


19.01.2022

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

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

  
(AHMAD SULTAN TAREEN)  
Chairman

ANNOUNCED  
19.01.2022

01.12.2021

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


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

  
Chairman  
Camp Court, A/Abad

27.12.2021

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


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

  
Chairman  
Camp Court, A/Abad

29.12.2021

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

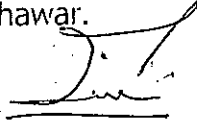
Further arguments have been heard. Case to come up for order alongwith EP No. 84/2020 on 19.01.2022 before S.B at Peshawar.

  
Chairman  
Camp Court, A/Abad

14.10.2021

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

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



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



Chairman  
Camp Court, A/Abad

17.11.2021

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

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



Chairman  
Camp Court, A/Abad

29.11.2021

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

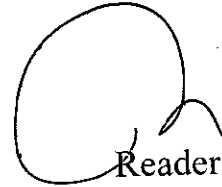
Partial arguments heard. Representatives of the respondents are directed to produce record pertaining to execution petition at hands. To come up for record and further arguments on 01.12.2021 alongwith E.P No. 84/2020 before S.B at camp court, Abbottabad.



Chairman  
Camp Court, A/Abad

19.04.2021

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

  
Reader

11.08.2021

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

According to factual account in memorandum of appeal, the appellant had previously approached this Tribunal and his appeal alongwith other appeals involving similar matter was disposed of by consolidated judgment dated 15.12.2009 in main Service Appeal No.1276/2007. The said judgment got finality as the same was not challenged before the Apex Court. The appellant further maintains that according to the judgment dated 12.05.2009, four advance increments were granted with arrears. The position remained intact until the respondents started to deduct partial increments from the already granted increments. Being aggrieved, the appellant has again approached this Tribunal through service appeal at hand. Needless to say that the increments were granted to the appellant on the basis of judgment of this Tribunal cited above and their deduction subsequently makes a question relating to the execution of said judgment. By virtue of Subsection-(2) of Section-7 of the Service Tribunal Act, 1974, this Tribunal in all respect is deemed as a civil court to be regulated by the procedure of Civil Procedure Code, 1908. Subsection-(1) of Section-47 C.P.C provides that all questions relating to the execution of a decree shall be determined by the executing court and not by separate suit. On this analogy, this appeal is converted into execution petition. The office is directed to delete its number from the register of appeals and register the same in the register of execution petitions. The respondents would be at liberty to submit their written comments in relation to the points raised in the appeal now converted into execution petition, if they have got any objection that the deduction of increments have no relation with question as to execution of previous judgment dated 15.12.2009 of this Tribunal. To come up on 06.10.2021 before D.B.



(Rozina Rehman)  
Member (J)



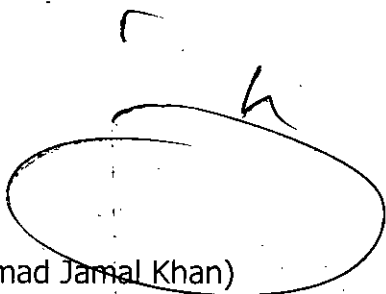
Chairman


09.02.2021

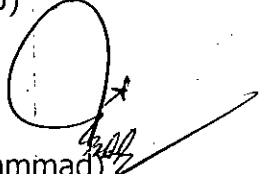
Counsel for the appellant and Addl. AG for the respondents present.

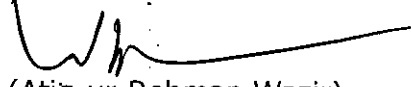
Former has submitted an application for conversion of instant appeal into implementation petition in the light of judgment/order dated 28.11.2019 by the Apex Court.

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

  
(Muhammad Jamal Khan)  
Member(J)

  
Chairman  
(Rozina Rehman)  
Member(J)

  
(Mian Muhammad)  
Member (E)

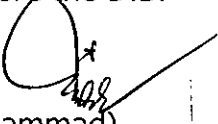
  
(Atiq-ur-Rehman Wazir)  
Member(E)


23.02.2021

Appellant in person and Mr. Muhammad Rashid, DDA for respondents present.

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

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

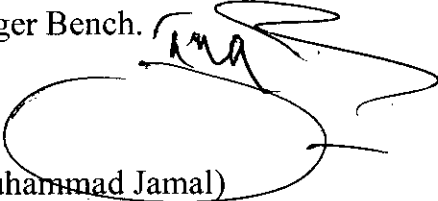
  
(Mian Muhammad)  
Member(E)

  
Chairman


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)



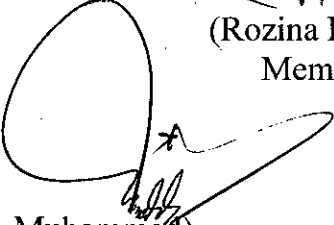
Chairman



(Atiq-ur-Rehman)  
Member(E)



(Rozina Rehman)  
Member(J)



(Mian Muhammad)  
Member(E)

20.08.2020

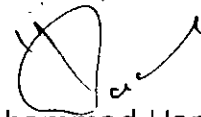
Due to summer vacation case to come up for the  
same on 10.11.2020 before Larger Bench.

Reader 

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.



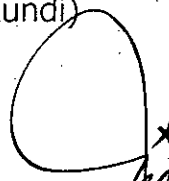
(Muhammad Hamid Mughal)  
Member



(M. Amin Khan Kundi)  
Member



(Hussain Shah)  
Member



(Mian Muhammad)  
Member

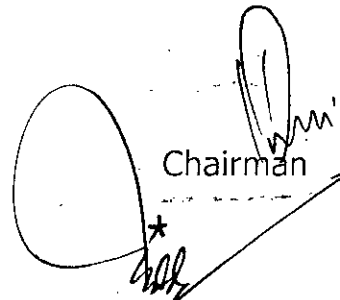
11.06.2020

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 along with M/S Zakiullah, Senior Auditor and Hajjad Shah, ADO for the respondents present.

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

Adjourned to 13.01.2020 before the Larger Bench.

  
(M. Hamid Mughal)  
Member

  
Chairman

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

  
(Hussain Shah)  
Member

13.01.2020

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

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

  
(M. Hamid Mughal)  
Member

  
Chairman

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

  
(Hussain Shah)  
Member

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

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

  
Member

  
Chairman

12.09.2019

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



19.08.2019

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



Member



Member  
Camp Court A/Abad

198/2015

19.06.2019

Mr. Sultan Ahmad Jamshed, Advocate for appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Sohail Ahmad Zaib, Assistant and Sajid Superintendent 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.

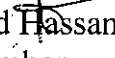
Learned counsel for the appellant as well as learned DDA concluded their respective arguments. To come up for order on 19.08.2019 before this D.B at camp court, Abbottabad.


  
Member

Chairman  
Camp court, A/Abad 

20.02.2019

Appellant in person present. M/S Malik Muhammad Haroon, District Account Officer and Sohail Ahmed 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

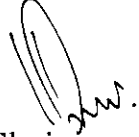
17.04.2019

Malik Rehmat Abbas, Advocate on behalf of counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Sohail Ahmad Zeb, Assistant Litigation for respondents present.

Requests for adjournment is made on the ground of engagement of learned counsel for the appellant at Haripur in a target case.

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

  
Member

  
Chairman  
Camp Court A/Abad

18.07.2018

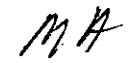
Appellant Sultan Khan in person present. M/S Malik Muhammad Haroon, AAO, Irshad Muhammad, Section Officer (Litigation) and Sohail Ahmad Zeb, Assistant on behalf of the respondents alongwith Mr. Usman Ghani, District Attorney present. Appellant made a request for adjournment. Granted. To come up for arguments on 15.10.2018 before the D.B at camp court, Abbottabad.

  
Member

  
Chairman  
Camp Court, A/Abad

15.10.2018

Appellant Sultan Khan in person present. Mr. Sohail Ahmad Zaib, Assistant alongwith Mr. Usman Ghani, District Attorney for the respondents present. Due to general strike of the Khyber Pakhtunkhwa Bar Council, counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 18.12.2018 before the D.B at camp court, Abbottabad.

  
Member

  
Chairman  
Camp Court, A/Abad


18.12.2018

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Mr. Hajaj Shah, Litigation Officer for the respondents present.

Appellant requests for adjournment on the ground that his counsel is not available.


Adjourned to 20.02.2019 for arguments before D.B at camp court A/Abad.

  
Member

  
Chairman  
Camp Court A/Abad

15.1.2018

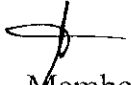
Appellant in person and Mr. Usman Ghani, District Attorney alongwith Sohail Ahmad Zaib, for the respondents present. District Attorney seeks adjournment for production of record. To come up for record and arguments on 20.03.2018 before the D.B at camp court, Abbottabad.


  
Member

  
Chairman  
Camp court, A/Abad.

20.03.2018

Appellant in person and Mr. Usman Ghani, District Attorney for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 22.05.2018 before D.B at camp court, Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad

22.05.2018

**Appellant Sultan Khan in person present and Malak Muhammad Haroon, AAO for respondent No. 2 alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. The appellant requested for adjournment. Granted. To come up for arguments on 18.07.2018 before the D.B at camp court, Abbottabad.**

  
Member

  
Chairman  
Camp court, A/Abad



18.09.2017

Appellant with counsel and Mr. Muhammad Bilal, Deputy District Attorney alongwith Muhammad Zubair, ADO and Malik Muhammad Haroon, ADO for the respondents present.

During the course of arguments, the learned DDA is of the view that in the present appeal the effects of Act, IX of 2012 is also involved. That this Tribunal has already issued notice to the learned Advocate General Khyber Pakhtunkhwa under Order XXVII-A of CPC in other cases fixed for 19.10.2017.

The appellant is of the view that in the present appeal the vires of the said Act is not involved. However after listening to the arguments at some length this Tribunal reaches the conclusion that the interpretation of the said Act is also involved in the present appeal, therefore, this appeal shall also be fixed for arguments on 19.10.2017 before the D.B at camp court, Abbottabad.

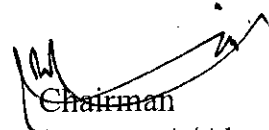
  
Member

  
Chairman  
Camp court, A/Abad.

19.10.2017

Appellant with counsel present and Mr. Kabeerullah Khattak, Addl. Advocate General alongwith Mr. Muhammad Bilal, Deputy District Attorney and Sohail Ahmad Zaib, Assistant for the respondents present. The learned AAG seeks adjournment. The department is directed to produce the record about the advance increments earned and received by the appellant right from the date of his appointment. To come up for such record and arguments on 15.01.2018 before the D.B at camp court, Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad.

19.07.2016

Appellant in person and M/S Zubair Ali, ADO, Muhammad Irshad, SO, and Malak Haroon, AAO alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Rejoinder submitted. Learned Sr.GP requested for adjournment. Adjourned for final hearing before D.B on 19.12.2016 at camp court, Abbottabad.



Member



Chairman  
Camp court, A/Abad,

19.12.2016

Appellant in person and Mr. Sohail Ahmad Zaib, Assistant and Muhammad Irshad, SO alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Due to incomplete bench arguments could not be heard. To come up for final hearing on 19.04.2017 before D.B at camp court, Abbottabad.



Chairman  
Camp court, A/Abad

19.04.2017

Appellant with counsel (Sultan Ahmad Jamshaid, Advocate) present. Wakalatnama submitted. Sohail Ahmad Zaib, Assistant alongwith Mr. Muhammad Bilal, Government Pleader for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before the D.B on 18.09.2017 at camp court, Abbottabad.



Chairman  
Camp court, A/Abad

19.08.2015

Appellant in person, M/S Haroon Khan, Senior Auditor, Irshad Khan, SO and Sohail Ahmad, Assistant alongwith Mr. Muhammad Aurangzeb, GP for respondents present. Requested for adjournment. Last opportunity granted. Adjourned to 15.09.2015 before S.B at camp court A/Abad. The restraint order shall continue.



Chairman  
Camp Court Abbottabad

15.9.2015

Appellant in person, M/S Sohail Ahmad, Assistant, Irshad Muhammad, SO and Haroon Khan, Senior Auditor alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Written reply not submitted despite last opportunity. Requested for adjournment. One further opportunity is granted. To come up for written reply/comments on 15.12.2015 before S.B at Camp Court A/Abad. The restraint order shall continue.



Chairman

Camp Court A/Abad

15.12.2015

Appellant in person, M/S Haroon Khan, Senior Auditor, Irshad Muhammad, S.O and Sohail Ahmad Zeb, Assistant alongwith Mr. Muhammad Siddique, Sr.G.P for respondents present. Written statements by respondents No.1 to 3 submitted. Mr. Sohail Ahmad Zeb, Assistant and learned Sr.G.P rely on the same on behalf of respondent No.4. The appeal is assigned to D.B for rejoinder and final hearing for 19.7.2016 at Camp Court A/Abad. The restraint order shall continue.



Chairman

Camp Court A/Abad


3 21.4.2015

Appellant in person present and heard. The appeal of the appellant pertains to grant of advance increments on the strength of higher qualification which were awarded to the appellant on the strength of judgment of this Tribunal dated 12.5.2009. That identical service appeals No. 1302 to 1306 of 2014 have already been admitted to regular hearing.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 15.6.2015 before S.B at Camp Court A/Abad to be heard alongwith the afore-sated appeals.

Appellant Deposit of  
Security & Process Fee



  
Chairman  
Camp Court A/Abad

15.6.2015

Appellant in person and Mr.Haroon Khan, Senior Auditor alongwith Mr.Muhammad Bilal, Govt. Pleader for respondents present. Application for suspension of deduction of two advance increments out of 4 advance increments already granted to the appellant on the strength of judgment of this Tribunal submitted, copy whereof supplied to the respondents. Requested for adjournment for submission of written statement. To come up for written reply as well as reply of the afore-stated application on 19.8.2015 before S.B at camp court A/Abad. Till the next date of hearing deduction shall not be made from the pay of the appellant.

  
Chairman  
Camp Court A/Abad

Form- A  
FORM OF ORDER SHEET

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

Case No. 198/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.03.2015	<p>The appeal of Mr. Sultan Khan presented today by him may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR <i>P/Ape d</i></p>
2	26-3-15	<p>This case is entrusted to Touring Bench for preliminary hearing to be put up thereon <u>21-4-2015</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

*Execution Petition no. 212/2021*

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School No 04 Abbottabad, R/O Hamza Colony, Link road, Tehsil & District Abbottabad.

Appellant

**Versus**

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.


Respondents

**SERVICE APPEAL**

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2	Copy of Supreme Court Judgments dated 19/07/2007 passed in CPLA 525/2007	A	7 to 9
3	Copy of Supreme Court Judgments dated 29/01/2008 passed in CRP 216/2007	A-1	10 to 11
4	Copy of Service Appeal No 09 of 2008	B	12 to 15
5	Copy of relevant pages of Judgment Dated 12/05/2009	C	16 to 20
6	Copy of letter dated 15/12/2010 issued by respondent no 03	D	21
7	Copy of and High Court Order dated 22/12/2011	E	22 to 27
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9	Copy of pay roll register (BPS 16) with effect from 01/04/2013 to	G	29
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Dated 07/03/2015

  
(Sultan Khan)  
Appellant in person

(1)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

Execution Petition No. 212/2021

**A.W.F. Province  
Service Tribunal**

Diary No. 203

Dated 09-3-2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School No 04 Abbottabad, R/O Hamza Colony, Link road, Tehsil & District Abbottabad.

Appellant

*Appeal is converted into-  
Execution petition vide  
order sheet dt. 11-8-2021. 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 RESPONDENT NO 2, WHICH IS ALSO WITHOUT ISSUANCE/PASSING OF ANY OFFICIAL ORDER PASSED BY ANY COMPETANT AUTHORITY NOR GIVEN ANY NOTICE TO APPELLANT, IN RESPECT OF DEDUCTION/RECOVERY OF TWO (02) ADVANCE INCREMENTS OUT OF FOUR (04) ADVANCE INCREMENTS FROM THE SALERY OF THE APPELLANT WITH EFFECT FROM 01/04/2013, 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, DISCREMINATORY' AGAINST THE PRINCIPAL OF NATURAL JUSTICE AND INEFFECTIVE UPON

Filed to file

20  
9/3/15

THE APPELLANT'S RIGHTS OF ADVANCE INCREMENTS, GRANTED BY COMPETENT COURT OF LAW AND FOR ACCEPTANCE OF DEPARTMENTAL APPEAL 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 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.

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 KPK Service Tribunal Peshawar in the light of previously settled law by Supreme Court on 19/07/2007 & 29/01/2008, respondents did not file their appeal before Supreme Court against the order dated 12/05/2009 yet, and now it attained its finality. Copy of Supreme Court Judgments, Appellant's Service appeal and relevant pages of Judgment of Service Tribunal is annexed as **Annexure "A" "A-1" "B" & "C"**.

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 of the appellant, but also paid the entire arrears to the appellant. After



that respondent no 03 issued a letter dated 15/12/2010 for recovery of 02 advance increments contrary to the judgment of Apex court as well as service Tribunal, Some those teachers who had not challenged their rights of 04 advance increments before Service Tribunal, soliciting the said letter in Writ Petition before Peshawar High Court which was disposed off under the doctrine of locus poenitentiae on 22/12/2011. Copy of letter dated 15/12/2010 and High Court Order dated 22/12/2011 is annexed as Annexure "D" & "E".

- 3) That appellant was being given/granted his salary with out any deduction/disturbance from the respondents upto 31/03/2013. When appellant promoted from BPS 15 to BPS 16 and his principal fixed/changed his pay in BPS 16 and submitted Pay Amendment Forms to the office of respondent no 02, whereupon respondent no 02 with out any notice given to the appellant or without formal/official written order and under any legal reason deducted/recovered (02) two advance increments out of 04 advance increments with effect from 01/04/2013. In this respect the whole position is shown through table for better consideration.

Pay in March 2013 (BPS 15)	Pay fixed by Principal in (BPS 16)	Fixed by respondent no 03 after deducting 02 increments
Rs 26700/-	Rs 27600/-	Rs 26800/-

Copy of Amendment forms & pay roll register (BPS 16) with effect from 01/04/2013 to 30/04/2013 is annexed as Annexure "F", & "G".

- 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 "H".

- 5) That appellant under the same Supreme Court directions submitted his departmental appeal dated 18/11/2014 through registered post to respondent no 1 which is still pending with out any response after passing the statutory period of 90 days, Copy of departmental appeal and receipt of registered post is annexed as Annexure "I" & "J". 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 Maroof Khan and 04 others. Vs Govt etc and next date is 18/03/2015.
- 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**

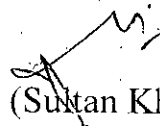
- d) That the order dated 12/05/2009 passed by Service Tribunal was implemented by the respondents in letter and spirit and under the doctrine of locus Poenitentiae the respondents were not entitled to withdraw benefits, once it was implemented (**PLD 1991 Supreme Court 973**).
- e) That the appellant 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 and letter dated 15/12/2010 (Annexure D) issued by respondent no 3 is lying under question mark.
- 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.

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 07/03/2015

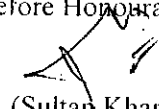
  
(Sultan Khan)  
Appellant in person

**Affidavit**

I, Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School No 04 Abbottabad, R/O Hamza Colony, Link road, 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 07/03/2015

  
**ATTESTED**  
Sultan Khan Advocate  
Ctn  
Commissioner  
Abbottabad

  
(Sultan Khan)  
Appellant in person  
**DEPONENT**

Annexure A

7

**In the Supreme Court of Pakistan**  
(Appellate Jurisdiction)

**Present:**

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

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

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

OA-1504-1505/07

Rashid Iqbal Khan

Petitioner

Versus

District Coordination Officer, Abbottabad & others

Respondents

Petitioner:

Rashid Iqbal Khan, in person

For the respondents:

Sardar Shaukat Hayat Khan,  
Additional Advocate General, NWFP

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

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

Muhammad Haroon Qureshi

Petitioner

Versus

District Coordination Officer, Abbottabad & others

Respondents

Petitioner:

Muhammad Haroon Qureshi, in person

For the respondents:

Sardar Shaukat Hayat Khan,  
Additional Advocate General, NWFP

Date of hearing:

19.7.2007

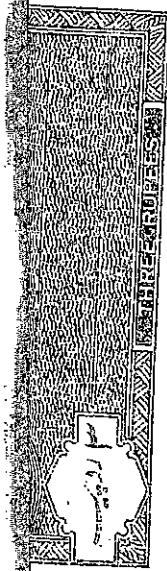
*Assessed*

**Judgment**

**Rana Bhagwandas, ACJ** – Sole grievance of the petitioners before the NWFP Service Tribunal (hereinafter referred to as the Tribunal) appears to be that after induction in BPS-14 as Elementary School Teachers, in terms of NWFP Government Circular dated 7.8.1991 they are entitled to ~~four advance~~ increments in terms of NWFP Government circular letter No.FD(PRC)11/89 dated 11.3.1991 on acquiring higher qualification MA/MSc. They have been non-suited by the Tribunal vide judgment dated

**ATTESTED**

Superintendent  
Supreme Court of Pakistan



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

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

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

ATTESTED

Superintendent  
Supreme Court of Pakistan



Annexure A-I

10

**IN THE SUPREME COURT OF PAKISTAN**  
(AS A COURT OF ORIGINAL JURISDICTION)

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

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

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

Versus

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

**CR.I.O.P. NOS. 66 & 67/2007 IN C.A. NOS. 1504 & 1505/2007**

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

Versus

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

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

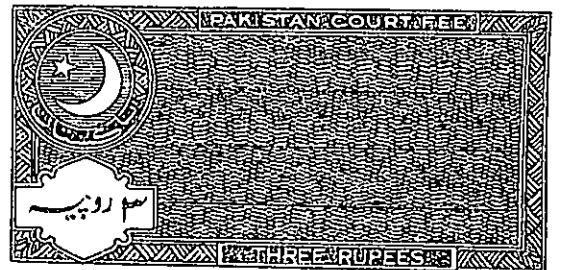
*Approved*

**ORDER**

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

ATTESTED

*[Signature]*  
Supervisor  
Supreme Court of Pakistan  
(C.A. No. 1504)



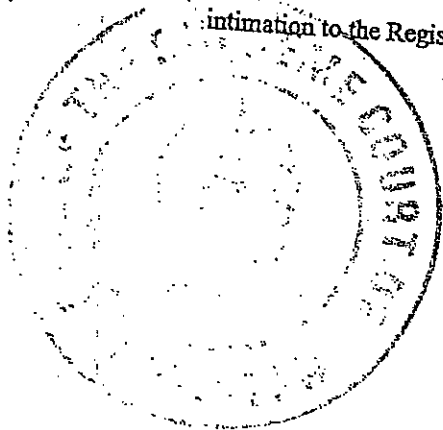


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review is very limited and the points already considered in the judgment under review cannot be allowed to be re-agitated in review jurisdiction. These review petitions being without any substance are accordingly dismissed.

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

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



*Judges:*  
J. Muhammad Nawaz Akbar, J.  
J. Muhammad Qasim Javed, J.  
J. Muhammad Nazeer, J.

Certified to be a true copy

*Signature*  
13/02/08  
Supreme Court of Pakistan  
Islamabad

Islamabad  
29.1.2008  
(Ejaz Goraya)

*12/1/08*

*562/08*

*28-1-08*

*600*

*500*

*3-75*

*8-22*

*13-02-2008*

*25-02-2008*

*Special Judge*

*Amirul*

Annexure B,

12

BEFORE NWFP SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 09 of 2008

Sultan Khan S/O Shah Zaman C.T teacher Government Centennial Model Secondary School (G.H.S NO 2) Abbottabad, R/O Hamza Colony, Link Road, Tehsil & District Abbottabad

Appellant

N.W.F. PROVINCE  
Service Tribunal

Diary No. 6

Dated 2/11/08

Versus

- 1 District Coordination Officer, Abbottabad
- 2 Executive District Officer (schools & Literacy), 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.
- 6 Accountant General, N.W.F.P Peshawar
- 7 Secretary to Govt of N.W.F.P, Finance Department, Peshawar

Respondents

to-day  
11/08

Appeal under Section 4 of NWFP Service Tribunal Act 1974 for grant of four advance increments of M.A with all back benefits with effect from 01/06/1991 under Para 5(i) (C) of the Notification No FD (PRC) 1-1 /89 dated 11-08-1991 issued by Respondent No 7 and on the basis of Judgment dated 19/07/2007 passed by Supreme Court of Pakistan in CPLA No 525, 526, of 2007.

Respectfully Sheweth,

FACTS

Attested  
11/08

- 1) That appellant appointed as Untrained C.T teacher in Education Department on 16/05/1988, thereafter he passed his C.T Course during his Service ,after passing the same on 14/11/1990 and his regular service was started against C.T post from the date of Passing C.T examination against C.T post. Certificate in this respect issued by concerned authority is annexed as Annexure A.
- 2) That appellant being B.A 2<sup>nd</sup> division placed in BPS No 14 on 01/06/1991 on the basis of Notification No FD(PRC)1-1/89 dated 07/08/1991 issued by respondent no 7.He also awarded Selection Grade BPS No 15,and he is working in the same grade and post. Copy of said Notification dated 07/08/1991 is Annexed as Annexure B.
- 3) That appellant before joining his service as C.T teacher appellant passed his M.A examination on 12/02/1984 and he was entitled for four advance increments from 01/06/1991,on the basis of Para 5 (1) (C) of the Notification No FD(PRC)1-1/89 dated 11/08/1991 but the same was not given by the respondents in their office routine matters until now. Copy of said Notification 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 Para 3 of the same Notification dated 11/08/1991 above was applied in Pay and Allowances matters from 01/06/1991, Whose Para # 5 ,Clause ( C ) caters for the grant of Four Advance Increments on attaining M.A against C.T post and Prescribed Qualification of C.T Post is also F.A/Fsc, So appellant was/is entitled the same and Respondents did not give his Constitutional rights
- 5) That In the Meanwhile, Honourable Supreme Court Of Pakistan has decided the same matters in CPLA No 525 and 526 of 2007 on 19/07/2007,and ultimately declared that teachers in Education Department (appellant) are also Entitled for their Advanced Increments given in Notification No FD(PRC)1-1/89 Dated 11/08/1991 without any exception. Copy of Supreme Court order is Annexure D
- 6) That when the above Judgment of the Supreme Court dated 19/07/2007 came into notice of the appellant, he submitted his departmental representation to respondent

ATTESTED

Attested  
g

no 1 through respondent no 2 on 04/09/2007 and it is undecided within the statutory period of 90 days. Copy of representation is Annexure E. Hence this

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appeal inters - alia on the following ground, and appellant's appeal is within 120 days from the submission of his departmental representation dated 04/09/2007

### Grounds

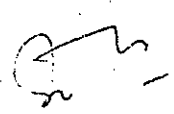
- a). That the Policy contained in Notification/Circular dated 11/08/1991 was/is passed by N.W.F.P Provincial Assembly in their Budget Session 1991-92 and then Hon, le Governor approved the same and respondent No7 issued the said Circular after completing the legal requirements
- b). That all the Respondents along with respondent No 7 neither have power nor any jurisdiction to change, apply or 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.
- c). That the action of respondents in refusing/delaying the grant of 4 advance increments to the appellant on the basis of Circular dared 11/08/1991, violated the Article 25,189 190 of the Constitution.
- d). That the said Circular (Annexure C) was/is issued for Civil Provincial Employees of N.W.F.P (BPS-1-15) and appellant being C.T teacher (Education Department) falls under the same and fully entitled for the relief of 04 Advanced Increments of M.A along with back benefits as claimed by him.
- e). That the case of appellant is the same nature in facts and Laws, which was decided by Supreme Court of Pakistan on 19/07/2007 passed in CPLA Nos 525 and 526 of 2007 (Annexure D).
- f). That under the law appellant's case is quite Clear after the Judgment passed in CPLA No 525 and 526 of 2007 by Supreme Court, and respondents' behaviour with appellant's representation dated 04/09/2007 is illegal , without jurisdiction and unconstitutional.

ATTESTED

Assessed  
P. 3

- g). 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 .
- h). That appellant's service appeal is maintainable and appellant's post is C.T and prescribed qualification of the said post is F.A with C.T Course and appellant is now working in BPS #1-15 and Instant Case falls under Para 5(1) (C) of the Circular dated 11/08/1991(Annexure C)
- i). That this Honourable Tribunal has been pleased to accept the same nature service appeal no 1238 of 2007 Titled , Muhammad Riaz Khan VS D.C.O, Abbottabad at the stage of preliminary hearing on 27/12/2007

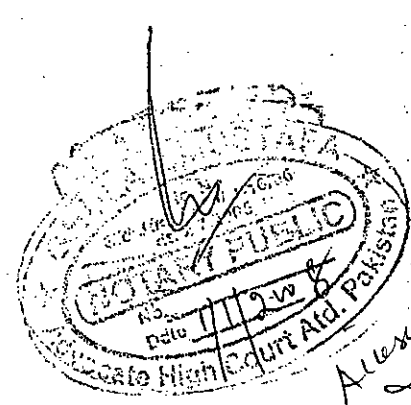
It is there fore respectfully prayed that appellant's appeal may kindly be accepted and 4 advance increments of M.A against CT post with effect from 01/06/1991 along with all back benefits may graciously be granted to the appellant in the interest of justice.



(Sultan Khan)  
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



(Sultan Khan)  
DEPONENT

*Vertical text on the left margin:*  
 Received by the...  
 1600-00-16/109  
 10-00-16/109  
 27/12/07

Annexure C

16

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.

Sr. No.	Appeal No.	Name of appellant.
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

ATTESTED  
EXAMINER

Amjad Hussain Awan

- |     |           |                         |
|-----|-----------|-------------------------|
| 6.  | 03/2008   | Muhammad Sarwar Khan,   |
| 7.  | 04/2008   | Syed Arif Hussain Shah, |
| 8.  | 09/2008   | Sultan Khan,            |
| 9.  | 10/2008   | Shafqat Hussain,        |
| 10. | 17/2008   | Muhammad Sabir Hussain, |
| 11. | 18/2008   | Tanveer Hussain Awan,   |
| 12. | 19/2008   | Shafqat Samdani,        |
| 13. | 20/2008   | Arshad Khan,            |
| 14. | 21/2008   | Shahid Iqbal,           |
| 15. | 22/2008   | Muhammad Saleem Raza,   |
| 16. | 28/2008   | Iftikhar Ahmad Shah,    |
| 17. | 29/2008   | Shah Zaman,             |
| 18. | 30/2008   | Muhammad Tahir,         |
| 19. | 34/2008   | Muhammad Younis,        |
| 20. | 35/2008   | Abdul Wadood,           |
| 21. | 150/2008  | Rizwana Kousar,         |
| 22. | 266/2008  | Mamoon-ur-Rasheed,      |
| 23. | 267/2008  | Haroon-ur-Rasheed,      |
| 24. | 268/2008  | Fazal-e-Qadir,          |
| 25. | 327/2008  | Dilawar Khan,           |
| 26. | 338/2008  | Abdul Wahab,            |
| 27. | 440/2008  | Liaqat Ali,             |
| 28. | 502/2008  | Ali Asghar,             |
| 29. | 541/2008  | Liaqat Ali,             |
| 30. | 542/2008  | Abdul Quddus,           |
| 31. | 570/2008  | Shahzad Ahmad,          |
| 32. | 571/2008  | Chan Zeb,               |
| 33. | 572/2008  | Abdul Hakeem,           |
| 34. | 573/2008  | Muhammad Siddique,      |
| 35. | 574/2008  | Sarfaraz                |
| 36. | 575/2008  | Muhammad Ajmal,         |
| 37. | 576/2008  | Gul Faraz,              |
| 38. | 577/2008, | Muhammad Yousaf,        |
| 39. | 578/2008  | Altaf Hussain,          |
| 40. | 579/2008  | Ahjaz Ahmad,            |
| 41. | 580/2008  | Muhammad Safdar,        |

EXAMINER

ATTENDED

Attended

18

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.

Assessed

ATTESTED  
EXAMINER  
Service Tribunal

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



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*

20

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

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

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

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

ANNOUNCED  
12.05.2009.

*[Signature]*  
(BISMILLAH SHAH)  
MEMBER.

*[Signature]*  
(ABDUL JALIL)  
MEMBER.

CAMP COURT ABBOTTABAD.

Date of presentation	02/7/09
Number of words	24-00
Copying fee	24-00
Print	24-00
Total	72-00
Date of copyist	13/7/09
Date of completion of copy	13/7/09

*[Signature]*  
Registrar  
Abbottabad

Annexure (D)

21

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

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

To  
The Accountant General,  
Khyber Pakhtunkhwa, Peshawar.

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

Dear Sir,

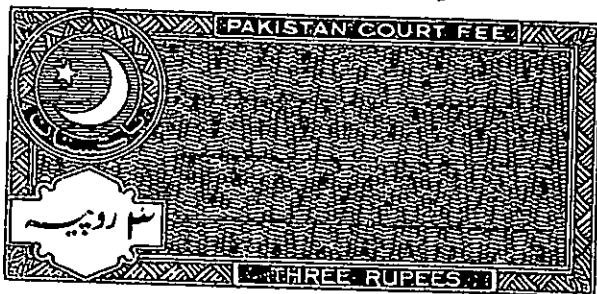
I am directed to refer to your letter No.H-24(74)/Peshawar/Vq-III/2009-10/88 dated 12/01/2010, on the subject noted above and to say that the matter has thoroughly been examined in consultation with concerned Departments during the meetings held on 10-08-2010, 14-10-2010, 18-10-2010, 15-11-2010, 29-11-2010 and 09-12-2010 towards the queries raised by your office, which are clarified as under-

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

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

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

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



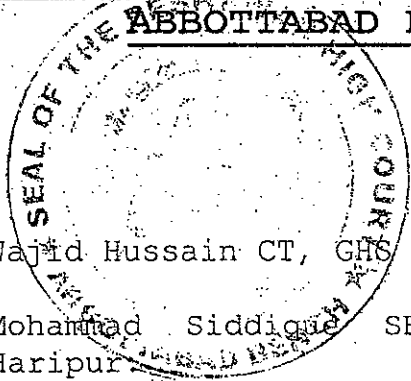
Yours Faithfully,

(KHURSHID ALAM)  
Section Officer (SR-1)

Accepted

Annexure E

BEFORE THE HONOURABLE PESHAWAR HIGH COURT  
ABBOTTABAD BENCH.



W.P NO. 72/2011.

1. Wajid Hussain CT, GHS No.1, Haripur.
2. Mohammad Siddique SET (EX-CT), GHS No.2, Haripur.
3. Khursheed Qamar CT, GHS No.2, Haripur.
4. Khalid Mehmood SET (Ex-CT) Kangra High School Haripur.
5. Muhammad Anwar Adil CT (Ex-CT) Kangra High School Haripur.
6. Rasheed Ahmed SET, (EX-CT) KTS GHS No.1, Haripur.
7. Aurangzeb CT, (EX-CT) KTS GHS No.1, Haripur.
8. Amjid Khan CT, (EX-CT) KTS GHS No.1, Haripur.
9. Ayaz-ur-Rehman CT (EX-CT) KTS GHS No.1, Haripur.
10. Malik Muhammad Hafeez CT (EX-DM) GHS No.2, Haripur.
11. Shamroz Khan PT (EX-DM) GHS No.2, Haripur.
12. Muhammad Asif Awan CT (EX-DM) GHS No.2, Haripur.
13. Nadeem Ahmed Qureshi CT (EX-DM) GHS No.2, Haripur.
14. Muhammad Ilyas CT (EX-DM) GHS No.2, Haripur.
15. Arshad Habib CT (EX-DM) GHS No.2, Haripur.
16. Saif-ur-Rehman HM GHS Dhenda Haripur.
17. Muhammad Sajid Saleem PT GHS Dhenda Haripur.
18. Muhammad Hanif CT (EX-DM) GHS Jabri.
19. Muhammad Rafique CT HR GMS Bajeeda.

NO 824  
4.2.11

Additional Registrar  
Peshawar High Court  
Abbottabad Bench  
4/2/11

Certified to be True Copy  
Ex-19  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 75 Arts Ordns

Amir

20. Nisar Ahmed Shaker CT GHS Seria.
21. Sajjad Ahmed CT TT ship, Haripur.
22. Zulfiqar Ahmed son of Noor Ahmed SET (EX-CT) GHSS Buffa.
23. Syed Alimgir Shah son of Said Alam Shah CT GMS Tambri.
24. Munir Hussain son of Habib ur Rehman CT GHS Dherian.
25. Sajjad Hussain Shah son of Syed Nawab Shah, CT GHS Dadar.
26. Muhammad Ashraf son of Suleman CT GHS Sum.
27. Muhammad Ishtiaq son of Muhammad Ayub CT GHS Sum.
28. Iltaf Qadir son of Saien Khan, CT GHS Dherian.
29. Ghulam Khan son of Hajit Khan CT GHSS Buffa.
30. Muhammad Riaz son of Shah Jehan CT GHSS Buffa.
31. Mazher Hussain son of Muhammad Maroof, CT GHSS Buffa.
32. Umer Farooq son of Taj Muhammad Khan, CT GHS Bajna.
33. Razaqat Naveed son of Aurangzeb, CT GHS Bajna.
34. Iftikhar Ahmed son of Muhammad Irfan PET GHS Bajna.
35. Muhammad Naeem son of Fazal ur Rehman PET GHS Tarangri Bala.
36. Muhammad Miskeen son of Alif Khan, CT GHS Klokera.
37. Raja Muhammad Khalid Hussain son of Raja Gul Muhammad Shah JC GHS Dherian.

PETITIONERS

VERSUS

- 1). Government of Khyber Pakhtunkhwa  
Finance Department through Secretary  
Finance Department Peshawar.

Certified to be a true Copy

12/11/12  
Peshawar Court  
Abbottabad Bench  
Authorized Under Sec 75 Acts Ordms

Auxiliary  
12/11/12

- 2). Accountant General  
Khyber Pakhtunkhwa Peshawar
- 3). Secretary to Government,  
Elementary and Secondary Education, Peshawar.
- 4). District Accounts Officer, Haripur.
- 5). District Accounts Officer, Mansehra.
- 6). Executive District Officer, Elementary &  
Secondary Education, Haripur.
- 7). Executive District Officer, Elementary &  
Secondary Education, Mansehra.

RESPONDENTS

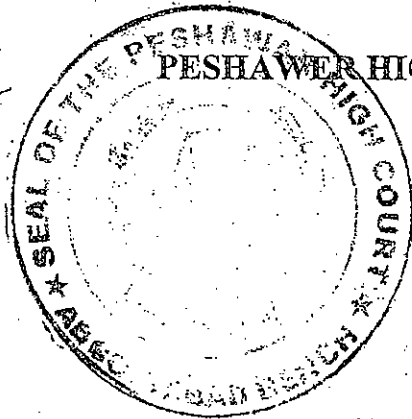
CONSTITUTION PETITION UNDER ARTICLE  
199 OF CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN 1973

It is respectfully submitted as under:-

I. That, petitioners above named in this constitution petition are aggrieved from the decision of respondent No.1, whereby, it has directed to respondent No. 2 vide its letter No. FD (SR-1) 2-123/2010 Peshawar dated 15/12/2010 for recovery of the payment of 2 advance increments. Which were awarded to the petitioners under the judgment of Supreme Court of Pakistan passed in CPLAs No.525, & 526 of 2007 on 19/07/2007 in cases of Rashid Iqbal Khan and Muhammad Haroon Qureshi.

14/12/11  
Certified to be True Copy  
07-1-12  
Peshawar Bench  
Abdullah (Sd/-)  
25 ACTS Ordms)

Amir  
12

JUDGMENT SHEET

PESHAWAR HIGH COURT ABBOTTABAD BENCH

JUDGMENTWP No. 72 of 2011Date of hearing: 22-12-2011Petitioners (Wajid Hussain & others) by Mr. Abdul  
shakoor Khan advocateRespondents (Shor of K.P.K. & others) by Mr.  
Muhammad Nawaz Khan Adli

\*\*\*

YAHYA AFRIDI, J.

Wajid Hussain alongwith 36

others have sought the constitutional jurisdiction of this Court seeking :-

*"declaration to the effect that respondent No.1 has got no lawful authority to act contrary to the judgment of Supreme Court of Pakistan dated 19.07.2007 and as such respondent No.2 in view of his direction contained in impugned circular letter dated 15.12.2010 cannot recover the money paid to the petitioners in terms of 2 advance increments under the said judgment of Supreme Court of Pakistan through respondents No.4 and 5".*

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EX-112  
Peshawar High Court  
Abbottabad Bench  
Authorized Signatory (Sd/-) Adli

2-

The brief facts of the present case are that the petitioners are Classified Teachers ("C.T.") in the Education Department of Government of Khyber Pukhtoonkhiwa and performing their duties in Hazara Division.

Adli

3- In view of the judgment passed by the apex Court in CPLA No.525 & 526 of 2007 decided on 19.07.2007, the petitioners were granted advance increments. The said benefit was later on withdrawn and vide order dated 15.12.2010 ordered to be recovered from them. They now seek the constitutional jurisdiction of this Court refraining the respondents to recover the said advance increments already received by them.

4- The valuable arguments of the learned counsel for the parties heard and record perused.

5- It is settled by the apex Court in its authoritative judgment titled "Pakistan v. Muhammad Himayatullah Farukhi" ( PLD 1969 SC 407) and thereafter consistently followed and recently in "Chief Secretary, Government of Sindh and another Vs. Sher Muhammad Makhdoom and 2 others" (PLD 1991 Supreme Court 973), wherein it has been held that :-

*"It is quite apparent that restrictions imposed in para. 4 of the Revenue department's Notification mentioned above, pertain to the appointment as Mukhtiarkar and in the cases under consideration will have no bearing for the reason that respondents were granted exemptions in accordance with circulars, requirements of which were duly fulfilled by them and not only that but exemptions were implemented and they received necessary training, as such valuable rights had accrued to them which could not be interfered with. In this context, reference can be made to section 20 of General Clauses Act and guidelines laid down in the case of Pakistan v. Muhammad*

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07.1.12  
Peshawar Bench  
Abbottabad Bench  
Authorized Under Sec 75 of the Ordinance

Accepted  
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*Himayatullah Farukhi (PLD 1969 Supreme Court 407), in which it is held that principle of locus poenitentiae is available to the Government or relevant authorities and further authority which is competent to make order has power to undo it, but such order cannot be withdrawn or rescinded once it has taken legal effect and created certain rights in favour of any individual". (emphasis provided).*

In view of the 'ratio decidendi' of the aforementioned judgments, it is but clear that in case any benefit has accrued to a person, without him committing any fraud or misrepresentation, the same cannot be withdrawn or recalled.

6- The petitioners undertake that they do not claim any future advance increments on the basis of judgment of the apex Court and the notification issued by the Government.

7- Before parting with the judgment, this Court wants to reiterate that the present judgment should in no way be interpreted to advance the case of any person, not a party before us.

8- Accordingly, for the reasons stated hereinabove, this Court directs that :-

*"I- The recovery of the advance increments already received by the petitioners should not be recovered from the petitioners unless the Secretary, Government of Khyber Pukhtoonkhwa, Elementary & Secondary Education Department, Peshawar finds that the said petitioners had obtained the said relief on*

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Peshawar Bench  
Authorized Under Sec 15 Acts Ordms

Amended  
F

*the basis of fraud, misrepresentation or any forged documents.*

*II- The said decision of the worthy Secretary shall be in writing with reasons for the same.*

*III- The needful exercise be carried out within a period of 60 days, if not earlier, from the date of receipt of this order”*

9- This petition is disposed of in the above terms.

Announced.  
22.12.2011

Certified to be True Copy

*ST 112*  
Ex. 112  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 175 Acts Ordms

SO: YAHYA AFRIDI

SO: KHALID MEHMOOD

*Judges*

*Assessed*



Info <sup>14</sup> Type	Field ID is

103

  
Prin  
**Prin**  
Govt: Hlg  
Abbottab



PAYROLL SYSTEM  
 AMENDMENT FORM  
 SINGLE EMPLOYEE ENTRY

Annexure F

FORM. PAT 02  
 Date: \_\_\_\_\_  
 Page No. 28

OFFICE OF THE Principal Govt: High School No. 4 Abbottabad  
 FOR THE MONTH OF March 1 2013

DDO Code (Cost Center) A D 6 0 3 2 Description: \_\_\_\_\_

Personnel Number 0 0 0 0 6 6 7 1

Employee Name Sultān Khan

National ID Card Number 13101.0730168.9

Grade (Pay Scale Group) 16 S.C.T

Salary Status  Start  Stop

Info Type	Field ID	GENERAL DATA CHANGE New Contents	Wage Type	CHANGE IN PAYMENTS / DEDUCTIONS			Effective Date	Remarks
				Amount				
				Rupees	Paisa	Adj		
		Basic pay	0001	27600/-				
		HR	1000	1818/-				
		CA	1210	5000/-				
		adloc Ref 2012	2118	5520/-				
		Medical	1947	2295/-				
		Deductions						
		GPF	3016	1760/-				
		BF	3501	250/-				
		AGI	3511	19/-				
		GI	3604	173/-				
		EEF						
				{ 39.90 }	125/-			

103

[Signature]  
 Prepared By  
**Principal**  
 Govt: High School No. 4  
 Abbottabad.

Audited/Checked By \_\_\_\_\_

[Signature]  
 Accepted

Entered / Verified By \_\_\_\_\_

*Annexure 16*

29

Accounts Office Abbottabad  
PAYROLL REGISTER  
For the month of April, 2013

AD6032 GHS N04 ABBOTTABAD		Payroll Section : 003 Section 3	
Basic Pay	22,060.00	3016 GPF Subscription - Rs	1,760.00
Housing Subsidy Allo	4,513.00	3501 Benevolent Fund	250.00
Medical Allow ISX (1	1,791.00	3511 Addl Group Insurance	173.00
Adhoc Allowance 2010	5,970.00	3604 Group Insurance	173.00
Adhoc Relief Allow 2	1,791.00	3990 Emp. Edu. Fund KPK	125.00
Adhoc Relief Allow (	4,400.00		
<b>PAYMENTS</b>	<b>42,465.00</b>	<b>DEDUCTIONS</b>	<b>2,327.00</b>
Branch Code: 090005	JINAN ROAD	Khyber Bank Limited	JINAN ROAD
		NET PAY	40,138.00
		ABBOTABAD	01.04.2013 30.04.2013
			Accnt. No: 9792-03

AD6343 NAEEM IQBAL		Prev Pers No: 99990204493 Desig: S.E.T. (00001229) Grade: 17 NTN: 0		Buckle No.: PRINCIPAL		Gazetted/Non-Gazetted: 0	
PAYMENTS		DEDUCTIONS		LOAN/FUND		REPAID BALANCE	
Basic Pay	31,600.00	3017 GPF Subscription - Rs	2,240.00	GPF Temp. Advance	0368	EDU/ 011541	300,000.00
House Rent Allowance	280.00	4200 Professional Tax	120.00				105,000.00
Housing Subsidy Allo	8,617.00	4505 GPF Loan Principal In	15,090.00				753,900.00
Medical Allow ISX (1	2,698.00	3501 Benevolent Fund	250.00				195,000.00
Adhoc Allowance 2010	8,998.00	3511 Addl Group Insurance	173.00				
Adhoc Relief Allow 2	2,698.00	3604 Group Insurance	230.00				
Adhoc Relief Allow (	6,320.00	3990 Emp. Edu. Fund KPK	200.00				
<b>PAYMENTS</b>	<b>61,128.00</b>	<b>DEDUCTIONS</b>	<b>19,045.00</b>	NET PAY		43,083.00	
Branch Code: 230591	JAMAL BUILDING	National Bank of Pakistan	JAMAL BUILDING	ABBOTABAD		01.04.2013 30.04.2013	
						Accnt. No: 1207	

AD6467 MUHAMMAD RIASAT		Prev Pers No: 99990215452 Desig: SR. DRAWING MASTER (00007490) Grade: 16 NTN: 0		Buckle No.: PRINCIPAL		Gazetted/Non-Gazetted: 0	
PAYMENTS		DEDUCTIONS		LOAN/FUND		REPAID BALANCE	
Basic Pay	16,400.00	3016 GPF Subscription - Rs	1,760.00	GPF Temp. Advance	0368	EDU/ 010342	65,000.00
House Rent Allowance	1,818.00	4505 GPF Loan Principal In	1,890.00				59,598.00
Housing Subsidy Allo	1,174.00	3501 Benevolent Fund	250.00				145,241.00
Medical Allow ISX (1	3,980.00	3511 Addl Group Insurance	173.00				5,402.00
Adhoc Allowance 2010	1,194.00	3604 Group Insurance	173.00				
Adhoc Relief Allow 2	3,280.00	3990 Emp. Edu. Fund KPK	125.00				
Adhoc Relief Allow (							
<b>PAYMENTS</b>	<b>27,866.00</b>	<b>DEDUCTIONS</b>	<b>4,133.00</b>	NET PAY		23,733.00	
Branch Code: 231470	HIRPUR VILLAGE	National Bank of Pakistan	HIRPUR VILLAGE	ABBOTABAD		01.04.2013 30.04.2013	
						Accnt. No: 2068-9	

AD6671 SULTAN KHAN		Prev Pers No: 99990249774 Desig: SR. CERTIFIED TEACHER (00007487) Grade: 16 NTN: 2487296-2		Buckle No.: PRINCIPAL		Gazetted/Non-Gazetted: 0	
PAYMENTS		DEDUCTIONS		LOAN/FUND		REPAID BALANCE	
Basic Pay	24,800.00	3016 GPF Subscription - Rs	1,760.00	GPF Temp. Advance	0368	EDU 011061	2,163.62
House Rent Allowance	4,513.00	3501 Benevolent Fund	250.00				1,926.00
Housing Subsidy Allo	3,280.00	3511 Addl Group Insurance	173.00				231,584.00
Medical Allow ISX (1	7,280.00	3604 Group Insurance	173.00				238.31
Adhoc Allowance 2010	2,698.00	3990 Emp. Edu. Fund KPK	125.00				
Adhoc Relief Allow 2	5,360.00	3609 Income Tax	239.00				
Adhoc Relief Allow (							
<b>PAYMENTS</b>	<b>50,241.00</b>	<b>DEDUCTIONS</b>	<b>2,566.00</b>	NET PAY		47,675.00	
Branch Code: 230301	MAIN BRANCH, ABBOTABAD.	National Bank of Pakistan	MAIN BRANCH, ABBOTABAD.	ABBOTABAD		01.04.2013 30.04.2013	
						Accnt. No: 189576	

AD6709 MUHAMMAD SALAH UD DIN SHAH		Prev Pers No: 99990250259 Desig: PRINCIPAL (00001109) Grade: 19 NTN:		Buckle No.: PRINCIPAL		Gazetted/Non-Gazetted: 0	
PAYMENTS		DEDUCTIONS		LOAN/FUND		REPAID BALANCE	
Basic Pay	58,200.00	3019 GPF Subscription - Rs	3,760.00	GPF Temp. Advance	0368	EDU/ 001832	20,475.48
House Rent Allowance	5,904.00	4200 Professional Tax	240.00				18,370.00
							908,361.00
							2,105.74

*Assesed*

30

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

Annexure A,

**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)

Wajid Ali, In-person.

(in CMA 3300/14)

Muhammad Sarwar Khan, In-person.

(in CMA 3301/14)

Mazhar-ul-Haq, In-person.

(in CMA 3302/14)

Syed Arif Hussain Shah, In-person.

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

Date of Hearing: 18.06.2014

**ORDER**

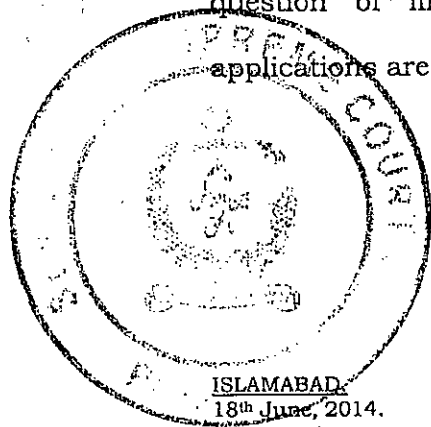
**NASIR-UL-MULK, J.**— After arguing the case at some length, the petitioner/applicants decided to approach the Service Tribunal for redressal of their grievance. In case they do so, we are sanguine that the Service Tribunal may sympathetically consider the question of limitation. With this observation,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

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

Certified to be True Copy

Superintendent  
Supreme Court of Pakistan  
Islamabad

"Not approved for reporting."



ISLAMABAD

18th June, 2014.

Mudassar

24/6/14

Handwritten signature and date 26/6/14  
Handwritten signature and date 24/6/14

# Annexure I,

31

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 SALERIES OF THE APPELLANT WITH EFFECT FROM 01/04/2013, 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 IN THE LIGHT OF JUDGMENT OF APEX COURT DATED 19/07/2007, BOTH JUDGMENTS HAD ATTAINED 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 in appellant's individual service appeal, the said judgment was not only attained its finality but implemented letter and spirit in the year 2010, and since then appellant was being granted/taken his 04 Advance Increments of M.A/M.Sc regularly.
- 3) That in the meanwhile appellant was promoted from BPS 15 to BPS 16 under Notification dated 28/02/2013 and his respective principal fixed/changed his pay from BPS 15 to BPS 16 under the law as (From Rs 26700/-PM BPS 15 in Rs 27600/- PM BPS 16) and submitted Pay Amendment Form to the office of District Comptroller of Account Abbottabad.
- 4) That utmost surprisingly, District Comptroller of Account Abbottabad with out any notice given to the appellant or without formal/official written order or any legal and factual reason, deducted/recovered (02) two advance increments out of 04 advance increments with effect from 01/04/2013 and fixed his pay in BPS 16 as Rs 26800/-PM.
- 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

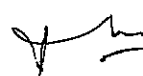
Assured  
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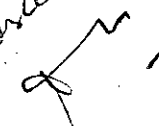
Abbottabad in Constitutional Petition before Peshawar High Court, the same illegal matter is now on 18/06/2014 disposed off by the Supreme Court of Pakistan in CPLA No 640 of 2014 on the basis of Jurisdictional bar contained in Article 212 of the Constitution of Pakistan and under the such legal position and in pursuance of Order passed by Supreme Court, instant departmental Appeal is being filed by the appellent.

- 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 mentioned 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 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 in respect of M.A/M.Sc taken by District Comptroller of Account Abbottabad with effect from 01/04/2013 be set-aside (cancelled) and all amount which is refunded or the amount is deducted from the salary of the appellent may be ordered the refund of same.

Dated 18/11/2014.

  
Sultan Khan S/O Shah Zaman,  
Senior CT teacher, Government  
High School NO 04 Abbottabad,  
R/O Hamza Colony, Link road,  
Tehsil & District Abbottabad.

*Awarded*  






**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

C.M No \_\_\_\_\_ of 2015

IN

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior<sup>5</sup>CT teacher, Government High School No 04 Abbottabad, R/O Hamza Colony, Link road, Tehsil & District Abbottabad.

Appellant

**Versus**

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.

Respondents

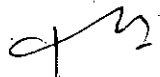
APPLICATION FOR SUSPENSION OF RECOVERY/DEDUCTION OF 02 ADVANCE INCREMENTS OUT OF 04 ADVANCE INCREMENTS BY THE RESPONDENTS AND REFRAIN THEM NOT TO FURTHER CHANGE IN THE MATTERS ALREADY SUBJUDICE BEFORE THIS HONOURABLE TRIBUNAL TILL THE FINAL DISPOSAL OF TITLED SERVICE APPEAL.

0-4  
15.06.15  
Respectfully Sheweth,

- 1) That appellant filed his service appeal for grant of 04 advance increments of MA/MSc before this Tribunal which was decided in his favour and Judgments passed on 12/05/2009, no appeal filed by respondents before Supreme Court against the said Judgment.
- 2) That respondents implemented the Judgment dated 12/05/2009 in letter and spirit.
- 3) That surprisingly respondent no 02, once again with out any notice and reason, started deduction of 02 advance increments out of 04 from the salary of appellant with effect from 01/04/2013.

4) That factually impugned action of respondents is totally illegal and without Jurisdiction as well as they challenged the authority of this Honourable Tribunal for which they are liable to be dealt with, under criminal proceedings.

It is therefore prayed that impugned action i.e. deduction of 02 advance increments out of 04 advance increments may please be suspended and respondents may please be directed not to further change in the matters already subjudice before this Honourable Tribunal till the final disposal of titled service appeal.

  
(Sultan Khan)  
Appellant Inperson

Dated 15/06/2015

**Affidavit**

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

Dated 15/06/2015

  
(Sultan Khan)  
DEPONENT



15-6-15

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

**Appeal No. 198/15**

**Sultan Khan .....Appellant**

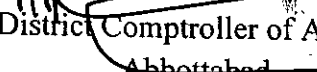
**VERSUS**

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

**Para wise Comments on behalf of Respondents**

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

  
District Comptroller of Accounts  
Abbottabad.

(Respondent No.2)

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

**Appeal No. 198/15**

**Sultan Khan .....Appellant**

**VERSUS**

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

**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 this Honorable Tribunal hasn't got jurisdiction to entertain the present petition/ appeal as this Honorable Tribunal is not a Constitutional Court, hence this appeal is liable to be dismissed.
9. That the vires of Act were challenged in the appeal, the Act was promulgated in the best public interest & the advance increments were not settled to be paid at the time of joining of service.
10. That the legislator has authority to legislate as they have mandate to do so by a recognize process and services law do not provides the provision of judicial review, hence appeal is not tenable.
11. That the appellant is at liberty to join service after due process of law equivalent to his qualification & the Government is not bound to pay advance increment.

**Factual objections:-**


1. In reply to Para No.1 of the appeal it is submitted that judgment of Honorable Tribunal has lost its efficacy for the purpose of implementation by clear Intendment through sections 1 & 2 of Khyber Pakhtunkhwa cessation of payment arrears on advance increments on higher education qualification Act No. IX of 2012.
2. No comment.
3. That para No.3 of the appeal is incorrect as composed hence, denied. The Act was Passed by the Provincial Assembly and assented by the Governor KPK who isn't party in the present appeal. The respondents are bound to obey & implement the will of the legislature & cannot deviate from any provision of enactment.

4. In reply to para No. 4, it is submitted that due to the promulgation of Khyber Pakhtunkhwa cessation of payment arrears on advance increments on higher education dismissed on 29/08/2013. Copy of the said judgment is annexed as Annexure "A".

**Grounds:**

- a. That detail reply has already been given in above para No. 4 of the factual objections.
- b. In reply to ground b it is submitted that judgment of Honorable Tribunal has lost its efficacy for the purpose of implementation by clear intendment through sections 1 & 2 of Khyber Pakhtunkhwa cessation of payment arrears on advance increments on higher education qualification Act No. IX of 2012.
- c. That complete reply has already been given in above para No. 1 of the factual objections.
- d. That complete reply has already been given in above para No. 1 & 4 of the factual objections.
- e. No comment.
- f. That the action was initiated in pursuance of the Act.
- g. That complete reply has already been given in above para No. 1 of the factual objections.
- h. That complete reply has already been given in above para No. 1 of the factual objections.
- i. That ground i as composed is incorrect hence, denied.
- j. No comment.
- 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. 2)

Accountant General Khyber Pakhtunkhwa  
Peshawar.  
(Respondent No. 1)

Secretary (Finance) Khyber Pakhtunkhwa  
Peshawar. (Respondent No. 3)

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

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

**Appeal No. 198/15**

**Sultan Khan .....Appellant**

**VERSUS**

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

**Para wise Comments on behalf of Respondents**

**AFFIDAVIT**

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

  
DEPONENT

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

CM.NO. of 2015

IN

**Appeal No. 198/15**

**Sultan Khan .....Appellant**

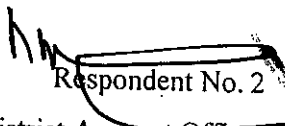
**VERSUS**

**Accountant General Khyber Pakhtunkhwa & Others.....Respondents**  
**Replication to application dated 15.06.2015 on behalf respondents.**

Respectfully Sheweth:

1. In reply to Para No.1 of the application it is submitted that judgment of Honorable Tribunal has lost its efficacy for the purpose of implementation by clear Intendment through sections 1 & 2 of Khyber Pakhtunkhwa cessation of payment arrears on advance increments on higher education qualification Act No. IX of 2012.
2. Correct.
3. That para No. 3 of the application as composed is incorrect hence, denied. It would not be impertinent to state that the applicant suppressed/ concealed his service book from the pay fixation party then visited respective District Education Office Abbottabad after Pay Revision of 01.07.2011, & as such the operation of the party was carried out by this office. However, in the light of this Honorable Tribunal order dated 15.06.2015 the operation is underway as the fixation is an intricate & cumbersome process, arduous assignment the applicant may kindly be directed to collect his revised salary slip from the office of the respondent No. 2 in due course.
4. That para No. 4, of the instant application is incorrect hence, denied.

It is therefore, respectfully prayed that the instant application may kindly be dismissed by cost.

  
Respondent No. 2  
District Account Officer  
Abbottabad.



Annexure

In the Supreme Court of Pakistan  
(Appellate Jurisdiction)

Present:

Mr. Justice Anwar Zaheer Jamali  
Mr. Justice Khilji Aarif Hussain  
Mr. Justice Ijaz Ahmed Chaudhry

Civil Petition No.360 of 2013.  
(on appeal from judgment of KPK Service Tribunal, Peshawar  
dated 30.1.2013, passed in Implementation Petition No.49/2012)

Muhammad Haroon

...Petitioner

Versus

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

... Respondents

Petitioner: In person.

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

Date of hearing: 29.3.2013

JUDGMENT

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

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

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

**ATTESTED**

Superintendent  
Supreme Court Pakistan  
ISLAMABAD

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

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

1. Short title, application and commencement. - (1) This Act may be called the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012.

(2) It shall apply to all the employees of the Provincial Government, who were entitled to receive advance increments on higher educational qualification.

(3) It shall come into force at once and shall be deemed to have taken effect on and from 1<sup>st</sup> day of December, 2001.

2. Cessation of payment of arrears on advance increments on higher educational qualification. - (1) Notwithstanding anything contained in any decision, judgment and order of any Tribunal or Court including High Court or Supreme Court of Pakistan, for the purpose of any claim for payment of arrears on account of advance increments on higher educational qualification sanctioned in pursuance of any order, letter, office memoranda, notification, instructions and other instruments issued before 1.12.2001, such orders, letters, office memoranda, notifications, instructions and other instruments shall be deemed to be non-existent, ceased or revoked and no further claim whatsoever on the basis of these instruments shall be entertained and all cases in respect of such claims pending in any Court or Tribunal including High Court and Supreme Court of Pakistan shall stand abated.

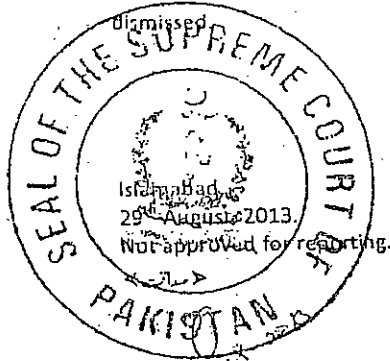
(2) Any order made, instruction issued, decision, judgment or order of any Court or Tribunal including a High Court or the Supreme Court, implemented immediately before the commencement of this Act, shall be deemed to have been validly made, issued and implemented by the date of commencement of this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

ATTESTED

Sup. Ct. Clerk  
Supreme Court  
ISLAMABAD

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

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



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

*[Handwritten Signature]*  
4/9/13  
Deputy Registrar  
Supreme Court of Pakistan  
ISLAMABAD

10565/13 Civil/Criminal

CR No.	288/13
Date of Presentation	9/9/13
No. of Wds.	10
No. of Pages	5
Registration Fee Rs.	5.18
Copy Fee Rs.	10
Date of Court	9/9/13
Date of Verdict	9/9/13
Received by	<i>[Signature]</i>

6

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

Service Appeal No.198/2015  
Sultan Khan (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.
- ii) That the appellant has no locus standi.
- iii) That the appeal in hand having no merits is not maintainable.
- iv) That appeal is time barred.
- v) This Honourable Tribunal lacks jurisdiction to entertain the appeal.
- vi) That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- vii) That under the cessation of advance increment on higher educational qualification Act No.IX of 2012, claim of the Appellant stood abated.

**Facts:**

1. Relates to Service/Court record, hence need not comments.
2. Correct to the extent 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.
3. Incorrect. In the light of Finance Department letter dated 15.12.2010; Respondent No.2 has rightly deducted/recovered 02 advance increments out of 04 erroneously allowed to the appellant as he has availed the benefit of BPS-14 on qualification of BA/BSc.
4. Needs no comments by Respondent No.3, being related to courts record.
5. Do not relate to Respondent No.3.

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

**Grounds:**

- (a) Need No Comments.
- (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**).
- (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: Appeal of the appellant is time barred.
- (k) Incorrect: Action of Respondent No.3 is legal.
- (l) Incorrect. Action taken by Respondent No.3 is in accordance with the Judgement of august Supreme Court.

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)

*for*  
*Solit*

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

Service Appeal No.198/2015  
Sultan Khan (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**

**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  
To,

Dated 10.12.2014

The Accounts Officer,  
HAD Section.

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

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

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

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~~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)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School  
No: 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, Tehsil &  
District Abbottabad.

Appellant

**Versus**

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.

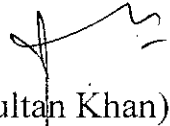
Respondents

**REJOINDER (REPLICATION)**

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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 19/07/2016

  
(Sultan Khan)  
Appellant Inperson



are entitled only for one increment on possessing or acquiring MA/MSc/M.com qualification as regards those employees whose appointment were 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)

*Proced.  
2/9/15*



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

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

Annex = III

21708-09

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. 16.7.15

Section Officer (Opinion-II)

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 16<sup>th</sup> Sep, 2015 is sent herewith for further necessary action accordingly, please.

Encl: **(As above)**

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.

SECTION OFFICER (SR-I)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School  
No: 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, Tehsil &  
District Abbottabad.

Appellant

**Versus**

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.


Respondents

**REJOINDER (REPLICATION)**

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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 19/07/2015

  
(Sultan Khan)  
Appellant Inperson

①

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015.

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School No 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, 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 Constituion.

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/9/07/2016

  
(Sultan Khan)  
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/9/07/2016

  
(Sultan Khan)  
Appellant Inperson

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School No 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, 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 defence 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 respondednts 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, appellant reiterated the same position taken in his service appeal.


**ON GROUNDS**

a) That the reply of the respondents are totally incorrect and ther 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 appellant in detailed herein above at para 2-3 of this rejoinder so here no need to repeat it.

b-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 absolutely ambiguous, 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 (b-k) in appeal by appellant is reiterated.

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


Dated 19/07/2016

  
(Sultan Khan)  
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 19/07/2016

  
(Sultan Khan)  
Appellant Inperson



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

No. SO(B&A)-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  
INCREMENTS ACT, 2012 CONTEMPT OF COURT.

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

S/II	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 Miskcen 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 Pushto	05.06.2000	MA Degree is genuine
6	Mr. M. Naseem CT	GHS Bajna	MA (Islamiyat)	26.06.2000	MA Degree is genuine
7	Mr. Mustajab Khan CT	GHS Bajna	MA (Islamiyat)	08.10.1998	MA Degree is genuine
8	Mr. Munir Hussain CT	GHS Bajna	MA (Islamiyat)	26.06.2000	MA Degree is genuine
9	Mr. Altaf Qadir CT	GHS Iharyal	MA (Islamiyat)	22.12.1996	MA Degree is genuine
10	Mr. Sajjad Hussain CT	GHS Dadar	MA (Islamiyat)	26.06.2000	MA Degree is genuine
11	Mr. M. Riaz CT	GHSS Baffa	MA(Urdu)	02.10.1996	MA Degree is genuine
12	Mr. Mazhar Hussain CT	GHSS Baffa	MA (Islamiyat)	17.06.2001	MA Degree is genuine
13	Mr. M. Hanif PET	GHSS Galgali	MA (Urdu)	06.07.2001	MA Degree is genuine
14	Mr. Sajid 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. Yar Muhammad Khan CT	GHSS Baffa	MA (Islamiyat)	02.10.1994	MA Degree is genuine
17	Mr. M. Saeed SST	GHSS Baffa	MA(History & Pak. Studies)	21.04.1998	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 Trangri Bala Instead of Nagri Bala	MA (Islamiyat)	13.09.1999	MA Degree is genuine
21	Mr. M. Ashraf CT	GHS Sum Instead of Suhra	MA (Islamiyat)	15.09.1997	MA Degree is genuine
22	Mr. Rifaqat Naveed CT	GHSS Baffa	MA(Edu)	31.07.1997	MA Degree is genuine

America  
t

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

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

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

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

Encl: As above.

Yours faithfully,

(NOOR ALAM KHAN WAZIR)  
SECTION OFFICER (BUDGET)

Endst. Of even Number & Date.

Copy of the above is forwarded to:-

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

*Amended*

*[Signature]*  
SECTION OFFICER (BUDGET) 20/08/2017

*Notified*  
22, 27, 28 teachers  
Whose documents were checked  
& forwarded to Direct Ed S Education  
for Advance Incr. Master file

Annexure B

11

SECRETARY E&SE KPK

FRN NO. 1492 91 9211419

17 Jun. 2014 11:20:41 P1



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

No. SO(B&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 Lugman 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(Isia)	1992	MA Degree is genuine
5	Mr. Ihsan uliah 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 Mehmood 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 Zar 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	1997	MA Degree is genuine
22	Mr. Saif Ul Malik	MA (Educ)	01.07.1994	MA Degree is genuine
23	Mr. Abdul Hafiz SCT	MA (Islamiyat)	13.09.1990	MA Degree is genuine
24	Mr. Linqat Ali Abbasi	MA Political Science	1994	MA Degree is genuine
25	Mr. Muhammad Hammad CT	MA Islamiyat	1998	MA Degree is genuine
26	Mr. M. Zubair Khan SCT	MA (Urdu)	1998	MA Degree is genuine
27	Mr. Muhammad Naseem Ex-PTC, SS GHSS Butera Kohistan.	MA (Pak Study)	17.06.2000	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;

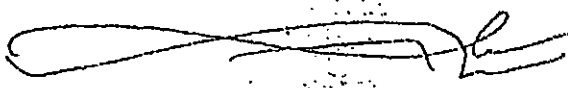


12

“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.

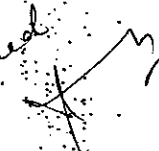
Encl: As above.

  
(NOOR ALAM KHAN WAZIR) 17/06/14  
SECTION OFFICER (BUDGET)

Encl. 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.

*Assesed*  


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. Suleman Mian SET	MA Education	1991	MA Degree is genuine
3	Mr. Saeed Akhtar BX CT (SET)	MA-History	24.03.1998	MA Degree is genuine
4	Mr. Abdul Hakeem AT	MA Islamiat	1996	MA Degree is genuine
5	Mr. Muhammad Murtaza CT	MA Urdu	15-09-1991	MA Degree is genuine
6	Mr. Inaar Ali Shah CT	MA Islamiat	23-09-1999	MA Degree is genuine
7	Mr. Muhammad Naseem CT	MA Urdu	-	MA Degree is genuine
8	Mr. Ghor Rehman CT	MA Islamiat	04-10-1993	MA Degree is genuine
9	Mr. Saif Ur Rehman Ex-CT	MA Islamiat	13-09-1999	MA Degree is genuine
10	Mr. Muhammad Younas CT	MA Islamiat	1992	MA Degree is genuine
11	Mr. Aurangzeb CT	MA Islamiat	20-10-1996	MA Degree is genuine
12	Mr. Mushiq Ahmad CT	MA Islamiat	17-09-1998	MA Degree is genuine
13	Mr. Khan Wali CT	MA Islamiat	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 Islamiat	20-06-2000	MA Degree is genuine
16	Mr. Muhammad Sajid CT	MA Islamiat	05-04-1999	MA Degree is genuine
17	Mr. Muhammad Zakir CT	MA Islamiat	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 Chughtal CT	MA Urdu	18-10-1994	MA Degree is genuine
20	Mr. Nasir Mehmood CT	MA Islamiat	13-09-1999	MA Degree is genuine
21	Mr. Sher Baz Khan CT	MA Islamiat	26-06-2000	MA Degree is genuine
22	Mr. Asif Ali CT	MA Urdu	18-10-1994	MA Degree is genuine
23	Mr. Syed Ifkhar Hussain CT	MA History	1996	MA Degree is genuine
24	Mst. Rashida Bibi CT	MA Urdu	23-10-1996	MA Degree is genuine
25	Mst. Shazia Rafique PET	MA Islamiat	17-06-2001	MA Degree is genuine
26	Mr. Khalid Mehmood SDM, GHS Gandia	MA Pak Study	01.11.1999	MA Degree is genuine
27	Mr. Muhammad Iqbal SCT, GHS Gandia	MA Islamiat	19.01.1995	MA Degree is genuine
28	Mr. Muhammad Sadiq SCT, GHS Gandia	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;

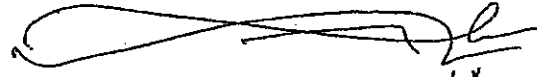
Attached  
f

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.

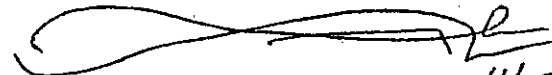
  
(NOOR ALAM KHAN WAZIR) 11/09/14  
SECTION OFFICER (BUDGET)

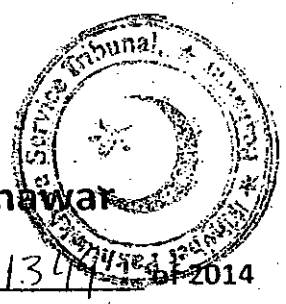
Endst. Of even Number & Date.

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.

*Approved*  
*[Signature]*

  
SECTION OFFICER (BUDGET) 11/09/14



### Before Service Tribunal KPK Peshawar

Service Appeal No 1376 of 2014

**Bashir Ahmed S/O Abdul Haq SCT GHS Khushala Mansehra R/O  
K-3102 Kunj Kehal Tehsil & District Abbottabad**

**Appellant**

**VERSUS**

*1376*  
*17-11-14*

1. Govt of KPK through Secretary Finance Deptt: Peshawar
2. Accountant General KPK Peshawar
3. District Accounts Officer Mansehra
4. District Education Officer (Male) E & S Education Mansehra
5. Govt. of KPK through Secretary Elementary & Secondary Education Deptt: Peshawar

**Respondents**

**ATTESTED**  
Major General  
Service Tribunal  
Peshawar

Appeal under section 4 of KPK Service Tribunal act 1974.

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

These increments were awarded to appellant on 14-1-2010 entries were made in service book as per Judgment of Honourable KPK Service Tribunal in Service appeal No. 682 of 2008 dated 12-05-2009 on the basis of Judgment passed by Honourable Supreme Court of Pakistan in CPLA No. 525, 526 of 2007 & CRP No. 216 & 217 of 2007.

Letter No. FD (SR-1)2-123/2010 dated 15-12-2010 written by Respondent No. 01 to Respondent No. 02 for Recovery of two advance increments is absolutely illegal against the Judgment of Honourable Supreme Court of Pakistan passed in CPLA No. 525 & 526 of 2007 dated 19-07-2007.

*17/11/14*

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

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

Ke-submitted to-  
and filed.

*20/11/14*

### PRAYER

On acceptance of INSTANT APPEAL the respondent be graciously directed to fix pay of appellant in BPS-16 with 4 advance increments of M.A which were awarded to him in BPS-15 on 14-01-2010.

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

Respectfully Sheweth

### FACTS

1. That Appellant was inducted in service as CT Teacher on 15-10-1985 and is working against SCT post, attained his higher qualification of M.A on 10-07-2000, over and above prescribed qualification of post held and Appellant due to his entitlement of 04 advance increments of his higher qualification of MA, filed Service Appeal No 682 of 2008, before Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar, which was accepted on 12-05-2009 at Camp Court Abbottabad, whereupon respondents did not approach to the Honourable Supreme Court of Pakistan to file their C.P.L.A against the said Judgment yet, and now it attained its finality. Copies of Service Appeal and relevant pages of Judgment dated 12-05-2009 are annexed as "Annexure A & B".
2. That after completing necessary legal formalities, respondents on 14-01-2010 implemented the judgment of Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar and granted 04 advance increments of MA with effect from 10-07-2000 to the Appellant, copy of implemented arrear bill and relevant pages of S/Book annexure C & D.
3. The Appellant on promotion from CT (BPS-15) to SCT (BPS-16) on 01/03/2013. Submitted the case of Fixation with 4 advance increments of MA to DAO Mansehra.

District Accounts Officer is denying and reluctant to do so and insists to recover 2 increments in fixation in BPS-16. The application for this purpose is still pending in D.A.O Mansehra, The appeal against it is submitted to Accountant General KPK Peshawar on 18-08-2014: copy annexed at E & F.

ATTESTED  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

- 4. The appellant was awarded 4 advance increments of MA on 14-01-2010 on the basis of Final Judgment of KPK Service Tribunal in service appeal No 682 of 2008 dated 12-05-2009.
- 5. The appellant was promoted from CT (BPS-15) to SCT (BPS-16) w.e.f 01-03-2013. Copy annexed as Annexure (G).

Respondents are reluctant to fix pay in BPS-16 keeping the 4 advance increments of MA intact with which Appellant is already drawing his pay in BPS-15.

**GROUND**

- (a) That the learned KPK Service Tribunal has power to implement its Judgment under KPK Service Tribunal Act 1974.
- (b) The Respondents are bound to the Judgment of KPK Service Tribunal in Service appeal No. 682 of 2008 dated 12-05-2009 in letter and spirit. Their denial is against the law, contrary, Capricious and against the judgment of the court.
- (c) Their act of denial is against the judgment of H/ Supreme Court of Pakistan in CPLA No. 525 & 526 of 2007.
- (d) Furthermore the respondents have restored the 4 advance increments of MA of more than 77 Teachers of Mansehra on different occasions under Letter No.
  - 8 / (i) SO (B & A) 1-16/109/ Advance increments dt Peshawar 30-09-2013 (22 Teachers of Mansehra)
  - 9 / (ii) SO (B & A) 1-16/109/ Advance increments dt Peshawar 17-06-2014 (27 Teachers of Mansehra)
  - 10 / (iii) SO (B & A) 1-16/109/ Advance increments dt Peshawar 02-09-2014 (28 Teachers of Mansehra)

The pay of these teachers is fixed with 4 advance increment of MA and entries are made in their service books.

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

Certified to be true copy  
 Bashir Ahmed  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

*Bashir Ahmed*  
**Bashir Ahmed**  
 Appellant  
 In person

Dated: 07/11/2014

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL  
PESHAWAR.



APPEAL No: 1349 of 2014.  
 APPELLANT: Mr. Bashir Ahmad  
 VERSUS: Government of Khyber  
 Pakhtunkhawa.  
 REPLY FROM: RESPONDENT No. 2 & 3.

Respectfully Sheweth:

Para-1

**FACTS:**

No comments from answering Respondents.

Para-2

Correct.

Para-3

Incorrect. (i) The Appellant submitted his Service Book for the fixation/authentication of his pay inclusive of 4 advance increments on acquiring the qualification of MA before the Pay Fixation Cell of the office of Respondent No2. The Pay Fixation Cell did not agree with the claim of Appellant, at that time, and allowed 2 advance increments on said qualification, apparently, in terms of Finance Department letter dated 15/12/2010 (exhibit), as against the 4 advance increments demanded by the Appellant.

(ii) This Respondent has, now, issued Pay Slip to the Appellant (inclusive of 4 advance increments) in the light of honorable Supreme Court of Pakistan Judgment dated 19/07/2007, read with Peshawar High Court Judgment dated 22/11/2012 and Section 2(2) of the KPK Cessation of Payment of Arrears of Advance Increments, Act, 2012 (exht)

ATTESTED

BY  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

“provisionally” because a case for issuance of clarification on subject matter is lying with Finance Department. (Annexure A & B).

PRAY:

It is prayed that since the demand of Appellant stands met therefore, the instant Appeal may graciously be disposed off.

District Accounts Officer  
Mansehra

**AFFIDAVIT**

It is solemnly declared and affirmed that facts disclosed here above are correct to the best of my knowledge and based on official records and nothing has been concealed/manipulated.

*Certified to be true copy*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

District Accounts Officer  
Mansehra

Vetted

*7/11*

Date of Presentation of Application 27.7.2011  
 Number of Words 800  
 Copying Fee 6  
 Urgent 2  
 Total 8  
 Name of Copyist \_\_\_\_\_  
 Date of Completion of Copy 27.7.2011  
 Date of Delivery of Copy 27.7.2011



Before Service Tribunal KPK Peshawar

Service Appeal No. 1349 of 2014

Bashir Ahmed S/O Abdul Haq SCT GHS Khushala Mansehra R/O  
K-3102 Kunj Kehal Tehsil & District Abbottabad

Appellant

VERSUS

1. Govt of KPK through Secretary Finance Deptt: Peshawar
2. Accountant General KPK Peshawar
3. District Accounts Officer Mansehra
4. District Education Officer (Male) E & S Education Mansehra
5. Govt. of KPK through Secretary Elementary & Secondary Education Deptt: Peshawar

1376  
17-11-2014

12-5-09, 267  
Appeal No. 682  
87-22 4/15

S-No. 49

Respondents

Appeal under section 4 of KPK Service Tribunal act 1974.

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

These increments were awarded to appellant on 14-1-2010 entries were made in service book as per Judgment of Honourable KPK Service Tribunal in Service appeal No. 682 of 2008 dated 12-05-2009 on the basis of Judgment passed by Honourable Supreme Court of Pakistan in CPLA No. 525, 526 of 2007 & CRP No. 216 & 217 of 2007.

22.4.2015

Certified to be true copy  
Ex-A-Mr. Javed Ahmad  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Appellant in person and Mr. Javed Ahmad, Supdt: along with Mr. Muhammad Tahir-Aurangzeb, G.P for respondents present. Written statement submitted by respondents No.2 & 3 wherein the demand of appellant is statedly met with. In view of the afore-stated situation, appellant submitted application for disposal of his appeal.

Since the claim of the appellant has been met with as stated in the written statement as such the appeal is dismissed as withdrawn. File be consigned to the record.

Chairman  
Comp Court Appeal

ANNOUNCED  
22.4.2015

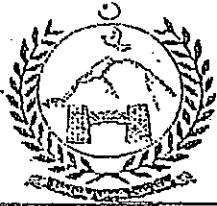
Annexure B,

(11)

STARY E2SE NFK

FAX NO. : +92 91 9211419

17 Jun. 2014 11:20AM P1



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

No. SO(B&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. Saif Shah Luqman Ex-CT, SET	MA (Bdu)	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	MA (Isla)	1992	MA Degree is genuine
5	Mr. Ihsan ul-Haq CT	MA (Isla)	2000	MA Degree is genuine
6	Mr. Umer Saif 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 (Educn)	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 Islamiat	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 Znr 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 Islamiat	1997	MA Degree is genuine
21	Mr. Jaffar Shah CT	MA Urdu	1997	MA Degree is genuine
22	Mr. Saif Ul Malik	MA (Educ)	07.02.1994	MA Degree is genuine
23	Mr. Abdul Hafiz SCT	MA (Islamiyat)	17.09.2000	MA Degree is genuine
24	Mr. Lijlat Ali Abbasi	MA Political Science	07.02.1994	MA Degree is genuine
25	Mr. Muhammad Iqbal CT	MA Islamiyat	1998	MA Degree is genuine
26	Mr. M. Zubair Khan SCT	MA (Urdu)	1998	MA Degree is genuine
27	Mr. Muhammad Naseem Ex-PTC, SS GHSS Butera Kohistan.	MA (Pak Study)	08.06.2000	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;

(12)

E&SE KPK

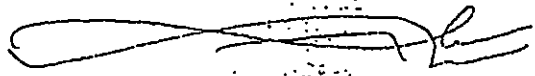
FILE NO. : 132 91 9211419

17 Jun. 2014. 11

“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.

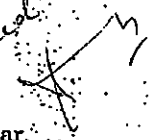
Encl: As above.

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

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.

*Amended*  


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. Suleman 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
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17	Mr. Muhammad Zakir CT	MA Islamiat	14-11-1992	MA Degree is genuine
18	Mr. Zulfikar Ali Shah CT	MA Pak Study	17-07-1993	MA Degree is genuine
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27	Mr. Muhammad Iqbal SCT, GHS Gandia	MA Islamiat	19.01.1995	MA Degree is genuine
28	Mr. Muhammad Sadq SCT, GHS Gandia	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.

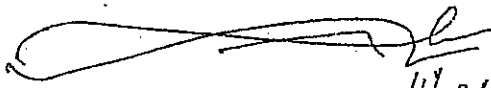
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(14)

“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.

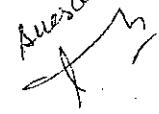
Encl: As above.


  
(NOOR ALAM KHAN WAZIR) 11/09/14  
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.

Accepted  


  
SECTION OFFICER (BUDGET) 11/09/14

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK,  
PESHAWAR.**

Put up to the court with  
relevant appeal.



CM.NO. /2021

IN

Appeal No. 198/15

Sultan Khan

*Reader*

*4/3/2021*

...PETITIONER

**VERSUS**

Government of KPK and others

...RESPONDENTS

**SERVICE APPEAL**

**APPLICATION FOR SOLICITING EARLY HEARING OF  
THE TITLED APPEAL AND FIX FOR HEARING BEFORE  
LARGER BENCH BEFORE THIS HONOURABLE  
TRIBUNAL PESHAWAR.**

***Respectfully Sheweth,***

1. That the titled appeal is pending disposal before this Honourable tribunal and fixed for 19.04.2021 Double Bench.
2. That the above titled case was fixed for larger Bench.
3. That the inadvertently fixed for Double Bench.

***It is, therefore humbly prayed that on acceptance of the instant application. Appeal may please be fixed before larger bench on 09.03.2021.***

...PETITIONER

***Through:***

**Dated: 2021**

  
**(MUHAMMAD LIAQAT)**  
Advocate High Court, Abbottabad

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK

PESHAWAR

OM. NO. 15051

IN  
Appeal No. 18818

...PETITIONER

VERSUS

Government of KPK and others

...RESPONDENTS

SERVICE APPEAL

APPLICATION FOR SOLICITING EARLY HEARING OF  
THE TITLED APPEAL AND FIX FOR HEARING BEFORE  
LARGER BENCH BEFORE THIS HONOURABLE  
TRIBUNAL PESHAWAR.

Respectfully Sheweth,

1 That the titled appeal is pending disposal before the Honourable

tribunal and fixed for 10.04.2021 Double Bench

2 That the above titled case was fixed for larger Bench

3 That the inaventionly fixed for Double Bench.

It is therefore humbly prayed that on acceptance of the

instant application, Appeal may please be fixed before larger

bench on 08.03.2021.

...PETITIONER

Through

(MUHAMMAD LIQAT)  
Advocate High Court Peshawar

Date: 2021

(27)

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**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**  
MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE IJAZ UL AHSAN  
MR. JUSTICE MUNIB AKHTAR

**Civil Petition Nos. 397-P of 2017, 409-P/2017, 420-P/2017, 732-P/19, 733-P/2019.**

(On appeal from the judgment/order dated 08.06.2017, 20.6.2019 of the Peshawar High Court, Peshawar passed in W.P. No. 2053/14, 913-P/14, 1418/14, 3081-P/12, 1182-P/18.

Government of K.P through Secretary Establishment Department,  
Peshawar and others

Petitioner(s)

**VERSUS**

Saeedullah and others	(in C.P. 397-P/2017)
Muhammad Iqbal and others	(in C.P. 409-P/2017)
Molvi Muhammad and others	(in C.P. 420-P/2017)
Anyat Ullah Khan and others	(in C.P. 732-P/2019)
Muhammad Rehman and others	(in C.P. 733-P/2019)

Respondent(s)

For the petitioner(s) (in all cases) Barrister Qasim Wadood, Addl. AG

For the respondent(s) N.R.

Date of Hearing 18.12.2019

**ORDER**

**UMAR ATA BANDIAL, J.—** Learned Additional Advocate General submits that the entitlement to additional increments on account of higher qualifications were granted to employees of the Provincial Government vide Notification dated 11.08.1991. That entitlement was revoked by a Notification dated 27.10.2001. This withdrawal of entitlement

**TESTED**

Associate

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# Advance Increments - Dismissed

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 75/2011

Date of Institution: ... 15.01.2011

Date of Decision: ... 04.04.2018

Dr. Nasir Khan son of Faqir Muhammad Khan (late),  
Public Health Specialist MNCH project Mohmand Agency FATA,  
R/o House No.244, Street no. 16, Sector D-3 Phase-I, Hayatabad, Peshawar.  
(Appellant)

## VERSUS

1. Secretary Health, Govt. of Khyber Pakhtunkhwa Health Department at  
Peshawar and 4 others. (Respondents)

MR. SHAH FAISAL,  
Advocate

--- For appellant.

MR. MUHAMAMD RIAZ PAINDAKHEL,  
Assistant Advocate General

--- For respondents.

MR. AHMAD HASSAN,

--- MEMBER (Executive)

MR. MUHAMMAD HAMID MUGHAL

--- MEMBER (Judicial)

## JUDGMENT

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

## FACTS

2. The brief facts are that the appellant joined the Khyber Pakhtunkhwa Health  
Department as Doctor on 14.9.1992. Upon acquiring higher qualification he  
submitted an application for grant of four advance increments in pursuance of letter  
of the Finance Department dated 22.07.1987. He preferred departmental appeal,  
which was not decided within the stipulated period, hence, the instant service appeal  
on 15.01.2011.

## ARGUMENTS

3. Learned counsel for the appellant argued that the appellant joined the Khyber  
Pakhtunkhwa Health Department as doctor on 14.9.1992. Upon getting higher

qualification he submitted an application for grant of four advance increments in pursuance of letter of the Finance Department dated 22.07.1987 but his request is still pending in the Health Department. Reliance was also placed on civil petition no. 627/2006 decided by the Supreme Court of Pakistan on 26.07.2006. The principal of consistency demands that four advance increments be given to the appellant.

4. On the other hand learned Assistant Advocate General invited attention of this Tribunal to judgment of this Tribunal dated 14.12.2017 and 15.02.2018 passed in service appeals no. 267/2012 and 1816/2011 respectively.

### CONCLUSION

5. Careful perusal of record would reveal that issue raised in the present appeal has already been decided through the judgments of this Tribunal dated 14.12.2017 and 15.02.2018 passed in service appeal no. 267/2012 and no. 1816/2011. As this Tribunal lacks jurisdiction to entertain the above appeal so there is hardly need to touch the merits of the case.

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

(AHMAD HASSAN)  
MEMBER

(MUHAMMAD HAMID MUGHAL)  
MEMBER

ANNOUNCED  
04.04.2018

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School  
No 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, 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.

(2)

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 Constituion.

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

(3)

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


(4)

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/9/07/2016

  
(Sultan Khan)  
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/9/07/2016

  
(Sultan Khan)  
Appellant Inperson

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(2)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School  
No 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, 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.

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- 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 defence 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



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(1)

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)

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4-5) That respondent did not comment these paras, appellant 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 appellant in detailed herein above at para 2-3 of this rejoinder so here no need to repeat it.

b-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 absolutely ambiguous, 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 (b-k) in appeal by appellant is reiterated.

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

Dated 19/07/2015

(Sultan Khan)  
Appellant Imperson

### 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 19/07/2015

(Sultan Khan)  
Appellant Imperson

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 Pakhtunkhwar Peshawar.  
Attention CM&I Section.

ii. The District Accounts Officer,  
Manshera.

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

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

S.#	Name/Designation	Name of School	Qualification	D/O Declaration of MA Result	Remarks
1	Zulfiqar Ahmad (Ex-CT)	GHSS Daffa	MA(Urdu)	17.09.1998	MA Degree is genuine
2	Ghulam Khan CT	GHSS Daffa	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. Hithar 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. Mustajab Khan CT	GHS Bajna	MA (Islamiyat)	08.10.1998	MA Degree is genuine
8	Mr. Munir Hussain CT	GHS Bajna	MA (Islamiyat)	26.06.2000	MA Degree is genuine
9	Mr. Altaf Qadir CT	GHS Dharyal	MA (Islamiyat)	22.12.1996	MA Degree is genuine
10	Mr. Sajjad Hussain CT	GHS Dadar	MA (Islamiyat)	26.06.2000	MA Degree is genuine
11	Mr. M. Riaz CT	GHSS Daffa	MA(Urdu)	02.10.1996	MA Degree is genuine
12	Mr. Mazhar Hussain CT	GHSS Daffa	MA (Islamiyat)	17.06.2001	MA Degree is genuine
13	Mr. M. Hanif PET	GHSS Galgali	MA (Urdu)	06.07.2001	MA Degree is genuine
14	Mr. Sajid Mehmood PET	GHSS, No. 1 Manshera	MA(Urdu)	17.09.1998	MA Degree is genuine
15	Mr. Sajjad Muhammad CT	GHSS Daffa	MA(History & Pak. Studies)	19.03.2000	MA Degree is genuine
16	Mr. Yur Muhammad Khan CT	GHSS Daffa	MA (Islamiyat)	02.10.1994	MA Degree is genuine
17	Mr. M. Saeed SST	GHSS Daffa	MA(History & Pak. Studies)	21.04.1998	MA Degree is genuine
18	Mr. M. Ishtiaq	ADO(Circle) Oghi	MA(Urdu)	23.10.1996	MA Degree is genuine
19	Mr. Syed Alamgir Shah CT	GHS Timbry	MA(Urdu)	15.10.1998	MA Degree is genuine
20	R. Abdul Qayyum CT	GHS Trangri Bala Instead of Nagri Bala	MA (Islamiyat)	13.09.1999	MA Degree is genuine
21	Mr. M. Ashraf CT	GHS Sumi Instead of Sufan	MA (Islamiyat)	15.09.1997	MA Degree is genuine
22	Mr. Rifaqat Naveed CT	GHSS Daffa	MA(Edu)	31.07.1997	MA Degree is genuine

Accepted  
X

(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.

Yours faithfully,

Encl: As above.

(NOOR ALAM KHAN WAZIR)  
SECTION OFFICER (BUDGET)

Endst. Of even Number & Date.

Copy of the above is forwarded to:-

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

*Amended*

*[Signature]*  
SECTION OFFICER (BUDGET) 20/08/20

*Notified  
22, 27, 28 teachers  
Whose documents were checked  
& forwarded to Dist. Ed's Education  
for advance inc. of Master file*

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**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School  
No: 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, Tehsil &  
District Abbottabad.

Appellant

**Versus**

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.

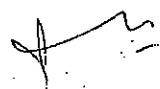
Respondents.

**REJOINDER (REPLICATION)**

**INDEX**

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Dated 19/07/2015

  
(Sultan Khan)  
Appellant Inperson

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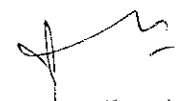
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**REJOINDER (REPLICATION)**

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Dated 19/07/2016

  
(Sultan Khan)  
Appellant Inperson

P-

graciously be declared illegal, without jurisdiction and without lawful authority and of having no legal effect.

Respectfully Sheweth!

1. That, appellant was appointed against the post of class-IV vide appointment order dated 28.07.2005.

*(Copy of appointment order is annexed as annexure "A").*

2. That, at the time of appointment, date of birth of the appellant was recorded in the service book as 1954 while according to CNIC and birth certificate, correct date of birth of the appellant was 16.04.1956.

3. That, appellant applied within time for the correction of his date of birth as per CNIC and birth certificate to DDO concerned who corrected the same and in this respect, initial was also put in the relevant column of the service book by competent authority.

*(Copies of service book is annexed as annexure "B").*

4. That, as per corrected date of birth, the appellant was to retire on 15.04.2016

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**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School No 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, Tehsil & District Abbottabad.

Appellant

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**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 Constituion.

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.
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- 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 9/07/2016

  
(Sultan Khan)  
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 9/07/2016

  
(Sultan Khan)  
Appellant Inperson

(2)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 198 of 2015

Sultan Khan S/O Shah Zaman, Senior CT teacher, Government High School No 04 Abbottabad, (Now Retired) R/O Hamza Colony, Link road, 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 defence 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 respondednts 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, appellant 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 appellant in detailed herein above at para 2-3 of this rejoinder so here no need to repeat it.

b-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 absolutely ambiguous, 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 (b-k) in appeal by appellant is reiterated.

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

Dated 19/07/2016

(Sultan Khan)  
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 19/07/2016

(Sultan Khan)  
Appellant Inperson



**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. Itikhar 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. Mustajab Khan CT	GHS Bajna	MA (Islamiyat)	08.10.1998	MA Degree is genuine
8	Mr. Munir Hussain CT	GHS Bajna	MA (Islamiyat)	26.06.2000	MA Degree is genuine
9	Mr. Altaf Qadir CT	GHS Dharyal	MA (Islamiyat)	22.12.1996	MA Degree is genuine
10	Mr. Sajjad Hussain CT	GHS Dadar	MA (Islamiyat)	26.06.2000	MA Degree is genuine
11	Mr. M. Riaz CT	GHSS Baffa	MA(Urdu)	02.10.1996	MA Degree is genuine
12	Mr. Mazhar Hussain CT	GHSS Baffa	MA (Islamiyat)	17.06.2001	MA Degree is genuine
13	Mr. M. Hanif PET	GHSS Galgali	MA (Urdu)	06.07.2001	MA Degree is genuine
14	Mr. Sajid 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)	02.10.1994	MA Degree is genuine
17	Mr. M. Saeed SST	GHSS Baffa	MA(History & Pak. Studies)	21.04.1998	MA Degree is genuine
18	Mr. M. Ishtiaq	ADO(Circle) Oghi	MA(Urdu)	23.10.1996	MA Degree is genuine
19	Mr. Syed Alamgir Shuh CT	GHS Timbry	MA(Urdu)	15.10.1998	MA Degree is genuine
20	R. Abdul Qayyum CT	GHS Trangri Bala Instead of Nagri Bala	MA (Islamiyat)	13.09.1999	MA Degree is genuine
21	Mr. M. Ashraf CT	GHS Sum Instead of Sulaa	MA (Islamiyat)	15.09.1997	MA Degree is genuine
22	Mr. Rifaqat Naveed CT	GHSS Baffa	MA(Edu)	31.07.1997	MA Degree is genuine

*Amirul*  
13



(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.

Yours faithfully,

Encl: As above.

(NOOR ALAM KHAN WAZIR)  
SECTION OFFICER (BUDGET)

Endst. Of even Number & Date.

Copy of the above is forwarded to:-

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

Approved  
[Signature]

[Signature]  
SECTION OFFICER (BUDGET) 20/9/17

Noted  
22, 27, 28 teachers  
Whose documents were checked?  
Forwarded to Direct Ed S Education  
for Advance Incr. Master file

Annexure B,

(11)

SECRETARY ESSE KPK

FAK NO. :+92 91 9211419

17 Jun. 2014 11:20AM P1



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

No. SO(B&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 Islamiat	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 Zor 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 Islamiat	1997	MA Degree is genuine
21	Mr. Jaffar Shah CT	MA Urdu	1997	MA Degree is genuine
22	Mr. Saif Ul Malik	MA (Educ)	07.02.1994	MA Degree is genuine
23	Mr. Abdul Hafiz SCT	MA (Islamiyat)	13.09.1999	MA Degree is genuine
24	Mr. Liaqat Ali Abbasi	MA Political Science	07.02.1994	MA Degree is genuine
25	Mr. Muhammad Usman CT	MA Islamiat	1997	MA Degree is genuine
26	Mr. M. Zubair Khan SCT	MA (Isla)	1999	MA Degree is genuine
27	Mr. Muhammad Naseem Ex-PTC, SS GHSS Butera Kohistan.	MA (Pak Study)	06.06.2000	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.

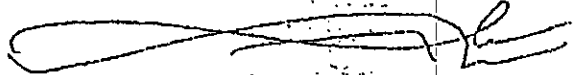
As per The Khyber Pakhtunkhwa Cessation of Payment of Arrears on  
Advance Increments on Higher Educational Qualification ACT-2012, para-2 (2) which is  
reproduced as under;

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.

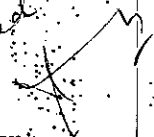
Encl: As above.

  
(NOOR ALAM KHAN WAZIR)  
SECTION OFFICER (BUDGET) 17/06/14

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.

*Assessed*  


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, Manshara.

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 Manshara 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. Sulaiman 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 Islamiat	1996	MA Degree is genuine
5	Mr. Muhammad Murtaza CT	MA Urdu	15-09-1991	MA Degree is genuine
6	Mr. Inaam Ali Shah CT	MA Islamiat	23-09-1999	MA Degree is genuine
7	Mr. Muhammad Naseem CT	MA Urdu	-	MA Degree is genuine
8	Mr. Ghor Rehman CT	MA Islamiat	04-10-1993	MA Degree is genuine
9	Mr. Saif Ur Rehman Ex-CT	MA Islamiat	13-09-1999	MA Degree is genuine
10	Mr. Muhammad Younas CT	MA Islamiat	1992	MA Degree is genuine
11	Mr. Aurangzeb CT	MA Islamiat	20-10-1996	MA Degree is genuine
12	Mr. Mushtaq Ahmad CT	MA Islamiat	17-09-1998	MA Degree is genuine
13	Mr. Khan Wali CT	MA Islamiat	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 Islamiat	20-06-2000	MA Degree is genuine
16	Mr. Muhammad Sajid CT	MA Islamiat	05-04-1999	MA Degree is genuine
17	Mr. Muhammad Zakir CT	MA Islamiat	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 Chughtal CT	MA Urdu	18-10-1994	MA Degree is genuine
20	Mr. Nasir Mehmood CT	MA Islamiat	13-09-1999	MA Degree is genuine
21	Mr. Sher Baz Khan CT	MA Islamiat	26-06-2000	MA Degree is genuine
22	Mr. Asif Ali CT	MA Urdu	18-10-1994	MA Degree is genuine
23	Mr. Syed Irfikhar Hussain CT	MA History	1996	MA Degree is genuine
24	Mst. Rashida Bibi CT	MA Urdu	23-10-1996	MA Degree is genuine
25	Mst. Shazla Rafique PET	MA Islamiat	17-06-2001	MA Degree is genuine
26	Mr. Khalid Mehmood SDM, GHS Gandia	MA Pak Study	01.11.1999	MA Degree is genuine
27	Mr. Muhammad Iqbal SCT, GHS Gandia	MA Islamiat	19.01.1995	MA Degree is genuine
28	Mr. Muhammad Sadiq SCT, GHS Gandia	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.

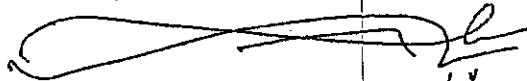
As per The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification ACT-2012, para-2 (2) which is reproduced as under;

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.

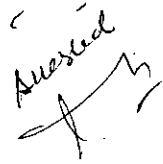
Encl: As above.

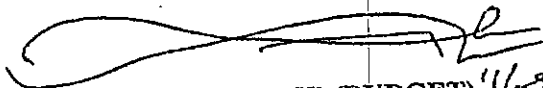
  
(NOOR ALAM KHAN WAZIR) 11/09/14  
SECTION OFFICER (BUDGET)

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/F) 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.

Accepted  


  
SECTION OFFICER (BUDGET) 11/09/14