


EP 47/2022

19.01.2022 Petitioner in person and Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Arguments heard. 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.

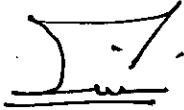

(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
19.01.2022

11.01.2022

Nemo for the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.


The appeal in hand is similar in nature to the connected Service Appeal bearing No. 1145/2016, therefore, in light of order of today passed in the said service appeal, the appeal in hand is also converted into Execution Petition. Office is directed to delete its number from the Register of Appeals and register the same in the Register of Execution Petitions. File to come up alongwith Execution Petition No. 40/2022 as well as Execution Petition No. 84/2020 on 19.01.2022 before the S.B at Peshawar.



(Salah-ud-Din)
Member (J)



Chairman



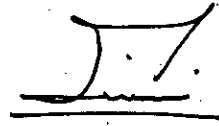
(Atiq-ur-Rehman Wazir)
Member (E)

29.07.2021

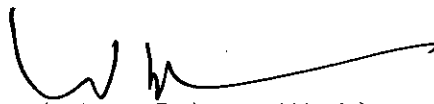
Appellant in person present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for respondents present and requested for adjournment on the ground that as the brief of the appeal was provided to him very lately; therefore, he has not made preparation for arguments. Adjourned. Last Opportunity is given. To come up for arguments before the Larger Bench on 15.09.2021. Long date given due to summer vacations.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)



(Atiq ur Rehman Wazir)
Member (E)

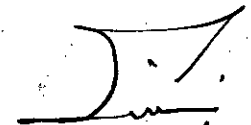
15.09.2021

Clerk of counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before the august Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned. To come up for arguments before the Larger Bench on 11.01.2022.



(ROZINA REHMAN)
MEMBER (JUDICIAL)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

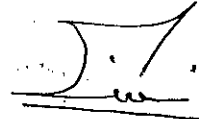
07.07.2021

None for the appellant present. Mr. Muhammad Adeel Butt,
Additional Advocate General for the respondents present.

Notice for prosecution of the appeal be issued to appellant
and to come up for arguments before the Larger Bench on
15.07.2021.



(ROZINA REHMAN)
MEMBER (JUDICIAL)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

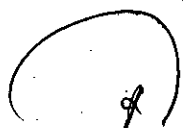


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

15.07.2021

Nemo for the appellant present. Mr. Asif Masood Ali Shah,
Deputy District Attorney for the respondents present.


Notice issued to the appellant not returned back, therefore,
notice for prosecution of the instant appeal be issued to
appellant and to come up for arguments before the Larger Bench
on 29.07.2021.



(ROZINA REHMAN)
MEMBER (JUDICIAL)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

30.06.2021

Appellant in person present.

Mr. Asif Masood, Deputy District Attorney for respondents present.

The Worthy Chairman is on leave, therefore, the case is adjourned to 01.07.2021 for arguments before Larger Bench.



(Rozina Rehman)
Member (Judicial)



(Salah Ud Din)
Member (Judicial)



(Attiq Ur Rehman Wazir)
Member(Executive)

01.07.2021

Nemo for the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

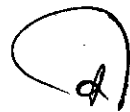
This appeal vide order dated 12.09.2019 was referred to the Larger Bench and was fixed before the Larger Bench at Principal Seat Peshawar on 14.11.2019, however, it appears from the next order sheet dated 14.11.2019 that the appeal was taken up by the Full Bench but the matter was adjourned again. The appeal was fixed before the Full Bench on various dates. As the order of reference of appeal to Larger Bench is still intact, therefore, this appeal be delisted from the cases to be heard by the Full Bench and the matter is adjourned for hearing by the Larger Bench on 07.07.2021.



(Salah-ud-Din)
Member (J)



Chairman



(Rozina Rehman)
Member (J)



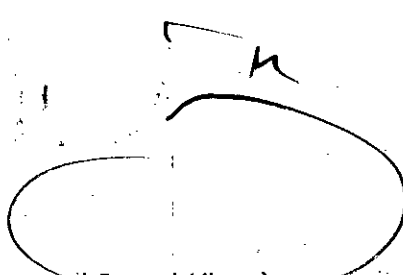
(Atiq-ur-Rehman Wazir)
Member (E)

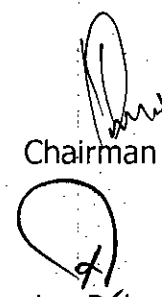
09.02.2021


Nemo for the appellant Addl. AG for the respondents present.

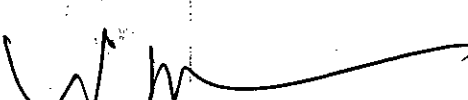
On the last at least three occasions the appellant was unrepresented, however, neither any notice was required to be issued to him nor the appeal was dismissed for non-prosecution.

It is considered appropriate to require the issuance of notice to the appellant for 09.03.2021. Arguments shall be addressed by the parties on the date fixed.


(Muhammad Jamal Khan)
Member(J)

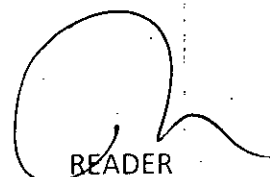

Chairman
(Rozina Rehman)
Member(J)


(Mian Muhammad)
Member (E)


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

09.03.2021

Due to incomplete Bench, the case is adjourned to 30.06.2021 for the same.


READER

20.08.2020


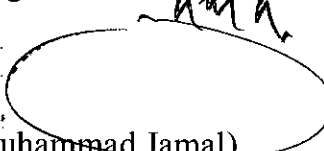
Due to summer vacation case to come up for the same on 10.11.2020 before Larger Bench.



Reader


09.11.2020

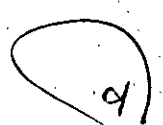
Nemo for the appellant present. Mr. Usman Ghani, District Attorney for respondents present.

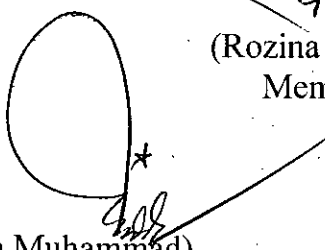
The Bar is observing general strike, therefore, the matter is adjourned to 09.02.2021 for hearing before the Larger Bench



(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

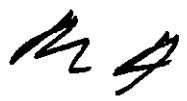

(Hussain Shah)
Member


(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 along with 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

19.06.2019

Mr. Muhammad Zubair Khan Jadoon, Advocate for appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Sohail Ahmad Zeb, Assistant ^{and Sajid Suptt Finance Department} for the respondents present.

Arguments partly heard. To come up for further arguments on 20.06.2019 before this D.B 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 and Sohail Ahmad Zeb, ADO 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

Service Appeal No. 1156/2015

20.02.2019

Appellant in person present. M/S Muhammad Shamim, Section Officer, Malik Muhammad Haroon, District Account Officer and Sohail Ahmad Zeb, Assistant alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 17.04.2019 for arguments before D.B at Camp Court Abbottabad.


(Ahmad Hassan)
Member
Camp Court Abbottabad


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

17.04.2019

Appellant in person and Mr. Muhammad Bilal, DDA alongwith M/S Sohail Ahmad Zaib, Assistant, Malik Muhammad Haroon, AAO and Muhammad Sohail, Asstt. for the respondents present.


Appellant once again submitted an application for adjournment of the appeal on the ground that his learned counsel is appearing before the Environmental Protection Tribunal, Peshawar.

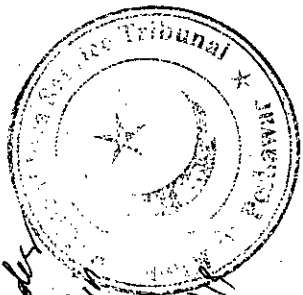
The record shows that on previous so many occasions the matter was being adjourned on the requests of the appellant. Once again the representative of Finance Department has come all the way from Peshawar to attend the case.

We consider it appropriate to grant last adjournment but on payment of cost of Rs. 3000/- to be credited to the Government in order to cover the Travelling and Daily Allowance of representatives appearing on behalf of respondents.

Adjourned to 19.06.2019 before the D.B at camp court, Abbottabad.


Member


Chairman
Camp court, A/Abad



Rs. 3000/- deposited as cost under head C 03844 and entered in the relevant register. D.S. 17/4/19

18.10.2018

Appellant Jehangir Khan in person present. Mr. Khurram, Assistant (Litigation) alongwith Mr. Usman Ghani, District Attorney for the respondents present. Appellant made a request for adjournment as his counsel is not available today. Granted. To come up for arguments on 19.12.2018 before the D.B at camp court, Abbottabad.



Member



Chairman
Camp Court, A/Abad

19.12.2018

Appellant in person and Mr. Khurum Haroon, Assistant (Lit) alongwith Mr. Ziaullah, Deputy District Attorney for respondents present.

Appellant requests for adjournment on the ground that his counsel is not available today. Adjourned to 22.02.2019 before D.B at camp court, Abbottabad.


Member


Chairman
Camp Court, A/Abad

20.03.2018

None for the appellant present. Mr. Usman Ghani, District Attorney alongwith Hajjaj Litigation Officer for the respondents present. To come up for arguments on 23.05.2018 before the D.B at camp court, Abbottabad.



Member



Chairman
Camp court, A/Abad

23.05.2018

Appellant in person and and Mr. Muhammad Jan, learned Deputy District Attorney alongwith Sohail Ahmad Zeb litigation Officer for the respondents present. Appellant seeks adjournment as his counsel is not available. Adjourned. To come up for arguments on 27.08.2018 before the D.B at camp court A/Abad.



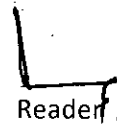
Member



Chairman
Camp court, A/Abad

27.08.2018

Appellant in person and Mohammad Irshad SO , Sohail Ahmed Assistant for the respondents present. Due to summer vacations, the case is adjourned .To come up for the same on 18.10.2018 at camp court Abbottabad.



Reader

13.02.2017

Appellant in person and Mr. Sohail Ahmad Zaib, ADO
alongwith Mr. Muahammad Siddique, Sr.GP for the respondents
present. Rejoinder not submitted. Counsel for the appellant
requested for adjournment. To come up for rejoinder and final
hearing on 17.07.2017 at camp court, Abbottabad.

Member

Camp court, A/Abbabad

08. 17.07.2017

Muhammad Zubair Khan Jadoon, Advocate present and filed
Wakalat Nama on behalf of the appellant. Mr. Muhammad Bilal, DDA
alongwith Malik Haroon, Senior Auditor for respondents present.
Counsel for the appellant seeks adjournment. Adjourn. To come up
for arguments on 20.12.2017 before D.B at Camp Court A/Abbabad.

Member

Camp court, A/Abbabad

20.12.2017

Clerk of the counsel for appellant present. Mr. Kabirullah
Khattak, Additional AG for the respondents also present. Clerk of
the counsel for appellant requested for adjournment on the ground
that learned counsel for the appellant is not available today.
Adjourned. To come up for arguments on 20.03.2018 before D.B
at Camp Court Abbottabad.

(Gul Zeb Khan)

Member (Executive)
Camp Court Abbottabad

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

18.5.2016

Agent of counsel for the appellant and M/S Muhammad Irshad, SO, Malak Muhammad Haroon, AAO for respondents No. 1 to 3 alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Written statement by respondent No. 3 submitted. Learned Sr.GP relies on the same on behalf of respondents No. 1, 2 and 4. The appeal is assigned to D.B for rejoinder and final hearing for 21.09.2016 at camp court, Abbottabad.

21.09.2016

Agent of counsel for the appellant and ^{Chairman} Mr. Sohail Ahmad Zeb, Assistant Malak 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 D.B on 13.02.2017 at camp court, Abbottabad.

Member

^{Chairman}
Camp court, A/Abad.

~~18.05.2016~~

~~Agent of counsel for the appellant and M/S Muhammad Irshad, SO, Malak Muhammad Haroon, AAO for respondents No. 1 to 3 alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Written statement by respondent No. 3 submitted. Learned Sr.GP relies on the same on behalf of respondents No. 1, 2 and 4. The appeal is assigned to D.B for rejoinder and final hearing for 21.09.2016 at camp court, Abbottabad.~~

A.A.A


~~Member~~
~~Camp court, A/Abad~~

16.11.2015

Counsel for the appellant present. Learned counsel for the appellant argued that identical service appeal No. 1302/2014 has already been admitted to regular hearing.

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 for 17.2.2016 before S.B at Camp Court A/Abad.

Appellant Deposited
Security & Process Fee


Chairman
Camp Court A/Abad

17.02.2016




Appellant in person and Mr. Muhammad Irshad, S.O for respondent No.3 alongwith Mr. Muhammad Saddique, Sr.G.P for respondents present. Requested for adjournment. To come up for written reply/comments on 18.5.2016 before S.B at Camp Court A/Abad.


Chairman
Camp Court A/Abad

FORM-A
FORM OF ORDER SHEET

Court _____

Case No. 1156/2015


	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	12.10.2015	<p>The appeal of Mr. Jehangir Iqbal resubmitted to-day by him may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p> REGISTRAR</p>
2.	16-10-15	<p>This case be put up before the S.B at Camp court, Abbottabad for preliminary hearing on <u>16-11-2015</u></p> <p> CHAIRMAN</p> 

The appeal of Mr. Jehangir Iqbal son of Adalat Khan C.T Teacher, Government Higher Secondary School Bandi Dhundian, Abbottabad R/O Village and post office Bandi Dhundian, Abbottabad received to-day i.e. on 29.09.2015 is incomplete on the following score which is returned to him for completion and resubmission within 15 days.

1. Judgment of the Tribunal is incomplete. Complete copy of judgment may be placed on file.

No. 1501 /ST,

Dated 30/9 /2015



REGISTRAR—
KPK SERVICE TRIBUNAL,
PESHAWAR.

Mr. Jehangir Iqbal, Appellant.

Sir,

Resubmitted with the request that all the relevant pages which would be referred during the arguments and proceeding before the Tribunal, has already annexed and no one relevant page is left regarding Judgment on dated 12.5.2009.

Instant appeal may please be fixed before the Honorable Judge on coming tour at Abbottabad for preliminary hearing.


Jehangir Iqbal

S.T.
G.H.S.S Bandi Dhundian
Teh: & Dist: Abbottabad

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 1156 of 2015

Execution petition no. 47/2022

Jahangir Iqbal S/O Adalat Khan, C.T teacher, Government Higher Secondary School Bandi Dhundan, Abbottabad, R/O Village & Post Office, Bandi Dhundan, Tehsil & District Abbottabad.

Appellant

Versus

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.


Respondents

SERVICE APPEAL

INDEX

S.No	DESC: OF DOCUMENTS	ANNEXURES	PAGE No
1	Memo; of Service Appeal	----	1 to 6
2	Copy of Service Appeal No 951 of 2008	A	7-10
3	Copy of relevant pages of Judgment Dated 12/05/2009	B	11-15
4	Copy of relevant pages of Service Book	C	16-21
5	Copy of order passed in CPLA 640/2014 by Supreme Court	D	22 22
6	Copy of departmental appeal	E	23-25

Dated 18/09/2015


(Jahangir Iqbal)
Appellant in person

①

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 1156 of 2015

Execution Petition no. 47/2022

**K.P. Provincial
Service Tribunal
Diary No. 1120
Dated 29-8-15**

Jahangir Iqbal S/O Adalat Khan, C.T teacher, Government Higher Secondary School Bandi Dhundan, Abbottabad, R/O Village & Post Office, Bandi Dhundan, Tehsil & District Abbottabad.

*Appeal is converted into E.P
vide order dt. 11-01-2022.*

Appellant

Versus

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

Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED ACTION OF RESPONDENTS RELATING TO DEDUCTION/RECOVERY OF TWO (02) ADVANCE INCREMENTS OUT OF FOUR (04) ADVANCE INCREMENTS OF MA/MSc: FROM THE SALERY OF THE APPELLANT WITH EFFECT FROM 15/10/2011, IMPUGNED ACTION IS ALSO WITHOUT ISSUANCE/PASSING OF ANY OFFICIAL ORDER PASSED BY ANY COMPETANT AUTHORITY NOR GIVEN ANY NOTICE TO APPELLANT, WHICH (INCREMENTS) WERE GRANTED IN PURSUANCE OF THE JUDGMENT DATED 12/05/2009 PRONOUNCED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR IN APPELLANT'S INDIVIDUAL SERVICE APPEAL WHICH ATTAINED ITS FINALITY TOO. THE IMPUGNED DEDUCTION/RECOVERY IS UNCONSTITUTIONAL, CONTEMPT OF COURT, WITHOUT LAWFUL AUTHORITY, ARBITRARY, PERVERSE,

*Filed
29/9/15
to-day.*

*Re-submitted
12/10/15*

(2)

DISCREMINATORY AGAINST THE PRINCIPAL OF NATURAL JUSTICE AND INEFFECTIVE UPON THE APPELLANT'S RIGHTS OF ADVANCE INCREMENTS, GRANTED BY COMPETENT COURT OF LAW AND FOR ACCEPTANCE OF DEPARTMENTAL APPEAL DATED 18/06/2015, WHICH IS STILL PENDING WITH OUT RESPONSE.

PRAER:-

ON ACCEPTANCE OF INSTANT SERVICE APPEAL, IMPUGNED ACTION IN RESPECT OF RECOVERY/DEDUCTION OF 02 ADVANCE INCREMENTS OUT OF 04 MAY PLEASE BE SET-ASIDE AND IN CASE AMOUNT REFUNDED/DEDUCTED FROM THE SALARY OF APPELLANT, MAY BE ORDERED THE REFUND OF SAME AND MAY PLEASE BE IMPOSED HEAVY COST AGAINST THE RESPONSIBLE RESPONDENTS.

Respectfully Sheweth,

FACTS

- 1) That appellant is a school teacher, he is now working as Senior C.T teachers (BPS 16), his service appeal for grant of 04 advance increments of higher qualifications (M.A/M.Sc) over and above prescribed qualification of post held, was accepted on 12/05/2009 by this Honourable Tribunal, whereupon respondents did not file their appeal before Supreme Court against the order/Judgment dated 12/05/2009 yet, and now it attained its finality. Copy of Appellant's Service appeal and relevant pages of Judgment are annexed as **Annexure "A" & "B"**.
- 2) That according to the Judgment of Service Tribunal dated 12/05/2009 respondents implemented it, and not only granted 04 advance increments of (M.A/M.Sc) and revised the pay to the appellant, but also paid the entire arrears to the appellant.

- 3) That appellant was being given/granted his salary with out any deduction/disturbance from the respondents upto 30/06/2011, in the meanwhile on 15/10/2011, utmost surprisingly with out any notice given to the appellant or without formal/official written order or any legal and factual reason, the Accounts Officer of pay fixation party of respondent No 1, illegally deducted two advance increments of MA/MSc out of four and fixed the appellant's pay after deduction as Rs 23900 with effect from 01/07/2011, while legally it was to be fixed as Rs 25300/- Copy of relevant pages of service book is annexed as Annexure "C".

- 4) That it came in to the notice of appellant that under the severe illegal action of respondent no 02, some other teachers challenged the illegal deduction/recovery of 02 advance increments out of 04 through Constitutional Petition, which was finally disposed off by the Supreme Court of Pakistan by directing to the said teachers/petitioners to approach the service Tribunal for redressal of their grievance. Copy of Supreme Court order is annexed as Annexure "D".

- 5) That appellant under the same Supreme Court directions submitted his departmental appeal dated 18/06/2015 to respondent no 1 which is still pending with out any response after passing the statutory period of 90 days, Copy of departmental appeal is annexed as Annexure "E". Hence this appeal inters – alia on the following ground, and appellant's appeal is within 120 days from the submission of his departmental appeal.

Grounds

- a) That this Honourable Court/Tribunal has already been pleased to admit the same nature 5 service appeals No

1302 to 1306 of 2014 titled Marroof Khan and 04 others Vs Govt etc and the cases are still pending.

- b) That appellant under the law, was entitled to 04 advance increments and the respondents (respondent No 02) was not at all have powers to deduct/recover the 02 advance increments out of 04 Increments, which were granted to the appellant by a competent Court of law (Service Tribunal) while all concerned respondents amongst others were not only arrayed as party in service appeal but they contested the case and they were not filed their CPLA against the Judgment of Service Tribunal dated 12/05/2009 before Apex Court, yet thus it attained its finality.
- c) That if respondents have any objections/reservations on the Judgment of Service Tribunal in respect of number of increments, it was incumbent upon the respondents to have approached Supreme Court by filing Petition against the Judgment of Service Tribunal dated 12/05/2009 but they can not be changed the nature of Judgment as decided by Apex court **2011 PLC (C.S) 590**
- d) That the order dated 12/05/2009 passed by Service Tribunal was implemented by the respondents in letter and spirit and under the doctrine of locus Poenitentiae the respondents were not entitled to withdraw benefits, once it was implemented (**PLD 1991 Supreme Court 973**).
- e) That the appellant while contesting for his right of 04 advance increments before the Service Tribunal, never ever suppressed any fact from the Learned Tribunal and respondents.


- f) That before passing the Impugned action of respondents, no notice whatsoever, was given to the appellant and the appellant is contemned unheard.
- g) That judicial system will be ruined, if respondents would be left free to act upon against the Judgment of Learned Service Tribunal, thus respondent are bound not to change the spirit of the Judgment creating any kinds of self made illegal complications.
- h) That action of respondents is apparent activity of serious contempt of the Judgment of Honourable Tribunal, and tried to reopen the same matters which are finally decided by the Supreme Court of Pakistan.
- i) That the action of respondents is admittedly arbitrary capricious unjust and against all norms of justice and against Tribunal Judgment and order.
- j) That the involved matters in the instant appeal is relating to pay and under the law limitation did not run in such matters
- k) That it is an admitted fact that under question illegal Action fell in the matter of great public importance.
- l) That appellant, is once again dragged into litigation, that his claim of Advance Increments have been solved completely; the conduct of the respondents is contemptuous and as such requires indulgence of this Honourable Court by awarding appropriate Cost to the respondents, as decided in the Judgment dated 12/05/2009 by Honourable Tribunal at Para 07.

6

It is, therefore, respectfully prayed that on acceptance of instant service appeal, impugned action in respect of recovery/deduction of 02 advance increments out of 04 may please be set-aside and in case amount refunded/deducted from the salary of appellant, may be ordered the refund of same and continue recovery/deduction if any may also be suspended till the final disposal of titled service appeal and may please be imposed heavy cost against the responsible respondents.

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


Dated 18/09/2015


(Jahangir Iqbal)
Appellant in person

AN INTERIM RELIEF

It is therefore prayed that deduction of all 04 advance increments of MA/Msc: may also be suspended till the final disposal of titled service appeal.


Dated 18/09/2015

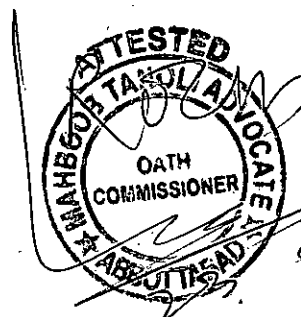

(Jahangir Iqbal)
Appellant in person

Affidavit

I, Jahangir Iqbal S/O Adalat Khan, C.T teacher, Government Higher Secondary School Bandi Dhundan, Abbottabad, R/O Village & Post Office, Bandi Dhundan, Tehsil & District Abbottabad, 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

Dated 18/09/2015


(Jahangir Iqbal)
Appellant in person
DEPONENT



Annexure (A)

7

BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 95 of 2008

Jahangir Iqbal S/O Adalat Khan, C.T teacher, Government Middle School, Bandi Dhundan, Abbottabad. R/O Village & Post Office, Bandi Dhundan, Tehsil & District Abbottabad.

Appellant

Versus

- 1 Executive District Officer (Schools & Literacy), Abbottabad.
- 2 District Coordination Officer, Abbottabad.
- 3 District Accounts Officer, Abbottabad.
- 4 Director of (Schools & Literacy) N.W.F.P Peshawar.
- 5 Secretary to Govt of N.W.F.P (Schools & Literacy) Department Peshawar.

Respondents

Appeal under Section 4 of NWFP Service Tribunal Act 1974

For grant of 04 Four advance increments of M.A w. e. f. 30/09/1996 (date of Passing M.A) 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 (Finance Department N.W.F.P, Peshawar) and in pursuance of Judgments/Law passed by Supreme Court of Pakistan.

PRAYER

It is respectfully prayed before this Honourable Tribunal that the instant appeal may graciously be accepted, and the appellant may be granted 04 advance increments of MA w.e.f. 30/09/1996 with all back benefits

Respectfully Sheweth,

FACTS

- 1) That appellant was appointed against C.T post as a trained C.T teacher on 27/01/1991, in Education Department, Appellant was also passed his professional C.T training before his Service, thus his regular Service was also started from the date of his appointment i.e. 27/01/1991. Now a day's appellant is working as C.T teacher in BPS No 15 in the Education Department. A Certificate in this respect issued by Concerned authority is Annexed as Annexure A.

Attested
[Signature]
Senior Certified Teacher
G.H.S.S. Bandi Dhundan
Abbottabad

- 2) That appellant was passed his B.A examination before his service as C.T teacher on, and being B.A 2nd Division was placed in BPS No 14 against C.T post with effect from 01/06/1991, 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 his Service, was also passed his M.A examination on 30/09/1996, and was entitled for Four (04) Advance Increments with effect from 30/09/1996 (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 four (04) advance increments were not given to the appellant by the respondents in their office routine, until now. Copy of said Notification No FD (PRC)1-1/89 dated 11/08/1991 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 C.T post because Prescribed Qualification of the said post was/is also F.A/F.Sc with C.T Course, So appellant was/is entitled the same and Respondents did not give his 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 is 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 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.**




Senior Certified Teacher
G.H.S.S. Bandi Dhundan
Abbottabad

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, he submitted his departmental representation to respondent no 1 on 24/03/2008, and it is undecided within the statutory period of 90 days. Copy of representation is **Annexure G.** Hence this appeal inters - alia on the following ground, and appellant's appeal is within 120 days from the submission of his departmental representation dated 24/03/2008.

Grounds

- a) That the impugned action of respondent no 01 not deciding the appellant's representation dated 24/03/2008 is arbitrary, unjust, and against all the norms of justice and equity and violated the Articles 25, 189 and 190 of the Constitution, as petitioner of CPLA (Mr: Rashid Iqbal Khan) has got his same relief of 04 advance increments of MA/MSc.
- b) That the impugned action of respondent no 01 not deciding the appellant's representation 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 & 590 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
- 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.

Attested

Senior Certified Teacher
G.H.S.S. Bandi Dhundar
Abbottabad

- e). 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.
- f). 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).
- g). That under the law appellant's case is quite Clear after the Judgment passed in CPLA No 525,526 of 2007 by Supreme Court, and refusal/dismissal of appellant's representation is illegal, without jurisdiction and unconstitutional.
- 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 C.T and prescribed qualification of the said post was/is F.A and appellant is now working in BPS # 15 against C.T post and Instant Case falls under Para 5(1) (c) of the Circular dated 11/08/1991(Annexure C)

It is there fore respectfully prayed that, appellant's appeal may kindly be accepted and 4 advance increments of M.A w.e.f. 30/09/1996 (date of passing M.A), along with all back benefits may graciously be granted to the appellant in the interest of justice.

Jahangir Iqbal
 (Jahangir Iqbal)
 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

Attested
 Senior Certified Teacher
 G.H.S.S. Bandi Dhundan
 Abbottabad

NOTARIAL PUBLIC
 dated: 05.7.2008
 ABBOTTABAD PAKISTAN

Jahangir Iqbal
 (Jahangir Iqbal)
 DEPONENT

Annexure B,

11

BEFORE THE NWFP SERVICE TRIBUNAL, CAMP COURT ABBOTTABAD.

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.....MEMBER.

MR. BISMILLAH SHAH.....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 Rahman,
3.	1279/2007	Muhammad Siddique,
4.	01/2008	Maroof Khan
5.	02/2008	Amjad Hussain Awan

EXAMINER
NWFP SERVICE TRIBUNAL
PESHAWAR
ATTESTED

Arshad Alam
Senior Certified Teacher
G.H.S.S. Bandi Dhunda
Abbottabad

78.	899/2008	Muhammad Hanif,
79.	906/2008	Noor Elahi,
80.	907/2008	Muhammad Irshad,
81.	950/2008	Abdul Haleem Lodhi,
82.	951/2008	Jahangir Iqbal,
83.	952/2008	Gul Hameed,
84.	953/2008	Muhammad Imran,
85.	954/2008	Muhammad Ishtiaq,
86.	955/2008	Muhammad Ashraf,
87.	956/2008,	Asif Ali,
88.	957/2008	Abdul Hamid,
89.	958/2008	Muhammad Hanif,
90.	959/2008	Muhammad Kabria Khan,
91.	960/2008	Rashed Latif,
92.	961/2008	Syed Amjad Hussain Shah,
93.	962/2008	Muhammad Shoaib,
94.	963/2008	Muhammad Bashir,
95.	964/2008	Niaz Ahmad,
96.	965/2008	Syed Iftikhar Hussain Shah,
97.	967/2008	Muhammad Siddique,
98.	981/2008	Mst. Robina Awan,
99.	982/2008	Sadaqat Khan,
100.	983/2008	Mst. Tahseen Bibi,
101.	984/2008	Tariq Mahmood,
102.	985/2008	Mst. Saeeda Bano
103.	1025/2008	Miss Tanveer Akhtar,
104.	1026/2008	Mst. Imtiaz Kiani,
105.	1027/2008	Naveed Ahmad,
106.	1032/2008	Mst. Sajida Bibi,
107.	1049/2008	Banaras Khan,
108.	1050/2008	Javed Iabal,
109.	1051/2008	Muhammad Haroon,
110.	1110/2008	Raja Waheed Murad (Health)
111.	1111/2008	Aurangzeb Khan,
112.	1112/2008	Qazi Saeed-ur-Rahman,
113.	1113/2008	Muhammad Imtiaz,

EXAMINER
NWFP Service Tribunal
Peshawar.

ATTESTED

Mst. Saeeda
Senior Certified Teacher
G.H.S.S. Bardi Dhundan
Abbottabad.

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.

4. 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

WFP
Service Tribunal
Peshawar

ATTESTED

Masood

Senior Certified Teacher
G.H.S.S. Bandi Dhundan
Abbottabad

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

MAILED SERVICES DIVISION
EXAMINATIONS
ATTESTED

Attest
Senior Certified Teacher
C.H.S.S. Bandi Dhunda
Abbottabad

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.

Attested

Senior Certified Teacher
G.H.S.S. Bandi Dhunda
Abbottabad

ANNOUNCED.
12.05.2009.

[Signature]
(BISMILLAH SHAH)
MEMBER.

[Signature]
(ABDUL JALIL)
MEMBER.

CAMP COURT ABBOTTABAD.

02/7/09

13/7/09

14/7/09

Stamp of presentation	
Number of sheets	24
Copying fee	24-00
Original	24-00
Total	
Name of applicant	
Date of completion of work	

[Signature]

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

07/29/

1. Name **JAHANGIR IOBAL**

(16)

2. Race **Pakistan Annexure (C)**

3. Residence **vill 400 Bandi Dhunda Abbottabad.**

4. Father's name and residence **ADALAT KHAN.**

5. Date of birth by Christian era as nearly as can be ascertained **4.1.1965**
Four four six five

6. Exact height by measurement **5 - 6"**

7. Personal marks for identification **Nil**

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. *[Signature]*


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


[Signature]
Senior Certified Teacher
G.H.S.S. Bandi Dhunda
Abbottabad

[Signature]

[Signature]
Principal
G.H.S.S. BANDI DHUNDA
ABBOTTABAD

1	2	3	4	5	6	7	8
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.	P y in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
CTGMS Bandi Shundan	Per/077		R 13200/-			1/12/2009	Jy
			Entire Revised Due to Award of 4 Advn Increments of M.A.				Jy
	Allowed 4 Advn of MA		Rs = 2870/-			1.12.95	Jy
	(2) M.A.		3192	Rs = 3514/-	3402	30.9.96	Jy
				Rs = 3675/-	3353	1.12.96	
				Rs = 3836/-	3574	1.12.97	
				Rs = 3997/-	3675	1.12.98	
			Awarded S/Grade B-15 (2190-177-4845)				
			Rs = 4187/-				
			Rs = 4177/-				
			Rs = 4314/-		3960	2.12.98	Jy
			4491/-		4057	1.12.99	
			4668/-		4314	1.12.2000	
			4845/-		4491	1.12.01	
			Scale Revised B-15 (3285-265-11235)				
			Rs = 7260/-		6780	1.12.01	Jy
			7525/-		6995	1.12.02	
			7790/-		7280	1.12.03	
			Rs = 8055/-		7860	1.12.04	
			S/R. B-15 (3780-305-14850)				
			Rs = 9270/-		8660	1.07.05	Jy
			Rs = 9575/-		8985	1.12.05	
			Rs = 9880/-		9270	1.12.06	
			S/R B-15 (4350-350-14850)				
			Rs = 11350/-		10650	1.7.07	Jy
			Rs = 11700/-		11000	1.12.07	
			S/R. B-15 (5220-420-17820)				
			Rs = 14040/-		13200	1.7.08	Jy
			Rs = 14460/-		13620	1.12.08	
			Rs = 14880/-		14040/-	1.12.09	Jy

Approved

 PANCHAJ
 G.N.S.S. BANDI SHUNDAN
 ABBOTTABAD

Approved

 Senior Certified Teacher
 G.H.S.S. Bandi Shundan
 Abbottabad

DO
 ERSE AN

9	10	11	12	13	14	15	16
<p>Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p> <p>D.O. E & S.E. Aid.</p>	<p>Date of termination of appointment</p> <p>31/12/10</p>	<p>Reason of termination (such as promotion, transfer, dismissal, etc).</p>	<p>Signature of the head of the office or other attesting officer</p> <p>31/12/10</p>	<p>Name and duration of leave taken</p>	<p>Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government</p> <p>Period Government to which debitable</p>	<p>Signature of the head of the office or other attesting officer</p>	<p>Reference to any recorded punishment or censure, or award of grade of the Government Servant.</p> <p>18</p> <p>District Comptroller of Accounts Abbottabad</p> <p>Senior Certified Teacher G.H.S.S. Bandi Dhundan Abbottabad</p> <p>(Male) Abbottabad</p>

1	2	3	4	5	6	7
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
GMS Bandi Dhundan.	Per/077.		14460 ✓	R. 15300/-		12/2010
	RPS-15 @ R. 8500-		20029500	W. 1-7-2011		
			R. 25300/-			7/2011
	2007		R. 23900/-			12/11
OFFICE OF THE ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA PESHAWAR PAY FIXED IN THE R.S.P.S 2007			R. 24600/-			
OF RS. 4350-350-14850 (15)				2008		
AT RS. 10650/- M.W.E.F. 1-07-2007						
With Next Increment on 1-12-2007						
Accounts Officer Pay Fixation Party K Pakhtunkhwa Peshawar						
2011						
07						
10650/15						
13200/15						
23900/15						

Senior Certified Teacher
G.H.S.S. Bandi Dhundan
Abbottabad

MAJID
MAJID
MAJID

MAJID
MAJID
MAJID

MAJID
MAJID
MAJID

note: R. 25100/- = 25300/- 12/12

9 pay cut

11 9322/- 1096 to 1198 R. 8372/-

R. 354/- 1998 to 1101 R. 12744/-

R. 530/- 1901 to 605 R. 22790/-

610/- 7/05 to 607 R. 14640/-

700/- 7/07 to 608 R. 8400/-

840/- 7/08 to 62011 R. 30240/-

1400/- 7/2011 to 1072011 R. 5600/-

Total Rs. = 102786/-

MAJID
MAJID
MAJID


MAJID
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MAJID

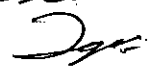
MAJID
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9	10	11	12	13	14	15
				Leave		
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	
				Period	Government to which debitable	
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
<p><i>[Signature]</i> District Officer Ele: & Sec: Edu: Abbottabad</p>	<p>6 30/11/11</p>	<p>scals Revise</p>	<p><i>[Signature]</i> District Officer Ele: & Sec: Edu: Abbottabad</p>			
<p><i>[Signature]</i> District Officer Ele: & Sec: Edu: Abbottabad</p>	<p>30/11/11</p>	<p>A19</p>	<p><i>[Signature]</i> District Officer Ele: & Sec: Edu: Abbottabad</p>			<p>Service verified w.e.f. 1.12.2012 to 28.2.2013 from Acq: Roll of other office record.</p> <p><i>[Signature]</i> Dy. District Officer (Acq), Abbottabad SAL</p>
<p><i>[Signature]</i> District Officer Ele: & Sec: Edu: Abbottabad</p> <p>Basic Pay Scales 2011 Office of The Accountant General Khyber Pakhtun Khawa Peshawar. Pay Fixed in R.B.P.S. 2011</p> <p>of Rs. 8500-200-29500 (15) ATF: 23900/- PA WBS With Next increment on 1-07-2011 1-12-2011</p> <p><i>[Signature]</i> Maintenance of 15/2/11</p> <p>Accounts Officer Pay Fixation Party K. Pakhtun Khawa Peshawar</p>	<p>30/11/11</p>	<p>A19</p>	<p><i>[Signature]</i> District Officer Ele: & Sec: Edu: Abbottabad</p>		<p>Undertaking</p> <p>I Mr. Jahangir Iqbal SCT GHS. Tarnawa give an undertaking that if any appointment made to me as a result of incorrect fixation in BPS-16, the same will be recovered from my pay/pension etc & if I wrongly promoted I will be reversed.</p> <p>Attested.</p> <p><i>[Signature]</i> Jahangir Iqbal SCT GHS</p>	
<p><i>[Signature]</i> District Officer Ele: & Sec: Edu: Abbottabad</p>	<p>28/2/2013</p>	<p>Promoted to BPS-16 Transfer</p>	<p><i>[Signature]</i> SAL</p>		<p>Principal G.H.S.S. Bandi Dhundan Govt. High School (A. Abad)</p> <p>Promoted from C.T. B-15 to SCT B-16 vide director. ele: 45 Edu: KPK Peshawar No 3279-85/F-2/1/Promotion/SCT/B-16/ dated 21.02.2013. Issued by the D.E.O. (M) Attd vide No. 150209/EB/CT/SCT/ dated 28.02.2013</p>	
		<p><i>[Signature]</i> PRINCIPAL G.H.S.S. BANDI DHUNDAN ABBOTTABAD</p>	<p><i>[Signature]</i> Senior Certified Teacher G.H.S.S. Bandi Dhundan Abbottabad</p>		<p><i>[Signature]</i> Principal G.H.S.S. Bandi Dhundan Abbottabad</p>	<p><i>[Signature]</i> PRINCIPAL Govt. High School (A. Abad)</p>

1	2	3	4	5	6	7	8
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	Si G
<p>SCT G.H.S.S. Bandi Dhuanda Bandi Dhuanda HTD</p>		<p>Promoted from ET B-15 to SCT B-16 BPS-16 (Rs. 10000 - 800 - 34000)</p>	<p>Rs. 26000 + 800 P.M.A. 26800/p.m.</p>			<p>01.3.2015</p>	

Attested

**G.H.S.S. BANDI DHUNDA
 ABBOTTABAD**

Attested

**Senior Certified Teacher
 G.H.S.S. Bandi Dhuanda
 Abbottabad**

Annexure D

22

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE MIAN SAQIB NISAR
MR. JUSTICE ASIF SAEED KHAN KHOSA

CIVIL PETITION NO. 640 OF 2014

(on appeal from the order of the Peshawar High Court,
Abbottabad Bench dated 27.02.2014 passed in Review
Petition No.34-AQ of 2013)

AND

C.M.A. NO. 2280 OF 2014

(applicant for transposition as petitioner)

Maroof Khan

...Petitioner

VERSUS

Government of KPK through Secretary

Finance Department, Peshawar & others ...Respondents

For the Petitioner: In-person.

For the Applicants:

(in CMA 2280/14)

(in CMA 3300/14)

(in CMA 3301/14)

(in CMA 3302/14)

Wajid Ali, In-person.

Muhammad Sarwar Khan, In-person.

Mazhar-ul-Haq, In-person.

Syed Arif Hussain Shah, In-person.

For Respondents 1-5: Mr. Abdul Latif Yousafzai, AG, KPK.

Date of Hearing: 18.06.2014

ORDER

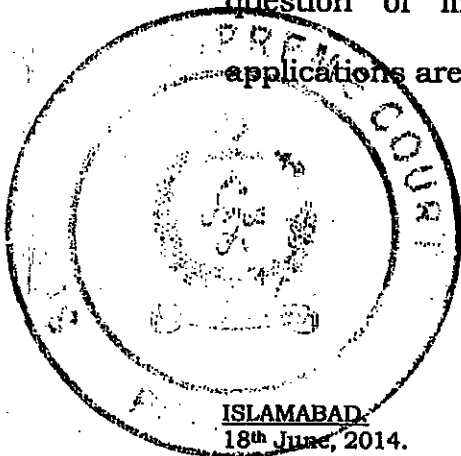
NASIR-UL-MULK, J.— After arguing the case at some length, the petitioner/applicants decided to approach the Service Tribunal for redressal of their grievance. In case they do so, we are sanguine that the Service Tribunal may sympathetically consider the question of limitation. With this observation, the petition and applications are disposed of.

Sd/- Nasir-ul-Mulk, J
Sd/- Mian Saqib Nisar, J
Sd/- Asif Saeed Khan Khosa, J

Attested
Senior Certified Teacher
G.H.S.S. Bandi Dhundar
Abbottabad

Certified to be True Copy

Superintendent
Court of Pakistan
Islamabad



ISLAMABAD
18th June, 2014.

Mudassar

"Not approved for reporting."

24/6/14

To,

The Accountant General
Khyber Pakhtunkhwa Peshawar.

SUBJECT

DEPARTMENTAL APPEAL AGAINST THE DEDUCTION/RECOVERY OF TWO (02) ADVANCE INCREMENTS OUT OF FOUR (04) ADVANCE INCREMENTS FROM THE SALARY OF THE APPELLANT WITH EFFECT FROM 15/10/2011, THESE (04) FOUR ADVANCE INCREMENTS OF M.A/M.SC WERE GRANTED IN PURSUANCE OF THE JUDGMENT DATED 12/05/2009 PRONOUNCED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR IN APPELLANT'S INDIVIDUAL SERVICE APPEAL WHICH ATTAINED ITS FINALITY, AND SAME IS IMPLEMENTED IN LETTER AND SPIRIT.

Sir,

The submissions of the appellant are as under;

- 1) That the appellant is a school teacher in Elementary and Secondary Education Department Abbottabad and presently working in the capacity of Senior C.T teacher in BPS No 16.
- 2) That appellant was granted 04 Advance Increments of M.A/M.Sc in pursuance of the judgment dated 12/05/2009 pronounced by Khyber Pakhtunkhwa Service Tribunal Peshawar, the said judgment was not only attained its finality but implemented letter and spirit in the year 2010, and since then appellant is being granted/taken his 04 Advance Increments of M.A/M.Sc regularly.

That in the meanwhile on 15/10/2011, utmost surprisingly with out any notice given to the appellant or without formal/official written order or any legal and factual reason, the Accounts Officer of pay fixation party of your office illegally deducted two advance increments of MA/MSc out of four and fixed my pay



Senior Certified Teacher
G.H.S.S. Bandi Dhundan
Abbottabad

after deduction as Rs 23900 with effect from 01/07/2011, while legally it was to be fixed as Rs 25300/.

- 5) That appellant despite of requests to DAO Abbottabad for restoration of pay according to law but in vain, in the meanwhile appellant has come to know that some teachers with the same case, challenged the illegality of impugned action taken by District Comptroller of Account Abbottabad in Constitutional Petition before Peshawar High Court, the same illegal matter is now on 18/06/2014 disposed off by the Supreme Court of Pakistan in CPLA No 640 of 2014 on the basis of Jurisdictional bar contained in Article 212 of the Constitution of Pakistan and under the such legal position and in pursuance of Order passed by Supreme Court, the cases of that teachers are now subjudice before K.P.K Service Tribunal Peshawar and next date is fixed as 23/07/2015, instant departmental Appeal is being filed by the appellant under the same law as decided by Apex Court.
- 6) That in the above circumstances, when law point already decided by KPK Service Tribunal and Supreme Court of Pakistan and that is final too, and implemented letter and spirit, later on, it can not be changed/disturbed/reversed by specially those respondents (District Comptroller of Account Abbottabad) who were party in the decided settled previous final litigation.
- 7) That It is also submitted and well pertinent to mention here, the very legal position that the letter No. FD (SR-1) 2-123/2010 dated 15/12/2010 issued by Secretary Finance Department Khyber Pakhtunkhwa Peshawar is directly against the clearly decided case of Supreme Court of Pakistan, as referred portion taken from the Para no 02 of judgment dated 19/07/2007 is not the observations of Supreme Court, it is the arguments of Additional Advocate General KPK and next relevant portion of the same Para no 2 of the judgment is left and not taken / mentioned in the



Senior Certified Teacher
G.H.S.S. Bandi Dhunda
Abbottabad

under-questioned letter and this situation creates confusion which is not only against the operative part of the Judgment dated 19/07/2007 but against the letter and spirit of Supreme Court Judgment, and admittedly contempt of Court.

In the light of above mentioned very serious circumstances and Law, it is therefore, requested that on acceptance of this departmental appeal the impugned action deduction/recovery of 02 advance increments out of 04 advance increments in respect of M.A/M.Sc taken by District Comptroller of Account Abbottabad with effect from 01/07/2011 be set-aside (cancelled) and all amount which is refunded or the amount is deducted from the salary of the appellant may be ordered the refund of same.

Jahangir Iqbal

Dated 18/06/2015

Jahangir Iqbal, S/O Adalat Khan, Senior CT teacher, Government Higher Secondary School Bandi Dhundan Abbottabad, R/O Village & Post Office, Bandi Dhundan Tehsil & District, Abbottabad.

*Recommended and forwarded to the A.G
(KPK) pl:*

[Signature]
19/06/15
Principal
G.H.S.S. Bandi Dhundan
Abbottabad

[Signature]

Senior Certified Teacher
G.H.S.S. Bandi Dhundan
Abbottabad

13/2/16

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

Appeal No. 1156/2015

Jahangir IqbalAppellant

VERSUS

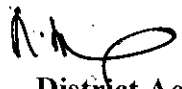
District Comptroller of Accounts & Others.....Respondents

Joint Para wise Comments on behalf of Respondents.

INDEX

Sr.No	Description	Page Nos	Annexures
1	Comments alongwith affidavit.	1 to 3	

Dated: /02/16


District Account Officer
Abbottabad.
(Respondent No. 1)

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

Appeal No. 1156/2015

Jahangir IqbalAppellant

VERSUS

District Comptroller of Accounts & Others.....Respondents

Joint Para wise Comments on behalf of Respondents.

Respectfully Sheweth:-

Comments on behalf of respondents are submitted as under:-

PRELIMINARY OBJECTION:-

1. That the 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 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.
9. That the appellant is at liberty to join service after due process of law equivalent to his qualification & the Government is not bound to elevate the incumbency.
10. That the appellant has suppressed the original facts from this Honorable Tribunal hence, not entitled for any relief & appeal is liable to dismissed without any further

Factual objections:-

1. That para No. 1 relates to record.
2. That para No. 2 relates to record.
3. That para No. 3 relates to record.
4. That it is pertinent to state that appellant has already been awarded selection grade BPS 15 from BPS- 09 & he has also been granted next stage & plus pre mature as the selection grade has already been declared promotion. It is further stated that the appellant has also been promoted from BPS 15 to BPS 16 in March 2013. The appellant is seeking fringe benefit of 02 increments through the instant appeal whereas it is conspicuous that he does not fall within the true spirit of the letter No. FD(SOSR 1) 2-123/2014 dated 21-02-2014 as the order is effective after its issuance *ibid*. However, it is stated that as per letter No. FD(SOSR 1) 2-123/2013 dated 31-12-2013 01 special advance increment is being allowed in the sheer light of the letter *ibid*. copy of the same is annexed as annexure "D", with the service appeal. Furthermore, it is explained that appellant is *ab-initio* misconceived & his appeal is hit by the principle of laches.
5. In reply to para No. 5 of the instant appeal there is no such intimation regarding the decision of the Honorable Supreme Court of Pakistan as the implementation is the basic task of the finance department while this office is an executing agency.
6. As contended in para No. 5.
7. In reply to para No. 7 it is stated that appellant may kindly be directed get his pay fixed from the District Accounts Office.

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

Appeal No. 1156/2015

Jahangir IqbalAppellant

VERSUS

District Comptroller of Accounts & Others.....Respondents

Joint Para wise Comments on behalf of Respondents.

AFFIDAVIT

I, Mr. Atiq ur Rehman Lodhi, District Acconts Officer Abbottabad, do hereby affirm and declare that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Court.


DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1156/2015
Jehangir Iqbal, (CT), Abbottabad.

... Appellant

VERSUS

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

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.03

Respectfully Sheweth

Preliminary Objections:

- i) That the appellant has no cause of action/Locus standi.
- ii) That the appeal in hand having no merits is not maintainable.
- iii) That appeal is time barred.
- iv) This Honourable Tribunal lacks jurisdiction to entertain the appeal.
- v) That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- vi) 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 needs not comments.
2. Subject to Proof.
3. Factual position of the case is that Respondent No.3 issued, letter dated 15.12.2010 containing direction that recovery may be made from those teachers/ employees who have availed extra advance increments over and above their entitlement on academic qualification. Accordingly Respondent No.2 has rightly deducted/recovered 02(two) advance increments allowed to the appellant erroneously/invalidly.
4. Needs no comments by Respondent No.3, being related to court's record.
5. Do not relate to Respondent No.3.


Grounds:

- (a) Need No Comments by Respondent No.03.
- (b) Incorrect: The issue of availing extra advance increments over & above the entitlement was 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**).

Cont'd Next Page-(2)


- (c) Incorrect: Respondent No.3 has committed no irregularity/illegality.
- (d) Incorrect: As explained vide Para 2 & 3 of Facts and (b) of "Grounds".
- (e) Incorrect: As explained above.
- (f) Incorrect: Action of Respondent No.3 is as per rules.
- (g) Incorrect: Action taken by Respondent No.3 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.
- (h) Incorrect: As explained in preceding paras. Respondent No.3 can even not think of contempt of any court.
- (i) Incorrect: As explained in preceding paras.
- (j) Incorrect: Action of Respondent No.03 is legal.
- (k) Incorrect: Action taken by Respondent No.03 is in accordance with the judgement of august Supreme Court of Pakistan.

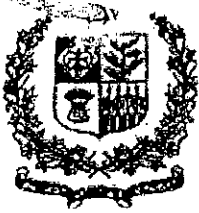
It is therefore, humbly prayed that appeal of the appellant being devoid of merit may be dismissed.


SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA,
FINANCE DEPARTMENT
(RESPONDENT NO.3)
Sd/-

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-239c

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-I)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) ii. light of Finance Deptt: letter dated 24.08.1983 therefore, those CT teachers who have already availed 05 increments (as PST) and 03 increments

are entitled only for one increment on possessing or acquiring ~~MA/MSc~~/M.com. qualification as regards those employees whose appointment ~~was~~ made on the basis of BA/BSc.B.com in BPS-14 and not availed any advance increments are entitled only for 02 advance increments on MA in light of Finance Deptt: letter No.(PRC)1-1/89 dated 07.08.1991.

4. As regards Arabic teacher whose appointed made on the basis of honor in Arabic and granted BPS-14 on BA/BSc.B.com Second Division are entitled for two advance increments on possessing or acquiring MA/MSc/M.com while those teacher whose appointment made on the basis of MA Arabic or Shahadatul Alamia from the recognized Madaris are not entitled for any advance increments on MA/ MSc/M.com but the Education Deptt: granted 04 advance increments to the CT and Arabic teacher on acquiring MA/MSc/M.com qualification which are over and above of the entitlement in light of the Finance Deptt: letter dated 11.8.1991 as well as judgment made by the honorable Supreme Court of Pakistan in Civil Petition No.1425 of 2011.(copy enclosed).

5. The subject issue referred to the Pay Fixation Party has been examined and reached to the conclusion that as per contents of Para 2 (2) of the Khyber Pakhtunkhwa, Cessation Of Payment Of Arrears On Advance Increments. On Higher Education Qualification Act-2012 clearly indicate that recovery of advance increments paid to the Govt: employees on acquiring higher qualification in light of any order made, instruction, issued decision, Judgment or orders of any courts or tribunal, including High Court or the Supreme Court, may not be recovered from the recipients Govt: employees as these were paid validly. The Pay Fixation Party is of the view that the advance increments availed over and above their entitlement as explained in the preceding Paras has to be reduced & brought to the actual pay in light of Finance Deptt: letter dated 15.12.2010.

6. It is requested that Finance Deptt: may also be advised to share the view of the Pay Fixation Party with the law Deptt: for their opinion and issue clear instruction so that the doors of litigation closed for ever.


ACCOUNTS OFFICER (PFP)

Annex-II



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (SOSR-1) 2-123/2015
Dated Peshawar the: 01-09-2015

To: The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Deptt.,
Peshawar.

Subject: - APPEAL OF CT TEACHERS FOR STOPPING RECOVERIES BEING
MADE ON ACCOUNT OF ADVANCE INCREMENTS GRANTED ON
HIGHER EDUCATIONAL QUALIFICATION.

Dear Sir,

I am directed to enclose herewith a self-explanatory application alongwith its enclosures received from certain teachers of Khyber Pakhtunkhwa as well as reply / comments of AG Office (communicated through their letter No.HAD-24(76)/Vol-X/Swat/2014-15/3391 dated 07-04-2015) thereon regarding the subject cited above and to state that sub-section (2) of section 2 of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on advance Increments on Higher Educational Qualification Act, 2012, states "Any order made, instructions 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". As against this, the AG Office has opined with reference to the Pay Fixation Party that advance increments availed of over and above the entitlement are to be brought to the actual limit in light of Finance Department's letter dated 15-12-2010 (copy enclosed). The said two point of views are mutually contradictory.

2. In light of above, your valuable comments with regard to legal position between the two opposing views is solicited, please.

o/c
SECTION OFFICER (SR-I)

*Correct.
2/9/15*



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

Annex = III

No: SO(OP-II)/LD/5-7/2012-VOL-II
DATED: PESHAWAR THE 16 SEPT, 2015.

121708-09

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Subject:

APPEAL OF CT TEACHERS FOR STOPPING RECOVERIES
BEING MADE ON ACCOUNT OF ADVANCE INCREMENTS
GRANTED ON HIGHER EDUCATIONAL QUALIFICATION.

Dear Sir,

I am directed to refer to your Department's letter No. FD(SOSR-1)2-123/2015 dated 01.09.2015 on the subject noted above and to state that Section-2 (2) of Khyber Pakhtunkhwa Cessation of Payment of arrears on advance increments on Higher Educational Qualification Act, 2012 and views of Accountant General with regard to Finance Department letter No.FD(SR-1)/2-123/2010 dated 15-12-2010 are not mutually contradictory.

The savings given to the implemented instructions or orders in Section-2(2) of the Act ibid is with regard to valid implementation till or before the commencement of the Act ibid. Finance Department letter dated 15-12-2010 was with regard to the recovery of invalid implementation and such implementation was declared invalid vide para-iv of the said letter. Recovery was ordered to be effected from those teachers/ employees who have availed more advance increments over and above their entitlement on academic qualifications, of the commencement of the Act ibid, therefore it cannot be said that legislature attributed savings to invalid acts.

Hence, this Department is in league with the Pay Fixation Committee on the point that the advance increments availed over and above the entitlement has to be reduced and brought to the actual pay in light of Finance Department letter dated 15-12-2010 mentioned above.

Yours Faithfully,

Section Officer (Opinion-II)

Endst: of even No. & date.

A copy is forwarded to the PS to Secretary Law Department.

Secretary Finance
Khyber Pakhtunkhwa

Diary No. 15519

Date 16/9/15

On file pl.
J/C (SR1) 18/9/15
DSC(R-II)
SOSR-2) 17/9
1235

Section Officer (Opinion-II)

SR-1 79
Date-18.9.

Annex - IV



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

NO. FD (SOSR-1) 2-123/2015
Dated Peshawar the: 21-09-2015

- To:
1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Deptt:
Peshawar.
 2. The Accountant General, Khyber Pakhtunkhwa,
Peshawar.

Subject: - **APPEAL OF CT TEACHERS FOR STOPPING RECOVERIES
BEING MADE ON ACCOUNT OF ADVANCE INCREMENTS
GRANTED ON HIGHER EDUCATIONAL QUALIFICATION**

Dear Sir,

I am directed to refer to the subject noted above and to state that the matter has been examined in consultation with Law, Parliamentary Affairs & Human Rights Department. Copy of the advice of that Department contained in their letter No. SO (OP-II)/LD/5-7/2012-VOL-II/21708-09 dated 16th Sep, 2015 is sent herewith for further necessary action accordingly, please.

Encl: **(As above)**

/c SECTION OFFICER (SR-I)

Copy for information is forwarded to the following Teachers with reference to their joint application addressed to the Chief Secretary Khyber Pakhtunkhwa:-

1. Mr. Hidayatullah, CT, Govt. Higher Secondary School, Mingora.
2. Mr. Muhammad Ghafoor, CT, GHSS, Sajban Swat.
3. Mr. Muhammad Nabi, SCT, GHSS, Sajban Swat.

/c SECTION OFFICER (SR-I)

(12) Letters in (Office Work Local D)

Unit ✓ 18/9/15 ✓ 12/11/15
J/C (SR-I) 505/21 21/255

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 1156 of 2015

Jahangir Iqbal S/O Adalat Khan, Senior C.T teacher, Now SST Government High School Khaira Gali, Abbottabad, R/O Village & Post Office, Bandi Dhundan, Tehsil & District Abbottabad.

Appellant

Versus

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.

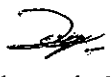
Respondents

REJOINDER (REPLICATION)

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1	REJOINDER (replication) on the comments (reply) of the respondents no 1 & 2 (A.G & D.A.O).	----	1 to 4
2	REJOINDER (replication) on the comments (reply) of the respondents no 3 (FINANCE DEPARTMENT).	----	5 to 8
3	Copy of letter No SO (B&A) 1-16/109/Advance increments dated Peshawar 30/09/2013 (22 teachers petitioners of W.P No 72/2011 decided on dated 22/12/2011	A	9 to 10.
4	Copy of Letter No SO (B&A) 1-16/109/Advance increments dated Peshawar 17/06/2014 (27 teachers)	B	11 to 12
5	Copy of Letter No SO (B&A) 1-16/109/Advance increments dated Peshawar 02/09/2014 (28 teachers)	C	13 to 14

Dated 12/07/2015


(Jahangir Iqbal)
Appellant Inperson

(1)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 1156 of 2015

Jahangir Iqbal S/O Adalat Khan, Senior C.T teacher, Now SST Government High School Khaira Gali, Abbottabad, R/O Village & Post Office, Bandi Dhundan, Tehsil & District Abbottabad.

Appellant

Versus

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.

Respondents

**REJOINDER (REPLICATION) ON THE COMMENTS
(REPLY) OF THE RESPONDENTS NO 1 & 2 (A.G &
D.A.O).**

Respectfully Sheweth,

ON PRELIMINARY OBJECTIONS

- 1-3) That under the law, appellant has good cause of action to file instant appeal before this Honourable Court, it is not time bared but filed well in time, there is no limitation against Pay matters, and cause of action arises every month when the appellant receives his salary/pay slip, it is legally and factually maintainable, and according to law, the impugned action of deduction of 02 advance increments out of 04 is admittedly contempt of this Honourable Tribunal, Moreover the instant service appeal is filed, after the filing of departmental appeal before respondent no 1 which is still pending and the said respondent is responsible and under the law he was duty bound to decide the departmental appeal but that is still pending thus the non availability of final order is out of question.
- 4-6) That appellant filed his appeal according to law, for his valuable rights, which was snatched illegally by the respondents and it is

fundamental & constitutional right of appellant to file instant appeal, thus plea of pressurizing, is incorrect and denied, appellant did not conceal any fact from this Honourable Tribunal and came to this Honourable Tribunal with clean hands and appellant has got good locus standi to challenge the impugned action of deduction of 02 advance increments out of 04 and these 04 increments was settled by Apex Court, thus there is no estoppel in this regard.

7-8) That there is no question of misjoinder and nonjoinder of necessary parties, all the necessary parties are already included in the panel of respondents and no one is left, respondents in para-8 themselves admitted that, this Honourable Tribunal is not a Constitutional Court, Government of KPK through Secretaries (Departments) have already been arrayed as party, the jurisdictional point is decided and well settled by Apex Court, this Honourable Tribunal was established under Article 212 of the Constitution.

9-11) That no Act or its vires has been challenged through the instant appeal and the rights of 04 advance increments was given/decided by this Honourable Tribunal vide its judgment dated 12/05/2009 and respondents were arrayed as party and they appeared, filed comments, and fully contested the same, and they did not file any appeal before Apex Court and legally no law can be promulgated against the fundamental and constitutional rights of the appellant, no one has any such power to make such law which is against the spirit of Judgments & Article 189 of the Constitution of Islamic Republic of Pakistan.

ON FACTUAL OBJECTIONS

1) That respondents no 1 & 2 in reply of Para no 1 of the service appeal, have deliberately concealed the real factual position of the case, as a matter of facts, the case of appellant is not the implementation of the judgment and an Act No IX of 2012 is not against appellant's rights of advance increments, but Act admitted the rights of

appellant in sub section 2 of section 2. Respondents did not reply the Para No 1 of the appeal and appellant reiterated the same Para.

- 2) That in reply of Para no 2 of the service appeal, respondents marked it as "No comments" it is very out set that the crux of the whole case is discussed in Para no 2 and the very basic issue is available but respondents did not reply it and it stands admitted under the law.
- 3) That reply of respondents did not relate the Para no 03 of the appeal and under the law it is their admission because they did not reply to the point, As far as the Act No IX of 2012 is concerned it is in favour of appellant and case of appellant is not implementation of Judgment, appellant's judgment was implemented letter and spirit in the year 2010.
- 4) That respondents did not submit their reply to the point and tried to hush up the matter and also tried to conceal the real facts, factually case of appellant is quite clear and filed according to law, the judgment of Supreme Court dated 29/08/2013 is not related with the case of appellant, this Judgment is the pending case of implementation of the Judgment of Service Tribunal.
- 5) That the respondents did not reply Para 05 of service appeal, Appellant seeks the leave of this Honourable Tribunal to request additional grounds according to situation at the time of arguments.


ON GROUNDS

- a-c) That the reply of the respondents are totally incorrect and ambiguous, also not relevant to the points raised in the appeal, Act No IX of 2012 did not relate nor applied in the case of appellant but it is in favour of appellant and appellant reiterated the position taken in Para a-c of his appeal.

d-k) That the case of appellant is very much clear and it is directly based on Supreme Court Judgment and comments of the respondents are totally incorrect, also not relevant to the points raised in appeal, and it is admitted facts that reply of respondents is totally incorrect and claim of appellant cannot be denied by the respondents in the presence of Supreme Court Judgment as referred above, thus the position taken in Para (d-k) in appeal by appellant is reiterated.

It is humbly prayed that this appeal may kindly be accepted along with all back benefits.


Dated 12/07/2015


(Jahangir Iqbal)
Appellant Inperson

Verification

It is verified that contents of instant rejoinder is correct and true according to my best knowledge and belief and nothing has been suppressed from this Honourable Tribunal.

Dated 12/07/2015


(Jahangir Iqbal)
Appellant Inperson

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: _____ of 2015

Jahangir Iqbal S/O Adalat Khan, Senior C.T teacher, Now SST Government High School Khaira Gali, Abbottabad, R/O Village & Post Office, Bandi Dhundan, Tehsil & District Abbottabad.

Appellant

Versus

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.

Respondents

**REJOINDER (REPLICATION) ON THE COMMENTS
(REPLY) OF THE RESPONDENTS NO 3 (FINANCE
DEPARTMENT).**

Respectfully Sheweth,

ON PRELIMINARY OBJECTIONS

- i) That appellant has good cause of action to file instant appeal before this Honourable Tribunal, it is filed on the basis of rights accrued from the Judgment of Supreme Court dated 19/07/2007 passed in CPLA 525 of 2007(Annexure "A" of appeal) as well as judgment of this Tribunal dated 12/05/2009(Annexure "C" of appeal).
- ii) That appellant has good locus standi to file instant service appeal.
- iii) That the appeal is not only maintainable but also having on merits and respondents illegally tried to reopen the same matters which is finally decided by competent court of law in the presence of respondents.
- iv) That appeal is not time bared but filed well in time, there is no limitation against Pay matters, and cause of action arises every month when the appellant receives his pay slip.

- v) That the matter of Jurisdiction of this Honourable Tribunal is decided by Supreme Court in CPLA No 640 of 2014, which is (Annexure "J") in appeal, thus the plea of lacks of jurisdiction is totally illegal.
- vi) That there is no question of misjoinder and nonjoinder of necessary parties, all the necessary parties are already included in the panel of respondents and no one is left.
- vii) That the Act No IX of 2012 did not relate nor applied in the case of appellant but it is in favour of appellant.

ON FACTUAL OBJECTIONS

- 1) That in reply of Para no 1 of the service appeal, respondents marked it as "No comments" they deliberately concealed the real factual position of the case, it is very out set that the crux of the whole case is discussed in Para no 1 and the very basic issue is available but respondents did not reply it and it stands admitted under the law.
- 2-3) That respondent has no legal defense and did not clarify the factual and legal position of the case and side tracked the very important material/facts and their concealment of facts legally contempt of Court. The whole position of the main issue is as Under
 - i) That the real truth of letter dated 15/12/2010 is being given in detail,
The letter No. FD (SR-1) 2-123/2010 dated 15/12/2010 issued by Secretary Finance Department Khyber Pakhtunkhwa Peshawar is directly against the clearly decided case of Supreme Court of Pakistan dated 19/07/2007,
As referred portion taken from the Para no 02 of judgment dated 19/07/2007 is not the observations of Supreme Court
It is the arguments of Additional Advocate General KPK and next relevant portion of the same Para no 2 of the

judgment is left and not taken / mentioned in the under questioned letter and this situation creates confusion which is not only against the operative part of the Judgment dated 19/07/2007 but against the letter and spirit of Supreme Court Judgment.

ii) That respondents have themselves restored the 04 advance increments of MA/MSc to 77 teachers who did not receive 04 advance increments on the basis of their personal individual service appeals, but they got these increments on the basis of Supreme Court order dated 19/07/2007 and appellant's service appeal order dated 12/05/2009 passed by this Honourable Tribunal. While appellant got these increments on the basis of his individual service appeal decided on 12/05/2009. The detail of letters issued to 77 teachers are

- a) Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Department Peshawar, letter No SO (B&A) 1-16/109/Advance increments dated Peshawar 30/09/2013 (22 teachers petitioners of W.P No 72/2011 decided on dated 22/12/2011.
- b) Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Department Peshawar Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Department Peshawar, Letter No SO (B&A) 1-16/109/Advance increments dated Peshawar 17/06/2014 (27 teachers)
- c) Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Department Peshawar, Letter No SO (B&A) 1-16/109/Advance increments dated Peshawar 02/09/2014 (28 teachers)

4-5) That respondent did not comment these paras, appellatant reiterated the same position taken in his service appeal.


ON GROUNDS

a) That the reply of the respondents are totally incorrect and there is no case of availing increments extra and above over the entitlement, respondent (Finance Department) referred 04 letters in its reply dated 10/12/2014, 01/09/2015, 16/09/2015 & 21/09/2015, these letters are based on directly and indirectly upon its letter dated 15/12/2010 which is discussed by appellatant in detailed herein above at Para 2-3 of this rejoinder so here no need to repeat it.

b-k) That the case of appellatant is very much clear and it is directly based on Supreme Court Judgment and comments of the respondents are totally incorrect, also not relevant to the points raised in appeal, and it is admitted facts that reply of respondents is absolutely ambiguous, and claim of appellatant cannot be denied by the respondents in the presence of Supreme Court Judgment as referred above, thus the position taken in Para (b-k) in appeal by appellatant is reiterated.

It is humbly prayed that this appeal may kindly be accepted along with all back benefits.


Dated 2/07/2015


(Jahangir Iqbal)
Appellant Inperson

Verification

It is verified that contents of instant rejoinder is correct and true according to my best knowledge and belief and nothing has been suppressed from this Honourable Tribunal.

Dated 2/07/2015


(Jahangir Iqbal)
Appellant Inperson



Annexure A (9)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

No. SO(B&A)I-16/09/Advance Increment,
Dated Peshawar, the 30.09.2013

To,

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

ii. The District Accounts Officer,
Manshera.

Subject: - CESSATION OF PAYMENT OF ARREARS ON ADVANCE
INCREMENT'S 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. Iftikhar Ahmad CT	GHS Bajna	MA (Islamiyat)	26.06.2000	MA Degree is genuine
5	Mr. Umer Farooq CT	GHS Bajna	MA Pashto	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. Mustajib 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 Dalar	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 Mahmood 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. Yur Muhammad Khan CT	GHSS Baffa	MA (Islamiyat)	02.10.1996	MA Degree is genuine
17	Mr. M. Saad PET	GHSS Baffa	MA(History & Pak. Studies)	11.03.1999	MA Degree is genuine
18	Mr. M. Ishfaq	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 Traugri Bala Instead of Nagri Bala	MA (Islamiyat)	13.09.1999	MA Degree is genuine
21	Mr. M. Ashraf CT	GHS Sum Instead of Sultan	MA (Islamiyat)	15.09.1997	MA Degree is genuine
22	Mr. Rifaqat Naweed CT	GHSS Baffa	MA(Edu)	31.07.1997	MA Degree is genuine

M. Saad

10

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)

Encl. 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.


SECTION OFFICER (BUDGET) 20/09/20



Annexure B

11

SECRETARY ESSE MPK

FAX NO. : +92 91 9211419

17 Jun. 2014 11:20AM PT



GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

No. SOB&A)1-16/09/Advance Increment,
Dated Peshawar, the 17.06.2014

- To
- (i) The District Accounts Officer,
Manshera.
 - (ii) The District Accounts Officer,
Kohistan.

Subject: - APPEAL ADVANCE INCREMENTS IN LIGHT OF THE HONORABLE COURT DECISION.

I am directed to refer to the Directorate letter Nos. 4309/ dated 27.02.2014 No. 556/- dated 04.03.2014 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 of the applicant	Qualification	Result date	Remarks.
1	Mr. Said Shah Luqman Ex-CT, SET	MA (Edu)	1992	MA Degree is genuine
2	Mr. Javed Khan Ex-DM SET	MA(Edu)	1992	MA Degree is genuine
3	Mr. Muhammad Ajmal CT	MA(Isla)	1994	MA Degree is genuine
4	Mr. Arif Hussain Shah AT	M.A(Isla)	1992	MA Degree is genuine
5	Mr. Ihsan Ullah CT	MA(Isla)	2000	MA Degree is genuine
6	Mr. Umer Said CT	MA(Isla)	1999	MA Degree is genuine
7	Mr. Muhammad Sajjad Khan Ex-CT, SET	MA (His)	1996	MA Degree is genuine
8	Mr. Qazi Habib Urhman Ex-PTC	MS(Isla)	1992	MA Degree is genuine
9	Mr. Altaf Urhman Ex-DM	MA(Edu)	1991	MA Degree is genuine
10	Mr. Shahzad Hussain Shah CT	MA Islamiyat	17.06.2001	MA Degree is genuine
11	Mr. M Saleem Khan SCT	MA (Educ)	07.02.1994	MA Degree is genuine
12	Mr. Khalid Mahmood CT	MA History /P.Study	18.03.1999	MA Degree is genuine
13	Mr. Shabeer Ahmad Ex-CT	MA Islamiyat	30.11.1998	MA Degree is genuine
14	Mr. Sajid Saleem SS(EX-CT)	MA Political Science	07.02.1994	MA Degree is genuine
15	Mr. Sajid Saeed CT	MA (Educ)	07.02.1994	MA Degree is genuine
16	Mr. Gul Zair Hussain	MA Islamiyat	04.11.1992	MA Degree is genuine
17	Mr. Imran CT	MA Islamiyat	1994	MA Degree is genuine
18	Mr. Muhammad Miskeen SCT	MA Islamiyat	15.09.1997	MA Degree is genuine
19	Mr. Muhammad Saeed CT	MA History	1989	MA Degree is genuine
20	Muhammad Arif SDM	MA Islamiyat	1997	MA Degree is genuine
21	Mr. Jaffar Shah CT	MA Urdu	1992	MA Degree is genuine
22	Mr. Saif Ul Malik	MA (Educ)	1992	MA Degree is genuine
23	Mr. Abdul Hufiz SCT	MA (Islamiyat)	1992	MA Degree is genuine
24	Mr. Liaquat Ali Abbasi	MA Political Science	1992	MA Degree is genuine
25	Mr. Muhammad Inqilab	MA Islamiyat	1992	MA Degree is genuine
26	Mr. M. Zubair Khan SCT	MA (Urdu)	1992	MA Degree is genuine
27	Mr. Muhammad Naseem Ex-PTC, SS GHSS Butera Kohistan.	MA (Pak Study)	03.06.2000	MA Degree is genuine

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;

Abdullah

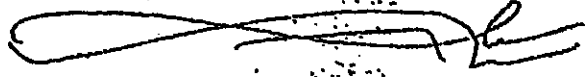
17 Jun. 2014. 11

12

"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.


(NOOR ALAM KHAN WAZIR)
SECTION OFFICER (BUDGET) 17/6/14

Endst. Of even Number & Date.

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Director E&SE Khyber Pakhtunkhwa Peshawar.
3. DEO (M) Manshera, Kohistan.
4. PS to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
5. PS to Special Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
6. PS to Additional Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
7. Master File.

SECTION OFFICER (BUDGET)



Annexure C,

13



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

SUBSTITUTED BEARING THE SAME NO. & DATE:-

No. SO(B&A)1-16/09/Advance Increment,
Dated Peshawar, the 02.09.2014

To

1. The Director,
E&SE, Khyber Pakhtunkhwa.

Attention: District Accounts Officer, Mansehra.

Subject: - ADVANCE INCREMENTS IN LIGHT OF THE HONORABLE COURT DECISIONS/SERVICE TRIBUNAL COURT KPK PESHAWAR DECISION.

I am directed to refer to your letter No.5629, DATED 24.06.2014 and an application of 04 others on the subject cited above and to state that the documents of the following teachers in District Mansehra were examined and found as per remarks against each as under:

S.#	Name of the applicant	Qualification	Result date	Remarks
1	Mr. Sher Afzal SET	MA Education	21.12.1993	MA Degree is genuine
2	Mr. Suloman Mian SET	MA Education	1991	MA Degree is genuine
3	Mr. Saeed Akhtar EX CT (SET)	MA History	24.03.1998	MA Degree is genuine
4	Mr. Abdul Hakeem AT	MA Islamiyat	1996	MA Degree is genuine
5	Mr. Muhammad Murtaza CT	MA Urdu	15-09-1991	MA Degree is genuine
6	Mr. Inasr Ali Shah CT	MA Islamiyat	23-09-1999	MA Degree is genuine
7	Mr. Muhammad Naseem CT	MA Urdu		MA Degree is genuine
8	Mr. Ghor Rehman CT	MA Islamiyat	04-10-1993	MA Degree is genuine
9	Mr. Saif Ur Rehman Ex-CT	MA Islamiyat	13-09-1999	MA Degree is genuine
10	Mr. Muhammad Younas CT	MA Islamiyat	1992	MA Degree is genuine
11	Mr. Aurangzeb CT	MA Islamiyat	20-10-1996	MA Degree is genuine
12	Mr. Mushtaq Ahmad CT	MA Islamiyat	17-09-1998	MA Degree is genuine
13	Mr. Khan Wali CT	MA Islamiyat	17-09-1998	MA Degree is genuine
14	Mr. Muhammad Saeed CT	MA Urdu	18-10-1993	MA Degree is genuine
15	Mr. Shah Hussain PET	MA Islamiyat	20-06-2000	MA Degree is genuine
16	Mr. Muhammad Saif CT	MA Islamiyat	05-04-1999	MA Degree is genuine
17	Mr. Muhammad Zakir CT	MA Islamiyat	14-11-1992	MA Degree is genuine
18	Mr. Zulfiqar Ali Shah CT	MA Pak Study	17-07-1993	MA Degree is genuine
19	Mr. Sabir Ahmad Chughtai CT	MA Urdu	18-10-1994	MA Degree is genuine
20	Mr. Nasir Mehmood CT	MA Islamiyat	13-09-1999	MA Degree is genuine
21	Mr. Sher Baz Khan CT	MA Islamiyat	26-06-2000	MA Degree is genuine
22	Mr. Asif Ali CT	MA Urdu	18-10-1994	MA Degree is genuine
23	Mr. Syed Iftikhar Hussain CT	MA History	1996	MA Degree is genuine
24	Mrs. Rashida Bibi CT	MA Urdu	23-10-1996	MA Degree is genuine
25	Mrs. Shazia Rafique PET	MA Islamiyat	17-06-2001	MA Degree is genuine
26	Mr. Khalid Mehmood BDM, GHS Gandla	MA Pak Study	01.11.1999	MA Degree is genuine
27	Mr. Muhammad Iqbal SCT, GHS Gandla	MA Islamiyat	19.01.1995	MA Degree is genuine
28	Mr. Muhammad Sadia SCT, GHS Gandla	MA Islamiyat	20.10.1996	MA Degree is genuine

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;

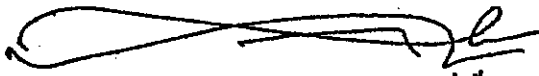
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14

“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”.

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.

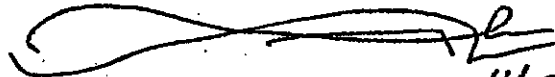
Encl: As above.


(NOOR ALAM KHAN WAZIR) 11/07/14
SECTION OFFICER (BUDGET)

Endst. Of even Number & Date.

Copy of the above is forwarded to the:-

1. Assistant Director (Admn) Directorate of E&SE Khyber Pakhtunkhwa Peshawar with reference to his letter No. 5330, dated 11.08.2014.
2. District Education Officer (M/E) Mansehra.
3. SO (Litigation-I) E&SE Department.
4. PS to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
5. PS to Special Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
6. Master file.


SECTION OFFICER (BUDGET) 11/07/14
Attested
[Signature]

وکالت نامہ

کورٹ فیس

بعدالت جناب سردار محمد سید علی کورٹ، لاہور
عنوان: جناب سردار اقبال بنام راجہ سید محمد علی
منجانب: سید محمد اقبال ولد سردار الدخان
نوعیت مقدمہ: اسلامیہ 1156/2015
باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب وہی کل کاروائی متعلقہ آں مقام

محمد زبیر خان سردار اندولہ سید علی کورٹ لاہور

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 حالت و فیصلہ بر حلف دینے اقبال و 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 ہر جانہ التوائے 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 مد 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 ناشر بیخہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم: 17/07/2017

بمقام: لاہور Accepted

المقوم

المقوم

صیغہ اقبال ولد سردار الدخان

بعد از جناب سرور پیرمیرزا اید اباد

صیقلی اقتضای بنام ایوانکشن و ملیزه

سرور ایوانکشن 15/1156

رزق و طهارت قیدی تاریخاً پیشه بوم معروفه
وکیل ایوانکشن مدالت رزق و طهارت پیرمیرزا اید اباد

صیقلی اید اباد! در خواست در ایوانکشن

1- بوم معروفه مدالت رزق و طهارت پیرمیرزا اید اباد
اورده وکیل ایوانکشن مدالت رزق و طهارت پیرمیرزا اید اباد
معروفه - نقل داشته اید اباد

2- بوم ایوانکشن قیدی حقوق کا مولی اید اباد

ایوانکشن مدالت رزق و طهارت پیرمیرزا اید اباد
بوم معروفه اید اباد

صیقلی اقتضای بنام ایوانکشن
ایوانکشن
ایوانکشن

11/12/14 AA
**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.**

Appeal No. 1156/2015

Jahangir IqbalAppellant

VERSUS

Accountant General Khyber Pakhtunkhwa & Others.....Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NOS. 1 & 2

INDEX

Sr.No	Description	Page Nos	Annexures
1	Comments alongwith affidavit	1 to 4	
2	Copy of letter No. PFP/R.B.S.2011/DIK/2014-15/248 dated 10-12-2014	5-6	"A"
3	Copy of letter No. FD(SOSR-I)2-123/2015 dated 01-09-2015	07	"B"
4	Copy of letter No.SO(OP-II)/LD/5-7/2012-Vol-II/21708-09 dated 16-09-2015	8	"C"
5	Copy of letter dated 21-09-2015	09	"D"

For Signature of Honorable AG KPW

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

Appeal No. 1156/2015

Jahangir IqbalAppellant

VERSUS

Accountant General Khyber Pakhtunkhwa & Others.....Respondents



PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NOS. 1 & 2

Respectfully Sheweth:-

Comments on behalf of respondents are submitted as under:-

PRELIMINARY OBJECTION:-

1. That the appellant has no cause of action/locus standi 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 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.

11. That the legislator has authority to legislate as they have mandate to do so by a recognize process and services law do not provides the provision of judicial review, hence appeal is not tenable.
12. That the appellants are 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. That Para No. 1, of the instant appeal relates to service record of the appellant. That the 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 instant appeal is subject to proof.
3. In reply to Para No.3, of the instant appeal it is submitted that factual position of the case is that respondent No. 3 issued, letter dated 15-12-2010 containing direction that recovery may be made from those teachers/employees who have availed extra advance increments over and above their entitlement on academic qualification. Accordingly respondent No. 2 has rightly deducted/recovered 02 advance increments allowed to the appellants erroneously/invalidly.
4. That Para No. 4, relates to court's record hence, need no comments.
5. That Para No. 5, not relate to answering respondents.

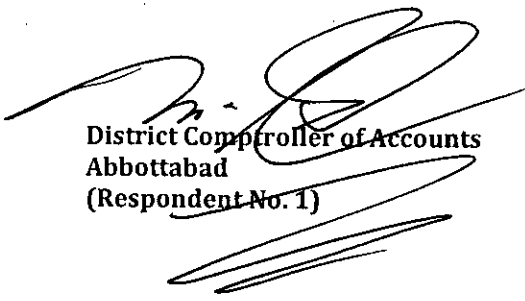
Grounds:

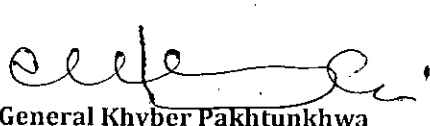
- a. That ground a, of the instant appeal need no comment.
- b. That ground b, of the instant appeal as composed is incorrect hence, denied. The issue of availing extra advance increments over & above the entitlement was agitated and examined thoroughly by the Accountant General Office (Pay Fixation 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 21-09-2015 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 (**Annexure-IV**).

- c. That ground c, as composed is incorrect hence, denied. Respondents have committed no irregularity / illegality.
- d. That ground d, as composed is incorrect hence, denied as detailed reply has already been given in Para No. 2 & 3 of the Factual Objections and ground b.
- e. That ground e, as composed is incorrect hence, denied. Comprehensive reply has already been given in preceding paras.
- f. That ground f, as composed is incorrect hence, denied.
- g. That ground g, as composed is incorrect hence, denied. Action taken by answering respondents is not against the judgment of any Court/Service Tribunal, but as per Judgment of August Supreme Court of Pakistan and in the interest of justice & public exchequer.
- h. That ground h, as composed is incorrect hence, denied.
- i. That ground i, as composed is incorrect hence, denied. Detailed reply has already been given in preceding paras.
- j. That ground j, as composed is incorrect hence, denied.
- k. That ground k, as composed is incorrect hence, denied.

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 Comptroller of Accounts
Abbottabad
(Respondent No. 1)


Accountant General Khyber Pakhtunkhwa
Peshawar
(Respondent No. 2)

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

Appeal No. 1156/2015

Jahangir IqbalAppellant

VERSUS

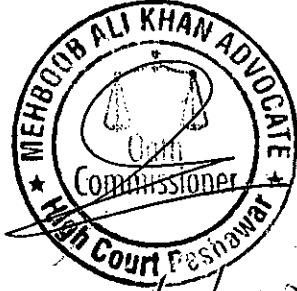
Accountant General Khyber Pakhtunkhwa & Others.....Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NOS. 1 & 2

AFFIDAVIT

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

ATTESTED



[Handwritten Signature]
DEPONENT

20 Annex-I



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

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

Dated 10.12.2014

The Accounts Officer,
HAD Section.

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

P-239c

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-I)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

are entitled only for one increment on possessing or acquiring MA/MSc/M.com qualification as regards those employees whose appointment was made on the basis of BA/BSc.B.com in BPS-14 and not availed any advance increments are entitled only for 02 advance increments on MA in light of Finance Deptt: letter No.(PRC)1-1/89 dated 07.08.1991.

4. As regards Arabic teacher whose appointed made on the basis of honor in Arabic and granted BPS-14 on BA/BSc.B.com Second Division are entitled for two advance increments on possessing or acquiring MA/MSc/M.com while those teacher whose appointment made on the basis of MA Arabic or Shahadatul Alamia from the recognized Madaris are not entitled for any advance increments on MA/ MSc/M.com but the Education Deptt: granted 04 advance increments to the CT and Arabic teacher on acquiring MA/MSc/M.com qualification which are over and above of the entitlement in light of the Finance Deptt: letter dated 11.8.1991 as well as judgment made by the honorable Supreme Court of Pakistan in Civil Petition No.1425 of 2011.(copy enclosed).

5. The subject issue referred to the Pay Fixation Party has been examined and reached to the conclusion that as per contents of Para 2 (2) of the Khyber Pakhtunkhwa, Cessation Of Payment Of Arrears On Advance Increments On Higher Education Qualification Act-2012 clearly indicate that recovery of advance increments paid to the Govt: employees on acquiring higher qualification in light of any order made, instruction issued decision, Judgment or orders of any courts or tribunal, including High Court or the Supreme Court, may not be recovered from the recipients Govt: employees as these were paid validly. The Pay Fixation Party is of the view that the advance increments availed over and above their entitlement as explained in the preceding Paras has to be reduced & brought to the actual pay in light of Finance Deptt: letter dated 15.12.2010.

6. It is requested that Finance Deptt: may also be advised to share the view of the Pay Fixation Party with the law Deptt: for their opinion and issue clear instruction so that the doors of litigation closed for ever.


ACCOUNTS OFFICER (PFP)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. SO(OP-II)/LD/5-7/2012-VOL-II / 21708-09
DATED: PESHAWAR THE 16 SEPT, 2015.

23 Annex = III

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Subject:

APPEAL OF CT TEACHERS FOR STOPPING RECOVERIES
BEING MADE ON ACCOUNT OF ADVANCE INCREMENTS
GRANTED ON HIGHER EDUCATIONAL QUALIFICATION.

Dear Sir,

I am directed to refer to your Department's letter No. FD(SOSR-1)2-123/2015 dated 01.09.2015 on the subject noted above and to state that Section-2 (2) of Khyber Pakhtunkhwa Cessation of Payment of arrears on advance increments on Higher Educational Qualification Act, 2012 and views of Accountant General with regard to Finance Department letter No.FD(SR-1)/2-123/2010 dated 15-12-2010 are not mutually contradictory.

The savings given to the implemented instructions or orders in Section-2(2) of the Act ibid is with regard to valid implementation till or before the commencement of the Act ibid. Finance Department letter dated 15-12-2010 was with regard to the recovery of invalid implementation and such implementation was declared invalid vide para-iv of the said letter. Recovery was ordered to be effected from those teachers/ employees who have availed more advance increments over and above their entitlement on academic qualifications, of the commencement of the Act ibid, therefore it cannot be said that legislature, attributed savings to invalid acts.

Hence, this Department is in league with the Pay Fixation Committee on the point that the advance increments availed over and above the entitlement has to be reduced and brought to the actual pay in light of Finance Department letter dated 15-12-2010 mentioned above.

Yours Faithfully,

Section Officer (Opinion-II)

SR-1 79
Date-18.9.

Endst: of even No. & date.

A copy is forwarded to the PS to Secretary Law Department.

Secretary Finance
Khyber Pakhtunkhwa

Diary No. 15519

Date 16/9/15

On file pl.
J/C (SR-1) 18/9/15
DSCR-II
SOSR-2) 17/9
L. 2015

Section Officer (Opinion-II)



NO. FD (SOSR-1) 2-123/2015
Dated Peshawar the: 21-09-2015

To:

1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Deptt.
Peshawar.
2. The Accountant General, Khyber Pakhtunkhwa,
Peshawar.

Subject: - APPEAL OF CT TEACHERS FOR STOPPING RECOVERIES
BEING MADE ON ACCOUNT OF ADVANCE INCREMENTS
GRANTED ON HIGHER EDUCATIONAL QUALIFICATION

2-123/2015
22-9-15
(6)

Dear Sir,

I am directed to refer to the subject noted above and to state that the matter has been examined in consultation with Law, Parliamentary Affairs & Human Rights Department. Copy of the advice of that Department contained in their letter No.SO (OP-II)/LD/5-7/2012-VOL-II/21708-09 dated 16th Sep, 2015 is sent herewith for further necessary action accordingly, please.

Encl: (As above)

[Signature]
SECTION OFFICER (SR-I)

Copy for information is forwarded to the following Teachers with reference to their joint application addressed to the Chief Secretary Khyber Pakhtunkhwa:-

1. Mr. Hidayatullah, CT, Govt. Higher Secondary School, Mingora.
2. Mr. Muhammad Ghafoor, CT, GHSS, Sajban Swat.
3. Mr. Muhammad Nabi, SCT, GHSS, Sajban Swat.

[Signature]
SECTION OFFICER (SR-I)

Unit
J/C (SR-I)
18/9/15
SOSR-1
2-123/2015