



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

*Execution Petition no. 645/2022*

In Re:

Service Appeal No. 1146/2016

Muhammad Ismail.....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa,  
Secretary Education (E&S) & others .....Respondents

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Dated: 19.10.2022

*Muhammad*

Appellant

through

*[Signature]*  
**Amjad Ali (Mardan)**

Advocate

Supreme Court of Pakistan

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

(1)

*Execution petition No. 645/2022*

In Re:

Service Appeal No. 1146/2016

Director of Registration  
Peshawar

Registry No. 1735

27-10-2022

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 (M) District Dir at Timergara.
- 4) District Accounts Officer Dir at Timergara.
- 5) Sub Divisional Education Officer School (M) District Dir at Timergara
- 6) Secretary Finance KPK, Civil Secretariat, peshawar.
- 7) District Accounts Officer, Upper Dir.

...Respondents

**APPLICATION FOR IMPLEMENTATION OF  
JUDGMENT DATED 01.02.2022 OF THIS  
HON'BLE TRIBUNAL PASSED IN SERVICE  
APPEAL NO.1146/2016.**

Sir,

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Appellant humbly submits as under:-

1. That appellant filed titled Service Appeal No.1146/2016 before this hon'ble Tribunal with the prayer that

***“On acceptance of this appeal, respondents may please be restrained from recovering amount of actual increment already granted as per judgments of Service Tribunal/ Supreme Court and letter dated 30.03.2009 of Finance Department. Any other relief deemed fit may also be graciously granted.”***

2. That appeal of the appellant came up for hearing on 01.02.2022, and this Hon'ble Tribunal was pleased to allow the appeal of the appellant with the following order:-

***“In view of the foregoing discussion, the case is remanded to the respondents to examine the case of the petitioner in light of finance department circular dated 30.03.2009 and pass an appropriate order.”***

(Copy of order/ judgment dated 01.02.2022 is Annex “A”)

3. That after announcement of judgment dated 01.02.2022, the appellant send the attested copy of

the said judgment to the respondents for its implementation. (3)

4. That since announcement of judgment/ order dated 01.02.2022 the same has not yet been implemented, nor any steps whatsoever in this respect have been taken by the respondents, despite several request of the appellant, but in vain.
5. That omission of respondents to act upon the order of this Hon'ble Tribunal speaks of the fact that respondents has undermined the authority of this Hon'ble Tribunal and have not moved even an inch for implementation of the same.
6. That this omission/ act of respondents squarely falls within the ambit of contempt of court as respondents have conveniently ignored the time frame provided by this Tribunal Court.

It is therefore, humbly requested to please direct respondents to implement the judgment dated 01.02.2022 in its letter and spirit.

*M. Mardan*  
Appellant  
through

*M. Mardan*  
**Amjad Ali (Mardan)**  
Advocate  
Supreme Court of Pakistan

**AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

*M. Mardan*  
Deponent



(4)

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

Service Appeal No. 1146 /2016



Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1166

Dated 08-11-2016

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**

- vide order sheet dated 15/2/2017*
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~~ *District Upper Dir.*
  4. District Accounts Officer ~~Dir~~ at Timergara. *District Upper Dir.*
  5. Sub Divisional Education Officer School (M) District ~~Dir~~ at Timergara. *Upper Dir.*
  6. Secretary Finance KPK, Civil Secretariat, Peshawar.
  7. District Accounts Officer, Upper Dir.

.....Respondent

*Appeal u/s 4 of Service Tribunal Act, 1974 for non-recovery of annual increments granted as per finance department sanction order dated 30.03.2009 under the garb of judgment dated 17.03.2016 of Service Tribunal against the Advance Increment Act, 2012 and*

Filed to-day

Registrar

8/11/16

Re-submitted to-day  
and filed.

Registrar

15/11/16

ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

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Service Appeal No. 1146/2016

Date of Institution ... 08.11.2016

Date of Decision ... 01.02.2022



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**

Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Civil Secretariat, Peshawar and others. ... (Respondents)

Amjid Khan  
Advocate ... For Appellant

Muhammad Adeel Butt,  
Additional Advocate General ... For respondents.

**AHMAD SULTAN TAREEN** ... **CHAIRMAN**  
**ATIQU-UR-REHMAN WAZIR** ... **MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-** Brief facts of the case are

that the appellant joined Education Department as un-trained PTC Teacher vide order dated 29-10-1986, who subsequently was trained vide order dated 11-05-1999. As per circular of Finance Department dated 30-03-2009, the appellant was granted running pay scale/increments, but without arrears. The audit party observed that over payment is made to the appellant in respect of increments and ordered for its recovery. The appellant filed departmental appeal followed by Service Appeal No. 292/2014, which was dismissed vide judgment dated 17-03-2015. The appellant again filed departmental appeal dated 13-07-2016 for non-recovery of annual increments already granted, which was not responded, hence the instant service appeal with prayers that the appellant may be given benefits

ATTESTED

Secretary  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

of Finance Department Circular dated 30-03-2009 from the date of his appointment and onwards. (6)

02. Learned counsel for the appellant has contended that as per provisions contained in advance increment act, 2012, the increments already granted are not to be recovered, as the appellant is entitled to such increments as per circular of finance department dated 30-03-2009; that the appellant has been discriminated as similarly placed employees had already been granted increments for un-trained period.

03. Learned Additional Advocate General for the respondents has contended that the appellant was allowed un-trained period increments with effect from 22-01-1986 vide finance department notification dated 05-02-2002 but the pay fixation party had observed that the appellant is not entitled for such increments as the appellant remained absent for longer time and he was dismissed from service and re-employed in 1996, hence he was not entitled for the un-trained period before 1996; that the appellant was re-instated with the condition that he will not claim back benefits and seniority.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was appointed as PTC untrained Teacher in 1986. The appellant went missing for considerable time due to blood feud enmity, hence he was dismissed and was again re-instated upon direction of this tribunal vide judgment dated 26-02-1996. The appellant were allowed increments from 1986 but later on it was pointed out by the audit party that the appellant is not entitled for such increments for the absence period, hence recovery was effected from the appellant against which the appellant filed service appeal No 292/2014, which was dismissed vide judgment dated 17-03-2016. The appellant when confronted with the situation that his earlier appeal under the

REGISTERED

STATE OF KARNATAKA  
 PUBLIC SERVICE COMMISSION  
 BANGALORE





same prayers had already been dismissed by this tribunal, has requested that the instant appeal is regarding grant of benefits of finance department circular dated 30-03-2009, which may be granted to the appellant from the date of appointment of the appellant. Learned counsel for the appellant has contended that the appellant would feel satisfied if his appeal is remanded to the respondents to consider his case under circular of finance department dated 30-03-2009, which was acceded to.

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06. In view of the foregoing discussion, the case is remanded to the respondents to examine the case of the appellant in light of finance department circular dated 30-03-2009 and pass an appropriate order. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
01.02.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Number of Pages of a photocopied \_\_\_\_\_  
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Date of Completion of copy 09-05-22  
Date of Delivery of Copy 09-05-22



GOVERNMENT OF N.W.F.P  
FINANCE DEPARTMENT  
(REGULATION WING)

(8)

NO.FD (PRC) 5-2/2002  
Dated Peshawar the: 30-03-2009

To:

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

Subject:

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

عمر نور اللہ صدر ایف اے ڈسٹرکٹ لیٹراری  
4301-5928367

Dear Sir,

I am directed to refer to your letter NO.SO (B&A) 1-16/08/  
Advance Increment dated February 27, 2009 on the subject noted above and  
to state that the Provincial Government is pleased to allow the benefit of  
annual increments to the untrained teachers from the date of their regular  
appointment.

No arrears shall however, be admissible / payable prior to the  
date of issuance of this circular.

(ABDUL JABBAR)  
SECTION OFFICER (SR-1)

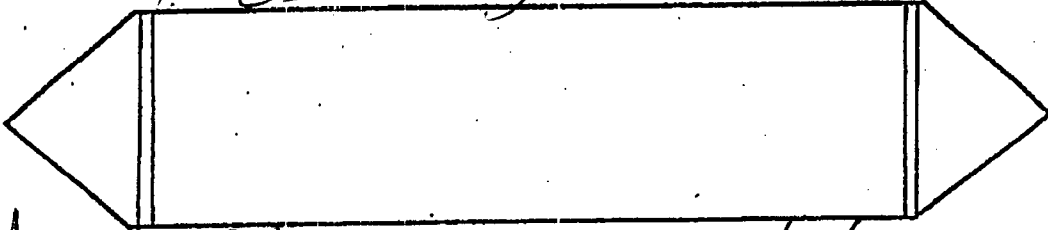
Endst: of even No & date.

Copy for information & necessary action to the:

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

SECTION OFFICER (SR-1)

بعد الت صاحب جسٹریٹس ہونے کے بعد



27/10/22  
2022ء پنجاب عدالت عظمیٰ  
بنام

موزخہ --- 27/10/22

مقدمہ ---

دعویٰ ---

جرم ---

محمد اسماعیل رفیع صاحب

شاہراہ

باعث تحریر آنکے

مذکورہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ  
آن مقام ~~پر~~ کیلئے ~~اپنی طرف سے~~ ~~کاروائی~~ ~~مذکورہ~~  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز  
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک دروپ یہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت اہم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پر واضح منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام اور ہر ہر واحد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا اوکالت نامہ لکھ دیا کہ مندر ہے۔

M. Iqbal

1610134702983

المرقوم 27

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