

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Mr. Najeeb Ullah
Service Appeal No. 1627/2021

Appellant

Secretary to Govt. of Khyber Pakhtunkhwa Finance Department and
others.

Respondents

INDEX

S#.	Subject	Annexure	Page No.
01	Comments	-----	01-02
02	Affidivit	-----	03
03	Revision of pay 1991	Annex-I	04-09
04	Pay revision 2001	Annex-II	10-20
05	Finance Department letter dated 25.06.2010	Annex-III	21
06	Notification dated 27.03.2012	Annex-IV	22-24
07	Judgement dated 14.06.2023	Annex-V	25-29

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No 1627/2021

Diary No. 6475

Najib Ullah s/o Nikam Khan SET Teacher.....(Appellants).

Dated 14/07/23

V E R S U S

1. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa
2. Secretary Finance Department Khyber Pakhtunkhwa
3. District Education Officer (SDW-Bannu), at District Bannu.....(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.2

Preliminary Objections:

1. That the instant appeal is not maintainable in the present form.
2. That the Appellant is estopped by his own conduct to file the present appeal.
3. That the Appellant has not come to this court with clean hands.
4. That the Appellant has got no cause of action to file the present appeal against the respondents.
5. That the instant appeal is badly barred by time and law.

Respectfully Sheweth:

1. Pertains to record, hence needs no comments.
2. Incorrect. The appellant cannot claim benefits of Finance Department' letter dated 11-08-1991 (**Annex-I**) at this belated stage. The policy of advance increment on the basis of higher qualification under ibid letter was already discontinued vide Pay Revision-2001 (**Annex-II**). Even after its discontinuation in 2001, Finance Department through a circular letter dated 25-06-2010 (**Annex-III**) 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 increment, in light of the policy prevailing prior to 01-12-2001 and in the said letter gross period was also given but the appellants did not get benefit at that time.

Moreover, after promulgation of an Act, 2012 all kind of advance increments on the basis of higher educational qualification have been ceased as is evident from (**Annex-IV**).

3. Incorrect. As explained in preceding para the appellant is not legally entitled to the benefits of advance increment after the cutoff date.
4. Incorrect. The judgment referred by the appellant is judgment in personum and its benefit cannot be extended to him. Moreover, in a similar case, Peshawar High Court vide its judgment dated 14-06-2023 held that those employees who have not agitated their claim at the relevant time cannot claim benefits of advance increment (**Annex-V**).
5. Incorrect. No violation of law has been made as explained above.
6. No comments.

h

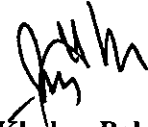
GROUND

- A. Incorrect. No violation of law has been made as explained above.
- B. Incorrect. No violation of law has been made as explained above.
- C. Incorrect. No violation of law has been made as explained above.
- D. Incorrect. As explained in para-04 of the facts, the appellant cannot claim benefits under Peshawar High Court Judgment dated 08-06-2017 as he had not submitted his claim prior to the promulgation of Cessation of Advance Increment on the basis of Higher Qualification Act, 2012.

Moreover, as replied in detail in preceding paras, this Provincial Government extended so many opportunities to all such employees as explained I paras above, to get the benefits of advance increment, in spite of its discontinuation in 2001 but the appellant failed to avail the opportunity at that time.

- E. Incorrect. No violation of law has been made as explained above.
- F. Incorrect. No violation of rights has been made.

In view of the above explanation, it is, therefore, humbly prayed that on acceptance of these para-wise comments, this honorable Service Tribunal may very graciously be pleased to dismiss the present appeal with cost.



Secretary to Govt. of Khyber Pakhtunkhwa
 Finance Department,
 ✓ (Respondent No.2)

03

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Mr. Najeeb Ullah
Service Appeal No. 1627/2021

Versus

Secretary to Govt. of Khyber Pakhtunkhwa Finance Department and others.

Reply /Parawise Comments on Behalf of Secretary Finance Govt. of Khyber Pakhtunkhwa Respondent No.02.

AFFIDIVAIT

I, Hashmatullah Superintendent, Govt.of Khyber Pakhtunkhwa Finance Department do hereby solemnly affirm and declare on oath that the contents of Para-wise comments in Service Appeal No.1627/2021 on behalf of Secretary to Govt. of Khyber Pakhtunkhwa Finance Department is true and correct to the best of my knowledge and belief and that nothing has been concealed from the Honourable Tribunal.The case is still subjudice in the court of law. Defence is not stuck off.

Hashmatullah
Deponent

ATTESTED



Dated Peshawar, the 11th August 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 Civil Servants (BPS-1 - 15) as detailed in the following paragraphs :-

2. BASIC PAY SCALES :-

The existing, modified and revised pay scales are detailed in the annexure to this letter. The revised pay scales


[Signature]
Inspection Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

INITIAL FIXATION OF PAY

- (i) The initial pay of the existing employees who have been in Government Service since before the 1st June, 1991, shall first be fixed in the modified scale at the stage having the same pay or if there is no such stage at the next higher stage. Thereafter the pay shall be fixed in the Revised Pay Scale "on point to point basis i.e. at the stage in the relevant revised basic pay scale which is as many stages above the stage occupied by him above the minimum of the modified basic scale.
- (ii) In the case of those employees whose pay is fixed in the revised scale at a stage which gives less than Rs.100/- increase in pay of May, 1991 a minimum increase of Rs.100/- in pay over May, 1991 level, would be allowed and thereafter pay fixed at the corresponding stage equal to this pay or if there is no such stage, at the next higher stage. The pay fixation formula has been illustrated through examples I, II & III in Appendix.
- (iii) The annual increment shall continue to be admissible subject to the existing conditions on the 1st of December each year.
- (iv) The increases allowed since 1-7-1988, as detailed below shall cease to be admissible from 1-6-1991:-
- (a) Indexed pay sanctioned vide Finance Department circular No.FD(PRC)1-3/85, dated 4-8-1988.
 - (b) Ad-hoc increase of 5% of pay sanctioned vide circular No.FD(PRC)1-3/85, dated 13-1-1990.
 - (c) Ad-noc increase of 10% sanctioned vide Finance Department circular No.FD(PRC)1-3/89 dated 21-7-1990.
 - (d) Dearness Allowance of Rs.200/- p.m. sanctioned vide Finance Department circular No.FD(PRC)1-3/89 dated 16-1-1991.

FIXATION OF PAY ON PROMOTION

- i) In cases of promotion from a lower to higher post/scale before the introduction of these scales, the pay of the employee concerned in the revised scale may be fixed and so enhanced that it would not be less than the pay that would have been admissible to him if his promotion to the higher post/scale had taken place after the introduction of these scales.
- ii) Government employees who are allowed selection grade shall be granted one premature increment from 1-6-1991 as is allowed in the case of promotion.

 Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

6

GRANT OF ADVANCE INCREMENTS TO OFFICIALS FOR POSSESSING/
OBTAINING HIGHER EDUCATIONAL QUALIFICATION.

- 1) From 1-6-1991 onwards advance increments shall be allowed without the condition of the second Division to the officials in BPS 1-16 for possessing or acquiring higher educational qualifications over and above prescribed qualifications in the relevant Recruitment Rules to the extent given below :-


	No. of Advance increments for obtaining			
	<u>Matric</u>	<u>F.A./F.Sc</u>	<u>B.S./B.Sc</u>	<u>M.A./M.Sc</u>
a) Where the prescribed qualification is Non-Matric.	2	4	6	8
b) Where the prescribed qualification is Matric	Nil	2	4	6
c) Where the prescribed qualification is F.A/ F.Sc.	Nil	Nil	2	4
d) Where the prescribed qualification is B.A/ B.Sc	Nil	Nil	Nil	2

The advance increment already allowed in terms of para-6(a) of Finance Department's letter No.PD(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.

6. MOVE-OVER

The concession of Move-over shall be available from 1-6-1991 onwards to those who are enjoying selection grade.


Section Officer (Lit-11)
Finance Department
Govt. of Khyber Pakhtunkhwa

7.

SPECIAL P.A.

The existing Special P.A. admissible to all categories of Personal Assistants in EPS-15 shall be enhanced from 1-6-1981 as under:-

NAME OF POST	EXISTING RS. PER MONTH	ENHANCED RS. PER MONTH
P.A. to Minister.	100	150
P.A. to Chief Secretary/ Addl: Chief Secretary/ Secretaries/Additional Secretaries.	75	120

8.

TEACHING ALLOTMENT

The existing rate of teaching allowances admissible to qualified teachers of High Schools who teach Science Subjects of Physics, Chemistry, Biology & Mathematics and Junior Instructors in Poly-Technic shall be enhanced as under:-

- (a) For High School Science Teachers From Rs. 100/- P.M.
To Rs. 200/- P.M.
- (b) For Junior Instructors in Poly-technic who possess Technical Teachers Diploma. From Rs. 100/- P.M.
To Rs. 200/- P.M.

9.

MEDICAL ALLOWANCE

The existing rate of Medical Allowance of Rs. 50/- per month admissible to the employees in EPS-1 -15 shall be enhanced to Rs. 60/- P.M.

10.

a) MESSING/DIE ALLOWANCE

The existing rate of Messing/Die allowance for Mural Cadre (below EPS-15) shall be enhanced from Rs. 300/- to Rs. 350/-.

b) UNIFORM ALLOWANCE

The existing rate of uniform allowance for Nursing C.

[Signature]
Section Officer (L.I.)
Finance Department
Govt. of Khyber Pakhtunkhwa

c) NIGHT DUTY ALLOWANCE

The Night Duty Allowance shall be admissible as under :-

- (i) For Assistants/Clerks. ... Rs. 2/- per night.
- (ii) For staff Car Drivers/ Despatch Riders. ... Rs. 4/- per night.
- (iii) For Walk Guards ... Rs. 3/50 per night.

d) WASHING GRANT/ALLOWANCE ADMISSIBLE TO LIVERIED STAFF

The existing rates of Washing Grant/Allowance shall be enhanced from Rs. 25/- per month to Rs. 30/- per month.

e) CONVEYANCE CHARGES FOR LATE SITTING AFTER OFFICE HOURS.

The existing rates of Conveyance Charges admissible to employees in BPS-1 -15 (Non-Gazetted) shall be enhanced as under :-

(i) ON WORKING DAYS

- For officials in BPS 1-2 From Rs. 3.50 per day to Rs. 4.50 per day
- For officials in BPS 3-15 From Rs. 4.50 per day to Rs. 5.50 per day

(ii) ON CLOSED HOLIDAYS

- For officials in BPS 1-2 From Rs. 4.50 per day to Rs. 5.50 per day
- For officials in BPS 3-15 From Rs. 7.00 per day to Rs. 8.00 per day

Yours obedient servant

(Signature)
 (GHULAM DASTGIR AKHTAR)
 DEPUTY SECRETARY (REGULATION)
 FINANCE DEPARTMENT

NO. FD(PRC)1-1/89

Dated the 11-8-1991

Copy forwarded for information to :-

1. All Autonomous & Semi Autonomous Bodies in NWFP.
2. The Secretary Finance Department, Government of the Punjab, Sindh and Balochistan.

(Signature)
 GHULAM DASTGIR

(Signature)
 Section Officer (Lit-I)
 Finance Department
 Govt. of Khyber Pakhtunkhwa

CORRIGENDUM

In the Finance Department's Notification No. FD(PRC)1-1/89 dated 7th August, 1991:-

- 1) For "ES" in Column 2 against Sr. No. 2, read "CI".
- ii) For "Secondary School Teachers" in Column 2 against Sr. No. 4, read "SET".

SECRETARY TO GOVERNMENT OF
N.W.F.P. FINANCE DEPARTMENT.

Enclat. No. FD(PRC)1-1/89

Dated Peshawar, the 19th Dec: 1991.

Copy forwarded to the Accountant General, N.W.F.P. Peshawar for information and necessary action.

(FIDAYAFRIDI)

Deputy Secretary (Regulation).

Enclat. No. FD(PRC)1-1/84.

Dated Peshawar, the 19th Dec: 1991.

A copy is forwarded to :-

- 1. All Administrative Secretaries to Govt. of N.W.F.P.
- 2. All Commissioners of Division, N.W.F.P.
- 3. All Heads of Attached Departments, N.W.F.P.
- 4. The Secretary to Government, N.W.F.P.
- 5. The Registrar, Peshawar High Court, Peshawar.
- 6. The Secretary, Public Service Commission, N.W.F.P.
- 7. The Registrar, Secretariat, N.W.F.P.
- 8. All Deputy Commissioners, Political Agents, District and Session Judges, N.W.F.P.

(ABDUL RASHID)

Section Officer (PRC)

Enclat. No. FD(PRC)1-1/89

Dated Peshawar, the 19th Dec: 1991.

Copy forwarded for information to :-

- 1. The Secretary to Government of the Punjab, Finance Department, Lahore.
- 2. The Secretary to Government of Sindh, Finance Department, Karachi.
- 3. The Secretary to Government of Baluchistan, Finance Department, Quetta.

[Signature]
Section Officer (Lit-II)
Finance Department
Cash of Muzer Pakhtunخوا

2001 Annex-II 10

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

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

From:-

The Secretary to Government of NWFP,
Finance Department.

To

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

Subject:-

REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS 1 - 22) OF THE N.W.F.P. GOVERNMENT (2001).

Sir,

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

PART I - BASIC PAY SCALES AND ALLIED MATTERS.

2. BASIC PAY SCALES :- The existing Basic Pay Scales and the revised Basic Pay Scales are shown in Annexure-I to this letter. The revised basic pay scales shall

[Signature]
Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

2
replace the existing Basic Pay Scales 1994, and shall be effective from 1st Dec 2001.

3
DISCONTINUATION OF ALLOWANCES :- The following allowances shall cease to be payable on introduction of the revised pay scales with effect from 01-12-2001:


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

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

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

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

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


Section Officer (Lit-11)
Finance Department
Govt. of Khyber Pakhtunkhwa

2001

12

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

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

EXAMPLE I

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

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

EXAMPLE II

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

BPS-11	Stage 15	Stage 16	Stage 17	Stage 18	Stage 19	Stage 20	Stage 21	Stage 22	Stage 23	Stage 24
1994 Pay Scale	3465	3581	3697	3813	3929	4045	4164	4277	4393	4509
2001 Pay Scale	5215	5390	5565	5740	5915	6090	6265	6440	6615	6790

Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

4

13

EXAMPLE- III

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

	Stage- 30	Stage - 31	Stage - 32
BPS-5 1994	3380	3446	3512
BPS-5 2001	5100	5200	300

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

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

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

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

4

[Signature]
Section Officer (Lit-II)
Finance Department
Govt of Khuzer Pakistankhus

14
5

PART II ALLOWANCES:

12. Conveyance Allowance :- The rates of existing Conveyance Allowance and Motorcycle/Motorcar maintenance allowance presently fixed with reference to pay drawn shall be increased and related to Basic Pay Scales as follows:-

S.No.	EXISTING	REVISED
i.	Government servants drawing pay in BPS-16 (Gazetted) and above and maintaining motorcar not registered for commercial purpose. Rs.355/-P.M.	BPS-16 (Gazetted) and above Rs.620/-P.M.
ii.	Government servants drawing pay of Rs. 3240/- per month and above other than those at (i) above Rs.193/- P.M.	BPS-11 and above Rs.340/- P.M.
iii.	Government servants drawing pay of Rs.1688/- per month and above but less than Rs. 3240/- P.M. and maintaining Motorcycle/Scooter. Rs. 130/- P.M.	BPS 1 - 10 maintaining Motorcycle/Scooter Rs.230/- P.M.
iv.	Others Rs.96/- P.M.	BPS 1-10 Rs.170/- P.M.

13. DISCONTINUATION OF RESEARCH ALLOWANCE :- Research allowance will be discontinued w.e.f. 01-12-2001.

14. DAILY ALLOWANCE :- Daily Allowance rates presently fixed with reference to pay drawn shall be increased and related to Basic Pay Scales as under:-

BPS	SPECIAL RATES PER DAY (RS.)	ORDINARY RATES PER DAY (RS.)
1 - 4	110	80
5 - 11	120	100
12 - 16	200	180
17 - 18	350	320
19 - 20	450	400
21 - 22	550	450

5

(Signature)
Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

15. MEDICAL ALLOWANCE :- Medical allowance to employees in BPS 1-16 shall be increased from Rs. 90/- P.M. to Rs. 160/- P.M.

16. COMPUTER ALLOWANCE :- The Computer Allowance shall be increased subject to the existing conditions of admissibility as under:-

EXISTING RATE	REVISED RATE
Rs. 500/- P.M.	Rs. 750/- P.M.
Rs. 1000/- P.M.	Rs. 1500/- P.M.

17. SPECIAL PAYS/ALLOWANCES :- All the Special pay and Allowances admissible on certain posts as percentage of pay are revised subject to the following limits:-

	EXISTING	REVISED
a)	Special Pays/Allowances sanctioned @ 20% and above of pay.	On existing rates subject to a maximum of Rs. 2000/- P.M.
b)	Special Pays/Allowances sanctioned @ 10% - 19% of pay	On existing rates subject to a maximum of Rs. 1500/- P.M.
c)	Special pays/Allowances sanctioned @ 5% - 9% of pay.	On existing rates subject to a maximum of Rs. 1000/- P.M.

PART - III PENSION AND COMMUTATION

18. PENSION :- The Government has made the following reforms in pension/commutation scheme w.e.f. 1-12-2001 in respect of civil pensioners of Provincial Government :-

- Commutation Table shall be replaced by the new commutation Table at Annexure-I to this letter.
- Commutation upto 40% of gross pension shall be admissible at the option of the pensioner.

6
Secretary
Finance Department
Govt. of Khyber Pakhtunkhwa

5 16/7

- c) The additional benefit of 2% - 10% for extra years of service after completion of 30 years of qualifying service in respect of civil pensioners shall be discontinued.
- d) The increase in pension @ 20% - 25% to Civil Pensioners allowed vide this Department's letter No. SOSR.III(F&TD)4-111/81 dated 27-7-1999 shall be discontinued.
- e) The benefit of restoration of surrendered portion of pension in lieu of commutation/gratuity shall be withdrawn.
- f) In future, the increase in pension to the pensioners shall be allowed on net pension instead of gross pension.
- g) All the pensioners shall be allowed an increase in net pension (inclusive of dearness increases allowed in the past) as follows:-

Increase in net Pension.

- | | |
|---|-----|
| i) Pensioners who retired prior to the introduction of 1991 basic pay scales. | 15% |
| ii) Pensioners who retired prior to the introduction of 1994 Basic Pay scales but on or after the introduction of 1991 pay scales. | 10% |
| iii) Pensioners who retired on or after the introduction of 1994 basic pay scales and upto the date of introduction of revised basic pay scales i.e. 1-12-2001. | 5% |

19. OPTION :- (a) All the existing civil employees (BPS 1 to 22) of the Provincial Government shall within 30 days from the date of issue of this letter, exercise an option in writing, addressed to the Audit office concerned in the case of employees in BPS and above and to the DDO concerned in the case of employees in BPS 15 and below, either to draw pay in the existing Basic Pay Scales of 1994 or in the Revised Basic Pay Scales and Pension/commutation scheme 2001 as specified in this letter. Option once exercised shall be final.

7

[Signature]
Section Officer (Lit-II)
Finance Department
Govt. of Khuzar Pakhtunkhwa

(b) An existing employee as aforesaid, who does not exercise an option to communicate such an option within the prescribed time limit, shall be deemed to have opted to be governed by the Revised Basic Pay Scales, Pension and Commutation Scheme 2001.

20. The government servant who retire w.e.f. 1-7-2001 shall be given the benefit of revised pay scales on presumptive basis discounted by 5% increase in Pension available; subject to the condition that all those who may like to avail this benefit should opt for the entire package i.e. revised scheme of Basic Pay Scales as contained in Part-I of the revised package of pension as contained in Part-III of this letter.

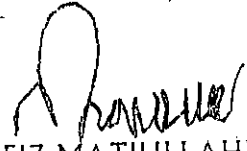
21. The Autonomous/Semi Autonomous Bodies will have the option to adopt this pay package provided they have adopted in totality the Basic Pay Scale Scheme/Pension scheme and if their resources so permit as no additional grant will be provided by the Provincial Government. It will not be applicable to those employees of Bank of Khyber and Public Sectors Corporations and those employees who are governed by the Industrial Relations Ordinance 1969 and/or whose financial terms of service are settled through Collective Bargaining Agents. In case of Autonomous/Semi autonomous Bodies where employees are allowed different pay scales/allowances, the revision of the existing pay scales of their employees shall not be made without consultation of the Finance Department.

22. All existing rules/orders on the subject shall be deemed to have been modified to the extent indicated above. All existing rules/orders not so modified shall continue in force under this scheme.

23. ANOMALIES :- An anomalies Committee in Finance Department comprising Additional Finance Secretary, Additional Secretary (Regulation) Establishment

Department and Deputy Secretary (Regulation), Finance Department shall be set up to solve the anomalies, if any, arising out of implementation of new package.

Yours obediently


(HAFIZ MATIULLAH)
Additional Secretary (Reg./Admn)

Endst. No. FD(PRC)1-1/2001

Dated Peshawar the, October 27, 2001.

1. All Autonomous & Semi Autonomous Bodies in NWFP
2. The Secretary Finance Department, Government of the Punjab, Sindh and Balochistan, Lahore, Karachi & Quetta.
3. The Secretary Finance Department, Azad Government of the State of Jammu and Kashmir, Muzaffarabad.



(ABDUL LATIF)
Section Officer (SR-I)

Endst. No. FD(PRC)1-1/2001

Dated Peshawar the, October 27, 2001.

1. The H.Qs. & I. Corps Peshawar
2. The Accountant General, NWFP, Peshawar.
3. All district/Agency Accounts Officers in NWFP.
4. The Treasury Officer, Peshawar.
5. The Private Secretary to Finance Minister, NWFP.
6. The P.S to Secretary, PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
7. All Section/Budget Officers in Finance Department, NWFP
8. The Director, Local Fund Audit, NWFP, Peshawar.


(ABDUL LATIF)
Section Officer (SR-I)


Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

19

ANNEXURE-1 TO FINANCE DEPARTMENT'S LETTER NO. FD(PRC)1-1/2001
DATED THE OCTOBER 27, 2001

EXISTING AND REVISED PAY SCALES.

PAY SCALES OF 1994 (CIVIL)					REVISED PAY SCALES, 2001 (CIVIL)				
Scale	Min	Incr	Max	Stags	Scale	Min	Incr	Max	Stags
1	1245	35	1770	15	1	1870	55	3520	30
2	1275	44	1935	15	2	1915	65	3865	30
3	1320	50	2070	15	3	1980	75	4230	30
4	1360	58	2230	15	4	2040	85	4590	30
5	1400	66	2390	15	5	2100	100	5100	30
6	1440	73	2535	15	6	2160	110	5460	30
7	1480	81	2695	15	7	2220	120	5820	30
8	1540	88	2860	15	8	2310	130	6210	30 _{or}
9	1605	97	3060	15	9	2410	145	6760	30
10	1660	107	3265	15	10	2490	160	7290	30
11	1725	116	3465	15	11	2590	175	7840	30
12	1830	130	3780	15	12	2745	195	8595	30
13	1950	144	4110	15	13	2925	215	9375	30
14	2065	161	4480	15	14	3100	240	10300	30
15	2190	177	4845	15	15	3285	265	11235	30
16	2535	197	5490	15	16	3805	295	12655	30
17	3880	290	7360	12	17	6210	465	15510	20
18	5085	366	8745	10	18	8135	585	19835	2
19	7750	385	11600	10	19	12400	615	24700	20
20	9195	440	13595	10	20	14710	950	28010	14
21	10190	545	15640	10	21	16305	1070	31285	14
22	10900	610	17000	10	22	17440	1250	34940	14

Section Officer (Lit-II)
Finance Department
Govt. of Kerala, Palakkad

20

ANNEXURE-II TO FINANCE DEPARTMENT'S LETTER NO. FD(PRC) I-1/2001
DATED THE OCTOBER 27, 2001

EXISTING AND REVISED PAY SCALES.

COMMUTATION TABLE

Age next Birthday	No. of Years Purchased	Age next Birthday	No. of Years Purchased
20	40.5043	51	17.6526
21	39.7341	52	17.0050
22	38.9653		16.3710
23	38.1974		15.7517
24	37.4307	55	15.1478
25	36.6651	56	14.5602
26	35.9006	57	13.9888
27	35.1372	58	13.4340
28	34.3750	59	12.8953
29	33.6143	60	12.3719
30	32.8071	61	11.8632
31	32.0974	62	11.3684
32	31.3412	63	10.8872
33	30.5869	64	10.4191
34	29.8343	65	9.9639
35	29.0841	66	9.5214
36	28.3362	67	9.0914
37	27.5908	68	8.6742
38	26.8482	69	8.2697
39	26.1009	70	7.8778
40	25.3728	71	7.4983
41	24.6406	72	7.1314
42	23.9126	73	6.7766
43	23.1840	74	6.4342
44	22.4713	75	6.1039
45	21.7592	76	5.7858
46	21.0538	77	5.4797
47	20.3555	78	5.1854
48	19.6653	79	4.9030
49	18.9841	80	4.6321
50	18.3129		

11

AM
Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa



(2) Annex-III 21

**GOVT: 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 has 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 01-12-2001.

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.

(Signature)
Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

(Signature)
(JAMROZ KHAN)
SECTION OFFICER (SR-1)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 27TH MARCH, 2012

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

NOTIFICATION

Dated Peshawar, the 27th March, 2012.

No. Legis:1(11)2011-4867.—The following Ordinance by the Governor of the Khyber Pakhtunkhwa is hereby published for general information:

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

(KHYBER PAKHTUNKHWA ORDINANCE NO. I OF 2012)

AN ORDINANCE

*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;

AND WHEREAS the Provincial Government vide Notification No. (PRC)1-1/2001, dated 27.10.2001, had already discontinued the scheme of advance increments on higher educational qualification;

700

[Signature]
Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

AND WHEREAS due to financial constraints, it is not possible for Provincial Government to pay the claimed and unclaimed arrears accrued from the said increments;

AND WHEREAS the Provincial Assembly is not in session and the Governor of the Khyber Pakhtunkhwa Province is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of the Khyber Pakhtunkhwa is pleased to make and promulgate the following Ordinance:-


1. Short title, application and commencement.— (1) This Ordinance may be called the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Ordinance, 2012.

(2) It shall apply to all the employees of the Provincial Government, who were entitled to received advance increments on higher educational qualification.

(3) It shall come into force at once and shall be deemed to have taken effect on and from 1st day of December, 2001.

2. Cessation of payment of arrears on advance increments on higher educational qualification. — (1) 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 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.

(2) Any order made, instruction issued, decision, judgment or order of any Court or Tribunal including a High Court or the Supreme Court, implemented immediately before the commencement of this Ordinance, shall


Section Officer (Lit-II)
Finance Department
Govt of Khyber Pakhtunkhwa

KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 27th MARCH, 2012. 70

be deemed to have been validly made, issued and implemented by the date of commencement of this Ordinance, and any amount already paid there-under on account of advance increments or arrears thereof shall be deemed to have been validly paid and shall not be recoverable from the recipient Government employees.

3. Removal of difficulties.—If any difficulty arises, in giving effect to the provisions of this Ordinance, the Provincial Government may make such orders as it may deem just and equitable.

Peshawar,
Dated 22-03-2012

(BARRISTER SYED MASOOD KAUSAR)
Governor, Khyber Pakhtunkhwa

(MUHAMMAD ARIFEEN)
Secretary,
Government of the Khyber Pakhtunkhwa
Law, Parliamentary Affairs and
Human Rights Department.

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

[Signature]
Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

Annex-2
25.01

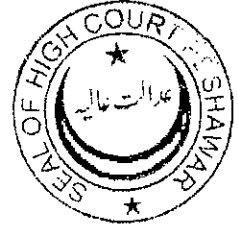
JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.3081-P/2012 with CM No.1672-P/2022

Anayat Ullah Khan and others

Vs.

Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and others



Date of hearing 14.06.2023

Petitioner(s) by: M/s. Noor Muhammad Khattak and L.
Nawab Ali Noor, Advocates.

Respondent(s) by: Mr. Amir Javed, Advocate General
Khyber Pakhtunkhwa and Barrister
Muhammad Yaseen Raza Khan, Addl:
Advocate General a/w Mr. Fazl-e-Khaliq,
Litigation Officer, DEO (M&F), Swabi.

JUDGMENT

IJAZ ANWAR, J. Through this single judgment, we intend to decide the instant writ petition and Writ Petitions, listed below, since in all these cases, similar questions of law and facts are involved. The connected writ petitions are:-

- 2011
- i. *W.P. No.913-P/2014 titled, Muhammad Iqbal and others Vs. Government of Khyber Pakhtunkhwa through Secretary to Government, Finance Department, Peshawar and others.*
 - ii. *W.P. No.1418-P/2014 titled, Molvi Muhammad and others Vs. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Peshawar and others*
 - iii. *W.P. No.2053-P/2014 titled, Saeed Ullah and others Vs. Government of Khyber Pakhtunkhwa through Secretary S&GAD, Peshawar and others*
 - iv. *W.P. No.1182-P/2018 titled, Muhammad Rehman and others Vs. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others*
 - v. *W.P. No.2326-P/2019 titled, Muhammad Anwar Vs. Government of Khyber*

Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

ATTESTED
EXAMINER
Peshawar High Court

26
/ 102

*Pakhtunkhwa through Secretary
Education, Peshawar and others*
vi. *W.P. No.1680-P/2021 titled, Ghandal
Khan Vs. District Education Officer
(Male), Peshawar and others*

2. In the instant writ petition, the petitioners have prayed for the following relief:-

“It is, therefore, humbly prayed that on acceptance of this writ petition, this Hon’ble Court may be pleased to declare the act as against the basic norms of law & rules repugnant to constitution, law and practice/policy as such no legal effect liable to be set-aside”.

