

21.10.2020

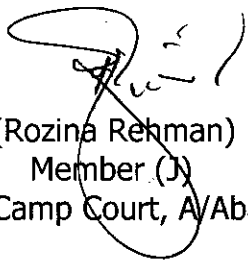
Petitioner in person present.

Usman Ghani learned District Attorney alongwith Sohail Ahmad Zeb Litigation Assistant for respondents present.

From the record, it is evident that the present petitioner and others filed service appeals U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for grant of advance increments with all back benefits on the basis of Para-05(i) (c) of the Notification No. FD (PRC) 1-1 /89 dated 11.08.1991 issued by Finance Department and in pursuance of judgment passed by the August Supreme Court of Pakistan and vide judgment dated 12.05.2009 in appeal No.1276/2007, all the appeals were accepted. In the meanwhile, Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Qualification Bill 2012 having been passed by the Provincial Assembly Khyber Pakhtunkhwa on 8<sup>th</sup> May, 2012 and assented to by the Governor Khyber Pakhtunkhwa on 11<sup>th</sup> May, 2012 was published as an Act of the Provincial Legislature of Khyber Pakhtunkhwa. This Act was challenged before the Service Tribunal as well as in the August High Court. Appeals pending in the Service Tribunal were withdrawn by the appellants vide order dated 21.03.2018 of this Tribunal. Writ Petitions were allowed vide order dated 08.06.2017 and the official respondents were directed to provide the benefits of advance increments according to the notification dated 11.08.1991 on attaining higher qualification during service. The respondent departments challenged the said order in the August Supreme Court of Pakistan and vide order dated 18.12.2019 of the August Supreme Court of Pakistan, leave was granted and the impugned judgment passed by the Hon'ble Peshawar High Court was suspended.

A handwritten signature in black ink, followed by the date '29/10/20' written below it.

In view of the above discussion, the instant execution proceedings are adjourned sine die till the decision by the August Supreme Court of Pakistan. Petitioner is at liberty to seek its restoration after the decision by the August Supreme Court of Pakistan. File be consigned to the record room.



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

21.01.2020

Petitioner in person present. Mr. Muhammad Jan, DDA alongwith Mr. Muhammad Shamim, SO and Mr. Amjid Ali, Assistant for respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings on 18.02.2020 before S.B at camp court Abbottabad.

  
Member  
Camp Court A/Abad

Due to covid ,19 case to come up for the same on / /  
at camp court abbottabad.

Reader

Due to summer vacation case to come up for the same on / 21  
10 / 20 at camp court abbottabad.

  
Reader

21.11.2019

Petitioner in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Sohail Ahmad Zeb, Assistant for respondents present.

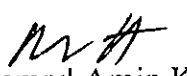
Learned District Attorney for the petitioner invited attention to implementation report dated 16.10.2018 submitted by the respondents, whereby claim of the petitioner was not covered under Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Education Qualification Act, 2012 and prayed for dismissal of the present execution petition. The petitioner appearing in person was unable to defend his position so directed to submit written reply on or before the next date of hearing. To come up for further proceedings on 21.01.2020 before SB at camp court Abbottabad.



Member  
Camp Court Abbottabad

19.09.2019

Petitioner in person and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Sohail Ahmed Zeb, Assistant on behalf of respondents No. 1, 3 & 4 present. Implementation report is pending since 28.06.2018 but today neither implementation report has been submitted nor any one present on behalf of respondent No. 2 i.e District Comptroller of Accounts, Abbottabad therefore, salary of respondent No. 2 is attached till further orders. Case to come up for implementation report on 21.11.2019 before S.B at Camp Court Abbottabad.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

21.11.2019


Counsel for the petitioner present. Mr. Usman Ghani, District Attorney alongwith Mr. Sohail Ahmad Zeb, Assistant for respondents present.

Learned counsel for the petitioner invited attention to implementation report dated 16.10.2018 submitted by the respondents, whereby claim of the petitioner was not covered under Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Education Qualification Act, 2012 and prayed for dismissal of the present execution petition. The petitioner appearing in person was unable to defend his position so directed to submit written reply on or before the next date of hearing. To come up for further proceedings on 21.01.2020 before SB at camp court Abbottabad.

Member  
Camp Court Abbottabad


22.05.2019

Petitioner in person present. Mr. Sohail Ahmad Zeb, ADO alongwith Mr. Muhammad Bilal, Deputy District Attorney for the respondents present and requested for adjournment. To come up for implementation report/further proceeding on 11.07.2019 before S.B at Camp Court Abbottabad.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

11.07.2019

Petitioner in person and Mr. Muhammad Bilal, Deputy District Attorney alongwith M/S Syed Hujaj Shah, Litigation Officer and Yasir Iqbal, District Account Officer for the respondents present. Representatives of the department are strictly directed to submit implementation report on the next date positively. Copy of personal number of the petitioner has also been handed over to the representatives of the department. Copy of the same is also placed on record of Execution Petition No. 141/2018 titled Qazi Masood-ur-Rehman Versus District Education Officer (Elementary & Secondary Education Department), Haripur and four others respondents. Case to come up for implementation report on 19.09.2019 before S.B at Camp Court Abbottabad.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

17.10.2018

Petitioner in person present. Mr. Hujjaj Shah, ADO alongwith Mr. Usman Ghani, District Attorney for the respondents present. Representative of the department submitted reply to the execution petition, which is placed on record. Adjourned. To come up for further proceedings on 20.12.2018 before S.B at camp court, Abbottabad.



Member  
Camp Court, A/Abad

20.12.2018

Petitioner in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Hajaj Shah, Litigation Officer for respondents present. Case to come up for further proceedings on 19.03.2019 before S.B at camp court, Abbottabad.



Member  
Camp court A/Abad

19.03.2019

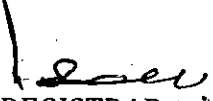



Petitioner with counsel and Mr. Muhammad Bilal learned Deputy District Attorney alongwith M/S Sohail Ahmad Zeb Litigation Assistant and Muhammad Shamim S.O present. Learned counsel for the petitioner stated that vide common judgment dated 12.05.2009 in Service Appeal No.1276/2007, relief was granted to 268 number of appellants and the respondent department granted advance increments on higher educational qualification to all the appellants except the petitioner and 8 other appellants who are also petitioners in the connected execution petitions. To that effect learned counsel for the appellant also submitted application placed on file of Execution Petition No.141/2018. Adjourn. To come up for reply and arguments on the said application on 22.05.2019 before S.B at Camp Court A/Abad.



