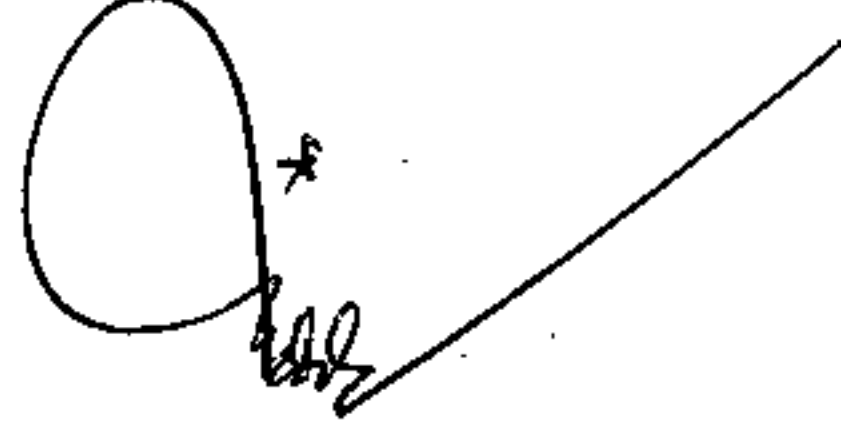


06.09.2022

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

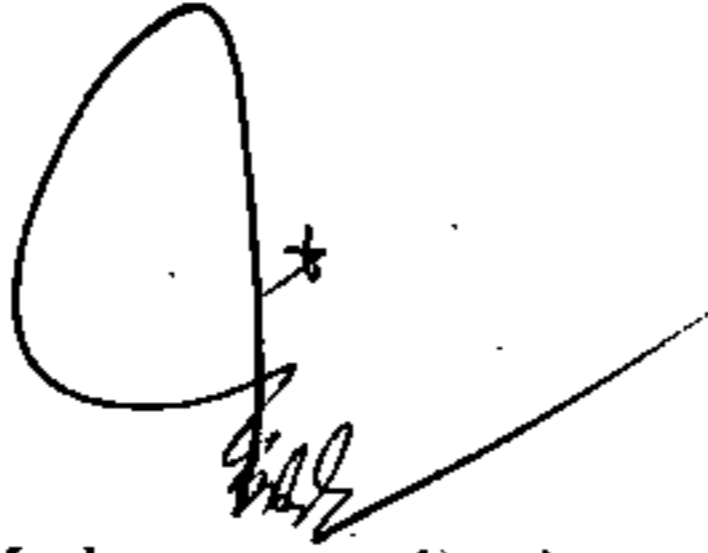


(Salah-Ud-Din)
Member (J)
Camp Court Swat

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.

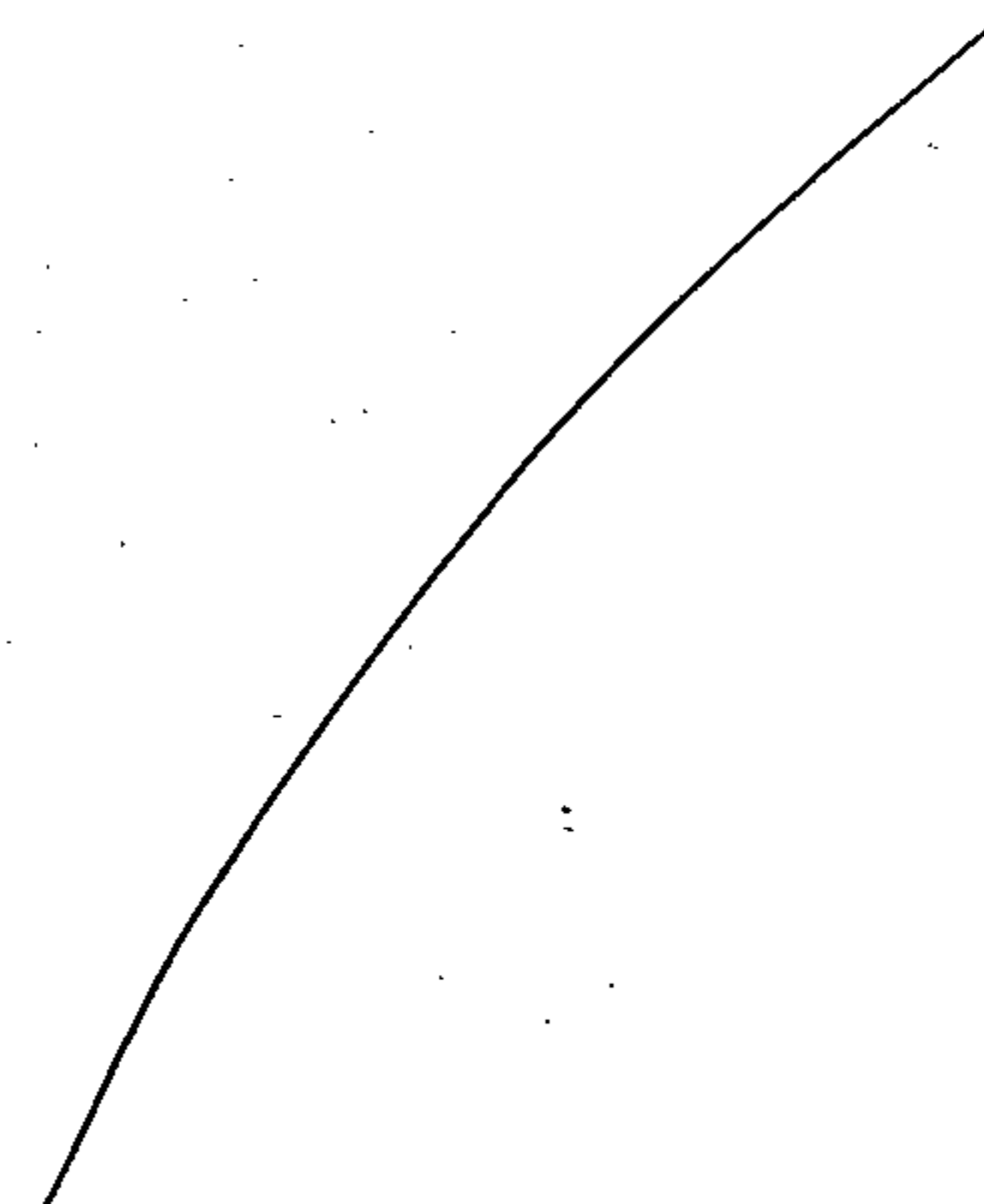
File to come up alongwith connected Service Appeal No. 671/2019 titled "Salat Khan Vs Government of Khyber Pakhtunkhwa" on 06.09.2022 before D.B at camp court Swat.



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



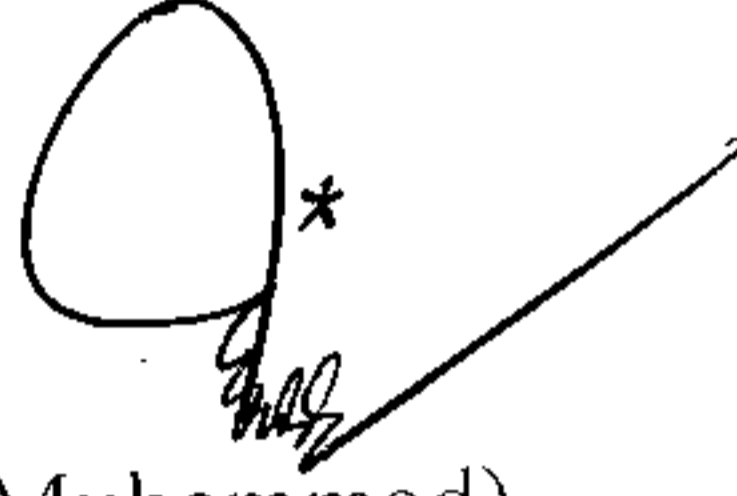
(Rozina Rehman)
Member (J)
Camp Court Swat.



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.



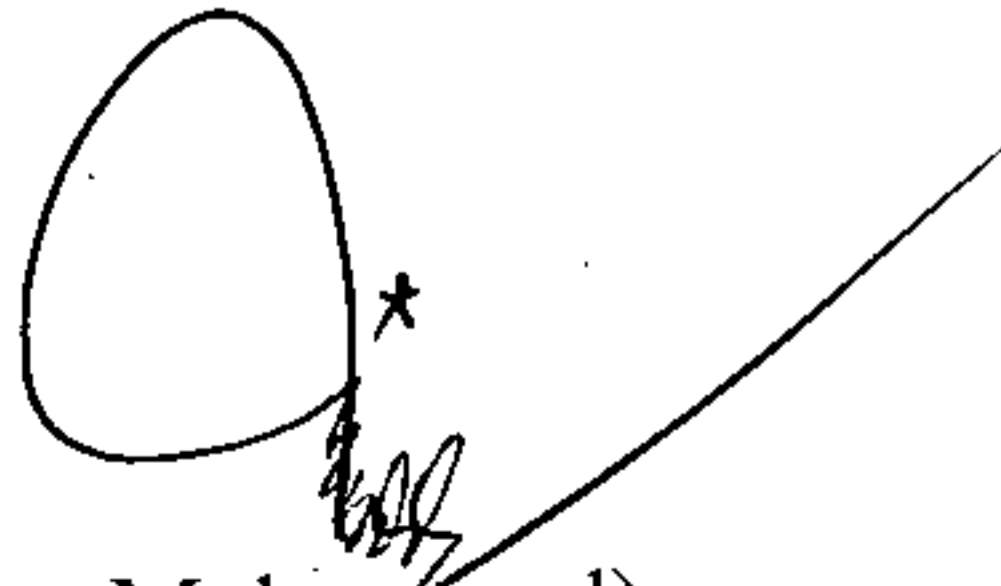
(Mian Muhammad)
Member(E)



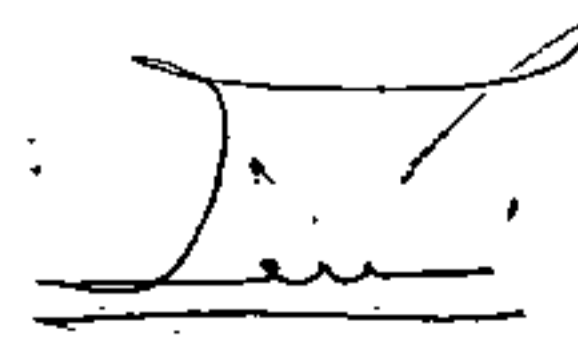
(Salah Ud Din)
Member(J)
Camp Court Swat

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

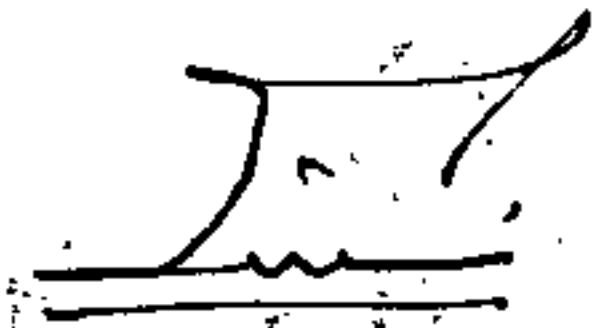
04.11.2021

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

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



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



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

09.12.2021

Appellant present through counsel.

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

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



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



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

07/04/2021

Due to COVID-19, the case is adjourned to

09/06/2021 for the same.



READER

26.07.2021

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

Noted
28/07

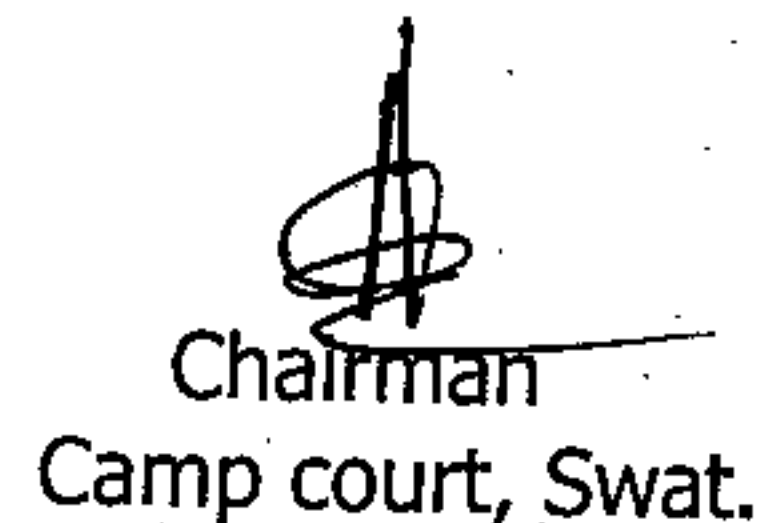


Chairman

26.08.2021

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

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

Noted


28/07


Chairman

26.08.2021

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

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


Chairman
Camp court, Swat.

14/12/2021

Learned counsel for the appellant, (Salah-Ud-Din)
 Rahman, ADEP (Litigation) has filed a written statement in support of the
 respondent's counsel for the respondent, (Salah-Ud-Din)
 which is based on the facts and circumstances of the case. The learned
 counsel for the appellant has not made any comments on the respondent's
 statement. No reply has been submitted. Adjourned
 to come up for rejoinder, if any, on 09/12/2021 at Camp Court Swat.

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

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

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

Service Appeal No. 681 /2019

Habib ul Haq (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:02/12/2014	A	8-15
5.	Copy departmental appeal.	B	16
6.	Wakalat Nama		17

Appellant

Through


Shams ul Hadi

Advocate, Peshawar.

Office: St/3 Abshar Colony

Warsak Road Peshawar.

Cell No. 0313-9772262

Dated: 22/03/2019.

1

BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019.

Habib ul Haq (SST)

Presently posted at GHHS Gagra, 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:02/12/2014.**

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

Habib ul Haq (SST)

Through

Shams-ul-Hadi

Advocate, High court.

Dated: 22/03/2019

BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. _____/2019

Habib ul Haq (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: 02.12.2014 regarding recovery of the amount and further the respondents may kindly be directed not to recover the disputed amount or made deduction from the monthly salary of the appellant and further the respondents may kindly be restrain from taking any adverse action against the appellant, till final disposal of the titled appeal .

Respectfully Sheweth:

1. That the appellant/petitioner, filed instant application along with service appeal in which no date is fixed so for.
2. That facts and grounds of the appeal may kindly be considered part and parcel of this application.
3. That prima facie the appellant has good case and is sanguine about its success.
4. That if the impugned Impugned Office Order Dated: 02.12.2014 regarding recovery of the amount is not suspended at this stage the appellant will suffer irreparable loss.

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

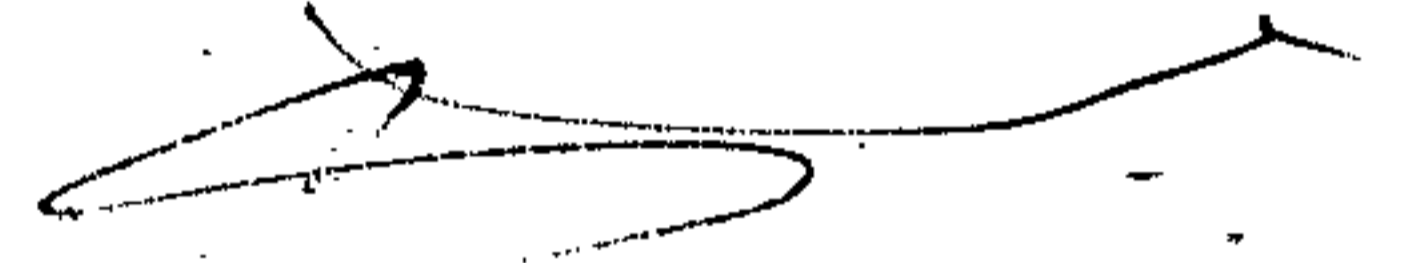
Habib ul Haq (SST)Appellant

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

7

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

Service Appeal No. _____/2019

Habib ul Haq (SST)Appellant

V E R S U S

District education Officer (M) Buner and othersRespondents

ADDRESSES OF THE PARTIES

APPELLANT:

Habib ul Haq (SST)

Presently posted at GHHS Gagra, Buner

Cell No.0347-4773440.

RESPONDENTS:

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

Appellant
Through 

Shams ul Hadi

Advocate, Peshawar.

Dated: 22/03/2019

Habibul Haq

2

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

- 1. Name *Mr. Habibul Haq*
- 2. Race *Muslim*
- 3. Residence *Vill. Kalyani P.O. Dewana Baba Teh. Duffer Distt. Benar.*
- 4. Father's name and residence *Mrs. Mansa Khan Vill. Kalyani P.O. Dewana Baba Teh. Duffer Distt. Benar.*
- 5. Date of birth by Christian era as nearly as can be ascertained *10-3-1969* ✓
(Tenth March Nineth and Sixty Nine)

Amner
"A"
(8)

- 6. Exact height by measurement *5-6*
- 7. Personal marks for identification *Multicoloured mole on forehead.*
- 8. Left hand thumb and Finger impression of (non-gazetted) officer



- 9. Signature of Government servant *[Signature]*
- 10. Signature and designation of the Head of the Office, or other Arresting Officer.
[Signature]
Distt. Education Officer (M)
Secondary, Benar.

CFC
[Signature]

1982
as
case of
Kot Surt
Matters 770
Krow

nomination
at university
red. 632 marks
in 1ST Division
-1997.

red. M.Ed (Tech):
Immun Exam 2002
TOU Islamabad
547096 obtained
replaced in 2nd Div:
16-04-2002.

C.F.C

Sl. No.	Name of post	Whether substantive or officiating appointment, or whether permanent or temporary	If officiating, also (i) substantive appointment, or (ii) whether service carried over from previous post under Art. 271 C.S. II.	Pay in post	Additional pay for officiating	Other emoluments under the terms of pay	Date of appointment	Signature of Government servant
1	S.V.	Sub	BPS No 9 = 1185-72-2265					
2	Mrs. Madan Prasad	Sub	A 1187 - K... entry					
3	Do	Do	BPS No 14 = 1530-19-3315					
4	E.T.	Do	Rs 1530/-					
5	GHS Jangora	Do	Rs 1530/-					
6	Do	Do	BPS No 14 = 2065-181-4980					
7	Do	Do	Rs 2065/-					
8	Do	Do	Rs 2066/-					
9	Do	Do	Rs 2066/-					
10	Do	Do	Rs 2066/-					
11	Do	Do	Rs 2065/-					
12	Do	Do	Rs 2066/-					
13	Do	Do	Rs 2066/-					
14	Do	Do	Rs 2065/-					
15	Do	Do	Rs 2066/-					
16	Do	Do	Rs 2066/-					
17	Do	Do	Rs 2066/-					
18	Do	Do	Rs 2066/-					
19	Do	Do	Rs 2066/-					
20	Do	Do	Rs 2066/-					
21	Do	Do	Rs 2066/-					
22	Do	Do	Rs 2066/-					
23	Do	Do	Rs 2066/-					
24	Do	Do	Rs 2066/-					
25	Do	Do	Rs 2066/-					
26	Do	Do	Rs 2066/-					
27	Do	Do	Rs 2066/-					
28	Do	Do	Rs 2066/-					
29	Do	Do	Rs 2066/-					
30	Do	Do	Rs 2066/-					
31	Do	Do	Rs 2066/-					
32	Do	Do	Rs 2066/-					
33	Do	Do	Rs 2066/-					
34	Do	Do	Rs 2066/-					
35	Do	Do	Rs 2066/-					
36	Do	Do	Rs 2066/-					
37	Do	Do	Rs 2066/-					
38	Do	Do	Rs 2066/-					
39	Do	Do	Rs 2066/-					
40	Do	Do	Rs 2066/-					
41	Do	Do	Rs 2066/-					
42	Do	Do	Rs 2066/-					
43	Do	Do	Rs 2066/-					
44	Do	Do	Rs 2066/-					
45	Do	Do	Rs 2066/-					
46	Do	Do	Rs 2066/-					
47	Do	Do	Rs 2066/-					
48	Do	Do	Rs 2066/-					
49	Do	Do	Rs 2066/-					
50	Do	Do	Rs 2066/-					
51	Do	Do	Rs 2066/-					
52	Do	Do	Rs 2066/-					
53	Do	Do	Rs 2066/-					
54	Do	Do	Rs 2066/-					
55	Do	Do	Rs 2066/-					
56	Do	Do	Rs 2066/-					
57	Do	Do	Rs 2066/-					
58	Do	Do	Rs 2066/-					
59	Do	Do	Rs 2066/-					
60	Do	Do	Rs 2066/-					
61	Do	Do	Rs 2066/-					
62	Do	Do	Rs 2066/-					
63	Do	Do	Rs 2066/-					
64	Do	Do	Rs 2066/-					
65	Do	Do	Rs 2066/-					
66	Do	Do	Rs 2066/-					
67	Do	Do	Rs 2066/-					
68	Do	Do	Rs 2066/-					
69	Do	Do	Rs 2066/-					
70	Do	Do	Rs 2066/-					
71	Do	Do	Rs 2066/-					
72	Do	Do	Rs 2066/-					
73	Do	Do	Rs 2066/-					
74	Do	Do	Rs 2066/-					
75	Do	Do	Rs 2066/-					
76	Do	Do	Rs 2066/-					
77	Do	Do	Rs 2066/-					
78	Do	Do	Rs 2066/-					
79	Do	Do	Rs 2066/-					
80	Do	Do	Rs 2066/-					
81	Do	Do	Rs 2066/-					
82	Do	Do	Rs 2066/-					
83	Do	Do	Rs 2066/-					
84	Do	Do	Rs 2066/-					
85	Do	Do	Rs 2066/-					
86	Do	Do	Rs 2066/-					
87	Do	Do	Rs 2066/-					
88	Do	Do	Rs 2066/-					
89	Do	Do	Rs 2066/-					
90	Do	Do	Rs 2066/-					
91	Do	Do	Rs 2066/-					
92	Do	Do	Rs 2066/-					
93	Do	Do	Rs 2066/-					
94	Do	Do	Rs 2066/-					
95	Do	Do	Rs 2066/-					
96	Do	Do	Rs 2066/-					
97	Do	Do	Rs 2066/-					
98	Do	Do	Rs 2066/-					
99	Do	Do	Rs 2066/-					
100	Do	Do	Rs 2066/-					

Dist: Education Officer (M) Secondary, Buner. 2/16/15

Service Verified w.e.f. 7/31-1-94 from the office record & pay bills.

Account BPS No 14 vide DSE MKD BPS No 15 989-92 dated 23/7/95 according to the list No. FD/PC/1-1/89 dated 7/8/92 from No. 310 for your charge.

(9)

8	9	10	11	12	13	14	15	
Signature of Government servant.	Signature and position of the head of office or other attesting officer in stipulation of items 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Leave		Signature of the head of the office or other attesting officer	Reference recorded or censure or praise Government
					Period	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
<i>Phs</i>	<i>Quetta</i> D.E.O. (M) Secy: Buner.	31 ¹² / ₉₃	Illness BPS No. 14. Bing BA 1st Div.	<i>Quetta</i> D.E.O. (M) Secy: Buner.	Approved as S.V. vide DSE Malak. Div Enrol No = 10137-43/14-AE/ (COT) dt 24-6-1993 & Adjusted			
<i>Phs</i>	<i>Quetta</i> D.E.O. (M) Secy: Buner.	31 ¹ / ₉₄	Transferred	<i>Quetta</i> D.E.O. (M) Secy: Buner.	Malak and Div Enrol No = 1074			
<i>Phs</i>	<i>Quetta</i> Head master, Govt: High School, Tangora, Buner.	31 ⁵ / ₉₄	Scale Revised.	<i>Quetta</i> Head master, Govt: High School, Tangora, Buner.	dated 6-7-93.			
<i>Phs</i>	<i>Quetta</i> Head master, Govt: High School, Tangora, Buner.	30 ¹¹ / ₉₄	Ann. In	<i>Quetta</i> Head master, Govt: High School, Tangora, Buner.				<i>Quetta</i> Distt: Education Officer (M) Secondary, Buner.
<i>Phs</i>	<i>Quetta</i> Head master, Govt: High School, Tangora, Buner.	31 ¹ / ₉₅	Transferred	<i>Quetta</i> Head master, Govt: High School, Tangora, Buner.	Under taking			
<i>Phs</i>	<i>Quetta</i> D.E.O. (M) Secy: Buner.	30 ¹¹ / ₉₅	A/c	<i>Quetta</i> D.E.O. (M) Secy: Buner.	8 Apr. 1994 The effect that if any overpayment made to me as a result of pay fixation in BPS No. 14 will be recovered from my pay/pension/ gratuity or as fixed by the court.			<i>Quetta</i> Distt: Education Officer (M) Secondary, Buner.
-94								
		Service Verified w.o. from the office record & paybill.	1 ² / ₉₄ to 31 ¹ / ₉₅					
	<i>Quetta</i> Head master, Govt: High School, Tangora, Distt-Buner.							
<i>Phs</i>	<i>Quetta</i> D.E.O. (M) Secy: Buner.	22 ¹¹ / ₉₆	5 Transfer	<i>Quetta</i> D.E.O. (M) Secy: Buner.	Pay fixation on BPS No. 14 Pay dt 31-5-94 - RS 15,30/- Pay fixed on 1 ⁶ / ₉₄ in BPS No. 14 = 20,65/-			
<i>Phs</i>	<i>Quetta</i> Head master, Govt: High School, Tangora, Distt-Buner.	30 ¹¹ / ₉₆	A/c					<i>Quetta</i> Head master, Govt: High School, Tangora, Distt-Buner.
<i>Phs</i>	<i>Quetta</i> Head master, Govt: High School, Tangora, Distt-Buner.	30 ¹¹ / ₉₇	A/c					<i>Quetta</i> Head master, Govt: High School, Tangora, Distt-Buner.

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government Official
PHS Dewana Baba		B.P. 51414	Rs. 2700/2	✓		1-12-97	[Signature] Govt Dewana
do		B.P. 23245	Rs. 23245	✓		1-12-98	[Signature] Govt Dewana
do		B.P. 3031	Rs. 3031	✓		1-12-99	[Signature] Govt Dewana
do		B.P. 3192	Rs. 3192	✓		1-12-2000	[Signature] Govt Dewana
<p>958 883 18-12-2000 Eid-ul-Fitrat allowance for 2000 Rs. 2000/-</p> <p>1000 Master Jora High School Jowanababa Distt. Bannu</p>		<p>Office of The Accountant General, N.W.F.P. Peshawar.</p> <p>Pay fixed in the revised basic pay scales 1994 of Rs. 2065/- 161.4480. 14 1 s. Rs. 2065/- P.P.V.E.F. 1-8-1994 with next increment on 1-12-1994</p> <p>Accounts Office Pay Fixation Party N.W.F.P. Peshawar.</p>		✓	/		
do		B.P. 3100	Rs. 3100	✓			
do		B.P. 5020	Rs. 5020	✓		1-12-2001	[Signature] Govt Dewana
<p>(2001) Office of the Accountant General N.W.F.P. Peshawar.</p> <p>Pay fixed in the revised basic pay scale 2001 of Rs. 5260/- 124.82 10340 14 s. Rs. 5260/- P.P.V.E.F. 1-12-2001 with next increment on 1-12-2002</p> <p>Accounts Officer Pay Fixation Party N.W.F.P. Peshawar</p>		<p>B.P. 51414 / 3100. 240. 10300</p>		✓		1-12-2002	[Signature] Govt Dewana
do							

ct-c

[Signature]

12

Sl. No.	Signature of Government	Signature and position of the head of office or other attesting officer in 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	Name 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 of the head of the office or other attesting officer	Referer recorded or censur or pra: Governm
							Period	Government to which debitable		
	<i>[Signature]</i>	Head master, Govt. High School, Dewanabha Luner.	30/11/78	A. S. C.	<i>[Signature]</i>		9		Service Verified w.s.f. 12-23-96 from the office record & paybills.	
2-8	<i>[Signature]</i>	Govt. High School, Dewanabha Luner.	30/11/99	A. S. C.	<i>[Signature]</i>				Distt. Education Officer (M) Secondary, Buner.	
2-4	<i>[Signature]</i>	Head master, Govt. High School, Dewanabha Luner.	30/11/2001	A. S. C.	<i>[Signature]</i>				Service Verified w. c. from 24-5-10-30-11-96 From Aug. Roll other Record kept in this office.	
2-1000	<i>[Signature]</i>	Head master, Govt. High School, Dewanabha Luner.	30/11/2001	scale 4 A. S. C.	<i>[Signature]</i>				Head master, Govt. High School, Dewanabha Luner.	
1		<p>pay fixation</p> <p>pay in PPS 11014 on 30/11/2001 Rs 2-3192/-</p> <p>pay fixed in PPS 11014 on 1-1-02 in raised PPS pay scale along with A. S. C. 5020/-</p>								
									Head master, Govt. High School, Dewanabha Luner.	
10300	<i>[Signature]</i>	Head master, Govt. High School, Dewanabha Luner.	30/11/2002	A. S. C.	<i>[Signature]</i>				Head master, Govt. High School, Dewanabha Luner.	
2-1001	<i>[Signature]</i>	Head master, Govt. High School, Dewanabha Luner.	16/10/2002	10th Appeal	<i>[Signature]</i>				Service Verified w. c. from 10-30-11-2002 From other Record kept in this office.	
2-102	<i>[Signature]</i>	Head master, Govt. High School, Dewanabha Luner.	30/11/2002		<i>[Signature]</i>				Head master, Govt. High School, Dewanabha Luner.	
									Head master, Govt. High School, Dewanabha Luner.	

3192
161
353

2005
1288
3953

100

30-11-2001

Head master, Govt. High School, Dewanabha Luner.

(13)

8	9	10	11	12	13	14	15
Signature and designation of the head of the office or other appointing officer in Government 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 appointing Officer	Name and designation 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 appointing officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
					Leave 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 (11) Service Verified w. c. from 1-12-2002 to 30-11-2002. From Acq. Roll & other Record kept in this office.		
					(12) Service Verified w. c. from 1-12-2002 to 16-10-2003. From Acq. Roll & other Record kept in this office.		
						Head Master, Govt. High School Dewasabaha Distt; Buner	
						Head Master, Govt. High School Dewasabaha Distt; Buner	

Service confirmed against C.T. post N.W.F. 6-7-1995 vide EDO (344) Distt. Balaier Enrolt. No: 5845-478 Dated 4-11-2003.

Appointed as SET at GHS Balaier Balaier in BPS-16 on Regular Basis vide Director's School's Literacy N.W.F. Peshawar Enrolt. No: 2345-2498 Dated 16-10-2003.

C+C

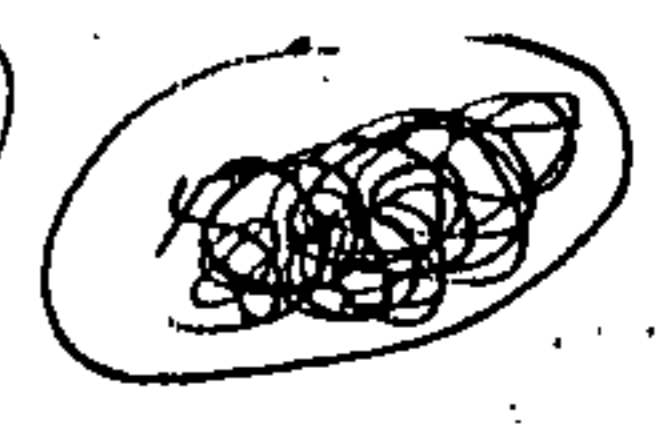
Name and designation of the head of the office or other attesting officer in columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Nature and duration of leave taken	Leave		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
					Period	Government to which debitably		
Head Master, Govt. High School, Dewanaba ba Buner	22/8/98	Four adv. Increment on M.A. @ 161/	Head Master, Govt. High School, Dewanaba ba Buner				Head Master, Govt. High School, Dewanaba ba Buner	Revised Departmental pay fixation scale of 2.3.1-98 Due to necessity of Four advance increments are acquiring Higher Qualification i.e. M.A/M.S. Vide Restrictive High Court W.P. No. 781/2009 announced on 2-6-2009
Head Master, Govt. High School, Dewanaba ba Buner	11/30/98	Annual Increment	Head Master, Govt. High School, Dewanaba ba Buner				Head Master, Govt. High School, Dewanaba ba Buner	Vide Govt. of NWFP Ex. S. Ed Deptt. Dated Peshawar the 28-7-2009
Head Master, Govt. High School, Dewanaba ba Buner	11/30/99	A/Dnc	Head Master, Govt. High School, Dewanaba ba Buner				Head Master, Govt. High School, Dewanaba ba Buner	Endst. of even No. of dates Govt. of NWFP Finance Department No. KC/ED(SR)-2-123/2009 dt. 3/2/2009
Head Master, Govt. High School, Dewanaba ba Buner	11/30/2000	A/Dnc	Head Master, Govt. High School, Dewanaba ba Buner				Head Master, Govt. High School, Dewanaba ba Buner	
Head Master, Govt. High School, Dewanaba ba Buner	12/1/2001	Pay scale Revised	Head Master, Govt. High School, Dewanaba ba Buner				Head Master, Govt. High School, Dewanaba ba Buner	
Head Master, Govt. High School, Dewanaba ba Buner	11/30/2002	A/Dnc	Head Master, Govt. High School, Dewanaba ba Buner				Head Master, Govt. High School, Dewanaba ba Buner	Underlooking
Head Master, Govt. High School, Dewanaba ba Buner	10/16/2003	Promoted to S.E.T. B.P.S-16	Head Master, Govt. High School, Dewanaba ba Buner				Head Master, Govt. High School, Dewanaba ba Buner	I do hereby undertake to the effect that if any overpayment made to me as a result of wrong fixation due to four advance increments on M.A. it will be recovered from my pay/pension or gratuity.

15

T.M. Anwar
 14/5
 Adv. 7
 due to 4 Adv. 28/8/08
 of M.A. 28/8/08
 to 16/9/10 Rs. 7487/-
 17/5

Underlooking
 I do hereby undertake to the effect that if any overpayment made to me as a result of wrong fixation due to four advance increments on M.A. it will be recovered from my pay/pension or gratuity.
 Signature of Govt. Servant
 (Plus)
 Head Master,
 GHS Dewanaba Baba
 Dist: Buner

(16)



اپیل بخدمت جناب اکاؤنٹ جنرل خیبر پختونخواہ پشاور

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

جناب عالی:

مودہ نامہ گزارش ہے کہ میں نوٹیفیکیشن نمبر 1-1/89 FD(PRC) مورہ 11-08-1991 کے تحت جس ہائیر قوالیفیکیشن یعنی ایم اے / 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 منت رہیں گے۔ فقط

عرض کنندہ

7
12/10/2018

(SST)

حبیب الحق

Government Journal
To A.S. Officer

Deputy District

7
12/10/18

C.A.C

بعدالت سپر کورٹ بیونیل شاور

کورت فیس	قیمت ایک روپیہ
----------	----------------

22 مارچ 19۲۰ منجانب

حبیب الحق بنام حکومت و سسرہ

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 سپر کورٹ بیونیل شاور کے پیش و کسے کسے الی الی الی الی الی الی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیاط 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 زر اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا اسی 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

حبیب الحق

المرقوم 22 مارچ 19۲۰

العبد گواہ ثبوتہ العبد

کے لئے منظور ہے

سپر کورٹ بیونیل

Attested
Shams-ul-Hadi
Adu

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Habibullah Haq

Appeal No.681/2019

Habibullah Haq
Habibullah Haq

Appellant.

V/S

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

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

Preliminary Objection:-

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

Respectfully Shown:-

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

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

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

Para :- 2 Respondent No.2 & 3 are bound to follow the rules and instructions issued by the Provincial Government of Khyber Pakhtunkhwa from time to time. The 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 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

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.

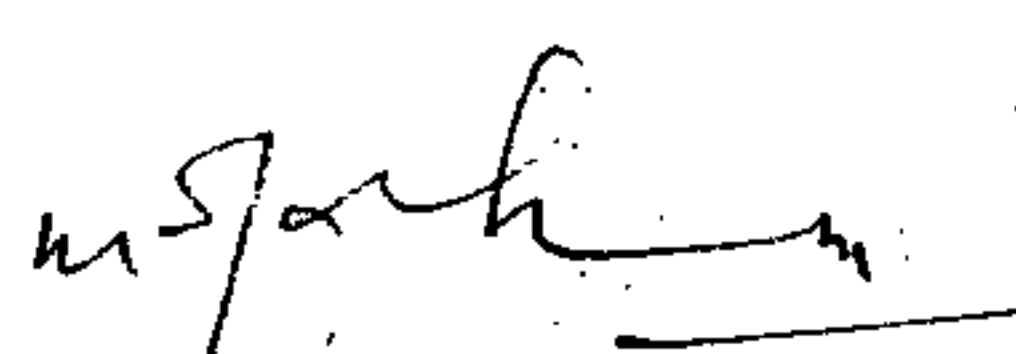
Para:-5 That the Notification dated:11/05/2016 is not found attached with the instant writ by the appellant. However as mentioned in Para No. "2" above Respondent No. "3" has acted upon correctly and under the rules.

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

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

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;

700

Handwritten signature

Handwritten signature
Director Accounts Officer
Euner at Dabbar

Handwritten signature

(9)

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

Amirul
Musht

[Signature]
District Accounts Officer
Buner at Daggar

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

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

Peshawar,
Dated 22-03-2012

(BARRISTER SYED MASOOD KAUSAR)
Governor, Khyber Pakhtunkhwa

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

Masood
Masood

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

[Signature]
District Accounts Officer
Buretal Daggar



Office of the
Accountant General

Khyber Pakhtunkhwa Peshawar

Phone: 091 9211250-53

No.H-24/ Master Circulation / 630-37

Dated: 22.03.2019

To

THE DISTRICT ACCOUNTS OFFICER,

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

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

*of Admin.
Provide a copy
to me.*

[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
at Daggar

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

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

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

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

...Petitioners

Versus

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

...Respondents

Petitioners: In person (in both cases)
For the respondents: Mr. Mujahid Ali Khan, Addl. A.G. KPK
Date of hearing: 07.12.2018

JUDGMENT

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

ATTESTED
[Signature]
Assistant Registrar
Supreme Court of Pakistan
Peshawar

These petitions pertain to their claim regarding advance Registrations 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

[Signature]
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

[Signature]
District Accounts Officer
Duner at Daggar

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;


District Accounts Officer
Buner at Daggar

ATTESTED


Assistant Registrar
Supreme Court of Pakistan


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

While section-2 reads as under:-

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

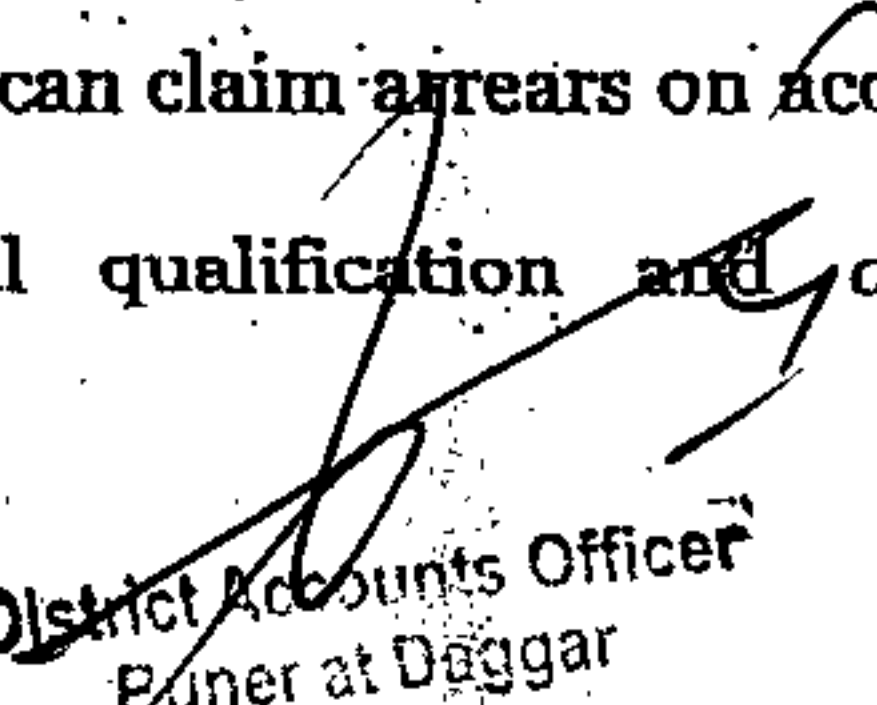
(2) Any order made, instruction issued, decision, judgment or order of any court or Tribunal including a High Court or the Supreme Court, implemented immediately before the commencement of this Act, shall be deemed to have been validly made, issued and implemented by the date of commencement of this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

ATTESTED


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.

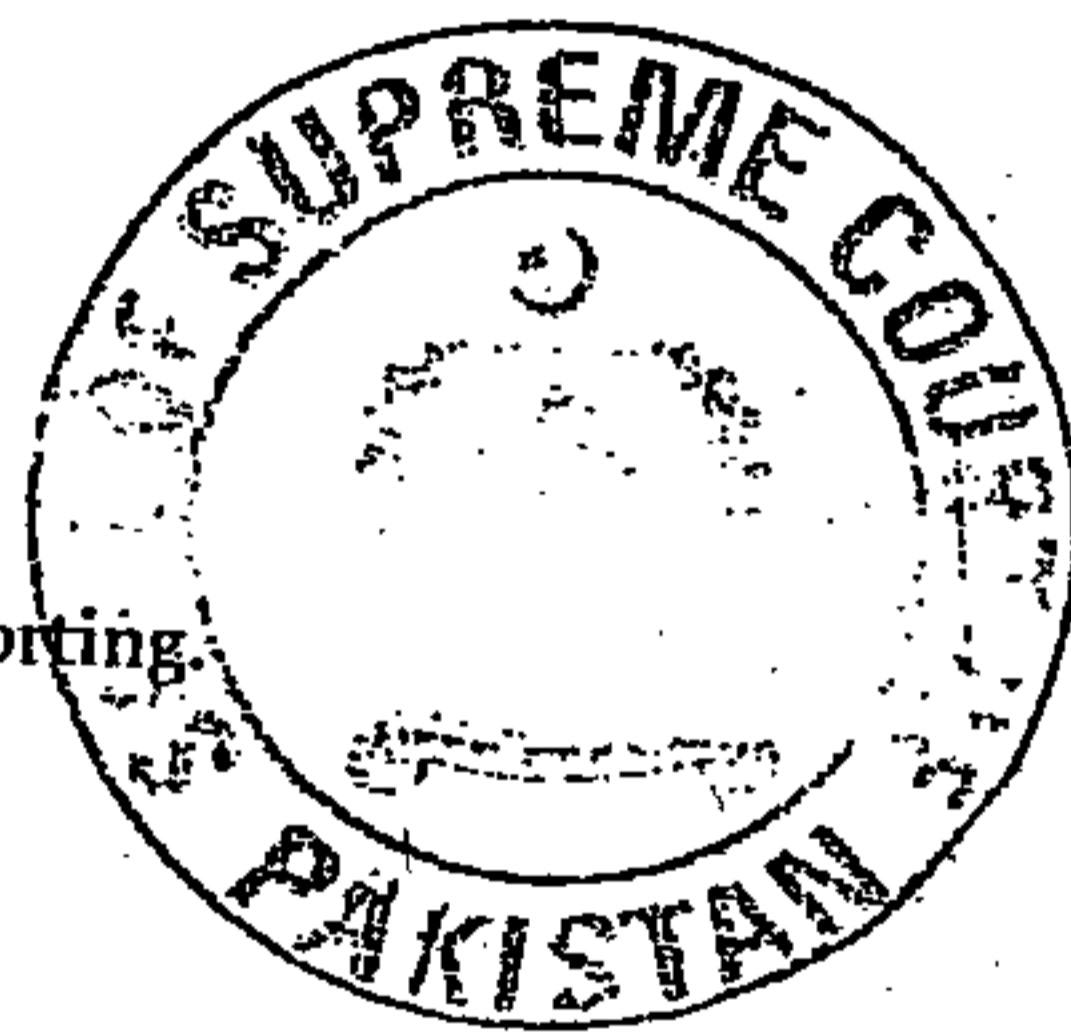
8. The scope of Act of 2012 is that after the promulgation of the Act i.e. w.e.f. 11.05.2012, no government employee can claim arrears on account of advance increments for higher educational qualification and advance


District Accounts Officer
Buner at Daggar

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

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

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



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

14/2/18

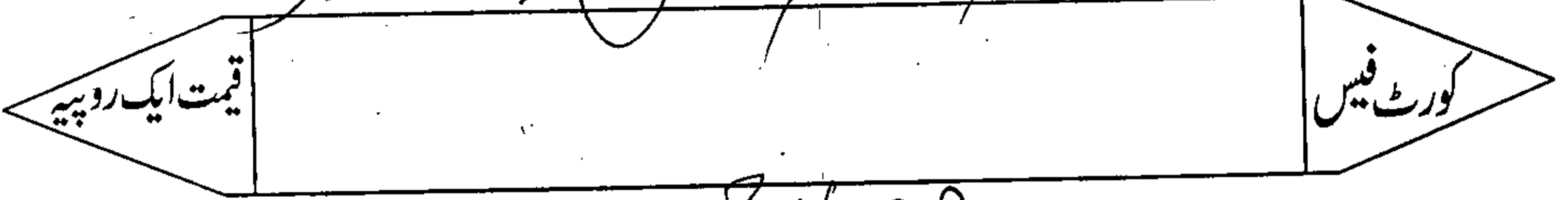
Certified to be true copy
Assistant Registrar
Supreme Court of Pakistan
Peshawar.

District Account Officer
Buner at Daggar

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

بعدالت

سروس کیریونل پشاور



22 مارچ 19۲۰ء منجانب

حبیب الحق بنام حکومت و نمبر ۵

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آن مقام سروس کیریونل پشاور کے شخص الہادی الہوری کی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیاط 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 زرا اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہاگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تارخ 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

حبیب الحق

المرقوم 22 مارچ 19۲۰ء

العبد گواہ شہدہ العبد

کے لئے منظور ہے

سروس کیریونل

Attested

Shams-ul-Hadi Adli

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

IB

No.

APPEAL No. 681 of 20 19.

Habib ul Haq

Appellant/Petitioner

Versus

DEO, (M) Buner

RESPONDENT(S)

Notice to Appellant/Petitioner

Habib ul Haq
SSI Presently posted
at GHHS, Gagra Buner.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 3-3-2021 at 9:00 AM.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at Camp Court Swat

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.