



02.03.2023

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 14.03.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
K.P.S.T  
Peshawar

  
(Fareeha Paul)  
Member (E)


  
(Salah-ud-Din)  
Member (J)

14.03.2023

Junior to counsel for the appellant present. Mr. Syed Asif Ali Shah, Deputy District Attorney for respondents present.

Junior to counsel for the appellant requested for adjournment on the ground that senior counsel is appointed as Additional Advocate General and he wants to submit fresh Wakalatnama. Adjourned. To come up for arguments on 03.05.2023 before D.B. P.P given to the parties.

SCANNED  
K.P.S.T  
Peshawar

  
(Salah-Ud-Din)  
Member (J)


  
(Kalim Arshad Khan)  
Chairman


1st.Nov., 2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. Advocate General for the respondents present.

02. Learned AAG seeks adjournment in order to further prepare the brief. Granted. This appeal may be fixed before the D.B as per previous order sheet. To come up for arguments on 29.11.2022 before the D.B

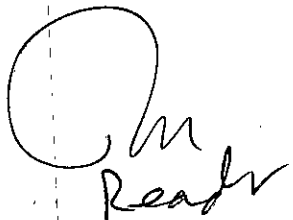
SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E).

  
(Kalim Arshad Khan)  
Chairman

29/11/22

Deleted from the list due to rush of work to come up for the same as before on 2-03-2023.

  
Qm  
Reader

26.09.2022

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Sajid Khan Superintendent for respondents present.

Former made a request for adjournment as senior counsel for appellant is busy before the Hon'ble Peshawar High Court, Peshawar; granted. To come up for arguments on 25.10.2022 before D.B.



(Fareeha Paul)  
Member (E)

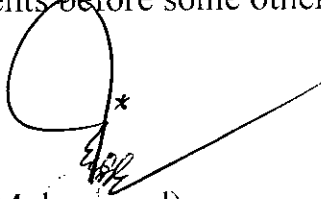


(Rozina Rehman)  
Member (J)

25.10.2022

Junior of learned counsel for the appellant present. Mr. Riaz, Superintendent alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

As one of us (Mr. Main Muhammad Member Executive) is appellant in the instant appeal, therefore, the appeal in hand may be fixed before D.B in which he is not a Member. Adjourned. To come up for arguments before some other D.B on 01.11.2022.



(Mian Muhammad)  
Member (E)





(Salah-Ud-Din)  
Member (J)

12.09.2022

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present.

This case was fixed for 22.11.2022 but on the written request of the appellant it was fixed for today. Learned Additional AG is not ready for arguments. Therefore, last chance is given for arguments on 20.09.2022 before D.B.

  
(Fareeha Paul)  
Member (E)

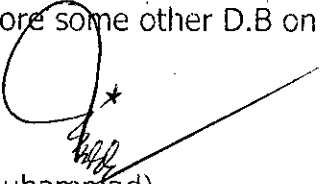
  
(Rozina Rehman)  
Member (J)


20.09.2022

Learned counsel for the appellant present. Mr. Tariq Shah, Senior Auditor alongwith Mr. Naseer-Ud-Din Shah, Assistant Advocate General for the respondents present.

Reply/comments on behalf of respondent No. 4 submitted, copy of which handed over to learned counsel for the appellant.

As one of us (Mr. Main Muhammad Member Executive) is appellant in the instant case, therefore, the appeal in hand may be fixed for arguments before some other D.B on 26.09.2022.


  
(Mian Muhammad)  
Member (E)

  
(Salah-Ud-Din)  
Member (J)

20.05.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Naseeb Khan, S.O and Mr. Sultan Shah, Superintendent for the respondents present.


Written reply/comments on behalf of respondents not submitted. Representative of the respondents seeks time for submission of written reply/comments. Granted. To come up for written reply/comments on 14.06.2022 before S.B.

  
(Salah-ud-Din)  
Member (J)

14<sup>th</sup> June, 2022

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Sultan Shah, Superintendent for the respondents present.


Representative of the respondents seeks further time to furnish reply/comments. Last chance is given. To come up for written reply/comments on 30.06.2022 before S.B.

  
(Kalim Arshad Khan)  
Chairman

30.06.2022

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Mr. Naseeb Khan, S.O and Mr. Sultan Shah, Superintendent for respondents present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to counsel of the appellant. To come up for rejoinder/arguments on 08.08.2022 before D.B.

  
Fareeha Paul  
Member (E)

8-8-2022

Due to the public holiday the case is adjourned to 22-11-2022

  
Reader

29.04.2021

Case file received from the office of Registrar on the verbal direction of Hon'ble Chairman.

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 20.05.2022 before S.B.

Rs-600/-  
Appellant Deposited  
Security & Process Fee  
09/5/22

(Rozina Rehman)  
Member (J)

20.05.2022

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FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ 612/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/04/2022	<p>The appeal of Mian Muhammad presented today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;">   REGISTRAR </p> <p>2-</p> <p><del>24/04/2022</del>      <del>Separate order passed on 24/04/2022. Preliminary order passed on 24/04/2022.</del></p> <p><del>Since the appeal is not considered by the court, the appeal is not admitted for further hearing, subject to the payment of the fee. The appellant is directed to deposit the fee within 10 days. The court is not to be bound by the response for the submission of the appeal. The court is not to be bound by the response for the submission of the appeal. 24/05/2022 before S. Ba</del></p> <p style="text-align: right;"><del>(Signature)</del></p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Service Appeal No 612/2022

Mian Muhammad.....Appellant

**V E R S U S**

Govt. and Others.....Respondents

**I N D E X**

S. No	Description of Documents	Annexure	Pages
1.	Service Appeal with Affidavit		1-4
2.	Application for condonation of delay with Affidavit		5
3.	Copies of MA Degree, Advertisement dated 12-02-1991, Appointment Order dated 02-03-1992 & Office Order dated 16-06-1993	<b>A, B, C &amp; D</b>	6-9
4.	Copies of Notification dated 24-04-1997 & Office Order dated 24-05-1997	<b>E &amp; F</b>	10-12
5.	Copy of departmental appeal	<b>G</b>	13-16
6.	Copy of Judgement dated 08-06-2017 in Writ Petition No 913-P/2014	<b>H</b>	17-32
7.	Copy of Judgement dated 28-10-2010 passed in Writ Petition No 3600/2010 & Judgement dated 23-10-2019 in Writ Petition No 4713-P/2018	<b>I &amp; J</b>	33-45
13.	Vakalat Nama		46

Dated:-22-04-2022

Appellant  
Through

**FAZAL SHAH MOHMAND**

ADVOCATE,  
SUPREME COURT OF PAKISTAN.

**OFFICE:-** Cantonment Plaza Flat 3/B  
Khyber Bazar Peshawar.  
Cell# 0301 8804841  
Email:- [fazalshahmohmand@gmail.com](mailto:fazalshahmohmand@gmail.com)



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

Service Appeal No \_\_\_\_\_/2022

Mian Muhammad, Member, (Executive), Khyber Pakhtunkhwa  
Service Tribunal Peshawar. ....Appellant

**V E R S U S**

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
2. Govt. of Khyber Pakhtunkhwa, through Secretary, Establishment Department, Civil Secretariat, Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary, Finance Department Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.  
.....Respondents

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE INACTION OF RESPONDENTS ON THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED 12-01-2022**

**PRAYER:-**

On acceptance of this appeal, respondents may kindly be directed, to grant the appellant two advance increments for possessing higher qualification from the date of acquiring of higher qualification with all back benefits.

**Respectfully Submitted:-**

1. That the appellant is highly qualified who acquired his Master of Arts Degree in International Relations from the University of Peshawar in the year 1990 and subsequent to Advertisement No 2/1991 dated 12-02-1991 of the Khyber Pakhtunkhwa Public Service Commission (herein after referred to as KP PSC), wherein the requisite qualification of Bachelor degree from recognized University, was required for appointment as Naib Tehsildar, the appellant was appointed as Naib Tehsildar (BPS-14) w.e.f 15-02-1992 vide Office Order dated 02-03-1992. It is pertinent to mention that the appellant having higher qualification of Master Degree, was allowed two Special Advance Increments from the date of his appointment vide Office Order dated 16-06-1993, to which effect, entry was duly made in Service Book of the appellant. **(Copies of MA Degree, Advertisement dated 12-02-1991, Appointment Order dated 02-03-1992 & Office Order dated 16-06-1993 are enclosed as Annexure A, B, C & D).**

2. That later on the posts of Section Officers were advertised by the KP PSC and the appellant applied for the same through proper channel and upon the recommendations of KP PSC, the appellant was appointed as Section Officer (BPS-17) vide Notification dated 24-04-1997 and was thus relieved vide Office Order dated 24-05-1997. **(Copies of Notification dated 24-04-1997 & Office Order dated 24-05-1997 are enclosed as Annexure E & F).**
3. That since appointment the appellant performed his duties with honesty and full devotion with spotless service career for the last over thirty years. The appellant is having higher qualification of Master of Arts in International Relations and as such is entitled to the grant of two advance increments as per the Notification dated 11-08-1991 from the date of acquiring higher qualification, i, e, 1990 and which were allowed in previous service as Naib Tehsildar, but on joining as Section Officer, he is not allowed the benefit of advance increments and kept deprived of his due rights for no fault.
4. That the appellant preferred departmental appeal, for the grant of advance increments for possessing higher qualification vide dairy No 306 dated 12-01-2022 but was not responded within the statutory period. **(Copy of departmental appeal is enclosed as Annexure G)**
5. That this action of not granting the appellant advance increments for possessing higher qualification, is against the law facts and principles of justice on ground inter-alia as follows:

**GROUNDS:-**

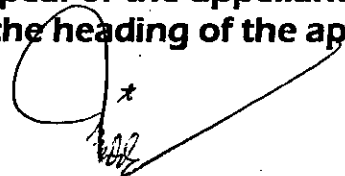
- A. That the omissions and commissions of respondents of not granting advance increments on the basis of higher qualification is illegal, unlawful, without lawful authority and of no legal effect.
- B. That the appellant is entitled to be granted advance increments as per the Notification dated 11-08-1991, issued by the Provincial Govt. and denial of such right is violation of Article 4 and 25 of the Constitution.
- C. That the advance increments have been granted for possessing higher qualification by the departments and also such like cases have been allowed by the honourable Peshawar High Court, as well as the Apex Court and the honourable Khyber Pakhtunkhwa, Service Tribunal so the appellant is entitled to the grant of advance increments.

