

06.09.2022

Learned counsel for the appellant present. Mr. Obaid-ur-Rehman, ADEO (Litigation) alongwith Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present.

To come up for arguments alongwith connected Service Appeal bearing No. 670/2019 titled "Alamgeer (SCT) Versus District Education Officer (Male) Swat and four others", on 05.10.2022 before the D.B at Camp Court Swat.



(Mian Muhammad)
Member (Executive)
Camp Court Swat

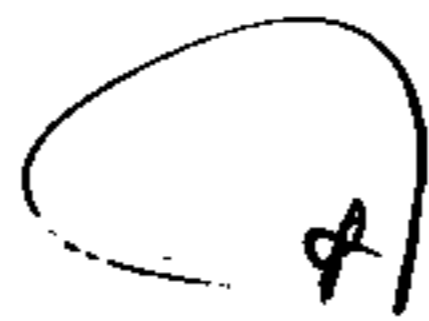


(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

05.10.2022

Learned counsel for the appellant present. Mr. Obaid-ur-Rehman, ADEO and Mr. Amir Zaman Shah, Assistant Accountant alongwith Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present.

To come up for arguments alongwith connected Service Appeal bearing No. 670/2019 titled "Alamgeer (SCT) Versus District Education Officer (Male) Swat and four others", on 05.12.2022 before the D.B at Camp Court Swat.



(Rozina Rehman)
Member (J)
Camp Court Swat

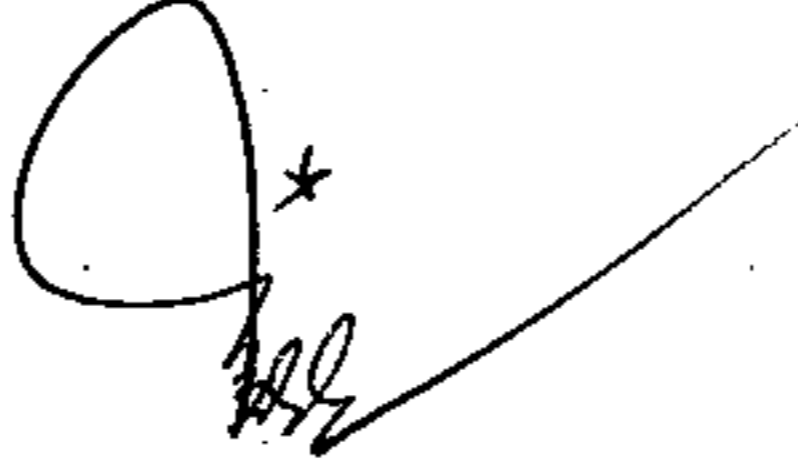


(Salah-Ud-Din)
Member (J)
Camp Court Swat

9th June, 2022

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Yakmeen Khan, ADEO for respondents present.

Counsel are on strike. To come up for arguments on 06.07.2022 before the D.B at camp court Swat.



(Mian Muhammad)
Member(E)



(Kalim Arshad Khan)
Chairman
Camp Court Swat

06.07.2022

Counsel for appellant present. Mr. Noor Zaman Khattak, District Attorney for respondents present.

File to come up alongwith connected Service Appeal No. 671/2019 titled "Salat Khan Vs Government of Khyber Pakhtunkhwa" on 06.09.2022 before D.B at camp court, Swat.



(Fareeha Paul)
Member (E)
Camp Court Swat.

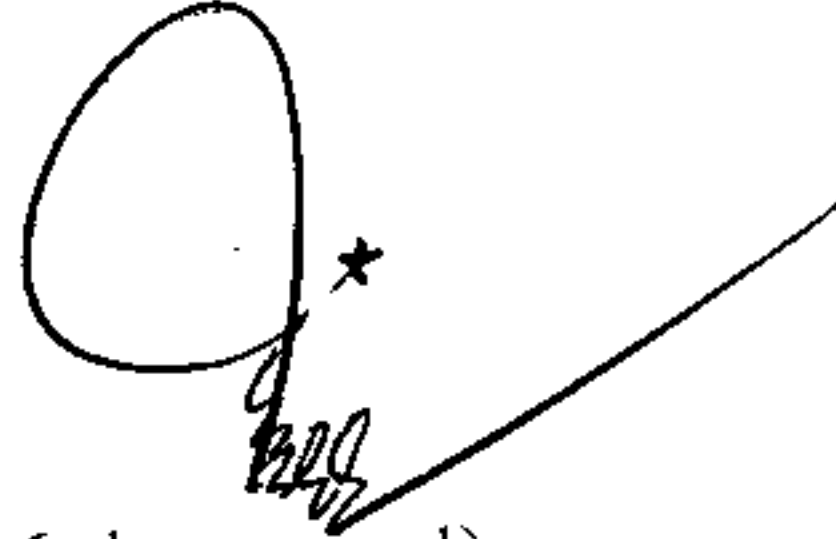


(Rozina Rehman)
Member (J)
Camp Court Swat.

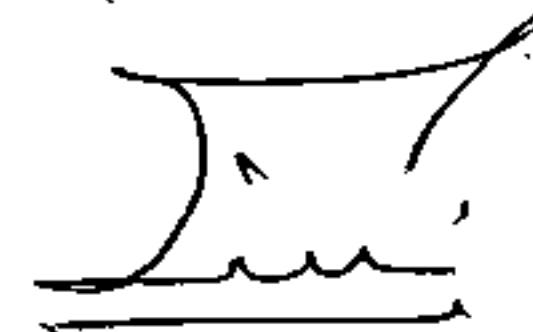
06.01.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Ameer Zaman Shah, AAO and Mr. Obaid Ur Rehman, ADEO for respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that his counsel is not available today due to general strike of the Bar. Adjourned. To come up for arguments on 09.03.2022 before D.B at camp court Swat.



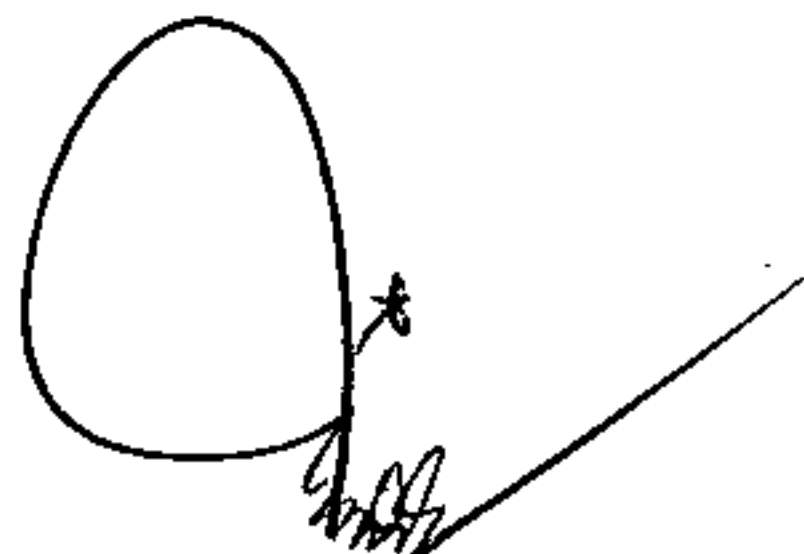
(Mian Muhammad)
Member(E)



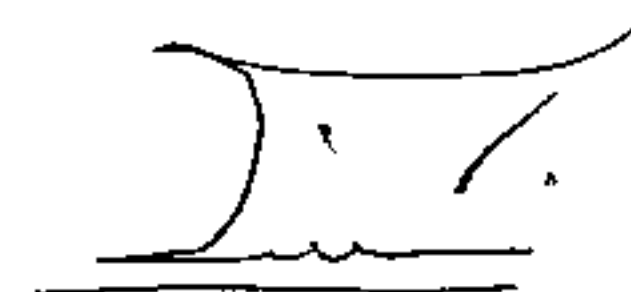
(Salah Ud Din)
Member(J)
Camp Court Swat

11.05.2022

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Naseeb Khan, SO, Mr. Muhammad Jamil, Account Officer and Mr. Fazal Rehman, Principal for respondents present and produced copy of order dated 02.06.2021 passed by august Supreme Court of Pakistan, whereby judgment dated 08.06.2017 passed by august Peshawar High Court in Writ Petition No. 913-P/2014 has been set-aside and the matter has been remanded to august Peshawar High Court for re-deciding the above mentioned Writ Petition as well as other connected Writ Petitions afresh, after issuing of notice under Order XXVII-A CPC to the Advocate General, Khyber Pakhtunkhwa, in accordance with law. In this view of the matter, learned counsel for the appellant stated that an adjournment may be granted. Adjourned. To come up for arguments on 09.06.2022 before the D.B at Camp Court Swat.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)
Camp Court Swat

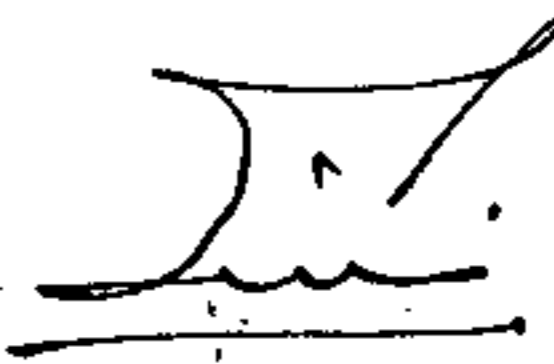
04.11.2021

Learned counsel for the appellant present. Mr. Obaid-ur-Rehman, ADEO (Litigation) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Reply/comments on behalf of respondent No. 1 submitted, which is placed on file and copy of the same is handed over to learned counsel for the appellant. Representative of the department stated that cost will be paid on the next date. Reply/comments on behalf of respondents No. 2 & 3 have already been submitted. Adjourned. To come up for rejoinder, if any, as well as arguments before the D.B on 09.12.2021 at Camp Court Swat.



(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court Swat



(Salah-Ud-Din)
Member (J)
Camp Court Swat

09.12.2021

Appellant present through counsel.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents present.

File to come up alongwith connected Service Appeal No.671/2019 titled Salat Khan Vs. Education Department, on 06.01.2022 before D.B at Camp Court, Swat.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat.



(Rozina Rehman)
Member (J)
Camp Court, Swat


07/04/2021

Due to COVID-19, the case is adjourned to
09/06/2021 for the same.


READER

26.07.2021

To come up for Written reply/comments of respondents No. 4 & 5 on 26.08.2021 before S.B at Camp Court, Swat. Notices be issued to appellant/counsel as well as respondents for the date fixed.

Noted

28/07


Chairman

26.08.2021

Junior to counsel for the appellant, Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG alongwith Obaidur Rehman, ADEO for respondent No. 1 and Amir Zaman Shah, AAO for respondents No. 2 and 3 present.

Respondents No. 2 & 3 have already furnished reply/comments. Representative of respondent No. 1 seeks further time to furnish reply/comment. Let respondent No. 1 be afforded with final opportunity for filing of reply/comments, subject to payment of cost of Rs. 1000/-. If he failed to submit reply/comments on next date, his right of defence shall stand struck off. Case to come up for written reply/comments of respondent No. 1 and cost on 04.11.2021 before S.B at camp court, Swat.

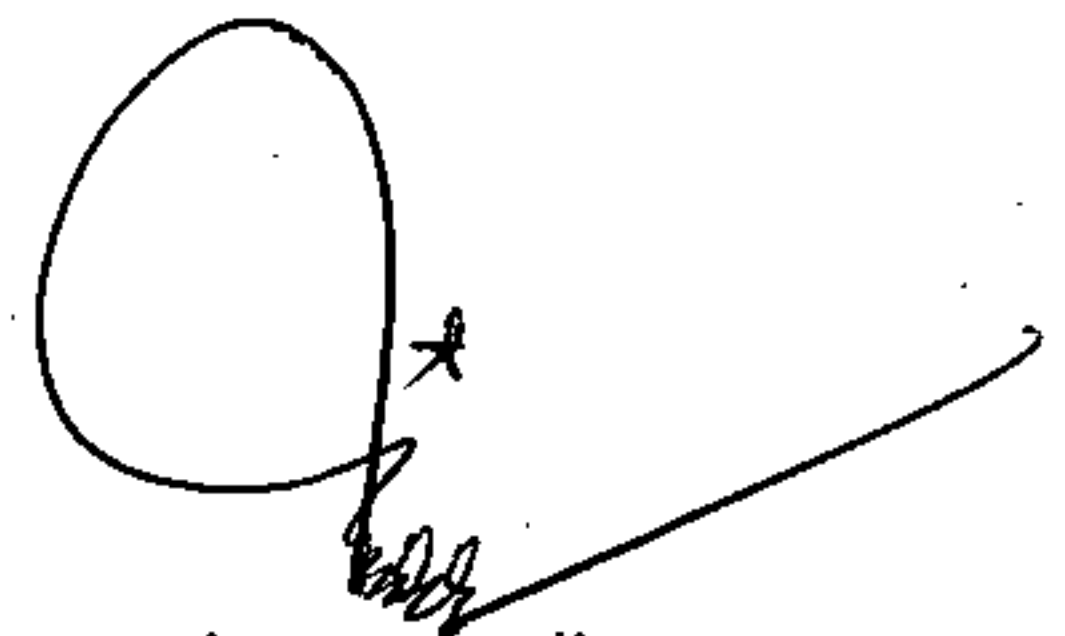

Chairman
Camp court, Swat.

03.03.2021

Appellant in person present. Mr. M. Riaz Khan Paindakhel, Asst: AG alongwith Mr. Mir Zaman Shah, AAO and Mr. Hussain Ali, Litigation Assistant for respondents present.

Written reply/comments on behalf of respondents No. 1 to 3 have already been submitted. Representative of respondent No. 4 and 5 seeks time to submit the written reply/comments on the next date of hearing. ~~Another~~ last opportunity granted.

Adjourned to 07.04.2021 before S.B at camp court Swat.

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a long horizontal stroke extending to the right.

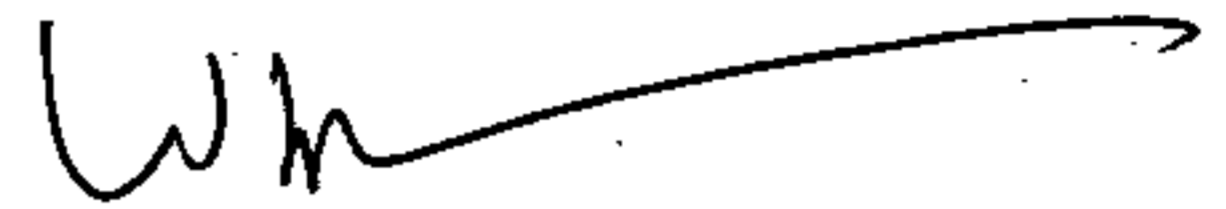
(Mian Muhammad)
Member(E)
Camp Court Swat

03.11.2020

Appellant in person present

Muhammad Jan learned Deputy District Attorney Amin Zaman Shah Assistant for respondents present.

Written reply on behalf of respondents is still awaited. Representative of respondents requests for time to submit written reply/comments; granted by way of last chance. To come up for written reply/comments on 08.12.2020, before S.B at Camp Court, Swat.



Member (E)
Camp Court, Swat

08.12.2020

Due to COVID-19, case is adjourned to 02.02.2021 for the same as before.



Reader

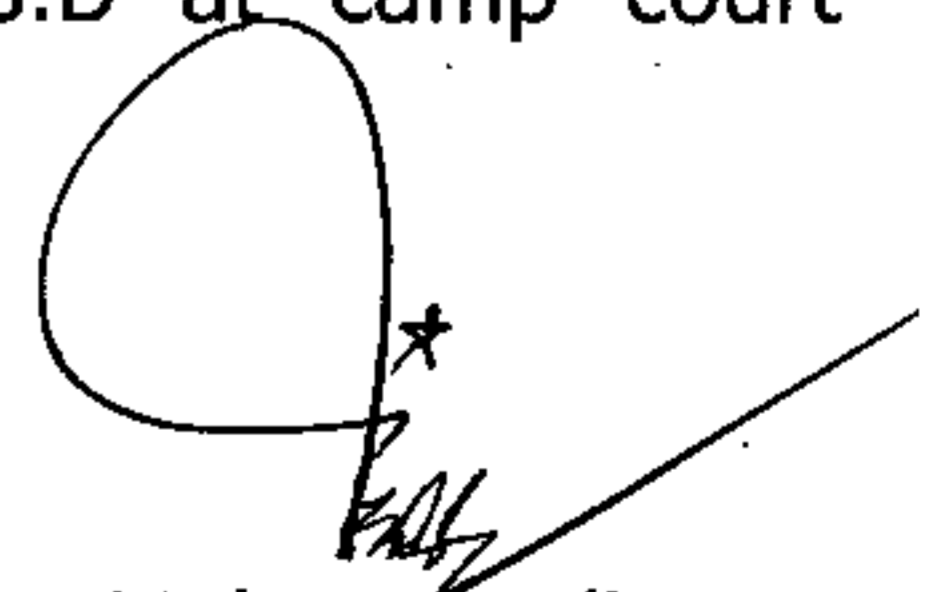
02.02.2021

Counsel for the appellant present.

Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

As the case had been adjourned previously on Reader note due to Covid-19, therefore, notice to the parties be issued..

Adjourned to 03.03.2021 before S.B at camp court Swat.



(Mian Muhammad)
Member(E)
Camp Court Swat

01.06.2020 Due to Covid-19, the case is adjourned. To come up for the same on 06.07.2020, at camp court Swat.


Reader

06.07.2020 Bench is incomplete. Therefore, the case is adjourned. To come up for the same on 06.08.2020, at camp court Swat.


Reader


05.10.2020 Assistant of learned counsel for the appellant is present. Mr. Usman Ghani, District Attorney alongwith representative of the department Mr. Obaid Ullah, ADEO (Litigation) are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time to furnish written reply/comments. File to come up for written reply/comments on 03.11.2020 before S.B at Camp Court, Swat.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT SWAT


08.01.2020

Appellant in person present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith M/S Syed Mohsin Ali, Assistant on behalf of respondent No. 1 and Ameer Zaman Shah, Assistant Accounts Officer on behalf of respondent No. 3 present. Representatives of respondents No. 1 & 3 requested for further time to file written reply/comments. Neither representatives of respondent No. 2 is present nor written reply on his behalf submitted therefore, notice be issued to him with the direction to direct the representative to attend the court and submit written reply on the next date. Case to come up for written reply/comments on 04.02.2020 before S.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

04.02.2020

Clerk to counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Ubaid ur Rehman ADO (for respondent No.1) and Ameer Zaman Shah AAO (for respondents No.2 & 3) present and requested for time to furnish reply. Representatives are directed to furnish reply on the next date, otherwise, heavy cost shall be imposed upon the respondents. Adjourn. To come up for written reply/comments on 06.04.2020 before S.B at Camp Court Swat.


Member
Camp Court, Swat.

Due to corona virus - To
come up for the same on -
1-06-2020

07.10.2019

Counsel for the appellant and Mr. Anwar-ul-Haq, Deputy District Attorney alongwith Mr. Amir Shah, Assistant Account officer for the respondents present. Written reply on behalf of respondents not submitted. Representative of the respondents requested for adjournment. Adjourned to 04.11.2019 for written reply/comments before S.B at Camp Court Swat.



(Muhammad Amin Khan Kundi)

Member
Camp Court Swat

04.11.2019

Junior counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Ubaid-ur-Rehman, ADEO for respondent No. 1 and Mr. Mir Zaman Shah, Assistant Account Officer for respondent No. 3 present. None present on behalf of respondents No. 2, therefore, notices be issued to him with the direction to direct the representative to attend the court and submitted written reply on the next date positively. Case to come up for written reply/comments on 03.12.2019 before S.B at Camp Court Swat.



(Muhammad Amin Khan Kundi)

Member
Camp Court Swat

03.12.2019

Clerk to counsel for the appellant present. Amir Zaman Shah Assistant Accountant representative of the respondent department present and requested for ~~time~~ to furnish written reply/comments. Granted. To come up for written reply/comments on 08.01.2020 before S.B at Camp Court, Swat.

Member



Member
Camp Court, Swat

12.06.2019

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued inter-alia that the appellant (SST) is aggrieved from the action of the respondents in the shape of recovery of advance increments on higher educational qualification, which have already been paid to the appellant. Prayer of the appellant is that the respondents may be directed that no recovery should be made from the appellant as per Section (2) of THE KHYBER PAKHTUNKHWA CESSATION OF PAYMENT OF ARREARS ON ADVANCE INCREMENTS ON HIGHER EDUCATIONAL QUALIFICATION ACT, 2012.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for reply/comments. To come up for written reply/comments on 01.07.2019 before S.B at Camp Court,

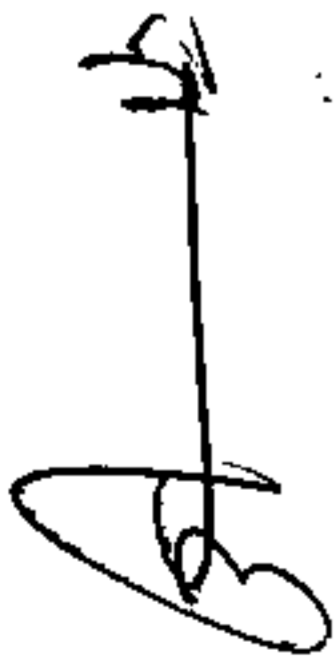
Appellant Deposited
Security & Process Fee Swat.

14/6/19


Member
Camp Court, Swat.

01.07.2019

No one present on behalf of appellant. Written reply not submitted. M/S Ubaid Ur Rehman ADO (for respondent No.1) and Mir Zaman Assistant Accountant (for respondent No.3) present and requested for time to furnish written reply/comments. Zaki Ullah Senior Auditor (for respondent No.2) absent. Respondent No.2 as well as absent representative be put to notice for submission of written reply/comments. Adjourn. To come up for written reply/comments on 07.10.2019 before S.B at Camp Court, Swat.





Member
Camp Court, Swat.

The appeal of Mr. Muhammad Wadood SST General GHSS Baghra Bunir received today i.e. on 27.03.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of over payment recovery order and notification dated 11.5.2016 mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 3- In para-5 of the memo of appeal respondent no. 4 is mentioned but in the heading of appeal there are only 3 respondents therefore, the same may be rectified.

No. 619 /S.T.

Dt. 29-3-2019


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shamsul Hadi Adv.
High Court Swat.

that all the deficiencies has been removed/completed except 2 the said notification dated 11-05-2016 which is mentioned and the said notification has already been approved in the main appeal title Wakool Zada vs Govt Swat which is fixed on 18-06-2019 before the service Tribunal Swat. So these appeals will be argued together so this appeal may kindly be fixed before the court

Note that the objection No 1 is not in the possession of the appellant and the department not handed over to the applicant and the objection No 2 at page 13 objection No 3 are removed from before the court

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 674 /2019

Muhammad Wadood.....Appellant

V E R S U S


District education Officer (M) Buner and others Respondents

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S.N	Description of Documents	Annex	Pages
1.	Memo of Appeal.		1--4
2.	Application for Status-quo along with Affidavit		5-6
3.	Addresses of Parties.		7
4.	Copies Service Book along with impugned of DATED:01/10/2015	A	8-12
5.	Copy departmental appeal.	B	13
6.	Wakalat Nama		14

Appellant

Through


Shams ul Hadi

Advocate, Peshawar:

Office: St/3 Abshar Colony

Warsak Road Peshawar.

Cell No. 0313-9772262

Dated: 22/03/2019.

BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019.

Muhammad Wadood (SST-General)

Presently posted at GHSS Baghra, Bunir.....Appellant

V E R S U S

1. District Education Officer(Male) Buner.
2. Accountant General, Khyber Pakhtunkhwa, Civil secretariat, Peshawar.
3. District Accounts Officer, Buner.....Respondents

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE ORDER
DATED:01/10/2015.**

PRAYER IN APPEAL:

On acceptance of this appeal, the impugned Office Order Dated: 01.10.2015 may kindly be set aside and the respondents may kindly be directed not to recover the disputed amount in shape of recovery of advance increments and further the respondents may kindly be directed issue/release the recovered amount if so to the appellant.

Respectfully Sheweth:

1. That the appellant being Teacher "SST" joined the respondent/department since long and as such performing his duties with zeal and zest.
1. That initially, the appellant and others approached the Peshawar High court and Service Tribunal Khyber Pakhtunkhwa for grant of "Advance increments granted to

government servant vide notification dated:11.08.1991 issued by Respondent No.3 and as such the same petitions were allowed.

2. That latter on, the said advance increments were awarded to the appellants and such like others and finally the government of Khyber Pakhtunkhwa passed an Act i-e **"The Khyber Pakhtunkhwa Cessation of payment of arrears on advance increment on Higher educational qualification Act,2012"** from provincial assembly through which, all kind of notifications and legal instruments regarding claim for payments of arrears on account of advance increments on higher educational qualification were revoked and it was further declared that no further claim whatsoever on the basis of these instruments shall be entertained but according to **section (2)** of the said it was further declared ***that on the basis of any notifications and courts judgments, any amount paid there-under on account of advance increments or arrears thereof shall be deemed to have been validly paid and shall not be recoverable from the recipient government employees*** and as such once for all the issue of advance increments on the basis of higher qualification was resolved.

3. That now with utmost surprise of the appellant, once again in the service books of the appellant, the Respondents have made entries in shape of Recovery of advance increments through impugned entry/order

DATED:01/10/2014 and as such re-open the issue which is against the law and "The Khyber Pakhtunkhwa Cessation of payment of arrears on advance increment on Higher educational qualification Act,2012".(Copies Service Book along with impugned **DATED:01/10/2014** is annexure-A)

4. That against the impugned order of recovery, the appellant approached Peshawar High court through Writ Petition No.610/2015 and as such during pendency of title writ petition this Hon;ble Tribunal resolved the issue of "Recovery of advance increments" while deciding Service Appeal No.312/2015 through judgment dated:10.01.2018, hence the writ petition was transmitted to this Hon;ble Tribunal through order dated:19.10.2018 by the high court for further adjudication where this august Tribunal after receiving the same, converted in to service appeal and is still subjudice before this august Tribunal bearing Service Appeal No.1328/2018 titled as "Wakil Zada Vs Govt".

5. That during pendency of writ petition of appellant, in his written reply, Resp No.3 took plea that regarding the issue in hand they have issued a Notification dated:11.05.2016 through which recovery of advance increments was waved off and further it was advised to appellant to approach concerned quarters, so in light of the comments and notification dated:11.05.2016, the appellant filed departmental appeal against the impugned order of recovery dated:01.10.2015 which was not decided within statutory delay.(Copies Departmental appeal is annexure-B)

That being aggrieved from the actions and inactions of Respondents and according to directions of this august Tribunal vide order sheet dated:08.03.2019, the appellant prefer this petition on the following grounds amongst others inter-alia:

GROUND:

- A. That the actions and inactions of Respondents in shape of recovery of advance increments which have already been paid to the appellant on the basis of Higher Educational qualification is against the law and The Khyber Pakhtunkhwa Cessation of payment of arrears on advance increment on Higher educational qualification Act,2012.
- B. That issue in hand has now already been decided by this august Tribunal in his judgment dated:10.01.2018 in connection of service appeal No.312/2015 title "Muhammad Islam Vs Govt" which hence the appellant deserve for the same treatment.

It is, therefore, humbly prayed that on acceptance of this appeal,

- i) Impugned Office Order Dated: 01.10.2015 may kindly be declare against the section (2) of "The Khyber Pakhtunkhwa Cessation of payment of arrears on advance increment on Higher educational qualification Act,2012".
- ii) And further impugned Office Order Dated: 01.10.2015 may kindly be set aside and the respondents may kindly be directed not to recover the disputed amount in shape of recovery of advance increments and further the respondents may kindly be directed to issue/release the recovered amount if so to the appellant.

Appellant

Muhammad Wadood

Through

Shams-ul-Hadi
Advocate, High court.

Dated: 22/03/2019

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

Service Appeal No. _____/2019

Muhammad Wadood.....Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

Application for Status-quo/Suspension of impugned office order Dated: 01.10.2015 regarding recovery of the amount and further the respondents may kindly be directed not to recover the disputed amount or made deduction from the monthly salary of the appellant and further the respondents may kindly be restrain from taking any adverse action against the appellant, till final disposal of the titled appeal .

Respectfully Sheweth:

1. That the appellant/petitioner filed instant application along with service appeal in which no date is fixed so for.
2. That facts and grounds of the appeal may kindly be considered part and parcel of this application.
3. That prima facie the appellant has good case and is sanguine about its success.
4. That if the impugned Impugned Office Order Dated: 01.10.2015 regarding recovery of the amount is not suspended at this stage the appellant will suffer irreparable loss.

So on acceptance of this application a staus-quo order may kindly be issued as prayed for in the headings of the instant application.

Through

Applicant


Shams-ul- Hadi
Advocate High Court.

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019

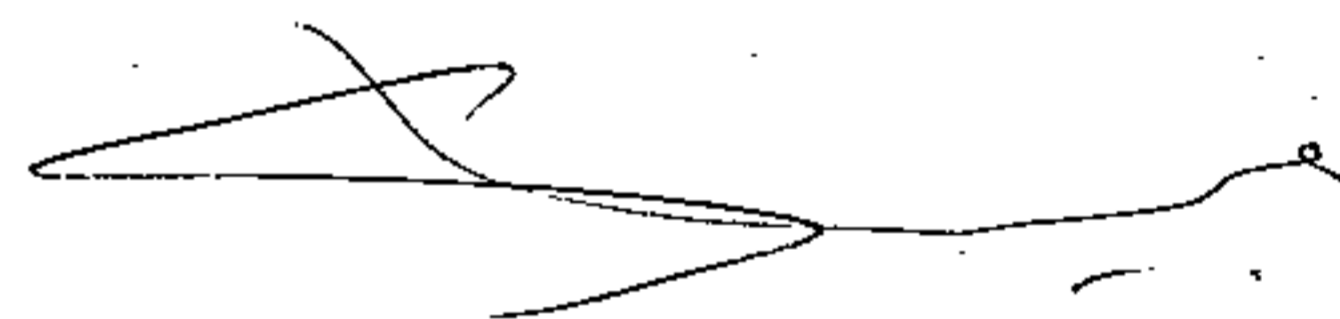
Muhammad Wadood.....Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



A D V O C A T E

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019

Muhammad Wadood.....Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Wadood

Presently posted at GHS Baghra, Buner

Cell No.0347-4773440-

RESPONDENTS:

1. District Education Officer(Male) Buner.
2. Accountant General, Khyber Pakhtunkhwa, Civil secretariat,
Peshawar.
3. District Accounts Officer, ~~Swat~~ *Buner*.

Appellant

Through



Shams ul Hadi

Advocate, Peshawar.

Dated: 22/03/2019

(For use in Police Department Only)

Amir
A, (8)

Heirs,

<p>1. Passed Matric Exam from BISE NWFP Peshawar under Roll No. 21226 session, 1984 Marks obtained 416 out of 850 Division Second</p>	<p>5. Passed Exam: Hon/In Arabic from BISE Sahibi Sharif under Roll No. 419 session, 1986 held in 1986 Marks obtained 335 out of 600 Division Second</p>
<p>2. Passed F.A Exam from BISE Karachi under Roll No. 37688 session, 1993 Result declared on 7/5/94 marks obtained 69 out of 1100 Division, second</p>	<p>6. Passed Waqafat Madaris Exam under Roll No. 10 session, 1992 Marks obtained 408 out of 600 Division 1st</p>
<p>3. Passed B.A Exam from University of Karachi Under Roll No. 72582 session 1995 English marks obtained 555 out of 1000 Division, second</p>	<p>7. Passed M.A (Arabic Exam) session - A, 1988 from the University of Peshawar in 2nd Div. under Roll No. 16415 held in April 1988 obtained 654/1100 marks Result declared on 05.08.1988</p>
<p>4. Passed M.A (Islamiat) Exam from University of Peshawar Roll No. 22283 session 1995 held in April, 1996 Result declared on December 10, 1996 Marks obtained 644 out of 1100 Division, second</p>	<p>8. Passed B.Ed Exam from A.O.U. Gola Ahot under R.N. 96388523 in spring 2000, semester marks obtained 523/900 Result declared on 22.12.2000 and placed in grade B: 50% marks</p>

N.B. - Line to be drawn under the qualification possessed.

