

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SCANNED  
KPST  
Peshawar

APPEAL NO. 2241/2019

Mr. Bakhtawar Jan .....

Appellant

V/S

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

Khyber Pakhtunkhwa  
Services Tribunal

Diary No. 179 /

Dated 31/10/2022  
Respondents

(Para wise reply on behalf of Respondent No.3 & 4)

**Preliminary Objections:-**

- 1) That the Appellant has no cause of action and locus standi.
- 2) That the Appellant has not come to this Court with clean hands.
- 3) That the Appellant has concealed material facts from this honorable Court.
- 4) That the instant appellant is badly time barred.
- 5) That the appeal is not aggrieved person with the meaning of article 199 of the constitution of Islamic Republic of Pakistan 1973.
- 6) That the Appellant has drawn the said annual increment for the period w.e.f 01.12.2017 to 31.05.2020 by submitting the source form is illegal and liable to be recovered under the rules (Annex-A).

**Respectfully Sheweth:-**

- 1) No comments.
- 2) No comments.
- 3) No comments.
- 4) No comments.
- 5) Incorrect that the Appellant has taken over the charge of his post of SS Bio BPS-17 (on eve of his promotion) on 17.10.2021 but his Service was less than six months in BPS-17. Hence, he is not entitled to get annual increment on 01.12.2017 as per Revised National Scale of Pay & Allowances. 1977 (Annex-B).

As per LPC Issued by the DAO Bajaur (Annex-C). His Pay in BPS-16 Rs.31070/- PM on 09.10.2017 and his Pay in BPS-17 Rs. 34,970/- PM on 10.10.2017 (Next Stage plus Premature increment). However his Pay will be same on 01.12.2017.

It is pertinent to mention that the Appellant has drawn the said annual increment for the period w.e.f 01.12.2017 to 31.05.2020 , by submitting the source form is illegal and liable to be recovered under the rules.

6) As mentioned in Para "5" above.

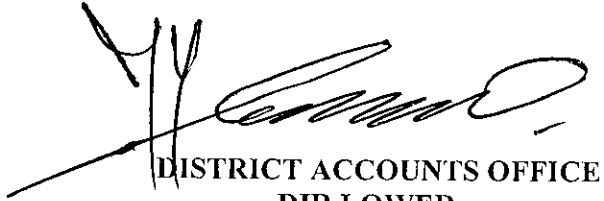
7) Incorrect that the appellant was promoted to the post of SS Bio BPS-17 on 30.05.2017 and his Services placed at the disposal of FATA Secretariat for further posting. Whereas, the appellant was performed the duty against the post of BPS-16 SST up to 09.10.2017 and adjusted as SS Bio on BPS-17 on 10.10.2017 (AN). His Services were less than Six months in BPS-17. Therefore he is not entitled for annual increment in BPS-17.

It is pertinent to mention here that Notification No. SO (S/M/E&SE/2-1/2017/Adj dated: 23.04.2019 issued by Elementary & Secondary Education Department (Annex-D) allowed annual increments to the appellant is not covered under the rules and law because the appellant has not performed his duty against the post of SS BPS-17, hence liable to be set aside and the Appellant has illegally drawn the said annual increments are liable to be recovered under the rules.

**Grounds:-**

- A. That Respondent No. "3&4" are bound to follow the rules and instructions issued by the provincial Government of Khyber Pakhtunkhwa from time to time. Hence it is submitted that the Annual increment which the appellant has illegally drawn are liable to be recovered under the rules.
- B. That the Appellant by himself violated the rules & Law for getting / drawn the annual increments on 01.12.2017 which are not admissible to him under the rules.
- C. As explained in Para "5" above.
- D. No comments.

Keeping in view the above mentioned facts it is, therefore, humbly prayed that the Appellant has illegal drawn the said annual increment are liable to be recovered under the rules and the Appeal in hand having no merits may kindly be dismissed with cost.



DISTRICT ACCOUNTS OFFICE  
DIR LOWER



ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA

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**(Para wise reply on behalf of Respondent No.3 & 4)**

**AFFIDAVIT**

I, Syed Tariq Shah, Senior Auditor, Office of the Accountant General Khyber Pakhtunkhwa Peshawar do hereby solemnly affirms & declare that the contents of reply submitted on behalf of Respondent No.1 is true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.

*Yami*  
DEPONENT

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NIC. 17301-1327637-9

**ATTESTED**



26-10-2022