- D.** That so far the Act of 2012 of Cessation of Advance Increments is concerned, the same was impugned before the honourable Peshawar High Court vide Writ Petition No 913-P/2014 titled as Muhammad Iqbal and others VS Govt. and others which was allowed to the extent of Section 2 by giving it retrospective effect before 01-12-2001, was declared null and void and was thus expunged and struck down from the Act ibid vide Judgement dated 08-06-2017. As the appellant has acquired his higher qualification before 2001, so the appellant is entitled to the grant of advance increments on this score too. **(Copy of Judgement dated 08-06-2017 in Writ Petition No 913-P/2014 is enclosed as Annexure H).**
- E.** That even writ petition of similarly placed employees bearing No 3600/2010 titled Muhammad Iqbal and others VS Govt. and others was allowed by the honourable Peshawar High Court vide Judgement dated 28-10-2010 and against which even CPLA was dismissed by the Apex Court. Moreover, Writ Petition No 4713-P/2018 titled "Muhammad Akbar and others VS PPO and others" filed by similarly placed employees was allowed by the honourable Peshawar High Court, Peshawar vide Judgement dated 23-10-2019. **(Copy of Judgement dated 28-10-2010 passed in Writ Petition No 3600/2010 & Judgement dated 23-10-2019 in Writ Petition No 4713-P/2018 are enclosed as Annexure I & J).**
- F.** That this Honourable Tribunal, has already granted two advance increments in similar cases titled as Najeeb Ullah Inspector in Service Appeal 1247/2007 decided on 14-10-2008 and in many other Service Appeals, and the respondents are therefore under legal obligation to follow the same modalities and equally treat the appellant on acquiring higher qualification. The honourable Apex Court even dismissed CPLA against stated Judgement filed by the respondents.
- G.** That the appellant has served and performed his duties to the best of his abilities and potentials but to his utter dismay that the benefits extended to others are being denied to him.
- H.** That the August Supreme Court of Pakistan time and again reiterated that the public functionaries will not fix different

good governance and justice demands that benefits of such judgements be extended to the appellant as well.

- I. That even the August Supreme Court of Pakistan has held that if the Supreme Court or Service Tribunal decides a point of law relating to the terms and conditions of service of Civil Servants, the same benefits should be extended to the Civil Servants equally placed and positioned even if they had not litigated instead of compelling them to approach the Supreme Court or Service Tribunal.
- J. That the appellant has rendered over thirty years of service with unblemished service record.
- K. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

**It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.**



**Appellant**

**Dated:-22-04-2022**

**Through**



**FAZAL SHAH MOHMAND**

**ADVOCATE,  
SUPREME COURT OF PAKISTAN.**

**LIST OF BOOKS**

- 1. Constitution 1973.
- 2. other books as per need

**CERTIFICATE:**

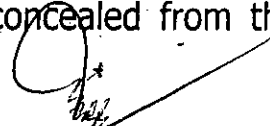
Certified that as per instructions of my client, no other Service Appeal on the same subject and between the same parties has been filed previously or concurrently before this honorable Tribunal.



**ADVOCATE**

**AFFIDAVIT**

Mian Muhammad, Member, (Executive), Khyber Pakhtunkhwa Service Tribunal Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



**DEPONENT**



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Service Appeal No \_\_\_\_\_/2022

Mian Muhammad.....Appellant

**V E R S U S**

Govt. and Others.....Respondents

**Application for condonation of delay if any**

**Respectfully Submitted:-**

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application.
3. That the issue in hand is of recurring cause of action besides departmental appeal of the appellant is still pending before respondents, hence, instant appeal is well within time.
4. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit.

**It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.**

**Dated:-22-04-2022**

**Appellant**

**Through**

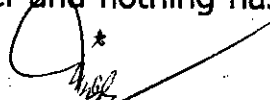


**FAZAL SHAH MOHMAND  
ADVOCATE,  
SUPREME COURT OF PAKISTAN.**



**AFFIDAVIT**

I, Mian Muhammad, Member, (Executive), Khyber Pakhtunkhwa Service Tribunal Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



**DEPONENT**

Annex - A

Annex -

Annex = "A" - 6 - *بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ*

11

# University of Peshawar (Pakistan)

Session ANNUAL - 1989

MIAN MOHAMMAD Daughter/Son of TILA MOHAMMAD and a student  
of UNIVERSITY OF PESHAWAR having passed the prescribed examination  
held in MARCH 1990, is this day admitted by the University of Peshawar  
to the Degree of  
**Master of Arts**

in the SECOND Division

The subject of examination being INTERNATIONAL RELATION

The examination was taken as a whole/~~in parts~~.

Serial No. 006488

Registered No. 84 - G - 4742

Roll No. 3065

29TH MAY, 19 90



*Shakil Ahmad*  
Registrar

Countersigned

*Muhammad*  
Vice-Chancellor

ATTESTED

*Mammad*

Assistant to Commissioner Govt/S.A  
Peshawar Division, Peshawar

-7-  
Annex "B"

## NWFP PUBLIC SERVICE COMMISSION

**Advertisement No. 291.** Applications are invited by 10 March, 1991 (25 March 1991 for candidates from abroad) from Pakistani citizens of NWFP domicile for recruitment to 26 temporary posts of Naib Tehsildars in Revenue Department through Competitive examination.

**Qualifications:** Degree from a recognised University (i) Age Limit: 21-28 years on 1st January, 1991 (31 years from Zone 1 and Zone 3); (ii) In the case of a person whose services under Govt. have been terminated for want of a vacancy, the period of service already rendered by him for the purpose of upper age limit be excluded from his age and (iii) in the case of persons already in Govt service with at least four years service as such, the upper age limit shall be thirty five years. **Pay Scale:** BPS-14) **Eligibility:** - Male.

**Allocations:** - 2 each for Hazara and Malakand 3 for Kohat 8 for Peshawar and 11 for D.I. Khan Divisions.

**General Conditions:** - Age is reckoned on the date mentioned above. Further age relaxation will be considered if applied for under para-7 of the instructions attached to the application form. Ex-Armed Forces personnel must send copies of their discharge certificates with their applications. Govt/Semi Govt/Autonomous/Semi Autonomous bodies employees may apply direct, but if departmental permission for any applicant is not received within 30 days of the closing date, his application will be rejected. Prescribed application forms and syllabus are obtainable on the production of fee receipt from the Commission's office, all Deputy Commissioners, Political Agents and Employment Exchanges in NWFP personally or by sending large size self-addressed envelope bearing Rupees 1720 postage. Application and Examination fee of Rs. 55/- (Rupees Fifty for candidates from Zone 1 and 3) is payable as explained in the instructions attached to the application form. Incomplete applications or applications received after the closing date will be rejected. Applications not accompanied by fee deposit proof will also be rejected. Applicants married to Foreigners are considered only on production of Govt relaxation order. Govt reserves the right not to fill any or fill more or less than the advertised posts. The allocation of posts for each division is meant for residents of that Division only. No applicant will be considered for a post other than the post allocated to the Division of which he is a bonafide resident. Ten per cent of the advertised posts stand reserved for Ex-Armed Forces personnel and one per cent for disabled persons.

### Mode of Examination

(a) All the candidates shall be required to appear in an objective screening test and only those candidates will be called for competitive examination who obtain in objective screening test the minimum marks as determined by the Commission, keeping in view the number of vacancies falling to the quota of the respective Division.

(b) The objective screening test will be held simultaneously at Peshawar, D.I. Khan, Abbottabad and Swat. The candidates should therefore indicate their choice of Centra in col. 25 of the application form failing which the Commission will allocate the Centre according to their own discretion. The Commission, however, reserves the right not to open a Centre where the number of candidates is not sufficient.

(c) The candidates selected from the objective screening test will be required to qualify the Competitive Examination to be conducted in accordance with the Syllabus and the standard for the Naib Tehsildars Competitive Examination.

Sd/-xxx  
(Abdul Hanan)  
Controller of Examinations.

INF/P/448

*The Frontier Post 12.02.1991*

-8-

OFFICE ORDER.

No. 2035 /GA: Dated Peshawar the 2.3. /1992.

