

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL CAMP COURTS SWAT**

S.A No.751/2023

Mr. Ayub Zarin.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary and Director
Higher Education Peshawar.....Respondents

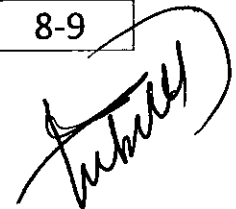
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Inst & date :- 4/7/2023

Swat

4/7/2023



Deponent

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, CAMP COURTS SWAT.**

S.A # 751/23

Mr. Ayub Zarin.....Appellant

Versus

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6241

Dated 4/7/2023

Govt. of Khyber Pakhtunkhwa
Through Secretary
and Director, Higher Education Peshawar..... Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1-2

Respectfully Sheweth: -

Preliminary Objections:-

1. That the appellant has got neither cause of action nor locus standi to file the instant Service Appeal.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appellant is estopped by his own conduct to file the instant appeal.

Facts: -

- 1) Pertains to record.
- 2) Pertains to record.
- 3) Pertains to record.
- 4) Pertains to record.
- 5) Correct to the extent that the overpayment of Pay & Allowances w.e.f, 01/12/2013 to 31/05/2022 amounting to Rs. 524,815 and leave encashment amounting to Rs. 100,580/- (Total amount Rs. 625,395/-) shown in the Last Pay Certificate by the District Accounts Officer (**Annex-A**) has been deducted from the commutation amount from the appellant in light of Section Officer (Colleges) letter No. SO(C-I)/HED/1-9/AP-6519-22 dated 31/10/2022 address to District Accounts Officer Chitral (**Annex-B**).
- 6) Correct to the extent that the appellant filed departmental appeal which was sent to respondent No. 4 and the respondent No.4 vide letter dated 06/02/2023 which was also endorsed to the appellant, informed that the appellant has received overpayment (**Self-Explanatory letter attached as Annex-C**)
- 7) Incorrect. As already explained in preceding paras.

Grounds: -

- A. Incorrect. As already explained in preceding paras.
- B. Incorrect. As already explained in preceding paras.

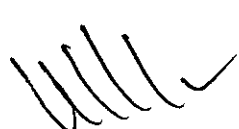
- C. Incorrect. As already explained in preceding paras. When his pension case was processed during the calculation it transpired by respondent No. 4 that overpayment has been made to the appellant as already explained in letter dated 09/02/2023 attached as annexure "6"
- D. Incorrect. As already explained in preceding paras.
- E. Incorrect. As already explained in preceding paras.
- F. Incorrect. As already explained in preceding paras.
- G. Incorrect. As already explained in preceding paras. Moreover, each & every case has its own merits & facts.
- H. Incorrect. That fundamental rights of the appellant are not violated, the said deduction is in accordance with law/rules.
- I. Incorrect. As already explained in preceding paras. That the appellant submitted Departmental Appeal which was properly replied by the respondent No. 4 and the appellant was informed accordingly
- J. Incorrect. As stated in para "I" of grounds.
- K. Incorrect. That orders/letters are in accordance with law/rules.
- L. Incorrect. As already explained in preceding paras.
- M. Incorrect. That case of the appellant was properly explained and replied by the respondent No.4.
- N. Incorrect. That the appellant is treated within four corners of law.
- O. Incorrect. As already explained in para 5 & 6 of facts.
- P. Incorrect. That the letter dated 09/02/2023 is well explained wherein it is clearly mentioned the relevant rules & reason. Which is read/reproduced under,
1. According to Section 17 of KPK Civil Servant Act, a Civil Servant shall be entitled to pay sanctioned for the post in accordance with rules.
 2. Vide Rules 7 of KPK Pay Revision Rules 1978, the Annual Increment shall be allowed to a Civil Servant in 1st December of a year after completion of at least six months' service at a stage of Pay.
 3. Vide Rules 10(1)(i) of Pay Revision Rule 1978, Civil Servant on his promotion from lower to higher post shall be fixed at next higher stage of the higher post and a premature increment shall be allowed therein.
 4. Vide rule 10(3) of the above rules, a Civil Servant shall opt for re-fixation of pay on his promotion, from lower to higher post, after availing annual increment in lower post on 1st December if his promotion is made during 2nd June to 30th November of a year.
 5. The appellant was promoted to the post of Associate professor (B-19) on 11/06/2013 from the post of Assistant professor (B-18).

- 6. The appellant was drawing Basic Pay in B-18 @ Rs. 47,000/P.M on 01-12-2012. The Pay of appellant was fixed @ 50200/P.M in B-19 on 11-06-2013 after allowing next stage plus one premature increment.
- 7. The Pay of the appellant was also re-fixed by allowing annual increment of B-18 due on 01-12-2013 which comes @ Rs. 48500/P.M. the correspondence stage of Rs. 48500/P.M comes to Rs. 50200/P.M in B-19 on 01-12-2013
- 8. Hence, both the ways i.e rules 10(1),(i) and Rule 10(3) of Pay Revision Rules 1978, the Basic Pay of the appellant fixed @ 50200/P.M as on 01-12-2013
- 9. In the light of above quoted Rules the appellant is entitled to Basic Pay @ 50200/P.M on 11-06-2013 & 01.12.2013, but due to computer mistake on additional increment added in his Basic Pay on 01-12-2013 raising Basic Pay from Rs. 502000/P.M to 51800/- P.M resulting an overpayment of one increment.


- Q. Incorrect. As already explained in preceding paras.
- R. Incorrect. As already explained in preceding paras.
- S. Incorrect. That the appellant has already received his due salary, only the over payment made to him has been deducted,
- T. Incorrect. As already explained in preceding paras. That the appellant in trying to mislead the Hon'ble tribunal Penalty is not imposed upon the appellant only the excess amount which he received is recovered from the appellant.
- U. Incorrect. As already explained in preceding paras.
- V. That the respondents may be allowed to raise additional grounds at the time of arguments

Prayer:-

It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/misstatements hence may graciously be dismissed.


Secretary,

Higher Department Education Khyber Pakhtunkhwa
Respondent No. 1


Director,

Higher Education Khyber Pakhtunkhwa
Respondent No. 2



BEFORE THE HONOURABLE PESHAWAR HIGH, PESHAWAR

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SERVICE APPEAL NO.751/2023

Ayub Zarin

..... Petitioner.

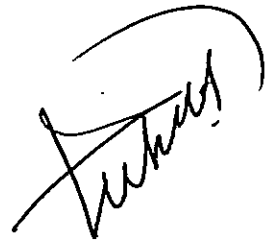
Versus

GOVT. OF KHYBER PAKHTUNKHWA
AND OTHERS

..... Respondents.

AFFIDAVIT

I, Lubran Farman Assistant Director (BPS-17), do hereby solemnly declare and affirm on oath, that the contents of parawise comments on Behalf of Respondents is correct to the best of my knowledge and belief and that nothing has been concealed therein from this Hon'able Court. It is further submitted on oath that the respondents have neither been placed ex-party nor that defence have been struck-off.



Deponent

CNIC No. 17301-8792433-6

Mob: 0336 9058165

ATTESTED



2023




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GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARY DEPARTMENT

AUTHORITY LETTER

Mst. Lubna Farman Assistant Director (BPS-17), office of the Director Higher Education Khyber Pakhtunkhwa is hereby authorized to attend the Service Tribunal Khyber Pakhtunkhwa Peshawar in Service Appeal No. 751/2023 Titled Ayub Zarin VS Govt. of Khyber Pakhtunkhwa.


Deputy Secretary,
Higher Education Department
Peshawar
Govt. of Khyber Pakhtunkhwa
Higher Education Archives &
Libraries Department

Registered Post

Annex - B

Mark - B



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

NO.SO(C-1)HED/1-9/PP/ Ayub Zarin (Prof: Political Science) / 6519-72 Dated 31/10/2022

To

The District Accounts Officer,
Chitral.

Subject: PENSION PAPERS IN RESPECT OF MR. AYUB ZARIN, RETIRED
PROFESSOR (BS-20) GOVT. DEGREE COLLEGE, CHITRAL.

I am directed to enclose herewith Director, Higher Education's letter No.6071/Estt: Branch CA.1 dated 25/10/2022, alongwith Pension Papers (in duplicate) in respect of Mr. Ayub Zarin S/o Habib Ullah Khan, Professor of Political Science (BS-20) Govt; Degree College, Chitral, duly signed by the competent authority for favour of further necessary action at your end.

2. The overpayment shown in the LFC, issued by your office, may be recovered from his commutation amount as per following details:

S.No	Description	Amount recoverable
I.	Pay & Allowances w.e.f. 01/12/2013 to 31/05/2022	524,815
II.	Leave encashment in lieu of LPR	100,580
Total recoverable amount:		625,395

Encl. As above.

(ALLA-UD-DIN KHATTAK)
Section Officer (Colleges-I)

Endst: No. & Date of even.

Copy forwarded for information & necessary action to the:

- 1) Director, Higher Education Khyber Pakhtunkhwa, Peshawar w/r to his letter referred above
- 2) Principal, Govt. Degree College, Chitral.
- 3) Mr. Ayub Zarin S/o Habib Ullah Khan Professor of Political Science, Govt; Degree Coll; Chitral.
- 4) PS & Secretary, Higher Education Department.
- 5) Miscellaneous.

(ALLA-UD-DIN KHATTAK)
Section Officer (College)



Office of the
District Accounts Officer
Chitral Lower

Ph # 0943-412625 Fax# 0943-412109

E. mail: daoचित्रल@gmail.com

No. DAO/Admn/Misc Letters/ 2022-23 82

Dated 9/2/2023

To,

The Section officer (Colleges-I),
Govt: of Khyber Pakhtunkhwa,
Higher Education Archives & Libraries Department,
Peshawar.

Subject: DEPARTMENTAL APPEAL/PRESENTATION FOR ILLEGAL DEDUCTION OF PENSIONARY BENEFITS OF THE APPELLANT.

Please refer to your office letter No.SO(C-I) HED/1-9/Ayub Zarin (Prof: Polic,Sci) dated 25th January 2023 on the subject cited above.

The views/comments of this office, in the instant case, as under: -

1. According to Section 17 of KPK Civil Servant Act, a Civil Servant shall be entitled to pay sanctioned for the post in accordance with Rules.
2. Vide Rule 7 of KPK Pay Revision Rule 1978, the Annual Increment shall be allowed to a Civil Servant in 1st December of a year after completion of at least six months service at a stage of Pay.
3. Vide Rule 10 (1) (i) Pay of Pay Revision Rule 1978; Civil Servant on his promotion from lower to higher post shall be fixed at next higher stage of the higher Post and a premature increment shall be allowed therein.
4. Vide Rule 10 (3) of the above Rules, a Civil Servant shall opt for re-fixation of pay on his promotion, from lower to higher post, after availing annual increment in lower post on 1st December if his promotion is made during 2nd June to 30th November of a year.
5. Mr. Ayub Zarin was promoted to the post of Associate Professor (B-19) on 11-06-2013 from the post of Assistant Professor (B-18).
6. The said Professor was drawing Basic Pay in B-18 @ Rs.47000/P.M on 01-12-2012. The pay of Professor was fixed @Rs.50200/P.M in B-19 on 11-06-2013 after allowing next stage plus one premature increment.

Approved to be made COPY

(Handwritten signatures and stamps)

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7. The pay of the Professor was also re-fixed by allowing Annual Increment of B-18 due on 01-12-2013 which comes @ Rs.48500/P.M. The correspondence stage of Rs.48500/P.M comes to Rs.50200/P.M in B-19 on 01-12-2013.
8. Hence, both the ways i.e Rule 10 (1) (i) and Rule 10 (3) of Pay Revision Rule 1978, the Basic Pay of the Professor fixed @ Rs.50200/P.M as on 01-12-2013.
9. In the light of above quoted Rules the Professor is entitled to Basic Pay @ Rs.50200/P.M on 11-06-2013 & 01.12.2013, but due to computer mistake one additional increment added in his Basic Pay on 01-12-2013 raising Basic Pay from Rs.50200/P.M to Rs.51800/P.M resulting an over payment of one increment.
10. The overpayment made to the Professor, as highlighted at para 8 and 9 above, could not be detected/pointed out by Drawing and Disbursing officer up till his retirement.
11. On receipt of Notification of retirement of the Professor, this office issued him Last Pay Certificate for the purpose calculation of pension after overhauling of his Service record i.e Service Statement and History of Service for which this office is fully responsible under the Rules. Hence, overpaid amount was calculated carefully and intimated to the Pension Sanctioning authoring and the Professor accordingly.

District Accounts officer
Chitral Lower

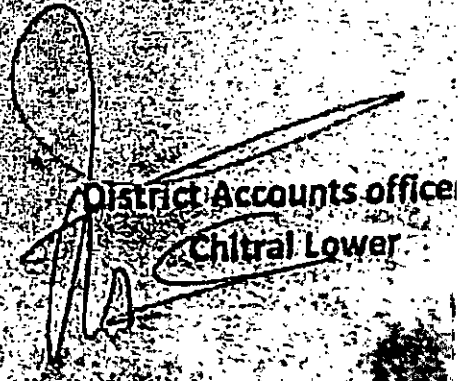
Endst No.and Date Even

Copy forwarded to: -

1. PS to Secretary, Higher Education Department. Peshawar
2. Mr.Ayub Zarin Ex- Professor of Political Science Govt. Degree College Chitral Lower.



Attested Copy



District Accounts office
Chitral Lower