


Form- A  
FORM OF ORDER SHEET

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

Implementation Petition No. 191/2024

S.No	Date of order proceedings	Order or other proceedings with signature of judge
1		3
1	27.02.2024	<p>The implementation petition of Mr. Haroon-ur-Rashid and 4 others received today by registered post through Mr. Shahzad Shakoor Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The joint execution petition in appeal no. 1276/2007 received today i.e. on 09.02.2024 is returned to the counsel for the petitioner with the following remarks:

A copy of applications moved by the petitioners to competent authority for the implementation of judgment is not attached with the petition. If the application has already been preferred and reasonable period of 30 days has been expired be placed on file. If not, the same process be completed and then after approach to this Tribunal for the implementation of Judgment.

No. 306 /S.T.

DL 14/02 /2024

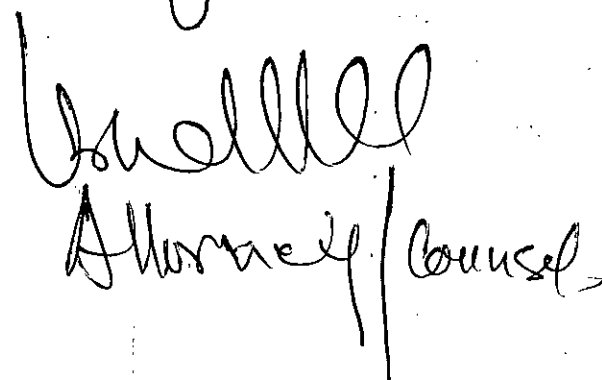


REGISTRAR  
KHYBER PAKHTUNKWA  
SERVICE TRIBUNAL  
PESHAWAR

~~Mr. Shahzad Shakoor Adv.  
High Court, A. Abad.~~

Resubmitted with the remarks that Implementation Application dated 03/10/2023 has mistakenly not filed with E.P, so, said Implementation application is being attached with E.P at Page no 50, so requested for fixed before SB in the coming hours of Abbottabad Camp Court.

Dated 23<sup>02</sup>/<sub>2024</sub>

  
Attorney/Counsel

Registrar  
K P Service Tribunal,

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Execution Petition No: 191 of 2024

Haroon ur Rasheed S/O Maghfoor ur Rehman, SST (G), GHS Kangar  
Maira Lora, Tehsil Lora, District Abbottabad others.

Petitioners

**VERSUS**

District Comptroller of Accounts, Abbottabad and others. Respondents


EXECUTION PETITION FOR IMPLEMENTATION OF FINAL  
JUDGMENT DATED 12/05/2009 PASSED AS "JUDGMENT IN REM"  
IN APPEAL NO 1276 OF 2007

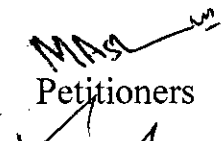
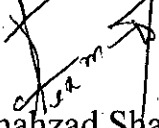
**INDEX**

S.No	DESCREPTION OF DOCUMENTS	ANNEXURES	PAGE NO
1	Memo; of execution petition and affidavit	----	01 to 04
2	Copy of judgment dated 12/05/2009.	A	05 to 15
3	Copy of Act ( <u>"KHYBER PAKHTUNKHWA ACT NO. IX of 2012"</u> )	B	16 to 18
4	Copy of judgment dated 14/06/2023, passed by High Court, at principal Seat Peshawar.	C	19 to 23
5	Copies of service appeals of petitioners	D	24 to 46
6	Wakalatnama & Power of attorney	E	47 to 49

Dated 06/02/2024

Through

  
(Rashid Iqbal Khan Jadoon)  
Advocate IBC Islamabad  
Attorney Abbottabad.

  
Petitioners  
  
(Shahzad Shakoor)  
Advocate High Court Abbottabad

Abbott Law Chamber

Office No 6, Ground Floor, Ayub Tanoli lawyer plaza  
Abbottabad. 0333-5025002, 0316-9343818

*Center*

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 11076

Execution Petition No: 191 of 2024

Dated 09-02-2024

- 1) Haroon ur Rasheed S/O Maghfoor ur Rehman, SST (G), GHS Kangar Maira Lora, Tehsil Lora, District Abbottabad.
- 2) Muhammad Aslam S/O Muhammad Hussain Retired CT teacher, GHS Surjal Abbottabad R/O village Akhreela (Sheikh ul Bandi) Tehsil & District Abbottabad.
- 3) Wajid Khan S/O Qazi Abdul Khaliq Senior CT, GHSS Nawan Shehr, Abbottabad.
- 4) Shah Faisal Khan S/O Qazi Qalandar Khan, Senior C.T teacher, GHSS Nawan Shehr, Abbottabad.
- 5) Mubashar Hassan S/O Muhammad Idris SST GHS Banda Pir Khan Abbottabad

Petitioners

**VERSUS**

- 1 District Comptroller of Accounts, Abbottabad.
- 2 Accountant General Khyber Pakhtunkhwa Peshawar.
- 3 Government of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar.
- 4 Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Department Peshawar.
- 5 District Education Officer, Elementary & Secondary Education Department (Male) District Abbottabad.

Respondents

EXECUTION PETITION FOR IMPLEMENTATION OF FINAL JUDGMENT DATED 12/05/2009 PASSED IN APPEAL NO 1276 OF 2007,

**READ WITH**

KHYBER PAKHTUNKHWA CESSATION OF PAYMENT OF ARREARS ON ADVANCE INCREMENTS ON HIGHER EDUCATIONAL QUALIFICATION ACT, 2012, ("KHYBER PAKHTUNKHWA ACT NO. IX of 2012").

AND

JUDGMENT DATED 14/06/2023, PASSED IN WRIT PETITION NO 3081-P OF 2012, TITLED ANAYAT ULLAH KHAN AND OTHERS VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY, PESHAWAR AND OTHERS.

**PRAYER**

IT IS RESPECTFULLY PRAYED THAT RESPONDENTS MAY PLEASE BE DIRECTED TO IMPLEMENT OF FINAL JUDGMENT DATED 12/05/2009 PASSED AS "JUDGMENT IN REM" IN APPEAL NO 1276 OF 2007, WITH ALL BACK BENEFITS.

ANY OTHER RELIEF FOR WHICH THE PETITIONER IS ENTITLED AND SAME IS NOT ASKED/PRAYED SPECIFICALLY MAY KINDLY BE GRANTED IN THE FAVOUR OF THE PETITIONER TOO.

Respectfully Sheweth,

- 1) That this Honourable Tribunal had been pleased to pass judgment in favour of petitioners, for advance increments on higher educational qualification on 12/05/2009, in appeal No 1276 of 2007 along with numerous same nature other appeals, whereupon respondents did not file petition (CPLA) before Apex Court against the judgment dated 12/05/2009 and thus it attained finality. Copy of judgment is annexed as Annexure "A".
- 2) That later respondents had illegally avoided to implement the existing final Judgment in letter and spirit, similarly in the meanwhile Government of Khyber Pakhtunkhwa promulgated/published Khyber Pakhtunkhwa cessation of payment of arrears on advance increments on higher educational qualification Act, 2012, ("KHYBER PAKHTUNKHWA ACT NO. IX of 2012"). Copy of Act is annexed as Annexure "B"

- 3) That some aggrieved persons had challenged the legitimacy of above Act before proper Forums, however on its promulgation, as per Section No 2 of the Act, all executions/implementations process shall be deemed to be non-existent, and ceased, so all pending execution petitions and fresh executions were being filed during the period of pendency of above proceedings relating to validity of said Act, but these implementation/executions were being filed and abated till the decision of said Act.
- 4) That petitioners have once again entitled to get their rights of Advance Increments granted through final existing judgment of this Honourable Tribunal dated 12/05/2009, as now Peshawar High Court has decided these issues of Act, in judgment dated 14/06/2023, passed in Writ Petition no 3081-P of 2012, titled "Anayat Ullah Khan and others versus Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others". Copy of judgment dated 14/06/2023 is annexed as **Annexure "C"**
- 5) That in pursuance of above Judgment of Peshawar High Court, read with judgment dated 12/05/2009, passed in appeal No 1276 of 2007 by this Honourable Tribunal, petitioners have not only fulfilled the terms, as they had filed their service appeals for grant of advance increments on higher educational qualification but this Honourable Tribunal had been please to accept Petitioners' appeals along with numerous appeals on 12/05/2009. Copies of service appeals are annexed as **Annexure "D"**
- 6) That in the above circumstances petitioners are legally entitled to implement the existing final judgment of this Honourable Tribunal dated 12/05/2009 in letter and spirit along with all back benefits, as the instant execution petition is with in time.

It is respectfully prayed that respondents may please be directed to implement the existing final judgment dated 12/05/2009 passed in appeal no 1276 of 2007, with all back benefits.

Any other relief for which the petitioner is entitled and same is not asked/prayed specifically may kindly be granted in the favour of the petitioners too.

Dated 06/01/2024

*MAS*  
Petitioner

*[Signature]*

Through

(Rashid Iqbal Khan Jadoon)  
Advocate IBC Islamabad  
Attorney Abbottabad.

*[Signature]*  
(Shahzad Shakoor)  
Advocate High Court Abbottabad

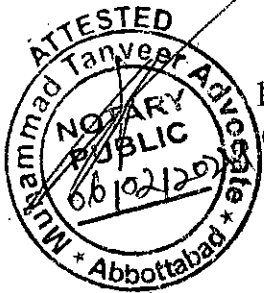
Abbott Law Chamber  
Office No 6, Ground Floor, Ayub Tanoli lawyer plaza  
Abbottabad. 0333-5025002, 0316-9343818

### AFFIDAVIT

We enlisted below

- 1) Haroon ur Rasheed S/O Maghfoor ur Rehman, SST (G), GHS Kangar Maira Lora, Tehsil Lora, District Abbottabad.
- 2) Muhammad Aslam S/O Muhammad Hussain Retired CT teacher, GHS Surjal Abbottabad R/O village Akhreela (Sheikh ul Bandi) Tehsil & District Abbottabad.
- 3) Wajid Khan S/O Qazi Abdul Khaliq Senior CT, GHSS Nawan Shehr, Abbottabad.
- 4) Shah Faisal Khan S/O Qazi Qalandar Khan, Senior C.T teacher, GHSS Nawan Shehr, Abbottabad.
- 5) Mubashar Hassan S/O Muhammad Idris SST GHS Banda Pir Khan Abbottabad.

Deponents, do here by affirm on oath that contents of instant execution petition is correct and true according to my best knowledge and belief and nothing has been suppressed from this Honourable Tribunal and it is also declared on oath that respondents are not implementing the existing final judgment of this Honourable Tribunal dated 12/05/2009.



*[Signature]*  
1) Haroon ur Rasheed  
CNIC No 13101- 8470217-9

*[Signature]*  
2) Muhammad Aslam  
CNIC No 13101-2341833-3

*[Signature]*  
3) Wajid Khan  
CNIC No 13101-5486752-9

*[Signature]*  
4) Shah Faisal Khan  
CNIC No 13101-0824138-1

*[Signature]*  
5) Mubashar Hassan  
CNIC No 13101- 5853165-3

Annexure A

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
	02/2008	Amjad Hussain Awan

*checked*  
*10/10/09*

*10/10/09*

EXAMINER  
NWFP Service Tribunal  
Peshawar  
ATTESTED

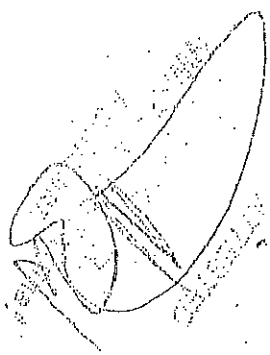


- 6. 03/2008 Muhammad Sarwar Khan,
- 7. 04/2008 Syed Arif Hussain Shah,
- 8. 09/2008 Sultan Khan,
- 9. 10/2008 Shafqat Hussain,
- 10. 17/2008 Muhammad Sabir Hussain,
- 11. 18/2008 Tanveer Hussain Awan,
- 12. 19/2008 Shafqat Samdani,
- 13. 20/2008 Arshad Khan,
- 14. 21/2008 Shahid Iqbal,
- 15. 22/2008 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,

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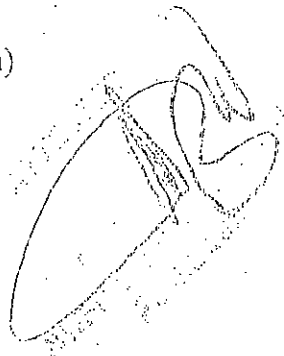
Abdur Razaq,  
 Abdur Razaq,  
 Shaikat Ali Abbasi,  
 Abdul Hamid Lodhi,  
 Umar Khatib,  
 Abdul Majid,  
 Muhammad Saleem,  
 Bashir Ahmad,  
 Mazhar Khan,  
 Muhammad Saeed,  
 Manzoor Ahmad,  
 Zulfiqar,  
 Sardar Ishaq Ali,  
 Khurshed Ahmad,  
 Muhammad Daud Qureshi,  
 Muhammad Fayaz Awan,  
 Naheem Akhtar,  
 Muhammad Siddique,  
 Sajjad Ahmad,  
 Abdul Hameed,  
 Raza Hussain Shah,  
 Shakeel Ahmad,  
 Muhammad Majid Mirza,  
 Rab Nawaz,  
 Altar,  
 Miaz Hussain,  
 Muhammad Iqbal,  
 Jamshed Khan,  
 Muhammad Shafi,  
 Muhammad Qasim,  
 Sajjad Ahmad,  
 Gul Siraj,  
 Muhammad Khurshed,  
 Mst. Zakia Sultana,  
 Mst. Shahnaz,  
 Mushiaq Hussain,



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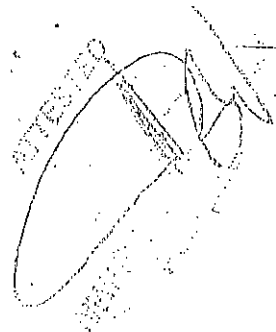
- 78. 899/2008 Muhammad Hanif,
- 79. 906/2008 Noor Elahi,
- 80. 907/2008 Muhammad Irshad,
- 81. 950/2008 Abdul Haleem Lodhi,
- 82. 951/2008 Jahangir Iqbal,
- 83. 952/2008 Gul Hameed,
- 84. 953/2008 Muhammad Imran,
- 85. 954/2008 Muhammad Ishtiaq,
- 86. 955/2008 Muhammad Ashraf,
- 87. 956/2008, Asif Ali,
- 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 Amjad Hussain Shah,
- 93. 962/2008 Muhammad Shoab,
- 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 Iqbal,
- 109. 1051/2008 Muhammad Haroon,
- 110. 1110/2008 Raja Wahed Murad (Health)
- 111. 1111/2008 Aurangzeb Khan,
- 112. 1112/2008 Qazi Saeed-ur-Rahman,
- 113. 1113/2008 Muhammad Imtiaz,

MASL



114. 1135/2008 Muhammad Hamayun,  
Shahid Farooq
115. 1136/2008 Abdul Waheed,  
Naseeni Akhtar,
116. 1137/2008 Syed Arshad Hussain Shah,  
Naveed,
117. 1206/2008 Sadat Ali,  
Saeed Akhtar,
118. 1207/2008 Anwar-ul-Haq,  
Syed Husnain Ali Shah,
119. 1208/2008 Muhammad Niaz,  
Muhammad Anwar,
120. 1209/2008 Syed Sadat Hussain Shah,  
Shah Jehan,
121. 1234/2008 Ahmad Farooq,  
Muhammad Younas,
122. 1235/2008 Muhammad Shafique,  
Tariq Mehmood,
123. 1236/2008 Muhammad Yousaf,  
Waqar Ahmad,
124. 1242/2008 Muhammad Azhar,  
Muhammad Aftaz Aziz,
125. 1243/2008 Muhammad Assad,  
Rashid Khan,
126. 1268/2008 Mirza Yasir Jamil Baig,  
Javed Ibrahim,
127. 1274/2008 Muhammad Nawaz,  
Fida Muhammad,
128. 1355/2008 Shah Faisal Khan,  
Nasir Bakhtiar Khan,
129. 1356/2008 Tahir Mahmood,  
Ajmal Nazir,
130. 1357/2008 Uzair Jadoon,  
Muhammad Adnan Khan,
131. 1379/2008 Zahoor Khan,  
Wajid Ali Shah,
132. 1380/2008
133. 1381/2008
134. 1382/2008
135. 1383/2008
136. 1384/2008
137. 1385/2008
138. 1386/2008
139. 1387/2008
140. 1388/2008
141. 1402/2008
142. 1403/2008
143. 1404/2008
144. 1405/2008
145. 1406/2008
146. 1407/2008
147. 1425/2008
148. 1426/2008
149. 1427/2008

Attested  
M.A.S.L.  
M.A.S.L.



10

- ✓
- |      |             |                        |
|------|-------------|------------------------|
| 150. | 1428/2008   | Mahmoob 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 Rafaqat,      |
| 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   | Ishtiaq Ahmad,         |
| 184. | 1700/2008   | Mst. Robina Shaheen,   |
| 185. | 1701/2008   | Mst. Nasim Akhtar,     |

Attested  
by  
Wajid Khan

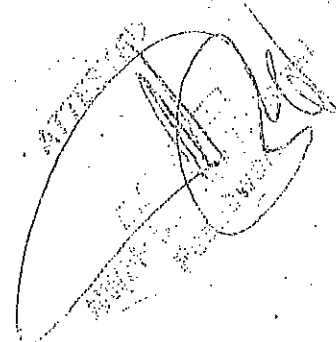
EXAMINER  
Services (Tribunal)  
Peshawar

ATTESTED

MAJL  
Wajid Khan

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,

MAJL



221.	229/2009	Nasir Ali,
222.	230/2009	Ali Nawaz,
223.	231/2009	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 Naem,
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	Azimi Shah
251.	433/2009	Chazala Bibi
252.	434/2009	Riaz Khan
253.	500/2009	Mumtaz Khan
254.	501/2009	Lal Afsar
255.	502/2009	Badri Zaman
256.	503/2009	Liaquat

M/S L

APPROVED  


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

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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.

2007/1276

2007/1276

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.

5. The judgment in CPLA Nos. 525 of 2007 and 526 of 2007 is as under:-

*Learned Additional Advocate General attempted to argue that in view of the higher scale granted to Elementary School Teachers in*

ATTESTED  
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NWFP Service Tribunal



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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:-

*EXAMINED*  
*ATTESTED*  
*20/11/07*  
*20/11/07*

"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."

*20/11/07*

While disposing of Crl. 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

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.

Attested  
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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.

(BISMILLAH SHAH)  
MEMBER.

(ABDUL JALIL)  
MEMBER.

CAMP COURT ABBOTTABAD.

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Annexure B

**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, TUESDAY, 15TH MAY, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT  
KHYBER PAKHTUNKHWA

**NOTIFICATION**

Dated Peshawar, the 15th May, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/20711.—The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 8th May, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 11th May, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA CESSATION OF PAYMENT OF ARREARS ON  
ADVANCE INCREMENTS ON HIGHER EDUCATIONAL QUALIFICATION  
ACT, 2012.**

(KHYBER PAKHTUNKHWA ACT NO. IX OF 2012)

*(first published after having received the assent of the Governor of the Khyber  
Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa  
(Extraordinary), dated the 15th May, 2012).*

**AN  
ACT**

*to cease the payment of arrears accrued on account of advance increments on  
higher educational qualification.*

WHEREAS advance increments have been granted to certain Provincial Government employees on the basis of acquiring or possessing higher educational qualification over and above the prescribe educational qualification from time to time;

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AND WHEREAS the Provincial Government vide Notification No. (PRC)1-1/2001, dated 27.10.2001, had already discontinued the scheme of advance increments on higher educational qualification;

AND WHEREAS due to financial constraints, it is not possible for Provincial Government to pay the claimed and unclaimed arrears accrued from the said increments;

It is hereby enacted as follows:-

1. **Short title, application and commencement.**— (1) This Act may be called the **Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012.**

(2) It shall apply to all the employees of the Provincial Government, who were entitled to received advance increments on higher educational qualification.

(3) It shall come into force at once and shall be deemed to have taken effect on and from 1<sup>st</sup> day of December, 2001.

2. **Cessation of payment of arrears on advance increments on higher educational qualification.**—(1) Notwithstanding anything contained in any decision, judgment and order of any Tribunal or Court including High Court or Supreme Court of Pakistan, for the purpose of any claim for payment of arrears on account of advance increments on higher educational qualification sanctioned in pursuance of any order, letter, office memoranda, notification, instructions and other instruments issued before 1.12.2001, such orders, letters, office memoranda, notifications, instructions and other instruments shall be deemed to be non-existent, ceased or revoked and no further claim whatsoever on the basis of these instruments shall be entertained and all cases in respect of such claims pending in any Court or Tribunal including High Court and Supreme Court of Pakistan shall stand abated.

(2) Any order made, instruction 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.

MABL

2. **Removal of difficulties.**— If any difficulty arises, in giving effect to the provisions of this Act, the Provincial Government may make such orders as it may deem just and equitable.

3. **Repeal.**— The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Ordinance, 2012 (Khyber Pakhtunkhwa Ordinance NO. I of 2012), is hereby repealed.

BY ORDER OF MR. SPEAKER

PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

(AMANULLAH)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa

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MA-1

Annexure C

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**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
**JUDICIAL DEPARTMENT**

**W.P. No.3081-P/2012 with CM No.1672-P/2022**

**Anayat Ullah Khan and others**

**Vs.**

**Government of Khyber Pakhtunkhwa through Chief  
Secretary, Peshawar and others**



Date of hearing : **14.06.2023**  
Petitioner(s) by: **M/s. Noor Muhammad Khattak and L.  
Nawab Ali Noor, Advocates.**  
Respondent(s) by: **Mr. Amir Javed, Advocate General  
Khyber Pakhtunkhwa and Barrister  
Muhammad Yaseen Raza Khan, Addl:  
Advocate General a/w Mr. Fazl-e-Khaliq,  
Litigation Officer, DEO (M&F), Swabi.**

\*\*\*\*\*

**JUDGMENT**

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**IJAZ ANWAR, J.** Through this single judgment, we intend to decide the instant writ petition and Writ Petitions, listed below, since in all these cases, similar questions of law and facts are involved. The connected writ petitions are:-

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- i. *W.P. No.913-P/2014 titled, Muhammad Iqbal and others Vs. Government of Khyber Pakhtunkhwa through Secretary to Government, Finance Department, Peshawar and others.*
- ii. *W.P. No.1418-P/2014 titled, Molvi Muhammad and others Vs. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Peshawar and others*
- iii. *W.P. No.2053-P/2014 titled, Saeed Ullah and others Vs. Government of Khyber Pakhtunkhwa through Secretary S&GAD, Peshawar and others*
- iv. *W.P. No.1182-P/2018 titled, Muhammad Rehman and others Vs. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others*
- v. *W.P. No.2326-P/2019 titled, Muhammad Anwar Vs. Government of Khyber*

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**ATTESTED**  
**EXAMINER**  
Peshawar High Court

Pakhtunkhwa through Secretary  
Education, Peshawar and others  
vi. W.P. No.1680-P/2021 titled, Ghandal  
Khan Vs. District Education Officer  
(Male), Peshawar and others

2. In the instant writ petition, the petitioners have  
prayed for the following relief:-

*"It is, therefore, humbly prayed that on acceptance  
of this writ petition, this Hon'ble Court may be  
pleased to declare the act as against the basic  
norms of law & rules repugnant to constitution, law  
and practice/policy as such no legal effect liable to  
mauled set-aside".*

3. In all these petitions, the petitioners have  
mainly questioned the vires of the Khyber Pakhtunkhwa  
Cessation of Payment of Arrears on Advance Increments on  
Higher Educational Qualification Act, 2012 (hereinafter to be  
referred as "the Act").

4. Comments were called from the respondents  
who furnished the same, wherein, they opposed the issuance of  
desired writ asked for by the petitioners.

5. Arguments heard and record perused.

6. Perusal of the record transpires that the  
petitioners have questioned the vires of "the Act" on the  
ground that promulgation of "the Act" had defeated the  
judgments of the superior Courts. He further contended that  
vested rights of the petitioners have accrued in the matter and  
placed reliance on the judgments reported as "FECTO Belarus  
Tractor Ltd Vs. Government of Pakistan through Finance  
Economic Affairs and others (PLD 2005 SC 605), 2013

ATTESTED  
EXAMINER  
Peshawar High Court

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SCMR 1749, 2013 SCMR 1752 (Contempt of Court Proceedings case) and AIR 1975 SC 2199".

7. On the other hand, the learned Advocate General, Khyber Pakhtunkhwa has referred to a recent judgment of the Hon'ble Supreme Court of Pakistan passed in the case titled "The Divisional Superintendent, Pakistan Railways, Rawalpindi and others Vs. Syed Irshad Ali Abid (2021 PLC (C.S.) 277)" and contended that the grant of increments on higher educational qualification has since been discontinued through Notification dated 13.09.2001, as such, it is a past and closed transaction and that necessary time was granted to the employees who have any claim, albeit, when they failed to claim the same for long ten years, as such, "the Act" in question was promulgated. He has also produced a letter dated 29.04.2010 issued by the Additional Secretary (Regulation), Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing), whereby, clarification was given about the advance increments on higher educational qualification and according to which, a period of sixty days was provided for the remaining claims and argued that even then, petitioners have failed to claim the advance increments at the relevant time.

8. During the course of hearing, learned counsel for the petitioners has produced letters/applications which were duly placed on file and contended that the rights of the petitioners to the grant of advance increments were secured

ATTESTED  
EXAMINER  
Peshawar High Court



and guaranteed by a Government's circular letter dated 11.08.1991 and that the case of the petitioners was matured at the relevant time before the cut-of-date i.e. 13.09.2001 when the grant of such increments was discontinued. He also referred to a judgment of the Hon'ble Supreme Court of Pakistan passed in "CPLAs No.525 and 526/2007 decided on 19.07.2007".

9. At this stage, the learned Advocate General, Khyber Pakhtunkhwa, representing the respondents, contended that the civil servants, who were holding higher educational qualification prior to discontinuation of advance increments in the year, 2001, are entitled for the benefit flowing from circular letter dated 11.08.1991, however, those who have improved their qualification after the notification dated 13.09.2001, under no circumstances, can claim the same benefit and that the bar created through "the Act" would be equally applicable.

10. In view of the above, we, without commenting upon the vires of "the Act" and in view of the statement of the learned Advocate General, Khyber Pakhtunkhwa, dispose of this and the connected writ petitions and direct the respondents to consider the case of the petitioners in the light of circular letter dated 11.08.1991 and in case, they fulfill the condition mentioned therein for the grant of advance increments prior to the cut-of-date, they be allowed such benefit. It is, however, clarified that only the case of the present petitioners shall be

ATTESTED  
EXAMINER  
Peshawar High Court

23

considered and that others cannot claim such benefits, having not agitated the matter at the relevant time.

Announced  
Dt:14.06.2023

*[Handwritten signature]*

JUDGE

*[Handwritten signature]*

JUDGE

(DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Syed Muhammad Atique Shah

\*Mukhammadullah\*

CERTIFIED TO BE TRUE COPY

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8.7 of  
the Qanun-e-Shahadat Act 1984

03 OCT 2023

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Annexure D

**BEFORE NWFP SERVICE TRIBUNAL PESHAWAR**

Service Appeal No: 267 of 2007

Haroon-ur-Rasheed S/O Maghfoor-ur-Rehman PTC Teacher Government Primary School Phalla R/O (at Present) Mohalla Chitian Qabran, Village Kohala Bala, Post Office Lora, Via Rawalpindi (Tehsil and District Haripur), Post Code No 22360.

**Appellant**

**Versus**

1. District Coordination Officer, Abbottabad.
2. Executive District Officer (Schools & Literacy), Abbottabad.
3. District Accounts Officer, Abbottabad.
4. Director (Schools & Literacy), NWFP, Peshawar.
5. Secretary to Government of NWFP (Schools & Literacy Department), Peshawar.
6. Accountant General, NWFP, Peshawar.
7. Secretary to Government of NWFP, Finance Department, Peshawar.

**Respondents**

**Appeal under Section 4 of NWFP Service Tribunal Act 1974 for grant of Six Advance Increments of MA against PTC Post w.e.f. 17.06.2001 besides another Four Advance Increments of BA against PTC Post instead of three advance increments w.e.f. 12.03.1995 along with all back benefits under Para 5(i) (C) & (B) of the Notification No FD (PRC) 1-1-89 dated 11.08.1991 issued by Respondent No 7 and on the basis of Judgement dated 19.07.2007 passed by Supreme Court of Pakistan in CPLA No 525, 526 & 590 of 2007.**

Respectfully Sheweth,

**FACTS**

*MAS*

- 1) That the Appellant was appointed as PTC (Untrained) Teacher on 30.04.1988 (in Education Department) and thereafter he passed his professional training Examination PTC on 22.11.1992, and being FA 2nd Division, was placed in BPS No 9 on the basis of Notification No FD(PRC 1-1-89 dated 07.08.1991, issued by Respondent No 7, and now he is working in BPS No 9 against PTC Post. A copy of said Notification is Annexure A.
- 2) That the Appellant passed his BA Examination during his service on 12.03.1995 and got only three advance increments w.c.f. 12.03.1995 with no arrear up to 22.03.1999 whereas he was entitled for Four Advance Increments on the basis of Circular dated 11.08.1991. A Certificate in this respect, issued by concerned authority is annexed as Annexure B.
- 3) That the Appellant during his service as PTC Teacher, also passed his MA Examination on 17.06.2001 and he was entitled for Six Advance Increments besides another Four Advance Increments of BA against PTC Post instead of three on the basis of Para 5(1) (C) and (B) of the Notification NO FD (PRC) 1-1-89 dated 11.08.1991 but the same was not given by the Respondents in their office routine matters until now. Copy of said Notification is Annexure C.
- 4) That the Appellant being Teacher in Education Department was/is a member of Civil Employees (BPS 1-15) of the Provincial Government of NWFP and Para 3 of the same Notification dated 11.08.1991 above applies in Pay and Allowances matters from 01.06.1991, whose Para No 5, Clauses (B) & (C) caters for the grant of Six Advance Increments on attaining MA against PTC Post besides another Four Advance Increments of BA against PTC Post instead of three. Prescribed Qualification of PTC Post is Matric with PTC Course. So the Appellant was/is entitled for the same and Respondents did not give him his Constitutional rights.
- 5) That In the Meanwhile, Honourable Supreme Court of Pakistan has decided the same matters in CPLA No 525, 526 and 590 of 2007 on 19.07.2007, and ultimately declared that teachers in Education Department (Appellant) are also Entitled for their advance increments given in Notification No FD(PRC)1-1/89 Dated 11.08.1991 without any exception. Copies of Supreme Court order are Annexure D & D1.

- (26)
- 6) That when the above Judgement of the Supreme Court dated 19.07.2007 came into notice of the Appellant, he submitted his departmental representation to Respondent No 1 through Respondent No 2 on 03.10.2007 and it is undecided within the statutory period of 90 days. Copy of representation is Annexure E. Hence this appeal *inter alia* on the following ground, and Appellant's appeal is within 120 days from the submission of his departmental representation dated 03.10.2007.

### Grounds

- a). That the policy contained in Notification/Circular dated 11.08.1991 was/is passed by NWFP Provincial Assembly in their Budget Session 1991-92 and then Honourable Governor approved the same and Respondent No 7 issued the said Circular after completing the legal requirements.
- b). That all the Respondents along with Respondent No 7 neither have power nor any jurisdiction to change, apply or withhold/deny the Government Policy contained in Circular/Notification dated 11.08.1991 and cannot apply according to their own wishes and whims against the said policy.
- c). That the action of Respondents in refusing/delaying the grant of 4 advance increments to the Appellant on the basis of Circular dated 11.08.1991, violated the Article 25, 189, 190 of the Constitution.
- d). That the said Circular (Annexure C) was/is issued for Civil Provincial Employees of NWFP (BPS 1-15) and Appellant being PTC Teacher (Education Department) falls under the same and fully entitled for the relief of Six Advance Increments of MA against PTC and Four Advance Increments of BA instead of three against PTC Post along with benefits as claimed by him.
- e). That the case of Appellant is the same nature in facts and laws, which was decided by Supreme Court of Pakistan on 19.07.2007 passed in CPLA No 525, 526 and 590 of 2007 (Annexure D).
- f). That under the law Appellant's case is quite clear after the Judgement passed in CPLA No 525, 526 and 590 of 2007 by Supreme Court, and Respondents'
- MA 52

behaviour with Appellant's representation dated 03.10.2007 is illegal, without jurisdiction and unconstitutional.

- g). That there is now no dispute available in the case of Appellant as Honourable Supreme Court of Pakistan has decided all the disputed matters involved in the instant appeal on 19.07.2007.
- h). That the Appellant's service appeal is maintainable and Appellant's Post is PTC for which prescribed qualification of the said post is Matric with PTC Course. The Appellant is working in BPS No 9 and Instant Case falls under para 5(1) (B) & (C) of the Circular dated 11.08.1991 (Annexure C).

It is, therefore, respectfully prayed that Appellant's appeal may kindly be accepted and Six Advance Increments of MA against PTC Post w.e.f. 17.06.2001 besides Four Advance Increments of BA instead of three advance increments against PTC Post with effect from 12.03.1995 with all back benefits may graciously be granted to the Appellant in the interest of justice.

Dated 28-1-2008

Haroon-ur-Rasheed  
Appellant in Person

**Affidavit**

I do hereby 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 28-1-2008

Haroon-ur-Rasheed  
DEPONENT

MA-31

BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.

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Service Appeal No. 444 of 2008

Muhammad Aslam S/O Muhammad Hussain, P.T.C, Government Primary School Nagaki, Abbottabad, R/O: Albadar Hotel Link Road Abbottabad, Tehsil & District, Abbottabad.

Appellant

Versus

- 1 Executive District Officer (Elementary & Secondary Education), Abbottabad.
- 2 District Coordination Officer, Abbottabad.
- 3 District Accounts Officer, Abbottabad.
- 4 Director of (Elementary & Secondary Education), N.W.F.P, Peshawar.
- 5 Secretary to Govt of N.W.F.P (Elementary & Secondary Education), Deptt: Peshawar.

Respondents

Appeal under Section 4 of NWFP Service Tribunal Act 1974, against the impugned Order dated 23/09/2008, issued by respondent no 01 under Endst: No 18043, whereby appellant's representation dated 20/09/2008, For grant of 06 Six advance increments of M.A, with effect from 15/09/1997 (date of passing M.A), against P.T.C post, with all back benefits on the basis of Para 5(i) (b) of the Notification No FD (PRC) 1-1 /89 dated 11-08-1991 issued by (Finance Department N.W.F.P, Peshawar) and in pursuance of Judgments/Law passed by Supreme Court of Pakistan, was refused/dissmissed.

Accepted  
M.A.S.L.

PRAYER

It is respectfully prayed before this Honourable Tribunal that the instant appeal may graciously be accepted, impugned order dated 23/09/2008, issued by respondent No 01 issued under Endst: No 18043, may be set aside and the appellant may be granted 06 advance increments of MA w.e.f. 15/09/1997, with all back benefits

Respectfully Sheweth,

FACTS

- 1) That appellant appointed as P.T.C teacher in Education Department on 27/07/1986 as an untrained teacher, after that appellant passed his professional training during his service on 07/04/1991, then his regular Service was also started from the said date i.e 07/04/1991 (date of passing PTC Course) against PTC post. Now a days appellant is working as

M.A.S.L.

P.T.C teacher in BPS No.12, at GPS Nagaki, District Abbottabad. A Certificate in this respect issued by concerned authority is annexed as Annexure A.

- 2) That appellant passed his F.A examination in 3rd Division and due to F.A 3rd Division appellant did not place in BPS No 09 against P.T.C post w. e. f. 07/04/1991 (date of passing PTC Course) on the basis of Notification No FD(PRC)1-1/89 dated 07/08/1991, issued by Finance Department, N.W.F.P, Peshawar. Copy of said Notification No FD (PRC)1-1/89 dated 07/08/1991 is Annexure B.
- 3) That appellant during his Service, passed his M.A examination on 15/09/1997, and was entitled for Six (06) Advance Increments with effect from 15/09/1997 (date of passing M.A examination) against PTC post, in pursuance of Para 5 (i) (b) of the Notification No FD(PRC)1-1/89 dated 11/08/1991, issued by Finance Department, N.W.F.P, Peshawar, but these advance increments were not given to the appellant by the respondents in their office routine, until now. Copy of said Notification No FD (PRC)1-1/89,dated 11/08/1991 is Annexure C.
- 4) That appellant being teacher in Education Department was/is a member of Civil Employees (BPS-1-15) of the Provincial Government of N.W.F.P and was/is entitled advance increments in pursuance of Notification 11/08/1991 referred above, whose Para # 5(i), Clause ( b ) caters for the grant of Six Advance Increments M.A/M.Sc against P.T.C post, because Prescribed Qualification of the said post was/is also SSC(Matric) with P.T.C Course, So appellant was/is entitled the same and Respondents did not give his Constitutional rights.
- 5) That now, In the Meanwhile, Honourable Supreme Court Of Pakistan has also decided the same matters in CPLA No 525,526 of 2007 on 19/07/2007, and ultimately declared that teachers (appellant) in Education Department are also Entitled for their Advanced Increments given in Para 5 (1) of Notification No FD(PRC)1-1/89 Dated 11/08/1991 without any change/exception. Copy of Supreme Court judgment is annexed as Annexure D.
- 6) That Honourable Supreme Court of Pakistan has been pleased to dismiss the Civil Review Petitions No 216 & 217 of 2007, filed by Finance Department, N.W.F.P, Peshawar, on 29/01/2008, which were filed against the judgment, dated 19/07/2007, passed in C.P.L.A No 525 & 526 of 2007, and now the matters of Advance Increments attained its finality and there is no way before the respondents to withhold/deny the rights of appellant. Copy of Supreme Court judgment passed in C.R.P No 216 & 217 of 2007 is annexed as Annexure E.

Attested  
M.A.S.L

M.A.S.L



- 7) That the petitioner of C.P.L.A. No 525 of 2007 (Mr: Rashid Iqbal Khan CT, GMS Tarhana, Abbottabad) has now been received his 04 Advance Increments of M.A/M.Sc with effect from its qualifying date, i.e. 15/09/1997, through an order issued on 26/02/2008, by the Education Department, in compliance of the Judgments of Honourable Supreme Court of Pakistan, dated 19/07/2007 & 29/01/2008, passed in CPLA No 525/2007 & CRP No 216/2007. Copy of Order dated 26/02/2008, of 04 Advance Increments of MA/MSc is annexed as Annexure F.
- 8) That when the above Judgments of the Supreme Court dated 19/07/2007 & 29/01/2008, and above order of Education Department dated 26/02/2008 (Annexure F) came into the notice of appellant, in the light of the same, he submitted his departmental representation to respondent no 1 on 20/09/2008, which was refused/dismisssed by the respondent no 01, on 23/09/2008 and final/dismisssal order (Impugned Order) was issued under Endst No 18043. Copy of representation is annexed as Annexure G, and Impugned order is annexed as Annexure H, Hence this appeal inters - alia on the following ground, and appellant's appeal is within 30 days from the refusal/dismisssal of his departmental representation.

Grounds

- a) That the impugned order dated 23/09/2008, passed by respondent no 01 on appellant's representation dated 20/09/2008 is arbitrary, unjust, and against all the norms of justice and equity. Hence liable to set aside.
- b) That the impugned order dated 23/09/2008, is against law, facts of the case, also against letter and spirit of the Judgments of Honourable Supreme Court of Pakistan dated 19/07/2007 passed in CPLA No 525,526 & 590 of 2007 and also dated 29/01/2008 in Civil Review Petition No 216 & 217 of 2007.
- c) That the Policy contained in Notification/Circular dated 11/08/1991 at its Para 5 was/is passed by N.W.F.P Provincial Assembly in their Budget Session 1991-92 and then Hon, le Governor approved the same and Finance Department issued the said Circular after completing the legal requirements.
- d) That all the Respondents neither have power nor any jurisdiction to change, withheld/deny the Government Policy contained in Circular/Notification dated 11/08/1991 and cannot apply according to their own wishes and whims, against the said policy.
- e) That the action of respondents in refusing the grant of advance increments to the appellant on the basis of Circular dard 11/08/1991, violated the Article 25,189 190 of the Constitution, as petitioner of CPLA (Mr: Rashid Iqbal Khan) has got his same relief of 04 advance increments of MA/MSc.

Attested  
MAJL

MAJL

- f). That the said Circular (Annexure C) was/is issued for Civil Provincial Employees of N.W.F.P (BPS-1-15) and appellant being teacher(Education Department) falls under the same and fully entitled for the relief of Advanced Increments along with back benefits as claimed by him.
- g). That the case of appellant is the same nature in pursuance of Para 5 (i) of Notification, which was decided by Supreme Court of Pakistan on 19/07/2007 passed in CPLA No 525,526 of 2007 (Annexure D).
- h). That there is now no dispute available in the case of appellant as Honorable Supreme Court of Pakistan has decided all the disputed matters involved in the instant appeal on 19/07/2007.
- i). That appellant's service appeal is maintainable and appellant's post is P.T.C and prescribed qualification of the PTC post was Matric, appellant is now working against P.T.C post and Instant Case falls under Para 5(1) (b) of the Circular dated 11/08/1991(Annexure C).

It is therefore respectfully prayed that while setting aside impugned order dated 23/09/2008 approved/issued by respondent no 01, and appellant's appeal may kindly be accepted and 6 advance increments of M.A w.e.f. 15/09/1997 (date of passing M.A), against PTC post, along with all back benefits may graciously be granted to the appellant in the interest of justice.

Attested  
MASL

MASL  
(Muhammad Aslam)  
Appellant in person.

Affidavit

I do hereby 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

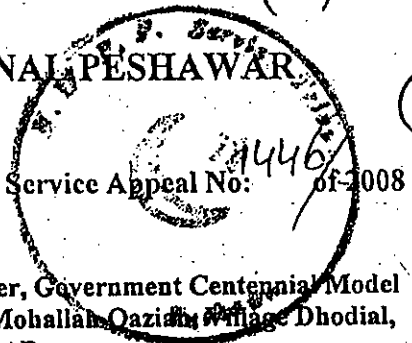
MASL

MASL  
(Muhammad Aslam)  
DEPONENT

~~Annexure B~~

8  
32

BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.



Wajid Khan S/O Qazi Abdul Khaliq, (Ex PTC) C.T teacher, Government Centennial Model Secondary (Eng; Med;) (GHS No 02) Abbottabad. R/O: Mohallah Qazian, Village Dhodial, Post Office Nawan Shehr, Tehsil & District, ABBOTTABAD.

Appellant

Versus

1. Executive District Officer (Elementary & secondary Education), Abbottabad.
2. District Coordination Officer, Abbottabad.
3. District Accounts Officer, Abbottabad.
4. Director of (Elementary & secondary Education) N.W.F.P Peshawar.
5. Secretary to Government of N.W.F.P (Ele; & Sec; Education) Department Peshawar.

N.W.F. Province  
Service Tribunal  
Diary No. 1965  
Dated 30-9-08

Respondents

Appeal under Section 4 of NWFP Service Tribunal Act 1974  
For grant of 04 Four advance increments of B.Sc instead of 03 w. e. f. 14/10/1996 (date of Induction in service) and 06 Six advance increments of M.A w.e.f. 25/08/1999(date of passing M.A) against PTC post, with all back benefits on the basis of Para 5(i) (b) of the Notification No FD (PRC) 1-1 /89 dated 11-08-1991 issued by (Finance Department N.W.F.P, Peshawar) and in pursuance of Judgments/Law passed by Supreme Court of Pakistan.

12.5.2009

Appellant in person, Arshad Alam A.G.P.  
alongwith representative of respondents present.  
Vide our detailed judgment of today, in Appeal No. 1276/2007, this appeal is also accepted. The parties are, however, left to bear their own costs.

File be consigned to the record.

ANNOUNCED.  
12.05.2009.

Sd. Member.

Sd. Member  
Camp Court Abbottabad.

Handwritten notes and signatures on the left side of the page, including 'checked', '13/9/08', and '13/7/08'.

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~~Annexure A~~ #

33

BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1446/ of 2008

Wajid Khan S/O Qazi Abdul Khaliq, (Ex PTC) C.T teacher, Government Centennial Model Secondary (Eng; Med;) (GHS No 02) Abbottabad. R/O: Mohallah Qazian, Village Dhadial, Post Office Nawan Shehr, Tehsil & District, ABBOTTABAD.

Appellant

Versus

- 1 Executive District Officer (Elementary & secondary Education), Abbottabad.
- 2 District Coordination Officer, Abbottabad.
- 3 District Accounts Officer, Abbottabad.
- 4 Director of (Elementary & secondary Education) N.W.F.P Peshawar.
- 5 Secretary to Government of N.W.F.P (Ele; & Sec; Education) Department Peshawar.

N.W.F. Province Service Tribunal  
Diary No. 1465  
dated 30-9-08

Respondents

Attested  
[Signature]

Appeal under Section 4 of NWFP Service Tribunal Act 1974  
For grant of 04 Four advance increments of B.Sc instead of 03 w. c. f. 14/10/1996 (date of Induction in service) and 06 Six advance increments of M.A w.e.f. 25/08/1999 (date of passing M.A) against PTC post, with all back benefits on the basis of Para 5(i) (b) of the Notification No FD (PRC) 1-1 /89 dated 11-08-1991 issued by (Finance Department N.W.F.P, Peshawar) and in pursuance of Judgments/Law passed by Supreme Court of Pakistan.

PRAYER

It is respectfully prayed before this Honourable Tribunal that the instant appeal may graciously be accepted, and the appellant may be granted 04 advance increments of B.A w.e.f. 14/10/1996, and 06 advance increments of MA w.e.f. 25/08/1999 with all back benefits

Respectfully Sheweth,

FACTS

That appellant appointed against P.T.C post as a trained teacher on 14/10/1996, in Education Department, after that appellant also passed his professional C.T training during his Service as PTC teacher, and being trained C.T, he was promoted against C.T post on 19/06/2002, thus his regular Service was also started against both the posts, from the date of his taking over charge. Now a

NWFP Service Tribunal  
EXAMINER  
Peshawar

ATTESTED  
[Signature]

Filed to-day  
[Signature]

7/10/08

day's appellant is working as C.T teacher in the Education Department. A Certificate in this respect issued by concerned authority is annexed as Annexure A.

2) That appellant had passed his B.Sc examination before his appointment, and being B.Sc 3<sup>rd</sup> Division he did not place in BPS No 14 against C.T post with effect from 19/06/2002 (date of promotion against CT post), on the basis of Notification No FD(PRC)1-1/89 dated 07/08/1991, issued by Finance Department, N.W.F.P, Peshawar. Copy of said Notification No FD (PRC)1-1/89 dated 07/08/1991 is Annexure B.

3) That appellant had passed his B.Sc examination before his Service, and was granted only 03 advance increments instead of 04 w.e.f. 14/10/1996 (date of appointment), similarly he, during his Service, had also passed his M.A examination on 25/08/1999, and was entitled for Six (06) Advance Increments with effect from 25/08/1999 (date of passing M.A examination) against PTC post, in pursuance of Para 5 (i) (b) of the Notification No FD(PRC)1-1/89 dated 11/08/1991, issued by Finance Department, N.W.F.P, Peshawar, but these (07) advance increments were not given to the appellant by the respondents in their office routine, until now. Copy of said Notification No FD (PRC)1-1/89 dated 11/08/1991 is Annexure C.

Attested  
on 4/10/2007

4) That appellant being teacher in Education Department was/is a member of Civil Employees (BPS-1-15) of the Provincial Government of N.W.F.P and was/is entitled advance increments in pursuance of Notification 11/08/1991 referred above, whose Para # 5, Clause (b) caters for the grant of 04 Advance Increments B.A/B.Sc, 06 Advance Increments M.A/M.Sc against P.T.C post because Prescribed Qualification of the said post was/is also Matric with Matric Course, So appellant was/is entitled the same and Respondents did not give his Constitutional rights.

11/08/91

5) That now, In the Meanwhile, Honourable Supreme Court Of Pakistan has also decided the same matters in CPLA No 525,526 of 2007 on 19/07/2007, and ultimately declared that teachers (appellant) in Education Department is also Entitled for their Advanced Increments given in Para 5 (1) of Notification No FD(PRC)1-1/89 Dated 11/08/1991 without any change/exception. Copy of Supreme Court judgment is annexed as Annexure D.

ATTESTED  
CHIEF SECRETARY  
PESHAWAR  
14/10/2007

6) That Honourable Supreme Court of Pakistan has been pleased to dismiss the Civil Review Petitions No 216 & 217 of 2007, filed by Finance Department, N.W.F.P, Peshawar, on 29/01/2008, which were filed against the judgment, dated 19/07/2007, passed in C.P.L.A No 525 & 526 of 2007, and now the matters of Advance Increments attained its finality and there is no way before the respondents to withhold/deny the rights of appellant. Copy of Supreme Court judgment passed in C.R.P No 216 & 217 of 2007 is annexed as Annexure E.

7) That the petitioner of C.P.L.A. No 525 of 2007 (Mr: Rashid Iqbal Khan Jadoon CT, GMS Tarhana, Abbottabad) has now been received his 04 Advance Increments of M.A/M.Sc with effect from its qualifying date, i.e. 15/09/1997, through an order issued on 26/02/2008, by the Education Department, in compliance of the Judgments of Honourable Supreme Court of Pakistan, dated 19/07/2007 & 29/01/2008, passed in CPLA No 525/2007 & CRP No 216/2007. Copy of Order dated 26/02/2008, of 04 Advance Increments of MA/MSc is annexed as Annexure F.

8) That when the above Judgments of the Supreme Court dated 19/07/2007 & 29/01/2008, and above order of Education Department dated 26/02/2008 (Annexure F) came into the notice of appellant, in the light of the same, he submitted his departmental representation to respondent no 1 on 09/06/2008, which was sent through learned principal under dispatch no 68 dated 09/06/2008 to the respondent no 01 and it is undecided within the statutory period of 90 days. Copies of representation and covering letter are Annexure G & H. Hence this appeal inters - alia on the following ground, and appellant's appeal is within 120 days from the submission of his departmental representation dated 09/06/2008.

Grounds

- a) That the impugned action of respondent no 01 not deciding the appellant's representation dated 09/06/2008 is arbitrary, unjust, and against all the norms of justice and equity and violated the Articles 25,189 and 190 of the Constitution, as petitioner of CPLA (Mr: Rashid Iqbal Khan) has got his same relief of 04 advance increments of MA/MSc.
- b) That the impugned action of respondent no 01 not deciding the appellant's representation, is against law, facts of the case, also against letter and spirit of the Judgments of Honourable Supreme Court of Pakistan dated 19/07/2007 passed in CPLA No 525,526 & 590 of 2007 and also dated 29/01/2008 in Civil Review Petition No 216 & 217 of 2007.
- c) That the Policy contained in Notification/Circular dated 11/08/1991 at its Para 5 was/is passed by N.W.F.P Provincial Assembly in their Budget Session 1991-92 and then Hon, le

Attested  
[Signature]

ATTESTED  
[Signature]

[Handwritten mark]







BEFORE NWFP SERVICE TRIBUNAL PESHAWAR

38

Service Appeal No: 1403/2008

Shah Faisal Khan S/O Qazi Qalandar Khan (Ex Junior Clerk), C.T teacher, Government Higher Secondary School Nawan Shehr, Abbottabad. Resident of Village Dhodial, Post Office Nawan Shehr, Tehsil and District Abbottabad.