Member  
Camp Court A/Abad.

FORM OF ORDER SHEET

Execution Petition No. 148/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	16.05.2018	<p>The Execution Petition of Mr. Arshad Khan submitted to-day by him, may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	18-5-2018	<p>This Execution Petition be put up before Touring S. Bench at Abbottad on <u>28-6-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
28.06.2018		<p>Petitioner Arshad Khan in person present. Mr. Ziaullah, Deputy District Attorney for respondents present. Notices be issued to the respondents for submission of implementation report. To come up for implementation report on 28.08.2018 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp court, A/Abad</p>
28.08.2018		<p>Petitioner in person and Shamim PA, Javed DSE and Sardar Jan Alam Advocate for Khyber Teaching Hospital for the respondents present. Due to summer vacations, the case is adjourned. To come up for the same on 17.10.2018 at camp court Abbottabad.</p> <p style="text-align: right;"> Reader</p>



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Execution Petition No: 144 of 2018

Javed Iqbal S/O Wali Ahmad, (Ex A.T teacher) S.S.T, Government High School Jhangi, Abbottabad. R/O: Albadar Colony Tableeghi Markaz, Abbottabad.

Appellant

Versus

- 1 District Education Officer (Elementary & Secondary Education Department), Abbottabad.
- 2 District Comptroller of Accounts, Abbottabad.
- 3 Director of (Elementary & Secondary Education Department) Khyber Pakhtunkhwa Peshawar.
- 4 Secretary to Govt of Khyber Pakhtunkhwa (Elementary & Secondary Education Department) Peshawar.

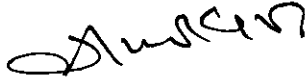
Respondents

EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED 12/05/2009 PASSED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR (CAMP COURT ABBOTTABAD).

**EXECUTION PETITION**

**INDEX**

S.No	DESCREPTION OF DOCUMENTS	ANNEXURES	PAGE NO
1	Memo; of execution petition	----	1 to 2
2	Copy of previous Service appeal for grant of Advance increments	A	3 - 6
3	Copy of Judgment dated 12/05/2009	B	7 - 18
4	Copy of present service appeal filed against KPK ACT NO IX OF 2012	C	19 - 23
5	Copy of withdrawal application	D	24 - 25
6	Copy of order dated 21/03/2018	E	26 - 27

  
(Javed Iqbal)  
Petitioner in person

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Khyber Pakhtukhwa  
Service Tribunal

Execution Petition No: 144 of 2018

Diary No. 719

Dated 16/05/2018

Javed Iqbal S/O Wali Ahmad, (Ex A.T teacher) S.S.T, Government High School Jhangi, Abbottabad. R/O: Albadar Colony Tableeghi Markaz, Abbottabad.

Appellant

Versus

- 1 District Education Officer (Elementary & Secondary Education Department), Abbottabad.
- 2 District Comptroller of Accounts, Abbottabad.
- 3 Director of (Elementary & Secondary Education Department) Khyber Pakhtunkhwa Peshawar.
- 4 Secretary to Govt of Khyber Pakhtunkhwa (Elementary & Secondary Education Department) Peshawar.

Respondents

EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED 12/05/2009 PASSED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR (CAMP COURT ABBOTTABAD).

*Pls see  
Dms/cey*

PRAYER

IT IS RESPECTFULLY PRAYED THAT RESPONDENTS MAY PLEASE BE DIRECTED TO IMPLEMENT THE JUDGMENT DATED 12/05/2009 AND GRANT OF 04 ADVANCE INCREMENTS OF MA W.E.F. 20/10/1996, WITH ALL BACK BENEFITS.

Filed to-day

Registrar

Respectfully Sheweth,

- 1) That petitioner's service appeal relating to advance Increments on his higher qualification was accepted by this Honourable Service Tribunal on 12/05/2009 at Camp Court Abbottabad. Copy of service appeal and judgment is annexed as Annexure "A" & "B".

- 2) That prior to implementation of the judgment dated 12/05/2009, An Act "Khyber Pakhtunkhwa cessation of payment of arrears on advance increments on higher education qualification Act" (KPK ACT NO IX OF 2012 dated 15/05/2012) was promulgated/published by the Government of Khyber Pakhtunkhwa/respondents.
- 3) That the pending implementation matter was legally suspended/hanged in the presence of KPK ACT NO IX OF 2012, so petitioner challenged it through service appeal before this Honourable Tribunal. Copy of service appeal is annexed as Annexure "C"
- 4) That the same service appeal is now decided on 21/03/2018 and petitioner is allowed to seek all his remedies/rights available to him under the law, hence through instant execution petition he is legally entitled for implementation of judgment dated 12/05/2009 and grant of 04 advance increment of MA w.e.f. 20/10/1996 . Copies of withdrawal application and order dated 21/03/2018 are annexed as Annexure "D" & "E"

منشی  
Javed Iqbal

It is therefore respectfully prayed that respondents may please be directed to implement the judgment dated 12/05/2009 and grant of 04 advance increments of MA w.e.f. 20/10/1996, with all back benefits.

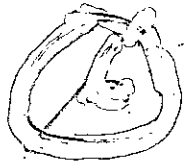
*Javed Iqbal*  
(Javed Iqbal)  
Petitioner in person

**VERIFICATION**

I do here by verified 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 same nature of any other implementation petition is not pending before Honourable Tribunal

*Javed Iqbal*  
(Javed Iqbal)  
Petitioner in person

Annexure A



**BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 1050/2008

Javed Iqbal S/O Wali Ahmad, (Ex A.T teacher) S.E.T, Government High School Jhangi, Abbottabad. R/O: Albadar Colony Taleeghi Markaz, ABBOTTABAD.

Appellant  
Service Tribunal

Diary No. 1287

Dated 25/7/08

**Versus**

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

**Respondents**

Appeal under Section 4 of NWFP Service Tribunal Act 1974  
 For grant of 04 Four advance increments of M.A w. e. f. 20/10/1996  
 (date of passing M.A Examination) with all back benefits on the  
 basis of Para 5(i) (c) of the Notification No FD (PRC) 1-1 /89 dated  
 11-08-1991 issued by (Finance Department N.W.F.P, Peshawar) and in  
 pursuance of Judgments/Law passed by Supreme Court of Pakistan.

*Disputed Demand*

PRAYER

It is respectfully prayed before this Honourable Tribunal that the instant appeal may graciously be accepted, and the appellant may be granted 04 advance increments of MA w.e.f. 20/10/1996, with all back benefits

Respectfully Sheweth,

Filed to-day

M.A. 1050/2008  
25/7/08  
1)

FACTS

That appellant had joined Education Department as a A.T trained teacher on 10/12/1985, Appellant had also passed his professional A.T training before his Service, thus his regular Service has also started from the date of his joining Education Department. appellant had also promoted against S.E.T post on 01/09/1996. Now a day's appellant is working as S.E.T teacher in BPS No 16 in

TESTED  
 EXAMINER  
 NWFP SERVICE TRIBUNAL  
 PESHAWAR

the Department. A Certificate in this respect issued by concerned authority is annexed as Annexure A.

- 2) That appellant had also fulfilled all the required formalities for BPS 14 and has placed in BPS No 14 against A.T post, (and similarly on his promotion he has placed in BPS No 16 on 01/09/2003) on the basis of Notification No FD(PRC)1-1/89 dated 07/08/1991, issued by Finance Department, N.W.F.P, Peshawar. Copy of said Notification No FD (PRC)1-1/89 dated 07/08/1991 is Annexure B.
- 3) That appellant during his Service, had also passed his M.A examination, and was/is entitled for Four (04) Advance Increments with effect from 20/10/1996 (date of passing M.A examination) in pursuance of Para 5 (i) (c) of the Notification No FD(PRC)1-1/89 dated 11/08/1991, issued by Finance Department, N.W.F.P, Peshawar, but these four (04) advance increments were not given to the appellant by the respondents in their office routine, until now. Copy of said Notification No FD (PRC)1-1/89 dated 11/08/1991 is Annexure C.
- 4) That appellant being teacher in Education Department was/is a member of Civil Employees (BPS-1-15) of the Provincial Government of N.W.F.P and was/is entitled advance increments in pursuance of Notification 11/08/1991 referred above, whose Para # 5, Clause ( c ) caters for the grant of Four Advance Increments M.A/M.Sc against A.T post (Middle School Teacher), So appellant was/is entitled the same and Respondents did not give his Constitutional rights.
- 5) That now, In the Meanwhile, Honourable Supreme Court Of Pakistan has also decided the same matters in CPLA No 525,526 of 2007 on 19/07/2007, and ultimately declared that teachers (appellant) in Education Department are also Entitled for their Advanced Increments given in Para 5 (1) of Notification No FD(PRC)1-1/89 Dated 11/08/1991 without any change/exception. Copy of Supreme Court judgment is annexed as Annexure D.
- 6) That Honourable Supreme Court of Pakistan has been pleased to dismiss the Civil Review Petitions No 216 & 217 of 2007, filed by Finance Department, N.W.F.P, Peshawar, on 29/01/2008, which were filed against the judgment, dated 19/07/2007, passed in C.P.L.A No 525 & 526 of 2007, and now the matters of Advance Increments attained its finality and there is no way before the respondents to withhold/deny the rights of appellant. Copy of Supreme Court judgment passed in C.R.P No 216 & 217 of 2007 is annexed as Annexure E.

*Placed  
Dmch*

7) That the petitioner of C.P.L.A. No 525 of 2007 (Mr: Rashid Iqbal Khan CT, GMS Tarhana, Abbottabad) has now received his 04 Advance Increments of M.A/M.Sc with effect from its qualifying date, i.e. 15/09/1997, through an order issued on 26/02/2008, by the Education Department, in compliance of the Judgments of Honourable Supreme Court of Pakistan, dated 19/07/2007 & 29/01/2008, passed in CPLA No 525/2007 & CRP No 216/2007. Copy of Order dated 26/02/2008, of 04 Advance Increments of MA/MSc is annexed as Annexure F.

8) That when the above Judgments of the Supreme Court dated 19/07/2007 & 29/01/2008, and above order of Education Department dated 26/02/2008 (Annexure F) came into the notice of appellant, in the light of the same, he submitted his departmental representation to respondent no 1 on 27/03/2008 through Head Master Concerned, the School Head Master sent to appellant's representation with his own covering letter, and it is undecided within the statutory period of 90 days. Copy of representation is Annexure G, and Covering letter is Annexure H, Hence this appeal inters - alia on the following ground, and appellant's appeal is within 120 days from the submission of his departmental representation, Dated 27/03/2008.

originals

### Grounds

Rashid Iqbal Khan

- a) That the impugned action of respondent no 01 not deciding the appellant's representation dated 27/03/2008 is arbitrary, unjust, and against all the norms of justice and equity and violated the Articles 25,189 and 190 of the Constitution, as petitioner of CPLA (Mr: Rashid Iqbal Khan) has got his same relief of 04 advance increments of MA/MSc.
- b) That the impugned action of respondent no 01 not deciding the appellant's representation, is against law, facts of the case, also against letter and spirit of the Judgments of Honourable Supreme Court of Pakistan dated 19/07/2007 passed in CPLA No 525,526 of 2007 and also dated 29/01/2008 in Civil Review Petition No 216 & 217 of 2007.
- c). That the Policy contained in Notification/Circular dated 11/08/1991 at its Para 5 was/is passed by N.W.F.P Provincial Assembly in their Budget Session 1991-92 and then Hon, le Governor approved the same and Finance Department issued the said Circular after completing the legal requirements
- d) That all the Respondents neither have power nor any jurisdiction to change, withheld/deny the Government Policy contained in Circular/Notification dated 11/08/1991 and cannot apply according to their own wishes and whims against the said policy.
- e) That the action of respondents in refusing the grant of advance increments to the appellant on the basis of Circular dard 11/08/1991, violated the Article 25,189 190 of the

Constitution, as petitioner of CPLA (Mr: Rashid Iqbal Khan) has got his same relief of 04 advance increments of MA/MSc.

- f). That the said Circular (Annexure C) was/is issued for Civil Provincial Employees of N.W.F.P (BPS-1-15) and appellant being teacher(Education Department) falls under the same and fully entitled for the relief of Advanced Increments along with back benefits as claimed by him.
- g). That the case of appellant is the same nature in pursuance of Para 5 (i) of Notification, which was decided by Supreme Court of Pakistan on 19/07/2007 passed in CPLA No 525,526 of 2007 (Annexure D).
- h). That under the law appellant's case is quite Clear after the Judgment passed in CPLA No 525,526 of 2007 by Supreme Court, and refusal/dismissal of appellant's representation is illegal, without jurisdiction and unconstitutional.
- i). 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.
- j). That appellant's service appeal is maintainable and appellant's post was A.T and appellant is now working in BPS # 16 against S.E.T post and Instant Case falls under Para 5(1) (c) of the Circular dated 11/08/1991(Annexure C)

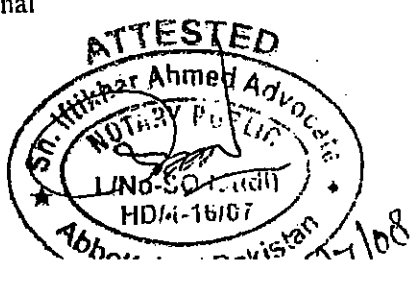
*Dismissed  
Order*

It is there fore respectfully prayed that appellant's appeal may kindly be accepted and 4 advance increments of M.A w.e.f. 20/10/1996 (date of passing M.A examlnation), along with all back benefits may graciously be granted to the appellant in the interest of justice.

*Javed Iqbal*  
(Javed Iqbal)  
Appellant in person

Affidavit

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

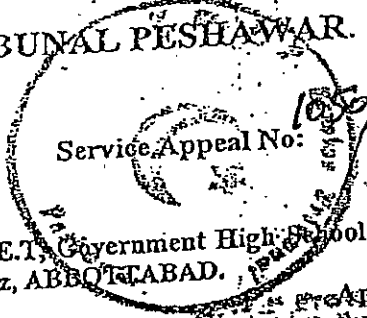


*Javed Iqbal*  
(Javed Iqbal)  
DEPONENT

Annexure B



BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.



Service Appeal No: 1056 of 2008

Javed Iqbal S/O Wali Ahmad, (Ex A.T teacher) S.E.T, Government High School Jhangi, Abbottabad. R/O: Albadar Colony Tableeghi Markaz, ABBOTTABAD.

Appellant  
Service Tribunal  
Diary No. 1287  
Dated 25/7/08

Versus

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

Respondents

*Arshad Alam*

Appeal under Section 4 of NWFP Service Tribunal Act 1974  
For grant of 04 Four advance increments of M.A w. e. f. 20/10/1996  
(date of passing M.A Examination) with all back benefits on the  
basis of Para 5(i) (c) of the Notification No FD (PRC) 1-1 /89 dated  
11-08-1991 issued by (Finance Department N.W.F.P, Peshawar) and in  
pursuance of Judgments/Law passed by Supreme Court of Pakistan.

*Arshad Alam*  
12.5.2009

Appellant in person, Arshad Alam A.G.P  
alongwith representative of respondents present.  
Vide our detailed judgment of today, in Appeal  
No. 1276/2007, this appeal is also accepted. The  
parties are, however, left to bear their own costs.

File be consigned to the record.

ANNOUNCED.  
12.05.2009.

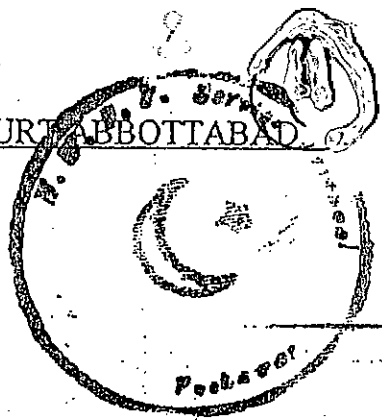
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*sd*  
Member.

*sd*  
Member  
Camp Court Abbottabad.



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.

*Arshad Alam*

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

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



JUDGMENT.

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

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

EXAMINER  
NWFP SERVICE TRIBUNAL  
Peshawar  
ATTES  
TED

- 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,

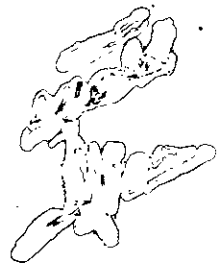
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- 42. 595/2008 Abdur Razzaq,
- 43. 596/2008 Abdur Razzaq,
- 44. 597/2008 Shaukat Ali Abbasi,
- 45. 598/2008 Abdul Hamid Lodhi,
- 46. 599/2008 Umar Khatab,
- 47. 680/2008 Abdul Majid
- 48. 681/2008 Muhammad Saleem,
- 49. 682/2008 Bashir Ahmad,
- 50. 714/2008 Mazhar Khan,
- 51. 715/2008 Muhammad Saeed,
- 52. 716/2008 Manzoor Ahmad,
- 53. 717/2008, Zulfiqar,
- 54. 718/2008 Sardar Irshad Ali,
- 55. 739/2008 Khursheed Ahmad,
- 56. 759/2008 Muhammad Daud Qureshi
- 57. 760/2008 Muhammad Fayaz Awan
- 58. 798/2008 Naheem Akhtar,
- 59. 812/2008 Muhammad Siddique,
- 60. 813/2008 Sajjad Ahmad,
- 61. 814/2008 Abdul Hameed,
- 62. 815/2008 Raza Hussain Shah,
- 63. 816/2008 Shakeel Ahmad,
- 64. 817/2008 Muhammad Majid Mirza,
- 65. 819/2008 Rab Nawaz
- 66. 820/2008 Aftar,
- 67. 821/2008 Niaz Hussain,
- 68. 822/2008 ✓ Muhammad Iqbal,
- 69. 823/2008 Jamshed Khan,
- 70. 824/2008 Muhammad Shafi,
- 71. 825/2008 Muhammad Qasim,
- 72. 826/2008 Sajjad Ahmad,
- 73. 827/2008 Gul Siraj,
- 74. 828/2008 Muhammad Khursheed,
- 75. 829/2008 Mst. Zakia Sultana,
- 76. 853/2008 Mst. Shahnaz,
- 77. 854/2008 Mushtaq Hussain,

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EXAMINER  
NWFP SERVICE TRIBUNAL  
PESHAWAR

ATTESTED



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

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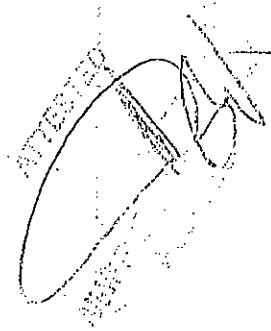
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 EXAMINER  
 NWFP Service Industrial  
 Peshawar.

- 114. 1135/2008 Muhammad Hamayun,
- 115. 1136/2008 Shahid Farooq
- 116. 1137/2008 Abdul Waheed,
- 117. 1206/2008 Naseem Akhtar,
- 118. 1207/2008 Syed Arshad Hussain Shah,
- 119. 1208/2008 Navced,
- 120. 1209/2008 Sadaqat Ali,
- 121. 1234/2008 Saeed Akhtar,
- 122. 1235/2008 Anwar-ul-Haq,
- 123. 1236/2008 Syed Husnain Ali Shah,
- 124. 1242/2008 Muhammad Niaz,
- 125. 1243/2008 Muhammad Anwar,
- 126. 1268/2008 Syed Sadaqat Hussain Shah,
- 127. 1274/2008 Shah Jehan,
- 128. 1355/2008 Ahmad Farooq,
- 129. 1356/2008 Muhammad Younas,
- 130. 1357/2008 Muhammad Shafique,
- 131. 1379/2008 Tariq Mehmood,
- 132. 1380/2008 Muhammad Yousaf,
- 133. 1381/2008 Waqar Ahmad,
- 134. 1382/2008 Muhammad Azhar,
- 135. 1383/2008 Muhammad Aftaz Aziz,
- 136. 1384/2008 Muhammad Assad,
- 137. 1385/2008 Rashid Khan,
- 138. 1386/2008 Mirza Yasir Jamil Baig,
- 139. 1387/2008 Javed Ibrahim,
- 140. 1388/2008 Muhammad Nawaz,
- 141. 1402/2008 Fida Muhammad,
- 142. 1403/2008 Shah Faisal Khan,
- 143. 1404/2008 Nasir Bakhtiar Khan,
- 144. 1405/2008 Tahir Mahmood,
- 145. 1406/2008 Ajmal Nazir,
- 146. 1407/2008 Uzair Jadoon,
- 147. 1425/2008 Muhammad Adnan Khan,
- 148. 1426/2008 Zahoor Khan,
- 149. 1427/2008 Wajid Ali Shah.

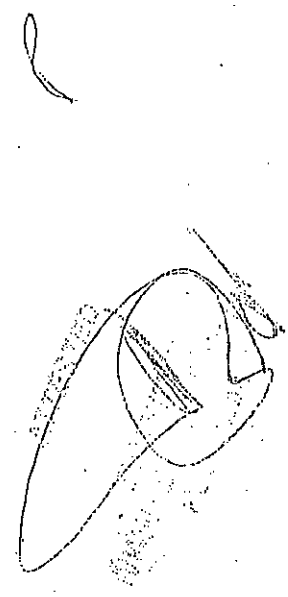
*Ali  
Dina*

*2*



- 150. 1428/2008 Mahmood Ali,
- 151. 1429/2008 Bibi Rizwana,
- 152. 1430/2008 Kousar Shaheen,
- 153. 1441/2008 Amanullah,
- 154. 1442/2008 Gul Khitab Ahmad Turk,
- 155. 1443/2008 Muhammad Saeed,
- 156. 1444/2008 Muhammad Aslam,
- 157. 1445/2008 Mubashar Hassan,
- 158. 1446/2008 Wajid Khan,
- 159. 1452/2008 Bibi-Gul-E-Shahwar,
- 160. 1453/2008 Abdur Razzaq,
- 161. 1454/2008 Mehrban Khan,
- 162. 1455/2008 Ajaz Ahmad Khan,
- 163. 1456/2008 Shujjah Ali,
- 164. 1457/2008 Muhammad Nawaz,
- 165. 1458/2008 Gul Khitab,
- 166. 1459/2008 Mst. Isma Shaheen,
- 167. 1562/2008 Mazhar-Ul-Haq,
- 168. 1563/2008 Muhammad Razaqat,
- 169. 1599/2008 Qazi Masood-ur-Rahman,
- 170. 1600/2008 Shakeel Ahmad,
- 171. 1601/2008 Abid Shah,
- 172. 1602/2008 Ghulam Farooq,
- 173. 1603/2008 Abdur Rashid,
- 174. 1641/2008 Haider Zaman,
- 175. 1686/2008 Muhammad Rafique,
- 176. 1687/2008 Faqir-ud-Din,
- 177. 1688/2008 Azhar Ali Khan,
- 178. 1689/2008 Fida Muhammad,
- 179. 1690/2008 Zafar Iqbal,
- 180. 1691/2008 Muhammad Riaz,
- 181. 1697/2008, Sher Afzal,
- 182. 1998/2008 Shabir Ahmad,
- 183. 1699/2008 Ishtiaq Ahmad,
- 184. 1700/2008 Mst. Robina Shaheen,
- 185. 1701/2008 Mst. Nasim Akhtar,

MAJLIS  
DUNIA



186.	1702/2008	Muhammad Ajmal,
187.	1703/2008	Muhammad Anwar Adil,
188.	1704/2008	Syed Abbas Ali Shah,
189.	1746/2008	Tanveer Ahmad,
190.	1747/2008,	Aurangzeb,
191.	1748/2008	Rasheed Ahmad,
192.	1749/2008	Muhammad Daud,
193.	1750/2008	Sajjad Ahmad,
194.	1751/2008	Ayyaz UR Rehman,
195.	1752/2008	Syed Zakir Hussain Shah,
196.	1753/2008	Abdul Rashid,
197.	1754/2008	Rizwan Khan,
198.	1755/2008	Hasrat Saeed,
199.	1784/2004	Muhammad Saif ur Rehman,
200.	1785/2008	Shah Ali Mardan,
201.	1786/2008	Abdul Qayum Shah,
202.	1822/2008	Nisar Ahmad Shakir,
203.	13/2009	Khalid Khan,
204.	18/2009	Saeed Alam,
205.	31/2009	Muhammad Ashfaq,
206.	32/2009	Sajawal Khan,
207.	33/2009	Muzaffar Ali,
208.	34/2008	Muhammad Zia-ul-Haque,
209.	68/2009	Sagheer Ahmad,
210.	77/2008	Samina Mir Alam,
211.	78/2009	Tasleem Bibi,
212.	79/2009	Farkhanda Sadiq,
213.	138/2009	Abdus-Salam Khan,
214.	139/2009	Hafiz Muhammad Iqbal Khan Qureshi,
215.	140/2009	Hafeez Khan,
216.	141/2009	Muhammad Abid,
217.	142/2009	Abdul Ghaffoor,
218.	226/2009	Muhammad Ilyas,
219.	227/2009	Muhammad Iqbal,
220.	228/2009	Qadir Ahmad,

*Amir  
Durr*

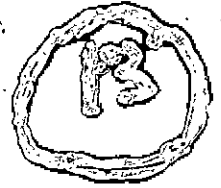
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221.	229/2009	Nasir Ali,
222.	230/2009	Ali Nawaz,
223.	231/2009	Wajid Hussain,
224.	232/2009	Waheed Khan,
225.	233/2009	Muhammad Saleem,
226.	234/2009	Mujtaba Ahmad Hashmi,
227.	235/2009	Khalid Muhammad,
228.	246/2009	Abid Saeed Khan,
229.	237/2009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

*Attested  
Dina*

ATTESTED  
*[Signature]*





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

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

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

4. We heard the arguments and perused the record.

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

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

ATTESTED

NWFP  
EXAMINER  
Service Tribunal  
Peshawar.



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)."

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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. AG 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."

NWFP Service Tribunal  
Peshawar  
EXAMINER

ATTESTED

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



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.

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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.

*sd-*  
(BISMILLAH SHAH)  
MEMBER.

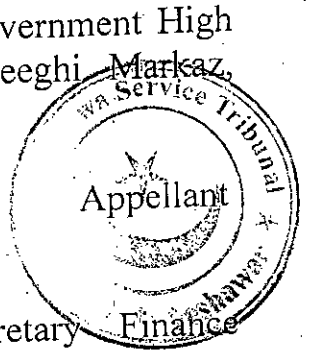
*sd-*  
(ABDUL JALIL)  
MEMBER.  
CAMP COURT ABBOTTABAD.

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Original	24-00
Date of copy	13/7/09
Date of completion of copy	13/7/09
Date of delivery of copy	13/7/09

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.Service Appeal No: 902 of 2014

Javed Iqbal S/O Wali Ahmad, (Ex A.T teacher) S.E.T, Government High School Jhangi, Abbottabad. R/O: Albadar Colony Tableeghi Markaz, Abbottabad.



## Versus

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

**ATTESTED** District Comptroller of Accounts, Abbottabad.

Respondents

*Ali*  
*Shah*

**FILED**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*17/6/14*

SERVICE APPEAL IS BEING FILED WITH OUT DEPARTMENTAL APPEAL WHICH IS IMPOSSIBLE IN THE CIRCUMSTANCES OF THE CASE AND THE SAME LAW POINT IS ALSO DECIDED BY THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH IN WRIT PETITION NO 159-A OF 2014 AT PAGE 6 OF THE JUDGMENT.

**APPEAL** UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED "KHYBER PAKHTUNKHWA ACT NO. IX of 2012" (KHYBER PAKHTUNKHWA CESSATION OF PAYMENT OF ARREARS ON ADVANCE INCREMENTS ON HIGHER EDUCATIONAL QUALIFICATION ACT, 2012) WHICH IS UNCONSTITUTIONAL, WITHOUT LAWFUL AUTHORITY, ARBITRARY, PERVERSE,

re-submitted to ~~the~~  
and filed.

*17/1/14*

DISCREMINATORY' AGAINST THE PRINCIPAL OF NATURAL JUSTICE AND INEFFECTIVE UPON THE APPELLANT'S RIGHTS OF 04 ADVANCE INCREMENTS, GRANTED IN SERVICE APPEAL NO 1050 OF 2008 ACCEPTED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PASSED ON 12/05/2009 ALONG WITH ALL BACK BENEFITS WITH EFFECT FROM HIS RELEVANT DATE OF CLAIM.

PRAYER:-

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, DECLARED THE SAID ACT (KHYBER PAKHTUNKHWA ACT NO.IX of 2012) AS ILLEGAL UNCONSTITUTIONAL INEFFECTIVE UPON THE APPELLANT'S RIGHTS OF 04 ADVANCE INCREMENTS AND RESPONDENTS BE GRACIOUSLY DIRECTED TO GRANT RELEVANT 04 ADVANCE INCREMENTS (ALREADY DECIDED ON 12/05/2009) TO THE APPELLANT WITH EFFECT FROM HIS RELEVANT DATES OF CLAIMS WITH ALL BACK BENEFITS.

Respectfully Sheweth,

FACTS

*Alim Dinal*

- 1) That appellant being school teacher was granted 04 advance Increments on his higher qualification of MA/MSc on the basis of acceptance of his individual Service Appeal by this Honourable Service Tribunal and passed a consolidated judgment on 12/05/2009 at Camp Court Abbottabad. Copy of service appeal and relevant pages of Judgment is annexed as "Annexure "A" & "B"".
- 2) That when respondents' after passing long time' did not implement the existing judgment of Service Tribunal, appellant filed execution petition before this Tribunal, but an Act "Khyber Pakhtunkhwa cessation of payment of arrears on advance increments on higher education qualification Act" (KPK ACT NO IX OF 2012 dated 15/05/2012) was promulgated/published by the respondents. Copy of Act no IX is annexed as "Annexure "C"".

ATTESTED

*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

3) That on the basis of said Act, all the cases (relating to Advance Increments) of execution/implementation of judgment of Service Tribunal in respect of appellant and others too was abated/filed by the Service Tribunal, and appellant has come to know on 10/06/2014 that the vires of said impugned Act was also challenged through Constitution Petition (Writ Petition) before Peshawar High Court and where it was decided on 25/03/2014 and High Court held that remedy by way of service appeal before the Service Tribunal is available to the aggrieved person (appellant) against the impugned Act. Copy of High Court Order is annexed as Annexure "D".

4) That in pursuance of law as decided by High Court in Writ Petition, the instant service appeal is being filed with out departmental appeal, as under the law, it is not possible because there is no appellate departmental authority available, above the Governor KPK who is the promulgating/issuing final authority of impugned Act, However High Court has already decided the matters in Para 06 of the judgment Hence this Service appeal inter alia on the following Grounds.

*Alvin*

**Grounds**

a) That it is undoubted fact that respondents illegally snatched the legal rights of the appellant in an uncivilized way in a very haste manner, which is against the equity and there is no single example is available in the civilized society.

b) That it is admittedly proved that Service Tribunal passed its judgment on 12/05/2009 and respondents did not implement it after passing long period of 04 years, moreover Service Tribunal accepted the 267 service appeals through said single judgment dated 12/05/2009, while 90 % of cases has already been implemented, thus gross discriminatory treatment is involved in the case of appellant and the said Act is against Article 25 of the Constitution.

**ATTESTED**

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

- c) That the action of respondents is admittedly arbitrary capricious unjust and against all norms of justice and against Tribunal Judgment and order as well as constitution of Pakistan.
- d) That impugned Act (Khyber Pakhtunkhwa Act No IX) is admittedly against the Article 25 of the Constitution as well as Constitution it self, according to said Act advance increments taken before issuance of Act (15/05/2012) would be legal, correct and valid but the same rights of advance increments (execution Petitions) would stand abated as per impugned Act, Such kind of target date of any Act/Notification /Memorandum/letter is not only illegal, against law but also against the Constitutional rights of the petitioners and in this respect the Learned larger bench of Supreme Court decided the same matters in (1991 SCMR 1041) (relevant at para 33 page 1092) thus liable to be declared illegal.
- e) That under the law provincial assembly has no power to neither change the nature of constitutional rights/Article nor pass any Act which is against to any Article of Constitution and the impugned Act cannot be passed in the presence of Article 25 of the Constitution.
- f) That Constitution cannot allow pick and choose types of colourful activities between the citizens thus impugned Act is unconstitutional.
- g) That it is an admitted fact that under question Act is the matter of great public importance.
- h) That appellant, who is once again dragged into litigation, that his grievances have been solved completely by this Honourable Tribunal by accepting his service appeal on 12/05/2009, but respondents published an illegal impugned Act, thus the conduct of the respondents is uncivilized in the civilized society and as such requires indulgence of this Honourable Tribunal by awarding appropriate punishment to the respondents

*Plaintiff*

**ATTESTED**

*[Signature]*  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

It is, therefore, respectfully prayed that on acceptance of the instant Service appeal, this Honourable Tribunal may please be declared the said Act (Khyber Pakhtunkhwa Act No. IX of 2012) as illegal unconstitutional and respondents be graciously directed to grant 04 advance increments of M.A/M.Sc to the appellant with effect from his relevant dates of claims, decided in service appeal no 1050 of 2008, with all back benefits in the interest of natural justice.

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 12/06/2014

*Javed Iqbal*  
(Javed Iqbal)  
Appellant in person

*Pris  
Javed*

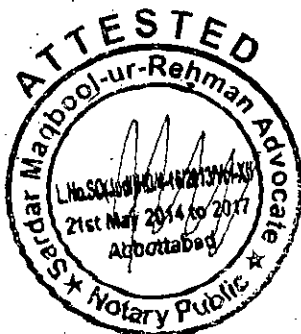
Affidavit

I, Javed Iqbal S/O Wali Ahmad, (Ex A.T teacher) S.E.T, Government High School Jhangi, Abbottabad. R/O: Albadar Colony Tableeghi Markaz, 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 12/04/2014

*Javed Iqbal*  
(Javed Iqbal)  
Appellant in person  
DEPONENT

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



*13/6/14*

Date of Presentation of Application 05-04-18  
Number of Words 2800  
Copying Fee 16  
Urgent 2  
Total 18  
Name of Copyist *[Signature]*  
Date of Completion of Doc 05-04-18  
Date of Delivery of Copy 05-04-18



21/3/18

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

Service Appeal No.902-A/2014

Javed Iqbal son of Wali Ahmed, Ex-A.T Teacher, SET, Govt. High School Jhangi, Abbottabad, resident of Albadar Colony, Tableeghi Markaz, Tehsil & District, Abbottabad.

...APPELLANT

VERSUS

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

...RESPONDENTS

**SERVICE APPEAL**

*Placed in  
[Signature]*

APPLICATION FOR WITHDRAWAL OF INSTANT SERVICE APPEAL WITH PERMISSION TO BRING FRESH IMPLEMENTATION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED 12/05/2009 PASSED BY THIS HONOURABLE TRIBUNAL (CAMP COURT, ABBOTTABAD).

Respectfully Sheweth:-

1. That appellant's service appeal relating to advance increments on his higher qualification was accepted by this Honourable Service Tribunal on 12/05/2009 at Camp Court, Abbottabad, during its implementation petition, an Act "Khyber Pakhtunkhwa Cessation of

**ATTESTED**

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Payment of Arrear on Advance Increments on Higher Education Qualification Act, (KPK Act NO.1X of 2012 dated 21-03-2012 was promulgated published by the respondents.

2. That appellant's previous execution petition was updated and he challenged the vices of impugned Act through instant service appeal, during its pendency the involved matter in the titled service appeal has been solved and settled through writ petition, as Peshawar High Court has finally declared the said Act as null and void and accepted the rights of appellant.

3. That in the prevailing situation, there is no need to continue the matters in the titled service appeal and appellant wants to withdraw it with permission to file fresh execution petition under the law. In case, the execution petition is not entertained by this Tribunal, the appellant may be allowed to file fresh service appeal on the same subject.

It is, therefore, humbly prayed that this application for withdrawal of service appeal with permission to bring fresh execution petition may graciously be accepted in the interest of justice.

*Handwritten signature*

*Handwritten signature*

Advocate High Court, Abbottabad  
(Muhammad Ahsan Khan Tandon)

Through

Date: 21-03-2018

*Handwritten signature and stamp*

Payment of Arrears on Advance Increments on Higher Education Qualification Act" (KPK Act NO.IX of 2012 dated 15/05/2012 was promulgated/ published by the respondents.

2. That appellant's previous execution petition was abated and he challenged the vires of impugned Act through instant service appeal, during its pendency the involved matter in the titled service appeal has been solved and settled through writ petition, as Peshawar High Court has finally declared the said Act as null and void and accepted the rights of appellant.

3. That in the prevailing situation, there is no need to continue the matters in the titled service appeal and appellant wants to withdraw it with permission to file fresh execution petition under the law. In case, the execution petition is not entertained by this Tribunal, the appellant may be allowed to file fresh service appeal on the same subject.

*Ali*

It is, therefore, humbly prayed that this application for withdrawal of service appeal with permission to bring fresh execution petition may graciously be accepted in the interest of justice.

*Signature*

...APPELLANT

Through

(Muhammad Arshad Khan Tanoh)  
Advocate High Court, Abbottabad

Dated: 21-03-2018

Certified to be true copy

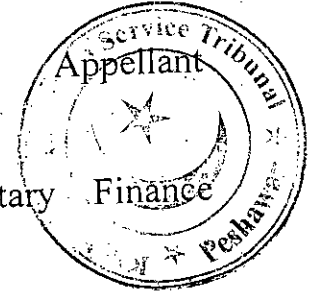
FOR OFFICE USE  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No: 902 of 2014

897  
17-6-2014

Javed Iqbal S/O Wali Ahmad, (Ex A.T teacher) S.E.T, Government High School Jhangi, Abbottabad. R/O: Albadar Colony Tableghi Markaz, Abbottabad.



Versus

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

*Plaintiff's Counsel*

Respondents

ATTESTED

*[Signature]*  
Member Peshawar  
Service Tribunal,  
Peshawar

SERVICE APPEAL IS BEING FILED WITH OUT DEPARTMENTAL APPEAL WHICH IS IMPOSSIBLE IN THE CIRCUMSTANCES OF THE CASE AND THE SAME LAW POINT IS ALSO DECIDED BY THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH IN WRIT PETITION NO 159-A OF 2014 AT PAGE 6 OF THE JUDGMENT.

*[Signature]*  
17/6/14

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED "KHYBER PAKHTUNKHWA ACT NO. IX of 2012" (KHYBER PAKHTUNKHWA CESSATION OF PAYMENT OF ARREARS ON ADVANCE INCREMENTS ON HIGHER EDUCATIONAL QUALIFICATION ACT, 2012) WHICH IS UNCONSTITUTIONAL, WITHOUT LAWFUL AUTHORITY, ARBITRARY, PERVERSE,

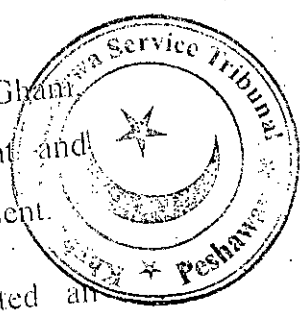
re-submitted to ~~do~~  
and filed.

*[Signature]*  
17/1/14

902/14

21.03.2018

Appellant alongwith counsel and Mr. Usman Ghami District Attorney alongwith Saquib Shahzad, Assistant and Malak Muhammad Haroon, AAO for the respondents present.



The learned counsel for the appellant submitted an application for withdrawal of the present service appeal with permission to submit fresh implementation petition for implementation of the judgment dated 12.05.2009 passed by this Tribunal.

*Amir Ahmad*

The learned District Attorney objected to that part of this application in which the appellants seeks permission for implementation of the judgment of this Tribunal, inter-alia, on the grounds of limitation and resjudicata. In this appeal, the appellant has challenged the vires of Act No. IX of 2012 and that vires to the extent of retrospectivity has been decided by the Worthy Peshawar High Court in Writ Petition No. 913-P/2014, decided on 08.6.2017. According to the appellant after that judgment his grievance has been redressed and he can file a fresh application for the execution of the judgment of 2009 which was not executed due to that Act.

Since a question of law is involved which can be determined by the executing court only. However, this Bench has no objection on filing of execution petition subject to all legal and factual exceptions.

Consequently, the present appeal is dismissed as withdrawn. The appellant can seek all his legal rights available to him under the law. File be consigned to the record room.

Announced  
21-03-2018

*sd/- Chairman*  
*Camp Court A/Abad*  
*sd/- Member*

Date of Presentation of Application: 05-04-18  
Number of Words: 650  
Copying Fee: 6/-  
Urgent: 2/-  
Total: 8/-  
Name of Copyist: *[Signature]*  
Date of Completion of Copy: 05-04-18  
Date of Delivery of Copy: 05-04-18

Certified to be true copy

Emad Ahmad  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Execution Petition No.144/18

**Javed Iqbal VERSUS DEO (E&SE) & others**

**SUBJECT:- APPLICATION FOR DISMISSAL OF EXECUTION PETITION NO. 144/18**

**Respectfully Sheweth:-**

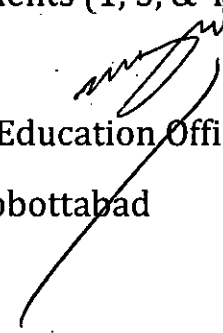
1. That the above titled Execution Petition is pending adjudication before this honorable tribunal.
2. That the Government of Khyber Pakhtunkhwa has passed the Act "Khyber Pakhtunkhwa cessation of payment of arrears on Advance increments on higher educational qualification Act, 2012. In view of section 2 subsection (1) of the said Act the Execution Petition of petitioner has become infructuous.

It is, therefore, respectfully prayed that the above titled Execution Petition may kindly be dismissed in favour of respondents with cost.

Date: 16.10.2018

Through

Respondents (1, 3, & 4)

  
District Education Officer (M)

Abbottabad

EXECUTION PETITION NO. 144/2018  
JAVED IQBAL VS. KPK GOVT.

Before The Honourable Service Tribunal  
Khyber ~~Province~~ Pakhtoon Khwa Peshawar  
Camp Court Abbottabad.

Subject:- Reply to The Statement submitted  
by The DEO (M) Abbottabad.

Respectfully Shewith,

It is submitted that the referred  
act is KPK Cessation of payment of  
arrears on advance increment Act 2012  
Section 2 subsection 1

It is stated that the above said act  
has already been declared null and void  
and retrospective effects has been expunged  
by The Honourable Peshawar High Court  
vide WP. NO. 913-P/2014 dated 08-06-2017  
submitted please.

Yours obedient Servant  
Amir Gul  
JAVED IQBAL EP No. 144/2018

Dated: 21-11-2019.

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Execution Petition No.144/18

**Javed Iqbal VERSUS DEO (E&SE) & others**

**SUBJECT:- APPLICATION FOR DISMISSAL OF EXECUTION PETITION NO. 144/18**

**Respectfully Sheweth:-**

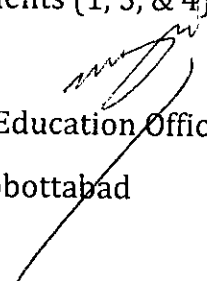
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Date: 16.10.2018

Through

Respondents (1, 3, & 4)

  
District Education Officer (M)

Abbottabad