C+C

Head master
Govt High School
Gokand, Distt-Buner

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

1. Name *Muhammad Wadood*
2. Race *Afghan (Yousafzai)*
3. Residence *Village Topdara Tehsil Dargan Plo Dargan District Buner.*

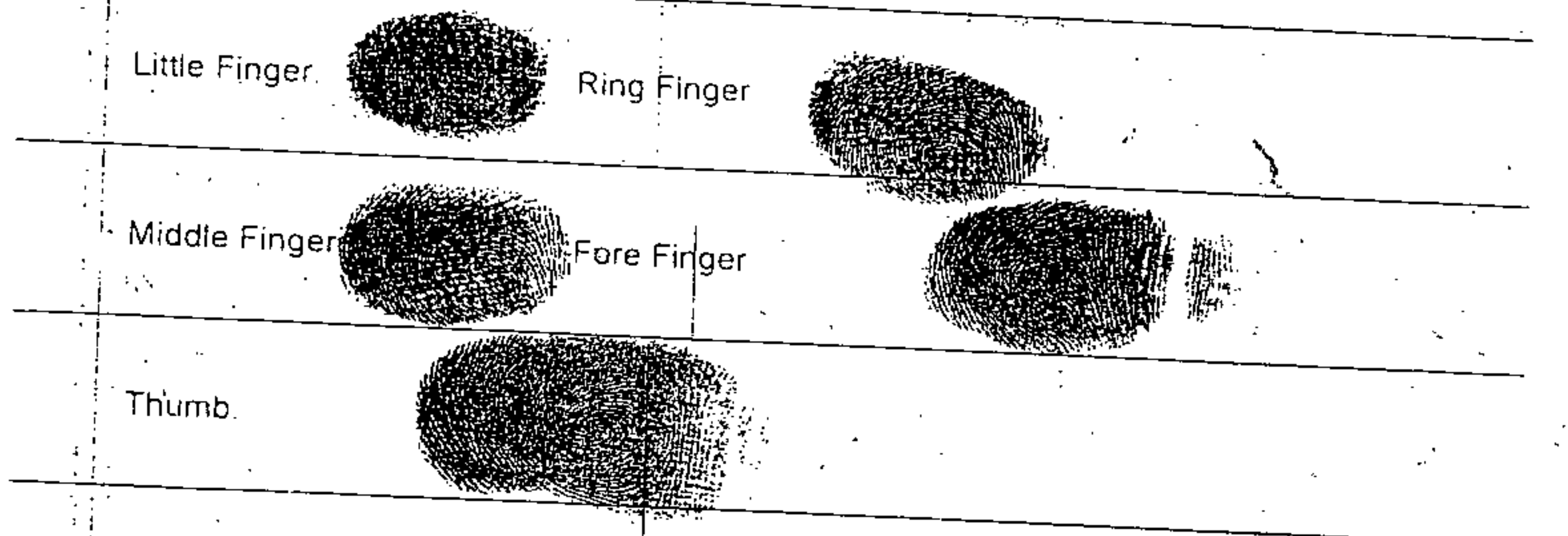
4. Father's name and residence *Fazal Haq*

5. Date of birth by Christian era as nearly as can be ascertained *1-2-1968*
(First February N. H. Sixty Eight.)

6. Exact height by measurement *5-4*

7. Personal marks for identification *Nil*

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



9. Signature of Government Servant *Muhammad*

10. Signature and designation of the Head of the Office, or other Attesting Officer
*Headmaster,
Govt-High School,
Gokand, Dist-Buner.*

Ct-e
[Signature]

5 11

10 Office or attesting columns 1 to 8	11 Date of appointment	12 Reason of termination (such as promotion, transfer, dismissal, etc)	13 Signature of the head of the office or other attesting officer	14 Nature and dura- tion of leave taken	15 Leave		16 Signature of the head of the office or other attesting officer	17 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
					Period	Government to which debitale		
Head master, Govt. High School, Gokand Buner.	30/11/96	Am/yr	Head master, Govt. High School, Gokand Buner.		Appointed as AT (regular)			
Head master, Govt. High School, Gokand Buner.	30/11/96	Am/yr	Head master, Govt. High School, Gokand Buner.		DSE MKD Enclt. No. 7349-53 dated: 17/6/96		Head master, Govt. High School, Gokand Distt-Buner.	
Head master, Govt. High School, Gokand Buner.	30/11/97	Am/yr	Head master, Govt. High School, Gokand Buner.					
Head master, Govt. High School, Gokand Buner.	8/9/96	Emly Revision B.P.S. No. 14 H. W. 18/18/96 not allowed	Head master, Govt. High School, Gokand Buner.		Terminated from service			
Head master, Govt. High School, Gokand Buner.	30/11/96	Am/yr	Head master, Govt. High School, Gokand Buner.		Wale DSE MKD Enclt. No. 1079-88 dated: 13/2/97 w.e.f. 13-2-97			
Head master, Govt. High School, Gokand Buner.	30/11/97	Am/yr	Head master, Govt. High School, Gokand Buner.				Head master, Govt. High School, Gokand, Distt-Buner.	
Head master, Govt. High School, Gokand Buner.	30/11/98	Am/yr	Head master, Govt. High School, Gokand Buner.		Re-instated in service			
Head master, Govt. High School, Gokand Distt-Buner.	30/11/99	Am/yr	Head master, Govt. High School, Gokand Distt-Buner.		Wale DSE MKD Enclt. No. 6148-54 dated: 17/6/97 w.e.f. 13-2-97		Head master, Govt. High School, Gokand, Distt-Buner.	
Head master, Govt. High School, Gokand Buner.	30/11/2000	Am/yr	Head master, Govt. High School, Gokand Buner.		Appointed as AT (regular)			
Head master, Govt. High School, Gokand Buner.	30/11/2001	old Am/yr on 1-12-2001	Head master, Govt. High School, Gokand Buner.		Wale DSE MKD Enclt. No. 6780-87/A-12/12/99 AT/MKD dated: 24/6/97		Head master, Govt. High School, Gokand, Distt-Buner.	
Head master, Govt. High School, Gokand Buner.	12/12/2001	Scale Revised	Head master, Govt. High School, Gokand Buner.					
Head master, Govt. High School, Gokand Buner.	30/11/02	Am/yr	Head master, Govt. High School, Gokand Buner.					
Head master, Govt. High School, Gokand Buner.	30/11/2003	Am/yr	Head master, Govt. High School, Gokand Buner.					

① Service Verified w. o. f. 10-12-2-97 from req. Roll & other Record of this office.

