FORM OF ORDER SHEET

Court of	
Appeal No.	1275/2024

	<u>Ap</u>	peal No. 1275/2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	4/9/2024	The appeal of Mr. Farhad Ali presented today by
		Mr. Muhammad Maaz Madni Advocate. It is fixed for
	· 	preliminary hearing before Single Bench at Peshawar on
	' 	12/9/2024. Parcha Peshi given to counsel for the appellant.
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		By the order of Chairman
·	September	INC. ISTRAR
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The appeal of Mr. Farhad Ali received today i.e on 15.08.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Copy of extract from service book be placed on file, to ascertain: from what date the salary and annual increment of the appellant was started.

No. 608 /Inst./2024/KPST,*
Dt. 15/8 /2024.

KHYBER PAKHTUNKHWA PESHAWAR.

Muhammad Maaz Madni Adv.

High Court at Peshawar.

Relatived on 22 0.24
Relatived on 22 0.24

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: FARHAD ALI V/S GOVT. OF KP & OTHER

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: MUHAMMAD MAAZ MADNI	Y	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	[3]	
3	Whether appeal is within time?	1	
4	Whether the enactment under which the appeal is filed mentioned?	1	
5	Whether the enactment under which the appeal is filed is correct?	V	
6	Whether affidavit is appended?	S S S	
7	Whether affidavit is duly attested by competent Oath Commissioner?	/	
8	Whether appeal/annexures are properly paged?	V .	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	Y	
10	Whether annexures are legible?	\sigma_i	
11	Whether annexures are attested?	N. N.	
12	Whether copies of annexures are readable/clear?	1	
13	Whether copy of appeal is delivered to AG/DAG?	__\\	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	Ŋ	
15	Whether numbers of referred cases given are correct?	Y	
16	Whether appeal contains cutting/overwriting?	N1	1
17	Whether list of books has been provided at the end of the appeal?	\sum_	
18	Whether case relate to this court?		-
19	Whether requisite number of spare copies attached?	\ \ -	
20	Whether complete spare copy is filed in separate file cover?	V	
21	Whether addresses of parties given are complete?	V	
22	Whether index filed?	\sqrt_a	
23	Whether index is correct?	Y	
24	Whether Security and Process Fee deposited? On	Y	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On	S	
26	Whether copies of comments/reply/rejoinder submitted? On	K	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On	S	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:	Muhammad Maaz Madni
Signature:	()\f
Dated:	12-08-2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. / / // /2024	APPEAL NO	12	71	/2024
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FARHAD ALI

V/S

GOVT. OF KP & OTHERS

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE	
1.	Memo of appeal	*******	1 – 4	<u> </u>
2.	Condonation of Delay petition	******	5	
3.	appointment order dated 31.05.2014/5.94	A/AA	6-7/2	-1111
4.	Charge Report dated 31.05.2014	В	8	
5.	Regularization Order dated 12.03.2018	С	9 – 11	
6.	Judgement dated 06.11.2023	D	12 – 15	
7.	Departmental Appeal dated 19.04.2024	E	16	
8.	Wakalatnama ·	*********	17	

Dated: 12th August, 2024

APPELLANT

Through:

MUHAMMAD MAAZ MADNI, ADVOCATE HIGH COURT, PESHAWAR TF-291, 292, Deans Trade Centre.

Peshawar Cantt: 0333-9313113, 0314-9965666 muhammad.m3adv@gmail.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 1275 /2024

Khyber Pakhtukhwa Service Tribunal

Diary No. 14989

FARHAD ALI S/O Khan Bahader, SPST (B-14), Govt. Primary School, Katigan Utmanzai, Charsadda.

Dated LColl De 24

VERSUS

- 1- THE DIRECTOR (ELEMENTARY & SECONDARY EDUCATION), Khyber Pakhtunkhwa, Peshawar.
- 2- THE DISTRICT EDUCATION OFFICER, District Charsadda.

..... RESPONDENTS

. APPELLANT



APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH ALL ENABLING LAWS & RULES AGAINST THE ACT & OMISSION OF THE PART OF RESPONDENTS BY NOT ALLOWING INCREMENT FOR THE YEAR 2014 & NOT RELEASING OUT STANDING SALARIES FOR THE MONTHS OF JUNE, JULY & AUGUST 2014 AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL DATED 26-04-2024 AFTER LAPSE OF STATUTORY PERIOD OF NINETY (90) DAYS

PRAYER IN APPEAL:

That on acceptance of the instant service appeal the inaction of the respondents by not allowing the annual increment for the year 2014 and not releasing outstanding salaries for the months of JUNE, JULY & AUGUST 2014 may very kindly be declared illegal and the respondents may very graciously be directed to allow the annual increment for the year 2014 with all back benefits and release of outstanding salaries for the month of JUNE, JULY & AUGUST 2014 while applying the PRINCIPLE OF PARITY. Any other remedy which this august Tribunal deems appropriate that may also be awarded in favor of the appellant.

Re-submitted to -dad and filed.

Registrar

Respectfully Sheweth:,

FACTS:

Brief facts giving raise to the instant appeal are as under:

1. That appellant is a regular employee of the respondent Department and was initially appointed as Primary School Teacher (BPS-12) on adhoc basis vide order dated 31/05/2014 after fulfilling all the legal & codal formalities required for the post and since then the appellant is performing his duty quite efficiently whole heartedly and upto the entire satisfaction of his high ups.

2. That appellant after receiving the appointment order dated 31/05/2014 submitted his arrival report and took over the charge of his post on date 31/05/2014 the same date the appellant received the appointment order.

3. That service of all the adhoc teachers were regularized vide Regularization Act, 2017 and accordingly the services of the appellant was also regularized vide order dated 12/03/2018 from the date of appointment i.e. 31/05/2014.

Copy of Regularization Order dated 12.03.2018 is attached as **Annexure** **C**.

4. That, one of my colleagues who was appointment with the appellant on the same day filed Service Appeal No. 7597/2021 title Abdul Musawir versus Govt. Of KP & others decided vide dated 06/11/2023 and allowed the same benefit to the appellant (Abdul Musawir).

5. That while following the Principle of Parity the appellant also filed Departmental Appeal dated 19/04/2024 in light of the judgment dated 06/11/2023 which was allotted with dairy no. 709 but no response has been received so far after lapse of statutory period.

Copy of Departmental Appeal dated 26.04.2024 is attached as **Annexure** ... E.

6. That feeling highly aggrieved and is left with no other remedy but to file the instant service appeal before this Honourable Tribunal on the following grounds:

GROUNDS OF APPEAL

- A-That act of the respondent by not allowing annual increment for the year 2014 & not releasing the monthly salary for the month of June, July & August 2014 is against the law, rules, facts, void ab initio, Norms of Natural Justice and materials available on the record hence not tenable in the eye of Law and needs interference of this Tribunal.
- **B-** That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C-That appellant has properly submitted his charge report well in time on 31/05/2024 and even then, the appellant was not allowed the benefit of Annual Increment for the year 2014 and also the outstanding salaries for the month of June, July & August 2014.
- **D-** That under Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 that:

"State is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan."

therefore, the respondent has to act upon the ibid Article of the constitution and had to remove the disparity from the service of the appellant by allowing Annual Increment for the Year 2014 and releasing the monthly salary outstanding for the month of June, July & August 2014.

- **E-** That the respondent has acted in an arbitrary and malafide manner by not allowing annual increment for the year 2014 & not releasing the monthly salary for the month of June, July & August 2014.
- **F-** That act of the respondents is against the Fundamental Rights as enshrined in the Constitution & also against various judgments passed by the Apex Supreme Court of Pakistan.
- **G-**That act of the respondents by not allowing annual increment for the year 2014 & not releasing the monthly salary for the month of June, July & August 2014 without fulfilling the codal formalities required in the subject matter and hence the same is against the norm of Natural Justice.
- **H-** That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 12-08-2024

Appellant

FARHAD ALI

Through:

MUHAMMAD MAAZ MADNI-Advocate, High Court, Peshawar

CERTIFICATE

No, such like appeal has been filed or pending on the subject matter between the parties before this Honourable Tribunal.

ADVOCATE

AFFIDAVIT

I, FARHAD ALI s/o Khan Bahader, do hereby solemnly affirm on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

) **E P O N' E' N' T** 17101-3658119-9



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

CM No	_/2024	in	APPEAL NO	/202
FARHAD ALI	•	V/S		GOVT. OF KP

APPLICATION FOR CONDONATION OF DELAY (IF ANY)

Respectfully Sheweth:,

- 1. That the appellant/petitioner has filed the above titled service appeal before this Honourable Tribunal which has not been fixed so far.
- 2. That the appellant/petitioner has challenged arears of outstanding salaries for the month of June, July & August and Increment for the year 2014.
- That case of the appellant/petitioner involves financial matter hence, no limitation runs against financial matter in light of various judgment of the superior courts of the country <u>2021 SCMR page 1320 citation (b)</u>.
- 4. That this Honourable Tribunal decided the case titled Abdul Musawir VS Govt. in light of judgment 2020 SCMR page 959 the appeal of the appellant/petitioner is well within time.
- 5. That it is well settled principle laid down by the Supreme Court of Pakistan in cases referred as 2023 SCMR page 8 and 2022 SCMR page 448 citation (i), the same question of Law has been decided by this Honourable Tribunal in the above-mentioned case same question has been decided.
- 6. That any grounds would be agitated at the time of argument with prior permission of this Honourable Tribunal.

It is, therefore, most humbly prayed that on acceptance of the instant petition the delay (if any) may kindly be condoned in filing of the appeal.

Date: 12/08/2024

Appellant

Through:

MUHAMMAD MAAZ MADNI,
Advocates, High Court, Peshawar

<u>AFFIDAVIT</u>

It is solemnly affirm that the contents of the above application are true and correct to the best of knowledge & belief and nothing has been concealed from this Honourable Tribunal

DEPONENT 17101-3658119-9 1 shad





OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA



APPOINTMENT

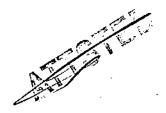
Consequent upon recommendation of the District Selection Committee, appointment of the following candidates are hereby ordered against the post of PST School based/UC based in BPS-12 (Rs: 7000-500-22000) @Rs: 7000/= fixed plus usual allowances as admissible under the rules on ad hoc basis on Contract under the existing policy of the Provincial Government, in Teaching Cadre on the terms and condition given below with effect from the date of their taking over charge:-

• • • • • • • • • • • • • • • • • • •	(, — —			
S.#	Name	School Name	✓ U/C	Score	
70/144	FARHAD ALT 17101-3658119-9	GPS Kaligon	MC Ulmanzai	108.25	

TERMS & CONDITIONS.

- J. NO TA/DA etc is allowed:
- 2. Charge reports should be submitted to all concerned in duplicate.
- 3. Appointment is purely on temporary & contract basis initially for one year.
- 4. They should not be handed over charge if they exceed 35 years or below 18 years of age.
- Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by the DEO(concerned) Any one found producing bogus Certificate will be reported to the law enforcing agencies for further action.
- 6. His services are liable to termination on one mouth's notice from either side. In case of resignation without notice his one-mouth pay/allowances shall be forfeited to the Government.
- 7. Pay will not be drawn until and unless a certificate to the effect by DEO(concerned) is issued that his certificates are verified
- 8. He should join his post within 10 days of the issuance of this notification. In case of failure to join their post within 10 days of the issuance of this notification, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
- 9. Health and Age Certificate should be produced from the Medical Superintendent concerned before taking over charge.
- 10. Before handing over charge he will sign an agreement with the department, otherwise this order will not be valid.
- He will be governed by such rules and regulations as may be issued from time to time by the Goot.
- 12. His services shall be terminated at any time, in case his performance is found unsatisfactory during his contract period. In case of misconduct, he shall be preceded under the rules framed from time to time.

14.1.1 DEMFarbad Ali MC Utmanzai.doex



₹ppointment Order PST (M) Ad hoc -Based

His appointment is made on School based, He will have to serve at the place of 13. posting, and his service is not transferable to any other station.

Before handing over charge once again their document may be checked if they have not the required qualification, they may not be handed over charge. 14.

> (Siraj Muhammad) District Education Officer (Male) Charsadda

Dated: Charsadda the.

Copy forwarded for information and necessary action to the:

- 1. Director E&SE Deptt: Khyber Pakhtunkhwa Peshawar.
- 2. Deputy Commissioner Charsodda
- 3. District Accounts Officer Charsadda
- 4. SDEO (M) Charsadda
- 5. SDEO (M) Tangi
- Jr. Official Concerned

7. M/File :

District Education Officer (Màle) Charsadda

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Service Book

P.No.º

00515989

Name:

Farhad Ali

F/Name:

Khan Bahader

Designation:

PST

Department:

