

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT, ABBOTTABAD.

Appeal No. 826/2016

Date of Institution ... 15.08.2016

Date of Decision ... 19.10.2017

Muhammad Saleem Abbasi S/O Samundar Khan, CT Teacher, GMS, Noor Mang,  
Abbottabad R/O House No. 112-B, Street No. 3, Kakul Road, Tehsil and District,  
Abbottabad. ... (Appellant)

VERSUS

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar and 3 others.  
... (Respondents)

MR. SULTAN AHMAD JAMSHAD,  
Advocate --- For appellant.

MR. MUHAMMAD BILAL,  
Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- This judgment shall  
dispose of the instant service appeal as well as connected service appeals No.  
1302/2014 Maroof Khan, No. 1303/2014 Syed Arif Hussain Shah, No. 1304/2014  
Muhammad Sarwar Khan, No. 1305/2014 Wajid Ali Shah, No. 430/2015 Muhammad  
Bashir, No. 1012/2015 Muhammad Khursheed and 827/2016 Abdul Majid as in all the  
appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

### FACTS

3. The cases of all the appellants <sup>one</sup> ~~were~~ that they were granted 3 advance increments on passing graduation in the light of notification dated 07.08.1991. That then they were granted 4 advance increments on the basis of notification dated 15.12.2010 making a total of 7 advance increments. That the Pay Fixation Committee objected to the drawing of 7 advance increments by the appellants by holding that the appellants were entitled only for 4 advance increments and they were availing 3 extra advance increments against the sanctioned policy.

### ARGUMENTS

4. The learned counsel for the appellants argued that 4 advance increments extended through letter dated 15.12.2010 are in addition to the pay revision scheme of 1983 making a total of 7.

5. On the other hand the learned Deputy District Attorney argued that 3 advance increments of scheme of 1983 merged into 4 advance increments of 2010 and the appellants <sup>were</sup> ~~are~~ entitled to draw 4 advance increments after 15.12.2010 instead of 7 advance increments. The learned D.D.A. relies upon a judgment of the august Supreme Court of Pakistan in Civil Petition No. 1245/2011 entitled "*Naeen Ahmad Vs. Director Higher Education Khyber Pakhtunkhwa and others*" decided on 08.09.2011 in which a similar situation was explained on the basis of Revision of Basic Pay Scales of 1991 issued on 11.08.1991.

### CONCLUSION.

6. If we read both the scheme of 1983 and notification of 15.12.2010 one cannot reach to a definite conclusion. But the judgment of the august Supreme Court of Pakistan while dealing with the similar situation has clarified this position that

whenever advance increments for different higher qualifications are mentioned in the pay revision or any notification then the increments of lower qualification merged into increments of higher qualification and in this regard the table given in paragraph 5 of the Pay Revision Rules of 1991 had been discussed by the august Supreme Court of Pakistan and had settled a *ratio* to be followed by other courts in similar situation. On this point this Tribunal has already decided service appeal No. 1243/2014, entitled "Riaz Ahmad Vs. the Secretary, Education (E&SE), Government of Khyber Pakhtunkhwa, Peshawar and 5 others", vide judgment dated 10.10.2017. The result is that appellants are entitled to 4 advance increments after 15.12.2010 and not 7.

7. As a result of above discussion, all the appeals stand dismissed. Parties are left to bear their own costs. File be consigned to the record room.

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

*(NIAZ MUHAMMAD KHAN)*  
CHAIRMAN  
CAMP COURT, ABBOTTABAD

ANNOUNCED  
19.10.2017

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, this appeal is 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. 826/2016  
M. Saleem Abbasi vs Govt

22.09.2016

Appellant in person present. Argued that vide judgment of this Tribunal dated 12.05.2009 4 advance increments were awarded to the appellant which he had received till March, 2016. That the same was declined to the appellant in the salary for the month of April, 2016 constraining the appellant to prefer departmental appeal which was not responded and hence the instant service appeal on 15.08.2016.

That similar service appeal No. 1302/2015 has already been admitted to regular hearing by this Tribunal.

Points urged need consideration. Admit. 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 to deposit  
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. 826/2016

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. Muhammad Saleem Abbasi received today by post may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> 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 style="text-align: right;"> MEMBER</p>

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 826 of 2016

Muhammad Saleem Abbasi S/O Samundar Khan, C.T teacher, Government Middle School Noor Mang Abbottabad, R/O: House No 112/10 B, Street No 3. Near Postal life PMA Kakul road Tehsil & District Abbottabad.

Appellant

**Versus**

Accountant General Khyber Pakhtunkhwa Peshawar and 03 Other.


Respondents

**SERVICE APPEAL**

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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 15).	D	19
6	Copy of relevant pages of service book.	E	20 to 22
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Dated 12/08/2016

  
(Muhammad Saleem Abbasi)  
Appellant in person



(1)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No: 826 of 2016

Muhammad Saleem Abbasi S/O Samundar Khan, C.T teacher, Government Middle School Noor Mang Abbottabad, R/O: House No 112/10 B, Street No 3. Near Postal life PMA Kakul road Tehsil & District Abbottabad.

Appellant

**Versus**

**Khyber Pakhtukhwa  
Service Tribunal**

Diary No. 852

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 (03) 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 THE

**Filed to-day**  
*Sundar*  
**Registrar**  
15-8-16

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.

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**PRAER:-**

ON ACCEPTANCE OF INSTANT SERVICE APPEAL, IMPUGNED ACTION IN RESPECT OF RECOVERY/DEDUCTION OF 03 ADVANCE INCREMENTS 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, and 04 advance increments instead of 03 already granted of BA/BSc, 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 above mentioned advance increments of (M.A/M.Sc) & (BA/BSc) 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 said letter 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 appellant was allowed one premature increment in BPS 15 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 (03) 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 15)	Pay fixed after deducting 03 increments
Rs 32705/-	Rs 33610/-	Rs 30895/-

Copy of pay roll register for the Month of March 2016(BPS 15) & April 2016 (BPS 15) 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 advance increments and the respondents (respondent No 02) was not at all have powers to deduct/recover the 03 advance 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 B) 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 03 advance increments 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

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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.

*Stem*

Dated 12/08/2016

(Muhammad Saleem Abbasi)  
Appellant in person

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

*Stem*

Dated 12/08/2016

(Muhammad Saleem Abbasi)  
Appellant in person

**Affidavit**

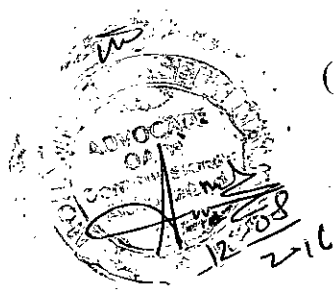
I, Muhammad Saleem Abbasi S/O Samundar Khan, C.T. teacher, Government Middle School Noor Mang Abbottabad, R/O: House No 112/10 B, Street No 3. Near Postal life PMA Kakul road Tehsil & District Abbottabad, do here by affirm on oath that contents of instant appeal is correct and true according to my best 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

*Stem*

(Muhammad Saleem Abbasi)  
Appellant in person

**DEPONENT**



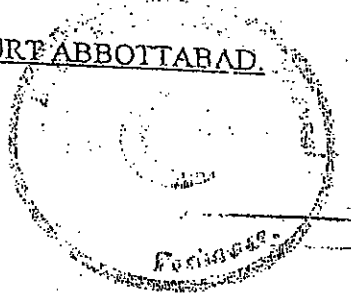
Annexure A,

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



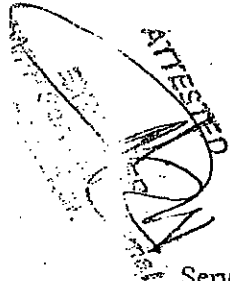
Muhammad Akram, S/O Sikandar Khan, C.T. Teacher, Government High School, Kuthwal, Abbottabad.....(Appellant)

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  
Arshad Alam

- 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  
M. N.

Attested  
M. N.



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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 I-shad 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  
Aftab

ATTESTED  
Mst. Zakia Sultana  
Mst. Shahnaz  
Mushtaq Hussain

- 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 Acif 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 Arjad Hussain Shah,
- 93. 962/2008 Muhammad Shoalb,
- 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,

Attested  
Dem

NWFP  
 BOARD OF  
 EXAMINERS  
 UNIVERSITY  
 PESHAWAR  
 ATTESTED  


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- |      |           |                            |
|------|-----------|----------------------------|
| 114. | 1135/2008 | Muhammad Fismayun,         |
| 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 Shafique,         |
| 131. | 1379/2008 | Tariq Mehmood,             |
| 132. | 1380/2008 | Muhammad Yousof,           |
| 133. | 1381/2008 | Waqar Ahmad,               |
| 134. | 1382/2008 | Muhammad Azhar,            |
| 135. | 1383/2008 | Muhammad Aftaz 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. | 1426/2008 | Zahoor Khan,               |
| 149. | 1427/2008 | Wajid Ali Shah,            |

Attested  
DemEXAMINER  
NWFP Service Tribunal  
Peshawar

ATTESTED

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 Ihtiq Ahmad,  
184. 1700/2008 Mst. Robina Shaheen,  
185. 1701/2008 Mst. Nasim Akhtar,

Attested  
Dem

ATTESTED  
BY  
Munir Ahmad  
Tahmasbi

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,

*Attested*  
*Syed*

221.	229/2009	Nasir Ali,
222.	230/2009	Ali Nawaz,
223.	291/2009	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 Nacem,
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

*Attested*  
*Stem*

ATTESTED  
[Signature]  
[Stamp]

15

257.	504/2009	Muhammad Shamraiz
258.	505/2009	Ali Bahadur
259.	506/2009	Muhammad Haroon
260.	523/2009	Naureen 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.

Attested  
Dem

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

WFP  
EXAMINER  
ATTESTED  
Dem

15a

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."

Attested  
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While disposing of Cri. O.P. No. 66 & 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

EXAMINER  
Tribunal  
NWFP  
PESHAWAR

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.

*[Handwritten signature]*

*sd/- Abdul Jalil*  
*Member*  
*sd/- Bismita Ghosh*  
*Member*

*Attested*  
*[Signature]*

4409 2.6.09  
24  
24  
7-2-09  
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, 2<sup>nd</sup> 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 11<sup>th</sup> 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)

Attested  
e/tem

12-8  
3  
1377

Annexure 10,

18

untitled

S#: 1 Abbotabad

P Sec:003 Month:March 2016  
AD6028 -DO (M) SECONDARY EDUCATION  
GOVT MIDDLE SCHOOLS (MALE  
NTN: 0  
GPF #: EDUAD016763  
old #: 99990327935

Pers #: 00009477 Buckle: 0  
Name: MOHAMMAD SALIM  
CERTIFICATED TEACHER  
CNIC No.1310151574457  
GPF Interest Free  
15 Active Permanent

AD6028 -0

PAYS AND ALLOWANCES:

0001-Basic Pay	32,705.00
1000-House Rent Allowance	1,566.00
1300-Medical Allowance	1,500.00
1948-Adhoc Allowance 2010@ 50%	6,600.00
2148-15% Adhoc Relief All-2013	3,690.00
2174-Adhoc Relief Allow-2014	2,460.00
2199-Adhoc Relief Allow @10%	3,270.00

Gross Pay and Allowances 51,791.00

DEDUCTIONS:

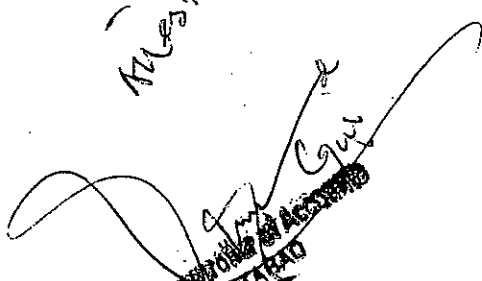
IT Payable 413.38 Deducted 4,739.00	TAX: (3609) 207.00
GPF Balance 222,375.00	Subrc: 1,965.00
6505-GPF Loan Principal Instal Bal: 245,235.00	9,085.00
3501-Benevolent Fund	180.00
3511-Addl Group Insurance	13.00
3604-Group Insurance	115.00
3990-Emp.Edu. Fund KPK	100.00

Total Deductions 11,665.00

40,126.00

D.O.B 12.12.1970  
23 Years 02 Months 023 Days

LFF Quota:  
NATIONAL BANK OF PAKMAIN BRANCH, ABBOTAB  
49094

M. S. Khan  
  
 District Controller of Accounts  
 ABBOTABAD

Attested  


# Annexure D,

19

untitled

S#: 1 Abbotabad

P Sec:003 Month:April 2016  
AD6028 -DO (M) SECONDARY EDUCATION  
GOVT MIDDLE SCHOOLS (MALE  
NTN: 0  
GPF #: EDUAD016763  
Old #: 99990327935

Pers #: 00009477 Buckle: 0  
Name: MOHAMMAD SALIM  
CERTIFICATED TEACHER  
CNIC No.1310151574457  
GPF Interest Free  
15 Active Permanent

AD6028 -0

PAYS AND ALLOWANCES:

0001-Basic Pay	30,895.00
1000-House Rent Allowance	1,566.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1948-Adhoc Allowance 2010@ 50%	6,180.00
2148-15% Adhoc Relief A11-2013	3,525.00
2174-Adhoc Relief Allow-2014	2,350.00
2199-Adhoc Relief Allow @10%	3,089.00

Gross Pay and Allowances

51,961.00

DEDUCTIONS:

IT Payable	0.00	Deducted	0.00	TAX:(3609)	212.00
GPF Balance	222,375.00			Subrc:	1,965.00
6505-GPF Loan Principal Instal	Bal: 236,150.00				9,085.00
6506-Recovery loan Pri. Instal	Bal: 53,340.00				2,000.00
3501-Benevolent Fund					180.00
3511-Addl Group Insurance					13.00
3604-Group Insurance					115.00
3990-Emp. Edu. Fund KPK					100.00
Total Deductions					13,670.00
					38,291.00

D.O.B

12.12.1970

23 Years 03 Months 022 Days

LFP Quota:

NATIONAL BANK OF PAKMAIN BRANCH, ABBOTAB  
49094

244

*M. Salim*

*[Signature]*

District Controller  
ABBOTTABAD

Attested  
*[Signature]*

# ANNEXURE E,

20

3 C/NO-327935-

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

1. Name Mr. Mohammad Saleem.

2. Race Abbasi.

3. Residence Villager Po: SIRLIA. via. Garhi Habibullah.  
Tehsil & Distt: Abbott - Ahmad.

4. Father's name and residence. Samundor Khan. AS above.

5. Date of birth by Christian era as nearly as can be ascertained 12-12-70 Twelfth of December A.H. & Substanty 1952

6. Exact height by measurement 5' 8"

7. Personal marks for identification

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

28-11-52

Little Finger



Ring Finger



Middle Finger



Index Finger



Thumb



Attested  
Saleem

9. Signature of Government servant.

M. Saleem

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

S.D. E. O. P. M. / 28-11-52

RE-ATTESTED

M. M. C. P. M. - Abdul Ghafar

ASD Es (P) K. J. Khan

1	2	3	4	5	6	7	8
Name of post	Whether sub-sta-tive or officiating and whether permanent or temporary	If officiating, (i) sub-sta-tive (ii) whether appointment or service, quota for person under Art. 171 C. S. R.	Pay in sub-sta-tive post	Additional Pay for officiating	Other emolument falling under "Pay"	Date of appointment	Signature of Government servant
B-9 (1605-97-3060)			₹ 2381/-M.	₹ 2478/-	₹ 2578/-	01-12-97	
B-14 (2065-161-4480)			₹ 3172/-M.	₹ 2672/-	₹ 2772/-	01-12-99	
B-14 (2065-161-4480)			₹ 3353/-	₹ 3514/-	₹ 3653/-	01-12-2000	
B-14 (3565-275-11875)			₹ 5988/-	₹ 6865/-M.	₹ 7147/-	01-12-05	
B-14 (4100-315-13550)			₹ 8517/-M.	₹ 7457/-	₹ 7457/-	01-12-06	
B-15 (4350-350-1485)			₹ 8980/-M.	₹ 8517/-M.	₹ 8517/-M.	01-12-07	
B-15 (5220-420-17820)			₹ 9257/-	₹ 11528/-	₹ 11947/-	01-12-08	
B-15 (5500-700-29500)			₹ 20400/-M.	₹ 12377/-	₹ 12377/-	01-12-09	
B-15 (10985-905-38135)			₹ 29990/-M.	₹ 22500/-	₹ 22500/-	01-12-14	
			₹ 30895/-	₹ 21800/-	₹ 21800/-	01-12-12	
			₹ 21100/-	₹ 22500/-	₹ 22500/-	01-12-13	
			₹ 21100/-	₹ 21100/-	₹ 21100/-	01-12-11	
			₹ 20400/-M.	₹ 21800/-	₹ 21800/-	01-12-12	
			₹ 12377/-	₹ 21100/-	₹ 21100/-	01-12-11	
			₹ 11947/-	₹ 20400/-M.	₹ 20400/-M.	01-12-11	
			₹ 11528/-	₹ 12377/-	₹ 12377/-	01-12-10	
			₹ 11000/-M.	₹ 11947/-	₹ 11947/-	01-12-09	
			₹ 9257/-	₹ 11528/-	₹ 11528/-	01-12-08	
			₹ 8980/-M.	₹ 11000/-M.	₹ 11000/-M.	01-12-08	
			₹ 8517/-M.	₹ 9257/-	₹ 9257/-	01-12-07	
			₹ 7457/-	₹ 8517/-M.	₹ 8517/-M.	01-12-07	
			₹ 5988/-	₹ 7457/-	₹ 7457/-	01-12-06	
			₹ 5747/-	₹ 5988/-	₹ 5988/-	01-12-05	
			₹ 5500/-	₹ 5747/-	₹ 5747/-	01-12-05	
			₹ 5267/-M.	₹ 5500/-	₹ 5500/-	01-12-02	
			₹ 3514/-	₹ 5267/-M.	₹ 5267/-M.	01-12-01	
			₹ 3353/-	₹ 3514/-	₹ 3514/-	01-12-01	
			₹ 3172/-M.	₹ 3353/-	₹ 3353/-	01-12-2000	
			₹ 2672/-	₹ 3172/-M.	₹ 3172/-M.	01-3-2000	
			₹ 2578/-	₹ 2672/-	₹ 2672/-	01-12-99	
			₹ 2478/-	₹ 2578/-	₹ 2578/-	01-12-98	
			₹ 2381/-M.	₹ 2478/-	₹ 2478/-	01-12-97	
			₹ 31800/-M.	₹ 2381/-M.	₹ 2381/-M.	25-3-97	
			₹ 32705/-M.	₹ 31800/-M.	₹ 31800/-M.	01-12-05	
			₹ 31800/-M.	₹ 32705/-M.	₹ 32705/-M.	01-12-05	

Entries revised due to reduction in no. of M.A. & one for B.A. also allowed premature increment on upgradation on the right of notification issued by the Govt of K.P. Finance Dept. No. FD/SOSR-I/2-123/2014 dated 31-5-2014.

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21

9	10	11	12	13		14	15
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 conduct or reward or penalty of the Government or Servant.
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				367 09/2/15 Draw a Sum of Rs. 32700/- vide 84 9/2/15 [Signature]	Government to which debitable [Signature]	Attested [Signature]	Ref. on account of Reduction of Two Adv. Grades of MA - has been worked out are as under: - Ad 1151 - Pay Rs 30425 - 00 Ad 1202 - AR - 10 Rs 15540 - 00 Ad 1217 - AR - 13 Rs 6090 - 00 Ad 1212 - AR - 14 Rs 2380 - 00 Ad 1220 - AR - 15 Rs 905 - 00 Total Rs 55340 - 00 [Signature] Dy. District Education Officer (Male) Attached 368 12/14/16 [Signature] w.e.f. 1-10-07 Due to allowed P.S. B-15 amount Rs 55340/- 2000/2m 14 16 [Signature]

Signature of Government servant

[Signature]

[Signature]

re for

No.

F.No.

Annexure (F)

23

To,

The Accountant General  
Khyber Pakhtunkhwa Peshawar.

SUBJECT

DEPARTMENTAL APPEAL AGAINST THE DEDUCTION/  
RECOVERY OF (03) ADVANCE INCREMENTS FROM  
THE SALERIES OF THE APPELLANT WITH EFFECT  
FROM 01/04/2016, THESE (03) ADVANCE  
INCREMENTS OF M.A/M.SC & B.A/B.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 15.
- 2) That appellant was granted 04 Advance Increments of M.A/M.Sc & also 04 instead of 03 Advance Increments of B.A/B.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 on the basis of upgradation, and under the law his pay was to be fixed as (From Rs 32705/-PM BPS 15 in Rs 33610 /- PM BPS 15) but utmost surprisingly, District Comptroller of Account Abbottabad with out any notice given to the appellant or

Attested  
*[Signature]*



without formal/official written order or any legal and factual reason, his pay was fixed illegally as Rs 30895/- PM and deducted three 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 03 advance increments in respect of M.A/M.Sc & B.A/B.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.

Dated 02/05/2016

*Attested*  
*Dem*  
*Dem* 13101-5757445-7  
Muhammad Saleem  
CT teacher, Government Middle  
School Noor Mang Abbottabad.

Annexure (G)

24

ACKNOWLEDGEMENT DUE  
CARD



نام محمد سلیم ولد سید رضا خان  
 پتہ آئی. سی. گورنمنٹ ہائی اسکول ٹوبہ ٹیکر  
 44 علی میرا  
 ڈاکخانہ پشاور پوسٹ برانچ 1 ضلع ایبٹ آباد  
 پوسٹ کوڈ [ ] [ ] [ ] [ ] [ ]  
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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No: 1302 of 2014



Maroof Khan S/O Mir Zaman Khan Senior C.T teacher,  
Centennial Model Secondary School (Boys) English Medium (GHS # 2)  
Abbottabad R/O Village Mera Mandrochh (Nawan Shehr) P.O Nawan Shehr  
Tehsil & District Abbottabad.

Appellant

Versus

~~1346~~  
1346  
6-11-2014

- 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 01/04/2013, WHICH (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 THE APPELLANT'S RIGHTS OF ADVANCE INCREMENTS,

S.C.  
6/11/14  
ATTESTED  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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.

6 23.7.2015

Appellant in person, M/S Haroon Khan, AAO. Irshad Muhammad, S.O and Sohail Ahmad, Assistant for respondents alongwith Mr.Muhammad Bilal. G.P present. Requested for adjournment. To come up for written reply on 15.9.2015before S.B at camp court A/Abad. Application for suspension of recovery/deduction of two advance increments out of 4 advance increments submitted, copy whereof supplied to respondents for reply of the said application as well on the said date. Till further orders no recovery be made from the salary of the appellant.

*Signature*  
Chairman  
Camp Court A/Abad

Certified to be a true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 27-7-2015  
 Number of Words 800  
 Copying Fee 6  
 Urgent 2  
 Total 8  
 Name of Applicant [Signature]  
 Date of Completion of Copy 27-7-2015  
 Date of Delivery of Copy 27-7-2015

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

Service Appeal No.826/2016  
Muhammad Saleem, Abbasi (CT) Teacher,  
GMS, Noor Mang, 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.

**Cont'd Next Page-(2)**

**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**  
**(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

Dated 10.12.2014

To,

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 (PFP)





GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

Annex II



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)

2/9/15



GOVERNMENT OF KHYBER PAKHTUNKHWA

LAW, PARLIAMENTARY AFFAIRS &  
HUMAN RIGHTS DEPARTMENT

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

Annex = III



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

Section Officer (Opinion-II)

APR 15

SR-1 79  
Date-18.9.

P-18/K



Annex - 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 16<sup>th</sup> 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)

*21-9-15*  
*[Handwritten mark]*

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

Service Appeal No.826/2016  
Muhammad Saleem, Abbasi (CT) Teacher,  
GMS, Noor Mang, 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; Res rightly deducted/recovered 02 advance increments out of 04 erroneously allow as availed the benefit of BPS-14 on qualification of BA/BSc.
- 4) Do not relate to Respondent No.3.

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.

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

Annex-I



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

Dated 10.12.2014

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

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/1 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.

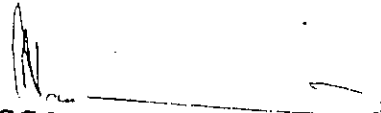
3. After introduction of RBPS-1/6/1991, those PTC teachers who have passed FA/FSc/D.com in the Second Division were allowed BPS-09 and BPS-14 in those CT teachers who have passed BA/BSc/B.com in the Second Division. In this way the CT teachers who joined the Education Deptt: in the capacity of PTC and 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 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

MA/MSc/M.com qualification as regards those employees whose appointment were 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.

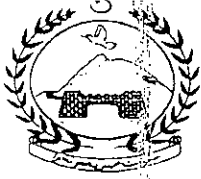
4. As regards Arabic teacher whose appointed made on the basis of honor in Arabic and granted BPS-14 on BA/BSc.B.com Second Division are entitled for two advance increments on possessing or acquiring MA/MSc/M.com while those teacher whose appointment made on the basis of MA Arabic or Shahadatul Alamia 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 (PFP)

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 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". 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.

*of*  
  
SECTION OFFICER (SR-II)

*Crowth*  
*2/9/15*





LAW, PARLIAMENTARY AFFAIRS &  
HUMAN RIGHTS DEPARTMENT

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

Annex. III

21708-09

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

Section Officer (Opinion-II)

Annex - 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

2-123/2015  
21-9-15  
(5)

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 16<sup>th</sup> Sep. 2015, is sent herewith for further necessary action accordingly, please.

Encl: (As above)

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.

SECTION OFFICER (SR-I)