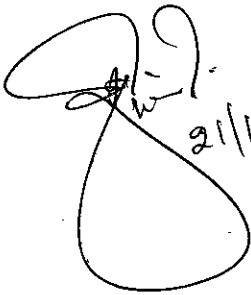


21.10.2020

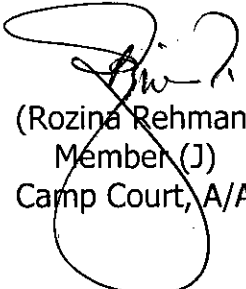
Petitioner in person present.

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 8th May, 2012 and assented to by the Governor Khyber Pakhtunkhwa on 11th 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 Appeals pending in the Service Tribunal were withdrawn by the appellants vide order dated 21.03.2018 of this Tribunal.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.


21/10/20

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 / 2/
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 and Mr. Sohail, Assistant on behalf of respondents No. 1, 3 to 6 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.

MA

(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, Sohail, Assistant 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

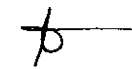
17.10.2018

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

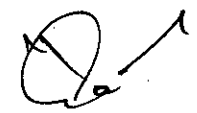
20.12.2018

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

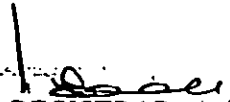



19.03.2019

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. 144 /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. Javed Iqbal 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-	19-5-18	<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 Javed Iqbal 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: 148 of 2018

Arshad Khan S/O Mir Afzal Khan C.T teacher Government High School No 3 (English Medium), Abbottabad R/o village, Ghumawan, Post Office Nawan Shehr, Tehsil & District Abbottabad.

Appellant

Versus

- 1 District Education Officer (Elementary & Secondary Education Department), Abbottabad.
- 2 District Comptroller of Accounts, Abbottabad.
- 3 Accountant General Khyber Pakhtunkhwa Peshawar.
- 4 Director of (Elementary & Secondary Education Department) Khyber Pakhtunkhwa Peshawar.
- 5 Secretary to Govt of Khyber Pakhtunkhwa (Elementary & Secondary Education Department) Peshawar.
- 6 Secretary to Govt of Khyber Pakhtunkhwa Finance 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	DESCRIPTION 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	Copy of Judgment dated 12/05/2009	B	
4	Copy of present service appeal filed against KPK ACT NO IX OF 2012	C	
5	Copy of withdrawal application	D	
6	Copy of order dated 21/03/2018	E	


(Arshad Khan)
Petitioner in person

①

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Execution Petition No: 148 of 2018

Diary No. 721

Dated 16/05/2018

Arshad Khan S/O Mir Afzal Khan C.T teacher Government High School No 3 (English Medium), Abbottabad R/o village, Ghumawan, Post Office Nawan Shehr, Tehsil & District Abbottabad.

Appellant

Versus

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

Respondents

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

PRAYER

IT IS RESPECTFULLY PRAYED THAT RESPONDENTS MAY PLEASE BE DIRECTED TO IMPLEMENT THE JUDGMENT DATED 12/05/2009 AND GRANT OF 06 SIX ADVANCE INCREMENTS OF M.A AND 04 FOUR ADVANCE INCREMENTS OF B.A INSTEAD OF 03 FROM ITS DUE DATE 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 06 advance increment of MA & 04 advance increment of BA instead of 03. Copies of withdrawal application and order dated 21/03/2018 are annexed as **Annexure "D" & "E"**

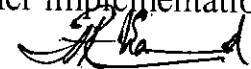
It is therefore respectfully prayed that respondents may please be directed to implement the judgment dated 12/05/2009 and grant of 06 six advance increments of M.A & 04 four advance increments of B.A instead of 03 from its due date, with all back benefits.



(Arshad Khan)
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.



(Arshad Khan)
Petitioner in person

3

Annexure A

6

BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.

Service Appeal No 20/2008

Arshad Khan S/O Mir Afzal Khan C.T Teacher Government High School No3
Abbottabad R/O Village Ghumawan, P.O Nawan shehr Teh & Distt; Abbottabad

Appellant

Versus

N.W.F.P. Province
Service Tribunal
Diry No. 24/2008
Dated 5/11/08

- 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

Attested
R. Khan

to-day
5/11/08

ATTESTED
EXAMINER
NWFP SERVICE TRIBUNAL

Appeal under Section 4 of NWFP Service Tribunal Act 1974
for grant of Six advance increments of M.A w.e.f 18.10.1997 and
four advance increments of B.A w.e.f 26.03.1992 against P.T.C Post
instead of 3 advance increments along with all back benefits under
Para 5(i) (B) 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 & 590 of 2007.

Respectfully Sheweth,

FACTS

- 1) That appellant appointed as untrained P.T.C Teacher in Education Department on
03/11/1983 and thereafter passed his PTC Course on 29/11/1987 and passed BA

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examination on 26/03/1992 and got only 3 increments whereas he was entitled for four increments on the basis of circular dated 11.08.1991. A Certificate in this respect issued by concerned authority is annexed as Annexure A.

2) That being C.T trained he was promoted against C.T Post on 01/01/2004, he was a regular teacher against C.T post and his regular service started against C.T post from his promotion i.e. dated 01/01/2004.

3) That appellant being B.A 2nd division was placed in BPS No 14 on the basis of Notification No FD (PRC)1-1/89 dated 07/08/1991 issued by respondent no 7, and now he is also working in BPS # 14 against C.T post. Copy of said Notification dated 07/08/1991 is Annexed as Annexure B.

4) That appellant during his service as P.T.C teacher passed his M.A examination on 18/10/1997 and he was entitled for Six advance increments and also four advance increments of B.A against P.T.C post instead of three on the basis of Para 5 (1)-(B) 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.

5) 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 applies in Pay and Allowances matters from 01/06/1991, Whose Para # 5, Clause (B) caters for the grant of Six Advance Increments on attaining M.A against P.T.C post and four advance increments of B.A against P.T.C post instead of three. Prescribed Qualification of P.T.C post is S.S.C with P.T.C course. So appellant was/is entitled the same and Respondents did not give him his Constitutional rights

6) That In the Meanwhile, Honourable Supreme Court Of Pakistan has decided the same matters in CPLA No 525,526 and 590 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. Copies of Supreme Court order are Annexure D & DI.

NWFP
Service Tribunal
Peshawar

ATTESTED

Attested

[Signature]

[Signature]

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7) 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 no 1 through respondent no 2 on 12/09/2007 and it is undecided within the statutory period of 90 days. Copy of representation is Annexure E. Hence this appeal inters - alia on the following ground, and appellant's appeal is within 120 days from the submission of his departmental representation dated 12/09/2007.

Grounds

Attested
[Signature]

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

Attested

[Signature]

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 06 Advanced Increments of M.A and four advance increments of B.A instead of three against P.T.C post 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, 536 and 590 of 2007 (Annexure E).

EXAMINED
NWFP Service Tribunal
Peshawar
ATTESTED
[Signature]

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- d). That under the law appellant's case is quite Clear after the Judgment passed in CPLA No 525,526 and 590 of 2007 by Supreme Court, and respondents' behaviour with appellant's representation dated 12/09/2007 is illegal , without jurisdiction and unconstitutional.
- 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 his former post was P.T.C for which prescribed qualification of P.T.C post is S.S.C with P.T.C. course. Appellant is now working in BPS # 14 and Instant Case falls under Para 5(1) (B) of the Circular dated 11/08/1991(Annexure C)

Arshad Khan

It is therefore respectfully prayed that appellant's appeal may kindly be accepted and 6 advance increments of M.A with effect from 18/10/1997 and also four advance increments of B.A. instead of three advance increments against P.T.C post w.e.f 26/03/1992 with all back benefits may graciously be granted to the appellant in the interest of justice.

Attested

Arshad

Arshad Khan
(Arshad Khan)

Appellant in person

Dated.02/01/2008

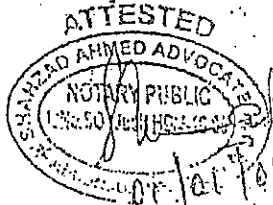
Affidavit

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

Arshad Khan

Arshad Khan
ARSHAD KHAN
DEPONENT

Dated.02/01/2008



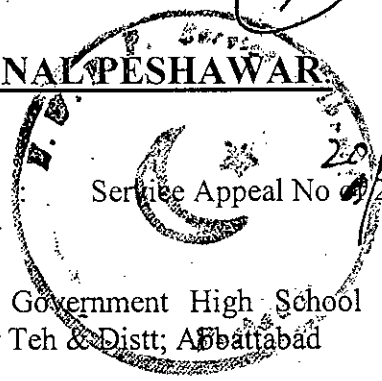
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 Stamp... 10 - 00
 Date of receipt... 27/6/09
 Date of completion of work... 27/6/09

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BEFORE NWFP SERVICE TRIBUNAL PESHAWAR

326HS



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Arshad Khan S/O Mir Afzal Khan C.T Teacher Government High School No3
Abbottabad R/O Village Ghumawan, P.O Nawan shehr Teh & Distt; Abbottabad

Appellant

Versus

N.W.F. Province
Service Tribunal
Diary No. 24
dated 5/11/08

- 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

[Handwritten signature]

12.5.2009

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

ANNOUNCED
12.05.2009

Sd/- Member

Sd/- Member.
Camp court, Abbottabad.

[Handwritten notes and stamps]
18/6/09
21/6/09
27/6/09

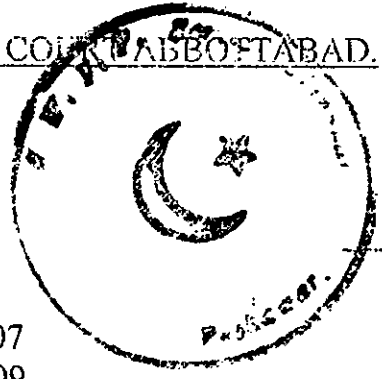
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BEFORE THE NWFP SERVICE TRIBUNAL, CAMP COURT ABBOTTABAD.

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.

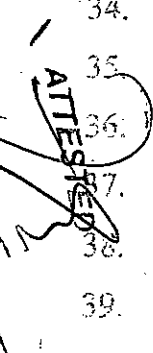
JUDGMENT.

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.

ATTESTED
Sd/-
Ex. Secy. of Tribunal
NWFP Peshawar.

<u>Sr. No.</u>	<u>Appeal No.</u>	<u>Name of appellant.</u>
1.	1277/2007	Saicur Rahmat,
2.	1278/2007	Munibar Rahman,
3.	1279/2007	Muhammad Siddique,
4.	01/2008	Maroof Khan
5.	02/2008	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	Sarfraz
36.	575/2008	Muhammad Ajmal,
37.	576/2008	Gul Faraz,
38.	577/2008	Muhammad Yousef,
39.	578/2008	Altaf Hussain,
40.	579/2008	Ahjaz Ahmad,
41.	580/2008	Muhammad Safdar,

NWFP Service Tribunal
 Peshawar
 EXAMINER
 ATTESTED


- 42. 595/2008 Abdul Razzaq,
- 43. 596/2008 Abdul Razzaq,
- 44. 597/2008 Shaykat 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, Zuifiqar,
- 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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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 Anjad Hussain Shah,
93.	962/2008	Muhammad Shoab,
94.	963/2008	Muhammad Bashir,
95.	964/2008	Niaz Ahmad,
96.	965/2008	Syed Ifikhar 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 Iqbal,
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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- 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 Naveed,
- 120. 1209/2008 Sadaqat Ali,
- 121. 1234/2008 Saeed Akhtar,
- 122. 1235/2008 Anwar-ul-Haq,
- 123. 1235/2008 Syed Husnain Ali Shah,
- 124. 1242/2008 Muhammad Niez,
- 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 Tabir Mahmood,
- 145. 1406/2008 Ajmal Nazir,
- 146. 1407/2008 Uzair Jadoon,
- 147. 1425/2008 Muhammad Adnan Khan,
- 148. 1426/2008 Zaboora Khan,
- 149. 1427/2008 Wajid Ali Shah,

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150.	1428/2008	Mahmoob 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 Rifaqat,
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,

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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	<u>Muzaffar Ali,</u>
208.	34/2008	Muhammad Zia-ur-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 Ghafoor,
218.	226/2009	Muhammad Ilyas,
219.	227/2009	Muhammad Iqbal,
220.	228/2009	Qadir Ahmad,

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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 Naeem,
234.	242/2009	Khurshid Qamar,
235.	243/2009	Nawazish Hussain
236.	244/2009	Syed Zafar Ali Shah,
237.	245/2009	Muhammad Ishaq,
238.	246/2009	Muhammad Pervez,
239.	247/2009	Masroor Hussain
240.	248/2009	Muhammad Sadique
241.	249/2009	Muhammad Younas
242.	250/2009	Muhammad Imtiaz
243.	251/2009	Maqbool Shah
244.	252/2009	Moazzam Khan
245.	414/2009	Tahir Usman
246.	415/2009	Mir Muhammad
247.	416/2009	Naheem Kausar
248.	246/2009	Khalida Bibi
249.	418/2009	Abida Bibi
250.	419/2009	Azim Shah
251.	433/2009	Ghazala Bibi
252.	434/2009	Riaz Khan
253.	500/2009	Mumtaz Khan
254.	501/2009	Lal Afsar
255.	502/2009	Badri Zamar
256.	503/2009	Ilaqat

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

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

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

We heard the arguments and perused the record.

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

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

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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 Cri. 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

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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.

gd-
(BISMILLAH SHAH)
MEMBER.

gd-
(ABDUL JALIL)
MEMBER.
CAMP COURT ABBOTTABAD.

4/100 18-6-09

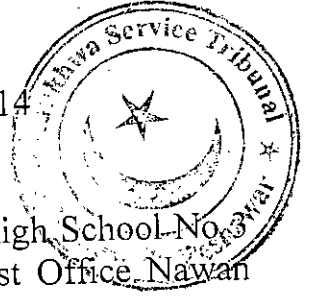
Number of copies	2400
Originals	2400
Date of completion of report	27-6-09
Date of delivery of copy	27-6-09

Submitted to the court.
[Signature]
CAMP COURT ABBOTTABAD.

(19) (1)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 577 of 2014



Arshad Khan S/O Mir Afzal Khan C.T teacher Government High School No. (English Medium), Abbottabad R/o village, Ghumawan, Post Office Nawan Shehr, Tehsil & District Abbottabad.

Versus

Appellant

- 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.
- 6 District Comptroller of Accounts, Abbottabad.

Respondents

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
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, FILED BY APPELLANT AND OTHERS AGAINST THE IMPUGNED ACT.

re-submitted to *[Signature]*
and filed.

[Signature]
24/4/14

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, DISCREMINATORY' AGAINST THE PRINCIPAL OF NATURAL

(20) (2)

JUSTICE AND INEFFECTIVE UPON THE APPELLANT'S RIGHTS OF ADVANCE INCREMENTS, GRANTED IN SERVICE APPEAL NO 20 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 ADVANCE INCREMENTS AND RESPONDENTS BE GRACIOUSLY DIRECTED TO GRANT RELEVANT ADVANCE INCREMENTS (ALREADY DECIDED ON 12/05/2009) TO THE APPELLANT WITH EFFECT FROM THEIR RELEVANT DATES OF CLAIMS WITH ALL BACK BENEFITS.

Respectfully Sheweth,

FACTS

- 1) That appellant being school teacher was granted advance Increments on his higher qualification (six advance Increments of MA/MSc and four advance Increments of BA/BSc instead of three) 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 date: 15/05/2012) was promulgated/published by the respondents. Copy of Act no IX is annexed as "Annexure "C"".

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- 3) That appellant withdrew his execution petition with the reason, to challenge the vires of impugned Act through Constitution Petition (Writ Petition) before Peshawar High Court. Copy of Service Tribunal Order passed in execution Petition is annexed as Annexure "D".
- 4) That appellant and others challenged the vires of impugned Act through the Writ petition before Peshawar High Court. Abbottabad Bench, which was decided/disposed of with the law relating to jurisdictional matters in the prevailing issue, and High Court held that remedy by way of service appeal before the Service Tribunal is available to the appellant against the impugned Act. Copy of High Court Order is annexed as Annexure "E"
- 5) That in pursuance of law as decided by High Court in appellant's 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, Hence this Service appeal inter alia on the following Grounds.

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 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.

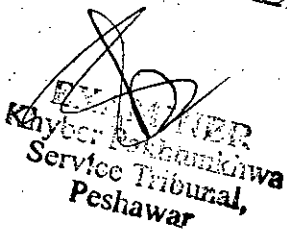
ATTESTED



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 Khyber Pakhtunkhwa
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- 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 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

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Service Tribunal,
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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 advance increments of (B.A/B.Sc & M.A/M.Sc) to the appellant with effect from his relevant dates of claims, decided in service appeal no 20 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 05/04/2014

Arshad Khan
(Arshad Khan)
Appellant in person

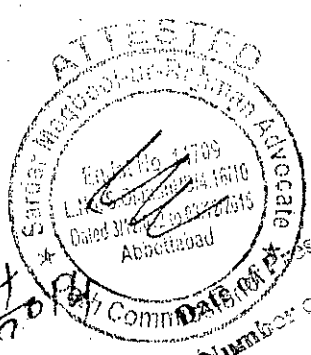
Affidavit

I, Arshad Khan S/O Mir Afzal Khan C.T teacher Government High School No 3 (English Medium), Abbottabad R/o village, Ghumawan, Post Office Nawan Shehr, 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 05/04/2014

Arshad Khan
(Arshad Khan)
Appellant in person
DEPONENT

Certified to be a true copy
Khyber Pakhtunkhwa
Services Tribunal
Peshawar



54/2008

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**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 577 of 2014



Arshad Khan S/O Mir Afzal Khan C.T teacher Government High School No. 3
(English Medium), Abbottabad R/o village, Ghumawan, Post Office Nawan
Shehr, Tehsil & District Abbottabad.

Versus

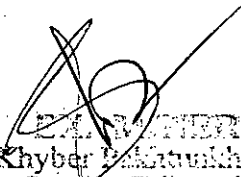
Appellant.

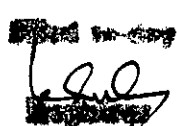
- 1 Government of Khyber Pakhtunkhwa through Secretary Finance Department Peshawar.
- 2 Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Department Peshawar.
- 3 Director of (Elementary & Secondary Education) Department, Khyber Pakhtunkhwa Peshawar.
- 4 District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

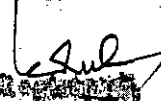
Respondents

ATTESTED

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, FILED BY APPELLANT AND OTHERS AGAINST THE IMPUGNED ACT.


Attesting Officer
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


8/4/14

re-submitted to 
and filed.
24/4/14

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, DISCREMINATORY' AGAINST THE PRINCIPAL OF NATURAL

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21/3/18

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 577 of 2014

Arshad Khan S/O Mir Afzal Khan C.T teacher Government High School No 3 (English Medium), Abbottabad R/o village, Ghumawan, Post Office Nawan Shehr, Tehsil & District Abbottabad.

Appellant

Versus

Government of Khyber Pakhtunkhwa through Secretary Finance Department Peshawar and 05 Other.

Respondents

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 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 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 withdrew his previous execution petition, and 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.

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.

Dated 21/03/2018



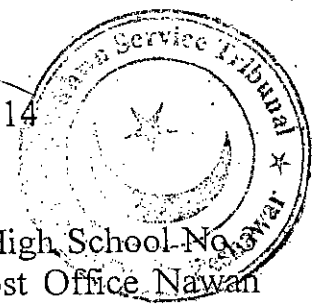
(Arshad Khan)
Appellant Inperson

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

25

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No: 577 of 2014



Arshad Khan S/O Mir Afzal Khan C.T teacher Government High School No. (English Medium), Abbottabad R/o village, Ghumawan, Post Office Nawar Shehr, Tehsil & District Abbottabad.

~~Stamp~~

Appellant

Versus

512
08/4/2014

- 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.
- 6 District Comptroller of Accounts, Abbottabad.

Respondents

ATTESTED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

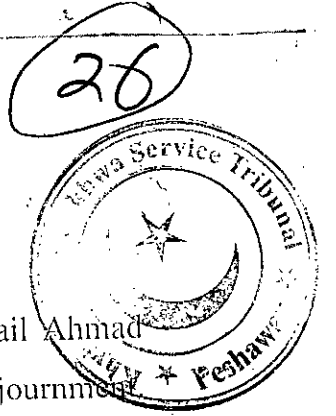
SERVICE APPEAL IS BEING FILED WITH OUT DEPARTMENTAL APPEAL WHICH IS IMPOSSIBLE IN THE CIRCUMSTANCES OF THE CASE AND THE SAME LAW POINT IS ALSO DECIDED BY THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH IN WRIT PETITION NO 159-A OF 2014, FILED BY APPELLANT AND OTHERS AGAINST THE IMPUGNED ACT.

[Signature]
8/4/14

as submitted to
and filed.

[Signature]
24/4/14

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, DISCREMINATORY' AGAINST THE PRINCIPAL OF NATURAL



21.02.2018

Appellant in person and Addl. AG alongwith Sohail Ahmad Zeb, ADO for the respondents present. Appellant seeks adjournment To come up for arguments on 21.03.2018 before the D.B at camp court, Abbottabad.

[Signature]
Member

[Signature]
Chairman
Camp court, A/Abad.

21.03.2018

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

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.

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

[Signature] - Chairman
Camp Court A/Abad

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 05-04-18 *[Signature]* Sd/- Member.

Number of Words 800

Copying Fee 6-

Urgent 2-

Total 8-

Name of Copyist *[Signature]*

Date of Completion 05-04-18

Date of Delivery of Copy 05-04-18

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No.148/18

Arshad Khan VERSUS DEO (E&SE) & others

SUBJECT:- APPLICATION FOR DISMISSAL OF EXECUTION PETITION NO. 148/18

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, 4, & 5)

District Education Officer (M)

Abbottabad

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No.148/18

Arshad Khan VERSUS DEO (E&SE) & others

SUBJECT:- APPLICATION FOR DISMISSAL OF EXECUTION PETITION NO. 148/18

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

Respondents (1, 4, & 5)

Through

District Education Officer (M)

Abbottabad

EXECUTION PETITION NO 148/2018
ARSHAD KHAN VS KP GOVT.

Before The Honourable Service Tribunal
Khyber ~~khwa~~ 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


ARSHAD KHAN EP NO 148/2018

Dated - 21-11-2019