

27.12.2021

Counsel for the Petitioner and Mr. Muhammad Rasheed, DDA alongwith Sohail Ahmad Zaib, Litigation Officer, Naseeb Khan, S.O (Litigation), Farhad Durrani, AAO, Gul Moeed, DAO and Sabir Sultan, Senior Auditor for the respondents present.

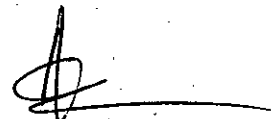
Case to come up for further arguments alongwith EP No. 84/2020 on 29.12.2021 before S.B at camp court, Abbottabad.

  
Chairman  
Camp Court, A/Abad

29.12.2021

Counsel for the petitioner and Mr. Noor Zaman Khattak, District Attorney alongwith Sohail Ahmad Zaib, Litigation Officer, Naseeb Khan, S.O (Litigation), Farhad Durrani, AAO, Gul Moeed, DAO and Sabir Sultan, Senior Auditor for the respondents present.


Further arguments have been heard. Case to come up for order alongwith EP No. 84/2020 on 19.01.2022 before S.B at Peshawar.

  
Chairman  
Camp Court, A/Abad

19.01.2022

Jr. to counsel for the petitioner and Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Vide our detailed order of today in Execution Petition No. 84/2020, titled "Muhammad Bashir Vs. the Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar and others", this Petition stands disposed of as per Para-4 of the order. There is no order as to costs. File be consigned to the record room.

  
(AHMAD SULTAN TAREEN)  
Chairman

ANNOUNCED  
19.01.2022

17.11.2021

Counsel for the petitioner and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Naseeb Khan, S.O and Sohail Ahmad Zaib, Litigation Officer for the respondents present.

To come up for arguments alongwith Execution Petition No. 84/2020 on 29.11.2021 before S.B at Camp Court, Abbottabad.



Chairman  
Camp Court, A/Abad

29.11.2021

Counsel for the petitioner present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Sohail Ahmad Zaib, Litigation Officer, Muhammad Saleem, S.O (Litigation), Naseeb Khan, S.O (Litigation) Sabir Sultan, Senior Auditor for the respondents present.

Partial arguments heard. Representatives of the respondents are directed to produce record pertaining to execution petition at hands. To come up for record and further arguments on 01.12.2021 alongwith E.P No. 84/2020 before S.B at camp court, Abbottabad.

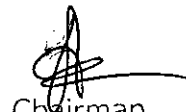


Chairman  
Camp Court, A/Abad

01.12.2021

Counsel for the petitioner, Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Sohail Ahmad Zaib, Litigation Officer, Amanatullah Qureshi, Deputy Secretary (Litigation) Finance department, Gul Moveed, Accounts Officer, Sabir Sultan, Senior Auditor for the respondents present.

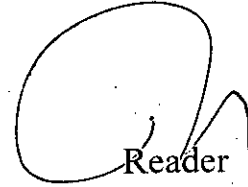
Case to come up further arguments alongwith EP No. 84/2020 on 27.12.2021 before S.B at camp court, Abbottabad.



Chairman  
Camp Court, A/Abad

19.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 11.08.2021 for the same as before.



Reader

11.08.2021


Appellant present through representative.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

File to come up alongwith connected file Appeal No.768/2017 titled Shuja Ali Vs. Education Department on 06.10.2021 before D.B.



(Rozina Rehman)  
Member (J)

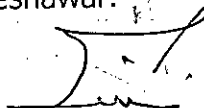


Chairman

14.10.2021

Counsel for the appellant and Mr. Muhammad Rasheed; DDA alongwith Sohail Ahmad Zaib, Litigation Officer and Muhammad Ashfaq, Senior Auditor for the respondents present.

File to come up alongwith Execution Petition No. 84/2020 and other involving similar questions on 17.11.2021 before the S.B at Peshawar.



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



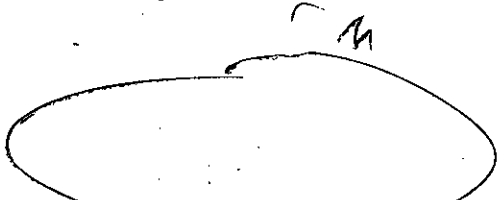
Chairman  
Camp Court, A/Abad

09.02.2021

Counsel for the appellant and Addl. AG for the respondents present.

Former has submitted an application for conversion of instant appeal into implementation petition in the light of judgment/order dated 28.11.2019 by the Apex Court.

Learned AAG requests for time to submit a reply to the application. To come up for the purpose on 23.02.2021 before the <sup>D.B</sup> Larger Bench.

  
(Muhammad Jamal Khan)  
Member(J)

  
Chairman  
(Rozina Rehman)  
Member(J)

  
(Mian Muhammad)  
Member (E)

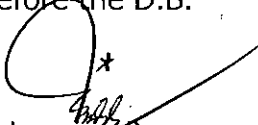
  
(Atiq-ur-Rehman Wazir)  
Member(E)

23.02.2021

Mr. Sultan Khan, (appellant in connected appeal) for appellant and Mr. Muhammad Rashid, DDA for respondents present.

Learned DDA states that the respondents have serious reservations regarding the application for conversion. He, therefore, requests for time to submit a reply to the same.

Respondents are allowed to do the needful within one month, where-after, the matter shall come up for hearing on 19.04.2021 before the D.B.

  
(Mian Muhammad)  
Member(E)

  
Chairman

20.08.2020.

Due to summer vacation case to come up for the same on 10.11.2020 before Larger Bench.

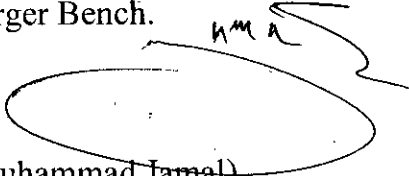


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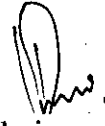
09.11.2020

Nemo for the appellant present. Mr. Usman Ghani,  
District Attorney for respondents present.

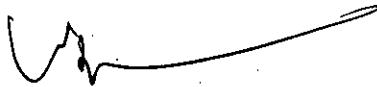
The Bar is observing general strike, therefore, the matter is adjourned to 09.02.2021 for hearing before the Larger Bench.




(Muhammad Jamal)  
Member (J)



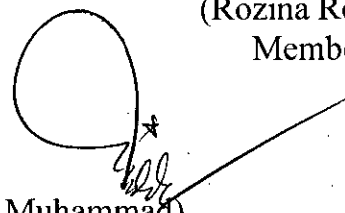
Chairman



(Atiq-ur-Rehman)  
Member(E)



(Rozina Rehman)  
Member(J)



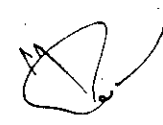
(Mian Muhammad)  
Member(E)

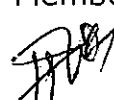
12.03.2020

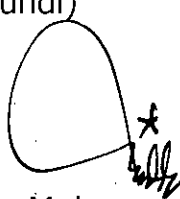
Appellant in person and Mr. Ziaullah, DDA for the respondents present.

The Worthy Chairman is on leave, therefore, the bench is incomplete and the matter is adjourned to 11.06.2020 for arguments before the Larger Bench.

  
(M. Amin Khan Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member


  
(Hussain Shah)  
Member

  
(Mian Muhammad)  
Member

11.06.2020

Nemo for the appellant and Mr. Kabirullah Khattak Addl. AG for the respondents present.

Due to incomplete Bench, the matter is adjourned to 20.08.2020 for arguments before the Larger Bench.

  
(M. Amin Khan Kundi)  
Member

  
(Mian Muhammad)  
Member

  
Chairman


14.11.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith M/S Zakiullah, Senior Auditor and Hajjad Shah, ADO for the respondents present.

Representative of respondents states that the cases involving similar proposition are pending before the Apex Court through CPLAs No. 5128 & 5130 of 2019 and are likely be decided in the month of December, 2019. He, therefore, requests for adjournment.

Adjourned to 13.01.2020 before the Larger Bench.

  
(M. Hamid Mughal)  
Member

  
Chairman

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

  
(Hussain Shah)  
Member

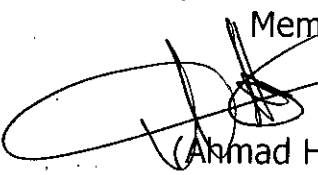
13.01.2020

Nemo for appellant. Mr. Ziaullah, Deputy District Attorney for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant matter is adjourned to 12.03.2020 for arguments before Larger Bench.

  
(M. Hamid Mughal)  
Member

  
Chairman

  
(Ahmad Hassan)  
Member


  
(M. Amin Khan Kundi)  
Member

  
(Hussain Shah)  
Member

Above all the issue of interpretation of notification dated 11.08.1991 and entitlement of the petition for grant of advance increments on higher qualification is of paramount importance in the appeals in hand. Correct appreciation/interpretation of the referred to above and proper form in whom jurisdiction is vested needs to be deliberated/decided.

In these circumstances this Tribunal is left with the only option to refer the matter to a larger bench for adjudication. This case alongwith connected appeals may be fixed for hearing before the Larger Bench at principal seat Peshawar on 14.11.2019.

  
Member

  
Chairman



12.09.2019


The instant case alongwith connected appeals was heard on 20.06.2019. After hearing the arguments of both the parties, the same was fixed for order on 19.08.2019 and further extended to 16.09.2016 vide order sheet dated 19.08.2019. We have thread-barely examined this case in the light of facts highlighted in the present service appeals and judgments rendered by the Hon'able Supreme Court of Pakistan and this Tribunal which were also presented during the course of arguments by both the parties. Appellants mainly relied on judgments of this Tribunal dated 12.05.2009 and judgments of august Supreme Court of Pakistan passed in CPLA no. 525 and 526 dated 19.07.2007 and 29.01.2008. Similarly vide judgment dated 14.12.2017 and 15.12.2018 passed in service appeal no. 263 and 1816/2011 the appeals were rejected on the ground of jurisdiction. On the other hand service appeal no. 312/15 dated 10.01.2018 was accepted by this Tribunal. In addition to this service appeal no. 1245/2014 decided on 10.10.2017 was dismissed on the strength of judgment of august Supreme Court of Pakistan in civil petition no. 1245/2011 decided on 08.09.2011. Furthermore, appeal no. 407/2012 was accepted vide judgment dated 16.04.2009. It has been observed that pro & contra judgments on the issue in hand were rendered by the Superior Courts and this Tribunal. Therefore, it was not possible to reach to a just logical conclusion in the matter.



19.08.2019

Appellant in person present. Mr. Bilal learned DDA alongwith Mr. M. Shamim, SO for respondents. The D.B which heard the instant service appeal at camp court Abbottabad is not available today, therefore, the case is adjourned ~~to~~ 16.09.2019 for order before D.B at Camp Court Abbottabad.

  
Member

  
Member  
Camp Court A/Abad

18.06.2019

Counsel for the appellant and Mr. Bilal Ahmad, DDA  
alongwith Shujaa Ali, ADO for the respondents present.

Arguments party heard. To come up on 20.06.2019  
before this D.B for further arguments at camp court, Abbottabad.

  
Member


  
Chairman  
Camp court, A/Abad

20.06.2019

Counsel for the appellant and Mr. Muhammad Bilal, DDA  
alongwith Shamim S.O for the respondents present.

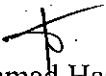
Learned counsel for the appellant as well as learned DDA  
concluded their respective arguments. To come up for order on  
19.08.2019 before this D.B at camp court, Abbottabad.


  
Member

  
Chairman  
Camp court, A/Abad

20.02.2019

Counsel for the appellant present. Mr. Muhammad Bilal, DDA for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 16.04.2019 before D.B at camp court Abbottabad.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member  
Camp Court Abbottabad


17.04.2019

Mr. Bashir Ahmad, Uncle of the appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Shuja Ali, ADO for respondents present.

States that learned counsel for the appellant had <sup>to</sup> attended some family bereavement, therefore, is not available today. The information regarding non-availability of learned counsel for the appellant was received in the morning today therefore, power of attorney on behalf of the appellant could not be arranged. He requested for an adjournment.

In view of the fact that the appellant is a lady and in the interest of justice the instant matter is adjourned to 18.06.2019 before D.B at camp court Abbottabad.


  
Member

  
Chairman  
Camp Court A/Abad

18.09.2018

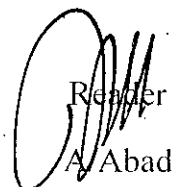
Mr. Bashir Ahmad, Maternal uncle of the appellant present. Mr. Muhammad Irshad, S.O Finance Department alongwith Mr. Usman Ghani, District Attorney for the respondents present. The above named relative of the appellant requested for adjournment as learned counsel for the appellant is busy in the Hon'ble High Court and is not in a position to attend the Tribunal. Granted. To come up for arguments on 14.11.2018 before the D.B at camp court, Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad

14.11.2018

Counsel for the appellant present. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 17.01.2019 at camp court Abbottabad.

  
Member  
A/Abad

17.01.2019

Learned counsel for the appellant and Mr. Muhammad Bilal learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments including the arguments on jurisdiction of this Tribunal in the matter in issue on 20.02.2019 before D.B at Camp Court Abbottabad.


  
Member

  
Member  
Camp Court A/Abad

20.02.2018

Clerk of counsel for the appellant and Addl. AG alongwith Zahid Gul, ADO for the respondents present. Clerk of Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 21.05.2018 before the D.B at camp court A/Abad.

  
Member

  
Chairman  
Camp court, A/Abad.

21.05.2018

Neither the appellant nor her counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Irshad S.O for the respondents present. Adjourned. To come up for further proceedings on 19.07.2018 before the D.B at camp court, Abbottabad.


  
Member

  
Chairman  
Camp court, A/Abad

19.07.2018

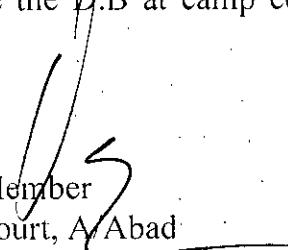
Appellant is not in attendance however, her counsel Mr. Toqueer Ahmad, Advocate present. Mr. Muhammad Irshad, Section Officer (Litigation) alongwith Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant made a request for adjournment. Granted. To come up for arguments on 19.09.2018 before the D.B at Camp Court, Abbottabad.

  
Member

  
Chairman  
Camp Court, A/Abad

13.02.2017


Counsel for the appellant present and fresh wakalatnama submitted. Mr. Zahid Gul, ADO alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Rejoinder not submitted. Requested for adjournment. To come up for rejoinder and final hearing on 18.07.2017 before the D.B at camp court, Abbottabad.

  
Member  
Camp court, A/Abad

18.07.2017


Counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Zahid Khan, ADO for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and final hearing on 18.12.2017 before D.B at Camp Court A/Abad.


  
Member

  
Chairman  
Camp court, A/Abad

18.12.2017

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 20.02.2018 before D.B at Camp Court Abbottabad.

  
(Gul Zeb Khan)  
Member (Executive)  
Camp Court Abbottabad

  
(Muhammad Amin Khan Kundi)  
Member (Judicial)  
Camp Court Abbottabad

16.03.2016

Appellant in person and Mr. Zahid Gul, ADO alongwith Mr. Muhammad Saddique, Sr.G.P for respondents present. Written reply submitted by respondents No.4 & 5. The learned Sr.G.P requested for further adjournment for written reply on behalf respondents No.1 to 3. Last opportunity extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents No.1 to 3 from their own pockets. To come up for written reply/comments on behalf of respondents No.1 to 3 and cost on 19.5.2016 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

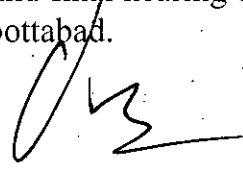
19.5.2016


Appellant in person, M/S Zahid Gul, ADO and Malik Muhammad Haroon, AAO alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Written reply by respondents No. 4 & 5 already submitted. Learned Sr.GP relies on written reply of respondents No. 4 & 5 on behalf of respondents No. 1 to 3. Cost paid and receipt thereof obtained from the appellant. The appeal is assigned to D.B for rejoinder and final hearing for 21.09.2016 at camp court, Abbottabad.

  
Chairman  
Camp Court, A/Abad.

21.09.2016

None present for the appellant. Mr. Zahid Gul, ADO and Malik Muhammad Haroon, AAO alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Due to strike of the bar counsel for the appellant is not in attendance. To come up for rejoinder and final hearing before the DB on 13.02.2017 at camp court, Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad.



19.08.2015

Appellant in person present. Argued that identical Service Appeal No. 1302/2014 has already been admitted to regular hearing in which next date of hearing is fixed for 15.09.2015.

In view of the above, this appeal is also admitted to regular hearing. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 15.09.2015 before S.B at camp court A/Abad.

Appellant Deposited  
Security & Process Fee



  
Chairman

Camp Court Abbottabad

15.9.2015

Appellant in person and Mr. Zahid Gul, ADO alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Requested for adjournment. To come up for written reply/comments on 14.12.2015 before S.B at camp court A/Abad.

  
Chairman

Camp Court A/Abad

14.12.2015

Appellant in person and Mr. Zahid Gul, ADO alongwith Mr. Muhammad Siddique, Sr.G.P for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 16.3.2016 before S.B at Camp Court A/Abad.

  
Chairman

Camp Court A/Abad

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 486/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.05.2015	<p>The appeal of Mst. Abida Bibi resubmitted today by her, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	22-5-15	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon <u>17-6-15</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3	17.06.2015	<p>None present for appellant. Notice to appellant and her counsel be issued for preliminary hearing before S.B for 19.8.2015 at Camp Court A/Abad.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman Camp Court A/Abad</p>

The appeal of Mr. Abida Bibi D/o Muhammad Yousaf SAT received to-day i.e. on 24.04.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Page No. 35 of the appeal is illegible which may be replaced by legible/better one.
- 2- Copy of service appeal mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.
- 4- Copy of impugned order is not attached with the appeal which may be placed on it.
- 5- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 617 /S.T,

Dt. 24/4 /2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Abida Bibi d/o Muhammad Yousaf SAT  
GGHSS Dhamtaur Abbottabad

R/Sir

Re-submitted after removal of  
objections from Sr No 1 to Sr No 5.

- (1) page No 35 is replaced by legible/better one
- (2) copy of service appeal is attached at annexure J,  
- p-39 to p-57
- (3) pages of annexures are attested
- (4) copy of impugned order is attached as annexure H,  
page No 35 & better copy p-36
- (5) Two copies of service appeal are submitted  
please.

24/19/5/15  
Abida Bibi D/o  
Mohammed Yousaf  
S.A.T. — GGHSS Dhamtaur  
Attd

Service Tribunal KPK Peshawar

Service appeal No 418 of 2015

*Execution Petition no. 214/2011*

Abida Bibi D/O Muhammad Yousaf SAT GGHS Dhamtaur Abbottabad. R/O H#  
K149 Banda Sapawan near Shell Pump Abbottabad.

Appellant

Versus

Govt: of KPK through Secretary Finance

Deptt: Peshawar and 04 others

Appeal Index

S.No	Description of Document	Annexure	Page No
1	Memo of service appeal & Affidavit		1-4
2	Service certificate		Page 5
3	Relevant Pages of service book	A	6-17
4	Judgment on service appeal 418/2009	B	18-22
5	Judgment Supreme court of Pakistan CPLA 525,526/2007	C	23-28
6	Appeal to A/G KPK	D	Page 29
7	Decision on appeal	E	Page 30
8	Act 2012 KPK	F	31-32
9	Copy of Notification to restore 4 Advance Increments to 28 Teachers of Mansehra	G	33-34
10	Letter Finance Deptt to recover 2 Advance Increments <i>Impugned order</i>	H	35 and 36
11	SCMR 218,219,222	I	37 and 38
12	<i>Service appeal No 418/2009</i>	J	<i>39 to 57</i>

**Before Service Tribunal KPK Peshawar**

Service Appeal No 486 of 2015

*Execution Petition No. 214/2021*

Abida Bibi D/O Muhammad Yousaf SAT GGHSS Dhamtaur Abbottabad  
R/O House No K-149 Banda Sapawn near Shell Pump Abbottabad.

Appellant

*note* / Appeal is converted into  
Execution Petition vide  
order sheet dt. 11-8-2021. VERSUS

1. Go vt of KPK through Secretary Finance Deptt: Peshawar
2. Account ant General KPK Peshawar
3. District A ccounts Officer Abbottabad
4. District E ducation Officer (Female) E&S Education Abbottabad.
5. Go vt. of KPK trough Secretary Elementary & Secondary Education  
Deptt: Peshawar

**P.W.F. Province  
Service Tribunal**

Diary No 415

Dated 24-4-2015

Respondents

Appeal under section 4 of KPK Service Tribunal act 1974.

For fixation of pay with 4 advance increments of M.A in BPS-16

These increments were awarded to appellant on 16-01-2010 entries were made in service book as per Judgment of Honourable KPK Service Tribunal in Service appeal No. 418 of 2009 dated 12-05-2009 on the basis of Judgment passed by Honourable Supreme Court of Pakistan in CPLA No. 525,526 of 2007 & CRP No. 216 & 217 of 2007.

Letter NO. FD (SR-1)2-123/2010 written by Respondent No. 01 to Respondent No. 02 for Recovery of two advance increments is absolutely illegal against the Judgment of Honourable Supreme Court of Pakistan passed in CPLA No. 525&526 of 2007 dated 19-07-2007.

This letter is against the settled law of Apex court in Reported Judgment Pakistan International Air lines vs Aziz ur Rehman Chaudhry (2011 SCMR 219)

KPK Act 2012 Para 2(2) makes the said letter ineffective for the purpose of recovery of 2 advance increments from the appellant.

Re-submitted to-  
and filed.

*24/4/15*  
Registrar

*25/5/15*

### PRAYER

On acceptance of INSTANT APPEAL the respondents be graciously directed to fix pay of appellant in BPS-16 with 4 advance increments of M.A which were awarded to her in BPS-15 on 16-01-2010.

Kindly the letter No. FD (SR-1) 2- 123/2013 dated 15-12-2010 be declared illegal and ineffective upon the rights of 4 advance increments of M.A to the appellant.

Respectfully Sheweth

### FACTS

1. That Appellant was inducted in service as AT Teacher on 09-11-1994 and is working as against SAT post, attained her higher qualification of M.A on 17-06-2001, over and above prescribed qualification of post held. Appellant due to her entitlement of 04 advance increments of her higher qualification of M.A, filed service Appeal No 418 of 2009, before Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar, which was accepted on 12-05-2009 at Camp Coot Abbottabad, whereupon respondents did not approach to the Honourable Supreme Court of Pakistan to file the C.P.L.A against the said Judgment yet, and now it attained its finality. Copies of Service Appeal and relevant pages of Judgment dated 12-05-2009 are annexed as "Annexure A&B".
2. That after completing necessary legal formalities, respondents on 16-01-2010 implemented the judgment of Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar and granted 04 advance increments of M.A with effect from 17-06-2001 to the Appellant.
3. The Appellant on promotion from AT (BPS-15) to SAT (BPS-16) on 01-03-2013. Submitted the case of Fixation with 4 advance increments of M.A to DAO Abbottabad.  
District Accounts Officer is denying and reluctant to do so and insists to recover 2 increments in fixation in BPS-16. The application for this purpose is still pending in D.A.O Abbottabad; the appeal against it is submitted to Accountant General KPK Peshawar on 24-12-2014.
4. The appellant was awarded 4 advance increments of M.A on 16-01-2010 on the basis of Final Judgment of KPK Service Tribunal in service appeal No 418/2009.

5. The appellant was promoted from AT (BPS-15) to SAT (BPS-16) w.e.f 01-03-2013. Copy annexed as Annexure. (G).

**GROUND**

- a) That the learned KPK Service Tribunal has power to implement its Judgment under KPK Service Tribunal Act 1974.
- b) The Respondents are bound to the Judgment of KPK Service Tribunal in Service appeal No. 418 of 2009 dated 12-05-2009 in letter and spirit. Their denial is against the law, contrary, Capricious and against the judgment of the court.
- c) Their act of denial is against the judgment of H/Supreme Court of Pakistan in CPLA No. 525 and 526 of 2007.
- d) Furthermore the Secretary Education KPK has restored the 4 advance increments of M.A of more than 77 Teachers of Mansehra on different occasions under Letter No.
1. So (B&A) 1-16/109/Advance increments dated Peshawar 30-09-2013 (22 Teachers of Mansehra).
2. So (B&A) 1-16/109/Advance increments dated Peshawar 17-06-2014 (27 Teachers of Mansehra)
3. So (B&A) 1-16/109/Advance increments dated Peshawar 02-09-2014 (28 Teachers of Mansehra)

The pay of these teachers is fixed with 4 advance increments of M.A and entries are made in their service books.