3. In all these petitions, the petitioners have mainly questioned the vires of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012 (hereinafter to be referred as “the Act”).

4. Comments were called from the respondents who furnished the same, wherein, they opposed the issuance of desired writ asked for by the petitioners.

5. Arguments heard and record perused.

6. Perusal of the record transpires that the petitioners have questioned the vires of “the Act” on the ground that promulgation of “the Act” had defeated the judgments of the superior Courts. He further contended that vested rights of the petitioners have accrued in the matter and placed reliance on the judgments reported as “FECTO Belarus

Tractor Ltd Vs. Government of Pakistan through Finance
Economic Affairs and others (PLD 2005 SC 605), 2013

[Signature]
Section Officer (Lit-II)
Finance Department
Court of Khyber Pakhtunkhwa

ATTESTED
EXAMINER
Peshawar High Court

27
103

SCMR 1749, 2013 SCMR 1752 (Contempt of Court Proceedings case) and AIR 1975 SC 2199".

7. On the other hand, the learned Advocate General, Khyber Pakhtunkhwa has referred to a recent judgment of the Hon'ble Supreme Court of Pakistan passed in the case titled "The Divisional Superintendent, Pakistan Railways, Rawalpindi and others Vs. Syed Irshad Ali Abid (2021 PLC (C.S.) 277)" and contended that the grant of increments on higher educational qualification has since been discontinued through Notification dated 13.09.2001, as such, it is a past and closed transaction and that necessary time was granted to the employees who have any claim, albeit, when they failed to claim the same for long ten years, as such, "the Act" in question was promulgated. He has also produced a letter dated 29.04.2010 issued by the Additional Secretary (Regulation), Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing), whereby, clarification was given about the advance increments on higher educational qualification and according to which, a period of sixty days was provided for the remaining claims and argued that even then, petitioners have failed to claim the advance increments at the relevant time.

8. During the course of hearing, learned counsel for the petitioners has produced letters/applications which were duly placed on file and contended that the rights of the petitioners to the grant of advance increments were secured

Section Officer (Lit-II)
Finance Department
Court of Khyber Pakhtunkhwa

ATTESTED
EXAMINED
Peshawar High Court

and guaranteed by a Government's circular letter dated 11.08.1991 and that the case of the petitioners was matured at the relevant time before the cut-of-date i.e. 13.09.2001 when the grant of such increments was discontinued. He also referred to a judgment of the Hon'ble Supreme Court of Pakistan passed in "CPLAs No.525 and 526/2007 decided on 19.07.2007".

9. At this stage, the learned Advocate General, Khyber Pakhtunkhwa, representing the respondents, contended that the civil servants, who were holding higher educational qualification prior to discontinuation of advance increments in the year, 2001, are entitled for the benefit flowing from circular letter dated 11.08.1991, however, those who have improved their qualification after the notification dated 13.09.2001, under no circumstances, can claim the same benefit and that the bar created through "the Act" would be equally applicable.

10. In view of the above, we, without commenting upon the vires of "the Act" and in view of the statement of the learned Advocate General, Khyber Pakhtunkhwa, dispose of this and the connected writ petitions and direct the respondents to consider the case of the petitioners in the light of circular letter dated 11.08.1991 and in case, they fulfill the condition mentioned therein for the grant of advance increments prior to the cut-of-date, they be allowed such benefit. It is, however, clarified that only the case of the present petitioners shall be

Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa

ATTES/BEI
EXAMINER
Peshawar High. Ct.

29/05

considered and that others cannot claim such benefits, having not agitated the matter at the relevant time.

Announced
Dt:14.06.2023



JUDGE



JUDGE

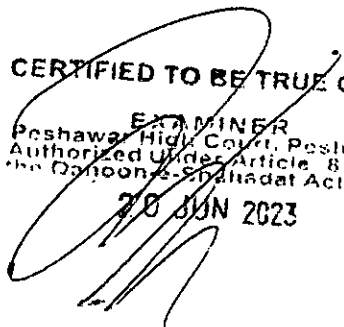
(DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Syed Muhammad Atifque Shah

Mohammadullah

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8.7 of
the Oath-taking Statute Act 1954

28 JUN 2023



89326

Date of Presentation of Application 16-06-2023

No of Pages 2-1

Copying fee 28-00

Total 28-00

Date of Preparation of Copy 20-06-2023

Date of Delivery of Copy 20-06-2023

Received By (Signature)

Section Officer (Lit-II)
Finance Department
Court of Khushalpur