance of the said circular. The record reveals that the said policy was applicable to all categories of untrained teachers across the board and there was no room for deviation from the said circular which was given immediate effect and arrears were strictly made inadmissible prior to the date of issuance of the circular. The plea of the appellant for stoppage of recoveries or for restoration of the already recovered overpayment is therefore, without any substance, contrary to the rules and cannot be acceded to. The appeal being devoid of any merits is therefore dismissed. Parties are left to bear their own cost. File be consigned to the record room.



(PIR BAKHSH SHAH)
MEMBER



(ABDUL LATIF)
MEMBER

ANNOUNCED
17.03.2016

19.02.2016

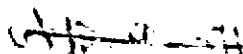
Appellant in person and Mr.Ziaullah, GP for the respondents present. Finance Department notification No.FD(PRC)5-2/2002, dated 30.3.2009 as stated in the memo. Of appeal, is not available on record. Appellant is directed to produce the same. To come up for such record and order on 17.3.16



MEMBER




MEMBER



24.08.2015

Appellant with junior counsel and Mr. Muhammad Jan, GP with Peer Muhammad, ADO for the respondents present. Senior Counsel for the appellant is not available, therefore, arguments could not be heard. To come up for arguments on 14-10-2015. Till then no recovery be made from the appellant.



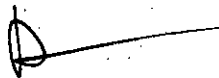
MEMBER



MEMBER

14.10.2015

Appellant in person and Mr. Pir Muhammad, ADEO alongwith Mr. Ziaullah, GP for respondents present. Appellant requested for adjournment. To come up for arguments on 4-2-2016.



Member



Member

04.02.2016

Appellant with counsel (Mr. Amjad Ali, Advocate) and Mr. Ziaullah GP with Pir Muhammad, ADO for the respondents present. Arguments heard. To come up for order on 19.2.16.



MEMBER



MEMBER

FORM "A"

FORM OF ORDER SHEET

131 - 2005 SCMR 1418

Court of.....

Case No.....of.....

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3

131
 2010 PLC (CS) 924:
 1988 : 1989 : Absent up to 1994
 App =
 PTC
 FR: 18:
 Fresh adm: = 22.7.1996:
 No challenged!
 2003 SCMR 1285: step back.

21.11.2014

Appellant with junior counsel and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Peer Muhammad Khan, AD for respondents present. The Tribunal is incomplete. To come up for the same on 17.12.2014.

17.12.2014

Appellant in person and Mr. Muhammad Jan, GP with Peer Muhammad Khan, ADO for the respondents present. The Tribunal is incomplete. To come up for the same on 8.1.2015.



READER



READER

08.1.2015

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Pir Muhammad, ADO for the respondents present. The Tribunal is incomplete. To come up for the same on 13.2.2015.



READER

13.02.2015

Appellant in person, M/S Peer Muhammad, ADO and Javed Ahmed, Supdt. alongwith Addl: A.G for respondents present. Written statement submitted. The case is assigned to D.B for rejoinder and final hearing for 24.08.2015.



Chairman

292/14

04.09.2014

Appellant with counsel and Mr. Khursheed Khan, SO for respondents No. 1 & 2 and requested for further time. Mr. Fayazud Din, ADO, Dir (Lower) also present. Counsel for the appellant submitted before the court that the case pertains to Dir Upper and submitted an application for correction of addresses of respondents No. 3 to 5. Correction be made in the heading of appeal. To come up for written reply on main appeal as well as reply/arguments on application for interim relief on 08.10.2014. Till then no recovery be made from the appellant. Notices be issued to respondents No. 3 to 5.


MEMBER

03.10.2014

Appellant with counsel and Mr. Kabeerullah, Asstt. AG with Khursheed Khan, SO and Mosam Khan, AD for respondents NO. 1 & 2 present. None is available on behalf of respondents No. 3 to 5. Fresh notices be issued to them through registered post. To come up for written reply on main appeal as well as reply/arguments on application for interim relief on 05.11.2014. Till then no recovery be made from the appellant.


MEMBER

5.11.2014.

Appellant with counsel and Mr. Ziaullah, GP with Peer Muhammad, ADO for the respondents present. Respondents need further time. To come up for written reply on main appeal as well as reply/arguments on application for interim relief on 21.11.2014. Till then no recovery be made from the appellant.


MEMBER

12.6.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Sajjad Rashid, AD for respondents no. 1 & 2 present and requested for time. Notices be issued to respondents No. 3 to 5. To come up for reply/arguments on stay application on 22.7.2012.

MEMBER

MEMBER

22.07.2014

Counsel for the appellant, Mr. Muhammad Jan, GP with Khursheed Khan, SO and Sajjad Rashid, AD for respondents present and requested for further time. To come up for written reply on main appeal as well as reply/arguments on stay application on 06.08.2014.

MEMBER

06.08.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO for respondent Nos. 1 & 2 present and requested for time. Notices be issued to other respondents. To come up for written reply on main appeal as well as reply/arguments on stay application on 04.09.2014.


MEMBER

Appeal No. 292/2014
Mr. Muhammad Ginnail

3.

02.04.2014


Appellant in person present and requested for adjournment as his counsel was busy in the Supreme Court of Pakistan. Request accepted. To come up for preliminary hearing on 13.05.2014.


Member

4. 13.05.2014

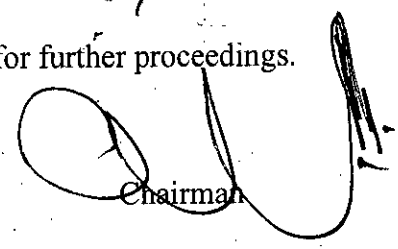
Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 01.04.2013 as received to the appellant on 01.11.2013, he filed departmental appeal on 15.11.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 28.02.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. Counsel for the appellant has also filed an application for restraining respondents from effecting recovery from appellant. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply/comments on main appeal on 06.08.2014 as well as reply/arguments on application on 12.06.2014.

Appellant deposited
Process fee & security
Rs. 200/- Bank Receipt
attached with file


Member

5. 13.05.2014



This case be put before the Final Bench 11 for further proceedings.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 292/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/02/2014	<p>The appeal of Mr. Muhammad Ismail presented today by Mr. Amjid Ali 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	4-3-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 2-4-2014.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. 292 /2014

Muhammad Ismail.....Appellant

Versus

Govt of KPK and othersRespondents

INDEX

S.No.	Description of documents.	Annexure	Dated
1.	Memo of appeal with affidavit.		1-4
2.	Application for restraining respondents from effecting recovery with affidavit.		5
3.	Addresses of the parties.		6
4	Copy of judgment dated 26.02.1996	A	7-10
5	Copy of order dated 22.07.1996	B	11
6	letter dated 15.04.1996	C	12
7	Copy of service book	D	13-30
8	Copy of order dated 01.04.2013	E	31-32
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10	Copy of departmental appeal before Director	G	34-35
11	Copy of PLD 1992 SC 207	H	36-38
12	judgment of Shah Zaman	I	39-42
13	Wakalatnama		

Appellant
Through

Amjad Ali
Advocate
Supreme Court of
Pakistan
Cell: 0321-9882434

Dated: 25.02.2014

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 292 /2014

~~292~~
~~28/2/14~~

Muhammad Ismail s/o Gul Muhammad Shah
R/O Village Luhango Cus, Tehsil and Post Office Braval,
Bandi District Dir
PST Teacher GPS Mashango Kass Dir Timergara.....Appellant

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Education (E&S) Civil Secretariat, Peshawar.
- 2) Director of Education KPK, Peshawar.
- 3) *District Education Officer (male) Upper Dir.*
District Education Officer (M) District Dir at Timergara.
- 4) *District Account Officer Upper Dir.*
District Accounts Officer Dir at Timergara.
- 5) *Sub Divisional Education Officer (male) Upper Dir.*
Sub Divisional Education Officer School (M)
District Dir at Timergara.....Respondents.

Vide order sheet dated 04-09-2014 correct addresses of respondents NO 3 to 5

28/2/14

APPEAL U/S 4 OF SERVICE TRIBUNAL
ACT, 1974 AGAINST ORDER DATED
01.04.2013 PASSED BY RESPONDENT
NO.5. RECEIVED ON 01.11.2013
WHEREIN RECOVERY OF RS.113220/-
AT THE RATE OF Rs.5000/- PER MONTH
HAS BEEN STARTED FROM
APPELLANT, WHICH IS ILLEGAL,
AGAINST LAW AND FACTS AND
DEPARTMENTAL APPEAL DATED
15.11.2013 REMAINED UN-RESPONDED
EVEN AFTER LAPS OF 90 DAYS WHICH
IS ILLEGAL, AGAINST LAW AND FACTS.

Respectfully Sheweth:-

Appellant humbly submits as under

- 1) That appellant was appointed as PTC Teacher in Waigal Primary School vide order No.11760-93 dated 29.10.1986
- 2) That appellant was transferred to G.P.S. Marano vide order No.1812-21/ PTC dated 24.08.1987.
- 3) That appellant performed his duty to the best of his abilities and entire satisfaction of his superiors.
- 4) That appellant was ceased from duty purportedly under FR-18 as he failed to attend the duty due to blood feud enmity however there was no order.
- 5) That appellant after exhausting departmental remedies filed appeal before this hon'ble Tribunal and this hon'ble Tribunal vide judgment dated 26.02.1996 held that FR-18 has been omitted vide notification No.F-I(ii)R-4/89 dated Islamabad 3rd November 1992 and passed an appropriate, valid and legal order. (Copy of judgment dated 26.02.1996 is Annexure "A").
- 6) That appellant was reinstated in service vide order dated 22.07.1996 w.e.f. 15.08.1994 with the condition that he will not claim pay/ seniority for the absence period. (Copy of order dated 22.07.1996 is Annexure "B", letter dated 15.04.1996 is Annexure "C").
- 7) That appellant joined duty and serving satisfactorily the department and students and there is no complaint against appellant till today.
- 8) That appellant was allowed untrained period increment w.e.f. 01.11.1986 vide Finance Department Notification No.FD (PRC) 5-2/2002 dated 30.03.2009 as per entry available in his service book. (Copy of service book is Annexure "D").

- 6
B
- 9) That recovery of Rs.113220/- at the rate of Rs.5000/- per month is ordered from appellant vide order dated 01.04.2013, passed by respondent No.5 received on 01.11.2013 through his own efforts which is illegal, against law and facts. (Copy of order dated 01.04.2013 is Annexure "E").
 - 10) That appellant filed departmental appeal dated 15.11.2013 before respondents No.2 and 3 but remained un-responded. (Copy of departmental appeal before D.E.O. is Annexure "F", before Director is Annexure "G").
 - 11) That the orders and notification mentioned in aforementioned para were requested from respondents but they are using delaying tactics.
 - 12) That appellant approaches this hon'ble Tribunal on following grounds:

GROUND.

- A. Because once an order is passed in favour of appellant and given effect, it cannot be withdrawn as per principle of locus poententiae.
- B. Because as PLD 1992 SC 207 and judgments in case of Shah Zaman of this Hon'ble Tribunal an increment added to the salary though wrongly cannot be recovered. (Copy of PLD 1992 SC 207 is Annexure "H", judgment of Shah Zaman is Annexure "I").
- C. Because appellant is entitled for advance increments as well.
- D. Because other similarly placed teachers has been granted untrained and advance increments and appellant is also entitled for the same relief.

W

- E. Because there is no mention of cutting of increments from appellant.
- F. Because respondent No.5 is not competent to pass impugned order.

It is therefore, humbly prayed that on acceptance of this appeal, order dated 01.04.2013 may please be set aside and appellant's salary may please be restored and recovery be declared as illegal and may please be returned.

Dated: 25.02.2014

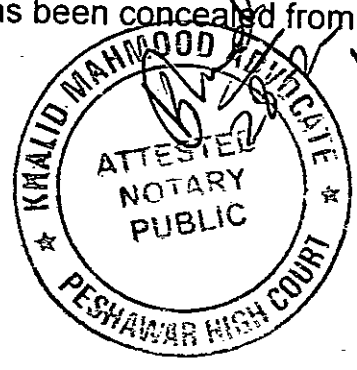
Appellant *[Signature]*

Through

[Signature]
 Amjad Ali
 Advocate
 Supreme Court of Pakistan
 At Mardan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.



[Signature]
 Deponent

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. _____/2014

Muhammad Ismail.....Appellant

Versus

Govt of KPK and othersRespondents

APPLICATION FOR RESTRAINING
RESPONDENTS FROM EFFECTING
RECOVERY FROM APPELLANT.


Respectfully Sheweth;

- 1) That aforementioned appeal is filed today.
- 2) That a prima facie arguable case exists in favour of appellant and is sanguine about its success.
- 3) That balance of convenience also lies in favour of appellant.
- 4) That if respondents are not restrained from recovery, appellant will suffer irreparable loss.

It is, therefore, humbly requested that respondents may kindly be restrained from effecting recovery from appellant.

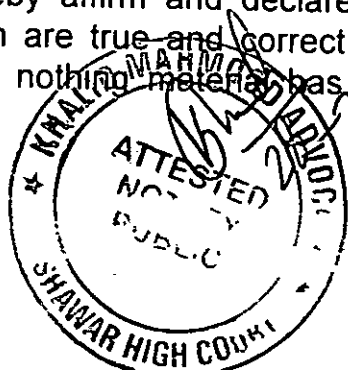
Appellant 

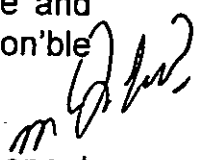
Through

Amjad Ali
Advocate 
Supreme Court of Pakistan
At Mardan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.




Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.

PESHAWAR

Appeal No. _____/2014

Muhammad Ismail.....Appellant

Versus

Govt of KPK and othersRespondents

ADDRESSES OF PARTIES

APPELLANT:

Muhammad Ismail s/o Gul Muhammad Shah
R/O Village Luhango Cus, Tehsil and Post Office Braval,
Bandi District Dir
PST Teacher GPS Mashango Kass Dir Timergara

RESPONDENTS

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Education (E&S) Civil Secretariat, Peshawar.
- 2) Director of Education KPK, Peshawar.
- 3) District Education Officer (M) District Dir at Timergara.
- 4) District Accounts Officer Dir at Timergara.
- 5) Sub Divisional Education Officer School (M) District Dir at Timergara

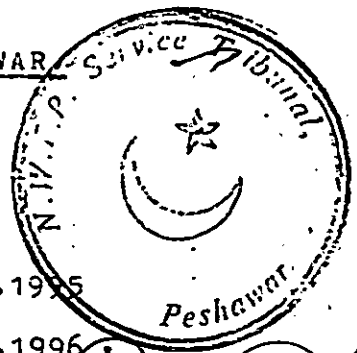
Appellant

Through

Amjad Ali
Advocate
Supreme Court of Pakistan
At Mardan

7 And A

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR



APPEAL NO. 44/1995

Date of institution .. 22.1.1995
Date of decision .. 26.2.1996

Mohammad Ismail son of Gul Mohammad Shah,
Resident of Village Luhango Cus Tehsil &
Post Office Braval Bandi, District Dir. .. APPELLANT

VERSUS

- 1- Divisional Director of Education Schools(M),
Dir Division Dir at Timergara.
- 2- Director of Education Schools (M),
NWFP, Peshawar.
- 3- District Education Officer (M),
District Dir at Timergara.
- 4- Sub-Divisional Education Officer School(M),
District Dir at Timergara.
- 5- Headmaster, Govt. Primary School, Marano,
Tehsil Braval District Dir.

RESPONDENTS

Mr. Mohammad Asif,
Advocate. .. For appellant

Mr. Sikandar Sahibzada,
Advocate (Govt. Pleader). .. For respondents
No. 2 to 5.

Mr. Mohammad Qaim Jan Khan, Chairman
Arbab Azizullah Khan, Member

JUDGMENT

MOHAMMAD QAIM JAN KHAN, CHAIRMAN: This is a service appeal under section 4 of the Service Tribunal Act, 1974 filed by appellant Mohammad Ismail against the impugned order, dated 21.12.94, whereby the services of the appellant have been ceased instead of allowing him to continue his service as PTC Teacher.

Facts giving rise to the present appeal are that the appellant was appointed as Teacher in Waigal Primary School vide

Handwritten initials and scribbles on the left margin.

