

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

EP#24, 53,639/20201

Diary No. 10164

IN

Dated 2-1-2024

SERVICE APPEAL # 12889/2020

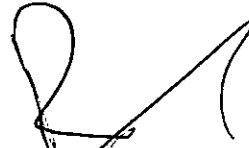
Mr. Jalal Ud Din & others.....Appellant.

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents.

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**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

EP#24, 53,639/2023

IN

Service Appeal # 12889/2023

Mr. Jalal Ud Din & others.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa & others..... Respondents

**AFFIDAVIT**

I, **Motasim Billah Shah**, Secretary, Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor has their defense been struck off.

DEPONENT

  
Motasim Billah Shah

Secretary  
E&SE Department Peshawar



2 JAN 2024



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

**AUTHORITY LETTER**

It is certified that **Mr. Amjid Ali, Section Officer (Litigation-II)** Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit parawise comments on behalf of Secretary Elementary & Secondary Education Department Peshawar **SA#12889/2021 Case Titled Mr. Jalal Ud Din & others vs Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.

**DEPONENT**

  
**Motasim Billah Shah**

**Secretary**

**E&SE Department Peshawar**



**DISTRICT EDUCATION OFFICE (FEMALE) SWABI**

No: 3174 Dated: 11 / 12 / 2023

To,

The Additional Deputy Commissioner  
Finance Swabi

Subject: **AREARS OF CONVEYANCE ALLOWANCE**

Memo:

Apropos the subject:

1. Reference Govt: of KPK Finance department regulation wing, notification No. SO (SR-IV)/FD/1-2/conveyance allowance/023 Dated Peshawar the 25<sup>th</sup> January 2023 wherein conveyance allowance to the employees of Education department during (summer & winter) Vacation as well as reimbursement of arears w.e.f the date of deduction of the said allowance, has been allowed.

2. In perspective of the above said notification, a demand for the areas under the said Allowance was duly submitted in your good office but the response is still awaited due to unknown reasons.

3. In continuation of the above notification, another notification No SO(SR-IV)/FD/1-2/conveyance allowance/2023 Dated Peshawar the 16<sup>th</sup> Feb. 2023, has been issued in light of which it is more obvious that the arears of conveyance allowance shall be paid on monthly basis instead of one time (Lump-Sum).

4. The claims of arears of such conveyance allowance cases in the form of source-II, have been sent to DAO Swabi, but he refused to entertain and issued a letter No DAO/Swabi/ADMIN/879-99 Dated 31-10-2023. Wherein it was stated that in continuation to this office letter No DAO/Swabi/ADMIN/882 Dated 25-10-2023 on the subject arears of conveyance allowance. It is astonishing that all the subject mentioned arears/claims pertaining to the financial year 2011-12 only be availability of budget certificate from the District Finance Office Swabi.

5.Hence, the matter is subjudiced and the court is showing zero-tolerance in the implementation of its judgement on the subject. So, it is an embarrassing situation for this office.

It is, therefore, requested that the DAO Swabi may be directed firmly to ensure the implementation of court judgment without any further delay by clearing all the conveyance allowance arrears bills. In case of dishonoring the court decision, it will have consequences for behind one's imaginations.

**(SOFIA TABASSUM)**  
**DISTRICT EDUCATION OFFICER**  
**FEMALE SWABI**

Copy forwarded to the; -

1. Registrar Service Tribunal Peshawar.
2. SO Litigation Civil Secretariat Peshawar.
3. AD Litigation DSE Peshawar.

*[Handwritten Signature]*  
*11/12/2023*  
Dy. **DISTRICT EDUCATION OFFICER**  
**FEMALE SWABI**



**DISTRICT EDUCATION OFFICE (MALE) SWABI**

No: 13336 Dated: 12 / 12 / 2023

To,

The Additional Deputy Commissioner  
Finance Swabi

Subject: **AREARS OF CONVEYANCE ALLOWANCE**

Memo:

Apropos the subject:

1. Reference Govt: of KPK Finance department regulation wing, notification No. SO (SR-IV)/FD/1-2/conveyance allowance/023 Dated Peshawar the 25<sup>th</sup> January 2023 wherein conveyance allowance to the employees of Education department during (summer & winter) Vacation as well as reimbursement of arears w.e.f the date of deduction of the said allowance, has been allowed.

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6  
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**(IRFAN ALI)**  
**DISTRICT EDUCATION OFFICER**  
**MALE SWABI**

Copy forwarded to the; -

1. Registrar Service Tribunal Peshawar.
2. SO Litigation Civil Secretariat Peshawar.
3. AD Litigation DSE Peshawar.

  
**DISTRICT EDUCATION OFFICER**  
**MALE SWABI**

## OFFICE OF THE DISTRICT EDUCATION OFFICER MALE SWABI

### Notification:

Whereas, Saeed Ullah SPET, Abdur Raziq SAT and others filed WP No.2053-P/2014 versus Government of Khyber Pakhtunkhwa, wherein the petitioners have mainly questioned the vires of the Khyber Pakhtunkhwa cessation of payment of arrears on Advance increments on Higher Educational Qualification Act, 2012. This Petition was allowed vide judgement dated 08-06-2017.

The Government of Khyber Pakhtunkhwa aggrieved of this judgements and filed civil petition in the apex court of Pakistan. The impugned judgement was set aside by the apex court of Pakistan and the matter was remanded to the High Court for re-deciding the writ petition afresh, the appeal stands allowed.

And whereas this writ petition was disposed off vide a fresh judgement dated 14-06-2023, the operative part is reproduced as under without commenting upon the vires of the "Act" and view of the statement of the learned Advocate General, Khyber Pakhtunkhwa disposal of the petition in the light of circular letter dated 11-08-1991 and in case the petitioners fulfill the condition mentioned there in for the grant of Advance increments prior to the cut-of date, they be allowed such benefits. It is, however clarified that only the case of the present petitioners shall be claim such benefits, having not agitated the matter at relevant time."

And whereas while section-2 of the KP cessation of payment of arrears on advance increments on higher educational qualification.

1. Not with standing anything contained in any decision, judgement and order of any tribunal or court, including High Court or Supreme Court of Pakistan, for the purpose of any claim for payment of arrears on account of advance increments on higher educational qualification sanctioned in pursuance of any order, letter, office memoranda, notification, instructions and other instruments issued before 01-12-2011. Such orders, letters, office memoranda, notifications, instructions and other instruments shall be deemed to be non-existent, ceased or revoked and no further claim what so over on the basis of these instruments shall be entertained and all cases in respect of such claims pending in any court or tribunal including a High Court and Supreme Court of Pakistan shall stand abated.
2. Any order made, instruction issued, decision, judgement or order of 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."

And whereas the initial recruitment date of Mr. Saeedullah SPET was 27-11-2002 and that of Mr. Abdur Raziq SAT was 09-01-2007, which are after cut-of-date 01-12-2001, therefore, at the time of appointment of these petitioners the notification 11-08-1991 was not in the field.

Now therefore, in pursuance of the order dated 14-06-2023 of the Honorable High Court Peshawar on the basis of notification dated 11-08-1991 and in the light of section -2 of the Act of 2012, the claim cannot be entertained and is not justiciable. Reliance is placed on un reported judgement of the August Supreme Court of Pakistan dated 29-08-2013 passed in civil petition No: 360/2013. In the light of judgement without commenting upon the vires of the Act, the claim of the petitioners stands regretted in the best interest of public service.

(IRFAN ALI)  
DISTRICT EDUCATION OFFICER  
MALE SWABI

Endst No: 12 Chh-47 /Dated Peshawar the 06 / 11 /2023  
Copy forwarded for information and necessary action to the:

1. Additional Registrar Judicial Honorable Peshawar High Court Peshawar.
2. Advocate General KP Peshawar.
3. Head Master GHS Panjman.
4. Saeedullah SPET and Abdur Raziq SAT GHS Panjman

DISTRICT EDUCATION OFFICER  
MALE SWABI



WP. No 3801-P/2014

Advance increments

Farhan Khalid  
Citigatan Office  
DEO (M/F) Swabi

0301-8351107