

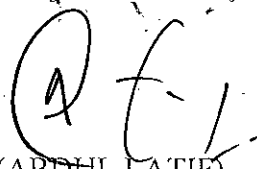
13.06.2016

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

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

ANNOUNCED

13.06.2016



(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER

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

READER

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

READER

vide order sheet dated 05.09.2013, , in connected appeal No.755/12,  
this appeal is adjourned to 17-6-15.

READER

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

READER

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

READER

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

READER

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

READER

5.9.2013

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

READER

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

READER

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

READER

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

READER

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

READER

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

READER

20.6.2013

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



READER

8.7.2013

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



READER

5.9.2013

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

READER

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

READER

23.01.2013.

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

  
MEMBER

  
MEMBER

13.3.13

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

  
MEMBER

  
MEMBER

28.05.2013.

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

  
READER

Appeal No. 757/2010  
Mr. Anwar Khan

6. 5.12.2012

Counsel for the appellant present and heard.

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

Member.

7. 5.12.2012

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

Chairman

3.9.2012

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



Member.

17.10.2012

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



Member

14-11-2012 .

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



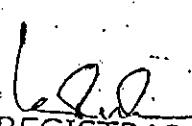

Member,

Form - A

FORM OF ORDER SHEET

Court of Khyber Pakhtunkhwa Service Tribunal, Peshawar

Case No. 761/2012

| S.No. | Date of Order Proceedings | Order or Other Proceedings with signature of Judge or Magistrate                                                                                                                                                                                                                                        |
|-------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.    | 06-07-12                  | The Appeal of Mr. <u>Shahid Khan</u> Submitted today by Mr. M. Asif Yousefzai, Advocate may be entered in the Institution Register and put up to the worthy Chairman for Preliminary Hearing.<br><br><br>REGISTRAR |
| 2.    | 19-7-2012                 | The case is entrusted to Primary Bench for Preliminary Hearing, to be put up there on<br><br>3-9-2012.<br><br><br>CHAIRMAN                                                                                         |



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

Appeal No. 761 /2012

Mr. Shahid Khan, PST

V/S

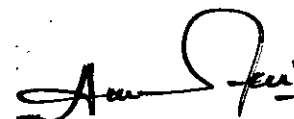
Education Department.

**INDEX**

| S.No. | Documents                       | Annexure | Page No. |
|-------|---------------------------------|----------|----------|
| 1.    | Memo of Appeal                  | -----    | 01-03    |
| 2.    | Copy of Relevant Page of S/Book | - A -    | 04-08    |
| 3.    | Copy of Judgment                | - B -    | 9-3      |
| 4.    | Copy of Notification            | - C -    | 10       |
| 5.    | Copy of Appeal                  | - D -    | 11       |
| 6.    | Vakala Nama                     | -----    | 12       |

APPELLANT  
Shahid Khan

THROUGH:



( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

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

Appeal No. 761 /2012

A. W. J. P. P. P.  
S. No. 776  
Date: 06/7/12

Mr. Shahid Khan, PST,  
GPS, Kadi No.5, Mohmand Agency.

**APPELLANT**

VERSUS

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

**RESPONDENTS**

.....

**APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974  
FOR GRANTING ARREARS OF GRADED PAY/  
ANNUAL INCREMENT WITH EFFECT FORM  
28.11.1995 to 1998 AND AGAINST NOT  
TAKING ACTION ON THE DEPARTMENTAL APPEAL  
WITHIN STATUTORY PERIOD.**

.....

**PRAYER:**

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

## **RESPECTFULLY SHEWETH:**

1. That the appellant was appointed as untrained PTC Teacher vide order dated 28.11.1995 and after passing PTC on 1998, the appellant was allowed graded pay of PST post. All entries are recorded in the Service Book relevant pages of which are attached as Annexure-A.
2. That recently the august Supreme Court of Pakistan has granted graded pay/annual increments to untrained teachers for their untrained period. Thus, in light of the Judgment of the Supreme Court, the Government has issued a Notification on 30.3.2009 where in annual increments have been allowed to all untrained teachers of their untrained period but without arrears. Copies of Judgment and Notification are attached as Annexure-B and C.
3. That as the appellant was also allowed only fixation of untrained period with effect from 28.11.1995 to 1998 but no arrears have been give. Therefore, the appellant filed departmental appeal for his claim and waited for statutory period but no reply has been received so far. Hence, the present appeal on the following grounds amongst the others. Copy of Appeal is attached as Annexure-D.

## **GROUND:**


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

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

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

APPELLANT   
Shahid Khan

THROUGH:

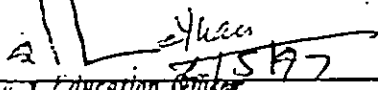
  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

A = (4)

Heirs:—

- 1. passed S.S.C Examination from B.I.S.E. Peshawar under Roll No: 19234, obtaining 395/850 marks
- 2. and placed in Grade "D" 1991 "A"

3:

  
 Education Officer  
 Mahaband Agency  
 2

Verification Roll No.

received back.

Left Thumb-Impression

| Qualifications    | Date | Qualifications                    | Date |
|-------------------|------|-----------------------------------|------|
| English           |      | First Arts                        |      |
| Pushto            |      | B.L. or B.A.                      |      |
| Urdu              |      | Pleadership Examination           |      |
| Plan-Drawing      |      | Training School Final Examination |      |
| Finger Print      |      | Other Qualifications:—            |      |
| Drill Instructing |      |                                   |      |
| Court Duties      |      |                                   |      |
| Reserve Duties    |      |                                   |      |

N.B.— Line to be drawn under the qualification possessed.

ATTESTED  


Note:—

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

شماره خان و ن میرخان

۱۹۹۵

5

Note:— 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: SHAHID KHAN

2. Race: Afghan (Mohammad)

3. Residence: village Shah Qadir Halimzai p/o Shah Qadir Fort  
Dissai Charsada.

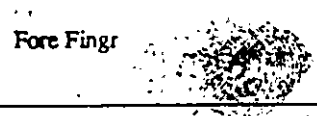
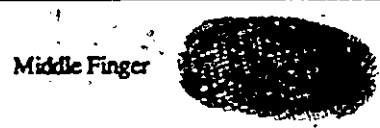
4. Father's name and residence: MUNER KHAN

5. Date of birth by Christian era as nearly as can be ascertained: (11-4-1975)  
Eleventh April one thousand nine hundred and seventy five.

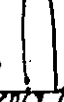
6. Exact height by measurement: 5-4

7. Personal marks for Identification: A Black mole on throat

8. Left hand thumb and Finger Impression of (Non-Gazeted) Officer.



9. Signature of Government Servant: Shahid Khan

10. Signature and Designation of the Head of the Office, or other Attesting Officer:  Agency Education Officer  
Mohmand Agency;

**ATTESTED**  






| 8      | 9 | 10       | 11     | 12 | 13                              |                                                                                                              | 14 | 15                                                                                                                 |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
|--------|---|----------|--------|----|---------------------------------|--------------------------------------------------------------------------------------------------------------|----|--------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------|------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
|        |   |          |        |    | Signature of Government Servant | Signature and position 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                              |                                                                                                                         |
|        |   |          |        |    |                                 |                                                                                                              |    |                                                                                                                    |                                    |                                                                      |                                                                | 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 |
|        |   |          |        |    | Period                          | Government to which debitable                                                                                |    |                                                                                                                    |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
| shudak |   | 30/11/96 | fixed  |    |                                 |                                                                                                              |    | Appointed against P.T.C. vacant post at G.P.S. Sefha Qandari vide A.E.O. Mohmand Ghallani NO-39/11-65, dt 28/11/95 |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
| shudak |   | 30/11/97 | fixed  |    |                                 |                                                                                                              |    |                                                                                                                    |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
| shudak |   | 30/11/98 | fixed  |    |                                 |                                                                                                              |    | Agency Education Officer Mohmand Agency                                                                            |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
| shudak |   | 30/11/99 | fixed  |    |                                 |                                                                                                              |    | Service verified from 29/11/95 to 30/11/03 from the record of this office                                          |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
| shudak |   | 30/11/00 | F.T.O. |    |                                 |                                                                                                              |    |                                                                                                                    |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
|        |   | 30/11/01 | F.T.O. |    |                                 |                                                                                                              |    |                                                                                                                    |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
|        |   | 30/11/02 | F.T.O. |    |                                 |                                                                                                              |    |                                                                                                                    |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
|        |   | 30/11/03 | F.T.O. |    |                                 |                                                                                                              |    |                                                                                                                    |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
|        |   | 30/11/04 | PT     |    |                                 |                                                                                                              |    |                                                                                                                    |                                    |                                                                      |                                                                |                                    |                                                                                                                         |
|        |   | 30/11/05 | PT     |    |                                 |                                                                                                              |    |                                                                                                                    |                                    |                                                                      |                                                                |                                    |                                                                                                                         |

ATTACHED

8

| 1<br>Name of Post | 2<br>Whether substantive or officiating and whether permanent or temporary | 3<br>If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 | 4<br>Pay in substantive Post | 5<br>Additional Pay for officiating | 6<br>Other emolument falling under the term "Pay" | 7<br>Date of Appointment | 8<br>Signature of Government Secretary | 9<br>Signature of the office of attestation columns 1 to 8 |
|-------------------|----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|------------------------------|-------------------------------------|---------------------------------------------------|--------------------------|----------------------------------------|------------------------------------------------------------|
|                   |                                                                            | C/S 7                                                                                                             | No: 7                        | (2555-140                           |                                                   |                          |                                        |                                                            |
|                   |                                                                            | R                                                                                                                 | 2555                         | /M                                  |                                                   | 17/05                    |                                        | [Signature]                                                |
|                   |                                                                            | R                                                                                                                 | 2555                         | /M                                  |                                                   | 12/05                    |                                        | [Signature]                                                |
|                   |                                                                            | R                                                                                                                 | 2555                         | /M                                  |                                                   | 12/06                    |                                        | [Signature]                                                |
|                   |                                                                            | BPS No: 7 (2940-160-776)                                                                                          |                              |                                     |                                                   |                          |                                        |                                                            |
|                   |                                                                            | R                                                                                                                 | 2940                         | /M                                  |                                                   | 17/07                    |                                        | [Signature]                                                |
|                   |                                                                            | R                                                                                                                 | 2940                         | /M                                  |                                                   | 12/7                     |                                        | [Signature]                                                |
|                   |                                                                            | BPS No: 7 (3530-190-987)                                                                                          |                              |                                     |                                                   |                          |                                        |                                                            |
|                   |                                                                            | R                                                                                                                 | 3530                         | /M                                  |                                                   | 17/08                    |                                        | [Signature]                                                |
|                   |                                                                            | R                                                                                                                 | 3530                         | /M                                  |                                                   | 12/08                    |                                        | [Signature]                                                |
|                   |                                                                            | Revised gmc untrivial period BPS 7 (1480-81)                                                                      |                              |                                     |                                                   |                          |                                        |                                                            |
|                   |                                                                            | R                                                                                                                 | 1480                         | ✓                                   |                                                   | 29/05                    |                                        | [Signature]                                                |
|                   |                                                                            | R                                                                                                                 | 1561                         | ✓                                   |                                                   | 12/96                    |                                        | [Signature]                                                |
|                   |                                                                            | R                                                                                                                 | 1642                         | ✓                                   |                                                   | 12/97                    |                                        | [Signature]                                                |

J.R. B ⑨  
IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

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

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

Government of N.W.F.P.

Appellant(s)

VERSUS

Muhammad Ismail.

Respondent(s)

For the Appellant(s):

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

For the Respondent(s):

Mr. Shahid Ahmed, ASC.

Date of Hearing:

06.09.2007.

ORDER

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



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

Certified to be true copy

*Muzammar Hussain*  
Superintendent  
Supreme Court of Pakistan  
ISLAMABAD

9/10/2007

522/7  
8-10-07  
3  
1-22  
6-82  
9-10-2007  
12-10-07  
ISLAMABAD.  
06.09.2007.  
(MAZ) 12/9/07

ATTESTED

GOVERNMENT OF NWFP  
FINANCE DEPARTMENT

(REGULATION WING)

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

To

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

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

Dear Sir,

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

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

S/-

(ABDUL JABBAR)  
SECTION OFFICER(SI-4)

Encl. of even Number & Date.

Copy for information & necessary action to the :-

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

S/-

SECTION OFFICER(SR-1)

GOVERNMENT OF NWFP,  
ELEMENTARY & SECY:EDU: DEPTT:

No. SO(B&A)/1-16/Budget/09.  
Dated Peshawar, the 6.4.2009.

Encl. of even Number & Date.

Copy of the above is forwarded to :-

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

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

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, NWFP PESHAWAR.

No. 505 /F, No.64/Gen Information/GB. Dated Peshawar the 27/4/2009.

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

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

Assistant Director (1st)  
(E&SE), NWFP, Peshawar.

**ATTESTED**

G.

D  
11

To

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

Subject: Appeal for Allowing Arrears of Annual Increments of Untrained  
Period i.e. 28.11.95 to 1998

Sir,

It is submitted respectfully that I was appointed as P.T.C. by the competent authority through order dated 28.11.95. I passed P.T.C on 1998 after which I was allowed graded pay of PTC post. Thus, my total period of untrained service is 28.11.95 to 1998.

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

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

I shall be very thankful to your good-elf.

Yours Obediently  
Shahid

Shahid Khan PTC

GPS Kadi-S,

Mohmand Agency.

dt: 2.4.12.

*Faqir  
miran  
2/4/12*

**ATTESTED**  
AC

VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar.

Shahid Khan (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Education Dept. (Respondent)  
(Defendant)

I/We Shahid Khan (Appellant)

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

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

Dated \_\_\_\_\_/20

Shahid Khan  
( CLIENT )

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

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

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No 761/2012

Appellant.

Shahid Khan PST  
Case No. 5

.....Versus.....

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

Respondents.

PRELIMINARY OBJECTIONS.

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

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1 AND 3 IN  
APPEAL NO. 761/2012

RESPECTFULLY SHEWETH.

1. Incorrect. Pertains to record.
2. Incorrect. Each and every case has its own merit. Pay fixation Annual increments Pension etc. is the responsibility of Finance Department. Respondent No.1 is proforma respondent. Principal respondent is respondent No.2.
3. Incorrect. Relates to finance department. Pay fixation is the responsibility of Accounts officer concerned. Respondent No.1 has no power to interfere in the subject case.

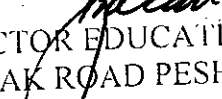
GROUND.

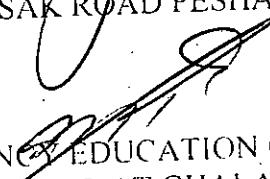
- a). Incorrect. No action has been taken by the respondent department which is against the law and norms of justice. According to notification issued by the Finance Department Khyber Pakhtoon Khwa Peshawar Graded Pay has been awarded to the Appellant (Copy of the same is attached for ready reference).
- b). Incorrect. As explained above in Para-a above.
- c). Incorrect. Each and every case has its own merit and circumstances.
- d). Incorrect. The honorable Service Tribunal is requested to direct the appellant to approach the Finance Department/Agency Accounts Officer Mohmand at Ghalanai being right forum for the purpose.
- E. Incorrect. All Government Employees are bound to perform their duties according to rules/regulations as no one is allowed to violate the Government rules. The present

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

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

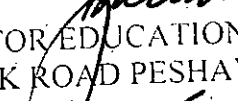
In the light of above facts it is humbly requested to please dismiss the appeal very graciously having no legal force.

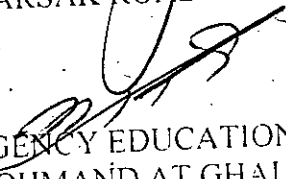
  
DIRECTOR EDUCATION FATA  
WARSAK ROAD PESHAWAR.

  
AGENCY EDUCATION OFFICER  
MOHMAND AT GHALANAI.

AFFIDAVIT.

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

  
DIRECTOR EDUCATION FATA  
WARSAK ROAD PESHAWAR.

  
AGENCY EDUCATION OFFICER  
MOHMAND AT GHALANAI.



(3)  
Assistant Director (iii)  
NWP, Peshawar

*Handwritten signature*  
27/1/09

Information, please  
to Director Local Office

Executive Distt. Officers (E.D.O.) in NWFP  
Govt. of NWFP, Peshawar

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

Min. No. 61/Gen Information (iii)  
27/1/09

MINISTRY OF ELEMENTARY & SECONDARY EDUCATION, NWFP PESHAWAR

Copy of the above is forwarded  
to the following officers for their  
information & necessary action:  
1. All District Coordination Officers  
2. All District Agency Accounts Officers  
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Secretary to Government of NWFP

Ministry of Education, Peshawar

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Ministry of Education, Peshawar

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H/P

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

Appeal No.761/2012

**Mr. Shahid Khan, PST,**  
GPS Kadi No.5, Mohmand Agency.....(Petitioners).

**V E R S U S**

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

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.2**

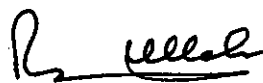
**Respectfully Sheweth**

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

**Grounds:**

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

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

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



*Annex I*

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

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

To:

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

Subject:

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

Dear Sir,

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

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

*sd*  
**(ABDUL JABBAR)**  
SECTION OFFICER (SR-1)

**Endst: of even No & date.**

Copy for information & necessary action to the:

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

*sd*  
SECTION OFFICER (SR-1)

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

Appeal No.761/2012

**Mr. Shahid Khan, PST,**  
GPS Kadi No.5, Mohmand Agency.....(Petitioners).

**V E R S U S**

Government of Khyber Pakhtunkhwa, Director, Education (FATA) &  
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**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.2**

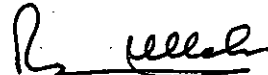
**Respectfully Sheweth**

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

**Grounds:**

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

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



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



*Amex 1*

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

NO.FD (PRC) 5-2/2002

Dated Peshawar the: 30-03-2009

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

*sd*  
**(ABDUL JABBAR)**  
SECTION OFFICER (SR-1)

**Endst: of even No & date.**

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3. All District / Agency Accounts Officers NWFP / FATA.

*sd*  
SECTION OFFICER (SR-1)

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

Service Appeal No. 761 /2012

Shahid Khan

V/S Education Department.

**REJOINDER ON BEHALF OF APPELLANT**

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

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

**RESPECTFULLY SHEWETH:**

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

**GROUNDS:**

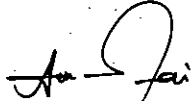
- A) Incorrect, while Para-A of appeal is correct.
- B) Not replied according to Para B of the appeal.

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

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

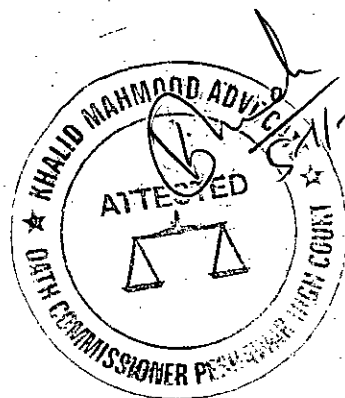
APPELLANT

Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

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



  
DEPONENT