

15.06.2022

Appellant in person present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Naseem Khan S.O and Sohail Ahmad Zeb Litigation Officer for respondents present.

Former made a request for adjournment in order to further prepare the brief of the case. Case is adjourned. To come up for arguments on 16.08.2022 before D.B at Camp Court, Abbottabad.



(Fareeha Paul)
Member (E)
Camp Court, A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

14th Nov, 2022

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Sohail Ahmad Zeb, Superintendent for the respondents present.

Appellant seeks adjournment on the ground that he has not made preparation for arguments. To come up for arguments on 13.12.2022 before the D.B at Camp Court Abbottabad.



(Salah Ud Din)
Member (Judicial)
Camp Court Abbottabad




(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

18.04.2022

Appellant in person present. Mr. Sohail Ahmed Zeb, Litigation Officer as representative on behalf of respondent No. 4 alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.


Representative of respondent No. 4 requested that adjournment may be granted for submission of written reply/comments. The appeal is pending adjudication since the year 2020, therefore, vide order sheet dated 17.11.2021 last opportunity was granted to the respondents for submission of written reply/comments but they failed to submit the same. The amount of cost of Rs. 1000/-, which was imposed by this Tribunal vide previous order sheet dated 18.01.2022 on the respondents, deposited by representative of the respondent No. 4 today, which is handed over to the appellant and in this respect his written endorsement obtained at the margin of order sheet dated 18.01.2022. Adjourned. To come up for written reply/comments on 21.04.2022 before the D.B at Camp Court Abbottabad.


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

21.04.2022

Appellant in person present. Mr. Sohail Ahmed Zeb, Litigation Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Joint para-wise comments on behalf of respondents submitted, which are placed on file and copy of the same handed over to the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments on 17.06.2022 before the D.B at Camp Court Abbottabad.


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

17.11.2021

Appellant in person and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG alongwith Naseeb Khan, S.O for the respondents present.


Representative of the respondents seeks further time to furnish reply/comments. Last opportunity is granted to the respondents to submit written reply/comments on the next date, failing which their right for submission of written reply/comments shall be deemed as struck off. Case to come up on 17.02.2022 before S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

18.01.2022

Appellant in person present. Mr. Sohail Ahmed Zeb, Litigation Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Representative of the respondents requested that time may be granted to him for submission of written reply/comments. The request is acceded, however subject to payment of costs of Rs. 1000/-. Adjourned. To come up for submission of written reply/comments as well as costs of Rs. 1000/- on behalf of respondents on 18.04.2022 before the S.B at Camp Court Abbottabad.


(Salah-ud-Din)
Member (J)
Camp Court A/Abad

Received
Rs 1000/-
Kabirullah

17.02.2020

Learned counsel for the appellant present. Preliminary arguments heard. File perused.

Points raised need consideration. The appeal is admitted to 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 respondents for written reply/comments. To come up for written reply/comments on 14.06.2021 before S.B at Camp Court, Abbottabad.

Appellant Deposited
Security Process Fee

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

14.06.2021

Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 30.09.2021.

Reader

30.09.2021

Son of the appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Written reply of the respondents is still awaited. Learned AAG is required to contact the respondents to furnish reply/comments on the next date positively, failing which their right for submission of written reply/comments shall be deemed as struck off and the appeal will be heard on the basis of available record without reply of the respondents. Case to come up on 17.11.2021 before S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

FORM OF ORDER SHEET

Form - A

Chairman
Camp Court, A/Abad

Case No. - **6137**
Abbottabad.


<p>(M) MUHAMMAD JAMAL KHAN MEMBER CAMP COURT ABBOTTABAD</p>	<p>Abbottabad. up for preliminary hearing before S.B at Camp Court, today. Adjourned to 17.02.2021 on which date file to come adjournment on the ground that his counsel is not available Appellant is present in person and requested for 14.06.2021 Due to cancellation of tour Bench is not available. Therefore, case to come up for the same as before on 30.09.2021.</p>	<p>Reader</p>	<p>9.11.2020</p>
<p>CHAIRMAN </p>	<p>hearing to be put up there on <u>19.11.20</u> Son of the appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present. Written reply of the respondents is still awaited. Learned AAG is required to contact the respondents to furnish and reply positively, failing which their right for submission of written reply/comments shall be deemed as struck off and the appeal will be heard on the basis of available record without reply of the respondents.</p>	<p>1-23/06/2020</p>	<p>1-23/06/2020</p>
<p>REGISTRAR</p>	<p>Case to come up on 17.11.2021 before S.B at camp court, proceedings on a bench of Judge</p>	<p>proceedings</p>	<p>proceedings</p>

The appeal of Mr. Rashid Iqbal Khan SST GMS Boys Salhad Abbottabad received today i.e. on 28.05.2020 is incomplete on the following score which is returned to appellant for completion and resubmission within 15 days.

- ① Copy impugned order is not attached with the appeal which may be placed on it.
- ② Copy of departmental appeal against the impugned order is not attached with the appeal which may be placed on it.

No. 1165 /S.T,

Dt: 02-06 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


Mr. Rashid Iqbal Khan SST GMS Boys
Salhad Abbottabad resident House No.127,
Link Road Narian, Cannt, Abbottabad.

Re-submitted with the request that appellant filed his representation/application for his benefits of premature increments on the basis of referred notifacations.

The representation/application has not been decided by the respondents within the period of statutory period of 90 days, in the prevailing situation, service appeal lies under section 4 (1) (a) of Khyber Pakhtunkhwa Service Tribunal Act 1974.


In the above matter the relevant law had been widely interpreted by the larger Bench of Apex Court in 1991 SCMR 1041, so there is no question of impugned order and departmental appeal against impugned order.

Dated 10/06/2020


(Rashid Iqbal Khan)
Appellant in person

Objections are still stand the appeal is returned again because the appellant is employee of elementary and secondary education department Khyber Pakhtunkhwa but he made /preferred a departmental appeal before Comptroller of Accounts District A.Abad. *de-submit the same*
No 1939 /S.T, *with in 15 days.*

Dt: 15-06 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR

MR.RASHID IQBAL APPELLANT.

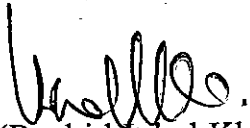
P.T.O

Re-submitted again with the remarks/reply that appellant is class II Gazetted officer and respondent no 1 deals with the pay matter of appellant, and respondent no 1 & 2 are as an executing agency and respondent no 1 has to implement the relevant Notifications.

Further more appellant did not furnish his representation/application dated 06/02/2020 (Annexure "I") to respondent no1 directly but submitted to District Officer (Elementary & Secondary Education), Department Abbottabad first (through Proper Channel), not directly submission to respondent no 1.

It is requested that case/service appeal may kindly be fixed before the Court for further adjudication

Dated 20/06/2020


(Rashid Iqbal Khan)
Appellant in person

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 6137 of 2020.

Rashid Iqbal Khan S/O Shamarez Khan Jadoon, (Ex CT Teacher)
SST Government Middle School (Boys) Salhad Abbottabad.
Resident of House No. 127, Link Road Narian, Cantt, Abbottabad.
Appellant

Versus

- 1 District Comptroller of Accounts, Abbottabad.
- 2 Accountant General Khyber Pakhtunkhwa Peshawar.
- 3 Government of Khyber Pakhtunkhwa through Secretary Finance Department Peshawar.
- 4 Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Department Peshawar.

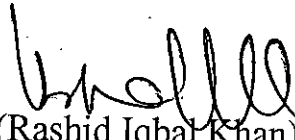
Respondents

SERVICE APPEAL

INDEX

S.No	DESC: OF DOCUMENTS	ANNEXURES	PAGE No
1	Memo; of Service Appeal along with affidavit.	----	1 to 4
2	Copy of Selection grade order.	A	5 to 6
3	Copy of Notification dated 01/10/2007	B	7 to 8
4	Copy of Notification dated 26/01/2008	C	9
5	Copy of Notification dated 30/05/2014	D	10
6	Copy of Notification dated 30/05/2014	E	11
7	Copy of Notification dated 21/02/2014	F	12
8	Copy of Clarification dated 07/02/2014	G	13
9	Copy of Clarification dated 31/03/2014	H	14
10	Copy of and representation/ application.	I	15

Dated 20/05/2020


(Rashid Iqbal Khan)
Appellant in person

1

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No: 6037 of 2020.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3961

Dated 28-05-20

Rashid Iqbal Khan S/O Shamarez Khan Jadoon, (Ex CT Teacher)
SST Government Middle School (Boys) Salhad Abbottabad.
Resident of House No. 127, Link Road Narian, Cantt, Abbottabad.
Appellant

Versus

- 1 District Comptroller of Accounts, Abbottabad.
- 2 Accountant General Khyber Pakhtunkhwa Peshawar.
- 3 Government of Khyber Pakhtunkhwa through Secretary Finance Department Peshawar.
- 4 Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Department Peshawar.

Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, FOR GRANT OF TWO INCREMENTS (PREMATURE etc) ALONGWITH ALL BACK BENEFITS W.E.F. 01/10/2007 TO THE APPELLANT ON THE BASIS OF TWO NOTIFICATIONS ISSUED ON SAME DATE 30/05/2014 AND UNDER THE SUCH LAW, WHICH IS EXERCISED IN OTHER CASES OF SELECTION GRADE HOLDERS ON THE PRINCIPAL OF NATURAL JUSTICE. AND FOR ACCEPTANCE OF DEPARTMENTAL REPRESENTATION WHICH IS STILL PENDING WITH OUT RESPONSE.

PRAER:-

ON ACCEPTANCE OF INSTANT SERVICE APPEAL, RESPONDENTS MAY PLEASE BE DIRECTED FOR GRANT OF TWO INCREMENTS (PREMATURE etc) ALONGWITH ALL BACK BENEFITS W.E.F. 01/10/2007 UNDER THE LAW.

Filed to-day
Registrar
28/5/2020

Re-submitted to-day
and filed
Registrar

Respectfully Sheweth,

FACTS

- 1) That appellant was a CT teacher, awarded Selection Grade in BPS No 15 with effect from 02/12/1998, while his Juniors were remained in below position/BPS. Copy of selection grade order is annexed as **Annexure "A"**
- 2) That respondent No 3 issued two Notifications dated 01/10/2007, 26/01/2008 wherein all incumbents of CT post (teachers) were up-graded in BPS No 15, but selection grade holders (including appellant) who were already working in BPS No 15, were not up-graded in the notifications. Copy of Notifications are annexed as **Annexure "B" & "C"**
- 3) That in the matter of up-gradation of posts, Government of KP, Finance Department (respondent No 3) in the year 2014, issued some Notifications and clarifications regarding to pre mature increments etc.
- 4) That two Notifications issued on the same day 30/05/2014 relating to the subject of Up-gradation benefits, similarly Notifications dated 21/02/2014 relating to benefits of same scale promotion, similarly clarifications dated 07/02/2014 & 31/03/2014 were also issued. Copies of these five documents are annexed as **Annexure "D", "E", "F", "G" & "H"**.
- 5) That respondents are not only implementing the notifications but had deliberately concealed the above relevant document/ notifications in the previous proceedings, and as a result, same has been withdrawn, even then despite of very clear law, respondents especially respondent no 1 is not allowing and grant two increments in his routine process, to the appellant being selection grade holder.

- 6) That in the above situation, on the basis of above mentioned notifications, appellant submitted an application/departmental representation dated 06/02/2020 for grant of two increments to the respondent no 1 through proper Channel and representation/application dated 06/02/2020 is annexed as Annexure "I".

- 7) That the representation/application is still pending with out any response after passing the statutory period of 90 days, Hence this appeal inters-alia on the following ground, and appellant's appeal is within 120 days from the submission of his departmental remedy/representation.

Grounds

- a) That appellant under the law, accrued a cause of action to get his rights on the basis of statutory notifications issued by the competent authority and respondents not at all have powers to deny the 02 increments, their denial is with out jurisdiction illegal and malafide.

- b) That factually there is no issue in the matter, that selection grade from BPS 14 to BPS 15 was granted to appellant, with effect from 02/12/1998.

- c) That similarly there is also un-rebutted facts, that the CT post was Up-graded to BPS 15 with effect from 01/10/2007 and appellant was working in BPS 15 being selection grade holder got no benefits (up-gradation or increments)

- d) That under the law, incumbency between the employees should not be disturbed and in the instant case, juniors employees/teachers got both benefits up-gradation & one premature increment, while their

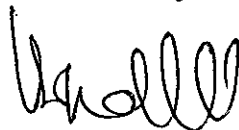
seniors were illegally deprived, even then statutory notifications were also issued by the competent authority.

- e) That it is absolutely proved that denial of any benefit by the respondents is against the Article 25 of the Constitution, factually and legally these two increments have been granted to appellant by the competent authority to eliminate discrimination.
- f) That the involved matters in the instant appeal is relating to pay and under the law limitation did not run in such matters and it is an admitted fact that under question illegal Action fell in the matter of great public importance.

It is, therefore, respectfully prayed that on acceptance of instant service appeal, respondents may please be directed for grant of two increments (premature etc) along-with its arrears with all back benefits w.e.f. 01/10/2007 under the law with-out any further delay.

Any other relief for which the appellant is entitled, and the same is not asked/prayed specifically, may very kindly be granted in favour of the appellant.

Dated 20/05/2020

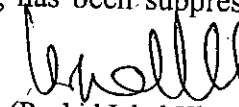

 (Rashid Iqbal Khan)
 Appellant in person

Affidavit

I, Rashid Iqbal Khan S/O Shamarez Khan Jadoon, Ex Senior CT Teacher, Resident of House No. 127, Link Road Narian, Cantt, Abbottabad, do here by affirm on oath that instant appeal is based upon statutory notifications relating to case subject & contents of instant appeal is correct and true according to my best knowledge and belief and nothing has been suppressed from this Honourable Tribunal.

Dated 20/05/2020




 (Rashid Iqbal Khan)
 Appellant in person
DEPONENT

(A)

(S)

OFFICE OF THE DISTRICT COORDINATION OFFICER ABBOTTABAD.

ORDER.

In partial modification of EDO(S/L)Abbottabad's endst:No. 29157-200/EB-III.S.Grade dated 22.12.2005 and in pursuance of the Honour-able NWFP Service Tribunal Judgment dated 13/10/2004 the following CT teachers are hereby awarded Selection Grade (revised) in BPS-12 and BPS-15 (in case of BA 2nd Divn:) with effect from the dates noted against their names :-

<u>S.No.& S.List No.</u>	<u>Name/Father's Name and school.</u>	<u>D/O Promotion to P/Grade.</u>	<u>D/O award of Selection Grade.</u>	<u>REMARKS.</u>
1/126.	Taj Muhammad s/o Sarwar Khan CT GMS N/Shehr now SET GHS Kakul.	29.11.1987	02.12.1998	
2/133.	Muhammad Jamil s/o Abdul Hameed CT GHS Rajoya.	02.12.1988	02.12.1998	
3/	Gul Khitab s/o Hakam Dad Khan CT GHS T/Shaikhan now SET GMS Kiala.	18.01.1990	02.12.1998	
4/184.	Amjad Hussain s/o Sadiq Hussain CT GHS No.2 A.Abad.	26.01.1991	02.12.1998	
5/185.	Rashid Iqbal Khan s/o Shamarez Khan CT GMS Tarhama.	26.01.1991	02.12.1998	
6/187.	Zafar Ali Shah s/o S.Mustaz A.Shah CT GHS No.1 Havelian.	1.02.1991	23.09.1999	Vice Abid Shah Promoted.
7/183.	Sohail Akhtar s/o Fazal Dad CT GHS No.1 Havelian.	1.02.1991	23.09.1999	Vice Javed Sarwar Promoted.
8/189.	M.Saeed Abbasi s/o Fazal Dad,CT GHS Seer.	14.03.1991	23.09.1999	Vice Nisar Ahmed Promoted.
9/190.	M.Daud Khan s/o Ali Akbar Khan,CT GHS Mirpur.	14.03.1991	23.09.1999	Vice Shabbir Ahmed Promoted
10/191.	Aurengzeb s/o Shahzaman CT GHS Chamiali.	14.03.1991	24.09.1999	Vice Abdul Rau Promoted.
11/192.	Haider Zaman s/o Habib-Ullah,CT GHS Jhangi now SET GHS Birangali.	14.03.1991	24.09.1999	Vice Mumtaz Ahmed Promoted.
12/193.	Ashiq Hussain s/o Muhazzam Shah,CT GHS P.K.Khan.	14.03.1991	24.09.1999	Vice M.Irshad Promoted.
13/194.	Parvez Khan s/o Munsif Khan CT GHS Sammunder Katha.	14.03.1991	26.09.1999	Vice M.Akram Promoted.
14/195.	Ashfaq Ahmed s/o Mir Bahader CT GMS Kiala.	14.03.1991	28.09.1999	Vice M.Firdos-
15/196.	S.Sajjad H.Shah s/o Bahader Shah,CT GHS T/Shaikhan.	14.03.1991	30.09.1999	Vice M.Ayaz Khan Promoted.

NOTES/CONDITIONS:-

1. Necessary entries to this effect should be made in their S/Books.
2. An undertaking on the prescribed form given below should be obtained from the above named CT's and pasted in their S/Books duly attested by the respective head of the office/institutions before the drawal of arrears.

[Handwritten signature]

(CONTD: ON PAGE-2)

6

UNDERTAKING (DULY ATTESTED).

I, _____ CT, GHSS/GHS/GMS _____ hereby given and undertaking to the effect that if any over payment is made to me as a result of incorrect award of S/Grade and detected later/on, it will be made good by recovery from my pay/pension/gratuity as may be fixed by the govt./ Deptt;

ATTESTED BY:-

DO/Principal/HM concerned.

SIGNATURE OF CT _____

3. Arrear due to the award of S/Grade should be drawn and disbursed to them.
4. The teacher if transferred from the school, mentioned against their names should be informed by the HM of the school, immediately after the receipt of this letter under intimation to EDO(S/L)A. Abad and all concerned.
5. The above award is subject to the condition that their ACRS/Results for the last 3 years are good or above good and not judicial deptt; or any one of the above named teachers have already been awarded S/Grade at provincial level or other Distt; his name/names may be intimated to all concerned with a week positively so that his/their award be cancelled.

DISTRICT COORDINATION OFFICER
ABBOTTABAD.

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (S/LIT:) ABBOTTABAD.

ENDST: NO. 9060-90

/EB-III.S.Grade. Dated, 30.5.2006

Copy to the:-

1. Registrar, NWFP, Service Tribunal, Peshawar.
2. Director Schools/Lit: NWFP, Peshawar.
3. Distt: Accounts Officer, Abbottabad.
4. B & A.O. Local Office.
5. All Principal/HM concerned.
6. All teacher concerned.
7. A.D.O. (Litigation local office.

EXECUTIVE DISTRICT OFFICER
SCH:/LITERACY ABBOTTABAD.

SMHAROON

Attested
Mulla

B,

(7)

Government of N-W.F.P.
Finance Department
No.SO(FR)10-22(B)/2005
Dated: 01-10-2007

To
The Secretary to Govt. of NWFP
Schools & Literacy Department

Subject: UP-GRADATION OF VARIOUS POSTS OF
TEACHERS/CAREER STRUCTURE IN SCHOOLS &
LITERACY DEPARTMENT GOVERNMENT OF N.W.F.P.

Sir,

I am directed to refer to your letter No.SO(G)S&L/1-47/2007 dated 01-10-2007 on the subject noted above and to inform that the Chief Minister NWFP has been pleased to up-grade various posts of teachers in Schools & Literacy Department N-W.F.P. as per details given below in respect of those incumbents who acquire or possess the qualification and experience mentioned against each with immediate effect.

S.#	Designation/Existing Pay Scale	Qualification	Revised Pay Scale
1.	Primary School Teacher (PST) BPS-07	F.A/F.Sc. at least 2 nd Division with PTC/Diploma in Education	09
2.	PST with requisite experience renamed as Head Teacher/Head Mistress of Primary School BPS-07	On the basis of 10 years service/experience as Primary School Teacher in BPS-09	12
3.	C.T BPS-09	B.A/B.Sc. at least 2 nd Division with Diploma in Education/CT	15
4.	AW/CT (Technical)/Industrial Arts/Home Economics BPS-09	B.A/B.Sc. at least 2 nd Division with Diploma in Education/ Certificate from Directorate of Curriculum & Teachers Education NWFP Abbottabad in Agro. Tech./ Industrial Arts/Home Economics	15
5.	D.M. BPS-09	B.A/B.Sc. at least 2 nd Division with Drawing Master Course.	15
6.	PET BPS-09	B.A/B.Sc. at least 2 nd Division with JDPE	15
7.	Qari/Qaria BPS-07	Hafiz-e-Quran with SSC at least 2 nd Division and Sanad in Qir'at	12
8.	SSTs/SST Tech./Agri: with requisite experience renamed as Sr. SST/Sr. SST Tech./Sr. SST Agri: BPS-16	M.A/M.Sc. at least 2 nd Division with B.Ed./M.Ed./MA Edu. or equivalent qualification	17
9.	DPE BPS-16	M.Sc. at least 2 nd Division in (HPE)	17
10.	Librarian BPS-16	Master degree in Library Science at least 2 nd Division.	17

2. The Promotion/Direct Recruitment against the upgraded posts shall be made as per laid down procedure and in accordance with the Service Rules to be framed pursuant to the relevant provisions of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules-1989 read with the NWFP Civil Servants Act, 1973 in the light of the

Attested
Unall

meeting held on 26-09-2007 of the committee constituted vide Schools & Literacy Department Notification No.SO(G)/S&L/1-47/2007 dated 01-08-2007.

Audit copy may please be prepared and sent to this Department for authentication/signature.

[Signature]
Section Officer (FR)

Endst: of even No. & Date

Copy for information & necessary action to:

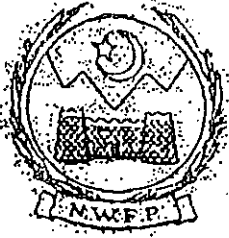
- 1. Accountant General NWFP
- 2. Director Schools & Literacy NWFP Peshawar
- 3. Director of Education FATA NWFP Peshawar
- 4. PSO to Chief Minister NWFP
- 5. PSO to Chief Secretary NWFP
- 6. PS to Secretary Finance Department NWFP
- 7. All District/Agency Accounts Officers in NWFP

[Signature]
Section Officer (FR)

Fozal Hay

DA to DS-R-II
Finance Deptt

[Signature]
[Signature]



C, 9

**GOVERNMENT OF NWFP
FINANCE DEPARTMENT**

(REGULATION WING)

Dated Peshawar, the 26th January, 2008.

NOTIFICATION

NO.FD/SO(FR)10-22/2007. In supercession of this Department's letter No.SO(FR)10-22(B)/2005 dated 01-10-2007 and in pursuance of the decisions of the meeting held under the Chairmanship of Secretary Establishment on 2-1-2008, the Competent Authority is pleased to allow upgradation for the incumbents of the posts as per details given below w.e.f. 1-10-2007:-

S.NO	Existing Designation and Pay Scale	Qualification	Upgraded Scale
1	Primary School Teacher (PST) (BPS-07).	FA/FSc and are trained teachers	BPS-09 (one time only)
2	Primary School Teacher (PST) with requisite experience renamed as Head Teacher/Head Mistress of Primary Schools (BPS-07).	Having 10 years service	BPS-12 (one time only)
3	CT (BPS-09).	BA/BSc and are trained teachers	BPS-15 (one time only)
4	SETs (BPS-16)	With at least ten years service. Upgradation to the post shall be made through DPC as per laid down procedure.	BPS-17
5	Qari/Qaria (BPS-07)	Hafiz Quran with SSC	BPS-12

**SECRETARY TO GOVT: OF NWFP
FINANCE DEPARTMENT**

Endst No. & Date even.

Copy of the above is forwarded for information and necessary action to the:-

- 1) . All the Secretaries in NWFP, Peshawar.
- 2) All the DCOs/EDOs Schools & Literacy Department, NWFP.
- 3) Accountant General, NWFP, Peshawar.
- 4) Director Schools & Literacy NWFP, Peshawar.
- 5) Director of Education FATA NWFP, Peshawar.
- 6) PSO to Chief Minister, NWFP.
- 7) PSO to Chief Secretary, NWFP.
- 8) PS to Secretary Finance Department, NWFP.
- 9) . All District/Agency Accounts Officers in NWFP.

(Signature)
(NAIB KHAN)
SECTION OFFICER (FR)

(Signature)



D,
10

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

Dated Peshawar the 30th May, 2014

NOTIFICATION:-

No.FD. S.O. (PRC)/1-2/77. In exercise of the powers conferred by section 26. of the Khyber Pakhtunkhwa Civil Servant Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973, the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Services Pay Revision Rules, 1978, the following amendment shall be made, namely:-

AMENDMENT

After rule 9, the following new rule shall be inserted, namely:

"9A. A post of a Civil Servant which is upgraded from 28th January, 2002 or a post to be upgraded after commencement of this rule, the incumbent of such post, on commencement of this rule, shall be allowed one premature increment on such upgradation.

Provided that the pay of a Civil Servant, whose post is upgraded from 28th January, 2002 shall be fixed in accordance with the new increment and he shall not be entitled to any arrears in this behalf"

SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No. & Date Even

Copy is forwarded for information & necessary action to the:-

- 1 PS to Addl: Chief Secretary, FATA.
- 2 All Administrative Secretaries, Government of Khyber Pakhtunkhwa
- 3 Senior Member, Board of Revenue, Khyber Pakhtunkhwa
- 4 All Commissioners in Khyber Pakhtunkhwa.
- 5 Accountant General, Khyber Pakhtunkhwa.
- 6 Secretary to Governor, Khyber Pakhtunkhwa
- 7 Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
- 8 Secretary provincial Assembly, Khyber Pakhtunkhwa.
- 9 All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 10 Registrar, Peshawar High Court, Peshawar.
- 11 All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officers in Khyber Pakhtunkhwa.
- 12 Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
- 13 Registrar, Service Tribunal, Khyber Pakhtunkhwa.
- 14 All the Autonomous and Semi Autonomous Bodies in Khyber Pakhtunkhwa.
- 15 Secretary to Government of Punjab, Singh & Banooslan, Finance Department, Lahore, Karachi & Gujra
- 16 The District Controller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and Dir Lohar
- 17 The Senior District Accounts Officer, Nowshera, Swabi, Charsadda, Haripur, Mansehra & Dir Lower
- 18 The Treasury Officer, Peshawar.
- 19 All District / Agency Accounts Officers in Khyber Pakhtunkhwa / FATA
- 20 PSO to Senior Minister for Finance, Khyber Pakhtunkhwa
- 21 PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 22 Director, Local Fund Audit, Khyber Pakhtunkhwa Peshawar
- 23 PS to Finance Secretary.
- 24 PAs to All Addl: Secretaries / Deputy Secretaries in Finance Department.
- 25 Director, FMIU with the request to upload the same Notification on website
- 26 All Section Officers / Budget Officers in Finance Department

Attyal
hmed

(WAZIR MUHAMMAD AFGAR)
Section Officer / SR-1)



E

(11)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 30th May, 2014

Notification:-

No.FD (SO SR-1) 2-123/2014. In pursuance of Government of Pakistan, Finance Division O.M No.11(4)R-2/2011-1153/2013 dated 31-05-2013, the competent authority has been pleased to approve amendment in Rule 9 of Pay Revision Rules 1978 and sanction premature increment on up-gradation of posts w.e.f 28th January, 2002 onward, it would take effect from the actual date of up-gradation of each post or charge assumption of concerned employee whichever is later. Furthermore, Rule 9 of Pay Revision Rules 1978 shall stand amended with effect from the date and to extent indicated in Notification No.FD. S.O. (PRC)/1-2/77 dated 30-05-2014.

2. The employees already availed the benefit of one special advance increment granted vide this Department Notification No.SO (SR-1) 2-4/2008 dated 04-04-2009 and SO (SR-1) 2-123/2013 dated 31-03-2014 shall not be entitled for premature increment on their upgradation under Notification No.SO (FR) 7-2/2007 dated 28-07-2007.
3. The pay of the concerned employee shall be fixed in accordance with premature increment and he shall not be entitled to any arrear in this behalf.

Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department

Endst; No. & Date Even

Copy is forwarded for information & necessary action to the:-

1. PS to Addl; Chief Secretary, FATA.
2. All Administrative Secretaries, Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.
5. Accountant General, Khyber Pakhtunkhwa.
6. Secretary to Governor, Khyber Pakhtunkhwa.
7. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
8. Secretary provincial Assembly, Khyber Pakhtunkhwa.
9. All Heads of Attached Departments in Khyber Pakhtunkhwa.
10. Registrar, Peshawar High Court, Peshawar.
11. All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officers in Khyber Pakhtunkhwa.
12. Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
13. Registrar, Service Tribunal, Khyber Pakhtunkhwa.
14. All the Autonomous and Semi Autonomous Bodies in Khyber Pakhtunkhwa.
15. Secretary to Government of Punjab, Sindh & Balochistan, Finance Department, Lahore, Karachi & Quetta.
16. The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbotabad, Swat and D.I. Khan.
17. The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Mansehra & Dir Lower.
18. The Treasury Officer, Peshawar.
19. All District / Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
20. PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
21. PSO to Chief Secretary, Khyber Pakhtunkhwa.
22. Director, Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
23. PS to Finance Secretary.
24. PAs to All Addl; Secretaries / Deputy Secretaries in Finance Department.
25. Director, FMIU with the request to upload the same Notification on website.
26. All Section Officers / Budget Officers in Finance Department.

[Handwritten signature]

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(WAZIR MUHAMMAD AFGAR)



F, 12

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (SOSR-1) 2-123/2014
Dated Peshawar the 21st February, 2014

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance PATA, PATA Secretariat, Peshawar.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

Subject:

**GRANT OF PREMATURE INCREMENT ON PROMOTION
WITHIN THE SAME SCALE.**


Dear Sir,

I am directed to refer to the subject noted above and to say that under Rule 10 (2) of the Khyber Pakhtunkhwa Civil Services Pay Revision Rules - 1978, one advance increment is admissible to the Civil Servants, at the time of their promotion to higher posts, who are already drawing pay in the basic pay scales of the higher post.

2. Now, in pursuance to the Government of Pakistan, Finance Division, Islamabad Office Memorandum No.F.11(30)R-2/2010-1150 dated 5th November, 2012 (copy enclosed), the competent authority is pleased to allow one premature increment in the pay scales of the higher post in fixation of pay on promotion within the same pay scale in all cases of promotion to higher posts carrying the same basic pay scales, meaning thereby that one advance increment as next stage and another as a premature increment will be admissible in such cases of promotion.

3. These orders will be effective from the date of its issuance.

Yours faithfully,

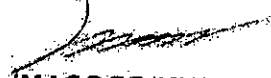

(RAZAULLAH KHAN)
Addl. Secretary (Regulation)

Endst. No. FD (SOSR-1) 2-123 /2014

Dated 21st Feb, 2014

Copy for information & necessary action to the:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. All the District Controller of Accounts in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
4. The Director, FMU, Finance Department.
5. The Treasury Officer, Peshawar.
6. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
7. All the District & Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
8. All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
9. The Private Secretary to Senior Minister for Finance, Khyber Pakhtunkhwa.
10. The Private Secretary to Secretary / P.As to Special Secretary, Additional Secretaries / Deputy Secretaries in Finance Department.


(MASOOD KHAN)
Deputy Secretary (Reg-II)

P.T.O

*Attested
Razaullah*



5, (13)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (SOSR-1) 2-123/2013
Dated Peshawar the 7th February, 2014

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

Subject:

**CLARIFICATION REGARDING GRANT OF ONE SPECIAL
ADVANCE INCREMENT EXTENDED TO THE EMPLOYEES
WHO WERE HOLDING SELECTION GRADE PRIOR TO
UPGRADATION OF THEIR POSTS IN BASIC PAY SCALES
ALREADY HELD BY THEM.**

Dear Sir,

I am directed to invite your attention to the subject matter and to state that certain queries have been received from different quarters about the admissibility of one special advance increment allowed under this Department's letter of even number dated 31-12-2013.

2. In this connection, it is to clarify that the above stated increment has been extended only to those employees who were holding Selection Grade prior to up-gradation of their posts but neither availed the benefit from up-gradation of posts under this Department's Notification No.FD/SOFR/7-2/2007 dated 28-07-2007 nor one special advance increment granted vide Notification No.FD (SR-1) 2-4/2009 dated 04-04-2009.

Yours faithfully,

(MASOOD KHAN)
Deputy Secretary (Reg-II)



H
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

14

NO. FD (SOSR-1) 2-123/2013
Dated Peshawar the: 31-03-2014

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

Subject:

CLARIFICATION REGARDING GRANT OF ONE SPECIAL
ADVANCE INCREMENT TO THE EMPLOYEES HOLDING
SELECTION GRADE PRIOR TO UPGRADATION OF THEIR
POSTS IN BPS ALREADY HELD BY THEM.

Dear Sir,

I am directed to refer to this Department's circular letter dated 31-12-2013 on the above noted subject and to state that a number of references have been received in this Department seeking clarification about the admissibility of one special advance increment granted vide this Department's letter No. FD (SR-1) 2-4/2008 dated 04-04-2009.

2. In this connection, it is to clarify that the said increment has only been extended to the officials who were holding Selection Grade prior to up-gradation of their posts in BPS, already held by them, just as in the case of same scale promotion, for instance:-

- i. Junior Clerks (B-5) holding selection grade BPS-07 upgraded to BPS-7 is entitled to one special advance increment.
- ii. Senior Clerks (B-7) holding selection grade BPS-09 upgraded to BPS-09 is entitled to one special advance increment
- iii. Assistants (B-11) holding selection grade BPS-15 upgraded to BPS-14, is **not** entitled to one special advance increment

3. The above referred Notification / circular letter is not applicable to any other category of employees.

Handwritten signature

S
(MASOOD KHAN)
Deputy Secretary (Reg-II)

P.T.O

To

The Comptroller of Accounts
District Abbottabad.

Subject

THROUGH PROPER CHANNEL

APPLICATION FOR GRANT OF TWO ADVANCE INCREMENTS W.E.F. 01/10/2007 ALONGWITH ARREARS ON UPGRADATION OF POST HELD (CT) UNDER NOTIFICATION NO. FD/SO(FR)10-22/2007 DATED 26/01/2008 READ WITH NOTIFICATIONS BELOW.
NOTIFICATION FD.S.O. (PRC)/1-2/77, DATED 30/05/2014
NOTIFICATION FD(SOSR-1)2-123/2014, DATED 30/05/2014.
NOTIFICATION FD(SOSR-1)2-123/2014, DATED 21/02/2014.
NOTIFICATION FD(SOSR-1)2-123/2013, DATED 07/02/2014
NOTIFICATION FD(SOSR-1)2-123/2013, DATED 31/03/2014.
ALL ABOVE NOTIFICATIONS, ISSUED BY GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT PESHAWAR.

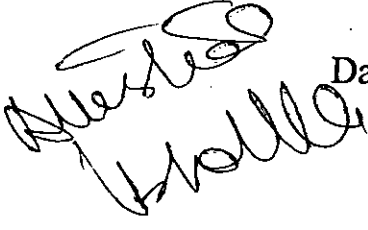
Sir,


Applicant has the honour to request his submissions that presently he now he is performing his duties as SST(G), while before presence capacity he was working as CT, in Elementary & Secondary Education Department Abbottabad, now he is performing his duties as SST.

That applicant had granted higher scale with effect from 02/12/1998 on the basis of award of Selection Grade in BPS 15 before the upgradation of his occupied CT post, which was upgraded from 01/10/2007 and no benefit in the shape of further upgradation or in the shape of advance increments were given to the applicant in the upgradation of his previous CT post.

That Government of Khyber Pakhtunkhwa has been pleased to compensate the applicant and other equally placed teachers/employees/ persons through above Notifications.

It is therefore requested that appropriate measures may please be taken in accordance with the pay matters of undersigned applicant/teacher in pursuance of their remaining claims referred above in full detail and outstanding arrears may also be drawn in the coming pay.


Dated 06/02/2020


Rashid Iqbal Khan
SST GMS Salhad
Abbottabad.

Contact No 0333-5025002.

"B"

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

No.

713

Appeal No. 6137 of 2020

Rashid Iqbal Appellant/Petitioner
Versus

Distt. Comptroller of Accounts A. Mead Respondent

Respondent No. 2

Asstt. Accounts Officer
Of O.A. Office to:
Khyber Pakhtunkhwa

Accountant General Govt. of K.P.K. Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 14-6-2021 at 8.00 A.M. If you wish to urge anything against the appellant petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 26th

Day of Feb 20 21

at Camp Court A Mead

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1 The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2 Always quote Case No. While making any correspondence.

"B"

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

No.

713

Appeal No.: 6137 of 2021

Rashid Iqbal Khan Appellant/Petitioner
Versus

Distt. Comptroller of Accounts Respondent
A. Akbar
Respondent No. 4

Notice to:

Govt. of KP through Secy. Education
Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 14 Feb 2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 26th Day of Feb 2021

At Camp Court A Akbar

[Signature]

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same as that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any communication.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT ABBOTTABAD BENCH

S.A No. 6137/2020

Rashid Iqbal KhanAppellants

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

INDEX

Sr.No.	Description	Page Nos	Annexures
1	Comments alongwith Affidavit	01 to 04	
2	Copy of Judgment dated 23-08-2017	05 to 10	"A"

(1)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

Appeal No. 6137/2020

Rashid Iqbal KhanAppellant

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:-

Comments on behalf of respondents are submitted as under:-

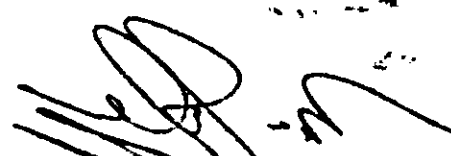
PRELIMINARY OBJECTION:-

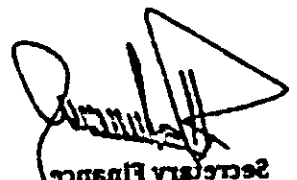
1. That the instant appeal is not maintainable in its presents form as appellant had filed Service Appeal No. 371/2015 titled Rashid Iqbal & Others VS District Comptroller of Accounts having the same subject matter which was dismissed on 23-08-2017. Hence, the instant appeal is **hit by the Principal of Res Judicata**.
2. That the appeal in hand is hit by the **Principal of Estoppel & Waiver** hence, appeal is liable to be dismissed.
3. That the appeal in hand is hit by the **Principal of Laches** hence, appeal is liable to be dismissed.
4. That the appellant has concealed the material facts from the this Honourable Tribunal and mis leaded/cheated and did not disclose the fact that his previous appeal on the same subject matter was dismissed hence, exemplary cost be imposed upon the appellant for frivolous litigation.
5. That the appellant did not file any departmental appeal as he didn't annex any postal receipt alongwith his appeal. Furthermore, appellant annexed so called departmental appeal alongwith his service appeal at Page No. 15 which is without any signature / diary No. Hence, the instant appeal is not maintainable in the eye of Law.
6. That the appellant has no cause of action to file the instant appeal against the answering respondents.
7. That the appeal of the appellant is time barred. Hence liable to be dismissed.
8. That the appellant has filed the present appeal just to pressurize the answering respondents.
9. That the appellant has not come to this Honorable Tribunal with clean hands hence, not entitled for the any relief.


That the Para No. 7 of the service appeal as composed is incorrect hence denied
appellant can't file the instant service appeal under the Principle of Res Judicata.


Grounds:

- a. That ground a as composed is incorrect hence, denied.
 - b. In reply to ground b, it is submitted that comprehensive reply has already been given in preceding paras.
 - c. In reply to ground c, it is submitted that comprehensive reply has already been given in preceding paras.
 - d. That ground d, as composed is incorrect hence, denied.
 - e. That ground e, as composed is incorrect hence, denied.
 - f. In reply to ground f, it is submitted that appellant is estopped to sue under the Principle of Res Judicata.
 - g. That the respondent seeks leave of this Honorable Tribunal to agitate additional grounds at the time of arguments.
- Under the circumstances, it is humbly prayed that the instant appeal is meritless against the law and facts, hence liable to be dismissed and heavy cost be imposed upon appellant for frivolous litigation.


 District Controller of Accounts
 Abbottabad
 (Respondent No. 1)


 Secretary Finance
 Khyber Pakhtunkhwa
 Peshawar
 (Respondent No. 3)


 Secretary R&SE
 Khyber Pakhtunkhwa
 Peshawar
 (Respondent No. 4)


 Accountant General
 Khyber Pakhtunkhwa
 Peshawar
 (Respondent No. 2)
 Accountant General
 Khyber Pakhtunkhwa
 Peshawar

- 10. That the instant appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
- 11. That the legislator has authority to legislate as they have mandate to do so by a recognize process and services law do not provides the provision of judicial review, hence appeal is not tenable.
- 12. That the appellant is at liberty to join service after due process of law equivalent to his qualification & the Government is not bound to elevate the incumbency.

Factual objections:-

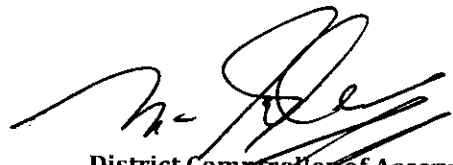
- 1. That the Para No. 1, of the service appeal is correct to the extent of awarding of selection Grade while rest of the para as composed is subject to cogent proof.
- 2. That the Para No. 2, of the service appeal as composed is incorrect hence, denied. In supersession of letter No. SO(FR)10-22(B)/2005 dated 01-10-2007 and in pursuance of the decisions of the meeting held under the chairmanship of Secretary Establishment on 02-01-2008, the competent authority was pleased to allow upgradation for the incumbents of the various posts vide Notification No. FD/SO(FR)10-22/2007 of the Government of NWFP Finance Department (Regulation Wing) dated 26-01-2008. (Copy of the Notifications of Finance Department dated 01-10-2007 & 26-01-2008 have already been annexed with the service appeal of the appellant as Annexure "B" & "C").
- 3. In reply to Para No. 3 of the service appeal it is submitted that appellant didn't annex notification & clarification in this regard.
- 4. In reply to Para No. 4 of the service appeal it is submitted that appellant has already been awarded selection grade BPS 15 from BPS- 09 & he has also been granted next stage & plus pre mature as the selection grade has already been declared promotion. Further submitted that the appellant has also been promoted from BPS 15 to BPS 16 in March 2013. The appellant is seeking fringe benefit of 02 increments through the instant appeal whereas it is conspicuous that he does not fall within the true spirit of the letter No. FD(SOSR 1) 2-123/2014 dated 21-02-2014 as the order is effective after its issuance ibid. Moreover, the instant appeal is not maintainable in its presents form as appellant had filed **Service Appeal No. 371/2015 titled Rashid Iqbal & Others VS District Comptroller of Accounts** having the same subject matter which was dismissed on 23-08-2017. Hence, the instant appeal is **hit by the Principal of Res Judicata. (Copy of Judgment dated 23-08-2017 is annexed herewith as annexure "A")**.
- 5. That Para No. 5 of the instant appeal as composed is incorrect hence, denied as detailed reply has already been given in the Para No. 4 of the Factual Objections.
- 6. That Para No. 6, of the instant appeal as composed is incorrect hence, denied as appellant did not file any departmental appeal as he didn't annex any postal receipt alongwith his appeal. Furthermore, appellant annexed so called departmental appeal alongwith his service appeal at Page No. 15 which is without any signature / diary No. Hence, the instant appeal is not maintainable in the eye of Law.


7. That the Para No. 7 of the service appeal as composed is incorrect hence, denied appellant can't file the instant service appeal under the Principle of Res Judicata.

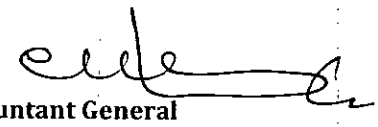
Grounds:

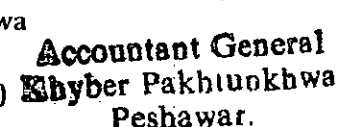
- a. That ground a. as composed is incorrect hence, denied.
- b. In reply to ground b, it is submitted that comprehensive reply has already been given in preceding paras.
- c. In reply to ground c, it is submitted that comprehensive reply has already been given in preceding paras.
- d. That ground d, as composed is incorrect hence, denied.
- e. That ground e, as composed is incorrect hence, denied.
- f. In reply to ground f, it is submitted that appellant is estopped to sue under the Principle of Res Judicata.
- g. That the respondent seeks leave of this Honorable Tribunal to agitate additional grounds at the time of arguments.

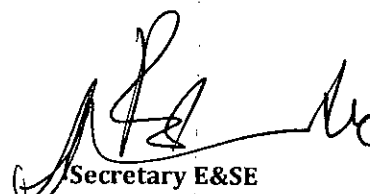
Under the circumstances, it is humbly prayed that the instant appeal is meritless against the law and facts, hence liable to be dismissed and heavy cost be imposed upon appellant for frivolous litigation.


District Comptroller of Accounts
Abbottabad
(Respondent No.1)


Secretary Finance
Khyber Pakhtunkhwa
Peshawar
(Respondent No.3)


Accountant General
Khyber Pakhtunkhwa
Peshawar
(Respondent No.2)


Accountant General
Khyber Pakhtunkhwa
Peshawar.


Secretary E&SE
Khyber Pakhtunkhwa
Peshawar
(Respondent No.4)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

Appeal No. 6137/2020

Rashid Iqbal KhanAppellant

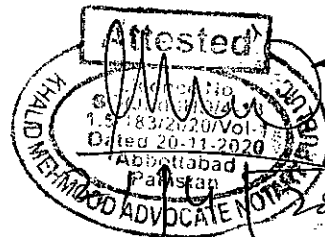
VERSUS

GOVT: OF KHYBER PAKHTUNKHWA & OTHERS.....RESPONDENTS

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

AFFIDAVIT

I, Mr. Sardar Muhammad Saleem, District Accounts Officer Abbottabad, do hereby affirm and declare that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Court.



DEPONENT

Am - A" (5)
①

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 371 of 2015



Rashid Iqbal Khan S/O Shamarez Khan Jadoon, Senior CT Teacher,
Government Centennial Model Secondary School (Boys) English
Medium (GHS # 2) Abbottabad. Resident of House No. 127, Link
Road Narian, Cantt, Abbottabad.

Appellant

W.F. Province
Service Tribunal

Diary No. 426

Date 27-4-2015

Versus

- 1 District Comptroller of Accounts, Abbottabad.
- 2 Accountant General Khyber Pakhtunkhwa Peshawar.
- 3 Government of Khyber Pakhtunkhwa through Secretary Finance
Department Peshawar.
- 4 Government of Khyber Pakhtunkhwa through Secretary
(Elementary & Secondary Education), Department Peshawar.

Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, FOR
GRANT OF (TWO INCREMENTS) ONE PREMATURE &
ONE SPECIAL INCREMENT ALONGWITH ALL BACK
BENEFITS W.E.F. 01/09/2007 UNDER THE LAW AND ON
THE BASIS OF CLARIFICATION ISSUED UNDER
NOTIFICATION NO FD (SOSR-1) 2-123/2013 DATED
31/12/2013 ISSUED BY RESPONDENT NO 3 (FINANCE
DEPARTMENT) BEING SELECTION GRADE HOLDER
ALREADY WORKING IN THE SAME SCALE ON
UPGRADATION OF HIS POST. THE IMPUGNED ACTION
OF RESPONDENT NO 1, I.E. NONE DECIDING OF
REPRESENTATION DATED 16/01/2015 AND NONE
GRANTING OF TWO INCREMENTS IS, WITHOUT
LAWFUL AUTHORITY, ARBITRARY, DISCREMINATORY
AGAINST THE PRINCIPAL OF NATURAL JUSTICE AND
INEFFECTIVE UPON THE APPELLANT'S RIGHTS OF

ATTESTED

Secretary
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

27/4/15

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD

Service Appeal No. 371/2015

Date of Institution... 27.04.2015

Date of decision... 23.08.2017



Rashid Iqbal Khan son of Shamraiz Khan Jadoon, SCT Teacher GCMSS (Boys)
English Medium (GHS No. 2) Abbottabad R/O House No. 127, Link Road, Narian
Cantt. Abbottabad. ... (Appellant)

Versus

1. District Comptroller of Accounts Abbottabad and 3 others. ... (Respondents)

Appellant
Appellants in connected appeals.

Pro Se

MR. MUHAMMAD BILAL
Deputy District Attorney ...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL ...

CHAIRMAN,
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the appellant
and learned Deputy District Attorney heard and record perused.

This judgment will dispose of the instant service appeal as well as connected
service appeals No. 381/2015 Muzaffar Ali, No. 382/2915 Waseem Ur Rahman,
No. 383/2015 Shoukat Ali Abbasi, No. 384/2015 Khizar Hayat, No. 385/2015
Muhammad Sarwar Khan, No. 386/2015 Abdur Razzaq, No. 387/2015 Abdul Bari,
No. 409/2015 Wajid Ali Shah, No. 410/2015 Fareed Hussain Shah, No. 411/2015
Jahangir Iqbal, No. 412/2015 Tariq Khan, No. 413/2015 Mir Afsar, No. 414/2015
Rashed Latif, No. 477/2015 Muhammad Sadeed, No. 478/2015 Arif Khan, No.
479/2015 Ashfaq Ur Rehman, No. 480/2015 Azhar Iqbal, No. 481/2015 Shah
Zaman Shakir, No. 482/2015 Shamraiz Khan, No. 483/2015 Munir Gul, No.
484/2015 Abdul Saboor, No. 753/2015 Sultan Khan, No. 754/2015 Muhammad
Mehboob, No. 850/2015 Muhammad Kabria Khan, No. 1221/2015 Muhammad
Jehangir Khan and No. 1020/2015 Bashir Ahmad, as in all the appeals common
questions of law and facts are involved.

ATTESTED

CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

FACTS

2. Appellants have challenged their pay fixation mainly on the ground that since they were placed in Selection Grade BPS-15 and on the upgradation of different posts they were also entitled for one premature increment and also one special increment within the meaning of Rule 10(2) of the Khyber Pakhtunkhwa Basic Pay Revision Rules, 1978.

ARGUMENTS

3. Mr. Rashid Iqbal Khan, appellant, *pro se* and for others argued that in the first round of litigation, the appellants went up to the august Supreme Court of Pakistan in the matter pertaining to their upgradation which was finally remanded back by the august Supreme Court of Pakistan to the departmental authority for decision, which is still awaited. Presently their grievance is non grant of 2 premature advance increments in view of Rule 10(2) of the rules mentioned above and in view of a notification dated 4.4.2009 as clarified by another notification dated 31.12.2013.

4. On the other hand, the learned Deputy District Attorney argued that the appellants are not entitled to any of the two increments for the reason that the notification dated 4.4.2009 had finally been verified by another letter dated 31.3.2014 confining its applicability to posts mentioned therein. That the appellants do not fall within the purview of this notification. Secondly, that Rule 10(2) of the rules mentioned above has got no relevancy to the case of the appellants.

ATTESTED

CONCLUSION

5. At the very outset this Tribunal questioned the appellants that against which order whether original or appellate they have knocked the door of this Tribunal, the appellants could not refer to any such order. However, the appellants referred to their representations moved to the department on 16.01.2015. By perusing this

KHYBER PAKHTUNKHWA
Service Tribunal
Peshawar

departmental representation it is clear that appellants had referred to above mentioned letter dated 31.12.2013 and have interpreted that letter in the way for grant of two increments on the basis of the said letter. Introduction of Rule 10(2) is for the first time made during the arguments today.

6. This Tribunal is first to see whether Rule 10(2) is applicable to the appellants which has never been agitated by the appellant before any other forum or before approaching this Tribunal. One can reach the conclusion that benefit of Rule 10(2) is admissible by virtue of Rule 8 of the said rules. But Rule 8 is not applicable to the case of the appellants rather it is applicable to the employees who have reached the ceiling of their basic pay scales.

7. Coming to the notification dated 31.12.2013, wherein it has been mentioned that one special advance increment is admissible also to the employees who were holding Selection Grade prior to upgradation of their posts in basic pay scales already held by them, just as in the case of same scale promotion. The appellants interpreted this letter in their favour by holding that para-2 of this letter, the applicability is connected to all Basic Pay Scales and is not confined to Basic Pay Scales mentioned in the letter dated 04.04.2009. In order to strengthen their position, the appellants argued that if for arguments sake the scope of this para-2 of letter dated 31.12.2013 is confined to BPS mentioned in the letter dated 4.4.2009, the same is against the fundamental rights of the citizen and would be a discrimination against other civil servants including the present appellants. In this respect the appellants relied upon two unreported judgments entitled "*Rashid Iqbal Khan Vs. District Coordination Officer, Abbottabad and others*" in CPLA No. 525/2007 and "*Attaullah Khan Vs. Executive District Officer, Schools & Literacy, Lakki Marwat and others*" in Civil Appeal No. 118-P/2009.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

8. Subsequent to the notification dated 31.12.2013, a notification was issued on 31.3.2014 wherein it has been categorically mentioned that the letter dated 31.12.2013 is confined only to the posts mentioned in the letter dated 4.4.2009. If we go through the letter dated 31.12.2013, the same refers to letter dated 4.4.2009 and in sub para 2 it makes certain clarification regarding advance increments but it cannot be construed that this clarification covered all those BPS which were not mentioned in the letter dated 4.4.2009. In order to clarify this issue, the notification dated 31.3.2014 was issued which has clearly mentioned that it does not pertain to those BPS which were not mentioned in the letter dated 04.04.2009.

9. Coming to the objection of discrimination by the appellant, this Tribunal is afraid that the interpretation of the appellants to the discrimination of employees viz-a-viz the fundamental rights is very narrow because the rules of *intelligible differentia* allows the legislative and executive authorities to settle separate terms and conditions for separate classes provided the classification is reasonable. The judgments of the august Supreme Court of Pakistan referred to by the appellants never speaks of discrimination rather both these judgments had interpreted some notifications and had reached the conclusion that the correct interpretation of those notifications was that some employees had never been expressly or impliedly excluded from the operational part of the notification.

10. The notification dated 4.4.2009 is confined to a particular class of civil servants and any other class which falls outside of this class cannot take benefits of the said notification on the ground that they are also civil servants and are discriminated against under the fundamental right of equality of citizens.

ATTESTED

11. Coming to the jurisdiction of this Tribunal, the appellants have not been able to show that from which original or appellate order they are aggrieved within the meanings of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

They are not aggrieved from any order appellate or original rather they want to take benefits on the basis of a notification which they interpreted in their favour. In this regard the famous judgment of *I.A Sherwani* reported as 1991-SCMR-1041 is very much clear. According to this reported judgment a civil servant making his claim on the basis of some general notification cannot seek the remedy before the Service Tribunal as the august Supreme Court of Pakistan held in that very case that such notification cannot be construed as original or appellate order of departmental authority. The second aspect of this case is that the denial of increments is a matter of pay fixation which also does not fall within the ambit of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 as is held in a reported case entitled "*Khan Toti and others Vs. Government of Khyber Pakhtunkhwa through Secretary Finance Department and others*" reported as 2016-SCMR-1206.

12. Resultantly, this appeal as well as all other service appeals have got no merit and are dismissed. Parties are left to bear their own costs. File be consigned to the record room.

Hamid
(Muhammad Hamid Mughal)
Member

Muhammad Khan
(Niaz Muhammad Khan)
Chairman
Camp Court, A/Abad

ANNOUNCED

23.08.2017

Certified to be true copy

[Signature]
EX-AMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 19/04/22
Number of Words 2400
Copying Fee 26/-
Urgent 5/-
Total 30/-
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Date of Completion of Copy 19/04/22
Date of Delivery of Copy 19/04/22

BEFORE THE PK SERVICE TRIBUNAL CAMP COURT ABBOTTABAD

Service Appeal NO 6137 OF 2020

Rashid Iqbal Khan Versus District Comptroller of Accounts Abbottabad and others

Final Arguments (Main points and History)

- 1) Awarded Selection Grade BPS 14 to 15 with effect from 02/12/1998 (Page 5 -6), Basic Notification 07.08.1991 (page 60 -61 in CP 4303)
- 2) Up-gradation Notification 01.07.2007(page 7-8) Super session Notification page 9, discrimination removed on condition of BA second Division.
- 3) Selection grade holders already in BPS 15, discriminated in Up-gradation Notification 01.07.2007, which was challenged, Appeal no 683/2008 was dismissed by Service Tribunal, and CPLA no 1290/2009 disposed on 16/04/2010.(page 47-48 CP) (referred in Para 5, Page 17 CP). No response.
- 4) Came in to Knowledge Two advance increments for Selection grade holders dated 31/12/2013 (page 41 CP).
- 5) Challenged in Appeal No 371/2015, dismissed on 23/08/2017 (page 10-14) respondents concealed
- 6) CPLA 4303/2017 filed with all relevant two notifications 31/12/2014, 21/02/2014 etc Page 34, 35 CP.
- 7) Titled Service appeal 6137/2020 ,
- 8) Respondents comments totally different different stand
 - a) in previous litigation Para 6 at page 23 CP.
 - b) in present litigation Para 04 page 2 in comments.
 - c) Evasive denial in comment relating to para 05 of appeal
 - d) Page No 7 para f of CP related to concealment of relevant notifications by respondents in Comments.
- 9)
- 10)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE MUNIB AKHTAR

Civil Petition No. 4303 of 2017.
(On appeal from the judgment/order dated 23.8.2017 of the KP Service Tribunal, Peshawar passed in SA No.371 of 2015).

Rashid Iqbal Khan

Petitioner(s)

Versus

District Comptroller of Account, Abbottabad
and others

Respondent(s)

For the petitioner(s) In-person

For the respondent(s) N.R.

Date of hearing 09.10.2018

ORDER

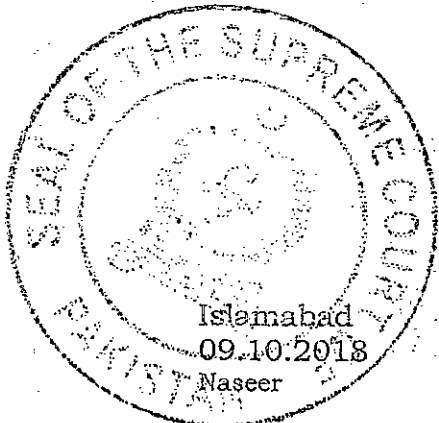
UMAR ATA BANDIAL, J. — After arguing the matter at some length, the petitioner in person does not want to press this petition and wishes to withdraw the same. Dismissed as withdrawn.

Sd/-J

Sd/-J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad



Not approved for reporting

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11/10/18

3668/20
GR No: Civil/Criminal
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