

*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."*

4. 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 unimplementable. The Hon'ble Supreme Court of Pakistan in Para-5 of the judgment has also held that the provisions of the above Act were 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.

5. In view of the above discussion, the petition in hand is dismissed having no force in it. Consign.

6. *Pronounced in open court at Abbottabad and given under my hand and seal of the Tribunal this 31<sup>st</sup> day of October, 2024.*



(Rashida Bano)  
Member (J)

Camp Court, Abbottabad

ORDER

31.10.2024

1. Petitioner alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney assisted by Mr. Sohail Ahmad Zeb, ADEO (Legal) for the respondents.

2. Through this petition, the petitioner is 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.

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

