

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

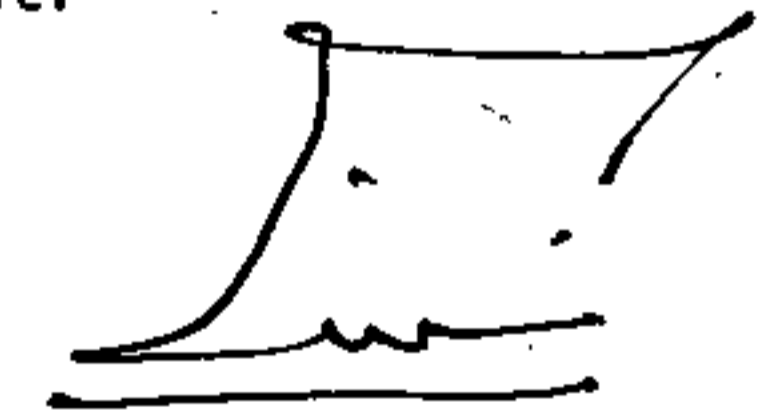
05.10.2022

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

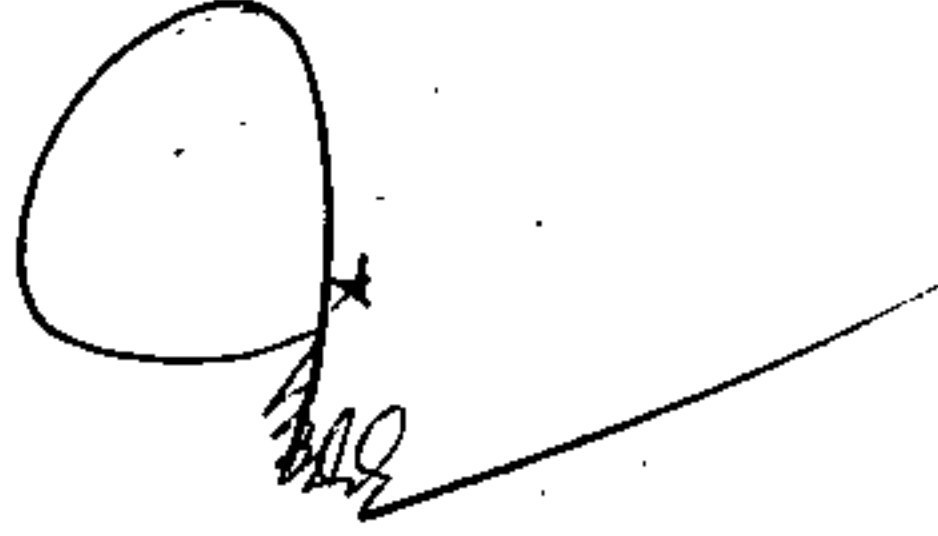


(Salah-Ud-Din)
Member (J)
Camp Court Swat

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.

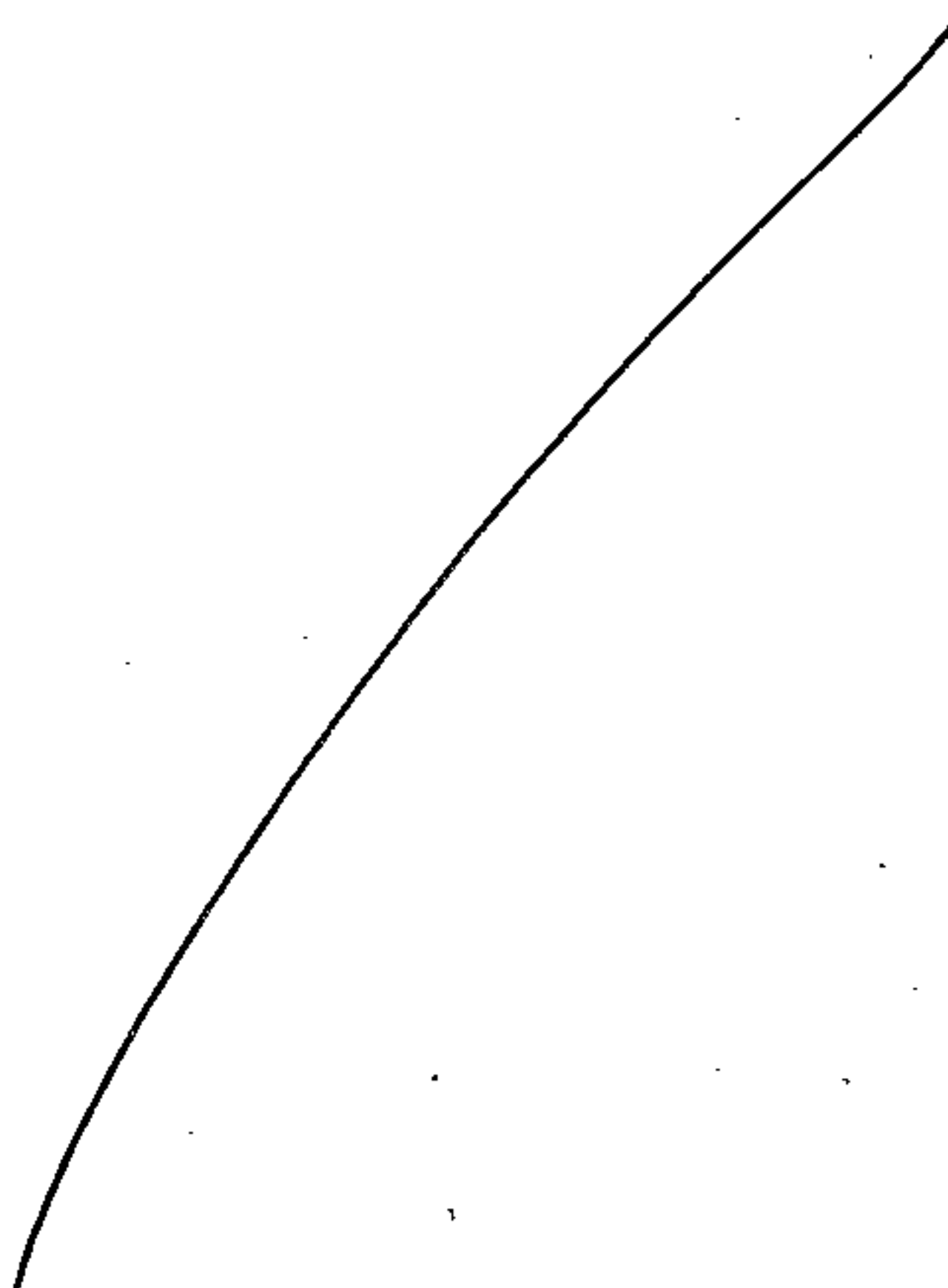
File to come up alongwith connected Service Appeal No. 671/2019 titled "Salat Khan Vs Government of Khyber Pakhtunkhwa" on 06.09.2022 before D.B at camp court, Swat.



