

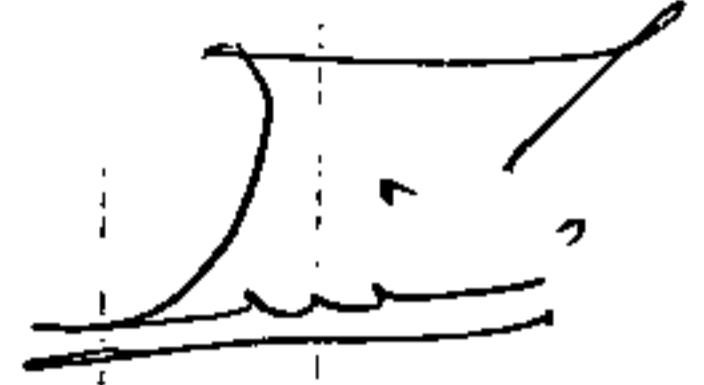
06.09.2022

Learned counsel for the appellant present. Mr. Obaid-ur-Rehman, ADEO (Litigation) alongwith Mr. Muhammad Riaz Khan Paindakhel, 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 Paindakhel, 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

9<sup>th</sup> 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.

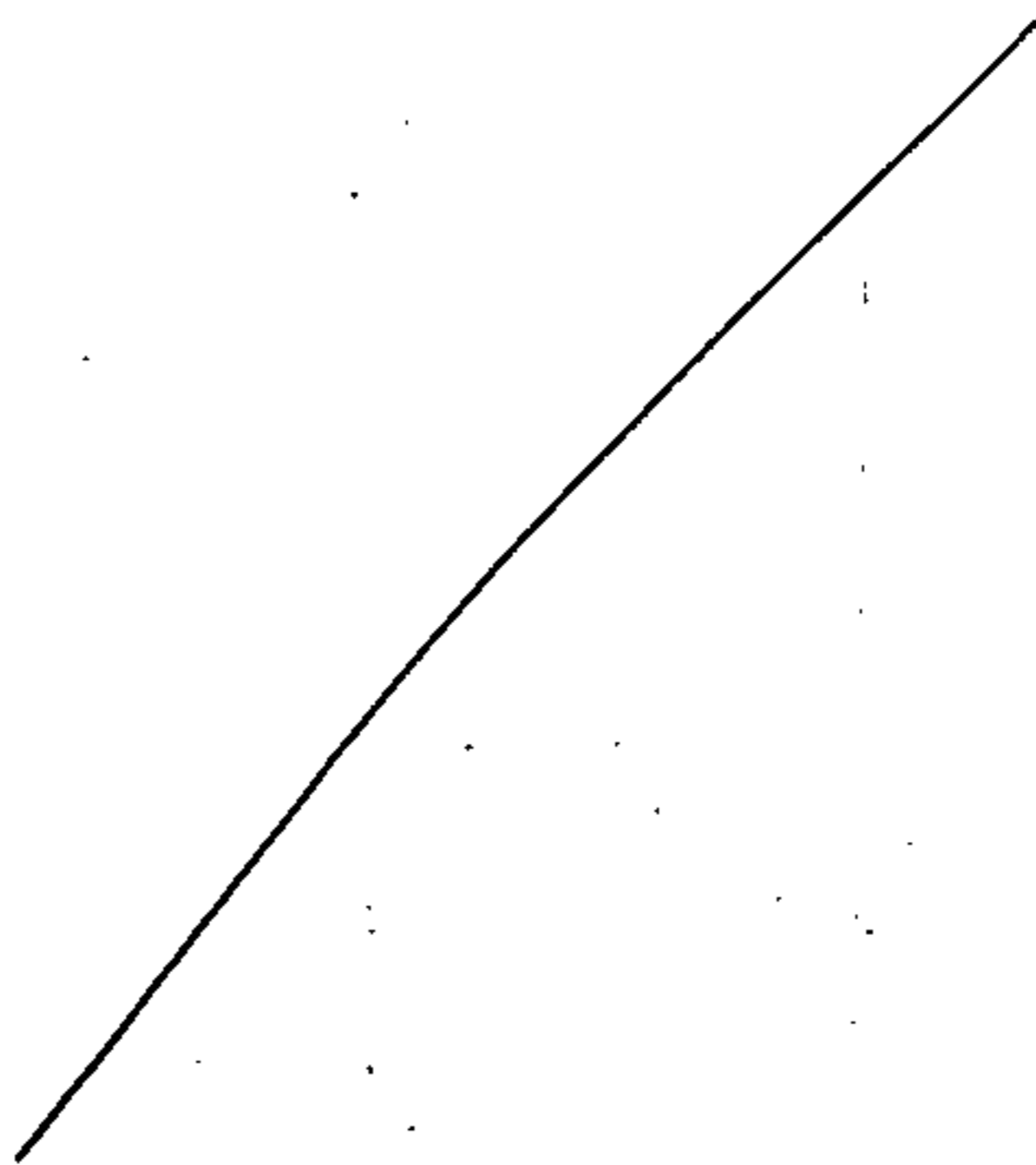
File to come up alongwith connected Service Appeal No. 671/2019 titled "Salat Khan Vs Government of Khyber Pakhtunkhwa" on 06.09.2022 before D.B at camp court, Swat.



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



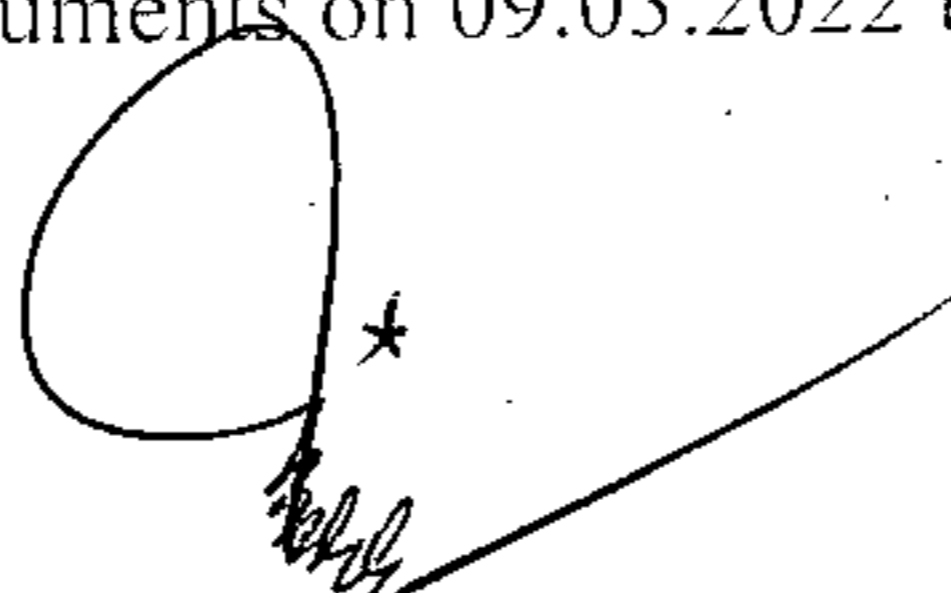
(Rozina Rehman)  
Member (J)  
Camp Court Swat.



06.01.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Hussain Ali, Assistant Litigation 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.



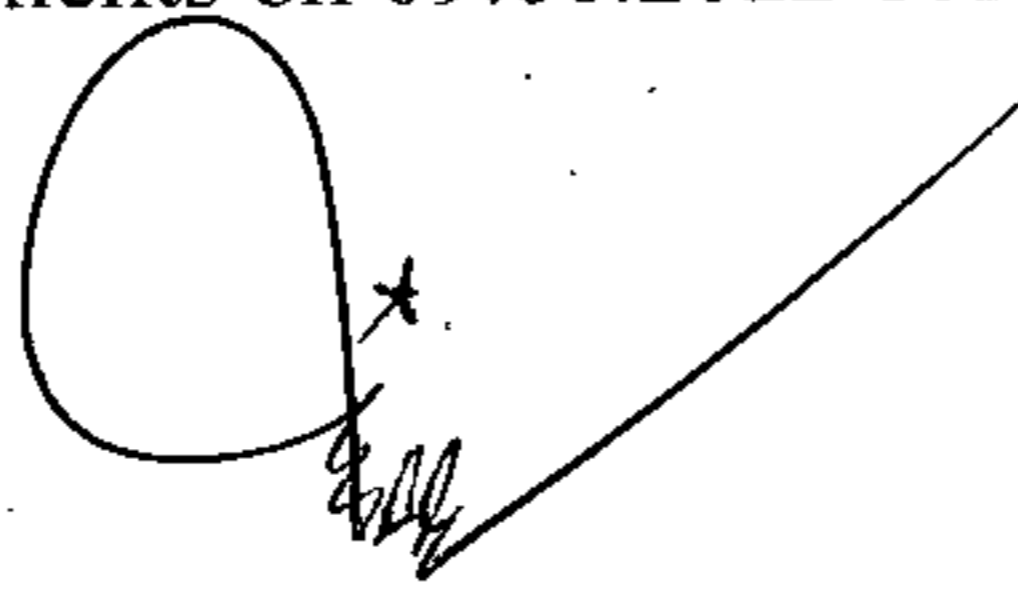
(Mian Muhammad)  
Member(E)



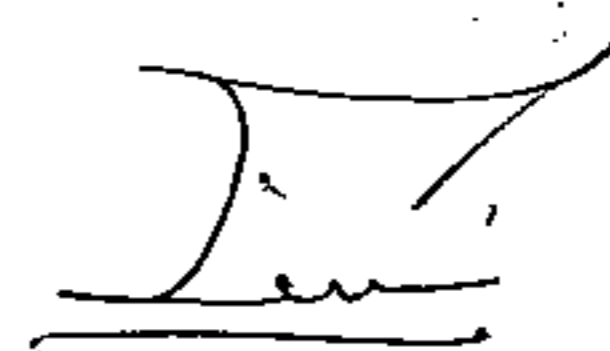
(Salah Ud Din)  
Member(J)  
Camp Court Swat

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)



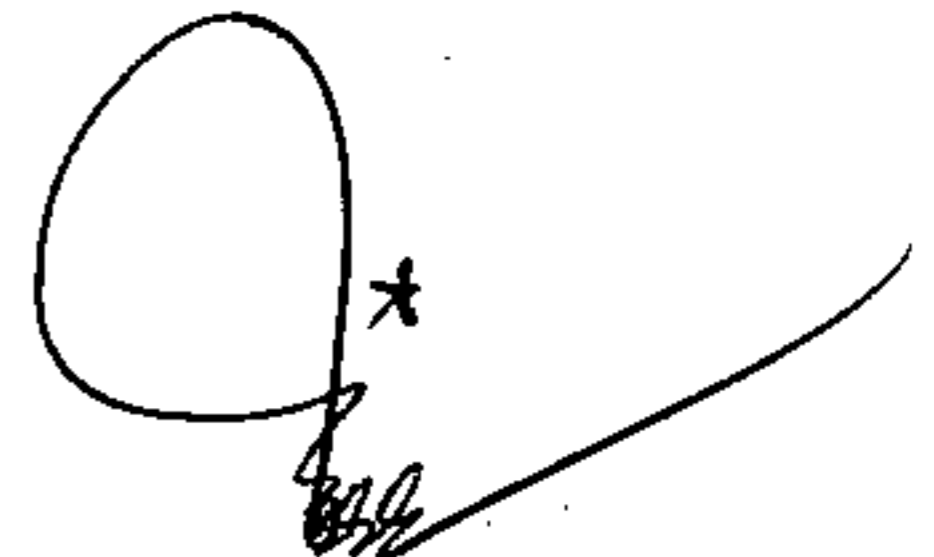
(Salah Ud Din)  
Member(J)  
Camp Court Swat

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 checkmark-like flourish.