Consequent upon the recommendations of the Public Service Commission, N.W.F.P. Peshawar conveyed vide Secretary, Board of Revenue, N.W.F.P. Peshawar letter No. 32470/Admn: I/256-II, dated 9.12.1991, the following persons are hereby appointed as Naib Tehsildar in BPS-14 w.e.f. 15.02.1992 on regular cadre against the direct quota as specified in Rule 5(1)(a) of the West Pakistan Tehsildari and Naib Tehsildari service Rules, 1962:-

1. Mr. Mohammad Ejaz son of Abdul Akbar Khan, resident of SAFT Gandhari Sub Section SEAPI village Azad Kor, Mohmand Agency C/o Biland Khan, Zaffar Road, Mansehra.
2. Mr. Khali Akbar Khan son of Mr. Akbar Khan, resident of village Peshongri, P.O. Pabbi, Tehsil and District Nowshera.
3. Mr. Jehanzeb Khan son of Ghani Dad, resident of village Amankot, P.O. Pabbi, Tehsil and District Nowshera.
4. Mr. Afsar Ali Shah son of Khan Dad, resident of Mohallah Essa Khel, village Eadrashi, Tehsil and District Nowshera.
5. Mian Mohammad son of Mr. Tila Mohammad resident of House No. P.T. 1534, Binory Street Bana Mari, Peshawar City.
6. Mr. Fazal Subhan son of Mr. Sabz Ali Khan, resident of 895, Afghan Colony, Street No. 4, Block "A" Peshawar City.
7. Mr. Jamshed Yar Khan son of Latif Yar Khan, Cantonment Board Quarter No. 5-RA-Bazar, Nowshera Cantt.

Their inter-se-Seniority has been fixed on merit as recommended by the Public Service Commission, NWFP., Peshawar as shown above.

Sd/-  
(Samin Jan Babar)  
Commissioner, Peshawar Division,  
Peshawar..



Annex = "D" - 9 -

OFFICE OF THE COMMISSIONER PESHAWAR DIVISION, PESHAWAR.

OFFICE ORDER.

No. 6900 /GA. Dated 16/6/93

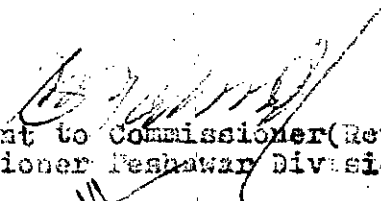
The Commissioner Peshawar Division, Peshawar is pleased to allow the two special Advance Increments to Mr. Mian Mohammad Naib Tehsildar U/2 Tungi (now BVO of this office w.e.f 15.2.1992, due to his having passed M.A. Examination. These entitlement is notified as per the Government of NWFP, Finance Department Notification No. FD(FCO)1-1/89, dated 11.8.1991.

Sd/-  
COMMISSIONER,  
PESHAWAR DIVISION, PESHAWAR.

No. 6901-6911 /GA.

Copy forwarded for information to the:-

1. Accountant General, NWFP, Peshawar.
2. Assistant Administration-Cum-SC (General) Zakat & Social Welfare Department NWFP, Peshawar with reference to his letter No. SOG/ZASWD/PP/FP/EA/10/1/93, dated 17.5.1993.
3. Deputy Commissioner Charsadda.
4. District Accounts Officer Charsadda.
5. Mian Mohammad BVO, Commissioner's (Main) office Peshawar Division, Peshawar.
6. Personal file/Office order file.

  
Assistant to Commissioner (Rev/GA)  
for Commissioner Peshawar Division, Peshawar

Registered

Annex = "E"

GOVERNMENT OF N.W.F.P.  
SERVICES & GENERAL ADMN. DEPARTMENT  
(SERVICES WING)

-10-

Dated Peshawar, the 24th April, 1997

NOTIFICATION

No.SOS-II(S&GAD)3(81)/97 :- On the recommendations of the NWFP Public Service Commission, the competent authority is pleased to order the appointment of the following candidates as Section Officers (BPS-17) in the NWFP Civil Secretariat with effect from the date of taking over charge :-

- (1) Mian Muhammad s/o  
Tila Muhammad  
District Peshawar.
- (2) Mr Dawood Khan s/o  
Mir Kaman Khan  
District Swat.
- (3) Mr Arshad s/o  
Fazal Wadood  
District Swat.
- (4) Mr Mushtaq Ahmad s/o  
Ghulam Muhammad  
Malakand Agency.
- (5) Mr Mukhtar Ahmad s/o  
Mawas Khan  
District Mardan.
- (6) Mr Muhammad Arshad s/o  
Sultan-i-Room  
Malakand Agency.
- (7) Miss Fareeha Paul d/o  
Muhammad Yousef Paul  
District Abbottabad.
- (8) Mr Muhammad Imtiaz s/o  
Muhammad Ayub  
District Swabi.
- (9) Mr Manzoor Ahmad s/o  
Maqsood-ur-Rehman  
District Charsadda.
- (10) Mr Salah-ud-Din s/o  
Hasilman Shah  
District Chitral.
- (11) Mr Muhammad Israr s/o  
Muhammad Iqbal  
District Charsadda.
- (12) Mr Akbar Ali Khan s/o  
Qadar Khan  
Mohmand Agency.

P.T-1534  
Benazi Street  
Bana Mari Peshawar.

P.T.O.

pay in lieu thereof. In case they wish to resign at any time, a month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.

(viii) They shall undergo pre-service training for four months at Provincial Civil Services Academy Peshawar commencing from 26-5-1997 (Forenoon) and shall draw pay from the S&GAD.

(ix) They shall be governed by the NWFP Government Servants (Efficiency & Discipline) Rules 1973, and Government Servants (Conduct) Rules, 1987 and any other instructions which may be issued by the Government from time to time.

(x) They shall not be entitled to any TA/DA on their first appointment.

3- If the above terms and conditions of appointment are acceptable to them, they should report to the Director, Provincial Civil Services Academy Peshawar for training by 26-5-1997 (Fore-noon) under intimation to this Department.

CHIEF SECRETARY  
GOVT. OF N.W.F.P.

Endst: No. SOS-II(S&GAD) 3(81)/97 Dated Peshawar, the 24-4-97

A copy is forwarded to :-

1. Director, Provincial Services Academy Peshawar.
2. Accountant General NWFP Peshawar.
3. Deputy Secretary(Admn:) S&GAD.
4. Deputy Director, Provincial Services Academy Peshawar.
5. SO(Secret)/(General)/E.O/Programmer S&GAD.
6. PS to Chief Secretary
7. PS to Secretary S&GAD
8. Manager Govt. Printing Press Peshawar.
9. All candidates concerned.
10. PA to AS(S)/DS(S) S&GAD.
11. Office order file.

*Bismillah Shah*  
( BISMILLAH SHAH ) 24/4/97  
Section Officer(Services, II)

Annex = "F"

OFFICE OF THE COMMISSIONER, PESHAWAR DIVISION, PESHAWAR.

OFFICE ORDER.

-12-

NO. 6295/GA, Dated Peshawar the 24/5 1997.

Consequent upon the Selection as Section Officer (BPS-17) in the NWFP Civil Secretariate by the Public Service Commission NWFP Peshawar vide Services and General Administration Department Notification NO. SOS-II(S&GAD)3(81)/97, dated 24-4-1997, the Commissioner, Peshawar Division, Peshawar is pleased to relieve Mr. Mian Mohammad, (N.T) H.V.C. Commissioner's office Peshawar from his duties as Naib Tehsildar for joining his new assignment with effect from 25-5-1997 afternoon.

Sd/-

( MIR LAIQ SHAH )  
COMMISSIONER,  
PESHAWAR DIVISION, PESHAWAR.

NO. 6296-6302/GA,

Copy forwarded for information to the:-

- 1) Secretary, Services and General Administration Department NWFP, Peshawar.
- 2) Accountant General, N.W.F.P. Peshawar.
- 3) Secretary, Board of Revenue NWFP, Peshawar.
- 4) Superintendent Finance Branch Commissioner's (Main) Office Pesh:
- 5) H.V.C. Commissioner's (Main) office Peshawar.
- 6) Personal file/office order file.

*Sd/-*  
Assistant to Commissioner (Rev/GA)  
for Commissioner, Peshawar Division,  
Peshawar.

Annex = "G"  
-13-

PS/Secy E&AD KP  
Diary No. 30/11/92  
FTS No. \_\_\_\_\_  
Date. 12-7-92

**BEFORE THE HONOURABLE CHIEF MINISTER**  
**KHYBER PAKHTUNKHWA, PESHAWAR.**

**Subject:- Departmental appeal for the grant of advance increments to the appellant for possessing higher qualification**

**Respectfully Submitted:-**

1. That the appellant is highly qualified who acquired his Master of Arts Degree in International Relations from the University of Peshawar in the year 1990 and subsequent to Advertisement No 2/1991 dated 12-02-1991 of the Khyber Pakhtunkhwa Public Service Commission (herein after referred to as KP PSC) wherein the requisite qualification of degree from recognized University, required for appointment as Naib Tehsildar, the appellant was appointed as Naib Tehsildar (BPS-14) w.e.f 15-02-1992 vide Office Order dated 02-03-1992. It is pertinent to mention that the appellant having higher qualification of Master Degree, was allowed two Special Advance Increments from the date of his appointment vide Office Order dated 16-06-1993, to which effect entry was duly made in Service Book of the appellant. **(Copies of MA Degree, Advertisement dated 12-02-1991, Appointment Order dated 02-03-1992 & Office Order dated 16-06-1993 are enclosed as Annexure A, B, C & D).**
2. That later on the posts of Section Officers were advertised by the KP PSC and the appellant applied for the same through proper channel and upon the recommendations of KP PSC, the appellant was appointed as Section Officer (BPS-17) vide Notification dated 24-04-1997 and was thus relieved vide Office Order dated 24-05-1997. **(Copies of Notification dated 24-04-1997 & Office Order dated 24-05-1997 are enclosed as Annexure E & F).**
3. That since appointment the appellant performed his duties with honesty and full devotion with spotless

service career for the last almost thirty years. The appellant is having higher qualification of Master of Arts in International Relations and as such is entitled to the grant of two advance increments as per the Notification dated 11-08-1991 from the date of acquiring higher qualification, i, e, 1990 and which were allowed in previous service as Naib Tehsildar, on joining as Section Officer but he is not allowed the benefit of advance increments and kept deprived of his due rights for no fault.