(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.



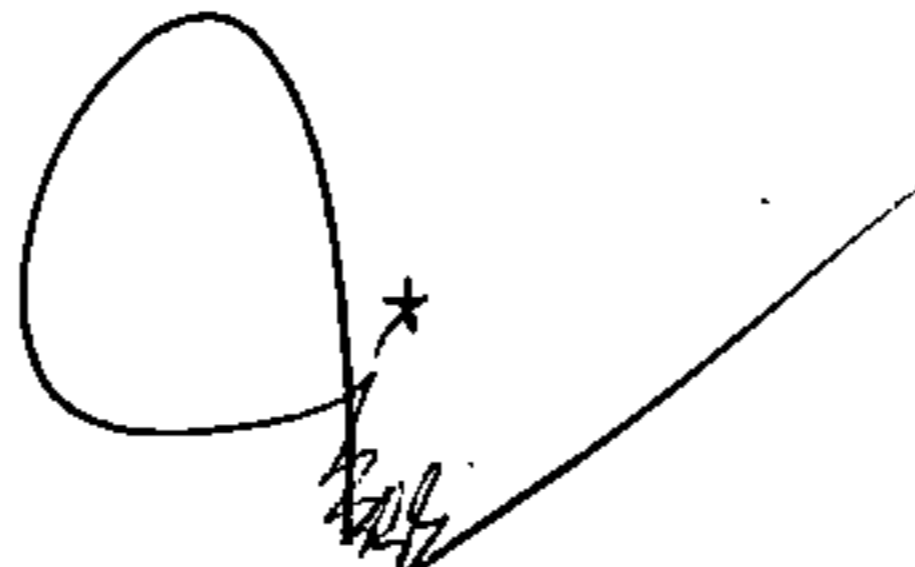
(Mian Muhammad)
Member(E)



(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 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)

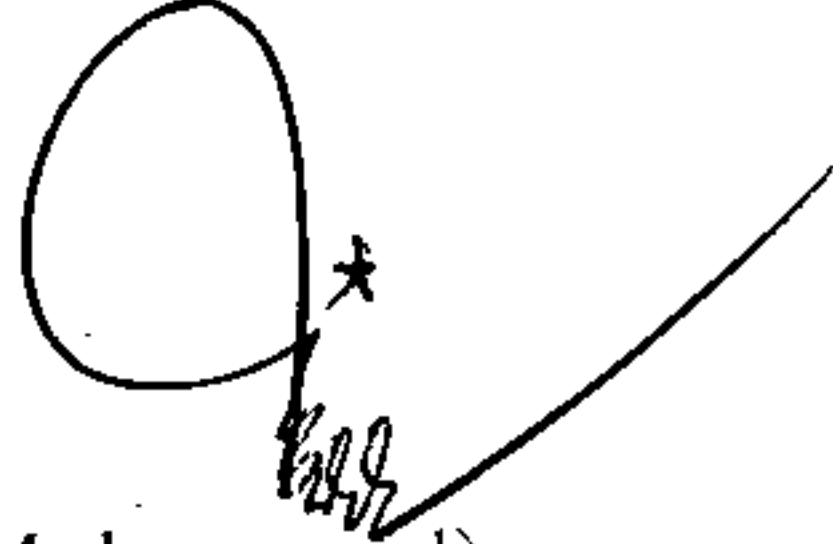


(Salah Ud Din)
Member(J)
Camp Court Swat

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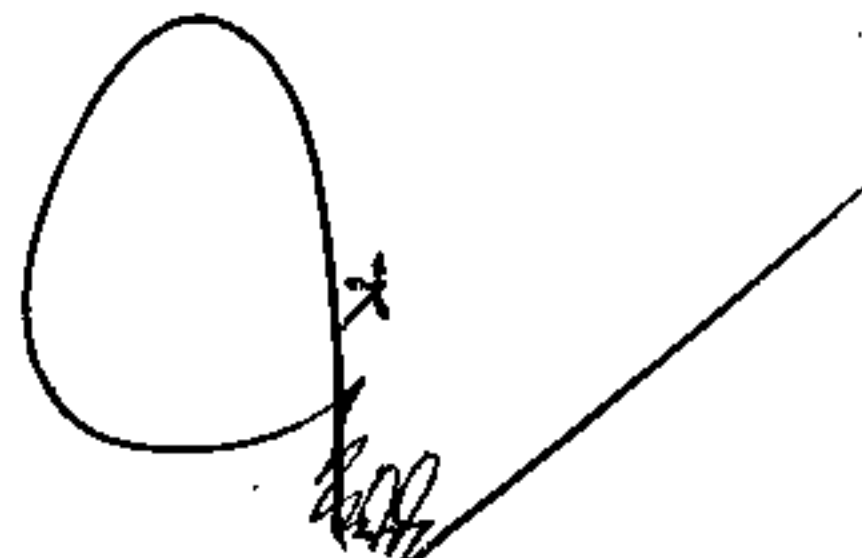
(Mian Muhammad)
Member(E)



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

11.05.2022

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(Mian Muhammad)
Member(E)

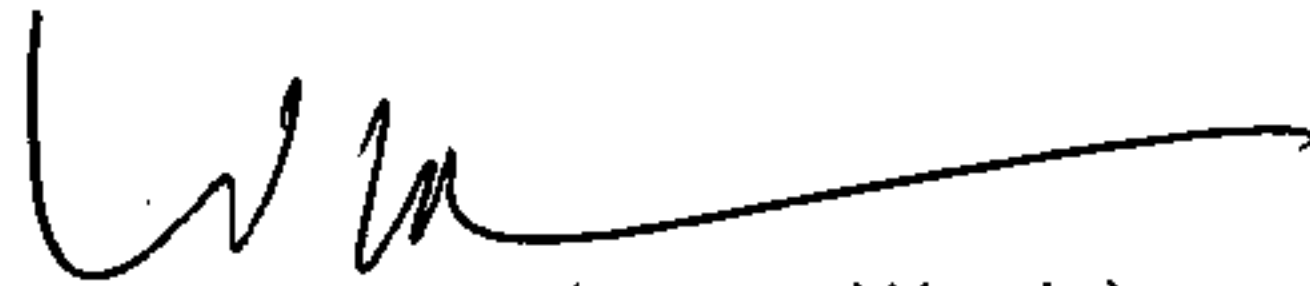


(Salah Ud Din)
Member(J)
Camp Court Swat

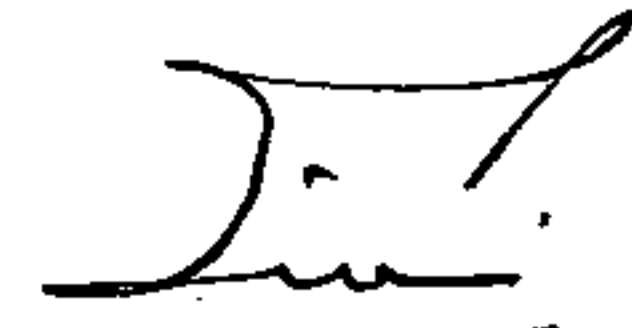
04.11.2021

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.