- e) The appellant has same case and is being dealt with discrimination and injustice. Respondents be directed to fix the pay of appellant in BPS-16 Keeping the 4 advance increments of M.A intact i.e. without deduction.



**Abida Bibi**  
**Appellant**  
**In Person**

Dated 19-04-2015

**Before service Tribunal KPK Peshawar**

Service Appeal No 617 of 2015

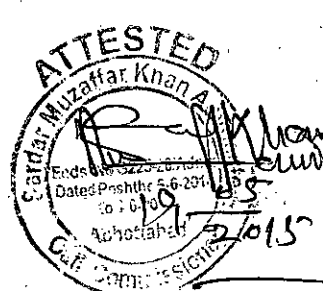
**Abida Bibi D/O Muhammad Yousaf SAT GGHSS Dhamtaur  
Abbottabad Resident of House No. K-149 Banda Sapawn near  
Shell Pump Abbottabad.**

**Appellant**

**AFFIDAVIT**

I Abida Bibi D/O Muhammad Yousaf SAT GGHSS Dhamtaur. Resident of House No. K-149 Banda Sapawn near shell Pump Abbottabad do hereby affirm on oath that the contents of the instant appeal are correct & true according to my best knowledge and belief. Nothing has been suppressed from this Honourable Court.

This instant appeal is the first appeal of its nature and no such appeal is pending before any court.



*[Signature]*  
**Abida Bibi**  
**Appellant**  
**In Person**

Dated: 19-04-2015

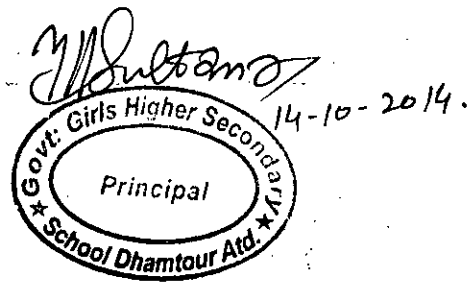


# Service Certificate

5

Certified that Ms. Abida bibi  
is serving in Education department  
Since. 09.11.1994. At present she is  
working at "AT" Post. She is permanent  
Govt Servant. Her CNIC NO. 13101-4199579-0

Principal  
GGHSS  
Dhamtour.



Attested  
R

# Annexure 'A'

گورنمنٹ ٹرننگ پارس سٹیٹ کالج ڈھکڑا، ملتان

6

(For use in Police Department only).

Passed Sanad Shahdat ul Alomia from Al Maktab Raissi  
Multan Heirs. on 28/8/1414 (10-2-1994)

Passed ssc Exam: from BISE Peshawar Under R.No 3176 in the  
year 1990 securing 519 Marks "B" grade.

Passed Intermediate Exam: from BISE Abul Kalam under  
R.No 17531 in the year 1992 securing 537 Marks (D) Grade

Verification Roll No. dated received back

*M. Khan*

Passed B.A Exam: from Peshawar University under R.No: 71154  
in the year 1996 securing 336 Marks out of 550 in 1st division  
Result declared on 4-2-99.

M.M.G.G.H.S  
Sarghola, A. Abad

Passed MA Exam (200)(A) from Peshawar University under R.No 221053  
in the year 2001 securing 692 marks out of 1100 in 1st division  
Result declared on 17-6-2001

Qualification	Date
English	First Arts Govt. Girls High School No. 8 Muzaffargarh
Pashtu	B. L. or B. A.
Urdu	Pleadership examination
Plan-drawing	Training School Final examination
Finger print	Other qualifications—
Drill instructing	
Court duties	
Reserve duties	

VERIFICATION-

Sanad verified from  
Concerned Madrassa vide No  
dated 1-10-1995.

*M. Raja*  
Govt. Chief  
Magistrate

Attested  
*[Signature]*

*[Signature]*  
Gul Hameed Khair  
Senior English Teacher  
G.H.S. Muzaffargarh

Note:--The entries in this page should be renewed or re-attested at least every five years and the sig lines 9 and 10 should be dated.

- 1. Name *ABIDA BIBI*
- 2. Race *Kar Lal.*
- 3. Residence *Village Bandi Maira  
Rasoolabad*
- 4. Father's name and residence *Johammad Yusuf*
- 5. Date of birth by Christian era as nearly as can be ascertained *30-5-1974 (Thirtieth May & Seventy four)*


6. Exact height by measurement

7. Personal marks for identification

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

Little Finger.  Ring Finger 

Middle Finger.  Fore Finger 

Thumb. 

9. Signature of Government servant. *Abida Bibi*

10. Signature and designation of the Head of the Office, or other Attesting Officer. *Re-Attested*

*Mulla* *19/2000*  
Sd/- *Re-Attested*  
19/2000

*M. Royani*

19/2000

*Signature of A. Bibi*

*Stamp: Officer in Charge, English Medium School, Rasoolabad*

*Attested*

2687

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made*

154

2/053



B	9	10	11	12	13		14	
	Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Leave		Signature of the head of the office or other attesting officer
						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	
Abida Bibi	DDO (F) Govt. P.O. No. 304/95	30/4/95	Transfer	[Signature]				Appointed against of Arabic Teacher in No 9 (B/1605-97-
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/95	Inc. in	[Signature]				plus usual allowance vide D.P.E.C.S. No. 4. Abad dated 8/11/96
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/96	Inc. in	[Signature]				No 126 of 7-11-96
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/97	Inc. in	[Signature]				No 189 of 24-98/98
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/97	Inc. in	[Signature]				AT of 7-11-96 at Muzenda, Sarhad
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/98	Inc. in	[Signature]				
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/98	Inc. in	[Signature]				9/11/98
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/95	Annual Increment	[Signature]				
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/96	Annual Increment	[Signature]				
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/97	Annual Increment	[Signature]				Service Verified from acquittal and other record kept in office.
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/98	Annual Increment	[Signature]				from 1-12-95 to 31-12-96
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/99	Annual Increment	[Signature]				
Abida Bibi	M.M.G.G.H.S. Baghotar. A. Abad. [Signature]	30/11/2001	Annual Increment	[Signature]				
	DDO Principal G.G.H.S. No. 2	30/3/2001	Entries Revised due to Award of Selection Certificate	[Signature]				Service Verified from rolls and other records in office.

1	2	3	4	5	6	7	8	9
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant	Signature & designation of head of the office or other attesting officer in attestation of columns 1 to 8
<b>ENTRIES REVISED DUE TO AWARD OF S/GRADE IN BPS-15 (2190-177-4845) IN E.P. 1-6-99.</b>								
AT. S. Bagnatar Atd.	Off		Rs. 2721/- PM	+ 177/2 Per mature		1-6-99	[Signature]	DDG, Prin S.G.H.S.
-Do-	-Do-		Rs. 2893/- PM			1-6-99	[Signature]	DDG, Prin S.G.H.S.
-Do-	-Do-		Rs. 3075/- PM			1-12-99	[Signature]	DDG, Prin S.G.H.S.
-Do-	-Do-		Rs. 3252/- PM			1-12-2000	[Signature]	DDG, Prin S.G.H.S.
-Do-	-Do-		R. 3429/- PM			1-12-2001	[Signature]	DDG, Prin S.G.H.S.
-Do-	-Do-		B-15 (3285-265-11235)					
-Do-	-Do-		Rs. 5140/- PM			1-12-2001	[Signature]	DDG, Prin S.G.H.S.
-Do-	-Do-		Rs. 5405/- PM			1-12-2002	[Signature]	DDG, Prin S.G.H.S.
<p>Office of the Principal, N.W.R. Peshawar, Sd/- 11/2/03</p> <p>Pay Fixation of Rs. 5140/- PM, 11/2/03</p> <p>Pay Fixation of Rs. 5405/- PM, 11/2/03</p> <p>Principal, N.W.R. Peshawar</p> <p>Principal, N.W.R. Peshawar</p>								
Medanica	-do-		Rs. 5670/- PM			12/2003	[Signature]	DDG, Prin S.G.H.S.
-do-	-do-		5935/- PM			01-12-04	[Signature]	DDG, Prin S.G.H.S.

Attested [Signature]

Office of the Principal, N.W.R. Peshawar, Sd/- 11/2/03

Pay Fixation of Rs. 5140/- PM, 11/2/03

Pay Fixation of Rs. 5405/- PM, 11/2/03

Principal, N.W.R. Peshawar

Principal, N.W.R. Peshawar

Principal, N.W.R. Peshawar

Principal, N.W.R. Peshawar

DDG, Prin S.G.H.S.

DDG, Prin S.G.H.S.

DDG, Prin S.G.H.S.

*M* undertaking  
~~...~~

Pay Act 12 ✓  
79 1/2 Rom. 19 1/2 ✓

8	9	10	11	12	13	14	
Signature of Government servant	Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 3	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Refer records or renewal of the S
						Period	Government to which debitable
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	2/99	Awarded Premature Increment	DDA Principal G.G.H.S. No. 2 A. Abad			
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	30/11/99	Promotion	DDA Principal G.G.H.S. No. 2 A. Abad			Leave sanctioned Div: Dir: 8/14/99 (ATP) w.e.f: 1-9-96 to 15-11-96
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	30/11/2000	Promotion	DDA Principal G.G.H.S. No. 2 A. Abad			15-10-96 to 29-11-96 on full pay
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	30/11/2001	Promotion	DDA Principal G.G.H.S. No. 2 A. Abad			H.M.G. Signature
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	12-2001	Revision of Scale	DDA Principal G.G.H.S. No. 2 A. Abad			T 3042 Drawn Paye 1-9-95 to 29-11-95 Leave Rs= 639
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	30/11/2002	Annual Increment	DDA Principal G.G.H.S. No. 2 A. Abad			
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	30/11/2002	Transfer from Govt Girls High School, Bikaner to Ashokraod	DDA Principal G.G.H.S. No. 2 A. Abad			Service Verified from rolls and other record office. from 1-12-2002
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	30/11/04	Promotion	DDA Principal G.G.H.S. No. 2 A. Abad			granted 2 months w.e.f: 1-3-98 vide DDO's let: NO: 5780 dated 28-9-98. H.M.G. Signature
<i>[Signature]</i>	DDA Principal G.G.H.S. No. 2 Abad	30/6/05	Scale Revised	DDA Principal G.G.H.S. No. 2 A. Abad			Service Verified from rolls and other record office. from 1-12-2002 to 30-6-2005

*Attested*

Service Verified from rolls and other record office.

Service Verified from rolls and other record office.

Service Verified from rolls and other record office.

1	2	3	4	5	6	7	8	9
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant	Signature and designation of head of the office or other attesting officer in attestation of columns 1 to 7
<u>Scale Revised B-15 (3780-305-12936)</u>								
do	Off/Temp		Rs. 6830/- P.M.			01-7-05		DO (S&P) [Signature]
do	do		Rs. 7135/- P.M.			01-12-05		DO (S&P) [Signature]
do	do		Rs. 7440/- P.M.			1-12-06		[Signature]
<div style="border: 1px solid black; padding: 5px;"> <p>(3005) Office of the Accountant General N.W.F.P. - J&amp;K Pay Fixed in the revised scale of pay scale 2005 of Rs. 6830/- P.M. on 01-07-2005 at Rs. 6830/- P.M. on 01-07-2005 with next increment on 01-07-2005</p> <p>Accounts Officer Pay Fixation Party N.W.F.P. Region</p> <p>[Signature]</p> </div>								
<u>BPS No 15 (4250-350-14850)</u>								
do	Off/Temp		Rs. 8580/- P.M.			7-12-07		DO (S&P) [Signature]
do	do		Rs. 8900/- P.M.			12-12-07		DO (S&P) [Signature]

Attested  
[Signature]

Head of the Office  
[Signature]  
[Stamp]



Leave	Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government		Signature of the head of the office or other attesting officer	Period to which Government debitable	Signature of the head of the office or other attesting officer	Reason for termination (such as promotion, transfer, dismissal, etc.)	Date of appointment	Scale	Rate	Signature of the head of the office or other attesting officer	Signature and designation of the officer or other attesting officer in attestation of columns 1 to 8
14			<i>Attested</i>								
13			<i>Attested</i>								
12											
11											
10											
9											
8											

Return records of a or c  
 Signature of the head of the office or other attesting officer  
 Period of leave  
 Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government  
 Period to which Government debitable  
 Signature of the head of the office or other attesting officer

Accountant General  
 PPS-14 (1965-76)  
 V.L. DEO (E)  
 AE/6/Pay dated 11/1/94  
 PPS-14 (1965-76)  
 11/06/94  
 30 07  
 6  
 30 06  
 11  
 30 05  
 11

Signature and designation of the officer or other attesting officer in attestation of columns 1 to 8  
 Date of appointment  
 Scale  
 Rate  
 Reason for termination (such as promotion, transfer, dismissal, etc.)  
 Signature of the head of the office or other attesting officer  
 Period to which Government debitable  
 Signature of the head of the office or other attesting officer  
 Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government  
 Period of leave  
 Signature of the head of the office or other attesting officer

UNDER TAKING

I Miss Abida Bibi A.T is hereby undertaken to any over payment made to me as a revised fixation of pay Advance Incs. of MA W.P. 17/6/2007 can be recovered from my pay/pension/ grat.

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the	Date of appointment	Signature of Government servant
G.S.M.S. Mahawala	A.T.		Rs 8900/- P.M.			1-12-07	Abida Bibi
G.S.M.S. Banda Saibkhan			Rs 10680/- P.M.			1-7-08	
			Rs 1100/- P.M.			1-12-08	
			Rs 11520/- P.M.			1-12-2009	
(ENTRY REVISED)							
Passing of MA Examination Result declared date on 17/6/2007 & Advance Incs. of MA wide DCO Abbotabad under Enrolment No 5114-30 (Account) dated, 6/1/2010							
G.S.M.S. Bagrot Atr			BPS-15 (2190-177-6345)	Per m/ year: Rs 3969/-		17-6-2009	
			4137/- P.M.			1-12-2009	
			1-12-2009 Scale Revised B-15 (3185-265-11235)			1-12-2009	
			6200/- P.M.			1-12-2001	
			6465/- P.M.			1-12-2002	
G.S.M.S. Mamoluh			6735/- P.M.			1-12-2003	
			6995/- P.M.			1-12-2004	

Stamp: G.S.M.S. Mahawala, District Abbotabad, Ferozpur, Punjab

Attested

970

over  
100

15

11

Serially

Serially	9	10	11	12	13		14	15
					Leave			
					Period	Government to which debitible		
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitible to another Government	Signature of the head of the office or other attesting officer	Reference recorded pr or Census reward or of the Gov Serva	
<i>[Signature]</i>	30/6/08	Scale	<i>[Signature]</i>				Exemption of maternity leave 7.16.08 to 20.08.08 (70 days) on full pay EDO 2008-09. EDO 2009-10. EDO 2010-11. EDO 2011-12.	
<i>[Signature]</i>	30/11/08		<i>[Signature]</i>				Service Verified from acquittals and other records kept in this office.	
<i>[Signature]</i>	30/11/09	A/jmes	<i>[Signature]</i>				from 1.12.09 to 30.11.10	
<i>[Signature]</i>	31/12/09	transfer	<i>[Signature]</i>				Service Verified from acquittals and other records kept in this office.	
<i>[Signature]</i>	30/11/09	A/jmes	<i>[Signature]</i>				from 30.11.09 to 30.11.10	
<i>[Signature]</i>	30/11/09	A/jmes	<i>[Signature]</i>				Service verified from 01/10/09 to 30/11/09 from acquittals and other records of this office.	
<i>[Signature]</i>	1/12/2007	Scale Revisal	<i>[Signature]</i>				District Office Schools & Date Abbottabad	
<i>[Signature]</i>	30/11/2007	A/jmes	<i>[Signature]</i>				from 01-12-06 to 30-11-07	
<i>[Signature]</i>	30/11/2003	transfer	<i>[Signature]</i>				Service Verified from 1/12/03 to 30/11/06 from Acq. Rolls and other records of this office.	
<i>[Signature]</i>	30/11/07	A/jmes	<i>[Signature]</i>				District Office Schools & Literacy Abbottabad	
<i>[Signature]</i>	1/7/2005	Scale Revisal	<i>[Signature]</i>				Service Verified from 1/7/05 to 30/11/06 from Acq. Rolls and other records of this office.	

Attested

Sub-Inspector  
Sanku English Teacher  
G.N.S. Mirpur  
Abbottabad

*[Signature]*

1	2	3	4	5	6	7	8
Name of post	Whether substan- tive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
A-T	17/05/05	Rev. B-15	(3780-305-2930)				
CGMS Mamalah	Perman./Temp.		8050/mon	✓		12/2005	[Signature]
"			8355/mon	✓		12/2005	[Signature]
"	"		8669/mon	✓		12/2006	[Signature]
			12/2007			8/Rev. B-15	
			(4350-350-1485)				
	Perman./Temp.		9950/mon	✓		12/2007	[Signature]
			10300/mon	✓		12/2007	[Signature]
			12/2008			8/Rev. B-15	
			(5220-420-17820)				
	Perman./Temp.		12360/mon	✓		12/2008	[Signature]
			12780/mon	✓		12/2008	[Signature]
	"		13000/mon	✓		12/2009	[Signature]
CGMS Dhantune	Perman./Temp.		13200/mon	✓		12/2010	[Signature]
Attested	[Signature]	[Signature]	[Signature]	[Signature]	[Signature]	[Signature]	[Signature]

8 Nature and duration of leave taken	9 Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc).	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer	Reference recorded or for reward of the Government Ser
					Allocation of period of leave on average pay upto four months for which leave salary is debitab to another Government			
					Period	Government to which debitab		
	N. Shukla	30/11/2005	A/mces	N. Shukla D.O E.S. Edu. ATD	1-12-06			Service Verified From 30-11-2007 to 30-11-2007
	N. Shukla	30/11/06	A/mces	N. Shukla D.O E.S. Edu. ATD				Ref. holds & other record of this office.
	N. Shukla	1/2/2007	Scale Revd	N. Shukla D.O E.S. Edu. ATD				
	N. Shukla	30/11/2007	A/mces	N. Shukla D.O E.S. Edu. ATD				Service Verified From 1-12-07 to 30/11/08 from acq. Roll and Other Record of this Office
	N. Shukla	30/6/2008	Scale Revised	N. Shukla D.O E.S. Edu. ATD				
	N. Shukla	30/11/2008	A/mces	N. Shukla D.O E.S. Edu. ATD				Service Verified From 01-12-2008 to 30/11/09 from acq. Roll and Other Record of this Office
	N. Shukla	30/11/2009	A/mces	N. Shukla D.O E.S. Edu. ATD				
	N. Shukla	31/3/2010	Transfer to Govt. Directorate	N. Shukla D.O E.S. Edu. ATD				D.O. (S&T) Abbottabad
								Service Verified From the Acq. Roll/Other Official Rec w.e.f. 1-12-09 to 31-3-10

*[Handwritten signature]*  
 D.O. (S&T) Abbottabad  
 1-12-09 to 31-3-10

Attested *[Signature]*

S 490  
 14/5/10  
 Page 3 of 13 2007-08  
 under Section No. 514-30  
 15-1-10 up to 1-5-10  
 District Officer (Female)  
 Elementary & Secondary  
 Abbottabad  
 17/5/10

Annexure B, 18 (2)

BEFORE THE NWFP SERVICE TRIBUNAL, CAMP COURT ABBOTTABAD.

Service No 418/2009  
Appeal No 1276/2007

Sr No 249 P-19

Appeal No. 1276/2007

Date of institution – 27.12.2007

Date of decision - 12.05.2009

Muhammad Akram, S/O Sikandar Khan, C.T. Teacher, Government High School,  
Kuthwal, Abbottabad.....(Appellant)

VERSUS

1. District Coordination Officer, Abbottabad.
2. Executive District officer (S &L) Abbottabad.
3. District Accounts Officer, Abbottabad.
4. Director (S&L) Department, Peshawar.
5. Secretary to Government of NWFP (S&L) Department Peshawar.
6. Accountant General NWFP Peshawar.
7. Secretary to Government of NWFP Finance Department, Peshawar.

Appellant in person present.  
Arshad Alam, A.G.P.....

For respondents.

MR. ABDUL JALIL.....  
MR. BISMILLAH SHAH.....

MEMBER.  
MEMBER.

JUDGMENT.

ABDUL JALIL, MEMBER : This judgment/order will dispose of this Service Appeal No. 1276 of 2007, by Muhammad Akram and the following Service Appeals. The reason is that the broad facts and the legal issues in all the below mentioned appeals are the same, and need consolidated judgment and joint disposal.

<u>Sr. No.</u>	<u>Appeal No.</u>	<u>Name of appellant.</u>
1.	1277/2007	Saidur Rahman,
2.	1278/2007	Munibur Raliman,
3.	1279/2007	Muhammad Siddique,
	01/2008	Maroof Khan,
	02/2008	Amjad Hussain Awan

Attested  
[Signature]

[Handwritten notes and signatures]

221.	229/2009	Nasir Ali,
222.	230/2009	Ali Nawaz,
223.	231/2009	Wajid Hussain,
224.	232/2009	Waheed Khan,
225.	233/2009	Muhammad Saleem,
226.	234/2009	Mujtaba Ahmad Hashmi,
227.	235/2009	Khalid Muhammad,
228.	246/2009	Abid Saeed Khan,
229.	237/2009	Imran Jalani,
230.	238/2009	Asif Awan,
231.	239/2009	Aurangzeb
232.	240/2009	Khalid Mahmood,
233.	241/2009	Muhammad Naeem,
234.	242/2009	Khurshid Qamar,
235.	243/2009	Nawazish Hussain
236.	244/2009	Syed Zafar Ali Shah,
237.	245/2009	Muhammad Ishaq,
238.	246/2009	Muhammad Pervez,
239.	247/2009	Masroor Hussain
240.	248/2009	Muhammad Sadique
241.	249/2009	Muhammad Younas
242.	250/2009	Muhammad Imtiaz
243.	251/2009	Maqbool Shah
244.	252/2009	Moazzam Khan
245.	414/2009	Tahir Usman
246.	415/2009	Mir Muhammad
247.	416/2009	Naheem Kausar
248.	246/2009	Khalida Bibi
249.	418/2009	Abida Bibi ✓
250.	419/2009	Azim Shah
251.	433/2009	Ghazala Bibi
252.	434/2009	Riaz Khan
253.	500/2009	Mumtaz Khan
254.	501/2009	Lal Afsar
255.	502/2009	Badri Zaman
256.	503/2009	Liaqat

Attested  
R

257.	504/2009	Muhammad Shamraiz
258.	505/2009	Ali Bahadur
259.	506/2009	Muhammad Haroon
260.	523/2009	Naureena Maqsood
261.	524/2009	Yasmeen Akhtar
262.	525/2009	Shabana Nazir
263.	681/2009	Nighat Bibi
264.	682/2009	Waseem Sultan
265.	683/2009	Bibi Hajra
266.	684/2009	Abdul Razaq
267.	685/2009	Fatiha Gul

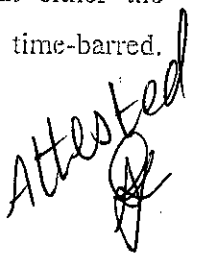
2. The appellant of Service Appeal No. 1276 of 2007 contended that he was appointed as untrained P.E.T. Teacher in Education Department on 27.6.1990. The appellant being C.T trained, was adjusted against the C.T post on 06.05.1996 on regular basis. He acquired higher qualification of M.A. on 25.08.1999. The appellant was entitled to advance increments in the light of the Finance Department notification dated 11.8.1991. The same was not given to him. Some of the teachers came to this Tribunal whose Service Appeals were dismissed in Service Appeal No. 498 of 2006 decided on 24.4.2007. The August Supreme Court of Pakistan, while deciding C.P.L.A No. 525 of 2007 and CPLA No. 526 of 2007 decided that all the teachers were entitled to the advance increments like all other civil servants. On the request of the appellant, the same benefit was not given to him. Hence, he filed the present Service Appeal. As already mentioned, the broad facts and the legal issues in all other appeals are almost on the same lines.

