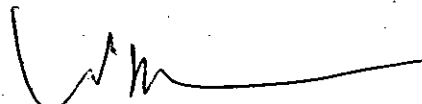


08.03.2021.

Nemo for the appellant. Adl. A.G for the respondents present.

It is already past 04.00 P.M. and despite repeated calls no one is in attendance to represent the appellant. Dismissed for non-prosecution. File be consigned to the record.

  
(Atiq-ur-Rehman Wazir)

Member (E)

  
Chairman

ANNOUNCED

08.03.2021

24.08.2020

Nemo for parties.

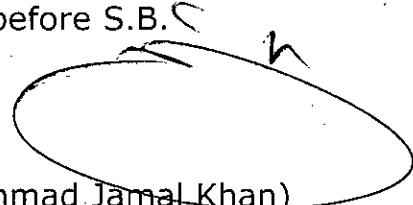
Written reply of respondents is still awaited. Notice be issued to parties for 21.10.2020 for reply/comments, before S.B.

Member (J)

21.10.2020

Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today, therefore, learned counsel for appellant is not available today. Mr. Kabirullah Khattak, Additional Advocate General is present.

Neither written reply on behalf of respondents submitted nor any representative of the department is present despite issuance of notices vide preceding order sheet dated 24.08.2020. Again notices be issued to the respondents for submission of written reply/comments for 09.12.2020 before S.B.



(Muhammad Jamal Khan)  
Member (Judicial)

09.12.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Respondents have not furnished requisite reply/comments despite last chance. The matter is, therefore, posted to D.B for arguments on 08.03.2021.

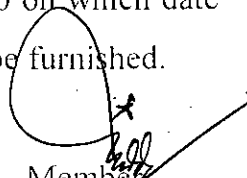


Chairman

03.03.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks time to contact the respondents and submit written reply. Adjourned to 09.04.2020 on which date the requisite reply/comments shall positively be furnished.

  
Member

09.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 01.07.2020 for the same. To come up for the same as before S.B.


  
Reader

01.07.2020

Junior counsel for the appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Written reply was not submitted. Learned AAG requested for adjournment in order to submit written reply/comments. Last chance is given. To come up for written reply/comments on 24.08.2020 before S.B.

  
Member (J)

21.10.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney on preadmission notice, for the respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief.

Adjourned to 02.12.2019 before S.B.

  
Chairman

02.12.2019

Counsel for the appellant present.

Certain appeals having proposition similar to the appeal in hand have already been admitted and posted for hearing before a Larger Bench of this Tribunal.

In view of similarity, instant appeal is also admitted. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 27.01.2020 before the S.B.

  
Chairman

27.01.2020

Clerk to counsel for the appellant present. Written reply not submitted. Irfan Assistant representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 03.03.2020 before S.B.

  
Member

22.05.2019

Learned counsel for the appellant present. Heard.

The appellant (SST) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, for the grant of benefit of one (01) advance increment on the basis of M.A Qualification in the pay scale (BPS-16) w.e.f 01.09.2003 i.e. from the date of his promotion as SET.

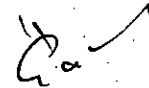
Let pre-admission notice be issued to the respondents for 05.07.2019 before S.B. To come up for reply and preliminary arguments on the date fixed before S.B.



Member

05.07.2019

Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for reply and preliminary arguments on 02.09.2019 before S.B. *Fresh notices be issued to the respondents.*




Member

02.09.2019

Counsel for the appellant and Mr. Usman Ghani District Attorney for the respondents present.

Learned counsel for the appellant requests for time to further prepare the brief. Adjourned to 21.10.2019 before S.B.

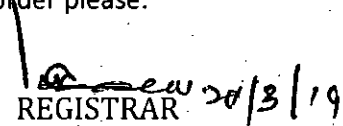


Chairman



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 384/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/03/2019	<p>The appeal of Mr. Fazal Karim resubmitted today by Mr. L. Nawab Ali Noor Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 20/3/19</p>
2-	21/03/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/04/19</u>.</p> <p> CHAIRMAN</p>
	15.04.2019	<p>Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 22.05.2019 before S.B</p> <p> Member</p>

The appeal of Mr. Fazal Karim SST, GHSS Touda Chena District Dir Lower received today i.e. on 07.03.2019 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- ✓ 1- The law under which appeal is filed is not mentioned.
- 2- Affidavit may be got attested by the Oath Commissioner.
- ✓ 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Approved file cover is not used.
- ✓ 6- Copies of appointment/promotion order mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- ✓ 7- Copies of academic certificates mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- ✓ 8- Copy of impugned order is not attached with the appeal which may be placed on it.
- 9- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 386 /S.T,

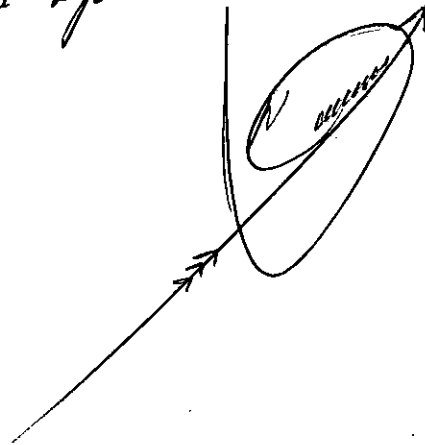
Dt. 08/3 /2019

*L. Nawab Ali Noor*  
2/3/19,  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. L. Nawab Ali Noor Adv. Pesh.