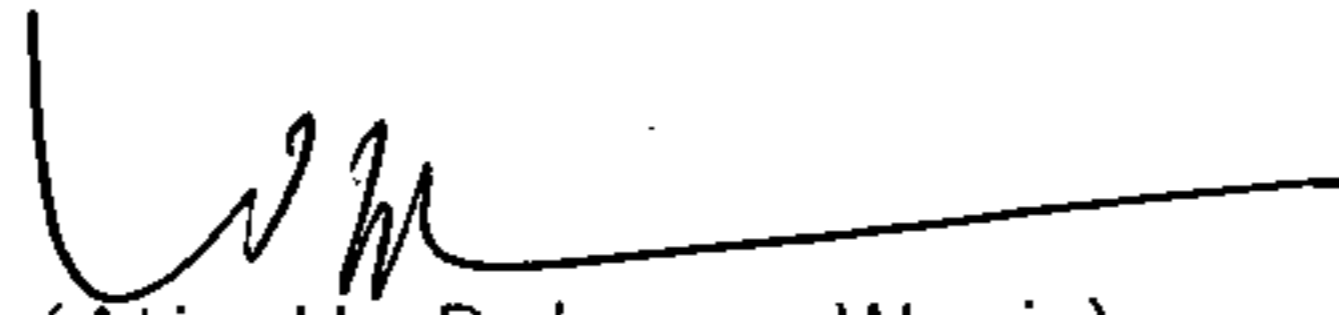


(Rozina Rehman)
Member (J)
Camp Court, Swat

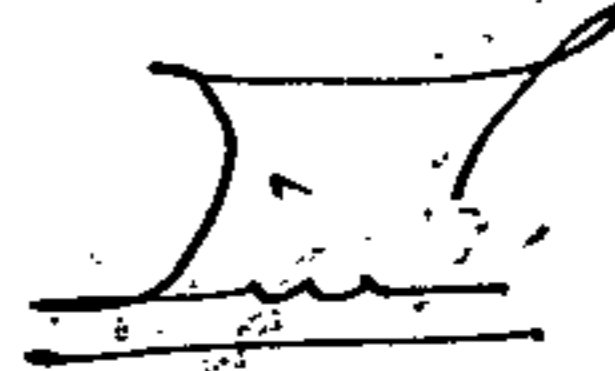
04.11.2021

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.

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



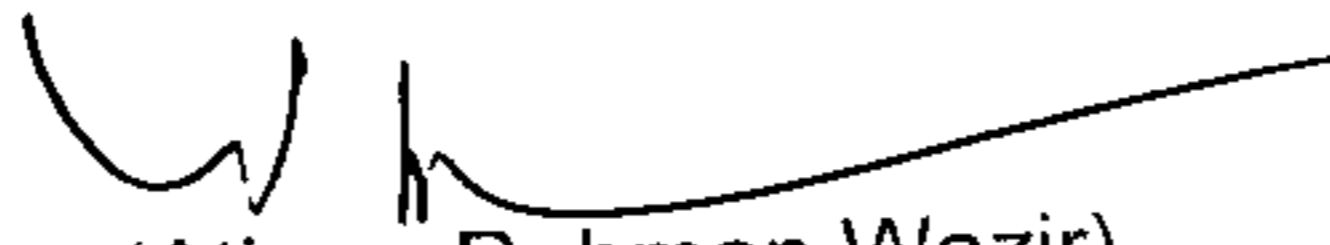
(Salah-Ud-Din)
Member (J)
Camp Court Swat

09.12.2021

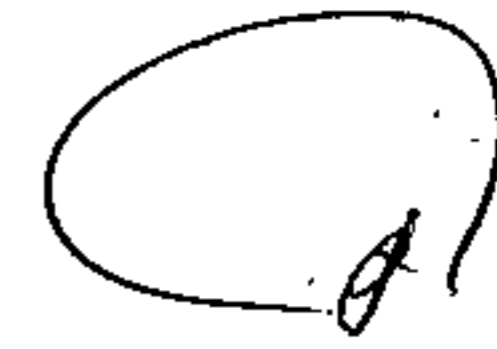
Appellant present through counsel.

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

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



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



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

07/04/2021

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


READER

26.07.2021

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

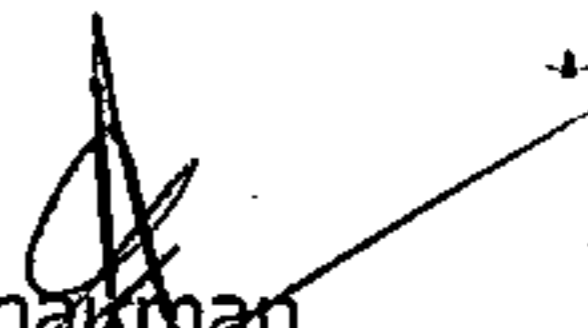
Noted
[Signature]
28/07


Chairman

26.08.2021

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

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

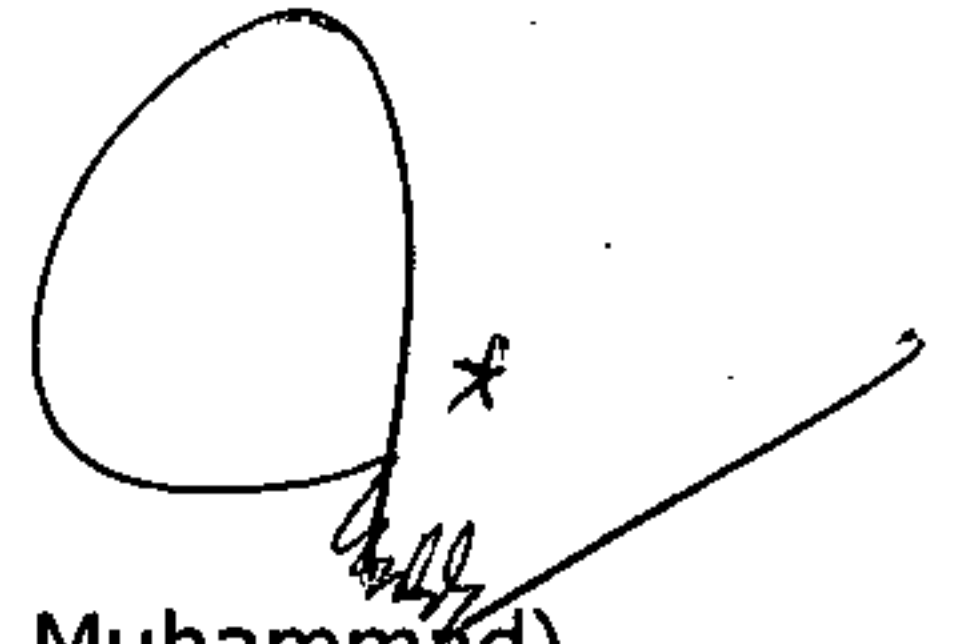

Chairman
Camp court, Swat.

03.03.2021

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

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

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

A handwritten signature in black ink, consisting of a large, stylized loop followed by a vertical line and a horizontal stroke extending to the right. A small asterisk is written above the vertical line.

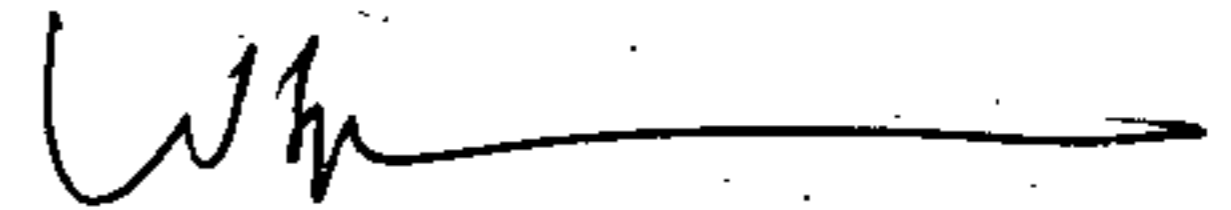
(Mian Muhammad)
Member(E)
Camp Court Swat

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.

02.02.2021

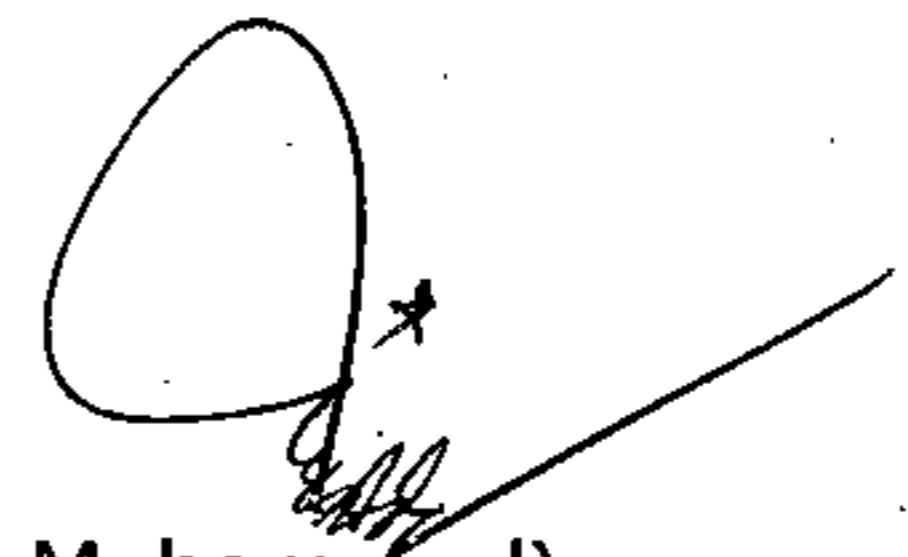
Counsel for the appellant present.

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
01-06-2020.*

Reader

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

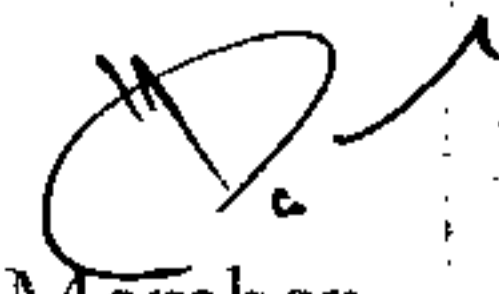
Junior counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Ubaid-ur-Rehman, ADEO for respondent No. 1 and Mr. Mir Zaman Shah, Assistant Account Officer for respondent No. 3 present. None present on behalf of respondents No. 2, therefore, notices be issued to him 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. Hussain Ali Litigation Officer 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
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.

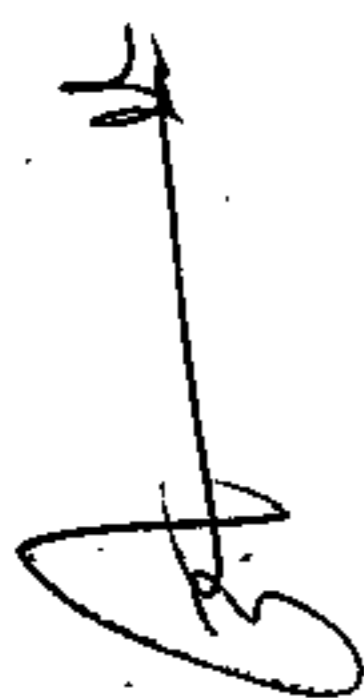
Appellant Deposited
Security & Process Fee


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. Gul Said SST GHS Karapa 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. 624 /S.T.

Dt. 29-3- /2019


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shamsul Hadi Adv.
High Court Swat.

that all the deficiencies has been removed/completed except 2 the said notification dated # 11-05-2016 which is mentioned and the said notification has already been annexed in the main appeal title Wakeel Zadav Swat which is fixed on 28-06-2019 before the Service Tribunal Swat. So these appeals will be argued together so this appeal may kindly be fixed before the court

Note # that the objection No-1 is not in the possession of the appellant and the department not handed over to the applicant and the objection No# 2 at page 17 objection No.3 are removed place before the court

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

Service Appeal No. 680 /2019

Gul Said (SST)Appellant

V E R S U S

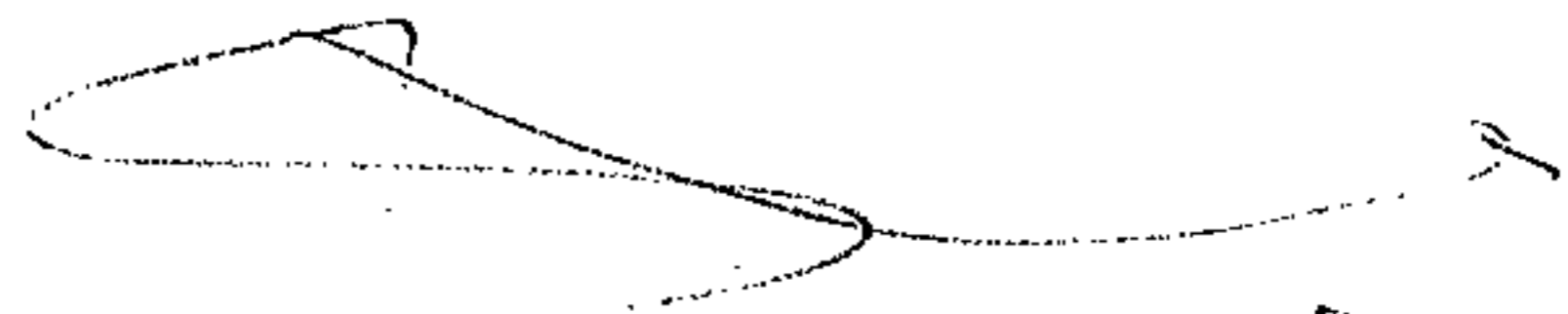
District education Officer (M) Buner and othersRespondents

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	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.

Gul Said(SST)

Presently posted at GHS Karapa, Bunir.....Appellant

V E R S U S

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

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

PRAYER IN APPEAL:

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

Respectfully Sheweth:

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

DATED:01/10/2015 and as such re-open the issue which is against the law and "The Khyber Pakhtunkhwa Cessation of payment of arrears on advance increment on Higher educational qualification Act,2012".(Copies Service Book along with impugned **DATED:01/10/2015** is annexure-A)

4. That against the impugned order of recovery, the appellant approached Peshawar High court through Writ Petition No.610/2015 and as such during pendency of title writ petition this Hon;ble Tribunal resolved the issue of "Recovery of advance increments" while deciding Service Appeal No.312/2015 through judgment dated:10.01.2018, hence the writ petition was transmitted to this Hon;ble Tribunal through order dated:19.10.2018 by the high court for further adjudication where this august Tribunal after receiving the same, converted in to service appeal and is still subjudice before this august Tribunal bearing Service Appeal No.1328/2018 titled as "Wakil Zada Vs Govt".
5. That during pendency of writ petition of appellant, in his written reply, Resp No.3 took plea that regarding the issue in hand they have issued a Notification dated:11.05.2016 through which recovery of advance increments was waved off and further it was advised to appellant to approach concerned quarters, so in light of the comments and notification dated:11.05.2016, the appellant filed departmental appeal against the impugned order of recovery dated:01.10.2015 which was not decided within statutory delay.(Copies Departmental appeal is annexure-B)

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

GROUND:

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

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

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

Appellant 

Gul Said(SST)

Through 

Shams-ul-Hadi
Advocate, High court.

Dated: 22/03/2019

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

Service Appeal No. _____/2019

Gul Said (SST)Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

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

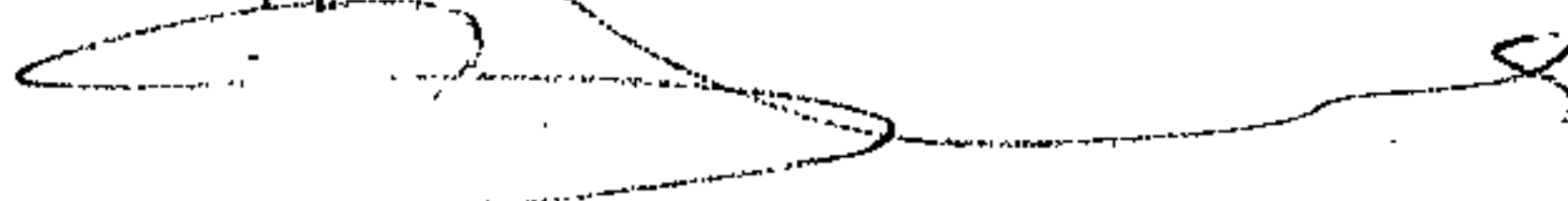
Respectfully Sheweth:

1. That the appellant/petitioner filed instant application along with service appeal in which no date is fixed so 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

Gul Said (SST)Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

AFFIDAVIT

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



A D V O C A T E

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

Service Appeal No. _____/2019

Gul Said (SST)Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

ADDRESSES OF THE PARTIES

APPELLANT:

Gul Said (SST)

Presently posted at GHS Karapa, Bunir

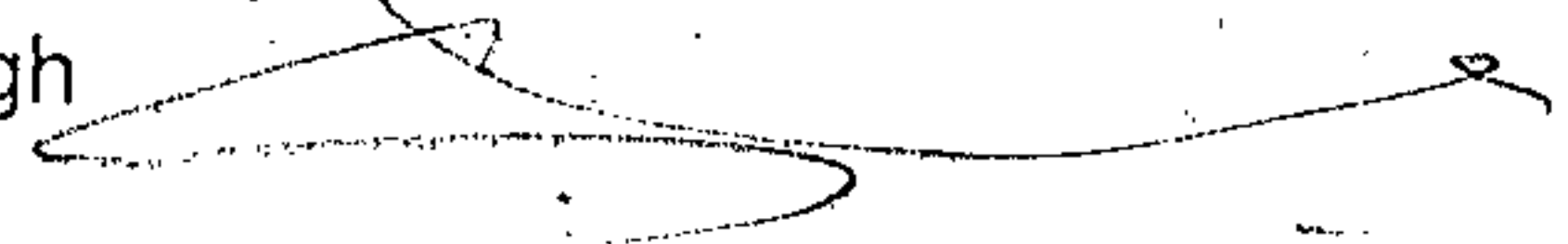
Cell No.0347-4773440.

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

Gul Said

Heirs,

- 1.
- 2.
- 3.

(8)

Amin
"A"

Verification Roll No. dated

received back

Left thumb-impression.

Passed the MA Islamiyat Examination from University of Peshawar under Session 1990 marks obtained 580 out of 1100 and has been passed at Second Division

Passed B. A. examination from University of Peshawar under Session 1987 marks obtained 283/550 division 2nd result declared on 6-8-1988

English

Fazl M
Head master,
Govt. High School,
Cheena, Bunar

B. L. or B. A. Sub Division

Passed the C/T (General) Urdu Examination from Registrar Department Peshawar under R/No 1206 Session 1992 marks obtained 658 out of 1200 and has been passed in Second Division. Result declared on 22-11-92.

Leadership examination
Training School Final examination

Plan-drawing Examinations
Finger print
Drill instructing

Fazl M
Head master,
Govt. High School,
Cheena, Bunar

Passed SSC Examination from BISE Peshawar under Roll No. 39718 in session 1982. Annual marks obtained 445 - Marks out of 850 on 11/8/1982.

Court duties
Passed B.Ed Examination Session 1985 under Roll No. 1759 from University of Peshawar in 2nd Division securing marks 506/1000. Result declared on 6th May, 1996.

Passed LA Examination from BISE Peshawar under Roll No. 23053 in session 1985 (Annual) obtaining 538 marks out of 1100 marks and has been passed in 1st Division.

Distt. Education Officer (M)
Secondary, Bunar.

Quayathullah
Sub Division Officer

V. B. - Also to be drawn under the qualification possessed.

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

MR. Gul Said

2. Race

(Afghan) (Muslims)

3. Residence

village Krapa Tehs Dagar Dist, Swat

4. Father's name and residence

Fazal Noor Address as above.

5. Date of birth by Christian era as nearly as can be ascertained

Fifth February one thousand nine hundred and sixty six (5-2-1966)

6. Exact height by measurement

5 - 4 - Five feet and four inches

7. Personal marks for identification.

A wound scar on the left side of fore head.

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

Gul Said

10. Signature and designation of the Head of the Office, or other Attesting Officer.

Jayabhattar

8	9	10	11	12	13		14	15
					Leave			
					Period	Government to which debitable		
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	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	Signature of the head of the office or other attesting officer	Reference to any records, pension, or reward or praise of the Government Servant.	
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-95	Annual increment	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-96	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-97	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-98	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-99	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-2000	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-2001	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-2001	Scale revised	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-2002	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-2003	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-2004	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-6-2005	Scale revised	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-2005	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				
id	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur	30-11-2006	Annual inc.	R. al Khan Head Master, Govt High School, (Kerala) Distt Bunnur				

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1	2	3	4	5	6	7	8	
Name of post	Whether substantive or officiating and whether permanent or temporary sub: per:	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	P. y in substantive post	Additional pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature Government servant	
CT post at GHS Karapa								
		(BPS NO 14 Rs, 3565-275-11815)						
- do -	- do -	Rs, 7690/- pm				12/2006	E. aid	
		(BPS NO 14 Rs, 4100-315-13550)						
- do -	- do -	Rs, 8825/pm				7/2007	E. aid	
- do -	- do -	Rs, 9140/- pm				12/2007	E. aid	
		(BPS NO 15 Rs, 4350-350-14850)						
- do -	- do -	Rs, 9250/- pm				2/2007	E. aid	
		(BPS NO 15 Rs, 5220-420-17820)						
- do -	- do -	Rs, 11100/- pm				7/2008	E. aid	
- do -	- do -	Rs, 11520/- pm				12/2008	E. aid	
		Revised entry of 4 th advance increments -						E. aid
- do -	- do -	Rs, 2548/- pm				12/94	E. aid	
- do -	- do -	Rs, 3192/- pm				12/94	E. aid	
- do -	- do -	Rs, 3353/- pm				12/95	E. aid	
- do -	- do -	Rs, 3514/- pm				12/96	E. aid	
- do -	- do -	Rs, 3675/- pm				12/97	E. aid	
- do -	- do -	Rs, 3836/- pm				12/98	E. aid	
- do -	- do -	Rs, 3997/- pm				12/99	E. aid	

9	10	11	12	13		14	15
				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		
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	Period	Government to which debitable	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or award or raise of the Government Servant.
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-6-2007	Scale revised	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				pay fixation on 1 ¹² / ₂₀₀₈
id. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-2007	Annual inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				pay on 1 ¹² / ₂₀₀₈ in Bps No 15 before the fixation of un-trained period Rs = 10260/-
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	1-12-2007	Awarded Bps No 15	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				after the fixation of un-trained period = 11520/-
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-6-2008	Scale revised	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				pay on 1 ¹² / ₂₀₀₈ after the acquiring of advance increments Rs. 13200/-
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-2008	Annual inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				Ral Khan Head Master, Govt High School (Karnal) Distt Bawal
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	Entry revised 28-9-2009	Allowed advance increments	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-94	Allowed advance inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				on the base of M.A vide notification No 4091-96 dated 5-9-2009 Amount of P-1/4/99 to 3/17 P-717 - 7056/- 15/8 DA Undertaking.
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-95	Annual inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				I m - Gul said (CT) give an undertaking that I fixed my pay in CT post Bps No 14 on 1 ¹² / ₉₄ instead of 15 ¹¹ / ₉₄ and also fixed the pay on 2 ¹² / ₂₀₀₇ instead of 1 ¹⁰ / ₂₀₀₇ in Bps No 15. So if any over payment made to me in case of incorrect fixation it will be deducted from my pay/pension.
id. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-96	Annual inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				More over the obtaining amount w.e.f 15 ¹¹ / ₉₄ to 30 ¹¹ / ₉₄ Rs 300/- & 1 ¹⁰ / ₂₀₀₇ 30 ¹¹ / ₀₇ Rs. 790/- Total Rs, 1090/- re funded vide challan no 5 dated 10/09/09
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-97	Annual inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-98	Annual inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-99	Annual inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				
d. Ral Khan Head Master, Govt High School (Karnal) Distt Bawal	30-11-2000	Annual inc.	Ral Khan Head Master, Govt High School (Karnal) Distt Bawal				Service Verified w.e.f. 9-5-86 to 31-01-2010 from acq: Roll & other Record of this office. Sign: of Govt Servant: [Signature] Ral Khan Head Master, Govt High School (Karnal) Distt Bawal

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1	2	3	4	5	6	7	8
Name of post	Whether subaltative 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 Govern servan
CT post at EHS Karapa	sub per	(BPS NO 14 Rs. 2065-161-4480)					
- do -	- do -	Rs, 4158/- pm				12/2000	E aid
- do -	- do -	Rs, 4319/- pm				12/2001	E aid
- do -	- do -	(BPS NO 14 Rs. 3100-240-10300)					
- do -	- do -	Rs, 6460/- pm				12/2001	E aid
- do -	- do -	Rs, 6700/- pm				12/2002	E aid
- do -	- do -	Rs, 6940/- pm				12/2003	E aid
- do -	- do -	Rs, 7180/- pm				12/2004	E aid
- do -	- do -	(BPS NO 14 Rs. 3565-275-11815)					
- do -	- do -	Rs, 8240/- pm				7/2005	E aid
- do -	- do -	Rs, 8515/- pm				12/2005	E aid
- do -	- do -	Rs, 8790/- pm				12/2006	E aid
- do -	- do -	(BPS NO 14 Rs. 4100-315-13550)					
- do -	- do -	Rs, 10085/- pm				7/2007	E aid
- do -	- do -	Rs, 10400/- pm				12/2007	E aid
- do -	- do -	(BPS NOTS Rs. 4350-350-10850)					
- do -	- do -	Rs, 10650/- pm				2 12/2007	E aid
- do -	- do -	(BPS NO 15 Rs. 5220-520-17820)					
- do -	- do -	Rs, 12780/- pm				7/2008	E aid
- do -	- do -	Rs, 13200/- pm				12/2008	E aid

8	9	10	11	12	13		14	15	
					Leave				
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	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	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.		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.
						Period	Government to which debitable		
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2001	Annual increment	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2001	Scale revised.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2002	Annual inc.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2003	Annual inc.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2004	Annual inc.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-6-2005	Scale revised	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2005	Annual inc.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2006	Annual inc.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-6-2007	Scale revised	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2007	Annual inc.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	12-1-2007	Agreed BPS. NO 15	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
7 E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-6-2008	Scale revised	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
8 E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2008	Annual inc.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					
E.aid.	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner	30-11-2009	Annual increment	P.alkhan Head Master, Govt High School, (Karapa) Distt. Buner					

option.
I, Mr. Gul Said give an option that I fix my pay in B.P.S. NO. 15 on 2-12-2007 instead of 01-10-2007. So if any overpayment made to me in case of my incorrect fixation it will be deducted from my pay/pension.

Signature of Govt. Servant
Gul Said
Head Master,
Govt. High School,
Karapa, Distt. Buner
Total 86110/-

Service Verified w.e.f. 31-01-08 from acq. Roll & other Record of this office.

P.alkhan
Head Master,
Govt. High School,
Karapa Distt. Buner

Service Verified w.e.f. 01-12-08 to 31-01-09 from acq. Roll & other Record of this office.

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Service Verified w.e.f. 01-12-08 to 31-01-10 from acq. Roll & other Record of this office.
P.alkhan
Head Master,
Govt. High School,
Karapa Distt. Buner

Advance Para No 102

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Name of Department	Education
Name of office	GHS Karapa Buner
Officer Responsible	Principal GHS Krapa Buner
Name of Officer	Mian Mansoor A.O & Faheem Ullah AAO
Period of Audit	2011-12
Month in which detected	April 2013 / October 2015
Para of Audit Note	01

Subject:- Overpayment on account of allowing inadmissible advance increments Rs 104,951

Criteria: According to Para 3(i) of the Finance department letter No.FD (SR-1) 2-123/2010 dated 15-12-2010, those CT teachers who are in BPS-9 and processing higher qualification of MA/MSc but have not been in BPS-14 are entitled to 4 advance increments while those who have availed BPS-14 are entitled to 2 advance increments on MA/MSc.

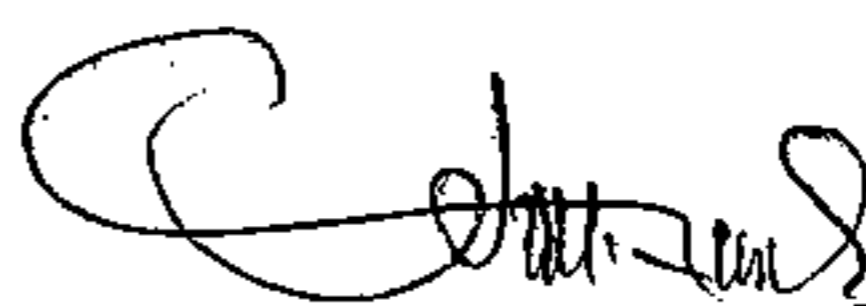
Condition: Principal Government High School karapa Buner paid Rs 104,951 on account of 04 advance increment and arrears to Mr.Gul Said CT. Audit held that as per above criteria he was only allowed for 02 advance increments instead of 04. The overpaid may & recovered and pay fixation needs to be made under intimation to audit.

S.NO	Particular	Amount
1	Arrears	93,055
2	02 Extra increments @ 420/-	
	(A) AR 2010 July 10 to June-12 $840 \times 50\% = 420 \times 24 =$	9,880
	(B) AR 2011 July-11 to June-12 $840 \times 20\% = 168 \times 12 =$	2,016
		104,951

The matter is reported for recovery and deposited into government treasury besides, pay fixation of the concerned teacher under information to audit.

Department Reply: when pointed out no reply was furnished by the department.

FAC: Para stands till recovery and fixation under intimation to audit.



Deputy Director Audit

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

جناب عالی:

مودبانہ گزارش ہے کہ ہمیں نوٹیفیکیشن نمبر 1-1/89 FD(PRC) مورخہ 11-08-1991 کے تحت جس میں 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 مفت رہیں گے۔ فقط

عرض کنندگان

12/7
2018

علی گڑھ (پنجاب) (S.S.)
A.S. Officer

Deputy Superintendent

12/7
2018

بعدالت کرویس ٹریبونل چٹاوار

کورت فیس	قیمت ایک روپیہ
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22 مارچ ۱۹۲۰ء منجانب
گل کسبہ بنام حکومت و میٹرو

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہی و کل کاروائی متعلقہ آن مقام کرویس ٹریبونل چٹاوار کے جس کے ہاں دی گئی ہے مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل احتیاط 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 ذراں 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 ہا گا 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 ۱۹۲۰ء

العبد گواہ شہادہ العبد

کے لئے منظور ہے

کرویس ٹریبونل

Attested

Shams-ul-Hadi
Adv.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.680/2019


Hidayatullah (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 Submitted:-

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

Para :- 1 Incompet 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 provisions 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 appellatant 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 appellatant. 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 appellatant 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

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

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

Para :-4 No Comments.

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

GROUNDS:-

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

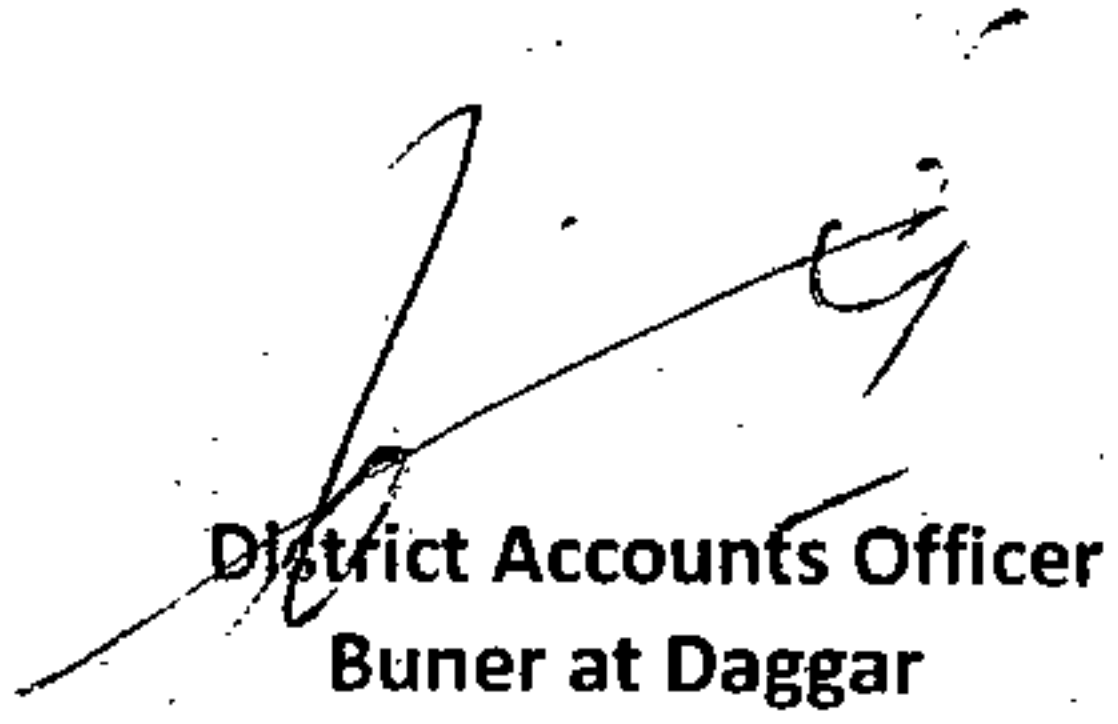
Keeping in view the above mentioned facts, it is , therefore , humbly prayed that the appeal in hand having no merits may be dismissed with cost.


DISTRICT ACCOUNTS OFFICER
BUNNER AT DAGGER


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

AFFIDAVIT

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


District Accounts Officer
Buner at Daggar


DEPONENT



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 27TH MARCH, 2012.

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

NOTIFICATION

Dated Peshawar, the 27th March, 2012.

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

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

(KHYBER PAKHTUNKHWA ORDINANCE NO. I OF 2012)

**AN
ORDINANCE**

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

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

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

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District Accounts Officer
Buner at Daggar

District Accounts Officer
Buner at Daggar
27/3/2012

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

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District Accounts Officer
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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 ARIFEEEN)
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]
District Accounts Officer
Buner at Daggal



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

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

Dated: 22.03.2019

To

THE DISTRICT ACCOUNTS OFFICER,

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

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

*Adman,
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. Petitioner's 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

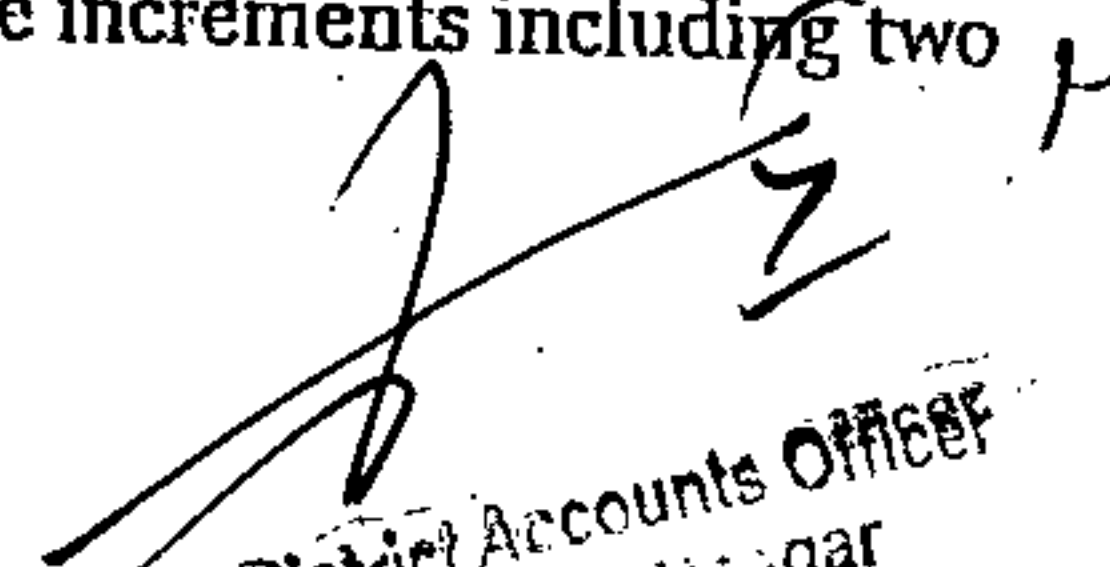
[Signature]
District Registrar
Buner at Duggar

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 District Dargar

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:-

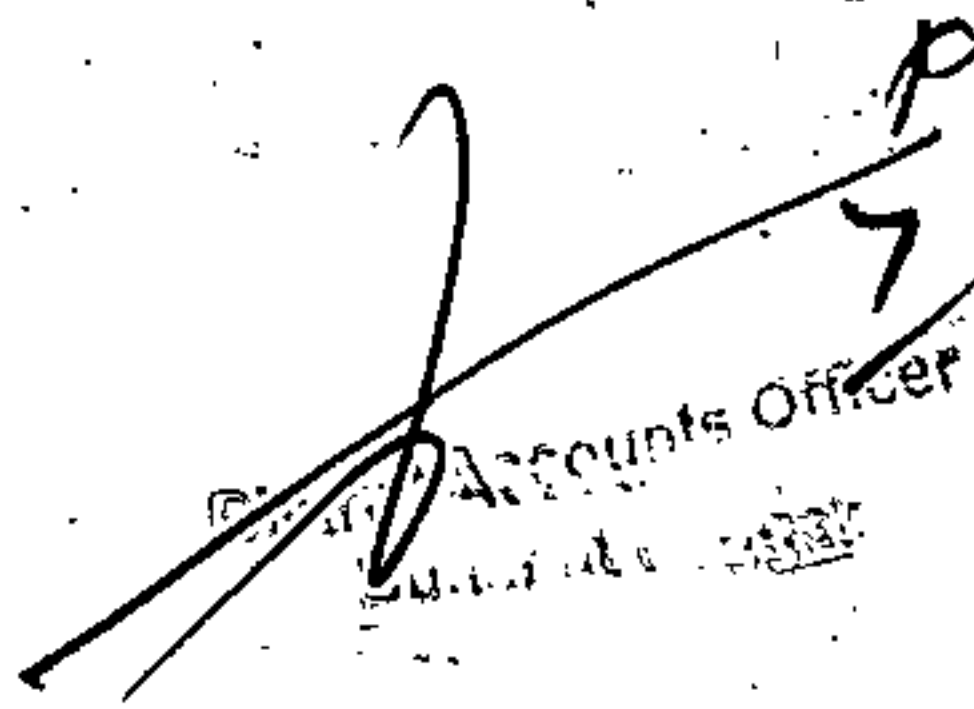
"The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Bill 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 8th May, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 11th May, 2012 is hereby published 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

 Assistant Registrar
 Supreme Court of Pakistan


 Accounts Officer


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 12-12-2001, 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 (emphasis supplied)
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 District

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

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14/12/18

Certified to be true copy
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Assistant Registrar
Supreme Court of Pakistan
Peshawar.

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District Accounts Officer
Muner at Daggar

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