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REGISTERED
No. C.A. 462/2023 – SCJ
SUPREME COURT OF PAKISTAN.

Islamabad, dated 02.08.2023, 2023.

From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

The Registrar,
K.P.K., Service Tribunal,
Peshawar.

Subject: CIVIL APPEAL NO. 462 OF 2023.
OUT OF
CIVIL PETITION NO. 418 OF 2021.
Ihsan ul Haq.

Versus

Director Elementary & Secondary Education Khyber
Pakhtunkhwa, Peshawar and others.

On appeal from the Judgment/Order of the K.P.K., Service
Tribunal, Peshawar dated 17.12.2020, in Appeal No.24 of 2019.

Dear Sir,

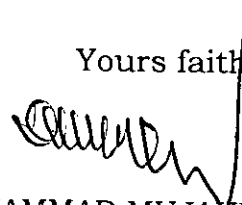
I am directed to forward herewith a certified copy of the
Order/Judgment of this Court dated **02.08.2023**, converting into appeal
the above cited civil petition and partly allowing the same, in the terms
stated therein, for information and necessary action.

I am also to invite your attention to the directions of the Court
contained in the enclosed Order for immediate compliance.

Please acknowledge receipt of this letter along with its
enclosure immediately.

Encl: Order:

Yours faithfully


(MUHAMMAD MUJAMID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MUHAMMAD ALI MAZHAR
MS. JUSTICE MUSARRAT HILALI

CIVIL PETITION NO.418 OF 2021

(On appeal from the judgment dated 17.12.2020
passed by the K.P.K. Service Tribunal, Peshawar,
in Appeal No.24/2019

Ihsan ul Haq

...Petitioner

VERSUS

Director Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar and others

...Respondents

For the Petitioner:

Ch. Hafeez Ullah Yaqub, ASC
Mr. Ahmed Nawaz Chaudhry, AOR

For the Respondent:

Mr. Zahid Yousaf Qureshi, AOR
Mr. Meraj Ahmed, DAO Chitral

Date of Hearing:

02.08.2023

ORDER

Muhammad Ali Mazhar, J.— Through this civil petition for leave to appeal, the petitioner assails the judgment dated 17.12.2020, passed by learned Khyber Pakhtunkhwa Service Tribunal, Peshawar (**the Tribunal**), in Appeal No.24/2019, whereby the appeal filed by the appellant was dismissed being time barred and being devoid of merit.

2. On the last date of hearing, we issued notice to the respondents only to the extent that in the Office Order dated 08.01.2018 (available at page-34 of the paper-book), the minor penalty of deduction of one increment was imposed under Rule 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 (**the Rules**) but in the said office order, there is no time frame fixed for continuation of such penalty, while under Rule 4 of the Rules, it is provided under the nomenclature of minor penalties, that the withholding of increment cannot be extended more than three years.

WITNESSED

Court Associate
Supreme Court of Pakistan
Islamabad

3. Learned Advocate-on-Record appearing on behalf of the respondents concedes that no time limit was provided in the office order imposing the penalty upon the petitioner. Even otherwise, this penalty was imposed in the month of January 2018 and if it is deemed to be continued for three years, then that period is also over but the learned counsel for the petitioner submits that the said increment has not been restored.

4. In view of the above, though we are not inclined to upset the judgment of the Tribunal but under the rigors of the Rules, we may observe that if despite lapse of three years period, the said increment is not restored, the respondents should restore the same in view of Rule 4 of the Rules (*supra*).

5. This petition is accordingly converted into an appeal and partly allowed in the above terms.

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Certified to be True Copy

[Handwritten signature]
 Court Associate
 Supreme Court of Pakistan
 Islamabad