5 FEB 1996

ATTESTED
EXAMINED
NWFP Service Tribunal

(8)

order No. 11760-92 dated 29.10.86. That on 24.8.87 through order No. 1812-21/PTC, appellant was transferred to Govt. Primary School, Marano. The appellant did his duty upto 15.7.89 and served the department efficiently and with hard work. That due to some blood-feud, appellant neither continue his service nor informed the office well in time, so he remained absent from his duty and now a compromise has been affected between the parties so the appellant informed his department and made his presence. That after a compromise under the custom, appellant was able to report for duty so on 15.8.94 he reported to respondent No.5 for duty but he refused to take the appellant on duty and was informed orally that he has been dismissed from service and he should file appeal with respondent No.3. The appellant moved an application/appeal to respondent No.3 with the request that the absence of the appellant from 16.7.89 till 15.8.94 be treated as leave without pay. That after passing three months and receiving no reply, the appellant filed an appeal in this Hon'ble Tribunal which was dismissed in limine on 30.11.94 with the direction to the respondents that they should pass a final order in this case and on 3.1.95 the appellant has received an order dated 21.12.94 (impugned) through which the services of the appellant have been ceased, hence this appeal. The grounds of appeal are that the absence from duty by the appellant was due to the reasons beyond his control. Moreover, the respondents should have treated the absence of the appellant as leave without pay but instead they have passed an order by which the services of the appellant have been ceased while under the law there is no such power with the respondents. Moreover the oral order dated 15.8.94 and the impugned order are against law and facts, hence untenable. In the prayer the appellant has asked for setting aside the impugned order dated 21.12.94 and to allow him to continue his service as PTC with all back benefits.

[Handwritten Signature]
 26 FEB 1996

EXAMINED
 RPF Service Tribunal
 Pas. 1

ATTESTED

(9)

Notices were issued to the respondents. Respondent No.1 did not appear in this Tribunal despite proper service, hence proceeded against ex-parte vide order sheet No.8 dated 29.8.95. Respondents 2 to 5 contested the appeal, submitted reply to which the appellant has also submitted his re-joinder and after that detailed arguments of Mr. Mohammad Asif, Advocate for appellant and Mr. Sikandar Sahibzada, Advocate (Govt. Pleader) for respondents have been heard and record perused.

The case is very simple and clear. The appellant was appointed as U.T PTC Teacher on 29.10.86 purely on temporary basis and he served the department upto 15.7.89 and then dis-appeared and did not come for duty upto 15.8.94. According to the appellant he remained absent due to some family blood-feud and the reasons were beyond his control and he could not attend his duty, so he remained absent for this long period of 5 years and one month. The department on the other hand also committed mistakes after mistakes and they have not passed any order whatsoever knowingly the absence of the appellant. If he was a temporary employee then his services could have been terminated by way of one month notice but the respondents also kept mum for this long period of 5 years and one month and when the appellant came back for duty even then they have not passed any order, so the appellant was forced to knock the doors of Service Tribunal and finally on the direction of the NWFP Service Tribunal, the respondent department passed a final order on 21.12.94 to the effect that no leave was sanctioned in favour of the appellant and as he is ^{an} untrained teacher with a service of only 2 years and 9 months and he could not be granted leave without pay, so his services have been "ceased". This impugned order of respondent No.3 is also not a legal order in which the services of the appellant have been termed as "ceased" because due to Notification No. F.1(11)R.4/89 dated Islamabad 3rd November, 1992, F.R 18 has been omitted,

Plr
26 FEB 1996

AWT E S T R D
EXAM
NWFP Service Tribunal

10

so the impugned order is nothing but an illegal order. The respondent department have also not performed their duty. The appellant remained absent for 5 years and one month. No termination notice has been issued against him nor any other final order was passed and the impugned order was passed on the direction of the Service Tribunal but strangely enough the impugned order itself is not a legal order. So in this back-ground of the case, the instant case is remanded to the respondent department to pass an appropriate, valid and legal order whatsoever. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED

26.2.1996.

Mohammad Qaim Jan Khan
(MOHAMMAD QAIM JAN KHAN)
CHAIRMAN

Arbab Azizullah Khan

(ARBAB AZIZULLAH KHAN)
MEMBER

Certified to be true Copy.

Date of presentation of applicant 29.2.96
Number of Words: 1600
Copying fee 6.00
Urgent 6.00
Total 6.00
Name of copyist Arbab Azizullah Khan
Date of Completion of copy 6.3.96
Date of delivery of copy 6.3.96

M. J. Khan
EXAMINER,
N.W.F.P. SERVICE TRIBUNAL
PESHAWAR.

OFFICE ORDER

Allee 2
D
11
Ann, B

In light of the decision made by service Tribunal Govt: Of NWFP Peshawar dated 29/2/1996 Mr. Mohammad Ismail S/O Gul Mohammad Shah is hereby re-instated with effect from the date of his arrival i.e 15.8.1994 placed at the disposal of SDED (M) Dir for adjustment against available vacancy subject to the following conditions:- vide District Education Officer, (M) Prys: Dir at T/Gara Endst: No. 1931-32 dated 17.6.1996.
1. He will not claim his seniority/pay for the period he remained absent till the date of his adjustment against available vacancy.

Mr. Mohammad Ismail S/O Gul Mohammad Shah of village Brawal sandi is heret adjusted at GPS Nasrat Dara against leave vacancy w.e.f 1.8.1996 in the interest of public service.

Note: Charge report should be submitted to this office in duplicate.

(YAR MOHAMMAD)
Sub Divisional Education Officer, (M) Dir.

Endst: No. 1528-82 Dated Dir the 29-7- /1996

Copy of the above is forwarded to the:-

1. District Education Officer, (M) Prys: Dir at T/Gara for information
2. H/Teacher GPS Nasrat Dara.
3. Mr. Mohammad Ismail.
4. ASDHO Concerned.
5. Accountant of this office.

[Signature]
Sub Divisional Education Officer, (M) Dir.

16/8/96

Better copy of page no

SUB DIVISIONAL
EDUCATION OFFICER,
(M) DIR

(12)

No. _____ / _____
Dated Dir the _____ 04/1196

To

The Director Education
Khyber Pakhtunkhwa, Peshawar

Subject:- **DECISION OF APPEAL NO.44/95 (MOHAMMAD ISMAIL).**

MEMORANDUM:

Reference your kind letter No.915/F.No.S-2 dated 26.03.96 on the above noted subject regarding submission of complete history of the teacher concerned is reproduced below please.

1. Mohammad Ismail S/o Gul Mohammad Shah of Village Baraval was firstly appointed in the M.P.S Vigal against the vacant P.T.O post by the District Education Officer (M) Secondary Dir at Timergara under endst No.11760-92/E-8 dated 29/1096.
2. That said teacher was adjusted in G.P.S. Marano against vacant post by this Office vide endst. No.1812-21/PTC dated 24/8/87.
3. The teacher served the Department for 2 years and 9 months.
4. The teacher remained absent form April 1989 during spring holidays.
5. He remained absent for a period of five years and one month resulting his services were ceased by the then D.E.O (M) Dir at Timergara vide No.2799/P.E.D./A-1 dated 21/12/94.
6. Seeing no alternation the teacher filed an appeal before the Service Tribunal NWFP, Peshawar and the first hearing was fixed on 5/7/95.
7. The case was trialed in the Hon'ble Court for a period of seven months and 22 days.
8. On the day of decision i.e. 26.2.96 the case was remanded to the respondent department for passing on an appropriate, valid and legal order on the basis of whatsoever is before you for your kind consideration.

Sub Divisional
Education Officer,
(M) Dir

Endst No.____/ dated Dir the 15/04/1996

Copy to the appellant

Sub Divisional
Education Officer,
(M) Dir

aux c
AB
slw

The District Education Officer,
(M) Primary Dir at Timergara,

Subject:-

DECISION OF APPEAL NO. 44/95 (MOHAMMAD ISMAIL)

MEMORANDUM:-

Reference your kind letter No. 915/P.No.S-2 dated 26/5/95 on the above noted subject regarding submission of complete history of the teacher concerned is reproduced below please.

1. Mohammad Ismail S/O Gul Mohammad Shah of village Barawal was firstly appointed in the M.P.S Vigil against the vacant P.T.C post by the District Education Officer, (M) Secondary Dir at Timergara under endst: No. 11760-92/E-8 dated 29/10/95.
2. The said teacher was adjusted in G.P.S Marano against vacant post by this office vide endst: No. 1812-21/P.T.C dated 24/8/87.
3. The teacher served the Department for 2 years and 9 months.
4. The teacher remained absent from April, 1989 during Spring holidays.
5. He remained absent for a period of five years and one month resulting his services were ceased by the then D.E.O(M) Dir at Timergara vide No. 2799/P.E.D/A-I dated 21/12/94.
6. Seeing no alternation the teacher filed an appeal before the Service Tribunal NWFP, Peshawar and the first hearing was fixed on 5/7/95.
7. The case was trialed in the honourable court for a period of seven months and 22 days.
8. On the day of decision i.e. 26/2/96 the case was remanded to the responded Department for passing on an appropriate, valid and legal order on the basis of what so ever is before you for your kind consideration.

Sub Divisional,
Education Officer,
(M) Dir.

Endst: No. 1081 / Dated _____ Dir the 15 / 4/1996.

Copy to the appellant.

Sub Divisional,
Education Officer,
(M) Dir.

Sheet *And* *(45)*
2 *W*

(For use in Police Department only).

(3)
 (1)

Heirs,

- 1.
- 2.
- 3.

Verification Roll No. dated received back

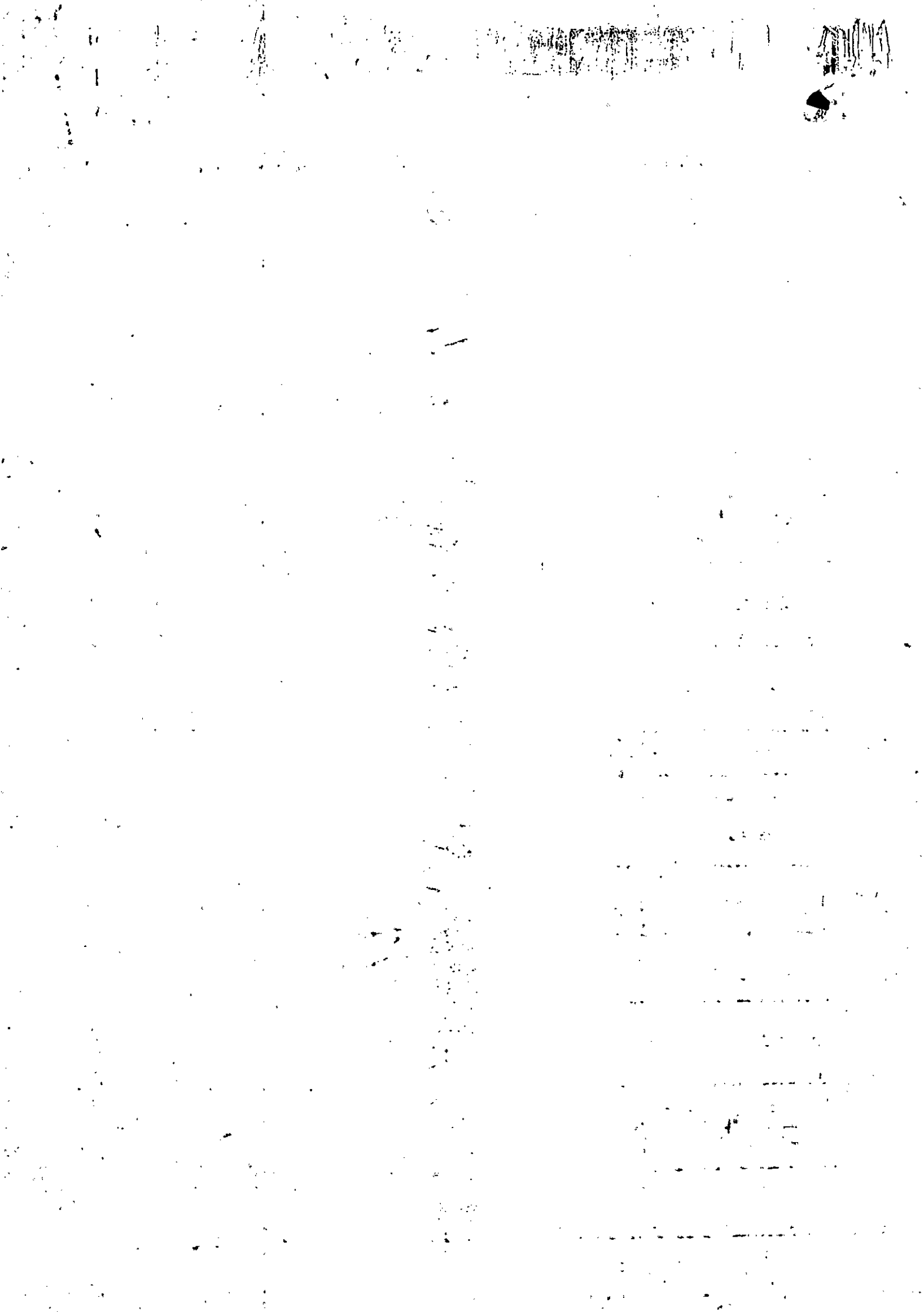
Left thumb-impression

Qualification	Date	Qualifications	Date
① <i>Passed matriculation exam</i> <i>(English) 1985 from B.S.S</i> <i>Peshawar Coll. No. 9905</i> <i>503 marks out of 950</i> <i>placed in grade 'C'</i>		First A.I.S. B. L. & B. A. Pleadership examination Training School Final examination	
② <i>Passed FA Exam from BISE</i> <i>Malahand Under Roll No 27480</i> <i>Drill instructing</i> <i>in season 2005. Obtained</i> <i>468 out of 700 marks and</i> <i>has been placed in grade-D</i> <i>(R/S) on 20-9-2005</i>		Other qualifications— <i>Passed PE Examination for</i> <i>Departmental Examination by</i> <i>Education Deptt. NWFP. Date</i> <i>held No 4698 & Serial</i> <i>Number 59/129 mark</i> <i>138. Placed in 2nd Division</i> <i>R/declared on 11/1/2006</i>	

Sub Division
 Education O.S.
 (131) P.S.

m. d. d. m. h.
 10y. D.O.
 (131) P.S.

M.S.S.
 (131) P.S.





Note:—The entries in this page should be renewed or re-attested at least every five years and the signature in lines 9 and 10 should be dated.

1. Name

MR. MOHAMMAD ISMAIL

2. Race

Muslim (Afghan)

3. Residence

Village and P.O. Barawal, Pardi,

Tehsil Barawal, Pardi, Dist. N.W.F.

4. Father's name and residence

MR. CUL MOHAMMAD SHAH

Address: as above

5. Date of birth by Christian era as nearly as can be ascertained

Third March, one thousand nine

hundred and sixty nine (1969)

6. Exact height by measurement

5-5"

7. Personal marks for identification

A black mole on the left side of chest

8. Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger

Ring Finger

Middle Finger

Fore Finger

Thumb

9. Signature of Government servant

M. Ismail

10. Signature and designation of the Head of the Office or other Attesting Officer.

Sub Divisional
Education Officer

1969

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term 'Pay'	7 Date of appointment	8 Signature of Government servant
<i>PST's post</i>							
<i>EPS</i>			<i>Rs. 11500/-</i>			<i>01/12/01</i>	<i>[Signature]</i>
<i>Mashango KASS</i>						<i>01/12/2012</i>	<i>[Signature]</i>
<i>do</i>			<i>Rs. 12000/-</i>			<i>01/12/2012</i>	<i>[Signature]</i>
<i>SPST post</i>		<i>Promoted to BPS-14/w</i>				<i>01-06-2013</i>	<i>[Signature]</i>
<i>do</i>			<i>Rs. (8000 - 610 - 26300)</i>			<i>2012-14</i>	<i>[Signature]</i>
		<i>Pay on 01-05-2013 in BPS-12</i>	<i>Rs. 12000/-</i>				<i>[Signature]</i>
		<i>Pay on 01-06-2013 in BPS-14</i>	<i>Rs. 12270/-</i>				<i>[Signature]</i>
		<i>Including PPL - Matured</i>	<i>2880/-</i>				<i>[Signature]</i>
<i>do</i>			<i>Rs. 12880/-</i>			<i>01/06/013</i>	<i>[Signature]</i>
<i>do</i>			<i>Rs. 13490/-</i>			<i>01/12/2013</i>	<i>[Signature]</i>

[Signature]
Sub Divisional Officer
Officer (A) / Upper

10	11	12	13	14	15
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 3	Date of termination of appointment	Reason of termination such as promotion, transfer, dismissal, etc.	Signature of the head of the office or other attesting officer	<p style="text-align: center;">Leave</p> <p>Nature and duration of leave taken</p> <p>Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government</p> <p>Period to which Government is debitable</p>	<p>Signature of the head of the office or other attesting officer</p> <p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>
<i>[Signature]</i>	30-1-2013	Promoted to SDEO (M) Dir Upper	<i>[Signature]</i> SDEO (M) Dir Upper	Promoted to BRS-14 w.e.f. 01-06-2013 vide DEO em Div UPU. add. No. 1419-24	
<i>[Signature]</i>	31-01-2013	Promoted to SDEO (M) Dir Upper	<i>[Signature]</i> SDEO (M) Dir Upper	Dated 29-05-2013 at No. 442	
<i>[Signature]</i>	30-1-2013	Promoted to SDEO (M) Dir Upper	<i>[Signature]</i> SDEO (M) Dir Upper	Service Verified w.e. From 01-12-2012 to 30-11-2013 From the office Record	
<i>[Signature]</i>	30-1-2013	Promoted to SDEO (M) Dir Upper	<i>[Signature]</i> SDEO (M) Dir Upper	Promoted to BRS-14 w.e.f. 01-06-2013 vide DEO em Div UPU. add. No. 1419-24	
<i>[Signature]</i>	30-1-2013	Promoted to SDEO (M) Dir Upper	<i>[Signature]</i> SDEO (M) Dir Upper	Promoted to BRS-14 w.e.f. 01-06-2013 vide DEO em Div UPU. add. No. 1419-24	
<i>[Signature]</i>	30-1-2013	Promoted to SDEO (M) Dir Upper	<i>[Signature]</i> SDEO (M) Dir Upper	Promoted to BRS-14 w.e.f. 01-06-2013 vide DEO em Div UPU. add. No. 1419-24	
<i>[Signature]</i>	30-1-2013	Promoted to SDEO (M) Dir Upper	<i>[Signature]</i> SDEO (M) Dir Upper	Promoted to BRS-14 w.e.f. 01-06-2013 vide DEO em Div UPU. add. No. 1419-24	

Signature of the head of the office or other attesting officer in attestation of columns 1 to 3

Signature of the head of the office or other attesting officer in attestation of columns 1 to 3

Signature of the head of the office or other attesting officer in attestation of columns 1 to 3

P @ Ms 13492 - Pm all mail
 P 25-14 WEF 1-1-2014 w.r. P. A
 w.r. 3 P 24 HRA P. A P. A
 WEF 18-2-2013 to 31-12-2013 =
 Rs 9522/-
 Friday
 DAC
 28/11/2014

17

1	2	3	4	5	6	7
Name of sub.	Whether or not the Government is a party to the contract	Whether or not the contract is a contract for the purchase of goods or services	Whether or not the contract is a contract for the purchase of real estate	Whether or not the contract is a contract for the purchase of a leasehold interest in real estate	Whether or not the contract is a contract for the purchase of a right of way	Whether or not the contract is a contract for the purchase of a right of use
P. 560/10/20/30/40	Temp	Temp	560/		7/2/11	7/2/11
C.M.P.S. Mfr.	Temp	Temp	560/		7/2/11	7/2/11
P. 750/10/20/30/40	Temp	Temp	750/		7/2/11	7/2/11
-do-	-do-	-do-	750/		7/2/11	7/2/11
P. 750/10/20/30/40	Temp	Temp	750/		7/2/11	7/2/11
C.P.S. Masonic	-do-	-do-	750/		7/2/11	7/2/11
Rs. 1450.00	2455	405-				

3 DEO

3 DEO (RE)
DUL

3 DEO (RE)
DUL

6	7	8	9	10	11	12
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 4	Date of termination of appointment	Reason of termination (promotion, transfer, discharge, etc.)	Signature of the head of the office or other attesting officer	Period Government to which debitable	Signature of the head of the office or other attesting officer	Remarks recorded particulars of award or payment
SDEO (M) DIR	20/08/86	Sec	SDEO (M) DIR	Appointed as a PR uncontracted teacher at principal at P.S. No. 7 vide District Education Officer's order at Jirgaon S.D.O. No. 11700-92-E-8 dated 29-10-86		
SDEO (M) DIR	24/8/87	Transfer	SDEO (M) DIR			S.D.O. (M) DIR
SDEO (M) DIR				Removal of contract from 16-7-89 till 15-8-89 and his service was ceased by the SDO (M) Jirgaon order's No. 1931-32		
				As a result he was a claimant against the order No 1931-32 of 7/6/86 conditionally that he will not draw his salary and pay order		

GPS	off	off	10.95/in	$\frac{8}{95}$	off soil
Nasrat Dax	off	off	10.95/	$\frac{12}{95}$	off soil
GPS Madhankar	- do -	- do -	11.55	$\frac{8}{95}$	off soil
- do -	- do -	- do -	Rs. 1480 - 2695	GPS-2	off soil
- do -	- do -	- do -	11.55 - 14.85	$\frac{11}{95}$	off soil
- do -	- do -	- do -	15.61	$\frac{12}{95}$	off soil
- do -	- do -	- do -	16.42	$\frac{12}{95}$	off soil
- do -	- do -	- do -	16.42	$\frac{12}{95}$	off soil
- do -	- do -	- do -	2220 - 120	5820-2 SPS	off soil
- do -	- do -	- do -	Temp Temp 25.80	$\frac{12}{2002}$	off soil
- do -	- do -	- do -	27.00	$\frac{12}{2002}$	off soil
- do -	- do -	- do -	28.20	$\frac{12}{2003}$	off soil

Pay Recd. Bank of India
 of Rs. 2000 - 2000 - 2000
 of Rs. 2000 - 2000 - 2000
 with bank of India

By: [Signature]
 M. M. [Signature]
 Dy. [Signature]
 M. M. [Signature]
 Dy. [Signature]
 M. M. [Signature]
 Dy. [Signature]
 M. M. [Signature]

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 37 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other pay	Date of payment	Signature
PSI			2940/2	-	-	12/2014	Seal
SPS Mashango	Temp	Temp					
PSI			3395/2	-	-	7/2015	Seal
SPS Mashango	Temp	Temp					
SPS			3535/2	-	-	12/2015	Seal
D.							
D.			3675/2	-	-	12/2015	Seal

Revised BPS NO (P. 2555-160-6785)

3395/7

2005
 OFFICE OF THE ACCOUNTANT GENERAL
 N.W.P.P. SHARAR
 PAY FIXED IN THE RESCO BASIC
 PAY SCALES
 OF RS. 2555
 AT RS. 3395 (N.W.P.P.)
 WITH Next Increment on 1-07-2017
 1-12-2015

[Signature]
 Pay. Secy. N.W.P.P. Post Office
 Revised BPS NO
 P. 2940-160-7780

			4220/2	-	-	12/17	Seal
D.							
			4380/2	-	-	12/17	Seal

9	10	11	12	13		14	15	
Signature and designation of the head of the office or other attesting officer in attestation of column 1 to 3			Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 20/05/95</p>			<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 20/05/95</p>	<p>Allowed running pay on passing of examination for Registrar departmental Examination (B.A. 1st part) - 1998</p>	<p>Per cent Government to which debitable</p>			
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 30/05/95</p>			<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 30/05/95</p>	<p>Perhaps under No 455</p>				
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 26/06/95</p>			<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 26/06/95</p>	<p>Sen 1998-99 Sen 1000</p>				
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 20/07/95</p>			<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 20/07/95</p>	<p>Order No Bndst No 505-507 dated 15/11/99</p>				
				<p>Service verified w.e from 1-12-98 to 30-11-1999 from the Office Record</p>			<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 15/11/99</p>	
				<p>Service Verified w.e from 1-12-99 to 30-11-2000 from the Office Record</p>			<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 15/11/99</p>	
							<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 15/11/99</p>	
							<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 15/11/99</p>	
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>			<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>				<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>	
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>							<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>	
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>							<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>	
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>							<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>	
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>							<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>	
<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>							<p><i>[Signature]</i> Dy. D.O. M. Pr. (M) Dt. 11/02/97</p>	

Office verified from the Office Record

Service Verified w.e from 1-12-2000 to 30-11-2001 from the Office Record

S.D.O. (M)

15/11/99
11/02/97
11/02/97

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state by what authority appointed, or if whether service counts for pension under Art. 371 C S. II.	Pay in substantive post	Amount of pay for officiating	Class of appointment and under the term 'pay'	Date of appointment	Signature of Government servant
PST Post - Subs. Master Rais			Pay upgraded w.e.f. 10.07 c RPS-12 B 3630-260			10.07 11.25	
						4220/-	J. S. [Signature]
						4410/-	J. S. [Signature]
						4610/-	J. S. [Signature]
						4700/-	J. S. [Signature]
						5285/-	J. S. [Signature]
						5590/-	J. S. [Signature]

Deputy District Officer (M)
Dist. Lohit

pay scale for use w.e.f. 07-2-08
4355-3100-13655, RPS-12

24

Signature and designation of the head of the office or other attending officer in the station of column 1 to 3	Date of termination of appointment	Reason for such as promotion, transfer, dismissal, etc.	Signature of the head of the office or other attending officer	Number and date of leave taken	Of leave on year pay split four months for which leave salary is payable to a other Government	Signature of the head of the office or other attending officer	Reference to and record of promotion or award or change of the Government
--	------------------------------------	---	--	--------------------------------	--	--	---

Samuel 1816-12 up
 180-07 Fed Exo Dir
 1994, 0386 etc
 12/7/02

Service Verified w.e. From 12-01
 To 30-02

By: D O
 Deputy Dist: Office

Deputy Dist: Office (M)
 Die Upper

Service Verified w.e. From 30-02
 To 2003

By: D O
 Deputy Dist: Office

Pay Fixed under approved Scale of Pay
 From RPS No. 27 to RPS No. 12
 W.e. 11-11-2003 Govt: NWFC
 Financial Dept. Classification No. FL/SB
 10-22-97 Dated 26-01-2003

Service Verified w.e. From 2003
 To 30-04 from The Office Record

Deputy Dist: Office

Deputy Dist: Office (M)
 Die Upper

Pay Scale 30-03
 Revised on 12-04

Service verified w.e. 1-12-04
 To 30-11-2005 from the Office Record

Deputy Dist: Office

paid to 2453/
 on 11-07-05 of 885-12-11
 1-01-07 to 30-08-08

Service Verified w.e. From 1-12-05
 To 30-11-06 from The Office Record

By: D O
 Deputy Dist: Office

Pay Revised w.e. 1-01-2007
 File No. 204
 Financial Dept. Classification No. FL/SB

Deputy Dist: Office

Service verified w.e. 1-01-07
 To 30-11-07 from the Office Record

Deputy Dist: Office

85

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment or (ii) whether service counts under Art. 37, C. S. II.	Pay in substantive post	Additional pay for officiating	Grade allotted under rules	Date of appointment	Remarks
<u>Pay revision BPS# 7 (560-23-1080)</u>							
	Pay on 1/1/1986				RS 500		
	Pay on 1/2/1986				RS 500		
<u>Pay revision BPS# 7 (750-3-1370)</u>							
	Pay on 1/7/1988				RS 500		
	Pay on 1/2/1987				RS 537		
	Pay on 1/2/1986				RS 819		
	Pay on 1/2/1984				RS 843		
	Pay on 1/2/1980				RS 814		
	Pay on 1/2/1980				RS 814		
<u>Pay revision BPS# 7 (105-20-297)</u>							
	Pay on 1/6/1991				RS 1135		
	Pay on 1/2/1991				RS 1395		
	Pay on 1/2/1991				RS 1155		
	Pay on 1/2/1991				RS 1515		
	Pay on 1/2/1993				RS 1515		
<u>Pay revision BPS# 7 (400-81-169)</u>							
	Pay on 1/6/1990				RS 2047		
	Pay on 1/2/1991				RS 2128		
	Pay on 1/2/1991				RS 2809		
	Pay on 1/2/1991				RS 2800		
	Pay on 1/2/1991				RS 2371		
	Pay on 1/2/1992				RS 2371		

1/1/91
1/2/91

2047
2128
2809
2800
2371

29

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service accounts for periods under Art. 371 U.S.C.	Pay in substantive post	Additional Pay for officiating	Grant or not falling under the term 'Pay'	Date of appointment	Signature of appointing authority
PST G.P.S. Washington (ex)	temp	temp	8385/	65257		11/2/09	J. Sai
do-	do-	do-	6835/			01/12/2010	J. Sai
Pay Scale Revised w.e.f 01-01-2011 B. (7000-5000-2000) BPS - 12							
Rs. 11000/							01/07/2011
62/5/12 09/02/12							
9/20/10 Rs. 33480/2							
Rs-33480							
Rs-39740							
113220/							
Rules/Notif. in which the absence period considered as duty?							
16/7/89 to 15/8/93							
Adjustment made on 17/6/96 along with court decision on also produced.							
3) Service received in 1996 along with benefit for same was not granted.							

9	10	11	12	13		14	15
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of 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	Details of any recorded punishment or censure, or reward or praise of the Government servant.
				Nature and duration of leave taken	Allocation of period of leave on average pay for months for which leave salary is debit to Government		
				Period	Government to which debit to be		

30/11/2011
 Dy. Dir (N) (M) Dir (N)
 30/11/2011
 A/S, M.A.
 pay set
 Revised
 A/S, M.A.
 (M) Dir (N)
 (M) Dir (N)

Service verified w.e.f. 01-12-2009 To 30-11-2011 from the office record.

Dy. District Officer
 (E&SE) Dir Upper

Service Verified w.e.f. From 01-12-2011 to 30-11-2012 From the office record

Dy. District Officer
 (E&SE) Dir Upper

DTH
 PAY
 No. 10 (E&S)
 with No. 10 (E&S)
 Pay verified with Nasir

191-11-4-4-2012
 Part @ 12000 commuted in computer system & paid manually at Rs. 13220/2 @ 5000 P.M.

Account Officer
 Pay Extra Party
 N.W.F.

District Account Officer
 Dir Upper
 17/1/12

Recovery of over-payment in \$10 Mohammed Asmaul P.S. 485, Malaga, NJ

Paydue thru difference

3 ¹¹ / ₁₁ (3M)	6525	8385	1860 x 2 = 3720
3 ⁶ / ₁₁ (7M)	6835	8695	1860 x 7 = 13020
3 ¹¹ / ₁₁ (5M)	11000	14000	3000 x 5 = 15000
3 ¹¹ / ₁₁ (12M)	11500	14500	3000 x 12 = 36000
3 ¹¹ / ₁₁ (4M)	12000	15000	3000 x 4 = 12000
3 ⁹ / ₁₁ (6 Months)	240	-	-
			33680

Total

3720
13020
15000
36000
12000
33680

Total: 113226

113220

32

Part by fiction
city of pps

① Certified recd. overpayment made in pay made.

By [Signature]

درخواست نمبر: عالی انٹرنیشنل / گورنمنٹ سروس کمیشن

18-4-2013

موضوع

Aux F

(33)

ص 1

ص 1

گورنمنٹ سروس کمیشن

1۔ ایک فوری خدمت آڈیٹر کے طور پر 1986ء سے خدمات

1989ء میں فوری نے دشمنی کا دم سے چھ لے کر درخواست دی کہ نامعلوم

انتظامی طور پر فوری کا دم سے فوری سے طے ہو گیا۔

2۔ فوری نے 15/8/94 کو سروس آرہو میں درخواست دائر کی

جس کے فیصلے کے مطابق ارد گرد 32-1931/1996/17/6 کے تحت

فوری نے فوری کو دوبارہ بحال کیا۔

3۔ سال 1999ء میں حکومت نے ان ٹرنڈ انٹرنیشنل کے بارے میں

فوری کو بھی انٹرنیشنل کے بارے میں

1۔ حکم تسلیم نہیں کیا ہے۔ فوری کے انٹرنیشنل کے بارے میں

فوری کو بھی مطلع کیا ہے۔ اس کے بارے میں

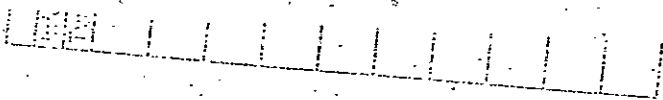
گنڈا 1۔ صاحبان کے فوری میں بعض باتوں کے سبب

انٹرنیشنل دوبارہ بحال ہے۔ فوری کے بارے میں

دعا کرتا ہوں

گورنمنٹ سروس کمیشن

پست



Page No

34

حکومت صواب ڈائریکٹر آف ایجوکیشن KPK لیٹا

دفعو است برار جالی انٹرنیشنل / شوقی نہ کرنا

صواب عالی

گزارش سب ذیل میں ہے۔

1۔ کہ فروی جیٹ PST مدرسہ PS مشنگو کی میں 11/11/1986

سے تفتیات ہے۔ 1989ء میں فروی نے دشمنی کیوجہ سے لفظی کو لڑنے دفعو است دی ہو کہ نامعلوم لڑائی کی انتہائی مجبور کیوجہ سے فروی نوکری سے غیر حاضر رہا۔

2۔ فروی نے 15/8/94 کو روس ٹریبونل میں دفعو است درخواست کی ہے۔ جس کو منظر کو مطابق اور انہ 3-31-1931/1996/5/17 برڈ ریگولر ایجوکیشن آفسیر تھر گرہ نے فروی کو دوبادہ جال کہا۔

3۔ 15/11/2009 میں حکومت نے ان ٹریبونل انٹرنیشنل دینے کا اعلان کیا جس کے مطابق فروی کو بھی انٹرنیشنل دینے کے لئے اب محکمہ تعلیم نے ضرور کار کیا ہے۔ کہ فروی سے انٹرنیشنل مارٹ دینے کے لئے جس اور ساتھ ساتھ رکورد بھی شروع ہوئی ہے جو کہ سزا ظلم ہے۔

لذا آپ صحت سے انٹرنیشنل کے ضرورت میں ملے گی۔ کہ منگانی کی اس دور میں فروی کی انٹرنیشنل دوبادہ جال کر جائیں۔ اور دیکھوں ہم

کر کے نہ افکات صادر جائیں۔

Date 15-11-2013
PST مشنگو

PS Mashagoo Kas

حضرت صاحب ڈیپارٹمنٹ ایجوکیشن آفیسر (میل) ڈیپارٹمنٹ ڈیپارٹمنٹ

35

دفعو است ہر ار بجالی انگریزین / شہری نہ کرنا

صاحب عالی

گزارش سبب ذیل میں ہے۔

1۔ کہ فزوی جٹ پیسٹ PST مدرسہ DPS مشنگو گی میں 11/1986

سے تفتیات ہے۔ 1989ء میں فزوی نے دشمنی گروہ سے قطع کر لے ڈیفو است دی ہو کہ نامعلوم لڑکی انتہائی چھوٹی گروہ سے فزوی نوکری سے غیر حاضر رہا۔

2۔ فزوی نے 15/5/94 کو روسی ٹریبونل میں دفعو است درگوشی ہی جس کے نتیجے کہ مطابق اڈر ایف 32-31/1931/17/6/1986 پر ڈیپارٹمنٹ ایجوکیشن آفیسر قمر گہ نے فزوی کو دوبارہ بحال کیا۔

3۔ سال 2009ء میں حکومت نے ان ٹریبونل انکوائس دینے کا اعلان کیا جس کے مطابق فزوی کو بھی انکوائس دینے گئے۔

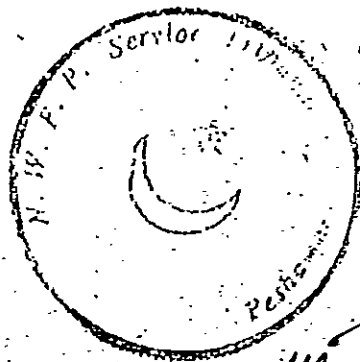
اب محکمہ تعلیم نے ضہودار کیا ہے۔ کہ فزوی سے انکوائس مارا دینے گئے، جس اور ساتھ ساتھ ریکورڈ بھی شروع ہوئی ہے جو کہ سزا ظلم ہے۔

لہذا آپ صاحبان کی ضرورت میں ملے گی یہ ہے۔ کہ منگانی کی اس دور میں فزوی کی انکوائس دوبارہ بحال کر جائے۔ اور ریکورڈ ہم کو گمانہ افکات صادر جائیں۔

Date 15-11-2013
Dعا گزار دفعو است
پسٹ پیسٹ
مدرسہ مشنگو گی
DPS Mashayokas

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

Page I



(39)

Appeal No. 907/2005

Date of institution - 25.11.2005

Date of decision - 19.10.2006

Shah Zaman A.T. Teacher, GHS Labour Colony
Mardan.....

(Appellant)

Attestation
(Signature)
(Signature)

VERSUS

1. Government of NWFP through the Secretary Education, Department Peshawar.
2. Director of Education NWFP Peshawar.
3. EDO (Education & Literacy) Mardan.
4. Head Master, GHS Labour Colony, Mardan.
5. Accountant General NWFP Peshawar.....(Respondents)

Mr. Amjad Ali, Advocate..... For appellant.

Mr. Zaffar Abbas Mirza, Acting Govt. Pleader..... For respondents.

MR. ABDUL KARIM QASURIA.....MEMBER.

MR. FAIZULLAH KHAN KHATTAK.....MEMBER.

JUDGMENT.

ABDUL KARIM QASURIA, MEMBER :- This appeal has been filed by the appellant against the observation of the Pay Fixation Party for recovery of annual increment for the year 1992 from him with the prayer that the order of respondent No. 3 be set aside and he be exonerated of the charges leveled against him.

(Signature)

ATTESTED
EXAMINER
NWFP Service Tribunal
Peshawar

2. Brief facts of the case are that the appellant was posted as A.T in GHS Labour Colony Mardan in the year 1989. In the year 2005 the Pay Fixation Party observed and point out that the appellant has obtained 2 annual increments in the year 1992 and ordered for recovery from the appellant which is illegal, against law and facts against which the appellant preferred a departmental appeal but the same has not been responded so far. Hence the instant appeal.

3. The respondents were summoned. They turned up through their representative and filed written reply in which the claim of the appellant was opposed and objections were raised. The appellant did not file replication.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the order of pay fixation party is not in consonance with law and has no legal base and requires to be declared as null and void. It was also added that the appellant had no concern with the Service Book as it was maintained by respondent No. 4 and entries regarding increments were made by respondent No. 4 for which the appellant cannot be held responsible. The benefit of increments availed by the appellant is not illegal as these were sanctioned by the competent authority. The counsel also quoted the decision of the NWFP Service Tribunal in Appeal No. 332/2005 which was decided on 28.7.2006; as a result of which the recovery from the appellant was waived of which was received by him in the shape of additional advance increments. The appellant had

(40)

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ATTESTED

EXAMINED
Sd/-
Registrar

been receiving the payment of the said increments in good faith. The counsel also reiterated the principle that the benefit once given by the competent authority cannot be withdrawn without adopting the proper procedure of law which has not been adopted in the instant case. It was urged by the counsel for the appellant that the prayer in the appeal may be accepted and the appellant be allowed to get the benefit of increments and the order of respondent No. 3 be set aside and he be exonerated of the charges leveled against him.

(411)

6. The learned AGP opposed the contention of the appellant stating that benefit in the shape of additional increments received by the appellant is illegal and the impugned order of the fixation party is covered under the law. It was also stated that the appellant was given 2 annual increments in the year 1992 while he was entitled for one increment. It was further stated that the appellant was well aware about the wrongful payment received by him and the amount was received by him in fraud which is against the rules and law. It was further added that no departmental appeal was preferred by the appellant and his appeal requires to be dismissed.

7. After listening to the parties and perusal of record, the Tribunal is of the view that the appellant was allowed 2 annual increments in the year 1992 instead of one for which he was not entitled. Respondent No. 3 was the competent authority and he did not pay due attention while sanctioning the increments which responsibility lies mainly upon him. Since the Head Master who sanctioned the

James J. J.

ATTESTED

[Signature]

42

increments is no more in service and has not been made a party in the case, no action regarding his involvement or otherwise can be considered. The lapse/omission on the part of sanctioning authority cannot be put on the appellant who is A.T. and cannot be expected to know the intricacies of financial transaction. The appellant had been receiving the amount of annual increments in good faith after which it was properly sanctioned by the competent authority for which his penalization will be against the norms of justice.

8. In view of the above facts, the Tribunal partially accepts the appeal to the extent by waiving the balance recovery against the appellant and directs the respondents to stop the recovery of the balance amount while the amount already recovered from him be kept intact. The respondents are further directed to rectify the wrong entries and re-fix the pay of the appellant as admissible under the rules. No order as to costs. File be consigned to the record.

ANNOUNCED.
19.10.2006.

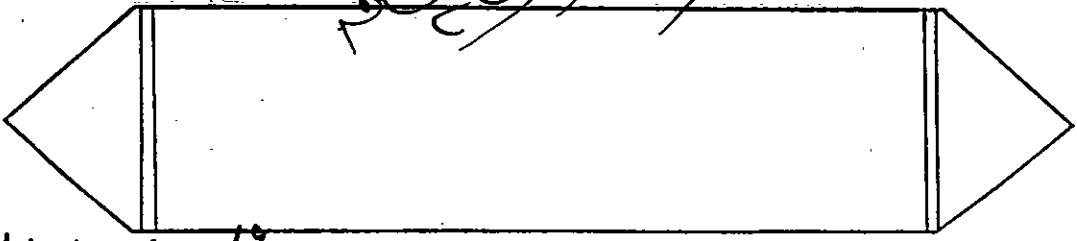

(FAIZULLAH KHAN KHATTAK)
MEMBER.


(ABDUL KARIM QASURIA)
MEMBER.

Date of Presentation of Applicant 2.11.06
Number of Petitions 1000
Copying Fee 10
Urgency 10
Total 10
Name [Signature]
Date 15.11.06
Date of Issuance of Copy 15.11.06

RECEIVED TO BE USED COPY.
SECRETARY
PUBLIC SERVICE COMMISSION
P.O. Secy.

بعد التاریخ قبول



ان 2 منجانب اسلٹ کا
بنام

27/2/2014

موزخہ
مقدمہ
دعوی
جرم

صحت

مذکورہ

روسی اپیل

باعث تحریر آئندہ

سائل

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کاسٹل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک درو پیہا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہر جائزہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المترقوم 27 ماہ 2014

واہ العبد

کے لئے منظور ہے۔

Accepted
Anwar Ali Anwar
Mardan
03229870175

بمقام

مقرر میسائل و لکھن شمساه ستان برادل باڈی مشلو کس فصل برادل صلح برادل

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

APPEAL NO.....292/2014.
Muhammad Ismail PST S/O Gul Muhammad Shah Village Luhango Kass.....Appellant.

Versus

1. Secretary Education & Literacy Secretariat Peshawar respondent.
2. Director Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer Male Dir Upper.
4. District Accounts Officer Dir Upper.
5. Sub-Divisional Education Officer Male Dir.

Written reply on behalf of respondents.
Respectfully sheweth.

PRELIMINARY OBJECTIONS.

- 1) That the appellant has no cause of action.
- 2) That the appellant has not come to the Service Tribunal with clean hands.
- 3) That the appellant has been estopped by his own conduct to file the instant appeal.
- 4) That the appellant has no locus standi.
- 5) That the appeal is not maintainable in its present form.
- 6) That the appeal is time barred.
- 7) That the appeal is bad due to non-joinder and mis joinder of necessary parties.

OBJECTIONS ON FACTS.

1. Pertains to the record.
2. Pertains to the record.
3. Pertains to the record.
4. Incorrect. As the appellant remained absent from his duty for a long period and he was terminated from service under FR 18 rules. Termination order is available on record.
5. No comments.
6. No comments.
7. Pertains to the record.
8. Correct to the extent that the appellant was allowed untrained period increments w.e.f 01-11-1986 but the Pay Fixation Party held that the appellant is not entitled for such increment.
9. Incorrect. The recovery was made by the respondent No.5 through the order of the Pay Fixation Party. This act is according to rules & regulation.
10. Incorrect. No departmental appeal of the appellant is available on the record. Hence the instant appeal is liable to be dismissed on this score alone.
11. Incorrect.
12. The appeal has got no cause of action and instant appeal is liable to be dismissed.

OBJECTIONS ON GROUND.


- A. Incorrect. The appellant was dealt in accordance with law and rules.
- B. Incorrect. The Honorable Service Tribunal vide Judgment dated 26-02-1996 re-instated in the service with the condition that he will not claim pay / Seniority for the absence period.
- C. Incorrect.
- D. Incorrect. Other teachers got the same financial benefits due to eligibility while the appellant was not entitled for such benefits.
- E. Incorrect. No one is entitled for financial benefits in case of such absence period.
- F. Incorrect. Respondent No.5 is a competent authority as well as the drawing and disbursing officer of the appellant.

It is therefore, humbly prayed that the appeal may kindly be dismissed with cost please.

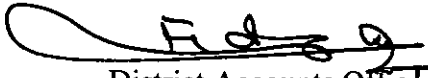

Secretary

Elementary & Secondary Education
Govt: of Khyber Pakhtunkhwa

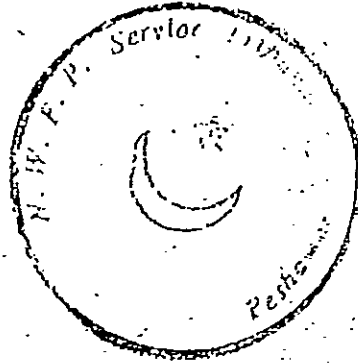

District Education Officer
(Male) Upper Dir


Director

Elementary & Secondary Education
Govt: of Khyber Pakhtunkhwa


District Accounts Officer
Dir Upper

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.



Appeal No. 907/2005

Date of institution - 25.11.2005

Date of decision - 19.10.2006

Shah Zaman A.T. Teacher, GHS Labour Colony
Mardan.....

(Appellant)

VERSUS

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Education, Department Peshawar.
2. Director of Education NWFP Peshawar.
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MR. FAIZULLAH KHAN KHATTAK..... MEMBER.

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ATTESTED
EXAMINER
NWFP Service Tribunal
Peshawar

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ATTESTED

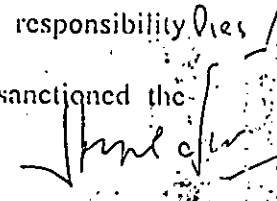
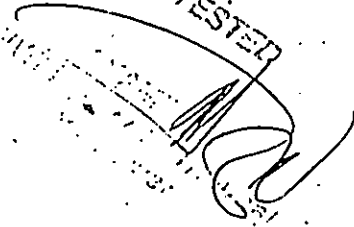
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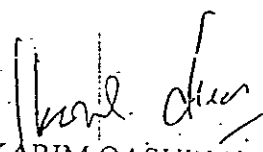
ATTESTER




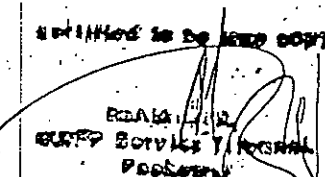
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ANNOUNCED.
19.10.2006.


 (ABDUL KARIM QASURIA)
 MEMBER.


 (FAIZULLAH KHAN KHATTAK)
 MEMBER.

Notified to be kept copy.

 BOARD OF
 GUPP SERVICES TRIBUNAL
 Peshawar

Date of Presentation of Applicant..... 2.11.06
 Number of Clauses..... 1600
 Copying Fee..... 10/-
 Urgent..... 10/-
 Total.....
 Name.....
 Date..... 15.11.06
 Date of Delivery of Copy..... 15.11.06

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 485 /ST

Dated 28 / 3 / 2016

To


The SDEO School (Male),
Distt: Dir at Timergra.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 17.3.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

Copy of the above is forwarded for information and necessary action to all concerned.

1. All DAOs/AAOs in NWFP.
2. All Payrolls Section (L).
3. Admn-I Section.
4. Pension (M).

APPR

M. Muhammad
Accounts Officer (HAD) 3/11/09
NWFP Peshawar

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

Subject:

GRANT OF ANNUAL INCREMENT / RUNNING PAY TO
UNTRAINED TEACHERS IN THE LIGHT OF SUPREME
COURT JUDGMENT.

Dear Sir,

I am directed to refer to this Department letter No. FD (PRC) 5-2/2002, dated 30-03-2009 on the subject noted above and to say that certain quarters have raised some queries about the subject matter which are clarified as under:-

All those untrained teachers who were appointed on fix pay and were subsequently regularized against their posts, on acquiring / completing requisite training successfully, would be entitled for such benefits of annual increments from the date of their first appointments as such, but without arrears.

The above benefit would also be admissible to all these retired teachers who fulfill the above conditions.

The above benefit would not be admissible to those who themselves resigned, or were removed / terminated from service.

2. This Department letter of even number dated 30-03-2009 shall be deemed to have been modified to the above extent.

Yours Faithfully,

(SHAHUKAT ULLAH)
SECTION OFFICER (SR-1)

Enclst: of even No. & date.

Copy for information and necessary action:-

1. Accountant General, NWFP.
2. All District Coordination Officers, NWFP.
3. All District / Agency Accounts Officers, NWFP / FATA.

M. Muhammad
SECTION OFFICER (SR-1)

2/5/09

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

C.M.No. _____/2015

IN

S.A.No. _____/2014

Muhammad Ismail Appellant/ Applicant

Versus

Govt. of KPK and others..... Respondents

No irreparable loss
is involved. Place
on file.
8/5

APPLICATION FOR EARLY HEARING

Respectfully Sheweth;

- 1) That the above noted appeal is pending adjudication before this Hon'ble Tribunal in which next date of hearing is fixed as 24.08.2015.
- 2) Because appellant is entitled for advance increments as well.
- 3) Because other similarly placed teachers has been granted untrained and advance increments and appellant is also entitled for the same relief.
- 4) Because as PLD 1992 SC 207 and judgments in case of Shah Zaman of this Hon'ble Tribunal an increment added to the salary though wrongly cannot be recovered

- 5) That justice demands that case may be heard at earliest, preferably in next week.
- 6) That the appellant has a prima facie arguable case and is sanguine about its success.
- 7) That if the case is not heard at an early date, petitioner/appellant will suffer irreparable loss and multiplication of litigation would be enhanced.

It is, therefore, prayed that on acceptance of this application, this Hon'ble Tribunal may be pleased to fix an early date in the above appeal, so the ends of justice may meet.

M Ismail

Applicant
Muhammad Ismail

Through

Amjad Ali *(Signature)*
Advocate Supreme Court
At Mardan

AFFIDAVIT

I, do hereby affirm and declare as per information furnished by my client that the contents of the Application are true and correct and nothing has been concealed from this Hon'ble Tribunal.



M Ismail
Deponent