Education

School Address: GPS Kateegan Utmanzai

Charsadda

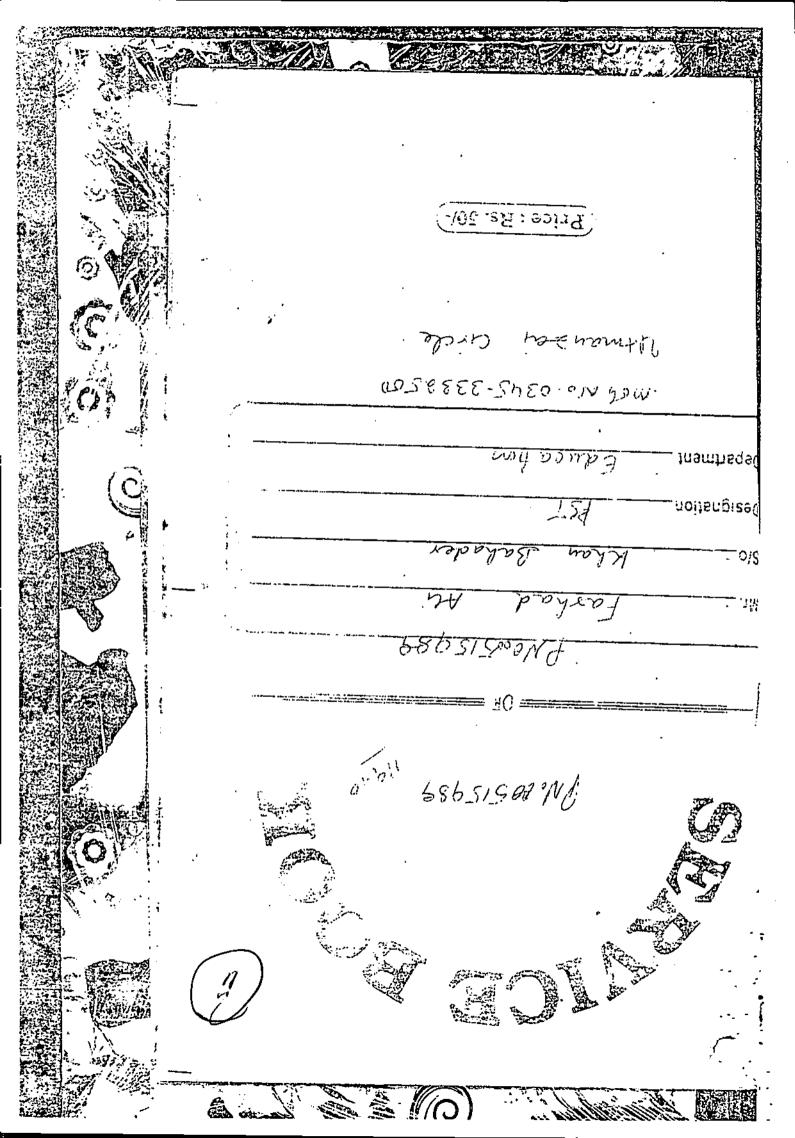
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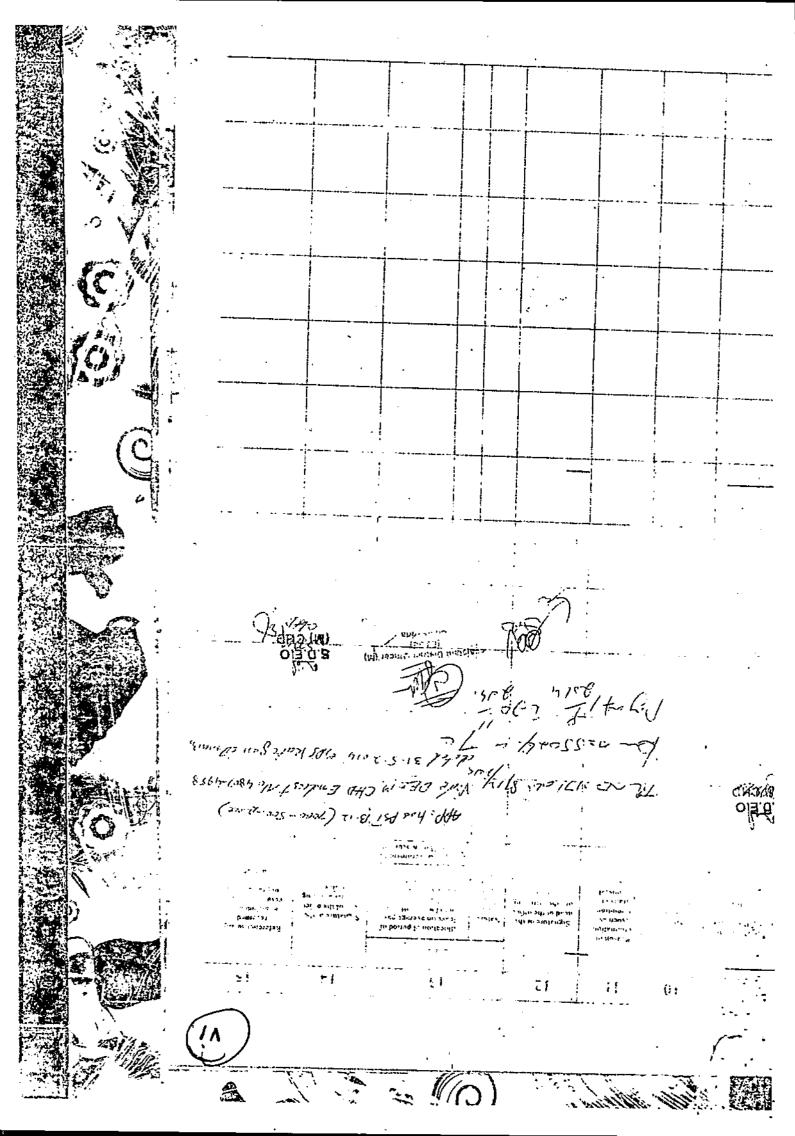
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CHARGE REPORT

Mr. FAR HAD	ALI
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S/O KHAN BAHADER has been appointed as a pst in

education deptt.

By DEO chd-order end.no.48•7-4958 dated 31-05-2014. He took his charge on AF

at gps Katigon Mc Utmanzai chd.

Th Ah'

Signature of pst

signature of ADO circle/psht

End no.

CHERONIES LENGTH

Dated



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA

NOTIFICATION

In pursuance of The Khyber Pakhtunkhwa Employees of the Elementary & Secondary Education (Appointment and Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No.1 of 2018) and Elementary & Secondary Education Department Gayt: of Khyber Pakhtunkhwa Notification No. SO (5/F)E & SED/3-2/2018 / SITT /Contract dated Peshawar the 16/02/2018, services of the following (433) Primary School Teachers appointed through NTS on Adhoc basis on Contract w.e.f (31-05-2014 to 15-07-2017), are hereby regularized in BPS-12, on the same posts in Teaching Cadre on the terms and condition given below with effect from the date of their appointment as metioned against each in the interst of public service.

SN	Rati No. N'S	Name and Father Name	CNIC No	Name of School	Total Marks aut of 200	u/c	Appointment order No. & Date	Osio of Taking Over Charge	Extension No. & Opto
1	1560039	O/2 biled X halid S/O	17102-6537002- 5	GPS Station XIII	132.89	Aberel	4807-4958 Dated:31/05/2014	01-09-14	23938-74078 Dated:28/04/2017
1	1560071	Marjan Ali S/O Second Gul	17101- 97650 71- S	GPS Shelikh Klill	171.21	Agru	4807-4958 Dated:31/05/2014	01-09-14	23938-24078 Dated:28/04/2017
1	1560014	Misn Adil Sheh S/O Misn Kilayet Ulfah	17101-6844013- S	GPS Agra Bala	116.33	Agra i	/. 4807-4958 Detect31/05/2014	01-09-14	24938-24078 Stated://8/04/7017
4	1561340	Muhammad Amin S/O Israr Muhammad	17101-9188159. 3	QPS Agric Bala	114.55	Agra	4807-495R Dated:31/05/2014	fil-09-11	20938-24078 Daind:28/04/2017
5	1560161	Tilewet Shah 5/0 S.Walleyet Shah	17101-0113E34- 5	GP\$ Mandizal	133.59	Battagram (*	4807-4958 Deted:31/05/2014	01-09-14	23938-24078 Oated:28/04/2017
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1	1560125	Muhainmad Asim S/O Pervez Khan	17101+7492491+ 7	GPS Mathra New	121.45	Battingram .	4807-4958 Dated:31/05/2014	01-09-14	23938-24078 Dated:46/04/2017
9	1551310	Sheh Khallu S/O SJeffer.' Shah	17301-4432180-	GPS Methre Qadeom	119.3	Battagram	4807-4958 Date6:31/05/2014	01-09-14	23938-2407h Dated:28/04/2017
10	1550007	Nasir Khan S/O Nadur Khao	17101-0307693- i	GPS Klulyo Khan Klili	135.48	Behlola	4807-4958 Dated:31/05/7014	01-09-14	21918-24078 - Datos:28/04/2017
11	1560845	Muhammad Ishtlaq S/O Muhammad Nabi	17101- 3765891- 7	GPS Man Shekh No.6	152,94.	Behlola	4807-4958 Dated:31/05/2014	01-09-14	73938-24078 Dated:28/04/2017
12	1501037	Yasaan Khan S/O Fawad Xhan	17101-12 <u>1639</u> 9.	GPS-Shaheedan	195'18	Behigle	4907-4958 Dated:31/05/2014	01-09-14	23938-2407H Dn:no:28/04/2017
13	2751564	Nitota Ullah 5/0 Ubald Ullah	17101-6378689- 5	GPS-lejem Abad Dargai	135.83	Oorgal	4807-4958 Dei#d:31/05/2014	n .: 01-09-14	:23938-24078 Osted:28/04/2017
11	1501254	Mühemmed All \$/O Faqir Jan	17171-0300786- K	GP\$ Nahagi	119.45	Daylat Pura	4807-4958 Deted:31/05/2014	01-09-14	11939-7-1078 Outed:78-04/7017
15	1580109	lkrem Ul Hag S/O Abdul Dayan	17101-6170115-	GPS Ambadher-	116.29	Daulet Pura	4807-4958 Deted:31/05/2014	01-09-14	13918-713-% Datoo:24/04/2017
16	1560314	Asif Ulleh S/Q Noordet Al Sheh	17101-68265#B-	GPS Daulat Pure	114.11	Daulet Pora	4807-4958 Owled:51/05/2014	01-09-14	2)93R-240/R Cat-d,28/04/201
17	1560175	Umer Gul S/O Xisret Gul	17101-5375764-	GPS Aziz Abed-2	121.66	Uheri Zardad	4807-4958 Deted:31/05/2014	03-09-14	/3/34-740/8 Opted:X8/04/2017
18	1561321	Abdurehmen S/O Rehman Gui	17101-0342715	GP\$ Jan Abad	114.33	Dheri Zardad	4807-4958 Dated(31/05/2014	61-09-14	71918-24048 D5ted:28/04/2017
19	1560954	Dawood Masood S/O Fasel Masood	17101-0328797	GPS Kalyas	104.56	Ohari Zardad	A807-A958 Deted:31/05/2014	01-09-14	23938-24076 Dated:78/04/2017
10	1500931	Zefer Ali 5/O Muhemmar Ali	17101-0260821 7	GPS Baschre-S	116.17	Dotahra	4807-7958 Dated:31/05/2014	01-09-14	23938-34079 binted:29/04/2017
21	1560990	Muhammad Gulşar S/O Mirça Khan	17101-7239656	GPS Haryana - 7	111.12	Dosehra ;	4807-4958 Dated:31/05/2014	1	13938-1407H
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473	2055001449	Nadeem Jan S/O Khan Bahader	17102-9394646- 196	GPS Terneb No.2	112.6	j Ternab	20762-856 Detad:28/03/2017	08-04-17	- :
424	3027001033	Muhammad Ali \$/O Zalt Ullah khan	17103-9394848- 197	GPS Tarneb No.1	111.76	Ternab	20762-856 Deted:28/03/2017	08-04-17	i
415	2053001107	Mazhar Ali S/O istikhar Ali	17102-9594848- 198	GPS Umarzal No.1	154,95	Umarzal	20762-856 Dejed:28/03/2017	08-04-17-	
426	201701921	Muhammed Zohalb S/O Muhammed Yousel	17102-959484A. 199	GPS Oherl Zarded No.1	114.95	Dherl Zardad	20767-856 Deted:28/03/2017	08-04-17	
422	3035001191	Abdul Majid 5/O Abdul Bari	1710 <u>2</u> -9394646. 100	GPS Mubeun Koroone SKF	126	Hassanzal	27462-71 Dated:20/05/2017	22-05-17	
428	1017000247	irfan Ullek S/O Yousel Gul	17102-9394646. 201	GPS No.1 Tangl	120,14	MC-Tangi	27462-71 Deted:20/05/2017	22-05-17	
429	2017000286	Mujeeb Ur Rahman (Disable Quote) 5/O Zahid Ullah	17107-9394848. 207	GPS No.1 Chersedda	121.32	MC-III Charaedda	27462-71 Deted:20/05/2017	22-05-17	
430	207300325	Hearat Utlah \$/O Alamsaid	17102-939484H- 203	GPS Arat XIIII	106.74	 	27530-34 Deted:23/05/2017	01-09-17	<u>,, _</u>
431	1033001129	Asif Uz Rehmen(Disable Quota) 5/O Gul Rehmen	17102-9594848- 204	GPS Dhakki	121.59	Dhakii	· 27547-51 Dated:23/05/2017	01-09-17	<u> </u>
433	201700483	Syed Wileyet Sheh S/O Syed Feren Sier Shah	17102-9594842- 205	GPS Helder Killi	109.59	Shodeg	28873-76 Dated:15/07/2017	0\-09-17	
433	1031000943	Yehya Jan S/O Oilbar Khan	17102-9394848- 206	GP\$ Mahmood Abad	121.61	Chindrodes	28877-80 Deted:15/07/2017	01-09-17-	

TERMS & CONDITIONS.

- 1.) Their services shall be governed by the Khyber Pakhtunkhwa Civil servants Act, 1973, the Khyber Pakhtunkhwa (Appointment, Deputation, Posting & Transfer of Teachers, Lecturers, Instructors & Doctors) Regulatory Act, 2011 and such rules & regulations as may be issued from time to time by the Government.
- 2.) Their services shall be considered regular and they shall be eligible for pension / dedication of GPF and in terms of the Khyber Pakhtunkhwa Civil Servants Act. 1973 as amended in 2013.
- 3.) Their services are liable to termination on one months' notice from either side in case of resignation without notice, their one month's paylottowances shall be forfeited to the Govi.
- 4.) They shall possess the same qualification and experience required for a regular post:
- 5.) Their regularization shall not affect the promotion quota of existing holders of posts in respective service address.
- 6.) The regularization will not be in favour of those, who have not taken over charge or has remained absent from duty or resign ferminated from service and also not for those who are under disciplinary proceedings.
- 7.) Their pay shall be released subject to verification of academic documents/testimonial from the concerned Board/University by the SDEO concerned
- 8.) The employees whose services are regularized under the Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education (Appointment and Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No.1 of 2018) or in the process of attaining service at the commencement of the Klyber Pakhtunkhwa Employees of the Elementary and Secondary Education (Appointment and Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No.1 of 2018) shall rank junior to all civil servants belonging to the same service or codre, as the case may be, who are in service oniregular basis on the commencement of the Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education (Appointment and Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No.1 of 2018), and shall also rank funior to such other persons, (fany, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.
- 9.) The sentority inter-se of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:
- 10.) Their sentority shall be determined on the basis of their continuous service in cadre, provided that if the date of continuous service in the case of two or more employees is the same, the employees older in age shall rank senior to the younger one.

(SIRA) MUHAMMAD)

DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

Endst: No: 19747-20188 F.NO. (Regularization PST 2018) Dated: 12 / 03 /2018

Copy forwarded for information to the: -

- 1. Director E&SE Depti: Khyber Pakhtunkhwa Pexhawar.
- 2. District Nazim Charsadda
- 3. Deputy Commissioner Charsadda
- 4. District Manitring Officer 1MU Charsadda
- A. SDEO (M) Chorsadda
- 6.SDEO (M) Tangi
- 7. SDEO (M) Shabqadar
- 8. District Account Officer Charsadda.
- 9. Official concerned.
- 10.Office file.

THE RESERVE TO SERVE TO SERVE

DY DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA





unkhwa

Peshawat



Service Appeal No. 7597/2021

BEFORE: MRS. RASHIDA BANO

MEMBER(J)

MR. MUHAMMAD AKBAR KHAN ...

MEMBER (E)

Abdul Musawair S/O Muhammad Ali, SPST, BPS-14, GPS Anar Kali, Charsadda, R/O Amir Abad, P.O Rajjar, Tehsil & District Charsadda.

(Appellant)

VERSUS

- 1. The Director Elementary & Secondary Education Department, Peshawar.
- 2. The District Education Officer (M), Charsadda.
- 3. The Accountant General, Khyber Pakhtunkhwa, Peshawar Cant.

.... (Respondents)

Mr. Muhammad Maaz Madani

Advocate

For appellant

Mr.Muhammad Jan

District Attorney

For respondents

Date of Institution......15.10.2021 Date of Hearing......06.11.2023

Date of Decision......06.11.2023

<u>JUDGMENT</u>

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

"On acceptance of this appeal, the inaction of the respondents by not allowing the annual increment for the year 2014 and releasing outstanding salaries for the month of June, July & August 2014 may very kindly be declared illegal and the respondents may kindly be directed and also release the outstanding salaries for the months of June, July & August 2014."

Brief facts of the case, as given in the memorandum of appeal, are that appellant was initially appointed as Primary School Teacher (BPS-12) on adhoc basis vide order dated 31.05.2014. Later on services of the appellant was regularized in the year 2017 from the date of his appointment. He was promoted



to the post of Senior Primary School Teacher (BPS-14) vide order dated 12.03.2018. The appellant facing huge discrepancy in the monthly salary due the reason that increment for the year 2014 was not allowed and the salaries for the month of June, July and August 2014 was not released. Despite the factum of pay fixation party of respondent No.3 allowed the increment for the year 2014 but till date the same is neither been included nor been allowed in the salary of the appellant. Feeling aggrieved, he filed departmental appeal, which was rejected, hence the instant service appeal.

- Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.
- 4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules and respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973. He further argued that the act and omission of the respondents by illegally deducting annual increment for the year 2014 and not releasing salaries is against the law, facts, material available on record and norms of natural justice hence not tenable in the eye of law is liable to be struck down. He submitted that appellant has properly submitted his charge report and mark his attendance in the attendance register on 31.05.2014 and he is held entitled for annual increment for the year 2014.

ATTESTED

8-9-24

EXAMINER

(hyber Pakhtukhwa

Service Tribunal

Peshawar

5. Learned District Attorney contended that the appellant has been treated in accordance with law and rules. He further contended that initially the appellant was appointed on 31.05.2014, but the appointment order of the appellant and his colleagues were amended and in this regard a corrigendum was issued. The amended order directed the appointees to take charge from 01.09.2014, because of long summer vacations to save the public exchequer.

- Perusal of record reveals that appellant was appointed as Primary School 6. Teacher vide appointment order dated 31.05.2014 and it is admitted fact that appellant submitted his arrival report on the same day i.e 31.05.2014. He was regularized from the date of his appointment vide notification dated 15.03.2018. According to the terms and conditions as mentioned in the appointment order of the appellant, he could draw his pay with effect from 01.09.2014, however in view of section 17 of Civil Servants Act, 1973 and FR17 the appellant is entitled for the payment of his salaries with effect from 31.05.2014, the date on which he submitted his arrival report. The appellant is thus entitled to receive salary for the months of June, July and August 2014. Moreover, while counting their service from 31.05.2014, six months service period as required for grant of annual increment stood completed and the appellant is also held entitled for the annual increment of 2014. So far as the question of limitation is concerned, suffice it is stated that being a financial matter, the appellant is having a continual cause of action, therefore, limitation will not have any adverse implication on the claim of the appellant.
- 7. For what has been discussed above, the appeal in hand is allowed as prayed for and the appellant is held entitled to all back benefits. Costs shall follow the events. Consign.
- 8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 6^{th} day of November, 2023.

(MUHAMMAD AKBAR KHAN)

Member (E)

(RASHTDA BANO) Member (J)

Kaleenstich

Date of Presentation of Application_

ribunal Name of Co

Date of Ca

Date of Delivery of c

8-8-24



ORDER 06.11.2023

- Learned counsel for the appellant present. Mr. Muhammad
 Jan learned District Attorney for the respondents present.
- 2. Vide our detailed judgement of today placed on file, the appeal in hand is allowed as prayed for and the appellant is held entitled to all back benefits. Costs shall follow the event. Consign.
- 3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 6th day of November,

2023.

(Muhammad Akbar Khan)

Member (E)

(Rashida Bano) Member (J)

Kaleemultah

THE DISTRICT EDUCATION OFFICER (MALE) Dian No. 16 42024 District Charsadda.

Subject: <u>APPLICATION FOR THE GRANT OF INCREMENT FOR THE YEAR 2014</u>
AND SALARIES FOR THE MONTHS OF JUNE, JULY & AUGUST 2014.

Respected/Sir,.

Most respectfully, it is stated that I am working under your, kind control in District Charsadda. I was appointed as PST (BPS-12) vide order Endst No. 4807-4958 dated 31-05-2014. After performing duty for sufficient time my service was regularized with the promulgation of the Act of 2017.

While our official service commencement date was 31/05/2014, the government began issuing our salaries from 01/09/2014, and according to the said salary our increment for the year 2014 was not allowed to me.

Furthermore, I wish to highlight a recent development within our department wherein one of my colleagues namely Abdul Musawir successfully pursued legal action and approached Khyber Pakhtunkhwa Service Tribunal Peshawar to rectify this issue and his case was graciously allowed. As a result, the department issued the petitioner with all withheld salaries and corresponding increments in alignment with initial appointment date.

In the light of this precedent and the principle of equal treatment for all employees, I am respectfully requesting that the department extends the same consideration to me as the said petitioner and I have been appointed with the same Endst Number and on same date, May 31, 2014.

In this respect, it is therefore requested that salaries for the months of June, July & August 2014 and increment for the year 2014 may kindly be allowed to me in line with the principles of justice and fairness, please.

Thank you for your time and consideration.

Obediently Yours

Name: Fashad Ali

Designation: SPST

School: Gps Katigan Utmansai

Contact No: 03193122339

Signature: And

Date: 16 14 / 2024

(POWER OF ATTORNEY)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

			Service Appeal No. 👱	/2024
FARHAD ALI		VS	GOVT. O	F KP & OTHERS
I,	Farhad Ali		_ do hereby nominated	d and appointed
MUHAM! counsel in the a act and answer business is transappeals, statemer connection with documents or cand other writs other execution out; and to app to arbitration, a power and authologo.	bove matter for me/use in the above court of sferred in the above rents, accounts, exhibits in the said matter arising opies of documents, do or subpoena and to a consulty for and receive payment to employ an other horities hereby conferred	ADNI and on more any approacher as a comprone general for a positions apply for a dependent of an are legal praced on the	Advocate High Court, ty/our behalf as agreed to bellate court or any court and is agreed to sign a nises or other document or and also to apply for etc and to apply for an and get issued any arrest act any proceedings that y or all sums or submit to advocate whenever he	Peshawar, to be to appear, plead, urt to which the and file petition, its whatsoever, in or and receive all dissue summons at, attachment or to may arise there the above matter in to exercise the may think fit to
respects whether AND I/WE here under or by vir always that I/N authorized agent may be dismissed responsible for this nominee, an	er herein specified or not be agree to ratify and tue of these present of WE undertake at the at shall inform the advo- ed in default, it be pro- the same. All costs award if awarded against shall	ot, as may of confirm of the unitime of cocate and receded example.	nanage and conduct the be proper and expedient all lawful acts done or sual practice in such materials of the case by make him appear in the parte the said counsel shour shall be the right of able by me/us.	t. n my/our behalf; atter. PROVIDED the court I/MY court, if the case, shall not be held of the counsel or
contests of which	ch have been explained	d to and u	nderstood by ME/US th	is 12k day
of Aug	_ 2024.			
EXECUTANT (F	arhad Ali)			
Accepted subjec	t to the terms regarding	g fees:		
	MAAZ MADNI,		•	
BC No. (I COURT, PESHAWAR BC-11-1460) 7101-9263898-1			

OFFICE: KHATTAK LAW ASSOCIATES,

TF-291 & 292, Deans Trade Centre, Peshawar Cantt:.

Contact#: 0333-9313113, 0314-9965666