*Respectfully Submitted,*

*Needfull done. Kindly put before the Court.*



BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

S. Appeal NO. 2019 *Appeal No. 384/2019*

1. Fazl Karim SST GHSS Touda Chena District Der Lower.

.....(Petitioners).

VERSUS

1. Govt of Khyber Pakhtoon Khwa Through Secretary Elementary  
& Secondary Education Peshawar Secretariat Peshawar and another.

..... (Respondents)

INDEX

S.N o.	Description of Documents	Annexure	Pages
1.	S. Appeal		1-3
2	Affidavit		3
4.	<i>Service certificate / appointment letter</i>	<i>A</i>	4
5	<i>Departmental appeal order</i>	<i>B</i>	5
15	Waklat Nama		6

Through  
*E*  
Appellant  
*L. Nawab Ah Noor Advocate*  
High Court Peshawar.  
Bacha Khan Markaz Shah Nawaz Town Reyhan  
Learning Academy Noor Law Associate  
03469076945



**BEFORE THE PESHAWAR SERVICE TRIBUNAL K.P.K  
PESHAWAR.**

S. Appeal NO. 2019

*Appeal no. 384/2019*

1. ~~Engd~~ Karim SST GHSS Toud Chen Distt Dir Lower.  
.....(Petitioners).

**VERSUS**

1. Govt of Khyber Pukhtoon Khwa Through Secretary Elementary  
& Secondary Education Peshawar Secretariat Peshawar nother.  
..... (Respondents)

*Appeal U/S 4 of the service tribunal Act 1974 for grant/ allow  
increments benefit of advance increments in upper pay scale of  
BPS- 16 w.e.f 1.9.2003 till date from the date of legibility.*

**Prayer :**

*On acceptance of this appeal the respondents may please be directed  
to grant/allow benefit of advance increment in the upper pay scale  
BPS-16 w.e.f 1.9.2003 till date and pay fixation be awarded of  
SET along with all financial back benefit from the date  
of his legibility.*

**Respectfully Submitted.**

1. That the appellants were appointed as C.T teachers & promoted to SET  
now working in the education department as SST.  
(copy of the service certificate/appointment letter is annexure A).
2. That the appellants have been promoted from C.T post BPS -14 to  
SET post BPS-16 on 1.9.2003.
3. That the appellants were already granted the benefits/ arrears of one  
advance increments up to C,T period on basis of M.A up to  
31.8.2003.
4. That the appellants were entitled to be granted the same benefit SET  
period for which he was entitled.
5. That the C. T pay was already revised being entitled in that  
time when they were entitled for the same.
6. That already the same benefit of SET period been awarded to the SET(sc)  
teacher Badawan GHS Der Pian and another teacher namely Khaista Rahman GHS Haji Abad.

BEFORE THE PESHAWAR SERVICE TRIBUNAL K.P.K  
PESHAWAR.

Appeal no- 384/2019

S. Appeal NO. 2019

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 321

1. Fazl Karim SST GHSS Touda Chena District Der Lower.

Dated 07/3/2019

.....(Petitioners).  
VERSUS

1. Govt of Khyber Pukhtoon Khwa Through Secretary Elementary  
& Secondary Education Peshawar Secretariat Peshawar.

2. Director Elementary and Secondary Education  
Peshawar Dabgari Garden Peshawar.

(Respondents)

*Prayer in appeal: Appeal u/s 4 of service tribunal Act of 1974, where by appeal was not heard. on acceptance of this appeal, may please grant/follow benefit of advance increments in upper pay scale BPS-16 w.e.f 1/9/2003. Respectfully submitted, will dates pay fixation may please be awarded from date of legibility.*

1. That the appellant was appointed as C.T teachers & promoted to SET  
now working in the education department as SET.

(Copy of the service certificate/appointment letter is annexure A).

2. That the appellant has been promoted from C.T post BPS -14 to  
SET post BPS-16 on 31.8.2003.

3. That the appellant was already granted the benefits/ arriers of two  
advance increments up to C,T period on basis of M.A up to  
31.8.2003.

4. That the appellant was entitled to be granted the same benefit SET  
period for which he was entitled.

5. That the C. T pay was already revised being entitled in that  
time when he was entitled for the same.

6. That already the same benefit of SET period been awarded to the SET(sc)  
teacher Badawan GHS Der Pian and another teacher namely Khaista  
Rahman GHS Haji Abad.

Filed to-day

Registrar

7/3/19

7 That appellant preferred appeal which no response.  
(Copy as annexure B)

8. That appellant was entitled for the revised pay during the SET period but he was deprived from his own legal rights intentionally.

(9). That the supreme court of Pakistan vide civil appeal No:118-p of 2009 decided on 16.03.2011 and given the relief to one of the petitioner Attalla khan S.E.T i.e PP generally admissible to education department as well.

10. That as the appellant has already been awarded revise pay in the C.T stage and arrears along with revise pay of the SET period is still not granted for which he is entitled.

That petitioners bring this before this honorable court on the following grounds amongst others .

**Grounds .**

- a). That not awarding the benefit of one advance increment in the upper pay scale BPS-16 w.e.f 1.9.2003 till date and pay fixation declined in the SET period to the petitioners is an act illegal ,unlawful without jurisdiction and being based on malafid intention of the respondent is liable to be set -aside.
- b). That granting the same benefit by the apex court to the other colleague of the appellant and no response to the appellant from the side of the respondents is clear violation of law rules ,and not obeying the order of the apex court.
- c). That the appellant has been serving in the education department through out excellently and has never been given any chance of complaint to the high-up of the department nor to any person from the student community hence instead of rewarding the appellant for his spotless service and for his higher qualification he has been rather punished to declined of granted revise pay of the C.T period benefit not extend in the SET duration along with arrears.
- d) That no valid reason what so aver has not been mentioned by the respondent departments for declined the extend already granted benefit

of revised pay of C.T period in the SET period to appellant.

e). That after the clear decision of the supreme court now there is no hurdle in granting the above said relief to the appellant.

It is therefore respectfully prayed that on acceptance of this appeal the respondents may please be direct to grant/allow benefit of advance increment in the upper pay scale BPS-16 w.e.f 1.9.2003 till date and pay fixation be awarded of SET along with all financial back benefit from the date of his legibility.

It is further requested that direction may kindly be issued to respondents not withdrawal the granted benefits from the appellant.

Through

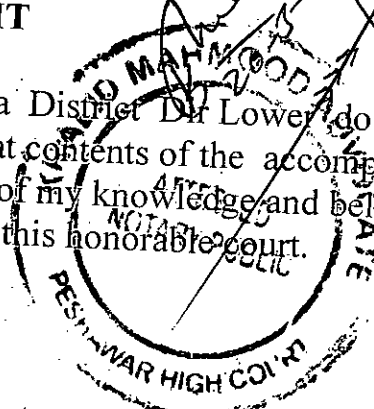
Petitioners

L. Nawab Ali Noor  
Advocate High Court  
Reshawan.

**Certificate:** Certified that no S. Appeal has earlier been filed by the Appellant on the above subject matter before this Honorable court.

**AFFIDAVIT**

I, Fazl Karim SST GHSS Touda Chena District Dir Lower do hereby solemnly affirm and declare on oath that contents of the accompanying S. appeal is true and correct to the best of my knowledge and belief and nothing has been kept concealed from this honorable court.



Deponent

Ann. A - (4)

Service Certificate

Certified that Mr, Fazal Karim S/O Muhammad Khaliq has been working in education Department since 16/04/1988.

Now he is working against SET post at GHSS Tawda China Distt; Dir Lower.

Principal  
GHSS Tawda China.  
Dir ~~Principal~~  
GHSS Tawda China  
Dir (B)

9/1/9

Attached to be Final Copy

Attached  
A

Attached to be Final  
copy

TO,

*Ann. B-5*  
**The Director Elementary & Secondary Edu; KPK Peshawar.**

**Subject: APPEAL FOR FIXATION OF PAY W.E.F. 01/09/2003 IN BPS-16 THROUGH PROPER CHANNEL**

Respected Sir,

My humble submissions are below.

- 1) That the applicant has been working in education Deptt: since 1988.
- 2) That the application has been promoted from CT post BPS-14 to SET BPS-16 on 01/09/2003
- 3) That the applicant has been paid the arrears of two advance increments on MA on the post of CT up to 31/08/2003. (photocopy of serves book is attached)
- 4) That the applicant approached to the concerned authority i.e. Distt: Accounts officer at Timergara Dir (L) Dated; 20/10/2011, in this regard. (Application attached) in time but in vain.
- 5) That the applicant appealed in this regard to the high ups letter No.803-10 Dated.27/09/2012. But of no use.

It is there four requested that the applicant may please be granted the benefits of the advance increments on the bases of MA to CT teachers since 01/09/2003 till the last pay. Whereas the applicant has been already drawn the advance increment in time and protected pay on non gazetted period as CT Dated.07/09/2011.

I will pray for your long life and prosperity.

*4/12/18*

Yours *E*

Obediently

Fazal Karim SET

GHS Khadagzai.

*Attested to be True Copy.*

*[Signature]*

Before the S.T. M.P.K  
Peshawar

تیسی ایک روپیہ

کورٹ فیس

مورخہ 07/03/2019  
مقدمہ حفظ کتب بنام صوبہ خیبر پختونخواہ سیکرٹری (ESSE) و عسکر  
دعویٰ درخواست سروسز ایپل  
جرم:-

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام سروسز ایپل کے لئے ایپل انویسٹمنٹس پرائیویٹ لٹڈ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کر لیا جائے اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا گری ایک طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکورہ کے لئے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تخریب پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مقدمہ کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 07 ماہ مارچ 2019ء

گواہ شاہد

سروسز ایپل کے لئے منظور ہے