	Date of order/	Order or other proceedings with signature of Judge or
5.No.	proceedings	Magistrate and that of parties where necessary.
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<u></u>	- · · · · · · · · · · · · · · · · · · ·	· · · · · · · · · · · · · · · · · · ·
		KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
	514	PESHAWAR.
		Service Appeal No. 12218/2020
		Mr. Ali Ayas Khan son of Gul Amir Khan, Senior Research Officer (Retd) Potato Botanist, C/O M. Rafiq Khan Metrological Colony, Opposite Provincial Assembly Building Peshawar (Appellant)
		Versus
		1. Accountant General Khyber Pakhtunkhwa, Peshawar and others (Respondents)
	23.06.2021	Appellant with counsel present. Preliminary arguments
		heard and record perused.
		2. The underlining grievance of the appellant is reflected
	Elm)	in Para-5 of the Memorandum of appeal. It is there in the
		factual part of the appeal that the appellant had approached
	Ž.	this Tribunal with Service Appeal which was decided in his
	Atro	favour and copy of the judgment as Annexure-G is available on
		this file. In aforementioned paragraph of the memorandum of
		appeal, the appellant states that the judgment of this Tribunal
		was honoured to the extent of reimbursement of Rs.
		1,80,408/- in lieu of the withheld amount from his pension
		emoluments but the respondents had not properly
		appreciated the law, rules and Regulation/Notification on the
		subject point-to-point/2 stages and adopted incorrect/unlawful
		procedure for absorbing two Advance Increments in the
	·	relevant Pay Scale ignoring the Finance Department Pay

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Fixation Formula. The appellant also states that being not satisfied from the implementation of the order/judgment of this Tribunal, he approached the Hon'ble Peshawar High Court Peshawar in Writ Petition No. 5205-P/2019 which was dismissed for want of jurisdiction, giving liberty to him for pursuing the remedy available to him under the law. What is understandable from the given factual position, the appellant being not satisfied with implementation of previous judgment of this Tribunal has brought this appeal in respect of the matter already adjudicated upon and finally decided by this Tribunal; which obviously is hit by principle of resjudicata as embodied in Rule 23 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974. Firstly the appellant approached to the wrong forum as decided by the Honourable High Court and again he has preferred this appeal in respect of the matter already decided. While holding that this appeal is not maintainable in view of the given discussion, the appellant, if so advised, may file the Execution/ Implementation Petition in the matter of previous judgment as according to him the same was not implemented in letter and spirit, for its examination and hearing in accordance with law.

3. In the light of the above observations, the appeal is dismissed in limine. File be consigned to the record room.

(AHMAD SULTAN TAREEN) Chairman

ANNOUNCED 23.06.2021 16.03.2021

Due to tour of Camp Court Abbottabad and shortage. of Members at Principal Bench Peshawar, the case is adjourned to 23.06.2021 before S.B.

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Reader

#### Form- A

## FORM OF ORDER SHEET

Court of 17 2 Case No.-/2020 S.No. Date of order Order or other proceedings with signature of judge proceedings 2 3 1 The appeal of Mr. Ali Ayaz Khan presented today by Mr. Wali Khan 1-19/10/2020 Afridi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR This case is entrusted to S. Bench for preliminary hearing to be put 2up there on 11/12/2020 CHAIR 11.12.2020 Nemo for appellant. Notice be issued to appellant/counsel for 16.03.2021 for preliminary hearing, before S.B. (Rozina Rehman) Member (J)

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

IN RE:

Service Appeal No.\_\_\_/ of 2020

Ali Ayaz Khan son of Gul Amir Khan...

Appellant

#### VERSUS

Accountant General KPK and others.

## Respondents

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₽.	Service Appeal	+	0 - 6
2.	Affidavit		0 - 7
3.	Memo of Addresses		
4.	Copy of the Notification dated 03.11.1993	<u>'A'</u>	<u>&amp;</u>
5.	Copy of the Notification dated 24.08.1983	<u>'B'</u>	9-11
6.	Copy of the Notification dated 22.07.1987	<u>'C'</u>	12
<u> </u>	Copy of the Notification dated 27.10.2001	'D'	13-18
7.	Copy of the letter dated 30.01.2002	'E'	19 _
8.	Copy of the letter dated 50.01.2002	<u>'F'</u>	2-22
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11.	CD, -harrier High Court Peshawar	( 'H	26-31
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	alongwith Postal Receipt dated 04.06.2020		
13.			38

Through:

Wali Khan Afridi)

Appellant

Advocate, Supreme Court of Pakistan Cell # 0300-5977695

7And Kamran Khan Afridi)

Advocate High Court, 1-C, Haroon Mansion Khyber Bazar Peshawar Cell # 0300-5848545

.10.2020 Dated:

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

F

Service Appeal No. 12218/of 2020

Ali Ayaz Khan son of Gul Amir Khan, Senior Research Officer (Retd) Potato Botanist, C/O Muhammad Rafiq Khan Metrological Colony, Opposite Provincial Assembly Building Peshawar Cantt...

### VERSUS

1. Accountant General Khyber Pakhtunkhwa Fort Road Peshawar Cantt.

- Accounts Officer (Pay Fixation Party) 2. Accountant General Office Fort Road, Peshawar Cantt.
- 3. Secretary to Government of Khyber Pakhtunkhwa, Finance Department Civil Secretariat, Peshawar...

Respondents

Khyber Palentukhwa e waterie

Appellant

Diars Mr. 11714-Duiss 19/10/2020

APPEAL UNDER SECTION 4 OF THE **KHYBER** PAKHTUNKHWA SERVICE TRIBUNAL ACT,1974 WHEREBY THE RESPONDENTS HAVE NOT PROCEEDED WITH THE CASE OF THE APPELLANT ON THE BASIS OF POINT TO POINT/STAGE-WISE FORMULA FOR FIXATION OF PAY ABSORPTION OF ADVANCE TWO QUALIFICATION **INCREMENTS** (FOREIGN QUALIFICATION INCREMENTS) GRANTED WHILE IN SERVICE. 2020,

**Respectfully Sheweth:** 

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Brief facts giving rise to the instant Service Appeal are as under:-

That the appellant was initially appointed as Research Assistant (BPS-1. 16) in the year 1977 which post was upgraded to BPS-17 in the same year.

- That the appellant was performing his duties to the best of his ability when on meritorious services he was promoted to the post of Assistant Botanist (Supervisory) (BPS-17) on 10.11.1993 with effect from 25.05.1993. He was promoted by way of Move-Over to BPS-18 on 01.12.1988, in the year 2008 the appellant was promoted to the post of
- Senior Research Officer BPS-18 on Regular Basis.

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3.

- That sanction for 2 Advance Increments for higher educational qualification from Foreign University of MS (USA) was accorded by competent authority (while in service) with effect from 08.05.1993 beyond pay maximum ceiling as two points/2 Stages in Personal Pay (P.P) in light of the following Finance Department Notifications: (i) No. 10189-93 dated 03.11.1993 (ii) Finance Department Circular No. F.D(SR-I)1-67/83 dated 24.08.1983 and (iii) Finance Department Circular No. F.D(SR-I)1-67/83 dated 03.11.1993, 24.08.1983 and 22.07.1987 (Copies of the Notifications dated 03.11.1993, 24.08.1983 and 22.07.1987 are attached as annexures 'A', 'B' & 'C' respectively).
- 4. That two Advance increments were then absorbed in 2001 Revised National Pay Scale Schedule after discontinuation of Move-Over Policy and adjustment in original Pay Scales of BPS-17 and two Advance increments considered as two Stage/or 2 points for reading in the Notional Table and then to the amount of the increments for pay purpose; under specified stage, vide Notification No. F.D (PRC)1-1/2001 dated 27.10.2001, Accountant General Letter No. H-24(96) Coor/Vol-1/406 dated 30.01.2002 and No. F.D (SR-1)15-2/98 dated

13.02.2002. (Copies of the Notification dated 27.10.2001, letter dated 30.01.2002 and Notification dated 13.02.2002 are attached as annexures 'D', 'E' & 'F' respectively).

5.

That the appellant approached this Honourable Service Tribunal for the redressal of his grievances and the Honourable Service Tribunal was kind enough to pass an order dated 02.03.2016 whereby direction was given to the respondent Department to resolve the matter within 60 days so as a first step, the District Comptroller of Accounts Abbottabad honoured the Honourable Court orders and instantly reimbursed to appellant Rs. 1,80,408 the withheld amount from his Pension emoluments but, however, the respondents have not properly appreciated the law, rules and Regulation/Notification on the subject to count two increments, point to point/2 Stages rather adopted incorrect/unlawful procedure for absorbing two Advance Increments in the relevant Pay Scale ignoring the Finance Department Pay Fixation Formula stated that; "Earned increments beyond minimum Pay Scale or beyond Maximum Pay Scale as Personal Pay (P.P) increments are part of the Pay Time Scale and that should be counted as Points/or Stages for Pay Fixation". But not satisfied from the proper implementation of the order and judgment of this Honourable Service Tribunal the appellant approached the Honourable Peshawar High Court Peshawar in Writ Petition No. 5205-P of 2019 wherein the Honourable Peshawar High Court Peshawar was pleased to direct the appellant to approach proper Forum (Khyber Pakhtunkhwa Service Tribunal) for the remedy

available to him under the law, vide order dated 30.10.2019, hence the instant Appeal before this Honourable Service Tribunal. (Copies of the order and judgment of the Honourable Khyber Pakhtunkhwa Service Tribunal dated 02.05.2016 and the order of the Honourable Peshawar High Court Peshawar dated 30.10.2019 are attached as annexure 'G' and 'H' respectively).

That the Government Finance Department Pay Fixation Rules are very much clear and it is explicitly explained in all the Revised National Pay Scale since 1983 upto 2019 i.e. Notification/Fixation Column/Clauses with similar wording that increment beyond Minimum Pay upto ceiling or beyond Maximum Pay Ceiling as Personal Pay (P.P) increments are counted in points/or stages in the Table for Fixation of pay in relevant original scale after discontinuation of Move-Over Scales Policy in 2001.

That the respondents knowingly have not proceeded in accordance with law/rules rather discriminated the appellant which is also against the letter and spirit of Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973, moreover, the appellant submitted Departmental Appeal/ Representation before the competent authority, but without any decision/proceedings and the same is still pending. (Copy of the Departmental Appeal dated 03.06.2020 and Postal Receipt dated 04.06.2020 are attached as annexure 'I').

7.

9.

8. That the respondents have intentionally deprived the appellant from his due rights (Financial Rights) which is based on malafide intention and is for ulterior motive.

That under the law/rules of the land the appellant is entitled to be treated in accordance with law and is entitled for his financial benefit on point to point/stage-wise.

 That the appellant craves permission of this Honourable to advance any other document/argument at the time of hearing of the instant Service Appeal.

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It is, therefore, humbly prayed that on acceptance of this Service Appeal this Honourable Tribunal may be pleased to direct the respondents to proceed with the case of the appellant on the basis of Point to Point/Stagewise formula for fixation of pay absorption of Two Advance Qualification Increments (Foreign Qualification Increments) granted while in service.

Any other relief though not specifically asked for to which the appellant is found entitled in the circumstances of the case may also be granted to the appellant.

Through:

ppellant

Ween Afaich (Wali Khan Afridi)

Advocate, Supreme Court of Pakistan Cell # 0300-5977695 And

(Kamran Khan Afridi)

Advocate High Court, 1-C, Haroon Mansion Khyber Bazar Peshawar Cell # 0300-5848545

## Dated: 24.02.2020

#### **CERTIFICATE:**

Certified that as per instructions of my client, earlier a Service Appeal was filed before this Honourable Service Tribunal which was decided on 02.03.2016 and on the directions of the Honourable Peshawar High Court Peshawar vide its worthy order dated 30.10.2019 the instant Service Appeal is being filed before this Honourable Service Tribunal.

dvocate

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

6

## IN RE:

Service Appeal No.\_\_\_\_/ of 2020

Ali Ayaz Khan son of Gul Amir Khan...

## VERSUS

Appellant

• • •

Accountant General KPK and others. Respondents

### AFFIDAVIT

I, Ali Ayaz Khan son of Gul Amir Khan, Senior Research Officer (Retd) Potato Botanist, resident of C/O Muhammad Rafiq Khan, Metrological Colony, Opposite Provincial Assembly Peshawar Cantt, do hereby solemnly affirm and declare that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent

NIC # 15602-0261052-3 Cell # 0301-8061442

**IDENTIFIED BY:** 

Wali Khan Ann., Advocate, Peshawar.

, Way A

Adv

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

## IN RE:

Service Appeal No. / of 2020

Ali Ayaz Khan son of Gul Amir Khan...

Appellant

#### VERSUS

Accountant General KPK and others.

#### Respondents

## MEMO OF ADDRESSES

Ali Ayaz Khan son of Gul Amir Khan, Senior Research Officer (Retd) Potato Botanist, resident of C/O Muhammad Rafiq Khan, Metrological Colony, Opposite Provincial Assembly Building, Peshawar Cantt...

#### VERSUS

1. Accountant General Khyber Pakhtunkhwa Fort Road Peshawar Cantt.

- 2. Accounts Officer (Pay Fixation Party) Accountant General Office Fort Road, Peshawar Cantt.
- 3. Secretary to Government of Khyber Pakhtunkhwa, Finance Department Civil Secretariat, Peshawar...

Appellant

Respondents

ディネィー Appellant

Wali Khan Afridi)

Advocate, Peshawar.

Through:

## (Directorate of Agril. Research System)

#### <u>O R D E R</u>

The Vice Chancellor, NWFP, Agril. University, Peshawar is pleased to allow two advance increments to Mr. Ali Ayaz Khan, Asstt. Research Officer, Agricultural Research Station, Serai Naurang Bannu on account of acquiring of M.Sc. degree from the University of Kentucky Lexington USA subject to the production of original degree, from the date of conferment of the degree i.e. 8.5.1993 as admissible under the Rules-10(iii) of the Finance Deptt: Circular No. FD(SR-1) 1-67/83 dated 24.8.1983.

> Sd/-(S.BASIT ALI SHAH), Vice Chancellor, NWFP, Agril. University, Peshawar.

Dated Pesh: the <u>3///</u>

/1993.

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No. 10, 189-93/Estt/DR;

Annex A

Copy to:

 The Director, Agril. Research Institute, D.I.Khan for information with reference to his letter No. 3009/DAR(DK), dated 8.8.1993.
 The Resident Audit Officer (M.C) Bannu.
 The Administrative Officer (Account) H/Quarter.

4. Mr. Ali Ayaz, Asstt. Research Officer, ARS, Serai Naurang Bannu.

for information and necessary action.

In mey 1 Director Research

NWFP, Agril. University, Peshawa

dr-FU(SK-1)1-67/83 GOVERNHEIT OF N.U.F.P. FINANCE DEPARTNEEPE Dated;Peshawar; the 24th August; The Secretary to Government of MMPP. Financa Department.

1. All Administrative Secretaries to Govt: of NWPP. 2. The Senfor Hember, Board of Revenue NWPP.

3. All Hends of Attached Departments in WWPF.

4. All Commissioners/Depu#y Commissioners/Political Agents/District and Seaslon Judges in NUMP. The Registric, High Court, Poshawar. The Secretary to Covernor, N.W.F.P.

7. The Chairman, Public Service Commission NWFP. 8. The Chairman, Services Trisunal NiPP.

9. The Secretary, Doard of Revenue NWFP. SCHEHE OF BASIC PAY SCALES AND FRINGE DEMEFITS OF PROVINCIAL CIVIL SERVANTS (1983)

SUBJECT:

Sir.

2.

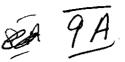
In pursuance to the decision of the prosident of pakist the Governor, N.W.F.P has been pleased to sanction, with effect from Ist July, 1981, a Scheme as detailed below, of the Basic Pay Scales, Allowances. and other Pringe Benefits, 1983 for the Provincial Civil Servants:--

PART-1-UASI: SCALES AND ALLIED MATTERS.

Basic Scales of Pay: - The Basic Scales of Pay, 1983, as shown in Annexare-1 to this circular latter shall replace the existing covland notional " Scales of Pay (RNPS). The Basic Scales shall not be regarded as "grades" and shill not be referred to as grades in official communications. Officials shall beneforth be appointed/promoted to posts 1.

Initial Simulion of Pays-(1) The initial pay of an since before the 1st of uly, 1983, sould be fixed at the stage in the relevant Busic Pay Scile: Which is as many stages above the minimum as the stage occupied by him above the minimum of the existing revised National Pay Scales, provided that where the pay so determined does not vive the employee concerned, a minimum advantage of 10% of his existing Dasic Pay plus De-cueas allowance over and above the present emoluments drawn by him, his pay shall to stand of the lowest stage in the Basic Scale that gives him that advantanc; provided further that the maximum of the relevant Masic Scale that not be exceeded in any case. In this fixation formula, "emolute als" would as a the sum of pay, Dearness Allowance and Local Company story allowance if any.

Asset: Plant Pathy Agriz Ross Sinsees Tarnab, Peshanary



No. FD(SK-J)1-07/82 GOVERNMENT OF N.W.F.P FINANCE DEPARTMENT Dated, Peshawar, the 24th August 198**7** 

From,

#### The Secretary to Government of NWFP, Finance Department.

To,

- 1. All Administrative Secretaries to Govt: of NWFP.
- 2. The Senior Member Board of Revenue NWFP.
- 3. All Heads of Attached Departments in NWFP.
- 4. All Commissioners/Deputy Commissioners/Political Agents/District and Session Judges in NWFP.
- 5. The Registrar, High Court, Peshawar.
- 6. The Secretary to Governor, NWFP.
- 7. The Chairman, Public Service Commission, NWFP.
- 8. The Chairman, Services Tribunal NWFP.
- 9. The Secretary, Board of Revenue, NWFP.

### Subject: SCHEME OF BASIC PAY SCALES AND FRINGE BENEFITS OF PROVINCIAL CIVIL SERVANTS (1983).

Sir,

In pursuance to the decision of the President of Pakistan, the Governor, NWFP has been pleased to sanction, with effect from 1<sup>st</sup> July, 1983, a scheme as detailed below, of the Basic pay Scales, Allowances and other Fringe Benefit, 1983 for the Provincial Civil Servants.

## PART-I BASIC SCALES AND ALLIED MATERIALS

2. <u>Basic scales of pay:-</u> The Basic Scales of pay, 1983, as shown in Annexure-1 to this circular letter shall replace the existing covand National Scales of Pay (RNPS). The Basic Scales shall not be regarded as "grades" and shall not be conferred to as grades in officials communications, officials shall henceforth be appointed/promoted to posts and not in grades.

3. Initial fixation of pay: (1) The initial pay of an existing employee, \_\_\_\_\_ employee, who has been in Government Service since before the 1<sup>st</sup> of July, 1983, shall be fixed at the stage in the relevant Basic Pay Scales which is as many stages above the minimum as the stage occupied by him above the minimum of the existing revised National Pay Scales, provided that where the pay so determined does not give the employee concerned minimum advantage of 10% of his existing Basic Pay Plus D\_\_\_\_\_\_ allowance over and above the present employments drawn by him, his pay shall be fixed at the lowest stage in the Basic Scale that gives him that advantage provided further that the maximum of the relevant Basic Scale shall not in exceeded in any case. IN this fixation formula, "employments" would \_\_\_\_\_\_ the sum of pay Dearness Allowance and Local Compensatory allowance if any.

## To To 酸制动使医生 ~~ 1 1933年1月1日 poctors, Engineers, Educationists, Economists, Management ountente, Stibntists, Geologists, Natuorologists, Arthueologista, Animal Husbandry and Forestry Working in Universities, colleges, Research Institutions or Technical Departments shall bu atlowed advance intrements on possessing/acquiring higher maltriustions as under i the abb Thicase a technical/professional employed of the abbye category possesses Desc. Sphin degree from a foraign university, he shall be allowed (1)All ddyance inorements on entry into service 10-0-17a Think of this above categories of officers who ~ pollading MSA/M. SG/M. S or equivalent from a structure fors any this sity of Ph.D or M. Whil from a university in Pakistan will receive four advance indrements on induction in service in 3-17. (111) These of the above categories of employees who (111) These of the above categories of employees who while in service obtain a degree shall be allowed fails mivable ingrements in case of (1) above and two mivable ingrements in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and two mivable increments in case of (1) above and the increments in agriculture. Animal Husbandry and Forestry monthed ture, Animal Husbandry and Forestry mentioned aboyu, prior concurrence of Fillance Department shall be obtained. Advance Increments to stenographers - The orders 4 of talked in the dovurnment of WWPP, Finance Department circular letters de FD (IRI) 20-1/74 dated 13.5.1981 and No.FD (SRI) 2-56/72 dated 13.9,1982 bugarding grant of four devance increments to Steno-typists, Stenographers, Personal Assistants, Juogement Writers, Private Secretories shall stand renclined on the introduction of Basic Pay Scales with effect from PART-II-ALLOWANCES. 1. . 12. Dearness Allowince, Local Componsitory Allowance; and Rest and Recruation Allowance. (1)

(1) As from the 1st of July, 1983, the existing Dearness Allowines, Local Compensatory Allowines wherever admissible, and Rest and Ecreation Allowings shall cease to be admissible to a provincial civil servant who draws pay in the Bosic Pay Scales.

(11) The existing rules and orders regulating the grant of Hous Rent Allowance, Conveyance Allowance and Washing Allowance shall confinue to be applicable.

Contd:- -

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Agris Ross Insens Tarpab, Poshkinger

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Doctors, Engineers, Educationists, Economists, Management Accountants, Scientists, Geologists, Meteorologists, Archaeologists, Experts of Agriculture, Animal Husbandry and Forestry working in Universities, Colleges, Research Institutions or Technical Departments shall be allowed advanced increments on possessing/acquiring higher notifications as under:

- (i) In case a technical/professional employees of the above category possesses B.Sc, Ph.D degree from a foreign University, he shall be allowed six advance increments on entry in to service in B-17.
- (ii) These of the above categories of officers who possesses M.A/M.Sc or PH.d or M.Phil from a University of Pakistan will receive four advance increments on induction in service in 3-17.
- (iii). These of the above categories of employees who while in service obtain a degree shall be allowed for advance increments in case of (i) above and two advance increments in case of (ii) above.
- (iv) In case while it is intended to extend the concession of advance increments to the categories of officers other then Doctors, Engineers, Educationists, Experts in Agriculture, Animal Husbandry and Forestry mentioned above, prior concurred of Finance Department shall be obtained.

11. <u>Advance Increments to Stenographers</u>: The orders concerned in the Government of NWFP, Finance Department circular letters No.FD(RI)20-1/74 dated 13.5.1981 and No.FD(SRI)2-56/72 dated 13.9.1982 regarding grant of four advance increments to steno-typist, Stenographers, Personal Assistants, Judgment Writers, Private Secretaries shall stand rendered on the introduction of Basic Pay Scales with effect from 1-7-1983.

#### PART-II-ALLOWANCES

#### 12. <u>Dearness Allowance, Local Compensatory Allowance and Rest and</u> Recreation Allowanced

(i) As from the 1<sup>st</sup> of July, 1983, the existing Dearness Allowance, Local Compensatory allowance whoever admissible, and Rest and Recreation Allowance shall cease to be admissible to a provincial, civil servant who draws pay in the Basic Pay Scales.

(ii) The existing rules and orders regulating the grant of House Rent Allowance, Conveyance Allowance and Washing Allowance shall continue to be applicable.

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A tuacher who plananses or acquiren Master's Dégrés filuit be allowed three alvance incrementa. In chies of a bacher who possenses or négulires Master estégrée in Education (M480) and Barbo d Master estégrée in, biy scadante subject shall be allowed six advance increments

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drawh ingrements for possessing higher education al allowed threadilts for possessing higher education al allowed threadilts lequid to shortfall in the number of increments if any, between the increments officially by him and the increments which are not been officially

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Thereafter their pays in the higher Basic Scales shall be fixed at the next higher stage.

8. **Specified Pays:-** (a) The existing special pays admissible to officials of various categories working as Private Secretaries and Personal Assistants shall be revised as under:-

Name of Posts	Existing Rs.	Revised Rs.
P.S to Ministers/ Chief Secretary, P.S to Additional Secretaries P.S to Secretaries P.A to Ministers P.A to Chief Secretary/ Additional Chief Secretary/ Secretary	150/220 150/220 100 60 50	200 150 150 100 75

(b) The existing Private Secretaries who are in receipt of special pay exceeding Rs. 150/- p.m shall continue to draw in at the within stage on personal to them for no long as they hold these posts.

#### 9. <u>Advance increments to School Teachers on attaining higher</u> qualification

Primary, Middle and High School teachers who possess or acquire while in service higher qualification shall be allowed advance increments as under:

#### I. <u>Primary School</u>

- (i) A teacher who possess or acquires F.A/F.Sc shall be allowed two advance increments.
- (ii) A teacher who (in addition to F.A/F.Sc, So) also acquire C.T shall be allowed one additional advance increment.
- (iii) A teacher who acquires a degree of B.A/B.Sc shall be allowed three additional advance increments.

#### II. Middle School

A teacher who possesses or acquires a degree of B.A/B.Sc shall be allowed three advance increments.

#### III. High School.

A teacher who possesses or acquires Master Degree shall be allowed these advance increments. In case of a teacher who possesses ore acquires Master Degree in Education (M.Ed) and also Master's Degree in any other subject shall be allowed six advance increments.

Provided that a teacher who has already drawn increments for possessing higher educational qualification under the existing scales shall be allowed increments equal to shortfall in the number of increments if any, between the increments obtained by him and the increment which have now been

## Ho.FD( PPC) 1-1/87-VIII. -19

Covernment of N.M.F.P., Finance Department.

Dated Peshavar, the July, 22. 1987.

The Secretary to Government of M/FP., Finance Department, Peshawar.

 All Administrative Secretaries to Govt:of MMFP.
 The Senior Member, Board of Reverse, H.W.F.P.
 The Secretary to Covernor, H.W.F.F.
 The Secretary to Chief Minister, M.W.F.P.
 The Secretary Provincial Assembly Secretariat, MMFP.
 All Heads of Attached Departments in M.W.F.P.
 All Commissioners/Deputy Commissioners/Political Agents/District & Sessions Judges in M.W.F.P.
 The Registrar, Feshawar High Court, Peshawar.
 The Registrar, Services Tribunal, M.W.F.P.
 The Secretary, Doord of Revenue, MWFP.; Peshawar.

Subject:-

Sir,

Annex C

From:

To

REVISION OF BASIC PAY SCALES AND ALLOWANCES OF CIVIL EMPLOYEES OF THE PROVINCIAL GOVERNMENT.

Pursuant to the revision of the pay scales of the employees of the Federah Covernment vide Government of Fakistun, Finance Division(Regulation Wing) O.M.No. F.1/7/Imp.II/87 dated 1.7.1987, the Provincial Covernment of the Forth West Frontier Province are pleased to sanction revision of the Basic Pay Scales, allowances and other fringe benefits for the Provincial Civil Servants as detailed in the following paragraphs.

2. <u>Basic Pay Scales:</u> The new scales, as shown in the Annexure to this circular letter shall replace the Easic Pay Scale:, 1985 and shall-be effective from the First of July, 1987

<u>Jritial-fixetion.of-Pay:</u>- (i) The initial ray-of on existing employees who has been in Government service since before the Ist July, 1987, shall be fixed on "Point to Point basis" i.e. at the stage in the relevant Basic Pay Scale which is as muny stages above the minimum as the stage occupied by him fabove the minimum of existing Easic Pay Scale.

(ii) The arrual increment shall continue to be admissible subject to the existing conditions on the First of December each year. However, the first arrual increment of the existing employees is the first arrual increment of the existing employees

## GOVERNMENT OF N-W.F.P. FINANCE DEPARTMENT

No. FD(PRC) 1-1/200 Dated Peshawar the, October 27, 2001

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REMISION CERTASIC PAY SCALES' AND FRINCE BENEELTS OF CI

Sic, and directed to state that the Governor of the NWFP has been pleased to sanction, we effect (top) December 1, 2001, a scheme of the Basic Pay Scales, Allowances and Pensions, 2001 for the Givil employees of the Government of NWFP in UPS 1 to BPS 22 as detailed be own-

PART PASICIPAY SCALES AND ALLIED MATTERS

Bysic Pay Scales are shown in Annexure-1 to this letter. The revised Lusic pay scales shall

GOVERNMENT OF N.W.F.P FINANCE DEPARTMENT

No. FD(PRC)1-1/2001 Dated Peshawar the, October 27, 2001

From,

## The Secretary Government of NWFP Finance Department.

To,

#### 1. All Administrative Secretaries to Govt: of NWFP.

2. The Senior Member Board of Revenue NWFP.

3. The Secretary to Governor NWFP, Peshawar.

4. The Secretary Provincial Assembly, NWFP.

5. All Heads of Attached Departments, NWFP.

6. All District Coordination Officers/Political Agents/Dstrict and Sessions Judges N.W.F.P.

7. The Registrar, High Court, Peshawar.

8. The Chairman, Public Service Commission, NWFP.

9. The Chairman, Services Tribunal NWFP.

10. The Secretary, Board of Revenue, NWFP, Peshawar

### Subject: <u>REVISION OF BASIC PAY SCALES AND FRINGE</u> <u>BENEFITS OF CIVIL EMPLOYEES (BPS-1-22) OF THE</u> <u>N.W.F.P GOVERNMENT (2001)</u>

Sir,

I am directed to state that the Governor of the NWFP has been pleased to sanction, with effect from December 1, 2001, a scheme of the Basic Pay Scales, Allowances and Pensions, 2001 for the Civil Employee of the Government of NWFP in BPS 1 to BPS 22 as detailed below:-

#### PART-I BASIC PAY SCALES AND ALLIED MATTER

2. Basic Pay Scales:- The existing Basic Pay Scales and the revised Basic Pay Scales are shown in Annexure-I to this letter. The revised Basic Pay Scales shall

replace the existing Basic Pay Scales, 1994, and shall be effective from 2001.

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apply.

of this letter.

DISCONTINUATION OF ALLOWANCES - File following allowances shall cease to be payable on Introduction of the revised pay scales with effect from O1-12: 2001:-1

Cost of Living Allowance to BPS 1 to BPS 22 @ 7% of basic pay. Adhoc relief of Rs. 3007-p.m. and Rs. 1007- p.m. to BPS 1 to BPS 16 il. (Inclusive of BPS-17 by virtue of Move Over).

Secretariat Allowance/Personal Allowance if any/Adhoc Relief recompense for Secretarlat/Personal Allowance.

SPECIAL ADDITIONAL ALLOWANCE : Special Additional Allowance sanctioned vide l'inance Department's fetter No. FD(PRC) 1-1/99 dated 26-7 1999 shall be frozen at the level drawn as on date of issue of this letter.

INITIAL FIXATION OF PAY - Pay of the employees in Government service on 30-1-7-2001 shall be fixed at the stage in the revised pay scales which is as many stages above the minimum as the stage occupied by film above the minimum of the 1994 Basic Pay Scale:

PAY FIXATION ON PROMOTION :- The existing provisions regulating the fixation of pay in case of promotion from lower to a higher post shall commune to

SELECTION GRADE AND MOVE OVER :- selection Grade in the scheme of Basic Pay Scales and Move Over scheme shall stand discontinued iv.e.f the date of issue



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replace the existing Basic Pay Scales, 1994 and shall be effective from 2001.

3. **<u>DISCONTINUATION</u>** OF **ALLOWANCES:** The following allowances shall cease be payable on introduction of the revised pay scales with effect from 01-12-2001.

- i. Cost of Living Allowance to BPS 1 to BPS 22 @ 7% of basic pay.
- ii. Adhoc relief of Rs. 300/- p.m and Rs. 100/- p.m. to BPS 1 to BPS 16 (inclusive of BPS-17 by virtue of Move Over)
- iii. Secretariat Allowance/Personal Allowance if any/Adhoc Relief as recompense for Secretariat/Personal Allowance.

4. **SPECIAL ADDITIONAL ALLOWANCE:** Special Additional Allowance sanctioned vide Finance Department's letter No. FD(PRC)1-1/99 dated 26-7-1999 shall be frozen at the level drawn? as on date of issue of this letter.

5. **INITIAL FIXATION OF PAY**: Pay of the employees in Government service n 30-11-2001 shall be fixed at the stage in the revised pay scales which is as many stages above the minimum as the stage occupied by him above the minimum of the 1994 Basic Pay Scale.

6. **PAY FIXATION ON PROMOTION:** The existing regulating the fixation of pay in case of promotion from lower to a higher post shall y continue to apply.

7. **SELECTION GRADE AND MOVE OVER:** Selection Grade in the scheme of Basic Pay Scales and Move Over scheme shall stand discounted w.e.f the date of issue of this letter.

# PAY FIXATION OF EMPLOYEES IN SELECTION GRADE AND THOSE WHO HAVE MOVED OVER TO HIGHER SCALE.

Pay of an existing employee drawing pay by move over shall be fixed with reference to the pay scale of the post for the time being held by him. In case the employee was drawing pay in Selection Grade, his pay will be fixed in the Selection Grade pay scale. The stage of fixation will be arrived at after allowing increments on notional basis in the original scale of the post or the Selection Grade, in 1994 Basic Pay Scales, upto the point of existing pay. Pay of the employees will then be fixed at the relevant stage in the revised pay scales 2001.

#### EXAMPLE I

Assistant, BPS-11 Selection Grade, BPS-15, Move over BPS-16 and Inreceipt of Pay of Rs. 5490/- Pay will be fixed inBPS-15 Le Selection Grade pay scale at Rs. 8320/- as under :-

۰.	·					
		Stage [5	Stage 16	Stage 17.	Stage 18	Stage 19
	1994'Scale	4845	5022	5199	5376	5553
	2001 Scale	7260	7525	7790	8055	8320

XEMPLE II

Pay fixation of an employee InBPS-11 who has moved over to BPS-14 and is In receipt of basic pay of its.44807- will be fixed after allowing notional increments InBPS-11 of 1994 Basic Pay Scales upto the stage of basic pay drawn. Pay in revised BPS-11 will be fixed at the corresponding stage of Rs. 6790/- as under:-

BPS 11	Stage	Stage	Stage	Stage	Stage		Stage	Stage		s <del>.</del> .	
1994 Pay Scale					3929	20 4045	4164	4277	والمستعدة والمارية الراف	<u>24</u> 4509	
2001 0	┉┙╅┿╼╍╌╸╴╸								· <u> </u>	6790	į.

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## 8. PAY FIXATION OF EMPLOYEES IN SELECTION GRADE AND THOSE WHO HAVE MOVED OVER TO HIGHER SCALE

Pay of an existing employee drawing pay by move over shall be fixed with reference to the pay scale of the post for the time being held by him. In case the employee was drawing pay in Selection Grade, his pay will be fixed in the Selection Grade pay scale. The stage of fixation will be arrived at after allowing increments on national basis in the original scale of the post or the Selection Grade, in 1994 Basic Pay Scales, upto the point of existing pay. Pay of the employees will then be fixed at the relevant stage in the revised pay scales 2001.

#### EXAMPLE-I

Assistant, BPS-11 Selection Grade, BPS-15, Move over BPS 16 and in receipt of Pay of Rs. 5490/- Pay will be fixed in BPS-15 i.e. Selection Grade pay scale at Rs. 8320/- as under;

	Stage 15	Stage 16	Stage 17	Stage 18	Stage 19
1994 Scale	4845	5022	5199	5376	5553
2001 Scale	7260	7525	7790	8055	8320

#### EXAMPLE-II

Pay fixation of an employee in BPS-11 who has moved over to BPS-14 and is in receipt of basic pay of Rs. 4480/- will be fixed after allowing national increments in BPS-11 of 1994 Basic Pay Scales upto the stage of basic pay drawn. Pay in revised BPS-11 will be fixed at the corresponding stage of Rs. 6790/- as under;-

									1	2
BPS-11	Stage 15	Stage 16	Stage 17	Stage 18	Stage 19	Stage 20	Stage 21	Stage 22	Stage 23	Stage 24
1994 Pay Scale	3465	3581	3697	3613	3929	4045	4164	4277	4393	4509
2001 Pay Scale	5215	5390	5565	5740	5915	6090	6265	6440	6615	6790

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#### EXAMPLE- III

Pay Flaation of an employee in BPS-5 who has moved over toBPS-11 and is in receipt of basic pay of Rs. 34657- will be fixed after allowing notional increments in EPS-5 of 1994 BPS upto the stage of basic pay drawn. Since basic pay of Rs. 34657- is beyond the 30 stages in notional BPS-5, (1994 BPS), and resultantly more than the 30 stages of BPS-2001, therefore, his pay will be fixed at the notional  $32^{nd}$  stage i.e. at Rs.53007-. The difference of Rs. 2007- Rs.5300 - 5100) will be personal to him as under:-

and the second states in the second states in the second states and the second states are set of the second states are		· · · · ·	
	Stage- 30	Stage 31	Stage - 32
DPS-5 1994	3380	3446	3512
BPS-5 2001	5100	5200	5300
			الأجريبية ويسر بتصييصه ستستحد وحاجاه

In such cases future increments up to a maximum of 3 years will also be allowed as personal to such employees.

9. DATE OF INCREMENT: Annual increment shall continue to be admissible subject to the existing conditions, on the 1st December each year.

10. <u>SPECIAL: PAYS/ALLOWANCES\_FOR\_OFFICES</u> :- The Special Pays/ Allowances sanctioned to offices as percentage of pay shall be discontinued on the introduction of revised pay scales w.e.f 1-12-2001 and adjusted in future increments.

11. ADVANCE INCREMENTS :- The existing scheme of advance increments is discontinued w.e.f. 1-12-2001. A fresh scheme, if any, will be introduced in due course.

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#### EXAMPLE-III

Pay Fixation of an employee in BPS-5 who has moved over to BPS-11 and is in receipt of basic pay of Rs. 3465/- will be fixed after allowing national increments in BPS-5 of 1994 BPS upto the stage of basic pa drawn. Since basic pay of Rs. 3465/- is beyond the 30 stages in national BPS-5 (1994 BPS), and resultantly more than the 30 stages of BPS-2001, therefore, his pay will be fixed at the national  $32^{nd}$  stage i.e. at Rs. 5300/-. The difference of Rs. 200/- Rs. 5300 - 5100) will be personal to him as under:-

	Stage-30	Stage-31	Stage-32
BPS-5 1994	3380	3446	3512
BPS-5 2001	5100	5200	5300

In such cases future increments upto a maximum of 3 years will also be allowed as personal to such employees.

9. **DATE OF INCREMENT:** Annual increment shall continue to be admissible subject to the existing conditions, on the 1<sup>st</sup> December each year.

10. **SPECIAL PAYS/ALLOWANCES FOR OFFICES:** The Special Pays/Allowances sanctioned to offices as percentage of pay shall be discontinued on the introduction of revised pay scales w.e.f 1-12-2001 and adjusted in future increments.

11. **<u>ADVANCE INCREMENTS</u>**: The existing scheme of advance increments is discounted w.e.f 1-12-2001. A fresh scheme, if any, will be introduced in due course.

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- stages of pay above The minimum jor beyond Max. pay scales as F. Siven as Notional stage

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		-: 3 :- 1	18	3	20 A-
(1i)	Mere the pres- cribed qualifi- cation is Matric.	NTL .	1	2	3
(iii)	Mhere the pres- cribed qualifi- cation is F.A:/ F.Sc.	NIL.	NIL	1	2
(iv)	Mnere the pres- cribed qualifi cation is B.A./ B.Sc.	MIL	IJIL	NIL	1

(b) Engineers and Doctors shall also be allowed four advance increments in case they possess or acquire a post-Graduate degree in their relevant field for which they have not been allowed any qualification pay.

(c) The advance increment/increments shall be callowed at the time of recruitment or acquiring higher qualification during service. In cases where the employee is already at the maximum of his pay scale, he would be allowed the requisite number of increments as personal pay to be absorbed on moving over/promotion to higher pay scale.

7. <u>House Pert Allowance</u>:- All employees not provided with Government accommodution and posted at Peshawar as indicated in para 1(a) of Finance Department's circular letter No.FD(SR-II). 2-1/78(P)-II dated 6.7.1981 shall continue to be entitled to House Ment Allowance at 45% of the minimum of the relevant Basic Pay Coales without indexction canctioned vide Finance Department's Mineular letter No.FD(SR-II)2-1/78(vol:v) dated 2.8.1986. At all other places this allowance will be allowed at 30% of the minimum irelevant basic pay scale without indexation against the existing is of 20% of the minimum of the relevant Basic Pay Scale.

<u>Conveyance Allowance</u> The Conveyance Allowance shall dinue to be admissible at the existing rates sanctioned vide dince Department's circular letter No.FD(SR-IV)4-14/80 dated

(i) Covernment Servants drawing pay of Rs.1650/-p.m. and above:-

(a) Those mainfaining motor Car not registered for connerval
(b) Others.

Rs.285/-p.m.

Rs.150/-p.m. Contd:P/4....



(ii)	Where the prescribed qualification is Matric	NIL	1.	2	3
(iii)	Where the prescribed qualification is F.A/F.Sc	NIL	NIL	1	2
(iv)	Where the prescribed qualification is B.A/B.Sc	NIL	NIL	NIL	1

(b) Engineers and Doctors shall also be allowed four advance increments in case they possess or acquire a post-graduate degree in their relevant field for which they have not been allowed any qualification pay.

(c) The advance increment/increments shall be allowed at the time of recruitment or acquiring higher qualification during service. In cases where the employee is already at the maximum of his pay scale, he would be allowed the requisite number of increments as personal pay to be absorbed on moving over/promotion to higher pay scale.

7. **HOUSE REST ALLOWANCE:-** All employees not provided with Government accommodation and posted at Peshawar as indicated in para 1(a) of Finance Department's circular letter No. FD(SR-II)2-1/78(P)-II dated 6.7.1981 shall continue to be entitled to House Rent Allowance at 45% of the minimum of the relevant Basic Pay scales without indexation sanctioned vide Finance Department's circular letter No.FD(SR-II)2-1/78(Vol:V) dated 2.8.1986. At all other places this allowance will be allowed at 30% of the minimum relevant basic pay scale without indexation against the existing rate of 20% of the minimum of the relevant Basic Pay Scale.

8. **<u>CONVEYANCE ALLOWANCE</u>**: The Conveyance Allowance shall continue to be admissible at the existing rates sanctioned vide Finance Department's circular letter No. FD(SR-IV)4-14/80 dated 1981 as under:-

(i) <u>Government Servants drawing pay of Rs. 1650/- p.m</u> and above:-

(a)	Those maintaining motor car	Rs. 285/- p.m
	not registered for commercial	
	purposes.	

(b) others

Rs. 150/- p.m

NOTE OF THE ACCOUNTANT GENERAL NWFP, PESHAWAR. NOT#24(96)CORRANGI-V406 Dated.0370372002

Annex E

Τo

 The Secretary to Government of NWEP, Finance Department, Peshawar.

 Finance Department, Peshawar.
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 Subject:
 <u>PROTECTION OF PERSONAL PAY FOR OUALLIFICATION.</u>

I am directed to refer to your department circular letter No.Pd (SRI) 15-298 dated 26-01-1999 on the subject noted above. According to which personal Pay on account of higher qualification shall not be observed adjusted but shall be treated as part of the time scale of Pay for the purpose of fixation of Pay of the civil servant concerned on his promotion/scleation grade/Nove over. This office is of the view that personal Pay on account of higher qualifications shall be treated as part of the time scale of Pay for the purpose of fixation of Pay of the civil servant concerned on revision of Basic Pay Scales w.e.f 1-12-2001. The view of this office if correct, may kindly be confirmed.

DY: ACCOUNTANT GENERAL (Akmn:)

No. DAD-Swit/Adm ~ / 191-93 Dated Copy forwarded to: S/PR-I Section Local SIPR-I Still - 11

Nes. Officer Distl. Liver

## OFFICE OF THE ACCOUNTANT GENERAL NWFP, PESHAWAR

RO#24(96CORR/Vol-1/406

Dated 30/01/2002

To,

The Secretary to Government of NWFP, Finance Department, Peshawar.

### Subject: **PROTECTION OF PERSONAL PAY FOR HIGHER QUALIFICATION**

I am directed to refer to your department circular letter No. FD(SRI) 15-2/98 dated 26-01-1999 on the subject noted above. According to which personal Pay on account of higher qualification shall not be observed adjusted but shall be treated as part of the time scale of pay for the purpose of fixation of pay of the civil servant concerned on his promotion/selection grade. Move over. This office is of the view that personal Pay on account of higher qualification shall be treated as part of the time scale of Pay for the purpose of fixation of Pay of the civil Servant concerned on version of Basic Pay Scales w.e.f 1-12-2001. The view of this office if correct may kindly be continued.

#### DY: ACCOUNTANT GENERAL (Admn;) N.W.F.P, Peshawar

Annex F

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Dated peshawar the , Feh. 13, 2002

The ACCOUNTANT General', HWFP. HIGTREMON OF PRISONAL PAY FOR HTGHER DUALTFICAT

Conr/251. T/106 dated 30-1-2002 on the subject noted above and a to suclose benewith a copy of letter No:FD(SR.T)15-2/98 dated January 26, 1995. Your view point on the subject matter is also connect which is confirmed.

Copy of the shove alongwith copy of this office latter dated

(1) UAO'S/AAO'S IN NUMPP, Peshawar.
 2. All Pay Roll Sections(Local).
 73. The officer incharge, Pay Fixation Page.

ACCOUNTS OFF TCER NWFP, PESHAWAR

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GOVERNMENT OF N.W.F.P FINANCE DEPARTMENT

No. FD(SR.T)12-2/98 Dated Peshawar the, Feb. 13, 2002.

To,

The Accountant General, NWFP.

#### Subject: **PROTECTION OF PERSONAL PAY FOR HIGHER QUALIFICATION**

I am directed to refer to your letter No. H-24(96) Corr/ Vol.1 / 406 dated 30-01-2002 on the subject noted above and to enclose herewith a copy of letter No. FD(SR.I)15-2/98 dated January 26, 1999. Your view point on the subject matter is also connect which is confirmed.

-/Sd (SHAH JEHAN) SECTION OFFICER (SR.I)

#### OFFICE OF THE ACCOUNTANT GENERAL NWFP, PESHAWAR

No. H-24(111)R(BPS-2001/476-70 Dated: 4-3-2002

Copy of the above along with copy of the office said letter dated 30/01/2002 forwarded to:

- 1. All DAO's/AAO's in NWFP, Peshawar.
- 2. All Pay Roll Sections (Local) .
- 3. The Office In-charge, Pay Fixation Party.

#### ACCOUNTS OFFICER NWFP, PESHAWAR

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Annex G S.No. Date of Order or other proceedings with signature of judge or Magistrate order proceeding 2 KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR. APPEAL NO.810/2012

(Ali Ayaz Khan -vs- District Account Officer, Mingora, Swat and others).

02.03.2016

#### JUDGMENT

#### ABDUL LATIF, MEMBER:

@ 2/

Appellant with counsel (Mr. Saad Ullah Khan Marwat, Advocate), Mr. Ansar Ahmad, AAO for respondents No.1 to 3 and Mr. Ali Akbar, SRO for respondent No.4 alongwith Mr. Muhammad Jan, GP for respondents present.

2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 whereby recovery/payment of the following amount was not made to appellant. (1) Rs. 38927/- monthly salary for 12/2008, (2) Rs. 6000/per Month personal pay/annual increments since 12/2011 till date, (3) Adhoc Relief Rs. 458/- per month since 12/2008 till date, (4) Rs. 615/- PM since 12/2005 till date, (5) Rs. 465/- PM annual increments since 12/2002 till date at revised rate and (6) Rs. 82,550/-. He prayed that on acceptance of this appeal, order of recovery/deduction of Rs. 82550/- alongwith Rs. 6000 per month or as the case may be, reimbursed to appellant with markup, with such other relief as may



be deemed proper and just in circumstances of the case.

3. Brief facts giving rise to the instant appeal are that the appellant was initially appointed as Research Assistant (BPS-16) which post was then upgraded to BPS-17 in the same year. That the appellant was then promoted to the post of Assistant Botanist (Supervisory) BPS-17 on 10.11.1993 w.e.f 25.05.1993. He was promoted by way of Move over to BPS-18 on 01.12.1998. In the year 2008, appellant was promoted to the post of Senior Research Officer (BPS-18) on regular basis. That on 02.12.2008 he was transferred from Swat to Agriculture Research Institute, Tarnab. Peshawar against the post of Potato Botanist. That on 06.01.2009 respondent No.1 sent LPC to respondent No.2 which contains various figures of emoluments but the same does not contain annual increments of Rs. 740/- per month from 12/2007 to 12/2008. That on 27.08.2009 respondent No.2 wrote letter to respondent No.1 that appellant has been given more monetary benefits than the admissible by making over payment to him of Rs. 38927/- in pay and allowances from 03.12.2008 to 31.12.2008, so the LPC be rechecked and if any omission was pointed out, the same be recovered from him and correct and revised LPC/Service Statement be supplied at the earliest so that the pay of the officer can be fixed properly. That in the meanwhile, appellant was transferred to Abbottabad to the office of respondent No.3 and then respondent No.2 sent LPC to respondent No.3 showing statement of deduction of money in various categories of pay and allowances, amounting to Rs. 82550/-. That from the month of September 2011 deduction was started at the @ Rs. 20000/per month and till January 2012, recovery of Rs. 82550/- was made from the monthly salaries of appellant alongwith annual increments

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and personal pay at the @ Rs. 6000/- per month and the same were stopped till date w.e.f 12/2011.That the appellant preferred departmental appeal on 23.04.2012 which was not responded, hence the present service appeal.

The learned counsel for the appellant argued that appellant 4. was transferred on 02.12.2008 from Swat to Agriculture Research Institute Tarnab, Peshawar as Potato Botanist. While in Peshawar the Accountant General office raised objection on the salary of the officer as contained in the LPC and started recovery of over payment on account of personal pay. On approach to the Accountant General Office the issue was settled but on his transfer again from Peshawar to Abbottabad on 16.12.2009 the District Comptroller Abbottabad again resorted to recoveries on account of access payment of personal pay and as such on amount of Rs. 82550/- was recovered from his monthly salary which was not justified nor any notice of such recovery served upon the appellant. He further argued that the appellant got retired from service on 05.04.2013 and payment on account of annual/advance increments were made to the appellant in good faith but recovery was made from him in illegal manner and without any reason or justification which action was not maintainable under the law. He further argued that the appellant made representation to the relevant authority time and again but no heed was paid to the same and his grievances remained unresolved. He prayed that on acceptance of this appeal the amount recovered may be reimbursed.

5. Learned Government Pleader resisted the appeal and argued

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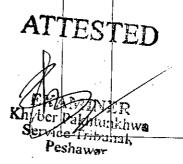
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that pay fixation party made a correct decision of recovery of over payment irregularly drawn by the appellant as there was no provision at the relevant rules/policy for fixing of advance increment beyond the maximum of pay scale of the pay. He further argued that he was transferred from the Audit Control of agriculture University Peshawar he was allowed personal pay beyond the maximum of the time scale in BPS-17 which is clearly violated the order of the Government vide No. FD (PRC)1-1/2005 dated 12.11.2005 hence personal pay was reduced. He contended that he was overpaid amounting to Rs. 36416/- @ Rs. 38927/- per month pay and allowances w.e.f 03.12.2008 to 31.12.2008 per LPC issued by respondent No.2. The appellant drawn the salary for the full month of December while he relinquished the charge on 03.12.2008, hence the overpaid salary was required to be recovered and drawn from the audit circle of respondent No.2. He prayed that the appeal being devoid of any merits may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From perusal of the record, it transpired that the appellant availed the benefit of personal pay beyond the maximum of pay scale on account of annual/advance increment while posted in the jurisdiction of District Account Officer Swat. The said facility however became disputed who on his transfer to Peshawar took charge of the post at Research Station Tarnab in the jurisdiction of A.G Peshawar. According to the appellant the issue remained settled during his stay in Research Station Tarnab, Peshawar but on his



subsequent transfer the issue again cropped up when he was posted in Abbottabad where District Comptroller Abbottabad again started recovery of over payment made on account of personal pay beyond maximum of the pay scale of the appellant. It is evident that a consistent approach was not adopted by different Accounts offices and as sufficient record is not available before the Tribunal to draw a safe conclusion,  $\mathbf{W}$  e therefore, deem it appropriate to remit the case to the respondent-department with direction to sort out the case with the relevant Account Offices and get the issue resolved in consultation with the pay fixation party in light of the relevant law/rules pertaining to the issue in hand where appellant should be duly associated. The issue should preferably resolved on its merits within a period of sixty days of the receipt of this judgment. Parties are left to bear their own cost. File be consigned to the record room.

(ABDUL LATIF) MEMBER

(PIR BAKHSH SHAH) MEMBER

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# IN THE PESHAWAR HIGH COURT PESHAWAR

Annea H

## Writ Petition No.\_\_\_/ of 2019

Ali Ayaz Khan son of Gul Amir Khan, Senior Research Officer (Retd) Potato Botanist, C/O Muhammad Rafiq Khan Metrological Colony, Opposite Provincial Assembly Building Peshawar Cantt...

0106

### VERSUS



1. Accountant General Khyber Pakhtunkhwa Fort Road Peshawar Cantt.

- Accounts Officer (Pay Fixation Party) Accountant General Office Fort Road, Peshawar Cantt.
- 3. Secretary to Government of Khyber Pakhtunkhwa, Finance Department Civil Secretariat, Peshawar...

Respondents

## WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth:

Brief facts giving rise to the instant Writ Petition are as under:-

- That the petitioner was initially appointed as Research Assistant (BPS-16) in the year 1977 which post was upgraded to BPS-17 in the same year.
- 2. That the petitioner was performing his duties to the best of his ability when on meritorious services he was promoted to the post of Assistant Botanist (Supervisory) (BPS-17) on 10.11.1993 with effect from 25.05.1993. He was promoted by way of Move-Over to BPS-18 on



01.12.1988, in the year 2008 the petitioner was promoted to the post of Senior Research Officer BPS-18 on Regular Basis.

- 3. That sanction for 2 Advance Increments for higher educational qualification from Foreign University of MS (USA) was accorded by competent authority (while in service) with effect from 08.05.1993 beyond pay maximum ceiling as two points/2 Stages in Personal Pay (P.P) in light of the following Finance Department Notifications: (i) No. 10189-93 dated 03.11.1993 (ii) Finance Department Circular No. F.D(SR-I)1-67/83 dated 24.08.1983 and (iii) Finance Department Circular No. F.D(PRC)1-1/87-VIII dated 22.07.1987 (Copies of the Notifications dated 03.11.1993, 24.08.1983 and 22.07.1987 are attached as annexures 'A', 'B' & 'C' respectively).
- 4. That two Advance increments were then absorbed in 2001 Revised National Pay Scale Schedule after discontinuation of Move-Over Policy and adjustment in original Pay Scales of BPS-17 and two Advance increments considered as two Stage/or 2 points for reading in the Notional Table and then to the amount of the increments for pay purpose; under specified stage, vide Notification No. F.D (PRC)1-1/2001 dated 27.10.2001, Accountant General Letter No. H-24(96) Coor/Vol-1/406 dated 30.01.2002 and No. F.D (SR-1)15-2/98 dated 13.02.2002. (Copies of the Notification dated 27.10.2001, letter dated 30.01.2002 and Notification dated 13.02.2002 are attached as annexures 'D', 'E' & 'F' respectively).
- 5. That the petitioner approached the Khyber Pakhtunkhwa Service Tribunal Peshawar for the redressal of his grievances and the Honourable Service Tribunal was kind enough to pass an order dated 02.03.2016 whereby direction was given to the respondent Department to resolve the matter within 60 days so as a first step, the District Comptroller of Accounts Abbottabad honoured the Honourable Court orders and instantly reimbursed to petitioner Rs. 1,80,408 the withheld amount from his Pension emoluments but, however, the respondents

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EXAMINER Peshawar High Court

appreciated rules and the law. properly have not Regulation/Notification on the subject to count two increments, point to point/2 Stages rather adopted incorrect/unlawful procedure for absorbing two Advance Increments in the relevant Pay Scale ignoring the Finance Department Pay Fixation Formula stated that; "Earned increments beyond minimum Pay Scale or beyond Maximum Pay Scale as Personal Pay (P.P) increments are part of the Pay Time Scale and that should be counted as Points/or Stages for Pay Fixation". (Copy of the order and judgment of the Honourable Khyber Pakhtunkhwa Service Tribunal dated 02.05.2016 is attached as annexure 'G').

- That the Government Finance Department Pay Fixation Rules are very 6. much clear and it is explicitly explained in all the Revised National Pay Scale since 1983 upto 2019 i.e. Notification/Fixation Column/Clauses with similar wording that increment beyond Minimum Pay upto ceiling or beyond Maximum Pay Ceiling as Personal Pay (P.P) increments are counted in points/or stages in the Table for Fixation of pay in relevant original scale after discontinuation of Move-Over Scales Policy in 2001.
- That the respondents knowingly have not proceeded in accordance with 7. law/rules rather discriminated the petitioner which is against the letter and spirit of Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- That the respondents have intentionally deprived the petitioner from his 8. due rights (Financial Rights) which is based on malafide intention and is for ulterior motive.
- That under the law/rules of the land the petitioner is entitled to be 9. treated in accordance with law and is entitled for his financial benefit on point to point/stage-wise.

ED MINER Peshawar High Court

10. That the petitioner craves permission of this Honourable to advance any other document/argument at the time of hearing of the instant Writ Petition.

 $\tau \tau$  is, therefore, humbly prayed that on acceptance of this Writ Petition this Honourable Court may be pleased to direct the respondents to proceed with the case of the petitioner on the basis of Point to Point/Stage-wise formula for fixation of pay absorption of Two Advance Qualification Increments (Foreign Qualification Increments) granted while in service.

Any other relief though not specifically asked for to which the petitioner is found entitled in the circumstances of the case may also be granted to the petitioner.

Through:

(Wali Khan Afridi) Advocate, Supreme Court of Pakistan Cell # 0300-5977695 And

Petitioner

(Kamran Khan Afridi) Advocate High Court, 1-C, Haroon Mansion Khyber Bazar Peshawar Cell # 0300-5848545

Advocate

Dated: 260\$.2019

#### CERTIFICATE:

Certified that as per instructions of my client, no such Writ Petition on behalf of the petitioner has earlier been filed in this Honourable Court on the subject matter.

### BOOKS OF LAW:

- 1. Constitution of Islamic Republic of Pakistan, 1973.
- 2. Case law according to need.

# PESHAWAR HIGH COURT, PESHAWAR.

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### FORM 'A' FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the order of the Judge
30.10.2019	W.P.No.5205-P of 2019. Present: Mr.Wali Khan Afridi, advorate for the
	petitioner. <u>LAL JAN KHATTAK, J</u> Petitioner through the instant petition under Article 199 of the Constitution of
	Islamic Republic of Pakistan, 1973 has prayed for the
	following relief:-
gain	<ul> <li>"It is, therefore, humbly prayed that on acceptance of this writ petition, this Honourable Court may be pleased to direct the respondents to proceed with the case of the petitioner on the basis of Point to Point/Stage-wise formula for fixation of pay absorption of two Advance Qualification Increments (Foreign Qualification Increments) granted while in service".</li> <li>2. Preliminary arguments heard and available record</li> </ul>
V	gone through.
	3. Admittedly, the petitioner is a civil servant and the
	fixation of pay under a formula or the grant of increments
	are the terms and conditions of service. If a civil servant
	is aggrieved of any breach of the terms and conditions of
	his service, then in that eventuality he can approach the
	Services Tribunal established by the Government for the
	redressal of his grievance but on no count he can file a
	petition under Article 199 of the Constitution of Islamic
	Republic of Pakistan, 1973 keeping in view the bar



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contained under Article 212 of the Constitution. For what has been discussed above, this petition is 4. dismissed in limine for its being not maintainable before this court, however, the petitioner can approach the relevant forum for the remedy available to him under the law. JUDGE ERTHERE S BE TRUE CO 3 DEC 2019 R N ate of Pr T Dist Date of Peth Received Sadiq Shah, PS (DB) (Hon'ble Mr.Justice Lai Jan Khattak & Hon'ble Mr.Justice Mohammad Ibrahim Khan)



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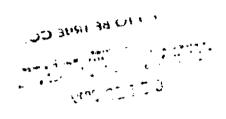
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(2) The Secretary, Govt; of KPK Finance Department, Civil Secretariat Peshawar.

### Subject: <u>APPEAL AGAINST ILLEGAL RECOVERIES FROM MY BASIC</u> <u>PAY SCALE-18 AND NET PENSION AND KPK SERVICE</u> <u>TRIBUNAL PESHAWAR DECISION ON 02-03-2016 IN S.A NO.</u> <u>810/2012 OF ALI AYAZ KHAN, SRO, ABBOTTABAD.</u>

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Sir,

It is submitted with great reverence that the Honourable Service Tribunal, Peshawar gave a verdict in our favour as well instructions issued to the respondents to solve the matter within sixty days. The subject service appeal was related to the illegal loan recoveries of Rs. 82550/- shown in September, 2011 pay bill, deduction of Rs. 6000/- from basic pay December, 2011 upto 05-04-2013 with total amount of Rs. 97000/- plus Dearness Allow @ 15% Rs. 14550/- and withholding of Rs. 180408/- from my net pension (Annex-I  $\frac{2}{4}$ ).

Therefore, as a first step, I approached District Comptroller of Accounts Abbottabad (his goodness Lodhi Sahib). He, then kindly approved the Court orders and allowed re-imbursement of Rs. 180,408/- (Annex-IIP-T) and Account Section started working on the new revised LPC issuance for reimbursement of other recoveries/ claims.

But afterwards in the course, Gul Moheet Khattak, Accounts Officer (Pay Fixation), Mohammad Sadiq, Auditor, DAO, Swat and Altaf Hussain Office Assistant, ARI, Swat at Mardan incorrectly fixed my pay for the year 2001 alongwith absorption of two Higher Educational foreign University Qualification increments in BPS-18 (Move over) i.e 271+271= 542 sanctioned since 08-05-1993 as lump sum amount without considering the Finance Department notification No. F.D (SR-I) 15-2/98 dated Peshawar the Jan-26-1999 explaining that qualification

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increments in personal pay shall be treated as part of the time scale of pay for the purpose of fixation of pay of the Civil Servants concerned (Annex-III  $\stackrel{P}{5}$ ). All other Finance Department notification since 1983 upto 2019 also explicitly explain in the pay fixation subject column with similar wordings/ statement quoted as "Pay fixation is made on point to point basis and stage to stage as occupied by him for the all earned yearly increments above the minimum start scale of the relevant Basic Pay Scales" (Annex -IV<sup>2</sup><sub>4</sub>)

The personal pay increments beyond maximum pay ceiling are also part of same pay time scale to be considered on point to point basis at the stage in the revised pay scales which is as many stages beyond pay ceiling in the relevant scales. Finance Department, Govt; of Pakistan/ Govt; of Khyber Pakhtunkhwa other successive notification further clarifies the nature of personal pay increment as part of a pay time scale to be drawn at the revised rates. (Annex-V<sup>P-1</sup>)

Therefore, it is humbly submitted that there is no clause or written statement in the Finance Department all revised pay scale notification that increment amount is considered for pay fixation. The increment amount is a secondary step to be read under the relevant stage in the given pay table for pay purposes, when all the earned increments are counted on point to point basis formula.

As a result of the novel pay fixation by Mr. Gul Moheet Khattak, Account Officer (Pay Fixation Party) with his own pocket note book formula of the old increment amount absorption, a big chunk of Rs. 6000/- was grabbed from my basic pay scale-18 and therefore my pay was reduced to a 15-years Junior Officer Asif Rehman SRO in the same department (Annex-VI<sup>P</sup><sub>4</sub>).

In other words my Higher Educational Qualification of M.Sc (Hons) M.S(USA), M.A (Eco), promotion to Higher Scale of 17, 18 (Moreover) and

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regular Promotion to BS-18 and long tenure service 36-years, 2-Months & 16-Days benefits of pay, net pension and monthly pension were reduced to a BPS-16/ or less cadre Govt; employee in a unlawful tricky manner and which has no factual evidence supported by any Finance Department Gazetted notification for the actions explanation.

During the case execution proceedings, I the appellant submitted an appeal plain paper on 13-11-2017 addressed to Accountant General for Implementation of The Honourable Tribunal decision on 02-03-2016. The letter was marked to Account Officer Pension branch for compliance under AG Diary No. 1328 dated 13-11-2017 (Annexure-VII<sup>2</sup>). But litigation office again created hindrances in the course of justice ordered by the Honourable Court decision for implementation and wrote a letter No. 755-57 dated 21-12-2017, on their own wish to the litigation Office (II) Finance Department without the court orders after one year, 9 months & 19 days passed the decision on 02-03-2016 with misleading contents and fabricated statement that the appellant was in foreign service etc. in order to put the record straight I was abroad for my educational training leading to M.S/Ph.D in University of Kentucky, Lexington USA. The litigation AG office as respondent in the case included themselves as three members in the unlawful constituted committee has decided with one word "Not entitled" with no reasons given or discussed Financial Department pay fixation rules and therefore the respondent actions were challenged and submitted reply through Advocate in the Honourable KPK Service Tribunal, Peshawar (Annex-VIII P)

In addition to the above we humbly provided further assistance with Honourable KPK Service Tribunal, Peshawar Financial Department, Govt; of NWFP another notification No. FD(FRC)I-I/2002 dated Peshawar the August, 8-2002 under subject; Revision of Basic Pay Scales and Fringe benefits of Civil

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employees (BPS 1-22)of the NWFP Govt; (2001) was also submitted on 24-07-2018 regarding procedure for Higher educational qualification increments absorption in the relevant basic pay scale for those applicants who were not benefited/ served under Finance Secretary Govt; of NWFP No. F.D (SR-I) 15-2/98 dated Peshawar February-13-2002 (Annex-IX<sub>T</sub>)

In order to sum up the S.A No. 810/2012 core issue, it is submitted that my pay and allowances in BPS-18 were fixed through proper channel by legal authority in light of the revised pay scale 2001 notification etc, but after (11) years Rs. 6000/- was deducted from my basic pay BS-18 through unlawful, incorrect pay fixation and I was pushed back to BPS-16/ or less cadre Govt; employee. We provided all the Finance Department notification/ circulars with full sincerity in the Honourable KPK service Tribunal but the respondents could not implement the court orders in letter and spirit.

The Honourable KPK service Tribunal, Peshawar dismissed the execution petition No. 158/2016 on 08-07-2019. We hailed the decision but with some apprehensions that no lawful reasons and reference to the Finance Department rules were discussed that why the appellant is deprived of BPS-18 pay, net monthly pension and long service enhanced benefits.

Therefore a Writ Petition No. 5205/2019 was lodged in Honourable Peshawar High Court Peshawar through learned Counsel against the execution petition No. 158/2016 dismissal by KPK Service Tribunal on 08-07-2019. On a one point agenda that pay fixation on point basis was not maintained per Finance Department pay fixation rules/ formulas. The Honourable Peshawar High Court Peshawar on 30-10-2019 orders that the petition to be heard & reviewed by KPK service Tribunal Peshawar. (Annex- $X_{24}^{\rho}$ )

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It is, therefore, humbly requested, your kind honour that the pay fixation for 2001 may be revisited on point to point basis per the Finance Department pay fixation rules and the anomaly of my pay, net pension and monthly pension reduction from BPS-18 to BPS-16 may be addressed lawfully. Due to already delayed circumstances by COVID-19 pandemic a fifteen (15) days notice is served for the reply to the appeal, in order to move forward in the case proceedings.

Applicant

### Dated: 03-06-2020

(ALI AYAZ KHAN) Senior Research Officer (Retd) HARS, Abbottabad Cell No. 0301-806-1442 CNIC No. 15602-0261052-3

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## Copy to:-

### WALI KHAN AFRIDI Advocate Supreme Court of Pakistan, Peshawar.

\*••• Ľ قيت 50روپ FATA 42666 ALIA ايثروكيك باركوس اايسوى ايش نمبر: 2 2 9 2 - 14 پشاور بارایسوی ایمشن، خسیبر پخستونخواه رابط نمبر: <u>د ۲۰ د ۲۰ ۶ ۲۰ ۲۰ ۲۰ ۲۰ ۲۰ ۲۰</u> 0314-9214939 ت جنار Appellaní منجانب: د<del>بوی</del>ٰ: <u>کوک</u> ا<sup>ح</sup>ر 12218/2020, (,,) ; yíde 120 بنام :**7**7: Accountant Gener تقانه: 4 pli and olle و انک م المسيم مقدمه مندرجه عنوان بالامين ابخ طرف فسي داسط بيروى وجواب دبى كاروا كاستعلقه سر المندا ناو محود کیل مق آن مقام<u>ر</u> UNH Indo كيك لمكامين الريبي ا کر کے اقرار کیا جاتا ہے کہ صاحب موضوف کو مقدہ کی کل کاروائی کا کامل اختیار ہوگا ، نیز و کیل صًا حِب ، دعویٰ اقبا<del>ل دع</del>ویٰ <u>اور در</u>خواست از هر قشم کی تصد ک حلف دینے جوار ۲<u>۱-۱</u>۲, ۲۰ نے وتقر رثالث و فیصلۂ بزیطف راضي نامهركم کی اور میسو کی اایل کی برآر نے کا مختار ہو گا ادر بصورت ضرورت مقدہ مذکورہ کے کل یا جزوی ایی و نظر ثانی و پیروی کر دائر کرنے ایک بجائے يقرر كا اختيار ہو گا اور صاحبہ کاروائی کم کے واسطے اور وکیل یا بختار قانونی مَقَرَر شَدَه کو وَہی جملہ ہٰدکورہ با اختیارات حاصل ہو ں گے اور اس کا ساختہ پر داختہ منظور و قبول ہو گا 4 دوران مقدمہ میں جُو خرکیہ ہر جانبہ التوائے مقدہ کے سب سے ہوگا کوئی تاریخ پیش مقام دورہ یا حد سے باہر ہو تو وکیل صابحت پابند بنہ ہوں کے کہ پیروی مذکورہ کریں ، کہذ وکالت نامہ لکھ دیا تا کہ سند رہے المرقوم ١L Allester ہ مقام کے لیے منظور Alles Ce J. Accop Aconte lassan Klassi Teali klean Aton Atrocal Afriz. Advocai 14 Arc