② Service Verified w. o. f. 10-13-6-97 from req. Roll & other Record of this office.

for pay fixed P.T. 3
C.F.C

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
GHS Shalbandar	sub/regular per		BPS-15 (8800-700-29800)			12/1/12	[Signature]
do	do		22500/- cutting attached				
			Head Master GHS Shalbandar Baler				
		<p>Pay Fixed in the Revised Basic Pay Scale R.A.S. 4350-250/14800</p> <p>Pay Fixed in R.A.S. 2500/- w.e.f. 01.07.2007</p> <p>Pay Fixed in R.A.S. 9420/- w.e.f. 01.07.2008</p> <p>Pay Fixed in R.A.S. 8000/- w.e.f. 01.07.2009</p> <p>Pay Fixed in R.A.S. 17600/- w.e.f. 01.07.2011</p>					
7500/15							
9420/15							
17600/15							
22500/14							
7500/15							
9420/15							
17600/15							
20400/-							
21100/-							
21100/-							
21100/-							
21100/-							

CF-C
[Signature]

13



اپیل بخدمت جناب اکاؤنٹ جنرل خیبر پختونخواہ پشاور
عنوان: نوٹیفیکیشن نمبر 1-1/89 FD (PRC) اور خیبر پختونخواہ ایکٹ نمبر 2012 of 1 کے تحت غیر قانونی ریکوری

جناب عالی:

مودہ اندازہ گزارش ہے کہ ہمیں نوٹیفیکیشن نمبر 1-1/89 FD (PRC) مورہ 11-08-1991 کے تحت جس بائیرقواٹیفیکیشن یعنی ایم اے / ایم ایس سی پر جو چارج انکریمنٹس دیئے گئے تھے نوٹیفیکیشن اور Fixation party لے ان میں سے دو increments کی ریکوری کی ہے اور مزید کر رہے ہیں۔ جو کہ مذکورہ نوٹیفیکیشن اور ایکٹ کے خلاف ہے۔

لہذا آپ کی خدمت میں اپیل کی جاتی ہے کہ اگر آپ صاحبان مہربانی کر کے ہم سے مطلوبہ ریکوری اور مزید کٹوتی بند کرنے کے احکامات جاری فرمائیں تو

تاحیات مرہون منت رہیں گے۔ فقط

عرض کنندگان

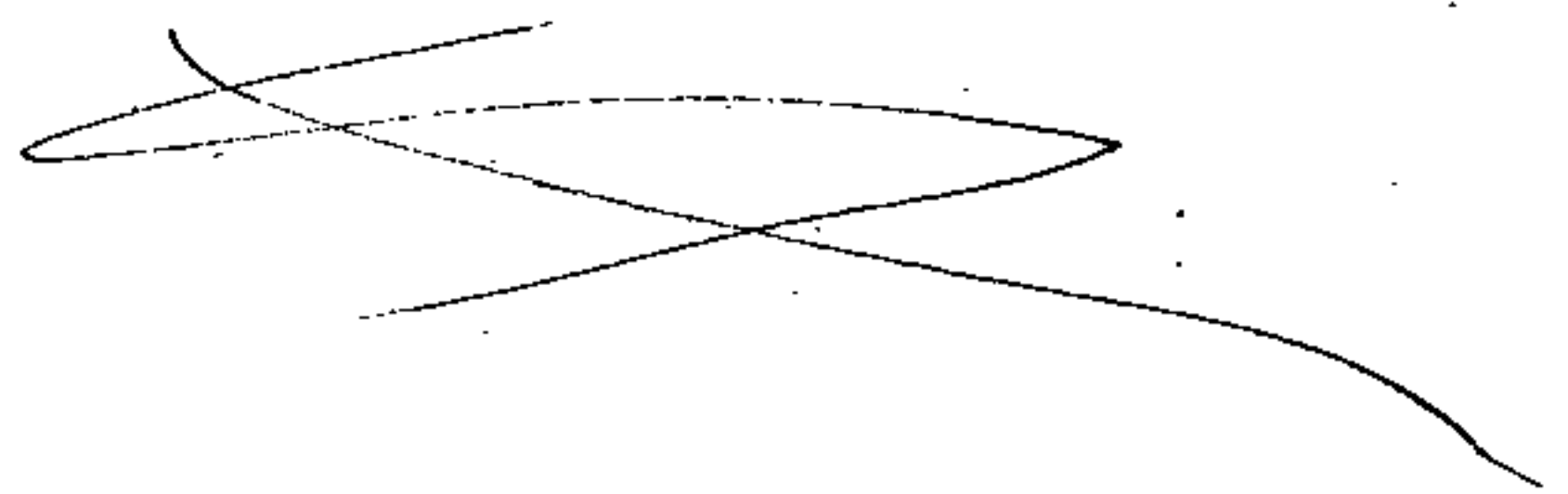
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2018

محمد دو در (SST) Government
A.S. Officer

Deputy Assistant

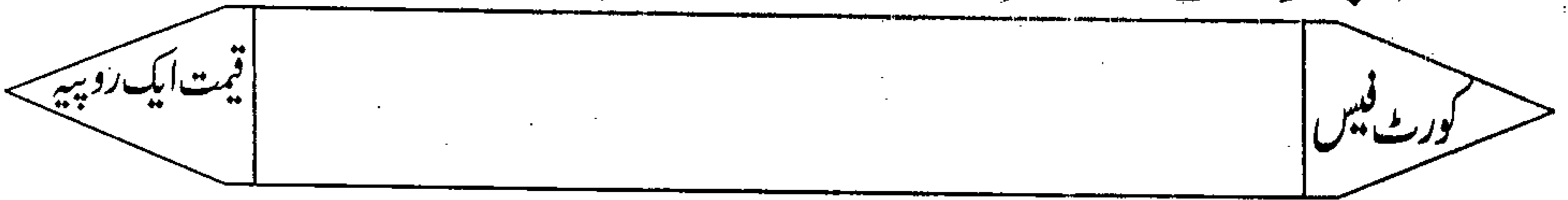
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C-1-C



بعدالت سرس نہ سبعل مینار

(14)



۲۰ مارچ ۲۰۱۹ء منجانب

محمد ۲۰۰۰ بنام حکومت

مورخہ

مقدمہ

دعویٰ

جرم

باعث تخریر آنکے

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہیہ و کل کاروائی متعلقہ آن مقام سرس نہ سبعل مینار کے لئے مکش الہا دی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اغتیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درلواست ہر قسم کی تصدیق ذرا اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہاگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سند رہے

۲۰۱۹

ماہ مارچ

المرقوم ۲۰

العبد گواہ شہدہ العبد
بمقام سرس نہ سبعل مینار کے لئے منظور ہے

Attested Shams-ul-Huda

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.674/2019

Muhammad Wadood.....Appellant.

V/S

The District Education Officer (Male) Buner & others.....Respondents.

(Para wise reply on behalf of Respondent No.2 & 3)

Preliminary Objection:-

1. That the appellant has no cause of action.
2. That the appellant has no locus standi.
3. That the appellant has not come to this Court with clean hands.
4. That the appeal in hand is not maintainable.
5. That the instant appeal is time barred.
6. That Finance Department is the most competent authority which appellant has not made as Respondent in the instant appeal.

Respectfully Sheweth-

Para :- 1 Pertains to record, however liable to be proved by the appellant.

Para :- 1 Incorrect to the extent that Notification dated: 11/08/1991 is not found attached with the instant appeal.

It is pertinent to mention here that Respondent No. "3" is not a policy making body, hence it carries no mandate to make laws. It can only enforce the given legislation under the clear instructions issued by the Provincial Government of Khyber Pakhtunkhwa as well as Federal Government of Pakistan.

Para :- 2 That Respondent No.2 & 3 are bound to follow the rules and instructions issued by the Provincial Government of Khyber Pakhtunkhwa from time to time. The verdicts of an "Act 2012" are very much clear (Copy enclosed).

It is Pertinent to mentioned here that the Respondent No.3 has only deducted/recovered the over and above amount of advance increment with arrears which the appellant has received after 2012.

Para :-3 As mentioned in Para "2" above to the extent that recovery of over and above payment is required to be recovered under the rules

Para :-4 No Comments.

Para:- 5 That the Notification dated:11/05/2016 is not found attached with the instant writ by the appellant. However as mentioned in Para No. "2" above Respondent No. "3" has acted upon correctly and under the rules.

GROUNDS:-

- A. As mentioned in Para "2" above to the extent that Respondent No. "2 & 3" are bound to follow the rules and instruction issued by the Provincial Government of Khyber Pakhtunkhwa from time to time.
- B. As mentioned in para "2" above Respondent No.3, has only deducted/recovered the over and above amount of advance increments which the appellant has received after 2012.

Keeping in view the above mentioned facts, it is , therefore , humbly prayed that the appeal in hand having no merits may be dismissed with cost.


