

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 1993/2023

Muhammad Qavi Khan, Ex-SST District Swat.....Appellant

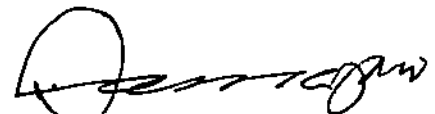
VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SED.....Respondents.

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**SAMINA ALTAF
DIRECTOR**



**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar**

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**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No: 1993/2023

Case No. 17483

Dated 01-11-24

Muhammad Qavi Khan, Ex-SST District Swat.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SED.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO: 12345

Respectfully Sheweth,

The Respondents submit as under: -

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/locus standi to file instant appeal.
- 2 That the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 That the appellant has concealed material facts from the ambit of this Honorable Tribunal.
- 4 That the appellant has not come to this Honorable Tribunal with clean hands.
- 5 That the appeal in hand is based on mala fide intentions for gaining illegal service benefits of pay revision at a rate of 10% increase in pension in the basic pay scale of 2015 in violation of the Rules.
- 6 That the Grievances Redressal Committee (GRC) of E&SED KP has already regretted the claim of the appellant vide order No. SO(DARC) 1-2/E&SED/2023 dated 15-09-2023.
- 7 That the appellant has got retired from service on 30-06-2015, whereas, the Notification regarding pay revision has been issued on dated 01-07-2015 by the Finance Department /Respondent No. 3.
- 8 That the appeal in hand is time barred by law and limitation.
- 9 That the appeal in hand is bad for mis-joinder and non-joinder of the necessary parties.
- 10 That the impugned Notification dated 15-09-2023 is legally competent.

- 11 That the Notification/Order dated 01-07-2015 of the Finance Department Govt: of KP is not applicable upon the case of the appellant of being effective with immediate effect under the relevant provision of APT Rules, 1989.
- 12 That the appeal in hand is against the law & relevant Financial Rules.

ON FACTS.

- 1 That Para-1 is correct in terms of the order dated 01-07-2015 of the Respondent No. 3, wherein, the issue of pay revision of 2015 at a rate of 10% in the pension has been notified, whereas, the appellant has got retired from service against the SS on 30-06-2015 prior to the afore-said order, hence, not applicable upon the case of the appellant as evident from the Minutes of the Grievances Redressal Committee (GRC) issued vide Notification/Order No. SO (DARC) 1-2/E&SED/2023 dated 05-09-2023 with reference to Agenda No. 114 with the decision which is reproduced as under:

"That the appellant stand retired on 30-06-2015 & he was not in service on dated 01-07-2015. The Finance Department pay revision Notification was issued on dated 01-07-2015 & has also allowed 10% increase in his pension. The appellant as not ben entitled for pay revision as he was not in service on 01-07-2015, hence, regretted."

(Copies of the GRC Meeting Minutes dated 15-09-2023, Office Order regarding retirement dated 27-07-2015 & Notification regarding pay revision dated 27-07-2015 attached as Annex-A, B & C).

- 2 That Para-2 is correct that the Departmental appeal of the appellant regarding his revision of pay as SST at a rate of 10% in the pension since the year 2015 has been regretted by the GRC committee during its meeting held on 31-08-2023 & notified on 15-09-2023 already reproduced & attached in Para-1 by the replying Respondents.
- 3 That Para-3 is also correct to the extent of the appointment of the appellant as SET now SST (Science) on dated 01-10-1983 & stood retired from service against the said post from the Department on 30-06-2015 as evident from the Notification dated 27-07-2015 of the Respondent No. 4.
- 4 That Para-4 is incorrect on the grounds that the appellant stood retired from service on 30-06-2015, whereas, the pay revision order has been issued by the Respondent No. 3 on 01-07-2015, hence, the claim regarding the application of order dated 01-07-2015 of the appellant is illegal & liable to be rejected.
- 5 That Para-5 is also incorrect in terms of the submissions made by the Respondent Department in the forgoing paras of the present reply.
- 6 That Para-6 is also incorrect on the grounds that the appellant stood retired from service on 30-06-2015 against the SST post, whereas, the letter upon which the appellant is placing reliance has been issued on 14-07-2015, hence, not applicable upon the case of the appellant as during the issuance of the cited letter by the Respondent No. 3, the appellant was not on active service in the Respondent Department in view of his retirement from service as SST on 30-06-2015. *(Copy of the letter dated 14-07-2015 is Annex-D).*
- 7 That Para-7 is incorrect as the act of the Department with regard to the non-grant of 10% increase in pension of the appellant in shape of pay revise since

2015 is legal in all terms as narrated in the fore-going paras by the Respondents, because the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973. However, the Respondents also seek leave to this Learned Bench to submit additional grounds record & case law at the time on date of hearing,

ON GROUNDS.

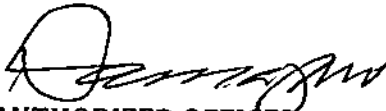
1. Incorrect & not admitted, the appellant has been treated as per law & rules vide Notification dated 15-09-2023, whereby, the appellant has been made not entitled for the grant of 10% increase in his pension under the Rules in the titled appeal by the Respondent Department.
2. Incorrect & not admitted. The act of the Department with regard to the non-grant of 10% increase in the pension of the appellant as in accordance with the provision of Articles-4 & 25 of the constitution of 1973.
3. Incorrect & not admitted. The plea of the appellant with regard to the grant of 10% increase in the revised basic pay scale toward the pension in the light of the Notifications dated 14-07-2015 & 27-07-2015 is illegal as he has got retired from service on 30-06-2015 from service as SST in District Swat.
4. Incorrect & not admitted. as replied above,
5. Incorrect & not admitted. The order dated 15-09-2023 is legal in terms of rules & policy on the subject.
6. Incorrect & not admitted. The Notifications dated 14-07-2015 & 01-07-2015 are mainly applicable upon the case of the serving SSTs instead of those who have got retired from service prior to the issuance of the said Notifications by the Finance Department.
7. Incorrect & not admitted. The stand of the appellant is against the facts & legal proposition made by the Respondents in the fore going paras of the present reply, hence, liable to be rejected.
8. Incorrect & not admitted. the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973. However, the Respondents also seek leave to this Learned Tribunal to submit additional grounds record & case law at the time on date of hearing

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Therefore, in view of the above made submissions, it is most humbly prayed that on the acceptance of the instant reply to the titled appeal, the appeal in hand may kindly be dismissed by maintaining the order dated 15-09-2023 in favor of the Respondent Department in the interest of justice.

Dated: ____/____/2024


**SAMINA ALTAF
DIRECTOR**


**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar
Respondents No. 2, 4 & 8**

**MASOOD AHMAD
SECRETARY**


**AUTHORIZED OFFICER
FAIZ ALAM
ADDITIONAL SECRETARY (G)
E&SE Department Khyber
Pakhtunkhwa, Peshawar
Respondents No. 1 & 7**

**IKRAM ULLAH KHAN
SECRETARY FINANCE**


**AUTHORIZED OFFICER MUHAMMAD HAYAT
ADDITIONAL SECRETARY FINANCE (Reg/Lit)
Finance Department Khyber
Pakhtunkhwa, Peshawar
Respondent No. 3**

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

Service Appeal No: 1993/2023

Muhammad Qavi Khan, Ex-SST District Swat.....Appellant


VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SED.....Respondents

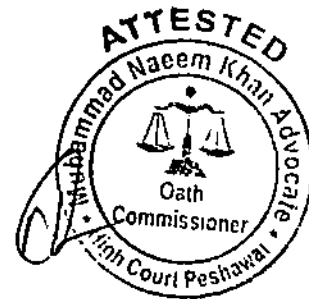
AFFIDAVIT

I, Samina Altaf, Director E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief. It is further stated on oath that in this appeal the answering Respondents have neither been placed Ex-Parte nor their defense has been struck off/cost.

**DEPONENT
SAMINA ALTAF
DIRECTOR**



**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar**



01 NOV 2024



GOVERNMENT OF "C" 11
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT


No. SO (DARC) 1-2/E&SED/2023
Dated Peshawar, the 15.09.2023

To

1. The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
2. The District Education Officers (Male),
Bannu, Charssada, D.I Khan, Kolai Pallas, Lakki Marwat, Mansehra, Mardan,
Peshawar & Swat.
3. The District Education Officer (Female),
Abbottabad, Bannu, Buner, Charssada, Chitral Upper, D.I Khan, Hangu,
Karak, Kohat, Lakki Marwat, Mardan, Mohmand, Orakzai, Peshawar,
Shangla, & Torghar.

**SUBJECT: - MINUTES OF THE GRIEVANCES REDRESSAL COMMITTEE (GRC)
MEETING HELD ON 31-08-2023**


I am directed to refer to the subject noted above and to enclose herewith Minutes of the Grievances Redressal Committee (GRC) Meeting held on 31-08-2023 at 10:00 AM under the Chairmanship of Additional Secretary (General) E&SE Department in the Committee Room of E&SE Department for information and strict compliance.



15/09/2023
SECTION OFFICER (DARC)

Endst.No. & date even.

