

BEFORE HONOURABLE SERVICE TRIBUNAL HIGH COURT CAMP
ABBOTTABD

APPEAL NO. 7823/2021

MST: KOUSAR JEHAN _____ Appellant

VS

DIRECTOR ELEMENTARY & SECONDARY EDUCATION ___ Respondent

WRITTEN REPLY ON THE BEHALF OF RESPONDENTS

Respectfully Sheweth

PRELIMINARY OBJECTIONS

1. That the petition has got no cause of action to file the instant petition.
2. That the petition is not maintainable in its present form.
3. That the petition is time barred, hence not maintainable.
4. That the petition did not come to this honorable court with clean hands.
5. That the petition is stopped by his own conduct to file the instant petition.
6. That the petition has suppressed the material facts from the honorable court. hence not entitled for any relief and liable to be set aside.

FACTS

1. No comments
2. No comments
3. Para No. 03 relate to academic qualification of appellant hence no comments.
4. Para No. 04 relate to academic qualification of appellant hence no comments.
5. Para No. 05 relate to appointment order of appellant hence no comments.
6. Para No. 06 is incorrect the appellant is not entitled for advance increment due to promulgation of act prevailing by the Government namely *The Khyber*

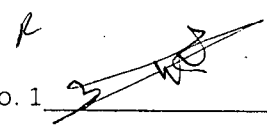
Pakhtunkhwa Cessation of payment of arrears on advance increments on higher educational qualification Act 2012. copy of the act is annexed as Annexure A

7. Para No. 07 is incorrect hence denied, the appellant is not entitled for advance increment on the basis of higher qualification.
8. Para No. 08 is incorrect need proof.
9. Para No. 09 is incorrect.

GROUNDS:

- a)- Para (a) is incorrect.
- b)- Para (b) is incorrect and denied the promulgation of act with regard to the advance increment in year 2012, which was discontinued the process advance increment hence the appellant is not entitled for advance increment on the basis of higher qualification.
- c)- Para (c) is incorrect.
- d)- Para (d) is incorrect.
- e)- Para (e) is incorrect.
- f)- Para (f) is incorrect, the respondent are bound to decide the cases on merit & on the basis of prevailing policy by the Govt.:
- g)- Para (g) is incorrect.
- h)- Para (h) is incorrect.
- i)- Para (i) is incorrect.
- J)- Para (j) is incorrect.
- k)- Para (k) is incorrect and denied hence the appellant is not entitled for the payment of advance increment on the basis of higher qualification.

It is therefore the most graciously requested that the appeal of appellant may kindly be dismissed.

Respondent No. 1 

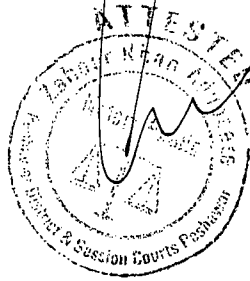
District Education Officer

(Female) Mansehra

AFFADAVIT

I, Mst: Rehana Yasmeen District Education Officer (Female) Mansehra do hereby solemnly affirm and declare on oath that the contents of the accompanying of the para wise comments are true and correct to the best of my knowledge and belief and nothing been kept concealed deliberately from this Honorable Tribunal.

PR
WA
Deponent





KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 15TH MAY, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 15th May, 2012.

PA Khyber Pakhtunkhwa/Bills/2012/20711.—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.

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

(KHYBER PAKHTUNKHWA ACT NO. IX OF 2012)

*(First published after having received the assent of the Governor of the Khyber
Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa
(Extraordinary), dated the 15th May, 2012).*

AN

ACT

*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

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;

It is hereby enacted as follows:-

1. **Short title, application and commencement.**— (1) This Act may be called the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 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 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.

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

4. Repeal.— The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Ordinance, 2012 (Khyber Pakhtunkhwa Ordinance NO. 1 of 2012), is hereby repealed.

BY ORDER OF MR. SPEAKER

PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMANULLAH)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa