

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1130/2024

Ayaz Ali Khan

Vs

Govt of Khyber Pakhtunkhwa & others

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DISTRICT EDUCATION OFFICER  
(MALE) CHARSADDA

①

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1130/2024

Ayaz Ali Khan

Vs

Govt of Khyber Pakhtunkhwa & others

Khyber Pakhtunkhwa  
Service Tribunal

Diry No. 17505

Dated 01-11-24

**Para wise comments on behalf of Respondents**

**Preliminary Objections:**

Respectfully Sheweth:

- A. That the Appellant has no locus standi and cause of action to file instant appeal.
- B. That the present Appeal is wrong, baseless and not maintainable, it shows no cause to be taken for adjudication, therefore, the Appeal is liable to be rejected/ dismissed.
- C. That the Appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory costs in favour of Respondents.
- D. That no legal right of the appellant has been violated, therefore, the appellant has no right to file the instant appeal.
- E. That the Appellant is completely estopped/precluded by his own conduct to file this Appeal.
- G. That the Appellant has not come to this Hon' able Tribunal with clean hands. The Appeal also suffers from misstatements and concealment of facts and as such the Appellant is not entitled to equitable relief.
- H. That the Appellant has no right to file the instant Appeal and the Hon' able Services Tribunal has got no jurisdiction to adjudicate upon and the Appeal is liable to be dismissed.
- I. That the instant appeal is barred by law and limitation.

A

**PARA WISE REPLY ON FACTS:**

1. That the Para needs no comments.
2. That the Finance Department Notification dated 11/08/1991 had been discontinued through an Act known as Khyber Pakhtun khwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012.
3. That the appellat M.A Degree shows that he had passed it on 26/06/2000 and states that on the very next day on 27/6/2000 filed application for allowing the advance increments because in a day how the appellat obtained/received his Degree/DMC, therefore, it is not possible for the respondents to entertain/allow the advance increments to the appellat without attaching showing D.M.C or Degree. Further humbly stated that on the very same day or next day of the announcement of the result a degree can't be received from the concern university, hence, the stance of the appellat is not based on logical proposition.
4. Incorrect, hence, denied because the Government of Khyber Pakhtunkhwa promulgated an Act called the Khyber Pakhtunkhwa cessation of payment of arrears on advance increments on Higher Education qualification Act, 2012, through this Act of 212 all the arrears incurred of the advance increments have been stopped, the relevant section of the said Act is reproduced as under for the kind assistance of this Hon`able Tribunal as under:-

*Section.2 cessation of payments of arrears advance increments on Higher Education 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, 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 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 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.*

5. That the Act, 2012 clearly states that anything contained in any decision of Tribunal court including High Court or Supreme Court of Pakistan for the purpose of any claim of arrears on advance increments, office memoranda notification its shall be deemed to be non-existent, ceased or revoked and

claims pending in any court of law shall stand abated. Further it is humbly stated that this Hon `able Tribunal in Restoration Application Nos. 754/2023, 756/2023, 757/2023, 758/2023, 759/2023 and 760/2023 once for all had been decided the issue. *(Copy of judgment dated 27/5/2024 is attached as annexure A).*

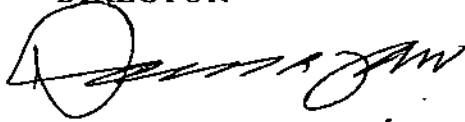
6. That the issue had been decided by the Government of Khyber Pakhtunkhwa through an Act, 2012 and followed by the recent judgment of this Hon `able Tribunal in restoration application No. 754/2023, 755/2023 etc.
7. That the Para needs no comments.
8. That in the referred judgment of the Hon `able Peshawar High Court, Peshawar the Para No. (10) Clearly states that only the present petitioners of this writ petition be considered and that others can't claim such benefits, having not agitated the matter at the relevant time. Further it is humbly stated that Para No. 7 of the said judgment had set a time frame for such claims through a finance notification dated 29/04/2010 for a period of sixty days.
9. Incorrect, the appellant had been informed through rejection order stating that your appeal had been entered and rejected in the light of the Act, 2012 of Cessation of Advance Increments on Higher Qualification. *(Copy of rejection application is attached as annexure B)*
10. That several application were filed by the appellant which shows the same date i-e day and month, without diary No and receiving signature of the official of the office of the respondent. Further worth mentioning that one application had been shown as dated 5/9/2010, when checked, it has been found that on that date it was a Sunday. Therefore, it is requested that on this sole ground the appeal of the appellant is liable to be dismissed in favour of answering respondents with cost on the following grounds among others.

### GROUNDS

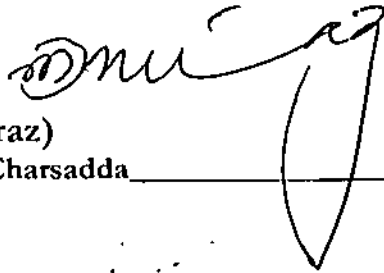
- A. Incorrect, hence denied the answering respondents acted in accordance with the provisions of Khyber Paktunkhwa Cessation of Advance Increment Act, 2012.
- B. Incorrect, hence denied, the rejection order clearly states that the appellant departmental appeal is against the Cessation Act, 2012 section 2.
- C. Incorrect, the appellant according to the Khyber Pakhtunkhwa Act, 2012 is not entitled to any kind of relief as well as the judgment dated 27/5/2024 in restoration application 754/2023, 755/2023 etc.
- D. Incorrect, it is the prerogative of the Government to enact laws for the uplift and prosperous of the country and to save the Public exchequer especially when there are financial constraints.
- E. &F. Incorrect, the Cessation Act clearly states that if anywhere in any court of law or any kind of order, letters or instruments is pending then shall be stand abated, which is according section 2 of the said Act.
- G. &H. That the main theme of the Act is that because of financial constraints the advance increments on higher educational qualification can be continued.
- I. Incorrect that according to the KPK cessation of advance increments the appellant is not entitled to advance increments on Higher Qualification.

J. That the Answering Respondents seek permission of this Hon `able Tribunal to submit other grounds at the time of hearing of the instant appeal.

1. (Samina Altaf)  
DIRECTOR



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



(Muhammad Sheraz)  
2. THE DEO (MALE) Charsadda

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BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR

Service Appeal No. 1130/2024

Ayaz Ali Khan

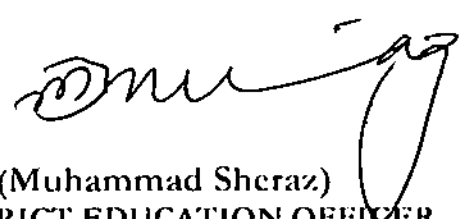
Vs

Govt of Khyber Pakhtunkhwa & others

AFIDAVIT

I Mr. Muhammad Sheraz DEO (M) Charsadda do hereby solemnly affirms that the information provided by the DEO (M) and the contents of the Para-wise comments submitted by respondents are true and correct and nothing has been concealed intentionally from this Hon' able tribunal. Further stated on oath the answering respondent have neither been placed an ex-parte nor have struck of/cost.

Deponent



(Muhammad Sheraz)  
DISTRICT EDUCATION OFFICER  
(MALE) CHARSADDA



6



**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) CHARSADDA**

  
091-9220481

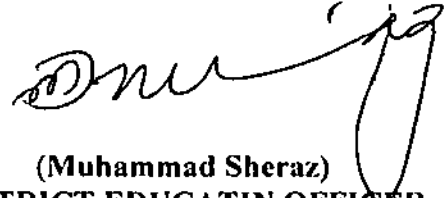
  
deom.ca@kpese.gov.pk

  
facebook.com/Deomcharsadda



**AUTHORITY LETTER**

I. Muhammad Sheraz District Education Officer (Male) Charsadda do hereby authorized Mr. Wisal Muhammad Khan Legal Representative on behalf of District Education Officer (Male) Charsadda, to deal with the issues regarding litigation, represent, submit Comments/Reply of the Service Appeals and attend the KPK Honorable Service Tribunal Peshawar.



(Muhammad Sheraz)  
DISTRICT EDUCATION OFFICER  
MALE CHARSADDA



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

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**NOTIFICATION**

I, Samina Altaf, Director Elementary & Secondary Education Department Khyber Peshawar do hereby authorize, Mr. Abdus Sammad, Deputy Director (Legal) Directorate of Elementary & Secondary Education to sign parawise 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. 9.6.33-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 & 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

**ATTESTED**





(8) A

Restoration Application Nos. 754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 in and along with Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018, 146/2018, 148/2018 and 149/2018 as well as Execution Petition Nos.: 142/2018, 143/2018, 145/2018, 146/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024 and 280/2024 as well as Execution Petition No.141/2018 titled "Qazi Masood ur Rehman Vs. Education Department", decided on 27.05.2024 by Single Bench comprising of Mr. Kalim Arshad Khan, Chairman. Khyber Pakhtunkhwa Service Tribunal, at Camp Couri, Abbottabad.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**  
**AT CAMP COURT, ABBOTTABAD**

**BEFORE: KALIM ARSHAD KHAN.....CHAIRMAN**

*Restoration Application Nos: 754/2023, 755/2023, 756/2023, 757/2023,  
758/2023, 759/2023, and 760/2023*

*In*

*Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018,  
146/2018, 148/2018 and 149/2018*

**AND**

*Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018,  
146/2018, 148/2018, 149/201, 83/2022, 84/2022, 102/2022, 103/2022,  
104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022,  
128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022,  
736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024  
and 280/2024*

1. Qazi Masood Ur Rehman (in Execution Petition No.141/2018)
2. Muhammad Haroon (in Execution Petition No.142/2018)
3. Naveed (in Execution Petition No.143/2018)
4. Rashid Latif (in Execution Petition No.145/2018)
5. Shahid Iqbal (in Execution Petition No.146/2018)
6. Arshad Khan (in Execution Petition No.148/2018)
7. Muhammad Iqbal (in Execution Petition No.149/2018)
8. Saif Ur Rehman (in Execution Petition No.83/2022)
9. Syed Husnain Shah (in Execution Petition No.84/2022)
10. Jehanzeb Khan Awan (in Execution Petition No.102/2022)
11. Abdul Hameed (in Execution Petition No.103/2022)
12. Sajjad Ahmad (in Execution Petition No.104/2022)
13. Zahid Ur Rehman (in Execution Petition No.105/2022)
14. Shakil Ahmad (in Execution Petition No.106/2022)
15. Ahmad Farooq Khan (in Execution Petition No.107/2022)
16. Muhammad Saleem Abbasi (in Execution Petition No.108/2022)
17. Muhammad Kabria Khan (in Execution Petition No.126/2022)
18. Muhammad Khurshid (in Execution Petition No.128/2022)
19. Sher Afzal Khan & others (in Execution Petition No.151/2022)
20. Rab Nawaz & others (in Execution Petition No.317/2022)
21. Faheem Anwar & others (in Execution Petition No.574/2022)
22. Niaz Ahmad & others (in Execution Petition No.620/2022)
23. Altaf Hussain & others (in Execution Petition No.710/2022)
24. Gul Faraz & others (in Execution Petition No.736/2022)
25. Amanat Khan & others (in Execution Petition No.11/2023)
26. Shafiq Ur Rehman (in Execution Petition No.39/2023)
27. Saeed Rabbani & others (in Execution Petition No.155/2023)
28. Sardar Arshad Ali & others (in Execution Petition No.630/2023)
29. Tasleem Kousar & others (in Execution Petition No.740/2023)

**ATTESTE**

Restoration Application Nos. 754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 in and along with Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018, 146/2018, 148/2018 and 149/2018 as well as Execution Petition Nos.: 142/2018, 143/2018, 145/2018, 146/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024 and 280/2024 as well as Execution Petition No.141/2018 titled "Qazi Masood ur Rehman Vs. Education Department", decided on 27.05.2024 by Single Bench comprising of Mr. Kalim Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, at Camp Court, Abbottabad.

**30.Naheem Ur Rehman & other (in Execution Petition No.16/2024)**  
**31.Kousar Shaheen & other (in Execution Petition No.280/2024)**

Versus

**Government of Khyber Pakhtunkhwa and others (Respondents in all petitions)**

Date of Hearing.....27.05.2024  
Date of Decision.....27.05.2024

Petitioners in Person In Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 155/2023, 630/2023, 740/2023, 754/2023, 39/2023, 16/2024, 280/2024

Mr. Abdul Rauf Chohan, Advocate..... For Petitioner in  
Execution Petition No.11/2023  
Mr. Shoaib Ali, Assistant Advocate General.....For the respondents

**RESTORATION OF EXECUTION PETITIONS AND EXECUTION PETITIONS FOR IMPLEMENTATION OF JUDGMENT DATED 12.05.2009 PASSED BY THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR (CAMP COURT, ABBOTTABAD)**

**CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment, Restoration Application Nos:754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 are accepted and the Execution Petition Nos:141/2018, 142/2018, 143/2018, 145/2018, 146/2018, 148/2018 and 149/2018 are allowed and the above execution petitions are restored for

**ARSHAD KHAN**  
**CHIEF JUSTICE**

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Restoration Application Nos. 754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 in and along with Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018, 146/2018, 148/2018 and 149/2018 as well as Execution Petition Nos.: 142/2018, 143/2018, 145/2018, 146/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024 and 280/2024 as well as Execution Petition No.141/2018 titled "Qazi Masood ur Rehman Vs. Education Department", decided on 27.05.2024 by Single Bench comprising of Mr. Kalim Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, at Camp Court, Abbottabad.

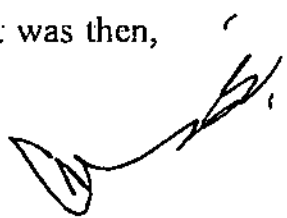
decision of these and all other pending execution petitions, all filed for implementation of judgment dated 12.05.2009.

2. The above mentioned restored execution petitions as well as the Execution Petition Nos:83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024 and 280/2024 all are also decided through this judgment as all are for implementation of the same consolidated judgment of this Tribunal passed on 12.05.2009 in Service Appeal No.1276/2007 titled "Muhammad Akram Vs. District Coordination Officer, Abbottabad" and other appeals.

3. Through these petitions, the petitioners are seeking implementation of the judgment dated 12.05.2009 passed by this Tribunal in Service Appeal No.1276/2007. Petitioners of the Execution Petitions No.103/2022, 104/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022 and 151/2022 are appellants of the appeals decided vide the judgment in question while the remaining petitioners were not appellants but seek extension of the benefits of the said judgment saying that to be a judgment in rem.

**ATTESTED**

4. At the time of passage of the judgment (12.05.2009), the Tribunal had no power to execute its judgment. It was then,



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Restoration Application Nos. 754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 in and along with Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018, 146/2018, 148/2018 and 149/2018 as well as Execution Petition Nos.: 142/2018, 143/2018, 145/2018, 146/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024 and 280/2024 as well as Execution Petition No.141/2018 titled "Qazi Masood ur Rehman Vs. Education Department", decided on 27.05.2024 by Single Bench comprising of Mr. Kalim Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, at Camp Court, Abbottabad.

some of the petitioners, Muneeb Ur Rehman & others had filed Writ Petition No.22 of 2010 in the Peshawar High Court, which, according to the petitioners, was sent to the Tribunal for implementation and here, it was given No.84 of 2012. Execution Petition No.84 of 2012 was decided by the Tribunal on 18.11.2013 in the following manner:

*"The respondents have brought to the notice of the Tribunal that the Provincial Government has promulgated the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012 (Khyber Pakhtunkhwa Act No.IX of 2012), thereby revoking any order, letter, office memoranda, notification, instructions and other instruments issued before 01.12.2001, whereby, payment of advance increments were allowed on acquisition of higher educational qualification. At the same time, in section 2 of Act No.IX of 2012 it has been clearly provided that all cases in respect of such claims pending in any Court or Tribunal including High Court and Supreme Court of Pakistan shall stand abated.*

*In pursuance of the said Act, this Tribunal vide judgment/order dated 30.01.2013, rejected/filed implementation petition No.49 of 2012 in Service Appeal No.506 of 2009 titled "Muhammad Haroon vs EDO E&SE, Haripur and others". The petitioner in the above referred petition lodged appeal in the august Supreme Court of Pakistan, which too met the same fate and leave to appeal was refused and petition dismissed vide judgment of the august Supreme Court of Pakistan dated 29.08.2013.*

*In view of the aforementioned clear provision of law and judgments/orders of this Tribunal as well as august Supreme Court of Pakistan in support thereof, this petition for implementation stands abated and is accordingly filed at this stage. File be consigned to the record."*

**ATTESTED**

5. One of the appellants/petitioners namely Muhammad Haroon, who had filed Appcal No.267/2008 and decided vide



Restoration Application Nos. 754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 in and along with Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018, 146/2018, 148/2018 and 149/2018 as well as Execution Petition Nos.: 142/2018, 143/2018, 145/2018, 146/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024 and 280/2024 as well as Execution Petition No.141/2018 titled "Qazi Masood ur Rehman Vs. Education Department", decided on 27.05.2024 by Single Bench comprising of Mr. Kalim Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, at Camp Court, Abbottabad.

the same/above judgment dated 12.05.2009, had separately filed Implementation Application No.49/2012 which was also dismissed vide order dated 30.01.2013 in view of Sections 1 & 2 of the Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Act, 2012. He then challenged the above order before the Supreme Court of Pakistan in Civil Petition No.360/2013, which was dismissed by the Supreme Court vide judgment dated 29.08.2013 in the following manner:

"4. We have considered the above noted admissions made before us by the petitioner and the learned Addl. A.G KPK and seen that indeed as per judgment of the Tribunal dated 12.05.2009, the petitioner was held entitled for the benefit of advance increments on the basis of his higher qualification, but such judgment has lost its efficacy for the purpose of implementation by clear intendment through sections 1 and 2 of thekp Act No.IX of 2012 which read as under:-

"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 receive 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 1st 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

**ATTESTED**  
*[Signature]*

*[Signature]*

Restoration Application Nos. 754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 in and along with Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018, 146/2018, 148/2018 and 149/2018 as well as Execution Petition Nos.: 142/2018, 143/2018, 145/2018, 146/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024 and 280/2024 as well as Execution Petition No.141/2018 titled "Qazi Masood ur Rehman Vs. Education Department", decided on 27.05.2024 by Single Bench comprising of Mr. Kalim Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, at Camp Court, Abbottabad.

*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 01.12.2001, 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.*

*5. A bare reading of the above sections from the Khyber Pakhtunkhwa Act No.IX of 2012, makes it crystal clear that whatever benefit the petitioner was claiming through the judgment dated 12.5.2009 has been nullified by the legislature through clear intendment in unequivocal terms, while vires of the said Act have not been challenged before any forum."*

6. The Supreme Court of Pakistan has already held in the above judgment that the judgment (12.05.2009) of the Tribunal, passed in the said appeal, had lost efficacy for the purpose of implementation by clear intendment of provisions of the above referred Act, also terming the judgment to be un-implementable. The Hon'ble Supreme Court of Pakistan in Para-5 of the judgment has also held that the provisions of the above Act were

**ATTESTED**  



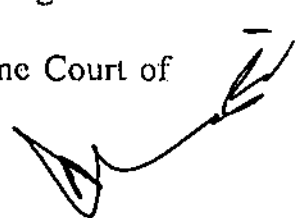

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*Restoration Application Nos. 754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 in and along with Execution Petition Nos: 141/2018, 142/2018, 143/2018, 143/2018, 146/2018, 148/2018 and 149/2018 as well as Execution Petition Nos: 142/2018, 143/2018, 145/2018, 146/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 11/2023, 39/2023, 155/2023, 630/2023, 740/2023, 16/2024 and 280/2024 as well as Execution Petition No.141/2018 titled "Qazi Masood ur Rehman Vs. Education Department", decided on 27.05.2024 by Single Bench comprising of Mr. Kulim Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, at Camp Court, Abbottabad.*

crystal clear that, whatever benefit the petitioner was claiming through the judgment dated 12.05.2009, had been nullified by the legislature through clear intendment in unequivocal terms, while vires of the said Act have not been challenged before any forum.

7. Learned counsel for the petitioners referred to two different judgments of the Peshawar High Court. One from the Principal Seat and the other from the Abbottabad Bench and submitted that vide judgment passed by the Peshawar High Court at the Principal Seat, the above Act was set aside. He, however, very fairly informed the Tribunal that the said judgment of the Peshawar High Court was set aside by the Supreme Court of Pakistan in Civil Appeal No.2139 of 2019 vide order dated 02.06.2021, remanding the matter to the Peshawar High Court for re-deciding the writ petitions after issuing notice to the Advocate General Khyber Pakhtunkhwa. It was then the Peshawar High Court decided the writ petition vide judgment dated 14.06.2023 without commenting upon the vires of the Act. Nothing more has been said about the Act by the Peshawar High Court in its judgment dated 14.06.2023. The Act is, therefore, still in the field and earlier execution applications of some of the petitioners, were dismissed on promulgation of the Act, which order was maintained by the Supreme Court of

**ATTESTED**



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Restoration Application Nos. 754/2023, 755/2023, 756/2023, 757/2023, 758/2023, 759/2023, and 760/2023 in and along with Execution Petition Nos: 141/2018, 142/2018, 143/2018, 145/2018, 146/2018, 148/2018 and 149/2018 as well as Execution Petition Nos.: 142/2018, 143/2018, 145/2018, 146/2018, 148/2018, 149/2018, 83/2022, 84/2022, 102/2022, 103/2022, 104/2022, 105/2022, 106/2022, 107/2022, 108/2022, 126/2022, 128/2022, 151/2022, 317/2022, 574/2022, 620/2022, 710/2022, 736/2022, 111/2023, 39/2023, 153/2023, 630/2023, 740/2023, 16/2024 and 280/2024 as well as Execution Petition No.141/2018 titled "Qazi Masood ur Rehman Vs. Education Department", decided on 27.05.2024 by Single Bench comprising of Mr. Kalim Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, at Camp Court, Abbottabad.

Pakistan as discussed above. Therefore, the instant petitions have no force and are dismissed. (Copies of this order be placed in all connected petitions). Consign.

8. *Pronounced in open Court at Abbottabad and given under my hand and seal of the Tribunal on this 27<sup>th</sup> day of May, 2024.*



**KALIM ARSHAD KHAN**  
Chairman  
Camp Court, Abbottabad

\*Mutazem Shah\*

**ATTESTED**



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Restoration Application No.758/2022

In Execution Petition No.141/2018

ORDER

27<sup>th</sup> May. 2024 Kalim Arshad Khan, Chairman: Petitioner in person present.

Mr. Shoaib Ali, Assistant Advocate General alongwith Mr. Naseeb Khan, Section Officer and Mr. Sohail Ahmad Zeb, Litigation Officer for the respondents present.

2. Vide consolidated judgment of today, instant petition is accepted and the main execution petition stands restored, however, the execution is dismissed with costs vide the same judgment. Consign.

3. *Pronounced in open Court at Abbottabad and given under my hand and seal of the Tribunal on this 27<sup>th</sup> day of May, 2024.*



(Kalim Arshad Khan)  
Chairman  
Camp Court, Abbottabad

\*Mutazem Shah\*

**ATTESTED**

OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) E&SE CHARSADDA

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No. 839 / Dated 26/01 /2024.

To

Mr. Ayaz Ali Khan Sr. CT  
GSRSHSS Charsadda

SUBJECT:- ADVANCE INCREMENTS ON HIGHER QUALIFICATIONS  
Memo:

I am to refer to your application on the subject cited above and to state that your application regarding advance increments on Higher Qualification is hereby regretted according to Section-2 of cessation of advance increments Act:2012.

Furthermore, your application was not signed by the concerned principal which is violation of rules.

You are directed to not submit the same case in Future.

DISTRICT EDUCATION OFFICER  
(MALE) CHARSADDA

Endst: No \_\_\_\_\_

Copy for information to the:-

1. Principal GSRSHSS Utmanzai.
2. Office file.

DISTRICT EDUCATION OFFICER  
(MALE) CHARSADDA

ATTESTED