Copy to: -

1. Registrar, Peshawar High Court, Peshawar.
2. Assistant Registrar, Peshawar High Court, Abbottabad, Bannu, D.I Khan, & Mingora Swat Benches.
3. The Section Officer (Primary M/F), E&SE Department.
4. Deputy Director (Legal), Directorate of E&SE Department.
5. P.S to Secretary E&SED.
6. P.A to Special Secretary-1, E&SED.
7. P.A to Additional Secretary (General), E&SED.
8. P.A to Deputy Secretary (Legal-I) E&SED.


15/09/2023
SECTION OFFICER (DARC)


Attested

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GRIEVANCES REDRESSAL COMMITTEE MEETING AGENDA

DEO (FEMALE) SHANGLA

Agenda Item No.	S#	NAME OF THE PETITIONER / APPLICANT	WRIT PETITION & DEPARTMENTAL APPEALS	CLAIMS OF THE APPELLANTS / PRAYER	COMPETENT AUTHORITY	DECISION
72	01	Inam Ur Rehman S/O Hidayat Ur Rehman	Application	The Petitioner requesting for appointment against the quota reserved for deceased employees with the plea that, "the applicant father namely late Hidayat Ur Rehman was serving as Chowkidar in GGPS Bala Manai District Shangla and died during service on 08-02-2014".	DEO (F) Shangla	The widow of the Deceased has already been appointed under Section 10(4) of APT rules 1989. Therefore, the application is Regretted.

DEO (MALE) SWAT

Agenda Item No.	Sr#	NAME OF THE PETITIONER / APPLICANT	WRIT PETITION & DEPARTMENTAL APPEALS	CLAIMS OF THE APPELLANTS / PRAYER	COMPETENT AUTHORITY	DECISION
114	01	Muhammad Qavi Khan S/O Sheer Afzal Khan	WP# No.210-M/2016 Peshawar High Court, Mingora Bench Order Dated 07-06-2023	The petitioner filed a writ petition in the Honorable Peshawar High Court, for the calculation of Retirement Emoluments, on the basis of 2015 Basic Pay Scale. Therefore, the Hon'ble Peshawar High Court, has referred the case for placing the same before GRC.	DEO (M) Swat	The applicant stand retired on dated 30-06-2015 and he was not in service on dated 01-07-2015. The Finance Department pay revision Notification was issued on Dated 01-07-2015, and has also allowed 10% increase in his pension. The applicant has not been entitled for pay revision as he was not in service on 01-07-2015. Hence, Regretted.

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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR.

OFFICE ORDER.

Sanction is hereby accorded to the grant of Encashment of leave in lieu of LPR for 365 days in respect of Muhammad Qavi SST GHS Sijbanr District Swat as due and admissible to him under the Revised Leave Rules, 1981.

The District Accounts Officer Nowshera, has certified that leave Encashment for 365 days is admissible to the SST concerned under the revised leave Rules, 1981.

He shall stand to be retired from service w.e.f. 30-06-2015 (AN) on attaining the age of superannuation.

DIRECTOR

Endst: No. 5832-37 /F.No.02/SST (M) Retirement/LPR/KP.

Dated Peshawar the 27/7/2015.

Copy of the above is to the:-

1. District Education Officer (M) Swat.
2. District Accounts Officer Swat.
3. Principal GHS Sijbanr District Swat.
4. SST concerned.
5. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. Master File.

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Attested

Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa

27/7/15

27/7/15

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (PRC) 1-1/2015
Dated Peshawar the 27th July, 2015

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Principle Secretary to Governor, Khyber Pakhtunkhwa
4. The Principle Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All Deputy Commissioners, in Khyber Pakhtunkhwa.
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
9. The Registrar, Peshawar High Court, Peshawar.
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
11. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: REVISION OF BASIC PAY SCALES & ALLOWANCES OF CIVIL SERVANTS OF THE PROVINCIAL GOVERNMENT (2015)

Dear Sir,

The Competent Authority has been pleased to sanction the revision of Basic Pay Scales & Allowances w.e.f 1st July, 2015 for the Civil Servants of the Provincial Government, detailed in the following paragraphs:-

Part-I (Pay)

2. Revision of Basic Pay Scales:-

The Basic Pay Scales - 2015 shall replace the Basic Pay Scales - 2011 with effect from 01-07-2015 as contained in the Annexure to this circular letter.

3. Fixation of Pay of the existing employees:-

i) The basic pay of an employee in service on 30-06-2015 shall be fixed in the Basic Pay Scales - 2015 on point to point basis i.e. at the stage corresponding to that occupied by him / her above the minimum of Basic Pay Scales - 2011;

ii) In case of Personal Pay being drawn by an employee as part of his / her basic pay beyond the maximum of his / her pay scale on 30-06-2015, he / she shall continue to draw such pay in the Basic Pay Scales - 2015 at the revised rates.

ATTESTED

Contd.....P/2



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (SOSR-II)4-111/2015
Dated Peshawar the: 14-07-2015

From:

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department,
Peshawar.

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All Commissioners in Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Chairman, Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa.

Subject: GRANT OF INCREASE IN PENSION TO CIVIL PENSIONERS OF THE PROVINCIAL GOVERNMENT.

Dear Sir,

The Competent Authority, is pleased to sanction, w.e.f 1st July, 2015 and until further orders, an increase @ 10% in net pension of the Pensioners of Khyber Pakhtunkhwa Government.

2. The 20% increase in pension as allowed vide para-1 of the Provincial Government's letter No.FD(SOSR-II)/4-111/2012, dated 06/07/2012 shall be discontinued for those who would retire on or after 01/07/2015.

3. The increases granted during the previous years vide following letters at the rate noted against each will also be admissible to the new pensioners who would retire on or after 01-07-2015:-

S.No.	Letter No and date	Rate of Increase
1.	No.FD (SOSR-II) 4-111/2010 dated 15/07/2010	15% on net pension
2.	NO. FD (PRC) 1-1/2011 dated 14/07/2011	15% on net pension
3.	No.FD(SOSR-II)4-111/2013 dated 17/07/2013	15 % on net pension
4.	NO. FD (SOSR-II)4-111/2015 dated 09/07/2014	10% on net pension

4. The 10% increase in pension as mentioned at para-1 above will also be admissible to the pensioners who would retire on or after 01-07-2015.

5. For the purpose of admissibility of increase in pension sanctioned through this letter the term "Net Pension" means "Pension being drawn" minus "Medical Allowance".

6. The increase will also be admissible on family pension granted under the Pension-cum-Gratuity Scheme, 1954, Liberalized Pension Rules, 1977, on pension sanctioned under the Provincial Civil Servants Pension Rules as well as on the Compassionate Allowance under CSR-353.

7. If the gross pension sanctioned by the Provincial Government is shared with any other Government in accordance with the rules laid down in part-iv of Appendix III to the Accounts Code, Volume-I, the amount of increase in pension will be apportioned between the Government of Khyber Pakhtunkhwa and the other Government concerned, on proportionate basis.

P.T.O

Attested

ATTESTED



(11)

**DIRECTORATE ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR.**

AUTHORITY LETTER

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Behramand Khan, Assistant Director (Litigation-II) of this Directorate for submission of Joint Para Wise Comments in Service Appeal No. 1993/2023 case titled **Muhammad Qavi Khan, Ex-SST (Sc) District Swat Vs Government of Khyber Pakhtunkhwa & others**, hence, an authority letter is hereby issued in favor of the above-named officer.

**(SAMINA ALTAF)
DIRECTOR**



**AUTHORIZED OFFICER
(ABDUS SAMAD)
DEPUTY DIRECTOR**

E&SE Department Khyber
Pakhtunkhwa, Peshawar.

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR**

NOTIFICATION

I, Samina Altaf, Director Elementary & Secondary Education Department Khyber Peshawar do hereby authorize, Mr. Abdus Saminad, Deputy Director (Legal) Directorate of Elementary & Secondary Education to sign parwise comments, replies, implementation report, objection petitions, civil miscellaneous application etc on my behalf for onward submission before the courts of law/tribunals as the case may be, with immediate effect in the interest of public service.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst. No. 2633-L13 /F.No. AD(Lit-II)/E&SED/Office Correspondence/Vol-II/2024
Dated Peshawar the 26/07/2024.

Copy of the above is forwarded for information & n/action to the:

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department Khyber Pakhtunkhwa.
4. Learned Registrar High Court Peshawar (with one each spare copy for the Honorable Judges).
5. Learned Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar (with one each spare copy for the Honorable Chairman/Members).
6. All Section Officers E&SE Department Khyber Pakhtunkhwa, Peshawar.
7. All District Education Officer (Male/Female) Khyber Pakhtunkhwa.
8. PS to Secretary E&SE Department Khyber Pakhtunkhwa, Peshawar.
9. PA to Additional Secretary (General) E&SE Khyber Pakhtunkhwa, Peshawar.
10. PA to Director E&SE Department Khyber Pakhtunkhwa, Peshawar.
11. Master File.


(SAMINA ALTAF)
DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar