

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No.1318 of 2018

Amendment service appeal no 1318/2018

Iqbal Jehan.....Appellant

VERSUS

Secretary of KPK Finance Peshawar & others.....Respondents

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Appellant in person



Iqbal Jehan

Cell No.03469487315

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No.1318 of 2018

Diary No. 8262

Dated 12-10-2023

Amendment service appeal no 1318/2018

Iqbal Jehan S/o Talimand R/o Shahdara, Watkay Mingora Tehsil
Babuzai, District Swat.....**Appellant**

VERSUS

- (1) Secretary of Khyber Pakhtunkhwa Finance Peshawar.
- (2) Account General Khyber Pakhtunkhwa Peshawar.
- (3) District Account Officer Swat.
- (4) Director of Elementary and Secondary Education Peshawar
.....**Respondents**

Service Appeal under Section 4 of service tribunal Act 1974
Against the letter of DAO Swat, issued by vide Endst No,
DAO-Swat/ P.P/ RR-1/1230 dated 12-11-09 that the
personal Pay beyond the maximum is not allowed to the
teacher cadre.

Respectfully Sheweth:

1. That the appellant was appointed as certified teacher C.T in the Education Department in 1982.
2. That the Appellant after passing the B. Ed Examination, was promoted to SET in 1987.
3. That the appellant has obtained higher qualification by passing the M. Ed Exam on 25/01/2000 and the director of secondary

Education of KPK Peshawar has given the sanction of three advance increments der Endst No. 1846-48 dated 01-07-2000 from the date of passing M. Ed Exam. **(Copy of Sanction attached as annexure A).**

4. That the DAO Swat has issued the appellant the pay slip in which the appellant was awarded three advance increments. By getting one increment the pay of the appellant reached the maximum of the pay scale Rs. 5490/- and the remaining two increments were awarded as a personal pay (PP). **(Copy of pay slip is attached as annexure B).**
5. That the appellant has not got the annual increments of 2001, on the basis of reaching the maximum of the pay scale BPS 16.
6. That the basic stages of BPS 16 were 15 but in revised pay scale 2001, these states were increased to 30, the appellant requested to the DAO swat for fixing his pay in the revised pay scale and the two increments awarded as P. P may be adjusted in the revised pay scale. But verbally the appellant was informed that these increments will be fixed in the pay after allowing move over from BPS-16 to BPS 17. **(Copy of Basic pay Scale attached as annexure C).**
7. That the DAO swat has drawn back the advance increments as awarded as PP in 2003 with out showing any reason and the appellant requested DAO Swat for the said Increment. Again the appellant was informed verbally that the same increment are to be adjusted after getting move over.
8. That the appellant was allowed move over from BPS-16 to BPS-17 by the director of secondary education school and literacy NWFP Peshawar under Endst No. 8651-71 dated 08-07-2004, then the appellant apply for the new pay slip to the DAO Swat issued a new pay slip to the appellant without the said increment were not fixed, the DAO Swat remained silent in this matter. **(Copy of Notification of More over attached as annexure D).**

9. That the appellant applied to DAO Swat for the said increments at 11-04-2009 the DAO Swat replied under Endst No. DAO Swat/PE/PR-1-1-1230 dated 12-11-2009 that the said increments are not allowed to the teaching cadre under the latter No. AG. NWFP Peshawar No. H-24/ Swat-Tank/Vol1/135 dated 24-07-2001 and finance department letter No. FD (SR-1) 2-123/2002 dated 08.02-2003. **(Copies of letters are attached as annexure D-E).**
10. That the 1st letter has been issued by the AG NWFP Peshawar to the secretary to government of NWFP finance department in this letter the respondent No. 2 has conformed in Para 3 that "A large No. of teacher in different categories were drawing pay at the maximum of their pay scale even if they possess higher qualification for which advance increments have been allowed and get full benefit of advance increments due to drawing salaries / pay at the maximum of their respective pay scale, the presumption of this office if correct may please be confirmed. The 2nd letter is been issued by the respondent No. 1 explained that facility / concession of advance increments as personal pay in respect of Govt officials vide para 5(1) of circular letter No. FD (PRC) 1-1/89 dated august, 11-1991 is exclusive meant for the afore mentioned carders and the said benefit is not admissible as general principle in case of basic pay scale rules 1983 finance depart, regrets its inability to accede to the view point of accountant general office NWFP Peshawar.
11. That on this point the said benefit is not allowed to the teaching cadre which is discrimination of the rules and regulation the appellant submitted Writ Petition in the Peshawar High Court at dated 21-02-2010. The Peshawar high court at swat bench announce the order that "This petition is transmitted to Khyber Pakhtunkhwa Service Tribunal For adjudication, office is directed to sent original file to KPK service tribunal and shall retain Photocopy of the same for office record. **(Copy of High Court Order/judgment dated 21.02.2010 attached as annexure F)**

12. That the policy adopted by the respondents to exclude the teaching cadre from the concession otherwise allowed to administrative cadre as professed by respondents is violation of nature justice in reasonable and beyond sound rational beside being ultra vires to fundamental rights guaranteed by the constitutional the said circular letter No. FD (PRC)/1-1 89 dated august 1991 Para 5(ii) clearly explain that "The advance increments shall be allowed at the time of recruitment or acquisition of higher qualification whichever is letter in case where the employee is already at the maximum of the pay scale he may be allowed the number of advance increments beyond the maximum of the pay scale as personal pay to be absorbed at the time of his move over/ promotion. **(Copy of pay revision cell is attached as annexure G).**
13. That the general principles in case of basic pay scale rules 1983, it is clearly explain that "A teacher who possess are acquired master degree shall allowed three advance increments in case of a teacher who possess acquire Master degree in education M. Ed and also master degree in any academic subject shall be allowed six advance increments. **(Copy of scheme of basic pay scale attached as annexure H)**
14. That the appellant is entitled for the said increments stated above, under the following grounds.

LEGAL GROUNDS:-

- A. That the reply of respondent No. 3 dated 12.11.2009 is wrong, against the law rules and justice.
- B. That when once any benefits are given than the respondents have no power to withdraw these benefits from the appellant.

- C. That the appellant have the right to receive the above said increments, in view of the higher qualification and experience.
- D. That the appellant have the rights to fixed the salary in the increased stages.
- E. That there is no discrimination should be made in the administrative cadre and the teaching cadre.
- F. That the other ground should be taken during hearing.

It is, therefore, requested that the above two increments as PP and also one annual increments of 2001 may be allowed to the appellant according the law and rules.

Appellant in person



Iqbal Jehan

Cell No.0346-9487315

CERTIFICATE:

It is certified that no such like appeal is either pending or decided by this Hon'ble Court.



DEPONENT

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No.1318 of 2018

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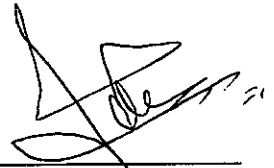
Iqbal Jehan.....**Appellant**

VERSUS

Secretary of KPK Finance Peshawar & others.....**Respondents**

AFFIDAVIT

I, Iqbal Jehan S/o Talimand R/o Shahdara, Watkay Mingora Tehsil Babuzai, District Swat, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT