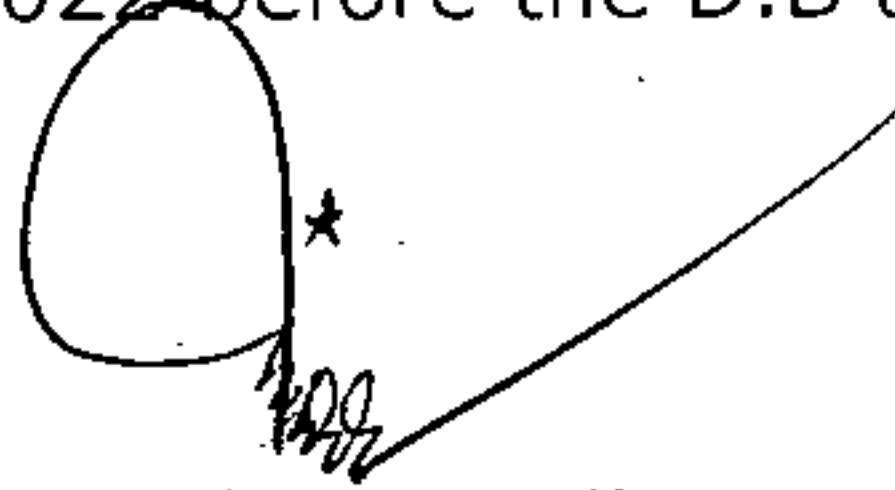


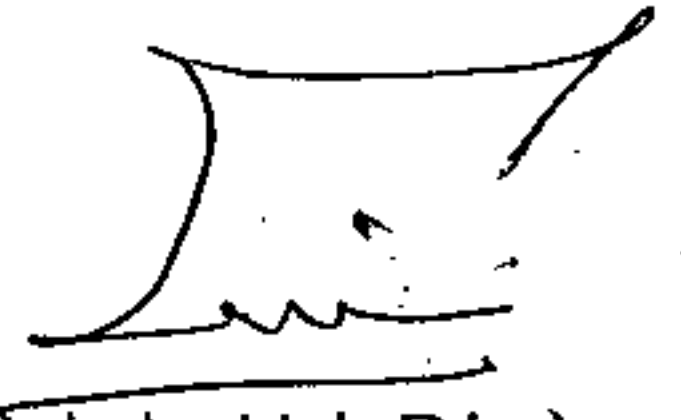
06.09.2022

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

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.

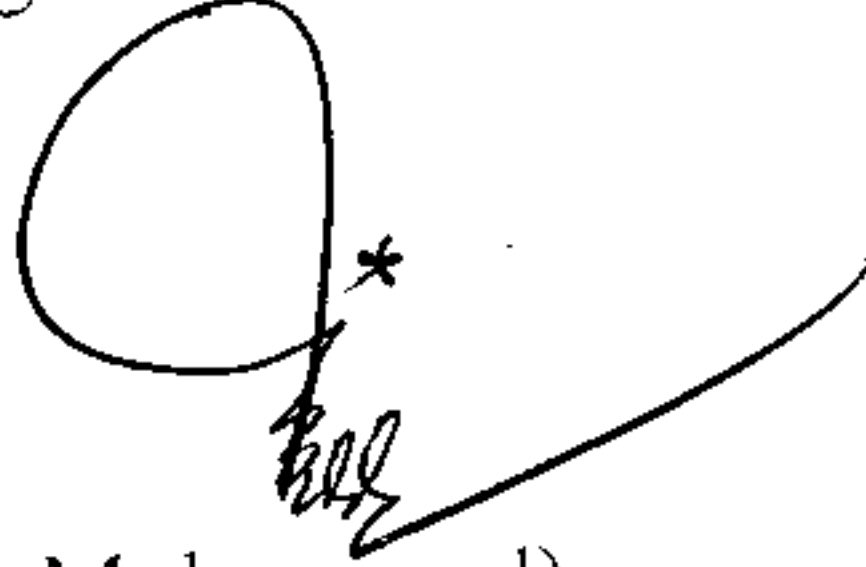


(Rozina Rehman)
Member (J)
Camp Court Swat.

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.



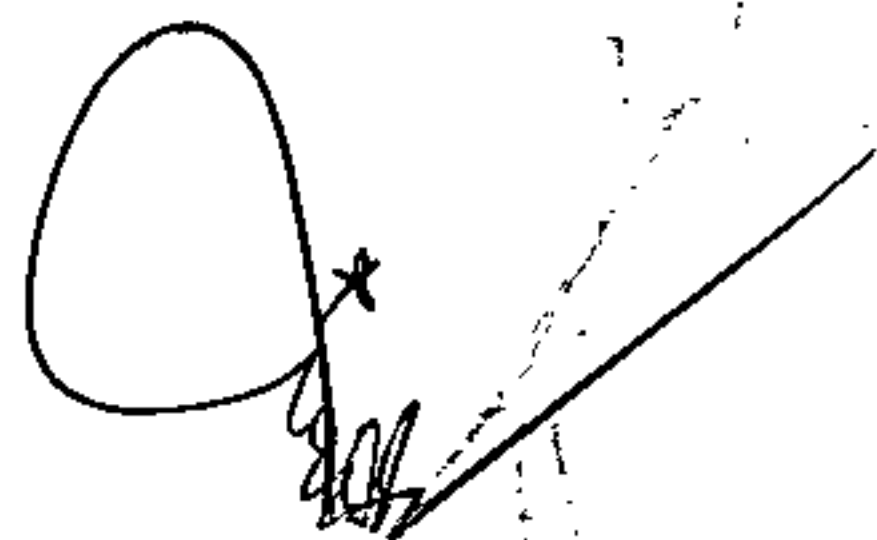
(Mian Muhammad)
Member(E)



(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 Janil, 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 XV VII-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)

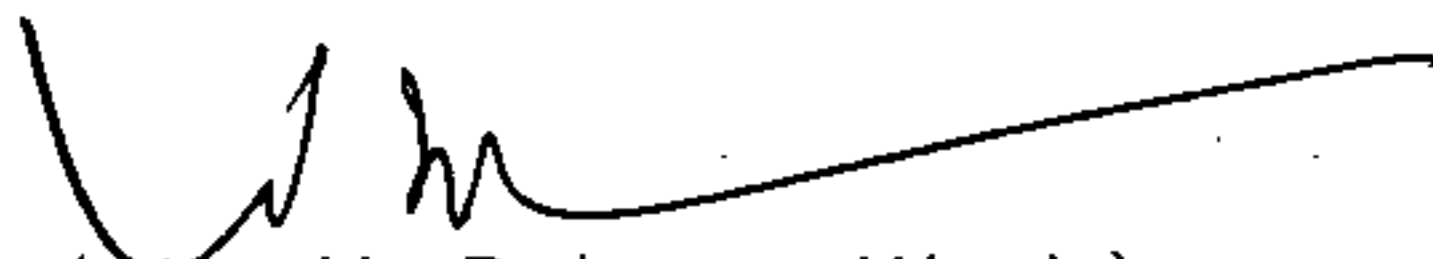


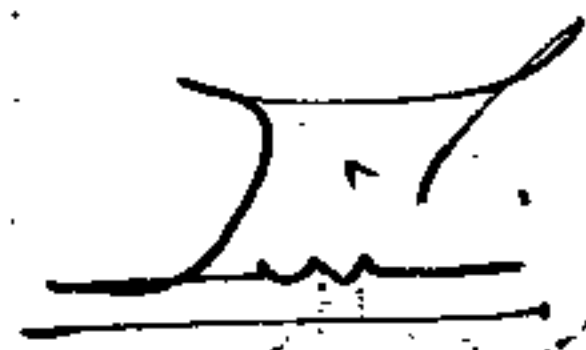
(Salah Ud Din)
Member(J)
Camp Court Swat

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.

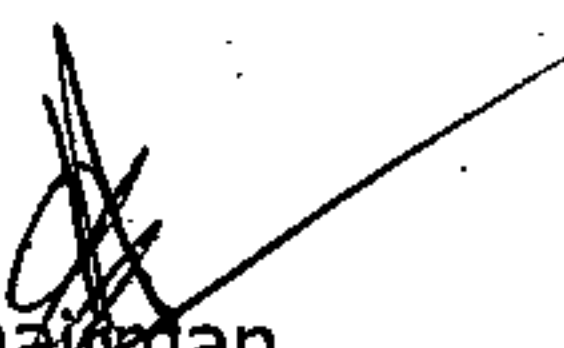


28/07


Chairman

26.08.2021

Junior to counsel for the appellant, Mr. Muhammad Riaz Khan Pindakhel, 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.

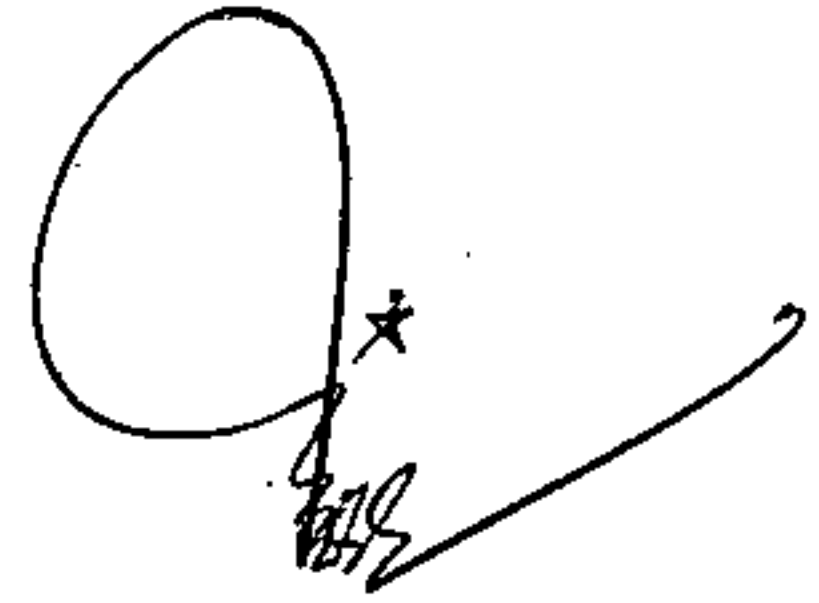

Chairman
Camp court, Swat.

03.03.2021

Appellant in person present. Mr. M. Riaz Khan Painsdakhel, 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.

d

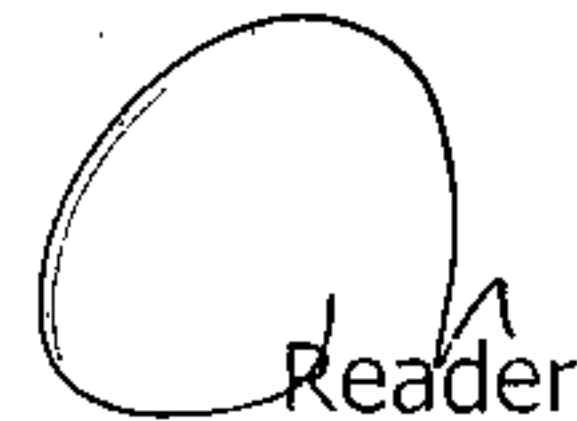
Written reply on behalf of respondents is still awaited. Representative of respondents requests for time to submit written reply/comments; granted by way of last chance. To come up for written reply/comments on 08.12.2020, before S.B at Camp Court, Swat.



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

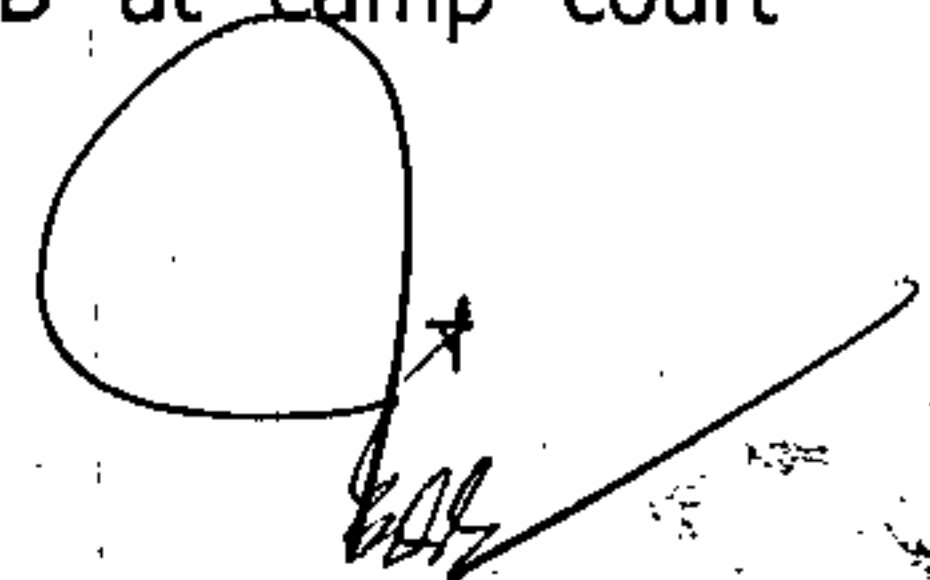
02.02.2021

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

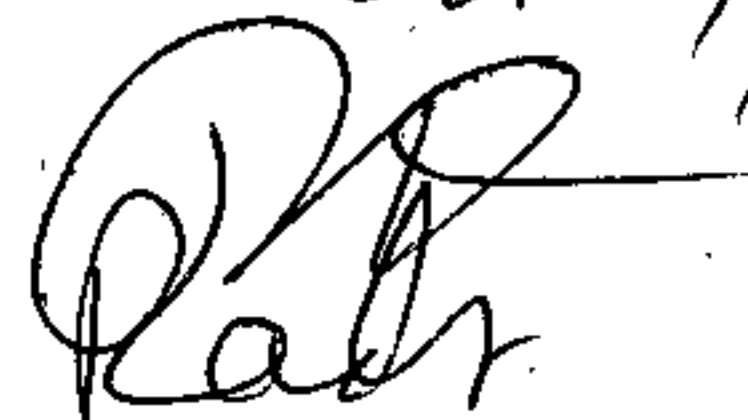
Appellant in person present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith M/S Syed Mohsin Ali, Assistant on behalf of respondent No. 1 and Ameer Zaman Shah, Assistant Accounts Officer on behalf of respondent No. 3 present. Representatives of respondents No. 1 & 3 requested for further time to file 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 1/6/20



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.

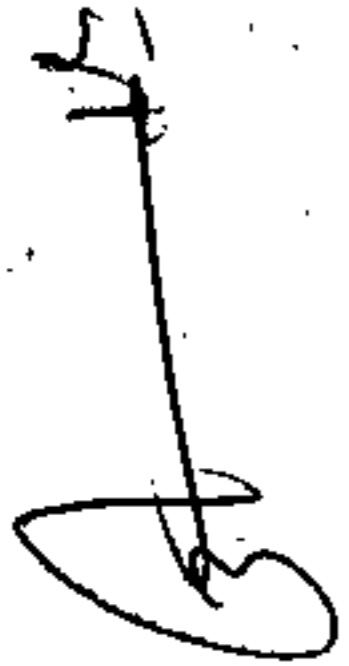
Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for reply/comments. To come up for written reply/comments on 01.07.2019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

Appellant Deposited
Security & Process Fee
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 Riaz SST GHS Daggar No. 2 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. 623 /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 rectification has already been arranged in the main appeal title Wakeel Zada vs Govt 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 next handed over to the applicant and the objection no-2 at page 18 objection no-3 are removed place before the court



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

Service Appeal No. 678/2019

Muhammad Riaz (SST)Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

INDEX

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 2/12/2014	A	8-16
5.	Copy departmental appeal.	B	17
6.	Wakalat Nama		18

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 Riaz (SST)

Presently posted at GHS Daggar No.2, 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: ~~02/10/2015~~ / 02/12/2014 ,**

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:

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: 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

Muhammad Riaz(SST)

Through

Shams-ul-Hadi

Advocate, High court.

Dated: 22/03/2019

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

Service Appeal No. _____/2019

Muhammad Riaz (SST) Appellant

V E R S U S

District education Officer (M) Buner and others Respondents

*Application for Status-quo/Suspension of impugned office order
Dated: 02.10.2015, 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 far.
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

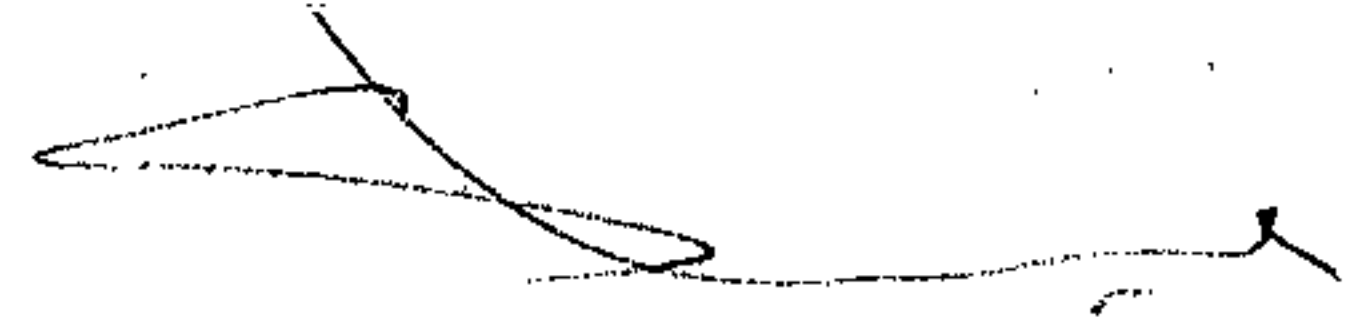
Muhammad Riaz (SST) Appellant

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.



A D V O C A T E

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

Service Appeal No. _____/2019

Muhammad Riaz (SST)Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Riaz (SST)

Presently posted at GHS Daggar No.2, Bunir

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

Amir (8)
A

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 **MUHAMMAD RIAZ**

2. Race **Afghan (Yousajji)**

3. Residence **Village: Daggas, P.O. Dab Daggas, Distt. Buner**

4. Father's name and residence **Mr. AMIR HUSSAIN (As above)**

5. Date of birth by Christian era as nearly as can be ascertained **25-1-1975**
Twenty fifth Jan N.H.A Seventy five

6. Exact height by measurement **5-4**

7. Personal marks for identification **NIL**

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

Little Finger.

Ring Finger

Middle Finger.

Fore Finger

Thumb.

9. Signature of Government servant **Muhammad Riaz**

10. Signature and designation of the Head of the Office, or other Attesting Officer.
Sub Dival: Edu: Officer (M)
Daggas Buner.

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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
pte							
G.M.P.S. Bari Dava	Sub per		1095/- Fixed			26 ⁴ / ₉₃	M. K. D. S.
G.P.S. Main Sonai	- DO -		1095/- Fixed			3 ⁵ / ₉₃	M. K. D. S.
G.M.P.S. Solai	- DO -		1095/- Fixed			17 ¹¹ / ₉₃	M. K. D. S.
- DO -	- DO -		1480/- Fixed			1 ⁶ / ₉₄	M. K. D. S.
G.P.S. Kalpani	DO -		1480/- Fixed			30 ⁸ / ₉₅	M. K. D. S.
		B.P.S. No 7: 1480-81-2695					
- DO -	DO		1480/-			31 ¹² / ₉₆	M. K. D. S.
- DO -	DO	B-9: 1605-97-3060					
			1605/-			31 ¹² / ₉₆	M. K. D. S.
- DO -	DO		1702/-			1 ¹² / ₉₇	M. K. D. S.
<p>① Service verified w.e. from 26/4/93 to 25/4/96 from office record.</p>		<p>Office of The Accountant General N.W.F.P. Postwar. Pay found in the revised basic pay scales 1986 of Rs. 1480/- (B. 17) with next increment of 27/- 1-1987</p>		<p>⑤</p>		30 ¹¹ / ₉₉	M. K. D. S.
- DO -	DO		1799/-			1 ¹² / ₉₈	M. K. D. S.
- DO -	- DO -		Rs. 2090/-			22 ³ / ₉₉	M. K. D. S.
- DO -	DO		2187/-			1 ¹² / ₉₉	M. K. D. S.

Office of The Accountant General
N.W.F.P. Postwar.
Pay found in the revised basic pay scales 1986 of Rs. 1480/- (B. 17) with next increment of 27/- 1-1987
Accounts Office
Pay Fixation Party N.W.F.P. Postwar.

⑤

30-11-99
Sub Divn. Secy. Office
Dagpur, Buner

of c

(8)

(10)

8	9	10	11	12	13		14	15
					Nature and duration of leave taken	Leave:		
						Allocation of period of leave on average pay upto four months for which leave salary is debit to another Government		
Signature and name of the head of the office or other officer in station of ranks 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	Period	Government to which debit to	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
P. S. G.	25/93	Transfer	P. S. G.					Appointed as pte untrained teacher at G.M.P.S. Bari Dara vide DEO (M) P.Y. Distt, Buner Encls No 2847-45/F.No I/APPD
P. S. G.	16/93	Transfer	P. S. G.					p.te (untrained) dated 25/4/93
P. S. G.	31/94	Scale revised	P. S. G.					Sub Divn: Edu. Officer (M) Daggur Buner.
P. S. G.	29/94	Transfer	P. S. G.					Service Verified up to 26-4-96 to 31-10-96 from roll & other records of this office.
P. S. G.	30/96	Graded pay scale allowed	M. L. P.					Sub Divn: Edu. Officer (M) Daggur Buner. 11/11/96
M. L. P.	30/97	Allowed B-9 w.e.f 31/12/96	M. L. P.					31-12-96
M. L. P.	30/97	A/c	M. L. P.					Allowed Graded pay scale w.e.f 31-12-96 vide DEO (M) P.Y. Buner Encls No 1324-29/F.No 9/DEd Supdt Dated 16-5-97
M. L. P.	30/98	A/c	M. L. P.					Sub Divn: Edu. Officer (M) Daggur Buner.
M. L. P.	31/99	Three Adv. on B-A	P. S. G.					Allowed B-9 w.e.f 31-12-96 vide DEO (M) P.Y. Buner Encls No 1879-80/F.No 28/AB/DA-I Dated 14-6-97.
P. S. G.	30/99	A/c	M. L. P.					Diff. of pay ad allowances w.e.f 31/12/97 h. 1120% paid
P. S. G.	31/2000	one Adv. on B-A	M. L. P.					one Adv. on B-A w.e.f 25-4-2000 vide RA ad pte became.

District Accounts Officer
1719

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 9 Signature and name of the officiating officer Government Station of posts 1 to
A/c Kulpani Daffer	Sub per	one Add. ac on C.T C.S.R. B-9-1605-97-3060	2284/-	✓		25/4 2000	Mudra S.D.F.
-100-	-100-		2381/-	✓		1/12 2000	Mudra S.D.F.
-100-	-100-		2478/-	✓		1/12 2001	Mudra S.D.F.
-100-	-100-	B-9-2410-145-6760	Rs. 3715/-	✓		1/12 2001	Mudra S.D.F.
GHS Sander	-do-		Rs. 3860/-	✓		11/7 2002	Mudra S.D.F.

Under B-Act
 Office of the Accountant General
 N.W.P.P. Pakistan
 Pay fixed in the revised basis pay scale
 of Rs. 2400/- to Rs. 3715/-
 with effect from 1-12-2001
 1-12-2002

Account Officer
 N.W.P.P. Pakistan

Service Verified from 1-1-2002
 to 7-2-2002 from reg. Roll
 & other Record of this Office.

(Signature)
 (Signature)
 (Signature)

Service Verified from 1-1-2001
 to 21-12-2001 from reg. Roll
 & other Record of this Office.

(Signature)
 (Signature)

C-f C
 (Signature)

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8	9	10	11	12	13		14	15
					Nature and duration of leave taken	Leave		
						Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
	Signature and name of the head of the office or other attesting officer in Government stations 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	Period	Government to which debitable	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
	Mukherjee S.D.E.O. (M) Daggar	30/11/2000	A/c	Mukherjee S.D.E.O. (M) Daggar		Allowed three Adv. Inc on pass of B-A w.e.f 7/2/1998. However no Adv. Inc will be allowed on account of re-fixation of pay prior to 22-3-99 vide DEO (M) pay order No 1581-82/F. No 90/A/B/ADEO (A) Dated 26-5-99.		
	Mukherjee S.D.E.O. (M) Daggar	30/11/2000	A/c	Mukherjee S.D.E.O. (M) Daggar		Service Verified w.e.f 1-12-99 to 31-12-2000 from acq. Roll & other Record of this Office.		
	Mukherjee S.D.E.O. (M) Daggar	12/1/2001	Revised	Mukherjee S.D.E.O. (M) Daggar		Sub Divnl Edu Officer (M) Daggar, Bsnr		
	Mukherjee S.D.E.O. (M) Daggar	18/7/2002	C.T. post	Mukherjee S.D.E.O. (M) Daggar		Sub Divnl Edu Officer (M) Daggar, Bsnr		
CONFIRMATION								
Kulpreet Daggas is hereby confirmed on pte post w.e.f 1-1-2000 at s.No 15 vide DEO Edu Bsnr Enclst No 2355-58/1 Dated 29/7/02								
						Allowed one Adv. Inc on E.T. w.e.f 25-4-2000 vide DEO (M) pay order No 1306-71 F. No 90/A/B/ADEO (A) Dated 12-8-2000.		
						Arron of pay & Adv. Inc w.e.f 25/4/2000 to 31/10/2000		
						Existing pay B-9 w.e.f 12/2/01 R 2478/-		
						Pay fixed in Revised B-9 on 12/2/01 R 3715/-		
						Arron of pay & Adv. Inc w.e.f 22/8/2001 to 31/10/2000		
						Arron of pay & Adv. Inc w.e.f 22/8/2001 to 31/10/2000		

Ch. C

9 Signature of Government	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government			
					Period			Government to which debitable
	1-12-93	Rs. 1155-						
	1-6-94	Rs. 1561-		Scale Revised				
	1-12-94	Rs. 1642-		4 Adv. Incr.			Head Master G.H.S. No-2 Daggat Distt. Buner.	
	1-12-95	Rs. 1723-						
	1-12-96	Rs. 1804-						
	31-12-96	Rs. 1896-		BPS-9				
	1-12-97	Rs. 1993-						
	1-12-98	Rs. 2090-						
4 MA	22-3-99	Rs. 2381-		3 Adv. Incr. on BA				
2478/-	6-8-99	Rs. 2769-		4 Adv. Incr. on MA			Head Master G.H.S. No-2 Daggat Distt. Buner.	
BA	1-12-99	Rs. 2866-						
	25-4-2000	Rs. 2963-		one Adv. Incr. on passing ET				
	1-12-2000	Rs. 3060-						
	1-12-2001	Rs. 3158-		Move over to BPS-10				
CT	BPS-9 (2410-145-6760)	Rs. 3567-						
4295/-	1-12-2001	Rs. 4875-		Revised in BPS-9				
	BPS-14 (3100-240-10800)	Rs. 4570-						
	11-7-2002	Rs. 5260-		Appointed as ET along with one postular job				
	1-12-2003	Rs. 5500-						
	1-12-2004	Rs. 5740-					Head Master G.H.S. No-2 Daggat Distt. Buner.	
	BPS-14 (3565-275-11815)	Rs. 5765-						
	1-7-2005	Rs. 6590-		Scale Revised				
	1-12-2005	Rs. 6865-						
	1-12-2006	Rs. 7140-						
	BPS-14 (4100-315-13550)	Rs. 7250-						
	1-7-2007	Rs. 8195-		Scale Revised				
	1-12-2007	Rs. 8510-						
	BPS-15 (4350-350-14850)	Rs. 7565-						
	2-12-2007	Rs. 8550-		BPS-15				
	BPS-15 (5220-420-17820)	Rs. 7850-					Head Master G.H.S. No-2 Daggat Distt. Buner.	
	1-7-2008	Rs. 10260-		Scale Revised				
	1-12-2008	Rs. 10680-						
		Rs. 9840/-						
<p>Repatriation of pay due to Annual Increment for untrained period vide Govt. of NWFP Finance Department (Regulation Wing) No. PD(PRE)5-2/2002 dated peshawar the 30/3/09. ✓</p>								
<p>Awarded four (4) advance increments on passing M.A. vide Govt. of NWFP (EKS) Edu Peshawar Notification No. 30 (PE) (EKS) ED Advance Incr. dt. 28-07-09 upon the judgement of Supreme Court in C.P.A. No. 2507 of 2009.</p>								

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(15)

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
AT GHS No. 2 Dagger	Sub perm	BPS-15 (5220-420-17820)	Rs. 10680/-	5840		12/2008	[Signature]
-do-	-do-	10260/-	11100/-	By drawal to		12/2009	[Signature]
-do-	-do-	10680 Rs. 11520/-				12/2010	[Signature]
do	-do-	(Revised B.P.S. 15 (8500-700-29500)) Rs. 19000/-	17600			12/2011	[Signature]
-do-	-do-	Rs. 19700/-	18300			12/2011	[Signature]
Do	Do	Rs. 20400/-	19000/-			12/2012	[Signature]
do	do	Rs. 21100/-	19700			12/2013	[Signature]
Do	Do	BPS-15 (4350-350-14550) Rs. 7500/-	8200			12/07	[Signature]
Do	Do	BPS-15 (5220-420-17820) Rs. 9000/-	9840			7/08	[Signature]
Do	Do	Rs. 11100/-	10260			12/08	[Signature]
Do	Do	Rs. 11520/-	10680			12/09	[Signature]

Ch-c
[Signature]

Signature and
Name of the
officer or
other office
of the
Government
of
Uttarakhand
District: B...

Head Master
U.S. No.
Dist: B...

Head Master
U.S. No.
Dist: B...

Head Master
U.S. No.
Dist: B...

PRINCIPAL
Govt High
No-2 D...

PRINCIPAL
Govt High
No-2 D...

9 Signature of Government Servant	10 Signature and designation of the head of office or other attesting officer in columns 1 to 8	11 Date of termination 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 duration of leave taken	15 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
						Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Government to which debitable		
	PRINCIPAL Govt High School No-2 Daggan Buner	30-6-11	scale revised	PRINCIPAL Govt High School No-2 Daggan Buner		Period	Government to which debitable		RS: 15000/- Adv. on DE 30/11/14 Base vide Sanction No 3079
	PRINCIPAL Govt High School No-2 Daggan Buner	30-11-11	M/mer.	PRINCIPAL Govt High School No-2 Daggan Buner					Dated 6/11/2014
	PRINCIPAL Govt High School No-2 Daggan Buner	30-11-12	M/mer.	PRINCIPAL Govt High School No-2 Daggan Buner					PRINCIPAL GHS No 2 Daggan Dist: Buner
	PRINCIPAL Govt High School No-2 Daggan Buner	30-11-13	M/mer.	PRINCIPAL Govt High School No-2 Daggan Buner					72/10.9.14 Adv. of pre-mature increment w. of 1/6 to 3/11 paid B-200k
	PRINCIPAL Govt High School No-2 Daggan Buner	30-11-2014	promoted to set	PRINCIPAL Govt High School No-2 Daggan Buner					31/11 paid B-200k
	PRINCIPAL Govt High School No-2 Daggan Buner	1-12-14	BPS-10	PRINCIPAL Govt High School No-2 Daggan Buner					206/14
<p>2015 Office of The Accountant General Khyber Pakhtunkhwa Peshawar Pay Fixed In The R.B.P.S 2015 At Rs..... At Rs.....PN.W.E.F 1.07.2015 With Next Increment On 1.12.2015 Accounts Officer Pay Fixation Party K Pakhtunkhwa Peshawar</p>									
<p>promoted to SET (BPS-10) at GHS No-2, Daggan vide DEO(m) Buner Bndost: No: 3407-13 dated 28/11/2014.</p> <p>PRINCIPAL GHS No 2 Daggan Dist: Buner</p> <p>Refundable</p> <p>T-200k Adv. 2/12/14 vide DEO (m) Buner No 3079 dt 6/11/14</p> <p>Total Rs 15000/- ds</p> <p>DAO</p>									

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

جناب عالی:

مودہ نامہ گزارش ہے کہ ہمیں نوٹیفیکیشن نمبر 1-1/89 FD(PCR) مورخہ 11-08-1991 کے تحت جس ہائیڈرو پوائنٹ 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 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 مشق رہیں گے۔ فقط

عرض کنندہ

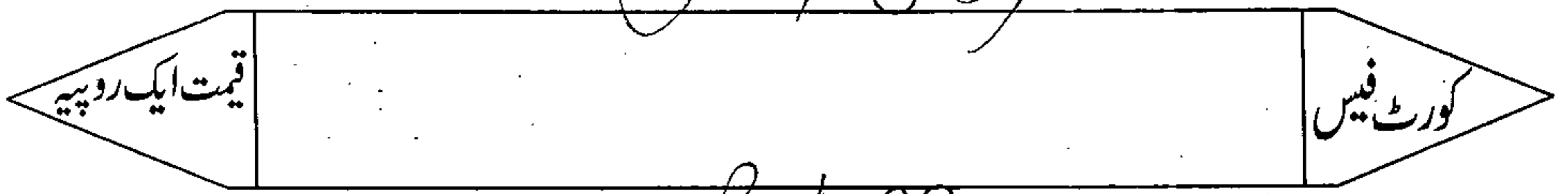
محمد ریاض (SS-1)
 A.S. Officer
 12/7/2018

Deputy Director

12/7/18

etc

بعدالت سروس کمپنیل و شاور



22 مارچ 1911ء منجانب
محمد ریاض بنام حکومتی دستاویز

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آن مقام سروس کمپنیل و شاور کے محکمہ ایڈمنسٹریٹو کے

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 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

برداشتہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر 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

المرقوم 22 مارچ 1911ء

العبد گواہ شدہ العبد

شاور سروس کمپنیل Attested
Shams-ul-Haqi Adli بمقام

کے لئے منظور ہے

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.678/2019

Muhammad Riaz (SST).....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 amounts 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

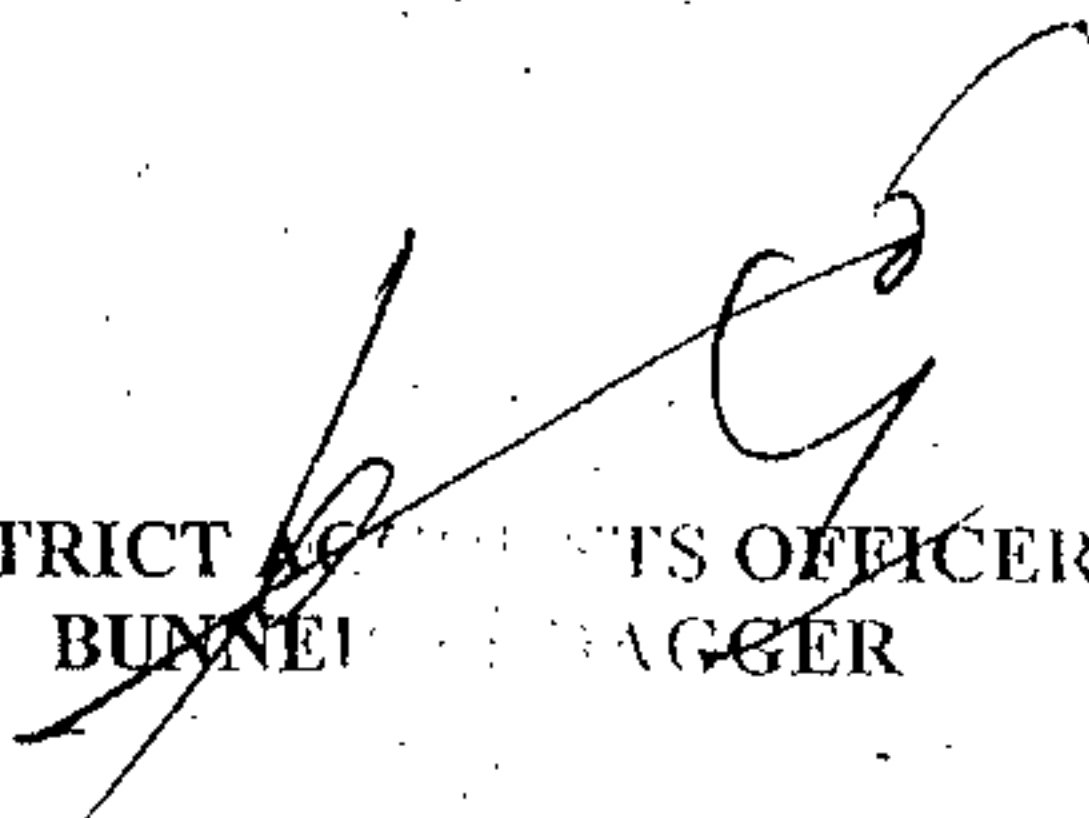
Para :-4 No comments.

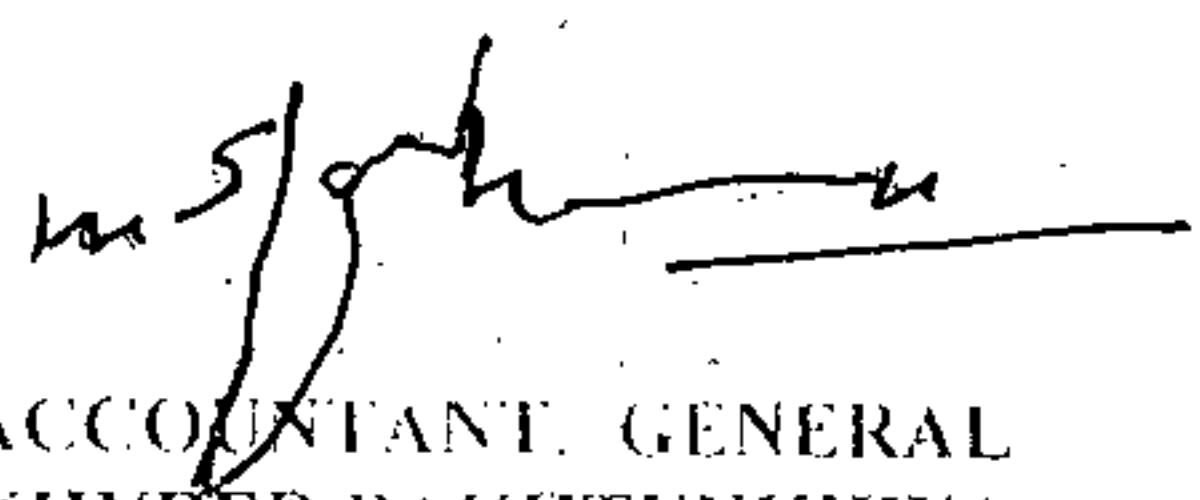
Para:- 5 The Notification dated:11/05/2016 is not found attached with the instant writ by the appellant. However as mentioned in Para No. "2" above Respondent No "3" has acted upon correctly and under the rules.

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 held that the appeal in hand having no merits may be dismissed with cost.


DISTRICT ACCOUNTANTS OFFICER
BUNNEN BAGGER


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

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**



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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Handwritten signature

Handwritten signature
District Accounts Officer
Buner at Duggar

District Accounts Officer
Buner at Duggar

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 1st 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

Amir
Mushtaq

[Signature]
District Accounts Officer
Buner at Duggar

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.

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

Masood
Masood

[Signature]
Secretary
Law, Parliamentary Affairs and
Human Rights Department



IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Office of the

Present:

Mr. **Accountant General**

Justice Syed Mansoor Ali Shah
Khyber Pakhtunkhwa Peshawar

Phone: 091 921 1250-53

No.H-24/ Master Circulation / 630-30

Dated: 22.03.2019

Petitioners

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.

Admn. 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 Daggaf

172-P-2013

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

tion for the said

Present:

Mr. Justice Qazi Faez Isa

Mr. Justice Syed Mansoor Ali Shah

for petitioner No. 2, Mr.

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)

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 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


 District Accounts Officer
 Buner at Daggar

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71

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:-

"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;

ATTESTED
[Signature]
Assistant Registrar
Supreme Court of Pakistan

[Signature]
District Accounts Officer
Buner at Dargah

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

While section-2 reads as under:-

"2. Cessation of payment of arrears on advance increments on the 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."

(emphasis supplied)

ATTESTED

Assistant Registrar
Supreme Court of Pakistan
Peshawar.

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

District Accounts Officer
Buner at Daggat

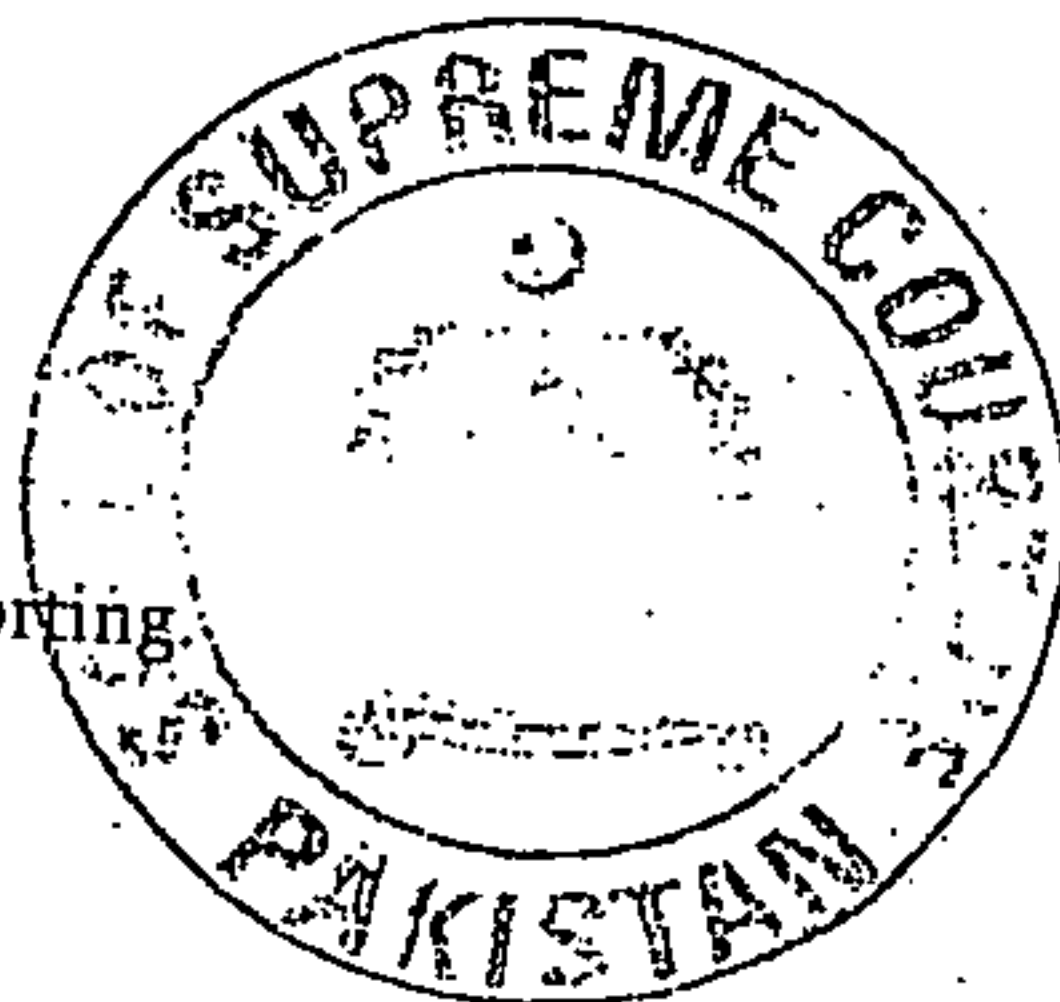
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IN THE SUPREME COURT OF PAKISTAN

APPELLATE JURISDICTION
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.

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



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

8118
14/12/18

Certified to be true copy

Assistant Registrar
Supreme Court of Pakistan
Peshawar

District Accounts Officer
Buner at Daggar

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

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IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

SUBJECT: CIVIL PETITION NOS. 172-P AND 173-P OF 2013
Manzoor Ahmad
.....Petitioner(s)

VERSUS


Secretary Education Govt. of K.P.
and others

.....Respondent(s)

Take notice that the above cited cases are fixed for hearing before the Court on ~~28.11.2018~~ ^{21.11.2018} at 09.00 am or soon thereafter as may be convenient to the Court in the Court House at Peshawar.

Take further notice that you are required to bring your Original Identity Card for purpose of verification of your identity for entrance in the premises of the Supreme Court Building.

Dated: Peshawar 14/11 /2018


(ASSISTANT REGISTRAR)
Supreme Court of Pakistan
Branch Registry, Peshawar.

To:

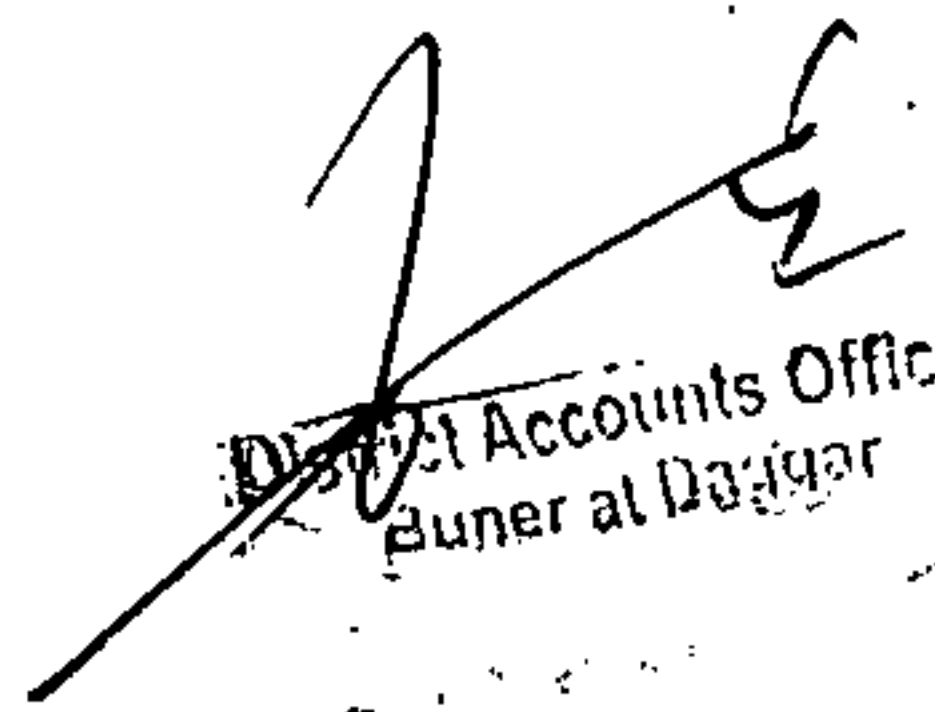
1. Manzoor Ahmad son of Amir Jalal, Primary School Teacher, Govt. Primary School No.3 Kotha, Tehsil-Topi, District Swabi. (Cell No.0345-9503142).
2. Yasmeen Akhtar wife of Manzoor Ahmad, Primary School Teacher, Govt. Girls Primary School No.3 Marghuz, Tehsil and District, Swabi.
3. The Secretary of Education, Govt. of K.P. Peshawar.
4. The Secretary of Finance Department, Govt. of K.P. Peshawar.
5. The Director of Education, Elementary & Secondary Education, K.P. Peshawar.
6. The Accountant General, K.P. Peshawar.
7. The Executive District Officer (E & S) Education, District Swabi.
8. The District Accounts Officer, District Swabi.

C/o District Police Officer, Swabi who is requested to serve the notice upon the above named person(s) by obtaining his/her/their signatures/thumb impressions through the process serving agency under his control which may please be served upon him/them and a copy thereof in token of service may be returned to this Court on OR before 26.11.2018 through fax No.091-9213599.

AND
20/11/18
20/11/18
27/11/18

4 cell

161


District Accounts Officer
Buner at Dargah