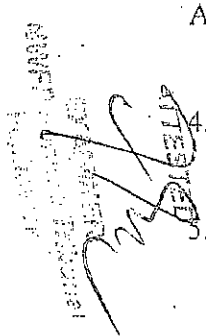
3. The respondents contested the appeal and contended that either the appellants had not submitted applications or their applications were time-barred. And there was no judgment in favour of the appellants.

We heard the arguments and perused the record.

The judgment in CPLA Nos. 525 of 2007 and 526 of 2007 is as under:-

"3. Learned Additional Advocate General attempted to argue that in view of the higher scale granted to Elementary School Teachers in

Attested  


ADDITIONAL ADVOCATE GENERAL  




*pursuance of the circular letter dated 07.8.1991, which was personal to them, the petitioners would not be entitled to the incentive of advance increments contemplated by circular letter dated 11.8.1991 but he is unable to cite any principle of law or authority for placing this interpretation. We find that, while circular letter dated 7.8.1991 exclusively deals with the scales of pay of school teachers in different categories, circular letter dated 11.8.1991, provides for the revision of basic pay scales and grant of annual increments and advance increments for all Provincial civil servants in NWFP without any exception. Since the teachers or the employees in Education Department have never been expressly or impliedly excluded from the operation of the circular letter, view taken by the Tribunal being erroneous cannot be sustained at law. In fact, it suffers from clear misconception of law and misconstruction of the circular letter (supra)."*

While disposing of the C.R.P No. 216 and 217 of 2007 in C.P Nos. 525 and 526 of 2007, the August Supreme Court of Pakistan held:-

*"The learned Addl. Advocate General has contended that this Court while interpreting the circulars in question has taken a view contrary to the correct legal position, according to which private respondents were not entitled to the benefit of advance increments. We are afraid, the learned Addl. A.G instead of pointing out any mistake of law and fact in the judgment made an attempt to re-open the case on merits. The scale of review is, very limited and the points already considered in the judgment under review cannot be allowed to be re-agitated in review jurisdiction. These review petitions being without any substance are accordingly dismissed."*

While disposing of Crl. O.P. No. 66 & 67 of 2007, it was held by the August Supreme Court of Pakistan:-

*"The learned Addl. A.G. has given an undertaking for implementation of the judgment of this Court within a period of two weeks and in view thereof, this criminal original is disposed of with the direction that the*

*Attested*

*judgment should be implemented in letter and spirit within two weeks under intimation to the Registrar of this Court."*

6. In the above circumstances, and in view of the judgment in rhyme by the August Supreme Court of Pakistan, and keeping in view the provisions of Article 189 of the Constitution of Islamic Republic of Pakistan, we have no other alternative but to declare that all the appellants, after ascertainment that they are the persons similarly placed with the appellants who had previously litigated and in whose favour the judgment mentioned above was given by the August Supreme Court of Pakistan, are entitled to the same benefits as have been given to the appellants of the judgments quoted above. The appeals of such similarly placed persons, after such ascertainment, stands accepted without costs. Each party will bear the cost of the litigation.

7. The official respondents in the above mentioned appeals as well as the other concerned officers/officials in the province are directed to follow the above quoted judgments in their true letter and spirit and without compelling the respective right holders to enter into litigation with the respective official respondents, otherwise the costs of their litigation shall be recovered from the pay and pension as well as person and property of the defaulting concerned officer, though after fixation of responsibility on them as a result of proper enquiry.

8. The remaining similarly placed persons may submit applications/representations to their concerned authorities directly, who shall have to decide their cases as above within a reasonable time.

ANNOUNCED.  
12.05.2009.

*SA*  
(BISMILLAH SHAH)  
MEMBER.

*SA*  
(ABDUL JALIL)  
MEMBER.  
CAMP COURT ABBOTTABAD.

*Attested*

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*Handwritten signature and stamp at the bottom center.*

1504-1505/07

23

Annexure C, D, E

In the Supreme Court of Pakistan  
(Appellate Jurisdiction)

Present:

Mr. Justice Rana Bhagwandas, ACJ  
Mr. Justice Sardar Muhammad Raza Khan

C.P.L.A No.525 of 2007

(On appeal from judgment of NWFP Service Tribunal, Peshawar dated 24.4.2007 passed in Service Appeal No.498 of 2006)

Rashid Iqbal Khan

Petitioner

Versus

District Coordination Officer, Abbottabad & others

Respondents

Petitioner:

Rashid Iqbal Khan, in person

For the respondents:

Sardar Shaukat Hayat Khan,  
Additional Advocate General, NWFP

C.P.L.A No.526 of 2007

(On appeal from judgment of NWFP Service Tribunal, Peshawar dated 24.4.2007 passed in Service Appeal No.499 of 2006)

Muhammad Haroon Qureshi

Petitioner

Versus

District Coordination Officer, Abbottabad & others

Respondents

Petitioner:

Muhammad Haroon Qureshi, in person

For the respondents:

Sardar Shaukat Hayat Khan,  
Additional Advocate General, NWFP

Date of hearing:

19.7.2007

Judgment

Rana Bhagwandas, ACJ – Sole grievance of the petitioners

ATTESTED

before the NWFP Service Tribunal (hereinafter referred to as the Tribunal) appears to be that after induction in BPS-14 as Elementary School Teachers, in terms of NWFP Government Circular dated 7.8.1991 they are entitled to

Superintendent  
Supreme Court of Pakistan  
ISLAMABAD

four advance increments in terms of NWFP Government circular letter No.FD(PRC)1-1/89 dated 11.8.1991 on acquiring higher qualification MA/MSc. They have been non-suited by the Tribunal vide judgment dated

Attested

attested  
Muhammad Haroon Qureshi  
20-7-2007

24

13

24.4.2007 on the premise that they had been placed in higher grade i.e. BPS-14 on acquiring BA/BSc Second Division in terms of Finance Division circular letter No.FD(PRC)1-1/89 dated 7.8.1991, therefore, the provisions of circular letter dated 11.8.1991 issued by the Finance Department would not be applicable to teachers. Tribunal has expressed the view that this circular would be applicable only to ministerial staff, as such, the petitioners were not entitled to the relief claimed by them. Petitioners being aggrieved seek leave to appeal.

2. We have heard the petitioners, who argued their case in person whereas learned Additional Advocate General, NWFP has appeared on Court notice issued to the respondents. With the assistance of learned Additional Advocate General, we have examined both the circulars, which do not exclude the teachers in the Education Department from the benefits accruing out of circular letter dated 11.8.1991, as on its plain reading it applies to all civil servants in BPS 1 to 15 serving under the Provincial Government. Para 5 of the said circular provides mechanism for grant of advance increments to officials for possessing/attaining higher educational qualification. Para 5, clause (c) caters for the grant of four advance increments on attaining MA/MSc where prescribed qualification is FA/FSc. It would be seen that the petitioners were placed in BS-14 by reason of having acquired the qualification of BA/BSc, Second Division which is the prescribed qualification for the post of Elementary School Teacher. It is not the case of respondent-Government that the petitioners have already drawn advance increments on-acquiring higher qualification of MA/MSc.

*attested  
Wahid Sabir  
20-2-2009.*

ATTESTED

Secretary  
Supreme Court of Pakistan  
ISLAMABAD

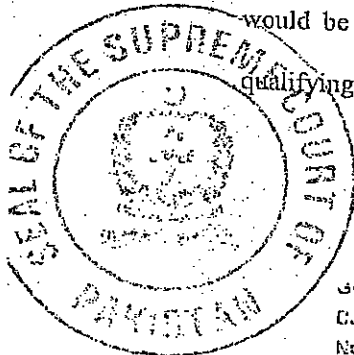
*MOJ* (3)

3. Learned Additional Advocate General attempted to argue that in view of the higher scale granted to Elementary School Teachers in pursuance of the circular letter dated 7.8.1991, which was personal to them, the

*Attested*

petitioners would not be entitled to the incentive of advance increments contemplated by circular letter dated 11.8.1991 but he is unable to cite any principle of law or authority for placing this interpretation. We find that, while circular letter dated 7.8.1991 exclusively deals with the scales of pay of school teachers in different categories, circular letter dated 11.8.1991 provides for the revision of basic pay scale and grant of annual increments and advance increments for all Provincial civil servants in NWFP without any exception. Since the teachers or the employees in Education Department have never been expressly or impliedly excluded from the operation of the circular letter, view taken by the Tribunal being erroneous cannot be sustained at law. In fact, it suffers from clear misconception of law and misconstruction of the circular letter (supra).

3. For the aforesaid facts, circumstances and reasons, we are of the considered view that the Tribunal committed a serious error of law, therefore, the impugned judgment is liable to be set aside. Consequently, we convert these petitions into appeals and, on acceptance, declare that the petitioners would be entitled to four advance increments with effect from the date of qualifying MA/MSc exam.)



Jd. Lane Buzgawader, ACT  
 J. Inidar Hassanul Haq Khan, J

Certified to be true copy

*[Signature]*  
 Superintendent  
 Supreme Court of Pakistan  
 ISLAMABAD  
 15/8/2007

attested  
 under hand  
 2002-2007

Islamabad  
 19<sup>th</sup> July, 2007  
 Not approved for reporting

*[Signature]*  
 Date of Reporting: 15-8-2007  
 Date of Case: 15-8-07  
 Copy:  
 Copy to: *[Signature]*

Attested  
*[Signature]*

**IN THE SUPREME COURT OF PAKISTAN  
(REVIEW/ORIGINAL JURISDICTION)**

**Present:**  
**MR. JUSTICE MUHAMMAD NAWAZ ABBASI**  
**MR. JUSTICE MUHAMMAD QAIM JAN ICHAN**  
**MR. JUSTICE MUHAMMAD MOOSA K. LEGHARI**

**C.R.P. NOs. 216 & 217/2007 in C.P. NOs. 525 & 526/2007**  
(On review from the judgment dated 19.7.2007 passed in C.A. Nos. 1504 & 1505/2007)

Secretary to Govt. of N.W.F.P. Finance Department, Peshawar  
... Petitioner (in both cases)

Versus

Rashid Iqbal Khan and others ... Respondents (in C.R.P. No. 216/07)  
Muhammad Haroon Qureshi and others ... Respondents (in C.R.P. No. 217/07)

**Crl.O.P. NOs. 66 & 67/2007 IN C.A. NOs. 1504 & 1505/2007**

Rashid Iqbal Khan ... Petitioner (in Crl.O.P. No. 66/07)  
Muhammad Haroon Qureshi ... Petitioner (in Crl.O.P. No. 67/07)

Versus

District Coordination Officer, Abbottabad and others  
... Respondents (in both cases)

For the Petitioner :  
(in C.R.P. Nos. 216 & 217/07)

Sardar Shaukat Hayat, Addl.A.G. N.W.F.P

For the Petitioners :  
(in Crl.O.P. 66 & 67/07)

In Person

For the Respondents :  
(in C.R.P. Nos. 216 & 217/07)

N.R.

For the Respondents :  
(in Crl.O.P. 66 & 67/07)

Sardar Shaukat Hayat, Addl.A.G. N.W.F.P

Date of hearing :

29.1.2008

**ORDER**

**MUHAMMAD NAWAZ ABBASI, J:-** The learned Addl. Advocate General has contended that this Court while interpreting the circulars in question has taken a view contrary to the correct legal position according to which private respondents were not entitled to the benefit of advance increments. We are afraid, the learned Addl.A.G. instead of pointing out any mistake of law and fact in the judgment made an attempt to re-open the case on merits. The scope of

ATTESTED

Supernumerary  
Supreme Court of Pakistan  
ISLAMABAD

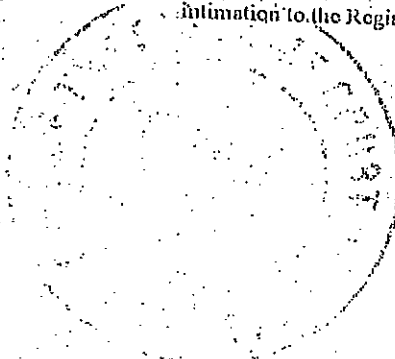
attested  
20.2.2009

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review is very limited and the points already considered in the judgment under review cannot be allowed to be re-agitated in review jurisdiction. These review petitions being without any substance are accordingly dismissed.

Cri.O.P. Nos. 66 & 67/2007

The learned Addl.A.G. has given an undertaking for implementation of the judgment of this Court within a period of two weeks and in view thereof, this criminal original is disposed of with the direction, that the judgment should be implemented in letter and spirit within two weeks under intimation to the Registrar of this Court. —



Adv. Muhammad Nawaz Akhbari, J  
Adv. Muhammad Qasim Tari Khan, J  
Adv. Muhammad Masood L. Leghari, J

CONTROL NO. ... 6071

*[Signature]*  
13/02/08

Islamabad  
29.1.2008  
(Ejaz Goraya)

12/1/08

562/08

28-1-08

600

500

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800

13-02-2008

25-02-2008

*[Signature]*

attested  
Islamabad  
20-2-2008

Attested  
*[Signature]*

Annexure

D,

29

The Accountant General  
KPK Peshawar

**Subject: Fixation of Pay with 04 Advance Increments of MA as per KPK services Tribunal Judgment dated 15-12-2009/H/Supreme court of Pakistan Judgment in CPLA No 525/2007 and 526/2007 dated 19-07-2007.**

R/Sir,

The submissions of the appellant are as under:

1. Appellant is SAT (Senior Arabic Teacher in GGHS Dhamtaur Abbottabad.
2. Appellant was awarded 04 advance increments of MA as per decision of KPK service Tribunal Peshawar Dated 15-12-2009.
3. Decision of the court was implemented on 16-01-2010 while the appellant was in BPS15.
4. Appellant was promoted in BPS 16 w.e.f 01-03-2013.
5. The district Controller Accounts Abbottabad has deducted 02 Advance increments out of 04 advance increments of MA.
6. These increments were awarded by KPK service Tribunal Peshawar in service appeal no 1276/2007 in the light of Judgment of Apex court in CPLA No 525/2007 and 526/2007.
7. Recently in a similar case, these 04 advance increments of MA are restored to 28 teachers of Mansehra District under letter No SO(B&A)1-16/09 Advance increments dated Peshawar, the 02-09-2014 (Copy attached)

In the light of above facts district Controller of Accounts Abbottabad kindly be directed to fix the pay of appellant in BPS 16 with 04 Advance increments of MA already awarded in BPS-15.

Thanks

Yours faithfully

*Abida Bibi*

Abida Bibi D/O Muhammad Yousaf S.A.T

GGHS Dhamtaur Abbottabad.

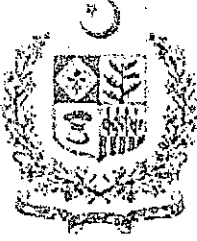
Dated: 23-12-2014

*Attended*  
*R*



Annexure 'E',

30



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

No.HAD-24(76)/Vol-X /Swat/2014-15/ 33/8-21 Dated:07.04.2015

To

The Section Officer (R-I),  
Finance Department,  
Peshawar.

Subject: APPEAL OF TEACHER REGARDING STOPPAGE OF RECOVERY ON ACCOUNT OF ADVANCE INCREMENT IS ON THE BASIS OF MA/MSC

Kindly refer to your office letter No. FD(SOSR-I/2-1213/2014 dated 23.12.2015 and letter dated 19.1.2015.

2. The teacher have admitted that no increments are allowed on the basis of MA qualification, but no recovery on account of irregular payment be made however, this office is still waiting for proper orders of Finance Department.

**ACCOUNTS OFFICER (HAD)**

Copy for information to:-

1. Khalida Bibi D/O Muhammad Yousaf SCT GGHSS Malik pura Abbottabad.
2. Abida Bibi D/O Muhammad Yousaf SAT GGHSS Dhamtaur Abbottabad.
3. All DAOs/AAOs in Khyber Pakhtunkhwa.

**ACCOUNTS OFFICER (HAD)**

Attested  
R

Annexure  
EXTRAORDINARY  
GOVERNMENT

A,

2 P-31

Annexure F



REGISTERED NO. PIII

GAZETTE

Annexure F

**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, TUESDAY, 15TH MAY, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT  
KHYBER PAKHTUNKHWA

**NOTIFICATION**

Dated Peshawar, the 15th May, 2012.

No. 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 time;

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Attested  
R.

AND WHEREAS the Provincial Government vide Notification No. (PRC) 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:-


*Section* → 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 1<sup>st</sup> day of December, 2001.

*Section* 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.

*Subsection* (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  


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. I of 2012), is hereby repealed.

BY ORDER OF MR. SPEAKER

PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

(AMANULLAH)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa

*Attested*  
*[Signature]*

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

P-33

Annexure G,

i. The Accountant General,  
Khyber Pakhtunkhwar Peshawar.  
Attention CM&I Section.

ii. The District Accounts Officer,  
Manshera.

Subject: - CESSATION OF PAYMENT OF ARREARS ON ADVANCE INCREMENTS ACT, 2012 CONTEMPT OF COURT.

I am directed to refer to your letter No. Litigation/H.C/WP- No.171/07/Mohammad Saddique/832 dated 02.05.2013 on the subject cited above and to state that the documents of the following teachers in District Manshera were examined and found as per remarks against each as under;

S.#	Name/Designation	Name of School	Qualification	D/O Declaration of MA Result	Remarks
1	Zulfiqar Ahmad (Ex-CT)	GHSS Baffa	MA(Urdu)	17.09.1998	MA Degree is genuine
2	Ghulam Khan CT	GHSS Baffa	MA(Urdu)	26.09.2001	MA Degree is genuine
3	Mr. M Miskeen CT	GHS Bajna	MA (Islamiyat)	25.09.1995	MA Degree is genuine
4	Mr. Ifikhar Ahmad CT	GHS Bajna	MA (Islamiyat)	26.06.2000	MA Degree is genuine
5	Mr. Umer Parooq CT	GHS Bajna	MA Pushto	05.06.2000	MA Degree is genuine
6	Mr. M. Naseem CT	GHS Bajna	MA (Islamiyat)	26.06.2000	MA Degree is genuine
7	Mr. Mustajab Khan CT	GHS Bajna	MA (Islamiyat)	08.10.1998	MA Degree is genuine
8	Mr. Munir Hussain CT	GHS Bajna	MA (Islamiyat)	26.06.2000	MA Degree is genuine
9	Mr. Altaf Qadir CT	GHS Bharyal	MA (Islamiyat)	22.12.1996	MA Degree is genuine
10	Mr. Sajjad Hussain CT	GHS Dadar	MA (Islamiyat)	26.06.2000	MA Degree is genuine
11	Mr. M. Riaz CT	GHSS Baffa	MA(Urdu)	02.10.1996	MA Degree is genuine
12	Mr. Mazhar Hussain CT	GHSS Baffa	MA (Islamiyat)	17.06.2001	MA Degree is genuine
13	Mr. M. Hanif PET	GHSS Galgali	MA (Urdu)	06.07.2001	MA Degree is genuine
14	Mr. Sajid Mehmood PET	GHSS, No. 1 Manshera	MA(Urdu)	17.09.1998	MA Degree is genuine
15	Mr. Sajjad Muhammad CT	GHSS Baffa	MA(History & Pak. Studies)	19.03.2000	MA Degree is genuine
16	Mr. Yar Muhammad Khan CT	GHSS Baffa	MA (Islamiyat)	02.10.1994	MA Degree is genuine
17	Mr. M. Saeed SST	GHSS Baffa	MA(History & Pak. Studies)	21.01.1998	MA Degree is genuine
18	Mr. M. Ishtiaq	ADO(Circle) Oghi	MA(Urdu)	23.10.1996	MA Degree is genuine
19	Mr. Syed Alamgir Shah CT	GHS Timbry	MA(Urdu)	15.10.1998	MA Degree is genuine
20	R. Abdul Qayyum CT	GHS Trangri Bala Instead of Nagri Bala	MA (Islamiyat)	13.09.1999	MA Degree is genuine
21	Mr. M. Ashraf CT	GHS Sum Instead of Sulaa	MA (Islamiyat)	15.09.1997	MA Degree is genuine
22	Mr. Razaqat Naveed CT	GHSS Baffa	MA(Edu)	31.07.1997	MA Degree is genuine

Approved  
[Signature]

34

P-51

In light of the proceedings and perusal of relevant record, all the above teachers have not obtained advance increments through fraud, misrepresentation or any forged documents.

As per The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification ACT-2012, para-2 (2) which is reproduced as under:

“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” which has been validly implemented.

Therefore, it is requested that no recovery should be made as per the above Khyber Pakhtunkhwa Cessation of payment of Arrears on Advance Increments on Higher Educational Qualification ACT-2012, and may be followed in letter and spirit please.

Encl: As above.

Yours faithfully,


(NOOR ALAM KHAN WAZIR)  
SECTION OFFICER (BUDGET)

Endst. Of even Number & Date.

Copy of the above is forwarded to:-

1. The Director E&SE Khyber Pakhtunkhwa Peshawar.
2. The DEO (M/F) Manshera.
3. PS to Additional Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
4. Master File.

Attested  
R

  
SECTION OFFICER (BUDGET) 20/08/2017



Annexure 35 H,  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

P-35

Impugne Letter

No. FD (SR-1) 2-123/2010  
Dated Peshawar the: 15-12-2010

To: The Accountant General,  
Khyber Pakhtunkhwa, Peshawar.

Subject: GRANT OF ADVANCE INCREMENTS ON THE BASIS OF ACQUIRING  
HIGHER QUALIFICATION.

Dear Sir,

I am directed to refer to your letter No.H-24(74)/Peshawar/Vol-III/2009-10/68 dated 12/01/2010 on the subject noted above and to say that the matter has thoroughly been examined in consultation with concerned Departments during the meetings held on 10-08-2010, 14-10-2010, 18-10-2010, 15-11-2010, 29-11-2010 and 09-12-2010 towards the queries raised by your office, which are clarified as under -

2. The Supreme Court of Pakistan in its Judgement dated 19-07-2007 vide para No.2 has observed in the following words:-

*"It would be seen that the petitioners were placed in BPS-14 by reason of having acquired the qualification of BA / BSc, 2<sup>nd</sup> division which is the prescribed qualification for the post of Elementary School Teacher".*

3. In light of the said observations of the honourable Apex Court, the record of the concerned teacher was gone through, which revealed that the said teacher had already availed the benefit of B-14 from B-9 which is the prescribed qualification for appointment as CT School Teacher. As such in the light of the Judgement of the Apex Court referred to above the said petitioner is entitled to get two increments on the basis of acquiring higher qualification of Master Degree.

- i) Those C.T teachers who are in BPS-9 and possessing higher qualification of MA/MSc but have not been placed in BPS-14, are entitled to 4 advance increments while those who have availed BPS-14 are entitled to 2 advance increments on MA/MSc.
- ii) Advance increments will be allowed from the date of obtaining higher qualification or from the date of appointment which ever is later in term of para 5(ii) of Pay Revision Rules 1991, issued vide Finance Department's letter No.FD(PRC)1-1/89, dated 11<sup>th</sup> August, 1991.
- iii) Those teachers who had secured their appointment or acquired higher qualification after 01-12-2001 are not entitled for the facility of the advance increments on higher qualification in view of the Pay Revision introduced vide Finance Department's letter No.FD(PRC)1-1/2001, dated October 27, 2001.
- iv) Recovery may be made from those teachers/employees who have availed more advance increments over and above their entitlement on academic qualifications as prescribed in para-5(a,b,c &d) of Revision of Basic Scale 1991.

Attested  
Q

Yours Faithfully,

(KHURSHID ALAM)  
Section Officer (SR-I)

12.8  
3

1377

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

Better Copy.

No. FD (SR-1) 2-123/2010  
Dated Peshawar the : 15-12-2010

P-36

27a

Annexure G, Annexure H,

To  
The Accountant General  
Khyber Pakhtunkhwa, Peshawar.

Subject GRANT OF ADVANCE INCREMENTS ON THE BASIS OF ACQUIRING  
HIGHER QUALIFICATION.

Dear Sir,

I am directed to refer to your letter No H-24(74)/Peshawar/Vol-III/2009-10/68 dated 20/01/2010 on the subject noted above and to say that the matter has thoroughly been examined in consultation with concerned Departments during the meetings held on 10-08-2010, 14-10-2010, 18-10-2010, 15-11-2010, 29-11-2010 and 09-12-2010 towards the queries raised by your office, which are clarified as under:-

2 The Supreme Court of Pakistan in its Judgment dated 19-07-2007 vide para No.2 has observed in the following words

"It would be seen that the petitioners were placed in BPS-14 by reason of having acquired the qualification of BA/BSc 2<sup>nd</sup> division which is the prescribed qualification for the post of Elementary School Teacher"

3 In light of the said observations of the Honourable Apex court, the record of the concerned teacher was gone through, which revealed that the said teacher had already availed the benefit of B-14 from B-9 which is the prescribed qualification for appointment as CT school teacher. As such in the light of the judgment of Apex Court referred to above the said petitioner is entitled to get two increments on the basis of acquiring higher qualification of Master Degree.

- i) Those C.T teachers, who are in BPS-9 and possessing higher qualification of MA/MSc but have not placed in BPS-14, are entitled to 4 advance increments while those who have availed BPS-14 are entitled to 2 advance increments on MA/MSc.
- ii) Advance increments will be allowed from the date of obtaining higher qualification or from the date of appointment which ever is later in term of para 5(ii) of Pay Revision Rules 1991, issued vide Finance Department's letter No. FD(PRC)1-1/89, dated 11<sup>th</sup> August, 1991.
- iii) Those teachers who had secured their appointment or acquired higher qualification after 01-12-2001 are not entitled for the facility of the advance increments on higher qualification in view of the Pay Revision introduced vide, Finance Department's letter No. FD(PRC)1-1/2001, dated October, 27, 2001.
- iv) Recovery may be made from those teachers/employees who have availed more advance increments over and above their entitlement on academic qualifications as prescribed in Para-(a, b, c, & d) of Revision of Basic Scale 1991.

Yours Faithfully

-----Sd-----

(KHURSHID ALAM)  
Section Officer (SR-1)

Attested  
[Signature]



37

Annexure I

P-37

ST Judgment  
Implementation of  
S.T. binul Ustak

218

SUPREME COURT

the motorcycle duly registered as 5730-LXG allegedly taken away by them after the commission of crime and would be moving around in the same city.

27. In view of above discussion no evidentiary value can be attached to the alleged recoveries.

Above are the reasons in support of our short order dated 1-11-2010 whereby we have ordered that "the appeal is allowed, the conviction and sentence of the appellants are set aside; they are acquitted of the charge framed against them and shall be released forthwith, if not required in any other case."

M.H./A-114/SC

Appeal allowed.

2011 S C M R 218

[Supreme Court of Pakistan]

Present: Anwar Zaheer Jamali, Khilji Arif Hussain and Rehmat Hussain Jaffer, JJ

ZAFAR—Petitioner

versus

MUHAMMAD ABAD and others—Respondents

Cr. P.L.A. No. 75-K and Criminal Bail Application No. 203 of 2009, decided on 2nd December, 2009.

Criminal Procedure Code (V of 1898)—

—S. 497—Constitution of Pakistan, Art.185(3)—Supreme Court Rules, 1980, O.XXXIII, R.6—Bail granting order—Petition for leave to appeal to Supreme Court against such order—Said petition had been filed 22 days after the prescribed period of limitation—Counsel for the petitioner had no plausible explanation to offer in that regard—Even in the application for condonation of delay filed under O.XXXIII, R.6 of Supreme Court Rules, 1980, no plausible or sufficient cause had been disclosed by the petitioner for not approaching the Supreme Court within time—Petition was dismissed being barred by limitation. [p. 219] A

Ghulam Qadir Jatoi, Advocate-on-Record for Petitioner.

Nemo for Respondents.

Attested

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SCMR

JUDGMENT

ANWAR ZAHEER JAMALI, J.—Aggrieved by bail granting order dated 5-6-2009, passed by learned Single Judge in Chambers of the High Court of Sindh, Bench at Sukkur, in Criminal Bail Application No.203 of 2009, this criminal petition has been preferred by the complainant in Crime No. 46 of 2008, Police Station Faiz Gunj, District Khairpur, to impugn the legality of the said order.

2. Making reference to the relevant facts of the case and contents of the F.I.R., submission of Mr. Ghulam Qadir Jatoi learned A.O.R. is that bail granting order is not based on proper appreciation of relevant facts of the case. He, however, did not dispute that it is a case of two counter versions, as per the facts stated in the first F.I.R lodged by one Muhammad Ramzan and the other lodged by present petitioner, narrating two different stories of the same occurrence.

When confronted with the question of limitation, the criminal petition having been filed 22 days after the prescribed period of limitation for filing such petition against the impugned order, learned counsel has no plausible explanation to offer in this regard. Even in the application for condonation of delay moved under Order XXXIII, Rule 6 of the Supreme Court Rules, 1980, which is accompanied with this criminal petition, no plausible or sufficient cause has been disclosed by the petitioner for not approaching this Court within time.

4. This being the position, this criminal petition is dismissed being barred by limitation.

H.B.T./Z-5/SC

Petition dismissed.

2011 S C M R 219

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, CJ, Ch. Ijaz Ahmad and Ghulam Rabbani, JJ

PAKISTAN INTERNATIONAL AIRLINES CORPORATION—Appellant

versus

AZIZ-UR-REHMAN CHAUDHRY and others—Respondents

Civil Appeal No. 235-K of 2009, decided on 8th April, 2010.

Attested

SCMR

organizations without dragging the employees into further litigation."

6. We inquired from the learned counsel for the appellant that in view of the above para whether the appellant is not bound to implement the judgment in letter and spirit instead of dragging the respondent in further litigation, he could not answer satisfactorily except repeating the arguments noted above.

7. In view of the ratio in the case of Muhammad Idress (ibid) we are of the opinion that instant appeal has no merit and under the circumstances the High Court had rightly granted relief to the respondent for implementation of the judgment. Thus, the appeal is dismissed and the appellant is directed to implement the judgment of the Federal Service Tribunal dated 26th June, 2006 in letter and spirit within a period of 15 days after receipt hereof and send compliance report to the Registrar for our perusal in Chambers. Copy of the same shall also be handed over to the respondent for information.

H.B.T./P-5/SC

Appeal dismissed.

2011 S C M R 222

[Supreme Court of Pakistan]

Present: Nasir-ul-Mulk and Khilji Arif Hussain, JJ

JAMILA KHATOON and others—Appellants

versus

AISH MUHAMMAD and others—Respondents.

Civil Appeal No. 1854 of 2005, decided on 11th November, 2010.

(On appeal from the judgment dated 26-10-2005 of the Lahore High Court, Lahore, passed in C.R.No. 855 of 2004).

Specific Relief Act (I of 1877)—

—S. 42—Suit for declaration of title—Limitation—Knowledge of mutation—Proof—Plaintiffs assailed mutation of land in question in favour of defendants, which was alleged to have been attested on the basis of fraud—Judgments and decrees in favour of plaintiffs, passed by two Courts below were set aside by High Court in exercise of revisional jurisdiction—Validity—Plaintiffs filed suit on 20-9-1989 for cancellation of allotment of land in question in favour of defendants on 17-12-1956—Plaintiffs' predecessor-in-interest expired sometime in

(Khilji Arif Hussain, J.)

year, 1951, and since year, 1951 till year, 1989, when the suit was filed, there was nothing on the record to show as to what steps were taken by plaintiffs for the purpose of protecting their interest, in respect of land in question—No averment was made as to how and when disputed mutation first came to the knowledge of plaintiffs except making a vague averment without any particular as to when and how plaintiffs came to know about the mutation of land in question in favour of defendants and what steps were taken by them to protect their interest nor any particular had been given if land in question was allotted to them and what they did to take possession of the same and why they kept quiet for a period of 28 years—Plaintiffs not only failed to prove that defendants had committed fraud in mutation of land in question in their favour in year, 1956 and that the suit filed by plaintiffs was in time—Mutation was effected on 17-12-1956 whereas suit for cancellation was filed in 20-9-1989, and the same was hopelessly barred by time—High Court had rightly dismissed the suit filed by plaintiffs—Appeal was dismissed. [pp. 225, 226] A, B & C

Gul Zarin Kiyani, Senior Advocate Supreme Court and M.S. Khattak, Advocate-on-Record for Appellants.

Dr. A. Basit, Senior Advocate Supreme Court for Respondents.

Date of hearing: 11th November, 2010.

JUDGMENT

KHILJI ARIF HUSSAIN, J.—This appeal under Article 185(2)(d)(e) of the Constitution of the Islamic Republic of Pakistan, 1973, has been filed against the judgment and decree dated 26-10-2005 whereby learned Single Judge in Chambers of the Lahore High Court, Lahore has accepted the Civil Revision No.855 of 2004 filed by the respondents and set aside the judgments and decrees passed by the two Courts below dismissing the suit filed by the appellants.

2. Brief facts of the case necessary for the decision of the listed appeal are that the appellants/plaintiffs filed a suit for declaration with consequential relief of possession alleging therein that their predecessor-in-interest, namely, Alim-ud-Din son of Rehmat Ali Khan, who on migration from India to Pakistan filed his claim Form No:7978 for allotment of land in lieu of the land owned by him in India, whereupon he was allotted land measuring 65 kanals and 12 marlas in Kamoke, Tehsil and District Gujranwala. The said Alim-ud-Din, predecessor-in-interest of the appellants/plaintiffs died on 5-4-1951. The appellants/plaintiffs approached for the first time on 3-9-1984 and filed a review petition whereby they called in question the mutation dated 17-12-1956 attested in favour of the respondents alleging therein that the respondent

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BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.

S.No — 246

L/18/2009

Service Appeal No: of 2009

Abida Bibi D/O Muhammad Yousaf, A.T teacher, Government Girls Middle School Banda Sahib Khan, Abbottabad. R/O: H.No K-149, Banda Sappan, Near Shell Pump, Havelian Road, Tehsil & District, Abbottabad.

Appellant

Versus

Executive District Officer (Schools &amp; Literacy), Abbottabad, and 05 others.

Respondents

SERVICE APPEALINDEX

S.No	DESCRIPTION OF DOCUMENTS	ANNEXURES	PAGE NO
1	Memo, of Service Appeal	---	1 to 4
2	Certificate in respect of Appellant's Service Issued by Concerned Authority	A	5
3	Copy of Notification Dated 07/08/1991, Issued by Finance Department	B	6 to 7
	Copy of Notification Dated 11/08/1991, Issued by Finance Department	C	8 to 11
4	Copy of the Judgment of Supreme Court Dated 19/07/2007, Passed in C P No 525, 526 of 2007	D	12 to 14
5	Copy of the Judgment of Supreme Court Dated 29/01/2008, in CRP No 216 of 2007	E	15 to 16
6	Copy of Order dated 26/02/2008, in respect of (Mr: Rashid Iqbal Khan Jadoon CT, GMS Tarhana, Abbottabad) regarding 04 Advance Increments of MA/MSc	F	17
7	Copy of Representation Dated 19/01/2009	G	18
8	Copy of Impugned order dated 11/02/2009	H	19

(Abida Bibi)  
Appellant in person

BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.

No  
Sr 246

418/2009

Service Appeal No: of 2009

Abida Bibi D/O Muhammad Yousaf, A.T teacher, Government Girls Middle School Banda Sahib Khan, Abbottabad. R/O: H.No K-149, Banda Sappan, Near Shell Pump, Havelian Road, Tehsil & District, Abbottabad.

Appellant

Versus

- 1 Executive District Officer (Elementary & Secondary Education), Abbottabad.
- 2 District Coordination Officer, Abbottabad
- 3 District Accounts Officer, Abbottabad Abbottabad.
- 4 Director of (Elementary & Secondary Education) N.W.F.P Peshawar.
- 5 Secretary to Govt of N.W.F.P (Elementary & Secondary Education) Deptt; Peshawar.
- 6 Secretary to Govt of N.W.F.P), Finance Department: Peshawar.

Respondents

Appeal under Section 4 of NWFP Service Tribunal Act 1974, against the impugned Order dated 11/02/2009, issued by respondent no 01 under Endst: No 3607-10, whereby appellant's representation dated 19/01/2009, For grant of 04 Four advance increments of M.A w. e. f. 17/06/2001, against A.T post, with all back benefits on the basis of Para 5(i)(c) of the Notification No FD (PRC) 1-1 /89 dated 11-08-1991 issued by Respondent No 06 (Finance Department N.W.F.P, Peshawar) and in pursuance of Judgments/Law passed by Supreme Court of Pakistan, was refused/dismissed.

PRAYER

It is respectfully prayed before this Honourable Tribunal that the instant appeal may graciously be accepted, impugned order dated 11/02/2009, issued by respondent No 01 issued under Endst: No 3607-10, may be set aside and the appellant may be granted 04 advance increments of MA w.e.f. 17/06/2001, with all back benefits

Respectfully Sheweth,

FACTS

- 1) That appellant was appointed on 09/11/1994, as an A.T teacher in Education Department as a trained teacher, Appellant already passed her Shahadatul Alamia Examination (professional Islamic course of A.T post) before her service, thus her

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regular Service was also started from the date of her appointment against A.T post (09/11/1994). Now a days appellant is working as A.T teacher, at GGMS Banda Sahib Khan, District Abbottabad. A Certificate in this respect issued by concerned authority is annexed as Annexure A.

- 2) That appellant fulfilled the requirements mentioned at para no 03 of the Notification dated 07/08/1991, and was placed in BPS No 14 against A.T post w. e. f. 09/11/1994 (date of appointment against A.T post), on the basis of Notification No FD(PRC)1-1/89 dated 07/08/1991, issued by Finance Department, N.W.F.P, Peshawar. Copy of said Notification No FD (PRC) 1-1/89 dated 07/08/1991 is Annexure B.
- 3) That appellant during her Service against A.T post, passed her M.A examination on 17/06/2001, and was entitled for Four (04) Advance Increments with effect from 17/06/2001 (date of passing M.A examination) in pursuance of Para 5 (i) (c) of the Notification No FD(PRC)1-1/89 dated 11/08/1991, issued by Finance Department, N.W.F.P, Peshawar, but these (04) advance increments has not given to the appellant by the respondents in their office routine, until now. Copy of said Notification No FD (PRC) 1-1/89 is Annexure C.
- 4) That appellant being teacher in Education Department was/is a member of Civil Employees (BPS-1-15) of the Provincial Government of N.W.F.P and was/is entitled advance increments in pursuance of Notification 11/08/1991 referred above, whose Para # 5, Clause ( c ) caters for the grant of Four Advance Increments M.A/M.Sc against A.T post because Prescribed Qualification of the said post was/is also Shahadatul Alamia, So appellant was/is entitled the same and Respondents did not give her Constitutional rights.
- 5) That now, In the Meanwhile, Honourable Supreme Court Of Pakistan has also decided the same matters in CPLA No 525,526 of 2007 on 19/07/2007, and ultimately declared that teachers (appellant) in Education Department are also Entitled for their Advanced Increments given in Para 5 (1) of Notification No FD(PRC)1-1/89 Dated 11/08/1991 without any change/exception. Copy of Supreme Court judgment is annexed as Annexure D.
- 6) That Honourable Supreme Court of Pakistan has been pleased to dismiss the Civil Review Petitions No 216 & 217 of 2007, filed by Finance Department, N.W.F.P, Peshawar, on 29/01/2008, which were filed against the judgment, dated 19/07/2007, passed in C.P.L.A No 525 & 526 of 2007, and now the matters of

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Advance Increments attained its finality and there is no way before the respondents to withhold/deny the rights of appellant. Copy of Supreme Court judgment passed in C.R.P No 216 & 217 of 2007 is annexed as Annexure E.

- 7) That the petitioner of C.P.L.A. No 525 of 2007 (Mr: Rashid Iqbal Khan CT, GMS Tarhana, Abbottabad) has now been received his 04 Advance Increments of M.A/M.Sc with effect from its qualifying date, i.e. 15/09/1997, through an order issued on 26/02/2008, by the Education Department, in compliance of the Judgments of Honourable Supreme Court of Pakistan, dated 19/07/2007 & 29/01/2008, passed in CPLA No 525/2007 & CRP No 216/2007. Copy of Order dated 26/02/2008, of 04 Advance Increments of MA/MSc is annexed as Annexure F.
- 8) That when the above Judgments of the Supreme Court dated 19/07/2007 & 29/01/2008, and above order of Education Department dated 26/02/2008 (Annexure F) came into the notice of appellant, in the light of the same, She submitted his departmental representation to respondent no 1 on 19/01/2009, which was refused/dismitted by the respondent no 01, on 11/02/2009 and final/dissimissal order(Impugned Order) was issued under Endst No 3607-10. Copy of representation is annexed as Annexure G, and Impugned order is annexed as Annexure H, Hence this appeal inters – alia on the following ground, and appellant's appeal is within 30 days from the refusal/dissimissal of his departmental representation.

### Grounds

- a) That the impugned order dated 11/02/2009, passed by respondent no 01 on appellant's representation dated 19/01/2009 is arbitrary, unjust, and against all the norms of justice and equity. Hence liable to set aside.
- b) That the impugned order dated 11/02/2009, is against law, facts of the case, also against letter and spirit of the Judgments of Honourable Supreme Court of Pakistan dated 19/07/2007 passed in CPLA No 525,526 of 2007 and also dated 29/01/2008 in Civil Review Petition No 216 & 217 of 2007.
- c) That the Policy contained in Notification/Circular dated 11/08/1991 at its Para 5 was/is passed by N.W.F.P Provincial Assembly in their Budget Session 1991-92 and then Hon, le Governor approved the same and Finance Department issued the said Circular after completing the legal requirements.

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- d) That all the Respondents neither have power nor any jurisdiction to change, withheld/deny the Government Policy contained in Circular/Notification dated 11/08/1991 and cannot apply according to their own wishes and whims against the said policy.
- e) That the action of respondents in refusing the grant of advance increments to the appellant on the basis of Circular dard 11/08/1991, violated the Article 25,189 190 of the Constitution, as petitioner of CPLA (Mr: Rashid Iqbal Khan) has got his same relief of 04 advance increments of MA/MSc.
- f). That the said Circular (Annexure C) was/is issued for Civil Provincial Employees of N.W.F.P (BPS-1-15) and appellant being teacher(Education Department) falls under the same and fully entitled for the relief of Advanced Increments along with back benefits as claimed by him.
- g). That the case of appellant is the same nature in pursuance of Para 5 (i) of Notification, which was decided by Supreme Court of Pakistan on 19/07/2007 passed in CPLA No 525,526 of 2007 (Annexure D).
- h). That there is now no dispute available in the case of appellant as Honorable Supreme Court of Pakistan has decided all the disputed matters involved in the instant appeal on 19/07/2007 .
- i). That appellant's service appeal is maintainable and appellant's post is/was A.T and prescribed qualification of the A.T post was/is Shahadatul Alamia, appellant is now working in BPS # 15 against A.T post and Instant Case falls under Para 5(1)(c) of the Circular dated 11/08/1991(Annexure C)

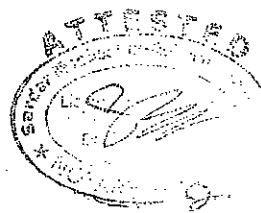
It is therefore respectfully prayed that while setting aside impugned order dated 11/02/2009 approved/issued by respondent no 01, and appellant's appeal may kindly be accepted and 04 advance increments of M.A against C.T post w.e.f. 17/06/2001, along with all back benefits may graciously be granted to the appellant in the interest of justice.

*Attested*  
*[Signature]*

*[Signature]*  
(Abida Bibi)  
Appellant in person

**Affidavit**

I do here by affirm on oath that contents of instant appeal is correct and true according to my best knowledge and belief and nothing has been suppressed from this Honourable Tribunal and this instant appeal is first appeal & same nature of any other appeal is not pending before Honourable Tribunal



20/09

*Attested*  
(Abida Bibi)  
DEPONENT

A S 44

CERTIFICATE

Certified That Miss Abida Bibi D/O Muhammad Yousaf, A.T teacher, Government Girls Middle School Banda Sahib Khan, Abbottabad. R/O: H.No K-149, Banda Sappan, Near Shell Pump, Havelian Road, Tehsil & District, Abbottabad, is a permanent School teacher in this School/Institution. Her date of Ist appointment is 09/11/1994 against A.T post, as a trained teacher. She passed her A.T Islamic Professional Examination before her Service and being A.T she was placed in BPS No 14 on 09/11/1994 (date of her appointment). She passed her M.A examination against AT post on 17/06/2001. At present she is working against A.T post in BPS No 15.

*Attested*  
*[Signature]*

HEAD MISTRESS  
Government Girls Middle School  
Banda Sahib Khan, Abbottabad.

*[Signature]*



S.No	Name of the post	Benefits Extended
1	2	3

4. Secondary school teachers.

All other teachers who do possess Higher qualification shall continue getting existing pay scale with Selection Grade accordingly .

However, the Higher Scale/Grade allowed to these will be personal to them and the inter-se- seniority will remain intact.

All the present and future Secondary school teachers with prescribed qualification under the rules shall be placed in BPS-16 with 1/3rd in Selection Grade BPS-17.

The advance increments sanctioned by Finance Department vide para -9 of its Matter No: FD(SR-1) 1-67/82 dated: 24.08.1983 will not be admissible on acquiring / possessing qualifications for which higher pay scales are being sanctioned through this notification.

sd/ x x x

SECRETARY TO GOVERNMENT OF  
NORTH WEST FRONTIER PROVINCE  
FINANCE DEPARTMENT.

Endst No: FD(PRG) 1-1/89

Dated Peshawar the 7th August, 1991.

A copy is forwarded to the accountant General, N.W.F.P Peshawar for Information and necessary action.

sd/ x x x

(GHULAM DASTGIR AKHTAR )  
Deputy Secretary(Regulation)  
Finance Department.

Endst No: FD(PRG) 1-1/89

Dated Peshawar the 7th August, 1991

A copy is forwarded to :-

1. All Administrative Secretaries to Govt of N.W.F.P.
2. All Commissioners of Divisions in N.W.F.P
3. All District Accounts Officers,
4. All the District Education Officer
5. Secretary to the Govt of N.W.F.P
6. Registrar Peshawar High Court.
7. Registrar Service Tribunal N.W.F.P
8. All Deputy Commissioners/Political Agents / District and session Judges in N.W.F.P

*Attested*

sd/ x x x

(GHULAM DASTGIR AKHTAR )  
Deputy Secretary (Regulation)  
Finance Department.

*Attested*

C 8 46

A copy of Finance Department, Government of NWFP, circular letter No. FD(ERC) 1-1/89, dated 11th August, 1991 addressed to all the Administrative Secretaries in NWFP and others.

.....

Subject:- REVISION OF BASIC PAY SCALES AND PRINGE BENEFITS OF CIVIL EMPLOYEES (BPS-1-15) OF THE PROVINCIAL GOVERNMENT (1991).

Sir,

I am directed to refer to the subject noted above and to say that the Governor, NWFP has been pleased to sanction Revision of the Basic Pay Scales for the Provincial Civil Servants (BPS-1-15) as detailed in the following paragraphs:-

2. BASIC PAY SCALES:-

The existing, modified and revised Pay scales are detailed in the annexure to this letter. The revised pay scales shall replace the Basic Pay Scales, 1987 and shall be effective from the 1st June 1991.

3. INITIAL FIXATION OF PAY.

- 1) The initial pay of the existing employees who have been in Government Service since before the 1st June, 1991, shall first be fixed in the modified scale at the stage having the same pay or if there is no such stage at the next higher stage. Thereafter the pay shall be fixed in the Revised Pay Scale "on point to point basis" i.e. at the stage in the relevant revised basic pay scale which is as many stages above the stage occupied by him above the minimum of the modified basic scale.
- ii) In the case of those employees whose pay is fixed in the revised scale at a stage which gives less than Rs. 100/- increase in pay of May, 1991 a minimum increase of Rs. 100/- in pay over May, 1991 level, would be allowed and thereafter pay fixed at the corresponding stage equal to this pay or if there is no such stage at the next higher stage. The pay fixation formula has been illustrated through examples I, II & III in Appendix.
- iii) The annual increment shall continue to be admissible subject to the existing conditions on the 1st of December each year.
- iv) The increases allowed since 1-7-1988, as detailed below shall cease to be admissible from 1-5-1991:-
  - a) Indexed pay sanctioned vide Finance Department circular No. FD(ERC) 1-3/85 dated 4-8-1988.

Contd....2/-

- b) Adhoc increase of 5% of pay sanctioned vide circular No.FD(PRC)1-3/85,dated 13-1-1990.
- c) Adhoc increase of 10% sanctioned vide Finance Department circular No.FD(PRC)1-3/89 dated 21-7-1990.
- d) Dearness Allowance of Rs.100/-P.M. sanctioned vide Finance Department circular No.FD(PRC)1-3/89,dated 15-1-1991.

4. FIXATION OF PAY ON PROMOTION.

- i) In cases of promotion from a lower to higher post/scale before the introduction of these scale pay of the employee concerned in the revised scale may be fixed and so enhanced that it would not be less than the pay that would have been admissible to him if his promotion to the higher post/scale had taken place after the introduction of these scales.
- ii) Government employees who are allowed selection grade shall be granted one premature increment from 1-6-1991 as is allowed in the case of promotion.

5. GRANT OF ADVANCE INCREMENTS TO OFFICIALS FOR POSSESSING/ATTAINING HIGHER EDUCATIONAL QUALIFICATION.

i) From 1-6-1991 onwards advance increments shall be allowed without the condition of the Second Division to the officials in BPS-1-15 for possessing or acquiring higher educational qualifications over and above prescribed qualifications in the relevant recruitment Rules to the extent given below:-

*Attested*  
*[Signature]*

	No. of Advance increments for obtaining.			
	Matric.	F. A/ F. Sc.	B. A/ B. Sc.	M. A. / M. Sc.
a) Where the prescribed qualification is Non-Matric.	2	4	6	8
b) Where the prescribed qualification is Matric.	Nil.	2	4	6
c) Where the prescribed qualification is F. A/ F. Sc.	Nil.	Nil.	2	4
d) Where the prescribed qualification is B. A./ B. Sc.	Nil.	Nil.	Nil.	2

*Attested*  
*[Signature]*

The advance increment already allowed in terms of Para-6(a) of Finance Department's letter No.FD(PRC)1-1/87 Vol-VIII, dated 22-7-1987 would be doubled from 1-6-1991.

ii) The advance increments shall be allowed at the time of recruitment or acquisition of higher qualification whichever is later. In cases where the employee is already at the maximum of the scale, he may be allowed the number of advance increments beyond the maximum of the scale as personal pay to be absorbed at the time of his moveover/promotion. Those employees who had acquired higher qualification in 3rd Division prior to 1-6-1991 and were not granted advance increments earlier would henceforth be allowed advance increments with effect from 1-6-1991.

6. MOVE-OVER.

The concession of Move-over shall be available from 1-6-1991 onwards to those who are enjoying selection grade.

7. SPECIAL PAYS.

The existing Special Pay admissible to various categories of Personal Assistants in BPS-15 shall be revised from 1-6-1991 as under:-

NAME OF POST.	EXISTING RS. PER MONTH.	REVISED RS. PER MONTH.
P.A. to Minister.	100	150
P.A. to Chief Secretary/ Addl: Chief Secretary/ Secretaries/Additional Secretaries.	75	120

*Attested*

8. TEACHING ALLOWANCE.

The existing rate of teaching allowances admissible to qualified teachers of High Schools who teach Science subjects of Physics, Chemistry, Biology and Mathematics and Junior Instructors in Poly-technic shall be enhanced as under:-

- a) For High School Science Teachers. From 100/-P.M. to Rs.200/-P.M.
- b) For Junior Instructors in Poly-technic who possess Technical Teachers Diploma. From Rs.100/-P.M. to Rs.200/-P.M.

*Attested*

9. MEDICAL ALLOWANCE.

The existing rate of Medical Allowance of Rs.50/-P.M. admissible to the employees in BPS-1-15 shall be enhanced to Rs.60/-P.M. Contd...4/-

10. a) MESSIN /DIET ALLOWANCE.

The existing rate of messing/diet allowance for Nursing Cadre(below BPS-16 shall be enhanced from Rs.300/- to Rs.500/-.

b) UNIFORM ALLOWANCE.

The existing rate of uniform allowance for Nursing Cadre(below BPS-16)shall be enhanced from Rs.125/- P.M. to Rs.150/-P.M.

c) NIGHT DUTY ALLOWANCE.

The Night Duty Allowance shall be admissible as under:-

- i) For Assistants/Clerks. ...Rs.8/-per night.
- ii) For Staff Car Drivers/ Despatch Riders. ...Rs.4/-per night.
- iii) For Naib Qasid. ...Rs.3/50 per night.

d) WASHING GRANT/ALLOWANCE ADMISSIBLE TO LIVERIED STAFF.

The existing rates of Washing Grant/ Allowance shall be enhanced from Rs.25/-per month to Rs.30/-per month.

e) CONVEYANCE CHARGES FOR LATE SITTING AFTER OFFICE HOURS.

The existing rates of Conveyance Charges admissible to employees in BPS 1 to 16(Non-Gazetted) shall be enhanced as under:-

i) ON WORKING DAYS.

- For officials in BPS 1-2. From Rs.3.50 per day to Rs.4.50 per day.
- For officials in BPS 3-15 B-16(Non-Gazetted). From Rs.4.50 per day to Rs.5.50 per day

(ii) ON CLOSED HOLIDAYS)

- For officials in BPS 1-2. From Rs.4.50 per day to Rs.5.50 per day.
- For officials in BPS 3-15 B-16(Non Gazetted). From Rs.7.00 per day to Rs.8.00 per day.

Your obedient servant

Sd/-  
(GHULAM DASTAGIR AKHTAR)  
DEPUTY SECRETARY(REG:)  
FINANCE DEPARTMENT.

*Attested*

*Attested*

12

(D)

In the Supreme Court of Pakistan  
(Appellate Jurisdiction)

Present:

Mr Justice Rana Bhagwandas, ACJ  
Mr. Justice Sardar Muhammad Raza Khan

C.P.L.A No.525 of 2007

(On appeal from judgment of NWFP Service Tribunal, Peshawar dated 24.4.2007 passed in Service Appeal No.498 of 2006)

Rashid Iqbal Khan

Petitioner

Versus

District Coordination Officer, Abbottabad & others

Respondents

Petitioner: Rashid Iqbal Khan, in person

For the respondents: Sardar Shaukat Hayat Khan,  
Additional Advocate General, NWFP

C.P.L.A No.526 of 2007

(On appeal from judgment of NWFP Service Tribunal, Peshawar dated 24.4.2007 passed in Service Appeal No.499 of 2006)

Muhammad Haroon Qureshi

Petitioner

Versus

District Coordination Officer, Abbottabad & others

Respondents

Petitioner: Muhammad Haroon Qureshi, in person

For the respondents: Sardar Shaukat Hayat Khan,  
Additional Advocate General, NWFP

Date of hearing: 19.7.2007

Judgment

Rana Bhagwandas, ACJ – Sole grievance of the petitioners

before the NWFP Service Tribunal (hereinafter referred to as the Tribunal) appears to be that after induction in BPS-14 as Elementary School Teachers, in terms of NWFP Government Circular dated 7.8.1991 they are entitled to four advance increments in terms of NWFP Government circular letter No.FD(PRC)1-1/89 dated 11.8.1991 on acquiring higher qualification MA/MSc. They have been non-suited by the Tribunal vide judgment dated

ATTESTED

Superintendent  
Supreme Court of Pakistan  
ISLAMABAD

*[Handwritten signature]*

*Attested*

*Attested*

13 51

24.4.2007 on the premise that they had been placed in higher grade i.e. BPS-14 on acquiring BA/BSc Second Division in terms of Finance Division circular letter No.FD(PRC)1-1/89 dated 7.8.1991, therefore, the provisions of circular letter dated 11.8.1991 issued by the Finance Department would not be applicable to teachers. Tribunal has expressed the view that this circular would be applicable only to ministerial staff, as such, the petitioners were not entitled to the relief claimed by them. Petitioners being aggrieved seek leave to appeal.

2. We have heard the petitioners, who argued their case in person whereas learned Additional Advocate General, NWFP has appeared on Court notice issued to the respondents. With the assistance of learned Additional Advocate General, we have examined both the circulars, which do not exclude the teachers in the Education Department from the benefits accruing out of circular letter dated 11.8.1991, as on its plain reading it applies to all civil servants in BPS 1 to 15 serving under the Provincial Government. Para 5 of the said circular provides mechanism for grant of advance increments to officials for possessing/attaining higher educational qualification. Para 5, clause (c) caters for the grant of four advance increments on attaining MA/MSc where prescribed qualification is FA/FSc. It would be seen that the petitioners were placed in BS-14 by reason of having acquired the qualification of BA/BSc, Second Division which is the prescribed qualification for the post of Elementary School Teacher. It is not the case of respondent-Government that the petitioners have already drawn advance increments on acquiring higher qualification of MA/MSc.

*Attested*

*Attested*

ATTESTED

*[Signature]*  
Secretary  
Suo Locus  
Court of Pakistan  
ISLAMABAD

*1408*

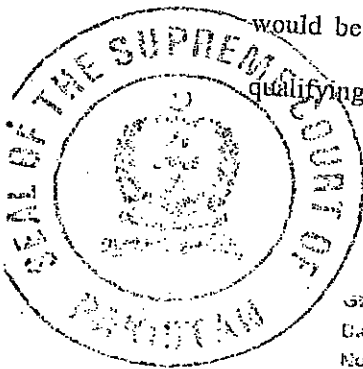
3. Learned Additional Advocate General attempted to argue that in view of the higher scale granted to Elementary School Teachers in pursuance of the circular letter dated 7.8.1991, which was personal to them, the

petitioners would not be entitled to the incentive of advance increments contemplated by circular letter dated 11.8.1991 but he is unable to cite any principle of law or authority for placing this interpretation. We find that, while circular letter dated 7.8.1991 exclusively deals with the scales of pay of school teachers in different categories, circular letter dated 11.8.1991 provides for the revision of basic pay scales and grant of annual increments and advance increments for all Provincial civil servants in NWFP without any exception. Since the teachers or the employees in Education Department have never been expressly or impliedly excluded from the operation of the circular letter, view taken by the Tribunal being erroneous cannot be sustained at law. In fact, it suffers from clear misconception of law and misconstruction of the circular letter (supra).

*Attested*

3. For the aforesaid facts, circumstances and reasons, we are of the considered view that the Tribunal committed a serious error of law, therefore, the impugned judgment is liable to be set aside. Consequently, we convert these petitions into appeals and, on acceptance, declare that the petitioners would be entitled to four advance increments with effect from the date of qualifying MA/MSc exam.

*Attested*



*Jd. Lata Bhagwandas, A.C.J*  
*Jd. Jorda Hassanul Hazi Khan, J*

Certified to be true copy  
 [Signature]  
 Superintendent  
 Supreme Court of Pakistan  
 ISLAMABAD

4733/07  
 Date of Proceedings: 18-7-7  
 No. of Petition: 9  
 No. of Copies: 8  
 Islamabad: 19<sup>th</sup> July, 2007  
 Not approved for reporting: 10/3/07  
 Date of Copy: 15-8-2007  
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*Munir Javed*



E-15

**IN THE SUPREME COURT OF PAKISTAN**  
(REVIEW/ORIGINAL JURISDICTION)

Present:  
MR. JUSTICE MUHAMMAD NAWAZ ABBASI  
MR. JUSTICE MUHAMMAD QAIM JAN KHAN  
MR. JUSTICE MOHAMMAD MOOSA K. LEGHARI

C.R.P. NOs. 216 & 217/2007 in C.P. NOs. 525 & 526/2007  
(On review from the judgment dated 19.7.2007 passed in C.A. Nos. 1504 & 1505/2007)

Secretary to Govt. of N.W.F.P. Finance Department, Peshawar  
... Petitioner (in both cases)

Versus

Rashid Iqbal Khan and others ... Respondents (in C.R.P. No. 216/07)  
Muhammad Haroon Qureshi and others ... Respondents (in C.R.P. No. 217/07)

CR.O.P. NOs. 66 & 67/2007 IN C.A. NOs. 1504 & 1505/2007

Rashid Iqbal Khan ... Petitioner (in Cr.O.P. No. 66/07)  
Muhammad Haroon Qureshi ... Petitioner (in Cr.O.P. No. 67/07)

Versus

District Coordination Officer, Abbottabad and others  
... Respondents (in both cases)

For the Petitioner (in C.R.P. Nos. 216 & 217/07)	Sardar Shaukat Hayat, Addl.A.G. N.W.F.P
For the Petitioners (in Cr.O.P. 66 & 67/07)	In Person
For the Respondents (in C.R.P. Nos. 216 & 217/07)	N.R.
For the Respondents (in Cr.O.P. 66 & 67/07)	Sardar Shaukat Hayat, Addl.A.G. N.W.F.P
Date of hearing	29.1.2008

ORDER

MUHAMMAD NAWAZ ABBASI, J:- The learned Addl. Advocate General has contended that this Court while interpreting the circulars in question has taken a view contrary to the correct legal position according to which private respondents were not entitled to the benefit of advance increments. We are afraid, the learned Addl.A.G. instead of pointing out any mistake of law and fact in the judgment made an attempt to re-open the case on merits. The scope of

*[Signature]*

Supreme Court of Pakistan  
Islamabad

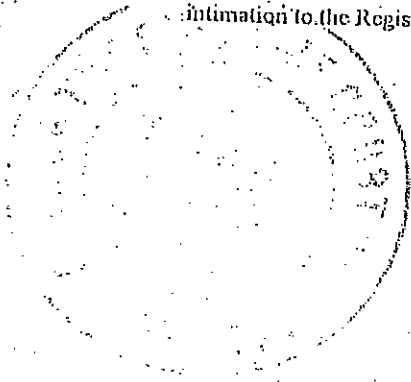
*Attested*

*Attested*

review is very limited and the points already considered in the judgment under review cannot be allowed to be re-agitated in review jurisdiction. These review petitions being without any substance are accordingly dismissed.

Cri.O.P. Nos. 66 & 67/2007

The learned Addl.A.G. has given an undertaking for implementation of the judgment of this Court within a period of two weeks and in view thereof, this criminal original is disposed of with the direction that the judgment should be implemented in letter and spirit within two weeks under intimation to the Registrar of this Court. —



Prof. Muhammad Nawaz Akhbari, J.  
vs. Muhammad Qasim Tariq Khan,  
vs. Muhammad Masood Khan Leghari

13/02/08

Islamabad  
29.1.2008  
(Ejaz Goraya)  
17/2/08

Attested  
*[Signature]*

Attested  
*[Signature]*

562/08  
28-1-08  
5 60  
3 32  
8 32

13-02-2008  
25-02-2008

*[Signature]*

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCH: & LIT): ABBOTTABAD.

ORDER

In pursuance of the Judgment dated 19.07.2007, passed in CPLA No. 525 & 526 of 2007, and Judgment dated 29.01.2008, passed in Criminal Original Petition No 66 & 67 of 2007, also passed in C.R.P No 216 & 217 of 2007, Pronounced by the Honourable Supreme Court of Pakistan, and on the basis of Para 5 ( I ) ( c ) of the Notification No FD(PRC)1-1/89 dated 11.08.1991, **Sanction** is hereby accorded to grant of **04 Advance Increments** in respect of the following teachers on passing M.A/MSc Examination and relevant dates noted against their names.

<u>S.No</u>	<u>Name/Father Name &amp; School</u>	<u>Date of passing (M.A/MSc)/Grant of 4 Adv: Incr:</u>
1)	Rashid Iqbal Khan S/O Shamraiz Khan C.T, GMS Tarhana, Abbottabad.	15-09-1997
2)	Muhammad Haroon Qureshi S/O Masood ur Rehman (Ex C.T, GMS, Tarhana) Subject Specialist, GHSS Bahali, Manshehra.	17-09-1998

- Note**
- 1) Necessary Entries to this effect should be made in their Service book/office record.
  - 2) Arrears due to the Appointment should be drawn and disbursed to them.

(Syed Bashir Hussain Shah)  
Executive District Officer (Schools & Literacy)  
ABBOTTABAD.

3550-62  
Endst: No \_\_\_\_\_ / C.T Male/Advance Incr: Esst: Branch A.Abad, Dated 26/02/08  
Copy forwarded for information and n/action to the

- 1) Registrar Supreme Court Of Pakistan, ISLAMABAD, with reference to Order dated 29.01.2008, passed by Supreme Court in Cr: Org: Ptn No 66 & 67 of 2007.
- 2) Advocate General N.W.F.P, Peshawar.
- 3) Secretary to Govt: of NWFP, Finance Department, Peshawar.
- 4) Secretary to Govt: of NWFP, (School & Literacy) Department Peshawar.
- 5) Director, (School & Literacy) Department Peshawar.
- 6) District Coordination Officer Abbottabad w/r to his letter No 2030-2033 dated 19.02.2008.
- 7) District Accounts Officer Abbottabad.
- 8) Accountant General N.W.F.P, Peshawar.
- 9) District Officer (S & L) Male Abbottabad with the direction to implement the judgment after verification of documents.
- 10) Head Master, GMS Tarhana, Abbottabad.
- 11) Budget & Accounts Officer Local Office.
- 12) Concerned Teacher Rashid Iqbal Khan & Muhammad Haroon Qureshi.
- 13) Office Order file

*Attested*

Executive District Officer  
(Schools & Literacy)  
ABBOTTABAD.

To,

The Executive District Officer,  
(Elementary and Secondary Education)  
Abbottabad.

REPRESENTATION FOR SANCTION/GRANT OF FOUR (4) ADVANCE INCREMENTS OF M.A w . e . f. 17/06/2001 (date of passing M.A) against A.T post WITH ALL BACK BENEFITS UNDER THE PARA 5 (I) (c) OF NOTIFICATION NO FD (PRC)1-1/89 DATED 11-08-91, ISSUED BY THE GOVT OF N.W.F.P, FINANCE DEPARTMENT, PESHAWAR & THE JUDGMENTS OF HONOURABLE SUPREME COURT OF PAKISTAN DATED 19-07-2007, 29-01-2008 PASSED IN C.P No 525 OF 2007, and CRP No 216 of 2007.

Sir,

The submissions of the applicant are as under;

- 1) That applicant was appointed in Education Department on 09/11/1994 against AT post as a trained teacher, she passed her Islamic professional Course before her Service, thus her regular service was also been started from the date of her taking over charge against AT post and was placed in BPS No 14 from the date of her appointment (09/11/1994), now she is working against A.T post in BPS No 15.
- 2) That applicant during her service, passed her MA Examination on 26/06/2000, and is/was entitled for 04 advance increments w.e.f. 17/06/2001 against A.T post, but these increments were not given to the applicant until now, in pursuance of Para 5 (1) (c) of the Notification NO, FD(PRC)1-1/89 dated 11-08-1991, issued by the Govt of NWFP, Finance Department, Peshawar.
- 3) That there is now no dispute available in the case of appellant as Honourable Supreme Court of Pakistan has decided all the disputed matters involved in the instant application on 19/07/2007 in CPLA No 525 of 2007 and on 29/01/2008 by deciding Civil Review Petition No 216 of 2007, and petitioner of said cases (Mr Rashid Iqbal Khan C.T teacher) has also got his advance increments along with his arrears and now is taking his increments regularly.
- 4) That applicant's application is maintainable and applicant's post is A.T and prescribed qualification of her A.T post is Islamic professional Course equal to F.A/FSc, Instant Case falls under Para 5(1) (c) of the Circular dated 11/08/1991, and applicant was/is entitled of 04 increments of MA w.e.f. 17/06/2001.

In the light of above mentioned notification and Law, it is therefore, requested that Four (04) advance increments of MA w.e.f due date, i.e. 17/06/2001, along with all back benefits, may kindly be sanctioned/granted to the applicant.

Dated 19/01/2008

Abida Bibi D/O Muhammad Yousaf,  
A.T teacher, Government Girls Middle  
School Banda Sahib Khan,  
Abbottabad. R/O: H.No K-149, Banda  
Sappan, Near Shell Pump, Havelian  
Road, Tehsil & District, Abbottabad.

57

P-57

Dated 14/02/2009

To,

- 1 Khailda Bibi d/o Muhammad Yousaf  
CT GGMS Mohamdah Abbottabad
- 2 Abida Bibi d/o Muhammad Yousaf  
AT GGMS Panda Sahib Khan Abbottabad
- 3 Ghazala Bibi d/o Muhammad Yaqub,  
CT GGMS Naroja Abbottabad
- 4 Rubina Shahcen d/o Qalandar Khan  
(Ex-PTC) CT GGMS Bagnoter Abbottabad

SUBJECT:- REPRESENTATION FOR SANCTION/GRANT OF FOUR (4) ADVANCE INCREMENTS OF MA AGAINST CT & AT POST, AND FOUR (4) ADVANCE INCREMENT OF B.A AGAINST PTC POST WITH ALL BACK BENEFITS, UNDER THE PARA 5 (I) (B) & (C) OF NOTIFICATION NO FD (PRC) 1-1/89 DATED 11.08.91, ISSUED BY THE GOVT OF NWFP FINANCE DEPARTMENT, PESHAWAR & THE JUDGMENTS OF HONOURABLE SUPREME COURT OF PAKISTAN DATED 19.07.2007, 29.01.2008 PASSED IN C.P. NO 525, 526 & 590 OF 2007 CRP NO. 216 OF 2007

Memo:-

Your appeals/applications for above said Advance Increment on higher qualification cannot be considered by this Department as the Increments allowed by the Honourable Court will be allowed to those who appealed before the said forum as and when Law Department allowed accordingly.

*Attested*  
*R*

Executive District Officer  
(Ele: & Sec: Edu:) Abbottabad

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

Service Appeal No.486/2015  
Abida Bibi (AT), Abbottabad.

... Appellant

**VERSUS**

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

... Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.01**

*Respectfully Sheweth*

**Preliminary Objections:**

- i) That the appellant has no cause of action.
- ii) That the appellant has no locus standi.
- iii) That the appeal in hand having no merits is not maintainable.
- iv) That appeal is time barred.
- v) This Honourable Tribunal lacks jurisdiction to entertain the appeal.
- vi) That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- vii) That under the cessation of advance increment on higher educational qualification Act No.IX of 2012, claim of the Appellant stood abated.

**Facts:**

1. Relates to Service record of the appellant and Court record, hence need not comments.
2. Subject to Proof.
3. Incorrect: Finance Department issued letter dated 15.12.2010, containing directions that recovery may be made from those teachers/employees who have availed extra advance increments invalidly over and above their entitlement on academic qualification. This issue of availing extra advance increments over & above the entitlement was also agitated and examined thoroughly by the Accountant General Office (Pay Fixation Party) vide letter No.PFP/ R.B.S.2011/DIK/2014-15/248 dated 10.12.2014(**Annex-I**). The position emerged therein was also shared with Law Department vide Finance Department letter No.FD(SOSR-I)2-123/2015 dated 01.09.2015(**Annex-II**) with the request for their views on legal position of the case. Thereafter, Law Department vide letter No.SO(OP-II)/LD/5-7/2012-Vol-II/21708-09 dated 16.09.2015 (**Annex-III**) has confirmed that Finance Department letter dated 15.12.2010 with regard to the recovery of extra advance increments/invalid implementation is correct and such implementation was declared invalid. Hence recovery was ordered to be effected from those teachers/employees who have availed more advance increments over and above their entitlement on academic qualification (**Annex-IV**).
4. Subject to proof. However, it is clarified that Finance Department issued letter dated 15.12.2010 containing directions that recovery may be made from those teachers/employees who have availed extra advance increments invalidly over & above their entitlement on academic qualification. Accordingly Respondent No.03 has rightly deducted/recovered 02 advance increments out of 04, erroneously allowed to any teacher/appellant.
5. Need no comments by Respondent No.01.

**Cont'd Next Page-(2)**

**Grounds:**

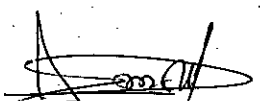
- (a) Needs no comments by Respondent No.1.
- (b) Incorrect: Action taken by Respondent No.01 is not against the judgement of any Court/Service Tribunal but as per judgement of august Supreme Court of Pakistan and in the interest of justice & public exchequer.
- (c) Incorrect: As explained in preceding Paras. Respondent No.01 can even not think of contempt of any court.
- (d) Do not relates to Respondent No.01.
- (e) Incorrect: Action taken by Respondent No.01 is in accordance with the judgement of august Supreme Court of Pakistan. Further appellant has not been subjected to discrimination/injustice by the respondent No.01.

It is therefore, humbly prayed that appeal of the appellant being devoid of merit may be dismissed.

  
**SECRETARY**  
**GOVERNMENT OF KHYBER PAKHTUNKHWA,**  
**FINANCE DEPARTMENT**  
**(RESPONDENT NO.1)**

**AFFIDAVIT**

I, Irshad Muhammad, Section Officer(Litigation-II) do hereby solemnly affirm and declare that the contents of accompanying Parawise Comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Tribunal.

  
**DEPONENT**  
**SECTION OFFICER(LIT-II)**  
**Govt. of Khyber of Pakhtunkhwa**  
**FINANCE DEPARTMENT**



Office of the  
**Accountant General**

Khyber Pakhtunkhwa Peshawar  
Phone: 091 9211250-53

No. PFP/R.B.S.2011/DIK/2014-15/248

Dated 10.12.2014

To,

The Accounts Officer,  
HAD Section.

Subject: **STOPPAGE OF RECOVERY AS WELL AS ALLOWING ADVANCE INCREMENTS ON MA/MSC.** P-259C

Please refer to your Memo No.HAD-24(76)Swat/Vol-X/2014-15 dated 16.1.2015 on the subject noted above.

2. As you are aware of the facts that appointment to the post of CT made through different method of recruitment (i) from PTC (Now PST) being FA/FSc/D.com and (ii) directly on the basis of FA/ FSc/D.com qualification in BPS-09. Before 1.6.1991 those PST teachers whose appointment were made on the basis of Metric Plus existing professional qualification granted 02 and 03 advance increments on possessing or acquiring higher qualification i.e. FA,FSc/D Com and BA/BSc/B.com respectively while in the case of CT whose appointment were made on basis of FA plus prescribed professional qualification granted 03 advance increments on possessing or acquiring BA/BSc/B.com vide Finance Deptt: letter No FD(SR-1)1-67/82 dated 24.8.1983.

3. After introduction of RBPS-1/6/1991, those PTC teachers who have passed FA/FSc/D.com in the Second Division were allowed BPS-09 and BPS-14 to those CT teachers who have passed BA/BSc/B.com in the Second Division. In this way the CT teachers who joined the Education Deptt: in the capacity of PTC and later on appointed to the post of CT already drawn 05 advance increments on basis of FA/FSc/D.com plus BA/BSc.B.com and CT, teacher whose appointment made on the basis of FA/FSc/D.com achieved 03 advance increments (on basis of BA/BSc.B.com) in light of Finance Deptt: letter dated 24.08.1983 therefore, those CT teachers who have already availed 05 increments (as PST) and 03 increments



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

**Appeal No. 486/2015**

**Abida Bibi.....Appellant**

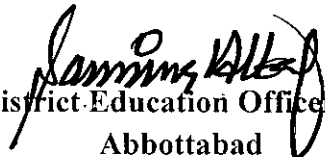
**VERSUS**

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

**Para wise Comments on behalf of Respondents No. 4 & 5.**

**INDEX**

<b>Sr.No</b>	<b>Description</b>	<b>Page Nos</b>	<b>Annexures</b>
1	Comments alongwith affidavit.	1 to 3	
2	Copy of judgment.	4 to 6	"A"

  
District Education Officer (F)  
Abbottabad  
(Respondent No. 4)

①

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

**Appeal No. 486/2015**

**Abida Bibi.....Appellant**

**VERSUS**

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

**Para wise Comments on behalf of Respondents No. 4 & 5.**

**Respectfully Sheweth:-**

**Comments on behalf of respondents are submitted as under:-**

**PRELIMINARY OBJECTION:-**

1. That the appellant has no cause of action to file the instant appeal.
2. That the appeal of the appellant is time barred. Hence liable to be dismissed.
3. That the instant appeal is not maintainable as there is no final order.
4. That the appellant has filed the present appeal to pressurize the respondents.
5. That the appellant has not come to this Honorable tribunal with clean hands.
6. That the appellant is estopped to sue due to his own conduct.
7. That the instant appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
8. That this Honorable Tribunal hasn't got jurisdiction to entertain the present petition/ appeal as this Honorable Tribunal is not a Constitutional Court, hence this appeal is liable to be dismissed.
9. That the vires of Act were challenged in the appeal, the Act was promulgated in the best public interest & the advance increments were not settled to be paid at the time of joining of service.
10. 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.
11. That the appellant is at liberty to join service after due process of law equivalent to his qualification & the Government is not bound to pay advance increment.

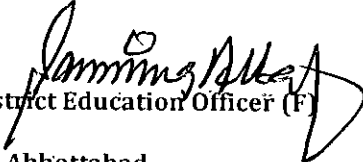
**Factual objections:-**

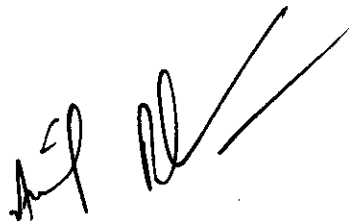
1. In reply to Para No.1 of the appeal it is submitted that judgment of honorable tribunal has lost its efficacy for the purpose of implementation by clear intendment through sections 1 & 2 of Khyber Pakhtunkhwa cessation of payment arrears on advance increments on higher education qualification Act No. IX of 2012.
2. That para No.2 of the appeal is subject to prove.
3. That para No. 3 of the instant appeal does not relate to answering respondents.
4. In reply to para No. 4, it is submitted that due to the promulgation of Khyber Pakhtunkhwa cessation of payment arrears on advance increments on higher education qualification Act No. IX of 2012, superseded the judgment of the service tribunal.
5. That para No.5 relates to record.

**Grounds:**

- a. That ground a. as composed is incorrect hence, denied. Furthermore, it is submitted that judgment of Honorable tribunal has lost its efficacy for the purpose of implementation by clear intendment through sections 1 & 2 of Khyber Pakhtunkhwa cessation of payment arrears on advance increments on higher education qualification Act No. IX of 2012.
- b. Complete reply has already been contended in the preceding paras.
- c. Ground c as composed is incorrect as one Mr. Muhammad Haroon had filed Civil Petition No 360 of 2013' before the August Supreme Court of Pakistan against the order dated 30/01/2013, passed by this Honorable tribunal and the same was dismissed on 29/08/2013. Copy of the said judgment is annexed as Annexure "A".
- d. That ground d is subject to prove. No comments.
- e. That ground e is incorrect hence denied. The act of the respondents is in accordance with law

Under the circumstances, it is humbly prayed that the instant appeal is meritless against the law and facts, hence liable to be dismissed without further proceeding.

  
District Education Officer (F)  
Abbottabad.  
(Respondent No. 4)

  
Secretary (E&SE) Khyber Pakhtunkhwa  
Peshawar. (Respondent No. 5)

3

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

**Appeal No. 486/2015**

**Abida Bibi .....Appellant**

**VERSUS**

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

**AFFIDAVIT**

I, District Education Officer (Female) 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

Annexure  
"A"

(4)

Annexure "A"

In the Supreme Court of Pakistan  
(Appellate Jurisdiction)

Present:  
Mr. Justice Anwar Zaheer Jamali  
Mr. Justice Khilji Arif Hussain  
Mr. Justice Ijaz Ahmed Chaudhry

Civil Petition No. 350 of 2013  
(on appeal from judgment of KPK Service Tribunal, Peshawar  
dated 30.1.2013, passed in Implementation Petition No. 49/2012)

Muhammad Haroon ... Petitioner

Executive District Officer, Elementary & Secondary Education Dept. Haripur, etc.  
... Respondents

Petitioner: In person.

For official respondents: Mr. Naveed Akhtar Khan, Addl. A.G. KPK.  
Mr. Saeed-ur-Rehman, ADO (Edu.), Haripur.

Date of hearing: 29.8.2013

JUDGMENT

Anwar Zaheer Jamali, J.- By this petition under Article 212(3) of the Constitution of Islamic Republic of Pakistan, 1973, leave to appeal is sought by petitioner Muhammad Haroon against the order dated 30.1.2013, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar (in short "the Tribunal"), whereby the implementation application No. 49/2012, in service Appeal No. 506/2009, was dismissed in view of sections-1 & 2 of Khyber Pakhtunkhwa Cessation of Payment of Salaries on Advance Increments on Higher Educational Qualification Act, 2012 (Khyber Pakhtunkhwa Act No. IX of 2012).

We have heard the arguments of petitioner. He has placed reliance on the earlier judgment of the Tribunal dated 12.5.2009, whereby he was held entitled for the benefit of advance increments on the basis of higher qualification. For this purpose, he has also placed reliance upon the judgment of this Court, reported as P.A Corporation v. Aziz-ur-Rehman Chaudhry (2011 SCMR 219).

As against it, learned Additional Advocate General KPK, Mr. Naveed Akhtar Khan, strongly contends that benefit of earlier judgment dated 12.5.2009,

ATTESTED

Superintendent  
Supreme Court Pakistan  
ISLAMABAD

5

C.P. 364 of 2013

through implementation application No.49/2012 filed before the Tribunal, cannot be allowed to the petitioner in view of the clear language of section-1 of Khyber Pakhtunkhwa Act No.IX of 2012, which has made its section-2 applicable with retrospective effect from 01.12.2001 and, thus, made the said judgment unimplementable.

4. We have considered the above noted submissions made before us by the petitioner and the learned Addl. A.G KPK and seen that indeed as per judgment of the Tribunal dated 12.5.2009, the petitioner was held entitled for the benefit of advance increments on the basis of his higher qualification, but such judgment has lost its efficacy for the purpose of implementation by clear Intendment through sections 1 and 2 of Khyber Pakhtunkhwa Act No.IX of 2012, which read as under:-

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 1<sup>st</sup> 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 nonexistent, 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

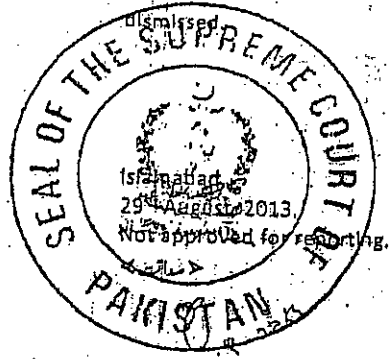
Sub-Registrar  
Supreme Court of Pakistan  
ISLAMABAD

8

CP-360 of 2013

5. A bare reading of the above sections from Khyber Pakhtunkhwa Act No.IX. of 2012 makes it crystal clear that whatever benefit the petitioner was claiming through the judgment dated 12.5.2009, has been nullified by the legislature through clear Intendment in unequivocal terms, while vires of the said Act have not been challenged before any forum.

6. This being the position, leave to appeal is refused and this petition is



Sd/- Anwar Zaheer Jamali, J.  
Sd/- Khilji Arif Hussain, J.  
Sd/- Ijaz Ahmed Chaudhry, J.  
Certified to be True Copy

*[Signature]*  
Superintendent  
Supreme Court of Pakistan  
ISLAMABAD

10565/13

Case No.	Civil/Criminal
Date of Filing	20.8.13
No. of Pages	70
Provision Fee Paid	S. 10
Court Fee Paid	S. 10
Case No. (Previous)	10565/13
Date of Case	20.8.13
Case of Appeal	10565/13
Case No. (Previous)	10565/13
Date of Case	20.8.13

DBA number

IC No.

09-16889

S.No 37075



Head Clerk  
District Bar Association  
Abbotabad

Name of Advocate

وکالت نامہ TAUQIR AHMED

بعدالت سروس ٹر منونل لیسٹیاور -

عنوان: عابدہ بی بی

بنام گلورینڈ آف Cpk / نذر محمد سکریٹری فنانس و اکاؤنٹس

منجانب: ایپلنٹ / اسٹنڈ - نوعیت مقدمہ سروس ایپل  
باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام ایپل کے لیے  
**توقیر احمد درٹڈ سنڈ / سردار نفلو خان ڈیڈ سٹوشن سٹیٹ بینک**  
 کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے  
 جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ  
 سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے  
 علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ کچہری کے علاوہ کسی اور جگہ  
 سماعت ہونے پر یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے  
 کسی معاوضہ کے ادا کرنے یا جماندگی کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخستہ صاحب موصوف  
 مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم  
 درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے  
 اور ہر قسم کے بیان دینے اور اس پر ثالثی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے پیر و نجابت  
 از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفر درخواست حکم امتناعی یا ترقی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب  
 موصوف کو بشرط ادا سنگی علیحدہ محتانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے  
 کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں  
 وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف  
 کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ  
 کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورخہ: 21/9/2016  
سال      ماہ      دن

بھضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

عابدہ بی بی ڈی صدر محمد یوسف ایپلنٹ

Accepted by us  
[Signature]



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT ABBOTTABAD.

Appeal No. 486/2015

Date of Institution ... 24.04.2015

Date of Decision ... 16.09.2019

Abida Bibi D/O Muhammad Yousaf SAT GGHSS Dhamtaur, Abbottabad R/O  
House No.K-149 Banda Sapawn.near Shell Pump Abbottabad.

--- (Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Finance Department, Peshawar  
and four others.

--- (Respondents)

Mr. Tauqeer Ahmad,  
Advocate

--- For appellants.

Mr. Muhammad Bilal,  
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN,  
MR. HAMID FAROOQ DURRANI

--- MEMBER(Executive)  
--- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant service appeal as well as connected service appeal no. 198/2015 titled Sultan Khan, no. 470/2015 titled Khalida Bibi, no.1156/2015 titled Jahangir Iqbal, no. 1145/2016 titled Akmal Hussain and no. 768/2017 titled Shujjah Ali and as similar question of law and facts are involved therein.

2. Arguments of the learned counsel for the parties heard and record perused.

Date of Visit	Name of Visitor	Rank or Official Designation	Date of Visit	Remarks
11-8-15	S. J. A. I.	S. J. A. I.	17-11-2015	<p>A 212</p> <p>The biggest visited to by the 19 am disrupt I also deployed staff</p>
	<p>The undersigned paid a visit, along with Mr. Sarda Zaman of. Sup. Jail and Mr. Fazle Rehman Asst. Sup. Jail Haripur. The jail atmosphere was found quite up to the mark. The both officers are very cooperative and helpful. I first visited the <del>to</del> female prison and addressed them, they put some Gup paints, I promised to solve their problems. The lady Inspector <sup>then</sup> maintained the prison Q. up to the mark.</p> <p style="text-align: right;">S. J. A. I. 11/12/15 Official visitor</p>			

### ARGUMENTS

3. Learned counsel for the appellant argued that she was inducted in service as Arabic Teacher in the Education Department on 09.11.1994. On getting Master Degree/Higher Education on 17.6.2001 over and above the prescribed qualification for the above post, she became eligible for grant of four advance increments. Upon denial of benefit, she filed service appeal no 418/2009 in this Tribunal, which was accepted vide judgment dated 12.5.2009. This judgment was not assailed by the respondents in the august supreme court of Pakistan, thus it attained finality. It was implemented by the respondents vide order dated 16.01.2010 by granting four advance increments with effect from 17.06.2001 to the appellant.

4. Subsequently the appellant was promoted to the post of Senior Arabic Teacher(SAT) (BPS-16) on 01.03.2013 and submitted her case for pay fixation to the District Accounts Officer, Abbottabad. The DAO, Abbottabad was of the view that two increments were required to be deducted from her emoluments at the time of fixation of pay in BPS-16. During pendency of the case she submitted an appeal to the Accountant General Khyber Pakhtunkhwa, but to no avail. Denial of advance increments was against the judgment of this Tribunal is referred to above and judgment of august Supreme Court of Pakistan dated 29.01.2008 passed in CPLA no 525 and 526/2007. Furthermore, respondent no.5 restored four advance increments of more than 77 teachers of District Mansehra. Reliance was placed on judgment of this Tribunal dated 16.04.2019 past in service appeal no 407/2012 and 10.01.2018 in service appeal no 312/2015.



OFFICE OF THE SUPERINTENDENT  
CENTRAL PRISON HARIPUR

No. \_\_\_\_\_/-  
Dated \_\_\_\_\_/09/2015/-

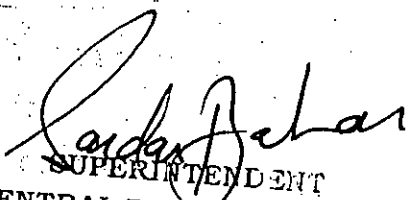
red handed conveying nearly **Half kg chars** in the main gate during his tenure as store keeper during the month 01/2015 for handing over the charas to three convicts performing duties at Godown under his supervision, namely as below:-

- 1 convict Yaqub s/o Sher Muhammad labour performed duty over \_\_\_\_\_PCO .
- 2 Irfan s/o Muhammad Shoib \_\_\_\_\_ Godown duty.
- 3 Shehr Akbar s/o Muhammad Jan; \_\_\_\_\_ jail factory.

He was suspended from service and duly punished and his case is under trial in the court of Haripur jurisdiction.

Thus due to the above mentioned circumstances and facts, when I am unable to take decisions as Superintendent central prison Haripur in good faith and to the best of my judgement while burdened with the duties of deputy superintendent jail cum superintendent jail, it is humbly requested that arrangements may please be made for a superintendent jail to take over the charge of central prison Haripur in the best interest of jail administration and public interest.

Submitted please.

  
SUPERINTENDENT  
CENTRAL PRISON HARIPUR

5. Learned Deputy District Attorney argued that judgment of Service Tribunal highlighted above lost its efficacy for the purpose of implementation by clear intendment through section 1 and 2 of Khyber Pakhtunkhwa Cessation of Payment of Arrears of Advance Increments on Higher Education Qualification Act no. IX of 2012. It has over taken the above judgment. Moreover, one Muhammad Haroon had filed civil petition no 360/2013 before the august Supreme Court of Pakistan against the order dated 30.01.2013 past by this Tribunal and was dismissed vide judgment dated 29.08.2013.

6. Respondent no.1 through letter dated 15.12.2010 circulated instructions for recovery from those Teachers/ Employees who had availed extra advance increments invalidly over and above their entitlement on academic qualification. This issue was also examined minutely by the office of Accountant General Khyber Pakhtunkhwa (Pay Fixation Party) vide letter dated 10.12.2014. The Law Department was also consulted in the matter and it confirmed the stance of the Finance Department taken in letter dated 15.12.2010 with regard to recovery of extra advance increments invalid implementation was declared wrong. However, recovery was ordered from those teachers/ employees who availed advance increments over and above their entitlement thus respondent no 3 has rightly deducted/recovered two advance increments out of 4 erroneously allowed to the appellant/any teacher. Action taken was not against the judgment of this tribunal and Supreme Court of Pakistan but in the interest of justice and public ex-checker without any discrimination. Reliance was placed on judgment of this tribunal dated 15-2-2018 and 14.12.2017 passed in service appeal no. 18.15.2011 and 263/\_\_\_\_\_

The Inspector General of Prisons,  
Khyber Pakhtunkhwa, Peshawar.

Subject: REMOTE CONTROLLED SUPERINTENDENT CENTRAL PRISON HARIPUR.

Respected sir:

It is kindly submitted that Mr. Khalid Abbas superintendent central prison Haripur, who has availed leave for performing hajj and has handed over the charge of central prison Haripur on 08-09-2015 to the undersigned, today telephonically showed his displeasure and annoyance and told me that i had disobeyed his order concerning rotation of duties of watch and ward staff.

The fact is that one warder namely Habib ur Rahman had performed warder cook house duty for the last 07 months. For the month of 09-2015, his duty were changed by Mr. Khalid Abbas, in his over handwriting and another warder namely Tamrez was allotted duty as warder cook house on duty roster parcha on 07-09-2015. On assumption of charge as superintendent central prison Haripur, i retained the services of warder Habib ur Rahman as warder cook house as his contribution in the cook house is commendable.

I pleaded to Mr. Khalid Abbas telephonically that i had done this in the best interest of jail administration and in good faith as these days, the cook house has become the focal area of all visitors whether official or un official. However he showed his reservation, and told me how can a deputy superintendent super cede the orders of the superintendent jail knowing full well that i was the incumbent superintendent jail I/C central prison Haripur and responsible/answerable to the competent authority for any untoward incident.

Moreover, i had not questioned his orders endorsed in superintendent Journal Report Book dated 07-09-2015, whereby before going on leave, he allotted the duties of store keeper to Mr, Asif shah senior clerk, in place of incumbent senior clerk Akhtar shah on the eve of his promotion to the rank of assistant superintendent (which promotion order has not yet been received so far). Who was given the responsibility of store, when Mr. Asif shah was caught

## CONCLUSION

7. The moot point involved in the appeal in hand and other connected appeals is withdrawal of two advance increments out of four granted to the appellant as a sequel to judgment of this Tribunal handed down in service appeal no 418/2009 on 12.05.2009. It is pertinent to point out that these increments were allowed to the employees on the strength of para-5 of the notification dated 11.08.1991 issued by the Finance Department. The aforesaid judgment was implemented by the respondents by granting her four advance increments with effect from 17.6.2001. Subsequently, two increments were withdrawn when the appellant was promoted from the post of Arabic Teacher (BPS-15) to Senior Arabic Teacher (BPS-16) on 01.03.2013, and submitted her case for fixation of pay. It merits to mention here that no separate order was passed by the respondents, rather, deductions were recorded in the service book of the appellant. Furthermore, denial of the benefit referred to above was also against the judgment of august Supreme Court of Pakistan dated 19.07.2007 passed in CPLA no 525 and 526/2007. Relevant portion is reproduced below for ready reference:

**3. Learned Additional Advocate General attempted to argue that in view of the higher scale granted to Elementary School Teachers in pursuance of the circular letter dated 07.08.1991, which was personal to them, the petitioners would not be entitled to the incentive of advance increments contemplated by circular letter dated 11.08.1991 but he is unable to cite any principle of law or authority for placing this interpretation. We find that, while circular letter dated 07.08.1991 exclusively deals with the scales of pay of school teachers in different categories, circular letter dated 11.08.1991 provides for the revision of basic pay scales and grant of annual increments and advance increments for all Provincial civil servants in NWFP without any exception. Since the teachers or the employees in Education Department have never been expressly or impliedly excluded from the operation of the circular letter, view taken by the Tribunal being erroneous cannot be sustained at law. In**

H/o reported on duty on expiry of 04 days c/l  
& 01 day absence.

(1) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

(2) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

(3) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

(4) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

(5) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

(6) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

(7) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

(8) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

(9) 1992 Per. hoked up at 6:10 pm after Sonda  
by chief clerks & H/o (C/L Section) under the supervision  
of Secy (Commander C/L). At  
1-5-014 1992 Per. unlocked at 5:20 AM.  
Supernatent Central Prison  
Durgam Chauri, Durgam

ASU II  
ADMISSIONS  
EDUCATION

ASU I  
RELEASES  
REVISIONS (BOARD OF EXAMINERS)  
REGISTRATION OF OUTSIDE GROUP  
ELIGIBILITY FOR PROMOTION OF MEMBERS  
SHIFTS OF MEMBERS TO OUTSIDE PR  
CONTINUED PRISON (CONSPICUOUS, PRISON HOSPITALS)  
REVIEW PERIODS, STAFF PERIODS, BANK COMPENSATION  
APPEALS OF CONVICTS TO SUPERIOR COURTS  
ALLOCATION OF CONVICTS TO LABORATORIES  
MAINTENANCE OF HYGIENIC REG.  
TRANSFER OF CONVICTS (CONSPICUOUS)

1. i.e. Transfer Rolls etc.  
2) Transfer of Convicts/Conspicuous  
3) Maintenance of Hygienic Reg.  
4) Allocation of Convict to Laboratories  
5) Appeals of Convicts to Superior Courts  
6) Maintenance of Hygienic Reg.  
7) Transfer of Convicts/Conspicuous  
8) Maintenance of Hygienic Reg.  
9) Allocation of Convict to Laboratories  
10) Appeals of Convicts to Superior Courts  
11) Maintenance of Hygienic Reg.  
12) Transfer of Convicts/Conspicuous  
13) Maintenance of Hygienic Reg.  
14) Allocation of Convict to Laboratories  
15) Appeals of Convicts to Superior Courts  
16) Maintenance of Hygienic Reg.  
17) Transfer of Convicts/Conspicuous  
18) Maintenance of Hygienic Reg.  
19) Allocation of Convict to Laboratories  
20) Appeals of Convicts to Superior Courts  
21) Maintenance of Hygienic Reg.  
22) Transfer of Convicts/Conspicuous  
23) Maintenance of Hygienic Reg.  
24) Allocation of Convict to Laboratories  
25) Appeals of Convicts to Superior Courts  
26) Maintenance of Hygienic Reg.  
27) Transfer of Convicts/Conspicuous  
28) Maintenance of Hygienic Reg.  
29) Allocation of Convict to Laboratories  
30) Appeals of Convicts to Superior Courts  
31) Maintenance of Hygienic Reg.  
32) Transfer of Convicts/Conspicuous  
33) Maintenance of Hygienic Reg.  
34) Allocation of Convict to Laboratories  
35) Appeals of Convicts to Superior Courts  
36) Maintenance of Hygienic Reg.  
37) Transfer of Convicts/Conspicuous  
38) Maintenance of Hygienic Reg.  
39) Allocation of Convict to Laboratories  
40) Appeals of Convicts to Superior Courts  
41) Maintenance of Hygienic Reg.  
42) Transfer of Convicts/Conspicuous  
43) Maintenance of Hygienic Reg.  
44) Allocation of Convict to Laboratories  
45) Appeals of Convicts to Superior Courts  
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47) Transfer of Convicts/Conspicuous  
48) Maintenance of Hygienic Reg.  
49) Allocation of Convict to Laboratories  
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51) Maintenance of Hygienic Reg.  
52) Transfer of Convicts/Conspicuous  
53) Maintenance of Hygienic Reg.  
54) Allocation of Convict to Laboratories  
55) Appeals of Convicts to Superior Courts  
56) Maintenance of Hygienic Reg.  
57) Transfer of Convicts/Conspicuous  
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95) Appeals of Convicts to Superior Courts  
96) Maintenance of Hygienic Reg.  
97) Transfer of Convicts/Conspicuous  
98) Maintenance of Hygienic Reg.  
99) Allocation of Convict to Laboratories  
100) Appeals of Convicts to Superior Courts

ASU I  
RELEASES  
REVISIONS (BOARD OF EXAMINERS)  
REGISTRATION OF OUTSIDE GROUP  
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TRANSFER OF CONVICTS (CONSPICUOUS)

ASU II  
ADMISSIONS  
EDUCATION

ASU I  
RELEASES  
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ALLOCATION OF CONVICTS TO LABORATORIES  
MAINTENANCE OF HYGIENIC REG.  
TRANSFER OF CONVICTS (CONSPICUOUS)



**fact, it suffers from clear misconception of law and misconstruction of the circular letter (supra).**

**4. For the aforesaid facts, circumstances and reasons, we are of the considered view that the Tribunal committed a serious error of law, therefore, the impugned judgment is liable to be set aside. Consequently, we convert these petitions into appeals and, on acceptance, declare that the petitions would be entitled to four advance increments with effect from the date of qualifying M.A/MSC exam.**

8. Conversely, the contention of the respondents was that judgment of this tribunal referred to above lost its efficacy for the purpose of implementation by clear intendment through Section- 1 and 2 of Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Qualification Act, 2012, thus their claim is not maintainable. To further support the case attention was invited to civil petition no 360/2013 was dismissed by a three Member Bench of the august Supreme Court of Pakistan vide judgment dated 30.01.2013. The relevant excerpt is reproduced below for ready reference:

**“A bare reading of the above section from Khyber Pakhtunkhwa act no IX of 2012 makes it crystal clear that whatever benefit the petitioner was claiming through the judgment of 12-5-2019 has been nullified by the legislature through clear intendment in unequivocal, while vires of the said act have not been challenged before any forum”**

After promulgation of Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Qualification Act, 2012, their claim is not maintainable.

9. This controversy was resolved through the latest judgment of the august Supreme Court of Pakistan dated 07.12.2018 in the following manner:

Rank or Official Designation

Date of Visit


Name of Visitor

Rank or Official Designation

Mr. Wafaqi Moltasib  
with Madam  
S. M. Zaman Babar  
urgent for  
all the barracks  
rooms that  
tidy and  
rises complaint  
prisoners, except  
and to  
A woman  
has noted  
return of

17/2/16

residential quarters of the Jail Staff  
This jail is facing problems in  
shifting sick prisoners from jail to  
A.T. Hospital, Albalabal. This needs  
urgent measures to get this problem  
solved.

  
17/2/16

“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 instructions 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 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 obligation. In this case, claim of the petitioners for advance increment under Notification dated 11.08.1991 is an outstanding arrear. Reference to the Deeming commencement date under section-1(3) of the Act is simply to indentify the cutoff date for the purposes of tabulating arrears as mentioned in section-2, which, if outstanding on 11.05.2012, will not be payable and no claim relating to the same can be entertained.”

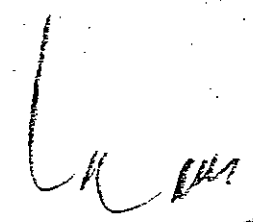
10. To further support the case attention was invited to consultations by the finance department with relevant stakeholders including Accountant General Khyber Pakhtunkhwa and Law Department, which confirmed the view point of Finance Department letter dated 15.12.2010. Finally, through letter dated 12.09.2015 issued by the Finance Department it was ordered to recover extra advance increments/invalid implementation from those teachers/employees who availed more advance increments over and above their entitlement on academic qualification.

Date of Visit	Name of Visitor	Rank or Official Designation	Date of Visit	N
17 <sup>th</sup> Feb 16	Shah Mahboob Alam	Advisor, Wafaqi Mahkasis	17 Feb 16	reside This fe Shift A.T. H urgent solve
	<p>Visited Harijpur Jail along with Madan Zaryab Musarrat, Director NMS. Mr. Zaman Babar A/Supt. had made good arrangement for the NMS team to go around all the barracks of this jail. It was observed that the premises were neat, tidy and well secured. No serious complaint was received from the prisoners, except minor ones. There is need to further segregate/shift women prisoners. It was also noted with concern the condition of</p>			

(AHMAD HASSAN)  
Member  
Camp Court Abbottabad.

(HAMID FAROQQ DURRANI)  
Chairman

ANNOUNCED BY MR. M. AMIN KHAN KUNDI, MEMBER  
16.09.2019

Official Designation	Date of Visit	Name of Visitor	Rank or Official Designation
<p>visit, along with            Jail and M.D.            Jail Haripur            as of and wife              Very Co-operative              female prison.            put some. Group            live their problem            itajul etc. Jail            17/11/15            Allotted visitor</p>	<p>17-11-2015</p>	<p>Aziz Khan Khatkhat</p> <p>The biggest prison of Rhybar Paktunkhwa, C.P. Haripur, visited today. It was found very well managed by the Supdt in charge and his team. I am satisfied with the overall cleanliness, discipline and security related affairs. I also appreciate the efforts of Army Contingent deployed in the jail and the watch &amp; ward staff posted here.</p>	<p>I.G. Prisons</p> <p style="text-align: right;">             17/11/15         </p>

10. a) MESSIN /DIET ALLOWANCE.

The existing rate of messing/diet allowance for Nursing Cadre(below BPS-16 shall be enhanced from Rs.300/- to Rs.500/-.

b) UNIFORM ALLOWANCE.

The existing rate of uniform allowance for Nursing Cadre(below BPS-16)shall be enhanced from Rs.125/- P.M. to Rs.150/-P.M.

c) NIGHT DUTY ALLOWANCE.

The Night Duty Allowance shall be admissible as under:-

- i) For Assistant/Clerks. ...Rs.8/-per night.
- ii) For Staff Car Drivers/ Despatch Riders. ...Rs.4/-per night.
- iii) For Naib Qasid. ...Rs.3/50 per night.

d) WASHING GRANT/ALLOWANCE ADMISSIBLE TO LIVERIED STAFF.

The existing rates of Washing Grant/ Allowance shall be enhanced from Rs.25/-per month to Rs.30/-per month.

e) CONVEYANCE CHARGES FOR LATE SITTING AFTER OFFICE HOURS.

The existing rates of Conveyance Charges admissible to employees in BPS 1 to 16(Non-Gazetted) shall be enhanced as under:-

i) ON WORKING DAYS.

- For officials in BPS 1-2. From Rs.3.50 per day to Rs.4.50 per day.
- For officials in BPS 3-15 B-16(Non-Gazetted). From Rs.4.50 per day to Rs.5.50 per day

(ii) ON CLOSED HOLIDAYS)

- For officials in BPS 1-2. From Rs.4.50 per day to Rs.5.50 per day.
- For officials in BPS 3-15 B-16(Non Gazetted). From Rs.7.00 per day to Rs.8.00 per day.

Your obedient servant

Sd/-  
(GHULAM DASTAGIR AKH)  
DEPUTY SECRETARY(REG:)  
FINANCE DEPARTMENT.

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE  
FINANCE DEPARTMENT

NOTIFICATION

Peshawar, dated the 7th August, 1991

No. FD(PRG) 1-1/89- In exercise of all the powers enabling him in this behalf the Governor of the North West Frontier Province is pleased to order the following scales of pay/benefits to various categories of Teachers with effect from 01-07-1991.

S. No	Name of the post	Benefits extended
1	2	3
1.	Primary schools teachers (PTC/JV)	<p>All the present and future Primary school Teachers who hold the qualification of FA/F, Sc(2nd Division) plus existing prescribed professional training shall be placed in BPS-9 with 1/3rd in selection grade BPS-10.</p> <p>All other teachers who do not possess higher qualification shall continue getting existing pay scales with selection grade accordingly.</p> <p>However the higher scales/Grades allowed to these teachers will be personal to them and the inter-se- seniority will remain intact.</p>
2.	Elementary school teachers (E.S.T/S.V. /PET/Drawing Master/PTI.	<p>All the present and future elementary school teachers who possess the qualification of BA/B, Sc(2nd division) plus existing prescribed professional training shall be placed in BPS-14 with 1/3rd in selection grade BPS-15.</p> <p>All other teachers who do not possess higher qualifications shall continue getting existing pay scale with Selection Grade accordingly.</p> <p>However, the higher scales/Grades allowed to these teachers will be personal to them and the inter-se- seniority will remain intact.</p>
3.	Arabic teachers -	<p>All the present and future Arabic teacher who possess the qualification of Trained Fazal with BA/B, Sc (2nd Division) and Five years teaching experience or MA, Arabic or equivalent qualifications shall be placed in BPS-14 with 1/3rd in Selection Grade BPS-15</p>

*Attested*  
*[Signature]*

(2)

contd ----- 2

2007.

1-12-2001

*[Signature]*

*[Signature]*



All other teachers who do possess Higher qualification shall continue getting existing pay scale with Selection Grade accordingly.

However, the Higher Scale/Grade allowed to these will be personal to them and the inter-se seniority will remain intact.

4. Secondary school teachers.

All the present and future Secondary school teachers with prescribed qualification under the rules shall be placed in BPS-16 with 1/3rd in Selection Grade BPS-17.

The advance increments sanctioned by Finance Department vide para -9 of its letter - No. FD(SR-1) 1-67/82 dated: 24.08.1983 will not be admissible on acquiring / possessing qualifications for which higher pay scales are being sanctioned through this notification.

sd/ x x x

SECRETARY TO GOVERNMENT OF NORTH WEST FRONTIER PROVINCE FINANCE DEPARTMENT.

Endst No: FD(PRC) 1-1/89

Dated Peshawar the 7th August, 1991.

A copy is forwarded to the accountant General, N.W.F.P Peshawar for information and necessary action.

sd/ x x x

(GHULAM DASTGIR AKHTAR ) Deputy Secretary (Regulation) Finance Department.

Endst No: FD(PRC) 1-1/89

Dated Peshawar the 7th August, 1991

A copy is forwarded to :-

1. All Administrative Secretaries to Govt of N.W.F.P.
2. All Commissioners of Divisions in N.W.F.P
3. All District Accounts Officers,
4. All the District Education Officer
5. Secretary to the Govt of N.W.F.P
6. Registrar Peshawar High Court.
7. Registrar Service Tribunal N.W.F.P
8. All Deputy Commissioners/Political Agents / District and session Judges in N.W.F.P

*Attested*  
*Dem*

sd/ x x x  
(GHULAM DASTGIR AKHTAR )  
Deputy Secretary (Regulation)  
Finance Department.

# وکالت نامہ

کورٹ فیس

بعدالت جناب سر جسٹس سید عابد علی بی  
عنوان: عابد علی بی بی نام گورنمنٹ کورٹ  
منجانب: ایڈووکیٹ عابد علی بی  
نوعیت مقدمہ:

## باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے اسے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام  
مقدمہ مندرجہ میں اپنی طرف سے اسے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب  
موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء  
وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور  
کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار  
بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و  
قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔  
نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف  
پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف  
مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت ناش بصیغہ مفلسی کے دائر کرنے اور اس کے  
پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم: 14/11/2019

Attested

Accepted

بمقام:

ال

ال

Advance  
increments  
~~Revised~~  
Euzid (1/1/14)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1243/2014

Date of Institution ... 16.10.2014

Date of Decision ... 10.10.2017

Riaz Ahmad, CT Teacher, GHS Shawawoo, Shangla. ... (Appellant)

VERSUS

1. The Secretary, Education (E&SE), Government of Khyber Pakhtunkhwa,  
Peshawar and 5 others. ... (Respondents)

MR. MUHAMMAD ASIF YOUSAFZAI,  
Advocate --- For appellant.

MR. USMAN GHANI,  
District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. GUL ZEB KHAN, ... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned  
counsel for the parties heard and record perused.

FACTS

2. The appellant was appointed as C.T teacher in the year, 1986. He passed his graduation in the year, 1988 and then Master in 1994. On 07.08.1991, the Finance Department issued a notification in which at S.No. 2 it was decided that all the present and future Elementary School Teachers who possesses the qualification of B.A/B.Sc (2<sup>nd</sup> Division plus existing prescribed professional training) shall be placed in BPS-14 with 1/3<sup>rd</sup> selection grade in BPS-15. The appellant could not avail the benefit of this notification as he was third division<sup>er</sup> and he had already availed 3 advance increments

on passing of B.A/B.Sc. in the light of Pay Revision of 1983. Then in the year, 2010, the Finance Department issued another notification wherein it was provided that those C.T Teachers who are in BPS-09 and possesses higher education of M.A/M.Sc. but have not been placed in BPS-14 are entitled to 4 advance increments while those who have availed BPS-14 are entitled to 2 advance increments on M.A/M.Sc. The appellant who was already availing 3 advance increments on the basis of Pay Revision Scheme of 1983 started drawing 4 more advance increments on the basis of notification dated 15.12.2010 making a total of 7 advance increments. The Pay Fixation Committee objected to the drawing of 7 advance increments by the appellant by holding that the appellant was entitled only for 4 advance increments and he was availing 3 extra advance increments against the sanctioned policy.

### ARGUMENTS

3. The learned counsel for the appellant argued that 4 advance increments extended through letter dated 15.12.2010 are in addition to the pay revision scheme of 1983 making a total of 7.

4. On the other hand the learned District Attorney argued that 3 advance increments of scheme of 1983 merged into 4 advance increments of 2010 and the appellant was entitled to draw 4 advance increments after 15.12.2010 instead of 7 advance increments. The learned District Attorney relies upon a judgment of the august Supreme Court of Pakistan in Civil Petition No. 1245/2011 entitled "*Naeen Ahmad Vs. Director Higher Education Khyber Pakhtunkhwa and others*" decided on 08.09.2011 in which a similar situation was explained on the basis of Revision of Basic Pay Scales of 1991 issued on 11.08.1991.

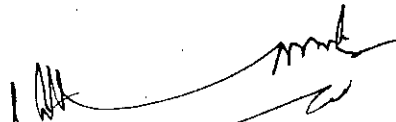
### CONCLUSION.

5. If we read both the scheme of 1983 and notification of 15.12.2010 one cannot reach to a definite conclusion. But the judgment of the august Supreme Court of Pakistan while dealing with the similar situation has clarified this position that whenever advance

increments for different higher qualifications are mentioned in the pay revision or any notification then the increments of lower qualification merged into increments of higher qualification and in this regard the table given in paragraph 5 of the Pay Revision Rules of 1991 had been discussed by the august Supreme Court of Pakistan and had settled a *ratio* to be followed by other courts in similar situation. The result is that appellant is entitled to 4 advance increments after 15.12.2010 and not 7.

6. As a result of above discussion, this appeal stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

  
(GUL ZEB KHAN)  
MEMBER

  
(NIAZ MUHAMMAD KHAN)  
CHAIRMAN

ANNOUNCED  
10.10.2017

GOVERNMENT OF PUNJAB  
SECRETARY TO GOVERNMENT

SECRETARY

10

... B.Sc. qualification. He filed Constitution petition before  
... to which he was entitled on  
... B.Sc. qualification would be in  
... the petitioner claims that  
... two advance increments, and in  
... promotion to four advance increments;  
... was entitled to two advance increments;  
... person appointed to that  
... Notification where the  
... According to the Notification dated 31.03.1991, issued  
... four advance increments, under Notification dated 31.03.1991, issued  
... he was granted  
... in service, he was granted  
... in the Higher Education Department of Khyber  
... and was appointed as Laboratory Assistant in  
... the petitioner obtained his B.Sc.

**JUDGMENTS**

03.09.2011

Date of the case

For the Respondents: N.R.

In person

Director of Education  
Khyber Pakhtunkhwa and others  
Respondents

**VERSUS**

Petitioner

Case No. 1435 of 2011  
Civil Petition No. 1435 of 2011  
for appointment of the  
petitioner to the post of  
Laboratory Assistant (B.Sc.)  
in the Higher Education  
Department (B.Sc.)

Present  
MR. JUSTICE NASIR-UL-MULK  
MR. JUSTICE FARUQ PARVEZ

Answer  
A

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In the Supreme court of Pakistan  
(Appellant Jurisdiction)

President:  
MR. JUSTICE NASIR-UL-MULK  
MR. JUSTICE TARIQ PERVEZ

Civil Petition No.1425 of 2011

(On appeal from the judgment of the  
Peshawar High Court, Abbottabad Bench  
dated 21.06.2011 in WPNO.67 of 2011).

Naeen Ahmad

.....Appellant.

V/S

Director Higher Education  
Khyber Pakhtunkhwa and others

....Respondents.

For the Petitioner: In person  
For the respondents: N.R  
Dated of hearing: 08.09.2011.

JUDGMENT

NASIR UL MULK, J--- The Petitioner obtained his BSC Degree in the year 1997. He was appointed as laboratory Assistant in the year 1999, in the Higher Education department KPK. At the time of his induction in service, he was granted four advance increments, under notification dated 11.08.1991, issued by the Government of NWFP. According to the notification the basic Qualification for a post was Matric a person appointed to that post with FA / FSC Qualification was entitled to two advances increments, and with BA / BSC Qualification to four advance increments, and in case MA / MSC, to six advance increments. The petitioner claims that the four advance increments for his BSC Qualification would be in addition to the two advance increments to which he was entitled on account having FSC Qualification. He filed constitution petition before Peshawar High Court Peshawar the advance increments which was discussed impugned judgment on 21.06.2011.

2. We heard the petitioner in-persen, who reiterated that he was granted four advance increments at the time of his appointment for his B.Sc qualification. This is a Hawed construction placed on the grant of increment for addition qualification under Notification dated 31.08.1991. Under para-5 of the Notification relating to advance increments for higher educational qualification, four different categories are listed specifying the number of advance

increments for qualification higher than the basic qualification prescribed for the post. The relevant for the present purpose is category 'b' relating to posts carrying the basic qualification of Matric. Two advance increments are stated to be granted to those who have additional qualification of FA/Fsc, four for BA/Bsc and six for MA/Msc. It appears that two additional advance increments are to be granted for every additional qualification. The petitioner having Bsc degree at the time of induction in service was straight away granted four advance increments. He cannot claim two additional increments for Fsc as without such qualification he could not have obtained Bsc degree. Thus his Fsc qualification merges with his Bsc and similarly an employee of the Higher Education Department with MA/Msc degree, falling in category 'b' of para-5, would be entitled to only six advance increments as his FA/Fsc and BA/Bsc qualification would merge into his final degree. He therefore would not be entitled to claim a total 12 increments, two for FA/Fsc, so four for BA/Bsc and six for MA/Msc.

3. For the foregoing reasons, we hold that the petitioner was

CP 1425/2011

Rightly declined advance increments for his Fsc qualification. Finding no force in this petition, the same is dismissed. Leave refused.

Certified to be true copy

Superintendent  
Supreme Court of Pakistan  
Not approved for reporting

*[Handwritten signature]*



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1243/2014

Date of Institution ... 16.10.2014

Date of Decision ... 10.10.2017

Riaz Ahmad, CT Teacher, GHS Shawawoo, Shangla. ... (Appellant)

VERSUS

1. The Secretary, Education (E&SE), Government of Khyber Pakhtunkhwa, Peshawar and 5 others. ... (Respondents)

MR. MUHAMMAD ASIF YOUSAFZAI,  
Advocate

For appellant.

MR. USMAN GHANI,  
District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. GUL ZEB KHAN,CHAIRMAN  
MEMBERJUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN. Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was appointed as C.T teacher in the year, 1986. He passed his graduation in the year, 1988 and then Master in 1994. On 07.08.1991, the Finance Department issued a notification in which at S.No. 2 it was decided that all the present and future Elementary School Teachers who possesses the qualification of B.A/B.Sc (2<sup>nd</sup> Division plus existing prescribed professional training) shall be placed in BPS-14 with 1/3<sup>rd</sup> selection grade in BPS-15. The appellant could not avail the benefit of this notification as he was third division<sup>er</sup> and he had already availed 3 advance increments

on passing of B.A/B.Sc. in the light of Pay Revision of 1983. Then in the year, 2010, the Finance Department issued another notification wherein it was provided that those C.T Teachers who are in BPS-09 and possesses higher education of M.A/M.Sc. but have not been placed in BPS-14 are entitled to 4 advance increments while those who have availed BPS-14 are entitled to 2 advance increments on M.A/M.Sc. The appellant who was already availing 3 advance increments on the basis of Pay Revision Scheme of 1983 started drawing 4 more advance increments on the basis of notification dated 15.12.2010 making a total of 7 advance increments. The Pay Fixation Committee objected to the drawing of 7 advance increments by the appellant by holding that the appellant was entitled only for 4 advance increments and he was availing 3 extra advance increments against the sanctioned policy.

### ARGUMENTS

3. The learned counsel for the appellant argued that 4 advance increments extended through letter dated 15.12.2010 are in addition to the pay revision scheme of 1983 making a total of 7.
4. On the other hand the learned District Attorney argued that 3 advance increments of scheme of 1983 merged into 4 advance increments of 2010 and the appellant was entitled to draw 4 advance increments after 15.12.2010 instead of 7 advance increments. The learned District Attorney relies upon a judgment of the august Supreme Court of Pakistan in Civil Petition No. 1245/2011 entitled "*Naeen Ahmad Vs. Director Higher Education Khyber Pakhtunkhwa and others*" decided on 08.09.2011 in which a similar situation was explained on the basis of Revision of Basic Pay Scales of 1991 issued on 11.08.1991.

### CONCLUSION.

5. If we read both the scheme of 1983 and notification of 15.12.2010 one cannot reach to a definite conclusion. But the judgment of the august Supreme Court of Pakistan while dealing with the similar situation has clarified this position that whenever advance

increments for different higher qualifications are mentioned in the pay revision or any notification then the increments of lower qualification merged into increments of higher qualification and in this regard the table given in paragraph 5 of the Pay Revision Rules of 1991 had been discussed by the august Supreme Court of Pakistan and had settled a *ratio* to be followed by other courts in similar situation. The result is that appellant is entitled to 4 advance increments after 15.12.2010 and not 7.

6. As a result of above discussion, this appeal stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

  
(GUL ZEB KHAN)  
MEMBER

  
(NIAZ MUHAMMAD KHAN)  
CHAIRMAN

ANNOUNCED  
10.10.2017

*Appellant*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT, ABBOTTABAD.

Appeal No. 407/2012

Date of institution ... 08.05.2012  
Date of decision .... 16.04.2019



Amjad Hussain awan son of Sadiq Hussain, C.T Teacher, GHS Sheikhul Bandi, Abbottabad R/O House No. TC 1396, Mohallah Musa Zai, Nawan Shehr, Abbottabad. ... (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Peshawar and others. ... (Respondents)

Present

Mr. Sajjad Ahmad Abbasi,  
Advocate

... For appellant.

Mr. Muhammad Bilal,  
Deputy District Attorney

... For respondents.

---

MR. HAMID FAROOQ DURRANI,  
MR. AHMAD HASSAN,

... CHAIRMAN  
... MEMBER.

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The facts, as gatherable from the memorandum of appeal, are that the appellant joined the Education Department as C.T on 26.01.1991. During his service the appellant acquired higher education and passed M.A examination on 31.3.2003. At the relevant time he was entitled for four advance increments in his pay on account of higher qualification. He was denied the increments, therefore, the appellant filed an appeal before this Tribunal which was allowed on 12.05.2009. Consequently, on 31.10.2009, the

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**ATTENDED**

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Case No. 407/2012

respondents allowed the appellant requisite four advance increments in pay. His pay was, therefore, revised and he was also paid the arrears w.e.f. 01.04.2003 to 31.01.2010. On 15.1.2011, the respondents ordered the refund of the amount paid to the appellant as advance increments. The said fact was recorded in service book of the appellant while no separate formal order was made in that regard. The appellant challenged the act of the respondents through a Writ Petition before the Honourable Peshawar High Court, wherein, on 14.4.2011, the order of recovery was suspended while the Writ Petition was converted into a service appeal and referred/sent to this Tribunal.

2. We have heard learned counsel for the appellant, learned Deputy District Attorney on behalf of the respondents and have also perused the available record.

Learned Deputy District Attorney, at the outset, raised a preliminary objection in terms that the appeal in hand was for payment of advance increments and in view of Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012, it was not maintainable.

On the other hand, learned counsel for the appellant, argued that the arguments of learned Deputy District Attorney was misconceived. The appeal was not at all with the prayer for grant of advance increments but was for setting aside the order of respondents requiring refund of amount already paid to the appellant

KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

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w.e.f 09.04.2003 to 31.01.2011. Learned counsel also referred to the judgment of Apex Court passed in Civil Petition No. 172-P and 173-P/2013.

3. We are of the view that the controversy involved in the instant appeal has already been laid to rest by the August Supreme Court of Pakistan through referred judgment handed down on 07.12.2018. It has been noted, inter-alia in the judgment that:-

"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 instructions 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.

1-12-2001

ATTESTED  
 BY  
 M. A. SIDDIQUI  
 CLERK  
 Service Tribunal  
 Peshawar

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 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 obligation. In this case, claim of the petitioners for advance increment under Notification dated 11.08.1991 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

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*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."*

The portion of the judgment reproduced here-in-above is towards interpretation of Section 2 of the Act 2012 *ibid*. Sub-section-2 of the said section clearly postulates that 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.

4. In the case in hand, it is clear that the appellant was allowed four advance increments in his pay in pursuance to the judgment of this Tribunal passed on 12.05.2009 whereby a number of appeals including that of the appellant were decided. The order dated 11.10.2009 allowing the benefit of advance increments to the appellant and others also contained a mention that the same was issued consequent upon the judgment of August Supreme Court of Pakistan in CPLA No. 525 and 526 of 2007, in addition to the decision of this Tribunal made in appeal No. 1276/2007. A reference to the Finance Department Notifications was also made therein. We also refer to the prayer in the appeal in hand, wherein, the appellant has

PAKISTAN  
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SERVICE  
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PESHAWAR


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11

asked for setting aside of order of return of amount paid to him on account of advance increments for the period from 09.4.2003 to 31.01.2011.


In view of Section 2(2) of the Act, 2012 ibid and the dictum of Apex Court we are left with no doubt that the appeal in hand contains merits warranting its acceptance. Consequently, the appeal is allowed as prayed for.

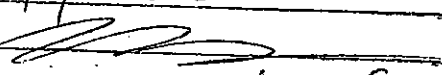
Parties are left to bear their respective costs. File be consigned to the record room.

  
(AHMAD HASSAN)  
Member

  
(HAMID FAROOQ DURRANI)  
Chairman  
Camp Court, Abbottabad.

ANNOUNCED  
16.04.2019

*Certified*  
  
*Service: 1100*  
*Peshawar*

Date of Presentation of Application 14-05-19  
Number of Words 2000  
Copying Fee 12-00  
Urgent 2-00  
Total 14-00  
Name of Copyist   
Date of Completion of Copy 14-05-19  
Date of Delivery of Copy 14-05-19



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25/10/2012

Case No. 25320

Date of Institution

Date of Decision

Abdul Qayum, 11 Government High School No. 11, Lahore

1. Government of Khyber Pakhtunkhwa and 6 others.

MR. AMJID ALI  
Advocate

MR. MUHAMMAD IAN  
Deputy District Attorney

MR. NAZ MUHAMMAD KHAN  
MR. MUHAMMAD AMIN KHAN

For respondent

CHAIRMAN  
MEMBER

JUDGMENT

NAZ MUHAMMAD KHAN CHAIRMAN - The jurisdiction of the court to dispose of connected Service appeals No. 268/2012 Muhammad Nazeem, No. 269/2012 Rahmatullah Khan, No. 270/2012 Muhammad, No. 271/2012 Muhammad Naseem, No. 272/2012 Muhammad Fayyaz, No. 273/2012 Saad Waheed, No. 274/2012 Khurshid Ahmad, No. 275/2012 Ijaz Ahmad, No. 276/2012 Hafiz Behram Ahmad, No. 277/2012 Hazrat Umar (Qari) No. 278/2012 Shadi Zamani, No. 279/2012 Sirajur Rahman and No. 477/2012 Naqimuddin is in all the appeals common questions of law and facts are involved

2. Arguments of the learned counsel for the parties heard and record perused

4 The appellants want to get benefit of advance increment on the basis of acquiring higher qualification vide notification of the Provincial Government dated

11/08/1991. The appellants in this regard also made a representation to the Finance Department to Accountant General dated 11/10/2011 where under the right of the appellants for advance increments was further confirmed. That in the letter dated 13/10/2011, the Finance Department however did not allow the arrears to the appellants. This Tribunal at the instance of the learned counsel for the appellants regarding the jurisdiction of this Tribunal in view of Khan Tott judgment reported as 2016-SCMR-1206. In the said judgment a similar controversy was involved and the august Supreme Court of Pakistan decided that the matter did not fall within the jurisdiction of this Tribunal.

### ARGUMENTS.

4 The learned counsel for the appellant argued that the matter being one of terms and conditions of the civil servants verily falls within the jurisdiction of this Tribunal. The learned counsel for the appellants further argued that the present appellants have already been granted relief by the Worthy Peshawar High Court in Writ Petition No. 2759/2011 decided on 19/09/2012.

5. On the other hand the learned Deputy District Attorney argued that this Tribunal lacks the jurisdiction in view of the judgment of Khan Tott as similar question was involved in the said case.

### CONCLUSION.

6. In the judgment of Khan Tott, civil servants had sought relief, inter-alia, of two advance increments on the basis of higher qualification. The august Supreme Court of Pakistan decided that on the basis of ratio of the case of *T. T. Sharwani* by holding that seeking benefits from general notification could not be termed as an

original or appellate order within the meanings of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and decided that Service Tribunal had no jurisdiction in the matter. The present appeals squarely fall within the ambit of the said judgment. This Tribunal, therefore, lacks the jurisdiction. As argued by the learned counsel for the appellant, the Worthy Peshawar High Court had already granted relief to the appellants vide order dated 19/09/2012 and if the department is not honoring the same the proper course for the appellants is to have recourse to the contempt/execution proceedings before the Worthy Peshawar High Court.

7. The present appeals are therefore, dismissed for want of jurisdiction. Parties are left to bear their own costs. File be consigned to the record room.

(NIAZ MUIHAMMAD KHAN)  
CHAIRMAN

(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

**ANNOUNCED**

14.12.2017

BEFORE THE JUDICIAL OFFICER IN CHARGE, PESHAWAR

Appellate No. 1016 of 1994

Date of Institution of Appeal: 12/11/1994

Date of Judgment: 15/11/1994

*Respondent*

Muz Muhammad Ali S/o. Abdul Razaq, C.O. W. No. 1016 of 1994  
100 Taluk Dera, District Peshawar, Ferozpur, Peshawar

Plaintiff

vs

VERSUS

1 Accountant General Khyber Pakhtunkhwa, Peshawar and 2 others.  
(Respondent)

MR AMIAD ALL  
Advocate

For Respondent

MR MUHAMMAD IAN  
Deputy District Attorney

For Respondent

MR AHMAD HASSAN  
MR MUHAMMAD HAMID MR IAN

For Appellant  
For Appellant

JUDGMENT

AHMAD HASSAN MEMBER Arguments of the learned counsel for the parties heard and record perused

FACTS

2 The brief facts are that the appellant was appointed as PTT (BPS-07) in the Education Department on 12/11/1992. Later on he was promoted to the post of PTT (BPS-14) having requisite higher qualification for the post of PTT on 15/11/1994. The appellant also obtained MA degree in 1994-95. He was allowed advance increments as per Finance Department notification but the pay fixation party objected to the same and withdrew the same without any reason and also ordered

of Pakistan decided that on the basis of ratio of the case of I.A. Sharwani by holding that seeking benefits from general notification could not be termed as an original or appellate order within the meanings of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and decided that Service Tribunal had no jurisdiction in the matter. The present appeals squarely fall within the ambit of the said judgment. This Tribunal, therefore, lacks the jurisdiction.

CONCLUSION

5. Careful perusal of record would reveal that issue raised in the present appeal has already been decided through the judgment of this Tribunal dated 14.12.2017 passed in service appeal no. 267/2012. As this Tribunal lacks jurisdiction to entertain the above appeal so there is hardly need to touch the merits of the case.

6. As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

SD/- Ahmad Hassan, Member

(ML) SD/- M. Haamid Mughal, Member

ANNOUNCED  
15.02.2018

Date of Presentation: 01-03-18  
Number: 1200  
Copying: 8.00  
Tribunal: 2.00  
Total: 10.00

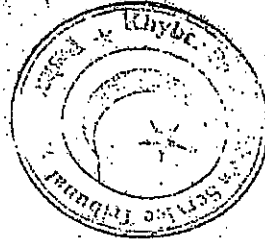
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Appellant

Service Appeal No. 312/2015

Date of Institution... 10.04.2015

Date of decision... 10.01.2018



Muhammad Islam, PSHT (BPS-15), GPS Mehrdi, District Malakand.  
(Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary of Education (E&SE) Khyber Pakhtunkhwa, Peshawar and 4 others.  
(Respondents)

Mr. Noor Muhammad Khattak Advocate

For appellant.

MR. Kabir Ullah Khattak,  
Additional Advocate General

For respondents.

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

CHAIRMAN  
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was granted two advance increments due to higher qualification on 26.08.2009 from 14.05.1999. These advance increments were granted to the appellant on the basis of judgment of this Tribunal dated 13.07.2009. The appellant received the arrears of the same advance and was also being paid the said increments thereafter. Then on 30.05.2014 the pay fixation

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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,

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party recovered amount of 88846/- on the basis of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Education Qualification Act, 2012. Against this recovery the appellant filed a departmental appeal on 15.12.2014 which was not responded to and thereafter he filed the present service appeal on 10.04.2015.

### ARGUMENTS

3. Learned counsel for the appellant argued that the pay fixation party misinterpreted the above mentioned Act because in accordance with sub section 2 of section 2 of the Act the advance increments of the appellants were saved.

4. On the other hand the learned AAG argued that the present appeal was not maintainable as there was not original or appellate order. He relied upon a judgment reported as 2006SCMR 1630. He further argued that in accordance with the Act the pay fixation party had rightly recovered the amount. He further argued that Accountant General was not made party to the present appeal.

### CONCLUSION

5. Non impleading of Accountant General as party is not fatal for the present service appeal because Accountant General is not a necessary party. The Secretary Finance was already made respondent to the present appeal. Coming to the objection of the learned AAG regarding non presence of original or appellate order, the very order dated 30.05.2014 ordering the recovery of amount is the original order. Against which the appellant had filed the departmental appeal which was not responded to. The very Act rely upon by the respondents for recovery of the advance increments on higher qualification is named as Khyber

ATTESTED

SECRETARY  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Qualification Act 2012. This Act was in fact was promulgated for non-payment of arrears and not for those increments which had already been paid to the civil servants. Sub section 2 of section 2 further clarifies this position by lying down that any order made, instruction issued, decision, judgment or order of court or tribunal implemented immediately before the commencement of the Act shall be deemed to have been validly made. Though commencement of the Act was from 01.12.2001 as the Act was given retrospective effect, which effect has been declared ultra vires by the Worthy Peshawar High Court vide judgment dated 08.06.2017 entitled "Muhammad Iqbal and two others Vs. Government of Khyber Pakhtunkhwa and three others."

6. In view of the above, the appeal is accepted. Parties are left to bear their own costs. File be consigned to the record room.

*Announced*  
10-01-2018

*Self-Niaz Muhammad Khan,*  
Chairman

*Self-M. Hameed Raza,*  
Member

Certified  
true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 22-01-18  
 Number of Volumes 1250  
 Copying Fee 0  
 Urgent 2  
 Total 10  
 Name of Court \_\_\_\_\_  
 Date of Completion 22-01-18  
 Date of Delivery of Copy 22-01-18

*Judgment Sheet*

**IN THE PESHAWAR HIGH COURT,  
PESHAWAR**

*(Judicial Department)*

**WP No. 913-P/2014**

***Muhammad Iqbal & two others***

***Vs***

***Govt. of Khyber Pakhtunkhwa through***

***Secretary to Government, Finance***

***Department, Peshawar & three others***

**JUDGMENT**

Date of hearing. 08.06.2017

Petitioner (s) by: Mr. Fazal Shah Mohmand, Advocate

Respondent (s) by: Syed Qaiser Ali Shah, AAG

\*\*\*\*\*

**MUHAMMAD YOUNIS THAHEEM, J.-**

Through this single judgment we propose to decide the instant writ petition alongwith connected **WP No.1418-P/2014** titled ***Molvi Muhammad & four others Vs Govt. of KPK through Secretary Education (E&S), Peshawar & others*** and **WP No.2033-P/2014** titled ***Saeed Ullah & 32 others Vs Govt. of KPK through Secretary S & GAD & others***, as in all above petitions common question of law and facts regarding non-granting of two advance increments on attaining

higher educational qualifications, granted under Notification No. FD(PRC)1-1/89 dated 11.08.1991 Paragraph 5 are involved. Brief facts of the instant writ petition and connected petitions are separately given below:

i) **WP No.913-P/2014:**

The petitioners served in police department and retired as Inspectors, claimed above said relief after attaining higher educational qualifications by acquiring LL.B Degrees, they filed WP No.3600/2010 which was allowed by this Court vide judgment dated 28.10.2010 and were declare entitled for the benefit of two advance increments already given to other civil servants but inspite of favourable judgment of this Court in their favour, the petitioners were refused relief, therefore, they filed contempt of Court petition bearing COC No.201-P/2013, wherein this Court after hearing the parties passed an order for the implementation of judgment instead Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act IX, 2012 was promulgated, which has been challenged on the ground that it is to nullify the effects of judgment dated 28.10.2010 in WP

No.3600/2010 titled as Muhammad Iqbal etc Vs Provincial Police Officers, K.P.K Police and others by giving it retrospective effect from 01.12.2001 so to the extent of retrospectivity given in Section 2 of the ibid impugned Act is liable to be truck down.

ii) **WP No.1418-P/2014:**

The petitioners are employees of Education Department working on the posts of AT and TT who attained Master Degrees during service, so claimed same relief as were deprived, so filed WP No.1791/2009 which was decided by this Court vide order dated 08.09.2009 with the direction to decide the matter of advance increments within 03 months, but respondents gave deaf ear to the grievance of the petitioners rather to make the aforesaid judgment as effectless, promulgated enactment known as Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act-IX of 2012 which is ineffective upon the rights of petitioners, so be declared as null and void and its retrospectivity given in Section 2 be expunged.

iii) **WP No.2053-P/2014:**

The petitioners in the above referred petition are provincial government civil servants in different capacity from BPS-1 to BPS-15 in the education department who also during service attained higher qualifications, so sought relief provided vide notification dated 11.08.1991. The petitioners approached respondent No.4 by filing representation/departmental appeal for the grant of two advance increments but their said representation has not been considered but took shelter in the notification dated 03.01.2009 which contemplates as following:

*“Now it has been decided that those who are although entitled but have not availed the same facilities so far will not be given advance increments in future”*

but said notification dated 03.01.2009 has been declared discriminatory and violative of law by Honourable Supreme Court in judgments passed in *CPLA No.525 of 2007* titled as *Rashid Iqbal Khan Vs District Coordination Officer, Abbottabad & others* and *CPLA No.526 of 2007* titled as *Muhammad Haroon Qureshi Vs District Coordination Officer, Abbottabad & others* decided on 19.07.2007.

Moreover, the petitioners have also challenged the vires of *ibid* KPK Act IX of 2012.

**2.** The petitioners in all the above said petitions have invoked the constitutional jurisdiction of this Court for the relief regarding grant of two advance increments on attaining higher educational qualifications and in this regard the notification dated 03.01.2009 has been set aside in WP No.368/2009. Petitioners have also challenged the vires of K.P.K Cessation of Arrears on Advance Increments on Higher Educational Qualification (hereinafter called impugned Act IX of 2012) to the extent of giving it retrospective effect before 01.12.2001 as against law with prayer to declare it null and void and it be expunged to the extent of retrospectivity.

**3.** Comments from respondents were called who submitted the same wherein they took stance that the petitioners have no any vested rights in view of notification dated 03.01.2009 and new enactment said K.P.K. Cessation of Arrears Act IX of 2012 and notification dated 03.01.2009. Respondents contended that the existing scheme of advance increments has been discontinued w.e.f. 03.01.2009 and vide Section 2 of *ibid* impugned Act before 01.12.2001 and have

given it retrospective effect which is within legislative powers of Pakhtunkhwa Assembly.

**4.** The learned counsel for the petitioners argued that issuance of notification dated 03.01.2009 and giving retrospective effect to the impugned enactment K.P.K. Cessation Act, 2012 is only aimed to nullify the beneficial effects of judgment of this Court in WP No.3600/2010 vide which notification dated 03.01.2009 has been set aside by this Court and by Honourable Supreme Court in above mentioned CPLAs decided on 19.07.2007, so this Court can examine the constitutionality of the piece of legislation by ibid impugned Section 2 of K.P.K. Cessation Act-IX of 2012 to the extent of giving it retrospective effect. He added that so many civil servants of provincial government had been benefited earlier from the notification dated 11.08.1991 but petitioners have been deprived, so the impugned enactment is malafide to nullify the judgment of this Court and prayed for striking it down to the extent of Section 2 of impugned ibid Act by giving it retrospective effect before 01.12.2001.

**5.** On the other hand learned counsel for the respondents supported the impugned notification dated

03.01.2009, relied on their comments and impugned Act. He further argued that this enactment is neither aimed at to nullify the judgment of this Court nor that of Honourable Supreme Court. He lastly argued that petitioners are not entitled for the advance increments due to aforesaid notification dated 03.01.2009 and ibid impugned Act IX of 2012.

**6.** Arguments heard and record perused.

**7.** From the perusal of record it is admitted position that vide paragraph 5 of the notification dated 11.08.1991 issued by Finance Department, it was provided that any civil servant of Provincial Government Department who attained higher qualifications during service, would be entitled for two advance increments and due to said notification admittedly so many civil servants had already been benefited. However, above said relief has not been extended to petitioners despite of representations to their higher competent authorities and judgment passed by this Court as well as by Honourable Supreme Court particularly in WP No.1791/2009 decided on 08.09.2009 vide which direction was given to the respondents to decide the representation of the petitioners within 03 months but neither the



respondents have decided the matter nor given said advance increments, on this inaction, petitioner filed COC Petition No.133/2010 which was disposed of vide order dated 11.10.2012 as abated in the light of impugned Act, IX of 2012 known as Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012 in the light of provision by giving it retrospective effect before 01.12.2001, so the petitioners feeling aggrieved have challenged the vires of above said notification and impugned enactment to the extent of giving it retrospective effect.

8. In brief the reliefs sought by the petitioners in all petitions is, one for the grant of two advance increments in purview of notification dated 11.08.1991, second for the implementation of beneficial judgments in WP No.368/2009 dated 24.03.2009 & WP No.3600/2010 dated 28.10.2010 and in third to declare the retrospective effect of impugned ibid Act, IX of 2012 as null and void and for expunction.

9. The question for determination before this Court is as to whether impugned enactment passed by the Pakhtunkhwa Assembly with legislative

nomenclature as Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, IX of 2012 is to nullify the effects of aforesaid judgments passed by this Court and to annul the beneficial effects of notification dated 11.08.1991 from which earlier so many civil servants of different departments of Khyber Pakhtunkhwa have been benefited.

**10.** We examined the impugned notification dated 03.01.2009 and whole of impugned ibid Act IX of 2012 by giving it retrospective effect before 01.12.2001. A query was put to the learned counsel for respondents as to whether before promulgation of impugned Act, its cause was removed and as whether that same provision in the impugned legislation would not amount to nullify the effects of judgment passed by this Court in the light of judgment of Honourable Apex Court cited as *2013 SCMR 1752*, on this learned counsel for the respondents failed to provide some reasonable and rational explanation for giving the impugned Act as retrospective effect before 01.12.2001. The Honourable Supreme Court while taking cognizance about the anomaly and miscarriage of justice caused to other civil servants in the Sindh

Province for giving out of turn promotions by way of deputation and absorption of different officers in the province of Sindh through legislation by way of amending Sindh Civil Servants (Amendment) Act, 2013 and Sindh Civil Servants (Second Amendment) Act, 2013 but said piece of enactment in aforesaid enactment through amendment was struck down in the referred judgment i.e. *2013 SCMR 1752 (Contempt Proceedings case)*.

**11.** In the above cited judgment the Honourable Supreme Court held that Supreme Court either on its own or on petition by party is vested with the judicial power to examine, review and expunge the vires of such piece of legislation/amendment relating to the rights of civil servants and having public importance.

**12.** The Honourable Supreme Court vide above said judgment set aside the piece of legislation promulgated by the Sindh Assembly with regard to out of turn promotions of some officers by way of deputation /absorption. In the said judgment certain principles have been enunciated regarding instruments/piece of legislation which had nullified the effects of the judgments passed by Honourable Apex

Court as well as of Honourable Sindh High Court. In this respect paragraphs No.165, 166 and 167 of said cited judgment are reproduced below:

*165. The leading judgment on the subject issue, which our Courts have approvingly referred to the case of Indira Nehru Gandhi V. Raj Narain (AIR 1975 SC 2299) which relates to amendment in the Election Laws of India. In the said judgment Paras 190 and 191 are importance and reproduced hereunder:-*

*"190. A declaration that an order made by a Court of law is void is normally part of the judicial function and is not a legislative function....."*

*191. The position as it prevails in the United States, where guarantee of due process of law is in operation, is given on pages 318-19 of Vol. 46 of the American jurisprudence 2d as under:*

*"The general rule is that the legislature may not destroy, annul set aside, vacate, reverse, modify, or impair the final judgment of a Court of competent jurisdiction, so as to take away private rights which have become vested by the judgment. A statute attempting to do so has been held unconstitutional as an attempt on the part of the legislature to exercise judicial power, and as to violation of the constitutional guarantee of due process of law. The legislature is not only prohibited from reopening cases*

*previously decided by the Courts, but is also forbidden to affect the inherent attributes of a judgment. That the statute is under the guise of an act affecting remedies does not alter the rule. It is worthy of notice, however, that there are cases in which judgments requiring acts to be done in the future may validly be affected by subsequent legislation making illegal that which the judgment found to be illegal, or making legal that which the judgment found to be illegal."*

**13.** Similarly Paragraphs No.166 and 167 of the cited judgment (2013 SCMR 1749) are reproduced as under:

*"166. This Court in the case of Fecto Belarus Tractor Ltd. V. Government of Pakistan through Finance Economic Affairs and others (PLD 2005 SC 605) has held that when a legislature intends to validate the tax declared by a Court to be illegally collected under an individual law, the cause for ineffectiveness or invalidity must be removed before the validation can be said to have taken place effectively....."*