

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT CAMP COURT
D.I.KHAN

Service Appeal No: 506/2016

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Manzoor Ahamd S/O Ghulam Rasool R/O Budh SAT GHS Hathala
TehsilKlahiD.I.Khan. (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education Department, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Peshawar.
3. Director, Elementary & Secondary Education Department, Peshawar.
4. District Education Officer (Male), D.I.Khan.
5. Deputy Commissioner D.I.Khan.
6. District Account Officer D.I.Khan.

.... (Respondents)

Mr. Mohammad Anwar Awan
Advocate ... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney ... For respondents

Date of Institution.....05.05.2016
Date of Hearing..... 20.05.2024
Date of Decision..... 20.05.2024

JUDGMENT

RashidaBano, Member (J): The instant service appeals have been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:-

“On acceptance of instant appeal, respondent No. 6 is directed to sanction the bill of appellant regarding



advance increment according to letter dated 09.05.2012.”

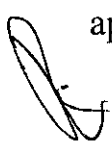
2. Brief facts of the case are that appellant is serving in the respondent department as Senior Arabic Teacher at GHS Hathala. The Government of Khyber Pakhtunkhwa issued a letter dated 13.10.2011 vide which those Arabic Teachers who had acquired M.A degree are granted advance increments with effect from the dates mentioned therein. The Deputy Commissioner issued letter on the basis of above said letter in which name of appellant was mentioned. The department prepared the payroll system amendment form. The District Account Officer malafide did not sanction the bill and using delaying tactics while other similar teachers have received their bill on the said letter. In the meanwhile, the Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) issued a letter dated 07.09.2012 regarding cessation of payment of arrears on advance increment on the basis of that letter respondents refused to sanction the bill of the appellant. Feeling aggrieved, he filed writ petition before the Worthy Peshawar High Court, D.I.Khan Bench, which was dismissed as withdrawn for want of jurisdiction, hence, hence the instant service appeal.

3. Respondents were put on notice who submitted written reply/comments on the appeal. We have heard learned counsel for the appellants and Mr.Asif Masood Ali Shah, Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.



4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law/rules. He further argued that in action of the respondents are against the facts and law, ultra-virus, without any authority and discriminatory. He further argued that advance increment was granted to all Arabic Teachers who had acquired MA in the light of letter dated 13.10.2011 in which the name of the appellant was mentioned but the desired relief was not granted, which is against the norms of justice.

6. Conversely, learned Deputy District Attorney contended that the respondents has been treated in accordance with law and rules. He next contended that the appellant could not demand benefits under the Finance Department letter dated 11.08.1991 at this belated stage, as the policy on advance increments for higher qualifications was discontinued during the 2001 pay revision. He further contended that the Finance Department's circular dated 25.06.2010 only applied to employees who acquired higher qualifications before 01.12.2001 and had unresolved claims, which the appellant did not. He also contended that the Ordinance of 2012 (Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Ordinance, 2012) ceased all kinds of advance increments based on higher qualifications, therefore, the appellant is not entitled for any increment. He also added that the departmental appeal of the appellant was also barred by time, therefore, instant appeal might be dismissed.



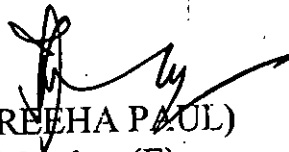
7. Perusal of record reveals that the appellant is serving as Senior Arabic Teacher in Education Department. The Government of Khyber Pakhtunkhwa issued a directive on 13.10.2011, granting advance increments to Arabic Teachers who had acquired M.A. degree. The department prepared a payroll amendment form in line with this directive but the District Account Officer did not sanction the bill. Meanwhile, on 07.09.2012, the Khyber Pakhtunkhwa Finance Department issued a letter ceasing the payment of arrears on advance increments. The policy for awarding advance increments for higher qualifications was formally discontinued with the 2001 pay revision. The Finance Department circular dated 25.06.2010 stipulated that only those who acquired higher qualifications before 01.12.2001 and had unresolved cases were eligible for increments. The appellant did not fall within this category. The appellant did not claim the increments within the window provided by the policy and circular, possibly due to lack of requisite higher qualification or submitting the claim late. Under the 2012 Ordinance, all payments for advance increments based on higher qualifications were ceased. The response of the District Account Officer was aligned with the prevailing policies and regulations at the time of refusal. The law and subsequent ordinance provided a clear framework for discontinuation of such increments, making the current claim of the appellant untenable. There was no evidence provided to substantiate claims of discriminatory treatment




or deliberate delays. The respondents acted within the policy frameworks.

8. In light of the above, the claim of the appellant for advance increments is dismissed based on the discontinuation of the relevant policy in 2001, the stipulations of the 25.06.2010 circular, and upon the enactment of the 2012 Ordinance. Therefore, the service appeal stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

9. *Pronounced in open court at camp court D.I.Khan and given our hands and seal of the Tribunal on this 20 day of May, 2024.*

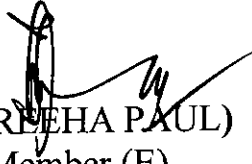

(FAREEHA PAUL)
Member (E)
Camp Court D.I.Khan



(RASHIDA BANO)
Member (J)
Camp Court D.I.Khan

ORDER

20.05.2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.
2. Vide our detailed judgment of today placed on file the claim of the appellant for advance increments is dismissed based on the discontinuation of the relevant policy in 2001, the stipulations of the 25.06.2010 circular, and upon the enactment of the 2012 Ordinance. Therefore, the service appeal stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.
3. *Pronounced in open court at camp court D.I.Khan and given our hands and seal of the Tribunal on this 20 day of May, 2024.*


(FAREEHA PAUL)
Member (E)
Camp Court D.I.Khan


(RASHIDA BANO)
Member (J)
Camp Court D.I.Khan