DISTRICT ACCOUNTS OFFICER
BUNNER AT DAGGER


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

AFFIDAVIT

I, Amir Zaman Shah, Assistant Accountant (BPS-17) representative of Respondent No. 2 & 3 do hereby solemnly affirm and declare on oath that the content of Para wise comments submitted on behalf to respondent No. 2& 3 are true and correct to the best of my knowledge and belief and nothing has been concealed from the worthy bench.



District Accounts Officer
Buner at Daggar



DEPONENT



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 27TH MARCH, 2012.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

NOTIFICATION

Dated Peshawar, the 27th March, 2012.

No. Legis:1(11)2011-4867.—The following Ordinance by the Governor of the Khyber Pakhtunkhwa is hereby published for general information:

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

(KHYBER PAKHTUNKHWA ORDINANCE NO. I OF 2012)

**AN
ORDINANCE**

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

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

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

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District Association Officer
Peshawar

AND WHEREAS the Provincial Assembly is not in session and the Government of the Khyber Pakhtunkhwa Province is satisfied that circumstances exist which render it necessary to take immediate action;

AND WHEREAS the Provincial Assembly is not in session and the Government of the Khyber Pakhtunkhwa Province is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 132 of the Constitution of the Islamic Republic of Pakistan, the Governor of the Khyber Pakhtunkhwa is pleased to make and promulgate the following Ordinance:-

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

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

(3) It shall come into force at once and shall be deemed to have taken effect on and from 1st day of December, 2011.

2. Cessation of payment of arrears on advance increments on higher educational qualification.— (1) Notwithstanding anything contained in any decision, judgment and order of any Tribunal or Court including High Court or Supreme Court of Pakistan, for the purpose of any claim for payment of arrears on account of advance increments on higher educational qualification, instructions and other instruments issued before 1.12.2011, such orders, letters, office memoranda, notifications, instructions and other instruments shall be deemed to be non-existent, ceased or revoked and no further claim whatsoever on the basis of these instruments shall be entertained and all cases in respect of such claims pending in any Court or Tribunal including High Court and Supreme Court of Pakistan shall stand abated.

(2) Any order made, instruction issued, decision, judgment or order of any Court or Tribunal including a High Court or the Supreme Court, implemented immediately before the commencement of this Ordinance, shall

[Signature]
Secretary
Government of Khyber Pakhtunkhwa

[Signature]
Secretary
Government of Khyber Pakhtunkhwa

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be deemed to have been validly made, issued and implemented by the date of commencement of this Ordinance, and any amount already paid there-under on account of advance increments or arrears thereof shall be deemed to have been validly paid and shall not be recoverable from the recipient Government employees.

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

Peshawar,
Dated 22-03-2012

(BARRISTER SYED MASOOD KAUSAR)
Governor, Khyber Pakhtunkhwa

(MUHAMMAD ARIFEEN)
Secretary,
Government of the Khyber Pakhtunkhwa
Law, Parliamentary Affairs and
Human Rights Department.

Masood
Masood

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

[Signature]
District Account Officer
Buner at Daggar



Office of the
Accountant General
Khyber Pakhtunkhwa Peshawar
Phone: 091 9211250-53

No.H-24/ Master Circulation / 630-33

Dated: 22.03.2019

To

THE DISTRICT ACCOUNTS OFFICER,

Subject: **CESSATION OF PAYMENT OF ARREARS ON ADVANCE INCREMENT ON HIGHER EDUCATION QUALIFICATION**

Please find enclosed herewith a copy of Supreme Court of Pakistan Decision in CP NO.172-P and 173-P of 2013 Dated: 07.12.2018 on the above noted subject for strictly compliance with the instructions contained in Cessation Act 2012 positively.

*of Admin.
provide a copy
to me.
11/4*

[Signature]
ACCOUNTS OFFICER (HAD)

Copy forwarded to:

1. All Pay Roll Section (Local)
2. Pay Fixation Party-I & II.

ACCOUNTS OFFICER (HAD)

:D/Abdullah/DAO Letter.docx

*1771
16.4.19*

[Signature]
District Accounts Officer
Buner at Daggar

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Qazi Faez Isa
Mr. Justice Syed Mansoor Ali Shah

Civil Petition No.172-P & 173-P of 2013.
(on appeal from the judgment of KPK Service Tribunal, Peshawar
dated 06.02.2013, passed in Appeals No. 523 & 524 of 2010)

Manzoor Ahmad (in C.P. 172-P/2013)
Yasmeen Akhtar (in C.P. 173-P/2013)

....Petitioners

Versus

The Secretary Education, Government of KPK, etc. (in both cases)

...Respondents

Petitioners: In person (in both cases)

For the respondents: Mr. Mujahid Ali Khan, Addl. A.G. KPK

Date of hearing: 07.12.2018

JUDGMENT

Syed Mansoor Ali Shah, J. - The facts of the case are that petitioners in both the petitions were appointed as Primary School Teachers ("PST"). Manzoor Ahmad, petitioner in Civil Petition No.172-P/2013 ("Petitioner No.1"), however, retired from service on 01.02.2016, while Yasmeen Akhtar, petitioner in Civil Petition No.173-P/2013 ("Petitioner No.2") is still in service.

ATTESTED
[Signature]
Assistant Registrar
Supreme Court of Pakistan
Peshawar.

These petitions pertain to their claim regarding *advance* increments on the basis of acquiring higher educational qualification while in service. Petitioner No.1 was given five *advance increments* under Notification dated 24.08.1983 while petitioner No.2 was given three *advance increments* under the same Notification plus a move-over to BPS-09. Petitioners claim that as per subsequent Notification dated 11.08.1991 issued by the Finance Department, Government of KPK, petitioner No.1 ought to have been given 12 *advance increments* for obtaining higher educational qualification of F.A, B.A and M.A, while petitioner No.2 be given six *advance increments*, as per the same Notification for obtaining the qualification of F.A and B.A. It is submitted

[Signature]
District Account Officer
Bundal Daggar

that the petitioners were appointed as PSTs when the qualification for the said post was matriculation.

3. Arguing the case for himself and for petitioner No.2, Mr. Manzoor Ahmad submitted that they were initially granted *advance increments* vide Notification dated 24.08.1983, however, subsequently through the Notification dated 11.08.1991, the number of *advance increments* were increased, inasmuch as, it was also granted for obtaining higher educational qualification of M.A. He submits that the said notification is applicable to PSTs and placed reliance on an unreported judgment of this Court dated 09.07.2007, passed in Civil Petition No.525/2007, as well as, the subsequent notification issued in the light of the said judgment i.e. Notification dated 13.05.2009, issued by the Elementary and Secondary Education Department, Government of KPK. The above cited judgment extends the benefit of

Notification dated 11.08.1991 to teachers.

Learned Additional Advocate General, KPK representing the

Government, submits that the case of the petitioners is governed by Notification dated 24.08.1983, issued by the Finance Department, Government of KPK and as per clause 9 of the said notification; petitioner No.1 is entitled to five *advance increments* for obtaining F.A. and B.A., whereas, petitioner No.2 is entitled to three *advance increments* as she has already been granted the benefit of move-over to higher pay scale as per Notification dated 07.08.1991, issued by the Finance Department, Government of KPK. Learned law officer has placed reliance on an unreported judgment of this Court dated 08.9.2011, passed in Civil Petition No.1425/2011, which discusses the mode of calculation of *advance increment* granted for higher educational qualification. In this case, it was held that *advance increment* can only be granted for the highest educational qualification obtained, as *advance increments* for the degrees leading up to the final degree stand merged into *advance increment* prescribed for the highest qualification. In other words, *advance increments* for obtaining F.A (two *advance increments*) and B.A (four *advance increments* including two

ATTESTED

Assistant Registrar
Supreme Court of Pakistan
Peshawar.

District Account Officer
Baner, Duggar

advance increments granted for F.A) stand merged into advance increments granted for obtaining M.A (six advance increments), thereby providing two advance increments for each higher educational qualification.

The further submits that at this stage the claim of the petitioners cannot be entertained in the light of section 2 of the Khyber Pakhtunkhwa Condition of Payment of Advance Increments on Higher Educational Qualification Act 2012 ("Act of 2012") by virtue of which the instant petitioners cannot proceed and stand abated. He placed reliance on an unreported judgment of this Court dated 28.8.2013 passed in Civil Petition No.360/2013.

