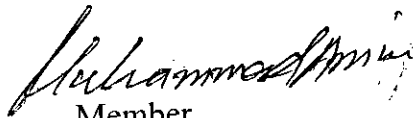
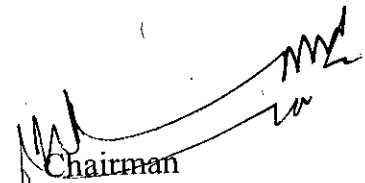


19.10.2017

Appellant alongwith counsel and Mr. Muhammad Bilal, Deputy District Attorney alongwith Sohail Ahmad Zaib, ADO for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today in connected service appeal No. 826/2016, entitled "Muhammad Saleem Abbasi Versus Accountant General, Khyber Pakhtunkhwa, Peshawar and 3 others", this appeal is also dismissed. Parties are left to bear their own costs. File be consigned to the record room.



Member


Chairman
Camp Court, A/Abad

ANNOUNCED
19.10.2017


19.1.2017

Appellant in person M/S Muhammad Irshad, SO and Sohail Ahmad Zaib, Assistant for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 20.04.2017 at camp court, Abbottabad.


Chairman
Camp court, A/Abad

20.04.2017


Appellant in person, M/S Sohail Ahmad Zaib, Assistant and Malik Muhammad Haroon, AAO. alongwith Mr. Muhammad Siddique, Sr.GP for respondents present. Written reply by respondent No. 3 submitted. Learned Sr.GP relies on the same on behalf of remaining respondents. The appeal is assigned to D.B for rejoinder and final hearing for 24.08.2017 at camp court, Abbottabad.


Chairman
Camp Court, Abbottabad.

24.08.2017

Appellant in person present. Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 19.10.2017 before the D.B. at camp court, Abbottabad.


Member


Chairman
Camp court, A/Abad


Appeal No. 827/2016
Abdul Majid vs Govt

22.09.2016

Appellant in person present. Argued that identical service appeal No. 826/2016 has been admitted for regular hearing to-day.


In view of the above, the instant appeal is also admitted to regular hearing. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 24.11.2016 before S.B at camp court, Abbottabad. Appellant also submitted application for interim relief. Notice of application be issued to the respondents for the date fixed. Till further orders no recovery be made from the salary of the appellant.

Appellant
Security Process Fee


Chairman
Camp court, A/Abad

24.11.2016

Appellant in person and Malak Muhammad Haroon, AAO and Sohail Ahmad Zaib, Assistant alongwith Mst. Bushra Bibi, Government Pleader for the respondents present. Requested for adjournment. To come up for written reply/comments on 19.1.2017 before S.B at camp court Abbottabad. The restraint order shall continue.


Chairman
Camp Court, A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 827/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/08/2016	<p>The appeal of Mr. <u>Abdul Majid</u> presented today by <u>him</u> him <u>by post</u> may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p><i>to Santhel</i> REGISTRAR</p>
2	18-8-2016	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on. <u>22-09-2016</u>.</p> <p><i>[Signature]</i> MEMBER</p>

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 827 of 2016

Abdul Majid S/O Abdul Khaliq, C.T. teacher, Government High School
Banda Pir Khan Abbottabad, R/O: village Mandroach (Maira Battang) Post
Office Qalandar Abad, District Abbottabad.

Appellant

Versus

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.

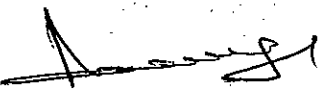
Respondents

SERVICE APPEAL

INDEX

S. No	DESC: OF DOCUMENTS	ANNEXURES	PAGE NO
1	Memo; of Service Appeal	---	1 to 6
2	Copy of Judgment Dated 12/05/2009 Passed By KPK Service Tribunal Peshawar	A	7 to 16
3	Copy of letter dated 15/12/2010 issued by respondent no 03	B	17
4	Copy of pay roll register for the Month of March 2016(BPS 15).	C	18
5	Copy of pay roll register for the Month of April 2016 (BPS 16).	D	19
6	Copy of ROP issued by respondent no 2.	E	20
7	Copy of departmental appeal	F	21 to 22
8	Copy of receipt of registered post	G	23

Dated 12/08/2016



(Abdul Majid)
Appellant in person

1

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 827 of 2016

Abdul Majid S/O Abdul Khaliq, C.T teacher, Government High School
Banda Pir Khan Abbottabad, R/O: village Mandroach (Maira Battang) Post
Office Qalandar Abad, District Abbottabad.

Appellant

Versus

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 853

Dated 15/8/2016

- 1 Accountant General Khyber Pakhtunkhwa Peshawar.
- 2 District Comptroller of Accounts, Abbottabad.
- 3 Government of Khyber Pakhtunkhwa through Secretary Finance
Department Peshawar.
- 4 Government of Khyber Pakhtunkhwa through Secretary (Elementary &
Secondary Education), Department Peshawar.

Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974, **AGAINST** THE IMPUGNED
ACTION OF RESPONDENT NO 2, WHICH IS ALSO WITHOUT
ISSUANCE/PASSING OF ANY OFFICIAL ORDER PASSED BY ANY
COMPETANT AUTHORITY NOR GIVEN ANY NOTICE TO
APPELLANT, IN RESPECT OF DEDUCTION/RECOVERY OF TWO
(02) ADVANCE INCREMENTS OUT OF FOUR (04) ADVANCE
INCREMENTS FROM THE SALERY OF THE APPELLANT WITH
EFFECT FROM 01/04/2016, THESE (INCREMENTS) WERE
GRANTED IN PURSUANCE OF THE JUDGMENT DATED
12/05/2009 PRONOUNCED BY KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR IN APPELLANT'S INDIVIDUAL
SERVICE APPEAL WHICH ATTAINED ITS FINALITY TOO. THE
IMPUGNED DEDUCTION/RECOVERY IS UNCONSTITUTIONAL,
CONTEMPT OF COURT, WITHOUT LAWFUL AUTHORITY,
ARBITRARY, PERVERSE, DISCREMINATORY' AGAINST THE
PRINCIPAL OF NATURAL JUSTICE AND INEFFECTIVE UPON

Filed to day
15-8-16
Registrar

THE APPELLANT'S RIGHTS OF ADVANCE INCREMENTS, GRANTED BY COMPETENT COURT OF LAW AND FOR ACCEPTANCE OF DEPARTMENTAL APPEAL WHICH IS STILL PENDING WITH OUT RESPONSE.

PRAER:-

ON ACCEPTANCE OF INSTANT SERVICE APPEAL, IMPUGNED ACTION IN RESPECT OF RECOVERY/DEDUCTION OF 02 ADVANCE INCREMENTS OUT OF 04 MAY PLEASE BE SET-ASIDE AND IN CASE AMOUNT REFUNDED/DEDUCTED FROM THE SALARY OF APPELLANT, MAY BE ORDERED THE REFUND OF SAME AND CONTINUE RECOVERY/DEDUCTION IF ANY MAY ALSO BE SUSPENDED TILL THE FINAL DISPOSAL OF TITLED SERVICE APPEAL AND MAY PLEASE BE IMPOSED HEAVY COST AGAINST THE RESPONSIBLE RESPONDENTS.

Respectfully Sheweth,

FACTS

- 1) That appellant is a school teacher, he is now working as C.T teacher (BPS 16), In the year 2010 he was granted 04 advance increments of (M.A/M.Sc) against CT post, on the basis of acceptance of his service appeal by this Honourable Tribunal and passed consolidated judgment of 267 cases on 12/05/2009 in main service appeal no 1276/2007, whereupon respondents did not file their appeal before Supreme Court yet, and now it attained its finality. Copy of consolidated judgment passed in main service appeal no 1276/2007 on 12/05/2009 is annexed as Annexure "A".
- 2) That according to the Judgment of Service Tribunal dated 12/05/2009 respondents not only granted 04 advance increments of (M.A/M.Sc) and revised the pay of the appellant, but also paid the entire arrears to the appellant. After that respondent no 03 issued a letter dated 15/12/2010 for recovery of 02 advance increments contrary to the

judgment of Apex court as well as service Tribunal. Copy of letter dated 15/12/2010 is annexed as **Annexure "B"**.

- 3) That appellant was being given/granted his salary with out any deduction/disturbance from the respondents upto 31/03/2016. When the post of appellant upgraded from BPS 15 to BPS 16 and in the fixation of pay, respondent no 02, with out any notice given to the appellant or without formal/official written order and under any legal reason deducted/recovered (02) two advance increments out of 04 advance increments with effect from 01/04/2016. In this respect the whole position is shown through table for better consideration.

Pay in March 2016 (BPS 15)	Pay to be fixed according to law in (BPS 16)	Pay fixed after deducting 02 increments
Rs 31800/-	Rs 34645/-	Rs 32575/-

Copy of pay roll register for the Month of March 2016(BPS 15) & April 2016 (BPS 16) and relevant pages of service book is annexed as **Annexure "C", "D" & "F"**.

- 4) That the deduction came in to the knowledge of appellant on 05/04/2016, under the severe illegal action of respondent no 02, submitted his departmental appeal dated 01/05/2016 through registered post to respondent no 1 which is still pending with out any response after passing the statutory period of 90 days, Copy of departmental appeal and receipt of registered post is annexed as **Annexure "F" & "G"**. Hence this appeal inters – alia on the following ground, and appellant’s appeal is within 120 days from the submission of his departmental appeal:

Grounds

- a) That appellant under the law, was entitled to 04 advance increments and the respondents (respondent No 02) was not at

all have powers to deduct/recover the 02 advance increments out of 04 Increments, which were granted to the appellant by a competent Court of law (Service Tribunal) while all concerned respondents amongst others were not only arrayed as party in service appeal but they contested the case and they were not filed their CPLA against the Judgment of Service Tribunal dated 12/05/2009 before Apex Court, yet thus it attained its finality.

- b) That if respondents have any objections/reservations on the Judgment of Service Tribunal in respect of number of increments, it was incumbent upon the respondents to have approached Supreme Court by filing Petition against the Judgment of Service Tribunal dated 12/05/2009 but they can not be changed the nature of Judgment as decided by Apex court **2011 PLC (C.S) 590**
- c) That the order dated 12/05/2009 passed by Service Tribunal was implemented by the respondents in letter and spirit and under the doctrine of locus Poenitentiae the respondents were not entitled to withdraw benefits, once it was implemented **(PLD 1991 Supreme Court 973)**.
- d) That the appellant while contesting for his right of 04 advance increments before the Service Tribunal, never ever suppressed any fact from the Learned Tribunal and respondents.
- e) That before passing the Impugned action of respondents, no notice whatsoever, was given to the appellant and the appellant is contemned unheard.
- f) That judicial system will be ruined, if respondents would be left free to act upon against the Judgment of Learned Service Tribunal, thus respondent are bound not to change the spirit of the Judgment creating any kinds of self made illegal


complications and letter dated 15/12/2010(Annexure D) issued by respondent no 3 is lying under question mark.

- g) That action of respondents is apparent activity of serious contempt of the Judgment of Honourable Tribunal, and tried to reopen the same matters which are finally decided by the Supreme Court of Pakistan.
- h) That the action of respondents is admittedly arbitrary capricious unjust and against all norms of justice and against Tribunal Judgment and order.
- i) That the involved matters in the instant appeal is relating to pay and under the law limitation did not run in such matters
- j) That it is an admitted fact that under question illegal Action is the matter of great public importance.
- k) That appellant, is once again dragged into litigation, that his claim of Advance Increments have been solved completely; the conduct of the respondents is contemptuous and as such requires indulgence of this Honourable Court by awarding appropriate Cost to the respondents, as decided in the Judgment dated 12/05/2009 by Honourable Tribunal at Para 07.

It is, therefore, respectfully prayed that on acceptance of instant service appeal, impugned action in respect of recovery/deduction of 02 advance increments out of 04 may please be set-aside and in case amount refunded/deducted from the salary of appellant, may be ordered the refund of same and continue recovery/deduction if any may also be suspended till the final disposal of titled service appeal and may please be imposed heavy cost against the responsible respondents.

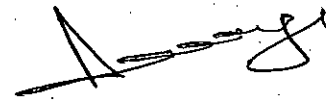
Any other relief for which the appellant is entitled, and the same is not asked/prayed specifically, may very kindly be granted in favour of the appellant.

Dated 12/08/2016


(Abdul Majid)
Appellant in person

AN INTERIM RELIEF it is therefore prayed that deduction of advance increments of MA/Msc: may also be suspended till the final disposal of titled service appeal

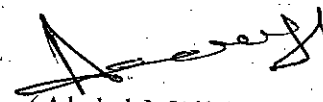
Dated 12/08/2016

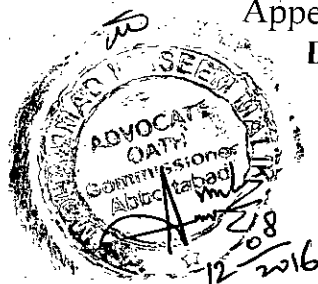

(Abdul Majid)
Appellant in person

Affidavit

I, Abdul Majid S/O Abdul Khaliq, C.T teacher, Government High School Banda Pir Khan Abbottabad, R/O: village Mandroach (Maira Battang) Post Office Qalandar Abad, District Abbottabad, do here by affirm on oath that contents of instant appeal is correct and true according to my best knowledge and belief and nothing has been suppressed from this Honourable Tribunal and this instant appeal is first appeal & same nature of any other appeal is not pending before Honourable Tribunal

Dated 12/08/2016


(Abdul Majid)
Appellant in person
DEPONENT



Annexure (A)

7

BEFORE THE NWFP SERVICE TRIBUNAL, CAMP COURT ABBOTTABAD

Appeal No. 1276/2007

Date of institution - 27.12.2007
Date of decision - 12.05.2009

Muhammad Akram, S/O Sikandar Khan, C.T. Teacher, Government High School,
Kuthwal, Abbottabad.....(Appellant)

VERSUS

1. District Coordination Officer, Abbottabad.
2. Executive District officer (S &L) Abbottabad.
3. District Accounts Officer, Abbottabad.
4. Director (S&L) Department, Peshawar.
5. Secretary to Government of NWFP (S&L) Department Peshawar.
6. Accountant General NWFP Peshawar.
7. Secretary to Government of NWFP Finance Department, Peshawar.

Appellant in person present.
Arshad Alam, A.G.P.....

For respondents.

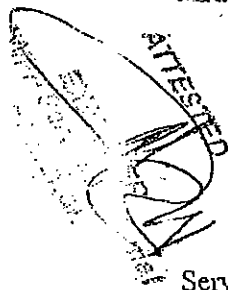
MR. ABDUL JALIL.....MEMBER.
MR. BISMILLAH SHAH.....MEMBER.

JUDGMENT

ABDUL JALIL, MEMBER ; This judgment/order will dispose of this Service Appeal No. 1276 of 2007, by Muhammad Akram and the following Service Appeals. The reason is that the broad facts and the legal issues in all the below mentioned appeals are the same, and need consolidated judgment and joint disposal.

<u>Sr. No.</u>	<u>Appeal No.</u>	<u>Name of appellant.</u>
1.	1277/2007	Saidur Rahman,
2.	1278/2007	Munibur Rahman,
3.	1279/2007	Muhammad Siddique,
4.	01/2008	Maroof Khan
5.	02/2008	Amjad Hussain Awan

Attested


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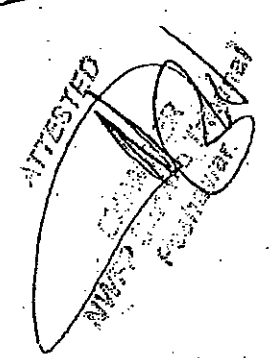
6. 03/2008 Muhammad Sarwar Khan,
7. 04/2008 Syed Arif Hussain Shah,
8. 09/2008 Sultan Khan,
9. 10/2008 Shafqat Hussain,
10. 17/2008 Muhammad Sabir Hussain,
11. 18/2008 Tanveer Hussain Awan,
12. 19/2008 Shafqat Samdani,
13. 20/2008 Arshad Khan,
14. 21/2008 Shahid Iqbal,
15. 22/2008 Muhammad Saleem Raza,
16. 28/2008 Iftikhar Ahmad Shah,
17. 29/2008 Shah Zaman,
18. 30/2008 Muhammad Tahir,
19. 34/2008 Muhammad Younis,
20. 35/2008 Abdul Wadood,
21. 150/2008 Rizwana Kousar,
22. 266/2008 Mamoon-ur-Rasheed,
23. 267/2008 Haroon-ur-Rasheed,
24. 268/2008 Fazal-e-Qadir,
25. 327/2008 Dilawar Khan,
26. 338/2008 Abdul Wahab,
27. 440/2008 Liaqat Ali,
28. 502/2008 Ali Asghar,
29. 541/2008 Liaqat Ali,
30. 542/2008 Abdul Quddus,
31. 570/2008 Shahzad Ahmad,
32. 571/2008 Chan Zeb,
33. 572/2008 Abdul Hakeem,
34. 573/2008 Muhammad Siddique,
35. 574/2008 Sarfaraz
36. 575/2008 Muhammad Ajmal,
37. 576/2008 Gul Faraz,
38. 577/2008, Muhammad Yousaf,
39. 578/2008 Altaf Hussain,
40. 579/2008 Ahjaz Ahmad,
41. 580/2008 Muhammad Safdar,

ATTESTED
[Signature]

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42. 595/2008 Abdur Razzaq,
43. 596/2008 Abdur Razzaq,
44. 597/2008 Shaukat Ali Abbasi,
45. 598/2008 Abdul Hamid Lodhi,
46. 599/2008 Umar Khatab,
47. 680/2008 Abdul Majid
48. 681/2008 Muhammad Saleem,
49. 682/2008 Bashir Ahmad,
50. 714/2008 Mazhar Khan,
51. 715/2008 Muhammad Saeed,
52. 716/2008 Manzoor Ahmad,
53. 717/2008, Zulfiqar,
54. 718/2008 Sardar Irshad Ali,
55. 739/2008 Khursheed Ahmad,
56. 759/2008, Muhammad Daud Qureshi
57. 760/2008 Muhammad Fayaz Awan
58. 798/2008 Naheem Akhtar,
59. 812/2008 Muhammad Siddique,
60. 813/2008 Sajjad Ahmad,
61. 814/2008 Abdul Hameed,
62. 815/2008 Raza Hussain Shah,
63. 816/2008 Shakeel Ahmad,
64. 817/2008 Muhammad Majid Mirza,
65. 819/2008 Rab Nawaz
66. 820/2008 Aftar,
67. 821/2008 Niaz Hussain,
68. 822/2008 Muhammad Iqbal,
69. 823/2008 Jamshed Khan,
70. 824/2008 Muhammad Shafi,
71. 825/2008 Muhammad Qasim,
72. 826/2008 Sajjad Ahmad,
73. 827/2008 Gul Siraj,
74. 828/2008 Muhammad Khursheed,
75. 829/2008 Mst. Zakia Sultana,
76. 853/2008 Mst. Shahnaz,
77. 854/2008 Mushtaq Hussain,

Attested




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- 4
- | | | |
|------|-----------|-----------------------------|
| 78. | 899/2008 | Muhammad Hanif, |
| 79. | 906/2008 | Noor Elahi, |
| 80. | 907/2008 | Muhammad Irshad, |
| 81. | 950/2008 | Abdul Haleem Lodhi, |
| 82. | 951/2008 | Jahangir Iqbal, |
| 83. | 952/2008 | Gul Hameed, |
| 84. | 953/2008 | Muhammad Imran, |
| 85. | 954/2008 | Muhammad Ishtiaq, |
| 86. | 955/2008 | Muhammad Ashraf, |
| 87. | 956/2008, | Asif Ali, |
| 88. | 957/2008 | Abdul Hamid, |
| 89. | 958/2008 | Muhammad Hanif, |
| 90. | 959/2008 | Muhammad Kabria Khan, |
| 91. | 960/2008 | Rashed Latif, |
| 92. | 961/2008 | Syed Amjad Hussain Shah, |
| 93. | 962/2008 | Muhammad Shoab, |
| 94. | 963/2008 | Muhammad Bashir, |
| 95. | 964/2008 | Niaz Ahmad, |
| 96. | 965/2008 | Syed Iftikhar Hussain Shah, |
| 97. | 967/2008 | Muhammad Siddique, |
| 98. | 981/2008 | Mst. Robina Awan, |
| 99. | 982/2008 | Sadaqat Khan, |
| 100. | 983/2008 | Mst. Tahseen Bibi, |
| 101. | 984/2008 | Tariq Mahmood, |
| 102. | 985/2008 | Mst. Saeeda Bano |
| 103. | 1025/2008 | Miss Tanveer Akhtar, |
| 104. | 1026/2008 | Mst. Imtiaz Kiani, |
| 105. | 1027/2008 | Naveed Ahmad, |
| 106. | 1032/2008 | Mst. Sajida Bibi, |
| 107. | 1049/2008 | Banaras Khan, |
| 108. | 1050/2008 | Javed Iabal, |
| 109. | 1051/2008 | Muhammad Haroon, |
| 110. | 1110/2008 | Raja Waheed Murad (Health) |
| 111. | 1111/2008 | Aurangzeb Khan, |
| 112. | 1112/2008 | Qazi Saeed-ur-Rahman, |
| 113. | 1113/2008 | Muhammad Imtiaz, |

EXAMINER
NWFP BOARD OF TECHNICAL
EDUCATION
PESHAWAR

ATTESTED

Attest


11

114.	1135/2008	Muhammad Farooq,
115.	1136/2008	Shahid Farooq,
116.	1137/2008	Abdul Waheed,
117.	1206/2008	Naseem Akhtar,
118.	1207/2008	Syed Arshad Hussain Shah,
119.	1208/2008	Naveed,
120.	1209/2008	Sadaqat Ali,
121.	1234/2008	Saeed Akhtar,
122.	1235/2008	Anwar-ul-Haq,
123.	1236/2008	Syed Husnain Ali Shah,
124.	1242/2008	Muhammad Niaz,
125.	1243/2008	Muhammad Anwar,
126.	1268/2008	Syed Sadaqat Hussain Shah,
127.	1274/2008	Shah Jehan,
128.	1355/2008	Ahmad Farooq,
129.	1356/2008	Muhammad Younas,
130.	1357/2008	Muhammad Shafiq,
131.	1379/2008	Tariq Mehmood,
132.	1380/2008	Muhammad Younas,
133.	1381/2008	Waqar Ahmad,
134.	1382/2008	Muhammad Azhar,
135.	1383/2008	Muhammad Aftab Aziz,
136.	1384/2008	Muhammad Assad,
137.	1385/2008	Rashid Khan,
138.	1386/2008	Mirza Yasir Jamil Baig,
139.	1387/2008	Javed Ibrahim,
140.	1388/2008	Muhammad Nawaz,
141.	1402/2008	Fida Muhammad,
142.	1403/2008	Shah Faisal Khan,
143.	1404/2008	Nasir Bakhtiar Khan,
144.	1405/2008	Tahir Mahmood,
145.	1405/2008	Ajmal Nazir,
146.	1407/2008	Uzair Jadoon,
147.	1425/2008	Muhammad Adnan Khan,
148.	1425/2008	Zahoor Khan,
149.	1427/2008	Wajid Ali Shah,

Attestat
[Signature]

150. 1428/2008 Mahmood Ali,
 151. 1429/2008 Bibi Rizwana,
 152. 1430/2008 Kousar Shaheen,
 153. 1441/2008 Amanullah,
 154. 1442/2008 Gul Khitab Ahmad Turk,
 155. 1443/2008 Muhammad Saeed,
 156. 1444/2008 Muhammad Aslam,
 157. 1445/2008 Mubashar Hassan,
 158. 1446/2008 Wajid Khan,
 159. 1452/2008 Bibi-Gul-E-Shahwar,
 160. 1453/2008 Abdur Razzaq,
 161. 1454/2008 Mehrban Khan,
 162. 1455/2008 Ajaz Ahmad Khan,
 163. 1456/2008 Shujjah Ali,
 164. 1457/2008 Muhammad Nawaz,
 165. 1458/2008 Gul Khitab,
 166. 1459/2008 Mst. Isma Shaheen,
 167. 1562/2008 Mazhar-UI-Haq,
 168. 1563/2008 Muhammad Razaqat,
 169. 1599/2008 Qazi Masood-ur-Rahman,
 170. 1600/2008 Shakeel Ahmad,
 171. 1601/2008 Abid Shah,
 172. 1602/2008 Ghulam Farooq,
 173. 1603/2008 Abdur Rashid,
 174. 1641/2008 Haider Zaman,
 175. 1686/2008 Muhammad Rafique,
 176. 1687/2008 Faqir-ud-Din,
 177. 1688/2008 Azhar Ali Khan,
 178. 1689/2008 Fida Muhammad,
 179. 1690/2008 Zafar Iqbal,
 180. 1691/2008 Muhammad Riaz,
 181. 1697/2008, Sher Afzal,
 182. 1998/2008 Shabir Ahmad,
 183. 1699/2008 Ishtiaq Ahmad,
 184. 1700/2008 Mst. Robina Shaheen,
 185. 1701/2008 Mst. Nasim Akhtar,

ATTES-
 TIFIED

Attestd
 [Signature]

EX-AMINER
 TARIQAT

13

- | | | |
|------|------------|------------------------------------|
| 186. | 1702/2008 | Muhammad Ajmal, |
| 187. | 1703/2008 | Muhammad Anwar Adil, |
| 188. | 1704/2008 | Syed Abbas Ali Shah, |
| 189. | 1746/2008 | Tanveer Ahmad, |
| 190. | 1747/2008, | Aurangzeb, |
| 191. | 1748/2008 | Rasheed Ahmad, |
| 192. | 1749/2008 | Muhammad Daud, |
| 193. | 1750/2008 | Sajjad Ahmad, |
| 194. | 1751/2008 | Ayyaz UR Rehman, |
| 195. | 1752/2008 | Syed Zakir Hussain Shah, |
| 196. | 1753/2008 | Abdul Rashid, |
| 197. | 1754/2008 | Rizwan Khan, |
| 198. | 1755/2008 | Hasrat Saeed, |
| 199. | 1784/2004 | Muhammad Saif ur Rehman, |
| 200. | 1785/2008 | Shah Ali Mardan, |
| 201. | 1786/2008 | Abdul Qayum Shah, |
| 202. | 1822/2008 | Nisar Ahmad Shakir, |
| 203. | 13/2009 | Khalid Khan, |
| 204. | 18/2009 | Saeed Alam, |
| 205. | 31/2009 | Muhammad Ashfaq, |
| 206. | 32/2009 | Sajawal Khan, |
| 207. | 33/2009 | Muzaffar Ali, |
| 208. | 34/2008 | Muhammad Zia-ul-Haque, |
| 209. | 68/2009 | Sagheer Ahmad, |
| 210. | 77/2008 | Samina Mir Alam, |
| 211. | 78/2009 | Tasleem Bibi, |
| 212. | 79/2009 | Farkhanda Sadiq, |
| 213. | 138/2009 | Abdus-Salam Khan, |
| 214. | 139/2009 | Hafiz Muhammad Iqbal Khan Qureshi, |
| 215. | 140/2009 | Hafeez Khan, |
| 216. | 141/2009 | Muhammad Abid, |
| 217. | 142/2009 | Abdul Ghafoor, |
| 218. | 226/2009 | Muhammad Ilyas, |
| 219. | 227/2009 | Muhammad Iqbal, |
| 220. | 228/2009 | Qadir Ahmad, |

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|------|----------|-----------------------|
| 221. | 229/2009 | Nasir Ali, |
| 222. | 230/2009 | Ali Nawaz, |
| 223. | 231/2009 | Wajid Hussain, |
| 224. | 232/2009 | Waheed Khan, |
| 225. | 233/2009 | Muhammad Saleem, |
| 226. | 234/2009 | Mujtaba Ahmad Hashmi, |
| 227. | 235/2009 | Khalid Muhammad, |
| 228. | 246/2009 | Abid Saeed Khan, |
| 229. | 237/2009 | Imran Jalani, |
| 230. | 238/2009 | Asif Awan, |
| 231. | 239/2009 | Aurangzeb |
| 232. | 240/2009 | Khalid Mahmood, |
| 233. | 241/2009 | Muhammad Naeem, |
| 234. | 242/2009 | Khurshid Qamar, |
| 235. | 243/2009 | Nawazish Hussain |
| 236. | 244/2009 | Syed Zafar Ali Shah, |
| 237. | 245/2009 | Muhammad Ishaq, |
| 238. | 246/2009 | Muhammad Pervez, |
| 239. | 247/2009 | Masroor Hussain |
| 240. | 248/2009 | Muhammad Sadique |
| 241. | 249/2009 | Muhammad Younas |
| 242. | 250/2009 | Muhammad Imtiaz |
| 243. | 251/2009 | Maqbool Shah |
| 244. | 252/2009 | Moazzam Khan |
| 245. | 414/2009 | Tahir Usman |
| 246. | 415/2009 | Mir Muhammad |
| 247. | 416/2009 | Naheem Kausar |
| 248. | 246/2009 | Khalida Bibi |
| 249. | 418/2009 | Abida Bibi |
| 250. | 419/2009 | Azim Shah |
| 251. | 433/2009 | Ghazala Bibi |
| 252. | 434/2009 | Riaz Khan |
| 253. | 500/2009 | Mumtaz Khan |
| 254. | 501/2009 | Lal Afsar |
| 255. | 502/2009 | Badri Zaman |
| 256. | 503/2009 | Liaqat |

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F.W. 10/11/2009
P.S. 10/11/2009

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257.	504/2009	Muhammad Shamraiz
258.	505/2009	Ali Bahadur
259.	506/2009	Muhammad Haroon
260.	523/2009	Naurecna Maqsood
261.	524/2009	Yasmeen Akhtar
262.	525/2009	Shabana Nazir
263.	681/2009	Nighat Bibi
264.	682/2009	Waseem Sultan
265.	683/2009	Bibi Hajra
266.	684/2009	Abdul Razaq
267.	685/2009	Fatiha Gul

2. The appellant of Service Appeal No. 1276 of 2007, contended that he was appointed as untrained P.E.T. Teacher in Education Department on 27.6.1990. The appellant being C.T trained, was adjusted against the C.T post on 06.05.1996 on regular basis. He acquired higher qualification of M.A on 25.08.1999. The appellant was entitled to advance increments in the light of the Finance Department notification dated 11.8.1991. The same was not given to him. Some of the teachers came to this Tribunal whose Service Appeals were dismissed in Service Appeal No. 498 of 2006 decided on 24.4.2007. The August Supreme Court of Pakistan, while deciding C.P.L.A No. 525 of 2007 and CPLA No. 526 of 2007 decided that all the teachers were entitled to the advance increments like all other civil servants. On the request of the appellant, the same benefit was not given to him. Hence, he filed the present Service Appeal. As already mentioned, the broad facts and the legal issues in all other appeals are almost on the same lines.

3. The respondents contested the appeal and contended that either the appellants had not submitted applications or their applications were time-barred. And there was no judgment in favour of the appellants.

4. We heard the arguments and perused the record.

The judgment in CPLA Nos. 525 of 2007 and 526 of 2007 is as under:-

3. Learned Additional Advocate General attempted to argue that in view of the higher scale granted to Elementary School Teachers in

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 JUDGE

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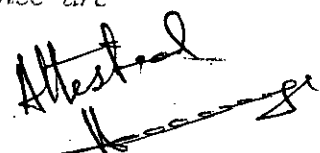
15a

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pursuance of the circular letter dated 07.8.1991, which was personal to them, the petitioners would not be entitled to the incentive of advance increments contemplated by circular letter dated 11.8.1991 but he is unable to cite any principle of law or authority for placing this interpretation. We find that, while circular letter, dated 7.8.1991 exclusively deals with the scales of pay of school teachers in different categories, circular letter dated 11.8.1991, provides for the revision of basic pay scales and grant of annual increments and advance increments for all Provincial civil servants in NWFP without any exception. Since the teachers or the employees in Education Department have never been expressly or impliedly excluded from the operation of the circular letter, view taken by the Tribunal being erroneous cannot be sustained at law. In fact, it suffers from clear misconception of law and misconstruction of the circular letter (supra)."

While disposing of the C.R.P No. 216 and 217 of 2007 in C.P Nos. 525 and 526 of 2007, the August Supreme Court of Pakistan held:-

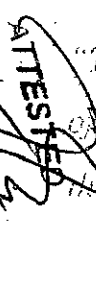
"The learned Addl. Advocate General has contended that this Court while interpreting the circulars in question has taken a view contrary to the correct legal position, according to which private respondents were not entitled to the benefit of advance increments. We are afraid, the learned Addl. A.G instead of pointing out any mistake of law and fact in the judgment made an attempt to re-open the case on merits. The scale of review is very limited and the points already considered in the judgment under review cannot be allowed to be re-agitated in review jurisdiction. These review petitions being without any substance are accordingly dismissed."

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While disposing of Cri. O.P. No. 65 & 67 of 2007, it was held by the August Supreme Court of Pakistan:-

"The learned Addl. A.G. has given an undertaking for implementation of the judgment of this Court within a period of two weeks and in view thereof, this criminal original is disposed of with the direction that the

NWFP
 EXAMINER
 Tribunal
 postmaster

ATTESTED


judgment should be implemented in letter and spirit within two weeks under intimation to the Registrar of this Court."

6. In the above circumstances, and in view of the judgment in rhyme by the August Supreme Court of Pakistan, and keeping in view the provisions of Article 189 of the Constitution of Islamic Republic of Pakistan, we have no other alternative but to declare that all the appellants, after ascertainment that they are the persons similarly placed with the appellants who had previously litigated and in whose favour the judgment mentioned above was given by the August Supreme Court of Pakistan, are entitled to the same benefits as have been given to the appellants of the judgments quoted above. The appeals of such similarly placed persons, after such ascertainment, stands accepted without costs. Each party will bear the cost of the litigation.

7. The official respondents in the above mentioned appeals as well as the other concerned officers/officials in the province are directed to follow the above quoted judgments in their true letter and spirit and without compelling the respective right holders to enter into litigation with the respective official respondents, otherwise the costs of their litigation shall be recovered from the pay and pension as well as person and property of the defaulting concerned officer, though after fixation of responsibility on them as a result of proper enquiry.

8. The remaining similarly placed persons may submit applications/representations to their concerned authorities directly, who shall have to decide their cases as above within a reasonable time.

ANNOUNCED
12.05.2009.

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sd/- Abdul Jalil member
sd/- Bismita Ghosh member

Attested
[Signature]

Date of presentation
Number of cases
Urgency
Special
Date of order
Date of execution

4400 2.6.09
24
24
9.6.09
9.6.09

Annexure (B)

17



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

No. FD (SR-1) 2-123/2010
Dated Peshawar the: 15-12-2010

To
The Accountant General,
Khyber Pakhtunkhwa, Peshawar.

Subject: GRANT OF ADVANCE INCREMENTS ON THE BASIS OF ACQUIRING
HIGHER QUALIFICATION.

Dear Sir,

I am directed to refer to your letter No.H-24(74)/Peshawar/Vol-III/2009-10/68 dated 12/01/2010, on the subject noted above and to say that the matter has thoroughly been examined in consultation with concerned Departments during the meetings held on 10-08-2010, 14-10-2010, 18-10-2010, 15-11-2010, 29-11-2010 and 09-12-2010 towards the queries raised by your office, which are clarified as under:-

2. The Supreme Court of Pakistan in its Judgement dated 19-07-2007 vide para No.2 has observed in the following words:-

"It would be seen that the petitioners were placed in BPS-14 by reason of having acquired the qualification of BA / BSc, 2nd division which is the prescribed qualification for the post of Elementary School Teacher".

3. In light of the said observations of the honourable Apex Court, the record of the concerned teacher was gone through, which revealed that the said teacher had already availed the benefit of B-14 from B-9 which is the prescribed qualification for appointment as CT School Teacher. As such in the light of the Judgement of the Apex Court referred to above the said petitioner is entitled to get two increments on the basis of acquiring higher qualification of Master Degree.

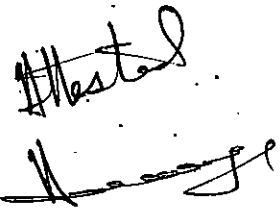
- i) Those C.T teachers who are in BPS-9 and possessing higher qualification of MA/MSc but have not been placed in BPS-14, are entitled to 4 advance increments while those who have availed BPS-14 are entitled to 2 advance increments on MA/MSc.
- ii) Advance increments will be allowed from the date of obtaining higher qualification or from the date of appointment which ever is later in term of para 5(ii) of Pay Revision Rules 1991, issued vide Finance Department's letter No.FD(PRC)1-1/89, dated 11th August, 1991.
- iii) Those teachers who had secured their appointment or acquired higher qualification after 01-12-2001 are not entitled for the facility of the advance increments on higher qualification in view of the Pay Revision introduced vide Finance Department's letter No.FD(PRC)1-1/2001, dated October 27, 2001.
- iv) Recovery may be made from those teachers/employees who have availed more advance increments over and above their entitlement on academic qualifications as prescribed in para-5(a,b,c &d) of Revision of Basic Scale 1991.

Yours Faithfully,


(KHURSHID ALAM)
Section Officer (SR-I)

12-8

1377



Annexure 1C,

18

Dist. Govt. NWFP-Provincial
District Accounts Office Abbotabad
Monthly Salary Statement (March-2016)



Personal Information of Mr ABDUL MAJID d/w/s of ABDUL KHALIQ

Personnel Number: 00009910 CNIC: 1310109153281 NTN: 0
Date of Birth: 25.06.1971 Entry into Govt. Service: 10.01.1993 Length of Service: 23 Years 02 Months 023 Days

Employment Category: Active Permanent

Designation: CERTIFICATED TEACHER 80000381-DISTRICT GOVERNMENT KHYBE

DDO Code: AD6041-GHS BANDA PIR KHAN

Payroll Section: 003 GPF Section: 001 Cash Center: 0

GPF A/C No: EDUAD016770 Interest Applied: Yes GPF Balance: 170,513.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2015 Pay Scale Type: Civil BPS: 15 Pay Stage: 23

Wage type		Amount	Wage type		Amount
0001	Basic Pay	31,800.00	1000	House Rent Allowance	1,566.00
1300	Medical Allowance	1,500.00	1948	Adhoc Allowance 2010@ 50%	6,390.00
2148	15% Adhoc Relief All-2013	3,585.00	2174	Adhoc Relief Allow-2014	2,390.00
2199	Adhoc Relief Allow @10%	3,180.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription - Rs1965	-1,965.00	3501	Benevolent Fund	-180.00
3511	Addl Group Insurance	-13.00	3604	Group Insurance	-115.00
3609	Income Tax	-182.00	3990	Emp.Edu. Fund KPK	-100.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6501	HBA Loan Principal Instal	124,800.00	-1,040.00	90,480.00
6505	GPF Loan Principal Instal	300,000.00	-8,335.00	249,990.00

Deductions - Income Tax

Payable: 7,763.00 Recovered till March-2016: 4,294.00 Exempted: 3105.14 Recoverable: 363.86

Gross Pay (Rs.): 50,411.00 Deductions: (Rs.): -11,930.00 Net Pay: (Rs.): 38,481.00

Payee Name: ABDUL MAJID

Account Number: 03600000372

Bank Details: MEEZAN BANK LIMITED, 421501 Manshera Road, Near SNGPL Office Manshera Road, Near SNGPL Offi, Abbotabad

Leaves: Opening Balance: Aailed: Eamed: Balance:

Permanent Address:

City: ATD

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: abdulmajidpno9910@gmail.com

Abbotabad
[Signature]

System generated document in accordance with APPM 4.6.12.9 (SERVICES/29.03.2016/15:46:15/v1.1)

* All amounts are in Pak Rupees

* Errors & omissions excepted

Annexure (D)

19

Dist. Govt. NWFP-Provincial
District Accounts Office Abbotabad
Monthly Salary Statement (April-2016)



Personal Information of Mr ABDUL MAJID d/w/s of ABDUL KHALIQ

Personnel Number: 00009910 CNIC: 1310109153281 NTN: 0
Date of Birth: 25.06.1971 Entry into Govt. Service: 10.01.1993 Length of Service: 23 Years 03 Months 022 Days

Employment Category: Active Permanent

Designation: CERTIFICATED TEACHER 80000381-DISTRICT GOVERNMENT KHYBE

DDO Code: AD6041-GHS BANDA PIR KHAN

Payroll Section: 003 GPF Section: 001 Cash Center: 0

GPF A/C No: EDUAD016770 Interest Applied: Yes GPF Balance: 180,813.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2015 Pay Scale Type: Civil BPS: 16 Pay Stage: 19

Wage type		Amount	Wage type		Amount
0001	Basic Pay	32,575.00	1000	House Rent Allowance	1,818.00
1210	Convey Allowance 2005	5,000.00	1300	Medical Allowance	1,500.00
1948	Adhoc Allowance 2010@ 50%	6,180.00	2148	15% Adhoc Relief All-2013	3,480.00
2174	Adhoc Relief Allow-2014	2,320.00	2199	Adhoc Relief Allow @10%	3,257.00
5002	Adjustment House Rent	2,268.00	5011	Adj Conveyance Allowance	12,864.00
5012	Adjustment Medical All	7,353.00	5309	Adj. 15% Adhoc Allowance	6,776.00
5801	Adj Basic Pay	31,715.00	5898	Adj. Adhoc Allowance 50%	4,620.00
5950	Adj:Adhoc Relief All-2014	1,470.00	5964	Adj Adhoc Relief All 2015	2,302.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription - Rs2275	-1,965.00	3501	Benevolent Fund	-250.00
3511	Addl Group Insurance	-19.00	3604	Group Insurance	-173.00
3609	Income Tax	-1,284.00	3990	Emp.Edu. Fund KPK	-125.00
4200	Professional Tax	-200.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6501	HBA Loan Principal Instal	124,800.00	-1,040.00	89,440.00
6505	GPF Loan Principal Instal	300,000.00	-8,335.00	241,655.00
6506	Recovery loan Pri. Instal	106,420.00	-5,000.00	101,420.00

Deductions - Income Tax

Payable: 11,435.68 Recovered till April-2016: 5,578.00 Exempted: 4574.00 Recoverable: 1,283.68

Gross Pay (Rs.): 125,498.00 Deductions: (Rs.): -18,391.00 Net Pay: (Rs.): 107,107.00

Payee Name: ABDUL MAJID

Account Number: 03600000372

Bank Details: MEEZAN BANK LIMITED, 421501 Manshera Road, Near SNGPL Office Manshera Road, Near SNGPL Offi, Abbottabad

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: ATD

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: abdulmajidpno9910@gmail.com

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* All amounts are in Pak Rupees

* Errors & omissions excepted

Attested
[Signature]

Annexure E
 POP in P/O Abdul Majid of GHS B.P. Khan
 2 ADU increment of MA w.e.f. 1st 5th to 31st 2016
 Form on 12/30/1940

Distt Accounts Officer
 Amroha

~~106420/-~~
 Total POP

Period	M	Head	Due	Drum	Out POP
5/12-11/12	7	BP	20400	21800	1400x7 = 9800
12/12-11/13	12	"	21100	22500	1400x12 = 16800
12/12-11/14	12	"	21800	23200	1400x12 = 16800
12/14-6/15	7	"	22500	23900	1400x7 = 9800
7/15-11/15	5	"	28085	30895	1810x5 = 9050
12/15-3/16	4	"	29990	31800	1810x4 = 7240
					<u>69690</u>
9/12-3/16	47	AR10	6180	5970	210x47 = 9870
12-3/16	47	AR11	1854	1791	63x47 = 2961
12-3/16	45	AR12	4500	4780	280x45 = 12600
12-3/16	33	AR13	3375	3585	210x33 = 6930
4-3/16	21	AR14	2250	2390	140x21 = 2940
3/16	9	AR15	2999	3180	181x9 = 1629
					<u>36930</u>

Annexure (F)

21

To,

The Accountant General
Khyber Pakhtunkhwa Peshawar.

SUBJECT

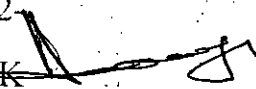
DEPARTMENTAL APPEAL AGAINST THE DEDUCTION/RECOVERY OF TWO (02) ADVANCE INCREMENTS OUT OF FOUR (04) ADVANCE INCREMENTS FROM THE SALERIES OF THE APPELLANT WITH EFFECT FROM 01/04/2016, THESE (04) FOUR ADVANCE INCREMENTS OF M.A/M.SC WERE GRANTED IN PURSUANCE OF THE JUDGMENT DATED 12/05/2009 PRONOUNCED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR IN APPELLANT'S INDIVIDUAL SERVICE APPEAL IN THE LIGHT OF JUDGMENT OF APEX COURT DATED 19/07/2007, BOTH JUDGMENTS HAD ATTAINED FINALITY, AND SAME IS IMPLEMENTED IN LETTER AND SPIRIT.

Sir,

The submissions of the appellant are as under;

- 1) That the appellant is a school teacher in Elementary and Secondary Education Department Abbottabad and presently working in the capacity of C.T teacher in BPS No 16.
- 2) That appellant was granted 04 Advance Increments of M.A/M.Sc in pursuance of the judgment dated 12/05/2009 pronounced by Khyber Pakhtunkhwa Service Tribunal Peshawar in appellant's individual service appeal, the said judgment was not only attained its finality but implemented letter and spirit in the year 2010, and since then appellant was being granted/taken these Advance Increments regularly.
- 3) That in the meanwhile under the Notification No FD(SO SR-1)2-123/2014 dated 30/05/2014 issued by Finance Department KPK Peshawar appellant was entitled one premature increment from the year 2007 in BPS # 15 on the basis of upgradation, similarly he was entitled for upgradation from BPS # 15 to BPS # 16 and under the law his pay was to be fixed as (From Rs 31800/-PM BPS 15 in Rs 34645 /- PM BPS 16) but utmost surprisingly, District Comptroller of Account Abbottabad with out any notice

Attested



given to the appellant or without formal/official written order or any legal and factual reason, his pay was fixed illegally as Rs 32575/- PM and deducted two Advance Increments.

4) That in the above circumstances, when law point already decided by KPK Service Tribunal and Supreme Court of Pakistan and that is final too, and implemented letter and spirit, later on, it can not be changed/disturbed/reversed by specially those respondents (District Comptroller of Account Abbottabad) who were party in the decided settled previous final litigation.

5) That It is also submitted and well pertinent to mentioned here, the very legal position that the letter No. FD (SR-1) 2-123/2010 dated 15/12/2010 issued by Secretary Finance Department Khyber Pakhtunkhwa Peshawar is directly against the clearly decided case of Supreme Court of Pakistan, as referred portion taken from the Para no 02 of judgment dated 19/07/2007 is not the observations of Supreme Court, it is the arguments of Additional Advocate General KPK and next relevant portion of the same Para no 2 of the judgment is left and not taken / mentioned in the under-questioned letter and this situation creates confusion which is not only against the operative part of the Judgment dated 19/07/2007 but against the letter and spirit of Supreme Court Judgment, and admittedly contempt of Court.

In the light of above mentioned very serious circumstances and Law, it is therefore, requested that on acceptance of this departmental appeal the impugned action deduction/recovery of 02 advance increments in respect of M.A/M.Sc taken by District Comptroller of Account Abbottabad with effect from 01/04/2016 be set-aside (cancelled) and all amount which is refunded or the amount is deducted from the salary of the appellant may be ordered the refund of same.

Attest

Dated 01/05/2016

Abdul Majid
CT teacher, Government High School Banda Pir khan Abbottabad.

23

Annexure G,

of sender

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3-5-16

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps.

50

Received a registered letter addressed to

Accountant General

Date Stamp

*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 100 (in words) One hundred

Insurance fee - Rs. Ps. (in words) } Weight (in words) } Kilo Grams

Name and address of sender: Peshawar

Attested
[Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.827/2016
Abdul Majid (CT) Teacher,
GHS, Banda Pir Khan, Abbottabad.

VERSUS

... **Appellant**

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. District Comptroller of Accounts, Abbottabad.
3. Government of Khyber Pakhtunkhwa through Secretary, Finance Department, Peshawar.
4. Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education Department), Peshawar.

... **Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.03

Respectfully Sheweth

Preliminary Objections:

1. That the appellant has no cause of action.
2. That the appellant has no locus standi.
3. That the appeal in hand having no merits is not maintainable.
4. That appeal is time barred.
5. This Honourable Tribunal lacks jurisdiction to entertain the appeal.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
7. That under the cessation of advance increment on higher educational qualification Act No.IX of 2012, claim of the Appellant stood abated.

Facts:

- 1) Relates to Service/Court record, hence need not comments.
- 2) Correct to the extent that Respondent No.3 issued, letter dated 15.12.2010 containing direction that recovery may be made from those teachers/ employees who have availed extra advance increments over and above their entitlement on academic qualification.
- 3) Incorrect. In the light of Finance Department letter dated 15.12.2010; Respondent No.2 has rightly deducted/recovered 02 advance increments out of 04 erroneously allowed to the appellant as he has availed the benefit of BPS-14 on qualification of BA/BSc.
- 4) Do not relate to Respondent No.3.

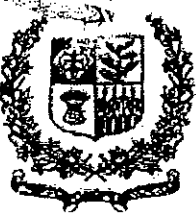
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Grounds:

- (a) Incorrect: The issue of availing extra advance increments over & above the entitlement was agitated and examined thoroughly by the Accountant General Office (Pay Fixation Party) vide letter No.PFP/ R.B.S.2011/DIK/2014-15/248 dated 10.12.2014(**Annex-I**). The position emerged therein was also shared with Law Department vide Finance Department letter No.FD(SOSR-I)2-123/2015 dated 01.09.2015(**Annex-II**) with the request for their views on legal position of the case. Thereafter, Law Department vide letter No.SO(OP-II)/LD/5-7/2012-Vol-II/21708-09 dated 16.09.2015 (**Annex-III**) has confirmed that Finance Department letter dated 15.12.2010 with regard to the recovery of extra advance increments/invalid implementation is correct and such implementation was declared invalid. Hence recovery was ordered to be effected from those teachers/employees who have availed more advance increments over and above their entitlement on academic qualification (**Annex-IV**).
- (b) Incorrect: As explained above Respondent No.3 has committed no irregularity/illegality.
- (c) Incorrect: As explained vide Para 2 & 3 of Facts and (a) of "Grounds".
- (d) Incorrect: As explained above.
- (e) Incorrect: Action of Respondent No.3 is as per rules.
- (f) Incorrect: Action taken by Respondent No.3 is not against the Judgement of any Court/Service Tribunal, but as per Judgement of august Supreme Court of Pakistan and in the interest of justice & public exchequer.
- (g) Incorrect: As explained in preceding paras. Respondent No.3 can even not think of contempt of any court.
- (h) Incorrect: As explained in preceding paras.
- (i) Incorrect: Appeal of the appellant is time barred.
- (j) Incorrect: Action of Respondent No.3 is legal.
- (k) Incorrect. Action taken by Respondent No.3 is in accordance with the Judgement of august Supreme Court.

It is therefore, humbly prayed that appeal of the appellant being devoid of merit may be dismissed.


SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA,
FINANCE DEPARTMENT
h **(RESPONDENT NO.3)**



Office of the
Accountant General
 Khyber Pakhtunkhwa Peshawar
 Phone: 091 9211250-53

No. PFP/R.B.S.2011/DIK/2014-15/248
 To,

Dated 10.12.2014

The Accounts Officer,
 HAD Section.

Subject: **STOPPAGE OF RECOVERY AS WELL AS ALLOWING ADVANCE INCREMENTS ON MA/MSC.** P-239c

Please refer to your Memo No.HAD-24(76)Swat/Vol-X/2014-15 dated 16.1.2015 on the subject noted above.

2. As you are aware of the facts that appointment to the post of CT made through different method of recruitment (i) from PTC (Now PST) being FA/FSc/D.com and (ii) directly on the basis of FA/ FSc/D.com qualification in BPS-09. Before 1.6.1991 those PST teachers whose appointment were made on the basis of Metric Plus existing professional qualification granted 02 and 03 advance increments on possessing or acquiring higher qualification i.e. FA,FSc/D Com and BA/BSc/B.com respectively while in the case of CT whose appointment were made on basis of FA plus prescribed professional qualification granted 03 advance increments on possessing or acquiring BA/BSc/B.com vide Finance Deptt: letter No.FD(SR-I)1-67/82 dated 24.8.1983.

3. After introduction of RBPS-1/6/1991, those PTC teachers who have passed FA/FSc/D.com in the Second Division were allowed BPS-09 and BPS-14 to those CT teachers who have passed BA/BSc/B.com in the Second Division. In this way the CT teachers who joined the Education Deptt: in the capacity of PTC and later on appointed to the post of CT already drawn 05 advance increments on basis of FA/FSc/D.com plus BA/BSc.B.com and CT, teacher whose appointment made on the basis of FA/FSc/D.com achieved 03 advance increments (on basis of BA/BSc.B.com) in light of Finance Deptt: letter dated 24.08.1983 therefore, those CT teachers who have already availed 05 increments (as PST) and 03 increments

are entitled only for one increment on possessing or acquiring MA/MSc/M.com qualification as regards those employees whose appointment was made on the basis of BA/BSc.B.com in BPS-14 and not availed any advance increments are entitled only for 02 advance increments on MA in light of Finance Deptt: letter No.(PRC)1-1/89 dated 07.08.1991.

4. As regards Arabic teacher whose appointed made on the basis of honor in Arabic and granted BPS-14 on BA/BSc.B.com Second Division are entitled for two advance increments on possessing or acquiring MA/MSc/M.com while those teacher whose appointment made on the basis of MA Arabic or Shahadatul Alamia from the recognized Madaris are not entitled for any advance increments on MA/ MSc/M.com but the Education Deptt: granted 04 advance increments to the CT and Arabic teacher on acquiring MA/MSc/M.com qualification which are over and above of the entitlement in light of the Finance Deptt: letter dated 11.8.1991 as well as judgment made by the honorable Supreme Court of Pakistan in Civil Petition No.1425 of 2011.(copy enclosed).

5. The subject issue referred to the Pay Fixation Party has been examined and reached to the conclusion that as per contents of Para 2 (2) of the Khyber Pakhtunkhwa, Cessation Of Payment Of Arrears On Advance Increments On Higher Education Qualification Act-2012 clearly indicate that recovery of advance increments paid to the Govt: employees on acquiring higher qualification in light of any order made, instruction issued decision, Judgment or orders of any courts or tribunal, including High Court or the Supreme Court, may not be recovered from the recipients Govt: employees as these were paid validly. The Pay Fixation Party is of the view that the advance increments availed over and above their entitlement as explained in the preceding Paras has to be reduced & brought to the actual pay in light of Finance Deptt: letter dated 15.12.2010.

6. It is requested that Finance Deptt: may also be advised to share the view of the Pay Fixation Party with the law Deptt: for their opinion and issue clear instruction so that the doors of litigation closed for ever.


ACCOUNTS OFFICER (FPF)

Annex-II



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (SOSR-1) 2-123/2015
Dated Peshawar the: 01-09-2015

To: The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Deptt,
Peshawar.

Subject: - APPEAL OF CT TEACHERS FOR STOPPING RECOVERIES BEING
MADE ON ACCOUNT OF ADVANCE INCREMENTS GRANTED ON
HIGHER EDUCATIONAL QUALIFICATION.

Dear Sir,

I am directed to enclose herewith a self-explanatory application alongwith its enclosures received from certain teachers of Khyber Pakhtunkhwa as well as reply / comments of AG Office (communicated through their letter No.HAD-24(76)/Vol-X/Swat/2014-15/3391 dated 07-04-2015) thereon regarding the subject cited above and to state that sub-section (2) of section 2 of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on advance Increments on Higher Educational Qualification Act, 2012, states "Any order made, instructions issued, decision, judgment or order o any Court or Tribunal including a High Court or the Supreme Court, implemented immediately before the commencement of this Act shall be deemed to have been validly made, issued and implemented by the date of commencement of this Act, 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". As against this, the AG Office has opined with reference to the Pay Fixation Party that advance increments availed of over and above the entitlement are to be brought to the actual limit in light of Finance Department's letter dated 15-12-2010 (copy enclosed). The said two point of views are mutually contradictory.

2. In light of above, your valuable comments with regard to legal position between the two opposing views is solicited; please.

o/c
SECTION OFFICER (SR-I)

(12) Letters in (Office Work Local D)

Mosleh
2/9/15



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

Annex = III

No. SO(OP-II)/LD/5-7/2012-VOL-II / 21708-09
DATED: PESHAWAR THE 16 SEPT, 2015.

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Subject: **APPEAL OF CT TEACHERS FOR STOPPING RECOVERIES
BEING MADE ON ACCOUNT OF ADVANCE INCREMENTS
GRANTED ON HIGHER EDUCATIONAL QUALIFICATION.**

Dear Sir,

I am directed to refer to your Department's letter No. FD(SOSR-1)2-123/2015 dated 01.09.2015 on the subject noted above and to state that Section-2 (2) of Khyber Pakhtunkhwa Cessation of Payment of arrears on advance increments on Higher Educational Qualification Act, 2012 and views of Accountant General with regard to Finance Department letter No.FD(SR-1)/2-123/2010 dated 15-12-2010 are not mutually contradictory.

The savings given to the implemented instructions or orders in Section-2(2) of the Act ibid is with regard to valid implementation till or before the commencement of the Act ibid. Finance Department letter dated 15-12-2010 was with regard to the recovery of invalid implementation and such implementation was declared invalid vide para-iv of the said letter. Recovery was ordered to be effected from those teachers/ employees who have availed more advance increments over and above their entitlement on academic qualifications, of the commencement of the Act ibid, therefore it cannot be said that legislature, attributed savings to invalid acts.

Hence, this Department is in league with the Pay Fixation Committee on the point that the advance increments availed over and above the entitlement has to be reduced and brought to the actual pay in light of Finance Department letter dated 15-12-2010 mentioned above.

Yours Faithfully,

Section Officer (Opinion-II)

Endst: of even No. & date.

A copy is forwarded to the PS to Secretary Law Department.

Secretary Finance
Khyber Pakhtunkhwa

Diary No. 15519

Date: 16/9/15

On file pl.
D/C (SR-1) 18/9/15
D/S (R-11)
SOSR-1) 17/9
18/9/15

Section Officer (Opinion-II)

SR-1 79
Date - 18.9.

P-18/K

Amra-IV



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (SOSR-1) 2-123/2015
Dated Peshawar the: 21-09-2015

- To:
1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Deptt.
Peshawar.
 2. The Accountant General, Khyber Pakhtunkhwa,
Peshawar.

Subject: APPEAL OF CT TEACHERS FOR STOPPING RECOVERIES
BEING MADE ON ACCOUNT OF ADVANCE INCREMENTS
GRANTED ON HIGHER EDUCATIONAL QUALIFICATION

Dear Sir,

I am directed to refer to the subject noted above and to state that the matter has been examined in consultation with Law, Parliamentary Affairs & Human Rights Department. Copy of the advice of that Department contained in their letter No.SO (OP-II)/LD/5-7/2012-VOL-II/21708-09 dated 16th Sep, 2015 is sent herewith for further necessary action accordingly, please.

Encl: (As above)

[Signature]
SECTION OFFICER (SR-I)

Copy for information is forwarded to the following Teachers with reference to their joint application addressed to the Chief Secretary Khyber Pakhtunkhwa:-

1. Mr. Hidayatullah, CT, Govt. Higher Secondary School, Mingora.
2. Mr. Muhammad Ghafoor, CT, GHSS, Sajban Swat.
3. Mr. Muhammad Nabi, SCT, GHSS, Sajban Swat.

[Signature]
SECTION OFFICER (SR-I)

UNI
J/C (SR-I) 18/7/15
SOSR-1 2-123/15