

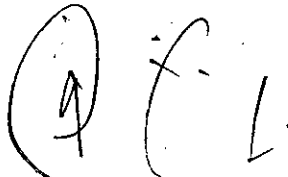
13.06.2016

Counsel for the appellant, and Mr. Daud Jan, Supdt
alongwith Mr. Usman Ghani, Sr. GP for respondents present.

Vide our detailed judgment of to-day in the connected
service appeal 755/2012 titled "Saleem Khan-vs- Director
Education (FATA), Khyber Pakhtunkhwa, Peshawar and others",
this appeal is also dismissed as per detailed judgment referred
above. Parties are left to bear their own costs. File be consigned
to the record room.

ANNOUNCED

13.06.2016



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

vide order sheet dated 05.09.2013, , in connected appeal No.755/12,
this appeal is adjourned to 4-12-14

READER

vide order sheet dated 05.09.2013, , in
connected appeal No.755/12, this appeal is adjourned to 12-2-15

READER

vide order sheet dated 05.09.2013, , in connected appeal No.755/12,
this appeal is adjourned to 19-6-15

READER

vide order sheet dated 05.09.2013, , in connected appeal No.755/12,
this appeal is adjourned to 8-10-15

READER

vide order sheet dated 05.09.2013, , in connected appeal No.755/12,
this appeal is adjourned to 10-12-15

READER

vide order sheet dated 05.09.2013, , in connected appeal No.755/12,
this appeal is adjourned to _____

READER

vide order sheet dated 05.09.2013, , in connected appeal No.755/12,
this appeal is adjourned to _____

READER

5.9.2013

Vide order sheet dated 5.9.2013 in connected Service Appeal No. 755/12, this appeal is adjourned to 7.10.2013.

READER

Vide order sheet dated 5.9.2013 in connected Service Appeal No. 755/12, this appeal is adjourned to 7-11-13..

READER

Vide order sheet dated 5.9.2013 in connected Service Appeal No. 755/12, this appeal is adjourned to 31-12-13..

READER

Vide order sheet dated 5.9.2013 in connected Service Appeal No. 755/12, this appeal is adjourned to 21-3-14..

READER

Vide order sheet dated 5.9.2013 in connected Service Appeal No. 755/12, this appeal is adjourned to 15-5-14..


READER

Vide order sheet dated 5.9.2013 in connected Service Appeal No. 755/12, this appeal is adjourned to 13-6-14..

READER

20.6.2013

Counsel for the appellant and Mr. Muhammad Jan, GP with Daud Jan, Supdt. for the respondents present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 8.7.2013.


READER

8.7.2013

Counsel for the appellant and Mr. Muhammad Jan GP for the respondents present. In pursuance of Khyber Pakhtunkhwa Service Tribunal (Amendment) Act 2013, the Tribunal is incomplete, therefore, case to come up for the same on 5.9.2013.


READER

5.9.2013

Vide order sheet dated 5.9.2013 in connected Service Appeal No. 755/12, this appeal is adjourned to 7.10.2013.

READER

Vide order sheet dated 5.9.2013 in connected Service Appeal No. 755/12, this appeal is adjourned to _____.

READER

23.01.2013.

No one is present on behalf of the appellant. Mr. Sherafgan Khattak, AAG with Mr. Muhammad Aqeel and Mr. Daud Jan, Supdt for the respondents present. Written reply has not been received on behalf of the respondents and requested for time. To come up for written reply/comments on 13.03.2013.


MEMBER


MEMBER

13.3.13

Counsel for the appellant, and Shahabud Din, Senior Auditor for respondent No. 4 with Mr. Arshad Alam AGP for the respondents present. The learned AGP needs time to contact respondents No. 1 to 3. To come up for written reply of all the respondents on 28.5.2013.


MEMBER


MEMBER

28.05.2013.

Clerk to counsel for the appellant and Usman Ghani, SGP with Ashrafud Din, Senior Auditor and Muhammad Irshad, SO (Litigation) for the respondents present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 20.6.2013.


READER

Appeal No. 765/2012,
Mr. Mansoor Khan.

6. 5.12.2012

Counsel for the appellant present and heard.

Contended that the appellant is entitled to the grant of arrears of graded pay/annual increments according to the judgment of the Hon'ble Supreme Court of Pakistan, granting graded pay/annual increments to untrained Teachers for their un-trained period and Notification dated 30.3.2009 but without arrears. The appellant was also allowed the same but without arrears against which he preferred a departmental appeal but with no response. Hence, the instant appeal. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 23.1.2012 for submission of written reply.

Member.


7. 5.12.2012

This case be put up before FB-11 for further proceedings.

Chairman.

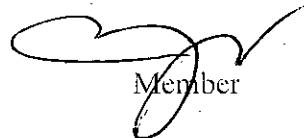
3.9.2012

Counsel for the appellant present and requested for adjournment. Case adjourned to 17.10.2012 for preliminary hearing.


Member.

17.10.2012

Munshi to Counsel for the appellant present and requested for adjournment. Case adjourned to 14.11.2012 for preliminary hearing.


Member

14-11-2012.

Counsel for appellant present.
Request for adjournment to
come up for p.H. on 5-12-2012.

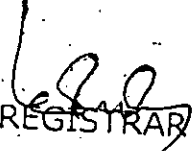


Member.

Form - A

FORM OF ORDER SHEET

Court of Khyber Pakhtunkhwa Service Tribunal, Peshawar

Case No. 763/2012

S.No.	Date of Order Proceedings	Order or Other Proceedings with signature of Judge or Magistrate
1.	06-7-12	The Appeal of Mr. <u>Kashmir Khan</u> Submitted today by Mr. M. Asif Yousofzai, Advocate may be entered in the Institution Register and put up to the worthy Chairman for Preliminary Hearing.  REGISTRAR
2.	19-7-2012	The case is entrusted to Primary Bench for Preliminary Hearing, to be put up there on 3-9-2012.  CHAIRMAN

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No. 763 /2012

Mr. Kashmir Khan, PST

V/S

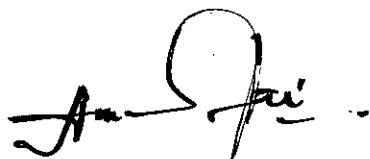
Education Department.

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-03
2.	Copy of Relevant Page of S/Book	- A -	04-10
3.	Copy of Judgment	- B -	11-12
4.	Copy of Notification	- C -	13
5.	Copy of Appeal	- D -	13
6.	Vakala Nama	-----	14

APPELLANT
Kashmir Khan

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No. 763 /2012

A. W. J. Peshawar
Bar No. 7000
Case No. 779
Date 06/7/12

Mr. Kashmir Khan, PST,
GPS, Kadi No.3, Gandab, Mohmand Agency.

APPELLANT

VERSUS

1. The Director Education (FATA), Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
3. The Agency Education Officer, Mohmand Agency.
4. The Agency Accounts Officer, Mohmand Agency.

RESPONDENTS

.....

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974
FOR GRANTING ARREARS OF GRADED PAY/
ANNUAL INCREMENT WITH EFFECT FORM
28.3.1976 TO 14.11.1990 AND AGAINST NOT
TAKING ACTON ON THE DEPARTMENTAL APPEAL
WITHIN STATUTORY PERIOD.**

.....

PRAYER:

**THAT ON ACCEPTANCE OF THIS APPEAL, THE
RESPONDENTS MAY BE DIRECTED TO GRANT
ARREARS OF ANNUAL INCREMENTS OF
UNTRAINED PERIOD BEING HIS LEGAL RIGHTS.
ANY OTHER REMEDY, WHICH THIS AUGUST
TRIBUNAL DEEMS FIT THAT MAY ALSO BE
AWARDED IN FAVOUR OF APPELLANT.**

RESPECTFULLY SHEWETH:

1. That the appellant was appointed as untrained PTC Teacher vide order dated ~~28.3.1976~~ and after passing PTC on ~~14.11.1990~~, the appellant was allowed graded pay of PST post. All entries are recorded in the Service Book relevant pages of which are attached as Annexure-A.
2. That recently the august Supreme Court of Pakistan has granted graded pay/annual increments to untrained teachers for their untrained period. Thus, in light of the Judgment of the Supreme Court, the Government has issued a Notification on 30.3.2009 where in annual increments have been allowed to all untrained teachers of their untrained period but without arrears. Copies of Judgment and Notification are attached as Annexure-B and C.
3. That as the appellant was also allowed only fixation of untrained period with effect from ~~28.3.1976~~ to ~~14.11.1990~~ but no arrears have been give. Therefore, the appellant filed departmental appeal for his claim and waited for statutory period but no reply has been received so far. Hence, the present appeal on the following grounds amongst the others. Copy of Appeal is attached as Annexure-D.

GROUND:

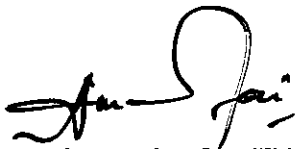
- A) That not awarding the arrears of annual increment of untrained period and not taking action on the departmental appeal within 90 days is against he law, and norms of justice.
- B) That the appellant fully performed duty during period of untrained service, therefore, the appellant is fully entitled to the arrears of annual increments.
- C) That as it has already been held by the Superior Courts that the pay is not a bounty of state but a right of an employee, therefore, the arrears of annual increments can not be denied.

- D) That even under principles of fair play and justice the appellant is entitled to the arrears of his annual increments.
- E) That the appellant has not been treated according to law and rules and principles of equity.
- F) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT
Kashmir Khan

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

66 J

A

(4)

(For use in Police Department only)

Heirs

passed p.t.c exam (condensed course) under Roll No. 738 in session 1990, in dept. Exam. Edu. Deptt. obtained 160 marks out of 400 marks. R. D. on 14-10-1990.

- 1.
- 2.
- 3.

Administrative Agency

A. No. Mohmand

Verification Roll No. , dated received back

Left thumb-impression

Qualifications	Date	Qualifications	Date
English		First Arts	
Pashtu		B. L. or B.A.	
Urdu		Pledership examination	
Plan-drawing		Training School final examination	
Finger print		Other qualifications	
Drill instructing		<u>Passed the SSC Examination</u>	
Court duties		<u>from the BISE Peshawar</u>	
Reserve duties		<u>held April, 1971 in Third Division</u>	
		<u>Under Roll No 10099</u>	

Dist. Inspector of Schools Administrative Agency

N.B.—A line to be drawn under the qualification possessed

ATTESTED

کتابخانه اولیٰ عمرانیات

1990

1976 سے

5

Note.—The entries in this page should be renewed or re-attested at least every five years, and the signature in lines 9 and 10 should be dated.

1. Name -- Kashmir Khan.

2. Race -- Afghan

3. Residence -- village Masood Mohmand Agency.

4. Father's name and residence -- Umara Khan.

5. Date of birth by Christian era nearly as can be ascertained (3.10.1952) Third October nineteen hundred & fifty two.

5-5 1/2

6. Exact height by measurement --

7. Personal marks for identification --

8. Left hand thumb and finger impression of (non-gazetted) officer --

Little Finger.



Ring Finger.



Middle Finger



Fore Finger.



Thumb.



9. Signature of Government servant --

Kashmir Khan

10. Signature and designation of the Head of the Office, or other Attesting Officer --

[Signature and stamp of the Head of the Office]

ATTESTED

6

PIC Post
G.P.S. Alkengar No 2
(Mokhand Agency)

Whether substan-
tive or officiating
and whether
permanent or
temporary

If officiating
state—
(1) substantive
(2) whether
appointed or
not under
C. S. No.

Pay in
post

Additional
pay for
qualifying

Other
allowances

Pay of
employee

Government
service

165/- PM (Fixed) ✓
10 1/2 (PM) ✓

395/- PM (Fixed) ✓
5

do do
Mrs. Lal Khar
Karnal - do

do do
B. Soot-Kyap

31-79
12-79

12-80
17-80

Service verified from
to 30-11-81 for the acquisition
of the Office Records.
Bills of the Office Records.

Agency Inspector of Schools
Mokhand Agency, Chahandi.

Agency Inspector of Schools
Mokhand Agency, Chahandi.

Agency Inspector of Schools
Mokhand Agency, Chahandi.

8	9	10	11	12	13	14	15
Signature of Government servant	Signature and designation of the head of the office or other attesting officer in attestation columns 8 to 10	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Signature of the head of the office or other attesting officer	Reference to any record of punishment or censure, or reward or praise of the Government servant
<i>(Handwritten signature)</i>	<i>(Handwritten signature)</i> Inspector of Schools Mohmand Agency	30-12-77	<i>(Handwritten signature)</i>	<i>(Handwritten signature)</i> D.L.S. Mohmand Agency	Leave. Allocation of periods of leave on average pay up to four months for which leave salary is debited to another Government Period to which debitable	<i>(Handwritten signature)</i>	Appointed against P.T.C. Post vide District-Inspector of Schools Mohmand Agency Endt No: 133-152
<i>(Handwritten signature)</i>	<i>(Handwritten signature)</i> D.L.S. Mohmand Agency	30-12-79	Transfer to D.S.	<i>(Handwritten signature)</i>	PAY FIXED IN THE NATIONAL SCALES OF PAY (RULES, 1977) OF Rs. 3512 Fixed 5177.	<i>(Handwritten signature)</i>	28.3.76 <i>(Handwritten signature)</i> Distt. Inspector of Schools Mohmand Agency
<i>(Handwritten signature)</i>	<i>(Handwritten signature)</i> A.I.E. Mohmand Agency	30/4/83	Transfer to P.P.S.	<i>(Handwritten signature)</i> Mohmand Agency	OFFICE OF THE ASSISTANT ACCOUNTANT GENERAL N.W.F.P. Peshawar	<i>(Handwritten signature)</i>	Service Verified from 10-4-76 to 30-4-80 for the Acquittance Rolls of the Office Records.
<i>(Handwritten signature)</i>	<i>(Handwritten signature)</i> A.I.E. Mohmand Agency			Arrear of Allowance of Pay. <i>(Handwritten)</i> Allowance including <i>(Handwritten)</i> From 3/7/79 to <i>(Handwritten)</i> Vide Token No 11676 dated 20/7/78 amounting to 70/-	Asstt Accountant General Asstt Accounts Officer N.W.F.P. Peshawar <i>(Handwritten signature)</i>	<i>(Handwritten signature)</i>	Service Verified from 1-12-82 to 20-12-82 for the Acquittance Rolls of the Office Records. <i>(Handwritten signature)</i> Agency Inspector of Schools Mohmand Agency, Ghallana
				Session 1979	Equal to Half Pay Pay Viz Rs 15750 Admitted for Payment	Person Equal to Half Pay Pay Viz Rs 15750 Admitted for Payment	<i>(Handwritten signature)</i> Asstt. Accounts Officer N.W.F.P. Peshawar