We have heard the parties at some length and have gone through the record of the case. While the argument of the petitioners might have some merit with regard to grant of one advance increment in the case of petitioner No.1 and four advance increments in case of petitioner No.2 in the light of Notification dated 11.08.1991 read with the unreported judgments of this Court dated 09.7.2007 passed in Civil Petition No.252/2007 and dated 08.9.2011 passed in Civil Petition No.1425/2011. However, before going into the merits of the case, we need to first examine the justifiability of the claims in the light of Act of 2012. The preamble of Act of 2012 provides as under:-

The Khyber Pakhtunkhwa Condition of Payment of Advance Increments on Higher Educational Qualification Bill 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 8th May, 2012 and enacted to by the Governor of the Khyber Pakhtunkhwa on 11th May, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

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

And whereas the Provincial Government vide Notification No.1750/2012 dated 27.10.2012 had already discontinued the scheme of awarding increments on higher educational qualification;

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

ATTESTED
Registrar
Provincial Court of Pakistan

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It is hereby enacted as follows:—" (emphasis supplied)

While section-2 reads as under:-

"2. Cessation of payment of arrears on advance increments on higher educational qualification.—(1) Notwithstanding anything contained in any decision, judgment and order of any Tribunal or court including High Court or Supreme Court of Pakistan, for the purpose of any claim for payment of arrears on account of advance increments on higher educational qualification sanctioned in pursuance of any order, letter, office memoranda, notification, instructions and other instruments issued before 1-12-2001, such orders, letters, office memoranda, notifications, instructions and other instruments shall be deemed to be non-existent, ceased or revoked and no further claim whatsoever on the basis of these instruments shall be entertained and all cases in respect of such claims pending in any court or Tribunal including High Court and Supreme Court of Pakistan shall stand abated.

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

ATTESTED

[Signature]
Assistant Registrar
Supreme Court of Pakistan
Peshawar.

(emphasis supplied)

7. Plain reading of the above provisions show that the claim of advance increments on obtaining higher educational qualification was discontinued by the Provincial Government on 27.10.2001. Section-2 of the Act of 2012 provides that claim for payment of arrears of advance increments shall be deemed non-existent and no further claim whatsoever on the basis of these instruments shall be entertained and all cases in respect of such claims pending in any Court or Tribunal including High Court and Supreme Court shall stand abated. Sub-section 2 provides that any amount of advance increment or arrears thereof already paid before the commencement of the Act of 2012 shall be deemed to have been validly paid and shall not be recoverable from the recipient government employees.

8. The scope of Act of 2012 is that after the promulgation of the Act i.e. w.e.f. 11.05.2012, no government employee can claim arrears on account of advance increments for higher educational qualification and advance

[Signature]
District Accounts Officer
Buner Daggar

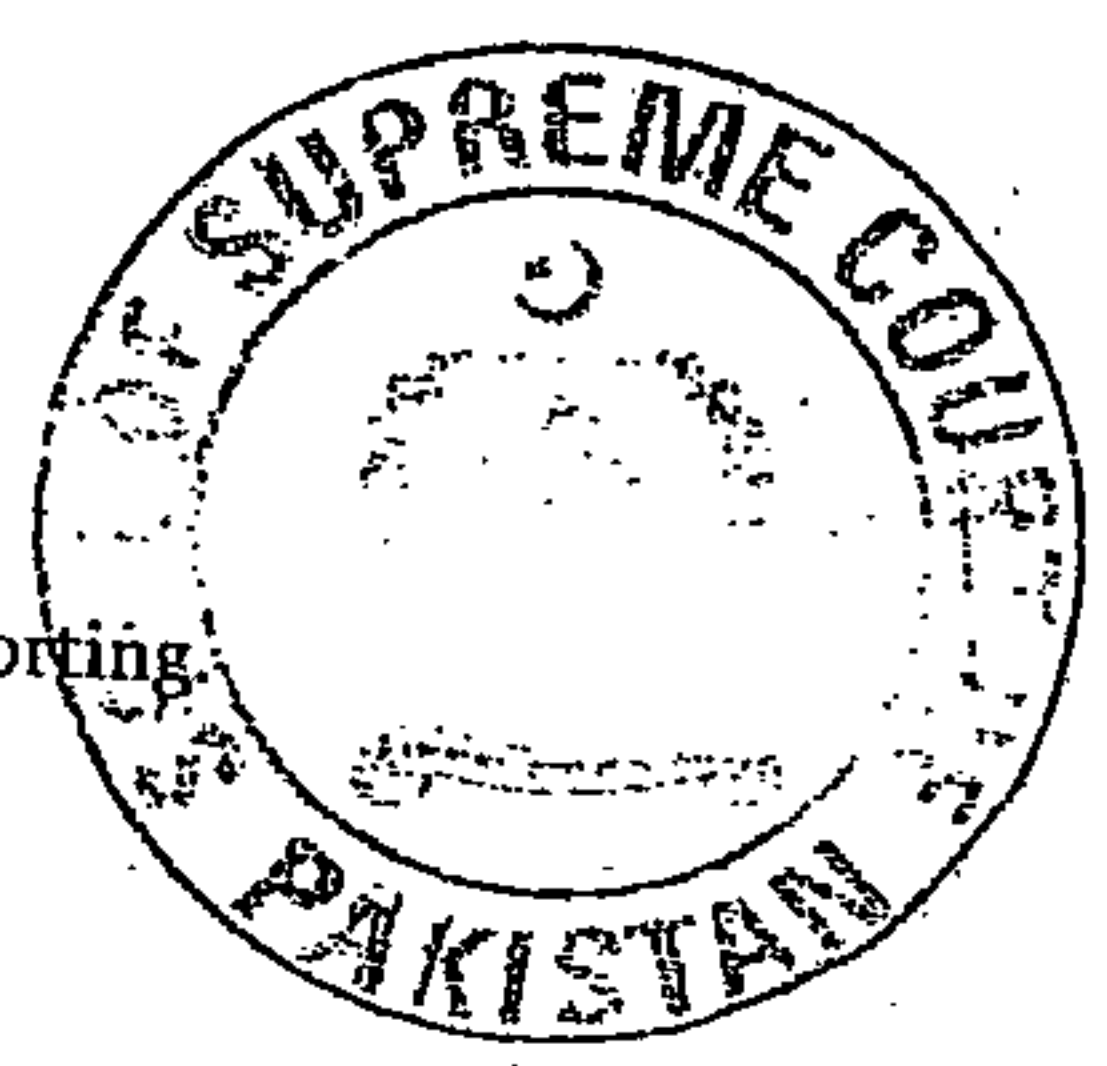
increments and arrears already paid shall not be recoverable from the recipient government employee. "Arrears" includes payment of a debt or the discharge of an obligation¹. In this case, claim of the petitioners for advance increment under Notification dated 11.8.1991 is an outstanding arrear. Reference to the deeming commencement date under section-1(3) of the Act is simply to identify the cutoff date for the purposes of tabulating arrears as mentioned in section-2, which, if outstanding on 11.5.2012, will not be payable and no claim relating to the same can be entertained.

9. In the instant case petitioners are seeking arrears on the basis of Notification dated 11.08.1991 and in the light of section-2 of the Act of 2012, their claim cannot be entertained and is not justiciable. Reliance is placed on unreported judgment of this Court dated 29.08.2013 passed in Civil Petition No.360/2013. The petitioners have not challenged the vires of the Act, therefore, these petitions stand abated under Act of 2012, as a result leave to appeal is declined and these petitions are dismissed.

[Handwritten signature]

Sd/- Qazi Faez Isa, J.
Sd/- Syed Mansoor Ali Shah, .

[Handwritten signature]



Peshawar,
07th December, 2018.
Not approved for reporting
Sadaqat

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14/12/18

Certified to be true copy
[Handwritten signature] 12/12/18
Assistant Registrar
Supreme Court of Pakistan
Peshawar.

[Handwritten signature]
District Assistant Officer
Buner Daggar

¹ Black's Law Dictionary 9th Edition, page-124.