4. That the action of not granting the appellant advance increments for possessing higher qualification, is against the law facts and principles of justice on ground inter-alia as follows:

**GROUND:**

- A. That the omissions and commissions of not granting advance increments on the basis of higher qualification is illegal, unlawful, without lawful authority and of no legal effect.
- B. That the appellant is entitled to be granted advance increments as per the Notification dated 11-08-1991, issued by the Provincial Govt. and denial of such right is violation of Article 4 and 25 of the Constitution.
- C. That the advance increments have been granted for possessing higher qualification by the departments and also such like cases have been allowed by the honourable Peshawar High Court, as well as the Apex Court and the honourable Khyber Pakhtunkhwa, Service Tribunal so the appellant is entitled to the grant of advance increments.
- D. That so far the Act of 2012 of Cessation of Advance Increments is concerned the same was impugned before the honourable Peshawar High Court vide Writ Petition No 913-P/2014 titled as Muhammad Iqbal and others VS Govt. and others which was allowed to the extent of Section 2 by giving it retrospective effect before 01-12-2001 was declared null and void and was thus expunged and struck down from the Act ibid vide Judgement dated

08-06-2017. As the appellant has acquired his higher qualification before 2001, so the appellant is entitled to the grant of advance increments on this score too. **(Copy of Judgement dated 08-06-2017 in Writ Petition No 913-P/2014 is enclosed G).**

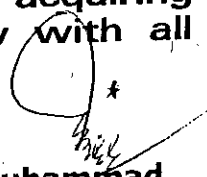
- E.** That even writ petition of similarly placed employees bearing No 3600/2010 titled Muhammad Iqbal and others VS Govt. and others was allowed by the honourable Peshawar High Court vide Judgement dated 28-10-2010 and against which even CPLA was dismissed by the Apex Court. Moreover, Writ Petition No 4713-P/2018 titled "Muhammad Akbar and others VS PPO and others" filed by similarly placed employees was allowed by the honourable Peshawar High Court, Peshawar vide Judgement dated 23-10-2019. **(Copy of Judgement dated 28-10-2010 passed in Writ Petition No 3600/2010 & Judgement dated 23-10-2019 in Writ Petition No 4713-P/2018 are enclosed as Annexure H & I).**
- F.** That the Honourable Khyber Pakhtunkhwa Service Tribunal, has already granted two advance increments in similar cases titled as Najeeb Ullah Inspector in Service Appeal 1247/2007 decided on 14-10-2008 and many other Service Appeals, and the department is therefore under legal obligation to follow the same modalities and equally treat the incumbent on acquiring higher qualification. The honourable Apex Court even dismissed CPLA against stated Judgement filed by the Government.
- G.** That the appellant has served and performed his duties to the best of his abilities and potentials but to his utter dismay that the benefits extended to others are being denied to him.
- H.** That the August Supreme Court of Pakistan time and again reiterated that the public functionaries will not fix different standards for persons in similar situation. The principle of good governance and justice demands that benefits of such judgements be extended to the appellant as well.

-16-

I. That even the August Supreme Court of Pakistan has held that if the Supreme Court or Service Tribunal decides a point of law relating to the terms and conditions of service of Civil Servants, the same benefits should be extended to the Civil Servants equally placed and positioned even if they had not litigated instead of compelling them to approach the Supreme Court or Service Tribunal.

It is therefore prayed that on acceptance of this appeal, the appellant may kindly be granted two advance increments for possessing higher Educational qualification of Master of Arts from the date of acquiring the said qualification, as per law with all back benefits.

Dated:-12-01-2022

  
**Mian Muhammad,**  
Member, (Executive)  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar.

*of*  
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Annex = "H"

- 17 -

IN THE PESHAWAR HIGH COURT PESHAWAR

W.P.No: 913-P/2014

1. Muhammad Iqbal.
2. Aziz Khan.
3. Latifullah, retired Inspectors, Police Department, Khyber Pakhtunkhwa.....Petitioners

Versus

1. Government of Khyber Pakhtunkhwa, through Secretary to Government, Finance Department, Peshawar.
2. Secretary to Government, Law Department, Peshawar.
3. Secretary, Provincial Assembly, Khyber Pakhtunkhwa,
4. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... Respondents

WRIT PETITION U/A 199 OF THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN, 1973 FOR DECLARING THE  
IMPUGNED ACT NO: IX OF 2012, (KHYBER PAKHTUNKHWA  
CESSATION OF PAYMENT OF ARREARS ON ADVANCE  
INCREMENTS ON HIGHER EDUCATIONAL QUALIFICATION  
ACT, 2012) AS WITHOUT JURISDICTION VIS-A-VIS  
PETITIONERS.

Respectfully Sheweth;

Petitioners beg to submit as under:-

1. That, petitioners have retired after serving the police department for more than 30 years with unblemished record.

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- 18 -

Judgment Sheet.

IN THE PESHAWAR HIGH COURT,  
PESHAWAR.

(Judicial Department)

WP No. 913-P/2014

Muhammad Iqbal & two others

Vs

Govt. of Khyber Pakhtunkhwa through

Secretary to Government, Finance

Department, Peshawar & three others

JUDGMENT

Date of hearing: 08.06.2017

Petitioner (s) by: Mr. Fazal Shah Mohmand, Advocate

Respondent (s) by: Syed Qaiser Ali Shah, AAG

\*\*\*\*\*

MUHAMMAD YOUNIS THAHEEM, J.-

Through this single judgment we propose to decide the instant writ petition alongwith connected WP No.1418-P/2014 titled *Molvi Muhammad & four others Vs Govt. of KPK through Secretary Education (E&S), Peshawar & others* and WP No.2053-P/2014 titled *Saeed Ullah & 32 others Vs Govt. of KPK through Secretary S & GAD & others*, as in all above petitions common question of law and facts regarding non-granting of two advance increments on attaining

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higher educational qualifications, granted under Notification No. FD(PRC)1-1/89 dated 11.08.1991 Paragraph 5 are involved. Brief facts of the instant writ petition and connected petitions are separately given below:

i) WP No.913-P/2014:

The petitioners served in police department and retired as Inspectors, claimed above said relief after attaining higher educational qualifications by acquiring LL.B Degrees, they filed WP No.3600/2010 which was allowed by this Court vide judgment dated 28.10.2010 and were declare entitled for the benefit of two advance increments already given to other civil servants but inspite of favourable judgment of this Court in their favour, the petitioners were refused relief, therefore, they filed contempt of Court petition bearing COC No.201-P/2013, wherein this Court after hearing the parties passed an order for the implementation of judgment instead Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act IX, 2012 was promulgated, which has been challenged on the ground that it is to nullify the effects of judgment dated 28.10.2010 in WP

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No.3600/2010 titled as Muhammad Iqbal etc Vs Provincial Police Officers, K.P.K Police and others by giving it retrospective effect from 01.12.2001 so to the extent of retrospectivity given in Section 2 of the ibid impugned Act is liable to be truck down:

ii) WP No.1418-P/2014:

The petitioners are employees of Education Department working on the posts of AT and TT who attained Master Degrees during service, so claimed same relief as were deprived, so filed WP No.1791/2009 which was decided by this Court vide order dated 08.09.2009 with the direction to decide the matter of advance increments within 03 months, but respondents gave deaf ear to the grievance of the petitioners rather to make the aforesaid judgment as effectless, promulgated enactment known as Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act-IX of 2012 which is ineffective upon the rights of petitioners, so be declared as null and void and its retrospectivity given in Section 2 be expunged.

iii) WP No.2053-P/2014:

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The petitioners in the above referred petition are provincial government civil servants in different capacity from BPS-1 to BPS-15 in the education department who also during service attained higher qualifications, so sought relief provided vide notification dated 11.08.1991. The petitioners approached respondent No.4 by filing representation/departmental appeal for the grant of two advance increments but their said representation has not been considered but took shelter in the notification dated 03.01.2009 which contemplates as following:

*"Now it has been decided that those who are although entitled but have not availed the same facilities so far will not be given advance increments in future"*

*2/2/07*

but said notification dated 03.01.2009 has been declared discriminatory and violative of law by Honourable Supreme Court in judgments passed in *CPLA No.525 of 2007* titled as *Rashid Iqbal Khan Vs District Coordination Officer, Abbottabad & others* and *CPLA No.526 of 2007* titled as *Muhammad Haroon Qureshi Vs District Coordination Officer, Abbottabad & others* decided on 19.07.2007.

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Moreover, the petitioners have also challenged the vires of ibid KPK Act IX of 2012.

2. The petitioners in all the above said petitions have invoked the constitutional jurisdiction of this Court for the relief regarding grant of two advance increments on attaining higher educational qualifications and in this regard the notification dated 03.01.2009 has been set aside in WP No.368/2009. Petitioners have also challenged the vires of K.P.K Cessation of Arrears on Advance Increments on Higher Educational Qualification (hereinafter called impugned Act IX of 2012) to the extent of giving it retrospective effect before 01.12.2001 as against law with prayer to declare it null and void and it be expunged to the extent of retrospectivity.

3. Comments from respondents were called who submitted the same wherein they took stance that the petitioners have no any vested rights in view of notification dated 03.01.2009 and new enactment said K.P.K. Cessation of Arrears Act IX of 2012 and notification dated 03.01.2009. Respondents contended that the existing scheme of advance increments has been discontinued w.e.f. 03.01.2009 and vide Section 2 of ibid impugned Act before 01.12.2001 and have

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given it retrospective effect which is within legislative powers of Pakhtunkhwa Assembly.

4. The learned counsel for the petitioners argued that issuance of notification dated 03.01.2009 and giving retrospective effect to the impugned enactment K.P.K. Cessation Act, 2012 is only aimed to nullify the beneficial effects of judgment of this Court in WP No.3600/2010 vide which notification dated 03.01.2009 has been set aside by this Court and by Honourable Supreme Court in above mentioned CPLAs decided on 19.07.2007, so this Court can examine the constitutionality of the piece of legislation by ibid impugned Section 2 of K.P.K. Cessation Act IX of 2012 to the extent of giving it retrospective effect. He added that so many civil servants of provincial government had been benefited earlier from the notification dated 11.08.1991 but petitioners have been deprived; so the impugned enactment is mala fide to nullify the judgment of this Court and prayed for striking it down to the extent of Section 2 of impugned ibid Act by giving it retrospective effect before 01.12.2001.

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5. On the other hand learned counsel for the respondents supported the impugned notification dated

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03.01.2009, relied on their comments and impugned Act. He further argued that this enactment is neither aimed at to nullify the judgment of this Court nor that of Honourable Supreme Court. He lastly argued that petitioners are not entitled for the advance increments due to aforesaid notification dated 03.01.2009 and ibid impugned Act IX of 2012.

6. Arguments heard and record perused.

7. From the perusal of record it is admitted position that vide paragraph 5 of the notification dated 11.08.1991 issued by Finance Department, it was provided that any civil servant of Provincial Government Department who attained higher qualifications during service, would be entitled for two advance increments and due to said notification admittedly so many civil servants had already been benefited. However, above said relief has not been extended to petitioners despite of representations to their higher competent authorities and judgment passed by this Court as well as by Honourable Supreme Court particularly in WP No:1791/2009 decided on 08.09.2009 vide which direction was given to the respondents to decide the representation of the petitioners within 03 months but neither the

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respondents have decided the matter nor given said advance increments, on this inaction, petitioner filed COC Petition No.133/2010 which was disposed of vide order dated 11.10.2012 as abated in the light of impugned Act, IX of 2012 known as Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012 in the light of provision by giving it retrospective effect before 01.12.2001, so the petitioners feeling aggrieved have challenged the vires of above said notification and impugned enactment to the extent of giving it retrospective effect.

8. In brief the reliefs sought by the petitioners in all petitions is, one for the grant of two advance increments in purview of notification dated 11.08.1991, second for the implementation of beneficial judgments in WP No.368/2009 dated 24.03.2009 & WP No.3600/2010 dated 28.10.2010 and in third to declare the retrospective effect of impugned ibid Act, IX of 2012 as null and void and for expunction.

9. The question for determination before this Court is as to whether impugned enactment passed by the Pakhtunkhwa Assembly with legislative

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nomenclature as Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, IX of 2012 is to nullify the effects of aforesaid judgments passed by this Court and to annul the beneficial effects of notification dated 11.08.1991 from which earlier so many civil servants of different departments of Khyber Pakhtunkhwa have been benefited.

10. We examined the impugned notification dated 03.01.2009 and whole of impugned ibid Act IX of 2012 by giving it retrospective effect before 01.12.2001. A query was put to the learned counsel for respondents as to whether before promulgation of impugned Act, its cause was removed and as whether that same provision in the impugned legislation would not amount to nullify the effects of judgment passed by this Court in the light of judgment of Honourable Apex Court cited as *2013 SCMR 1752*, on this learned counsel for the respondents failed to provide some reasonable and rational explanation for giving the impugned Act as retrospective effect before 01.12.2001. The Honourable Supreme Court while taking cognizance about the anomaly and miscarriage of justice caused to other civil servants in the Sindh

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Province for giving out of turn promotions by way of deputation and absorption of different officers in the province of Sindh through legislation by way of amending Sindh Civil Servants (Amendment) Act, 2013 and Sindh Civil Servants (Second Amendment) Act, 2013 but said piece of enactment in aforesaid enactment through amendment was struck down in the referred judgment i.e. *2013 SCMR 1752 (Contempt Proceedings case)*.

**11.** In the above cited judgment the Honourable Supreme Court held that Supreme Court either on its own or on petition by party is vested with the judicial power to examine, review and expunge the vires of such piece of legislation/amendment relating to the rights of civil servants and having public importance.

**12.** The Honourable Supreme Court vide above said judgment set aside the piece of legislation promulgated by the Sindh Assembly with regard to out of turn promotions of some officers by way of deputation /absorption. In the said judgment certain principles have been enunciated regarding instruments/piece of legislation which had nullified the effects of the judgments passed by Honourable Apex

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Court as well as of Honourable Sindh High Court. In this respect paragraphs No.165, 166 and 167 of said cited judgment are reproduced below:

165. The leading judgment on the subject issue, which our Courts have approvingly referred to the case of Indira Nehru Gandhi V. Raj Narain (AIR 1975 SC 2299) which relates to amendment in the Election Laws of India. In the said judgment Paras 190 and 191 are importance and reproduced hereunder:-

"190. A declaration that an order made by a Court of law is void is normally part of the judicial function and is not a legislative function....."

191. The position as it prevails in the United States, where guarantee of due process of law is in operation, is given on pages 318-19 of Vol. 46 of the American jurisprudence 2d as under:

"The general rule is that the legislature may not destroy, annul set aside, vacate, reverse, modify, or impair the final judgment of a Court of competent jurisdiction, so as to take away private rights which have become vested by the judgment. A statute attempting to do so has been held unconstitutional as an attempt on the part of the legislature to exercise judicial power, and as to violation of the constitutional guarantee of due process of law. The legislature is not only prohibited from reopening cases

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previously decided by the Courts, but is also forbidden to affect the inherent attributes of a judgment. That the statute is under the guise of an act affecting remedies, does not alter the rule. It is worthy of notice, however, that there are cases in which judgments requiring acts to be done in the future may validly be affected by subsequent legislation making illegal that which the judgment found to be illegal, or making legal that which the judgment found to be illegal."

13. Similarly Paragraphs No.166 and 167 of the cited judgment (2013 SCMR 1749) are reproduced as under:

*"166. This Court in the case of Fecto Belarus Tractor Ltd. V. Government of Pakistan through Finance Economic Affairs and others (PLD 2005 SC 605) has held that when a legislature intends to validate the tax declared by a Court to be illegally collected, under an individual law, the cause for ineffectiveness or invalidity must be removed before the validation can be said to have taken place effectively....."*

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167. In order to nullify the judgment of the Court, unless basis for judgment in favour of a party is not removed, it could not affect the rights of a party in whose favour the same was passed. The issue of effect of nullification of judgment has already been discussed in the case of Mobashir Hassan reported in (PLD 2010 SC 265), Para-76 discusses the effect of nullification of a judgment by means of a legislation. In the said case, the view formed is identical to the one in the case of Indira Nehro Gandhi V. Raj Narain (AIR 1975 SC 2299) and Fecto Belarus Tractor Ltd. V. Government of Pakistan through Finance Economic Affairs and others (PLD 2005 SC 605) and it was observed that the legislature cannot nullify the effect of the judgment and there are certain limitations placed on its powers including the one i.e. by amending

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the law with retrospective effect on  
the basis of which the order or  
judgment has been passed thereby  
removing basis of the decision."

(Underlining are ours for emphasis)

14. In the petitions in hand the Government of Pakhtunkhwa by means of issuing notification dated 03.01.2009 had nullified the effect of notification dated 11.08.1991 and same notification dated 03.01.2009 had been declared null and void by this Court in judgment passed in WP No.3600/2010 dated 28.10.2010 and Honourable of Supreme Court in above referred CPLAs No.525 and 526 of 2007. So the petitioners were and are entitled for the benefits arising out of notification dated 11.08.1991 and the judgments passed by this Court, therefore, respondents were not legally authorized to deprive the petitioners from the beneficial effects of the aforesaid notification dated 11.08.1991 and aforesaid judgments through impugned *ibid* Act; IX of 2012 before first removing the cause that is entitlement and the aforesaid beneficial effects of judgments in the impugned notification dated 03.01.2009 and through the

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impugned *ibid* Cessation of Advance Increments Act- IX of 2012.

15. Thus in view of above discussion, we are of the firm view that by promulgating impugned piece of legislation and giving it retrospective effect is nothing but to destroy, annul and make the judgments of this Court as well as of Honourable Supreme Court as effectless, therefore, to the extent of Section 2 by giving it retrospective effect before 1.12.2001, is declared null and void so is hereby expunged and struck down from the aforesaid impugned Act IX of 2012. Hence, these petitions are allowed and the respondents are directed to provide them the benefits of two advance increments according to notification dated 11.08.1991 on attaining higher qualifications during service within the period of two months from the receipt of this judgment according to prescribed manner under the law then in field.

Announced:  
08.06.2017

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-33-

Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR.  
JUDICIAL DEPARTMENT

Writ-Petition No. 3600 of 1st Jan 2000

JUDGMENT

Date of hearing: 28-10-2010  
Appellan/Petitioner (s): (M. A. Iqbal et al.) M. A. Iqbal (Adv) Mohamud, Adv  
Respondent (s): (P. P. O. et al.) M. A. Iqbal, Adv Khalid Khan

EJAZ AFZAL KHAN, C. J.-Petitioners

through the instant writ petition have asked for the issuance of an appropriate writ directing the respondents to grant them two advance increments on account of acquiring higher education at par with Najeebullah Khan, who has been held entitled to two advance increment by the Service Tribunal, vide judgment dated 14.10.2008 notwithstanding they did not litigate before any Tribunal competent in this behalf.

3. The learned Advocate General appearing on behalf of the respondents could not dispute the proposition canvassed above.

4. In the case of Hameed Akhtar Niazi  
Vs-The Secretary, Establishment Division,

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Government of Pakistan and others (1996

SCMR 1185), the Hon'ble Supreme Court while dealing with the similar-proposition held as under: -

" We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum".

5. Once the apex Court in the dictum quoted above held that those who litigated and those who did not, are to be treated alike, if they are similarly placed and positioned, the respondents cannot refuse the relief asked for to the petitioners.

6. We, therefore, admit and allow this writ petition and direct the respondents to

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decide the case of the petitioners in the light of  
the judgment cited above; if found similarly  
placed and positioned.

Dated: 28.10.2010

sd/ Ejaz APZ ul Khan  
C.J

sd/ Sardar Shaukat Hayat  
J

sd/ 2/11/10

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Authorized Officer of the Court

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Date of Delivery of Copy	3/11/10

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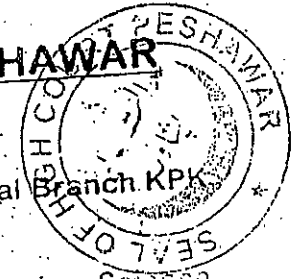
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Annex = "J" - 36-

**IN THE PESHAWAR HIGH COURT PESHAWAR**

Writ Petition No. 4713/2018

1. Muhammad Akbar Khan, Retired DSP DCT/Special Branch KPK Peshawar.
2. Muhammad Zeb Khan, Retired DSP Forensic Science Laboratory, KPK Peshawar.
3. Muhammad Fayaz Khan, Principal, Govt. Degree College Nawagai, District Bajaur.
4. Muhammad Ali Shah, Assistant Additional Commissioner, Thall District Hangu.



**VERSUS**

1. Provincial Police Officer KPK Peshawar.
2. Govt. of KPK through Secretary, Elementary and Secondary Education, Civil Secretariat, Peshawar.
3. Senior Member Board of Revenue, KPK Peshawar.
4. Govt. of KPK through Secretary Home and Tribal affairs Department, Civil Secretariat Peshawar.
5. Secretary, Finance Department, Govt. of KPK Peshawar.
6. Govt. of KPK through Chief Secretary KPK, Civil Secretariat Peshawar.
7. Accountant General, KPK Peshawar

**ATTESTED**  
EXAMINER  
Peshawar High Court

..... Respondents

FILED TODAY  
Deputy Registrar  
26 SEP 2018

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC OF  
PAKISTAN 1973 AS AMENDED UPTO DATE**

**Prayer In Writ Petition:-**

On acceptance of this writ petition, an appropriate writ may please be issued directing the respondents to grant two advance increments to the petitioners for possessing higher Educational qualification of LLB/Master Degree from the date of acquiring the said qualification, with all back benefits.

*[Handwritten signature]*

- 37 -

Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR,  
JUDICIAL DEPARTMENT

W.P.No.4713-P/2018

Muhammad Akbar Khan and others  
Versus  
Provincial Police Officer KPK and others



Date of hearing 23/10/2019

Petitioner By Mr. Fazal Shah Mohmand, advocate.

Respondents By: Syed Qaiser Ali Shah, AAG

-----  
**JUDGEMENT**  
-----

ABDUL SHAKOOR J:- Muhammad Akbar Khan

and others have filed instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following prayer:

"On acceptance of this writ petition, an appropriate writ may please be issued directing the respondents to grant two advance increments to the petitioners for possessing higher Educational qualification

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Peshawar High Court

*of LL.B/Master Degree from the date of acquiring the said qualification, with all back benefits."*

2. As per averments of the writ petition, petitioner No.1 and 2 are retired DSPs (KPK Police Department), whereas Petitioner No.3 and 4 are serving as Principal Govt. Degree College Nawagai, District Bajaur and Assistant Additional Commissioner, Thall, District Hangu respectively, on account of acquiring higher education, being LL.B degree holders are entitled to the grant of two advance increments from the date of acquiring such qualification as per Notification dated 11.8.1991 and in view of judgements of this court as well as Service Tribunal Khyber Pakhtunkhwa. In this respect, they filed representation/application to

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Peshawar High Court

respondents but to no avail. Hence the instant writ petition.

3. Initially comments were called from the respondents which were submitted accordingly by respondent No.1 and 5 wherein they have opposed the issuance of the desired writ by stating that only the employees of the High Court, subordinates court and Service Tribunal were held entitled to the grant of two advance increments vide notification dated 29.4.1999. They have further stated that the Government of KPK had discontinued the scheme of advance increments to employees on the basis of acquiring or possessing higher education qualification vide Notification No. ND (PRC)1-1/2001 dated 27.10.2001 w.e.f 01.12.2001 and in order to stop payment of arrears and grant of advance

43

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Peshawar High Court

increment on acquiring higher education qualification, promulgated Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increment on Higher Education Act 2012 according to which all claims of arrears on advance increments on higher education qualification stood abated.

4. Arguments heard and record perused.

5. The petitioners are claiming the grant of two advance increments with arrears on the basis of Notification dated 11.8.1991 as well as judgement of this court dated 28.10.2010 passed in W.P No. 3600/2010 and judgement dated 08.6.2017 passed in writ petition No. 913-

②

P/2014. According to the respondents, the government of Khyber Pakhtunkhwa had

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 Peshawar High Court

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 GOVT



-41-

discontinued the scheme of advance increments to the employees on the basis of acquiring higher or possessing higher education qualification vide notification dated 27.10.2001 w.e.f 01.12.2001 and in order to stop payment of arrears on grant of advance increments on acquiring higher education qualification, the government of KPK promulgated the "Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increment on Higher Education Act 2012 (Khyber Pakhtunkhwa Act No.IX of 2012) and as per the provisions of the ibid act, all such claims stood abated. Section 2 (1) of the ibid act says that

*"Notwithstanding anything contained in any decision, judgment and order of any Tribunal or Court including High Court or Supreme Court of Pakistan, for the purpose of any claim for payment of arrears on account of advance*

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EXAMINER  
Peshawar High Court

*increments on higher educational qualification sanctioned in pursuance of any order, letter, office memoranda, notification, instructions and other instruments issued before 1.12.2001; such orders, letters, office memoranda, notifications, instructions and other instruments shall be deemed to be non-existent, ceased or revoked and no further claim whatsoever on the basis of these instruments shall be entertained and all cases in respect of such claims pending in any Court or Tribunal including High Court and Supreme Court of Pakistan shall stand abated.*

6. Perusal of record reveals that similar controversy came up before this court in W.P No. 913-P/2014 decided on 08.6.2017 wherein, after thoroughly discussing the issue in hand, the same was allowed para-15 whereof is reproduced below:

25

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 EXAMINER  
 Peshawar High Court

*"We are of the firm view that by promulgating impugned piece of legislation and giving it retrospective effect is nothing but to destroy, annul and make the judgements of this Court as well as of Honourable Supreme Court as affectless, therefore, to the extent of Section-2 by giving it retrospective effect before 01.2.2001 is declared null and void so is hereby expunged and struck down from the aforesaid impugned Act IX of 2012. Hence these petitions are allowed and the respondents are directed to provide them the benefits of two advance increments according to notification dated 11.08.1991 on attaining higher qualifications during service within the period of two months from the receipt of this judgement according to prescribed manner under the law then in field."*

7. Since by virtue of above judgement of this court, the relevant section (Section-2) of Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increment on Higher

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**ATTESTED**  
 EXAMINER  
 Peshawar High Court

-44-

Education Act 2012 (Khyber Pakhtunkhwa Act No.IX of 2012) has been expunged and struck down and the notification dated 03.1.2009 which had nullified the effect of notification dated 11.8.1991 was also declared null and void by this court in W.P No. 3600/2010 dated 28.10.2010. Therefore, the notification dated 11.08.1991 is deemed to be holding the field according to which the petitioners herein, having obtained their LL.B degrees/higher qualification before 01.12.2001 when such entitlement of the government employees was discontinued, are entitled to the grant of two advance increments as per notification dated 11.08.1991.

8. In view of the above, this writ petition is admitted and allowed and the respondents are directed to provide the

ATTESTED  
EXAMINER  
Peshawar High Court

-45-

petitioners, the benefits of two advance increments according to notification dated 11.8.1991 on attaining higher education qualifications during service, according to prescribed manner under the law.

CHIEF JUSTICE

JUDGE

Announced.

Dated.23.10.2019

D.B

HON'BLE MR. JUSTICE WAQAR AHMAD SETH, H.C.J.

HON'BLE MR. JUSTICE ABDUL SHAKOOR.

*edf*

*[Signature]*

CERTIFIED TO BE TRUE COPY

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
the Constitution of Pakistan, Order 1984

20 DEC 2021

18375

Date of Presentation of Application ..... 20/12/21

No of Pages ..... 14

Copying fee ..... 50

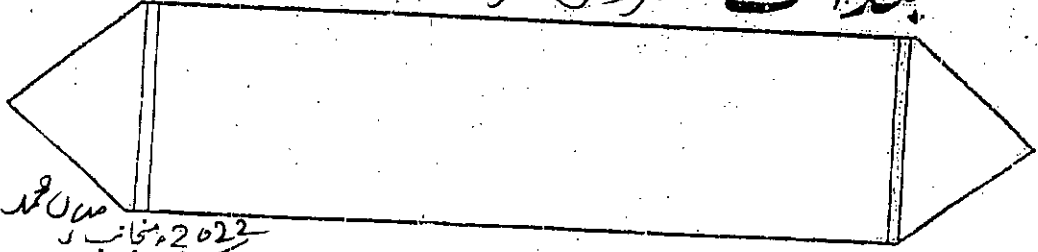
Total ..... 50

Date of Preparation of Copy ..... 20/12/21

Date of Delivery of Copy ..... 20/12/21

Received By ..... *[Signature]*

بعدالت مہر و سہولت کپک لیسٹ ور



میاں محمد  
2022ء پنجاب

میاں محمد بنام گورنمنٹ وینٹری

موزخہ  
مقدمہ  
دعویٰ  
م

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کارروائی متعلقہ  
آج کے مقام لیسٹ ور کیے جنرل شاہ صمد + ASC والہ منظر الادو کیسٹ  
HC

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بامورثت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براندگی اور منسوخی  
نیز دائر کرنے اپیل نمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو ہمیں وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا سہانتہ  
پروا ختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے رہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا اوکالت نامہ لکھد یا کہ سند ہے۔

Mian Muhammad

المترقون \_\_\_\_\_  
\_\_\_\_\_ ماہ \_\_\_\_\_ 2022

Accepted  
Punjab

Attested & Accepted  
(Adu)

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

**Service Appeal No. 612/2022**

Mian Muhammad.....Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**INDEX**

S. #	Description of Documents	Annex/ Flag	Pages
1.	Comments		1/23
2.	Affidavit		4
3.		I	5,6
4.		II	7
5.		III	8

(I) 50

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

**APPEAL NO. 612/2022**

Mian Muhammad..... (Appellant)

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through Chief Secretary & others..... (Respondents)

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 TO 04**

**PRELIMINARY OBJECTION:**

1. That the appellant has got no cause of action.
2. That the appellant has not come to the Hon'able Service Tribunal with clean hands.
3. That the appellant is estopped by his own conduct.
4. That the appeal is badly time-barred.
5. That the appeal in its present shape is not maintainable, hence liable to be dismissed.

**Respectfully Sheweth,**

1. Pertains to record hence needs no comments.
2. Pertains to record hence needs no comments.
3. Correct to the extent that the officer was entitled to Advance Increments on higher qualification when he was serving as Naib Tehsildar (BS-14) which he has already availed. But when he was selected as Section Officer (BS-17), his entitlement for the said benefit ceased, as advance increments on the basis of higher qualification were allowed to provincial civil servants working in BPS 1-15 as per Finance Department's letter Dated 11-08-1991 (**Annex-I**).
4. Correct to the extent that the departmental appeal of the appellant was received and is still under process. The sole ground on which the appeal merits dismissal is that this appeal is obviously premature. Reliance is placed on PLJ 1999 Tr. C and 153, 1992 PL (C.C) 666 that "departmental appeal was not availed, so the appeal in the Tribunal is not maintainable". As the decision on his appeal has not been made, therefore, the appellant should wait for its outcome.
5. As replied in Paras 3 & 4 above.

**ON GROUNDS:-**

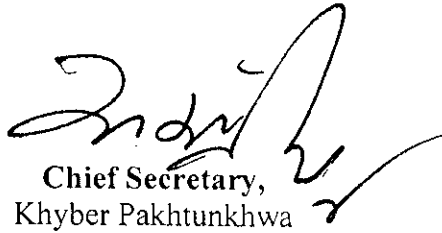
- A. Incorrect. Factual and legal position has already been explained vide Paras 3 & 4 of the facts.

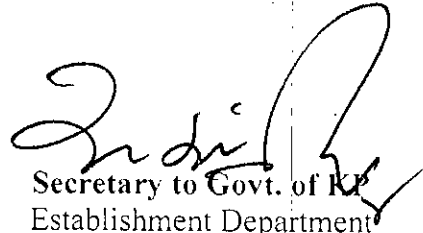



(2 of 3)

- B. Incorrect. The officer had already availed the benefit of advance increments and was at 5<sup>th</sup> stage of Basic Pay (Naib Tehsildar BS-14) when he was selected as Section Officer. The initial Basic Pay of Section Officer was much higher than that stage at which he relinquished the charge of the post of Naib Tehsildar. Had the officer reached at a stage in BS-14 where his basic pay was higher than initial basic pay of Section Officer, then he would not have been deprived of advance increments he had already availed.
- C. Incorrect. As explained above.
- D. Incorrect. Though, the scheme of granting advance increments on the basis of higher qualification had been discontinued in the Pay Revision 2001, yet Finance Department through a circular letter dated 25.06.2010 (**Annex-II**) clarified to all Departments that those Government employees who had acquired higher qualification prior to 01.12.2001, but their cases have not yet been decided are eligible for advance increments, in light of the policy prevailing prior to 01.12.2001. In case the appellant had acquired higher qualification on or above of the prescribed qualification prior to 01.12.2001, he should have agitated his claim well in time or at least till the extended period but he failed hence deprived.
- E. Incorrect. The case of the appellant is entirely different from the referred cases as the appellant has already availed the benefit of advance increment as explained above.
- F. Incorrect as explained in Para-E above. Every case has its own merits and demerits.
- G. Incorrect. The officer has not been denied his right.
- H. Incorrect. It was the responsibility of the appellant to approach his parent department either before discontinuation of advance increment or should have benefited from Finance Department's circular letter dated 25-06-2010 as mentioned above. Moreover, after promulgation of an Act, 2012 (The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification) all kinds of advance increments on the basis of higher educational qualification have been ceased as is evident from the Act of 2012. (**Annex-III**).
- I. As replied in preceding Paras, the Provincial Government extended so many opportunities to all such employees, to get the benefits of advance increments till the target dated i.e 01.12.2001 in spite of its discontinuation in 2001 but the appellant failed to avail the opportunity at that time.
- J. No comments.
- K. The respondents also seek permission of the Hon'able Tribunal to agitate additional grounds at the time of arguments.

In view of the above explanation, it is humbly prayed that on acceptance of these comments, the instant appeal being devoid of merit may very graciously be dismissed with special cost.

  
Chief Secretary,  
Khyber Pakhtunkhwa  
(Respondent No.1)

  
Secretary to Govt. of KP  
Establishment Department  
(Respondent No.2)

  
~~Secretary to Govt. of KP~~  
Finance Department  
(Respondent No.3)

Annex-I  
15  
GOVERNMENT OF NWFP,  
FINANCE DEPARTMENT.

(PAY REVISION CELL).

NO. FD(FEC)1-1/89.

Dated Peshawar the 11th Aug. 1991.

From:

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

To:

1. All Administrative Secretaries,  
Government of N.W.F.P.
2. The Senior Member Board of Revenue,  
N.W.F.P., Peshawar.
3. The Secretary to Governor, NWFP, Peshawar.
4. The Secretary to Chief Minister, NWFP, Peshawar.
5. The Secretary, Provincial Assembly, NWFP, Peshawar.
6. All Heads of Attached Departments in NWFP.
7. All Commissioners/Dy. Commissioners/  
Political Agents/District & Sessions Judges  
in N.W.F.P.
8. The Registrar, Peshawar High Court, Peshawar.
9. The Secretary, Public Service Commission,  
NWFP, Peshawar.
10. The Registrar, Services Tribunal, NWFP, Peshawar.
11. The Secretary, Board of Revenue, NWFP, Peshawar.

Subject:

REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS  
OF CIVIL EMPLOYEES (BPS-1 - 15) OF THE PROVINCIAL  
GOVERNMENT (1991).

Sir,

I am directed to refer to the subject noted above and to say that the Governor, N.W.F.P., has been pleased to sanction Revision of the Basic Pay Scales for the Provincial Servants (BPS-1 - 15) as detailed in the following paragraphs:

BASIC PAY SCALES

2. This existing, modified and revised pay scales are detailed in the annexure to this letter. The revised pay scales shall replace the Basic Pay Scales, 1987 and shall be effective from the 1st of June, 1991.

16

REQUIREMENTS FOR POSSESSING/ATTAINING HIGHER EDUCATIONAL QUALIFICATION

From 1.6.1991 onwards advance increments shall be allowed without the condition of the second Division to the officials in BPs 1-12 for possessing or acquiring higher educational qualifications over and above prescribed qualifications in the relevant Recruitment Rules to the extent given below :-

Where the prescribed qualification is	Matric	No. of Advance Increments for obtaining		
		F.A./F.Sc.	B.A./B.Sc.	M.A./M.Sc.
Non-Matric.	2	4	6	8
Matric.	Nil	2	4	6
Where the prescribed qualification is F.A./F.Sc.	Nil	Nil	2	4
Where the prescribed qualification is B.A./B.Sc.	Nil	Nil	Nil	2

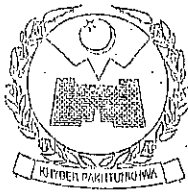
6(a) of Finance Department's letter No. D(PRC) 1-1/87-Vol-VIII, dated 22.7.1987 would be doubled from 1.6.1991.