ATTESTED

Asstt. Accounts Officer
N.W.F.P. Peshawar

(8)

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state— (i) substantive appointment or (ii) whether service counts for pension under Art. 371, C. & E.	Pay in substantive post	Additional pay for officiating	Other emoluments falling under the term "Pay"	Date of appointment	Signature Government servant
BPS 7 560-23-620							
G.P.S. Said Khan kare No. II	offy		560/ fixed			7/83	✓
do			560/-			12/83	✓
do			560/-			12/83	✓
do			560/-			12/84	✓
do			560/-			12/85	✓
do			560/-			12/86	✓
<p>Pay Fixation in P. S. 1983 Pay Fixed in Sub. Pay Scale No. 17, 560-23-1020 of No. 20/2-1983 with date of next increment on 1.12.1983</p>		<p>Fixation of Index Pay 1983 Index Pay fixed at Rs. 7673 on 1.7.1983</p> <p>Sub. General Pak: Khasra Sub. Officer, Paswan</p>					
<p>Sub. Officer, Paswan Pay Scale revised</p>		<p>BPS No 7-750-31-1370 7-750-PM Fixed 1-87</p>					
do	off/Temp	Rs	750/-	PM Fixed		12/87	✓
do	Temp/off	Rs	750/PM	fixed		12/87	✓
do	Temp/off	Rs	750/PM	do		12/88	✓
do	do	Rs	750/PM			12/89	✓
do	do	Rs	750/PM			14.11.90	✓

Mohammad

8	9	10	11	12	13	14	15	
Signature of Government servant	Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government servant
					Nature and duration of leave taken	Allocation of periods of leave on average pay up to four months for which leave salary is debitable to another Government servant		
✓	<i>Mohmand</i>				Office Of The Agency Accounts Officer Mohmand Pay Fixed in Revised Pay Scale No. 7 (7500-31000) @ Rs. 7500 w.e. 1-1-1987 with next increment on 1-12-1987			
✓	<i>Mohmand</i>							Service verified from 12/85 to 13/6/86 from the acceptance roll of the office record.
✓	<i>Mohmand</i>				151/4/11/83			
✓	<i>Mohmand</i>				Drawn Rs 157/50 as GR for 1982.			
✓	<i>Mohmand</i>	30/6/87	Revision of pay	<i>Mohmand</i>	Agency Accounts Officer			
✓	<i>Mohmand</i>	30/11/87			1981	Equal to Half Pay Pay Viz Rs 157/50 Admitted for Payment During the month 12/87 Under Token No. 077/87 Dated 14/12/87		Services Verified w.e. 1/6/86 to 2/3/86 from The Office record 86
✓	<i>Mohmand</i>	30/11/88			1980	Equal to Half Pay Pay Viz Rs 157/50 Admitted for Payment During the month 12/83 Under Token No. 1532 Dated 18/12/83		AEO Mohmand Agency
✓	<i>Mohmand</i>	30/11/89	passed etc under law. Awarded graded pay.					
✓	<i>Mohmand</i>	13/11/90						
✓	<i>Mohmand</i>	30.11.90	Guest	<i>Mohmand</i>	Agency Accounts Officer N. W. F. P. Poshawar			

10

1991

Office of The Agency Accounts Officer Mohmand

Pay Band in Revised Pay Scale No. @ Rs. With next increment on	Whether substantive appointment or (i) whether service counts towards pension (Agency Accounts Officer) 1971, C.S. & F.	Pay to substantive post	Additional pay for officiating	Other emoluments falling under the term "Pay"	Date of appointment	Signature of Government servant
		B.P.S No 7 Rs 750-			31-1370	
G.P.S Said Khan KOR			Rs. 781/P.M		1-12-90	
G.P.S Kas Kadi Noh			Revised D.P.S 1991 B.P.S No 7 (Rs 1095-60-1995)			
do	do		Rs 1275/-		6/99	
do	do		Rs 1335/P.M		1-12-91	
do	do		Rs 1398/P.M		1-12-92	
do	do		Rs 1457/P.M		1-12-93	
do	do		Revised entries in D.P.S No 7			
do	do		(1480-81-2695)			
do	do		Rs. 1966/- P.M		1-6-94	
do	do		Rs 2047/P.M		1-12-94	
do	do		Rs 2128/P.M		1-12-95	
do	do		Rs 2209/P.M		1-12-96	
do	do		Rs 2290/P.M		1-12-97	

J.R. B
11

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT: MR. JUSTICE IFTIKHAR MUHAMMAD CH., CJ.
MR. JUSTICE ABDUL HAMEED DOGAR,
MR. JUSTICE MUHAMMAD NAWAZ ABBASI,
MR. JUSTICE FAZIR MUHAMMAD KHORRAM,
MR. JUSTICE MIAN SHAKIRULLAH JAN,
MR. JUSTICE M. JAVED BUTTAR,
MR. JUSTICE RAJA FAYYAZ AHMED.

C. A. NO. 898/2006.
(On appeal from the judgment dated 07.09.2002
passed by NWFP Service Tribunal, in
Appeal No. 1419/2000)

Government of N.W.F.P.

Appellant(s)

VERSUS

Muhammad Ismail.

Respondent(s)

For the Appellant(s):

Sardar Shaukat Hayat, Addl. A.G., NWFP.

For the Respondent(s):

Mr. Shahid Ahmed, ASC.

Date of Hearing:

06.09.2007.

ORDER

IFTIKHAR MUHAMMAD CH., CJ.: - It is an admitted position that in the appointment letter, the respondent was appointed as SET on temporary and Ad-hoc basis wherein Scale and pay alongwith allowances have also been mentioned. We, therefore, are of the view that in such situation, he was entitled for the pay of the post, thus no interference is called for. Dismissed.



*Jd Iftikhar Muhammad Chaudhry, J
Jd Abdul Hameed Dogar, J
Jd Muhammad Nawaz Abbasi, J
Jd Fazir Muhammad Khokhar, J
Jd Mian Shakirullah Jan, J
Jd M. Javed Buttar, J
Jd Raja Fayyaz Ahmed, J*

022/7
18-10-07
3
1-8
6-82
9-10-2007
12-10-07
ISLAMABAD
06.09.2007
(MAZ) 12/9/07

Certified to be true copy

Majid Akbar
Superintendent
Supreme Court of Pakistan
ISLAMABAD
9/10/2007

ATTESTED
A

GOVERNMENT OF NWFP
FINANCE DEPARTMENT.

(REGULATION WING)

No. FD(PRC)5-2/2009.
Dated Peshawar, the 30.3.2009.

To

The Secretary to Government of NWFP,
Elementary & Secondary Education,
Department.

Subject: GRANT OF ANNUAL INCREMENT/RUNNING PAY TO UNTRAINED
TEACHERS IN THE LIGHT OF SUPREME COURT JUDGEMENT.

Dear Sir,

I am directed to refer to your letter No. SO(B&A)/15/08/Advance Increment dated February 27, 2009 on the subject noted above and to state that the Provincial Government is pleased to allow the benefit of annual increments to the untrained teachers from the date of their regular appointment.

No arrears shall however, be admissible/payable prior to the date of issuance of this circular.

Sd/-

(ABDUL JABBAR)
SECTION OFFICER(SR-I)

Encl. of even Number & Date.

Copy for information & necessary action to the :-

- 1) Accountant General NWFP.
- 2) All District Coordination Officers.
- 3) All District/Agency Accounts Officers NWFP/FATA.

Sd/-

SECTION OFFICER(SR-I)

GOVERNMENT OF NWFP
ELEMENTARY & SECY:EDU: DEPTT.

No. SO(B&A)/16/Budget/09.
Dated Peshawar, the 6.4.2009.

Encl. of even Number & Date.

Copy of the above is forwarded to :-

- 1) The Director (E&S) Education NWFP Peshawar.
- 2) The Director(PITE) Peshawar.
- 3) The Director Curriculum & Teachers Education Abbottabad.
- 4) All Executive District Officers(E&SE) in NWFP.
- 5) The P.S. to Secretary(E&S) Education Department.

(ABDUL HAMID MARWAT)
SECTION OFFICER(B&A)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, NWFP PESHAWAR.

No. 1500/75 /F.No.64/Gen Information/GB. Dated Peshawar the 27/4/2009.

Copy of the above is forwarded for necessary action & strict compliance to the:

- 1-24 All the Executive Distt. Officers (E&SE) in NWFP.
- 25 Section Officer (B&A) Govt. of NWFP, E&SE Deptt: w/r to his No. cited above for information, please
- 26 PA to Director Local office.

Assistant Director (Post)
(E&SE), NWFP, Peshawar.

G.

ATTESTED

D

(13)

To

The Director of Education,
FATA, FATA Secretariat,
Warsak Road, Peshawar.

Subject: Appeal for Allowing Arrears of Annual Increments of Untrained Period i.e. 28.3.1976 to 14.11.1990.

Sir,

It is submitted respectfully that I was appointed as P.T.C. by the competent authority through order dated 28.3.1976. I passed P.T.C on 14.11.1990 after which I was allowed graded pay of PTC post. Thus, my total period of untrained service is 28.3.1976 to 14.11.1990.

Now the Provincial Government has allowed the benefits of graded pay / annual increments for untrained period but without any arrears. This is great injustice to me because I had fully done my duty during untrained period and given 100% research.

Therefore, it is requested that I may please be allowed arrears of annual increments/graded pay for untrained period.

I shall be very thankful to your good-elf.

dt. 2.4.2012.

Yours Obediently *Ubi*
Kashmir Khan P.T.C
SPS-Kadi-3 Gandab
Mohmand Agency.

Supdt.
put up.
2/4/12

ATTESTED

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar.

Kashmir Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Educational Dept. (Respondent)
(Defendant)

I/we Kashmir Khan (Appellant).

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

[Signature]
(CLIENT)

ACCEPTED

[Signature]
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No 763/2013

Appellant.

Kashmir Khan
CPS Kadi No 3

Versus.....

1. The Director Education (FATA) Khyber Pakhtoon Khwa Peshawar.
2. The Secretary Government of Khyber Pakhtoon Khwa Finance Deptt; Peshawar.
3. The Agency Education Officer, Mohmand Agency.
4. The Agency Accounts Officer Mohmand Agency.

Respondents.

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action/locus standi to file the instant appeal.
2. That the appellant has not come to this honorable tribunal with clean hands.
3. That the appellant has concealed material facts from this honorable tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is not maintainable.
6. That the appeal is bad due to non-joinder and mis-joinder of necessary parties.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1 AND 3 IN
APPEAL NO. 763

RESPECTFULLY SHEWETH.

1. Incorrect. Pertains to record.

2. Incorrect. Each and every case has its own merit. Pay fixation Annual increments Pension etc: is the responsibility of Finance Department. Respondent No.1 is proforma respondent. Principal respondent is respondent No.2.

3. Incorrect. Relates to finance department. Pay fixation is the responsibility of Accounts officer concerned Respondent No.1 has no power to interfere in the subject case.

GROUND.

a). Incorrect. No action has been taken by the respondent department which is against the law and norms of justice. According to notification issued by the Finance Department Khyber Pakhtoon Khwa Peshawar Graded Pay has been awarded to the Appellant (Copy of the same is attached for ready reference).

b). Incorrect. As explained above in Para-a above.

c). Incorrect. Each and every case has its own merit and circumstances.

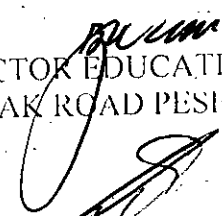
d). Incorrect. The honorable Service Tribunal is requested to direct the appellant to approach the Finance Department/Agency Accounts Officer Mohmand at Ghalanai being right forum for the purpose.

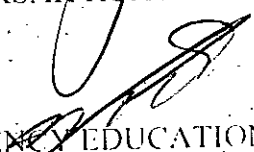
E. Incorrect. All Government Employees are bound to perform their duties according to rules/regulations as no one is allowed to violate the Government rules. The present

E. Incorrect. All Government Employees are bound to perform their duties according to rules/regulations as no one is allowed to violate the Government rules. The present appeal has also been treated by the competent authority according to rules.

F). This office is also seeks permission to advance other grounds at the time of arguments.

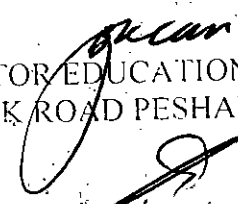
In the light of above facts it is humbly requested to please dismiss the appeal very graciously having no legal force.


DIRECTOR EDUCATION FATA
WARSAK ROAD PESHAWAR.


AGENCY EDUCATION OFFICER
MOHMAND AT GHALANAI.

AFFIDAVIT.

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our knowledge and belief that nothing has been concealed from this honorable tribunal.


DIRECTOR EDUCATION FATA
WARSAK ROAD PESHAWAR.


AGENCY EDUCATION OFFICER
MOHMAND AT GHALANAI.

GOVERNMENT OF NWFP
EDUCATION DEPARTMENT

(REGULATION WING)

No. ED/PRO/S-172007
Dated Peshawar, the 30.3.2009.

The Secretary to Government of NWFP,
Elementary & Secondary Education,
Department.

Subject: GRANT OF ANNUAL INCREMENT/RETRENING PAY TO UNTRAINED
TEACHERS IN THE LIGHT OF SUPREME COURT JUDGEMENT.

Reference: I am directed to refer to your letter No. S/100/1/1008/Advance Increment
dated February 27, 2009 on the subject noted above and to state that the Provincial Government is
pleased to allow the benefit of annual increments to untrained teachers from the date of their
appointment.

No arrears shall however, be admissible prior to the date of issuance of

(AMIR I. JABBAR)
SECTION OFFICER(S&A)

Copy of every Number & Date.

Copy for information & necessary action to the:

- 1. Accountant General NWFP.
- 2. All District Coordination Officers.
- 3. All District/Agency Accounts Officers NWFP/ATA.

SECTION OFFICER(S&A)

GOVERNMENT OF NWFP
EDUCATION DEPARTMENT

Copy of every Number & Date

- 1. Copy of the above is forwarded to the Director (E&S) Education, NWFP Peshawar.
- 2. The Director (PTE) Peshawar.
- 3. The Director Curriculum & Teachers Education, Peshawar.
- 4. All Executive District Officers (E&S), NWFP.
- 5. The P.S. to Secretary (E&S) Education Department.

(AMIR I. JABBAR)
SECTION OFFICER(S&A)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, NWFP PESHAWAR.

No. 64/Gen. Information (E&S) Dated Peshawar the 27/10/2009.

Copy of the above is forwarded for necessary action & strict compliance to the:

- 24. All the Executive Distt. Officers (E&S) in NWFP.
- 25. Section Officer (E&A) Govt. of NWFP, E&S Deptt w/r to his No. cited above for information, please
- 26. PA to Director Local office.

(Signature)
27/10/09
Assistant Director (E&A)
Govt. of NWFP, Peshawar.

(Signature)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Appeal No.763/2012

Mr. Kashmir Khan, PST,

GPS Kadi No.3 Gandab, Mohmand Agency.....(Petitioners).

V E R S U S

Government of Khyber Pakhtunkhwa, Director, Education (FATA) & others.....(Respondents).

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.2


Respectfully Sheweth

1. Pertain to record of Administrative Deptt:
2. In pursuance of judgement of august Supreme Court of Pakistan dated 06-09-2007), the benefit of annual increment was extended / allowed to the untrained teacher from the date of their appointment, without arrear, by the Provincial Government vide letter dated 30-03-2009 wherein, it has clearly been mentioned that no arrear shall however, be admissible **(Annex-I.**
3. As per para-2 above.

Grounds:

- A. Pertains to the record of Administrative Deptt:
- B. Pertains to record of the Administrative Deptt: Anyhow, annual increment was allowed from the date of appointment but without arrear as explained at para-2 above.
- C. Each and every case has its own nature and circumstances and to be dealt with in accordance with its own rules and regulations. In the instant case the appellatant had no right to claim the arrear, as per rules.
- D. As explained at para-2 & C above.
- E. As explained at para-C above.
- F. No comments.

In view of the above, it is therefore, humbly prayed that appeal of the appellatant may be dismissed, being without force.


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



Amal

**GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT
(REGULATION WING)**

NO.FD (PRC) 5-2/2002
Dated Peshawar the: 30-03-2009

To:

The Secretary to Govt. of NWFP,
Elementary & Secondary Education,
Peshawar.

Subject:

**GRANT OF ANNUAL INCREMENT / RUNNING
PAY TO UNTRAINED TEACHERS IN THE LIGHT
OF SUPREME COURT JUDGEMENT.**

Dear Sir,

I am directed to refer to your letter NO.SO (B&A) 1-16/08/
Advance Increment dated February 27, 2009 on the subject noted above and
to state that the Provincial Government is pleased to allow the benefit of
annual increments to the untrained teachers from the date of their regular
appointment.

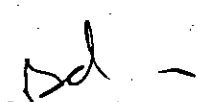
No arrears shall however, be admissible / payable prior to the
date of issuance of this circular.


(ABDUL JABBAR)
SECTION OFFICER (SR-1)

Endst: of even No & date.

Copy for information & necessary action to the:

1. Accountant General NWFP.
2. All District Coordination Officers.
3. All District / Agency Accounts Officers NWFP / FATA.


SECTION OFFICER (SR-1)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Appeal No.763/2012

Mr. Kashmir Khan, PST,
GPS Kadi No.3 Gandab, Mohmand Agency.....(Petitioners).

V E R S U S

Government of Khyber Pakhtunkhwa, Director, Education (FATA) &
others.....(Respondents).

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.2

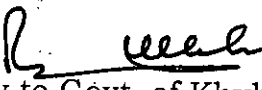
Respectfully Sheweth

1. Pertain to record of Administrative Deptt:
2. In pursuance of judgement of august Supreme Court of Pakistan dated 06-09-2007), the benefit of annual increment was extended / allowed to the untrained teacher from the date of their appointment, without arrear, by the Provincial Government vide letter dated 30-03-2009 wherein, it has clearly been mentioned that no arrear shall however, be admissible **(Annex-I.**
3. As per para-2 above.

Grounds:

- A. Pertains to the record of Administrative Deptt:
- B. Pertains to record of the Administrative Deptt: Anyhow, annual increment was allowed from the date of appointment but without arrear as explained at para-2 above.
- C. Each and every case has its own nature and circumstances and to be dealt with in accordance with its own rules and regulations. In the instant case the appellant had no right to claim the arrear, as per rules.
- D. As explained at para-2 & C above.
- E. As explained at para-C above.
- F. No comments.

In view of the above, it is therefore, humbly prayed that appeal of the appellant may be dismissed, being without force.


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



Annex I

**GOVERNMENT OF N.W.F.P
FINANCE DEPARTMENT
(REGULATION WING)**

NO.FD (PRC) 5-2/2002
Dated Peshawar the: 30-03-2009

To:

The Secretary to Govt. of NWFP,
Elementary & Secondary Education,
Peshawar.


Subject:

**GRANT OF ANNUAL INCREMENT / RUNNING
PAY TO UNTRAINED TEACHERS IN THE LIGHT
OF SUPREME COURT JUDGEMENT.**

Dear Sir,

I am directed to refer to your letter NO.SO (B&A) 1-16/08/
Advance Increment dated February 27, 2009 on the subject noted above and
to state that the Provincial Government is pleased to allow the benefit of
annual increments to the untrained teachers from the date of their regular
appointment.

No arrears shall however, be admissible / payable prior to the
date of issuance of this circular.


(ABDUL JABBAR)
SECTION OFFICER (SR-1)

Endst: of even No & date.

Copy for information & necessary action to the:

1. Accountant General NWFP.
2. All District Coordination Officers.
3. All District / Agency Accounts Officers NWFP / FATA.


SECTION OFFICER (SR-1)

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 763 /2011

Kashmir Khan

V/S Education Department.

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-6) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

RESPECTFULLY SHEWETH:

- 1 Incorrect while Para 1 of the appeal is correct.
- 2 Incorrect the august Supreme Court of Pakistan has granted graded pay/annual increments to untrained teachers for their untrained period. The instant case is the same nature case and judgments of Superior Courts are to be applied as precedent in same nature cases. Finance department acts on the requisition of high ups. Moreover, respondents No.1 and respondents No.2 are responsible respondents.
- 3 Incorrect and not replied according to Para 3 of the appeal.

GROUNDS:

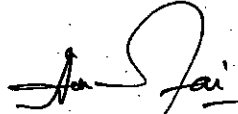
- A) Incorrect, while Para-A of appeal is correct.
- B) Not replied according to Para B of the appeal.

- C) Incorrect, Supreme Court of Pakistan has granted graded pay/annual increments to untrained teachers for untrained period. The instant case is also same nature case and judgment of Superior Courts is to be applied as precedent in same nature cases.
- D) Not replied according to Para D of the appeal.
- E) Incorrect, while Para-E of appeal is correct.
- F) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

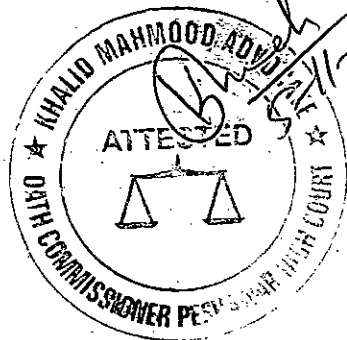
APPELLANT

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.




DEPONENT