(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

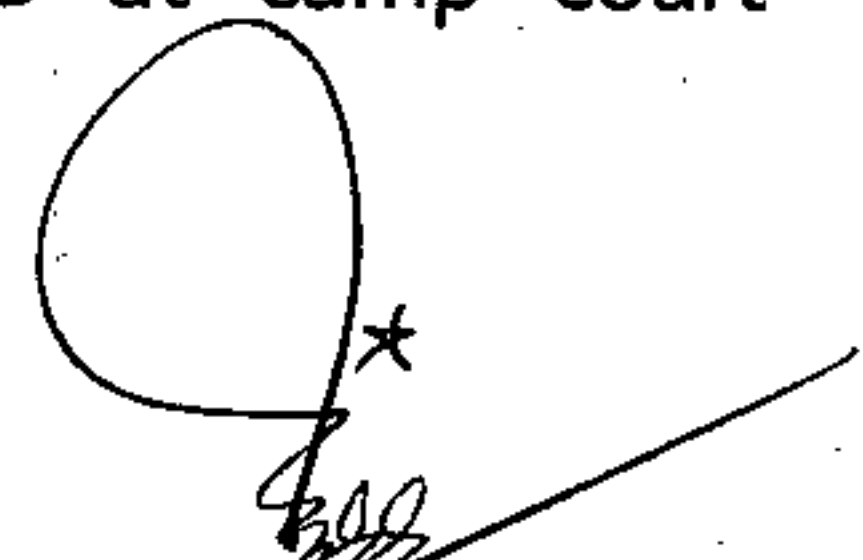
02.02.2021

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 1/4/20*

*Rashid*


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, Swat.

Appellant Deposited  
Security & Process Fee

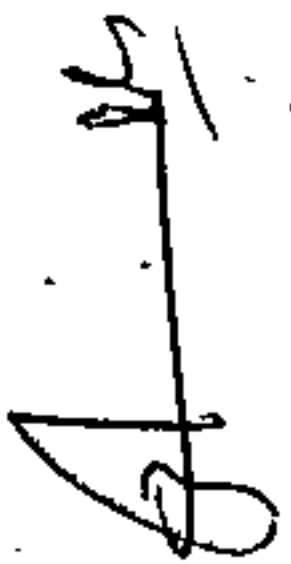
15/6/19

  
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.

noted



  
Member  
Camp Court, Swat.

The appeal of Mr. Sardar Shah SST GCMHS Daggar 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. 627 /S.T.

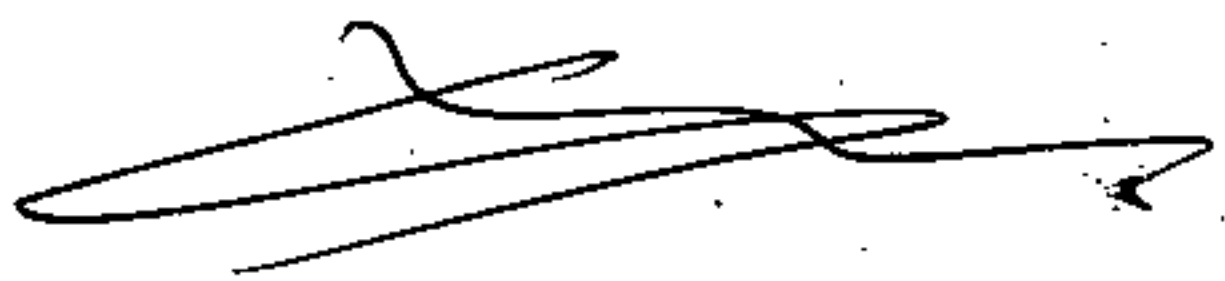
Dt. 29-3-2019

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Shamsul Hadi Adv.  
High Court Swat.

that all the deficiencies has been removed/completed except of the said notification dated # 11-05-2016 which is mentioned and the said notification has already been annexed in the main appeal title Wakeel Zedavs Gut which is fixed on 18-05-2019 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 put in the possession of the appellant and the department not handed over to the applicant and the objection No-2 at Page # 15 objection Nos 3 are removed place before the Court.



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

Service Appeal No. 677/2019

Sardar Shah (SST).....Appellant

**V E R S U S**

District education Officer (M) Buner and others .....Respondents

**INDEX**

S.N	Description of Documents	Annex	Pages
1.	Memo of Appeal.		1- <del>5</del>
2.	Application for Status-quo along with Affidavit		5-6
3.	Addresses of Parties.		7
4.	Copies Service Book along with impugned of <b>DATED:02/12/2014</b>	A	8-14
5.	Copy departmental appeal.	B	15
6.	Wakalat Nama		16

Appellant

Through

**Shams ul Hadi**

Advocate, Peshawar.

Office: St/3 Abshar Colony

Warsak Road Peshawar.

Cell No. 0313-9772262

Dated: 22/03/2019.

1

**BEFORE THE KHYBER PAKHTOON KHWA SERVICES**  
**TRIBUNAL, PESHAWAR**

Service Appeal No. 677/2019.

Sardar Shah (SST)

Presently posted at GCMHS Daggar, 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

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**APPEAL UNDER SECTION 4 OF KHYBER  
PUKHTUNKHWA SERVICES TRIBUNAL ACT  
1974 AGAINST THE IMPUGNED OFFICE ORDER  
DATED:02/12/2014.**

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**PRAYER IN APPEAL:**

On acceptance of this appeal, the impugned Office Order Dated: 02.12.2014 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:02/12/2014** 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:02/12/2014** 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:02.12.2014 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:

**GROUNDS:**

- 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: 02.12.2014 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: 02.12.2014 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

Sardar Shah (SST)

Through

**Shams-ul-Hadi**

Advocate, High court.

Dated: 22/03/2019

BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA,  
PESHAWAR.

Service Appeal No. \_\_\_\_\_/2019

Sardar Shah (SST).....Appellant

**V E R S U S**

District education Officer (M) Buner and others .....Respondents

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*Application for Status-quo/Suspension of impugned office order  
Dated: 02.12.2014 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 .*

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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: 02.12.2014 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

Sardar Shah (SST).....Appellant

**V E R S U S**

District education Officer (M) Buner and others .....Respondents

**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.



**ADVOCATE**

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

Service Appeal No. \_\_\_\_\_/2019

Sardar Shah (SST).....Appellant

**V E R S U S**

District education Officer (M) Buner and others ..... Respondents

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Sardar Shah (SST)

Presently posted at GCHMS Daggar, Buner

Cell No.0347-4773440.

**RESPONDENTS:**

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

Appellant

Through

**Shams ul Hadi**

Advocate, Peshawar.

Dated: 22/03/2019



(For use in Police Department only).

Gardar Shah

Heirs,

1. passed M.Ed Exam in 2006
2. from AIOU Islamabad under
3. R.No. P 646555 obtained marks 737 out of 1200 and placed in Verification Roll No 2 1st Div. Resubmitted for re-valuation on 14-3-2006 received back

PRINCIPAL  
Govt. Centennial Model  
High School Daggar  
District Buner

passed SSC (A) Exam in 1981 from BISE Pesh under R.No = 34667 obtained	passed M.A on political science in 1990 from university of Rawalpindi under R.No = 2302
Qualification 481/850 Marks and placed in II Div. English	Qualifications obtained 463/1000 Marks Date placed in II Div First Arts
Pashtu Dist: Education Officer (M) Secondary, Buner.	B. L. or Dist: Education Officer (M) Secondary, Buner.
Urdu passed F.A (A) Exam in 1983 from BISE Pesh under R.No = 16154 obtained	passed P.T in 1992-93 from departmental exam Education Dept NWFP under R.No = 314 Training School Final examination obtained 776 marks and placed in I Div. Result declared on 25-12-93
Finger print 529/1800 Marks and placed in II Div Drill instructing	Other qualifications - 1200 placed in I Div. Result declared on 25-12-93
Court duties Dist: Education Officer (M) Secondary, Buner.	Dist: Education Officer (M) Secondary, Buner.
Reserve duties passed B.A (A) Exam in 1985 from university of Pesh under R.No = 2744 obtained 274 Marks and placed in II Div	Passed B.Ed. Exam in 1997 (A) from University of Peshawar, under R.No - 2938, obtained marks 492/1000 and placed in Second Division. Result declared on: 15-04-1998

Dist: Education Officer (M) Secondary, Buner.

PRINCIPAL,  
Govt. High School,  
Ma-1 Daggar.

etc

- Note: - The
1. Name
  2. Rank
  3. Residence
  4. Family
  5. Date of birth
  6. Examination
  7. Percentage
  8. Left hand
  9. Signature
  10. Signature of Head Office

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

1. Name SARDAR SHAM  
2. Race Afghan yousafzai  
3. Residence village shalbandi P.O. of Teh Dager Distt Buner.

4. Father's name and residence Bakhtawar Shah (As above)  
5. Date of birth by Christian era as nearly as can be ascertained Fifteenth May N.H. 65 Sixty Five. (15-5-1965)

6. Exact height by measurement 5-6  
7. Personal marks for identification A scar on left leg.

8. Left hand thumb and Finger impression of (non-gazetted) officer  
Little Finger. Ring Finger.  
Middle Finger. Fote Finger  
Thumb.

9. Signature of Government servant.

10. Signature and designation of the Head of the Office, or other Attesting Officer. Distt: Education Officer (M) Secondary, Buner.

etc

Political Science  
University of  
R.No:2302

Mark Sheet

Officer (M)  
Buner.  
1992-93 from  
Education Deptt  
R.No: 314  
776 Marks and  
1200  
Div.  
dated on 25-11-93


Officer (M)  
Buner.  
Exam. in 1997 (A)  
University of Peshawar,  
-2938, obtained  
1000 and placed in  
on.

dated on: 16-04-1998

PRINCIPAL,  
Govt High School,  
No-1 Daggar.

1	2	3	4	5	6	7	8	9	10
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term 'Pay'	Date of appointment	Signature of Government servant	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
e.T GMS Langar	sub per.		BPS No = 1605	-97-	3060	14/11/94	[Signature]	D. E. O. (M) Secy: Buner	22/9/95
Do e.T GMS Hiser	Do Do		BPS No, 14 = 2085	-161-	4480	14/11/94	[Signature]	D. E. O. (M) Secy: Buner	8/2/95
<p>Approved BPS No. 14, vide DISE (M.E.D.) ✓            Exst: No, 1612-1683/A-12/e.T/sv            dated, 30/1/1995. W. O. F. Date of taking over            Charge i.e. 14-11-94</p>									
<p style="text-align: center;">(15)            Distt: Education Officer (M)            Secondary, Buner.</p>									
e.T GMS Gadajai	Sub per		Rs = 2005/-	/		9/2/95	[Signature]	PRINCIPAL, Govt High School, GADEZAI, Distt-Bu	30/9/95
-do-	-do-		Rs = 2226/-	/		1-12-95	[Signature]	PRINCIPAL, Govt High School, GADJAI, Distt-Bu	20/9/95
CT GMS No. 1 Gadajai-Dobbi	Sub per		Rs. 2226/-	/		21-12-96	[Signature]	PRINCIPAL, Govt High School, No-1 Daggar	30/9/96
-do-	-do-		Rs. 2387/-	/		1-12-96	[Signature]	PRINCIPAL, Govt High School, No-1 Daggar	30/9/96
-DO-	-do-		Rs 2548/-	/		1-12-97	[Signature]	PRINCIPAL, Govt High School, No-1 Daggar	30/9/97
-DO-	-do-		Rs- 2709/-	/		1-12-98	[Signature]	PRINCIPAL, Govt High School, No-1 Daggar	30/9/98
<p>Services Verified III. E. F. from the 1-12-97 to 30-11-98. Office recd of the school</p> <p>Services Verified III. E. F. from the 30-11-97 to 30-11-97. Office recd of the school</p> <p>Services Verified III. F. F. from the 21-10-96 to 30-11-96. Office recd of the school</p>									
<p style="text-align: center;">PRINCIPAL, Govt High School, No-1 Daggar.</p>									

e.T - C





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 for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term 'Pay'	Date of appointment	Signature of Government servant
Revised BPS No. 14 (3565-275-11815)							
C.T. CGMHS Daggan	Sub Temp		Rs 6315/-	-	-	7/05	[Signature]
-do-	-do-		Rs 6590/-	-	-	12/05	[Signature]
-do-	-do-		Rs 6865/-	-	-	12/06	[Signature]
CT Post Revised PBS No. 14 (4100-315-13550)							
GCMHS Daggan	Sub Temp		Rs 7880/-			7/2007	[Signature]
(615) 1355-350-14850	-do-		Rs 8200/-			11/2007	[Signature]
	-do-		Rs (8195/-)			2007	[Signature]
			2005				
			OFFICE OF THE ACCOUNTANT GENERAL N.W.F.P. PESHAWAR				
			PAY FIXED IN THE PAY SCALES				
			1187/216				
			1107-2005				
			112-2005				
			optiom: M. Sander Shah				
			C.T do hereby optiom				
			to fix my pay in B.P.S. 15				
			to effect from 12/2007 instead				
			110/07				
			Sign of Govt Servant				
			M. Sander Shah				
			Principal G.C.M.H.S. Daggan Distt. Buner				
			upgraded				
			Award of BPS-15 vide Govt of N.W.F.P				
			Finance Dept: Notification No. F/D/90				
			(FR) 10-27/2007 dated 26-1-2008				
			Further vide E.D.O (S&L) Buner No. 2096-99				
			dated 26-4-2008 under S.No. 66.				
			Principal G.C.M.H.S. Daggan Buner				

Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8

Date of appointment

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
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PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

PRINCIPAL  
G.C.M.H.S.  
Distt. Buner  
30/

cf - C

6	7	8	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		Reference to any recorded punishment or censure, or reward or praise of the Government Servant.	
therment ling or the "Pay"			Date of appointment		Signature of Government servant		Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		Nature and duration of leave taken		Period Government to which debitable					
-275-11815)			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner		11 30/05		A/m		PRINCIPAL Govt. Centennial High School District-Buner		Services Verified W. E. F 1/12-05 to 30/11/06 from the Office record of the School.					
7 1/05			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner		30/11 30/08		A/m		PRINCIPAL Govt. Centennial High School District-Buner							
12 1/05			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner		6 30/07		pay scale Revised		PRINCIPAL Govt. Centennial High School District-Buner							
1/12 06			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District-Buner							
3550)			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner		30/09/07		with gradation		PRINCIPAL G.C.M.H.S. Daggar, Buner.		Departmental pay fixation in BPS No. 14 on 1-7-05					
7 1/2007			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner		30/11 2007		A/m		PRINCIPAL G.C.M.H.S. Daggar, Buner.		1- presumption pay in BPS No. 14 Rs 5500/- on 30-6-05					
11/12/2007			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner		30/11 08		pay revised due to over of BPS-15 w.e.f 1/12/07		PRINCIPAL G.C.M.H.S. Daggar, Buner.		2- pay fixed in BPS No. 14 Rs 6315/- on 1-7-05					
GENERAL BASIC			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner.		Services Verified W. E. F 1/12-04 to 30/11/05 from the Office record of the School.					
5/11/07 1/12/2005 1/12/2005			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							
Shah			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							
15 vide Govt of N.W.FP Notification No. F.D/90 dated 26-1-2007 & (S&L) Buner Encl. No 2096-99 8 under S.No 66.			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.		Services Verified W. E. F 1/12/05 to 30/11/06 from the Office record of the School.					
PRINCIPAL G.C.M.H.S. Daggar, Buner.			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							
			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							
			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							
			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							
			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							
			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							
			PRINCIPAL Centennial G.M.H.S. Daggar Distt: Buner						PRINCIPAL Govt. Centennial High School District Buner.							

Undertaking I Mr. Sarder Shah c.t  
do hereby undertake to the  
effect that if any over payment  
made to me as a result wrong  
fixation of my pay in BPS  
15 it will be good for me to  
receive the same amount from  
my pay, possible and gradually.

Sign of Govt Servant.

15 vide Govt of N.W.FP  
Notification No. F.D/90  
dated 26-1-2007 &  
(S&L) Buner Encl. No 2096-99  
8 under S.No 66.

PRINCIPAL  
Govt. Centennial  
High School  
District Buner.

Services Verified W. E. F  
1/12/05 to 30/11/06 from the  
Office record of the School.

PRINCIPAL  
G.C.M.H.S. Daggar,  
Buner.

PRINCIPAL,  
G.C.M.H.S. Daggar,  
Buner.



1	2	3	4	5	6	7	8
Name of post CT	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
GCMHS Daggal		(3PS No. 15 - 8500 - 700 - 29500)	Rs. 22500/-			1/12/2011	[Signature]
<del>cuttings Attached</del>	Sub/Perm		Rs. 21100/-				[Signature]
Senior CT BPS: 16	Perm	BPS: No. 16 (10000 - 800 - 34000)	Rs. 23200/- PM			01/12/2012	[Signature]
do	do		Rs. 24400/-			21/12/2013	[Signature]
do	do		Rs. 25200/- PM			1/12/2013	[Signature]
<del>2MA</del>							
<del>PD letter</del>							
<del>15/12/2010</del>							
6865/14 <sup>5</sup>		note					
8510/14 <sup>07</sup>		9		11/99 to 11/01			CT.C
+1 PM No 30/14				12/01 to 5/05			
10680/15 <sup>8</sup>				7/05 to 5/07			
15				7/07 to 6/08			
				7/08 to 6/11			

RECD  
 SECTION  
 P.O.

(15)



اپیل بخدمت جناب اکاؤنٹ جنرل خیبر پختونخواہ پشاور

عنوان: نوٹیفیکیشن نمبر 1-1/89 FD(PCR) اور خیبر پختونخواہ ایکٹ نمبر 1 of 2012 کے تحت غیر قانونی ریکوری

جناب عالی:

مودبانہ گزارش ہے کہ ہمیں نوٹیفیکیشن نمبر 1-1/89 FD(PCR) مورثہ 11-08-1991 کے تحت جس ہائیر نوٹیفیکیشن یعنی ایم اے 1 ایم ایس سی پر جو چار increments دیئے گئے تھے تو Fixation party اور DAOs نے ان میں سے دو increments کی ریکوری کی ہے اور مزید increments دیئے گئے 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

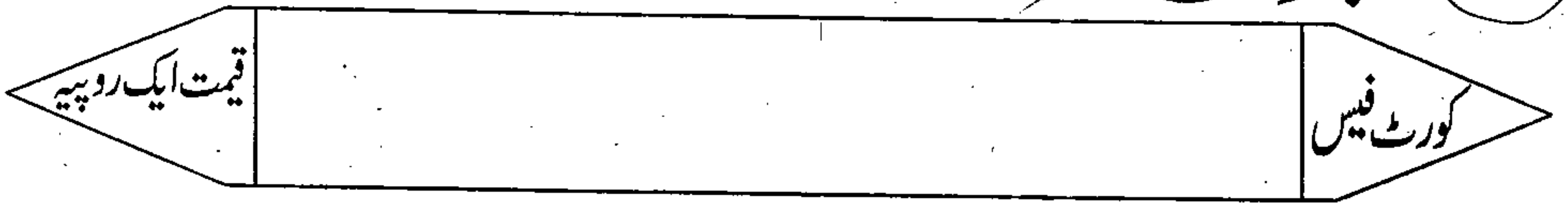
7  
12/5  
2018

سردار شاہ (A.S.)  
A.S. Officer

Deputy District Officer

7  
12/5  
18

ct-c



۲۲ مارچ ۲۰۱۹ء منجانب  
سردار شاہ بنام حکومت

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکے

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہی و کل کاروائی متعلقہ آن مقام سروس ریسولنل سٹار کیلئے شمس الہادی اللہ و سرت مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زراس 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 ہے

۲۰۱۹

ماہ مارچ

المرقوم ۲۲

العبد گواہ شمس الہادی اللہ کے لئے منظور ہے  
بمقام سروس ریسولنل سٹار  
Shams-ul-Hadi Adil  
Alleg



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. <sup>677</sup>685/2019

Hidayat Khan (SSP)

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 Shown:-

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 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 verities 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.

**GROUND:-**

- 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.

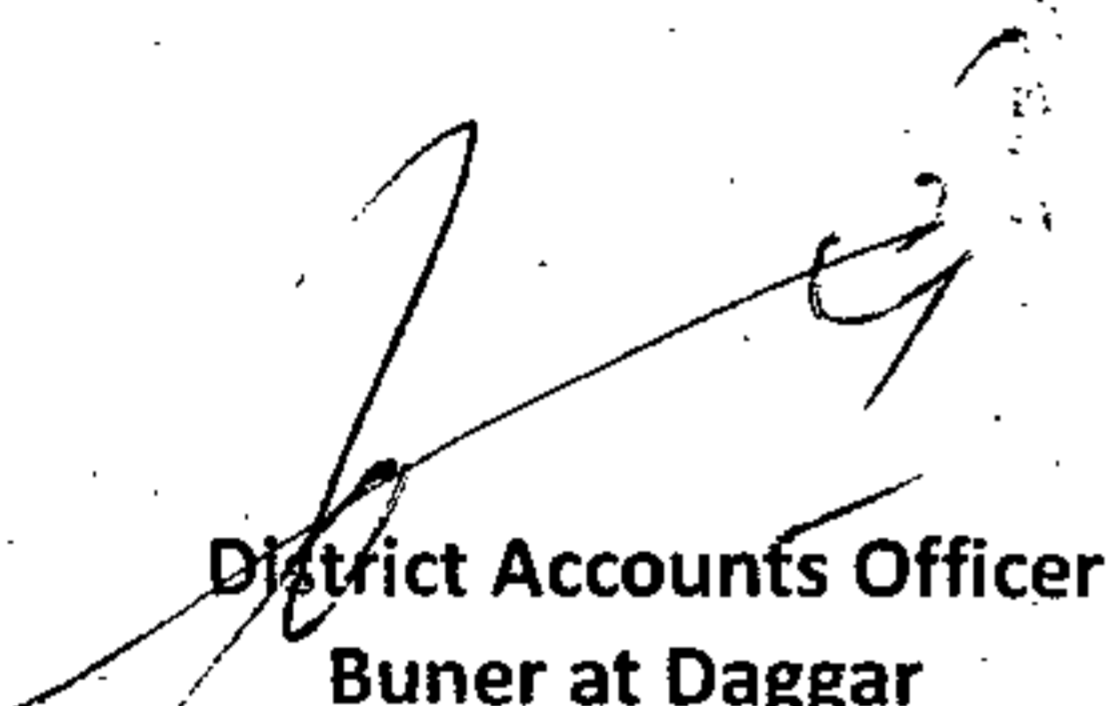
  
**DISTRICT ACCOUNTS OFFICER  
BUNNER AT DAGGER**

  
**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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*Buner*  
*M. A. D.*

*[Signature]*  
District Account Officer  
Buner at Deggur

District Account Officer  
Buner at Deggur

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;

AND WHEREAS the Provincial Assembly is not in session and the Governor 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 128 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 Arrears on Advance Increments on Higher Educational Qualification Ordinance, 2012.

(2) It shall apply to all the employees of the Provincial Government, who were entitled to received 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 1<sup>st</sup> day of December, 2001.

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 Ordinance, shall

*Handwritten signature*

*Handwritten signature*  
District Accounts Officer  
Buner at Daggar

2110

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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.

*Attest  
Masood*

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

*[Signature]*  
District Accounts Officer  
Buner at Daggard





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

No.H-24/ Master Circulation / (30-37)

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 Registrars  
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 Accounts Officer  
Buner at Daggar

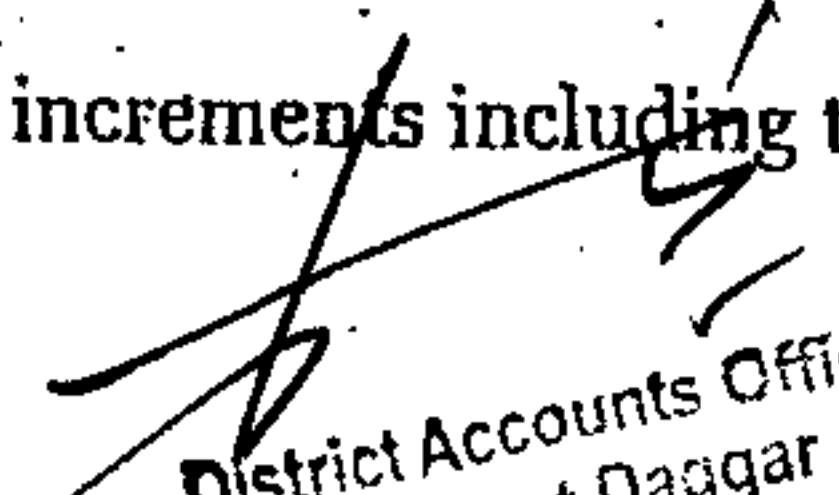
that the petitioners were appointed as PSTs when the qualification for the said post was matriculation.

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.

**ATTESTED**  
  
Assistant Registrar,  
Supreme Court of Pakistan  
Peshawar.

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

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

5. He further submits that at this stage the claim of the petitioners cannot be entertained in the light of section 2 of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012 ("Act of 2012"), by virtue of which the instant petitions cannot proceed and stand abated. He placed reliance on an unreported judgment of this Court dated 29.8.2013, passed in Civil Petition No.360/2013.

6. 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.525/2007 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 justiciability of the claims in the light of Act of 2012. The preamble of Act of 2012 provides as under:-

ATTESTED

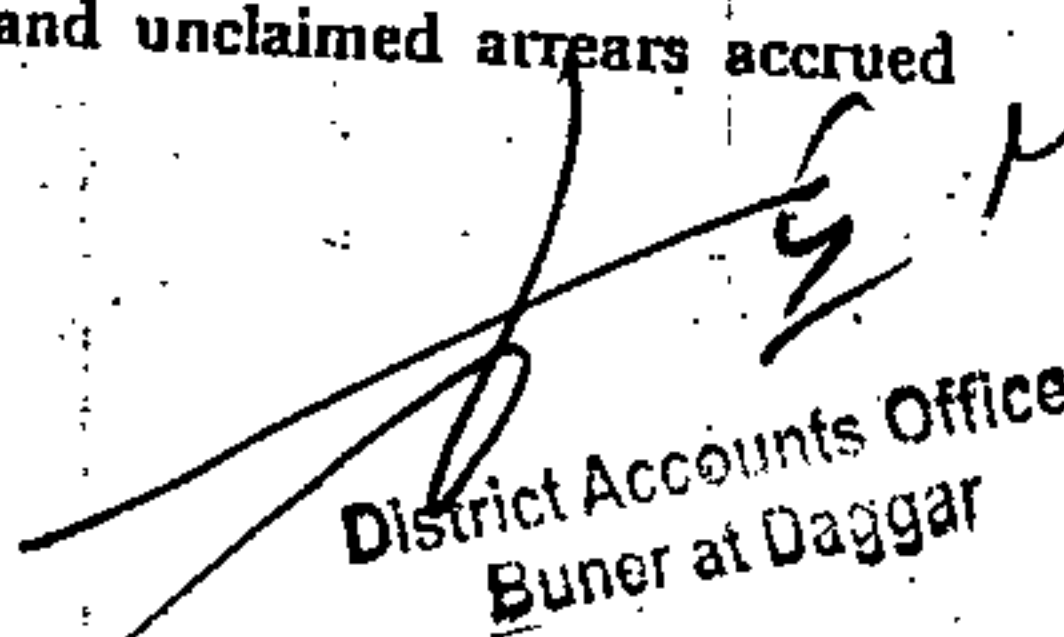
  
Assistant Registrar  
Supreme Court of Pakistan

"The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Bill 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 8th May, 2012 and assented 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.(PRC)1-1/2001, dated 27-10-2001, had already discontinued the scheme of advance 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;

  
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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 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."

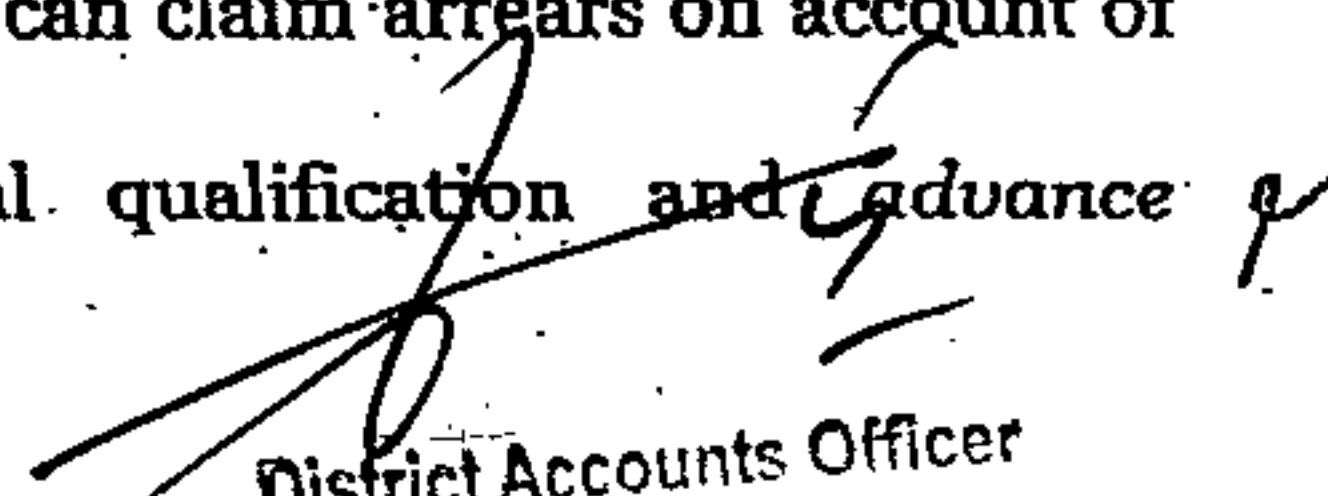
ATTESTED

  
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.

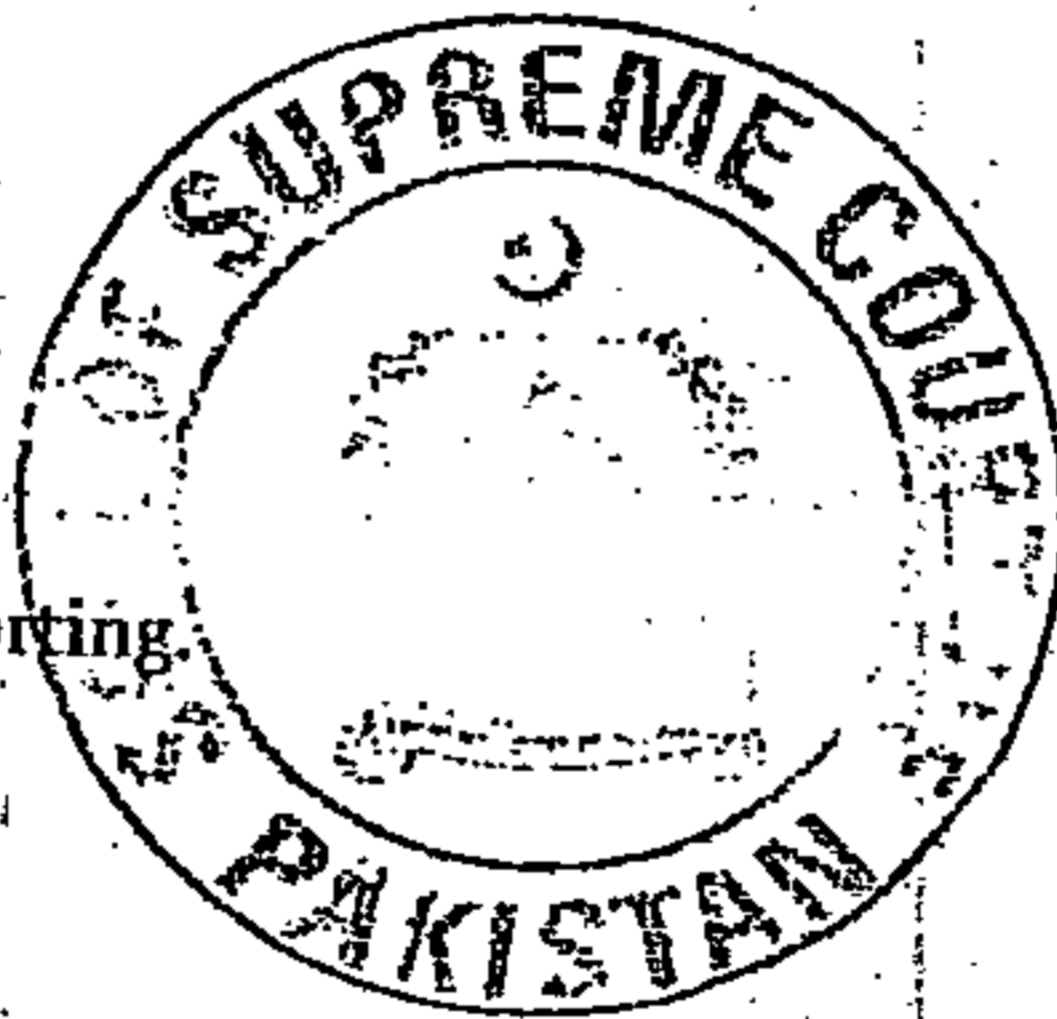
8. The scope of Act of 2012 is that after the promulgation of the Act i.e. w.e.f. 11.05.2012, no government employee can claim arrears on account of advance increments for higher educational qualification and advance

  
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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 obligation<sup>1</sup>. 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.

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



Peshawar,  
07<sup>th</sup> December, 2018.  
Not approved for reporting.  
Sadaqat

*[Handwritten signature]*  
14/12/18

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

*[Handwritten signature]*  
District Accounts Officer  
Buner at Daggar

<sup>1</sup> Black's Law Dictionary 9<sup>th</sup> Edition, page-124.