1923  
Dated 20/9/08 Appellant

Versus

- 1 Executive District Officer (Elementary & Secondary Education), Abbottabad.
- 2 District Coordination Officer, Abbottabad.
- 3 District Accounts Officer, Abbottabad.
- 4 Director of (Elementary & Secondary Education), N.W.F.P, Peshawar.
- 5 Secretary to Govt of N.W.F.P (Elementary & Secondary Education), Deptt: Peshawar.
- 6 Secretary to Govt of N.W.F.P, Finance Department, Peshawar.

Respondents

Appeal under Section 4 of NWFP Service Tribunal Act 1974, against the impugned Order dated 26/08/2008, issued by respondent no 01, whereby appellant's representation dated 22/08/2008, For grant of 06 Six advance increments of M.A Instead of 2(already granted) And 04 Four advance increments of BA instead of 02 (already given) with effect from 19/04/1995 (date of induction in service), with all back benefits on the basis of Para 5(i) (b) of the Notification No FD (PRC) 1-1 /89 dated 11-08-1991 issued by respondent No 6) Finance Department N.W.F.P, Peshawar, and in pursuance of Judgments/Law passed by Supreme Court of Pakistan, was refused/dismissed.

PRAYER

It is respectfully prayed before this Honourable Tribunal that the instant appeal may gracious be accepted, impugned order dated 26/08/2008, issued by respondent No 01 may be set aside and the appellant may be granted 06 advance increments of MA instead of 02 and 04 advance increments of BA instead of 02 w.e.f. 19/04/1995 (total 06 more) with all back benefits

Respectfully Sheweth,

FACTS

Filed to-day  
M.A. Khan  
22/9/08  
TESTED  
PESHAWAR

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- 1) That appellant had appointed as a Junior Clerk in Education Department on 19/04/1995 in BPS No 05, after that appellant had got his C.T professional Course, and being C.T trained he had promoted against C.T post in BPS No 14 on 01/07/1997 on regular basis. Now a day's appellant is working as C.T teacher. A Certificate in this respect issued by concerned authority is annexed as Annexure A.
  
- 2) That appellant had passed his F.A, B.A and M.A Examinations before his Service, and on 19/04/1995 (date of his appointment) being F.A he had granted 02 Advance Increments, and on the basis of BA, he had entitled for 04 advance increments but had granted only 02, similarly appellant, on the basis of his M.A examination he had entitled for six 06 advance increments but only given 02 Advance Increments was given to him, Due to his entitlement applicant refers Para 5 (1) (b) of the Notification No-FD(PRC)1-1/89 dated 11/08/1991, issued by (respondent no 06) Finance Department, N.W.F.P, Peshawar but the same was not given by the respondents in their office routine matters until now. Copy of said Notification is Annexure B.
  
- 3) That appellant being Junior Clerk in Education Department was/is a member of Civil Employees (BPS-1-15) of the Provincial Government of N.W.F.P and was/is entitled advance increments in pursuance of Notification 11/08/1991 referred above, whose Para # 5, Clause ( b ) caters for the grant of Six Advance increments (instead of 02) on attaining M.A/M.Sc and 04 advance increments of BA/B.Sc (instead of 02) against the post of Junior Clerk, because Prescribed Qualification of the said post was/is also Matric (SSC), So appellant was/is entitled the same and Respondents did not give his Constitutional rights.
  
- 4) That respondents had wrongly interpreted the Scheme of Advance Increments, given to the Civil Employees at Para No 05 of the Notification referred herein above (Annexure B) and appellant was/is given heavy loss of 06 Advanced Increments w.e.f. 19/04/1995 (date of appointment), appellant was/is entitled for 04 Advanced Increments for B.A and 06 for M.A, but he was only 02 for B.A and also 02 for M.A against the Govt Policy contained in Notification/Circular dated 11/08/1991 which was/is passed by N.W.F.P Provincial Assembly in their Budget Session 1991-92.

That Honourable Federal Service Tribunal Islamabad has already decided the same view on 03/11/1996 in Appeal No 449(R)/96, and after that on 9<sup>th</sup> September, 2003 Honourable Supreme Court of Pakistan upheld the same

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 ISLAMABAD  
 11/08/1991

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judgment in her reported judgment (PLD 2004 Supreme Court 77) by dismissing the Appeal No 1452 of 1997, which was filed by the Federal Govt. Copy of Judgment dated 03/11/1996 passed in Appeal No 449(R)/96 by F.S.T, is annexed as Annexure C.

- 6) That now, In the Meanwhile, Honourable Supreme Court Of Pakistan has also decided the same matters/view in CPLA No 525,526 and 590 of 2007 on 19/07/2007, and ultimately declared that Employees (appellant) are also Entitled for their Advanced Increments given in Para 5 (1) of Notification No FD (PRC)1-1789 Dated 11/08/1991 without any change/exception. Copies of Supreme Court judgments are annexed as Annexure D & E.
- 7) That appellant in the light of above Judgments of the Supreme Court dated 09/09/2003 & 19/07/2000, submitted his departmental representation to respondent no 1 on 22/08/2008, which has refused by the respondent no 01, on 26/08/2008 and final/dismissal order has issued under Endst No 17445. Copy of representation is annexed as Annexure F, and Impugned order is annexed as Annexure G, Hence this appeal inters - alia on the following ground, and appellant's appeal is within 30 days from the refusal/dismissal of his departmental representation.

### Grounds

- a) That the impugned order dated 26/08/2008, passed by respondent no 01 on appellant's representation dated 22/08/2008 is arbitrary, unjust, and against all the norms of justice and equity. Hence liable to set aside.
- b) That the impugned order dated 26/08/2008, is against law, facts of the case, also against letter and spirit of the Judgments of Honourable Supreme Court of Pakistan (PLD 2004 Supreme Court 77) and dated 19/07/2007 passed in CPLA No 525,526 & 590 of 2007 and also dated 29/01/2008 in Civil Review Petition No 216 & 217 of 2007.
- c) That the Policy contained in Notification/Circular dated 11/08/1991 at its Para 5 was/is passed by N.W.F.P Provincial Assembly in their Budget Session 1991-92 and then Hon, le Governor approved the same and Finance Department issued the said Circular after completing the legal requirements

That all the Respondents neither have power nor any jurisdiction to change, withheld/deny the Government Policy contained in Circular/Notification dated 11/08/1991 and cannot apply according to their own wishes and whims against the said policy.

al,

*[Signature]*





43

**BEFORE NWFP SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 1495/ of 2008

Mubashar Hassan S/O Muhammad Idris, P.T.C teacher, Government Primary School Tannan, Abbottabad, R/O: Opposite Army Burn Hall College, Near Zaheer General Store, Jhangi Syedan, Post Office; Jhangi Syedan, Tehsil & District, Abbottabad.

Appellant

**Versus**

- 1 Executive District Officer (Elementary & Secondary Education), Abbottabad.
- 2 District Coordination Officer, Abbottabad.
- 3 District Accounts Officer, Abbottabad.
- 4 Director of (Elementary & Secondary Education), N.W.F.P, Peshawar.
- 5 Secretary to Govt of N.W.F.P (Elementary & Secondary Education), Deptt: Peshawar.

Respondents

Appeal under Section 4 of NWFP Service Tribunal Act 1974, against the impugned Order dated 23/09/2008, issued by respondent no 01 under Endst: No 18043, whereby appellant's representation dated 22/09/2008, For grant of 06 Six advance increments of M.A, with effect from 26/06/2000(date of passing M.A), and 04 Four advance increments of B.A Instead of 03 with effect from 28/04/1999(date of appointment) against P.T.C post, with all back benefits on the basis of Para 5(i) (b) of the Notification No FD (PRC) 1-1 /89 dated 11-08-1991 issued by (Finance Department N.W.F.P, Peshawar) and in pursuance of Judgments/Law passed by Supreme Court of Pakistan, was refused/dismissed.

**PRAYER**

It is respectfully prayed before this Honourable Tribunal that the instant appeal may graciously be accepted, impugned order dated 23/09/2008, issued by respondent No 01 issued under Endst: No 18043, may be set aside and the appellant may be granted 06 advance increments of MA w.e.f. 26/06/2000, and 04 advance increments of BA instead of 03, w.e.f. 28/04/1999 with all back benefits

Respectfully Sheweth,

**FACTS**

- 1) That appellant appointed as P.T.C teacher in Education Department on 28/04/1999 as a trained teacher, then his regular Service. also started from the said date i.e

N.W.F.P. PESHAWAR  
Service Tribunal  
DAILY No. 1966  
dated 30-9-08

NWFP Service Tribunal Peshawar  
EXAMINER  
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30/9/08

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28/04/1999(date of appointment) against PTC post. Now a days appellant is working as P.T.C teacher, at GPS Tannan, District Abbottabad. A Certificate in this respect issued by concerned authority is annexed as Annexure A.

2) That appellant passed his F.A examination in 2<sup>nd</sup> Division and being F.A 2<sup>nd</sup> Division was placed in BPS No 09 against P.T.C post w. e. f. 28/04/1999 (date of induction in service) on the basis of Notification No FD(PRC)1-1/89 dated 07/08/1991, issued by Finance Department, N.W.F.P, Peshawar. Copy of said Notification No FD (PRC)1-1/89 dated 07/08/1991 is Annexure B.

3) That appellant before his Service, passed his B.A examination on 31/12/1997, and he granted only 03 advance increments against PTC post w.e.f. 28/04/1999, while he was entitled for 04 advance increments w.e.f. 28/04/1999, similarly he also passed his M.A examination on 26/06/2000, and was entitled for Six (06) Advance Increments with effect from 26/06/2000 (date of passing M.A examination) against PTC post, in pursuance of Para 5 (i) (b) of the Notification No FD(PRC)1-1/89 dated 11/08/1991, issued by Finance Department, N.W.F.P, Peshawar, but these advance increments were not given to the appellant by the respondents in their office routine, until now. Copy of said Notification No FD (PRC)1-1/89, is Annexure C.

M.D. Hm.

4) That appellant being teacher in Education Department was/is a member of Civil Employees (BPS-1-15) of the Provincial Government of N.W.F.P and was/is entitled advance increments in pursuance of Notification 11/08/1991 referred above, whose Para # 5(i), Clause ( b ) caters for the grant of Six Advance Increments M.A/M.Sc and Four Advance Increments of B.A/B.Sc against P.T.C post, because Prescribed Qualification of the said post was/is also SSC(Matric) with P.T.C Course, So appellant was/is entitled the same and Respondents did not give his Constitutional rights.

5) That now, In the Meanwhile, Honourable Supreme Court Of Pakistan has also decided the same matters in CPLA No 525,526 of 2007 on 19/07/2007, and ultimately declared that teachers (appellant) in Education Department are also Entitled for their Advanced Increments given in Para 5 (1) of Notification No FD(PRC)1-1/89 Dated 11/08/1991 without any change/exception. Copy of Supreme Court judgment is annexed as Annexure D.

6) That Honourable Supreme Court of Pakistan has been pleased to dismiss the Civil Review Petitions No 216 & 217 of 2007, filed by Finance Department, N.W.F.P, Peshawar, on 29/01/2008, which were filed against the judgment, dated 19/07/2007, passed in C.P.L.A No 525 & 526 of 2007, and now the matters of Advance Increments attained its finality and there is no way before the respondents to withhold/deny the rights of appellant. Copy of

APPELLANT  
EXAMINER  
SERVICE TRIBUNAL  
PESHAWAR

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B

Supreme Court judgment passed in C.R.P No 216 & 217 of 2007 is annexed as Annexure E.

7) That the petitioner of C.P.L.A. No 525 of 2007 (Mr: Rashid Iqbal Khan CT, GMS Tarhana, Abbottabad) has now been received his 04 Advance Increments of M.A/M.Sc with effect from its qualifying date, i.e. 15/09/1997, through an order issued on 26/02/2008, by the Education Department, in compliance of the Judgments of Honourable Supreme Court of Pakistan, dated 19/07/2007 & 29/01/2008, passed in CPLA No 525/2007 & CRP No 216/2007. Copy of Order dated 26/02/2008, of 04 Advance Increments of MA/MSc is annexed as Annexure F.

8) That when the above Judgments of the Supreme Court dated 19/07/2007 & 29/01/2008, and above order of Education Department dated 26/02/2008 (Annexure F) came into the notice of appellant, in the light of the same, he submitted his departmental representation to respondent no 1 on 22/09/2008, which was refused/denied by the respondent no 01, on 23/09/2008 and final/dismissal order (Impugned Order) was issued under Endst No 18043. Copy of representation is annexed as Annexure G, and Impugned order is annexed as Annexure H, Hence this appeal inters - alia on the following ground, and appellant's appeal is within 30 days from the refusal/dismissal of his departmental representation.

### Grounds

- a) That the impugned order dated 23/09/2008, passed by respondent no 01 on appellant's representation dated 22/09/2008 is arbitrary, unjust, and against all the norms of justice and equity. Hence liable to set aside.
- b) That the impugned order dated 23/09/2008, is against law, facts of the case, also against letter and spirit of the Judgments of Honourable Supreme Court of Pakistan dated 19/07/2007 passed in CPLA No 525, 526 & 590 of 2007 and also dated 29/01/2008 in Civil Review Petition No 216 & 217 of 2007.
- c) That the Policy contained in Notification/Circular dated 11/08/1991 at its Para 5 was/is passed by N.W.F.P Provincial Assembly in their Budget Session 1991-92 and then Hon, le Governor approved the same and Finance Department issued the said Circular after completing the legal requirements.
- d) That all the Respondents neither have power nor any jurisdiction to change, withheld/deny the Government Policy contained in Circular/Notification dated 11/08/1991 and cannot apply according to their own wishes and whims against the said policy.

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FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D.C.



- e) That the action of respondents in refusing the grant of advance increments to the appellant on the basis of Circular dard 11/08/1991, violated the Article 25,189 190 of the Constitution, as petitioner of CPLA (Mr: Rashid Iqbal Khan) has got his same relief of 04 advance increments of MA/MSc.
- f). That the said Circular (Annexure C) was/is issued for Civil Provincial Employees of N.W.F.P (BPS-1-15) and appellant being teacher(Education Department) falls under the same and fully entitled for the relief of Advanced Increments along with back benefits as claimed by him.
- g). That the case of appellant is the same nature in pursuance of Para 5 (i) of Notification, which was decided by Supreme Court of Pakistan on 19/07/2007 passed in CPLA No 525,526 of 2007 (Annexure D).
- h). That there is now no dispute available in the case of appellant as Honorable Supreme Court of Pakistan has decided all the disputed matters involved in the instant appeal on 19/07/2007.
- i). That appellant's service appeal is maintainable and appellant's post is P.T.C and prescribed qualification of the PTC post was Matric, appellant is now working against P.T.C post and Instant Case falls under Para 5(1) (b) of the Circular dated 11/08/1991(Annexure C).

It is therefore respectfully prayed that while setting aside impugned order dated 23/09/2008 approved/issued by respondent no 01, and appellant's appeal may kindly be accepted and 6 advance increments of M.A w.e.f. 26/06/2000 (date of passing M.A), and 04 advance increments of B.A instead of 03 against PTC post w.e.f. 28/04/1999(date of appointment), along with all back benefits may graciously be granted to the appellant in the interest of justice.

Stamp: 10-00-217/19  
10-00-137/19  
13/12/19

*Mubashar Hassan*

*Mubashar Hassan*  
(Mubashar Hassan)  
Appellant in person

Affidavit

I do hereby 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

*Mubashar Hassan*  
(Mubashar Hassan)  
DEPONENT

S.No. 216543

Mob:

Name of Advocate

DBA NO.

TBA NO.

BC No.

R.s.200/=



وکالت نامہ ۲۶

Ch Muhammad Naseem  
Finance Secretary  
District Bar Association  
Abbottabad

بعدالت KP سروں کے بیٹے کے لئے  
عنوان: کارون الہ شریفہ نام: صورت کے لئے  
منجانب: Petitioners نوعیت مقدمہ اجراء ڈگری  
باعث تحریر آئنگہ

مقدمہ مندرجہ بالا عنوان میں ایک طرف سے واسطے بیرونی جو کہ پیشی یا تفسیح مقدمہ مقام ابدط امام کے لیے  
شہاد مشور الہ شریفہ کے واسطے

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رد و عدالت حاضر ہوتا ہوں گا اور بروقت پکارے  
جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ  
سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے  
علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرانے کے ذمہ دار نہ ہوں گے اور مقدمہ پکھری کے علاوہ کسی اور جگہ  
ساعت ہونے پر یا بروز تعطیل یا پکھری کے اوقات سے پہلے یا پیچھے نہیں ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے  
کسی معاوضہ کے ادا کرنے یا مختفیہ کے ادا کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو مکمل ساختہ پرداختہ صاحب موصوف  
مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراء کے ذگری و نظر ثانی اپیل نگرانی و ہر قسم  
درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ذگری کرانے اور ہر قسم کارروائی وصول کرانے اور رسید دینے اور داخل کرنے  
اور ہر قسم کے بیان دینے اور اس پر غامشی و لاپہی نامتہ و فیصلہ بر حلف کرانے و آجیل دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات  
از پکھری صدر اپیل و برآمدگی مقدمہ یا منوشی ذگری یکطرفہ درخواست حکم انصافی یا قری با گرفتاری قبل از گرفتاری واجرائے ذگری بھی صاحب  
موصوف کو بشرط ادائیگی علیحدہ مختانہ بیرونی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے  
کسی جزوی کارروائی کے یا بصورت اپیل کسی دوسرے واسطے کو کوئی ایسی چیز یا اس کے لئے ہر قسم کی کارروائی اور ایسے وکس کو بھی ہر امر میں  
وہی اور ایسے اختیارات حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف  
کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ  
کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

2024/02/06 مورخہ

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔ دن ماہ سال

نوٹ: وکالت نامہ کی فوٹو کاپی قابل قبول نہ ہوگی

Accepted

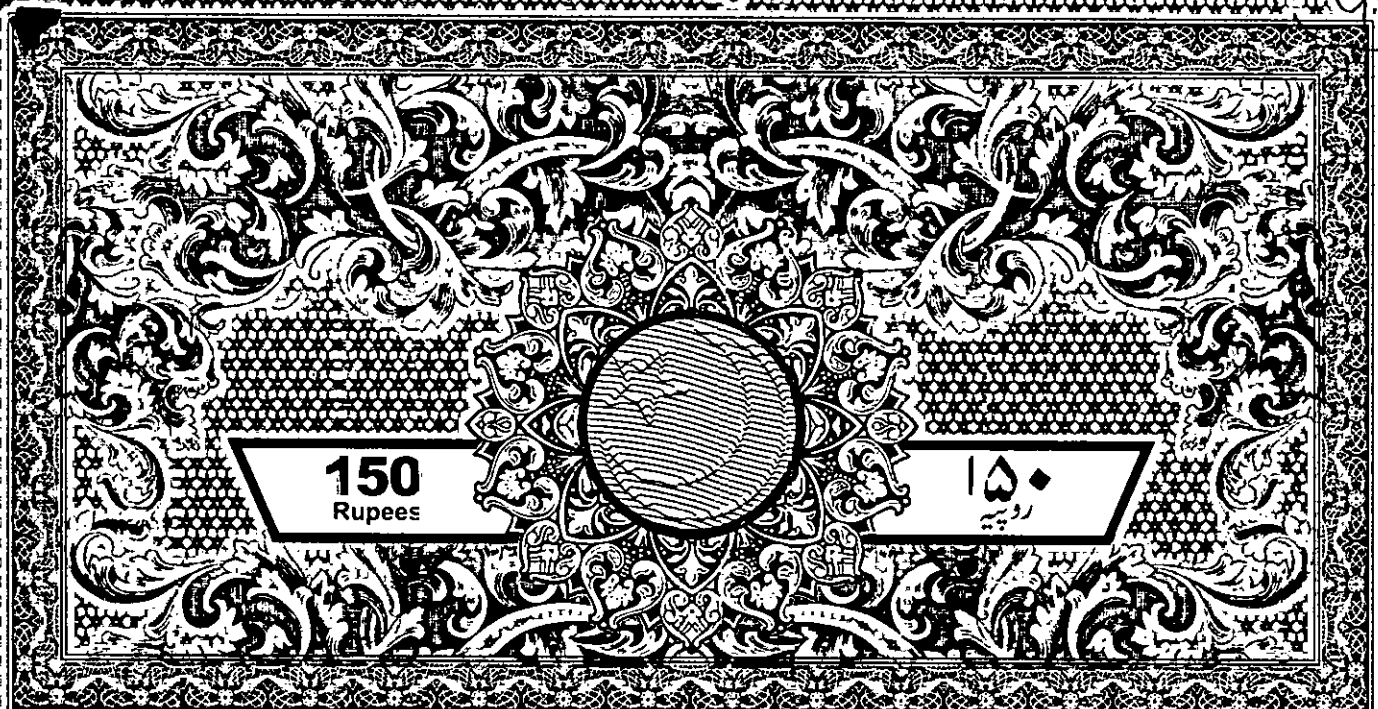
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کارون الہ شریفہ



**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**Execution Petition No:                      of 2024**

Haroon ur Rasheed S/O Maghfoor ur Rehman, SST (G), GHS Kangar  
Maira Lora, Tehsil Lora, District Abbottabad others.

Petitioners

**VERSUS**

District Comptroller of Accounts, Abbottabad and others.                      Respondents

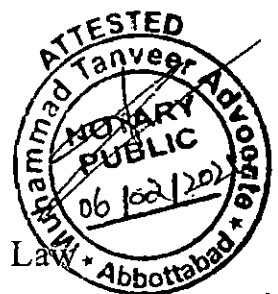
EXECUTION PETITION FOR IMPLEMENTATION OF FINAL  
JUDGMENT DATED 12/05/2009 PASSED AS "JUDGMENT IN REM"  
IN APPEAL NO 1276 OF 2007

**POWER OF ATTORNEY**

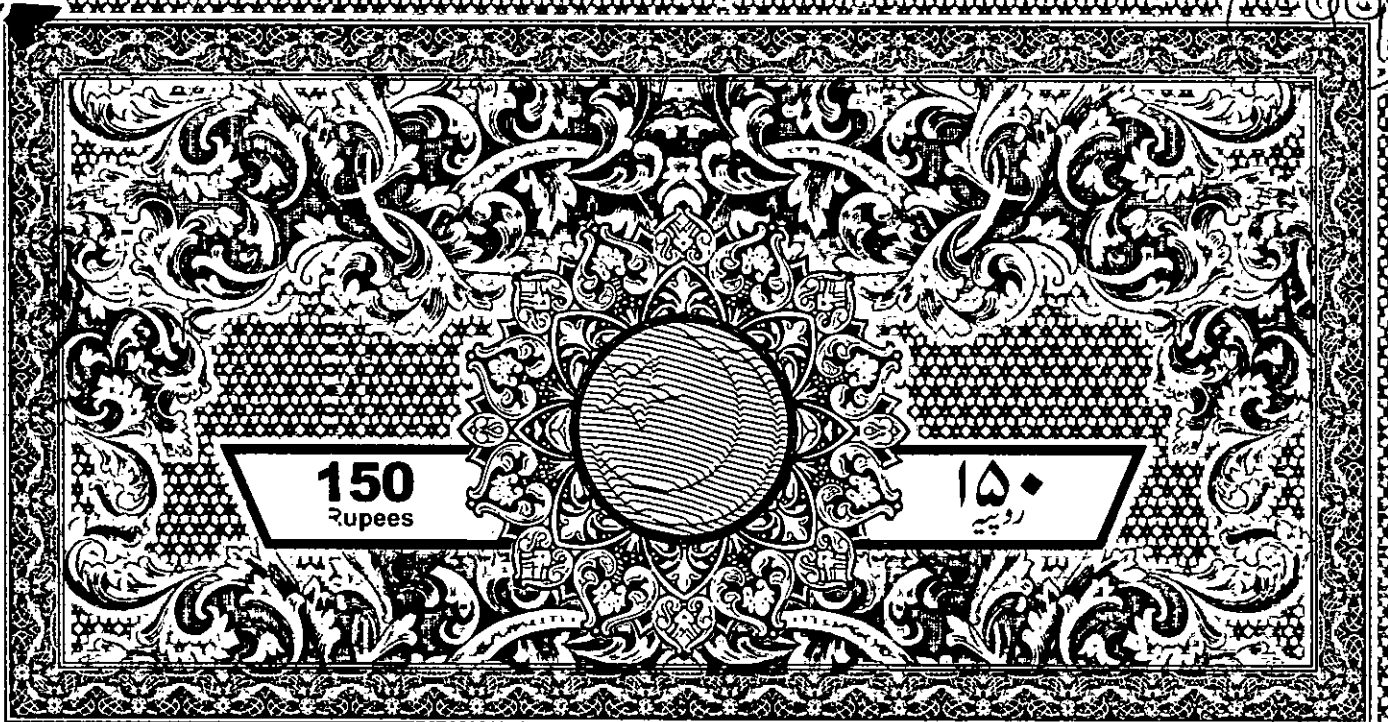
**NAME & OTHER PARTICULARS OF ATTORNEY**

**Mr Rashid Iqbal Khan Jadoon Advocate IBC Islamabad. Abbott Law  
Chamber, Office No 06 Ground Floor, Ayub Tanoli lawyer plaza Abbottabad.**

We



- 1) Haroon ur Rasheed S/O Maghfoor ur Rehman, SST (G), GHS Kangar Maira Lora, Tehsil Lora, District Abbottabad.
- 2) Muhammad Aslam S/C Muhammad Hussain Retired CT teacher, GHS Surjal Abbottabad R/O village Akhreela (Sheikh ul Bandi) Tehsil & District Abbottabad.
- 3) Wajid Khan S/O Qazi Abdul Khaliq Senior CT, GHSS Nawan Shehr, Abbottabad.
- 4) Shah Faisal Khan S/O Qazi Qalandar Khan, Senior C.T teacher, GHSS Nawan Shehr, Abbottabad.



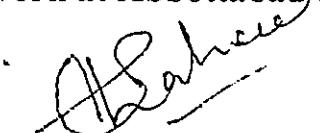
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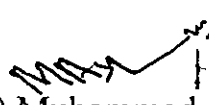
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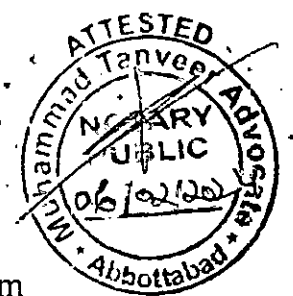
5) Mubashar Hassan S/O Muhammad Idris SST GHS Banda Pir Khan  
Abbottabad.


We, deponents, do hereby solemnly affirm and declare on oath that we appoint above named (Mr Rashid Iqbal Khan Jadoon Advocate) as attorney, to act on our behalf, to appear, plead for us in the titled case in which the same may be tried or heard and any other proceedings arising out of or connected herewith and he would be competent to exercise all the powers which we our self hold as petitioners, he is authorized all powers, to institute case, to submit any kind of application or reply, argue the case, in short, all powers or authority which we are entitled being petitioners, would be transferred to above named attorney through instant power of attorney.

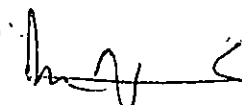
Sworn at Abbottabad on this 3<sup>rd</sup> day of February, 2024.


  
1) Haroon ur Rasheed  
CNIC No 13101- 8470217-9

  
2) Muhammad Aslam  
CNIC No 13101-2341833-3



  
3) Wajid Khan  
CNIC No 13101-5486752-9

  
4) Shah Faisal Khan  
CNIC No 13101-0824138-1

  
5) Mubashar Hassan  
CNIC No 13101- 5853165-3

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To

The District Education Officer (Male)  
District Abbottabad.

Subject

JOINT APPLICATION FOR IMPLEMENTATION OF JUDGMENT OF KP SERVICE TRIBUNAL DATED 12/05/2009 PASSED IN APPEAL NO 1276 OF 2007, ON THE BASIS OF JUDGMENT OF PESHAWAR HIGH COURT DATED 14/06/2023, PASSED IN WRIT PETITION NO 3081-P OF 2012, TITLED "ANAYAT ULLAH KHAN AND OTHERS VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY, PESHAWAR AND OTHERS".

Sir

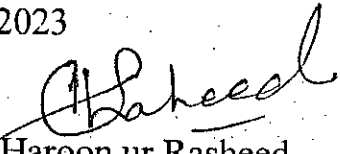
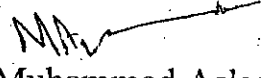
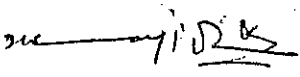
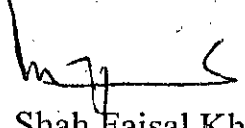

With due respect it is stated that we below named, have same pending implementation case of Advance Increments on higher Educational Qualification, decided by KP Service Tribunal Peshawar in individual service appeals on 12/05/2009, which was pending due to Khyber Pakhtunkhwa cessation of payment of arrears on advance increments on higher educational qualification Act, 2012, which is now decided by High Court on 14/06/2023, and same is once again being submitted for implementation. The name and service appeals of applicants are as under

- a) Haroon ur Rasheed S/O Maghfoor ur Rehman, SST (G), GHS Kangar Maira Lora, Tehsil Lora, District Abbottabad. (Service Appeal No 267/2008)
- b) Muhammad Aslam S/O Muhammad Hussain **Retired** CT teacher, GHS Surjal Abbottabad R/O village Akhreela (Sheikh ul Bandi) Tehsil & District Abbottabad. (Service Appeal No 1444/2008)
- c) Wajid Khan S/O Qazi Abdul Khaliq Senior CT, GHSS Nawan Shehr, Abbottabad. (Service Appeal No 1446/2008)
- d) Shah Faisal Khan S/O Qazi Qalandar Khan, Senior C.T teacher, GHSS Nawan Shehr, Abbottabad. (Service Appeal No 1403/2008)
- e) Mubashar Hassan S/O Muhammad Idris SST GHS Banda Pir Khan Abbottabad (Service Appeal No 1445/2008).

Attended  
7/12/23

In short it is requested that our implementation case on the basis of legal and technicalities, has already linger on for years, now please be sent to District Accounts Office for early implementation of judgment of Service Tribunal dated 12/05/2009, which is final judgment.

Dated 03/10/2023

- 1)  Haroon ur Rasheed
- 2)  Muhammad Aslam
- 3)  Wajid Khan
- 4)  Shah Faisal Khan
- 5)  Mubashar Hassan