(ii-)

The advance increments shall be allowed at the time of recruitment or acquisition of higher qualification whichever is later. In cases where the employee is already at the maximum of the scale, he may be allowed the number of advance increments beyond the maximum of the scale as personal pay to be absorbed at the time of his move-over/promotion. Those employees who had acquired higher qualification in 3rd Division prior to 1.6.1991 and were not granted advance increments earlier would henceforth be allowed advance increments with effect from 1.6.1991.

MOVE-OVER

6. The concession of Move-over shall be available from 1.6.1991 onwards to those who are enjoying selection grade.



OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO. FD (SR-1) 2-123/2010  
Dated Peshawar the: 25-06-2010

To:

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor Khyber Pakhtunkhwa, Peshawar.
4. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
5. All Head of Attached Departments in Khyber Pakhtunkhwa.
6. All District Coordination Officers / Political Agents / District & Session Judges, Khyber Pakhtunkhwa.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Chairman, Khyber Pakhtunkhwa Public Service Commission.
9. The Chairman, Khyber Pakhtunkhwa Service Tribunal Peshawar.
10. The Secretary Board of Revenue, Peshawar.

Subject: CLARIFICATION ABOUT ADVANCE INCREMENTS ON HIGHER QUALIFICATION.

Sir,

I am directed to refer to this Department letter of even number dated 29-04-2010 on the subject noted above and to state that it had been observed that contents of the said letter have not been properly appreciated and understood.

2. In this connection it is clarified that only those Government Employees who had acquired higher qualification prior to 01-12-2001, while in service (or joined service with higher qualification), and had submitted their applications to their concerned Departments / Offices before 01-12-2001 but their cases have not yet been decided, are eligible for advance increments in light of the policy prevailing prior to 12-2001.

Yours Faithfully,

(MASOOD KHAN)  
DEPUTY SECRETARY (REG-II)

Endst: No. & date even

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All Heads of Autonomous & Semi Autonomous Bodies in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
4. All District / Agency Accounts Officers in Khyber Pakhtunkhwa.
5. All Section/Budget Officers in Finance Department.
6. The Treasury Officer, Peshawar.
7. PS to Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
8. PS to Special Secretary Finance Government of Khyber Pakhtunkhwa.
9. PS to Finance Minister Khyber Pakhtunkhwa.
10. PAs to Addl Secretaries in Finance Department.
11. PAs to Deputy Secretaries in Finance Department.

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII  
GAZETTE

**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, TUESDAY, 15TH MAY, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT  
KHYBER PAKHTUNKHWA

**NOTIFICATION**

Dated Peshawar, the 15th May, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/20711.—The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 8<sup>th</sup> May, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 11<sup>th</sup> May, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA CESSATION OF PAYMENT OF ARREARS ON  
ADVANCE INCREMENTS ON HIGHER EDUCATIONAL QUALIFICATION  
ACT, 2012.**

(KHYBER PAKHTUNKHWA ACT NO. IX OF 2012)

*(first published after having received the assent of the Governor of the Khyber  
Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa  
(Extraordinary), dated the 15<sup>th</sup> May, 2012).*

AN  
-ACT

*to cease the payment of arrears accrued on account of advance increments on  
higher educational qualification.*

WHEREAS advance increments have been granted to certain Provincial Government employees on the basis of acquiring or possessing higher educational qualification over and above the prescribe educational qualification from time to time;

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUKHAWA PESHAWAR**

**Appeal No:612/2022**

Mian Muhammad .....Appellant.

V/S

Government of Khyber Pakhtunkhwa ,through

Chief secretary Peshawar & others.....Respondants.

**AFFIDAVIT**

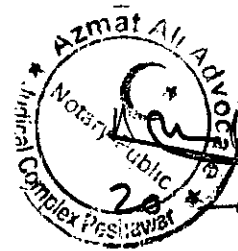
I Mian Tariq Shah Senior Auditor of the Account General Khyber Pakhtunkhwa Peshawar do here by solemnly affirms & declared that the contents of reply submitted on behalf of Respondent No:1 to 05 is true and correct to the best of my knowledge and belief and nothing has been conceal from the this honorable Court .

*Yami*  
Deponent

*CNIC - 17301 - 1327637 - 9*

*Cell - 8346 - 91 91 985*

**ATTESTED**



*20-9-2022*

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR

Appeal No.612/2022

Mian Muhammad .....Appellant.  
V/S

Government of Khyber Pakhtunkhwa, through,  
Chief Secretary Peshawar & others.....Respondents.

(Reply on behalf of respondent No.4)

Respectfully Sheweth:-

Para :- 1 to 05:-

Being an administrative matter, this issue relates to Respondents No. 2&3 and they are in better position to redress the grievances of the appellant. Besides, the appellant has raised no grievances against Respondent No.4.

It is pertinent to mentioned here that Para-2 of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act 2012 (KP) is very much clear and gets finality (copy enclosed).

Keeping in view the above mentioned facts, it is humbly prayed that the name of Respondent No.4 may kindly be deleted from the list of Respondents.

  
ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUKHAWA PESHAWAR**

**Appeal No:612/2022**

Mian Muhammad .....Appellant.

V/S

Government of Khyber Pakhtunkhwa ,through

Chief secretary Peshawar & others.....Respondants.

**AFFIDAVIT**

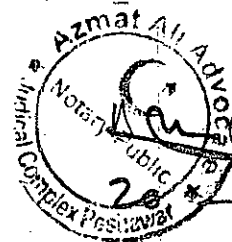
I Mian Tariq Shah Senior Auditor of the Account General Khyber Pakhtunkhwa Peshawar do here by solemnly affirms & declared that the contents of reply submitted on behalf of Respondent No:1 to 05 is true and correct to the best of my knowledge and belief and nothing has been conceal from the this honorable Court .


  
Deponent

CNIC - 17301 - 1327637 - 9

Cell - 8346 - 91 91 985

**ATTESTED**



  
20-9-2022

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR

Appeal No.612/2022

Mian Muhammad ..... V/S ..... Appellant.

Government of Khyber Pakhtunkhwa, through,  
Chief Secretary Peshawar & others..... Respondents.

(Reply on behalf of respondent No.4)

Respectfully Sheweth:-

Para :- 1 to 05:-

Being an administrative matter, this issue relates to Respondents No. 2&3 and they are in better position to redress the grievances of the appellant. Besides, the appellant has raised no grievances against Respondent No.4.

It is pertinent to mentioned here that Para-2 of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act 2012 (KP) is very much clear and gets finality (copy enclosed).

Keeping in view the above mentioned facts, it is humbly prayed that the name of Respondent No.4 may kindly be deleted from the list of Respondents.

  
ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUKHAWA PESHAWAR**

**Appeal No:612/2022**

Mian Muhammad .....Appellant.

V/S

Government of Khyber Pakhtunkhwa ,through

Chief secretary Peshawar & others.....Respondants.

**AFFIDAVIT**

I Mian Tariq Shah Senior Auditor of the Account General Khyber Pakhtunkhwa Peshawar do here by solemnly affirms & declared that the contents of reply submitted on behalf of Respondent No:1 to 05 is true and correct to the best of my knowledge and belief and nothing has been conceal from the this honorable Court .

*Yam*  
Deponent

CNIC : 17301 - 1327637 - 9

Cell - 8346 - 9191985

**ATTESTED**

Azmat Ali Advocate  
Notary Public  
Mirana Complex Peshawar  
20-9-2022

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR

Appel No.612/2022

Mian Muhammad .....Appellant.  
V/S

Government of Khyber Pakhtunkhwa, through,  
Chief Secretary Peshawar & others.....Respondents.

(Reply on behalf of respondent No.4)

Respectfully Sheweth:-

Para :- 1 to 05:-

Being an administrative matter, this issue relates to Respondents No. 2&3 and they are in better position to redress the grievances of the appellant. Besides, the appellant has raised no grievances against Respondent No.4.

It is pertinent to mentioned here that Para-2 of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act 2012 (KP) is very much clear and gets finality (copy enclosed).

Keeping in view the above mentioned facts, it is humbly prayed that the name of Respondent No.4 may kindly be deleted from the list of Respondents.

  
ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUKHAWA PESHAWAR

Appeal No:612/2022

Mian Muhammad .....Appellant.

V/S

Government of Khyber Pakhtunkhwa ,through

Chief secretary Peshawar & others.....Respondants.

**AFFIDAVIT**

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*Yam*  
Deponent

Civil - 17301 - 1327637 - 9

Cell - 8346 - 91 91 985

**ATTESTED**

Azmat Ali Advoca  
Notary Public  
Judicial Complex Peshawar  
20-9-2022

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR

Appeal No.612/2022

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ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUKHAWA PESHAWAR**

**Appeal No:612/2022**

Mian Muhammad .....Appellant.

V/S

Government of Khyber Pakhtunkhwa ,through

Chief secretary Peshawar & others.....Respondants.

**AFFIDAVIT**

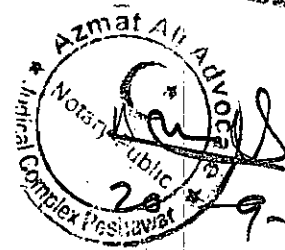
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*Ymm*  
Deponent

*Civil - 17301 - 1327637-9*

*Cell - 8346 - 9191985*

**ATTESTED**



*28-9-2022*

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR

Appeal No.612/2022

Mian Muhammad .....Appellant.  
V/S

Government of Khyber Pakhtunkhwa, through,  
Chief Secretary Peshawar & others.....Respondents.

(Reply on behalf of respondent No.4)

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ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA